

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 Wednesday, 27 May 2009

7 The hearing starts at 9.31 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. Public session, please.
11 (Open session at 9.31 a.m.)

12 COURT OFFICER: Public session.

13 PRESIDING JUDGE FULFORD: Ms. Struyven, am I right in
14 understanding that the list of documents and other material that the
15 Prosecution had originally intended to form part of this witness's
16 evidence has been very substantially reduced?

17 MS. STRUYVEN: That's correct, your Honour.

18 PRESIDING JUDGE FULFORD: Further, is it correct that there are
19 potentially two items that may form the subject of dispute. One is a
20 document that ends with the number 0136 which has been the subject of
21 objection by the Defence. I think the Prosecution's contention is that
22 the issue raised by Maitre Mabilie is in fact answered on the basis that
23 this document was handed over to the Office of the Prosecutor by the
24 witness, and accordingly it is said that he or she either may or does
25 have personal knowledge of it.

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1 MS. STRUYVEN: That is correct, your Honour.

2 PRESIDING JUDGE FULFORD: Right. Let's take these individually.

3 Maitre Mabilie, having been provided with that explanation, do
4 the Defence still object to document 0136 being shown to the witness?

5 MS. MABILLE (interpretation): Your Honour, if my learned
6 colleague wishes to use that document to ask how the witness came about
7 having that document, then I have no objection. I have a more
8 fundamental objection, and this is that this is a document from the G5 of
9 the UPC which is addressed to the Chief of Staff of the FRPC and that the
10 witness does not know the person who sent the document or the addressee
11 and he's not a member of the UPC. And so consequently if questions are
12 put to him on the content of that document, then this is going to be an
13 exercise which I particularly find delicate. That is the objection, the
14 nature of the objection I have with regard to the use of this document.

15 PRESIDING JUDGE FULFORD: Well, Ms. Struyven, I think that's
16 clear. Unless you object, might I suggest that you approach the
17 introduction of this document with care and lay the groundwork as you go
18 to see what the proper limits are of the questions that can be put to
19 this witness about the document.

20 MS. STRUYVEN: We will, your Honour.

21 PRESIDING JUDGE FULFORD: Good. Thank you. So really just
22 registering a note of caution in relation to that particular item.

23 Now, the second is a recording, I think a video recording, 0441.
24 The objections taken here, again as I understand it, are that the witness
25 has indicated that he or she has never seen this recording before, has no

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1 personal knowledge of it, and therefore, it is suggested, it's
2 impermissible for you to seek to introduce it via the witness. Your
3 response to that, Ms. Struyven, is?

4 MS. STRUYVEN: Your Honours, we intend to deal with that video
5 the same way we have dealt with other videos in respect of witness 2.
6 And so we intend to ask very limited questions as to the place where the
7 video was taken and some persons that the witness may recognise that
8 appear in the video.

9 PRESIDING JUDGE FULFORD: Well, great care, therefore, must be
10 exercised here as well, Ms. Struyven, to make sure that this witness is
11 not asked to comment on something which he or she has no personal
12 knowledge of. Obviously - and I think you've really given an example or
13 given examples - there may be a legitimate reason for showing a video to
14 an individual when that individual wasn't present, for instance, to see
15 whether he recognises particular people. But could you exercise the same
16 degree of caution that I know that you'll exercise with document 0136.

17 MS. STRUYVEN: We will, your Honour.

18 PRESIDING JUDGE FULFORD: Thank you very much.

19 Any other preliminary matters before this witness comes into
20 Court? No. Good.

21 Closed session then, please, so the witness can be brought in.

22 Ms. Bapita. I was too quick.

23 MS. BAPITA (interpretation): Thank you, Your Honour. I need to
24 get some clarification from you, from the Chamber with respect to the
25 question raised by Maitre Mabilille yesterday on the disclosure of certain

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1 material contained in the participation application of five victims for
2 whom I requested that anonymity be lifted. You said that we could get a
3 reply today, and Your Honours these are
4 victims who concern me directly.
5 Indeed, your Honour, when we asked for the anonymity to be
6 lifted, the point was that we wanted the identity of the victims to be
7 disclosed, only the identity and nothing else, and I refer to your oral
8 decision of the 14th of May in which you requested the disclosure of the
9 name and the date of birth, and that is why I think that the Registry
10 disclosed to the Defence only the name and the date of birth. But the
11 question raised by Maitre Mabilille raises another aspect of the problem.
12 She wishes to have access to unredacted applications for participation.
13 Now, on this point, after reflecting and consulting with my team
14 on the field, we can only agree on two points, namely, that we will
15 provide information related to the alleged crimes on the one hand, as
16 well as information on the harm suffered. At this stage in the trial we
17 will not accept to give the identity of parents, their ethnic group, and
18 their place of birth so long as the victims are not protected. Any good
19 investigator could use these three items of information as leads towards
20 identification of the persons concerned. So there is a problem of security
21 here, and if the VWU does not give us its agreement in principle we will
22 not go beyond these two points on which we have made certain concessions.

23 Thank you.

24 PRESIDING JUDGE FULFORD: That's very clear, Maitre Bapita, thank you.

25 With the witness waiting I think it's probably undesirable for us to

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1 engage in a fuller debate on this subject now, and Maitre Mabilille may
2 in any event wish to reflect on the submission you have just made. But
3 we will return to this subject before the end of the day. Thank you very
4 much indeed for that.

5 Closed session, please.

6 *(Closed session at 9.40 a.m.) Reclassified as Open session

7 COURT OFFICER: Closed session.

8 (The witness entered court)

9 PRESIDING JUDGE FULFORD: Good morning, sir.

10 THE WITNESS (interpretation): Good morning. Thank you.

11 PRESIDING JUDGE FULFORD: Excellent.

12 Public session, please.

13 (Open session at 9.42 a.m.)

14 COURT OFFICER: Open session.

15 PRESIDING JUDGE FULFORD: Sir, one or two preliminary matters

16 before you commence giving your evidence, all of which I'm sure have

17 already been explained to you. But it's not harmful to repeat them

18 because I'm afraid they're matters that all of us in this Court have

19 forgotten from time to time. As you will be very well aware, everything

20 that's being said is being interpreted and there are French, English, and

21 Swahili interpreters at work throughout the trial. That means that the

22 usual speed at which most people talk is too quick because it's just

23 impossible for the interpreters to manage to keep up. So can I ask you,

24 please, to try to make sure that you don't speak any quicker than I'm

25 speaking now. And most particularly, can you try to pause before

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1 answering any question that's put to you. The biggest problem we've
2 encountered is when one person finishes speaking and another person
3 immediately afterwards starts speaking. So could you try and bear that
4 in mind. And if at any stage you see me make this slightly odd gesture,
5 it's simply to ask you either to slow down or to pause for a second so
6 the interpreters can catch up. I'm sure that's clear.

7 Don't be nervous. This may be a formal setting, but I promise
8 that you will be treated entirely appropriately by everyone involved and
9 we have breaks during the course of the day so that you can, as it were,
10 catch your breath and relax before the next stage of your evidence.

11 You will see a card in front of you which has a solemn
12 undertaking written on it. Could I ask you, please, now to read the
13 words of that card out loud so that everyone can hear what you say.

14 THE WITNESS (interpretation): I solemnly declare that I will
15 tell the truth, the whole truth, and nothing but the truth.

16 PRESIDING JUDGE FULFORD: Excellent. Thank you very much.

17 Now, what is about to happen is that we are going to go into what
18 we have been describing as private session so that your name and certain
19 identifying details for you can be given. Again, this would have been
20 explained to you, but let me repeat that the objective behind this is to
21 make sure that no one outside of the people who sit within the courtroom
22 in front of you know who you are. The result of that is that for -- that
23 on occasions during your evidence we will have to switch between open
24 session, when everybody can hear what you say, and private session, which
25 ensures that your identity will remain concealed. If we're in open

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1 session and you have concerns about a particular answer that you're going
2 to give which you think may identify you, please put your hand up to engage
3 my attention and we will immediately move into private session so that you
4 can give the answer privately in a way that will keep your identity
5 protected Finally, I need to say that if there's a mistake and something is
6 said in public session that should have been said in private, don't worry.
7 There is a 30-minute delay on the public broadcast of these proceedings
8 over the internet, and so it means that we have an opportunity and really,
9 in reality, a sufficient opportunity to make sure that anything that
10 shouldn't have been broadcast has been removed from the recording. Good.

11 Now, I imagine, Ms. Struyven, you wish to commence in private
12 session as I've just indicated?

13 MS. STRUYVEN: That's correct, your Honour.

14 PRESIDING JUDGE FULFORD: Good.

15 Private session, please.

16 *(Private session at 9.47 a.m.) Reclassified as Open session

17 COURT OFFICER: Private session.

18 WITNESS: WITNESS DRC-OTP-WWW-0014

19 (Witness answered through interpreter).

20 Questioned by Ms. Struyven (interpretation):

21 Q. Good morning.

22 A. Good morning.

23 Q. For security reasons I am going to call you "sir." I hope you
24 have no difficulties with that.

25 A. Not at all.

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1 Q. My name is Olivia Struyven. I represent the Office of the
2 Prosecutor, and I am going to ask you questions today and tomorrow on the
3 events that took place in Ituri between 1999 and 2003. Before I start I
4 have two comments to make. The first comment is that if you do not
5 understand me or if you do not understand any of my questions, please do
6 not hesitate to tell me so and I will rephrase my question. The second
7 comment which is more important is that you provided us with a lot of
8 information. Unfortunately, we are not going to discuss on all the
9 information you provided. So I am going to try to indicate the periods
10 about which I am going to ask you questions, and I appeal to you to
11 listen to the questions carefully and answer those questions as
12 specifically as possible.

13 THE INTERPRETER: The interpreter would like to inform the
14 Chamber that the witness is not very audible, if he can speak louder and
15 into the microphone, please. Thank you.

16 MS. STRUYVEN (interpretation):

17 Q. I have just been informed that you are not very audible. I don't
18 know if there's a problem with your microphone.

19 A. I don't think there's any problem because I can hear you clearly.

20 Q. With regard to the examination I will start with questions on
21 your identity and your profession, and later on we'll move on to the
22 events that took place in Ituri.

23 A. That's all right.

24 Q. Can you tell us your name.

25 A. My name is (Redacted).

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1 Q. And what is your date of birth?

2 A. I was born on (Redacted).

3 Q. And what about your place of birth?

4 A. I was born in (Redacted), in the Democratic Republic of the Congo.

5 Q. What about your ethnic origin?

6 A. (Redacted).

7 Q. Is it correct that you attended primary school in the (Redacted)
8 area?

9 A. That is correct, in the primary school --

10 THE INTERPRETER: Well, the interpreter didn't hear the
11 witness -- didn't hear the end of the witness's answer.

12 PRESIDING JUDGE FULFORD: We need to go over that again then
13 Ms. Struyven.

14 MS. STRUYVEN:

15 Q. Is it correct -- (interpretation) is it correct to say that you
16 attended primary school in (Redacted)?

17 A. (Redacted).

18 PRESIDING JUDGE FULFORD: Now, forgive me interrupting,
19 Ms. Struyven, one thing that happened yesterday in a very marked way is
20 that a number of names were given that certainly on the unedited
21 transcript received the indication that they had not, as it were, either
22 fully been heard or fully entered into the record. Now, I haven't had an
23 opportunity of checking overnight to see whether that's been improved in
24 the edited version, but we really do need to follow where there's any
25 doubt as to place names, people's names, dates of birth, and all the

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1 rest, we really do need to follow a procedure whereby this is made
2 absolutely clear at the time the evidence is given.

3 MS. STRUYVEN: Your Honours, would it be okay that for places
4 such as villages and collectivites that I propose the spelling to the
5 witness and then he agrees or doesn't agree?

6 PRESIDING JUDGE FULFORD: I would have thought in the areas where
7 you are essentially leading the witness and there has been no indication
8 of dispute, certainly, Ms. Struyven. For places and people where there
9 may be dispute, the witness should propose the spelling and then we take
10 it from there.

11 MS. STRUYVEN: Very well, your Honour.

12 Q. (Interpretation) I'm going to repeat because we have a problem
13 with the transcripts. Is it correct that you attended school in

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. That's all right.

19 PRESIDING JUDGE FULFORD: Ms. Struyven, your objective was
20 correct. Your speed of delivery was far too fast. You're going to have
21 to take giving the letters much, much slower. But you needn't go back
22 over that. I think it's now clear.

23 MS. STRUYVEN (interpretation):

24 Q. Well, sir, is it correct that later on you continued your
25 education, that's your secondary education, in (Redacted)

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1 (Redacted)?

2 A. That is correct, perfectly correct.

3 Q. And then in 1992 (Redacted) you continued your education,
4 you went to (Redacted)?

5 A. Yes, I attended school there. I spent some time there.

6 Q. The same year in the (Redacted)?

7 A. That's correct, yes.

8 Q. And in that institute you are registered in the department of
9 (Redacted)?

10 A. That is correct.

11 Q. Is it correct that that same year you started working -- you
12 worked for (Redacted)

13 (Redacted)?

14 A. That is correct.

15 Q. (Redacted)

16 (Redacted)

17 (Redacted)

18 A. (Redacted)

19 (Redacted).

20 Q. (Redacted)

21 A. (Redacted).

22 Q. (Redacted),

23 (Redacted)

24 A. (Redacted).

25 Q. (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 PRESIDING JUDGE FULFORD: Ms. Struyven, forgive me.

13 Sir, you're doing extremely well in terms of delivery. Thank

14 you. I have one request. When Ms. Struyven finishes her question, could

15 you just pause for a moment before giving your answer because that gives

16 the interpreters time to finish interpreting Ms. Struyven's question into

17 English before they then listen to your answer. It's horribly artificial

18 and I'm sorry for this, but could you please try and remember it. Thank

19 you very much.

20 Yes, Ms. Struyven.

21 MS. STRUYVEN (interpretation):

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. Did you yourself go to Ituri?

6 A. Yes, certainly. I went to Ituri each time an opportunity arose
7 or each time it was necessary I would go to Ituri.

8 Q. Can you tell us on the average how frequently per week or per
9 month you went to Ituri?

10 A. I went at least once a week.

11 Q. Could you explain to us what were the sources (Redacted)
12 (Redacted)

13 A. Well, (Redacted)
14 (Redacted) in general terms I can say that there
15 were event-makers, so to speak, the political and administrative
16 authorities, that was one potential source; and other than that the
17 people who witnessed events, that was another source, the population.
18 And other than the political administrative people there were other
19 authorities, religious authorities who provided information. (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)

23 THE INTERPRETER: If the witness could be positioned closer to
24 the microphone it would facilitate our job. He's very difficult to hear
25 unfortunately.

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1 MS. STRUYVEN (interpretation):

2 Q. Sir, you've been asked to sit a little bit closer to the
3 microphone so that you can be heard more comfortably by the interpreters.

4 Thank you very much.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. After you left (Redacted) at the end of January 2002, were you
12 able to continue to follow the events that were taking place in Ituri?

13 A. Yes, certainly. I followed events step by step because, first of
14 all, because Congo is my country, and Ituri is my region of origin - and
15 (Redacted)

16 (Redacted)

17 (Redacted) So yes, I followed events.

18 Q. You have already mentioned the general sources that you would
19 consult (Redacted) after (Redacted)
20 2002, what were your main sources which enabled you to cover events in
21 Ituri?

22 A. Well, it was practically the same sources that I used prior to
23 that time. Some of the individuals had changed, but it did not change
24 the function of the people that I consulted. I had created deep reliable
25 sources in various divisions of the administration, within the

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1 population, amongst politicians. That's it.

2 Q. Could you give us the names of your main sources? And I'd like
3 to remind you that we're in private session so the public cannot hear the
4 names that you might be mentioning, your sources.

5 A. Well, to respond correctly perhaps you could ask a more specific
6 question, because depending on the event the source would be different.
7 If you mention a precise event then I could be able to tell you more
8 precisely what the source is.

9 Q. No problem.

10 MS. STRUYVEN: The reason why I was asking this question was
11 to -- I'm not sure in how far his sources will identify the witness, so I
12 was trying to group a few or the main sources and to give them, for
13 example, a letter, source A or source B, so that he then could refer to
14 those sources. But so instead what I will do is as soon as he gives one
15 or more sources, we can maybe then try to identify them as a source A or
16 a source B and take it from there, in order to avoid to have to go into
17 closed session all the time.

18 PRESIDING JUDGE FULFORD: Well, let's see how we go,
19 Ms. Struyven. I could see that it -- if there are too many it's going to
20 be difficult to remember which source bears which letter. Do you want to
21 identify a couple of events or identify the general area or areas you're
22 going to be dealing with? We can get the names of those sources if the
23 witness is able to help and then see how many people we're dealing with.

24 MS. STRUYVEN: Very well, your Honour. I will do that once I get
25 to -- I guess once I get to the areas concerned -- or do you want me

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1 to --

2 PRESIDING JUDGE FULFORD: You must follow your own course,
3 Ms. Struyven. It's very difficult for me to predict what's appropriate
4 because I don't know the territory that you're going to be covering. But
5 obviously at the earliest opportunity we must leave private session and
6 go into public session.

7 MS. STRUYVEN: Very well, your Honour.

8 Q. (Interpretation) I have a few more questions regarding your work
9 (Redacted). Were you able to follow the news on the radio and the
10 television at that point in time?

11 A. Yes, I endeavoured by every means available to keep up with
12 events. So each day, even every hour, I followed what was taking place
13 in my country and in Ituri in particular.

14 Q. I know you've already referred to this slightly, but could you
15 perhaps describe to the Chamber what your method was in order to ensure
16 that the information you received was indeed true and correct?

17 A. Well, (Redacted), there are
18 several methods (Redacted) to ensure that the information we have
19 received is reliable and true. So depending on the circumstances, I
20 would apply different methods. Let me say right from the start that as
21 regards political or military events I had a source within the various
22 organisations, and in order to ensure that the information I had received
23 was true I didn't trust one single individual. I could had several
24 sources, several individuals, who didn't know each other or didn't know that
25 each of them had contacts with me. That was one way of ensuring that the

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1 information I received was true. And every time I received information I
2 compared it with one or the other individual and with the person
3 concerned. And what I mean by "person concerned," I mean the information
4 makers, the news makers.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. Thank you very much. That's very clear. We've spoken now about
18 your profession. I have a couple more questions about your identity.
19 Were you a member of a political party?

20 A. Yes. Ever since the country opened up to multiple parties I was
21 a member of the (Redacted).

22 Q. Could you explain from what period of time you were a member of
23 that party, from what year to what year?

24 A. In practical terms - and I insist - in practical terms I began working as
25 such in (Redacted), and I left (Redacted) in my own way as of the point in

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1 time when the leader of our political party joined up with a group that
2 did not have similar aspirations to those of the (Redacted).

3 Q. Just a couple more questions to clarify. Can you give us the
4 complete name of (Redacted)?

5 A. Yes, it's the (Redacted)
6 (Redacted) in French.

7 Q. You've explained that you left the party at the point in time
8 where the leaders of that party joined with others who did not have the
9 same goals. Can you tell us who those individuals were?

10 A. That's correct. The president of the (Redacted), right up to this day,
11 remains (Redacted). Do you need me to spell his name?

12 Q. Well, yes, or I can do it as you like.

13 A. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. Thank you. One more question related to your identity. Is it

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1 correct that you speak French, English, (Redacted)

2 (Redacted)

3 A. Yes, that's correct. Let me just correct. The language is

4 (Redacted)

5 Q. Thank you very much.

6 Ms. STRUYVEN: Your Honours, I think we can now go into open session.

7 PRESIDING JUDGE FULFORD: Open session, please.

8 (Open session at 10.18 a.m.)

9 COURT OFFICER: Open session.

10 MS. STRUYVEN (interpretation):

11 Q. I'd like to now refer to the period 1999 until February 2002.

12 The purpose of my questions here is to understand the general context of
13 the conflict, so I'm going to ask you some very precise questions and I
14 would like to ask you to be as precise as possible in your answers. If I
15 need supplementary information, of course I will ask you additional
16 questions. Can you tell us who controlled Ituri in 1999?

17 A. I imagine that you're referring to a political group or a
18 political military group?

19 Q. Yes, that's what I meant.

20 A. Thank you. In 1999 Ituri was controlled by RCD Kisangani under
21 the leadership of Professor Wamba dia Wamba.

22 Q. Where was the RCD Kisangani based at that time?

23 A. First of all, they had their headquarters in Kisangani and then
24 they moved to Bunia.

25 Q. Can you tell us who the two or three most important members of

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1 the RCD Kisangani are?

2 A. Well, first of all I would mention Professor Dia Wamba himself,
3 Mr. Mbusa Nyamwisi, and Tibasima Mbogemu Atenyi.

4 Q. There seems to be a problem with the spelling of Nyamwisi, could
5 you spell the name for us.

6 A. No problem. The way he writes it as is follows:
7 N-y-a-m-w-i-s-i.

8 Q. Thank you. You mentioned Wamba dia Wamba, Nyamwisi, I'll just
9 use his last name, and Tibasima. What ethnic group do these three
10 individuals belong to?

11 A. The Professor Wamba was from the Kongo tribe, Mbusa Nyamwisi is a
12 Nande, whereas Tibasima is a Hema.

13 Q. Was he Hema north or Hema south, was he Gegere or Hema south?

14 A. This is where it becomes a bit complicated. As far as I am
15 concerned, Tibasima is a Hema, whereas a Gegere is Gegere.

16 Q. Thank you for that clarification.

17 Did the RCD Kisangani have an army at that time?

18 A. Yes, certainly, because their first cause was an armed struggle.
19 That was their main purpose rather than diplomacy or anything else. They
20 had their own organised army.

21 Q. What was the name of that army?

22 A. It was called the APC, the Army of the RDC, which means the army
23 of the Congolese people, APC.

24 Q. So in 1999 was there a governor in Ituri?

25 A. Ituri was a district. When Ituri became a province we were all

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1 surprised. I myself was surprised to see Lotsove Adele Mugisa to
2 self-proclaim herself governor of Kibali-Ituri and that's how she
3 expressed it. It was under her initiative, under her decision. There
4 were a series of governors in Ituri, one after the other.

5 Q. Do you know who was at the origin? You mentioned
6 self-proclaimed, but who created the province, who decided to create the
7 province?

8 A. Well, Lotsove herself told me, but there were other sources as
9 well who confirmed the same story, but I heard from her own mouth that
10 she had decided with the help of General Kazini to set up a province in
11 Ituri, an Ugandan General Kazini.

12 Q. Did you know what the purpose of creating the province was?

13 A. She expressed it in different ways, and if I may I'd like to add
14 that according to what she said, she had consulted some people from Ituri
15 on the idea of creating the province of Ituri. And those individuals
16 were not as brave as she was, and therefore she joined up with General
17 Kazini. To answer the question, your question, the main goal - according
18 to what she said - was to enable any Iturian, a Congolese from Ituri, to
19 be able to express himself or herself at national level. That was the
20 main goal.

21 Q. Were there economic interests at stake or not?

22 A. Based on what I saw directly and based on other witnesses, there
23 were economic aspects involved, be it her own interest, Adele Lotsove, or
24 other economic players. The economy was at the basis of everything.

25 Q. My colleague has just mentioned that the province was not spelled

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1 correctly. Could we correct it. Did you say Kibali-Ituri?

2 A. That was the first term she used, Kibali-Ituri; and then later
3 "Kibali" was removed. The reason for that was * the people from the area
4 called Kibali did not support her idea, and
5 therefore she removed the part of the name "Kibali" and kept "Ituri" only.

6 Q. Thank you. One more question about Madam Adele Lotsove. What
7 ethnical group is she from?

8 A. She's a Gegere.

9 Q. Thank you. You said that there were other governors later on.
10 When was she replaced by another governor, do you know that?

11 A. Lotsove stayed for some time as governor. I don't remember the
12 exact date when she was replaced, but it was during the year 1999 that
13 she was replaced by Mr. Uringi Padolo who is an Alur from the Alur tribe.

14 Q. Thank you. Do you know why she was replaced?

15 A. I can't tell you the exact reason, the internal cause, but
16 according to information
17 and what other people stated publicly there were tribal conflicts
18 opposing the Lendus and the Gegeres. She, being a Gegere - at least
19 according to what Professor Wamba said - she tended to favour her tribal
20 brothers. And therefore, in order to restore some order and clear up the
21 management of Ituri, Professor Wamba decided that she needed to be
22 replaced by someone else who in his eyes was neutral; in other words,
23 Uringi Padolo. That was the main reason, the administrative reason, if
24 you will.

25 Q. Do you know how Madam Lotsove reacted to her replacement?

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1 A. Yes, I know, because I spent quite a lot of time talking with her
2 on several occasions. And up until today I am certain that she has not
3 really digested the fact that she was replaced so quickly before she had
4 time to accomplish her projects. She was against Uringi Padolo, the man
5 who replaced her, and against Professor Wamba.

6 Q. Well, when you say she turned against Uringi Padolo and Professor
7 Wamba dia Wamba, can you tell us exactly what you mean, how that was
8 expressed?

9 A. Well, aside from the negative words that she expressed or the
10 negative descriptions that she gave against those two individuals, she
11 sought out support amongst her tribe members in order to make the
12 administrative projects of her rival, her replacement, fail, so that the
13 other -- so that her community not provide support to Professor Wamba.
14 And that's why it was difficult for Professor Wamba to manage that region
15 of Ituri which was already at fire, so to speak.

16 Q. When you say * her community, which community are you referring to?

17 A. I was referring to the Gegere community.

18 Q. Did Wamba dia Wamba remain in power?

19 A. Absolutely not. A while after that, in 2001, Professor Wamba dia
20 Wamba was toppled by force. Initially the use of force wasn't
21 successful. When I say "force," I'm referring to military combat. There
22 was fighting. They didn't manage to topple him. It was only with the
23 help of the Ugandans, once again, that they managed drive Professor Wamba
24 out of Bunia.

25 Q. When you say they managed to do that, who are you referring to?

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1 A. Well, first of all there were actors who were quite visible,
2 Mbusa Nyamwisi, Tibasima Mbogemu Atenyi, and behind them they had their
3 supporters. I can perhaps provide you with a minor detail about
4 Tibasima. He's a Hema and for the cause at the time the Hema and the
5 Gegere were united. They all supported Tibasima in this plan, and Wamba
6 left.

7 Q. And after Wamba had left who had control over Ituri?

8 A. There was a period of chaos, a vacuum, for a short period of
9 time. And after that period Uganda had controlled the area, tried to get
10 the other actors to unite. When I say the other actors, I'm referring to
11 Tibasima Mbogemu Atenyi, Mbusa Nyamwisi, and Jean-Pierre Bemba.
12 Initially, they created a political movement called the FLC, the Front
13 for the Liberation of Congo. It was under the auspices of
14 Mr. Jean-Pierre Bemba, under his leadership. He didn't remain there for
15 long because of the economic interests that were at stake. Mbusa made
16 him leave eventually with the assistance of the Ugandan military
17 officers. He himself remained the master in Ituri, himself and Tibasima
18 of course. And they were under the RCD Kisangani movement.

19 Q. To understand you correctly, the FLC was active during which
20 period of time, do you know?

21 A. I apologise for having forgotten to mention that, but I think it
22 was from January until November, roughly speaking, 2001.

23 Q. And to be quite clear, as of November 2001 the FLC disappeared
24 then, who then assumed power in Ituri?

25 A. From November 2001 it was Mbusa Nyamwisi who took over power in

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1 the RCD in Ituri.

2 Q. RCD Kisangani, did the name of the movement change by any chance?

3 A. The RCD Kisangani didn't change its name. The only thing that
4 changed was -- well, the fact that some of the actors were different.

5 Q. So RCD-K or Kisangani, did it have an army at the time?

6 A. Yes, RCD Kisangani had inherited the army that had existed there from the
7 so-called rebellion of 1998. Professor Wamba had left. As you may remember,
8 I said that the identity of those involved had changed but the institution
9 as such remained. This army remained there, the APC was there.

10 Q. Did Mr. Lubanga have a role to play in this new organisation --
11 well, not a new organisation, but in the RCD Kisangani organisation that
12 at that point in time took over power?

13 A. Yes. Mr. Thomas Lubanga -- because try and remember what I said
14 a while ago, not very long ago, the Hema, the Gegere, in order to make
15 Professor Wamba leave had united and they made him leave. Furthermore,
16 there was and there still is a conflict of political and
17 economic interest between Mbusa Nyamwisi and Tibasima. So for a certain
18 objective they had united, but they didn't really agree on a lot of
19 things. That's the information I have. Mbusa Nyamwisi wanted to weaken
20 politically Tibasima, and to do so he had appointed Thomas Lubanga as his
21 defence secretary, minister of defence, he was called something like
22 that. So that's what happened.

23 Q. You referred to - and I'm looking at the English transcript, so I
24 can't quote you exactly - but you said with reference to Thomas Lubanga,
25 you said that there had been this action conducted by the Hema and Gegere

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1 in order to topple Wamba dia Wamba, to drive him out. So how was this
2 plan carried out?

3 A. Well, the objective was to get Wamba to leave.

4 Q. Do you know how they managed to make Wamba leave by taking joint action?

5 A. We're talking about politics here I think. When you have people
6 who support you, who listen to you in the sphere of politics, well that
7 means that you have a certain amount of power. So when Tibasima spoke to
8 the population, when he has a political basis, well the Hema and Gegere
9 tribes are numerous. He can put forward an idea, they'll support him,
10 even if he asks them to make financial contributions or to boycott such
11 and such a thing or such and such an event. If he asks them to do that
12 they'll do that, and this is an advantage in politics. So this is how
13 they used this advantage to sabotage everything.

14 And I said that there were many
15 administrative and political plans of Professor Wamba and of Uringi
16 Padolo, and towards the end they gave children, they gave their children
17 to be trained as soldiers, and these soldiers amongst others fought
18 against Professor Wamba.

19 Q. I'll put more questions to you about that. You said they gave
20 their children. Who are you referring to?

21 A. I'm referring to the Hema and Gegere communities.

22 Q. You previously mentioned Thomas Lubanga before you provided us
23 with all these clarifications. What role did he play if he had a role of
24 any kind?

25 A. Naturally, according to the political calculations of a strategic

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1 nature made by Mbusa, he had a role to play. Lubanga
2 was a Gegere; Tibasima was a Hema. So when you take away -- well,
3 initially Tibasima had the Gegere and Hema community behind him. And
4 according to the calculations of Mbusa it was necessary to divide this
5 force. Lubanga, by becoming the minister of defence, had his Gegere
6 community behind him. And automatically -- you know the English saying
7 that blood is thicker than water. So the Gegere community was
8 behind him automatically; that's what Mbusa wanted. And this had a
9 serious effect on Tibasima, it affected him seriously.

10 PRESIDING JUDGE FULFORD: Maitre Mabilille.

11 MS. MABILLE (interpretation): Your Honour, I have an objection I
12 would like to make as a matter of principle. Today we seem to be asking
13 this witness to act as if he were an expert on the background, on the
14 contexts. If the witness provides information about the context, about
15 the background, I would like him to refer to his sources so that we can
16 understand how it is that he reached the conclusions that he seems to be
17 presenting to us at the moment. I am aware of the fact
18 that the witness must have
19 been a direct witness of what he is telling us. He shouldn't be giving
20 us hearsay information and he shouldn't be giving us information
21 if we can't assess the truthfulness of
22 what he is saying.

23 So that is what I would like to say at this point in time, your
24 Honour.

25 PRESIDING JUDGE FULFORD: Thank you very much, Maitre Mabilille.

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1 (Trial Chamber confers)

2 PRESIDING JUDGE FULFORD: Anything you want to say on this,
3 Ms. Struyven?

4 MS. STRUYVEN: Yes, your Honour. Well, first of all, the witness
5 has already mentioned a few of his sources from which he has received
6 information. What I intended to do was to maybe at the end of this
7 section ask him the different sources that he bases his information on.
8 I would be surprised if he would know for each and every single fact from
9 whom and what time he received the information. I think he has explained
10 to us at length -- and I think maybe we cannot discuss this in open
11 session, but I think he has discussed this morning at length certain
12 methodologies and certain -- well, the sources he's basing himself on to
13 have collected the information.

14 PRESIDING JUDGE FULFORD: Yes. Thank you, Ms. Struyven. We
15 anticipated that that was generally going to be the position of the
16 Prosecution. The Chamber shares the concerns expressed by Maitre
17 Mabilie, that the witness, although undoubtedly someone who can provide
18 the Court with real assistance on a number of issues and areas, at the
19 end of the day isn't an expert on the history to the Democratic Republic
20 of the Congo and the Ituri region in particular. And ultimately the
21 information that he will be providing will come from a wide range of
22 sources, some of whom the witness in all probability will not now be able
23 to remember as regards who provided individual pieces of information.
24 And equally importantly I would imagine that there are going to be some
25 sources who the witness would prefer not to divulge.

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1 Therefore, it is our preliminary view that we would be more
2 assisted if you could direct the witness to those events which are really
3 within his own personal knowledge because of the work that he has
4 undertaken. Now, we're going to give you a bit of time to reflect on the
5 impact of that, to see whether there's anything further that you would
6 wish to say about it, because no doubt you have a strategy that you wish
7 to follow, Ms. Struyven, in the questioning of this witness. So we will
8 break with the witness's evidence at this point so that you in five or
9 ten minutes time can have an opportunity to reflect on this and to come
10 back to us if you wish at half past 11.00.

11 So, sir, we're going to break now with your evidence. Thank you
12 very much for your help so far. We look forward to seeing you again at
13 half past 11.00.

14 Once the witness has left Court, Ms. Struyven, there is a short
15 oral decision that we're going to deliver and then we'll take the break
16 at about 11.00.

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

18 *(Closed session at 10.48 a.m.) Reclassified as Open session

19 COURT OFFICER: Closed session.

20 (The witness stands down)

21 PRESIDING JUDGE FULFORD: Public session, please.

22 (Open session at 10.48 a.m.)

23 COURT OFFICER: Public session.

24 PRESIDING JUDGE FULFORD: This is our decision on the

25 "Prosecution's Submission on the Presentation of Video Evidence and

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1 Requests for Admission of Evidence and in Relation to the Translation of
2 Videos" dated the 25th of February, 2009, document 1730, which was filed
3 confidentially. A public, redacted version of this submission was filed
4 on the 3rd of March, 2009, document 1784.

5 The issue:

6 During the questioning of Witness 0030 by the Prosecution between
7 the 16th and the 19th of February, 2009, the Prosecution introduced video
8 extracts and asked for the witness's comments on them. Following the
9 Trial Chamber's direction on the 16th of February, 2009, these were
10 identified by way of an "MFI" (Marked for Identification) number, pending
11 an application by the Prosecution to admit the videos, or selections from
12 them, into evidence after the witness had completed his testimony.

13 The Defence did not contest the admissibility of those portions
14 (Redacted)
15 occasions when he was present.

16 On the 18th of February, 2009, the Trial Chamber ordered the
17 Prosecution to provide, by way of a filing, an exact record of the video
18 scenes that had been shown to Witness 0030, together with a written
19 explanation of their individual suggested relevance to the Prosecution's
20 case. The Chamber further requested the Prosecution to clarify, in each
21 instance, whether it sought the admission into evidence of the complete
22 scene or sequence or only those portions shown during the evidence.

23 In this application, the Prosecution submits that it only seeks
24 to introduce those sections of the video material shown during the
25 examination of Witness 0030 and it does not argue for the admission of

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1 any unshown footage. In annex 1 to the application, the Prosecution
2 provided what it suggests is a perfected version of the soundtrack. In
3 annex 2 the Prosecution provided its explanation of the evidential
4 significance of each section.

5 The Prosecution relies on the fact that the proposed transcripts
6 (including translations) were disclosed to the Defence during 2006 and
7 2007. Thereafter, the Defence did not raise any objections as regards
8 their admissibility. Furthermore, during the two weeks prior to the
9 testimony of Witness 0030, the Prosecution provided the Defence with
10 subtitled versions of the excerpts of the video scenes that it proposed
11 to show during the examination of Witness 0030, in order for the Defence
12 to review the translations. It is submitted that the Defence agreed "in
13 principle to the use of subtitles" and, moreover, it did not object to
14 those provided.

15 However, following the testimony of Witness 0030, the Defence has
16 indicated it no longer agrees with any of the translations provided by
17 the Prosecution.

18 The Prosecution submits that the Defence should indicate
19 precisely the passages with which it takes issue in order to reduce what
20 will otherwise be the significant time and expense required to prepare
21 fresh translations of the entirety of the material. If the Defence is
22 unable to comply with this suggestion, bearing in mind the considerable
23 length of time required to prepare a comprehensive transcript for each
24 video extract, the Prosecution suggests that those already prepared by
25 the Prosecution are provided to the Registry to assist in providing a

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1 definitive version of the French translation of the portions played
2 during the hearing for which a translation is required.

3 The Prosecution seeks the formal introduction into evidence of
4 the excerpts played in Court from the following videos, all of which bear
5 the initial number MFI-P, they are otherwise: 00025, 00026, 00027,
6 00028, 00030, 00031, 00032, 00033, 00034, 00035, 00036, 00037, 00039,
7 00040, and 00041.

8 In summary, the Prosecution requests that the Defence indicates
9 the particular passages that it disputes, or, alternatively, the
10 Prosecution is allowed to submit its transcripts and translations of the
11 videos concerned to the Registry to assist in the production of the
12 definitive version.

13 The Defence filed a response on the 25th of February, 2009
14 (document 1791), in which it explained that it does not object to the
15 formal introduction into evidence of the extracts played during Witness
16 0030's testimony. However, it is suggested that the entirety of each
17 scene should be included, as opposed to the excerpts scheduled in annex
18 1 to the Prosecution's application.

19 As to the translation and transcription of this material, the
20 Defence observes that in each instance they have been viewed in Court and
21 translated by the Court interpreters. Accordingly, it is suggested that
22 the parties and participants have already been afforded the opportunity
23 of ensuring the official record is correct, and that the Court record
24 alone is authoritative.

25 Our decision:

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1 These issues can be dealt with shortly, and although this
2 decision relates to an application made by the Prosecution it applies to
3 both parties and the participants in this case. Any video footage that a
4 party or participant wishes to rely on must be introduced during the
5 evidence in the case, either via a witness or directly from the bar
6 table. As it is played, the exact start and end points must be given by
7 counsel in Court, for the record. After the evidence has been
8 introduced, the Chamber, the parties, and any interested participants are
9 to be provided by the party or participant introducing the material with
10 copies (on DVD) of the particular extracts played in Court, together with
11 an accompanying schedule, which includes, or is accompanied by, a summary
12 of the suggested relevance of the material. In the judgement of the
13 Bench, annex 2 to the present application is a useful demonstration of
14 the kind of document that should be provided in this context: Its detail
15 ensures that the stance of the party or participant introducing the
16 material is clear, and at any relevant stage any other party or
17 participant may file additional submissions.

18 If the admissibility of any particular footage is challenged, the
19 matter should be raised prior to the introduction of the evidence,
20 although the Bench may need to view the material in order to decide on
21 the admission or exclusion of the material.

22 The party introducing the evidence must make it clear in advance,
23 namely, at least a week beforehand, whether or not any speech heard on a
24 video extract is to be transcribed and interpreted, and if so, which
25 sections. Any additional transcript or interpretation of the soundtrack

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1 in existence is to be provided, preferably in advance of the evidence, to
2 the Court Officer for the assistance of the Court interpreters and
3 stenographers. However, this will only serve as an aid, because the
4 version produced by the Court interpreters and stenographers is
5 definitive.

6 Whilst the Court will focus ordinarily on the extracts that have
7 been played in Court, the parties and the participants are entitled to
8 rely on other sections of any relevant scene as part of the evidence in
9 the case, not least because there is an inherent danger that by focusing
10 on limited sections, their meaning and significance may have been
11 distorted because they have been taken out of a wider relevant context.
12 However, if words spoken during any sequence not played in Court are to
13 be referred to during later evidence or submissions, the party seeking to
14 rely on the additional footage must provide a proposed translation within
15 14 days of the introduction of the original evidence, by way of a formal
16 Court filing identifying precisely which additional passages are relied
17 on.

18 Otherwise, differences as to interpretation and transcription are
19 to be dealt with in accordance with the Chamber's separate decision on
20 this issue to be delivered shortly.

21 Yes, Ms. Struyven.

22 MS. STRUYVEN: Excuse me, your Honours, I just have a remark or a
23 request for a redaction in respect of the -- I think page 30, line 4, if
24 I'm not mistaken, just a few words - I'm not going to repeat them - but
25 in respect of the profession of the witness concerned.

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1 PRESIDING JUDGE FULFORD: Quite so.

2 We'll sit again at 25 to. Thank you all very much.

3 COURT USHER: All rise.

4 Recess taken at 11.03 a.m.

5 On resuming at 11.34 a.m.

6 COURT USHER: All rise. Please be seated.

7 PRESIDING JUDGE FULFORD: Anything else you wish to say,

8 Ms. Struyven, on the issue?

9 MS. STRUYVEN: Yes, your Honour. Your Honour, in line with the
10 decision on hearsay and the admissibility of hearsay, the Prosecution
11 submits that it is not barred from asking questions to witness in
12 relation to events which he did not necessarily personally -- in which he
13 was not necessarily personally involved. The Prosecution submits that
14 this is a question of weight rather than a question of admissibility
15 which must be assessed, of course, in view of the totality of the
16 evidence that will be presented in this case. This being said, as
17 explained earlier, the Prosecution also submits that the witness
18 concerned has travelled to Ituri on a weekly basis between 1998 and 2000.
19 The witness has explained that he had numerous discussions with several
20 parties involved, and therefore the Prosecution submits that he is in a
21 position to comment meaningfully on the events that occurred during that
22 time-period.

23 What the Prosecution also suggests is that we elicit, more
24 frequently, maybe, perhaps the sources on which the witness is basing its
25 information. Maybe just as a correction, the witness travelled in the

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1 area between 1998 and 2002 at least.

2 PRESIDING JUDGE FULFORD: Thank you very much, Ms. Struyven. If
3 any part of that submission needs redacting, could an e-mail please be
4 sent to the Court Officer.

5 (Trial Chamber confers)

6 PRESIDING JUDGE FULFORD: We're going to rise for five minutes.

7 COURT USHER: All rise.

8 Break taken at 11.39 a.m.

9 On resuming at 11.43 a.m.

10 COURT USHER: All rise. Please be seated.

11 PRESIDING JUDGE FULFORD: Although the Chamber will entertain
12 hearsay evidence if the test we have propounded is met, this individual
13 is no better placed than others who are not expert witnesses to give
14 evidence about events which he did not witness and for which he is
15 relying on the accounts of others which were given to him. The witness,
16 through his own travels and investigations, may have attempted to verify
17 the truth of what he was told; but, as we've just observed, he is not an
18 expert. And in the context of this trial, it is not for him to decide
19 what is true, what is false, and what is reliable and what is unreliable.

20 Therefore, as (Realtime transcript read in error "it's") with
21 other witnesses of fact, he should principally focus on the events for
22 which he has some appropriate personal knowledge; for instance, because
23 he attended or was present at the events in question or because he
24 attended meetings where issues were discussed.

25 Can we please go into closed session so the witness can come back

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1 into Court.

2 *(Closed session at 11.44 a.m.) Reclassified as Open session

3 COURT OFFICER: Closed session.

4 (The witness takes the stand)

5 PRESIDING JUDGE FULFORD: Thank you very much, sir. Sorry we've
6 kept you waiting.

7 Open session, please.

8 (Open session at 11.46 a.m.)

9 COURT OFFICER (interpretation): Open session.

10 PRESIDING JUDGE FULFORD: At line 10 of the current page of the
11 English transcript it should read: "Therefore, as with other
12 witnesses ..." rather than "it's with other witnesses ..."

13 MS. STRUYVEN: Thank you, Your Honours.

14 Q. (Interpretation) Witness, now I am going to continue with the
15 period February 2002 right to up to April 2002. If I understood well
16 from 1st of February, 2002, right up to the 28th of April, 2002, you
17 participated in the inter-Congolese dialogue of the Sun City?

18 A. That is correct.

19 Q. Can you tell us where, in which country, that dialogue took place?

20 A. The inter-Congolese dialogue took place in South Africa.

21 Q. Can you tell us the purpose of this dialogue?

22 A. The purpose of the dialogue as it was defined at the time was to
23 put an end to the hostilities, to the fighting, and create a government
24 of national unity. While those are all political -- that is political
25 language. In any case, that was the main purpose.

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1 Q. You said earlier that Mr. Lubanga was appointed commissioner for
2 defence in November 2001. Was he present at Sun City?

3 A. Personally, I do not remember having seen him at Sun City. I do
4 not think, I don't have any proof, but I don't think he participated in
5 the dialogue at Sun City.

6 Q. Do you know why he did not participate in that dialogue?

7 A. I cannot know. I can't tell you why, but in June 2002 he made
8 certain political demands and he talked about this dialogue at Sun City
9 to which he was not invited. He talked about tribalism, discrimination,
10 those are the terms he used in the demands he made.

11 Q. And if I understood well, is that what he told you personally?

12 A. Not only to me. He also said that to others. It was public.

13 Q. And what did he say with respect to the fact that he was not
14 invited?

15 A. At that time the fighting had become very open, that is, the
16 conflict had become open, that is, Lubanga against RCD-K of Mbusa
17 Nyamwisi. And when I say that the conflict had become open, I'm saying
18 that he was militating for the fact that Mbusa Nyamwisi and Tibasima and
19 the RCD-K should leave Ituri and be replaced by another political and
20 military group.

21 Q. Did he tell you why the RCD-K had to be replaced?

22 A. Yes. Everything was said publicly (Redacted)

23 (Redacted)

24 other groups, I'm talking about RCD, FLC, MLC...,

25 and the others were not able to

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1 address the aspirations of the people, the expectations of the people.
2 Now, to come back to the subject of tribalism, he underscored the fact
3 that Mbusa's management was tribalistic. That was something he harked on
4 repeatedly. He also said that Iturians had to wake up, they had to
5 rise, and team up with him to chase out Mbusa. That was how his message
6 was formulated on the whole.

7 Q. Did he say how Mbusa Nyamwisi had to be chased out?

8 A. Certainly, yes. He explained on the whole that we had to pool
9 all our resources to chase out Mbusa Nyamwisi and the RCD-K, that is,
10 RCD-K-ML. (Redacted)
11 (Redacted)
12 (Redacted)

13 (Redacted) to attack or criticise RCD-K-ML and Mbusa Nyamwisi. And
14 then the others, because you know tasks were assigned to each and
15 everyone and to various groups, and so the others depending on their
16 capacity, others had to go and fight militarily, while other groups had
17 to wage a diplomatic fight. So all means were mobilised to that purpose.

18 Q. If I understood you well you said that -- well, he said that all
19 means had to be used for that purpose, but who was in charge of all this,
20 who was assigning the various tasks you talked about at the time?

21 A. It was an open secret. When the meeting was held, Thomas Lubanga
22 was the president of these group -- this group which was emerging at
23 the time and which was called the UPC. It was public. Thomas Lubanga
24 was the president, and you know it is the president who gives orders and
25 everyone was behind the president.

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1 Q. You talked about this meeting --

2 PRESIDING JUDGE FULFORD: Pause, pause Ms. - Pause

3 Yes, Maitre Mabilie.

4 MS. MABILIE (interpretation): I'm very sorry to interrupt again.

5 I'm not clear at all. You have said to the witness when you're referring
6 to words pronounced by the accused at a meeting, if you don't say exactly
7 when you're referring to, what period of time you're referring to, it's
8 very difficult to follow I'm afraid.

9 PRESIDING JUDGE FULFORD: Thank you. Maitre Mabilie.

10 Ms. Struyven, there's clearly been on the part of the witness a
11 reference to things being said publicly and, as I understood it, the
12 witness was referring to a particular meeting that took place and things
13 that had been said directly to him. As an initial reaction, it probably
14 would be helpful to be perhaps slightly more precise as to dates and when
15 it was that these things particularly relating to the accused were said.
16 So can we take this perhaps slightly slower and break it down a little
17 bit more so that it comes in sequence and we can be clear about origins,
18 sources, and timings, please. Thank you.

19 MS. STRUYVEN: Yes, your Honour.

20 Q. (Interpretation) Witness, I heard you refer to a precise month,
21 but let me go back to the beginning. You were in Sun City between
22 February and April of 2002, and then you referred to a meeting that you
23 had with Mr. Lubanga. Can you tell us precisely when and where that
24 meeting took place. Let me just make a comment before you give the
25 answer. Do you think we can do this in open session or would you prefer

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1 that we go into private session for that response?

2 A. As regards the issue of open session or private session, I expect
3 that I will have to mention certain names. And therefore, if I may
4 request to the President, if it's up to you to decide whether you're
5 comfortable or not with my mentioning names --

6 PRESIDING JUDGE FULFORD: I think for a little while we'll go into private
7 session, thank you very much, so you can give this answer fully.

8 Private session, please.

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

10 COURT OFFICER (interpretation): Private session.

11 MS. STRUYVEN (interpretation):

12 Q. Could you describe when the meeting took place with Mr. Lubanga?

13 A. Thank you very much. After Sun City, as I have stated clearly, I
14 don't remember having seen Lubanga there nor do I remember whether or not
15 he participated. I explained that earlier. But after the end of the Sun
16 City meeting everyone, that is, the majority of the participants and the
17 government was formed in Kinshasa, the capital city. Meanwhile, Lubanga
18 did not participate in those meetings and therefore he didn't get his
19 share, so to speak. So, he imagined other things because they were
20 dissatisfied. Hence, (Redacted)
21 (Redacted). I was not informed about that until such
22 time that I was called on the phone by (Redacted)
23 (Redacted),
24 (Redacted) called me and told me
25 that I needed to go to (Redacted) where a meeting of Iturians was going to

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1 be held. That was the information he gave me. And someone who was on
2 their way was bringing money for me to cover transportation costs and
3 other ancillary costs.

4 We went together to (Redacted) and I was welcomed at the (Redacted)
5 (Redacted) where Lubanga and the other members of the delegations were
6 already -- well, they were already there. (Redacted),
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted).

12 And there was someone else whose name escapes me. I might recall it in a
13 moment. We went into the room and that was the very first time that I
14 had met Thomas Lubanga face-to-face and that I had spoken to him
15 face-to-face. He began speaking first and then I answered. That is
16 exactly how I found myself at that meeting.

17 PRESIDING JUDGE FULFORD: Ms. Struyven, forgive me, if I may say
18 so, that has been very helpful in that we were taking it at a speed in
19 which enabled the witness to explain exactly who was there, what his role
20 was, and, as it were, to provide us with a basis for the evidence that's
21 to come; whereas, before - this is not meant critically - but before it
22 was really unclear as to what meeting we were referring to, who was
23 present, and the circumstances of it. So might I respectfully
24 suggest - and I understand your desire for us not to take over long with
25 the evidence, highly laudable - but can I suggest we take it at this pace

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1 rather than trying to rush it.

2 MS. STRUYVEN: Very well, your Honours.

3 PRESIDING JUDGE FULFORD: Thank you.

4 MS. STRUYVEN (interpretation):

5 Q. Of course I'm going to ask you more questions about that, but to
6 start with do you remember when that meeting or those meetings took
7 place?

8 A. It was at the beginning of June 2002.

9 Q. You have explained that when you arrived you saw for the very
10 first time Mr. Thomas Lubanga. Now, you've already spoken about what he
11 told you, but could you repeat to us now what he said at that time?

12 A. As the president of the group, he was the leader, he was the
13 person who gave orders, and he explained to me why I had been invited.
14 And amongst the various aspects that he explained, he mentioned that
15 myself as an Iturian, he expected me to join up with him and that (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted), and that very first day he didn't
19 mention the UPC, he only mentioned the Iturian movement. It was only
20 later on that I was to learn that the UPC was the group that was leading
21 the fight. That's a minor detail that I wanted to add at this point.
22 Otherwise, if I may repeat, at the very first -- at this very first
23 contact he did not mention the UPC.

24 Q. When you say that you learned afterwards that it was the UPC, was
25 it the same week or was it a month later or two months later? Can you

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1 tell us when you found out that it was in fact the UPC?

2 A. Thank you for that question. It was the same day after having
3 met him. He was talking in general terms, (Redacted)
4 (Redacted), in particular I
5 could mention the name of Paul Avochi, John Tinanzabo, the name
6 Dr. Kabagambe, Mama Akiki, Mama Lotsove, Kitembo Bitamara. There were a
7 whole series of people that I spoke with, and through these conversations
8 with them I discovered that it was the UPC that was leading the fight,
9 the combat, and wanted to group together all Iturians to continue the
10 combat.

11 Q. Before I continue asking questions about this combat, when you
12 refer to Mama Lotsove, is this the one and same person Adele Lotsove you
13 referred to earlier?

14 A. Yes, that's correct. We were used to calling popular individuals
15 in a particular way and it was an honorary title, so to speak, we called
16 her Mama Lotsove, but it is indeed the very same Adele Lotsove.

17 PRESIDING JUDGE FULFORD: Ms. Struyven, we might be able to go
18 public, mightn't we, or at least bear it in mind.

19 MS. STRUYVEN: I personally don't mind going into public session
20 as long as the witness reveals -- or doesn't reveal where he was at the
21 time that he had these meetings.

22 PRESIDING JUDGE FULFORD: Absolutely. Well, let's proceed with
23 caution, but can we see whether we can at least have some of this
24 evidence given in public session. Thank you.

25 Public session, please.

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1 (Open session at 12.08 p.m.)

2 COURT OFFICER: Public session.

3 MS. STRUYVEN (interpretation):

4 Q. Without saying exactly where and when you participated in that
5 meeting, you have spoken about leading the combat. You mentioned the
6 group and the fact that Thomas Lubanga referred to the combat. How was
7 this to be carried out? Did he explain that to you?

8 A. Yes. Throughout the entire time that I -- that we spent there, a
9 lot of time was devoted to discussing the method to be adopted. I think
10 I've said this already. Some fights were of a military nature, others
11 were of a diplomatic nature, and the press was to be used as well, as
12 well as others who were to develop awareness in the population in Ituri
13 and mobilise people.

14 Q. When you use the word "military," who explained to you what was
15 to be done in military terms?

16 A. In the beginning Lubanga already talked about that because Mbusa,
17 who was to be chased away, already had a military -- he already had
18 soldiers. And so the only way to deal with soldiers is to fight with
19 other military soldiers. So right from the start Thomas Lubanga - in
20 answer to your question - referred to the fact that there needed to be an
21 organised army in order to fight against Mbusa's military resistance.
22 That was perfectly clear and he spoke about that, and there were other
23 details if you'll allow me to repeat. Other delegates knew a lot already
24 about that.

25 Q. Can you tell us what other details you learned in that way on

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1 site at the meeting?

2 A. Three days after I arrived - I don't know if I need to mention
3 this - two gentlemen, two of Lubanga's men, arrived and they were
4 specifically in charge of going to get weapons in Rwanda. Mama Lotsove
5 (Redacted) that Uganda was playing hide
6 and seek. Uganda did not want to openly sell a sufficient quantity of
7 weapons to the UPC, and therefore they had to go and get them elsewhere.
8 So this -- the first time I heard about the weapons was from Mama Lotsove
9 and then Thomas Lubanga confirmed it as well as the other delegates who
10 were closely involved with all that. And if you like, I can give you the
11 names of the two guys who arrived and who had travelled to Rwanda to get
12 weapons.

13 Q. Could you, yes, please, give us the two names of the individuals
14 who joined you at that time.

15 A. Well, first of all, there was Chief Kahwa and the other was Beiza Nembe.

16 Q. You've explained that Mr. Lubanga spoke to you about this. What
17 exactly did he say to you about this subject, that is, as regards the
18 weapons that they had to go and get in Rwanda?

19 A. It was late that evening when Lubanga met us. Of course, there
20 had been a series of little
21 meetings, encounters, as is often the case in such situations. Late at
22 (Redacted) the
23 two that I've mentioned and there were other delegates as well, and he
24 confirmed, he said, Yes, these two men have to go get weapons in Rwanda.
25 In the morning of the next day he repeated the same thing after

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1 breakfast when I had noted that Chief Kahwa and Beiza were no longer in
2 the hotel. He repeated the same thing, he confirmed that they had
3 already left.

4 Q. Do you know who had given the order to those two individuals to
5 go to Rwanda?

6 A. Well, I think it's clear. It was the president in charge of the
7 group. In this precise case the president was Thomas Lubanga. If he
8 didn't want those two men to go, all he had to do was say so, Don't go.
9 But they went and therefore he gave them the order. I have mentioned
10 circumstances, two instances, where he confirmed the fact that those
11 people needed to go take care of military matters. So you must recall
12 that of course he is the one who gives the orders as president of the
13 group.

14 Q. Were there any other preparations, any other military measures in
15 preparation?

16 A. Well, what I can tell you is that I knew in advance through my
17 contacts with the UPDF, that is, the Ugandan army, that the Gegere had an
18 army, just as the Hema had an army. I knew that already and I'd heard
19 that the Gegere were organizing around Thomas Lubanga, who had been
20 minister of defence of Mbusa Nyamwisi and who expressed in one way or
21 another the fact that he was discontent about having been left aside by
22 Mbusa Nyamwisi. I knew that.

23 If I may come back to the meeting again, it is true that while we
24 were at that meeting I gained confirmation of what I already knew which
25 was that an army existed or something that was similar to an army,

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1 whatever word you want to call it, militia or army. But there was an
2 armed group which was organised - when I say which was or which had been
3 organised because they were mobilising other groups to join the army that
4 already existed.

5 Q. With regard to the group that already existed, did you know
6 whether this group had been trained; and if so, where?

7 A. Through my contacts, the previous contacts I had, towards 1999
8 there was a group of Hema that had been taken to Uganda and they had been
9 trained in Uganda. That was around 1999. Later, I found out through my
10 sources within the UPDF, the Ugandan army, that the Hema as well as the
11 Gegere and the Lendu had formed their own armies or militias. So I knew
12 that in the case of the Gegere -- well, I was certain about the Gegere.
13 I knew that they were being trained there at the time before June 2002,
14 and it was on the basis of this meeting I knew they were being trained on
15 site in Ituri. That's what I can tell you.

16 Q. You've mentioned a source, members of the UPDF, it's through
17 these sources that you obtained this information? I just want to clarify
18 that.

19 A. Yes, in fact that is the initial source, the UPDF, but I obtained
20 confirmation a little later through my connections. I could perhaps add
21 something. At that time there was a training centre in Rwampara under
22 the UPDF leadership. Officially -- well, it was an official centre.
23 Anyone, any Congolese person could go there. But there was information
24 that showed that the Gegere, the Hema, the Lendu already had projects of
25 a particular kind and they used this official centre for their own

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1 purposes. That is what was official, but informally, in informal terms,
2 I'd say that they had their centres. The initial source was the
3 UPDF - I'll repeat that - but I had other sources that confirmed the
4 information.

5 I would have liked to inform you of these sources, but I imagine that
6 most of these people are working for the Congolese government now and I'm
7 afraid that if their names were revealed they might have trouble, they might
8 be arrested, because they're in the security service.

9 PRESIDING JUDGE FULFORD: Ms. Struyven, there's just been a
10 fairly long answer from the witness, in fact more than one answer, which
11 really transgresses the order that we handed down about the witness
12 really giving evidence about matters that are directly within his
13 knowledge rather than relying on material that has come to him via
14 informants. And one of the problems of relying on that kind of evidence
15 has just been revealed, in that the witness has indicated that there may
16 be real and grave problems if he identifies who it is that provided that
17 information. So I must ask you, please, to stay within the terms of the
18 decision that we handed down.

19 One of the questions you asked was directly asking him to discuss
20 his contacts, who provided him with information, and thereafter inviting
21 him to give evidence based on material that he'd heard from others. So
22 please within -- please remain within the ambit that we've indicated.

23 MS. STRUYVEN (interpretation):

24 Q. You have already referred to a group that existed, an armed
25 group, and you said that new individuals joined the group during this

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1 period when you were at a certain meeting. I won't mention any names.

2 Do you know where these new individuals came from?

3 A. Yes, for certain, because as I have already said here I'm
4 speaking about tribal militia. So at that point in time one would be
5 recruited -- or one would only recruit members of one's tribe. As far as
6 the UPC is concerned, at that point in time they only recruited Gegere;
7 whereas, the Hema community mobilised Hema children.

8 Q. When you say "children," what age group are you referring to?

9 A. According to what I saw, from 5 years up until the age of an
10 adult, but the youngest child I saw was 5 years old.

11 Q. You said that at the time you were explained certain things about
12 various necessary actions, military actions, diplomatic actions. You
13 also spoke about an awareness campaign conducted amongst the population.
14 What did you mean by that?

15 A. I'll explain to you what was explained to me. I'll tell you
16 something about mobilisation and this awareness campaign for the
17 population. Perhaps it was a matter of raising consciousness, perhaps
18 that's the term one should use, because it was necessary to do all of
19 these things at the same time. The message was clear. It was necessary
20 for the Iturians to be perceived at the national and at an international
21 level. It was necessary to make the population in Ituri realise that
22 they had the right and the duty to fight for their own sake, to emerge on
23 the scene in political, economic, and administrative domains. I'd like to
24 point something out. Lubanga criticised Mbusa Nyamwisi for tribalism. So
25 this was something that was often said. One would say, Look, there are

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1 strangers, "foreigners," perhaps I can use the word we use, Jajambu - is
2 the term used for non-natives. "Jajambu" came and interfered with our
3 affairs. It was necessary to drive them out, it was necessary to replace
4 them. That was the message, it was quite clear, and it was necessary to
5 inform the population of the fact. They had to understand this. So we
6 had to obtain their support in different ways, their material support was
7 also needed and support in terms of information was also required.

8 This was important if one was planning a military operation. In
9 such cases it was necessary to be sure that the population would not
10 betray you. For example, if there are soldiers passing through a certain
11 place -- well, if the enemy is present the population could provide them
12 with information. So it was necessary to mobilise these people, to raise
13 their consciousness, to conduct this awareness campaign.

14 I'm not quite sure whether I have made myself quite clear.

15 PRESIDING JUDGE FULFORD: Ms. Struyven, forgive my interrupting
16 again. I don't like doing so. I much prefer to leave counsel to develop
17 questions in their own way. Could you scroll back up to page 49, line
18 21, please. Now, at that point the witness indicated that he had
19 evidence to give from what he saw himself on issues that go directly to
20 the charges that the Prosecution have brought against this accused. I
21 don't know whether you're intending to develop that, but your very next
22 question was to turn to an awareness campaign. At your own convenience,
23 it may be useful to us to understand what the witness is referring to
24 there based on his own knowledge, what he saw himself. But you needn't
25 do it now but at some convenient moment.

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1 MS. STRUYVEN: Yes, your Honour. I intend to address this
2 question at a later stage.

3 PRESIDING JUDGE FULFORD: Fine. I just wanted to make sure
4 it didn't get lost.

5 MS. STRUYVEN (interpretation):

6 Q. You said that it was necessary to dislocate -- rather, drive out
7 the "foreigners" that's how you put it. What did you mean by that?

8 A. Personally, I feel that I'm a fully-fledged Congolese like any
9 other individual on the territory of Congo. When there's someone who is
10 from Ituri says that someone else from the Congo but who isn't from Ituri
11 and calls this person a foreigner, a stranger, well, I find that quite
12 bizarre. So that's why I said we should put the term "foreigner" in
13 inverted commas. That's why I also prefer to use the term that one uses
14 there for non-natives. The derogative term for these people is
15 "foreigner".

16 Q. Were you told why the Jajambu had to be driven out?

17 A. Yes, certainly. That was one of the key messages. The reason
18 was that the Jajambu held all the important positions in Ituri, whereas
19 the people from Ituri, in spite of their potential in terms of the
20 economy, in terms of intellect, well they quite simply weren't visible.
21 So it was necessary to remove these Jajambu in one way or another and it was
22 necessary to replace them with people from Ituri. That was the message.

23 Q. Were specific groups or ethnic groups targeted?

24 A. Well, of course there were certain categories, these so-called
25 foreigners had been categorised. One ethnic group that was particularly

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1 targeted was the Nande ethnic group, Mbusa Nyamwisi's group. The Gegere
2 said about the Nande as well as the Hema -- well, they also added the
3 Lendu to them, they thought that they were their immediate collaborators.
4 That's what I'm aware of. And, generally speaking, naturally all other
5 people who weren't originally from Ituri were also targeted. But these
6 two tribes in particular were targeted.

7 Q. You have just said that there was this awareness campaign among
8 the population -- for the benefit of the population to obtain their
9 support. Do you know how the population supported this movement?

10 A. I do. As I said earlier on, I travelled around Ituri on a number
11 of occasions. I obtained information on a regular basis and from various
12 sources. Roughly speaking, I could refer to the UPDF as a source. I was
13 also in contact with the political and administrative authorities at the
14 time, and considering the accuracy of the facts, well, I can tell you that
15 one of the ways in which the population supported this idea was by making
16 financial contributions. These contributions had been organised, they
17 were voluntary or sometimes they weren't. The population also contributed
18 by providing information. In the military sphere information is very, very
19 important. Another form of population support was the fact that parents
20 would give their children to participate in military training also shows how
21 they supported the movement, so it was support provided for combat. So this
22 was a major form of support that I can rely on.

23 Q. I'm going to ask you something about the fact that parents
24 provided their children. During which period of time did this take
25 place?

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1 A. Well, according to the information I have, according to the
2 information already provided, this is something that had started as early
3 as 1999, so this is when it started. They benefitted from this. When I
4 say "they," I mean other groups born in Ituri that came to existence in
5 Ituri, military groups. During this precise period, as of 2001 and 2002,
6 parents started providing their children.

7 PRESIDING JUDGE FULFORD: Maitre Mabille.

8 MS. MABILLE (interpretation): Your Honour, it seems to me that
9 we are still faced with the same problem. We're provided with
10 information. It's absolutely impossible to verify or to check the
11 conditions under which the witness obtained this information. He wasn't
12 a direct witness, an eye-witness. I think that we are still faced with
13 the same problem that was referred to at the very beginning of the
14 hearing, and I really don't see any improvements. I don't want to
15 systematically interrupt the proceedings, but all the questions that have
16 been put have still come under my primary, initial objection.

17 PRESIDING JUDGE FULFORD: Thank you for the intervention.

18 The witness would now like to say something.

19 Yes, sir.

20 (Redacted) (interpretation): I apologise for taking the floor
21 before you, your Honour. However, it's unfortunate to hear what the
22 counsel said. She made certain declarations which I think are gratuitous
23 and I think this is unfortunate. I witnessed certain events and I have
24 confidence in the persons who provided me with a certain amount of
25 information. I think that it would be a lot more beneficial if she can

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1 help us all to -- by asking -- by enabling me to provide this information
2 to the Court. Maybe for her benefit I think it will be more advisable.
3 I truly apologise, your Honour, I really apologise. I had direct
4 contacts with the political and military authorities who were in control
5 in that part of Ituri at the time as well as the UPDF which was like the
6 umbrella over all these various military groups. I cannot doubt the
7 veracity of the information they give me. And as I said at the
8 beginning, I cross-checked my information, so I am not giving information
9 which has not been cross-checked. I don't think she should worry about
10 what I have said.

11 PRESIDING JUDGE FULFORD: Sir, I think it is greatly to be
12 regretted that you're not one of the advocates appearing before us in
13 this trial. Thank you very much indeed for that contribution, which
14 although I made the remark lightly was in fact extremely helpful. Thank
15 you very much indeed.

16 Now, Ms. Struyven, the -- I think the point that has been
17 identified is really very neatly demonstrated in your question at page
18 53, line 9, where you ask without any -- without having set the scene you
19 put this question:

20 "Q. I'm going to ask you something about the fact that parents
21 provided their children. During which period of time did this take
22 place?"

23 Now, the answer provided to that may be based on his own
24 knowledge, may be based on things that were said to him by insiders, as
25 it were - and I pause to say that in both of those instances he would be

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1 able to give evidence about them. On the other hand, it might be - and I
2 don't say this disrespectfully to the witness - it might be based on a
3 conversation that he had with someone many years later in a bar in Rio de
4 Janeiro, and we really need to know given that this is a witness who in
5 part can give evidence about things which he saw or heard at the time and
6 in part is really dependent on simply what was said to him by others. We
7 need to know what the source of the information is, where it comes from,
8 before he gives the answer. And for the reasons just described by the
9 witness, in many instances it may be it's appropriate for him to give the
10 answer, but it would be helpful to us to know where this is all coming
11 from. It may take time, Ms. Struyven, but it will be time well spent.

12 MS. STRUYVEN: Thank you, Your Honour.

13 Q. (Interpretation) I will return to parents and their children, but
14 before you answer the question can you give us clarification as to who
15 provided you information on this phenomenon in Ituri --

16 PRESIDING JUDGE FULFORD: Don't answer for a moment. Can we go
17 into private session, please, and there will need to be some redactions
18 to the exchange that occurred which involved the witness perfectly
19 appropriately a few moments ago, because I think things were then said in
20 public session that shouldn't have been. But can we for the time being
21 please go into private session.

22 *(Private session at 12.40 p.m.) Reclassified as Open session

23 COURT OFFICER: Private session.

24 PRESIDING JUDGE FULFORD: So, sir, the question is: Who was it
25 or how does it come about that you are able to give evidence about

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1 children being given by their parents during the period that we're
2 dealing with in Ituri?

3 THE WITNESS (interpretation): Can I answer? I think that -- I
4 said -- if you all understood me, I said that each time with respect to
5 such information, I said that the initial source was the UPDF, especially
6 as concerns military issues, the UPDF which was like the umbrella over
7 all the military groups that were operating in that part of the Congo.
8 That was my initial source.

9 Now, if you want names I can give you some names. I can give
10 you, for example, the name of (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted). Of course there were others as well, for example, there
16 are intelligence officers who were on the ground. I can cite the name of
17 (Redacted), this may sound a bit vague, but you know that security
18 officers do not give their full names or their identifying information.
19 There was another one called (Redacted)
20 (Redacted).

21 There is also a person called (Redacted) who is also working there,
22 and he can give you this information.

23 Now, on the Congolese side: This initial information, I had it
24 confirmed by (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) So those

10 are some of the sources I can give you at this point in time.

11 PRESIDING JUDGE FULFORD: That's very helpful, sir. Thank you
12 very much indeed.

13 Ms. Struyven, given perhaps with the exception of the (Redacted), this
14 is information that was provided at the time by those who were involved.
15 The witness, on the basis of that information provided to him by those
16 that were involved, may proceed to give this evidence.

17 MS. STRUYVEN: Thank you, Your Honour.

18 PRESIDING JUDGE FULFORD: And I think we can now return, in fact,
19 into open session.

20 MS. STRUYVEN: I'm just maybe just for the record going to
21 clarify two names just so that the spelling is correct.

22 PRESIDING JUDGE FULFORD: That -- very sensible.

23 MS. STRUYVEN (interpretation):

24 Q. Sir, can you spell for us the name (Redacted). I think it was
25 badly written in the transcript.

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1 A. (Redacted)

2 Q. You also mentioned another person, (Redacted),
3 and his name was not written in the transcript in English. Can you spell
4 his name please.

5 A. (Redacted),
6 (Redacted)

7 Q. Just one more clarification you talked about (Redacted)
8 (Redacted). You said that they were involved in security. In which group
9 were they, just to make sure we're talking about the same persons.

10 A. I would like to apologise for saying this. In general there is a
11 lot of political and even administrative prostitution in such chaotic
12 situations as the one
13 that obtained in Congo at the time. (Redacted),
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)

24 Q. Thank you.

25 MS. STRUYVEN: Now we can go into open session,

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1 I guess.

2 PRESIDING JUDGE FULFORD: Public session, please.

3 (Open session at 12.47 p.m.)

4 COURT OFFICER (interpretation): Open session.

5 MS. STRUYVEN (interpretation):

6 Q. I am going to repeat the question on parents who gave their
7 children. The first question was when, at what time did this happen.
8 And you said that it happened between 1999 and 2002. Did this practice
9 stop in 2002 or did it continue?

10 A. Not at all. Because one fact is clear, even up to today on the
11 basis of the information we get from the radio or the television or
12 reports of Human Rights Watch and Amnesty International, for example,
13 recruitment of soldiers is still going on and it's going on in a
14 disorderly manner. I'm talking about Congo of course.
15 Now, to answer your question, from what I know and from what I saw,
16 what I witnessed, it did not stop in 2002, it continued. Because after
17 the take-over of power - and this is an example I'm giving - after the
18 UPC took over Bunia under Thomas Lubanga, it continued on a higher scale.
19 That's what I know. I don't know when it stopped, but the fact is it did
20 not stop in 2002.

21 Q. When you say that once Mr. Lubanga took Bunia again in 2002, it
22 continued on a greater scale or higher scale as is written in the
23 transcript, what do you mean by that, in the English transcript? What do
24 you mean by that?

25 A. No problem. That is before Lubanga took over control of Bunia,

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1 that is, from the information sources and the main sources, the UPDF, we
2 did not have a force that had more than 500 men. When he took over
3 power, that is, shortly after he took over power in Bunia, he stated it
4 publicly that he had a force that was bigger than three brigades, and
5 this means that we are talking about more than 10.000 men. That was
6 public information. I can give you an example of when this was said
7 publicly because I was there on the spot in Bunia. This was said before
8 the political advisors of MONUC at the time, Pierre Antoine Braud.
9 Richard Lonema clearly said that they had 15.000 men. That was the
10 declaration he made and that was something I didn't know, and that was a
11 military secret that was repeated or reported publicly. It is for that
12 reason that I said that this went on on a greater scale and this is true.

13 I saw how children were being trained and there was a large
14 force. And right from the beginning, if I can give you more information,
15 right from the beginning Thomas Lubanga and his UPC were not able to
16 deploy soldiers everywhere, in Nyankunde, in Komanda, in Aru, and in
17 Bunia and Mongbwalu -- you know, that is mainly soldiers.
18 We're not talking about single individuals. We had that -- we saw that
19 it was an organisation that was firmly established.

20 Q. Just one moment. We wish to verify something in the transcript.

21 Let me explain, I was looking at the English transcript and so
22 sometimes we have some difficulties in following the two languages. If I
23 understood you well you talked about training. First of all, and this is
24 a general question, were you informed by sources about what happened with
25 respect to training before we move on to more specific questions?

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1 PRESIDING JUDGE FULFORD: Before you answer that, sir, I want to
2 make sure that this is being put on a correct basis, Ms. Struyven. In
3 fact, if you look at the English transcript page 60, line 18, the witness
4 was saying that he saw himself how children were being trained and that
5 there was a large force. Now, I'd have thought we're on firmer ground,
6 aren't we, if we deal with what the witness saw himself before moving on
7 to sources. Maybe because of what he was told by members of the UPDF
8 or whatever it would be appropriate for him to give sources, but perhaps
9 begin with what the witness saw.

10 MS. STRUYVEN (interpretation):

11 Q. Well, at some point I will return to the meetings you talked
12 about earlier. Right now I have the following question for you. You
13 said that you saw children who were being trained. Can you explain to us
14 what you saw?

15 A. Yes. First of all, at the time of Professor Wamba when he was
16 still president I made a trip to Bunia where I visited the Rwampara
17 centre. It was run by the UPDF from Uganda. So all the trainers were
18 Ugandans. I saw how they were being trained. They were being taught
19 military tactics, military rules, and they were being taught certain
20 physical exercises. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 headquarters of the UPC I saw military training going on. Of course I
25 had other sources, but the fact is that that day I witnessed this myself.

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1 Now to return to previous events. The person who was head of
2 training, who was at the core of Lubanga's army, was a certain Bosco
3 Ntaganda. I believe I've answered your question.

4 Q. Yes, yes. I would now like to ask you question about what you've
5 explained.

6 MS. STRUYVEN: First of all your Honours I think we need a redaction
7 just on the,
8 I think time-periods -- the exact -- the two dates that he gave. It's
9 for reasons that will become clear I think later on.

10 PRESIDING JUDGE FULFORD: Certainly. We can have those redactions.
11 And there's been a problem -- there was a short period with no
12 interpretation. I don't know whether or not it will be solved --

13 THE INTERPRETER: Can you not hear?

14 PRESIDING JUDGE FULFORD: -- once we continue, but a redaction,
15 please, for those dates. Right.

16 And we had reached Bosco Ntaganda. Do you want to carry on from
17 there, Ms. Struyven?

18 THE INTERPRETER: The interpreters would like to point out that
19 nothing was missed, in fact, it was a transcript problem.

20 MS. STRUYVEN (interpretation):

21 Q. I would like to now ask you questions about the period that you
22 indicated. I'm not going to repeat the two dates because I want that
23 information to remain confidential.

24 PRESIDING JUDGE FULFORD: There's something wrong with the
25 equipment. What you're saying is isn't coming through over the headsets.

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1 We're two minutes to 1.00. We're going to rise now. We're going to take
2 lunch now, sir. I'm not sure, can you hear me, sir? Good. Excellent.
3 Fine.

4 Thank you for your assistance so far this morning. We'll look
5 forward to seeing you again after lunch. We shall sit again at 2.45.

6 Can we go into closed session, please. Thank you.

7 *(Closed session at 12.58 p.m.) Reclassified as Open session

8 (The witness stands down)

9 (Trial Chamber and Court Officer confer)

10 PRESIDING JUDGE FULFORD: 2.45.

11 Luncheon recess taken at 12.59 p.m.

12 On resuming at 2.45 p.m.

13 COURT USHER: All rise. Please be seated.

14 PRESIDING JUDGE FULFORD: Just before the witness comes in,
15 Ms. Struyven, the Defence have requested an ex parte hearing so that
16 certain matters connected with the Defence case and Defence preparation
17 can be discussed. We'll try, if we can, I think to work that in this
18 afternoon. So somewhere around 4 O'clock we'll need to rise so that the
19 technology can be reconfigured.

20 MS. STRUYVEN: I also may have a small remark. The first few
21 questions I intend to ask this witness should be in private session, so
22 we don't go into public session immediately.

23 PRESIDING JUDGE FULFORD: That's very helpful. Thank you very
24 much.

25 Witness, please.

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1 (Trial Chamber and Court Officer confer)

2 (The witness takes the stand)

3 PRESIDING JUDGE FULFORD: Good afternoon, sir.

4 Private session, please.

5 THE WITNESS: (No interpretation)

6 *(Private session at 2.48 p.m.) Reclassified as Open session

7 COURT OFFICER (interpretation): Private session.

8 MS. STRUYVEN (interpretation):

9 Q. Good afternoon, sir.

10 (Trial Chamber and Court Officer confer)

11 PRESIDING JUDGE FULFORD: Yes, Ms. Struyven.

12 MS. STRUYVEN: Thank you, Mr. President.

13 Q. (Interpretation) Good afternoon, sir. Before the lunch break we
14 had stopped with your explanation of your seeing the training of soldiers
15 at the UPC headquarters, and you clarified the fact that you were there
16 (Redacted), but the month was not recorded in
17 the transcript. Could you clarify that, please, how long were you in
18 Bunia?

19 A. (Redacted)

20 (Redacted)

21 MS. STRUYVEN: I think there is still something wrong with the transcript.

22 Q. (Interpretation) If I understand correctly it was (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. We're going to continue in open session but if possible could we

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1 avoid mentioning those precise dates so that the public does not know
2 exactly at what point in time you were on site.

3 (Trial Chamber and Court Officer confer)

4 MS. STRUYVEN: We can go back into open session.

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

6 I think we've identified what the difficulty was with the
7 transcript just before we rose for the luncheon adjournment. Please
8 don't take this as criticism, it's not meant to be. For the most
9 understandable reasons you sometimes change language and you're sometimes
10 speaking in French, sometimes speaking in English. Could you stick to
11 one or the other because I think that has the potential for causing
12 difficulties upstairs, so I think French.

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

14 PRESIDING JUDGE FULFORD: (Interpretation) Thank you.

15 (In English) Open session, please.

16 (Open session at 2.51 p.m.)

17 COURT OFFICER: Open session.

18 MS. STRUYVEN (interpretation):

19 Q. My first question regarding the fact that you saw the training of
20 soldiers at the UPC headquarters is: Where was the UPC headquarters?

21 A. The first day I arrived where he resided within the industrial
22 woodworking, the menuiserie industriel in Bunia which is almost on the
23 other side of the Yamikou (phoen) school complex. The next day I was
24 shown another neighbourhood, another area held by UPC, which was opposite
25 the l'OZACAF offices, that is, the coffee -- the Zairois coffee office,

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1 OZACAF.

2 Q. So in that period that I'm not going to refer to precisely, I'm
3 not going to mention the dates, but during that period how many times did
4 you go to one or both of those headquarters?

5 A. During that period every time I arrived I would go to the
6 industrial carpentry company in Bunia. Everyday, I would arrive there
7 first of all and rarely occasionally I would go to the other building,
8 that is, the OZACAF building because the building across from the OZACAF
9 was a purely military building, they were involved with military business,
10 military activity, whereas the other building at the industrial carpentry
11 company was involved with other things.

12 Q. Perhaps I can begin by what you saw at the carpentry company and
13 then we can discuss what you saw at the OZACAF premises.

14 PRESIDING JUDGE FULFORD: Slow down slightly, and some spelling?

15 MS. STRUYVEN (interpretation):

16 Q. The acronym OZACAF has been spelled correctly, O-Z-A-C-A-F?

17 PRESIDING JUDGE FULFORD: And the cafe?

18 MS. STRUYVEN (interpretation): It was a building where coffee was traded.

19 PRESIDING JUDGE FULFORD: Please continue.

20 MS. STRUYVEN (interpretation):

21 Q. So to begin with the carpentry building, who did you see when
22 you would go there?

23 A. Of course many people would come and go, but almost always I
24 (Redacted)
25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted). There were others who came and went

4 frequently. It would be a very long list.

5 Q. The last name you mentioned Jose Munyato, is this

6 M-u-n-y-a-t-o ?

7 A. Yes, that's correct.

8 Q. Can you explain to us why you went to the UPC headquarters.

9 A. There's perhaps a detail that I could add. The dates that I
10 mentioned earlier are the dates during which I went to the UPC
11 headquarters. Two days before I arrived, in other words, two days before
12 the first date I mentioned I came to Bunia. I was invited to Bunia by
13 (Redacted)

14 (Redacted). We

15 became friends at that time. I can also say and add that thanks to the

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Of course I was familiar with the situation, the general
23 situation, and the particular -- the precise situation of the RCD and all
24 of the events that (Redacted)
25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted) the situation

5 within the RCD-K and he had explained the context vis-a-vis the UPDF and

6 UPC which led to fairly serious problems in the city of Bunia already.

7 Q. Thank you.

8 MS. STRUYVEN: You Honours, we're requesting redactions for the name
9 of this person but I think it has been done per e-mail.

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

11 MS. STRUYVEN (interpretation): I should go back to French. I
12 will make an effort indeed to stick to French.

13 Q. Thank you very much. So at the time he explained to you the
14 various problems that existed between the RCD-K and the UPC. What
15 exactly did he explain in that regard?

16 A. Well, the rather sticky issue was that the UPC was causing a lot
17 of disorder in the city. According to him there had been deaths, there
18 had been assassinations, thefts, and he was against the outsiders, the
19 Jajambu, and he was upset about that. There were political issues
20 related to the sharing of power. Don't forget that Thomas Lubanga was --
21 had been the secretary or commissioner for defence, and so there were
22 political issues that had to be solved and he found it difficult to solve
23 these matters. But the real problem was that there was no dialogue between
24 the various parties. That was a fact, be it the RCD/K-ML, the UPDF, or
25 the UPC. (Redacted)

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1 (Redacted).

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted) they were fighting

7 the Iturian cause. Hence I didn't

8 understand why Lubanga was fighting against another Iturian. It went

9 against all logic and it went against his (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted) certain items of

13 information and to get them to abandon a certain stance that they

14 had adopted.

15 Q. So when you say - I'm not going to repeat the gentleman's name, the
16 person who had invited you - what he had said about the divisions between
17 the RCD, the UPC, and the UPDF, did he explain those
18 matters at that point in time or later on or earlier on?

19 A. Well, you remember that I told you that he was the person who
20 invited me. He had things to tell me and that's what he told me at that
21 point in time.

22 Q. Thank you. So if I've understood correctly, you went to visit
23 the UPC headquarters to check the information that you had been given.
24 Is that -- have I understood you correctly?

25 A. Yes, that was one of the reasons and that's correct.

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1 Q. Once you went to the UPC headquarters were you able indeed to
2 check the information?

3 A. Yes, indeed, I was able to check the information and verify it.
4 And to start with I used the following method. I based myself on the
5 meeting we had just had, that is just a few weeks prior in the country on
6 the other side. So on that basis I began by checking the information
7 (Redacted)

8 Q. The meeting you're referring to here is the meeting that we
9 discussed this morning after Sun City. I'm not going to give the name of
10 the place of that meeting, but that is the meeting you're referring to;
11 is that correct?

12 A. Yes, that's correct.
13 (Redacted)

14 (Redacted). Before I ask my question, do you know what ethnic group
15 these two men belong to?

16 A. They're both Gegere.

17 Q. What did they explain to you as regards the information that you
18 had heard?

19 (Redacted)

20 (Redacted),

21 completely false, but that it was people from the RCD-K-ML, or the
22 military wing led by the governor Jean-Pierre Mulondo who were committing
23 those acts. So he denied the information that I was trying to check, and
24 he called my attention to the goal that he was aiming at, that is, to get
25 the RCD-K-ML out, to chase them out.

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1 PRESIDING JUDGE FULFORD: Ms. Struyven, I'm sorry to cut across
2 you. Is there a problem with the number of names and us remaining in
3 public session?

4 MS. STRUYVEN: Yes, your Honour, maybe it's more prudent to -- I
5 think that the name he referred to previously, the one name, I'm not
6 going to repeat it, is the most dangerous one probably. I'm not sure in
7 how far he can explain the rest of his stay in Bunia in private session
8 or not. Maybe it's safer to go into closed session for that.

9 PRESIDING JUDGE FULFORD: Do you want to have a quick discussion
10 with members of your team to see?

11 (Prosecution counsel confer)

12 MS. STRUYVEN (interpretation): Your Honour, what we would like
13 to suggest that we no longer refer to the person who invited the witness;
14 and secondly, that the witness refer to the two other names that were
15 mentioned. It's not going to be easy, but the idea is that he endeavour
16 not to mention those names in open session, that is, the two names of the
17 UPC members. I don't know if he's going to be able to do that.

18 PRESIDING JUDGE FULFORD: Brave attempt, Ms. Struyven, but I
19 think it's unrealistic.

20 Private session, please.

21 *(Private session at 3.10 p.m.) Reclassified as Open session

22 COURT OFFICER: Private session.

23 PRESIDING JUDGE FULFORD: Yes.

24 MS. STRUYVEN (interpretation):

25 Q. So you said that you would go to the HQ. What was the language

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1 that was generally spoken at the HQ?

2 A. Well, in fact I was personally amazed by the fact that when --

3 PRESIDING JUDGE FULFORD: Now, the microphone in front of the

4 interpreter was on in that I saw a red light, but there was no

5 interpretation; and that I think is the second time that's happened

6 today. Now, before we go any further can the Court Officer please make a

7 telephone call to find out what happened.

8 (Trial Chamber and Court Officer confer)

9 THE INTERPRETER: Testing console one. Testing the console that
10 wasn't working a minute ago.

11 (Trial Chamber and Court Officer confer)

12 PRESIDING JUDGE FULFORD: Ms. Struyven, we need the last question

13 from you again, please, and the witness I'm afraid must start his answer

14 again. So can we have both -- can you ask your question again so the

15 witness can give his answer.

16 MS. STRUYVEN (interpretation): That's not a problem, your
17 Honour.

18 Q. Sir, what language was spoken at the HQ at the time?

19 A. Could you please repeat the question. There was some
20 interference.

21 Q. The question was: What language was spoken at the time at the
22 UPC headquarters?

23 A. As I said just the a minute ago, what struck me is that the UPC
24 said they had to mobilise all the people in Ituri but the Gegere
25 language - we call it the Kilendu language in fact - but that language

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1 was the one that was used the most. Almost everyone there were Gegere or
2 Hema, (Redacted).

3 Q. And just to clarify something. During that period of time, the
4 (Redacted) - I can mention the dates since
5 we're in private session - could you tell us how frequently you would go
6 to the HQ, to the headquarters?

7 A. I went there every day. That's certain.

8 Q. Thank you.

9 PRESIDING JUDGE FULFORD: Now, Ms. Struyven, have we moved away
10 now from areas where names are going to be mentioned?

11 MS. STRUYVEN (interpretation): I think I have another two or
12 three questions -- a question or two about certain names that might be a
13 risk for the witness.

14 PRESIDING JUDGE FULFORD: Certainly.

15 MS. STRUYVEN (interpretation):

16 Q. Before you referred to the fact that Mr. Lonema was acting for
17 the president, standing-in for the president. When you say "the
18 president," who are you referring to in fact?

19 A. I'm referring to the leader of the UPC, Thomas Lubanga.

20 Q. Where was Mr. Lubanga at the time?

21 A. At the time he was in Kinshasa with some other people. Perhaps I
22 should remind you of this. At the meeting I have mentioned in June they
23 had been taken to Kinshasa. That's where they were. So Richard Lonema
24 was standing-in for him in the field, that is to say in Bunia.

25 Q. Did he explain his role to you at the time?

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1 A. Even if he didn't explain that, well I could see for myself.
2 Naturally he had to explain this, not just to me but to everyone else.
3 And at the various public meetings that were held, for example, with
4 MONUC, the UPDF, the civilian society, with the community of students and
5 of young people because there were a few meetings that had been organised
6 by the RCD-K (as interpreted). So Lonema said that he was only standing
7 in for the UPC president on such occasions. He was honest. At no point
8 in time did he state that he was the leader. He would always say that he
9 was acting on behalf of Thomas Lubanga, the UPC president.

10 MS. STRUYVEN (interpretation): Your Honour, I think that we
11 could perhaps try to move into open session. I still have some questions
12 about the matter.

13 But we can do this if you don't mention Mr. Lonema's name. It's
14 for your security.

15 PRESIDING JUDGE FULFORD: Excellent.

16 Open session, please.

17 (Open session at 3.18 p.m.)

18 COURT OFFICER (interpretation): Open session.

19 MS. STRUYVEN (interpretation):

20 Q. You said that at the time Mr. Lubanga was in Kinshasa. Do you
21 know whether there was any contact between the group that you visited in
22 Bunia and the people who were being held in detention in Kinshasa?

23 A. I found out about this because he was standing-in for him in
24 Bunia. (Redacted). He said that he was
25 in contact with the president.

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1 Q. And what did he tell you about the contact he had?

2 A. The first time he spoke to me about it was before the events of
3 the 9th, perhaps it's an event that should be mentioned. He said that he
4 had just spoken with the president, Thomas Lubanga, who had encouraged
5 him to continue with his mission among other things. And this mission,
6 as we knew, was to drive out the RCD/K-ML from Bunia. That was the first
7 message, the RCD-K-ML from Bunia. After the fall of Bunia he said that
8 he had also been in contact with the president, and the message was that
9 the president was very proud of the entire team that had worked to attain
10 this objective.

11 Q. Just to make sure that I've understood you correctly. When you
12 refer to contact before the 9th of August and then you refer to contact
13 after the 9th of August, the 9th of August -- what happened on the 9th of
14 August?

15 A. It was an event that will go down in history I'm sure, in the
16 history of the Congo. It was the date on which the UPC managed to drive
17 out the RCD-K-ML.

18 Q. And so the contact between this person and Lubanga before the UPC
19 took over Bunia -- well, do you remember exactly what was said when this
20 contact was established?

21 A. I -- can I remember more or less accurately what happened? Well,
22 I think I can. He said the following. I arrived in the morning, he
23 said, Yesterday I was in contact with President Thomas Lubanga. He was
24 happy about the fact that we were doing well. He asked us to continue
25 with the fight to the very end. And on that occasion -- those are the

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1 details. The president obtained information about the mission of the two
2 individuals who had gone to obtain weapons. Those were some of the
3 details. The president obtained information about that. We told him
4 about what had happened, and naturally according to the same gentleman
5 the president familiarised himself with many other situations in the
6 field and he was provided with the appropriate answers, and as a
7 conclusion he said that the president was very happy. And they -- and he
8 asked them to continue to do the good work and to continue with the fight
9 to the very end.

10 MS. STRUYVEN (interpretation): Your Honour, in order to clarify
11 parts of his answer I think it would perhaps be better to move into
12 private session.

13 PRESIDING JUDGE FULFORD: No need to apologise.

14 Private session, please.

15 *(Private session at 3.24 p.m.) Reclassified as Open session

16 COURT OFFICER: Private session.

17 PRESIDING JUDGE FULFORD: Yes, Ms. Struyven.

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

19 Q. We are now in private session so it will perhaps be a little
20 easier. You spoke about two individuals, if I'm not mistaken, who went
21 to collect weapons. Are you referring to Mr. Kahwa and Mr. Beiza or am I
22 completely mistaken?

23 A. You are not mistaken; that is quite correct.

24 Q. And so I'm going to go back into the past and I'd like to refer
25 to the meeting (Redacted) in June 2002. Is it after this meeting that,

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1 or rather, how did this meeting end in fact?

2 A. * Well, the meeting had apparently come to end, but it ended prematurely.

3 However, one thing is certain, namely that Thomas Lubanga and a team of

4 individuals had been transferred to Kinshasa and another team returned

5 according to what had been arranged there because that's how politicians act.

6 In the specific case, from the time that Lubanga knew they were going to

7 Kinshasa he had prepared things. He had given a responsibility to Richard

8 Lonema, Mbuna Dieudonne, who was the secretary, the private secretary of Thomas

9 Lubanga at the time. He'd made them responsible for going back into the field.

10 I have spoken to you about the awareness campaign, mobilisation, et cetera.

11 So that was what represented the bulk of their work, not just of those

12 individuals, but they were at the head of that team that has been referred to.

13 Q. How did you yourself come to know about these arrangements

14 between Mr. Lubanga, Lonema, and Mbuna?

15 A. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. I know that I'm perhaps putting -- well, not exactly repetitive

25 questions to you, but could you explain to us the exact nature of the

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1 arrangements before they went to Kinshasa, before Lubanga and the people
2 who were to be detained left for Kinshasa?

3 A. Well, the first arrangement that I'm familiar with, I have
4 already mentioned it, was that Chief Kahwa and Beiza Nembe were to be in
5 charge of the military aspects, obtaining weapons, for example. That was
6 what was -- that is what was arranged, they did their work very well, and
7 then it was necessary to have a team in the field. I have already spoken
8 about that team. If you like, I can repeat this. The role that I was
9 allocated was naturally to work (Redacted). That was the role I had
10 to play, and unfortunately, I regret that I didn't do this for the sake
11 of my brother.

12 Q. Do you remember the date on which they were in fact detained? Do
13 you remember the specific date?

14 A. Yes. If my memory doesn't fail me they left Kampala on the 14th
15 of June. And on the following day all the delegates in the hotel were
16 quite simply driven out by the Ugandans.

17 Q. I just have a few more questions about this before we return to
18 the subject of your contact with Mr. Lonema in Bunia at a subsequent
19 date. You said that part of the delegation was detained at that point in
20 time in Kinshasa. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. So if I have understood you correctly, they had access to -- they
4 had access to a telephone?

5 A. Yes, they managed to gain access to a telephone; that's true.

6 Q. Were you told how they came about obtaining a telephone under
7 those circumstances?

8 A. (Redacted)

9 (Redacted). They started by corrupting their bodyguards, or
10 rather, the people who were supposed to guard them at the detention
11 centre. And so they were given a bit of elbow room so they gave some
12 money to the guards. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted). So it was through

20 these contacts therefore that they were able to obtain telephones.

21 Q. One more question on this point. Do you remember the list of
22 people who were detained?

23 A. Well, I will try. There was, first of all, Thomas Lubanga, there
24 was John Tinanzabo, Professor Ruhigwa, there was Hadji Ibrahim Nestor
25 Bamaraki, there was also Ndukute, Tchombe, and I think if that is not the

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1 full list, then I would say it's almost a complete list.

2 Q. Now, just for the transcript, I think we did not get the full
3 name of Mr. Bamaraki. Can you give his full name, please?

4 A. Hadji Ibrahim Nestor Bamaraki, so Hadji Ibrahim Nestor Bamaraki.

5 Q. And Tchombe if I'm not mistaken is T-c-h-o-m-b-e?

6 A. That's correct.

7 Q. (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. Thank you for that clarification.

11 Now I will now turn to the time -- or the period of time when you
12 were in Bunia in (Redacted) 2002, and you told us that there was
13 contact between Mr. Lubanga and Mr. Lonema. Can you describe, you said
14 that Mr. Lonema was standing-in for the president. Can you tell us what
15 his duties were at the time?

16 PRESIDING JUDGE FULFORD: Before you answer, sir, will it harm
17 for the witness to describe Mr. Lonema's duties in open session,
18 Ms. Struyven?

19 MS. STRUYVEN (interpretation): No, your Honour, I don't think so.

20 PRESIDING JUDGE FULFORD:

21 Open session, please.

22 (Open session at 3.36 p.m.)

23 COURT OFFICER: Open session.

24 PRESIDING JUDGE FULFORD: The question, sir, that's just been put
25 is that in the context of Mr. Lonema standing-in for the president, what

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1 were Lonema's duties when he did so?

2 THE WITNESS (interpretation): Well, in fact, he was in charge of
3 the routine duties of a president or head of a group of that nature.
4 Concretely, he supervised all activities of the army, and here I'm
5 talking about recruitment, military rations, the equipment of soldiers,
6 and the general well-being of the army. On the other side, that is with
7 respect to political affairs, he maintained contact with various groups
8 and various stake holders. I talked about a few meetings that were held,
9 that's a concrete example of such duties, and this was done after the UPC
10 chased out RCD-K-ML. So he was the one who maintained contact, he took
11 decisions. Even with respect to social organisation, even where we
12 talked about awareness raising, mobilisation, so all those who went out
13 into the field reported back to him and he will give precise instructions on
14 what was supposed to be done. So in a nutshell that is what I saw him do.

15 MS. STRUYVEN (interpretation):

16 Q. In general terms you talked about contacts between Mr. Lonema and
17 Mr. Lubanga. Do you know whether they discussed on general policy or
18 instructions?

19 A. Certainly. You know, when someone says, I am standing-in for so
20 and so, he was honest. He never said that he was the leader. At that
21 time he always stated that he was acting on behalf and in place of his
22 chief, Mr. Thomas Lubanga. So when he talked about their conversations,
23 they had phone discussions, and when I gave you certain information on
24 what they discussed - I don't know if you want me to repeat that - then
25 you can clearly understand from that that what Thomas Lubanga told him,

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1 what he reported to me as said by Thomas Lubanga were orders that a chief
2 gives to a subordinate. And he would execute those orders and carry out
3 his duties appropriately.

4 Q. I will go back to the topic that we discussed at the beginning of
5 this hearing, namely, the training of soldiers which you witnessed in the
6 headquarters -- army headquarters in Bunia at the time. Can you describe
7 to us what you saw, what you witnessed at the time?

8 A. Well, that's a general question. What I was able to see was that
9 the soldiers - when I talk about "soldiers" I'm talking about the
10 recruits - the recruits had to carry out certain exercises. They had to
11 follow instructions written on a board. They had to attend what the
12 soldiers called moralisation sessions, or -- that is, to boost their
13 morale. Those are the types of things I saw. In any case, as it is in
14 the case in course of that nature, and maybe this -- you are not sure of
15 this -- you are not used to this, in any case when errors were committed,
16 then the culprits were punished. So I saw punishment being meted, meted
17 out to recruits who committed certain errors. And still in that military
18 headquarters I saw that new recruits
19 were being brought in. I was able to see that, to witness that. I also
20 saw those who had completed their training and who were on guard duty,
21 guarding the buildings, and who were carrying out specific missions
22 assigned to them. That's what I noticed or saw in general.

23 Q. Now, to start at the beginning, with respect to the age of these
24 children, can you give us an idea? Now, the children you saw in Bunia
25 how old were they?

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1 A. As I told you earlier, they ranged in age from 5 right up to
2 adult age. When I talk about 5 years, I say this because I was struck to
3 see a child aged 5 in a training centre and I was disturbed. I found
4 this particularly disturbing and I was surprised to notice this, and I
5 can say this right here - I didn't say this earlier - I asked Lonema what
6 that child was doing there. And he answered and he said that if they get
7 in early then they are going to grow up as real soldiers. He said that
8 it is children like that who are informers on the streets. So that is
9 how we saw that -- I got to know about the role of children who were
10 operating on the streets, because I saw this child was aged 5 and as
11 Lonema explained to me you can send this child to go and sell water or
12 sell ground nuts on the streets. You probably
13 don't have that system here in
14 your country, but at home in our country you can see children selling
15 water, selling ground nuts, selling fruits in the streets. So these
16 children are trained to become informers. So from the conversation I had
17 with Lonema, that is what I understood, so -- and the discussion was
18 based on this child of 5 years old who attracted my attention.

19 Q. Now, the children or the recruits you saw at the time at the
20 military headquarters, how were they dressed?

21 A. They did not have any standard dress at the time. Each of them
22 was dressed differently. They were dressed in civilian clothes.
23 Sometimes they were dressed in rags, in torn clothes. Some of them
24 didn't even have shoes on. Some were dressed in military
25 uniforms. So they were dressed in just any manner. All manners of dress

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1 were accepted within that centre.

2 PRESIDING JUDGE FULFORD: Ms. Struyven, at some stage it would be
3 helpful to know what the witness means when he uses the general term
4 "children." What's the age-range that he's talking about.

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

6 Q. Now, just to get some clarification. When you talk about
7 "children," you said that they ranged in age from 5 right up to adult
8 age, but when you use the term "children", what age-range are you
9 alluding to?

10 A. Personally, I base myself on our national constitution which
11 states that a child is anyone who is aged below 18. That is what our
12 constitution states, the constitution of our country. The same
13 constitution states that from the age of 18 upwards, that is, 18
14 inclusive upwards, a person is considered to be an adult. Well, if I'm
15 mistaken then we can still cross-check this information and correct any
16 error I may have made. But as far as I'm concerned, any person below the
17 age of 18 is a child.

18 Q. Now, with regard to the number of children you saw, that is an
19 approximate number, how many children approximately did you see in the
20 military headquarters?

21 A. Well, to answer this question I would like to draw your attention
22 to the fact that the training was not permanent; in other words, you
23 could not carry on training the soldiers indefinitely. The recruits
24 would come and at the end they would leave. So what I was able to see in
25 the two places at the same time -- well, if I were to add up the number I

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1 saw in both places, those who were presented to the public, I would say
2 they were about a hundred. But I know what soldiers do. In general,
3 they can show you a few individuals; whereas, the majority of the group
4 is hidden elsewhere. This is what happened in the menuiserie industriel
5 de Bunia, that is the carpentry shop. So outside you can see about 20
6 recruits, whereas the majority of the recruits would be inside the
7 buildings, inside the main buildings of the carpentry workshop. It is
8 for this reason that I say it's difficult for me to give a precise figure
9 because personally I did not dare to ask the number of children at the
10 time. I thought it was very -- it would be dangerous for me, but I would
11 like to say that they were about a hundred or so at each moment.

12 Q. Compared to this group you've already stated that in your
13 understanding you're a child until the age of 18 and thereafter you're an
14 adult, but the group that you saw, can you tell us if we were to set a
15 limit at age 15, could you tell us whether they were younger than 15 or
16 older than 15, and can you give us some numbers as to how many were under
17 15 or over 15?

18 A. Yes, no problem, I can give that kind of estimation. According
19 to my estimation, out of about a hundred recruits those who were 15 and
20 under were easily 30 per cent.

21 Q. And what is your basis for giving or for estimating the age of
22 someone?

23 A. Okay. Let me give you an example as to how I estimated the age
24 of the 5 year old I mentioned. At the time -- this is something I
25 learned from my grandfather. When -- of course at a certain period of

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1 time, you didn't necessarily know the date of birth. A 6 year old had to
2 be able to reach over with his arm and touch the other ear. If a child
3 couldn't do that, it was considered under 6. At the age of 6 you can
4 touch your ear with your arm over your head as I'm doing. And the
5 instructor who was there was doing just that, asking him to put his hand
6 over his head to touch his ear, and it amused me because it had been a
7 long time since I last saw something like that. He was taking his arm over
8 the head trying to touch his ear, but he couldn't reach over. So
9 obviously he was under 6.

10 As for the others, don't forget that I taught for a number of
11 years, and so I'm able to give an estimate of the age group of children
12 that I was used to dealing with as a teacher. I was in contact
13 day-in/day-out when I was a teacher with those age groups, and that
14 helped me identify the ages of these children.

15 Another aspect is their physical characteristics. Just looking
16 at them physically you could tell their age, even though it may not be
17 precise. When a child reaches puberty, the boys begin to have a change
18 in their voice and there are certain biological changes that you can see.
19 These are things I'm familiar with because I am familiar with these
20 aspects, so it's based on this knowledge that I was able to estimate the
21 ages of these children.

22 Q. Amongst the children you saw, were there any -- sorry, were there
23 girls and boys or just boys?

24 A. There were more boys than girls. You know, our society is still
25 quite chauvinistic, and amongst the recruits I did see once some girls,

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1 some young girls, I saw them, but I didn't have any contact with them.
2 After that, however, I was able to have contact with two of them I think,
3 two, yes, two of those girls who had already completed their training and
4 I was able to speak to them.

5 Q. The two girls that you were able to speak to, had they followed
6 the same training as the boys or was there a different kind of training
7 or no training at all?

8 A. According to what they told me, they themselves, it was necessary
9 to learn how to shoot a weapon. You can't be a soldier without being
10 able to shoot a weapon. So they learned how to shoot. They learned
11 basic tactics, combat tactics. They learned about military intelligence,
12 the basic concepts. This is what they told me. They also learned
13 certain military rules, obedience, obeying your superior officer, et
14 cetera. They learned about the political goals of UPC, that UPC was
15 applying. This is what they told me in their general comments which they
16 gave me, because I asked them if they had been treated as roughly as the
17 boys. They said that they were relatively well treated compared to the
18 boys.

19 PRESIDING JUDGE FULFORD: Ms. Struyven, we've got to break off
20 soon. Up to you. Pick a moment that's convenient.

21 MS. STRUYVEN (interpretation): Your Honour, this is perhaps a
22 good time because I'd like to go on to another topic that has just been
23 briefly referred to, but we could do that tomorrow morning.

24 PRESIDING JUDGE FULFORD: Thank you very much indeed.

25 Sir, I'm afraid we've got some other matters that we've got to

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1 deal with this afternoon. I'm afraid this means we've got to interrupt
2 your evidence now. Thank you for your patience. We look forward to
3 seeing you again tomorrow morning at half past 9.00 and we wish you a
4 pleasant evening. We'll need to go into closed session so the witness
5 can withdraw.

6 Before we do so can you bear with us, sir, because there's a
7 matter that I need to raise very briefly with Maitre Bapita.

8 There's no need to get to your feet for a moment, Madam, but
9 could I ask you overnight to reflect on the following matters that are
10 relevant to the issue that you raised with us this morning. The first is
11 that you helpfully made a filing on, I think it was the 8th of May, which
12 is document 1859, in which, amongst other things, you indicated to the
13 Chamber that there was agreement on the part of those who you represent
14 for the VPRS to transmit in a confidential form an adapted copy of the
15 application to participate in the proceedings; and if applicable, that
16 the same was to apply to the reparations forms. So we had taken it from
17 that - maybe incorrectly - but we'd taken it from that that there was a
18 willingness to consider disclosure that went beyond just names and dates
19 of birth.

20 Then on the 14th of May there was an oral decision by the
21 Chamber. On the 14th of May there was the request from the VPRS seeking
22 guidance. A further oral decision from us on the 19th of May, and you
23 may particularly wish to have in mind transcript 175. I'm afraid I'm
24 going to give you the English reference not the French. It's page 6 line
25 24, when on behalf of the Judges I indicated that for the time being

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1 disclosure should be in the limited form suggested by the VPRS, but if
2 there's a suggestion that disclosure could be more complete then there
3 should be a formal filing on the issue.

4 And then that brings me finally, Ms. Bapita, to your intervention
5 this morning which I think I'm right in interpreting as indicating that
6 your position now is that there shouldn't be a wider form of disclosure
7 as regards the application forms and that it should be limited to names
8 and dates of birth only.

9 I hope that's a helpful and, I also trust, accurate reflection of
10 the history to date. It might be said that there's been an element of
11 movement in the position that you're putting forward, Ms. Bapita. Could
12 I ask you to reflect on this overnight and to return at a convenient
13 stage tomorrow on the issue so that we can know with finality what the
14 position is on your part. And it would be helpful if you could discuss
15 this with your brother and sister counsel to establish whether there
16 is -- whether this is a united position or whether there is divergence of
17 approach between those representing the victims on this issue.

18 I see you nod. Thank you very much, Ms. Bapita.

19 Closed session then, please.

20 *(Closed session at 4.02 p.m.) Reclassified as Open session

21 COURT OFFICER: Closed session.

22 (The witness stands down)

23 PRESIDING JUDGE FULFORD: Maitre Mabilille, we will sit as soon as
24 the equipment's been reconfigured.

25 For everyone else, we meet again at half past 9.00 tomorrow

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1 morning.

2 COURT USHER: All rise.

3 The hearing ends at 4.05 p.m.

4 RECLASSIFICATION REPORT

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

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