

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
6 Tuesday, 10 February 2009
7 The hearing starts at 9.36 a.m.
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5 (Open session)

6 PRESIDING JUDGE FULFORD: We're now in open session, and a
7 witness who has been known by the number 298 is now back in the witness
8 box, his evidence having been interrupted some days ago. It has been
9 agreed that he will be known by the name of Dieumerci during the course
10 of his evidence. This is a pseudonym which does not have any capacity to
11 reveal the true identity of this witness.

12 The accused is present in court. He is able to see Dieumerci on
13 a screen in front of him, although there is a curtain which separates the
14 witness from the accused so that the witness does not have to look at
15 Mr. Lubanga during the course of his evidence.

16 Now, Dieumerci, a few days ago when you were with us, you were
17 asked a number of questions about things that happened to you in relation
18 to your schooling, some friends of yours, and the UPC. Would you like at
19 the beginning of today to have the opportunity simply to tell the story
20 in your own words? Would you prefer to do it that way to begin with?

21 THE WITNESS (interpretation): Yes.

22 PRESIDING JUDGE FULFORD: Good. Now, take your own time and do
23 it in your own way, but could you tell those of us sitting in court what
24 happened to you, and bear in mind the kind of questions that Ms. Bensouda
25 was putting to you a few days ago. So do it in your own way.

1 THE WITNESS (interpretation): I'm going to tell you the truth.
2 I was still too young when we were in Fataki. I was in primary school.
3 I was in 5th year in primary school. Everything was going well in
4 school, but at one point in time in Fataki the war between the Walendu
5 and Gegere broke out. Other people became involved in that war, and from
6 that time onwards there were problems in school. But the war did not
7 affect all of Fataki. In other places where there were schools there was
8 no problem.

9 At the beginning of the school year there was an UPC military
10 training centre, and the president was Mr. Thomas Lubanga. He was the
11 president of that movement.

12 At one point in time we heard -- when we were in school, we heard
13 that there was a training centre, and we learnt that young people had
14 been taken away to do the training.

15 One day when I was coming back from school we encountered UPC
16 soldiers. There was a large number of them. I can't tell you how many.
17 There were five of us -- or in fact six, myself and five others. There
18 was no problem. We were just going home from school. And then in Fataki
19 market we encountered these UPC soldiers. They stopped us and said, "You
20 children, we're going to take you for training so that you can become
21 soldiers and ensure the security of our country." I said, "Listen, I'm a
22 schoolboy, so it's difficult for me to go to the training because we're
23 children."

24 That soldier or those soldiers didn't want us to talk. If
25 anybody tried to talk, they were beaten.

1 They took us all to the training centre. The training centre was
2 in Bule. I think that that is 7 kilometres away, but that's just an
3 estimation. I'm not sure.

4 We walked for about two hours. The soldiers were in front of us
5 and others were behind us. They took us to Bule camp, and when we
6 arrived in Bule camp they constituted groups.

7 Now, I don't know what the name of my group was. There was a
8 group called B Co., for instance. So each group had a name.

9 The first day we arrived -- or, rather, the next day in the
10 morning the training began. In the morning there was what they called
11 Foren. This involved the soldiers assembling at a particular point.
12 There were soldiers and us recruits. They aligned B Co. in one place and
13 C Co., another group, in another place. I was in B Co., and others were
14 in C Co.

15 The soldiers began their training in their way, and at a given
16 point in time they realised that we couldn't do that training so they put
17 us to one side and they beat, and they said it was a punishment. Later,
18 they taught us things little by little. That was the first day.

19 On the second day, the training continued in the same way; and on
20 the third day, they began to teach us songs.

21 The food that we were given was of bad quality. It is Vungure,
22 which is a grain, rice, dish. We would eat at about 5.00 in the
23 afternoon. There was one glass for each person, and they didn't care
24 whether you had enough to eat or not.

25 Then at a given point in time they began to bring weapons, and

1 they said these are an old model of weapon, and there was the serial
2 number on the weapon.

3 On the fifth day there was a change in the programme. We had
4 gymnastics. Basically this was soldiers parading and the way in which
5 soldiers would salute those -- their superiors. Later we went to where
6 the weapons were, and we learnt how to load a weapon, how to dismantle a
7 weapon, how to shoot. And as time went on the training proceeded.

8 We spent the night in a small house, and there was a large number
9 of people in a small house. Force was used against us. We were beaten
10 because we, the recruits -- when they called for the recruits we would
11 all answer and then we might be beaten. We would sleep on the others,
12 and we would be beaten.

13 If you wanted to go to the toilet, you had to ask for permission,
14 and then the person would be taken out to do what they had to do.

15 The house was not well maintained. It was cold, and when it
16 rained you couldn't shelter well.

17 The next day we would go and line up, and training continued like
18 this until we reached a certain level, and then we were taken to Bule
19 where an improvised aerodrome had been created. It was a number of
20 kilometres away, I think 3 kilometres away. At least that's what I
21 think. So there was a small aerodrome for aeroplanes where the planes
22 would land to deliver military uniforms and arms. At one point in time a
23 plane landed there and Thomas Lubanga was on that small aircraft.

24 We were called, so we went there, and everybody was there. There
25 was also people from the community. Lubanga didn't get out of the

1 aeroplane. He stood at the door of the aeroplane and spoke to some
2 soldiers. He said, if somebody had -- or if anybody had a question they
3 could put their questions, and a lot of questions were put. Each person
4 would put whatever question they wanted.

5 One person asked this question: "We have come here, but I, I
6 only have this one shirt, the one I'm wearing." Then the soldiers took
7 that shirt. When I asked them to give me my shirt back, they refused.

8 We were no longer -- we could no longer work in the fields, and
9 we no longer had food.

10 If, for example --

11 THE INTERPRETER: The interpreter would like to indicate that the
12 witness is speaking very rapidly. Could he be asked to slow down.

13 PRESIDING JUDGE FULFORD: Dieumerci, this is clearly working very
14 well. Can you slow down just slightly so that the interpreter has a
15 chance to catch up. She's working very hard, and if you speak too
16 quickly it makes her job too difficult. So just build in the odd pause
17 while you're speaking so that she can catch up with you, but what you're
18 doing is excellent, and please carry on.

19 THE WITNESS (interpretation): So we went back to the camp, and
20 as per usual, we spent the night there.

21 The next day we were asked to leave the camp. We were lined up,
22 standing up, and there were a lot of people there. We were asked to sing
23 to cheer us up. And then at some stage, close to the end of the
24 training, we were told that before we would be given a military uniform
25 we had to know how to keep our weapons. So we cut up pieces of wood, and

1 we tried to carry them like weapons. And we were told, "Well, imagine
2 the wood -- the piece of wood is a weapon," and then you were beaten.
3 Sometimes you were beaten by three people at the same time if you lost
4 the weapon. And if you started to scream whilst you were being beaten,
5 you were beaten even harder. Then other people would come. They would
6 hold you by your arms, handcuff you, and it made it easier to beat you
7 up. We suffered far too much during the military training.

8 Whenever somebody tried to flee, they were beaten or killed. I
9 saw people being beaten up, being shot at for trying to escape. I saw it
10 with my own eyes.

11 Then the training went on with the pieces of wood until we were
12 actually given the uniforms.

13 Another plane landed in the airport, and then from then on,
14 planes would land every day, three times a day. The planes carried and
15 brought uniforms, boots, plastic boots, rubber boots, and we were given
16 uniforms. These were stored somewhere, and then the training went on in
17 the same way, but before we were able to wear the uniforms and when there
18 was a war and we had to be shown how to go to war, we were taught.
19 Things were written on a blackboard to show how things happened, and then
20 we went to the battlefield. And the training went on in this manner
21 until we were finally allowed to wear the military uniforms.

22 The uniforms were distributed indiscriminately. Well, it didn't
23 matter how tall you were or what your shoe size was. Sometimes you were
24 given boots that were too big or too small, and you were asked to run.
25 And if somebody had a shoe size that didn't fit their feet, it was very

1 painful. And we were beaten because we couldn't run.

2 That's when we finished the training on that day, and we went
3 back to the camp.

4 We also fell ill. We caught illnesses because we didn't sleep
5 very well. And then at one stage, the next day, people were asked say
6 what their problems were, and they said, "Well, those that are ill should
7 go on this side." And they called a doctor to come with medicine. And
8 all those that were ill went to stand on one side, and a group of
9 soldiers was called to get whips, a lot of whips. Why? Well, to whip
10 us.

11 They made us sleep and asked the soldiers to jump on us. And you
12 were beaten. The soles of your feet were beaten. You were beaten a lot.
13 Your legs, everywhere. We even have scars from the whips because we
14 claimed to be ill. We didn't have any strength left in us because we had
15 been beaten up so much.

16 And then later on, our legs healed and we were given uniforms,
17 military uniforms. We wore them. And at some stage we had to exchange
18 the uniforms for the right sizes. So if you were very tall, you would
19 have to give your small-size uniform to somebody smaller. And we also
20 looked for boots that -- that matched our size, and that's when we
21 started distributing weapons. But before the weapons were distributed,
22 we were taught how to handle them. It wasn't easy.

23 And when the plane landed in Bule again, it air-dropped weapons,
24 a lot of weapons, large quantities of weapons, and we were given weapons
25 but without any ammunition. We were given weapons without ammunition.

1 And then when the weapons had been distributed we were asked to carry out
2 work from the morning until late at night, and it was terrible. We were
3 beaten. Almost everybody was beaten.

4 And we will to do the washing up. That was very difficult. We
5 were very tired.

6 And then a few days later cartridges were given to us. Each of
7 30 bullets in it. We had SMG rifles and other types of weapons. With
8 tripods. We loaded our rifles and had to keep them. And we were told
9 that whoever lost their rifle would be beaten to death.

10 There were soldiers, former soldiers, responsible for training,
11 and they were told that everybody had to keep their cartridge. If
12 somebody would fall asleep and their cartridge was stolen, for instance,
13 mine was stolen once, and the next day you weren't able to show your
14 cartridge you would be beaten. If somebody didn't have a cartridge, they
15 were asked to go in front of everybody and be beaten. They were beaten
16 very hard.

17 And then later we were taught how to handle real weapons. We
18 would stand in line and we had to shoot. And we would have to crawl.
19 People were positioned in specific positions, and we crawled and they
20 would shoot.

21 If, for instance, you weren't positioned properly, you risked
22 your life. Some people were even taking drugs, marijuana, and so they
23 weren't quite there, and they could easily hit someone.

24 And then a few days later what happened? Well, we were given a
25 blackboard on which the target was drawn in red, and we had to aim for

1 that target. You had to aim for the target on the board, the white
2 colour, 5 metres away. We were asked to aim for that mark. And then for
3 the first time, especially when you had never, ever used a weapon before,
4 it was quite difficult. You had to reload, put a bullet in the
5 cartridge. It was difficult. And you had to press on the button with
6 your foot to shoot, and that was quite -- it had quite an impact. It
7 could shake you up. And then they went to the board to see where the
8 bullet had hit. And where the bullet had hit, well, they would mark that
9 place with a pen. And if you hadn't actually hit the board itself, you
10 were in trouble.

11 Then a couple of days later, the target was brought back to
12 10 metres and then pushed back to 15 metres, et cetera. Also, the sound
13 of the shot was harmful to our hearing. We had hearing problems.

14 There were properly trained soldiers there, too, and they dug
15 trenches around the whole of the camp. So there were trenches around the
16 whole camp. Well, how did they used to call them? They dug other
17 trenches that were in a rectangular shape, so a trench in which somebody
18 can actually lie down. And those were to ensure the security of the
19 headquarters.

20 So the whole of the camp was surrounded by trenches, and then
21 when it was your turn to guard the camp -- the superiors would sleep in
22 the camp, but when it rained the trenches would fill up with water, and
23 you had to stay in there, lie down in there on top of the rain and the
24 cold. And the next day you would leave the trench completely drenched,
25 and you were just told, "Well, that's the military service for you." And

1 then other days we had to patrol and other colleagues would sleep there.

2 The commanders liked to wander around with the youngest. They
3 wanted the youngest to come with them. A commander could sometimes take
4 a young one with them as a bodyguard. All commanders needed children as
5 bodyguards. We ensured their protection. And they would sleep in the
6 camp, and we would sleep outside of the camp. And when it rained we
7 still had to be there and guard the safety and security of the older
8 ones.

9 I can't remember how long I spent there, how many months I spent
10 there.

11 But then there was another centre, and the other camp commander
12 was Christian, the one that came to get us from the market when we were
13 still pupils. Christian was replaced then by Kpawa. The person that
14 gave us the training at the B camp was Commander Uduma. He was the one
15 that gave us the training at the B Co. We knew each other very well at
16 the camp.

17 And then sometime later a vehicle arrived from Largu. There was
18 another UPC camp. And they came on this vehicle to the Bule centre. The
19 other soldiers knew that Lievin was there, and they felt there must be a
20 problem so they fled, but we stayed there. Lievin stayed, took those
21 that had remained, and chose us and left with us for Largu camp.

22 So we arrived at Largu camp. There were thatched houses there.
23 Civilians had built the houses. The civilians did everything there.
24 They did the washing up, they built the houses. They did everything.
25 Civilians did all the work.

1 And so we arrived at the camp, and we stayed there. That was
2 fine. There weren't any problems with that. And then if you wanted, for
3 instance, to go to the market, you had to take off your uniform and leave
4 your weapon to go and wander around the market and come back. At the
5 market there were soldiers too. We called them the RPs. But those
6 soldiers didn't want us just to wander around the market like that, so
7 there were orders to beat anybody up found wandering around. And if, for
8 instance, the soldiers wanted their clothes to be washed, they would ask
9 civilians to do so, to do it for them.

10 We suffered a lot over there. I took my weapon. Because if you
11 refused to do so, you would be in trouble. Your work could be taken from
12 you, because -- the children weren't happy because the older ones were
13 not treating them properly, and your strength was your weapon. So
14 sometimes I went to fetch water, but I still had a weapon on me. And
15 then I would go back, and I would carry everything I was asked to carry.
16 For instance, if I was given something very heavy, normally we -- the
17 civilians were asked to carry it, but at Largu camp there wasn't any
18 money. So a week later -- or every week we would give a hundred francs,
19 because the UPC military had taught us songs that we sang in good and bad
20 times. They had taught us a lot of different songs.

21 THE INTERPRETER: The interpreter would like to say that he
22 hadn't heard what the -- what the witness just said, the last sentence.

23 PRESIDING JUDGE FULFORD: Dieumerci, could you just go back, just
24 slightly, to the moment where you were talking about the military
25 teaching you songs which you sang in good and bad times. What came after

1 that? The interpreter has just missed something. Do you remember what
2 you said immediately after "good"? Could you pick it up again and then
3 carry on? Thank you very much.

4 THE WITNESS (interpretation): Well, we were taught songs, and we
5 would sing the songs in good and bad times, and during the war too.
6 There were three different types of songs, songs that we would sing in
7 good and bad times, when we're happy, sad, and during war.

8 We were told that -- that the UPC's way was to beat and pillage,
9 and if you didn't do that you were killed or beaten. So if, for
10 instance, you misbehaved, you were detained somewhere. And the soldiers
11 found ways. They took drugs. And after they had taken these drugs they
12 would go on the roads where there wasn't any UPC security yet, and they
13 would set up roadblocks and keep the -- or guard the roadblocks, and if
14 somebody would say anything, they would be beaten.

15 They took money from people at the roadblocks. I didn't go, but
16 when people would go in those areas, go through the roadblock, they were
17 asked to give money.

18 You know, the UPC soldiers at the time weren't -- they -- they
19 took drugs, hemp. And those who went there were given money.

20 If you passed through the roadblock, you were stopped. You had
21 to go and stand in line, and you were asked to give money. And anybody
22 who refused, because the soldiers were drugged up, well, they would be
23 risking their lives.

24 Then we would go back to the camp. We would take off our
25 uniforms, and we would use the money, some to go and drink alcohol and

1 other just stayed at the camp.

2 For instance, I myself, I stayed there and I was taught to smoke
3 hemp and drink beer. It was really to divide us, because I didn't like
4 smoking hemp. On the first day we were asked -- well, I didn't really
5 want to smoke hemp.

6 We stayed there, and at one stage I thought, Well, I'm going for
7 a walk, and I took off my uniform and left my weapon. I went with my
8 friends to the centre, and there was a market at the centre of Largu
9 where we walked around, and I met my father in Largu.

10 When we were in Largu there was a war going on. A war broke out
11 in Largu, in Bule too. And during the war, the Walendus and us were
12 fighting. There were signals. I've forgotten what they were called, but
13 there were signals that were given to ask the soldiers to be ready.

14 In Bule there were a lot of upheavals at one stage. People came
15 with this cars, and we went over there singing. We were in high spirits.
16 And some of the soldiers had smoked hemp. Because -- you may know, but
17 when the soldiers smoked hemp they didn't even understand that the
18 orders -- the orders given to them because they weren't functioning
19 properly. They weren't completely with it. And that's why I didn't like
20 to smoke hemp.

21 And so we went there to where there was a war going on, and at
22 one stage we had killed a lot of people, and once you were killed,
23 your -- either your head was chopped off or your eyes were taken out of
24 their sockets. And so we went there, and we started to fight. But we
25 were just obeying orders. We were asked to do things, and we obeyed the

1 orders. And the Lendu knew that the UPC was very nearby, and the Lendu
2 fled, and we followed them.

3 I don't know whether I killed someone, but I shot. I used my
4 weapon and I don't know if I killed someone, but the Lendus were killed.
5 And we had to jump over the bodies. We would shoot, and those that died
6 died. But we -- we moved forward. We continued until at one point at
7 which we reached a river that we crossed, and we crossed it. We went to
8 the other side, but it was difficult to cross so we went back. And those
9 who wanted to smoke smoked, and those who wanted to sing sang. Everybody
10 could do what they wanted, and we went back to the camp.

11 And I would like to point out that since the beginning of the war
12 we had met two people, one mother and a man. I don't know whether the
13 man was her husband or not, but this was near Walendu. And we took them
14 on our vehicle to the camp, and Christian then ordered us to kill them.
15 So we tied them up and we put them somewhere. We covered their -- we
16 blindfolded them, and we were asked to kill them. We were ordered to
17 kill them.

18 From that point onwards, the war worsened, because it was a war
19 between the government and the UPC. And the Ugandans came in our -- to
20 our territory in Orientale Province. They settled in the area, and they
21 started fighting too.

22 So the Ugandans were there. The Walendu were there. The Walendu
23 were in Fataki where I was too, where I was studying. And I would like
24 to remind you that I studied at Fataki Mission.

25 So they arrived there, and the soldiers asked for support. The

1 military in Fataki asked for additional support, and a lot of soldiers
2 then came on vehicles. The commander was Christian, and there was also
3 the head of training with him. And so they brought soldiers with them,
4 singing to raise their spirits. And they arrived at some stage in
5 Fataki, very close to the hospital of Fataki Mission, and there was a
6 market there. They were already there. And then the soldiers got off
7 their vehicles, and they asked us to stand in line, position ourselves,
8 and we positioned ourselves along the road, and Christian led us and
9 started giving out orders. And so the Lendu opened fire, and we, too --
10 and we were asked to march on. We started firing. And the Lendu -- we
11 had heavy weaponry and small arms. And there was such a lot of noise
12 cause by these weapons that -- there was a weapon called the B-10. If
13 you -- when you use it, if you shoot with it, it's very loud and hurts
14 your ears.

15 We had a lot of weapons. We used our weapons. We waited to hear
16 the sound of the weapons. That concerned the light weapons above all.

17 At a certain point in time there were so many weapons that were
18 used, and you could no longer hear the sound of the light arms, only of
19 the heavy weapons. Our ears were blocked as a result. When you would
20 shoot, when you would use this weapon, you shouldn't open your mouth in
21 such cases.

22 No one followed the orders. We just advanced. All that was
23 necessary was to advance.

24 We used our weapons. We opened fire. Even if someone gave
25 orders it was impossible for us to hear them. We went as far as the

1 mission, and at the mission we killed those who were there, also the
2 priests. We pushed back those who were there, and we went beyond the
3 seminary. We captured some of them. We took some of them hostage. We
4 cut their mouth off. We would destroy their faces. That's what the
5 Lendu did too.

6 And we entered Bule. I went to Largu, and in Largu, at one point
7 in time while I was walking around the market in Largu, I met my father.
8 I was in civilian clothing at the time. So I saw my father there, quite
9 suddenly. But an order had been given: If a soldier was caught, he had
10 to be beaten. So my father said -- well, first he took me to a
11 restaurant to eat. We went to this restaurant. I told him about
12 everything that had happened over there, and he said, "You've stopped
13 with your schooling. It's not good. We have to go back to Bunia
14 together."

15 We went to Bunia. He asked me to accompany him to Bunia. I told
16 him that I had to go back to the camp.

17 I'd been given some cassava to go to the mill and have it ground
18 there. That's an idea I had. So there were mills near the market. I
19 left the cassava at the mill, and I got into a vehicle and we went to
20 Bunia.

21 I continued with my schooling in Bunia. There was a school
22 nearby, and I studied there. Up until the first grade of secondary
23 school. And when I was in the first grade of secondary school, well,
24 during the holiday -- well, in fact, there were family members in another
25 village. They were my father's elder brothers who were there. My mother

1 was dead. Other people were also dead. I can't remember their names
2 now. They'd been killed in the war.

3 So I had to go and visit these other family members. My father
4 agreed to me visiting them during the holiday.

5 I got into a vehicle and arrived in Centrale. Because there were
6 UPC soldiers there too, and as I had lived with them and I knew them very
7 well, I knew that they would get people out of the car and they'd asked
8 ask them to line up. We got out of the vehicle. They asked for money.
9 They asked me for money too. And then one of the soldiers recognised me.
10 He said, "I know you. We were together." And I said, "No." He said,
11 "No, I know you. It's you." The others understood or realised that we
12 were discussing, and they started beating me, because to beat people,
13 well, that's their work. So I told myself there might be problems,
14 because I know how they deal with people, how they whip people.

15 They grabbed me by the belt. There were a lot of them. And they
16 took me to their camp. First of all, they beat me there. To beat people
17 is their work. They beat me, and they put me in a -- in a cell, in a
18 dungeon. They took all the good clothes I had on me. They gave me their
19 clothes that were flea infested, and they gave me to someone to guard me.
20 The prison was in fact a hole that had been dug in the ground, and
21 20 people can be held in this prison. And it's really uncomfortable when
22 you're in such a hole.

23 I spent two days there. I didn't spend a lot of time there. I
24 was there for four days, and then a certain commander came from Mabanga
25 near Lalo. From Mabanga and Lalo, well, it takes about an hour on foot,

1 I think, to get from Mabanga to Lalo.

2 This commander came to Lalo and when he arrived there he got us
3 out, and he said that he had come because other weapons had been
4 air-dropped. Bosco was someone who would kill people easily; he was a
5 nasty man. In the chain of command, I think he was the third person
6 after Lubanga and Kisembo, the third highest-ranking person. He would
7 kill people very easily. For example, if a soldier killed another
8 soldier, he would be killed.

9 So everyone was asked where their weapons were. And, for
10 example, if you didn't have your weapon, that would be a problem.

11 We were taken to a place where there were targets. There was a
12 sort of cell there, and you would be beaten there. There were people who
13 were beaten to death. They were killed. And we were shaking. We were
14 afraid. We continued in this manner.

15 And from there we went to the Centrale camp, to the Mabanga camp.
16 I arrived at the Mabanga camp, and once more we were given military
17 uniforms.

18 I didn't stay there very long. I think that my father found out
19 about this, and he came to fetch me.

20 Someone came to the camp. He went to the HQ, to the
21 headquarters, where the camp guards were located.

22 There were trenches that had been dug around the camp. This
23 person went up to the camp and he said that he was looking for a child.
24 He introduced himself. He was asked to walk around the camp, to find me.
25 The camp wasn't really enclosed, so it was easy to see someone outside

1 the camp.

2 So I saw him. I said I was going to centre. I was given leave
3 to do so. We went there. We went as far as Nizi. In Nizi I met my
4 father. We spoke to each other and we had something to eat, and then we
5 got into a vehicle and went as far as Centrale. Before arriving in
6 Centrale I first got out of the vehicle for a while. I saw some people
7 over there.

8 When the vehicle arrived, my father took me away a second time.
9 We returned to Bunia, and I continued with my schooling.

10 During the holiday I heard on the radio that there was an
11 organisation called Save the Children, and they were looking for child
12 soldiers to ensure their demobilisation. It was necessary to give them
13 everything one had. I didn't have a weapon. I found a weapon and I
14 handed it over, and that is how we were demobilised.

15 Photographs of us were taken, and we were given documents to show
16 that we had been demobilised.

17 For example, if you meet someone from the UPC, you would have
18 problems. That's why we decided to stay in one place and not to walk
19 around.

20 At one point in time there were people from MONUC who arrived, a
21 lot of them. In the meantime, the UPC was causing trouble. There were
22 people from the UPC who were over there, and they would cause trouble.

23 They didn't have my address. I was in town. The people from
24 Save the Children took charge of me and of many other children. We gave
25 them Motorolas and weapons, and they asked us whether we wanted to

1 continue with our schooling or to do something else. I said I wanted to
2 study. But at one point in time I had certain difficulties at school. I
3 couldn't really think a lot because I had seen a lot of various things.
4 So I was enrolled in a school for mechanics, a training centre for
5 mechanics. Having completed that course, I returned to school -- or,
6 rather, I returned home, and I stayed there until I came here.

7 PRESIDING JUDGE FULFORD: Dieumerci, you've done very well. I
8 wish I could speak as well as you have.

9 One question before we move to the next stage. When you very
10 first went to a camp, do you remember approximately how old you were?

11 THE WITNESS (interpretation): I don't really know. I think that
12 I was about 11 years old.

13 PRESIDING JUDGE FULFORD: Now, Ms. Bensouda, please remain
14 seated. I think during the course of Dieumerci's evidence we'll all
15 remain seated.

16 Now, you have, as have we, listened to a very large amount of
17 information from this witness delivered in narrative form. You have
18 faithfully abided by the request that we made that there shouldn't be a
19 lot of use of computers and pens and scurrying about with papers. It
20 seems to me that it may be helpful for you now to have an opportunity to
21 look at the narrative account that's been given to establish whether
22 there are in fact any areas that you really do need to ask additional
23 questions about in -- in due course.

24 What I want to try to avoid is unnecessary picking about at the
25 edges of this witness's evidence. I understand that there may be matters

1 of importance that you need to investigate a bit further, but I think we
2 need to separate out those areas of significance from areas of peripheral
3 or marginal importance.

4 So would it be of assistance to you now, bearing that in mind, if
5 we took our break at this stage so that you can collect your thoughts?

6 MS. BENSOUA: Thank you, Mr. President. I think that is a good
7 plan. Thank you.

8 PRESIDING JUDGE FULFORD: Dieumerci, we're going to have a break
9 now, and Ms. Bensouda, who asked you some questions the other day, may
10 have a few more questions for you when we come back into court.

11 We will recommence Dieumerci's evidence at 20 past 11.00, but we
12 now need to go into closed session first of all, please. So can the
13 blinds come down.

14 (Closed session)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 Recess taken at 10.49 a.m.

21 On resuming at 11.21 a.m.

22 (Open Session)

23 COURT USHER: All rise. Please be seated.

24 PRESIDING JUDGE FULFORD: Are you ready now, Ms. Bensouda?

25 MS. BENSOUA: (Microphone not activated)

Witness: Witness DRC-OTP-WWWW-0298 (Resumed) (Closed Session)
Questioned by Ms. Bensouda (Continued)

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1 PRESIDING JUDGE FULFORD: Excellent. Let us then go into closed
2 session so the witness can be brought back into court, please. I'm not
3 sure why we went into open session.

4 (Closed session)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Open session)

12 PRESIDING JUDGE FULFORD: Dieumerci, welcome back. There will
13 now be some more questions for you from Ms. Bensouda.

14 Yes, Ms. Bensouda.

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

16 Questioned by Ms. Bensouda: (Continued)

17 Q. Dieumerci, good afternoon. I have not had the chance to greet
18 you today.

19 A. (No interpretation)

20 Q. I'm going to ask you a few questions, and I promise you I will
21 not be long. It will be very brief.

22 A. (No interpretation)

23 Q. I just want you to clarify a few areas that you have --

24 A. Very well.

25 Q. -- this morning. You explained about Bule camp, that you were

1 taken there. Were there other children at the camp?

2 A. Yes.

3 Q. Were they the same age as yourself?

4 A. I don't know their age. Some of them were as big as myself and
5 others were taller or shorter than I am.

6 Q. You also mentioned the battles that you fought when you were at
7 the UPC. Were there children in those battles?

8 A. Yes, there were children as well as adults who went to the
9 battle-field.

10 Q. Now, briefly about your friends, and I don't want you to call
11 their names, just your friends that you have mentioned before. Were they
12 the same age as you or younger than you?

13 A. We were in the same form, the same class, and we were of the same
14 age.

15 Q. Thank you. Thank you, Witness. Dieumerci, thank you.

16 In -- in your evidence you also talked about when you -- when
17 Thomas Lubanga came to bring uniforms and arms. You also said that this
18 was in Bule and that he was on a small -- on a small aircraft. Did he
19 say anything to anybody amongst the crowd gathered there?

20 A. When Thomas Lubanga arrived at the Bule airport he spoke. There
21 were soldiers and civilians present. He addressed them, and later he
22 asked the people who were there, he said that if anyone had any
23 questions, they could put those questions to him.

24 Q. Thank you, Dieumerci. Do you remember what he said?

25 A. He spoke to those present, but as it was a long time ago, I can't

1 remember exactly what he said. I was very young at the time.

2 Q. That's all right, Dieumerci, never mind. When he came to Bule
3 was he with anyone?

4 A. I'm afraid I haven't understood your question well.

5 Q. All right. I'll -- I'll put it again. Did he come with anybody
6 to Bule?

7 A. He came on a small aircraft, a small carrier, and when the plane
8 touched down, he didn't alight. He stood at the door of the aeroplane.
9 I don't know if he was with somebody, because he didn't get out of the
10 aeroplane.

11 Q. That's all right, Dieumerci. Now I just want you -- to take you
12 back again in -- to your evidence to ask you while you were staying at
13 Bule camp, did any of the UPC commanders visit the camp?

14 A. There was only Lievin, who came to take people at Largu -- to
15 take them to Largu.

16 Q. Have you seen Bosco Ntaganda before?

17 A. Seen Bosco Ntaganda where?

18 Q. Have you seen him at Bule camp, for example?

19 A. I saw Bosco at Centrale camp.

20 Q. What did he come to do at Centrale camp?

21 A. Centrale camp was the headquarters, so everything was run from
22 that camp.

23 Q. Was Bosco staying at Centrale or did he come to Centrale from
24 time to time?

25 A. Centrale camp is a big UPC camp. Bosco was the third highest

1 ranking in the UPC after Thomas Lubanga and someone else, and that is
2 where Bosco lived.

3 Q. Dieumerci, in your evidence you talked about being beaten and
4 that you even have scars on your legs everywhere. Do you recall saying
5 that?

6 A. Yes.

7 Q. Thank you. Do you remember showing those scars to --

8 PRESIDING JUDGE FULFORD: Yes, Mr. Desalliers.

9 MR. DESALLIERS (interpretation): I will remain seated. The
10 questions put by my learned friend have been, up until now, at the limit
11 of suggestive leading. If one suggests answers that may have been given
12 in the written statement, I think that there we are going beyond the
13 limits of examination-in-chief. Excuse me, your Honour, I'm just
14 suggesting or raising the matter.

15 PRESIDING JUDGE FULFORD: You're quite right, Mr. Desalliers. A
16 very good example of what you're raising, I think, was a question, "Have
17 you seen Bosco at Bule camp." Interestingly, it didn't produce a yes
18 answer. The witness said, "I saw him at Centrale." But the point is an
19 appropriate one.

20 I'm not sure whether at this particular point it's justified
21 though. The witness has spoken about injuries that he received as a
22 result of being beaten, and I think Ms. Bensouda is entitled to ask the
23 witness whether he showed those injuries to anyone. I think that is an
24 appropriate line of questioning.

25 Now, do you object to this particular question, or are you making

1 a general -- or are you making a general complaint in relation to leading
2 questions?

3 MR. DESALLIERS (interpretation): Specifically in connection with
4 this question, your Honour. I had not understood. Now, perhaps I
5 misheard, but I didn't understand that mention had been made of scars in
6 the deposition in chief.

7 Now, if my learned friend is referring to a written statement,
8 then I think that we are going beyond the matter of whether he showed
9 anything at that time, because the very question is leading in that case.

10 PRESIDING JUDGE FULFORD: I had -- I had misunderstood the point,
11 Mr. Desalliers. Now you've explained it.

12 I think he's right, isn't he, Ms. Bensouda. Had the witness in
13 his evidence referred to scars on his -- that he had.

14 MS. BENSOUDA: Yes, indeed, Mr. President. At page 9, from
15 line 11 to line 15 of the transcript. The witness talks about: "They
16 made us sleep and asked the soldiers to jump on us and you were beaten.
17 The soles of your feet were beaten. You were beaten a lot. Your legs,
18 everywhere. We even have scars from the whips because we claimed to be
19 ill. We didn't have any strength left in us because we had been beaten
20 so much."

21 PRESIDING JUDGE FULFORD: There you are. Well founded,
22 Ms. Bensouda, and you may proceed to ask whether these scars were shown
23 to someone.

24 MS. BENSOUDA: Thank you, Mr. President. I'm not mentioning the
25 transcript numbers when I'm asking the witness because I don't want to --

Witness: Witness DRC-OTP-WWWW-0298 (Resumed) (Open Session)
Questioned by Ms. Bensouda (Continued)

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1 that is why I did not in the first place.

2 PRESIDING JUDGE FULFORD: And you most certainly don't have to.
3 Indeed, I think generally speaking it would be undesirable to give a
4 transcript number for every question you ask. It will become an
5 extremely laborious process, but please carry on.

6 MS. BENSOUDA: Thank you.

7 Q. Dieumerci, do you remember showing these scars you said you have
8 to investigators of the OTP?

9 A. Yes.

10 Q. When you showed them the pictures -- when you showed them the
11 scars, did they do anything?

12 A. They did something. They took photos of the scars.

13 Q. Thank you. I'm going to show you some photographs for you to
14 take a look at them, and let us know whether these are the photographs
15 that were taken of your scars.

16 PRESIDING JUDGE FULFORD: Good. Could those please be shown to
17 the witness?

18 Are we looking at these additionally through Ringtail,
19 Ms. Bensouda, or not? No, we're not.

20 MS. BENSOUDA: Mr. President, I thought hard copies would be
21 fine. The Defence had already been provided with them.

22 PRESIDING JUDGE FULFORD: All right. At some stage we'll need to
23 make sure that these are properly registered and loaded onto the system.
24 But can they now be shown to the witness, please.

25 MS. BENSOUDA: Okay.

Witness: Witness DRC-OTP-WWWW-0298 (Resumed) (Open Session)
Questioned by Ms. Bensouda (Continued)

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1 PRESIDING JUDGE FULFORD: Have a look through them, Dieumerci.

2 THE WITNESS (interpretation): I haven't understood well, if you
3 please.

4 PRESIDING JUDGE FULFORD: All right. Could you help Dieumerci
5 just to look through the photographs, please. Thank you very much.

6 Are those photographs that were taken of you, Dieumerci?

7 THE WITNESS (interpretation): Yes, these are photos of me.

8 MS. BENSOUDA: Mr. President, if I may give the numbers now or we
9 can do that at a later stage.

10 PRESIDING JUDGE FULFORD: We'll do that later.

11 MS. BENSOUDA: Very well. Mr. President, if the photographs
12 could be admitted and given an EVD number. We'll do it later.

13 PRESIDING JUDGE FULFORD: Exactly.

14 MS. BENSOUDA: Thank you.

15 PRESIDING JUDGE FULFORD: But remember that all exhibits --

16 MS. BENSOUDA: Have MFI.

17 PRESIDING JUDGE FULFORD: Exactly.

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

19 Q. Dieumerci, I want to ask you about the other day that you came to
20 court. How were you feeling that day?

21 A. (No interpretation)

22 Q. You remember that you were here last week and your evidence was
23 interrupted. How were you feeling on that day?

24 A. A lot of things went through my mind. I got angry, and I wasn't
25 able to testify.

Witness: Witness DRC-OTP-WWWW-0298 (Resumed) (Open Session)
Questioned by Mr. Walley

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1 Q. I hope you feel better today.

2 A. Yes.

3 MS. BENSOUA: Mr. President, no further questions.

4 PRESIDING JUDGE FULFORD: Thank you.

5 Do you have any questions, Mr. Walley?

6 Questioned by Mr. Walley:

7 Q. (Interpretation) Your Honour, just a question to know whether
8 aside from scars Dieumerci has sustained or whether there have been other
9 consequences of his time in the camps and on the battle-field and whether
10 he is suffering today in one way or another from those events.

11 A. Yes.

12 PRESIDING JUDGE FULFORD: Do you think you could describe,
13 Dieumerci, the consequences of the kind of things that Mr. Walley has
14 just spoken about?

15 THE WITNESS (interpretation): I have problems with my sight.
16 The weapon which I used was a weapon which has impaired my sight. So I
17 have problems with my eyes, and sometimes I have headaches, and sometimes
18 I have pain in my ears. And what's more, I'm uneducated. I'm still
19 uneducated.

20 PRESIDING JUDGE FULFORD: Thank you very much.

21 MR. WALLEYN (interpretation): (No interpretation)

22 PRESIDING JUDGE FULFORD: Dieumerci, the lady who sits on my
23 right, Judge Elizabeth Odio Benito, has got one or two questions that she
24 is also going to put to you. All right?

25 THE WITNESS (interpretation): Yes.

Witness: Witness DRC-OTP-WWWW-0298 (Resumed) (Open Session)
Questioned by the Court

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1 Questioned by the Court:

2 JUDGE ODIO BENITO (interpretation): Thank you, and good morning,
3 Dieumerci. You told us --

4 A. (No interpretation)

5 JUDGE ODIO BENITO: Thank you. You told us a moment ago that in
6 Bule camp there were other children, and you also said to us that those
7 children, some of them were bigger than you, others smaller than you. My
8 question is this: Were there girls among these children as well or only
9 boys?

10 A. There were girls in the camp too, girls and boys.

11 JUDGE ODIO BENITO: Those girls were more or less the same age as
12 you?

13 A. There were girls who were a little bit older, but also there were
14 other girls who were very young, younger than me, and some who were older
15 than me, a little older than me.

16 JUDGE ODIO BENITO: Thank you. Were they trained in the same way
17 that you were? That means, including the beatings and the singing the
18 songs and all that you explained to us.

19 A. Yes. Yes, it was the same.

20 JUDGE ODIO BENITO: When you went into the battle-fields were
21 there girls as well taking part in the battle-field?

22 A. Yes.

23 JUDGE ODIO BENITO: Thank you, Dieumerci. Do you know if these
24 girls also had other duties to perform in the camps?

25 A. These girls were soldiers, and they received the same orders as

1 the others. And when they were taken to the camp, they were raped. And
2 they also worked for the older soldiers.

3 JUDGE ODIO BENITO: Thank you, Dieumerci. Thank you very much.
4 Thank you.

5 PRESIDING JUDGE FULFORD: Mr. Desalliers, are you conducting the
6 questioning for the accused?

7 MR. DESALLIERS (interpretation): Yes, your Honour. However,
8 there's a request I would like to make at this point in the proceedings,
9 because during the break we had an opportunity to meet with Mr. Lubanga
10 to talk about the first part of the testimony. However, we did not have
11 an opportunity to review the long narration or narrative that was given.
12 So if possible, the Defence would like there to be an adjournment to
13 allow it to prepare and, therefore, to better conduct the
14 cross-examination.

15 PRESIDING JUDGE FULFORD: In principle, Mr. Desalliers, that's a
16 reasonable request. I'm very concerned about timing though, because as
17 you will be aware, the witness has made a request that, if possible, he
18 would like to conclude his evidence today. If we rise now and give you
19 an hour and a half with the accused, do you think in an hour and a half
20 or a two-hour session this afternoon there's a reasonable prospect that
21 you will be able to conclude your questioning within that period of time?

22 (Defence counsel confer)

23 MR. DESALLIERS (interpretation): Your Honour, I think that a
24 period of two hours should be sufficient. Obviously that is under
25 reserve or subject to the way in which the questions will be answered,

1 but the number of questions I can undertake will focus on the essential,
2 but I do think that we would need a two-hour session at least.

3 PRESIDING JUDGE FULFORD: Well, so far today Dieumerci has been
4 doing very well at focusing on questions that are being asked and giving
5 relatively short answers by way of reply. If that continues this
6 afternoon, as I'm sure it will, then there seems to be very prospect that
7 you will be able to conduct your cross -- your questioning in that time.

8 Mr. Desalliers, I want to make it clear that I'm not seeking to
9 put artificial pressure on you. I well understand that you have got to
10 cover the necessary territory, and so I'm not putting an absolute bar on
11 going beyond today, but I think in fairness witness, I would like us to
12 see whether we can by focusing our attention conclude his evidence during
13 the course of today's hearing.

14 That's very helpful of you. Thank you very much.

15 Dieumerci, what we're going to do now is break for lunch. That's
16 going to be for an hour and a half. We will recommence at half past 1.00
17 when Mr. Desalliers will be the last person to ask you questions. When
18 he's finished, I anticipate that that will be the end of your evidence.

19 Thank you very much. Have a good lunch. We will now go into
20 closed session so that the witness can withdraw. Thank you very much,
21 indeed.

22 (Closed session)

23 (Expunged)

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21 Luncheon recess taken at 11.57 a.m.

22 On resuming at 1.33 p.m.

23 (Open Session)

24 COURT USHER: All rise. Please be seated. Are you ready,
25 Mr. Desalliers? Good. We need for a moment, therefore, to go into

1 closed session so the witness can be brought back into court.

2 (Closed session)

3 (Expunged)

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17 (Expunged)

18 (Open session)

19 PRESIDING JUDGE FULFORD: (Expunged), you will -- I'm sorry. Can we
20 strike that, please.

21 Dieumerci, you're about to be asked some questions by

22 Mr. Desalliers. Can you please make sure that you listen to the

23 questions very carefully and answer the questions that he puts to you.

24 The more that you concentrate on his questions the quicker your evidence
25 will take. Do you understand?

Witness: Witness DRC-OTP-WWWW-0298 (Resumed) (Open Session)
Questioned by Mr. Desalliers

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1 THE WITNESS (interpretation): I understand.

2 PRESIDING JUDGE FULFORD: Mr. Desalliers.

3 Questioned by Mr. Desalliers:

4 Q. (Interpretation) Hello. Do you remember at the beginning of
5 January, 15, 16, and 17 January 2008, meeting OTP investigators to
6 explain what had happened to you to them?

7 A. Yes.

8 Q. Do you remember that what you explained the investigators was put
9 down in writing and that you were given an opportunity to read back
10 through it and sign it? Correct?

11 A. That's correct.

12 Q. And do you remember that what was read back to you reflected
13 exactly what you had said to the investigators in January?

14 A. Yes.

15 Q. Do you also remember that a victim's request for participation
16 was made on your behalf to the court, this court? Do you remember that?

17 A. Yes, I remember.

18 Q. And it was your father, wasn't it, who filled it in for you on
19 your behalf?

20 A. Well, that I'm not very sure of.

21 MR. DESALLIERS (interpretation): President, if you may, I would
22 like to show the witness a copy of the document just to be -- to have
23 more certainty about it. So perhaps we could go into closed session just
24 for me to show him the document and then we could go back into open
25 session. Well, actually what I mean, President, is that I have a couple

Witness: Witness DRC-OTP-WWWW-0298 (Resumed) (Closed Session)
Questioned by Mr. Desalliers

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1 of questions I could also ask in closed session. So I could ask him
2 those questions and show him the form and show the form on the screen,
3 too, that I want to show him, but I think it would be preferable to do
4 this in closed session.

5 PRESIDING JUDGE FULFORD: Certainly, Mr. Desalliers.

6 Dieumerci, to protect you and your identity, we're now going to
7 have a short section while the court will be sitting in closed session.

8 So can we have the blinds down, please, so that the public will
9 not hear the next sequence of questions and answers.

10 (Closed session)

11 (Expunged)

12 (Expunged)

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- 16 The hearing ends at 3.40 p.m.