

1 International Criminal Court

2 Trial Chamber I - Courtroom 1

3 Presiding Judge Adrian Fulford,

4 Judge Elizabeth Odio Benito and Judge René Blattmann

5 Situation in the Democratic Republic of the Congo -

6 ICC-01/04-01/06

7 In the case of The Prosecutor v. Thomas Lubanga Dyilo

8 Tuesday, 25 May 2010

9 (The hearing resumes at 2.45 p.m. from Courtroom 2)

10 (Open session)

11 (In the presence of the accused)

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

13 PRESIDING JUDGE FULFORD: Witness, please. What's your
14 estimate, Mr Sachdeva?

15 MR SACHDEVA: Mr President, one of the things that I had
16 wanted to do was to return to the originals, which are contained in
17 the possession of the Defence and, thus, with respect to the documents
18 that have been shown to the witness and will be shown, I still need
19 to review, in my submission, meticulously the originals and compare
20 them with the documents that have been shown to the witness.

21 Now, I can't give an indication as to how long that might
22 take. I would seek the Court's indulgence to be able to commence on
23 Monday. I understand that that is a very difficult request for the
24 Court but, if that was to be granted, I'd be most grateful.

25 PRESIDING JUDGE FULFORD: Yes.

1 MR SACHDEVA: Thank you, Mr President.

2 (The witness enters the courtroom)

3 PRESIDING JUDGE FULFORD: Thank you very much, sir. Yes,
4 Mr Desalliers.

5 MR DESALLIERS: (Interpretation) I'm at tab 23, and this
6 is a document that bears the number DRC-D01-0003-4027; if we could
7 move to that tab. If we could show the document to the witness.

8 WITNESS: WWW-D01-0029 (On former oath)

9 (The witness answers through interpreter)

10 QUESTIONED BY MR DESALLIERS (Continuing):
11 (Interpretation)

12 Q. Sir, could you explain to us where this document comes from?

13 A. This is the class list with final marks for the Ujio institute.

14 Q. For what school year?

15 A. 2001.

16 Q. And how did you get that document?

17 A. I went to the school and I spoke to the officials there
18 and they gave it to me, and I asked for a waiver. I signed it out.

19 MR DESALLIERS: (Interpretation) Thank you. No further
20 questions.

21 I'd like to draw the Chamber's attention to page 4034 of
22 the document and, more specifically, class 3CA. There is a title here
23 or a heading, number 2, heading 2, "Moving to fourth year after exams."
24 And then if you look at entry number 9 - 9 - this is regarding Witness
25 38. Could an EVD number be given to the document?

1 THE INTERPRETER: Minor correction from the English booth.
2 It's the school year 2000/2001.

3 THE COURT OFFICER: Document under tab 23, reference
4 DRC-D01-0003-4027 will be referenced as EVD-D01-00171. Thank you.

5 MR DESALLIERS: (Interpretation) Thank you. I'd now like
6 to move to tab 24. This document bears the number DRC-D01-0003-4004.
7 If we could show that document to the witness, please.

8 For the court record, I'd like to indicate that this document,
9 which was already tendered under EVD-D01-00048, and this is a true
10 copy that was copied from this document.

11 Q. So, sir, could you tell us where this document comes from?

12 A. The Ujio institute as well. We went to that school and had
13 the file take -- the document taken out of the files, as we did previously,
14 and we signed out the document.

15 Q. I beg your pardon, but I believe you gave a brief description
16 but I believe the transcribers were not able to get all of that. Could
17 you explain what this document is?

18 A. It is the annual results sheet for the 2001/2002 school.
19 It lists the pupils who were registered at the beginning of the year;
20 those who passed -- those who sat the exams and passed; those who sat
21 the exam and failed; and then, finally, the children who dropped out
22 during the course of the year.

23 MR DESALLIERS: (Interpretation) Thank you. So, this
24 document, I have no further questions regarding this document. Now,
25 the relevant part of the document is found at page 4017 - 4017 - fourth

1 year CA class, heading C, number 5, and this relates to Witness 38.
2 Could we give this an EVD number.

3 THE COURT OFFICER: Document referenced as
4 DRC-D01-0003-4004 will be referenced as EVD-D01-00172, and that is
5 on tab 24.

6 MR DESALLIERS: (Interpretation) Thank you. Moving on to
7 tab 25. The document bears the number DRC-D01-0003-4049. If we could
8 ask the usher to show the document to the witness.

9 THE WITNESS: This also is an annual results sheet for the
10 same school, the Ujio institute, for the year 1997/1998.

11 MR DESALLIERS: (Interpretation)

12 Q. Did you obtain this document yourself from the school?

13 A. Yes.

14 MR DESALLIERS: (Interpretation) Thank you. I have no
15 further questions regarding this document.

16 Now, the relevant entry within this document is found at
17 page 4055, class second A.1, entry number 11. And this relates to
18 Witness 15, OTP Witness 15. Could we attribute an EVD number to this
19 document.

20 THE COURT OFFICER: The document under tab 25, reference
21 DRC-D01-0003-4049, will be referenced as EVD-D01-00173.

22 MR DESALLIERS: (Interpretation) Tab 26. The document
23 bears the number DRC-D01-0003-4099. Could the usher show the original
24 to the witness.

25 THE WITNESS: The document also is from the Ujio institute.

1 This is the annual results sheet for the 1999/2000 school year.

2 MR DESALLIERS: (Interpretation)

3 Q. Could you please tell us where this institute, the Ujio
4 Wa Heri institute, is located?

5 A. This institute is located towards the north of the centre
6 of Bunia town, towards Mudzipela neighbourhood, not far afield from
7 the Mudzipela cathedral.

8 MR DESALLIERS: (Interpretation) I thank you. I have no
9 further questions with regard to this document. And the relevant entry
10 in this document is to be found at page 4110, under third year, CA,
11 entry number 4, item number 4, and regards or concerns OTP Witness
12 number 15.

13 Could an EVD number please be allocated to this document.

14 THE COURT OFFICER: Yes, indeed. The document under tab
15 26, referenced as DRC-D01-0003-4099, will be referenced as
16 EVD-D01-00174.

17 MR DESALLIERS: (Interpretation) I thank you. At tab
18 number 27 there is a document which is a photocopy, and this document
19 has already been given an EVD number, which is D01-000123, and this
20 document also concerns OTP witness number 15. However, this was not
21 led through the witness. We have included it for reference purposes,
22 but I have no questions to put to the witness on the subject of this
23 document.

24 We shall then consult tab number 28, which is a document
25 bearing the number DRC-D01-0003-4868. Could this document please be

1 given in its original form to the witness, please.

2 Q. Could you please explain to us, Mr Witness, where this
3 document comes from?

4 A. This document, like the other documents here, were taken
5 from the Ujio Wa Heri institute. This is the register, the school
6 register.

7 Q. Did you indeed say that this was the school register for
8 the pupils?

9 A. Yes, indeed, that's what I said.

10 Q. I thank you.

11 MR DESALLIERS: (Interpretation) I have no further
12 questions to put on this document. I would like to draw the attention
13 of the Trial Chamber to page number 4885 and, more specifically, to
14 entry 613 -- 6431, which regards OTP Witness number 15. Now, could
15 an EVD number please be allocated to this document, too.

16 THE COURT OFFICER: The document referenced under tab 28
17 as DRC-D01-0003-4668 will be referenced as EVD-D01-00175.

18 MR DESALLIERS: (Interpretation) I have a little
19 correction to bring to the identity of this document. It is, in fact,
20 document 4868, just to clarify the matter, and not 4668. Then at tab
21 number 29 we have a document bearing the reference DRC-D01-0003-3357.
22 Could the original of the document please be shown to the witness.

23 THE WITNESS: Here we have the enrolment register for the
24 primary school, the Iga primary school.

25 MR DESALLIERS: (Interpretation)

1 Q. Could you please tell us where this document comes from,
2 precisely where this school is located?

3 A. Iga school is located not far afield from the Nizi Barrière.
4 It's on the Fataki road going towards the north of the town of Bunia.

5 Q. I thank you. And how did you obtain this document?

6 A. I went to the school, I talked to the principal, and then
7 he gave me this document and I signed it out.

8 Q. I thank you.

9 MR DESALLIERS: (Interpretation) I have no further
10 questions with regard to this document. And, Mr President, this
11 document is tendered in association with the testimony of witness number
12 11, in order to demonstrate that the name of witness 11 does not figure
13 in this register. Could an EVD number please be allocated to this
14 document?

15 THE COURT OFFICER: Tab 29, referenced as DRC-D01-0003-3357
16 will be referenced as EVD-D01-00176.

17 MR DESALLIERS: (Interpretation) I thank you. Then at tab
18 30 we have a document bearing the reference number DRC-D01-0003-3593,
19 and could the original of the document please be shown to the witness.

20 THE WITNESS: We here have the enrolment register for the
21 primary school in Bunia. This school was located not far from Mudzipela
22 cathedral. This is a boys' school.

23 MR DESALLIERS: (Interpretation)

24 Q. And how did you obtain this document?

25 A. I went to get it at the school; that is, as one of those

1 schools that we had targeted for the purpose.

2 Q. I thank you.

3 MR DESALLIERS: (Interpretation) Mr President, this
4 document is also tendered with a view to showing that the name of witness
5 11, OTP witness 11, of course, does not figure in this register. Could
6 it please be given an EVD number?

7 THE COURT OFFICER: Tab 30, referenced as DRC-D01-0003-3593
8 will be attributed reference EVD-D01-00177.

9 MR DESALLIERS: (Interpretation) I thank you. This
10 completes binder number 2. I am now moving on to binder number 3.
11 And the first tab of this binder is number 31. And the document to
12 be found there, the copy, that is, bears reference number D01-0003-4213.
13 And for the purposes of the record, a copy of this document has already
14 been assigned an EVD number D01-00071. Could this document please
15 be shown to the witness.

16 Q. Could I please ask you to explain to me what this document
17 actually is, without referring to the name of the student contained
18 therein? Could you merely provide us with a description of what it
19 is?

20 A. The student lost his -- the original of his certificate,
21 and in order to cover him, the inspectorate issues a certificate to
22 ascertain the completion of his studies because he had forgotten or
23 lost his certificate. So this is, in fact -- it marks the end of his
24 studies, and this is issued by the inspectorate.

25 Q. And how did you obtain this document yourself?

1 A. Well, when a child leaves primary school, in order to enter
2 secondary school or enrol in secondary school, he has to take with
3 him documents from the primary school in order to justify that he or
4 she has studied there and that he completed his primary school studies
5 and that he can, therefore, enrol at secondary level. And this document
6 should be taken with him to the secondary school where he wishes to
7 enrol.

8 Q. Very well. You have explained what the purposes of this
9 document -- the purpose of this document is. Could you please tell
10 us where you obtained this document and how you went about obtaining
11 it?

12 A. I went to a specific school that we had targeted or selected,
13 in accordance, of course, with the name that features on the certificate,
14 and the head teacher gave me this document, which I signed out.

15 Q. I thank you.

16 MR DESALLIERS: (Interpretation) Mr President, this
17 document is in association with the testimony of witness 294. And
18 might we please obtain an EVD number for this copy?

19 THE COURT OFFICER: (Interpretation) This will be given
20 the reference number D01-000178.

21 MR DESALLIERS: (Interpretation) I thank you. The
22 following tab is tab number 32, and the copy bears the reference number
23 DRC-D01-0003-3194. And could the original of the document please be
24 shown to the witness?

25 Q. Could you please tell us, Mr Witness, where this document

1 comes from?

2 A. We obtained this document at the ACG Imara Groupe scolaire.
3 This is an enrolment list for the pupils there. We went to the school
4 following the list of selected schools established, and the principal
5 of the school gave us these documents, and we signed them out, as always.

6 Q. Could you please tell us where this school is located?

7 A. This school is to be found in the Lembabo neighbourhood
8 in a northerly -- in the northerly part of central Bunia.

9 Q. I thank you.

10 MR DESALLIERS: (Interpretation) I have no further
11 questions with regard to this document. This document is in association
12 with the testimony of witness number 9, in order to show that the name
13 of this witness does not figure anywhere in this register. Could an
14 EVD number please be allocated to this document?

15 THE COURT OFFICER: Tab 32, referenced as DRC-D01-0003-3194,
16 will be attributed reference EVD-D01-00179.

17 MR DESALLIERS: (Interpretation) I thank you. The
18 following tab is tab number 33. This document bears the reference
19 number DRC-D01-0003-4717. And could the original of the document
20 please be shown to the witness?

21 Q. Could you please tell us where this document comes from?

22 A. We managed to obtain this document from Bunia ville primary
23 school. This is not the enrolment list, the enrolment register. It
24 is not the certificate of enrolment, but it is the enrolment register
25 itself. And we obtained this with -- and we signed it off. We got

1 this from the principal of the school.

2 THE INTERPRETATION: It is not the *certificates register;
3 it is the *enrolment register. Correction from the English booth.

4 MR DESALLIERS: (Interpretation) This document is being
5 tendered in order to show that the name of witness number 9 has not
6 been -- does not figure in the register.

7 THE COURT OFFICER: DRC-D01-0003-4717 will be referenced
8 as EVD-D01-00180.

9 MR DESALLIERS: (Interpretation) Then I would say for the
10 transcription -- well, the numbers have just appeared on the screen.
11 So the next document is at tab number 34. This bears the reference
12 DRC-D01-0003-4241. Could the document please be given in its original
13 form to the witness?

14 THE WITNESS: We here have the results list for the year
15 2001/2002, and this is for the Muzora institute.

16 MR DESALLIERS: (Interpretation)

17 Q. And could you please tell us where the Muzora institute
18 is located?

19 A. The Muzora institute is located in the Lembabo neighbourhood,
20 slightly closer to the town itself. When you cross the Namkoku (phon)
21 river, you immediately come to the school.

22 Q. And could you, please, tell us how you came by this document?

23 A. As we did for the other documents, we went to see the principal
24 of the school. We talked to him, and we requested that he hand these
25 documents over to us and that we sign them out.

1 Q. I thank you.

2 MR DESALLIERS: (Interpretation) I have no further
3 questions with regard to this document. The relevant entry in this
4 document is to be found at page 4243. There are two relevant entries
5 regarding Witnesses 7 and 8; that is, OTP Witnesses 7 and 8. And at
6 this page 4243, the first entry is found under the heading "Admitted
7 into the next class A" without any fail marks. And then under item
8 B, I can hardly read it, but this is under section B at entry number
9 2, the name -- the relevant name is to be found. Could an EVD number,
10 please, be allocated to this document?

11 THE COURT OFFICER: Tab 34, reference DRC-D01-0003-4241
12 will be referenced as EVD-D01-00181.

13 MR DESALLIERS: (Interpretation) I thank you. I am now
14 coming to tab number 35. This document -- or the copy of the document
15 is identified bearing reference number DRC-D01-0003-4225. Could the
16 original of the document, please, be given to the witness?

17 THE WITNESS: This is still the results sheet for the Muzora
18 institute for the year 2002/2003. We signed this document out.

19 MR DESALLIERS: (Interpretation)

20 Q. I thank you.

21 MR DESALLIERS: (Interpretation) I have no further
22 questions in respect of this document. The relevant entry is to be
23 found at page 4231. At the bottom of the page, there is a heading
24 number 5, entitled "Pupils who dropped out during the year". And we
25 should consult entries 14 and 18, which are in association with OTP

1 Witnesses 7 and 8. Could an EVD number, please, be allocated to this
2 document?

3 THE COURT OFFICER: Tab 35, referenced as DRC-D01-0003-4225
4 will be attributed reference EVD-D01-00182.

5 MR DESALLIERS: (Interpretation) I thank you. The next
6 tab is tab number 36. This copy bears the reference number
7 DRC-D01-0003-4511. And could the original of the document please be
8 given to the witness?

9 THE WITNESS: We also have a document here that we obtained
10 from the Muzora institute. This is the enrolment register for the
11 pupils. And I, once again, signed it out.

12 MR DESALLIERS: (Interpretation)

13 Q. I thank you.

14 MR DESALLIERS: (Interpretation) The relevant entry is to
15 be found at page 4574, and we are looking at entry 744/02 and 745/02,
16 which pertain to witnesses OTP 7 and 8. Could an EVD number, please,
17 be allocated to this document?

18 THE COURT OFFICER: Indeed. Tab 36, referenced as
19 DRC-D01-0003-4511 will be attributed EVD-D01-00183.

20 MR DESALLIERS: (Interpretation) Thank you. The next tab
21 is tab number 37. This document bears the reference number
22 DRC-D01-0003-4615. And could the original of the document, please,
23 be given to the witness. For the purposes of the register, the
24 MFI-D00173 exhibit is a certified copy of this register.

25 Q. So, Mr Witness, could you please tell us where this document

1 comes from?

2 A. This document comes from Mahagi, from the schools in Mahagi.

3 Q. And how did you go about obtaining this document?

4 A. A third party came to bring this document. I did not go
5 to Mahagi.

6 Q. And who gave you the document?

7 A. I believe it was Dieudonné Mbuna who came to drop this document
8 off. I think that is what you recommended.

9 Q. I thank you. Witness, do you know the school this document
10 comes from?

11 A. Since I don't know Mahagi well, I don't know. I can't say
12 which school it comes from. It is not indicated on the document; that
13 is, the name of the school is not indicated.

14 Q. Very well. Thank you.

15 MR DESALLIERS: (Interpretation) This document, your
16 Honour, has to -- well, relates to MFI-D00173, as I stated before,
17 and this document bears a seal of conformity and there it is written
18 EP Songe. I do not have a hard copy. And if the Chamber so wishes,
19 I could bring a hard copy so that we can compare this document with
20 a document which was tendered and which already has an MFI reference
21 and which bears a seal which is similar to the relevant page which
22 we have to consider in this document, your Honour, and I am talking
23 about page 4640 and page 4641. These two pages contain pages which
24 have already been filed under the reference MFI-D00173. Could we --

25 PRESIDING JUDGE FULFORD: Yes. You're asking for an EVD

1 number now; is that right? You are asking for an EVD number now? Too
2 many microphones. You are asking for an EVD number now?

3 MR DESALLIERS: (Interpretation) Yes, indeed, your
4 Honour.

5 PRESIDING JUDGE FULFORD: And you've also offered to provide
6 us with the material we need to demonstrate conformity. Right. Well,
7 I think that can be a matter between you and Mr Sachdeva to resolve
8 as to whether or not that is necessary, unless there is anything else
9 you want to say about it now, Mr Sachdeva.

10 MR SACHDEVA: Only that the witness hasn't been able to
11 identify himself that it came from this school. And in my submission,
12 it should therefore remain an MFI number until further information
13 can be elicited. The witness has said that he did not go to the school;
14 he received the document from somebody else. And so, as he clearly
15 said, he wasn't able to identify that this, indeed, comes from the
16 school the Defence suggests it does.

17 PRESIDING JUDGE FULFORD: What do you say, Mr Desalliers?

18 MR DESALLIERS: (Interpretation) Your Honour, well, I
19 think we could project the MFI document on the screen. That will enable
20 us to see what was tendered at the time in relation to Witness/Victim
21 225 and also Defence Witness 32.

22 If the position of the OTP is that the document which is
23 being tendered today is not in conformity with what was tendered at
24 the time, the I propose that this original should be passed around - that
25 is, the relevant pages thereof, page 4640 - so that we can compare

1 the two versions.

2 I would like to add, that the OTP had the opportunity of
3 inspecting the document and we did not receive any indication that
4 they challenged the conformity thereof; that is, with the original.

5 PRESIDING JUDGE FULFORD: Mr Desalliers, I think what we
6 can say is that the document that is in volume 3 was given to the witness
7 by somebody who he's named, and that's how it came into his possession
8 and that's how it ends up in our files. Now, whether or not that gives
9 it sufficient provenance is something that we can look at later, if
10 necessary, but that explains how it comes into the files.

11 I'm certainly reluctant at the moment for the Chamber, at
12 this stage, to start detailed document comparison by looking at one
13 document in a file and another document on a screen. If that's
14 absolutely necessary, maybe we'll have to do that on another occasion.
15 But I think, in the first instance, there needs to be sensible reflection
16 on whether or not it is seriously being disputed that this is an official
17 school record of the type that you are introducing. If that is disputed
18 after mature reflection, it may be that we're going to have to look
19 at this in a different way.

20 So, against that, at the moment, very limited evidential
21 background in terms of provenance, this can be given an EVD number,
22 but with the caveats that I have just expressed.

23 THE COURT OFFICER: Tab 37, referenced as DRC-D01-0003-4615,
24 will be referenced as EVD-D01-00184.

25 MRDESALLIERS: (Interpretation) Thankyou. Couldwe then

1 move on to the next tab, which is in tab 38, please. This document
2 bears the reference DRC-D01-0003-4367. Could the original of the
3 document be shown to the witness, please?

4 THE WITNESS: Here we have a document prepared by a school.
5 This document is prepared for the education inspectorate. We often
6 say that when we are dealing with the fifth class, the government
7 organises a national exam and the marks of that national exam are added
8 to the marks of the tests which the student sits in school, so this
9 document was prepared for that purpose and it was submitted to me.
10 And this document is -- was given to me by a third party.

11 MR DESALLIERS: (Interpretation)

12 Q. And could you tell us where this document comes from?

13 A. On this document I see it written that it comes from the
14 inspectorate of Mahagi, so the exam was organised at the Logo centre.
15 The name of the school is EP Ndrele. That's what's written on the
16 document.

17 Q. Could you explain to us how you obtained this document?

18 A. This document was deposited or submitted to me at the same
19 time as the register, the previous register, so that I could bring
20 them here. I did not go to Mahagi myself. This document comes from
21 Mahagi.

22 Q. So you obtained this document in the same manner as the
23 preceding or the previous register?

24 A. Yes, indeed.

25 PRESIDING JUDGE FULFORD: Well, I think the same basis then,

1 Mr Desalliers.

2 MR DESALLIERS: (Interpretation) Yes, your Honour.

3 PRESIDING JUDGE FULFORD: Yes, EVD number, please.

4 THE COURT OFFICER: Tab 38, referenced as DRC-D01-0003-4367,
5 will be referenced as EVD-D01-00185.

6 MR DESALLIERS: (Interpretation) Thank you. I wish to
7 draw the attention of the Bench to the entries found on page 4368,
8 line 40, and page 4370, line 7. And this document relates to the evidence
9 of Defence victim 32 and victim 225.

10 The next tab is tab 39, and it bears the reference
11 DRC-D01-0003-3473. Could the document be shown to the witness, please.

12 Q. First of all, considering that this document concerns a
13 specific pupil, I would like to ask you, sir, not to mention the name
14 of that pupil. However, explain to us what this document is and under
15 what circumstances did you obtain it.

16 A. Very well. This document -- well, this school was located
17 a bit far from the town. So we went to the school because this is
18 one of the schools that was selected for our purposes. We went there
19 to see if we could get any documents and, whilst we were there, there
20 were certain inspectors who were also present so we consulted the
21 documents there on the spot. And we asked the head teacher to prepare
22 the declaration to show that we indeed went to his school and that
23 we saw the document that we were looking for, but we were not able
24 to take the document away with us.

25 Q. Could you tell us, first of all, what school this is, which

1 school is this that you went to?

2 A. There at that place there are two schools. You have Soleniama
3 1 and Soleniama 2. I went to both schools but I didn't know which
4 was which. I went to both schools to see the documents. And, whilst
5 I was there, this declaration was prepared.

6 Q. Could you please explain to us why you were not able to
7 take away with you the document which we were looking for?

8 A. When I went there the first time, I saw the document. The
9 document actually exists. However, I had to come here, and the school
10 was far away, and we were not able to go back to the school to collect
11 the document because other inspectors have to come to the school to
12 look at the administrative documents of the school and, at the time
13 when we had to come here, there were certain inspectors who were visiting
14 the school and they had to review the documents of the school and,
15 for that reason, we were not able to withdraw the original documents.
16 That is why we relied on the declaration that was prepared by the head
17 teacher when we visited that school for the first time.

18 Q. Could you please tell us where the school is located?

19 A. It's located in central Soleniama; that is before you reach
20 Barrière. And it's located somewhere there between Bunia and Barrière.

21 Q. Thank you. Once more, without giving any names, because
22 this document relates to a particular pupil, could you explain to the
23 Chamber what verifications you carried out with respect to that
24 document?

25 A. The verification I did in those documents, well, I looked

1 at the enrolment registers for pupils because that's the register that
2 contains the names of all registered pupils. I looked everywhere.
3 I browsed through the document, and when I didn't find any names I
4 asked the head teacher to prepare this declaration to confirm what
5 I noticed, because sometimes they may forget to enrol some pupils.
6 And he explained to me, he indeed explained to me that he had never
7 seen that student or that pupil in his school.

8 MR DESALLIERS: (Interpretation) Thank you.

9 PRESIDING JUDGE FULFORD: Mid-afternoon break,
10 Mr Desalliers?

11 MR DESALLIERS: (Interpretation) Yes, your Honour. Well,
12 I think we just give an EVD number and then we can proceed.

13 THE COURT OFFICER: Tab 39, referenced as DRC-D01-0003-3473,
14 will be attributed reference EVD-D01-00186.

15 PRESIDING JUDGE FULFORD: Thank you very much. We will take
16 a break until 4 o'clock. Thank you very much, sir. If you could go
17 with the usher, he'll take you back to the retiring room. Thank you,
18 usher.

19 (The witness stands down)

20 PRESIDING JUDGE FULFORD: 4 o'clock.

21 THE COURT USHER: All rise.

22 (Recess taken at 3.46 p.m.)

23 (Upon resuming at 4.02 p.m.)

24 (Open session)

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

1 PRESIDING JUDGE FULFORD: Witness, please.

2 (The witness enters the courtroom)

3 PRESIDING JUDGE FULFORD: Thank you very much, sir. Yes,
4 Mr Desalliers.

5 MR DESALLIERS: (Interpretation) Thank you. We are now at
6 tab 40 in the binder, tab 40, and this is DRC-D01-0003-3474. Could
7 the original of the document be shown to the witness?

8 Q. I'd just like to make the same remark about the name of
9 the pupil in question. Please do not mention it out loud, but could
10 you explain the circumstances in which you obtained this document;
11 where you received it, for example?

12 A. Thank you. As I was saying, there are two schools, both
13 with the same name, Soleniam (phon). I thought I was going to go to
14 just one, but once I got there, I was told there was another school
15 by the same name. And I said, "Well, no." And I went to verify the
16 school, verify the records in the school. And then after the officials
17 looked around, they did not find the name of the child. And so, a
18 request was made of the principal. I was at his school, so a statement
19 was drawn up, and that is how it came to be that I was provided with
20 this statement.

21 THE INTERPRETER: Message from the English booth. The two
22 schools -- the schools were by the name of Soleniama.

23 MR DESALLIERS: (Interpretation)

24 Q. Thank you. Just to make it very clear, could you tell us
25 what sort of check you did at that school and what document you consulted?

1 A. As I've always said, we checked in the enrolment register.
2 That is where it is easy to find the name of a pupil. That's what
3 we did first. And if the name has not been forgotten, the name will
4 be found in the enrolment register. That is where one finds the names
5 of pupils who have been registered.

6 Q. And this cross-check that you checked out in Soleniamia 1
7 and Soleniamia 2, these checks were for the student that we are -- that
8 is mentioned here on this document?

9 A. Yes.

10 Q. Thank you.

11 MR DESALLIERS: (Interpretation) Could an EVD number be
12 attributed to this document.

13 THE COURT OFFICER: Tab 40, referenced as DRC-D01-0003-3474,
14 will be attributed EVD-D01-00187.

15 MR DESALLIERS: (Interpretation) Thank you. Now, 39 and
16 40 have to do with Witness -- well, actually, there's a mistake in
17 the list that was provided. These documents do not have to do with
18 D01-006, but Witness OTP-006.

19 Moving on to tab 41 in the binder, and this is a document
20 bearing the number DRC-D01-0003-3260. And could the witness be shown
21 the original?

22 Q. Could you explain to us, sir, where this document comes
23 from?

24 A. This document comes from a primary school, the EP Umbizela
25 primary school. This is a Bunia -- a school in Bunia, a school for

1 boys. There is another register that we have already looked at, and
2 that is -- well, to update that, we were provided the more up-to-date
3 register. There is another one already there. So, you see, there
4 are two registers for primary school 1 in Bunia, school by the name
5 of Mudzipela.

6 Q. And how did you obtain this document?

7 A. From the principal. I asked him, and he
8 checked -- correction -- he -- I signed it out.

9 MR DESALLIERS: (Interpretation) And for the court record,
10 this document is being tendered relating to the witness, Witness 10,
11 to show that his name is to be found nowhere in the document. And
12 I'd like to specify once again the same mistake crept in. This is
13 not Witness D01-10, but rather, Witness OTP-10.

14 Your Honour, if I could have a moment to consult my team.

15 THE COURT OFFICER: Document 41, referenced as
16 DRC-D01-0003-3260, will be attributed reference EVD-D01-00188.

17 MR DESALLIERS: (Interpretation) Your Honour, I am really
18 at the very end. There is the question regarding the document for
19 which we were not able to make a copy, and the Chambers and the Registrar
20 have found a suitable solution, apparently. This document will be
21 photographed in its entirety, so I believe that I can wait until I
22 receive a copy to submit my questions to the witness regarding that
23 document. I think that might be the best way of proceeding. We would
24 wait until we receive the hard copies, but I must inform the Chamber
25 that this document is being tendered only to demonstrate that the name

1 of Witness 89 is not found in the document. And after that, your Honour,
2 I will have concluded my questioning.

3 PRESIDING JUDGE FULFORD: Is the document in court? Yes,
4 it's here.

5 Mr Desalliers, why don't you conclude your questioning.
6 The original can be shown to the witness now. You can put, I anticipate,
7 a very similar question to him about this document as you have to others,
8 and we'll then reserve an EVD number for the scanned copy, which I
9 anticipate will be available on Monday morning.

10 MR DESALLIERS: (Interpretation) That's fine, your
11 Honour.

12 PRESIDING JUDGE FULFORD: Take the rather large document
13 over to the witness, please.

14 MR DESALLIERS: (Interpretation)

15 Q. Sir, could you tell us where this document comes from?

16 A. The document here we got from the EP primary school for
17 children -- correction -- for girls. And it is a school that is
18 associated with, that is beside the Catholic church in the town.

19 Q. Did you get this document yourself?

20 A. Yes, indeed, I got it myself.

21 Q. Could you explain what this document is?

22 A. This is an enrolment register that sets out the names of
23 the pupils. As I said before, date and birth; date of birth, place
24 of birth. It is the register for this school --

25 THE INTERPRETER: Correction from the English booth.

1 Nyankasenday (phon) school.

2 MR DESALLIERS: (Interpretation)

3 Q. You gave an explanation about the location of the school,
4 and it was not possible to transcribe the actual location. Could you
5 tell us once again where this school is?

6 A. There are two schools. One is for girls and one is for boys,
7 and they are side-by-side, in Katrabena (phon). Two for girls, two
8 for boys, depending on the number of pupils registered. At one point
9 the schools were divided. It is right beside the church, in the Catholic
10 church, in the city of Nyakasanya (phon).

11 Q. Is that outside -- correction -- is that inside Bunia?

12 A. Yes, it is in the town.

13 MR DESALLIERS: (Interpretation) That completes my
14 questioning, your Honour.

15 PRESIDING JUDGE FULFORD: Thank you very much,
16 Mr Desalliers. We will give it an anticipatory EVD number.

17 THE COURT OFFICER: The document that has just been shown
18 to the witness will receive the reference EVD-D01-00189, and it will
19 be reserved for the document once it will be in eCourt. Thank you.

20 PRESIDING JUDGE FULFORD: Mr Desalliers, is it right that
21 there isn't, as it were, a green tag for this large document? It is
22 simply the fact that number 89 isn't to be found anywhere within the
23 document, rather than his name not appearing within a page or two of
24 the document?

25 MR DESALLIERS: (Interpretation) That's correct; it is

1 within the entire document. I can't really make reference to a specific
2 spot in the document.

3 PRESIDING JUDGE FULFORD: Thank you very much.

4 Mr Desalliers, totally independently of the overall
5 evidential value of any of these documents, the Bench want to thank
6 you for the way that this has been presented. Very neatly set out.
7 Extremely easy to follow with a useful schedule. So our thanks for
8 that.

9 Sir, I'm afraid that we're going to have to discontinue your
10 evidence at this point. I am sure you understand that, given the kilos
11 of documents that you've brought with you, that others who are interested
12 in your evidence are going to need some time to look through them so
13 as to establish whether there are questions that need to be put to
14 you, in addition to those asked by Mr Desalliers, on those documents
15 and possibly on other issues.

16 We greatly regret that this will mean that we need to ask
17 you to indulge the Court and to remain in The Hague until Monday of
18 next week. We are sorry for the inconvenience that will cause and
19 the interruption to your life. But in order to do fairness to everyone
20 involved in this case, we have decided that it is necessary to grant
21 that time.

22 So, in advance, I thank you for your patience, and we look
23 forward to seeing you again at - for reasons that we will explain later - at
24 2.30 on next Monday. Thank you very much.

25 Usher, could you please accompany the witness back to the

1 witness waiting room?

2 (The witness stands down)

3 PRESIDING JUDGE FULFORD: Mr Sachdeva, we have fully
4 understood the need that you have, and possibly the representatives
5 of the victims have for time with the documents. One really important
6 element of the opportunity that you're now going to be afforded to
7 spend time with these particular books and ledgers is for the Prosecution
8 to be able to assess very carefully what is, in fact, going to be alleged,
9 if anything, in relation to each of them.

10 It is probably not going to be helpful to us to have a rather
11 general undifferentiated suggestion that there may be forgeries
12 somewhere. If it is going to be alleged that a document is not what
13 it purports to be then that does need to be explored properly and not
14 left in a general and vague sense.

15 So we rely on you to look with care at each of them and to
16 work out exactly what the Prosecution's position is, and then to make
17 any suggestions on the basis of no doubt what will be a sensible
18 assessment by you as to the proper and appropriate case to be advanced
19 on behalf of the Office of the Prosecution. I'm sure that's clear,
20 is it not?

21 MR SACHDEVA: Certainly, Mr President. Thank you.

22 PRESIDING JUDGE FULFORD: Thank you very much, Mr Sachdeva.

23 Ms Samson, we are grateful to you for your speedy and full
24 reply in relation to the last witness.

25 Our observation is really a very contained one, and it is

1 the expression of interest on 22 April 2009 that the witness, certainly
2 at that point in time, was hoping for assistance as regards his dowry.

3 It seems to us that that could be interpreted properly as
4 expressing a somewhat unusual financial interest in giving evidence
5 before this court. One wouldn't ordinarily associate the fact that
6 he was going to be giving evidence with the expectation that a dowry
7 would be paid. And therefore, on material reflection, and looking
8 at what you've provided us with, we consider that that indication by
9 him was always disclosable material to the Defence. There could have
10 been proper questions put to the witness based on that indication.

11 Now, we don't in any way wish to waste time, as it were,
12 crying over spilt milk. That is our view which we communicate. The
13 important thing is for the Prosecution, please, to reflect on whether
14 there have been other similar indications given by Prosecution
15 witnesses in which they have demonstrated an interest in receiving
16 money from the court, which goes beyond ordinary subsistence while
17 they are either subject to protective measures or attending The Hague
18 to give evidence. So information that goes beyond that, that really
19 ought, in light of what I've just said, to be disclosed to the Defence.

20 Can we leave that with you?

21 MS SAMSON: Yes, certainly. And an obvious comment on our
22 part is that all we can do is review our records in relation to any
23 request that may exist that have been made to the Prosecution; anything
24 that may have been requested of the Victims and Witnesses Unit, we
25 just don't know.

1 PRESIDING JUDGE FULFORD: Absolutely, Ms Samson. The
2 particular consideration here was that this was a statement made in
3 front of an investigator from the Office of the Prosecution, so that
4 singles it out. Of course, if there have been other discussions with
5 the Victims and Witnesses Unit, you are not in control of that information.
6 You are almost definitely unaware of it. Good. Thank you very much,
7 indeed. There's obviously going to be a somewhat uncertain period
8 coming up now because, before we move on to the next stage, the two
9 intermediaries, who we've indicated need to be called, have got to
10 be brought to The Hague.

11 An investigator from the Office of the Prosecutor needs to
12 be identified so that we can organise his or her evidence to be introduced
13 at a convenient moment, and there is the outstanding issue of one
14 intermediary's identity that needs to be transmitted to the Defence.
15 We will address all of those issues more substantively on Monday.

16 Just one point on the schedule. Generally speaking, once
17 the trial starts moving ahead more smoothly again, the Chamber is
18 considering reverting to what, as I recall it, was the original schedule
19 that we had, of commencing sittings on Monday afternoons; then sitting
20 Tuesday, Wednesday, Thursday; sitting Friday morning and rising midday
21 on Friday.

22 Now, for some who come from outside of The Hague, I don't
23 know whether that is going to be particularly inconvenient, and there
24 may be other professional commitments. Could you please reflect on
25 this and I will ask for informed responses on Monday but, just for

1 next week, because it is almost inevitably going to be an interrupted
2 week in any event, we will, as I indicated earlier, sit at 2.30 on
3 Monday afternoon. So we are not finally going to institute that changed
4 roster but we would like your assistance with it on Monday.

5 Now, is there anything else that anyone wishes to raise before
6 we rise? No.

7 Mr Sachdeva, if any problems arise with the documents,
8 between now and Monday morning, the Judges are obviously here, so have
9 a message sent and, if necessary, we will convene a hearing at short
10 notice. To the greatest extent possible, if wrinkles could be ironed
11 out before Monday morning, that's obviously going to be advantageous.

12 MR SACHDEVA: Yes, Mr President.

13 PRESIDING JUDGE FULFORD: Good. Thank you all very much.
14 Half-past-2 on Monday of next week.

15 THE COURT USHER: All rise.

16 (The hearing ends at 4.28 p.m.)

17 CORRECTION REPORT

18 The following correction has been made to the English transcript:

19 * Page 11, lines 2 to 3

20 "THE INTERPRETATION: It is not the enrolment register; it is the
21 certificate register. Correction from the English booth. "

22 Is corrected by

23 "THE INTERPRETATION: It is not the certificates register; it is the
24 enrolment register. Correction from the English booth. "