

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 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 Tuesday, 2 November 2010  
10 (The hearing starts in open session at 10.15 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. Mr Sachdeva, the Defence have  
14 now made their position clear in relation to the disclosure as regards Witness 555.  
15 Essentially, what they wish to do is to explore the contacts between 555 and the  
16 Prosecution as part of the suggestion that's been made that there was inadequate  
17 consideration by the Prosecution of the reliability of the witnesses. There's also the  
18 same argument in relation to the intermediaries, but that's a separate issue. Are you  
19 in a position to respond now to that, or would you wish for time to set out your  
20 response in email form?  
21 MR SACHDEVA: Mr President, with your leave, could we respond by email by  
22 tomorrow morning?  
23 PRESIDING JUDGE FULFORD: Certainly. Absolutely. 10 o'clock tomorrow is  
24 splendid. Thank you very much.  
25 MR SACHDEVA: Thank you, Mr President.

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- 1 PRESIDING JUDGE FULFORD: I think we have a new member of your team to  
2 welcome?
- 3 MR SACHDEVA: I was just about to do that. If I could introduce trial lawyer  
4 Mr Ade Omofade, who will be representing the Prosecution.
- 5 PRESIDING JUDGE FULFORD: Good. Along with you?
- 6 MR SACHDEVA: Yes, indeed.
- 7 PRESIDING JUDGE FULFORD: You're not leaving along with Ms Struyven then,  
8 Mr Sachdeva?
- 9 MR SACHDEVA: No, we're not.
- 10 PRESIDING JUDGE FULFORD: Good. Right, yes, exactly. Well, you're welcome,  
11 sir.
- 12 MR OMOFADE: Good morning, your Honour.
- 13 PRESIDING JUDGE FULFORD: Thank you very much.
- 14 THE INTERPRETER: Overlapping speakers, your Honour.
- 15 PRESIDING JUDGE FULFORD: Now, we're in open session. Anything else to be  
16 dealt with administratively before the witness returns to court, Mr Sachdeva?
- 17 MR SACHDEVA: Mr President, you had a request yesterday, but I think that should  
18 be dealt with in private session.
- 19 PRESIDING JUDGE FULFORD: Certainly. Private session, please.
- 20 \*(Private session at 10.17 a.m.) Reclassified as Open session
- 21 THE COURT OFFICER: We are in private session, your Honours.
- 22 PRESIDING JUDGE FULFORD: Yes, Mr Sachdeva.
- 23 MR SACHDEVA: Mr President, in relation to document number 1814, dated 9 April  
24 2009 --
- 25 PRESIDING JUDGE FULFORD: Yes, yes.

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1 MR SACHDEVA: -- and in respect of the annex at paragraph 19, the Prosecution has  
2 had time to reflect on your Honour's request and we would agree that the  
3 nondisclosure order can be reversed. Of course the name should not go out to the  
4 public, in our submission, but effectively, yes, it can be reversed.

5 PRESIDING JUDGE FULFORD: Could you encapsulate the Prosecution's position  
6 in an email some time today, Mr Sachdeva, identifying exactly how the disclosure  
7 should take place; namely, what restrictions should be imposed?

8 MR SACHDEVA: Certainly, Mr President.

9 PRESIDING JUDGE FULFORD: Thank you very much. I'm sorry to be rather like  
10 a stuck record on the subject, but it would be very useful to know whether a  
11 deposition taking exercise during the week of 15 November is going to be realistic  
12 because, if we're going to attempt to use that possibility, tickets need to be bought and  
13 arrangements need to be made. Do you have any sense, Mr Sachdeva, as to when  
14 we'll have an answer to this?

15 MR SACHDEVA: Mr President, I hope I can revert to the Chamber by tomorrow  
16 morning on this.

17 PRESIDING JUDGE FULFORD: Certainly. Thank you very much indeed. Public  
18 session, please, for a moment.

19 (Open session at 10.19 a.m.)

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

21 PRESIDING JUDGE FULFORD: I'm afraid I'm going to have to indicate to the  
22 public gallery and anybody outside of this Court who is attempting to follow these  
23 proceedings that it is highly likely that most, if not all, of today's evidence will be  
24 heard in closed session for security reasons which are extremely pressing as regards  
25 the present witness. We apologise for that, but there is no alternative. We will try

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1 to ensure that a suitably redacted transcript of today's proceedings is issued publicly  
2 so that there can be at least some understanding of what has happened in court today.

3 Private session, please -- well, closed session so the witness can come into court.

4 \*(Closed session at 10.20 a.m.) Reclassified as Open session

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

6 PRESIDING JUDGE FULFORD: Yes, please.

7 (The witness enters the courtroom)

8 PRESIDING JUDGE FULFORD: Private session, please.

9 \*(Private session at 10.21 a.m.) Reclassified as Open session

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

11 PRESIDING JUDGE FULFORD: Good morning, sir.

12 WITNESS: DRC-OTP-WWWW-0321 (On former oath)

13 (The witness speaks Swahili)

14 THE WITNESS: (Interpretation) Good morning.

15 PRESIDING JUDGE FULFORD: Mr Biju-Duval.

16 QUESTIONED BY MR BIJU-DUVAL: (Interpretation) (Continuing)

17 Q. Good morning, Witness.

18 A. Good morning.

19 Q. I would like to return to that moment when you received a call from (Expunged)  
20 (Expunged) and when you went to look for children, wherever they were located, to  
21 take them back to Bunia so that they can have interviews with (Expunged). Do you  
22 understand?

23 A. Yes.

24 Q. Yesterday, and last July, you said that you went to look for children in three  
25 places and that you especially went from Bunia to (Expunged). My question to you

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1 is do you remember the child, or the children, you went to look for in (Expunged)?  
2 A. The child I went to look for in (Expunged), that is going from Bunia, was not  
3 necessarily a child from (Expunged). It was a child who lived in a locality close to  
4 (Expunged). I have forgotten the child's name, but it was only one child. Thank  
5 you.

6 Q. Have you forgotten the name of the child, or the name of the locality?

7 A. I have forgotten both the name of the child and the name of the locality.  
8 However, it is a locality located between Bunia and (Expunged); that is, along the  
9 road which leads from Bunia to (Expunged). Thank you.

10 Q. Was that locality situated close to (Expunged), or rather close to Bunia?

11 A. No. For someone who knows the road - that road - well, you have to go  
12 through (Expunged). You leave (Expunged), and before you reach (Expunged) you  
13 will find a certain locality whose name I have forgotten. Thank you.

14 Q. Thank you. Yesterday you told us that you spent the night on the road, that is  
15 the Bunia-(Expunged) road, and returned to Bunia the next morning. Could you  
16 please tell us where in particular did you spend the night?

17 A. I spent the night in (Expunged).

18 Q. At that time, according to your testimony, you had already collected the  
19 children?

20 A. This is what I said. I had already made appointments with certain children,  
21 telling them that I was going to meet them the next morning in a specific place. For  
22 the other children, that is two children, they left earlier. What I mean is on the  
23 evening of that same day, because those children in particular knew Bunia. I paid  
24 for them to be transported by motorcycle and they left before us and I made an  
25 appointment with them; that is, I told them where we had to meet each other in Bunia.

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1 Now, for the remaining children, it was with those children that I travelled in the  
2 vehicle the next morning. Thank you.

3 Q. Thank you. How many children were with you in the vehicle? Witness, did  
4 you hear my question?

5 A. Yes.

6 Q. My question was: How many children were with you in the vehicle when you  
7 returned to Bunia?

8 A. I have fully understood your question. Just give me one minute. There were  
9 four or five children with me in the vehicle. I cannot say with certainty, but I can say  
10 that there were about four or five children with me in the vehicle. Thank you.

11 Q. Thank you. Just to make sure there is no misunderstanding, I am going to  
12 summarise what you said yesterday; that is, if I understood you correctly. "On the  
13 first day, the day I received a call from (Expunged)..." you went to look for a child in  
14 (Expunged). You went with a motorbike. You spent the night in (Expunged). The  
15 next morning you returned with the child to Bunia. In Bunia you rented a vehicle,  
16 and you went from Bunia to (Expunged) and you also travelled from Bunia to  
17 (Expunged) to look for the other children. You spent the night in (Expunged), on the  
18 road leading from Bunia to (Expunged), and on the morning of the third day you  
19 returned to Bunia with the children. Have I correctly summed-up your statement?

20 A. Yes.

21 PRESIDING JUDGE FULFORD: Right, before you say whether it's right or wrong,  
22 Mr Sachdeva?

23 MR SACHDEVA: Mr President, I just wanted to make the point that this territory  
24 has been canvassed, in my submission, yesterday in quite some detail. In fact, the  
25 first half of my learned friend's question was almost verbatim to a question he asked

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1 yesterday. Perhaps there are issues that require clarification from the witness, but  
2 we have to be careful here that we do not cover ground that was covered  
3 last -- yesterday.

4 PRESIDING JUDGE FULFORD: I think that's potentially a very reasonable point.  
5 Mr Biju-Duval, we are very much dealing with material that you canvassed yesterday  
6 evening.

7 MR BIJU-DUVAL: (Interpretation) I simply wanted to clarify things, your Honour.

8 PRESIDING JUDGE FULFORD: Well, it's repetition at the moment, Mr Biju-Duval,  
9 which really must be avoided. You've asked the questions. The witness has given  
10 his answers yesterday. If you want to pick up on any particular point certainly, but  
11 you're really generally asking him to deal with exactly the same material all over  
12 again, which really shouldn't happen.

13 Right. So can you reflect on that and we're not going to ask the witness to answer  
14 the last question that you put because of the interruption, but could you now  
15 formulate the next thing you want him to deal with, please.

16 MR BIJU-DUVAL: (Interpretation)

17 Q. Witness, when you went back to Bunia with the children, was it that day that  
18 you received the call from (Expunged)?

19 A. Yes, the third day when I came back with the children from the  
20 (Expunged) -Bunia road and the (Expunged) -Bunia road, in the afternoon of that day  
21 I received a phone call from (Expunged). Afterwards, after that phone call - in fact,  
22 during the phone call - he told me that he wanted to meet with me in the evening.  
23 So he asked me to meet him in the evening, around 5 o'clock in the afternoon, and I  
24 said that there was no problem. I went to get the children ready - the two children,  
25 one from (Expunged) and the other one who was on-site in Bunia - and he met with

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1 those two children that day; that is, the third day. Thank you.

2 Q. Thank you. I would like to go back to the vehicle that you used to go get the  
3 children on the Bunia- (Expunged) road and the Bunia-(Expunged) road.

4 Yesterday -- yesterday you told us, when you were coming back from (Expunged),  
5 that you went to the Bunia (Expunged) and there you met someone who made  
6 available his vehicle to you. My question is -- well, you also stated that this vehicle  
7 belonged to someone whom you knew quite well. Was this a friend of yours, or a  
8 professional car rental company?

9 A. It was the (Expunged) - in fact, one of my (Expunged)  
10 in Bunia - and his job (Expunged).

11 Q. Thank you. With that vehicle you were to go from Bunia to (Expunged) and  
12 then from (Expunged) to Bunia, if I've understood your testimony correctly, because  
13 you stated that beyond (Expunged) you used a motorbike. Did I understand you  
14 correctly?

15 A. Yes. Yes, that's correct.

16 Q. The vehicle that was made available to you, did you return it as soon as you  
17 returned to Bunia with the children, or at a different point in time?

18 A. When we arrived in Bunia, I returned the vehicle to the owner. Thank you.

19 Q. In other words the same day that you returned to Bunia; is that correct?

20 A. Yes.

21 Q. Thank you. Did you rent the vehicle; in other words did you pay in order to  
22 use it? Were you charged a certain amount of money for the use of the vehicle?

23 Did the owner ask you to pay a certain amount of money to use the vehicle?

24 A. Yes, I had to pay.

25 Q. How much did you pay for the rental?

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1 A. For the various tasks that I had to complete and the travel from Bunia to  
2 (Expunged) and back to Bunia, to put it briefly for all of the various trips it cost me  
3 \$200. But here I'm giving you the global amount for the vehicle and the  
4 motorcycles. I'm not saying that I paid a given amount for the vehicle and a given  
5 amount for the motorcycle, I'm giving you the total amount. Thank you.

6 Q. But the owner of the vehicle only rented the vehicle to you; is that correct? At  
7 least that's what I understood. [...]

8 A. Yes, he made available to me a vehicle and a chauffeur, a driver.

9 Q. Yesterday you told us that you were alone to go get the children and now today  
10 you're saying there was a driver.

11 A. Well, I was alone in the job that I was doing with the children, but I don't know  
12 how to drive and it was important that I have a driver to take me there. As regards  
13 the work I did with the children, I worked alone. I was with no one else. No one  
14 else was working with me as regards the protection of children. I was alone in that  
15 task, but, yes, I had a driver. Thank you.

16 Q. Thank you. Who provided the money, the \$200? Was it your own money or  
17 did someone else make that amount of money available to you?

18 A. When (Expunged) called me, he told me to pay out of my own pocket and he  
19 said that when (Expunged) came he would return my money. In other words,  
20 I would use my own money initially, and then when (Expunged) came he reimbursed  
21 the amount that I had spent. Thank you.

22 Q. You have told us that you were paid \$50 a month - this is on transcript 310,  
23 page 66 - and you had \$200 available right away like that?

24 A. Yes. In fact, I had more than \$200 because that was not my only source of  
25 income. I also had a small business, a small shop.

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1 Q. The amount of \$200, did you pay it when you took the vehicle or when you  
2 returned it?

3 A. I paid when I finished my work. In other words, when I went back to Bunia, I  
4 paid that amount, but I said that the \$200 was not just for the vehicle; there was also  
5 the motorcycle costs from (Expunged) and that's why the total amount came to \$200.  
6 Thank you.

7 Q. Thank you. I would like everything to be perfectly clear. How much exactly  
8 did you pay to the person who rented the vehicle to you?

9 A. I don't remember. This was a long time ago and I don't remember precisely  
10 exactly how much I paid for the vehicle and how much I paid for the motorcycle. I  
11 just don't remember. Thank you.

12 Q. You have stated that you intended to ask (Expunged) to reimburse that amount,  
13 and in order to obtain this reimbursement did you ask the car rental company for an  
14 invoice or a receipt for the amount that you had paid?

15 A. Yes. When (Expunged) asked me to pay out of my own pocket, I said, "Well, if  
16 I pay out of my own pocket -- you know that it's -- that taxi men in Bunia do not  
17 provide receipts. So -- and when I ask for reimbursement, I'm going to be asked for  
18 a receipt. How am I going to proceed?" And he said, "Well, look for a vehicle from  
19 someone who -- even if he doesn't have an official receipt or official invoices, who can  
20 nonetheless write out a kind of receipt."

21 So I told -- I then explained to this gentleman that I had also used a motorcycle, and I  
22 asked him to make out a receipt for the total amount. In other words, the vehicle  
23 owner wrote out a receipt for the amount of \$200, and it was this receipt that I gave to  
24 (Expunged) so that he would reimburse me for the expenses, and that's what he did.

25 Q. Thank you. When, at what point in time, were you reimbursed by (Expunged)?

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1 A. (Expunged) reimbursed me, if I remember correctly, two days later. Thank you.

2 Q. Thank you. I'm going to show you a document. I see that you have the  
3 binder in front of you. Would you be so kind as to look at tab 48. This document  
4 already has an EVD number, it's D01-00333, and you can also see the number  
5 DRC-OTP-0196-0572. This document is entitled "Receipt for Reimbursement," it  
6 mentions the amount of \$200, your name is at the bottom of the page. Do you  
7 recognise your own signature, which is next to your name?

8 A. Yes, that's my signature.

9 Q. Thank you. What exactly did you say to (Expunged) in order to obtain this  
10 reimbursement? Did you tell him that you had spent your own money and therefore  
11 you needed to be reimbursed? Is that what you said?

12 THE INTERPRETER: The Swahili booth would like to ask the witness to be so kind  
13 as to not blow into the microphone. The interpreters can hear; the microphone is  
14 functioning.

15 THE WITNESS: (Interpretation) Yes. As regards that amount of money, I told  
16 (Expunged) had asked me to pay out of my own pocket and that he had told me that  
17 when (Expunged) came I had to produce a receipt in order to be reimbursed, and  
18 (Expunged) accepted that. Thank you.

19 MR BIJU-DUVAL: (Interpretation)

20 Q. Thank you. Could you turn now to the next tab, number 49. This document  
21 is entitled "Receipt," it already has an EVD number, it's D01-00334, as well as the  
22 number DRC-OTP-0196-0573. Do you have that document before you?

23 A. Yes.

24 Q. Do you recognise this document?

25 A. Yes.

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1 Q. This document states the following: "I, residing in Bunia, voting card number  
2 (redacted) chauffeur of vehicle (redacted) recognise that I have received from  
3 (Expunged) the amount of \$200 for the rental of my vehicle for four days.

4 We went from Bunia to (Expunged), Bunia to (Expunged), Bunia-(Expunged) and  
5 Bunia-(Expunged). Done in Bunia on (Expunged)

6 Now, this document states that the receipt was made out by the chauffeur, by the  
7 driver, of the vehicle.

8 A. Yes.

9 Q. But you told us that the (Expunged) vehicle had made available a driver. I  
10 understood that there were two different people. Am I mistaken?

11 A. This is what I said: (Expunged) the vehicle gave me a driver so that I go out  
12 and do my work and go back to Bunia. And once we got back to Bunia, he wrote out  
13 the document that is entitled "Décharge" in French, "Receipt."

14 Q. Thank you.

15 PRESIDING JUDGE FULFORD: Mr Biju-Duval, I'm going to interrupt for a moment.

16 You are entitled of course to explore this area, but we're doing it now in a kind of fine  
17 detail that is very time consuming and I'm not sure whether it is necessarily going to  
18 be wholly productive as to who issued the receipt, whether it's the (Expunged) car or

19 the driver, and the reasons why one may have given it rather than the other. I

20 would like you to reflect on whether investigating that distinction is really going to  
21 improve the overall points that you're seeking to make. As I say, you're entitled to

22 explore these matters, but the approach has got to be a proportional one and we  
23 shouldn't do it in such fine detail that it really takes an exhaustive length of time.

24 MR BIJU-DUVAL: (Interpretation) Your Honour, I understand your concern, but I  
25 would like to reassure the Chamber that on the basis of the Defence's case regarding

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1 this vehicle the questions that I am now putting to the witness are of considerable  
2 importance. I have a few more precise questions, but I'm not going to go much  
3 further.

4 PRESIDING JUDGE FULFORD: Well, I'm going to trust you, Mr Biju-Duval. I'm  
5 not going to stop you, but be careful, please.

6 MR BIJU-DUVAL: (Interpretation)

7 Q. This document, this receipt, mentions that you rented the vehicle for four days  
8 and yet you have told us that you rented it one morning and then returned it the next  
9 day; that is, approximately 24 hours. Well, at least not four days later. Can you  
10 explain why there is mention here of your renting this vehicle for four days?

11 A. Yes. I think you probably remember what I have already said here before the  
12 Court. Some people provided motorcycles to go -- a motorcycle to go to (Expunged),  
13 and to go to (Expunged). Now,  
14 those people did not have receipts, they could not write out receipts, and therefore I  
15 agreed with (Expunged) to discuss with the (Expunged) vehicle so that he include all  
16 of those expenses in the same receipt because he could do it properly. I think I  
17 explained that. I explained that detail earlier on in my testimony, if you remember  
18 correctly. Thank you.

19 Q. Thank you. You have stated that you travelled from Bunia to (Expunged), whereas  
20 you had told us before that the only roads you had gone out on were the roads  
21 Bunia-(Expunged), Bunia-(Expunged), and Bunia-(Expunged). Why is it that in this  
22 receipt there's a fourth road mentioned; that is, Bunia-(Expunged)?

23 A. Well, I added Bunia-(Expunged). The reason is because there was a child from  
24 (Expunged) whom I was not able to find at his parents' house. This was a child who  
25 I wanted him to stay with the others. I didn't want him to leave [...], and I know

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1 why, because that child had already gone back to the village in (Expunged). So I went  
2 to the child's parents. I took the (Expunged) road. I went to get the child, but he was  
3 not there in (Expunged). So I went back.

4 As regards this receipt, I mentioned all of the various localities that I went to, or at  
5 least almost. And I think I've answered your question. Thank you.

6 Q. Could you give us the name of that child?

7 A. I think that it is not necessary that I give you his name. It really is not  
8 necessary. Thank you.

9 PRESIDING JUDGE FULFORD: I ask you to do so. As with your identity, his  
10 identity will be protected in the same way, and everyone in court knows that they are  
11 under a very strict obligation not to reveal confidential information outside of this  
12 room. So, in those circumstances, I would ask you please to answer counsel's  
13 question and to provide the name of that child.

14 THE WITNESS: (Interpretation) All right. The child was called (Expunged). Thank  
15 you.

16 PRESIDING JUDGE FULFORD: Thank you. Mr Biju-Duval.

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

18 Q. This document called Décharge mentions a trip from Bunia to (Expunged). Do we  
19 agree that this was not a trip conducted in that vehicle? That is what you testified; is  
20 that correct?

21 A. Yes.

22 Q. It mentions a Bunia-(Expunged) trip. Do we agree that you did not go up to  
23 (Expunged) in a car?

24 A. Yes, I stopped in (Expunged) on the motorcycle.

25 Q. Thank you. The child that you went to fetch in (Expunged), what means of

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1 transport did you use to fetch that child?

2 A. I used a motorbike.

3 Q. Thank you. When you went to the place where the children were, to their  
4 families, what explanations did you give to the children and to their parents when  
5 asking them to come with you to Bunia?

6 A. If you remember, I believe I answered that question yesterday. When I  
7 reached the place where the children were, this is what I said to them: "My  
8 hierarchical superiors want to see you in Bunia." And this is what I said to their  
9 parents: "My hierarchical superiors want to see these children in Bunia. These  
10 children will not spend a long time in Bunia. They will spend two or three days  
11 there and then they will come back." The parents asked me where these children  
12 would be accommodated because there were no host families in Bunia, and this is  
13 what we answered them: We said we did not have a specific place where these  
14 children would be housed but if these children had relatives in Bunia they could stay  
15 with them. So that is the way I spoke to the parents and the children. Thank you.

16 Q. Thank you. Did you tell them that they would be meeting someone from the  
17 International Criminal Court?

18 A. No. I did not tell them that they would meet an agent of the International  
19 Criminal Court. Rather, I said to them, "You will see one of my hierarchical  
20 superiors who has come from (Expunged)." This was a continuation with -- of  
21 conversations or contact that they had had with (Expunged) from (Expunged)  
22 (Expunged). It really was the continuation of that dealing with (Expunged)  
23 (Expunged).

24 Q. Thank you. Was it you yourself who decided not to mention the International  
25 Criminal Court to them, or did somebody else give you an order or an instruction not

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1 to talk to the families about the International Criminal Court?

2 A. I took these decisions on my own initiative. I decided not to talk to them about  
3 the International Criminal Court. However, after this work, before we organised  
4 their trip to (Expunged) said this to me: "Before the children go to (Expunged), if there  
5 is some way to do so, I would like to tell them that they are going to meet agents from  
6 the International Criminal Court." And this is what I answered him: I said, "In  
7 the place where I'm going to fetch these children, it would be very difficult for me to  
8 go back. I would be killed if I did so. Please, when these children arrive in (Expunged),  
9 could you organise to give them that information when they're (Expunged)? Only  
10 when they're (Expunged) tell them that you're from the International Criminal Court.  
11 It is impossible for me to go back into the bush and give them that information."

12 Thank you. So, to summarise, I would say this: On the first trip I took the decision  
13 on my own initiative that I would not give them information about the International  
14 Criminal Court. Thank you.

15 Q. Thank you. When all of the children had arrived in Bunia where were they  
16 housed, and how were they accommodated?

17 A. When the children arrived in Bunia each child went to family members, to a  
18 relative in the various districts of Bunia. I had given each child a specific place  
19 where we would meet, and I said to them, "Child X, we are going to meet on this day  
20 at this place at this time." That is how it happened. I would specify that we did not  
21 house those children. Each child was housed at the home of a member of the family  
22 of that child. Thank you.

23 Q. Thank you. So, I've understood that all of the children who lived outside  
24 Bunia, sometimes very far away, all had family members in Bunia; is that correct?

25 A. Yes. All of the children that I had had a relative, a member of the family, in

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1 Bunia. Because before a child arrived in Bunia I always asked that child, "Do you  
2 know somebody in Bunia? Is there a member of your family in Bunia?" And the  
3 children would answer me, "Yes, I have a brother, I have a sister in Bunia." And so I  
4 would say then, "You are going to spend a night at that place." So before the  
5 children went to Bunia it was my custom to ask them that. Thank you.

6 Q. Thank you. Could you refer -- just one moment, please. I apologise. To tab  
7 4, please. This is a document which bears the number EVD-D01-00339, and I would  
8 like to draw your attention to page 0157. So, page 0157, the lines 588 to 589.

9 PRESIDING JUDGE FULFORD: Now, just so the witness knows what we're looking  
10 at, this is an interview with him on 7 June of this year, Mr Biju-Duval. Good. All  
11 right. So within that interview then, 0157. Please carry on.

12 MR BIJU-DUVAL: (Interpretation)

13 Q. You stated in June 2010, and I quote, "Well, the majority of these children who  
14 came to the interior had family at (Expunged). They had to stay at (Expunged) This is  
15 my question: Should I understand that all of these children not only had family in  
16 Bunia but the majority of them had family in the (Expunged)

17 A. No, not all were at (Expunged). Most were at (Expunged), not all. If you read  
18 this carefully, I used the French word "majorité," majority. Thank you.

19 Q. Do you have an explanation for the fact that the majority of these children had  
20 family in (Expunged)?

21 A. No, I have no explanation. I have no way of knowing. This is the answer the  
22 children gave me. The children said, "My family is in (Expunged)." What could I  
23 do about that? I have no idea why. Thank you.

24 Q. Other than the (Expunged), what other (Expunged) were involved?

25 A. There was another (Expunged), another (Expunged) that we called (Expunged)

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1 which was next to the great market in city centre.

2 Q. Thank you. Now I would like to discuss with you the moment when you met  
3 (Expunged) called you and the two of you met together in Bunia, as you have stated.  
4 You have told us - transcript 308, page 62 - that he had asked you if you had a list,  
5 and you told him that you had it. This is my question: Did you show him your  
6 list?

7 A. (Expunged) asked me this question and I answered him, yes, I did have that  
8 document. The next morning when he met the two children in the afternoon, he  
9 called me by telephone and he said to me, "Do you have to -- you have to give me  
10 these names so that I can compare them with the names that I already have." And  
11 my response was [...] -- I gave him the names by telephone.

12 Q. Thank you. The names that you gave to (Expunged) at that time, were they the  
13 names of the children that you went to fetch the previous day?

14 THE INTERPRETER: Interpreter correction: "The previous days."

15 THE WITNESS: (Interpretation) Yes. Indeed, it was the children that I had  
16 fetched before (Expunged) arrived; in other words, the children who were on the list  
17 that (Expunged) had transmitted to me. Thank you.

18 MR BIJU-DUVAL: (Interpretation)

19 Q. Thank you. The children whose names appeared on this list, the children  
20 whose names you gave to (Expunged) at that time, were all of those children to have  
21 an interview with (Expunged)?

22 A. Yes. All of those children had a conversation with (Expunged) yes. Thank you.

23 Q. Did other children whom you did not mention to (Expunged) that same day  
24 have an interview with (Expunged)?

25 A. No. The children whom I put in contact with (Expunged) were those children

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1 whom I went to fetch in the places that I have mentioned. There was no other child  
2 who had an opportunity to speak with (Expunged). Thank you.

3 PRESIDING JUDGE FULFORD: At a convenient moment, Mr Biju-Duval, I'd like to  
4 be able to give the Court a mid-morning break, so as and when you come to the end  
5 of this particular line of questioning could you let me know, please.

6 MR BIJU-DUVAL: (Interpretation) We could take a break now, if you'd like, your  
7 Honour.

8 PRESIDING JUDGE FULFORD: Thank you very much, indeed. Closed session,  
9 please. Thank you, sir. We're going to give you a break now and we'll look  
10 forward to seeing you again at 10-to-12. Closed session, please.

11 \*(Closed session at 11.21 a.m.) Reclassified as Open session

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

13 (The witness stands down)

14 PRESIDING JUDGE FULFORD: 10-to.

15 THE COURT OFFICER: All rise.

16 (Recess taken at 11.22 a.m.)

17 \*(The hearing resumes at 11.50 a.m. in closed session) Reclassified as Open session

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

19 PRESIDING JUDGE FULFORD: Witness, please.

20 (The witness enters the courtroom)

21 PRESIDING JUDGE FULFORD: Private session, please.

22 \*(Private session at 11.52 a.m.) Reclassified as Open session

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

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

25 MR BIJU-DUVAL: (Interpretation)

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1 Q. Now I would like to ask you a few questions about the list of children that  
2 (Expunged) showed you when you met. In your testimony at transcript T-308, page  
3 63, you said, "When (Expunged) came, he gave me the list of those children that I had  
4 chosen." My question is this: Were the children on the list that (Expunged) showed  
5 you the same children who were on your own list?

6 A. I'm sorry, I didn't really follow -- I think that you didn't follow me very well.  
7 This is what I said: (Expunged) arrived in Bunia and he asked me if I already had  
8 the list, if the names had already been given to me, and I said yes. That day he  
9 worked with two children. The following day, in the morning he called me and  
10 asked me to give him the names, to help him to compare the names that I would give  
11 him and the list that he had. I gave him the names. He did that comparison but he  
12 didn't tell me whether the names that I had given him and the names that he had  
13 were the same. He said nothing to me. He remained calm. As he remained calm, I  
14 drew the conclusion that everything was in order. Could I specify that (Expunged)  
15 did not show me his list.

16 Q. But last June you said, and I quote, "He gave me the list of those children."  
17 Today you are telling us that he did not give you this list, that he did not show you  
18 his list?

19 A. This is my statement: He asked me the names of the children by telephone. I  
20 gave him the names by telephone. I did not meet him face-to-face. He did not  
21 show me a list. He telephoned me when he arrived in his office, and it was at that  
22 time that I gave him the names. It may be that I am wrong, but I'm sure that I made  
23 this same statement earlier.

24 Q. Thank you. Now I would like to refer you to a document which appears at tab  
25 76 and which already has the EVD number EVD-D01-00328, and the document

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1 number DRC-D01-0003-5505.

2 Your Honour, this document was drawn up by the Defence and I am intending to  
3 make a certain number of suggestions to the witness so that he can give us answers  
4 on the questions raised by this document.

5 Do you have this document before you, Witness?

6 A. Yes.

7 Q. Therefore you see a table with three columns?

8 A. Yes.

9 Q. I will give you a few words of explanation. I suggest to you that the first column  
10 on the left contains the names of the children who appeared on (Expunged) list. I  
11 suggest that the second column contains the names of the children which appeared on  
12 the list that you gave to (Expunged) by telephone, according to your testimony, your  
13 testimony of today. And I suggest to you that the third column contains the names  
14 of the children who in fact were met by (Expunged) for interviews. Have you  
15 understood everything I've said?

16 A. All right.

17 PRESIDING JUDGE FULFORD: Mr Biju-Duval, I can readily understand the  
18 submission that you would in due course wish to make on the basis of what is on the  
19 three lists. But is this really the proper subject matter of questions to the witness?  
20 He can deal with things that are within his knowledge. It's really very difficult, if  
21 not impossible, for him to deal with things which are outside of his knowledge.  
22 Aren't you really making a forensic point for our benefit, rather than asking the  
23 witness a proper question?

24 MR BIJU-DUVAL: (Interpretation) Your Honour, I would like to rely on the  
25 Chamber for this question. My objective really is to provide the witness with an

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1 opportunity to express himself on the difficulties that arise when you compare these  
2 lists.

3 I do admit that -- well, this said -- in any case, [...] I think this would be an  
4 appropriate opportunity for the witness to express himself or to refrain from  
5 expressing himself on the difficulties which arise when you compare the lists.

6 PRESIDING JUDGE FULFORD: Thank you. Had I expressed your objection,  
7 Mr Sachdeva?

8 MR SACHDEVA: Mr President, yes, in a sense, but if I could just take the thought  
9 further. We have now been walking on egg shells, in my submission, about the  
10 allegations the Defence have raised in respect of this witness and generally their  
11 abuse of process argument.

12 It seems to me that the allegations can be distilled to two or three very distinct points.  
13 And I'm happy that my learned friend has been discussing the issue of providing the  
14 witness an opportunity to be confronted with certain situations and so he could  
15 provide his response. In my submission, he needs to be given a fair opportunity to  
16 respond to the very direct allegations that the Defence have made against him.

17 And we have now been two days cross-examining this witness. If they do not do  
18 this in the next day, I would say just to be fair to the Defence, then in our submission  
19 they will not be able to rely on any submissions they will make in their abuse of  
20 process without giving of the witness an opportunity to respond to the allegations.

21 And added to that, it is certainly in the interest of --

22 THE INTERPRETER: Your Honour, the speech -- or the speed is so fast that the  
23 interpreters in the French booth are having difficulties keeping up.

24 MR SACHDEVA: Forgive me. It's certainly in the interests of efficiency of Court  
25 time that allegations are put to this witness rapidly, may it please the Court.

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1 PRESIDING JUDGE FULFORD: Yes. Thank you very much, Mr Sachdeva. Sir,  
2 you have been shown these three lists; there are differences between them.  
3 Mr Biju-Duval is essentially asking you whether you are personally able to throw any  
4 light on the differences between these lists and the names on them. Is there anything  
5 you wish to say about the apparent differences between them?

6 THE WITNESS: (Interpretation) Yes, thank you for the question. This is what I  
7 have to say with respect to these three lists: First of all, the children that I had  
8 dealings with, the children whom we refer to as "child soldiers," were children who  
9 kept changing their names in any manner they saw fit.  
10 This is what I would like to add. As I have already said, (Expunged) did not show me  
11 his list. I did not see his list. (Expunged) asked me to provide him with my list by  
12 phone, and I have already said here, and I hereby repeat, that he did not tell me  
13 whether there was any coherence between his list and my list. He did not give me  
14 an answer to that question. He said, bring the child to such-and-such a place or start  
15 with the child from such-and-such a place.

16 Now, with respect to the list which I have gave to (Expunged), it is a list of the  
17 children - while it's true that these events took place a long time ago - but when I look  
18 at the names of certain children with whom I maintained contact and which names  
19 feature on this list, I can recognise them. I know that the third list is indeed the list  
20 of the children we are talking about. Thank you.

21 PRESIDING JUDGE FULFORD: Looking at the list on the left-hand side, do you  
22 know if any of those names were used by any of the children who were on the list that  
23 you provided?

24 THE WITNESS: (Interpretation) I did not fully understood your question.

25 PRESIDING JUDGE FULFORD: You've said that some children changed their

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1 names. What I'm trying to establish is whether any of the children who were on  
2 your list, to your knowledge, changed their names or used a different name.

3 THE WITNESS: (Interpretation) As concerns the third list, can you read the  
4 heading, please? I think we should first read the heading of that list before we carry  
5 on.

6 PRESIDING JUDGE FULFORD: Right. Fools go where angels fear to tread,  
7 Mr Biju-Duval. Can you please read out the headings of the three columns.

8 MR BIJU-DUVAL: (Interpretation) Thank you, your Honour. The first column,  
9 the column on the left, has a heading "The list that (Expunged) provided to  
10 (Expunged)." The middle column is entitled "List transmitted to (Expunged) by  
11 (Expunged) The column on the right has the heading "List of children who were  
12 effectively presented by (Expunged)

13 THE WITNESS: (Interpretation) Very well.

14 PRESIDING JUDGE FULFORD: Can you now answer my question, sir?

15 THE WITNESS: (Interpretation) Now, does your question relate to the middle  
16 column, the first column or the last column?

17 PRESIDING JUDGE FULFORD: I'm not sure whether I'm helping. I'll try one last  
18 time. Of the children who you had on your list, those who you had contact with, do  
19 you know if any of them changed their name or used a different name?

20 THE WITNESS: (Interpretation) Thank you for your question; I have fully  
21 understood it. Could you please give me a moment to think about this?

22 PRESIDING JUDGE FULFORD: Take your time.

23 THE WITNESS: (Interpretation) Yes, there are some children who added other  
24 names to their names when they met (Expunged), and the names which they gave to  
25 (Expunged) do not correspond with the names I gave (Expunged) from my own list.

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1 PRESIDING JUDGE FULFORD: Right. Mr Biju-Duval, I'm going to hand this back  
2 to you. Two things that arise: First, I think given the last answer, there clearly are  
3 legitimate areas that you can explore arising out of this list, and so you're entitled to  
4 proceed.

5 Second, however, Mr Sachdeva is right that if there are serious allegations in due  
6 course to be made against the present witness, you must make those serious  
7 allegations to his face at some stage during your examination so that he has had an  
8 opportunity to deal with them. That is the very minimum that we would expect of  
9 you, but I imagine that's for the future. Please carry on with the lists.

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

11 Q. Witness, 16 children have their names featured in this middle column; that is,  
12 on your list, the list which you communicated by phone (Expunged). The right  
13 column shows that only 11 children were interviewed by (Expunged). What became  
14 of the five children whose names do not feature on that column?

15 A. Well, with respect to those other children, they were children from Bunia. And  
16 after our discussion I went to see them once more, after providing the list (Expunged),  
17 and those children refused to meet him. They said they had some work to do, work  
18 which entailed (expunged) into vehicles and that they did not have the time for such  
19 interviews. So the children refused to collaborate with me and I did not continue  
20 working with them. I ceased contact with them because we could not reach an  
21 agreement. Thank you.

22 Q. Thank you. But you said that all the children you went to fetch were living  
23 outside of Bunia and that some of them lived in very remote places. Should I  
24 understand now that some of them were living in Bunia?

25 A. Yes, I have just said that these were children I went to fetch. I was not saying

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1 that those who lived out of Bunia were 15 in number.

2 THE INTERPRETER: The Swahili booth would like the witness to slow down and to  
3 repeat the last part of his answer because they could not get it. Thank you. The  
4 Swahili booth is not able to continue interpreting because the witness is a bit fast.  
5 Could the witness please be requested to repeat the final part of his answer.

6 PRESIDING JUDGE FULFORD: We have had some interpretation problems, and  
7 I'm going to have to ask you to give that answer again. I'm going to repeat  
8 Mr Biju-Duval's question so that you've got it in mind and I'm going to ask you to  
9 give the whole of your last answer again, please. What Mr Biju-Duval said was this:  
10 "But you said that all the children you went to fetch were living outside of Bunia and  
11 that some of them lived in very remote places. Should I understand now that some  
12 of them were living in Bunia?"

13 So if you could slowly repeat that -- repeat your answer, please.

14 THE WITNESS: (Interpretation) Yes. Thank you. This is what I was saying.  
15 Ten or 12 of these children lived out of Bunia. I did not include the others in my list  
16 of ten or 12 children because I gave appointments to those children before (Expunged)  
17 arrived, and I prepared a list of those children and that is the list I communicated to  
18 (Expunged). Later on, I went to their homes to see them and they told me that they  
19 did not have any time for me. They said they had work to do, work which entailed  
20 (Expunged) into vehicles. And that is why -- that is why these children who said  
21 they were busy (Expunged) into vehicles, well, I ceased all contact with them. I  
22 did -- I no longer took them into consideration in my activities, and that is why in  
23 the final list you have 11 children. The children I talked about previously in my  
24 answer therefore refused all collaboration with me. Thank you.

25 MR BIJU-DUVAL: (Interpretation)

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1 Q. Thank you. Now, with respect to these five children whom you said were  
2 living in Bunia and who later on refused to collaborate with you, do you know them?

3 A. Yes. They are children I know very well.

4 Q. Thank you. Could you please tell us their -- could you please show us their  
5 names? Or, if possible, you can just tell us the names without looking at the list.  
6 That would be appropriate.

7 A. I cannot give you names from memory; I cannot remember them. However, if  
8 you have photographs, the photographs of these children, then I will be able to  
9 recognise them from the photographs. You know, I had contact with them a long  
10 time ago. Thank you.

11 Q. Now, still with respect to these five children living in Bunia, when did you go to  
12 contact them to ask them to meet (Expunged)?

13 A. I went to meet them on the third day when I returned with the children from [...]  
14 (Expunged) and from [...](Expunged). I returned a bit earlier and then I went by  
15 motorbike to look for them in a neighbourhood of Bunia where they were residing.  
16 Thank you.

17 Q. Could you please tell us the name of the neighbourhood?

18 A. There was the neighbourhood of (Expunged) and other  
19 children were living not far from a big bridge in Bunia (Expunged)  
20 neighbourhood, if my memory is correct. Thank you.

21 Q. Thank you. Now, with respect to this locality, this place where the children  
22 were (Expunged), as you said, in which neighbourhood of Bunia is it located?

23 A. The children we just talked about did not tell me about where they were  
24 (Expunged) into the vehicles. They simply told me that they had work to do and  
25 that work entailed (Expunged) into vehicles. However, I did not ask them where

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1 they were carrying out this activity. Thank you.

2 Q. Now, you know Bunia. You have lived in Bunia. Can you tell us about a  
3 particular locality or place in Bunia where (Expunged) into vehicles?

4 A. Yes. There is a place where (Expunged) in the neighbourhoods of  
5 (Expunged). I know two places where people go to fetch (Expunged), and  
6 they are (Expunged). Thank you.

7 Q. Thank you. Your Honour, can I take one moment?

8 You told us that some children changed [...] their names. Looking at the names in  
9 the middle column, that is the names on your list, can you please tell us if you know  
10 which of these children [...] changed their names when they met (Expunged)

11 A. Please give me a moment. Thank you. I have recognised one child. You  
12 must understand that these things happened a long time ago. The child in question  
13 is called (Expunged). The name is (Expunged). I know him by the name of  
14 (Expunged).

15 THE INTERPRETER: The witness repeats: I know him by that name.

16 THE WITNESS: (Interpretation) And his demobilisation certificate bears the  
17 name (Expunged). That is the name you will find on that demobilisation certificate.  
18 Thank you. That is the only child I remember. However, I will continue to ponder  
19 over this and I think that with time I will be able to remember about the other  
20 children. Thank you.

21 MR BIJU-DUVAL: (Interpretation)

22 Q. Thank you. In the middle column there is a name (Expunged)  
23 (Expunged). Is this the name you referred to the child who came under the name of  
24 (Expunged).

25 A. Yes, it is that one. It is that (Expunged).

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1 Q. Thank you. When did you realise that this child - and perhaps other  
2 children - had changed their names or introduced themselves under different names  
3 to (Expunged)?

4 A. It was when (Expunged) left for (Expunged). He told me the following. He said, "I  
5 will start sending you the names one after the other." When he gave me a name each  
6 time I said, "Well, I cannot identify that name. Who is that?", and so he would then  
7 give me a physical description of the child. And so I said the following, "What name  
8 did that child give to you?", and he would say, "He gave me the name X." And I  
9 answered, "No, that's not the child's name," and he answered to me, "Well, that's the  
10 name I have." So I understood that there were children who changed their names  
11 when they were in Bunia with (Expunged). Thank you.

12 Q. Thank you. Let's stay with the example of (Expunged). Now, you can see that  
13 this name can also be found in the right-hand column -- no, I beg your pardon. I  
14 shall rephrase that. You can see in the right-hand column that the name (Expunged)  
15 (Expunged) is listed. Here is my question. When you took the child (Expunged)  
16 (Expunged) to meet with him in Bunia, did you give (Expunged) the name of the  
17 child that you were bringing to him?

18 A. No, I did not give the name because we would meet in places where we could  
19 not stay very long. I would just arrive, I would open the door of the vehicle and the  
20 child would get in. (Expunged) already had the name of the child way before.

21 Q. You're telling us that, when you brought a child to (Expunged) in the vehicle,  
22 (Expunged) did not know the name of the child? You did not indicate to (Expunged)  
23 the name of the child; is that your testimony?

24 A. This is what I have said. Before already (Expunged) had the name of the child, so  
25 when I would come with the child we did not have time to talk. The child would get

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1 into the vehicle immediately and that's why I did not give him the name of the child  
2 at that point in time on-site, and I knew that each child knew his own name and  
3 (Expunged) already had a list of the children's names. When (Expunged) asked the  
4 child his name and then compared with the names on the list, he was able -- he was  
5 going to be able to follow easily.

6 Q. I would like to clarify this particular point. When (Expunged) asked you to bring a  
7 child to the vehicle, did (Expunged) say, "Bring me ..." so and so, giving the name of  
8 the child? For example, did he say, "Bring to me the child named (Expunged)  
9 Did he say that, for example?

10 A. Thank you for your question. Yes, there were times when he would say to me,  
11 "Come with child number 3," or he would say, "Come with child X," and it would  
12 change depending. It was not up to me to have the child get out of the vehicle. I  
13 was bringing another child when the other one was getting out immediately.

14 Q. You've stated that at a point in time when (Expunged) you understood  
15 that the children, or some children, would change their names. What did you say to  
16 (Expunged) about this matter?

17 A. Well, this is what I said. When (Expunged) and he was no longer in Bunia, and  
18 not when (Expunged) was in Bunia, so this happened when (Expunged).  
19 At that point in time, he gave me the names of the children. That's when I  
20 discovered that the children had given different names, and I asked him the question,  
21 "Why is it that some children have changed their names?", and he answered, "The  
22 child gave me the name - this name - which is on the document," and that's the way  
23 we used to talk with (Expunged). Thank you.

24 Q. When (Expunged) told you the child gave such-and-such a name and you  
25 realised that that name was not the true name of the child, did you tell (Expunged)

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1 that that was not the true name of the child?

2 A. Yes, I used to say to (Expunged) what the situation was. I said, "Well, I know  
3 that child under this name, but the fact is those children changed names. And is it  
4 true that the child gave you the name on the list?", and he said, "Yes," so I just kept  
5 quiet. Thank you.

6 Q. Thank you. Thank you. In transcript 308, page 65 and 66, you stated that just  
7 before you brought the child to the vehicle where (Expunged) was seated you went to  
8 find a child in a particular spot and that you left that spot on foot. When (Expunged)  
9 didn't yet call you to bring the child, you would keep the child at your place and then,  
10 when (Expunged) called you, you would take the child on foot to the vehicle. When  
11 you say that you went to find the child in a particular spot, in a particular place,  
12 before the meeting, did you go to get each child in a specific spot in Bunia; that is, a  
13 different place in Bunia for each child?

14 A. There were four or five children that I put up in the same place, it was (Expunged)  
15 (Expunged), and I put other children in a few other places. Thank  
16 you.

17 Q. You have stated -- well, I'm looking at the translation in the transcript. You  
18 said there were four or five children that I put up in the same place. It was in the  
19 (Expunged), end of quote. Am I to understand that they were  
20 staying overnight at (Expunged), the (Expunged )--

21 A. No, no, you've misunderstood me. Each child spent the night in the house of a  
22 family member and then, in the morning, we would meet at the (Expunged) because  
23 the children with whom I had arranged a meeting at the (Expunged) were children  
24 who knew that place well. The other children I would arrange a meeting in a  
25 different place. So the answer is, no, they were not staying overnight at (Expunged)

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1 (Expunged); it was only when they had an appointment with (Expunged) in the  
2 morning that we would determine the meeting place at the (Expunged). Thank you.

3 Q. Do I understand correctly that the children would wait for you at the centre?

4 A. Yes. They knew the place well and they had already been at the (Expunged),  
5 or the CTO.

6 Q. Were there several of them who waited for you at the (Expunged) together?

7 A. The ones that I went to get in the environs of Bunia there were four or five of  
8 them, but there were others and there were others who were in one of the phases of  
9 the procedure in our centre.

10 Q. Thank you. You have stated in your testimony in transcript 308, page 67, and I  
11 quote, "The other reason why these children did not come together in a group at my  
12 house is because I was doing this job in the (Expunged) CTO, and I had colleagues  
13 and there were also partners from (Expunged) who were not to know that those  
14 children were there. If they had known I would have had problems, and that's why  
15 I took the children one-by-one. I was afraid of my colleagues, afraid that my  
16 colleagues would see these children, that my partners would see these children and  
17 that the people in the neighbourhood would realise that a group of a particular ethnic  
18 group were meeting at my place."

19 Well, how can you explain that you're telling us today that some of these children  
20 waited for you, that you determined a meeting place with them at the CTO (Expunged)  
21 (Expunged); in other words, in a place where your colleagues, your partners, your  
22 bosses could see them?

23 A. Thank you for your question. We had three groups of children, approximately.  
24 The first group was made up of those children who had left military service. They  
25 had not yet gone home. So please follow carefully. So much for the first group.

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1 Then the second group. This group was composed of children who had already  
2 gone home but who had not been reinserted. And then there's the third group. As  
3 regards the third group, some of the children had already gone home and gone back.  
4 They were reinserted, so to speak. A child who has already been reintegrated can no  
5 longer come to the CTO unless there's a security problem.

6 Now, as regards the second group of children, as I said, these are children who had  
7 already gone home but were not reintegrated. Those children were -- well, there  
8 was an authorisation to come to the CTO. When I referred to [the 4 or 5] children  
9 waiting for me at the CTO, let me say that those children were part of what I call the  
10 second group. The children whom I had given appointments elsewhere than the  
11 CTO were part of what I have called the third group.

12 I made a selection of sorts. I would say, "This child belongs to this group." And if I  
13 took them to the CTO, the others might ask them questions and, in answering those  
14 questions, he might be giving information to my colleagues whereby I had put them  
15 at that particular place. So the children that I took to the CTO were able to answer  
16 appropriately to any question they might be asked. If they were asked a question,  
17 they would say, "No, I haven't been reintegrated."

18 So, you see, the child would be put in a category depending on which category he  
19 belonged to, and it was up to me to determine that. I would say, well, this child can  
20 be asked several questions or certain types of questions and, on the basis of that, I  
21 would decide to put that child in one place or another. Thank you.

22 THE INTERPRETER: Interpreter's correction. Replace "reinserted" by the verb  
23 "reintegrated" in the above response.

24 PRESIDING JUDGE FULFORD: Thank you very much. I think I'm going to give  
25 you your lunch adjournment as an opportunity to reflect on that answer,

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1 Mr Biju-Duval. Thank you. Thank you very much indeed, sir. We look forward to  
2 seeing you again at half-past-2. Closed session, please.

3 \*(Closed session at 12.55 p.m.) Reclassified as Open session

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

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

6 (The witness stands down)

7 PRESIDING JUDGE FULFORD: Public session for a moment, please.

8 (Open session at 12.56 p.m.)

9 THE COURT OFFICER: We are in open session, your Honours.

10 PRESIDING JUDGE FULFORD: Maître Mabilie, now we're getting at least within  
11 hailing distance of the end of the evidence on the abuse of process element of the  
12 Defence case. I want to raise one issue of timing for you, not to respond to now but  
13 to think about over the luncheon adjournment, please.

14 On the most -- well, I'm not sure whether it's the most optimistic estimate, but on one  
15 estimate the evidence may conclude on or about 25 November. That is when, as I  
16 recall it, Witness 583 is due to give evidence, but there are a number of witnesses so I  
17 think we can say towards the end of this month. Now, you have indicated earlier  
18 that some time will be needed to complete your written submissions. This has been  
19 a very long time coming, so I would hope that your submissions, in very large  
20 measure, are already prepared of course with you needing the opportunity to make  
21 appropriate adjustments depending on the evidence that's given by the final  
22 outstanding witnesses.

23 It would be, I suspect, of great assistance to the Chamber to say nothing of the  
24 Prosecution to have the Defence submissions on this issue prior to the Christmas  
25 break -- and, in fact, a week before the Christmas break so as to give an opportunity

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1 for submissions in French, at least in first draft, to be translated into English. Now, I  
2 want you to think about that, please.

3 It will cause potentially a very considerable delay if the Chamber and the Prosecution  
4 do not receive your submissions until after the Christmas break because I anticipate  
5 that Mr Sachdeva, at the very least, is going to be asking for the full 21 days in order  
6 to respond, and that would mean we would not know the detail of the suggestions  
7 that are being made in support of this application until after the Christmas break and  
8 work would then have to commence, which would mean pushing this whole issue  
9 quite deep into next year.

10 So that's the hope that I'm expressing. Can you perhaps tomorrow revert to us and  
11 let us know whether you are going to be able to fulfil that hope or whether it is a  
12 doomed one. We'll sit again at half-past-2. We won't. Yes, Mr Sachdeva.

13 MR SACHDEVA: Mr President.

14 PRESIDING JUDGE FULFORD: Sorry, please sit down for a second. Yes.

15 MR SACHDEVA: I'm sorry, I just wanted to inform the Court that we just received  
16 an email from the Victims and Witnesses Unit that Witness 38 is unable to travel until  
17 12 November because he received his passport on 5 November and then I think it  
18 requires five days for the visa to be arranged, and the latest we have from the VWU is  
19 that he will be travelling or arriving here on 12 November. But we are planning to  
20 have a meeting with the VWU this afternoon. But I'm afraid that's bad news, I do  
21 apologise.

22 PRESIDING JUDGE FULFORD: Yes. It is exceedingly bad news. Can you  
23 discuss this with the VWU? Can we have this raised at the highest level within the  
24 Registry to see whether something can be done by a direct approach to those who  
25 have overall control of these matters, to see whether something more expedited can

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1 be done than is the usual norm?

2 MR SACHDEVA: I'll certainly do so, Mr President.

3 PRESIDING JUDGE FULFORD: And steps must be taken to see whether this can be  
4 expedited this afternoon, please, Mr Sachdeva.

5 MR SACHDEVA: Yes, Mr President.

6 PRESIDING JUDGE FULFORD: Thank you very much. Half-past-2.

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

8 \*(Upon resuming in closed session at 2.30 p.m.) Reclassified as Open session

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

10 PRESIDING JUDGE FULFORD: Open session for a moment, please.

11 (Open session at 2.31 p.m.)

12 THE COURT OFFICER: We are in open session, your Honours.

13 PRESIDING JUDGE FULFORD: Mr Sachdeva, if 38 is unable to travel until the  
14 12th -- at the moment, 583 is down for four days, 22nd through to the 25th of  
15 November. Now, as I recall it, 38 is being recalled for a fairly short issue. Do you  
16 have any sense as to how long he's likely to be in the witness box?

17 MR SACHDEVA: Certainly not more than two days. I would imagine the  
18 Prosecution taking probably two hours with the witness. I understand that the  
19 Defence is also not going to be that long, but I'd like them to clarify. But, yes,  
20 certainly not more than two days, one-and-a-half days.

21 PRESIDING JUDGE FULFORD: You see, what I have in mind, Mr Sachdeva, is if  
22 you're two hours and if the Defence are an equivalent length, then that's a day. And  
23 if he then went into the week of the 23rd to the 26th, where at the moment there is a  
24 spare day, then that would mean we would still be able to complete the evidence on  
25 the abuse application by the end of the week 26 November. That would also give

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1 him a week to familiarise himself between his arrival on the 12th and giving his  
2 evidence, say, on 22 November.

3 MR SACHDEVA: Indeed, if your Honours are suggesting that it would take a week  
4 for 583 and 38 to complete their evidence, then we would certainly agree with that.

5 PRESIDING JUDGE FULFORD: Do you agree, Maître Mabilie?

6 MS MABILLE: (Interpretation) No problem, your Honour.

7 PRESIDING JUDGE FULFORD: Right. Well, Mr Sachdeva, I think that gets us  
8 round the problem that you alluded to before lunch. The other aspect then is this:  
9 At the moment 316 is due to commence his evidence next Tuesday, rather than on  
10 Monday. Is there any reason why we can't bring him forward by a day to commence  
11 his evidence on Monday the 8th, because given this is intermediary 316 who may be a  
12 witness who's fairly contentious, I could see him taking five, rather than four days.

13 MR SACHDEVA: Mr President, that is certainly a possibility. If I could seek your  
14 leave to revert after the pre-testimony interview that's going to be conducted I think  
15 commencing tomorrow, we would have a better idea as to how long it would require  
16 for necessary preparations to be made before the witness starts on the Monday or  
17 Tuesday.

18 PRESIDING JUDGE FULFORD: Well, we're now Tuesday of this week. There's an  
19 awful long time until Monday morning of next week. Can't we complete all the  
20 preliminaries, Mr Sachdeva, before 9.30 on Monday morning of next week?

21 MR SACHDEVA: Yes, I think that can be done. We will try our best.

22 PRESIDING JUDGE FULFORD: Any objections, Maître Mabilie, to 316 beginning on  
23 Monday of next week, rather than Tuesday?

24 MS MABILLE: (Interpretation) No problem, your Honour.

25 PRESIDING JUDGE FULFORD: The preliminary order of events will be then that

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1 we will start 316 on Monday of next week and 38 will give his evidence on  
2 22 November, but the understanding is that both 38 and 583 will complete their  
3 evidence by the afternoon of 26 November so everybody please should prepare their  
4 questioning so as to ensure that both witnesses are able to give their evidence during  
5 the course of that week.

6 If on mature reflection problems with that suggested timetable are discovered, please  
7 raise them with us at the earliest opportunity. Mr Sachdeva.

8 MR SACHDEVA: Mr President, the only problem I foresee is that I think 583 would  
9 like to commence and then leave later that week, and then 38 to be put on after 583.  
10 Just in terms of his schedule that we understand, he's relatively busy.

11 PRESIDING JUDGE FULFORD: All right. Well, all right. In principle, I can see  
12 there's no reason for reversing it. Can you investigate it? I could see a slight  
13 advantage in taking 38 first because that would concentrate everybody's mind to get  
14 through him quickly - in proper quick time - so as to ensure that we finish 583 by the  
15 end of the week. So we'll leave open at the moment the question as to which goes  
16 first; if you could investigate that.

17 MR SACHDEVA: We will.

18 PRESIDING JUDGE FULFORD: Thank you. Good. Maître Mabilille.

19 MS MABILLE: (Interpretation) Statement of 582, your Honour, the Defence is not  
20 in a position -- excuse me, 583, the Defence is not yet in a position. We don't have  
21 the statement.

22 MR SACHDEVA: Mr President, the Prosecution does not have it either, and a  
23 reminder was sent last night for an urgent relay of the statement. So I don't know  
24 what more I can say. As soon as we receive it, it will be divulged to the Defence  
25 forthwith.

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- 1 PRESIDING JUDGE FULFORD: Every effort, please. Thank you.
- 2 MR SACHDEVA: We will.
- 3 PRESIDING JUDGE FULFORD: Closed session and witness, please.
- 4 \*(Closed session at 2.37 p.m.) Reclassified as Open session
- 5 THE COURT OFFICER: We are in closed session, your Honours.
- 6 (The witness enters the courtroom)
- 7 PRESIDING JUDGE FULFORD: Private session, please.
- 8 \*(Private session at 2.38 p.m.) Reclassified as Open session
- 9 PRESIDING JUDGE FULFORD: Good afternoon, sir.
- 10 THE COURT OFFICER: We are in private session, your Honours.
- 11 THE WITNESS: (Interpretation) Good afternoon.
- 12 PRESIDING JUDGE FULFORD: Yes, Mr Biju-Duval.
- 13 MR BIJU-DUVAL: (Interpretation) Thank you, your Honour.
- 14 Q. Witness, just before the adjournment you gave us explanations concerning these
- 15 children with whom you had made appointments at the (Expunged)
- 16 (Expunged) before taking them one after another to see (Expunged). You told us that
- 17 three groups needed to be distinguished, and among those groups there was a second
- 18 group made up of the children who had gone back home but who were not yet
- 19 reintegrated, and that it was this group that you were going to fetch at the (Expunged)
- 20 (Expunged).
- 21 This is my question: During your testimony, transcript 308, page 48, you told us that
- 22 all of the children you went to fetch were children that you had supervised at the
- 23 CTO and that you had reintegrated into their families. In these circumstances, how
- 24 does it come to be that today you are telling us about children who had not yet been
- 25 reintegrated?

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1 A. Thank you for this question. It seems to me, sir, that you have not fully  
2 understood what I have said, and I want you to follow me properly. This is what I  
3 said: I did not only talk about children that I went to fetch outside Bunia to bring  
4 them to meet (Expunged); I was talking in general about all of the children, and I said  
5 that to make a distinction between the children who arrived at the (Expunged), the  
6 CTO, and who were not asked a lot of questions.  
7 But I did not say that those children, that those children who had met (Expunged)  
8 were, some of them, still at the (Expunged). No. I was simply trying to make a  
9 distinction when Defence counsel asked me why I had said that those children when  
10 they arrived at the (Expunged), the CTO, my colleagues or people from (Expunged)  
11 had seen them and why was this going to bring difficulties. That is why I gave the  
12 three categories of children.  
13 These children whom I met -- or, rather, to whom I had given appointments at the  
14 (Expunged) were children whom even my colleagues or people from (Expunged)  
15 had met and to whom they had asked questions. And these children knew how to  
16 answer those questions because they were children who had the right to make claims  
17 with regard to what was being promised them in the form of aid or support.  
18 But with regard to the children to whom I did not give appointments at the  
19 (Expunged), the CTO, they were children who had already been reintegrated or who  
20 had already received assistance. For those children to reach the (Expunged) or the  
21 CTO, necessarily, those children had gone through severe, serious events or situations  
22 of great insecurity. That is why they came to the CTO. I don't know if you're  
23 following me. I did not say that these children had not yet been reintegrated or had  
24 not yet returned to their parents' homes. I did not say that. I don't know if you're  
25 following me.

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1 Q. I understand that you told us that the reintegrated children did not have the  
2 right to come to the (Expunged) except in exceptional circumstances relating to their  
3 safety, and that that was the reason why, with regard to the reintegrated children, you  
4 had given them appointments at other places, at specific locations.

5 In your testimony, however, you indicated that all of the children that you went to  
6 fetch had been reintegrated through your efforts. I gave you the reference in the  
7 transcript, T-308, page 48. I conclude from that that there was only one single group,  
8 this third group, to whom, according to your testimony, you gave appointments  
9 outside the (Expunged). Have I understood correctly?

10 A. Thank you for asking me this question. I don't know if you recall what I told  
11 you yesterday while I was here during the last session. I said that not all of these  
12 children had yet received assistance or support. There are two ways of reintegrating  
13 a child. When a child went back to its parents, we called that social integration; in  
14 other words, the child went back to the community of origin. When I talk about  
15 support, I'm talking about financial reintegration. Consequently, those children who  
16 were at the (Expunged) were children who had already been taken back to their  
17 parents, but what they were asking us for was what we had not yet given those  
18 children.

19 With regard to the other children who were outside the (Expunged), they were  
20 children who had already gone back to their parents and to whom we had given what  
21 we were supposed to give them. If they were farmers, we gave them tools to  
22 cultivate their fields. If they were carpenters who built tables, we gave them the  
23 tools and the instruments of a carpenter, and so on.

24 Q. Thank you. Concerning those children, the children you have just mentioned,  
25 the children who were financially reintegrated, could you explain more to us why it

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1 was absolutely forbidden to them to go to the (Expunged) even for  
2 a few hours even, the time it would take to wait to meet (Expunged)?

3 PRESIDING JUDGE FULFORD: Someone in the interpretation booths is pressing  
4 the wrong button because over the English air waves we've just heard a different  
5 language. Right. Try again. Mr Biju-Duval, can you put the question again,  
6 please.

7 MR BIJU-DUVAL: (Interpretation)

8 Q. With regard to the financially reintegrated children of whom you have just  
9 spoken, could you explain more about why it was absolutely forbidden for them to go  
10 to or be in the (Expunged), even for a few hours, as long as it  
11 would take, for example, to wait for (Expunged) call?

12 A. Thank you for this question. You see, it is not easy to work with children who  
13 have been in the army. These children who had already been financially  
14 reintegrated did not have the right to go to the (Expunged) or the CTO. This was  
15 because they could come and say to the other children, who had not yet been  
16 reintegrated or taken back to their parents, they could come and say to them that we  
17 had given them resources. Some of them could have asked for a hoe, others could  
18 ask to be mechanics. [...]

19 Now, the person who would ask for a hoe, for example, would not receive the same  
20 resources as the person who wanted to be a mechanic. Why did we forbid them  
21 from coming to the (Expunged) or the CTO? Well, because the person who received  
22 a hoe could talk to children who had not received anything or who had come gone  
23 back to their homes and say, "I was given this or that." And the other person who  
24 wanted to act as a mechanic would say, "They gave me this or that. They took me to  
25 such-and-such a place. They gave me the following training [...]." And that could

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1 lead to confusion.

2 These children could have had an intention of following some profession or avenue  
3 which would attract a lot of assistance. We had had one specific experience of a  
4 child who had been enrolled in a mechanic's course. This child did indeed attend  
5 that course, and afterwards we gave him a reintegration kit; that is, tools, so that he  
6 could open his workshop.

7 Now, how did this experience play out? We observed that most of the children sold  
8 the equipment or the tools that we were giving to them and so we then decided it was  
9 important that these children should not be able to enter into contact with children  
10 who had not yet received assistance. And that was the main reason why we, who  
11 were working with the children, decided that we should separate these groups of  
12 children. Thank you very much.

13 Q. Thank you. Would you refer to tab 4 in the binder, please. The general  
14 document bears number EVD-D01-00339 and I would like to make reference to page  
15 0167 and 0168. The extract begins on page 0167, line 957. This is an extract from  
16 your statement made to the Office of the Prosecutor in June 2010. So, from 957  
17 onwards. This is what you say, and I quote: "No. The children, I did not collect  
18 them at the roundabout. I was not going there to collect them. We -- therefore, we  
19 set an appointment location at a given time. They had to leave (Expunged) to see us in  
20 a given place, to see a given person in a given place, and then the other person, the  
21 small child at a given time, you would meet me in a given place, and so on. That's  
22 what I did because in any case I did not want my bosses where I worked to know that  
23 I was in the process of putting children in contact with just anybody because that is a  
24 terrible violation. That is why I was putting them in different places, because I'm  
25 working with you and I was carrying out my daily work."

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1 Before asking you a question, I would also like to refer you to another extract, also  
2 from your statement of June 2010, which appears in -- at tab 5, so the following tab.  
3 The document bears the number DRC-OTP-0231-0171, and I would like to make  
4 reference to page 0181 and 0182. Page 0181, from line 364, at the bottom of the page.  
5 Page 0181, line 364, and I quote: Question: "Okay. And before -- okay. Therefore  
6 you -- you, you told them to go to an appointment location?" Answer: "Yes."  
7 Question: "From where you collect them?" Answer: "Yes." Question: "How  
8 did you communicate with them?" Answer: "No, therefore as soon as -- as soon as  
9 I -- as soon as they came, they arrived in Bunia, I said to them, 'No, you're going to go  
10 to a given place, a given place. Okay?' This one I would give the appointment  
11 location. I would say: 'Do you know this place?'" Answer: "Yes, I know that  
12 place." I would say, "You're going to wait for me there at 9 o'clock, okay?" "Okay.  
13 You -- do you know such-and-such a place?" "Yes." "You -- all right, you'll wait  
14 for me there at 10 [...] o'clock or 11 o'clock. That's how I did it. I would say -- I  
15 would dispatch the times and the locations as well." Question: "And you told them  
16 that the previous day, or ...?" Answer: "Yes, before they were in contact with  
17 (Expunged), therefore the days where they were in Bunia, because I was afraid that  
18 my bosses with whom I worked could see them in Bunia. Otherwise, that would  
19 cause problems; make too many problems."  
20 And so my first question to you is the following: When you were questioned by the  
21 OTP in June 2010, you did not at any point in time talk about these children whom  
22 you went to fetch at the CTO of (Expunged). Why didn't you mention this?  
23 A. Thank you. I don't know what excerpt you are talking about. When the OTP  
24 workers came to (Expunged), before I arrived here, I think I talked to them about the  
25 events that took place at the CTO and at that time I answered their questions. Here

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1 you have just read out a passage a short while ago and you indeed read what I said.  
2 I said that I did not want my hierarchical superiors to know. I said this in relation to  
3 the third group I talked about because, if the children of that third group arrived at  
4 the (Expunged), that would have caused me a lot of problems. Thank you.

5 Q. Thank you. However, in the second excerpt I read out, you stated that you  
6 were afraid that your bosses would see the children in Bunia. It's not only about  
7 seeing the children at the CTO. Here you are talking about your fear of the children  
8 being seen in Bunia. So that's a different explanation, right?

9 A. Thank you for putting the question to me. When I refer to Bunia, this does not  
10 mean that I am talking about the town of Bunia. I am not talking about the entire  
11 town of Bunia. I'm talking about that part of Bunia where we work, you understand?  
12 When somebody goes home, that person has the right to move around in the town,  
13 you understand? When I talk about Bunia, I was referring to my place of work. I  
14 was not referring to Bunia, the town. I say this because, as you know, when many of  
15 the children returned home they went to live in the town of Bunia.

16 MR BIJU-DUVAL: (Interpretation) Thank you. I think it would be proper to give  
17 an EVD reference to the document, the document from which I read an excerpt; that is,  
18 the document in tab 5.

19 PRESIDING JUDGE FULFORD: Certainly.

20 THE COURT OFFICER: (Interpretation) The document will bear the reference  
21 EVD-D01-00343.

22 MR BIJU-DUVAL: (Interpretation)

23 Q. Mr Witness, I would like you to turn to tab 15. The document already bears an  
24 EVD number D01-00338 and I would like to refer you to page 0573 and 0574. This is  
25 an excerpt from the statement you made to the OTP in the month of October 2009.

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1 The excerpt starts from line 271 and runs all the way to 298. I quote, "Question:  
2 How did these meetings take place; that is to meet the children? How did the  
3 meeting with (Expunged) take place?" Answer: "To meet the children?" Question:  
4 "Yes. How did this take place? Can you explain it to me in detail for each of the  
5 children, or when did you bring the children?" Answer: "Yes. Well, I would take  
6 the children in question and I will bring them in the morning. They would come on  
7 their own to the centre; that is, the (Expunged)." Question:  
8 "Very well." Answer: "Now I would take them one after the other." Question:  
9 "Yes." Answer: "I used to take them. I took the first one." Question: "Yes."  
10 Answer: (Expunged)  
11 (Expunged)  
12 (Expunged) and I will call (Expunged)." Question: "Yes." [...]  
13 Answer: "(Expunged) would call me and he would say,  
14 'Well, you are with the first child,'  
15 and I would say, 'Yes, I am with the first person concerned.' And he would say,  
16 'Well, go down to such-and-such a place. I will be arriving. You should take the  
17 child. You should go to such-and-such a place,' and as soon as I arrive there the  
18 child will open the back door of the vehicle and get inside and you will go away and I  
19 will leave with the child. That is the way we proceeded." Question: "Very well."  
20 Answer: "Yes." Question: "So you did that for each child? You carried  
21 out -- you followed that procedure?" Answer: "Yes, yes."  
22 My question to you is the following: When you were interviewed by the OTP  
23 investigators in October 2009 and they asked you about the modus operandi of these  
24 encounters and of these appointments, why did you not at any moment say that for  
25 certain groups of children you gave them appointments in different parts of Bunia

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1 and but not to the (Expunged)?

2 A. Thank you for the question. I have forgotten the page and the tab number, but  
3 I do remember that this question has already been put to me and I answered as  
4 follows: I said that there are a certain number of children to whom appointment was  
5 given in a another place. I think that's the answer I provided. I was answering, or  
6 my answers depended on the questions that were put to me. Please, I would like to  
7 appeal to you to look at your notes. This question has already been put to me.  
8 Thank you.

9 Q. As you heard in the excerpt which I read out to you, the investigator asked you  
10 the following question, "Did you use this procedure for every child?", and your  
11 answer was, "Yes." My question to you therefore is the following: Is it correct that  
12 neither in October 2009, neither in June 2010, in the course of your statements to the  
13 OTP you did not make a distinction between the various groups of children?

14 A. I think I have already explained the difference between the two notions, if I'm  
15 not mistaken. You will remember that this question was put to me earlier. If I  
16 really said that then I think I must have been mistaken, but I think I have already  
17 answered that question. Thank you.

18 Q. Thank you. If I put it to you that in [...]reading your statements recently you  
19 noticed that you made contradictory statements on this point and that today before  
20 the Chamber you are trying to look for a solution to these very manifest  
21 contradictions, what would you say to that?

22 A. No, I don't see any major contradictions. Those are small matters, small  
23 questions which were not put to me and to which I didn't even answer. I would like  
24 to appeal to you to look a little further back and see whether I did not say to the OTP  
25 whether that I found a certain number of children or that I met out of the CTO. I

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1 really don't see any contradictions here. Thank you.

2 Q. Thank you. If I put it to you that none of the two contradictory explanations  
3 which you gave in 2009 and 2010 to the OTP are correct or true, and that in actual fact  
4 the children were with you in your home, living with you in your house, waiting for  
5 their turn to meet (Expunged), what would you say to that?

6 A. Could you please, sir, repeat your question?

7 Q. If I put it to you that you did not go to look for any children at the CTO of  
8 (Expunged), that you did not organise appointments in various parts of Bunia for  
9 other children, that these are lies, and that what actually happened was that when the  
10 children were waiting to be called by (Expunged), they were actually in your home  
11 with you, together with you; what would you say to that?

12 A. Thank you for the question. You have just said that the children were together  
13 with me at home. I would like to say that is not true. The children came to my  
14 home one after the other. As I have already told you, some of the children were at  
15 the (Expunged). That is not true. I am telling you that I live in a neighbourhood  
16 where the majority of the population is of (Expunged).

17 In my home, in the area where I live, we have persons who (Expunged), who are  
18 there. We have (Expunged) who are there all the time. How then can I bring a group  
19 of children, children who belong to an ethnic group, that is an opponent to the ethnic  
20 group of the people I was living with -- don't you think that if I did that, I would be  
21 putting myself at risk, in a difficult situation in my own home, in my own  
22 neighbourhood? Thank you.

23 Q. Thank you. I would now like to talk about the time when the children finished  
24 their interview with (Expunged) You told us that at that point money was given to  
25 them and they would return home. Did you ever have to accompany any child at all

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1 back to his or her home?

2 A. Thank you for the question. I think I answered this question yesterday, and  
3 this is what I said: There are a certain number of children -- or there were a certain  
4 number of children who knew the town of Bunia well. For such children, I would  
5 give them money and they would go to take the bus on their own to go home.

6 However, there were other children who did not know the town of Bunia well, and it  
7 was difficult for them to get on board a bus because the buses that go to the  
8 neighbouring localities of Bunia, well, you need to be physically strong to get on  
9 board those buses and so I had to accompany them. I would get on board the bus  
10 with them and I will leave them a few kilometres from their final destination. I think  
11 that yesterday you put this question to me and I provided you with an answer.

12 Thank you.

13 Q. Thank you. In the course of your testimony, transcript 308, page 68, and I  
14 quote, "I used to go and meet the child --" let me start again. I quote, "I used to go  
15 and I would go and see the previous child at the place, at the agreed place of  
16 appointment." And then you add that, "I would give him transport fare so that he  
17 can go home." When you say -- when you talk of the agreed place where you would  
18 meet with the child in order to give him the money, what place are you talking about?  
19 Was it the same place for all the children or was it a different place for each child?

20 PRESIDING JUDGE FULFORD: Pause a moment, sir. Yes, Mr Sachdeva.

21 MR SACHDEVA: Mr President, of course my learned friend did provide the  
22 transcript reference, but perhaps we could be sure that the witness is indeed on that  
23 exact reference because the reference that my learned friend has just quoted missed  
24 out a line. It's probably better for the witness to understand the full gist of his  
25 response before answering this question.

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- 1 PRESIDING JUDGE FULFORD: Could you read out the full portion, Mr Sachdeva?
- 2 MR SACHDEVA: "When a child finished his interview with (Expunged) and when I  
3 brought -- when I had brought the next child to the vehicle, I would go to meet the  
4 previous child at the agreed place of meeting. I would ask the child whether he had  
5 already had his interview with (Expunged). He would say, yes. At that juncture, I  
6 would provide the child with the transport fare for him to return home and I would  
7 promise to see the child on a future occasion if such an occasion did arise."
- 8 PRESIDING JUDGE FULFORD: Thank you. And I think Mr Biju-Duval's question  
9 is: What place are you talking about? Was it the same place for all the children or  
10 was it a different place for each child?
- 11 MR BIJU-DUVAL: (Interpretation) Yes, your Honour. I don't want to start any  
12 confusion in the mind of the witness. When I listen to what Mr Sachdeva read out,  
13 we are dealing with the next child; whereas, in my quotation we are referring to the  
14 child who has completed his interview. So I don't think -- I don't want us to confuse  
15 the witness on this point. Thank you.
- 16 PRESIDING JUDGE FULFORD: And I think to ensure that the witness isn't  
17 confused, Mr Biju-Duval, I'm going -- in light of what Mr Sachdeva has read out, I'm  
18 going to ask you to put your question in your own way again, please.
- 19 MR BIJU-DUVAL: (Interpretation)
- 20 Q. When a child completed his interview with (Expunged), you said that the child  
21 would meet you at an agreed place and you would then hand over to that child his  
22 transport fare at that place. The question I have for you is, was it the same place for  
23 all the children or did you have a different place for each of the children; that is, to  
24 give them transport fare after the interview.
- 25 A. Thank you. Each child had his or her own place. Let me give an example. If

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1 the first child had to wait for me somewhere, he would go there and at the same time  
2 I would give instructions to the second child to go to another place. And to the third  
3 child I will give the address of the first child, and before he reaches there the first  
4 child would have gone.

5 I do remember that the two children that (Expunged) contacted for the first time in  
6 the afternoon, for those two children it was (Expunged) himself who gave them  
7 transport fare. However, for the rest of the children (Expunged) would give me the  
8 money and I would hand the money over to the children for their return transport.

9 Q. Thank you. Now, with respect to these various places where you gave money  
10 to these children, that is, when it wasn't (Expunged) giving the transport fare, were  
11 they different places in the town of Bunia?

12 A. Yes, they were different places. It could be a road junction or a square close to  
13 a church or some place close to the (Expunged). These places were not far from  
14 Bunia; they were within the town of Bunia. Thank you.

15 Q. Did they have to come to your home to collect this money?

16 A. This is what I told the last child. When you alight from the vehicle, you should  
17 come to my home, and that's the child to whom I gave money at home. Thank you.

18 Q. So only one child came to your home to collect his money; is that correct?

19 A. Yes.

20 Q. Could you please turn to tab 13 of the binder which bears the EVD number  
21 D01-00341, and I would like you to turn to page 0530. It is an excerpt of a statement  
22 you gave to the OTP in October 2009. I'm reading from 9 -- from lines 962 -- or,  
23 rather, 961 to 970. And I quote, Question: "Very well. And afterwards, after they  
24 had finished?" Answer: "After they finished, they went home. (Expunged) called  
25 me in the evening and he told me that he was going to come here in (Expunged)

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1 Question: "Okay. I beg your pardon for interrupting; it's just because we are dealing  
2 with the second group of children. They will come to your home after seeing  
3 (Expunged) Answer: "Yes, they would come to my home. That is they, plural,  
4 would come to my home." Question: "Was it the same thing that happened for the  
5 third group on the third day?" Answer: "Yes, yes." Question: "So they came to  
6 your home. And afterwards?" Answer: "I would give them the transport fare.  
7 The children would return home."

8 My question to you is the following: Why are you saying today that only one of the  
9 children came to your home to collect his transport fare?

10 A. Thank you for that question. It is true that I made a mistake here because I  
11 referred to all of the children, but in fact only one of the children came to my house to  
12 receive transportation fare. It was the last child. Thank you.

13 Q. When you gave the transportation fare money to the children, did you ask the  
14 child to sign a receipt that he had indeed received the money?

15 A. No, the child didn't sign any document. I signed before (Expunged) when I received  
16 money from him, but the child didn't sign anything. However, I don't know whether  
17 the first two children signed a document from (Expunged). Because (Expunged) gave  
18 them money to pay their return trip, the fare for their return trip. Thank you.

19 PRESIDING JUDGE FULFORD: Mr Biju-Duval, because we lost three-quarters of an  
20 hour this morning, we're thinking of sitting 'til half-past-4 this afternoon and we're  
21 going to give everyone a short break now. We'll rise until 10-to-4. Closed session,  
22 please, so the witness can withdraw.

23 \*(Closed session at 3.32 p.m.) Reclassified as Open session

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

25 (The witness stands down)

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- 1 PRESIDING JUDGE FULFORD: 10-to.
- 2 THE COURT OFFICER: All rise.
- 3 (Recess taken at 3.33 p.m.)
- 4 \*(Upon resuming in closed session at 3.51 p.m.) Reclassified as Open session
- 5 THE COURT USHER: All rise. Please be seated.
- 6 PRESIDING JUDGE FULFORD: Witness, please.
- 7 (The witness enters the courtroom)
- 8 PRESIDING JUDGE FULFORD: Private session, please.
- 9 \*(Private session at 3.51 p.m.) Reclassified as Open session
- 10 THE COURT OFFICER: We are in private session, your Honours.
- 11 PRESIDING JUDGE FULFORD: Yes, Mr Biju-Duval.
- 12 MR BIJU-DUVAL: (Interpretation)
- 13 Q. Witness, after the interviews between (Expunged) and the children, did all of the
- 14 children go home?
- 15 A. Yes. After having spoken to (Expunged), the children went home.
- 16 Q. Thank you. I would like to ask you to turn now to tab 50 and you will find a
- 17 document there which is entitled "Receipt for reimbursement," and the reference is
- 18 DRC-OTP-0196-0575. Do you recognise your own signature at the bottom of this
- 19 document?
- 20 A. Yes.
- 21 Q. This document which is entitled "Receipt for reimbursement," and which has
- 22 been drafted by (Expunged), states that the amount of \$16 was reimbursed to you on
- 23 18 November 2007, for, and I quote, "Transport for two witnesses, Bunia-(Expunged)
- 24 (phon) \$8 times two." Could you tell us which witnesses who returned to
- 25 (Expunged) after speaking with (Expunged), children or witnesses?

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1 A. I have forgotten.

2 Q. Thank you. Do you remember that you told us, I believe it was yesterday, that  
3 on the road from Bunia (Expunged) you did not go beyond (Expunged), that you  
4 stopped, I believe you said a few metres from (Expunged). Do you remember that?

5 A. Yes, I remember.

6 Q. Is it true that (Expunged) is on the same -- in the same general direction but way  
7 beyond (Expunged), in the direction of the northeast?

8 A. I -- I don't remember very well: I'm trying to remember, but you know these  
9 events took place a long time ago.

10 PRESIDING JUDGE FULFORD: Mr Biju-Duval, we can see where it is on the map.  
11 If it's just a question of getting the geography right, you can take it that the Judges can  
12 see where it is.

13 MR BIJU-DUVAL: (Interpretation) Thank you, your Honour. But we do need an  
14 EVD number for the document entitled "Receipt for reimbursement" which is under  
15 tab 50.

16 PRESIDING JUDGE FULFORD: Thank you for remembering. Yes.

17 THE COURT OFFICER: (Interpretation) The number will bear the EVD number  
18 D01-00344.

19 MR BIJU-DUVAL: (Interpretation)

20 Q. Did you ever accompany witnesses back as far as (Expunged); in other words,  
21 were you with them up to (Expunged) after the interviews with (Expunged)? When  
22 the children were going home, you have stated that sometime some of the children  
23 needed to be accompanied part of the way. Did you accompany certain of the  
24 children as far as (Expunged)?

25 A. Up to (Expunged) Well, if I'm not mistaken, I think these two went home alone.

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1 I didn't go with them. I went to their place when I went to get them, or when I  
2 needed to contact them, but when they went home, if I remember correctly, I did not  
3 accompany them. I would leave them at a particular spot and they would then  
4 travel alone. Thank you.

5 Q. Would you please turn to tab 47, where you will find a document bearing the  
6 number DRC-OTP-0196-0570. This document is entitled "Receipt for  
7 reimbursement". It is dated November 19, 2007. It was established by (Expunged).  
8 Do you recognise your signature?

9 A. Yes,

10 Q. This document under "Description" refers to: "Transport for interm. (Expunged)  
11 plus two witnesses (Expunged)

12 Q. If you didn't go to (Expunged), how is it then that you received reimbursement  
13 for travel to (Expunged)? I imagine that (Expunged)

14 A. Yes, (Expunged)

15 Q. You stated that you did not accompany any children to (Expunged). How is it  
16 then that transportation expenses are reimbursed to you for such transport?

17 A. Thank you for the question. If you have followed what I have said, I said that I  
18 remember -- or, rather, I didn't give a confirmation. I said, "If I remember correctly."  
19 You have to remember that I may have forgotten some things. I did not confirm. I  
20 qualified my statement saying, "If I remember correctly". It could occur that I might  
21 have forgotten certain bits of information. All of these events occurred several years  
22 ago. Thank you.

23 MR BIJU-DUVAL: (Interpretation) Can we then have an EVD number for tab 47?

24 PRESIDING JUDGE FULFORD: Certainly.

25 THE COURT OFFICER: (Interpretation) The EVD shall be D01-00345.

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1 MR BIJU-DUVAL: (Interpretation)

2 Q. I would like to now discuss the point in time when the children were selected to go  
3 (Expunged) and when again you were to intervene in order to organise the travel  
4 (Expunged). My first question is as follows: When (Expunged) told you which children  
5 had been selected to go (Expunged), had those children already gone home to their  
6 families?

7 A. Yes, when (Expunged) he asked me to go get a particular child. He didn't give me  
8 the full list of children, of all the children. He would give me the names one after the  
9 other, as we went along, and those children had already gone home. Thank you.

10 Q. The children that you were asked to go and get in order for them to then go to  
11 (Expunged) are you -- did you go to get them at the same place where you had gone  
12 to get them when you were going to take them to Bunia?

13 A. Yes, I went to get them at the same place. Even if I was not able to find the  
14 child at home, I would be able to obtain information so that I could go and find the  
15 child where it was, or maybe the family would send one of the brothers to go get the  
16 child and then the child would come and I could talk to the child. Thank you.

17 Q. The work that consisted in going to get the children in their families to take  
18 them back to Bunia for the second time, how much time did that take you for all of  
19 the children?

20 A. This task took me a considerable amount of time. I had to go and get them one  
21 after another. So if I went to go and get the first one, before they had finished with  
22 the people in (Expunged) I had to go and get another child. I don't know exactly  
23 how much time it took me, but I can confirm that it did take me a certain amount of  
24 time and certainly not less than one week.

25 Q. Thank you. Was (Expunged), your boss -- was he informed of that

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1 mission?

2 A. (Expunged) did not know all the children who went to (Expunged). I  
3 remember one day he said the following, "I'm going to send you somewhere," and I  
4 answered, "No, I forgot to tell you something. I have been sent off to go get a  
5 particular child." So, you see, I didn't talk to him about all of the children. If there  
6 was some sort of emergency, if I had to tell him, if I had to inform him, then I did do  
7 that, but otherwise if there was -- if he didn't need my services, if he didn't want to  
8 send me off on a mission, or give me some other task, I didn't tell him anything. So  
9 he did not have information on all of the children, but he did know about some of  
10 them; some of them only.

11 Q. Thank you. Did he know that during that period of at least one week you  
12 carried out a mission for the International Criminal Court?

13 A. Yes. As I said, if he asked me the question, if he said he needed to send me  
14 somewhere, I would answer clearly that, (Expunged) needed a number of children in  
15 (Expunged) therefore I don't have the time to go wherever you want to send me." So I  
16 was to carry out the task (Expunged) first. He knew perfectly well it was for the  
17 International Criminal Court. He knew as soon as (Expunged) called him, so (Expunged)  
18 myself could meet, and from that day onwards he was aware of what I was doing.

19 Q. Thank you. What means of transportation did you use in order to go get the  
20 children and bring them back to Bunia so that you could then, or they could then, go  
21 to (Expunged)

22 A. I used a motorbike, or other vehicles. I used the motorbikes or the vehicles that  
23 were to be found at the bus stop and, if I realised that it was difficult for a vehicle to  
24 go to a particular place, I would use a motorbike. So I either used a motorbike, or a  
25 vehicle, depending on the place that I was going to. Thank you.

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1 Q. Let me just be precise. When you use the word "vehicle", what exactly are you  
2 referring to? An automobile, or some other kind of vehicle?

3 A. Well, when we use the word "vehicle" it means a transportation vehicle. I  
4 didn't use an automobile. It was another kind of vehicle. It was a (Expunged). A  
5 (Expunged)

6 Q. Do you mean that you rented a (Expunged), or did you pay each time to the  
7 driver of the vehicle?

8 A. I paid the transportation fare to the driver. I wasn't renting the vehicle.

9 Q. Was -- were all of these expenses reimbursed to you by the International  
10 Criminal Court?

11 A. The money was given to me before I went to get the children. (Expunged) from  
12 the International Criminal Court, who was based in Bunia, used to see me before I  
13 would go to get the child and he gave me the money on that occasion. Thank you.

14 Q. You have stated that it was agreed that a certain amount in terms of  
15 compensation would be given to the families, \$10. This is in transcript 309, pages 12  
16 and 13. Do you remember that?

17 A. Yes. Yes, I remember.

18 Q. When you paid this amount in compensation to the families, did the family or  
19 the person who actually received the money, did you ask that person to sign a  
20 receipt?

21 A. No, I signed a document in fact when I received the money from (Expunged).  
22 Thank you.

23 Q. Thank you. During that period in November/December 2007, did you do  
24 anything to contact someone in (Expunged)

25 A. I'm afraid I haven't understood your question.

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1 Q. Did you know that place, that village called (Expunged), close to Bunia?

2 A. Yes, I know (Expunged) very well.

3 Q. Is it true that (Expunged) is very close to Bunia, (Expunged)?

4 A. Yes, it's very close to Bunia. Thank you.

5 Q. During the period we are talking about, in other words, the months of  
6 November and December, January -- let's say November, December, 2007, or January  
7 2008, did you have occasion to contact somebody in (Expunged)? Were you asked to  
8 contact anybody in (Expunged), and did you do that?

9 A. I do not recall. I have forgotten.

10 Q. Could you refer to tab 45. This is a document referenced EVD-D01-00332. It  
11 is entitled "Décharge receipt." It indicates "I, the undersigned, (Expunged)  
12 resident in Bunia, (Expunged) neighbourhood, I returned to (Expunged) the amount  
13 of \$30 American out of the \$71 that he had given me in December 2007 to contact a  
14 witness in (Expunged). Done at Bunia, 5 January 2008."

15 Do you recognise your signature at the bottom of this document?

16 A. Yes, this is my signature.

17 Q. Could you explain to us -- does this refresh your memory concerning this  
18 procedure that you completed in December 2007 to contact a witness in (Expunged)?

19 A. Yes. Thank you. This receipt leads me to remember something. I was to go  
20 and collect the parent of a child in (Expunged), and that child was attending school in  
21 Bunia. The child's parents lived in (Expunged). The name of the child, I have  
22 forgotten. Thank you.

23 Q. To go and fetch this parent in (Expunged), you had told (Expunged) that you  
24 needed \$71; is that correct?

25 A. When I referred to (Expunged), I was not talking about the centre of the village

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1 (Expunged), no. I was talking about inside (Expunged). You would go past farms  
2 and several other places, so you had to take a motorbike and drive into this village.  
3 That is why I had requested that money. Thank you.

4 Q. So it is your testimony that the hiring of a motorbike to go to the interior of  
5 (Expunged) would cost you \$71? Is that your testimony?

6 A. No. If the rental cost \$71, I would not have been able to return the remainder,  
7 the remaining sum, and I was not able to rent a motorbike; I was able to rent several  
8 motorbikes. Thank you.

9 Q. Do you mean two motorbikes, one for the parent and one for yourself?

10 A. I'm going to explain, so please try and follow what I'm saying. The man whom I  
11 was to fetch in (Expunged) had a child who was studying in Bunia, so I had to go to  
12 (Expunged) with the child to fetch the parents. Therefore, out of the money that I had  
13 requested there was the transport money for myself and for the child, there was also  
14 the money that I was to leave to the parent, if he agreed to go (Expunged) with the child.  
15 And so the money was intended to cover my transport, the transport of the child, as  
16 well as the costs for the return trip of the parent. I was also to leave \$10 to the parents.  
17 The parent was to leave that money at home before going (Expunged). Thank you.

18 Q. Thank you. Therefore, I understand that it was a matter of one of the children  
19 whom you had gone to fetch for the Bunia interviews, and then for the trip to  
20 (Expunged), but is it true that (Expunged) is not located on any of the three routes  
21 that you had talked about?

22 A. Thank you. Thank you for the question. The child I'm talking about, the child  
23 whose parents were in (Expunged), do you remember yesterday I said the following:  
24 I told you about a child who lived in Bunia and on the occasion of the first meeting it  
25 was (Expunged) who had met that child in Bunia. This receipt was drawn up with

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1 regard to the fact that this (Expunged) was to meet this child in (Expunged).  
2 The first meeting was a contact between (Expunged) and the child. That is why I did  
3 not mention (Expunged), because the child lived in Bunia. The question of (Expunged)  
4 arose when the child was to meet his father in (Expunged). Thank you.

5 PRESIDING JUDGE FULFORD: Mr Biju-Duval, when you've finished with  
6 (Expunged), could you let me know because we'll then draw stumps for the evening.

7 MR BIJU-DUVAL: (Interpretation) Yes, I've finished with this point, your Honour.

8 PRESIDING JUDGE FULFORD: Thank you very much, Mr Biju-Duval. Thank you  
9 very much for your assistance, sir, today. We look forward to seeing you again at  
10 half-past-9 tomorrow morning. Closed session, please.

11 \*(Closed session at 4.27 p.m.) Reclassified as Open session

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

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

14 (The witness stands down)

15 PRESIDING JUDGE FULFORD: Open session, please, for a moment.

16 (Open session at 4.27 p.m.)

17 THE COURT OFFICER: We are in open session, your Honours.

18 PRESIDING JUDGE FULFORD: Thank you. During the course of this afternoon  
19 notification was given of a request, number 2599, on behalf of one or more of the  
20 participating victims to respond to the observations of the Defence as regards 15 new  
21 applications. Given the request comes from the representative of those 15, on a  
22 preliminary basis, the Chamber has in mind affording the right to respond but  
23 requiring the response to be filed by 4 p.m. on Friday of this week.  
24 That order will be made unless, at 9.30 tomorrow morning, anybody wishes to  
25 advance a submission to the contrary. So that's in our mind. Any objections, please

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1 raise it at 9.30 tomorrow morning. And if there's silence, it will then become our  
2 order.

3 Thank you all very much. 9.30 tomorrow morning.

4 (The hearing ends in open session at 4.30 p.m.)

5 RECLASSIFICATION REPORT

6 Pursuant to Trial Chamber I's email instruction dated 5th April 2011, the transcript is  
7 reclassified as public after the indicated redactions have been implemented as  
8 ordered by the Chamber. All private and closed sessions (\*) are now available to the  
9 public with the exception of the portions of the transcript that have been redacted

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