

Trial Hearing
Witness: DRC-OTP-WWWW-0321

(Open Session)

ICC-01/04-01/06

1 International Criminal Court
2 Trial Chamber I - Courtroom 2
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Thomas Lubanga Dyilo
5 ICC-01/04-01/06
6 Presiding Judge Adrian Fulford,
7 Judge Elizabeth Odio Benito and Judge René Blattmann
8 Trial Hearing
9 Wednesday, 3 November 2010
10 (The hearing starts in open session at 9.30 a.m.)
11 THE COURT USHER: All rise. The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FULFORD: Good morning. Yes, Mr Sachdeva.
14 MR SACHDEVA: Thank you, Mr President. Very briefly, if I'm allowed to, just
15 two issues: The first is, our filing 2504, which is a request for protective measures
16 for Witness316, just because he should be testifying on Monday, my understanding is
17 that that still has to be ruled upon. And also the Defence have informed me that
18 they do not have objections to our request which was for face and voice distortion
19 and pseudonym.
20 PRESIDING JUDGE FULFORD: So standard request in terms of protective
21 measures; is that right?
22 MR SACHDEVA: That's right, Mr President.
23 JUDGE FULFORD: No objections? No. For the reasons set out in the application,
24 granted.
25 MR SACHDEVA: Thank you, Mr President. The second is another proposal from

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1 the Prosecution regarding the evidence of Witness 582. It may be possible for a
2 deposition to be conducted here in The Hague; in other words, to have the regime
3 arranged here where we might have either a legal officer or a Single Judge as a
4 presiding officer for the deposition-taking process in one of the rooms that is
5 available and for the witness to actually come here, which would -- which would then
6 obviate the need for a lot of people from here to go over to the Middle East. If that is
7 amenable to your Honours, we will try and inform the witness today.

8 PRESIDING JUDGE FULFORD: Without finally committing the Chamber, on a
9 preliminary basis, we would be sympathetic to that idea being explored, Mr Sachdeva.
10 It seems to us that it would be reasonable in the circumstances, on a preliminary basis,
11 and a good use of the available time. Could you explore that further please with
12 Maître Mabilie and revert to us in due course. Obviously, if the witness is to be
13 brought here, we must make sure that travel -- that at least tentative travel
14 arrangements are put in place as quickly as possible.

15 MR SACHDEVA: Certainly. In fact, we have explored this with the Defence, and
16 the Defence also, as I understand, think it's a good idea. And of course it would be
17 in the period where 582 had originally stated he could be available. In other words,
18 15 to 19 November.

19 PRESIDING JUDGE FULFORD: Our preliminary views are that it would be better
20 for this to be supervised by the legal adviser to the division, rather than a Single
21 Judge, not least because the legal adviser to the division now has a much better
22 knowledge of this case than the Single Judge would have. But we'll of course
23 entertain any submissions on that subject if a contrary view is held by any party or
24 participant.

25 MR SACHDEVA: Thank you, Mr President.

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- 1 PRESIDING JUDGE FULFORD: Thank you very much, indeed. Anything else?
- 2 Closed session, please.
- 3 *(Closed session at 9.34 a.m.) Reclassified into Public
- 4 THE COURT OFFICER: We are in closed session, your Honours.
- 5 PRESIDING JUDGE FULFORD: Witness, please.
- 6 (The witness enters the courtroom)
- 7 WITNESS: DRC-OTP-WWWW-0321 (On former oath)
- 8 (The witness speaks Swahili)
- 9 PRESIDING JUDGE FULFORD: Private session, please.
- 10 *(Private session at 9.35 a.m.) Reclassified into Public
- 11 JUDGE FULFORD: Good morning, sir.
- 12 THE COURT OFFICER: We are in private --
- 13 THE WITNESS: (Interpretation) Good morning.
- 14 PRESIDING JUDGE FULFORD: I'm sorry. Open session for a moment, please.
- 15 (Open session at 9.36 a.m.)
- 16 THE COURT OFFICER: We are in open session, your Honours.
- 17 PRESIDING JUDGE FULFORD: I want to apologise to those sitting in the public
- 18 gallery, and any member of the public who is trying to follow these proceedings via
- 19 the internet that most, if not all, of today's hearing will be conducted in private
- 20 session because of security issues in relation to the present witness and individuals
- 21 that he will be discussing during the course of his evidence that makes it regrettably
- 22 necessary for us to order that there can be no public transmission of this evidence.
- 23 Private session, please.
- 24 *(Private session at 9.37 a.m.) Reclassified into Public
- 25 THE COURT OFFICER: We are in private session, your Honours.

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- 1 PRESIDING JUDGE FULFORD: Yes, Mr Biju-Duval.
- 2 QUESTIONED BY MR BIJU-DUVAL: (Interpretation) (Continuing)
- 3 Q. Good morning, Witness.
- 4 A. Good morning, Counsel.
- 5 Q. I would like to return with you once more to that moment when the children
- 6 were sent from Bunia (Expunged) to meet OTP investigators. The question to you is
- 7 the following: Did you at any point in time accompany any child to (Expunged)?
- 8 A. No, I did not accompany any child to (Expunged). Thank you.
- 9 Q. Thank you. Could you please turn to tab 81 of the binder, the second binder,
- 10 the smaller binder. This is a document entitled "Reimbursement Receipt" issued on
- 11 9 January 2008, established by (Expunged), which shows that you were reimbursed
- 12 the sum of \$42. Do you recognise your signature at the bottom of that document?
- 13 A. Yes, that is indeed my signature.
- 14 Q. As far as you can remember, was this sum of \$42 paid to you at the beginning of
- 15 the month of January; that is 9 January 2008?
- 16 A. Yes.
- 17 Q. Was this money paid to you by (Expunged)?
- 18 A. Yes, it was paid by (Expunged).
- 19 Q. And where were you at that particular point in time?
- 20 A. At that time I was with (Expunged) in Bunia.
- 21 Q. Thank you. This document has a heading which reads "Support to the family
- 22 which remained in Bunia, the family of DRC 216" and the amount against that item is
- 23 \$40. You said that the amount paid to families was \$10. Could you please explain
- 24 to us what this sum of \$40 relates to?
- 25 A. Thank you. This sum, from what I learned from the conversation that took

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1 place between (Expunged) and the mother of this child, it would appear that the child
2 was located in or was resident in another -- was in another locality. This money was
3 not paid at the time the children went (Expunged); rather, it was given at the time
4 when the various trips to (Expunged) had already taken place. Thank you.

5 Q. Thank you. I do understand that this money was paid to them after they
6 returned from (Expunged); is that the case?

7 A. No. This money was paid after the entire -- well, all the arrangements and
8 proceedings in (Expunged) had been completed. This money was paid at the time
9 when I was about to leave Bunia to go to (Expunged). This money has nothing to do
10 with the trip to (Expunged). Thank you.

11 Q. So, to your understanding, what does this money correspond to then?

12 A. Whilst we were with (Expunged) in Bunia, one evening at about 8 p.m., we
13 were in a vehicle and (Expunged) gave me my air ticket for the trip to (Expunged).
14 He also gave me a bit of money for transport, for the trip from Bunia -- which I had to
15 make from Bunia to (Expunged). He also gave me money for my accommodation and
16 airport formalities. We were in a vehicle which was located close to the (Expunged)
17 office in Bunia. (Expunged) and they talked; they had a phone discussion, and this is
18 what (Expunged) told me: I have been asked to give you money. You have to give
19 this money to the family of the child who goes by the name of (Expunged)
20 And he added the following, "Right now, on the spot, I have no money. Let us go to
21 the office to take some money." We boarded a vehicle and went to the office, and he
22 took the money and drove me back to the downtown area and there I took a
23 motorbike and went to give the money to the family of the child, (Expunged).
24 When I arrived at the home of that family, the child's mother asked me the following
25 question, "Where is (Expunged)?" And I answered, "I do not know," and she said, "How

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1 can you say you do not know?" And I said, "Well, I don't know," and I added, "Well,
2 give me time to call the person who sent me so that you can discuss with that person."
3 I called (Expunged) spoke to (Expunged) mother. From the conversation they had, I
4 understood that (Expunged) was no longer in Bunia. I did not know where
5 (Expunged) was at that point in time. Thank you.

6 Q. Thank you. Did someone explain to you why you had to pay the sum of \$40 to
7 (Expunged) family?

8 A. No, I was given the money and I was instructed to take the money to (Expunged)
9 family. I wasn't told the reason why. Thank you.

10 MR BIJU-DUVAL: (Interpretation) Thank you. I think an EVD reference should
11 be given to this document.

12 PRESIDING JUDGE FULFORD: Yes, please.

13 THE COURT OFFICER: (Interpretation) Counsel, could you give me the ERN
14 reference of that document?

15 MR BIJU-DUVAL: (Interpretation) DRC-OTP-0196-0528.

16 THE COURT OFFICER: (Interpretation) The document will bear the reference
17 EVD-D01-00346.

18 MR BIJU-DUVAL: (Interpretation)

19 Q. After the discussions that took place (Expunged) and when you stopped all
20 dealings with the children on behalf of the International Criminal Court, did you
21 continue to maintain contact - say telephone contact - with any of the children?

22 A. There was a child called (Expunged) who had my phone number. There were two
23 other children who did not have my phone number. However, they knew where
24 our home or house was located. After the trip (Expunged), I was no longer in contact
25 with all the children who had gone to (Expunged). I was in contact with the children

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1 to (Expunged) had given telephones, so that we could maintain telephone contact with
2 each other, and these two children knew our home perfectly well. (Expunged) knew
3 our home well, but he was always in this habit of calling me by phone. Thank you.

4 Q. Thank you. You have just said, "I was in contact with the children to whom
5 (Expunged) had given telephones so that we could be in contact with each other."

6 Are you talking about the children who were selected to go (Expunged) and to
7 continue collaborating with the Prosecutor of the International Criminal Court?

8 A. Thank you. All the children who were selected to go (Expunged) had telephones
9 which I had provided to them. The purpose was to help them to maintain contact
10 with (Expunged) once they arrived (Expunged). When they left (Expunged), all of the
11 children did not keep the telephones. Only a certain number of these children
12 remained with the telephones after making the trip (Expunged). May I clarify that,
13 before they went to (Expunged), all the children had telephones. Thank you.

14 Q. Thank you. Do you remember the children who kept their telephones after the
15 trip to (Expunged)?

16 A. Yes.

17 Q. Could you please give us their names?

18 A. There was (Expunged), the bigger one; (Expunged). These are the children
19 who kept their telephones after their trip to (Expunged).

20 Q. And when they returned from (Expunged), did you have any telephone contact
21 with these three children?

22 A. When they left (Expunged), the first contact I made - the first person I made
23 contact with - was (Expunged). He was one who called me and he said, "I have
24 returned from (Expunged)." Well, (Expunged) went (Expunged) a first time. He went
25 again a second time. I was not aware - I was not informed - about his second trip to

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- 1 (Expunged), so he called me to inform me that he was (Expunged). And I asked him,
2 "How come that you are (Expunged) again?", and his answer was, "I am in contact
3 with (Expunged). We coordinated everything by phone with (Expunged)." And so I
4 said, "Fine," and I never spoke with him again.
- 5 Now, as concerns (Expunged), the first contact I had with him was when he came to
6 give me information he had heard in (Expunged). My second contact with (Expunged)
7 was when he came to give me information relating to the arrest of his uncle,
8 (Expunged). My third contact with (Expunged) was when I left Bunia to go
9 (Expunged). When I arrived at the airport of (Expunged), I saw him at the airport.
10 They were about to depart to (Expunged).
- 11 My first contact with (Expunged) as they said in French,
12 was when he informed me that their home had been burnt down. Those are the
13 various contacts I had with the children. Thank you.
- 14 Q. Thank you. Just to make sure we understand each other, when you talk about
15 (Expunged) are you talking about the child also known (Expunged), or are you
16 referring to someone else?
- 17 A. No, I am referring to (Expunged).
- 18 Q. Thank you. Now, with respect to (Expunged), do you know his other
19 names?
- 20 A. I only know the names --
- 21 THE INTERPRETER: That is the witness speaking.
- 22 THE WITNESS: (Interpretation) I only know the names (Expunged).
23 However, whilst I was with him in (Expunged) he gave me another name which was
24 (Expunged). I had never heard that name before. It was in (Expunged) that he told me
25 that name. Thank you.

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1 Q. If I suggest the name (Expunged) (phon), would that jolt your
2 memory?

3 A. I would have liked you to show me his photograph, if that is possible. As I
4 told you earlier, you know, these children were always in the habit of changing their
5 names. Could you please show me his photograph? That would be appropriate.

6 Q. Yes, that is possible. Just give us a moment, your Honour. Could you please
7 turn to tab 23 of the binder.

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

9 MR BIJU-DUVAL: (Interpretation)

10 Q. Witness, do you have the photograph before you? Do you recognise the
11 person?

12 A. Yes, I know this person. This is (Expunged).

13 Q. Thank you. So this is a document that is already referenced EVD-OTP-00588.
14 Concerning this child, when you went to fetch him from his family - according to
15 your testimony - so that he could travel (Expunged), had he already joined his host
16 family or had he already gone back to his family, or did he remain with his host
17 family in Bunia?

18 A. Thank you for this question. When I went to fetch (Expunged), he had already
19 returned to his family in (Expunged), that is after leaving the CTO. But at a
20 particular time his school was neither at (Expunged), he was studying in Bunia.
21 And in Bunia he was living in (Expunged) neighbourhood, close to the (Expunged),
22 (Expunged). I think that he was staying with a member of his family, but when I
23 went to fetch him at his house to take him (Expunged), I either met him
24 in (Expunged). Thank you.

25 Q. You talk about school attendance in Bunia. Is it correct that he attended the

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1 (Expunged) in Bunia?

2 A. I have forgotten the name of the institute, but it was an institute which was
3 located in (Expunged) (phon). However, I have forgotten the name of that institute.
4 Thank you.

5 Q. Is it true that he was in school in Bunia in November 2007?

6 A. Yes, at that time he was studying in Bunia.

7 Q. Therefore, he was residing in Bunia during that period; is that correct?

8 A. Yes. When he was in school in Bunia, he resided in Bunia. But because life was
9 difficult, when it was a matter of finding school fees and food, he had to go to
10 (Expunged) to his home. When I was asked to go and fetch him, when he was in the
11 family in Bunia, I would find him there. If he was not there, I would find
12 him in (Expunged). But concerning his school studies, he was in school in Bunia.
13 Thank you.

14 Q. Do you know the member of the family with whom he was living in Bunia?
15 You mentioned this a few moments ago.

16 A. I don't know the person in question, the person he was living with. When I
17 went to that house, the person was not there. But one day he introduced me to
18 another member of his family and I saw the children of that family, but in general
19 what I went to that family with whom he was living, the head of the family was not
20 there. Thank you.

21 Q. Is it true that his mother joined him in Bunia, to live there in Bunia?

22 A. His mother was in (Expunged), but she came to Bunia when the children went
23 (Expunged), and the mother took the child. But concerning Bunia, his mother never
24 lived there. If she ever did live in Bunia, I never knew that. I only know that when
25 the child was to go (Expunged), his mother came with him to Bunia. It's possible that

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1 the mother had lived in Bunia without my being aware of it; I'm simply saying that
2 when I went to fetch the child in that house, they went (Expunged) together. [...]
3 The second person who came back from (Expunged) was not his mother, it was his
4 big brother. Thank you.

5 Q. Thank you. According to your testimony, the child was in school in Bunia and
6 living in Bunia but you went to fetch him in (Expunged) to bring him to Bunia for the
7 meetings with (Expunged), and once again it was in (Expunged) that you fetched him
8 for the trips to (Expunged); is that your testimony?

9 A. Yes, I said that I did not find him in his Bunia residence and therefore I went to
10 (Expunged) and that's where I found him. We came back to Bunia together with his
11 mother, and that trip took place the following morning after I had arrived there.
12 Thank you.

13 Q. Thank you. Was (Expunged) in contact with (Expunged)?

14 A. Yes, (Expunged) was in contact with (Expunged). At a particular point (Expunged)
15 would communicate by telephone with (Expunged). At another point (Expunged)
16 would attend (Expunged). So, in fact, he was in (Expunged) and
17 he had a lot of contact with him. I don't know if it's because they prayed together or
18 because they had known each other for quite some time [...], but they were in contact
19 and (Expunged) telephone number. They did communicate. Sometimes I would
20 find him with (Expunged). Thank you.

21 Q. To your knowledge, did (Expunged) communicate with (Expunged) or talk to
22 him before he met with (Expunged) for the Bunia interviews?

23 A. I don't know. I don't know if they talked together. Nobody gave me that
24 information, therefore I don't know. Thank you.

25 Q. Thank you. But the contact that you've talked about between (Expunged)

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1 (Expunged) predated the month of November 2007. They were already in contact
2 before November 2007; is that correct?

3 A. Yes, they were in contact before (Expunged) arrival in Bunia; that is, before
4 November 2007. Thank you.

5 Q. And to your knowledge, did these contacts continue after November 2007, after
6 the Bunia meetings, after the (Expunged) meeting?

7 A. I don't really know. I don't know if they remained in contact. Nobody gave
8 me that information. Nobody said to me that they had remained in contact, and
9 therefore I really don't know. Thank you.

10 Q. Did (Expunged) sometimes visit you in Bunia?

11 A. (Expunged) did come to my place from time to time when he was on his way to
12 see (Expunged) or when he was coming back from there. In fact, I lived in the same
13 (Expunged). Thank you.

14 Q. Is it possible that those encounters took place in April 2007 or the preceding
15 months? Excuse me, November 2007 or the preceding months.

16 A. At the time when (Expunged) went to -- was going to visit (Expunged), it was
17 before November 2007. It was not after, it was before. Thank you.

18 Q. But during these periods when he would visit (Expunged) in Bunia or when he
19 would visit you in Bunia, he was therefore in Bunia, (Expunged) was permanently in
20 Bunia; is that correct?

21 A. I asked him this, and he said that he was not living in Bunia but that, rather, he
22 was in (Expunged). He was saying that he wanted to study in Bunia. That was the
23 answer he gave me. He said, "I am from (Expunged), but I would like to study in
24 Bunia." So that's what he told me at that time when (Expunged) was still in Bunia.
25 Thank you.

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1 Q. Thank you. Just some geographical clarification: Is it true that the
2 approximate distance between Bunia and (Expunged), roughly?

3 A. Yes, that is the distance between Bunia and (Expunged).

4 Q. Are you talking about (Expunged)? These are two quite different villages.
5 Could you please indicate which village you went to? Did you go to
6 (Expunged) or did you go to (Expunged)?

7 A. Thank you. (Expunged) mother and even (Expunged) were in (Expunged), that is
8 where he lived, but at a particular point in time (Expunged) mother was selling
9 alcohol, and she would often go to (Expunged) is their primary village, and five or
10 seven kilometres from (Expunged). When there was no more activity in
11 (Expunged), the people from (Expunged) could go to (Expunged) but then they
12 would go back home (Expunged) to sleep. So sometimes I would find them in
13 (Expunged), and sometimes I would find them in (Expunged). That is why I say
14 (Expunged); it's because most of their activities took place (Expunged), but when they
15 were not (Expunged) they were to be found in (Expunged). Thank you.

16 MR BIJU-DUVAL: (Interpretation) Your Honour?

17 PRESIDING JUDGE FULFORD: Mr Biju-Duval, the server will be restored shortly,
18 I'm told. So it will catch up in a moment, and we've all got memories, so we can
19 remember the questions you are asking and the answers that have been given. So
20 carry on, please.

21 MR BIJU-DUVAL: (Interpretation)

22 Q. I have fully understood your response, Witness, but could you try and be
23 precise. When you went to fetch him to take him to Bunia to meet (Expunged), where
24 did you find him, in (Expunged)?

25 A. When I went to fetch him, I found him in (Expunged), but his mother was in

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1 (Expunged). The child was in (Expunged). I went to see his mother in (Expunged)
2 and she said to me "My child is in (Expunged) and I said to her, "Well, if the child is
3 in (Expunged) I would like to go and meet him over there because there is a mission
4 which makes it -- which requires me to see him ahead of time so that we can
5 understand a certain number of things." I went to (Expunged). I came back in the
6 evening with the child and [...] slept (Expunged). When I say "we" I mean the three of
7 us, me, the child and his mother. Thank you.

8 PRESIDING JUDGE FULFORD: The transcript is now running again. Those
9 who've got it frozen on their screens will need to reconnect, but it's up and running
10 again. Good. Please carry on, Mr Biju-Duval.

11 MR BIJU-DUVAL: (Interpretation) Thank you, your Honour.

12 Q. And when you went to fetch him for the (Expunged) trip, where did you find him,
13 in (Expunged)?

14 A. Thank you. This is what I said: The child was living in (Expunged) with his
15 mother and therefore I arrived (Expunged) where I found his mother, but his mother
16 said to me, (Expunged) I said to his mother, "Well, there is an urgent mission which
17 requires me to see him so that we can discuss a certain number of things ahead of
18 time to see how we're going to travel," and she said, "All right." And she gave me
19 the address and I left on a motor bike and I arrived in (Expunged).
20 Then from (Expunged) we travelled back to (Expunged) where we spent the night.
21 The next morning we left again, and the three of us left on that occasion. Thank you.

22 Q. Thank you. Did you have any contacts with (Expunged) no, may I rephrase
23 my question. Excuse me. You told us during your testimony, transcript 309,
24 page 27, that you had met (Expunged), his brother and his mother (Expunged) well
25 after the return from (Expunged). Could you please specify at what period this took

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1 place? Do you remember the year during which you met (Expunged), his brother and
2 his mother in (Expunged)?

3 A. Yes, it was in 2008.

4 Q. Was it at the beginning of 2008, just after you yourself had been transferred to
5 (Expunged), or was it later?

6 A. It was at the beginning of the year. It was not afterwards. Thank you.

7 Q. Thank you. Now I would like to ask you some questions concerning the child
8 (Expunged). To avoid any ambiguity or misunderstanding later, would you like us to
9 show you once again the photograph which the Prosecutor showed you in July? All
10 right. I'm going to show you a photograph. Could you please refer to tab 22 in the
11 binder. I'm not absolutely certain that this is the same photograph which the OTP
12 showed the witness. What is important is to avoid any error as to the person.
13 Perhaps the Prosecutor could help us by presenting that photograph. I'm being told
14 that this is the same photograph that was presented.

15 Witness, do you have this photograph before you?

16 A. Yes.

17 Q. And can you identify the person?

18 A. Yes, it is (Expunged). I am talking about (Expunged)
19 (Expunged), because there was (Expunged). Thank you.

20 Q. Thank you. At any point in time did you say to (Expunged) that there was any
21 question of giving be testimony before the International Criminal Court?

22 A. No. I never said that (Expunged) was to come and give testimony before the
23 ICC, but (Expunged) had contacted (Expunged). He had been in contact with
24 (Expunged) in Bunia and (Expunged), and he went (Expunged). All of the children
25 who went through this procedure I never told that they would have to meet people

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1 from the International Criminal Court. I think that you have followed my testimony.

2 I told you on the first day how I spoke to the children, what I said to the children

3 when I met them for the first time. I have already told you this. Thank you.

4 Q. Thank you. For the purposes of the file, could I specify that the photographs

5 showed to the witness is EVD-OTP-00589. During your testimony you told us at

6 transcript 309, page 24 and 25, that you had been in charge of (Expunged) at the CTO,

7 that you had been following up his case, that you were going to see him often. This

8 is my question, therefore: You went to look for him first of all for the Bunia

9 interviews, then a second time for the trip (Expunged). Could you tell us precisely in

10 what village, in what locality, he lived; that is, where did you go to fetch him?

11 A. Thank you for this question. I had forgotten that detail, but, if memory serves

12 me, it must have been (Expunged) but he was on the Bunia-(Expunged) route or the

13 (Expunged) route. In any case, I don't have the level of precision you're asking for.

14 I think that I'm right in saying that it was certainly (Expunged). Thank you.

15 Q. Thank you. Could you refer, please, to tab 13.

16 PRESIDING JUDGE FULFORD: We will do that after the break, Mr Biju-Duval.

17 Sir, we're going to give you a break now, so don't bother to turn up tab 13 for the

18 moment. Closed session, please.

19 *(Closed session at 10.30 a.m.) Reclassified into Public

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

21 PRESIDING JUDGE FULFORD: Thank you, usher. 11 o'clock.

22 (The witness stands down)

23 PRESIDING JUDGE FULFORD: How are we doing time-wise, Mr Biju-Duval?

24 MR BIJU-DUVAL: (Interpretation) I am increasingly convinced that my

25 cross-examination will come to an end tomorrow, perhaps before. We will not go

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- 1 beyond Thursday it seems to me virtually certain at this point.
- 2 PRESIDING JUDGE FULFORD: Thank you very much. 11 o'clock.
- 3 THE COURT OFFICER: All rise.
- 4 (Recess taken at 10.31 a.m.)
- 5 *(Upon resuming in closed session at 11.00 a.m.) Reclassified into Public
- 6 THE COURT USHER: All rise. Please be seated.
- 7 PRESIDING JUDGE FULFORD: Witness, please.
- 8 (The witness enters the courtroom)
- 9 PRESIDING JUDGE FULFORD: Private session, please.
- 10 Usher, can you make sure that tab 13 is open in front of the witness, please.
- 11 *(Private session at 11.01 a.m.) Reclassified into Public
- 12 THE COURT OFFICER: We are in private session, your Honours.
- 13 PRESIDING JUDGE FULFORD: Yes, Mr Biju-Duval.
- 14 MR BIJU-DUVAL: (Interpretation)
- 15 Q. This is an excerpt from your statement of October 2009, EVD number D01-00341,
- 16 and I would like to refer you to page 0259 -- 0529, lines 939 and 940. Page 529, lines
- 17 939/940.
- 18 PRESIDING JUDGE FULFORD: Thank you, usher. Yes.
- 19 MR BIJU-DUVAL: (Interpretation)
- 20 Q. And I will quote that very brief excerpt: Question, "And where did you find
- 21 (Expunged) Answer: "I found (Expunged)." A short while ago you told us
- 22 that you thought you had found him in (Expunged). How can you explain that
- 23 contradiction?
- 24 PRESIDING JUDGE FULFORD: Just before you answer, sir, yes, Mr Sachdeva?
- 25 MR SACHDEVA: Mr President, I think it's premature to say it's a contradiction.

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1 The witness has quite clearly said, "I have forgotten the detail, but if memory serves
2 me it must have been (Expunged), but he was on the Bunia-(Expunged)route, or the
3 Bunia-(Expunged) route." To suggest it's a contradiction is not right, in my
4 submission.

5 PRESIDING JUDGE FULFORD: All right, thank you, Mr Sachdeva. I'm sure the
6 quotation you've given us is correct.

7 Sir, can you assist us? Bearing in mind what Mr Sachdeva has just pointed out, can
8 you assist us as to whether it was (Expunged) where you found (Expunged)?

9 THE WITNESS: (Interpretation) Thank you for that question. I believe that
10 Maître Biju-Duval understood me very well. I talked about the road
11 Bunia-(Expunged) and Bunia-(Expunged) and I was quite specific. I said, "If
12 memory serves me correctly," and this means that I did not have details on this issue.
13 As you know these were things that happened several years ago, and let me point out
14 once again I used the expression, "If my memory serves me correctly," and I added
15 that it was Bunia-(Expunged) or Bunia-(Expunged) road. Thank you.

16 MR BIJU-DUVAL: (Interpretation) Thank you. Your Honour, I would like to seize
17 the opportunity to point out that ever since the beginning of the hearing (Expunged)
18 has been spelt (Expunged) in the transcript. I believe that has to be corrected.

19 PRESIDING JUDGE FULFORD: I've made an assumption that problems like that
20 will be picked up in the perfected transcript, but you're absolutely right to flag it,
21 Mr Biju-Duval, given that it's happened throughout. Please continue.

22 MR BIJU-DUVAL: (Interpretation)

23 Q. Let us say that it is difficult for you to remember the precise locality, but can
24 you remember the route; that is the road on where that locality was found? You said
25 that it was either the Bunia-(Expunged) road, or the Bunia-(Expunged) road. Can

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1 you at least remember which one it was?

2 A. Thank you. The Bunia-(Expunged) road is as follows: You leave Bunia and then
3 you come to (Expunged), and there at (Expunged) there is a crossroads and there
4 there is the road from (Expunged) and then a second road from
5 (Expunged) and beyond. Now, if you take the Bunia-(Expunged) road, or the
6 Bunia-(Expunged) road, then you would necessarily have to pass through (Expunged)
7 (Expunged) is a (Expunged). Thank
8 you.

9 Q. Thank you. Now, was this on the (Expunged) or
10 (Expunged) road?

11 A. Counsel, if you understood me well, my answer was as follows: I do not have
12 any specific answer, or details. I have referred to two roads. I do not know why
13 you are asking me to give you details, whereas I am not able to do so. These are
14 events that happened several years ago. Thank you.

15 Q. In your testimony, transcript number 309, page 29 -- page 26, you told us that
16 when you went to fetch (Expunged) you met with his mother and his maternal uncle.
17 Was it the uncle who accompanied him to (Expunged)?

18 A. Thank you for that question. When I saw (Expunged) mother, I spoke with her
19 in the same way I spoke with everyone else. She told me that she did not have the
20 time, because she had a child who was (Expunged) and that it was not possible for
21 her to leave that child alone. She proposed that she would put me in contact with
22 (Expunged) uncle. I discussed with him and he agreed, so it was (Expunged) uncle
23 who accompanied (Expunged). Thank you.

24 Q. Thank you. Was (Expunged) living with his mother at that location?

25 A. Yes, (Expunged) was living with his mother. Thank you.

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1 Q. You told us that you were the one following up his case and that you went to
2 see him quite often. Was he attending school at the place where he lived with his
3 mother?

4 A. No, he was not attending school where he was living with his mother. He was
5 doing odd jobs and he was a (Expunged). Sometimes he would also go to Bunia to
6 (Expunged), but most of the time he was a (Expunged). Thank you.

7 Q. After his meeting with (Expunged), did he go back to his family to join his mother?

8 A. After having spoken with (Expunged) returned to his family. Thank you.
9 I'm sorry, are you referring to Bunia or (Expunged)?

10 Q. I was referring to the interviews with (Expunged) in Bunia.

11 A. Yes, he went back to his mother's house. Thank you.

12 Q. After returning from (Expunged), did he go back to the house in which he was
13 living with his mother, that is, where you had found him before that?

14 A. Thank you. When he left (Expunged) there was a child to whom (Expunged) had
15 given a telephone so as to enable me maintain contact with him. (Expunged) also told
16 me that he had given that child money to be able to return home, and I believe he
17 went back home. Before Christmas of 2007 I met him in Bunia, but after (Expunged)
18 that child was given money (Expunged). He left with a telephone and went back
19 home. Generally speaking, that was the explanation that (Expunged) gave me; that
20 is, he had given the child the necessary money for him to return home, and we stayed
21 in contact with that child. Thank you.

22 Q. Just to be clear, when you talk about that child, you -- you are referring (Expunged)
23 is that correct?

24 A. Yes. I believe we are talking about (Expunged). We are not talking about a
25 different child.

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1 Q. Thank you. Before the break you testified that (Expunged) had asked you to
2 take some money to the family of the child (Expunged). Were you to give that money
3 to (Expunged) mother?

4 A. Yes, I gave the money to (Expunged) mother where she was in Bunia. Thank
5 you. I gave her that money in the night. Thank you.

6 Q. Thank you. You have told us that she was in Bunia. Was she living in Bunia
7 at that time?

8 A. Yes. Before Christmas Day (Expunged) was living in Bunia. This is what she
9 told me: "My brother, who is (Expunged), is getting worse. It is necessary for us to
10 come and live in Bunia because there it would be easy for him to receive a traditional
11 treatment." So during that period of Christmas, (Expunged), his brother -- or his
12 mother and the (Expunged) brother came to settle in Bunia. Thank you.

13 Q. Can you tell us in what Bunia neighbourhood that was?

14 A. They were living in the (Expunged) neighbourhood. (Expunged) is a
15 neighbourhood located opposite (Expunged). It is not far from (Expunged). Thank
16 you.

17 Q. Thank you. Are you sure it was not actually in the (Expunged)
18 neighbourhood itself?

19 A. No, it was not in the (Expunged) neighbourhood, it was in (Expunged). As
20 you know, many people confused -- or, rather, they were confused about the two
21 neighbourhoods, but I cross-checked on the Bunia map and it was indeed the
22 (Expunged) neighbourhood and not (Expunged). Thank you.

23 Q. Thank you. Please refer to tab 9 of the folder, and it is DRC-OTP-0222-0564,
24 and this is an excerpt from your statement of October 2009 -- or, rather, it was in
25 January 2010, and I am referring to page 0571, lines 237 to 241, and I quote:

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1 Question: "And (Expunged) sent you to a house, that is (Expunged) mother's house?"

2 Answer, "Yes." Question: "In Bunia?" Answer: "Yes, in Bunia, where he was
3 living, and specifically in (Expunged)." Now, was it (Expunged)?

4 A. Thank you for that question. As I have said before, I would like to point out
5 that people confused between the two neighbourhoods, but I got the right
6 information that it was the (Expunged) neighbourhood after the first month, and
7 I was given that precision when we were doing a handover between (Expunged)
8 [...] and (Expunged).

9 There were children who were (Expunged) and the idea was for those children to
10 return to Bunia. There was a problem which arose relating to the name of the
11 neighbourhood. I was consulted and I was asked where the neighbourhood was
12 located, and they asked me that question because I was the one who had prepared
13 that document. My answer was as follows: The (Expunged) neighbourhoods are
14 located in the same area. Fortunately, at the same time, someone who had come to
15 take children from (Expunged) had a map, and looking at that map I understood that
16 there was a difference between the (Expunged) neighbourhood and the (Expunged)
17 neighbourhood. They are separated by the (Expunged) road. That is the boundary
18 between those two neighbourhoods. Thank you.

19 Q. Thank you. You mentioned the children who were coming back from (Expunged).
20 Are these the children that you introduced to (Expunged) for the interviews?

21 A. No, those are not the children that I put in contact with (Expunged) rather,
22 those were children where I was working, that is (Expunged). No, it did not have
23 anything to do with the children that (Expunged) had met before. Thank you.

24 Q. Thank you. Did I understand your testimony correctly, that is, if I tell you that
25 between the end of November and December (Expunged) family and (Expunged)

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1 himself moved to Bunia in order to make it easier for one of the children in the family
2 to receive treatment; was that the reason for the relocation?

3 A. Yes. That is how it was explained to me. I found his mother sewing some
4 clothes. Thank you.

5 Q. Thank you. Did you have any contact with (Expunged) while you were in
6 (Expunged) that is as from early January 2008?

7 A. Thank you. I do remember that one day when I was in (Expunged) called me.
8 I do not know how he got my telephone number. He told me that he was in
9 (Expunged), and he added that he was with (Expunged) and that he was
10 being lodged in a very good family in (Expunged) and that in that family he was
11 considered as one of the children and that he had no difficulty.
12 One day when I was coming back from my studies, and that was in (Expunged)
13 (Expunged) called me. He informed me that (Expunged) had to travel through
14 (Expunged). He asked me to meet him and to lodge him in my home (Expunged)
15 before he left (Expunged) for Bunia. I waited and then, I called (Expunged) back and
16 he told me that the programme had changed. He told me that (Expunged) was no
17 longer going to travel through (Expunged), but would go directly to where he was
18 headed. That is the contact that I had with (Expunged) in January 2008. Thank you.

19 Q. During that contact, did (Expunged) mention (Expunged)?

20 A. No, (Expunged) said nothing about (Expunged). He simply informed me of a
21 situation, how he was living and that he was fine. He didn't give me any
22 information about (Expunged). Thank you.

23 Q. Thank you. When (Expunged) returned from (Expunged) to
24 Bunia, did you give them money for their transport fare to go back home to their
25 respective families?

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1 A. If you listen to me attentively, you would find that I said that money was given
2 to (Expunged). He was also given a telephone. Now, with respect to (Expunged), he
3 was given money in (Expunged) for his transport fare to return home. He was also
4 given a telephone.

5 What (Expunged) told me is the following: He said, I've given money to
6 such-and-such a child for his transport fare and I've also given him a telephone.
7 However, we have to maintain contact with him. For certain children he would say,
8 listen, such-and-such a child has a telephone. I would like you to go and see (Expunged)
9 before he arrives at Bunia, collect money for the transportation of these children and
10 give such-and-such a child money for transport and then take back the telephone
11 which is in his possession.

12 So with regard to (Expunged), the money for their transport fare and the telephone
13 were handed over to them in (Expunged). Thank you.

14 Q. Thank you. Previously, after that (Expunged) in Bunia, did you give them any
15 money for them to use to return to their respective families?

16 A. Thank you for that question. If you listen to what I said yesterday, you'll find
17 that I said at some point that with respect to the first two children who met
18 (Expunged) on that evening it was (Expunged) who gave them money for their
19 transport, and (Expunged) was one of the two children. Now, as concerns
20 (Expunged), I was the one who gave him his transport fare. Thank you.

21 Q. Thank you. If I put it to you that as concerns these children you did not go to
22 fetch them either in (Expunged) or anywhere else outside of Bunia, but rather that
23 you found them in Bunia, what would you say to that?

24 A. Could you please repeat your question?

25 Q. If I suggest to you that contrary to what you have been explaining you did not

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1 go to fetch these children out of Bunia, in (Expunged), but rather

2 that you found these children in Bunia because they were resident in Bunia, would

3 that not make you to change your testimony?

4 A. Thank you for your question. Well, your suggestion will not make me change

5 my testimony because I went to fetch these children out of Bunia. It is true that

6 these children used to come to Bunia, but when I went to fetch them I indeed went

7 out of Bunia. Thank you.

8 Q. Thank you.

9 MR BIJU-DUVAL: (Interpretation) I forgot to request for an EVD reference for the
10 document DRC-OTP-0222-0564 that was used a short while ago.

11 THE COURT OFFICER: (Interpretation) Thank you, counsel. The document will
12 bear the reference EVD-D01-00347.

13 MR BIJU-DUVAL: (Interpretation)

14 Q. I am going to ask you some questions now about the child (Expunged). Do you
15 remember his other names?

16 A. I do not remember his other names well. However, I do remember that he was
17 referred to as (Expunged). So I used to call him (Expunged), which is the short form
18 of (Expunged). Thank you.

19 Q. If I suggest to you that his name is (Expunged), would that help
20 you to remember?

21 A. Thank you. Is it possible for you to show me his photograph, please?

22 Q. We will see what we can do about that. Could you please turn to tab 21 of the
23 binder, this is a photograph that bears the EVD reference OTP-00562. Do you
24 recognise the individuals in that photograph?

25 A. Yes, I know these persons.

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1 Q. Could you please identify them, starting with the person on the left?

2 A. The person wearing a tie is (Expunged). That is the person who accompanied
3 (Expunged). And the individual wearing a baseball cap is (Expunged).

4 Q. Thank you. In the course of your evidence transcript 309, page 29, that you
5 took charge of him at the CTO and that you took him home, should we understand
6 therefore that you saw him for the first time whilst he was at the CTO?

7 A. Yes, I saw (Expunged) for the first time at the CTO.

8 Q. Thank you. Was it at the CTO at the time when you were working for (Expunged)
9 (Expunged)?

10 A. I do not remember. I don't know whether this was when I was working for
11 (Expunged).

12 Q. Thank you. Does (Expunged)

13 A. (Expunged) when the (Expunged) put him in contact with (Expunged)
14 (Expunged). Thank you.

15 Q. Thank you. You told us in your evidence transcript 309, page 29, that you
16 monitored this child and that this was a child with whom you maintained regular
17 contact. You also maintained regular contact with his family. Do you know where
18 he attended school in the year 2007, [...] that is during the years in which you
19 monitored him?

20 A. During the years in which I monitored him, (Expunged) was not attending
21 school. However, he was given assistance to work in school. In other words, he
22 was given tools that will enable him to cultivate his farm. Thank you.

23 THE INTERPRETER: Correction from the English booth. He was given assistance
24 to carry out agricultural work.

25 MR BIJU-DUVAL: (Interpretation)

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1 Q. In November 2007 when you went to look for him, for his interview with
2 (Expunged), was (Expunged) living with his parents? That is, with his father and mother.

3 A. Yes, (Expunged) was living with his mother and father.

4 Q. Could you please tell us once more, where did you go to fetch him for his
5 meeting with (Expunged)?

6 A. I went to fetch (Expunged) taking the road which goes from Bunia to
7 (Expunged) or from Bunia to (Expunged). I don't have any details to give you about
8 that. All I can say is that I went out of Bunia to fetch him. Thank you.

9 Q. You went to fetch him to meet (Expunged). You also went again to fetch him
10 to organise the trip (Expunged). You also said you maintained regular contact with
11 his family. Is it really difficult for you to delve deep down in your memory and tell
12 us exactly which route you took?

13 A. I have just stated clearly that I went out of Bunia to fetch him, that I took the
14 road from Bunia to (Expunged) or Bunia to (Expunged), but I cannot give you details
15 because I have forgotten. Thank you.

16 Q. Was it a place where his family had been resident for a long time, or where they
17 had been resident for a short time?

18 A. It was a location in which his family had been resident for a while. They were
19 there, but his parents told me before I initiated contact with them that they were
20 building their house in (Expunged), so at some point they had a residence in
21 (Expunged). Later on, when (Expunged) came to see me to inform me that his
22 maternal uncle, (Expunged), had been arrested by soldiers in (Expunged), at that
23 point in time (Expunged) was living with his parents in (Expunged), in their house in
24 (Expunged), and that was before Christmas of 2007. Thank you.

25 Q. Should I understand, therefore, that (Expunged) family moved between the end of

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1 November and December 2007, moving to (Expunged)? Is that your statement?

2 A. No, that is not what I said. Personally, I did not go there to see what had
3 happened. I did not go to verify the situation to see whether (Expunged) family was
4 living there. (Expunged) told me that he was there, that he was resident there, and
5 that he was with his maternal uncle, (Expunged), in their family home (Expunged),
6 and he gave me the address - the address of that house - in the neighbourhood of
7 (Expunged). Thank you.

8 Let me add the following; that is about (Expunged). At some point, I was in (Expunged).
9 (Expunged) called me and he said, "Do you know the home of (Expunged) family in
10 (Expunged)?" I said, "Yes, I have the address. I have had the address since the time
11 I was in Bunia." He asked me to make an effort, because there was a telephone
12 available which I had to take to (Expunged) mother. At that time I was (Expunged).
13 I told (Expunged) there was no problem about that. Since he was in Bunia I told him,
14 "I am going to give you the address," and he said, "No. Try to look for somebody,
15 someone we can trust; someone reliable, someone you know and whom you trust,"
16 and I said, "No problem [...]." So I looked for someone reliable and I gave the address
17 to him, the address of the family home of (Expunged) in Bunia, and I told (Expunged)
18 to leave the telephone in my provision store, which was in Bunia. And that person,
19 the reliable person I had designated, will go and collect that telephone from my
20 provision store and take it to the mother of (Expunged) in Bunia, in the (Expunged)
21 neighbourhood. That is the clarification which I remembered and which I wanted to
22 bring to your attention. Thank you.

23 PRESIDING JUDGE FULFORD: Mr Biju-Duval, we will have the last short break of
24 this morning now. We will just have 15 minutes. Closed session, please.

25 *(Closed session at 11.50 a.m.) Reclassified into Public

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

2 (The witness stands down)

3 PRESIDING JUDGE FULFORD: Yes, thank you, usher. 5-past-11 -- 5-past-12.

4 (Recess taken at 11.52 a.m.)

5 *(Upon resuming in closed session 12.07 p.m.) Reclassified into Public

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

7 PRESIDING JUDGE FULFORD: Witness, please.

8 (The witness enters the courtroom)

9 PRESIDING JUDGE FULFORD: Private session, please.

10 *(Private session at 12.08 p.m.) Reclassified into Public

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

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

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

14 Q. Witness, just before the recess you told us that (Expunged) himself at a certain
15 point told you that he was living with his family in (Expunged), so I would like to get
16 a better idea of when he moved to (Expunged) with his family, according to your
17 testimony. Do we agree that you went to fetch him outside Bunia, where he was
18 with his family, to talk to him about the (Expunged) trip; is that correct, according to
19 your testimony?

20 A. Yes.

21 Q. Should I take it that this was, according to your testimony, after the (Expunged)
22 trip; after the (Expunged) trip he moved with his family to (Expunged)?

23 A. Thank you for the question. I said after the (Expunged) trip he returned home.

24 That was outside the town of Bunia. And before Christmas 2007 he arrived at my
25 house to talk to me about his situation. He told me he was living with his (Expunged)

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1 (Expunged) in their family home in (Expunged), and that was the same house the
2 address of which was given to me by his own parents. Thank you.

3 Q. Thank you. Could I ask you to look at tab 2 of your binder. This is document
4 DRC-OTP-0231-0080. This is an extract of your statement of June 2010. I am going
5 to make reference to page 102 to 105.

6 Your Honour, could I point out that this is quite a long extract, and I do apologise.
7 Certain passages of this extract are not necessarily relevant, but it seems to me
8 inappropriate to cut it up into successive extracts. It seems to me important to
9 submit the entire extract as a whole to the witness. So I do apologise for the length
10 of the quote that I'm going to make, but it seems to me preferable.

11 So I'm making reference at page 102. I'm beginning at the top of the page.

12 Question: "Yes. Towards 2005 you went to see the children who were (Expunged)
13 (Expunged) and you took them with you. Do you remember a situation like that
14 when there were several children, young people who were (Expunged)
15 (Expunged) and you went to them, to ask them to take them with you?" Answer:
16 "No, I didn't address just any child. I knew my own children. I knew this one, this
17 one. I could find them in a given place and, indeed, this one was in the truck. I
18 would not deny that. He was (Expunged). I called him, but these are not street
19 children. And it was not all of the children who were in the vehicle that I called, no,
20 but -- " Question: "All right." Answer -- Question: "Excuse me. Could you please
21 specify who you mean when you said, 'that one,' please?" Answer: "It's (Expunged),
22 that's the only one." Question: (Expunged) Question, says Mr Biju-Duval, "Yes, yes,
23 but we'd need to say 'question.' Oh, it's for the recording." Answer: "Just for the
24 recording. Okay." Question: "Is that all right?" Answer: "Yes, yes." Question:
25 "And so, what was this? What was his story with the (Expunged)?" Answer: "No.

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1 He was -- he was working on that to have something, to have some money. He was
2 (Expunged)." Question: "Yes." Answer: "Yes, in the vehicle. I called him. I
3 asked him, how did it come to be that he was doing this (Expunged) and yet I'd
4 already given him hoes, a hoe to go and work the fields, some seeds. That was his
5 re-integration." Question: "I apologise. I haven't understood. What had you
6 given him?" Answer: "A hoe." Counsel, "The hoe." Question: "What's a hoe?"
7 Answer: "Cut, cut." Answer: "It's an instrument." Answer: "Yes." Question:
8 "Yes, yes. All right. It's my French. Counsel specifies it's a harvesting instrument
9 or a tilling instrument." Answer: "Yes." Question: "Yes." Witness, "Seeds to
10 sow the seeds because he had chosen to work in the fields. He hadn't studied.
11 Question: "All right." Answer: "It was difficult for him to do something different
12 than working in the fields. Now, I had called him to try and talk to him about what
13 he had done with those things. It was just for his reintegration so that he would
14 be -- would not be doing just any old thing, because this was work -- the work he was
15 doing was too hard, he could have been exposed to any kind of illness." Response of
16 the counsel, (Expunged)?" Witness: "Yes, (Expunged) Question: (Expunged)
17 Answer: "That sort of thing." Question: "I apologise for having interrupted you.
18 So that's what he was doing, (Expunged). Was it after the CTO or before?" Answer:
19 "No, after the CTO. When he was already with them, yes." Question: "You had
20 already found him a job, but he had gone through the CTO?" Answer: "Yes."
21 Question: "And so at that point you saw him (Expunged) --" Answer: "Yes,
22 afterwards." Question: (Expunged) Answer: "It wasn't just after the CTO,
23 afterwards, because we were doing --" Question: "Yes, yes, after a certain time."
24 Question -- Answer: "The follow up, it's three months. Three months." Question:
25 "And you saw him (Expunged)? And what happened?" Answer: "No, I called

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1 him." Question: "You went over to him?" Answer: "Yes, towards him. I called
2 him and I asked him why he was (Expunged), and he said to me, well, 'to find soap
3 here, it's a real problem.' And then I asked him, you, when I was doing your
4 follow-up, you said to me that you needed equipment to work the fields. I gave you
5 the equipment. How is it that you are doing just any old work and yet you had the
6 equipment which could easily have helped you to earn your living in the fields?
7 That's how we began, we talked. We talked. And then I took him from there, went
8 to their house where he was staying in Bunia, I mean. I began to explain to
9 him -- first of all, to him alone. Before I was in contact with his mother in Bunia.
10 First of all, I -- I explained to him that there were my bosses (Expunged) that he
11 would need to be in contact with them, but that he would need to be accompanied by
12 an adult, either his father, his mother, his big brother; that is, somebody from his
13 family." Question: "All right. From what I have understood, correct me if I have
14 not understood correctly --" Answer: "Yes." Question: "So you saw him (Expunged)
15 (Expunged)?" Answer: "Yes." Question: "And you talked to him at that point; is
16 that right?" Answer: "No, I --" Question: "No, you --" Answer: "Took him
17 apart from the others, yes." Question: "Okay. Took him away from the others,
18 but --" Answer: "Yes." Question: "Is it straightaway --" Question: "Is it
19 straightaway after taking him aside you talked to him about this meeting (Expunged),
20 the trip; is that right?" Answer: "No. First of all, we began by talking about the
21 equipment that I had given him." Question: "All right. Okay." Answer: "After
22 that, now we went down to their place at the house where he was staying in Bunia.
23 Now, it's there that I explained to him that there were my bosses (Expunged), that
24 they would be (Expunged). The transport would be provided and everything relating
25 to it, because it was just after (Expunged) had met them in Bunia after having -- when

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1 (Expunged) had worked with them in Bunia, we had planned their departure, and so
2 I explained to him, now, can you see that other one over there who worked with you?
3 Right. Well, he is with the boss, with our boss (Expunged), and that is why you
4 will -- you will go to (Expunged) to go and show that you have done that work."
5 This place where they were (Expunged) is in (Expunged), isn't it?

6 A. Yes.

7 Q. Am I to understand that you explained to the investigators in June 2010 that you
8 talked to (Expunged) about the (Expunged) trip when you met him in (Expunged)?

9 A. Thank you for the question. When I met (Expunged), as you have
10 just read in fact, he was (Expunged) and it was at that time that (Expunged) asked me
11 to prepare the children. Why did I go through (Expunged)? Well, it was because I
12 knew perfectly well that (Expunged), as well as other children, were outside Bunia
13 and had come to work in (Expunged) at (Expunged). Before going to their houses in
14 the neighbourhoods around Bunia, I really had to go through that place because that's
15 where they usually were, so if these children were not in (Expunged) they would be
16 in their villages. Thank you.

17 Q. But when you told the investigators in June 2010 that you met (Expunged)
18 (Expunged), that you took him aside from the group and that at that time you
19 explained to him -- and that you took him, and I'm quoting from the extract again,
20 "Now, I took him from there. I went to their place, to the house where he was
21 staying in Bunia. And so I began to explain to him first of all alone, before I was in
22 contact with his mother in Bunia."

23 When you say this, are you not clearly confirming to the investigators that the family
24 lives in Bunia, and that it is in Bunia that you are talking to them? That first -- that
25 you spoke to (Expunged) first and then to his mother about the (Expunged) trip?

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1 A. Thank you for the question. You have just read what follows. I took
2 (Expunged) and I took him to the place where he was living in Bunia. I spoke with
3 him and I also spoke with his mother, who was in Bunia. That's what you've just
4 read. So I would ask you to bear in mind one thing. We are Africans. If you live
5 with someone, if it's a woman who is the age of your mother you call her "Mama." If
6 you live with somebody who is of the same age as your father, you call him "Papa."
7 Why did I tell the investigators that I had spoken with his mother? Well, it's because
8 it was the woman who was looking after him, who was taking care of him at the place
9 where he was living and at the time when he was doing his work. Could I specify
10 that it was not his natural mother.

11 And, for me, the fact of taking (Expunged) so that we could go to his place, to the
12 place where his own parents lived, this was something that required me to ask
13 authorisation of this woman. I had to introduce myself to her and say, "This child
14 knows me well, and we have to travel (Expunged) with this child accompanied by
15 members of his family." This woman accepted this; accepted my taking (Expunged).
16 We took a motorbike and we left, and another procedure took place at that place. I
17 think you will have understood me. Thank you.

18 Q. Is it your testimony that when you were talking about (Expunged) mother you
19 might be talking about different individuals, according to the circumstances you are
20 referring to or the time you are talking about?

21 A. Thank you for this question. I do say that when I met (Expunged)
22 and Bunia he took me to his place, in other words the place where he was residing in
23 (Expunged), and I met a woman who was with him, but it was not his biological
24 mother because I met his biological mother outside Bunia. The woman that I met in
25 Bunia was somebody who was looking after him. It was not his own mother.

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1 Thank you.

2 Q. Can you tell us the name of that woman who was not (Expunged) biological
3 mother?

4 A. I did not ask to know that woman's name and so I do not know it, and in fact I
5 do not even know his biological mother's name.

6 Q. However, are we agreed on the fact that it was first of all in (Expunged), that is in
7 the house where (Expunged) lived in Bunia, that you talked to him about (Expunged)
8 trip as you told the investigator in June 2010?

9 A. Yes, before going with him outside of Bunia I spoke to him in Bunia. We then
10 travelled together to the village in which his family lived. But you, counsel, if you
11 find a child who is occupied, you cannot take that child away immediately. You
12 have to first of all speak with the child and explain to him that you wanted him to go
13 somewhere. After that you would have to speak with the parents, or the guardian of
14 the child, so that that person should not have any doubts when the child does not
15 return home. So, you will speak with the person responsible for that child so that
16 that person should know that the child is going to his village with such-and-such a
17 person. Thank you.

18 Q. Thank you. Regarding this other person, whose name you no longer
19 remember, you told her that (Expunged) had to go to (Expunged); is that correct?
20 I'm referring to this other person with whom you spoke in Bunia.

21 A. Yes, if I remember correctly, but I do not remember very well. It is possible that
22 that is what I told him. I probably told him that (Expunged) had to go to (Expunged)
23 to meet with my bosses, and she asked me, "Why?", and I told her that (Expunged)
24 knew why. He knew at what time he had been put in contact with that person. It
25 was after the meeting between him and them in Bunia that the decision was arrived

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1 about that he will leave and she said, "Yes," and we left on a border -- on a motorbike
2 to travel to (Expunged) parents' village. Thank you.

3 Q. Thank you. You told us about those children who were (Expunged) with
4 (Expunged). Did you know those children?

5 A. Yes, I knew some of them, but not all. There were about three children with
6 whom I had collaborated at the CTO. However, there was one of them with whom I
7 had difficulty communicating. I had given him (Expunged), so as to try and help
8 make a living for himself. He had to keep (Expunged) so as to try and earn a living,
9 but he sold (Expunged) and that is the reason why there was a misunderstanding
10 between myself and him. The others who had not yet been reintegrated, the three
11 children who were with (Expunged), were living in the (Expunged) neighbourhood.
12 That neighbourhood is a (Expunged). (Expunged), while another
13 part is located on the road to (Expunged). Thank you.

14 Q. Thank you. Just one point of clarification: Is it correct that there are 12
15 neighbourhoods in Bunia?

16 A. I do not think that there are only 12 neighbourhoods there. When I was there,
17 it was said that Bunia did indeed have 12 neighbourhoods. That is true. Thank
18 you.

19 Q. Do you remember the name of the child that you have just mentioned, to whom
20 you gave (Expunged) which he did not put to use in the expected manner?

21 A. I no longer remember the name of that child but, if I saw a photograph of him, I
22 would be able to remember him. However, regarding the names, I would say that
23 all the Hema children had names that were quite similar; almost the same name. It
24 is difficult to remember the name, but if I see the photograph, given that I had the
25 photographs -- I had seen the photographs of almost all those children, if I saw this

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1 particular child's photograph I would be able to recognise him. Thank you.

2 Q. Please refer to tab 3 of the binder. It is an extract of your statement from June

3 2010. It is document number DRC-OTP-0231-0112, and I'm referring here to page

4 129, at the bottom of page 129, lines 618, and then to the top of page 130. I quote,

5 Question: "No, after it was (Expunged)." Answer: (Expunged) Question: (Expunged),

6 (Expunged). Is it the same person?" "Yes." (Expunged)

7 (Expunged) Answer: "I know that one. That is the one I told you that had been

8 reintegrated, but now he sold (Expunged). Now, I no longer collaborate with him

9 because he had annoyed me. He is (Expunged)." Question: "Is it the same one

10 that you mentioned who was (Expunged)?" Answer: "Yes, they were together with

11 (Expunged)." Answer -- or rather, Question: "Were they together?" Answer:

12 "Yes." [...] Now, does this jog your memory?

13 A. Thank you for your question. Would it be possible to have the list of names,

14 that is the three lists, and if this name is included in one of the lists then that would be

15 the child we are talking about? I do not know whether that is possible?

16 Q. I believe you can rely on your memory without having to look at that list, but if

17 it could be useful to you?

18 PRESIDING JUDGE FULFORD: Where does he find the list, Mr Biju-Duval?

19 MR BIJU-DUVAL: (Interpretation) It is at tab 76 and that is in the smaller binder.

20 PRESIDING JUDGE FULFORD: Yes. Now you've seen the list, sir, does the

21 quotation read out by Mr Biju-Duval help you remember the name of the individual

22 who was concerned with the (Expunged)?

23 THE WITNESS: (Interpretation) Yes, that has helped me. I asked for the list because

24 there were two children with the first name (Expunged). I put one of them in contact

25 with (Expunged), but I was not the one who introduced the other one to (Expunged).

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1 Now, regarding (Expunged), he is the one who sold the (Expunged), but if you look
2 at the list that I have before me, that is the list of children that I gave (Expunged), it is
3 written (Expunged). It is for that reason that I asked for the list. So
4 these were two children living in the same neighbourhood. I wanted to know which
5 (Expunged) was involved. That is the one I had put in contact with (Expunged), so
6 that I would be able to remember the name of the one who had sold (Expunged).
7 That is why I asked for that list. Thank you.

8 MR BIJU-DUVAL: (Interpretation) Thank you. I forgot to ask for an evidence
9 number for the last two documents, the one in tab 2 and the one at tab 3.

10 THE COURT OFFICER: (Interpretation) The document in tab 2 has the ERN
11 number DRC-OTP-0231-0080. It will bear the EVD number D01-00348. And the
12 next document bearing ERN DRC-OTP-0231-0112 will be given the EVD number
13 D01-00349.

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

15 MR BIJU-DUVAL: (Interpretation)

16 Q. Thank you, Mr Witness. If I put it to you that you did not go to fetch (Expunged)
17 (Expunged) outside of Bunia but that you found him in Bunia where he lived in the
18 (Expunged) neighbourhood, would you be able to change your testimony?

19 A. Thanks for that question. I believe that you have already asked me that
20 question before, and my answer to you was that this would not in any way change
21 my testimony. I explained everything comprehensively to you when I said that
22 those children went to Bunia from time to time but their parents lived outside of
23 Bunia. And when I carried out the missions that I was talking about, they were
24 outside of Bunia. It is understood that before I went with (Expunged) outside of
25 Bunia, I met with him at the place where he was doing the work that I talked about,

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1 but you are telling me that I have to change my testimony. Well, I cannot do that
2 because this is something that I did myself. It is a mission that I carried out myself.
3 Thank you.

4 Q. Thank you. After (Expunged) returned from (Expunged), where he met with
5 the investigators of the OTP, did you have any contact with him?

6 A. Thank you. If you followed my previous answers attentively, you will
7 remember that I told you that (Expunged) was one of the children who had kept their
8 telephones (Expunged) also gave him money for his transportation fare back home.
9 This means that he gave him that money (Expunged). When I was in contact with him
10 another time, that was when he came to tell me that he was living in (Expunged) at
11 that time. That was before Christmas of 2007. When he informed me that the
12 (Expunged), I was also in contact
13 with him at that time. So I therefore believe that I've already answered that question,
14 that is, in my previous answers. Thank you.

15 Q. Thank you. In your testimony, transcript number 310, page 30, you stated that
16 you travelled from (Expunged). You also said that
17 you and those two persons spent one night and part of Sunday in (Expunged). This
18 is my question to you: Did you stay at the same place together in (Expunged)?

19 A. Thank you for that question. In (Expunged) we stayed at the same place.
20 That is the procure of (Expunged). That is the. (Expunged) spent
21 the night in one room and I spent the night in a different room. Thank you.

22 Q. Thank you. You also told us during your testimony, transcript number 310,
23 page 32, that you called (Expunged) on the phone while you were in (Expunged). Do
24 you remember the period during which you called (Expunged)? Can you give us an
25 approximate date at which you made that call?

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- 1 A. Thank you. If you listened to me carefully on the first day of my testimony
2 here, I did say that when (Expunged) shortly after (Expunged) - the
3 other one, that is not the black person but the (Expunged) - he told me that he was
4 going to stay with (Expunged). His (Expunged) had to travel to
5 Bunia, and when they arrived at the (Expunged), the uncle refused to stay in
6 (Expunged) then called me. He told me that the child was refusing to stay in
7 (Expunged), and that I had to talk to him. I did not call him when I met him for the
8 first time in (Expunged), no. I instead called him when he returned from
9 (Expunged) and stopped in (Expunged), where he had to stay and he refused to stay.
10 It was then that [...] I asked him the question: Why are you refusing to stay here
11 with me in (Expunged)? And he told me that his uncle did not want him to stay.
12 And that was the end of the matter. (Expunged) asked me to try to convince him one
13 last time, one more time, and I told (Expunged) that there was no way because the
14 child was refusing to stay and had told me that his uncle had refused. And
15 (Expunged) told me, "No problem. I am compelled to pay tickets for all of you to
16 leave (Expunged)." That is what happened. Thank you.
- 17 Q. Thank you. After that incident, did you have any further contact with
18 (Expunged), telephone contact or otherwise?
- 19 A. After the incident that I've just told you about, there was no further contact
20 between (Expunged) and myself. However, if I'm not mistaken, when (Expunged)
21 asked for a telephone to be given to (Expunged) mother, I contacted (Expunged)
22 mother on that day, but I had no contact with (Expunged). Thank you.
- 23 Q. You have told us about a person who went to fetch a telephone in your store to
24 give to (Expunged) family. Can you tell us the name of that person?
- 25 A. Yes. His name is (Expunged) (phon) and he is (Expunged).

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1 Q. Thank you. One last question: I'm putting it to you that you had contact with
2 (Expunged) in December 2009. What do you have to say about that?

3 A. No. I did not contact (Expunged) in 2009 because I was in (Expunged). I had
4 already left (Expunged). Thank you.

5 MR BIJU-DUVAL: (Interpretation) Your Honour, I will move on to another point.

6 PRESIDING JUDGE FULFORD: Thank you very much, Mr Biju-Duval. At
7 half-past-2, please. We're going to sit in Courtroom 1 this afternoon. I'm sorry if
8 that causes inconvenience in terms of moving papers, but it's a rather more
9 convenient court to use, I think. Good, closed session, please.

10 *(Closed session at 1.00 p.m.) Reclassified into Public

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

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

13 (The witness stands down)

14 PRESIDING JUDGE FULFORD: So, half-past-2, Courtroom 1.

15 THE COURT OFFICER: All rise.

16 (Luncheon recess taken at 1.01 p.m.)

17 RECLASSIFICATION REPORT

18 Pursuant to Trial Chamber I's email instructions dated 5th April 2011, the redacted
19 version of the transcript with its redactions is reclassified into Public.