

1 International Criminal Court

2 Trial Chamber I

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

4 Case against Thomas Lubanga Dyilo

5 Hearing - *Closed Session Reclassified as open session

6 Wednesday, 4 March 2009

7 The hearing starts at 9.30 a.m.

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

9 in session. Please be seated.

10 PRESIDING JUDGE FULFORD: Good morning. Witness, please.

11 (The witness takes the stand)

12 (Mr. Lubanga entered court)

13 WITNESS: WITNESS DRC-OTP-WWW-0011 (Resumed)

14 (Witness answered through interpreter)

15 PRESIDING JUDGE FULFORD: Good morning.

16 THE WITNESS (interpretation): (No interpretation)

17 PRESIDING JUDGE FULFORD: Good morning, Mr. Lubanga. Please take

18 a seat.

19 Mr. Desalliers, I fear I forget. Were we in open or private

20 session?

21 MR. DESALLIERS (interpretation): We're in private session,

22 your Honour.

23 PRESIDING JUDGE FULFORD: All right. Could we have the blinds

24 up, please, so that we're in private rather than closed session.

25 *(Private session) Reclassified as open session

1 COURT OFFICER: Private session.

2 PRESIDING JUDGE FULFORD: Yes, Mr. Desalliers.

3 MR. DESALLIERS (interpretation): Can you please give the
4 document back to the witness.

5 Questioned by Mr. Desalliers: (Continued)

6 Q. (Interpretation) Good morning, Patrick.

7 A. Good morning.

8 Q. Patrick, yesterday, at the end of the day, we were talking about the
9 fact that you went from (Redacted) to Mwanga. That is when you met UPC
10 soldiers, that you were in Mwanga when you met the soldiers of the UPC.
11 Do you remember?

12 A. Yes.

13 Q. I have given you the document. You don't need it now. You can
14 put it aside, but I will refer you to the document whenever necessary.
15 Thank you.

16 You said that your trip from (Redacted) to Mwanga was done by
17 motorcycle; is that correct?

18 A. Yes.

19 Q. And that the trip took about (Redacted); is that correct?

20 A. Yes.

21 Q. Can you tell us how the road is between (Redacted) and Mwanga?

22 A. The road between (Redacted) and Mwanga is a normal road.

23 Q. Is it a road which directly links (Redacted) to Mwanga?

24 A. Yes. It is the only road.

25 Q. And on this road do you -- as you go through this road, do you go

1 through another town?

2 A. No.

3 Q. Patrick, if I suggest to you that there (Redacted)

4 (Redacted) and Mwanga (Redacted) that

5 to go from (Redacted) to Mwanga you have to absolutely go through (Redacted),
6 what would you say?

7 A. I have nothing to say, because we went to Mwanga and we used the
8 motorcycle.

9 Q. And you did not go through (Redacted)

10 A. No.

11 Q. Yesterday I gave you a map. Do you still have a copy of the map
12 I gave yesterday?

13 MR. DESALLIERS (interpretation): Your Honour, maybe we should
14 take the map and show the witness and ask him to encircle the areas
15 (Redacted) and Mwanga, and I would like to ask that it should be displayed
16 on the machine which makes it possible to project the image once he has
17 completed or finished with the map.

18 Q. Patrick, do you have a pencil with you? Do you have a pencil?

19 A. I have a pen.

20 Q. Can you look at the map well --

21 PRESIDING JUDGE FULFORD: I'm happy for the witness to do this.
22 Mwanga and (Redacted) are both marked on the map. So, I'm not quite sure
23 what the benefit is of asking the witness to circle two places that are
24 already identified, but if you think it would help, then of course he can
25 do it. I'm not quite sure what the advantage is of asking the witness to

1 circle two places which we can read for ourselves on the map, but it's a
2 matter for you.

3 MR. DESALLIERS (interpretation): You are right, your Honour.
4 The simple reason why I'm asking this is to ensure clarity so that all of
5 us can see the same thing, but then I can limit myself to asking the
6 witness whether he can clearly see (Redacted) and Mwanga. You are right,
7 your Honour.

8 Does the Bench have a copy of this map?

9 PRESIDING JUDGE FULFORD: We do, thank you, and it's now on the
10 machine.

11 MR. DESALLIERS (interpretation): That's right. I have been
12 informed that it is now in e-court and it has the number
13 DRC-OTP-0010-0003-0161 (as interpreted). So you can give it a number.

14 COURT OFFICER (interpretation): The number given to the map
15 is -- what you find on your screens will be MFI-D-006 -- 00065.

16 PRESIDING JUDGE FULFORD: Mr. Desalliers, I'm sorry, I'm going to
17 interrupt now and I'll try to avoid doing so again. I just want to make
18 sure that it is necessary for this to be taking place in private session.
19 You're confident, are you, that these questions are really going to touch
20 too closely on places or names that will identify the witness?

21 MR. DESALLIERS (interpretation): The simple reason why I asked
22 that we should remain in private session is because we are talking about
23 (Redacted); but if we are in public session and we do not say that the
24 witness is from (Redacted) and we only talk about the distances and
25 situating (Redacted) and Mwanga on the map, it may then not be necessary to

1 do this in closed session.

2 PRESIDING JUDGE FULFORD: Ms. Massidda, if we avoid referring to
3 the fact that the witness at one stage had a connection with (Redacted),
4 can we go into public session?

5 MS. MASSIDDA: I think so, your Honour.

6 PRESIDING JUDGE FULFORD: Very helpful. Ms. Solano.

7 MS. SOLANO: No objection, Mr. President.

8 PRESIDING JUDGE FULFORD: Good. We'll see how we do,
9 Mr. Desalliers. If we have to move in and out of private session, so be
10 it, but I think on the experience of yesterday afternoon I would like to
11 see if we achieve a greater degree of public rather than private
12 sessions.

13 So public session, please.

14 (Open session)

15 COURT OFFICER: Open session.

16 PRESIDING JUDGE FULFORD: Yes, Mr. Desalliers.

17 MR. DESALLIERS (interpretation): Thank you.

18 Q. So, Patrick, in the last question we're talking about two places,
19 Centrale and Mwanga, and I would like to know whether you can look at
20 them on the map which you have before you.

21 A. Yes, I can see them.

22 Q. Is it correct that it is located -- that these two areas are
23 located north of Bunia? Is that correct?

24 A. When I was in Centrale, I did not know whether Mwanga was
25 situated in the north or in the east of Bunia. All I knew was that I was

1 going from Centrale to Mwanga.

2 Q. Fine. I have no other questions on the map. I may return to it
3 if we have to talk about other locations.

4 Patrick, the soldiers you met in Mwanga, were they soldiers who
5 were based in Bule camp?

6 A. When the soldiers came to take us in Mwanga, I did not know where
7 they came from. They -- I did not know whether they were based in Bule
8 or Centrale.

9 Q. You did not know at the time you met them, but they took you to
10 Bule. Did they remain in Bule camp, in the same area where you were?

11 A. Yes. We stayed there together.

12 Q. Do you know whether it was Commander Tshitsha who sent them at
13 the time?

14 A. I had no information. They took us to this -- to that place, and we
15 wondered why they were taking us there; and it was for military training. We
16 did not ask them who had sent them to come and take us.

17 Q. Thank you. I will now ask questions relating to the friend who
18 was with you when you met. In fact, you said there were several friends,
19 but you gave only one name. Now, don't cite the name, but do you
20 remember the person I'm talking about?

21 A. Yes.

22 Q. I will say it again: We are now in open session, and I'm asking
23 you questions relating to your friend, but I will not cite his name, and
24 I would like to ask you not to do the same thing. I will ask you to do
25 the same thing in your answers.

1 Now, this friend, was he enlisted in the army at the same time as
2 you were?

3 A. Yes.

4 Q. He followed you, and he went to Bule with the soldiers at the
5 same time as you?

6 A. They took us in the same place -- at the same place and we went
7 together.

8 Q. Can you take the file, the black file with the documents, and you
9 go to the document which is in tab 2. That is your first statement. And
10 please go to paragraph 21

11 MR. DESALLIERS (interpretation): And the document should not be
12 projected on the screens.

13 Q. Have you seen it? I'll read the last sentence of the paragraph:
14 "My friend," whose name I will not mention, "did not come with me
15 to join the UPC militia."

16 (Redacted) is the following: Did you tell the investigators in
17 the month of July 2005 that (Redacted) did not go with you?

18 MR. DESALLIERS (interpretation): Excuse me. I've mentioned the
19 name, your Honour.

20 Q. That your friend did not go along with you when you went with the
21 UPC soldiers. Is that what you told the investigators in July 2005?

22 A. When I met the investigators, I told them that I was with (Redacted)
23 at the same place and that they came to take us to Bule.

24 Q. Very well.

25 PRESIDING JUDGE FULFORD: There will need to be two

1 redactions.

2 MR. DESALLIERS (interpretation):

3 Q. Patrick, on the first day of your testimony, you mentioned that
4 you enlisted voluntarily for military service. And still on the first
5 day of your testimony you insisted that you were not forcibly enlisted.
6 That's what you told the investigators. You insisted on that.
7 Yesterday, in answer to Ms. Pellet, you said that you did not enlist
8 voluntarily. Now, can you give us some clarification on the situation?
9 Were you enlisted voluntarily into the UPC forces? Yes or no?

10 A. You say that I said that I enlisted voluntarily and that later on
11 I said I was enlisted by force. When the investigators came to meet me,
12 I told them that it was the first time that I was enlisted by force.
13 Maybe it was the interpreter who made an error. That is what I told them
14 for the first time.

15 Q. So the interpreter may have made an error during your interview
16 with the investigators in July 2005. Is that the time you think the
17 error was committed?

18 A. Yes. When we were in (Redacted), they came to take us by force and
19 we went to Bule. That's what I said. When the investigators asked me
20 why there were contradictions between my first statement and my second
21 statement, I told them that it was perhaps the interpreter who did not
22 understand very well what I said.

23 Q. So your testimony today is that you were enlisted by force. Is
24 that your testimony today?

25 A. Yes.

1 Q. So do you remember the first day of your testimony you said that
2 you were not enlisted by force and that you enlisted voluntarily in the
3 UPC forces, here in the court on the first day you gave testimony? Is
4 that not the case?

5 A. No, I don't remember.

6 Q. Just give me a little time. I will try to look for -- fine.
7 I'll read it here. I am going to read out to you the words you spoke
8 before this Court on the first day you gave testimony. I am on page 73
9 of the French transcript, line 11:

10 "When I dropped out of school, I spent my time digging for gold,
11 and I enlisted voluntarily for military service."

12 I will now turn to page 74, line 5, of the French transcript:

13 "I think the last time when you questioned me on my enlistment I
14 told you that I was not enlisted by force. That is what I wish to
15 confirm."

16 And today you seem to be telling us the direct contrary. So can
17 you tell us what the situation is actually? Were you enlisted by force
18 or did you enlist voluntarily?

19 A. Your questions are misleading me a bit. You have just said that
20 when I met the investigators of the Prosecution I told them that I was
21 enlisted by force and here I told you that I was enlisted by force, but
22 what you are saying there, I don't understand it.

23 Q. Very well. We will look at another document which is your
24 statement from the month of July, your first meeting with the
25 investigators. Please, can you take a look at it, paragraph 14. Have

1 you seen it?

2 A. Yes.

3 Q. On the third line -- I'm going to read a sentence that starts on
4 the third line:

5 "Because of my voluntary enlistment in the UPC militia, I dropped
6 out of school in the third year."

7 I will stop there. So you told the investigators in July 2005
8 that you enlisted voluntarily, and here before the Court it would appear
9 that you said two different things on the first day and the second day of
10 your testimony. So can you tell us -- can you help us to clarify things?
11 Did you tell the investigators that you enlisted voluntarily? And here
12 you're saying something else. Please can you clarify, clarify us on
13 this?

14 A. I just said the following: The question you are putting to me, I
15 know that's not what I said. I have just said that there was a problem
16 between the interpreter and I, but I did not say what you have said.

17 Q. But, Patrick, you are able to read French. You said this at the
18 beginning of my questioning; right?

19 A. I can read French, but this is not the first time this question
20 is put to me. When the investigators from the Prosecution team came for
21 the second time, they asked me the same question. They asked me, "Why is
22 your answer different from the first answer?" And I told them that it
23 was an error committed by the interpreter.

24 Q. Fine. That explains why you told the investigators in July 2005
25 why you enlisted voluntarily, that it was an error of the interpreter,

1 but how do you account for the fact that before this Court on the first
2 day of your testimony you said that you enlisted voluntarily and that you
3 were not enlisted by force? Do you remember having said that? I just
4 read the passage out to you.

5 A. When the question was put to me here, that is, how I got into
6 military service, I said I was taken to Centrale by force. That's the
7 answer I gave here in the courtroom, and I think that you're reading out
8 something else to me. That's not what I said.

9 Q. We will return to your first statement in the month of July.
10 Please turn to paragraph 20. Have you seen it?

11 A. Yes.

12 Q. At the end of page 4, I'm going to read an extract, an excerpt:

13 "I met a group of UPC militia members who requested me to follow
14 them, to join their army to get military training and fight against Lendu
15 enemies."

16 I will stop there for paragraph 20, and I turn to paragraph 21
17 which is on the next page, page 5. And I'm going to read the paragraph:

18 "Because I was furious again the Lendu who, according -- from
19 what I learned from certain UPC militia members in," I will not mention
20 the name, "had killed my mother in the market of the village of," I will
21 not cite the name, "about six months ago. So I immediately accepted the
22 offer of the militia members thinking that it was an occasion for me to
23 avenge this death. My family and I did not get or receive the -- the
24 body of my mother or receive any details about her death, and so we
25 conclude that -- we concluded that the information given by the militia

1 members was highly probable."

2 On paragraph 22:

3 "That day, without returning to," I will not mention the name,
4 "to inform my family of my decision, I followed the militia members of
5 the UPC who then took me to Bule," I think.

6 So, Patrick, is it correct that you told the investigators, that
7 you told the investigator in July 2005 that you enlisted voluntarily to
8 avenge your mother, the death of your mother?

9 A. I don't know what to give you as an answer. What I'm telling you
10 here is that when I met the investigators of the OTP for the second
11 time, I gave them the right version. They asked me questions, and I told
12 them that -- the second time I told them --

13 THE INTERPRETER: The interpreter did not hear the last end of
14 the witness's answer.

15 MR. DESALLIERS (interpretation):

16 Q. Patrick, would you be so kind as to repeat that last part of your
17 answer. The interpreter did not understand what you said.

18 A. I said that what is in my first statement given to the OTP was
19 read to me the second time for confirmation, and I realised that I hadn't
20 said certain things. Therefore, the clear statement is the statement
21 given the second time to the OTP investigators. The first time there
22 were numerous mistakes made on the part of the interpreter.

23 Q. Are you suggesting here before the Court that the passages that I
24 have just read out to you, in fact, it's the translator or the
25 interpreter who actually invented that and you did not say those things?

1 A. When I talked to the investigators there was an interpreter
2 between us, because there were French speakers and English speakers, and
3 I didn't understand French or English, and I couldn't really understand
4 what the interpreter said either. Therefore, to confirm the statement, I
5 met the investigators a second time, and I realised that there were many
6 aspects that were incorrect. I can't say that it was the fault of the
7 interpreter, I can't say it was my fault, nor can I say that it was the
8 fault of the person who co-signed the document.

9 Q. In one of my first questions I asked you whether this statement
10 was re-read to you when you made this statement, because you signed it.
11 It was re-read to you before you signed it, and you said that you'd
12 understood the document and that it did indeed correspond to the
13 responses you had given to the investigator. Do you remember giving an
14 answer to that question?

15 A. Yes.

16 Q. I'd like to ask you to go to page 13 of your statement, please.
17 Have you found page 13?

18 A. Yes.

19 Q. It states here:

20 "Certificate of the witness. I hereby declare that the
21 information contained in this statement that I have re-read personally
22 does indeed reflect correctly my -- my interview given on July 15th and
23 18th. I have made this statement of my own volition, and I have been
24 informed that it can be used in judiciary proceedings before the ICC."

25 And you signed this statement; is that correct?

1 A. Yes. Yes, I signed it.

2 Q. I'd like to ask you to go to the next page of the very same
3 document where it states: "Certification of the Interpreter." Have you
4 found the page? Have you found the page, Patrick?

5 A. Yes. Yes, I have it.

6 Q. Under paragraph 3 it states, and it is the investigator: "I have
7 translated verbally the transcript of the interview from French into Swahili
8 in the presence -- in the continual and effective presence of --yourself- who
9 appears to have heard and understood my translation of this interview
10 statement,"; and Point 4 "--yourself--confirmed that the facts and the events
11 related in the interview as translated by myself are the truth Such as he
12 experienced and remembers those events and therefore has signed in the
13 appropriate place."

14 PRESIDING JUDGE FULFORD: Mr. Desalliers, you must be careful.
15 We're in public session.

16 MR. DESALLIERS (interpretation): Your Honour, I'm very sorry if
17 I said something I shouldn't have.

18 PRESIDING JUDGE FULFORD: You've just given the witness's name in open court.

19 MR. DESALLIERS (interpretation): I skipped the name, but
20 apparently indeed the name is in the transcript. I did not state the
21 name.

22 MS. MASSIDDA: Your Honour, I think the interpreter spelled the
23 name but not Mr. Desalliers. I have not heard from Mr. Desalliers the
24 name.

25 PRESIDING JUDGE FULFORD: Well, Mr. Desalliers, I have wrongly

1 accused you, but what I heard over the airwaves, supposedly being what
2 you had just said, was a particular name. So I must ask you to excuse
3 me, but I think I've got a hundred per cent mitigation, Mr. Desalliers.
4 Please continue.

5 And can I ask the interpreters, please, to be careful. It is
6 important that we only have interpreted what is said and that there is no
7 filling in of gaps. Thank you.

8 Yes, Ms. Solano.

9 MS. SOLANO: Thank you, Mr. President. Just to point out at
10 page 14, line 15, that it is not the investigator who is being quoted at
11 paragraph 3. It was the interpreter, and I think it's important for the
12 witness to not be led astray on that account. Thank you.

13 PRESIDING JUDGE FULFORD: Fine.

14 MR. DESALLIERS (interpretation):

15 Q. Patrick, this text has been read out to you, and you have stated
16 that it contained the truth. Was your intention to get revenge from the
17 death of your mother who had died six months before you were enlisted?
18 Is that the case? Is that true?

19 A. Listen, you have my second statement when I met with the
20 investigators of the OTP. Read that statement and you will see that the
21 second time what I said was not that my mother died before I was enlisted
22 in the army. So I don't know agree with that statement. You're saying
23 that my mother died before I was enlisted. When I left, my mother was
24 alive at home, and I don't agree with what the statement says that you've
25 just referred to.

1 Q. Patrick, this is your statement. These are your own words.
2 These are things that you yourself said in July 2005. Are you saying now
3 that what you said in July 2005 is not correct?

4 A. No. The interpreter made some mistakes during the first
5 interview with the OTP investigators in 2005.

6 Q. Therefore, the three paragraphs that I've just read out in fact
7 correspond to mistakes made by the interpreter. Is that your testimony?

8 A. Well, you see, I cannot say that it was a mistake made by the
9 interpreter. I was given the statement to re-read it and confirm its
10 contents, and there were some mistakes. This is my statement, and the
11 important thing is that that's my -- it's my own responsibility. It's
12 not the statement made by the interpreter, and what I said -- the
13 important thing is that what I said actually be in the statement.

14 PRESIDING JUDGE FULFORD: Now, first of all, you were about to --
15 you were about to ask the next question when the witness was still
16 speaking or, rather, the interpretation was still happening. Please make
17 sure you don't do that.

18 Secondly, Ms. Solano wanted to say something. Yes, Ms. Solano.

19 MS. SOLANO: Mr. President, just to say that in fairness to the
20 witness he should not be asked the same question various times. He has
21 already given his answers.

22 PRESIDING JUDGE FULFORD: You've just anticipated something I was
23 going to say.

24 Mr. Desalliers, the exercise that you're engaged in is entirely
25 legitimate. Let me stress that. However, I must ask you, please, to

1 remember who is in the witness box and that questioning of an individual
2 who, for instance, is a high-financier from London may not necessarily be
3 appropriate for everyone else.

4 We have got to the point in relation to the difference. The witness
5 has given his explanation, and I would ask you, please, to be careful
6 not, in reality, to repeat the questions to the witness so as to
7 emphasise a point that is now very clear to us. It's established. It's
8 there. I think it's time to move on.

9 MR. DESALLIERS (interpretation):

10 Q. To -- as a follow-up to what has just been said, could you help
11 us by telling us exactly when your mother died?

12 A. When I went to (Redacted), before I went into the military service
13 my -- I left both my mother and my grandmother. When I went to (Redacted)
14 I went to the military service, and it was at that time -- during that
15 time that I was told that my mother was killed during the battle in
16 Lipri. So my mother died after I left. In other words, she did not die
17 before I left.

18 Q. Thank you very much. So your testimony today before this Court
19 is to say that you were forcefully enlisted, and would you say that it
20 was Commander Tshitsha who enlisted you forcefully?

21 A. I have just said the following: When the soldiers came,
22 Commander Tshitsha was not there. It was when we went to Bule that we
23 saw Commander Tshitsha. I don't know whether he sent the soldiers to
24 come and get us. I don't know that.

25 Q. But I understand that Commander Tshitsha was the highest military

1 authority at Bule camp. Is that correct?

2 A. Yes.

3 Q. I'd like to ask you to take a look at tab 3A, which is your
4 request to -- your application to participate as a victim before the
5 court, and then take a look at page 11 of 27. Remember I'm referring to
6 the numbers, the small numbers at the top of the page and not the large
7 black numbers. I'm referring to page 11 of 27. At the top there's a
8 reference.

9 A. Yes, I see it.

10 Q. You found it. In section (D) entitled, "Information Regarding
11 the Alleged Crimes," I'd like to ask you to look at the very last
12 paragraph at the bottom of this page under the question:

13 "When did the event or events take place? If possible, indicate
14 the date, the day, the month, and the year."

15 And then it says:

16 "Forced enlistment by Bosco Ntaganda in 2003. After two months
17 of training in Bule, I was sent for combat throughout the year 2003 and
18 even during the first few months of 2004."

19 The question I'd like to ask you, first of all, relating to this
20 paragraph is: Why did you say in this document that you were enlisted by
21 Bosco Ntaganda?

22 A. I don't remember very well.

23 Q. But you refer to training and forceful enlistment by
24 Bosco Ntaganda. Is that true?

25 A. No, it's not true.

1 Q. A little bit further along there's a reference to January 2003
2 enlistment. You said before this Court that you were enrolled in
3 July 2002, whereas in this document you mention the date January 2003.
4 Can you explain this discrepancy between the two versions?

5 A. I don't have any explanation to give. I don't agree with that.

6 Q. So January 2003 is incorrect?

7 A. Yes.

8 Q. As you said in the beginning of your testimony, you said that you
9 had re-read this document and that you agreed with its contents. Why did
10 you not indicate that this information was incorrect at that time?

11 A. How can I answer you? You give the information once and the
12 written document remains forever. When the statement was re-read to me,
13 I accepted, indeed, that I had stated things, but I cannot accept things
14 that I did not say.

15 Q. Fine. Well, in this very same paragraph, it states that you
16 fought throughout the year 2003 and the first three months of 2004, and
17 yet you told this Chamber that you left the army in July of 2003. Now,
18 should I understand again that this information regarding the first few
19 months of 2004 is that incorrect as well as the entire year 2003? Is all
20 of that incorrect as well?

21 A. I stated to the Judge that I was enlisted in July 2002, and I
22 left the military in March 2003. That's what I said. I didn't say I was
23 enrolled in 2002 and that I left in 2003. That's not what I said.

24 Q. I'm very sorry. Perhaps I misunderstood, but I just heard that
25 you said you left the military in March 2003?

1 A. Yes. That's what I said very recently in this very courtroom.

2 Q. Didn't you say, the first day, that you had left the military in
3 July of 2003?

4 A. No. I said that I was enlisted in July 2002, and I left the
5 military in March of 2003. That's what I said.

6 Q. Thank you very much. Is it true that you stated the very first
7 day of your testimony that you accepted to get on the truck where the
8 soldiers were but that you didn't know where they were taking you but
9 that you did accept to get on the truck? Is that correct?

10 A. Yes. I said the following here: When they came to get us in
11 (Redacted) and they took us in a vehicle, we didn't really receive any
12 order from them, but they had weapons, and we got in the vehicle and we
13 asked them where we were going, and they said, "We are going to Bule for
14 training."

15 Q. So if I understand correctly, they did not force you to get on
16 the truck ?

17 A. Well, we didn't go get them. They came to get us. They came to
18 get us where we were.

19 Q. Yes, I understand that, but what I'd like to be clear about, what
20 I'd like to understand is when you said the first day that you got on the
21 truck at the time you didn't know where you were being taken, and when
22 you got on the truck you did so of your own volition. Is that true?

23 A. I've just said the following, and that's what I said the first
24 day: When they came to get us, they told -- they told us to get on a
25 truck, and when we got on the truck we asked them where we were going and

1 they told us, and that's what I said.

2 Q. I'm very sorry, Patrick. There's a small detail that is not
3 perfectly clear for me. What I want to know is were you taken
4 forcefully? Were you forced to get on the truck? Yes or no?

5 PRESIDING JUDGE FULFORD: Yes, Ms. Solano.

6 MS. SOLANO: Mr. President, with respect, I submit that this
7 question has already been asked of the witness and that it has been
8 answered.

9 PRESIDING JUDGE FULFORD: I think this is the concluding question
10 on this subject, but thank you for the intervention.

11 And I think after this we move on, Mr. Desalliers.

12 MR. DESALLIERS (interpretation):

13 Q. Do you remember the question, Patrick? Let me repeat it for you.
14 In fact, when you met the soldiers, the UPC soldiers, did they force you
15 to get on the truck or did you get on the truck voluntarily? That's the
16 only thing I want to know.

17 A. To answer your question, let me say the following: Imagine --
18 you think that I was enlisted voluntarily in the UPC. Well, if I had
19 been a volunteer, I would have had to go myself to the UPC camp for
20 training, whereas we were standing there chatting by the roadside, and we
21 didn't know anything about the fact that they were coming to get us.
22 Suddenly we saw soldiers come toward us. Some of -- some people ran
23 away, and we stayed, and they told us to get on the truck, and when we
24 asked them where we were going, they said, "We're going to Bule, and
25 you're going to have military training."

1 Q. Thank you. The first day you testified you told us that the UPC
2 soldiers took you to Bule camp and that -- first of all, they took you in
3 the vehicle to Lopa, and from Lopa you walked to Bule. Is that true?

4 A. Yes.

5 Q. How far is Mwanga from Lopa? What is the distance?

6 A. You're asking me questions about distance between cities, and you
7 ask me questions about dates. You know, it's -- it was a long time ago.
8 I wasn't in the village to evaluate the distance. How do you expect me
9 to know these distances?

10 Q. Let me put it another way. You were in a vehicle from Mwanga to
11 Lopa. How long did the drive take to go to Lopa?

12 A. Well, when they took us in (Redacted), I don't know what time of
13 the day it was, and I cannot tell you how many minutes the trip took from
14 Centrale to Lopa.

15 Q. Fine. Let me ask another question. If you don't know, just say,
16 "I don't know."

17 Do you know what the distance is between Lopa and Bule?

18 A. No, I don't remember. I don't know.

19 Q. But you did walk. Do you remember how long it took to walk from
20 Lopa to Bule?

21 A. No, I don't know.

22 Q. You have absolutely no idea? I don't need a precise duration.
23 Was it an hour? Was it a day? Was it six hours? Can you give us an
24 approximation of the time it took to walk from Lopa to Bule?

25 A. I don't know how long it took us to walk that distance.

1 Q. Please look at the map that you were given this morning.

2 MR. DESALLIERS (interpretation): President, I think we can also
3 show the map on the screen. I don't think there's a problem in showing
4 the geographical map on the screen.

5 Yes, that's the one. Thank you.

6 Q. So, Patrick, you have the map before you. A little bit earlier
7 you saw -- you were able to identify Mwanga village, which was your
8 departure point. Can you still see it on the map?

9 A. Yes.

10 Q. Are you able to see Lopa town?

11 A. Yes.

12 Q. Does the fact that you can see it now on the map help you
13 remember how long it took you to go by vehicle from Mwanga to Lopa?

14 A. No, I can't know.

15 Q. Very well. No problem. Now, looking at Lopa, are you able to
16 identify Bule village on the map?

17 A. Yes, I can see it.

18 Q. I'll ask you the same question. Now that you see it on the map,
19 does that help you remember how long you walked from Lopa to Bunia --
20 Bule?

21 A. I have just said that I don't know how long it took to go until
22 Bule. We took the vehicle to go to Lopa from Mwanga, and we went to
23 Bule, but I can't know how long it took.

24 Q. Very well. If I were to say the distance from Mwanga to Lopa is
25 shorter than the distance from Lopa to Bule, would you agree?

1 PRESIDING JUDGE FULFORD: Mr. Desalliers, I'm not finding this
2 helpful. The witness has said, "I don't know the distances." You're
3 putting a number of them. To each he's saying, "I don't know." Then
4 putting a relative distance is highly unlikely to produce a useful
5 answer. I really think this is turning into an arid line of questioning.

6 MR. DESALLIERS (interpretation): Very well, President. I
7 withdraw my question.

8 Q. Could you, Patrick, explain why you travelled by car from Mwanga
9 to Lopa and Lopa to Bule on foot? Why didn't you do the whole trip in a
10 vehicle?

11 A. Well, I was obeying someone's orders. They were carrying out the
12 missions according to the orders they had been given. They were given
13 orders to go from one village to another in a certain way, and then from
14 that village to another. So what could you do?

15 Q. Concerning the soldiers you met in Mwanga, they formed a small
16 group. Did that group have a leader, to your knowledge?

17 A. When they came to take us, and I will state again what I said, we
18 went to Lopa on a vehicle. We didn't ask questions. The only question
19 we asked was where we were going, and they told us we were going to Bule
20 to receive military training. We didn't ask any other questions. We
21 didn't ask whether or not there was a leader. It was when we arrived in
22 Bule that they talked to us about leaders.

23 Q. But among this group of soldiers, was there one that seemed to
24 give others orders?

25 A. That I do not remember.

1 Q. I would like to clarify a point on 2B concerning the additional
2 information for your participation as a victim. Tab 2B.

3 Have you found it?

4 A. Yes.

5 Q. On the first page at point 2, third paragraph. The sentence is
6 right in the middle of the page. I'm going to read it:

7 "It's Bosco Ntaganda who sent the soldiers to take the children
8 away. He was at the Bule military centre."

9 So my question is: Is this information incorrect?

10 A. I have just said that when the soldiers came to get us they
11 didn't have a leader. When we arrived at Bule, they introduced us to all
12 the UPC groups' commanders. That's what I just said.

13 PRESIDING JUDGE FULFORD: Forgive me for interrupting. I do it
14 for this reason: A little earlier on you took the witness to a passage
15 which you read out, forced enlistment by Bosco Ntaganda in 2003, and you
16 asked him why he mentioned Bosco Ntaganda and the answer was, "I don't
17 know." Now, effectively you've just asked the same -- exactly the same
18 question but taking him to a different passage. Again, I'm not sure of
19 the value of this. If he doesn't remember why he said it in relation to
20 one passage, there really is little hope that there's going to be a
21 better answer in relation to another passage. So this is just
22 effectively repetitive, isn't it?

23 MR. DESALLIERS (interpretation): President, it was only for
24 clarifications, because this is mentioned in another document. This
25 passage I read was in the initial request for participation, and the

1 passage I just read was in the document supplementary information that
2 was given and hence a lot later than the initial application for
3 participation. I wanted to give the witness the opportunity to say
4 whether this information that was contained in another document was
5 correct or not. If the paragraph followed, I wouldn't have asked that
6 question, but as it was in another document that had been prepared or
7 drafted, I think, years later, I wanted clarification.

8 PRESIDING JUDGE FULFORD: (Previous translation continues) ...
9 enough, but can I suggest that this is done all as a piece rather than
10 splitting it up with other questions in between. These two areas are
11 clearly linked together, should really be dealt with together, but I
12 understand the additional point. Please continue.

13 MR. DESALLIERS (interpretation): Thank you, President.

14 Q. So, Patrick, I'm going to repeat my question for you to
15 understand correctly. The sentence I just read: "It's Bosco Ntaganda
16 that sent the soldiers to take the children away. He was at the Bule
17 military centre." As the President just mentioned, I asked you questions
18 about Bosco Ntaganda earlier on and you said it wasn't correct. So all I
19 wanted to know is whether or not the information and the sentence I've
20 just read to you is incorrect as well.

21 A. I don't know if you're following my statement very well. You
22 think that they came to get us in (Redacted) to then bring us to Bule and
23 that there was a commander on board the vehicle, but I said the
24 following: From (Redacted) we went to Bule with a group of soldiers who
25 had been sent to come and fetch us. I don't know the person who gave

1 these soldiers orders to come and fetch us, but it's when we arrived in
2 Bule that the UPC commanders who were in Bule were introduced to us, and
3 we were introduced to a commander who was responsible for our training,
4 and that was Commander Tshitsha.

5 Q. Very well. Thank you. I would now like to talk about your
6 military training. Actually, no. I apologise. First I would like to
7 ask you the following: You were brought to Bule camp. Was Bule camp the
8 only camp you had been based in?

9 A. When we arrived in Bule, at that time I knew there was only one
10 camp.

11 Q. There was only one camp in Bule?

12 A. Yes.

13 Q. And it's in that camp you carried out your whole training and
14 military service? You were always in the same place; is that correct?

15 A. I was given the military training in Bule camp.

16 Q. Very well. And when your military training ended, did you also
17 carry out your military service in Bule?

18 A. Yes.

19 Q. Would you say Bule camp was a military camp or a training camp?

20 A. It was a military camp, but there was also a part in which
21 training was carried out.

22 Q. Can you help us situate the camp? Let's base ourself in Bule's
23 commercial centre. You do know Bule commercial centre, don't you?

24 A. What type of commercial activity?

25 Q. I'm not referring to a commercial activity, but is there a main

1 square, a commercial square in Bule?

2 A. Bule is a village, and there's a market there. There are schools
3 there and there is activity.

4 Q. Very well. So how would one go from Bule market to the camp?

5 A. Let's take the point of departure this courtroom. If I go to the
6 camp, I have to go via the market to go to the camp. I don't know how
7 you want the details, because these events took place a long time ago.

8 Q. Very well. So you don't remember. The first day of your
9 testimony you said there were a lot of military when you arrived at Bule
10 camp. Is that correct?

11 A. Yes.

12 Q. Are you able to give us an approximation of the number of
13 military at Bule camp on your arrival?

14 A. To know the number of soldiers or people in the camp was not
15 really my responsibility. I was a recruit, and I couldn't know how many
16 soldiers there were in the camp. That was the duty of the military
17 leaders in the camp. I couldn't know.

18 Q. I would just like you to understand that I'm not asking for exact
19 numbers. Nobody's going to reproach you for not giving the exact
20 numbers, but I would like to know, in your assessment, whether there were
21 a hundred, a thousand, 2.000? Do you have any idea?

22 A. Well, to give you an answer I can't give you a clarification. I
23 can't say whether there were 1.000. I can't say, because I risk give you
24 the figure 1.000 whereas there might have been less than a thousand.

25 Q. Very well. No problem. Are you, however, able to tell us

1 whether or not the number of soldiers at the camp remained approximately
2 stable for the whole period you were there? Was the number of soldiers
3 during the time you were there approximately stable?

4 A. What do you mean when you say the number remains the same?

5 Q. I'm not asking you for the exact number of soldiers, but I would
6 just like to know whether at one stage or other a large number of
7 soldiers left or a large number of soldiers arrived, or whether during
8 the whole period of time you were there the number of soldiers remained
9 stable or approximately stable, the same?

10 A. According to the information available to me, I can say that our
11 group arrived at the camp and thereafter no other group arrived for
12 military training. I didn't witness any. However, I don't know whether
13 other people arrived at the camp after I left.

14 Q. Very well. Thank you. When you arrived at Bule camp, is it
15 correct that at the time you didn't have any military experience?

16 A. Well, you know, to answer your question adequately I would say
17 the following: I had been fetched in Bule. Do you think I was a soldier
18 or I had any experience?

19 Q. No. I'm not assuming anything, but I just want you to confirm,
20 confirm that at your arrival in Bule you didn't have any military
21 experience. If you did or not. If you didn't have any, the answer's
22 simply no.

23 A. No.

24 Q. Did your military training start immediately when you arrived at
25 the camp?

1 A. When we arrived at the camp, we were asked to build houses. It's
2 after the houses were built that the military training began.

3 Q. So is it correct that your training arrived -- started the day
4 after your arrival at the camp?

5 A. When I arrived at the camp there wasn't any accommodation. We
6 were given the opportunity to build houses. After these houses were
7 built, we began the military training.

8 Q. How long did it take you to build your house?

9 A. Three days, approximately three days.

10 Q. And after the three days, did I understand correctly, did you
11 start your military training?

12 A. Yes.

13 Q. Were you given a uniform and weapon on the first day of your
14 military training already?

15 A. No. When we were given training, we didn't wear military
16 uniforms, and we didn't carry any weapons. We were given weapons when we
17 started shooting training, and after that training they took the weapons
18 back. It's after the training that we were given weapons, rifles, and
19 military uniforms.

20 Q. So how much training took place before you were given a weapon?

21 A. Four months.

22 Q. Could you please go to your first statement, which is under
23 tab 1, right at the beginning of your folder. Are you on your first
24 statement, the July 2005 statement?

25 A. Yes.

1 Q. Very well. I would ask you to go to paragraph 24, please. Have
2 you found it?

3 A. Yes.

4 Q. I would like to draw your attention to the very last sentence of
5 the paragraph, and I will read it:

6 "On that first day, they also gave us a camouflage uniform with
7 green and white spots, a similarly coloured beret, and gaiters which were
8 green without strings, and a rifle which we called an SMG, the butt of
9 which had been cut, and a magazine with ammunition."

10 A. Yes. I just said that after the military training everyone was
11 given all of that.

12 Q. Very well. Maybe I should have read the beginning of the
13 paragraph. Look at the beginning of the paragraph 24, please. You
14 state:

15 "Upon our arrival, UPC soldiers gave us orders to build a hut
16 that would serve as accommodation."

17 That's what you mentioned. And a little bit further in the same
18 paragraph you say:

19 "We were given a uniform and an SMG rifle."

20 So is it correct to say that you told the investigator you had
21 been given an SMG rifle on the first day of your training?

22 So it's normal you said all this to the investigators, but now
23 you're saying that you received a weapon four months after the beginning
24 of the training. I just want to know what was -- what actually happened.

25 A. Well, there's only one truth. I made a mistake by saying that

1 when we arrived we were given these weapons immediately. That wasn't how
2 things happened. It was after the training that the weapons and uniforms
3 were given us.

4 Q. Very well. Thank you.

5 PRESIDING JUDGE FULFORD: You've had a long time in the witness
6 box. We're going to have a break now, and we'll sit again in half an
7 hour's time. Thank you very much.

8 Could we go into closed session, please, so the witness can and
9 the rest of us can take a break, and if Mr. Lubanga would kindly leave
10 court ?

11 (Mr. Lubanga withdrew)

12 *(Closed session) Reclassified as open session

13 COURT OFFICER: Closed session.

14 PRESIDING JUDGE FULFORD: Thank you.

15 (The witness stands down)

16 PRESIDING JUDGE FULFORD: Half past 11.00.

17 Recess taken at 10.59 a.m.

18 On resuming at 11.30 a.m.

19 COURT USHER: All rise. Please be seated.

20 PRESIDING JUDGE FULFORD: Witness, please.

21 (The witness entered court)

22 PRESIDING JUDGE FULFORD: Thank you very much. And thank you for
23 being patient, and I'm sorry this is taking a little bit of time.

24 (Mr. Lubanga entered court)

25 PRESIDING JUDGE FULFORD: Yes, Mr. Lubanga. Please have a seat.

1 We're in open session, so can we please return to open session.

2 (Open session)

3 COURT OFFICER: Open session.

4 PRESIDING JUDGE FULFORD: Yes, Mr. Desalliers.

5 MR. DESALLIERS (interpretation): Thank you.

6 Q. Patrick, is it indeed Commander Tshitsha who personally gave you
7 the military training? Was it he who taught you?

8 A. Yes.

9 Q. So if I understand rightly, he was both responsible for the camp
10 and for the military training. He had both responsibilities.

11 A. What do you mean by being commander of the camp?

12 Q. Commander Tshitsha was the senior-ranking officer in Bule camp.
13 That's what I've understood from your answer.

14 A. Yes.

15 Q. So then is it correct to say that he was the camp commander?

16 A. Yes. He's the one who was the camp commander, because when we
17 arrived there he is the one who we found as Commander-in-Chief.

18 PRESIDING JUDGE FULFORD: Pause, please, Mr. Desalliers.

19 On the Bench, each of our LiveNote connections have disappeared.

20 I'm going to ask the usher, please, to reconnect
21 Judge Odio Benito.

22 Sorry, Mr. Desalliers, there was a technical glitch that appeared
23 to be limited to us, but we're now back on line. Please continue.

24 MR. DESALLIERS (interpretation):

25 Q. So what I wanted to clarify, Patrick, is whether

1 Commander Tshitsha was both the commander of Bule camp and personally
2 gave you your military training. That's what I wanted to confirm with
3 you. Is that right?

4 A. He was the commander of Bule camp, and he was also our trainer.

5 Q. Thank you very much. Now, when you were in training, how many
6 days per week were spent on military training?

7 Just a moment, Patrick. I'm sorry. So how many days per week
8 were spent on training when you were in training, military training?

9 A. Three times a week.

10 Q. Do you remember which days were spent on training?

11 A. If I'm not mistaken, it was the even days of the week.

12 Q. What do you mean by "the even days"? Could you tell us more
13 specifically what you mean?

14 A. In other words, Tuesday, Thursday, and Saturday.

15 Q. So on Tuesday, Thursday, and Saturday you had military training.
16 Right. Well, what did you do on the other days, the other four days of
17 the week?

18 A. The other days when we didn't have training we would do other
19 tasks.

20 Q. And what were those tasks?

21 A. Well, by times we would go to get food, go walking in the
22 vicinity of the camp. Little tasks and chores.

23 Q. And did you have days off? Were there days in the week when you
24 had nothing to do?

25 A. In fact, work -- or, rather, military service doesn't involve

1 days off. I'm not sure that there are days off in military service. We
2 didn't have days off.

3 Q. Could you please take your first statement at tab 1 and go to
4 paragraph 27, please. Have you found it?

5 A. Yes.

6 Q. I'm going to read a passage starting from the eighth line:

7 "Only on Sunday there was no training. I'd preferred to stay in
8 my hut and sleep or to meet up with other young boys from my group. We
9 would go onto the main road of Bule and spend the day doing nothing in
10 particular."

11 Do you remember saying that to the investigator in July 2005?

12 A. Yes.

13 Q. Why did you say, then, that there was one day of rest when there
14 was no training, the Sunday, whereas you just told us you had training
15 only three days a week?

16 A. When I said three days of training, if you were doing training on
17 Tuesday, Thursday, and Saturday, that doesn't necessarily mean that
18 Monday, Wednesday, and Friday don't exist as days.

19 Q. But have I correctly understood from your testimony what you said
20 earlier, that on Monday, Wednesday, and Friday you didn't have training,
21 you weren't undergoing training?

22 A. Yes.

23 Q. So all I want to know is why you told the investigator in
24 July 2005 that only on Sunday there was no training. Why didn't you say
25 on Monday, Wednesday, and Friday?

1 A. I gave all the details the second time. They put the question
2 and I answered them, and I also said why there was no training on Sunday.
3 I said that there was training three times a week, and there was only
4 three days a week when we didn't do the training. I made that very clear
5 and detailed that to the investigators of the Office of the Prosecutor.

6 Q. Very well. You've explained to us that you were enlisted in the
7 armed forces of the UPC. Are those armed forces known by another name?

8 A. I only know UPC.

9 Q. Very well. Thank you. Could you please describe precisely to us
10 the uniform of UPC commanders. Could you give us a full description of
11 it.

12 A. The military uniform which they wore was similar to our uniform.

13 Q. But were there particular markings that made it possible to know
14 whether they were commanders or not?

15 A. Yes. There were insignia on the shoulders.

16 Q. Could you describe them to us?

17 A. I don't remember very well. However, there were distinctive
18 signs, because there were different functions or ranks depending on the
19 rank of the commander, but I wouldn't be able to give you the specifics
20 on all the insignia.

21 Q. Very well. Could I ask you to go to paragraph 33 of your first
22 statement, please. Have you found it? I'm going to read that paragraph.

23 "As regards the military uniforms of commanders, we all wore the
24 same, that is to say, camouflage uniforms with green, white, and black
25 patches. Their ranks could be distinguished by the colour and number of

1 stars which were sewn on to the stripes of material which they wore at
2 each shoulder. Those who were the highest ranks, such as Commander Bosco
3 and Kitembo, had three golden stars on a green background on each side,
4 whereas their deputies had two orange stars on a black background. The
5 other leaders had only one star on their shoulder."

6 So in 2005, you gave a very detailed description of these
7 distinctive signs to the investigator. Does this tally with your -- your
8 memories?

9 A. Well, I've only just said it. I said this: There were different
10 ranks, but I couldn't remember. But now having heard what's been read
11 out, yes, I remember.

12 Q. Very well. Thank you.

13 THE INTERPRETER: The interpreter indicates she didn't translate
14 the last line or line and a half of paragraph 33.

15 MR. DESALLIERS (interpretation):

16 Q. Now, when your military training was completed, to which military
17 unit were you assigned?

18 A. What do you mean by "unit"?

19 Q. Were you assigned to a section, a brigade, or a battalion in
20 particular?

21 A. No. We remained in Bule camp. We were soldiers of the camp.

22 (Redacted)

23 (Redacted)

24 PRESIDING JUDGE FULFORD: Redaction.

25 MR. DESALLIERS (interpretation):

1 Q. Can you tell us how many soldiers are in a section?

2 A. Well, the question you have just put to me is similar to a
3 question you had put before. I don't know the exact number of soldiers
4 or the exact number of soldiers in the camp.

5 Q. Well, I'm going to differentiate between the two questions so
6 that it's very clear for you. You've already answered the question of
7 the number of soldiers in the camp, and I won't return to that, but
8 normally in a section in the armed forces of the UPC, how many soldiers
9 are normally in such a section?

10 A. No, I don't know.

11 Q. Do you know how many soldiers are normally in a brigade?

12 A. I don't know.

13 Q. And I would put the same question to you as regards a battalion.
14 Do you know how many soldiers are normally in a battalion?

15 THE INTERPRETER: The witness has shook his head.

16 MR. DESALLIERS (interpretation):

17 Q. Patrick, you need to answer into the microphone.

18 A. No.

19 Q. In your testimony up until now you have said that you took part
20 in different battles. My question is whether it was possible for you not
21 to go to battle if you didn't want to.

22 A. Well, to tell the truth, in military service there are people who
23 are higher ranked than you and have authority over you. We, as soldiers,
24 were just ordinary soldiers. If your authority assigned you, you had to
25 do it, because before we went into battle we were called onto the parade

1 place, and one group was assigned for battle and one group was assigned
2 to stay. If you were assigned for battle, you had to go. If you were
3 assigned to stay in the camp, you had to stay in the camp. You could
4 never resist an order. If you were asked to go to battle and you said
5 that you wanted to stay in the camp, that wasn't possible.

6 Q. Very well. Could you take paragraph 25 -- or look at
7 paragraph 25 of your first statement, please. Sorry, paragraph 26.

8 Have you found that?

9 A. Yes.

10 Q. I'm going to read the last paragraph of that paragraph:

11 "In those cases and in the case where we, the children, asked for
12 permission not to go to battle, we were not forced to do it against our
13 will."

14 I would just like to know why you said that to the investigator
15 in July 2005. Why did you say that you weren't obliged to go into battle
16 if you didn't want to?

17 A. It never happened that somebody refused to go to battle if they
18 were given that task. I said this -- I said this, or I made this
19 statement because I knew -- excuse me. Could you put this question to me
20 again?

21 Q. Certainly. In response to my previous question you said that if
22 a commander ordered you to go to battle, you had to go to battle. You
23 had no choice. Now, I've just read a sentence from your statement of
24 July 2005 to the investigators from which I understand that you weren't
25 forced to fight if you didn't want to.

1 Now, as it seemed to me that these two answers were
2 contradictory, that's why I asked you why you said in the past that -- to
3 an investigator that you weren't forced to fight if you didn't want to.

4 A. I made this statement to the investigator because there was no
5 question of refusing to go to war if you were sent to war. Also, you
6 were not forced to go to war if you weren't chosen. If you were asked to
7 go to war, you had to go.

8 Q. Very well. Thank you. I'm now going to address the battle in
9 Barriere. You spoke of two battles, if I understood well, which took
10 place in Barriere; is that right?

11 A. Yes.

12 Q. When you went to fight in Barriere, did you leave from Bule camp?

13 A. Yes, we left from Bule for Barriere.

14 Q. And what route or path did you take to go to Barriere? What
15 journey did you make?

16 A. In going to Barriere we took the same route as coming, because to
17 go to Barriere you had to go through Lopa and other villages. You had to
18 go from Bunia (sic) to Lopa, and after Lopa you would arrive in Barriere.

19 Q. You said Bunia, but I imagine you meant to say Bule, or was it a
20 translation problem? I heard Bunia. Did you just say that you left from
21 Bule?

22 A. To go to the camp we left from Bule. We arrived in Lopa, and
23 after Lopa we arrived in Bunia -- oh, no, Barriere.

24 Q. Thank you. And did you go on foot or by car?

25 A. From Lopa to Bule we went on -- by vehicle, and from Lopa to

1 Barriere we went on foot.

2 Q. You mentioned that the battle in Barriere was the first battle
3 you took part in. Is that right?

4 A. Yes.

5 Q. Could you tell us why you never mentioned that battle to the
6 investigator of the Office of the Prosecutor in July 2005? At no point
7 in your statement do you mention a battle in Barriere. Could you explain
8 why you didn't mention that battle in Barriere to the investigator in
9 July 2005?

10 A. The dossier that you have before you, from that you should see
11 that that is -- there's a statement which I made the first time and that
12 later there was a second delegation which came to -- to confirm the file.
13 It's important that you look at the two files, the first that I gave and
14 the second that I gave when I met the officers of the Office of the
15 Prosecutor. I would ask you to read those two documents.

16 Q. Very well. Well, we are going to read now a passage from your
17 first statement. I'd like you to have a look at page 9 of that.

18 Are you on page 9? In the centre of the page there is a title in
19 bold print and it's underlined. It says: "Regarding active
20 participation in UPC attacks on Lipri." And the paragraphs which follow
21 that title or under that title do indeed deal with an attack which took
22 place in Lipri.

23 Now, I'd like you to go to the following page, and notably
24 paragraph 42. Now, I'm going to read the beginning of this paragraph:

25 "I have a very clear and unforgettable memory of that day,

1 because there it was the first time that I killed someone."

2 However, in previous days in your testimony you have said that
3 you shot at people in Barriere and that was the first time. So what was
4 the first time? Could you throw light on that? Was it Lipri the first
5 time or was it Barriere?

6 A. The first time I went to war was in Barriere. When we fought in
7 Barriere, we killed people.

8 Q. So the sentence which I've just read out in paragraph 42 is not
9 right. The first time you killed somebody was not in Lipri, it was in
10 Barriere.

11 A. Yes.

12 Q. Was it Commander Tshitsha who took you and who commanded the
13 troops who left from Bule to go to Barriere?

14 A. Yes, it was him, because he was the person commanding the
15 mission.

16 Q. And Commander Tshitsha stayed with you, because I understand that
17 the two battles of Barriere lasted for about one month, because you
18 stayed for about one month in Barriere, if I understood your testimony
19 well. Did I understand your testimony well that you spent one month in
20 Barriere?

21 A. I do not remember. I do not remember what I said in the
22 statement I gave to the Office of the Prosecutor. I do not remember
23 whether I talked about two days or one month. I do not remember.

24 Q. I will help you by reading a passage from your statement, that is
25 the testimony you gave yesterday, from the French transcript, page 11,

1 and I'm going to read an excerpt of what you said yesterday to help you
2 to remember:

3 "A. When combat ended in Barriere, we occupied Barriere. We
4 were in Barriere, and after that we went and carried out another combat.

5 "Q. Do you remember how much time you spent in Barriere before
6 going to the other combat?

7 "A. No, I do not remember. However, it must have been about one
8 month, but I don't remember very well."

9 I have just read an excerpt of your testimony. If I understand
10 well, the battle in Barriere ended. You stayed there for about one
11 month, and later on you went to carry out the other battle in Lipri. Did
12 I understand your testimony well?

13 A. Yes.

14 Q. So Commander Tshitsha, was he with you in Barriere during the
15 whole month?

16 A. Yes, we were with him in Barriere.

17 Q. Is it correct that there were soldiers who remained in Bule camp
18 who did not accompany you to the battle in Barriere, soldiers who stayed
19 back in Bule? Is that correct?

20 A. Yes. There was a group of soldiers who stayed back in Bule.

21 Q. Can you tell us during the time you were in Barriere with
22 Commander Tshitsha, who was commanding the camp in his place?

23 A. As I told you earlier, Commander Tshitsha was the senior
24 commander, but there were other commanders apart from him. When we went
25 to combat, we went with certain commanders, and others stayed back in the

1 camp to supervise.

2 Q. I imagine that when you left Bule camp there was a commander who
3 was commanding Bule camp in the absence of Tshitsha. Was there someone
4 who was acting in his place?

5 A. Well, to act for him when he was not there, to my knowledge, I
6 think that in his absence some other person had to take up his
7 responsibilities in order to secure the camp. When we left with him, I
8 did not see the person who replaced him.

9 Q. Very well. Thank you. You mentioned on the first day of your
10 testimony, I think, that there were other commanders apart from Tshitsha
11 in Bule. Do you remember the names of one or several of these
12 commanders?

13 A. No.

14 Q. Since you say that you stayed in Barriere for about one month
15 before you went to attack Lipri, can you tell us where you were living in
16 Barriere precisely at the time?

17 A. In Barriere, when we reached there we chased away the enemy. We
18 occupied the camp of our enemies, and that's where we stayed. The enemy
19 soldiers, I mean.

20 Q. So if I understand well, you attacked a military camp in
21 Barriere. Do I understand correctly?

22 A. You know, when soldiers are in -- in a town
23 they construct a camp somewhere, and when you chase the population out of
24 the village, they abandon the village. They quit the village completely.
25 So we did not only attack the camp, because there was another group that

1 had to go into the town. So we drove away everyone. There were
2 killings. There were deaths. And we occupied the area where the
3 soldiers were, and that's where we were living.

4 Q. So you chased away the soldiers from the camp. Do I understand
5 correctly that you also chased away the population of the village of
6 Barriere?

7 A. During the war the population fled. There was a part of the
8 population that fled and the other part of the population stayed,
9 remained.

10 Q. Can you describe, since you said that you spent about one month
11 in the camp in Barriere, can you describe that camp to us? How was it
12 like?

13 A. The military camp of Barriere was made of houses built of wood,
14 huts.

15 Q. Can you give more details? A house made of wood and huts, these
16 are two different things. Can you give us a clear description of the
17 houses so that I can understand the type of houses you had in the camp?

18 A. In this case there were houses made of straw and pieces of wood,
19 and so these were some -- like a sort of hut.

20 Q. Would you say that it was comparable to the camp where you were
21 in Bule?

22 A. No. No. But there were certain houses there that resembled --
23 that resembled the houses in our camp but on the whole it was not
24 similar.

25 Q. I do not want to get all the details but can you tell us the

1 major differences between the camp in Barriere and the camp in Bule? As
2 far as you can remember, what were the major differences between the two
3 camps?

4 A. Well, these were two different camps and each person has a way of
5 constructing his camp or her camp. The way we constructed our camp was
6 different from the way they constructed their camp.

7 Q. Very well. And I imagine that during the time, the one month you
8 spent in Barriere, did you go to Barriere village itself?

9 A. Yes. When we were in Barriere, we went into the villages to look
10 for food.

11 Q. Can you explain to us where the camp was located in relation --
12 related to the market in Barriere?

13 A. To tell you the truth, the military camp is not very close to the
14 homes of the local population. It was far from the market.

15 Q. Did you go there on foot or by vehicle?

16 A. The market was located in Barriere. We went on foot. It is
17 located in the village. But there is quite some distance between the
18 market and the military camp.

19 Q. And how much time did it take you to walk from the military camp
20 to the market in Barriere?

21 A. No, I do not remember.

22 Q. Do you know how many soldiers in your group stayed with you in
23 Barriere during the one month?

24 A. Well, the question relating to the number of soldiers, I don't
25 know. I don't even know how many of us went to combat. I don't know how

1 many of us reached there and how many of us stayed in the camp. I don't
2 know.

3 Q. Very well. Thank you. Did I understand well from your testimony
4 that there were two attacks? The first attack on Barriere, you were
5 driven back and you had to withdraw to attack a second time. Did I
6 understand your testimony well?

7 A. Yes.

8 Q. So after the first attack you withdrew to where exactly?

9 A. We -- when we withdrew, we went far from the village of Barriere,
10 but I can't remember the name of the village, but it was far from
11 Barriere. We withdrew to take up position in order to launch the
12 counter-attack.

13 Q. And do you remember how much time went by between the first
14 attack when you were driven back and the second attack? How long was it
15 between the two attacks on Barriere?

16 A. It wasn't many days, because when we withdrew, it was to prepare
17 ourselves in order to launch the counter-attack. On the same day that we
18 withdrew we spent very little time, and the next day in the morning we
19 launched the counter-attack.

20 Q. Can you explain to us why after winning this second battle in
21 Barriere you did not simply return to the camp in Bule? Why did you stay
22 in Barriere?

23 A. We stayed in Barriere because if we returned to Bule, then the
24 enemy would come back and re-occupy Barriere. That is why we stayed in
25 Barriere, to create a group and adopt a position to make sure that the

1 enemy would not return.

2 Q. Very well. So after staying in Barriere you attacked Lipri. Can
3 you explain to us the route, the exact route that you followed from
4 Barriere to go and attack Lipri?

5 A. The road to Lipri is difficult, and there is a long distance
6 between Lipri and Barriere. There were people who knew other routes, and
7 we arrived there.

8 Q. While you were going, on the way, do you remember whether you had
9 to go through other towns before reaching Lipri, that is, after leaving
10 Barriere?

11 A. We went through certain villages, but we did not enter these
12 villages. We were far from the villages. We also crossed many streams
13 before we reached our destination.

14 Q. So you only went through small villages on your way; is that
15 correct?

16 A. Yes.

17 Q. You did not go through Bunia?

18 A. You know, it would have been a good thing for us if we had gone
19 through Bunia. We took a bush road, a shortcut, in order to reach Lipri
20 directly. We did not go through Bunia.

21 Q. Should I understand from your answer that you left from Barriere
22 and went to Lipri on foot?

23 A. Yes.

24 Q. Please can you take paragraph 41 of your first statement. Have
25 you seen it?

1 A. Yes.

2 Q. I will read it:

3 "And I would like to state that we are with the section on active
4 participation in the attacks of the UPC on Lipri."

5 Paragraph 41:

6 "After a week we all, the young militia members such as I and the
7 adults, left the military camp of Bule and headed towards the direction
8 of Mongbwalu village. I went on board a vehicle of a Stout brand with my
9 commander right up to Mongbwalu, and from there we went on foot towards
10 Lipri, walking for almost the entire day."

11 And so my question, just to make sure I have understood you, now
12 the Lipri attack, did you leave from Bule or you left from Barriere,
13 because this paragraph seems to indicate that you left from Bule?

14 A. When we went to attack Lipri, we left from Barriere.

15 Q. So what you said to the investigator in paragraph 41 is not
16 correct.

17 A. Yes, it's not true.

18 Q. Did I understand well from your testimony that when you reached
19 Lipri, that is the first time you arrived at Lipri for combat, there was
20 no one inside? The town was -- was deserted. There was nobody in the
21 town.

22 A. No. What you have just said -- this is what I told you: When we
23 reached Lipri, we fought and we were driven back. When we came back for
24 the counter-attack, we found that it was difficult because the soldiers
25 had already abandoned the town. They let us enter the town and then they

1 attacked. That's what I declared.

2 Q. Very well. Just to make sure I understand well, I'm going to
3 read to you an excerpt of your testimony yesterday, French transcript,
4 page 13, and I'm reading from line 20:

5 "Q. What happened in Lipri?

6 "A. It was the same thing that we did in Barriere. We went
7 there to fight. We fought in the same manner that we carried out the
8 first battle, and we found that the village was empty of population. We
9 occupied it. We spent some time there, and the enemy came and attacked
10 us. We fought and we won."

11 Now, what I would like to understand is when you arrived at
12 Lipri, was the village empty of its population or not?

13 A. Yesterday I said the following: When we went to Lipri to fight
14 for the first time, we were pushed back. We were pushed back. The
15 second time we went for the counter-attack. We found a village that was
16 empty. We got in and we occupied it, and then we were attacked.

17 Q. Can you tell us at what moment precisely was Commander Tshitsha
18 killed?

19 A. Commander Tshitsha was killed during the first time -- the first
20 time we entered Lipri. That's when he died.

21 Q. And if I understood your testimony well, your testimony
22 yesterday, I think, there was no one to take up command responsibility
23 after he was killed. Did I understand well?

24 A. Yes.

25 Q. When you lost the first battle, if I can put it that way, and you

1 withdrew, to which place did you withdraw to?

2 A. We withdrew to a place which was not far from the town. We
3 wanted to take up position to plan the counter-attack.

4 Q. Do you remember the name of the village to which you withdrew?

5 A. No, I do not remember.

6 Q. Can you please turn to paragraph 43 of your first statement.
7 Have you seen it?

8 A. Yes.

9 Q. I mentioned paragraph 43, but I'll read part of the very last
10 sentence of paragraph 42:

11 "Commander Tshitsha who was hit by a bullet in the back when we
12 were fleeing. At the time I was not injured. On that occasion I was not
13 injured."

14 So you were describing your retreat from Lipri after your first
15 defeat. And now I'll read paragraph 43:

16 "Once we arrived Mongbwalu, as we were retreating, I learned from
17 other soldiers that a heavy weapon which we called saba-saba had been
18 lost in Lipri."

19 And I would like to end here.

20 Is it correct, then, that your retreat after your first defeat in
21 Lipri, that you retreated to Mongbwalu?

22 A. No, we did not flee to Mongbwalu. You know, the distance between
23 Mongbwalu and Lipri is very long. It's like leaving Lipri to go back to
24 Barriere. We did not flee to Mongbwalu.

25 Q. However, in paragraph 45, you say:

1 "On that day we slept in Mongbwalu, and the following day with
2 new -- or ammunition we went to the village of Nyangaray with the
3 intention of re-attacking Lipri."

4 So you mentioned Mongbwalu once more. So you told the
5 investigators in July 2005 that you retreated to Mongbwalu; is that
6 correct?

7 A. I do not remember. I do not remember having made that statement.

8 Q. Very well. I'm going to read another excerpt from paragraph 43,
9 from the fourth line, and I quote:

10 "I remember that when we, all of us militia members, met at the
11 UPC camp in Mongbwalu, another commander whom I had seen in Bule earlier
12 and who was called Bosco informed us that we had to do everything
13 possible to recover that weapon. On that day, I also saw another UPC
14 commander, a certain Kisémbó, who remained in the village when we left
15 with Commander Bosco to go to Lipri the following day."

16 I will stop there. Do I -- I understand from what you told the
17 investigators in July 2005 that after the death of Tshitsha, it was Bosco
18 who took up command responsibility to replace him?

19 A. I -- I do not remember. I see it written here, but I don't
20 remember.

21 Q. You do not remember having said this or you do not remember
22 whether Bosco replaced Tshitsha? Yes or no?

23 A. What I know is that when we were in combat after the death of
24 Tshitsha, we did not have a commander sent to lead us. Bosco only sent
25 ammunition.

1 Q. So you did not see Bosco in Lipri or in Mongbwalu?

2 A. No.

3 Q. Neither did you see Kisémbó?

4 A. No.

5 Q. You said in your testimony on the first day, I think, that Bosco
6 was a high-ranking official of the UPC. Can you tell us what his rank
7 was precisely?

8 A. To my knowledge, Bosco had a very high rank, but I don't know his
9 title. He had a very high rank.

10 Q. And do you know the precise rank of Commander Kisémbó?

11 A. No, I don't know. We weren't with them in the same camp. The
12 only thing we knew is that they were from the UPC and that they had
13 authority.

14 Q. Thank you. I'd like to read out a brief extract from
15 paragraph 31 of your statement where there's a reference to Bosco and
16 Kisémbó. You're talking about Mr. Thomas Lubanga, and then you say:

17 "Immediately subordinate to him was the head of operations, a
18 Rwandan whose name was Bosco, and his deputy, a certain Kisémbó."

19 My question is: Was Kisémbó Bosco's deputy?

20 A. I don't remember. I gave that information to make things more
21 precise and to distinguish between the two.

22 Q. Fine.

23 MR. DESALLIERS (interpretation): I need a moment, if I may.

24 Q. In Lipri, do you remember -- I think this is something you
25 mentioned in the earlier part, the first part of your testimony, but were

1 there wounded in the fights in Lipri?

2 A. Yes. The very first day of combat there were wounded and there
3 were deaths.

4 Q. Do you remember what you did with the wounded after the battle in
5 Lipri? Where did you take them?

6 A. The wounded were taken to the dispensary in the village, like in
7 Barriere. That's what I can say.

8 Q. According to your recollection, were they also taken to other
9 villages than Barriere?

10 A. I don't remember.

11 Q. I'd like to ask you to look at paragraph 36 of your statement.
12 Have you found the paragraph? I'm going to read the sentence from the
13 third line:

14 "During times of war the wounded militia men, men wounded during
15 combat, were transported in a Stout vehicle or on foot to the dispensary
16 in Bule. I remember that during the attack in Lipri, as I described it
17 later, the wounded were transported on foot to the village of Mongbwalu
18 and then in vehicles to Bule."

19 That's what you told the investigators in July or to the
20 investigator in July 2005. Does this correspond to your recollection?

21 A. Well, that's exactly what I've just said. When there were
22 wounded, we took them to Barriere and to Bule. That's what I said.

23 Q. What about Mongbwalu?

24 A. No.

25 Q. In the combat, in the battle in Barriere and Lipri, were they

1 always between the same two enemies?

2 A. Yes. Normally, the enemy was the Lendu. That was the only enemy
3 that we fought against in Barriere and also in Lipri.

4 Q. And what was the name of their armed forces?

5 A. I think they were called the APC Lendu from what I heard.

6 Q. And according to your recollection, you did not fight against any
7 other enemy other than the APC and the Lendu. Those were the only
8 enemies you fought against?

9 A. Yes. When I was a soldier, I only fought in two battles.

10 Q. Well, when you say two battles, you mean two battles in Barriere
11 and two battles in Lipri. In fact, you fought in two different places,
12 because if I understood correctly, there were two battles. I just want
13 to make things perfectly clear. There were two battles in Barriere and
14 then two battles in Lipri and that's all. Is that correct?

15 A. What I said before is as follows: We fought in two villages and
16 four battles.

17 Q. In Barriere and in Lipri and nowhere else?

18 A. Yes.

19 Q. I'd like to ask you to look at tab 3A, which is your application
20 to participate as a victim. And please look at page 12 out of 27.

21 MR. DESALLIERS (interpretation): We should not put this on the
22 screen, please.

23 Q. Have you found the document?

24 A. Yes.

25 Q. At the beginning of this page it states where -- there's a

1 question:

2 "Where the event or the events took place if necessary include a
3 map or a drawing indicating the places."

4 And in this response there's reference to battles:

5 "In Bunia, the UPC against the Ugandan army, and in Lipri, a
6 place near Djugu around 25 kilometres from Bunia."

7 Do you see that passage?

8 A. Yes.

9 Q. So is it true that you never participated in a battle in Bunia?

10 A. Well, I'd like to put it another way. You've just asked me where
11 I fought, and I told you that I fought in -- in Lipri and Barriere.
12 Afterwards, I was asked the question: "Once you left the army did you
13 know -- did you find out that the UPC fought against the enemy," and
14 that's when I gave the response that you've just read.

15 Q. So when you wrote that you meant that you knew there had been a
16 battle in Bunia against the Ugandan army, but you yourself did not
17 participate in that battle.

18 A. Yes, that's true. It was at the time when I had already left the
19 army.

20 Q. I'd like to ask you why you mention that battle in your
21 application. Why do you refer to the Bunia battle and you don't mention
22 the Barriere battle? Was there a reason for that?

23 A. Well, listen, the answer that's given depends on the question.
24 If you're asked what happened after you left the army, you're not going
25 to give an answer that relates to the period when you were in the army.

1 I was asked what happened after I left the army and did I know whether or
2 not a battle had taken place.

3 Q. Fine. In other words, the battle that you describe in your
4 application for participation, are you familiar with the date of that
5 battle?

6 A. I don't know the date.

7 Q. Do you know what the result of the battle between the UPC and the
8 Ugandan army was in Bunia?

9 A. What -- what are you asking me?

10 Q. What was the result of the battle? Who won the battle?

11 A. At the time of the battle I was a civilian. I had left the armed
12 UPC groups. We left. We ran away from Bunia. We went to another
13 village, and I did not know about the results of that battle.

14 Q. I need just a moment. I'm looking for a particular passage.

15 Thank you. Could you please now look at tab 3B in the binder.
16 Have you found it? Could you take a look at page 2, page 2 of this
17 document. It's a three-page document, so it's page 2 out of 3.

18 I want to be perfectly clear. I don't know if I mentioned what
19 document I'm referring to. It's the document that contains the
20 supplementary information regarding the application to participate as a
21 victim.

22 Have you found page 2, Patrick? I'm going --

23 A. Yes.

24 Q. I'm going to read out point 5:

25 "Can you indicate the dates of the battles that you mention in

1 your application for participation?"

2 Answer:

3 "I fought throughout throughout the year 2003 and the first three months of
4 2004. I fought in Bunia and Lipri."

5 Can you see that passage?

6 A. Yes, I see it.

7 Q. Is it true, then, that you gave false information in your
8 application for participation?

9 A. I'm very sorry. I'd like to ask you a question. In order to
10 fill out this form were there oral questions put to me or did they
11 restate information I gave them in order to fill in the form with the
12 sentences that I see here in this text?

13 Q. Please go to page 3 of this document. Have you found page 3?

14 A. Yes.

15 Q. It states:

16 "I the undersigned certify that the information --"

17 MR. DESALLIERS (interpretation): I'm very sorry. I believe I
18 stated the name of the witness which the interpreter did not state.

19 PRESIDING JUDGE FULFORD: Other way around this time,
20 Mr. Desalliers.

21 Redaction, please. And congratulations to the interpreter.

22 MR. DESALLIERS (interpretation):

23 Q. So, you have already recognised your signature on this page, I
24 believe; is that correct? It is your signature?

25 A. Yes.

1 Q. And just below, it states that the document was filled in in the
2 presence of a number of individuals. Can you see the names?

3 A. Yes.

4 Q. So there were three people who helped you as well as an
5 interpreter who assisted you in preparing this document which you have
6 certified -- for which you have certified that the information contained
7 in the document is correct. Is that the way it took place?

8 A. Well, to be perfectly clear it may be that I said that, but I did
9 not participate in the battle in Bunia.

10 Q. Very well. Can you explain why the Barriere battle is not
11 mentioned at all in this document? You talk about Lipri, you talk about
12 Bunia, but you do not mention Barriere. Is there a reason for that?

13 A. I don't remember anymore. There's no reason why I didn't say it.
14 I don't remember, but I know I did not fight in Bunia.

15 MR. DESALLIERS (interpretation): Mr. President, for my next
16 questions I'd like to show two photographs to the witness. I would like
17 to do so in closed session, and then I will ask a couple of questions in
18 open session, if I may.

19 PRESIDING JUDGE FULFORD: Closed or private,
20 Mr. Desalliers, closed is with the blinds down. Private is simply with
21 the feed disconnected from the public gallery.

22 MR. DESALLIERS (interpretation): Well, I think that if there's
23 no transmission, there's no problem. I'm going to be showing a
24 photograph of the witness himself. If no one can see this photograph,
25 there's no problem, I believe, with private session.

1 PRESIDING JUDGE FULFORD: Private session then, please.

2 *(Private session) Reclassified as open session

3 COURT OFFICER: Private session.

4 PRESIDING JUDGE FULFORD: Are these in the folder,

5 Mr. Desalliers, or are they fresh photographs?

6 MR. DESALLIERS (interpretation): These photographs are in the
7 file and I will be giving you the reference numbers. The first is
8 DRC-00114-030 -- 0330. I have a paper copy for the witness and three
9 copies for the Chamber.

10 THE INTERPRETER: Correction: 0030.

11 MR. DESALLIERS (interpretation): Can we give a number?

12 COURT OFFICER (interpretation): The number is MFI-D-00066.

13 MR. DESALLIERS (interpretation): Thank you. Has the Chamber
14 received the paper copy of the photograph?

15 Q. Patrick, do you recognise yourself in this photograph? Are you
16 the person in this photograph?

17 THE INTERPRETER: The witness nods.

18 MR. DESALLIERS (interpretation):

19 Q. Could you respond orally, please.

20 A. Yes, it's me.

21 Q. There's a date written by hand, July 16th, 2005. Is it correct,
22 therefore, that this picture was taken during your interview with the
23 investigators from the OTP?

24 A. Yes. Yes. It was after the interview they took a picture of me.

25 Q. Thank you. I have a second photograph that I would like to show.

1 First of all, I will give you the reference number. DRC-0011-4031.

2 COURT USHER (interpretation): This photograph will bear the
3 number MFI-D-00067. MFI-D-00067.

4 MR. DESALLIERS (interpretation): I also have a copy for the
5 witness and for the Chamber.

6 PRESIDING JUDGE FULFORD: Could we have those, please.

7 MR. DESALLIERS (interpretation):

8 Q. Patrick, do you have the picture in front of you?

9 A. Yes.

10 Q. Is it true that these were the -- the jeans you were wearing when
11 you met with the investigator from the OTP in July 2005?

12 A. Yes.

13 MR. DESALLIERS (interpretation): We can go into public session,
14 your Honour.

15 PRESIDING JUDGE FULFORD: Yes. Shall we go into public session
16 and then ask the question again, please.

17 (Open session)

18 COURT OFFICER: Open session.

19 PRESIDING JUDGE FULFORD: Yes, Mr. Desalliers.

20 MR. DESALLIERS (interpretation):

21 Q. I'm going to ask you the question again because we've now gone
22 into open session. Is this indeed the jeans that you wore when you met
23 with the investigator from the OTP in July 2005? Is that what you can
24 see in this photograph?

25 A. Yes.

1 Q. Can you explain why you felt the need to write the words Mwanga,
2 Bule 2, and Lipri? Why did you write those words on your jeans?

3 A. Well, I understood the way you understood. I wrote it so as not
4 to forget, to remember when I was asked questions about it, and that's
5 why I wrote those words on my jeans.

6 Q. Well, these were events that you had lived through. Why was it
7 necessary for you to write down the names of these places on your jeans?

8 A. Well, I wrote those words, those names, even before I met the
9 investigators of the OTP. I had already written them on my jeans. And I
10 wore those jeans not because I had an appointment with the investigator
11 of the OTP. That's not why I wrote them on my jeans. I had written them
12 on my jeans before. I wrote them myself for the -- for the pleasure of
13 it, so to speak.

14 Q. So I understand -- if I understand you correctly, you wrote those
15 words on your jeans even before you met with the investigator, and it had
16 nothing to do with your testimony or with your statement?

17 A. I wanted to know -- I would like to know where you took the
18 picture of my jeans to show what I had written on my jeans.

19 Q. The only question here is why you wrote those words on your
20 jeans. Did you write Mwanga, Bule 2, Lipri, you did it because you
21 wanted to, because it pleased you to do so? Is that what you're saying?

22 A. Well, it's the first time I've ever been asked such a question.
23 The person who took the photograph didn't even ask me why I had written
24 those words on my jeans. If he hadn't liked that, he might have asked me
25 to wear different trousers. I myself wrote those words on my jeans

1 before I met with the investigator.

2 Q. Very well. Thank you.

3 MR. DESALLIERS (interpretation): Mr. President, I do have more
4 questions for this witness. I don't believe I will need a lot of time,
5 but I would like to deal with a matter where it might be a good idea to
6 have the ex parte hearing that we referred to yesterday, because it could
7 have an impact on the questions I intend to put to this witness. Is this
8 perhaps a good time to request that on the part of the Chamber?

9 PRESIDING JUDGE FULFORD: It's a good time to request it,
10 Mr. Desalliers. It's not a good time to have it. We will hold the ex
11 parte hearing at a quarter to 3.00, and we will then proceed with the
12 witness's evidence once the ex parte is concluded. But thank you for
13 alerting us and reminding us that that is something that has to be
14 resolved.

15 Ms. Samson, can I thank you for having sent through the various
16 references to our orders last night. That was extremely helpful.

17 Thank you. We'll now go into closed session so the witness can
18 go and have some lunch. Thank you very much. I suspect that your
19 evidence will finish this afternoon. So you've got that to look forward
20 to.

21 Good. Closed session, please, and could Mr. Lubanga please
22 withdraw.

23 *(Closed session) Reclassified as open session

24 COURT OFFICER: Closed session.

25 (Mr. Lubanga withdrew)

1 (The witness stands down)

2 PRESIDING JUDGE FULFORD: Are you likely to have very much by way
3 of further questioning, Ms. Solano?

4 MS. SOLANO: Not much at all, Mr. President.

5 PRESIDING JUDGE FULFORD: Good. So we may need another witness
6 this afternoon by the sounds of it. Ms. Samson?

7 MS. SAMSON: Yes, your Honour, the next witness, as far as we're
8 aware, is available. There may be a question as to her preference
9 of continuing in the --

10 PRESIDING JUDGE FULFORD: Sorry, a question of?

11 MS. SAMSON: Her -- the preference of the witness continuing in
12 the afternoon versus the morning. We had been alerted that that might be
13 an issue but we have no further information on that point.

14 PRESIDING JUDGE FULFORD: Thank you for reminding me. There was
15 an issue over the witness starting in the afternoon rather than the
16 morning. You're quite right. Thank you.

17 Ms. Massidda, always a good lesson to remain seated until the
18 previous speaker is finished otherwise we're in danger of having a number
19 of people talking at the same time, but yes, now --

20 MS. MASSIDDA: My apologies.

21 PRESIDING JUDGE FULFORD: -- Ms. Samson has sat down. Yes,
22 Ms. Massidda.

23 MS. MASSIDDA: There is also a pending request for additional
24 protective measures for the next witness.

25 PRESIDING JUDGE FULFORD: Absolutely.

1 MS. MASSIDDA: Thank you. It's simply because if it's granted
2 then there is a need for some arrangements for interpretation and
3 translation. Thank you.

4 PRESIDING JUDGE FULFORD: Thank you very much. There will be an
5 ex parte, then, with the Defence only present at a quarter to 3.00. The
6 witness, therefore, should not be brought down to court but should remain
7 in the waiting-room. I anticipate that it won't take that long, so could
8 counsel be not too far away, please, although there will be the break
9 that we'll need at the end of the ex parte in order for us to go into
10 public session. So when I say don't be too far away, what I mean is
11 don't be more than 20 minutes far away.

12 Quarter to 3.00 for the ex parte.

13 Luncheon recess taken at 1.00 p.m.

14 RECLASSIFICATION REPORT

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

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