

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Closed Session)
Procedural Matters

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1 International Criminal Court

2 Trial Chamber I

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

4 Case against Thomas Lubanga Dyilo

5 Hearing - * Closed Session - Reclassified as Open session

6 Tuesday, 24 February 2009

7 The hearing starts at 9.32 a.m.

8 COURT USHER: All rise. The International Criminal Court is now
9 in session. Please be seated.

10 PRESIDING JUDGE FULFORD: Good morning. If we're ready, witness,
11 please.

12 (The witness takes the stand at 9.32 a.m.)

13 WITNESS: WITNESS DRC-OTP-WWW-0213 (Resumed)

14 (Witness answered through interpreter)

15 (Open session)

16 PRESIDING JUDGE FULFORD: I think we're in open session,
17 Maitre Mabilille; is that right?

18 MS. MABILILLE (interpretation): Yes.

19 (Mr. Lubanga entered court)

20 PRESIDING JUDGE FULFORD: Good morning, Mr. Lubanga. Please have
21 a seat.

22 Mr. Sachdeva, before we return to the questioning by

23 Maitre Mabilille of Witness 213, can I address the bar through you on two

24 issues. First of all, your application for an extra 24 hours in relation

25 to the video descriptions is granted, 4.00 p.m., Wednesday, please, for

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1 that.

2 MR. SACHDEVA: Thank you very much, Mr. President.

3 PRESIDING JUDGE FULFORD: Certainly. Secondly, as of next
4 Monday, we will implement the revised court sitting schedule. The effect
5 of that is, we will not be sitting on Mondays hereafter, but we will be
6 sitting an extended day Tuesday, Wednesday, Thursday, Friday, two one and
7 a half hour sessions in the morning and a two-hour session in the
8 afternoon. The Victims and Witnesses Unit have been consulted on this,
9 and as I understand it, the arrangements for next week in relation to
10 witnesses will not be interrupted significantly if we implement that
11 schedule.

12 MR. SACHDEVA: Thank you very much, Mr. President. That's very
13 good.

14 PRESIDING JUDGE FULFORD: Thank you very much indeed.
15 Yes, Maitre Mabilille.

16 MS. MABILILLE (interpretation): Good morning, Mr. President,
17 Mr. Witness.

18 Questioned by Ms. Mabilille: (Continued)

19 Q. Good morning, Witness.

20 A. Good morning.

21 MS. MABILILLE (interpretation): Court usher, please can you hand
22 these documents to the witness. Here is the statement of the witness in
23 French and in Swahili.

24 Q. These are documents, Witness, which you saw yesterday. Witness,
25 yesterday we stopped at the point where I was asking you questions on

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1 your second enlistment. I would like to put to you a few questions on
2 the first time that you were enlisted. Yesterday, you informed us that
3 you were returning from school together with five friends when you were
4 enlisted. Later on you said, "We were about to reach school, and it was
5 at that time that we met the soldiers."

6 My question is the following: At the time you were abducted, were you
7 returning from school or were you about to reach school? Do you remember?

8 WITNESS: No interpretation.

9 PRESIDING JUDGE FULFORD: Could I ask you to answer the question
10 again please because I don't think anybody heard it.

11 THE WITNESS (interpretation): Yes.

12 PRESIDING JUDGE FULFORD: Were you going to school or coming home
13 from school when you were with your five friends and met the soldiers?

14 THE WITNESS (interpretation): We were going to school.

15 PRESIDING JUDGE FULFORD: Thank you.

16 MS. MABILILLE (interpretation): Thank you.

17 Q. Witness, on this particular point, can I read what you told the
18 investigators, and here I'm talking about paragraph 22, paragraph 23, and
19 paragraph 24 of the statement which you have in front of you. I am going
20 to read these three paragraphs to you.

21 "Kasangaki and his soldiers were wearing combat fatigues. They reached
22 (Redacted) in the morning while I was at home in (Redacted). I knew they had
23 arrived because they came causing a lot of disturbances. There were
24 gun-shots, and after that UPC soldiers brought together women, the old
25 people, and the children of the village. I left the house to go and see

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1 what was happening, but I did not know that their intention was to catch
2 people. The other inhabitants of the village were watching on from their
3 homes. As soon as I stepped out of the house I was caught by a
4 militia member whom I saw for the first time. He was armed with a SMG,
5 and he told me that if I tried to flee he was going to shoot me.

6 "There were many other people in the village who were taken
7 forcibly. MLC soldiers were carrying small arms and SMGs. Some of the
8 SMGs had bayonets. There were also G2s as well as grenades. At that
9 time I didn't know the type of weapon that these militia members were
10 carrying. It was later on when I was undergoing military training under
11 the UPC that I learned how to make the difference between the various
12 weapons."

13 I would like to conclude with paragraph 24:

14 "The UPC soldiers had brought together all the people of the
15 village and assembled them on a piece of land which was after the centre
16 of (Redacted). It was a commander -- the brigade Commander Kasangaki who was
17 giving orders. I knew it was him because amongst all the other people
18 who knew him before and who said that this was the brigade commander
19 Kasangaki."

20 Witness, this version of events that you gave to the investigators
21 is different from what you told us subsequently. My question is simple:
22 Is this version the accurate version or is the accurate version what you
23 told us here in court?

24 A. You have said that this version is different from what I said.
25 Where is the difference? I think that my statement is clear, and you

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1 have read it, yet you say it's different from what I said, but I don't
2 see the difference between the two versions, because I gave my statement,
3 and I've also given testimony.

4 Q. I will try to tell you the differences that I have noticed.

5 THE INTERPRETER: The President's microphone is on.

6 PRESIDING JUDGE FULFORD: Sorry, Maitre Mabilille, my microphone
7 was on and it shouldn't have been, but I see Ms. Bensouda is on her feet.
8 What's the issue, Ms. Bensouda?

9 MS. BENSOUDA: Mr. President, on line 10 --

10 PRESIDING JUDGE FULFORD: It's been dealt with.

11 MS. BENSOUDA: Thank you.

12 PRESIDING JUDGE FULFORD: I just want to confirm that the witness
13 does have the Swahili and French versions of the statements. Yes.
14 I'm sure he did. I see the Court Officer nodding. Good.

15 Yes. Please carry on, Maitre Mabilille.

16 MS. MABILILLE (interpretation):

17 Q. Witness, you told us -- in fact, today you told us that you were
18 returning from school -- today you told us that you were going to school
19 at the time you were abducted by UPC soldiers. When I read paragraph 22,
20 the paragraph I just read out to you, I read that you said:
21 "While I was at home in (Redacted), I knew they had arrived because
22 they were causing a lot of disorder."

23 You said:

24 "UPC soldiers brought together the women, the old people, and the
25 children of the village. I stepped out of the house to see what was

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1 happening."

2 You said:

3 "I stepped out of the house to see what was happening." You no
4 longer say, "I stepped out because I was going to school."

5 You carry on saying:

6 "I did not know they were going to catch people. The other
7 inhabitants of the village were watching the events from their homes."

8 In the second part you say:

9 "As soon as I stepped out, I was caught by a militia member whom
10 I was seeing for the first time."

11 When you gave your testimony here, you said that you were with
12 five of your friends on the road when you were abducted, and this is not
13 consistent with what is written in your statement. It is also written
14 here that:

15 "There were many other villagers who were taken by force. The
16 militia members were carrying small or light arms and SMGs."

17 In paragraph 24 you say: "The militia members of the

18 UPC assembled the people of the village, including myself. "

19 PRESIDING JUDGE FULFORD: Maitre Mabilie, I'm going to interrupt.

20 This is far too long. If you want to put specific
21 differences to the witness, then please isolate them and put
22 them, but doing it compendiously in this way is highly unlikely to
23 produce the answer you are looking for. So if you -- if
24 you do want to put specific differences, please put them.

25 The other thing I want to say is this, please: I understand this

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1 is difficult, but if we could avoid, when reading out from the statement,
2 the name of the village, that would be helpful because on each and every
3 occasion that it's mentioned we have to make an order for redaction. So
4 could you please bear that in mind. Thank you very much.

5 MS. MABILLES (interpretation): Yes, your Honour. Just one
6 minute, please.

7 (Defence counsel confer)

8 MS. MABILLES (interpretation):

9 Q. Witness, were you on an isolated road or in the centre of the
10 village when you were abducted?

11 A. We were on the road somewhere else.

12 Q. When you described the scene about the militia members who gather
13 the women, the old people, and the children of the village, you say: "I
14 stepped out of the house to see what was happening." Now, this scene
15 where the militia members were gathering together the women, the old
16 people, and the children of the village, where did this scene take place?

17 A. This scene took place in (Redacted).

18 Q. Did this happen at the centre? Because later on you say: "I
19 stepped out of the house to see what was happening." Does this mean
20 that when you stepped out of the house you could see this scene taking
21 place?

22 A. Your explanation is different from what I said. Ask me a
23 question which is clear and I will give you an answer which is clear.
24 Some of your questions will lead me away from what I said, and I don't
25 want to say something that is contrary to what I said earlier.

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1 Everything I said is found in the statement you have in front of you.

2 But if you put the questions to me in this manner, this is going to upset
3 me, and I think this can -- I think these questions are intended to
4 complicate things for me. That seems to be your objective.

5 I cannot answer certain questions which are difficult for me. I
6 cannot answer them.

7 Q. You said in paragraph 24: "UPC militia members gathered the
8 people of the village, including myself, on a field which was found after
9 the centre of (Redacted)."

10 Where were you gathered together, and where were you abducted?
11 Those are my questions.

12 A. I have explained to you. Now, I would like to know what
13 abduction are you talking about? I do not understand which of the
14 abductions you're talking about.

15 PRESIDING JUDGE FULFORD: I'm sorry Maitre Mabilille, Ms. Bensouda
16 wanted to intervene. Yes, Ms. Bensouda.

17 MS. BENSOUDA: Mr. President, we're still having the problem with
18 the name of the village.

19 PRESIDING JUDGE FULFORD: On each and every occasion in relation
20 to the name of the village there's a redaction order.

21 MS. BENSOUDA: Thank you.

22 PRESIDING JUDGE FULFORD: Right. Can we clarify
23 which abduction we're talking about, Maitre Mabilille, please.

24 MS. MABILILLE (interpretation): I apologise.

25 Q. Witness, I think I said this at the beginning. I'm talking about

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1 the first time you were abducted.

2 A. Yes.

3 Q. On this first abduction, while we were talking yesterday, you
4 gave us information stating that you were returning from school, and on
5 another instance you said you were going to school, and this morning you
6 clarified that it happened while you were going to school, and so now I
7 would like to know from you how this actually happened. And I read out
8 to you the different paragraphs in your statement which gave me the
9 impression that you were at home, that you stepped out of your house,
10 there were gun-shots, and UPC soldiers gathered the women, the old
11 people, and the children of the village. And when you stepped out of
12 your house to see what was happening, you didn't know that these soldiers
13 had the intention of catching people.

14 So I would like to know from you whether what is found in your
15 statement is consistent with what actually happened to you. I just wish
16 to get some clarification from you.

17 THE INTERPRETER: The interpreter did not hear what the witness said.
18 MS. MABILILLE (interpretation):

19 Q. Can you repeat what you just said, Witness, because the
20 interpreter has stated that he did not hear what you said.

21 A. This is what I said: Can you repeat your question so that I can
22 understand you better?

23 Q. I am asking you whether the militia members of the UPC actually
24 gathered the women, the old people and the children of the village
25 together, and it was at

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1 that time that you stepped out of your house to see what was happening.
2 Is that the case?

3 A. You were talking about my second abduction and now you've gone
4 back to my first abduction. That is why I did not understand.

5 Q. Witness, when I took the floor this morning I told you that we
6 had started talking about the second abduction, but I will start by
7 asking you questions on the first abduction. So what we are talking
8 about now is your first abduction, and on your first abduction you stated
9 yesterday that you were going to school with five of your friends when
10 this happened, and I'm trying to understand how consistent what you said
11 yesterday is with what is found in your written statement which you gave
12 to the investigators.

13 So my question is: You stepped out of the house, and at the time
14 you stepped out of the house UPC soldiers were gathering together the
15 women , the old people and the children of the village; is that
16 correct?

17 A. I have only now started understanding what you are saying. The
18 question is clear, and my answer is clear. What you just repeated is my
19 answer, and it is clear.

20 Q. Are you saying that what I read in the statement is accurate?

21 A. Yes. Everything is found in my statement.

22 Q. Very well. Still on the first abduction, I would like to ask you
23 a second question. You told us on this first abduction that you were
24 taken by UPC soldiers who took you to go and undergo training. You said:
25 "We underwent training in the village," which you know. I don't want to

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1 give the name. I am referring here to the village you know. Is that
2 correct? I'm talking about the first abduction here. You told us
3 that you were taken by UPC soldiers, that the soldiers took you to go and
4 train you, and that you underwent training in the area where you were
5 living at the time; is that correct?

6 A. That's correct.

7 Q. Just as we did the first time, I would like to read out to you
8 paragraph 32, paragraph 32 of your statement in which you say -- sorry,
9 let me move further up in the document. Paragraph 25.

10 "UPC militia members took us to a village nearby," I will not
11 give the name here, "to go and get weapons and ammunition. We did not
12 try to escape during this trip because the armed soldiers of the UPC were
13 in front and behind us. When we arrived at about 10.00 a.m., the militia
14 members who were guarding the area were opening up a hole in which they
15 had buried crates of weapons and ammunition. They asked us to take the
16 crates, and I had carried a very heavy one containing G2 cartridges. The
17 militia members told me so. And on the crate it was written '250' to show the
18 number of cartridges, I do not know where these weapons came from.

19 26. Some of us carried crates of ammunition and others carried crates of
20 dismantled weapons. I don't know how many of us were carrying these crates.
21 The militia members were not carrying any crates. On the same day we left
22 this village to go towards Rwampara, and around 9 p.m. we reached
23 the village of Commander Kasangaki. This village is found after Rwampara."
24 I will stop there for a second.

25 PRESIDING JUDGE FULFORD: You just read out a very long passage,

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1 and I want to make sure from the witness that he has been able to
2 follow that in the statement. Can I ask you, sir, have you been able to
3 find the part that Maitre Mabilille has been reading?

4 THE WITNESS (interpretation): I did not fully understand because
5 she's very fast when she's reading.

6 PRESIDING JUDGE FULFORD: Maitre Mabilille, what in fact happened
7 was that you identified one paragraph, I think it was 32. You then very
8 quickly identified another paragraph, and without waiting to see whether
9 the witness had found the right place in the statement, you then launched
10 in to reading two quite long paragraphs quite quickly. And watching the
11 witness from where -- from where he's sitting, it certainly appeared to
12 me that he was trying to find the relevant place in the statement.

13 Now, we've got to do this slower. If you wish to put what you
14 suggest are contradictions, you've got to make sure that the witness is
15 at the right place in the statement, and we've got to break this up
16 because reading out very long sections in this way and then putting
17 compendious questions on the basis of them, I'm sorry to repeat myself,
18 but it is not going to help us.

19 Now, can we please start this exercise again, and I'm going to
20 ask the Court Officer to go over, please, for a moment, to where the
21 witness is to make sure that the witness has the right paragraph number
22 and that he's reading from it.

23 It's paragraph 25.

24 MS. MABILILLE (interpretation): Would you like me to re-read the
25 paragraph, because I might have read it quite fast.

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1 PRESIDING JUDGE FULFORD: Yes.

2 MS. MABILILLE (interpretation):

3 Q. I'm reading paragraph 25, and I shall read more slowly.

4 "UPC soldiers, so, took us to a village which is close to," and
5 there I won't cite the name of the place, "to go and get weapons and
6 munitions. We did not try to run away during the journey because UPC
7 armed militiamen were before us and behind us. When we arrived at around
8 10.00 in the morning, the soldiers who were guarding that place were in
9 the process of opening a pit where they had buried crates of arms and
10 munitions. Then they ordered us to take the crates. I took one, which
11 was very heavy, and it contained rounds of G2. It was the militiamen who
12 told me that. On the crate it was indicated '250.' That was the number
13 of bullets contained in the crate. I do not know where these weapons and
14 munitions came from."

15 And now I will go to paragraph 26, and I'm going to put you a
16 question in relation to this paragraph:

17 "Some of us carried crates of munitions and others crates
18 containing weapons which were already dismantled. I don't know how many
19 carriers there were. The militiamen did not carry the crates. The same
20 day we left that village to go to Rwampara, and at about 9.00 in the
21 evening we arrived in the village of Commander Kasangaki. That village
22 is located after Rwampara."

23 Now, Mr. Witness, I would like to draw your attention to the
24 sentence:

25 "The same day we left that village to go to Rwampara, and at

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1 about 9.00 in the evening we arrived in the village of
2 Commander Kasangaki."

3 Now, I would like to put a question to you on this point. I had
4 understood that -- during this first abduction, I had understood that you
5 had stayed in a camp, and I won't cite the name but the camp we have
6 spoken of. Did you stay in that camp to be trained, or did you go to a
7 village which is after Rwampara?

8 A. Yes. We went to a village which is not far to -- far from
9 Rwampara to bring some munitions there.

10 Q. How much time did you spend in that village?

11 A. We didn't stay long in that village.

12 Q. Can we now move forward to paragraph 29, Mr. Witness. May I read
13 it to you?

14 "Later we wanted to return, but the soldiers did not let us go.
15 We had to sleep in a kind of shed. The UPC militiamen guarded the house
16 where we were sleeping so that we couldn't run away. We spent a week in
17 that military camp. I know that because we arrived on a Tuesday and we
18 left on about the following Tuesday."

19 Witness, here we are speaking of the camp which is located after
20 Rwampara?

21 A. Yes.

22 Q. So you spent time in that camp, and it is from that camp that you
23 fled subsequently?

24 A. Yes.

25 Q. So when you escaped you didn't escape from the camp, which we

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1 have already discussed and the name of which I will not cite, but,
2 rather, you escaped from this camp which is located in the village after
3 Rwampara?

4 A. You're -- are you talking about the camp located not far from
5 Rwampara?

6 Q. I'm asking you when you escaped, when you ran off from that camp
7 that was -- was it the one located beyond Rwampara?

8 A. Yes. It's a camp, and I don't remember what its name was, but
9 it's from that I -- I fled.

10 Q. So when we understand from your first statement that you had fled
11 from the camp which was located close to your home and fled from there,
12 we have misunderstood?

13 A. You are talking about a camp located not far from our home, but
14 our home isn't at Rwampara. * Our home is in (Redacted).

15 Q. In your first statement, Witness, you told us how you escaped
16 after your first abduction, and you told us how you had escaped from a
17 camp located near to your home and whose name I am not citing.

18 Now, today I'm asking you, when you re-read your statement,
19 whether you fled from the camp located close to Rwampara.

20 A. No. I have no answer to give to you -- to your question because
21 your question's not clear.

22 Q. Okay. I will reword my question. After your first abduction you
23 told us that you had escaped, you had fled. Did you flee from the camp
24 near the place where you lived - and I won't mention the name of that
25 place - or from a camp which is located close to Rwampara?

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1 A. It was from the camp that what -- was located not far from
2 Rwampara, and after that we went home.

3 MS. MABILLE (interpretation): Your Honour, could I request a
4 closed session in order to put my question with greater ease.

5 PRESIDING JUDGE FULFORD: Well, of course, Maitre Mabilille, you
6 can. I think that the witness has just answered your question, but let
7 us go into closed session.

8 MS. MABILLE (interpretation): Excuse me, your Honour. Perhaps I
9 was distracted for a moment. If I might just have an instant.

10 (Defence counsel confer)

11 MS. MABILLE (interpretation): Please excuse me. I had not heard
12 the answer. So in fact I do not need a closed session.

13 PRESIDING JUDGE FULFORD: We remain in open session.

14 MS. MABILLE (interpretation):

15 Q. Witness, I'm going to finish now with the matter of your first
16 abduction, but why did you tell us in your statement before the Court
17 that you spent time in training in the camp, the name of which you know,
18 and not that you had left to be in another place?

19 A. What did you say, that I stated what?

20 PRESIDING JUDGE FULFORD: Maitre Mabilille I'm going to interrupt.

21 I think not mentioning the name

22 of the original camp mentioned by the witness is

23 probably, in fact, on this occasion not being helpful. So I think for a

24 moment we'll go into closed session so that you can put both names

25 clearly so there's no mystery about it.

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1 So blinds up, closed session, please.

2 *(Private session at 10.13 a.m.) Reclassified as Open session

3 PRESIDING JUDGE FULFORD: Thank you. So I think, Maitre Mabilille,
4 the position is that yesterday the witness referred to the camp in Lopa,
5 the centre of Debelo, which was both a military and a training camp. So
6 I think we need to distinguish that camp from the one that was close to
7 Rwampara. Thank you.

8 MS. MABILLE (interpretation):

9 Q. Right. The Presiding Judge has just summarised the situation.
10 Yesterday you told us that when you were first abducted you spent time in
11 Lopa camp, and you told us that it was with a military camp and a
12 training camp. That's what you told us yesterday. Am I right about
13 that?

14 A. Yes, that's right. Lopa camp was both a military camp and a
15 training camp.

16 Q. But yesterday you told us that you spent the time, we talked
17 about one week and later we talked about three and a half weeks, and you
18 said that you spent that time in the military training camp of Lopa. Do
19 you remember telling us that?

20 A. Yes.

21 Q. So yesterday at no time, nor in the preceding days, did you speak
22 about the fact that you were in a camp which was close to Rwampara; is
23 that right?

24 A. You are saying that I was in a camp which was beside Rwampara; is
25 that your question?

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1 Q. Witness, what I have said is that this morning, today, we read
2 the written statement that you gave to the investigators and that in that
3 statement you said that during your first abduction you were in a camp
4 which was located beyond or after Rwampara. You said that village is
5 located after Rwampara. So I am asking you whether you sojourned during
6 that first abduction in (Redacted) or Lopa camp, or whether you were in this
7 second camp which you have stated here is a camp located after Rwampara.

8 A. If I think about your question, we're talking about the first
9 abduction, and it is true that I went to a village located not far from
10 Rwampara, and you say that yesterday I said it was in Lopa. It was
11 perhaps the second or the third abduction, but in fact we went close to
12 Rwampara, but we didn't spend many days there and subsequently I returned
13 home.

14 Q. Okay. To ensure that things are clear, during your first
15 abduction you were in a camp located close to Rwampara, and you fled not
16 from Lopa camp but from the camp which was located close to Rwampara; is
17 that right?

18 A. Yes. I escaped and I went to (Redacted).

19 Q. Thank you. Thank you, Witness.

20 PRESIDING JUDGE FULFORD: Can we now return to open session,
21 Maitre Mabilille.

22 MS. MABILILLE (interpretation): Yes, your Honour.

23 PRESIDING JUDGE FULFORD: Open session then, please.

24 (Open session at 10.17 a.m.)

25 MS. MABILILLE (interpretation):

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1 Q. Witness, to ensure that things are clear, we are now going to
2 return to the point where we were yesterday. That is to say, I'm now
3 going to put questions to you on your second abduction. Witness, have
4 you followed?

5 A. Yes.

6 Q. I don't think it's necessary for you to re-read your statement
7 now, because I'm, rather, going to ask you to consult your memory.

8 Now, yesterday we were establishing the date at which you were
9 abducted for the second time. Yesterday, we talked about the point in
10 time when Lompondo was governor of Ituri as being our point of reference,
11 and indeed you said to the investigators at paragraph 34 of your witness
12 statement, and I'm going to briefly read that now. This is in connection
13 with your second forced recruitment.

14 "As I said before, a little while after my week-long abduction,...--"

15 PRESIDING JUDGE FULFORD: I'm going to interrupt you. I'm sorry, Maitre
16 Mabilille. Can the Court Officer please go over and make sure that the
17 witness is at paragraph 34 of the statement. I want to make
18 sure there's no misunderstanding about this.

19 Sorry to interrupt you, Maitre Mabilille, but please carry
20 on.

21 MS. MABILILLE (interpretation):

22 Q. "As I said before, sometime after my abduction for one week by
23 the UPC militiamen, I took up my studies in fourth year of primary
24 school. At that time, governor Lompondo had been driven out of Bunia and
25 the UPC and its president, Thomas Lubanga, controlled Bunia."

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilie (Continued)

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1 Now, Witness, we were trying to establish at what point in time,
2 at what date that second abduction took place. Now, might I suggest to
3 you that Mr. Lopondo was driven out of Bunia on the 6th of August, 2002.

4 Now, might that help you remember the date of the second abduction?

5 A. I can't remember the date.

6 Q. Do you remember whether it was at the beginning of the school
7 year?

8 A. I don't remember if it was at the beginning of the school year or
9 in the middle or at the end of the school year.

10 Q. In this connection, you told the investigators -- so this was in
11 the year that you were in which form at school?

12 A. I was in fourth form.

13 Q. And don't you remember whether you had started the school year in
14 the normal fashion with the other children before the abduction?

15 A. I only remember what class I was in, what form I was in. I don't
16 know if this took place in the middle of the school year or at the
17 beginning.

18 Q. You have also told us that you know that you completed your
19 school year. Do you remember that? Do you remember saying that you have
20 completed or had completed fourth form?

21 A. Well, in any case, I can't remember. Everything that I told you
22 is in my statement, but for the moment I can't remember.

23 Q. Now, yesterday we had come to the point where you had told us
24 that the soldiers had taken you away on foot. Do you remember that? And
25 now I'm referring to the second abduction. You explained that you were

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilille (Continued)

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1 on a pitch playing football and that there were 22 players on the pitch,
2 and then that the soldiers arrived and took you away.

3 I asked you whether you were taken away in a truck, and you said
4 that you had gone close to the truck but that you had left on foot to -
5 oh, are we in closed session? - to Lopa camp. Do you remember telling us
6 this yesterday?

7 A. Yes, I remember.

8 Q. So you walked from the football pitch where you were abducted to
9 Lopa camp; is that right?

10 A. Yes, that's right.

11 Q. Altogether, how much time did you spend in Lopa military camp?

12 A. We didn't spend much time in the military camp.

13 Q. What did you do in Lopa?

14 A. We underwent training. As soon as we arrived in Lopa camp we
15 began training.

16 MS. MABILILLE (interpretation): Your Honour, I'm really sorry, but
17 in that case we're going to have to do everything in closed session
18 because we're going here from one place to another throughout the
19 cross-examination, unless, of course, I use other wording.

20 PRESIDING JUDGE FULFORD: Don't worry, Maitre Mabilille, when we're
21 referring to Lopa camp following the first abduction there's no
22 difficulty. There is a -- simply referring to the places where the
23 witness was trained and where he was taken to following his abduction
24 does not present a problem. So we're in open session, and there's no
25 need for redactions, so you needn't worry.

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilille (Continued)

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1 MS. MABILLE (interpretation):

2 Q. Witness, can you remember how much time you spent in Lopa
3 military camp altogether?

4 PRESIDING JUDGE FULFORD: During the second
5 abduction? Maitre Mabilille, are you referring to -- when you're asking
6 that question generally, "How much time did you spend in Lopa military
7 camp altogether," are you meaning altogether across all of the times when
8 this witness was abducted or simply during the course of the second
9 abduction?

10 MS. MABILLE (interpretation): I will be more specific in my
11 question, but I would like the witness to stop reading the statement now
12 and that he simply reply to questions without reading his statement.
13 When I refer to the statement there's no problem, but the fact that he's
14 reading it as I put the questions is a little bit sensitive.

15 Q. So the question which I'm now putting is: When you told us in
16 relation to the second abduction that you left the football pitch (Redacted)
17 for Lopa camp, can you tell us how much time you spent during that
18 second abduction in Lopa camp?

19 A. Please accept my apologies, because I have the document here
20 before me. I'm happy for it to be taken away from me. I do not know why
21 it is here, but everything
22 that I have said is in the statement. I'm not telling any lies, so if
23 you like, you can take this document away.

24 Q. Could you answer my question; that is to say, how much time in
25 total did you spend at Lopa camp during the second abduction?

26 A. I didn't spend much time in Lopa camp.

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilie (Continued)

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1 Q. When you say not much time, could you be more specific? Was it
2 one week, one month, two months?

3 A. I can't remember, and I shouldn't take the risk of trying to
4 imagine.

5 Q. Can you tell us what you did in Lopa?

6 A. In Lopa we had several tasks. Sometimes we went marching.
7 Sometimes we went to collect money. That's what we did in Lopa.

8 Q. Did you undergo military training in the camp?

9 A. Yes, we had military training in Lopa.

10 Q. When you say you did not stay at the camp for a long time, can
11 you tell us what you did after that later on?

12 A. Afterwards, we were made to leave the camp.

13 Q. Yes. You were made to leave the camp and to go to where?

14 A. We went to Bule.

15 Q. And when you were taken to Bule camp, did you start your training
16 immediately?

17 A. In Bule we also underwent training.

18 Q. Was there a difference between the training you had in Lopa and
19 the training you had in Bule?

20 A. There was no difference.

21 Q. Do you remember the name of one of your trainers in Bule camp?

22 A. In Bule camp?

23 Q. Yes, in Bule. I would like to know if you remember the name of
24 one of your instructors in Bule camp.

25 A. Yes.

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilie (Continued)

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1 Q. What was he called?

2 A. Seke.

3 Q. When you met the investigators, you did not remember the name of
4 any of your instructors. Can you now tell us how you are able to
5 remember Seke's name?

6 PRESIDING JUDGE FULFORD: Ms. Mabilie, I'm concerned again at a
7 broad description being provided of what the witness may have said to
8 investigators without him being shown the relevant passage. If you're
9 going to suggest that he said something in a statement which contradicts
10 his evidence before us, we need -- we need to go to the passage, the
11 witness needs to see it, he needs to have an opportunity to think about
12 it, and then you need to put the question.

13 MS. MABILIE (interpretation): I apologise, your Honour.

14 Q. Now, let's return to your witness -- sorry, to your statement,
15 paragraph 42. I read this paragraph.

16 "In Bule military camp, there were six trainers whose names I
17 have forgotten. Amongst these trainers there were children who were
18 slightly older than me. These kadogo trainers would teach adult and
19 child recruits how to march, and they would also try to boost the morale
20 of the children so that they would not escape."

21 I will not read -- I'll not read further.

22 Now, look at the first line of paragraph 42 in which you say:
23 "In the Bule military camp, there were six trainers whose names I have
24 forgotten."

25 My question was: At the time you forgot the names of the

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilie (Continued)

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1 trainers. Today you have told us that one of your trainers was called
2 Seke. How have you been able to remember that these trainers -- that one
3 of your trainers is called or was called Seke?

4 A. You are asking me to tell you how I remember. When the
5 investigators put the question to me, I did not remember the names, and
6 now that you've asked me the question, I have remembered.

7 Q. You informed us that Mr. Seke was imprisoned in Bunia. Do you
8 remember having given us this information?

9 A. Yes.

10 Q. Do you know when he was imprisoned?

11 A. I don't know.

12 Q. And how did you get this information?

13 A. He was imprisoned together with the children of my grandfather
14 who had certain weapons in their possession. That's why they were
15 imprisoned.

16 Q. Do you remember the names of other soldiers, trainers, or
17 commanders other than Seke who were in Bule camp?

18 A. Apart from Seke's name, I don't remember the names of the other
19 instructors.

20 Q. Do you remember the names of the officers of the commanders of
21 this camp?

22 A. Yes. We had Commander Maki.

23 Q. Are there other persons whose names you remember?

24 A. There were many people, but I don't remember their names.

25 Q. Do you remember the amount of time you spent in Bule camp?

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilille (Continued)

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1 A. We spent -- I don't remember.

2 Q. You told the investigators that you spent about six months in the
3 camp. This is found in paragraph 17 and paragraph 61.

4 MS. MABILILLE (interpretation): I would like to stop for a while
5 so that these paragraphs can be shown to the witness.

6 PRESIDING JUDGE FULFORD: Thank you. Could the Court Officer
7 identify them for him, please.

8 MS. MABILILLE (interpretation):

9 Q. I'll read paragraph 17, Witness. You said:

10 "I resumed my studies in the fourth grade after my abduction of
11 one week. I remember that lessons had already started when I resumed
12 school. It was while I was in the fourth grade that I was recruited
13 forcibly by UPC militia members. This happened before I could complete
14 my fourth grade studies. I remember that it was during the revision
15 period in the month of May."

16 And here is the sentence:

17 "As I will explain later on during this interview, I spent about
18 six months with the UPC militia."

19 I will now move on to paragraph 61.

20 "At the beginning of my stay in the Bule military camp, I did not
21 escape because that was difficult, but I was preparing to escape. I was
22 not happy, but there was nothing I could do about it. Finally, about six
23 months after my stay in Bule, I fled just before the attack we had to
24 launch against Zumbe, a Lendu village. I know I spent about six months
25 in Bule because I counted the months and because that was what the

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Questioned by Ms. Mabilie (Continued)

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1 military leaders said."

2 At the time, you told the investigators that you spent about six
3 months in the camp. Is this time estimate accurate to you today?

4 A. Yes, that's correct.

5 Q. I asked you when, at what time can we situate the second
6 abduction. I did not find the relevant paragraph here, but when I read
7 paragraph 17, I find that we can try to clarify this point, because in
8 this paragraph 17 you stated that:

9 "I remember that lessons had started when I went back to school.
10 It was while I was doing my fourth grade that I was recruited forcibly
11 and this happened before I could complete my fourth grade studies."

12 If we reason on the basis of the fact that Lopondo was driven out
13 of Bunia on the 9th of August, 2002, that you started your fourth grade
14 of primary school at the time, can you therefore remember whether you
15 were in the camps during the Christmas period?

16 A. I really don't remember.

17 Q. I didn't read paragraph 17 to the end. I apologise. The last
18 three sentences state that:

19 "I remember that it was during the revision period in the month
20 of May."

21 Having read this sentence to you, does this sound accurate to
22 you?

23 A. Yes, that may be true.

24 Q. If it's true that the second abduction took place in the month of
25 May and that it lasted for six months, then you must agree with me that

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilille (Continued)

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1 it wouldn't have been possible for you to complete your fourth grade
2 studies, primary school studies.

3 Let me rephrase my question. Maybe it's a bit complicated.

4 When does the academic year end?

5 A. The academic year ends in the month of July. In June we write
6 our final exams, and on the 2nd of July the academic year comes to an
7 end.

8 Q. Are you sure you completed your fourth grade of primary school?

9 A. Yes, I'm sure I completed the fourth year of primary school.

10 Q. If you completed your fourth year of primary school, can we
11 therefore deduce from that that it wouldn't have been possible for you to
12 have been enlisted in the month of May?

13 A. The manner in which you put your questions, you say I did not
14 complete my fourth grade. You want to know whether I completed the
15 fourth grade or not. I really don't understand the way you put your
16 questions.

17 Q. I will try to rephrase. You have informed us that you completed
18 the fourth year of primary school; is that correct?

19 A. Yes, I completed the fourth year of primary school.

20 PRESIDING JUDGE FULFORD: Yes, Ms. Bensouda.

21 MS. BENSOUDA: If I -- if we refer to the same paragraph that my
22 learned colleague is quoting from, it is clear that at line four, the
23 fourth line of paragraph 17, the witness had said: "This happened before
24 I finished the fourth year of primary school."

25 PRESIDING JUDGE FULFORD: That's not the point Maitre Mabilille is

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilille (Continued)

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1 making, Ms. Bensouda. The witness, in evidence, has said, "I completed
2 the fourth year of school," and it's on that statement that
3 Maitre Mabilille is addressing her questions. You're absolutely right, in
4 the statement the witness says he didn't, but at the moment, as I
5 understand it, Maitre Mabilille is focusing on the witnesses evidence which
6 the fourth year was completed.

7 MS. MABILILLE (interpretation): Mr. President, but then I think
8 this paragraph should not be cited to the witness, because it is
9 definitely inconsistent with what Maitre Mabilille is saying.

10 PRESIDING JUDGE FULFORD: She's entitled to put the paragraph,
11 Ms. Bensouda.

12 MS. BENSOUDA: I am aware --

13 PRESIDING JUDGE FULFORD: If the paragraph is not helpful to the point she
14 is making, then that may cause us to waste time during examination, but
15 she's perfectly entitled to put the question.

16 MS. BENSOUDA: I understand that, Mr. President. I just do not want
17 the witness to be confused with what he said in oral testimony and what
18 is in his statement, and it seems that even though Maitre Mabilille is
19 referring to the oral testimony of the witness, he keeps on citing this
20 paragraph which is saying a completely different thing. This is my point.

21 PRESIDING JUDGE FULFORD: I understand what you're saying,
22 Ms. Bensouda, but Maitre Mabilille is entitled to investigate this. I'm
23 not sure whether for very much longer because we have spent a very
24 substantial amount of time on this, but Maitre Mabilille is entitled to
25 explore it for a little while longer.

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilie (Continued)

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1 MS. MABILLE (interpretation):

2 Q. I'm not going to spend a longer time on this. Witness, you said
3 you completed your fourth year of primary school, and so your abduction
4 certainly took place after the end of your fourth year of primary school;
5 is that correct?

6 A. I don't know what answer to give you. I don't know whether this
7 was at the beginning, the middle, or the end of the school year. I
8 really don't remember.

9 Q. I'll now move on to another question. After your training in
10 Bule, was a weapon given to you?

11 A. Yes. Yes, I was given a weapon.

12 Q. What type of weapon was given to you?

13 A. An SMG.

14 Q. Was ammunition given together with this weapon?

15 A. Yes.

16 Q. Was there a magazine?

17 A. Yes.

18 Q. How many bullets were there in the magazine?

19 A. Thirty-two bullets.

20 Q. Thirty-two bullets in one magazine?

21 A. Yes.

22 Q. Page 48 of the statement -- paragraph 48 of the statement. You said,
23 and I'll read only the relevant sentence here: "In addition to the
24 submachine gun, I was given ammunition, three magazines,
25 each bearing 42 bullets." Is that correct?

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilie (Continued)

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1 A. Can you please read again, because I didn't follow you while you
2 were reading.

3 Q. I'll read: "Together with the submachine-gun, I was given
4 ammunition; three magazines, containing 42 bullets."

5 Is that correct?

6 A. You are talking about a submachine-gun with 42 bullets. I don't
7 know if that was what was given to me in Bule. I know I was given a
8 submachine-gun when we went to Bunia to fight, and at the time we were
9 given 42 bullets, but it wasn't in Bule. I was given a submachine-gun
10 when we went to fight against the Ugandans.

11 I didn't tell this to the investigators. I told them that it was
12 during the last battle that this submachine-gun was handed over to me
13 along with 42 bullets.

14 Q. I was not asking about when this was given to you. I just wanted
15 to clarify whether you were given a submachine-gun with three magazines,
16 each containing 42 bullets. I am referring to the content of what was
17 given to you. That is the focus of my question.

18 A. I was given a submachine-gun, 42 bullets, and three magazines
19 when we went to fight, but the SMG that was given to me with 32 bullets
20 was the weapon given to me in Bule.

21 Q. So two different weapons were given to you, one while you were in
22 Bule and another when you left to go and fight in Bunia. Is that what
23 you're telling me?

24 A. Yes. That's right.

25 Q. Were these different -- two different weapons?

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilille (Continued)

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1 A. Yes, they were two different weapons.

2 Q. Can you tell us which was the first weapon and which was the
3 second weapon?

4 A. The first weapon was the SMG, and the second weapon or the second
5 time it was the submachine-gun.

6 Q. Thank you, Witness. Can you tell us what type of submachine-gun
7 it was?

8 A. It was a submachine-gun which we called Uzi. It was a light
9 weapon. It was realised that I was still a young person, I was small. I
10 could not carry an SMG, so I was given this Uzi together with three
11 magazines.

12 PRESIDING JUDGE FULFORD: Maitre Mabilille, we are going to break
13 soon, so if you could select a moment, please, convenient to yourself.

14 MS. MABILILLE (interpretation):

15 Q. You stated that the soldiers who abducted you from the football
16 field spoke to a commander called Django. Do you remember that?

17 A. I remember.

18 Q. Who was this commander?

19 A. It was Commander Django.

20 Q. Was he the commander of the Bule camp?

21 A. No.

22 Q. Do you know the camp of which he was commander?

23 A. Yes, I know.

24 Q. Which camp?

25 A. Django was the commander of the Lopa camp.

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Closed Session)
Questioned by Ms. Mabilille (Continued)

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1 Q. Do you then know the name of the commander of Bule camp?

2 A. Yes. It was Maki.

3 MS. MABILILLE (interpretation): Your Honour, I will be -- I wish
4 to start a new series of questions, so I think it would be proper for us
5 to rise now.

6 PRESIDING JUDGE FULFORD: Thank you very much, Maitre Mabilille.
7 We will break now for half an hour.

8 Thank you very much indeed, sir. We'll see you in half an hour's
9 time.

10 Could we go, please, into closed session so the witness can
11 withdraw, and could Mr. Lubanga please now leave court. Thank you very
12 much.

13 *(Closed session) Reclassified as Open session
14 (Mr. Lubanga withdrew)

15 PRESIDING JUDGE FULFORD: Yes. Thank you.

16 (The witness stands down)

17 PRESIDING JUDGE FULFORD: Half past 11.00.

18 Recess taken at 11.00 a.m.

19 On resuming at 11.30 a.m.

20 COURT USHER: All rise. Please be seated.

21 PRESIDING JUDGE FULFORD: Witness, please.

22 (The witness takes the stand)

23 (Mr. Lubanga entered court)

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

25 Open session, please.

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilille (Continued)

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1 (Open session)

2 COURT OFFICER: Open session.

3 PRESIDING JUDGE FULFORD: Yes, Maitre Mabilille.

4 MS. MABILILLE (interpretation):

5 Q. Witness, we were talking about the commander who ran the Bule
6 camp. We were talking about the period of your second abduction, and I
7 would like you to give clarification on the following point: Now, you
8 have stated that Mr. Lubanga visited Commander Django in Bule camp; is
9 that right?

10 A. Yes.

11 Q. You mentioned that Mr. Lubanga visited Bule camp often; is that
12 right?

13 A. Yes, that's right.

14 Q. Could you tell us how often Mr. Lubanga went to Bule camp?

15 A. Yes. He came to Bule camp. He came often. I couldn't say if he
16 came every week or every month, but what I can say with some certitude is
17 that he came often, because Bule camp was the biggest camp.

18 Q. All right. So you said that he came often, but you don't know if
19 it was once a week or once a month but that he came often.

20 A. Yes.

21 Q. You said that he would meet Commanders Bosco, Django, and Mugisa
22 there; is that right?

23 A. Yes, that's right.

24 Q. Were Bosco and Mugisa based in Bule?

25 A. No. No, they didn't live in Bule.

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilie (Continued)

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1 Q. Do you know where they were based?

2 A. Yes. Commander Bosco lived in Katoto.

3 Q. And Commander Mugisa?

4 A. Commander Mugisa lived in Bunia.

5 Q. Thank you. Now, you mentioned that you were (Redacted)

6 bodyguard (Redacted); is that right?

7 A. Yes, that's right.

8 PRESIDING JUDGE FULFORD: Yes, Ms. Bensouda.

9 MS. BENSOUDA: Mr. President, we are not in closed session. I
10 think the last -- line 10, Mr. President.

11 (The Trial Chamber confers)

12 PRESIDING JUDGE FULFORD: Certainly, Ms. Bensouda, but I want
13 someone to check, please, that when this evidence was given yesterday
14 that this was in closed session, because we've -- we've been over this
15 area already.

16 MS. BENSOUDA: I -- I certainly led him on this in closed
17 session.

18 PRESIDING JUDGE FULFORD: Closed session.

19 MS. BENSOUDA: Yes.

20 PRESIDING JUDGE FULFORD: Right. If this is an identifying
21 feature, then certainly it should be redacted. Thank you very much.

22 Yes, please proceed, Maitre Mabilie.

23 MS. MABILLE (interpretation):

24 Q. I'm now going to put a question on the names of the other
25 bodyguards.

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Private Session)
Questioned by Ms. Mabilille (Continued)

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1 MS. MABILLE (interpretation): Your Honour, would you prefer I do
2 so in closed session?

3 PRESIDING JUDGE FULFORD: Yes. That observation needs to be
4 redacted, and we need to go into closed session, please.

MS. MABILLE: No interpretation.

5 PRESIDING JUDGE FULFORD: Wait a second. Right.

6 COURT OFFICER: Private session.

7 *(Private session) Reclassified as Open session

8 PRESIDING JUDGE FULFORD: Please proceed, Maitre Mabilille.

9 MS. MABILLE (interpretation):

10 Q. Witness, yesterday you mentioned that you were (Redacted)
11 bodyguard (Redacted); is that right?

12 A. Yes, that's right.

13 Q. Do you know the names of the other (Redacted) bodyguards of
14 (Redacted)?

15 A. Yes, I know them.

16 Q. Could you give us those names.

17 A. Yes, I can give them.

18 Q. Go ahead.

19 A. (Redacted)

20 (Redacted), but I don't know his real first name.

21 Q. Thank you, Witness.

22 MS. MABILLE (interpretation): Your Honour, we can return to open
23 session.

24 PRESIDING JUDGE FULFORD: Open session, please.

25 (Open session)

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilille (Continued)

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1 COURT OFFICER: Open session.

2 MS. MABILILLE (interpretation):

3 Q. Witness, remaining with the second abduction, you have said that
4 you escaped when you were getting ready to fight; is that right?

5 A. Yes, that's right.

6 Q. Where was the battle to take place?

7 A. In the Lendu village.

8 Q. Do you remember the name of that village?

9 A. Yes.

10 Q. Could you tell us the name?

11 A. It was Zumbe village.

12 Q. Were you near Zumbe when you escaped?

13 A. No, I wasn't near the village because there's a considerable
14 distance between Zumbe and Bule.

15 Q. When you escaped were you closer to Bule or to Zumbe?

16 A. I was closer to Bule.

17 Q. What is the distance between Zumbe and (Redacted)?

18 A. There is a considerable distance between Zumbe and (Redacted), a big
19 distance.

20 Q. When you were on the way to the battle were you using -- were you
21 wearing military uniform and were you carrying a weapon?

22 A. Yes, we were in military uniform and we had weapons.

23 Q. You gave your weapon to a friend, but you kept your uniform; is
24 that right?

25 A. Yes, that's right.

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilie (Continued)

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1 Q. Could you explain why you gave your weapon to a friend?

2 A. Because I realised that I could have a lot of problems if I
3 escaped with my weapon. That's why I gave it to a friend.

4 Q. By what means did you return home at that time?

5 A. I used -- used tracks through the bush until I got home. There
6 was no road in good condition. I just used the little paths through the
7 bush.

8 Q. So when you escaped, did you escape on -- you escaped on a road
9 which was closer to Bule than to Zumbe, and where, at what place did you
10 escape?

11 A. When I escaped I went to Fataki, yes.

12 Q. You went to Fataki, and did you then stay in Fataki?

13 A. Yes, I stayed in Fataki, but not for a long period of time.

14 Q. And what did you do after Fataki?

15 A. When I was in Fataki I heard from others that I was being sought
16 at home and that my parents wanted to see me at home. So I then made
17 every effort possible to go home.

18 Q. So from Fataki you went home to your parents, to your mother?

19 A. Yes.

20 Q. You returned home, and it was quite some distance. Did you go by
21 foot?

22 A. Yes, we left by foot.

23 Q. Yesterday, you said that you went straight home. Is what you
24 said yesterday right, or did you stop in Fataki?

25 A. Yes. I went via Fataki, and after Fataki I went straight home.

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1 Q. How long did it take you to get home on foot? How long did it
2 take you to go from not far from Bule to Fataki?

3 A. It's a big distance. I wasn't able to look at my watch because I
4 didn't have one, so I don't know the time.

5 Q. Well, would you say it was one day, two or three days by foot or
6 more?

7 A. No. It was one day.

8 Q. Did you have your military uniform during that journey?

9 A. Yes. Yes.

10 Q. And were you not afraid that your uniform would suffice for
11 people to know that you had deserted the army?

12 A. Yes. I was panicking, and -- but I was careful as I walked.

13 Q. When you returned, when you returned home, what did you do?

14 A. As soon as I arrived home and sometime thereafter, I began my
15 studies again.

16 Q. Did you go back to school virtually immediately?

17 A. Yes.

18 Q. Did you go back into the same form with the same schoolchildren
19 and the same teachers?

20 A. There were other schoolchildren, and there were also new
21 teachers. There was a lot of change, but it was the same school.

22 Q. You had been absent for a period of about six months. Isn't that
23 right? That is to say, you were absent from school owing to your
24 enlistment for a period of about six months?

25 A. I haven't followed your question well.

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1 Q. My question was: You were enlisted, and you told us that you
2 spent about six months in the army, and you then told us that you had
3 returned to school. Isn't that right?

4 PRESIDING JUDGE FULFORD: Maitre Mabilille, I'm going to interrupt this
5 question. I'm really not sure whether during the course of his evidence
6 the witness has ever said that during this period he was abducted for six
7 months. You've taken him to passages in his statement, but if it's going
8 to be said that he has agreed that during this second abduction he was
9 held for six months, I think I would need to see the passage, please,
10 because I haven't understood that there's been any positive agreement
11 from him on this.

12 MS. MABILILLE (interpretation): Your Honour, may I make a little
13 check.

14 PRESIDING JUDGE FULFORD: Yes, certainly - please do.

15 (Defence counsel confer)

16 MS. BENSODA: Mr. President, maybe to look at page 26, line 8 to 10.

17 PRESIDING JUDGE FULFORD: That's quite right, Ms. Bensouda. The
18 problem is that as I'd understood the way this was set out in the
19 witness's statement, paragraph 17 and 61, that the combined effect of it
20 was to make it unclear as to whether the six-month -- the six months was
21 during this second abduction or whether it was a reference to a more
22 general period, and the other concern I have was that during his evidence
23 when you were questioning him, the witness said that he had been at Bule
24 for about three months, and so I'm not confident that it can be asserted
25 positively that this witness's evidence is that during his second

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1 abduction he was at Bule for six months, but thank you for providing that
2 reference.

3 Yes, Maitre Mabilille.

4 MS. MABILILLE (interpretation): Your Honour, I perhaps mistakenly
5 understood from his answer this morning at line -- at page 26, line 10,
6 where the witness says "that's right". I understood that that meant that
7 he accepted the idea that the duration was six months, and that is why I
8 put this question in this way.

9 PRESIDING JUDGE FULFORD: Well, Maitre Mabilille, that -- that followed
10 you having quoted two different paragraphs, first of all 17, and having
11 read out 17, which includes a reference to being with the UPC militia
12 for about six months, you then move straight to paragraph 61. And so put
13 the two paragraphs together, and then with those two large sections, you
14 then simply ask a very short question:

15 "You spent about six months in the camp. Is this time estimate
16 accurate to you today?"

17 To which he then says: "That's correct."

18 Well, after those two very long quotations, the mental note that
19 I had made for myself was that that is a poor basis for suggesting that
20 the witness had definitely, as it were, committed himself to agreeing
21 that he was in Bule for six months.

22 Now, if that's going to be the way that it's going to be
23 presented to us, I think we need a -- we need for this to be broken down
24 so that we are absolutely clear that during this second abduction the
25 witness is saying that he was in Bule for six months; particularly, given

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1 that yesterday he said he was in Bule for three months.

2 (Defence counsel confer)

3 MS. MABILILLE (interpretation):

4 Q. Witness, can we return to the time that you spent in Bule camp.
5 Now, this morning I brought your attention to two sentences or two
6 paragraphs in your initial statement, and in those two paragraphs at the
7 time that you gave that statement you specified a duration. In those two
8 paragraphs, that is to say paragraph 17 and paragraph 61 --

9 MS. MABILILLE (interpretation): Would it be possible to show him?

10 PRESIDING JUDGE FULFORD: Certainly. He should be shown these
11 paragraphs again. Seventeen, please, and 62 -- no, 61. Seventeen and
12 61.

13 MS. MABILILLE (interpretation):

14 Q. In these two paragraphs and in paragraph 17, I'm just going to
15 read the two -- the last two -- the last sentence in paragraph 17:

16 "As I will explain later in this interview, I spent
17 approximately six months with the UPC militia."

18 And that paragraph is at one point. And now I'm going to read
19 from paragraph 61, which is somewhat further, if you can find it.

20 In paragraph 61 -- have you found paragraph 61? Do you have
21 paragraph 61 before you, Witness? I'm going to read the sentence which
22 is in the middle of paragraph 61:

23 "Finally, approximately six months after my stay in Bule, I fled
24 just before the attack that we were going to make on Zumbe, a Lendu
25 village. I know -- I know that I spent approximately six months in Bule

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1 because I counted the months, and also because that is what the military
2 chiefs said."

3 Now, that is what you stated to the investigators. The question
4 which I'm going to put to you, Witness, is: Is this statement correct?

5 A. Yes, it's correct.

6 Q. So you spent six months in Bule camp; is that correct?

7 A. Yes.

8 Q. When you returned home, you said you resumed your studies in
9 fourth grade; is that correct?

10 A. That's not true. That's not true.

11 Q. Can you give us some clarification then on what you did when you
12 returned home?

13 A. When I returned home, I think I started the fifth year.

14 Q. So you actually repeated the fifth year. Is that what you're
15 saying? Or you resumed, sorry, you resumed your studies in the fifth
16 year; is that correct?

17 A. Yes.

18 Q. If you were absent from school for six months, didn't you have
19 difficulties resuming your studies in a higher class?

20 A. No, there were no difficulties.

21 Q. Witness, we will now move on to the third time that you were
22 enlisted. You said that you were going to school when you were abducted
23 the third time; is that correct?

24 A. Yes, that's correct.

25 Q. Do you remember the class in which you were, the grade in which

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1 you were when you were abducted the third time?

2 A. I was in the fifth year.

3 Q. Did you return to the same camp where you were when you were
4 abducted the first time?

5 A. Yes.

6 Q. Can you tell us which camp this was?

7 A. It was the camp of Lopa.

8 Q. You stated that you were put in a trench as punishment; is that
9 correct?

10 A. Yes, that's correct.

11 Q. Were you placed in this trench on the first day you arrived at
12 the centre?

13 A. Yes, on the first day.

14 Q. Why did you tell the investigators that you were placed in the
15 trench about four days after you had arrived the centre in Lopa?

16 A. Are you talking about the fourth day after my arrival or the four
17 days I spent in the trench?

18 Q. I think I will read out the relevant passages on this point, and
19 that's paragraph 89.

20 MS. MABILILLE (interpretation): Can someone show that to the
21 witness, please.

22 Q. The first sentence, Witness:

23 "About four days after my arrival at Lopa I tried to escape, but
24 I was captured near the river by the officer in charge of discipline in
25 the Lopa camp whose name I have forgotten. This person took me back to

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1 the camp. Commander Django ordered that I should be placed in the camp's
2 underground holding cell to punish me for trying to escape."

3 In this statement, Witness, you seem to be saying that it was about
4 four days after your arrival at the camp in Lopa. So were you imprisoned
5 immediately after you arrived or four days after you arrived at the camp
6 in Lopa?

7 A. No. I think the statement is clear. When I arrived, I was immediately
8 placed in the trench. It wasn't a few days later on. I don't
9 see where I made the statement to the effect that it was four days
10 later.

11 Q. I'll read to you just the first sentence:

12 "About four days after my arrival in Lopa, I tried to escape."

13 Does this mean that about four days after your arrival at the
14 military centre you tried to escape? I understand from what follows that
15 you were punished, that you were placed in a trench. Do I understand
16 well, or do I understand poorly, Witness?

17 A. You have not understood well. This does not mean that this
18 happened on the fourth day after I arrived at the camp, that I was placed
19 in the trench on the fourth day. It doesn't mean that I was placed after
20 four days in the trench.

21 Q. Today you are saying that you were placed in the trench, in the
22 prison immediately. Is that what you're saying?

23 A. Yes. I was placed there immediately.

24 Q. Can you tell us why you were placed in that prison, in that
25 trench?

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1 A. Because certain soldiers had caught me, and they said I was
2 trying to betray the army, that I was trying to betray the nation, and
3 for that reason I was put in prison.

4 Q. So what you said on the reasons why you were placed in prison, in
5 paragraph 89 you said you were placed in the trench to punish you because
6 you tried to escape.

7 In fact, you didn't try to escape. You were considered to be
8 what you called a traitor. Is that the reason why you were placed in
9 prison then?

10 A. Yes, that's the reason.

11 Q. Was it Commander Django who ordered that you should be placed in
12 prison?

13 A. Yes.

14 Q. Was it this commander who was the officer in charge of Lopa?

15 A. Yes.

16 Q. How many persons were in this trench? Do you remember the
17 number?

18 A. Yes.

19 Q. How many?

20 A. I think -- well, I wouldn't tell you something which is not
21 accurate here. I have forgotten the number.

22 Q. During a hearing two days ago, you said that there were five
23 persons in the trench; is that correct?

24 A. Yes, that's correct.

25 Q. I turn back to your statement, paragraph 89. Do you see

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1 paragraph 89? Can I ask you to read the last sentence of paragraph 89.

2 It reads: "However, I was alone in this trench."

3 Have you seen the sentence?

4 A. Yes, I have seen it.

5 Q. Were you alone or were you five of you in the trench?

6 A. We were five.

7 Q. Witness, later on you were posted to serve as a guard at the
8 kitchen of the camp; is that correct?

9 A. Yes, that's correct.

10 Q. Do you know for how long you exercised this responsibility?

11 A. I have forgotten how much time I spent exercising that
12 responsibility. I cannot remember. I have forgotten.

13 Q. Do you know how much time you spent in Lopa camp? For how long
14 did this third enlistment last?

15 A. I spent about -- well, as far as dates and time periods are
16 concerned, I really can't remember; I
17 have forgotten all of that.

18 Q. You don't even remember whether you spent one month, three
19 months, or 15 days? You don't have an idea?

20 A. I think we spent about three months there.

21 Q. And when you left Lopa camp -- just one minute, Witness.

22 (Defence counsel confer)

23 MS. MABILILLE (interpretation): Your Honour, I am hesitating
24 as to what to choose -- open session or closed, because I
25 want to talk about the new responsibilities of the witness. Don't you

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1 think it would be proper for us to go into closed session, your Honour?

2 PRESIDING JUDGE FULFORD: I'm sure you're right,

3 Maitre Mabilille. Closed session with blinds up.

4 *(Private session) Reclassified as Open session

5 COURT OFFICER: Closed session.

6 PRESIDING JUDGE FULFORD: Yes, Maitre Mabilille.

7 MS. MABILILLE (interpretation):

8 Q. So you spent three months in Lopa camp. After that what did you
9 do, Witness?

10 A. After that we went to Bunia. That's the answer. After that we
11 went to Bunia. We were sent to the residence of our president in Bunia.

12 Q. Do you remember how much time you spent at that residence?

13 A. I don't remember how much time we spent there.

14 Q. When you served as bodyguard or in the residence of Thomas
15 Lubanga, do you know whether Thomas Lubanga received civilians in his
16 residence?

17 A. Yes.

18 Q. He received civilians at his residence?

19 A. Yes, he received civilians.

20 Q. Witness, let's return to your statement, paragraph 103. Can we
21 read -- I think we should read lines one, two, three -- four. In the
22 middle of line four it is written, and I read:

23 "Lubanga did not receive civilians as visitors at his
24 residence."

25 Do you remember having made such a statement?

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1 A. Yes, I remember.

2 Q. Today I asked you the following question: "When you served as
3 bodyguard at the residence of Thomas Lubanga, did he receive civilians?"
4 You answered, "Yes, he received civilians."

5 Can you tell me whether it was your statement which you made to
6 the investigators which is accurate, or, rather, whether it is the
7 statements you are making today which are accurate?

8 A. When I spoke to the investigators, I did not say that he received
9 civilians. It is today when you -- when you put the question to me that
10 I answered that, yes, he received civilians. I didn't know that the
11 investigators would put such a question to me. That is why I did not
12 answer that question well. Today when you asked me the question, I gave
13 you the answer.

14 Q. Very well, Witness. Do you know Mr. Rafiki?

15 A. Rafiki? Rafiki, yes, I know Rafiki.

16 Q. Do you know Chief Kahwa?

17 A. Yes.

18 Q. Can you tell us what Mr. Rafiki's duties were, if you knew?

19 A. Yes, I know. Rafiki would come to Bosco's camp with bodyguards.
20 Now, I don't know. What do you want to know, what he did at home? Well,
21 he was in the habit of coming to the camp of the commanders, and he would
22 come with bodyguards.

23 Q. I would like to know whether you knew anything about his
24 functions.

25 A. He was a commander.

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1 Q. And Chief Kahwa?

2 A. Chief Kahwa was also a commander.

3 Q. Can you please kindly turn back to your statement, paragraph 106.

4 Are you on that paragraph, Witness?

5 A. Yes.

6 Q. Can you please look at line five, and I am going to read:

7 "I do not know Chief Kahwa or Rafiki."

8 Did you tell the investigators that you did not know Chief Kahwa
9 or Rafiki?

10 A. No, I never said that to them. I never said that to them.

11 Q. In your testimony you said that Kisémbó was a commander. Do you
12 know his rank, Witness?

13 A. Commander Kisémbó?

14 Q. Do you know his rank?

15 A. Yes. Before I answer your question, I would like to apologise to
16 the Presiding Judge, because on the day that this question was put to me
17 I made a confusion between the rank of Kisémbó and the rank of Bosco.
18 Kisémbó was the Chief of Staff, but on that day -- I, rather, I talked of
19 Bosco instead of Kisémbó. So I was a bit confused, and I would like to
20 apologise. It is Bosco who is the chief of operations. Kisémbó is the
21 Chief of Staff.

22 Q. You talk about a UPC flag found at the residence of Mr. Lubanga;
23 is that correct?

24 A. Yes, we talked about that.

25 Q. Can you tell us as precisely as possible where that flag was?

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1 Now, in relation to the house, can you tell us where the flag was
2 located?

3 A. Yes. The flag was near the house. There was the wall, there was
4 the door, and after that you had the flag.

5 Q. Are you sure you saw this flag?

6 A. Yes.

7 Q. Do you remember the colour of this flag?

8 A. It was a white flag within which was the inscription "UPC."

9 Q. There no other colours apart from white and the inscription
10 "UPC"?

11 A. The letters "UPC" were written in black.

12 Q. So there were two colours on the flag, black and white; is that
13 correct?

14 A. Yes.

15 Q. You stated that you left the residence of Thomas Lubanga on
16 the day of the combat between the UPC and the Ugandans; is that correct?

17 A. Yes, that's correct.

18 Q. Do you know the date, the date on which the combat took place?
19 Do you know the date?

20 A. I don't know the date.

21 Q. If I suggest to you that it may have been on the 6th of March,
22 2003, does that look possible?

23 A. I don't know. I don't know. I don't know the date.

24 Q. You personally took part in this fighting, didn't you?

25 A. Yes.

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1 Q. Can you tell us the section, the brigade, or the battalion in
2 which you were deployed?

3 A. The commander of (Redacted) was the head or leader of the (Redacted).
4 You know, we are talking about soldiers, real soldiers who had undergone
5 training for a long time. When we went to the residence of Thomas, we
6 were in his battalion.

7 Q. So you participated in the fighting in the (Redacted); is that
8 correct?

9 A. Yes, that's correct.

10 Q. How many soldiers did you have in a battalion?

11 A. In a battalion you could have almost -- I don't know. I don't
12 know, because there were many soldiers. I was not a high-ranking
13 soldier, so I wouldn't know the number of soldiers in a battalion.

14 Q. Do you know how many soldiers were in a section?

15 A. Yes.

16 Q. Can you tell us?

17 A. Yes. There were 12.

18 Q. And in a brigade?

19 A. There were many soldiers in a brigade. I cannot give you an
20 exact figure because I could not count. There were many soldiers.

21 Q. In relation to this battle, who was your commander?

22 A. (Redacted).

23 Q. Who gave the order to attack?

24 A. Aside from the number one, no one else could give orders.

25 Q. And now I'm asking who gave you personally the order to attack?

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1 A. It was my superior who ordered me to fight. It's he who gave the
2 order, and afterwards we obeyed it.

3 Q. And in the case of this battle, who was your superior?

4 A. At this battle? Well, I've already forgotten the names of my
5 superiors. It was a commander whose name I have forgotten. He was the
6 one who was commanding us.

7 Q. Do you know whether Thomas Lubanga was in Bunia at the time?

8 A. Yes. When we were preparing to fight Uganda --

9 THE INTERPRETER: The interpreter would like to indicate that the
10 witness is speaking in Lingala. He is returning to Swahili.

11 THE WITNESS (interpretation): -- he fled and went to Bule, and
12 then he stayed there with the soldiers. He left.

13 THE INTERPRETER: Interpreter indicates: A part of this answer
14 was given in Lingala.

15 MS. MABILILLE (interpretation):

16 Q. Witness, could return to your written statement, and notably
17 paragraph 113. Do you have that paragraph before you?

18 Excuse me. Excuse me, Witness. I had misunderstood your answer.

19 On which front did you fight during this battle? Where were you
20 when fighting?

21 A. In preparing to fight the president fled, and we soldiers stayed
22 in the camp. Afterwards, when the battle began, we left and we went to
23 Dele to attack the Ugandans.

24 Q. Could you please clarify? You have just said that, "We stayed in
25 the camp." Which camp are you speaking about?

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1 A. At the residence, at the president's residence.

2 Q. And subsequently you left to fight, and you've just said at a
3 particular place. Which place?

4 A. There was fighting going on everywhere, wherever the Ugandans
5 were, but we went to attack the Ugandans who were located in Dele in
6 particular.

7 Q. Could you indicate where Dele is?

8 A. Dele is in Bunia. It's the road to the lake, the road to
9 Kasenyi.

10 Q. Could you look at the statements which you made? And I'd like us
11 to look at paragraphs 113 to 115.

12 Now, Witness, I won't refer to the first sentence, I'm going to
13 start looking at this a little bit later.

14 "As regards me and the two sections of the UPC from Lopa with
15 which I had arrived in Bunia to guard Lubanga's residence, we returned to
16 Lopa on the same day that the Ugandans began the war. It is our
17 commander, (Redacted), who asked us to go back or to return without
18 fighting so that we could prepare to fight the Ugandans."

19 Now, did you go to Lopa or did you go to fight in Dele?

20 A. If I understand the text which you have just read from the statement,
21 when I say that we went back directly to Lopa, that doesn't mean

22 that it was I personally who went to Lopa. We had made someone flee. I
23 don't know if it is a mistake, with regard to the person we made flee.

24 That is to say that we had made our president flee. Now, whether he went to
25 Lopa or Bule or another village, I don't know, but we went to fight in Dele.

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1 Q. So you didn't leave Thomas Lubanga's residence to go to (Redacted).
2 You left Thomas Lubanga's residence to go and fight in Dele; is that
3 right?

4 A. Yes. It was his personal guards who went with him when he fled.

5 Q. You mentioned that the fighting began at about 4.00 in the
6 afternoon and stopped at 5.00. So the fighting against the Ugandans
7 lasted for one hour in total?

8 A. No. No, I didn't say that. I don't know how they wrote that
9 down.

10 PRESIDING JUDGE FULFORD: Yes, Ms. Bensouda.

11 MS. BENSOUDA: Can my colleague please refer us to the paragraph?

12 PRESIDING JUDGE FULFORD: If I can help, Ms. Bensouda, during
13 your questioning the witness at one stage said the battle started at 1600
14 hours and continued until 1700 hours when they fled. Now, I don't have a
15 page reference for it, but that was the note that I took.

16 MS. BENSOUDA: Yes, Mr. President. My -- my point is just my
17 colleague has all the time being referring to the statement, to the
18 paragraphs in the statement, and all of a sudden jumps to the oral
19 testimony. This is bound to confuse the witness. Let it be clear
20 whether we're referring to the oral testimony in court or the statement,
21 because up to this moment we were referring to paragraphs in the
22 statement.

23 PRESIDING JUDGE FULFORD: Well, I'm afraid, Ms. Bensouda, I don't
24 agree that the question put by Maitre Mabilille had a tendency to confuse.
25 The question simply was:

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1 "You mentioned that the fighting began at 4.00 and stopped at
2 5.00. So the fighting against the Ugandans
3 lasted for an hour in total?"

4 Now, I don't think it's confusing, but thank you for the intervention.

5 Yes, Maitre Mabilille, please continue.

6 MS. MABILILLE (interpretation): Ms. Bensouda, just to be clear,
7 I'm looking at page 56, line 17.

8 Q. So the fighting against the Ugandans lasted for one hour in
9 total? That's the question which I'm putting to you.

10 A. The fighting between us and the Ugandans didn't last one hour.
11 I don't know how they could have made that mistake. I certainly didn't say
12 that. Even if I said it, I may have been mistaken.

13 The fighting against the Ugandans began at 4.00 in the morning
14 and ran until 1700 hours in the afternoon. It was a full day. I didn't
15 say for one hour, no.

16 Q. Witness, today you have said from 4.00 to -- to 5.00 p.m.,
17 4.00 a.m. to 5.00 p.m. Was that in Dele?

18 A. I wasn't alone. There were a lot of soldiers with me.

19 Q. No, I understand that you weren't alone, but were all the
20 soldiers of your battalion, under your commander, were they in Dele at
21 the time?

22 A. Yes, we were all in Dele.

23 Q. Witness, you said that you were injured in the foot during these
24 battles; is that right?

25 A. Yes, that's right.

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Questioned by Ms. Mabilille (Continued)

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1 Q. Were you injured in your foot or in your leg.

2 A. My foot. It was definitely my foot.

3 Q. Was it a gun-shot wound?

4 A. Yes, it was a bullet.

5 Q. Did the bullet enter your foot?

6 A. It was about to enter but it didn't enter. If it had entered,
7 you wouldn't have seen me standing here, no, no.

8 PRESIDING JUDGE FULFORD: Maitre Mabilille, I'm going to interrupt. We're
9 still in closed session. We should be in open session now, shouldn't we?

10 MS. MABILILLE (interpretation): Yes, Mr. President.

11 PRESIDING JUDGE FULFORD: Yes. Open session, please.

12 (Open session)

13 COURT OFFICER: Open session.

14 PRESIDING JUDGE FULFORD: Yes, please continue.

15 MS. MABILILLE (interpretation):

16 Q. So the injury was to your foot. That's what you're telling me;
17 is that right?

18 A. Yes.

19 Q. And the bullet, of course, did not go through your foot, it just
20 touched your foot; is that right?

21 A. Yes.

22 Q. Could you tell us where you were at the point in time when the
23 bullet hit you?

24 A. I was in Bunia.

25 Q. Were you in Bunia or were you at the place where you were

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
Questioned by Ms. Mabilie (Continued)

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1 fighting in Dele?

2 A. We were in Dele. Dele is in Bunia.

3 Q. So when you say that the bullet grazed you and you were in Bunia,
4 you mean you were in Bunia but in Dele district; is that right?

5 Who helped you to go -- when you were injured, people came to
6 help you. Who came to help you?

7 A. They were soldiers, comrades, nobody else.

8 Q. And how were you able to return to the vehicle?

9 A. A vehicle was called and came.

10 Q. Do you remember the number of people who were in that vehicle?

11 A. The injured people or the people who arrived on board the
12 vehicle?

13 Q. The people who were in the vehicle in general, that is to say
14 those who were injured and the others?

15 A. Do you want to know the number when the vehicle arrived or the
16 number when the vehicle left with the injured?

17 Q. Let's say the number of people in the vehicle when it left with
18 the injured aboard.

19 A. Do you want me to answer?

20 Q. Yes, if you can.

21 A. No, I wasn't able to count the number of people because I was in
22 pain. When you have pain in your body, you don't have time to be
23 counting people.

24 Q. Do you know whether there were other injured children on board
25 that bus?

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Questioned by Ms. Mabilille (Continued)

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1 A. Yes, there were children. Yes.

2 Q. Do you remember how many children were on board that bus, how
3 many injured children?

4 A. I've already answered that question. I couldn't count the number
5 of people, adults, children, men, women. I couldn't.

6 Q. Would you be so kind as to look again at the statement which
7 you -- the written statement which you made to the investigators, and
8 look at paragraph 117. Can we take line four. Now, on line four you
9 say:

10 "We were three injured children in that bus."

11 Do you remember having said that?

12 A. Yes, I remember. Yes.

13 Q. So at the time you remembered how many people there were.

14 A. Yes.

15 MS. MABILILLE (interpretation): Your Honour, might I have ten
16 short minutes?

17 PRESIDING JUDGE FULFORD: Are you indicating, Maitre Mabilille,
18 that you may now have concluded your questions but you want to check with
19 the rest of your team as to whether or not there are other areas that
20 should be covered?

21 MS. MABILILLE (interpretation): I would like to address a final
22 point, but I would like to check in light of what has now been said here.
23 I would like to carry out a check before. I have some further questions
24 to put, but I would need a short break to check a number of points, your
25 Honour.

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1 PRESIDING JUDGE FULFORD: All right. But I'm just trying to --
2 and this is, as ever, Maitre Mabilille, not in any way trying to put any
3 kind of fetter on length, but we've got to make arrangements for this
4 afternoon. Do I understand that you're now relatively close to the end
5 of your questioning, but you just want to clarify the final matters
6 you've got to deal with?

7 MS. MABILILE (interpretation): Exactly, your Honour. I think
8 that I would need another 15 minutes to a half an hour. So I'm
9 practically at the end.

10 PRESIDING JUDGE FULFORD: Thank you. You can have longer than
11 ten minutes. You can have until a quarter to 3.00 to reflect.

12 As I understand it, there are now no questions from participating
13 victims. That's right, isn't it, Mr. Walley?

14 MR. WALLEYN (interpretation): That's right, your Honour.

15 PRESIDING JUDGE FULFORD: Thank you.

16 Ms. Bensouda, are you likely to have many matters that you're
17 going to want to put?

18 MS. BENSOUDA: No, Mr. President, just a couple of questions.

19 PRESIDING JUDGE FULFORD: Witness, can I say that we're now very
20 nearly at the end of your evidence. We're going to have lunch now, and
21 there may be a few more questions after lunch, but I promise you insofar
22 as I'm able to promise anything, that that will then be the end of it.
23 So please cooperate with us just one more time and come back after lunch.

24 And I think if those time estimates are broadly accurate, we will
25 make a start with Witness 8, certainly by way of introduction, and see

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1 how far we get. So we must be prepared for that witness as well.

2 Are there any submissions to be made on the protective measures
3 that have been proposed for Witness 8? Ms. Bensouda or Mr. Sachdeva?

4 MR. SACHDEVA: Indeed, Mr. President, but I wonder if --

5 PRESIDING JUDGE FULFORD: Yes. I want to get an idea as to
6 length of time. Have you got some detailed submissions to be made on the
7 proposals, Mr. Sachdeva?

8 MR. SACHDEVA: Just three minutes. It will be very brief.

9 PRESIDING JUDGE FULFORD: Right. Can I ask who for the Defence
10 is dealing with Witness 8? Mr. Biju-Duval, don't develop your arguments
11 now, but have you had an opportunity to consider the proposals that have
12 been made by the Victims and Witnesses Unit for the witness to come?

13 MR. BIJU-DUVAL (interpretation): To be honest, your Honour, not
14 in detail.

15 PRESIDING JUDGE FULFORD: I'm glad I've raised this then,
16 Mr. Biju-Duval. As soon as this witness has finished his evidence, I
17 will need -- if there are going to be any submissions, I will need for
18 coherent submissions, obviously, to be made before the next witness is
19 called.

20 One final matter in relation to the next witness, can a message
21 please be got to the Victims and Witness Unit via the Court Officer
22 that for this and all witnesses to come we must check as to whether or
23 not they are able to read French, Lingala, Swahili, whichever is
24 relevant, so that if the exercise of putting previous statements is to be
25 undertaken we don't embarrass any witness by asking them to read when in

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1 fact they don't have sufficient skills, and this must be clarified very
2 carefully with each witness before they're called.

3 Good. Can we then please go into closed session with the blinds
4 down so the witness can go and have lunch. Can Mr. Lubanga please leave
5 court. Thank you very much, sir.

6 *(Closed session) Reclassified as Open session

7 COURT OFFICER: Closed session.

8 (Mr. Lubanga withdrew)

9 PRESIDING JUDGE FULFORD: Thank you very much.

10 (The witness stands down)

11 PRESIDING JUDGE FULFORD: 2.45.

12 Luncheon recess taken at 12.55 p.m.

13 On resuming at 2.45 p.m.

14 COURT USHER: All rise. Please be seated.

15 PRESIDING JUDGE FULFORD: Witness, please.

16 (The witness takes the stand)

17 (Mr. Lubanga entered court)

18 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Lubanga.

19 Do you have further questions, Ms. Mabilille, and if so, closed or
20 open session?

21 MS. MABILILLE (interpretation): Closed session, your Honour.

22 PRESIDING JUDGE FULFORD: Right. We'll remain as we are then.

23 Please proceed.

24 MS. MABILILLE (interpretation):

25 Q. Witness, I would like you to clarify two points. Yesterday you

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Questioned by Ms. Mabilie (Continued)

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- 1 said that you were in Beni. Do you remember the persons you met in Beni?
- 2 A. Yes.
- 3 Q. Can you tell us the names of these persons?
- 4 A. Yes, I can.
- 5 Q. Please go ahead.
- 6 A. There was (Redacted) and (Redacted), (Redacted). There was also
- 7 (Redacted). Those are the persons I met.
- 8 Q. You did not meet (Redacted), or (Redacted) in Beni,?
- 9 A. There was also (Redacted), yes.
- 10 Q. Did you meet (Redacted) in Beni?
- 11 A. No.
- 12 Q. Thank you, Witness. And when you were in (Redacted), who did you
- 13 meet?
- 14 A. In (Redacted) I met (Redacted).
- 15 Q. Only (Redacted)?
- 16 A. Yes.
- 17 Q. No other person?
- 18 A. No other person.
- 19 Q. Thank you, Mr. Witness. Do you know these persons, (Redacted),
- 20 (Redacted)? Do you know who these
- 21 persons are?
- 22 A. Yes.
- 23 Q. Who are they?
- 24 A. I know that they are investigators.
- 25 Q. Do they all belong to the Office of the Prosecutor? Is that what

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Questioned by Ms. Mabilie (Continued)

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1 you think?

2 A. Yes.

3 Q. Thank you for that clarification.

4 MS. MABILLE (interpretation): Can we call up the document which
5 has reference DRC-20-1003-0096 (as interpreted). I am not presenting it
6 now. I just want to draw your attention to that document. I will have
7 to ask two questions first.

8 Q. Witness, do you remember the profession of the husband of your
9 mother?

10 A. The profession of the husband of my mother, yes, I know.

11 Q. Can you tell us?

12 A. Yes.

13 Q. We are listening.

14 A. (Redacted)

15 Q. (Redacted)

16 A. (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. Do you remember his name?

20 A. Yes.

21 Q. Can you tell me?

22 A. I don't know if I should just give that name just like that. Do
23 you want me to write the name on a sheet of paper?

24 Q. If that is more convenient for you, well, there's no problem
25 about that.

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Questioned by Ms. Mabilille (Continued)

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1 A. (Marks)

2 PRESIDING JUDGE FULFORD: Can that, please, be shown to
3 Maitre Mabilille. Thank you. And then to Ms. Bensouda. Thank you.

4 Yes, Maitre Mabilille.

5 MS. MABILLE (interpretation): I would like the document which I
6 cited to be shown to the witness, and in that document I would like to
7 refer to the page DRC-201-0003-0140 (as interpreted).

8 Q. Witness, this is a document. We have a hard copy of the document
9 for the witness. This is a school register, a school register from the
10 school in (Redacted). I would like you to take this document. Can you,
11 please, Mr. Court Usher, help him to locate the right page?

12 PRESIDING JUDGE FULFORD: Just pause for a moment. Two documents now
13 need to be given numbers, please.

14 COURT OFFICER: The document on which the blank piece of paper on which the
15 witness wrote the name shall carry the number MFI-D-00046. And the document
16 with the ERN number DRC-D01-0003-0096 shall carry the number MFI-D-00047.

17 PRESIDING JUDGE FULFORD: I think Ms. Mabilille is about to take
18 the witness to a particular entry on the register. Can I ask the Court
19 Officer go and sit with him to make sure we identify the right part.

20 Yes, Maitre Mabilille.

21 MS. MABILLE (interpretation):

22 Q. I am on the page which has the number DRC-D01-0003-0140.
23 Witness, I would like you to look at line one, two, three, four, five,
24 six, seven, eight, nine, ten -- the 11th line, and it starts with a
25 registration number, 2297. Have you seen the line? Do you see the first

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Closed Session)
Questioned by Ms. Mabilille (Continued)

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1 name on that line?

2 A. Yes.

3 Q. The name is "(Redacted)"; is that correct?

4 A. That's correct.

5 Q. This is followed by a second name which is "(Redacted)." Do you see
6 that name, Witness?

7 A. Yes, I can see it.

8 Q. Do you remember that two days ago when I put some questions to
9 you, I asked you whether you had a name or a nickname -- the nickname
10 (Redacted) and you answered "yes." Do you remember?

11 A. I remember.

12 Q. Now, if we continue reading along that line, we find "(Redacted) 1989."

13 Can you see, further on in the document? After (Redacted), can you see
14 where this is written?

15 A. Yes.

16 Q. On the next column we find "(Redacted)." Can you see that?
17 Carrying on, still on the same line.

18 Do you -- can you see the line, Witness, or not?

19 A. I see it.

20 Q. And after that we find another name, the next column, "(Redacted)."
21 Can you see that?

22 A. Yes.

23 Q. Now, the question I would like to put to you is the following:
24 Do you think that this could be you enrolled on this register?

25 A. This can be me, yes.

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Questioned by Ms. Mabilille (Continued)

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1 PRESIDING JUDGE FULFORD: Yes Ms. Bensouda.

2 MS. BENSOUDA: Mr. President, the witness is being asked to speculate

3 on a document that I think he's seeing probably for the first time,

4 he doesn't know who prepared the document, under what circumstances,

5 and he's been asked to speculate on a document, Mr. President.

6 PRESIDING JUDGE FULFORD: Thank you, Ms. Bensouda.

7 Maitre Mabilille, I think you've introduced this as being a school

8 register. That's correct. It might be helpful to tell the witness a

9 little bit more about what you say the document is, because if you're

10 asking him to express an opinion as to whether this might be him, some of

11 the relevant facts may include the year the document was created, which

12 school it relates to, matters of that kind. I think that would probably

13 assist him. So can you establish a bit more context, please, in relation

14 to this document?

15 MS. MABILILLE (interpretation):

16 Q. Witness, yes, indeed, I did not give you enough information.

17 This document comes from the headmaster of the (Redacted) school, and it

18 shows the various academic years the pupils who were present in the

19 (Redacted) school in the respective academic years. I just presented to

20 you -- or showed you the line which shows that you were -- which shows

21 your name. And the second thing I would like to tell you is that if we move

22 on to DRC-D01-0003-0126, you will find that we are referring to the

23 academic year 2001/2002. And so I will put the question to you again.

24 Do you think that Mr. (Redacted), whose name features on this

25 register, could be you enrolled in this school for the 2001/2002 academic

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Questioned by Ms. Mabilille (Continued)

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1 year?

2 A. Yesterday, when you asked me a question, I think I told you that
3 I was going to give you an answer. You talk about (Redacted). That's my
4 name. I am not the only one who bears that name. There are many other
5 (Redacted) and (Redacted) in the region. And I told you that (Redacted) is
6 not my real name. It's a nickname given to me by my friends, the friends I
7 used to play with. It's not my real name. That's what I told you yesterday.
8 I think you heard me say that yesterday.

9 Q. Yes, I heard you say that. But I am saying that there is (Redacted)
10 (Redacted) on this register who was registered as a pupil in (Redacted) school
11 during the 2001/2002 academic year, and my question is: Can this pupil
12 be you?

13 A. It's difficult for me to answer you clearly because I don't know
14 if this is me or someone else.

15 MS. MABILILLE (interpretation): I am through, your Honour.

16 PRESIDING JUDGE FULFORD: Thank you very much indeed,
17 Maitre Mabilille.

18 (The Trial Chamber confers)

19 PRESIDING JUDGE FULFORD: We can now go into public session,
20 please.

21 (Open session)

22 COURT OFFICER: Open session.

23 PRESIDING JUDGE FULFORD: We're nearly finished. There are some
24 questions from the Judge who sits on my right, though.

25 Yes, Judge Odio Benito.

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1 JUDGE ODIO BENITO: Thank you.

2 Questioned by the Court:

3 JUDGE ODIO BENITO: Sir, you said during your testimony and also
4 in your written statement that General Bosco often came to Bule to meet
5 with commander Maki; is that so?

6 A. Commander Toma came often. That is the commander who came often.

7 PRESIDING ODIO BENITO: Thank you, sir. I would like to draw
8 your attention to paragraph 56, with the assistance of the usher, please.

9 PRESIDING JUDGE FULFORD: This is the statement, and could the
10 Court Officer go over, please, and help the witness find paragraph 56 of
11 his witness statement.

12 JUDGE ODIO BENITO (interpretation): I am reading from the
13 English version, but I think it's the same in French.

14 You said there the following:

15 "Bosco came with his soldiers and his guards, most of whom were
16 girls."

17 Could you -- could you clarify to us if these girls were amongst
18 the bodyguards -- Bosco bodyguards or among the soldiers accompanying
19 him?

20 A. Most of the bodyguards of President Bosco were girls, and so
21 those who moved around with him were girls.

22 JUDGE ODIO BENITO: Thank you. Thank you very much. Was General
23 Bosco the only commander with girl bodyguards or there were other
24 commanders with girl bodyguards?

25 A. May I speak? Yes, your question is quite clear. There were

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1 certain commanders who had bodyguards who were girls and others who had
2 bodyguards who were not girls. Some of them moved around with girls,
3 especially Bosco. He always moved around with girls.

4 JUDGE ODIO BENITO: Thank you. Did you ever talk to any of these
5 girls?

6 A. No.

7 JUDGE ODIO BENITO: Thank you. Yesterday you told us the
8 following, you were answering a question posed by the OTP:

9 "I can't tell you what happened to them later -- later on, but I
10 know that there were the officers in training camps that used to sleep
11 with these girls, but I don't know what happened to them afterwards."

12 Do you know if in addition to sleeping with the commanders, the
13 girls had other duties or responsibilities to perform in the training
14 camps or in the military camps?

15 A. They had no other duties.

16 JUDGE ODIO BENITO: That means, if I understood you correctly,
17 that the girls were brought to the camps to sleep with the commanders?

18 A. The girls also came to undergo training, but at some point the
19 commanders would sleep with the girls.

20 JUDGE ODIO BENITO: Thank you, sir. Thank you very much indeed.

21 PRESIDING JUDGE FULFORD: Now, Ms. Bensouda, any matters that you
22 wish to ask by way of what is called in some jurisdictions
23 re-examination?

24 MS. BENSOUDA: Yes, Mr. President, just a couple of questions.

25 PRESIDING JUDGE FULFORD: Certainly.

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1 MS. BENSOUDA: I will not be very long.

2 Further questioned by Ms. Bensouda:

3 Q. Mr. Witness, good afternoon.

4 A. (No interpretation)

5 Q. I'm going to ask you a few more questions. I promise not to be
6 long.

7 Yesterday in your -- when you gave evidence, you talked about
8 many children being demobilised. Do you remember that?

9 A. Yes, I remember.

10 Q. Do you know where -- to which militia group they belonged to?

11 A. Yes, I know.

12 Q. Can you please tell us?

13 A. They were part of the UPC militia group.

14 Q. Also, earlier on today when Maitre Mabille was asking you
15 questions, you -- you said you did not know how many people there were in
16 a brigade. Whilst you were in the UPC, were you ever taught the number
17 of people in a brigade or in a section during your training?

18 A. Based on what I learnt, based on what we were told, there are 300
19 soldiers in a battalion.

20 MS. BENSOUDA: I'm sorry, maybe interpreter -- I did not hear the
21 last.

22 THE INTERPRETER: "Based on what I learnt, based on what we were
23 told, there were 300 soldiers in a battalion."

24 MS. BENSOUDA:

25 Q. What about in a brigade? Were you ever taught that?

Witness: Witness DRC-OTP-WWW-0213 (Resumed) (Open Session)
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1 A. We didn't count the number of soldiers in our brigade, but based
2 on what I learnt, in our brigade there were 300 soldiers.

3 Q. That's -- that's okay. I'm just going to move to another area, a
4 few questions.

5 Witness, is it possible for you to indicate what part of your
6 foot or leg you sustained injury during the Uganda -- during the fight
7 that you -- the UPC had with Uganda?

8 A. I received a wound to my left leg.

9 MS. BENSOUDA: Mr. President, I don't know how practically this
10 is going to work out without the witness stepping down from the stand,
11 but I would want the witness to point out, just touch the area where he
12 sustained the injury.

13 PRESIDING JUDGE FULFORD: Well, the accused is in court,
14 Ms. Bensouda, I'm -- there may be a way in which the witness could simply
15 stand up, move along a little into the gap between the end of the table
16 and the curtains. Maitre Mabille could come round to the front just in
17 front of the Court Officer so that she can see, and then the witness
18 could be asked just to point on his foot where he received the injury.
19 That certainly is acceptable.

20 MS. BENSOUDA: Thank you, Mr. President. That's helpful.

21 Q. Now, Mr. Witness, if you can just stand up and come to this side a
22 little bit. The Court Officer will help you. And you indicate where you
23 sustained the injury on your left leg.

24 A. (Indicates)

25 PRESIDING JUDGE FULFORD: Excellent. Thank you very much indeed.

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1 For the sake of the record, the witness has pointed to a part of his left
2 leg, towards the left side, reasonably close to the knee, but below it.

3 MS. BENSOUDA: Thank you, Mr. President.

4 Q. Witness, just now under cross-examination you referred to
5 Commander Toma. Who is Commander Toma?

6 A. Commander Toma was the president.

7 PRESIDING JUDGE FULFORD: Now, Ms. Bensouda, I don't mind time
8 being granted, but I think if counsel wish to turn their back on the
9 Bench and to consult, there really does need to be, however short, a
10 request for this to happen.

11 MS. BENSOUDA: Mr. President, I'm very sorry for that.

12 PRESIDING JUDGE FULFORD: All right.

13 MS. BENSOUDA: I was just consulting with my colleagues at the
14 back. But --

15 PRESIDING JUDGE FULFORD: That I understand, but I think if
16 counsel wish to turn their back on the Bench --

17 MS. BENSOUDA: I'm sorry, Mr. President.

18 PRESIDING JUDGE FULFORD: -- and consult, there should be a
19 request.

20 MS. BENSOUDA: Yes. It was --

21 PRESIDING JUDGE FULFORD: All right. Now, where are we going
22 now?

23 MS. BENSOUDA: Mr. President, I'm sorry I did that because the
24 writing was very small and I'm just trying to figure out the --

25 PRESIDING JUDGE FULFORD: No, I'm sure the reason is a very good

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1 one, Ms. Bensouda.

2 MS. BENSOUDA: Yes.

3 PRESIDING JUDGE FULFORD: It's question is of politeness. Where
4 are we going now?

5 MS. BENSOUDA: Mr. President, that will be all for this witness.

6 PRESIDING JUDGE FULFORD: Thank you.

7 MS. BENSOUDA: And no impoliteness was meant.

8 PRESIDING JUDGE FULFORD: No, no, no, I understand.

9 MS. BENSOUDA: I'm sorry.

10 PRESIDING JUDGE FULFORD: I'm sure it was completely
11 unintentional. There have been a few questions from Judge Odio Benito
12 and a few from Ms. Bensouda. You're entitled to go last, Maitre Mabilille.
13 Anything else?

14 MS. MABILLE (interpretation): Nothing further, your Honour.

15 PRESIDING JUDGE FULFORD: That, finally, brings your evidence to
16 an end. On behalf of this court, I want to express our sincere and
17 fulsome thanks for you having come to this country to give evidence,
18 having travelled all the way from the Congo. In order for this court to
19 operate, we need the cooperation of witnesses such as yourself, and we
20 are acutely aware of the difficulties which may have been caused to you
21 by having had to come here. So you leave this court with our sincere
22 thanks for your cooperation and help. Thank you very much indeed.

23 THE WITNESS (interpretation): I haven't finished talking,
24 because I wanted to add one thing.

25 PRESIDING JUDGE FULFORD: You most certainly can.

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1 THE WITNESS (interpretation): This is what I wanted to say: I
2 would like to talk about the documents that were shown to me by the lady.
3 I know that yesterday questions were put to me regarding names, as to
4 whether I knew this one or that. When I entered into this programme to
5 be -- come before the court, I put the issue to my family; notably,
6 members of my family who were aware. When I went to Beni, I spoke with
7 investigators, and when I returned, I spoke with my relatives to tell
8 them why I had travelled to Beni.

9 One of my relatives was not in agreement with what I had done.
10 She cried day and night. And I left with an adult person. That adult
11 person spoke to my mother and told her, "Calm down. The child is going
12 to go and tell what he has done and what he has seen." When my mother
13 heard that, she was more calm. When I was preparing to travel, we were
14 together as a family and talking, and it was said to me,
15 "This is the problem you have. You are risking your life. You could --
16 you cannot die. There is joy and there is sadness." And when they said
17 that to me, I went to Kinshasa and I told them, "There are people who will
18 come and speak with you." My mother agreed, and we acquainted ourselves
19 with the programme, how things were going to work.

20 When questions were put to me -- when the first questions were
21 put to me, for instance, whether I knew Musissa (phoen) or this brother
22 or that brother, I answered based on what I knew. I answered some
23 questions, and I didn't answer some others. And before coming here, I
24 spoke to my relatives to tell them that I would be here. I said this.

25 First of all, my mother doesn't know exactly why I'm here. Maybe

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1 she thought that I was being lured into a bad arrangement. You have been
2 given my name, which is my real name. The name of the mother which you
3 have been given is not the real name. It's something which we planned.
4 We didn't want to give my identity, my date of birth, the names of my
5 parents, and the place where I studied. These are things which I
6 discussed with -- with my relatives. So what I said in Beni is the
7 truth. And I told them that if they come here, that they need to know
8 that the name that I gave is not my name. It's not my identity. I
9 thanked my mother, and I came here. And I want to thank you, too, and I
10 have nothing further to add.

11 PRESIDING JUDGE FULFORD: Thank you very much indeed.

12 We'll go into closed session, please.

13 *(Closed session) Reclassified as Open session

14 COURT OFFICER: Closed session.

15 PRESIDING JUDGE FULFORD: Thank you very much for that last
16 statement. I just want to clarify with you before you go, when you have
17 spoken to us over the last few days and you've told us yourself the name
18 of your mother, when you were speaking in this court were you -- were you
19 telling the truth and giving her real name or did you give us an
20 incorrect name?

21 THE WITNESS (interpretation): I gave the full name of my mother,
22 and it is the true name. The name is the one I gave when they were here.
23 It's my name, which wasn't given, because she thought that I would be put
24 to harm here, and she was afraid, and so she gave an identity. She
25 said -- I made a plan with her that if I was asked, that I would give a

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1 different identity.

2 This caused a lot of problems in my family. The younger brother
3 of my father was also a member of the UPC. He was a commissioner of the
4 Bunia district. When he learned all that happened, he really came
5 looking for me. He came looking for me everywhere.

6 I went to visit another brother of my father (Redacted)
7 (Redacted). That's the first time that I went
8 to (Redacted). Went -- when I went to see him, he asked me what I was
9 doing there in (Redacted). I told him that I was studying. He said, "The
10 reason why you're here is to testify in the Thomas Lubanga case, because
11 there are other children here and I have seen them."

12 When he began putting questions to me, which were complicated, I
13 left and I never returned to the house of the brother of my father. I
14 don't know where he is now, and they're looking for me. They're looking
15 to find where I am.

16 PRESIDING JUDGE FULFORD: Thank you very much for that. I just
17 wanted to make sure that, in fact, what you told us was the truth.

18 THE WITNESS (interpretation): Yes, your Honour.

19 PRESIDING JUDGE FULFORD: Thank you very much indeed. You are now free to
20 go and if you would go with the usher. Thank you very much indeed.

21 Quite right. If Mr. Lubanga could leave court just for a second,
22 please. Thank you.

23 (Mr. Lubanga withdrew)

24 (The witness withdrew)

25 PRESIDING JUDGE FULFORD: Now we -- yes, Mr. Lubanga back,

1 please.

2 (Mr. Lubanga entered court)

3 PRESIDING JUDGE FULFORD: Thank you and open session, please.

4 (Open session)

5 COURT OFFICER: Open session.

6 (The Trial Chamber confers)

7 PRESIDING JUDGE FULFORD: Ms. Bensouda, I want to clarify with
8 your assistance and the assistance of other members of the Bar one issue.
9 In the last exchange which was at the initiative of the witness, there
10 was some material given by him about a discussion that he had with
11 members of his family which involved the possibility that in order to
12 protect him, possibly to protect them, some false details would be given.

13 Now, as I have interpreted, particularly the answer that he gave
14 to the question that I asked when we went into closed session, the
15 witness was saying to us that when he came here he told the truth. So if
16 there had been a plan to give a false identity, when he actually came
17 before this court he has been honest.

18 Now, if I'm wrong or may be wrong in that interpretation, before
19 the witness leaves this court it may, in fact, be necessary for him to be
20 recalled for this to be clarified, because if there's going to be any
21 suggestion that he has deceived the court and has carried through with
22 that plan, then I think this needs to be sorted out rather than it simply
23 being left hanging in the air.

24 Now, do you want to have a moment to discuss the matter with
25 members of your team?

1 MS. BENSOUA: Yes, Mr. President.

2 PRESIDING JUDGE FULFORD: Well, take your time. Please turn your
3 back on the Court, Ms. Bensouda. It was simply the request that I was
4 referring to, not the fact of turning your back. In order to talk to
5 Ms. Samson, you've got to turn your back.

6 (Prosecution counsel confer)

7 PRESIDING JUDGE FULFORD: Yes, Ms. Bensouda.

8 MS. BENSOUA: Thank you, Mr. President. Mr. President, the
9 Prosecution team wants to agree with what -- the assumption that the
10 Bench has made, that the witness has actually told us the truth, and in
11 his last exchange before leaving he did confirm that he has told us the
12 truth, and I believe the witness is more concerned about protective --
13 protecting himself or the plan to protect himself, which is what he tried
14 to explain, and not the substance of the testimony he has given, which he
15 has confirmed that it was the truth.

16 This is our understanding, Mr. President.

17 PRESIDING JUDGE FULFORD: Thank you, Ms. Bensouda. Now, can I
18 ask your assistance with one thing. The statement which we have - and
19 he's referred to having told the truth in Beni - now, it may be you can't
20 answer this question because there may be reasons why you can't say, but
21 was -- what I'm interested in is whether the statement was made in Beni.
22 So when the witness says, "What I said in Beni is the truth --" you may
23 like to have a word with Ms. Samson again.

24 MS. BENSOUA: Indeed, Mr. President. The statement was made in
25 Beni.

1 PRESIDING JUDGE FULFORD: Right.

2 MS. BENSOUA: And I believe the witness is referring to the
3 statement when he said, "What I said in Beni was the truth."

4 PRESIDING JUDGE FULFORD: Was the truth. Right.

5 MS. BENSOUA: Yes.

6 PRESIDING JUDGE FULFORD: And so if what's in the statement is
7 the same as what he said in evidence as to his identity and date of
8 birth, then it is clear from what he has said in court that the truth was
9 said in Beni, the truth was said in this court, and that is his name.

10 MS. BENSOUA: Absolutely, Mr. President.

11 PRESIDING JUDGE FULFORD: Right.

12 MS. BENSOUA: Thank you.

13 PRESIDING JUDGE FULFORD: Thank you.

14 Now, Maitre Mabilie, I must ask because I don't want this left on
15 an uncertain basis. If it may be suggested to us hereafter that what the
16 witness said during that last statement on his part calls into question
17 the name that he's given us for himself, his date of birth as he
18 understands it to be, and the name of his mother in particular, then in
19 our view the witness needs to be recalled so that those matters can be,
20 as it were, dealt with in an unequivocal way rather than being left
21 hanging in the air.

22 If, on the other hand, that suggestion is not going to be made,
23 then it seems to us that the matter can be left where it is. So I do
24 need your assistance now as to how you may interpret what the witness
25 said right at the end of his testimony.

1 MS. MABILLE (interpretation): Your Honour, if you could grant me
2 one minute to discuss this matter with my team, and I'll return to you
3 then.

4 PRESIDING JUDGE FULFORD: Yes, of course, Maitre Mabilie.
5 (Defence counsel confer)

6 PRESIDING JUDGE FULFORD: Maitre Mabilie.

7 MS. MABILLE (interpretation): Your Honour, we have a practical
8 problem in that we can never scroll up on what has been said, so we're
9 not able to read what has just been said by the witness. Would it be
10 possible for us to reserve or make our answer subject to our reading what
11 exactly was said and that we then return to you on the matter a little
12 later? Would that be possible?

13 PRESIDING JUDGE FULFORD: Just give me a moment.
14 (Trial Chamber and Court Officer confer)

15 PRESIDING JUDGE FULFORD: Maitre Mabilie.

16 MS. MABILLE (interpretation): Yes, your Honour. If we have
17 understood rightly what the witness spontaneously said, he seems to have
18 said that the details that were - what term should I use? - which were
19 hidden or where there was an agreement with his family not to provide the
20 true details for protective reasons, are related to his identity, his
21 date of birth, the names of his parents, and the place where he studied.

22 Now, if that's right, I think that we need to recall him, because
23 there is a genuine problem which we need to have clarified.

24 PRESIDING JUDGE FULFORD: Well, if -- if that is the attitude of
25 the Defence, Maitre Mabilie, I don't see that there is any choice in

1 this. However, I -- I would ask you to -- to look at page 74, line
2 22 - don't move for a second from where you are but you can look at it in
3 a minute - where I put to him:

4 "I want to clarify with you before you go, when you've spoken to
5 us over the last few days and you've told us yourself, the name of your
6 mother, when you were speaking in this court, were you telling the truth
7 in giving her real name or did you give us an incorrect name?"

8 And he said:

9 "I gave the full name of my mother and it is the true name. The
10 name is the one I gave when they were here. It's my name," et cetera.

11 But if, notwithstanding that, you feel that there is some possibility
12 on those answers that the witness has lied to us about his identity, that
13 of his mother, and where he went to school, we will have no choice but to
14 have him recalled.

15 (Defence counsel confer)

16 MS. MABILLE (interpretation): If it were only the issue of his
17 mother's name the Defence would have no difficulty, in fact, but I
18 believe that I have understood from what I have re-read that the matter
19 concerns not only the identity of his mother, the matter on which you
20 specifically questioned him, but if I'm not mistaken, also his date of
21 birth, his own name, and the place where he studied. But of course, I'm
22 quite willing to take the time to read the transcript, and we have only
23 been able to read the English version rather than the original French.

24 PRESIDING JUDGE FULFORD: Thank you very much, Maitre Mabilie.

25 I'm going to ask the Court Officer to find out whether the

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1 witness is still in the building and whether he can be asked kindly to
2 come back into court.

3 MS. SAMSON, that is distinctly inappropriate.

4 MS. SAMSON: Yes, your Honour. I apologise.

5 PRESIDING JUDGE FULFORD: I never want to see anything like that
6 happen again whilst this court is sitting.

7 MS. SAMSON: Absolutely. My sincere apologies for that.

8 COURT USHER: Closed session.

9 *(Closed session) Reclassified as Open session

10 (Mr. Lubanga withdrew)

11 (The witness entered court)

12 WITNESS: WITNESS DRC-OTP-WWW-0213 (Recalled)

13 (Witness answered through interpreter)

14 PRESIDING JUDGE FULFORD: Defendant, please.

15 (Mr. Lubanga entered court)

16 Further questioned by the Court:

17 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Lubanga.

18 I promised you that you were finished, and I'm very sorry to
19 bring you back. We need to clarify some things that have arisen as a
20 result of what you said to us just before you left court.

21 The first thing I want to ask you is whether your name is (Redacted)
22 (Redacted).

23 A. Yes.

24 PRESIDING JUDGE FULFORD: And your father is (Redacted).

25 A. Yes.

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1 PRESIDING JUDGE FULFORD: And your mother is (Redacted).

2 A. Yes.

3 PRESIDING JUDGE FULFORD: You've also known her known as (Redacted)?

4 A. (Redacted).

5 PRESIDING JUDGE FULFORD: Thank you for correcting me. Right. You told
6 us that your parents informed you that you were born on the (Redacted) of
7 (Redacted), 1991. Is that true?

8 A. Yes, that's the truth.

9 PRESIDING JUDGE FULFORD: And you've given us a number of schools
10 where you lived, a number of schools that you attended, including the
11 (Redacted) -- or the EP (Redacted) school, otherwise known as (Redacted),
12 and the EP (Redacted) school. Did you attend both of those schools?

13 A. I studied in (Redacted).

14 PRESIDING JUDGE FULFORD: Right. But where you've said that you also
15 went to the EP (Redacted) school for the fifth year in Bunia, although you
16 didn't finish the year, was that true?

17 A. Yes, that's true.

18 PRESIDING JUDGE FULFORD: Finally, in relation to your mother, I
19 think you also told us that another name which we -- which applies to her -
20 and I'm going to pronounce this incorrectly, I'm sure - is (Redacted).

21 A. Yes.

22 *(Open session)

23 PRESIDING JUDGE FULFORD: So does it follow that as regards
24 your -- your identity, you have told us the truth?

25 A. Yes.

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1 PRESIDING JUDGE FULFORD: As far as your mother's identity is
2 concerned, you have told us the truth?

3 A. Yes, I told the truth about the identity of my mother.

4 PRESIDING JUDGE FULFORD: And the same applies to your father?

5 A. Yes.

6 PRESIDING JUDGE FULFORD: And finally, in relation to the schools
7 you attended, you've given us the correct names?

8 A. Yes. I gave the correct names of the schools.

9 *(Closed session) - Reclassified as Open session

10 PRESIDING JUDGE FULFORD: Thank you. Just wait, please, for a moment.

11 THE WITNESS: (No interpretation)

12 (The Trial Chamber confers)

13 PRESIDING JUDGE FULFORD: Now, the witness has been asked a great
14 many questions during -- during this case, and I do not particularly at
15 this stage wish to have him subjected to further questions, and I do take
16 it that nobody is -- right. Good.

17 Thank you very much indeed. That is the end, and you are now
18 free to go once Mr. Lubanga -- and I'm sorry, sir, I've got to ask you to
19 leave court again. Thank you for your patience.

20 (Mr. Lubanga withdrew)

21 PRESIDING JUDGE FULFORD: Good. That really is the last time.
22 Thank you very much. You're now free to go.

23 THE WITNESS: No interpretation.

24 (The witness withdrew)

25 PRESIDING JUDGE FULFORD: Mr. Lubanga, please, and open session.

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1 (Mr. Lubanga entered court)

2 (Open session)

3 COURT USHER: Open session.

4 PRESIDING JUDGE FULFORD: Now, Ms. Bensouda -- in fact, it's

5 Mr. Sachdeva. Do you have - and I think you do - submissions to make as
6 regards the proposed protective measures.

7 MR. SACHDEVA: Thank you, Mr. President, I do and they're very
8 brief. Firstly, the Prosecution endorses the recommendations. There are
9 just a few issues that I'd like to bring to the attention of the Chamber.
10 Firstly with respect to the narrative, it is our understanding that I
11 would take the witness to a particular moment in testimony and then
12 the witness -- if the witness wanted to, would provide the narrative, or
13 is it the intention of the Chamber for the witness to at the outset
14 commence with a narrative.

15 The second is that I just inform the Chamber that the narrative
16 may have components that would merit redactions, possibly.

17 And thirdly, if the narrative goes on for a period of time, then
18 the Prosecution would ask for a five- or ten-minute break to review the
19 narrative, if that's okay with the Court.

20 PRESIDING JUDGE FULFORD: You're absolutely very right to raise
21 it, Mr. Sachdeva. The problem with this is that no two witnesses are the
22 same, and what seems to work for one witness may not work for another.
23 We're very much in uncharted territory in my view in relation to this,
24 and we'll have to see how we go, but everybody is going to have to be
25 sensitive and very much on their toes. If things are said which

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1 shouldn't be said, then we may have to implement redactions whilst the
2 witness is in full flow, and you will see the exchange between myself and
3 the Court Officer which will clearly reveal that we're in the process of
4 making redactions, but it may be you'll want to communicate independently
5 with the Court Office by email so as to alert him to any particular
6 concerns you have which conceivably we may have missed.

7 We are also going to have to ensure the narrative broadly remains
8 relevant to the issues that we're dealing with in this case. I would
9 imagine that the witness having read the statement is going to be guided
10 by that in relation to what narrative he or she should give, but let us
11 really see what happens once the witness is called, but thank you for
12 raising your concerns.

13 Anything else?

14 MR. SACHDEVA: That's it, Mr. President. Thank you.

15 PRESIDING JUDGE FULFORD: Good. Thank you very much. Now,
16 before I turn to Maitre Mabilille, I think, Ms. Massidda, this is one of
17 the witnesses who you represent, and I take it from your change of
18 positioning in the courtroom that that's the case. Do you wish to add
19 anything to the suggestions that have been made?

20 MS. MASSIDDA: No, your Honour. Thank you.

21 PRESIDING JUDGE FULFORD: Right. Short and to the point,
22 Ms. Massidda. Thank you.

23 Mr. Biju-Duval, have you now had an opportunity of looking at the
24 proposals?

25 MR. BIJU-DUVAL (interpretation): Yes, your Honour. Thank you.

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1 I have no observations on this question.

2 PRESIDING JUDGE FULFORD: Thank you very much indeed.

3 We're now very late in the day, and I think it would be
4 inappropriate to call the witness for seven or eight minutes to start his
5 evidence. If we'd had half an hour other so, then I think it would have
6 been worth it, but it's not worth it at this time.

7 The one inquiry that I'm going to have to made overnight is
8 whether the witness truly wishes to write all names and identifying
9 features down on a piece of paper. I think the collective experience of
10 all of us is that that can become onerous for everyone involved, and I
11 suspect that once the witness has been reassured that what happens in
12 this court is truly in closed session and that the piece of paper will
13 have exactly same dissemination as what is said, that the witness may be
14 persuaded to speak the words out loud rather than writing them down, and
15 I think generally the Victims and Witness Unit need to review whether
16 this is actually a sensible recommendation to make.

17 I see you nodding enthusiastically, Ms. Massidda.

18 MS. MASSIDDA: Thank you, your Honour. I think that the witness
19 was not sure 100 per cent of the explanation given to him in relation to
20 this part of the recommendation. He posed me one or two questions on
21 this, and my understanding is that if he is reassured he will be happy to
22 give the names instead of writing the names, but I will need, with the
23 leave of the Court, maybe, to speak with him on this or if someone from
24 VWU could reassure the witness on this particular point.

25 PRESIDING JUDGE FULFORD: Given this is so tied up with the

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1 protective measures, Ms. Massidda, if you don't mind I think I'd prefer
2 to leave this point with the Victims and Witness Unit rather than
3 having a visit by lawyers on this point.

4 MS. MASSIDDA: That's perfectly fine with us. Thank you very
5 much.

6 PRESIDING JUDGE FULFORD: Thank you very much indeed.

7 Is there anything else that we need to raise this evening? And
8 therefore, I assume that we will be able to commence with this witness's
9 evidence at 9.30 tomorrow morning.

10 Thank you all very much indeed for your assistance. We will sit
11 then at 9.30 tomorrow.

12 COURT USHER: All rise.

13 The hearing ends at 4.08 p.m.

14 RECLASSIFICATION REPORT

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

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