

1 INTERNATIONAL CRIMINAL COURT

2 SITUATION DEMOCRATIC REPUBLIC OF CONGO

3 Case No: ICC-01/04-01/06

4  
5 Transcription No: ICC-01/04-01/06-T-39-EN

6 Tuesday, 21 November 2006 at 9.50 a.m.

7 OPEN SESSION

8  
9 Before: His Honour Judge Claude Jorda (Presiding Judge)  
10 Her Honour Judge Sylvia Steiner  
11 Her Honour Judge Akua Kuenyehia

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PRE-TRIAL CHAMBER I

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1 [9.50 a.m.]

ICC-01-04-01-06-T-39-EN

09:50:54 2 OPEN SESSION

09:50:54 3 THE USHER: All rise. The International Criminal Court is  
09:51:10 4 now in session.

09:51:16 5 PRESIDING JUDGE JORDA (interpretation): Please be seated and  
09:51:20 6 please bring in Mr Lubanga Dyilo.

09:51:25 7 [9:51 a.m.]

09:51:26 8 [Mr Thomas Lubanga Dyilo entered the courtroom]

09:51:35 9 PRESIDING JUDGE JORDA (interpretation): Good morning,  
09:51:44 10 Mr Lubanga. Please be seated. Are you all right, Mr Lubanga;  
09:51:48 11 are you fine?

09:51:54 12 MR LUBANGA DYILO (interpretation): Yes, I'm all right.

09:51:57 13 PRESIDING JUDGE JORDA (interpretation): Yes, please be  
09:51:57 14 seated. We shall continue. I would like to greet all the  
09:52:01 15 participants. Is everything -- is everything fine? Is the  
09:52:08 16 e-court working, Mr Court Officer? So I would like to greet  
09:52:14 17 all the participants. I am not going to ask them to introduce  
09:52:17 18 themselves, because we are just continuing from yesterday. I  
09:52:21 19 would like to greet the public. Without further ado, I shall  
09:52:24 20 ask the court officer to bring in, into the courtroom,  
09:52:29 21 Ms Peduto and Ms Marchi-Uhel, the United Nations observer.

09:53:13 22 [9:53 a.m.]

09:53:14 23 [Ms Peduto and Ms Marchi-Uhel entered the courtroom]

09:53:32 24 PRESIDING JUDGE JORDA (interpretation): Ms Christine Peduto,  
09:53:38 25 please be seated. Ms Marchi-Uhel, please be seated too. Are

09:53:42 1 you all right? Did you rest? Connect your microphone  
09:53:50 2 properly. That's all right. For the benefit of the public, I  
09:53:54 3 am pointing out that we are continuing with the  
09:53:56 4 cross-examination by the Defence of the Prosecution's  
09:54:01 5 witness -- that is, Ms Peduto. Mr Flamme, you may proceed.  
09:54:09 6 ME FLAMME (interpretation): Thank you, Mr President, your  
09:54:11 7 Honours.  
09:54:11 8 [9:54 a.m.]

9 MS CHRISTINE PEDUTO, having been previously duly sworn  
10 continued to give evidence through an interpreter as follows:

11 QUESTIONED BY ME FLAMME CONTINUED

12 (through an interpreter):

13 ME FLAMME (interpretation):

09:54:13 14 Q. Ms Peduto, I shall continue with the cross-examination  
09:54:22 15 whilst sticking as closely as possible to your chronological  
09:54:28 16 order of your examination-in-chief, to make it easier. So I  
09:54:34 17 shall go through your various missions, starting with the one  
09:54:39 18 that we ended -- that is, Uganda, and then moving to Bunia.  
09:54:47 19 Subsequently, I shall put some questions to you of a general  
09:54:50 20 nature before the closed session, which I think is planned for  
09:54:56 21 the end of the afternoon, and I think we should finish quite  
09:54:59 22 quickly during that closed session?

09:55:02 23 [9:55 a.m.]

09:55:03 24 So, we are talking about Uganda, the end of February 2003, or  
09:55:11 25 the beginning of March 2003. You told us about children who

09:55:20 1 fled the Mont Awa camp in Congo and you told us about the  
09:55:30 2 songs that these children were made to sing and where there  
09:55:36 3 was indications about Papa Jerome and Papa Thomas. My first  
09:55:42 4 question is: inside the armed militias in Ituri, was there  
09:55:48 5 not a commander who was called "Thoma?"  
09:55:53 6 A. I have no knowledge of that.  
09:55:55 7 [9:55 a.m.]  
09:55:55 8 Q. Do you not know commander Thoma Unencana -- that is  
09:56:08 9 U-N-E-N-C-A-N-A.  
09:56:12 10 A. The family name is familiar, but his first name, no.  
09:56:16 11 [9:56 a.m.]  
09:56:16 12 Q. Was he not the head of the FPDC militia -- that is, Force  
09:56:24 13 des Resistance Patriotique d'Ituri?  
09:56:25 14 A. It's possible.  
09:56:27 15 [9:56 a.m.]  
09:56:27 16 Q. Was this militia not allied to that of Commander Jerome  
09:56:35 17 Kakwavu, acting on behalf of the FPC?  
09:56:39 18 A. At that time, no.  
09:56:40 19 [9:56 a.m.]  
09:56:41 20 Q. At that time, to my knowledge Commander Jerome was still  
09:56:46 21 a member of the UPC. That is in fact what you said?  
09:56:53 22 A. Yes.  
09:56:54 23 [9:56 a.m.]  
09:56:54 24 Q. But I don't suppose you have an exact date for the  
09:57:02 25 defection or the mutiny of Commander Jerome within the FPLC?

09:57:08 1 A. We learned of this during the last date of the mission.  
09:57:11 2 [9:57 a.m.]  
09:57:14 3 Q. But you were not told exact date on which this event took  
09:57:18 4 place?  
09:57:19 5 A. I have no memory of that.  
09:57:20 6 [9:57 a.m.]  
09:57:22 7 Q. This is clearly something that happened?  
09:57:24 8 A. This is something that happened during the last days of  
09:57:28 9 the mission and not before.  
09:57:30 10 [9:57 a.m.]  
09:57:30 11 Q. So they gave you a date?  
09:57:32 12 A. We learned at the end of the mission during the last days  
09:57:34 13 of the mission that Commander Jerome was seceding from the  
09:57:41 14 UPC.  
09:57:41 15 [9:57 a.m.]  
09:57:42 16 Q. All right, you told us that the children did not  
09:57:46 17 understand the songs sung in Swahili?  
09:57:54 18 A. Yes, that is correct.  
09:57:55 19 [9:57 a.m.]  
09:57:55 20 Q. And yet these children had been to school -- to primary  
09:57:58 21 school, I suppose?  
09:57:59 22 A. Some of them, yes.  
09:58:01 23 [9:58 a.m.]  
09:58:02 24 Q. Do you know in what language children in Congo attend  
09:58:08 25 primary school?

09:58:13 1 A. Generally not in French.

09:58:15 2 [9:58 a.m.]

09:58:17 3 Q. That is the information I have also received. In what  
09:58:22 4 language?

09:58:22 5 A. I think it depends on the region. I think mostly in  
09:58:25 6 Ituri children attended school in Swahili -- Swahili or Alur  
09:58:36 7 or one of those languages.

09:58:37 8 [9:58 a.m.]

09:58:37 9 Q. So you say it depends on the region -- it means that  
09:58:40 10 children attend school in their local language and what is  
09:58:48 11 called in Congo, another vernacular language, if I remember  
09:58:54 12 correctly?

09:58:55 13 A. Yes.

09:58:56 14 [9:58 a.m.]

09:58:58 15 Q. Which is, in this case, Swahili?

09:59:02 16 A. It is possible.

09:59:04 17 [9:59 a.m.]

09:59:06 18 Q. Swahili Kingwana?

09:59:07 19 A. The children said that they did not understand  
09:59:11 20 these -- the language of these songs. I don't know whether I  
09:59:14 21 said it was Swahili or Lingala. They were being beaten and  
09:59:19 22 they didn't understand why they were being beaten, whereas  
09:59:23 23 they could not repeat the words of these songs. The children  
09:59:26 24 remembered some words which I quoted, such as "Papa Thomas"  
09:59:30 25 and "Papa Jerome". I also remember another child, one of the

09:59:36 1 children whose name -- whose age I can't give you, who cited a  
09:59:43 2 sentence, the translation of which was not accurate in French,  
09:59:51 3 in which the name of Mr Lubanga was mentioned, and, if I  
09:59:54 4 remember correctly, this sentence indicated "Thomas Lubanga  
10:00:00 5 loves children as if they were his own", or some such thing,  
10:00:04 6 and this was said by one of the children.

10:00:07 7 [10:00 a.m.]

10:00:07 8 Q. In what language was this said?

10:00:09 9 A. The child in his memory -- the child translated his  
10:00:14 10 memory of the words of the song.

10:00:16 11 [10:00 a.m.]

10:00:18 12 Q. All right. You said in your examination-in-chief that  
10:00:21 13 the children with whom you spoke told you that there were  
10:00:28 14 other children who were younger, who were about 10 or 11 years  
10:00:32 15 of age.

10:00:34 16 A. That is correct.

10:00:35 17 [10:00 a.m.]

10:00:35 18 Q. In the camp. You also said that these children were  
10:00:39 19 assigned to domestic chores; is that right?

10:00:42 20 A. Yes.

10:00:42 21 [10:00 a.m.]

10:00:44 22 Q. So I suppose that these children were not armed?

10:00:50 23 A. No.

10:00:52 24 [10:00 a.m.]

10:00:53 25 Q. For domestic chores?

10:00:56 1 A. These domestic chores were not taken -- performed at the  
10:01:00 2 time as their military training. The children could cook  
10:01:03 3 their meals -- they could clean their clothes and they could  
10:01:11 4 undergo physical military training.

10:01:12 5 [10:01 a.m.]

10:01:14 6 Q. I quite understand, but my question is did these children  
10:01:17 7 have weapons?

10:01:19 8 A. The six children I dealt with?

10:01:22 9 [10:01 a.m.]

10:01:22 10 Q. No, the other children that you mentioned?

10:01:25 11 A. I cannot say yes or no, the children mentioned children  
10:01:30 12 undergoing military training. I suppose that the younger ones  
10:01:35 13 were armed, given that the training was reported as being  
10:01:41 14 identical for all the children in the camp.

10:01:43 15 [10:01 a.m.]

10:01:45 16 Q. You suppose. That is a deduction you make?

10:01:50 17 A. Well, it's not a deduction. I do not remember exactly  
10:01:53 18 what the children said. I know that the girls had particular  
10:01:57 19 training in that camp in the sense that they did not sleep  
10:02:00 20 with the boys, and that they had more domestic chores to  
10:02:05 21 perform.

10:02:05 22 [10:02 a.m.]

10:02:08 23 Q. Okay. Regarding the children that you spoke with and  
10:02:13 24 whom you saw in Uganda, how did they know about the ages of  
10:02:17 25 the other children in question?

10:02:22 1 A. The children were in contact and they had not been  
10:02:25 2 separated from the other children. They were in contact with  
10:02:26 3 them.

10:02:28 4 Q. Very well. You told us that these children had been  
10:02:36 5 recruited on 20 February 2003 at the Ndrele market?

10:02:46 6 A. Other children had been recruited in December.  
10:02:48 7 [10:02 a.m.]

10:02:51 8 Q. And then they had been brought to the training camp of  
10:02:55 9 Mont Awa; right?

10:02:57 10 A. Yes.  
10:02:57 11 [10:02 a.m.]

10:02:57 12 Q. Do you know how many kilometres separate both places --  
10:03:05 13 approximately, I'm not asking you to be very precise because I  
10:03:09 14 know the problem of distances in the Congo.

10:03:12 15 A. I don't know exactly how many kilometres there were, but  
10:03:15 16 I know the children probably spent a night -- I think it was  
10:03:26 17 more than 100 kilometres.  
10:03:28 18 [10:03 a.m.]

10:03:29 19 Q. And how do they travel, several days?

10:03:31 20 A. They travelled on -- in a truck first and then travelled  
10:03:37 21 on foot.  
10:03:37 22 [10:03 a.m.]

10:03:38 23 Q. How many kilometres did they cover on foot?

10:03:42 24 A. I don't know how many kilometres, but they spoke about  
10:03:45 25 several hours.

10:03:46 1 [10:03 a.m.]

10:03:46 2 Q. So several hours. First they travelled more than

10:03:49 3 100 kilometres in a truck and then --

10:03:52 4 A. Well, I am not able to tell you exactly how many hours,

10:03:56 5 or how many kilometres the trip in the truck was. I know the

10:04:01 6 first part of the trip was in a truck and then they continued

10:04:04 7 on foot.

10:04:04 8 [10:04 a.m.]

10:04:05 9 Q. What's the state of the roads in that part of the Congo?

10:04:09 10 A. Very bad.

10:04:10 11 [10:04 a.m.]

10:04:10 12 Q. Can you say that this trip in the truck took two days?

10:04:14 13 A. No, I don't think it took two days, because the trucks,

10:04:19 14 as I already indicated, went on a road that is immediately

10:04:26 15 next to the Ugandan border and that was in a better state.

10:04:30 16 [10:04 a.m.]

10:04:30 17 Q. That's what you were told?

10:04:31 18 A. That's what the children told me.

10:04:33 19 [10:04 a.m.]

10:04:34 20 Q. So they finished their trip on foot?

10:04:37 21 A. Yes.

10:04:37 22 [10:04 a.m.]

10:04:38 23 Q. How long do you estimate the whole of the trip lasted?

10:04:42 24 A. I believe that the whole of the trip took two days.

10:04:47 25 Q. Including the bit on foot?

10:04:51 1 A. Yes.

10:04:52 2 [10:04 a.m.].

10:04:53 3 Q. Children don't walk very fast, sometimes -- especially if  
10:04:57 4 they are tired?

10:04:57 5 A. Well, when they are accompanied by soldiers they have to  
10:05:00 6 keep up a good pace.

10:05:03 7 [10:05 a.m.]

10:05:07 8 Q. You said that the children remained approximately 10 days  
10:05:11 9 in the camp; correct?

10:05:13 10 A. Approximately, I don't remember exactly.

10:05:15 11 [10:05 a.m.]

10:05:16 12 Q. And then you say that they escaped one night to go to  
10:05:20 13 Uganda?

10:05:21 14 A. Correct, yes, they ended up in Uganda.

10:05:23 15 [10:05 a.m.]

10:05:24 16 Q. You met the children in Paidha around the end of the  
10:05:28 17 month of February 2003?

10:05:30 18 A. In Paidha or Nebbi, yes.

10:05:33 19 [10:05 a.m.]

10:05:33 20 Q. You are not sure?

10:05:34 21 A. They are just next to each other. I can't remember  
10:05:36 22 exactly.

10:05:37 23 [10:05 a.m.]

10:05:37 24 Q. On which date did you meet the children?

10:05:49 25 A. I don't remember exactly. I think it's in the written

10:05:51 1 report.

10:05:52 2 [10:05 a.m.]

10:05:53 3 Q. You wrote a report?

10:05:54 4 A. Yes.

10:05:55 5 [10:05 a.m.]

10:05:59 6 Q. Very well. Would you be able to find the date again?

10:06:03 7 A. Yes, possibly.

10:06:04 8 [10:06 a.m.]

10:06:05 9 Q. You -- so you should be able to tell us this afternoon?

10:06:10 10 A. I don't have all my notes with me, but I will look and

10:06:17 11 see whether it is in my notes or not.

10:06:19 12 [10:06 a.m.]

10:06:20 13 Q. You told us that the children who escaped one night

10:06:27 14 travelled on foot?

10:06:30 15 A. Yes.

10:06:30 16 [10:06 a.m.]

10:06:31 17 Q. How many kilometres separate Paidha and Mont Awa?

10:06:37 18 A. Approximately the same distance. I can't estimate how

10:06:41 19 many kilometres it was.

10:06:42 20 [10:06 a.m.].

10:06:45 21 Q. Approximately 100?

10:06:47 22 A. Approximately.

10:06:47 23 [10:06 a.m.].

10:06:48 24 Q. How many -- how long do you think the children walked

10:06:53 25 across this dangerous area, because the militia that recruited

10:06:58 1 them occupied the whole of the region in the north of Ituri  
10:07:02 2 and therefore how long do you think children need to walk for  
10:07:07 3 to cover more than 100 kilometres?  
10:07:11 4 A. I do not know and I'm not sure either that the trip was  
10:07:14 5 on foot.  
10:07:16 6 [10:07 a.m.]  
10:07:16 7 Q. How else could they have covered the distance?  
10:07:21 8 A. It could have been that they were transported in  
10:07:24 9 vehicles, because they often were in the Congo.  
10:07:26 10 [10:07 a.m.]  
10:07:28 11 Q. Could they have also hitchhiked?  
10:07:31 12 A. Yes. Sometimes it happened at the time, too, that they  
10:07:35 13 asked the vehicle to carry them.  
10:07:37 14 [10:07 a.m.]  
10:07:38 15 Q. You think that they travelled by road?  
10:07:41 16 A. I think so.  
10:07:42 17 [10:07 a.m.]  
10:07:43 18 Q. With soldiers?  
10:07:45 19 A. Around Uganda, yes, its possible.  
10:07:47 20 [10:07 a.m.]  
10:07:47 21 Q. Let's start with the area around by the Congo.  
10:07:51 22 A. Well, I don't think that they used vehicles for the first  
10:07:54 23 part of the trip.  
10:07:55 24 [10:07 a.m.]  
10:07:55 25 Q. Probably not.

10:07:57 1 A. No, probably not.

10:07:58 2 [10:07 a.m.]

10:07:59 3 Q. So you think they could have possibly used vehicles after  
10:08:03 4 having crossed the Ugandan border?

10:08:05 5 A. It's possible.

10:08:06 6 [10:08 a.m.]

10:08:06 7 Q. But you are not sure?

10:08:07 8 A. I'm not sure.

10:08:08 9 [10:08 a.m.]

10:08:18 10 Q. Would it be correct to say that, according to the best  
10:08:26 11 possible estimates, and if children walk at a pace of  
10:08:30 12 5 kilometres per hour, would it be possible to say that in one  
10:08:32 13 day they covered 30 kilometres, in the best of cases if they  
10:08:40 14 didn't have to hide at any stage, or flee militias?

10:08:48 15 A. They could have covered 30 kilometres; they could have  
10:08:50 16 covered more.

10:08:50 17 [10:08 a.m.]

10:08:53 18 Q. So, when they fled towards Uganda and Paidha, their --  
10:09:01 19 they probably -- the trip probably lasted several days?

10:09:06 20 A. Yes, probably.

10:09:07 21 [10:09 a.m.]

10:09:07 22 Q. You understand now why I insist on knowing on which day  
10:09:11 23 precisely you met the children?

10:09:13 24 A. Yes, I will consult my notes to try and find out when it  
10:09:16 25 was.

10:09:16 1 [10:09 a.m.]

10:09:17 2 Q. You mentioned in your statements in paragraph 68 -- court  
10:09:22 3 officer, I'm talking about the statement of May 2006, which we  
10:09:28 4 looked at in depth yesterday. Its the same document I'm  
10:09:33 5 talking about. You said that the Mont Awa camp was under  
10:09:45 6 Jerome's command. Why, in your examination-in-chief, did you  
10:09:52 7 say that you did not have the name of the commander at the  
10:09:57 8 time?

10:10:00 9 A. Well, the zone was under the responsibility of  
10:10:04 10 commander -- the zone was under Commander Jerome's  
10:10:07 11 responsibility.

10:10:08 12 [10:10 a.m.]

10:10:08 13 Q. The zone, not the camp?

10:10:10 14 A. Well, as a consequence, probably not.

10:10:13 15 [10:10 a.m.]

10:10:15 16 Q. You're deducing this?

10:10:16 17 A. Yes, because he -- Commander Jerome was responsible for  
10:10:20 18 more than just a camp. I assume he was the hierarchical  
10:10:27 19 superior and I suppose he -- and I assume he wasn't the one  
10:10:30 20 who managed the activities of the camp on a daily basis.

10:10:35 21 [10:10 a.m.]

10:10:35 22 Q. Okay. You assume this. You say that now -- and here we  
10:10:44 23 are talking about the children in Paidha, that you met the  
10:10:51 24 children through adult victims. Which events are we talking  
10:10:54 25 about, the events that link to the children?

10:11:02 1 A. Sorry, I'm not sure what you are referring to, can you  
10:11:05 2 repeat your question.

10:11:06 3 [10:11 a.m.]

10:11:06 4 Q. Yes, in the examination-in-chief -- that's page 42 of the  
10:11:12 5 transcript -- you say that documenting the events we're  
10:11:14 6 talking about -- the events of Paidha, that this documenting  
10:11:19 7 of the events was almost exclusively carried out through  
10:11:24 8 adults, informers, or adult victims?

10:11:27 9 A. I'm talking about the whole of the mission in Uganda, in  
10:11:32 10 Paidha and Nebbi but also south of the lake -- we met a lot of  
10:11:36 11 informers, the majority of which were adults, whether or not  
10:11:43 12 they were victims or witnesses, civil society representatives  
10:11:48 13 or religious leaders.

10:11:50 14 [10:11 a.m.]

10:11:50 15 Q. So that would mean that it wasn't the children themselves  
10:11:57 16 that talked to you?

10:11:59 17 A. No, in this sentence, you are referring to, I'm talking  
10:12:02 18 in general terms.

10:12:03 19 [10:12 a.m.]

10:12:04 20 Q. So it's the children that told you who were the  
10:12:12 21 informers -- the children you talk about. The informers you  
10:12:15 22 talked about?

10:12:17 23 A. They are displaced people from various zones of the  
10:12:21 24 Ituri, Alur, Hema, Bira, victims, and religious leaders,  
10:12:32 25 politicians and people who had belonged to different Congolese

10:12:39 1 armed forces that had sheltered the other side of the border  
10:12:42 2 to avoid having to take part in the new UPC movement.  
10:12:48 3 [10:12 a.m.]  
10:12:48 4 Q. Do you think the victims could have been objective  
10:12:51 5 witnesses?  
10:12:52 6 A. When you are just counting or recounting the facts, I  
10:12:56 7 think so, especially when you have the opportunity to question  
10:13:01 8 not only one, but several victims on the same event. In those  
10:13:06 9 cases you can cross-check the facts.  
10:13:08 10 [10:13 a.m.]  
10:13:09 11 Q. How do you cross-check the facts in the field? How did  
10:13:12 12 things happen? Did you look for witnesses over there?  
10:13:16 13 A. Yes, in the various investigations that's how we proceed;  
10:13:22 14 we try to use several persons, not only one, to obtain the  
10:13:25 15 source of information, and we try to check with the group that  
10:13:35 16 conducted the attacks and, if possible, we tried to go on the  
10:13:40 17 fighting or to the battlefields, and then we carry out  
10:13:44 18 missions and collect information at different stages. And the  
10:13:50 19 information collected enables us to confirm certain points and  
10:13:56 20 the report of the MONUC on the events, and especially on human  
10:14:01 21 rights violations, was published after 2003, and the  
10:14:05 22 information we collected at that time in Uganda confirmed --  
10:14:18 23 PRESIDING JUDGE JORDA (interpretation): Just for technical  
10:14:20 24 reasons, for the interpreters, could you please make a short  
10:14:24 25 break between the question and the answer, because otherwise

10:14:28 1 it becomes very difficult for the interpreters and also for  
10:14:30 2 Madame Peduto.  
10:14:32 3 ME FLAMME (interpretation): Yes, I will.  
10:14:33 4 [10:14 a.m.]  
10:14:36 5 Q. When you make this sort of cross-checking, when you carry  
10:14:40 6 out the cross-checking, do you also mention in your reports  
10:14:46 7 the identity of the person you're checking -- the other  
10:14:51 8 witness? Do you have all that information -- the place where  
10:14:55 9 the interview took place, their identity, as well as the  
10:14:59 10 report of your interview?  
10:15:03 11 A. Yes. We keep all the notes taken during the interview  
10:15:08 12 and, as much as possible we try to type out all the  
10:15:13 13 information and the identity of the informers, generally  
10:15:16 14 speaking, isn't recorded in the reports when it's not  
10:15:22 15 necessary, and it certainly isn't in the public reports where  
10:15:27 16 this could present a threat to them. The only identities  
10:15:30 17 mentioned in public reports are the identities of people who  
10:15:34 18 did not object to their information being reported or people  
10:15:42 19 who are speaking in an official capacity.  
10:15:45 20 [10:15 a.m.]  
10:15:46 21 Q. You also carry out this type of cross-checking for  
10:15:49 22 children you -- the ones, for instance, you mentioned in your  
10:15:55 23 report?  
10:15:55 24 A. Yes, we try as much as possible to cross-check all the  
10:15:59 25 information.

10:15:59 1 [10:15 a.m.]

10:16:00 2 Q. What I'm getting at is, for instance, if you meet a  
10:16:06 3 displaced child in Uganda, and this child tells you a story,  
10:16:11 4 do you try to check what the facts were in the Congo, to check  
10:16:18 5 what happened there?

10:16:19 6 A. We weren't able to go to the Congo after this mission in  
10:16:24 7 Uganda because of the events in Ituri that followed our  
10:16:28 8 mission, and one member of the team, a political affairs  
10:16:35 9 official, who was a member of the team and who helped finalise  
10:16:43 10 the report, did not see any reason to object to what had been  
10:16:49 11 included in the report.

10:16:51 12 [10:16 a.m.]

10:16:52 13 Q. Very well. You said in your examination-in-chief that  
10:16:56 14 the first precise information -- documented information, and  
10:17:08 15 here I'm moving on to your public calls -- public recruitments  
10:17:14 16 and public calls for racial hatred. So the first call, public  
10:17:20 17 calls to the Hema community from the UPC would purportedly  
10:17:27 18 date back to March 2003; is that correct?

10:17:29 19 A. Yes, that's what I indicated, but it's possible that  
10:17:33 20 similar calls for mobilisation happened at the same time.  
10:17:37 21 However, that -- these were not reported back to me.

10:17:41 22 [10:17 a.m.]

10:17:44 23 Q. You said you "think"; are you sure?

10:17:50 24 A. The information was given to us by different sources at  
10:17:53 25 different times.

10:17:55 1 [10:17 a.m.]

10:18:00 2 Q. What is the document -- which are the documents you  
10:18:04 3 mention when you talk about your source, because you say it's  
10:18:07 4 documented information?

10:18:09 5 A. The notes from our meetings with informers and from  
10:18:12 6 MONUC.

10:18:13 7 [10:18 a.m.]

10:18:14 8 Q. Which informers?

10:18:15 9 A. Various informers which included children and adults.

10:18:24 10 [10:18 a.m.]

10:18:26 11 Q. Were these people who had heard what had been said  
10:18:31 12 personally?

10:18:33 13 A. Yes, and please let me clarify one point here. When I  
10:18:40 14 mention the calls for racial hatred or calls for mobilisation,  
10:18:53 15 by Mudzi-Pela, or religious leaders, well, this information  
10:18:59 16 was later confirmed by other religious leaders.

10:19:03 17 [10:19 a.m.]

10:19:04 18 Q. Very well. We'll come back to this later. You mentioned  
10:19:07 19 in your examination-in-chief that some Catholic leaders took  
10:19:18 20 public positioning in Mudzi-Pela, Boga and Nyakasanza?

10:19:27 21 A. Nyakasanza.

10:19:29 22 [10:19 a.m.].

10:19:31 23 Q. Nyakasanza. I'm sorry, but you heard this directly from  
10:19:38 24 informers that -- or whom they themselves had heard from --  
10:19:45 25 this from other people. What was said exactly?

10:19:52 1 PRESIDING JUDGE JORDA (interpretation): Are you referring to  
10:19:54 2 the interview or the examination-in-chief?  
10:20:01 3 ME FLAMME (interpretation): I am referring to what was said  
10:20:03 4 in the examination-in-chief about the recruitment, because  
10:20:09 5 there was a two-fold public call for both mobilisation, or  
10:20:15 6 recruitment, and racial hatred. So I would like more details  
10:20:20 7 on this.  
10:20:29 8 THE WITNESS: Excuse me, would you like me to give further  
10:20:30 9 detail on the comments.  
10:20:32 10 ME FLAMME (interpretation): Q. On the comments?  
10:20:34 11 A. I never had a retranscription or quotes -- literal  
10:20:40 12 quotes. Rather, it was reported to us on various occasions  
10:20:49 13 that the comments made by various religious leaders,  
10:20:54 14 particularly in Mudzi-Pela, referred to the Hema community and  
10:21:00 15 called upon it to mobilise, because that community was in  
10:21:03 16 danger -- to mobilise. I don't know if the term "exterminate"  
10:21:13 17 was used as such, but the idea was present.  
10:21:16 18 [10:21 a.m.]  
10:21:20 19 Q. It was, therefore, a call to defend one's self?  
10:21:28 20 A. To defend one's self and to mobilise one community  
10:21:32 21 against another what was said.  
10:21:37 22 Q. Was it said in the cathedral of Mudzi-Pela?  
10:21:41 23 A. That was what I was told.  
10:21:42 24 [10:21 a.m.]  
10:21:42 25 Q. By whom?

10:21:44 1 A. I can't give you a list of the individuals.

10:21:47 2 [10:21 a.m.]

10:21:47 3 Q. By the bishop?

10:21:49 4 A. I cannot affirm that.

10:21:51 5 [10:21 a.m.]

10:21:51 6 Q. You don't want to?

10:21:54 7 A. I cannot.

10:21:55 8 [10:21 a.m.]

10:21:55 9 Q. You cannot. Were you told whether or not it was the

10:22:05 10 case?

10:22:06 11 A. It would be logical.

10:22:09 12 [10:22 a.m.].

10:22:09 13 Q. Otherwise that information would not be precise.

10:22:14 14 MS MARCHI-UHEL: May I speak with the witness for a moment,

10:22:17 15 please, Mr President.

10:22:18 16 PRESIDING JUDGE JORDA (interpretation): Yes, of course.

10:22:33 17 THE WITNESS: I was asked to be clear in my answer, but I'm

10:22:36 18 afraid I do not remember.

10:22:38 19 ME FLAMME (interpretation):

10:22:39 20 [10:22 a.m.].

10:22:39 21 Q. But you were told?

10:22:40 22 A. I remember that the name of Mgr Dhedju was referred to,

10:22:45 23 but that was in relation to a previous period. I remember the

10:22:48 24 name of Abbott Aime of the church very close to the UPC, who

10:22:57 25 had held speeches and had activities with -- which incited

10:23:08 1 fear, but I do not remember. I do not have an exhaustive  
10:23:11 2 memory as regards this information.  
10:23:12 3 [10:23 a.m.].  
10:23:13 4 Q. Very good. You have also said that that was confirmed to  
10:23:22 5 you by members of the Catholic community outside of Ituri, in  
10:23:27 6 Kisangani or in Butembo?  
10:23:32 7 A. That is correct.  
10:23:32 8 [10:23 a.m.].  
10:23:32 9 Q. Who were they?  
10:23:33 10 A. I cannot --  
10:23:37 11 THE ENGLISH INTERPRETER: The interpreter has not heard.  
10:23:38 12 [10:23 a.m.].  
10:23:38 13 ME FLAMME (interpretation):  
10:23:38 14 Q. Why?  
10:23:39 15 A. For their protection.  
10:23:41 16 [10:23 a.m.].  
10:23:41 17 Q. These are serious allegations?  
10:23:44 18 A. I will prefer that these persons, if they wish to speak,  
10:23:49 19 speak for themselves.  
10:23:49 20 [10:23 a.m.]  
10:23:53 21 Q. You have referred to persons who have proffered threats?  
10:23:57 22 A. They are allegations.  
10:23:59 23 [10:23 a.m.]  
10:23:59 24 Q. Do you know who said this to you in Kisangani and  
10:24:05 25 Butembo?

10:24:06 1 PRESIDING JUDGE JORDA (interpretation): Mr Flamme, this is  
10:24:08 2 her right. You may draw the conclusions you wish from it. I  
10:24:11 3 do not think that you need to repeat each time that the  
10:24:15 4 allegations in this case are serious; we all know that. In  
10:24:20 5 holding your cross-examination, you will be able to draw  
10:24:23 6 conclusions from what you have heard, unless the  
10:24:27 7 representative of the United Nations wants to adopt another  
10:24:31 8 position. Ms Marchi-Uhel, what is your position?

10:24:34 9 MS MARCHI-UHEL (interpretation): I agree that for protection  
10:24:38 10 reasons -- protection of the persons concerned -- one must  
10:24:42 11 allow the witness not to reveal her sources.

10:24:44 12 ME FLAMME (interpretation): Thank you, Mr President.

10:24:46 13 [10:24 a.m.]

10:24:49 14 Q. Do you confirm that this was also relayed to you by  
10:24:53 15 members of MONUC?

10:24:54 16 A. Yes.

10:24:54 17 [10:24 a.m.]

10:24:58 18 Q. These representatives of the Catholic church -- not your  
10:25:02 19 informers but those who proffered these words -- were they  
10:25:07 20 members of the UPC?

10:25:09 21 A. No, they were close to it.

10:25:12 22 [10:25 a.m.]

10:25:13 23 Q. Did you know that?

10:25:15 24 A. I remember in particular that we received quite detailed  
10:25:19 25 information regarding the actions of Abbott Aime, who was

10:25:27 1 subsequently killed when there was an attack on his church. I  
10:25:33 2 heard various anecdotes and information. Apparently he used  
10:25:38 3 his vehicle to transport members of the UPC -- armed members  
10:25:42 4 of the UPC. He took part in public rallies of the UPC.  
10:25:46 5 Perhaps he was a member of the UPC, but I certainly cannot  
10:25:49 6 affirm it.

10:25:50 7 [10:25 a.m.]

10:25:52 8 Q. And who relayed this information to you?

10:25:55 9 A. This was information which was provided to us during our  
10:25:59 10 investigations.

10:26:00 11 [10:26 a.m.]

10:26:01 12 Q. During your investigations. At the end of March 2003,  
10:26:07 13 you carried out a two-week mission. We are now crossing back  
10:26:12 14 across the border to the Congo and specifically Bunia. So, at  
10:26:17 15 the end of March you carried out a two-week mission with  
10:26:21 16 representatives of the human rights section to investigate the  
10:26:27 17 responsibility of armed groups in the attack on Bogoro, Kobu,  
10:26:34 18 Mandro and Lipri; is that right?

10:26:37 19 A. That is right.

10:26:38 20 [10:26 a.m.].

10:26:44 21 Q. Do you know the approximate dates of those events --  
10:26:50 22 those massacres?

10:26:52 23 A. Bogoro -- there were several attacks on Bogoro  
10:26:58 24 in February, the last of which took place on 25 February --  
10:27:04 25 the last at Drodoro was during our mission. I believe it was

10:27:09 1 3 April. Mandro, beginning of March. The attacks around  
10:27:21 2 Lipri, Kobu and Bambu took place at the end of February, I  
10:27:27 3 believe.  
10:27:38 4 PRESIDING JUDGE JORDA (interpretation): Uros, please call  
10:27:39 5 the services. We shall suspend the hearing.  
10:27:45 6 [10:27 a.m.]  
10:27:47 7 [Short adjournment]  
10:34:30 8 THE USHER: All rise.  
10:34:40 9 [10:34 a.m.]  
10:34:47 10 PRESIDING JUDGE JORDA (interpretation): The Court is in  
10:34:50 11 session. Please bring in Mr Lubanga, please.  
10:35:02 12 [10:35 a.m.]  
10:35:03 13 [Mr Thomas Lubanga Dyilo entered the courtroom].  
10:35:30 14 PRESIDING JUDGE JORDA (interpretation): The hearing shall  
10:35:33 15 resume and with the full agreement of Mr Flamme. Given that  
10:35:39 16 the person concerned is a member of his team, that person  
10:35:43 17 shall be taken into the care of our medical service and with  
10:35:46 18 the full agreement of Mr Flamme, the hearing resumes.  
10:35:52 19 Mr Flamme, please proceed.  
10:35:54 20 ME FLAMME (interpretation): Thank you, President.  
10:35:55 21 [10:35 a.m.]  
10:35:57 22 Q. Madame, we had begun speaking of the attacks in Bogoro,  
10:36:07 23 Lipri, Bambu and Kobu. I'd like to ask you: Where is Lipri?  
10:36:14 24 A. To the north of Bunia.  
10:36:16 25 [10:36 a.m.]

10:36:16 1 Q. How many kilometres from Bunia?

10:36:18 2 A. I cannot tell you the number of kilometres. I can tell

10:36:23 3 you in terms of the hours of travel necessary to reach that

10:36:29 4 place -- two hours.

10:36:36 5 [10:36 a.m.]

10:36:36 6 Q. Two hours by road?

10:36:38 7 A. Approximately. Kobu took longer, given the state of the

10:36:42 8 roads. Two to three hours.

10:36:43 9 [10:36 a.m.]

10:36:48 10 Q. What were you told in Lipri?

10:36:54 11 A. We were investigating an attack which had taken place

10:36:59 12 over a period of a number of days in Lipri, Bambu and Kobu.

10:37:06 13 We spoke with a tremendous number of people in Lipri. They

10:37:16 14 told us of the attack which had been taken -- carried out by

10:37:21 15 members of the UPC. To summarise, the attack had taken place

10:37:30 16 in a coordinated fashion and was conducted by various groups

10:37:38 17 who had taken siege of various villages, the civilians in

10:37:48 18 these villages then being subjected to terrible exactions.

10:37:55 19 [10:37 a.m.]

10:37:56 20 Q. At what time in point did those attacks take?

10:37:59 21 A. As I have said, towards the end of February.

10:38:01 22 [10:38 a.m.]

10:38:01 23 Q. Do you have an exact date?

10:38:13 24 A. Without being exactly sure, between the 16th and 24th, I

10:38:19 25 believe.

10:38:20 1 [10:38 a.m.].

10:38:20 2 Q. Were you showed -- shown common graves [overlapping  
10:38:35 3 microphones] in Lipri?

10:38:37 4 A. I believe that there were none in Lipri, if I remember  
10:38:44 5 correctly.

10:38:44 6 [10:38 a.m.]

10:38:44 7 Q. Is that not strange?

10:38:45 8 A. No, not necessarily -- sometimes persons are buried  
10:38:52 9 elsewhere.

10:38:53 10 [10:38 a.m.]

10:38:56 11 Q. One takes the dead elsewhere?

10:39:03 12 A. Sometimes people are buried individually, and not just in  
10:39:08 13 mass graves.

10:39:09 14 [10:39 a.m.]

10:39:11 15 Q. Were you shown graves -- recent graves?

10:39:13 16 A. In Lipri, no. I saw many graves and mass graves -- I saw  
10:39:19 17 many graves in Bambu and mass graves in Kobu.

10:39:24 18 [10:39 a.m.]

10:39:25 19 Q. But not in Lipri?

10:39:26 20 A. Not in Lipri.

10:39:28 21 [10:39 a.m.]

10:39:28 22 Q. And you didn't insist upon seeing those graves?

10:39:32 23 A. I'm afraid I will have to read the report. It is all so  
10:39:40 24 long ago. We interviewed a large number of persons. I cannot  
10:39:42 25 tell you whether there were military actions in Lipri.

10:39:45 1 [10:39 a.m.]

10:39:45 2 Q. You cannot affirm it?

10:39:47 3 A. No, I would have to reread the report.

10:39:48 4 [10:39 a.m.]

10:39:49 5 Q. How many investigators took part in the mission?

10:39:53 6 A. In the mission, there were at least six investigators.

10:39:57 7 [10:39 a.m.]

10:39:57 8 Q. Six investigators?

10:40:00 9 A. At least.

10:40:00 10 [10:40 a.m.]

10:40:01 11 Q. The mission took two weeks?

10:40:03 12 A. Approximately.

10:40:04 13 [10:40 a.m.]

10:40:10 14 Q. In your testimony in chief, you say that you interviewed

10:40:14 15 more than 400 persons; is that the case?

10:40:17 16 A. That is the case.

10:40:18 17 [10:40 a.m.]

10:40:19 18 Q. With six investigators, is that not a hellish pace of

10:40:27 19 work?

10:40:28 20 A. It was indeed very demanding.

10:40:31 21 [10:40 a.m.]

10:40:32 22 Q. You would interview one person for how long, on average?

10:40:36 23 A. It depended. It could be 10 minutes, if the person had

10:40:41 24 not a lot of information to give or did not want to speak for

10:40:46 25 long; it could also last for half an hour, sometimes longer

10:40:55 1 in the case of some informers who had more information.

10:40:59 2 [10:40 a.m.]

10:41:00 3 Q. Longer than an hour?

10:41:02 4 A. Rarely longer than an hour.

10:41:05 5 [10:41 a.m.]

10:41:05 6 Q. Did you not have to build up trust with these

10:41:09 7 individuals?

10:41:11 8 A. As I have already said, there were radio messages that

10:41:18 9 were broadcast before the mission arrived. We provided

10:41:23 10 information to the administrators of the villages and the

10:41:26 11 areas we travelled to and they had prepared the local

10:41:29 12 community for our arrival. At Lipri and in Kobu we

10:41:35 13 interviewed quite a lot of people. We first gave an

10:41:41 14 introduction regarding our mission to the larger group and

10:41:48 15 then others chose to speak to the mission for longer periods

10:41:55 16 of time.

10:41:56 17 [10:41 a.m.]

10:41:57 18 Q. In your testimony in chief, you spoke of children

10:42:01 19 assembled in Rwampara. We are now going to Rwampara, if you

10:42:06 20 agree, given that you spoke extensively of these children.

10:42:13 21 Who had assembled these children?

10:42:19 22 A. The general of the UPDF told us that the children had

10:42:25 23 been assembled in that camp there. It was not at all clear

10:42:30 24 who -- that is to say what individual or group -- had done

10:42:36 25 that. Despite requests for information regarding the status

10:42:42 1 of the individuals grouped in Rwampara, we were unable to  
10:42:50 2 ascertain if those people were present, had been arrested,  
10:42:53 3 whether they were there of their own free will, had been there  
10:42:56 4 for a long time.

10:42:57 5 [10:42 a.m.]

10:43:02 6 Q. So we agree that it was the UPDF, that is to say, the  
10:43:06 7 Ugandan army, who occupied the area?

10:43:09 8 A. The UPC was also present at a short distance.

10:43:14 9 [10:43 a.m.]

10:43:15 10 Q. What do you mean by "a short distance"?

10:43:18 11 A. During our mission, there were UPC people in town and I  
10:43:23 12 imagine that the troops were not far away.

10:43:24 13 [10:43 a.m.]

10:43:26 14 Q. But if my information is right, Uganda attacked Bunia on  
10:43:34 15 6 March and chased out the UPC?

10:43:40 16 A. The UPC members were still in town.

10:43:43 17 [10:43 a.m.].

10:43:43 18 Q. Was the UPC not considered the enemy?

10:43:47 19 A. Undoubtedly. However, there were commanders such as  
10:43:53 20 Commander Alex.

10:43:55 21 [10:43 a.m.]

10:43:55 22 Q. We shall speak of commander Alex. You were in the  
10:43:59 23 company of General Kaleh and his second in command, who you  
10:44:04 24 referred to as Commander Felix; is that correct?

10:44:07 25 A. It is.

10:44:07 1 [10:44 a.m.]

10:44:13 2 Q. You also referred to meeting in the camp a Commander

10:44:23 3 Barongo. Was he the leader of the camp?

10:44:26 4 A. He presented himself as being in charge of the camp.

10:44:29 5 [10:44 a.m.]

10:44:29 6 Q. In charge of the camp. Did he accompany you outside of

10:44:33 7 the camp?

10:44:34 8 A. We did not know outside of the camp.

10:44:36 9 [10:44 a.m.]

10:44:36 10 Q. No. This commander Barongo, to your mind he was a member

10:44:45 11 of the FPLC?

10:44:47 12 A. He presented himself as a commander of the UPC.

10:44:50 13 [10:44 a.m.]

10:44:50 14 Q. He presented himself as such. Was he subordinate to the

10:44:56 15 Ugandan soldiers?

10:45:00 16 A. That is not the impression I had. The camp was guarded

10:45:08 17 by Ugandan military.

10:45:10 18 [10:45 a.m.]

10:45:11 19 Q. Was he armed; was he wearing a uniform?

10:45:14 20 A. He was wearing a uniform in camouflage cloth. I can't

10:45:22 21 remember if it was green or not.

10:45:23 22 [10:45 a.m.]

10:45:24 23 Q. Were there any visible signs that he was a member of a

10:45:29 24 militia?

10:45:30 25 A. Unfortunately, on the uniforms worn in Ituri it is

10:45:35 1 difficult to say -- to see which group a militiaman belongs  
10:45:43 2 to, and the uniforms would also change regularly.  
10:45:46 3 [10:45 a.m.].  
10:45:47 4 Q. This did not make your task any easier, did it?  
10:45:51 5 A. Not at all.  
10:45:51 6 [10:45 a.m.]  
10:45:53 7 Q. If I've understood rightly, Commander Barongo was not a  
10:45:57 8 prisoner of war?  
10:45:59 9 A. He did not present himself as such. He was not presented  
10:46:02 10 to us as such. There were no signs to indicate that he was  
10:46:09 11 deprived of his liberty, but, again, I cannot affirm it.  
10:46:13 12 [10:46 a.m.]  
10:46:20 13 Q. In your statement of May 2006 in paragraph 74, at the  
10:46:38 14 bottom of page 20, the commander had joined the PUSIC -- had  
10:46:47 15 later joined the PUSIC. This is Commander Alex; is that so?  
10:46:59 16 A. We are not speaking of Commander Barongo.  
10:47:03 17 [10:47 a.m.]  
10:47:03 18 Q. Yes, it's Commander Alex. Indeed, excuse me. Very good.  
10:47:08 19 Let's talk about Commander Alex. You say that Commander Alex  
10:47:17 20 was a member of which force?  
10:47:19 21 A. The UPC.  
10:47:20 22 [10:47 a.m.]  
10:47:20 23 Q. The UPC, too. Do you know his surname?  
10:47:27 24 A. Unfortunately not.  
10:47:28 25 [10:47 a.m.]

10:47:30 1 Q. So this is not Barongo; these are two different people?

10:47:35 2 A. Yes.

10:47:35 3 [10:47 a.m.]

10:47:37 4 Q. Speaking of Commander Alex, you say he later joined the

10:47:45 5 PUSIC. Do we agree on that?

10:47:47 6 A. A long time later.

10:47:48 7 [10:47 a.m.]

10:47:48 8 Q. A long time after. Where did you meet Commander Alex?

10:47:56 9 A. During that mission we met him at the airport camp. He

10:48:00 10 was accompanied by General Kaleh.

10:48:02 11 [10:48 a.m.]

10:48:03 12 Q. He was in the company of General Kaleh. Did you not

10:48:10 13 wonder what a commander of the -- an alleged commander of the

10:48:16 14 FPLC was doing with General Kaleh of the Ugandan army, who

10:48:26 15 was -- who had conquered the area?

10:48:30 16 A. Yes, we did think it was strange. He was presented to us

10:48:33 17 as being a liaison officer.

10:48:35 18 [10:48 a.m.]

10:48:36 19 Q. When was the PUSIC set up, to your mind?

10:48:41 20 A. At the end of 2002 -- in December, I think.

10:48:45 21 [10:48 a.m.].

10:48:45 22 Q. By whom?

10:48:47 23 A. By Chief Kahwa, I believe.

10:48:49 24 [10:48 a.m.].

10:48:49 25 Q. You said the children you saw were armed, or at least

10:48:52 1 some of them were -- this is paragraph 75 on page 21 in the  
10:49:00 2 French version of your written statement.  
10:49:09 3 A. I'm sorry, could I see the paragraph?  
10:49:12 4 Q. Paragraph 75 at the end of the paragraph.  
10:49:20 5 A. The children of Rwampara were not armed.  
10:49:23 6 [10:49 a.m.]  
10:49:25 7 Q. Most of the children were in uniform and some had  
10:49:31 8 weapons?  
10:49:32 9 A. Ah, okay.  
10:49:32 10 [10:49 a.m.]  
10:49:34 11 Q. You believe that they were not armed?  
10:49:37 12 A. If I wrote -- if I said it, it's because I read it.  
10:49:40 13 [10:49 a.m.]  
10:49:42 14 Q. In your memory, they were not armed?  
10:49:44 15 A. In my memory they were not armed, but if I said it in my  
10:49:48 16 statement, then it was written in notes which I referred to.  
10:49:52 17 [10:49 a.m.]  
10:49:57 18 Q. These children were presented to you as being FPLC  
10:50:02 19 combatants?  
10:50:04 20 A. Once again, we used the UPC acronym.  
10:50:08 21 [10:50 a.m.]  
10:50:09 22 Q. This didn't strike you as strange?  
10:50:12 23 A. We wondered about the status of these children -- that is  
10:50:15 24 to say, whether they were in fact prisoners or whether they  
10:50:19 25 had been regrouped there of their own free will.

10:50:23 1 [10:50 a.m.].

10:50:23 2 Q. Allow me to explain what I mean. If these children were  
10:50:26 3 armed, could they be prisoners of war?

10:50:31 4 A. Certainly not.

10:50:31 5 [10:50 a.m.]

10:50:37 6 Q. In your statement you refer to the gathering of these  
10:50:40 7 children in Rwampara -- I repeat "gathering". Where were they  
10:50:45 8 coming from?

10:50:50 9 A. General Kaleh indicated to us that these children had  
10:50:52 10 been gathered from various places and that there were other  
10:50:56 11 similar groups of children in other camps of the UPC.

10:51:01 12 [10:51 a.m.]

10:51:02 13 Q. In other words, these children had been gathered at the  
10:51:09 14 outset from several places?

10:51:11 15 A. That is what we were told.

10:51:14 16 [10:51 a.m.]

10:51:14 17 Q. All right. You also say that they were gathered  
10:51:21 18 following the pressure that was brought to bear by the UPDF?

10:51:25 19 A. That is what General Kaleh told us.

10:51:27 20 [10:51 a.m.]

10:51:28 21 Q. Pressure on whom?

10:51:31 22 A. On the UPC. General Kaleh had told us that the gathering  
10:51:37 23 of these children was one of his initiatives and that he  
10:51:42 24 wanted make it easy for these children to leave the UPC.

10:51:49 25 [10:51 a.m.]

10:51:49 1 Q. But the UPC wasn't there?

10:51:55 2 A. It was scattered.

10:51:56 3 [10:51 a.m.]

10:51:57 4 Q. Scattered. You also say that, in your opinion, this was  
10:52:06 5 a public relations operation orchestrated by the UPDF?

10:52:11 6 PRESIDING JUDGE JORDA (interpretation): Are you still  
10:52:13 7 referring to the statement, Mr Flamme?

10:52:16 8 ME FLAMME (interpretation): Yes, this is still the  
10:52:18 9 statement.

10:52:18 10 [10:52 a.m.]

10:52:23 11 Q. We must return to paragraph 74, the second sentence --  
10:52:26 12 I'm sorry.

10:52:31 13 PRESIDING JUDGE JORDA (interpretation): Thank you.

10:52:32 14 ME FLAMME (interpretation): No, it's a little further. The  
10:52:37 15 fifth line, "In my view, this was all a public relations  
10:52:47 16 exercise orchestrated by the UPDF. They wanted to show  
10:52:52 17 ..." -- and it is redacted, et cetera. What do you mean by "a  
10:53:07 18 public relations exercise"? That it's a masquerade?

10:53:17 19 A. An operation that was aimed at making sure that the MONUC  
10:53:24 20 staff would look with favour on some of the initiatives of the  
10:53:32 21 Ugandan army in Ituri at the time. This is a feeling I had.

10:53:36 22 [10:53 a.m.]

10:53:40 23 Q. What uniforms were these children wearing?

10:53:49 24 A. They were a bit mixed. As I said, some had khaki  
10:53:58 25 trousers and, as I remember, some were dressed in civilian

10:54:02 1 clothes or wearing T-shirts. They were not all in full  
10:54:07 2 military uniform.  
10:54:12 3 [10:54 a.m.]  
10:54:12 4 Q. In paragraph 75 of your statement you compare what you  
10:54:19 5 refer to as clothing to that that you saw on some children in  
10:54:27 6 a UPC pick-up. What pick-up was that and when did you see  
10:54:33 7 them and what items are you referring to?  
10:54:38 8 A. When I refer to these items, it is because these children  
10:54:42 9 were not wearing full uniforms. Sometimes they had scarfs  
10:54:49 10 along their necks or around their heads. Sometimes some of  
10:54:54 11 them had military trousers, others had military T-shirts.  
10:54:58 12 They did not follow the kind of dress that an army would  
10:55:01 13 normally wear.  
10:55:02 14 [10:55 a.m.]  
10:55:03 15 Q. And these pick-ups, then?  
10:55:09 16 A. And these pick-ups were frequently found around Bunia.  
10:55:13 17 [10:55 a.m.]  
10:55:13 18 Q. At that time?  
10:55:13 19 A. At that time, no.  
10:55:15 20 [10:55 a.m.]  
10:55:15 21 Q. When?  
10:55:18 22 A. Based on what I saw later, they were present in Bunia  
10:55:24 23 when the UPC re-took the town.  
10:55:29 24 [10:55 a.m.]  
10:55:30 25 Q. I'm a little surprised. How can you compare the clothing

10:55:40 1 to what you saw later?

10:55:46 2 A. This is a comparison that I made that year. It is a way  
10:55:52 3 of describing what I saw in Rwampara at the time; it is not a  
10:55:59 4 comparison that I made at that particular time. Well, it is  
10:56:07 5 still in --

10:56:11 6 Q. Well, I understand what you meant -- you compared these  
10:56:13 7 things later, didn't you?

10:56:15 8 A. That is correct.

10:56:15 9 [10:56 a.m.]

10:56:18 10 Q. You told us that these children were between 13 and 18  
10:56:22 11 years of age. Did you see their identification papers or  
10:56:25 12 their birth certificates?

10:56:27 13 A. No, and it is true that when I consider my statement, the  
10:56:35 14 youngest of the children had -- was about 11.

10:56:38 15 [10:56 a.m.]

10:56:40 16 Q. You think?

10:56:41 17 A. That is what the child said.

10:56:43 18 [10:56 a.m.]

10:56:44 19 Q. So your age estimates is based on what the children told  
10:56:48 20 you?

10:56:49 21 A. Exactly. Some of them had been to school.

10:56:53 22 [10:56 a.m.]

10:56:54 23 Q. How did you know that they were telling you the truth?

10:56:59 24 A. As I have said, we had absolutely no scientific means of  
10:57:03 25 determining their identity. I was accompanied in visiting

10:57:09 1 these children with highly experienced Congolese staff on some  
10:57:12 2 occasions, and I also had my own opinion on the matter and I  
10:57:15 3 do not think that these children lied to us.

10:57:17 4 [10:57 a.m.]

10:57:19 5 Q. I don't think so -- you don't think so?

10:57:22 6 A. I don't think so; they had no reason to do so.

10:57:24 7 [10:57 a.m.]

10:57:26 8 Q. But you are not sure. Did you not think -- did you not  
10:57:33 9 also think that this could be a public relations operation  
10:57:40 10 orchestrated by the UPDF?

10:57:42 11 A. No, I don't think so. These children were aged between  
10:57:47 12 11 to almost 18. I need to check my notes to determine this  
10:57:52 13 exactly. They did not have the same story. Some did not  
10:58:02 14 speak for long, some just gave me basic information about  
10:58:06 15 their identities, and others preferred to talk about their  
10:58:11 16 military past, and yet others were more forthcoming. It did  
10:58:21 17 not seem to me, or to any of my colleagues, that these  
10:58:24 18 children were prepared for the interview that we had with  
10:58:27 19 them.

10:58:27 20 [10:58 a.m.]

10:58:27 21 Q. Did you have the impression that they were afraid?

10:58:30 22 A. Of us? No.

10:58:30 23 [10:58 a.m.]

10:58:31 24 Q. No, no, no, in general.

10:58:33 25 A. They were -- we felt that they were fairly ill at ease.

10:58:37 1 [10:58 a.m.]

10:58:39 2 Q. It did -- did it not seem strange to you that they -- if  
10:58:46 3 they were prisoners of war, that they were there?

10:58:53 4 A. They -- if they were in a good place and not threatened  
10:58:55 5 or beaten and that they were given food, I don't think that  
10:58:58 6 these children, if they had all this, would be afraid.

10:59:01 7 [10:59 a.m.]

10:59:03 8 Q. Do you not think that the UPDF might have had some  
10:59:07 9 advantage in portraying the child soldiers as belonging to  
10:59:16 10 another army?

10:59:17 11 A. Well, you know, some of the information which we were  
10:59:21 12 given -- well, I don't know. In any case, one of the children  
10:59:25 13 gave me a lot of information of his participation in various  
10:59:30 14 fighting, various battles and this included those fought by  
10:59:35 15 the UPC, particularly the one in Bogoro. In his testimony  
10:59:39 16 there was much detail about how the battle had taken place,  
10:59:43 17 the names of the commanders who were present in that area, and  
10:59:47 18 this is information that was included in the investigation  
10:59:53 19 that was being carried out at the same time by the MONUC  
10:59:56 20 special investigations team.

10:59:59 21 [10:59 a.m.]

10:59:59 22 Q. Who were, in your view, the combatants in Bogoro?

11:00:08 23 A. The UPC and the Lendu.

11:00:09 24 [11:00 a.m.]

11:00:10 25 Q. How do you know that this child did not fight on the

11:00:13 1 other side of the UPC?

11:00:16 2 A. Because he had fairly precise information about how the  
11:00:18 3 battle went on, about the way in which he fled, about the  
11:00:21 4 weapons that were used. He indicated everything. He also  
11:00:25 5 mentioned other battles that the UPC had fought in the past.  
11:00:28 6 [11:00 a.m.]

11:00:29 7 Q. I don't think you quite understood my question. This  
11:00:34 8 child may have fought there, which gave him the opportunity to  
11:00:38 9 have details on the progress of the battle, but does this  
11:00:45 10 prove that he fought on the side of the UPC rather than  
11:00:48 11 against it?

11:00:51 12 A. If he had given us only the details on Bogoro, then that  
11:00:56 13 would be the case, but it was not the case. This child told  
11:00:59 14 us about other battles in which he had taken place with the  
11:01:02 15 UPC. He told us about his training in a UPC military camp as  
11:01:12 16 well. I did not at all doubt his participation in this group.  
11:01:21 17 [11:01 a.m.]

11:01:21 18 Q. Was General Kaleh there?

11:01:25 19 A. During the detailed interviews of the interview,  
11:01:28 20 absolutely not.  
11:01:28 21 [11:01 a.m.]

11:01:28 22 Q. He was not around?

11:01:29 23 A. No. General Kaleh only came to Rwampara on the first day,  
11:01:34 24 25 March to introduce us to the area. I returned to Rwampara  
11:01:39 25 two days later to carry out the interviews -- more detailed

11:01:42 1 interviews with some of these children since the others were  
11:01:45 2 not there?  
11:01:45 3 [11:01 a.m.]  
11:01:50 4 Q. Do you know that the UPC -- rather, the FPLC, because we  
11:01:54 5 must make the distinction here -- we are before an  
11:02:00 6 International Criminal Court and I think we should use the  
11:02:02 7 right names to indicate whether or not it is a political  
11:02:10 8 army -- a political party or army we are referring to. So, do  
11:02:14 9 you know that the FPLC fought PUSIC and the FNI -- did you  
11:02:19 10 know this?  
11:02:20 11 A. At what time?  
11:02:27 12 Q. Around the beginning of 2002. I don't have an exact  
11:02:33 13 date.  
11:02:33 14 A. Yes, that is possible.  
11:02:34 15 [11:02 a.m.]  
11:02:34 16 Q. Do you not think that this child could have been a member  
11:02:38 17 of PUSIC, for instance?  
11:02:41 18 A. Based on the details he gave us, I don't think so.  
11:02:45 19 Q. You don't think it?  
11:02:47 20 A. I don't believe so.  
11:02:49 21 [11:02 a.m.]  
11:02:49 22 Q. You don't believe so. What language did these children  
11:02:54 23 speak?  
11:02:56 24 A. So far as I remember, the children were speaking Swahili.  
11:02:58 25 [11:02 a.m.]

11:03:00 1 Q. What Swahili?  
11:03:02 2 A. The Ituri Swahili.  
11:03:03 3 [11:03 a.m.]  
11:03:04 4 Q. How many Swahilis are there in Ituri?  
11:03:08 5 A. I don't know. This is Swahili that was easy to  
11:03:11 6 understand by the people who helped me to conduct the  
11:03:16 7 interviews.  
11:03:16 8 [11:03 a.m.]  
11:03:18 9 Q. Who were these people?  
11:03:19 10 A. People who were experienced in child protection.  
11:03:23 11 [11:03 a.m.]  
11:03:24 12 Q. Not translators?  
11:03:25 13 A. Some of them were used to doing translations.  
11:03:30 14 [11:03 a.m.]  
11:03:30 15 Q. Used to doing translations?  
11:03:32 16 A. Were familiar with translation methods.  
11:03:35 17 [11:03 a.m.]  
11:03:35 18 Q. People like you and me?  
11:03:38 19 A. Absolutely not -- not in my case. I am not used -- I am  
11:03:44 20 not used to working as an interpreter.  
11:03:47 21 PRESIDING JUDGE JORDA (interpretation): A deduction by  
11:03:49 22 Mr Flamme. I think that it is because the break is  
11:03:55 23 approaching, which is why you said what you said. For that  
11:03:58 24 reason, we shall take a break now and resume at 11.30.  
11:04:03 25 [11:04 a.m.]

11:04:03 1 [Short adjournment]

11:36:51 2 [11:36 a.m.]

11:36:51 3 THE USHER: All rise.

11:37:14 4 PRESIDING JUDGE JORDA (interpretation): We will now resume.

11:37:19 5 Please can you ask Mr Lubanga Dyilo to enter.

11:37:29 6 [Mr Thomas Lubanga Dyilo entered the courtroom]

11:37:43 7 PRESIDING JUDGE JORDA (interpretation): For the public we

11:37:49 8 are now at the cross-examination phase of the examination of

11:37:56 9 the witness. Could you please ask Mrs Peduto and the observer

11:38:01 10 of the United Nations accompanying her to enter.

11:38:01 11 [11:38 a.m.]

11:38:35 12 [Ms Peduto and Ms Marchi-Uhel entered the courtroom]

11:38:51 13 PRESIDING JUDGE JORDA (interpretation): Please be seated.

11:38:54 14 Mr Flamme, the floor is yours.

11:38:58 15 ME FLAMME (interpretation): Thank you, President, your

11:39:06 16 Honours.

11:39:06 17 PRESIDING JUDGE JORDA (interpretation): The Chamber has

11:39:10 18 authorised Madame Peduto to have a look at her notes and to

11:39:16 19 have them in front of her. I just wanted to inform the

11:39:20 20 parties about this.

11:39:23 21 THE WITNESS (interpretation): Sorry, no, it's not my

11:39:25 22 personal notes, but it's yesterday's transcript.

11:39:28 23 PRESIDING JUDGE JORDA (interpretation): Very well, it's not

11:39:30 24 your notes but your transcript. That's what the court officer

11:39:33 25 said. Thank you for correcting me. Mr Flamme, the floor is

11:39:37 1 yours.

11:39:38 2 ME FLAMME (interpretation): Q. Yes, we were talking about  
11:39:40 3 children -- the children you met during your mission in March  
11:39:45 4 in Bunia, and I would like to go back to paragraph 76 of your  
11:39:54 5 written statement, which I would like to quote. You write  
11:40:11 6 that the Rwampara group was the first group of child soldiers  
11:40:15 7 that you had in-depth contact with in Ituri. You further  
11:40:22 8 state that they came from various places. You say that, in  
11:40:29 9 your view, they were gathered together solely for the purpose  
11:40:33 10 of the meeting with MONUC. So you say they come from  
11:40:37 11 different places. Could you tell us where they came from?

11:40:45 12 A. Their origin -- place of origin? This paragraph doesn't  
11:40:49 13 refer to the military camps they were deployed in, or possibly  
11:40:53 14 deployed in, but their -- where their families come from.  
11:40:53 15 [11:40 a.m.]

11:40:57 16 Q. Very well, that's what I had understood, too. Did they  
11:41:01 17 come from a lot of different places, do you know?

11:41:05 18 A. I think they all came from different places, but the  
11:41:08 19 information concerning this group is in the document that was  
11:41:13 20 shown to the Court earlier on and I believe that the  
11:41:17 21 information was preserved and was not redacted from the  
11:41:26 22 document.  
11:41:26 23 [11:41 a.m.]

11:41:27 24 Q. Do you have a map of -- can you remember what the map of  
11:41:32 25 Ituri looks like?

11:41:33 1 A. Yes.

11:42:08 2 PRESIDING JUDGE JORDA (interpretation): Can we resume?

11:42:16 3 ME FLAMME (interpretation): Q. By memory, would you say

11:42:19 4 that according to the map that you remember the places these

11:42:25 5 children came from were very far away from each other?

11:42:28 6 A. I don't have a very clear memory of this.

11:42:28 7 [11:42 a.m.]

11:42:34 8 Q. Very well. That probably means that the children had

11:42:38 9 different mother tongues.

11:42:41 10 A. They were understood by the people that were accompanying

11:42:44 11 me during the mission.

11:42:44 12 [11:42 a.m.]

11:42:47 13 Q. Swahili-speaking people?

11:42:50 14 A. Yes, I suppose they were.

11:42:50 15 [11:42 a.m.]

11:42:58 16 Q. It's also possible that the Swahili these children spoke

11:43:06 17 differed depending on the place the children came from?

11:43:14 18 A. The language the children spoke could well be different,

11:43:19 19 depending on the child, but the people who translated the

11:43:23 20 interviews I held and that they held did not have difficulty

11:43:30 21 understanding the children.

11:43:30 22 [11:43 a.m.]

11:43:37 23 Q. How do you know this?

11:43:39 24 A. Because we talked after the interviews and, when we

11:43:46 25 looked at the notes, we saw that there was no problem

11:43:52 1 understanding them.

11:43:52 2 [11:43 a.m.]

11:43:54 3 Q. These people told you they had understood the children?

11:43:56 4 A. Yes.

11:43:56 5 [11:43 a.m.]

11:43:58 6 Q. That doesn't mean that they understood them. Had the

11:44:01 7 children understood these people? Are you sure?

11:44:09 8 A. Well, I wasn't in the children's minds at the time, so

11:44:14 9 I can't say for sure that they understood 100 per cent of

11:44:18 10 everything, but the children I met did not show signs of not

11:44:27 11 understanding or signs that they felt ill at ease or didn't

11:44:33 12 understand the language spoken.

11:44:33 13 [11:44 a.m.]

11:44:35 14 Q. The people translating, did they work for the MONUC?

11:44:39 15 A. No.

11:44:39 16 [11:44 a.m.]

11:44:42 17 Q. Who were these people?

11:44:45 18 A. If you may, I would like to refrain from giving details

11:44:50 19 on these people.

11:44:51 20 Q. I'm not asking for names.

11:44:53 21 A. People that knew the contacts of Ituri.

11:44:53 22 [11:44 a.m.]

11:44:58 23 Q. Professionals?

11:44:59 24 A. Yes.

11:44:59 25 [11:45 a.m.]

11:45:01 1 Q. Professionals of which area?

11:45:04 2 A. Of child protection -- humanitarian rights or human  
11:45:10 3 rights.

11:45:12 4 Q. Were there any Alur children?

11:45:15 5 A. I don't think so. If there were Alur children they were  
11:45:18 6 able to speak freely and be understood by the interlocutors.  
11:45:18 7 [11:45 a.m.]

11:45:28 8 Q. You also said that these children had been gathered for  
11:45:32 9 their meeting with the MONUC. Do you mean to say that these  
11:45:41 10 children, before they arrived in the camp, for some of them  
11:45:50 11 had not yet been based in the camp?

11:45:53 12 A. We didn't ask that question directly to the children. At  
11:45:57 13 the time the situation in Bunia was very tense, and we'll come  
11:46:01 14 back to this later probably, but we did not have any signs  
11:46:05 15 according to which the fighting would stop or that the  
11:46:08 16 children could be given to organisations that could take care  
11:46:12 17 of them properly. We did not want to interview the children  
11:46:20 18 too much about the conditions they were in on arriving -- not  
11:46:26 19 to have to get them to say things against the UPC or against  
11:46:31 20 other people who could ask them questions.  
11:46:39 21 [11:46 a.m.]

11:46:44 22 The way -- or our approach was that we thought asking  
11:46:54 23 questions about before they arrived in Rwampara could come  
11:46:58 24 across as being spying, or could have put the children in a  
11:47:04 25 dangerous situation before our departure, and we decided

11:47:08 1 therefore to refrain from that type of question.

11:47:08 2 [11:47 a.m.]

11:47:13 3 Q. But your final remark of paragraph 76 is rather

11:47:19 4 affirmative. You say that they were gathered solely for the

11:47:22 5 purpose of the meeting with MONUC. So maybe the children

11:47:27 6 didn't tell you this, but somebody else could have.

11:47:30 7 A. No, it was just an impression -- my opinion.

11:47:30 8 [11:47 a.m.]

11:47:36 9 Q. An impression well-founded?

11:47:38 10 A. Not based on any fact or particular information. It was

11:47:41 11 just based on the way the children presented the information

11:47:44 12 and on the way the meetings took place.

11:47:44 13 [11:47 a.m.]

11:47:48 14 Q. Could we say that the impression you had overlaps with

11:47:56 15 your other impression that it was on the part -- on behalf of

11:48:06 16 the UPDF a public relations exercise?

11:48:09 17 A. Not really.

11:48:09 18 [11:48 a.m.]

11:48:10 19 Q. Did the UPDF at the time use child soldiers itself?

11:48:16 20 A. I didn't see any at that time of my mission.

11:48:16 21 [11:48 a.m.]

11:48:21 22 Q. Do you have any information on the subject?

11:48:24 23 A. During the mission and my presence in Bunia regarding the

11:48:34 24 UPC -- F troops [as interpreted], no.

11:48:34 25 [11:48 a.m.]

11:48:35 1 Q. You didn't see any?

11:48:36 2 A. No.

11:48:36 3 [11:48 a.m.]

11:48:38 4 Q. Would it be correct to say that the number of armed

11:48:44 5 children had increased a lot since March 2003 -- 6 March 2003?

11:48:55 6 A. You mean in Bunia itself?

11:48:55 7 [11:48 a.m.]

11:48:59 8 Q. Yes, for instance. That's where the fighting took place.

11:49:05 9 A. I wouldn't say dramatically, no.

11:49:05 10 [11:49 a.m.].

11:49:15 11 Q. Didn't the information given to you by MONUC point out to

11:49:18 12 this?

11:49:19 13 A. No, not that I remember.

11:49:19 14 [11:49 a.m.]

11:49:23 15 Q. Wasn't it true that the UPDF, as it had attacked Bunia on

11:49:33 16 6 March 2003, the morning of that day, had not finished with

11:49:39 17 the FPLC and, therefore, to get rid of them totally decided to

11:49:48 18 engage whole families, sometimes of the Lendu population,

11:49:52 19 including women, men, and that is why the FPLC fled because

11:49:59 20 they refused to fight the population?

11:50:03 21 A. No, no, that was not the feedback given to me by MONUC on

11:50:10 22 the events that took place on 6 March. It was common place to

11:50:17 23 see children and testimonies on the children on both sides --

11:50:22 24 Lendu and UPDF -- and it wouldn't be surprising to -- for me

11:50:27 25 for children to be present in both armed forces of the time.

11:50:27 1 [11:50 a.m.]

11:50:34 2 Q. And you say the Lendu were fighting beside the F -- UPDF?

11:50:41 3 A. I don't have any recollection of what was said to me

11:50:48 4 about that day, so I couldn't say so for sure.

11:50:48 5 [11:50 a.m.]

11:50:55 6 Q. At paragraph 89 of your written statement, towards the  
11:51:09 7 middle it is stated that the UPC was in a state of chaos, but  
11:51:19 8 at the same time elsewhere -- and I think that you stated it  
11:51:25 9 in your testimony in chief -- that is, that the UPC soldiers  
11:51:29 10 were present in the town?

11:51:31 11 A. That is true. In addition to the children which I met at  
11:51:35 12 the Rwampara military camp, in Bunia town I had access to  
11:51:41 13 other children who had remained in Bunia and who had been, or  
11:51:49 14 who still were, members of the UPC group, and who had been  
11:51:53 15 gathered together. Those children also gave me accounts of  
11:52:00 16 their recruitment and their military activities within the UPC  
11:52:03 17 group, and those were children who had been members of the  
11:52:13 18 UPC.

11:52:13 19 [11:52 a.m.]

11:52:14 20 Q. How do you know that they were members of the FPLC?

11:52:18 21 A. Through their testimony and through the testimony of  
11:52:20 22 persons who knew those children and who, in some instances,  
11:52:25 23 served as intermediaries between me and the children -- or, to  
11:52:29 24 be more specific, who put me in contact with those children.

11:52:29 25 [11:52 a.m.]

11:52:32 1 Q. How do you know they were telling the truth?

11:52:36 2 A. Through what they said.

11:52:36 3 [11:52 a.m.]

11:52:44 4 Q. UPDF occupied Bunia at that time?

11:52:48 5 A. Yes, but many people did not support the UPDF but

11:52:51 6 remained in the town. The UPDF at that time -- anyway.

11:52:51 7 [11:52 a.m.]

11:53:01 8 Q. Was it not in the interests of the UPDF to make

11:53:06 9 allegations against the UPC?

11:53:10 10 A. It would have been more in their interest to provide

11:53:14 11 information to us which might have been false. However, the

11:53:17 12 children to whom I had access, I did not have access at all to

11:53:25 13 those children through the UPDF, and the UPDF could not have

11:53:30 14 been -- could not have known of my contacts with those

11:53:32 15 children.

11:53:32 16 [11:53 a.m.]

11:53:34 17 Q. I'd like you to be clear. You have said that you were

11:53:38 18 introduced by General Kaleh.

11:53:41 19 A. Yes, in the case of the children in the Rwampara camp,

11:53:46 20 but I had access to other children in the town of Bunia and

11:53:49 21 not at all via the UPDF.

11:53:49 22 [11:53 a.m.]

11:53:53 23 Q. Through who?

11:53:54 24 A. Through other persons -- other persons who had taken on

11:54:00 25 those children.

11:54:00 1 [11:54 a.m.]

11:54:01 2 Q. Civilians?

11:54:02 3 A. Yes.

11:54:02 4 [11:54 a.m.]

11:54:04 5 Q. Who you had met unexpectedly?

11:54:13 6 A. No, through persons with whom we had contact in town.

11:54:18 7 I have notes on my interviews with those children.

11:54:18 8 [11:54 a.m.]

11:54:22 9 Q. Their individual stories?

11:54:24 10 A. Yes.

11:54:24 11 [11:54 a.m.]

11:54:26 12 Q. You say that the person who you refer to as

11:54:29 13 Commander Alex was not at ease when speaking with you and

11:54:35 14 working with you and that he visibly was afraid of reprisals

11:54:41 15 from his superiors. What superiors?

11:54:47 16 A. Persons who apparently -- that is to say, we tried to

11:54:55 17 have more indepth conversations with Commander Alex regarding

11:55:00 18 his situation, regarding the children of Rwampara camp. Other

11:55:03 19 members of our team wanted to know more about his personal

11:55:12 20 situation in Bunia, but he quite explicitly said that he could

11:55:21 21 not speak to us.

11:55:21 22 [11:55 a.m.]

11:55:25 23 Q. Okay.

11:55:27 24 A. Perhaps he spoke with military observers but not with us.

11:55:27 25 [11:55 a.m.]

11:55:32 1 Q. You mentioned the name of one of the commanders under  
11:55:35 2 whom the children served, and I'm speaking now of the children  
11:55:40 3 of Rwampara and, in particular, Chief Kahwa. Do you remember  
11:55:47 4 when Chief Kahwa defected from the FPLC? I think I have  
11:55:53 5 already put this question to you and I think that you answered  
11:55:56 6 "towards the end of 2002" -- I think you said November.  
11:56:02 7 A. End of November, beginning of December 2002.  
11:56:02 8 [11:56 a.m.]  
11:56:05 9 Q. Do you know why Chief Kahwa defected?  
11:56:08 10 A. I'm afraid I don't have a precise recollection as to why.  
11:56:08 11 [11:56 a.m.]  
11:56:12 12 Q. Would it not be because Chief Kahwa did not share  
11:56:19 13 Thomas Lubanga's philosophy, which was to prohibit the  
11:56:23 14 military from taking revenge or attacking civilians, and that  
11:56:27 15 the army must protect civilians?  
11:56:30 16 A. No, I seem to remember dissension regarding -- dissent  
11:56:36 17 regarding alliances with Uganda and Rwanda.  
11:56:41 18 Q. What militia did he found?  
11:56:43 19 A. PUSIC.  
11:56:43 20 [11:56 a.m.]  
11:56:45 21 Q. PUSIC. Did he command Mandro camp?  
11:56:47 22 A. Chief Kahwa is from the Mandro region, and for a long  
11:56:54 23 time he was in charge of the Mandro zone. At one point in  
11:56:59 24 time that went over to UPC control. I believe that in 2003  
11:57:04 25 Mandro returned to PUSIC control.

11:57:04 1 [11:57 a.m.]

11:57:08 2 Q. Mandro returned to the control of PUSIC?

11:57:11 3 A. I can't remember the date exactly, but I seem to remember

11:57:14 4 that this was a zone which was under the control of different

11:57:17 5 groups.

11:57:17 6 [11:57 a.m.]

11:57:18 7 Q. Does that mean that children who might have been at the

11:57:23 8 Mandro camp were children who had been members of PUSIC?

11:57:32 9 A. If we're speaking of March 2003, yes. If we're talking

11:57:36 10 about October 2002, no.

11:57:36 11 [11:57 a.m.]

11:57:42 12 Q. When you arrived, that camp no longer existed. Have

11:57:47 13 I understood rightly?

11:57:48 14 A. Yes.

11:57:48 15 [11:57 a.m.]

11:57:48 16 Q. You met other children in the village of Mandro?

11:57:51 17 A. Yes.

11:57:51 18 [11:57 a.m.]

11:57:58 19 Q. Were those children pointed out to you by General Kaleh?

11:58:04 20 A. No, and unfortunately I did not keep the notes of my

11:58:07 21 discussions with those children. Events immediately following

11:58:12 22 our departure meant, or had as a result that those notes were

11:58:19 23 never archived by me.

11:58:19 24 [11:58 a.m.]

11:58:21 25 Q. That is unfortunate.

11:58:23 1 A. Indeed.

11:58:23 2 [11:58 a.m.]

11:58:27 3 Q. You say that these children were recruited by the  
11:58:29 4 RCD-K/ML, that is to say, RCD Kisangani Mouvement Liberation,  
11:58:36 5 APC -- that is what you said in your testimony in chief -- and  
11:58:44 6 that others had followed the UPC. Now, I have underlined the  
11:58:50 7 term you used -- "followed". Now, can we conclude from this  
11:58:57 8 that these were not recruited children?

11:59:00 9 A. Technically speaking, yes. The children were first  
11:59:07 10 recruited by the first group who enlisted them. When a group  
11:59:13 11 splits and a group retains children within it, then we  
11:59:18 12 consider that that group bears responsibility for the  
11:59:22 13 recruitment of those children within that group -- even if the  
11:59:26 14 children did not leave the group and return to the group. If  
11:59:30 15 the children are not told to go home, but, rather, continue to  
11:59:35 16 be used in one way or another, that is considered a form of  
11:59:38 17 recruitment.

11:59:38 18 [11:59 a.m.]

11:59:47 19 Q. I would like to return to your testimony in chief. The  
12:00:06 20 question put by the Prosecutor was whether the children that  
12:00:09 21 were recruited by the UPC had given you details on the way in  
12:00:13 22 which they were recruited and you answered that, "Yes, some  
12:00:18 23 did, but I do not remember exactly what those children told me  
12:00:22 24 on that day." Do you maintain this?

12:00:30 25 A. No, I cannot make affirmations or turn to notes regarding

12:00:34 1 my conversations with those children.

12:00:34 2 [12:00 p.m.]

12:00:36 3 Q. Did you not consult your notes before coming here?

12:00:40 4 A. Regarding the Mandro episode, I had not kept notes.

12:00:40 5 [12:00 p.m.]

12:00:46 6 Q. And that is right, excuse me. Also in your testimony in

12:00:51 7 chief you said that there were no young children, only

12:00:56 8 children around the ages of 14, 15, 16, 17 and 18 years old.

12:01:02 9 Is that true?

12:01:03 10 A. That is what I remember. That is also what we said to

12:01:08 11 each other, that is to say, that the children were not younger

12:01:16 12 than 14 years, approximately.

12:01:16 13 [12:01 p.m.]

12:01:20 14 Q. That's a bit vague.

12:01:24 15 A. It's the only thing that I recall.

12:01:24 16 [12:01 p.m.]

12:01:32 17 Q. We're speaking of 2003. When you talk of child soldiers,

12:01:42 18 are you basing yourself on the Cape Town principles or the

12:01:45 19 Statute of the Court?

12:01:48 20 A. Cape Town.

12:01:48 21 [12:01 p.m.]

12:01:49 22 Q. Cape Town?

12:01:52 23 A. Our interviews with these children had as -- as it -- had

12:01:59 24 the purpose of facilitating their withdrawal from these

12:02:05 25 groups.

12:02:05 1 [12:02 p.m.]

12:02:06 2 Q. You say that these children were used by -- as bodyguards

12:02:10 3 by UPC commanders. You say that you observed this directly at

12:02:15 4 the time in observing the offices or other buildings used for

12:02:28 5 interviews, or in the camps.

12:02:32 6 PRESIDING JUDGE JORDA (interpretation): Is this in the

12:02:33 7 transcript or in the testimony in chief?

12:02:37 8 ME FLAMME (interpretation): It's in the transcript on

12:02:42 9 page 61.

12:02:42 10 [12:02 p.m.]

12:02:46 11 Q. Where were these buildings?

12:02:51 12 A. Excuse me, I'm trying to recall the period to which I was

12:02:56 13 referring.

12:02:56 14 [12:02 p.m.]

12:02:57 15 Q. I believe it was March 2003, the two weeks spent in

12:03:04 16 Bunia.

12:03:07 17 A. Excuse me if I consult page 61 there -- page 60, there

12:03:19 18 I refer to general documentation regarding the use of child

12:03:22 19 soldiers by the UPC.

12:03:22 20 [12:03 p.m.]

12:03:25 21 Q. You are not referring to a specific period of time?

12:03:29 22 A. No, I'm referring to a systematic process which we noted

12:03:34 23 from March 2003 -- during 2003 and 2004.

12:03:34 24 [12:03 p.m.]

12:03:42 25 Q. So from March 2003?

12:03:44 1 A. Yes.

12:03:44 2 [12:03 p.m.]

12:03:45 3 Q. Where were these buildings?

12:03:47 4 A. The UPC buildings were different.

12:03:47 5 [12:03 p.m.]

12:03:53 6 Q. Let's start off with office 2.

12:03:57 7 A. Office 2 was on the main boulevard, main thoroughfare, of

12:04:05 8 Bunia. There were places of detention on the first road to

12:04:13 9 the right leaving Bunia towards the airport, which were also

12:04:16 10 used for interviewing, and where we also found children who

12:04:20 11 had been -- there were other children or other offices in Saio

12:04:30 12 where we gathered children who were in a very bad state, and

12:04:34 13 I think that further information on this figures in the Human

12:04:38 14 Rights report.

12:04:38 15 [12:04 p.m.]

12:04:39 16 Q. Please tell us of the other places, besides the offices.

12:04:42 17 A. There were the residences, the residence I referred to in

12:04:50 18 Mudzi-Pela district which we visited when we met with

12:04:55 19 Mr Lubanga.

12:04:55 20 [12:04 p.m.].

12:04:56 21 Q. Where in Mudzi-Pela, the residence of who?

12:05:00 22 A. The residence of Mr Lubanga where we met him in mid June.

12:05:00 23 [12:05 p.m.]

12:05:06 24 Q. You're referring to the meeting, but we will speak of

12:05:09 25 that later.

12:05:10 1 A. There was a residence more to the south of the  
12:05:14 2 boulevard -- a residence which was just in front of the office  
12:05:19 3 of the MONUC leader which was used for UPC activities and  
12:05:29 4 where a brigade operation had taken place where children and  
12:05:34 5 adults were arrested -- the children were released, given  
12:05:38 6 their young age -- and there were other places in Bunia.  
12:05:38 7 [12:05 p.m.]  
12:05:50 8 Q. The residence which was on the boulevard?  
12:05:53 9 A. In the south?  
12:05:53 10 [12:05 p.m.]  
12:05:55 11 Q. Yes. Whose residence was it?  
12:05:58 12 A. It was a residence used by one of the UPC commanders and  
12:06:01 13 I was told that it was also used by Mr Lubanga who used  
12:06:04 14 various locations in Bunia. He did not only use one  
12:06:11 15 location -- probably for protection purposes.  
12:06:11 16 [12:06 p.m.]  
12:06:14 17 Q. For interviewing, interrogating also?  
12:06:21 18 A. Now I'm speaking of residences.  
12:06:21 19 [12:06 p.m.]  
12:06:22 20 Q. But you spoke of buildings that were also used for  
12:06:25 21 interrogating and for torture.  
12:06:31 22 A. These buildings were residences.  
12:06:31 23 [12:06 p.m.]  
12:06:33 24 Q. So there were other buildings?  
12:06:36 25 A. Yes.

12:06:36 1 [12:06 p.m.]

12:06:37 2 Q. What other buildings did you see?

12:06:43 3 A. One which was located at the time in a road which was

12:06:46 4 parallel to the central boulevard of Bunia when

12:06:52 5 travelling -- it was the first on the left when travelling to

12:06:54 6 the airport, and the building was located at 120 or 150 metres

12:07:02 7 to the right.

12:07:02 8 [12:07 p.m.]

12:07:03 9 Q. Was that office 2?

12:07:06 10 A. It was used for interrogation. I don't -- it was not

12:07:12 11 office 2. Office 2 was located elsewhere.

12:07:12 12 [12:07 p.m.]

12:07:15 13 Q. Could you describe this building to me?

12:07:17 14 A. The building on the road which was parallel to the main

12:07:20 15 boulevard was a residence. It was a house -- a freestanding

12:07:26 16 house.

12:07:26 17 [12:07 p.m.]

12:07:27 18 Q. Did it bear any markings?

12:07:34 19 A. No, but there was a UPC checkpoint between the road

12:07:40 20 leading to the airport and that residence, and there were

12:07:46 21 uniformed UPC persons on that road to protect the building.

12:07:46 22 [12:07 p.m.]

12:07:55 23 Q. A UPC checkpoint?

12:07:57 24 A. A checkpoint -- well, UPC persons with a guard.

12:07:57 25 [12:08 p.m.]

12:08:03 1 Q. In March?

12:08:04 2 A. No, I'm not referring to March; I'm referring to these  
12:08:10 3 buildings.

12:08:10 4 [12:08 p.m.]

12:08:11 5 Q. So later?

12:08:13 6 A. Yes.

12:08:13 7 [12:08 p.m.]

12:08:14 8 Q. Could you give us the date?

12:08:16 9 A. The exact date? Well, those buildings were used at  
12:08:25 10 different periods in time. I have a specific recollection  
12:08:31 11 regarding the utilisation of the building to the south. That  
12:08:36 12 would have been in autumn when the brigade carried out its  
12:08:40 13 raid on that building. I remember spending a lot of time  
12:08:45 14 trying to retrieve a 14-year-old child from that residence,  
12:08:50 15 which was on a road parallel to the boulevard, and that would  
12:08:55 16 have been before or after the summer.

12:08:55 17 [12:08 p.m.]

12:09:03 18 Q. Do you mean to say, Madame, that while the MONUC and the  
12:09:11 19 Artemis forces, which were substantial international forces,  
12:09:14 20 were in Bunia, UPC was torturing people in the houses?

12:09:21 21 A. Absolutely.

12:09:21 22 [12:09 p.m.]

12:09:22 23 Q. Did you see that?

12:09:24 24 A. No, but we received numerous accounts in June -- myself  
12:09:30 25 and my human rights colleagues -- the abuses of the UPC

12:09:34 1 militiamen did not stop while the MONUC and the international  
12:09:39 2 force were in position, unfortunately, to our great  
12:09:44 3 disappointment.

12:09:44 4 [12:09 p.m.]

12:09:46 5 Q. Did Artemis do nothing?

12:09:50 6 A. The disarmament operations took place in certain places,  
12:09:56 7 in certain market places, yes, there were search operations,  
12:10:01 8 but, as you may know -- excuse me -- these places were  
12:10:08 9 difficult to control, particularly at night. And there was  
12:10:10 10 gunfire; people would be killed at night. Artemis might have  
12:10:17 11 seen to be composed of a large number on paper, but they were  
12:10:21 12 not in a position to have control of the town by day or by  
12:10:26 13 night.

12:10:26 14 [12:10 p.m.]

12:10:28 15 Q. In the town centre?

12:10:29 16 A. Yes, absolutely.

12:10:29 17 [12:10 p.m.]

12:10:37 18 Q. And yet what was said in the reports in the press was  
12:10:42 19 that Artemis was controlling at least the town of Bunia and  
12:10:48 20 doing so well?

12:10:50 21 A. Not completely.

12:10:50 22 [12:10 p.m.]

12:10:51 23 Q. That is not your opinion?

12:10:54 24 A. Not completely. Of course there were many more acts of  
12:10:59 25 violence before the arrival of the international force, and it

12:11:02 1 is true that the international force brought some semblance of  
12:11:06 2 order to Bunia, but it did not mean that all acts of violence  
12:11:10 3 against Bunia were cancelled out.

12:11:10 4 [12:11 p.m.]

12:11:13 5 Q. In your evidence-in-chief you told us about senior  
12:11:18 6 members of the UPC moving about. Where did you see that; whom  
12:11:26 7 did you see?

12:11:27 8 A. Excuse me?

12:11:27 9 [12:11 p.m.]

12:11:30 10 Q. I'm sorry, which highly placed members of the UPC did you  
12:11:33 11 see? Could you mention names at this point?

12:11:37 12 A. At what time?

12:11:37 13 [12:11 p.m.]

12:11:39 14 Q. Look, I don't know; you tell me. You say this in your  
12:11:42 15 evidence-in-chief.

12:11:45 16 A. Well, yes, yes, I did see some members of the UPC at  
12:11:49 17 various times. I don't know whether you are referring to a  
12:11:52 18 particular period.

12:11:52 19 [12:11 p.m.]

12:11:53 20 Q. It is up to you to tell us, Madame.

12:11:56 21 A. I met some during the meetings with the armed groups,  
12:12:04 22 heads of various militias that had commanders like Kisémbó,  
12:12:12 23 Rafiki, Bosco, Lobo. At various times I talked with Commander  
12:12:19 24 Kisémbó on some particular violations. I also met them in the  
12:12:26 25 street and I met them in public and, in particular, during

12:12:29 1 these meetings organised under the aegis of MONUC.

12:12:29 2 [12:12 p.m.]

12:12:34 3 Q. Until what date did you stay in MONUC, in Bunia?

12:12:41 4 A. End of 2004.

12:12:41 5 [12:12 p.m.]

12:12:42 6 Q. End of 2004. So you returned to Rwampara in 2002 and you

12:12:47 7 only found one of the children? This is page -- paragraph 80

12:12:52 8 of your written statement. Where were the others?

12:13:16 9 A. I'm referring to 12 children here, I'm sorry.

12:13:16 10 [12:13 p.m.]

12:13:23 11 Q. Towards the end.

12:13:29 12 A. Oh, yes, sorry. Afterwards we were only able to meet one

12:13:33 13 of these children after the March period. Okay, I'll start

12:13:38 14 again. After this March period I only saw one of the

12:13:47 15 children, and that was in MONUC.

12:13:47 16 [12:13 p.m.]

12:13:53 17 Q. Why is it that no NGO organised care for any of these

12:14:01 18 children?

12:14:01 19 A. Because of the fighting that soon overwhelmed the town.

12:14:01 20 [12:14 p.m.]

12:14:05 21 Q. After 6 March 2003, were there still -- was there still

12:14:09 22 fighting in town?

12:14:09 23 A. Yes, there was still fighting.

12:14:09 24 [12:14 p.m.]

12:14:12 25 Q. Were you in the fighting?

12:14:15 1 A. No.

12:14:15 2 [12:14 p.m.]

12:14:18 3 Q. You were in the fighting?

12:14:20 4 A. I am referring to the period that followed.

12:14:20 5 [12:14 p.m.]

12:14:23 6 Q. No, I am referring to your return to Rwampara on 27 March

12:14:27 7 2003.

12:14:29 8 A. 27 March 2003 was when we were able to talk with these

12:14:34 9 children individually. On the 25th, when I went there for the

12:14:37 10 first time, I was there with General Kaleh and that is when

12:14:42 11 the children gave me the first details for their

12:14:44 12 identification. That is when they were gathered giving me

12:14:48 13 their names and ages. When I returned there in the company of

12:14:52 14 other people on 27 March, that is when we carried out

12:14:57 15 individual interviews with 12 of the children, because the

12:15:02 16 others whom I had identified beforehand were no longer there.

12:15:02 17 [12:15 p.m.]

12:15:08 18 Q. In two days most of the children had disappeared?

12:15:12 19 A. We were told at that time that the children had gone to

12:15:16 20 fetch wood or were absent for various reasons.

12:15:16 21 [12:15 p.m.]

12:15:19 22 Q. You did not put further questions?

12:15:23 23 A. We found -- we put questions but we did not get other

12:15:27 24 answers. Those were the answers we got.

12:15:27 25 [12:15 p.m.]

12:15:29 1 Q. Did you try to contact other NGOs to help find the  
12:15:32 2 children?  
12:15:35 3 A. They were there with me.  
12:15:35 4 [12:15 p.m.]  
12:15:36 5 Q. And they did nothing?  
12:15:39 6 A. They were there; they certainly tried to find them.  
12:15:39 7 [12:15 p.m.]  
12:15:44 8 Q. What happened to the other children?  
12:15:47 9 A. There was -- the child that I referred to in the last  
12:15:52 10 paragraph of -- line of paragraph 80 is a child who was  
12:15:57 11 amongst the 12 whom I had the opportunity to see subsequently  
12:16:00 12 in MONUC, but a lot later.  
12:16:00 13 [12:16 p.m.]  
12:16:05 14 Q. So what happened to the 12 children?  
12:16:08 15 A. Nothing was done for them.  
12:16:08 16 [12:16 p.m.]  
12:16:10 17 Q. So what did you advise?  
12:16:14 18 A. There were major negotiations which had already been  
12:16:16 19 started, especially around Kinshasa, in order to mobilise  
12:16:21 20 funds and the international community to provide some response  
12:16:25 21 for these children in Ituri. If other programmes were set up  
12:16:30 22 in Kivu, in particular, where the security situation was a lot  
12:16:35 23 calmer in some areas than -- calmer than Ituri, the  
12:16:42 24 international NGO representatives were -- were not prepared to  
12:16:48 25 take the risk of sending teams to develop such programmes,

12:16:53 1 especially one including expatriates and, furthermore, for  
12:16:58 2 various reasons, where one of them was risk, the other one was  
12:17:04 3 the lack of funds to fund aid programmes.

12:17:04 4 [12:17 p.m.]

12:17:09 5 Q. The lack of funds. You were going out into the field to  
12:17:14 6 investigate child protection and child soldiers, and you say  
12:17:18 7 that there were no funds to bring solutions to the problems  
12:17:21 8 you identified?

12:17:23 9 A. This is one of the problems we had in Ituri. We had to  
12:17:27 10 mobilise actors who were interested in real effective  
12:17:32 11 protection for children associated with armed groups. Ituri  
12:17:36 12 was extremely dangerous at that time. Expatriates were being  
12:17:40 13 expelled -- not expatriates but members of non-governmental  
12:17:44 14 organisations and humanitarian organisations. NGO members  
12:17:51 15 were being directly threatened, human rights violations were  
12:17:59 16 legion, and we tried to mobilise anyone who could provide  
12:18:07 17 solutions at that time, and at that time we had no immediate  
12:18:10 18 response. The response came subsequently. Obviously it was  
12:18:13 19 too late and there was not enough of it. Well, obviously it's  
12:18:20 20 always too late.

12:18:20 21 [12:18 p.m.]

12:18:20 22 Q. Always too late?

12:18:23 23 A. When a child is used by an armed group, it is already too  
12:18:26 24 late.

12:18:29 25 PRESIDING JUDGE JORDA (interpretation): Mr Flamme, I think

12:18:32 1 you are going beyond the scope of questions. This is your  
12:18:35 2 opinion, I respect it, but the Chamber would like to remind  
12:18:38 3 you that you should put questions and expect answers from  
12:18:42 4 them. You may make observations of that type later, if you  
12:18:48 5 wish.

12:18:50 6 ME FLAMME (interpretation): I understand this, Mr President,  
12:18:52 7 and I thank you.

12:18:52 8 [12:18 p.m.]

12:18:55 9 Q. I shall now go back somewhat to the very extensive Save  
12:19:04 10 the Children programme, for example, in Kivu, which was a  
12:19:07 11 programme that had been going on for a long time, and which  
12:19:10 12 apparently had funds, because Kivu wasn't dangerous, was it?

12:19:19 13 A. Where Save the Children was active, the place -- the  
12:19:23 14 areas were safe, and from what I know Save the Children had  
12:19:28 15 developed fairly long-term working relationships and had  
12:19:35 16 reached agreements, and relationships were developed. So the  
12:19:41 17 groups who -- which were there were able to guarantee them  
12:19:47 18 some safety. I'm not of course speaking on behalf of Save the  
12:19:50 19 Children, which is best placed to explain how they worked in  
12:19:55 20 Kivu. The same organisation had not set up its programmes in  
12:20:01 21 Ituri, for probably very good reasons.

12:20:01 22 [12:20 p.m.]

12:20:08 23 Q. You say in paragraph 85 of your statement that the  
12:20:14 24 children who were found in Rwampara came from everywhere, and  
12:20:19 25 that there were no traces of any organised recruitment

12:20:23 1 methods. You also say that the places where they went to  
12:20:30 2 after being taken were sort of very -- Spanish inns, as it  
12:20:41 3 were.

12:20:43 4 A. In the sense that these were not organised methods, I'm  
12:20:48 5 referring here to the fact that these children did not -- were  
12:20:54 6 not taken in -- or did not indicate a particular method by  
12:20:58 7 which they came into contact with armed groups, or did not  
12:21:03 8 mention a single method by which they got to their first  
12:21:13 9 training camps. They were picked up in the streets, and in  
12:21:16 10 the case of that group I think they went directly to camps.  
12:21:24 11 This was not a method of association which could be described  
12:21:28 12 as being homogenous or identical.

12:21:28 13 [12:21 p.m.]

12:21:33 14 Q. What do you mean by "Spanish inn"?

12:21:38 15 A. That the way in which they were taken in and the places  
12:21:42 16 where they were taken in were fairly diverse. I do not think  
12:21:51 17 that, looking at my notes, that the children were taken out --  
12:21:57 18 taken to various camps, or went there themselves. I think  
12:22:02 19 they had various kinds of training in Rwampara and Mandro, and  
12:22:06 20 there was much testimony -- shows that these camps were  
12:22:13 21 specialised in training new recruits, but the children were  
12:22:18 22 also taken to camps which were not, to my knowledge, training  
12:22:21 23 camps.

12:22:27 24 PRESIDING JUDGE JORDA (interpretation): You will agree,  
12:22:29 25 since we are the same nationality, this is a French expression

12:22:33 1 which is somewhat pejorative, and it is a good thing that you  
12:22:37 2 put it in inverted commas, because in an international court  
12:22:43 3 there are representatives of all nationalities, and a Spanish  
12:22:47 4 inn is somewhat pejorative. How do you feel about this, or  
12:22:55 5 did you mean what you have just said now, or did you  
12:22:59 6 mean "varied"?

12:23:00 7 THE WITNESS (interpretation): Absolutely. There is no aim  
12:23:04 8 at being pejorative in this case.

12:23:08 9 PRESIDING JUDGE JORDA (interpretation): I will refer you to  
12:23:10 10 the dictionary to find out what a Spanish inn is.

12:23:17 11 ME FLAMME (interpretation): Thank you, Mr President, for  
12:23:18 12 this clarification, which proves once more that we do always  
12:23:21 13 need a President at a Court, especially in this case.

12:23:21 14 [12:23 p.m.]

12:23:33 15 Q. In your examination-in-chief, witness, you mentioned a  
12:23:36 16 child who was taken in a vehicle where Thomas Lubanga was  
12:23:39 17 present.

12:23:39 18 A. That is correct.

12:23:39 19 [12:23 p.m.]

12:23:41 20 Q. What vehicle? This is on page 68 of the transcript.

12:23:57 21 What vehicle?

12:23:57 22 A. I think this was a pick-up -- I think so.

12:23:57 23 [12:24 p.m.]

12:24:04 24 Q. Four-wheel drive pick-up?

12:24:06 25 A. Yes, a pick-up.

12:24:06 1 [12:24 p.m.]

12:24:08 2 Q. With an open rear, that's what you referred to as a

12:24:13 3 pick-up?

12:24:14 4 A. If I remember correctly, yes.

12:24:14 5 [12:24 p.m.]

12:24:17 6 Q. Where was Thomas Lubanga?

12:24:19 7 A. Perhaps inside the pick-up, but I'm not certain of that.

12:24:19 8 [12:24 p.m.]

12:24:22 9 Q. You said that there were six other soldiers. Where were

12:24:25 10 they?

12:24:26 11 A. Behind the rear part of the pick-up.

12:24:26 12 [12:24 p.m.]

12:24:29 13 Q. Was Thomas Lubanga driving?

12:24:31 14 A. I do not know.

12:24:31 15 [12:24 p.m.]

12:24:33 16 Q. What date was that when -- what time was it, around what

12:24:39 17 time?

12:24:44 18 A. I have to consult the notes of the interview.

12:24:44 19 [12:24 p.m.]

12:24:48 20 Q. It is obviously important.

12:24:49 21 PRESIDING JUDGE JORDA (interpretation): Ms Peduto, I'm going

12:24:51 22 to ask you to be focused. This question is obviously indeed

12:24:57 23 important for the Defence, and since this is a reference to

12:25:02 24 your examination-in-chief, I would like you to be precise.

12:25:06 25 Perhaps you might try to do so this afternoon.

12:25:12 1 Ms Marchi-Uhel, do you think that there is any problem with  
12:25:15 2 providing an answer to this question?  
12:25:16 3 MS MARCHI-UHEL (interpretation): Not at all, Mr President.  
12:25:20 4 ME FLAMME (interpretation): Perhaps I shall put the question  
12:25:22 5 this afternoon.  
12:25:23 6 PRESIDING JUDGE JORDA (interpretation): Quite so.  
12:25:27 7 ME FLAMME (interpretation): Q. The children whom you  
12:25:28 8 mention in page 6 of the document "Individual Histories" were  
12:25:31 9 taken to Mandro camp. Was this camp not under the control of  
12:25:43 10 Chief Kahwa?  
12:25:48 11 A. At one point it came under the control of Chief Kahwa,  
12:25:52 12 that is true.  
12:25:52 13 [12:25 p.m.]  
12:25:53 14 Q. When were these children taken there, do you know? If  
12:26:01 15 you wish, I shall put the question to you again this  
12:26:05 16 afternoon, if you wish to consult your notes, because the  
12:26:07 17 individual histories I'm afraid I don't have here with me.  
12:26:11 18 A. I have them here if the President will grant me leave to  
12:26:15 19 consult them.  
12:26:17 20 PRESIDING JUDGE JORDA (interpretation): Take your time.  
12:26:21 21 We're not going to postpone everything to this afternoon. The  
12:26:24 22 first question was important, but of course this one about  
12:26:28 23 checking individual histories is perhaps less so.  
12:26:32 24 ME FLAMME (interpretation): All right, Mr President.  
12:26:46 25 THE WITNESS (interpretation): Excuse me. Now, regarding

12:26:57 1 the question pertaining the enlistment which mentions the  
12:27:01 2 presence of Thomas Lubanga, it is February 2003.  
12:27:06 3 ME FLAMME (interpretation): Q. I am referring to the  
12:27:07 4 children mentioned on page 6 of the "Individual Histories"  
12:27:11 5 document -- the children taken to the Mandro camp?  
12:27:15 6 A. I'm sorry, this is the answer to your last question,  
12:27:21 7 which answer is found in this document, too. The child said  
12:27:27 8 he was recruited in February 2003 around Mongbwalu. That is  
12:27:33 9 number 20 on page 4 of the French.  
12:27:33 10 [12:27 p.m.]  
12:27:37 11 Q. Where did the child come from?  
12:27:40 12 A. From Mongbwalu. He was visiting his family in Mongbwalu.  
12:27:40 13 [12:27 p.m.]  
12:27:49 14 Q. In what language did you speak to him.  
12:28:04 15 THE ENGLISH INTERPRETER: I'm afraid the witness is not  
12:28:05 16 speaking into the microphone.  
12:28:09 17 THE WITNESS (interpretation): I shall have the same answer  
12:28:11 18 I gave in regard to the interviews that were conducted with  
12:28:14 19 the assistance of Congolese colleagues.  
12:28:18 20 ME FLAMME (interpretation): Q. How old was this child?  
12:28:24 21 A. The child was 14 years old at the time of the interview.  
12:28:24 22 [12:28 p.m.]  
12:28:27 23 Q. How did you know this?  
12:28:29 24 A. Based on the information that he gave us during the  
12:28:31 25 interview.

12:28:31 1 [12:28 p.m.]

12:28:33 2 Q. Did he give you his age?

12:28:35 3 A. Yes.

12:28:35 4 [12:28 p.m.]

12:28:37 5 Q. Did you believe him?

12:28:38 6 A. Yes.

12:28:38 7 [12:28 p.m.]

12:28:43 8 Q. How could you -- could he know that he was in the

12:28:47 9 presence of Thomas Lubanga?

12:28:53 10 A. Mr Lubanga is someone who is well known. It is possible

12:28:56 11 that the child received this information at the time of his

12:28:59 12 recruitment.

12:28:59 13 [12:29 p.m.]

12:29:04 14 Q. "Known", you say. This child was watching TV and he saw

12:29:09 15 Thomas Lubanga on TV?

12:29:10 16 A. No.

12:29:10 17 [12:29 p.m.]

12:29:12 18 Q. No?

12:29:14 19 A. No. Excuse me, I don't know.

12:29:14 20 [12:29 p.m.]

12:29:24 21 Q. I shall move on to the next question of the "Individual

12:29:27 22 Histories", page 6, that is, children who were taken to Mandro

12:29:32 23 camp. I asked you when these children were taken there.

12:30:05 24 A. Based on the notes taken at the interview, it would have

12:30:09 25 been July or August. The child mentions he was recruited

12:30:18 1 in July 2002, and mentions in Mahagi.

12:30:18 2 [12:30 p.m.]

12:30:30 3 Q. Where is Mahagi?

12:30:32 4 A. Mahagi is in the north and two, three in Aru. So

12:30:40 5 I believe it's the following period. I don't have precise

12:30:42 6 details on his recruitment, but I believe it was the beginning

12:30:45 7 or end of July -- the child wasn't precise.

12:30:45 8 [12:30 p.m.]

12:30:49 9 Q. 2002?

12:30:50 10 A. Yes, 2002.

12:30:50 11 [12:30 p.m.]

12:30:51 12 Q. Which ethnic origin was he from?

12:30:54 13 A. I did not take note of it.

12:30:54 14 [12:30 p.m.]

12:31:09 15 Q. How did you know how old they were?

12:31:13 16 A. Based on what the child said to me.

12:31:13 17 [12:31 p.m.]

12:31:15 18 Q. You believed the child?

12:31:18 19 A. Yes. This child told me he was aged 17. He had been to

12:31:26 20 school, and I did not put any questions in my notes about his

12:31:36 21 age, because I think his physical appearance as well as my

12:31:41 22 colleague's opinion all indicated that there was no need to

12:31:48 23 question the truth of this information.

12:31:48 24 [12:31 p.m.]

12:31:49 25 Q. 17 years old. You say on page 6 of "Individual Stories"

12:31:55 1 that you gave one child to a former soldier. Why?

12:32:01 2 A. These children had sheltered at this former soldier's  
12:32:05 3 place. He was a former soldier of Mobutu's army. He was an  
12:32:13 4 older man, and the information we had about this person  
12:32:18 5 indicated that he was a respectable person who wasn't involved  
12:32:25 6 in the fighting or unrest in Ituri and, moreover, there was no  
12:32:33 7 other possibility or demobilisation plans established in Ituri  
12:32:40 8 at the time, and it appeared to us that this was the only  
12:32:44 9 alternative we could offer the children at the time, and this  
12:32:48 10 man did not appear to threaten or endanger the children  
12:32:54 11 whatsoever.

12:32:54 12 [12:32 p.m.]

12:32:55 13 Q. You didn't think it would be useful to give the children  
12:32:58 14 to NGOs?

12:32:59 15 A. The NGOs didn't at the time have the means to take in  
12:33:03 16 these children.

12:33:03 17 [12:33 p.m.]

12:33:07 18 Q. Very well. We'll come back to this later on at the end  
12:33:10 19 of the examination. You say in your examination -- your  
12:33:16 20 testimony in chief that all the documents were made in  
12:33:21 21 Rwampara.

12:33:23 22 A. No, some in Bunia, too.

12:33:23 23 [12:33 p.m.]

12:33:29 24 Q. The final report of this special investigating team of  
12:33:33 25 MONUC is about this mission dating back to March 2003; do you

12:33:43 1 agree?

12:33:44 2 A. Sorry, several documents were shown to the Court about  
12:33:48 3 the events of 2002/2003.

12:34:00 4 PRESIDING JUDGE JORDA (interpretation): Please take your  
12:34:01 5 time. This is a very precise question. Take your time. And,  
12:34:10 6 Mr Flamme, are you sure you are asking the right question?

12:34:14 7 ME FLAMME (interpretation): Yes. There's no secret about  
12:34:16 8 it; it's page 71 of the transcript.

12:34:24 9 Q. Mr Withopf, if I recall correctly, presented the document  
12:34:34 10 and in the document you say that the report had already been  
12:34:38 11 mentioned -- oh, I beg your pardon, that was the Prosecutor's  
12:34:44 12 question to the -- he says it's a report of the special  
12:34:48 13 investigating team of MONUC that went to Ituri in March 2003,  
12:34:52 14 so the answer is already here.

12:34:55 15 [12:34 p.m.]

12:34:56 16 Do you confirm this information?

12:34:59 17 A. That the MONUC produced a report on these investigations?  
12:35:07 18 Yes.

12:35:07 19 [12:35 p.m.]

12:35:13 20 Q. Yes. Okay, that was my question. Can we assume that the  
12:35:16 21 children mentioned in the report came from all the different  
12:35:24 22 parts of Ituri?

12:35:32 23 A. They did not come from a single area, no.

12:35:32 24 [12:35 p.m.]

12:35:40 25 Q. Were all the children interviewed in the same Swahili you

12:35:47 1 spoke about?

12:35:49 2 A. They spoke in a language that their Congolese  
12:35:54 3 interlocutors understood.

12:35:56 4 Q. They spoke in a language they understood, but my question  
12:35:59 5 is more precise. You talked about Swahili-speaking people  
12:36:03 6 with you -- who were with you. Did you speak to these  
12:36:07 7 children in a different language, or was it always the same  
12:36:10 8 person interviewing them?

12:36:12 9 A. No, different people interviewed them, and I do not  
12:36:15 10 remember speaking French with any of them.

12:36:15 11 [12:36 p.m.]

12:36:19 12 Q. Because they didn't know him?

12:36:28 13 A. I don't remember speaking French.

12:36:28 14 [12:36 p.m.]

12:36:30 15 Q. But didn't the children speak French?

12:36:32 16 A. I think that it was easier for them to speak Swahili.

12:36:32 17 [12:36 p.m.]

12:36:36 18 Q. However, French is widespread in the Congo.

12:36:42 19 A. At times I spoke French with some of the children. In  
12:36:49 20 the other individual stories that I collected later on --  
12:36:54 21 I think I had 187 of these stories in July 2003 -- I don't  
12:37:03 22 remember speaking French with any of the children during the  
12:37:09 23 investigation.

12:37:09 24 [12:37 p.m.]

12:37:11 25 Q. Would it have been easier for you, Madame, if you had

12:37:15 1 spoken French?

12:37:18 2 A. Yes. However, when you talk to people who are used to  
12:37:26 3 translating, normally this doesn't cause a problem.

12:37:29 4 Q. Very well. You talked about the chief of a collectivity  
12:37:34 5 called Muganyi -- where was this place -- where is -- where  
12:37:42 6 was Muganyi situated?

12:37:47 7 A. No, that's the name of the man.

12:37:47 8 [12:37 p.m.]

12:37:50 9 Q. Oh, okay, but which collectivity was -- did this happen  
12:37:54 10 in?

12:37:56 11 A. I believe it was Bogoro.

12:37:56 12 [12:38 p.m.]

12:38:01 13 Q. Do you know that this man never was the chief of a  
12:38:04 14 collectivity, but that the chief was Mr Kitembo Bitamara and  
12:38:15 15 he was replaced in the interim by Mr Deo Gracias Rosoke?

12:38:21 16 A. On Bogoro -- in Bogoro? Maybe he had come.

12:38:21 17 [12:38 p.m.]

12:38:28 18 Q. In your testimony in chief you called about public calls  
12:38:35 19 for recruitment by Thomas Lubanga; is that correct?

12:38:38 20 A. I talked about messages that came from Mr Lubanga and his  
12:38:43 21 hierarchy and this had been reported to me by several people  
12:38:47 22 who spoke about a message that had been reproduced and  
12:38:54 23 repeated concerning the contribution of children or cows to  
12:39:03 24 the efforts of the time.

12:39:03 25 [12:39 p.m.]

12:39:08 1 Q. Were they written messages?

12:39:11 2 A. I was told about oral -- spoken messages.

12:39:11 3 [12:39 p.m.]

12:39:15 4 Q. You didn't hear them yourself?

12:39:16 5 A. No.

12:39:16 6 [12:39 p.m.]

12:39:17 7 Q. Who did you hear this from?

12:39:19 8 A. Several informers, adults.

12:39:19 9 [12:39 p.m.]

12:39:23 10 Q. Civilians, military people?

12:39:28 11 A. I heard the information from civilians, but the message

12:39:32 12 was also given to me by military observers. I don't know what

12:39:36 13 their sources were, however.

12:39:36 14 [12:39 p.m.]

12:39:38 15 Q. Did you believe the message?

12:39:41 16 A. Different people from different backgrounds and different

12:39:44 17 groups told me the same thing.

12:39:44 18 [12:39 p.m.]

12:39:47 19 Q. Did you check whether or not these -- it was in these

12:39:50 20 people's interests to accuse Mr Lubanga?

12:39:53 21 A. Well, they were from such a variety of different groups

12:39:58 22 that didn't have any particular affiliation.

12:39:58 23 [12:40 p.m.]

12:40:04 24 Q. How did you know this?

12:40:06 25 A. People who were in contact with the MONUC quite

12:40:09 1 regularly.

12:40:09 2 [12:40 p.m.]

12:40:10 3 Q. MONUC informers?

12:40:11 4 A. No, not necessarily MONUC informers, but people who we

12:40:15 5 were in touch with.

12:40:15 6 [12:40 p.m.].

12:40:19 7 Q. Didn't you say "informers"?

12:40:20 8 A. Yes, I did say "informers". They were people who gave us

12:40:23 9 information, and through whom we obtained our information.

12:40:23 10 [12:40 p.m.]

12:40:28 11 Q. People who regularly worked for MONUC?

12:40:30 12 A. No, they didn't work for MONUC.

12:40:30 13 [12:40 p.m.]

12:40:32 14 Q. I mean --

12:40:34 15 A. No, people whom we were in touch with and through which

12:40:37 16 the MONUC received information.

12:40:37 17 [12:40 p.m.]

12:40:40 18 Q. When did the information about this -- these calls by

12:40:47 19 Thomas Lubanga get to you?

12:40:50 20 A. The messages were given to me on the occasion of my first

12:40:54 21 mission in Bunia.

12:40:54 22 [12:40 p.m.]

12:40:56 23 Q. In March 2003?

12:40:58 24 A. No, in September 2002.

12:40:58 25 [12:41 p.m.]

12:41:03 1 Q. Oh, in September 2002. You said that in the course of  
12:41:21 2 2003 there were a lot less reports of calls for recruitment,  
12:41:32 3 or that you were not aware?  
12:41:34 4 Yes, that I was not given specific information on the subject.  
12:41:34 5 [12:41 p.m.]  
12:41:44 6 Q. So calls for recruitment diminished in numbers?  
12:41:49 7 A. It could just be that I didn't receive the information.  
12:41:49 8 [12:41 p.m.]  
12:41:53 9 Q. That would have been rather strange.  
12:41:55 10 A. Yes, it would have been rather strange, but it's  
12:41:57 11 possible. I can't say that there weren't any calls for  
12:42:00 12 recruitment in the year of 2003.  
12:42:00 13 [12:42 p.m.]  
12:42:03 14 Q. You have told us you were well informed.  
12:42:07 15 A. Well, not extensively.  
12:42:07 16 [12:42 p.m.]  
12:42:14 17 Q. You had available information from the militaries of the  
12:42:19 18 MONUC?  
12:42:20 19 A. Yes, some information, but it didn't cover the whole of  
12:42:23 20 the events that were unfolding on the territory.  
12:42:23 21 [12:42 p.m.]  
12:42:26 22 Q. You also said that it was a watchword by a lot of people  
12:42:39 23 controlled mainly by the UPC. Are you -- are you trying to  
12:42:48 24 say that it wasn't a public call?  
12:42:56 25 A. These were watchwords that were known by the population.

12:43:03 1 The watchwords were spoken at the -- in public meetings. I  
12:43:09 2 don't know whether they were broadcast or not.  
12:43:09 3 [12:43 p.m.]  
12:43:13 4 Q. Who was Mr Tinanzabo?  
12:43:20 5 A. Well, you pointed out to me that he was --  
12:43:26 6 Q. Minister for Pacification. Did you manage to crosscheck  
12:43:30 7 it?  
12:43:30 8 A. No, I didn't crosscheck it.  
12:43:30 9 [12:43 p.m.]  
12:43:32 10 Q. Did you know that there was a ministry for pacification  
12:43:35 11 in Lubanga's government?  
12:43:39 12 A. Well, you had mentioned this information to me  
12:43:43 13 in September 2002. At the time I didn't know, because it's  
12:43:48 14 not one of the ministries we were in touch with.  
12:43:48 15 [12:43 p.m.]  
12:43:52 16 Q. Weren't you interested in this?  
12:43:53 17 A. It's not that I wasn't interested in it, but I think my  
12:43:56 18 colleagues from political affairs will have a lot more  
12:43:59 19 information on this.  
12:43:59 20 [12:44 p.m.]  
12:44:01 21 Q. We'll come back to this this afternoon briefly, if you  
12:44:04 22 may, my President. This Mr Tinanzabo, you said he was  
12:44:12 23 somebody who made public calls. Did he call for the  
12:44:15 24 recruitment of Hema?  
12:44:20 25 A. I think, yes, it's in that context I mentioned his name.

12:44:20 1 [12:44 p.m.]

12:44:24 2 Q. Which ethnic group did he belong to?

12:44:26 3 A. I do not know.

12:44:26 4 [12:44 p.m.]

12:44:27 5 Q. Would you be surprised to hear that Mr Tinanzabo is a

12:44:30 6 Bira?

12:44:31 7 A. That wouldn't surprise me, because I know that the people

12:44:36 8 replacing Mr Lubanga in 2002 -- that the government was formed

12:44:42 9 of people who weren't only Hema, and some of the non-Hema did

12:44:49 10 not always voluntary want to belong to the government. So,

12:44:53 11 no, this wouldn't surprise me.

12:44:53 12 [12:44 p.m.]

12:44:55 13 Q. Do you believe it would be credible to say that Hemas

12:45:04 14 were -- would listen to a Bira that called upon them to be

12:45:12 15 enlisted?

12:45:13 16 A. No, I don't think so.

12:45:13 17 [12:45 p.m.]

12:45:15 18 Q. Who is Sonia Bakar?

12:45:18 19 A. A colleague from the MONUC.

12:45:18 20 [12:45 p.m.]

12:45:20 21 Q. Did you work with her?

12:45:21 22 A. Yes.

12:45:21 23 [12:45 p.m.]

12:45:22 24 Q. You mentioned her in your testimony in chief, and you

12:45:27 25 said she collaborated with you on one report?

12:45:31 1 A. Yes, because her name is on the report.

12:45:31 2 [12:45 p.m.]

12:45:35 3 Q. You know her very well -- she's a colleague?

12:45:38 4 A. Yes.

12:45:38 5 [12:45 p.m.]

12:45:41 6 Q. She's a colleague, you worked together?

12:45:43 7 A. We worked together.

12:45:43 8 [12:45 p.m.]

12:45:44 9 Q. So you exchanged information, you talked among yourselves

12:45:48 10 of Ituri?

12:45:50 11 A. Yes.

12:45:50 12 [12:45 p.m.]

12:45:56 13 Q. Are you aware of accusations of abductions and massacres

12:46:00 14 of people around June 2003 reported by the MONUC?

12:46:04 15 A. The event happened -- that happened in June 2003? Yes.

12:46:04 16 [12:46 p.m.]

12:46:10 17 Q. Do you know that the UPC, as well as the MONUC delegation

12:46:14 18 including Madame Sonia Bakar, visited all the people of which

12:46:24 19 the MONUC said they had been abducted or killed, and that this

12:46:32 20 delegation found all these people in their residences alive?

12:46:45 21 A. You are referring to one event -- in connection with one

12:46:48 22 event we received numerous allegations regarding the death or

12:46:52 23 abduction or disappearance of a number of people, and that was

12:46:55 24 in June 2003 -- members of various groups who had been

12:47:00 25 targeted by the UPC -- taxi drivers and policemen.

12:47:00 1 [12:47 p.m.]

12:47:04 2 Q. Please answer the question.

12:47:06 3 A. Excuse me.

12:47:06 4 [12:47 p.m.]

12:47:08 5 Q. Do you remember this?

12:47:12 6 A. As regards that episode, it is possible that Ms Bakar

12:47:17 7 verified an event regarding a particular -- an allegation

12:47:22 8 concerning a particular person and that that person was found.

12:47:26 9 I do not think that she referred to groups of allegations that

12:47:32 10 were received in June. In fact, I believe the opposite.

12:47:32 11 [12:47 p.m.]

12:47:35 12 Q. So, in other words, you believe that Ms Bakar was never a

12:47:39 13 member of such a mission?

12:47:42 14 A. Yes, I do. Sorry, allow me to clarify. I do not think

12:47:47 15 that Ms Bakar took part in a mission to verify all of the

12:47:53 16 allegations of disappearances in June. Perhaps she was a

12:48:00 17 member of a mission which verified a particular episode

12:48:06 18 regarding a particular person and that that person had been

12:48:09 19 found.

12:48:09 20 [12:48 p.m.]

12:48:09 21 Q. This was a matter of 45 persons?

12:48:12 22 A. That's possible.

12:48:12 23 [12:48 p.m.]

12:48:13 24 Q. Regarding one event?

12:48:15 25 A. I do not have a memory of such an event. Could you give

12:48:19 1 me more detail?

12:48:19 2 [12:48 p.m.]

12:48:21 3 Q. Did she not speak to you of it?

12:48:23 4 A. We have spoken of so many people, or so many things.

12:48:23 5 [12:48 p.m.]

12:48:28 6 Q. 45 persons in June; it's quite specific.

12:48:32 7 A. I do not recall that event.

12:48:32 8 [12:48 p.m.]

12:48:37 9 Q. You don't recall. The Prosecutor showed you reports in  
12:48:50 10 your evidence-in-chief at page 72. These echo information  
12:48:58 11 which you received from General Kaleh; is that so?

12:49:09 12 A. Yes.

12:49:09 13 [12:49 p.m.]

12:49:12 14 Q. Could one say that, as regards the UPC and the FPLC, the  
12:49:17 15 UPDF, of which General Kaleh was a member, represented the  
12:49:22 16 enemy?

12:49:30 17 A. Could you repeat your question, please?

12:49:30 18 [12:49 p.m.]

12:49:34 19 Q. Could one say that, as regards the UPC and the FPLC, the  
12:49:42 20 UPDF and General Kaleh were the enemy?

12:49:47 21 A. They weren't in very good -- on very good terms at that  
12:49:51 22 time, that's true.

12:49:51 23 [12:49 p.m.]

12:49:52 24 Q. That's the least one could say.

12:50:08 25 A. I have never provide confidential information to

12:50:12 1 General Kaleh or to Commander Jerome.

12:50:17 2 PRESIDING JUDGE JORDA (interpretation): You are using an  
12:50:18 3 expression I think, Mr Flamme, which is rather flowery and  
12:50:23 4 perhaps not appropriate. Could you rephrase your question.

12:50:31 5 ME FLAMME (interpretation): Q. Madame, I mean to say in  
12:50:33 6 collecting information from General Kaleh regarding the UPC  
12:50:36 7 and FPLC, did you not know his answer in advance?

12:50:41 8 A. Not necessarily -- the investigation team was -- did not  
12:50:46 9 limit itself to just obtaining information from General Kaleh  
12:50:52 10 or Commander Jerome. Normally we would try and  
12:50:56 11 cross-reference as much as possible and obtain information  
12:51:01 12 from as many sources as possible. So, no, I would not say  
12:51:04 13 so.

12:51:04 14 [12:51 p.m.]

12:51:04 15 Q. You referred to a certain number of commanders at page 73  
12:51:08 16 in your evidence-in-chief. I shall not name them -- you  
12:51:12 17 enumerated them yourself. Were they mentioned by the Ugandan  
12:51:20 18 military?

12:51:25 19 A. Not at all.

12:51:25 20 [12:51 p.m.]

12:51:26 21 Q. Okay. You said that all the armed groups involved in the  
12:51:30 22 conflict in Ituri recruited and used child soldiers and up to  
12:51:37 23 40 per cent of the UPC forces -- and here, once again, you are  
12:51:41 24 using the term "UPC", and so I'm ending up saying it  
12:51:45 25 myself -- that 40 per cent of those forces were child soldiers

12:51:54 1 based on the accounts of child soldiers. What accounts?

12:51:59 2 A. These are various accounts which we obtained.

12:51:59 3 [12:52 p.m.]

12:52:03 4 Q. At the period of March 2003 during your investigations,

12:52:08 5 was that the figure you arrived at?

12:52:14 6 A. It was a figure which figured in a report of the human

12:52:20 7 rights section on the events of 2002 and 2003. It was a

12:52:26 8 figure used by the Armed Forces Cooperation Committee, and was

12:52:31 9 used as the basis of the UNDP's work on disarmament and

12:52:39 10 reinsertion. These were estimates made based on observations

12:52:46 11 from various sources -- not just my own or those of MONUC, but

12:52:51 12 those of all of the observers involved in producing this plan

12:52:59 13 and a figure on which we all agreed.

12:52:59 14 [12:53 p.m.]

12:53:01 15 Q. You all agreed upon it?

12:53:04 16 A. It was an estimate on which we agreed. There were no

12:53:09 17 major differences -- at times times 42 per cent or 38 per cent

12:53:24 18 might have been a percentage for one group or another, but

12:53:29 19 this was a conservative criterion or basis for our plan.

12:53:29 20 [12:53 p.m.]

12:53:34 21 Q. So this was just a very rough estimate?

12:53:38 22 A. It was an estimate.

12:53:38 23 [12:53 p.m.]

12:53:42 24 Q. PUSIC, FAPC, FNI, et cetera?

12:53:55 25 A. We were able to localise them based on information from

12:54:00 1 the members of those groups. Some zones were disputed by  
12:54:04 2 various groups, for instance, Sota, which was -- which the UPC  
12:54:14 3 and the PUSIC both claimed to control. Sometimes it was not  
12:54:30 4 to be absolutely certain on who had control of what place.  
12:54:30 5 [12:54 p.m.]  
12:54:33 6 Q. Were there no external markings, for instance, uniforms,  
12:54:39 7 berets, which would make it possible to identify them?  
12:54:42 8 A. Perhaps uniforms of the commanders, but, otherwise, no,  
12:54:46 9 I have no knowledge of them. Perhaps there were such  
12:54:52 10 markings, but I was not aware of them.  
12:54:52 11 [12:54 p.m.]  
12:54:55 12 Q. You referred to a large wave of recruitment  
12:55:01 13 in June/July/August 2004. Who reported that to you?  
12:55:04 14 A. Various sources.  
12:55:04 15 [12:55 p.m.]  
12:55:07 16 Q. Where was Thomas Lubanga from 3 August 2004 -- 13 August  
12:55:12 17 2004?  
12:55:16 18 A. I believe he was in Kinshasa.  
12:55:16 19 [12:55 p.m.]  
12:55:18 20 Q. What was he doing in Kinshasa?  
12:55:22 21 A. Conducting political talks.  
12:55:22 22 [12:55 p.m.]  
12:55:26 23 Q. Did he return to Ituri?  
12:55:30 24 A. I believe he returned to Ituri.  
12:55:33 25 THE ENGLISH INTERPRETER: The interpreter corrects

12:55:35 1 herself -- the date is 13 August 2003 for the whereabouts of  
12:55:40 2 Thomas Lubanga.  
12:55:42 3 ME FLAMME (interpretation): Q. When did he return to  
12:55:44 4 Ituri?  
12:55:55 5 A. I cannot say.  
12:55:55 6 [12:55 p.m.]  
12:56:03 7 Q. When did the FPLC disarm?  
12:56:13 8 A. Not at the time that I was in Ituri.  
12:56:13 9 [12:56 p.m.]  
12:56:16 10 Q. Approximately? You must know this.  
12:56:21 11 A. I do not know.  
12:56:21 12 [12:56 p.m.]  
12:56:23 13 Q. It took place officially in Kinshasa?  
12:56:27 14 A. Oh, officially -- I am familiar with the establishment of  
12:56:31 15 disarmament plans which were carried out in connection with  
12:56:39 16 UPC Bosco, UPC Kisembo, but I cannot say with any certainty  
12:56:52 17 when disarmament took place.  
12:56:52 18 [12:56 p.m.]  
12:56:55 19 Q. You refer to the UPC Bosco, UPC Kisembo -- was there a  
12:57:02 20 new split?  
12:57:03 21 A. Yes, there was a fresh split.  
12:57:03 22 [12:57 p.m.]  
12:57:06 23 Q. When was that?  
12:57:07 24 A. That was in 2004, I believe.  
12:57:07 25 [12:57 p.m.]

12:57:09 1 Q. A mutiny?

12:57:10 2 A. No, a split.

12:57:10 3 [12:57 p.m.]

12:57:15 4 Q. Did you know that certain senior officers of the FPLC

12:57:19 5 were incorporated into the Ugandan army?

12:57:22 6 A. I am aware of that.

12:57:22 7 [12:57 p.m.]

12:57:24 8 Q. You are aware of that. Do you know when approximately

12:57:26 9 that was? Was it during the time you were based in Ituri?

12:57:36 10 A. No, I don't think so.

12:57:36 11 [12:57 p.m.]

12:57:38 12 Q. Remind me when you left.

12:57:42 13 A. November 2004.

12:57:42 14 [12:57 p.m.]

12:57:47 15 Q. Would the FPLC not have disarmed in May or June 2004?

12:57:52 16 A. Not in the field.

12:57:52 17 [12:57 p.m.]

12:57:57 18 Q. I would like to speak to you now of the evening of 30 May

12:58:01 19 2003, and of your visit with others to Mr Lubanga. Do we

12:58:08 20 agree on the date?

12:58:10 21 PRESIDING JUDGE JORDA (interpretation): I presume you are

12:58:13 22 hoping to conclude this afternoon, but I suggest that we do

12:58:16 23 break soon.

12:58:17 24 ME FLAMME (interpretation): This would be a good time,

12:58:20 25 Judge Jorda.

12:58:21 1 PRESIDING JUDGE JORDA (interpretation): We shall now suspend  
12:58:23 2 the proceedings and resume at 2 p.m.  
12:58:30 3 [12:58 p.m.]  
12:58:30 4 THE USHER: All rise.  
12:58:38 5 PRESIDING JUDGE JORDA (interpretation): Excuse me, 2.30 p.m.  
12:58:38 6 [12:58 p.m.]  
12:58:48 7 [Luncheon adjournment]  
12:58:48 8 [2:34 p.m.]  
14:34:51 9 THE USHER: All rise.  
14:35:00 10 PRESIDING JUDGE JORDA (interpretation): Please, we shall  
14:35:09 11 resume the hearing. Please bring Mr Lubanga into the  
14:35:12 12 courtroom and take your seats.  
14:35:13 13 [2:35 p.m.]  
14:35:14 14 [Mr Thomas Lubanga Dyilo entered the Courtroom]  
14:35:19 15 PRESIDING JUDGE JORDA (interpretation): As Mr Lubanga enters  
14:35:24 16 the room, could you please bring in the witness and the  
14:35:26 17 observer, please.  
14:35:27 18 [2:35 p.m.]  
14:35:28 19 [Ms Peduto and Ms Marchi-Uhel entered the Courtroom]  
14:35:38 20 PRESIDING JUDGE JORDA (interpretation): Yes. Mr Mulenda?  
14:35:42 21 MR MULENDA (interpretation): I am Mr Mulenda. I have  
14:35:47 22 already introduced myself at an earlier stage. We do not know  
14:35:50 23 at what point in time we shall be moving into open session.  
14:35:53 24 However, we have lodged a verbal motion and we do also have  
14:35:58 25 one question which we would like to put to the witness in

14:36:01 1 connection to our client. I do not know what would be the  
14:36:05 2 appropriate time.

14:36:08 3 PRESIDING JUDGE JORDA (interpretation): Would you like to  
14:36:11 4 put your question in closed session?

14:36:14 5 MR MULENDA (interpretation): No, no, before the closed  
14:36:16 6 session.

14:36:21 7 PRESIDING JUDGE JORDA (interpretation): These hearings shall  
14:36:22 8 be running through to Friday, perhaps earlier, and shall be  
14:36:25 9 running on to 4 p.m. in the afternoon. I know that Mr Flamme  
14:36:28 10 would like us to hold closed session later this afternoon,  
14:36:31 11 perhaps -- 3 o'clock, or thereabouts.

14:36:34 12 Madame, please take your seat. I suggest that at 3.30, or  
14:36:39 13 thereabouts, you put your question. You should put your  
14:36:43 14 question and I shall deliberate with my colleagues as to  
14:36:46 15 whether we authorise the question.

14:36:47 16 [2:36 p.m.]

14:36:51 17 MR MULENDA (interpretation): Thank you your Honour.

14:36:51 18 PRESIDING JUDGE JORDA (interpretation): You're welcome.

14:36:56 19 Well, I think that we can resume our hearing. I would just  
14:37:00 20 like to inform the audience that we are in the closing phase  
14:37:02 21 of the cross-examination of witness, Ms Peduto. Mr Flamme?

14:37:09 22 ME FLAMME (interpretation): Q. Indeed we are arriving at  
14:37:12 23 the end of this cross-examination. Ms Peduto, I have been  
14:37:18 24 following or working through your testimony in a chronological  
14:37:22 25 order and we had arrived at the evening of 30 May, 2003, which

14:37:31 1 was the time at which you visited for the first time, I  
14:37:37 2 believe, Thomas Lubanga; is that not so?  
14:37:41 3 A. It was my first visit.  
14:37:43 4 [2:37 p.m.]  
14:37:44 5 Q. Was this the first time you met Mr Lubanga?  
14:37:47 6 A. During a meeting, yes.  
14:37:48 7 [2:37 p.m.]  
14:37:49 8 Q. Had you met him before?  
14:37:51 9 A. I think I may have walked past him in the street, but I'm  
14:37:56 10 not sure.  
14:37:57 11 [2:37 p.m.]  
14:37:59 12 Q. You said that the meeting took place in his residence in  
14:38:08 13 Mudzi-Pela, I believe, that you met with him. Is that so?  
14:38:11 14 A. That is so.  
14:38:12 15 [2:38 p.m.]  
14:38:15 16 Q. If I remember rightly, you said that at that time, night  
14:38:19 17 was falling?  
14:38:21 18 A. That is right.  
14:38:22 19 [2:38 p.m.]  
14:38:24 20 Q. So you agree with me that once night falls in Africa it  
14:38:30 21 falls faster here -- or there than here?  
14:38:34 22 A. It depends on the season, but it's true, night falls  
14:38:37 23 rapidly.  
14:38:38 24 [2:38 p.m.]  
14:38:38 25 Q. I mean, there's less twilight than here?

14:38:44 1 A. It's possible.

14:38:45 2 [2:38 p.m.]

14:38:46 3 Q. Okay. You said that the residence was guarded by armed  
14:38:56 4 children and guards?

14:38:59 5 A. By guards -- not only children, but children were  
14:39:02 6 present.

14:39:02 7 [2:39 p.m.]

14:39:04 8 Q. So not only by children, but children were present. You  
14:39:09 9 also said, if I remember correctly, that a young child was  
14:39:16 10 less than 15 years old and that you had no further details on  
14:39:20 11 the others; is that so?

14:39:23 12 A. That is so.

14:39:23 13 [2:39 p.m.]

14:39:27 14 Q. I would like to ask how did you know, or what led you to  
14:39:33 15 believe that this child was under the age of 15 years?

14:39:37 16 A. It -- I estimated his age as such. I did not speak to  
14:39:41 17 the child. It was his features, his size, the appearance of  
14:39:47 18 his face which gave me the impression that he was under  
14:39:51 19 15 years of age.

14:39:51 20 [2:39 p.m.]

14:39:51 21 Q. You did not hear him speak?

14:39:54 22 A. No.

14:39:54 23 [2:39 p.m.]

14:39:55 24 Q. You did not put questions to him?

14:39:57 25 A. No, I did not speak to that child.

14:39:59 1 [2:39 p.m.]

14:40:00 2 Q. No, you didn't speak to him. Did you see his face?

14:40:04 3 A. I passed by him quite -- at quite close range outside the

14:40:10 4 residence.

14:40:10 5 [2:40 p.m.]

14:40:10 6 Q. Was it dark at that time?

14:40:13 7 A. There was external lighting at the residence.

14:40:17 8 [2:40 p.m.]

14:40:17 9 Q. You said that he seemed very young to you?

14:40:29 10 A. Yes.

14:40:30 11 [2:40 p.m.]

14:40:30 12 Q. How can you be sure that he was not a pygmy?

14:40:38 13 A. If I may give some detail. When one leaves the residence

14:40:43 14 it was externally illuminated. The garden itself was not

14:40:48 15 illuminated -- the guards were not illuminated -- I would not

14:40:55 16 give further detail on those guards, but as I left the

14:40:58 17 residence I saw the child, it was a child's face. Pygmies,

14:41:03 18 although they are small in stature, have adult faces.

14:41:05 19 [2:41 p.m.]

14:41:06 20 Q. And a pygmy aged 18 years?

14:41:13 21 A. Such a person would also have the face of an 18-year-old,

14:41:17 22 even if size is smaller.

14:41:19 23 [2:41 p.m.]

14:41:19 24 Q. Can you always distinguish between an adult's face and a

14:41:22 25 child's face?

14:41:24 1 A. As I said, it was an impression. I did not speak to the  
14:41:26 2 child. I did not see his identity card, but he struck me as  
14:41:30 3 being younger than 15 years old.

14:41:31 4 [2:41 p.m.]

14:41:32 5 Q. It was an impression. You said that you were surprised.  
14:41:36 6 You even said that it was a provocation.

14:41:41 7 A. That was what we in the group felt.

14:41:45 8 [2:41 p.m.]

14:41:45 9 Q. Did you speak of it to Mr Lubanga -- Thomas Lubanga?

14:41:49 10 A. No, because it -- I saw this child when I was leaving the  
14:41:55 11 residence.

14:41:55 12 [2:41 p.m.]

14:41:57 13 Q. Ah, as you left the residence -- I thought it was as you  
14:42:03 14 entered the residence?

14:42:04 15 A. No.

14:42:04 16 [2:42 p.m.]

14:42:05 17 Q. How long did the meeting take?

14:42:07 18 A. I'm not sure, but I would say an hour -- longer than an  
14:42:10 19 hour.

14:42:11 20 [2:42 p.m.]

14:42:12 21 Q. How late was it when you left?

14:42:15 22 A. I no longer know. An extensive report of the meeting was  
14:42:21 23 made by political affairs, but unfortunately I did not keep a  
14:42:25 24 copy of that report and I can't be more specific in my answer.

14:42:30 25 I know that we went in as night was falling. I think that it

14:42:34 1 was close to 7 p.m.

14:42:36 2 [2:42 p.m.]

14:42:39 3 Q. When you left it was dark?

14:42:44 4 A. Yes.

14:42:44 5 [2:42 p.m.]

14:42:46 6 Q. The lighting of the house was where -- mounted on the

14:42:54 7 walls of the house?

14:42:55 8 A. Yes, I think that the lighting was above the roof,

14:42:58 9 between the wall and the beginning of the roof.

14:43:01 10 [2:43 p.m.]

14:43:02 11 Q. So quite high, then?

14:43:04 12 A. Yes.

14:43:04 13 [2:43 p.m.]

14:43:06 14 Q. And this lighting was to your rear as you left?

14:43:12 15 A. No, to the side. It was lighting that --

14:43:19 16 Q. And you saw the child guard at what distance from the

14:43:21 17 house?

14:43:26 18 A. Barely a few metres -- one or two metres.

14:43:29 19 [2:43 p.m.]

14:43:31 20 Q. So he was in the compound?

14:43:33 21 A. Yes, he was in the compound where the garden was.

14:43:37 22 [2:43 p.m.]

14:43:43 23 Q. So you did not speak to Thomas Lubanga about this state

14:43:46 24 of affairs which had surprised you?

14:43:49 25 A. No.

14:43:49 1 [2:43 p.m.]

14:43:51 2 Q. Doesn't that strike you as strange?

14:43:54 3 A. No, I was leaving the place, the meeting was over.

14:43:58 4 Q. So you did not see this boy when you entered?

14:44:01 5 A. No.

14:44:02 6 [2:44 p.m.]

14:44:10 7 Q. You said requests for working sessions made by MONUC to

14:44:17 8 the UPC were all declined?

14:44:19 9 A. That is a fact.

14:44:20 10 [2:44 p.m.]

14:44:23 11 Q. These were working sessions regarding possible

14:44:25 12 demobilisation or something else?

14:44:27 13 A. The modalities for the exit of children from his group.

14:44:33 14 [2:44 p.m.]

14:44:34 15 Q. So no response was given to those initiatives?

14:44:38 16 A. The offer was made on many occasions within the Armed

14:44:44 17 Forces Cooperation Committee. I did not systematically attend

14:44:53 18 meetings of the committee, but I did attend regularly and it

14:44:57 19 was a request which was made regularly of the armed groups by

14:45:01 20 myself and also by my colleague from UNICEF. We made

14:45:06 21 ourselves available to the armed groups to discuss planning

14:45:10 22 and exit by child soldiers from armed groups. We explained

14:45:14 23 quite regularly that a process for allowing the exit of child

14:45:21 24 soldiers was quite complicated and that the partners needed to

14:45:28 25 monitor a certain number of stages or steps, and that is why

14:45:31 1 it was important for us to meet as rapidly as possible with  
14:45:36 2 the representatives of the armed groups to organise such an  
14:45:42 3 exit.  
14:45:43 4 [2:45 p.m.]  
14:45:45 5 Q. You spoke with Mr Lubanga at the end of the meeting.  
14:45:49 6 A. Yes.  
14:45:50 7 [2:45 p.m.]  
14:45:54 8 Q. And he mentioned the presence of children who had come  
14:45:58 9 looking for protection or who were orphans?  
14:46:01 10 A. I believe so.  
14:46:02 11 [2:46 p.m.]  
14:46:03 12 Q. Did you not elaborate on the matter?  
14:46:06 13 A. I don't remember doing so.  
14:46:08 14 [2:46 p.m.]  
14:46:09 15 Q. Why not?  
14:46:15 16 A. Well, first of all, it was the end of the meeting and, if  
14:46:18 17 I remember correctly, we were already standing and the -- the  
14:46:23 18 MONUC delegation was on the point of leaving. Also, one  
14:46:30 19 doesn't initiate an in depth discussion on the threshold of a  
14:46:37 20 door. Sometimes we were told that children had sought  
14:46:39 21 protection or that they were orphans or that they were pygmies  
14:46:43 22 and that we couldn't see that. This was a discourse which we  
14:46:50 23 heard quite regularly, not only from the UPC but from the  
14:46:54 24 armed groups in general, and all the child protection officers  
14:46:58 25 heard similar arguments. It would not have been useful to

14:47:07 1 initiate a discussion on such a matter as we left. It's  
14:47:14 2 important to sit down and discuss such a matter seriously.  
14:47:16 3 [2:47 p.m.]  
14:47:18 4 Q. But was this a spontaneous comment made by Mr Lubanga?  
14:47:22 5 A. Yes -- well, yes.  
14:47:24 6 [2:47 p.m.]  
14:47:28 7 Q. Did you not feel that it was important to follow up on  
14:47:33 8 this point afterwards?  
14:47:35 9 A. I undoubtedly spoke to armed groups within the  
14:47:39 10 cooperation committee.  
14:47:40 11 [2:47 p.m.]  
14:47:42 12 Q. At this time it was the end of the period of war where  
14:47:49 13 large numbers of civilians had died.  
14:47:52 14 A. It was not the end of a war; people were still dying.  
14:47:55 15 [2:47 p.m.]  
14:47:56 16 Q. The war was ongoing?  
14:47:58 17 A. The combat continued to rage, yes, and we saw the  
14:48:02 18 consequences of that.  
14:48:04 19 [2:48 p.m.]  
14:48:05 20 Q. You spoke of a message broadcast on 2 June 2003 by  
14:48:11 21 Radio Candip regarding the demobilisation of several dozen  
14:48:19 22 children, in toto 70, you said; is that not so?  
14:48:23 23 A. I believe so.  
14:48:23 24 [2:48 p.m.]  
14:48:26 25 Q. Did you read the decree?

14:48:29 1 A. I didn't read the decree on paper at that time. I  
14:48:34 2 received a retranscription from colleagues who were monitoring  
14:48:40 3 Radio Candip. It was they who had informed me that that  
14:48:49 4 decree had been broadcast by radio. I requested the  
14:48:53 5 retranscription. That was provided to me. I never received a  
14:49:00 6 copy of the decree itself and my colleagues neither, as far as  
14:49:07 7 I know. I only remember seeing this document when it was  
14:49:13 8 presented to me during the taking of my testimony in May 2006.  
14:49:17 9 [2:49 p.m.]  
14:49:18 10 Q. You didn't request a copy of it?  
14:49:20 11 A. No.  
14:49:21 12 [2:49 p.m.]  
14:49:23 13 Q. So could we say that you were speaking of something of  
14:49:25 14 which you had no knowledge -- that is to say, when you  
14:49:32 15 commented the decree?  
14:49:36 16 A. In commenting the decree, when I was interviewed?  
14:49:40 17 Q. Yes.  
14:49:41 18 A. I was shown the decree when I was interviewed  
14:49:45 19 in May 2006.  
14:49:45 20 [2:49 p.m.]  
14:49:46 21 Q. You saw it in May 2006 and you maintained that it was a  
14:49:54 22 decree which related to 70 children?  
14:50:01 23 A. 70 children -- I believe that that is a figure which was  
14:50:05 24 relayed to me by the -- my colleagues who provided the  
14:50:09 25 retranscription. I don't think it figured in the decree. It

14:50:14 1 was an ancillary piece of information, but I was able to  
14:50:17 2 compare the decree with the notes, which were provided to me.  
14:50:21 3 I wouldn't say that they are identical, but it would seem that  
14:50:26 4 the reference is to the same document.

14:50:28 5 [2:50 p.m.]

14:50:31 6 Q. Do you remember a military order which would have been  
14:50:35 7 the execution of that decree?

14:50:37 8 A. No, I don't think so.

14:50:38 9 [2:50 p.m.]

14:50:42 10 ME FLAMME (interpretation): Court officer, I would like to go  
14:50:43 11 to the evidence and, more precisely, refer to two documents.

14:50:51 12 First, the document with the evidence number of the OTP  
14:50:57 13 evidence number <#DRC-OTP-00151-0299#>.

14:51:18 14 COURT OFFICER (interpretation): This document already has an  
14:51:21 15 evidence number <#EVD-OTP-00051#>. Would you like us to  
14:51:28 16 publish the document? Would you like us to put it up on the  
14:51:31 17 screen?

14:51:32 18 ME FLAMME (interpretation): Yes, please.

14:51:34 19 [2:51 p.m.]

14:51:47 20 ME FLAMME (interpretation): Q. I would like to read out the  
14:51:48 21 document to you.

14:51:49 22 "Decree No.13 bis UPC-RP. CAB PRES 2003, dated 1 June 2003.

14:52:03 23 For the demobilisation of child soldiers of the Forces

14:52:12 24 Patriotique pour la Liberation du Congo. [In French]. The

14:52:18 25 government of the UPC, in view of its constituting act -- in

14:52:28 1 light of the constitution of the UPC-RP adopted on  
14:52:31 2 15 September 2000, in light of the political declarations of  
14:52:34 3 17 April and of 11 August 2002; in light of the universal  
14:52:38 4 declaration of children's rights as adopted by the General  
14:52:41 5 Assembly of the United Nations; in light of the willingness of  
14:52:45 6 the international community to continue a programme regarding  
14:52:49 7 demobilisation and reinsertion of child soldiers, a programme  
14:52:53 8 which is supported by ad hoc bodies, such as the NGOs, Save  
14:53:00 9 the Children and SOS Grand Lac [in French] and in order to  
14:53:04 10 enable it to go ahead without impediment; in light of the need  
14:53:09 11 for the UPC-RP and its willingness to promote this policy of  
14:53:15 12 social reinsertion of children who are part of the army and  
14:53:21 13 given the urgency, decrees:  
14:53:24 14 Article 1 - that all individuals aged under 18 years from this  
14:53:28 15 day shall be demobilised from the FPLC.  
14:53:34 16 Article 2 - the National Secretary responsible for follow-up  
14:53:41 17 and the Chief-of-Staff -- Chief-of-General-Staff of the FPLC  
14:53:47 18 shall be responsible for executing the present decree at the  
14:53:52 19 point in time it enters force. That is to say, at the date it  
14:53:56 20 is signed. 1 June 2003. President of the UPC, Thomas  
14:54:03 21 Lubanga."  
14:54:04 22 My question is, and I would like you to respond -- you can  
14:54:09 23 reply very briefly -- would you say that this decree limited  
14:54:17 24 itself to 70 children?  
14:54:19 25 A. No.

14:54:23 1 ME FLAMME (interpretation): Court officer, I would now like  
14:54:26 2 to turn to a document which has already been entered into  
14:54:32 3 evidence by the OTP, document <#DRC-00014-254#> and I would  
14:54:45 4 like you to display the document as well, please.

14:54:46 5 [2:54 p.m.]

14:54:57 6 ME FLAMME (interpretation): Q. I will read out the document  
14:54:58 7 to you:

14:55:05 8 "Circulaire note No.14 to the Brigade Commanders" -- all of  
14:55:10 9 them, but in brackets:

14:55:11 10 "(Of the FPLC). 1. In accordance with the spirit of the  
14:55:15 11 decree" -- and it refers to the decree I've just read --

14:55:18 12 "Of 1 June 2003 of the President of the UPC-RP

14:55:23 13 Commander-in-Chief of the FPLC, we have the honour of giving

14:55:27 14 you the order to proceed with the demobilisation of all

14:55:32 15 members of our ranks aged less than 18 years old, according to

14:55:35 16 the regular procedure. This is a formal order done in Bunia

14:55:40 17 on 5 June 2003. The Chief of -- General Chief-of-Staff of the

14:55:45 18 FPLC signed Commander Floribert Kisembo."

14:55:54 19 Madame, wouldn't you say that this is a form of execution of

14:55:58 20 the decree we talked about previously?

14:56:03 21 A. Yes.

14:56:20 22 [2:56 p.m.]

14:56:21 23 Q. So why in your testimony in chief did you call the decree  
14:56:30 24 a masquerade?

14:56:35 25 A. Well, first, I never knew about the existence of this

14:56:39 1 note that you have just shown. Well, I would call it a  
14:56:44 2 masquerade for several reasons. First, because on several  
14:56:51 3 occasions we explained that the demobilisation of children  
14:56:57 4 could not happen by magic, that we had to plan it carefully.  
14:57:04 5 We couldn't just free the children for it to be considered  
14:57:09 6 demobilisation. That's the point number 1 of my remark. And  
14:57:14 7 I also know that some UPC commanders had been informed of the  
14:57:21 8 fact that these procedures would be a lot more complex than  
14:57:27 9 simply issuing a decree, and on -- we knew at the time that  
14:57:34 10 children were being recruited at the same time. We documented  
14:57:40 11 this, probably only partially, later on, and when I look  
14:57:49 12 through my notes I saw there were at least six children of  
14:57:52 13 less than 15 years in June and July, and that is why I call  
14:58:01 14 this decree a masquerade -- something that is not very  
14:58:07 15 serious.

14:58:09 16 PRESIDING JUDGE JORDA (interpretation): What is the number of  
14:58:10 17 this document, please, court officer? How is it recorded into  
14:58:16 18 evidence?

14:58:16 19 COURT OFFICER (interpretation): The number of the document  
14:58:20 20 we're talking about just now is <#EVD-OTP-00052#>.

14:58:33 21 THE WITNESS (interpretation): It is very easy to publish  
14:58:37 22 documents. However, that does not always mean that what is  
14:58:47 23 ordered in the papers is executed.

14:58:52 24 ME FLAMME (interpretation):  
14:58:53 25 [2:58 p.m.]

14:58:53 1 Q. When you say it is a "masquerade", when you were in the  
14:59:03 2 field in the beginning of 2003, is that when you believed it  
14:59:07 3 was a masquerade, or are you just looking back in -- with the  
14:59:13 4 knowledge of the facts you have just now?

14:59:20 5 A. With the knowledge of the facts about the UPC troops, at  
14:59:27 6 the time I thought that it's a fact and it was later confirmed  
14:59:31 7 by other documents. We made efforts, not only in the child  
14:59:41 8 protection section, but also militaries of the MONUC and the  
14:59:47 9 office chief and UNICEF and other people did so, too, in order  
14:59:55 10 to get the armed groups to work in a constructive way with the  
14:59:59 11 protection officers and to set out -- or to establish a  
15:00:04 12 procedure, because we didn't want to just help a couple of  
15:00:07 13 children and -- whilst others were being recruited.

15:00:12 14 [3:00 p.m.]

15:00:13 15 We had made ourselves available to the armed group on several  
15:00:17 16 occasions already, but they never made use of this, and some  
15:00:21 17 groups in September of the same year, or the CCAG had asked  
15:00:32 18 the groups to give them the list of the combatants and  
15:00:36 19 geographic locality and name of children in the groups. And  
15:00:42 20 the CCAG obtained certain lists about the group in  
15:00:49 21 2003 -- September 2003, and some of the groups gave statistics  
15:00:53 22 about the children, but that was not the case of -- well, the  
15:00:58 23 UPC did not do so.

15:01:11 24 [3:01 p.m.]

15:01:11 25 Q. In other terms, then, seeing as we're at the end of this

15:01:14 1 cross-examination, you confirm the Save the Children report,  
15:01:22 2 according to which it's a very complex procedure that requires  
15:01:29 3 a study, presence in the field, contact with all the  
15:01:32 4 protagonists and the establishment of what we called over  
15:01:39 5 there "networking".

15:01:41 6 A. Yes, that's what -- something we initiated with other  
15:01:44 7 partners in Ituri, to free up resource that could be used to  
15:01:51 8 assist the children in returning, and returning to their  
15:01:59 9 families. The process already started with the child  
15:02:03 10 protection agents and there were other programmes, too, that  
15:02:09 11 could possibly be useful in the programme to assist children  
15:02:13 12 leaving these armed groups.

15:02:17 13 [3:02 p.m.]

15:02:17 14 Q. Very well. Do you also confirm part of the report of  
15:02:21 15 Save the Children where it is written that in order to succeed  
15:02:27 16 in the difficult task we are talking about, that it is  
15:02:35 17 necessary to refrain from participating in the conflict and it  
15:02:42 18 is necessary to be neutral towards the armed forces?

15:02:47 19 A. Yes.

15:02:47 20 [3:02 p.m.]

15:02:47 21 Q. Do you believe that you, as well as the MONUC, did  
15:02:56 22 maintain this neutrality?

15:02:58 23 A. Yes, positive -- especially in my case.

15:03:05 24 [3:03 p.m.]

15:03:05 25 Q. You never accused Thomas Lubanga in the UPC --

15:03:11 1 A. Of using children?

15:03:12 2 Q. -- No.

15:03:13 3 A. Yes, but I said the same of PUSIC and other groups too.

15:03:18 4 [3:03 p.m.]

15:03:18 5 Q. No, but I'm -- I'm not talking about that; I'm talking  
15:03:20 6 about responsibilities for massacres.

15:03:26 7 A. I participated in investigations which led me to that  
15:03:29 8 conclusion. It's not about partiality or impartiality. We  
15:03:34 9 investigated all the armed groups present in Ituri and I don't  
15:03:40 10 think that -- or I'm positive I did not take the side of one  
15:03:46 11 group rather than another.

15:03:49 12 [3:03 p.m.]

15:03:51 13 Q. You remained neutral?

15:03:52 14 A. Yes. An act committed by one group is still about a  
15:04:02 15 child dying; if that's what happened.

15:04:05 16 [3:04 p.m.]

15:04:05 17 Q. You said in your testimony in chief that -- on page 93  
15:04:16 18 you said that some children had joined the armed forces under  
15:04:27 19 pressure -- pressure exerted by their friends, and you also  
15:04:35 20 said that other children had joined because of the pressure of  
15:04:38 21 the community -- to defend their communities or their  
15:04:45 22 families. They thought that by joining the armed groups they  
15:04:48 23 could protect their communities and families. And you also  
15:04:52 24 talked about children that wanted revenge for those in their  
15:05:07 25 family who had died, or for their parents who had been killed,

15:05:12 1 or other. Do you believe that that is one element of the  
15:05:18 2 problem at issue?

15:05:22 3 A. I think that the question of the child's choice is very  
15:05:27 4 complex and there is a reason why we don't give children under  
15:05:31 5 18 or under 21 depending on the country the right to vote,  
15:05:37 6 because I think some decisions depend on the maturity of a  
15:05:40 7 person and I think it is adults' responsibility to protect  
15:05:43 8 children that bring them to take actions that could endanger  
15:05:47 9 them or other people, and do so in awareness of the maturity  
15:05:53 10 required to take certain actions. And I understand certain  
15:05:58 11 children -- children have suffered and wanted to join the  
15:06:01 12 armed groups. I am aware of this and it was the  
15:06:05 13 responsibility of children -- of the parents, I beg your  
15:06:10 14 pardon, to prevent the children from participating in these  
15:06:15 15 activities.

15:06:15 16 [3:06 p.m.]

15:06:16 17 Q. What do you think of situations of children who do not  
15:06:20 18 have any parents who are alone at home and surrounded by the  
15:06:26 19 bodies of their parents?

15:06:27 20 A. I think that's a deplorable situation that shouldn't be  
15:06:31 21 allowed.

15:06:32 22 [3:06 p.m.]

15:06:32 23 Q. But that's not my question. I'm talking about -- you  
15:06:35 24 talk about choices that should be taken by adults and not by  
15:06:38 25 children, I understand you. They are minors and they don't

15:06:45 1 have the same possibilities of controlling their will as  
15:06:50 2 adults, but if they don't have any adults around any more, if  
15:06:53 3 they're alone and abandoned, don't you think that in that case  
15:06:56 4 children -- and putting aside all the other motivations we  
15:07:05 5 talked about that could have pushed them to join the armed  
15:07:08 6 groups -- couldn't we also come up with another reason for  
15:07:11 7 them for joining the armed groups, which would be to protect  
15:07:15 8 themselves?

15:07:19 9 A. To my knowledge -- and I think I can be quite assertive  
15:07:22 10 about this -- that there were never groups of only children.  
15:07:30 11 All the armed groups were led by adults, and I don't think  
15:07:33 12 either that the children were seeking protection. Even if  
15:07:39 13 there were massacres that led to the death of a large number  
15:07:42 14 of people, I don't think that the communities ever were  
15:07:47 15 completely devoid of adults. And I know that some assistance  
15:07:50 16 programmes were set up for unaccompanied children and that a  
15:07:54 17 lot of efforts have been made in Ituri to help these children  
15:07:57 18 without parents, for them to find their families and to  
15:08:02 19 assisted them directly. And this was done, even if it was not  
15:08:06 20 done enough and quickly enough, and it was done according to  
15:08:10 21 the ability of the NGOs present that wanted and knew how to  
15:08:15 22 make the necessary efforts in Ituri and elsewhere to achieve  
15:08:22 23 this.

15:08:22 24 [3:08 p.m.]

15:08:26 25 Q. Isn't this the situation which you were alluding to,

15:08:34 1 which Mr Luganda -- Lubanga mentioned?

15:08:44 2 A. It could be, because there had been since 2003 assistance  
15:08:47 3 programmes, and for several months already NGOs had already  
15:08:52 4 developed assistance programs, sometimes for some years and  
15:08:54 5 I'm sure Mr Lubanga was aware of these and that could have  
15:08:57 6 been a response to that need.

15:08:59 7 [3:08 p.m.]

15:09:01 8 Q. Could you have responded at that time?

15:09:03 9 A. No, not at that time, but the programmes were well  
15:09:07 10 established.

15:09:08 11 [3:09 p.m.]

15:09:08 12 Q. Maybe he was not aware of them?

15:09:09 13 A. I don't think he -- I think he was aware.

15:09:12 14 [3:09 p.m.]

15:09:13 15 Q. Why didn't you talk to him?

15:09:14 16 A. I think he was aware of the programmes established by  
15:09:18 17 well-recognised NGOs in Ituri, and this for a number of months  
15:09:22 18 already.

15:09:23 19 [3:09 p.m.]

15:09:23 20 Q. You "think" this?

15:09:25 21 A. I thought it at the time and I am convinced of it.

15:09:27 22 [3:09 p.m.]

15:09:28 23 Q. It could have been very easy just to remind him of this?

15:09:30 24 A. I didn't have the right reflex to do so at the time.

15:09:39 25 [3:09 p.m.]

15:09:39 1 Q. Do you think at the time that some children could -- at  
15:09:47 2 the time in the same circumstances -- just have found a weapon  
15:09:55 3 to protect themselves, or to die in a more dignified manner?

15:10:04 4 A. That is possible.

15:10:05 5 [3:10 p.m.]

15:10:10 6 Q. When you saw the children -- individual children not in  
15:10:19 7 groups, armed children, is it -- was it possible to find out  
15:10:24 8 whether they were a member of a group or not, how they had got  
15:10:29 9 their weapon or whether they were -- they had been recruited  
15:10:32 10 and whether or not they were part of an armed group?

15:10:36 11 A. I think that, theoretically, that is possible, but I did  
15:10:39 12 not have access to all the children in Ituri and all the  
15:10:42 13 children I did speak to -- and there were quite a few of  
15:10:46 14 them -- never mentioned the fact that the first weapon they  
15:10:48 15 ever touched was a weapon that they had just found by  
15:10:52 16 coincidence.

15:10:53 17 [3:10 p.m.]

15:10:54 18 Q. I can imagine that they wouldn't have told you that.

15:11:00 19 Now, Madame, at this point in time --

15:11:12 20 A. Excuse me, may I say something?

15:11:15 21 Q. Yes.

15:11:16 22 A. Regarding your last remark, when you say that you can  
15:11:22 23 imagine that they may not have spoken about this to me, I  
15:11:29 24 don't quite understand it in the sense that I had children who  
15:11:34 25 came and found me personally, or went to see other MONUC

15:11:37 1 staff, telling them that they had weapons since they left the  
15:11:41 2 armed groups and they came and saw us, so that MONUC could  
15:11:50 3 neutralise these weapons and take them away from the children.  
15:11:55 4 That happened, and these children belonged to -- armed groups.  
15:11:58 5 [3:11 p.m.]  
15:11:58 6 Q. So you are saying that at that time in Ituri in Bunia  
15:12:02 7 there were many weapons in circulation?  
15:12:04 8 A. In 2003/2004?  
15:12:07 9 Q. Say in 2003.  
15:12:10 10 A. 2003, yes, very many. Not all the militia members had  
15:12:16 11 left the town and its environs.  
15:12:17 12 [3:12 p.m.]  
15:12:18 13 Q. I would like to show you a certain number of documents  
15:12:21 14 and I'm going to ask the Court's officer to get some  
15:12:25 15 documents.  
15:12:26 16 PRESIDING JUDGE JORDA (interpretation): Q. Before we leave  
15:12:26 17 the last document, this is a simple question from the Chamber.  
15:12:31 18 The decree and the circular regarding this, did you know  
15:12:36 19 whether other groups of militias took similar measures -- what  
15:12:42 20 you described as masquerades?  
15:12:44 21 A. No.  
15:12:45 22 PRESIDING JUDGE JORDA (interpretation): All right, thank  
15:12:47 23 you.  
15:12:53 24 ME FLAMME (interpretation): Court Officer, I would like to  
15:12:54 25 tender into evidence <#DRC-DO1-0001-0022#>.

15:13:01 1 [3:13 p.m.]ME FLAMME (interpretation): Q. Madame, this is a  
15:13:12 2 document that refers to Bunia. At around the time or after  
15:13:17 3 your second visit on 14 September 2002?  
15:13:25 4 COURT OFFICER (interpretation): Mr Flamme, excuse me, we are  
15:13:28 5 not able to find the document. We can find <#D01-0001-0025#>.  
15:13:35 6 ME FLAMME (interpretation): There we have a problem, because  
15:13:38 7 from the information I have, this document was placed on the  
15:13:45 8 list of evidence under the number that I've indicated to you.  
15:13:50 9 I do not see how we can solve the problem. Of course, I could  
15:13:58 10 give you a copy?  
15:13:59 11 COURT OFFICER (interpretation): Could it be <#0001-0032#>  
15:14:04 12 instead?  
15:14:05 13 ME FLAMME (interpretation): What is this document?  
15:14:08 14 COURT OFFICER (interpretation): The document is titled  
15:14:14 15 [in French].  
15:14:15 16 ME FLAMME (interpretation): The document is of one  
15:14:18 17 page only, but perhaps I might ask someone in my team, during  
15:14:25 18 the break, to try and find a solution to this problem.  
15:14:28 19 [3:14 p.m.]  
15:14:30 20 The second document -- that is, the next document -- that is  
15:14:35 21 <#DRC-D01-0001-0046#>, which is titled "Memorandum for the  
15:14:52 22 Special Representative of the Secretary-General of the United  
15:14:56 23 Nations visiting Bunia."  
15:15:02 24 COURT OFFICER (interpretation): This document will be  
15:15:03 25 entered into evidence as --

15:15:08 1 PRESIDING JUDGE JORDA (interpretation): Judge Steiner, have  
15:15:10 2 you found it?  
15:15:12 3 JUDGE STEINER: The document mentioned, 0022 -- one page --  
15:15:19 4 has been filed all together with document 0019. It's  
15:15:30 5 one-page document. It's together with the document 0019 --  
15:15:37 6 it's the last page.  
15:15:39 7 ME FLAMME (interpretation): As the Presiding Judge said,  
15:15:44 8 Judge Steiner is unbeatable.  
15:15:49 9 PRESIDING JUDGE JORDA (interpretation): We know the file, so  
15:15:50 10 you can't joke with that. So will you please recall, court  
15:15:56 11 officer, what the document number is and what you choose,  
15:15:58 12 Mr Flamme.  
15:16:01 13 ME FLAMME (interpretation): I will start with that order.  
15:16:04 14 PRESIDING JUDGE JORDA (interpretation): Okay.  
15:16:05 15 ME FLAMME (interpretation): This document referred to as  
15:16:10 16 "<#UPC-P03-2002#>", that is "Resolution of Specific Problems  
15:16:16 17 in Ituri", I am going to be quoting the first point. First  
15:16:22 18 point, which is:  
15:16:22 19 "UPC-RP falls in line with the spirit of the agreement signed  
15:16:27 20 in Rwanda on 6 September 2002 between the Democratic Republic  
15:16:32 21 of the Congo and Uganda in regard to the constitution of the  
15:16:37 22 Ituri Pacification Commission, but under certain conditions  
15:16:41 23 which will be submitted at the time the Commission is being  
15:16:44 24 formed. Made in Bunia on 14 September, 2002, and signed  
15:16:49 25 Thomas Lubanga."

15:16:56 1 [3:16 p.m.]

15:16:56 2 Q. I would like to ask you whether you know about the Ituri  
15:17:00 3 Pacification Commission?

15:17:01 4 A. Yes, of course.

15:17:01 5 [3:17 p.m.]

15:17:03 6 Q. I do not think that this requires much explanation. The  
15:17:07 7 name speaks for itself. The international community had  
15:17:10 8 decided that there was a need for pacification and to this end  
15:17:14 9 a Commission was set up which might be described as having  
15:17:21 10 international support.

15:17:23 11 A. Yes, with international support.

15:17:24 12 [3:17 p.m.]

15:17:25 13 Q. And the Kinshasa government?

15:17:27 14 A. Yes, and the Kinshasa government.

15:17:29 15 [3:17 p.m.]

15:17:29 16 Q. All right. The next document is <#DRC-D01-0001-0046#>.  
15:17:42 17 COURT OFFICER (interpretation): The document evidence number  
15:17:44 18 will be <#EVD-D01-00008#>.

15:17:53 19 ME FLAMME (interpretation): Thank you.

15:17:53 20 [3:17 p.m.]

15:17:54 21 ME FLAMME (interpretation): Q. The document is titled:  
15:17:55 22 "Union des Patriotes Congolais, Peace and Reconciliation  
15:18:00 23 Memorandum for His Excellency the representative -- the  
15:18:03 24 special representative of the Secretary-General of the United  
15:18:08 25 Nations visiting Bunia on 2 December 2002." It means that the

15:18:19 1 document should be dated around that time.

15:18:22 2 I would like to go first to page 4 of that document, under

15:18:32 3 1.2. "The achievements of the UPC-RP." The second paragraph

15:18:39 4 [in French]:

15:18:40 5 "The Union des Patriotes Congolais does effectively occupy the

15:18:45 6 ground for some four months now and it is in charge of its

15:18:49 7 political administrative management. The first bit of work

15:18:54 8 which is ongoing is, without doubt, the beginning of

15:19:01 9 installation of security and pacification. Currently,

15:19:05 10 inhabitants of Bunia are learning again that they can sleep

15:19:09 11 soundly after a hard time."

15:19:16 12 We move to page 5, at the top of the page [in French]:

15:19:26 13 "Security is being restored all over the territory under the

15:19:29 14 control of the UPC and this is what caused much discussion in

15:19:34 15 various presses, or press organs, the general reduction in

15:19:42 16 large-scale killing that caused pain all over the territory.

15:19:48 17 Currently Bunia is connected to the outside world and is

15:19:52 18 connected to the access of modern technology through internet

15:19:58 19 installation." And I continue:

15:20:02 20 2: "Pacification of Ituri", and if you look at the end of the

15:20:09 21 page, at the bottom of page 5, you will see "1. The Ituri

15:20:17 22 Pacification Commission." Do you not see it, at the bottom of

15:20:25 23 page 5?

15:20:26 24 A. Yes.

15:20:27 25 [3:20 p.m.]

15:20:30 1 Q. The Ituri Pacification Commission that we have referred  
15:20:32 2 to and which you know is there. I shall move on to page 6  
15:20:39 3 now, the third paragraph [in French]:  
15:20:49 4 "We know that the Ituri Pacification Commission, the CPI,  
15:20:52 5 through which the international community sought to provide  
15:20:56 6 acceptable solutions to the problems of Ituri, was the  
15:21:01 7 brainchild of the Rwanda agreements. However, not having had  
15:21:05 8 the time to take account of some realities on the ground when  
15:21:10 9 it was being created, this agreement is limited in its  
15:21:18 10 application. One of the parties to this agreement, the  
15:21:21 11 Kinshasa government, has chosen a camp in Ituri. Therefore,  
15:21:25 12 Kinshasa is not neutral in regard to Ituri. And one of the  
15:21:30 13 major facts on the ground that the agreement failed to take  
15:21:33 14 into account is that, in the meantime, in Ituri there was a  
15:21:38 15 change in political stakeholders. In fact, in August 2002  
15:21:43 16 RCD-ML was chased out of Ituri by UPC forces. Therefore, the  
15:21:51 17 UPC became the main stakeholder, which cannot be ignored in  
15:21:58 18 any programme which is aimed at pacification of this point or  
15:22:04 19 this part of Congo."  
15:22:07 20 Further down, the last but one paragraph [in French]:  
15:22:16 21 "2. The Kinshasa compromise. While supporting the Rwanda  
15:22:20 22 agreements, of which it is one of the signatories, the  
15:22:23 23 Kinshasa government is, by underhand means, feeding the Ituri  
15:22:28 24 war by using its FAC troops -- that is the Force -- the  
15:22:37 25 Congolese armed forces -- on the side of the Lendu combatants

15:22:40 1 and their allies -- that is, Interahamwe, the Hema, APC of the  
15:22:46 2 RCD-ML and NALU. Kinshasa provides that the RCD-ML and the  
15:22:54 3 negative forces of Ituri with weapons and fighting men through  
15:23:00 4 Beni airport. Kinshasa also refers to peace and that is a  
15:23:03 5 major contradiction."

15:23:07 6 On page 7 now, the top of the page, second sentence  
15:23:20 7 [in French]: "Therefore, on the fronts in Ituri the fact is  
15:23:23 8 that the FPLC, that is the Force Patriotique pour la  
15:23:29 9 Liberation du Congo of the UPC-RP is fighting, amongst others,  
15:23:33 10 against the FAC -- that is the Congolese armed forces -- of  
15:23:38 11 the Kinshasa government in power. In short, real and  
15:23:42 12 sustainable pacification in Ituri does not seem to be of  
15:23:46 13 interest to Kinshasa. The only thing it is interested in  
15:23:50 14 seems to be the rapid access to the ground resources of this  
15:23:58 15 rich province while trampling on the foot, the lives and  
15:24:02 16 happiness of its local population. The government of Kabila  
15:24:07 17 is on the contrary encouraging the extermination of the Ituri  
15:24:11 18 population. Yes, indeed, rapid access to wealth, gold, coltan  
15:24:15 19 and soon we will have commissions of oil contracts, of which  
15:24:21 20 it can be imagined that there will never be put in State  
15:24:26 21 coffers to help the Congolese who are suffering everywhere,  
15:24:29 22 but that they will go straight into the pockets of those who  
15:24:34 23 hold power in Kinshasa."

15:24:37 24 Two paragraphs further down [in French]:

15:24:38 25 "Therefore the Rwandan agreement has no meaning at all because

15:24:41 1 of the unfortunate acts of Kinshasa."

15:24:44 2 "3. The Peace, Truth and Reconciliation Commission."

15:24:52 3 Second paragraph, second sentence [in French]:

15:24:57 4 "Therefore, since from the outset the UPC has observed some

15:25:01 5 shortcomings in the Rwanda agreement, had -- when -- as soon

15:25:06 6 as it took power it set up a commission called a Truth, Peace

15:25:13 7 and Reconciliation Commission [sic] -- that is, the CVPR, as

15:25:17 8 an alternative to the Ituri Pacification Commission which was

15:25:20 9 created by the Rwanda agreement."

15:25:24 10 One paragraph later, at the bottom of the page [in French]:

15:25:27 11 "But in these times of general crisis, for the Peace, Truth

15:25:33 12 and Reconciliation Commission to attain its objectives in good

15:25:36 13 time, the UPC-RP needs the material support of the

15:25:40 14 international community in terms of budget that should be

15:25:44 15 allocated to this end. Under these circumstances, we are

15:25:50 16 attaching the pacification programme, as well as the necessary

15:25:55 17 budget for the Truth, Peace and Reconciliation Commission

15:26:00 18 [sic]."

15:26:03 19 My question, Madame, is this: before all else, do you know

15:26:16 20 about the CVPR, the Peace, Truth and Reconciliation Commission

15:26:21 21 of the UPC government?

15:26:24 22 A. Not to my knowledge, or my recollection.

15:26:26 23 [3:26 p.m.]

15:26:29 24 Q. You answered that you did not know that Mr Tinanzabo was

15:26:33 25 Minister of Pacification?

15:26:35 1 A. That is true.

15:26:36 2 [3:26 p.m.]

15:26:38 3 Q. You thought he was a Prime Minister?

15:26:41 4 A. Yes.

15:26:41 5 [3:26 p.m.]

15:26:41 6 Q. Would you not say that a government, which has a Ministry  
15:26:48 7 of Pacification, which has a Truth, Peace and Reconciliation  
15:26:56 8 Commission, is a government which is seeking peace?

15:27:05 9 A. If this is a movement which, in the meantime -- I might  
15:27:12 10 give examples here -- is expelling the representative of the  
15:27:17 11 Office for the Coordination of Humanitarian Affairs in autumn  
15:27:21 12 of 2002, I have trouble establishing a connection. When  
15:27:26 13 members of this movement -- or I wouldn't call it a  
15:27:32 14 government -- when these members take part in "Operation Wipe  
15:27:35 15 the Slate Clean" at the end of 2002 --

15:27:39 16 Q. I would like you to answer the question. You do not  
15:27:43 17 believe this -- this interest in making peace?

15:27:50 18 A. Perhaps people in the UPC wanted some peace. I would  
15:27:56 19 believe that. I think that is possible. The way in -- the  
15:28:03 20 way in which they sought peace may not have been the best way  
15:28:06 21 that could have brought peace for all people in Ituri or  
15:28:12 22 people living in Ituri. These are legitimate questions that  
15:28:15 23 might be raised regarding the way in which the UPC viewed  
15:28:21 24 peace. I can understand that.

15:28:24 25 [3:28 p.m.]

15:28:26 1 Q. Are you aware that this did not just remain a document,  
15:28:33 2 but that, in the course of several months, there were meetings  
15:28:38 3 with the UPC government -- many meetings -- many meetings of  
15:28:47 4 this commission with all social strata and that finally  
15:28:51 5 in February 2003 there was the signing of a peace agreement  
15:28:54 6 signed by all the communities?

15:29:00 7 A. No, I was not aware of these meetings.

15:29:03 8 [3:29 p.m.]

15:29:03 9 Q. And yet the MONUC was at this meeting, at the protestant  
15:29:10 10 chapel?

15:29:11 11 A. This was a file that was managed by my colleagues of the  
15:29:16 12 Political Affairs Unit and I was not aware of this.

15:29:18 13 [3:29 p.m.]

15:29:18 14 Q. They did not tell you about it?

15:29:20 15 A. I did not receive any specific briefing in February 2003  
15:29:23 16 on these activities.

15:29:24 17 [3:29 p.m.]

15:29:24 18 Q. Were you in Uganda?

15:29:27 19 A. In February, yes.

15:29:28 20 [3:29 p.m.]

15:29:30 21 Q. You were investigating?

15:29:32 22 A. Yes.

15:29:32 23 Q. Did MONUC -- you understand that MONUC was not able --  
15:29:46 24 or, rather, was able to keep this information from you. Do  
15:29:52 25 you think that it is imaginable that MONUC tried to keep this

15:29:58 1 information from you?

15:29:58 2 A. Yes, quite so. The communication channels in regard to

15:30:04 3 politics in Ituri did not go through me?

15:30:06 4 [3:30 p.m.]

15:30:06 5 Q. But you were in charge of Bunia?

15:30:08 6 A. At the time I did not receive this information.

15:30:10 7 [3:30 p.m.]

15:30:11 8 Q. What do you think of it today?

15:30:13 9 A. I think the communication channels could have been, for

15:30:18 10 various reasons, and not only for this reason -- could have

15:30:22 11 been better. They could have been better developed. There

15:30:26 12 were things that were not shared by all members of MONUC and

15:30:29 13 this we can find deplorable, that is true.

15:30:35 14 [3:30 p.m.]

15:30:35 15 Q. You told us that you and MONUC were well informed about

15:30:39 16 political and other aspects.

15:30:43 17 A. MONUC, yes.

15:30:44 18 [3:30 p.m.]

15:30:45 19 Q. But MONUC did not share its information with you?

15:30:50 20 A. Some of the information may not have been provided to me.

15:30:52 21 [3:30 p.m.]

15:30:55 22 Q. Neither?

15:30:57 23 A. No.

15:30:58 24 [3:30 p.m.]

15:30:58 25 Q. So you were not aware that the only community that did

15:31:01 1 not sign this agreement were the north Lendu, who were with  
15:31:08 2 the MONUC people when they did not come to the meeting?  
15:31:11 3 A. No.  
15:31:17 4 ME FLAMME (interpretation): Court officer, another document  
15:31:20 5 I would like to tender in evidence is DRC-OTP -- sorry,  
15:31:27 6 <#DRC-D01-001-0025#>.  
15:31:32 7 COURT OFFICER (interpretation): The number of the document  
15:31:33 8 shall be <#EVD-D01-0009#>.  
15:31:42 9 ME FLAMME (interpretation): Thank you, court officer. I  
15:31:45 10 would like to you display page 4, please.  
15:31:47 11 [3:31 p.m.]  
15:31:54 12 ME FLAMME (interpretation): Q. At the bottom of the page it  
15:31:57 13 says:  
15:31:57 14 "Management of Ituri from 6 March to 6 May."  
15:32:01 15 The penultimate paragraph [in French]:  
15:32:07 16 "The political and administrative management of Ituri was  
15:32:09 17 during this first period the responsibility of the Ugandan  
15:32:15 18 military authority appointed, or who was called Kale Kayihura  
15:32:24 19 and who was the assistant of the MONUC Bureau Chief, Mahmoud  
15:32:32 20 Kane.  
15:32:33 21 Next page:  
15:32:33 22 "From 6 March to 6 May, Ituri went through plundering and  
15:32:40 23 destruction. At first this was limited to investments by the  
15:32:43 24 UPC/RC to property and residence of major merchants, generally  
15:32:47 25 Hema, in Bunia. In the wake of the UPDF attack against the

15:32:52 1 FPLC, the army of the UPC-RP on 6 March 2003, the officers and  
15:33:01 2 ranked soldiers of the UPDF, as well as their followers,  
15:33:07 3 Lendu, Mai-Mai combatants, carried out flagrant violations of  
15:33:13 4 human rights, summary executions, extortion, the setting fire  
15:33:18 5 of moveable furnishings and real estate. There was a case of  
15:33:25 6 three buildings in the town of Bunia, including two apartments  
15:33:29 7 in Mali ya Mungu and several kiosks in the central market of  
15:33:37 8 Bunia. Almost the entire the bovine herd of Ituri was  
15:33:45 9 plundered. Women were raped. These acts were -- took place  
15:33:48 10 all over the interior, despite the signature of a Cessation of  
15:33:53 11 Hostilities Agreement on 18 March 2003. They took place in  
15:33:56 12 the localities of Mandro, Kabakaba, Liseyi, Dhendro, et  
15:34:04 13 cetera.  
15:34:04 14 The attacks and military expeditions conducted by the UPDF and  
15:34:07 15 the Lendu combatants in the interior to control the old  
15:34:10 16 Aviation runways were accompanied by large-scale massacres.  
15:34:16 17 The most remarkable cases, the most horrendous ones included  
15:34:21 18 the massacre of 1,438 persons in Drodro, Largu and Maze,  
15:34:27 19 particularly on 3 April 2003. Several hundred people were  
15:34:32 20 displaced and relocated in Bogoro.  
15:34:38 21 2. Management of Ituri, 6 May to 12 May."  
15:34:45 22 [3:34 p.m.]  
15:34:45 23 THE ENGLISH INTERPRETER: The interpreter would like the  
15:34:45 24 speaker to slow down.  
15:34:45 25 ME FLAMME [interpretation]:

15:34:47 1 Q. "This period was exclusive management by the FNI and the  
15:34:51 2 FRPI and it authorised -- it was authorised and supported by  
15:34:57 3 General Kinsepia of the FAC. After the end of April 2003" --  
15:35:03 4 THE ENGLISH INTERPRETER: The interpreter requests that the  
15:35:05 5 speaker please slow down.  
15:35:07 6 [3:35 p.m.]  
15:35:08 7 ME FLAMME (interpretation): Q. "The management was  
15:35:08 8 typified [sic] by the plunging [sic] and systematic  
15:35:11 9 destruction of the town of Bunia. This was first limited to  
15:35:14 10 Hema and then to people who were -- and then extended to all  
15:35:26 11 of the peoples of various Congolese communities in Bunia. In  
15:35:32 12 total, 342 houses were destroyed -- destroyed, 723 houses were  
15:35:39 13 set on fire; there were summary and meticulous executions of  
15:35:46 14 individuals who were, in particular, members of the Hema  
15:35:49 15 ethnic group and certain related ethnic groups -- Mambissa and  
15:35:57 16 Ndo-Okebo. The statistics, or the toll amounted to  
15:36:03 17 577 deaths, including entire families.  
15:36:06 18 Page 6, the example of 70 members of one family who were  
15:36:12 19 massacred in Pelerin. Cannibalism and man -- and manhunt  
15:36:19 20 without precedence. Hema and assimilated individuals who took  
15:36:23 21 refuge in the -- in MONUC headquarters or at Bunia airport  
15:36:31 22 experienced death threats from the Lendu combatants which the  
15:36:36 23 Blue Helmets had difficulty in controlling. Many people were  
15:36:41 24 removed from MONUC camps and their throats were slit in front  
15:36:47 25 of and in the knowledge of all. By way of proof,

15:36:54 1 approximately 120 metres from MONUC, a victim lay in a grave  
15:37:00 2 close to the road which leads to Ofida.  
15:37:05 3 The specificity of these massacres and plundering which was  
15:37:10 4 conducted in Bunia is that the convents and Catholic parishes,  
15:37:15 5 the churches of various Christian denominations and mosques  
15:37:23 6 were not saved. And so it was that, in these massacres, three  
15:37:28 7 abbots were slaughtered, including two from Nyakasanza,  
15:37:40 8 Faustin, the parish priest and his vicar, Aime, with 21  
15:37:46 9 faithful.  
15:37:46 10 [3:37 p.m.]  
15:37:49 11 What is surprising is that MONUC had recently been reinforced  
15:37:54 12 by substantial contingency of Uruguayans, equipped with high  
15:38:02 13 tech logistical systems, but who passively were in attendance  
15:38:10 14 at these dramas."  
15:38:11 15 In the conclusion, second paragraph:  
15:38:13 16 "The UPC-RP was part of the -- became part of the general  
15:38:21 17 population, and tried to establish political equilibrium, an  
15:38:31 18 equilibrium which had been shattered by the previous regimes.  
15:38:37 19 However, its rise was hindered by a vast plot which was put in  
15:38:43 20 place by Uganda, the Kinshasa government and with the  
15:38:47 21 complicity of international circles, the sole concern of which  
15:38:55 22 was to retake Ituri by Kinshasa through a masquerade of  
15:38:59 23 reconciliation of the peoples of Ituri.  
15:39:00 24 [3:39 p.m.]  
15:39:01 25 And then, finally, in conclusion:

15:39:04 1 "In brief, these two months of absence have been a true  
15:39:13 2 apocalypse in Ituri with the toll of 1,438 persons in the  
15:39:17 3 interior, Drodro and its environs, and 577 persons massacred  
15:39:23 4 by bladed weapons, and weapons of war in the town of Bunia.  
15:39:28 5 [3:39 p.m.]  
15:39:33 6 This is, in fact, the criminal exploit which has been brought  
15:39:36 7 about by the coalition of the government of Kinshasa, elements  
15:39:40 8 of the FAC, Uganda, through the UPDF and the RCD Kisangani ML  
15:39:47 9 by elements of the UPC and combatants.  
15:39:49 10 [3:39 p.m.]  
15:39:50 11 Madame, were you aware of this document?  
15:39:52 12 A. I do not think so.  
15:39:53 13 [3:39 p.m.]  
15:39:57 14 Q. Do you recognise in this document an atmosphere -- well,  
15:40:04 15 more than an atmosphere -- facts with which you were familiar?  
15:40:11 16 A. Yes, there are facts here with which I was familiar.  
15:40:18 17 ME FLAMME (interpretation): Court officer, I would like to  
15:40:24 18 refer to document <#DRC-D01-0001-0032#>.  
15:40:35 19 COURT OFFICER (interpretation): The reference number of the  
15:40:37 20 document shall be <#EVD-D01-00010#>.  
15:40:44 21 ME FLAMME (interpretation):  
15:40:45 22 [3:40 p.m.]  
15:40:45 23 Q. Madame, this document is entitled "Societal Project", and  
15:40:52 24 I would ask you to view the first page, and if you so wish, to  
15:41:06 25 then look through it.

15:41:07 1 As you will see the title is "Societal project" Projet de  
15:41:13 2 Societe. This is a document which was produced in Bunia on  
15:41:19 3 15 November 2003 after a number of months of government. Do  
15:41:23 4 you know this document?  
15:41:25 5 A. I think not.  
15:41:26 6 [3:41 p.m.]  
15:41:28 7 Q. You will see that it is signed by a number of individuals  
15:41:30 8 on its last page. Do you know these individuals -- if you now  
15:41:36 9 look at the last page?  
15:41:40 10 A. Well, needless to say I recognise the first name, and  
15:41:53 11 number 11 also strikes me as a familiar name.  
15:41:56 12 [3:41 p.m.]  
15:42:05 13 Q. Two persons?  
15:42:08 14 A. Number 21. Number 23, that name also is meaningful to  
15:42:17 15 me.  
15:42:17 16 [3:42 p.m.]  
15:42:19 17 Q. Okay. Would you say that this Societal Project is a true  
15:42:38 18 project covering a number of topics, which are of importance  
15:42:45 19 to Ituri?  
15:42:46 20 A. I don't know it.  
15:42:48 21 Q. Okay.  
15:42:52 22 ME FLAMME (interpretation): Court officer, could you please  
15:42:53 23 tender into evidence <#DRC-D01-000-10173#> [sic], regarding  
15:43:07 24 the head of Radio Okapi.  
15:43:14 25 COURT OFFICER (interpretation): The reference number

15:43:14 1 <#EVD-D01-00011#>.

15:43:22 2 ME FLAMME (interpretation):

15:43:23 3 [3:43 p.m.]

15:43:23 4 Q. First page. So what we have here is a letter addressed

15:43:35 5 to Radio Okapi by Mr John Tinanzabo, and I would quote from

15:43:41 6 the second paragraph :

15:43:45 7 "We have been obliged to note with much regret that every time

15:43:50 8 that an incident is caused by armed men in the district of

15:43:55 9 Ituri, your radio carries virulent and marked allegations

15:44:08 10 regarding our political party and highlighting the name of our

15:44:16 11 humble President, Mr Thomas Lubanga, and when we undertake to

15:44:25 12 counter these untrue and defamatory allegations to enlighten

15:44:34 13 your kind listeners, our initiative receives no hearing. For

15:44:45 14 once, we succeeded in having access to your studio in Bunia at

15:44:51 15 the end of last August, but the comments which were our

15:44:54 16 comments, which were recorded, were not broadcast undoubtedly

15:45:01 17 because they're not in line with your ideology. It is most

15:45:03 18 likely that you do not realise the harm, the prejudice which

15:45:06 19 you are causing to our party by accusing it of reprehensible

15:45:12 20 acts, and depriving it of a means of defence at the same time.

15:45:22 21 This approach gives the impression that your radio station,

15:45:25 22 far from being in favour of peace, has a separate remit which

15:45:35 23 would be to ensure, to maintain and to celebrate an

15:45:45 24 unjustified antagonism between MONUC and UPC, and also to

15:45:51 25 present to national and international opinion the UPC as being

15:45:55 1 an anarchic terrorist organisation, the only objective of  
15:46:03 2 which would be to create chaos and desolation. With its  
15:46:09 3 manoeuvres, your radio station is deliberately minimising the  
15:46:13 4 praise-worthy and appreciable efforts which have been made by  
15:46:17 5 our party to pacify Ituri, the efforts of which -- the  
15:46:23 6 efforts, the fruits of which should be supported by everyone,  
15:46:27 7 including your radio station."  
15:46:30 8 Now, this letter is signed by Mr John Tinanzabo. Were you  
15:46:40 9 aware of this letter?  
15:46:45 10 A. At what -- what date does it bear?  
15:46:49 11 Q. It does not bear a date.  
15:46:51 12 A. Well, in any case, I was not aware of this letter.  
15:46:55 13 [3:46 p.m.]  
15:46:56 14 Q. What was Radio Okapi?  
15:47:00 15 A. Radio Okapi was not a MONUC radio station; it was managed  
15:47:04 16 by an independent foundation with the contract with the United  
15:47:12 17 Nations.  
15:47:12 18 [3:47 p.m.]  
15:47:14 19 Q. Radio Hironnelle, did the United Nations fund Radio  
15:47:23 20 Okapi?  
15:47:23 21 A. The funding of Radio Hironnelle is not known to me. I  
15:47:30 22 believe that the financing of Radio Hironnelle -- no, no, I  
15:47:36 23 couldn't affirm it.  
15:47:36 24 [3:47 p.m.]  
15:47:37 25 Q. Hironnelle worked closely with MONUC?

15:47:41 1 A. Yes.

15:47:41 2 [3:47 p.m.]

15:47:41 3 Q. Would it be right to say that the studio of radio station  
15:47:49 4 Hirondelle was within the MONUC compound?

15:47:52 5 A. In Bunia, yes, that was the case. In Kinshasa, too,  
15:47:57 6 also, there was a contract -- a contract linking radio  
15:48:06 7 Hirondelle and MONUC.

15:48:08 8 [3:48 p.m.]

15:48:08 9 ME FLAMME (interpretation): Court officer, could you please  
15:48:09 10 tender into evidence <#DRC-D01-000-0136#>, and I would  
15:48:20 11 conclude.

15:48:21 12 COURT OFFICER (interpretation): The reference number is  
15:48:24 13 <#EVD-OTP-001-00012#>.

15:48:31 14 ME FLAMME (interpretation):  
15:48:32 15 [3:48 p.m.]

15:48:32 16 Q. Now, this is a letter sent by Mr Thomas Lubanga to the  
15:48:37 17 Vice-President of the DRC, and which is dated 7 February 2004.  
15:48:46 18 On the first page at the bottom of the page [in French]:  
15:48:57 19 "Mr Vice-President, I have the honour to inform you that it  
15:49:04 20 was announced by the Grand Hotel of Kinshasa, 27 -- dated  
15:49:11 21 27 December 2003, that a decision has been taken to take  
15:49:15 22 charge -- that we have taken charge pending further  
15:49:25 23 information to be provided by your office, that is to say, the  
15:49:29 24 office of the Head of State. Having received -- having had  
15:49:36 25 40 days without any service from the hotel; in addition having

15:49:42 1 to go through the difficulties associated with a judicial  
15:49:49 2 investigation which has been commenced by the Prosecutor's  
15:49:55 3 office of the Appeal Courts of Kinshasa Gombe;  
15:50:01 4 Mr Vice-President, we know that our stay in Kinshasa is at the  
15:50:05 5 invitation of the government and that after discussions which  
15:50:12 6 have not been a success, our request for a return to our base  
15:50:18 7 has been denied. How can one explain this physical and moral  
15:50:25 8 torture that -- with which we are being inflicted in this  
15:50:30 9 environment, which is basically sequestration. Signed Thomas  
15:50:38 10 Lubanga, President of the UPC-RP."  
15:50:46 11 [3:50 p.m.]  
15:50:47 12 Madame, do you recall seeing that in February  
15:51:00 13 2004 Thomas Lubanga was not yet back in Ituri?  
15:51:02 14 A. Not that I recall.  
15:51:08 15 ME FLAMME (interpretation): Court officer, please display  
15:51:10 16 document <#DRC-D01-000150#>.  
15:51:17 17 COURT OFFICER (interpretation): Before giving an evidence  
15:51:20 18 number to this document, I would like to make a correction to  
15:51:22 19 the transcript. The previous document has the -- with  
15:51:27 20 evidence number <#D01-0012#> is not <#OTP-0012#>, but  
15:51:36 21 <#EVD-0012#>, and the document before us now will have  
15:51:39 22 evidence number <#D01-00013#>.  
15:51:46 23 ME FLAMME (interpretation): Thank you, court officer.  
15:51:49 24 [3:51 p.m.]  
15:51:50 25 ME FLAMME (interpretation): Q. First page, top of the page.

15:51:57 1 "So, subject" -- this is a letter on the MONUC letterhead,  
15:52:07 2 dated 7 February 2005. I will read the second paragraph [in  
15:52:07 3 French]:  
15:52:11 4 "So, the subject of the letter is a risk of destabilisation of  
15:52:19 5 Ituri."  
15:52:19 6 Paragraph 2:  
15:52:20 7 "Since approximately 2 months, there are criminal risks across  
15:52:25 8 the territory of the district of Ituri which have led  
15:52:29 9 approximately 3 -- 35,000 people to conglomerate in the same  
15:52:36 10 place as the MONUC Blue Berets -- Blue Helmets, to guarantee  
15:52:43 11 their security and arrive -- and allow for the arrival of  
15:52:46 12 humanitarian support -- support. These acts seem to be  
15:52:53 13 attributed to FNI criminals essentially, but also UPC members,  
15:53:03 14 armed elements of which, as you may have remarked, have  
15:53:06 15 totally disappeared." Signed: "Mr Dominique Ait  
15:53:22 16 Ouyahia-McAdams, Director of MONUC, Ituri." Wouldn't you say  
15:53:27 17 that both paragraphs are contradictory? I would like to  
15:53:32 18 reread:  
15:53:33 19 [3:53 p.m.]  
15:53:33 20 And also the UPC, the armed elements of which, as you might  
15:53:33 21 have remarked seem to have completely disappeared. Don't you  
15:53:36 22 think contradicts -- this is contradictory?  
15:53:38 23 A. You are referring to periods during which I was no longer  
15:53:42 24 present in Ituri. I don't know which or who, Madame McAdams  
15:53:52 25 is referring to in this letter.

15:53:57 1 Q. You left?

15:53:57 2 A. I left in November 2004. If you may, I would like to

15:54:00 3 read the letter.

15:54:00 4 [3:54 p.m.]

15:54:01 5 Q. If you read, as an observer, with your knowledge of the

15:54:08 6 French language, what would you think of it?

15:54:11 7 A. Well, I would like to read the letter.

15:54:13 8 [3:54 p.m.]

15:54:14 9 Q. No, you can just read the paragraph concerned, but if you

15:54:17 10 want to read the whole letter, it's not very long.

15:54:19 11 A. I don't think it would be useful just to read two

15:54:21 12 paragraphs.

15:54:22 13 [3:54 p.m.]

15:54:26 14 Q. Go ahead. I'm not preventing you from doing so.

15:54:41 15 PRESIDING JUDGE JORDA (interpretation): Court officer --

15:54:52 16 MS MARCHI-UHEL (interpretation): President, could I please

15:54:53 17 talk to the witness for a minute? Thank you.

15:54:55 18 THE WITNESS (interpretation): Monsieur, were you asking me

15:55:57 19 to comment? What was your question?

15:55:59 20 ME FLAMME (interpretation):

15:55:59 21 [3:55 p.m.]

15:56:00 22 Q. Yes, I wanted to ask you whether you don't think this

15:56:03 23 paragraph is -- contradicts the first?

15:56:06 24 A. You mean, whether both are contradictory? Contradictory

15:56:12 25 to what?

15:56:13 1 Q. It says that these acts are also -- it is said that the  
15:56:17 2 acts are also said to be of the UPC, but that it is also said  
15:56:21 3 that the UPC seems to have disappeared entirely of the whole  
15:56:25 4 zone.

15:56:27 5 A. Well, in -- I don't know about the events that happened  
15:56:34 6 in February 2005 in Ituri, and I can't really comment.

15:56:40 7 PRESIDING JUDGE JORDA (interpretation): I think she's  
15:56:41 8 answered.

15:56:42 9 ME FLAMME (interpretation):  
15:56:43 10 [3:56 p.m.]

15:56:43 11 A last document, if you may, President, before the break,  
15:56:46 12 <#DRC-D01-0001-0154#>.

15:56:59 13 COURT OFFICER (interpretation): The evidence number will be  
15:57:01 14 <#EVD-D01-00014#>.

15:57:10 15 ME FLAMME (interpretation):  
15:57:11 16 [3:57 p.m.]

15:57:11 17 Q. I refer to the first page. It is a press release from  
15:57:16 18 the Security Council, dated 2 March 2005?  
15:57:20 19 [3:57 p.m.]

15:57:27 20 Paragraph 1 [in French]:  
15:57:31 21 "The council strongly condemns the assassination of nine Blue  
15:57:40 22 Helmets of Bangladesh in the DRC and would like to welcome the  
15:57:45 23 strong action undertaken by the MONUC against the perpetrators  
15:57:49 24 and would also like to congratulate the Congolese government  
15:57:54 25 for the first arrests carried out by the this government --

15:58:00 1 the Congolese government."

15:58:03 2 Paragraph 1:

15:58:05 3 "The Security Council condemns firmly the attack against a  
15:58:13 4 patrol of the United Nations Mission in the Democratic  
15:58:18 5 Republic of the Congo by the Front Nationalist et  
15:58:25 6 Intergrationist, FNI, in Ituri." And middle paragraph [in  
15:58:29 7 French]:

15:58:30 8 "It would like to voice its grave concern expressed on  
15:58:37 9 28 February 2005, in Kinshasa by the International Committee  
15:58:40 10 for Transition, concerning the illegal activities and criminal  
15:58:47 11 activities of the militia in Ituri and the military chiefs and  
15:58:52 12 political leaders, in particular MM Floribert Ndjabu,  
15:58:52 13 Goda Sukpa, Etienne Lona, Thomas Lubanga, Bosco Tanganda and  
15:59:12 14 Germain Katanga."

15:59:12 15 [3:59 p.m.]

15:59:13 16 Madame, were you aware of the Security Council's  
15:59:22 17 position-taking?

15:59:23 18 A. I was aware of the position of the UN after the murder of  
15:59:33 19 certain colleagues.

15:59:34 20 [3:59 p.m.]

15:59:36 21 Q. I have finished for now.

15:59:44 22 PRESIDING JUDGE JORDA (interpretation): As you know, your  
15:59:45 23 witness is here for the rest of the day. If you may, I would  
15:59:48 24 like to consult my colleagues to know if we should take your  
15:59:51 25 question by -- in writing or orally. Perhaps we can solve

15:59:57 1 this problem very rapidly.

16:00:00 2 MR MULENDA (interpretation): Thank you, President. The  
16:00:05 3 witness saw several parents in Bunia. These parents came to  
16:00:14 4 see her, either to help in the demobilisation process of their  
16:00:18 5 children or to help them find their children, and therefore I  
16:00:22 6 would like to know whether the witness started a written  
16:00:29 7 procedure. Did she take notes during the interview she had  
16:00:33 8 with these parents; that was my question.

16:00:37 9 PRESIDING JUDGE JORDA (interpretation): I would like to ask  
16:00:38 10 the Prosecutor's opinion on this issue and then Mr Flamme. Do  
16:00:43 11 you have any objections to this question, Mr Withopf? You can  
16:00:54 12 sit down, Mr Mulenda.

16:00:54 13 MR WITHOPF: The Prosecution has no objection to the  
16:00:56 14 question.

16:01:00 15 PRESIDING JUDGE JORDA (interpretation): Mr Flamme?

16:01:02 16 THE ENGLISH INTERPRETER: Microphone, please. Microphone.

16:01:07 17 ME FLAMME (interpretation): If you may, I would like to give  
16:01:10 18 you an answer after the break.

16:01:13 19 PRESIDING JUDGE JORDA (interpretation): If you so wish.  
16:01:18 20 Very well, I will give you that option and we have the  
16:01:28 21 question, and we know the OTP's answer, so you can speak to  
16:01:31 22 your client and we'll have a break of 30 meetings [as  
16:01:35 23 interpreted] and resume at 4.30. The hearing is adjourned.  
16:01:43 24 [4:01 p.m.]  
16:01:45 25 [Short adjournment to continue proceedings in closed session]