

1 International Criminal Court

2 Trial Chamber I

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

4 Case against Thomas Lubanga Dyilo

5 Hearing - Open Session

6 Tuesday, 23 June 2009

7 Hearing starts at 9.30 a.m.

8 COURT USHER: All rise. The International Criminal Court is now
9 in session. Please be seated.

10 PRESIDING JUDGE FULFORD: Good morning. Mr. Sachdeva, you were
11 going to provide us with some additional information in relation to the
12 question that you asked last week.

13 MR. SACHDEVA: Yes. Mr. President. Thank you, and good morning
14 to you and your Honours.

15 Mr. President, at the outset I'd like to make it abundantly clear
16 that under no circumstances did I intentionally want to embarrass the
17 witness or put the witness in an uncomfortable position. That clearly
18 was not my intention. I was genuinely under the impression that while
19 the witness may have had some reading difficulties and that perhaps for
20 longer documents or documents that he would not have been familiar with
21 he would have required assistance. I was unsure as to whether that meant
22 that he could not spell a name that he would have been expected to be
23 familiar with, and that is why I broached the issue with the Chamber
24 before asking the question, which I eventually did not.

25 My basis -- the basis for my understanding derived from several

1 factors. First and importantly, I knew that the witness had been through
2 secondary school, and that enabled me to arrive at a conclusion that
3 perhaps he could read, albeit with some difficulty, and that again what I
4 was asking -- what I was proposing to ask the witness to do, to write
5 down a name that he would have been familiar with, that he might have had
6 to spell on a daily basis would have not been -- would not have gone
7 beyond the realms of possibility.

8 Further, Mr. President, the question that I proposed to ask the
9 witness was based on my understanding that the witness and victims unit
10 appeared to classify two different categories of those who were, one,
11 illiterate, and those who required reading assistance. And when I make
12 this submission, I do not in any way intend to lay blame to the Victims
13 and Witnesses Unit, it simply is an explanation as -- as a basis for the
14 understanding I had when I approached the witness with that question.

15 For example, if one looks at the recommendations given for
16 Witness 294, the -- the statement directly reads: "The witness should
17 not be asked to read any text in Swahili." And as I recall, Witness 294
18 was unable to read. With respect to this witness, the recommendation was
19 that reading assistance is provided, and thus the Witness and Victims
20 Unit appeared to describe -- well, my submission is that persons
21 requiring assistance with reading may have had some schooling, may well
22 have had knowledge of the alphabet, and may well have been able to read
23 and spell words they may have seen many times such as their names or
24 their home villages, or indeed the name of the school that they attended
25 despite again being unable to read an unfamiliar document or a longer

1 document such as a solemn declaration, and based on that understanding, I
2 believe that the witness may well have been able to clarify the spelling
3 of the school which I was proposing to do.

4 Again, I'd like to reiterate that it certainly was not my
5 intention to expose the witness or cause him any discomfort. I would
6 also like to add, Mr. President, that we have had a similar situation
7 with Witness 157 where he had required reading assistance, but later upon
8 further examination he had been able to spell some names of his
9 relatives.

10 And lastly, Mr. President, I was keenly aware that the Defence
11 had objected to any leading questions regarding the witness's personal
12 identity and professional and military experience, and I was mindful of
13 the need to ensure that evidence that was elicited with respect to his
14 identity was properly and accurately recorded, and with that in my mind
15 I -- I thought it best to try and do what was possible to properly record
16 the answers the witness gave.

17 Again, in hindsight it probably may have been better if I had
18 elicited the evidence with respect to the witness's schooling prior to me
19 approaching the Chamber for advice, because if that had been done, then
20 the Chamber would have been in a better position to advise -- advise the
21 Prosecution. So in that respect I do regret the question that I did ask
22 the Chamber at that time. And, Mr. President, those are my submissions.
23 Again, I -- I did not intend to cause any discomfort to the witness or to
24 the Court.

25 PRESIDING JUDGE FULFORD: Thank you very much indeed,

1 Mr. Sachdeva. Of course no one is suggesting that you would in any way
2 deliberately have put the witness in the position of embarrassment. No
3 responsible member of the bar would ever do that.

4 Our concern is to make sure that we learn from this and that in
5 future for witnesses where there is a question mark over their ability to
6 read, so where the issue has been flagged up and there have been
7 indications that reading assistance is required, it shouldn't be left
8 with that being the only information before us, and I'm going to ask you,
9 please, or somebody from your team to liaise with the Victims and Witness
10 Unit so that we can establish a procedure whereby a proper investigation
11 can be carried out gently in advance to establish whether the witness is
12 going to be able to help us if necessary during his or her evidence by
13 writing down the names of people or places, matters of that kind, so that
14 it's not left to you having to guess or make deductions from the evidence
15 that's being given as to what the reading or writing ability is of the
16 witness so that we actually know in advance.

17 We're all learning in this, Mr. Sachdeva. So thank you again for
18 your explanation, and can we see with the Victims and Witness Unit
19 whether there is a more certain procedure that can be implemented for the
20 future.

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

22 PRESIDING JUDGE FULFORD: Thank you very much indeed.

23 Anything else before Witness 89 returns? No. Good.

24 So the public understand what is about to happen, this is a
25 protected witness, and in order to keep his identity preserved, we will

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Closed Session)
Questioned by Mr. Sachdeva (Resumed)

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1 briefly go into closed session so that he can come into court, and we
2 will then return into open session so that you will be able to hear his
3 evidence.

4 Closed session, please.

5 *(Closed session at 9.39 a.m.)Reclassified as Open session

6 COURT OFFICER: Closed session.

7 (The witness takes the stand).

8 WITNESS: WITNESS DRC-OTP-WWW-0089 (Resumed)

9 (Witness answered through interpreter)

10 PRESIDING JUDGE FULFORD: Good morning. I'm sorry we've kept you
11 waiting.

12 THE WITNESS (interpretation): Good morning.

13 Public session, please.

14 (Open session at 9.41 a.m.)

15 COURT OFFICER: Open session.

16 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

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

18 Questioned by Mr. Sachdeva: (Continued)

19 Q. Good morning, sir.

20 A. Good morning.

21 Q. On Friday we were speaking about the activities at Mandro
22 training camp. I'd like to ask you as a trainer what types of activities
23 did you teach the recruits?

24 A. At the beginning, we started by teaching them drill. That was on
25 the first day. We taught them how a soldier ought to march on the second

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
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1 day. The officials of the camp called us, and we went to a little bush
2 to teach the recruits the different parts of a weapon, how to use a
3 weapon. And on the third day, we taught them tactics, war tactics, that
4 is, which can be used in the situation of a battle in the forest. We
5 taught them how to crawl, how they can crawl and roll.

6 Later on the head of the centre called us and requested us to
7 teach them war plans, how to carry out an ambush, how to attack a place,
8 and if the enemy is located on top of a hill, what has to be done to
9 destabilise that enemy.

10 Q. By what means did you teach the recruits how to use a weapon?

11 A. Well, with respect to weapons, it was the head of the centre who
12 gave them training in that regard. We, rather, taught them various
13 physical exercises. With respect to use of weapons, it was the head of
14 the centre who taught them that.

15 Q. And when the recruits were taught how to use weapons, was it with
16 weapons or with other items?

17 A. Well, for the use of weapons, in the training we used weapons.
18 The head of the centre would, first of all, show a demonstration, and if
19 he was not there, then we would repeat the same thing. And the head of
20 the centre would insist that this was necessary for war, for combat.

21 Q. Did the recruits have weapons?

22 A. No. The weapons were reserved for soldiers who had already been
23 trained. They were weapons which they used and weapons which were kept
24 in the weapons depot.

25 Q. What did the recruits have? What did they use when they were

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
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1 taught how to use weapons?

2 A. The recruits used pieces of wood. Now, to teach them how to use
3 weapons, we placed a sheet on which they would place the weapon, and we
4 taught them how to use the weapon, and they would in turn come to see how
5 this was done.

6 Q. You said that within your group, the group that you trained,
7 there were no girls. Were there girls at the camp, at the training camp,
8 while you were there?

9 A. There were many girls. However, in my group there was no girl.

10 Q. What were the girls doing in the training camp?

11 A. The girls who were at the training centre, from what I noticed,
12 did not undergo training like the others. I noticed that amongst them
13 there were some who were called by other soldiers to come and do laundry.

14 Q. Which soldiers would ask them to come and do laundry?

15 A. At the centre it was the trainers and the bodyguards of the
16 various commanders, those who worked for the officials of the centre.

17 Q. Apart from the laundry, did the girls have other duties or other
18 functions in the camp?

19 A. In the camp they did cooking for the commanders. We were shared
20 out amongst various groups to carry out this activity, and the girls
21 especially would do the cooking and laundry for the commanders.

22 Q. Why would they do that?

23 A. It's difficult to know why they did that. All I could see, all I
24 noticed was there were commanders who liked girls.

25 Q. What do you mean by there were commanders that liked girls?

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
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1 A. What I mean is the following: There were commanders who took
2 girls as women. They would get them pregnant, and these girls then had
3 to leave the camp and go to the village.

4 Q. Are you able to say how -- how often this occurred, that the
5 commanders would get the girls pregnant?

6 A. This is something that happened in the case of two commanders.
7 They got girls pregnant. That's what I saw with my very own eyes.

8 Q. Do you know the names of those commanders?

9 A. I know the name of one of the commanders.

10 Q. Could you tell us?

11 A. His name was Commander Mugisa Muleke. He was the commander of
12 the training centre, and he got a girl pregnant. Her name was Goretti,
13 and they had a child.

14 Q. Do you know the age of the girl?

15 A. She was very young. She was very young. She was under the age
16 of 17.

17 Q. The girls that were taken by the commanders, do you know if
18 they -- let me rephrase that question.

19 Were you able to establish whether the girls had a choice or not
20 to go with the commanders?

21 A. You know, in the centre you had to obey orders whether you wanted
22 to or not, because they said -- well, the recruits weren't considered as
23 human beings. So if someone, in this case a girl, was taken by a
24 commander, if a commander wanted this person, this had to be accepted.

25 Q. Did you become aware of an occasion when a girl refused to go

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
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1 with a commander?

2 A. Whether you wanted to or not, if you were summoned, you had to
3 go.

4 Q. What, if anything, would happen if a girl refused to go?

5 A. What I noticed is that if a commander summoned a girl, the girl
6 would comply. I never saw a girl refusing to obey a commander's summons.

7 Q. You have talked about the commanders taking the girls. I just
8 want to ask you, in general are you able to tell us the age-range of the
9 girls that were in the camp?

10 A. There were a lot of girls in the centre. We were numerous. You
11 could spend three days there without seeing your friends there. There
12 were those who were somewhat younger and others who were a little older.

13 Q. Were there girls there that were younger than you or older than
14 you? Can you help us with that?

15 A. Yes, there were.

16 Q. Yes, they were younger than you or they were older than you?

17 A. I noticed that there were some who were older than me. There
18 were others who were younger than I was.

19 Q. And with respect to the girls that were younger than you, are you
20 able to tell us what ages they may have been?

21 A. In my opinion, in my assessment, there were some girls who were
22 14 or 15 years old.

23 Q. Are you able to say roughly how many girls were, in your
24 assessment, 14 years old in the camp?

25 A. As I have said, you could spend three days in the camp without

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
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1 seeing your friends because there were a lot of people there. It's very
2 difficult, as there were so many people in the centre.

3 Q. And moment ago you said that when the girls got pregnant they had
4 to leave the camp. Why did they have to leave the camp?

5 A. I said that if a girl was pregnant, if a PMF was pregnant, well,
6 what was there left for her to do in the army? Most of them would leave
7 the centre once they were pregnant. This is what we would see.

8 Q. You mentioned, sir, you mentioned PMF. What do you mean by that,
9 PMF?

10 A. The girls were called PMFs.

11 Q. Were you aware of occasions when girls would be taken by
12 commanders but would not get pregnant?

13 A. You want to discuss the training centre, but could you rephrase
14 your question, please.

15 PRESIDING JUDGE FULFORD: Is it really necessary, Mr. Sachdeva?
16 I think if girls are forcibly taken, some are going to be impregnated,
17 but not necessarily all of them. I think it's so self-evident. We
18 really don't need to go there.

19 MR. SACHDEVA: Yes, Mr. President. I'll move on.

20 Q. Sir, during your time in Mandro did other members of the UPC
21 military visit the training centre?

22 A. Yes. Would I see Bosco. He would come when the weapons arrived.
23 I also saw other individuals there.

24 Q. Which other individuals?

25 A. Various individuals arrived in the centre. On the first day I

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1 said there were people who arrived looking for their children. There
2 were others who arrived. One day a tradesman arrived in the centre.

3 Q. And do you know why the tradesman came to the centre?

4 A. I don't know, but I saw him. He arrived with a boy who was
5 carrying three boxes of sweets.

6 THE INTERPRETER: The interpreter in the Swahili booth would like
7 to point out that the witness is speaking too fast.

8 PRESIDING JUDGE FULFORD: Sir, you're doing extremely well, but
9 could you just try to make sure that when you give your answers you don't
10 speak too quickly, because the gentlemen upstairs who are interpreting
11 from Swahili are finding the speed a little bit difficult. So you're
12 doing excellently, but if you could just try and slow down slightly.

13 MR. SACHDEVA:

14 Q. I'd like to talk about the time that -- well, you said that Bosco
15 would come to the centre. During your time there, how many times did he
16 visit the centre?

17 A. I saw Bosco on three occasions during my stay in the centre.

18 Q. And on those three occasions what were the reasons for his visit?

19 A. On the first day when I saw him, this was when the weapons were
20 air-dropped. On the second and third occasion, I don't know the reason
21 for which he was there.

22 Q. When he came to the centre on either of the occasions that you've
23 spoken of, were the recruits present or not?

24 A. When he arrived, the recruits were there. He arrived in the
25 centre, and the recruits were there.

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1 Q. Did he do anything in particular with respect to the recruits
2 when he visited?

3 A. On the first day when I saw him, he came because of the weapons.
4 On that day he didn't speak with the recruits.

5 Q. And how about the other two times he came? Did he speak to the
6 recruits then?

7 A. Yes. On the third day -- or, rather, on the third occasion he
8 did speak with the recruits.

9 Q. And were you present when he spoke to the recruits on the third
10 day?

11 A. Yes.

12 Q. What did he say to the recruits?

13 A. He said things to bolster the recruits' morale and the soldiers'
14 morale.

15 Q. What things we say to the recruits to bolster their morale?

16 A. He told them that they would be soldiers, that's all.

17 Q. Did -- at the times that Bosco came to the camp, did he come
18 alone or was he with other persons?

19 A. He was with his bodyguards.

20 Q. How many bodyguards did he have?

21 A. It's very difficult for me to say how many bodyguards he had.

22 Q. Yes, I understand that, and perhaps I'm not asking for an exact
23 figure, but was it two or three? Was it over ten? Was it 20?

24 A. Well, there were enough of them, but I cannot tell you exactly
25 how many.

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1 Q. And amongst the bodyguards of Bosco, were there -- was it just
2 adults or were there also children?

3 A. Well, among the bodyguards, some were adults but there were
4 children too.

5 Q. And, sir, were you able to assess the ages of the children?

6 A. I don't have any idea, but I could assess their age.

7 Q. And what would your assessment be?

8 A. As far as I know, some were under 18, some were 15, and there
9 were adults too.

10 Q. How were they dressed, his bodyguards?

11 A. At that time the UPC groups were wearing uniforms. Some were
12 wearing military uniforms, others were not.

13 Q. Were the bodyguards carrying weapons?

14 A. Yes, they were wearing weapons.

15 Q. A moment ago you said that -- when I asked you about visits of
16 other persons to the camp, you said that tradesmen came with some sweets.
17 Did you find out why they came with the sweets to the camp?

18 A. I said that I saw one tradesman with a boy carrying boxes of
19 sweets, but I do not know why they came, but I saw them.

20 Q. What -- did you know what happened with the boxes of sweets?

21 A. Well, the commanders at the centre, they distributed these sweets
22 to the recruits.

23 Q. When you -- well, let me ask you this: After the time in Mandro
24 as a trainer, what did you do next?

25 A. When we left the training centre, we went to the Mandro centre.

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1 Once there at Mandro, one day Bunia people called to the head of Mandro
2 and said that a delegation was coming from Kinshasa. Therefore, they had
3 to deploy people in order to secure the aeroport.

4 Q. When you say "Bunia people," who do you mean?

5 A. Well, the Chiefs of Staff, the commanders. They called Mandro to
6 say that they had to deploy military people to secure the aeroport.

7 Q. Do you know who was in the delegation that was coming from
8 Kinshasa?

9 A. Could you -- could you ask your question again, please?

10 Q. Certainly. Did you find out who was coming from Kinshasa to the
11 aeroport?

12 A. Thomas was coming from Kinshasa. He was accompanied with the
13 human rights minister.

14 Q. And, sir, were you then deployed to the aeroport for the arrival
15 of Thomas?

16 A. We left Mandro. We went straight to the aeroport.

17 Q. How many of you went to the aeroport?

18 A. At Mandro two trucks went there, Bunia, too. There was one truck
19 with soldiers on board.

20 THE INTERPRETER: The interpreter didn't hear the last part of
21 the witness statement.

22 MR. SACHDEVA:

23 Q. Sir, if I could ask you to repeat the answer. I asked how many
24 of you went to the aeroport, and you said:

25 "At Mandro two trucks went there, Bunia, too, there was one truck

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
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1 with soldiers on board."

2 Is that right, sir?

3 A. I said two trucks went to Mandro to pick up the soldiers, and one
4 truck, too, picked up the soldiers in Bunia to go to the aeroport.

5 Q. And when you got to the aeroport, what were your duties?

6 A. * When we reached the airport, we waited for the president.

7 We were kind of aside. The army staff

8 had selected those soldiers that were to be his bodyguards.

9 We were standing aside, in civilian clothes together with our commanders.

10 Q. May I just ask you, sir, who was it that selected the soldiers to
11 be his bodyguard?

12 A. I don't know. This is what I saw. But it's difficult for me to
13 give you a precise answer.

14 Q. And when you say "to be his bodyguard," who do you mean?

15 A. What I mean is he came from Kinshasa, and he left his bodyguards
16 in Kinshasa, and this is why they prepared soldiers to ensure his
17 security.

18 Q. How many soldiers were prepared to ensure his security?

19 A. I do not know the exact number.

20 Q. Do you have a rough estimate?

21 A. No.

22 Q. And amongst the soldiers that were prepared to ensure his
23 security, were there adults? Were there just adults or were there also
24 children?

25 A. There were adults, only adults.

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1 Q. When Thomas arrived in Bunia at the aeroport, did he remain there
2 or did he go anywhere else after that?

3 A. When he landed, he saluted the authorities, and he went aboard a
4 vehicle and went to the headquarters.

5 Q. The headquarters of what?

6 A. Well, the UPC headquarters.

7 Q. And what did you do? Did you remain at the aeroport or did you
8 also go to the headquarters?

9 A. When he arrived, we boarded the vehicles and we went back. When
10 we reached the headquarters, our chief asked us to get deployed there to
11 secure the place.

12 Q. What happened when Thomas went to the headquarters and you went
13 back to the headquarters?

14 A. He arrived there at the headquarters. He started to talk to
15 people, and there was a meeting, and we were outside.

16 PRESIDING JUDGE FULFORD: I'm very sorry. Mr. Lubanga.

17 MR. LUBANGA DYILO (interpretation): * I'm sorry, I would like to
18 apologise for interrupting this session. I'm having difficulties with the
19 attitude of someone who is in the public. I think that he wants
20 to draw, make a drawing of me. Could you please give him one of my old
21 pictures, so that he can stop disturbing me. I can -- find it
22 impossible to concentrate from the very beginning. Thank you very much.

23 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Lubanga. In
24 fact, a few minutes ago it was brought to my attention that this was
25 happening. The person doing the drawing is just out of my sight, so I in

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1 fact can't see him from where I'm sitting. I asked for some inquiries to
2 be made as to who he is and what arrangements have been made for drawings
3 to be done, but wholly irrespective of that, I can see that this is
4 extremely disturbing for you. I had been aware of your counsel looking
5 over to the right, and I'd wondered why that was and I now understand.

6 I'm going to immediately ask that the gentleman concerned stops
7 doing the drawing in the public gallery. He hasn't got any headphones
8 on. Security -- the security officer must therefore be asked politely to
9 request that this individual stops immediately doing a drawing of anyone
10 in this courtroom.

11 Right. Thank you, Mr. Thomas Lubanga. You were absolutely right
12 to bring it to our attention. Thank you very much indeed, sir.

13 Please carry on, Mr. Sachdeva.

14 MR. SACHDEVA:

15 Q. Sir, you were saying that Thomas started to talk to people and
16 that there was a meeting. Where was the meeting taking place?

17 A. I said that we were going to be sent -- standing outside. We
18 were deployed there to ensure security. He was holding meetings. He was
19 talking to people there on the veranda.

20 Q. And who was present at these -- at this meeting?

21 A. You're referring to the people, the authorities, or who?

22 Q. Well, firstly let's start with the authorities, if they were
23 there. Which authorities were at the meeting?

24 A. Well, Kahwa was there. I didn't see any other authority because
25 I was standing outside, but most people who were there were the

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
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1 population. I was outside. I didn't hear what they said.

2 Q. Well, when you say "population," who do you mean by that?

3 A. What I'm saying is that when he arrived, several people went to
4 welcome him at the aeroport. The meeting was held at the headquarters.

5 Q. Very well. Let's stay with the meeting at the headquarters. As
6 I understand it, you said Kahwa was -- was there at the meeting.

7 Apart from the authorities, who else was present at the meeting?

8 A. There were many people there, the population.

9 Q. And are you referring to the aeroport when he arrived, or are you
10 referring to the meeting at the headquarters?

11 A. I said that the people went to welcome him at the aeroport, and
12 when he alighted, he boarded a vehicle, and then he went to hold a
13 meeting at the headquarters.

14 Q. Sir, with respect to the aeroport, the welcome at the aeroport,
15 you said that he alighted -- when he alighted, he boarded a vehicle. Did
16 he say or do anything with respect to the population that were
17 welcoming -- welcoming him there at the aeroport?

18 A. At the aeroport he greeted the population, but the meeting was
19 held at the headquarters, that is, outside, and the people were standing
20 in front.

21 Q. And is it there at the headquarters that Lubanga was on the
22 veranda -- that Thomas was on the veranda? I apologise.

23 A. There was a small veranda there, and that is where he stood
24 speaking to the population, and we were standing by. It was outside,
25 outside the fence of the headquarters.

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
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1 Q. Were there soldiers present or not?

2 A. Yes, there were some.

3 Q. And amongst the soldiers that were present at the headquarters,
4 was it just adults or were there also children?

5 A. Within the UPC all commanders were adults. However, at the time
6 there were children, and there were adults as well.

7 Q. And again, sir, at that time were you able to assess the ages of
8 the children that were present?

9 A. I saw some children. However, I noticed that there were some who
10 were aged 15, 17.

11 Q. Did Thomas say anything to the population when he stood on the
12 veranda at the headquarters?

13 A. This is what I said: Thomas spoke to the population. I was
14 standing by some distance away, and at the time he was speaking to the
15 people, but I was some distance away.

16 Q. After that speech at the headquarters, what did you do in the
17 UPC?

18 MR. SACHDEVA: Mr. President, I apologise. Perhaps for this
19 response it may be wise to move into private session, with your leave.

20 PRESIDING JUDGE FULFORD: Private session, please.

21 *(Private session at 10.38 a.m.)Reclassified as Open session

22 COURT OFFICER: Private session.

23 PRESIDING JUDGE FULFORD: I think you probably better put the
24 question again, Mr. Sachdeva.

25 MR. SACHDEVA:

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1 Q. Sir, after the meeting at the headquarters, were you given any
2 particular duties within the UPC?

3 A. After that meeting I returned home. I fled.

4 Q. Did you remain at home?

5 A. Yes. I spent the night there, and from time to time I would go
6 to the headquarters.

7 THE INTERPRETER: The Swahili interpreter did not hear the last
8 part of the witness's answer.

9 MR. SACHDEVA:

10 Q. Sir, I think you said that "from time to time I would go to the
11 headquarters." What would you do at the headquarters?

12 A. I used to go there for the parade, to go and visit, to obtain
13 information, and so on and so forth.

14 Q. So, sir, can I take it then that you were still a soldier within
15 the UPC or did you go to the headquarters for other reasons?

16 A. I went there from time to time.

17 Q. And during that time and indeed after that time, were you given a
18 particular function in the UPC or not?

19 A. Later on a commander called me, and we went to work together.

20 Q. Who was that commander?

21 A. It was (Redacted).

22 Q. And what did you do for that commander? What did you do for
23 (Redacted)

24 A. We met at the headquarters, and he was the friend of a girl from
25 my neighbourhood. Later on he noticed me, and he asked me, "Who is this

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Private Session)
Questioned by Mr. Sachdeva (Resumed)

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1 girl?" And I told him, "The girl is from my neighbourhood." Later on,
2 then, he gave me some work, and we started a friendship, and from time to
3 time he would send me to go and sell his articles here and there.

4 MR. SACHDEVA: Mr. President, for this question, with your leave,
5 I could ask it in open session, but I might need to move back into
6 private session.

7 PRESIDING JUDGE FULFORD: Open session, please.

8 (Open session at 10.43 a.m.)

9 COURT OFFICER: Open session.

10 MR. SACHDEVA:

11 Q. What role or function, if any, did (Redacted) have with the UPC?

12 A. He was a brigade commander.

13 Q. Do you know which brigade?

14 A. It was called (Redacted) the Brigade, or in French, (Redacted) de
15 Brigade.

16 Q. Do you know where his brigade was based?

17 A. When we went to Mongbwalu, he was there. There were other
18 battalion commanders who were in his brigade who controlled Kilo, but
19 when we were in Mongbwalu, he was based there.

20 Q. When did you go to Mongbwalu?

21 A. We went to Mongbwalu two times.

22 THE INTERPRETER: The Swahili interpreter did not hear the last
23 part of the witness's answer.

24 MR. SACHDEVA:

25 Q. Sir, you said that you went to Mongbwalu two times. Did you say

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
Questioned by Mr. Sachdeva (Resumed)

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1 anything else after that?

2 A. I said I went to Mongbwalu twice. That is in answer to your
3 question.

4 Q. What did you go to Mongbwalu for?

5 A. We went to attack Mongbwalu in order to settle there, establish
6 our base there.

7 Q. And when you went to attack Mongbwalu, which military group were
8 you with?

9 A. At that time I was the bodyguard of (Redacted).

10 Q. Why did you go and attack Mongbwalu?

11 A. It's difficult to answer that question. It is the president of
12 the UPC who can answer that question, because he was the person
13 responsible.

14 Q. Why do you say that he was the person responsible?

15 A. I say that because if anything happens, then you normally ask who
16 is responsible.

17 Q. The attacks in Mongbwalu, who -- who was the enemy at that time?

18 A. The UPC's enemy was the APC, the Lendu, but in Mongbwalu it was
19 the APC and the FNI.

20 Q. You said that you went to Mongbwalu twice. I want to ask you
21 questions about the first time. What happened during the first time that
22 Mongbwalu was attacked?

23 A. The first time that we went to Mongbwalu we didn't take the
24 entire town. We took part of the aeroport. There were some
25 difficulties. It was difficult for us to establish contact with Bunia.

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
Questioned by Mr. Sachdeva (Resumed)

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1 We called Bunia, but it was difficult. That's why we turned around,
2 turned back.

3 Q. During the -- well, in the first time that Mongbwalu was
4 attacked, which commanders, if any, were involved in that attack?

5 A. There was my commander, and there were other commanders too. At
6 that time, the soldiers didn't have any ranks. It was difficult to
7 distinguish one commander from another, one individual from another, but
8 my commander, as well as other commanders, were there.

9 Q. Were there persons from the headquarters involved in the attack
10 or not?

11 A. What do you mean when you refer to people from the headquarters?

12 Q. I mean were there soldiers from the UPC headquarters that were
13 involved in the attack?

14 A. The soldiers were from the headquarters. There were others who
15 from other places. They formed the group that went to Mongbwalu. There
16 were many commanders.

17 Q. Who were the soldiers from the headquarters that were involved?

18 A. It's difficult to know their names. There were commanders from
19 the headquarters, and there were other soldiers who came from there, and
20 then there were soldiers who had been gathered en route.

21 Q. And in the first attack, roughly how many soldiers and commanders
22 were involved in the attack?

23 A. There were a lot of commanders. There were a lot of them.

24 Q. And the soldiers?

25 A. There were a lot of soldiers, too, but not the same number as on

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
Questioned by Mr. Sachdeva (Resumed)

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1 the second occasion. On the second occasion there were more of them than
2 on the first occasion.

3 Q. Very well. I'll be asking you some questions about the second
4 occasion in a moment, but staying with the first occasion, amongst the
5 soldiers that were involved in the attack, were there adults or were
6 there adults and children?

7 PRESIDING JUDGE FULFORD: Mr. Desalliers.

8 MR. DESALLIERS (interpretation): Your Honour, the Defence has an
9 objection at this point in time, because whenever we are dealing with the
10 issue of age, the OTP, instead of simply putting the question to the
11 witness and asking what was the age of the soldiers, well, instead of
12 doing that they make suggestions. Naturally, there are two suggestions:
13 There is the suggestion that there were adults and another suggestion
14 that there were children, but both suggestions are there, and the Defence
15 submits that when dealing with age, one should simply put an open
16 question to the witness and ask the witness what the age of the soldiers
17 was. One should not always make suggestions to the witness.

18 PRESIDING JUDGE FULFORD: Thank you, Mr. Desalliers.

19 Might I suggest, Mr. Sachdeva, rather than using what may be the
20 slightly suggestive term of "children," that you simply ask for the
21 witness to give, as far as he could tell, the age-range of the soldiers
22 who were deployed on a particular occasion, and that takes -- takes out
23 the arguably slightly leading element of the question.

24 Good. I think we'll return to this after the break. Thank you
25 all. And we're going to take a half-an-hour break now, sir, to give you

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Closed Session)
Questioned by Mr. Sachdeva (Resumed)

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1 a chance to take some refreshment, to say nothing of the rest of us.

2 We'll sit again at half past 11.00.

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

4 *(Closed session at 10.58 a.m.)Reclassified as Open session

5 COURT OFFICER: Closed session.

6 PRESIDING JUDGE FULFORD: Mr. Desalliers, while the witness is
7 withdrawing, can I indicate that I've asked for urgent inquiries to be
8 made as to exactly what the position is as regards artists who appear in
9 the public gallery. It's right that I should say that quite some time
10 ago -- yes, the witness can withdraw now, thank you.

11 (The witness stands down)

12 PRESIDING JUDGE FULFORD: Quite some time ago I was asked whether
13 it would be possible for someone discreetly to make sketches in the
14 public gallery, and my recollection is that I indicated so long as it is
15 truly discreet, then I didn't envisage it as a problem because of course
16 for public sessions a photographic image is going to be available in any
17 event.

18 Now that I understand who the individual was, I think it's
19 probably fair to say that it wasn't being done particularly discreetly.
20 There was, I think, a pad that was held up reasonably high, and now I
21 understand who he was looking at, namely the accused, I imagine it was
22 fairly obvious that he was sketching Mr. Lubanga. So -- but anyway,
23 inquiries will be made, and if necessary, we'll take submissions from the
24 parties and the participants in due course as to what is appropriate for
25 these criminal proceedings.

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
Questioned by Mr. Sachdeva (Resumed)

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1 Thank you very much.

2 MR. DESALLIERS (interpretation): Thank you, your Honour.

3 PRESIDING JUDGE FULFORD: Half past 11.00.

4 COURT USHER: All rise.

5 Recess taken at 11.01 a.m.

6 On resuming at 11.30 a.m.

7 COURT USHER: All rise. Please be seated.

8 PRESIDING JUDGE FULFORD: Witness, please.

9 (The witness takes the stand)

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

11 Public session, please.

12 (Open session at 11.31 a.m.)

13 COURT OFFICER: Open session.

14 PRESIDING JUDGE FULFORD: Now, sir, the question that was put to
15 you just before the midmorning break was whether you can help on the
16 approximate age-range of the soldiers who took part in the first attack
17 on Mongbwalu.

18 THE WITNESS (interpretation): There were adults involved in the
19 attack.

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

22 PRESIDING JUDGE FULFORD: I'm very sorry, sir. Could you give
23 that answer again? I think you mentioned adults, but did you say
24 something else as well?

25 THE WITNESS (interpretation): I said that there were adults and

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
Questioned by Mr. Sachdeva (Resumed)

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1 there were children, too, but most of those involved were adults.

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

4 Yes, Mr. Sachdeva.

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

6 Q. Sir, with -- with respect to the children, what were -- what were
7 the ages of the children that were involved, if you know?

8 A. I said that there were children of 14 and 15 years of age in the
9 UPC, of 16 years of age. That's what I could see.

10 PRESIDING JUDGE FULFORD: Could you pause, Mr. Sachdeva.

11 (Trial Chamber and Court Officer confer)

12 PRESIDING JUDGE FULFORD: Now, Mr. Sachdeva, we're just going to
13 run a test. Judge Odio Benito's headphones decided to go on strike.

14 Good. Right. We're now back on track. Please carry on with
15 your next question.

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

17 Q. The -- the children that were involved in the attack, what were
18 their duties?

19 A. In the centre everyone learned the same thing. Once training was
20 completed, everyone was a soldier. Children and adults, they all had to
21 participate in the fighting.

22 Q. During the first attack did the children have weapons?

23 A. There were weapons in the UPC, and the children also had weapons.

24 Q. And in the first attack did the children -- do you know if the
25 children used their weapons?

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
Questioned by Mr. Sachdeva (Resumed)

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1 A. When you are participating in a fight, you have to fight. They
2 used the weapons.

3 Q. Amongst the children that you've told us about, were there girls
4 or were there just boys?

5 A. There were some PMFs, but not many of them.

6 Q. And what was their role in respect of the -- the first attack at
7 Mongbwalu?

8 A. The PMFs are soldiers who participate in the fighting.

9 Q. What was the age-range of the PMFs participating in the fighting?

10 A. I saw some PMFs. I said that there were adult PMFs, and there
11 were PMFs who were children.

12 Q. What were the ages of the children PMFs that you saw?

13 A. Well, the PMFs I saw at the attack of Mongbwalu, some were
14 adults, some were children, but I didn't ask them about their age. There
15 were PMFs who were 15 year old, 14 -- 14 years old at the UPC, but there
16 were adults too.

17 Q. Now, you've told us that there was a second attack on Mongbwalu.
18 How did you come to know there was to be a second attack on Mongbwalu?

19 A. No, I didn't say that I knew. We went to Mongbwalu. We failed,
20 and then we came back. This is why higher ranking commanders and the
21 soldiers in different positions got ready for the first round, the
22 second -- sorry, the second attack.

23 Q. And how did the higher-ranking commanders and soldiers get ready
24 for the second attack?

25 A. As far as I know, the second attack were -- was better organised

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
Questioned by Mr. Sachdeva (Resumed)

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1 than the first one. There were a number of soldiers involved. We had
2 had a -- ammunition, and this is how we took Mongbwalu.

3 Q. Who organised the second attack?

4 A. Before the attack there was a meeting. The meeting was held in
5 Bunia, and after the meeting -- or during the meeting -- sorry, after the
6 meeting people came. Bosco came in and other people came from --

7 THE INTERPRETER: The Swahili interpreter couldn't hear the last
8 part of the answer.

9 MR. SACHDEVA:

10 Q. I'm going to ask you some questions about this meeting. First of
11 all, where in Bunia was this meeting held?

12 A. It was at the bureau of the UPC.

13 Q. Were you present at the meeting?

14 A. We were outside. Higher-ranking officers took part in the
15 meeting.

16 Q. Do you recall what time of day the meeting took place.

17 A. The meeting started before noon.

18 Q. Which higher-ranking officers took part in the meeting?

19 A. In the meeting there was Bosco, Kitembo was there, Kasangaki was
20 there. There were a number of commanders who took part in the meeting.
21 Salumu was there.

22 Q. Sir, if I could ask you to repeat some of the names. You said
23 Bosco, Kitembo, Kasangaki. And was there somebody else that you
24 mentioned?

25 A. There were several commanders. There were a number of

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
Questioned by Mr. Sachdeva (Resumed)

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1 commanders.

2 Q. You said that you were outside. Where was the meeting taking
3 place in relation to where you were?

4 A. We were outside in front of the other door, and the meeting was
5 held indoors.

6 Q. Was the door open or closed?

7 A. Closed. The door was open.

8 Q. Sir, I'm sorry, I just want to get a clarification. Did you say
9 the door was open or closed?

10 A. The door was open.

11 Q. Could you see who was present at the meeting?

12 A. Yes, because when we first came in, we were with our commander,
13 and we saw other people get in.

14 Q. Did -- well, was there a particular person that commenced the
15 meeting or ran the meeting?

16 A. Well, the president of the UPC, Thomas, chaired the meeting.

17 Q. You mentioned that there were -- you mentioned some of the
18 commanders that were present at the meeting. Were there other persons,
19 in addition to the commanders and the president, also present at the
20 meeting?

21 A. The president was there with his secretary, and there were other
22 civilians who took part in the meeting.

23 Q. What was the name of his secretary, do you know?

24 A. Tinanzabo. Tinanzabo was the secretary.

25 Q. Who were the other civilians taking part in the meeting?

Witness: Witness DRC-OTP-WWW-0089 (Continued)(Open Session)
Questioned by Mr. Sachdeva (Resumed)

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1 A. I saw them, but I forgot their names.

2 Q. Do you remember if -- well, do you remember at the time whether
3 you knew who they were?

4 A. Well, I knew these people, but that was a long time ago, so I
5 forgot their names.

6 MR. SACHDEVA: Mr. President, I -- I would like to embark on a
7 course that I did previously with one witness in terms of refreshing the
8 witness's memory if that is permissible to the Court.

9 PRESIDING JUDGE FULFORD: Yes. Do I take it, Mr. Sachdeva, that
10 what you want to do is to show the witness a section from a document that
11 he was involved in compiling at some earlier stage?

12 MR. SACHDEVA: No, Mr. President. I wanted to mention the term
13 or a name and ask the witness further questions from that.

14 PRESIDING JUDGE FULFORD: Just remind us, Mr. Sachdeva. When do
15 you say that the Chamber's embarked on this course previously?

16 MR. SACHDEVA: If I recall correctly with respect to Witness 16,
17 I had asked if I could refresh the witness's memory, either by putting a
18 document in front of him or by mentioning, which would be the more
19 expedient manner to do it, mentioning a term and asking whether that
20 means anything to the witness.

21 PRESIDING JUDGE FULFORD: Sir, I'm very sorry to have to
22 interrupt your evidence. I'm going to ask you just for a moment to step
23 outside the court with the usher so that we can deal with the matter
24 that's been raised by Mr. Sachdeva.

25 Closed session, please.

1 *(Closed session at 11.53 a.m.)Reclassified as Open session

2 COURT OFFICER: Closed session.

3 (The witness stands down)

4 PRESIDING JUDGE FULFORD: Public session, please.

5 (Open session at 11.54 a.m.)

6 COURT OFFICER: Open session.

7 PRESIDING JUDGE FULFORD: Now, what's this all about,

8 Mr. Sachdeva?

9 MR. SACHDEVA: Mr. President, there is a -- we believe there was
10 a person present at this meeting that in the Prosecution's submission is
11 important to elicit, and in my submission, the witness has forgotten the
12 name of this person, and I would -- I would like to mention the name and
13 ask the witness whether that name means anything to him.

14 I had -- with respect to Witness 16, the Chamber may recall that
15 he had similarly forgotten the name, and I put the name -- I asked the
16 question of the witness whether he knew the person Jaguar, and he in fact
17 did remember, and then I asked further questions on that.

18 PRESIDING JUDGE FULFORD: Now, what's your basis for saying that
19 the witness, in the Prosecution's contention, knows or you have reason to
20 believe that he knows or at one stage knew who this person was, but he's
21 now forgotten it? Is this set out in one of the documents before us?

22 MR. SACHDEVA: It -- well, firstly, it is indeed in his
23 statement, but in terms of evidence --

24 PRESIDING JUDGE FULFORD: Mr. Sachdeva, what I'm asking for is a
25 reference, please. Can you show us where we find this? We've been

1 provided with a great bundle of interviews, and I'm not going to repeat
2 the complaint that I've made before. It's very difficult for us to be
3 expected to have in mind each and every line of countless pages of
4 interviews.

5 Now, where do we find this?

6 MR. SACHDEVA: It commences DRC-OTP-0174-0939.

7 PRESIDING JUDGE FULFORD: Which page and which line?

8 MR. SACHDEVA: I'll have that for the Chamber in a moment,
9 Mr. President, with your indulgence.

10 (Prosecution counsel confer)

11 MR. SACHDEVA: The page -- the page number is 0174-0961.

12 PRESIDING JUDGE FULFORD: Now, what on -- what on that page is it
13 that you want us to focus on, and which is the name, Mr. Sachdeva?

14 MR. SACHDEVA: The name, Mr. President, is Mafuta.

15 PRESIDING JUDGE FULFORD: Now, you're going to have to do this in
16 stages. Where do we see in this interview that the meeting being talked
17 about is the meeting before the second attack on Mongbwalu?

18 MR. SACHDEVA: Mr. President, I -- I have to come back to the
19 Court on that, with your leave, and I can move on with other matters. I
20 apologise, I --

21 PRESIDING JUDGE FULFORD: Right. I think you're going to have
22 to ...

23 (The Trial Chamber confers)

24 PRESIDING JUDGE FULFORD: Yes. Judge Blattmann has very speedily
25 identified on page 20, at line 743, and this I'm taking from the English,

1 that they were talking about going to Mongbwalu for the second time. And
2 so if we then go over the page to page 22, we then get the reference to
3 Mafuta. "There were many people," then he gives that name.

4 Right. So your position then, Mr. Sachdeva, is that this was
5 mentioned by the witness on the 19th of October, 2006, when he seemingly
6 volunteered the name Mafuta. We're now three years later. It may be
7 that memory has faded in the intervening period. The problem with
8 showing him the passage is that we may encounter reading difficulties,
9 and so in those circumstances your application is to show -- sorry, to
10 read out the relevant passage to the witness, is that correct, or to
11 suggest the name?

12 MR. SACHDEVA: To suggest the name.

13 PRESIDING JUDGE FULFORD: Thank you. Anything else that you want
14 to say?

15 MR. SACHDEVA: Just that thus far in evidence he has said that
16 there were other civilians present.

17 PRESIDING JUDGE FULFORD: Mr. Desalliers.

18 MR. DESALLIERS (interpretation): Your Honour, may I have one
19 moment to consult my colleague.

20 (Defence counsel confer)

21 PRESIDING JUDGE FULFORD: Yes, Mr. Desalliers.

22 MR. DESALLIERS (interpretation): Your Honour, the Defence has no
23 objection in principle, that it may be mentioned to the witness for the
24 reasons you've given. It's been a long time now, but the Defence would
25 like to suggest another form. Maybe they should start with general

1 questions, ask him if he knows that person, ask him if he had ever seen
2 that person attend meetings. This could create a context for him,
3 because if we put the question in the manner in which the Prosecutor
4 stated, it's going to be a leading question, but if we go about it in the
5 manner in which I'm proposing, then it's going to be less of a
6 suggestion -- a lead question.

7 PRESIDING JUDGE FULFORD: Do you object to a gentle lead in,
8 Mr. Sachdeva, in the way suggested by Mr. Desalliers?

9 MR. SACHDEVA: I don't object. I'm not sure exactly what
10 Mr. Desalliers means. I was going to suggest, "Does that name mean
11 anything to you? Why? Why is that," and so on.

12 PRESIDING JUDGE FULFORD: Yes. I think if you, when the witness
13 returns, ask whether the name Mafuta means anything to him. If he says
14 it does, then ask him briefly what the circumstances are in which he's
15 known Mafuta, and then if it's a logical progression from the answer that
16 he gives, then to ask him whether Mafuta was present at that meeting, and
17 I see Mr. Desalliers nod, indicating his consent. Clear?

18 MR. SACHDEVA: Absolutely, Mr. President.

19 PRESIDING JUDGE FULFORD: Good thank you. We've resolved that.
20 Closed session so the witness can return into court, please.

21 *(Closed session at 12.05 p.m.)Reclassified as Open session

22 COURT OFFICER: Closed session.

23 (The witness takes the stand)

24 PRESIDING JUDGE FULFORD: Thank you very much. I'm sorry to have
25 inconvenienced you.

Witness: Witness DRC-OTP-WWW-0089 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

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1 Public session, please.

2 (Open session at 12.07 p.m.)

3 COURT OFFICER: Public session.

4 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

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

6 Q. Sir, does the name Mafuta mean anything to you?

7 A. Yes.

8 Q. What does to mean to you?

9 A. I heard that Mr. Mafuta was the advisor of Thomas.

10 Q. Did you ever meet or see Mr. Mafuta?

11 A. Yes. I had seen him.

12 Q. When was that?

13 A. I knew him because he was a businessman at some point, and then
14 he -- well, then he became a politician later on.

15 PRESIDING JUDGE FULFORD: And I think, Mr. Sachdeva, you can ask
16 the direct question in those circumstances.

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

18 Q. A moment ago, sir, we were talking about the meeting that you saw
19 taking place regarding the second attack in Mongbwalu, and my question is
20 this: Was Mafuta the advisor? Was he, to your knowledge, present at the
21 meeting?

22 A. I heard that he was an advisor.

23 THE INTERPRETER: The Swahili interpreter did not hear the name
24 mentioned by the witness.

25 PRESIDING JUDGE FULFORD: I think there may have been a

Witness: Witness DRC-OTP-WWW-0089 (Resumed) (Open Session)
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1 misunderstanding. I think probably best put the question again,
2 Mr. Sachdeva.

3 MR. SACHDEVA:

4 Q. Sir, regarding the meeting that we were discussing a moment ago,
5 do you know if Mafuta was present at that meeting?

6 A. Yes, he was present.

7 Q. You said that he was an advisor to Thomas. Do you know what he
8 advised Thomas on?

9 A. I heard that he was an advisor. People said that he was an
10 advisor.

11 Q. Now, going back to that meeting, you said that the door was open
12 and you could see who was present. Were you able to hear what, if
13 anything, was being discussed?

14 A. Yes.

15 Q. And how was it that you were able to hear what was being
16 discussed?

17 A. They talked about many things, but what I retained was the
18 reference to Mongbwalu. They talked a lot about Mongbwalu.

19 Q. Do you recall if there was anything in particular that helped you
20 to hear what was being discussed at the meeting?

21 A. My commander was inside, and while they were discussing, the main
22 thing we kept hearing was "Mongbwalu."

23 Q. You said that Thomas chaired the meeting. How did you establish
24 that Thomas was chairing the meeting? Did he do anything in particular?

25 A. Thomas was the president of the UPC. He was the leader. I knew

Witness: Witness DRC-OTP-WWW-0089 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

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1 that he was in charge.

2 Q. And what was Thomas saying at the meeting?

3 A. All that they kept saying and which I can remember was

4 "Mongbwalu."

5 Q. Do you remember what they were saying with respect to Mongbwalu

6 or --

7 PRESIDING JUDGE FULFORD: Mr. Sachdeva, I think certainly on two
8 occasions, I think three, that the witness has indicated that really all
9 he can remember is that they were talking a lot about Mongbwalu. They
10 referred to it. I think to keep pressing this is really not helpful.
11 The last witness -- the last answer given by the witness is that "All
12 they kept saying that I can remember is 'Mongbwalu.'" I think in those
13 circumstances this is -- we've really exhausted this.

14 MR. SACHDEVA:

15 Q. Let's talk about the second attack. Briefly, what happened in
16 the second attack on Mongbwalu?

17 A. In Mongbwalu you had our group, those from Mongbwalu, and other
18 soldiers who joined up together to go to Mongbwalu.

19 Q. Do you remember how long after the meeting did the attack -- the
20 second attack on Mongbwalu take place?

21 A. Later on, it took us two days to go to Mongbwalu.

22 Q. Are you saying, sir, that it was two days after the meeting that
23 the attack commenced or that it took you two days to reach Mongbwalu?

24 A. We spent two days in Bunia, and from Bunia we then moved to
25 Mongbwalu.

Witness: Witness DRC-OTP-WWW-0089 (Resumed) (Open Session)
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1 Q. Did the attack on Mongbwalu -- was it successful or did it fail?

2 A. The second attack against Mongbwalu was successful.

3 Q. In the second attack on Mongbwalu, what was the age-range of the
4 soldiers that were involved?

5 A. I can't give you the age-range of all the soldiers. There were
6 some who were older, as I said earlier. Most of the commanders -- or all
7 the commanders were adults. That there were some who were aged 15, 16,
8 17, 18 years.

9 Q. Do you know who was directing or commanding the attack?

10 A. The attack against Mongbwalu was directed by several commanders.
11 There was Bosco, the Chief of Staff in charge of operations, and other
12 commanders, and Tiger 1, who was in the rear. There were also some
13 soldiers who were at the front, in front.

14 Q. Who was Tiger 1?

15 A. Tiger 1 was the sector commander.

16 Q. And why do you say that the attack was successful?

17 A. I said that because the UPC took the place, settled there, and
18 set up an administration there. So that's why I say that the attack was
19 successful.

20 Q. When the UPC took the place and settled there, was there anything
21 in particular they did at that time?

22 A. What is it exactly that you would like to know?

23 Q. Once the -- the town had been taken, what, if anything, would the
24 soldiers do in the town?

25 A. After having taken Mongbwalu, the sector commanders deployed

Witness: Witness DRC-OTP-WWW-0089 (Resumed) (Open Session)
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1 soldiers at various locations, and then the UPC opened up the route to
2 Kilo and Bambu and Kobu.

3 Q. Was anything done in respect of the civilians or the civilian
4 property in Mongbwalu once the attack had been completed?

5 Sir, can I ask you to repeat the answer, please.

6 A. Yes.

7 PRESIDING JUDGE FULFORD: Mr. Sachdeva, let me have a try.

8 Sir, I think Mr. Sachdeva is asking how the UPC soldiers behaved
9 after the attack. Were they well-behaved or badly behaved, and did
10 anything happen as regards the civilian population and any property in
11 Mongbwalu?

12 A. After having taken Mongbwalu, Mr. Bosco Ntaganda arrived, and he
13 held a meeting. He told the population that everyone had to look for
14 accommodation and for food, and there was pillaging at the time.

15 Q. And how long did this pillaging go on for, if you can recall.

16 A. As far as I know, the pillaging went on for a week in Mongbwalu.
17 There were other places to which people went and which were pillaged.

18 Q. You said that Bosco Ntaganda arrived. Did other high-ranking
19 officers from the general staff also arrive in Mongbwalu, to your
20 knowledge?

21 A. Kasangaki was there as well, Kasangaki, and other commanders too.

22 Q. Sir, you mentioned Kasangaki. Did you say -- did you mention
23 another commander in addition to Kasangaki?

24 A. Pigwa was also there, Abelanga. There were a lot of commanders.

25 Q. Did you become aware or do you know of particular meetings that

Witness: Witness DRC-OTP-WWW-0089 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

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1 were organised in Mongbwalu after the attack?

2 THE INTERPRETER: The Swahili interpreter did not hear the
3 witness's answer.

4 MR. SACHDEVA:

5 Q. Please carry --

6 A. Are you referring to the meeting?

7 Q. Yes.

8 A. Yes, there were meetings that were held in Mongbwalu.

9 Q. And who organised these meetings?

10 A. The sector commander did it.

11 Q. And was there a particular place where these meetings were held?

12 A. The meetings were held in the centre, in the house of a
13 businessman called Devi. So this is where the meetings were held, in the
14 centre of Mongbwalu.

15 Q. And what was the purpose of these meetings?

16 A. The sector commander addressed the people, the population, and
17 they put questions to him in their turn. So that is what the meetings
18 were about.

19 Q. What was the sector commander addressing the people and the
20 population about?

21 A. He spoke to the population. Well, this was a long time ago, so I
22 can't remember the subject of the discussions of the meeting.

23 Q. I appreciate that you may not remember the subject of the
24 discussions, but are you able to help us as to whether there was a
25 military purpose to the meeting or some other purpose to the meeting?

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1 A. He was addressing civilians there, and the civilians would put
2 questions to him which he would answer.

3 Q. I now want to ask you some further general questions about the
4 UPC. Firstly, you spoke about the bodyguards of Bosco. Do you know if
5 other high-ranking officers in the UPC similarly had bodyguards?

6 A. Yes, there were other commanders who also had their bodyguards.

7 Q. Do you know which commanders had bodyguards in addition to Bosco?

8 A. You're referring to the commanders who were under Bosco, or are
9 you referring to UPC commanders?

10 Q. I'm referring to commanders who were perhaps at Bosco's level,
11 who may have been above him. UPC commanders.

12 A. Only Kitembo had a higher rank than Bosco among the commanders.

13 Q. And did Kitembo have bodyguards or not? Sir, I don't think the
14 interpreters caught your answer. Could I ask you again? Did Kitembo
15 have bodyguards or not?

16 A. Yes, Kitembo had bodyguards.

17 Q. Do you know roughly how many he had?

18 A. I don't know the exact number, but he would often change
19 bodyguards. However, I don't know the exact number.

20 Q. Did he have just men as bodyguards or did he also have women?

21 A. He had bodyguards, but I also saw a PMF among his bodyguards.

22 Q. What was the age-range of his bodyguards?

23 A. In my assessment, Kitembo had adult bodyguards. That's what I
24 saw.

25 Q. Did you come to know of the existence of other training camps

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1 within the UPC other than Mandro?

2 A. In the beginning, the training camp was in Mandro. Later, the
3 Mandro camp was moved to Rwampara and to Mongbwalu too. When Kisémbó
4 arrived in Mongbwalu, they had a meeting, and they opened up an on-site
5 training centre. There was also a training centre in Fataki. There was
6 also a training centre in Irumu.

7 Q. Just going back to one thing you said, sir. You said when
8 Kisémbó arrived in Mongbwalu they had a meeting. When was it that
9 Kisémbó went to Mongbwalu?

10 A. Kisémbó arrived in Mongbwalu when activities continued. He
11 arrived there, and there was a meeting in the centre of Mongbwalu.

12 Q. What was the purpose of that meeting?

13 A. He simply addressed civilians.

14 Q. And do you remember what he was saying to the civilians?

15 A. He said a lot of things to the civilians. He spoke to them, and
16 he said a lot of things.

17 Q. You had said earlier that they opened up an on-site training
18 centre in Mongbwalu. Can you elaborate on that, please?

19 A. Kisémbó arrived in Mongbwalu. Once he was there he held a
20 meeting, and then the civilians put questions to him. They said that the
21 soldiers were making them suffer, and Kisémbó said that it was because
22 they didn't want to enroll in the army. Kisémbó then asked whether there
23 were any volunteers who wanted to enroll in the army. All those who
24 raised their hands, well, Kisémbó asked them to come forward, and once
25 they had gathered, he asked the soldiers to make a circle around these

Witness: Witness DRC-OTP-WWW-0089 (Resumed) (Open Session)
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1 individuals and to take them to the camp. These people thought that they
2 should volunteer, but they wanted to return home first to prepare
3 themselves, but they suddenly had to leave to be trained as soldiers.

4 Q. The -- the persons that volunteered and had to leave to be
5 trained as soldiers, what was the age-range of these persons?

6 A. When these people moved forward, Kisembo asked the soldiers who
7 were there to walk around those people, and they were asked to go to the
8 training camp directly. Among these persons there were adults, but there
9 were children under 18.

10 Q. Amongst the children under 18, what was the age-range, if you can
11 recall.

12 A. You want me to tell you what my assessment is?

13 Q. Yes. What was your assessment, please.

14 A. In my assessment, among the persons who were there in Mandro,
15 some were 15, 16, 20. There were adults as well.

16 Q. Your answer refers to Mandro. I just want to be clear. I'm
17 asking you about the children under 18 that volunteered in Mongbwalu when
18 Kisembo was present. If you can help us with the age-range of the
19 children who were under 18 at that time.

20 A. In my assessment some were 15 years old, some were 16, and there
21 were older children.

22 Q. During your time in the UPC, did you know of a radio station
23 called Radio Candip?

24 A. Yes.

25 Q. What did you know about that radio station?

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Questioned by Mr. Sachdeva (Continued)

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1 A. Could you ask the question again clearly, please?

2 Q. Perhaps you could -- if you could just elaborate what you -- what
3 is it you know about that radio station, Radio Candip?

4 A. Radio Candip, I listened to Radio Candip.

5 Q. And what did Radio Candip broadcast at that time?

6 A. At that time, Radio Candip would release communique. There were
7 music. There were political programmes.

8 Q. Communiques from whom?

9 A. The communiques or birth -- sorry, death announcements.

10 Q. Was there a particular group that controlled or ran the radio
11 station?

12 A. When I was at Bunia, when the UPC was at Bunia, they never --
13 they never spoke at Radio Candip. So I didn't go to the radio. I don't
14 know who had control over Radio Candip.

15 Q. You said there were political programmes. Do you recall what the
16 political programmes were about?

17 A. I didn't listen to it Radio Candip often, but from time to time
18 in the morning I would listen Radio Candip, and I could hear recruits
19 singing in centres. At one point Thomas had appointed persons, and this
20 was broadcast on the radio, but I didn't listen to Radio Candip very
21 often.

22 Q. The recruits that you heard singing in the centres, to which army
23 or group did the recruits belong?

24 A. At that time they were UPC recruits, even before the recruits of
25 other groups, but they would broadcast their songs, but at that

Witness: Witness DRC-OTP-WWW-0089 (Resumed) (Open Session)
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1 particular time there were recruits from the UPC.

2 Q. And you said at one point Thomas had appointed persons. Do you
3 know which persons he appointed?

4 A. Well, one day at 5.00 p.m., I heard that he had appointed Chief
5 of Staff and other persons.

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

7 (Prosecution counsel confer)

8 MR. SACHDEVA:

9 Q. You said that one day at 5.00 p.m. you heard that he had
10 appointed the Chief of Staff and other persons. Do you recall roughly
11 when that was?

12 A. I can't remember the date.

13 Q. After the second attack in Mongbwalu, what -- what did you do?

14 A. Well, after the second attack, when Uganda repelled them from the
15 centre of Bunia, the chiefs (indiscernible) of the UPC went away. He
16 asked them to leave Mongbwalu. We fled, and the Chief of Staff went to a
17 place called Watsa. I went to Mbidjo, and then we went back to Mabanga.
18 After Mabanga we went to Djugu, then went to Mabanga again. Kisembo
19 came. It was the second attack Bunia, and this is when I fled away to go
20 back home, and I stayed until the time when CONADER moved in.

21 Q. Sir, my last question, and I'm sorry to take you back to the
22 meeting on Mongbwalu, the second -- the meeting before the second attack
23 on Mongbwalu. You said that Thomas chaired the meeting, and I want to
24 ask you, do you recall how he was dressed on that day?

25 Do you want me to -- would you like me to repeat the question,

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1 sir?

2 THE INTERPRETER: "Mr. Sachdeva, would you like me to repeat the
3 question," says the witness.

4 PRESIDING JUDGE FULFORD: Can you repeat the question,
5 Mr. Sachdeva. I think that's probably quickest.

6 MR. SACHDEVA:

7 Q. Sir, I'm going to repeat the question. Going back to the
8 second -- to the meeting before the second attack on Mongbwalu, you had
9 said that Thomas chaired the meeting, and I want to ask you, do you know
10 how he was dressed that day?

11 A. I said that the meeting took place after the first attack. On
12 that day, Thomas was wearing civilian clothes. I saw it twice only,
13 wearing a military uniform. On that particular day he was wearing
14 civilian clothes.

15 Q. And when -- when was it that you saw him wearing military
16 uniform.

17 A. I saw him wearing military uniform. Well, people said that he
18 was coming from Rwanda. So that was the first time. And the second time
19 was in -- at Barriere. There was a meeting, assembly at Barriere, and he
20 was wearing a military uniform at Bunia, Barriere.

21 Q. Could you describe the military uniform that he was wearing on
22 those occasions?

23 A. At Bunia he was wearing the UPC military uniform, camouflage
24 uniform, with the hat. At Barriere he was wearing kepson (phoen).

25 Q. Could I ask you to describe the hat, please?

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Questioned by Mr. Sachdeva (Continued)

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1 A. During the meeting at Bunia, he was wearing a hat with a wide
2 brim. At Barriere, he was wearing sunami -- songa mbele.

3 THE INTERPRETER: This is the word used by the witness.

4 MR. SACHDEVA:

5 Q. The hat with the wide brim, did it have anything on it or not?

6 A. On the hat there was written "UPC." This was the hat he was
7 wearing in Bunia.

8 MR. SACHDEVA: Mr. President, that's the examination-in-chief.

9 PRESIDING JUDGE FULFORD: Thank you very much. Well, it's now
10 only two minutes to 1.00, so we'll adjourn at this stage.

11 Sir, thank you very much for your assistance. We'll return to
12 your evidence at 2.45 this afternoon.

13 And just before we rise, Mr. Desalliers, last Friday we were
14 unable to have the ex parte Status Conference with the Defence for
15 reasons we needn't repeat now. Is it going to be convenient for us to
16 hold that Status Conference later this afternoon?

17 MR. DESALLIERS (interpretation): Yes, your Honour.

18 PRESIDING JUDGE FULFORD: Excellent. We'll pick a time suitably
19 in advance at the end of the day so there's time to reconfigure the
20 courtroom and raise the matters that we need to with you. Thank you very
21 much.

22 Closed session, please.

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

24 COURT OFFICER: Closed session.

25 (The witness stands down)

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1 PRESIDING JUDGE FULFORD: 2.45.

2 COURT USHER: All rise.

3 Luncheon recess taken at 12.59 p.m.

4 On resuming at 2.46 p.m.

5 COURT USHER: All rise. Please be seated.

6 PRESIDING JUDGE FULFORD: Which is, please.

7 (The witness takes the stand)

8 PRESIDING JUDGE FULFORD: Public session, please.

9 (Open session at 2.48 p.m.)

10 COURT OFFICER: Public session.

11 PRESIDING JUDGE FULFORD: Yes, Mr. Desalliers.

12 MR. DESALLIERS (interpretation): Thank you, your Honour.

13 Questioned by Mr. Desalliers:

14 Q. (Interpretation) Witness, I will start by introducing myself. My
15 name is Marc Desalliers. I am a lawyer, and I am going to put some
16 questions to you on behalf of the Defence team of Mr. Thomas Lubanga.

17 MR. DESALLIERS (interpretation): Your Honour, my first questions
18 would be in private session.

19 PRESIDING JUDGE FULFORD: Private session, please.

20 *(Private session at 2.49 p.m.)Reclassified as Open session

21 COURT OFFICER: Private session.

22 MR. DESALLIERS (interpretation):

23 Q. Witness, in the course of my questioning I will sometimes refer
24 to the statement which you gave to the Office of the Prosecutor. I have
25 that witness -- sorry, that statement next to me here, and I would like

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1 to propose to you that I will read the relevant excerpts of that
2 statement to you from time to time, and if at any time you wish to see
3 your statement, you can at any time make that request to me and the
4 statement will be presented to you. I am going to read the relevant
5 excerpts.

6 Now, I will start by asking you a few questions relating to your
7 family situation.

8 You stated that your mother's name is (Redacted). Is that
9 your mother's name?

10 Witness, could you please speak more loudly and into the
11 microphone?

12 A. Yes.

13 Q. I am going to show to you a document --

14 MR. DESALLIERS (interpretation): I forgot. I have here the
15 documents that I'm going to refer to. They have already been disclosed
16 to the victims and to the Office of the Prosecutor. I have a copy of
17 this binder for the Bench, and could the Court Officer please take it up
18 to the Bench?

19 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Desalliers.

20 MR. DESALLIERS (interpretation): And I would like that the
21 document bearing the reference DRC-D01-0003-2008, that this document
22 should be projected on screen. We are in private session, but I would
23 like to state that this document should not be projected to the public.

24 Your Honour, I also have a hard copy of the document for the
25 witness, so the witness can either view the e-copy on screen or the hard

Witness: Witness DRC-OTP-WWW-0089 (Resumed) (Private Session)
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1 copy on paper.

2 PRESIDING JUDGE FULFORD: Let's do it both ways, Mr. Desalliers,
3 out of caution.

4 Usher, could you take the copy that Mr. Desalliers has. Thank
5 you very much.

6 Right. Can we check that the witness has a copy of the person
7 with a blue headband.

8 Good. Right, Mr. Desalliers, please proceed.

9 MR. DESALLIERS (interpretation):

10 Q. Witness, you will see the picture projected on screen in a short
11 while, but you have a hard copy in front of you. Now, the person in that
12 picture -- I think the picture has already been projected on the screen.
13 Is that your mother in the photograph?

14 A. Yes.

15 PRESIDING JUDGE FULFORD: EVD number, please.

16 MR. DESALLIERS (interpretation): Your Honour, are we talking
17 about an EVD number or a MFI number?

18 PRESIDING JUDGE FULFORD: I thought it should be EVD, but I'll
19 stand corrected. No. I'm -- MFI them. Certainly, all right. If MFI
20 seems to be the preferred course, MFI it is then.

21 COURT OFFICER (interpretation): The number of the document will
22 be MFI-D-00139.

23 MR. DESALLIERS (interpretation): Thank you.

24 Q. Witness, I will now show you another photograph. This photograph
25 bears the number DRC -- excuse me. DRC-D01-0003-210 -- or, rather, 2012.

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1 I also have a hard copy of that document for the witness.

2 MR. DESALLIERS (interpretation): For the benefit of the Chamber,
3 it is the document under tab 11 in the binder.

4 PRESIDING JUDGE FULFORD: Yes. And what's the question?

5 MR. DESALLIERS (interpretation):

6 Q. Witness, the photograph will appear on screen in a short while,
7 but you have a hard copy in front of you. Please answer by yes or by no,
8 please. Do you have a hard copy in front of you?

9 A. Yes, I do have one.

10 Q. Is that your mother on the right in the photograph?

11 A. Yes.

12 Q. And is that your father on the left in the photograph?

13 A. Yes.

14 Q. Thank you.

15 PRESIDING JUDGE FULFORD: Do we need a MFI number for this?

16 Good. MFI, please.

17 COURT OFFICER (interpretation): The document will bear the
18 number MFI-D-00140.

19 MR. DESALLIERS (interpretation): Thank you.

20 Q. Witness, you stated before the Court that your father's name is
21 (Redacted); is that correct? Is he known by other names?

22 A. (Redacted) are his names.

23 Q. Is he also known by the name (Redacted)?

24 A. He's known by the name of (Redacted).

25 Q. Very well. So (Redacted). Does he also bear the name (Redacted)? And

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1 I would like to spell it for the transcript, (Redacted).

2 A. No.

3 Q. Could you tell us, in which locality do your parents live today?

4 A. They live in Bunia, but they carry out their farm work not far
5 from that place.

6 Q. Is it in the place called (Redacted) (phoen)?

7 A. I do not know that name. However, they have a farm in that
8 place, and they have the intention of building a house there. Their
9 children are in Bunia.

10 Q. Is it correct that that place, this locality outside Bunia, is
11 found in (Redacted) in the (Redacted) community of (Redacted) *?

12 A. I cannot know. I was living in a different place, and so I
13 cannot know the name of the area.

14 Q. Thank you. I am going to show you another photograph, and this
15 photograph bears the number DRC-D01-0003-2010, and it's under tab 9 in
16 the binder. I also have a hard copy of that document here.

17 Witness, a copy of that photograph will appear on screen very
18 soon, but you do have a hard copy of the photograph, don't you?

19 A. Yes.

20 Q. Is it correct that this is your brother who is known as (Redacted)?

21 A. Yes.

22 Q. (Redacted) the son of your mother and your father, so you and
23 (Redacted) have the same mother and the same father; is that correct?

24 A. Yes.

25 Q. And is it correct that (Redacted) is the oldest child in the family?

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1 A. No.

2 Q. Who is the oldest child, boy or girl, in the family then?

3 A. We have another elder brother, but I would also like to point out
4 that our father had another woman earlier.

5 Q. Very well. We are going to return to that later on.

6 First of all, I would like to show you another photograph --

7 PRESIDING JUDGE FULFORD: MFI number for this one, please.

8 COURT OFFICER (interpretation): The number will be MFI-D00141.

9 PRESIDING JUDGE FULFORD: Yes, Mr. Desalliers.

10 MR. DESALLIERS (interpretation): Thank you. The next photograph
11 bears the number DRC-D01-0003-2009, and it's under tab 8 in the binder.
12 I have a hard copy for the witness.

13 Q. Sir, do you have the photograph before you?

14 A. Yes.

15 Q. Is it correct to say that this photograph, it's a photograph of
16 your half brother, (Redacted)?

17 A. Yes.

18 Q. It's (Redacted); that is his name, isn't it?

19 A. (Redacted) is the only name that I know. I don't know his other
20 names.

21 Q. Very well. I'll spell out the name (Redacted) for the sake of the
22 transcript, (Redacted). And could we have an MFI number for the
23 photograph, please.

24 COURT OFFICER (interpretation): The document will bear the
25 number MFI-D-00142.

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1 MR. DESALLIERS (interpretation):

2 Q. Is it true that you and (Redacted) have the same father but not the
3 same mother? Your mothers are different?

4 A. Yes.

5 Q. However, (Redacted) has lived with you since your childhood; isn't
6 that correct?

7 A. No.

8 Q. Do you also a half brother whose name is (Redacted)?

9 A. Yes.

10 Q. For the sake of the transcript, I will spell the name out.
11 (Redacted).

12 Witness, you and (Redacted) have the same mother but not the same
13 father; is that correct?

14 A. Yes. He also has another elder brother, (Redacted).

15 Q. (Redacted) who is older than (Redacted)?

16 A. Yes.

17 Q. Is it correct that (Redacted) already belonged to an armed group?

18 A. Yes. He was a member of an armed group.

19 Q. Which one?

20 A. He is also a member of the UPC.

21 Q. So you know that (Redacted) was a soldier. Did you have any
22 discussions about his life as a soldier with him?

23 A. Could you rephrase your question? I haven't fully understood it.

24 Q. That's not a problem. (Redacted) who is your half brother, you know
25 that he was a soldier. Did you have any discussions about his duties as

Witness: Witness DRC-OTP-WWW-0089 (Resumed) (Private Session)
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1 a soldier?

2 A. He was with me in Mandro and Mongbwalu.

3 Q. So he followed you to Mandro and Mongbwalu. Are you referring to
4 the events that you have already described before this Chamber?

5 A. He had his own position in Mandro when I arrived in Mandro. He
6 then left and we met on one other occasion in Mongbwalu.

7 Q. Witness, is it correct to say that you never discussed this
8 matter with the OTP? This is something that you never mentioned to OTP
9 investigators? You didn't mention the fact that (Redacted) was with you in
10 the UPC?

11 A. This question as to whether I had a brother who was a soldier was
12 not a question that was put to me.

13 Q. Very well. We'll go back to the issue in greater detail, but
14 first of all, I would like to go over the subject of your brothers and
15 sisters in more detail. First of all, I will ask you about your brothers
16 and sisters who have the same parents as you. So I'm not going to refer
17 to your half brothers and half sisters at the moment. I'll go step by
18 step, and could you confirm whether it's true or not.

19 Your brother (Redacted) is the eldest brother you have who has the
20 same mother and father; is that correct?

21 A. Yes.

22 Q. And then you have a sister whose name is (Redacted)

23 A. Yes.

24 Q. I'll spell the name.(Redacted).

25 And then you have a brother whose name is (Redacted). Before

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1 (Redacted) there was another sister. What's her name?

2 A. (Redacted) is her first name.

3 Q. Very well. So there is (Redacted) and then you yourself. Is
4 that the right order?

5 A. Yes.

6 Q. And then you have a brother whose name is (Redacted), last name (Redacted)?

7 A. There's someone who came after me. He's deceased, and then there
8 was (Redacted).

9 Q. Very well. So after (Redacted) you have a sister whose name is
10 (Redacted)

11 A. Yes.

12 Q. And finally you have a brother whose name is (Redacted); is that
13 correct?

14 A. Yes.

15 Q. I'll do the same exercise and list the names of your sisters and
16 brothers, but now it concerns those who have the same father but not the
17 same mother. So first of all, there's (Redacted) whom we saw on the screen.
18 We saw a photograph of him a little earlier on. Then you have a brother
19 whose name is (Redacted); isn't that correct?

20 A. Yes.

21 Q. And then a sister whose name is (Redacted)? You have to speak up,
22 Witness.

23 A. Yes.

24 Q. And then a sister whose name is (Redacted)?

25 A. Yes.

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1 Q. For the sake of the transcript, (Redacted), is spelt (Redacted).

2 And finally you have a brother whose name is (Redacted)?

3 A. Yes.

4 Q. Yes. (Redacted).

5 Witness, do you know someone whose name is (Redacted)?

6 A. No.

7 Q. If I said that this was a cousin on your mother's side would this
8 assist you in remembering who it is? (Redacted)?

9 A. I don't really know the names of family members on my mother's
10 side because I grew up with * my aunt on my father's side.

11 Q. But the name (Redacted), have you heard this?

12 A. I would need some time to remember this because I have forgotten
13 many people in Bunia.

14 PRESIDING JUDGE FULFORD: (Previous translation continues) ...

15 MR. DESALLIERS (interpretation): (Redacted),
16 (Redacted).

17 Q. Take your time, sir, and having thought about it for a while,
18 tell us whether you can remember the name.

19 I'm sorry, sir, but you have to speak up.

20 A. No, I can't remember that name. However, I do have friends whose
21 name is (Redacted). I have a friend with whom I studied whose name is
22 (Redacted).

23 Q. Very well. Sir, you are married, aren't you?

24 A. Yes, I have a wife.

25 Q. And (Redacted) is the name of your wife, is it in?

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1 A. Yes.

2 Q. I'll spell the name. (Redacted).

3 Is it correct to say that you have a son whose name is (Redacted)?

4 A. Yes.

5 Q. You said that your name was (Redacted), but

6 you're also known by other names; is that correct?

7 A. Yes, (Redacted). I'm known by the name of (Redacted).

8 Q. But apart from the name (Redacted) are you known by any other names?

9 A. No.

10 Q. If I suggested (Redacted), are there any people who know
11 you by this name?

12 A. The only name I have is (Redacted). The other names you have just
13 mentioned are names that I'm not familiar with.

14 MR. DESALLIERS (interpretation): I'll spell out the name that I
15 have just mentioned. (Redacted)
16 So (Redacted).

17 Q. To be quite clear, sir, the name that I have just spelt out --
18 well, is it your testimony that members of your family, whom I have just
19 mentioned, don't know you by this name? Is that your testimony? Have I
20 understood you correctly?

21 A. There's something I would like to say. Look, when I was in Bunia at one
22 point in time (Redacted) * and [unclear] was the
23 President. (Redacted).

24 THE INTERPRETER: The interpreter from the Swahili booth would
25 like to point out that the witness is speaking very fast.

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1 The interpreter in the Swahili booth would like to point out that
2 the witness is speaking very fast.

3 This is what he said: "If you want
4 to --" (No interpretation).

5 PRESIDING JUDGE FULFORD: It needn't be repeated. I understand
6 the point.

7 Sir, I understand this is very difficult, particularly given
8 you're being asked questions about yourself and your family, but I'm
9 afraid that nearly all of the last answer you gave was lost because you
10 were speaking too fast, and so I'm afraid I'm going to have to ask you
11 two things. First, really to keep your evidence slow. Don't speak too
12 quickly, because we won't hear what you say. And I'm afraid I'm going to
13 have to also ask you to give your last answer again.

14 You started to say something about time when you were in Bunia
15 when, I think, a Mr. - and I'm going to pronounce this incorrectly -
16 (Redacted). Could you give your answer again,
17 please, from that point in time but relatively -- but slowly, please.

18 THE WITNESS (interpretation): I don't recognise the name you've
19 mentioned. I'd also like to add, the people who mentioned this name
20 didn't mention the correct name, because at one point in time when
21 (Redacted), that was towards the end of 2006,
22 (Redacted), "I heard that you're speaking to
23 investigators from ICC." I said, "That's not true." He said, "If you
24 speak to ICC investigators, that's fine. We'll give you some ideas as to
25 what you can say to them." I said, "No, I'm not speaking to them. He

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1 said, "If you speak to them, you have to do that well. It will be
2 advantageous to our community." And then he left. He wasn't happy with
3 my answer.

4 The name you have mentioned isn't my name isn't my name. I don't
5 recognise that name.

6 MR. DESALLIERS (interpretation):

7 Q. Very well. We'll go back to this issue, Witness. Could you tell
8 us what your ethnic origin is?

9 A. I am a (Redacted). * My father grew up with the North Hemas, then he
10 left and lived with the Ngiti group but I am a (Redacted),but my father grew
11 up with North Hemas. The people think that I'm a North Hema, but it's
12 not true. I'm a (Redacted).

13 Q. But what is the ethnic group that your father belongs to?

14 A. * My father is a(Redacted). He lives with the North Hemas and people think
15 that he is a North Hema, but he's not, he's (Redacted).

16 Q. What is the ethnical origin of your mother?

17 A. My mother is (Redacted).

18 Q. Witness, your father, your mother, your brothers and sisters,
19 those whose names we've listed so far, do they know that you belong to
20 the UPC?

21 A. Yes. And the person who enabled me to get in touch with the
22 investigators is fully aware of this.

23 Q. Who is this person?

24 A. This person is named (Redacted) (phoen).

25 Q. Do you know his full name?

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1 A. No.

2 Q. One last word about the ethnic origin of your father. If I
3 suggest to you that he's a north Hema of the (Redacted), would you change
4 your statement?

5 A. This is what I wanted to say my father was born with the north
6 Hema group. He did (indiscernible) there, but he's not a north Hema. If
7 my father were someone from the north of Hema, he might have been killed
8 because he stayed in Bunia. He could stay there and wasn't killed. The
9 persons who gave this information did everything to contradict my
10 statement.

11 Q. Witness, you declared that you were born in (Redacted) on (Redacted)
12 1985. If I suggest to you that you would be born in (Redacted),
13 1984 in (Redacted), do you think that this would be more correct?

14 A. When I said (Redacted), it's because my mother had business there.
15 She would carry (Redacted)there. However, my parents stayed in(Redacted)for a
16 long time. I studied, I went to primary school in Bunia with my maternal
17 aunt. If you see it on my card, CONADER, it's written there, (Redacted)
18 (Redacted) so that people could surrender their arms and military insignia.
19 And this is the reason why I thought that they would use the year 2002 as
20 a reference and use that as a deadline to see whether you were underage
21 or overage. I mean, you were enlisted. This is the reason why I did,
22 but my true birth date was this one, 1985.

23 Q. So if -- so if I understood correctly, you changed your birth
24 date, the year when you informed CONADER in order to make sure that you
25 would be able to benefit from their assistance; is that right?

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1 A. Yes.

2 Q. Am I to understand that in fact you were born in (Redacted)?

3 A. What I said is that my mother was doing business, tradeswoman
4 there. I was one coce (phoen). One of my brother was born in (Redacted)and,
5 another one if (Redacted) and another one (Redacted).

6 Q. Very well. I should like to ask you a number of questions
7 concerning the studies since you stated that you went to primary school
8 at (Redacted) in Bunia. In which year did you start to study in this
9 school?

10 A. When my parents were in (Redacted), I stayed with my aunt in Bunia.
11 It's difficult for me to remember which year that was.

12 Q. How old were you when you started -- I mean, in the first year of
13 primary school?

14 A. I was five years old.

15 Q. You stated that you were born in the month of (Redacted). Is this
16 correct?

17 A. Yes, in (Redacted).

18 Q. And school, does it not start in the month of September usually
19 in Ituri?

20 A. Yes.

21 Q. So, are you saying that you were just -- you had turned five when
22 you started your first year of school?

23 A. Yes, I was, but I failed. I had the age but I had to repeat a
24 year because I had failed once.

25 Q. If I suggest to you, witness, that in Ituri it was the case at

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1 that time that one had to be six years old to be in primary -- at primary
2 school would you change your statement?

3 A. You see, I grew up very fast. When you see, you might think that
4 I'm 28 years old. I started primary school at five.

5 Q. You mentioned the fact that you had to repeat a year. Could you
6 tell us which school year you had to repeat?

7 A. Yes. I repeated the sixieme -- sixth and the third one, and
8 another year I didn't go to school.

9 Q. When is it that you didn't go to school? Which is it?

10 A. It was when I was at primary school. I forgot.

11 Q. Sir, I'm not asking you in which year but from which school year
12 did you have to interrupt your studies for one year?

13 A. It was between quatrieme and cinquieme, fourth and fifth year.
14 It is the year that I skipped.

15 Q. Sir, if I understand correctly your statement, your primary
16 schooling lasted for about nine years; is that right?

17 A. Yes.

18 Q. Did you study in other schools other than (Redacted), I mean
19 primary school?

20 A. No.

21 Q. If I suggest to you that you might have studied in (Redacted) in
22 primary school there would you change your evidence?

23 A. I never studied in (Redacted). I went to (Redacted) on four occasion.

24 Q. What do you mean by that you went to (Redacted) on four occasions?

25 A. I studied in Bunia. I stayed with my aunt. In (Redacted), my parents

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1 were there. They were living there. This is where they were working.

2 Q. Am I to understand from your evidence, Witness, that you only

3 went to (Redacted) on four occasions in your lifetime? Is that what you mean?

4 A. No. You're asking me whether I studied at (Redacted). I said no. My

5 parents were in (Redacted), and I went there on four occasions.

6 Q. Was it to visit your parents that you get to (Redacted) for or

7 something else?

8 A. I would go there to take money in order to pay for my studies.

9 Q. Concerning secondary schooling, you stated your evidence that you
10 studied at (Redacted). Is that a school in Bunia?

11 A. Yes.

12 Q. In which year did you enter the school?

13 A. After primary schoolings, I went to study my studies at the
14 (Redacted).

15 Q. Can you remember what year that was?

16 A. It would take me a long time to think it over because I forgot.
17 The only thing I know is that I left (Redacted) in the year 2000. I
18 finished the third year which I -- I mean, I succeeded and then I
19 discontinued my studies.

20 Q. So you had a time to complete the third year, the secondary year
21 school at the (Redacted)?

22 A. Well, I passed. I -- and then I did not continue so was admitted
23 in third form.

24 Q. How old were you when you entered the (Redacted)?

25 A. In 2000 I was 15 years old.

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1 Q. But when you were admitted there at (Redacted), do you
2 remember how old you were at the time?

3 A. I was 13 years old.

4 Q. Did you study at other secondary schools other than (Redacted)
5 (Redacted)?

6 A. No. However, in 2005 I went to another school to study there.

7 Q. Which one?

8 A. (Redacted)(as interpreted) or (Redacted).

9 Q. How many school years did you spend there?

10 A. I spent two years at (Redacted).

11 Q. So, you registered there. You were enrolled in September 2005.

12 That's when you started your studies (Redacted), in September 2005. So
13 supposedly you completed your secondary studies at (Redacted) in May 2007? Is
14 that correct?

15 A. I started late. I started the year in January 2005 that I
16 started my studies there. It was late in the year.

17 Q. And in which class were you registered?

18 A. Third in (Redacted).

19 Q. So in (Redacted) or (Redacted) studied, I mean, third and fourth year
20 of secondary study; is that right?

21 A. Yes.

22 Q. Did you study in other secondary schools?

23 A. I wanted to register in other school and then I gave up and I
24 went back to (Redacted).

25 Q. Which was this other school? Which was it?

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1 THE INTERPRETER: Sorry, the Swahili interpreter did not get the
2 words of the witness.

3 MR. DESALLIERS (interpretation):

4 Q. Could you please repeat your answer, Witness.

5 A. It's the (Redacted) institute.

6 Q. I'd like to be sure that we got it right. Is it (Redacted)?

7 A. Yes.

8 Q. Did you -- were you registered in other secondary schools?

9 A. No.

10 Q. If I suggest to you that you spent your first two secondary years
11 at the institute in (Redacted), would this be correct?

12 A. No. I never studied at (Redacted).

13 Q. You were never registered at (Redacted) either?

14 A. No. However, in (Redacted) some people were coming from the bush
15 and they would study there. Now, in this school, (Redacted) would study in
16 the morning and the other one in the afternoon in (Redacted), but it was the
17 same building but two separate schools there.

18 Q. I'm sorry, Witness, but I think that I do not understand your
19 answer. Is (Redacted) in the same building? Maybe I didn't get
20 you right. Is that what you said?

21 A. What I said was -- so that -- a school that came from the bush.
22 When they arrived in Bunia they would study in the same building. (Redacted)
23 would study before noon and the other one in the afternoon. So I think
24 the person who gave you this information made a mistake.

25 Q. So I did get you right. (Redacted)

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1 share the same building. Is that what you're saying?

2 A. Yes. At that time that is how it was, but the situation did not
3 continue. It was a temporary situation, and afterwards (Redacted)
4 recovered its buildings.

5 Q. And just to make this clear, what period are you referring to?
6 What year, Witness?

7 A. The year when the two institutions were sharing the same
8 building.

9 Q. Which year was this?

10 A. It was in 2005. This situation lasted for a few months only, and
11 afterwards (Redacted), and the institute of (Redacted)
12 retained its buildings.

13 Q. Thank you. Now, I will now turn to the question of your first
14 enlistment, that is when you underwent training in Rwampara in the course
15 of the year 2000. Can you explain to us, can you tell us who provided
16 the training?

17 A. Our commander was a Ugandan citizen, Lieutenant Alexis.

18 PRESIDING JUDGE FULFORD: Mr. Desalliers, I think this can be
19 dealt with in open session, can't it?

20 MR. DESALLIERS (interpretation): The question about training in
21 Rwampara, my colleagues will correct me if I'm wrong, was discussed in
22 closed session. That is why I'm asking the question in private session.
23 Well -- but I stand corrected by my learned colleague. My first question
24 has to do with the names of the trainers and who provided the information
25 to the witness, but I have no problem in putting these questions to the

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1 witness in open session.

2 PRESIDING JUDGE FULFORD: Mr. Sachdeva?

3 MR. SACHDEVA: The -- the training in Rwampara was asked in open
4 session, but when I asked what the witness did thereafter, for that one
5 specific question I asked to move into private session.

6 PRESIDING JUDGE FULFORD: Mr. Desalliers, I'm really just
7 alerting you to the fact that it seems so we're getting very close to
8 material that can be dealt with in open session, but you indicate as and
9 when we've actually reached that point in time. And, gentlemen, can we
10 again try to keep it slow. There are lots of messages coming from the
11 booths above us indicating that it's all being delivered rather too
12 quickly. So can we keep the pace down, please.

13 MR. DESALLIERS (interpretation): Your Honour, I would like to
14 know whether you envisage a particular time during when we are going to
15 adjourn considering that we have to hold an ex parte.

16 PRESIDING JUDGE FULFORD: You're quite right, Mr. Desalliers.
17 For once my eye had come off the clock. I was -- I was buried in getting
18 a note of which educational establishments had been visited. You're
19 absolutely right. Time for us to rise. Thank you very much.

20 Sir, I'm afraid we're going to have to break off your evidence
21 now because there are some administrative matters that we've got to deal
22 with. Earthquakes apart, I think I can guarantee you that you will
23 complete your evidence tomorrow, and I hope tomorrow morning. I'm sorry
24 this has been spread out over a number of days, but we've had a weekend
25 in the middle.

1 So closed session, please, so the witness can withdraw, and we
2 look forward to seeing you at half past 9.00 tomorrow morning.

3 *(Closed session at 3.50 p.m.)Reclassified as Open session

4 COURT OFFICER: Closed session.

5 (The witness stands down)

6 PRESIDING JUDGE FULFORD: Now, Mr. Sachdeva, before we rise, we
7 need to address some closed-session issues that have been raised by the
8 Defence, and I want to take Witness 15 first.

9 The Chamber received a helpful e-mail from the Prosecution on the
10 19th, which was Friday, at 20 to 7.00 in the evening, I'm sorry to see
11 that Ms. Samson was still in the building working at that time, in which
12 she suggested lifting the name -- rather, lifting the redaction to the
13 name of the intermediary with Witness 15 because the name had been
14 mentioned in open session.

15 Now, I just want -- before I utter the name in open court -- or,
16 rather, in closed session in open court, I want to make sure that that is
17 still the Prosecution's suggestion; is that right.

18 MR. SACHDEVA: Yes, it is Mr. President.

19 PRESIDING JUDGE FULFORD: Good. Right. I'll imagine you'll have
20 understood this, Mr. Desalliers and Mr. Biju-Duval, because during the
21 course of the evidence of -- between -- during the course of the evidence
22 on the 16th of June, there was reference to the intermediary, (Redacted),
23 and I'm not going to attempt to pronounce it, (Redacted), and the request
24 that's been received from the Prosecution is that his name, previously
25 redacted as the intermediary with Witness 15, that that redaction is now

1 removed.

2 Mr. Sachdeva, in order to make sure that this is now clear, could
3 you please re-disclose the -- the relevant statement or interview
4 records, whichever it is, with those redactions removed, providing the
5 Chamber with either a chart or some other document which makes it clear
6 which redactions have been lifted and which participants have been the
7 recipient of those lifted redactions. So clearly the Defence, but also
8 it will be some participating victims.

9 MR. SACHDEVA: Yes, Mr. President.

10 PRESIDING JUDGE FULFORD: Good. Thank you.

11 There is then a request from the Defence that for the lifting of
12 redactions from paragraph 83 of the statement of Witness 31. I'm
13 obviously not for the moment going to read out the words that are
14 currently redacted. Now, are you able to deal with this now,
15 Mr. Sachdeva, or would you prefer to deal with this tomorrow morning?

16 MR. SACHDEVA: Mr. President, I am aware of the e-mail. I would,
17 with your leave, like to get back to the Chamber tomorrow as to our
18 position.

19 PRESIDING JUDGE FULFORD: Certainly. Can I, in an attempt to
20 help, draw your attention to document 1081, which was -- it's, in fact,
21 Annex 75 to document 1081, which was where the Prosecution set out its
22 request for nondisclosure. That was granted in an oral decision on the
23 18th of January of 2008. It's transcript 172. I think that may have
24 been 18th of January, 2009, but one or the other, transcript 172,
25 ex parte, page 2, line 18.

1 MR. SACHDEVA: Yes. Thank you very much, Mr. President.

2 PRESIDING JUDGE FULFORD: Good. Now, Mr. Desalliers, given those
3 matters, you have an answer in relation to one. You don't have an answer
4 in relation to the other because the Prosecution need time to think about
5 it overnight. Is there anything else that needs to be dealt with, as it
6 were, inter partes before we rise?

7 MR. BIJU-DUVAL (interpretation): Yes, your Honour, just one
8 clarification. As concerns (Redacted) the intermediary from the
9 Prosecution team, what the Defence would like to have would be to get to
10 know the witnesses with whom that intermediary was in contact. That is
11 the main concern of the Defence team. And we have had the beginnings, so
12 to speak, of an answer today.

13 Now, as concerns the redactions contained in the statement of
14 Witness 31, we suggest that all of this should be handled after the
15 Prosecutor has examined the situation. That application to lift the
16 redaction relates to the new emphasis laid by Witness 15 on the issue or
17 the question of intermediaries and their interventions or their contacts
18 with witnesses. These two questions are related. These two questions
19 are important in the preparation of Witness number 31, who has to appear
20 before the Chamber very soon.

21 I would like to inform the Chamber that the latest developments,
22 that is of last week, have disrupted the work of the Defence team. It is
23 Maitre Mabilie who is responsible or in charge of the hearing of
24 Witness 31, and for the past few days she has to be involved in the
25 procedure which has been initiated for Witness 15, and I want to inform

1 the Chamber that there could arise an issue of time management to enable
2 Maitre Mabilie to have enough time to prepare for the testimony of
3 Witness 31.

4 The schedule of the Defence team was disrupted by the
5 developments that took place last week, and I would like to inform the
6 Chamber that this should be taken into account if Witness 31 has to
7 appear tomorrow or after tomorrow.

8 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Biju-Duval.
9 Just splitting those two things up for a moment, is -- can I ask whether
10 your interest in having the redaction lifted to paragraph 83 of
11 Witness 31 is to see whether or not the same intermediary had been
12 involved for Witness 31 as had been involved for Witness 15? Is that the
13 reason for the application?

14 MR. BIJU-DUVAL (interpretation): Some time ago the Chamber noted
15 that the Defence had certain suspicions with respect to the loyalty of
16 certain intermediaries, but at the time we did not have enough
17 justification for this. Since the questioning of Witness 15, there has
18 been a new development which has considerably validated the suspicions of
19 the Defence team with respect to the impact of the work of intermediaries
20 on witnesses. So the interest of the Defence team is not only to know
21 whether it's (Redacted), but we simply wish to know who these
22 intermediaries are, who these people are who worked with certain
23 witnesses.

24 The Chamber knows that Witness 31 was in close contact, he and
25 his organisation, with the majority of the witnesses presented as former

1 child soldiers. Consequently, this question of the identity of
2 intermediaries is a crucial one, especially when we are talking about
3 Witness number 31.

4 So in a nutshell, the idea is not only to know whether it's
5 Mr. (Redacted). The statements of the Witness 15 have brought us to
6 the idea that there is need to investigate on the persons who worked with
7 the witnesses.

8 PRESIDING JUDGE FULFORD: You'll understand, Mr. Biju-Duval, at
9 the moment the Chamber has very little information in relation to what
10 may or may not, correctly or incorrectly, being said by Witness 15. We
11 heard his very short appearance in court, and thereafter we are, as it
12 were, wholly unaware of what's been going on behind the scenes. So
13 factually, the position in relation to intermediaries, as far as we are
14 concerned, is almost identical to the position when we originally made
15 our ruling in relation to this.

16 Now, if there's to be a wide-ranging application for the lifting
17 of redactions as regards the identities of intermediaries, this is going
18 to have be set out very carefully on a proper evidential and legal basis.
19 I think it would be dangerous for us to engage on -- to engage in this in
20 a, as it were, incremental and rather haphazard kind of way.

21 So just so that we can understand the particular position for
22 Witness 31, you have a particular interest in the intermediary who was
23 involved in Witness 15, but in addition, you have a general interest in
24 the role played by intermediaries. Is that a fair way of summarising it?

25 MR. BIJU-DUVAL (interpretation): Yes, your Honour. I'd now like

1 to add that we have special interests with respect to Witness 31. We are
2 asking very specific questions with respect to contacts made with the
3 other witnesses.

4 PRESIDING JUDGE FULFORD: By Witness 31 or by intermediaries
5 who'd had contact with Witness 31?

6 MR. BIJU-DUVAL (interpretation): The Chamber has understood that
7 relations between Witness 31 and other witnesses presented as former
8 child soldiers is very important to the Defence team. It has emerged
9 from the statement of Witness 31 that such contacts took place either
10 directly or indirectly through the intermediation of certain agents of
11 Witness 31. So these agents are the persons whose identities have been
12 redacted from the statement.

13 PRESIDING JUDGE FULFORD: Yes, that's sufficiently clear. Thank
14 you very much, Mr. Biju-Duval.

15 Now, Mr. Sachdeva we're very keen to get on with this ex parte
16 hearing. We've got to reconfigure the court. You've been given until
17 tomorrow morning on this, so please take your time. Is there anything
18 else that needs to be said this evening?

19 MR. SACHDEVA: Yes, Mr. President, very briefly. It's just with
20 respect to your Honour's decision regarding Witness 46, Kristine Peduto.
21 I would like to inform the Chamber that, indeed, should the Chamber grant
22 the Prosecution's application, a UN representative has been identified.
23 The only remaining issue is that he is only able to be present in the
24 court from 9.00 to 1.00 each day; namely from the 3rd to the 7th of July.
25 That might necessitate a further day's hearing on the 8th of July, and

1 thus the Prosecution, out of an abundance of caution, seeks the Chamber's
2 permission, should our initial application be granted, to -- to sit on
3 the 8th of July if Witness 46's evidence is not completed by that time.

4 PRESIDING JUDGE FULFORD: I'm sorry, Mr. Sachdeva, I'm not
5 following this. You say that should the Chamber grant the Prosecution's
6 application. I thought you'd applied last week for us to delay this
7 witness's evidence, and I'm afraid we'd said no. We expected her to give
8 evidence in accordance with the timetable already established.

9 Now, is there another application in relation to this witness
10 that you're asking be granted, or is it simply that she only gives
11 evidence between 9.00 and 1.00 every day.

12 MR. SACHDEVA: Mr. President, the application I speak about is
13 the application to have a UN representative present.

14 PRESIDING JUDGE FULFORD: Oh, I see.

15 MR. SACHDEVA: I understand the Defence do not object, but as
16 there's been no final answer from the Chamber.

17 PRESIDING JUDGE FULFORD: Now, Mr. Sachdeva, if your asking us
18 effectively only to sit those number of hours every day, you're going
19 have to give us chapter and verse as to why the United Nations'
20 representative isn't available in the afternoons. As I say, I'd prefer
21 not to deal with that now, I'd prefer to deal with this tomorrow morning,
22 but there is going to have to be an impressive justification for asking
23 the Chamber effectively not to sit in the afternoons.

24 MR. SACHDEVA: Very well, Mr. President.

25 PRESIDING JUDGE FULFORD: Good. Thank you all. Can I ask those

1 responsible for the technology to reconfigure the court as quickly as
2 possible, please, so that we don't have to trespass too much on the
3 patience of the stenographers and the interpreters. We'll sit again with
4 the Defence only as soon as the court is in proper state for an ex parte
5 hearing. Otherwise, we will sit again at half past 9.00 tomorrow
6 morning. Thank you very much.

7 COURT USHER: The hearing is adjourned.

8 The hearing ends at 4.09 p.m.

9 RECLASSIFICATION REPORT

10 Pursuant to Trial Chamber I's emails instructions dated 17th January
11 2012, 15th March 2012 and 2nd April 2012, the transcript is reclassified
12 as public after the indicated redactions have been implemented as ordered
13 by the Chamber. All private and closed sessions (*) are now available to
14 the public with the exception of the portions of the transcript that
15 have been redacted.