

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

1 International Criminal Court
2 Trial Chamber I - Courtroom 2
3 Presiding Judge Adrian Fulford, Judge Elizabeth Odio Benito and Judge
4 René Blattmann
5 Situation in the Democratic Republic of the Congo - ICC-01/04-01/06
6 In the case of The Prosecutor v. Thomas Lubanga Dyilo
7 Thursday, 11 February 2010
8 (The hearing starts at 9.38 a.m.)
9 (Open Session)
10 THE COURT USHER: All rise. The International Criminal Court is now in
11 session. Please be seated.
12 PRESIDING JUDGE FULFORD: Good morning. I'm sorry we're ten minutes late,
13 but we had something urgently we needed to discuss between ourselves before coming
14 into Court which took longer than anticipated. For a moment, private session, please.
15 *(Private session at session at 9.39) Reclassified as Open session
16 THE COURT USHER: We are in private session, your Honours.
17 PRESIDING JUDGE FULFORD: Thank you. Next week, we will deal substantively
18 with the issue of the possibility of legal representatives of victims being excluded
19 from the evidence of certain Defence witnesses following a request from the accused.
20 However, we need to address today the particular circumstances of Defence Witness
21 24, who is the next witness.
22 We will give our full reasons in due course but, on the material before
23 us, we are unpersuaded that it is necessary or appropriate to exclude representatives
24 of victims who are not going to be questioning this particular witness, so they
25 can remain.

1 However, we want to stress very forcibly that although we should not and
2 cannot interfere with proper communications between counsel and their lay clients,
3 that said, counsel have a responsibility to ensure that the interests of justice
4 and the security of witnesses are not needlessly, unnecessarily disturbed by
5 communicating information when there is no good or necessary reason for transmitting
6 it.

7 We, therefore, urge counsel to be careful and sensible as regards what
8 they say and what they communicate about evidence that is given in closed or private
9 session. I repeat: We are not seeking nor, indeed, can we interfere with proper
10 communications between lawyers and their clients, but we do ask for sensible decisions
11 to be made about what is done with the information that they will hear during the
12 course of private or closed sessions.

13 Public session, and witness, please. Just a moment, usher. Yes, Mr
14 Desalliers. Yes, Mr Desalliers.

15 (Open session at 9.43 a.m.)

16 THE COURT USHER: We are in public session, your Honours.

17 MR DESALLIERS: (Interpretation) I beg your pardon, your Honour, but I
18 did want to say something to the Chamber about yesterday's sentence that apparently
19 was translated differently from what Mr Lubanga heard, so we asked for an -- a closer
20 look at the sentence. And just to make sure, the last version of the transcript,
21 English version yesterday, if we go to page 20, line 22, and in French page 24,
22 line 11, to find that particular response from the witness.

23 And we received a report from the interpreters yesterday who re-listened
24 to the excerpt, and they have told us that the first part of the answer was not
25 very audible, but the meaning of the answer did not change.

1 Mr Lubanga then had an opportunity to re-listen carefully and repeatedly
2 to the answer from the witness and this second listening confirms what he heard
3 when he heard the witness speak.

4 And I will give the Chamber the reply that was noted by Mr Lubanga, the
5 literal translation in French of what was heard in Swahili, and it reads as follows:

6 PRESIDING JUDGE FULFORD: No. If there's a problem, Mr Desalliers, over
7 this, it has got to be resolved - if at all possible - between counsel and the
8 interpreters. We simply cannot adjudicate on what is the correct version of the
9 transcript. And us being given what is essentially anecdotal evidence about what
10 particular individuals say they have heard is really not going to assist us in resolving
11 this.

12 Thank you for the offer, but this must be sorted out some other way because,
13 as I have just said, in real terms, certainly as we are presently placed, there
14 is no prospect of us being able to resolve the issue.

15 So at the next convenient adjournment, I am going to have to ask you,
16 with the cooperation of the Registry, to try and resolve this problem.

17 MR DESALLIERS: (Interpretation) Very well, your Honour.

18 PRESIDING JUDGE FULFORD: Witness, please.

19 The witness is apparently extremely upset - indeed, has broken down - and
20 I have therefore asked for somebody from the Victims and Witnesses Unit at an
21 appropriate level to see him and for us to be told what in their assessment is an
22 appropriate way of proceeding. I don't think that there is anything else that we
23 can be getting on with for the time being, so please don't go for the moment too
24 far away and I will have a message sent out as soon as we hear something from the
25 Victims and Witnesses Unit. We will rise.

1 THE COURT USHER: All rise.

2 (Recess taken at 9.49 a.m.)

3 (Upon resuming at 9.59 a.m.)

4 THE COURT USHER: All rise. Please be seated.

5 PRESIDING JUDGE FULFORD: The psychologist has been to see us and he is
6 of the view that, although the witness has been upset and may continue being upset
7 during the course of the morning, it is appropriate for him to continue giving evidence,
8 not least because he has indicated his willingness to continue. So in those
9 circumstances it seems to us, although we must keep a very close eye on how he is,
10 that it would be appropriate to resume.

11 Were you going to say something, Ms Samson?

12 MS SAMSON: No, I wasn't, actually. Thank you very much. Perhaps I can
13 advise the Chamber that I will be seeking permission to move into private session
14 for a series of questions once the witness comes into court.

15 PRESIDING JUDGE FULFORD: Witness, please. And private session, please.

16 *(Private session at 10.01 a.m.) Reclassified as Open session

17 THE COURT USHER: We are in private session, your Honours.

18 (The witness enters the courtroom)

19 WITNESS: WITNESS WW-001-0004 (On former oath)

20 (The witness answers through interpreter)

21 PRESIDING JUDGE FULFORD: Good morning, sir.

22 THE WITNESS: Good morning.

23 PRESIDING JUDGE FULFORD: If at any stage you want a break, you simply
24 have to ask and we will adjourn straightaway.

25 Yes, Ms Samson.

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1 MS SAMSON: Thank you, your Honours.

2 Questioned by Ms Samson: (Continued)

3 Q. Mr Witness, yesterday you told us that you met a man named (Redacted) in 2008.

4 Was this the period before you met (Redacted) in Bunia and before you went to Beni?

5 A. Yes.

6 Q. Is it possible that these trips took place in November 2007?

7 A. This is a long time ago. I do not recall.

8 Q. Is it possible that you met Mr (Redacted) before this time?

9 A. We met (Redacted) initially and then subsequently we met (Redacted), but this
10 is a long time ago now - a very long time ago - since I met (Redacted) and I have
11 no recollection of the date precisely.

12 Q. Is it possible that you met Mr (Redacted) in a centre for children who
13 had left armed groups several years before you met (Redacted)?

14 A. We met Mr (Redacted) at home in the village. He contacted us and we met
15 at a roundabout where we were used to meeting, because in the morning we went to
16 the (Redacted) and then we would wait for the vehicles that would (Redacted) and
17 that is where (Redacted) met us. He asked me and then he said, "Please, come here."
18 "Were you a child soldier?", he asked me, and I said, "No, I was never a child soldier."
19 I suggested that he ask somebody else that question. Then he called (Redacted)
20 and he asked (Redacted) the question, to which he answered that he had refused to
21 become a child soldier. Then he said to us, "Very well, we shall have a conversation
22 tomorrow," and he left, and on the next day he met us again, myself, (Redacted),
23 (Redacted) and (Redacted). We were four. There were four of us.

24 Q. I do want to discuss that meeting with you, but my question now for you,
25 if you can focus on it please, is: Is it possible that you met Mr (Redacted) before

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1 this meeting with the other children? Is it possible that you met him in a centre
2 for children who had left armed groups in about 2005? Can you answer that question
3 for me, please?

4 A. Yes, I do need to answer that question. You see, initially for me to
5 be able to answer this question there is a first thing I need to say. Well, (Redacted)
6 came to see us and he had come into contact with children who had said that they
7 were child soldiers. Those children had gone into town.

8 THE INTERPRETER: Message from the Swahili booth: There is a very bad
9 background noise and they can't really follow what's going on.

10 THE WITNESS: (No interpretation)

11 PRESIDING JUDGE FULFORD: Sir, I am sorry, I am going to have to interrupt.
12 Ms Samson, I don't know whether you heard that message? You did. Right. I think
13 that it is dangerous to proceed until whatever the background interference problem
14 has been resolved, because there is a real risk that some of this witness's evidence
15 will simply not be translated.

16 Unless the court officer has got another suggestion, I am going to propose
17 that we rise so that somebody can come and try and work out what this background
18 interference is. I see the court officer nod.

19 Sir, I am extremely sorry that having only just started your evidence,
20 we've now got to adjourn, But there is a technical problem that has arisen. Would
21 you be so kind as to go with the usher back to the waiting room, please?

22 (The witness stands down)

23 PRESIDING JUDGE FULFORD: Can this please be dealt with as quickly as
24 possible.

25 THE COURT OFFICER: All rise.

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1 (Recess taken at 10.09 a.m.)

2 (Upon resuming at 10.27 a.m.)

3 THE COURT USHER: All rise. Please be seated.

4 (The accused enters the courtroom)

5 PRESIDING JUDGE FULFORD: Witness, please.

6 Yes, Ms Samson.

7 MS SAMSON: Mr President, I had a discussion with the Defence during the
8 break, and there will be one further document that I would like to show to the witness
9 almost straightaway. I understand perhaps the interpreter ought to be called.

10 PRESIDING JUDGE FULFORD: Thank you. Interpreter, and closed session,
11 then, please.

12 (The witness enters the courtroom)

13 *(Closed session at 10.28 a.m.) Reclassified as Open session

14 THE COURT USHER: We are in closed session, your Honours.

15 (The interpreter enters the courtroom)

16 PRESIDING JUDGE FULFORD: Private or public?

17 MS SAMSON: Private, please.

18 PRESIDING JUDGE FULFORD: Private session, please.

19 *(Private session at 10.29 a.m.) Reclassified as Open session

20 THE COURT USHER: We are in private session, your Honours.

21 PRESIDING JUDGE FULFORD: Yes, Ms Samson.

22 Thank you for coming in, sir.

23 MS SAMSON:

24 Q. Mr Witness, before the break I was asking you a question in relation to Mr (Redacted),
25 and I am going to put the question in a slightly different way, and let

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1 me know if you have difficulty with it. If I suggest to you that you met Mr (Redacted)
2 in 2005 in a demobilisation centre, would you agree with that or not?

3 A. It would be difficult for me to agree to that because you say that I met
4 (Redacted) in 2005. That would be a lie.

5 Q. I would like to show you a document; it's at tab 19 of the yellow folder
6 in front of you. If I could ask the interpreter to assist you with that.

7 The registration number of the document is DRC-OTP-0160-0190. And if
8 I could ask you, please, to turn to the page with the registration code
9 DRC-OTP-0160-0228, which is in the top right-hand corner of that page. 0160-0228.

10 Have you found the page?

11 THE INTERPRETER: 0208?

12 MS SAMSON: 0228. Your Honour, with your permission, may I approach the
13 witness to locate the appropriate page?

14 PRESIDING JUDGE FULFORD: (Microphone not activated)

15 MS SAMSON:

16 Q. Could I ask you to look at the entry by the number listed in the left-hand
17 column of that page, entry number 558. I just want to locate the entry and then
18 I am going to explain what the document is, just to make sure we are on the same
19 page. And Mr Witness, before you start to read the document, I will tell you what
20 this document is. The document comes from a demobilisation centre which was run
21 by (Redacted) in coordination with some local NGOs, including NGOs called (Redacted),
22 and (Redacted), and the logbook records the names of people who went through this
23 centre.

24 If I could ask you to focus on the entry 558, I will take you through
25 the information that is there. The next column bears the name and first name of

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1 the person. It's listed as Ndjango Maki, Claude. The next column says the age,
2 and it is 15 years. The next column contains the sex of the individual, or the
3 gender, and it is "M" for male or masculine. The next column has the name of parents,
4 and you can see the names are Daniel and Kabonesa.

5 The next column has the address of origin, and the entry is Blukwa. The
6 next column contains the place from which the person came, and that is Iga-Barriere.
7 The next column lists the date of entry to this particular transit centre, and the
8 date is 31-08-2005. The next column that contains information is about the religion
9 of the person, and here it is listed as Protestant. And the last column with
10 information indicates the study, and it says sixième primaire. And there is actually
11 one column further column to the far right listing the group to which this person
12 belonged, and it is listed as UPC.

13 I want to make sure you've had enough time to digest that information,
14 but my question is, is it possible that the person who is listed in this book is
15 you?

16 A. It is difficult for me to accept this. Why? You see this name -- you
17 should understand that there are many people who could bear the name Ndjango or
18 Claude, you see one comes up against these names. But the name Maki is a name which
19 is unknown to me. The name Ndjango, he is in Barriere, and you are talking about
20 Ndjango or Barriere, or another place for all I know - do I live in Barriere? I
21 am not from Lopa. I live in Simbiliabo. In fact it would be better for things to
22 be presented like this, for me to be able to talk about this document .. as the
23 person who made these statements is at that location and he knows where (Redacted)
24 is to be found, he should call him and I should talk to him, or (Redacted) should
25 be brought here - he must know where (Redacted) is. You can call (Redacted), and

1 if you bring (Redacted) here, we could have a discussion on this document, because
2 personally I have nothing to say about it. Bring (Redacted) here and discuss with
3 him face-to-face, and I will ask him how many times we met. That way you will be
4 able to know how many times I met (Redacted). I don't want to discuss about this
5 document.

6 Or you could also ask the people from the village. You could ask them
7 the class at which I dropped out. I never reached the sixth year of primary school.
8 I only studied up to the fourth year of primary school.

9 MS SAMSON: Thank you. Your Honour, I have no further questions for this
10 particular document, if it requires a registration number.

11 PRESIDING JUDGE FULFORD: Yes, could it be given a number, please. Do
12 you want just that page or the entirety of the tab, so it's in context?

13 MS SAMSON: I suspect the entirety of the tab, given that I was reading
14 from at the beginning from certain headers which explain the entries, and it comes
15 from several pages preceding the page that I showed the witness.

16 PRESIDING JUDGE FULFORD: Yes, and that would be on the basis that we've
17 always applied that with documents in these circumstances their evidential
18 significance is limited to the point that has been made on them and they will not
19 be used for other evidential purposes.

20 MS SAMSON: Your Honour, there is one additional piece of information
21 that I should bring your Honours' attention to, which is that the document itself
22 has already been admitted into evidence in totality. It may already, in fact, have
23 an evidence number.

24 THE COURT OFFICER: Your Honours, in eCourt I have an entry against that
25 document number as EVD-OTP-00476.

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1 PRESIDING JUDGE FULFORD: We needn't trouble then. Thank you.

2 Now, do we need the interpreter to remain, or can he go?

3 MS SAMSON: He can go. Thank you very much.

4 PRESIDING JUDGE FULFORD: Closed session, please. Just wait for a second,

5 sir. Thank you for your assistance and, as soon as the blinds are down, you can

6 leave court. Thank you very much.

7 *(Closed session at 10.40 a.m.) Reclassified as Open session

8 THE COURT OFFICER: We are in closed session, your Honours.

9 (The interpreter exits the courtroom)

10 PRESIDING JUDGE FULFORD: Public, or private?

11 MS SAMSON: With your leave, private please.

12 PRESIDING JUDGE FULFORD: Private session, please.

13 *(Private session at 10.41 a.m.) Reclassified as Open session

14 THE COURT OFFICER: We are in private session, your Honours.

15 PRESIDING JUDGE FULFORD: Yes, Ms Samson.

16 MS SAMSON: Thank you.

17 Q. Mr Witness, I want to take you to the period where you say you first met

18 (Redacted), which is when he asked you to meet (Redacted); is that right?

19 A. That's true. I met (Redacted), first of all, and later on I met (Redacted).

20 Q. Yes. And when you met (Redacted), first of all, where did that meeting

21 take place? A. The very first time I met (Redacted) in Simbiliabo. We were at

22 the roundabout, waiting for the vehicles which were to take us to the (Redacted).

23 Q. And the meeting that you had with (Redacted) before you met with (Redacted) was

24 when he told you what to say to (Redacted), isn't that what you told us?

25 A. On the first day when he arrived he did not say that directly, no. He

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1 came, he met us and I was with (Redacted) and (Redacted). He met us there and he
2 called for me. In fact, I thought he was a potential customer who had come to buy
3 (Redacted). So he called for me, I went there and he said, "Amongst those of you,
4 those of you who are sitting here, are there any who have served as child soldiers,
5 or have you ever been a child soldier?" I said, "No." And he asked me what my
6 activity was. I said I did farm work and I also (Redacted). He asked me, "Do you
7 earn much money from your (Redacted) activities?" I told him that I was earning
8 enough for my feeding and for the purchase of my clothing items and soap. And he
9 said to me, "That's all right. You can go away now." And he called another boy.
10 In fact, he put questions to the two of us. He left and he said, "We will see again
11 tomorrow," and we said, "Fine," and he left. When he left, he also went to put
12 questions to (Redacted).

13 Q. I want to talk to you about the day after this meeting you are discussing, the
14 day when you say (Redacted) told you what to tell (Redacted), so let's focus on
15 that meeting. You told the Court that that meeting took place at (Redacted)'s house;
16 is that right? A. Yes, that's right, but before we met (Redacted) we had a discussion
17 at home. The first day he came and he couldn't find a solution, so he came a second
18 time and he explained the problem to us. He said, "If you wish to earn money, if
19 you wish to have money and if you wish to study, if you want to have a good life,
20 then you should accept that you have been child soldiers," and we accepted because
21 our understanding was that we were going to earn money. You know, the love of money
22 even led to the betrayal of Jesus. If you see money, you can sell even your parents,
23 or your brothers. That is what attracted us. And when he talked about schooling,
24 about studies, we all had our choices. And so we said, "Fine, we will accept that
25 we have been child soldiers." There were four of us in number.

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1 And later, what did they said he said? They said that he said:, "Here
2 is the problem. Before you get what is your due, you are going to meet certain
3 authorities. And if they ask you, 'Was it Thomas Lubanga who enrolled you into
4 military service?', you should say, 'Yes.'" He asked me what my name was and I
5 said my name was Ndjango. Then he asked me where I lived. I said I lived in Simbiliabo.
6 He said, "Change your name and write 'Byarwanga' and 'Arabe' and add another name.
7 Write down three names for me." He also wrote the names of the others.

8 Let's take the case of (Redacted). In the village his name was (Redacted),
9 but I find that here you refer to him as (Redacted). (Redacted) was (Redacted)
10 and here he is called (Redacted). So, in fact, the names were changed. We had
11 a discussion on the first day, he returned a second time and he talked about this
12 plan which we retained in our minds.

13 The next day he came and he talked about the same thing. He explained
14 these things to us and we retained them. Finally, (Redacted) came from MONUC. We
15 thought that we were going to go to the office. However, as soon as we left the
16 village we were taken to his home.

17 Q. I have a few questions from what you have just told us. You say that
18 (Redacted) referred to himself here as (Redacted), although his name is (Redacted),
19 and a few days ago you mentioned that you thought he had come here before you to
20 testify. Can you tell us who told you that?

21 A. Well, I think everyone knows that he came to give testimony here. We
22 listen to the radio. I know that (Redacted) from the time he left the village up
23 to now he has never returned, and everyone knows that (Redacted) is here in Holland
24 and not in Kinshasa, or elsewhere. That's how we know. This is because in the
25 village everyone knows that (Redacted) is here in Holland, and not in Kinshasa,

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1 and personally I know that (Redacted) is here in Holland.

2 Q. You mentioned that you heard this on the radio. In addition, did anybody
3 specifically tell you that (Redacted) had testified here?

4 A. No, no one told me. No one told me that (Redacted) has come to give testimony
5 here. I think many people were following the trial over the radio.

6 Q. Yes. And today, as well as I believe it was yesterday or the day before,
7 you also made reference to a few phrases I would like to discuss with you. First,
8 you said that Jesus was sold for money. You said something similar today. Did
9 you discuss that phrase with Joseph Maki before you came here?

10 A. No, no, we did not discuss about it, but this is something that everyone
11 knows. You, yourself, know that Judas betrayed Jesus. He sold Jesus for money.
12 That is what everyone knows and has seen in a film.

13 Q. Did anybody from the village tell you that you had sold Jesus for money?

14 A. No one told me that. I watched the film about Jesus and I saw that he
15 was sold for money.

16 Q. And you said that for money you could even sell your brothers and your
17 parents and that's what attracted you. Did you discuss that phrase with Joseph
18 Maki?

19 A. You know, let me tell you why I said this: When I say this, it doesn't
20 mean that I would take money to sell anyone. What I am saying is that people are
21 capable of selling their parents and their relatives for money. When you see what
22 is happening you find people who go to the second world. What do they do? They
23 go because sometimes they request for their parents; they request for their relatives.
24 It is because of money that people sell their relatives. This is something that
25 happens, but it doesn't mean that this is what I do.

1 Q. But you are here to tell the Court that you were willing to lie for money,
2 isn't that what you are here for?

3 A. You know, because of money, people can lie but for me to get here, or
4 the fact that I went to Beni, didn't mean that I accepted to lie to get money. In
5 any case, when I reached Beni I started thinking, I started reflecting. I found
6 that Thomas Lubanga was drawn in red paint, and red is the colour of blood, and
7 that made me think. And I thought to myself that I would be able -- I should be
8 able to go to Holland to give testimony that Thomas Lubanga did not recruit me as
9 a child soldier. If you see what happened in Beni you have to understand that -- well,
10 they wanted me to claim that I was a child soldier. So when I saw this drawing
11 of Thomas Lubanga in red, it affected me. I asked myself, why are other people
12 drawn with a green or blue pen, and only Thomas Lubanga is drawn in red? That
13 discouraged me and I started thinking. I started having certain ideas. I started
14 wondering what was happening. And I remembered all what had happened during the
15 war.

16 And finally, I told myself, well, it was difficult for me to accept that
17 Thomas Lubanga had recruited me as a child soldier. And when I went home I thought
18 a lot about this, and I wasn't even capable of drinking water because of this. And
19 those who underwent military service earlier received me. And, later on, people
20 started saying I was the one lying for Thomas Lubanga. They asked me when I ever
21 served as a child soldier, and I had no reply to give them.

22 MS SAMSON: Your Honour, we only have a few moments left before the break.
23 I wanted to continue this line of questioning but in open session. I seek your
24 guidance as to whether or not I should do that now or after the break?

25 PRESIDING JUDGE FULFORD: Well, even though it's been a very interrupted

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1 morning, the obligations to the stenographers and the interpreters remain. They
2 have been effectively locked up since half-past 9. So I am afraid we will have
3 to take the mid-morning break now.

4 I'm extremely sorry, sir, that you are being brought in and out of court
5 in this way but it has not been a particularly easy morning. We look forward to
6 seeing you again at half-past 11.

7 Usher, could you help the witness, please.

8 (The witness stands down)

9 THE COURT OFFICER: All rise.

10 (Recess taken at 10.58 a.m.)

11 (Upon resuming at 11.30 a.m.)

12 THE COURT USHER: All rise. Please be seated.

13 PRESIDING JUDGE FULFORD: Yes. Witness, please. Public or private, Ms
14 Samson?

15 MS SAMSON: Public, please.

16 PRESIDING JUDGE FULFORD: Public session, please.

17 (Open session at 11.31 a.m.)

18 THE COURT OFFICER: We are in public session, your Honours.

19 (The witness enters the courtroom)

20 PRESIDING JUDGE FULFORD: Yes, Ms Samson.

21 MS SAMSON: Thank you.

22 Q. Mr Witness, before the break, you were explaining that people started
23 saying that you were the one lying for Thomas Lubanga. It was difficult for you,
24 wasn't it, to be accused of that?

25 A. Yes, it was difficult.

1 Q. Because it's considered a bad thing, isn't it, to testify against Thomas
2 Lubanga?

3 A. You know, lies can help you for a while, a short while, but they put you
4 at risk. When I think about the lies, I really was broken down and I doubted, but
5 people continued with these lies. Hard-hearted people continued with these lies,
6 but it was very difficult for me.

7 Q. So everybody who would come and agree to testify for Thomas Lubanga must
8 be lying; is that what you and others thought?

9 PRESIDING JUDGE FULFORD: I am going to ask you not to answer that question
10 for the moment, sir.

11 Ms Samson, if you just look back at the question, "So everybody who would
12 come and testify for Thomas Lubanga must be lying; is that what you and the others
13 thought?" Now, I don't think that's a fair representation of this witness's evidence
14 at all. That is not what he is saying.

15 MS SAMSON: In fact, it was my mistake. I meant "against," rather than
16 "for."

17 PRESIDING JUDGE FULFORD: Well, I don't really think it's a question that
18 helps, Ms Samson. That kind of general, theoretical possibility may be an appropriate
19 question for a merchant banker giving evidence in a fraud trial, but I really don't
20 think it's going to help in these proceedings.

21 MS SAMSON: I will move on.

22 Q. Mr Witness, just before the break as well, you indicated that those of
23 us who had undergone military service received you and asked you whether you had
24 ever served as a child soldier, and you had no reply. Were these the UPC -- was
25 this the UPC meeting you had referred to yesterday?

1 PRESIDING JUDGE FULFORD: Pause for a moment, please. Yes, Mr Desalliers.

2 MRDESALLIERS: (Interpretation) Your Honour, I am very sorry to interrupt
3 at this stage, but my learned friend quoted a passage from the transcript. During
4 the break, indeed, it was another part of the transcript that Mr Lubanga has drawn
5 our attention to. He says he was mistranslated because he did not hear that at
6 all.

7 I am raising this point because it is difficult to confront a witness
8 with what he said if he didn't say it. At the same time, I do understand that it's
9 difficult for my learned friend to guess that it may not have been said, because
10 she is looking at the transcript.

11 PRESIDING JUDGE FULFORD: Thank you, Mr Desalliers. Given that's been
12 raised, Ms Samson, could I ask you to go over the ground quickly again as to what
13 the witness's evidence is on the underlying point, see what he says and then put
14 the question - depending on the answer that's given - since there is a dispute as
15 to what was actually said by the witness on an earlier occasion.

16 MS SAMSON: Yes.

17 Q. Sir, were you received by UPC members during a meeting?

18 A. People from the UPC? No, I didn't meet people with the UPC at a meeting,
19 but there were people from -- from the military, from the UPC. UPC soldiers. And
20 PUSIC. There were young boys from the village; and when they learned that we went
21 to Beni, I think that it was -- they did the first turn of the Congo.

22 No. He -- he didn't say that he was forcibly enrolled because he knew
23 quite well that he enrolled voluntarily; and when he came back to the village, he
24 came back and told the village that all those who went to Beni went there to tell
25 lies against Lubanga. That's why this story was known in the village.

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1 I was asked the question whether I did military training or whether I
2 was a child soldier. I couldn't answer that question because he was a soldier.
3 He was the one who should have answered it - if Lubanga enrolled him by force or
4 not - but he knew quite well that he enrolled voluntarily. Perhaps the person that
5 should come here to give witness -- give testimony, pardon, perhaps he is the one
6 who should come and give testimony.

7 Q. You're talking about someone who had enrolled voluntarily. Is this the
8 person you discussed the other day whose name is (Redacted)

9 A. Yes. Yes, it's (Redacted).

10 Q. And this meeting that you are describing with the UPC soldiers, young
11 boys from the village, this took place after the meeting in Beni; is that right?

12 A. Yes, it was after the trip to Beni. After our returned from Beni, that's
13 when we met with them.

14 Q. And you said, I think, that somebody who had been in Beni had told these
15 UPC soldiers that children were meeting with the Office of the Prosecutor in Beni;
16 is that right? Is that what happened?

17 A. He didn't tell that to the soldier; he told that to the people of the
18 village. Nobody in the village said that he had spoken to the soldiers And I think
19 that at that point everyone who had done military service had already left. All
20 those who had been soldiers were demobilized and at that moment in time there weren't
21 any UPC soldiers. When we went to Beni, there were no longer any UPC soldiers because
22 they had been demobilised already. And when he said that -- he didn't say that
23 to the soldiers, he said that to the people in the village. He didn't say that
24 to the soldiers, and the information went from one person to the next. He did not
25 tell that to the soldiers, but to the people who were in the village.

1 Q. And I take it from what you are telling us, you were not the person who
2 told the villagers that you had met with the Office of the Prosecutor in Beni?

3 A. Well, for myself, I would say this: Once I got back from Beni, it was
4 as if I had been put in the fire, because when I went to Beni -- once I came back
5 from Beni -- because after my return, that child had already arrived. And once
6 I came back, they were saying, were you the one who went to tell lies against Thomas?
7 And I had no answer, because -- well, I knew that I had come from Beni. I refused
8 that story. I said those who agreed to continue with those lies -- and they didn't
9 come back. Among those two people, there was (Redacted) and (Redacted). (Redacted)
10 (Redacted) or (Redacted). And
11 (Redacted) we called (Redacted). To date we have not seen those two people again.

12 MS SAMSON: Excuse me, Mr Witness. Your Honour, we may need some redactions
13 for a few of the names that have just been mentioned, please.

14 PRESIDING JUDGE FULFORD: Thank you. If the Defence could communicate
15 with the court officer as to which if any parts should be redacted.

16 Thank you, Ms Samson. Please, continue.

17 MS SAMSON:

18 Q. So, sir, is it your evidence that it was this person (Redacted) who told
19 the officers or was it somebody else?

20 A. Who else could have given that information other than those who had gone
21 to Beni; because, as (Redacted) had told us, it was a secret, and we had to keep
22 that information as a secret. And who could have told that? He was the only one
23 who could have told that. And other people who could have told that, well, those
24 were other people whom we had met (Redacted) and (Redacted) with, who didn't go
25 to Beni. He had others who did not go to Beni, three people; (Redacted), and another

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1 person whose name I have forgotten. He is from the Bira ethnic group, but I forget
2 his name. So it was those three people who did not go to Beni, but we got to Beni;
3 and even those who didn't go to Beni, they were aware of this information. They
4 were well aware of it.

5 Q. Thank you.

6 MS SAMSON: Your Honour, another issue. Perhaps the entirety of that
7 answer may consider -- may require redaction. There are various references there
8 to individuals.

9 PRESIDING JUDGE FULFORD: Thank you, Ms Samson. Are you specifically
10 requesting redactions or are you simply highlighting that there may be a need?

11 MS SAMSON: Given that the Chamber has already authorised redactions to
12 several -- at least one name that's here, I would highlight the need for the redaction
13 there.

14 PRESIDING JUDGE FULFORD: Okay.

15 MS SAMSON: There is another individual whose name has been mentioned,
16 thus far only in private session.

17 PRESIDING JUDGE FULFORD: Right.

18 MS SAMSON: That is the person who appears at line 20.

19 PRESIDING JUDGE FULFORD: Okay.

20 MS SAMSON: There I would request that there be a redaction.

21 PRESIDING JUDGE FULFORD: And the two at line 21 --

22 MS. SAMSON: These --

23 PRESIDING JUDGE FULFORD: -- those as well?

24 MS SAMSON: Yes. To my recollection, the reference to the second
25 individual named in line 21 was referred to by Joseph Maki in private session and

1 the first as well.

2 PRESIDING JUDGE FULFORD: All right. Thank you. Redactions, please, in
3 accordance with what Ms Samson has just submitted. Please, continue.

4 MS SAMSON:

5 Q. I have just another question for you, sir, on that answer: You mentioned
6 that there was a person from the Bira ethnic group, but you forget his name. Did
7 you discuss that person with Joseph Maki?

8 A. No. That person was not present.

9 MS SAMSON: Your Honour, may we move into private session for a series
10 of questions?

11 PRESIDING JUDGE FULFORD: Private session.

12 *(Private session at 11.50 a.m.) Reclassified as Open session

13 THE COURT OFFICER: We are in private session, your Honours.

14 PRESIDING JUDGE FULFORD: Yes.

15 MS SAMSON: Thank you.

16 Q. Sir, you mentioned that (Redacted) told you that it was a secret that
17 you had met with the Office of the Prosecutor in Beni. That was because for your
18 own safety; and to ensure you wouldn't have any difficulty in Bunia, you should
19 not tell people you had met with the Office of the Prosecutor; isn't that right?

20 A. Yes, because we were asked to keep it secret. We couldn't -- we weren't
21 supposed to tell people that.

22 THE INTERPRETER: Can we ask the -- could we ask the witness to speak
23 closer to the microphone. This is a message from the Swahili booth, if the witness
24 could speak closer to the microphone.

25 PRESIDING JUDGE FULFORD: Sir, could you move your chair slightly closer

1 to the desk, please.

2 Yes, Ms Samson.

3 MS SAMSON:

4 Q. Sir I want to go back to the original meeting that you had with (Redacted)
5 which you say took place at his house before you met (Redacted). It's your evidence,
6 I think, that (Redacted) told you what to say just before you went to meet with
7 (Redacted) so that you could remember it. Is that right?

8 A. Yes, that's right.

9 Q. And you said that before meeting (Redacted), (Redacted) told you to say
10 that you had fought at Ronio (phon), Komanda and Katoto and that you were from Lopa,
11 and that this is what you told (Redacted). Is that right?

12 A. Yes, that's what I told. He said this: "Where we fought, we should quote
13 places where battles had occurred, and I said to myself, there had been a battle
14 in Mandro, Katoto, Lopa and Kisadoto (phon) and so those were the three -- those
15 were the locations I gave, the three locations.

16 Q. Well, sir, I am going to start that again. You said yesterday that just
17 before meeting (Redacted) reminded you what you had to say, and you said that you
18 told (Redacted) had fought, according to what (Redacted) told you, at Ronio, Komanda
19 and Katoto and that you were from Lopa. And you confirmed to the Court that that's
20 what you told (Redacted). Now you are saying that you told (Redacted) that you
21 fought in Mandro, Katoto and Lopa?

22 A. I am saying this: I gave the names of the places where the battles had occurred:
23 Katoto, Lopa, Lonio and several other places, but I only gave three locations. And
24 that doesn't mean that there were battles only in Lonio. Perhaps others mentioned
25 other places. We couldn't give the same places. The others might have mentioned

1 other places, Mongbwalu. We didn't give just one place where there had been a battle.

2 Q. You remember that (Redacted) took notes during your meeting? I believe
3 you already told the Court that you remembered that.

4 A. Yes, I remember.

5 Q. And if I suggest to you that you told (Redacted) that you fought at Mandro
6 and Mongbwalu, and that you were from Iga-Barriere, does that seem right to you?

7 A. Fighting at Mandro and at Iga-Barriere? I quoted or gave those locations?
8 Well, there hadn't been a battle in just one place. He told me to give Mandro,
9 Lonio or Katoto, but I was told I had to give the names of places where battles
10 had occurred. Those places you know.

11 Q. You said that (Redacted) promised you a lot of money. Did he tell you
12 how much money you were going to get for lying to the Office of the Prosecutor?

13 A. I never even received ten francs. They said they were going to give us
14 money but they never -- they never gave us the name of the people who were to give
15 us the money. They said to us that they we would meet the authorities in Beni and
16 the authorities would give us money and register us in school so that we could learn
17 mechanics or carpentry, or other options. They would register each of us for the
18 course of our choice. When we heard that they were offering us money, that's why
19 we accepted and that's why we went to Beni, to see for ourselves.

20 Q. It's right, isn't it, actually, that before going to Beni or before meeting
21 (Redacted), you did not know that you were meeting with the Office of the Prosecutor;
22 is that right?

23 A. Before going to Beni, (Redacted) never mentioned an office. He talked about
24 authorities that we would meet with. I didn't know whether the authorities belonged
25 to a particular office because when (Redacted) arrived in Bunia, I don't think he

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1 had an office. All these people who met (Redacted), I think that (Redacted) took
2 their statements in a vehicle, and it was a vehicle with shaded windows, so people
3 could not see us, or recognise us through the windows, and --

4 THE INTERPRETER: Interpreter regrets but testimony is being given too
5 quickly.

6 PRESIDING JUDGE FULFORD: Sir, can I very gently remind you, please, to
7 make sure that you don't speak too quickly, so as to make sure the interpreters
8 can hear everything you say.

9 Yes, Ms Samson.

10 MS SAMSON:

11 Q. Sir, you didn't sign any documents setting out what (Redacted) said you were
12 going to get or what you had to say to (Redacted) and others?

13 A. I signed just -- to my knowledge, I placed my signature when I arrived
14 in Beni, when we were given money. I think it was about 40 per person, or an amount
15 I am unaware of, I have forgotten. That's what I signed for. But to say that I
16 signed documents in front of (Redacted), no, I never did that.

17 Q. And the document that you signed in Beni was a receipt acknowledging that
18 you had received \$40; is that right?

19 A. Yes, that's right.

20 Q. When you had this discussion with (Redacted) about what you were to say
21 to (Redacted), there were five of you present, is that right: (Redacted), yourself,
22 (Redacted), and (Redacted)?

23 A. Yes.

24 Q. Nobody else was there?

25 A. There were five of us. There was (Redacted), there was myself. There

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1 was (Redacted), (Redacted) and (Redacted). (Redacted) was the child of the
2 individual I went to Beni with. His name was Sumbuso.

3 Q. So in fact you were not with (Redacted), you were with (Redacted); is
4 that right?

5 A. That is correct.

6 Q. How long did the meeting last, approximately? Was it 15 minutes; 30 minutes;
7 45 minutes; one hour; more than one hour?

8 A. Do you mean a meeting with (Redacted)?

9 Q. No, the meeting with (Redacted) before the meeting with (Redacted).

10 A. The first meeting with (Redacted) in the village, well, I did not have
11 the time to count how long it lasted. He arrived. We met for the first time. We
12 had a discussion and, when we left the group there was himself, there was (Redacted),
13 there was (Redacted) and myself and (Redacted). So, he called us. There were four
14 of us, and we had a discussion, to one side. He told us his story. He believe
15 it lasted approximately one hour, and then he left and we went back to our group.
16 The members of the group asked us what we had been talking about and we said that
17 this gentleman had come to give us a task to undertake in town, and they asked us
18 what it was, and we said that we were supposed to go and deliver sand somewhere,
19 because he had kept this as a secret. On the next day he returned and we went to
20 wait for him somewhere along the road.

21 We talked behind a lady's house, and we had a discussion for some time
22 and then he left. And it was on the occasion of the third meeting that (Redacted)
23 came and we were at his house. He was supposed to come and pick us up between 8
24 and 9 o'clock, but we stayed waiting for him until 12 o'clock and then (Redacted)
25 turned up at approximately 12 o'clock. As these were individual discussions, we

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1 talked to him one after the other, and when (Redacted) came we were called to speak,
2 one after the other, and this is how we came to leave his house at approximately
3 4 p.m. And we left.

4 Q. So you waited for (Redacted) until 12 o'clock, and then (Redacted) turned
5 up at 12 o'clock. So, when did you spend time at (Redacted)'s home before meeting
6 (Redacted)? Was that the discussion that you had for one hour, or was it a different
7 discussion? A. This is what I am saying. He came to pick us up in a village
8 , between 8 and 9 o'clock. We went to his home. It was at 11 o'clock, and for
9 one hour he had a discussion with us about a number of topics.

10 Q. And the next time you saw (Redacted) after meeting (Redacted) was when
11 you were with your brother and grandmother and a few other people; is that right?

12 A. On the day that I was in the company of my grandparents, (Redacted) was not present.
13 What affected my grandfather was that upon my return to the village -- no,
14 rather, when I went to Beni, my grandfather stopped me from going because he had
15 heard that I was going to Beni in order to say something, so he stopped me from
16 going there. And he said, "Elder son, the story you are getting involved in, politics
17 is not suited to you." But as my friends were going, I couldn't help myself, despite
18 his having forbidden it. I told myself that I would go and I went on the sly without
19 him knowing. When I left my village, (Redacted) came and I met him at the roundabout.
20 I said to him, "You know, (Redacted), I can't go to my village with you. It is
21 a better idea for us to have a discussion here because my grandfather had stopped
22 me from leaving." And I went to ask my grandfather -- well, I lied to him and I
23 convinced him to go with me, and that is how I came to leave in the company of my
24 grandfather. Q. So Sumbuso is your grandfather; is that right?

25 A. Sumbuso isn't even a member of my family. (Redacted), whom I am talking

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1 about, also went to Beni, like me. I went there after (Redacted). Upon my arrival,
2 (Redacted) was still there. So, Sumbuso came to my grandfather's house because he
3 wanted to say that (Redacted) had also gone to Beni and that this child -- that
4 he should accompany this child so that he would know what his son was saying there.
5 My grandfather tried to interpose, but Sumbuso tried to convince him. However, on
6 the day when (Redacted) came to give me a telephone and ten dollars as pocket money,
7 I then went to find the old man to tell him that grandfather had agreed we could
8 leave. We could leave the next morning. This all happened without my grandfather's
9 knowledge.

10 It was upon my return that there were issues in the village -- young people;
11 and when my grandfather learnt that there were problems, he called -- he also called
12 Mr Joseph and he called (Redacted) father and mother and also (Redacted) mother.
13 We were taken somewhere, to a UPC office. Why was it that we were called? Well,
14 they wanted to know whether we had said that we were child soldiers. When we arrived
15 there, they asked us the question: "Is it true that you were child soldiers?" And
16 I said, "No, I'm sorry, I was never a child soldier." But it was because of the
17 money that I left. And I'm sorry, I'm not going to repeat this any more. This
18 is how the officials from this office asked us to provide an example. They said
19 that if, one day, sooner or later, even after a year Thomas' lawyers came and wanted
20 to meet you in order to ask you to deny the fact that you had been a child soldier,
21 are you going to accept? I answered that I would accept, because this story brings
22 regrets with it when I think about it. And a few months later I saw them arriving.
23 A gentleman came to our village, and he said, "The lawyers are here. If you want
24 to meet them, they are ready to receive you. But if you do not want to do that,
25 it's your own opinion -- it's your own decision." But I thought that I should go

1 and explain myself, in order to relieve my conscience.

2 I accepted, but upon arrival I felt very affected. I thought about it
3 a great deal. I remembered, as soon as I saw a red pen, how my mother had shed
4 blood. It was difficult for me to be there. And I went to meet with Thomas' lawyers
5 and they put the question to me, as to whether -- they said, "It is not us who are
6 asking you to go to The Netherlands. This will depend on you. If we are asking
7 you to go to Holland to explain that you weren't a child soldier, we are not forcing
8 you however. Do you want to go?" I said, "Yes, I am ready to go to The Netherlands.
9 I am ready to go. But if I go there, what situation am I going to be leaving my
10 wife in?" And they said, "Well, with regard to your wife, we shall provide her
11 with assistance and we shall also assist you until you return." And that's why
12 I accepted to come here. If Thomas' lawyers had not come to see me, I would not
13 have come here. It would have been difficult for me because I cannot commit myself
14 to coming here. It was also difficult for me to go to Beni.

15 Q. Sir, you mentioned a meeting with the UPC, and is it right that you were
16 there along with Joseph, (Redacted)' father and mother, and (Redacted)'s mother?
17 Were you there at the same time when you were meeting with the UPC?

18 A. It is not to say that we met the UPC as such; it was somebody who was
19 working at the UPC office. He came. He approached us in the village, and my
20 grandfather asked me to go to Joseph's house, Mr Joseph, who had gone to Beni with
21 me. So I went to call him. And he also asked me to call Mr Sumbuso. He was to
22 come and explain what had happened there, and they came. And when (Redacted) mother
23 heard this, she said, "Well, I think it's a good idea that he go and listen to what's
24 going on." And the same happened with (Redacted) mother. I explained what I had
25 seen in Beni; I explained everything. And then they said to me, "Well, listen,

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1 dear child, you are putting yourself in a situation that exceeds you." And they
2 said, "People have come to mislead us with a sum of money, because it was a large
3 sum of money. In view of the fact that they had told us that we were going to receive
4 a great deal of money, we accepted and we went to Beni. And we were promised that
5 we would be sent to school, but it was an empty promise. So when we arrived in
6 Beni, everyone was saying what career path they wanted to follow and what studies
7 they wanted to take up, but it didn't happen.

8 Q. And the person who convened this meeting at the UPC office, was his name
9 Dieudonné Mbuna?

10 A. Yes, it was indeed Mbuna.

11 Q. Did you ever have a meeting with someone named Jean Tinanzabo?

12 A. I do not know that name. On one occasion I met Mbuna and he was in the
13 company of two other individuals, but I did not come to hear the names of those
14 people. I don't know whether it was that gentleman or somebody else. I heard the
15 name of Mbuna. And why was that? Because he came to our house and he introduced
16 himself. On the second occasion when we went to the office, we were not in the
17 company of my grandparents. There was myself, there was Mr Joseph; there were two
18 of us. When Mbuna came to the village for the first time, my grandparents and the
19 others were there. However, at the UPC office it was myself and Mr Joseph.

20 Q. So, if I understood it correctly, you had one meeting at your grandfather's
21 home with Dieudonné Mbuna, (Redacted)' parents, (Redacted) mother and Joseph Maki;
22 is that right? And yourself?

23 A. There were other people present but I only know Mbuna's name. I do not
24 know the names of the other people. It might be that I did meet that person, but
25 I'm not aware of their name. I do agree that we met those people in the company

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1 of (Redacted) mother, and other parents.

2 PRESIDING JUDGE FULFORD: Miss Samson, when you've completed this topic,
3 I am going to give the witness a ten-minute break.

4 MS SAMSON: Yes, your Honour. It may not be right away, but --

5 PRESIDING JUDGE FULFORD: All right.

6 MS SAMSON: Please let me know when your Honour feels it's appropriate
7 for a break.

8 Q. To the best of your recollection, approximately how long did that meeting
9 at your grandfather's house last? Was it an hour or half-an-hour?

10 A. The meeting did not take place at my grandfather's house; it was in the
11 neighbourhood at Cordo's house. That is where we met, at Cordo's place. And the
12 meeting lasted approximately 30 minutes, after which people went their own ways.

13 Q. Do you --

14 PRESIDING JUDGE FULFORD: We will have a ten-minute break. Thank you very
15 much.

16 (The witness stands down)

17 THE COURT USHER: All rise.

18 PRESIDING JUDGE FULFORD: Half past.

19 (Recess taken at 12.20 p.m.)

20 (Upon resuming at 12.30 p.m.)

21 THE COURT USHER: Please be seated.

22 PRESIDING JUDGE FULFORD: Yes, witness please.

23 (The witness enters the courtroom)

24 PRESIDING JUDGE FULFORD: Yes, Ms Samson.

25 MS SAMSON: Thank you, your Honour.

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1 Q. Sir, I want to go over the meetings with you, just how many meetings there
2 were. The first meeting, it's right, isn't it, that Dieudonne Mbuna comes to your
3 home where your grandparent live, introduces himself; is that right?

4 A. The person who came for the first time was Cordo. When Cordo heard about
5 this he came to tell us. He went to Mr Mbuna's home, and Mbuna told him that he
6 wished to meet the children. He wanted to know whether it was true that these children
7 had been child soldiers, so he came. He spoke to my grand parents, (Redacted) mother,
8 his father, (Redacted), and he asked me, "Ndjango, is it true or not that you were
9 a child soldier, and that you later abandoned that activity?" I answered him saying
10 I lied. I was misled. That is why I went there but in actual fact I have never
11 served as a child soldier.

12 Q. I just want to go through the number of meetings there were so if you
13 could please focus on the question and answer it specifically, then I can get into
14 the detail with you. So, you've clarified now that the very first meeting that
15 you had on this issue was when Cordo came to your home; is that right?

16 A. That's right.

17 Q. Do you know Cordo by any other name?

18 A. No, the only name I know is Cordo.

19 Q. Is Cordo Hema?

20 A. Yes, he is Hema. However, I don't know whether he is a Gegere or a Hema
21 because you have the Hemas and the Gegeres. I don't know whether he is Hema or
22 Gegere.

23 Q. Gegere is a term that refers to Hema North people, isn't it?

24 A. That's right.

25 Q. Do you know if Cordo was a UPC member?

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1 A. I know Cordo very well. However, I don't know the type of job he did,
2 the type of activity he engaged in. I know that he worked somewhere in an office.

3 Q. Did he work in the UPC office that Dieudonne Mbuna worked in?

4 A. Previously he worked in an office but I did not know where he worked.
5 When I met him he was a teacher; he was no longer working in an office. It was
6 a lot earlier that he used to work in an office but at the time I met him he was
7 a teacher, and up to today he still works as a teacher.

8 Q. Is Cordo living in Simbiliabo?

9 A. Yes, he lives in Simbiliabo.

10 Q. How long does Cordo stay at your home when he comes, that first time?

11 A. When Cordo came to our home, for the first time that is, he discussed
12 with my grandfather. He told me, he told him, "I heard that the child just returned
13 from Beni." He said, "I would like to know whether the child -- what the child
14 went to do in Beni." That's what he wanted to know. My grandfather told him, "The
15 child is here."

16 Q. I just want to know if you can remember more or less how long that visit
17 lasted? Was it 30 minutes or one hour? Less or more?

18 A. To tell you the truth I think he spent about one hour. Well, this is
19 not to say that this is the only topic he discussed with my grandfather. They discussed
20 about other things as well. Maybe they discussed on this subject matter for about
21 20 minutes and then they moved on to other topics. Later on I went to carry out
22 my own activities.

23 Q. Following this visit, did Dieudonne Mbuna visit your home?

24 A. Mbuna went to Cordo's home, and I met Mbuna at Cordo's place.

25 Q. Okay. So Cordo comes to your home and then following that visit you and

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1 the other parents you mentioned, and Joseph Maki, go to Cordo's home where you also
2 meet Dieudonne Mbuna and two other people who are with Dieudonne Mbuna; did I get
3 that right?

4 A. Mbuna went to Cordo's place alone. There was my grandparents and we had
5 a discussion. Mbuna said the following: "I have just heard what he told me but
6 if you are willing, let's go to town to give these explanations because I am here
7 alone. I have heard your explanations but it's difficult." He said, "You, for
8 example, you said you have never been a child soldier yet you made a trip to Beni."
9 So we went to town. But since my grandfather was old, he could not go to town.
10 So there was Joseph Maki who went, so we went to town, and there was Mbuna. When
11 we left the village there was myself, Mr Joseph and Cordo. And when we reached
12 there, there was Mbuna and another gentleman whose name I can no -- I do not remember,
13 and we had a discussion with them.

14 They asked us how we went to Beni and our answer was: "There is no one who knows
15 that we went to Beni." They continued asking us questions. They asked: "Why did
16 you go to Beni?" I answered. I said, "I went to Beni because of money." Because,
17 it is because of money that Jesus was sold. They asked another question. "Because
18 Jesus was sold for money you also went to lie, even though you were not a child
19 soldier; you also wanted to sell Thomas because Jesus was sold for money?" I said,
20 "Yes."

21 They asked me to consider the matter further. They asked me: "Do you
22 think you did well? Do you think it was proper whereas you have never been a child
23 soldier?" And I answered and I said, "It is true I accepted to go to Beni but once
24 I reached Beni I found myself in a difficult situation, the truth be told." And
25 so they said, "Well, we've just listened to you but we are going to give you an

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1 example. If Thomas' lawyers arrive, would you give them these explanations
2 willingly?" I said yes. Joseph did same. They arrived. I met them and we explained
3 all these problems to them.

4 Q. At what point did you go to the UPC office where Dieudonne Mbuna worked?
5 Was that after you were at Cordo's place?

6 A. I went to Cordo's home after I returned from Beni.

7 Q. So the meeting with you, Cordo, Dieudonne Mbuna and Joseph Maki, took
8 place after you came back from Beni? Do I have that right?

9 A. It was after my return from Beni and after my return from Kinshasa.

10 Q. So you went to Cordo's home on two separate occasions; once after Beni,
11 once after Kinshasa. I think I'm repeating what you just said.

12 A. Let me say the following: When we left Beni we had a discussion and they
13 said the following: "It's not good for people to be angry with us. We should continue
14 with our activities. Each person should continue with his activity." They did
15 not impose any restrictions. If we had wanted we could have continued with our
16 activities. And it is for this reason that we went to Kinshasa.

17 When we reached Kinshasa, we stayed there for a while and then we returned.
18 They learnt that we had returned from Kinshasa and they came to contact us for a
19 second time, and they asked us these same questions. They said, "We discussed with
20 you but what made you to go to Kinshasa again?" These were difficult questions
21 for us. It was difficult to answer these questions, and then they added the following:
22 "You have just returned from Kinshasa. Can you give us evidence or proof that you
23 have just returned from Kinshasa?" I didn't have any proof to show them and I said,
24 "The only thing I have to show you is the air ticket that was given to me." They
25 asked me: "Do you have the ticket?" I said, "Yes." However, the ticket that I

1 used to go to Kinshasa was in a dress and I washed the dress along with the ticket
2 but I had the return ticket. So -- and I showed them and I think that Maki Joseph
3 went to Kinshasa twice. They also asked him to show his air tickets and he showed
4 the tickets.

5 Later on, they gave us advice. They said, "You are a child, if you are
6 willing to listen, you should not get involved in politics." They asked us to give
7 some thought to the matter. But then they added the following: They said, "If
8 you wish to carry on in this business, well, go ahead." We don't have a problem
9 with that." You have already stated that you were not a child soldier, but you continue
10 with this story. If we ask you to meet Thomas' lawyers, will you do so? I told them
11 that I was at their disposal, that I could meet them.

12 After a while the lawyers arrived and Mbuna came to us and he said, "The
13 lawyers are here but do not tell them that I am the one who is asking you to go
14 and meet them because I told you that you have to do this voluntarily. You should
15 do this because you want to." So I accepted to go and meet them and I went and
16 I saw them. We had a discussion, had a good discussion, and then they left and
17 I stayed behind.

18 Q. Was Joseph Maki with you when you met with the lawyers?

19 A. When I met the lawyers I think he was with me. Yes, he was with me. Because
20 Maki Joseph left me in Kinshasa. I followed him later on. When he returned to
21 the village I think he signed a document. It was a document written in French.
22 Even though I do not understand French, I think the document said we will let you
23 return to the village. If you betray us, we are capable of imprisoning you. That
24 is what (Redacted) said. He asked Joseph to pick up a pen and sign the document,
25 and he indeed signed the document. He was asked to keep the secret and not to tell

1 anyone that he had made a trip to Kinshasa, that he should claim that he had gone
2 to another village.

3 Q. And you said that Dieudonne Mbuna told you not to tell the lawyers that
4 he had asked you to meet with them. Is there anything else he asked you not to
5 tell them?

6 PRESIDING JUDGE FULFORD: Just pause a moment, witness, please. Just pause
7 a moment.

8 MR DESALLIERS: (Interpretation) I beg your pardon, your Honour. I think
9 there is a misunderstanding because what I heard from the witness's evidence was
10 not that Dieudonne Mbuna had asked him not to say that he had met with him. Simply,
11 that he should say that he was coming willingly, voluntarily. That is what I understood
12 from the French version, so I think there is an inconsistency here.

13 PRESIDING JUDGE FULFORD: Could that be interpreted please, what the
14 witness has just said.

15 THE INTERPRETER: That is true, that's what I said. That's what I said.

16 PRESIDING JUDGE FULFORD: Ms Samson, what passage are you relying on?

17 MS SAMSON: I was referring, your Honour, to page 33, the very bottom,
18 lines 24 and 25: "(Redacted) said the lawyers are here but do not tell them I am
19 the one who is asking you to go and meet them because I told you" -- no, sorry.
20 "Do not tell them I am the one who is asking you to go and meet them because I told
21 you I accepted to go and meet them."

22 PRESIDING JUDGE FULFORD: Right. I am going to ask that this is clarified
23 over the luncheon adjournment, if necessary with the assistance, please, at some
24 stage of one of the interpreters, because there is an apparent difference between
25 what is in the French and in the English.

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1 Sir, thank you very much for your help this morning. We are going to
2 break off for lunch now, and we look forward to seeing you again at 20 to 3. So
3 2.40.

4 Usher, could you please help the witness.

5 (The witness stands down)

6 PRESIDING JUDGE FULFORD: How much longer, Ms Samson?

7 MS SAMSON: I am quite confident I will finish this afternoon, your Honour.

8 PRESIDING JUDGE FULFORD: Thank you. Over lunch, could you, together with
9 Mr Sachdeva and anyone else from your team, reflect on when would be convenient
10 for you to return to the various matters that I outlined yesterday; strategy,
11 disclosure, et cetera, et cetera, because it will be quite nice to see where we
12 are going in relation to those matters. I don't want to rush you and so, if you
13 could reflect on when you think it could be convenient for us to address those matters.

14 THE COURT USHER: All rise.

15 (Luncheon recess taken at 12.57 p.m.)

16 (Upon resuming at 2.40 p.m.)

17 THE COURT USHER: All rise. Please be seated.

18 PRESIDING JUDGE FULFORD: Yes. Witness, please. Thank you.

19 (The witness enters the courtroom)

20 PRESIDING JUDGE FULFORD: As regards the recent conflict, as regards what
21 was said, I have a moment ago been sent an email that indicates that that cannot
22 be resolved until after we've risen this afternoon. So Ms Samson, if you can reflect
23 on how you want to deal with that issue in those circumstances. Thank you very
24 much.

25 MS SAMSON: Thank you, Mr President. I will address other matters.

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1 Q. Mr Witness, before the break you were describing a number of meetings
2 that you had with different individuals. What I'm going to try to do now is to
3 go through those meetings one-by-one, starting with the first meeting you had after
4 your trip to Beni. You indicated that the first meeting you had after coming back
5 from Beni was at the home of a person named Cordo; is that right?

6 A. Yes, that's right.

7 Q. Is it right - "yes" or "no" - that at this meeting at Cordo's house there
8 were other people, including yourself, Joseph Maki, (Redacted)' mother, (Redacted)'s
9 mother and other people; is that right?

10 A. When we met, there were not other people. There was me, Joseph, Mr Buboso
11 (phon), my grandmother, and the mother of (Redacted) and his father. And the people
12 we met with were Cordo and Mr Mbuna. There was no one else than those two.

13 Q. Thank you. Just to be sure, at that meeting (Redacted)s mother was not
14 there; is that right?

15 THE INTERPRETER: The Swahili interpreter did not hear the response.

16 MS SAMSON:

17 Q. Sir, could you answer that again? Was (Redacted)'s mother at this meeting
18 at Cordo's house, or was she not there?

19 A. The mother of (Redacted) was there.

20 Q. And did this meeting last 30 minutes or longer than 30 minutes?

21 A. He just wanted to know whether we had really been soldiers. Our
22 conversation did not last a long time, but between them and the adults, they spent
23 a long time. But us, after maybe 30 minutes, I left. They stayed with my grandfather.
24 I don't know what they talked about after I left.

25 Q. Was (Redacted) there as well?

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1 A. (Redacted) was there too.

2 Q. And the next meeting that you had on your trip to Beni, when was it?

3 A. That meeting was held for the first time when I came back from Beni. And
4 the second meeting was when I came back from Kinshasa.

5 Q. Yesterday - or the day before yesterday - you had been discussing a time
6 when (Redacted) left to go to Kinshasa, but came back to Bunia, and that after that
7 (Redacted). You said that --

8 A. Yes.

9 Q. You said that when they came back you mentioned a prison, and you said
10 in the English transcript, page 26, lines 12 to 13, that they had brought back very
11 little money to get me out of prison. I would like to know, were you ever in a
12 prison?

13 A. You see -- no. To say I was in prison, no, that's wrong. It was only
14 because people in the village, they were always close to me and they said you went
15 to lie against Thomas. And after, I told that to Thomas and --

16 THE INTERPRETER: No. The interpreter corrects himself.

17 THE WITNESS: I said that to (Redacted), and (Redacted) said "we must
18 lie and say that you were arrested and put in prison so that you can be moved from
19 here and (Redacted). and that is why (Redacted) made up this lie. And they agreed
20 to these lies, and (Redacted).

21 PRESIDING JUDGE FULFORD: Forgive me interrupting, Ms Samson. Are you
22 referring to page 36 of today's transcript.

23 MS SAMSON: No. It's transcript 242.

24 PRESIDING JUDGE FULFORD: Right. And you're confident that the witness
25 referred to prison.

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1 MS SAMSON: Yes, I can go back to the actual --

2 PRESIDING JUDGE FULFORD: No. It's all right. Don't worry.

3 MS SAMSON: -- transcript.

4 PRESIDING JUDGE FULFORD: No. Don't worry. Just while I've intervened,
5 because the emails had only just arrived, I made a false assumption. In fact, the
6 interpreters have managed to deal with the issue that arose today, so you have a
7 suggestion from them on that. It's the earlier one that they haven't resolved and
8 which they - on our direction - will need to listen to again on special equipment
9 to see whether it can be enhanced as we've done before.

10 So if you want - at a convenient moment - to go back to the other issue,
11 you now have in the email that's been sent to you the interpreter's, as it were,
12 best understanding of what was said.

13 Mr Desalliers?

14 MR DESALLIERS: (Interpretation) Just a specific point. For the time
15 being, we can't quite find the mention. Are you speaking of transcript 242, page
16 36?

17 PRESIDING JUDGE FULFORD: In English, I suspect.

18 MS SAMSON: Yes. But I had also checked the French, just to make sure
19 I had it correct. So I'll find it in the French, if that's easiest.

20 MR DESALLIERS: (Interpretation) Just --

21 MS SAMSON: Yes. Here it is in the French transcript 242, page 30, and
22 it's lines 17 to 18, where he says -- now I'm going to read in French: (Interpretation)
23 And when they arrived, when they -- they gave me some money to take me out of prison.
24 And finally, I fled from there. They had me flee from there.

25 THE INTERPRETER: Correction from English interpreter.

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1 MR DESALLIERS: (Interpretation) Your Honour, could we have a moment?

2 I think it's particularly page 26 of the transcript 242, the edited transcript,
3 English version. Perhaps page 26.

4 MS SAMSON: I gave page 26 initially. I understood that was a problem,
5 so I gave the French transcript page number, which is page 30.

6 PRESIDING JUDGE FULFORD: The issue, Mr Desalliers, is whether you're
7 objecting to Ms Samson putting it in this way.

8 MR DESALLIERS: (Interpretation) No.

9 PRESIDING JUDGE FULFORD: No. I'm sorry for the interruption, Ms Samson.
10 Please continue.

11 MS SAMSON: Thank you very much, your Honour.

12 Q. Mr Witness, in the last answer that you gave, you said that you and (Redacted)
13 told -- excuse me. I'm going to start again.

14 (Redacted) because you decided together to state that you were feeling
15 pressure from people in the village. It's true, isn't it, that you were feeling
16 pressure from people in the village?

17 A. The pressure that they were putting on us was that people were saying
18 to us "you were the ones who went to say lies against Thomas." And everywhere we
19 went people would say: "those are the people who came back from Kinshasa, who sold
20 Thomas and made money." Everybody was claiming this in their own way, and it began
21 to affect me. That is why, when (Redacted) came back from Kinshasa, I talked to
22 him about it. (Redacted)

23 And I accepted. Then we made up a lie. (Redacted) called (Redacted) over the phone
24 to tell him that Django was in difficulty. He asked why. He answered that since
25 his return from Beni there had been problems, that he had been put in prison. We

1 had paid some money to have him freed, but do everything....

2 THE INTERPRETER: Could the witness -- message from to the Swahili booth. Could
3 the witness please repeat his answer, but more slowly? Many thanks.

4 THE WITNESS: (No interpretation)

5 PRESIDING JUDGE FULFORD: Sir, I'm going to have to interrupt. I'm sorry.
6 I'm afraid nearly all of your answer has been lost, because you've been speaking
7 too quickly. And I'm going to have to ask you to slow down, please. And I think
8 it's probably fairest if you put the question again, please, Ms Samson. Thank you.

9 MS SAMSON:

10 Q. Sir, as the Presiding Judge has just indicated, I will repeat my question.
11 If you could please repeat your answer.

12 My question is: It's true, isn't it, that you had felt some pressure
13 from people in the village?

14 A. My response is as follows: When (Redacted) came, I told him that the
15 situation that I was in was not a good one, because everyone said that we were testifying
16 against Thomas. And we were given money for that. So when I told (Redacted) that,
17 he answered by saying -- or by asking me to wait and that we would make a decision
18 subsequently before (Redacted). I agreed.

19 (Redacted) had a cell phone with him and he called (Redacted). He told
20 him that one of the individuals who had come from Beni since his return had a number
21 of problems with the villagers, whether it be the former soldiers or those who had
22 not been soldiers. He said that this individual had been put behind bars, and we
23 took a sum of money to have him released. He went on to add that this individual
24 would be moved. And (Redacted) said, well, who is this individual? He received
25 the answer that it was one of the individuals who had returned from Beni. So they

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1 accepted this proposal, and this is how we came to leave. We left Bunia. It was
2 (Redacted) and myself, and we went to Beni. We spent approximately three to four
3 days in Beni, and then we left Beni to go to Kinshasa.

4 Upon arriving at the airport, I recognized (Redacted) from afar; however, (Redacted)
5 did not recognize him. And I said to (Redacted), "Look, that's (Redacted)." And
6 (Redacted) said, "Well, I am always following (Redacted). How is it that you recognize
7 him?" Then he also recognized us, hailed us and asked, "how is it that you are here
8 today when you had refused to come?" I did not answer. It was (Redacted), rather,
9 who answered that question. (Redacted) remained silent. He said nothing.

10 Q. Sir, so it was you and (Redacted) together who made up the story about
11 being in prison? Is that what you just said?

12 A. Yes, but this was my version. The first version said that I had been
13 put in prison and not (Redacted), but we were the ones to have concocted this story.

14 Q. Thank you. Going back - if I could take you back, please - to the first
15 meeting at Cordo's house after your trip to Beni. Did you discuss with Cordo and
16 Mbuna the fact that the person who put you in touch with the Office of the Prosecutor
17 in Beni was Mr (Redacted)? Was his name mentioned?

18 A. You know that lying is a bad act. I said that (Redacted) had told us
19 all of this. It was, indeed, the name of (Redacted) that we gave, and it was
20 (Redacted)'s name that I gave.

21 Q. If I understood your evidence correctly, sir, you didn't again meet with
22 Mbuna or Cordo until after you returned from Kinshasa; is that right?

23 A. I did meet them on my return from Kinshasa. I met them. And Cordo asked
24 me, what was happening there? I answered by saying that I had decided to return,
25 but that (Redacted) had remained behind. I lied, saying that (Redacted) had remained

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1 behind because he was following training or schooling in mechanics. They did not
2 say anything.

3 Q. And following through from the meetings that you had with Cordo and Dieudonné
4 Mbuna when you came back from Kinshasa, is it at this point when Cordo comes to
5 your home; is that how you got in touch with him once you returned?

6 A. When I came back from Kinshasa, I met him. In fact, Cordo is my neighbour,
7 and there's a distance of approximately 10 minutes on foot between our two homes.
8 He might come round of an evening and talk to my grandparents and then go home.
9 So in view of the fact that he was our neighbour, he often came round to the house.

10 Q. The second discussion that you had with him about Kinshasa, was that at
11 your house, or at his house or at the UPC office?

12 A. We went to his house and we also went to the UPC office.

13 Q. When you went to his house, taking that one first, who was there with
14 you?

15 A. Upon my return from Kinshasa, I went to his house in the company of Mr Joseph.
16 It was the two of us.

17 Q. Was Mr Mbuna there for this discussion?

18 A. When we had a discussion for the first time upon our return from Kinshasa,
19 Mbuna was not there; rather, it was Cordo who was present. He came, and he asked
20 us to go into town with him. He took us into town, Cordo did.

21 Q. Did he take you to the UPC office?

22 A. Our meeting spot was the UPC office, and that is where I met Mbuna and
23 a name -- and a gentleman whose name I do not know.

24 Q. Was it on the same day that you were at first Cordo's house and then the
25 UPC office, or was it two different days?

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1 A. On the occasion of our first meeting with Cordo, that was when we met
2 Mbuna and Mbuna asked Cordo to convince us to go and see them in their office in
3 order to have this discussion. I accepted and this gentleman took us there.

4 Q. Was it all on the same day?

5 A. No, it was not on the same day.

6 Q. Do you remember approximately how long you stayed at Cordo's house before
7 going to the UPC office?

8 A. I do not know.

9 Q. The other person that you met at the UPC office, was it a person named
10 Ernest, if you know?

11 A. No, I do not know. I do not know his name.

12 Q. Was the UPC office in Simbiliabo?

13 A. No.

14 Q. Where was the UPC office?

15 A. In town.

16 Q. In the town of Bunia?

17 A. Yes.

18 Q. Do you know if the name Cordo is short for Coordinateur?

19 A. No, I do not know. I merely know him by the name of Cordo.

20 Q. And at the UPC office, is this where you say you were approximately 30
21 minutes?

22 A. Yes.

23 Q. And was it here where you said that you were sorry and that you weren't
24 going to repeat that you had been a child soldier any more?

25 I see some inquisitive looks. I'm referring to page 26 of today's realtime

1 transcript in English, where the witness said, "I said, 'No, I'm sorry. I was never
2 a child soldier,' but it was because of the money that I left and, I'm sorry, I'm
3 not going to repeat this any more."

4 So, sir --

5 PRESIDING JUDGE FULFORD: I think, Ms Samson, I may be misunderstanding.
6 I think that when the witness said he's not going to repeat it anymore, he was meaning
7 he's not going to repeat it anymore in this courtroom; that he's now said it sufficiently.
8 That's how I interpreted that.

9 MS SAMSON: With respect, your Honour, I interpreted it differently. I
10 interpreted it that, in relation to the evidence of the last witness, it was a different
11 apology. Perhaps I could clarify it with the witness?

12 PRESIDING JUDGE FULFORD: You can clarify it with the witness, but I don't
13 think so. I think it was an expression of frustration on the part of the witness
14 that he wasn't going to go over this again.

15 MS SAMSON:

16 Q. Sir, could you let us know if you apologised to the official during the
17 meeting and said that you were sorry, or if you didn't do that?

18 A. I'm sorry, I do not understand.

19 Q. When you were meeting Mr Mbuna and the other person at the UPC office,
20 did you say to him that you were sorry that you had said you had been a child soldier
21 and that you weren't going to repeat that anymore, or did you not say that to him?

22 A. Yes.

23 PRESIDING JUDGE FULFORD: Is this sufficiently important, Ms Samson, to
24 pursue it really, given the ambivalence and given the -- I mean, I'm afraid the
25 witness's last answer doesn't take us forward at all.

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1 MS SAMSON: It is sufficiently important, your Honour, if I may clarify?

2 PRESIDING JUDGE FULFORD: All right. Well do, but, yes, you are going
3 to have to go round it again then.

4 MS SAMSON:

5 Q. Sir, when you said "Yes," did you say, "Yes," you did apologise to Mr Mbuna
6 and the other man?

7 A. Yes, that is correct.

8 Q. And was it after this meeting that Mr Mbuna asked you to meet with the
9 lawyers, or did you have another separate meeting with Mr Mbuna?

10 A. In fact, I met Mbuna on two occasions: On my return from Beni and on
11 my return from Kinshasa. When I talked to Mbuna for the second time, I believe
12 that it was after that second meeting that I talked to the lawyers.

13 Q. And did you speak to the lawyers one time, or more than one time?

14 A. I met the lawyers on a number of occasions.

15 Q. When you met the lawyers for the first time, you said Mr Maki was with
16 you; is that right?

17 A. Yes.

18 Q. Was he also with you when you met them other times?

19 A. It was only on one occasion that I met with the lawyers in his absence.

20 Q. So you were with him every time you met with the lawyers except for once;
21 is that right?

22 A. Yes.

23 Q. And each time you met with the lawyers when Joseph Maki was there, did
24 you discuss all of the things that you're telling the Court today?

25 A. I did not know what the purpose of Mr Joseph's discussions were. In fact

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1 each and every one of us related what they had lived through, so if somebody met
2 with the lawyers before me, well, then I was to wait my turn in order to speak with
3 regard to my experience. I'm not in a position to know what he said.

4 Q. When you discussed with the lawyers, were you and Mr Joseph Maki in the
5 same room when you were having those discussions?

6 A. I shall answer that. Mr Joseph was in the vicinity, but in the background,
7 and he was speaking with regard to himself, his story, and I did likewise. I first
8 met with the lawyers and then I left and it was his turn and, when we had both finished,
9 we went home.

10 Q. Sir, I'd like to ask you some questions related to your meetings in Beni.
11 You saw (Redacted) in Beni; that's right?

12 A. That is true.

13 Q. You saw an investigator named Serge; is that right?

14 A. That is correct. He was there.

15 Q. You met an investigator, a woman named Nekane; is that right?

16 A. That is correct.

17 Q. Yesterday you met a person you said you thought was named Michael. Could
18 that be the person that I'm referring to as Nekane?

19 A. Yes.

20 Q. Did you discuss having met that person with Joseph Maki before coming
21 here?

22 A. No, I did not talk to that individual. They went in their direction and
23 I went in mine.

24 Q. Do you remember meeting a woman named (Redacted)?

25 A. Yes, I do remember.

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1 Q. (Redacted) was an interpreter; do you remember that?

2 A. Yes.

3 Q. She made sure that you could understand what Nekane and Serge were saying;
4 that's right?

5 A. That is correct.

6 PRESIDING JUDGE FULFORD: Ms Samson, as soon as you feel you're able to,
7 could we move into public session? I understand that there are some names that
8 need to be protected, but we are running on now for quite a long time in private
9 session.

10 MS SAMSON: Indeed, your Honour. Perhaps I can do the remainder of these
11 questions in public session.

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

13 (Open session at 3.28 p.m.)

14 THE COURT OFFICER: We are in public session, your Honours.

15 PRESIDING JUDGE FULFORD: Yes.

16 MS SAMSON:

17 Q. And the investigators explained to you and Sumbuso what the purpose of
18 the meeting was; do you remember that?

19 A. I have no recollection of that. I have forgotten.

20 Q. Do you remember that they explained to you that the interview was voluntary?

21 A. That is what they said, but in Bunia that was not the case. In Beni they
22 said, "If you want to leave, you can." They could not force me to come here. It
23 was each and every person's personal decision. Some accepted, some did not. The
24 person that requested that we say that we had been taken by force was somebody else,
25 it was (Redacted). It wasn't you, you people clearly said "If you want to go and

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1 testify against this individual, saying that they enlisted you as a child soldier,
2 and you know that this is true, then you can if you want to. But if you do not want
3 to, you can remain behind." I did not say it was you who said it. It was (Redacted)
4 who asked us to come and give false testimony, not you.
5 forced to do so.

6 MS SAMSON: With your permission, your Honour, may we go into private
7 session for a few questions?

8 PRESIDING JUDGE FULFORD: Private session, please.

9 *(Private session at 3.30 p.m.) Reclassified as Open session

10 THE COURT OFFICER: We are in private session, your Honours.

11 PRESIDING JUDGE FULFORD: Thank you.

12 MS SAMSON:

13 Q. Sir, you're not suggesting, are you, that (Redacted) forced you to go to Beni?

14 A. I have told you repeatedly that (Redacted) did that, but you do not understand.
15 Well, now, I am going to ask you questions. And if you answer those questions,
16 I will stop there and I will not continue with my testimony. I am going to ask
17 you all a question, all of you. I'm going to ask you the following question: Do
18 you know --

19 Q. I'm going to ask you the questions. If my questions are inappropriate,
20 the Judges will intervene. Do you understand that?

21 A. And if it's difficult for me to answer and if I cannot answer, then --

22 PRESIDING JUDGE FULFORD: Sir, if any questions are put to you that are
23 inappropriate, the Judges will stop them. And for the time being, I'm going to
24 endorse with Ms Samson has just said, that it is really very important for us that
25 you give all of the evidence you can, and the best way of doing that is if you could,

1 very kindly, continue answering Ms Samson's questions.

2 Now, before we continue, you were on your feet, Mr Desalliers.

3 MR DESALLIERS: (Interpretation) Yes, your Honour. I was taking the
4 floor because my learned colleague's question was whether the witness was suggesting
5 that (Redacted) had forced them to go to Beni. I do not see anything in the witness's
6 answer that suggests such information. On the contrary, he has repeatedly said
7 that he was free to go, or not. There were some who went and others who did not
8 go. There is absolutely nothing in the witness's testimony to suggest that (Redacted)
9 had forced them to go.

10 PRESIDING JUDGE FULFORD: Well, that may or may not be right, Mr Desalliers,
11 and obviously questions must be put on a firm foundation, but then you do need to
12 look at the answer that was given, which apparently agrees unequivocally with the
13 suggestion.

14 So, Ms Samson, you can continue, please.

15 MS SAMSON: Thank you.

16 Q. Mr Witness, earlier you told us that (Redacted) came to the village and
17 he asked people to go speak to authorities, and if they wanted to go, they could,
18 and some of them didn't go. That's right, isn't it?

19 A. This is what I said: When (Redacted) came to see us, we talked to him
20 and he said we had to meet a certain member of the authorities. He didn't mention
21 who this person was. We were eight in number, approximately. All these individuals
22 met (Redacted). I stated that when we reached Beni, there were three individuals
23 who did not go to Beni. I was the last person to go to Beni. After me, three others
24 stayed behind. I never said that (Redacted) stated that to go to Beni was the decision
25 that each one had to take. When we got to Beni, we were asked to accept to go to

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1 The Netherlands in case -- that is, if we know that it was Lubanga who enrolled
2 us in the army. I did not say that (Redacted) had forced us to go to Beni.

3 Q. Thank you for clarifying that point. It's very clear now. When you were
4 in Beni, it's right, isn't it, that Sumbuso told the investigators he wanted to
5 reflect and consider on whether or not you should cooperate further with the Office
6 of the Prosecutor?

7 A. He said that he was going to give consideration to the matter and that
8 he was going to propose solutions.

9 Q. Subsequently, you didn't continue with the interview with the investigators,
10 correct?

11 A. Before answering that question, I would like to ask you the following
12 question: When Mr Sumbuso said that we had to give consideration to the matter,
13 he did not provide any answers. He did not provide any responses. Now, tell me
14 whether Sumbuso proposed any solutions, any answers.

15 Q. My question was not about Sumbuso proposing solutions. My question was,
16 you didn't subsequently continue to discuss any further matters with the investigator
17 after Sumbuso said he wanted to reflect on it. That's right, isn't it?

18 A. I think that I am answering all the questions being asked to me by the
19 Prosecutor, but she has not answered the one question I put to her. No problem. I
20 prefer to stop here.

21 PRESIDING JUDGE FULFORD: Sir, I'm -- we're going to have a break in a
22 moment.

23

24 PRESIDING JUDGE FULFORD: We're going to have a break in a moment, sir,
25 but it is very important that we have the benefit of all of the evidence that you

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1 can give.

2 The judges are here to find the truth to the extent that we're able. And
3 the best way of doing that is, if you please answer Ms Samson's questions. Although
4 she has a number of roles to fulfil as one of the lawyers in this case, she's not
5 here to answer questions. So when we reconvene, I'd be grateful if you'd continue,
6 as you've very helpfully been doing so far, answering the questions put to you by
7 the lawyers.

8 Now, we'll take a break at this point in time and sit again at just after
9 10 to. In fact, we'll sit again at 5 to. Good. Usher, could you take the witness
10 back, please, to the waiting room for a quarter an hour.

11 (The witness stands down)

12 PRESIDING JUDGE FULFORD: Good. Five to.

13 THE COURT USHER: All rise.

14 (Recess taken at 3.41 p.m.)

15 (Upon resuming at 3.55 p.m.)

16 THE COURT USHER: All rise. Please be seated.

17 (The witness enters the courtroom)

18 PRESIDING JUDGE FULFORD: Now, sir, are you prepared to continue?

19 THE WITNESS: Yes.

20 PRESIDING JUDGE FULFORD: Well, thank you very much. And if you could
21 make sure, then, that you keep your voice up, I would be grateful.

22 MS SAMSON: Thank you, Mr President.

23 Q. Mr Witness, I'm almost finished with my questions. Mr Witness, you told
24 the Court a few days ago that Mr -- that the investigators said you should speak
25 for yourself during the interview in Beni; is that right?

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1 A. You did not complete your question. I didn't fully understand it.

2 Q. Let me ask it again. It's right, isn't it, that the investigators said
3 that you should speak for yourself during the meeting in Beni?

4 A. I beg your pardon, what do you mean by investigators? Who are
5 investigators?

6 Q. You met Nekane and Serge when you were in Beni; is that right?

7 A. Yes, that is correct.

8 Q. And you were with Sumbuso; that's right?

9 A. That's right.

10 Q. And do you remember that Nekane, or Serge, said that you should speak
11 during the interview yourself?

12 A. That's right.

13 Q. But you said Sumbuso stopped you from talking. That's right, isn't it?

14 A. That's right.

15 Q. And you said it wasn't possible for you to say that you were not a child
16 soldier. Is that what you said?

17 A. I don't know.

18 PRESIDING JUDGE FULFORD: There were two negatives in the question,
19 Ms Samson, which does make it difficult: "You said it wasn't possible for you to
20 say that you were not a child soldier." Now, I think I'd have to think long and
21 hard before answering a question like that.

22 MS SAMSON: Yes, fair enough, your Honour. I can rephrase.

23 Q. You didn't tell the investigators during that meeting that you were lying
24 and that you had never been a child soldier; is that right?

25 A. I don't know.

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1 Q. Sumbuso didn't tell anybody during that meeting that you were lying and
2 you'd never been a child soldier; isn't that right?

3 THE INTERPRETER: The Swahili interpreter did not hear. Could the witness
4 please speak closer to the microphone.

5 PRESIDING JUDGE FULFORD: Sir, I'm sorry to say it again. Could I ask
6 you to keep your voice up, please, so that what you say is picked up by the microphone.
7 And please let me know if you, for some reason, don't want to continue. It's obviously
8 best if you do, particularly given Ms Samson is nearly at the end of her questions,
9 but if there is a problem you must let me know.

10 Ms Samson, I think the record will probably reveal whether or not either
11 this witness said anything, or the other person said anything, so this is really
12 rhetorical, isn't it? Can we move on to matters of substance.

13 MS SAMSON: I can, your Honour.

14 PRESIDING JUDGE FULFORD: Yes.

15 MS SAMSON: Indeed, I believe he has already said that. There is only
16 one point that I wanted to clarify on this issue, which is this one.

17 Q. Mr Witness, Sumbuso didn't tell any of the Office of the Prosecutor's
18 staff in Beni anything in relation to other children, did he?

19 A. I have no idea.

20 Q. From your earlier evidence, you hadn't said anything to the Office of
21 the Prosecutor about lying, Sumbuso hadn't said anything to the Office of the
22 Prosecutor about lying, but as soon as you met with Cordo and Mbuna and others you
23 admitted to lying. That's right, isn't it?

24 A. That's right. I accept that. The lie that I accept is that I -- when
25 I -- that's what I talked about to (Redacted) in Bunia.

1 Q. Sir, if I suggest that you are telling the Court that you lied because
2 of the difficulties and the pressures that you faced in your village from people
3 such as Cordo and Mbuna, would you agree with that?

4 A. When did I say that Cordo and Mbuna who influenced me to tell lies?

5 PRESIDING JUDGE FULFORD: Ms Samson, I think -- as I've raised with
6 Mr Sachdeva, I think a problem arises when, in a sense in the way that one sees
7 in television programmes, you know, "I put it to you", "I suggest to you", and then
8 a factual assertion is made, lawyers understand it, I really don't think witnesses
9 very often do and I think the question needs to be put in a much simpler way than
10 that.

11 MS SAMSON: Yes, your Honour.

12 Q. Witness, are you telling the Court that you lied about being a child soldier?
13 Don't answer that question, because I'm formulating it. Is it possible that you --

14 PRESIDING JUDGE FULFORD: Ms Samson, forgive me interrupting again. I'm
15 really sorry to do so and I don't like interrupting. Your case is that the witness
16 is lying now because he has faced pressure from his village. Now, shouldn't you
17 just put that directly? You are saying to him that he is lying and you have got
18 to ask him to comment on that.

19 MS SAMSON: Indeed, I can do it quite that way.

20 Q. Mr Witness, are you lying to the Court now because of pressures that you
21 received from villagers and others in the UPC?

22 THE INTERPRETER: The interpreter in the Swahili booth did not hear the
23 answer because the witness is speaking very lowly.

24 PRESIDING JUDGE FULFORD: Can you repeat your answer again, please, sir.

25 THE WITNESS: Yes, I accept.

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1 MS SAMSON:

2 Q. Sir, are you lying to the Court now because of pressure? Were you actually
3 a soldier in the UPC?

4 PRESIDING JUDGE FULFORD: Now, that's two questions. No, I'm sorry,
5 Ms Samson. I know this is a difficult moment for you. Ms Samson, is -- all right.

6 THE WITNESS: I said that I never was a child soldier. Where did I say
7 that?

8 PRESIDING JUDGE FULFORD: All right. I think you've made the point.

9 MS SAMSON: Yes, I think so.

10 PRESIDING JUDGE FULFORD: Yes. Anything else, Ms Samson?

11 MS SAMSON: No, thank you, your Honour.

12 PRESIDING JUDGE FULFORD: Thank you very much indeed. Thank you and
13 forgive my interruptions earlier.

14 Mr Desalliers, open or closed, or have you got anything else to ask?

15 MR DESALLIERS: (Interpretation) Would you give me a moment, please, your
16 Honour?

17 (Defense counsel confer)

18 MR DESALLIERS: (Interpretation) I beg your pardon. Yes, your Honour,
19 I think, to be careful, I think we should go into closed session for a question.
20 I have a very short question.

21 Q. Mr Witness, I just have one little piece of information to ask you for,
22 and I'll be very brief. When the OTP asked you questions about the trip that you
23 took from Beni to Kinshasa, you said that you were given a school card. Do you
24 remember that?

25 A. Yes.

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1 Q. Could you tell us who prepared this student card?

2 A. The student card? The person who took care of that, I think it was (Redacted).

3 However, the gentleman who prepared the card, I don't know his name. They took
4 passport photos. They took passport photos, and before leaving Bunia they brought
5 us cards, me and (Redacted). But I forgot that card in Kinshasa. If I had it on
6 me, I would have shown it.

7 Q. When were you given this card, do you remember? Where were you when you
8 were given this card?

9 A. We were in Bunia, but since that was a long time ago, I can't remember
10 exactly when.

11 Q. Do you remember whether -- what was written on that card and whether it
12 was true or false?

13 A. Everything on the card was false. For example, it was written that I
14 was 15, and I wasn't 15. And the card said that I was from Katoto, but that wasn't
15 true.

16 Q. Do you remember the name of the school that was indicated on that card?

17 A. The name of the school on the card? No. I've forgotten.

18 Q. Do you remember whether it was a school that you had gone to or not?

19 A. They wrote something down.

20 Q. One last thing: Do you remember the name that was on that card, the name
21 that was used to designate you on that card? Do you remember?

22 A. The name that was on the card, yes, I remember. It was Ndjango, Claude
23 Arabe.

24 MR DESALLIERS: (Interpretation) Just one more moment, if you don't mind,
25 your Honour.

1 (Defence counsel confer)

2 MR DESALLIERS: (Interpretation)

3 Q. Witness, one last thing just to make quite sure. You told us before this
4 Court that you never were a child soldier. Now, on that point, did people put pressure
5 on you to come and say that before the Court?

6 A. No one forced me to come here before the Judges. I came to explain what
7 happened, I wanted to speak about the issues I had come up against. That's why
8 I came here to answer these questions, to give explanations, to say that I never
9 was a child soldier. These were lies that were spun for us to come and tell you.

10 MR DESALLIERS: (Interpretation) Thank you very much, sir. I have no
11 further questions.

12 PRESIDING JUDGE FULFORD: Sir, that now completes your evidence, and I
13 want to express the sincere thanks of the three Judges of this Court for the time
14 and trouble that you've taken to come here to give your account. You have been
15 extremely clear in your evidence and you have cooperated fully in what has, no doubt,
16 been at times a difficult experience for you. You are now free to go. You can
17 return home. And, as I say, you leave here with our thanks for having added your
18 evidence into the overall picture that we will consider when we are making up our
19 minds about all of these issues at the end of the case. Thank you very much, indeed.

20 Can the usher please accompany the witness back to the witness waiting
21 room?

22 (The witness is excused)

23 PRESIDING JUDGE FULFORD: Public session, please.

24 (Open session at 4.20 p.m.)

25 THE COURT OFFICER: We are in public session, your Honours.

1 PRESIDING JUDGE FULFORD: Ms Samson, what should we do on Monday? We sit
2 next at half past 2. We are, fortunately, back in Courtroom 1 on Monday afternoon.
3 Would you then be in a position to deal substantively with the issues that I raised
4 yesterday before we proceed with the next witness or not?

5 MS SAMSON: On Monday during, your Honour, is that the suggestion?

6 PRESIDING JUDGE FULFORD: Monday afternoon, 2.30.

7 MS SAMSON: Your Honour, we have had an opportunity to discuss this amongst
8 ourselves. The Office of the Prosecutor would like to, with your Honour's permission,
9 address the issues in the main in writing but, in addition, provide some guidance
10 by way of oral submissions on Monday afternoon, that the easiest form to maybe digest
11 the information may be a comprehensive filing.

12 PRESIDING JUDGE FULFORD: And will you be able to put that in, in sufficient
13 time for us to read it before coming into court Monday afternoon, Ms Samson?

14 MS SAMSON: That may be more difficult. Would it be acceptable to the
15 Chamber to have the filing on Tuesday?

16 PRESIDING JUDGE FULFORD: Certainly. I mean, these are substantive and
17 important issues and, as I said this morning, we're not going to put pressure on
18 you. I think your written filing really ought to come before oral submissions,
19 logically, so we won't deal with this Monday afternoon. We'll deal with this, by
20 the looks of it, most probably on Wednesday afternoon because you need to put it
21 in. We need to have time to read it, and then you can address the matter fully
22 orally. Thank you very much indeed.

23 MS SAMSON: Thank you.

24 PRESIDING JUDGE FULFORD: Mr Desalliers, there are a few outstanding
25 issues in relation to the next witness. I have to get these in the correct order

1 in my head.

2 There are certain protective measures, which, if we haven't indicated
3 are granted, we do so now. There will be the usual measures to protect the identity
4 of the witness from the public, and I needn't rehearse them. We're now all very
5 familiar with them.

6 There has been an application from Mr Walleyne today to question this witness.
7 Have you yet managed to formulate your response to that and, in particular, whether
8 you have any objections or whether you agree with the proposals made by Mr Walleyne?

9 Yes, Maître Mabilille.

10 MS MABILLE: (Interpretation) We find ourselves in a somewhat odd
11 situation because we will have to hear our own witness to determine whether the
12 person that we think we have identified as a victim is truly a victim. And so -- and
13 whether we're talking about the same person. So, in principle, if after the main
14 examination our own witness says yes, it is the same person, it seems that it would
15 be normal for my learned friend Mr Walleyne, who represents him, to examine. I think
16 that, in principle, seems clear.

17 Now, we did have one point. Now, in our summary we made mention of this
18 person, but when we asked the question of our own witness, that witness was not
19 familiar with the surname, and the disclosure from the OTP - and there has been
20 some checks - and apparently this person is, indeed, the victim represented by my
21 learned friend. But, for the time being, for today, we will have to make sure of
22 this by speaking to our own witness, and we don't have that certainty right now.
23 To be careful, and thinking that that victim might be represented, we disclosed
24 everything, but we do have this doubt. And we will try to clear this up on the
25 hearing on Monday. So there you have it, your Honour.

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1 PRESIDING JUDGE FULFORD: Very clear. We'll wait and see how this develops
2 and, at an appropriate stage, you can indicate to us either whether there's a green
3 light, an amber light or a red light as far as the Defence is concerned. Good.

4 Now, anything else in to relation to Defence Witness 24 that anybody wishes
5 to raise? No. Good.

6 All right. We will adjourn. 2.30 on Monday afternoon.

7 (The hearing ends at 4.26 p.m.)

8 RECLASSIFICATION REPORT

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