

1 International Criminal Court

2 Trial Chamber I - Courtroom 1

3 Presiding Judge Adrian Fulford, Judge Elizabeth Odio Benito
4 and Judge René Blattmann

5 Situation in the Democratic Republic of the Congo -

6 ICC-01/04-01/06

7 In the case of The Prosecutor v. Thomas Lubanga Dyilo

8 Thursday, March 11, 2010

9 (The hearing starts at 9.43 a.m.)

10 (Open session)

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

13 PRESIDING JUDGE FULFORD: Maître Mabilie, we've
14 received a document that I think you have seen in relation to
15 the work position of Witness 25. Given what is set out in that
16 document, is there anything else that you wish to say about the
17 position?

18 MS MABILLE: (Interpretation) Indeed, Mr President.
19 I read this response with some attention and I cannot see
20 mention made anywhere of the fact that, in essence, the witness
21 has lost his job because he remained in Kinshasa until 22
22 January and he did therefore not return to his place of work on
23 4 January, as he was due to. And as we clearly indicated, in
24 view of the fact that we requested that his passport be issued
25 during the period of school holidays over the Christmas break,

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1 so that he could come back to his job on 4 January, I find it
2 somewhat difficult, therefore, to read everything that has been
3 indicated without at one moment in time thinking about the
4 responsibility incurred by the fact that he lost his job due to
5 his presence in Kinshasa. Nobody told his employer that he
6 would not be returning on 4 January and that is not indicated in
7 the report.

8 I do understand that the work of the VWU is difficult
9 and I also understand that we can all commit errors.
10 Nevertheless, what I do find difficult to understand is that at
11 a certain moment in time people try and push responsibility on
12 to the witness for this situation.

13 I would go on to add that we met with this witness
14 whilst we were on mission, approximately ten days ago, and that
15 was when we heard that he had lost his job. This means that
16 nobody had told us about this situation. We told the witness
17 that he would be coming to testify in the days to come and that
18 he could return to his job, in order to request the permission
19 to leave, and we found that this situation in itself was
20 difficult.

21 I do not want to enter polemics any further. However,
22 with the leave of the Trial Chamber, I would like at the end of
23 my examination-in-chief to put to the witness a number of
24 questions with regard to his personal situation to date.

25 PRESIDING JUDGE FULFORD: Mr Waltenburg, have you been

1 able to find an answer to the factual suggestion, from the point
2 of view of the Victims and Witnesses Unit, as to whether or not
3 a member of the unit indicated to the witness that he would
4 resolve the issue of the need to leave to come to The Hague when
5 that, in fact, was not addressed?

6 MR WALTENBURG: Mr President, the information that I
7 have provided you is the information that I currently have in my
8 possession. As is clear from the report, the issue of loss of
9 job was in fact not relevant back in November/December last
10 year. It only became relevant in January/February. So, the
11 only issue that could have been raised back in November/December
12 would have been an issue of loss of salary in the period in
13 which the witness was required to leave for the purpose of
14 passport.

15 I can again, if you direct us to do so, find out what
16 has happened in the early discussions between the witness and
17 the VWU on the need to travel for passport, but the only -- my
18 informed guess at this stage would be that the only discussion
19 which logically could have taken place would be in relation to
20 the loss of salary as a result of this absence.

21 And I am convinced that what has taken place, the
22 exchange that would have taken place, would have been that the
23 VWU would assist the witness in making the necessary request for
24 compensation of loss of income, plus the fact that the witness,
25 as every single witness that appears before the Court, is

1 entitled to receive what we call an attendance allowance, which
2 is in fact a standard allowance that compensates all witnesses
3 for their possible financial loss and others as a result of
4 being present for the purposes of the Court.

5 PRESIDING JUDGE FULFORD: Thank you very much indeed.

6 (Trial Chamber confers)

7 PRESIDING JUDGE FULFORD: Maître Mabilie, if you want
8 to ask the witness some questions about this at the end of his
9 evidence-in-chief, as I am going to term it, we will not stand
10 in your way.

11 Maître Mabilie, we want to turn now to the issue of
12 the passports, in relation to whether or not there are going to
13 be appropriate interpreters available to assist in the process.
14 We understand that a Swahili interpreter will be available to
15 assist certainly the next proposed witness in terms of making
16 travel arrangements with obtaining a passport and, although it
17 is said that he principally speaks Lendu - and I think this may
18 apply, in fact, to other witnesses - he or they also speak
19 colloquial Swahili.

20 Now, given this is a relatively straightforward
21 administrative procedure, rather than something that involves an
22 understanding of complex documents, is the Defence resisting at
23 least an attempt to carry out this procedure using a Swahili
24 rather than a Lendu interpreter, with the understanding that of
25 course if that attempt breaks down then other arrangements are

1 going to have to be made, but at least to try to complete this
2 process with the resources currently available?

3 MS MABILLE: (Interpretation) Mr President, two
4 items. Firstly, that the VWU sent a first individual in order
5 to meet Witness 015 and, in view of the fact that this person
6 did not speak the witness's language sufficiently well, we
7 thought that this was quite an important concern in view of the
8 fact that our witness then went to see somebody else in order to
9 understand what the person sent by the VWU was trying to tell
10 them.

11 This gave rise to a further issue, in view of the fact
12 that then everyone was aware of the fact that this witness was
13 coming to testify, and within the village there was a family
14 meeting in order to decide whether to allow this person to come
15 and testify, or not.

16 So, I would like to point out to the Trial Chamber
17 that a first incident has arisen which we found very difficult
18 to deal with, as you can understand. We are not trying to stand
19 in the way of the fact that this witness be assisted by an
20 interpreter of a given language, or not, but we are very
21 sensitive to the fact that he must be able to be understood by
22 the person who is accompanying him.

23 Now, our understanding is that this individual does
24 not speak Swahili sufficiently well. We have suggested to the
25 VWU that they send tomorrow our resource person, with a view to

1 meeting this witness and ascertaining what their capacity of
2 understanding the Swahili is. Our resource person indicated
3 that they thought that it was not possible, but they will go and
4 check.

5 And once this has been checked another issue that we
6 raised with the VWU was that it might not be possible, or
7 necessary, for us to have an interpreter as such, but somebody
8 who would be able to speak the language sufficiently well with a
9 view to accompanying this witness.

10 I would go on to add that this witness is somewhat
11 vulnerable and has never travelled, and somebody needs to
12 accompany them in their undertakings and help them in a
13 considerable manner. That is what I wanted to submit,
14 Mr President, on this concern.

15 PRESIDING JUDGE FULFORD: Thank you very much, Maître
16 Mabilille. It's extremely difficult for the Bench to micromanage
17 these issues from our position. Of course, if it is absolutely
18 necessary, we will descend into the arena of the precise
19 arrangements that need to be put in place in order to secure the
20 timely presence of witnesses before this Court.

21 It is critical that there is full cooperation between,
22 at this stage in the trial, the Defence and the Victims and
23 Witnesses Unit, so that the travel arrangements can be
24 facilitated in a way which is satisfactory to the Defence, to
25 the witness and which are reasonable to the unit. At the

1 moment, all I'm going to say is we encourage, as forcibly as we
2 can, full and co-operative discussions between the Defence and
3 the unit so that the absolutely critical objective can be
4 obtained that this trial does not become bedevilled with
5 adjournments because witnesses are not in The Hague ready to
6 give evidence.

7 Now, if mature discussions fail to provide a sensible
8 and workable solution, we need to know, in writing, by e-mail,
9 exactly what the problem is so that we can reflect on it and
10 decide on what to do. But can, please, everyone cooperate,
11 perhaps to a greater extent than may have been the case to date.

12 Now, the next witness, I don't think I've received any
13 information as to suggested protective measures. Is that right,
14 Maître Mabilles? Good. Does the witness require assistance with
15 reading?

16 MS MABILLES: (Interpretation) None at all,
17 Mr President.

18 PRESIDING JUDGE FULFORD: Thank you very much.
19 Witness, please.

20 Thank you for your attendance, extremely grateful.
21 Please do leave court now.

22 (Mr Waltenburg exits the courtroom)

23 (The witness enters the courtroom)

24 PRESIDING JUDGE FULFORD: Good morning.

25 THE WITNESS: (Interpretation) Good morning.

1 PRESIDING JUDGE FULFORD: I intended to say don't be
2 nervous, but I don't think I need say that. Can I ask you to
3 listen very carefully to the questions that are put to you;
4 answer those questions, speaking not too quickly because
5 everything you say is going to be interpreted and transcribed,
6 and that takes a little bit of time. If at any stage you need a
7 break, just ask and permission will be granted.

8 Now, I hope that there is a card in front of you, or
9 is about to be given to you, which contains the solemn
10 undertaking, and I'm going to ask you to read the words of the
11 card out loud, please. Can you do that now.

12 WITNESS: WWW-D01-0025 (Sworn)

13 (The witness answered through interpreter)

14 PRESIDING JUDGE FULFORD: Thank you very much. Yes,
15 Maître Mabilles.

16 QUESTIONED BY MAÎTRE MABILLE:

17 Q. Good morning, Witness.

18 A. Good morning, ma'am.

19 Q. We've already had an opportunity of meeting one
20 another, but I will introduce myself. I am Catherine Mabilles,
21 and today I will be asking you a few questions on behalf of the
22 Thomas Lubanga Defence team.

23 A. Fine.

24 Q. You said that you were going to be testifying in
25 French. I would like to remind you that since I also speak

1 French, we would have to speak slowly because -- well, when I
2 say "slowly," I mean at a slow pace because all the proceedings
3 will be translated and we will have to be very careful. After
4 every question I ask of you, could you pause for a few moments
5 so that the interpreters can do their work as best as possible.
6 Do you agree?

7 A. Yes.

8 Q. First of all, could you give us your name?

9 A. My name is Nobirabo Todabo Dieumerici.

10 Q. Witness, could you specify one moment. Will you be
11 testifying in French or in another language?

12 A. I will be testifying in Lingala.

13 PRESIDING JUDGE FULFORD: Maître Mabilie, there are
14 interpreters in the interpretation booth so we can just carry on
15 as normal.

16 MS MABILLE: (Interpretation)

17 Q. You told us that your name was Nobirabo Todabo
18 Dieumerici. Do you have any other first names?

19 A. Yes. *J'en ai.*

20 Q. Could you tell us what that other first name is?

21 A. I'm also called Patient.

22 Q. Do you have any nicknames?

23 A. No, I don't.

24 Q. Could you answer -- give a spoken answer, rather than
25 nodding "yes" or "no"?

1 A. Fine, I will do that.

2 Q. Could you give us your date of birth?

3 A. I was born on 12 July 1989.

4 Q. Could you tell us where you were born?

5 A. I was born in (Redacted).

6 Q. Could you tell us which ethnic community you belong
7 to?

8 A. I am from the Bira ethnic group.

9 Q. Could you tell us where you began your primary
10 schooling?

11 A. I started my primary school at the (Redacted) primary
12 school. That is where I went to primary school.

13 Q. Did you do your entire primary schooling at the
14 (Redacted) primary school?

15 A. Yes. From the first grade until the sixth I studied
16 at the (Redacted) primary school.

17 Q. Could you tell us where you did your secondary
18 schooling?

19 A. Thank you for the question. I did my secondary
20 schooling at three different institutes. First, I studied at
21 (Redacted). I spent one year there. Then I went
22 to Yambi Yaya Institute and I also studied there for one year.
23 After that I went to Bunyanga, and that is where I finished my
24 secondary schooling.

25 Q. Thank you. What are you currently doing for a living?

1 A. Right now I am a teacher.

2 Q. For how many years have you been a teacher?

3 A. I received my diploma in 2008 and then I began to
4 teach up until now, so it's from -- it's been two years, from
5 2008 up until the present.

6 Q. Now, you are a teacher, so could you tell us at what
7 age school -- children begin their primary education?

8 A. Usually, children start primary school at the age of
9 seven.

10 MS MABILLE: (Interpretation) Thank you.

11 Your Honour, we will now go into closed session, if we
12 could, for three minor questions.

13 PRESIDING JUDGE FULFORD: Private session, please.

14 *(Private session at 10.10 a.m.) Reclassified as Open session

15 THE COURT USHER: We are in private session, your
16 Honours.

17 MS MABILLE: (Interpretation) I would like a
18 photograph to be shown to the witness. Could you provide that
19 or forward that photograph. I have a number of copies.

20 PRESIDING JUDGE FULFORD: It can't be shown on the
21 court screen because that is visible to the public gallery.

22 Maître Mabilie, can the witness be encouraged not to
23 pick the photograph up because it will then be revealed to
24 people sitting in the public gallery. If it remains flat on the
25 desk, I am sufficiently confident that it cannot be seen.

1 MS MABILLE: (Interpretation)

2 Q. Witness, I believe you've heard.

3 A. Yes, I've taken note.

4 PRESIDING JUDGE FULFORD: The screen probably better
5 be lowered.

6 Maître Mabilille, do continue.

7 MS MABILLE: (Interpretation) I neglected to say that
8 this photograph already has a reference number:
9 DRC-OTP-0150-0146. No, that's not a reference number. It's a
10 different kind of reference number.

11 Q. Witness, do you recognise the person on this
12 photograph?

13 A. Yes, I recognise this person.

14 Q. Could you tell us the name of this person?

15 A. This is (Redacted).

16 Q. Witness, do you know him by any other name?

17 A. He also is known as (Redacted). That is his nickname.

18 Q. How did you meet this person, or get to know this
19 person?

20 THE INTERPRETER: Correction from English interpreter.
21 The nickname is transcribed as (Redacted).

22 THE WITNESS: I know (Redacted), because we lived in the
23 same neighbourhood. We lived in the same neighbourhood and we
24 went to the same institution and that is why I knew this person.
25 Not only did we live in the same neighbourhood, but also we

1 started at the same school.

2 MS MABILLE: (Interpretation)

3 Q. Thank you. Could you tell us which neighbourhood you
4 are speaking of?

5 A. It is the (Redacted) neighbourhood.

6 Q. And what town is this neighbourhood located in,
7 Witness?

8 A. This neighbourhood is in the town of (Redacted).

9 Q. So, you've told us that you went to the same school as
10 (Redacted). Could you tell us the name of that school?

11 A. We went to the same school. The - (Redacted)
12 (Redacted). That is where we studied together.

13 Q. And what year was that in; do you remember?

14 A. It was from the year 2001 to the year 2002.

15 Q. Were you in the same class?

16 A. No, he was in (Redacted) grade when I was in first grade.

17 Q. Do you know the family of (Redacted) ?

18 A. Yes, I know his father. I also know his brother, but
19 I never saw his mother. I don't know his mother.

20 Q. Do you remember his brother's names?

21 A. Yes, I know one. His name is (Redacted). Up
22 until now he's -- well, currently he's living in (Redacted).

23 Q. Now, were you in the same class as (Redacted)?

24 A. No.

25 Q. Now, was (Redacted) younger than you, or older than

1 you?

2 A. (Redacted) is older than me.

3 Q. Was (Redacted) older than (Redacted), or younger than
4 (Redacted)?

5 A. He was older than (Redacted).

6 Q. In approximate terms, do you know the age of (Redacted)?

7 A. I have no specific idea or information about that.

8 Q. Witness, if I were to put it to you that as of this
9 point we will no longer speak of (Redacted) but we will refer to him
10 as "your friend", so as to avoid providing that first name, do
11 you think that that would be suitable when I ask you questions?
12 I will say "your friend", speaking of (Redacted), and when
13 you answer you will reply by referring to him as "my friend".
14 Do you think that would be possible? Could we proceed that way?

15 A. Yes, we can do that.

16 MS MABILLE: (Interpretation) We are going to try to
17 go back into open session, your Honour.

18 (Open session at 10.20 a.m.)

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

21 MS MABILLE: (Interpretation) I no longer need the
22 photograph, your Honour. I think we can take it away so the
23 blinds could be raised.

24 PRESIDING JUDGE FULFORD: Usher, could you remove the
25 photograph and could we please organise for the blinds behind

1 the witness to be raised.

2 MS MABILLE: (Interpretation) Could we have an EVD
3 number for that photograph?

4 PRESIDING JUDGE FULFORD: Right, thank you,
5 Maître Mabilille. We certainly can and I'm going to ask at the
6 same time - and I'm going to ask the witness to forgive the
7 interruption - for the court officer to give separate EVD
8 numbers to the interviews introduced yesterday, which I
9 mistakenly referred to as ERN numbers. EVD numbers, please, for
10 this document and for all of the others.

11 THE COURT OFFICER: The current one page coloured
12 photograph, your Honours, under DRC-OTP-0150-0146, will be
13 assigned EVD-D01-00121 and marked as confidential.

14 The 20 tabs of transcripts of interviews with Witness
15 16 would be assigned with EVD numbers and they would be as
16 follows:

17 Tab 1, which was DRC-OTP-0161-1235, will be assigned
18 EVD-OTP-00533.

19 Tab 2, which is DRC-OTP-0161-1362, will be assigned
20 EVD-OTP-00534.

21 Tab 3, which is DRC-OTP-0161-1404 --

22 THE INTERPRETER: Message from the English booth. The
23 French court reporters are having a hard time. If the court
24 officer could slow down while reading out the figures, we would
25 be most grateful.

1 THE COURT OFFICER: My apologies for that. I repeat,
2 tab 3, which is DRC-OTP-0161-1404, will be assigned
3 EVD-OTP-00535. Tab 4, which is DRC-OTP-0161-1440, will be
4 assigned EVD-OTP-00536. Tab number 5, which is
5 DRC-OTP-0161-1469, will be assigned EVD-OTP-00537. Tab 6, which
6 is DRC-OTP-0161-1501, will be assigned EVD-OTP-00538. Tab 7,
7 which is DRC-OTP-0161-1545, will be assigned EVD-OTP-00539.
8 Tab 8, which is DRC-OTP-0161-1592, will be assigned
9 EVD-OTP-00540. Tab 9, which is DRC-OTP-0161-1642, will be
10 assigned EVD-OTP-00541. Tab 10, which is DRC-OTP-0161-1655,
11 will be assigned EVD-OTP-00542. Tab 11, which is
12 DRC-OTP-0161-1697, will be assigned EVD-OTP-00543. Tab 12,
13 which is DRC-OTP-0161-1734, will be assigned EVD-OTP-00544. Tab
14 13, which is DRC-OTP-0161-1768, will be assigned EVD-OTP-00545.
15 Tab 14, which is DRC-OTP-0161-1807, will be assigned
16 EVD-OTP-00546. Tab 15, which is DRC-OTP-0161-1843, will be
17 assigned EVD-OTP-00547. Tab 16, which is DRC-OTP-0161-1880 will
18 be assigned EVD-OTP-00548. Tab 17, which is DRC-OTP-0161-1917,
19 will be assigned EVD-OTP-00549. Tab 18, which is
20 DRC-OTP-0161-1956, will be assigned EVD-OTP-00550. Tab 19,
21 which is identified as DRC-OTP-0161-1996, will be assigned
22 EVD-OTP-00551. The last tab, which is tab 20, identified as
23 DRC-OTP-0161-0017, will be marked with EVD-OTP-00552.

24 All of these 20 numbers just assigned will be marked
25 as confidential, your Honours. Thank you.

1 PRESIDING JUDGE FULFORD: I'm sorry for the
2 interruption. Yes, Maître Mabilille, please continue.

3 MS MABILLE: (Interpretation)

4 Q. Mr Witness, I hope you know that we will talk about
5 your friend now.

6 A. Yes, that's all right.

7 Q. Could you please tell us where you attended school for
8 the academic year 2003 -- or rather, 2002/2003?

9 A. For academic year 2002/2003, I attended school at the
10 Yambi Yaya Institute.

11 Q. Witness, were you able to complete that academic year?

12 A. We had a lot of difficulties during the 2002/2003
13 academic year. There were a lot of interruptions,
14 unfortunately. In May 2003, when the war broke out in Bunia,
15 there was a long interruption; there was a long period in the
16 month of May of 2003. When the war broke out, people fled and
17 children could not attend school, so schools were suspended.
18 However, I was able to complete the year because I returned
19 after the war, when peace returned. I came back to write my
20 final -- my end-of-year exams. So I can say I completed the
21 academic year because I wrote the end-of-year exams for that
22 academic year.

23 Q. You just told us that in May 2003 you fled. Where did
24 you flee to?

25 A. When the war broke out, I fled to a village. The name

1 of the village is Komanda; that is the place I fled to.

2 Q. For how long did you stay in that village,
3 approximately? For how long did you stay there before
4 returning?

5 A. I did not spend a long time there. Why? Because
6 after the war, say after a month, the French arrived. That is
7 the Artemis forces, they brought back peace to the town and,
8 thank God, order returned, peace returned to the town. And
9 shortly after they arrived, I returned.

10 Q. At what point in time, then, did you return to Bunia,
11 approximately?

12 A. I returned around the time when the end-of-year exams
13 were organised. That is the time I returned. And this usually
14 happens in the month of June; that is the month when we write
15 the end-of-year exams, at the end of June.

16 Q. Witness, did many people flee the town, that is, in
17 May, at the time you fled?

18 A. Yes, indeed. It was in the month of May.

19 Q. No. The question I put it to you is the following:
20 Were there many people who fled at that point in time, at the
21 same time as you did?

22 A. Thank you for the question. Well, when war starts,
23 everybody flees. The whole of Bunia, the whole population fled.
24 I was not the only person who fled. The majority fled to seek
25 refuge elsewhere. That's what happened. Almost the entire

1 majority of the people fled.

2 Q. Could you please tell us what your friend did in the
3 course of that academic year, 2002/2003?

4 A. Well, when we fled -- you know, I told you earlier
5 that I fled to Komanda. My friend did not flee to Komanda. He
6 fled to Gety. He sought refuge in Gety. Gety is a village
7 located not far from Bunia. That is the place to which he fled.
8 And he joined the army in that village; he was a soldier in the
9 village of Gety. So, during that period, he served as a soldier
10 in an armed group.

11 Q. Do you know where your friend attended school in
12 2002/2003, that is, before he fled?

13 A. When I left the complex, I went to Yambi Yaya. He
14 remained at the complex to study. However, he did not complete
15 the academic year.

16 Q. When you talk about the complex, could you please give
17 us the full name of that institution?

18 A. I am referring to the (Redacted). That's
19 the full name of the institution.

20 Q. Thank you. Do you know when your friend fled? At
21 what point in time did he flee?

22 A. My friend fled just after we fled; it was in the month
23 of May. That is when the war broke out. It's at that point in
24 time that we fled away together. He, too, he fled and went to
25 Gety.

1 Q. You informed us that he served as a soldier in an
2 armed group. Could you please tell us which armed group this
3 was?

4 A. Certainly. I said he fled to Gety. But you have to
5 know that Gety is a village and you have to know the ethnic
6 group that lives in Gety. The majority of the people who live
7 in Gety village are the Ngiti. The Ngitis had an armed group
8 called the FRPI.

9 THE INTERPRETER: The Swahili interpreter did not hear
10 the last, that is, the final end of the Lingala -- sorry, it was
11 the Lingala interpreter did not hear the last end of the answer,
12 the witness's answer.

13 MS MABILLE: (Interpretation)

14 Q. The interpreter did not hear the end of your answer.
15 I am going to read out what you said and then you complete it.
16 You said the following: "And the majority of the people are
17 Ngitis; they live in Gety village. It is the Ngiti ethnic group
18 that lives there. They had an armed group called the FRPI." Is
19 that what you said? And did you add anything else to that
20 answer?

21 A. No, that's what I said.

22 Q. Do you know when your friend returned to Bunia, that
23 is, if he ever returned?

24 A. Yes. He indeed returned to Bunia. When the next
25 academic year started, and I'm referring to the 2003/2004

1 academic year, it was at the beginning of that academic year, in
2 the month of September, that he returned to resume his studies.

3 Q. Could you please tell us how you came to know that
4 your friend had joined the FRPI?

5 A. Well, I heard that my friend had joined the FRPI. I
6 heard through certain traders who were also smugglers. It was
7 these smugglers, these smuggler traders, who were in Gety with
8 him who gave me the information. They were carrying out their
9 business and they would leave from Gety to go towards Kivu, to
10 buy supplies, usually foodstuff. When I met them in Komanda we
11 were together. We would greet each other and we would share
12 news. I would ask them, for example, how are things there? Are
13 you fine? Who are the people who live there? That's when they
14 gave me the information. They would tell me X or Y were there,
15 and then they mentioned the name of my friend, and they told me
16 very clearly that he had joined an armed group. That was the
17 first time or the first possibility.

18 The second possibility, well, I met him by chance in
19 town, that is, after I returned to Bunia. At that time the
20 French were already in Bunia town; the town was safe. And
21 militia members would come to Bunia as well, to move around.
22 They would come in civilian clothes and I met him by chance in
23 the town of Bunia. He was dressed in civilian clothes. He
24 wasn't wearing a military uniform.

25 The second time I met him was in town, in Yambi Yaya

1 neighbourhood. It was then that I saw him wearing a civilian
2 pair of trousers, but the T-shirt he wore was a camouflage
3 T-shirt. It had military colours. When he met him, when I saw
4 him dressed as such, I was then convinced that he was a member
5 of an armed group.

6 Q. When did you see your friend? Or when was the last
7 time you saw your friend?

8 A. I can't give you a specific answer to that question; I
9 can't give you a specific answer.

10 Q. You informed us that you saw him twice. Did you see
11 him again subsequently? That is, after the two times you
12 mentioned?

13 A. Yes, indeed. After that second time we met again. At
14 that time he had already left the armed group. We met by chance
15 and he was going to school. He was dressed in the school
16 uniform and he was going to school. That was after the second
17 time I mentioned. I met him. He had already left the armed
18 group and he had already recommenced his studies.

19 Q. Witness, I will now ask you a different type of
20 question. The steps you took, in order to come and give
21 testimony here in The Hague, did such steps have any impact on
22 your employment, or any consequences on your employment?

23 A. Yes, indeed. Before I came here I travelled to
24 Kinshasa. I left Bunia to go to Kinshasa, in order to fulfil
25 the measures for the deliverance of my passport. I was supposed

1 to travel during the holiday period. Unfortunately, I was not
2 able to travel during that period, during the holiday period; I
3 had to travel towards the end of the holiday period. When I
4 travelled the classes resumed. They resumed at the time I was
5 in Kinshasa trying to get my passport. I spent close to 23 days
6 in Kinshasa. I left Bunia on the 29th to go to Kinshasa. That
7 is before the December holiday period.

8 I returned to Bunia in mid-January. When I returned,
9 I went back to my school. I met the school head teacher and,
10 unfortunately, he did not welcome me back. He said I was a
11 deserter, and looked for somebody to replace me saying I didn't
12 ask for authorisation, and as I speak I'm no longer a teacher.
13 I cannot teach because of the trip I made to Kinshasa. That's
14 the problem I have. In addition to that, since December and
15 January, I no longer have a salary, because of that trip.

16 Q. Thank you. I would like to ask a moment from the
17 Judge.

18 MS MABILLE: (Interpretation) That's the
19 examination-in-chief, your Honour.

20 PRESIDING JUDGE FULFORD: Thank you very much. Ms
21 Samson, we will take the midmorning break now, if that's
22 convenient to you. So, we are going to have a break now to give
23 you a chance to have some refreshment and to give an opportunity
24 for the interpreters and stenographers to take a break. We will
25 sit again at 25-past-11. Usher, could you please accompany the

1 witness back to the witness waiting room.

2 (The witness stands down)

3 PRESIDING JUDGE FULFORD: Maître Mabilie, outstanding
4 from this morning is the issue, therefore, of what if anything
5 the Court is going to be able to do on Monday. I don't require
6 a response from you now, but could you -- well, it may be you
7 can respond now but it would be interesting to know how you
8 envisage next week playing out.

9 MS MABILLE: (Interpretation) It would appear that
10 Witness 005 has obtained his passport, and so will be able to
11 give witness -- sorry, to give testimony on Monday. We are
12 going to have the courtesy visit in the morning so the testimony
13 could be given in the afternoon.

14 With respect to the two witnesses we talked about, who
15 have a problem with their various schools, apparently we will
16 not be able to address the problem and so the suggestion we
17 made, and I admit that we did not discuss this with the OTP, was
18 that Witness 15 should come and fill the current gap.

19 I beg your pardon, your Honour. I've just received a
20 note from Carolyn Buteau who is aware of all what's happening
21 and she says that Witness 005 has certain reservations about the
22 visa. The witness has received a passport but has not received
23 a visa and so she is asking me to be a bit more careful in what
24 I say. I beg your pardon. Maybe it was not that clear but I am
25 talking about Witness 15 of the OTP; I am not talking about our

1 own Witness 15.

2 PRESIDING JUDGE FULFORD: Yes, it's the recall of 15,
3 rather than the new 15. Right. Can somebody please from the
4 Defence team, over the adjournment, speak with the Victims and
5 Witnesses Unit so that we can see whether the visa issue is
6 going to prove to be an impediment to Monday. Can we
7 simultaneously establish what the position is in relation to
8 Prosecution Witness 15.

9 Ms Samson, we obviously give you the break to reflect
10 on this with Mr Sachdeva. You should know that in a flurry of
11 emails very late yesterday afternoon, early evening, we were
12 alerted to the possibility of Witness 15 being brought up the
13 list, as it were, and I gave a preliminary indication, subject
14 of course to any representations you make, that that may be
15 appropriate, given that Witness 16 has now given evidence, which
16 was your main concern, as we understand it. You will appreciate
17 that the Chamber is deeply anxious that available court time is
18 not lost. But that's not to stop you from making
19 representations after the break, if you wish to.

20 Good. Thank you. We will sit again at 25 past.

21 THE COURT USHER: All rise.

22 (Break taken at 10.55 a.m.)

23 (Upon resuming at 11.25 a.m.)

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

25 PRESIDING JUDGE FULFORD: Witness, please.

1 (The witness enters the courtroom)

2 PRESIDING JUDGE FULFORD: Thank you very much, sir.

3 Yes, Ms Samson.

4 MS SAMSON: Thank you, Mr President.

5 QUESTIONED BY MS SAMSON:

6 Q. Good morning, Mr Witness. My name is Nicole Samson,
7 and I have some questions for you today on behalf of the Office
8 of the Prosecutor. Sir, you were never in an armed group, were
9 you?

10 A. No, I was never a member of an armed group.

11 Q. And you have indicated that you attended (Redacted)
12 primary school. It's right, isn't it, that your friend did not
13 attend (Redacted) primary school?

14 A. No, he never studied at (Redacted) primary school.

15 Q. And it's right, I think, that the only year you say
16 you studied together was in 2001/2002?

17 A. Yes, that is correct.

18 MS SAMSON: Thank you very much. I have no further
19 questions, your Honour.

20 PRESIDING JUDGE FULFORD: Any matters, Maître Mabilille?

21 MS MABILLE: (Interpretation) I have no questions, Mr
22 President.

23 PRESIDING JUDGE FULFORD: Thank you very much indeed.
24 Sir, that concludes your evidence, and I want to extend the
25 thanks of the Judges for you having taken the time and trouble

1 to come to this Court to give evidence. The Judges are only
2 able to fulfil their obligation of finding the truth in relation
3 to this trial if persons in the position of yourself are
4 prepared to travel the very long way from the Democratic
5 Republic of Congo to give evidence.

6 We are acutely aware that this will not have been easy
7 for you and we have very much taken into account what you have
8 said as regards the difficulties that you had as regards your
9 former employer. So, you leave this Court now with our sincere
10 thanks for your contribution to this trial.

11 Usher, can you accompany the witness, please, back to
12 the witness waiting room.

13 THE WITNESS: Thank you.

14 (The witness is excused)

15 PRESIDING JUDGE FULFORD: Maître Mabilille, is there any
16 update following the mid-morning adjournment as regards the visa
17 position for Witness 5?

18 MS MABILLE: (Interpretation) There are no further
19 news, or is there is no further news, Mr President. From what
20 we have understood, we will have a definitive answer tomorrow.

21 PRESIDING JUDGE FULFORD: Thank you. Ms Samson, if
22 all else fails, does the Prosecution have any objection to there
23 being a return of Witness 15 earlier than expected?

24 MS SAMSON: In principle, no, your Honour. We
25 understand the difficulties there are with the arrangements for

1 their witnesses to come. The only request that we make is that
2 it not -- that Witness 15 not appear on Monday, which I assume
3 would not likely be possible given the need to travel and
4 familiarise. Our request would be that he would start his
5 evidence no earlier than Wednesday, if that would be acceptable
6 to the Chamber.

7 PRESIDING JUDGE FULFORD: I'm not sure whether we are
8 going to give that undertaking. What we will do is ensure that
9 you have sufficient time to prepare for questioning before you
10 commence. I would have thought, in a sense, the sooner you hear
11 his evidence the better, so long as you have a sufficient
12 guarantee of preparation time for questioning.

13 MS SAMSON: Well, your Honour, it raises an
14 interesting question: Given that the witness is returning as a
15 Prosecution witness, although one that we will be
16 cross-examining, we had anticipated that we would start the
17 questioning.

18 PRESIDING JUDGE FULFORD: Quite right for you to
19 remind me of that, Ms Samson. I had forgotten. There is not
20 going to be evidence in-chief in the usual sense, is there? So,
21 cross-examination. Well, we are Thursday now. I would ask you,
22 please, to see how you get on the rest of today, tomorrow,
23 possibly over the weekend, in terms of putting your materials
24 together for the purposes of questioning. That is actually
25 quite a long time for preparatory work of this kind.

1 MS SAMSON: Thank you, your Honour.

2 PRESIDING JUDGE FULFORD: Right, thank you.

3 There needs to be a response by the Defence - of
4 course if the Defence wish to provide one - to the Prosecution's
5 request for non-disclosure of information in documents related
6 to Defence witnesses and re-interviews with Prosecution
7 witnesses. This was filing 2314, which was filed on 1 March
8 with redacted and corrected ex parte versions filed on 3 March.

9 We suggest a two-week time period for -- no, we
10 suggest, rather, a time period of 18 March for Defence
11 responses; would that be acceptable, Maître Mabilille?

12 MS MABILLE: (Interpretation) No problem,
13 Mr President.

14 PRESIDING JUDGE FULFORD: Thank you very much.

15 There is an ex parte Prosecution and Defence only oral
16 ruling which we need to deliver today. It is going to take
17 half-an-hour to reconfigure the Court equipment and therefore we
18 propose to sit again at 10-past-12 to deliver what will be a
19 relatively short oral ruling. We will, of course, not take it
20 as any form of discourtesy if only one member of the Prosecution
21 and one member of the Defence team attends for those purposes,
22 or for that purpose.

23 While we are still all together, can I ask, please,
24 that the Defence inform the Chamber and all parties and
25 participants as early as possible tomorrow as to how the agenda

1 looks for Monday. Clearly, particularly for those who will be
2 travelling to The Hague for court on Monday, the earlier that we
3 know what the anticipated calendar is the better.

4 And if it looks as though we are not going to have a
5 final answer tomorrow, we need to know that it looks as though
6 there is not going to be a final answer at least so that we can
7 indicate to everybody that they should come just in case, in the
8 hopes that we can do some work on Monday.

9 Is there anything else that we can usefully consider
10 whilst everyone is here together? No. Thank you all very much.
11 We sit ex parte then at 10-past-12 and I hope we will all sit
12 together again at 2.30 on Monday afternoon. Thank you.

13 (The hearing ends at 11.38 a.m.)

14 RECLASSIFICATION REPORT

15 Pursuant to Trial Chamber I's email instruction dated
16 25 January 2012, the transcript is reclassified as public after
17 the indicated redactions have been implemented as ordered
18 by the Chamber. All private and closed sessions (*)
19 are now available to the public with the exception of
20 the portions of the transcript that have been redacted.

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