

1 International Criminal Court
2 Trial Chamber I - Courtroom 2
3 Presiding Judge Adrian Fulford
4 Judge Elizabeth Odio Benito and Judge René Blattmann
5 Situation in the Democratic Republic of the Congo -
6 ICC-01/04-01/06
7 In the case of The Prosecutor v. Thomas Lubanga Dyilo
8 Monday, March 22, 2010
9 (The hearing starts at 3.00 p.m.)
10 *(Closed session) Reclassified as Open session
11 THE COURT USHER: All rise. Please be seated.
12 PRESIDING JUDGE FULFORD: Witness, please.
13 (The witness enters the courtroom)
14 PRESIDING JUDGE FULFORD: Public or private,
15 Mr Desalliers?
16 MR DESALLIERS: (Interpretation) Private, your
17 Honour.
18 PRESIDING JUDGE FULFORD: Private session, please.
19 *(Private session at 3.00 p.m.) Reclassified as Open session
20 THE COURT OFFICER: We are in private session, your
21 Honours.
22 PRESIDING JUDGE FULFORD: Yes.
23 MR DESALLIERS: (Interpretation)
24 Q. Good afternoon, sir.
25 A. Good afternoon.

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1 Q. When we finished before the break we were starting to
2 talk about a document that's in the binder before you. I would
3 ask you to take the binder once again and to turn to document
4 number 3, please. If it is of assistance to you, you can open
5 it completely. That will spare you from having to hold it open.
6 So, you can open it fully if you've got room on the table before
7 you. I would ask you -- so you are on the first page of the
8 document, 2275; is that correct?

9 THE INTERPRETER: The witness seemed to make a
10 positive indication.

11 MR DESALLIERS: (Interpretation)

12 Q. Witness, I didn't hear your answer. Are you on page
13 2275?

14 A. Yes.

15 Q. Thank you. On the first page of this document, just
16 below midway down, we've got a line that says, "Total budget of
17 the project: USD (Redacted)." Could you explain what that is?

18 A. It was planned that for each of the demobilised
19 individuals there was a sum of money for the project. The UNDP
20 had decided on this for each demobilised soldier. It was a set
21 amount, so we had that amount multiplied by nine because there
22 were nine demobilised soldiers. Usually, there is one amount
23 for each demobilised soldier, and it was the duty of the UNDP to
24 grant that money. So, I think that all of that is probably
25 written somewhere in the document. I haven't had the time to

1 read all of this.

2 Our concern was to get the funding, so I think that
3 the total budget for the project -- well, I don't really know
4 any more than that. I think it was the money that the UNDP was
5 to give to each of the individuals, multiplied by nine, or maybe
6 it is all of the expenditure that was necessary to go ahead with
7 what we planned to do in this project - the (Redacted)
8 project. So, we had already planned to buy (Redacted), and it
9 was the local NGO that helped us.

10 I was not responsible for producing this document. I
11 didn't type it out. It was the NGO that did it; the NGO that
12 was there to help us, including with the preparation of
13 documents and in our general cooperation with the UNDP. And
14 they gave us the documents and we came back with this, and I
15 filed it at home and I didn't actually take the time to read it
16 through thoroughly. So this amount, (Redacted) the total budget of
17 the project, I don't think I can give you a more specific answer
18 because I didn't read the document, but I do know that there was
19 a certain sum allocated for each demobilised soldier that was to
20 come from the UNDP, so multiplied by nine, and that was to be
21 used for the purchasing of the (Redacted) for the (Redacted)
22 service and the project.

23 Q. Very well, thank you. If you turn to the next page,
24 please.

25 PRESIDING JUDGE FULFORD: The French transcript that I

1 have been shown, Mr Desalliers, looks rather odd. Is yours
2 functioning?

3 MR DESALLIERS: (Interpretation) Your Honour, it
4 would seem that it doesn't work when you activate it with these
5 buttons. And I've logged in using my code and that works, but
6 for my colleague behind, it's not working either.

7 PRESIDING JUDGE FULFORD: Right. Well, if it's
8 working for you, Mr Desalliers, that's good enough, I think, for
9 the minute unless someone behind you insists that we should
10 stop, because it is really important that you can see and take a
11 note, as it were, mentally of what is being said. If this
12 continues and it starts to cause the Defence a real difficulty,
13 then please let me know and we'll reconsider the matter, but for
14 the time being we'll continue. Thank you very much.

15 MR DESALLIERS: (Interpretation) Thank you.

16 Q. So, Witness, could you please turn to the next page of
17 the document, numbered 2276.

18 A. 2276, okay.

19 Q. Yes. On page 2276, at the top of the page, it says,
20 "Financing request," "dossier de demande de financement." Do
21 you see this?

22 A. Yes, I do.

23 Q. Below this, we have the characteristics of the
24 project. Do you see that as well?

25 A. Yes, I see it.

1 Q. So, characteristics of the project, and this would
2 continue over to the next page, 2277, if you'd like to turn to
3 the next page.

4 A. Yes.

5 Q. The question is as follows: Can you tell us who
6 prepared this document? Who drafted the document?

7 A. This document was prepared in cooperation and
8 collaboration with (Redacted) and UNDP. I think that it must be
9 certain parts that were drafted by (Redacted), the NGO, and some
10 drafted by -- for instance, the bits on the UNDP by the --
11 drafted by the UNDP people. Even the bits that are drafted by
12 (Redacted), it must reflect what was being done by the UNDP people,
13 because at the end of the meeting it was the UNDP people who
14 gave me this document. They gave it at the same time to the
15 (Redacted) coordinator at the same time they gave us the document. So
16 they gave it to us and to each of the coordinators in the NGOs
17 who were responsible for coordinating.

18 So it was the UNDP who, at the end of the meeting that
19 day, gave me this document. And they distributed it in the room,
20 including giving it to the (Redacted) people who were there.
21 But you'll see there are parts that have been set out according
22 to what we asked for. We said that we didn't have the
23 wherewithal to set up a project such as this, and that's why the
24 UNDP had gone through (Redacted) to provide assistance to the
25 demobilised soldiers who were trying to establish a project. So

1 (Redacted) was there to help us out throughout.

2 Q. Very well. Thank you. Could you please turn to the
3 next page, and at the top of the page you find "Financing of the
4 project", and the next page "Budgeted operational costs."

5 A. Yes.

6 Q. And the next page, "Comments of the expert on
7 reintegration."

8 A. Yes.

9 Q. Do you --

10 THE INTERPRETER: Your Honour, there are overlapping
11 speakers and the interpreter cannot interpret everyone at the
12 same time, please.

13 MR DESALLIERS: (Interpretation) The difficulty, your
14 Honour, is that one question could be put in public session, and
15 then we will ask for clarification to be done in private
16 session, and so that causes problems. So I would propose that
17 we carry on in private session for a while on this document.

18 PRESIDING JUDGE FULFORD: Certainly. And my apologies
19 for the interpreters, but I had to interrupt in order to stop
20 Mr Desalliers from asking his next question.

21 Yes, Mr Desalliers. I have just been told off by the
22 interpreters. Please carry on.

23 THE INTERPRETER: We apologise, your Honour.

24 MR DESALLIERS: (Interpretation)

25 Q. Could you please move on to page 2281. At the top of

1 the page you have PNUD - that is, UNPD - and (Redacted). Can you
2 see that?

3 A. Yes.

4 Q. At the bottom of the page we find "Officer in Charge
5 of the File", and we have "(Redacted)
6 (Redacted)" Do you know this individual?

7 A. (Redacted), he was an official from the UNDP, and
8 he was in charge of programmes for demobilised soldiers at the
9 UNDP. Every time we went to the UNDP we held meetings with him
10 at the premises of the UNDP.

11 Q. Very well. So this was someone who worked for the
12 UNDP?

13 A. Yes, he was an officer who worked for the UNDP, and at
14 the time he was responsible for projects for demobilised
15 combatants and --

16 Q. Thank you. Next page. It bears the number 2282. We
17 find something written there; I think it's a proxy. Can you
18 explain to us what this document is?

19 A. A proxy? Now I remember. When you mentioned the
20 word, I remember that. When we left CONADER, that is, the
21 demobilisation centre, at the seminar we were explained -- they
22 explained to us the activities we had to carry out to implement
23 our project. When we came together, therefore, we went to the
24 NGO, (Redacted), as we were instructed at the seminar held in CONADER.
25 We went there early to (Redacted), because that's the NGO we selected

1 to help us in the preparation of our project, so we went directly
2 to (Redacted). At (Redacted) we were requested to go to the UNDP
3 to get a proxy, and looking at this document, I do recall.

4 So we all went to get this proxy. We handed this
5 document over to them, and that marked the beginning of our
6 collaboration; that is, it showed that the UNDP had accepted
7 that (Redacted) should start working on our project. So when we went
8 to the NGOs, they will ask us to go and get a proxy. That's
9 what this document is all about.

10 Q. And we read "Done at Bunia on (Redacted) 2005", and there
11 is a signature below that date. Do you know whose signature
12 that is?

13 A. Yes. When we all came together, (Redacted) asked us "Who is
14 the head of your group"? So we said the head of the group was
15 myself, and so the officials of (Redacted) asked me -- they asked for
16 my demobilisation card. I gave them the demobilisation card,
17 and they used the information to fill this document. Then they
18 asked me, "What activities do you intend to carry out?" And we
19 said we wanted to do (Redacted) business. They wrote
20 things on this document and they asked me to sign. I think he
21 is the one who signed below, but above he asked me to sign as
22 the representative of the group of demobilised soldiers.

23 Q. Very well. Thank you. Could you please turn to page
24 2283. We have already discussed on this page. That page is
25 entitled "List of Demobilised Persons Per Project."

1 A. Yes.

2 Q. On that page we find the names of nine individuals.
3 These are the names of the nine persons involved in your
4 project?

5 A. Yes.

6 Q. Could you tell us, starting with the first name, who
7 really served in an armed group? Let's start with number 1,
8 (Redacted)

9 A. Are we in --

10 Q. Yes, indeed, we are in private session. Nobody can
11 hear you outside the courtroom.

12 A. Are you talking about those who had never been
13 soldiers earlier?

14 Q. Yes. Could you start with the first name, please?

15 A. Yes.

16 Q. Were you a member of an armed group in reality?

17 A. No. Even if you gave me a weapon today, I wouldn't be
18 able to operate it.

19 Q. Very well. Number 2, (Redacted)

20 A. He was a civilian like myself.

21 Q. Number 3, (Redacted)

22 A. That's my kid brother. He too was a civilian.

23 Q. I understand from your answer that he was a civilian.
24 Does it mean that you have never been a soldier?

25 A. No, never.

1 PRESIDING JUDGE FULFORD: Mr Desalliers, these
2 questions are coming - questions and answers - too quickly. You
3 must build in a pause between each one.

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

6 MR DESALLIERS: (Interpretation)

7 Q. Number 4, (Redacted). Did he ever serve in an
8 armed group or not?

9 A. No.

10 Q. Number 5, (Redacted). Did this individual ever
11 belong to an armed group, yes or no?

12 A. No.

13 Q. Number 6, (Redacted). Did he ever belong
14 to an armed group, yes or no?

15 A. No.

16 Q. Number 7, (Redacted). Did she ever belong
17 to an armed group, yes or no?

18 A. Yes. Yes, she was a soldier.

19 Q. Number 8, (Redacted). Was he -- did he ever
20 belong to an armed group, yes or no?

21 A. No.

22 Q. Number 9, (Redacted).

23 A. Yes.

24 Q. Was -- did he belong to an armed group?

25 A. Yes.

1 Q. Very well. Thank you.

2 MR DESALLIERS: (Interpretation) I think that the
3 document in tab 4 has already received a reference number, your
4 Honour. I just wish to make sure that that is the case. Pages
5 2275 to 22 - tab 3 - pages 2275 to 2283.

6 THE WITNESS: What number?

7 MR DESALLIERS: (Interpretation)

8 Q. It wasn't a question put to you, Mr Witness. Could
9 you please now turn to tab 4 - tab 4 of the binder provided to
10 you?

11 A. Yes.

12 Q. This is a three-page document. The first page is
13 entitled "List of the Group Members", and the list seems to
14 continue on the second page, and on the last page of the
15 document we find "List of" - and there is a word which has been
16 blotted out - demobilised at meetings, who attended meetings.
17 Do you recognise this document?

18 PRESIDING JUDGE FULFORD: I don't know if the witness
19 is looking at the right page. Usher, can you make sure that the
20 witness is looking at the last page of this tab. So it is 2286,
21 which is partly obliterated, I think, Mr Desalliers, isn't it?

22 MR DESALLIERS: (Interpretation) Yes, indeed, it is
23 2286.

24 PRESIDING JUDGE FULFORD: The witness is not looking
25 at the right page. It's the last page in the tab which has got

1 "2286" at the bottom. You have just gone past it. That's the
2 one. Right. Thank you, usher.

3 Question again, looking at that page.

4 THE WITNESS: 2286, is that right?

5 MR DESALLIERS: (Interpretation)

6 Q. Yes. Do you recognise this document?

7 A. Yes, I do.

8 Q. Can you tell us what it is?

9 A. It's a list of individuals who had been demobilised
10 and who attended the meetings. There were the people from the
11 UNDP to whom we had already -- well, we had already given the
12 information about our project to (Redacted), and (Redacted) started to set
13 up the project. And the UNDP called us to come, so we had to go
14 along and make a presentation and introduce ourselves. What
15 we'd done before was to do it with the (Redacted) coordinator or
16 representative and they then passed it on the UNDP, but on this
17 particular day UNDP wanted all of the demobilised individuals to
18 come - everyone who had submitted a project to (Redacted) - and they
19 had to come along group by group. And it was on (Redacted) 2006
20 that this happened. (Redacted) 2006. The groups were asked to go
21 along and we went. It wasn't with the (Redacted) coordinator. It was
22 a deputy who went, and we went with that person and all of the
23 nine demobilised people went.
24 When we got there, (Redacted), who was from the UNDP, was in
25 charge of the demobilised soldiers' projects and he convened us,

1 so we all met in a hut and he asked each individual who they
2 were. So, this is the list of the people who were there. A
3 signature -- each individual had to sign the list and they were
4 asked which armed group they'd belonged to, and all of this
5 dates back to what had been talked about before and we -- in
6 other words, they wanted to know whether we'd handed in the
7 different things that we spoke about earlier on and which armed
8 group they belonged to. So, all of this happened on that day at
9 that meeting. They had to say which armed group they'd belonged
10 to, and then each individual who took part in that meeting
11 signed and the person who came from (Redacted) as well also signed,
12 and the UNDP person who's in charge of the demobilised soldiers'
13 project, he signed as well, and you can see it says -- it's got
14 his name, (Redacted), in charge of the UNDP office, and
15 then before that you've got (Redacted) from (Redacted) and it
16 says ONGD; in other words, NGO. And then you've got the names
17 of the people who came with me, with the number of their
18 demobilisation card and the armed group they belonged to.

19 Q. You've referred to the armed groups. Is that the
20 column headed "Address"? Is that where you indicated the armed
21 group?

22 A. That's how it was. That's how it was. I'm not
23 responsible for this. That's what happened at the meeting.
24 Everyone who went to the meeting had to write it down and we all
25 got a copy of this. I got a copy and so did everyone else in

1 the room. The UNDP people were handing out the papers to each
2 person present in the room, so we all nine of us got a copy, and
3 I went back home to show it to people. So, well, the funding
4 was promised but, unfortunately, up until today, we have seen
5 nothing.

6 Q. Very well. In the column where you've got an
7 indication of the armed group, are those indicated the same as
8 those declared to the CONADER, or are there any differences?

9 A. Well, the UNDP knew about everything. Everyone who
10 had gone to CONADER, they knew all of the details and there was
11 total sincerity, and if you want proof you can go and check for
12 yourselves. You'll find exactly the same things.

13 Q. So, what you told the CONADER was that you belonged to
14 UPCK, is that right?

15 A. Well, I was not the one responsible for the
16 identification information at the entrance where there were the
17 Moroccans. It was the other friend I spoke to you about earlier
18 on. I think the explanation was clear. I sort of came on board
19 at the last minute and I was told, "Well, this is what you'll be
20 called," and I accepted and then I had the papers, and that's
21 what I used after that every day.

22 Q. In the seventh line we've got "(Redacted),
23 FNI". Do you know who made that declaration to the CONADER?

24 A. You know, that in the introduction that I gave earlier
25 there was -- well, I said there were a lot of civilians who went

1 to the CONADER because of the system of handing in phonies,
2 Motorolas and so on. An awful lot of people took advantage of
3 that, with a view to getting something out of it. We went
4 before, and after that there were a lot of rumours, but nobody
5 was discouraged. I mean, people were still admitted and it
6 turned into a sort of business.

7 Even my little brother benefitted from this. He went
8 along. On the very first day he took along a broken Motorola,
9 and the Moroccans sent him away because there was -- they could
10 see that there was something missing from the Motorola. I took
11 along a group as well. I mean, it had turned into a sort of
12 business, so there were people who were trying all sorts of ways
13 to make money by looking out for Motorolas and taking them
14 along. But my little brother tried and it was a Motorola that
15 was defective, so the Moroccans at the entrance sent him off.
16 We don't know where he got the Motorola from. He managed to get
17 hold of a new one anyhow, and he came back with it and he was
18 admitted, and he came up with his own pseudonym there. At the
19 reception centre, he came up with another pseudonym for himself,
20 because that's what people were starting to do. Everyone was
21 doing it. And they were thinking about who had given Motorolas
22 to whom.

23 I mean, I can say all of this because we're in private
24 session, but there were certain things that were sent off to be
25 repaired and then provided specifically for that purpose. And

1 when they were shown to the Moroccan, he just wanted to see the
2 reference number, and wrote it down. We did an awful lot of
3 things like this, so who knows? Maybe those who were
4 responsible for providing the Motorolas could be taken to court.
5 So, that's why my little brother took a pseudonym at the time.
6 That's the way it was. And when he was asked which armed group
7 he belonged to, he said PUSIC -- no, sorry, excuse me, FNI. And
8 if you want proof of this, you'll have to go and take a look and
9 talk to the people from the CONADER. You'll be able to find the
10 information. You'll be able to draw your conclusions as to the
11 veracity of these documents.

12 PRESIDING JUDGE FULFORD: Mr Sachdeva, a very long
13 time ago you were on your feet.

14 MR SACHDEVA: It's withdrawn, Mr President.

15 PRESIDING JUDGE FULFORD: Thank you. Yes,
16 Mr Desalliers.

17 MR DESALLIERS: (Interpretation)

18 Q. So, as regards the explanation you've just given us
19 concerning your little brother, is it your little brother, (Redacted)?

20 A. Yes, I'm talking about him. You were asking about
21 number 7 and that's why I gave you that explanation. When he
22 went to the CONADER, he came up with this pseudonym. And he was
23 asked which armed group he belonged to and he said, "FNI." He
24 did it himself, and that's his signature here. I don't know
25 whether he'd also in the meantime forged his signature, but it's

1 possible.

2 MR DESALLIERS: (Interpretation) Thank you. Could we
3 have a reference for this document, please.

4 THE COURT OFFICER: Tab 4, your Honours, which is
5 under DRC-D01-0003-2284, which consists of three pages, will be
6 assigned EVD-D01-00128 and marked as confidential.

7 MR DESALLIERS: (Interpretation) Thank you.

8 Q. I am now going to show you another document, which is
9 the fifth in the binder that you have before you.

10 For the purposes of the record, it is document
11 DRC-OTP-0166-0075, which has already been given EVD number
12 D01-00092.

13 Sir, do you have the document before you?

14 A. Yes, where is it?

15 Q. It's a document that shows a demobilisation card. Can
16 you see it?

17 A. Yes, I can see it.

18 Q. Do know this document? Do you know this card?

19 A. Yes. That is the card that was given to my younger
20 brother when he went to CONADER.

21 Q. I would like to get a clarification from you with
22 respect to this card. We read here, "Place of birth: (Redacted)".
23 Can you see that in the middle of the card, "Place: (Redacted)"?

24 A. Yes, I do see that.

25 Q. You told us a short while ago that your brother was

1 born in (Redacted); is that right?

2 A. Yes.

3 Q. Do you know where (Redacted) is?

4 A. I have just heard mention of the place, but I have
5 never been there, so I cannot tell you where (Redacted) is located.

6 Q. But is it in the region of (Redacted), or not?

7 A. (Redacted) is not in (Redacted). There is no place in (Redacted)
8 called (Redacted).

9 MR DESALLIERS: (Interpretation) Your Honour, could I
10 have one moment, please.

11 (Pause in proceedings)

12 Q. Bottom left of the page, you read "Community of
13 integration or reintegration (Redacted)," do you know?

14 A. Yes, I know.

15 Q. Where is that?

16 A. It's a locality that is found in the community of the
17 (Redacted). We entered the CONADER centre of (Redacted), the
18 CONADER centre that was located in (Redacted). So, this shows that
19 it is the centre that was found in the community of (Redacted);
20 that is, the CONADER centre located in that community.

21 Q. So that is the place where the CONADER centre was
22 located?

23 A. Yes, because there were centres everywhere. There
24 were even centres in Biamecede (phon), there were others in
25 Kasenyi as well; but the big centre which was in the town of

1 (Redacted) was a centre which was called the (Redacted) centre,
2 because it was located within the community of the (Redacted).

3 Q. Very well. Thank you. I have no further questions on
4 this document.

5 Mr Witness, a short while ago you talked about the
6 disappearance of your brother (Redacted) around the years 2006 or
7 2007. What exactly did you mean by that?

8 A. I used the term "disappearance," because all of a
9 sudden he did not return home and we started wondering. We
10 didn't know where he was. That is why I used the term
11 "disappearance." After several days, we started hearing that my
12 younger brother was somewhere, that he had had the opportunity,
13 the luck to go and study somewhere. That's what we heard after
14 several days.

15 He spoke to someone over the phone, because our
16 parents did not have a phone. I didn't have a phone myself.
17 So, those persons then came and told our parents that, "Don't go
18 looking for your child, because he has been lucky and he has
19 gone to study in Kinshasa."

20 I didn't have much to say about that, and our parents
21 asked to know how he came about to be so lucky? And the lady
22 said, "He was lucky because there were certain white people who
23 had taken him to go put him in school." Even the family of the
24 girl he got pregnant was looking for their granddaughter,
25 because the girl used to live with us at home with the baby and

1 her family came and collected her.

2 And so they started feeling that maybe he had gone and
3 abducted the girl to flee with her. As often happens, in our
4 custom it's possible for someone to take his girlfriend and flee
5 with her. And so her parents would come to our house and say,
6 "Our daughter must still be with you," and they were wondering
7 where the girl had gone to. And we told them, "Well, our
8 younger brother has also disappeared and we don't know where he
9 has gone to."

10 And until one day the lady was asked to phone him, to
11 call him, and my mother was able to talk with him and he did not
12 fully explain what he was involved in. That's it.

13 Q. When did you yourself see your younger brother for the
14 last time, your brother (Redacted)?

15 A. Each time when we went to find out about our project,
16 we always went together, the nine of us. At the time, then, the
17 telephone was just arrived in Bunia and it was expensive. It
18 was something expensive. Not everyone had a phone, and this
19 young man had a phone. And we asked him, "Where did you get it
20 from?" That's why I say, we young people, we know a lot of
21 things that our parents do not know about.

22 So, one day we are waiting for someone from (Redacted) to
23 accompany us to the UNDP, and this young man started talking to
24 somebody over the phone, and he was speaking in Swahili. And I
25 asked him, "Who are you talking to?" And he said, "No," that

1 he's talking to a friend. He said he had a friend, and he was
2 talking to that friend, and the friend was in Nairobi and the
3 friend was planning to give him a job.

4 So, I asked him, "Who is this friend? Maybe your
5 friend can also find me a job." And he said, "Well, just keep
6 waiting." And suddenly I started respecting this young man, and
7 -- until he disappeared one day and didn't understand what was
8 happening.

9 When he had that telephone, I used to hear a lot of
10 things, but I didn't have proof of what he was talking about.
11 We heard a lot of things, but we did not know what it was all
12 about. For three days, he did not sleep at home; he would just
13 come, and he would eat and he would go away. And we would ask
14 him, "Where did you spend the night?" And he said that he was
15 watching over the home of a friend in (Redacted), a friend whose
16 name was (Redacted).

17 So, I started thinking to myself. (Redacted). I saw (Redacted) in
18 CONADER with a white person. And I started wondering, does he
19 mean, therefore, that he has started having dealings with (Redacted)?
20 But I didn't have any proof of that. So, I am talking about
21 things which I really don't have direct proof.

22 I suspected him, and then suddenly he disappeared. He
23 didn't even inform the family; he didn't tell anybody about
24 where he was going to. And personally, I didn't know where he
25 had gone to, what he was up to. I really started suspecting him

1 from the time he had a telephone, and he was talking to somebody
2 and I heard him with my own ears.

3 We were always together, because we wanted to find out
4 about a project, and he kept talking over the phone in Swahili.
5 And I asked him, and he said he had a friend in Nairobi who was
6 going to give me a job. And I asked him, "Where did you find
7 this friend?" And he never gave me an explanation.

8 Q. Just for us to understand each other, in terms of time
9 you said he disappeared in 2006 or 2007. After he had
10 disappeared from the family, did you see him again, or not?

11 A. Could you please repeat your question?

12 Q. You said he disappeared in 2006 to 2007?

13 A. Between 2006 and 2007.

14 Q. From the time he disappeared from the family, did you
15 see him again? "Yes" or "no"?

16 A. See him again?

17 Q. Yes, see him again. Meet him.

18 A. Right up to this day, right from the time he
19 disappeared, I have not met him again. Well, one day I spoke to
20 him over the phone. We sent him a number -- or when we found
21 somebody who could speak to him over the phone, who could use a
22 phone, to enable dependants to talk with him, I had opportunity
23 to talk to him. And I asked him, "What are you doing there?"
24 And he never told me anything. He kept hiding his motives. He
25 said -- or it was said that he had gone to Kinshasa, but I had a

1 lot of doubts. I had a lot of doubts about this.

2 Over time, I continued harbouring doubts. And I told
3 my parents, "I really doubt what this young man is saying. I
4 have the impression that he is deceiving you. This young man
5 risked going down the wrong path. I said, he had gone down the
6 wrong path. I listened to him; I didn't get enough proof.
7 I know that (Redacted) used to be in the CONADER centre and he
8 would move around with a white person. And so I remembered,
9 when he did not spend ten days at home, he told me that he was
10 watching over (Redacted) house, but I didn't know whether he was
11 really watching over (Redacted) house or doing something else.

12 So, I really didn't know with certainty what he was up
13 to. I started doubting what he said, and I kept telling my
14 parents, "I have the impression that this young man has gone
15 down the wrong path. I think he is deceiving you. He says he
16 has gone away to study, but I have my doubts about it".

17 MR DESALLIERS: (Interpretation) Thank you, Witness.
18 I have no further questions, your Honour.

19 PRESIDING JUDGE FULFORD: Thank you very much,
20 Mr Desalliers. Well, unless you have had a change of heart,
21 Mr Sachdeva, we will of course honour our undertaking to you
22 earlier and you can commence tomorrow morning, if that would be
23 preferable to you.

24 MR SACHDEVA: Indeed it would. Thank you very much,
25 Mr President.

1 PRESIDING JUDGE FULFORD: No, it is certainly
2 understood. Closed session, please, so the witness can
3 withdraw. Sir, we look forward to seeing you again tomorrow
4 morning at 9.30 when you will recommence your evidence with
5 questioning by the Prosecution. Yes, thank you, usher. Could
6 you help the witness.

7 *(Closed session at 4.00 p.m.) Reclassified as Open session

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

10 (The witness stands down)

11 PRESIDING JUDGE FULFORD: Private session, please.

12 *(Private session at 4.01 p.m.) Reclassified as Open session

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

15 PRESIDING JUDGE FULFORD: Maître Mabilie, there has
16 been a series of emails, to an extent at our instigation, as
17 regards the representative of the VWU, whose name begins with A,
18 where there certainly has seemed for a period of time to be an
19 almost wholly inexplicable uncertainty as to whether there was
20 only one person, or whether there were two, and whether our
21 instruction had been ignored, deliberately or inadvertently, or
22 whether in fact because there are two people sharing the same
23 name there had been compliance with the order.

24 Can you assist us? Have you now been sufficiently
25 reassured by the Registry, or is this still a live issue which

1 we need to investigate and resolve?

2 MS MABILLE: (Interpretation) Your Honour, it is
3 still a live issue. We have discussed this on Thursday, I
4 believe, with Marc Dubuisson, and what we have understood is
5 that there appears to have been a misunderstanding. For us it
6 is rather difficult to understand, as there is just one person
7 who has been in contact with our witnesses. So we do not
8 understand how this confusion has come about and, what is more,
9 we have reiterated our concerns as regards the action taken by
10 that person. So, the problem is still a serious one for us and
11 we would very much hope that that problem can be dealt with once
12 and for good.

13 PRESIDING JUDGE FULFORD: So that we understand it,
14 Maître Mabilie, when therefore the Victims and Witnesses Unit
15 says that there are two people, and that the recent contact with
16 somebody whose name begins with A has been on the part of a
17 different person to the individual who we said should have no
18 further contact with Defence witnesses, your position is that
19 it's one and the same person throughout, and that the VWU are
20 wrong when they say that this is a second person? I just want
21 to make sure that there is no ambiguity. It is one person, not
22 two?

23 MS MABILLE: (Interpretation) That is absolutely the
24 case, your Honour. There has just been a single A who has met
25 our witnesses at the time when we raised this with you and it is

1 the same person who now is causing problems. The second A never
2 did anything with our witnesses.

3 PRESIDING JUDGE FULFORD: Well, we will pursue it,
4 Maître Mabilie. Quite how we do it I am at the moment not sure,
5 save for putting on trench coats and trilby hats and going out
6 as secret agents to the DRC to see what is happening in the
7 field, but we will find some way, if we can, of resolving
8 whether or not there are one or two people.

9 MS MABILLE: (Interpretation) Sorry, your Honour,
10 there is one thing that I -- further thing that I didn't say to
11 the Court. As we have been trying to understand the problem on
12 our part, there is just one single A whose responsibility is to
13 deal with the witnesses and to carry out the work which involves
14 taking our witnesses to the place they have to go to. So there
15 are different functions as regards the two As, and there is just
16 one of the As whose job involves taking care of the witnesses.
17 The other person - and we've asked the question - has a
18 different function, so I don't see how there can be any mistake.

19 PRESIDING JUDGE FULFORD: We may not come back to you
20 immediately on this, but silence will not be that we are
21 ignoring it. We will take steps to resolve it, because it is
22 clearly something of significance.

23 Unless there is anything else, 9.30. Yes,
24 Maître Mabilie?

25 MS MABILLE: (Interpretation) Just to inform the

1 Chamber that Witness 009 will be questioned by Caroline Buteau
2 from our team.

3 PRESIDING JUDGE FULFORD: We shall look forward to it.
4 Thank you very much.

5 Mr Sachdeva?

6 MR SACHDEVA: Thank you, Mr President. I just wanted
7 to ask about the next witness after Witness 9, whether indeed
8 that is Witness 15? I know I shouldn't be doing this through
9 the Bench to my learned friend, but just so we can get
10 clarification today.

11 PRESIDING JUDGE FULFORD: Defence Witness 15 after 9?

12 MS MABILLE: (Interpretation) It would seem that
13 Witness 15 does not have a passport. According to the
14 information that we have received it will take a couple of weeks
15 - round about two weeks - for this. That is the information
16 that has been given to us by the VWU and for the time being
17 that's all I can say.

18 PRESIDING JUDGE FULFORD: Are there no contingency
19 plans? So if 15 is delayed because of passport problems, is
20 there -- who, if anyone, is going to fill the breach,
21 Maître Mabilles?

22 MS MABILLE: (Interpretation) As things stand, your
23 Honour, Caroline Buteau, who is always wonderful because she
24 gets hold of the information faster than anyone else, tells us
25 that as regards Witness 15 attempts are being made to bring that

1 witness for next week, but for the end of the week we have no
2 further witness.

3 Next week, there is to be Witness 15 provided the
4 passport and visa issue is settled, and then there is the video
5 conference for the other witness. After that, we will come to
6 the four new witnesses who cannot come immediately and there
7 remains a fifth witness, and that fifth witness is the person
8 who is coming to testify on the school documents, cannot come
9 immediately as we have asked that person to embark upon -- or we
10 have asked that there be further matters and measures pursued as
11 regards the four new witnesses.

12 Now, I am trying to say this without saying too much,
13 but I am sure that you get my drift. So that means that we have
14 Witness 15, Witness 16, and then there will be no further
15 witness before we get the four new witnesses who are to come to
16 testify.

17 PRESIDING JUDGE FULFORD: Right. Thank you very much,
18 Maître Mabilie. In fact, I had a message sent out either last
19 thing on Friday or first thing today requesting that there is
20 close liaison between the Victims and Witnesses Unit and the
21 Defence so as to reflect so that the, as it were, the two bodies
22 can reflect strategically on what steps need to be taken to
23 ensure that we don't start to have gaps emerging in the
24 schedule, thereby resulting in serious loss of time.
25 So, can you please liaise with the Victims and Witnesses Unit so

1 that everything possible can be done to ensure that visas and
2 passports are obtained in time, and so that we have a clear idea
3 who is to come. I am not saying this critically of you,
4 Maître Mabilie, we understand there are difficulties, but this
5 does need to be addressed in a systematic and rational way,
6 otherwise, we are going to lose a terrible amount of time.
7 Well, you sort of have an answer, Mr Sachdeva, but it
8 is not entirely satisfactory.

9 Thank you all very much. 9.30 tomorrow morning.

10 (The hearing ends at 4.15 p.m.)

11 RECLASSIFICATION REPORT

12 Pursuant to Trial Chamber I's email instruction dated 15th March
13 2012, the transcript is reclassified as public after the
14 indicated redactions have been implemented as ordered by the
15 Chamber. All private and closed sessions (*) are now available to
16 the public with the exception of the portions of the transcript
17 that have been redacted.