

1 International Criminal Court

2 Trial Chamber I

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

4 Case against Thomas Lubanga Dyilo

5 Hearing - *Closed Session Reclassified as open session

6 Tuesday, 26 May 2009

7 The hearing starts at 9.35 a.m.

8 COURT USHER: All rise. International Criminal Court is now in

9 session. Please be seated.

10 PRESIDING JUDGE FULFORD: Public session, please. Good morning.

11 (Open session at 9.35 a.m.)

12 COURT OFFICER (interpretation): Public session.

13 PRESIDING JUDGE FULFORD: Ms. Massidda, the Defence has raised

14 the issue as to whether or not the disclosed application forms for

15 participating victims have all been served in a sufficiently full form.

16 And there seems to be the possibility that there are still some

17 redactions within the disclosed application forms that in fact do not

18 need to be there, not least because they are not requested by the

19 relevant participating victims. In an attempt to avoid a detailed

20 discussion of this in open Court, can I ask all participating victims in

21 relation to whom this is relevant to discuss with the VPRS the

22 possibility of more complete disclosure being effected.

23 Maitre Mabilille's e-mail particularly focused on one or more

24 victims represented by Ms. Bapita, but I think this has wider

25 applicability.

1 Would that be convenient, Ms. Massidda?

2 MS. MASSIDDA: Yes, your Honour, of course. Can we receive the
3 e-mail sent by Maitre Mabilie? Thank you very much. I haven't seen it.
4 Thank you very much.

5 PRESIDING JUDGE FULFORD: I hadn't realized it hadn't filtered
6 through to you, Ms. Massidda. I will have a message sent to the legal
7 advisor to the division to ask her to forward it. Thank you very much
8 indeed.

9 MS. MASSIDDA: Thank you. It could be possible that we could
10 already give an answer to the Defence this afternoon even without
11 consulting VPRS, depending on the kind of redactions, otherwise I will
12 contact VPRS immediately and I will let you know by tomorrow.

13 PRESIDING JUDGE FULFORD: It's probably advisable to include the
14 VPRS in these discussions because I think experience indicates that that
15 division can have insights into these issues that are worthy of being
16 factored into the equation.

17 MS. MASSIDDA: I'm guided, your Honour. Thank you.

18 PRESIDING JUDGE FULFORD: Thank you very much, Ms. Massidda.

19 Maitre Mabilie, over the last few days there has been an exchange
20 of e-mails - and I'm going to put this in the most general
21 way - concerning the facilities which are made available to the Defence
22 in Bunia. It is possible - and for the moment I put it no higher than
23 that because it's not necessary to do so - but it is possible that there
24 has been something of an unhappy history in relation to the timing of the
25 availability to you of certain pieces of equipment and certain

1 facilities. It would be helpful to us if we could try at this stage to
2 draw a line under the history and to focus now on whether or not you are
3 currently being afforded everything that we ordered some little time ago
4 in relation to the facilities that are to be made available to you.

5 So during the course of today could you please reflect on what is
6 now available to you in Bunia and raise the matter with the Bench at an
7 appropriate stage tomorrow, please, if there are still aspects of this
8 which in your estimation are less than satisfactory. Would that be
9 convenient, Maitre Mabilille?

10 MS. MABILILLE (interpretation): Absolutely, your Honour, and thank
11 you yet again for the Chamber's assistance.

12 PRESIDING JUDGE FULFORD: Witness 55, please, after we have gone
13 into closed session so that he can be brought into Court.

14 *(Closed session at 9.40 a.m.) Reclassified as open session

15 COURT OFFICER: Closed session.

16 PRESIDING JUDGE FULFORD: Yes. Witness, please.

17 (The witness takes the stand)

18 PRESIDING JUDGE FULFORD: Good morning, sir.

19 THE WITNESS (interpretation): Good morning.

20 PRESIDING JUDGE FULFORD: Open or private session,
21 Mr. Biju-Duval?

22 MR. BIJU-DUVAL (interpretation): Private session seems necessary, Your
23 Honour.

24 PRESIDING JUDGE FULFORD: Private session, please It shows how bad my
25 French is. I think you're meaning public session?

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session) Page 4
Questioned by Mr. Biju-Duval (Continued)

1 MR. BIJU-DUVAL (interpretation): No, your Honour. You have understood me
2 correctly. I think it was a translation error. Private session seems
3 necessary to me.

4 PRESIDING JUDGE FULFORD: I was right the first time. Private
5 session, please.

6 *(Private session at 9.42 a.m.) Reclassified as open session

7 COURT OFFICER: Private session.

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

9 WITNESS: WITNESS DRC-OTP-WWW-0055 (Resumed)
10 (Witness answered through interpreter)

11 Questioned by Mr. Biju-Duval (Continued):

12 Q. Good day, sir.

13 A. Good day.

14 Q. I would now like to deal with the circumstances surrounding your
15 arrival in Ituri and the time you joined the UPC. You told the Chamber
16 last week that (Redacted)
17 (Redacted). Isn't that the case?

18 A. Yes.

19 Q. At that point in time (Redacted), where were you?

20 A. I was in (Redacted).

21 Q. Where exactly in (Redacted)?

22 A. In (Redacted).

23 Q. (Redacted)

24 (Redacted)

25 (Redacted)

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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1 A. Yes.

2 Q. And you told the Chamber that when you returned to Bunia you met
3 Mr. Thomas Lubanga and he welcomed you; isn't that right?

4 A. Yes.

5 Q. Was this the first time that you met Mr. Lubanga?

6 A. Yes.

7 Q. Prior to that had there been any discussion or any other form of
8 contact between you and Mr. Lubanga?

9 A. No.

10 Q. You told the Chamber that when you returned to Bunia - and I
11 quote - you said:

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 A. Yes.

16 Q. If you'll allow me, I'll put another question to you. In your
17 opinion, was it at that point in time when you returned to Bunia after
18 being been in -- (Redacted)

19 (Redacted)

20 (Redacted)?

21 A. I cannot know whether he was aware of the way in which I had left
22 (Redacted). I don't know whether Mr. Lubanga was aware of this.

23 (Redacted). I hadn't had any contact

24 with Lubanga. I met Mr. Lubanga when I returned to (Redacted)

25 Bunia, but to say whether he was aware of my arrival, well I really

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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1 couldn't say whether he was aware of my arrival or not.

2 Q. Thank you. (Redacted)

3 At this point in time did he already suggest that you should join the UPC?

4 A. I'll perhaps repeat what I explained about the contact I had (Redacted)
5 (Redacted).

6 THE INTERPRETER: The interpreter would like to point out that
7 the witness is barely audible. He's not speaking into the microphone.

8 PRESIDING JUDGE FULFORD: Sir, could you please give that further
9 explanation as to the (Redacted), and could I
10 ask you to make sure that you keep your voice up so that the interpreters
11 upstairs can hear what you say. Thank you very much.

12 THE WITNESS (interpretation): Thank you, Your Honour.

13 I think I have already explained to you the kind of contact I had
14 (Redacted) was aware of the fact that I had
15 been (Redacted). Other people
16 (Redacted). So these people gave (Redacted)
17 phone number and he called me. He introduced himself. He said, (Redacted)
18 (Redacted). When I realized who it was I asked him to tell me what
19 was new. (Redacted). We hadn't seen each other or spoken to
20 each other for a long time, and he said, "If possible, come and join me
21 here." He had also contacted other individuals but they refused. I
22 accepted his offer, (Redacted). And
23 when I left or before leaving I asked him how I should make the trip. He
24 said, "There won't be any problems. I'll organise the trip for you." And
25 he did that. (Redacted)

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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1 (Redacted). When I (Redacted)

2 (Redacted)

3 (Redacted).

4 When I arrived in (Redacted), I went to the airport. He gave me the
5 name of the person I was to contact at the airport, the name of the
6 (Redacted). When he saw me he asked me whether it was (Redacted), I
7 said yes. (Redacted) had asked him to put me on a plane, so I
8 got on a plane with him.

9 Q. Thank you. I'll go back to the time when you returned to Bunia
10 (Redacted). In your opinion was it that time that Mr. Lubanga
11 agreed to having you join the UPC?

12 A. You want to know (Redacted) to return to Bunia?

13 Q. You mentioned this meeting with Mr. Lubanga during which he
14 welcomed you, (Redacted)
15 (Redacted), and he told you that Lubanga agreed that you
16 should work for them. I'm summarising this but that's correct, isn't it?
17 Is this how you understand things? Was it at this time when you were in
18 Bunia after you had (Redacted), was it at this
19 point in time that Mr. Lubanga accepted you as a member of the UPC --

20 PRESIDING JUDGE FULFORD: Don't ask (sic.) the question
21 for a moment, please, sir.

22 Yes, Mr. Sachdeva.

23 MR. SACHDEVA: Mr. President, this appears to be a second bite at
24 the cherry from a question moments ago as to whether the witness, in his
25 opinion, knew when Mr. Lubanga accepted the involvement of the witness in

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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1 the UPC. He has already answered that question, and in my submission
2 this second attempt merely is asking for that same speculation.

3 PRESIDING JUDGE FULFORD: Well, Mr. Sachdeva, both the Defence
4 and the Prosecution are entitled to press issues of importance so long as
5 neither side becomes unnecessarily repetitive. And I think this
6 question, although it may involve an element of treading ground that has
7 been gone over before, doesn't stray into unnecessary repetition. But
8 thank you for raising the matter.

9 Yes, sir, could you answer the question, please.

10 THE WITNESS (interpretation): Yes, I can answer the question.

11 (Redacted) it wasn't at that time that Mr. Lubanga
12 accepted that I should work as the officer in (Redacted).
13 It was later on, because I returned to (Redacted) once more and when I
14 returned it was at that point in time that I received a letter from
15 Mr. Lubanga stating that I had been accepted to work within the UPC. But
16 this was not the case when (Redacted) to return to Bunia.

17 MR. BIJU-DUVAL (interpretation):

18 Q. Thank you. During that period when you were (Redacted)
19 and later on in (Redacted), that is, in (Redacted)
20 you informed us that you had access to certain camps and you met certain
21 commanders; is that correct?

22 A. Could you please rephrase your question, please.

23 Q. I will. I'm talking about the period when (Redacted)
24 (Redacted)
25 Do you understand me?

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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1 A. Yes, I understand.

2 Q. During that period you informed us that you visited certain
3 camps; is that correct?

4 A. We did not visit various camps. I did not state that. When we
5 (Redacted), and (Redacted) carried on with his
6 activities as commander, that is, distributing weapons and so on and so
7 forth. Later on (Redacted) together to (Redacted), and when we reached
8 (Redacted) he addressed the troops and he distributed weapons, and then
9 we returned. When I travelled with him, this did not mean that I
10 was travelling as an officer, as an official; I was travelling as a
11 visitor.

12 Q. Thank you. You talked about arms supplies, and apparently you
13 participated in these arms supplies; is that correct?

14 A. With respect to (Redacted); however, (Redacted) I was in the
15 hotel.

16 Q. Did (Redacted) tell you where the arms or the weapons were coming
17 from?

18 A. Yes, he told me.

19 Q. With respect to the troops (Redacted), you told us on the 14th of May
20 that these were advanced troops which were going to attack Mongbwalu.
21 (Redacted) explain to you -- at that point in time did (Redacted)
22 tell you about the objectives, the military objectives, of these troops?

23 A. I would like to apologise. There's a term used, and the term is
24 "lengo" in Swahili which I do not understand very well. I would like to
25 tell the Swahili interpreter that he has used the word "lengo" which I do

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
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1 not understand very well in Swahili.

2 Q. Well, I will then maybe ask my question again.

3 Now, with respect to the troops based in (Redacted), on the 14th
4 of May you informed the Chamber that these were advanced troops,
5 positioned at the front I suppose, troops which were supposed to go and
6 attack Mongbwalu. And so my question is: (Redacted) give you any
7 explanation on the military objectives of the UPC at that point in time?

8 A. Yes. Well, if I'm not mistaken, I have understood your question.
9 You would like to know whether (Redacted) of taking
10 over Mongbwalu; is that correct? Is that what you wish to know?

11 Q. For example, it's in general terms the military objectives of the
12 UPC at that time?

13 A. With respect to the take-over of Mongbwalu, he told me that they
14 had received orders from Rwanda. Rwanda had told them that if they took
15 the town of Mongbwalu it would be a good thing and that they were going
16 to receive everything they needed. And so the objective of taking
17 Mongbwalu was to obey an order issued by Rwanda, and in order to receive
18 assistance from Rwanda as a result.

19 Q. Thank you. While you were in (Redacted) prior to
20 your return to Bunia, should we understand from what you've just said
21 that (Redacted) you as if you were already a member of
22 the UPC?

23 A. Yes. Even though I had not yet received an official letter, I
24 was helping him with little tasks.

25 Q. Thank you. When you returned to Bunia, that is, after

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
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1 (Redacted), where were you living in Bunia? Did you have your own
2 residence or were you living in somebody else's residence?

3 A. I was living at (Redacted) residence.

4 Q. Thank you.

5 A short while ago we talked about this meeting, this first
6 meeting, between you and Mr. Lubanga, during which he welcomed you. You
7 also stated that later on you were officially (Redacted) a
8 letter that was issued by the Secretary of the Presidency; is that
9 correct?

10 A. Yes.

11 Q. Now, between these two moments you told the Chamber that you had
12 (Redacted) in
13 Ituri; is that correct?

14 A. Yes.

15 Q. Between those two moments, the first encounter with Mr. Lubanga
16 and your (Redacted), was there any contact at all between
17 you and Mr. Lubanga?

18 A. I told you that I met Mr. Lubanga for the first time when I
19 (Redacted). That was the first time I saw him, and it was to
20 greet him and to meet the president of the movement. And there was a
21 problem because (Redacted). And so when I went to
22 see the president, he greeted me and he welcomed me and he said, "I have
23 heard that you are a good worker". And he added that he (Redacted)
24 (Redacted)

25 Earlier I had spoken (Redacted) to tell him that I was going to

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
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1 suspend the work which had been given to me to go and (Redacted)
2 (Redacted)

3 Mr. Lubanga and he brought back money to me, money which had been given
4 by Mr. Lubanga for the (Redacted). So I went to the (Redacted) and it was
5 when I returned that I was (Redacted)

6 Q. Thank you very much for those clarifications. Should I therefore
7 conclude from what you've said that between these two moments there
8 were -- there was no contact between you and Mr. Lubanga because you were
9 not present in Ituri; is that correct?

10 A. I told you about the circumstances under which I met Mr. Lubanga
11 and then later on I went (Redacted), and it was when I returned that
12 I received my appointment letter, that is, appointment (Redacted)
13 (Redacted).

14 Q. Thank you. Can we consider that the information that Mr. Lubanga
15 had about you, that information was given to him exclusively (Redacted)?
16 Does that seem correct to you?

17 A. That's what I think because within the UPC the only person who
18 (Redacted) I think that it was (Redacted) who told the president
19 about me.

20 Q. Should we understand from these explanations that Mr. Lubanga
21 simply accepted a decision taken by (Redacted) that is, decision to take
22 you into the UPC (Redacted)?

23 A. Of course, he accepted. The fact that he drafted this letter
24 explains that he accepted.

25 Q. Thank you. I would now like you to turn to an excerpt of your

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
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1 statement, a statement made during your interview -- I apologise. I
2 haven't given you the binder which contain the documents.

3 I will turn to the document which bears the reference
4 DRC-OTP-0191-0820 which is under tab 19 in the binder, and more precisely
5 on the page which ends with number 0832.

6 COURT OFFICER (interpretation): This document will bear the code
7 number MFI-D-00122.

8 MR. BIJU-DUVAL (interpretation):

9 Q. The excerpt we're referring to is located between line 387 and
10 402. I am going to read this excerpt and then ask you a question after
11 that. I quote in English -- I quote:

12 (In English) "Okay. And who appointed you to that position as
13 (Redacted)?

14 Answer:

15 (In English) "It was the high commander of Lubanga of the
16 government, high commander and his vice, was the high commander of
17 Lubanga's army.

18 Question:

19 (In English) "Okay. So was it Mr. Lubanga himself or was it
20 someone else that made you (Redacted)?

21 Answer:

22 (In English) "Well, of course this whole group of the high
23 command, when they decide (Redacted), they present it to
24 Lubanga."

25 (Interpretation) End of quote.

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1 In this statement when there's a reference made to high
2 commander, does this refer to the Chief of Staff?

3 A. "High commander" doesn't just mean the Chief of Staff. The high
4 command referred to all of the leaders, the main staff.

5 Q. Thank you. In this statement you made in 2008 to the
6 investigators, when you refer to the high command that presented you,
7 that introduced you, to Lubanga after having decided to appoint you as
8 (Redacted) does that correspond to what actually occurred in your opinion?

9 A. No. When the investigators from the Office of the Prosecutor
10 questioned me, I explained the circumstances whereby (Redacted) to
11 (Redacted) and when (Redacted) told me that there were no problems with
12 the high command. And he said that the office (Redacted) wasn't very well
13 organised and he asked me to help them.

14 THE INTERPRETER: Correction, the text should read (Redacted) and
15 (Redacted) a few lines above.

16 THE WITNESS (interpretation): And I don't know whether (Redacted)
17 made this decision with (Redacted). I cannot tell you whether it
18 was the high command that met in order to make that decision. The only
19 thing I know is that (Redacted) that the president had
20 accepted that I take on this responsibility, and then, afterwards, I
21 received a letter to inform me that I was to begin working as the person
22 (Redacted). I hope you've understood my explanations.

23 MR. BIJU-DUVAL (interpretation):

24 Q. Thank you. That was perfectly clear. As regards your official
25 (Redacted) in the (Redacted) of UPC, you have told us --

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1 sorry, let me rephrase that. Let me try to clarify more precisely the
2 date or the point in time when this official appointment occurred. I'd
3 like to try to find some way of identifying the time-frame. You said
4 that on May 14th - you referred to May 14th - when the UPC troops took
5 over Mongbwalu, (Redacted); is that correct? Do you
6 remember that?

7 A. Yes.

8 Q. You also stated that the UPC troops occupied Mongbwalu after it
9 was taken over, after Mongbwalu was taken over; is that correct?

10 A. Would you rephrase your question, please.

11 Q. Well, let's set that last question aside for the time being. My
12 question is as follows: Can you evaluate the length of time that went by
13 between when Mongbwalu was taken over by the UPC troops and the point in
14 time when you were officially (Redacted)? Because
15 you indicated that that took place after Mongbwalu was taken over.

16 A. It was perhaps after, one or two weeks after Mongbwalu was taken
17 over, it was then that I was appointed in (Redacted).

18 Q. Thank you.

19 Can you tell us whether it was at the end of November or early December that
20 Mongbwalu was taken over, that is, according to your recollection? Perhaps
21 you don't remember and we would understand that as regards the precise month.

22 A. I've already told you that as regards months and dates I can't really
23 remember precisely. What I do know is that Mongbwalu
24 was taken in 2002, in 2000.

25 Q. You have told the Chamber that after Mongbwalu was taken over the

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1 city of Mongbwalu was occupied by UPC troops; is that correct? Do you
2 remember that?

3 A. Yes. After the fighting Mongbwalu was held by the UPC.

4 Q. Was the main staff or part of the main staff, did they go to
5 Mongbwalu at that point in time?

6 A. The Chief of Staff was in Mongbwalu. Bosco was also there in
7 Mongbwalu. Bosco was in charge of the troops who fought in Mongbwalu and
8 afterwards he returned to Bunia and Kisémbé went to Mongbwalu.

9 Q. Can you tell us when Bosco went back from Mongbwalu, was it
10 before you (Redacted)?

11 A. When Bosco left Mongbwalu, that is, after the battle, (Redacted)
12 (Redacted). I had just come from (Redacted)
13 (Redacted).

14 Q. Thank you. You referred to a letter which confirmed your
15 appointment, a letter that was given to you in Mr. Lubanga's office by
16 Mr. Lubanga's secretary; is that correct?

17 A. Yes.

18 Q. May 15th you stated that this letter was drafted by himself, that
19 is, referring to President Lubanga. You said that it was a letter
20 drafted by President Lubanga, as you stated. Now, when you say that what
21 exactly do you mean? Was it a handwritten letter? Was it typed?

22 A. It was typed, it was written on a computer. There is a letter
23 from the Prosecution that was shown to me here - if you could give it
24 back to me, Your Honour. It's very similar to the letter that I received
25 from the Presidency of Mr Lubanga

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1 Q. This letter you're referring to, what language was it written in?

2 A. In French.

3 Q. The letter in a formal point of view, who was it written to? Do
4 you remember the beginning of the letter? Was it addressed to you
5 yourself personally? How was it presented?

6 A. Well, on the letterhead there was the name of the movement, there
7 was the date, and then there was the notification stating that I was
8 (Redacted). And there was a copy to the Chief of Staff,
9 the Deputy Chief of Staff, as well as to (Redacted)
10 (Redacted). When I
11 received that letter I read it and I understood that it meant that I had
12 been appointed, and I was being notified that I could begin working.
13 When I saw that the letter was signed by the president, I filed it in my
14 papers, in my files, and I understood that it meant that I was being
15 notified of my new position. And I didn't go any further into the
16 details, but the letter was signed by President Lubanga.

17 Q. Thank you.

18 Do you remember -- well, you have just stated that according to
19 what you remember at the end of the letter there were copies sent to a
20 number of individuals; is that correct?

21 A. Yes.

22 Q. Aside from the fact that this confirmed your appointment, did
23 this document contain any particular references to yourself or, for
24 example, congratulations for your appointment or things like that?

25 A. It was not a congratulations letter. It was a notification of my

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1 new appointment. It was not a congratulations letter.

2 Q. Thank you. I'd like to now go on to another matter in order to
3 try to understand exactly when you were to leave the UPC.

4 MR. BIJU-DUVAL (interpretation): I'm sorry, your Honour, I was
5 reflecting as to whether we need to go into private session or whether we
6 can stay in public session, and I think we do need private session.

7 PRESIDING JUDGE FULFORD: Well, I hope, Mr. Biju-Duval, that
8 we've been in private session all the while. So we'll remain in private
9 session. Good. Thank you. I think there was a problem with
10 interpretation, Mr. Biju-Duval. Good. We're in private session and your
11 invitation there will remain. Thank you.

12 MR. BIJU-DUVAL (interpretation):

13 Q. Last Thursday you told us that you (Redacted)
14 (Redacted) conflict between the UPDF and the UPC. Do
15 you remember having said that?

16 A. Yes. The UPDF was concerned - the Ugandan army.

17 Q. So it was at that point in time, (Redacted)
18 (Redacted); is that correct? Is that your
19 testimony?

20 A. Yes. (Redacted)
21 (Redacted).

22 Q. You're talking about combat conflict. To be quite clear, was
23 this the fighting at the end of which the UPDF drove the UPC out of Bunia
24 on the 6th of March, 2003, is this the fighting that we are actually
25 referring to?

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
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1 A. Yes, it was in 2003.

2 Q. You say that (Redacted)

3 A. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 movement, the FAPC; isn't that correct?

15 A. Yes.

16 Q. As far as the FAPC is concerned under the leadership of Jerome
17 Kakwavu, you said on the 20th of May that the fighting between the UPC
18 and the UPDF took place after Jerome Kakwavu's rebellion?

19 A. Yes.

20 Q. Could you tell us how long prior to this fighting -- or could you
21 tell us when Jerome Kakwavu decided to leave the UPC, to break with the
22 UPC, how long before the fighting before -- between the UPC and the UPDF
23 in Bunia?

24 A. I'll try and answer that question. What I can say is that it was
25 four days later that Jerome left the UPC and founded FAPC. If I remember

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1 these things correctly, it was at the time when the fighting in Bunia was
2 very intense, the fighting between the UPDF and our movement. And I
3 could say that it was three or four days earlier, or perhaps the fighting
4 took place three or four days after Jerome had left the movement and
5 created the FAPC.

6 Q. Thank you. Last week when reviewing one of the messages in the
7 book of messages that you were shown, in the log-book that you were
8 shown, you said that there was a period during which there were numerous
9 problems between the UPC and Jerome; is that correct?

10 A. Yes.

11 Q. This was a period during which Jerome Kakwavu was still in the
12 UPC but there were problems between him and the UPC; is that correct?

13 A. At that time he was still in the UPC movement.

14 Q. You said in particular that he threatened to arrest UPC
15 ministers, if I understood you correctly, or at least to harm them in
16 some way?

17 A. No. I would like you to understand me correctly as far as this
18 matter is concerned. I was provided with this log-book, the OTP provided
19 me with the Signora's document and there were messages in the document.
20 I was asked whether I recognised them. I said that even if I hadn't read
21 through the messages, I was perfectly aware of everything that had
22 happened there because I received this information (Redacted). I also
23 explained how it was that I was familiar with all these messages. It
24 depended on the movement, on the atmosphere in the movement at the time.
25 I said that Jerome had problems in the UPC at the time. I remember this.

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

Page 21

1 I said President Lubanga had (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Bunia, that Jerome took the decision to rebel. I remember the day when

10 he decided to leave the movement. (Redacted) President Lubanga and

11 President Lubanga spoke (Redacted) harshly and he said, "Look, (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. Thank you. You also stated on the 20th of May that in any event

17 it was physically impossible (Redacted) Commander Jerome Kakwavu

18 because he had troops at his disposal; isn't that correct?

19 A. Yes. I saw what the situation was like and how it affected the

20 president. The president was very angry because he had ordered (Redacted)

21 (Redacted)

22 (Redacted). I have provided you with explanations here, and I said

23 that Jerome wasn't one of the founders of the UPC. He left the UPC of

24 Mbusa and he joined our movement -- he quit the APC, correction, and

25 he joined our movement. So he had this power to dissociate himself from

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

Page 22

1 the movement and leave with his troops. (Redacted)
2 (Redacted)
3 (Redacted).

4 Q. Thank you. And you said that Commander Kakwavu wasn't one of the
5 UPC founders but he joined the UPC later on. Did -- had Commander
6 Kakwavu already joined the UPC when you arrived in Ituri or when he
7 arrived -- when he joined the UPC with his troops, was this after you had
8 arrived in Bunia, in Ituri?

9 A. What I said is as follows. (Redacted)
10 (Redacted) had placed weapons in that very same plane. We left with
11 him (Redacted). I arrived in Bunia. I took the
12 very same plane (Redacted). We went (Redacted)
13 (Redacted). So you understand, when (Redacted) there Jerome was in
14 the UPC because it wouldn't have been possible for (Redacted) to provide
15 weapons if he hadn't been in our movement.

16 Q. Do you know for how long Jerome and his troops had been in the
17 UPC at that point in time?

18 A. No, I don't know.

19 Q. I have one last question about this period, this difficult period
20 between Jerome Kakwavu and the UPC. I'm interested in the period before
21 Jerome Kakwavu's rebellion. You have spoken about this difficult period.
22 In your opinion how long did this period last? Three months? Two
23 months? Three weeks?

24 A. It didn't last for more than a month. I think it lasted for
25 three weeks, not for a full month.

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

Page 23

1 Q. Thank you. (Redacted)

2 (Redacted), and this was after the fighting during

3 which the UPC was driven out; is that correct?

4 A. Yes. (Redacted) after the UPC had been driven out. There
5 were soldiers, small groups of soldiers here and there, but a lot of
6 soldiers had already fled. Most of them had already fled.

7 Q. Should we take it that (Redacted)

8 (Redacted)

9 (Redacted), immediately after that fighting?

10 A. When I left the UPC (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 And I had heard that Jerome had founded his own movement. I heard this on
17 the radio. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. (Redacted)

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

Page 24

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. When there was fighting in Bunia (Redacted) if I
5 understood you correctly?

6 A. Yes, (Redacted)

7 Q. (Redacted)

8 A. My -- I would like to ask the following question: Are we in
9 private session or not?

10 PRESIDING JUDGE FULFORD: We are, yes.

11 THE WITNESS (interpretation): (Redacted)

12 MR. BIJU-DUVAL (interpretation):

13 Q. Thank you. Can you be more precise. Which authorities did you
14 meet?

15 A. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

Page 25

1 Q. (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 A. (Redacted)

13 (Redacted)

14 (Redacted)

15 PRESIDING JUDGE FULFORD: Mr. Biju-Duval, time for a break is
16 looming. If you could pick a moment convenient to yourself.

17 MR. BIJU-DUVAL (interpretation): I think we can adjourn now.

18 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Biju-Duval.
19 Sir, we'll take a half an hour break now and sit again at half
20 past 11.00.

21 Closed session, please.

22 *(Closed session at 11.00 a.m.) Reclassified as open session

23 COURT OFFICER: Closed session.

24 (The witness stands down)

25 PRESIDING JUDGE FULFORD: Half past 11.00.

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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1 Recess taken at 11.02 a.m.

2 On resuming at 11.31 a.m.

3 COURT USHER: All rise. Please be seated.

4 PRESIDING JUDGE FULFORD: Witness, please.

5 (The witness takes the stand)

6 PRESIDING JUDGE FULFORD: Private session, please.

7 *(Private session at 11.32 a.m.) Reclassified as open session

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

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

10 Q. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted) of the Bunia airport.

20 Q. (Redacted)

21 (Redacted) You had

22 already come to an agreement; is that correct?

23 A. On what point?

24 Q. That is on the subject of (Redacted)?

25 A. (Redacted)

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

Page 27

1 (Redacted)

2 (Redacted)

3 Q. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 A. Yes.

8 Q. You told us that during the period leading up to the combat in
9 Bunia there was what you referred to as the heat of combat. I think I
10 remember that expression which you used, between the heat of combat
11 between the combats -- between the Ugandans and the UPCs; is that
12 correct?

13 A. Yes.

14 Q. Can we therefore consider that (Redacted)

15 (Redacted)

16 (Redacted)?

17 A. Yes, I took that decision and it was at the last minute, that is,
18 it was on the basis of the reality on the ground that I took this
19 last-minute decision.

20 Q. When did you return (Redacted)

21 (Redacted)?

22 A. It was before the combat. It was actually before the combat. It
23 was only after that that Jerome rebelled and there was -- and fighting
24 broke out between the UPC and the UPDF.

25 Q. You told us that when you returned to Bunia you (Redacted)

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

Page 28

1 (Redacted)

2 (Redacted)

3 A. Yes, yes. That was what the president said. He was not happy
4 with the fact that (Redacted)

5 Q. Now, from that moment onwards did certain authorities of the UPC
6 (Redacted)

7 (Redacted)

8 A. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. Well, just to clarify things, is it correct that this decision
18 was taken on the eve of combat? That is, looking at your testimony
19 combat broke out in the morning (Redacted); is that
20 correct?

21 A. Allow me to give you some details on this point so that you can
22 understand me. Thank you. When there was tension between the UPDF and
23 the UPC -- (Redacted)

24 (Redacted)

25 (Redacted)

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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- 1 turned off my Motorola phone because I did not wish to receive any calls.
- 2 I wanted to rest. (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
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- 25 (Redacted)

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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Page 30 redacted

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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Page 31 redacted

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

Page 32

1 Q. (Redacted)

2 (Redacted)

3 (Redacted)

4 PRESIDING JUDGE FULFORD: Can you avoid answering the question
5 for a moment.

6 Yes, Mr. Sachdeva.

7 MR. SACHDEVA: Mr. President, I may be mistaken, but I didn't --

8 I don't recall that that was the precise nature of the witness's
9 evidence, that the information was then communicated (Redacted)

10 (Redacted)

11 PRESIDING JUDGE FULFORD: Yes, I'm not sure, Mr. Biju-Duval,
12 whether the witness has said that at the airport (Redacted)

13 (Redacted)

14 (Redacted)

15 Is that the point you're raising, Mr. Sachdeva?

16 MR. SACHDEVA: Indeed.

17 PRESIDING JUDGE FULFORD: Yes.

18 MR. BIJU-DUVAL (interpretation): I will ask another question.

19 Q. You gave some information with regard to the chronology of
20 events. If I understood you well, you said that all of this happened at
21 the time when two UPC soldiers were killed in Bunia by the UPDF; is that
22 correct?

23 A. It started shortly -- it started earlier, the conflict between
24 the UPDF and the UPC -- well, there was tension that started earlier when
25 the two soldiers were killed and the information was given that they had

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

Page 33

1 been killed by the UPDF, that increased the tension. And they decided to
2 start the combat. Do you understand me?

3 Q. I think I have understood you. I hope I do not misunderstand the
4 long statement you gave. I stand to be corrected by you, but I
5 understood that on the day when the two UPC soldiers were killed by
6 Ugandan soldiers, (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 A. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 A. (Redacted)

25 (Redacted)

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

Page 34

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. Thank you. Is it correct that the movement of Jerome Kakwavu,
9 the FAPC, and Jerome Kakwavu himself were supported financially and
10 otherwise by Uganda?

11 A. Yes. They received aid from the UPDF in Uganda.

12 Q. (Redacted)

13 (Redacted)

14 Q. Are you aware of the fact that in the afternoon on March 5th,
15 that is, the day before the fighting, a UPC delegation went to see the
16 Ugandans in order to continue talks?

17 A. Where?

18 Q. In Bunia, in the airport in Bunia.

19 A. That matter or those discussions to put an end to the fighting
20 didn't take place at the airport in Bunia; it was at Lubanga's
21 residence, on the contrary.

22 Q. (Redacted)

23 (Redacted)

24 A. (Redacted)

25 (Redacted)

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

Page 35

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. Thank you. If I've understood your explanations correctly, that
10 is, what you said before the break, (Redacted); is
11 that correct?

12 A. (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. I'd like to come back for a moment to the -- to Jerome Kakwavu's
16 troops, his men, at the point in time when he was part of UPC. You have
17 stated that (Redacted)
18 (Redacted)

19 A. Yes.

20 Q. You stated on May 14th before the Chamber that in your opinion,
21 according to your evaluation, there was a majority of adults but there
22 were also children; is that correct?

23 A. Yes.

24 PRESIDING JUDGE FULFORD: Mr. Biju-Duval, I'm going to interrupt
25 for a second. Is it possible that these general questions can be

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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1 delivered in open session?

2 MR. BIJU-DUVAL (interpretation): I believe it's possible.

3 PRESIDING JUDGE FULFORD: Thank you. Open session.

4 (Open session at 12.07 p.m.)

5 PRESIDING JUDGE FULFORD: So could you put the question again,

6 please, Mr. Biju-Duval; namely, that at (Redacted) in the witness's

7 evaluation - and this is the question that's being put - were the

8 majority there adults but was the position that there were also children

9 at the camp? So that's the question, sir.

10 THE WITNESS (interpretation): Yes.

11 MR. BIJU-DUVAL (interpretation):

12 Q. Regarding the children you used the word "kadogo," and in your
13 previous statements on May 14th you explained the meaning of this word,
14 "kadogo," referring to children aged between 13 and 16 years; is that
15 correct?

16 A. Yes.

17 Q. I would like to examine a passage from your statement made in
18 2008 to the OTP investigators which is in document DRC-OTP-0191-0321.
19 This is a confidential document which must not be shown to the public,
20 but the extract itself does not give rise to any matters regarding
21 confidentiality, at least in my understanding.

22 COURT OFFICER (interpretation): The document will be

23 MFI-D-00123.

24 MR. BIJU-DUVAL (interpretation):

25 Q. It is to be found under tab 18 in the binder that you have before

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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1 you if you want to consult it, and it is to be found on page 302 and 303,
2 that is, 0302 and 0303.

3 I'd like to ask you to take a look at page 0302 at the bottom of
4 the page, first of all, to agree that we're -- the passage refers to the
5 troops (Redacted). Can you confirm that this
6 is indeed the subject of this passage; and then I would like to read out
7 a brief passage from page 0303, lines 35 to 50, lines 35 to 50?

8 PRESIDING JUDGE FULFORD: Right.

9 Mr. Sachdeva.

10 MR. SACHDEVA: Mr. President, just that the locations are not
11 mentioned in open Court, otherwise questions on this topic of course can
12 be in open session.

13 PRESIDING JUDGE FULFORD: And does that also apply to (Redacted)
14 (Redacted)?

15 MR. SACHDEVA: Indeed.

16 PRESIDING JUDGE FULFORD: All right. We shall therefore need
17 redactions to the parts where those have been mentioned in open session
18 over the last few minutes, and here on if it's possible sensibly to avoid
19 mentioning them, that's preferable; and it's impossible, we'll simply
20 implement redactions. Right.

21 Do you want the witness to read a passage to himself,
22 Mr. Biju-Duval, or do you just simply wish to quote from the relevant
23 section?

24 MR. BIJU-DUVAL: (Microphone not activated)

25 THE INTERPRETER: Microphone.

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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1 MR. BIJU-DUVAL (interpretation): If possible I can read it out.
2 It's very brief, it's page 303 between lines 40 and 50, and I would then
3 like to ask the witness, perhaps then in private session, who the passage
4 refers to.

5 PRESIDING JUDGE FULFORD: Certainly. Well, your English has been
6 perfect so far, Mr. Biju-Duval, so please read it out.

7 MR. BIJU-DUVAL (interpretation): Thank you, Your Honour.

8 Q. I'm quoting:

9 Question: (In English) "Okay, the soldiers, the age groups, what
10 were they?"

11 Answer:

12 (In English) "They were young men, young ones, and grown-ups as
13 well?"

14 Question:

15 (In English) "Okay, what do you mean 'young men'? We are talking
16 about what age groups? Between the young men and the grown-ups, what do
17 you mean by that? Can you just clarify specifically.

18 Answer:

19 (In English) "I'd say from 15 and up."

20 (Interpretation) End of quote.

21 PRESIDING JUDGE FULFORD: Sorry, Mr. Biju-Duval, did I understand
22 you to be saying that the next question and answer should be in private
23 session?

24 MR. BIJU-DUVAL (interpretation): One single question in private
25 session so that he -- the witness can tell us exactly which troops we're

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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1 referring to and in what place.

2 PRESIDING JUDGE FULFORD: Private session, please.

3 *(Private session at 12.14 p.m.) Reclassified as open session

4 COURT OFFICER (interpretation): Private session.

5 PRESIDING JUDGE FULFORD: Yes.

6 MR. BIJU-DUVAL (interpretation):

7 Q. Do we agree that you're talking here about the troops that (Redacted)

8 (Redacted) when you went there just after you

9 arrived in Ituri?

10 A. To answer that question I think I have done -- I have given
11 explanations about that last week. Perhaps you weren't convinced or
12 satisfied with the answer I gave. I tried to give explanations about
13 that matter. I gave the various categories of children and I said the
14 following, you have the youngest children that you just couldn't enrol,
15 you couldn't enlist in the army. I don't know which page exactly that's
16 to be found in the documents, but that information is included in the
17 document.

18 Are we in private session or closed session or not? Could you
19 tell me?

20 PRESIDING JUDGE FULFORD: We're in private session.

21 THE WITNESS (interpretation): Thank you.

22 Here there are written statements, notes that were taken when I
23 gave the explanations to the OTP team. I said the following, I don't
24 know exactly what kind of questions you're asking me. You asked me if
25 there were kadogos and I said yes, and then I gave additional information

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

Page 40

1 with explanations and I said, "Yes, there were kadogos in the UPC". And
2 last week I gave explanations as to the various categories of kadogos. I
3 don't know if you've understood me well or not.

4 MR. BIJU-DUVAL (interpretation):

5 Q. I believe I have understood your statement, Witness, but my
6 question is a very simple one. Perhaps you can refer to page 302. Just
7 before the extract --

8 PRESIDING JUDGE FULFORD: Usher could you help please.

9 MR. BIJU-DUVAL (interpretation):

10 Q. On page 0302 would you look at the last ten lines where there's
11 reference to (Redacted) so that there is no ambiguity and so that
12 there is no misunderstanding as regards the fact that the soldiers you
13 mention in this extract were soldiers (Redacted).

14 Do we agree on that point?

15 Witness, if I may, do we agree that in this statement the text
16 refers to soldiers present in (Redacted) to whom weapons have
17 been delivered; is that correct?

18 A. I think that you read correctly how I gave explanations here.
19 Now, the matter regarding the age of the soldiers to whom the weapons
20 were given, the answer I gave was as follows. I said there were several,
21 numerous young people including kadogos. I believe, your Honour -- well,
22 your Honour, I would like to make a request, if I may. I would like to
23 explain fully in detail this matter, and in the document I'm reading here
24 I know where the question is answered in fact because there was a letter
25 drafted by President Lubanga himself regarding the kadogos. Is it

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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1 possible that I have access to that letter at this point in time?

2 PRESIDING JUDGE FULFORD: Can you throw any light on this,

3 Mr. Sachdeva?

4 MR. SACHDEVA: Mr. President, I have an idea as to what the
5 witness is referring to, but I can't be sure.

6 PRESIDING JUDGE FULFORD: Do you have a document with you that
7 may be the document that the witness is referring to?

8 MR. SACHDEVA: Yes, yes, I do. I --

9 PRESIDING JUDGE FULFORD: Right. Could you retrieve a copy, and
10 take your time, could you retrieve a copy from the files in front of you,
11 please.

12 (Trial Chamber confers)

13 MR. SACHDEVA: It's actually in the witness's binder under
14 tabs -- it could be under tabs 1 and 2 perhaps.

15 PRESIDING JUDGE FULFORD: Your binder?

16 MR. SACHDEVA: Yes, Mr. President.

17 But ...

18 PRESIDING JUDGE FULFORD: Right.

19 Has the witness got in front of him -- no. That's it?

20 MR. SACHDEVA: This is his binder.

21 PRESIDING JUDGE FULFORD: Good, right. And, usher, could you
22 open it, please, under tab 1. Now, take your time, sir, and just look at
23 that letter.

24 THE WITNESS: Thank you.

25 PRESIDING JUDGE FULFORD: Interpreters, the witness just said

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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1 something into the microphone.

2 THE INTERPRETER: Could you ask the -- Repeat it.

3 It wasn't heard.

4 The witness said: Thank you.

5 PRESIDING JUDGE FULFORD: Now, sir, I think you've looked at the
6 letters behind tab 1 and tab 2. Are either of those the letter that you
7 were referring to just now?

8 THE WITNESS (interpretation): Yes, those are the documents. Why
9 did I ask to see these documents? Well, the reason is as follows.

10 PRESIDING JUDGE FULFORD: Can you just -- I'm very sorry to
11 interrupt you. In case you're about to start a long answer and I
12 encourage you to explain this fully, can you make sure, please, that you
13 don't speak too quickly. You're generally speaking going at a very good
14 speed, but sometimes in the longer answers it does become difficult for
15 the interpreters. So please give your answer as fully as you wish but
16 make sure that you don't speak too quickly.

17 I'm sorry to have interrupted you. Please continue.

18 THE WITNESS (interpretation): Thank you. Your Honour, I believe that in
19 the last few days or last week I asked a question, I asked whether I can
20 talk about facts that I remember but that I did not mention to the Office
21 of the Prosecutor; that is, if I remember these facts am I allowed to
22 relate those facts before the Chamber. And you said that I could testify on
23 facts that I remember now that took place those years, 2002-2003, in
24 the UPC. Now, based on that I see that the Defence counsel has asked a
25 lot of questions about child soldiers, about kadogos. The reason why I

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
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1 asked for these documents here is as follows. He as the counsel, the
2 Defence counsel, for Mr. Lubanga, was he aware of these documents or not?

3 PRESIDING JUDGE FULFORD: The answer to that is undoubtedly he
4 was aware of them, sir. But please give -- continue with your
5 explanation rather than investigating Mr. Biju-Duval's level of knowledge
6 and understanding.

7 THE WITNESS (interpretation): Why did I ask this question? The
8 question about child soldiers, I've already answered that question. I've
9 explained the matter sufficiently. I don't know whether you agree that
10 Mr. Lubanga wrote this. I can see his signature here. That means that
11 he was aware of the fact that child soldiers were enlisted into the
12 army. He gave an order to the Chief of Staff to demobilise the children.
13 It's written there quite clearly "armed children." Reference isn't made
14 to recruits; reference is made to children within the army, those who are
15 armed who have a rifle. So that means that he was aware of the fact that
16 there were children within the UPC Army, children who were called
17 kadogos.

18 The second document states the following. It's an order, that
19 means he issued an order, it means that the children were enlisted in the
20 army. I wanted to provide you with these documents with more
21 explanations about the presence of children within the army. If he
22 wasn't aware of the fact, he wouldn't have written a letter, he wouldn't
23 have drafted a document of this kind. I don't know whether you have
24 understood me.

25 PRESIDING JUDGE FULFORD: Thank you very much, sir.

Witness: Witness DRC-OTP-WWW-0055 (Resumed) (Private Session)
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1 I think in due course the evidence that the witness has given
2 about those two letters can be made public. I don't think there's any
3 reason for that to remain private.

4 Before Mr. Biju-Duval continues, the two letters if they already
5 haven't received an EVD number should be given one. Mr. Sachdeva, I'm
6 afraid I don't remember off the top of my head whether they have got EVD
7 numbers.

8 MR. SACHDEVA: I believe they do. I showed them to the witness
9 in examination-in-chief.

10 PRESIDING JUDGE FULFORD: Right. Thank you very much.

11 Right. Continue, Mr. Biju-Duval.

12 MR. BIJU-DUVAL (interpretation): Thank you, Your Honour.

13 Q. Witness, you have just referred to these two letters and the
14 orders that these letters contain signed by Mr. Lubanga. At the time
15 that you were in the UPC did you hear anything about these orders?

16 PRESIDING JUDGE FULFORD: And before the witness
17 answers -- I think this question and answer can be given in open
18 session. Can we go into public session, please.

19 (Open session at 12.34 p.m.)

20 COURT OFFICER (interpretation): Open session.

21 PRESIDING JUDGE FULFORD: The question then, sir, is in relation
22 to these two letters apparently written by Mr. Lubanga in the sense that
23 they purport to bear his signature which refer to the demobilisation of
24 child soldiers, whilst you were in the UPC did you hear anything about
25 those orders? So rather than hearing about them later did you hear about

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1 those orders whilst you were within the UPC yourself?

2 THE WITNESS (interpretation): To tell you the truth, your
3 Honour, I don't want to deceive you, I didn't receive an order to
4 demobilise child soldiers. And if you have a look at the documents
5 carefully you'll see that I'm not concerned. I'm not one of those who
6 was informed. That means that I never received an order to demobilise
7 child soldiers. If that had been the case I would have informed you of
8 the fact, but I wasn't aware of this.

9 PRESIDING JUDGE FULFORD: Please continue, Mr. Biju-Duval.

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

11 Unfortunately, I think we need to be in private session.

12 PRESIDING JUDGE FULFORD: Can I explain to the extremely patient
13 and long-suffering members of the public who have been sitting here for
14 quite some time now, I'm afraid for most of the time having to watch us
15 through the glass division rather than being able to hear us. The reason
16 for this, extremely irritating though it must be for you, is a very good
17 one. This Court has very important protective responsibilities for
18 witnesses who appear before us, and if in our judgement there is a risk
19 that a witness may be in some way harmed or his or her family may be
20 harmed as a result of their identity becoming known, it is necessary for
21 questions and answers which would reveal the witness's identity to be
22 given in private. And although that regrettably reduces the extent to
23 which this trial is public, the consequence of not doing it really
24 doesn't need to be spelt out. It could be catastrophic for the
25 individuals involved.

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1 So given that you have sat so patiently for so long, I wish to
2 provide you with that explanation.

3 Private session, please.

4 *(Private session at 12.36 p.m.) Reclassified as open session

5 COURT OFFICER (interpretation): Private session.

6 MR. BIJU-DUVAL (interpretation):

7 Q. Yes, sir. You said that you had a kadogo called (Redacted) (phoen)
8 who was a subordinate of yours; is that correct?

9 A. Yes.

10 Q. Would it be correct to say -- or, rather, could you tell us how
11 old this kadogo was as far as you know?

12 A. I can't remember the age of the kadogo. Given what I've said
13 about child soldiers, well I can tell you that he was such a child
14 soldier. If you have a look at my statement you will see that I
15 described the event during which his mother came to visit him, but I
16 couldn't tell you the age of the child.

17 Q. Thank you. I'd like you to have a look at an extract from one of
18 your previous statements, 0191-0598, tab 9 of
19 the binder, and to be precise it's on page 0619

20 COURT OFFICER: MFI-D-00124 will be the number for this document.

21 MR. BIJU-DUVAL (interpretation): I'm referring to lines 730 to
22 736, page 0619 is concerned.

23 Q. And my question is as follows: Is it correct to say that when
24 this statement was made to the investigators, you said that this kadogo
25 was probably 16 years old?

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1 A. According to this statement I said "let's say 16". When you say
2 "let's say 16" in Swahili, well that means I wasn't sure whether the
3 child was 16 years old. It means that I was hesitating. I wasn't very
4 precise about the child's age.

5 Q. Thank you.

6 I'd now like to have a look at a document that we had a look at
7 last week, the diagram on the UPC Army structure. Tab 18 of the binder
8 given to you by the Prosecution. The number is 00452, EVD-OTP-00452.

9 Do you have the document in front of you now? I can see that you
10 have it. So as you have already told the Chamber, we can see under
11 number 1 Kisembo, the Chief of Staff; number 2, Bosco Ntaganda; and then
12 there's a (Redacted)
13 isn't that correct?

14 A. Yes.

15 Q. Is it correct to believe that this means that (Redacted)
16 (Redacted)?

17 A. No. (Redacted)
18 (Redacted). I apologise. Just a minute. May I continue?

19 Q. Yes. Perhaps I can be more precise. What does this line (Redacted)
20 (Redacted), mean?

21 A. This line (Redacted) a direct one. This
22 sketch shows how the main staff was structured. You have Kisembo at the
23 head and then Ntaganda and then you can (Redacted) to it,
24 and then to the left you can see Rafiki's name and Nembe's name. So this
25 is a description of the movement. (Redacted)

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1 (Redacted). Kitembo was the Chief of Staff, and most of
2 my reports were submitted to the president.

3 Q. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 A. Yes.

8 Q. And you told us on the 15th of May that upon receiving these
9 reports you would read them, and I quote:

10 "If there were any problems that (Redacted) at my level I
11 would do so, and if there were problems (Redacted)
12 refer them to the Chief of Staff or the deputy Chief of Staff in the
13 army."

14 Do you remember having said that?

15 You also said that if it was necessary to refer these matters to
16 the president, you did so. You remember having stated that, don't you?

17 A. Yes.

18 Q. Should I take it that as a general rule (Redacted)
19 reports to the Chief of Staff and to the deputy Chief of Staff?

20 A. Yes.

21 Q. Thank you. Who drafted the reports that you forwarded?

22 A. I had a secretary.

23 Q. In which language were these reports drafted?

24 A. Some were drafted in Swahili, whereas others were drafted in
25 French.

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1 Q. What language would you use to address your secretary when these
2 reports were drafted?

3 A. I would use French, Swahili, and Lingala.

4 Q. Thank you. You said that you took over the position of a
5 (Redacted)

6 A. Yes.

7 Q. The person concerned was (Redacted); isn't that correct?

8 A. I am familiar with the name (Redacted) isn't a name I'm
9 familiar with.

10 Q. Thank you. Do you know anything about his origins, which region
11 was he from, which ethnic group was he a member of?

12 A. As far as I know -- well, I know that (Redacted) was not a Hema and
13 he wasn't originally from Ituri. He was said to be from (Redacted). They
14 were called the Jajambo, that means people who weren't native to the
15 Ituri region. So he was said to be from (Redacted), from what I learned.

16 Q. Thank you. Could you tell us who the (Redacted) in the UPC was?

17 A. There was one such person but I can't remember the person's name.
18 It was a former soldier from the armed forces of Zaire, Mobutu's army.
19 But within the UPC he wasn't someone who was seen very often.

20 Q. If I said the name was (Redacted) would that refresh your
21 memory perhaps?

22 THE INTERPRETER: The Swahili booth would like to point out that
23 we didn't hear the answer.

24 MR. BIJU-DUVAL (interpretation):

25 Q. I apologise. The booths didn't hear your answer. Could you

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1 repeat what you said.

2 A. (Redacted), no, within the UPC I don't know anyone who goes by
3 that name. I know someone who was Jean Pierre Bemba's vice, but (Redacted)
4 no.

5 Q. The name is not important, the name of this (Redacted), but do you
6 know which region he was from, which ethnic group he was from?

7 A. No, I don't know.

8 Q. I am going to put the same question to you with respect to Bosco
9 Ntaganda. What ethnic group is he from and which region does he come
10 from originally?

11 A. Bosco Ntaganda, his mother is Congolese; his father isn't.

12 Q. Is it true to say that he is not originally from Ituri?

13 A. No, Bosco isn't a native of Ituri.

14 Q. And he's not a Hema either, is he?

15 A. No, he isn't.

16 Q. If I said that he's originally from north Kivu, is this correct?

17 A. As I said his mother came from north Kivu but his father wasn't
18 from north Kivu.

19 Q. What was the nationality of his father or his father's origins,
20 which region did his father come from?

21 A. His father originally came from Rwanda, from an area on the
22 border between Rwanda and the Congo.

23 Q. Thank you.

24 MR. BIJU-DUVAL (interpretation): Your Honour, we are still in
25 private session. I do regret the fact. I'm preparing to ask the witness

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1 questions similar to the ones I asked with regard to other names of other
2 commanders. I think that this could be done in open session. It's true
3 that this assumes that the witness is familiar with the commanders in
4 question, but I don't really think that it's necessary to remain in
5 private session for questions of this nature, if the witness takes care
6 not to go into details. If the witness only answers the questions I put
7 to him directly and in a simple manner.

8 PRESIDING JUDGE FULFORD: I'm confident that's probably going to
9 be right, Mr. Biju-Duval. Can I just very gently ask really what the
10 relevance is of this, what particular ethnic background the various
11 players come from and where their parents are from? I just want to be
12 confident that this does relate to the issues in question,
13 Mr. Biju-Duval.

14 MR. BIJU-DUVAL (interpretation): Yes, of course, your Honour.

15 (Redacted)

16 (Redacted)

17 (Redacted). The question as to the national
18 origins or ethnic origins of the individuals concerned seems to be
19 relevant to me with regard to the context, not only with regard to the
20 context but also with regard to the fact that we could be provided with
21 information on the rigid links that the accused might have to these
22 various commanders. These aren't questions that go to the heart of the
23 matter, of the charges, but I do believe that these are relevant
24 questions.

25 PRESIDING JUDGE FULFORD: All right, Mr. Biju-Duval, certainly,

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1 and thank you for the explanation. And we'll listen to the witness's
2 answers at 2.45.

3 Before we go into closed session can we briefly go into public
4 session, please.

5 Before we go into public session, yes, sir. Yes?

6 THE WITNESS (interpretation): Your Honour, there is something I
7 would like to say. I would like to comment on what counsel for the
8 Defence has just said. The Defence has just claimed that (Redacted)
9 (Redacted) the UPC, and therefore I'm in a position to
10 know something about the origins of all the members of this movement.

11 Initially I stated the following: I am not one of the founders
12 of the UPC. I said that at the very outset. When I arrived there the
13 UPC had already been established. (Redacted)
14 within the UPC after the movement had already been established, and I
15 held that position for a brief period of time. I may be familiar with
16 some names; there might be other names that I'm not familiar with. If
17 you have a look at the way in which the main staff was structured, well
18 this is the example I've provided you with, it's the sketch that I've
19 provided you with. You can see that there is not -- (Redacted)
20 (Redacted)
21 (Redacted). There was certain tasks that we had to carry out
22 ourselves and there were other tasks that couldn't be given to (Redacted)
23 (Redacted), for other tasks, but
24 most of the tasks or duties that concerned the army itself were carried
25 out by (Redacted), and by others. But to say that I was a

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1 (Redacted)

2 (Redacted) or leaders within the movement

3 is not something that I would agree with.

4 PRESIDING JUDGE FULFORD: Thank you very much, sir. That's
5 extremely clear, and I'm sure that Mr. Biju-Duval will bear in mind that
6 you're likely only to be able to assist with particular individuals
7 rather than the movement as a whole or even within the hierarchy, all
8 members of the hierarchy. But thank you for that.

9 Public session, please.

10 (Open session at 1.03 p.m.)

11 COURT OFFICER (interpretation): Public session.

12 PRESIDING JUDGE FULFORD: Witness 14, Mr. Sachdeva, any
13 protective measures beyond the conventional?

14 MR. SACHDEVA: None, Mr. President.

15 PRESIDING JUDGE FULFORD: To be seen by the accused or not?

16 MR. SACHDEVA: That's fine, Mr. President, yes.

17 PRESIDING JUDGE FULFORD: Good. Thank you very much.

18 We'll sit again at 2.50. Can we go, please, into closed session
19 so the witness can withdraw.

20 *(Closed session at 1.04 p.m.) Reclassified as open session

21 COURT OFFICER: Closed session.

22 (The witness stands down)

23 (Trial Chamber confers)

24 PRESIDING JUDGE FULFORD: Ten to 3.00.

25 Luncheon recess taken at 1.06 p.m.

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1 On resuming at 2.50 p.m.

2 COURT USHER: All rise. Please be seated.

3 PRESIDING JUDGE FULFORD: Good afternoon.

4 Witness please.

5 (The witness takes the stand)

6 PRESIDING JUDGE FULFORD: Public session, please.

7 (Open session at 2.53 p.m.)

8 COURT OFFICER (interpretation): Public session.

9 Mr. Biju-Duval, you'll bear in mind what the witness said just
10 before the luncheon adjournment that he can only speak to particular
11 individuals because of the limited time that he was involved. Yes,
12 please continue.

13 MR. BIJU-DUVAL (interpretation): Thank you, Your Honour.

14 Q. Well, Witness, I took good note of the reservations you
15 expressed. I will not ask you questions relating to the national origin
16 or the ethnic origin of commanders except when we are dealing with the
17 names that you have already mentioned. First of all, Commander Salongo,
18 do you know his regional or ethnic origin or the community he comes from?

19 A. Salongo comes from an area called Rutshuru, Jomba. The people
20 who come from Rutshuru are called the Benye-Jomba.

21 MR. BIJU-DUVAL (interpretation): Your Honour, we have a problem
22 with the French transcript. Apparently it's frozen.

23 PRESIDING JUDGE FULFORD: Yes, it has. Can somebody apply some
24 antifreeze, please.

25 I think if you continue, Mr. Biju-Duval, it's going to catch up

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1 with you very quickly.

2 MR. BIJU-DUVAL (interpretation): Thank you, Your Honour.

3 Q. This Rutshuru region, is it located in the Kivu region; is that
4 correct?

5 A. Yes, Rutshuru is found in the Kivu region.

6 Q. Now the community you referred to, is it related to the Tutsis in
7 Rwanda?

8 A. Yes.

9 Q. I am going to ask you exactly the same question relating to the
10 ethnic and community origin for Commander Mugisha. You talked about him
11 some time ago.

12 A. Commander Mugisha is a Hema south. He is from Ituri.

13 Q. As regards Commander Sami, what can you say?

14 A. Commander Samy is from Rutshuru as well. He was born in
15 Rutshuru. He is from the royal family. He is a grandson of Mwami Ndeze
16 or the customary chief Ndeze.

17 Q. Is he also related to the Rwandan Tutsis?

18 A. Excuse me. Well, they are a bit mixed.

19 Q. Same question with respect to Commander Ndayisaba?

20 A. Commander Ndayisaba is from Masisi. He comes from an area called
21 Ngungu.

22 Q. And Masisi is also located in the Kivu?

23 A. Yes, in north Kivu.

24 Q. I would like to ask the same question with regard to Commander
25 Salumu.

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1 A. Salumu is from the Mushi ethnic group in Bukavu.

2 Q. Bukavu which is in South Kivu; is that correct?

3 A. Yes, in South Kivu.

4 Q. You also talked about Commander Eric. I understood that this was
5 not Eric Mbabazi but this was another Eric; is that correct?

6 A. It is another Eric, yes.

7 Q. If you know him, can you tell us about his regional or community
8 origin?

9 A. Excuse me for one minute. Eric Mbabazi you said -- who was he?

10 Q. I think there is a confusion here. Let's leave Eric Mbabazi
11 aside. I am talking about the other commander, Commander Eric you talked
12 about.

13 A. I understood you well, but the name Eric Mbabazi, which you
14 mentioned, I wished to get more information on that name because I know
15 two Erics. But the name "Mbabazi" that you referred to, which Eric are
16 you talking about? There was Eric G5 and Eric who was the brigade
17 commander. Which Eric do you want me to talk about?

18 Q. I would like you to talk to us about the regional or community
19 origin of Eric, the brigade commander.

20 A. Eric the brigade commander is from the Banyamulenge ethnic group;
21 that is, if you go past Bukavu, it's -- the place is situated in province
22 of South Kivu.

23 Q. Can we say that this community is related to the Rwandan Tutsis?

24 A. Yes, they are Tutsis, but their origin is Congolese. They are
25 Congolese, but if you go back in history you'll find that Mulenge

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1 belonged to Rwanda; however, later on that area was -- became part of the
2 DRC again.

3 Q. Thank you.

4 PRESIDING JUDGE FULFORD: Yes, sir.

5 THE WITNESS (interpretation): Thank you, Your Honour. I have a
6 question. It's a question I would like to put to you as the Presiding
7 Judge, but I would like to ask that question in closed session. With
8 your permission, I would like to speak to one of your collaborators
9 because there is a certain difficulty which I would like to bring to your
10 attention confidentially, but I don't know if that is possible.

11 PRESIDING JUDGE FULFORD: Well, let us first of all go into
12 private session, please.

13 *(Private session at 3.03 p.m.) Reclassified as open session

14 COURT OFFICER: Private session.

15 PRESIDING JUDGE FULFORD: Now, is the difficulty that you wish to
16 bring to our attention something which you're able now to describe in
17 private session in front of everyone here, or do you want someone to come
18 to see you privately so that that information can then be passed on to
19 us?

20 THE WITNESS (interpretation): I would like to speak to someone
21 in private, if that is possible.

22 (Trial Chamber confers)

23 PRESIDING JUDGE FULFORD: Sir, you've indicated to us that there
24 is a difficulty which you consider needs to be brought to our attention
25 and that you want to speak in the first instance about it with someone

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1 from the Court staff privately. We are prepared to let that happen at
2 your request. In order to ensure that there is fairness for the accused,
3 what we're going to direct is as follows: That the Court Officer who
4 sits immediately in front of me shall come and speak to you in a moment
5 after we've risen when you've been taken to the witness waiting-room.
6 We're going to ask, please, that an interpreter is available so that the
7 Court Officer can have everything interpreted for him during the
8 conversation. And we will ask the Court Officer - although it needn't be
9 a verbatim note - to keep a note of the essence of the conversation as it
10 develops so that we can be fully informed as to what has been said.
11 We'll then consider that privately between the three of us before coming
12 back into Court, and of course we'll communicate to the parties anything
13 that is necessary to ensure fairness, as we've already indicated to the
14 accused, but also to the extent that it's necessary, fairness to the
15 Prosecution as well.

16 So that's the course we're going to adopt. We'll need, please,
17 to go into closed session so the witness can withdraw.

18 THE WITNESS (interpretation): Well, excuse me. Before we rise I
19 would like to give you some clarifications, clarifications to the
20 Prosecution and the Defence with respect to what I would like to discuss
21 with the collaborators of the Judges. The point I'm going to raise with
22 them does not concern the file or the case or the testimony I'm giving;
23 it has to do with my personal security.

24 PRESIDING JUDGE FULFORD: Well, that's very helpful. Thank you.
25 Closed session, please.

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1 *(Closed session at 3.08 p.m.) Reclassified as open session

2 COURT OFFICER: Closed session.

3 (Trial Chamber and Court Officer confer)

4 (The witness stands down)

5 PRESIDING JUDGE FULFORD: We hope this isn't going to take too

6 long, so can I ask everyone not to stray too far, please. We'll rise.

7 Break taken at 3.10 p.m.

8 On resuming at 3.58 p.m.

9 COURT USHER: All rise. Please be seated.

10 PRESIDING JUDGE FULFORD: Witness, please.

11 (The witness takes the stand)

12 PRESIDING JUDGE FULFORD: Thank you very much indeed for coming

13 back into Court, sir. We need to say to reassure the parties that the

14 security issue raised by the witness has absolutely nothing to do with

15 the facts that we're concerned with in this case. The witness wholly

16 appropriately raised a personal issue relating to something that happened

17 a few days ago which we are able to deal with comprehensively but which,

18 I repeat, has no impact at all on this trial. So there is no need for us

19 to say more about it in closed or open session.

20 Public session, please.

21 (Open session at 4.02 p.m.)

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

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

24 Q. I would like to go back over the regional or ethnic origin of

25 some of the commanders, I'd like to go through three names. Do you know

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1 a brigade commander of the name Manu Ndungutse?

2 A. Yes, I know him.

3 Q. Could you tell us whether or not you know his regional and
4 ethnical background?

5 A. Are we in private session?

6 PRESIDING JUDGE FULFORD: Private session, please. And there is
7 something rather strange happening with the English transcript which
8 needs to be sorted out.

9 *(Private session at 4.03 p.m.) Reclassified as open session

10 COURT OFFICER: Private session.

11 PRESIDING JUDGE FULFORD: Yes, please proceed, Mr. Biju-Duval.

12 MR. BIJU-DUVAL (interpretation):

13 Q. Now, as regards the Commander Manu Ndungutse, do you know what
14 his regional or ethnical background is?

15 A. Yes. Commander Emmanuel Ndungutse grew up in a region called
16 Lubumbashi, but he is a Masisi. He's from a place called Numbi.

17 Q. Can we also consider that they're related to the Rwandan Tutsis?

18 A. Yes. They are from the border region with Rwanda.

19 MR. BIJU-DUVAL (interpretation): Your Honour, it would seem now
20 that the English language has invaded the French transcript. I must say
21 that I'm quite concerned about that.

22 PRESIDING JUDGE FULFORD: Well, there has been a long history,
23 Mr. Biju-Duval.

24 MR. BIJU-DUVAL (interpretation):

25 Q. Witness, do you know a commander named Innocent Kaina also known

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1 under the nickname or code-name of India Queen?

2 A. Yes, I know him.

3 Q. May I ask the same question that is regarding his ethnical and
4 regional origin.

5 A. Well, I don't know what tribe or what ethnic group he belongs to,
6 but I know that he came from Uganda, he's not Congolese. I know he came
7 from Uganda but I don't know exactly where he was born in Uganda. I
8 can't tell you precisely. I do know that he came from Uganda.

9 Q. Thank you. One last name. Do you know Commander Innocent
10 Zimulinda?

11 A. Yes, I know him.

12 Q. Could I ask you the same question regarding his ethnical or
13 regional origin?

14 A. He also came from Ngungu in Masisi, that's in the north Kivu.

15 Q. Thank you. Is he also related to the Rwandan Tutsis?

16 A. Yes.

17 Q. In order for everything to be perfectly clear, those commanders
18 were part of the UPC during the period when you yourself belonged to the
19 UPC; is that correct?

20 A. Yes. I was already in UPC when I -- when they came into Bunia.

21 Q. Thank you. Last week you referred to the operations in (Redacted)
22 (Redacted) and you mentioned the planning of those operations; is that
23 correct? Well, I would like to ask you to take a look at an extract of
24 your 2008 statement made to the Prosecution investigators, and in order
25 to do so I would like to ask you to look at the document

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1 DRC-OTP-0191-0328 which is under tab 17 in your binder. And to be
2 precise, I'd like you to look at the page that ends 350.

3 COURT OFFICER (interpretation): The document is MFI-D-00125.

4 MR. BIJU-DUVAL (interpretation):

5 Q. I'd like to examine with you the
6 passage which is between lines
7 731 and lines 745 -- 741.

8 THE INTERPRETER: Correction, 741.

9 MR. BIJU-DUVAL (interpretation): So it's page 350 at the top of
10 the page between lines 731 and line 741.

11 Q. I'm going to read this brief extract and then ask you a question.
12 I quote:

13 Question: (In English) "Okay. So what was the involvement of
14 Lubanga in operation planning?

15 "A: Whenever they were planning an operation they would plan it,
16 and after the plan was done they went to Lubanga and said, 'All right.
17 The plan is this and we need this and this.' And he would give them
18 whatever they required to carry out the operation."

19 (Interpretation) My question is as follows: was this way of
20 proceeding that you described to the OTP investigators, was this
21 something that corresponds to what you were aware of as regards the
22 planning of military operations during the period where you were in the
23 UPC?

24 A. Okay. Well, I don't know exactly whether you're asking me whether
25 things took place in that way in the army or whether you're asking me

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1 precisely about the UPC.

2 Q. I have just read out a brief extract of your statement made to
3 the investigator of the OTP which describes how -- I apologise. Let me
4 put it differently. Let me ask you a different question.

5 When you stated to the investigator of the OTP (in English)
6 Whenever they were planning an operation,
7 (interpretation) when you use the pronoun "they," do you mean the main
8 staff?

9 A. Yes, the main staff. Well, let's say that when the idea of an
10 operation comes up in the mind of the head of the operation, Bosco, the
11 president was informed. And then the various requirements were presented
12 to the president. For example, if you need a vehicle you have to have
13 gasoline, you have to have food, and you might need to requisition other
14 vehicles if the number of vehicles available was insufficient. So
15 whatever had to do with the logistics that were required for the
16 operation.

17 Q. Thank you. I'd like to go on now to another topic, and I'm
18 referring to the period or to the date of the fighting between the UPC
19 and the Ugandans, the UPDF, after which the Ugandans chased the UPC out
20 of Bunia. I'm referring to that point in time. (Redacted)
21 (Redacted)
22 (Redacted), but my next question
23 is as follows. Is it correct to say that Commander Tchaligonza,
24 Kasangaki, and Alex Munyalizi (Redacted) left the UPC at that point in
25 time?

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1 A. Yes, they left the UPC. But I'd like to explain how they left
2 the UPC. (Redacted). That's the story
3 that I can tell you. I wasn't there myself. (Redacted), as I told
4 you, but when I came back I was told how things took place. Kasangaki
5 was in a camp near the airport, and when the fighting got worse he sent
6 a report using a Motorola radio. Tchaligonza also sent reports, and the
7 soldiers who were with Tchaligonza and Kasangaki set up their own
8 movement called the PUSIC under Chief Kahwa.

9 MR. BIJU-DUVAL (interpretation): I need a couple of moments,
10 please.

11 (Defence counsel confer)

12 MR. BIJU-DUVAL (interpretation): I have one last question for
13 you, Witness, it's a very short question.

14 (Defence counsel confer)

15 MR. BIJU-DUVAL (interpretation): I wanted to check that we're in
16 closed session or private session.

17 Q. You told us at the very beginning of your testimony that you come
18 from the (Redacted) region. Could you tell us what ethnic community you
19 belong to yourself?

20 A. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. Do you consider that you belong to a particular ethnic community?

25 A. Excuse me, could you repeat your question?

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1 Q. Well, I understand your geographical origin, but do you consider
2 that you belong to a particular ethnic group or a particular community as
3 we're used to referring to them here?

4 A. Yes, I belong to an ethnic group.

5 Q. Could you tell us which one it is?

6 A. Yes. I don't know how to explain. My tribe is called the (Redacted)
7 (Redacted), and my ethnic group or the ethnic group of my father is
8 called (Redacted)

9 Q. Thank you very much.

10 MR. BIJU-DUVAL (interpretation): I have no further questions.

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

12 Any re-examination, Mr. Sachdeva?

13 MR. SACHDEVA: Yes, Mr. President.

14 PRESIDING JUDGE FULFORD: Certainly.

15 Further questioned by Mr. Sachdeva:

16 Q. Good afternoon again, sir.

17 A. Good day.

18 Q. At the beginning of cross-examination my learned friend asked you
19 questions about the young kadogos in the UPC, and you had given answers
20 saying that they would be taken away or they would be sent to
21 headquarters. And I just want to take you back to that portion from the
22 statement that you gave to the Prosecutor in 2008 from which my learned
23 friend read from.

24 MR. SACHDEVA: If I could ask that -- this is DRC-OTP-0191-0536.

25 I understand it has an EVD number -- an MFI number and I apologise, I

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1 don't have it offhand.

2 Q. But I'd like to take you to in particular 0191-0541, and
3 specifically at lines 177 to 184. And I'm going to embark on the same
4 process where I'm going to read your answers and ask you a few questions.

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

6 MR. BIJU-DUVAL (interpretation): Yes, your Honour. This poses a
7 problem for me and to the extent that the extract that the Prosecution
8 wants to read out is not the extract that I read out unless I'm mistaken.
9 It's another part of the witness's statement. So we're faced with the
10 situation in which the Prosecution is using means that are the Defence's
11 prerogative, I believe.

12 PRESIDING JUDGE FULFORD: Now, Mr. Sachdeva, you introduced this
13 by saying that you wanted to take the witness back to a portion of the
14 interviews that have been relied on by Mr. Biju-Duval. Are we going back
15 to such a portion or is this brand new?

16 MR. SACHDEVA: We are -- I'm not going back to the exact
17 reference that my learned friend read out from his statement; however, in
18 my submission the subject matter does arise from cross-examination. The
19 portion that I want to put to the witness -- I'm just hesitating whether
20 to make the submissions in front of the witness. Nevertheless, it --

21 PRESIDING JUDGE FULFORD: Well, are you going back to a subject
22 matter that has been raised by Mr. Biju-Duval in his questioning?

23 MR. SACHDEVA: In my submission, yes, it has to do with the
24 recruitment and the potential reasons why certain children were sent back
25 or sent to headquarters.

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1 PRESIDING JUDGE FULFORD: Am I right in understanding this is
2 0514 because it came across in the transcript as being 0541?

3 MR. SACHDEVA: It is 0191-0536 is the main one --

4 PRESIDING JUDGE FULFORD: 0536, right.

5 MR. SACHDEVA: -- is the main statement, and the exact page is
6 indeed 05 -- 0191-0541, and in particular I want to refer to line 177 and
7 184, that excerpt.

8 PRESIDING JUDGE FULFORD: Yes, give me a moment.

9 (Trial Chamber confers)

10 PRESIDING JUDGE FULFORD: Mr. Biju-Duval, thank you very much for
11 the intervention. Having looked at the passage that Mr. Sachdeva wishes
12 to take the witness to, although this isn't from precisely the same point
13 in the interviews that you relied on, it does in our judgement take the
14 witness to an issue which was raised by the Defence during the course of
15 questioning, and in our view the Prosecution is entitled to point out
16 other relevant answers given by the witness on the subject.

17 So you may proceed, Mr. Sachdeva.

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

19 Q. Sir, can I take it that you found that excerpt?

20 THE INTERPRETER: The Swahili booth says that they didn't hear
21 the witness's answer.

22 PRESIDING JUDGE FULFORD: Right. I'm going to intervene. This
23 is 0536 and you're interested, Mr. Sachdeva, in starting in line 174; is
24 that right -- sorry, 177?

25 MR. SACHDEVA: Yes, Mr. President.

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1 PRESIDING JUDGE FULFORD: Right.

2 Can the usher please go over, make sure the witness has got
3 before him that divider at that line, 0536, it should be page 5, line
4 177.

5 Right. The witness now is at the right place, Mr. Sachdeva.
6 Could you then read out so he can follow the parts that you are wishing
7 his concentration on.

8 MR. SACHDEVA: Yes, Mr. President.

9 Q. Sir, the question that was therefore posed to you during the
10 interview is as follows:

11 "Okay. So if ... if a young man or a young kid, for example,
12 someone that's 14 years old but he's physically capable of carrying a
13 weapon or ... or a crew-served weapon and will you keep an individual
14 like that in the UPC as a soldier?"

15 And the answer that is recorded is as follows, your answer is as
16 follows:

17 "Yes, if they were able to carry is a weapon and able to fire it
18 then they could work as a soldier."

19 And my question is: What were you -- what did you mean by that
20 answer? Can you explain that answer?

21 A. Yes, I think this is part of the answer to the question put to me
22 by the Prosecution when I spoke about the kadogos. I explained to you
23 that there were several types of kadogos, but the kadogos in the army
24 were kadogos who could bear weapons. You could see that they were young,
25 but they had weapons. They could carry weapons. I don't know if you

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1 have understood me.

2 Q. Yes, thank you. And how was the ability to carry a weapon
3 related to whether a child or a kadogo would be brought into the UPC?

4 A. Well, how was it related, I can't tell you how this worked. I
5 myself was never involved in recruitment, in recruiting, but these
6 children, these kadogos whom I saw carrying weapons -- well, I provided
7 you with this example to show you that you could see children carrying
8 weapons. That was the answer that I gave. I said that you could see
9 children who could bear weapons who were able to do so. Look, there are
10 several types of children, there were several types of children. There
11 were children who were older than the other children.

12 Q. And to your knowledge and experience, was the -- was the ability
13 to carry a weapon a criteria for recruitment?

14 A. I don't know how this was done. As far as I know, perhaps this wasn't
15 a criterion because if they used that as a criterion, they weren't going to
16 send back the youngest ones. They sent them away by keeping them at the
17 headquarters. I gave you an example of the children who were at the
18 headquarters with Bosco. I gave you the example of
19 which I was accused. There was a child who was recruited. I invited the
20 child, but I saw that this child wasn't even capable of carrying a weapon.

21 Q. When you say "headquarters," where do you mean?

22 A. I said that it wasn't an official matter. It was the
23 responsibility of these commanders who could act in such a way. It
24 wasn't an official programme. There were commanders who saw children who
25 were too young, but they took them and kept them. I provided you with

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1 this example of children whom one could see in the Tango Romeo HQ, but
2 you shouldn't think that it was some kind of a programme, something that
3 had been planned. This was the leaders' responsibility. They could see
4 younger children and they might take these children and keep them with
5 them.

6 Q. I just want to know when you say "Tango Romeo HQ," whose HQ or
7 what HQ do you mean?

8 A. I referred to Tango Romeo, Tango Romeo means Bosco Ntaganda.

9 MR. SACHDEVA: Mr. President, may I have one moment, please.
10 (Prosecution counsel confer)

11 MR. SACHDEVA:

12 Q. Sorry, sir, just one question arising out of your answer. When
13 you said one shouldn't think it was some kind of programme, what do
14 you mean by that? What kind of programme do you mean?

15 A. I'm telling you that -- well, I don't know how to explain this.
16 I said that this was what the commanders wanted to do, it was their will.
17 If they saw a child who was too young, they could take that child; but
18 this did not mean that there was a programme to demobilise the children
19 who were too young that one found in the army.

20 Q. Now, I'd like to take you to another part of your statement. If
21 I could take you to DRC-OTP-0191-0354 -- I apologise, sorry, 0191-0328,
22 and I'm interested in an extract on page 22 of that section which is
23 0191-0350, and in particular line 757.

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

25 MR. BIJU-DUVAL (interpretation): I have the same problem that I

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1 had earlier on. I would like to inform the Chamber of the fact, it
2 concerns the Prosecution's use of this extract, an extract that wasn't
3 used by the Defence. This extract follows on to the extract that the
4 Defence used, but it hasn't been used by the Defence.

5 PRESIDING JUDGE FULFORD: Now, Mr. Sachdeva, is it your
6 contention that Mr. Biju-Duval questioned using the interviews on the
7 subject of the accused knowing about all operational planning?

8 MR. SACHDEVA: Mr. President, it's -- it may delve into that. My
9 reason for asking this question is that the Defence have put questions
10 regarding the method by which operations were presented to the accused,
11 and my deduction of the line of questioning was to suggest -- perhaps I'm
12 not sure if I should do this in front of the witness, but it's --

13 PRESIDING JUDGE FULFORD: Well, I --

14 MR. SACHDEVA: It --

15 PRESIDING JUDGE FULFORD: -- Mr. Sachdeva, forgive me
16 interrupting you. If the Defence have asked questions of the witness
17 about operational planning, about the way that things were brought to the
18 attention of individuals, perhaps brought to the attention of
19 Mr. Lubanga, you are fully entitled to ask questions about that subject
20 by way of re-examination. What at the moment I have great difficulty in
21 is the device which you're using to ask those questions, which is to take
22 the witness to something that he has said before in an interview with
23 investigators by the Office of the Prosecutor. There are all sorts of
24 potential difficulties with that.

25 Now, if Mr. Biju-Duval had taken the witness to this section or

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1 another similar section and this section puts the questions that were
2 asked by Mr. Biju-Duval into a more comprehensive context, so be it. But
3 unless that happened I think it is inappropriate for you to conduct this
4 questioning by taking the witness straight to answers that he's given on
5 a previous occasion.

6 MR. SACHDEVA: Very well, Mr. President, I'm guided by that
7 and --

8 PRESIDING JUDGE FULFORD: Good. So do ask a question about the
9 subject, but we needn't look at answers that the witness has given on an
10 earlier occasion.

11 MR. SACHDEVA: I will move on for the moment.

12 Q. Sir, during cross-examination you told the Court about an
13 incident where a kadogo was brought home by his mother, and you
14 (Redacted). And you told the Court that you
15 had learned that he, the child, had been taken and brought to the UPC.
16 Do you remember if you were told how that child had been taken and
17 recruited into the UPC and by whom?

18 PRESIDING JUDGE FULFORD: Don't answer the question for a moment.
19 Yes, Mr. Biju-Duval.

20 MR. BIJU-DUVAL (interpretation): I am referring to the French
21 transcript. The statement that the Prosecutor is alluding to, I don't
22 see any notion of abduction in that statement.

23 PRESIDING JUDGE FULFORD: Mr. Biju-Duval, it may be most
24 convenient -- sorry, Mr. Sachdeva, it may be most convenient if you could
25 read out what the witness said on the subject on the -- earlier in his

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1 testimony and then put your question on the basis of the exact quotation.

2 MR. SACHDEVA: Yes, Mr. President. I did actually have the
3 reference. The reference is page 55 from the 20th of May, and it's
4 contained in an answer the witness gave and I'll just read an excerpt.

5 Q. Sir, this is what the English transcript has you down as saying.

6 (Redacted) to get that child

7 sent back to me, and the child came and I saw the child and I realized
8 that it was just impossible that such a thing could happen. And I said,
9 'Why did you enlist?' And he said, 'Well, I was with my friends and they
10 asked us to come along'. They came and they took the whole group and I
11 left. And I said to the mother, 'Look, your child is here'."

12 MR. SACHDEVA: So, Mr. President, on that basis I ask the witness:

13 Q. Did you find out who took this child and his friends or the
14 circumstances of his recruitment into the UPC?

15 A. Well, I told you that I do not know how recruitments -- how
16 recruitment was done, how children were enlisted in the army. What I
17 heard was that the children would come to the training centre, and when
18 this child was taken and when he was taken to the training camp together
19 with these children, I
20 received a complaint from his mother. His mother came crying. She said
21 that her child had been taken, taken to the army. She was together with
22 (Redacted), who was my collaborator who was in charge of communication. I
23 told this woman who was with (Redacted)-- she asked to go and check. I
24 called using my Motorola phone to make sure -- to ascertain whether the
25 children had arrived. They said the children had not yet arrived and

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1 that they would arrive in the evening. So I told her to go and rest,
2 and I said tomorrow we will look into this matter and see how we can help
3 you with this difficulty --

4 Q. Sir, yes, I am very sorry to interrupt you, and I understand that
5 part of your answer. I simply want to restrict you to what you say his
6 mother said. She said that her child had been taken -- taken to the
7 army.

8 And my question is: Do you know where he was taken from or what
9 he was doing while he was taken or taken by whom?

10 A. I know that it was in (Redacted), but I cannot tell you who took the
11 child. I can't give you a clear information on that. I was not told
12 about the person who took the child. She said we were asked to leave and
13 we went together. I don't know who was responsible for that.

14 Q. Did you find out what he was doing in (Redacted) at the time he was
15 taken?

16 A. His mother told me that he was a pupil.

17 PRESIDING JUDGE FULFORD: Mr. Sachdeva, it's now ten to 5.00.
18 Have you many more questions?

19 MR. SACHDEVA: I have three or four.

20 (Trial Chamber and Court Officer confer)

21 PRESIDING JUDGE FULFORD: Yes, please carry on, Mr. Sachdeva.

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

23 Q. Sir, you said pupil. A pupil of what, do you know?

24 A. I think he was attending school in (Redacted). He was a primary school
25 pupil.

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1 Q. When my learned friend asked you questions about your appointment
2 letter and in describing the contents of your appointment letter you
3 mentioned the (Redacted). And my question is what is (Redacted)?

4 A. (Redacted) within
5 the army because we have the (Redacted) and the
6 (Redacted). I was the head of (Redacted) which deals
7 with (Redacted).

8 Q. And my last question: When you were asked questions on the -- on
9 Jerome Kakwavu and the troubles that he was in, you talked about a
10 radio -- you heard about these issues on radio Okapi. And my question
11 is: Do you know anything about who controlled radio Okapi, what was it
12 broadcasting? If you could enlighten us that would be helpful?

13 PRESIDING JUDGE FULFORD: Before you answer that, sir.

14 Mr. Biju-Duval, it's probably late in the day and my memory's
15 failing me, did you ask questions about radio Okapi?

16 MR. BIJU-DUVAL (interpretation): No, Your Honour. I didn't any
17 questions on radio Okapi. I don't remember hearing the witness make any
18 mention of that radio station in his evidence.

19 PRESIDING JUDGE FULFORD: My memory is that there was evidence
20 given by the witness that he, I think (Redacted), had heard various
21 things on the radio, and Jerome said to him that he had heard various
22 things on the radio. But for my part I don't recall any reference to
23 radio Okapi but maybe I'm wrong.

24 Mr. Sachdeva, can you enlighten us?

25 MR. SACHDEVA: Yes, Mr. President, page 23 -- page 23, line 8:

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1 (Redacted)

2 PRESIDING JUDGE FULFORD: All right. Mr. Sachdeva, we've been
3 down a number of highways and byways so far in this case. Is our task,
4 focusing on the charges brought by the Office of the Prosecutor, is that
5 going to be assisted by us knowing who controlled radio Okapi? Is that
6 really going to be of any assistance to us?

7 MR. SACHDEVA: Mr. President, clearly it's not critical, however
8 it is, in our submission, part of the contextual evidence just as with
9 the ethnic backgrounds of some of the commanders. Our submission is that
10 there were some media organisations that were utilised in a certain way,
11 and this particular radio station has cropped up in evidence thus far,
12 and that's the reason why I asked the question. But I totally accept
13 that it's not a critical issue in the case.

14 (Trial Chamber confers)

15 PRESIDING JUDGE FULFORD: I think this is delving into a minor
16 issue in a way that's unnecessary, Mr. Sachdeva. Thank you for the
17 question.

18 Sir, you needn't answer it. Thank you for your questions,
19 Mr. Sachdeva.

20 Sir, Judge Odio Benito, who sits on my right, now has a few
21 questions for you. And public session I think.

22 JUDGE ODIO BENITO: Yes.

23 PRESIDING JUDGE FULFORD: Public session, please.

24 JUDGE ODIO BENITO: Thank you.

25 (Open session at 4.55 p.m.)

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1 COURT OFFICER: Public session.

2 JUDGE ODIO BENITO: Thank you.

3 Questioned by the Court:

4 JUDGE ODIO BENITO: Sir, I would like to seek your assistance in
5 clarifying specific topics about girl soldiers or PMF in the UPC. During
6 your testimony in different moments you mentioned that there were these
7 girl soldiers or PMF in the UPC; is that correct?

8 A. Yes.

9 JUDGE ODIO BENITO: Thank you. You also mentioned that these
10 girl soldiers could be seen working as bodyguards of different officers;
11 is that correct?

12 A. Yes. Most of them served as bodyguards, that's true.

13 JUDGE ODIO BENITO: Do you know, sir, if they carried weapons and
14 wore military uniforms when working as bodyguards?

15 A. Yes, they wore military uniforms and they also carried weapons.

16 JUDGE ODIO BENITO: Could you explain to us, if possible for you,
17 how old these girl soldiers were?

18 A. Well, actually I can't give you their ages, well -- but they were
19 like the kadogos. What I mean is that we had older girls who were like
20 mothers and others who were young. I can't say all of them were adult.
21 There were young girls and there were older girls.

22 JUDGE ODIO BENITO: Thank you. Do you know what other role did
23 these girls have in the UPC in addition to working as bodyguards?

24 A. This does not mean that all of them were serving as bodyguards.
25 There were some who served as bodyguards. Others served within

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1 companies. But the most important task that they carried out was that
2 they helped commanders with their cooking and they also carried out other
3 feminine tasks, routine tasks carried out by women. You could find
4 commanders who had girls serving them as cooks or taking care of their
5 clothes and other such duties such as making their beds.

6 JUDGE ODIO BENITO: What do you mean exactly when you say "other feminine
7 tasks"? You mentioned cooking and clothing, but what else? A. Well,
8 routine tasks within the army. They could also fight or participate
9 in combat or serve as guards or carry out patrol. In other words, they
10 carried out the same routine duties that other soldiers would carry out.

11 JUDGE ODIO BENITO: Thank you. Did you ever deal or hear with
12 the cases of sexual violence against women and particularly girl soldiers
13 within the UPC staff? Have you heard about that?

14 A. When you talk -- you have used the term "kubaka" in Swahili, what
15 does that mean?

16 JUDGE ODIO BENITO: Well, sir, I didn't use the term "kubaka" in
17 Swahili. I frankly don't know the meaning of "kubaka" in English.
18 Perhaps the interpreters can assist us. My question, sir, was if, for
19 instance, when you were visiting training camps you were informed about
20 sexual violence against girl soldiers. And when I talk about sexual
21 violence I'm talking about rapes, I'm talking about sexual slavery, I'm
22 talking about forced impregnation. Have you heard about that? Has
23 somebody told you about that?

24 A. Yes, I heard such information.

25 JUDGE ODIO BENITO: Thank you, sir. If -- could you tell us if

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1 that was a common practice or you only heard about that from time to
2 time?

3 A. Such cases did not occur frequently. I say this because I did
4 receive complaints along those lines, but that doesn't mean it was
5 something that occurred frequently. Sometimes the soldiers would get
6 along or agree to get married and sometimes I would see a pregnant girl
7 and she would simply tell me that such and such a commander was her man.

8 JUDGE ODIO BENITO: Thank you. When explaining to the Prosecutor
9 about the discipline and certain punishment that the soldiers could
10 suffer during their service in UPC, you mentioned that among those
11 punishment could be assigned to cooking, to be in charge of -- to cook
12 for the other colleagues. And you said, I think that if my memory at
13 this point in time doesn't fail, that that was used as a punishment
14 because cooking was very difficult in Africa and it's a very hard task.
15 Is that correct? I am accurate in saying that?

16 A. Yes, it's a difficult task.

17 JUDGE ODIO BENITO: So -- but please correct me if I am wrong, so
18 it was a difficult task for the soldiers, the men soldiers, but it was
19 the normal task for the women soldiers, is that correct, because they
20 were women?

21 A. When I was saying that the PMF prepared the food, you need to
22 distinguish between preparing the food for an individual and preparing
23 food for all the troops. I said that the PMF were often bodyguards and
24 amongst their tasks they prepared food for the commander, to do his
25 laundry, to clean his house. But as regards the overall feeding of the

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1 troops there had to be food prepared for everyone, and *the commander
2 couldn't eat with the rank and file soldiers. So when I referred to a
3 difficult task I wasn't referring to preparing the food for the commander.

4 When you cook at home, you're cooking for one or two people, but
5 cooking for all the troops meant cooking in large pots, cooking for all
6 the soldiers; and to do that you had to collect a lot of dry wood, you
7 had to make a fire, and that's not an easy task to prepare food for 100
8 people. But the tasks carried out by the PMF, that is, cooking for their
9 commander, just meant ordinary home cooking.

10 JUDGE ODIO BENITO: And the PMF never cooked for the whole troop,
11 only for the commanders?

12 A. That depends. If the PMF was not appointed to a commander, she
13 could be appointed to working in the kitchen, cooking for all the
14 soldiers. After all, they were soldiers like others and they had
15 numerous different tasks.

16 JUDGE ODIO BENITO: Thank you very much indeed. Very helpful,
17 sir.

18 PRESIDING JUDGE FULFORD: Anything, Mr. Sachdeva?

19 MR. SACHDEVA: No, Mr. President.

20 PRESIDING JUDGE FULFORD: Thank you.

21 Mr. Biju-Duval?

22 MR. BIJU-DUVAL (interpretation): I do have one point, if I may,
23 your Honour.

24 PRESIDING JUDGE FULFORD: Arising out of Judge Odio Benito's
25 questions; is that right? Certainly.

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1 MR. BIJU-DUVAL (interpretation): Which relate to a question put
2 by the Prosecutor.

3 PRESIDING JUDGE FULFORD: Given you're entitled to go last,
4 you're entitled to ask a question arising out of Mr. Sachdeva's
5 questions. Yes, Mr. Biju-Duval, certainly.

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

7 Further questioned by Mr. Biju-Duval:

8 Q. Witness, could you please look at the document which is under tab
9 7 of your binder. The reference is DRC-OTP-0191-0646, page 0664?

10 COURT OFFICER (interpretation): The document will be given the
11 reference MFI-D-00126.

12 MR. BIJU-DUVAL (interpretation):

13 Q. Would you look at lines 656 and 657 in the Swahili version, which
14 I will read out in English.

15 A. Excuse me?

16 Q. It's lines 656 and 657 in Swahili and 658 and 659 in English and
17 I'm quoting:

18 (In English) "And when I talked to the child, the child did not
19 tell me that he was at school. The child told me they were at the place
20 and the child was taken from there."

21 PRESIDING JUDGE FULFORD: Right. Mr. Biju-Duval, I think we need
22 to have in as well, if you're going to take the witness to those two
23 particular lines, just a little bit further up the -- at 649 and 650 the
24 mother -- the information you got from the mother was that this child had
25 been taken directly from school. So the -- putting it in its entirety,

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1 therefore, as dealt with in this interview what was being said was that
2 the mother had said that the child had been taken from school, but the
3 child when the witness spoke to him didn't say that he'd been taken from
4 school. So bearing that in mind, what's the question, Mr. Biju-Duval?

5 MR. BIJU-DUVAL (interpretation):

6 Q. My question is: Is it true, is it correct, that the child did
7 not tell you that he was taken from school? Let me draw your attention
8 to line 669 of this same page you told the investigators:

9 "No. It wasn't taken from school?"

10 I'd like to ask you to take a look at lines 671 and 672 in
11 Swahili. And my question is as follows: According to your knowledge was
12 the child still of school age? Was the child enrolled in school, but
13 the child didn't tell you that he had been taken out of school, that he
14 was abducted from school?

15 A. I'd like to tell you that you need to understand things fully.
16 You're reading what is written, but I have the impression you don't want
17 to understand what I'm saying. On page 671, or rather, line 671, I'm
18 going to read it out in Swahili. Listen carefully. He was taken. He
19 was studying in elementary school. He was a child. He was a pupil. I
20 think you have understood what I'm saying now. I'm not saying that the
21 child told me he was taken in school. It's the mother who told me that her
22 child had been taken, a child who was still in school. I am not saying
23 they went to take the child in school. No, I'm saying that they were found
24 somewhere and they were taken. But the mother said that her child had been
25 taken, at a time when the child was still a pupil. And I

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1 think that this sentence that I have just read out was clear and I hope
2 you have understood me.

3 Q. That's perfectly clear. Thank you.

4 PRESIDING JUDGE FULFORD: Thank you very much.

5 Sir, giving evidence has been a lengthy process for you, and I
6 suspect that it has been a difficult one as well, most particularly
7 because it may have and indeed it may already have had a significant
8 impact on your life and that of your family. This Court can only
9 function if witnesses such as yourself are prepared notwithstanding the
10 difficulties to come to The Hague to give evidence in person and to be
11 subjected to perfectly proper questions from a number of different
12 counsel.

13 You therefore leave this Court with our profound thanks for your
14 preparedness to assist us in the process of searching for the truth in
15 this case. Your evidence is now concluded and you are free to go, and as
16 I say you leave this Court with our thanks.

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

18 *(Closed session at 5.18 p.m.) Reclassified as open session

19 COURT OFFICER (interpretation): Closed session.

20 THE WITNESS (interpretation): Thank you, Your Honour.

21 (The witness withdrew)

22 PRESIDING JUDGE FULFORD: I want to thank the interpreters and the
23 stenographers for their forbearance. I try wherever possible to ensure
24 that we rise at the appointed time, but I'm sure you all understand
25 that given we were so close to the end of this witness's testimony that

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1 it was desirable if possible to finish it today; however, you've had to
2 pay the penalty for that and you have our thanks. We sit tomorrow at
3 half past 9.00. Thank you all.

4 COURT USHER: All rise.

5 The hearing ends at 5.21 p.m.

6 RECLASSIFICATION REPORT

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

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