

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

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1 International Criminal Court

2 Trial Chamber I

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

4 Case against Thomas Lubanga Dyilo

5 Hearing - Open Session

6 Thursday, 9 July 2009

7 The hearing starts at 9.00 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. Any preliminary matters
11 before the witness comes back? Ms. Solano?

12 MS. SOLANO: Not from the Prosecution, your Honour.

13 PRESIDING JUDGE FULFORD: Thank you very much.

14 Witness, please.

15 (The witness takes the stand)

16 WITNESS: WITNESS DRC-OTP-WWW-0046 (Resumed)

17 (Witness answered through interpreter)

18 PRESIDING JUDGE FULFORD: Good morning, Ms. Peduto.

19 THE WITNESS (interpretation): Good morning.

20 PRESIDING JUDGE FULFORD: Yes, Ms. Solano.

21 MS. SOLANO: Thank you, your Honour.

22 Questioned by Ms. Solano: (Continued)

23 Q. Good morning. Ms. Peduto, yesterday we played some excerpts of a
24 video for you, and I had asked you the question whether you had been
25 present when the video was filmed. I believe that your answer was no.

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1 Do you, however, know where the scenes that you saw were filmed, in what
2 town?

3 A. In Bunia.

4 Q. And where in Bunia? Did you recognise the structures that were
5 visible in the video, the building?

6 A. Yes, yes, of course. Since I do not whether the organisation has
7 given permission, perhaps it would be better to respond in private
8 session.

9 PRESIDING JUDGE FULFORD: Private session, please.

10 *(Private session at 9.04 a.m.) Reclassified as Open session

11 COURT OFFICER: Private session.

12 THE WITNESS (interpretation): It was the transit centre managed
13 by (Redacted), which (Redacted) the MONUC office.

14 MS. SOLANO:

15 Q. Did you recognise any of the persons in the film, in the
16 excerpts?

17 A. One of the persons (Redacted), as well as some children.

18 Q. I'll ask you about the children that you recognised. When and in
19 what circumstances had you seen them before?

20 A. Some of them came to my office for identification, others I met
21 at the CTO itself, because I would go there sometimes to take children
22 there.

23 Q. And are you able to recall their individual stories? In other
24 words, how they had come to -- to be in this CTO?

25 A. Well, I can only speak in general terms. I can't really give you

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1 particular stories about those children. Some of them -- because I don't
2 remember all the details. Some of them I had taken to the CTO after
3 having interviewed them at the MONUC, and I asked them if they wanted to
4 be taken in by a protection agency. Others were amongst those who had
5 been brought in by the international -- multinational forces and who had
6 been offered to be taken to the CTO, and others had just come through my
7 office. I can't be any more precise as regards their individual stories.

8 Q. Had --

9 PRESIDING JUDGE FULFORD: No, Ms. Solano. Sorry to interrupt.
10 We're not identifying the children in these answers. It seems to me this
11 shouldn't be in private session. There's nothing that's going to reveal
12 who they are. Do you have any observations on that?

13 MS. SOLANO: Your Honour, only perhaps that -- given the
14 witness's answers, I would like to play some of the images again and ask
15 her just to indicate which are the children that she recognises, if your
16 Honours authorise it.

17 PRESIDING JUDGE FULFORD: Yes. Now, the video was played
18 publicly yesterday, but I was asked to sign a redaction order deleting
19 the entirety of the sequence that was shown. Now, what's the position
20 with that, Ms. Solano?

21 MS. SOLANO: Your Honour, we are not certain that these images
22 have been broadcast publicly before outside of the court proceedings. We
23 initially had no reason to -- for concern for their being broadcast
24 during the court hearing. However, in light of the concerns that the
25 witness seemed to indicate, we thought it prudent to seek a redaction of

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1 those images, and we would ask for the images not to be broadcast to the
2 public, if your Honours authorise, for the same reasons.

3 PRESIDING JUDGE FULFORD: I understand the train of thought,
4 Ms. Solano, but this has got to be done on a firmer basis than just
5 having an anxiety. There has to be an identified problem in relation to
6 showing the sequence publicly. We've shown other sequences of videos
7 which have shown people who appear to be young, and in this sense -- in
8 that sense this sequence is no different.

9 Now, there has to be something more than the fact that it just
10 shows young people and there's a residual anxiety about it. Now, it may
11 not be convenient to deal with this substantively now, but this needs to
12 be resolved before we move away entirely from this witness's evidence.

13 Now, what's your application? Do you want to have the sequence
14 replayed again in private? Do you want to replay it in public? Do you
15 want to deal with this issue now? Do you want to put it off until later?
16 What's your application, Ms. Solano?

17 MS. SOLANO: May I have a moment, your Honour?

18 (Prosecution counsel confer)

19 PRESIDING JUDGE FULFORD: Could you wait a moment, Ms. Solano.

20 Yes, Ms. Solano.

21 MS. SOLANO: Your Honour, we would like to maintain the
22 application for the images not be broadcast to the public at least for
23 the time being. We might revisit it, if necessary, and the reason why I
24 maintain this application is that if the witness does identify some
25 children in the video, it would in a way be the same as saying their

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1 names in public, and my understanding of the conditions applicable to
2 this witness's testimony is that I am not allowed to lead her to breach
3 her confidentiality obligations in any way.

4 PRESIDING JUDGE FULFORD: Right. Well, without indicating any
5 view on your submission, Ms. Solano, for practical reasons we will
6 proceed in that way. However, this does needs to be dealt with
7 substantively at some stage, all right? So we'll have to go, therefore,
8 into private session.

9 Now, if you wish the witness to watch the video from where she's
10 sitting, we're going to have to do something with the blind behind had
11 her, because anyone sitting in the public gallery will be able to see
12 what Ms. Peduto is viewing. So is there any way in which we can speedily
13 close the blind behind Ms. Peduto, please, and can we move into private
14 session at the same time.

15 Mr. Biju-Duval.

16 MR. BIJU-DUVAL (interpretation): Thank you, your Honour. I
17 apologise for interrupting at this point. I would like to ask the
18 Chamber to take note of the fact that the Defence considers that there
19 are not sufficient and legitimate reasons for these videos to be shown in
20 private session. I could develop those reasons in further detail but
21 that is the position of the Defence at this point.

22 PRESIDING JUDGE FULFORD: Mr. Biju-Duval, what I would prefer to
23 do, but please come back with an alternative suggestion if you wish, is
24 for us now to deal with this now in private session. At an appropriate
25 stage we'll hear submissions on the issue as to whether or not this

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1 evidence should have been heard privately, and if it shouldn't, then we
2 can consider varying the order. The problem is I would imagine that
3 Ms. Peduto has observations to make on this. She may well want to
4 consult with Mr. Johnson, and between the two of them we may have to hear
5 submissions. Now, I think to deal with that now will be quite a
6 protracted exercise and I think it would be much speedier if we give
7 Ms. Peduto in due course an opportunity of speaking with Mr. Johnson
8 before we resolve the issue.

9 Now, is that satisfactory to you, Mr. Biju-Duval?

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

11 PRESIDING JUDGE FULFORD: All right. Please proceed then,
12 Ms. Solano.

13 MS. SOLANO: Thank you, your Honour.

14 Q. Ms. Peduto, before I replay the images for you, are you able to
15 tell me whether the children that you recognised were -- had been
16 associated with an armed group or not?

17 A. I can't see anything on the screen at this point.

18 MS. SOLANO: Your Honour, you had directed the transcript -- the
19 French transcript to be visible in front of the witness yesterday. I
20 believe that might be what she's --

21 Q. Do you mean the video?

22 A. No. The screen has gone black.

23 Q. I am not yet playing the images. First I'm asking you some
24 further questions.

25 PRESIDING JUDGE FULFORD: Ms. Solano, I think you put a question

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1 to Ms. Peduto. There's been a misunderstanding. You need to put the
2 question again so that the witness can understand that you're not asking
3 her to comment about something on the screen. You're asking a general
4 question in relation to people being members of armed groups. Now, put
5 the question again, please.

6 MS. SOLANO: Thank you.

7 Q. Ms. Peduto, the children that you say you recognised on these
8 images, had they been members of an armed group or not?

9 A. Yes. For the most part they were with UPC, yes, at the time.

10 Q. And what age range were these children in?

11 A. Well, at that point in time the age group was between 11 and 17.

12 Q. You made reference to some -- you said that some of the children
13 you recognised had been arrested. Can you clarify what you mean by that?

14 A. The multinational forces arrested some of the militia members,
15 and when they had doubts about the ages of the individuals, we had had
16 contacts with them so that those who could have been minors, they would
17 refer them to our office so that the minors not be detained and that the
18 minors be sent to a transit centre if need be. We had had special
19 working sessions with the multinational forces when they arrived to avoid
20 the children be imprisoned.

21 Q. Thank you. I showed you three extracts yesterday. The first
22 extract showed the arrival of a car at the CTO, the second one showed
23 images inside a building or a physical structure, and the third extract
24 showed for the most part only images of children outdoors and in a
25 veranda. Are you able to tell me in which of these three excerpts you

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1 recognised the children? And, of course, if it was in more than one of
2 them, I will replay them.

3 A. Well, I don't remember whether there were children in the first
4 extract, but I did recognise children in all three.

5 MS. SOLANO: Your Honour, with your leave I will then replay all
6 three extracts.

7 PRESIDING JUDGE FULFORD: Yes, Ms. Solano, and you probably ought
8 to give some instructions to the witness as to what she should do as and
9 when she sees individuals who she recognises.

10 MS. SOLANO: Indeed.

11 Q. Ms. Peduto, when you see a child or children that you recognise,
12 can you please get my attention by raising your hand or by speaking,
13 "Stop," into the microphone, please. Are you able to do that?

14 A. Yes, I will do my best.

15 PRESIDING JUDGE FULFORD: Yes, please continue, Ms. Solano.

16 MS. SOLANO: Then, your Honours, we will play the same three
17 excerpts that were played yesterday. Their EVD numbers are for the first
18 two excerpts a single number, EVD-OTP-00487; and for the third excerpt,
19 EVD-OTP-00488, and we will play them consecutively, stopping wherever the
20 witness indicates.

21 PRESIDING JUDGE FULFORD: Good. Please proceed.

22 MS. SOLANO: Thank you.

23 (Video-clip played)

24 PRESIDING JUDGE FULFORD: Now, Ms. Solano, somebody needs to
25 watch the witness, preferably the person who is operating the machine.

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1 (Video-clip played)

2 MS. SOLANO: We have stopped the first excerpt at minute

3 (Redacted).

4 Q. Ms. Peduto, can I ask you whether the child or children you
5 recognise are the ones visible right now?

6 A. Yes, to be precise I think I recognise almost all of them,
7 because at the time I had visited that centre.

8 PRESIDING JUDGE FULFORD: Ms. Solano, what is happening? The
9 witness has given an answer, and there seem to be an enormous number of
10 breaks at the moment while there are discussions at the bar table. Now,
11 do you need time to discuss matters with Mr. Sachdeva and your other
12 colleagues?

13 MS. SOLANO: Your Honour, I apologise for the disruption. I was
14 consulting my colleague, because given that the witness has now said that
15 she actually thinks she recognises all of the children, I wonder whether
16 it is in fact necessary to replay the -- the excerpts.

17 PRESIDING JUDGE FULFORD: Well, do take a moment to discuss that
18 issue with your colleagues.

19 MS. SOLANO: Thank you, your Honour.

20 (Prosecution counsel confer)

21 MS. SOLANO: Thank you for your indulgence, your Honour. In
22 light of the witness's last answer, we would not need to replay the
23 excerpts anymore, and I can move on, with your leave.

24 PRESIDING JUDGE FULFORD: Good. All right. Thank you.

25 MS. SOLANO: And, your Honour, I can ask the rest of my questions

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1 in open session.

2 PRESIDING JUDGE FULFORD: Thank you very much.

3 Public session, then, please.

4 MS. SOLANO:

5 Q. Ms. Peduto ...

6 (Open session at 9.24 a.m.)

7 COURT OFFICER: Open session.

8 PRESIDING JUDGE FULFORD: Yes, Ms. Solano.

9 MS. SOLANO: Thank you, your Honour.

10 Q. Ms. Peduto, do you know when the images you just saw were filmed?

11 A. I think it was in July. It could have been in August as well.

12 In any case, it was the beginning of the setting up of the CTO. The year
13 2003.

14 Q. And what makes you think that the images were taken at the
15 beginning of the setting up of the CTO?

16 A. I remember the setting up of the tent, which was not done
17 immediately. So the film may have been done in July or in August, or in
18 any case later, but in any case, not before that period.

19 Q. Did this tent remain in place after the initial set-up period?

20 A. After that, the CTO changed its location. It was moved
21 elsewhere. Now, as to whether the tent remained, I think the tent
22 remained, and other installations were put up. I think there were two
23 tents at one point in time.

24 Q. (Previous translation continues) ... you visited this CTO?

25 A. The period of July, August, and September, several times a week.

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1 I did not visit, well, the entire facility, but I would go there to bring
2 children and to discuss security issues.

3 MS. SOLANO: Your Honour, I have no more questions on the video.
4 I do have, however, six follow-up questions from the witness's evidence,
5 if I may ask those.

6 PRESIDING JUDGE FULFORD: Yes, certainly, Ms. Solano.

7 MS. SOLANO:

8 Q. Yesterday you indicated to the Presiding Judge that there were
9 two errors in your initial statement and in the transcript of your
10 testimony, and you made corrections to paragraphs 63 and 68 of your
11 statement. Are there any other errors that you wish to correct?

12 A. Well, there was one that I noted. During the hearing, I was
13 asked who was present in Mahagi in autumn 2002 with Ms. Lotsove. I think
14 I mentioned the presence of Commander Jerome. That was an error. It
15 was, rather, Commander Kitembo, and that appeared in my first statement.
16 There was a contradiction between my first -- that is between what was in
17 my statement and what I said in the courtroom.

18 Q. And which one of the two answers that you gave was correct, the
19 information you gave in your written statement or the information you
20 gave before the Chamber?

21 A. The written statement is accurate.

22 Q. Is there -- are there any other errors that you wish to correct?

23 A. Well, not that I've noted.

24 PRESIDING JUDGE FULFORD: Again, forgive me, Ms. Solano. I
25 have -- I have a memory, I don't actually have the part up in front of me

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1 at the moment, but I had a memory that Ms. Peduto had said there were
2 some specific parts of the transcripts from the Confirmation Hearing that
3 either were or may have been inaccurate, and I'd -- I think we need to
4 ensure before we move away from this subject that there really are no
5 other areas that Ms. Peduto has identified as being incorrect, because if
6 we're receiving that as part of her evidence, we need to be sure that she
7 has not identified mistakes within that body of material.

8 Well, let me ask the question directly.

9 Madam, are there, to your memory, any other problems with the
10 transcripts of your evidence at the Confirmation Hearing which you read
11 before you commenced your testimony?

12 THE WITNESS (interpretation): Well, just the ones I noted, the
13 ones I mentioned and the contradiction which I mentioned in my written
14 statement.

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

16 Yes, Ms. Solano.

17 MS. SOLANO: Thank you, your Honour.

18 Q. Yesterday I asked you whether you were able to recall how many of
19 the 167 children who were under 15 had served with the UPC in the period
20 between mid-2002 and mid-2003. Do you now recall that information?

21 A. I noted about 26 children who participated in fighting during
22 that period.

23 Q. In addition to those 26 children who participated in combat, were
24 there any other children from the group of 167 who were part of the UPC
25 even if they did not participate in combat?

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1 A. Yes, that's right. There were children who told us that they did
2 not participate in combat. Others did not give any details on the manner
3 in which they were associated with this armed group, and I do not have
4 the figures.

5 Q. Yesterday you said that of the 34 children whose cases you
6 documented when you visited Bunia and Rwampara at the end of March 2003,
7 nine had been recruited before they were 15 years old, and you said that
8 from those nine, six had not participated in combat. I then asked you a
9 question about the ages of those six children, and you said that they
10 were 14, 15, and 16 years old.

11 When you said that they were 14, 15, and 16 years old, can you
12 please clarify whether that was the age at the time that you met them or
13 at another time?

14 A. That was the age at the time I met them. (No interpretation).

15 Q. Yesterday I showed you the final report of the special
16 investigation team of February and March 2003.

17 For the record, this document bears the EVD-OTP-00480, and it is
18 found at tab 10.

19 Madam, do you have those documents in front of you?

20 A. Yes.

21 Q. Can you -- can you please turn to the page that bears the ERN
22 that ends in 0293 and which contains paragraph 8 of the report.

23 That paragraph describes how the special investigation team was
24 comprised, and there is a reference to one child protection advisor. Can
25 you assist us by telling us who the child protection advisor who was a

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1 member of the special investigation team was?

2 A. That advisor was myself.

3 Q. Thank you. Yesterday you referred to recruitment carried out by
4 the UPC in the area of Amee, spelled A-m-e-e. At least this is the way
5 it was captured in both our English and French transcripts. And you were
6 referring to the time period of January 2003, and this was, for the
7 record, at page 45, line 20 of the English version of the transcript.
8 Can you confirm whether Amee is in fact the place that you were referring
9 to?

10 A. Yes. Can I verify that in my notes? Can I check that?

11 PRESIDING JUDGE FULFORD: Yes, certainly, Ms. Peduto.

12 THE WITNESS (interpretation): Yes, I do confirm that.

13 MS. SOLANO:

14 Q. Thank you. You mentioned an 11-year-old child who had been
15 Kisémbó's escort. You said that this child was the youngest child that
16 you had referred to a CTO. Who was this Kisémbó?

17 A. Commander Kisémbó was the G3, the Chief of Staff of the UPC.

18 Q. Thank you.

19 MS. SOLANO: Your Honour, may I have one further moment, please?

20 PRESIDING JUDGE FULFORD: Certainly, Ms. Solano.

21 (Prosecution counsel confer)

22 MS. SOLANO: Your Honour, no more questions for the witness. I
23 just have one request for a correction to transcript 205, English
24 version, page 49, line 2. It should say "headquarters" instead of
25 "lawyers." Thank you very much.

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1 PRESIDING JUDGE FULFORD: Thank you very much indeed, Ms. Solano.
2 And I think at one part of the French transcript, as Judge Blattmann has
3 just pointed out to me, my name needs to be corrected in that I don't
4 think I'm President Kirsch as it currently appears.

5 Now, before we move on to the next stage, could the Court Officer
6 please give individual EVD numbers to the relevant transcripts.

7 Yes, Ms. Peduto.

8 THE WITNESS (interpretation): I beg your pardon. A question was
9 asked of me yesterday about a child in Rwampara, a child whom I
10 potentially saw two times. Can I answer that question now?

11 PRESIDING JUDGE FULFORD: Yes, certainly.

12 THE WITNESS (interpretation): It was a child aged 14 who was in
13 the fifth year of primary school who joined the UPC in August 2002 and
14 who entered the transit centre on the 18th of August, 2003.

15 PRESIDING JUDGE FULFORD: Any supplementary question, Ms. Solano?

16 MS. SOLANO: None, your Honour.

17 PRESIDING JUDGE FULFORD: Thank you very much.

18 EVD numbers, please.

19 COURT OFFICER (interpretation): An EVD number was given to all
20 the transcripts. I will give eight EVD numbers, a number per transcript.
21 The first transcript will be the transcript of the Confirmation Hearing.
22 It will be ICC-01/04-01/06-T-37 EN will bear the number EVD-OTP-007 --
23 or, rather, 489. Second transcript ICC-01/04-01/06-T-38 EN. That
24 transcript will bear the reference EVD-OTP-00490. Third transcript
25 ICC-01/04-01/06-T-39 EN will bear the reference EVD-OTP-00491. Fourth

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1 transcript ICC-01/04-01/06-T-40 CONF will bear the reference
2 EVD-OTP-00492.

3 The first transcript in French, ICC-01/04-01/06-T-37 FR. The
4 first number assigned was EVD-OTP-0049 -- rather, 479. The transcript
5 ICC-01/04-01/06-T-38 FR will bear the reference EVD-OTP-00493. The
6 transcript ICC-01/04-01/06-T-39 FR will bear the reference EVD-OTP-00494.
7 And lastly, the transcript ICC-01/04-01/06-T-40 CONF FR will bear the
8 number EVD-OTP-00495.

9 PRESIDING JUDGE FULFORD: Thank you very much. Mr. Diakiese, are
10 you going first for participating victims?

11 MR. DIAKIESE (interpretation): Yes, your Honour.

12 PRESIDING JUDGE FULFORD: Good. Well, please give us just a
13 moment before you do.

14 Mr. Diakiese, on behalf of some of the victims who he represents,
15 has applied in document 1978, dated the 22nd of June, 2009, to put
16 certain specific questions to Ms. Peduto. We have looked at the detail
17 of those questions, and we have noted that Mr. Biju-Duval has raised no
18 specific, indeed no objections to the particular matters that
19 Mr. Diakiese wishes to raise.

20 In all the circumstances, we are persuaded that each of the
21 issues which are to be canvassed with the witness relate to the views and
22 concerns of some or all of the victims who Mr. Diakiese represents, and
23 to the extent that they have not already been dealt with by Ms. Solano,
24 leave is granted to put these questions.

25 Yes, Mr. Diakiese. Please conduct your examination.

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

2 Questioned by Mr. Diakiese:

3 Q. (Interpretation) Good day, Ms. Peduto.

4 A. Good day.

5 Q. My name is Herve Diakiese. I represent certain victims in these
6 proceedings, and it is on their behalf that I will be putting some
7 questions to you. These questions will have to do with two main fields.
8 The first field will concern the general situation of the children
9 concerned, of the children who were involved in the demobilisation
10 process, and the second field will relate to young girls. You will be of
11 much assistance to me -- since you speak French as I do, you will be of
12 much assistance if you bear in mind the fact that we have to be
13 interpreted. We have to try to speak relatively slowly. It's not very
14 natural, and we should wait a while before answering questions so that it
15 doesn't seem that we are ignoring the fact that it is necessary to
16 interpret us. Witness, I'll try to make the very same effort.

17 PRESIDING JUDGE FULFORD: (Previous translation continues)...
18 Mr. Diakiese.

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

20 Q. I'd like to first deal with the overall situation the children
21 were in. As an official who dealt with child protection within the
22 framework of MONUC and someone who had certain -- a certain number of
23 interviews with children associated with armed groups in Ituri, and
24 especially children associated with the UPC, do you have any idea of the
25 conditions under which these children were recruited?

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1 A. I'll try and be clear. It won't be easy. As far as the children
2 I interviewed are concerned, as far as the way they joined the UPC group
3 is concerned, well, they joined the group in different manners. I
4 noticed, for example, that in the Mahagi zone, when the UPC was in
5 charge, and afterwards as well, recruitment was often carried out by
6 gathering them together. There were -- by rounding them up. A number of
7 children and other adults reported cases of recruitment in the streets,
8 in markets, in public places. Very often they were recruited in groups.
9 They were rounded up and taken away to -- to camps, to the Mont Awa camp
10 and other camps.

11 I noticed this in 2002, and this continued, this kind of
12 recruitment continued when Commander Jerome split with the UPC.

13 As far as other areas are concerned, Bunia, or the north of
14 Bunia, or areas under UPC control, excluding Mahagi, well, the children
15 would say that recruitment was carried out more on an individual basis.
16 The children from certain families would be taken forcibly. Other
17 children said that their families would send them to join the UPC. Some
18 children said that their families weren't familiar with the situation but
19 that they went to certain camps "voluntarily."

20 So the children joined the UPC in various ways. The UPC didn't
21 use just one method of recruitment to make these children join the group.
22 Some of these children were "volunteers," yet again. On other occasions
23 members of their family encouraged them to join up, or their friends
24 would do this. Sometimes they were forcibly recruited.

25 Q. Thank you. According to some of the interviews you had with the

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1 children, were there any cases where families had the possibility of
2 getting their children back who had been forcibly recruited, or getting
3 back their children who had left without their knowledge or against their
4 parents' will?

5 A. I had occasion to speak to some of the parents whose children had
6 been recruited against their will. As far as I can remember, at least on
7 one occasion, and probably on a number of occasions, I met parents who
8 went to look for their children. Their children weren't handed over to
9 them.

10 I apologise. I'm trying to remember whether I met any parents
11 who were able to get their children back.

12 No. As far as I can remember, no, I didn't.

13 Q. Thank you. As far as the children taken to armed groups are
14 concerned, in the course of the interviews you had with them were you
15 told about the living conditions in the camps that belonged to these
16 armed groups?

17 A. Not all the children would tell me about this. As I said, some
18 children didn't want to provide any details. Others were prepared to do
19 this. Would you like me to go into further detail?

20 Q. Please.

21 A. Most of them described very difficult conditions, and this
22 occurred at various levels when they were being recruited. Well, those
23 who mentioned forcible recruitment said that threats would be issued.
24 They threatened to kill them. Some children, one or two children, said
25 that some of their colleagues had been assassinated after having tried to

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1 escape, after having refused to go into combat. One child mentioned this
2 fact. Another child said that a colleague -- or comrade had been
3 executed because the comrade tried to -- to escape.

4 The children mentioned threats. This was stated quite clearly.
5 If they tried to leave the group, they would be threatened.

6 Others spoke about the training conditions which were very
7 difficult. They would have to get up very early. They wouldn't be given
8 food. They'd have to do physical exercises throughout the day without a
9 break. Some said that they were forced to go and fetch food outside the
10 camp, in villages inhabited by the civilian population. They had to go
11 there so that they could obtain food.

12 The children who said that they had participated in combat, many
13 of them said that they had lost some of their comrades, adults and
14 children, and some were visibly traumatised by the experience.

15 The children told us about the daily living conditions. They
16 said they couldn't sleep. Sometimes they couldn't have clothes. They
17 weren't authorised to return to their families. That was also mentioned
18 by children. Not necessarily those who were forced to be among the
19 troops, but some said that they wanted to return to see their families,
20 and they were prevented from doing so. Some of them said they had to dig
21 holes to sleep in.

22 Q. Allow me to go back to some of the details of your testimony.
23 First of all, you mentioned children who complained because they had no
24 clothes. Could you be a little more specific? What do you mean exactly
25 when you say that they didn't have clothes?

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1 A. Thank you. I didn't express myself very clearly. I didn't want
2 to say that the children were naked. I meant that they didn't have many
3 clothes. The clothes they had were often in a poor condition. They were
4 often dirty. They didn't have the possibility of changing into clean
5 clothes. That's what I wanted to say.

6 I didn't speak about the situation that the young girls were in,
7 because you said you were going to ask me a question about that.

8 Q. You know that if you can remember anything about any of the young
9 girls with regard to clothes or the situation, the situation of hygiene
10 that they were in, you can tell us about this and we won't have to go
11 back to the issue.

12 A. Well, the condition the girls were in was worse than the
13 condition the boys were in very often. Apart from the fact that they
14 would often participate in all the activities that the boys participated
15 in, they also had to cook, prepare food for the officers. They had to
16 spend the night with them. So the situation the girls was in was a lot
17 more worrying. It was terrible.

18 Q. As far as the lack of clothing is concerned, this also affected
19 the girls?

20 A. Yes. The girls weren't treated in a more favourable manner in
21 the group.

22 Q. You mentioned certain details, and I'd like you to go over them.
23 You said that the children told you about some of their comrades,
24 comrades who had been assassinated because they wanted to go back to
25 their families, and later you said that there were others who were

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1 executed because they had deserted. Is there a nuance you are making
2 between assassination and execution?

3 A. No, no. No. No, it's the same thing.

4 Q. Thank you.

5 A. If I could add something. One of the executions was carried out
6 by someone close to Mr. Lubanga, Commander Bosco, who was well known for
7 using combat methods or recruitment methods that were particularly --
8 particularly -- I apologise. I'm looking for the right word. He was
9 well known for violent methods.

10 Q. Thank you. Did they tell you how that execution had been
11 organised?

12 A. The children did not mention the planning of the execution. In
13 the two cases that I have in mind, it was a summary execution because the
14 first person had been found after the battle and had not participated in
15 the battle and was executed because of that fact; and in the other case
16 the conditions were similar. There was no arrest or military tribunal or
17 any even pseudo-tribunal or any form of justice. It was simply a summary
18 execution.

19 Q. Perhaps I wasn't perfectly clear. What I meant was in concrete
20 terms did the child actually attend the execution, or did he learn about
21 it, or did he simply suppose that the comrade had been executed?

22 A. In the two cases I've mentioned, both children had been
23 eyewitnesses.

24 Q. Thank you. You referred to threats that the children had
25 received in the event that they wanted to desert. What exactly was

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1 involved in these threats? What was the impact of the fear that the
2 children felt, and did they feel coerced?

3 A. The children told me about different kind of threats. It wasn't
4 systematic, if you will, the fact that they were being threatened. They
5 were threatened that they would be beaten or killed sometimes. Sometimes
6 they were threatened with reprisals on their family. And as far as
7 coercion, the children were afraid.

8 Q. Thank you. You --

9 A. I beg your pardon. Perhaps I can add something. Over and beyond
10 these threats, there were cases of children in the UPC, in particular,
11 who came back to the MONUC after they had gone to their families if their
12 families were in Bunia, for example, or after having been reintegrated
13 into their families in zones that were under UPC control, and they came
14 back to the MONUC to seek protection. They asked the MONUC or other
15 partners for protection. They asked to be reintegrated into the CTOs
16 because they were afraid of being re-recruited. Some of them were even
17 sent by their own families.

18 Q. Because we're dealing with this matter, I shall anticipate on
19 this question. Were there cases of children who had been to a CTO and
20 were then re-recruited?

21 A. Yes. And we have documented these cases. There was a major wave
22 in 2004. Well, between February and June of 2004 we have precise
23 documents relating 34 cases of -- 39 cases of re-recruitment, and the
24 majority of these cases of re-recruitment were done by the UPC, a couple
25 of cases by PUSIC. And there were other cases in 2003 but to a lesser

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1 degree, but it did occur, yes.

2 Q. Please let me know if you have the impression that this question
3 is repetitive. You mentioned in your examination-in-chief that during
4 your activities in Bunia you had an opportunity to inform the authorities
5 of the UPC of the fact that it was illegal to recruit children in armed
6 groups. You also referred to the Rome Statute which prohibits such
7 behaviour. Is that correct?

8 A. Yes, that's correct, and I can confirm that that is something
9 that I said personally to Mr. Thomas Lubanga. Aside from that particular
10 meeting, the representatives of the UPC at various levels, all levels, in
11 particular those who participated in the CCAG, they were reminded
12 regularly of their obligations as regards child protection, and you
13 mustn't forget that this matter was also discussed at the commission for
14 the pacification of Ituri, the meeting that took place in April of 2003.
15 The matter of child protection was discussed by all of the communities
16 and representatives of the armed groups that participated in that
17 meeting, and the commission, the CPI, had also made a solemn
18 announcement, a solemn statement, which recalled the obligations of the
19 signatories of that agreement. In particular, they were to stop
20 recruitment; that they were to stop separating children from their
21 families, or to separate children and adults; that they were to stop
22 sending children to the front lines; that they were to demobilise
23 children; and that they were to discuss a coordinated framework whereby
24 child protection could be organised.

25 THE INTERPRETER: The speaker is going a little bit too quickly.

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1 THE WITNESS (interpretation): And there were agreements to
2 organise the interaction of various child protection agencies, including
3 UNICEF, so that this matter -- this matter of recruiting and using
4 children had been discussed on numerous occasions.

5 Q. Were -- was there any specific notification of this to
6 Mr. Lubanga and other authorities in the UPC? And when this notification
7 was done, was there any reaction on their part? What was their attitude?

8 A. Well, at the time of the meeting that took place on May 30th at
9 Mr. Lubanga's residence, as I stated earlier, contrary to the reaction of
10 other armed groups that I had met with previously, there was no
11 indication on his part of any will to cooperate, contrary to other -- if
12 you will allow me to compare with the FPLC that I had met with in March,
13 the RCD-ML or other groups, the Mai Mai groups in the North Kivu who had
14 publicly stated that they were willing to cooperate with child protection
15 agencies from the United Nations, on May 30th, there was no sign of
16 open-mindedness or any will to actually discuss the matter.

17 Q. When the child came to you, before you, what was the physical
18 state of the children when you met with them?

19 A. Well, it depended. Some of them -- well, they weren't
20 necessarily that thin or undernourished. Some were, on the contrary.
21 Some of them had scars. Some of them were referred very quickly to --
22 for medical care but not the majority. It was really their psychological
23 state that I remember in particular.

24 Q. Please go ahead if you'd like to talk about that aspect that you
25 noticed.

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1 A. As I said, the younger ones were quite lost. They looked lost,
2 and they had been traumatised by the experience, in particular those who
3 had lost members of their family, who had been victims before they were
4 associated with armed groups. They had seen displacement. They had seen
5 massacres. They had personal stories which were just not easy.

6 In Ituri during those years, there were very few people who were
7 not involved in displacements or armed attacks. Maybe one or two of the
8 older children were not particularly proud of what had happened. They
9 weren't particularly proud to tell their story, even though some of them
10 had stated that they had joined the UPC to take revenge because their
11 villages had been attacked or because members of their family had been
12 killed by the other side. They did not describe their experience as a
13 victory or as true revenge. Maybe they had gone to get revenge, but they
14 had certainly not found peace through the experience.

15 Q. You referred to their psychological situation, saying that that
16 really impressed you. Did they receive adequate psychological support?

17 A. Some of them, yes, but not all of them. Some of ones we saw in
18 the early days, some of them were referred to NGOs who were specialised
19 in providing psychological support. Social workers -- well, social
20 workers were trained. Some had already been trained, but the social
21 workers were trained in how to deal with children who had been
22 traumatised. Inasmuch as possible, the most fragile individuals were
23 referred, but clearly not all of them. They did not all benefit from
24 satisfactory care.

25 As regards the girls, some of them were able to benefit from

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1 specific care because of their precise trauma that they had undergone.

2 There was special attention given to the girls, that's true, but this did
3 not apply to all of the children.

4 Q. We will go into further detail about the girls in a moment. When
5 you referred to -- when you referred the children to some of the centres,
6 I believe you said that you went to follow up and see how things were
7 going in those centres. Did these centres report to you as regards the
8 behaviour of the children that they had in their care?

9 A. Yes, that did occur, in particular when there were conflicts.
10 Sometimes the children stayed a long time in the centres, in fact too
11 long. The general standard was to try to keep the children in a transit
12 centre for two to three months. That was the standard that we tried to
13 apply, except for other cases which required longer care because they'd
14 undergone a particularly severe trauma. But because of the lack of
15 security in Ituri, the reunification of some children with their families
16 was impossible, and indeed these transit centres were not three-star
17 hotels. Perhaps I should explain what I mean by that image.

18 The care -- the standards of care in these centres did not make
19 it possible to provide care that was much better than what they would
20 find at home. In other words, they weren't going to have a television in
21 the centre, whereas they'd go back home to live in a hut. So the level
22 of comfort was plain and simple and yet decent. And indeed to keep
23 adolescents who had undergone the experiences that we were familiar with
24 in a centre with limited possibility to go out, in particular to do
25 sports or to go see children in other centres, in fact, some of them

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1 stated that they should have had better conditions -- well, here I'm
2 referring the period of October/November 2003 when many of the children
3 were released by the UPC, contrary to June where there were no
4 demobilisations.

5 The commanders had clearly received instructions at that point to
6 release children, and many of them were sent to MONUC and to the transit
7 centres, and they were told, they had been promised that had they would
8 be sent to school, that they would be sent to Kinshasa, and the children
9 told us that the commanders had told them that MONUC was going to send
10 them to Europe to complete their education. So some of the children,
11 well, they told us that when they'd been recruited they had been made
12 many promises. Some of them had been promised that they would become
13 rich and that they would receive a lot of financial support in a
14 particular association.

15 So there was a certain level of frustration amongst the children,
16 and some of them -- there were tensions because some of the children had
17 belonged to one group and others in a different group. They might have
18 been mixed in some of the CTOs, although most generally it went well, but
19 occasionally there were conflicts.

20 There was a security problem for one young girl in particular in
21 one of the centres. She had been abused of by one of the other children
22 in the centre.

23 Q. As regards the community, what was the attitude of the
24 communities when the children were returned to their families?

25 A. Are you talking in particular about the UPC, or you would like me

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1 to talk about the others as well?

2 Q. To be more specific, it would be appropriate if you can talk
3 about the UPC and give any information which relates to the specific case
4 of the UPC.

5 A. I'm going to give a general illustration with respect to the
6 children who were associated with the FNI and the FRPI. Very often these
7 children remained close to their families and to their villages. I'm not
8 saying this was case for all children. So they were not far from their
9 communities and from their families. So they still had some ties.

10 Now, with children in the UPC, they were displaced. They were
11 recruited somewhere and moved to another place, relocated, so they did
12 not have any contact with their community or with their relatives, with
13 their families.

14 I know that some parents asked the centres not to send back their
15 children. Not because they did not want to have their children back, but
16 they were afraid that the children could be re-recruited. I know that
17 certain families requested that family reunification should not be done
18 immediately.

19 To my knowledge, and I am not best placed say this, I did not
20 engage in the search for families as such, but I think that the
21 communities manifested a certain rejection or fear of the children. They
22 had concerns about their return, because these children had participated
23 in combat. They had been far from a protective family environment for a
24 long time, and so they were afraid that they will not be able to manage
25 their children, especially as they had been associated with the UPC or

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1 another armed group for a long period of time. But I also know that
2 there were certain parents who came to get their children back.

3 Q. Now, the proportion of children that you managed, either you or
4 the centres, approximately out of ten children that you had to manage,
5 for example, what proportion were reunified with their communities or
6 with their families without any problem?

7 A. I cannot give you an answer to that question. Now, I have an
8 idea of what happened to them immediately, but I don't know what happened
9 to them in the long term. As I said, there were certain children who
10 were returned to the CTO after they had been reintegrated.

11 Now, for some of them things went on well. There are children I
12 met in Bunia who had returned to their families and who apparently looked
13 quite happy. I can't give you any figures.

14 Q. And with respect to the situation of young girls, what other
15 aspects of their experience have we not touched on?

16 A. The sexual abuse perpetrated against young girls was quite
17 prevalent. I did not have any testimony or even receive an account of
18 boys who were sexually abused. I'm not saying this did not happen, but
19 I'm saying that I did not have any account to that effect.

20 Now, with respect to the girls, I met all of them except about
21 one or two, and this one or two had told me that they had been protected
22 by certain women who were present in the camp. A young girl told me that
23 she was not sexually abused of because she feels that it was because
24 there was an adult woman who was around. All the young girls stated they
25 had been sexually abused by their commanders most often or sometimes

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1 by -- by other soldiers.

2 Some of them had -- or got pregnant as a result of such
3 intercourse. Some of them had abortions, voluntary or involuntary, and
4 some of these abortions were due to poor living conditions. And the
5 accounts of the boys and the girls made it clear that this was a
6 systematic conduct. The girls had to systematically spend the night in a
7 separate area, and they were forced to spend the night with the officers.
8 Some of the young girls presented this as -- that they will present their
9 first experience as a marriage. They would say -- they would think --
10 they would talk about their first companion or their first legitimate
11 relationship. That's the way they perceived it. So they said that after
12 they had that first contact which they thought was legitimate and then
13 they were handed over to another commander, it was then that it dawned on
14 them that this was not a legitimate relationship they had established
15 with the first officer. So in the first instance they did not feel that
16 this was sexual abuse. *And the state of some of these young girls was
17 quite terrible. I'm talking about their psychological and physical state
18 which was quite catastrophic.

19 PRESIDING JUDGE FULFORD: Mr. Diakiese, I'm very sorry to interrupt you.
20 We're half past 10.00, and I must bear in mind the
21 interpreters and stenographers. Would it be hugely inconvenient if we
22 were to take the break at this time, or is that convenient to you?

23 MR. DIAKIESE (interpretation): That's right, your Honour.

24 PRESIDING JUDGE FULFORD: Break now, Ms. Peduto.

25 Roughly how much longer, Mr. Diakiese, do you think?

1 MR. DIAKIESE (interpretation): Maximum, maximum 30 minutes, your
2 Honour.

3 PRESIDING JUDGE FULFORD: Thank you very much.

4 Could the usher please accompany Ms. Peduto to the witness
5 waiting-room, and we'll sit again at 11.00.

6 Mr. Johnson, could I ask you to be kind enough to use part of the
7 break we're going to have now to discuss with Ms. Peduto whether there
8 are any particular problems as regards the public seeing the video
9 footage of which you're now very much aware -- please go now, Ms. Peduto,
10 thank you very much -- so that we can have your assistance a little bit
11 later as to whether or not it should remain public or private.

12 (The witness stands down)

13 PRESIDING JUDGE FULFORD: But before I set that instruction in
14 stone, I think Mr. Biju-Duval has got something to say.

15 Yes, Mr. Biju-Duval.

16 MR. BIJU-DUVAL (interpretation): Thank you, your Honour. When
17 you asked the question this morning whether any of the parties wanted to
18 raise an issue, I should have stood up. I did not do that. I apologise.
19 It was an oversight. I am standing up now, and I hope that you are not
20 going to hold it against me.

21 I would like to return to the issue of notes, the notes which
22 Mrs. Peduto was authorised to consult and which she indeed consults in
23 the course of her evidence. Of course we understand that this raises a
24 difficulty from the legal standpoint, because the point is in what
25 conditions -- under what conditions can the Defence and other parties

1 have access to the notes that she, indeed, consulted.

2 PRESIDING JUDGE FULFORD: Do forgive me interrupting you,
3 Mr. Biju-Duval. I think I understand the point that you're making, that
4 you would, certainly as an issue of general principle, like to have the
5 opportunity of looking at the notes from which Ms. Peduto has refreshed
6 her memory. Now, what I'm not clear about at the moment is precisely
7 which documents Ms. Peduto turned to when she undertook that exercise and
8 whether or not it was just her witness statement and the transcripts or
9 whether there were other documents. And before we go into the detail of
10 the extent of your overarching rights, Mr. Biju-Duval, I think it would
11 be useful to know actually what we're talking about. So please forgive
12 the interruption.

13 Ms. Solano, are you aware of what documents were looked at by
14 Ms. Peduto or not?

15 MS. SOLANO: I am not, your Honour.

16 PRESIDING JUDGE FULFORD: Right. Mr. Biju-Duval, would you mind
17 if I set Mr. Johnson a second task during this break, for him to identify
18 with some real particularity which documents Ms. Peduto looked at and
19 whether or not she has any objections, and whether he has any objections,
20 to you being seen -- for you being shown, as it were, the relevant
21 extracts. Not necessarily the entire document but what was looked at set
22 within an appropriate context.

23 Would that be a way of proceeding reasonable to you,
24 Mr. Biju-Duval?

25 MR. BIJU-DUVAL (interpretation): Yes, that's right, your Honour.

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1 Thanks.

2 PRESIDING JUDGE FULFORD: Mr. Johnson, we're going to rise now
3 for half an hour. If you need longer, can you please make sure that
4 we're told. So don't do this in a rush. Take your time with it so as to
5 make sure that we really have full observations from you on both of these
6 issues. Thank you very much indeed.

7 Well, we'll say five past 11.00 unless Mr. Johnson sends a
8 message through to us that he needs longer.

9 Thank you all very much.

10 COURT USHER: All rise.

11 Recess taken at 10.34 a.m.

12 On resuming at 11.34 a.m.

13 COURT USHER: All rise. Please be seated.

14 PRESIDING JUDGE FULFORD: Yes, witness, please.

15 (The witness takes the stand)

16 PRESIDING JUDGE FULFORD: Yes, Maitre Diakiese.

17 MR. DIAKIESE (interpretation): Thank you, your Honour. Before I
18 speak to the witness, your Honour, we note an omission, a discrepancy
19 between the French transcript and the English transcript. In the French
20 transcript, page 37, lines 22 to 23, the witness talking about the
21 situation of girls stated that not only was their psychological state
22 terrible, their physical state was also terrible. However, in the
23 English transcript, page 31, lines 7 to 8, nothing was said about the
24 physical state of the girls.

25 PRESIDING JUDGE FULFORD: Thank you for bringing that to our

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1 attention, Mr. Diakiese, and we direct that that particular section must
2 be checked with care when the edited version of the transcript is
3 prepared.

4 Please continue.

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

6 Q. Ms. Peduto, apparently we are carrying out an excellent exercise,
7 but we can still attain perfection if we follow the rules I'm going to
8 suggest to you in our examination. When I finish my question, could you
9 please mentally count from one to five before you give your answer. This
10 is necessary so that the English-speaking interpreters will be able to do
11 their job.

12 Do you agree with me?

13 A. I'll do my best.

14 Q. Do you agree with me that you're going to mentally count from one
15 to five before you answer my questions?

16 A. I do apologise. Yes.

17 Q. Fine. Thank you. We were talking about the situation of girls,
18 and you mentioned issues relating to sexual abuse. Do you have an idea
19 of the ages of these girls at the time when this sexual abuse was
20 perpetrated against them?

21 A. The victims were of all ages. I think the youngest I interviewed
22 was subjected to sexual abuse at the age of 12, if I remember correctly,
23 and beyond that age you had victims of all ages.

24 Q. Now, going by the information you received, is it possible that
25 there could have been girls under the age of 12 who might have been

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1 subjected to the same acts?

2 A. That is perfectly possible. The girls I had access to, the
3 interviews I conducted with these girls were not as systematic as the
4 interviews I conducted with the boys. As I said earlier, the girls
5 appear to be a lot more fragile, and their situation was a lot more
6 delicate than the situation of the boys. In a good number of cases, I
7 did not discuss with them or hold interviews with them. I just referred
8 them to appropriate care structures.

9 Q. Now, to return to the issue of the physical state of the girls.
10 As I said earlier, you -- you mentioned that their psychological and
11 physical state was quite deplorable. Can you say anything about their
12 state then, the physical state?

13 A. I have in mind the situation of one of these young girls who had
14 had several abortions and who had to be referred to the emergency unit of
15 the hospital in Bunia for care, and she spent a lot of time in hospital
16 before she could recover.

17 Now, with respect to the others, some of them returned pregnant.
18 After spending several months or even several years in armed groups
19 without receiving appropriate care, the type of care you give to a
20 pregnant woman, they needed attention with respect to their feeding.

21 Q. With respect to the abortion conditions, did they tell you the
22 circumstances under which such abortions were committed at the time they
23 were in the armed groups?

24 A. I did not go into such details with them. I did not ask
25 questions to that effect. One of them said that she sustained an

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1 abortion. It was involuntary. It stemmed from the difficult living
2 conditions or difficult conditions under which they were living. Others
3 said they had -- they had engaged in voluntary abortion. At least one of
4 them did so, because the person who fathered the child had died. But
5 personally, I did not go into details on how such abortions were
6 committed. The social workers and the psychologists probably got into
7 such details, but it wasn't my mandate to discuss such details.

8 Q. Thank you. Now, you should tell me if this question has nothing
9 to do with the information that you received.

10 Now, when the girls became pregnant within the armed groups, did
11 they tell you whether they received some form of "maternity leave"?

12 A. No, they did not get any maternity leave as such. However, some
13 of them said that they were then rejected within the group; that is, they
14 were thrown out. That's the expression they used. Some of them came
15 away with the feeling that they were rejected. They said that they felt
16 thrown out when they were no longer useful, useful for combat, and when
17 they could no longer satisfy the sexual pleasures of those who were
18 subjecting them to sexual abuse. So they did not view this as maternity
19 leave as such. Others ended up in the streets of Bunia without feeling
20 that they were, like, estranged from the movement. Some of them went to
21 Bunia to be with their relatives, but they still felt a part of the UPC,
22 and some of these girls were then taken into care, but they didn't talk
23 about any mention of maternity leave or any support given to them.

24 There was one case where a structure that received such girls was
25 threatened, so the girl was reunited with her family through that

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1 structure, and the structure was threatened by the soldiers of the UPC
2 because the girl had contacted the specialised structure in order to get
3 some assistance, some support.

4 Q. When the girls gave birth or after an abortion and when they are
5 physically capable for military work within the group, did there -- was
6 there a break with the group or were they asked to return to the group?

7 A. I'm not sure that there was a systematic request made with regard
8 to these young girls. I was informed of the fact that some of them
9 joined the armed group again, some of them among those that I had contact
10 with, but I can't say that this was common practice.

11 Q. Were there cases of girls who got pregnant more than once, or did
12 they only get pregnant on one occasion?

13 A. With regard to those who aborted on a number of occasions, well,
14 that means that they were pregnant on a number of occasions. Those who
15 gave birth to a child, well, I can't remember having had contact with a
16 young girl who had more than one child, but my memory is not really
17 reliable. I couldn't really give you a yes or no answer to that
18 question.

19 Q. Having given birth, what would happen to the children after their
20 mothers had joined the armed group again? What would happen to the
21 babies?

22 A. I'd have to have a look at my notes, but I don't really think I
23 have the information. I don't know. I don't know. It would be pure
24 speculation. I apologise.

25 I know that some of the young girls reunited with their families.

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1 Some lived with other young girls who had the same background. That's
2 all I can say.

3 Q. This will certainly be my last question: Do you have any idea of
4 how successful it was when it comes to reuniting these girls with their
5 families, reinserting them in their communities, or was it not
6 successful?

7 A. I can't provide you an answer with regard to the long-term
8 success of such reunification or re-insertion. I didn't monitor this.
9 But while I was in Bunia, some were quite capable of providing for their
10 needs or -- in an autonomous manner, but reuniting these girls with their
11 original communities, re-inserting them, was always something that was
12 difficult. They were stigmatised. Often they had children whose fathers
13 were not present. Frequently they had very low self-esteem, and there
14 were families burdened with children. So re-inserting these girls was
15 difficult. There was a lot of work that had to be done. A lot of
16 mediation had to be provided so that not only the biological family but
17 the community would accept them without stigmatising them in any
18 particular way. I know that the social workers had a lot of work to do.
19 They had serious efforts to make.

20 Q. I thank you very much, Ms. Peduto.

21 MR. DIAKIESE (interpretation): Your Honour, I have now
22 concluded. Thank you.

23 PRESIDING JUDGE FULFORD: I had to count to five before thanking
24 you for your cross-examination, Mr. Diakiese.

25 Now, madam, there's one question from me at this stage because it

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1 relates to an issue that's been raised by Mr. Kabongo who is going to be
2 asking you questions next. You have talked to an extent about
3 discussions which you had with some senior figures within the UPC, and I
4 want to ask you whether in addition to the matters that you've described
5 so far in your evidence you had any further conversations with senior
6 figures in the UPC either about the forcible recruitment of children or
7 their re-integration into society at some later stage.

8 Now, I hope that question's clear, but if it's not, please
9 indicate and I'll put it again.

10 THE WITNESS (interpretation): The question is clear. Thank you.
11 The answer is yes. As far as forcible recruitment is concerned, this is
12 an issue that was addressed in the course of the meetings with UPC
13 representatives, CCAG meetings. It's not as if we had a hundred CCAG
14 meetings, but there were some meetings and these were issues that were
15 regularly addressed.

16 We had a security incident in one of the transit centres, as a
17 result of which I personally phoned Commander Kitembo to inform him of
18 the fact that UPC individuals had penetrated the interior of the centre.
19 We spoke to Mr. Lobho, to the people who were present at the meetings.
20 This is an issue that was also addressed when the governor of Province
21 Orientale, I believe, came to Bunia, and there was a public meeting and
22 this subject was discussed in the presence of certain UPC
23 representatives.

24 As for re-integration, the re-integration of children, this is a
25 subject that was discussed regularly at meetings of the CCAG, and members

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1 of the military from MONUC asked all the groups to provide them with
2 detailed lists of combatants, and they should specify the number of
3 minors. There were joint visits that should be organised -- that should
4 have been organised after September 2003. Joint visits included MONUC
5 representatives and representatives of the various armed groups. It was
6 a matter of visiting the camps to observe the number of combatants there,
7 and this information should have allowed us to plan for the
8 demobilisation process in Ituri.

9 The armed groups -- well, we asked the armed groups to provide us
10 with details on the soldiers, the number of officers and of children. So
11 this monitoring was part of MONUC's regular activities, and this
12 information was provided to us when -- when all the details were
13 available.

14 Yes, that would be it.

15 PRESIDING JUDGE FULFORD: That's about combatants. What about
16 re-integration into society? Did you have any separate conversations
17 with senior personnel within the UPC on that matter?

18 THE WITNESS (interpretation): The issue of re-integration was
19 also discussed in the course of CCAG meetings. There were meetings with
20 my colleague from UNICEF. The various plans were presented. There was
21 an interim plan for demobilisation -- or "demobilisation" is not the term
22 that was used. It was an interim plan, a specific interim plan for
23 children for the period July/September, I believe, and this plan was to
24 concern the children who were leaving voluntarily, children who had been
25 arrested or demobilised. So there was an interim plan to ensure that we

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1 weren't lagging behind the national plan that CONADER or BUNADER was
2 responsible for. I can't remember what it was called. And there were
3 measures that concerned re-integration of children and these measures
4 were discussed by the CCAG.

5 There was also a more general plan for demobilisation which had
6 been drafted in collaboration with UNICEF and PNUD, and this plan was
7 also presented at the CCAG and measures for children were also the
8 subject of discussion, and then together with partners in the field of
9 protection we would go to the field and meet commanders of the various
10 around groups. There were discussions with them on putting into place
11 transit structures in these various areas. This was taken into account
12 by the partners in charge of demobilisation and in charge of monitoring
13 the children's re-integration.

14 PRESIDING JUDGE FULFORD: Thank you very much.

15 (The Trial Chamber confers)

16 PRESIDING JUDGE FULFORD: Mr. Kabongo, it's quite clear from
17 those answers by Ms. Peduto that she is aware of discussions both in
18 terms of recruitment but also in terms of re-integration of -- of
19 children. Whether or not those areas necessarily concern the views of
20 those who you represent, the view of the Chamber is that this is,
21 overall, relevant material which will assist us in our determination of
22 the truth. Accordingly, at the very least so as to assist you -- sorry,
23 to assist us, you and any other counsel who is interested in the matter
24 are entitled, if you wish, to explore it further. It may be that the
25 answers Ms. Peduto has given are, in fact, sufficient and have dealt with

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1 the area; but if you wish to ask any supplementary questions, you are
2 entitled to do so. So I won't need to trouble you for the list of names
3 of people within the UPC that I requested last night, and I'm sorry if I
4 set you some preparatory work which in the event has proved unnecessary.
5 So please feel free now to conduct your questioning of this witness.

6 MR. KABONGO (interpretation): Thank you, your Honour.

7 THE WITNESS (interpretation): I apologise. I was having a look
8 at the transcript, and I don't think I was quite clear about something.
9 There is a detail I'd like to mention and it has to do with the UNICEF
10 and UNDP plan. It wasn't a national plan. It was a specific plan for
11 Ituri.

12 PRESIDING JUDGE FULFORD: Thank you for that clarification.
13 That's very helpful.

14 Yes, Mr. Kabongo.

15 Questioned by Mr. Kabongo:

16 Q. (Interpretation) Good day, Ms. Peduto.

17 A. Good day.

18 Q. My name is Mr. Kabongo, and I have some questions I would like to
19 put to you as a joint legal representative, and on behalf of Mr. Keta,
20 I'm representing some of the victims.

21 As an advisor in MONUC protection unit, child protection unit,
22 you worked in this capacity for MONUC in Ituri, and in that capacity you
23 carried out investigations into the recruitment, the forcible and
24 voluntary recruitment, of children.

25 Is it necessary to describe in -- under which circumstances this

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1 recruitment was carried out? And I'd emphasise forcible recruitment in
2 the place of Ndrele. I know that in response to a question from
3 Mr. Diakiese you said that there was a forcible recruitment in Mahagi, or
4 you addressed the issue of forcible recruitment in Mahagi.

5 A. Would you like some details on what happened in Ndrele? Is that
6 correct?

7 Q. Quite right, madam.

8 A. I can tell you what I can remember, but I do have notes if you
9 want me to be more precise. There was recruitment in Ndrele on the
10 15th of February. Certain witnesses said that there was a market day,
11 the 15th of February, and that there were armed individuals, individuals
12 in uniform who were speaking both Swahili and Lingala. They were
13 carrying Kalashnikovs, I think that's what they said, and they recruited
14 between 50 and 60 individuals, including some children, some children
15 that I later spoke to.

16 I believe that it was also Ndrele that amongst those 50 to
17 60 people there were three children of Ugandan nationality, and those
18 children were taken to Mont Awa because the recruiter knew that those
19 children were Ugandan.

20 I -- according to what I remember, there were not only children
21 recruited but there were children amongst those recruited. Adult women
22 were not taken. However, some younger girls were.

23 The vehicle, the truck, at least one of the trucks in which those
24 persons were transported, broke down at a given place, and some of the
25 group had to continue on foot. I suppose there was another truck that

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1 continued by road, but that's only a hypothesis on my part.

2 Those who continued on foot, according to what I was told, left
3 at 4.00 in the morning to go to Mont Awa, Mount Awa.

4 That's basically what I remember.

5 Q. Thank you, madam. You have just stated that the children who
6 were forcibly recruited were taken to Mont Awa. Do you have any
7 knowledge about the transit centre Ndrele?

8 A. No.

9 Q. Thank you.

10 A. I beg your pardon. As regards what I was told, during the
11 mission in Uganda where I obtained information about the recruitment
12 which took place on February 15th, 2003, I did not hear about a transit
13 centre in Ndrele. I was not told about such a centre.

14 Q. Thank you. During the recruitment, did you have knowledge of the
15 strategies applied by some armed groups who would call upon a local
16 commander in a particular town to persuade children to join up and who
17 used force if the individuals refused?

18 PRESIDING JUDGE FULFORD: Could you pause for a moment, please,
19 Ms. Peduto.

20 Mr. Biju-Duval?

21 MR. BIJU-DUVAL (interpretation): Thank you, your Honour. I
22 apologise for interrupting my colleague, but I would prefer, of course,
23 that counsel not ask leading questions, and it seems to me that the last
24 one was indeed a leading question.

25 PRESIDING JUDGE FULFORD: I think the difficulty, Mr. Biju-Duval,

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1 in that in order to address a question on an issue like this which will
2 be intelligible to the witness, certain signposts really have to be
3 given. Otherwise, it would be so general that the witness simply
4 wouldn't know what Mr. Kabongo had in mind. And so I think given the
5 area that he's wishing to investigate, he's really got to raise such
6 issues as armed groups' commanders and whether or not there was
7 persuasion.

8 That said, Mr. Kabongo, can I ask you on areas of sensitivity
9 such as this to introduce the subject with sufficient particularity and
10 certainty so the witness can know the area that you're interested in, but
11 could you also try to make sure that your question doesn't suggest the
12 answer, so that you're not, as it were, giving to the witness -- or the
13 witness shouldn't be put in the position of being able to interpret what
14 you believe the correct answer is. It's not always easy, but if you
15 could do your best we would be grateful.

16 I think it may be necessary for you to put the question again.

17 MR. KABONGO (interpretation): Thank you, your Honour.

18 Q. Madam Peduto, what I meant to say is regarding the recruitment
19 that took place in the Mahagi camp, what exactly was the strategy
20 implemented by the UPC commander?

21 A. Well, as I indicated earlier on, in that zone in particular, many
22 cases of recruitment were reported to us as being like a roundup in
23 public places, massive roundups where groups of individuals were taken.
24 And to come back to the information that was given to us about that zone,
25 Commander Safari -- in particular, in Mahagi, we had been told that in

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1 one case of recruitment that had taken place a month before our inquiry a
2 mother had try to impose, to prevent her son from being recruited, and
3 she had been raped by people from the UPC who were there, including
4 Commander Safari.

5 It was that kind of forcible recruitment that occurred, where any
6 person who tried to oppose it -- I can remember another case. I don't
7 remember if it was Ndrele or in another locality Kudikoka. Someone, I
8 believe it was an aunt or uncle, tried to prevent a child from being
9 recruited and was pushed away by UPC soldiers.

10 I don't know if I've answered your question.

11 Q. Thank you, madam.

12 MR. KABONGO (interpretation): Your Honour, I think I have
13 completed the questions that had been prepared by Mr. Keta. Any other
14 questions regarding conversations between Madam Peduto and the commanders
15 of the UPC do not need to be asked at this point because you've already
16 dealt with that, your Honour. Thank you very much.

17 PRESIDING JUDGE FULFORD: Well, I'm sorry if I've stolen your
18 thunder, Mr. Kabongo. Thank you very much indeed for your assistance.

19 Now, I think we need to address the issue of Ms. Peduto's notes
20 before we commence on the examination of the Defence.

21 Mr. Johnson, are you in a position to provide us with some
22 assistance on this?

23 MR. JOHNSON: With your leave, your Honour. Thank you very much.

24 In consulting with the witness during the break, we in our
25 recollection and notes determined two places and two occasions she

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1 consulted her notes. On one occasion we have it that she provided
2 information I believe that she said yesterday she would look up about the
3 boy who was -- who was seen at not only Rwampara but also at Bunia. She
4 referred to her personal database, which has not been disclosed to
5 anyone, including the United Nations, and in that database there is
6 information about an individual, and it indicates the dates when he was
7 interviewed in Rwampara and the date of his entry into the CTO at Bunia.
8 This information we would have no difficulty in sharing. There is other
9 information on the database which we would have to redact.

10 The second matter, as I understand it, was a location, and the
11 Prosecutor spelled out the name, I think, Amee, if we are correct here.
12 She referred to handwritten notes in front of her that she had prepared
13 last week, and they were based on notes and drafts that she had prepared
14 as a member of the investigation team in Uganda. And in those notes,
15 again which have -- are still in her possession and her possession only,
16 there's a sentence which refers to that location, and as to that sentence
17 we also would have no difficulty in disclosing.

18 The rest of the report is different. Thank you, sir.

19 PRESIDING JUDGE FULFORD: Well, Mr. Johnson, thank you very much
20 for taking the time and trouble. That's extremely clear.

21 Mr. Biju-Duval, I won't ask you for a response at this stage. If
22 the during the course of your cross-examination of Ms. Peduto you would
23 wish to see either or both of the extracts from those documents which
24 were the relevant portions that Ms. Peduto looked at in order to refresh
25 her memory, please indicate that to us and we will find a way of having

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1 the relevant section shown to you either in its original form or having
2 been photocopied in a way that excludes information that was not looked
3 at by Ms. Peduto in order to refresh her memory.

4 So take your own course. If the matter arises, let us know,
5 please.

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

7 Questioned by Mr. Biju-Duval:

8 Q. (Interpretation) Good morning, Madam Peduto.

9 A. Good morning.

10 Q. My name is Jean-Marie Biju-Duval. I am a lawyer, and I am going
11 to be asking you some questions on behalf of the Defence of
12 Mr. Thomas Lubanga. I'm not going to repeat the various warnings that
13 have already been given by my colleague Maitre Diakiese, but of course I
14 agree with those recommendations.

15 I would like to begin by checking that you have before you the --
16 your statement that you gave to the investigators.

17 A. Yes, I have it.

18 Q. Fine. You have stated both here before this Chamber and before
19 the Pre-Trial Chamber that you carried out an initial visit in Ituri, to
20 Bunia, in the month of September 2002, at the very beginning of
21 September 2002.

22 My question is as follows: Could you tell the Court what was
23 available, what the MONUC had at that time in Bunia? In other words,
24 were there MONUC representatives in Bunia when you went there for the
25 first time? Did they have a presence on site?

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1 A. Our military observers were there continually in Bunia, yes.

2 Q. How many were there?

3 A. I think there was a team of military observers, and a team
4 involves four military observers. Sometimes there's only three on a
5 rotating basis. There were two teams at other periods of time, but I
6 believe that at that point in time there was only one.

7 Q. So I have understood that they were the only MONUC personnel.
8 There were no troops. There were no military people at the time.

9 A. That's correct. There were no military people at the time. No
10 troops.

11 Q. Thank you. I would like to take a look at paragraph 41 of your
12 witness statement that you made to the investigators. You may turn to
13 that paragraph if you so wish.

14 You have stated in this paragraph, in particular the last two
15 lines, and I quote:

16 "MONUC ignored Ituri for fear of problems."

17 Could you tell us what you meant by that phrase?

18 A. Well, it's very awkward on my part. I can explain. I was based
19 in Kisangani, as I have stated elsewhere. We were very frustrated not to
20 be able -- or, rather, not to be present in Ituri given the tragic news
21 that we were receiving from that part of the territory. MONUC civilians
22 had been appointed to Ituri previously. I believe it was in 2001. And
23 if my memory serves me well, I believe they weren't really officially
24 expelled, but they were asked to leave that part of the territory. And
25 therefore, our office in Kampala was partially responsible for following

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1 this situation, as well as our office in Kinshasa. Ituri was a priority
2 for the Kinshasa office because -- and they managed it with Kampala at
3 that time. We received information on a very regular basis from our
4 military observers who reported to the senior MILOBs who were based in
5 Kisangani. That's why the other civilian personnel based in Kisangani
6 were very frustrated, because we weren't really managing the situation as
7 such, but we were receiving information from civil society, from partner
8 organisations, from military observers while not being actually in charge
9 of the situation until August 2002, that is, administratively. And as
10 regards child protection, up until that date it was our office in Goma
11 that was in charge.

12 So, yes, we were frustrated, and based on the information that we
13 were receiving, we felt that the situation that the situation warranted
14 more attention, as was the case in other parts of the territory, but that
15 one in particular.

16 And -- I beg your pardon. It is true that we were very
17 frustrated by the fact that the authorisations for our travel as
18 civilians were -- was refused for reasons of security. I remember that
19 because of logistic problems my colleague in Goma asked me to go to Ituri
20 in particular in the month of June, and everything had been arranged so
21 that I would be able to go in June, and at the very last minute
22 authorisation was refused for reasons of the security situation which had
23 deteriorated in the zone and which made it impossible for civilians to go
24 there.

25 Q. Thank you. I would like to turn to what you stated in

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1 paragraph 40 of your statement, the last sentence in that paragraph, and
2 I quote:

3 "Ituri was never presented to me as one of my priorities during
4 the initial months of my mission."

5 So what were the priorities that were set out for you at that
6 point in time?

7 A. As I said, I was not in charge of Ituri or North Kivu. I covered
8 the north-eastern territory of Congo, excluding Ituri and the greater
9 north, which was under the control of my colleague who was based in Goma.
10 And just to give you a more complete explanation, civilians had certain
11 responsibilities which did not square with the responsibilities of the
12 soldiers. The north-east region for the MILOBs covered the whole of the
13 north including Ituri, and they reported to the senior MILOBs who was
14 based in Kisangani, whereas the civilians who were in charge of a smaller
15 territory, was smaller than Kisangani and bigger -- well, this territory
16 was smaller than Kisangani and bigger than Goma. I don't know if that is
17 clear.

18 Q. It's larger for those who were in Goma who were based in
19 Kisangani, or more reduced for Kisangani and larger for those who were in
20 Goma?

21 Let me put the question this way: From what moment did you have
22 charge of Ituri as a civilian staff member of MONUC?

23 A. From August 2002 officially.

24 Q. And before that, who was in charge of Ituri? Who held the
25 position and had charge of Ituri at the time?

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1 A. It wasn't my position. Ituri was under the responsibility of my
2 colleague who worked in the child protection service based in Goma, and
3 we discussed during our meeting on child protection, and considering the
4 logistical problems faced by our office in Goma, that is, to travel to
5 Bunia, they had to use planes that flew from Goma, Kisangani, and then
6 Bunia would have been easier for Kisangani to take control of that area.
7 We discussed in June, and we submitted this problem to MONUC from the
8 month of August. Of course, from -- before that I had been discussing
9 and sharing information with my colleague in Goma so that we could then
10 try to cover the entire territory.

11 For example, the person who was based in Kisangani who was in
12 charge of child protection went on mission in May 2002 to Bunia to lend
13 assistance to my colleagues there who did not have the means to go there
14 directly.

15 THE INTERPRETER: The interpreter would like to state that the
16 witness is a bit fast and that is affecting the quality of the
17 interpretation. Thank you.

18 PRESIDING JUDGE FULFORD: Mr. Biju-Duval.

19 Madam, in the longer answers, sometimes towards the end you start
20 to speed up. Can I ask you, please, to make sure that you keep it
21 relatively moderate and well paced, please.

22 Yes, Mr. Biju-Duval.

23 MR. BIJU-DUVAL (interpretation):

24 Q. You talked about a mission, a mission of the human rights section
25 conducted at the end of the month of August or the beginning -- or

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1 beginning of September of the year 2002. Now, were other missions of
2 this nature conducted earlier, that is, missions of the human rights
3 section, before that time?

4 A. Excuse me. I think so, but I cannot confirm this because I did
5 not keep any notes with respect to that fact. However, I can state that
6 human rights missions were conducted by colleagues in Goma and colleagues
7 in Kisangani, but I don't have notes which can enable me to say this with
8 clarity.

9 Q. Thank you. Paragraph 44 of your statement. Could you please
10 turn to that paragraph. I quote:

11 "The first mission I remember, mission of the human rights
12 section to Bunia, was conducted on the 27th of August, 2002."

13 If I understand well, you are today in the same situation as you
14 were in when you were interviewed by the investigators. You do not
15 remember anything?

16 A. I think it has to do with what I can remember. I could have
17 consulted my colleagues before coming here in order to give you more
18 precise information. I did not do that, and -- well, I'm telling you
19 what I can remember, but it's possible that such missions must have been
20 conducted.

21 Q. Thank you. Now, as far as you can recall, when did the armed
22 forces of MONUC set up in Bunia? On what date did the first contingent
23 of troops set up in Bunia or in Ituri in general?

24 Well, if you like, I can give more clarification.

25 A. There was a contingent deployed at the time of the CPI. In March

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1 they were not there.

2 Now, did they have a presence there? As far as I can remember,
3 they did not have a presence there in March. The first contingent must
4 have been deployed at the time of the CPI, but --

5 THE INTERPRETER: The witness is whispering. The interpreters
6 can't hear her.

7 PRESIDING JUDGE FULFORD: Madam, can you make sure that your
8 voice also doesn't fall so low that the interpreters upstairs can't hear
9 you. I'm sorry to have to keep asking you to be careful with the way
10 that you speak, but it's absolutely critical for us.

11 Yes, Mr. Biju-Duval.

12 MR. BIJU-DUVAL (interpretation):

13 Q. I wish to get just one clarification. Would I be right to say
14 that the four military observers were not armed?

15 A. That's correct.

16 Q. Well, just to help you waken your memory, the first contingent of
17 MONUC armed troops, was that contingent present when you arrived to set
18 up in Bunia in the month of May 2003?

19 A. Yes, that's correct.

20 Q. Can we reasonably believe that they arrived shortly before you
21 yourself arrived in Bunia?

22 A. I think a military contingent was present at the time of the CPI
23 in April, but I can't give you the figures.

24 Q. Thank you. Can we therefore say that Ituri experienced
25 widespread killing of the civilian population from the year 1999?

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1 A. Yes.

2 Q. And that these killings were recurrent on the territory of Ituri,
3 right up to the period relevant to this case, 2002, 2003?

4 A. Unfortunately, the killing did not stop in 2003; that's correct.

5 Q. When you met the investigators from the Office of the Prosecutor,
6 you used -- or you made the statement: "MONUC ignored Ituri because it
7 was afraid of problems." Were you referring to the lack of intervention
8 by MONUC in Ituri in order to prevent such killings?

9 A. I was referring to the general feeling of frustration which we
10 experienced, because the killings were not prevented, that a lot could
11 have been done earlier and better to prevent these killings. Yes, we
12 felt frustrated by the number of people who were killed, who had been
13 killed over a certain number of years, and we still feel frustrated.

14 Q. Prior to the arrival of the international force ARTEMIS in
15 June 2003, and during the period when the first contingent of MONUC's
16 armed troops arrived in Bunia, I'm referring to the period April 2003 to
17 June 2003, that is, before the arrival of ARTEMIS, the military
18 contingent of MONUC present in Ituri, did that contingent intervene or
19 did it take any efficient initiatives to address the killings that took
20 place during that period, during the period when that contingent was
21 present there?

22 A. I think it would be important to look at the mandate, MONUC's
23 mandate at the time, a mandate which changed in September. We had a
24 mandate which required MONUC troops to use force only to protect the
25 staff and the property of MONUC staff. And this was pursuant to

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1 chapter 7 of that convention - if the interpreter heard correctly.

2 MONUC at the time did not have a mandate to go beyond those
3 prescriptions. So it wasn't until things changed that MONUC troops then
4 had to contact the CPI in order to prevent these acts. So in short, we
5 had a limited mandate, and for that reason MONUC could not protect the
6 civilian population.

7 This was something that was well known, well documented, and that
8 was one of the shortcomings which were noticed by the international
9 community, by the civil society. In fact, we did everything to request
10 that the multinational force be deployed as fast as possible.

11 And with respect to the events of May in the town of Bunia, the
12 killings continued, and in the rest of Ituri it was not possible for
13 MONUC to prevent the killing of people, even within the town of Bunia.
14 It's true that the force brought a certain degree of protection to
15 certain people who came to seek refuge from MONUC in the city centre, the
16 airport, but then so many more people were still killed. Their presence
17 did not protect (as interpreted) the killing of people in the rest of
18 Ituri.

19 Q. Should I therefore understand that during these killings, and
20 although MONUC staff were well intentioned, their mandate was limited to
21 receiving people within the confines of MONUC facilities - refugees I
22 mean - in order to ensure their protection?

23 A. Well, the way you put it -- I beg your pardon. Let me re-read
24 that.

25 MONUC protected those who came to take refuge around the

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1 facilities where it was based. MONUC didn't at the time have a
2 sufficiently large contingent. To prevent killings you had to prevent
3 killers from operating. MONUC protected those who came at the time, who
4 had the possibility of taking refuge. Some didn't have this possibility.
5 So yes, I'm aware of the fact that it wasn't possible to protect everyone
6 at that point in time.

7 Q. Don't take this as a criticism directed at you.

8 *A. That's not what I'm saying. I was a member of the UN. I'm part
9 of the system of the institution.

10 PRESIDING JUDGE FULFORD: Sorry, Mr. Biju-Duval. I'd like us to
11 break, if possible, around ten to 1.00 because we've got to discuss with
12 Mr. Johnson the video material in case that's something you wish to
13 address. So if you could, as it were, bring this sequence of questions
14 to an end, if that's convenient, and then we can allow Ms. Peduto to
15 withdraw. Thank you.

16 MR. BIJU-DUVAL (interpretation): Just one last question.

17 Q. Could you inform the Chamber about this contingent from MONUC
18 between April 2003 and June 2003? Do you have any idea of the strength
19 of the troops involved in the field, engaged in the field?

20 A. Several hundred. That includes all the staff members, cooks,
21 et cetera, several hundred, but as for a precise figure, no, I don't have
22 a precise figure.

23 Q. Thank you very much.

24 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Biju-Duval.
25 I'm sorry to have interrupted you.

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1 Ms. Peduto, thank you very much indeed for your assistance. I
2 had been going to suggest that you withdraw at this stage, but I'm not
3 going to, because I think you will be interested to hear what is said by
4 Mr. Johnson about the videos, and there is the possibility that you may
5 wish to communicate with him. So I think you should be asked to remain.

6 Mr. Johnson, what's the position in relation to the video
7 material, please?

8 MR. JOHNSON: By your leave, sir. Perhaps you could help me with
9 some guidance, sir. As I understood, the video discussion had been held
10 in private session previously, including the name of the -- of the
11 institution involved, or am I incorrect? I'm in your -- in your hands.

12 MS. SOLANO: Your Honour, the video was initially broadcast
13 during public session, and the people who are in this courtroom were able
14 to see it. However, the Prosecution made a request, which your Honours
15 granted, for the video -- the images to be expunged from the broadcast of
16 the hearing, and we then went into private session for -- and we
17 thereafter went into private session, your Honour.

18 PRESIDING JUDGE FULFORD: Thank you, Ms. Solano.

19 I think immediately the safest thing for us to do is now to go
20 into private session for this discussion, which I hope addresses the
21 point which I think you were making, Mr. Johnson.

22 MR. JOHNSON: Thank you very much, sir.

23 PRESIDING JUDGE FULFORD: Private session, please.

24 *(Private session at 12.39 p.m.) Reclassified as Open session

25 COURT OFFICER: Private session.

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1 PRESIDING JUDGE FULFORD: Yes, Mr. Johnson.

2 MR. JOHNSON: Thank you, sir. As you know, this video was not
3 obtained from the United Nations or from the witness. It follows that we
4 have no legal basis to request or make any submissions as to its
5 disclosure in public or not, but if I -- if I can reflect accurately the
6 witness's concerns. Since (Redacted) is a close partner of MONUC,
7 it does know that -- or it's our understanding that (Redacted) has
8 strict confidentiality rules so that images of children that are in the
9 custody of (Redacted) are not to be released to the public, and it
10 was for that reason that the witness raised the question from the very
11 beginning whether or not that particular organisation was aware or
12 consented to using these images.

13 So we simply wish to record our great concern about that, being a
14 partner of (Redacted), and knowing full well that in the normal
15 course of events the images, faces, of the children would not be shown in
16 public. Thank you, sir.

17 PRESIDING JUDGE FULFORD: Very clear, Mr. Johnson. Thank you.

18 Ms. Solano, was (Redacted) the provider of this material?
19 Are you able to answer at that question?

20 MS. SOLANO: Yes, your Honour. The answer is no, they were not.

21 PRESIDING JUDGE FULFORD: Have they been consulted in relation to
22 a public showing of these extracts?

23 MS. SOLANO: Not by the Office of the Prosecution, your Honour.
24 And if I may add, until the witness indicated who -- or, rather, which
25 organisation was responsible for the centre that is seen on the images,

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1 the Prosecution did not have anything more than, well, reasons to think
2 that it might be (Redacted) but we did not have that fact
3 confirmed through other evidence.

4 PRESIDING JUDGE FULFORD: Would it be a sensible precaution to
5 make an inquiry of (Redacted) over the weekend as to their
6 attitude to this, given the matters raised by Mr. Johnson and Ms. Peduto?

7 MS. SOLANO: We can certainly do that, your Honour.

8 PRESIDING JUDGE FULFORD: Would you have any objection,
9 Mr. Biju-Duval, to that course being adopted?

10 MR. BIJU-DUVAL (interpretation): No, your Honour. Just very
11 briefly, first of all, the Defence believes that broadcasting these
12 images in public in no way would endanger those who appear in the video,
13 nor would it endanger the members of the organisation concerned. And
14 secondly, it would be useful, I believe, if over the weekend we could
15 check to see whether these images, which seem to be a report, a
16 journalist report, it would be useful to see whether these images have
17 already been publicly broadcast.

18 PRESIDING JUDGE FULFORD: I think that would be a useful inquiry,
19 Mr. Biju-Duval, which I think Ms. Solano is about to help us on.

20 MS. SOLANO: Your Honour, to the best of our understanding, the
21 raw footage that we showed the witness did -- was not included in the
22 video for which, according to our understanding, the footage was filmed.

23 PRESIDING JUDGE FULFORD: So these were -- these are extracts
24 which were not shown within a -- some form of compilation that was
25 distributed in a film; is that right?

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1 MS. SOLANO: That's right, your Honour. If I might add, I just
2 want to confirm that the Prosecution did secure the consent of the
3 producer of the video from whom we obtained it -- or, rather, from whom
4 we obtained the raw footage to show it in -- in public hearings. I
5 understand that that's slightly besides the point, but I wanted to make
6 sure the Chamber was aware of it.

7 PRESIDING JUDGE FULFORD: That's potentially an important issue,
8 Ms. Solano.

9 Really reducing this to its basic essentials, it's not so much
10 the sensitivities of the organisation concerned, it is whether or not
11 showing this publicly is going materially to put those who are seen in
12 the film in a worse position as regards their security.

13 Now, I think the best way of investigating that is to discuss the
14 matter with (Redacted) and to see if they have any particular
15 representations that they would wish you to convey to us on Monday as
16 regards these individual people. So could you do that for us,
17 Ms. Solano, and report back on Monday?

18 MS. SOLANO: Yes, your Honour. I will do so.

19 PRESIDING JUDGE FULFORD: Thank you very much.

20 Now, time. Mr. Bijou-Duval, you've only just started, and it will
21 seem churlish of me so early on to ask you how long you're going to be,
22 but can you assist at all as to the likely length of your examination of
23 Ms. Peduto?

24 MR. BIJU-DUVAL (interpretation): I think I'll be able to
25 complete my cross-examination by the end of Monday morning.

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1 PRESIDING JUDGE FULFORD: Thank you very much.

2 Mr. Johnson, if Mr. Biju-Duval has been slightly pessimistic,
3 what are your movements, may I ask, on Monday afternoon in the sense --
4 right. Do you have some eager students waiting for pearls of wisdom,
5 Mr. Johnson, on Monday afternoon?

6 MR. JOHNSON: Your Honour, yes. I don't know whether they're
7 pearls of wisdom, but they're waiting for my presence at least, but
8 Tuesday morning is certainly possible, or other mornings of the week,
9 sir.

10 PRESIDING JUDGE FULFORD: Is 116 available for Monday afternoon?
11 I think he is, isn't he?

12 MS. SOLANO: Yes, your Honour.

13 PRESIDING JUDGE FULFORD: Right. Good.

14 Thank you. Your students are safe for Monday afternoon,
15 Mr. Johnson.

16 We will adjust Monday's sitting slightly, and I hope this won't
17 cause inconvenience, by sitting at half past 9.00 rather than 9.00, and
18 then adjusting the time-scale half an hour, as it were, further on to
19 compensate for that, and we will obviously return to Ms. Peduto's
20 evidence on Monday morning. If necessary, we'll return finally to it on
21 Tuesday morning, but I hope that we'll have completed it on Monday, so I
22 hope that is not inconvenient to you. Thank you very much.

23 We wish you all a pleasant weekend, and we will meet again,
24 therefore, at half past 9.00 on Monday.

25 Could the usher please accompany Ms. Peduto to the witness

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1 waiting-room.

2 (The witness stands down)

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

4 COURT OFFICER: All rise.

5 The hearing ends at 12.58 p.m.

.6 RECLASSIFICATION REPORT

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

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