

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

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1 International Criminal Court

2 Trial Chamber I

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

4 Case against Thomas Lubanga Dyilo

5 Hearing - Closed Session

6 The hearing starts at 9.31 a.m.

7 COURT USHER: All rise. The International Criminal Court is now

8 In session. Please be seated.

9 PRESIDING JUDGE FULFORD: Good morning. Witness, please.

10 While the witness is being brought in, there was I think

11 yesterday disclosure as to the names and the year of birth of some

12 participating victims represented by Ms. Bapita. In our order we'd

13 indicated that the date of birth should be revealed, which in the

14 schedule that's been provided has not been complied with. The reason for

15 that is that the VPRS do not have any more detailed information, and so

16 they have not deliberately flouted our order but have instead simply

17 supplied the information that they've got to the maximum extent.

18 (The witness takes the stand)

19 PRESIDING JUDGE FULFORD: Good morning, sir.

20 THE WITNESS (interpretation): Good morning.

21 PRESIDING JUDGE FULFORD: Public or private session,

22 Mr. Sachdeva?

23 MR. SACHDEVA: Good morning, Mr. President. We can start in open

24 session.

25 PRESIDING JUDGE FULFORD: Good. Public session, please.

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1 (Open session at 9.33 a.m.)

2 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

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

4 WITNESS: WITNESS DRC-OTP-WWW-0055 (Resumed)

5 (Witness answered through interpreter)

6 Questioned by Mr. Sachdeva: (Continued)

7 Q. Good morning to you, sir.

8 A. Good morning.

9 Q. Sir, we're going to continue with that exercise with respect to
10 the log-book.

11 MR. SACHDEVA: I would ask the Court Usher to -- if I can
12 identify the entry for the witness to comment upon.

13 For the benefit of the Court, I'm directing the witness to
14 entry 159 and it is the -- the second paragraph on that page under the
15 heading 131207B.

16 PRESIDING JUDGE FULFORD: Usher, could you ensure, please.

17 MR. SACHDEVA:

18 Q. And, sir, take your time, read that message, and please tell the
19 Court if you recall seeing that message during your time at the UPC.

20 Sir, can I ask you then, do you recall seeing that message?

21 A. I had somebody talk to me about this document, but I hadn't read
22 it.

23 Q. And, sir, just so we're clear that we're talking about the same
24 message, what are the figures at the top of the message that you see?

25 A. The figures that I see here are 13, 12, 07, B.

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1 Q. Excellent. Now, what do you remember about this message? And I
2 just want to make sure that you're comfortable answering this question in
3 open session. We are still in open session.

4 A. No.

5 PRESIDING JUDGE FULFORD: Private session, please.

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

7 COURT OFFICER: Private session.

8 MR. SACHDEVA:

9 Q. Yes, sir, we're in private session. Please continue.

10 A. I would like to answer as regards this question and this means
11 that I need to link up with the two messages yesterday. I give you just
12 one answer concerning the messages you gave me yesterday and this one.
13 Is that possible?

14 Q. Yes, please continue.

15 A. When I read the first message, I told you that the message came
16 from Aru. This one also comes from Aru. When I received this message,
17 there was a sector commander who was in charge of the Aru sector. His
18 name was Jerome Kakwavu. Jerome Kakwavu had problems with certain
19 ministers in the UPC. If you read the first message, the one that I read
20 yesterday, Jerome Kakwavu was saying the following, the person who comes
21 to meet him in his sector will do ill.

22 Jerome's not one of the founders of the UPC. Jerome came over
23 from the enemy camp. He's a former member of the APC.
24 According to the agreement he reached with Mbusa, he came over to the UPC
25 and he was received into the ranks of the UPC. Jerome was in charge of a

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1 border region, a border -- on the border with Uganda. It was a border
2 region between the Democratic Republic of Congo and Uganda. He was also
3 in charge of a border region between the Democratic Republic of Congo and
4 Sudan. At a certain moment ministers gave him orders because the ministers
5 said the UPC was their party. Whenever the ministers came into the area
6 under Jerome's control, it was to look for money, to get hold of money. If
7 you read yesterday's message Jerome Kakwavu said, (Redacted)

8 (Redacted)

9 (Redacted)

10 I remember very well all of the incidents that occurred at that
11 time. (Redacted) President Lubanga to (Redacted) Jerome and (Redacted) to
12 Bunia. (Redacted) talked to Jerome and Jerome said what the
13 ministers were doing when they came into his region (Redacted)
14 Jerome was innocent. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted). He was a section commander.

18 (Redacted)

19 escorted by only three or four soldiers. So it just wasn't possible to
20 (Redacted) had his own troops, three or four brigades. (Redacted)
21 (Redacted) president himself and even with Bosco. And this

22 led to many problems up until the moment when Jerome rebelled and he made
23 the following statement. He said, "As of today it's no longer the UPC.

24 It's the FAPC and I am the leader of that movement."

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 So it's in that context that I do recall this message. It was in
6 2003. After Jerome's rebellion, the UPC fought against the UPDF and I
7 remember the message came at that time. At that time there were many
8 problems with Jerome. So that's what I remember as regards this message.

9 Q. Thank you, sir. And staying with this message that we have here,
10 (Redacted), it says that it is to the ministry - I'm reading from the French
11 version - "Ministre de la Defense." To your knowledge, who is that
12 referring to?

13 A. At the time the minister of defence -- well, I don't remember his
14 name. No, I don't remember his name. I don't remember the name of the
15 minister of defence to whom this letter was sent at the time. I only
16 remember who was the minister of defence before that, it was Kahwa. But
17 at that time, Kahwa had also just defected.

18 Q. That's fine, sir. Now, if we go into the substance of the message I'm
19 going to read a couple of lines for you and I'd like you to comment on that.
20 And I'm reading from the French version. I'm reading from:

21 (Interpretation) "The person who is entitled to organise a
22 meeting after 1800 hours continuing until 1.00 a.m. in the procedure,
23 according to the procedure, it's only the president according to what I
24 learnt in the context of security because night-time meetings are
25 forbidden."

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1 (In English) And what can you say about that?

2 A. That statement can be explained as follows. The inhabitants of
3 Aru were not living in peace with the Hemas because in Aru you have
4 another ethnic group, the Lugbara and the Kakwa. There was no
5 understanding between these tribes and the Hemas, and so the people went
6 and told Jerome that the Hemas were holding night meetings.

7 The way in which that letter was written was that no one was
8 authorised to hold night meetings except the president. It was a way of
9 pleading his own cause so that it would not be said that he had arrested
10 a Hema. He said: The people came and told me that they were holding night
11 meetings because for the population to live comfortably they had -- they
12 were lodged in straw huts, maniatas. These were houses that belonged to
13 the soldiers near the airport. So it was his way of justifying his cause
14 because he was holding such meetings. So he was saying, Nobody is
15 authorised to hold nightly meetings except or apart from the president.

16 Q. I'm going to come back to a question on your earlier answer in a
17 moment but let's move to another entry to save time.

18 MR. SACHDEVA: If I can have the log-book so I can direct the
19 witness. Thank you.

20 PRESIDING JUDGE FULFORD: While that's being selected by
21 Mr. Sachdeva - please get on with that, Mr. Sachdeva - when the
22 stenographers and interpreters come to perfect the transcript for page 4,
23 line 3 and 4, there is currently the two words "apology roams control."
24 That will need to be checked because it doesn't make sense and I suspect
25 what the witness said was "Jerome's" rather than "apology roams." Could

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1 the audio-tape please be checked if necessary so that we get a better
2 version of what the witness said.

3 Now I think, Mr. Sachdeva, the usher has indicated to the witness
4 which passage you want him to look at. Is that right?

5 MR. SACHDEVA: Yes, Mr. President, I put the sticky there just to
6 be absolutely sure that we're talking about the right message.

7 PRESIDING JUDGE FULFORD: Sounds like a very sensible thing to
8 do. And for our benefit, where are we going?

9 MR. SACHDEVA: For your benefit, we're going to entry (Redacted) and it
10 is the last message -- well, let me take you to the French -- yes, (Redacted)
11 and the last message on that page under the figures (Redacted).

12 Q. And, sir, again the same question, once you've read it, and do
13 you recall seeing that message?

14 A. Give me some time, please.

15 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

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

17 Q. Sir, what can you say about that message?

18 PRESIDING JUDGE FULFORD: Just before the witness answers, we're
19 still in private session. Is this an area that the witness is likely to
20 be able to answer in public session or private session, Mr. Sachdeva?

21 MR. SACHDEVA: I would ask to remain in private session. To be
22 honest, I'm not absolutely sure.

23 PRESIDING JUDGE FULFORD: All right. Well, let's see how we go
24 but we'll stay in private session for the time being.

25 MR. SACHDEVA:

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1 Q. Sir, do you remember that message? Do you remember seeing that
2 message or hearing about that message during your time in the UPC?

3 A. Yes, I saw this message.

4 Q. And my question, then, on this message is: In the -- in the
5 paragraph it says in the French version:

6 (Interpretation) "Tomorrow the superior of MONUC will come to see
7 number 1."

8 (In English) And my question is: What or who is meant by number
9 1?

10 A. Yesterday I said we usually called President Lubanga "Number One"
11 and his call-sign was "Number One." So when reference is made to "Number
12 One," they are talking about President Lubanga.

13 Q. If we now move to another entry --

14 MR. SACHDEVA: And I apologise, I need to direct the witness to
15 the entry. Thank you.

16 For the benefit of the Court, it's entry (Redacted), top message on the
17 page.

18 Q. And again, sir, do you recall seeing that message during your
19 time in the UPC?

20 A. No. I never saw this message.

21 Q. I appreciate that, that you haven't seen it but let me ask you
22 this: Given your evidence so far about some of the messages and given your
23 position (Redacted) in the UPC, you see that at the column -- at
24 the row where it says "info" it has "the president." And who do you
25 think the president would -- that would be referring to?

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1 A. There was only one president within our movement, there were not
2 several.

3 Q. Thank you. I'll take you now to another entry.

4 MR. SACHDEVA: For the benefit of the Court, it is entry (Redacted), the
5 last message on the page.

6 Q. And, sir, do you remember seeing that entry, entry (Redacted)

7 A. Yes, yes. I would like to give you the following information.
8 When we talk about call-signs, (Redacted) There are
9 other messages which I did not read and it was Bosco who gave me the
10 information because he received those messages. So it was not important
11 for me to go and read them.

12 When I look at this message, I notice that I recognise them even
13 though I did not read some of them. This message here came from Chief of
14 Staff Kisembo who was giving information to the people of the Aru sector,
15 asking them to be on stand-by until further orders were given. It was
16 during a period of conflict. It was at the time when we had a conflict
17 between -- that is between us and the UPDF, and so we had this atmosphere
18 of combat between us and the UPDF.

19 Q. And the -- the words that are indicated here, stand-by class
20 zero, what do they mean?

21 A. Stand-by class zero means be ready, be at your positions and be
22 ready at any time. It was a term which we habitually used. To be on
23 stand-by means you should be ready. Don't do anything else but prepare
24 yourself. So it was an order given to soldiers to be on the spot and not
25 move around in disorder, to stand ready to intervene at any time.

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1 Q. Thank you. And now I want to take you to a final message. Thank
2 you.

3 MR. SACHDEVA: For the benefit of the Court, it is message (Redacted),
4 the message on page -- on entry (Redacted).

5 PRESIDING JUDGE FULFORD: And could you decide, Mr. Sachdeva,
6 whether public or private.

7 MR. SACHDEVA: This can be undertaken in public session and I'm
8 referring to the middle message under the figures (Redacted).

9 PRESIDING JUDGE FULFORD: Thank you.

10 Public session, please.

11 (Open session at 10.10 a.m.)

12 COURT OFFICER: Public session.

13 MR. SACHDEVA:

14 Q. Firstly, sir, the same question: Did you see or come to know
15 about this message during your time in the UPC?

16 A. Give me a few minutes, please.

17 Q. And, sir, do you remember seeing that or coming to know about
18 that message?

19 A. Yes, President Lubanga had told us about this message.

20 PRESIDING JUDGE FULFORD: We need some interpretation, please.
21 The witness gave an answer which hasn't been interpreted.

22 THE WITNESS (interpretation): We had been told -- we had been
23 told about this message. President Lubanga told us about this message.

24 PRESIDING JUDGE FULFORD: There appears to be a technical
25 problem. For some reason --

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1 THE WITNESS (interpretation): President Lubanga had told us
2 about this message.

3 PRESIDING JUDGE FULFORD: Thank you.

4 Please carry on, Mr. Sachdeva.

5 MR. SACHDEVA:

6 Q. What did President Lubanga tell you about this message, do you
7 recall?

8 A. Are we in closed session?

9 PRESIDING JUDGE FULFORD: We will now go into closed session, or
10 rather, private session, please.

11 *(Private session at 10.12 a.m.) Reclassified as Open session.

12 COURT OFFICER: Private session.

13 PRESIDING JUDGE FULFORD: Yes, sir, if you could then explain.

14 THE WITNESS (interpretation): President Lubanga had summoned us
15 and given us the following information. Salim Saleh was in Aruwa with
16 Jerome and he wanted (Redacted). At that time President Lubanga
17 said he was hunting for the phone number of President Museveni because
18 Salim --according to what Salim Saleh was doing, he sent a delegation to
19 Aruwa without informing him. That's how I understood that message.

20 MR. SACHDEVA:

21 Q. Thank you, sir. And in the row entitled "Info" it says: "Commandant
22 en chef, Number One." And to your knowledge who or what does the "Number
23 One" refer to?

24 A. I told you there was only one "Number One," the president
25 himself.

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1 MR. SACHDEVA: Mr. President, may I have one second, please.

2 PRESIDING JUDGE FULFORD: Certainly.

3 (Prosecution counsel confer)

4 MR. SACHDEVA: Mr. President, in light of the last questions I'd
5 like to take the witness to another entry. I -- I hadn't anticipated
6 that I would. And I say this --

7 PRESIDING JUDGE FULFORD: Don't worry, Mr. Sachdeva. Another
8 entry. On you go.

9 MR. SACHDEVA: Thank you.

10 And for the benefit of the Court, it is entry -- it is on DRC --
11 on page (Redacted) and it is the penultimate entry on that page under the
12 code (Redacted).

13 PRESIDING JUDGE FULFORD: Yes, Mr. Biju-Duval.

14 MR. BIJU-DUVAL (interpretation): Yes, your Honour. It appears
15 upon reading the message that the witness is neither the addressee nor
16 the sender of the message, so I think we are straying from what was
17 originally considered by the Court. I think as such I have to oppose the
18 submission to the witness of this message.

19 PRESIDING JUDGE FULFORD: Right. Objection is taken,
20 Mr. Sachdeva, and so we must resolve the objection. Should we do so in
21 the presence or the absence of the witness? Will the discussion
22 improperly alert the witness to the area of evidence that you wish him
23 positively to deal with?

24 MR. SACHDEVA: Yes, it probably should be done in the absence of
25 the witness or to save -- possibly save time for the witness to remove

1 his headphones. I don't know if that's --

2 PRESIDING JUDGE FULFORD: No. A brave suggestion, Mr. Sachdeva,
3 but not one that we're going to implement.

4 Sir, I'm very sorry to interrupt your evidence in this way, but I
5 think you now understand why. Could you please, just for a moment - and
6 I don't think it will be long - accompany the usher to the room outside.
7 Thank you very much.

8 *(Closed session at 10.19 a.m.) Reclassified as Open session.

9 COURT OFFICER: Closed session.

10 (The witness stands down)

11 PRESIDING JUDGE FULFORD: What are you seeking to do,
12 Mr. Sachdeva?

13 MR. SACHDEVA: Well, Mr. President, the previous message,
14 message 50 -- and I would just preface my submissions by informing the
15 Court that I had informed the Defence prior to the hearing today exactly
16 which entries I was going to show the witness for their benefit. And
17 message (Redacted) was -- was told to the Defence.

18 Now, I understand that from looking at message (Redacted) the witness is
19 not copied, it's not from him, it's not to him. Nevertheless, my initial
20 intention was to -- given the witness's experience, given the witness's
21 position, to ask him generally to who in his knowledge did "Number One"
22 refer to. In my submission that may have been a legitimate question.

23 Nevertheless, I did preface that series of questions by asking
24 the witness: Sir, do you remember seeing that or coming to know about
25 that message? It is quite possible that he may have come to know about

1 this message without having seen it, and in fact that was the answer that
2 the witness gave. And upon receiving those answers, I decided to take
3 him to this entry now, entry (Redacted), where indeed the witness is not
4 copied nor is he -- nor is it from him or to him. Nevertheless, it may be
5 that he recalls having been told about this incident or the substance of this
6 message.

7 Perhaps I can -- perhaps I could just ask him without reference
8 to the log-book generally about the incident mentioned here. That could
9 be another way to go about it, but it was in light of the initial answers
10 he gave to message (Redacted).

11 PRESIDING JUDGE FULFORD: This is one of the problems,
12 Mr. Sachdeva, of having not taken a witness statement from the witness.
13 If a witness statement had been taken from the witness, within that
14 statement there should have been covered all the material areas that the
15 Prosecution wishes the individual to address. I mean, there may be a
16 very large number of things that the witness knew about but which are not
17 revealed in the materials currently before you. We can't possibly have
18 examination-in-chief conducted with a witness on the hope that he might
19 have heard about something which isn't revealed in a statement that he's
20 given. Otherwise, we'd be here until the crack of doom investigating
21 whether he might have heard about something. So that approach, I think,
22 finishes here, Mr. Sachdeva.

23 What is it that you want particularly from this message? I mean,
24 as I understand it this relates to something to do with a plane and
25 receiving instructions from the president. Is the underlying factor that

1 you want evidence from the witness that Thomas Lubanga was in a position
2 to give instructions of that kind? I mean, what really is this all
3 about, Mr. Sachdeva?

4 MR. SACHDEVA: Indeed, indeed it is that, that President Lubanga
5 had the authority to issue orders --

6 PRESIDING JUDGE FULFORD: Well, I think you can -- I mean, I
7 think this has to a very large extent been dealt with already and the
8 witness as given, as I recall it, fairly detailed evidence about there
9 only being one president and who gave instructions. I really for myself
10 don't see the value in going over the same ground again by reference to a
11 message which doesn't appear to have the finger-prints, as it were, of
12 this witness on it at all.

13 MR. SACHDEVA: Yes, Mr. President, and upon reflection I'll move
14 on.

15 PRESIDING JUDGE FULFORD: So can we wave good-bye to the log-book
16 at this point in time, Mr. Sachdeva, for this witness. I understand
17 you've got another basis on which you wish to introduce it.

18 MR. SACHDEVA: We can, Mr. President, yes.

19 PRESIDING JUDGE FULFORD: Thank you very much.

20 Just give us a moment.

21 (Trial Chamber confers)

22 PRESIDING JUDGE FULFORD: Witness, please.

23 (The witness takes the stand)

24 PRESIDING JUDGE FULFORD: Public session, Mr. Sachdeva?

25 MR. SACHDEVA: Mr. President, this question I think needs to be

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1 dealt with in private session.

2 PRESIDING JUDGE FULFORD: Private session?

3 MR. SACHDEVA: Yes.

4 PRESIDING JUDGE FULFORD: All right. Private session, please.

5 *(Private session at 10.25 a.m.) Reclassified as Open session.

6 COURT OFFICER: Private session.

7 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

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

9 Q. Sir, I have really one or two topics left and I won't be very
10 long. The first question is regarding (Redacted). You remember we
11 spoke about his activities related to (Redacted) with the UPC, and I'd
12 like to know how did he come to be in that role? Under what
13 circumstances did he attain that role that you described earlier?

14 A. Are we in private session? I don't know if you remember, but I
15 gave you explanation about how I started to work in UPC. I found the UPC
16 already made up and (Redacted). I
17 don't know how he was chosen to be (Redacted)
18 and I couldn't ask him such a question -- I couldn't ask him how he got
19 to be at that post.

20 Q. (Redacted), during your time in the UPC do -- was there
21 anything in particular that (Redacted) with respect to
22 securing finances?

23 A. Yes. At a given time there were businessmen who didn't want to
24 give their financial contribution. (Redacted) from the president to
25 help the chairman of the those businessmen, and the point was for him to

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1 have enough power to convince the businessmen to pay their contribution.
2 (Redacted), and (Redacted)
3 (Redacted), help recover some money from the
4 businessmen. I gave him someone who went and visited the businessmen in
5 their offices.

6 Q. And, sir, just so we're clear, who was the letter from?

7 A. The letter came from the president.

8 Q. Did you become aware as to why the money was required? Was it
9 required for anything in particular or was it just part of the ongoing
10 process of securing finances?

11 A. Could you reframe the question, please.

12 Q. I can. Do you know why President Lubanga wanted the money?

13 A. It was so as to finance the movement.

14 PRESIDING JUDGE FULFORD: There was --

15 THE WITNESS (interpretation): It was so as to finance the movement.

16 PRESIDING JUDGE FULFORD: Thank you.

17 MR. SACHDEVA:

18 Q. And on that occasion, how much money was involved?

19 A. I couldn't say how much money was involved. I didn't know the
20 basis on which the figures were established. I wasn't familiar with this
21 issue of financing.

22 Q. Yes. Perhaps -- I'm not asking -- just to be clear, I'm not
23 asking you generally about how much money was coming and going in the
24 UPC. But on that occasion when, as you've said, (Redacted)
25 (Redacted), how much money was due to be collected at

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1 that occasion?

2 A. He didn't tell me what the figure was. He simply told me that
3 there was a certain number of businessmen who refused to make their
4 contributions. I couldn't ask him how much money was involved. (Redacted)
5 (Redacted). He didn't give me any reports.
6 He didn't say anything about the figure involved, and this isn't a
7 question that I put to him.

8 Q. I understand that, sir. (Redacted)
9 (Redacted)

10 A. The letter stated that (Redacted)
11 (Redacted). It was a minor form
12 of correspondence. (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)

17 Q. And, sir, with respect to that request, (Redacted)
18 (Redacted)
19 (Redacted)

20 A. (Redacted)

21 Q. Did you speak (Redacted) after that about this
22 incident?

23 A. Yes. (Redacted)
24 about what he had done.

25 Q. And what did he tell you?

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1 A. He simply told me that they had finished their work; however,
2 there's certain businessmen (Redacted)
3 (Redacted), because at the time they didn't have the money. (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted) and that's how things unfolded.

7 Q. And do you recall -- well, let me ask you, do you recall whether
8 the businessmen came -- eventually came to the office later?

9 A. Those who refused to pay received a summons. They couldn't be
10 arrested but they were given time-limits and told that they had to pay
11 the money by a certain dead-line.

12 Q. And who was it that told them that? Who gave them the
13 time-limit?

14 A. You know, when you're in business you never know when you're
15 going to make profit. You can start with a certain form of commercial
16 activity today but you never know when you'll make a profit. You might
17 say in two or three days later I'll have sold a certain quantity of goods
18 or certain goods and I'll have made a profit. So given the fact that
19 they were summoned to the office, well, this was a manner of exerting
20 pressure on them, to ensure that they came up with the money. If the
21 businessmen, for example, (Redacted) after a
22 few days he could pay, well, he would then be given a time-limit, a
23 dead-line.

24 Q. Yes, sir, I understand the process. I'm simply asking whether --
25 well, who was it that exerted the pressure?

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1 A. It was the chairman of these businessmen.

2 Q. Sir, have you ever heard of the term "pre-financing"?

3 A. Yes.

4 Q. Can you tell us what you know -- and would you mind -- is it okay
5 for you to do that in open session?

6 A. Yes.

7 (Open session at 10.39 a.m.)

8 COURT OFFICER: Public session.

9 PRESIDING JUDGE FULFORD: Yes.

10 MR. SACHDEVA:

11 Q. Please, sir, continue.

12 A. I can provide you with an explanation by giving you certain
13 examples. If you are a businessman, if the party needs funds or if
14 there's urgent work that has to be carried out by the party, if we know
15 that such and such a businessman has money available, usually we would
16 summon this businessman and say we need such and such a figure, we need a
17 certain amount of money.

18 In our area there was the airport and the border. If this
19 businessman, for example, provided the funds needed, we wouldn't directly
20 return the money to him in cash. For example, if a businessman had his
21 goods, beans, rice, or cornflour, and if, for example, we needed food for
22 the soldiers, we would go and obtain the food from this businessman. We
23 wouldn't pay him in cash, though. He was compensated in the following
24 manner. When he brought in the goods he wouldn't pay any duty on the
25 goods. There would be financial compensation that would be equivalent to

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1 the value of the goods that he had provided.

2 Have you understood the explanation I have just given to you?

3 Q. Yes, yes. Thank you. And was that a system -- was that system
4 applied in the UPC at the time?

5 A. Yes, it was a fully functioning system at the time.

6 Q. And who was it that conceived of this system?

7 A. I don't know. I couldn't tell you who came up with the idea. In
8 any event, this was an automatic kind of operation. For example, if you
9 had control over a border and you needed money, well, it was an automatic
10 system. It wasn't an operation or an activity that only the UPC was
11 involved in. I think that there are other African countries that use
12 such a system.

13 MR. SACHDEVA: Mr. President, my last series of questions needs
14 to be done in private session.

15 PRESIDING JUDGE FULFORD: Private session, please.

16 *(Private session at 10.43 a.m.) Reclassified as Open session.

17 COURT OFFICER: Private session.

18 MR. SACHDEVA:

19 Q. Sir, you talked about the airport in our area, in your area.
20 During your time in the UPC, was there a time or an occasion that you
21 recall in relation to the airport and the collection of money?

22 A. With regard to the airport, well, there were planes that landed there,
23 from Bunia, planes that came from Uganda, and other planes that came from
24 Goma. We received various goods delivered by planes, for example,
25 vehicles, and there was also passengers on these flights. These

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1 passengers were paying passengers. They had to pay tax. And these
2 funds, the funds that were obtained from the airport, even someone who
3 exported or imported goods by using the airport paid tax. And that is
4 how money was made at the airport.

5 Q. And was there a time or an occasion when you yourself were
6 involved in the collection of money in that way at the airport?

7 A. I was never involved in collecting tax at the airport.(Redacted)
8 (Redacted). It had been
9 sent for the UPC. (Redacted). There were beans
10 and there was corn, maize.

11 Q. Tell us about that occasion when (Redacted)
12 (Redacted).

13 A. I can't remember the date, but it was in 2003. It's when we were
14 fighting a war against the UPDF. President Lubanga (Redacted). He
15 said "There's a message from Goma and there's money and goods that will
16 also be sent for us." (Redacted).

17 Are we in private session or --

18 PRESIDING JUDGE FULFORD: Private.

19 THE WITNESS (interpretation): I wanted to know whether we were
20 in private session.

21 PRESIDING JUDGE FULFORD: Yes, we are.

22 THE WITNESS (interpretation): (Redacted)

23 (Redacted)

24 (Redacted). I

25 said -- (Redacted), "There is a plane that will come from Goma.

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1 As soon as it arrives, (Redacted)."

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 MR. SACHDEVA:

10 Q. (Redacted)

11 A. (Redacted)

12 (Redacted).

13 Q. Thank you very much, sir --

14 Your Honour, may I have a moment?.

15 Q. Thank you for that answer. Thank you very much.

16 MR. SACHDEVA: That's the end of the examination-in-chief.

17 PRESIDING JUDGE FULFORD: Ms. Bapita.

18 MS. BAPITA (interpretation): Thank you, your Honour, for giving
19 me the floor.

20 Questioned by Ms. Bapita:

21 Q. Witness, my name is Carine Bapita. I'm a lawyer and I represent
22 the interests of the victims, particularly the child soldiers, in these
23 proceedings. I have a number of questions linked perhaps (Redacted)
24 (Redacted)
25 (Redacted). I shall make an effort not to speak

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1 quickly, particularly as the interpreters will have to translate my
2 questions into the language that you understand best. Then they will
3 have to wait for your answer and retranslate for me.

4 So I would like to know, (Redacted), how many
5 sectors of operation the UPC or the FLPC had there.

6 PRESIDING JUDGE FULFORD: Before you answer, sir, Ms. Bapita, thank
7 you very much for the introduction. The question that you've posed is
8 (Redacted) how many sectors were there. Does that
9 need to be in private or could that question be put publicly do you
10 think?

11 MS. BAPITA (interpretation): Thank you, your Honour, for having
12 drawn my attention to this. The first series of questions should be in
13 private session.

14 PRESIDING JUDGE FULFORD: Certainly. I just wanted to check.
15 Thank you.

16 So the question then, sir, is: (Redacted),
17 how many sectors of operations did the UPC or the FPLC have there?

18 THE WITNESS (interpretation): There was just one sector.

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

20 Your Honour, in the document submitted by the Prosecutor there is
21 tab -- well, there are tabs 18 and 19. These are elements that were
22 presented by the witness himself. Without there being any tendency to
23 lead, I just would like to know whether the witness could perhaps take a
24 look at tab 18. Apparently he doesn't have it before him. He doesn't
25 have the binder.

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1 PRESIDING JUDGE FULFORD: No. Now this is a Prosecutor's binder.
2 With the usher's assistance, please, could the usher turn it -- turn up
3 tab 18, please, and show that to the witness.

4 COURT OFFICER: Can we have the ERN number of the document for
5 the record. Thank you.

6 MS. BAPITA (interpretation): Yes, it's DRC-OTP-0187-0031. There
7 is already an EVD number. The second document is DRC-OTP-0187-0032, and
8 it would seem there's already an EVD number.

9 PRESIDING JUDGE FULFORD: So the question, Ms. Bapita?

10 MS. BAPITA (interpretation):

11 Q. Witness, would you please turn to tab 19. There's mention of the
12 (Redacted). I don't know if you see this. Have you found it? Well,
13 I should like to follow the sketch. If you take a look at the
14 sketch I see (Redacted),
15 (Redacted) sectors. So when I asked you how many sectors there
16 are it was to know whether it was broken down in this way. Do you recall
17 that (Redacted) the sectors were broken down in the same way or was the
18 denomination or the terminology used different?

19 A. I would ask you not to follow that document and I would ask that
20 we now move to private session, please.

21 PRESIDING JUDGE FULFORD: Don't worry, sir, we're in private session.

22 THE WITNESS (interpretation): I would ask you not to follow this
23 document because when I made this sketch it was just to give an example.
24 If you ask me questions about this first document that you have before
25 you, well, I was just trying to show you what was the hierarchy in the

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1 main staff. I was asked how a sector was made up and I said each sector
2 was made up of brigades. If you want to ask me, if you want to put a
3 question to me, then I will answer according to what you say in your
4 question.

5 MS. BAPITA (interpretation): Thank you. I have understood the
6 answer given by the witness and I'll put the question differently.

7 Q. How many brigades were there in the (Redacted)?

8 A. Yes, well that's how you should put the question. There was
9 just one sector (Redacted). There was (Redacted) brigade, there was the
10 (Redacted) brigade - these were the names of the brigades - and there was
11 the (Redacted) Brigade.

12 Q. Thank you, Witness. I would like to know as regards the
13 (Redacted) zone, which brigade was that in?

14 A. When we took (Redacted) we constructed a new sector, it was the
15 (Redacted) sector under the command of (Redacted). It was a
16 sector. It was not a brigade. (Redacted) was a sector, not a brigade.

17 Q. And what about (Redacted)?

18 A. The sector of (Redacted) was constructed afterwards. Before that
19 (Redacted) was a sector -- was in the sector of (Redacted).

20 MS. BAPITA (interpretation): Your Honour, it's already 11.00. I
21 don't know whether I should continue at this stage.

22 PRESIDING JUDGE FULFORD: This is a convenient moment,
23 Ms. Bapita. We'll take the break now.

24 MS. BAPITA (interpretation): I would, before we break, quite
25 like to have clarified this final point.

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1 PRESIDING JUDGE FULFORD: Do. Just finish the point.

2 MS. BAPITA (interpretation):

3 Q. Can you tell us whether during the creation of the (Redacted) sector,
4 the new sector, whether you were in (Redacted)

5 A. Yes, when the (Redacted) sector was created (Redacted).

6 Q. Could you tell us who was the commander of the (Redacted) sector, the
7 name of the (Redacted) sector commander, if you recall?

8 A. It was Commander (Redacted).

9 Q. How many brigades were there in (Redacted)?

10 A. There were three brigades.

11 Q. Who were the different brigade commanders?

12 A. There was the brigade (Redacted) (as interpreted) and it was
13 Commander (Redacted). There was Commander (Redacted). I've forgotten his name
14 but I'm sure it will come back.

15 MS. BAPITA (interpretation): Thank you, your Honour. I think we
16 can break now.

17 PRESIDING JUDGE FULFORD: Thank you very much, Ms. Bapita. We'll
18 break, then, for half an hour. We'll sit again at 25 to 12.00. Can we
19 go into closed session, please, so the witness can withdraw.

20 *(Closed session at 11.02 a.m.) Reclassified as Open session.

21 COURT OFFICER: Closed session.

22 (The witness stands down)

23 PRESIDING JUDGE FULFORD: Mr. Sachdeva, in case I forget in due
24 course, as a result of the first day's evidence with this witness when
25 arguably a few matters were made public that probably on mature

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1 reflection should have remained private, we asked the relevant official
2 within the Victims and Witnesses Unit to speak with the witness and to
3 reassess the security situation for him for the future. That has
4 happened, and without going into detail, the reaction of the Victims and
5 Witnesses Unit is wholly favourable and it is not anticipated that what
6 was said has any likelihood of causing difficulties for this witness.

7 MR. SACHDEVA: Thank you very much, Mr. President, for that
8 information. Thank you.

9 PRESIDING JUDGE FULFORD: 25 to 12.00.

10 COURT USHER: All rise.

11 Recess taken at 11.05 a.m.

12 On resuming at 11.37 a.m.

13 COURT USHER: All rise. Please be seated.

14 PRESIDING JUDGE FULFORD: Witness, please.

15 (The witness takes the stand)

16 PRESIDING JUDGE FULFORD: Private session, please.

17 *(Private session at 11.39 a.m.) Reclassified as Open session.

18 COURT OFFICER: Private session.

19 PRESIDING JUDGE FULFORD: Ms. Bapita.

20 MS. BAPITA (interpretation):

21 Q. Witness, for the purposes of the transcript could you help us and
22 write on a piece of paper the name of (Redacted) - the commander of the
23 (Redacted) sector - and the three names of the brigade commanders, those that
24 you recall, because it would seem that they weren't correctly written on
25 the transcript.

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1 PRESIDING JUDGE FULFORD: Piece of paper and a pen, please, to
2 the witness, and an EVD number for the document he's about to fill in.

3 COURT OFFICER: The document shall carry the number EVD-V02-00001.

4 PRESIDING JUDGE FULFORD: Thank you very much, sir. Could you show it to
5 Ms. Bapita first, please, and then pass it up to the Bench.

6 All four have the letters Comd before them. The first is
7 (Redacted); the second, (Redacted), then (Redacted); the third
8 (Redacted); and the third (sic), (Redacted). Thank you.

9 Yes, Ms. Bapita.

10 MS. BAPITA (interpretation): Your Honour, I think you mentioned one of
11 the postnames instead of a name, but maybe the witness would be
12 able to supply this.

13 Q. Witness, is the first name we are talking about (Redacted) as the
14 brigade commander?

15 A. Yes.

16 MS. BAPITA (interpretation): So that would be the correction.

17 PRESIDING JUDGE FULFORD: Thank you.

18 Q. Mr. Witness, could you tell us where -- how many battalions there
19 were within each brigade?

20 A. There were three battalions.

21 Q. Could you tell us, if you can remember, the names of the
22 different battalion commanders, whether we're talking about the 1st, 2nd
23 and the 3rd Brigades.

24 A. In the (Redacted) Brigade there were -- well, I can't remember the
25 names of the commander of the battalion, but I remember my superior, and

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1 when it comes back to my mind I'll tell you.

2 Q. So you think you can remember the name of your superior?

3 A. What do you mean by superior in the hierarchy?

4 Q. Well, you said you couldn't remember the names of the different
5 battalion commanders but you could remember the name of the superior in
6 the hierarchy, according to what I heard in the translation.

7 A. Commander (Redacted) was above them, was their superior.

8 Q. And for the other brigades, do you remember the name of the
9 different battalion commanders?

10 A. If you give me a bit more time I'll probably manage to remember
11 and I'll tell you.

12 Q. Yes, it is fair that after so long you cannot remember exactly.

13 PRESIDING JUDGE FULFORD: Why don't you move on to the next matter, Ms.

14 Bapita, to give the witness time over the next few questions to reflect on
15 it and then you can return to this topic towards the end of your questioning.

16 MS. BAPITA (interpretation): Yes, your Honour, I'll do that, but I just
17 wanted to find out a little bit more on this subject while he's -
18 reflecting.

19 PRESIDING JUDGE FULFORD: Most certainly. Absolutely.

20 MS. BAPITA (interpretation):

21 Q. Sir, could you tell us how many companies in each battalion?

22 A. A battalion had three companies.

23 Q. You probably have a hard time remembering the names of the
24 company commanders, I understand?

25 A. To say the truth, I wouldn't like to mislead you, and compared to the

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1 ordinary staff, I cannot remember the names of all those
2 superiors in the army.

3 Q. Well, I'll move to another sector, the Mongbwalu sector. Who was
4 the commander of that sector, can you tell us?

5 A. When we built the Mongbwalu sector, the man who was in
6 charge was Salongo.

7 Q. How many brigades were there within the Mongbwalu sector?

8 A. The Mongbwalu sector had three brigades.

9 Q. Do you know the names of the brigade commanders at the time,
10 can you remember?

11 A. He was Salumu Mulenda and there was another one called Manassé. I don't
12 know his family name. And another brigade was led by Commander Éric.

13 Q. How many companies within those brigades?

14 A. Battalions?

15 Q. Yes, battalions.

16 A. There were three.

17 Q. And how many companies?

18 A. Three.

19 Q. Sir, I'll let you reflect on the names of the different
20 commanders, if ever they come back to your mind, and I'll move to another
21 aspect of the question. Have you physically had a chance to meet those
22 different commanders in the field?

23 PRESIDING JUDGE FULFORD: Yes, sir?

24 THE WITNESS (interpretation): The questions which are put to me, could I
25 write some things down? Every time something comes to my mind I

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1 could jot it down.

2 PRESIDING JUDGE FULFORD: That's an extremely good idea, so particularly as
3 regards the names that Ms. Bapita is seeking, if you could have a piece of
4 paper and a pen in front of you, if you remember a name please jot it down.
5 And then at the end of your evidence I'll ensure that you have an
6 opportunity of adding in any matters that have come to mind. If I may say
7 so, that's an extremely useful idea.

8 Yes, Ms. Bapita.

9 MS. BAPITA (interpretation):

10 Q. Sir, have you had opportunity to meet those different commanders
11 in the field?

12 A. Yes. When I went to the sectors on visit, (Redacted)
13 (Redacted), and during the visits of those sectors, yes, I did. But I didn't
14 get to visit all the brigades. In Mongbwalu I didn't visit the brigades.
15 (Redacted).

16 Q. Could you tell us whether during the visits and when you got to
17 go to some sectors you had opportunity to observe whether there were
18 kadogos around those commanders as bodyguards?

19 A. Yes, there were.

20 MS. BAPITA (interpretation): Your Honour, I think we could move
21 into open session.

22 PRESIDING JUDGE FULFORD: Thank you, Ms. Bapita.

23 Public session, please.

24 (Open session at 11.50 a.m.)

25 COURT OFFICER: Open session.

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1 PRESIDING JUDGE FULFORD: Yes, Ms. Bapita.

2 MS. BAPITA (interpretation):

3 Q. Sir, I have a few questions concerning the second part of my
4 intervention relative to the hostilities in the field. Could you tell us
5 what the main operational axes were that were controlled by the Mahagi
6 sector?

7 A. The Mahagi sector was controlled by Ego (phoen) and Mahagi
8 centre - I can't remember the names. There was Rele (phoen), there was
9 another one on the edge of Lake Victoria. I can't remember the name
10 either.

11 Q. Maybe it will come back to you.

12 MS. BAPITA (interpretation): Your Honour, I don't know -- I have
13 a question where I'm not quite sure whether I can ask this question
14 directly, but I don't know what Defence will say, but I do have one or
15 two names I could mention to refresh his memory.

16 PRESIDING JUDGE FULFORD: So the question is the control of that
17 sector -- yes, unless there is any vigorous objection -- well, unless
18 there's any objection, it doesn't have to be vigorous, unless there's any
19 objection you can certainly put suggestions to the witness to see whether
20 or not they coincide with what he recalls. But pause for a moment so
21 that Mr. Bijou-Duval can decide whether or not he wishes to oppose that
22 procedure.

23 MR. BIJU-DUVAL (interpretation): I won't be vehement, your
24 Honour, but I'll still oppose and the Court will decide because I have a
25 question -- or it is a question where we have to take into account the

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1 previous testimony by witnesses, and it's a question on a particularly
2 delicate subject because the answer might be one of the important
3 elements in order to appreciate possibly the credibility of other
4 testimonies. And because this question entails all these aspects there's
5 a lot at stake, possibly, in our case. Because of this, I think we
6 should be prudent and we should stick to the actual memories of the
7 witness because any suggestion might be leading and it might have
8 something to do with Maitre Bapita's clients.

9 PRESIDING JUDGE FULFORD: That's very clear. Thank you.

10 (Trial Chamber confers)

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

12 Sir, Ms. Bapita is about to suggest some names to you to see
13 whether those names jog your memory, refresh your memory. Can I ask you
14 to be particularly careful in the answers you give. Don't be influenced
15 by the fact that Ms. Bapita is suggesting the names. Only say whether or
16 not they are the correct names on the basis of your own memory. So if
17 the names she suggests help you, say so; if the names she suggests do not
18 help you, then ignore them and make it clear that they haven't refreshed
19 your memory.

20 So on that basis, Ms. Bapita, suggest the names.

21 MS. BAPITA (interpretation): Your Honour, maybe we should move
22 to private session.

23 PRESIDING JUDGE FULFORD: Private session, please.

24 *(Private session at 11.58 a.m.) Reclassified as Open session.

25 COURT OFFICER: Private session.

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1 PRESIDING JUDGE FULFORD: Sir.

2 THE WITNESS (interpretation): Your Honour, in -- as regards my
3 memory being jogged for names, you told me to tell you if I cannot
4 remember them or if they don't ring a bell, but even if I were to mention
5 the names of places that I visited, (Redacted)
6 (Redacted). But if you give me a name and I remember having visited that
7 place, it doesn't mean to say that I know the names and even the date of
8 the visits exactly.

9 PRESIDING JUDGE FULFORD: That's very helpful.

10 So, Ms. Bapita, put the names and if there's a positive response
11 then we need to investigate a little bit exactly what it is about that
12 name that the witness remembers. So please proceed.

13 MS. BAPITA (interpretation):

14 Q. Witness, I would like to know with respect to Mahagi sector, did
15 you visit the Bule, Djugu, Fataki area?

16 A. No. I did not visit Bule, I did not visit Fataki as well. There
17 is a part of Djugu which I visited. I did not visit that area at the
18 time of the UPC, but at the time of the FAPC. I did not visit it at the
19 time I was in the UPC, but I visited it at the time of the FAPC.

20 Q. That's right. Do you remember whether -- I'm not asking you
21 whether you visited these areas. I would just like you to remember did
22 you visit the Bule, Fataki, Djugu, route -- is this route part of the
23 Mahagi sector?

24 A. In the UPC the Fataki sector did not extend all the way to
25 Mahagi.

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1 Q. Thank you. Sir, did you have the opportunity of learning, that
2 is, in the operational areas that you visited in Mahagi during combat,
3 whether there were child soldiers who were injured or not?

4 PRESIDING JUDGE FULFORD: Don't answer the question for a moment, please.

5 Mr. Biju-Duval.

6 MR. BIJU-DUVAL (interpretation): I know that there is a debate, a
7 discussion pending with regard to the admissibility of leading questions. I
8 find that this question is a leading question, and as long as the Chamber
9 has not taken a decision on that point, I think it would be careful --
10 it would be prudent for us to stick to the position which has been
11 adopted by the Chamber hitherto.

12 (Trial Chamber confers)

13 PRESIDING JUDGE FULFORD: Mr. Biju-Duval, again, thank you for
14 the intervention. We wholly understand why you raise the issue and why
15 you would sound a note of caution to the Bench; however, in our view, in
16 order for Ms. Bapita to be able to ask questions about this area, she has
17 got to put the question in such a way as the witness -- so as the witness
18 will understand what the topic is that she wants him to address. And
19 that must involve taking him first to the issue of Mahagi during combat;
20 and secondly, to the issue of child soldiers and whether or not they were
21 injured. In her question she is not suggesting the answer. She's asked
22 the question in an open way as to whether or not there were injured child
23 soldiers. So in our judgement, this is a legitimate and appropriate
24 question. And so, sir, in the operational
25 areas that you visited during the

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1 Mahagi -- during the operational areas that you visited during combat,
2 did you at any stage see injured child soldiers? Were there injured
3 child soldiers or not?

4 THE WITNESS (interpretation): I fully understood the question.
5 The sectors she talked about, the sectors of Aru and Djugu, I told her I
6 had never visited Fataki. I said that I visited a part of Djugu, but
7 that was not during the time of the FAPC, during combat. So I have -- I
8 never visited this area to see kadogos who were injured or to see how
9 operations were being conducted, no.

10 MS. BAPITA (interpretation):

11 Q. Thank you, Witness, for your answer. I will now move on to the
12 last part of my questioning.

13 MS. BAPITA (interpretation): Your Honour, we can now move into
14 open session.

15 PRESIDING JUDGE FULFORD: Thank you very much, Ms. Bapita.

16 Public session, please.

17 (Open session at 12.05 a.m.)

18 COURT OFFICER: Open session.

19 PRESIDING JUDGE FULFORD: Yes, Ms. Bapita.

20 MS. BAPITA (interpretation):

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted) Why don't you put the question again,
16 Ms. Bapita.
17 MS. BAPITA (interpretation):
18 Q. Witness, I'm going to ask the question again in order to get more
19 clarification. Within the main staff, or rather, within the battalion --
20 MS. BAPITA (interpretation): Your Honour, I would like to know
21 whether this is a question that I can put in open session or in closed
22 session.
23 PRESIDING JUDGE FULFORD: I think the Office of the Prosecutor is
24 going to say closed. Do you want this section redacted, Mr. Sachdeva?
25 MR. SACHDEVA: Yes, Mr. President, in line with previous --

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1 PRESIDING JUDGE FULFORD: I think so.

2 No criticism of you, Ms. Bapita, but from the beginning of the
3 questions (Redacted) can we please redact the whole of that
4 section and can we move, please, into private session.

5 *(Private session at 12.09 p.m.) Reclassified as Open session.

6 MS. BAPITA (interpretation): Thank you, your Honour. I
7 apologise. It's the first time I am examining witnesses in this system.

8 PRESIDING JUDGE FULFORD: No need to apologise.

9 COURT OFFICER: Private session.

10 MS. BAPITA (interpretation): Fine.

11 Q. Witness, I would like to know, in the field and specifically
12 within each brigade and each battalion, how did you call (Redacted)
13 (Redacted)?

14 A. I told you that within the brigades we call (Redacted) of the
15 brigade, and in the battalion we call (Redacted) of the battalion.

16 Q. Thank you. Now -- and in the companies, did you have a special
17 name for (Redacted) that is in each company?

18 A. We called them the (Redacted).

19 Q. Unless I'm mistaken, (Redacted)
20 (Redacted), did you?

21 A. Yes, we -- I told you that we called them (Redacted)
22 (Redacted). That was it.

23 THE INTERPRETER: Or (Redacted), interpreter corrects.

24 MS. BAPITA (interpretation):

25 Q. Thank you. I suppose that (Redacted).

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1 Can you tell us - and this will be my last question - among the
2 (Redacted) from the company level, that is, company, section,
3 platoon level, were there amongst (Redacted) kadogos?
4 Were kadogos (Redacted)?

5 A. I don't know if yesterday -- I think one of the Prosecutors put
6 this question to me. I would like to know whether we are in closed
7 session or in open session?

8 PRESIDING JUDGE FULFORD: Closed. It's private session.

9 THE WITNESS (interpretation): The Prosecutor put this question
10 to me, I think it was yesterday or the day before yesterday. He wanted
11 to know whether (Redacted) kadogos. And I answered
12 saying that this was a very difficult job (Redacted) could not involve
13 kadogos in such a job.

14 Now, as (Redacted), you can't use kadogos. When I
15 talked about (Redacted), I don't see how a kadogo can carry out such an
16 activity. We need people who have studied, people who think. Now, how
17 can a kadogo draft a report, for example?

18 MS. BAPITA (interpretation):

19 Q. Thank you, Witness. And now the very last question. Is there a
20 difference between what you call an (Redacted) and
21 (Redacted)?

22 A. I would like to ask my Swahili interpreter to express this thing
23 well to me in Swahili.

24 (Trial Chamber and Court Officer confer)

25 THE WITNESS (interpretation): I did not fully understand your question.

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1 PRESIDING JUDGE FULFORD: Right. If there was interchange
2 between the Swahili interpreter and the witness, that in fact should have
3 been interpreted. So can we remember in future, please, that anything
4 that is said either by the witness or to the witness must be interpreted.
5 We'll -- I think we need to put the question again, and I suspect that
6 the witness needs -- or rather, the question needs careful interpretation
7 of the word (Redacted)."

8 So the question, sir, is whether there is a difference between an
9 (Redacted) on the one hand and (Redacted) on the other.

10 THE WITNESS (interpretation): (Redacted) (as
11 interpreted).

12 PRESIDING JUDGE FULFORD: And is that -- does that person have a
13 different role from an (Redacted)?

14 THE WITNESS (interpretation): Well, (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted).

20 MS. BAPITA (interpretation): Your Honour, I think he has
21 answered my question.

22 PRESIDING JUDGE FULFORD: I think he has.

23 MS. BAPITA (interpretation): Yes. And I don't know if he can
24 for the last time give some clarification on (Redacted) or the person who
25 is (Redacted).

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1 Q. Do these people constitute part of the (Redacted)

2 A. Yes. I don't know if you are referring to the company level or
3 the platoon level or whatever level. I think it all depends on him. It
4 depends on the person's professional competence. He can use civilians
5 who will not be recognised. All of this depends on personal strategy, or
6 he himself can go in the field or he can send some other person who will
7 not be easily recognised. That is, he will determine how to organise
8 himself in order to carry out his duties.

9 MS. BAPITA (interpretation): Thank you, your Honour. He has
10 answered all my questions.

11 Q. And thank you, Witness.

12 PRESIDING JUDGE FULFORD: Thank you very much, Ms. Bapita. That
13 was very clear and very succinct. I think we need to ask the witness
14 whether during the course of Ms. Bapita's questions, whether any of the
15 names that she was asking you to reflect on, whether you've managed to
16 remember any of them.

17 THE WITNESS (interpretation): Your Honour, I could not remember
18 because there were other questions which were being put to me. I think
19 that if I have a bit of rest I will be able to remember.

20 PRESIDING JUDGE FULFORD: You'll certainly have that opportunity
21 over lunch, sir.

22 Mr. Biju-Duval.

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

24 Questioned by Mr. Biju-Duval:

25 Q. Good morning, Witness.

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1 A. Good morning.

2 MR. BIJU-DUVAL (interpretation): I believe that we are now in
3 open session.

4 PRESIDING JUDGE FULFORD: We're in private at the moment. Should
5 we move into public, Mr. Biju-Duval?

6 MR. BIJU-DUVAL (interpretation): Yes, Mr. President, I believe
7 it's possible.

8 PRESIDING JUDGE FULFORD: Thank you.

9 Public session, please.

10 (Open session at 12.20 p.m.)

11 COURT OFFICER: Public session.

12 MR. BIJU-DUVAL (interpretation):

13 Q. Good day, sir. My name is Jean-Marie Biju-Duval. I am a lawyer
14 and I have a certain number of questions I would like to put to you on
15 behalf of Mr. Thomas Lubanga's Defence team. When putting questions to
16 you, I will occasionally refer to statements that you gave to OTP
17 investigators in 2008. You do remember having given statements to OTP
18 investigators, don't you?

19 A. You're referring to 2008, the year 2008, and which other year?

20 Q. To the year 2008, sir. There were interviews. You remember
21 that, there were interviews between the OTP and yourself and these
22 interviews were recorded. Do you remember that?

23 A. Yes, I do.

24 Q. I'll provide you with a binder now, a binder that contains the
25 transcription of these statements and on occasion we will refer to the

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1 documents it contains.

2 MR. BIJU-DUVAL (interpretation): Your Honour, I can provide the
3 Chamber with the very same statements. It's a rather voluminous binder.
4 I don't know whether it's absolutely necessary because I believe that the
5 Chamber already has these statements, but we do have binders available.

6 PRESIDING JUDGE FULFORD: Very kind of somebody to have prepared
7 them, Mr. Biju-Duval. Could you keep them for the time being, and if we
8 need them we'll ask for them.

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

10 Q. Sir, in the course of your testimony before the Chamber, you
11 spoke about these wise men, these elders, in the village. You also spoke
12 about UPC party officials and the fact that their work was to make people
13 aware in villages of the situation and to explain to the population the
14 nature of the UPC. Do you remember having made such statements?

15 A. Yes.

16 Q. Am I to take it that these wise men, these elders, these UPC
17 members had to explain to the civilian population what the goals of the
18 UPC were, what their political goals were, for example?

19 A. As I have already said, I think you were present, I said that as
20 far as these wise men are concerned, as far as the way in which people
21 joined the UPC is concerned -- well, I don't know whether we're in
22 private session now.

23 Q. We are in open session now.

24 PRESIDING JUDGE FULFORD: Private session,
25 please, if the witness is concerned.

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1 *(Private session at 12.25 p.m.) Reclassified as Open session.

2 COURT OFFICER: Private session.

3 PRESIDING JUDGE FULFORD: Please continue, sir.

4 THE WITNESS (interpretation): I apologise. I wanted us to move
5 into private session because I want to mention people's names. I've
6 already told you something about how (Redacted) the UPC
7 was structured. He said there were elder men, there were the elders who
8 assisted them; there were the village leaders who allowed them to enter
9 the villages and to explain to the inhabitants what the nature of the UPC
10 was. I believe that we understand each other. This doesn't mean that I
11 know how the UPC was created. (Redacted)
12 (Redacted) about the creation of the UPC.

13 MR. BIJU-DUVAL (interpretation):

14 Q. Thank you for that information, sir. Let's put aside the issue
15 of the creation of the UPC and let's have a look at what you said about
16 this procedure of making villages aware of the situation. As far as I am
17 concerned, I don't intend to mention any names. So would you accept us
18 going into open session for me to put these questions to you?

19 A. If I have to provide you with an answer that includes certain
20 names, I would request to remain in private session.

21 PRESIDING JUDGE FULFORD: Let's go into public session for the
22 question, Mr. Biju-Duval.

23 And, sir, if in giving the answer you need to give names, just
24 indicate and we'll go straight into private session.

25 So public session, please.

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1 (Open session at 12.28 p.m.)

2 COURT OFFICER: Open session.

3 PRESIDING JUDGE FULFORD: Yes.

4 MR. BIJU-DUVAL (interpretation):

5 Q. You said that when the civilian population was being made aware
6 of the situation, the purpose of making them aware of the situation was
7 to collect funds and to encourage the young to join the army. Generally
8 speaking, was the purpose of this procedure to obtain the support of the
9 civilian population? Was it to obtain their support for the UPC?

10 A. Yes.

11 Q. You also spoke about UPC officials who
12 were allegedly involved in this procedure of
13 making the villages aware. Did these officials or cadres of the UPC work
14 in such a way so as to convince the civilian population that the UPC
15 objectives would be to their benefit?

16 A. Yes, the purpose was to inform the population that the UPC
17 movement was a good movement.

18 Q. As a result, was it a matter of explaining to the population the
19 nature of the political programme followed by the UPC?

20 A. It was a way of explaining to them why the UPC had been created
21 and what its objectives were, and also to explain to them how it was
22 constituted and led.

23 Q. And these explanations were supposed to convince the civilian
24 population to support the movement; is that correct?

25 A. Yes, that's correct.

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1 Q. These objectives that were to be explained to the civilian
2 population, were they defined by the UPC's political structure, by
3 ministers, for example?

4 A. I can't answer that question. I don't know how the leaders were
5 trained. I apologise, but could we move into private session.

6 PRESIDING JUDGE FULFORD: Private session.

7 *(Private session at 12.33 p.m.) Reclassified as Open session.

8 COURT OFFICER: Private session.

9 PRESIDING JUDGE FULFORD: Yes, sir, was there something else you
10 wanted to say on that subject?

11 THE WITNESS (interpretation): I wanted to ask you something
12 about the question you put to me. I said that the way in which these
13 cadres or these wise men functioned -- well, at the time I hadn't yet
14 joined the movement. Listen to me carefully. If you ask me about how
15 these people operated -- well, I wasn't there when the movement was
16 created. When I arrived the UPC already existed.

17 MR. BIJU-DUVAL (interpretation):

18 Q. So you don't have any information, any particular information,
19 about how these cadres were trained?

20 A. I don't know anything about that. I said that these are (Redacted)
21 (Redacted). When I arrived there, they were already working there.

22 Q. You yourself, you were never present when villages were being
23 familiarised with the prevailing situation?

24 A. That didn't concern me. It wasn't part of my duties. It was for
25 the officials. They had

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1 ministers who did that kind of work. My work concerned soldiers. All
2 these other matters didn't concern me at all. I couldn't be present when
3 there were these awareness campaigns.

4 Q. Thank you. After these awareness campaigns had been conducted,
5 the ones that you were aware of, familiar with --

6 MR. BIJU-DUVAL (interpretation): Mr. President, your Honour, I
7 think we are still in private session.

8 PRESIDING JUDGE FULFORD: We are, Mr. Biju-Duval. Your thought
9 we should remain or change?

10 MR. BIJU-DUVAL (interpretation): I believe that we could attempt
11 to move back into open session, with certain provisos.

12 PRESIDING JUDGE FULFORD: You're quite right, Mr. Biju-Duval.
13 We'll move into public session, but, sir, if at any stage your answer
14 requires us going into private session, do not hesitate to say.

15 Public session, please.

16 (Open session at 12.38 p.m.)

17 COURT OFFICER: Public session.

18 MR. BIJU-DUVAL (interpretation): Thank you.

19 Q. I will rephrase my question and put it to you again. If I have
20 understood you correctly, you weren't involved in the preparations of
21 these awareness campaigns, you weren't present when they were carried
22 out, but you were aware of them, weren't you?

23 THE INTERPRETER: The interpreter didn't hear the witness's
24 answer.

25 MR. BIJU-DUVAL (interpretation):

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1 Q. The interpreter says that your answer was not heard. Could you
2 repeat your answer, please, Witness.

3 A. I said yes in answer to that question.

4 Q. Thank you. As far as you know, is it true that the civilian
5 population or part of the civilian population in fact decided to assist
6 and support the UPC?

7 A. Yes, they provided assistance. I saw that myself.

8 Q. Would it be correct to say that some young people, some men,
9 decided to join the UPC Army?

10 A. Yes. Yes, they joined the UPC Army.

11 Q. In light of the way in which you understood the situation at the
12 time, in your opinion what were the reasons for which they decided to
13 join the UPC Army? Why did they join the UPC Army?

14 A. As far as I know, when I was informed about the ongoing fighting
15 between the Hema and the Lendu, well, it was a tribal war then. The Lendu
16 were killing the Hema and the Hema were killing the Lendu. Why did the
17 young people join the movement? Well, because the cadres wanted to
18 explain to the young people why they had to join the army. The
19 explanation was that they should protect their families and themselves,
20 and also to protect their goods.

21 Q. Thank you. I would now like us briefly to refer to an extract
22 from the statements that you made to the OTP investigators in the course
23 of 2008.

24 MR. BIJU-DUVAL (interpretation): For the Chamber and also for
25 the witness, I think it will probably be necessary in fact to assist the

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1 witness in working his way through the binder that's been given to him.
2 I shall be referring to document DRC-OTP-0191-0465, which is to be found
3 at tab 12 of the binder. And more specifically to the page with 0476 and
4 0477.

5 COURT OFFICER (interpretation): The reference for the document
6 will be MFI-D-00120. The document is confidential?

7 MR. BIJU-DUVAL (interpretation): Yes, out of caution the extract
8 to my mind has nothing confidential about it, but the document must
9 remain confidential. That's perfectly clear. What I suggest is that I
10 read this brief extract out, and to my mind, this particular extract is
11 not in any way confidential.

12 PRESIDING JUDGE FULFORD: Thank you, Mr. Biju-Duval. Yes, this
13 document must not be shown publicly, not least because identifying
14 features of the witness appear at the bottom of each page. Thank you,
15 Mr. Biju-Duval. Then do take the witness to the particular sequence that
16 you have in mind.

17 Usher, can I ask you to be with the witness just where -- just
18 when Mr. Biju-Duval identifies the portion, to make sure that we're all
19 looking at the same part, please.

20 So if you could wait for a moment, Mr. Biju-Duval, for the usher
21 to go over to be with the witness.

22 MR. BIJU-DUVAL (interpretation): And let me say to the usher and
23 to the Chamber that I shall be referring to the extract between lines 394
24 and line 414.

25 PRESIDING JUDGE FULFORD: Right. So that's page -- that's 0476, I

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1 think, Mr. Biju-Duval. Is that right?

2 MR. BIJU-DUVAL (interpretation): Yes, indeed, your Honour.

3 PRESIDING JUDGE FULFORD: So 0476, please, usher, and if you
4 could indicate to the witness where line 394 commences. Good. Thank
5 you, usher. You can either take a seat or return to your usual place.

6 So if you want to read out the section, Mr. Biju-Duval. Forgive
7 my interrupting.

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

9 Q. I shall now carry out a difficult task, as far as I'm concerned,
10 but I pick up the challenge that was thrown out to me by Mr. Sachdeva. I
11 quote:

12 Question: (In English) "Was there, within the UPC, a plan of
13 recruitment?"

14 (Interpretation) Answer: (In English) "Well, I am not sure if I
15 can say there was a plan of recruitment, but as I told you before, the
16 fighting in Bunia was -- had an ethnic character. So there would be
17 Hema, Hema who wanted to go into the army because their parents were
18 killed. And others might go into the army because they were told they
19 should go into the army in order to be able to protect their parents and
20 their property. And others might go in because they wanted to go into
21 the army. Okay. So there was different reasons why different people
22 joined the UPC."

23 (Interpretation) End of quotation.

24 My question is as follows: This statement that you made to the
25 investigators in 2008, does it strike you as being correct, precise?

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1 Does it reflect the situation prevailing at the time?

2 A. Yes, yes, it's true. There was some who joined the army because
3 of certain difficulties, people who had lost parents or property, and
4 there were others who were not forced. That is what I stated.

5 Q. Thank you. Is it correct to say that sometimes certain children
6 would try to join the army despite the refusal on the part of the
7 military people in charge? Was such a situation something that actually
8 happened?

9 A. Yes, it did occur. There were some who were really children.
10 You would actually feel ashamed to try to recruit them. There were such
11 cases.

12 Q. What was the attitude of the people in military command when such
13 a situation occurred?

14 A. Well, it depended. If you came up against a good-hearted chief
15 who had good intentions, then he might help or protect those people. But
16 there were children that you just could not enlist in the army. They
17 followed the other kadogos. You know that the children all didn't have
18 the same age, just as we adults are of different ages. In some cases
19 with these children you could see that they really were children, you
20 couldn't possibly allow them to join up; and there were others that were
21 capable of it and others that weren't. And sometimes we would have to
22 chase them away.

23 Q. I'm going to refer you to another extract from your statement, so
24 we're going to do the same thing again. The document is under the
25 reference DRC-OTP-0191-0536, it's tab 11 in the binder. The pages finish

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1 with the figures 540 and 541 and I am going to refer specifically to the
2 extract between lines 115, 1-1-5, and 137.

3 COURT OFFICER: (Interpretation) The document shall be referenced
4 MFI-D-00121.

5 MR. BIJU-DUVAL (interpretation): In the interests of efficiency,
6 if the Chamber agrees I'm going to read this paragraph but I shall miss
7 out the middle part where, to my mind, there is nothing meaningful. I
8 shall read out lines 115, 116, and then 133 to 137 if the Chamber agrees.
9 I don't think in any way that this would distort the content.

10 PRESIDING JUDGE FULFORD: Most certainly,
11 Mr. Biju-Duval, and if at any point Mr. Sachdeva feels that something
12 important has been left out, I'm sure he'll intervene. But unless he
13 does, please follow that course.

14 MR. BIJU-DUVAL (interpretation): I quote here:

15 Question: (In English) "Was there any special physical
16 characteristic or -- your looking for your recruits?"

17 (Interpretation) Answer: (In English) "I am but unable to say --
18 unable to say what they were looking for. They need certain kind of
19 people like this or like that. I just know sometimes when they found
20 small children among them they would take them out or send them away.
21 Sometimes they would try to get back even the children wanted to go back
22 but they send them away again."

23 (Interpretation) I shall continue and that will avoid us having
24 to return to the document later and I refer to lines between 150 and 158.
25 And I quote:

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1 (In English) "Some of them, they went into the army because they
2 did not have any parents because their parents were killed. So sometimes
3 we would remove them or send them to the headquarters just to be there
4 not as a soldier but just to have them there to take care of them there.
5 They would be fed and just stay there at the headquarter, but they
6 would not be sent off to war."

7 (Interpretation) End of quotation. Witness, my question is as
8 follows: Did you indeed come up against the situation that you described
9 to the OTP Prosecutor -- investigator, sorry, in 2008 as I have recalled
10 in reading out this statement?

11 (Redacted) Yes, let me give you an answer. I think that the Prosecutor that
12 I spoke to on that day, the investigator who interviewed me isn't here,
13 but I think that Madam Alice Zago is here. I don't know whether she
14 remembers. When she put the question to me I said there was small
15 children -- let me say once again, there were small children, young
16 children, and even you yourself couldn't agree to them being in the army.
17 But because of the difficulties, if their parents had been killed or if
18 they were rejected, I mean if you see one of those children coming along
19 with the other children who want to be enlisted then you would feel
20 ashamed. I have seen certain cases like this at least three times.

21 The main staff headquarters that I was talking about is at
22 Bosco's place. Bosco had a camp and I saw small children, small
23 children who couldn't join the army. And I said there are the kadogos
24 who are kadogos but who can't work. (Redacted)
25 (Redacted) mother came to protest at the fact that her child had been

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1 recruited. The mother came along with somebody, (Redacted), whose call sign
2 was (Redacted). I don't know what the number would be for that person would
3 be but I'm sure in my statement that reference is made to them. Anyhow, when
4 these young people were brought with these children (Redacted) the mother
5 which day they had arrived and she said, "A couple of days ago, but they
6 left". (Redacted), (Redacted)
7 (Redacted) I said, "The recruits who have come from (Redacted),
8 have they arrived?" And they said, "No, they'll be arriving in the night".
9 And I said, "You just heard, they are going to be arriving at night-time.
10 You'd be well-advised to go back home, rest, and there'll be a solution to
11 your problem tomorrow". The next day she came back. I wasn't there, but I
12 was called up by radio, on the Motorola, and I asked her to come join me
13 at the office. I called up on my radio to see whether the recruits had
14 arrived then and they said yes. So I asked the mother what the child's
15 name was and she gave me the name, and I asked (Redacted) to go together with
16 the mother to see whether the child was there, and yes, they came across
17 the child there. (Redacted)
18 (Redacted) I saw the child, and I
19 realised that it was just impossible that such a thing could happen.
20 And I said, "Why did you enlist?" And he said, "Well, I was with my
21 friends and they asked us to come along. They came, they took the whole
22 group." And I left. And I said to the mother, "Look,
23 your child is here, I think you can leave",
24 but the mother was frightened of going off, she was frightened of meeting
25 soldiers on the way and (Redacted). And I

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1 said, "(Redacted)

2 (Redacted) He came back and there hadn't been any

3 difficulties.

4 So that's what I was saying, there were children who could not
5 undergo training, and children like that were sent off to carry out other
6 tasks. That's what I was explaining here and I explained it in the
7 document that you've just given to me, that you've just put before me.

8 PRESIDING JUDGE FULFORD: Mr. Biju-Duval, looking at the time,
9 would that be a convenient moment?

10 MR. BIJU-DUVAL: One question, Your Honour, to finish that point.

11 PRESIDING JUDGE FULFORD: Certainly. Certainly.

12 Before you do, do you want the whole of the last answer redacted?

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

14 PRESIDING JUDGE FULFORD: Good.

15 The entirety of the last answer should be redacted, please, and
16 can we go into private session for the question of clarification.

17 *(Private session at 1.02 p.m.) Reclassified as Open session.

18 COURT OFFICER: Private session.

19 PRESIDING JUDGE FULFORD: Yes, Mr. Biju-Duval.

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

21 Q. And thank you to the witness for the explanations. So I
22 understand in -- that in the case you described the decision that was
23 made was to demobilise the child, to not keep him in military training,
24 because he was underage, he couldn't be a soldier. Is that it?

25 A. Sorry, could you repeat your question, please.

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1 Q. You gave us the example of a child who was under age for being a
2 soldier. So I understand from what you've described that a decision was
3 made in which you were involved to send the child back. Is that it?

4 PRESIDING JUDGE FULFORD: Before you answer that, sir, I just
5 want to make sure that the question is a fair reflection, Mr. Biju-Duval,
6 and please forgive my interrupting. As I had understood the witness's
7 answer, it wasn't just that the child was under age, it was that he was
8 particularly young. So it was the fact that he was a very young child
9 that led to this particular approach being taken. So I think, if I may
10 say so with respect, that the question really ought to be - and please
11 correct me, Mr. Biju-Duval, if you think I'm wrong - that: Was a
12 decision made not to keep that child in the military because he was a
13 particularly young child? Now, before the witness answers that, could
14 you indicate whether you agree.

15 MR. BIJU-DUVAL (interpretation): Yes, your Honour, quite so. I
16 think the ambiguity came from the word "underage" because that translates
17 as a minor. I didn't say "minor."

18 PRESIDING JUDGE FULFORD: Good. Well, I think that's clear then.
19 So, sir, the question is: Was a decision taken with that
20 particular child not to engage him in military activities of any kind
21 because he was a particularly young child?

22 THE WITNESS (interpretation): Thank you, your Honour. It isn't
23 even a question of going to combat because to go to combat you need a
24 weapon, but for those children they couldn't even go to military
25 training. He was so young. Even you yourself would not accept him in

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1 the army. It was impossible.

2 PRESIDING JUDGE FULFORD: I think that's clarified the position,
3 and again I apologise for intervening, Mr. Biju-Duval.

4 Good. We'll sit again at 20 to 3.00. I need to indicate that
5 this afternoon we will rise at close to 4.00 p.m., either just before or
6 just after. Closed session, please, so the witness can withdraw for
7 lunch.

8 And, sir, if you've got a moment over lunch to reflect on the
9 names that Ms. Bapita put to you, please take the piece of paper and the
10 pen with you and write any down that you happen to remember. Good.

11 Closed session, please.

12 *(Closed session at 1.07 p.m.) Reclassified as Open session.

13 COURT OFFICER: Closed session.

14 (The witness stands down)

15 PRESIDING JUDGE FULFORD: 20 to 3.00.

16 Luncheon recess taken at 1.08 p.m.

17 On resuming at 2.42 p.m.

18 COURT USHER: All rise. Please be seated.

19 PRESIDING JUDGE FULFORD: Witness, please.

20 And while the witness is coming into court, two very short
21 matters. The first is that Mrs. Coomaraswamy has confirmed that she's
22 available to give evidence on the 2nd of September, and provisionally,
23 therefore, that is what we plan. And I underline the word
24 "provisionally" for the reasons that I explained earlier in the week and
25 I won't now repeat.

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1 The second matter is I have -- we have asked Maitre Mabilie for a report
2 from Marc Dubuisson to be provided to you on the situation in Bunia.
3 Please consider it, discuss it with Mr. Dubuisson, and then revert to the
4 Chamber if there isn't an answer that's satisfactory to you.

5 (The witness takes the stand)

6 PRESIDING JUDGE FULFORD: Private session, please.

7 *(Private session at 2.43 p.m.) Reclassified as Open session.

8 PRESIDING JUDGE FULFORD: Yes, Mr. Biju-Duval.

9 MR. BIJU-DUVAL (interpretation):

10 Q. Hello. I would now like to get back to the events that brought
11 (Redacted) and
12 (Redacted)

13 PRESIDING JUDGE FULFORD: Sir.

14 THE WITNESS (interpretation): Your Honour, I have a request, but
15 before I make this request I would like to answer the lady who represents
16 child soldiers because now I have a response for her.

17 PRESIDING JUDGE FULFORD: Most certainly. I'd in fact meant to ask you as
18 soon as we sat and I overlooked it. So -- so if you'd like, then, to
19 give your answer to Ms. Bapita straight away.

20 THE WITNESS (interpretation): The answer that I have concerns the
21 battalion commander. For (Redacted) sector the battalion commander was
22 (Redacted). And I couldn't remember the other one's name, but I know his
23 call-sign and that was (Redacted). There was another one whose
24 name was (Redacted) and another one whose name
25 was (Redacted). In (Redacted) the battalion

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1 commander was (Redacted). As regards brigade commanders,
2 I have something else to add. There were those who -- there were some
3 who have already died, some have died in the meantime, and I don't know
4 whether you want those who've already died.

5 MS. BAPITA (interpretation): Yes, we need them.

6 THE WITNESS (interpretation): As regards the (Redacted) brigade,
7 (Redacted) has died. (Redacted) Brigade, (Redacted) has died. And I'd
8 like to ask the lady if I answered correctly.

9 MS. BAPITA (interpretation): Yes, you did, and with your authorisation,
10 your Honour, I would like him to write it down, to write all those names
11 down on a piece of paper so that we can file it in the record.

12 PRESIDING JUDGE FULFORD: I strongly suspect, Ms. Bapita, they
13 are already written down.

14 Can I ask, sir, whether you've written all those names down on
15 the piece of paper in front of you?

16 THE WITNESS (interpretation): Yes. It's not very well written.
17 If you could -- if another piece of paper could be brought I would write
18 them out again.

19 PRESIDING JUDGE FULFORD: I think that would be a very good idea.
20 Thank you very much. Please. And this piece of paper needs an EVD
21 number, please.

22 COURT OFFICER: The annotated piece of paper shall carry the
23 evidence number DRC -- sorry, EVD-V02-00002.

24 PRESIDING JUDGE FULFORD: Thank you very much.

25 Could you bring them straight to the Bench, please. Thank you.

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1 Under a heading (Redacted), there are on three occasions
2 the letters Comd written against three names which are: (Redacted);
3 then secondly, (Redacted); and thirdly, (Redacted). There is then
4 another heading which is (Redacted).
5 And then again there are three names with Comd written against each of
6 them. The first is (Redacted); the second is (Redacted); and the third
7 is (Redacted). That's extremely helpful, sir. Thank you.

8 Can that list now be shown to Ms. Bapita and anybody else who
9 wishes to see it. Thank you very much.

10 Now, sir, your second point was that you wanted to make a
11 request.

12 THE WITNESS (interpretation): Yes, I did have a request. This
13 is it. I would like to ask you to understand that my point was not that
14 I didn't want to answer the question. I got so many questions from
15 various parts. I would like to ask you, your Honour, for some rest
16 because I might give you the wrong answers. I feel very tired. I
17 wouldn't like to make any mistakes and give bad answers to the questions.
18 Sometimes many questions were put to me by many people and that's why I
19 feel I need some rest.

20 (Trial Chamber confers)

21 PRESIDING JUDGE FULFORD: Mr. Sachdeva, if I can address the bar
22 through you. It seems to the three of us that it would be wholly
23 inappropriate for us to insist that questioning should continue once a
24 witness has indicated that because of the length of time he has been in
25 the witness box and because he now feels he needs a rest, there is a real

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1 risk that he may start to give incorrect answers. Would you oppose the
2 suggestion that's made, therefore, that we should adjourn his evidence at
3 this stage today until we next sit?

4 MR. SACHDEVA: Thank you, Mr. President. We would not oppose
5 that, no.

6 PRESIDING JUDGE FULFORD: Mr. Biju-Duval?

7 MR. BIJU-DUVAL (interpretation): Your Honour, I would like to
8 express my regrets about this situation, and I can't say anymore.

9 PRESIDING JUDGE FULFORD: Good. I don't think we need consult
10 with the victims, not out of a lack of -- not out of discourtesy but
11 because Ms. Bapita has now posed her questions, this has really moved
12 beyond the stage of their immediate involvement.

13 Sir, that is an entirely reasonable request for you to make. You
14 have been in the witness box for a long time. A very large number of
15 questions have been put to you, and if you would now prefer to have a
16 break before you next answer questions, then that is a request which we
17 will accede to. I'm afraid that because of public holidays and a
18 decision that -- well, yes, public holidays and the decision that we have
19 taken in relation to Friday, this means that you will have one more
20 weekend away from home because we will not be sitting again on this trial
21 until 9.30 on Tuesday morning of next week. We thank you again for your
22 assistance and for your attendance and we look forward to seeing you
23 again then.

24 Closed session, please, so the witness can be taken back to the
25 witness waiting-room.

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1 *(Closed session at 2.57 p.m.) Reclassified as Open session.

2 COURT OFFICER: Closed session.

3 (The witness stands down)

4 PRESIDING JUDGE FULFORD: I'm going to ask the Court Officer over
5 the weekend to adjudicate on whether Mr. Sachdeva's French is better than
6 Mr. Biju-Duval's English. We'll sit again at 9.30 on Tuesday.

7 COURT USHER: All rise.

8 The hearing ends at 2.59 p.m.

9 RECLASSIFICATION REPORT

10 Pursuant to Trial Chamber I's email instruction dated 2 December 2011, the
11 transcript is reclassified as public after the indicated redactions have been
12 implemented as ordered by the Chamber. All private and closed sessions (*) are now
13 available to the public with the exception of the portions of the transcript that
14 have been redacted.