

1 International Criminal Court
2 Trial Chamber I
3 Presiding Judge Adrian Fulford, Judge Elisabeth Odio Benito and
4 Judge René Blattman
5 Situation in the Democratic Republic of the Congo - ICC-01/04-01/06
6 In the case of The Prosecutor v. Thomas Lubanga Dyilo
7 Wednesday, 13 January 2010
8 (The hearing starts at 9.34 a.m.)
9 *(Closed session) Reclassified as Open session

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

12 PRESIDING JUDGE FULFORD: Good morning. Witness, please.
13 (The witness enters the courtroom)

14 *WITNESS: a/0270/07 (Resumed)
15 (The witness answers through interpreter)
16 (The accused enters the courtroom)

17 PRESIDING JUDGE FULFORD: Thank you very much, sir. Thank you, Mr Lubanga.
18 So, good morning. I hope you had a good rest. Can I repeat what I said at the
19 end of yesterday, that there's very often a choice in answering questions between a long
20 answer and a short answer? And if that is a realistic and proper choice to the questions
21 put to you by counsel, I would ask you, please, to tend towards the short answer, rather
22 than the long answer. Otherwise, I'm afraid that we may, in fact, lose a real understanding
23 of what you are able to say to us because the important parts will become buried in,
24 perhaps, less important parts of what you're able to say. So, please try and condense
25 it.

1 Now, Mr Biju-Duval, are we in private or public session? Or, rather, open or
2 closed session?

3 MR BIJU-DUVAL: (Interpretation) Your Honour, I think we can be in open session,
4 as long as there is no mention of the name of the establishment in question.

5 PRESIDING JUDGE FULFORD: Good. Well, if everybody can very much bear in mind
6 then that we should try to avoid mentioning the relevant educational institution. Good.

7 Public session, then, please.

8 (Open session at 9.37 a.m.)

9 THE COURT OFFICER: (Interpretation) Open session.

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

11 Questioned by Mr. Biju-Duval: (Interpretation)

12 Q. Good morning, sir. To begin, I would like to ask you for some additional
13 information about the day-to-day operations of the school that you said (Redacted)
14 (Redacted), in particular, the day-to-day

15 operations of the school during the time (Redacted). My first question
16 is as follows: Who were the staff of the establishment? I suppose there were teachers,
17 administrative workers. Could you briefly tell us who belonged to the staff of the
18 establishment (Redacted). Just let me add one additional detail at this stage. I'm
19 not asking you for the name or the identity of people.

20 A. Thank you very much for your question. The staff of the establishment in question
21 was made up of a *préfet*, a head teacher, a number of teachers. We had nine, nine or ten.
22 Nine or ten. Ten teachers, (Redacted) That

23 was the structure that was authorised for operations and for the pupils. Since it was
24 an institute with six classes, the institute did not need a *proviseur*, sort of an additional
25 or back-up or supply teacher. So that was the staff. The head teacher was a part-time

1 teacher as well; he gave classes as a teacher. So that is my answer to your question.

2 Q. In addition to the teaching staff, were there administrative employees?

3 A. Thank you for the question. In that particular case we did not have administrative
4 employees because, as I just said, the structure that was authorised of ten classes did
5 not allow us to have administrative employees such as a supervisor or -- or a secretary
6 or a deputy head. The person responsible for the institution had to deal with pretty
7 much everything relating to the smooth operations of the school and was designated -- also
8 designated as a teacher who could deal with school discipline, for example. That's how
9 our institute had been organised.

10 Q. Thank you. Within the establishment, who took care of the financial issues,
11 the supplies of the school? Who was in charge of the day-to-day management or the finances
12 of the school when expenditures had to be incurred or when contributions had to be asked
13 for?

14 A. Thank you for your question. With regard to that organisation, as I just said,
15 it was a purely local organisation, purely local in nature, insofar as the (Redacted)
16 had to make arrangements for good operations, and so that is why in that particular case,
17 at that particular establishment, (Redacted), a teacher
18 for -- he was in charge of the collecting of fees. We weren't mechanised at the time.
19 There were some files that were already being handled, and since the school was being
20 mechanised, or automated, it really was based on the contributions of the parents. On
21 a monthly basis the parents would make -- would pay fees and we called it *la collection*,
22 the collection. They would make their contributions and (Redacted) was responsible
23 for collecting the fees from the pupils. So he had to do the accounts with me, the accounting,
24 so that we could make the necessary allocations. Some teachers had not been registered
25 so, you see, this other teacher was in charge of collecting the fees from the pupils.

1 As for ad hoc contributions, because sometimes there were sort of ad hoc fees for the
2 operations of the school, the school you see in the documents I showed you yesterday,
3 the coordination -- the coordinating body had asked for cooperation with the parents
4 for building the school, fitting out the classrooms and getting operations underway until
5 the automisation occurred. And so that is why I turned to my colleague for that part
6 of the operations.

7 PRESIDING JUDGE FULFORD: Now, Mr Biju-Duval, the net effect of the description
8 that has been given of the complement of teachers at the school, together with references
9 I think to some names in the last answer, those factors will have a very strong tendency
10 to lead anyone who is interested to identify the establishment that we're dealing with.
11 I think, therefore, we need, please, to redact really all of the evidence that the witness
12 has given so far this morning and for the time being. We are going to go into private
13 session.

14 *(Private session at 9.47 a.m.) Reclassified as Open session

15 THE COURT OFFICER: (Interpretation) Private session.

16 PRESIDING JUDGE FULFORD: It's not your fault, Mr Biju-Duval, but we have an
17 obligation towards this individual, and I am concerned that the descriptions overall
18 that have been given could lead to the identification of the establishment and this particular
19 witness.

20 MR BIJU-DUVAL: (Interpretation) I certainly understand. Unfortunately, the
21 witness did mention a name. I will ask the following question, and the Chamber will assess
22 whether it is possible to continue in open session.

23 Q. Mr Witness, I've understood -- we've understood the mechanisms in place. You
24 speak of collecting fees, the "*collection*", that is to say, the contributions from the
25 parents. Now, on that particular point, I'd like to know, in practical terms, how did

1 that -- how was that done? What I mean is, did the parents come to the school to provide
2 their contribution? In practical terms, how was that done? It seems to me that the answer
3 could be given in public because no name would have to be mentioned. And, also, we want
4 to have a very practical vision of how -- of how the contributions from the parents were
5 collected.

6 A. Thank you for the question. Thank you for all those remarks. I think that I
7 do have an observation to make in a few moments. Sometimes I give names, and I think
8 that, sir, you'll remember about -- you'll remember what your resource person found in
9 the field; he was operational. And I think there was a discussion of my presence here.
10 With the authorisation of the President, I think I can give the name of your resource
11 person in the field on 5 November, and he spoke of my presence here. And so, for that
12 reason -- well, I think I will make that known after the hearing.

13 You asked the question -- well, thank you for your question. You asked about
14 the collecting of contributions. Did the parents come to the school to pay the contribution?
15 In that particular case, I think that the pupils were sent by the parents. I don't know
16 whether -- well, perhaps in other parts of the world parents pay themselves, yes, that
17 can be done for small children. In the particular case, at secondary school, the parents
18 give the money to their children, to their respective children, and the children bring
19 the money to the school.

20 One parent who wants to see how his child is coming along, how he's progressing,
21 how his marks are, how he's behaving. Sometimes that's why a parent may come to the school
22 himself and pay the fees and get all the information. So, in that particular case, it
23 was -- well, I don't think, I believe that it was the pupils who brought the money, and
24 the money was collected by one of our teachers who did the accounts, in consultation
25 with me, in my office.

1 Q. Thank you. We've taken note of your observations about the resource person
2 and we will get back to that later but, for the time being, I'd like to continue my questioning
3 with the subject at hand. When the contributions are brought to the school by the children,
4 their contributions are received, as you stressed. Are these contributions recorded,
5 recorded in a log or in an accounts book of the establishment?

6 A. Thank you for the question. We had a book. We had books in which the payment -- the
7 payments were recorded. We called it the *cahier de perception*, the book; basically an
8 accounts book in which the fees were recorded. I wouldn't really call it a log; it was
9 an accounts book.

10 Q. When expenditures were necessary to buy school supplies of whatever nature,
11 chalk or other things, were these expenditures also recorded in some kind of account
12 book or log?

13 A. Thank you for the question. Indeed, we did have the various rules having to
14 do with accounting, and obviously if there is money coming in there has to be money going
15 out and we have to take -- keep account of that. As I just said, we had two categories.
16 I mentioned the ad hoc fees. Now, what were they? Well --

17 Q. My question has to do with expenditures.

18 A. Okay. I want to clarify the situation because, otherwise, there may be confusion
19 about the ordinary expenditures and other expenditures for investments in the school,
20 so I think I need to be more specific; otherwise, there might be some confusion. So I
21 mentioned to you first of all that there were these ad hoc contributions. What were they
22 all about? Well, these ad hoc contributions, or one-time contributions, were for
23 investments.

24 We had construction plans, plans to build. In the letter of (Redacted)
25 we were told that we had to build the school in cooperation with the parents, so we built

1 the initial building and it was somewhat makeshift. So we were planning more permanent
2 buildings, and so we asked for these ad hoc contributions. Then we had the *collection*.
3 These were the fees just for the basics; that is to say, paying the teachers, the teachers
4 who were not being paid by the government. So these fees were just for -- after that it
5 was just for small expenditures, like buying chalk. The main expenditures were paying
6 the teachers, and then there would be a little bit of money for minor expenses. We would
7 do calculations to see how, in the months to come, how many boxes of chalk we would be
8 using up, and we would set aside that kind of money for basic supplies. We would set
9 that aside and then the rest would be shared by the teachers.

10 Q. Thank you. (Redacted)

11 (Redacted)? Did you have to decide things having to do with this accounting
12 or review the accounts and then explain expenditures and the like?

13 A. Thank you for your question. I think that all organised establishments have
14 a hierarchy; and if there is a hierarchy, of course you have to be accountable. You explain
15 things. We had received the authorisation of the coordinating body, and so we were
16 accountable. We had to explain the operations, the finances, at all levels. We had to
17 explain things to the coordinating body; and as I was saying about the coordinating body,
18 nearly all the documents -- nearly all the documents regarding my former school.

19 Q. Thank you. Thank you for that additional information. I beg your pardon. Thank
20 you very much for that additional information, which gives me a more specific and practical
21 view of how the establishment operated on a day-to-day basis. I would now like to move
22 on to another point and, with you, look at these events that you spoke of in January 2003.

23 MR BIJU-DUVAL: Your Honour, I think that we can go back into open session.

24 PRESIDING JUDGE FULFORD: Public session, please. Thank you, Mr Biju-Duval.

25 (Open session at 9.59 a.m.)

1 THE COURT OFFICER: Open session.

2 MR BIJU-DUVAL: (Interpretation)

3 Q. Witness, yesterday you described a situation to us in which, at the start of
4 January 2003 -- and you mentioned 5 January 2003 -- there was a situation in which there
5 were clashes between the FNI and the UPC armed groups, when you said that they took place
6 around the school; and during these clashes, the soldiers of the UPC took over the school
7 and transferred it into a rear base. Is that right?

8 A. Yes.

9 Q. I don't know if your response was written down. Did you agree or not?

10 A. Yes. I think that you are making a question. You were quite brief. Is that
11 a question that you asked me? And I don't know what I'm supposed to answer it.

12 Q. I just wanted to clarify the basis. Are we in agreement with the description
13 that I made with regards to the summary of what you said yesterday? Do you agree with
14 that?

15 A. Yes. Okay.

16 Q. Do you remember having made a statement which was taken by your counsel or by
17 a resource person from the team?

18 A. Which team?

19 Q. Mr Keta and his resource person.

20 A. If you could -- this statement concerns which date? If you could clarify that
21 so that I may recall this incident.

22 Q. I'm going to ask you to look at the small file that I've given to you in the
23 first folder, the first part, the first tab, page 3. You described this situation in
24 which the school became the -- was made into a rear base by the soldiers. And you add
25 to that, and I quote, "Having noted a precarious (indiscernible), I and the parents launched

1 a communiqué to take the road for the school to have the exams of the first semester
2 in the month of February 2003 for the requirements of the dossier." This is the 2132,
3 annex B. It's that document.

4 I would just like to ask a simple question, and I'd like a clarification in
5 this regard, do we understand from that that the school restarted functioning or the
6 exams started at the beginning of February 2003? Is that what the situation was?

7 A. Thank you for the question. I think that it -- I think -- I don't have my glasses,
8 so it's difficult for me to read it, but in my -- I do have the text in my head. I did
9 write -- I did make this statement that on the date of the 5th there were clashes, clashes
10 which lasted for two days. Two days. You know that the start of these clashes happened
11 as I explained yesterday, and it was there that the two armed groups started to confront
12 each other during their patrols in the morning. There was a morning patrol.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted) but the clashes did start.

21 And I said yesterday -- please, perhaps I was a bit long in my explanation,
22 because it does take -- well, it does go into certain details so that you can best understand
23 the situation on those particular days.

24 The clashes started around the school.

25 PRESIDING JUDGE FULFORD: Forgive me for doing so. Mr Biju-Duval's question

1 was, in a sense, directed at a very straightforward issue; namely, whether the school
2 restarted functioning. And particularly, Mr Biju-Duval is asking whether exams started
3 at the beginning of February 2003. Now, I think you can deal with that issue, if I may
4 say so with respect, relatively straightforwardly. The issue is: Did the school restart
5 and were there exams at the beginning of February?

6 THE WITNESS: Thank you, your Honour, for this clarification. And I would like
7 to apologise. Certainly, after this, there was this calm period. We reopened the school
8 to be able to start the exams in the month of February. So the clashes were at the start
9 of January. And during all this time there was a calm period which made it possible later
10 to review the situation before starting the exams in February.

11 PRESIDING JUDGE FULFORD: Absolutely on point. Thank you very much, sir. Yes,
12 Mr Biju-Duval.

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

14 Q. Yesterday, when you replied to a question from the Prosecutor, he was asking
15 you to give a clarification with regards to the number of soldiers who were present in
16 the school during this period. You indicated that it was difficult for you to reply to
17 that; it wasn't possible, because you said it's difficult to go into a military camp
18 which is armed up to the teeth. Armed to the teeth.

19 And you also added in response to the question of the Prosecutor that during
20 this period, the school, village, everything was deserted and only people in uniform
21 made the law. Now, just to clarify your response, please could you indicate to us at
22 which time you yourself, or the pupils, the teachers came back to the school? Was it
23 at the start of February 2003 when the exams took place again? I would just like to have
24 a clarification.

25 A. Thank you for the question. Certainly, we, indeed, did start again. It wasn't

1 at the start of February. We started -- it was the 21st. The 20th we started. Because
2 during this time -- because of this insecurity, we had to interrupt our activities to
3 have this calm. So it was towards the 20th, if I'm not wrong, that we had to start again
4 and then have normal development and then have our exams in February.

5 Q. Thank you very much. When you said "towards the 20th," I understood towards
6 20 February 2003. Is that what you mean? Please, could you put your -- please, could
7 you speak into the microphone?

8 A. I said towards the 20th. I don't have the exact date, because it's -- we're
9 speaking about a phenomenon which took place about seven years ago, but we did start
10 again.

11 Q. I understood that it was towards the 20th, but are we talking about January 2003?

12 A. Yes, January 2003.

13 Q. Before the return on 20 January 2003 -- or towards 20 January 2003, where had
14 the teachers gone, or at least to the best of your knowledge?

15 A. During this period, you know, when there's a war, everyone finds a place where
16 they can take refuge for a certain amount of time. Myself, for example, I went to the
17 south. There were clashes; they were in a particular direction, so we had to go away
18 from it.

19 Q. Thank you. I'm now going to submit a document.

20 For the needs of the case file, and the Chamber and for the record, I would
21 like to mention that an extract from this document was disclosed to all the parties and
22 participants and the Chamber, and we considered that it would be - with a view to fairness - we
23 should submit it to the witness and all the parties and participants and the Chamber
24 in its entire form.

25 And here we are talking about a document entitled "Situation -- ", "Financial

1 Situation 2002 to 2003." (French term), ground register. This is the title of the document.
2 If possible -- would it be possible to provide the witness with a paper copy of it, of
3 this work as a whole?

4 PRESIDING JUDGE FULFORD: Yes. Let it go to the witness, please. I presume
5 Mr Keta has received a copy of this. Excellent.

6 Mr Biju-Duval, I understand that it's not in Ringtail at the moment. It will
7 need to be uploaded in due course, and we will need to give it a number. What we must
8 be sure of doing is referring -- we must ensure that we refer to it now in such a way
9 that it is, in due course, absolutely clear which document and which pages have been
10 looked at during the course of this witness' evidence.

11 MR BIJU-DUVAL: (Interpretation) In the extract which I'm going to use now,
12 it's a three-page document. It is already in the IT system under DRC-01003-2421. With
13 a view to simplifying its use, it is undoubtedly necessary or useful that the witness
14 has the extract itself. This will help the use of it. So, please, could the witness
15 be provided with this three-page extract such that he may be able to peruse the document
16 more easily?

17 PRESIDING JUDGE FULFORD: Certainly. And again, are there copies of those pages
18 for us or not?

19 MR BIJU-DUVAL: (Interpretation) Yes, your Honour.

20 PRESIDING JUDGE FULFORD: Thank you, Mr Biju-Duval.

21 MR BIJU-DUVAL: (Interpretation) This shouldn't be shown publicly on the screen,
22 this document, because it does mention the name of the establishment concerned.

23 PRESIDING JUDGE FULFORD: However, it can be shown on the screen on -- via the
24 relevant channel, but within the Chamber and not generally. Yes. Where do we go from
25 here?

1 MR BIJU-DUVAL: (Interpretation)

2 Q. Witness, do you have before you this document? I see that you are going through
3 it. Please take time to examine it. I would then like to know if you recognise this
4 document as being one of the accounts ledgers of the establishment for which you were
5 responsible.

6 PRESIDING JUDGE FULFORD: Sir, I think in the first instance you are only being
7 asked to identify whether this appears to be the accounts ledger of the establishment
8 for which you are responsible. So you needn't digest the whole document but, really,
9 tell us whether it appears to be that document or not.

10 THE WITNESS: If I just see the copy of the original with (Redacted)

11 THE INTERPRETER: And a name the interpreter didn't get.

12 THE WITNESS: -- this document, there's no trace of my approval. If it was the
13 document that came from this school, it should have -- it should have my signature, because
14 the document addressing the accounts which I said you had, the accounts ledger, every
15 time I had to approve it, to go and take it to the coordinators and they had to approve
16 it. So if you don't have any other examples of this document, perhaps one -- perhaps
17 a document has been taken which I didn't approve, because all the situation, financial
18 situation, was approved such that it could be transmitted to the coordinating body. So --

19 MR BIJU-DUVAL: (Interpretation)

20 Q. I've understood that this document wasn't approved by you, wasn't signed by
21 you. It would seem to me that it is a ledger before the establishment of a report. Perhaps
22 you could look at the three-page extract, and I'd just like to give you an example to
23 see if that might refresh your memory. Please, could you look at the three-page extract
24 that you have been provided with. If you could now go to the front page and then the
25 following page, there is a title "Financial Situation of the School, Expenditure Undertaken

1 2002, December 2002", and you will see in the middle of the page there is mention of
2 building materials, payments, bills, cement, purchase, straw. You'll see that the school
3 was being built. Perhaps these points that were mentioned, perhaps that will refresh
4 your memory and make it possible for you to confirm whether this really is the ledger
5 for your school.

6 A. Thank you for the question. There are several schools in the area. We have
7 several schools, several schools which function in the same way, and in these schools
8 you will note with me that these are first -- they are built with straw. Now, what I
9 firstly wanted to obtain with you, to have greater credibility, yes, I can see there's
10 expenditure that has been made which are similar to the expense that we carried
11 out -- expenditure that we made at the time. With regards to the contributions of the
12 parents and with the work that's carried out, with regards to agricultural products,
13 et cetera, but perhaps it might be similar, but I would say that all the documents, all
14 the accounting documents which I had, unfortunately, I don't know. Yesterday I spoke
15 about my flash drive, which should have had certain documents, but I don't know -- it's

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. Thank you. You indicated to us that these accounting operations were entrusted
24 to a teacher.

25 A. Yes.

1 Q. This teacher would have this type of ledger? Is it this type of a ledger that
2 would be used?

3 A. I spoke about what we called the *cahier de perception*, the accounts ledger.

4 Q. Please, could you go to the last page of the extract. There's a title, "Accounts
5 Situation of the School Expenditure Undertaken, January 2003", 003. There are four lines,
6 two, three, four. In the first line we can see 6 January 2003, four boxes of chalk, 2,500,
7 10,000 shillings. And then 8 January 2003, two -- or, sorry -- four planks, 2,500. And
8 then 15 January 2003, we have two - two letters that I can't identify - nails, 5,000
9 SH. Line four, it would seem to state 15 January 2003, book. I think "hist", which I
10 think is for "history," fourth, 4,300 SH. Do these accounting points that -- accounting
11 items, do they remind you of anything?

12 A. No, it does not remind me.

13 Q. Thank you. I shall now submit to you a further document. We are going to give
14 you this in paper form. This is a document under the number DRC-D01-D0003-2420. If it
15 were possible to give a paper copy of the document to the witness and also to the Bench,
16 please.

17 PRESIDING JUDGE FULFORD: Thank you, Mr Biju-Duval.

18 MR BIJU-DUVAL: (Interpretation)

19 Q. You have this document before you. It bears the title "OC1, Financial Situation,
20 Accounts Ledger, January 2003." I believe you have this document before you. You will
21 see that that there are four lines. Line one dated 8 January 2003, written "schooling
22 fees," 33,000 SH. Second line, 13 January 2003, schooling fees, 31,000 shillings. 21
23 January 2003, amount received. And fourth line --

24 THE INTERPRETER: The interpretation booth does not have the document before
25 it. It is difficult to interpret figures at speed.

1 MR BIJU-DUVAL: (Interpretation)

2 Q. Now, this document, does it correspond to an extract of the accounting ledger
3 of your establishment?

4 A. As I said, it would be rather difficult for me to confirm or deny this version,
5 to the extent that I can see, quite simply, what the financial situation is without,
6 nevertheless -- well, one can confirm that these are the documents that were drawn up
7 at the time. I concede that this is a certified copy to the original; however, without
8 our approval.

9 Q. As regards the rest of the document, which bears the indication that on 4 February
10 2003, under 22,000 shillings for schooling fees, does this not remind you of anything
11 with regard to the financial situation of the establishment at the time?

12 A. These things occurred a long time ago now, and I -- this does not recall anything.

13 Q. In leafing through this document, were you able to note that each of the pages
14 bears the stamp of your establishment with the signature of the current (Redacted)
15 and the date of 5 November 2009?

16 A. Yes.

17 Q. And also stating that it is a certified copy?

18 A. Yes, I have seen that.

19 Q. Would it be true to say that over the last few months you personally entered
20 into contact with the head teacher of the establishment in question?

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 Q. So that things are crystal clear, it is your testimony today that you did not
2 in any way enter into contact with the current (Redacted), or person in charge of the
3 establishment in question; is that right?

4 A. That is my statement.

5 Q. Thank you. After the events of January 2003, the events that you alleged occurred,
6 did you inform in any way the civilian and military authorities that the establishment
7 was under? Did you inform them to the effect that your school had been attacked, looted,
8 as you said yesterday, by soldiers? What initiative did you take, if any?

9 A. Thank you for the question. The action I undertook was on -- was to inform
10 the authorities, and amongst those authorities I can say that I informed the *chef de*
11 *collectivité* so that he come and assist us. That is the administrative person in charge.

12 Q. Are you talking --

13 A. The *chef de collectivité*, who was informed of the situation, and he assisted
14 us with some planks.

15 Q. Did he help you because some of the construction material had been taken away
16 by the soldiers?

17 A. I wrote to him so that he would assist us, and he did.

18 Q. Did you also inform any other authorities?

19 A. The school coordinating body was indeed informed.

20 Q. Were there other authorities informed, or are we merely talking of the *chef*
21 *de collectivité* and the coordinating body of the school?

22 A. Those are the two authorities that I recall. There might have been others,
23 but one can forget.

24 Q. When you say the coordinating body, are you talking of the diocese coordinating
25 body that the school is under?

1 A. Yes.

2 Q. How did you go about informing them? Did you inform them orally? Did you inform
3 them in writing?

4 A. There is an administrative procedure that one must follow which requires this
5 to be done in writing, so I did so in writing.

6 Q. Did you keep a copy of these reports?

7 A. I do not have one in my possession here.

8 Q. Do you have one in any other location?

9 A. Maybe I might come up with one, but I do not have one here in my possession.

10 Q. Were I to put it to you that no such report is to be found in the archives of
11 the school (Redacted) how can you explain such a situation, and what
12 do you think about this?

13 A. Well, it depends on your statement. You might say that it does not exist in
14 view of the reports that you received but they might be biased.

15 Q. Thank you.

16 MR BIJU-DUVAL: (Interpretation) Mr President, I have finished covering the
17 two documents. I believe that we might mark them with an NFI code for the time being.

18 PRESIDING JUDGE FULFORD: Now, when you say we've finished with the two documents,
19 is that the extract 2420?

20 MR BIJU-DUVAL: (Interpretation) This is the extract DRC-D01-0003-2420 and the
21 other document is the extract DRC-D01-0003-2421, and I would add a third document to
22 this which is the full version of this document, which does not bear a number as yet.

23 PRESIDING JUDGE FULFORD: Any views? MFI number.

24 MR SACHDEVA: No objection.

25 PRESIDING JUDGE FULFORD: In the absence of any objections, let each of those

1 be given an MFI number and I repeat, the full copy, as it were, provided today is going
2 to have to be uploaded on to Ringtail. Can MFI numbers please be given.

3 THE COURT OFFICER: (Interpretation) Thank you, Mr President. The first
4 document, the extract DRC-D01-0003-2421 will bear the MFI number D01-00114. The second
5 document which is already in Ringtail, which is DRC-D01-0003-2420, will bear the MFI
6 number D01-000115 or, apologies, 00115, and the last document will bear the MF number
7 D01-00116.

8 PRESIDING JUDGE FULFORD: Yes, Mr Keta.

9 MR KETA: (Interpretation) Thank you for allowing me to address the Court,
10 Mr President. At an earlier stage I did not raise any objections, but I wanted to emphasise
11 the fact that the witness did not recognise these documents and, as we have just given
12 an MFI document -- number to these documents, he mentioned another document that was
13 claimed in his flash disk and I would like the Chamber to allow him to refer to this
14 document at the precise or timely manner when I come to refer to it.

15 PRESIDING JUDGE FULFORD: Mr Keta, the reason why I asked whether there were
16 any objections to MFI numbers being given to the documents was precisely because the
17 witness had indicated that he did not have personal knowledge of them and, in the absence
18 of any objections when I put the question, MFI numbers were then given. Now, we will
19 of course bear in mind in due course the witness's precise answers in relation to these
20 documents and his apparent lack of personal knowledge of them, but we really need to
21 emphasise that if there are to be objections, they should be made at the appropriate
22 stage.

23 Now, as regards other documents, you are the witness's counsel, and it was your
24 responsibility to ensure that all of the relevant material was available to be put before
25 the Chamber at an appropriate stage during the witness's evidence. Now, if, as a result

1 of Mr Biju-Duval's questioning there are other documents that the Chamber ought to see,
2 once the witness's testimony is finished, you can of course speak with the witness. You
3 can discover what the document or documents are that he's been referring to, and it is
4 of course open to you to make an application for additional evidence to be given, either
5 in documentary or by way - in documentary form - or by way of testimony. But, at the
6 moment, we have no idea what is on the witness's flash drive. It is wholly and completely
7 speculative, and we are not in a position to make any ruling now on whether or not additional
8 material should be put before the Chamber.

9 Mr Biju-Duval.

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

11 Q. I would now like to broach the subject of the events which you dated at 5 February
12 2003. So, with regard to this event that you described, notably, that seven soldiers
13 allegedly arrived in the establishment and allegedly abducted some pupils, and you say
14 that you were seriously wounded, can you tell us, to the best of your knowledge, who
15 was present in the establishment at that moment in time? At this juncture I am not requesting
16 the identity of the individuals. Do not give any names. I have understood that there
17 were some pupils present, but I would like to know how many members of the teaching staff
18 were in attendance.

19 A. Thank you for the question. With regard to this event of the 5th, the teaching
20 staff in presence were those who had been called to monitor the examinations on that
21 day. In view of the fact that there were four classes, there were probably four or five
22 teachers in attendance. I do not have the precise figure at hand; the number of teachers,
23 that is.

24 Q. Where were the pupils? What were they up to? Where are they at the time when
25 the soldiers arrived?

1 A. Yesterday I said that the pupils were in the midst of their examinations. There
2 were other pupils who had completed their exams.

3 Q. I believe that those who were passing their examinations at the time were in
4 a classroom. What about those who had finished with their exams?

5 A. Those who had finished their exams were going home or had gone home.

6 Q. How did the soldiers in question arrive? Did they arrive on foot or in a vehicle?

7 A. On foot.

8 PRESIDING JUDGE FULFORD: Mr Biju-Duval, I think we'll take the mid-morning
9 break now.

10 Thank you very much, sir. You've been giving evidence now for nearly an
11 hour-and-a-half. I think that's long enough for one session. We're going to take a break
12 of a little longer than half-an-hour. Thank you much. Mr Lubanga, we'll sit again at
13 half past 11.

14 Can we go into closed session, please.

15 (The accused exits the courtroom)

16 *(Closed session at 10.52 a.m.) Reclassified as Open session

17 THE COURT OFFICER: (Interpretation) Closed session.

18 PRESIDING JUDGE FULFORD: Yes, if the usher could accompany the witness, please.

19 (The witness stands down)

20 PRESIDING JUDGE FULFORD: Half past 11.

21 THE COURT OFFICER: (Interpretation) All rise.

22 (Recess taken at 10.52 a.m.)

23 (Upon resuming at 11.33 a.m.)

24 *(Closed session) Reclassified as Open session

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

1 PRESIDING JUDGE FULFORD: Witness, please.

2 (The witness enters the courtroom)

3 PRESIDING JUDGE FULFORD: Public session, please.

4 (The accused enters the courtroom)

5 (Open session at 11.35 a.m.)

6 THE COURT OFFICER: (Interpretation) Open session.

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

8 MR BIJU-DUVAL: Thank you, your Honour.

9 Q. Mr Witness, just an additional piece of information about the establishment
10 (Redacted). Did this establishment include primary and secondary schools or just
11 the secondary school?

12 A. The establishment where I was, (Redacted)
13 (Redacted)

14 Q. (Redacted)
15 (Redacted)

16 A. (Redacted)
17 (Redacted), so it would be difficult
18 to say if (Redacted)
19 (Redacted)

20 Q. (Redacted)
21 (Redacted)

22 A. (Redacted) I didn't measure. I couldn't tell you with complete accuracy.

23 Q. You said that because of the distance it would be hard for you to tell, or to
24 confirm to us, whether that school had been overrun by the soldiers?

25 A. Yes, exactly.

1 MR BIJU-DUVAL: (Interpretation) Your Honour, I would like to show the witness
2 some documents, photographs, that we have just obtained this morning, and that is why
3 they were provided to the parties and participants just before resumption of this hearing.

4 PRESIDING JUDGE FULFORD: You needn't provide any further explanation, Mr
5 Biju-Duval. They can certainly be shown to the witness. Before this happens, there needs
6 to be consideration as to whether or not the description just given of the schools has
7 a more than de minimus potential for revealing the establishment that we're dealing with.

8 Mr Keta, we are in your hands on this. If you believe that that's a possibility,
9 would you please send an appropriate communication to the court officer. I do not know
10 one way or the other whether or not this is material that could be adverse to the witness
11 if it becomes public. So we need your guidance, please, on this.

12 Yes, let the additional material please be passed around.

13 Yes, Mr Biju-Duval.

14 MR BIJU-DUVAL: (Interpretation) Yes. Your Honour, I refer to the issues raised
15 by my colleague regarding the description of the buildings that -- whether that can be
16 revealed in open session, and I am prepared to provide a description. Does my learned
17 friend agree that that would be possible in open session?

18 MR KETA: (Interpretation) No. No. No. The school should not be described
19 in open session.

20 PRESIDING JUDGE FULFORD: Private session please.

21 *(Private session at 11.42 a.m.) Reclassified as Open session

22 THE COURT OFFICER: (Interpretation) Private session.

23 MR BIJU-DUVAL: (Interpretation)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted) Do you see that photograph?

10 A. Yes, I see.

11 Q. I'm talking about all these buildings; (Redacted)

12 A. (Redacted)

13 Q. Thank you.

14 PRESIDING JUDGE FULFORD: Mr Biju-Duval, we need to identify which photograph
15 that is because if this issue arises again, we need to know which buildings the witness
16 has said are not the establishment. Now, I'm going to ask the usher, please, to take
17 the photograph that is in the witness's hand so that that can be given a number and in
18 due course uploaded onto the system. So, usher, could you please for a moment retrieve
19 the photograph.

20 Can I see them for a moment, please. Thank you. Now, the witness has in fact
21 been looking at two photographs, and when he gave the answer that the photographs do
22 not show the establishment, he was looking at both of them. And I see him nodding to
23 indicate that's the case. Right. Those two photographs which I now hand back need, please,
24 to be given a number and in due course they need to be uploaded onto the system.

25 Right. Are we moving on from that subject, Mr Biju-Duval, or are there further

1 questions?

2 MR BIJU-DUVAL: (Interpretation) Just one question to obtain clarification so
3 that there is no ambiguity.

4 Q. Am I to understand that you were never the (Redacted) of -- of an establishment,
5 the buildings of which are found on this photograph? Am I to understand that?

6 A. If you could -- if you could let me show the photograph, on the photograph,
7 I think you're talking about this photograph (Redacted). This
8 establishment, personally, (Redacted) of that one. Personally, I
9 recognise -- I acknowledge that I was the (Redacted) of an establishment with some
10 buildings that were (Redacted)

11 Up until that time, perhaps with (Redacted), they had moved ahead to (Redacted)
12 (Redacted)

13 PRESIDING JUDGE FULFORD: Right. It needs to be indicated that the witness again
14 had the two photographs with him when he gave that last answer. When he said as the first
15 part of the answer that he was not the (Redacted) of an establishment that contained
16 some particular buildings, that is the photographs that has (Redacted)
17 (Redacted). The other establishment that he referred to as having (Redacted)
18 when giving that part of the answer, the witness was holding up the second photograph
19 which has (Redacted). So that is the way in which
20 the witness dealt with that, with those -- with the last question from Mr Biju-Duval.

21 MR BIJU-DUVAL: (Interpretation) Thank you. I'm sorry, just a moment, please.

22 Q. Now, I understand that (Redacted) the establishment (Redacted)
23 (Redacted) Do you recognise this
24 establishment? Do you know what that is all about?

25 A. Thank you for the question. I know the establishment where (Redacted)

1 (Redacted) but I don't know what you may be talking about.

2 Q. Do you know the name of that establishment?

3 A. Yes. It has (Redacted). It shows (Redacted)

4 Q. (Redacted)

5 A. (Redacted)

6 (Redacted)

7 Q. Thank you. On the photograph where we see the (Redacted)

8 (Redacted)

9 (Redacted) or do they belong to another institute?

10 A. No. Those are (Redacted)

11 (Redacted)

12 (Redacted) students, so there are parallel classes,

13 (Redacted)

14 Q. Thank you. Since we are in closed session, could you tell us, if you remember,
15 the name (Redacted) in January, January and February 2003?

16 A. The name of that (Redacted) I -- I knew him as (Redacted)

17 (Redacted)

18 Q. Thank you. Now, just to make sure there's no mistake in the transcript, could
19 you spell out that name, if possible?

20 A. (Redacted)

21 Q. Thank you. Thank you. Is it (Redacted)

22 A. Yes, (Redacted).

23 Q. I'll spell it out and you can tell me if this is right. Is it written with
24 a (Redacted)

25 A. I beg your pardon? (Redacted)

1 Q. Thank you very much.

2 PRESIDING JUDGE FULFORD: Yes, Mr Keta.

3 MR KETA: (Interpretation) Now, just to be helpful, I think there's some
4 confusion between the (Redacted) (Redacted) I think.

5 PRESIDING JUDGE FULFORD: Thank you, Mr Keta.

6 MR BIJU-DUVAL: (Interpretation) Just a moment, with the indulgence of the
7 Court.

8 Q. I'd now like to show you two other photographs on which we see a person.

9 PRESIDING JUDGE FULFORD: Mr Biju-Duval, before we do that, can we retrieve
10 the last two photographs, please. I want them marked and given numbers; otherwise, chaos
11 will follow. And, sir, if at any stage you want a break, you only have to say.

12 THE COURT OFFICER: (Interpretation) The first photograph (Redacted)
13 (Redacted)
14 (Redacted)

15 PRESIDING JUDGE FULFORD: Thank you. Yes, Mr Biju-Duval.

16 MR BIJU-DUVAL: (Interpretation)

17 Q. I would like to show you a photograph with a person, and I will ask you if you
18 recognise that person.

19 PRESIDING JUDGE FULFORD: Can I see the two photographs a moment, please? Thank
20 you. Yes. Please show them to the witness.

21 Do you recognise him, sir?

22 THE WITNESS: Thank you for the question, your Honour. This person, I'm having
23 a hard time remembering him. As I can see, there's a classroom similar to our classrooms.
24 It could be one of the staff of that institute, somewhere here, but -- but with a new
25 building here. It must be someone who came after my time, once I had already left the

1 institute, if it's a member of the staff. If it's another person, I couldn't say.

2 MR BIJU-DUVAL: (Interpretation)

3 Q. Thank you. Am I to understand that at least you recognise your establishment
4 on this photograph?

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. Thank you.

9 Yes. I think that we have to give an MFI number to these two photos.

10 PRESIDING JUDGE FULFORD: And when giving them MFI numbers, can the first be
11 the photograph taken outside, with the figure standing next to the partially-constructed
12 brick wall.

13 THE COURT OFFICER: (Interpretation) So this first photo will have the number
14 MFI-D-00119. The second photo will have the number MFI-D-00120.

15 MR BIJU-DUVAL: (Interpretation)

16 Q. If I may suggest to you that the person who appears in this photo is (Redacted)
17 (Redacted) would that help for you
18 to identify the person?

19 A. Thank you for the question. I said that I hadn't been there for four years.
20 I understood (Redacted), but I haven't -- I have certain
21 reservations with regard to saying that I recognise this person, because it's four years
22 that I haven't been there, but this person (Redacted)
23 (Redacted), in fact.

24 Q. Thank you. Yesterday, in response to a question from a prosecutor, you indicated
25 that after the events of 5 February 2003, after the abduction of the children, your institute

1 was relocated. This relocation, how long did it last for?

2 A. Thank you for the question. The relocation wasn't so far as I said. It was
3 just (Redacted) and
4 that is why we were there. We had to -- well, I'm not sure of the exact amount of time,
5 but the rest of the month of February we had to finish there and part of the month of
6 March in order to be able to go -- before going on holiday, we had already gone back
7 to the institute. So I can't tell you exactly how long it was, but it was before the
8 Easter holiday.

9 Q. Thank you. And yourself, personally in the field did you organise this
10 relocation?

11 A. No. If I say "no," that's -- it wasn't I, myself, that organised this relocation.
12 To the extent -- well, I think yesterday I said that I was ill. I was ill, so those who
13 cooperate with me organised this relocation in awaiting my return. And I returned in
14 March so that I could put the pupils on their Easter holiday.

15 Q. Thank you.

16 Your Honour, I think that we can go into open session. I think we can do that
17 for the last question. I'm now going to go into the issue of the injuries which you mentioned.
18 Unless I am mistaken, this was dealt with in open session. The Chamber may rectify me
19 on this, and Counsel Keta will see as well, but this is something I would like to do
20 in open session, the issue of injuries as well as the issue of treatment received.

21 PRESIDING JUDGE FULFORD: Public session, please.

22 (Open session at 12.06 p.m.)

23 THE COURT OFFICER: Public session.

24 MR BIJU-DUVAL: (Interpretation)

25 Q. Witness, yesterday you indicated to us that during the events of 5 February

1 2003 you had been hit with a butt of a rifle by the soldiers that were present there
2 and that you were in -- in a state where you lost consciousness and that you were taken
3 to a health centre which was a few kilometres away from the school. Then you were transferred
4 to Uganda.

5 A. Yes.

6 Q. Is it correct that there is a health centre next to the school a hundred metres
7 away?

8 A. Yes. Thank you for the question. About a hundred metres away, yes, there is
9 a health centre, but the health centre was not operational in that at any time it was
10 exposed to the movement of soldiers, (Redacted)

11 (Redacted)

12 Q. When you say that this (Redacted) wasn't operational,
13 did it have no staff? Was it not functioning or was it just undergoing difficulties?

14 A. Yes. The (Redacted) had difficulties with regards to (Redacted).

15 I think -- well, I didn't verify that.

16 Q. But in your knowledge, there were people who could provide treatment there?

17 A. At that time, I can't -- well, at this time I can't remember. There were people
18 who in goodwill took care of me and they took me to the centre which helped me.

19 Q. Thank you. Now, where it concerns this centre which took care of you, how much
20 time did you stay there for?

21 A. I was taken care in the centre for -- well, if I think of it -- well, let's
22 say the family, the family of the ill person.

23 Q. My question with regard to the duration, the time in which you stayed in the
24 care of this health centre which people close to you took you to, how much time did you
25 stay there to be treated there, even if you can only give us an approximate duration?

1 Was it a few hours?

2 A. No. It wasn't a few hours; it was several days. Several days.

3 Q. You stayed there a few days. And we examined -- thanks to your Counsel Keta,
4 we saw a medical certificate during these days. Were you provided with this medical
5 certificate?

6 A. I'm sorry. I didn't understand the question.

7 Q. Okay. I will ask again. You indicate that, having been injured, people close
8 to you -- close to you took you to a health care centre for urgent care, and you said
9 you stayed a few days there. Now, yesterday we examined together a medical certificate,
10 and it came from this centre, this casualty centre. Now, during this time, this few days
11 that you were there, is it then that you were provided with this medical certificate?

12 A. Thank you for the question. It wasn't during these days that I was provided
13 with this medical certificate. If you would allow me to speak further on this issue with
14 the authority and approval of the President. That is to say, that this certificate was
15 provided in order to be able to find the first trace of where I was treated, because
16 you know that - in Uganda and abroad - when it comes to health care, the care -- care
17 isn't easy in Africa. If you go somewhere else to be treated, to a neighbouring country,
18 it's not easy, health care. This medical certificate is something I obtained in order
19 to be able to show where I had the first aid. That's the reason why I got it. It was
20 afterwards that I got the certificate.

21 Q. You said it was to show where I had received the emergency treatment. To show
22 to whom?

23 A. No. It was when it came to building a file which I could place in my archive.
24 And the time came, I was asked, and that is the reason why I presented this document.

25 Q. Who asked you?

1 A. I think the fact that --

2 THE INTERPRETER: Off mic comment has been made.

3 MR BIJU-DUVAL: (Interpretation)

4 Q. You don't have to give a name, you can give the function. You don't have to
5 give a name. I will ask you the name in a closed session.

6 A. I think that yourself, when you had the documents, it was to be able to see
7 that a testimony given was correct. So it was the person who was enabled to do so who
8 provided the documents for their use, and it was this person who asked me to get the
9 document and to provide this document.

10 Q. If I understand it correctly, that you were trying to make a file, a dossier,
11 with regards to the testimony or to compile a file which would attest to the injuries
12 that you received and the aggression that you had been subject to.

13 A. It could be that as well. And also, it was an agreement, if perhaps one day
14 the situation could improve in the country, and then I would have evidence of the attack
15 on me, should it ever come to prosecution.

16 Q. Do you remember -- if not the date, do you remember the month or the period
17 in which this certificate was provided to you?

18 A. I don't remember.

19 MR BIJU-DUVAL: (Interpretation) Your Honour, I would like to have more precision
20 with regards to the identity of the person who asked the witness to get this certificate.
21 I would like to have the identity of this person. I think in these conditions, it's necessary
22 to go into a closed session.

23 PRESIDING JUDGE FULFORD: Private session, please.

24 *(Private session at 12.17 p.m.) Reclassified as Open session

25 THE COURT OFFICER: (Interpretation) Private.

1 MR BIJU-DUVAL: (Interpretation)

2 Q. So, Witness, you indicated that a person asked you to establish this certificate
3 or to get this certificate. Could you tell us who this person was?

4 A. If you would allow me, please.

5 Q. I don't think you need to look at notes.

6 A. No, it's just to say that the person who asked me to send this certificate,
7 it was during -- when I was filling in this form. So I think that you will remember when
8 the formula was filled in. When we got the forms for the victims and we had to indicate
9 the evidentiary documents, it was at this time that I noted to be necessary to be able
10 to append it to this document.

11 Q. Thank you. Should I understand that it's -- it was the person who dealt with
12 this request for participation that asked you to get a document of such a type?

13 A. It was one of the pages of the formula -- of the form which asked for an evidentiary
14 document.

15 Q. When you understood that it was necessary to provide this evidence, what steps
16 did you take to meet this requirement?

17 A. It wasn't a step. I just obtained it. It was -- I had to get a medical certificate
18 which would sufficiently prove that the victim or the person who was ill had been treated.

19 Q. Who did you -- who did you go to to obtain this medical certificate?

20 A. To the person who treated me.

21 Q. At that time the person made this certificate?

22 A. Yes. So the first person who treated me did write the certificate.

23 Q. And once this person provided you with this certificate you appended it to your
24 file; is that correct?

25 A. I said that the certificate that I had was from (Redacted) who treated me, was

1 appended to my file, my application for participation. That's what I said.

2 Q. Thank you.

3 If I may request the indulgence of the Chamber.

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

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

6 THE WITNESS: Excuse me.

7 PRESIDING JUDGE FULFORD: Sir?

8 THE WITNESS: Please excuse me, your Honour. If you could authorise me to go
9 to the toilet.

10 PRESIDING JUDGE FULFORD: Absolutely. We'll take a break now. Thank you, Mr.
11 Lubanga. Very kind. Closed session, please.

12 (The accused exits the courtroom)

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

14 *(Closed session at 12.22 p.m.) Reclassified as Open session

15 THE COURT OFFICER: (Interpretation) Closed session.

16 (The witness stands down)

17 PRESIDING JUDGE FULFORD: We'll sit again at 25 to.

18 THE COURT OFFICER: (Interpretation) All rise.

19 (Recess taken at 12.23 p.m.)

20 (Upon resuming at 12.35 p.m.)

21 *(Closed session) Reclassified as Open session

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

23 (The witness enters the courtroom)

24 PRESIDING JUDGE FULFORD: Public session, please.

25 (Open session at 12.36 p.m.)

1 (The accused enters the courtroom)

2 THE COURT OFFICER: (Interpretation) Open session.

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

4 MR BIJU-DUVAL: (Interpretation) Thank you, Mr President.

5 Q. Mr Witness, just before we took the break you indicated to us that when you
6 filled in the participation request form for victims, you understood that this form required
7 a document attesting to the injury you had sustained; is that correct?

8 A. It is not the form as such which made such a request, but I believe that in
9 order to follow one's health care it is important to produce documents that show the
10 various stages of your treatment. Now, the form was a reason for me to annex or append
11 this document to my file and it was a reason for me, or a requirement for me, to therefore
12 produce that document.

13 Q. Thank you. You indicated that you entered into contact with the individual
14 who had administered treatment at the time at the emergency medical centre. My question
15 is as follows: Upon going to see the individual who administered the treatment at the
16 time, was it at that moment that the person drew up the certificate, the certificate
17 that you will subsequently append to your case file?

18 A. As I said, the certificate is part of a series of events. It is not to say
19 that I had the form before me at the same time and that I was filling in the form at
20 the same time. I had the certificate with me.

21 Q. Mr Witness, before we took the break you told us that you went to get this document
22 from the individual who had administered treatment to you in order to append this document
23 to your case file. That is what you told us before we took the break. Is that correct,
24 with regard to the situation?

25 A. I said that I had appended the documents relevant to my treatment to the form

1 that I had filled in, yes.

2 Q. Mr Witness, we have to be clear on this point. Before we took the break you
3 told us that you went to see the individual who had administered treatment with a view
4 to obtaining this document; is that the case? Yes or no?

5 A. I apologise. I said that I received the document, the medical document, from
6 the person who had administered treatment to me and I did append this document to the
7 form. This is what I told you before we took the break.

8 PRESIDING JUDGE FULFORD: Mr Biju-Duval, we're grinding this very small. We've
9 been round this subject now in a very circular manner, and I think we need to move on,
10 please.

11 MR BIJU-DUVAL: (Interpretation)

12 Q. Mr Witness, did you personally have the original version of this document in
13 your possession with the original signature?

14 A. I thank you for that question. I believe that the photocopy that you received
15 comes from the original, so the original is certainly in my possession.

16 Q. Thank you. Who was this certificate for? Was it for you or was it for other
17 medical services?

18 A. Upon obtaining a medical certificate, let us take the example of a civil servant.
19 A medical certificate can justify their absence from work. A medical certificate is,
20 in itself, a document that the patient can file away in order to have a record of their
21 state of health for the future.

22 Q. Thank you. With regard to the events you told us about, events during which
23 the school was overrun and soldiers came to abduct children, I would like to hark back
24 to the events which are now distant in the past. I would like to come back to the question
25 of dates regarding these events, and I would like to put to you a reference point. Now,

1 did these events occur before or after the time when the Ugandans drove the UPC out of
2 Bunia?

3 A. I thank you for that question. I believe that this question will be able to
4 provide me with a reference point with regard to the fighting that occurred in Bunia;
5 is that right? Because if you want me to dwell on what happened there, I would need documents.
6 The UPC was driven out, yes. But with regard to the events that occurred in (Redacted),
7 I know that the UPC had not yet been driven out of Bunia.

8 Q. Thank you.

9 A. But if you want me to come back to the dates when the UPC was driven out of
10 Bunia, I can do so.

11 THE INTERPRETER: Overlapping of microphones. No pause observed.

12 MR BIJU-DUVAL: (Interpretation)

13 Q. To your knowledge, after the events you have recounted, were there any other
14 incursions on the part of armed soldiers who might have come to (Redacted)

15 A. I thank you for that question. I believe that you already put that question
16 to me yesterday, and with regard to the event notably when the UPC was driven out of
17 Bunia. Let me come back to this point. When it was driven out of the centre of Bunia,
18 the UPC was still active in the -- inside of the country. It was merely driven out of
19 Bunia in order to go back to its stronghold. This is to say that there were other territories
20 apart from the territory of Mahagi that was under UPC occupation and, if there was an
21 incursion, well, of course there can be incursions. In view of the fact that this is
22 an event that is in the past, I am not in a position to -- have not been able to prepare
23 and refresh my memory as to the various incursions that might have been possible.

24 Q. Do you remember the intrusion of armed soldiers in (Redacted) in 2004?

25 A. I'm sorry?

1 Q. Do you recall the intrusion of armed soldiers in 2004, (Redacted)?

2 A. I do not remember. In 2004, of what year?

3 Q. The year 2004.

4 A. I'm sorry?

5 Q. I am speaking of the year 2004.

6 A. I cannot recall.

7 Q. I shall show you a document.

8 MR BIJU-DUVAL: (Interpretation) If it were possible to hand a paper version
9 of the document to the witness and to the Bench, please. These are documents DRC-D01-003-2463,
10 and I do not believe that this document should be posted on the screen.

11 PRESIDING JUDGE FULFORD: Thank you. Let them be handed around, please.

12 MR BIJU-DUVAL: (Interpretation) Yes, I was saying that this should not be shown
13 on the screen, but what I mean is that it should not be shown to the public.

14 PRESIDING JUDGE FULFORD: Yes, it can go on the screen inside the courtroom,
15 and that a copy be given to the witness, please.

16 MR BIJU-DUVAL: (Interpretation)

17 Q. Do you have the document before you?

18 A. Yes, I do.

19 Q. Do you recognise your signature at the bottom of the page?

20 A. Yes, I do recognise my signature. I apologise, might I provide you with an
21 explanation here? Yes, I do recognise my signature. When you put the question to me,
22 I thought that this was a question regarding the UPC armed groups. In this specific regard
23 it is an incursion that we witnessed.

24 Q. So we are in agreement that the armed groups are indeed the FRPC from Commander
25 Jerome Kakwavu?

1 A. In this specific regard, these are groups from the FAPC of Jerome Kakwavu. Now,
2 what is the FAPC? Well, it is the -- it is a dissident faction of the UPC and Mr Kakwavu
3 was a commander of the UPC who had then moved away in order to set up the FAPCs. With
4 your leave, I might hark back to this question of how Jerome reconstituted a group and
5 how he came back to Mahagi at this date.

6 Q. Should I understand that you assimilate the FAPC to the UPC?

7 A. Not at all. You can see that this event occurred in the year 2004, when the
8 dissident faction of Jerome Kakwavu defected from the UPC in order to set up the FAPC.
9 These are events of 2003. But here we are referring to October 2004.

10 Also, in order to refresh our memory somewhat, the defection of -- is due, or
11 can be put down to the reticence on the part of the UPC to integrate the armed groups.
12 This is why Jerome said -- or undertook to defect and that is how he came to call it
13 FAPCs. These are the very same soldiers who then became members of new armed groups and
14 continued behaving in the same manner. This was in the year 2004. In view of the fact
15 that they knew the school and the school had become a bit of a place of refuge for them.

16 Q. Mr Witness, would it be true to say and would you be in agreement that this
17 letter signed by yourself can be analysed as a type of report or protest addressed to
18 six officials that the establishment was under?

19 A. It is not a form of a protest. It is a report. The report does indeed mention
20 the fact that there is wood for construction purposes that had been transported. This
21 is a report that had to be drawn up because it was by virtue of such reports that one
22 could still obtain assistance because we were in make-shift constructions or shelters.
23 And I apologise, Mr President, when one speaks of * the FAPC and FNI, you know
24 that when Jerome went to set up his dissident faction of the UPC, he then managed the
25 territory of Mahagi. But, on the one hand, there was Jerome and, on the other hand, there

1 was the FNI. So, these were territories and there were armies present. People made the
2 most of the situation in order to dominate or set themselves up in a certain way.

3 Q. Thank you. Mr Witness --

4 PRESIDING JUDGE FULFORD: We're going to need to break for lunch, Mr Biju-Duval,
5 so pick an appropriate moment.

6 MR BIJU-DUVAL: (Interpretation) I just have one last question on this point.

7 Q. Mr Witness, how do you explain that no report of the same type was discovered
8 in the archives of (Redacted) with regard to very serious events that you have
9 alleged to before this Trial Chamber?

10 A. Thank you for that question. With regard to such a report, well, I would say
11 that I regret that some of the case files were not forthcoming. Reports do exist. Reports
12 of this type do exist. It might be too late for us to show them to you, but the entire
13 international community was aware of this situation with regard to what happened at (Redacted)
14 (Redacted) et cetera. The international community really was a witness
15 to the entire situation, in view of the fact that we knew that there was a good deal
16 of correspondence with regard to these reports. Now, the NGOs, the human rights NGOs
17 that were out in the field at the time, for example, (Redacted) which was in the field,
18 really knew what occurred. There was correspondence sent to them. There was also Human
19 Rights Watch. And these reports were drafted by us at the time to (Redacted), to Human
20 Rights Watch and, well, these documents are lacking. Our counsel does not have access
21 to them. So I think that it might be technology that has failed us; otherwise, we might
22 have been able to use them, together with you.

23 PRESIDING JUDGE FULFORD: We'll take a break now, Mr Biju-Duval. Thank you.

24 Thank you very much, sir. I anticipate you will complete your evidence this
25 afternoon. We'll sit again at 2.45.

1 Closed session, please.

2 *(Closed session at 1.01 p.m.) Reclassified as Open session

3 THE COURT OFFICER: (Interpretation) Closed session.

4 (The accused exits the courtroom)

5 (The witness stands down)

6 PRESIDING JUDGE FULFORD: 2.45.

7 THE COURT OFFICER: (Interpretation) All rise.

8 (Luncheon recess taken at 1.02 p.m.)

9 (Upon resuming at 2.46 p.m.)

10 *(Closed session) Reclassified as Open session

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

12 PRESIDING JUDGE FULFORD: Witness, please.

13 (The witness enters the courtroom)

14 (The accused enters the courtroom)

15 PRESIDING JUDGE FULFORD: Private session, please. Thank you very much,

16 Mr Lubanga.

17 *(Private session at 2.48 p.m.) Reclassified as Open session

18 THE COURT OFFICER: Private session.

19 PRESIDING JUDGE FULFORD: I think the court officer is about to give an MFI

20 number to a document.

21 THE COURT OFFICER: (Interpretation) DRC-D01-003-2463 will bear the number

22 MFI-D000-121. Thank you.

23 PRESIDING JUDGE FULFORD: Thank you. Mr Biju-Duval?

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

25 Q. Good afternoon, Mr Witness. Yesterday you spoke of the case of five pupils

1 from your establishment. I would remind you of their names so that things are crystal
2 clear. You mentioned (Redacted)

3 (Redacted)

4 You also mentioned the case of (Redacted), who was allegedly captured in
5 (Redacted). You also mentioned the case of the pupil (Redacted). Apparently
6 he was abducted in (Redacted). Do you remember that? We agree on that?

7 A. Agreed.

8 Q. With regard to (Redacted), you specified saying that he had been abducted
9 in (Redacted), but yesterday you didn't specify which year. Was it 2003?

10 A. In 2003, please.

11 Q. (Redacted) 2003. Thank you. So I would submit a document to you, and this is reference
12 number ICC-01/04-01/06-2224-Conf-Exp-Anx108-010 to 2010, page 10 -- page 10 of 13. I
13 would like a hard copy to be provided to the witness and to the Judges, as well.

14 PRESIDING JUDGE FULFORD: Certainly.

15 MR BIJU-DUVAL: (Interpretation)

16 Q. Do you recognise this document which bears your signature?

17 Mr Witness, do you recognise this document?

18 A. Yes, I see my signature.

19 Q. Now, you can see that under "re" we find an explanation regarding the -- the
20 dealing with -- dealing with child victims with regard to five files. Now, are these
21 five references related to the five pupils that you mentioned during your testimony
22 yesterday?

23 A. Thank you very much for the question. I think that here, when I talked about
24 the explanation of the guardianship, of taking register, that was with regard to a registry
25 of certain victims. Certain victims, if -- for example, if you saw that amongst those

1 there were some that I mentioned, the numbers are not found here. So it's not that I
2 was to bring everyone with me. Some victims, we saw that their needs were very great,
3 and so I provided them with some structure, a framework.

4 Now, if you are referring to the victims, yesterday I mentioned the victims,
5 among others, the five that you just mentioned. Yet, that doesn't necessarily mean that
6 they were -- responsibility was taken for them at that date. It depended on the needs
7 of the child.

8 Q. I see. So the five files do not necessarily relate to the five children whom
9 you mentioned yesterday?

10 A. I think that here -- well, if I mentioned the various files, I can see a particular
11 number, 0029, 25, and amongst the children I mentioned yesterday, I think the numbers
12 are here. So perhaps I don't know whether -- what observation you want to make about
13 these files. Here, these are codes, the same codes -- I think there are those codes.
14 They reflect as well the names of certain victims here.

15 Q. Thank you. The email speaks of guardianship. Are you the guardian of the five
16 victims?

17 A. Exactly.

18 Q. If we set aside the five files mentioned in the email, did you also take
19 responsibility for other children? If -- perhaps you -- you had them become -- register
20 as child victims with the ICC. Were there other children?

21 A. Thank you for the question. I think in that particular -- in this particular
22 case, the issue of victims that you have just mentioned the name, I will speak only to
23 these victims.

24 Q. It's a specific question. I want to know whether you intervened and saw to
25 it that other children than these five -- that other children were registered or recorded

1 as victims with the ICC.

2 A. I said, and I repeat, I can speak to the five children that you've spoken of
3 here, the five cases here.

4 Q. I don't want to ask you about these other children. I just want to know whether
5 other children are involved -- that you intervened on the behalf of other children to
6 bring them before the ICC as victims.

7 A. Contact the codes that are before you here.

8 THE INTERPRETER: Interpreter correction. Content yourself with the codes that
9 are here before you.

10 PRESIDING JUDGE FULFORD: Sir, I can understand that you may be apprehensive
11 about mentioning other children who haven't so far been referred to. I want to reassure
12 you that the Judges will only allow Mr Biju-Duval to ask appropriate questions in relation
13 to others. And as I understand it, he doesn't want to investigate the circumstances of
14 other children. He simply wants to know whether you have, in a broad sense, taken
15 responsibility for other children, for instance, by registering them as child victims
16 with the Court.

17 So the question he is putting to you is a general one. We don't believe there
18 is any reason why you should be worried about it, and we will ensure that counsel only
19 ask appropriate questions. So I would ask you to answer the question whether, generally
20 speaking, you assisted other children.

21 THE WITNESS: Thank you, your Honour. I think that my response was somewhat
22 clear. The assistance with regard -- we are talking about -- there are the names, there
23 are the reference numbers, and these reference numbers correspond to the names of the
24 child victims. So in addition to these clarifications and explications which I have provided
25 to you, firstly, I don't have very much more to say. Thank you.

1 PRESIDING JUDGE FULFORD: Well, I will just focus one more time on the question.
2 We understand entirely that the reference numbers on this piece of paper you are telling
3 us correspond to the names of particular child victims who have been mentioned in evidence.
4 Mr Biju-Duval's question is a slightly different one. It is just generally asking whether
5 you provided assistance to children other than those referred to on this piece of paper.
6 Now, the Judges are asking you, please, to answer that question.

7 THE WITNESS: Thank you. Thank you, your Honour. I think that if -- with regards
8 to the question of help, with that goes to those responsible, then I could have helped
9 certain children who were in need of it, absolutely in need of it.

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

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

12 Q. So can we now say that among these five children -- or let's -- I would like
13 to remind you that we are in a closed session, so there is no problem. Among these five
14 files that we have, there is the case of the child (Redacted), who has the number
15 229, and the file of (Redacted), which has the number 225. You agree with
16 that?

17 Forget -- irrespective of the number, among the five children, do you have (Redacted)
18 (Redacted), as well as (Redacted)?

19 A. Yes.

20 Q. I am now going to ask you a certain number of questions with regards to these
21 two children that you assisted within the framework of their applications for participation
22 at the Court. Firstly, I would like to go back, however, to a pupil who you mentioned,
23 who (Redacted) please excuse my pronunciation -- (Redacted). You indicated that he
24 was abducted from the establishment on 5 January, and you provided -- on 5 February,
25 rather -- and you provided the Chamber and the parties with a document certifying a family

1 reunion -- reunification.

2 A. Yes, I remember.

3 Q. This (Redacted), this child, was he in the same class as (Redacted) or was
4 he in the same class or in a different class?

5 A. Thank you for the question. The children who were abducted on that day were
6 in different classes. Now, it would be difficult for me after five years, seven years
7 to be able to identify concretely which class it was. So, please, excuse me for that.
8 But without the documents -- this is going back over seven years, so it's very difficult
9 for me to see that this one was next to that one. So, please, excuse me for that.

10 Q. Thank you. So I would like to submit to you the document that you communicated
11 yesterday, this certificate of family reunification.

12 PRESIDING JUDGE FULFORD: I think we saw this document yesterday, Mr Biju-Duval,
13 didn't we? Yes. Good. All right. Yes, and what's the question on it?

14 MR BIJU-DUVAL: (Interpretation) The question was related to this document
15 is -- well, I would like to ask for procedurally reasons that he confirm this document.
16 Who provided him with this document?

17 THE WITNESS: Thank you. This is a document which was provided to me by the
18 children that I spoke about, because there's a victim who was mentioned. And in my
19 correspondence and in my writings and this is why -- as proof of this reunification with
20 the family I thought that it would be appropriate to bring this with me.

21 Q. Thank you. No more questions with regards to this document, and we can give
22 it an MFI number.

23 PRESIDING JUDGE FULFORD: Please.

24 THE COURT OFFICER: (Interpretation) The document will have the MFI code
25 D-00122.

1 MR BIJU-DUVAL: (Interpretation) And I think we also need an MFI code for the
2 letter which we spoke about previously.

3 THE COURT OFFICER: (Interpretation) The document has already been given a number
4 MFI-D-00121.

5 MR BIJU-DUVAL: (Interpretation) Please excuse me. Your Honour, I would like
6 to hesitate, because we have -- we need to find a solution such that the -- not all of
7 the hearing is taking part in closed session. I wanted to ask a question with regards
8 to the children (Redacted). Perhaps we could try to identify
9 them with a number that -- the number of the case from 125225 to 229, but perhaps that's
10 hoping for a bit too much.

11 PRESIDING JUDGE FULFORD: I think it's a recipe for confusion, Mr Biju-Duval.
12 It's a brave effort on your part, but I think it could lead to some unfortunate results
13 if there was a misunderstanding as to who's being spoken about. I'm afraid we will have
14 to continue in private session.

15 MR BIJU-DUVAL: (Interpretation) I would like to.

16 Q. I would like to, Witness, to ask you some questions about (Redacted) and
17 (Redacted). We agree, or do you agree, that they -- that you assisted in
18 a request for participation in the proceedings before the International Criminal Court?
19 You helped them with that?

20 A. I think that the forms which were filled in will tell us more. I don't have
21 the form with me. If the forms indicate that I assisted one or the other, then I can
22 answer the question. Please allow me to apologise. I would just like to say that the
23 victims are here. I don't know if you are going to ask me questions with regards to aid.
24 As the victims are here it would be preferable to ask them questions, and if there are
25 any clarifications, perhaps I could be examined at a later date in that regard.

1 Q. I think that you should feel quite at ease. We are in closed session, so I
2 would just like to have a confirmation that you helped them within the framework of the
3 steps that were taken to become recognised as victims before the International Criminal
4 Court. This is an extremely simple question and it doesn't seem to raise particular
5 difficulties to me.

6 A. Please excuse me for interrupting you, but I think with regards to the aid,
7 (Redacted). So, as for myself, my presence
8 here before the Court, that is exactly as a witness/victim or victim/witness. That is
9 the Statute that has been written into the papers, and in order to fill that, we write
10 the forms, I think there was (Redacted) which assisted all the victims.

11 Q. Could you indicate if you have a family link with (Redacted)?

12 A. Yes, (Redacted) we have a family link between us. The reason why we have a
13 family link is the reason why I say I am that person's guardian. I have this obligation
14 to take up the guardianship of that person to the extent that the -- the needs and requirements
15 of that person are there. And this is why my guardianship is to take responsibility for
16 that person and to help that person. It is a humanitarian reason.

17 Q. I was talking about a family link, irrespective of the guardianship aspect.
18 Are you in the same family as that person?

19 A. We are -- well, in Africa, we are in a linked by family with him -- or we are
20 relatives.

21 Q. In what way are you related?

22 A. Let's say on the paternal side we are related to each other.

23 Q. Are you his uncle?

24 A. Yes. I said on the paternal side.

25 Q. Should I understand that you are the brother of his father?

1 A. In the family -- in the paternal side we are cousins. You could understand
2 that we are cousins, cousin. So we are related via his father.

3 Q. Are you the brother of his father? Yes or no?

4 A. What I said is that we are related with his father, who I know very well.

5 Q. Thank you. Where it concerns (Redacted), do you have a family
6 relationship?

7 A. On the mother's side. On the mother's side, perhaps the explanation might be
8 a bit long for you. When we say "on the mother's side," in Africa, then that could be
9 the child of the cousin or that -- there are always links.

10 Q. Please excuse me. Perhaps I don't understand this correctly, but are you the
11 brother of his mother?

12 A. I have said that we are related on the maternal side. In Africa, you can't
13 be necessarily the brother of a certain mother. A family relationship obliges you, and
14 that is the reason why we call ourselves cousin, nephews, for example. Even if in an
15 enlarged family, then that's how this occurs. The explanation might be somewhat long.
16 So if you would like to understand the maternal relationship, then in a family and in
17 a context in the widest concept, the widest sense of the family.

18 Q. Do you know the family of (Redacted) well? Do you know him well?

19 A. Yes, I do.

20 Q. Would you say that you have a relationship with the family of (Redacted)?

21 A. What type of relationship do you mean?

22 Q. Do you have a relationship with his husband? With his father or mother?

23 A. That's -- well, it's been a long time since I have been in -- it's three years.
24 Three, four years since I was in (Redacted). And with everything that has happened, the
25 children who I am looking after, there are certain children, among them (Redacted), who have

1 lost their fathers, and that's all I can say in that regard.

2 Q. In what circumstances did he lose his father, if you know?

3 A. In slightly confused circumstances. During this period of the troubles his
4 father died.

5 Q. In your knowledge, did he lose his father before you took over responsibility
6 for him?

7 A. I took over responsibility for him afterwards. When he was an orphan, it was
8 at that time that I took responsibility for him. When he became an orphan, I took
9 responsibility for him.

10 Q. You know -- do you know his father well?

11 A. I said that his father had died in difficult -- in difficult circumstances,
12 so it would be difficult or dramatic circumstances, so it would be difficult for me to
13 say anything in this regard.

14 Q. Could you indicate his name to us?

15 A. The name is (Redacted). That's the name that I knew, (Redacted).

16 Q. Did he have another name?

17 A. All I knew this name.

18 Q. If I suggest the name of (Redacted), does -- will that refresh your memory?

19 A. I knew him under the name of (Redacted). That was the name which I knew. If there
20 is a document which gives you this clarification, I think that you consider that.

21 MR BIJU-DUVAL: (Interpretation) With the indulgence of the Chamber.

22 (Pause in proceedings)

23 Q. Is it correct that within the framework of your activities as a guardian, you
24 had requested the birth certificates of (Redacted)?

25 A. When I did request these, if there are certain certificates that appear in the

1 file, I think that those could be the certificates or documents that I requested.

2 Q. I am going to provide you with two documents, the two birth certificates.

3 This is the document that has the following reference number:

4 ICC-01/04-01/06-2000-224-Conf-Anx-20821-2010 2/13 for the birth certificate of
5 (Redacted), and for the birth certificate of (Redacted),

6 ICC-01/04-01/06-2224-Conf-Anx1-0801-2010 2/13.

7 Can you confirm your signature which is on the bottom on the left?

8 A. Yes, I confirm this signature.

9 Q. Thank you. So, these two documents bear a date of birth for both individuals,
10 of course. Who was it who indicated to the civil registry official what the date of birth
11 was?

12 A. I thank you for the question. I would like to have further clarification with
13 regard to the birth certificate we are referring to.

14 Q. Let us take, for example, the birth certificate for (Redacted).

15 A. For (Redacted), the civil status registrar certainly took
16 inspiration from the documents and files that were there.

17 MR BIJU-DUVAL: (Interpretation) I have no further questions with regard to
18 these two documents which need to be given an MFI number.

19 PRESIDING JUDGE FULFORD: Certainly.

20 THE COURT OFFICER: (Interpretation) Counsel, I am going to correct a number
21 of elements, firstly. The document which was brought by the witness himself, to which
22 I attributed the MFI number D-00122, that is the document brought by the witness, the
23 family reunification certificate bearing the number MFI-CHM-00001. Then next you showed
24 the filing 01/04-01/06-2224-Anx 1, page 10 of 13. This document will bear the MF number
25 D-00122.

1 You then showed the document ICC-01/04-01/06-2224-Conf-Anx 1, page 2 of 13.
2 This document is in the record under the MFI code D-00123. Lastly, you showed document
3 ICC-01/04-01/06-2224-Conf-Anx 2, page 2 of 12, and this document is tendered into evidence
4 under number MFI-D-00124. Thank you.

5 MR BIJU-DUVAL: (Interpretation)

6 Q. Mr Witness, I shall return to the request for participation on the part of the
7 child (Redacted). Do you recall having signed his form requesting participation as
8 an individual acting on behalf of the victim and filling in the form?

9 A. Before I answer you, may I please glance at the document, because we signed
10 this quite some time back now and I do not recall fully.

11 PRESIDING JUDGE FULFORD: I think that's fair, Mr Biju-Duval. Can he quickly
12 be provided with a copy of it?

13 MR BIJU-DUVAL: (Interpretation) Yes. This is in the small file that I gave
14 you under Annex 2. Apologies; I'm sorry. This is all my fault. I had not intended to
15 show this document, so I now am asked to show a document that I had not announced to
16 all the participants. I don't see any problem as far as I am concerned, but I am just
17 flagging out the difficult at hand.

18 PRESIDING JUDGE FULFORD: Don't worry, Mr Biju-Duval. If you have got a copy
19 of it, can it straightaway be shown to the witness and we can look at it later? But if
20 you are simply wanting him to confirm the signature, let a copy of it now be shown to
21 the witness, please. It had better be the whole document. Yes. Good. To the witness,
22 please. To the witness.

23 Sir, I think you are really being asked to indicate whether that's your signature
24 on that form.

25 THE WITNESS: Well, the form bore a number of different signatures on occasion.

1 That's why I wanted really to reassure myself. Yes, okay, this is my signature.

2 MR BIJU-DUVAL: (Interpretation)

3 Q. If you would refer, please, to page 3 of the document, you see under the third
4 heading the name of (Redacted). Do you see this name, (Redacted)?

5 A. Yes, I can see the name.

6 Q. Are you the person who made these entries on the form?

7 A. Thank you for the question. I believe that you are putting this question to
8 me because you have noted, maybe, that there are two or three different names. These
9 are not three different names, to my -- in my humble understanding, to the extent that
10 in the Congo, three names have been in existence since 1963. My name is (Redacted).
11 Please let me give you that name in concrete terms. So -- and my other name is (Redacted).
12 So, there are three names. Of course, when one wants to get to the bottom of these three
13 names, they are three in number. I have other examples to give.

14 PRESIDING JUDGE FULFORD: Sir, I'm going to ask you not to give the other examples.
15 Mr Biju-Duval's question was whether you made the entries on the form. So we are not
16 dealing with the use of names, we are dealing with whether you were the person who made
17 the entries on the form. Now, I think that's a "yes" or a "no". Did you make entries?

18 THE WITNESS: Whether I helped the victim? Well, one helps the victim who then
19 provides the names. If a victim knows how to write, then they will write. Well, this
20 is how we understood the form when we received it. The victim speaks and even if another
21 person writes the entries in, well, it's the victim who actually speaks.

22 MR BIJU-DUVAL: (Interpretation)

23 (Redacted)

24 (Redacted)

25 Q. -- that you can see on the form?

1 A. If you are referring to (Redacted) and state his third name, then this might
2 be the father, the father of (Redacted).

3 Q. Thank you.

4 I have here three copies of these documents for the Bench, please.

5 PRESIDING JUDGE FULFORD: Thank you, Mr Biju-Duval. Does that bring us to the
6 end of this document, or are there other questions on it?

7 MR BIJU-DUVAL: (Interpretation) With regard to this document, I do not believe
8 that I have any further questions.

9 PRESIDING JUDGE FULFORD: Good. Then we will give it an MFI number, please,
10 so that it doesn't get lost. And we will then have a ten-minute break.

11 THE COURT OFFICER: (Interpretation) The document that you showed to the witness
12 bears the number ICC-01/04-01/06-1275-Conf-Anx 11 red, r-e-d. And this document will
13 bear the MFI number D-00125. Thank you.

14 (The accused exits the courtroom)

15 PRESIDING JUDGE FULFORD: Mr Biju-Duval, after the break, are we going to be
16 able to deal with some matters in public, or not? I just got in mind saying something
17 to the people in the public gallery who've sat patiently for an hour, watching a silent
18 puppet show.

19 MR BIJU-DUVAL: (Interpretation) My questions will have a bearing on similar
20 subjects and rather personal questions will come to light, with the associated difficulties.

21 PRESIDING JUDGE FULFORD: Thank you very much. Public session for a moment,
22 please.

23 (Open session at 3.43 p.m.)

24 THE COURT OFFICER: Open session.

25 PRESIDING JUDGE FULFORD: I want to apologise to members of the public who've

1 sat patiently for the last hour watching silent proceedings. The problem is that there
2 are, on occasions, security issues in relation to witnesses that mean that the evidence
3 has to be given in private session because, otherwise, identities will be revealed that
4 could lead to real problems once the hearing has finished for those individuals. I have
5 inquired of counsel whether it is likely that we are going to be dealing with public
6 matters later this afternoon and I am afraid the assessment is rather gloomy. It seems
7 as though there are other sensitive matters which are going to have to be dealt with
8 after the short break that we are about to have. I want to thank you for your patience
9 and to apologise to you. Closed session, please.

10 *(Closed session at 3.45 p.m.) Reclassified as Open session

11 THE COURT OFFICER: Closed session.

12 (The witness stands down)

13 PRESIDING JUDGE FULFORD: We will sit again just after 5 to.

14 THE COURT OFFICER: All rise.

15 (Recess taken at 3.46 p.m.)

16 (Upon resuming at 4.01 p.m.)

17 *(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 (The accused enters the courtroom)

22 PRESIDING JUDGE FULFORD: Private session, please.

23 *(Private session at 4.02 p.m.) Reclassified as Open session

24 THE COURT OFFICER: Private session.

25 PRESIDING JUDGE FULFORD: Mr Biju-Duval, just before you continue your questions,

1 something for counsel to think about during what's left of the afternoon: Three documents
2 were produced by the witness yesterday himself. If my memory serves me correctly, two
3 of them have now been referred to substantively in evidence, and if that's right probably
4 should receive EVD numbers. I think one of them hasn't really been dealt with at all,
5 and if it isn't then there may well be an argument that it shouldn't receive an EVD number
6 but somehow should simply be filed as a document that was produced that wasn't referred
7 to. Could you reflect on that, whether my memory is correct; and secondly, what should
8 happen with the documents in due course. Don't answer now, come back to me later on it.
9 Thank you. Please continue.

10 MR BIJU-DUVAL: (Interpretation)

11 Q. Mr Witness, slightly before the break you told us that the father of (Redacted)
12 (Redacted) died. He died during the disturbances that you spoke of. You confirmed
13 that the father was named (Redacted). If I were to put it to you that the
14 father of (Redacted) is currently alive and works as a
15 (Redacted)
16 (Redacted) if I were to suggest that to you would that be correct
17 or not correct?

18 A. Thank you for the question. I am not aware of that situation.

19 Q. Does this ignorance bear witness to the fact that you are not sure that he actually
20 died?

21 A. I didn't say that. I said that it was a situation that I did not know about.
22 You talked about (Redacted), whereas I spoke of (Redacted).

23 Q. On the basis of the suggestion I made to you, does this lead you to change your
24 testimony to the effect that the father of (Redacted) is alive or dead?

25 A. * I do not need to review my statement.

1 Q. So you maintain your testimony when you said that he was dead? Answer. What
2 is the situation currently with regard to the mother of (Redacted)?

3 A. Currently, I am unaware of the mother's situation.

4 Q. With regard to the father and the mother of (Redacted), what do you know
5 about their current situation?

6 A. Personally, I can't speak of their current situation insofar as I told you that
7 I was in (Redacted), and I was with the victim, with the child. I did not ask more
8 questions to determine from the child what exactly had happened.

9 Q. Let us begin with the essential aspects. Are they alive or dead?

10 A. You can ask the child that question.

11 Q. I am asking you. You are the guardian of this child.

12 A. Thank you for the question. I think that all the statements are to be found
13 in the document that you have in your possession.

14 PRESIDING JUDGE FULFORD: I am going to ask you to answer the question from
15 within your own knowledge, and whether or not you know what the current circumstances
16 are of the father and mother. So put to one side documents and what may have been written
17 down, do you personally know what their position is?

18 THE WITNESS: Thank you, your Honour. I was saying that with regard to the
19 situation of the father of (Redacted), I think that it's been marked for a long time that
20 he has been dead, and that's why I took responsibility for (Redacted). Now, if he wasn't
21 an orphan, I would not have taken him. So, you see, it was -- it is because of this difficulty
22 that he is with me.

23 PRESIDING JUDGE FULFORD: I entirely understand that. And in relation to his
24 mother, are you aware whether she is alive or whether she has died?

25 THE WITNESS: I said that with (Redacted) we are related. So I know about his

1 father. I know that his father is not alive. As for the mother, I really don't have
2 a lot of information.

3 PRESIDING JUDGE FULFORD: Thank you. Yes, Mr Biju-Duval.

4 MR BIJU-DUVAL: (Interpretation)

5 Q. With regard to the mother of these children, you said you did not know about
6 her. When you helped these children prepare their request for participation in 2006,
7 or 2007, was the mother of (Redacted) alive or dead?

8 A. I was saying that (Redacted) is with me. It has been a number of years now. When
9 he is with me -- because his father wasn't there and his mother wasn't there either -- I
10 don't know whether his mother had died like his father had.

11 Q. If I were to put it to you that the father and the mother of (Redacted) are alive
12 and live close to the locality of (Redacted), would that allow you to have a better
13 recollection of events?

14 A. I don't think so.

15 Q. You are the guardian of these two children. Could you tell us what was the
16 procedure whereby -- or who appointed you guardian?

17 A. The appointment as such, well, that had to go in accordance with the legislation
18 of Congo. It had to go before a Court. In that particular case, if I declared that I
19 was the guardian, it's because I went to see the authorities in the territory because
20 the children needed to have a structure and they would be with me. And the representative
21 of the government needed to be the witness of my providing this framework or support
22 to them.

23 I understand this relevant question; that is to say, the guardianship requires
24 a legal action in light of this situation in our country. It was very difficult to go
25 through that stage. A country that is just coming out of war, the government authority

1 was being restored slowly, so that is why we have this birth certificate here that was
2 provided to bear witness to this support or framework that I am providing to these children.

3 Q. Thank you. In one word, could you explain what authority you are speaking of?
4 You said the authority of the territory; who was it?

5 A. (Redacted)

6 Q. (Redacted)

7 A. (Redacted)

8 Q. Do you know the name of the brothers and sisters of (Redacted)?

9 A. The names of the brothers and sisters? For (Redacted), I might know his sister
10 by the name of (Redacted). I do not know where she might be now but I think she is around somewhere.

11 Q. Regarding these two children, you explained that apparently they were abducted
12 in 2003, perhaps in February or April, allegedly. When and under what circumstances did
13 you reestablish physical or personal contact with (Redacted) after he was abducted?

14 A. (Redacted), after his abduction? Well, I was in contact with him somewhat late,
15 around 2004.

16 Q. Where?

17 A. When I was still --

18 THE INTERPRETER: Inaudible.

19 MR BIJU-DUVAL: (Interpretation)

20 Q. Was he in a military camp, do you think, or had he already left the army?

21 A. He had already left the army.

22 Q. I see on the transcript that part of your earlier response was not taken down.
23 Now, where -- could you repeat your answer?

24 A. If you could repeat the question, the place?

25 Q. Where did you resume contact with him for the first time personally with (Redacted)?

1 A. For the contacts, well, it's been years. Years have gone by. The contacts that
2 I might have had with (Redacted) where I reside.

3 Q. Thank you. When and where did you resume contact with (Redacted)? Pardon me, with
4 (Redacted)?

5 A. I couldn't give you any more information. I said it has been several years.
6 It might have been (Redacted) or elsewhere. These are places that are favourable for
7 reestablishing such contact where I might have seen them.

8 Q. Did (Redacted) tell you the circumstances surrounding his abduction?

9 A. Yes, in a -- yes, he told me that briefly.

10 Q. What did he tell you, if you remember?

11 A. Well, in short, he told me that it was when he was going back home after school.
12 He ran into the soldiers halfway home who forced him to carry bags of ammunition, and
13 these soldiers told him that once they had gotten somewhere, they would -- they could
14 let him go but, no, they continues -- they kept on going to a village that he didn't
15 even know. And then after he was asked -- well, he was told, no, he was there for military
16 service, and that's how it came to be that he remained.

17 Q. Did (Redacted) tell you the circumstances?

18 A. (Redacted) also told me briefly -- he told me about the circumstances surrounding
19 his abduction. When he was going out to play a bit, that was when he was taken by the
20 soldiers who had intercepted him. That's what he told me.

21 Q. Thank you. (Redacted) was a pupil at your institute. Do you
22 remember his school path?

23 A. No. It's difficult to tell you -- to tell you about how he did at school.

24 Q. In February 2003, do you remember what class he was in?

25 A. February 2003.

1 Q. During the abduction.

2 A. In 2003, well, it's been several years, and so it's hard to say specifically
3 which class he was in. He was there so I couldn't tell you exactly. He could tell you.
4 At the time I had many pupils. Sometimes it was hard to know them all individually.

5 Q. Thank you. You told us that you live (Redacted)

6 (Redacted)?

7 A. (Redacted)

8 Q. (Redacted)

9 A. (Redacted)

10 Q. (Redacted)

11 A. (Redacted) I go for personal reasons or for reasons of service. That's when
12 I go.

13 Q. As a (Redacted), I would think that you travel there
14 regularly; is that the case?

15 A. Well, regularly, it's hard to say. As a (Redacted)

16 (Redacted) when we have time. That's when we go.

17 Q. Upon those occasions, do you see your family, your extended family?

18 A. On those occasions, I meet with everyone, not just my family. I meet everyone.

19 Q. Including the family, the families that (Redacted) come
20 from?

21 A. I said that I meet with everyone.

22 Q. When you say "everyone," does that mean these families in particular? Is that
23 so?

24 A. When I say "everyone," each person who comes to see me, I meet with them. Even
25 if the members of the family come to see me, I try to see everyone.

1 Q. Thank you.

2 One second, please, if I could beg the Chamber's indulgence.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted) Sometimes I go back; sometimes I don't. Sometimes just for a few days.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. And you spent the whole year there?

17 A. Well, I might be there or I might be travelling.

18 Q. Yesterday you told us that you were a (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted) I do not know quite in which context this question

23 is being put to me.

24 MR BIJU-DUVAL: (Interpretation) I have no further questions, Mr President.

25 PRESIDING JUDGE FULFORD: Thank you, Mr Biju-Duval.

1 Sir, there are one or two questions from one of my colleagues, Judge Odio Benito.

2 JUDGE ODIO BENITO: Thank you, President.

3 Q. Good afternoon, sir.

4 A. Yes, good afternoon.

5 Q. Please be so kind to clarify to us if --

6 PRESIDING JUDGE FULFORD: Public session, please.

7 (Open session at 4.31)

8 THE COURT OFFICER: Open session.

9 JUDGE ODIO BENITO: Thank you.

10 Q. Sir, I was seeking your kind assistance to clarify for us if the school which
11 we have been talking about was a school for boys only, or there were girls, as well?

12 A. Thank you for the question. There were also girls.

13 Q. Thank you. Do you remember roughly if the girls were half of the pupils or
14 one-third of them, or what can be the proportion of the students?

15 A. Thank you again. With regard to the number of pupils, the girls, in terms of
16 representation, the girls were in the minority at the school.

17 Q. Thank you. Do you remember roughly the range of the ages of these girls in
18 the school?

19 A. With regard to the age range, the age range, well, it depends what class these
20 girls were in. I believe that at secondary level in Africa, girls gain access to the
21 secondary school from the age of 12 or 13. So, at that time, we had pupils up to third
22 year and the age of the girls would oscillate between 12, 13, 14 and 15 years of age.
23 I believe that this would be the age of the girls in approximate terms. As I said, this
24 was a school where we also advocated that some people be taken in, those people who had
25 lagged behind in terms of schooling. Some girls who were a little more aged, or a little

1 older, and who were taken in with a view to studying.

2 Q. Thank you. Do you know if some of these girls were abducted or in any form
3 enlisted or conscripted in these armed groups, like the UPC?

4 A. I thank you for the question. In concrete terms, in this institute, as I said
5 yesterday, this was a representative sample. And there were many other schools where
6 we heard there were girls who had been forcibly enlisted. However, this was not the case
7 in our institute. There were isolated cases of rather barbarous acts against certain
8 girls.

9 JUDGE ODIO BENITO: Thank you, sir. No further questions.

10 PRESIDING JUDGE FULFORD: Sir, that completes your evidence. Thank you very
11 much for your assistance and having come to -- Yes, Mr Keta?

12 MR KETA: (Interpretation) With your leave, Mr President, I had three small
13 concerns in terms of cross-examination which might be a little less than 15 minutes in
14 terms of longevity. This is the clarification that I am seeking in order to shed light
15 on his testimony.

16 PRESIDING JUDGE FULFORD: Mr Keta, our concern is that if re-examination is
17 allowed by the representative of participating victims, there is then the possibility
18 of yet further examination by the Defence because of the regulatory entitlement of the
19 Defence always to ask questions last. And we are of the view that, unless there are
20 exceptional circumstances which dictate a different course, that it is more in the interest
21 of the witness not to be burdened by yet further questions arising out of his testimony.

22 Now, we won't finally conclude the issue now. You can reflect on the matter
23 overnight, and if you wish to renew this application tomorrow morning, you can. But our
24 preliminary view is that, with participating victims, there should be essentially three
25 instances of examination: first by the victims, second by the Prosecution, third by the

1 Defence. We have, in any event, only five minutes left this afternoon before the tapes
2 run out, so a 15-minute further examination would not be possible in any event. Right.

3 Depending on what happens tomorrow, sir, we are grateful to you for the assistance
4 that you have provided. There may be, subject to your counsel's application tomorrow,
5 there may be some further matters for you to deal with. In any event, you will be receiving
6 advice from Mr Keta as regards your further involvement in the case because, of course,
7 you are a participating victim and, as such, you have a direct interest in the proceedings
8 as they unfold.

9 Whatever happens hereafter, thank you very much for your assistance today. And
10 in a moment, you will be free to leave. Yes. I think that had better happen now. Thank
11 you.

12 Closed session, please.

13 *(Closed session at 4.39 p.m.) Reclassified as Open session

14 (The accused exits the courtroom)

15 THE COURT OFFICER: Closed session.

16 (The witness stands down)

17 PRESIDING JUDGE FULFORD: Public session, please.

18 (Open session at 4.40 p.m.)

19 THE COURT OFFICER: Open session.

20 PRESIDING JUDGE FULFORD: Now, can the accused be brought back into Court? Usher,
21 can you go and knock on the door, please? Thank you.

22 (The accused enters the courtroom)

23 PRESIDING JUDGE FULFORD: Thank you, Mr Lubanga.

24 Yes, Mr Keta. What are the three points?

25 MR KETA: (Interpretation) The first point is in regard to the documents referred

1 to by the witness yesterday. This is the (Redacted). And in the penultimate
2 paragraph thereof, I wanted to put a question to him. With regard to this penultimate
3 paragraph, notably, that he was given over the responsibility of organising the school
4 that we talked of. That is the point that I wanted to visit and put a number of questions
5 to him on.

6 In -- it is in his interest to prove that he was (Redacted).
7 And if I can give you a little idea as to the question, I wanted to ascertain the period
8 of the year in which the school year commences in the DRC and note the fact that he was
9 (Redacted) during that very period.

10 Now, with regard to the second point, notably, the discussion around the
11 declaration confirming the kinship or parental link between the guardian and the child,
12 I wanted to indicate that in the DRC -- I wanted to ascertain which documents are valid
13 in terms of guardianship and, if guardianship does not exist, which documents are, therefore,
14 appropriate or relevant.

15 You will note that there are a number of documents here. A birth certificate is different
16 from a birth declaration. I could provide you with the two models and show you the difference
17 between them. The birth certificate as drawn up here in this document is not pursuant
18 to the model followed in the DRC. The certificate of birth is different from the declaration
19 of birth, which is signed by the registrar of the civil registry, * and the name of the
20 individual making the declaration are not mentioned on this. So this is with reference
21 to the legal value of the document tendered.

22 Now, point 3, I wanted to possibly put forward the various models that are in existence
23 and that have legal value. This is in order to assist the Chamber, Mr President.

24 PRESIDING JUDGE FULFORD: Thank you for those indications, Mr Keta. If the
25 application is pursued, we will address it tomorrow morning, but I think it's useful

1 for the parties and the Chamber to know what is in contemplation. We will sit again at
2 half past 9 tomorrow morning.

3 THE COURT OFFICER: All rise.

4 (The hearing ends at 4.45 p.m.)

5 RECLASSIFICATION REPORT

6 Pursuant to Trial Chamber I's email instruction dated 25th January 2012, the transcript
7 is reclassified as public after the indicated redactions have been implemented as ordered
8 by the Chamber. All private and closed sessions(*) are now available to the public with
9 the exception of the portions of the transcripts that have been redacted.