

1 International Criminal Court
2 Trial Chamber I - Courtroom 2
3 Presiding Judge Adrian Fulford,
4 Judge Elizabeth Odio Benito and Judge René Blattmann
5 Situation in the Democratic Republic of the Congo -
6 ICC-01/04-01/06
7 In the case of The Prosecutor v. Thomas Lubanga Dyilo
8 Monday, 24 May 2010
9 (The hearing starts at 9.43 a.m.)
10 *(Closed session) Reclassified as Open session
11 (In the absence of the accused)
12 THE COURT OFFICER: All rise.
13 THE COURT USHER: The International Criminal Court is now
14 in session. Please be seated.
15 PRESIDING JUDGE FULFORD: Good morning. Witness, please.
16 (The witness enters the courtroom)
17 PRESIDING JUDGE FULFORD: Good morning, sir.
18 THE WITNESS: Good morning.
19 (The accused enters the courtroom)
20 PRESIDING JUDGE FULFORD: Thank you very much, Mr Lubanga.
21 Open or private session, Mr Biju-Duval?
22 MR BIJU-DUVAL: (Interpretation) I think we can go into
23 open session, your Honour.
24 PRESIDING JUDGE FULFORD: Public session, please.
25 (Open session at 9.46 a.m.)

1 THE COURT OFFICER: We are in open session, your Honours.

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

3 WITNESS: WWW-OTP-0297 (On former oath)

4 (The witness answers through interpreter)

5 QUESTIONED BY MR BIJU-DUVAL: (Interpretation)

6 Q. Good morning, witness.

7 A. Good morning.

8 Q. Last week you told us that you had left the UPC, for once
9 and for all, fleeing from the Dele camp. Now, when you fled from the
10 UPC, was that before or after the arrival of the French soldiers from
11 Artemis in Bunia?

12 A. When I deserted the UPC, well, I didn't desert. When I went
13 back to the Dele camp, the camp belonged to the UPC, but that doesn't
14 mean the camp belonged to another -- was another group or was controlled
15 by another group; it was the UPC that controlled or led the Dele camp.

16 THE INTERPRETER: The witness repeats himself, the Dele camp
17 was a UPC camp.

18 MR BIJU-DUVAL: (Interpretation)

19 Q. Yes, I understand that the Dele camp was a UPC camp. Last
20 week, you told us that the meetings with Mbusa when you were a soldier
21 were before the arrival of the French soldiers in Bunia. My question
22 is whether you left the UPC for once and for good before or after the
23 arrival of the French soldiers in Bunia, the Artemis peacekeeping force.

24 A. When I met Mbusa the French had not yet arrived. At that
25 time, Mbusa was using a UNICEF vehicle and he was distributing food

1 to refugees, so it was at that time I met Mbusa. And when the French
2 arrived I still would see Mbusa in the same circumstances.

3 Q. And when the French arrived, were you still a UPC soldier
4 or were you no longer a soldier?

5 A. When the French soldiers arrived in Bunia I was still a
6 member of the UPC but, before they arrived, I was part -- I was still
7 part -- at that time I was still part of a group of -- the UPC group.

8 Q. Thank you. You told us that you reported to Bosco, Commander
9 Bosco, when you spoke of Mbusa for the second time. Could you tell
10 us how long it was before the French arrived?

11 A. I don't understand your question. Could you repeat it so
12 I can understand and answer?

13 Q. Last week you explained the second time you spoke to Mr
14 Mbusa. At that time, you asked for permission from your commander,
15 Commander Bosco, you said you were sick, and my question is whether -- how
16 much time was it? When was that -- how much time before the arrival
17 of the French; one year before? Several months before? Could you
18 tell us, how much time was it before the arrival of the French?

19 A. I don't remember. When I asked for leave - permission - I
20 heard that the French were already there, but I hadn't seen the French.
21 I heard other people say that the French had already arrived.

22 Q. Thank you. You told us that at that time you were under
23 the command of Commander Bosco. I beg your pardon, I'll just pause
24 for a moment.

25 MR BIJU-DUVAL: (Interpretation) Your Honour, I think that

1 for this question we may need to go into closed session because I'll
2 be asking a question about the duties of the witness.

3 PRESIDING JUDGE FULFORD: Certainly, Mr Biju-Duval.
4 Private session, please.

5 *(Private session at 9.54 a.m.) Reclassified as Open session

6 THE COURT OFFICER: We are in private session, Mr President.

7 MR BIJU-DUVAL: (Interpretation)

8 Q. Let me ask the question again. Now, you said that at that
9 time you reported to Commander Bosco. Could you tell us exactly what
10 you did? What were your tasks? What did you do when you reported
11 to or came under the command of Commander Bosco?

12 A. When I was working under the command of Bosco, he was in
13 the habit of travelling about, and we were part of a group within the
14 camp. And they would call us, and we would meet at the same place,
15 and the group was divided into a number of smaller groups. And so
16 sometimes I would be assigned to escort duty, so I would follow him
17 and escort him. Or, when I wasn't chosen to work as an escort, I would
18 stay in the camp with my fellow soldiers, and I would help my fellow
19 soldiers with training; those who had not had yet had training. So,
20 I would remain behind sometimes and take part in training, training
21 the others who had not yet received training, the recruits.

22 The third task was to patrol in the streets or the road.
23 And when there was fighting, we would all go and fight. So, that is
24 what I did.

25 Q. Could you tell us what camp you were in?

1 A. I stayed in the (Redacted)
2 (Redacted). Those were the camps that I stayed in. But there were
3 other camps where I found myself, although I don't know the names of
4 those camps. But I was always within the UPC.

5 Q. Thank you. Now, you've told us that your group was divided
6 into other smaller groups. Could you tell us what these smaller groups
7 were called? Did these smaller groups have a particular name?

8 A. Names were not given to these smaller groups.

9 Q. I will try to ask my question in a more direct way. Now,
10 did these small groups have a specific name in military language?

11 A. The group that I was assigned to, that I worked in, Bosco's
12 group. I must say, Bosco was -- I was called Platoon Commander. Platoon
13 Commander. But I've forgotten the other names for the group, the groups
14 of soldiers.

15 Q. I would like to be sure that I have understood you correctly.
16 You say, "I was called Platoon Commander." Does that mean that this
17 is what you were called?

18 A. No, that's not what I mean. I don't mean that I was called
19 a platoon commander, but I was a part of a group that bore this name.
20 I was called personally (Redacted) (phon). This is the name that I
21 was given. This is at least the nickname that was given to me.

22 Q. You say that, amongst your tasks, you were to provide training.
23 Could you tell us what kind of training you actually provided?

24 A. The work that I undertook in terms of training applied to
25 people that we arrested and we then trained them; that is to say, we

1 would arrest somebody, a civilian, for example, and we would then put
2 him through training, with a view to making a soldier of him, like
3 us. And, at the end of the training, this civilian who had become
4 a soldier would be in a position to train further civilians who would
5 join our ranks but who would not be aware or familiar with the workings
6 of the military upon joining us. So that civilian would then train
7 further people.

8 Q. You told us that during this period when you were a soldier
9 in the UPC, you told us that you were approximately 11 years of age.
10 Is it your testimony that at that moment in time you were asked to
11 train?

12 A. At that moment in time I was not the head of the group or
13 the trainer as such. I was chosen to either remain behind or to follow
14 the commander, and I would help people provide training. I'm not
15 telling you that I was the trainer, as such, but whenever my peers
16 were -- or fellow soldiers were tired, I also had the right to provide
17 a session of training. But I'm not saying that throughout a whole
18 day I was in charge of training. Each and every one of us, every soldier,
19 would take part in providing the training and, at the end of a specific
20 training session, another soldier would take over.

21 MR BIJU-DUVAL: (Interpretation) I thank you.

22 I believe, Mr President, we might move into open session,
23 now.

24 PRESIDING JUDGE FULFORD: Thank you very much. Public
25 session, please.

1 (Open session at 10.04 a.m.)

2 THE COURT OFFICER: We are in open session, Mr President.

3 MR BIJU-DUVAL: (Interpretation)

4 Q. You told us that at a specific moment in time you ceased
5 to work for Kisémbó and you said that you found yourself under Bosco's
6 command. You say that you remained under his command until you fled
7 once and for all from the UPC. My question is as follows: During
8 this period when you are under the orders of Commander Bosco, do you
9 know where Commander Kisémbó was to be found?

10 A. When I ceased to be under Kisémbó's command, that was the
11 time when we fought against the French in Centrale, and it was during
12 that period that I was under Kisémbó. And when we left that location,
13 our group divided. I then fled, and I found myself under Bosco's command.
14 And from that moment in time, I did not know where Kisémbó was to be
15 found. And it was from that moment in time that I then went to Dele,
16 and then I left that job once and for all.

17 Q. I thank you. You say that you stopped working for Kisémbó
18 at the time when you fought the French at Centrale. However, Mr Witness,
19 last week - and only a few moments ago - you told us that you were
20 under Bosco's command when you met Mr Mbusa and when you talked to
21 Mr Mbusa on the second occasion, and you said that this was before
22 the French arrived. So, what is the reality of the situation?

23 A. When I met Mbusa, this was at the time when the French had
24 not yet arrived. When they did arrive, I had already met with Mbusa
25 and I saw Mbusa; this is what I am explaining to you. So, before the

1 French arrived, I would meet with Mbusa. And upon their arrival, I
2 continued to meet Mbusa.

3 Q. I thank you. You have spoken about a battle against the
4 French in Centrale. At that moment in time, what were you doing?

5 A. Whilst we were fighting the French, I undertook my soldierly
6 tasks.

7 Q. Did you witness any particular events? Whose command were
8 you working under at that particular moment in time?

9 A. It was Kisémbu who provided us with the orders when we were
10 fighting. He was our leader. He was our commander. And he was the
11 one who spoke to the group and told us how to deploy ourselves. It
12 was Kisémbu himself who told us this.

13 Q. I thank you.

14 A. You're welcome.

15 Q. I would like to return to your flight from the UPC in Dele,
16 when you left or fled from the UPC for good. Could you please tell
17 us what you then did upon leaving Dele camp? Where did you go?

18 A. Upon leaving Dele camp, before fighting the French, well,
19 at that moment in time we had already fought at Marabo. And we were
20 based in Dele, and from Dele we went to fight in Centrale. That was
21 my last battle. And I then returned to Dele and left the military
22 for good. So that was from Dele camp that I left.

23 Q. I thank you. And when you left the military ranks for good,
24 where did you go?

25 A. When I left the military, I went home in 2004/2005. And

1 it was at that time that I heard that Ngudjolo, the head of the Lendus,
2 was taking Lendu or Hema children, and that he had set up a group that
3 he was heading. I then went to Zumbe. People were saying at the time
4 that money would be given to people and that we would not be fighting
5 for nothing. So I stayed there for approximately three months. And
6 subsequently, people came to arrest the soldiers. I was arrested,
7 and commanders were also taken into the FARDC. So that was the last
8 time when I served in the military, and it was during that period that
9 I met Mbusa on my way.

10 Q. When you say "I went home" --

11 MRBIJU-DUVAL: (Interpretation) Yes, I'm sorry. I think,
12 Mr President, that we might need to go into closed session for this
13 question.

14 PRESIDING JUDGE FULFORD: Private session, please.

15 *(Private session at 10.16 a.m.) Reclassified as Open session

16 THE COURT OFFICER: We are in private session, your Honour.

17 MR BIJU-DUVAL: (Interpretation)

18 Q. When you say "I went home", this means that you went back
19 to which location? Where was your house located precisely?

20 A. At that time my parents had already gone back to (Redacted),
21 so I was also living in (Redacted) at the time.

22 Q. And is that where you met (Redacted)?

23 A. I was in the habit of meeting (Redacted) when I was in (Redacted).
24 However, we did meet each other in (Redacted). I never met (Redacted)
25 in (Redacted). Zumbe is where the white people had gone to pick up the

1 soldiers who had finished the training, and they thought that the new
2 soldiers could work in the government. That is when I chanced upon
3 (Redacted). When the white soldiers came to take us to the centre
4 of the town, that is when I met (Redacted). That was at Zumbe camp.
5 That is another occasion upon which I met (Redacted).

6 Q. I thank you.

7 A. You're welcome.

8 Q. When you left the UPC for good in Dele, did you leave with
9 your weapon or did you leave empty-handed?

10 A. When I stopped working in Dele camp, I left my weapon behind
11 me in the camp because I misled them. I told them that I was going
12 to wash my clothes, and I made the most of the opportunity in order
13 to flee. I did not flee with my weapon; I left it behind at the camp.

14 Q. I thank you.

15 MR BIJU-DUVAL: (Interpretation) I believe that we might
16 move back into open session.

17 PRESIDING JUDGE FULFORD: Thank you. Public session,
18 please.

19 (Open session at 10.19 a.m.)

20 THE COURT OFFICER: We are in open session, Mr President.

21 MR BIJU-DUVAL: (Interpretation)

22 Q. You explained to us last week that when you fled from the
23 UPC in Dele, you went to request the authorisation to wash your clothes,
24 and you requested this authorisation from Bosco's number 2 in command,
25 whom you knew under the nickname of "The American." That's what you

1 told us last week.

2 So I would like to put to you an excerpt from the statement
3 that you made to the Prosecutor in the month of March 2008.

4 MR BIJU-DUVAL: (Interpretation) For the record, I shall
5 be referring to a document at tab 5 of the black folder; the large
6 folder, that is. The document bears reference 0192-0292, and I shall
7 be referring to page 301 thereof. This is a statement -- well, I should
8 clarify. I shall be referring to pages 300 and 301 from line 255 on
9 page 300 to line 315 on page 301.

10 Q. I shall read this excerpt to you, and then I shall put a
11 question to you. And once again, I'd like to apologise for my English
12 pronunciation.

13 I quote: (Speaks English) "Question: To Dele. And so
14 what happened when you arrived back in Dele?"

15 And then over there -- "Réponse: And then over there I rarely
16 stayed, until I myself ran away.

17 "Question: Can you -- because that is also -- we would like
18 to hear more about that. Can you explain to us the circumstances in
19 which you ran away?

20 "Réponse: Yes, I ran at that time. There was a certain
21 man who was a former soldier, and he abandoned -- you know, I met him
22 at Longay (phon), and he told me that my father was at Katoto, you
23 know. And we spent a long time without meeting. And then I made up
24 my mind to abandon the service and go to join my father.

25 "Question: And so how did you leave the UPC?

1 "Réponse: Yes, I just abandoned them at the barracks, at
2 the camp.

3 "Question: But for me to understand that, could you describe
4 really how that happened? For example, did you ask someone something?
5 Did you just leave? What did you do with your weapon? How it happened?

6 "Réponse: Yes, I abandoned my weapon at home, at my place,
7 and then I asked for permission. I told them that I was going to do
8 the washing. Yes, because they would not let me go out with the weapon,
9 you know, and then I took profit to escape.

10 "Question: So when you referred to 'I left my weapon at
11 my home', you mean in the camp, or do you mean somewhere else?

12 "Réponse: Yes, at the camp.

13 "Question: And so when you said 'I told them that I was
14 going to do the washing', can you explain to us who you mean by 'them'?

15 "Réponse: The chief.

16 "Question: And just for my information, who was the chief
17 again?

18 "Response: Kisembo."

19 (Interpretation) End of quotation.

20 So, Mr Witness, when you are being interviewed by the
21 investigators of the Office of the Prosecutor in March 2008, you stated
22 that the chief who provided you with the permission, or who allowed
23 you to do this was, in fact, Kisembo. Last week and today you tell
24 us, on the contrary, that it was Bosco's second-in-command when you
25 were under Bosco's command. So, which version should we retain from

1 the two? What is the truth from these two different versions?

2 A. The truth is, that it was Bosco. When I fled the camp Bosco
3 was in command. And if I provided the Office of the Prosecutor with
4 this version I made a mistake. The truth be told, it was Bosco who
5 was the commander of the camp. I repeat, if on that day I made mention
6 of the name "Kisembo", it was probably because I made a mistake. Now,
7 I am fully compos mentis and I would say that was, indeed, Bosco who
8 was in command when I fled the camp.

9 Q. Was Bosco himself at Dele camp?

10 A. Yes, Bosco himself was at Dele camp.

11 Q. I thank you.

12 A. You're welcome.

13 Q. You informed us that you left the UPC in Dele. Before you
14 left the UPC in Dele, had you already stopped your service or your
15 activities as a soldier?

16 A. No, I was still serving as a soldier. I left the army when
17 I left the camp in Dele. That was the time when I ended my service
18 once and for all within the UPC.

19 Q. Does that mean, therefore, that between the time you were
20 enlisted - forcibly enlisted, I mean - and the time you fled from Dele,
21 you had always served as a soldier with your weapon within a unit under
22 the command of Kisembo; and subsequently, under the command of Bosco?
23 Is that the case?

24 A. That is correct. I only served -- I served only under two
25 commanders; first of all, Bosco; and secondly, Kisembo.

1 Q. Thank you. While you were serving under these two commanders,
2 Kitembo and Bosco, did you at any time go to be demobilised before
3 you fled from Dele?

4 A. When I arrived at the demobilisation centre, I had already
5 fled from Dele camp. At that moment in time there was a friend who
6 had two weapons. He gave me one of the weapons and we went together
7 to hand over the weapons. I went together with him to hand over the
8 weapons.

9 Q. Thank you.

10 A. You're welcome.

11 Q. Who was this friend?

12 MR BIJU-DUVAL: (Interpretation) Your Honour, I think we
13 should go into private session for this question and the witness should
14 not answer immediately.

15 PRESIDING JUDGE FULFORD: Private session, please.

16 *(Private session at 10.34 a.m.) Reclassified as Open session

17 THE COURT OFFICER: We are in private session, Mr President.

18 MR BIJU-DUVAL: (Interpretation)

19 Q. Who was this friend? Could you please provide us with his
20 or her name?

21 A. His name was (Redacted).

22 Q. Do you know his other names?

23 A. No, I only know the name (Redacted).

24 MR BIJU-DUVAL: (Interpretation) I think we could go back
25 into open session.

1 PRESIDING JUDGE FULFORD: Open session, please.

2 (Open session at 10.35 a.m.)

3 THE COURT OFFICER: We are in open session, Mr President.

4 MR BIJU-DUVAL: (Interpretation)

5 Q. Who did you hand this weapon to?

6 A. When I went to hand in the weapon, I found Cordo sitting
7 at the place where the weapons were being received, and it was Mr Cordo
8 who was responsible for establishing the list of persons who handed
9 weapons in. He himself was sitting at the entrance. I passed by him.
10 He saw me; he saw the weapon. He asked my name and I provided him
11 with my name. Then I went through another door to hand in the weapon.
12 I laid the weapon on the ground.

13 Q. And what did you tell him about the weapon? Did you inform
14 him that the weapon was yours, that the weapon belonged to you?

15 A. Yes. I told him that the weapon belongs to me and, at that
16 point in time, they didn't even bother to ask you whether the weapon
17 belonged to you. They simply took note of our arrival, and they were
18 pleased to see people coming in with weapons. They simply asked your
19 name. They didn't ask you whether the weapon belonged to you or not.

20 Q. You informed us that after handing in your weapon to Cordo,
21 you went to receive the sum of \$100. Who paid you this sum of \$100?

22 A. There was someone who was in charge of paying this money
23 out to those who handed in their weapons. The person was a black person
24 who only spoke Lingala. At that point in time I did not understand
25 Lingala. Standing close to that individual there was another person

1 who spoke Swahili. It was at that point in time that the money was
2 paid to me, but I really do not know the names of those two individuals.
3 Furthermore, I would like to add that standing close to these people
4 was a vehicle of white people, but the person who was paying out the
5 money was a black person.

6 Q. Do you know the organisation these individuals were working
7 for?

8 A. No, I did not know the organisation they worked for.

9 Q. Thank you.

10 MR BIJU-DUVAL: (Interpretation) Your Honour, I wish to
11 broach another point, and I don't know whether this is an appropriate
12 moment. I could -- I want to move on to another point which will take
13 quite some time and we will be using the documents extensively.

14 PRESIDING JUDGE FULFORD: I will take the hint,
15 Mr Biju-Duval. Thank you very much, indeed. We will take the first
16 break now. Thank you very much. We will sit again at 10-past-11.
17 Closed session, please.

18 (The accused exits the courtroom)

19 PRESIDING JUDGE FULFORD: Yes. Thank you, usher.

20 (The witness stands down)

21 *(Closed session at 10.41 a.m.) Reclassified as Open session

22 THE COURT OFFICER: We are in closed session, Mr President.

23 PRESIDING JUDGE FULFORD: Over the break, could the
24 Prosecution and the legal representatives of victims reflect on whether
25 they intend to respond to the Defence application for the admission

1 of documents, which is filing 2417. All right. There's a positive
2 response from the Prosecution.

3 We'd like, if we can, to shorten the response time for that,
4 because it's clearly important that a decision is rendered soon. Can
5 you reflect on how long you need; really, what the speediest response
6 time is. Same question, please, to the Defence. Let us know when
7 we come back. Thank you very much.

8 Just after 10-past. Thank you.

9 THE COURT OFFICER: All rise.

10 (Recess taken at 10.42 a.m.)

11 (Upon resuming at 11.13 a.m.)

12 *(Closed session) Reclassified as Open session

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

14 PRESIDING JUDGE FULFORD: Witness, please.

15 (The witness enters the courtroom)

16 (The accused enters the courtroom)

17 PRESIDING JUDGE FULFORD: Public session, Mr Biju-Duval?

18 MR BIJU-DUVAL: (No interpretation)

19 PRESIDING JUDGE FULFORD: Public session, please.

20 (Open session at 11.15 a.m.)

21 MR BIJU-DUVAL: (Interpretation)

22 Q. Witness --

23 THE COURT OFFICER: We are in open session, Mr President.

24 PRESIDING JUDGE FULFORD: Yes. Just before we continue,
25 a portion of an interview has been read out to the witness and has

1 formed the basis of questions to him. I think our usual procedure
2 has been to give the document an EVD number, on the understanding that
3 the Chamber will only look at those parts of the interview which have
4 featured in evidence. Does anybody wish to resist that approach with
5 this interview? No. Good.

6 EVD number, please, for the portion that was read out.

7 THE COURT OFFICER: Yes, Mr President. The document under
8 reference DRC-OTP-0192-0292, which is tab 5, will receive the reference
9 EVD-D01-00152. Thank you.

10 PRESIDING JUDGE FULFORD: Thank you very much. And before
11 Mr Biju-Duval proceeds, how long do you need, Ms Samson?

12 MS SAMSON: Your Honour, by our calculation, filing is due
13 this Thursday in any event, and if that isn't too lengthy a delay for
14 the Chamber, we would like to be able to submit the response on Thursday
15 of this week.

16 PRESIDING JUDGE FULFORD: If it's possible to deliver it
17 in advance of that time, we would be grateful, but you -- you have
18 that period, if you need it, Ms Samson.

19 MS SAMSON: Thank you.

20 PRESIDING JUDGE FULFORD: Ms Pellet?

21 MS PELLET: (Interpretation) The office could provide its
22 reply tomorrow.

23 PRESIDING JUDGE FULFORD: That would be helpful. Thank you
24 very much. Ms Bapita?

25 MS BAPITA: (Interpretation) We have no reply to submit.

1 PRESIDING JUDGE FULFORD: Very helpful. Thank you. Mr
2 Diakiese?

3 MR DIAKIESE: (Interpretation) Just like my learned
4 colleague, Ms Bapita, no reply, your Honour.

5 PRESIDING JUDGE FULFORD: Thank you both very much. Yes,
6 Mr Biju-Duval.

7 MR BIJU-DUVAL: (Interpretation)

8 Q. Witness, two details before we move on to another point.
9 Now, just before the break, you said that the Dele camp where you were
10 was under the command of Bosco. I would like to read out a very short
11 passage from your statement, the statement that you gave in March 2008
12 to the OTP, and I make reference to a document found at tab 5, and
13 this is DRC-OTP-00192-0292. And I would like to quote a short passage
14 from page 294.

15 PRESIDING JUDGE FULFORD: So it's tab 5. Tab 5, page 294.
16 Thank you very much, usher. Yes, Mr Biju-Duval.

17 MR BIJU-DUVAL: (Interpretation)

18 Q. And I quote: (Speaks English)

19 "Question: Of Dele, and just for my recollection, who is
20 the commander of the group of Dele?

21 "Answer: Kitembo."

22 (Interpretation) End of quote.

23 PRESIDING JUDGE FULFORD: Thank you, usher.

24 MR BIJU-DUVAL: (Interpretation)

25 Q. Witness, do you have an explanation for that difference

1 between the statement that you made this morning and the statement
2 that you gave to the OTP investigators in March 2008 regarding the
3 commander who was in charge of the Dele camp?

4 A. Well, I can explain that. At that time when I met the
5 investigators, I was afraid. I was afraid of -- to give the name of
6 Bosco. And that was because I had heard people say that Bosco was
7 being looked for and people wanted to arrest him. And so I was afraid
8 to mention the name of Bosco at that time, and that is why, instead
9 of Kisémbó, I mentioned -- instead of Bosco, I gave the name of Kisémbó.
10 But I hadn't heard people say that they were trying to arrest Kisémbó
11 at that time, but I was afraid to mention the name of Bosco and I just
12 preferred to talk about Kisémbó.

13 Q. But, witness, if you refer to the same statement on the
14 same page a few lines above, you mentioned a Bosco in the activities
15 of Commander Bosco; is that not so? That is line -- at line 48, lines
16 47 and 48, page 294.

17 PRESIDING JUDGE FULFORD: You must read out the context.
18 You must read out the passages you rely on, Mr Bijou-Duval.

19 MR BIJU-DUVAL: (Interpretation) Yes, your Honour.

20 Q. I quote from a few lines above:

21 "Question: What happened (speaks English) after you
22 defeated the other side? And then when --

23 "Réponse: And then when we chased them, Bosco soldiers
24 remained there, and then we went back to Chai."

25 (Interpretation) End of quote.

1 And I will also quote -- I will also quote a passage from
2 page 295, line 100 and on, and this is an answer given by the witness,
3 and I quote, "Yes." (Speaks English) "We divert people. We started
4 fighting against those people because we were raised in Chai, and then
5 Kisembo informed Bosco and Bosco sent some soldiers."

6 Fin citation. (Interpretation) My question, witness:
7 Isn't it true that during your statement given in March 2008 to the
8 investigators from the OTP, on several opportunities -- occasions you
9 gave the name of Bosco, saying that you had seen Bosco, but you had
10 never said that you had been assigned under the orders of Bosco.

11 A. As far as what you've read out is concerned, I do understand,
12 but you are saying many things and it will be difficult for me to reply
13 to your question. Perhaps you could read half of what you've read
14 out and ask another question so that I can answer. You've been reading
15 out a long passage and asking me a long question. It's hard for me
16 to understand all of that. So I think, first of all, you should ask
17 me a short question and you could mark a pause so that I can answer
18 the question. That will be easier for me.

19 PRESIDING JUDGE FULFORD: Mr Biju-Duval, can I suggest,
20 please, that you summarise, paraphrase what you say is the essence
21 of the passage that you've just read out, and then build a question
22 on a summary of what you say is to be found in that passage, rather
23 than reading it out again.

24 MR BIJU-DUVAL: (Interpretation) Yes. For that, your
25 Honour, I will refer to the third passage which is found in the document,

1 tab 3, 0192-0258. Correction. Tab 4, pages 290 and 291. It's a very
2 short passage, and I think it will be such that I will not have to
3 make a summary. We're speaking about lines 1112 to 1115.

4 (Speaks English) "Question: And was this the first time
5 you saw Bosco?

6 (Interpretation) "Answer: Three times. (Speaks English)
7 No, the third time. (Interpretation) Then the third time. No, the
8 third time."

9 So, witness, if I take as an example this passage from your
10 statement, and you said that you saw Bosco at least three times, you
11 remember having said that to the OTP investigators; do you not? You
12 did make mention of Bosco, didn't you?

13 A. Yes, I understand what you've just read out. And when I
14 was speaking to the investigators, I told them that I had seen Bosco
15 three times because, you see, I was afraid to talk about Bosco, to
16 say everything about Bosco. I did not want to bear the responsibility
17 of saying everything about him. I was afraid, because I said to myself
18 that I might be arrested and thrown into prison or I would be asked
19 to tell people where Bosco was to be found, so I was afraid. And I
20 said that I had seen Bosco three times. It is true that I did say
21 that, but I said it because I was afraid.

22 Q. I thank you.

23 MR BIJU-DUVAL: (Interpretation) Mr President, I believe
24 that we should provide this document with an EVD number.

25 PRESIDING JUDGE FULFORD: You are right.

1 THE COURT OFFICER: Mr President, the document under
2 reference DRC-OTP-0192-0258 will be attributed EVD reference
3 EVD-D01-00153. Thank you.

4 MR BIJU-DUVAL: (Interpretation)

5 Q. Was it Mr Mbusa
6 who told you that Bosco was on the verge of being arrested?

7 A. No, it was not Mbusa who told me that people were trying
8 to arrest Bosco. I was in the habit of listening to radio programmes,
9 and it was being spoken about on the radio. People were saying that
10 there were attempts to arrest Bosco, and it was under such circumstances
11 that I came to hear that people were looking for Bosco and that they
12 wanted to arrest him. It was not Mbusa who told me that people were
13 attempting to arrest Bosco. I heard it over the radio whilst I was
14 training. I also heard people talking about it.

15 Q. I thank you. Before the break you stated that after you
16 fled from Dele you went to Zombe at a time when Ngudjolo was enlisting
17 children, and you then said that you were arrested. So my question
18 to you is as follows: Should I understand that you became part of
19 Ngudjolo's group as a soldier after you fled from Dele?

20 A. Yes. In respect of Ngudjolo's group, it is true that I became
21 a member of his group. That was in the year 2005, towards the beginning
22 of 2006, in fact. And at that moment in time Thomas Lubanga had already
23 been arrested, and it was said at the time that it was Ngudjolo who
24 was doing his job, and he was doing it well. And it was said that
25 we should collaborate with the government, and that if anyone wanted

1 to gain access to the army, they would be paid a salary because the
2 government wanted to start paying soldiers; the soldiers who were
3 members of Ngudjolo's group, that is. And it was under such
4 circumstances that I came to join the group of soldiers under Ngudjolo's
5 control.

6 I am not saying that I handed my military uniform in. It
7 was the soldiers of the FARDC and the government soldiers who selected
8 those who were going to wear the uniform and those who were not going
9 to receive these uniforms. On that day I left the armed group. And
10 until the time when I left, we still did not have any uniform, and
11 I was a member of the group that was not going to wear military uniform.

12 Q. Upon becoming a member of Ngudjolo's group, what were your
13 tasks? What did you do as a member of this group?

14 A. As a member of the group, well, the truth be told, it is
15 if I -- it's as if I started from the word "go" all over again. I
16 started from the beginning. The soldiers were speaking Lingala, and
17 they were the ones providing the training to the new recruits. So
18 I started my training all over again with the group that was undergoing
19 training at the time.

20 Q. I thank you. In order for things to be clear here, according
21 to your testimony, you were speaking about military training; are you
22 not?

23 A. Yes, indeed.

24 Q. I thank you. For how long were you a soldier, approximately,
25 in that group?

1 A. I stayed for three months, and -- well, when I arrived,
2 they were halfway through. That is to say, that the group that had
3 started were people who lived in a neighbourhood and who went home
4 wearing their military uniform. This is what encouraged me to go and
5 undergo the same training. I only remained three months, however,
6 and then we were sent home.

7 Q. Thank you. Could you please explain to us why it was that
8 you never talked or made mention of the enlistment in the Ngudjolo
9 group to the investigators from the OTP?

10 A. Yes, I can explain this to you. At that moment in time there
11 was no question of ethnic discrimination between Lendus and Hema, or
12 any other groups, for that matter. In order to do the job, we did
13 not have to be part of a specific ethnic group. All ethnic groups
14 could be recruited, as long as they wanted to gain access to the army
15 and become a soldier, so I went into military service. And it was
16 said at the time that the government -- well, they told us that we
17 would be working for the government. And we would be paid, and we
18 would be on the government's books, as it were. And that is when I
19 entered the army.

20 Q. Thank you. You also told us before the break that you were
21 arrested. When were you arrested precisely?

22 A. With regard to the individuals who arrested me, could you
23 please tell me the name of the group that arrested me? Well, if you
24 provide me with that answer, I will give you an answer.

25 Q. Witness, just before we took the break, you stated -- you

1 said that "I was arrested", but you did not tell us when and by whom,
2 so I am seeking further clarification on the matter. What did you
3 mean to say when you said that you were arrested?

4 A. I no longer recall. I do not believe that I said that a
5 group arrested me. I'd like you to refer me to a specific page. I
6 would then be able to answer your question, because, to my knowledge,
7 I did not say that.

8 MR BIJU-DUVAL: For the record, this is stated on page 9,
9 line 15 of the transcript, French version, of this morning's session
10 before the break.

11 PRESIDING JUDGE FULFORD: Can you read out the relevant
12 passage, Mr Biju-Duval, so that the witness can understand what it
13 is said that he gave evidence about earlier today.

14 MR BIJU-DUVAL: (Interpretation) Yes, Mr President. I
15 quote:

16 "When I left military service I went home in 2004/2005 and
17 it was at that time that I heard that Ngudjolo, the head of the Lendus,
18 was enlisting Lendu or Hema children and that he was heading up a group
19 that he had created. I went to Zumbe and it was said at the time that
20 people would be paid, that we would not be fighting for free. I remained
21 there for approximately three months and then we went ..."

22 THE INTERPRETER: And there's an incomprehensible word
23 written here.

24 "... and I was arrested. And also some commanders were
25 reintegrated into the FARDC." End of quotation.

1 MR BIJU-DUVAL: (Interpretation)

2 Q. So, you indicated that you were arrested. It would seem
3 that this was after the three months that you spent in Ngudjolo's group.
4 And I would like to know who it was that arrested you, if indeed you
5 were arrested.

6 A. No, that does not mean to say that I was arrested after
7 three months. It simply means that I spent three months in military
8 service, and the day when the choice had to be made with regard to
9 those who were able to wear military uniform and those who were not,
10 well, I was not chosen as part of the group that could wear uniform.
11 I was stopped. This quite simply meant that I was barred from being
12 a member of the group. That's why I used the word "stopped", because
13 I had not been selected to wear military uniform.

14 THE INTERPRETER: Message from the English booth. The
15 synonym for the word "arrêter" is either "to stop" or "to arrest".

16 MR BIJU-DUVAL: (Interpretation)

17 Q. Last week you explained to us that after you had been forcibly
18 enlisted in Katoto, you were taken away by Commander Kisémbu to Nizi
19 and you spent three weeks undergoing training there, after which you
20 were allegedly given both a weapon and a uniform. My question is as
21 follows. We have examined a number of excerpts together from your
22 statements dating back to 2007, 2008 and 2009 with the Defence lawyers,
23 and even those of 2010, that is, before the hearing when you met with
24 the investigators from the OTP.

25 Now, how is it that no explanation is furnished in any of

1 these statements with regard to the issue of Nizi? The name "Nizi"
2 does not appear. Do you have an explanation for that?

3 A. I would like to put a question to you and then you can ask
4 any question of me that you wish. You said that last week I had provided
5 you with explanations with regard to the three-week period subsequent
6 to which I received both a weapon and military uniform. Now, I would
7 like to know whether it is true that I am the person who said that;
8 notably, that I was given a uniform and a weapon. When did I tell
9 you that I was given a military uniform? What colour was that military
10 uniform? I would like you to be able to answer that question before
11 we continue.

12 PRESIDING JUDGE FULFORD: Sir, unless Mr Biju-Duval is able
13 to deal with that straightaway, I am sure that in due course, as a
14 matter of courtesy, the reference to military uniforms can be cleared
15 up but, while that's being investigated, I'd be grateful if you'd deal
16 with the question put by Mr Biju-Duval about Nizi. Essentially, as
17 I understand it, he's suggesting to you that there has been, really,
18 up until now, no mention of Nizi, and he wants your assistance as to
19 why, up until your testimony before us, Nizi really hasn't featured
20 in your account.

21 THE WITNESS: Very well. I did not explain to the
22 investigators about Nizi for the following reason. Many people died
23 in Nizi and, at the time when they were fighting the Lendu, at the
24 time when the Lendus had blocked the road, soldiers died, a number
25 of soldiers died in the river, and this was why I was afraid of providing

1 an explanation to the investigators on the subject of the events that
2 occurred at Nizi.

3 MR BIJU-DUVAL: (Interpretation)

4 Q. I thank you.

5 A. You're welcome.

6 Q. Should I understand, therefore, that when in the year 2007
7 you stated to the investigators that you were taken from Katoto to
8 Barrière, this is false and that you only told them that because you
9 were afraid; is that correct?

10 A. Yes, that is true. I reached Barrière, and I am explaining
11 to you the story with regard to Nizi. As I said, I was frightened
12 of explaining the events that occurred at Nizi to the investigators.

13 Q. I thank you.

14 A. You're welcome.

15 Q. Last week you stated that you had undergone military training
16 in Nizi and that you returned to Katoto and that you then went to Mandro
17 and that, in Mandro, you killed a UPC soldier. Your superiors took
18 your uniform and weapon away from you and, after that event, you were
19 then sent to Barrière with Bosco. You went on to add that you left
20 Kisémbé behind in Mandro, and you said that you had received further
21 training in Barrière with an instructor, whose name you provided us
22 with, and you said that the only commander you knew in Barrière was
23 Bosco. That is what you told us last week. So, I would like to read
24 to you an excerpt. Well, you also stated that you were given a weapon
25 in Barrière.

1 I would like to read to you an excerpt from your statement
2 of March 2008, which is to be found at tab 2. That is document 0192-0196,
3 at page 0192-0221. I shall read a brief excerpt to you. And of course,
4 with the leave of the Trial Chamber and the OTP, I would say that this
5 is part of the witness's testimony with regard to what happened in
6 Barrière.

7 This is lines 882 to 889. I apologise. I quote:

8 "Question: (Speaks English) And if you say they were
9 training us, who exactly was training you?

10 "Réponse: Kisémbó.

11 "Question: And was there anyone else who was training you.

12 "Réponse: Patrick."

13 PRESIDING JUDGE FULFORD: Now, Mr Biju-Duval, this has
14 turned into an extremely long question. You are going to have to pull
15 this together in a very tight and comprehensible way, so that the witness
16 can really understand what you're getting at. Because this has now
17 stretched over a number of minutes and has involved a number of different
18 ideas. So, can you pull it together, please, and turn it into a question?

19 MR BIJU-DUVAL: (Interpretation) Yes, indeed,
20 Mr President.

21 Q. Witness, you stated that you had left Kisémbó in Mandro,
22 and that the only commander that you knew in Barrière was Bosco. How
23 do you explain that in March 2008 you stated that the commander training
24 you in Barrière was Kisémbó?

25 A. Kisémbó was a commander. Kisémbó came to see how his -- those

1 reporting to him were providing us with training. He came to see what
2 was going on. Now, with regard to the information you are referring
3 to, I would say that Kisémbó came to see how the military training
4 was unfolding. Now, if I gave you the name of Bosco and Kisémbó, that
5 does not mean that they were the ones who were actually training us.
6 No. It was their underlings who were providing us with the training.
7 Those two people would come and comfort us. They would come and boost
8 our morale. However, it was not those people who were training us
9 on a day-to-day basis.

10 If I provided you with the names of Kisémbó or Bosco, it
11 was because I was receiving training in camps, in those camps where
12 those two individuals spent the night. And when I said that I worked
13 with Kisémbó, this means that - as his bodyguard - yes, indeed, I
14 could say that I did work for him. When I stated that I worked with
15 Bosco, I was referring, quite simply, to a moment in time when I was
16 his bodyguard.

17 However, with regard to the training, I would quite simply
18 say that those two individuals were not in charge of training us on
19 a daily basis. We were trained by other individuals; whereas, they
20 came to see what was going on. And they were happy with the
21 demonstrations that we provided them with. And if you were lucky enough,
22 he would then make you his bodyguard. That's how things happened.

23 Q. Thank you. Who was the trainer? Do you know the name of
24 the instructor who was in charge of your training?

25 A. I will give you the name. We had Abelanga. Patrick.

1 Patrick was a commander. He was responsible -- he was in charge of
2 the troops who -- or which were underwent training. I saw him at some
3 point in time and he was moving around with bodyguards. He was living
4 in the camp of IDAP, and he was the commander-in-chief in that camp.
5 When I saw Patrick, it was at the time when I was still undergoing
6 training.

7 Q. Thank you. I have understood the names of the commanders
8 you just mentioned, but could you please state the name of the instructor
9 who provided you with training on a daily basis in Barrière?

10 A. My trainer in Barrière was called Sura Mbuya. That is his
11 name. Well, as to know whether that was his real name or not, I do
12 not know. All I know is that he was referred to as Sura Mbuya.

13 Q. Do you know his other names or his nickname?

14 A. He was also referred to as Sameja. That was his other name,
15 Sameja.

16 PRESIDING JUDGE FULFORD: Mr Biju-Duval, I'm thinking of
17 giving the witness just a ten-minute break, if that's convenient with
18 you. Good. Closed session, please. Thank you, Mr Lubanga.

19 (The accused exits the courtroom)

20 PRESIDING JUDGE FULFORD: Yes. Thank you, usher.

21 (The witness stands down)

22 PRESIDING JUDGE FULFORD: We will sit again just after
23 quarter-past.

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

25 THE COURT OFFICER: We are in closed session, Mr President.

1 PRESIDING JUDGE FULFORD: Just after quarter-past.

2 THE COURT OFFICER: All rise.

3 (Recess taken at 12.06 p.m.)

4 (Upon resuming at 12.19 p.m.)

5 *(Closed session) Reclassified as Open session

6 (In the absence of the accused)

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

8 PRESIDING JUDGE FULFORD: Witness, please.

9 (The witness enters the courtroom)

10 THE COURT OFFICER: Mr President, just for the record, the
11 last document that was shown, DRC-OTP-0192-0196, will be attributed
12 number EVD-D01-00154. Thank you.

13 (The accused enters the courtroom)

14 PRESIDING JUDGE FULFORD: Public session?

15 MR BIJU-DUVAL: (Interpretation) Yes, your Honour.

16 (Open session at 12.21 p.m.)

17 THE COURT OFFICER: We are in open session, Mr President.

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

19 MR BIJU-DUVAL: (Interpretation)

20 Q. Mr Witness, last week you informed us that whilst serving
21 as a soldier in the UPC, a photograph was taken of yourself and your
22 friends, a photograph in which you appear in your uniform and carrying
23 your weapon. The first question I have on that is the following: Where
24 was the photograph taken?

25 A. Well, I can talk about that photograph. The photograph was

1 taken in Mandro, and I was standing at the entrance of the office of
2 the camp commander, or rather, of Chief Kahwa. The second photograph
3 was taken in (Redacted).

4 Q. Thank you. Was that photograph taken whilst you were under
5 the command of Kisémbó or whilst you were under the command of Bosco?

6 A. The photograph that was taken in Mandro was taken at the
7 time when I was still serving under Kisémbó. The second photograph
8 was taken at the time when I was serving under Bosco.

9 Q. Thank you. Who took the first photograph?

10 PRESIDING JUDGE FULFORD: Just before we move on, Ms Samson?

11 MS SAMSON: Thank you. When I asked this question in the
12 examination-in-chief, it was elicited in private session.

13 PRESIDING JUDGE FULFORD: Private session, please.

14 *(Private session at 12.24 p.m.) Reclassified as Open session

15 THE COURT OFFICER: We are in private session, Mr President.

16 PRESIDING JUDGE FULFORD: Sorry you were interrupted, sir.
17 If you could give the answer, please.

18 THE WITNESS: Very well. The photograph taken in Mandro
19 was taken by (Redacted). It was (Redacted) who took that photograph
20 of us.

21 MR BIJU-DUVAL: (Interpretation)

22 Q. What about the second photograph?

23 A. The second photograph was taken by a friend. It was a
24 colleague who took that photograph.

25 Q. The second photograph -- well, was that second photograph

1 given to you?

2 A. Yes. The photograph we are talking about here, as we speak,
3 that photograph is currently with my parents. We are talking about
4 three photographs here, and the three photographs are with my parents.

5 MR BIJU-DUVAL: (Interpretation) Your Honour, I think we
6 could return to public session.

7 PRESIDING JUDGE FULFORD: Thank you very much. Public
8 session, please.

9 (Open session at 12.27 p.m.)

10 THE COURT OFFICER: We are in open session, Mr President.

11 MR BIJU-DUVAL: (Interpretation)

12 Q. Did Mr Mbusa know that these photographs were existing?

13 A. No, he did not know that I had the photographs.

14 Q. Why did you not show him the photographs, or why did you
15 not talk to him about the photographs?

16 A. I did not wish to show him the photographs. He did not ask
17 me, anyway, and I told myself it wouldn't serve any purpose to show
18 him the photographs.

19 Q. Thank you. Last week you explained to the court that your
20 parents had one of these photographs. You also explained that after
21 a discussion with (Redacted), your parents finally agreed that you
22 meet with OTP investigators in Beni.

23 The question I have for you is the following: Why did you
24 not talk about those photographs to the OTP investigators in Beni?
25 Why did you not show them the photograph?

1 PRESIDING JUDGE FULFORD: Just pause a moment. Ms Samson?

2 MSSAMSON: Thank you, Mr President. To the extent possible,
3 this subject matter was dealt with in private session, during the
4 examination-in-chief certainly. And I know there were various
5 redaction orders issued by the Chamber during the Defence's
6 cross-examination.

7 PRESIDING JUDGE FULFORD: Thank you. Private session,
8 please.

9 *(Private session at 12.30 p.m.) Reclassified as Open session

10 THE COURT OFFICER: We are a in private session,
11 Mr President.

12 PRESIDING JUDGE FULFORD: Can you put the question again,
13 please, Mr Biju-Duval?

14 MR BIJU-DUVAL: (Interpretation) Yes, your Honour.

15 Q. My question is: Why did you not speak about this photograph,
16 or show this photograph or these photographs, these three photographs,
17 to the investigators of the OTP in Beni?

18 A. At that time I was afraid. I was afraid to explain to them
19 that I had photographs at home. When I asked my parents to give me
20 the photographs, I wanted to show them to the investigators but -- but
21 before that, I hadn't explained to the investigators under what
22 circumstances I had received those photographs. In the neighbourhood
23 people already knew that I was going to be going to give a statement
24 to the investigators. And some of my friends -- some friends, child
25 soldiers, were with me, and they went to say to Cordo -- they told

1 him all about that, and Cordo came to my parents. He spoke to my parents
2 and asked them to not give me anything that would show that I'd been
3 a child soldier. He said that they weren't to give me any identification
4 that I could show the investigators to prove that I'd been in the army,
5 and that wouldn't be a good -- because that wouldn't be a good thing
6 for Thomas Lubanga. At that time my parents refused to give me those
7 photographs, and I shut up. I didn't explain to the investigators
8 that, actually, I had photographs.

9 Q. Thank you. But if I've correctly understood your
10 testimony -- and I'm speaking with my learned friends from the OTP
11 keeping an eye on this -- now, Cordo apparently went to see your parents
12 after you met with the investigators in Beni; is that not so? So I
13 still am having trouble understanding why, the first time you met with
14 the investigators in Beni, you did not talk to them about these
15 photographs, since Cordo had not yet spoken to your parents at that
16 particular time.

17 A. At that time I was afraid to tell the investigators that
18 I had some photographs. My father himself kept the photographs in
19 his book bag, and he had shut the book bag. And a member of the family
20 was ill in (Redacted), and at that time I went to see the investigators.

21 THE INTERPRETER: The Swahili interpreter did not hear what
22 the witness said, or did not quite follow it, because he was speaking
23 very quickly. Could someone ask the witness to repeat his answer more
24 slowly?

25 PRESIDING JUDGE FULFORD: Sir, I am very sorry to interrupt

1 you. I'm afraid that you started speaking too quickly fairly early
2 on in your answer. The interpreters have got down as follows: That
3 your father kept the photographs in his book bag; that he shut the
4 book bag; that a member of the family was ill in (Redacted), and at
5 that time you went to see the investigators. I'm afraid everything
6 was lost after that. So could you, please, as it were, start your
7 answer again from that point, please?

8 THE WITNESS: Fine. When I met with the investigators, my
9 father had gone to see a member of the family who was ill in (Redacted),
10 and so that was when I met with the investigators. And when Cordo
11 came to see my family, my father knew that. But I wasn't at home;
12 I was in Beni, where I was meeting with the investigators. And when
13 I came back home, I saw that Cordo had already been there to see my
14 parents. He had come to see my father, and he had told them that they
15 mustn't give me a piece of identification or anything else that I could
16 show to the investigators to prove that I had been in an armed group,
17 because that would not be a good thing for Mr Thomas Lubanga. And
18 then, with regards to what Cordo said to my parents, he said that when
19 I meet with the investigators they could even put me in prison because
20 I was getting involved in all kinds of difficult business, and my father
21 grew frightened and refused to give me the photographs.

22 When I went to meet with the investigators another time,
23 my father was frightened. And I said that I was in Marabo, but I actually
24 was in Beni. My father didn't want me to go to Beni, and that is why
25 I was afraid to explain to the investigators that, in actual fact,

1 I had some photographs. I would have liked to have given them that
2 information about the photographs, but I would have liked to have been
3 able to have shown them the photographs.

4 MR BIJU-DUVAL: (Interpretation)

5 Q. Thank you. You've told us that the photographs were in a
6 bag of some kind, and that your father had gone to see a family member
7 who was ill. Did he leave to see a member of the family who was ill
8 or did he go (Redacted)?

9 A. At that time my father went to see my paternal aunt, the
10 sister of my father. I call her my aunt. And she was the one who
11 was ill. My father is a (Redacted). Well, he was a (Redacted) when
12 I was very small.

13 Q. But unless I'm mistaken, you told us last week that your
14 father had gone (Redacted) at the time of these contacts with the
15 investigators.

16 A. When I went to see the investigators, my father was no longer
17 a (Redacted). He used to carry (Redacted) and (Redacted)
18 (Redacted). He would buy (Redacted) and sell it in Bunia, but
19 when I was very young he was a (Redacted). That was when he was working
20 as a (Redacted) but, when I met with the investigators, my father had
21 gone to (Redacted) to go sell that (Redacted) in Bunia. The second
22 time he was at home when I left and, when I returned, I was told that
23 he had gone to (Redacted) to see my aunt, my paternal aunt.

24 Q. Thank you. How did Cordo come to hear about the existence
25 of these photographs? These photographs, in the plural.

1 A. When Cordo learned that I had some photographs, well, it's
2 because my friends who had gone with me to Beni had come back, and
3 they had said to Cordo that I was planning to come and appear before
4 the Judges and give testimony, and he came to my home and said to my
5 parents that they should be careful about this business I was getting
6 myself mixed up in. My mother said, "There are some photographs,"
7 and they wanted the father to give him the photographs and he would
8 show them to the investigators. So that is how Cordo learned about
9 the photographs. He spoke to my mother -- to the brother of my mother,
10 and said that they should not provide the photographs or any kind of
11 identification that would allow the -- that would prove to the
12 investigators that I had been in the army. And from that point on,
13 my parents refused to give me the photographs back.

14 PRESIDING JUDGE FULFORD: Ms Samson, do we still need to
15 be in private session?

16 MS SAMSON: No, your Honour, and I didn't clarify the actual
17 subject matter I was seeking to protect earlier because we were in
18 open session, but it was the question initially which connected
19 (Redacted). And it's that triangle that
20 we were seeking to protect. But the discussion about the photographs
21 could be done in open session.

22 PRESIDING JUDGE FULFORD: Good. Public session, please.
23 No, don't. Mr Biju-Duval.

24 MR BIJU-DUVAL: (Interpretation) My next question will
25 unfortunately require us to go into closed session.

1 PRESIDING JUDGE FULFORD: Closed session, please.

2 *(Private session at 12.44 p.m.) Reclassified as Open session

3 THE COURT OFFICER: We are in private session, Mr President.

4 MR BIJU-DUVAL: (Interpretation)

5 Q. Last week you told us that on one of the photographs you
6 appear in the company of two friends, two colleagues. Could you tell
7 us what are the names of those two friends?

8 A. One is called (Redacted), and the other one, his name is (Redacted).

9 Q. Thank you. You went to tell the OTP investigators that you
10 had been forcibly enlisted in the UPC and that you had been a soldier
11 within the UPC, at the age of 11. My question is as follows: Weren't
12 you afraid to tell them that? Why were you afraid to tell them that
13 you had some photographs that showed you within the UPC?

14 A. The reason I was afraid to tell them that I had a photograph
15 at home was as follows: I was afraid because if I told them that I
16 had a photograph at home, they would force me to go from my home, and
17 so I was afraid because Cordo was going to find out about it. So that
18 is why I was afraid.

19 MR BIJU-DUVAL: (Interpretation) Thank you.

20 Your Honour, I am going to move on to another point that
21 unfortunately will require us to remain in closed session.

22 Q. Witness, you told us that you had met, in (Redacted),
23 in (Redacted), your uncle, (Redacted) (phon).

24 Witness, is it correct to say that you were the one who contacted them
25 to organise this meeting?

1 A. Yes. They gave me their telephone numbers in Bunia. When
2 they gave me those numbers, they told me this: "Since you are going
3 to Bunia, and since Cordo is the one who put you in contact with them,
4 and also since Cordo is the one who gave them all that information
5 to put you in contact, well, there you have it." They gave me those
6 numbers and once -- and they asked me to call them once I was in (Redacted).
7 I confirm; I called them.

8 Q. What did you tell them when you called them?

9 A. First of all, I called (Redacted). When he heard my voice,
10 he hung up. I called Bunia and I told them that the number of (Redacted)
11 (Redacted) was not correct, and I asked for (Redacted) number, so they
12 gave me the number of (Redacted). And I called him and he answered,
13 and we chatted for a while, and he did not hang up.

14 Q. And what did you say; what did you suggest?

15 A. When I spoke to him on the telephone, (Redacted) said
16 this to me: "It's not a good thing for us to be speaking on the
17 telephone." Where he was, it was impossible for him to go out because
18 he would have got lost. He ran the risk of getting lost. He said,
19 "I think it's good for us to speak on the phone, but what's important
20 is for us to meet directly." And he said he would give me exact, detailed
21 explanations as to why he was in (Redacted). When we spoke, he was
22 far away from (Redacted) because -- because there was an order, or
23 a directive, that they had received and (Redacted) was following
24 this order. He was asked -- they were asked not to see me, to call
25 me. And since they were going to come here, I was not to be privy

1 to any information. So that was what (Redacted) told me over the
2 telephone.

3 Q. Who gave you the telephone number of (Redacted) in Bunia?

4 A. One of their neighbours gave me the telephone number of
5 (Redacted).

6 Q. Why did you decide to call them, first of all, (Redacted)
7 (Redacted), and then (Redacted)? Why did you want to call them in (Redacted)?

8 A. They are members of my family, even though today they have
9 come to say lies about my statements here before the Judges. That
10 is because of Cordo; he was the one who sent them to do that. And,
11 and also, since they are afraid of Cordo, that is why they did it.
12 I don't think it's a bad thing for me to be talking to them. They
13 came here because you, you took the initiative, as well as Mr Cordo,
14 to bring them here. You can't keep me from speaking to them because
15 they are members of my family.

16 Q. Thank you. You explained to us that you had met them, both
17 of them, at their hotel. Was there one meeting or several meetings?
18 Did you meet them one day, or on another day as well?

19 A. I will tell the truth. (Redacted) and I, before he came
20 here to The Hague, we saw each other three times and, when he went
21 back home, we saw each other again, again three times. Regarding
22 (Redacted), I saw him several times once he came back
23 from The Hague but, before that, I had not seen him or heard his voice.
24 (Redacted) came to see me and told me that (Redacted) was afraid about
25 how they were going to explain to me that they had been in (Redacted).

1 And I saw them in (Redacted), me, (Redacted); I reiterate, (Redacted).
2 Before he came here, I met him three times. And when he came back
3 from this place, I met with him three times before he went back home
4 to Bunia.

5 Q. Did you inform the ICC unit that takes care of you in (Redacted),
6 did you inform the people from the ICC that you were going to be meeting
7 with them?

8 A. Since I told the officers from the ICC office in (Redacted) -- as
9 I said to them -- I explained to them that I had heard that (Redacted)
10 (Redacted) had come here to The Hague to contradict the testimony that
11 I'd given to the investigators. I didn't explain to them that I had
12 met with him in (Redacted); no, I didn't give them that piece of
13 information.

14 Q. You showed us two photographs. Were those photographs taken
15 at the same time, on the same day during the same meeting?

16 A. One of the photographs, as you can see, was taken -- well,
17 there was me and (Redacted) on that photograph, and that was one day.
18 As for the photograph with (Redacted), that photograph was
19 given to me. (Redacted) gave it to me, but I don't know on exactly
20 what date it had been taken. But concerning that photograph of me
21 and (Redacted), I have information about that photograph. On the other
22 hand, for the other photograph, I do not have information.

23 Q. Thank you.

24 PRESIDING JUDGE FULFORD: Is that convenient,
25 Mr Biju-Duval?

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

2 PRESIDING JUDGE FULFORD: Thank you very much. We will
3 break now for lunch. Thank you very much, sir. Mr Biju-Duval, we
4 will be finished this afternoon, will we not, with this witness?

5 MR BIJU-DUVAL: (Interpretation) Yes, your Honour.

6 PRESIDING JUDGE FULFORD: Good. Unless something very
7 extraordinary happens, sir, rest assured your evidence should finish
8 this afternoon. We'll reconvene in Courtroom 1. I understand the
9 technical problem of this morning has been fixed.

10 Closed session, please. Thank you, Mr Lubanga.

11 (The accused exits the courtroom)

12 PRESIDING JUDGE FULFORD: Yes. Thank you, usher.

13 (The witness stands down)

14 *(Closed session 1.01 p.m.) Reclassified as Open session

15 THE COURT OFFICER: We are in closed session, Mr President.

16 PRESIDING JUDGE FULFORD: 2.45, Courtroom 1.

17 THE COURT OFFICER: All rise.

18 (Luncheon recess taken at 1.03 p.m.)

19 RECLASSIFICATION REPORT

20 Pursuant to Trial Chamber I's email instruction dated 2nd December
21 2011, the transcript is reclassified as public after the indicated
22 redactions have been implemented as ordered by the Chamber. All private
23 and closed sessions (*) are now available to the public with the
24 exception of the portions of the transcript that have been redacted.