

1 International Criminal Court
2 Trial Chamber I - Courtroom 1
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 Monday, 8 February 2010
8 (The hearing starts at 9.31 a.m.)
9 (Open session)
10 (The accused enters the courtroom)
11 THE COURT USHER: All rise. The International Criminal Court is now in
12 session. Please be seated.
13 PRESIDING JUDGE FULFORD: Just before we start, a few things:
14 Administratively, to remind everyone that although we are sitting in this Court
15 this morning we go to the other courtroom for this afternoon's session.
16 Second, during the course of last week an issue arose, the detail of which
17 we needn't go into or, rather, two issues arose, the detail of which we needn't
18 go into, but it is extremely important for everyone to bear in mind that where material
19 has been filed confidentially it is not then to be repeated publicly without the
20 leave of the Chamber. And last week the Defence brought to our attention a situation
21 where material that had been communicated privately then emerged in a later public
22 filing.
23 Everyone must be very careful, please, to make sure that doesn't happen
24 again. And similarly, when information is provided to one team of legal
25 representatives, it is not to be disseminated to other teams of legal representatives

1 in subsequent filings without the leave of the Chamber. And those representing
2 the victims in this case really must be alert to that requirement.

3 We are concerned as to the issue of disclosure in relation to intermediaries
4 in the case and we wish at the moment simply to put principally the Defence and
5 the Prosecution on notice that we would like in the very near future to address
6 the issue of whether there has been sufficient disclosure to the Defence, given
7 the evidence that we have heard thus far as part of the Defence case.

8 The Defence should know that we have asked the Prosecution to provide
9 us with up-to-date information as to the position as regards intermediaries and
10 including the extent of disclosure thus far. Once we have received that information
11 that I anticipate has been fairly labour intensive in terms of its preparation,
12 once we've received it, we will set a timetable for consideration of the issue.

13 Could you, please, on both sides, consider in principle what you now say
14 is the position as regards the Prosecution's disclosure obligations given the way
15 in which the case has been presented for the Defence and, most particularly, the
16 evidence that's been called so far. We don't require submissions now, obviously,
17 but later this week it is likely that we will ask for assistance orally on that
18 issue.

19 It is likely that we will want to deal with this by way of submissions
20 in Court rather than by filings so that the matter can be disposed of rapidly. So
21 it's simply to put you all on notice that this is something that we are going to
22 want to address later in the week. Good. Before the witness comes in, is there
23 anything else? No. Maître Mabilille?

24 MS MABILLE: (Interpretation) I don't know, your Honour, whether this
25 is the appropriate moment for raising this: I would like to make a few observations

1 with respect to what my learned colleague from the OTP said on Friday concerning
2 our own disclosure obligations. I could state these observations later on, if you
3 so wish, but I would like to address them now.

4 PRESIDING JUDGE FULFORD: My only concern, Maître Mabilille, is that the
5 witness is downstairs waiting to come into Court. If it's not absolutely critical
6 to deal with it now, perhaps if we could revisit it later this morning, just before
7 or just after one of the breaks. When you say "on Friday", Maître Mabilille, are
8 you referring to things on -- do you mean Tuesday? Tuesday. Fine. Good. Excellent.
9 Witness, please.

10 (The witness enters the courtroom)

11 PRESIDING JUDGE FULFORD: Good morning, sir.

12 THE WITNESS: Good morning, your Honour.

13 PRESIDING JUDGE FULFORD: Maître Mabilille, your last question and answer
14 I think were in private session. Do we need to return to private session?

15 MS MABILILLE: (Interpretation) Just for one question, your Honour.

16 PRESIDING JUDGE FULFORD: Private session, please.

17 *(Private session at 9.39 a.m.) Reclassified as Open session

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

19 PRESIDING JUDGE FULFORD: Yes, Maître Mabilille.

20 WITNESS: * DRC-D01-0003 (On former oath)

21 (The witness answers through interpreter)

22 Questioned by Maître Mabilille (Continued): (Interpretation)

23 Q. Mr Witness, good morning.

24 A. Good morning, madam.

25 Q. You informed us that (Redacted)'s father is called (Redacted). I would

1 like to ask you the following question: Do you know his first name?

2 A. No, I do not know his baptismal name, for the simple reason that he does
3 not have such a name. He has never been baptised.

4 MS MABILLE: (Interpretation) Maybe we should move into public session,
5 your Honour.

6 PRESIDING JUDGE FULFORD: Thank you, Maître Mabille. Public session,
7 please.

8 (Open session at 9:40 a.m.)

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

10 PRESIDING JUDGE FULFORD: Yes.

11 MS MABILLE: (Interpretation)

12 Q. Witness, you were made to sign documents during your stay in Beni or in
13 Kinshasa. Were you made to sign documents, either in Beni or in Kinshasa?

14 A. Yes. In Bunia and in Kinshasa, I was made to sign documents.

15 Q. Could you tell us, if you remember, what type of documents did you sign
16 in Bunia?

17 A. Let me remember what I was told. I was asked whether the child was going
18 to collaborate with them, and I said, "Yes." And they asked me whether I would
19 accept for the child to have -- for an x-ray to be taken of the child. And I said,
20 "Yes".

21 Q. Do you remember whether you signed this document, the document you are
22 talking about, did you sign it in Bunia?

23 A. Yes, I do remember that.

24 Q. What type of document were you made to sign in Kinshasa?

25 A. It was a document that was prepared stating that I was giving my consent

1 for an x-ray to be made of the child.

2 Q. Are there any other documents that you were made to sign?

3 A. Yes. I signed many other documents, but I wasn't paying much attention,
4 so I have forgotten.

5 Q. Witness, on Tuesday you informed us that when you said in Kinshasa that
6 you wished to return to Bunia, they drafted a letter; and then they said, "If you
7 betray us, we are going to imprison you." Do you remember having made such a statement
8 here on Tuesday?

9 A. Yes, that's right. I said so, and that's the truth. That's what happened.

10 Q. Witness, do you remember the person who made you sign that letter?

11 A. Yes, I do remember that person.

12 Q. Could you tell us the name of the individual who made you sign the letter?

13 A. His name was (Redacted).

14 Q. Could you tell us the name you used in signing the various documents that
15 you had to sign?

16 A. I used several names, but (Redacted) and his friends knew that my name
17 was Maki Joseph, but the others knew that I was called (Redacted).

18 Q. Should I understand from what you've said that you signed certain documents
19 as (Redacted) and signed other documents with the name Joseph Maki? Would that
20 be correct?

21 A. That's absolutely correct.

22 Q. Witness, did they discuss about Thomas Lubanga in your discussions with
23 the officials who had come from the International Criminal Court?

24 A. Which officials are you talking about? Are you talking about the employees
25 of the ICC? I did not fully understand your question.

1 Q. My question is the following: The persons, the individuals you met in
2 Beni, first of all - I am referring to the employees of the Court - did those individuals
3 talk about Thomas Lubanga?

4 A. They talked about him.

5 Q. Could you tell us what they told you? I beg your pardon. Let me rephrase
6 my question.

7 Could you tell us who these persons were, the persons who spoke to you
8 about Thomas Lubanga?

9 A. The individuals who received me in Beni knew that I was coming to discuss
10 about Thomas Lubanga. There were three white persons and one black person. During
11 the second meeting, there were two white persons and two black persons. They asked
12 me questions and they showed me two photographs on a computer. They asked me, "Do
13 you know this individual?" And I said, "No, I do not know this individual." They
14 showed me another photograph. There were two of them. They asked me, "Do you know
15 this one?" I thought for a while, and I said, "Yes, I know these individuals."
16 "Who is he," they asked, and I said, "This is Thomas Lubanga." But I did not know
17 him. Even today, I do not know him. I said it was Thomas Lubanga.

18 And with respect to the second individual, I said it was Germain Katanga,
19 who was arrested recently. They applauded me. They asked me, "Do you know why you
20 are here?" We had already discussed it outside the room, and the young people told
21 me to agree to anything that would be requested of me. They asked me, "Do you know
22 that this gentleman caused many people to lose their children because he recruited
23 them into the army and that he had many children killed?" And I said, "Yes." I
24 simply answered the questions. I was acting in accordance with the plan that had
25 been concocted beforehand, because it was a money issue. The white people didn't

1 know anything about it. But we, the black people, knew what this was all about.
2 I was told what I had to tell them. We did not talk about much and they told me
3 that the interview was over and that that was what they wanted to know. They told
4 me, "Do you know, we are going to receive you in Europe." They told me, "You are
5 going to come with the child who will testify against him, but know that you are
6 not going to live there. You will move house, we will take care of you. If you
7 want, you could move from Bunia to Kinshasa or to Lubumbashi, or we could relocate
8 you to Tanzania." Those are the three places they mentioned to me. That's what
9 I have to tell you on that point for the moment.

10 MS MABILLE: (Interpretation) I think we should move into private session
11 for the next questions, your Honour.

12 PRESIDING JUDGE FULFORD: Private session, please.

13 *(Private session at 9.51 a.m.) Reclassified as Open session

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

15 PRESIDING JUDGE FULFORD: Yes.

16 MS MABILLE: (Interpretation)

17 Q. Witness, last Tuesday you informed us that Mr (Redacted), and I quote you,
18 you said Mr (Redacted) went through the town, recruiting children. He told you what
19 you had to say. And you stated that he told the children that they should claim
20 that they had served as child soldiers, that (Redacted) was asked to say that his
21 mother was deceased. Do you remember having said that on Tuesday?

22 A. Yes, I did say that. And I would know like to repeat -- I would like
23 to repeat what I said -- or, rather, I would not like to repeat what I said. It
24 was said that (Redacted)'s mother was deceased. (Redacted)(sic) told the children,
25 "You children know that you are going to have a good life. You simply have to accept

1 that yourself as child soldiers." This is what I have already said. And I would
2 not like to repeat that testimony. If you feel that I am lying, you could put the
3 question to other individuals, and you can also bring all these children here and
4 they will confirm; they will corroborate all of what I am saying.

5 Q. Mr Witness, I simply wish to ask you an additional question. Do you know
6 whether Mr (Redacted) asked the children to tell other lies?

7 A. (Redacted) told a lot of lies. He said to the children, "Accept. If they ask
8 you questions, say that you come from either Bariere, Katoto, Nizi or Lopa. He
9 spread confusion in the children's heads. And the children wrote immediately. He
10 did not tell the children the truth. I, myself, went in on the plot after my son,
11 because they said I was going to earn money. But it wasn't me who signed for my
12 son; that was someone else. When they talked about money, I accepted to participate
13 in this conspiracy.

14 Q. You said that there were nine children from your neighbourhood who were
15 recruited by (Redacted). Did the people from your neighbourhood know about these
16 activities? Did they know precisely what (Redacted) was doing?

17 A. Of course, they knew. They knew that very well. (Redacted) was moving around
18 in full view. He was not doing things in hiding. He entered every house. He didn't
19 come as a thief. He went to everyone's home. He presented himself appropriately
20 to people, He spoke to people well, and he was received. And if you did not agree
21 with him, you only had to tell him that you did not agree with him. But when people
22 heard talk of a significant amount of money, they tried to participate in it.

23 MS MABILLE: (Interpretation) Can we move into public session, your
24 Honour?

25 PRESIDING JUDGE FULFORD: Thank you, Maître Mabilille. Public session,

1 please.

2 (Open session at 9.57 a.m.)

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

4 PRESIDING JUDGE FULFORD: Yes.

5 MS MABILLE: (Interpretation)

6 Q. Witness, when the people, your neighbourhood, learned that there were
7 young people who were claiming to have served as child soldiers, what was their
8 reaction?

9 THE INTERPRETER: The Swahili interpreter does not understand what the
10 witness is saying. Could the witness repeat his answer, please?

11 PRESIDING JUDGE FULFORD: Sir, can I ask you to stop? I'm afraid there's
12 been a problem over the interpretation of what you are saying. Could I ask you
13 kindly to start your last answer again and, as you have been, to continue speaking
14 slowly and clearly, please. So could you start that last answer again, please.

15 THE WITNESS: Are you speaking to me?

16 PRESIDING JUDGE FULFORD: Could you put the question again, please?

17 MS MABILLE: (Interpretation) That's what I was going to do, your Honour.

18 Q. Witness, I asked you the following question: When the people in your
19 neighbourhood learned that Mr(Redacted)was recruiting fake child soldiers, what was
20 their reaction?

21 A. Very well. Everyone was afraid of (Redacted), and he could enter anyone's
22 home, but those who did not wish to follow what he said did not agree with him.
23 And those who wished to earn money followed his advice. There were children who
24 listened to his advice, but there were not many of them. But there were -- those
25 who accepted what he proposed were hard-hearted people, like us. Others understood

1 that this was bad and they refused to collaborate with him.

2 PRESIDING JUDGE FULFORD: Maître Mabilille, yes. We will need a redaction
3 order, please, in the English, page 9, line 10. And should we move into private
4 session, Maître Mabilille?

5 MS MABILLE: (Interpretation) (Shaking head in the negative.)

6 PRESIDING JUDGE FULFORD: No? All right.

7 MS MABILLE: (Interpretation) No, your Honour. I have rephrased my
8 question, and now I will try to continue in open session.

9 Q. Mr Witness, did the people in the neighbourhood understand that you,
10 yourself, were taking part in the preparation of lies?

11 PRESIDING JUDGE FULFORD: Can you pause just a moment, please, sir? Yes?

12 MS SAMSON: Thank you, Mr President. I would just like to be careful that
13 we have a proper foundation for the witness's knowledge of the questions that are
14 being put. The questions are calling for a certain amount of speculation as to
15 what this witness knows other people thought, what they did, how they reacted before
16 establishing the basis for that knowledge. So I -- that's the point.

17 PRESIDING JUDGE FULFORD: Right. I understand the point, but isn't at
18 the moment all that's being asked whether or not people locally knew that lies were
19 being told or were going to be told. The witness has given evidence that there
20 were lies, and the question now is simply asking whether, to his knowledge, people
21 locally knew that. Now, what's the problem with that, Ms Samson?

22 MS SAMSON: Perhaps it's the form of the question, because as I -- I didn't
23 hear "to your knowledge," "what was your understanding." It may just be a question
24 of phrasing.

25 PRESIDING JUDGE FULFORD: "Did people in the neighbourhood understand?"

1 I think that's sufficient. But thank you for the intervention, Ms Samson. Right.

2 I think you better put the question again, Maître Mabilille, please.

3 MS MABILILLE: (Interpretation)

4 Q. Witness, to the best of your knowledge, did the people in the neighbourhood
5 understand that you, yourself, Joel Maki, were taking part in the preparation of
6 these lies?

7 A. Yes, they knew.

8 Q. At that time, Mr Witness, what was their reaction?

9 A. I was uncomfortable. Some people even wanted to hurt me. I fled. I left
10 my house. They really wanted to hurt me, and I had to leave. I had to leave the
11 place. I had to flee.

12 MS MABILILLE: (Interpretation) Just one moment, if you don't mind, your
13 Honour.

14 (Defence counsel confer)

15 MS MABILILLE: (Interpretation) I have concluded, your Honour.

16 PRESIDING JUDGE FULFORD: Thank you very much, Maître Mabilille. Maître
17 Mabilille, I'm right in recalling that the name of the witness has been given publicly,
18 hasn't it? Yes. I see Mr Desalliers nod. Good. Thank you very much. Yes,
19 Ms Samson.

20 Questioned by Ms Samson:

21 Q. Good morning, witness. My name is Nicole Samson, and I have some questions
22 for you today on behalf of the Prosecution.

23 Sir, you are Hema; is that right?

24 A. Hema North.

25 Q. You have lived in or around Bunia all of your life?

- 1 A. Yes, I lived in Bunia, and also close to Bunia.
- 2 Q. Your family is in or around Bunia, then; is that right?
- 3 A. My family is in Bunia.
- 4 Q. And you live in the Simbiliabo avenue or neighbourhood of Bunia?
- 5 A. I lived in the Simbiliabo neighbourhood that is found in the city of Bunia.
- 6 It is a neighbourhood of Bunia on Uba (phon) Avenue. My avenue was called Uba,
- 7 and that neighbourhood of Simbliablo is found in the city of Bunia.
- 8 Q. In addition to your family who live in this neighbourhood, is it correct
- 9 that a number of your neighbours are also Hema?
- 10 A. There are many of us in the neighbourhood. There are the Alur, the Hema
- 11 North people. We are all living together. There are also Lugata (phon) and even
- 12 Nande people. We are all living there together.
- 13 Q. So it's correct, then, that you have neighbours in your neighbourhood
- 14 who are also Hema?
- 15 A. Yes.
- 16 Q. Sir, you remember, I am sure, when the UPC took control of Bunia in 2002?
- 17 A. Yes, I remember.
- 18 Q. It's right, isn't it, that the president of the UPC was Thomas Lubanga?
- 19 A. That's the information I had.
- 20 Q. As someone who was in Bunia at the time, it would be fair to say that
- 21 Mr Lubanga was a popular figure in Bunia; is that right?
- 22 A. You are asking me questions that are political. I did not come here to
- 23 do such things. I came here to give testimony about the children. I don't know
- 24 that political information. I came here about -- to talk about the children, and
- 25 that's what I want to talk about here. I don't want to get involved in other things

1 and I don't want to get dragged into something political. I am a member of the
2 local population. I am a farmer. I don't -- I am not a politician. You can't be
3 asking me about the UPC. I'm a farmer. I'm not a soldier. I beg your pardon.

4 PRESIDING JUDGE FULFORD: Sir, don't worry whether questions are
5 political or otherwise. Could you focus really on whether or not you are able to
6 answer the question put by Ms Samson? And I think you are saying that because you
7 are a farmer, you can't really give evidence about this. But don't be concerned
8 as to whether or not you are being asked political questions. Now, it's up to you,
9 Ms Samson, whether you want to pursue it further or not.

10 MS SAMSON:

11 Q. It's fair, sir, isn't it, that Thomas Lubanga had supporters in and around
12 Bunia? You can agree with me about that, can't you?

13 A. Even today there are supporters; the party continues to exist. Even if
14 they died, the party will continue.

15 Q. And it's right, isn't it, that some of those supporters live in your
16 neighbourhood today?

17 A. In my neighbourhood, no, they are not there. They are more in the city
18 and in Mudzipela. But in my neighbourhood I think there are some, but they are
19 not well known.

20 Q. So the answer to my question is, yes, some supporters of Thomas Lubanga
21 are in your neighbourhood; is that right?

22 A. Yes, there are some there.

23 Q. You have indicated just now that some of your neighbours wanted to hurt
24 you because of what you said to the OTP; is that right?

25 A. Yes. I was trying to get money and they criticised me for that. They

1 asked me was what I had done not something bad. I told them that even Jesus was
2 sold for money, and I fled the neighbourhood.

3 Q. And is it right that the difficulty
4 that they had was that you were selling
5 your chief Thomas Lubanga?

6 * A. Yes

7 Q. In fact, that's what you told the Office of the Prosecutor, isn't it,
8 shortly after these meetings in Beni?

9 A. I said that, yes.

10 Q. You said that people knew that you and others had spoken to the OTP; isn't
11 that right?

12 A. The people in our neighbourhood? Yes, they were aware, and they said
13 that I was already getting into politics, and that I was destroying Thomas Lubanga
14 and I should -- should be uncomfortable. Even my wife, she left the house and went
15 to her parents' house and she rented out our house. I moved. I then moved, and
16 I came to ask for forgiveness.

17 Q. And you told the OTP that two people who had been meeting the OTP in Beni
18 had told those in your neighbourhood about you being in Beni; is that right?

19 A. Yes.

20 Q. And you told the OTP that those two people were people by the names of
21 Claude Ndjango and Joseph Zambuso (phon); is that right?

22 A. Those are the names that -- those names that you are giving me are a problem
23 for me. Claude Nguso (phon) was the one against me. Zambuso and his son went to
24 Beni, you know. Ndjango was with us. Zambuso was with his child. Up to now, his
25 child -- his son is there, and he is the one who accused me and who wanted to do

1 harm to me.

2 When we were in Kinshasa, I went back and I explained that to the authorities,
3 and I said that things weren't going very well. And they hadn't given me the money
4 they had promised me. My wife was living alone; I was living alone. And at that
5 point, I received a letter saying that if I betrayed them, they would arrest me.
6 And I said I had to go back and ask for forgiveness, and that's what I did. I asked
7 the wise men for forgiveness, because that's who the young people go to. I asked
8 them to forgive me.

9 Q. You reported to the OTP, didn't you, that Joseph Zambuso was unhappy and
10 did not agree with his nephew testifying against Thomas Lubanga, isn't that right?

11 A. Yes, that's right.

12 Q. And you told OTP that Claude Ndjango moved in with you following this
13 episode?

14 A. Yes.

15 Q. And at that time, you confirmed that both children under your care had
16 been enrolled in the UPC as child soldiers, isn't that right?

17 A. That's what we stated following what (Redacted) had told us. That's what
18 we said.

19 MS SAMSON: Your Honour, although it wasn't captured in the interpretation
20 perfectly, I suspect there may have been a reference to the person's whose name -- the
21 person's whose name is redacted to now.

22 PRESIDING JUDGE FULFORD: I think you are right, Ms Samson. Redaction,
23 please, English, page 15, line 3.

24 MS SAMSON: Your Honour, with your permission, may we move into private
25 session for a series of questions?

1 PRESIDING JUDGE FULFORD: Of course. Private session, please.

2 *(Private session at 10.18) Reclassified as Open session

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

4 PRESIDING JUDGE FULFORD: Yes.

5 MS SAMSON:

6 Q. Mr Witness, you say that (Redacted)

7 is that right?

8 A. (Redacted).

9 Q. And this was in Bunia?

10 A. No. (Redacted)

11 (Redacted)

12 Q. (Redacted)

13 (Redacted)

14 A. Yes, that's what I am telling you.

15 Q. And you've mentioned that you knew a person named (Redacted)?

16 A. Yes, I know (Redacted) very well. I even know his mother.

17 Q. And his mother lives in your neighbourhood as well?

18 A. Yes. We live in the same neighbourhood.

19 Q. In fact, you live on the same street.

20 A. No. We live on different avenues. We are on Uba Avenue, and they are

21 on (Redacted), but we are not very far away. I would say that we are neighbours.

22 Q. She is Hema, the mother of (Redacted)?

23 A. Yes, the mother of (Redacted) is Hema.

24 Q. You must then also know her husband, his name is (Redacted),

25 also known as (Redacted).

1 A. (Redacted). Yes, I know the real father of (Redacted) has died. I think (Redacted)
2 was Rwandan. I don't know. The person taking care of him is, I think it's his
3 father who raised him.

4 Q. Sir, to be clear, do you know (Redacted)'s mother's new husband? Not (Redacted)'s
5 biological father, but the man his mother remarried after his father died.

6 A. Yes, I know them very well.

7 Q. And (Redacted) is also Hema?

8 A. Yes, they are Hema.

9 Q. And did you discuss with them before coming here any of the things that
10 you are telling us now?

11 A. I came unexpectedly. I didn't talk to them, but the person with (Redacted)
12 was his uncle, (Redacted), and they went to Kinshasa; and he came back and (Redacted)
13 (Redacted), and then he went to the village to do his farming. I really don't take too
14 much interest in (Redacted)'s mother's business.

15 Q. You say the person who went with (Redacted) was his uncle (Redacted). Do you
16 mean who went to Beni?

17 A. They went to Beni, Kinshasa. They were always together. And they
18 abandoned (Redacted), and he went back to live in Bunia, in the village, and he does
19 field work.

20 Q. And it's right, isn't it, that when (Redacted) went to Beni, he told the OTP
21 he was (Redacted)'s uncle?

22 A. I beg your pardon. I really didn't take notice of that. I had my own
23 business. We didn't talk about that. Ever since I came from Kinshasa, we've only
24 seen each other once, and he is at the village and he works in the fields.

25 Q. And coming back to this man Joseph Zambuso, he went to Beni as the uncle

1 of Claude Ndjango; is that right?

2 A. I beg your pardon? I don't know whether he went as the uncle or -- he
3 went. I don't know if he went as his uncle. He drinks a lot, you know, and he -- he
4 has changed because of that. Yes, he was right to say that. We were told that
5 we would be given money, and that's why we continued to be involved in this matter.

6 Q. I would like to come to this issue of being offered money. You say that
7 your first discussion with (Redacted) about this plan was before your trip to Beni; is
8 that right?

9 A. Before leaving to go to Beni. It was when he started to recruit children.
10 He said "your life will get better," and we didn't know what that meant. Until
11 then, he had not yet told us that our children were going to be considered as child
12 soldiers. He told us that we would be asked questions and we should agree with
13 everything.

14 Q. Would you say that it was several days later that you went to Beni?

15 A. We were -- we -- in Bunia for a long time. And he said he would come
16 and give us information. He worked in (Redacted), and he told us once he was aware of
17 that information, he would tell us. He said everything -- he said that we should
18 just agree to everything that was put to us and our lives would improve. We saw
19 that he had a great life, and he had a shop full of all kinds of things, and so
20 we went along with it.

21 Q. So you first meet (Redacted) in Bunia; correct?

22 A. Yes. (Redacted), we met him in Bunia. You know, do everything you can to invite
23 (Redacted) and to be confronted with him because you are going to torment me, and there
24 will be no solution. I myself would like (Redacted) to come here, and others to come
25 here, even the children, and they will explain. It won't make things complicated.

1 You will see that we'll all be around a table, (Redacted) too, and we will ask the question,
2 and the children will also be asked the question, and we will shorten these
3 conversations. As I am telling you, it's -- it's not as if I am telling lies, but
4 I think it's better for us to be confronted against him and the matter will be closed.

5 Q. So you met (Redacted) in Bunia. Did you meet him at your home or at the
6 home of (Redacted)?

7 A. (Redacted) came to my home, and my child was also involved, because my child
8 was presented as being a child soldier. For me it was one particular day. It had
9 read -- rained, and it was (Redacted)'s child's turn and (Redacted) found me there.
10 And he went with the father of (Redacted), and they gave him two dollars
11 there, and he left. He went to drink with that money. (Redacted) was looking, and
12 he found me, because the trip was for the next day. And he said, "Couldn't you help
13 the child?" And I said, "Yes, I can help the child." So I said, "Well, who is
14 going to accompany my own child?" He told me that someone else would go with the
15 child?" That child's father was already drunk. So that's why I went to Beni.

16 Q. If I understood your last answer, sir, you said that (Redacted) came to your
17 home, that your child was involved because your child was a child soldier. Is that
18 what you said?

19 A. That is what (Redacted) said. That's what he suggested. He said that because
20 my child was already registered, I had to accompany this other child. I accompanied
21 the child, and (Redacted) said that someone else would go with my own child.

22 Q. And the person that you are referring to as your child, is that (Redacted)
23 (Redacted)?

24 A. No. It's Pascal Kasangaki.

25 Q. So (Redacted) comes to your home and he asks you to go to Beni. And at this

1 point, if I understood you correctly, it was to accompany (Redacted); is that
2 right?

3 A. Yes. He came to see me in the family of (Redacted). He had previously
4 been to my place. He went everywhere, wherever there was a child that he wanted
5 to take along, and he would take the child and the child's father to Beni. He wasn't
6 hiding anything. He came, and everyone saw what he was doing. And he asked that
7 the child go and make whatever statement was to be made. But he had a plan, and
8 he proposed this plan, and he offered money to us.

9 Q. You did not know (Redacted) before meeting him in your home?

10 A. No, I didn't know him at all. He was a man that I did not know beforehand,
11 before he came to see me. I had an image of him being a giant of a man, but when
12 I saw him, I was surprised to see that it was a thin man running this business.

13 Q. And you have already told us that you can't remember the date of this
14 meeting because you don't put -- you didn't put those discussions in writing; is
15 that right?

16 A. As I have already stated previously, I do not remember the date. In fact,
17 I don't even remember the year. The child, that is, my son, well, in fact, I have
18 forgotten his year of birth. He is a man now, he is an adult, and I have forgotten
19 his actual birth date.

20 Q. The discussion wasn't recorded, therefore, in any way; is that right?

21 A. You mean the discussion between myself and (Redacted)?

22 Q. Yes.

23 A. No, there was no recording. That's what I'm telling you here. I don't
24 know what you call "recording". This type of discussion will tire us for nothing.
25 Nobody can get away from you. Look for (Redacted) and let's organize a meeting here before

1 you so that each of us can give their version of the facts. Otherwise, this business
2 is in danger of taking up a lot of time.

3 Q. So I take it, therefore, you didn't sign anything, either.

4 A. Well, listen, I signed. I already told you that I signed. There was a
5 letter, and I signed the letter. And I gave you the reasons why I signed each of
6 these documents.

7 Q. I understand you have said you signed various letters, but I am talking
8 about the day that (Redacted) came to your home and you discussed this plan to lie
9 to the OTP, you did not sign anything about that plan, did you?

10 A. (Redacted) didn't have any paper. And as regards a signature, it was only
11 in Beni that I started -- that I signed documents. But as regards my child, it
12 was my older brother who signed for him. The document was already gone. (Redacted)
13 signed for (Redacted), and I just had to bring (Redacted), when he was
14 ready. And when I asked, "Well, who is going to take my own child?" He said, "Well,
15 you take this one and someone else is going to bring your child." But we signed
16 each document. Even if they were giving you 100 francs, you had to sign for it.
17 We were signing for everything. Nothing escapes State monitoring. I signed a lot
18 of documents at that place.

19 Q. Sir, you signed documents indicating you had received money when you were
20 in Beni or in Kinshasa; isn't that right?

21 A. In Beni I was not given any money. Even in Kinshasa I was given money
22 just for my living expenses, pocket money. And it wasn't an amount of money that
23 I was given to invest or to do something with, I was simply given money to live
24 on. Also, that's why I rebelled.

25 Q. Yes. And the money that you were given to live on when you were in, say,

1 Kinshasa, you had to sign receipts indicating you received that money; isn't that
2 right?

3 A. Yes, and I've already told you that. Even if they gave you only 100 francs
4 to buy some medication or a bottle of pills, you had to sign for it.

5 Q. Coming back now to the meeting with (Redacted) that you say took place
6 at your home, you agree that you didn't sign anything in relation to the plan or
7 money that you received from (Redacted); is that right?

8 A. (Redacted) did not give me any money. He gave money to the father of (Redacted),
9 and the father of (Redacted) went to drink with the money. He spent the money,
10 and he didn't have enough money to go to Beni, and that's when (Redacted) asked me
11 to go to Beni. It was the father of (Redacted) who signed. As far as I am concerned,
12 I was given a small amount of money, six dollars per day, to live on in Beni, and
13 I signed for that amount of money. But as regards the amount of money which was
14 paid in the beginning by (Redacted), it was paid to the father of (Redacted).

15 Q. And the people who gave you the six dollars a day in Beni were OTP
16 investigators; isn't that right?

17 A. Yes.

18 Q. And so, according to you, during this meeting with (Redacted), he said
19 you would be given money in the future; is that right?

20 A. Yes, that's true.

21 Q. He didn't tell you how much money you would get, did he?

22 A. (Redacted) did not tell me how much I was going to receive. And what stimulated
23 me was that he said we were going to buy a plot of land for me and that I was going
24 to be given money and I would no longer have any problems. I was going to leave
25 my village and be taken someplace else. And since there was money, I accepted.

1 But (Redacted) lied to us. It was a lie and I let it go.

2 Q. He didn't tell you who would be giving you this money?

3 A. Yes, he told me.

4 Q. Who did he tell you was going to give you this money?

5 A. Since we are victims he told us that the ICC was going to help us, when
6 we were somewhere else, it would help us and give us money.

7 Q. So it's your evidence that (Redacted) told you when he met with you that
8 you were going to be meeting with the ICC; is that what you are saying?

9 A. Yes, that's true.

10 MS SAMSON: One moment, your Honour.

11 PRESIDING JUDGE FULFORD: Ms Samson, it's a lot for anyone to have to
12 focus on. It may be fairest to the witness to give him a break now, if that would
13 be convenient for you.

14 MS SAMSON: Yes, of course.

15 PRESIDING JUDGE FULFORD: Good. Sir, you have been asked a lot of questions,
16 perfectly properly by counsel, but I think it's fair to give you to give you a rest
17 now. Thank you very much for your assistance so far this morning, and we look forward
18 to seeing you again in a half an hour's time at quarter past 11.00. Thank you very
19 much.

20 Usher, could you help the witness, please, back to the witness waiting
21 room?

22 (The witness stands down)

23 PRESIDING JUDGE FULFORD: Thank you all. Quarter past 11.00.

24 THE COURT OFFICER: All rise.

25 (Recess taken at 10.45 a.m.)

1 (Upon resuming at 11.15 a.m.)

2 *(Private session) Reclassified as Open session

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

4 PRESIDING JUDGE FULFORD: Witness, please.

5 (The witness enters the courtroom)

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

7 Do we still need to be in private session, Ms. Samson?

8 MS SAMSON: Yes, please, your Honour, for a few more questions.

9 PRESIDING JUDGE FULFORD: Yes. Thank you very much. Please continue.

10 MS SAMSON: Thank you.

11 Q. Sir, before the break you had indicated that (Redacted) told you that when
12 you met him you were going to be meeting the ICC. On Tuesday, you told the Court
13 that (Redacted) said that the NGO was going to help the children because they had
14 dropped out of school; that there was an NGO providing assistance to children and
15 that this NGO was going to help them get an apprenticeship in mechanics. So, I'm
16 suggesting to you now that (Redacted) told you that you and (Redacted) were going
17 to be meeting with an NGO and not the ICC. Would you accept that?

18 A. This is the situation. (Redacted) said the following: The ICC is going
19 to help us. He said the NGO helps the children get schooling after the war and
20 that's when he recruited the children to say that they were child soldiers, but
21 that was false because afterwards he denied all of that. So that's what he used
22 to attract the children as bait, but no children accepted his proposal.

23 Q. So, during this meeting that you had with (Redacted) at your home, you
24 certainly didn't give (Redacted) any money, did you?

25 A. Me, give money to (Redacted)? It's (Redacted) who should have given me money. Wasn't

1 he the one who was buying me off?

2 Q. You said you didn't know (Redacted) before this meeting. He didn't know
3 you. So you just took (Redacted)'s word for it that you would be getting money if
4 you did this; is that right?

5 A. Yes, I believed him when he mentioned money. I believed that, and all
6 of the things that we said as false evidence was because of that.

7 Q. You had no way of knowing that it wasn't a trap?

8 A. Yes, I accepted it, and he led me into a trap. It was either death or
9 life.

10 Q. You had no way of knowing that he wouldn't tell the OTP that you were
11 lying to them?

12 A. No, he didn't say that. He knew that I would say what he said to me and
13 that everything would be fine.

14 Q. He had no way of knowing that you wouldn't yourself tell the OTP that
15 this story wasn't true, did he?

16 A. When he mentioned a large amount of money, he knew he was lying and he
17 knew that he was making a lot of money. He told us that he was living comfortably.
18 He showed us his shop that was full of things. And he said, look how comfortably
19 I'm living, and that's why we followed him.

20 Q. Sir, you talk about a large sum of money. I just asked you if he told
21 you how much money you would receive, and you said, no, he did not tell me how much
22 money I was going to receive. So did he tell you how much money you were going
23 to receive or did he not tell you how much money you were going to receive?

24 A. No, he did not tell us the amount that we would receive. He said we would
25 get a house; they would buy a house for us, and we would get money to start a business,

1 and that we would live elsewhere. And since we would have the money, we would be
2 able to go discretely and live with our families.

3 Q. (Redacted) did not threaten you during this meeting, did he?

4 A. "Threaten" us? What do you mean? How? How do you mean "threaten"?

5 Q. If you didn't want to go along with this plan, all you had to do was say,
6 no; is that correct?

7 A. You're going to refuse when someone offers you money? When someone mentions
8 a large amount of money, and that's going to change your life, are you going to
9 refuse? Because for that amount of money you could sell your mother or father to
10 live happily.

11 Q. And you would be prepared to sell your mother and father to live happily
12 for money, I believe is your evidence; isn't that right?

13 A. Well, I didn't know. I don't have a father, nor a mother. They were both
14 dead; they died when I was young. What I'm saying is, I'm trying to explain how
15 things occur in our country. People were selling their family members for money,
16 and this happened. These things happened, and we couldn't refuse.

17 Q. (Redacted) didn't force you to agree to anything; is that right?

18 A. He did force me.

19 Q. Sir, you just said that (Redacted) spoke to some families, and if they did
20 not want to go to Beni they did not have to. So my suggestion to you is, that (Redacted)
21 did not force you to do anything. Would you agree with that?

22 A. You know very well, if someone powerful makes an offer to you, you think
23 that it's a good offer because he lives comfortably. Some refused, but we wanted
24 to live happily; and those of us who wanted to live better, we accepted, we tried
25 our luck and I didn't want to refuse his proposal.

1 Q. So according to you, therefore, you were willing to lie to the OTP for
2 money; is that right?

3 A. Yes. The way (Redacted) explained things, he told us to go and lie. It was
4 a lie. We knew it was a lie. So, yes, I accept indeed you can profit from a lie
5 for a given point of time, but truth is eternal; and then he fled his village and
6 went to Kisangani, where he rented a house. I don't know whether he is there or
7 someplace else.

8 Q. And you told us that (Redacted) told you he would be there to intervene and
9 to help you. (Redacted) wasn't with you in Beni, was he?

10 A. No, he wasn't with us in Beni. (Redacted) was in Bunia. He's the one who took
11 us in a vehicle and -- and then we went back, and we had a telephone to communicate
12 so we could call and ask someone to come and get us. It was (Redacted) who came to get
13 us and take us to the hotel, and that's where we went to attend the hearing; and
14 we spent two or three days, and then we went back home. (Redacted) stayed in Bunia.

15 Q. During this meeting with (Redacted), where you say a plan was hatched to lie
16 to the OTP, who was there?

17 A. I beg your pardon?

18 Q. Who was present at the meeting where you say (Redacted) asked you to lie to
19 the OTP?

20 A. (Redacted) took us in our village, and he said, if you accept this proposal,
21 you are going to live happily. You will be settled elsewhere. You will be able
22 to live someplace else. And (Redacted) said this to each child whom he spoke to. Each
23 child who went with his family member was told the same thing. It wasn't a secret.

24 Q. At your home where you say you met with (Redacted) for the first time,
25 who was there?

1 A. No, we didn't meet at my home. The day before yesterday, I explained
2 to you that we met (Redacted) at (Redacted)'s place. He went with (Redacted). And then (Redacted)
3 received money - he was given money - and (Redacted) went to go drinking, and he went
4 off to go drinking. And then when (Redacted) came back, he couldn't find him and he
5 found me. He found me with (Redacted)'s wife, and they asked me, where is (Redacted), because
6 it was time to travel, and he had been given money to travel, but he had gone off
7 to drink with the money. And when it was time to travel, he was drunk, so he couldn't
8 travel. So that's why I was to accompany the child (Redacted). I accompanied (Redacted).
9 And the day before yesterday, I already stated that.

10 Q. Sir, you've told the Court that you met with (Redacted) and that (Redacted)
11 told you what to say to the OTP investigators. Who was present when you met with (Redacted)
12 and these things were discussed?

13 A. I was with the wife of (Redacted), and he talked to me because I was supposed
14 to provide help to (Redacted), who was already drunk. I was with the wife of (Redacted),
15 whose name is (Redacted).

16 Q. So if a trip to Beni had already been planned with (Redacted) father,
17 then you must have been a last-minute replacement; is that right?

18 A. No. (Redacted) was supposed to travel. I was supposed to go with them as
19 well, with my own child.

20 Q. How long was the meeting with (Redacted) and (Redacted), approximately?

21 A. They were there. I was present myself. (Redacted) - I beg your pardon. (Redacted)
22 and I went also with (Redacted), and we left (Redacted) back at home.

23 Q. Did you spend 15 minutes discussing this with (Redacted), or 30 minutes? How
24 long did you spend talking to (Redacted) about meeting the ICC?

25 A. No. No. When I met the ICC, (Redacted) wasn't there. He sent us, but he didn't

1 go; and he told us to go in, but he didn't go in.

2 Q. Sir, you met with (Redacted) and (Redacted) and yourself; is that right? You
3 had a meeting; is that right?

4 A. It wasn't a meeting. (Redacted) found us when we were with (Redacted) at the
5 house, and it was raining and they arrived. As it was raining, he was with (Redacted)
6 (Redacted) because the father of (Redacted) -- (Redacted) went to -- into the town to get
7 money. And you see, he was to travel. They went into the city. And (Redacted) said,
8 wait for us here. We'll go get some money. And they signed the paper. And you'll
9 go back home. In the morning you, will travel.

10 And the father went off; he went off to drink. And when I came back,
11 the father was no longer -- when the father went back, they went to get him. And
12 then (Redacted) found me at (Redacted)'s place. (Redacted)
13 (Redacted). And we were there and we -- we had just eaten
14 and (Redacted) arrived. He said he was hungry. And so we gave him some food. He ate.
15 And he said, we are looking for some Mzai (phon).

16 The child jumped up to get his father, but did not find his father. And
17 he said, well, since I find you here, you have to help me; you have to go with the
18 child. And I said, yes, but who is going to take my own child, I said? He said,
19 don't worry. We will find someone to go with your child. And so that is how it
20 came to be.

21 I was supposed to go with my own child. I was going to see what was going
22 to happen with my own child. And I was told there would be assistance, humanitarian
23 assistance. (Redacted) told us, we are going to do this and that, but he didn't say
24 that. We left, and we went together with (Redacted). And he said to us, now, if you're
25 asked the question, you say this, and you must accept your life will change. You

1 won't be living the way you're living here. See how your hands are so rough, because
2 of doing field work? He said, "you will have the house bought for you". He said,
3 "You see how I'm doing, I have my own shop".

4 So I agreed. We went. We were given the money in notes. He had already
5 come to give the assistance money to be left in the house and I signed a piece of
6 paper for this money, and it was like a receipt. And we left in the morning, at
7 4 a.m., because we lived about six kilometres away. And so we went down to the
8 Limwanga market, and we took a motorcycle to get into the town. And then we took
9 a bus, and we called the children, and we went to Beni. (Redacted) stayed there. And
10 he gave us some advice, he said: Well, if they ask you this, you have to answer
11 in that way. And if you say, "yes," things will all happen very quickly.

12 Q. Sir, I'm going to ask you to focus carefully on my question so that your
13 answer can reflect my question. When you spoke with (Redacted) about this plan to
14 lie to the OTP, for how long did that discussion last?

15 A. No. It was raining. We were in the rain. We talked for about an hour,
16 but I didn't really pay attention. It was about an hour, because, you see, it was
17 raining; and the rain stopped at about 4 in the afternoon, and we went and we left
18 (Redacted) there. We left (Redacted) there.

19 Q. Did you spend an hour with (Redacted) while you ate your dinner with (Redacted)?
20 Is one hour the total amount of time you spent with (Redacted)?

21 A. We talked. And you see, we had the -- we were having a meal, and he was
22 hungry too, and we gave him something to eat. We talked for about an hour as it
23 was raining; and when the rain stopped, we went our separate ways. The rain -- if
24 the rain had not stopped, we might not have gone our separate ways.

25 Q. And so, was it during this dinner that (Redacted) discussed his plan with you

1 or was it after the dinner?

2 A. We had eaten and (Redacted) arrived. It was raining and he was -- he
3 was wet. When he was eating, as he was eating, he was telling us things.

4 Q. And if I understood you correctly, at this time you were present, (Redacted)
5 (Redacted) was present and (Redacted) was present and nobody else was present; is that right?

6 A. Yes, there were three of us because the child, (Redacted), had gone to look
7 for his father.

8 Q. And then you left for Beni the next day; is that when you left?

9 A. The next day we were together over the course of the night, and that's
10 when he brought the money, \$10, to give to the house, and it was given to the father,
11 \$10. And I made the sacrifice of travelling instead of the father. You see, these
12 were my family members, so I went with the child.

13 Q. And the \$10 was for your bus fare to Beni; is that what it was for?

14 A. No, the \$10 was the money given to the family when one was travelling.
15 The transportation -- the bus is \$15. \$20 were given; \$15 for the bus and \$5 in
16 pocket money. So we were given \$40, me and the child. \$10 was the money provided
17 to the family.

18 Q. And the next time you saw (Redacted), you say, was when you were in -- on
19 your way to Kisangani.

20 A. We took the same plane, but we left using different vehicles. We met
21 up with (Redacted) in Beni. We spent the night in the hotel. We didn't know where (Redacted)
22 was spending the night. Perhaps he was staying with a family member. We stayed
23 the night at the (Redacted) in Beni. The next morning (Redacted) arrived and we went
24 to take the plane. There were three of us. It was me, (Redacted) and the child,
25 (Redacted). We took the flight. On the fourth day we arrived in Kisangani. Kisangani,

1 we were taken to (Redacted), and that was Thursday, Friday and Saturday.

2 On Sunday we went our separate ways with (Redacted), and that was

3 around 5 p.m., and I haven't seen (Redacted) after that time. And then we went to Kinshasa.

4 Q. And you already told the Court you didn't have any telephone calls with
5 (Redacted) after seeing him in Kisangani. That's right, isn't it?

6 A. Yes, that's true.

7 Q. He didn't try to contact you to make sure that you weren't revealing this
8 plan that could get him into a lot of trouble? He didn't call you about that?

9 A. (Redacted), no, he never contacted us. He didn't have a telephone. We were
10 the ones who had a telephone. (Redacted), they took his telephone, and since then
11 we have not had any contact with him. And up until now, well, I don't know where
12 he is.

13 Q. Sir, I want to take you back to the trip to Beni. If I were to suggest
14 that this trip took place at the end of November, 2007, would you agree with that?

15 A. Yes, that's true.

16 Q. And while you were in Beni, you met with people from the Office of the
17 Prosecutor of the ICC, didn't you?

18 A. Yes, I met with them.

19 Q. You mentioned some people already. You met with an investigator, (Redacted)
20 (Redacted), right?

21 A. Yes.

22 Q. You met a woman named (Redacted); is that right?

23 A. Yes.

24 Q. (Redacted) is an interpreter, isn't she?

25 A. Yes.

1 Q. She interpreted from French to Swahili and from Swahili to French.

2 A. Yes.

3 Q. She did that so that you, (Redacted) and (Redacted) could all understand
4 each other, right?

5 A. Yes, that's right.

6 Q. You didn't tell anybody that you were having difficulties communicating,
7 did you?

8 A. Yes, that's right.

9 Q. You've said you met a woman named (Redacted); did you meet her?

10 A. Yes.

11 Q. (Redacted) is a psychologist; do you remember that?

12 A. Yes, that's right.

13 Q. She spent some time with (Redacted), didn't she, speaking to him before the
14 interview?

15 A. Yes.

16 Q. And you met investigator Nekane; do you remember her?

17 PRESIDING JUDGE FULFORD: The last answer has not come over the English
18 airwaves. Could the interpreters look back, please? The witness responded to
19 the last question, but no answer was given to us.

20 THE INTERPRETER: Message from the English booth. The French transcript
21 does not seem to show an answer to the last question.

22 PRESIDING JUDGE FULFORD: Put the question again please, Ms Samson. Thank
23 you.

24 MS SAMSON: Yes.

25 Q. Sir, you met an investigator named Nekane; do you remember that?

1 PRESIDING JUDGE FULFORD: There is clearly a problem. The witness has now
2 answered the question twice and nothing has come over the English airwaves. I'm
3 going to ask the court officer to investigate what's happened because there was
4 a clear answer.

5 THE INTERPRETER: Message from the English booth. We did not hear anything
6 from Swahili into French.

7 PRESIDING JUDGE FULFORD: Just by way of a test, could the Swahili booth
8 say something very short, please, and could that then be interpreted so that we
9 can hear if the system is working? So something from the Swahili booth, please.

10 Right. We are going to rise. This needs to be sorted out, please. Sir,
11 I am very sorry that your evidence is going to be interrupted, but there appears
12 to be a technical problem. Can the witness, please, go with the court usher. And
13 you will be told, sir, as soon as this has been resolved. Thank you very much.

14 THE WITNESS: Am I coming back today?

15 PRESIDING JUDGE FULFORD: Good. Please don't stray too far. We'll sit
16 as soon as this has been fixed. Thank you.

17 THE COURT USHER: All rise.

18 (Recess taken at 11.51 a.m.)

19 (Upon resuming at 12.12 p.m.)

20 *(Private session) Reclassified as Open session

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

22 PRESIDING JUDGE FULFORD: Yes, witness, please.

23 (The witness enters the courtroom)

24 PRESIDING JUDGE FULFORD: Sir, I'm sorry for the interruption.

25 Yes, Ms Samson.

1 MS SAMSON: Thank you, Mr President.

2 Q. Sir, before the break we were discussing the interview in Beni and some
3 of the people who were present on behalf of the Office of the Prosecutor. And I
4 had asked you if you recalled that a person named Nekane, who was an investigator,
5 was also at the meeting in Beni?

6 A. Yes.

7 Q. You met another investigator named Serge; is that right?

8 A. Yes.

9 Q. And you met (Redacted); is that right?

10 A. (Redacted) was the one we were with in Bunia. I think it was him.

11 Q. (Redacted) was with you in Bunia doing what?

12 A. I beg your pardon. (Redacted), are you referring to a white man or a black
13 man?

14 Q. I'm referring to a black man named (Redacted).

15 A. Yes. We were with (Redacted) as well, in Bunia.

16 Q. I'm asking, sir, if you were with (Redacted) in Beni.

17 A. Yes, he's the one who got us for the first time in Beni. And for the
18 second trip, it was also him who met us in Beni.

19 Q. And when he took you to Beni and you met with investigators Nekane and
20 Serge, they explained to you the purpose of the meeting; is that right?

21 A. No, they didn't say anything to me.

22 Q. Are you saying that Nekane and Serge didn't explain to you why you were
23 there and what the procedure of the interview is going -- was going to be; is that
24 what you are saying?

25 A. Yes, they told us.

1 Q. And they spent an amount of time, more than one hour, explaining to you
2 the way the interview would be conducted; that's right, isn't it?

3 A. Yes, that's true. They said, "Well, we didn't spend much time, about
4 30 minutes," but they spent a longer time with the child.

5 Q. And when they met with you, they explained that they were trying to establish
6 the truth?

7 A. Yes, they were trying to establish the truth.

8 Q. They explained that the interview was voluntary?

9 A. Yes, they said that.

10 Q. And they asked you if (Redacted) had been a child soldier in the UPC, didn't
11 they?

12 A. Yes, they asked that question.

13 Q. And you confirmed that he had indeed been a child soldier in the UPC;
14 that's right?

15 A. (The witness did not provide an answer to this question or his answer
16 was not interpreted from Swahili.)

17 Q. And none of the people that you met in Beni, who worked for the Office
18 of the Prosecutor, were with you when met with (Redacted) and (Redacted); is that right?

19 A. No, there was no one else. We were only with him and the person who brought
20 the phone, (Redacted), was with (Redacted).

21 Q. And when was (Redacted) with (Redacted)?

22 A. It was when we were in Kinshasa that the phone was brought in. We spent
23 three months in Kinshasa.

24 Q. Sir, you'll remember that just now we went through a list of people who
25 were in Beni, working for the Office of the Prosecutor. Do you remember that we

1 went through that list just now?

2 A. The names of the persons that I saw in Beni, yes, I know those names.

3 I knew them. I knew the names.

4 Q. And you will agree with me, won't you, that none of the people that you
5 saw in Beni were with you in Bunia when you had a meeting with (Redacted) and (Redacted);
6 do you agree with that?

7 A. We were with (Redacted) and (Redacted); there were three of us only. And (Redacted)'s
8 task was to go and find his father.

9 Q. Yes. And you've said that (Redacted) met with the OTP investigators separately
10 while you were in Beni, at times when you were not there; is that right?

11 A. Beni, in Beni we were with (Redacted). We met them. After I met with them,
12 we went to the hotel and they took (Redacted) with them.

13 Q. And it's right, isn't it, that the investigators spent several days meeting
14 with (Redacted); is that right?

15 A. Yes, yes. Sometimes they spoke when I wasn't there; sometimes I was there.

16 Q. And at no time during your trip to Beni did you tell any OTP official
17 there that (Redacted) had never been in the UPC as a child soldier; correct?

18 A. No, no. When the UPC was there, (Redacted) was still a child.

19 Q. The question, sir, is: You didn't tell anybody when you were in Beni
20 that (Redacted) was not a UPC child soldier; am I right in that?

21 A. Me? State to someone that he had never been a child soldier? -- No, perhaps
22 we're not understanding each other very well because sometimes your Swahili is not
23 the same as mine. The questions I am being asked have no relation to the answers
24 I'm giving. You have to ask very clear questions so that I can answer very clearly.
25 You have to speak clearly because it's up to the Judges to then decide. I, well,

1 it seems to me like we are backtracking. Maybe it's a problem of language, of Swahili,
2 maybe we're not understanding each other. Perhaps if I spoke French, it would be
3 better.

4 PRESIDING JUDGE FULFORD: Try again, Ms Samson.

5 MS SAMSON:

6 Q. Sir, you've already confirmed that when you were in Beni, you told the
7 OTP - the Office of the Prosecutor - that (Redacted) had been a child soldier. That's
8 right, isn't it?

9 A. Yes. That's what we had planned with (Redacted), that we had to accept that
10 he had been a child soldier. (Redacted) had accepted, and I also confirmed because
11 there was money involved.

12 Q. Right. And so it's correct as well, then, isn't it, that you didn't tell
13 any of the Office of the Prosecutor's staff in Beni that (Redacted) was not a child
14 soldier?

15 A. I said the following: I said that I accepted that (Redacted) was a soldier.
16 We accepted that (Redacted) was a soldier, and yet he was not a soldier. They had
17 encouraged us to say that because of the money. We were asked if (Redacted) was a
18 soldier at the time of the UPC.

19 Q. I understand that, sir. My question really is: You didn't tell anybody
20 in Beni that you were lying about (Redacted) being a child soldier?

21 PRESIDING JUDGE FULFORD: I think this is clear, Ms Samson. I think really all
22 you are doing now is emphasising the point. So, we have it. So, next point please.
23 Thank you very much.

24 MS SAMSON: Thank you.

25 PRESIDING JUDGE FULFORD: Don't worry about answering, sir.

1 MS SAMSON:

2 Q. And during this trip in Beni, sir, you've already indicated that you were
3 asked to sign some documents. You remember signing documents?

4 A. Yes, I signed a document, and I stated that before. I signed several
5 documents and there are several signatures on various documents.

6 Q. And you've indicated that you remember signing a consent form for X-rays
7 to be taken of (Redacted); that's right?

8 A. Yes, I signed that as well.

9 Q. And the X-rays were being taken in order to determine (Redacted)'s age;
10 isn't that what you were told?

11 A. They didn't tell me that. They didn't say that.

12 Q. Sir, I'm going to show you that document, and we can take a look at it
13 together.

14 PRESIDING JUDGE FULFORD: Now, Ms Samson, I think we're going to need
15 the assistance of one of the interpreters for this. Right. We are going to have
16 to go into closed session so someone can come down, please.

17 *(Closed session at 12.30 p.m.) Reclassified as Open session

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

19 (The interpreter enters the courtroom)

20 PRESIDING JUDGE FULFORD: Public or private, Ms Samson?

21 MS SAMSON: Private, your Honours, since I will be discussing (Redacted).

22 PRESIDING JUDGE FULFORD: Private session, please.

23 *(Private session at 12.32 p.m.) Reclassified as Open session

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

25 PRESIDING JUDGE FULFORD: Sir, thank you very much for coming down.

1 Ms Samson is about to ask the current witness some questions on some documents.
2 What I would ask you to do, please, is to take the witness to the relevant portions
3 of the documents and to make sure that he has read the passages that Ms Samson points
4 out. And, if necessary, if you could translate them for him, please. Is that clear?

5 THE INTERPRETER: Yes.

6 PRESIDING JUDGE FULFORD: Good. Thank you very much indeed.

7 Yes, Ms Samson.

8 MS SAMSON: Thank you, your Honour.

9 PRESIDING JUDGE FULFORD: And if we can make sure that we have the assistance
10 of the usher, where necessary, to help identify the appropriate portions. And go
11 at an separate speed, Ms Samson, to make sure that the witness has had an opportunity
12 of having translated to him the various sections that you are going to be putting
13 to him.

14 MS SAMSON: Thank you, I will do so.

15 PRESIDING JUDGE FULFORD: Good, please proceed.

16 MS SAMSON:

17 Q. Sir, there's a binder of documents in front of you. If I could ask you
18 to turn to tab 1, please.

19 For the assistance of the court officer and anyone else in the courtroom,
20 the ERN of this particular document is DRC-OTP-0180-0151. And perhaps it's obvious,
21 but it's not a document that should be distributed to the public.

22 PRESIDING JUDGE FULFORD: Good. All right. Let's carry on.

23 MS SAMSON:

24 Q. Sir, is that your signature towards the end of the document?

25 A. Yes, that is my signature.

1 Q. And it is dated 1 December 2007; is that right?

2 A. Yes, that is true.

3 Q. And you signed, sir, as (Redacted); is that right?

4 A. Yes, that is true.

5 Q. And if I could ask you, with the assistance of the interpreter, to read
6 the first full paragraph, starting with the words, and I will read in French, "Je
7 soussigné (Redacted)."

8 PRESIDING JUDGE FULFORD: Good. So, Mr Interpreter, if you could then
9 read out that passage quietly to the witness, please.

10 THE INTERPRETER: In French or in Swahili?

11 PRESIDING JUDGE FULFORD: In Swahili, please.

12 THE INTERPRETER: I, (Redacted), was informed on 1 December 2007 by investigators
13 Nekane Lavin (phon) and Serge Sambou that the Office of the Prosecutor of the
14 International Criminal Court, within the framework of the Lubanga affair, would
15 like to take the following X-rays for forensic purposes, namely, to determine the
16 age of my son, (Redacted). It being understood that the necessary precautions
17 will be taken to protect my son, (Redacted), against unnecessary exposure
18 to radiation, I hereby give my express consent for the X-rays shown below: first
19 of all, X-ray of hand and wrist; second, X-ray of mandible or orthopantomogram.
20 And I hereby also consent that a member of the Office of the Prosecutor is present
21 together with my son, (Redacted) during the taking of the X-ray
22 examinations. Signed this 12th day of the 1st month of 2007 in Beni. Signed in
23 the presence of investigators Nekane, Lavin and Serge Sambou and interpreter the
24 interpreter (Redacted), on the first day of December 2007 in Beni.

25 MS. SAMSON:

1 Q. Sir, have you had sufficient time to understand what the document says?

2 A. Yes, I understand and I know what this is about. I am not challenging
3 this document. I previously agreed that I did sign some documents, and if someone
4 wishes to contradict me, if they want to say that I did not, well, I did sign the
5 documents. I agreed to everything.

6 Q. Nobody disagrees with you, sir, that you signed this document, but the
7 document was signed in the presence of the interpreter; is that right?

8 A. Yes, that is true.

9 Q. Is it right then, sir, that you were told in December 2007 that the X-rays
10 were being done in the Lubanga case in order to determine the age of (Redacted)?

11 A. Yes.

12 Q. While you were in --

13 MS SAMSON: Well, excuse me, your Honour. For the moment, I have no other
14 document, but I am not certain if another document will come up in terms of the
15 interpreter's time.

16 PRESIDING JUDGE FULFORD: If you've got nothing planned for the moment
17 and you can't see anything immediately on the horizon, Ms Samson, we are not going
18 to be sitting all that much longer before lunch, I'll release the interpreter. Does
19 that sound sensible to you?

20 MS SAMSON: If it wouldn't too much of an inconvenience for the interpreter
21 to wait the extra 15 minutes, just on the off-chance something comes up. Would
22 that be -- would that be all right?

23 PRESIDING JUDGE FULFORD: I am sure he would be prepared to do so. Good.
24 Carry on, please.

25 MS SAMSON: Thank you.

1 Q. And, sir, during the interview in Beni at the Office of the Prosecutor,
2 Nekane and Serge explained to you, didn't they, the importance of keeping confidential
3 the information you were discussing with them?

4 A. I didn't deal with (Redacted). Serge had no problem with that; he had no
5 problem with me. He could not know what is in my heart, he is not God.

6 Q. No, sir. I think you misunderstood what I was saying. It's right, isn't
7 it, that the investigators explained that, for your own safety, it would be better
8 if you didn't tell people that you had met with them in Beni; isn't that right?

9 A. Yes, that's right, he told me that.

10 Q. Because, as we discussed earlier today, people did tell others that you
11 were in Beni, and you reported that you had been questioned about that; isn't that
12 right?

13 A. Yes.

14 Q. Who questioned you about meeting the Office of the Prosecutor?

15 A. Please repeat your question. Are you talking about someone who might
16 have questioned me in Bunia or in Beni, or something about the discussions in Bunia
17 or Beni?

18 Q. Let me make it clearer. After you left Beni and you went to Bunia, you
19 were questioned for allegedly plotting against Thomas Lubanga, isn't that what
20 happened?

21 A. Yes, that's true. (Redacted)

22 (Redacted). And

23 there are people who, even today, were shocked.

24 Q. Who questioned you for allegedly plotting against Thomas Lubanga?

25 A. It was someone who left with me to go to Beni. It wasn't about -- it

1 wasn't people who had heard about that. It was someone who went to Beni with me.
2 And since I went to Beni twice, he said I was going there for political reasons.
3 And we had an argument after that, and we have since become enemies. I have become
4 an enemy to these -- to these people.

5 Q. And could you tell me this person or these persons' names, to whom you
6 are now an enemy?

7 A. There's no problem now. In fact, the problem had to do with me and Simbuso,
8 because he was bandying my name about all over the place; but since I don't go to
9 the village anymore, I don't have any troubles with him. It was only at that time
10 when we left together in that matter; but today, there is no problem between me
11 and Simbuso.

12 Q. Do you know if Simbuso is a chef de quartier?

13 A. He is assistant chef for the avenue, not for the neighbourhood. You have
14 to distinguish between the avenue and the neighbourhood.

15 Q. Which avenue is he the assistant chef de quartier for?

16 A. He is the assistant chief for the Yalala Avenue in the Simbiliabo
17 neighbourhood.

18 Q. And you say you don't have any problems with him anymore; is that right?

19 A. I have no problem with him.

20 Q. You've indicated that (Redacted). And while
21 you were in (Redacted), you were in touch with field staff of the Office of the Prosecutor?
22 I believe you've said that.

23 A. Yes, that is true.

24 Q. And if I were to suggest that you moved to (Redacted) in
25 mid-January 2008, would you agree that that was when you moved?

1 A. Yes, you are right.

2 Q. And you spent approximately one month in Kinshasa at this point; is that
3 right?

4 A. No. It was more than a month; it was about three months.

5 Q. If I were to suggest that you left Kinshasa in the middle of February
6 2008 to go back to Bunia, would you accept that?

7 A. I stayed at the (Redacted) in the (Redacted) commune, and I stayed
8 there for about three months.

9 Q. Was there at no time during your trip to Kinshasa did you go back to Bunia,
10 is that what you're suggesting?

11 A. I went back to Bunia, but after that I returned a second time to Kinshasa.

12 Q. And if I were to suggest that you left Kinshasa the first time in February
13 2008 to go back to Bunia, does that sound like it's about the right time period?

14 A. I arrived in January, but I went back to Bunia in March or April.

15 MS SAMSON: Your Honour, may I have one moment, please, to consult my
16 documents.

17 (Pause in proceedings)

18 Q. I will come back, sir, to the issue of that date, but we are agreed in
19 any event that by March you were back in Bunia; is that right?

20 A. Yes, around April.

21 Q. Sir, when you were in Bunia in March, you signed a consent form, didn't
22 you, permitting an interview to take place between (Redacted) and the Office of the
23 Prosecutor in Kinshasa. Do you remember that?

24 A. But I was in Bunia.

25 Q. Yes, in March 2008, it's my suggestion that you were in Bunia. Do you

1 agree?

2 A. Yes. I'm telling you, yes, that's true, I was in Bunia. You should
3 understand me. You should understand my Swahili. I was in Bunia; and at that time,
4 I signed a document, a letter concerning that child, to give my agreement.

5 Q. And while you were in Bunia, you reported to the Office of the Prosecutor
6 that there had been an incident involving Claude Ndjango; is that right?

7 A. Yes, that's true. There was a plan that they had drawn up with our
8 cooperation, but the plan was based on a lie.

9 Q. And you reported to the OTP that Claude had been questioned by ex-UPC
10 members; that's right?

11 A. It was a lie. It was a lie.

12 Q. So you lied to the Office of the Prosecutor, is your evidence, about threats
13 received by Claude Ndjango, is that what we are to understand?

14 A. We were told to say that if we wanted to be relocated.

15 Q. And who told you what to say?

16 A. We were with (Redacted). And he said that we had to do everything to be relocated
17 like (Redacted) and taken to Kinshasa, perhaps, because Sumbuso (phon) was also taken.
18 I refused, and I stayed for about a month. And the children began to cry, and asked
19 things of me because they had been put up in different families whereas they wanted
20 to stay together. And then I said, I will come, but it was a lie. It was a way
21 for us to get money. And since the money we had been promised did not come, I went
22 to Kinshasa for the second time, but they were pure lies that we were telling to
23 get money.

24 PRESIDING JUDGE FULFORD: Ms Samson, we are going to have break soon,
25 at a convenient moment to yourself.

1 MS SAMSON: This is a convenient moment. Thank you.

2 PRESIDING JUDGE FULFORD: Thank you very much.

3 Sir, thank you. It's lunch-time. Again, our gratitude to you for your
4 assistance this morning, and we look forward to seeing again in two-hours' time
5 at 3.00 in the smaller courtroom.

6 Usher, can you help the witness, please, and we need to go into closed
7 session, so the interpreter can leave.

8 Usher, can you help the witness, please? And we'll need to go into closed
9 session so the interpreter can leave.

10 *(Closed session at 1.00 p.m.) Reclassified as Open session

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

12 (The witness stands down)

13 (The interpreter exits the courtroom)

14 PRESIDING JUDGE FULFORD: Ms Samson, this isn't at all meant critically,
15 it's in the spirit of inquiry. How much longer approximately do you think?

16 MS SAMSON: I will certainly try to be finished at the end of the day.

17 PRESIDING JUDGE FULFORD: Thank you. Good. 3 o'clock on level 4.

18 THE COURT OFFICER: All rise.

19 (Luncheon recess taken at 1.00 p.m.)

20 RECLASSIFICATION REPORT

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

25