

1 International Criminal Court
2 Trial Chamber I - Courtroom 2
3 Presiding Judge Adrian Fulford, Judge Elizabeth Odio
4 Benito and Judge René Blattmann
5 Situation in the Democratic Republic of the Congo -
6 ICC-01/04-01/06
7 In the case of The Prosecutor v. Thomas Lubanga Dyilo
8 Tuesday, 4 May, 2010
9 (The hearing starts at 9.32 a.m.)
10 (Open session)

11 THE COURT USHER: All rise. The International
12 Criminal Court is now in session. Please be seated.

13 PRESIDING JUDGE FULFORD: Good morning. Witness --
14 oh, just before Witness 15, Ms Zago, please don't in any way
15 take this as any kind of criticism on my part, purely an
16 observation, which I hope will help. This is a witness who has
17 indicated that she has difficulties even with her own date of
18 birth, let alone the date of birth of others, who has said in
19 relation I think to at least one of her children that she cannot
20 even remember the name of the child.

21 I think in those circumstances, although the
22 Prosecution are, of course, wholly entitled to explore whether
23 or not she's able to assist with dates of birth of her various
24 children, I think there needs to be an element of care in the
25 presentation of the questions in that it could be humiliating

1 for her if it was to be suggested, through the way in which the
2 question is asked, that she is being criticised for her
3 inability to remember.

4 And I think there are possibly some cultural and
5 regional differences that need to be borne in mind in relation
6 to this. So, I am not for a moment suggesting that you
7 shouldn't continue with the line of questioning - it's entirely
8 for you - but I think there is a question of presentation that's
9 possibly important just for the emotional well-being of the
10 witness, really. I hope that's understood.

11 MS ZAGO: Thank you, Mr President. I'm guided.

12 PRESIDING JUDGE FULFORD: Thank you very much. Witness 15,
13 please. *(Closed session at 9:35 a.m.) Reclassified as Open session

14 (The witness enters the courtroom)

15 WITNESS: WWW-D01-0015 (On former oath)

16 (The witness answers through interpreter)

17 PRESIDING JUDGE FULFORD: Private session, please.

18 *(Private session at 9.36 a.m.) Reclassified as Open session

19 THE COURT OFFICER: We are in private session,
20 Mr President.

21 PRESIDING JUDGE FULFORD: Good morning, madam.

22 THE WITNESS: Yes, good morning to you too.

23 MS ZAGO: I'm afraid private, Mr President.

24 PRESIDING JUDGE FULFORD: Good. Well, we are in
25 private session, so please continue.

1 S ZAGO: Thank you.

2 QUESTIONED BY MS ZAGO:

3 Q. Good morning, Witness. With leave of the Court I
4 would like to read out two passages from yesterday's transcript
5 that we have noticed have been translated possibly incorrectly
6 from French into English. And based on the practice, as has
7 been established by our learned friends from the Defence, I
8 would like to read a -- transcripts to the witness, very slowly
9 in French, and ask the witness to confirm whether or not the
10 interpretation was accurate.

11 PRESIDING JUDGE FULFORD: Certainly, Ms Zago.

12 MS ZAGO: Thank you, Mr President.

13 Q. Witness, as I just explained, I would like to read out
14 two passages of your evidence yesterday. I will read the
15 passages in French very slowly and the passages will be
16 translated back to you.

17 A. Yes, I have understood. Thank you.

18 Q. The record, I am referring to the French edited
19 version of yesterday's transcript. They are marked T number
20 278. The French -- first French version, the passage I am
21 referring to can be found page 15, lines 16 to 19. And the
22 English version should be page 17, lines 12 to 16.

23 A. Yes.

24 Q. "Question: At the time when (Redacted) left for a week to
25 (Redacted) did the family -- was the family residing in (Redacted)?"

1 Please, Witness, don't answer. It's not a question to you, I am
2 just reading out the passage.

3 PRESIDING JUDGE FULFORD: Absolutely right, Ms Zago.
4 However, the witness did say something, so I think what was said
5 needs to be interpreted nonetheless. Now, did the interpreters
6 -- please, Madam, could you then interpret what the witness just
7 said, if you heard it?

8 THE WITNESS: What I was just saying was, was it
9 (Redacted) family?

10 PRESIDING JUDGE FULFORD: Right. Just for the moment,
11 could you listen to the passage that the lawyer is reading out
12 and she'll ask you a question about it in a moment. So, for the
13 time being, could you just listen to what's being said. Right.
14 Please carry on, Ms Zago.

15 MS ZAGO: Thank you.

16 Q. "Answer: (Redacted) grandfather had died; that is to
17 say, the father of his mother, and I was the only person
18 remaining. There was only me in (Redacted). I was the only one
19 there." End of quote.

20 PRESIDING JUDGE FULFORD: Right. You now need to ask
21 a question, Ms Zago.

22 MS ZAGO:

23 Q. Witness, I read out the passage that referred to your
24 evidence yesterday. Is that what you said yesterday? Can you
25 confirm whether what I read is what you said yesterday?

1 PRESIDING JUDGE FULFORD: Ms Zago, I'm very sorry to
2 interrupt. It's not helpful, in a sense, to disturb counsel so
3 early in their examination. I think it's going to be very
4 difficult for the witness today to remember exactly what she
5 said yesterday. If I might politely suggest, it's probably
6 better, then, for you to summarise what the effect is of her
7 evidence yesterday as recorded and to see whether or not that,
8 in fact, reflects her evidence on the point. I think to ask her
9 to remember what she said yesterday is going to be very
10 difficult.

11 MS ZAGO: Thank you, Mr President. Very well.

12 Q. Witness, yesterday in your evidence counsel from the
13 Defence asked you whether the family remained in (Redacted) when
14 (Redacted) left for (Redacted) for a week, and you answer that you
15 remained back in (Redacted), that you are the only person from that
16 family that remain in (Redacted). Is that what you said yesterday?
17 Is that correct?

18 A. Yes, that is correct. That is what I said yesterday.
19 But referring to the family member, what I was talking about me.

20 Q. The second portion, just for the record, I am going to
21 refer to - but I am not going to read to the witness - refers to
22 page 18, lines 1 to 6, always in the French edited version of
23 the transcripts which can be found, the corresponding
24 translation in the English edited version at page 20, lines 2 to
25 6.

1 Witness, I'm going to do, again, a summary of the
2 question and your answer - and the answer that was given
3 yesterday - and I will ask you whether or not it is accurate to
4 the best of your knowledge.

5 A. Very well.

6 Q. Thank you. Yesterday, counsel asked you whether during
7 the period you lived with (Redacted), whether he belonged to an
8 armed group. And your answer was "Yes."

9 A. No.

10 Q. What was your answer?

11 A. I did not quite understand.

12 Q. Yesterday, the question from counsel to you was
13 whether or not (Redacted), during the time he lived with you,
14 belonged to an armed group. And please, let me summarise the
15 entirety of your answer so that you can better understand before
16 you answer. Your answer was, "Yes. What I know is that at one
17 time he was with the soldiers just to fetch things for them, but
18 he did not do military service."

19 A. Yes, I shall explain that to you. He fled from
20 school, in the company of the three younger boys, and he also
21 left his possessions behind at the school. The teachers from
22 the school intervened in order to ask where the youngster was to
23 be found.

24 The answer is that we chanced upon this youngster on
25 the road, in the company of three other children, and he was on

1 his way to (Redacted), passing along the sides of the riverbanks. So
2 I said or asked people that, if they saw (Redacted), they
3 should tell me.

4 I heard that he was working at the market, and the
5 answer that he gave me -- well, he said that he did not want to
6 go home. He said he wanted to remain in (Redacted). He came back
7 from (Redacted) and, as soon as he returned from (Redacted), he had a
8 weapon. So, I put the question to him as to where he had got
9 the weapon from.

10 He had very dirty hair and his clothes were very
11 dirty, too. He was not in a clean state. So, I said to him,
12 "Well, a soldier doesn't look like you. Look how dirty you are.
13 You're very dirty. Your clothes are very dirty." So, the
14 answer that he gave to me is as follows. He said, "Mum, I just
15 received this weapon. I received it." He put the weapon down,
16 just by the door, and I said to the children that the weapon
17 should be removed because it's something dangerous that can kill
18 people.

19 So, the chef de localité came to the house and I told
20 him that the weapon was dangerous. I said, "The rifle is
21 dangerous and, were militia to be in the area, this weapon could
22 kill people." And the chef de localité took it --

23 THE INTERPRETER: Or him, unclear.

24 THE WITNESS: -- to the camp, and from there the chef
25 de localité told me that I should also come to the camp. He

1 said, "You know, this woman is living alone. She should not be
2 involved in all these matters."

3 Of course, he had stolen this weapon in (Redacted) and the
4 weapon belonged to a soldier, and this soldier was looking for
5 his weapon and he came to the camp. So, what was said was that
6 I might be taken and beaten, as well as the youngster, and the
7 chef de localité intervened and said, "No, this mother should
8 not be beaten." So, the chief of the military said that, "Well,
9 how is it that a soldier should abandon his weapon in such a
10 manner that a youngster can steal the weapon?", and --

11 THE INTERPRETER: The interpreter has difficulty with
12 the end of the sentence. It was very unclear. It should be
13 repeated.

14 THE WITNESS: So, the chef de localité gave the
15 instruction, and the commander imprisoned the policeman in
16 question and we do not know what happened subsequently. And
17 then the chief asked - or the chef de localité asked - for these
18 youngsters to receive advice.

19 And when I went home, in the company of the youngster,
20 I enrolled him in school because his father was still not
21 present. He studied for nearly two weeks and then, once again,
22 he abandoned his things at school. And then I learnt, once he
23 had fled, that he had gone to see his mother and other members
24 of his family, notably the family members of his father, and
25 they went to (Redacted). I heard that they went -- they left in the

1 company of their mother. I don't quite know how I am going to
2 explain the location to you, really. They went to (Redacted).

3 MS ZAGO: Thank you, Witness.

4 THE WITNESS: And I thank you.

5 PRESIDING JUDGE FULFORD: Yes, Ms Zago.

6 MS ZAGO: Might I have a moment of indulgence?

7 PRESIDING JUDGE FULFORD: You most certainly can.

8 MS ZAGO: Thank you.

9 (Counsel confer)

10 MS ZAGO: Thank you for your patience, Mr President.

11 The Prosecution has no further questions for this witness.

12 PRESIDING JUDGE FULFORD: Thank you very much indeed,

13 Ms Zago.

14 MS ZAGO: Thank you.

15 PRESIDING JUDGE FULFORD: Now, Mr Walley, you have an
16 application, I think, to put some questions; is that right?

17 MR WALLEY: That's right, Mr President.

18 PRESIDING JUDGE FULFORD: And the -- you needn't
19 interpret this, madam. The -- and then for the exchange that's
20 about to take place, you needn't interpret it for the witness.
21 Thank you.

22 I think the essence, Mr Walley, is that the testimony
23 of this witness directly affects the position of two of the
24 participating victims who you represent; is that correct?

25 MR WALLEY: That's correct, Mr President.

1 PRESIDING JUDGE FULFORD: And just in a nutshell, now
2 that Ms Zago has asked questions on behalf of the Prosecution,
3 what are the outstanding areas that you would wish to
4 investigate with the witness?

5 MR WALLEYN: The areas, Mr President, are mainly the
6 same, but I have just some additional questions, but concerning
7 as well the relationship between the witness and my clients -
8 both - and also some details about the story she told about.

9 PRESIDING JUDGE FULFORD: Thank you.

10 Maître Mabilles, given the extent to which this
11 witness's evidence affects or relates to the position of two
12 people represented by Mr Walleyne, do you object to him asking
13 some effectively supplementary questions to those posed by the
14 Prosecution?

15 MS MABILLE: (Interpretation) No objection, your
16 Honour.

17 (Trial Chamber confers)

18 PRESIDING JUDGE FULFORD: Bearing in mind our eternal
19 injunction against repetition, Mr Walleyne, you may proceed.

20 MR WALLEYN: Thank you, Mr President.

21 QUESTIONED BY MR WALLEYN: (Interpretation)

22 Q. Good morning, ma'am. My name is Luc Walleyne and I
23 represent the victims who are taking part in this procedure, in
24 particular two victims whom you know; namely, (Redacted)
25 and his son (Redacted) - (Redacted) and his son (Redacted).

1 A. Yes.

2 Q. Now, in order for us to deal with questions as much as
3 possible in open session, could I ask, ma'am, that when we are
4 speaking about Mr (Redacted) that we merely say (Redacted) Even
5 though (Redacted) here is not entirely clear, could we
6 refer to him as (Redacted) and (Redacted) could be referred to as
7 "the child"?

8 MR WALLEYN: Now, Ms Mabilille, if you have any better
9 suggestion, I'm certainly amenable, but this is so that we can
10 have as much as possible in open session. We can speak of "the
11 husband" and "the son".

12 THE WITNESS: Yes.

13 PRESIDING JUDGE FULFORD: Any thoughts, Maître
14 Mabilille?

15 MS MABILLE: (Interpretation) I just think that -
16 knowing the witness - this exercise could be very complicated.
17 With other witnesses, we could do so, but I think with this
18 witness it might be very, very difficult.

19 (Trial Chamber confers)

20 PRESIDING JUDGE FULFORD: It's a laudable objective,
21 Mr Walley, but this is important evidence, and if there is a
22 misunderstanding, we could be tempted to draw conclusions which,
23 in fact, don't reflect the witness's true position at all. I
24 think it's much better if we proceed using the name so there's
25 absolute certainty as to who the witness is referring to. But

1 thank you for the attempt.

2 Madam Interpreter, can you, please, tell the witness
3 that we are going to use (Redacted) name and we're not going to
4 try to find some way of referring to them that is going to be
5 indirect. We are going to be referring to them directly.

6 THE WITNESS: Yes.

7 PRESIDING JUDGE FULFORD: Good. So, we will be in
8 private session. Nobody outside the courtroom can hear.

9 Please continue, Mr Walley. n.

10 MR WALLEYN: (Interpretation) Thank you, your Honour.

11 Q. I understood --

12 PRESIDING JUDGE FULFORD: Can you remember,
13 Mr Walley. n, the interpretation must finish before you speak.
14 Thank you.

15 MR WALLEYN: (Interpretation)

16 Q. Witness, I understand that you lived with Mr (Redacted)
17 (Redacted) in (Redacted) first -- in Lubanga (as interpreted) first,
18 then (Redacted) and then (Redacted). Could you tell me how long you
19 lived in (Redacted) for?

20 A. In (Redacted) we lived together -- in (Redacted) we lived
21 together. In (Redacted), we lived nearly three or four years. I
22 beg your pardon, in (Redacted), we lived about six years. After
23 that, he left me with the children and there was a child, a baby,
24 and he left (Redacted) to study. From (Redacted) -- well, he
25 came back after that, after 11 months. And from there, he went

1 to (Redacted). He was working there. And then after that, he came
2 back home.

3 THE INTERPRETER: Message from the English booth. If
4 we could allow for a change of interpreters soon, we would be
5 most appreciative, to ensure accuracy. Thank you very much.

6 THE WITNESS: He also stayed in camps, but he didn't
7 stay for very long. And then he came back to (Redacted).

8 PRESIDING JUDGE FULFORD: Mr Walley, we're going to
9 have to have a change of interpreters now.

10 MR WALLEY: Okay.

11 PRESIDING JUDGE FULFORD: Madam, thank you very much
12 for your help so far this morning. We're going to relieve you
13 now.

14 Closed session, please, so the interpreters can swap
15 over. Can you explain to the witness what's happening?

16 THE INTERPRETER: Many thanks from the interpretation
17 team.

18 *(Closed session at 10.12 a.m.) Reclassified as Open session

19 THE COURT OFFICER: We are in closed session,
20 Mr President.

21 PRESIDING JUDGE FULFORD: Good.

22 Private session, please.

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

24 THE COURT OFFICER: We are in private session, your
25 Honour.

1 PRESIDING JUDGE FULFORD: Some of the curtains have
2 got stuck, Mr Walley, but you -- ah. Thank you, sir.

3 Yes, Mr Walley.

4 MR WALLEY: (Interpretation) Thank you, your Honour.

5 Q. Ma'am, now when you say that Mr (Redacted) went to some
6 camps, are they -- were you speaking about military camps?

7 A. Yes. At that time, he was a soldier.

8 Q. Could you also tell me what group he belonged to?

9 A. As far as I know, he was in the APC first, and then I
10 learned -- I just learned that he was with the UPC, but I don't
11 have any proof of that. But I didn't know for sure.

12 Q. Thank you. Ma'am, could you tell me exactly when you
13 left your husband?

14 A. I don't know. I don't remember exactly. About (Redacted)
15 years. It was about (Redacted) years since we --

16 Q. Do you mean that it was (Redacted) years ago, (Redacted)
17 years from this time, that you separated from him?

18 A. I made a mistake. I don't think it's been (Redacted)
19 years, but I think it's been (Redacted).

20 Q. Thank you. Ma'am, you said that you left Mr (Redacted)
21 because you were angry. Could you also tell us why you were
22 angry?

23 A. But --

24 THE INTERPRETER: Inaudible.

25 THE WITNESS: But when we came back from (Redacted), the

1 market wasn't working well. And each time he asked me to leave
2 the home, and I didn't. There was no other alternative, I had
3 to leave him.

4 MR WALLEYN: (Interpretation)

5 Q. Thank you. We will now move to your relationship with
6 (Redacted). Now, Witness, you said that at one particular time
7 (Redacted) ran away with three other youngsters. Were these
8 young fellows from the school, or were they your own children?

9 A. They were children from the village. They were just
10 the insolent children, the children who were badly behaved at
11 the -- in the village. The children who were used to --

12 Q. Do you know the names of these three children, ma'am?

13 A. Of all those children, the name that I remember now is
14 (Redacted)(phon). That's the one name that I remember.

15 Q. Was there a fellow called (Redacted), by any
16 chance?

17 A. Probably, yes. Since it was a long time ago, I tend
18 to forget, but probably there was a fellow called (Redacted).

19 Q. A certain (Redacted)?

20 A. I really don't know a lot about those children. It
21 was the chief of the collectivity who visited, and so that's how
22 I remember. He gave their names.

23 Q. Did those children also come back to the village after
24 a week, or did they remain in (Redacted)?

25 A. All those children came back, but in a variety of

1 ways, in various orders.

2 Q. Now, when (Redacted) came back to the house with his
3 weapon, was he alone or was he with other people?

4 A. At that time he came back alone.

5 Q. Did he have a uniform as well?

6 A. No. He had a worn-out jacket.

7 Q. A soldier's jacket?

8 A. No. Ordinary clothing, but already very worn.

9 Q. He was dirty. Was he injured or wounded?

10 A. He was not wounded. He was just dirty. It was
11 because the -- he was -- I could see that he was dirty. His
12 hair was dirty. I could see he hadn't washed.

13 Q. Now, afterwards was he injured or wounded?

14 A. That I don't really know.

15 MR WALLEYN: (Interpretation) Your Honour, I have a
16 number of documents here. I have copies for the Court and the
17 Defence, as well. These are documents that have already been
18 used, and they have EVD numbers. Your Honour, I can give the
19 EVD number for the purposes of the record.

20 PRESIDING JUDGE FULFORD: Well, yes. If you are going
21 to be putting each one to the witness, Mr Walley, why don't we
22 have the EVD numbers now.

23 MR WALLEYN: (Interpretation) Okay.

24 PRESIDING JUDGE FULFORD: Yes.

25 MR WALLEYN: (Interpretation) These are four

1 documents that can be shown at the same time to the witness,
2 because they have to do with a number of -- well, the thing --
3 the same thing. The first document has a number ending in 46,
4 DRC-OTP-014 -- 184-0046, bearing the EVD number 00378,
5 EVD-OTP-00378. The next one has a number ending in 47, and it
6 bears the number EVD-00379 -- 99. The third document ends in
7 0049, and it bears an EVD number, 381. And the last one, 51,
8 EVD-382.

9 THE INTERPRETER: Message from the English booth. I'm
10 afraid we don't have these documents in the interpretation
11 booth. If copies could be provided to the interpreters, we'd be
12 most appreciative.

13 MR WALLEYN: (Interpretation) Could these documents
14 be shown to the witness?

15 PRESIDING JUDGE FULFORD: Please. She has them in
16 front of her, Mr Walley, and may have looked at them. I am not
17 sure.

18 MR WALLEYN: (Interpretation)

19 Q. Witness, could I ask you to glance at the photographs
20 that you have before you? These are photographs of legs.

21 (Pause in proceedings)

22 PRESIDING JUDGE FULFORD: Thank you very much. Now, I
23 think the witness said something. Sir, if you could interpret
24 what was said.

25 THE WITNESS: Yes.

1 THE INTERPRETER: The witness says that she didn't
2 really understand this photograph.

3 PRESIDING JUDGE FULFORD: Thank you. That's very
4 clear. Right. Mr Walley, you'd better make the photographs
5 clear.

6 MR WALLEYN: Yes. (Interpretation)

7 Q. Now, if this -- if these photographs were pictures of
8 (Redacted) legs at the time when you were living with him, you
9 -- did you see such scars or injuries on his legs?

10 A. Really, I just don't understand. But what I do know
11 is that little (Redacted) was a rowdy child, and at one point he
12 was hit on the legs by some young kids who were horsing around
13 when they were young. But other than that, there's nothing else
14 I can say. Other than that -- well, I'm a bit confused.

15 Q. I see. One last question, I think. When (Redacted)
16 came back from (Redacted) with his weapon and there was that incident
17 and the quarrel with you, after that did he explain to you what
18 he had been doing for a week, how he had got that weapon, or did
19 you learn that -- learn of that through other people?

20 A. When I asked him the question, namely, where he got
21 the weapon from, he just told me that he had got it, and I
22 really couldn't -- I really didn't ask more questions than that
23 and --

24 Q. Did he say how he had gotten the weapon?

25 A. What I do know is that when he came back, I really

1 didn't even learn that he had been off to do training, but he
2 had gotten the weapon. And then after, all I know is that at
3 one point he got mixed up with some young people who were
4 begging, begging things from people. That's all I know. I
5 really don't have any more information to give you about that.

6 Q. But the weapon, he did bring it from (Redacted)?

7 A. Yes.

8 Q. And during the week when he was in (Redacted), was it in --
9 was he in the military camp in (Redacted)?

10 A. All I know is that he was in (Redacted), and twice he spent
11 the night at the (Redacted) market, and maybe he spent a night at the
12 camp. But when I saw him he wanted to go into the military
13 service, but he was not able to do so. He was not able to do
14 so. He couldn't do it, but he really wanted to become a
15 soldier.

16 Q. He wanted to be a soldier, but he couldn't do that?
17 Could you tell us why he couldn't do that? Was it because he
18 was too small, too weak?

19 A. As I see it, the child could have done that because he
20 was so rowdy. We didn't know how to control him at home.

21 Q. You didn't know how to control him, and he went off to
22 try to become a soldier. Have I understood you correctly?

23 THE INTERPRETER: The interpreter intervenes.

24 According to the explanation given by the witness, she did not
25 ask, but she knew that the child wanted to be a soldier, but

1 from the point of view of the witness, it wasn't worth it.

2 He --

3 MR WALLEYN: (Interpretation) To be clear, the
4 witness doesn't really know, because the child didn't tell her.
5 She's only supposing.

6 Q. Is that what I'm supposed to understand?

7 A. In any case, the child did not become a soldier.

8 Q. Was that what he said?

9 A. Well, I don't -- I know that he went to (Redacted) for just
10 one week, so how could he be trained in just one week? What I
11 do know is that he went to school, but he was not able to study
12 normally.

13 Q. Okay. In fact, you are saying that one week is too
14 short to have proper military training; is that what you said?

15 A. No, what I'm saying is that he did not become a
16 soldier. Now, can such a young child go into military service?
17 Can that be?

18 MR WALLEYN: Your Honour, I believe I have no further
19 questions.

20 Madam Witness, I have no further questions.

21 PRESIDING JUDGE FULFORD: Thank you very much,
22 Mr Walley. Anything further?

23 PRESIDING JUDGE FULFORD: Madam, you have come a very
24 long way, in very difficult circumstances, and we are extremely
25 grateful to you. That now completes your evidence, and you are

1 now free to return home with your young child, and you leave
2 here with the thanks of the Judges for your assistance.

3 THE WITNESS: Thank you very much.

4 PRESIDING JUDGE FULFORD: Closed session, please.

5 *(Closed session at 10.36 a.m.) Reclassified as Open session

6 THE COURT OFFICER: We are in closed session,
7 Mr President.

8 PRESIDING JUDGE FULFORD: Yes.

9 (The witness is excused)

10 (The interpreter exits the courtroom)

11 PRESIDING JUDGE FULFORD: Open session, please.

12 (Open session at 10.38 a.m.)

13 THE COURT OFFICER: We are in open session,
14 Mr President.

15 PRESIDING JUDGE FULFORD: Now, who's next?

16 MS MABILLE: (Interpretation) It is Witness 34, who
17 has just arrived, and since he just arrived today we cannot call
18 him today. So, I believe we can only begin Witness 34 tomorrow.

19 PRESIDING JUDGE FULFORD: Maître Mabilille, I don't want
20 to be cantankerous, but time is incredibly precious. How has it
21 come about that we have misjudged, or the arrangements have not
22 been put in place in time, so that there can be a smooth
23 transition from Witness 15 to Witness 34? Do you know how this
24 situation has arisen?

25 MS MABILLE: (Interpretation) I believe, and I would

1 imagine that the video conferences had been scheduled to last
2 slightly longer and that today's witness was also scheduled for
3 slightly longer, and I suppose it means that we mis-evaluated
4 the amount of time that was necessary. That's about all I can
5 say, your Honour.

6 PRESIDING JUDGE FULFORD: Thank you. Now, in future,
7 for the rest of this trial, there must be very conservative
8 estimates as to the length of time that witnesses will take so
9 that we err on the side of having too many witnesses waiting to
10 give evidence, rather than too few.

11 Given the problems that we are experiencing, having to
12 share two courtrooms between three trials, it is highly
13 undesirable that we should lose what is, in effect, over
14 two-thirds of the allocated time that we have been given today.

15 I want the Victims and Witnesses Unit, in consultation
16 with the Defence, to do everything they can, please, to ensure
17 that this situation does not happen again. We will, therefore,
18 sit at half-past-9 tomorrow morning to commence this witness's
19 evidence. Yes, Ms Mabilille?

20 MS MABILLE: (Interpretation) Your Honour, I would
21 like to make a comment on a subject of concern for the Defence,
22 which we could entitle "lost in translation." Would this be the
23 appropriate time? It's not going to take very long.

24 PRESIDING JUDGE FULFORD: Well, Maître Mabilille, I
25 readily understand that there may be translation problems which,

1 of course, you are entitled to raise with the Chamber. But our
2 view is that this should only happen after every possible
3 sensible negotiation has taken place with the Registry before
4 it's raised in open court because these matters really should be
5 resolved - if at all possible - out with the Chamber.

6 MS MABILLE: (Interpretation) We have done that.
7 Indeed, we have discussed with Marc Dubuisson, quite seriously,
8 on one aspect that we believe is important for the remainder of
9 the case. I would like to draw the attention of the Chamber to
10 a particular issue related to translation matters, this
11 particular problem.

12 We used the recess time to re-examine one of the
13 witnesses, the Witness 24, and we examined it in great detail.
14 We went through the entire testimony from start to finish and we
15 noticed a number of extremely important discrepancies. We
16 examined the entire testimony and we've transmitted it all
17 following a decision handed down by the Chamber to the
18 appropriate services in order to re-examine the work that we did
19 ourselves. And, in so doing, we realised that we were not able
20 to go over -- we would -- we could not do a similar task with
21 other witnesses, because it took some 50 hours to do so.

22 The reason I'm bringing this up today is because we
23 had a very long discussion with Marc Dubuisson in order to find
24 solutions, I believe we will be finding solutions. However,
25 what the real problem is today is that the Chamber knows that we

1 still have another two or three witnesses to hear and then we
2 intend to file a request. And, in order to do that, we need to
3 revise all of the Swahili speaking witness testimony. Marc
4 Dubuisson agrees that this needs to be done but we have a time
5 constraint.

6 We need this to be done very quickly, and it is on
7 this particular point that we wanted to draw your attention,
8 draw the attention of the Chamber. We ourselves have carried
9 out this exercise, but we are not professionals, but we do
10 realise that it's very long and taxing to do so.

11 And, since we've already heard 16 witnesses, we have
12 requested that one or the other of the witness testimonies be
13 re-examined in priority because we had identified certain
14 issues, certain problems, but even with a limited list the work
15 that needs to be done is extensive in revising these witness
16 testimonies. I wanted to draw the attention of the Chamber to
17 this matter. Thank you.

18 PRESIDING JUDGE FULFORD: Maître Mabilie, I would
19 anticipate that there are particular witnesses, and for those
20 witnesses particular sections of the testimony in relation to
21 which you have greater concerns than others. Have you
22 identified those passages which are really critical for the
23 submissions that you're going to be making, and in relation to
24 which you have particular worries, to the Registry so that they
25 can focus on those sections?

1 MS MABILLE: (Interpretation) No, your Honour,
2 because in what we did with Witness 24, which really leads to a
3 number of problems, a number of issues, if our own work is
4 correct, of course, but this needs to be checked. We are not
5 just talking about precise sections, it's long passages that
6 were not translated.

7 Would you want us -- well, if just listening to the
8 tapes, and to point out the most critical passages, this alone
9 would require a lot of work and a lot of time. Just listening
10 to Witness 24 took 50 hours. So, to go over all of the witness
11 testimony, and to point out the most critical passages, we could
12 attempt to do that but, you know, we have to do this work with
13 our client. We have to take the tapes to the prison and work
14 through them with the accused. And otherwise, we can't do
15 anything.

16 PRESIDING JUDGE FULFORD: Well, Maître Mabilie, as
17 with other instances where problems of this nature have arisen,
18 if you agree we will carry out some research behind the scenes
19 and revert to you tomorrow on the point.

20 MS MABILLE: (Interpretation) Thank you very much,
21 Mr President.

22 PRESIDING JUDGE FULFORD: Thank you. Half-past-9
23 tomorrow morning.

24 THE COURT USHER: All rise.

25 (The hearing ends at 10.48 a.m.)

1 Reclassification Report

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