

1 International Criminal Court

2 Trial Chamber I

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

4 Case against Thomas Lubanga Dyilo

5 Hearing - Open Session

6 Thursday, 11 June 2009

7 The hearing starts at 9.54 a.m.

8 * (Closed Session at 9.54 a.m.) Reclassified as Open session

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

11 PRESIDING JUDGE FULFORD: We apologise for having kept everyone
12 waiting, but there has been an issue that we have had to discuss in
13 relation to the strain that we are putting the interpreters and
14 transcribers under. It is today really important that proceedings are
15 slow, questions short and slow, answers short and slow. I'm not going to
16 go into the reasons for this at the moment, but this is important, and we
17 ask counsel on both sides, please, to bear this very much in mind, and if
18 things start to speed up, I'm afraid you're going to have to put up with
19 me repeatedly intervening. But in order to secure the integrity of the
20 record of these proceedings at the moment, this is acutely necessary.

21 Mr. Sachdeva has asked the present witness a number of questions
22 about recruitment. At page 81 of yesterday's English perfected
23 transcript, he asked whether there was a department responsible for
24 recruitment. He asked how recruitment was undertaken by the G3 and the
25 G5. He further asked at page 82 whether the witness came to know what

1 the G5 did in terms of recruitment. The witness replied that the G3 did
2 not do recruitment. He indicated that he did not see the G5 involved in
3 recruitment whilst he was in the FPLC. (See lines 20 and 21.) Instead,
4 the witness particularly indicated that he saw volunteers. When asked
5 the short, direct, and clear question: "Did you come to know what the G5
6 did in terms of recruitment?" the witness answered that he never saw the
7 G5 carry out any recruitment.

8 In English, as we've just indicated, Mr. Sachdeva's question was
9 abundantly clear, and we have checked to ensure that it was translated
10 accurately into French, which it was. More generally, the witness
11 indicated that he did not have any contact with the G5. (See page 82,
12 line 22.)

13 The overall effect of this questioning is that the witness
14 revealed that he knew nothing of the role, if any, that was played by the
15 G5 as regards recruitment. In those circumstances, for reasons of trial
16 economy alone, we refuse Mr. Sachdeva's application to reopen the issue,
17 namely by way of questioning the witness again as to whether he came to
18 know what the G5 did in terms of recruit. We stress that that is the
19 sole reason for refusing this application.

20 The parties and participants need to know that during the
21 familiarisation process, Witness 15 indicated that prior to travelling to
22 this city he has been following the proceedings on the internet.
23 Potentially of particular concern, (Redacted)
24 (Redacted). We
25 say no more about the matter now, but at some convenient moment in the

1 near future, we will welcome any proposals that are made by the parties
2 or interested participants as to what, if anything, should be done about
3 this indication by the witness. There are a range of options which I do
4 not intend to rehearse at this moment in time, but this clearly needs
5 careful consideration.

6 Can I ask whether we have resolved the issue as to whether or not
7 reasons are to be provided for Ms. Bapita's stance as of yesterday that
8 document 1859 should remain confidential?

9 MR. KETA (interpretation): Yes, your Honours. I was in contact
10 with Ms. Bapita. She has promised to respond personally to the Chamber
11 before 10.00 a.m. today. She's going to send mail.

12 PRESIDING JUDGE FULFORD: Thank you very much for that.
13 Mr. Keta, I hope, therefore, given we're now four minutes past 10.00,
14 there will be an e-mail in my inbox. At an appropriate break I shall
15 look with interest to see what Ms. Bapita says. Thank you very much for
16 your assistance.

17 Now, I have spoken very slowly. Let this be the guide for today.
18 Very slowly.

19 Witness, please.

20 Yes, Mr. Keta.

21 MR. KETA (interpretation): Since yesterday, I have noticed that
22 there is an error in my name. The name of Mr. Mulamba is written,
23 whereas I am called Mr. Keta. So I would like to say that the correction
24 should be made each time I take the floor. Thank you.

25 PRESIDING JUDGE FULFORD: It had caused me a certain amount of

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Closed Session)
Procedural Matters

Page 4

1 confusion, Mr. Keta. I was just about to call you Mr. Malumba, but at
2 the last moment I chose not to address you by any name at all. Thank you
3 for correcting that.

4 (The witness takes the stand)

5 Are we in public or private session, Mr. Sachdeva?

6 MR. SACHDEVA: Public session, Mr. President.

7 WITNESS: WITNESS DRC-OTP-WWW-0016 (Resumed)

8 (Witness answered through interpreter)

9 PRESIDING JUDGE FULFORD: Public session, please.

10 (Open session at 10.05 a.m.)

11 COURT OFFICER: Open session.

12 PRESIDING JUDGE FULFORD: Sir, I'm very sorry we've kept you
13 waiting. An issue arose this morning that has been necessary for us to
14 address. As I think has been explained to you, a technical problem has
15 arisen that really has its origins in this court placing unreasonable
16 pressure on the interpreters and the transcribers. With a number of
17 different people speaking, sometimes speaking at the same time,
18 frequently speaking too fast, their job is made very, very difficult
19 indeed, and we are extremely sympathetic to the position that they are
20 in.

21 I'm afraid today I've got to ask you very particularly to make
22 sure that you leave a significant pause after Mr. Sachdeva and
23 Mr. Biju-Duval have asked their questions before you come in with your
24 answer. The interpreters and the transcribers have got to be given an
25 opportunity to catch up. And also, could I encourage you, wherever

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 5

1 possible, to give a short, rather than a long answer. With long answers,
2 particularly if they're delivered at speed, it can be wholly
3 understandably very difficult for those transcribing and those
4 interpreting to keep up. So if you see my hand waving up and down as I'm
5 doing now, or the Court Officer in front of me doing the same thing, that
6 really means, please, put the brakes on.

7 Now, this is not your fault. You are speaking, in fact,
8 relatively slowly, and it is extremely unnatural to be asked to speak at
9 the kind of speed that I'm going at now, but it is very important that
10 there is a good, clear, and accurate record of your evidence. So please
11 indulge us, remember these words, and follow the guidance that will be
12 given, I hope mostly by a sign, from the Court Officer if you go too
13 quickly.

14 Yes, Mr. Sachdeva.

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

16 Questioned by Mr. Sachdeva: (Continued)

17 Q. Good morning, sir. Yesterday, when we adjourned, we were
18 speaking about the meetings that President Lubanga had at his residence
19 with the staff officers, and my first question is this: How did you know
20 those meetings took place?

21 A. These meetings did not concern the entire main staff. It was
22 reserved only for the Chiefs of Staff who went there often to hold a
23 meeting. Sometimes it was he who invited the Chiefs of Staff to come to
24 his residence. (Redacted) the residence of the president and
25 my superiors used to drive around in jeeps which were recognised by

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Sachdeva (Continued)

Page 6

1 everyone, at the time we knew that if the chiefs were not in their
2 offices, we knew that they were there, because most of the time in the
3 mornings we will ask if the chiefs are not in their offices, "Where are
4 the chiefs?" And we will be told that the chiefs have a meeting and
5 that's why they were not in the office. That is how we came to know that
6 they were attending meetings there.

7 Q. And, sir, just to be clear, when you say it was he who invited
8 the Chiefs of Staff to come to his residence, do you mean President
9 Lubanga?

10 A. Yes. We are talking about the president, Mr. Lubanga. We're not
11 talking about the Chiefs of Staff.

12 Q. Can you give examples of operations, particular operations, that
13 were planned or discussed at these meetings?

14 A. It will be very difficult for me to tell the Court about the
15 meetings planned, because I never attended any of such meetings.

16 MR. SACHDEVA: Mr. President, may I move into, with your leave,
17 private session for the question, and perhaps the answer can be given in
18 public session.

19 PRESIDING JUDGE FULFORD: Private session, please.

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

21 COURT OFFICER: Private session.

22 PRESIDING JUDGE FULFORD: Yes.

23 MR. SACHDEVA:

24 Q. Yesterday when we discussed this topic, you said, and I quote:
25 (Redacted) there were operations that were planned in certain

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Sachdeva (Continued)

Page 7

1 places." And my question is this: Even if you were not present at these
2 meetings, did you become aware of (Redacted)
3 at these meetings?

4 A. I think I said this on three occasions. I repeat, I gave the
5 same answer three times yesterday. I told you that (Redacted). All my
6 responsibilities were not given to me. If they had given me all my
7 responsibilities, (Redacted)
8 (Redacted)
9 (Redacted). Then we see the injured coming back and we
10 hear about people who have died, (Redacted)
11 (Redacted).

12 Q. Can you give an example --

13 MR. SACHDEVA: Mr. President, with your leave we can move into
14 open session.

15 PRESIDING JUDGE FULFORD: Certainly. I think it was right, in
16 fact, to have the answer in closed session given what the witness said.

17 Yes. Open session, please.

18 (Open session at 10.15 a.m.)

19 COURT OFFICER: Open session.

20 MR. SACHDEVA:

21 Q. Do you know of a military operation that was conducted by the
22 FPLC while you were with the FPLC?

23 A. Could you please repeat the question?

24 Q. Have you heard of a place called Mongbwalu?

25 A. Yes. It's a site in Kilomoto.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 8

1 THE INTERPRETER: And the short name -- or the short form for it
2 is Okimo, if I heard the witness right.

3 MR. SACHDEVA:

4 Q. Did Mongbwalu have any particular significance to the FPLC and
5 the UPC?

6 A. I would say yes, because there was a clandestine operation in
7 Mongbwalu which was organised by the Deputy Chief of Staff in charge of
8 operations, Mr. Bosco Ntaganda, together with his immediate superior.

9 Q. And his immediate superior was who?

10 THE INTERPRETER: Sorry, I think the witness said his little
11 brother.

12 THE WITNESS (interpretation): His immediate superior was
13 Kisembo.

14 PRESIDING JUDGE FULFORD: Mr. Sachdeva, I think we need to
15 correct -- to check whether it was "little brother" or "immediate
16 superior."

17 MR. SACHDEVA: Yes, Mr. President.

18 Q. Sir, you said that the clandestine operation was organised by the
19 Deputy Chief of Staff in charge of operations, Mr. Bosco Ntaganda,
20 together with somebody else. Who was that other person?

21 A. I did not talk of another person. I said he did this with his
22 close aide, that is his immediate superior, who is Floribert Kisembo.

23 Q. How did you know that Bosco and Kisembo organised this operation?

24 A. We did not know about the operation beforehand. We just heard
25 people returning from Mongbwalu with -- with war booty, but when they

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 9

1 informed -- when they went, I was not informed. I didn't know anything
2 about that operation.

3 Q. Generally, what role, if any --

4 PRESIDING JUDGE FULFORD: Sir, I think you've noticed something
5 on the transcript which you think is incorrect. Could you just explain
6 briefly what you think has been misheard.

7 THE WITNESS (interpretation): I said that we only saw people. I
8 said we were misinformed.

9 THE INTERPRETER: The witness is reading at a low volume.

10 THE WITNESS (interpretation): We only saw people coming back
11 from Mongbwalu with Bitens, spelled B-i-t-e-n-s in French.

12 PRESIDING JUDGE FULFORD: That's very helpful. Thank you very
13 much.

14 THE INTERPRETER: No, correction in English: It's "with booty."
15 Correction, he saw people coming back from Mongbwalu with booty.

16 MR. SACHDEVA:

17 Q. Sir, generally what role, if any, did President Lubanga have in
18 planning operations?

19 A. The President Lubanga didn't have any role in these operations
20 because he was not a soldier. He didn't go anywhere. He would stay in
21 his residence and wait for reports.

22 Q. Wait for reports from where?

23 A. He would wait for reports from those who went out on operations,
24 that is the main staff, the Chief of Staff.

25 Q. I understand that President Lubanga would not go to the field for

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 10

1 these operations. Was there any role -- do you know if he had any other
2 role, if at all, with respect to the operations when he was in Bunia?

3 A. He did not go on site. I just said he was not a military man.
4 He would not be present where there was shooting amongst soldiers, but
5 the fact is he -- well, the mutiny didn't have a good base that was
6 supported by the traders, the local traders. In other words, to have
7 food and whatever the soldiers needed, provisions.

8 Q. Did Lubanga have -- did Lubanga have a role or not with respect
9 to the provisions for the soldiers during their operations?

10 A. He couldn't have another role. He wanted the soldiers to have
11 food to eat, and when he had that, he would give it to the Chief of
12 Staff. And the G4 would go out to get food. It wasn't Lubanga who would
13 go out and get things.

14 Q. How would the food and indeed the provisions be obtained in the
15 first instance?

16 A. I already said that these traders had suppliers who would give
17 food and money. How should I say it? They were donating. So they gave
18 money to contribute, to help feed the soldiers, and they would provide
19 vehicles for transportation.

20 Q. Who would they give the money and the vehicles to?

21 A. Well, let's say if he gave vehicles or money, he would give it to
22 the Chief of Staff and the G4 so they could go purchase what they needed
23 and for transportation.

24 Q. What role, if any, did Lubanga have in securing the food and
25 money from the traders?

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 11

1 A. Well, I have already answered the question. I said that he was
2 at home. And since he was at home, he could negotiate with his brothers.
3 They were Lubanga's brothers. So his role was to collect money or
4 vehicles, and then he would give it -- give the rations and the vehicles
5 to the military, to the soldiers. That's what he did. There was no
6 other role that he played regarding the money. What -- any other thing
7 he did I'm not aware of it, but I know about the food and transportation
8 for the soldiers.

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

10 MR. BIJU-DUVAL (interpretation): Your Honour, I was distressed
11 because the questions were being repeated several times. It seems to me
12 that the witness has now clearly stated his position as to the
13 hypothetical role that Mr. Lubanga might have played, and I don't think
14 it's of much use to continue along this line of questioning.

15 PRESIDING JUDGE FULFORD: Mr. Sachdeva, my finger was hovering
16 over the button in relation to your last question, because if you look
17 back to page 10, line 6 and 7 in the English language transcript, you
18 asked a question there that was very similar to the last question that
19 you posed which received an entirely negative answer.

20 There is at the very least an element of repetition involved, and
21 I'm going to ask you, please, to be careful not to ask a question,
22 receive an answer, move on to a slightly different subject, and then
23 return to the original question that you asked.

24 MR. SACHDEVA: Mr. President, if I may. The -- in my submission,
25 the initial question was -- could have been interpreted in a way that

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Sachdeva (Continued)

Page 12

1 President Lubanga had a role to give the materials to the soldiers during
2 the operations, and my next question on this topic was to make the
3 distinction between Lubanga's role during the operations and how the
4 provisions were obtained in the first instance, in other words, from the
5 traders, and my last question did specify the -- what role, if any, did
6 Lubanga have in securing the food and money from the traders, which then
7 prompted an answer. And therefore, in my submission, the question was
8 appropriate.

9 PRESIDING JUDGE FULFORD: Well, Mr. Sachdeva, you heard what I
10 said. All I'm doing is cautioning you against either asking questions
11 which are essentially repetitive or grinding the point so small that for
12 reasons of trial economy the extent to which we're dwelling on the issue
13 becomes excessive.

14 Now, it's a -- it's a point of caution rather than anything else.
15 Please carry on.

16 MR. SACHDEVA: Thank you, Mr. President. I'm guided.

17 Mr. President, may I ask to move into private session for this
18 question?

19 PRESIDING JUDGE FULFORD: Certainly. Private session, please.

20 * (Private session at 10.33 a.m.) Reclassified as Open session

21 COURT OFFICER: Private session.

22 MR. SACHDEVA:

23 Q. Sir, during your time in the (Redacted), did you meet with
24 President Lubanga?

25 A. When I was (Redacted), I had to leave Bunia town to (Redacted)

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Sachdeva (Continued)

Page 13

1 (Redacted), and I went to Mr. Lubanga's office...

2 THE INTERPRETER: The witness continues --

3 THE WITNESS (interpretation) ...to get some help, some money for
4 the (Redacted) but he sent me to (Redacted) in order to satisfy my request, and
5 that's what happened.

6 MR. SACHDEVA:

7 Q. And at this meeting was it just between yourself and Mr. Lubanga
8 or were there other persons present?

9 A. I went for -- because I had (Redacted). So there was
10 Mr. Kisembo Floribert who introduced me into the office most likely.

11 Q. And after your appointment and in the time before (Redacted)
12 (Redacted), did you meet with President Lubanga?

13 A. Once he came to see us and to boost our morale, and he said we
14 were to work together. And that was the duty of a president, to speak to
15 his troops, and that was -- that was normal.

16 MR. SACHDEVA: Mr. President, I believe I can ask these questions
17 in open session as long as the witness's role is not referred to.

18 PRESIDING JUDGE FULFORD: Certainly. If both you and the witness
19 could then, if possible, avoid referring to his particular position.

20 Open session, please.

21 (Open session at 10.36 a.m.)

22 COURT OFFICER: Open session.

23 MR. SACHDEVA:

24 Q. You said that, "Lubanga came to see us and to boost our morale."
25 Did he come to the staff headquarters, or was it somewhere else?

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Closed Session)
Questioned by Mr. Sachdeva (Continued)

Page 14

1 A. It was always at the main staff. It was not someplace else.

2 Q. Was he alone or with other people?

3 A. It's not very common to see a president walking around alone. He
4 was with his bodyguards and some other important people, a few ministers,
5 the minister of defence and the minister of finance.

6 Q. How was he dressed?

7 A. He wore a suit. He wasn't wearing a military uniform. He was
8 wearing civilian clothes.

9 Q. How were his bodyguards dressed?

10 A. The bodyguards wore military uniforms, the same uniform that
11 everyone in the FPLC wore.

12 Q. Were they carrying weapons or not?

13 A. Bodyguards always have weapons.

14 Q. Do you know what form of transport he took to come to the staff
15 headquarters?

16 A. He had a jeep. He was with a jeep -- or jeeps, in the plural.

17 Q. Did -- you said that he came to boost morale. When this took
18 place, how many -- roughly how many persons were present in addition to
19 his entourage?

20 A. There was the staff headquarters, and there was a unit of guards.
21 As I said yesterday, it was in the garage, and it was like a parade, but
22 it was at the staff headquarters.

23 Q. How long did the -- the meeting or the occasion last for?

24 A. Thirty minutes. After 30 minutes, the president left. So not
25 even 30 minutes.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Closed Session)
Questioned by Mr. Sachdeva (Continued)

Page 15

1 Q. You said that it was like a parade. Was the parade arranged in a
2 particular way or not?

3 A. He came to see how his main staff was functioning. He wanted to
4 see how his forces were operating. There was nothing else.

5 Q. And what was it that President Lubanga did or said to boost the
6 morale?

7 A. Not much. He simply asked the men to be calm. He said that they
8 wanted peace and that we were going to remake our country. It would be a
9 new and young country.

10 Q. You said it lasted for about 30 minutes. Did President Lubanga
11 speak for 30 minutes or were there other persons that also spoke?

12 A. Before he started speaking, there was the Chief of Staff who
13 spoke and then gave the floor to the president to address us. He didn't
14 speak for 30 minutes, because before he started speaking there was the
15 Chief of Staff.

16 Q. And do you recall what the Chief of Staff said?

17 A. The Chief of Staff introduced us or he said that the president was
18 there to boost our morale. Then he sang a few songs -- we sang a few
19 songs and then the president addressed us.

20 Q. And what songs did you sing?

21 A. Military songs.

22 Q. Can you give us an example of one of those songs? And I'm not
23 asking you to sing, sir, but perhaps the -- some of the lyrics if you
24 remember?

25 A. Well, they are in Swahili mostly.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Closed Session)
Questioned by Mr. Sachdeva (Continued)

Page 16

1 PRESIDING JUDGE FULFORD: I think all we need, Mr. Sachdeva, is
2 the sort of general subject matter of them, isn't it, really? What were
3 they about?

4 MR. SACHDEVA: Yes, sir. Perhaps that might be better.

5 Q. What were the songs about?

6 A. The songs were songs that were sang to boost morale. For
7 example, when soldiers want to go to war and when they want to come back
8 having been victorious, they would sing. So one would sing the same song
9 everywhere. Everyone in the Congo sings the same songs.

10 Q. At -- on this occasion were there just adults in the parade being
11 addressed by the president, or were there adults and children?

12 A. Yesterday, I said that when you have soldiers, there is nothing like a
13 child or an adult because we were all within the FPLC. When the president
14 arrived, it's not as if you would chase the children away. It's not as if
15 only the adults would remain. Everyone was present at the parade.

16 Q. And in respect of the children, what was the age-range?

17 A. Yesterday I also said that there were children from 13, 14, 15,
18 16, 17 years of age. So that was the age-range, from 14 to 17.

19 THE INTERPRETER: Interpreter's correction: 13 to 17.

20 MR. SACHDEVA:

21 Q. You said that Kisembo spoke at the beginning and then introduced
22 or gave the floor to President Lubanga. Did anyone from the parade speak
23 to the president or Mr. Kisembo?

24 A. No one would put questions to the president or speak to him, or
25 to Kisembo either, because at the time there was the Chief of Staff who

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Closed Session)
Questioned by Mr. Sachdeva (Continued)

Page 17

1 introduced the president to us. We sang a song, then the president
2 addressed us to encourage us and then he left. No one else could have
3 addressed him. No one was in a position to put questions to him or to
4 say anything, in fact.

5 Q. Do you perhaps remember when this took place? I don't need a
6 specific date, but perhaps a month and a year.

7 A. It was really at the beginning of the time that we came out of
8 Mandro, but I don't really have the date. I don't really know the month
9 either.

10 Q. That's fine, sir. For the moment I'm now going to ask questions
11 about Mongbwalu, a few questions.

12 To your knowledge was there anything of strategic importance in
13 Mongbwalu?

14 A. I said at the outset that Mongbwalu was a gold town.

15 Q. And was that the reason why it was of interest to the FPLC or
16 were there other reasons?

17 A. Well, first of all, there's the gold, and then it's a commercial
18 centre that's in Mongbwalu in which three-quarters of the traders are
19 Hema and Gegere and the Nande. And finally three-quarters
20 of the workers of OKIMO are members
21 the Lendu ethnic group.

22 So the FPLC had a mission in Mongbwalu. First of all, to provide
23 security for the traders, and also to push out the Lendu in Mongbwalu.

24 Q. Do you know -- I'll withdraw that question. What methods of
25 communication were there in the FPLC when you were there?

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Closed Session)
Questioned by Mr. Sachdeva (Continued)

Page 18

1 A. We had F-13s, what were called phonies, and we had Motorolas.

2 Q. Can you explain what an F -- F-13 is?

3 A. An F-13 is a big Motorola that one calls a phonie. The make of
4 this device is called an F-13.

5 Q. And who within the FPLC had these phonies, the F-13s?

6 A. We had these phonies -- or, rather, Bosco and Kisémbu had
7 phonies. The Presidency also had a phonie, as well as the others in Aru.
8 In Aru it was for
9 Aru, but when we joined the FPLC there were such devices. In Kandoyi
10 that was also the case, and in Mongbwalu. The battalion commanders who
11 were deployed there had their own individual Motorolas.

12 Q. How were the -- these phonies operated?

13 A. There were numbers that were used. There was a frequency range
14 that was used. That was the case for every phonie, for those Motorolas.
15 We had radio antennas that were attached for long-range communication,
16 two-metre antennas, two-metre long antennas.

17 PRESIDING JUDGE FULFORD: Time for the midmorning break,
18 Mr. Sachdeva. Thank you very much indeed.

19 Can we go into private session, please, and we'll sit again at
20 half past 11.00.

21 * (Closed session at 10.57 a.m.) Reclassified as Open session

22 COURT OFFICER: Closed session.

23 (The witness stands down)

24 PRESIDING JUDGE FULFORD: Mr. Sachdeva, that was very, very
25 considerably better in terms of -- I suspect in terms of the pressures on

1 those who sit above and watch us. So can we -- can we try and maintain
2 this. Certainly from where we're sitting, it doesn't feel unnaturally
3 laboured. It's just slightly slower, perhaps a tiny bit ponderous, but I
4 think the benefits in terms of what we see on the screen makes it
5 worthwhile. So can everybody please keep this up.

6 Mr. Biju-Duval, I've got to say to you particularly, given that
7 you're going to be speaking in French and the witness is going to be
8 speaking in French, can we ensure that this doesn't become some kind of
9 closed conversation between the two of you. Thank you very much.

10 Now, Mr. Walley, has peace broken out?

11 MR. WALLEYN (interpretation): Yes, your Honour. We have reached
12 an agreement, and the technical problems have also been resolved.
13 There's been a first test, and we'll be receiving the documents that will
14 be used very soon by the Defence.

15 PRESIDING JUDGE FULFORD: Thank you very much. Am I right in
16 understanding that you've explain the agreement that's been reached in an
17 e-mail to the Chamber a little bit earlier today? Well, thank you,
18 Mr. Walley, that's very helpful. What we'll do is convert that into the
19 briefest possible oral decision so that hereafter everybody is clear as
20 to what procedure should be followed, but can I thank the two of you for
21 having spoken to each other.

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

23 PRESIDING JUDGE FULFORD: Half past 11.00.

24 COURT USHER: All rise.

25 Recess taken at 11.00 a.m.

1 On resuming at 11.30 a.m.

2 COURT USHER: All rise. Please be seated.

3 PRESIDING JUDGE FULFORD: Mr. Sachdeva, we've been told there's
4 something you wish to raise. Should it be raised publicly or in private
5 session?

6 MR. SACHDEVA: Public session is fine, Mr. President.

7 PRESIDING JUDGE FULFORD: Public session, please.

8 (Open session at 11.31 a.m.)

9 COURT OFFICER: Open session.

10 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

11 MR. SACHDEVA: Thank you, Mr. President. I raise this solely in
12 light of your Honour's caution to the Prosecution to observe issues of
13 judicial economy, and I would like to inform the Chamber that I have the
14 intention of asking the witness to -- to sketch the layout of the parade
15 that he described yesterday so that, in our submission, it is clear as to
16 where the children, where the recruits, and where the chiefs were
17 positioned.

18 PRESIDING JUDGE FULFORD: Probably right to be cautious,
19 Mr. Sachdeva. Give us a moment.

20 (The Trial Chamber confers)

21 PRESIDING JUDGE FULFORD: You're on firm ground, Mr. Sachdeva.
22 Our view was that by the time the witness was finished dealing with this
23 issue, it wasn't as necessarily as clear as it might be as to where he
24 was suggesting various people were standing, and in particular where he
25 was saying the children -- or the young recruits were standing. So we

1 think this would be positively beneficial.

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

3 PRESIDING JUDGE FULFORD: Anything else?

4 MR. SACHDEVA: That's -- well, that is all for that facet of my
5 examination. I will just inform the Chamber that I might be heading down
6 a line where I would like to show the witness the infamous logbook,
7 solely to at this point comment on the form but perhaps on content.

8 PRESIDING JUDGE FULFORD: Well, you'll be keenly aware of the
9 need to establish a proper foundation for embarking on that line of
10 questioning.

11 MR. SACHDEVA: Indeed, Mr. President. Thank you.

12 PRESIDING JUDGE FULFORD: Good. Let me explain to the public.
13 We are about to go into closed session simply so the witness can be
14 brought into court so that his anonymity is maintained. We will then be
15 returning, I hope, to public session so that Mr. Sachdeva can continue
16 with his questioning.

17 Closed session, please.

18 * (Closed session at 11.35 a.m.) Reclassified as Open session

19 COURT OFFICER: Closed session.

20 (The witness takes the stand)

21 PRESIDING JUDGE FULFORD: Public session, please.

22 (Open session at 11.36 a.m.)

23 COURT OFFICER: Open session.

24 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

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

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 22

1 Q. Sir, before we adjourned for the break, we were talking about the
2 communication methods, and I want to continue some questions on the
3 F-13s, the phonies, that you spoke of.

4 Firstly, what types of communications or what was the subject
5 matter of communications transmitted via the phonie?

6 A. We could transmit sometimes news from one unit to another, the
7 situation in the morning, the security status. And if there was an
8 operation, the ones who had the phonies were in the bigger units, and the
9 ones who had Motorolas were on site, out in the field.

10 Q. Let's stay with the phonies. You said that
11 news could be transmitted from one person to another. What do you mean
12 by "news"?

13 A. Well, when you say "news," you mean to talk to someone else about
14 what has happened, where you were situated, or in the surrounding areas,
15 or what happened during the night.

16 Q. And, sir, just so we're clear, we are talking about matters
17 restricted to the military; is that right?

18 A. Well, I said that when there's an operation, the larger units had
19 phonies and the others had Motorolas, and they would communicate with
20 each other. That is, the ones who had Motorolas were on site, and the
21 ones with the phonies would give orders to the ones who were on the
22 ground. We're talking about operations.

23 Q. Who was it that operated the phonies?

24 A. It was the chief operator who was responsible for communications.

25 Q. What was his name?

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 23

1 A. His name was Kinkita Pele, and he's a major today.

2 Q. May I -- may I please ask you to -- may I please ask you to spell
3 the name just so we have clarity.

4 A. K-i-n-k-i-t-a P-e with an accent in French, l-e, P-e-l-e.

5 Q. Now, the communication or the messages that were transmitted via
6 the phonie, were they recorded in any way or -- or were they transmitted
7 orally?

8 A. The message must --

9 THE INTERPRETER: The witness corrects himself.

10 THE WITNESS (interpretation): -- were recorded, because it's a
11 question of sitreps, if you're talking about the morning. For each
12 operation or if it's a matter of security, the operator has to transcribe
13 in a notebook all of the messages that he received from elsewhere, and
14 then afterwards he will communicate to his superior officer once that has
15 been read.

16 THE INTERPRETER: Correction: "In order for these messages to be
17 read."

18 MR. SACHDEVA:

19 Q. And within the UPC/FPLC, how many operators were there?

20 A. Each battalion had an operator and some deputies, and these
21 deputies would help the operator. Sometimes they would replace the
22 operator, or if there was night-time work they would help the operator.

23 Q. You said that each battalion had an operator. How about at the
24 main staff? Were there operators there?

25 A. I was talking about the chief operator who was the chief of all

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 24

1 the operators. So he was called the chief CTR. So the chief of the CTR,
2 he was at the main staff, and the phonie at the main staff was not in the
3 office but in Bosco's residence.

4 Q. You said that the president also had a phonie. How do you know
5 that?

6 A. Well, first of all, if you're talking about a phonie, it can't be
7 hidden because there are 3- to 5-metre antennas that everyone can see
8 when someone has a phonie.

9 Q. Do you know where the president's phonie was located?

10 A. The president's phonie was right next to his office.

11 Q. Where was his office?

12 A. In the same compound with the residence.

13 Q. And I take it you mean his residence, the president's residence.

14 A. Yes.

15 Q. Where would the messages be recorded?

16 A. The messages were recorded by the sector chief at Bosco's place.
17 By the chief of the CTR.

18 Q. And CTR stands for?

19 A. Centre de transmissions in French. Transmission Centre in
20 English.

21 Q. How were the messages recorded -- registered. I apologise.

22 Witness, sorry, before you answer I apologise to interrupt you.

23 I'm going to ask you a clearer question, if you would allow me.

24 On what were the messages registered?

25 A. The messages were registered on a message logbook.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 25

1 Q. What did that logbook -- did you ever see that logbook?

2 A. I couldn't see it, but I know that because once I was called to
3 Aru, and the message was recorded even before I went there.

4 THE INTERPRETER: Correction: My own messages were recorded
5 before they were passed on to me.

6 Q. And when you say your own messages, do you mean messages that you
7 sent or messages that you received?

8 A. I sent messages to my family. I'm not talking about messages
9 received. I know that the messages that are sent out are also
10 registered. It goes both ways.

11 Q. You said that you couldn't see the logbook. Did you, through
12 other means, come to know what the logbook looked like?

13 A. I don't know if you understood me. I could not read messages in
14 the register, messages which were not intended for me. However, I know
15 the logbook is a big book which is placed on the table, and in that book
16 messages are recorded, messages that come in and messages which are sent
17 out.

18 Q. Did you --

19 PRESIDING JUDGE FULFORD: Mr. Sachdeva, I'm going to intervene.
20 If you're hoping that the witness is going to be able to provide
21 you with a basis for showing him the logbook, I need to indicate to you
22 that at the moment you're a long way off that. The answers that the
23 witness has given so far do not begin to provide you with -- with an
24 evidential basis that is going to mean that we will be assisted by him
25 looking at a large book which has messages in it.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 26

1 Now, you can pursue this further if you want, but at the moment
2 I'm warning you this doesn't seem to us to be a fruitful exercise.

3 MR. SACHDEVA: I'll move on then, Mr. President.

4 Q. You said earlier today that you saw people coming back from
5 Mongbwalu with war booty. Do you know how that war booty was obtained?

6 A. I know because (Redacted) the first war booty arrive
7 .It belonged to Bosco. This first booty was brought on board an aircraft
8 called Air Mbau, an Antonov-2. Air Mbau. A-i-r and then Mbau, an
9 Antonov-2 aircraft. It was his bodyguards who brought these -- this
10 booty. They said that in Mongbwalu many, many traders fled because of
11 the attack. They were fearing -- they were afraid of the gunshots, and
12 so they left everything behind. And they use the term "kupiga na
13 kuchaji," that is Swahili, "kupiga na kuchaji."

14 PRESIDING JUDGE FULFORD: I think it would be useful to spell
15 that.

16 MR. SACHDEVA: Yes, indeed.

17 Q. Sir, could I ask you to spell that phrase that you just used.

18 PRESIDING JUDGE FULFORD: And if it would help to have a pen and
19 paper to write it down, sir, we'll provide you with one.

20 Yes. Piece of paper and a pen, please, for the witness.

21 THE INTERPRETER: And the interpreter would like to add that the
22 witness says: "Determines to attack and to plunder" or "attack and
23 pillage."

24 PRESIDING JUDGE FULFORD: Can you show that to Mr. Sachdeva,
25 please. And could I see it for a moment, Usher, please. Thank you.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 27

1 Good.

2 That's very clear. Can it be shown to Mr. Biju-Duval, and in due
3 course a copy of it provided for the stenographers so that it can be
4 incorporated into the edited transcript.

5 Yes, Mr. Sachdeva.

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

7 Q. Sir, can I just ask you to confirm what that phrase means?

8 A. That phrase means attack, strike the enemy, and plunder.

9 PRESIDING JUDGE FULFORD: We're just going to give an EVD number,
10 Mr. Sachdeva.

11 COURT OFFICER (interpretation): The document will bear the
12 number EVD-OTP-00464.

13 MR. SACHDEVA:

14 Q. And if you know, who was it that committed the plunder in
15 Mongbwalu?

16 A. Militarily speaking, I would say it was the Deputy Chief of Staff
17 in charge of operations who carried this out.

18 Q. And this -- sorry to go back, sir. This term that you've just
19 used, who -- who was it that used this term?

20 A. I just told you earlier that (Redacted) bodyguards, the bodyguards
21 of Bosco Ntaganda returning with a lot of booty which was off-loaded from
22 a Antonov-2 aircraft. So (Redacted) asked them how did you come about
23 this booty, and --

24 THE INTERPRETER: The interpreter -- the witness is now speaking
25 in Swahili trying to repeat the response given by the bodyguards who

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Sachdeva (Continued)

Page 28

1 brought back the war booty.

2 MR. SACHDEVA:

3 Q. And what did the bodyguards say when they brought back the war
4 booty?

5 A. They said what I just said, and then they went and deposited the
6 booty in the home of the owner, that is, in Bosco's residence. Bosco
7 stayed back in Mongbwalu.

8 PRESIDING JUDGE FULFORD: I'm very sorry, sir, but because you
9 moved, I think at one stage from French into Swahili, we were never told
10 what it was that the bodyguards said. So could I trouble you to repeat
11 whatever it was that they said.

12 THE WITNESS (interpretation): They said the following: "We have
13 just returned from there. We have attacked, and we have pillaged. Our
14 work went on well. Our operation went on well, and we are going to
15 return. We are going to go back there, because there is still a lot of
16 property." But the plane did not make only one trip.

17 MR. SACHDEVA: Mr. President, with your leave I'd like to move
18 into private session for my next set of questions.

19 PRESIDING JUDGE FULFORD: Certainly. We'll go into private
20 session. Thank you.

21 * (Private session at 12.04 p.m.) Reclassified as Open session

22 COURT OFFICER: Private session.

23 PRESIDING JUDGE FULFORD: Yes.

24 MR. SACHDEVA: Thank you, Mr. President. I would like to show
25 the witness a document, and I have copies for your Honours and the

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Sachdeva (Continued)

Page 29

1 Defence and the Legal Representatives, and of course the witness.

2 PRESIDING JUDGE FULFORD: Has Mr. Biju-Duval been notified that
3 this was going to be shown to the witness?

4 MR. SACHDEVA: Yes, Mr. President.

5 PRESIDING JUDGE FULFORD: That's a relief, Mr. Sachdeva. Good.
6 Please distribute them.

7 MR. SACHDEVA: And for the benefit of the Chamber, there are only
8 three tabs marked, and I intend to show the witness documents within
9 tab 2 and tab 3 only.

10 PRESIDING JUDGE FULFORD: Mr. Biju-Duval.

11 MR. BIJU-DUVAL (interpretation): Your Honour, I wish to make a
12 reminder with respect to the position of the Defence relating to the
13 document under tab 3. It contains answers which have already been
14 provided by the witness in his statement of the 10th of June. I don't
15 think that the witness is in a position to make a comment on this
16 document.

17 PRESIDING JUDGE FULFORD: Now, Mr. Biju-Duval, you must
18 appreciate you've got the benefit of us in that you may have had prior
19 notification that this document was going to be introduced, and although
20 I'm sure it's been on the court system for many years, I have to confess
21 I haven't been reading it every night last thing before I go to bed.

22 Now, if you're objecting to the document going in, you're going
23 to have to tell us a little bit more about it and why it is it shouldn't
24 be shown to the witness.

25 MR. BIJU-DUVAL (interpretation): Just two words: This document

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Closed Session)
Questioned by Mr. Sachdeva (Continued)

Page 30

1 seems to be a report of the G5, and if the Chamber ruled -- will remember
2 that the witness gave an answer yesterday, page 79 of the French
3 transcript, with respect to his position as concerns this type of report.

4 PRESIDING JUDGE FULFORD: That's very clear.

5 Now, Mr. Sachdeva, can we sensibly discuss this in the presence
6 of the witness?

7 MR. SACHDEVA: I think not, Mr. President.

8 PRESIDING JUDGE FULFORD: That's what I suspected.

9 Sir, I'm going to have to ask you to forgive us. For a moment
10 I'm going to ask you to step outside of court with the gentleman who's
11 with you and we'll see you I hope in a few minutes time.

12 Closed session, please.

13 * (Closed session at 12.08 p.m.) Reclassified as Open session

14 COURT OFFICER: Closed session.

15 (The witness stands down)

16 PRESIDING JUDGE FULFORD: One question first of all if I may,
17 Mr. Sachdeva. Is this a report from a G5?

18 MR. SACHDEVA: The -- under tab 3 it purports to be, yes.

19 PRESIDING JUDGE FULFORD: Can I then respectfully remind you of an answer
20 given yesterday by the witness at page 82 of the transcript, line 20, in
21 answer to a question from you the G5, "Did the head of the G5 produce
22 reports while you were in the FPLC?" The witness replied: "I could not
23 even receive the report of the G5 because between my office and number 5 --"
24 well, et cetera, et cetera, ended up with him saying he didn't
25 have any contact with the G5.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Closed Session)
Questioned by Mr. Sachdeva (Continued)

Page 31

1 So correct me if I'm wrong, the evidential position at the moment
2 is that the witness himself never saw G5 reports. Now, against that
3 background, what's the foundation for showing this to the witness.

4 MR. SACHDEVA: Thank you, Mr. President, and of course I'm aware
5 of the answers the witness has given, and my intention, which indeed has
6 been communicated to the Defence, is to ask the witness to comment on the
7 form and type of the document. And one of the ways I seek to do that is
8 if your Honours turn to the document under tab 2, on the second page the
9 information contained therein appears to have been signed off by the
10 witness himself, and thus in our submission he produced this document and
11 therefore may be able to provide information regarding the front page
12 where you have the form of a heading on the left-hand side, you have a
13 particular document reference number on the right-hand side, and you have
14 indeed at the bottom of -- where the witness has signed the term -- the
15 terms used "fait a Bunia" on a particular date.

16 And if one then moves to tab 3, in my submission or in the
17 Prosecution's submission, the form of the document appears to be similar.
18 You have the similar heading on the front left-hand side. You have the
19 same terms used at the end of the document signed by Mr. Mbabazi, and
20 indeed the reference number appears to have be -- it appears to have been
21 produced in the same fashion, in the same format. You have the number,
22 you have the EMG, you have the FPLC, you have the division where the
23 document comes from and the date.

24 So my intention is to first ask the witness questions related to
25 the document he has allegedly signed and then take him to the second

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Closed Session)
Questioned by Mr. Sachdeva (Continued)

Page 32

1 document and ask him whether the content and the form appears to be
2 similar to the one he signed, and that is it. I do not intend to go into
3 the content at all.

4 PRESIDING JUDGE FULFORD: That's very clear, Mr. Sachdeva. You
5 will appreciate that until this moment we had no idea what the
6 Prosecutor's intention was. We now understand. Thank you very much.

7 (The Trial Chamber confers)

8 PRESIDING JUDGE FULFORD: Well, Mr. Sachdeva, for those very
9 limited purposes we're with you. You can establish, first of all,
10 whether the document under tab 2 is a document the witness is familiar
11 with, not least because it appears to have his signature at the bottom,
12 and you can then ask him to indicate one way or another as to whether or
13 not there is similarity between the top of his document and the top of
14 the document between tab 3.

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

16 PRESIDING JUDGE FULFORD: Witness, please.

17 (The witness takes the stand)

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

19 Private session, Mr. Sachdeva?

20 MR. SACHDEVA: With your leave, yes, Mr. President.

21 PRESIDING JUDGE FULFORD: Private session, please.

22 * (Private session at 12.15 p.m.) Reclassified as Open session

23 COURT OFFICER: Private session. Yes.

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

25 Q. Sir, what I want to do now is to show you a document? And if I

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Sachdeva (Continued)

Page 33

1 could ask the Court Usher to assist in asking you to turn to the document
2 under tab 2.

3 And, sir, if I could ask you to look at the first page and the
4 page or -- and if you turn over, look at the information on the back of
5 the page and tell the Court whether you recognise this document.

6 A. Yes, I do recognise it.

7 Q. And at the back of the page do you see your signature and name
8 there?

9 A. Yes.

10 Q. And what is this document about?

11 A. This document is a request for material with which I was to work.
12 It was never delivered to me. That's the case right up to the present.

13 MR. SACHDEVA: Mr. President, perhaps I can provide the Court
14 Officer with a number, and it is DRC-00091-778 through to 779. I read
15 out the old numbering system so let me try again. This might be of
16 assistance, DRC-OTP-0091-0778 through to 0779. And it should not be
17 broadcast.

18 COURT OFFICER: The document will bear the number EVD-OTP-00465.

19 MR. SACHDEVA:

20 Q. And, sir, just to be clear, did you say that the materials were
21 not delivered to you?

22 A. Right up until now. That's the case.

23 Q. Can you help us with the process by which this request went to
24 the -- went up the chain of command?

25 A. (Redacted) I knew everything that I needed. I knew what kind

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Sachdeva (Continued)

Page 34

1 of material I needed -- (Redacted)
2 (Redacted), but he didn't know his job very
3 well. He said that he wasn't responsible for going to see the minister
4 of finance, or to go to the President to ask for this money. It was up to
5 Kisembo and Dilangu to ask for everything that I had asked for. As Dilangu
6 (Redacted) and later the Deputy Chief of Staff in charge of
7 administration, I went to see him. He knew how urgent this need was and
8 so he wrote to the president so that I could obtain what I needed, but to
9 this very day there was no response to the letter. I don't know if
10 anyone else went to try to obtain this.

11 Q. Could I ask you to please turn to the document and to look at the
12 first page. It's under tab 2.

13 Now, on that page at the bottom right, what do we see there?

14 A. You can see Mr. Dilangu's signature there. Mr. Dilangu Efomi's
15 signature.

16 Q. What can you tell us about the stamp?

17 A. The stamp is the stamp of the main staff, the FPLC main staff.

18 Q. And, sir, if you stay with the document, if you look at the top
19 right-hand corner, you will see the -- excuse me, the top left. At the
20 top left you'll see the letters "DJG." What do they stand for?

21 A. It means -- well, I know what is needed, but I can't ask the
22 president to provide this directly because I have another superior above
23 me. So then I asked Kisembo to act, but he didn't want to. Kisembo
24 should have signed, because he was the person who occupied that post.
25 Because no letter can go out from the main staff without his name. He

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Sachdeva (Continued)

Page 35

1 should have signed. If he doesn't sign, everyone else should note "by
2 order of." He let someone else sign.

3 Q. And, sir, I'm sorry to push you. I'm going to ask you a series
4 of questions on this document, so it would be beneficial for you to have
5 that document open in front of you. Sorry about that. Thank you.

6 Now, my next question, I'd like you to concentrate on the top
7 left-hand corner of the front page where we see the letters "DJG," and
8 then we see a paragraph underneath that. It may appear to be an obvious
9 question, but what -- what is that? What does that mean?

10 A. I have just said what it means. I did what you can see in
11 left -- up in the left-hand corner. It was for me to say what I needed.
12 I was to inform my superiors of the fact, but I couldn't go to see the
13 president to inform him of my needs. Here you have my sign, because you
14 can't just go to the main staff. This person here has to deal with these
15 needs. So this is the person who wrote that.

16 Q. And the letters "DJG," what do they stand for?

17 A. To the left -- no. This is the abbreviation of the person who
18 typed this out. He wanted to leave his initials there. So it's the
19 person who typed this out who put that there. This is common practice.

20 Q. And underneath, again staying with the top left-hand corner,
21 underneath the letters "DJG" we have "Republique democratique du Congo,
22 Forces patriotique pour liberation du Congo etat major general (Redacted)"

23 Is that also common practice or not?

24 A. That's simply a military matter. This letter was from a (Redacted).
25 This was a (Redacted) request to the superiors but to explain to the president who

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Sachdeva (Continued)

Page 36

1 wasn't a member of the military the situation, the Chief of Staff wrote
2 this so that he could see that the (Redacted) had to be provided with everything
3 that he needed. There was nothing -- nothing serious. One just needed
4 certain utensils.

5 Q. That's fine. And please, sir, if you can stay with the document,
6 on the front page. And I now would like you to move to the top
7 right-hand corner of the front page, and we see under the line "Bunia le
8 21 Novembre, 2002," we see a number here. As I can read it, it says,
9 "(Redacted)." What does that mean?

10 A. It's an administrative number. This was a (Redacted) request so it's
11 a purely administrative number. In other letters, civilian letters, you
12 can see this, too, but in the army this is how one proceeds. So you have
13 to know who needs material. In the letter it says (Redacted) and the number
14 that the letter bears has to have the same reference. The person who
15 sees the letter will know that the (Redacted) has to be provided with the
16 material.

17 Q. And if you just concentrate on the number, 056, what would that
18 number mean?

19 A. Well, let me repeat it again. I just answered. This number was
20 an administrative number in the military. Let's say it's a battalion
21 commander. You would put "Main staff, 11th Battalion or 12th battalion."
22 Here it says FPLC, but that wasn't really necessary because it was
23 already the main staff. So we knew that it was the FPLC. And since the
24 president was the Commander-in-Chief, he was a civilian, and he was in
25 the UPC even though he was the Commander-In-Chief of the FPLC.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Sachdeva (Continued)

Page 37

1 MR. SACHDEVA: Mr. President, I can ask further questions in
2 public session as long as the witness's role is not referred to.

3 PRESIDING JUDGE FULFORD: Absolutely, Mr. Sachdeva, and might we
4 encourage you to move fairly swiftly to a comparison between the two
5 documents. I think there's no need to, as it were, over-investigate the
6 significance of the particular way in which letters may have received
7 reference numbers within the UPC or the FPLC.

8 Good. Public session, please.

9 (Open session at 12.31 p.m.)

10 COURT OFFICER: Public session.

11 PRESIDING JUDGE FULFORD: Thank you.

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

13 Q. Sir, just one -- one or two last questions on this document.
14 Does the number 56, to your knowledge does it mean that there were 55
15 previous documents (Redacted), or was it a specific
16 identification number for this request?

17 A. Well, let's say there weren't 55 letters before that came from
18 (Redacted) to the Presidency, no, that's not the case, but in the office of
19 (Redacted) it was the 55th letter that was sent out of the office. In other
20 words, with this number there -- it was the 56th letter that was sent
21 out of the office, not necessarily to the president.

22 I'm not saying that this particular person had written 55 letters
23 before this one, no.

24 Q. And, sir, my last question on this document, the -- again on the
25 right-hand side we see "à son excellence, Monsieur le president de

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 38

1 l'UPC, le commandant en chef des FPLC," and again, who is that referring to?

2 A. You mean his excellency the president of the UPC and

3 Commander-In-Chief of the FPLC? Is that what you said?

4 Q. Yes.

5 A. That's Mr. Lubanga.

6 Q. Now, if I could ask you to turn to the next tab, tab 3. And
7 perhaps if you take a moment to have a look at the front page and the
8 last page where we have a signature, and then I'll ask you a few
9 questions.

10 A. I saw it. Yes, I see the document.

11 Q. And, sir, before I ask you a question I have to inform the Court
12 Officer of the reference number.

13 MR. SACHDEVA: And that is DRC-OTP-0109-0136.

14 Q. Now, sir, if I could ask you again to keep the document open in
15 front of you.

16 A. You said tab 3?

17 Q. Precisely. Thank you. And firstly, if we concentrate on the top
18 left-hand corner of the first page, does the -- do the words there -- are
19 they similar to what was contained in the previous document?

20 A. Yes. That was our general secretary. He was the secretary
21 general and did the typing. His name was Djego David, so things are
22 clear.

23 Q. Before I ask you another question, could I ask you to spell that
24 name, please.

25 A. D-g -- no. D-j -- correction: D-j, D-j-e-g-o. I think it's an

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 39

1 A at the end. D-j-e-g-o. David is the other name, D-a-v-i-d.

2 Q. And you'll see that it says -- again on the top left-hand corner,
3 you'll see that it says G5. What does that mean?

4 A. Well, it was the G5 who was reporting to his direct superior.

5 This is a letter from the G5 to the main staff, the General Chief of Staff.

6 Q. And on the right-hand side at the top under "Bunia, le 6 Novembre
7 2002," we see a number, and what can you say about that number?

8 A. Well, again, I told you this was a purely administrative number.
9 That was the way it works in the military around the world, because after
10 all the army is universal, and it shows that the person who wrote the
11 letter -- it indicates his functions. In fact, you see that a third
12 party wrote the letter for him, and it says "Monthly Report," and he
13 wrote that. It was a monthly report of the fifth bureau. It didn't --
14 doesn't say monthly, but it was a monthly report.

15 Q. Sir, may I just ask you this question.

16 A. Yes.

17 Q. I -- we have understood your evidence with respect to the G5, but
18 may I ask you, have you ever seen this document before?

19 A. I answered, Mr. Prosecutor, sir, yesterday that the G5 has his
20 own functions, and perhaps for certain corrections I might see the
21 document in order to make certain corrections, but (Redacted)

22 (Redacted) that wasn't my

23 problem. Everyone did their own reports at their own level and to their
24 own superiors. So the answer is no, I have not seen this letter or this
25 report.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 40

1 PRESIDING JUDGE FULFORD: Mr. Sachdeva, given what was said
2 yesterday, that's not a popular question with the Bench. There was no
3 foundation for asking it. Now, can we move on.

4 MR. SACHDEVA: Yes, Mr. President, and I'm guided.

5 I'm now finished with this document, and I would like to show the
6 witness a video.

7 PRESIDING JUDGE FULFORD: Show the witness?

8 MR. SACHDEVA: A video, Mr. President.

9 PRESIDING JUDGE FULFORD: Right. You've been notified of this,
10 Mr. Biju-Duval?

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

12 PRESIDING JUDGE FULFORD: All right.

13 COURT OFFICER: Should the document -- the video be displayed to
14 the public?

15 MR. SACHDEVA: Yes. I think it's fine.

16 PRESIDING JUDGE FULFORD: Yes. We're in public session,
17 certainly if they're to be broadcast.

18 How are we to do this, Mr. Sachdeva? Do you want the witness
19 simply to watch it all the way through? Do you want him to interrupt if
20 he sees people he recognises? What role do you want the witness to play.

21 MR. SACHDEVA: Mr. President, I want the -- I would like the
22 witness to see the excerpt and tell the Court if he recognises either the
23 place or persons in the excerpt.

24 PRESIDING JUDGE FULFORD: But once it's finished.

25 MR. SACHDEVA: Yes.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 41

1 PRESIDING JUDGE FULFORD: You don't want -- right.

2 So, sir, could you sit quietly and watch this extract, make a
3 mental note of the people and the places you see, because Mr. Sachdeva
4 will ask you some questions about them afterwards. If you need to view
5 it a second time, you only have to ask and we'll have it played again.

6 MR. SACHDEVA: And if I could, with your Honour's leave, tell the
7 Court Officer that the ERN is -- of the excerpt is DRC-OTP-0082-0016, and
8 we are starting at minute 03:00, so 3 minutes.

9 COURT OFFICER: So the EVD number of the extract will be
10 EVD-OTP-00466.

11 MR. SACHDEVA: And we'll stop at 5:10.

12 PRESIDING JUDGE FULFORD: Before it's played, Mr. Sachdeva, we're going to
13 provide the witness with a piece of paper and a pen, because of course, he
14 doesn't know if this is going to last for 30 seconds or 3 hours, and he
15 wants to be able to make a note of anything that he sees.

16 Grand. Right, what happens now?

17 THE INTERPRETER: Is interpretation required for this video?

18 MR. SACHDEVA: No. No, thank you very much. The sound is not
19 needed.

20 PRESIDING JUDGE FULFORD: Right. Let's play it then, please.

21 (Video-clip played)

22 MR. SACHDEVA: Mr. President, my robe appears to have been
23 caught.

24 PRESIDING JUDGE FULFORD: I've done that twice, Mr. Sachdeva, and
25 on one occasion been entirely unable to get out of my seat.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 42

1 Yes. Now, what questions for this extract?

2 MR. SACHDEVA:

3 Q. Sir, is there anything about that excerpt that you can recall or
4 identify?

5 A. Well, I'd like to see it again, because the image wasn't very
6 stable and there were things I wasn't able to see.

7 PRESIDING JUDGE FULFORD: Certainly. Let's play it again.

8 MR. SACHDEVA:

9 Q. And the main question would be if you know where -- where it is.
10 (Video-clip played)

11 PRESIDING JUDGE FULFORD: So, Mr. Sachdeva, is the main question
12 then where was this film?

13 MR. SACHDEVA: Yes, Mr. President.

14 PRESIDING JUDGE FULFORD: Good. Do you know, sir, where this was
15 filmed?

16 THE WITNESS (interpretation): It looks like Mandro.

17 MR. SACHDEVA:

18 Q. Why do you say that?

19 A. Because I saw along the road, and I recognised some things along
20 the way, and the first three huts before the road divides into a fork.

21 MR. SACHDEVA: Mr. President, I'd like to start again and ask the
22 witness to put his hand up when he recognises the first three huts and
23 then clarify that for the record, ask him what he recognises about that.

24 PRESIDING JUDGE FULFORD: All right. I think this probably ought
25 to be, if we can, the last time we view it, so if there's anything else

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 43

1 you want the witness to identify as we go along, this may be the
2 opportunity to do it. Are you hoping for him to recognise people,
3 Mr. Sachdeva, or not, or is this really only a location exercise?

4 MR. SACHDEVA: It's a location exercise.

5 PRESIDING JUDGE FULFORD: All right. So, sir, the sequence is
6 going to be shown again. As you see any buildings or huts that you
7 recognise, could you please raise your hand and we'll then freeze frame
8 the video.

9 So Ms. Struyven had better be watching the witness.

10 (Video-clip played)

11 THE WITNESS (interpretation): The three huts there. There were
12 some people who were selling things there. There was a military gate
13 there.

14 PRESIDING JUDGE FULFORD: Good. Is there a way of identifying a
15 point on the marker so that if we need to look at this again we can
16 understand where the witness has intervened.

17 MR. SACHDEVA: Yes. I can read out the -- the witness -- the
18 excerpt has been stopped at minute 4:38.

19 PRESIDING JUDGE FULFORD: Good.

20 MR. SACHDEVA: May I just inquire, Mr. President, whether it's
21 possible for the witness to -- to take a marker and mark on the screen
22 and for the screen to be frozen as a separate exhibit?

23 PRESIDING JUDGE FULFORD: We can't do it before lunch,
24 Mr. Sachdeva. You'll have to talk to the Court Officer to see whether we
25 can do it after lunch.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

Page 44

1 Right.

2 MR. SACHDEVA: If I'm allowed to, Mr. President --

3 PRESIDING JUDGE FULFORD: Well, we'll certainly -- we'll remember
4 we've got it at 4:38. Do you want us to carry on viewing it to see if
5 there are any other buildings that the witness particularly recognises or
6 not?

7 MR. SACHDEVA: I would do that, but perhaps it can be done after
8 lunch with, your leave.

9 PRESIDING JUDGE FULFORD: No, we'll finish this exercise now. So
10 we're at 4:38. We'll continue on, and, sir, if there are any other
11 buildings that you recognise, could you in the same way please put your
12 hand up.

13 So if Ms. Struyven could carry on, please.

14 THE WITNESS (interpretation): At the main house there.

15 PRESIDING JUDGE FULFORD: Is that a building you recognise, sir?

16 THE WITNESS (interpretation): I thought -- I think I saw this
17 house when I went for the ideology course in Mandro. Behind this house
18 there was a school, I think, along the road.

19 MR. SACHDEVA: I think we have to go back one -- perhaps one
20 second where the house is --

21 PRESIDING JUDGE FULFORD: Yes.

22 MR. SACHDEVA: -- depicted.

23 PRESIDING JUDGE FULFORD: Absolutely. We've stopped at 5:05.
24 The witness put his hand up just slightly before, but it's clearly the
25 white house that is shown in this sequence where the vehicle is --

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Closed Session)
Questioned by Mr. Sachdeva (Continued)

Page 45

1 towards which the vehicle is turning.

2 Right. We'll break off there, Mr. Sachdeva, and pick this up
3 again after lunch.

4 Thank you very much, sir. We look forward to see you again at
5 2.45.

6 Closed session, please.

7 * (Closed session at 12.59 p.m.) Reclassified as Open session

8 COURT OFFICER: Closed session.

9 (The witness stands down)

10 MR. SACHDEVA: Mr. President, I just wanted to apologise for that
11 last question. There was clearly nothing underhand meant by it.

12 PRESIDING JUDGE FULFORD: Thank you, Mr. Sachdeva.

13 We'll sit again at 2.45.

14 COURT USHER: All rise.

15 Luncheon recess taken at 1.00 p.m.

16 On resuming at 2.45 p.m.

17 COURT USHER: All rise. Please be seated.

18 PRESIDING JUDGE FULFORD: Witness, please.

19 Mr. Biju-Duval, just whilst the witness is coming in, an e-mail
20 has been received today from the Defence, for which thanks, but the
21 e-mail isn't hugely helpful in that it suggests that the Defence may
22 raise objections to questions that have been posed by victims for the
23 expert Garreton without indicating definitely one way or the other
24 whether there are going to be objections. Can we fix by 12.00 midday
25 tomorrow for you to give a firm indication?

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 46

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

2 (The witness takes the stand)

3 PRESIDING JUDGE FULFORD: Public session, please.

4 (Open session at 2.46 p.m.)

5 COURT OFFICER: Open session.

6 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

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

8 If I could just continue playing until the end. And again see --

9 Q. Sir, if you -- we're going to play the last part of the excerpt,
10 and if you recognise something else, please, as before, put your hand up.
11 So I'm starting at 5:06.

12 Sir, perhaps I can just ask you now. There's a building on your
13 screen. What is that building, if you know?

14 A. This building resembles the first residence in Mandro.

15 THE INTERPRETER: The witness is not very clear.

16 PRESIDING JUDGE FULFORD: Mr. Sachdeva, we need to pause for a
17 moment, because the French transcript has frozen.

18 (Trial Chamber and Court Officer confer)

19 PRESIDING JUDGE FULFORD: Mr. Sachdeva, I'm going to use you as a
20 guinea pig to see whether the French transcript or indeed the English
21 transcript has got any life in it. There is no indication at the moment
22 that either of them have.

23 MR. SACHDEVA: The English appears to work. The English, yes.

24 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva, please continue.

25 MR. SACHDEVA:

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 47

1 Q. Sir, what -- what do you mean by "the first residence of Mandro"?

2 A. The first residence of Mandro, what I mean is that that is the
3 house where President Lubanga used to live when he was in Mandro.

4 MR. SACHDEVA: And for the record, the witness is discussing a
5 house depicted at 5:10 on the excerpt.

6 Q. Sir, may I ask you is this the same house that you identified
7 earlier as a place where you were taught ideology, or is it a different
8 house?

9 A. This isn't where we had the ideology course. We were in the bush
10 when we were taught ideology, because that's where it was. Four
11 kilometres away. Four kilometres from the house.

12 Q. And this house where you say President Lubanga used to live, what
13 was it used for when you were there in Mandro?

14 A. When we were in Mandro, we weren't in the centre of the village.
15 We were four kilometres away from the village. That's the truth. We
16 could see that there were vehicles that arrived. There were a lot of
17 soldiers who stood guard by this house.

18 Q. I'm just going to take you back to the house that you initially
19 identified.

20 (Video-clip played)

21 MR. SACHDEVA:

22 Q. Sir, you see the house on this screen?

23 A. Yes.

24 Q. And what was -- what is this house? What was -- or what is this
25 house?

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 48

1 A. I have just said that from the time I was in Bunia, this was the
2 first time that I arrived in Mandro when I went for the ideology course,
3 and then I saw Mandro again after the ideology course and went to Bunia.
4 So I never lived in the centre in Mandro. I never even spent an hour in
5 Mandro. So for me Mandro was practically unknown, but I did see the
6 house, because when we left we were in a big lorry. We could see
7 everything around us.

8 Q. So may I just clarify with you, sir, was this house part of the
9 training camp or not, or was it part of the village?

10 A. This house wasn't in the training camp. We were in the bush. It
11 was just this hut. There were two enclosed huts for the instructors and
12 five other ones for the recruits, and for us -- well, there were two
13 others that we occupied.

14 MR. SACHDEVA: Mr. President, with your leave I'd like to show
15 the witness a further two minutes, a further excerpt.

16 THE INTERPRETER: Interpreter's correction: The witness said
17 "there were seven huts," not "this hut."

18 PRESIDING JUDGE FULFORD: Well, Mr. Sachdeva, I think the
19 arrangement has always been with these excerpts the Defence should have
20 prior notice if they're going to be shown. Have you alerted
21 Mr. Biju-Duval to -- to this proposal?

22 MR. SACHDEVA: Mr. President, I -- certainly the ERN of the tape
23 has been alerted to the -- to my learned colleague. I think not in terms
24 of the precise excerpts, but I cannot recall. I have to check my e-mail,
25 but I think not.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 49

1 MR. BIJU-DUVAL (interpretation): There is something I would like
2 to point out. The only extract we have been notified about is the one
3 that we have just seen. It's from minute 2:58 to minute 5:00. The
4 Defence objects to having a new excerpt reviewed now, and that's all the
5 more the case since we'll soon be starting the cross-examination. We
6 aren't in a position to prepare ourselves with regard to this piece of
7 evidence that wasn't at the disposal of Defence.

8 PRESIDING JUDGE FULFORD: Anything else you want to say,
9 Mr. Sachdeva?

10 MR. SACHDEVA: Mr. President, I -- I'm quite happy to move on. I
11 understand that notice was provided late. I had not anticipated that the
12 witness should be shown this excerpt. Nevertheless, I would submit that
13 it would ultimately be beneficial for the Chamber, and so long as the
14 Defence would be given sufficient time within which to prepare
15 cross-examination, I would respectfully push the -- the application to
16 show the witness this excerpt.

17 PRESIDING JUDGE FULFORD: Well, Mr. Sachdeva, I'll do this for
18 you: We're not going to grant you leave now. You can, when we rise
19 today, show Mr. Biju-Duval the extract that you do wish to show, and if
20 you wish to, during re-examination you can renew your application, and at
21 that stage Mr. Biju-Duval would have been alerted to the passage that you
22 want to reveal, and that will give Mr. Biju-Duval an opportunity of
23 asking final questions on the passage if we grant you leave. But don't
24 take it from what I've said that there's any presumption that leave will
25 be granted. So not now, possibly later, but renew your application if

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 50

1 you wish.

2 MR. SACHDEVA: Thank you very much, Mr. President, yes.

3 PRESIDING JUDGE FULFORD: Good. So can we move on.

4 MR. SACHDEVA: Yes, Mr. President, we can, and my last topic.

5 Before I do that, I just want to make one clarification.

6 Q. Sir, did you say that there were seven huts in the bush or did you say
7 something else?

8 A. This what I have been saying since yesterday -- that there were several,
9 but the place that we were located, well, vehicles couldn't arrive there.

10 Q. Now, yesterday we were discussing how persons were arranged in
11 the parades, and your description was as follows: I asked you if the
12 older recruits were to the right and the chiefs in the middle and the
13 younger ones to the left, and you answered: "No. We will -- when it's a
14 U, the young ones are in the first row, and it's a U shape. Then you
15 have the older ones, and at the end, at the end of the U, senior officers
16 at the end."

17 And my question to you is would you be prepared to draw a sketch
18 demonstrating precisely, if you can, how the parade was organised,
19 indicating where the young ones were, where the chiefs were, and where
20 the older ones were?

21 A. Well, I'd like to contradict something that you said. I didn't
22 say that the young were to the right. There were only 63 of us. We
23 didn't occupy much space with regard to -- in comparison to the recruits,
24 so I can draw it like this. We have the leader here, the recruits over
25 here. If there are a lot of them, they can occupy this space. Here we

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 51

1 have -- well, everyone was mixed up, so here we have the soldiers.

2 Somewhere around here we have the officers or instructors. This is what
3 we call the U.

4 PRESIDING JUDGE FULFORD: Yes. My note, Mr. Sachdeva, was that
5 the recruits were generally put to the left, the older ones were on the
6 right with the chiefs in the middle. The young ones were in the first
7 row.

8 Good. To Mr. Sachdeva first then, please. Now, before it's
9 passed around, Mr. Sachdeva, is there anything else you'd like the
10 witness to add?

11 MR. SACHDEVA: Yes, Mr. President. I'd like the witness to
12 identify, if he can, precisely where the young ones were. He says the
13 young ones were in the first row. If he could indicate that.

14 PRESIDING JUDGE FULFORD: So if it's possible, sir, could you
15 mark where, as a matter of general practice, the young recruits would be
16 standing.

17 THE WITNESS (interpretation): In the parade,
18 we stood according

19 to height. That is the practice in all armies. And so we'd start with

20 the height. I am not talking about those who are small in age. No,
21 because there are adults who are short, who may not have the right height,
22 not very tall. This is perhaps the source of the misunderstanding. I clearly
23 talked of recruits, that is, the young ones. We call them small because they
24 did not have our level in the army. We called them small. The recruits were
25 on the left because they were more numerous than we were. The formed the

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 52

1 first half of the U. We -- the instructors formed the second part of the U.
2 At its end stood the commanders, but the, but the chief of the parade was at
3 the end of the U. I distinguish the recruits from the soldiers, because the
4 recruits are not yet soldiers.

5 MR. SACHDEVA:

6 Q. And when you have -- where you have indicated the recruits, is
7 that where the young ones would be, at the front?

8 A. The youngest ones weren't at the front. They're at the rear behind the
9 others. It was the taller ones who stood at the front. Among 10 the tall
10 soldiers ones there were younger ones, because people do not grow in the
11 same manner. There are some who, in spite of their age, may not be very tall

12 PRESIDING JUDGE FULFORD: Mr. Sachdeva, I don't want us to waste
13 time on this. The witness will please contradict me if I'm wrong, but
14 he's -- he's clearly indicated, as it were, which side the recruits were
15 on the one hand, the soldiers on the other. And as I'm understanding his
16 evidence, what he is saying is that the smaller recruits would be at the
17 front rather than standing behind taller people.

18 Sir, is that -- is that correct or not?

19 THE WITNESS (interpretation): No, your Honour. In the army,
20 it's not the shortest ones, the smallest ones, who are at the front,
21 because you always put them to the right. The tallest ones are at the
22 front, and the shortest ones -- or the shorter ones at the rear. So when
23 you line them up in a parade, the youngest in the front and the short
24 ones, the smaller ones, at the rear.

25 PRESIDING JUDGE FULFORD: I've tried, Mr. Sachdeva. If you want

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 53

1 to ask any further questions, you can.

2 MR. SACHDEVA:

3 Q. Sir, what -- what do you mean by the youngest ones in the front?

4 THE INTERPRETER: Interpreter's correction the witness said the tallest.

5 THE WITNESS (interpretation): I didn't say the youngest at the

6 front. My problem is as follows: When you have a parade, you stand

7 according to a certain plan. You can be young, but if you are very tall, you

8 are at the front. You can be old. But if you're short you're behind the

9 others. So when I said the youngest, well, I'm talking about the recruits -

10 - well, it's like at university. Every newly-enrolled student is called a

11 "fresher", regardless of age, although there may be younger students in the

12 upper classes who enrolled a year or so earlier. That is always the case.

13 Those who come later on are always considered small because they are

14 novices, they are new. That's the case everywhere within the service.

15 PRESIDING JUDGE FULFORD: I think we need to move on, Mr. Sachdeva.

16 JUDGE BLATTMANN: I think it's a translation issue, it's the

17 "plus géant" the tallest at the front, it's not the youngest.

18 MR. SACHDEVA:

19 Q. If I could ask one clarification question. Simply this, sir:

20 The shortest -- the shortest of the recruits, where in the parade would

21 they be in, in the front, in the back, in the middle?

22 A. Since the -- they were arranged by size, we had to stick to the

23 size arrangement.

24 PRESIDING JUDGE FULFORD: That's enough, Mr. Sachdeva, on this.

25 Thank you. Anything else?

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 54

1 MR. SACHDEVA: No, Mr. President. That's the examination-in-chief.

2 PRESIDING JUDGE FULFORD: Thank you very much.

3 Yes, Mr. Biju-Duval.

4 And can we remove the image from the screen now as well, please. Now, Mr.
5 Biju-Duval, can you remember not to engage in a rapid-fire question-and-
6 answer session with the witness, because you're both speaking French. EVD
7 number, yes.

8 COURT OFFICER: (No interpretation)

9 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

10 MR. SACHDEVA: I'm sorry, it's just a question of some of the names that
11 need clarification and spelling which with your leave I can do --

12 PRESIDING JUDGE FULFORD: We'll do that later. Thank you.

13 Yes, Mr. Biju-Duval.

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

15 Questioned by Mr. Biju-Duval:

16 Q. (Interpretation) Good afternoon, Witness.

17 A. Good afternoon.

18 Q. My name is Jean-Marie Biju-Duval. I'm a lawyer, and I'm going to now
19 ask you a number of questions on behalf of the Defence of Mr. Thomas
20 Lubanga During my questioning, I will be referring to the statement that
21 you made to the investigators of the OTP during a number of interviews
22 which took place in the month of September, October, and November 2005.
23 I will be giving you a copy of this statement.

24 MR. BIJU-DUVAL (interpretation): And if the Chamber would like,
25 I do have an additional copy for the Judges if need be.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 55

1 PRESIDING JUDGE FULFORD: If you've got them in court,
2 Mr. Biju-Duval, thank you, that would be very helpful.

3 MR. BIJU-DUVAL (interpretation):

4 Q. You recall, I assume, the various interviews that led to the
5 drafting of this statement?

6 A. Yes, of course, because I have it here, and I signed it.

7 Q. You signed and initialed each of the pages; is that correct?

8 THE INTERPRETER: Please ask the witness not to respond immediately after
9 the question has been put, otherwise there will be overlapping.

10 The witness said "yes" to the previous question.

11 MR. BIJU-DUVAL (interpretation):

12 Q. Please keep this document with you at your side. We may be
13 needing it and referring to it.

14 PRESIDING JUDGE FULFORD: Right. Mr. Biju-Duval, I'm going to interfere.

15 Sir, there's a huge temptation to respond immediately after
16 Mr. Biju-Duval has finished speaking, which is immediately going to
17 plunge us into chaos, I'm afraid. Once Mr. Biju-Duval has finished
18 speaking, can you continue to watch the transcript in front of you and
19 only answer when the person using the machine has caught up so that it
20 isn't an immediate question-and-answer session. Right. Mr. Biju-Duval,
21 can you keep an eye on this, please, and we now need to continue with the
22 question about the map -- sorry, the document.

23 MR. BIJU-DUVAL (interpretation): The witness has clearly
24 confirmed that he remembers these statements which he did indeed sign and
25 initial on each page. I don't need to repeat those questions.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval

Page 56

1 Your Honour, perhaps we could go into private session for a very
2 brief moment so that we can decide on a certain number of linguistic
3 issues before we go back into open session.

4 PRESIDING JUDGE FULFORD: Certainly. Private session, please.

5 * (Private session at 3.19 p.m.) Reclassified as Open session

6 COURT OFFICER (interpretation): Private session.

7 MR. BIJU-DUVAL (interpretation):

8 Q. Witness, I would like to ask you a few questions about the
9 circumstances that relate to your entry into the UPC and your appointment
10 (Redacted). In open session I do not want to refer to the fact that you
11 held the post (Redacted) of course, but I would like to indicate to you the
12 following: When I refer to the time when you began working in the UPC, I
13 mean by that that I'm referring to the point in time when you were
14 appointed (Redacted). Is that clear? Can we agree on that?

15 A. Yes, that's fine.

16 Q. You understood what I meant?

17 A. Yes.

18 MR. BIJU-DUVAL (interpretation): Your Honour, I believe then
19 that we can go back into open session.

20 PRESIDING JUDGE FULFORD: Very helpful.

21 Open session, please.

22 (Open session at 3.21 p.m.)

23 COURT OFFICER (interpretation): Open session.

24 MR. BIJU-DUVAL (interpretation):

25 Q. During your interview you stated that 14 days elapsed between the

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 57

1 departure of Lompondo from Bunia to go to Beni and the point in time when
2 you began working for the UPC. I would like to clarify with you, if this
3 is possible so that there be no misunderstanding, the point in time when
4 the 14 days begins.

5 You referred to the arrest by the Ugandans. My first question is
6 did this arrest occur during the attack of Bunia, after which Governor
7 Lompondo was driven out?

8 A. Yes. The next morning.

9 Q. I understand, therefore, that it was the next morning after the
10 day the attack was launched.

11 A. Yes.

12 Q. And the point in time when you began working for the UPC occurred
13 14 days after that arrest; is that correct?

14 A. Yes.

15 Q. Thank you. You have indicated that the military training that
16 was given at the Mandro camp at the point in time when you were present
17 there, you indicated that this training lasted one week. You also stated
18 that when you arrived at the Mandro camp, two or three batches had
19 already been trained. My question is, therefore, to your knowledge were
20 these former batches, two or three former batches of trainees, had they
21 also had a one-week training?

22 A. I referred to two or three batches that had already completed the
23 training. There were the various soldiers, Hema, Gegere, Alurs, Nyalis,
24 Lugbara, et cetera. They were trained, and they came to work together
25 with them because they were soldiers who had come back from Gbadolite.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 58

1 There was about a battalion and a half who had come back from Gbadolite,
2 and there were these more experienced soldiers who left. In other words,
3 each batch was -- that had just completed training was combined with the
4 former trainees, and they were sent to strategic places, but the others
5 didn't have basic training.

6 Q. Thank you. If you see me waiting, checking the screen, it's just
7 to be sure that we're not going too fast. So don't worry about the fact
8 that I'm checking the screen.

9 I do understand your answer, but I would like further details. You mentioned
10 two or three batches who had been trained before you arrived in Mandro. I
11 understand that you mean that those batches were
12 trained in Mandro. Am I mistaken?

13 A. No. They were people from Mandro certainly.

14 Q. In other words, I'm not mistaken. They were people who were trained
15 in Mandro; is that correct?

16 A. Yes.

17 Q. And to your knowledge they followed one week of training?

18 A. I mentioned one week because that was what I experienced. I was
19 in Mandro for ten days. I saw one batch that completed training and
20 another batch that came in. So I think that was the same rhythm of
21 training that had occurred previously.

22 Q. Thank you. So if I understand correctly, since the Mandro camp
23 was set up before your arrival, there had been two or three batches who
24 had already gone through training; is that correct?

25 A. As far as I know, there was an attack that occurred in Mandro.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 59

1 The Lendus from Zumbe left -- or, rather, they went to Mandro to destroy
2 the small camp, and it was from that point in time that we knew that
3 there was going to be a training camp in Mandro. So it was from that
4 point in time -- I know from that point of time there had been two or
5 three groups that had been trained. If there'd been others earlier, I
6 hadn't heard about it.

7 Q. Thank you. I'd like to discuss the video-clip that we saw
8 together, and I have a question about the building, the house, that you
9 said was in the village of Mandro. You indicated that Mr. Lubanga --
10 excuse me. I'm going to rephrase my question. You indicated that it was
11 the house where Mr. Lubanga used to stay when he was going through
12 Mandro. You also stated that it was the first residence of Mandro.

13 If I were to suggest that that was the residence of Chief Kahwa,
14 would that be correct as far as you know?

15 A. I told you that I only went to Mandro twice. So the first time I
16 went to Mandro it was for the ideology training, and the second time was
17 when I finished the ideology training to go to Bunia. I spent 15 minutes
18 there and then I left. So from what we were told, that was the residence
19 of -- the residence of the president, the building where we saw the jeeps
20 pulling in.

21 As regards Kahwa, I know him, but I don't know if he lived in
22 Mandro. I don't even know if he was from Mandro. In spite of all the
23 time I spent in Ituri, I don't know where Kahwa was from. So I wasn't
24 really that familiar with Mandro.

25 Q. You indicated that many recruits who were present in Mandro came

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 60

1 from Tchomia and from Kasenyi. Is it correct, according to what you
2 know, that those villages belong to the Hema south community?

3 A. Yes, that's the reality. Starting in Bogoro all
4 the way to Tchomia and Chinyamahibu-- they're
5 Hema Gegere, and then
6 there's Ngiti.

7 PRESIDING JUDGE FULFORD: If the name is significant,
8 Mr. Biju-Duval, we'll need to go over it again.

9 MR. BIJU-DUVAL (interpretation): The names of the villages are
10 important. They are names that have already been mentioned by the
11 witness in a statement made yesterday or
12 the day before yesterday. I can
13 spell them if you like.

14 PRESIDING JUDGE FULFORD: If you would like to spell it out to
15 make sure the witness agrees, Mr. Biju-Duval, that may be the easiest way
16 of doing it.

17 MR. BIJU-DUVAL (interpretation): I'm talking the village of
18 Tchomia, T-c-h-o-m-i-a, and the village of Kasenyi, K-a-s-e-n-y-i.

19 Q. Now, does that clarification with respect to the names of the
20 villages, does that make you -- will that make you change your answer?

21 A. The names are similar. Those are the real names, but then there
22 are many, and especially along the lake.

23 Q. Thank you. I've just been informed that you also mentioned the
24 name of the village of Bora.

25 A. Bogoro.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 61

1 Q. Bogoro. So I spell it B-o-g-o-r-o; is that correct? Thank you.

2 A short while ago you stated that you went through the village of
3 Mandro on only two occasions. The first time was when you were taken to
4 the training centre, and the second time was when you left the training
5 centre to go to Bunia; is that correct?

6 A. That's correct.

7 Q. You also stated that everything relating to training or
8 instruction was not your responsibility and that you did not have an
9 authorisation to go to the training camp; is that correct?

10 A. Yes.

11 Q. So you did not go there.

12 A. No.

13 Q. You stated that after the training the recruits were deployed to
14 various units in various places, in Bunia or elsewhere. Now, I wish to
15 refer to an excerpt of your statement, the statement you made to the
16 investigators, and I'm referring to paragraph 251. Could you please take
17 the document which was given to you and open to paragraph 251.

18 PRESIDING JUDGE FULFORD: While the witness is doing that, could
19 we give the statement a number, please. Court Officer.

20 COURT OFFICER (interpretation): I will need the ERN number.

21 MR. BIJU-DUVAL (interpretation): The reference of the document,
22 general document, is DRC-OTP-0126-0422, and the page is 0465, and this
23 document should not be projected on the screen.

24 COURT OFFICER (interpretation): The document will bear the
25 number EVD-OTP-00468.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 62

1 MR. BIJU-DUVAL (interpretation): Thank you. With the permission
2 of the Chamber, I wish to --

3 PRESIDING JUDGE FULFORD: I apologise, Mr. Biju-Duval,
4 Mr. Sachdeva's on his feet.

5 MR. SACHDEVA: Yes, Mr. President. And I just want to be sure
6 that as we're in open session that the exhibit is -- received into
7 evidence confidentially.

8 PRESIDING JUDGE FULFORD: Well, Mr. Biju-Duval has said that it
9 shouldn't be projected. Line 9, "... and this document should not be
10 projected on the screen."

11 MR. SACHDEVA: Yes, indeed. I just thought that when documents
12 are submitted in open session they are not automatically received
13 confidentially, but perhaps I'm mistaken.

14 PRESIDING JUDGE FULFORD: I'm really not following this, I'm
15 afraid. It's not going to be broadcast -- I'm just going to have a word
16 with the Court Officer.

17 (Trial Chamber and Court Officer confer)

18 PRESIDING JUDGE FULFORD: I don't see what's different about this
19 document from all of the other statements and interview notes that we've
20 introducing for other witnesses. We haven't confronted this problem
21 before, and I don't see what's special in relation to this document. I'm
22 afraid, Mr. Sachdeva, I don't at the moment understand why you
23 intervened.

24 MR. SACHDEVA: It's fine, Mr. President. I simply intervened
25 because I wanted to ensure that the document is received confidentially.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 63

1 PRESIDING JUDGE FULFORD: Right. Well, what you've said is
2 noted.

3 Please carry on, Mr. Biju-Duval.

4 MR. BIJU-DUVAL (interpretation): Thank you. Clarification, it's
5 not been entered into the file. It has just received an MFI number, and
6 the Defence would like to make this known and that it should not be
7 included in the file --

8 PRESIDING JUDGE FULFORD: In fact it's been given an EVD --
9 (overlapping speakers).

10 MR. BIJU-DUVAL (interpretation): -- by that it should be included
11 in the file.

12 COURT OFFICER (interpretation): I am going give a number to this
13 document which bears which should bear the reference MFI-D-00135, with my
14 apologies.

15 PRESIDING JUDGE FULFORD: Yes.

16 MR. BIJU-DUVAL (interpretation):

17 Q. I'm going to read a short excerpt which is not -- doesn't contain
18 any confidential information. I stand corrected by the Prosecutor if
19 that isn't the case and I quote:

20 "There were many child soldiers in Mandro, because many of them
21 were orphans who had nothing else to do. Their recruitment was
22 voluntary, because the children came and presented themselves because
23 they had no other options. There was no enlistment of children. An NGO
24 called SOS-ASBL from Kinshasa came and took all the child soldiers
25 shortly after I left Mandro."

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 64

1 My question is the following: To your knowledge, how was this
2 intervention of the NGO that came to take the soldiers -- or the child
3 soldiers from Mandro that you mentioned in your statement, how was this
4 intervention done?

5 A. There was an NGO, SOS it was called, which was based in Kinshasa.
6 It sent its officials to come and take child soldiers away from the army,
7 to take care of them. They arrived, and they asked the permission of the
8 chief. They went to Mandro. They took a certain number of children, and
9 the others fled away into the bush.

10 After the departure of the NGO officials, they returned to the
11 army.

12 Q. Thank you. Do you remember, as far as you can remember, do you
13 remember when this intervention took place, the intervention by the NGO?

14 A. It was at the time when we arrived in Bunia. We had already
15 started working. Because I saw these officials from the SOS. When they
16 arrived, when they spoke to Bosco and Kisémbé, Dilangu was present.
17 Luhala was also present. They were asking for permission to withdraw
18 child soldiers, and these officials had been informed earlier, and they
19 had to accept. Some of the children accepted to go with the NGO. Others
20 found that this was going to be difficult for them. They fled into the
21 bush, and shortly afterwards they returned to the army.

22 Q. Thank you. I would now like to return to the events that
23 occurred in the camp of Mandro, according to your testimony, events which
24 occurred while you were at that camp, and in particular the fact that two
25 young recruits were allegedly punished and they died as a result. Do you

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 65

1 understand?

2 A. Yes.

3 Q. First of all, can you tell us at what point in time during your
4 stay in Mandro did this occur? Was it at the beginning, in the middle of
5 your stay, at the end of your stay? You said you spent about ten days
6 there, if I remember correctly. Now, can you pinpoint the time when
7 these events occurred?

8 A. I would say about four years -- sorry, four days before our
9 departure from Mandro, before the completion of our training. So four
10 days prior to our return to Bunia.

11 Q. Thank you. Now, approximately how many -- how many recruits were
12 there? How many recruits, regardless of age, were there in Mandro at the
13 time?

14 A. It's true that we had two different camps, because they went out
15 early to perform their exercises. We waited, and someone would come from
16 Bunia to teach ideology. He came and he did only two days, and then he
17 returned because he was tired of it.

18 We were not involved with the recruits except when there was a
19 parade and then we would meet with them, or if it was time to eat, then
20 our own food would be set aside, we eat it, and then they would take the
21 food to the recruits, to them. So we did not have any access to the
22 section that was cordoned off for the recruits. So I really don't know
23 the number, but there were many.

24 Q. Thank you. Just to get an estimate, were there more than a
25 hundred?

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 66

1 A. More or less, yes.

2 Q. You stated that you were located apart, with the APC soldiers who
3 had already been trained, and that the recruits were lodged in a
4 different area. Is that the case?

5 A. Not really different. It was a place which we had cleared -- we
6 cleared the grass in order to create a centre. So it was actually within
7 the same centre, but we had two different sections, a section for
8 trainers. You had a section for the chief, a section for instructors,
9 and a section for the recruits. When we arrived, we were put in the
10 section of the instructors, and the others stayed in their own sections.

11 Q. A short while ago you mentioned -- you said that the recruits
12 were taken to go and carry out their training. What I mean is the
13 exercises which they had to perform. And that you and others like you
14 had other activities. You talked about ideology, training and ideology.
15 Is that correct?

16 A. Yes.

17 Q. Should we understand that you did not have any activities to
18 carry out together during the day?

19 A. No.

20 PRESIDING JUDGE FULFORD: Mr. Biju-Duval, I'd like to give us all
21 a short break this afternoon if that's not inconvenient to you. Good.

22 We'll take a 15-minute break now and sit again at 10 past 4.00.

23 Closed session, please.

24 * (Closed session at 3.55 p.m.) Reclassified as Open session

25 COURT OFFICER (interpretation): Closed session.

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Closed Session)
Questioned by Mr. Biju-Duval

Page 67

1 (The witness stands down)

2 PRESIDING JUDGE FULFORD: Ten past 4.00.

3 COURT OFFICER: All rise.

4 Recess taken at 3.56 p.m.

5 On resuming at 4.10 p.m.

6 COURT USHER: All rise. Please seated.

7 PRESIDING JUDGE FULFORD: Yes, Witness please.

8 (The witness takes the stand)

9 PRESIDING JUDGE FULFORD: Yes. Public session, please.

10 (Open session at 4.12 p.m.)

11 COURT OFFICER (interpretation): Public session.

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

13 MR. BIJU-DUVAL (interpretation):

14 Q. Sir, just before the break you said that on occasion, if I may
15 summarise what you said as I understood it, you said that sometimes your
16 group in Mandro took some of the food allocated to it for the benefit of
17 the recruits. So they gave some of their food to the recruits. Is that
18 correct? Have I understood you correctly?

19 A. I haven't understood you very well. Could you repeat that,
20 please?

21 Q. I apologise. I understood your testimony in the following way:
22 You said that on occasion you provided some food to the recruits.

23 A. That was never done.

24 Q. In that case, I apologise. I haven't understood your testimony
25 correctly. Did you have your meals together, that is to say with the

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 68

1 recruits, with the group of recruits?

2 A. This was done for two different groups. There were the seniors,
3 we had a pot of our own, but it was prepared together, and it was divided
4 up for the seniors and for the young ones, because there were only 63 of
5 us and they were very numerous.

6 Q. Thank you. If I've understood you correctly, the two groups had
7 their meals separately.

8 A. Yes.

9 Q. You have spoken about parades. Did these parades take place when
10 the authorities arrived at the camp?

11 A. That was most often the case, but we only had two parades since
12 we left. The first parade was the presentation, because these young ones
13 treated us as prisoners of war sometimes, as if we were enemies, but
14 later the commander of the centre, explained the nature of our presence
15 in Mandro to them. That was the first parade. The second parade was on
16 the day that we were -- or they came to provide us with equipment. It
17 was the chief of the main staff who came, and on that occasion there was
18 a second parade and that was it.

19 Q. As far as the second parade is concerned, you said that it was at
20 the time that you were provided with material that this took place. I --
21 if I've understood you correctly, you were provided with this material in
22 the village of Mandro. Is that correct? Have I understood you
23 correctly?

24 A. No. I said quite clearly that we were provided with these items
25 with the uniforms in the centre, and we were provided with weapons in the

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 69

1 village of Mandro.

2 Q. And the parade involved providing you with weapons or with
3 uniforms?

4 A. The parade was for the provision of the uniforms. First it
5 concerned the presence of the chief of the main staff in the centre, and
6 while he was there he provided us with uniforms. The first uniform was
7 provided, and so on and so forth. He himself provided them.

8 Q. So during these parades the two groups who were united, your
9 group and the group of recruits, or did this parade only involve your
10 group?

11 A. No. The parade involved everyone.

12 Q. Thank you. You have just stated that at the beginning of your
13 stay in the camp there was hostility. The recruits were hostile, acted
14 aggressively towards you for reasons that I won't go into. How long was
15 this -- this hostility while you were there?

16 A. Three days later, the commander of the centre, Colonel Freddy,
17 called the instructors and the group of recruits, and he issued
18 instructions according to which they should no longer continue with this
19 silly behaviour. So we were forced to work together -- or, rather, as we
20 were forced to work together, because there was -- he said there were the
21 troops of your leaders there. In Swahili they say the Biongozi troops.
22 So you shouldn't continue to sabotage the matter. You shouldn't continue
23 insulting them. That is what was said.

24 Q. Thank you.

25 MR. BIJU-DUVAL (interpretation): If I have to refer to a precise

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval

Page 70

1 name, specific name, it might be useful to move into private session.

2 PRESIDING JUDGE FULFORD: Certainly. Private session, please.

3 * (Private session at 4.20 p.m.) Reclassified as Open session

4 COURT OFFICER (interpretation): Private session.

5 MR. BIJU-DUVAL (interpretation):

6 Q. You mentioned the fact that you had a relationship with a young
7 recruit whose name was (Redacted), and you asked this person to run minor
8 errands; is that correct?

9 A. Yes.

10 Q. Were there any other recruits that -- with whom you had the same
11 type of relationship?

12 A. Practically not, but there were some youngsters who came to ask
13 for food because they weren't really feeling good, at ease, you know.
14 The food really wasn't really sufficient for them, so they came to see us
15 in order to fill their bellies.

16 Q. So apart from this person whose name (Redacted), is it correct
17 that you didn't have any personal relationships with any other recruits?

18 A. There was this one person, though I mentioned his name yesterday,
19 the person whose bone was shattered, (Redacted). He's now a 2nd
20 lieutenant, but he was wounded in the war, and he is now in Kinshasa, the
21 Kokoro (phoen) camp.

22 Q. You have just mentioned a name, the name of (Redacted). Could you
23 please spell this name?

24 A. Yes. (Redacted)

25 Q. And do you know any other names?

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval

Page 71

1 A. It's a little difficult to know everyone because I wasn't that
2 interested in the young ones. They were called kadogos. They didn't
3 know anything, and we let them be.

4 Q. You said that today, at present, he's a soldier in the FARDC; is
5 that correct?

6 A. Yes. He's considered to be a war veteran, someone wounded in the
7 war.

8 Q. Afterwards, after the event that you have described, was he
9 assigned to a unit of any kind? After the punishment he was given.

10 A. As soon as his right arm was broken (Redacted)
11 (Redacted) where he was to be provided
12 with traditional treatment, (Redacted) that they could
13 operate on him in Nyankunde because at Nyankunde there weren't any real
14 doctors there. The Americans had already returned. There weren't many
15 doctors there because it was an area that was really in total disorder.

16 THE INTERPRETER: The witness is kindly asked to slow down a bit
17 for the sake of the interpretation.

18 MR. BIJU-DUVAL (interpretation):

19 Q. Thank you --

20 PRESIDING JUDGE FULFORD: Can I interrupt. We've done really
21 well today, and I'm very, very grateful to you, sir, for the way in which
22 you've been giving your evidence, but can we just remember, particularly
23 as it now gets towards the end of the afternoon when everyone tends to
24 get a bit more tired, to keep it slow.

25 Yes. Sorry to interrupt you, Mr. Biju-Duval. We've only got a

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval

Page 72

1 quarter of an hour or so to go.

2 MR. BIJU-DUVAL (interpretation):

3 Q. Could you go back to the circumstances under which you learned
4 about the execution of the two recruits. So first of all, my first
5 question is from whom did you hear about this?

6 A. I have said -- I said that yesterday, that it was when -- it was
7 from (Redacted) who was beaten that (Redacted)
8 (Redacted) to the centre,
9 because they were exercising in the forest. And he came back, and he
10 told us about what had happen. When he spoke about it, the others heard
11 him. He was beaten. (Redacted)
12 (Redacted) to Katoto.

13 Q. And what did he say to you, if you remember what he said.

14 A. I'll repeat what he said. He spoke in Lingala. "Two of our
15 soldiers were killed, one on the mountain and the other in the area where
16 we were."

17 Q. Did he tell you the reasons for which this terrible punishment
18 was meted out, was inflicted upon these individuals?

19 A. He couldn't explain everything, because he was afraid that that
20 might be found out. This is what he said when he came to back for some
21 food. He explained the situation to us. (Redacted) there with (Redacted) in the
22 morning, but it was difficult because there was one of the recruits who
23 was in (Redacted) room who had found out everything, and he went to tell
24 (Redacted) about this. He went to it tell him about this misdeed, (Redacted)
25 who was angry, and then he ordered the young person to be beaten and then he

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval

Page 73

1 had a bone that was broken and he had to be sent to the centre. When he
2 arrived in the centre, even the commander asked that this should remain
3 within the centre, and he was going to be treated in Mandro. After
4 treatment we could take certain measures, but he submitted a report to
5 Bosco, and Bosco drove (Redacted) out of the centre.

6 Q. When (Redacted) told you about that, did he give you precise
7 information about the identity of the victims?

8 A. He told us he needed to go to find out the real identity, and
9 then he was unlucky because he was also beaten. Like the others, he came
10 back with a broken arm, and he could no longer do what he went to do.

11 Q. Did you personally know the victims?

12 A. I said clearly that it was not possible for me to go close to the
13 recruits because they were very impolite. I had no desire to go see the
14 recruits.

15 Q. Did (Redacted) give you any information regarding his age?

16 A. (Redacted) was small. He must have been not even 15.

17 PRESIDING JUDGE FULFORD: Mr. Biju-Duval, I just want to inquire
18 whether it's still necessary for us to be in private session.

19 MR. BIJU-DUVAL (interpretation): I don't believe so, your
20 Honour. Well, in other words, I think we can go into open session, your
21 Honour.

22 PRESIDING JUDGE FULFORD: Thank you. Public session, please.

23 (Open session at 4.32 p.m.)

24 COURT OFFICER (interpretation): Open session.

25 MR. BIJU-DUVAL (interpretation):

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval

Page 74

1 Q. You have indicated that these executions were to be kept secret,
2 but is it possible for you to explain why this sanction, this punishment,
3 was to be kept secret?

4 A. Because he was -- because the commander in the centre knew that
5 there must have been a problem, because he didn't give the order to (Redacted)
6 to do that. And since (Redacted) was his number two, he did that of his
7 own volition, and he knew that there would be problems.

8 Q. I have understood that you were informed that two recruits had
9 been killed. I'm trying to understand why they had been killed, and so I
10 have understood that you don't know what they had done wrong; is that
11 correct?

12 A. Yes.

13 Q. And I understand that you do not know -- sorry, let me rephrase
14 that. I understand that the person who killed them intended to hide that
15 fact.

16 A. Well, I don't know whether he wanted to hide it, because if he
17 wanted to hide it, it might have pleased the others, in fact. But since
18 (Redacted) did that of his own volition, and I knew the reason. It was because
19 the little one who died. He was an Alur according to the information
20 that was given to us, and the other one was an Ngiti, and he was -- he
21 was staying with the Gegere.

22 Q. Thank you. As regards the punishment, very serious punishment
23 that was inflicted upon the young person who revealed what had happened,
24 you stated that that punishment took place in an isolated place. Am I to
25 understand that this sanction, this punishment, was not to take place in

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval

Page 75

1 front of the others, in public?

2 A. Well, it wasn't really authorised. According to the law, he who
3 dies by -- who lives by the sword, shall die by the sword. And if a
4 soldier kills his comrade in arms, he, too, must be killed.

5 So even if the news went higher up in the hierarchy, nothing
6 actually happened. (Redacted) was sent away from the centre. He was given
7 other functions.

8 Q. Who decided the punishment that was inflicted on (Redacted)?

9 A. The Deputy Chief of Staff who was in charge of operations.

10 Q. Thank you.

11 MR. BIJU-DUVAL (interpretation): Your Honour, I'm going to deal
12 with something that requires private session, please.

13 PRESIDING JUDGE FULFORD: Certainly. Private session, please.

14 * (Private session at 4.38 p.m.) Reclassified as Open session

15 COURT OFFICER (interpretation): Private session.

16 MR. BIJU-DUVAL (interpretation):

17 Q. I'm going to go on to another matter, Witness. That is your
18 appointment (Redacted) and the circumstances around that appointment.

19 You have stated that you were appointed (Redacted) as soon as you went
20 back to Bunia after your stay in Mandro. You describe the circumstances
21 of your appointment, and you stated in particular that, and I quote:
22 (Redacted)

23 (Redacted) You stated that that was the case at the point in time when
24 you were appointed (Redacted).

25 Should I understand from that that the structure of the FPLC, in

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval

Page 76

1 particular the main staff, was composed during that period right after
2 Bunia was taken over? In other words, during the two or three weeks that
3 followed the taking of Bunia. Does that correspond to the way you
4 understand the situation?

5 A. I would say the following: The -- that army was not composed
6 after Bunia was taken but before, because there was (Redacted)
7 (Redacted)
8 (Redacted)

9 (Redacted). And in fact, the position (Redacted) was not so important. It was
10 a mutiny, after all, and we called ourselves revolutionaries. They didn't
11 need (Redacted) because people were treated as if they didn't know how to
12 work, and the kind of -- all you're doing is riding, after all, and
13 that's not what the army needs. And it -- there was an administration in
14 the army, and in fact it was one of the most organised and disciplined in
15 the world.

16 Q. Thank you.

17 PRESIDING JUDGE FULFORD: I think we'll make this
18 the next question the last question of the afternoon, Mr. Biju-Duval.

19 MR. BIJU-DUVAL (interpretation): Your Honour, I could stop with
20 that question if you like, if that's convenient. For this afternoon, of
21 course.

22 PRESIDING JUDGE FULFORD: Yes, certainly. Thank you,
23 Mr. Biju-Duval.

24 Thank you very much for your help, sir.

25 Mr. Biju-Duval, I imagine that we will have concluded this

Witness: Witness DRC-OTP-WWW-0016 (Resumed) (Closed Session)
Questioned by Mr. Biju-Duval

Page 77

1 witness's evidence tomorrow?

2 MR. BIJU-DUVAL (interpretation): Yes, certainly. And it will be
3 rather quick, tomorrow morning.

4 PRESIDING JUDGE FULFORD: So the next witness should be not too
5 far away. Thank you very much.

6 Good. We're going to be sitting on this trial at 10.00 tomorrow,
7 although of course there will be other business in this courtroom from
8 9.00 onwards.

9 Closed session, please, so the witness can withdraw. Thank you,
10 sir.

11 *(Closed session at 4.43 p.m.) Reclassified as Open session

12 COURT OFFICER: Closed session.

13 (The witness stands down)

14 PRESIDING JUDGE FULFORD: 10.00 tomorrow. Thank you.

15 COURT OFFICER: All rise.

16 The hearing ends at 4.44 p.m.

17 RECLASSIFICATION REPORT

18 Pursuant to Trial Chamber I's email instruction dated 15th March 2012,
19 the transcript is reclassified as public after the indicated redactions
20 have been implemented as ordered by the Chamber. All private and closed
21 sessions (*) are now available to the public with the exception of the
22 portions of the transcript that have been redacted.

23

24

25