

Trial Hearing
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 International Criminal Court
2 Trial Chamber I - Courtroom 1
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Thomas Lubanga Dyilo - ICC-01/04-01/06
5 Presiding Judge Adrian Fulford,
6 Judge Elizabeth Odio Benito and Judge René Blattmann
7 Trial Hearing
8 Thursday, 11 November 2010
9 (The hearing starts in open session at 9.25 a.m.)
10 THE COURT USHER: All rise. The International Criminal Court is now in session.
11 Please be seated.
12 THE COURT OFFICER: Good morning, your Honours, Mr President. We are in
13 open session.
14 PRESIDING JUDGE FULFORD: Private session, please.
15 *(Private session at 9.26 a.m.) Reclassified as Open session.
16 THE COURT OFFICER: We are in private session, Mr President.
17 PRESIDING JUDGE FULFORD: Thank you. This is the Chamber's ruling on the
18 circumstances in which Witness 583 will give his evidence.
19 583 has applied for protective measures whilst giving evidence in that he wishes for
20 his identity to be withheld from the public, and to secure this objective, it is suggested
21 that he should be granted anonymity vis-a-vis the public (as opposed to those inside
22 the courtroom), and he requests that his face and voice are obscured in the public
23 broadcast.
24 The Defence has been fully informed as to his identity.
25 The reasons advanced fall into two parts. The first relates to his current work with

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1 Interpol, based in New York. It is suggested that it may prejudice his present and
2 future work with that organisation if it is broadcast publicly that he is a current
3 employee (of Interpol).
4 The second suggested reason is that it may prejudice future work with the French
5 police once he returns to France, if during this trial it is publicly broadcast that he has
6 worked as an investigator for the ICC, and that he gave evidence during this trial.
7 The Chamber has been shown material, taken the night before last from the internet,
8 that reveals that he currently works for Interpol as a specialised officer; that he has
9 previously worked as a captain of police, in the role of a Liaison Officer at Europol
10 (French liaison bureau); that he was a senior investigator at the International Criminal
11 Court; and that he has been employed by the ICTY as an investigator. The sources of
12 this material are:
13 1. 583's profile on the website LinkedIn (which contains all this information);
14 2. On 3 September 2002, in open session during a trial before the ICTY, he gave his
15 name as Nicolas Sebire and he informed the Court that he was then working as an
16 investigator for the OTP at the ICTY, and that he had occupied that role since
17 September 1999 (stressing his involvement with Team 1, which concerned the case of
18 Radislav Brdjanin and General Momir Talic); and that he had previously worked as a
19 Captain of the national police in France having joined in 1998, working in various
20 roles in Paris (including the criminal brigade, which focuses on the most serious
21 criminal offences).
22 3. He was interviewed by a journalist for a magazine, entitled Liaison (the official
23 journal of the préfecture de police) in which he discussed his role in the French police
24 and his work for the ICTY. It seems that his photograph appeared alongside the text
25 of the article.

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1 4. An official journal of the United Nations (the "Open-ended Informal Consultative
2 Process on Oceans and the Law of the Sea"), dated 24 June 2010, in which the list of
3 participants at the eleventh meeting of that body during the New York meeting
4 between 21-25 June 2010 was set out, which includes one Nicolas Sebire, who worked
5 for Interpol as a specialised officer.

6 5. The executive office of the Secretary-General (Protocol and Liaison Service) of the
7 United Nations in a document entitled "Permanent Missions" (number 300), dated
8 March 2010, sets out that Nicolas Sebire is a specialised officer working for Interpol
9 (and moreover his telephone number is given).

10 During submissions on 10 November 2010, counsel for the Prosecution indicated that
11 583 has "serious concerns about his returning to France and working with the French
12 government and the implications that his testimony could have, if his image, his facial
13 image, and his name are publicly declared." Accordingly, it is suggested that none
14 of his previous employment should be revealed publicly during these proceedings.

15 It is argued that if his various roles are revealed during public broadcast of his
16 evidence, this may limit his opportunities to work with the French police on his
17 return to his home country. The Prosecution accepts that there is no objective basis
18 to support the witness's fears or his request for protective measures (Draft transcript
19 330, page 4, lines 11-18).

20 The Rome Statute at Article 68(1) provides that "the Court shall take appropriate
21 measures to protect the safety, physical and psychological well-being, dignity and
22 privacy of victims and witnesses." The implementation of these protective measures
23 is governed by Rule 87 of the Rules of Procedure and Evidence. By Rule 87(3), the
24 Chamber is empowered to grant the witness anonymity (towards the public).

25 In this instance, no sustainable basis has been identified in support of this application.

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1 The various roles of the witness during his career since 1998 have been fully revealed
2 publicly. The witness has discussed his employment with the French police and the
3 ICTY in an interview with a journalist in August 2006. His current role working for
4 Interpol has been revealed publicly in official and public documents of the United
5 Nations; he has given evidence publicly before another international tribunal as to his
6 work as a French police officer and his work as an investigator for the ICTY. Finally,
7 all of the relevant roles have been revealed in a publicly available biography of the
8 witness posted on the internet.
9 Given that all of this information has been so widely distributed, there is no basis
10 under the Rome Statute framework for ordering protective measures, and particularly
11 anonymity; put otherwise, the measures requested by the witness will not materially
12 protect or enhance his safety, physical and psychological well-being, dignity and
13 privacy. His roles with the French police, the ICTY, the ICC and Interpol are all well
14 within the public domain, and in particular on the internet.
15 In all the circumstances, this application for protective measures is refused and the
16 relevant portion of the transcript should be provided to Witness 583 so that he
17 understands fully the reasons why his request has not been accepted by this
18 Chamber.
19 That concludes this ruling. Closed session and witness, please.
20 *(Closed session at 9.42 a.m.) Reclassified as Open session.
21 THE COURT OFFICER: We are in closed session, Mr President.
22 (The witness enters the courtroom)
23 PRESIDING JUDGE FULFORD: Public or private, Mr Desalliers?
24 MR DESALLIERS: (Interpretation) A few questions in open session, your Honour.
25 PRESIDING JUDGE FULFORD: Public session, please.

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- 1 (Open session at 9.43 a.m.)
- 2 WITNESS: DRC-OTP-WWWW-0316 (On former oath)
- 3 (The witness speaks French)
- 4 THE COURT OFFICER: We are in open session, Mr President.
- 5 PRESIDING JUDGE FULFORD: Yes, Mr Desalliers.
- 6 QUESTIONED BY MR DESALLIERS: (Continuing)
- 7 Q. Good morning, sir.
- 8 THE INTERPRETER: Answer inaudible.
- 9 MR DESALLIERS: (Interpretation)
- 10 Q. Yesterday we ended the day and there was the question of security, security in
- 11 the town of Bunia, and you explained to us that the town of Bunia was divided into
- 12 three sectors: One under control of the UPC militia, the northeast; one sector under
- 13 the control of the FNI militia to the southwest; and then there was the peripheral area
- 14 around the MONUC headquarters and that was under the control of MONUC.
- 15 My question is as follows: Is it your testimony today that that was the situation that
- 16 prevailed in 2005 when you met the investigators of the ICC?
- 17 A. I would say yes.
- 18 Q. Thank you. Could you tell us, if you know, when did the UPC militia and the
- 19 FNI militia, when were they included in the FARDC or when they were disarmed?
- 20 Do you know that?
- 21 A. I no longer recall.
- 22 MR DESALLIERS: (Interpretation) Thank you. Your Honour, could we go into
- 23 private session?
- 24 PRESIDING JUDGE FULFORD: Private session, please.
- 25 *(Private session at 9.46 a.m.) Reclassified as Open session.

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

2 MR DESALLIERS: (Interpretation)

3 Q. In November 2005 you signed a contract - a work contract - with the

4 International Criminal Court to work as a (Redacted).

5 Could you explain to us what your work was; what your tasks were?

6 A. Indeed. After signing the contract with the Court, the work that I did at that

7 time could be summarised within the framework of receiving materials that were

8 intended for building and also for the renovation of the Court's offices. They were to

9 have representatives on-site in Bunia, and that was Mandro.

10 I would go between the centre of the town and the airport, back and forth. That

11 was -- the airport was where MONUC's logistical base was to get the containers that

12 also contained the various materials that were to be used to build offices. And I

13 would take the materials with the MONUC vehicle to Ndoromo and that was in the

14 Bankoko neighbourhood.

15 As well as that, there were visitors - court visitors - those who were in charge of the

16 building of facilities. They were also ensuring the monitoring, seeing whether the

17 materials that had been sent had been received and whether the materials had arrived

18 intact, and that is what I did during that time. Thank you.

19 Q. Thank you. Just one item of information. In the transcript we see that the

20 office was in Mandro. Might it be Ndoromo?

21 A. It was Camp Ndoromo, not Mandro.

22 Q. Thank you. I beg your pardon, sir. I would just like to go back to one

23 particular aspect. In the transcript it says something about a vehicle - a MONUC

24 vehicle - and taking the materials to Kpandroma?

25 A. No, to Camp Ndoromo.

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1 Q. Camp Ndoromo. Thank you for that piece of information. In addition to that
2 task, that is to say setting up the Court's offices, did you have other tasks?

3 A. I did not have any other tasks.

4 Q. Weren't you called upon to contact witnesses?

5 A. No.

6 Q. So it is your testimony that you did not have to take care of transporting
7 witnesses, calling witnesses by phone? Is that what you are telling us today?

8 A. I beg your pardon, could you ask the question again?

9 Q. As part of your work as a (Redacted), were you called
10 upon to -- were you instructed to enter into contact, or to transport witnesses or other
11 individuals?

12 A. I didn't have that mandate, because already the investigator and also the
13 witness had made contact. As of the first contact, each one had his own telephone
14 and also they had the contact number for the investigator. It was not my job. If
15 there was any problem, he would contact them or he could contact them directly.

16 Q. And in actual fact, you did this work from November 2005 to March 2006; is
17 that not so?

18 A. It was during the period of time that I -- according to the contract that I signed
19 and that ended in March 2006. 31 March 2006.

20 Q. Thank you. I would like to ask you to consult the binder that has been
21 provided to you, and if you could go to the accounting document, accounting
22 document number 17 -- 16, please. Number 16. Do you see a reimbursement
23 receipt dated 15 December 2005 that bears your signature?

24 A. Yes, that's my signature.

25 Q. Could you explain to us -- now, does this receipt indicate that you received \$30

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1 as a reimbursement for transporting and communicating with three witnesses?

2 A. Yes, you even see the date, 15 December. 15 December. The period of my
3 contract went from 1 January to March -- to 31 March 2006, and at that time it was still
4 during the period that I was working for the Court on an informal basis.

5 Q. Thank you. We will come back later to that period of your contract.

6 MR DESALLIERS: (Interpretation) Oh, pardon me. I beg your pardon, I forgot to
7 read the ERN number out for this document, DRC-OTP-0216-0245. Could an EVD
8 number be assigned to that document?

9 PRESIDING JUDGE FULFORD: Please.

10 THE COURT OFFICER: Yes. Yes, your Honour. Document in tab 16 referenced
11 as DRC-OTP-0216-0245 will be attributed reference EVD-D01-00355 and will be
12 marked as confidential.

13 MR DESALLIERS: (Interpretation) Thank you.

14 Q. I would now like to ask you to go to the following accounting document, and
15 this is at tab 17. Now, for the purposes of the case record, this document bears the
16 number DRC-OTP-0205-0505. You -- can you see this reimbursement receipt dated
17 1st of the February 2006?

18 A. Yes.

19 Q. Is that your signature that we see on this document?

20 A. Yes, that's my signature.

21 Q. This document suggests that you were reimbursed for the travel of two
22 witnesses to Bunia. It would appear that you received a total reimbursement of \$55.
23 Now, when looking at this receipt, does this lead you to change your testimony that
24 you gave slightly earlier?

25 A. Yes. I was saying that it was -- they were reimbursements, and the

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1 reimbursements could be done or carried out one, two or even three months later,
2 depending on when the investigators would come to the field. It is not specific, but all
3 I know is that it was a reimbursement for work I did or a service that I rendered to the
4 organisation.

5 PRESIDING JUDGE FULFORD: Mr Desalliers, does the investigation of these
6 documents reveal the identity of the witness? I am not sure whether they do.

7 MR DESALLIERS: (Interpretation) Mr President, in fact I would like to deal with
8 these matters in open session. What I believed was that the role played by the
9 witness within the OTP had been dealt with confidentially. If, however, the OTP has
10 no objection to our mentioning his role without mentioning the name then, yes indeed,
11 it might be preferable to present these questions in open session.

12 PRESIDING JUDGE FULFORD: Thank you. Mr Sachdeva, I was just looking at the
13 questions that have been asked since we turned to tab 17. At the minute I am
14 finding it difficult to see how those questions and the answers that were given would
15 identify the witness.

16 MR SACHDEVA: And I would agree, Mr President. The only concern I would
17 have is that if something specific is related to in respect of his work, then that perhaps
18 could identify the witness, but for those questions, yes, absolutely.

19 PRESIDING JUDGE FULFORD: Very much in your hands, Mr Desalliers. You
20 know what from these documents you are going to seek to introduce. If they're like
21 document 17, let's do it in public session. If you're going to go in detail into the role
22 of the witness at a particular time that would tend to reveal who he is then we better
23 stay in private session. So could you reflect on it document-by-document, please.

24 MR DESALLIERS: (Interpretation) Yes, Mr President.

25 PRESIDING JUDGE FULFORD: Thank you. We'll remain in private session for the

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- 1 time being but obviously let us know if we can move into public session.
- 2 MR DESALLIERS: (Interpretation) I think we could try straightaway to go into
- 3 open session, Mr President.
- 4 PRESIDING JUDGE FULFORD: Thank you. Public session, please.
- 5 (Open session at 10.01 a.m.)
- 6 THE COURT OFFICER: We are in open session, Mr President.
- 7 PRESIDING JUDGE FULFORD: Yes.
- 8 MR DESALLIERS: (Int) Q. So, Witness, this receipt at tab 17 under the accounting
- 9 documents, could you help us a little bit to understand how this works? Is this an
- 10 advance paid to you for work to be carried out or is it, rather, an amount reimbursed;
- 11 the reimbursement of an amount that you have had to pay yourself previously?
- 12 A. Thank you for the question. I do not believe that on any occasion the office
- 13 made available to me a fund for operations into which I could dip either to go and
- 14 carry out work outside my office, but what I did use was my own funds, I made my
- 15 own expenditures, and in return the office or the investigator would pay that money
- 16 back to me, but it depended on when the investigators came into the field.
- 17 Sometimes the reimbursement was sent via Ms Sabine. Sometimes it was the
- 18 investigator himself, investigator Sebire, and then sometimes it was other personnel
- 19 from the Court, but the objective was for me to be able to confirm that, yes, I had
- 20 received the sum in reimbursement of an expense that had been incurred. Here, I do
- 21 not remember at what moment I had carried out that mission. All I know is that all
- 22 of these expenses were reimbursed to me and they were expenses that had already
- 23 been incurred.
- 24 PRESIDING JUDGE FULFORD: Mr Desalliers, I've requested a redaction for the
- 25 name that was given. Anything else on that, Mr Sachdeva?

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1 MR SACHDEVA: No, Mr President, that name.

2 PRESIDING JUDGE FULFORD: Yes. Thank you very much. Please carry on.

3 MR DESALLIERS: (Interpretation)

4 Q. So, you do not remember on what date you carried out that work but, if I
5 understand correctly, you are certain that it was before the beginning of your contract
6 as a (Redacted) - I've forgotten the exact description - before the
7 beginning of your contract for the Court?

8 A. I have said and I repeat, that all of the missions that I carried out to meet
9 anybody or to put any person in contact with the investigator were carried out during
10 the period that was informal. During the period in which I had a contract, I no longer
11 was answerable to Nicolas; I answered to the office. I had a direct superior to whom
12 I reported.

13 MR DESALLIERS: (Interpretation) Mr President, I have a question to put in
14 private session, please.

15 PRESIDING JUDGE FULFORD: I think we should, and there's another self-evident
16 redaction that needs to be made. Good. Please continue and in private session.

17 *(Private session at 10.06 a.m.) Reclassified as Open session.

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

19 MR DESALLIERS: (Interpretation)

20 Q. And so, sir, who was your superior during the period of your contract with the
21 Court?

22 A. My boss was called (Redacted). He was based in Kinshasa.

23 Q. And he was the person who gave you instructions?

24 A. In the context of the organisation, I was answerable to him. While I was
25 working informally, I did not even know him. I was only in contact with the person

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1 whom I have just identified.

2 Q. But if we could, can we first concentrate on the period during which you had a
3 contract. During that period, was it (Redacted) who was giving you
4 instructions as to your work?

5 A. Affirmative; he was the person to whom I reported.

6 Q. And did you receive instructions from any person other than (Redacted), any
7 other member of the Office of the Prosecutor? Was there anyone else who gave you
8 instructions?

9 A. I have said, and I will repeat this if I may, I was to be answerable to the
10 hierarchy. I could not bypass it. Even if there were instructions, those instructions
11 could only come to me through my direct superior to whom I also addressed my
12 report. Perhaps in the administration there may have been copies distributed for
13 information. I no longer recall this, because what I am saying is that the role I was
14 fulfilling throughout this period involved collecting equipment, sending it out and
15 signing the receipts for that activity. That was all I did. I didn't even incur costs
16 there, because the transport orders were signed between MONUC and the Court. I
17 wasn't even there. I only received the equipment and sent it to Ndoromo camp.

18 Q. And how often did you have to report to your hierarchy and were these written
19 reports?

20 A. I believe that, as I have just said, he personally went out into the field. If there
21 were documents of which we had copies, he would go out into the field, he would
22 recover all of that, but, perhaps if there were communications relating to other
23 situations made by telephone then, they would be done. But I do not remember that ...
24 that there was a commitment of any kind or ... I don't think ... I no longer recall.

25 Q. The question was simply whether you wrote written reports. Did you make

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1 written reports to your superior and, if so, how often?

2 THE INTERPRETER: Inaudible.

3 THE WITNESS: (Interpretation) Kinshasa.

4 PRESIDING JUDGE FULFORD: The witness will need to answer the question again.

5 MR DESALLIERS: (Interpretation)

6 Q. Could you please repeat your answer, sir?

7 A. I said that I made my report to Kinshasa.

8 Q. Thank you. And how often did you make those reports?

9 A. I said that my superior went to Bunia. He came and then I gave him the
10 documents. Most often these were documents concerning the sending of equipment
11 that had been received.

12 Q. All right. I'm going to rephrase my question; perhaps you've misunderstood.
13 Did you make one report per week, one report per month, one report per day?
14 That's what I'm getting at. How often did you report to your superiors?

15 A. Well, there was always the updating when I had to work. In other words,
16 every day I had to report to him. Even concerning the security situation I had to
17 give a report. So there was a daily updating of the situation.

18 Q. Do I understand then that your job included evaluating the security situation in
19 the field and not simply the logistical setting up of the office?

20 A. Well, first of all, that was my routine task, that was my routine work and, as I
21 have said, I had to report on the security situation in the field and when there was
22 nothing to report I was supposed to write RAS, which stands for *Rien àSignaler*,
23 nothing to report. Just a three-word report when nothing had arisen. That was a
24 report in itself.

25 Q. All right. Were these reports written, or were they delivered orally?

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1 A. Orally by telephone.

2 Q. And were you also called upon to hand in written reports?

3 A. I had no office for the Court. I have already said this; I did not have an office, I
4 only had my office, and at that time I was in town. There was no office for the Court.
5 The office for the Court was being set up and, when I had received all of the
6 equipment, my contract came to an end. I was not there. I was absent during the
7 whole period of the construction of the office and its opening.

8 THE INTERPRETER: Interpreter correction: Not opening, and everything that
9 followed the construction of the office.

10 MR DESALLIERS: (Interpretation) Thank you. I apologise, I was referring to
11 document DRC-OTP-0205-0505. Could we give it an EVD number, please?

12 PRESIDING JUDGE FULFORD: Please.

13 THE COURT OFFICER: Yes, indeed. Document under tab 17, referenced as
14 DRC-OTP-0205-0505 will be referenced as EVD-D01-00356 and will be marked as
15 confidential.

16 MR DESALLIERS: (Interpretation)

17 Q. Thank you. Sir, could you please go to the following accounting document
18 which bears the tab number 18. For the record, this document bears the number
19 DRC-OTP-0205-0509. Mr President, we can try to put these questions in open
20 session.

21 PRESIDING JUDGE FULFORD: Much obliged, Mr Desalliers. Open session,
22 please.

23 (Open session at 10.16 a.m.)

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

25 PRESIDING JUDGE FULFORD: Yes.

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1 MR DESALLIERS: (Interpretation)

2 Q. Sir, you have before you a reimbursement receipt dated 1 February 2006; is that
3 not correct?

4 A. Affirmative.

5 Q. Do you recognise your signature on this document?

6 A. Yes, it is my signature.

7 Q. Could you explain to us what this document consists of? In fact, I will ask a
8 more exact question. Could you explain to us what you were reimbursed for here?

9 A. Here I was reimbursed again, I think with regard to those two people, those two
10 witnesses. It covers the return journey. It covers accommodation. When they
11 came, they spent two nights and these reimbursements -- or they spent several nights,
12 excuse me, and these reimbursements related to that.

13 Q. In the description, can you see the mention "advance plus invoice to follow"?

14 A. Yes, I can see this. I think perhaps it is a terminological problem. I know that
15 I had already paid in advance and then I had to submit the invoice. The invoice had
16 not yet been submitted. I had to collect the invoice and submit it to the person who
17 had given me the money. That is why it says, "invoice to follow." They had already
18 paid me, but I had to collect the invoice and submit it to them.

19 MR DESALLIERS: (Interpretation) Thank you. Could we give this document an
20 EVD number, please?

21 THE COURT OFFICER: Yes, document under tab 18 referenced as
22 DRC-OTP-0205-0509 will be referenced as EVD-D01-00357 and will be marked as
23 confidential.

24 MR DESALLIERS: (Interpretation) Thank you.

25 Q. Now, I would like you to refer to sub-tab 9 -- to tab 19 of the documents before

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1 the accounting documents tab, please. Tab 19 is a document which already has an
2 EVD number, EVD-OTP-00604, and it is the first employment contract that you
3 signed. I would like to draw your attention to section 2, "Duration of contract," and I
4 will read the beginning of that part: (speaks English) "This contract shall commence
5 on 19 November 2005." (Interpretation) And it says a little further that the contract is
6 to expire on 31 December 2005. Do you see this?

7 A. Yes, I see this.

8 Q. So just to clarify the period of your -- the term of your contract, is it possible that
9 you began your contract not in January 2006, but rather on 19 November 2005?

10 A. I have said - and I repeat - that I began my contract in the month of January and
11 that contract came to an end on 31 March 2006. The previous period was still
12 informal.

13 Q. And so to be perfectly clear, you did not carry out any task in connection with
14 your contract with the Court before the month of January 2006?

15 A. Could you please ask me this question again?

16 Q. Of course. I just want to be very clear on one point. The tasks attributed to
17 you in the context of your contract of employment with the Court, did you begin
18 them in the month of January 2006? You did not fulfil any of those tasks before the
19 month of January 2006? Have I understood your position correctly?

20 A. I have said that with regard to contracts I carried out a contract from
21 January 2006 to March 2006. That is the period of the term of my contract.

22 PRESIDING JUDGE FULFORD: Just pause a moment, Mr Desalliers. Yes,
23 Mr Sachdeva.

24 MR SACHDEVA: Thank you, Mr President. Perhaps I am not understanding fully
25 what counsel is asking, but in the lead-up to the question he referred to this contract

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1 as the first employment contract, and then proceeded to ask questions on this contract
2 about another contract in November. There is a contract in November and perhaps,
3 to be fair to the witness, he should be looking at that contract before asking the
4 question about previous work.

5 PRESIDING JUDGE FULFORD: Thank you. I think the court officer wants to say
6 something.

7 THE COURT OFFICER: Thank you, your Honour. Actually, Mr Desalliers, if I'm
8 not mistaken, you referred to a document that was attributed EVD-OTP-00604; correct?
9 But that document is not the one under tab 19. The ERN number of that document is
10 DRC-OTP-0234-0166.

11 PRESIDING JUDGE FULFORD: Right. We've got to deal with one or two
12 administrative matters. I'm going to give Mr Desalliers an opportunity to reflect on
13 the document and on the question. We're going to give the witness a break. I'm
14 going to ask counsel to discuss this, please, during the course of the next half-an-hour
15 and, if necessary, to return to the issue at 11 o'clock.

16 Sir, we're going to give you a break and we look forward to seeing you at 11 o'clock.

17 Closed session, please.

18 *(Closed session at 10.26 a.m.) Reclassified as Open session.

19 PRESIDING JUDGE FULFORD: Good. Thank you, usher.

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

21 (The witness stands down)

22 PRESIDING JUDGE FULFORD: Mr Sachdeva, have the Prosecution yet had an
23 opportunity to discuss with 321 and 316 the matter that was very helpfully brought to
24 our attention by Mr Walleyne last night?

25 MR SACHDEVA: We have, Mr President, and consent was given by both witnesses.

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- 1 PRESIDING JUDGE FULFORD: And I'm sure I needn't ask this question. They
2 then understood that, within exactly the same circumstances as apply in this Chamber,
3 that the material will be known by those who are within Trial Chamber II?
- 4 MR SACHDEVA: Yes, they did understand that. That's the information that was
5 relayed to me. We explained exactly what should be said to the witnesses. That
6 was done; it was reported back to us, and they had that understanding.
- 7 PRESIDING JUDGE FULFORD: Well, Mr Sachdeva, at an appropriate stage could
8 both witnesses please be thanked by us for their extremely cooperative attitude in
9 relation to that issue.
- 10 MR SACHDEVA: Certainly.
- 11 PRESIDING JUDGE FULFORD: Thank you very much.
- 12 MR SACHDEVA: May I ask one question on that?
- 13 PRESIDING JUDGE FULFORD: Of course.
- 14 MR SACHDEVA: With respect then to the transcripts of 321 and 316, can they be
15 relayed to 512 now so he can prepare, as opposed to him reading them when he
16 arrives here?
- 17 MS MABILLE: (Interpretation) We had indicated, Mr President, that we had no
18 objections.
- 19 PRESIDING JUDGE FULFORD: Certainly, Mr Sachdeva.
- 20 MR SACHDEVA: Thank you.
- 21 PRESIDING JUDGE FULFORD: Good. Maître Mabilie, as you will well know,
22 there has -- there is now an application by the Prosecution to call Witness 598 as a
23 substitute for 555. It is clearly pressing that this is resolved one way or the other.
24 However abbreviated, it doesn't matter if it is done in bullet points rather than
25 properly formulated paragraphs. How long would you require to put in a response

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- 1 to that application?
- 2 MS MABILLE: (Interpretation) We could do it today, Mr President. If the
3 Chamber authorises us to do so, we propose to send an email to the Chamber
4 containing the various points that we would intend to submit, but let's say by the end
5 of the afternoon you'll have our answer.
- 6 PRESIDING JUDGE FULFORD: That would be extremely helpful. Thank you very
7 much indeed.
- 8 While we are all together, are there any other administrative matters that anybody
9 wishes to raise at this point in time? Mr Sachdeva.
- 10 MR SACHDEVA: Mr President, I have more information in respect to 316's counsel
11 and that letter the Defence seek to have. We received an email communication from
12 counsel and also we had a telephone conversation albeit he was in the car, driving,
13 but so I am conveying the information from him. He has given me leave to do that;
14 given me permission to do that.
- 15 But essentially the issue is this: When he was told that 316 would come and testify
16 or was called to testify, he hadn't seen the information, he hadn't seen the allegations
17 and he hadn't been able to contact his client. Upon his own initiative, as a prudent
18 and responsible counsel, he then asked for safe passage for his client without
19 discussing it with his client. This is what he has told us on the telephone and this is
20 what he has told us via email.
- 21 In fact, I can quote, "The decision to request a safe conduct is a decision that I took on
22 my own initiative. The contacts with the clients being moreover very uncertain in a
23 period where no official mission had been yet confirmed to me. In other words, this
24 is only the implementation of a mere rule of caution which appeared to me as obvious
25 for any responsible lawyer, but which does not imply anything, not even the simple

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1 perception of a risk from my client himself."
2 And accordingly, that is why he has concerns for the document to be used in this case
3 and any other proceedings.
4 PRESIDING JUDGE FULFORD: Thank you, Mr Sachdeva. That's very clear.
5 There are I think two issues, aren't there? One is the issue of the disclosure of the
6 document, whether it's covered by legal professional privilege or not. Secondly, and
7 a separate issue, is the proper use of it that can be made in cross-examining -- in
8 questioning the witness given the unequivocal indication that counsel has given that
9 it was written as a result of his initiative, rather than of 316.
10 And it may be there's an argument that it would be unfair in these circumstances
11 to - and I put this in inverted commas - to "attack" 316 on the basis that he is somehow
12 responsible for that letter.
13 From what you've told us, there doesn't appear to be any principled objection to the
14 other half of the correspondence going to the Defence. The objection is to the use
15 that may be made of it in questioning 316 thereafter. Is that a fair summary?
16 MR SACHDEVA: That is a fair summary. And I must stress that it's a little bit
17 difficult conveying a message from counsel second-hand, but certainly he has no
18 objection to the disclosure, but in fact he does not want it to be used at all in this
19 Court.
20 PRESIDING JUDGE FULFORD: Yes, thank you.
21 (Trial Chamber confers)
22 Thank you, Mr Sachdeva. Therefore, please disclose the other half of the
23 correspondence but, if this letter is to be deployed during the questioning of 316, it is
24 to be raised with us in advance in the absence of the witness so that we can rule
25 whether or not there is a proper foundation for questions to be put to the witness on

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- 1 the basis of a letter which we are told was written wholly on the initiative of counsel.
- 2 MR SACHDEVA: Thank you, Mr President. We will certainly do so.
- 3 PRESIDING JUDGE FULFORD: Thank you. Good. 5-past-11.
- 4 THE COURT USHER: All rise.
- 5 (Recess taken at 10.34 a.m.)
- 6 *(Upon resuming in closed session at 11.05 a.m.) Reclassified as Open session.
- 7 THE COURT USHER: All rise. Please be seated.
- 8 PRESIDING JUDGE FULFORD: Mr Sachdeva, can we have the witness, or are there
- 9 matters to discuss arising out of the objection that you raised?
- 10 MR SACHDEVA: It's been resolved, Mr President, thank you.
- 11 PRESIDING JUDGE FULFORD: Thank you. Witness, please.
- 12 (The witness enters the courtroom)
- 13 PRESIDING JUDGE FULFORD: Public session, Mr Desalliers?
- 14 MR DESALLIERS: (Interpretation) Private session.
- 15 PRESIDING JUDGE FULFORD: Private session, please.
- 16 *(Private session at 11.07 a.m.) Reclassified as Open session.
- 17 THE COURT OFFICER: We are in private session, Mr President.
- 18 PRESIDING JUDGE FULFORD: Yes.
- 19 MR DESALLIERS: (Interpretation) Your Honour, in order to remove any
- 20 confusion with regards to the contract which was spoken about before the break, I
- 21 have had new copies made which I would like us to distribute so that we are sure that
- 22 everybody has exactly the same copy, including the witness. So this is document
- 23 DRC-OTP-0234-0166. This document has been attributed a number EVD-OTP-00604.
- 24 PRESIDING JUDGE FULFORD: Thank you, Mr Desalliers. This should go, remind
- 25 me please, behind which tab in the accountancy documents?

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1 MR DESALLIERS: (Interpretation) It's not an accounting document; it's one of the
2 tabs at the beginning and this document was 19 so, in principle, you should be able to
3 find it at tab 19.

4 PRESIDING JUDGE FULFORD: And it's there. Good. Thank you. Right, the
5 witness has it, so please carry on with your questions.

6 MR DESALLIERS: (Interpretation)

7 Q. So, sir, the document that you've just been provided with, the contract, it's
8 written in English, "Contract for individual contractor". Do you see this document?

9 A. Yes.

10 Q. In order to make sure that we've all got the same document, you can see at the
11 bottom on the right there's a number DRC-OTP-0234-0166.

12 A. I see that.

13 Q. This is a document, as you have already indicated it has your signature, and I
14 will reread the section 2 entitled "Duration of contract" (speaks English) "This contract
15 shall commence on 19 November 2005 and shall expire on the satisfactory completion
16 of the services described above, but no later than 31 December 2005." (Interpretation)
17 I am going to end the quote here.

18 Having read this passage, sir, would you like to reconsider what you said about the
19 start of your contract for the International Criminal Court, in terms of (Redacted)
20 (Redacted) Did in fact you start on 19 November 2004?

21 THE INTERPRETER: 2005, corrects the interpreter.

22 THE WITNESS: (Interpretation) No, I did not start the work in the month of
23 November and, furthermore, you will see above that, I don't know if it's in the
24 column for the day of the week, where my signature is and opposite ---- I don't know
25 if we are together, but there is a date of 4 January 2006, and I said that I never started

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1 officially the work before the month of January 2006.

2 MR DESALLIERS: (Interpretation)

3 Q. You used the term "officially." I just want to be sure that when you said
4 "officially," is it possible that in fact you did carry out the work unofficially before,
5 and you consider that from the month of January it was official?

6 A. The month of January, in March 2006, from January to March 2006, I had a
7 contract signed, which was a proper contract.

8 Q. Could you now go to tab number 21, namely, page 1 thereof. For the purposes
9 of the record, this document has the number DRC-OTP-0231-0251, and this document
10 is entitled "Service record for consultants and individual contractors, SR-CS." Do
11 you have this document in front of you?

12 A. Could you repeat the number?

13 Q. If you look at the bottom, on the right-hand side of the document, there is a bar
14 code and just above the bar code it is written "DRC-OTP-0231-0251." Do you see
15 that?

16 A. I see it.

17 Q. Have you already seen this kind of document before? You have, haven't you?

18 A. Yes, I can see my signature on it.

19 Q. Can you explain to us what this document is?

20 A. I couldn't explain this document, but I can say that my signature is on it and the
21 date corresponds with the document that I signed which was referred to, and I can
22 inform you that this document of course has my writing on it, but I have no
23 comments to make on it.

24 Q. Thank you. We see at the top, "Personal details." We see your name and just
25 next to it, we see "Office of the Prosecutor." Do you see that? It is right at the top,

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1 the first entries on the form. Do you see your name and "Office of the Prosecutor"
2 written on the form?

3 A. (Inaudible) my name, in the upper left-hand corner, and the other piece of
4 information in the upper right-hand corner; I can even see the number of my ID card
5 as well. I think that that is when I had already started the process to introduce my
6 candidacy.

7 Q. So the number (Redacted) was your number, the number attributed to you?

8 A. No, I'm saying this is the number of my ID card, the enlistment card. That was
9 my number.

10 Q. What card are you talking about? As an employee of the Office of the
11 Prosecutor?

12 A. No, my national identity card. The card which was given to me -- the number
13 which was given to me after I became a Congolese citizen, after I was enrolled as a
14 Congolese citizen.

15 Q. Thank you very much. Now, we see in the second part of this document,
16 "Service record." Do you see that?

17 A. Yes, I see that.

18 Q. Just below that you have written "reporting period" and you see
19 19 November 2005 to 31 December 2005. Can you also see that?

20 A. Yes.

21 PRESIDING JUDGE FULFORD: Mr Desalliers, the last couple of -- two or three
22 questions, you haven't built in any pause at all between the answer and your question.
23 Can you apply a little bit more discipline to it, please. Thank you very much.

24 MR DESALLIERS: (Interpretation)

25 Q. So just below the period "actual dates worked during the reporting period," and

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1 you have from 19 November 2005 to 4 January 2006. Can you see that?

2 A. Yes, sir, I can see that.

3 Q. On the right of that it is written "number of days worked during reporting
4 period: 47 days." Can you see that as well?

5 A. Yes, I can see that.

6 Q. So this document, is it a statement or declaration on your part to the fact that
7 you had from 19 November 2005 to 4 January 2006 worked for 47 days in the
8 framework of your contract with the International Criminal Court?

9 A. I said that at that time I hadn't yet signed a contract, but during this period the
10 number of days which covered the date from 19 November 2005 to 4 January 2006, so
11 November, December and part of January, was equivalent to 47 days. And, as I had
12 to be paid my daily amount, it was within this framework that this document was
13 drawn up, and you will see at the side the payment was made in accordance with this
14 document that was drawn up, and this document I signed on 4 January 2006. It
15 has -- or it had nothing to do with my contract, because up to that point I had not yet
16 signed a contract.

17 Q. I would like to understand, sir. In this period, 19 November 2005 to
18 4 January 2006, yes or no, did you carry out 47 days of work for the International
19 Criminal Court?

20 A. I did so. I did so.

21 Q. So, in reality, you started in your functions on 19 November; is that not the
22 case?

23 A. No, that's not what I'm saying. What I'm saying is still informally I had
24 worked during this period and in this period, this period had to be paid.

25 PRESIDING JUDGE FULFORD: I don't think we are going to improve this,

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1 Mr Desalliers. We're going round in circles.

2 MR DESALLIERS: (Interpretation) Yes, thank you. Please, could we have an
3 EVD number attributed to this?

4 PRESIDING JUDGE FULFORD: Certainly.

5 THE COURT OFFICER: Document under tab 21, referenced as DRC-OTP-0231-0251
6 will be attributed reference EVD-D01-00358 and will be marked as confidential.

7 MR DESALLIERS: (Interpretation) Thank you.

8 Q. Now, sir, please could you go to tab 20.

9 For the purposes of the record, this document has the number DRC-OTP-0216-0292.

10 Do you see this document which has this number?

11 A. I see it.

12 Q. It is a fiche de service, a record of employment from the International Criminal
13 Court. Do you recognise your signature on this document?

14 A. Yes.

15 Q. This document, which it seems you signed on 6 February 2006, suggests that
16 from 13 December 2005 to 16 December 2005, you worked for four days. Should we
17 understand from this that within the framework of your contract with the
18 International Criminal Court you carried out four days of work from
19 13 December 2005 to 16 December 2005?

20 A. I said it wasn't within the framework of my contract. At that time I did not
21 have a contract, but what I do know is that with regards to the updating, I had
22 worked during this period, which covered four days. I carried out work or I
23 provided a service to the Court and it wasn't within the framework of the contract.

24 Q. But was it four days of work within the framework of your functions, your
25 functions within the Office of the Prosecutor?

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1 A. Of course it was, because the document was drawn up and it's stated "fiche de
2 service," service sheet, so there was a report and this was a work which was done
3 during four days.

4 Q. If it was done during the informal phase of your cooperation with the Office of
5 the Prosecutor, could you explain to us why you filled in such a services sheet at the
6 International Criminal Court?

7 A. I think that I have no particular answer to give you with regards to the
8 administration of the Court. What I do know is that the documents would come and
9 I would sign them. And, even here, you can see the date when I provided this service.
10 It was in 2005, but the document was signed in the month of February. I have no
11 comment to make with regards to the Court's administration.

12 MR DESALLIERS: (Interpretation) Thank you very much. Perhaps we could give
13 a number to the document.

14 THE COURT OFFICER: Indeed. Document referenced under tab 20 as
15 DRC-OTP-0216-0292 will receive reference EVD-D01-00359 and will be marked as
16 confidential.

17 MR DESALLIERS: (Interpretation) Thank you very much.

18 Q. Could you now, sir, please turn to tab 21. Please, could you go to the second
19 page of this tab which has the number DRC-OTP-0231-0252.

20 Your Honour, I think that I can ask this question and the following questions in open
21 session. Obviously, the documents will have to stay confidential on the other hand.

22 PRESIDING JUDGE FULFORD: Yes, document not to be shown publicly, but public
23 session, please.

24 (Open session at 11.30 a.m.)

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

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1 MR DESALLIERS: (Interpretation)

2 Q. So the document that you have here, sir, is it correct that it bears -- no, it does
3 not bear. Just one moment, please. I will put the question differently. Have you
4 ever seen this document before?

5 A. You agree with me that I don't have even any comments on this document. I
6 don't even see my signature on this document. I have no answer to give you.

7 Q. Thank you. Is it possible that you stated to the Court that you worked 22 days
8 for the period going from 1 January 2006 to 31 January 2006 and that was under your
9 contract?

10 A. Regarding this document, I have no comment. Perhaps the chief prepared it.
11 I have no comment to make on this document; not about the number of days and
12 certainly not anything to say about names or signatures on this document. I am
13 sorry.

14 Q. I'm just asking you, sir, do you remember stating that you had worked 22 days
15 without regard to this document that you have here? Is it possible that you stated
16 that you worked 22 days as part of your contract from 1 January 2006 to
17 31 January 2006?

18 A. I said I had no comment.

19 Q. Does that mean, sir, that you don't want to answer my question?

20 A. It's because I have no answer. Regarding this document, I have no answer.

21 MR DESALLIERS: (Interpretation) Thank you. Your Honour, if we could go back
22 into private session, please.

23 PRESIDING JUDGE FULFORD: Certainly. Private session, please.

24 *(Private session at 11.33 a.m.) Reclassified as Open session.

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

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1 PRESIDING JUDGE FULFORD: Now, Mr Desalliers, what do we do about an EVD
2 number or not for the last document that you've just shown the witness? I don't
3 think at the moment it has one. I may be wrong, but do I anticipate that you will in
4 due course want to address us on the basis that, having been shown this document,
5 the witness had no comment to make about it?

6 MR DESALLIERS: (Interpretation) Indeed, your Honour, that is what I anticipate
7 for the time being. Perhaps an EVD number could be assigned to the document all
8 the same, because this document was shown to the witness. This could be done now.
9 And I am not ruling out that this document and other documents of the same nature
10 might form the basis for a request by the Defence to be placed on the case record, but
11 in a different fashion. I am in your hands.

12 PRESIDING JUDGE FULFORD: Being in my hands, we're not going to resolve it
13 now. I am going to ask you to reflect on it, to discuss the matter with Mr Sachdeva
14 and to see whether we can agree an approach. Thank you. Please proceed.

15 MR DESALLIERS: (Interpretation)

16 Q. Sir, for the period of time of your contract from 1 February 2006 to
17 28 February 2006, do you remember stating that you worked a period of 23 days
18 during that time?

19 A. I said I don't remember, but all I do know is that in my activities, in my
20 professional activities, I was to work every day as was expected. I had my superior
21 and he was the one who had the authority to make reports to the proper people. I
22 really can't be a judge and a party to the case. I can't say no, or I did so many days,
23 or I did this. I don't recall. But once I had a contract I worked. I did my work.

24 Q. And your answer was the same -- is the same for the period going from
25 1 March 2006 to 31 March 2006?

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1 A. I think I have no further comments to add. During that period, I did work for
2 the Court.

3 Q. Is it possible to your mind that you stated, or you may have stated, that you
4 worked for 23 days during the March of 2006? Does that seem possible to you?

5 A. I do not remember.

6 Q. As part of your -- as part of your duties under your contract with the
7 International Criminal Court, were you called upon to be in contact with
8 intermediaries of the Office of the Prosecutor?

9 A. I think that once I was to work, everything that my line managers could have
10 asked me, that (Redacted) do this particular piece of work, I had to do so; but I did
11 say the main activities that I was engaged in during that period were more to receive
12 the materials that were supposed to be used to build offices - the Court's offices - in
13 Bunia. I've already said that.

14 And during all that time, I was focusing more on that work and that was what I was
15 reporting on to my line manager. I've said this, and I stress that that is what I did,
16 but other than that if the manager said, "Oh, do this," well, within the framework of
17 those services I had to do what he said. I had to do that.

18 Q. Now, I know that this is a very difficult exercise, but I would like to ask you to
19 really focus on my questions and try to limit your answers to what I'm asking you.
20 My question was: As part of your work for the Office of the Prosecutor, were you
21 called upon -- were you in contact with intermediaries of the Office of the Prosecutor?

22 A. I don't remember.

23 Q. Do you know a person by the name of (Redacted)?

24 A. Could you give me his complete identity?

25 Q. Certainly, if that can help you. This is a person who may also have been in

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- 1 contact with the Office of the Prosecutor who was in Bunia and his name is (Redacted)
- 2 (Redacted). Do you know that person?
- 3 A. Could I stress that in Bunia there are several --
- 4 THE INTERPRETER: Inaudible.
- 5 THE WITNESS: (Interpretation) Myself, I had a number of responsibilities in
- 6 Bunia; he may know me. But I need the person's complete identity. If I could see his
- 7 photograph I might remember, because when you talk about (Redacted) I don't know
- 8 whether -- there are several such people. I stressed that there's at least 18 tribes in
- 9 the Ituri area. I no longer recall.
- 10 PRESIDING JUDGE FULFORD: Do we have a photograph, Mr Sachdeva?
- 11 MR SACHDEVA: Mr President, I have to check that, but I don't believe so.
- 12 PRESIDING JUDGE FULFORD: Good. Could you find out, please, whether there's
- 13 one in the possessions of the Prosecution.
- 14 MR SACHDEVA: Certainly.
- 15 PRESIDING JUDGE FULFORD: Thank you very much.
- 16 Yes, please carry on, Mr Desalliers.
- 17 MR DESALLIERS: (Interpretation)
- 18 Q. So simply put, sir, your answer is that you don't remember the name (Redacted)
- 19 (Redacted)? That name doesn't ring a bell?
- 20 A. I am saying, no.
- 21 Q. As part of your cooperation with the Office of the Prosecutor, do you remember
- 22 being in contact with three witnesses, three individuals, who said that they were
- 23 former FNI child soldiers; namely, (Redacted)
- 24 (Redacted)
- 25 A. Could you repeat your question?

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1 Q. Certainly. We will take these names one-by-one. That will be a little bit
2 easier. So individuals that apparently were in contact with the Office of the
3 Prosecutor and apparently were former child soldiers of the FNI, the first one being
4 (Redacted).

5 A. Could I see his photograph or have his complete identity?

6 Q. First of all, with the name that I'm giving you, sir, and the description that I'm
7 giving you, yes or no, do you remember this person?

8 A. I am saying in relationship to the name because there are several names, but if
9 the photograph is there I might remember yes, that person I may have seen, or I've
10 seen or met under a particular set of circumstances, but I even said before that there
11 were demobilised people from the UPC and others from the FNI. I've already said
12 that. And if you had a photograph and said, "here, this was (Redacted) or "here is a
13 photo of (Redacted) But for the time being, I have no
14 idea.

15 PRESIDING JUDGE FULFORD: Sir, bear in mind what you've observed in relation
16 to photographs and for each of these individuals, if there is one available, in due
17 course it will be shown to you but, for the time being, on the basis of the name given
18 by Mr Desalliers, are you aware of a former child soldier of the FNI who has the name
19 given by Mr Desalliers?

20 THE WITNESS: (Interpretation) On the list that we had of demobilised people
21 there were several names but, for the time being, I no longer recall.

22 MR DESALLIERS: (Interpretation) Thank you.

23 Q. Now, the second name of these three children that I will submit to you is
24 (Redacted). Do you remember this person?

25 A. I think it's practically the same answer, I don't remember, but I know there was

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1 a list - a list - of demobilised people. I don't remember him, or his face, so it's the
2 same answer, the same answer and for the third it's the same answer. I can't answer
3 any differently right now.

4 Q. I will give you the name, just so that we can be very sure of things. (Redacted)
5 (Redacted). Do you remember that person?

6 A. No.

7 Q. Do you remember in December 2005, around that time, do you remember
8 saying that three former child soldiers from the FNI apparently were questioned by
9 representatives of the office, (Redacted), and two of them had fled to Tchomia? Do
10 you remember such an episode?

11 A. As part of my work, or as part of the Court? Because what I do know is that
12 the case of questioning of demobilised people or child soldiers for a particular offence,
13 that was done by the office. There were many cases, not just the FNI, but also the
14 UPC. That was done. I don't remember, but there were cases like that where some
15 children were interviewed.

16 Q. But, sir, my question was not about your official or unofficial duties; I'm calling
17 upon you to use your memory. Do you remember December 2005, do you
18 remember saying to the Office of the Prosecutor that three former child soldiers from
19 the FNI had been questioned by representatives of (Redacted), and that two of them
20 had fled to Tchomia? Do you remember?

21 A. I no longer recall.

22 Q. In your earlier reply, you talked about the questioning of demobilised people or
23 the questioning of child soldiers. Now, did you yourself take part in such
24 questioning?

25 A. At that time, everything was done by a committee. If there had been an

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1 offence there was a committee that handled the questioning and, for the most part, if
2 it was something that really was just military in nature, the file would be reviewed
3 and then sent to (Redacted), or the office that was in charge of soldiers. But, you see,
4 the decisions were made by a committee. When it sat, there was the army, the police,
5 a few VIPs to look at each case, because at that time there was not a properly
6 accredited tribunal.

7 Q. I will repeat my question, sir. I'm afraid you haven't answered it. I asked you:
8 Did you personally take part in such questioning; you, yourself?

9 A. Yes.

10 Q. Do you remember when?

11 A. Yes, I remember, because first of all, one, most of our officers that we worked
12 with were former combatants and, more than once, they found themselves charged of
13 offences and they would have to undergo questioning and I remember I took part in
14 such sessions of -- questioning sessions.

15 Q. And that was during what period of time?

16 A. I would say practically during the period when justice had not yet been set up.

17 Q. Could you help us a bit? Could you tell us when the -- a justice system was set
18 up? When was a tribunal set up in Bunia?

19 A. I don't remember, but I do know that at each stage each armed group that had
20 control of Ituri had to appoint either a Prosecutor, or even a number of judges. I
21 remember some, perhaps I don't know the names, but I remember having seen them.
22 I don't have the exact date, but I do know that gradually, bit by bit, a system of justice
23 was set up. A system of justice was set up and then decisions started to be made,
24 and arrests even were made. And the central prison was opened, after that prison
25 had been repaired by MONUC.

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- 1 Q. Perhaps you could help us by telling us whether that was before you were
2 cooperating with the Court, when you started cooperating informally with the OTP,
3 or after, when all that was set up?
- 4 A. I don't remember, but I know it was after because during the cooperation it was
5 difficult to have an office. It was difficult.
- 6 PRESIDING JUDGE FULFORD: Mr Desalliers, it's about time for the much shorter
7 break this morning and I know that there are one or two administrative matters that
8 Maître Mabilie wishes to raise. Would this be a convenient moment?
- 9 MR DESALLIERS: (Interpretation) Yes, your Honour.
- 10 PRESIDING JUDGE FULFORD: Thank you. Closed session. Sir, we look forward
11 to seeing you again at about 10-past-12. Closed session, please.
- 12 THE INTERPRETER: Message from the English booth, line 9, correction, it was
13 difficult to have an office.
- 14 *(Closed session at 11.56 a.m.) Reclassified as Open session.
- 15 THE COURT OFFICER: We are in closed session, Mr President.
- 16 (The witness stands down)
- 17 PRESIDING JUDGE FULFORD: Thank you. During the oral ruling at the beginning
18 of today's session, in the draft transcript, page 4, line 17, I inadvertently referred to
19 Article 68(1) as Article 69(1). In the edited version of the transcript this should be
20 corrected, please, and I am grateful to Mr Sachdeva for having brought it to our
21 attention. Can we deal with these matters in open session, Maître Mabilie?
- 22 MS MABILLE: (Interpretation) Yes, your Honour.
- 23 PRESIDING JUDGE FULFORD: Thank you. Public session, please.
- 24 (Open session at 11.58 a.m.)
- 25 THE COURT OFFICER: We are in open session, Mr President..

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1 PRESIDING JUDGE FULFORD: Yes, Maître Mabilille

2 MS MABILLE: (Int) Mr President, we have just received the courtesy copy of the

3 testimony of 582 and I note immediately that in that signed statement, in paragraph

4 91, it says, and I quote, "I do not want my identity to be revealed to the public in the

5 event of possible testimony before the Court." It seems to us that this is an issue that

6 must be submitted to the Chamber as soon as possible. That's my first comment.

7 My second comment is that, after three-and-a-half years, the Registry is writing to us

8 today now saying that we will no longer be able to have access to our client after the

9 hearings. We have a further two-and-a-half weeks of considerable work and the

10 Registry is saying that we can go and see our client from 6 p.m. to 7.45 p.m. at

11 Scheveningen.

12 This does not seem realistic for us. This is quite a difficult period for us now and I

13 don't see why it, at this moment, our visits to our client should be abolished.

14 So I express the wish that we continue the current system, that is, a visit of one half

15 hour after the end of the hearing, and I would seek the assistance of the Chamber on

16 this point.

17 These are the two comments that I wish to make to the Chamber, Mr President.

18 PRESIDING JUDGE FULFORD: The Judges require a written explanation from the

19 Registry as to if what Maître Mabilille has said is correct - and we have no reason to

20 doubt it - as to why it is proposed that there should be a change to the arrangements

21 that we approved many months, if not years, ago and why a new regime -- it has been

22 indicated that a new regime is to be implemented without the Chamber having first

23 been consulted on the new arrangements. That is to be received by us before close of

24 play tomorrow and, until that happens, the previously existing arrangements will

25 apply.

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1 There may have to be some adjustment, however, if over the course of the next day or
2 two we are having to sit later in the evening than hitherto, and if it is considered that
3 because we are sitting later there may be difficulties in relation to post hearing
4 conferences, there is to be an approach to the Judges first by the Registry before any
5 changes are implemented. This issue is quintessentially one that concerns the
6 fairness of the trial for the accused, and the Judges should be involved in any
7 variation to the arrangements. That is point 1.

8 Point 2, application for protective measures for 582, Mr Sachdeva.

9 MR SACHDEVA: Thank you, Mr President. Indeed we understand the urgency of
10 such an application and we are going to make an application once we have gathered
11 all the information that's required.

12 PRESIDING JUDGE FULFORD: I am sure you live in dread of the deadlines that I
13 set, Mr Sachdeva. Can I impose a deadline in relation to this?

14 MR SACHDEVA: It depends what the deadline is, Mr President. Of course, we
15 will --

16 PRESIDING JUDGE FULFORD: Do you want to propose one?

17 MR SACHDEVA: Close of play tomorrow?

18 PRESIDING JUDGE FULFORD: I'm going to anticipate Maître Mabilie. For the
19 moment, 2 p.m. tomorrow, Mr Sachdeva, but if that proves unrealistic, will you revert
20 to us before 2 p.m. passes?

21 MR SACHDEVA: Certainly.

22 PRESIDING JUDGE FULFORD: Thank you. We'll sit again at quarter-past-12.

23 THE COURT USHER: All rise.

24 (Recess taken at 12.02 p.m.)

25 *(Upon resuming in closed session at 12.15 p.m.) Reclassified as Open session.

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- 1 THE COURT USHER: All rise. Please be seated.
- 2 PRESIDING JUDGE FULFORD: Witness, please.
- 3 (The witness enters the courtroom)
- 4 PRESIDING JUDGE FULFORD: Private session, please.
- 5 *(Private session at 12.16 p.m.) Reclassified as Open session.
- 6 PRESIDING JUDGE FULFORD: Yes, Mr Desalliers.
- 7 THE COURT OFFICER: We are in private session, your Honours.
- 8 MR DESALLIERS: (Interpretation) Yes, Mr President. I think that I'm going to
- 9 ask -- try to ask my next questions in open session, with your permission.
- 10 PRESIDING JUDGE FULFORD: Public session, please.
- 11 (Open session at 12.17 p.m.)
- 12 THE COURT OFFICER: We are in open session, Mr President.
- 13 MR DESALLIERS: (Interpretation)
- 14 Q. At any time, did you yourself act as an intermediary of the Office of the
- 15 Prosecutor?
- 16 A. I believe that my tasks were clearly defined. I was in charge of liaison.
- 17 Q. No doubt you are referring to the period of your contract, but I am asking you
- 18 really from the very beginning of your cooperation, whether formal or informal with
- 19 the OTP, all the way through to the end of your formal or informal cooperation with
- 20 the OTP and I'm asking whether you at any time acted as an intermediary of the
- 21 OTP?
- 22 A. Could you explain your question, or put it in other terms please?
- 23 Q. Looking at the entire period I've just mentioned, did it ever happen that you
- 24 introduced individuals to the Office of the Prosecutor who were not previously
- 25 known to the OTP?

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1 A. No, I never did that.

2 Q. Thank you. And still referring to the entire period of your formal or informal
3 cooperation with the OTP, did it ever happen that you facilitated initial contact with
4 an individual who was already known to the OTP?

5 A. Yes.

6 MR DESALLIERS: (Interpretation) Could we go into private session for a few
7 moments, Mr President?

8 PRESIDING JUDGE FULFORD: Certainly, and bring us out of it as soon as you can,
9 Mr Desalliers. Private session, please.

10 *(Private session at 12.21 p.m.) Reclassified as Open session.

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

12 PRESIDING JUDGE FULFORD: Yes, Mr Desalliers.

13 MR DESALLIERS: (Interpretation)

14 Q. So can you tell us how many times you facilitated contact between people and
15 the OTP or how many people you facilitated contact with?

16 A. I cannot tell you exactly the number, but I know that there are certain people
17 who had already met the investigator from the Office of the Prosecutor, and perhaps
18 by reason of change of address or change in contact number I had made an effort to
19 locate or to identify those people so that I could then pass on their telephone number
20 or their address to the investigator. That is something that I did.

21 Q. And have you ever facilitated contact with individuals whom the OTP had
22 never previously met?

23 A. I am sorry, could you please repeat that question?

24 PRESIDING JUDGE FULFORD: Just before you do, does this need to be private? I
25 don't think it does, does it?

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1 MR DESALLIERS: (Interpretation) Mr President, I was going to ask for the names.
2 I have made the curious choice of starting by asking how many people this
3 concerned.

4 PRESIDING JUDGE FULFORD: All right. We'll remain in private session. So can
5 you repeat your question, please?

6 MR DESALLIERS: (Interpretation)

7 Q. All right. I'm going to repeat my question, sir. You have explained to us that
8 you had helped the Prosecutor to make contact with individuals that the OTP had
9 already met. Now, my question is this: Did you help the Prosecutor to make
10 contact with individuals that the OTP had never previously met?

11 A. No.

12 Q. Thank you. With regard to the individuals whose contact with the OTP you
13 facilitated and whom the OTP already knew, do you remember their names?

14 A. I believe that I can remember some of those names who were already in contact
15 with the OTP because, when I was asked for their contact details, it was because they
16 had either already met with the OTP or that they had had prior telephone contact.
17 For example, I can say that there was a certain (Redacted) who was a former
18 minister. We had lost his -- lost contact with him, but I knew that he was working.
19 And then besides him, I know of other people such as -- such as the engineer, the
20 engineer I was talking about yesterday. He had already met people from the Court
21 as well, but at one point because the UPC group was searching for him he had broken
22 off contact. I also made an effort to locate him. And then I also remember that I was
23 asked to look for the number of a certain (Redacted), and I did that. I was
24 asked -- well, those are some of the major names that I remember among the various
25 people.

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1 Q. All right. Taking the first name, (Redacted), do you remember at what time?

2 A. I do not remember when that was, but I know that I had made those -- that
3 contact.

4 Q. And the engineer you were talking about, are you referring to (Redacted)?

5 A. Affirmative.

6 Q. And exactly when did the Prosecutor ask you to resume contact with him?

7 THE INTERPRETER: The interpreters point out that the witness is again very faint.

8 THE WITNESS: (Interpretation) I think that that also was in 2005, but I think also
9 in 2006 because at one point he'd been reported missing in the town of Bunia.

10 THE INTERPRETER: Inaudible.

11 MR DESALLIERS: (Interpretation).

12 Q. And (Redacted), when was that?

13 A. I don't remember about him, because even though I had looked for him and
14 I had his number, I'm not quite sure under what circumstances he was met, whether
15 they had spoken on the telephone. I don't remember that.

16 PRESIDING JUDGE FULFORD: Pause, Mr Desalliers. You've started speeding up
17 again. You left your microphone on during the last witness's answer. And, sir, can
18 I ask you please to make sure you don't drop your voice. Most of today you've been
19 speaking at a very good volume. Can you make sure you keep your voice up,
20 otherwise the interpreters will not hear what you say. Next question, Mr Desalliers.

21 MR DESALLIERS: (Interpretation).

22 Q. So you do not reason the date or the period with regard to (Redacted).
23 Have I understood your answer correctly?

24 A. No.

25 Q. And do you know whether the OTP met (Redacted)?

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1 A. No, I do not know.

2 Q. And you yourself, did you make contact with (Redacted)?

3 A. No. It's just that I had his contact details, by that I mean his telephone number,
4 and I passed it on to the person who had asked me to get it.

5 Q. So you have given us three names. Do you remember any other people?

6 A. I said that they were among the major figures. On the FNI side also, if I
7 remember, there was a person by the name of (Redacted). I had given his number to
8 the investigator also. I don't know whether he met him or not or whether he
9 established contact with him or not, I do not know.

10 Q. You talked about major figures. By that do you mean people who had a
11 certain authority or were in high positions?

12 A. When I talk about major figures, well, I could say that these were figures who
13 had taken on responsibility or high positions, the equivalent of ministers, if I could
14 put it that way, at the time, at the time when the armed group was active, and some of
15 them even continued to exercise those functions even during the pacification
16 commission.

17 Q. The Office of the Prosecutor, did it ask you to take up contact or to establish
18 contact with individuals who did not occupy such high functions, but who were
19 people who one could classify as people who were more ordinary, who had much
20 lower positions?

21 A. I don't remember, but I do know that when I was asked to establish or to find
22 the contact number for such-and-such a person, I didn't know if it was for which case,
23 but what I did know is that I did my best in order to have the telephone number,
24 because there were certain references for certain people who had already been
25 identified, and they already had their details, their telephone details that is, in the

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1 office, either with us in the office or, if we didn't have it, for those in the army or in
2 MONUC, but they had their details.

3 MR DESALLIERS: (Interpretation) Thank you, your Honour. I would like to
4 make another attempt in open session.

5 PRESIDING JUDGE FULFORD: Public session, please.

6 (Open session at 12.32 p.m.)

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

8 MR DESALLIERS: (Interpretation) At this stage, your Honour, I am going to
9 introduce a document which is the examination of the witness in the month of
10 October 2009. You have it in the binders which have been distributed to everybody
11 and it is to be found in several different tabs. The last one of them is tab number 10
12 in our folder.

13 I would propose from now that we should give one EVD number to these ten tabs so
14 we don't have to ask for a new EVD number every time I have to make a reference to
15 this statement so, for the purposes of the record, tabs 1 to 10, and you have this
16 statement starting with DRC-OTP-0216-0350, and the last document from this
17 examination or interview has the number DRC-OTP-0216-0599.

18 PRESIDING JUDGE FULFORD: Mr Sachdeva, on the basis that you can rest assured
19 that in due course the Chamber will only consider those passages which have been
20 put to the witness during the course of questioning, and any parts of the interview
21 under these tabs which have not been referred to, will inevitably be ignored, do you
22 object to one EVD number?

23 MR SACHDEVA: As long as it can be organised that way. My only fear is that for
24 each tab the lines or the interview starts at line 1 every time, so it may be a situation
25 where you are referring to line 45 of an EVD number, but we don't know which tab it

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1 would be. And I understand previously we have identified separate EVD numbers
2 for different tabs.

3 PRESIDING JUDGE FULFORD: I think that's right, Mr Desalliers. It might save
4 time now, but it's probably going to be the rocky road to ruin in due course. I' afraid
5 each time you go to a new tab we are going to have to give it a new EVD number, so
6 can we make sure we do that, please. Thank you.

7 MR DESALLIERS: (Interpretation) Very well, your Honour. So the first part of
8 the interview in the month of October 2009 that I would like to submit is to be found
9 in tab 8. This document has the number DRC-OTP-0216-0528 and could we from
10 now attribute an EVD number thereto?

11 THE COURT OFFICER: Document referenced under tab 8, DRC-OTP-0216-0528 will
12 be attributed reference EVD-D01-00360 and will be marked as confidential unless
13 otherwise suggested.

14 PRESIDING JUDGE FULFORD: Yes.

15 MR DESALLIERS: (Interpretation)

16 Q. So, sir, are you at tab number 8?

17 A. Yes.

18 Q. In order for you to understand what I am showing you at the moment, this is a
19 transcription of your interview by the investigators of the Office of the Prosecutor
20 which took place on 6 and 7 October 2009. I would now like us to go to page 26
21 thereof. So, from page 26, from line 892. 882. So everything is clear, 882. So
22 everything is clear, I would like to read the extract out loud.

23 PRESIDING JUDGE FULFORD: Yes, usher, it's page 26. If you could just highlight
24 on page 26 line 882. It is roughly down -- it's just below the second hole in the page.
25 Right, but Mr Sachdeva?

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- 1 MR SACHDEVA: If that line is going to be read out, I think it should be done with
2 your leave in private session.
- 3 PRESIDING JUDGE FULFORD: Looking at it I think that's right, Mr Desalliers, isn't
4 it? Yes?
- 5 MR DESALLIERS: (Interpretation) I had anticipated this problem. What I was
6 going to propose is to read this and quite simply to say the investigator, whose name
7 you can see, because the witness can follow this document, and that will make it
8 possible to do it all in open session.
- 9 PRESIDING JUDGE FULFORD: Very good, Mr Desalliers. Please follow that
10 course of action.
- 11 MR DESALLIERS: (Interpretation)
- 12 Q. So, sir, I shall read the extract: (speaks English) "Did you continue to have
13 telephone contact with investigator," (Interpretation) whose name you can see at line
14 882, (speaks English) "after 31 March 2006? Answer: I'd finished, I did not have
15 any contact. Question: And you're saying you finished on 31 March 2006; is that
16 right? Answer: Yes, that was the end of my contract. Question: Okay. Am I
17 correct then in understanding that it's your statement that after March 2006 you no
18 longer assisted ICC investigators in finding addresses and telephone numbers for
19 people they wanted to speak to? Next page: Answer: It wasn't my job and I did
20 not do it, because at that period I couldn't do two jobs at once. Question: Okay.
21 And you say two jobs, because am I correct in saying that after March, 31 March 2006,
22 you went back to working for the," and then there is the mention of the agency where
23 you were working. "Answer: Yes. Question: And it's your statement that you
24 never assisted -- before I say this, please correct me if anything I'm saying is wrong,
25 but am I correct in understanding that when you began to work for the," the agency in

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1 which you were working," after 31 March 2006, you never worked for the ICC or
2 assisted the ICC? Answer: I did not work them. End of quote.

3 PRESIDING JUDGE FULFORD: Thank you, usher.

4 MR DESALLIERS: (Interpretation)

5 Q. Following the reading of this passage, sir, should we take or understand
6 therefrom that you had stopped all types of cooperation with the International
7 Criminal Court from 31 March 2006?

8 A. You stressed that, and I said it in my statement, that from the time that my
9 contract ended I no longer continued to work for the Court. The
10 collaboration -- cooperation which you are referring to, what type of cooperation are
11 you referring to? I know that after this date the Court moved me, relocated me.

12 Q. I would just like to make that a bit more precise in terms of my question. After
13 31 March 2006, the Office of the Prosecutor, did it ask you to carry out any tasks of
14 any kind in order to assist it?

15 A. I don't remember. I have to say that to you, because when I finished my
16 contract I had to go back to work for my government, and that's what I did, because
17 immediately in the month of July I had my appointment. The time from April, May,
18 June, that was the time in order to regularise my administrative situation, but already
19 in July I had a notification for my post outside Bunia.

20 Q. So your answer today, if I understand it well, is that you do not remember if the
21 Office of the Prosecutor asked for your assistance for any tasks at all after
22 31 March 2006?

23 A. Officially, yes, I wasn't asked to do any task. Yes.

24 Q. I understand that you attach importance to this difference between the official
25 and non-official. My answer goes into both official and -- my question relates to

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1 unofficial and official collaboration, any request for collaboration from the Office of
2 the Prosecutor. After 31 March 2006, did you continue to collaborate - formally or
3 informally - with the Office of the Prosecutor?

4 A. I would say yes, because the office had relocated me and that shows that I was
5 in contact with the office.

6 Q. Very well. So if we now look at the date, what period were you relocated or
7 resettled?

8 A. I was relocated in the month of July. July 2008, if my memory serves me well.

9 Q. Very well. Okay, between 31 March 2006 and the month of July 2008, did you
10 assist in any way whatsoever the Office of the Prosecutor?

11 A. I do not remember.

12 Q. Do you remember having received reimbursements of any kind or any type of
13 salary between the month of March 2006 and the month of July 2008 from the Court?

14 A. Certainly. Even my wages in arrears ... the disputed amounts had been paid
15 to me. Well, I don't remember the date on which they were paid, but it was when I'd
16 already finished my contract, that was when this amount was paid to me. My wages
17 and even some wages in arrears were paid afterwards. That is something that I do
18 remember, but I don't have the date.

19 Q. In addition to these late salary payments, did you receive other sums,
20 reimbursements, other salary, from the Court?

21 A. I stated that I received the reimbursement. This is something that I had
22 received, and also these late salary payments which were received afterwards when I
23 was already with the (Redacted) and, of course, in order for me to be able to access
24 this money, or this salary, then it was necessary to establish contact and I remember
25 that. Once I was called on the phone and the chief, (Redacted), called me on the

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- 1 phone and he asked me to -- well, I was in (Redacted) at the time. I was the
2 (Redacted) post in (Redacted), but with (Redacted) in (Redacted), and he called me
3 and asked if I could go to Bunia. So I had left (Redacted) and I went from (Redacted)
4 to Bunia and there I got these late payments, and I think under the same
5 circumstances there were also other late payments. Each time the investigators came,
6 they would remember, and they would call me and ask me to come get my wages.
7 And when I did, I would always sign some documents.
- 8 MR SACHDEVA: Mr President, I think there should be some redactions in that last
9 answer, with your leave.
- 10 PRESIDING JUDGE FULFORD: Yes, the two names beginning with "M" and the
11 organisation which is described by three letters, with the name that follows
12 immediately thereafter.
- 13 MR SACHDEVA: Yes, thank you very much.
- 14 PRESIDING JUDGE FULFORD: Thank you for bringing it to my attention.
15 Mr Desalliers.
- 16 MR DESALLIERS: (Interpretation)
- 17 Q. So, I understood that in terms of the salary that was owed to you, this was paid
18 afterwards, after 31 March 2006.
- 19 A. Yes.
- 20 Q. This was a salary for work that was carried out before -- before 31 March 2006?
- 21 A. Yes.
- 22 Q. So, did you receive a salary, or reimbursements, for tasks or work or any type of
23 collaboration which you carried out after 31 March 2006 for the Court?
- 24 A. Yes, for my salary, the salary was paid - I have said this - with a delay, and
25 that's the reason why I speak about arrears, but also certain reimbursements were also

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1 paid late. I don't know the reason why, but all I know is that when the expenses
2 were paid, when my salary was paid, when I got it I signed a document.

3 Irrespective of the date, I signed a document and I received what was owed to me.

4 Q. And you received the salary arrears until when? How much time did the
5 Prosecutor take to pay you everything that was owed to you after 31 March 2006?

6 A. I no longer remember, but I know that it was paid late.

7 Q. Could you go into the binder to the tab, the accounting tab, and more precisely,
8 the accounting document number 21. For the purposes of the record, this document
9 has the ERN DRC-OTP-0205-0464.

10 THE INTERPRETER: 0463, the interpreter corrects.

11 MR DESALLIERS: Q. Do you see this document? I would just like to know --

12 THE INTERPRETER: Overlapping speakers.

13 MR DESALLIERS: (Interpretation) Q. Did you sign this document on 4 May 2006?

14 You did, didn't you?

15 A. Yes.

16 Q. In the description of the items for which you were reimbursed, it is indicated
17 communications in May 2006, travel in May 2006, copying, scanning, loss of wages
18 April/May 2006, as well as photos and films May 2006, a total amount of \$510 US.
19 Should we understand from this document that you were reimbursed for tasks that
20 you carried out for the Court in the month of May 2006?

21 A. I do not remember, but I know that it was a reimbursement, a reimbursement
22 for work that was carried out.

23 Q. And do you remember the work that you carried out?

24 A. I no longer remember, because it was years ago. There was a lot of work that I
25 carried out, but I see that relating to the copies and photos, I don't remember, but at

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1 that time I don't think that I had done the photos. I think this has to be somehow
2 related to the dispute with regards to payment. But the amounts were paid in May.

3 Q. And the point loss of salary April/May 2006, is this a loss of wages within the
4 agency within which you were working?

5 A. Which agency?

6 PRESIDING JUDGE FULFORD: We need to go into private session, please.

7 *(Private session at 12.58 p.m.) Reclassified as Open session.

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

9 PRESIDING JUDGE FULFORD: Yes, Mr Desalliers.

10 MR DESALLIERS: Q. This mention, does it mean that you were reimbursed for a loss
11 of your salary within the -- from the (Redacted) April and May 2006?

12 A. I no longer remember, but what I do know is that in the calculations of wages
13 there are different points that are taken up. We have what are called the basic wages
14 and then you also have a family supplement. And there's also a transport item, the
15 transport that's been paid for. And on top of that, there are taxes that have to be paid.
16 If we had to speak in terms of wages, the month of April has 30 days, so you could
17 assume 26 working days; and the month of May has 31 days, so you could assume
18 perhaps 26 working days as well. So I would say that I would have 52 days. And
19 in relation to the wages allocated to me, if I had to be paid as defined in the contract,
20 then I think that I wouldn't have the -- I wouldn't be owed that amount.

21 So I would see it as two reimbursements, either for the work that was done before or
22 for expenditure which I had already undertaken but which was not yet reimbursed.

23 And this expenditure was reimbursed to me in the month of May, and this is
24 something I received because I can see my signature on this document irrespective of
25 the date and the year. Even if it was in 2010 for me, I received what was owed to me.

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1 PRESIDING JUDGE FULFORD: Can we break now, Mr Desalliers, or do you want
2 to -- one more. Certainly.

3 MR DESALLIERS: (Interpretation) Thank you, your Honour.

4 Q. Now, in April and May 2006, sir, you were indeed working for the (Redacted)
5 that not so?

6 A. Yes.

7 MR DESALLIERS: (Interpretation) Thank you.

8 PRESIDING JUDGE FULFORD: Just before we go into closed session for the witness
9 to withdraw, Mr Sachdeva the protective measures for 582 of course relate to a
10 witness who in the first instance certainly is going to be providing his testimony by
11 way of deposition. I have to confess, I had not anticipated that there was a
12 possibility that that deposition taking process, whilst it is ongoing, is going to be
13 broadcast publicly. It seems to me that that is highly unlikely, particularly since the
14 operation will not be judicially supervised.

15 In those circumstances, if I'm right in that assumption, do we have to resolve the issue
16 of protective measures at this stage? Wouldn't it be more appropriate for us to
17 review the position once the deposition has been taken?

18 MR SACHDEVA: Mr President, that indeed was also our understanding, that it
19 would be done in effectively closed session, but the measures were simply the
20 application of a pseudonym if indeed we were going to make -- if indeed the
21 application will go forward. But, yes, it would be the application of a pseudonym
22 for what I would imagine to be the eventual tendering of the deposition as evidence
23 in the trial, but then it perhaps could be dealt with later.

24 PRESIDING JUDGE FULFORD: Exactly. If we were minded to allow any form of
25 protective measures, any public distribution of what's said during the deposition

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- 1 taking session could be suitably redacted.
- 2 MR SACHDEVA: Yes, absolutely.
- 3 PRESIDING JUDGE FULFORD: Good. That's point 1 on it. Could you discuss
- 4 that, please, with Maître Mabilie at a convenient moment. The second is you may
- 5 wish to undertake in relation to this witness the same sort of exercise that
- 6 Maître Mabilie conducted for 555. A quick look at the internet may be revealing in
- 7 relation to whether or not this is a -- if there is to be an application for protective
- 8 measures, whether or not it is well-founded.
- 9 MR SACHDEVA: Indeed. I take it your Honours mean 582?
- 10 PRESIDING JUDGE FULFORD: Sorry. Dealing in numbers, rather than real
- 11 human beings' names, Mr Sachdeva, yes, you are right. Not 555.
- 12 MR SACHDEVA: Certainly, Mr President.
- 13 PRESIDING JUDGE FULFORD: Thank you. We will be sitting for two hours this
- 14 afternoon. There will be a quarter-of-an-hour break in the middle. We will meet
- 15 here at half-past-2. Closed session, please.
- 16 *(Closed session at 1.05 p.m.) Reclassified as Open session.
- 17 THE COURT OFFICER: We are in closed session.
- 18 (The witness stands down)
- 19 PRESIDING JUDGE FULFORD: It has got to be urgent, Mr Desalliers. I've got to
- 20 let the interpreters and the stenographers go, but what is it?
- 21 MR DESALLIERS: (Interpretation) Just a second. A request, your Honour, that
- 22 may make me very unpopular, but at the rate we are going at I think I'm going to
- 23 have to ask the Chamber for authorisation to extend the hearing tomorrow and, if
- 24 possible, even up until 5 in the afternoon. I think I would need that time
- 25 unfortunately to conclude my cross-examination.

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1 PRESIDING JUDGE FULFORD: There are two options, Mr Desalliers. We either
2 sit late or we sit early. We will revisit this later. Thank you. Half-past-2.

3 THE COURT OFFICER: All rise.

4 (Luncheon recess taken at 1.06 p.m.)

5 (Upon resuming in open session at 2.31 p.m.)

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

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

8 PRESIDING JUDGE FULFORD: Yes, Mr Sachdeva.

9 MR SACHDEVA: Very briefly, Mr President. We had further discussions over
10 lunch and with your leave we would like to make the application in respect of 582
11 tomorrow morning.

12 PRESIDING JUDGE FULFORD: Which application?

13 MR SACHDEVA: The application to eventually redact his identification details from
14 any transcript that may eventually be tendered. I know that I had said beforehand
15 that perhaps it could be done later but I suspect it's prudent to have it resolved before
16 the deposition commences.

17 PRESIDING JUDGE FULFORD: Reading between the lines, do you apprehend that
18 this witness would like to know what the position is going to be before he embarks
19 upon his evidence?

20 MR SACHDEVA: I would imagine so, but I'm not saying that it's conditional or
21 anything like that. It's just that perhaps -- perhaps it would be important for the
22 witness to understand what the situation is.

23 PRESIDING JUDGE FULFORD: Thank you. We'll reflect on this. Mr Desalliers,
24 we are concerned that if there is some kind of deadline for you completing your
25 questioning of this witness that coincides with the end of Friday afternoon, that that

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1 may create the impression, at the very least, that you have been unable to deal with
2 all of the issues that you feel ought to be dealt with on an important issue on behalf of
3 your client. We've been trying to think of ways round this, and it seems to us that
4 given next week there is going to be an exercise of taking evidence by way of
5 deposition with one witness, that a route that could be considered by the Prosecution
6 and the Defence is that if by 4 o'clock or so tomorrow we haven't concluded, you
7 haven't concluded the main areas, then any outstanding questions from you, and any
8 questions that Mr Sachdeva is entitled to put following the matters that you've raised,
9 could be adjourned until Monday and concluded by way of deposition.

10 In that way, you will not be pressed by time; you will be able to put all the questions
11 you wish and there will be a full recording of that which we will consider. So, could
12 you reflect on that and either later this afternoon or tomorrow morning come back to
13 us on it?

14 MR DESALLIERS: (Interpretation) Yes, indeed. Thank you, Mr President.

15 PRESIDING JUDGE FULFORD: Good. Thank you. And obviously, we'll use as
16 much time as possible tomorrow as well, but what we're seeking to establish is a
17 safety valve so if all the best laid plans don't in fact resolve the problem, then there is
18 a way of affording you additional time to put proper questions to the witness once we
19 reach the ultimate deadline on Friday.

20 MR DESALLIERS: (Interpretation) This is a suggestion that is much appreciated
21 by the Defence and we thank you.

22 PRESIDING JUDGE FULFORD: Closed session, please.

23 *(Closed session at 2.35 p.m.) Reclassified as Open session.

24 PRESIDING JUDGE FULFORD: And usher, if you could go and get the witness.

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

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- 1 PRESIDING JUDGE FULFORD: Private or public, Mr Desalliers.
- 2 (The witness enters the courtroom)
- 3 MR DESALLIERS: (Interpretation) Open session, Mr President.
- 4 PRESIDING JUDGE FULFORD: Open session, please.
- 5 (Open session at 2.37 p.m.)
- 6 THE COURT OFFICER: We are in open session, Mr President.
- 7 PRESIDING JUDGE FULFORD: Yes.
- 8 MR DESALLIERS: (Interpretation) First and foremost, Mr President, I don't
- 9 believe we've done so yet, but could we assign an EVD number to the document
- 10 bearing the -- accountancy document under tab 21 in the binder, please.
- 11 THE COURT OFFICER: The document under tab 21, referenced as
- 12 DRC-OTP-0205-0463, will be attributed reference EVD-D01-00361 and will be marked
- 13 as confidential.
- 14 MR DESALLIERS: (Interpretation) Thank you.
- 15 Q. Witness, could you please consult accountancy document number 27. For the
- 16 record, this document bears the number DRC-OTP-0216-0047. Do you have this
- 17 document before you, sir?
- 18 A. Yes, I do.
- 19 Q. Do you recognise this signature, your signature, on the document?
- 20 THE INTERPRETER: Inaudible.
- 21 THE WITNESS: (Interpretation) Yes, I do recognise my signature.
- 22 MR DESALLIERS: (Interpretation)
- 23 Q. So you did indeed send this request for reimbursement to the Office of the
- 24 Prosecutor on 8 October 2006, did you not?
- 25 A. This is a document acknowledging - of acknowledgment - whereby I certified

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1 that I received the amount of \$80 for services rendered.

2 Q. And the period of the 2nd to the 9th of October 2006, does this seem a precise or
3 exact date to you?

4 A. Yes.

5 MR DESALLIERS: (Interpretation) Thank you. Might we assign an EVD
6 number to this document, please?

7 THE COURT OFFICER: Yes, indeed. The document under tab 27, referenced
8 DRC-OTP-0216-0047, will receive reference EVD-D01-00362 and will be marked as
9 confidential.

10 MR DESALLIERS: (Interpretation) I thank you.

11 Q. Mr Witness, could you please consult accountancy document number 31 and,
12 for the record, this document bears the reference number DRC-OTP-0216-0054. Sir,
13 do you recognise your signature on this document?

14 A. Yes, I do recognise this signature. It is mine.

15 Q. So this is a request for reimbursement that you sent to the Office of the
16 Prosecutor on 13 February 2007, is it not?

17 A. I said that this was not a request that I had addressed at that date but it was a
18 request for reimbursement that was paid on that date, in arrears.

19 MR DESALLIERS: (Interpretation) Could an EVD number please be assigned to
20 this document?

21 THE COURT OFFICER: Indeed. Document under tab 31, referenced as
22 DRC-OTP-0216-0054, will receive reference EVD-D01-00363 and will be marked as
23 confidential.

24 MR DESALLIERS: (Interpretation) I thank you.

25 Q. I would like you to now consult accountancy document number 35, please.

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1 This document bears the reference number DRC-OTP-0196-0579. Do you recognise
2 your signature appended to this document, sir?

3 A. Yes, of course.

4 Q. So, you received this reimbursement on 16 November 2007, did you not?

5 A. Yes, I did receive this reimbursement.

6 MR DESALLIERS: (Interpretation) Thank you. Might an EVD number be
7 assigned to this document, please?

8 THE COURT OFFICER: Document under tab 35, referenced as DRC-OTP-0196-0579,
9 will receive reference EVD-D01-00364 and will be marked as confidential.

10 PRESIDING JUDGE FULFORD: The figures on the copy provided to the Chamber
11 are extremely indistinct. Can we ensure please that the copy on the Court's case
12 management system is better and, if it isn't, if the Prosecution or the Defence have a
13 better version of this a substitute copy needs to be uploaded.

14 Please carry on, Mr Desalliers.

15 MR DESALLIERS: (Interpretation)

16 Q. The next document that I would like to show to you is to be found at tab 38 of
17 the accountancy documents. This document bears the reference number

18 DRC-OTP-0196-0302. Sir, a mission to the location mentioned on this document, that
19 is to (Redacted), does this mean anything to you?

20 A. Yes, it does.

21 Q. Could you please tell us what this document represents?

22 PRESIDING JUDGE FULFORD: Before you answer, public or private,
23 Mr Desalliers?

24 MR DESALLIERS: (Interpretation) I think being prudent, for his first answer, I
25 think we might go into private session, Mr President.

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- 1 PRESIDING JUDGE FULFORD: Private session, please.
- 2 *(Private session at 2.47 p.m.) Reclassified as Open session.
- 3 THE COURT OFFICER: We are in private session, Mr President.
- 4 PRESIDING JUDGE FULFORD: Sorry, sir. Sorry we interrupted you. Please give
- 5 your answer now.
- 6 THE WITNESS: (Interpretation) Yes, thank you, Mr President. I do recognise this
- 7 reimbursement. It is for services rendered where I travelled from Bunia to
- 8 (Redacted), to the territory of Mambasa, and also for errands that were run to
- 9 (Redacted) and (Redacted) and this is a document that I do indeed recognise.
- 10 MR DESALLIERS: (Interpretation)
- 11 Q. In view of the fact that reference is made to a witness in Bunia on this document,
- 12 could you tell us which witness this document is referring to?
- 13 A. I do not remember the name, but I do know that under certain circumstances
- 14 there were witnesses who were not in contact with the office, or quite simply they
- 15 were having problems with battery levels in their telephones and, as a result, I was
- 16 requested to travel in order to go and find them, to find where they were, and I think
- 17 that it was on this occasion that I remember having travelled from Bunia to Mambasa.
- 18 Now, in Mambasa, at that time there was no network. Mambasa did not have any
- 19 coverage, and even Kasenyi had the same problem in some areas. Now, in view of
- 20 the fact that the office required this witness, I had to travel personally for security
- 21 reasons and to make sure that he was in the correct hands. I remember that this was
- 22 a document that covered the amount of expenses reimbursed.
- 23 Q. At an earlier stage today I mentioned a name to you, the name of (Redacted).
- 24 Now, now that you are remembering this mission, if I were to suggest to you that this
- 25 mission had something to do with a witness by the name of (Redacted), does this

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1 seem possible to you?

2 A. I do not recall.

3 PRESIDING JUDGE FULFORD: Yes, Mr Sachdeva.

4 MR SACHDEVA: I may be mistaken, but I don't recall the witness mentioning the
5 name. I recall a suggestion being made by counsel.

6 PRESIDING JUDGE FULFORD: No, I don't think it's in the answer, is it,
7 Mr Desalliers? If it is, I'm afraid it hasn't found its way into the English transcript.

8 MR DESALLIERS: (Interpretation) I can reassure my learned friend that I said -- I
9 mentioned a name to you, the name (Redacted). This was the suggestion that I was
10 making and I was reiterating my suggestion to the witness.

11 PRESIDING JUDGE FULFORD: Fine. The English translation had you down as
12 suggesting that the witness had mentioned (Redacted), hence Mr Sachdeva rising to
13 his feet. Right, but in any event we have the answer. He doesn't recall. Please
14 carry on and, as soon as we can move back into public session, let us do so.

15 MR DESALLIERS: (Interpretation) Yes, we can indeed. We can do so
16 immediately.

17 PRESIDING JUDGE FULFORD: Public session, please.

18 (Open session at 2.52 p.m.)

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

20 MR DESALLIERS: (Interpretation) Might we have a reference number for the
21 document at tab 38?

22 THE COURT OFFICER: Just before I attribute an EVD number, the previous
23 document already had an EVD number and so I'll have to change it and I will start all
24 over again.

25 So document in tab number 35, referenced as DRC-OTP-0196-0579, was already

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1 attributed EVD-D01-00307 and was marked as confidential. Now the document
2 under tab 38, referenced as DRC-OTP-0196-0302, will then receive the EVD reference
3 EVD-D01-00364 and will be marked as confidential. Thank you.

4 MR DESALLIERS: (Interpretation) Thank you.

5 Q. Now, sir, I would like you to consult accountancy document number 42, please.

6 The ERN number for this document is DRC-OTP-0196-0477. Sir, is this document a
7 reimbursement that you received from the Court on 23 January 2008? Did you
8 understand my question, sir?

9 A. Of course. These were for additional costs incurred in the context of this
10 mission, which were reimbursed to me, and I do recognise the document.

11 Q. Should we understand that you received a salary for five days of work from 15
12 to 19 January 2008?

13 A. In fact, I no longer recall. What I do know is that this was reimbursed to me.
14 This was reimbursed to me. As for the date and the year, well, I do not recall, but I
15 did receive this money as reimbursement, or in the form of reimbursement.

16 MR DESALLIERS: (Interpretation) I thank you. Might we assign an EVD number
17 to this document?

18 THE COURT OFFICER: Document under tab 42, referenced as DRC-OTP-0196-0477,
19 will be attributed reference EVD-D01-00365 and will be marked as confidential.

20 MR DESALLIERS: (Interpretation) Thank you.

21 Q. The next document that I would like to draw to your attention is accountancy
22 document number 44. Could you please consult document number 44. I apologise,
23 the reference number for this document is DRC-OTP-0196-0068. Sir, did you indeed
24 receive reimbursement or payment from the Court for the items mentioned in this
25 document at the date of 1 March 2008?

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1 A. Yes, this is my signature and to the right this is even my writing.

2 MR DESALLIERS: (Interpretation) Thank you. Might we assign an EVD number
3 to this document, please?

4 THE COURT OFFICER: Indeed. Document under tab 44, referenced as
5 DRC-OTP-0196-0068, will be attributed reference EVD-D01-00366 and will be marked
6 as confidential.

7 MR DESALLIERS: (Interpretation) Thank you.

8 Q. The next document is accountancy document number 45. Could you please
9 quite simply turn over to the next page in the binder, it's the following document,
10 bearing the reference number DRC-OTP-0216-0207. Did you receive payment for the
11 items mentioned in this document on the date of 26 March 2008?

12 A. Yes, on that date I received reimbursement. Now, as to the date of the service
13 which I rendered, I do not recall, but the reimbursement was given to me on this date
14 and I can recognise my signature.

15 MR DESALLIERS: (Interpretation) Thank you. Could an EVD reference be given
16 to this document, please.

17 THE COURT OFFICER: Indeed. Document referenced under tab 45 as
18 DRC-OTP-0216-0207 will receive reference EVD-D01-00367 and will be marked as
19 confidential.

20 MR DESALLIERS: (Interpretation) Thank you.

21 Q. This document, sir, shows that you received a salary for work done on 5, 6 and 7
22 March 2008. Does that seem possible to you?

23 A. I have already said that with respect to the date mentioned on this document, I
24 have no recollection, but I do know that I rendered this service and I had to be
25 reimbursed for this expense.

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1 Q. Thank you. Do you remember whether or not you gave a report to the OTP
2 after completing this work of three days?

3 A. To be sincere, I do not recall, but it is certain that a report was prepared.

4 Q. Thank you. Could you please turn to accountancy document number 48.
5 This document bears the reference DRC-OTP-0216-0206.

6 I have the same questions for this document: Were you paid the sums mentioned on
7 this document for the activities described in this document on 5 April 2008?

8 A. On 5 April 2008, yes, I do see my signature here. However, this was
9 reimbursement for services provided.

10 MR DESALLIERS: (Interpretation) Thank you. Could an EVD reference be
11 attributed to this document, please.

12 THE COURT OFFICER: The document under tab 48 which is referenced as
13 DRC-OTP-0216-0206 will be attributed reference EVD-D01-00368 and will be marked
14 as confidential.

15 MR DESALLIERS: (Interpretation) Thank you.

16 Q. Sir, just before the break and from the time we resumed this afternoon, I have
17 shown different receipts to you, receipts for payments which you received from the
18 Court between the month of May 2006 and the month of April 2008. Looking at
19 these documents, will you change your testimony, namely, that from March 2006 you
20 were no longer providing any services to the OTP?

21 A. I said that officially I was no longer working, that is, with a contract. I said that
22 earlier, that I was no longer providing that service. Now, if I were asked to look for
23 the contact information of persons, I would look for that information without any
24 problem, but officially I was not in the employ of the Court.

25 Q. Thank you. Within the framework of your collaboration with the OTP, that is,

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1 during the time when you were working officially and the time you were working
2 unofficially, did it ever happen that you provided inaccurate information to the OTP
3 about the sums that had to be paid to you or reimbursed to you?

4 A. No, because the sums that were paid to me were always justified; that is, I had
5 to present supporting documents for these sums.

6 MR DESALLIERS: (Interpretation) Your Honour, could we return to private
7 session, please.

8 PRESIDING JUDGE FULFORD: Private session, please.

9 *(Private session at 3.07 p.m.) Reclassified as Open session.

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

11 MR DESALLIERS: (Interpretation)

12 Q. Do you know an individual by the name of (Redacted)?

13 A. I beg your pardon?

14 Q. I was asking you whether or not you know someone by the name of (Redacted).

15 A. Could you tell me where he is? Is he in Kinshasa, or out of Kinshasa or
16 elsewhere?

17 Q. Do you know more than one person who bears the name (Redacted)? Do you
18 know several of them?

19 A. Yes, I know several people who go by the name of (Redacted). I know (Redacted),
20 but I do not know (Redacted). But I also know a certain (Redacted) (phon).

21 MR DESALLIERS: (Interpretation) Your Honour, could I have a moment, please.

22 (Pause in proceedings)

23 Q. Could you please turn to tab 15, not in the accountancy documents but the
24 documents at the beginning of the binder, documents under tab 15. Bears the
25 reference DRC-OTP-0232-0167.

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1 Sir, this is a receipt. Do you recognise your signature on this document?

2 A. Yes, of course.

3 Q. It is stated that you first of all received the sum of 300 US Dollars from (Redacted)

4 to be reimbursed at Kisangani. This document was prepared in Beni, and at the

5 bottom of the document we find that the sum of \$55 was added for fuel and that gives

6 a total of \$355, and so the question I have for you is the following: Do you

7 remember this (Redacted) in particular?

8 A. Very well. Very well.

9 MR DESALLIERS: (Interpretation) Your Honour, I think we should return to
10 public session.

11 PRESIDING JUDGE FULFORD: Public session, please.

12 (Open session at 3.11 p.m.)

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

14 MR DESALLIERS: (Interpretation)

15 Q. Is it correct, sir, that you asked the individual whose name appears on this

16 document to tell a lie to the OTP?

17 A. I have never done that. First of all, let me point out that this is an exclusively

18 private matter. When I made this agreement with (Redacted), first of all, he was a

19 (Redacted). I was travelling with him. And as I speak at this moment, he -- I

20 travelled with him from Beni to Kisangani, and when we reached Kisangani he

21 helped provide me with accommodation and I no longer owe him. And for your

22 information, this is a very private document which has absolutely nothing to do with

23 the OTP. And at no point did I make any allusion to this document, and that debt is

24 no longer in existence as I speak to you today.

25 Q. Thank you.

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- 1 PRESIDING JUDGE FULFORD: If you're going to move to the issue of redactions
2 we've altered it. No? Something else. EVD number? EVD number, please.
3 There's a redaction as well.
- 4 THE COURT OFFICER: Document under tab 15 referenced as DRC-OTP-0232-0167
5 will be attributed reference EVD-D01-00369 and will be marked as confidential.
6 Thank you.
- 7 MR DESALLIERS: (Interpretation) Thank you.
- 8 Q. Could you please now turn to tab 11 in the binder. For the record this
9 document bears the reference DRC-OTP-0219-0061.
- 10 Sir, this is a statement which you provided to an official in charge of external matters
11 from the OTP of the International Criminal Court on 31 May 2008. That is an officer
12 in charge of external operations in the support unit of the OTP. Please turn to the
13 last page of this document. Do you recognise your signature on the document?
- 14 A. It is indeed my signature.
- 15 Q. The person whose name is on the right, the person who interviewed you, is the
16 person whom you described as your hierarchical superior at the time you were under
17 a contract with the ICC; is that the case?
- 18 A. Yes.
- 19 MR DESALLIERS: (Interpretation) Your Honour, I'm going to read an excerpt and
20 I think it would be proper for us to go into private session.
- 21 PRESIDING JUDGE FULFORD: Private session, please.
- 22 *(Private session at 3.16 p.m.) Reclassified as Open session.
- 23 THE COURT OFFICER: We are in private session, Mr President.
- 24 MR DESALLIERS: (Interpretation)
- 25 Q. I am going to read an excerpt of this statement which you gave on 31 May 2008.

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1 "Question: According to the information at our disposal you met someone called
2 (Redacted) in Beni. Could you please explain to us the circumstances of that meeting?
3 Answer: That I did indeed meet this gentleman as a passenger in Beni. He was
4 trying to go to Kisangani by road. I took him on board my vehicle and he helped me
5 a lot along the way, especially as I had no money on me any more. The type of
6 assistance that (Redacted) gave me was in the form of financial loans. He loaned me
7 \$250 to be paid back with interest, and the total reimbursement amount had to -- or
8 stood at \$350. In Kisangani he also paid \$5 for washing of the jeep. Question:
9 Why did you introduce this (Redacted) to me on the phone on 27 May 2008 as the
10 manager of the hotel which was asking for you to pay rents of \$350 before you'd be
11 allowed to go? Answer: I apologise for this lie, but the fact remains that this (Redacted)
12 was a permanent source of insecurity to me because he was always accompanied by
13 soldiers of the FARDC who had been demobilised from military groups and absorbed
14 into the army and deployed to Kisangani. I did not tell (Redacted) who you were and
15 who you were working for. I simply told him that you were my boss. After your
16 conversation with him on the phone about the hotel expenses, he told me that you
17 had informed him that you worked for MONUC. Question: On 29 May I went to
18 the hotel called (Redacted) and the manager told me that you left two days earlier,
19 you disappeared two days before 27 May. That is to say, you left on the 25th in the
20 afternoon. Is that correct? Answer: It is not correct. I was still at that hotel when
21 I had you speak with (Redacted) over the phone. Question: So finally, how much
22 did you owe in Kisangani and how did you expect to pay for this debt? Answer: I
23 was owing (Redacted) the sum of \$355", and then you went ahead to mention other
24 debts. But I would like to stop reading here, stop this excerpt here.
25 Your Honour, I think I'll be able to put the questions, subsequent questions, in open

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1 session.

2 PRESIDING JUDGE FULFORD: Public session, please.

3 (Open session at 3.22 p.m.)

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

5 MR DESALLIERS: (Interpretation)

6 Q. Sir, is it correct that you asked this individual to tell a lie to the Office of the
7 Prosecutor in order to help you pay one of your debts?

8 A. No, I did not ask him to tell a lie. That is not correct. He asked me to render
9 him a service. He gave me \$300 and this was for fuel; it wasn't for any other purpose
10 and when we arrived at (Redacted), we were still short of fuel. And since the road
11 was muddy, the car had to be washed, and so he gave an additional sum of \$5, and so
12 the total was \$355. I had to pay him back but I had no money. I didn't know where
13 I was going to spend the night and, since he was from Kisangani, he took me to a
14 hotel, the hotel mentioned here, that is, (Redacted). He discussed with the hotel
15 manager. He requested that I be provided with accommodation. My jeep was
16 standing there and it had to -- well, it had to be sold.
17 When I had to leave Kisangani, the jeep had not yet been sold, but I had to leave.
18 When I told him that I had to leave, he would come to the hotel every day ---- not a
19 minute would go by without him turning up. So, he was for me, with the manager,
20 the way he had spoke with the manager. First of all, for your information, he was the
21 (Redacted) of the hotel manager. I knew that later on because, if he had been a
22 stranger, he wouldn't have been given that -- provided that favour, especially as in
23 Kisangani there are very few hotels and there are many customers who arrive every
24 day. And so thanks to him I was given that favour. But this does not mean that
25 (Redacted) helped me, told a lie to my bosses.

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1 In any case, when he was on the telephone, I had him speak to my boss. When I was
2 supposed to leave, he spoke to my boss. He told me that he had spoken to my boss.
3 I didn't know what they talked about. After that phone conversation I was allowed
4 to go.

5 I left. I left Kisangani, and the jeep stayed behind. And as I had promised, when
6 the jeep was sold, I repaid him and right up to today as I speak I no longer owe him.
7 It was a very personal and private matter that had absolutely nothing to do with the
8 services of the Court.

9 PRESIDING JUDGE FULFORD: Yes, Mr Sachdeva.

10 MR SACHDEVA: Mr President, I believe that there ought to be some redactions
11 from that last answer, but may I make one point: Of course counsel covered this
12 area in closed session and I understand the need to be in open session, but asking the
13 witness a question on this topic is necessarily going to invite a response which may
14 require further redactions, so I would ask, with your leave, counsel to be a little bit
15 more careful, in my submission.

16 PRESIDING JUDGE FULFORD: Thank you, Mr Sachdeva. I think we're dealing
17 with it quite well. I've already sent an instruction that the name of a person and the
18 name of a hotel should be redacted, and I think that will cover the position quite
19 satisfactorily. I don't think the present constitution of the public gallery poses an
20 identifiable problem.

21 Right. We're nearly half-past-3. I think it's time for a break. We'll have
22 quarter-of-an-hour's break. Closed session, please. Yes, thank you, usher.

23 *(Closed session at 3.26 p.m.) Reclassified as Open session.

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

25 (The witness stands down)

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- 1 PRESIDING JUDGE FULFORD: Thank you all. Quarter-to-4.
- 2 (Recess taken at 3.28 p.m.)
- 3 *(Upon resuming in closed session at 3.44 p.m.) Reclassified as Open session.
- 4 THE COURT USHER: All rise. Please be seated.
- 5 PRESIDING JUDGE FULFORD: Witness, please.
- 6 (The witness enters the courtroom)
- 7 PRESIDING JUDGE FULFORD: Public or private?
- 8 MR DESALLIERS: (Interpretation) Private session, your Honour.
- 9 PRESIDING JUDGE FULFORD: Thank you.
- 10 *(Private session at 3.47 p.m.) Reclassified as Open session.
- 11 THE COURT OFFICER: We are in private session, Mr President.
- 12 PRESIDING JUDGE FULFORD: Yes.
- 13 MR DESALLIERS: (Interpretation)
- 14 Q. Witness, is it correct to say that in May 2008 the Office of the Prosecutor gave
- 15 you a certain amount of money, \$489 to be precise, for the purchase of four plane
- 16 tickets for you and your family?
- 17 A. Let me begin by saying that the amount you have mentioned could not have
- 18 bought four tickets. It was only a supplement that had been sent to enable us to buy
- 19 the ticket.
- 20 Q. Was that money sent to you specifically for the purchase of four air tickets?
- 21 A. No, not four air tickets. Four tickets would never cost \$400. I don't know
- 22 how much it was. It was not for four tickets. It was to add to the money. It was a
- 23 supplement.
- 24 Q. Very well. So as to be clear, this was an additional sum of money that was
- 25 given to you specifically for you to buy air tickets; is that correct?

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1 A. Yes.

2 Q. Can you explain to us what really happened with that money? And, in
3 answering the question, please do not consult the documents. I am asking you to
4 rely on your memory, please.

5 A. Very well, this is something that I am familiar with. The money that was sent
6 to me as a supplementary amount to purchase the tickets arrived when I already had
7 two tickets for the trip, so it was pointless to buy other tickets. When the time came
8 to travel, the two tickets were converted and the trips took place.

9 Q. When you say that the tickets were converted, in fact, Mr Witness, you asked for
10 an additional amount to buy four air tickets, but you bought only two, but you did
11 not tell the OTP that you were going to use that money for other purposes; is that
12 correct?

13 A. I said that for the money that was transferred all four tickets were already
14 available, but two of those tickets were for the Hewa Bora company and the two
15 others were for the CAA flights. But since all the passengers had to travel in the
16 same aircraft, the CAA tickets were converted so all four people who travelled flew
17 on the Hewa Bora plane - the Hewa Bora aeroplane. There was an arrangement
18 between the two airlines

19 Q. I would like to read another excerpt of your statement of 31 May 2008, page 4,
20 last-but-one paragraph, and this is the document at tab 11 and it is number
21 DRC-OTP-0219-0061, page 4.

22 PRESIDING JUDGE FULFORD: Public or private, Mr Desalliers?

23 MR DESALLIERS: (Interpretation) Your Honour, I believe that I can read that
24 excerpt in open session. I simply have to omit certain names. We will just read
25 them all, referring to the statement. But I believe it can be done in open session..

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- 1 PRESIDING JUDGE FULFORD: Good. The witness has the page in front of him
2 and can follow, but Mr Sachdeva I think has an observation. Yes, Mr Sachdeva
3 MR SACHDEVA: Again I apologise, but I suspect the answer that will be given may
4 then require redactions if it is to be a complete answer. I'm just forewarning that
5 possibility.
6 PRESIDING JUDGE FULFORD: Is the question or questions that you're likely to ask
7 going to involve the witness referring to names that will inevitably need to be
8 redacted, Mr Desalliers?
9 MR DESALLIERS: (Interpretation) I do not believe so, Mr President. At this
10 point I do not believe that will happen.
11 PRESIDING JUDGE FULFORD: Public session, please.
12 (Open session at 3.54 p.m.)
13 THE COURT OFFICER: We are in open session, Mr President.
14 MR DESALLIERS: (Interpretation)
15 Q. The excerpt is on page 4, the last question on that page, and I quote, "On
16 Saturday 24 May, after making the arrangements with the Hewa Bora agency in
17 Kisangani, I transferred to you through the Congolese Credit Bank for reconstruction,
18 CCR, an amount of \$489 to supplement an amount that we had with this agency and
19 withdraw the four plane tickets for yourself and your family, including \$10 for taxi
20 fare and \$5 for immigration charges, but you did not follow my instructions and you
21 said that you bought 2 CAA tickets in Kisangani on your own initiative. How do
22 you explain this situation, and what did you do with the money? Answer: It is
23 true that you transferred \$489 to me through the CCR bank as a supplementary
24 amount to purchase the tickets, but since --" and I'm not going to mention the name,
25 because we have already mentioned it "-- since he was always by my side, I did not

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1 want to collect this money in his presence. However, I already had two CAA tickets
2 which had been sent to me from Kinshasa on Friday, 23 May, by one of my brothers
3 named --" and that name is redacted. "The two tickets were in my name and in the
4 name of my son --" name redacted. "I had taken these measures in advance as a
5 precaution. When I received the money that you had sent to me, I took the liberty
6 without your authorisation to spend a part of that money, specifically \$138, in the
7 restaurant where I took my meals. I paid off a part of the debts and the telephone
8 bills that I owed, equivalent to \$40. I paid \$10 as taxi fare to the airport and FC3000
9 for immigration taxes and formalities. After having missed the CAA flight, I was
10 finally compelled to pay \$290 for the two tickets. My wife contributed to that
11 amount by giving me \$200. Question: Why did you tell the team of investigators
12 that you bought two CAA tickets because of the need for discretion, whereas you had
13 taken that measure well before you knew that we were going to have you travel to --"
14 I do not know whether I can mention the name of that place. Oh! No, actually, it is
15 the name of the airline"-- Hewa Bora. I beg your pardon.

16 Answer: The money for the purchase of the two CAA tickets from Kinshasa had
17 been transferred to me by a certain --" and I will not mention the name "-- from
18 Kampala. In fact, I myself was already confused by this situation and I could no
19 longer bear it. I fully intend to repay all my debts with the money that will come
20 from the sale of my jeep. A friend from Kisangani will transfer the money to me as
21 soon as the jeep would have been sold over there. Question: Is your wife aware
22 that you are the one and not the Court that will repay the \$200 that she had to spend
23 for the two last-minute tickets? Answer: I have nothing further to add to this
24 statement except to ask to be forgiven for those silly things that I did. I undertake
25 not to behave in this manner again in the future."

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1 PRESIDING JUDGE FULFORD: Just before you give -- you put your question,
2 Mr Desalliers -- sir, I'm sorry to have to interrupt again, but when you give the
3 answer can you please make sure that you speak directly into the microphone.
4 There's been a message from the interpreters that sometimes, perhaps because you're
5 looking at documents, you're away from the microphone and so what you say isn't
6 picked up. Right. Now put the question, please, Mr Desalliers.
7 MR DESALLIERS: (Interpretation)
8 Q. At an earlier stage I asked you whether you had given to the Office of the
9 Prosecutor incorrect information in regard to sums that were going to be paid or
10 reimbursed to you. Now, you answered "no" to the question.
11 Now, having read the excerpt, are you in a position to review your position?
12 A. I am not going to review my position in any manner because what I stated here
13 is my statement, and I said that the conversion of tickets between the two companies
14 was completed, and if there was any additional sum or supplement to the amount of
15 \$200, this was because the price of the ticket with Hewa Bora was more expensive.
16 And you can even check this today, that the prices with Hewa Bora in regard or in
17 comparison to other companies are higher. So we had to supplement the amount of
18 money when we were travelling with Hewa Bora. And even when (Redacted) met
19 (Redacted), I hope that the amount that I gave him was the correct amount. I believe
20 it was the correct amount. I did not even give him an extra Congolese franc.
21 (Redacted) him the receipt, and he did that in my absence because I had written out a
22 receipt to him, and I told him that his money was to be reimbursed to him subsequent
23 to the sale of my jeep. I had given over the responsibility to a friend in Kisangani
24 who did indeed reimburse him this sum of money.
25 As for the operation that was conducted without prior authorisation, yes, when I was

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1 buying the tickets and when I said I was confused, we had planned a journey. We
2 had done that ten days or two weeks beforehand, but there had been a change and we
3 were told that we were not travelling or we were told we were travelling on
4 such-and-such a date, and I was somewhat confused due to all these changes, which
5 meant that I also had to take precautions. I couldn't just sit there and wait. There
6 were no precautionary measures with regard to my safety. And I was to do
7 everything possible in order to leave that location. What is more, I suggested that
8 the car be sold at a reduced price in order to allow me to pay the debts and, were the
9 need to arise, in view of the fact that I already had the tickets in my possession, I
10 could then go to Kinshasa. This was a personal situation, and I said that on no
11 occasion did I give a false account to the office. Nor did I give a false account to my
12 manager, the managers whom I had worked with, or the ones I am still working with
13 today. I would not do that. And he said that this was something silly. Well, he
14 said that because there was a misunderstanding.

15 Now, with regard to the funds with regard to the destination, all of this was correct.
16 I did not bring an additional Congolese franc to the amount, nor an additional dollar.
17 The amount that was presented was the amount -- was the true amount.

18 And I say, this is a private situation.

19 PRESIDING JUDGE FULFORD: Thank you. Redactions have been requested in
20 relation to the -- a particular name, at least one name that was used during that
21 answer, and I think there may well be two. Good. Please carry on, Mr Desalliers.

22 MR DESALLIERS: (Interpretation) Could we go into private session, please,
23 Mr President.

24 PRESIDING JUDGE FULFORD: Private session, please.

25 *(Private session at 4.07 p.m.) Reclassified as Open session.

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

2 PRESIDING JUDGE FULFORD: Yes.

3 MR DESALLIERS: (Interpretation)

4 Q. I'd just like to ask for a point of clarification, sir. When you say that I would
5 not have done so with the managers and the managers that I continue to work under
6 today, which managers are you referring to?

7 A. I'm talking about my managers in the (Redacted) back home in my country.

8 Q. Now, with regard to this statement dated 31 May 2008, could you please consult
9 the first page thereof? Towards the end - that is, the tenth line up from the bottom of
10 the page - you said as follows, I quote, "The following week an (Redacted) was shot
11 down by the same militia who were in the surrounding areas of Nyankunde."

12 Could you please give us the name of the officer you are referring to in this statement
13 dated 31 May 2008?

14 A. I do not remember the name of the officer, but I do remember that an officer was
15 indeed killed, and in fact he was killed at blank range, and that was in this very
16 location. He was killed at close range by alleged militiamen from the FRPI.
17 He -- they were the individuals who had control over that part of this location.

18 Q. Might you have been referring to an officer by the name of (Redacted)?

19 A. No.

20 MR DESALLIERS: (Interpretation) I thank you. Might we assign an EVD number
21 to this statement, the statement to be found at tab 11, please.

22 PRESIDING JUDGE FULFORD: Yes.

23 THE COURT OFFICER: Document in tab 11 referenced as DRC-OTP-0219-0061 will
24 be attributed reference EVD-D01-00370 and will be marked as confidential.

25 MR DESALLIERS: (Interpretation) I thank you.

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1 Q. Do you know an individual, sir, by the name of (Redacted)?

2 A. (Redacted).

3 Q. You say he was. Is this person deceased today?

4 A. According to the information in my possession, he is deceased.

5 Q. Could you provide us with additional information as to the circumstances of his
6 death?

7 A. I do not have any further information on the subject, but all I do know is that he
8 has died. This is the information that I have, because I was not in -- able to
9 cross-check this information and I did not have any other people whom I could ask
10 further information of. I did not have any contact with the interior. I was informed,
11 like any other, of his death.

12 Q. And when, or during which period, was he killed?

13 A. I said that I did not know the date. I was just informed of his death.

14 THE INTERPRETER: Message from the English booth: Could a pause please be
15 observed between question and answer?

16 PRESIDING JUDGE FULFORD: Too quick, Mr Desalliers.

17 MR DESALLIERS: (Interpretation)

18 Q. And in which year were you informed of his death?

19 A. I was informed whilst I was already in Kinshasa.

20 MR DESALLIERS: (Interpretation) I would just ask a moment of indulgence,
21 please.

22 (Pause in proceedings)

23 Q. And has (Redacted) already worked for you at the (Redacted)?

24 A. (Redacted) in Bunia. Furthermore, upon my arrival, he was already an officer
25 at the main office in Bunia.

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1 Q. And was this individual your subordinate at the (Redacted) in Bunia?

2 A. Yes. In view of the fact that he was an officer, he was my subordinate.

3 I know that --

4 THE INTERPRETER: Inaudible.

5 MR DESALLIERS: (Interpretation)

6 Q. So he worked for you at the (Redacted). Has he already worked in cooperation
7 with you in the context of your work with the Office of the Prosecutor or the
8 International Criminal Court?

9 A. No, he did not cooperate with the Court. I said he was an officer working for
10 the (Redacted). Furthermore, very often I would use him as my driver, driving a
11 motorbike in order to run errands for me and also to go to and fro from the office, or
12 to the house, but not outside of the town of Bunia.

13 Q. And apart from asking him to act in the capacity of your driver, did you give
14 him any other tasks to fulfil?

15 A. Well, as I underscored, as an officer ---- this was something common to all of
16 us -- if he had any information for us, he would then provide us with a report.
17 Locally, we called this the (Redacted). He would then give this to the office. To say
18 that I might have used it for the Court, no. The answer is no. I only know that he
19 worked with me for the (Redacted).

20 Q. According to the information you obtained, was (Redacted) alone when he was
21 killed? Was he killed at the same time as other individuals, or was he alone?

22 A. As I said, the information I received was not cross-checked. I took it as it came.
23 Of course I was sad to hear of his death. He was not alone. I could not even say
24 precisely in whose company he was, but the information I received said that there
25 were some members of his family who also died, whose identities I do not know.

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1 But we worked together, and may his soul rest in peace.

2 Q. I'd like to clarify a point: You occupy an important position in the (Redacted)
3 services of Ituri. One of your officers is murdered, if I understand you correctly, but
4 you do not have any further information on the subject? You did not obtain any
5 further information than that which you have just provided us with on the subject?
6 Have I understood your testimony correctly?

7 A. Yes, I was in Bunia. I told you that I received the information when I was
8 already in Kinshasa. I was no longer on location in Bunia.

9 Q. Could you please in the accountancy documents go to tab 24. This is a
10 document bearing the reference number DRC-OTP-0209-0332. Sir, is this
11 reimbursement that you received, or a payment that you received from the Court on
12 18 July 2006?

13 A. To my mind, this is my signature.

14 Q. So you received this, or these sums, on 18 July 2006, did you?

15 A. The 18 July 2006 is the date of the reimbursement. I just know that this was
16 reimbursement for services rendered.

17 Q. Services rendered to the International Criminal Court?

18 A. It was for a journey and for services rendered.

19 Q. My question, sir, is for whom did you render these services? Did you render
20 these services to the International Criminal Court?

21 A. Of course it was for the Court. If there was a reimbursement, it was because
22 services had been rendered to the Court and a report was drafted on the subject.

23 Q. I would like to draw your attention to the first entry. In the description of this
24 receipt, 1 May 2006, transport for return journey to Djugu, plus hotel and food and
25 communication costs (from 1 to 6 May 2006 (Redacted)). Did you indeed receive

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1 reimbursement for tasks fulfilled or carried out by (Redacted) for the
2 International Criminal Court?

3 A. I do not believe that it is (Redacted). You might see -- you can see his name
4 here. This was a mission that we carried out together. As I said to you, I
5 underscored the fact that he was my driver. He was my driver.

6 Q. I just would like to understand: Are we talking about (Redacted) who assisted
7 you as your driver when you travelled for the International Criminal Court?

8 A. Yes, he was the one who drove me. He was a driver.

9 Q. So he was assisting you in the fulfilment of your mission or tasks, the work you
10 undertook for the International Criminal Court?

11 A. He did not help me in my mission. He was driving me, like a driver would. I
12 could have even chosen a taxi driver to drive me places. But since it was my mission,
13 I was free to choose my driver, and on this occasion he was the one who drove me. I
14 travelled in his company.

15 Q. In view of the fact that (Redacted), could you
16 tell us why you did not quite simply request a taximan to go with you? Why did
17 you ask an (Redacted) to act in the capacity as driver for you?

18 A. I said that he was the one who acted as my driver. It was a known fact he was
19 my driver. If I chose him, well, I believe it was a personal choice. I might have
20 chosen another taximan to drive me but I felt -- I might have felt safer in his company.
21 I thought that he should drive me, that he would be in a position to drive me
22 respectfully. And in view of the fact that he had already handled the motorbike,
23 then I was going to use it in order to run that errand.

24 MR DESALLIERS: (Interpretation) Thank you. Might we assign an EVD number
25 to this receipt for reimbursement, please?

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1 THE COURT OFFICER: Indeed. Document referenced under tab 24,
2 DRC-OTP-0209-0332, would receive EVD reference EVD-D01-00371 and will be
3 marked as confidential.

4 MR DESALLIERS: (Interpretation) Thank you.

5 Q. Do you have any recollection in addition to your statement of the
6 October -- your statement of October 2009, do you have any recollection that the
7 Office of the Prosecutor asked you any questions with regard to (Redacted)?

8 A. Yes, indeed.

9 Q. Do you remember that when giving this statement the Office of the Prosecutor
10 informed you that they had information to the effect that (Redacted) was working
11 together with you in the context of your work for the Court?

12 A. The office informed me, but I say that (Redacted).

13 Furthermore, at the end, I even refused. I could no longer talk about somebody who
14 was already deceased. Let me repeat: in Africa we are respectful towards the
15 deceased, and so ... any question having to do with the late (Redacted) will upset me
16 and I will not answer. I'm sorry.

17 PRESIDING JUDGE FULFORD: Now, Mr Desalliers, where are you hoping to go
18 with this? Are you wishing to go further, or not?

19 MR DESALLIERS: (Interpretation) I have about two or three more questions, your
20 Honour.

21 PRESIDING JUDGE FULFORD: On this subject? Right.

22 MR DESALLIERS: (Interpretation) If it could be helpful for the Chamber, I expect
23 to get very short answers to these questions.

24 PRESIDING JUDGE FULFORD: Sir, Mr Desalliers has indicated that he only has a
25 very few matters on this subject left to ask you, which he anticipates will prompt very

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1 short answers from you. In those circumstances, if you feel up to continuing with
2 your evidence this afternoon I would ask you, please, to answer these final questions
3 on this subject and then Mr Desalliers will move on to other matters. In any event,
4 quite soon we're going to be ending the hearing for today.

5 THE WITNESS: (No interpretation).

6 PRESIDING JUDGE FULFORD: Did the interpreters hear what was just said?

7 THE INTERPRETER: It was inaudible, your Honour.

8 PRESIDING JUDGE FULFORD: Sir, can I ask you perhaps slightly louder to
9 answer -- to answer me. Are you now able to continue?

10 THE WITNESS: (Interpretation) I will not answer any questions that relate to
11 (Redacted), your Honour. With all due respect, I will not.

12 PRESIDING JUDGE FULFORD: Sir, this Chamber fully appreciates the need to
13 respect those who have died. Courts such as these deal with a very large number of
14 circumstances in which evidence is given about people who have unfortunately lost
15 their lives. The fact that someone is dead I'm afraid is not a reason for refusing to
16 answer a question, even if for the person who is answering it there are upsetting
17 elements to the fact and the circumstances in which that person lost his life.

18 Now, I'm going to ask you, please, to listen carefully to Mr Desalliers' final questions
19 on this issue. They will not last long and we will then break as far as you're
20 concerned for the day, but I'm going to ask you, please, to answer his questions.
21 And, Mr Desalliers, will you in an appropriate form complete your questioning on
22 this as quickly as possible.

23 MR DESALLIERS: (Interpretation) Thank you, your Honour.

24 Q. Sir, in your statement of October 2009, the statement which you gave to the
25 Office of the Prosecutor, you did discuss with the investigators, you discussed about

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1 the death of (Redacted); is that the case?

2 A. I said that they asked me that question and, when they wanted to touch on that
3 point, I was distressed. I was upset, because I consider (Redacted) like -- well, you
4 know, we had a special relationship and I said that - I even told them that - I could
5 not carry on talking about (Redacted) and that I was ready for us to discuss about any
6 other thing, but not about the situation of that officer who died under circumstances
7 which I am not able to describe. If I'm crying, it's not because I do not have an
8 answer to the question you are putting to me. It is just that it brings to mind certain
9 events. It brings to mind the circumstances of his disappearance. I said that he was
10 an officer of the (Redacted). He worked for the country and he is dead.

11 Q. After the statement you gave to the investigators in December 2009, did you
12 receive any information about the possibility that (Redacted) might still be
13 alive?

14 A. I had no information.

15 MR DESALLIERS: (Interpretation) Your Honour, I think I will stop here.

16 PRESIDING JUDGE FULFORD: Right. I want to make it clear, Mr Desalliers, I'm
17 not stopping you. That is not -- I see your reaction. Good, thank you very much
18 indeed.

19 Well, sir, we'll break off your evidence now until tomorrow morning. We've got
20 certain administrative matters to deal with. We'll look forward to seeing you at
21 half-past-9 tomorrow morning. Closed session, please.

22 *(Closed session at 4.37 p.m.) Reclassified as Open session.

23 PRESIDING JUDGE FULFORD: Thank you, usher. Now it's fine.

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

25 (The witness stands down)

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- 1 PRESIDING JUDGE FULFORD: Now, Mr Desalliers, while the witness leaves, we're
2 under a certain amount of pressure of time because the tape is soon to run out. Do
3 you have an initial reaction to the safety valve for this witness that I proposed I think
4 just before lunch?
- 5 MR DESALLIERS: (Interpretation) As I said, your Honour, it is a proposal which
6 we appreciate, and we are going to react to it if at the end of the working day
7 tomorrow we discover that there are certain elements which we still have to cover. I
8 will do everything possible to conclude my cross-examination tomorrow, but the
9 possibility of taking certain elements of information on Monday through that process
10 is reassuring to me, your Honour.
- 11 PRESIDING JUDGE FULFORD: Thank you. An initial reaction, Mr Sachdeva?
- 12 MR SACHDEVA: On whether I have re-examination, Mr President, or on --
- 13 PRESIDING JUDGE FULFORD: No, on whether you would be in principle opposed
14 or generally sympathetic towards the proposal of concluding, if there are any final
15 outstanding questions, the evidence of this witness by way of deposition before the
16 legal adviser to the division on Monday of next week?
- 17 MR SACHDEVA: No, we have no objection to that.
- 18 PRESIDING JUDGE FULFORD: Thank you very much indeed. Mr Desalliers, we'll
19 review tomorrow where we've reached. We're going to have to sit at -- well, given
20 the speed, quarter-past-9 tomorrow morning because I have got -- we've got at least
21 one further oral decision to deliver. We will build in appropriate breaks during the
22 day and we will give you as much time as we can during the afternoon.
- 23 What I -- what none of us want to happen is that you feel there is an artificial cut-off
24 point as regards your questions. That is not going to happen and there are two
25 alternatives: Either there can be a concluding part in a deposition on Monday, or the

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1 witness can be asked to remain in The Hague until Monday of the following week
2 and conclude his evidence before us then. So both options are there, so you are not
3 going to be artificially limited.
4 MR DESALLIERS: (Interpretation) Thank you, your Honour.
5 PRESIDING JUDGE FULFORD: Thank you very much. Any other matters of
6 urgency in the next three or four minutes? No. Yes, Mr Desalliers.
7 MR DESALLIERS: (Interpretation) I won't say it's an urgent matter, your Honour,
8 but we have a proposal to make to the Chamber to solve an EVD problem that arose
9 today. We need an EVD reference for a document. A document was in tab 19 and
10 our wish, your Honour, is to deposit three documents. In fact, it wasn't 19. It's 21.
11 I discussed this issue with my learned colleagues and these three documents, service
12 records, well, we could just give you the reference. These documents come from the
13 OTP. We will not need to pass through the witness to tender these documents. We
14 can tender them in the course of this testimony during a break, but I think it would
15 suffice to simply read the reference numbers of these service records so that the
16 documents will be attached to the evidence of this witness without us having the need
17 to show him the documents individually.
18 PRESIDING JUDGE FULFORD: I'm wonderfully mystified, Mr Desalliers. Can
19 you talk about this, please, with Mr Sachdeva and if necessary come back to the issue
20 at quarter-past-9 tomorrow morning. We will sit then. Thank you very much.
21 THE COURT USHER: All rise.

22 (The hearing ends in closed session at 4.42 p.m.)

23 RECLASSIFICATION REPORT

24 Pursuant to Trial Chamber I's email instruction dated 8 December 2011, the transcript
25 is reclassified as public after the indicated redactions have been implemented as

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- 1 ordered by the Chamber. All private and closed sessions (*) are now available to the
- 2 public with the exception of the portions of the transcript that have been redacted.