

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Open Session)

ICC-01/04-01/06

1 International Criminal Court  
2 Trial Chamber I - Courtroom 2  
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 Monday, 8 November 2010  
9 (The hearing starts in open session at 2.01 p.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. We are in open session.  
13 PRESIDING JUDGE FULFORD: Good afternoon. Mr Sachdeva, I think you have a  
14 submission; is that right?  
15 MR SACHDEVA: Yes, Mr President. With your leave, my colleague, Mr Omofade,  
16 will make the submission.  
17 PRESIDING JUDGE FULFORD: Certainly. Should this be done in private or public  
18 session?  
19 MR OMOFADE: Indeed, your Honour, it should be done in private session.  
20 PRESIDING JUDGE FULFORD: Private session, please.  
21 \*(Private session at 2.02 p.m.) Reclassified as Open session  
22 THE COURT OFFICER: We are in private session, Mr President.  
23 PRESIDING JUDGE FULFORD: Yes.  
24 MR OMOFADE: Your Honours, it's an application for protective measures  
25 for -- concerning Witness 583, Mr Nicolas Sebire. The Defence are already aware of

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 this witness's -- this potential witness's identity, and indeed we did have a courtesy  
2 discussion with my friends opposite earlier on today, intimating them of the potential  
3 application we proposed to make. I should indicate, of course, that my friends did  
4 indicate that this is an application they will be opposing.  
5 It's an application pursuant to Article 68 and Rule 87(3)(e), and in essence it's for a  
6 distortion of the voice, the facial image of Witness 583, and the use of a pseudonym  
7 for him, all these when the evidence is being -- when his evidence is being taken in  
8 public session.  
9 We are also applying for any information that could lead to his identification to be  
10 taken in a private session, and the rest of the proceedings, of course, to follow in  
11 public session.  
12 Your Honours, by way of background information, your Honours might be aware  
13 that this witness, this potential witness, was the investigation team leader for the DRC  
14 situation prior to his leaving the services of the ICC. He was at the time -- well, he  
15 was, before he started with the ICC, a police officer with the French police. He had a  
16 stint with the ICC, particularly in the Office of the Prosecutor, and then proceeded  
17 after he left to return to the French police. Our understanding is that he's now  
18 seconded to Interpol, where he currently works in New York as a specialised police  
19 officer.  
20 Your Honours, the basis for the application is that he -- his activities with Interpol  
21 require him to travel extensively. Your Honours may be aware that Interpol covers,  
22 I believe, 188 different countries and it may well be that he's required to serve on  
23 behalf of Interpol in any of these countries. The sensitive nature of the activities of  
24 Interpol obviously require that the identity of serving police officers with Interpol be  
25 kept from the public. I should say that the witness -- we've had discussions and

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 communications with him and he has expressed serious concerns about his ability to  
2 testify if some assurances cannot be given as regards his identity not being relayed to  
3 the public.  
4 Your Honours, we make this application, of course, mindful of the fact that the  
5 accused person himself, Mr Lubanga, and of course his Defence team, will and  
6 already are aware of the identity of this witness. So, in our view, there's no prejudice  
7 whatsoever to Mr Lubanga or the Defence. Indeed, they will have the opportunity  
8 to cross-examine him if need be. Indeed, the application is only for limited  
9 protective measures that need to take place only while he is giving evidence and  
10 relating to the testimony that could lead to his identification.  
11 Your Honour, I'm being corrected slightly. I did mention that he was the  
12 investigation team leader. I'm being corrected to say that he was just part of the  
13 investigation team.  
14 So, your Honours, those are the Prosecution's submissions. We do think that this is a  
15 reasonable request, and subject to any questions your Honours might have, those are  
16 our submissions.  
17 PRESIDING JUDGE FULFORD: Before you sit down, can I just ask you this. By  
18 the sounds of it, and please tell me if I'm wrong, what the Prosecution are worried  
19 about is the witness's present role with Interpol and it being -- it being known outside  
20 of the four walls of this courtroom that he works for and travels for Interpol. Now, if  
21 that information is not referred to, so his name is given publicly but nobody refers to  
22 his present role with Interpol, does that cover the problem? And if you want to talk  
23 to Mr Sachdeva about it, please do so.  
24 MR OMOFADE: Indeed, your Honour. I will have a brief conference with him.  
25 PRESIDING JUDGE FULFORD: Certainly.

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 (Counsel confer)

2 MR OMOFADE: Your Honours, the specific concern that appears to have been  
3 raised by the witness is his activities in his current employment. We are aware, of  
4 course, that he is not happy for his name to be made public and this is why, as part of  
5 my submissions, I requested also the use of a pseudonym. It may well be that he has  
6 other reservations about why his name should not be revealed publicly. We can  
7 only surmise that this is in relation to his activities with the Court as well as his  
8 employment with Interpol.

9 PRESIDING JUDGE FULFORD: Forgive me interrupting, Mr Omofade. I think  
10 you're going to need to find out whether there's any justification presented by the  
11 witness for providing him with protective measures that extend beyond his present  
12 role with Interpol. As a member of the French police, if what he had done is simply  
13 return to France and continued working as a police officer in France, it may be that  
14 we would find in those circumstances he's not entitled to protective measures because  
15 he's not now living somewhere or working in an occupation that is likely to cause  
16 material risk for him on account of his past activities with the Court.  
17 So, if you want to extend this beyond his role with Interpol, I think you're going to  
18 need to go back to the witness to see what the suggested justification is for  
19 withholding more than his current application.

20 MR OMOFADE: Indeed, your Honour. It may well be that that's an appropriate  
21 course that we should take before, and we'll renew the application once we've  
22 communicated with him.

23 PRESIDING JUDGE FULFORD: Thank you very much indeed. Thank you.

24 Maître Mabilie, in those circumstances, would you wish to say anything at this stage?

25 MS MABILLE: (Interpretation) No, Mr President.

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

- 1 PRESIDING JUDGE FULFORD: Anything else now?
- 2 MR OMOFADE: Your Honour, in the same breath, relating to this witness, we  
3 anticipate that sometime this week we will have a statement from him. We also  
4 anticipate that he should be able to commence his evidence on 22 November.  
5 He -- we're shooting blind to some extent because we do not have a statement from  
6 him, but we surmise that his evidence-in-chief should last probably a day, or less than  
7 that. He does need to leave The Hague by the 24th to carry out some activities in  
8 New York on the 25th.
- 9 PRESIDING JUDGE FULFORD: So long as he is away from the Court by  
10 somewhere between 4 and 5 on the 24th, does that suffice?
- 11 MR OMOFADE: It should suffice, obviously depending on flight scheduling and  
12 related matters.
- 13 PRESIDING JUDGE FULFORD: Take a moment.  
14 (Counsel confer)
- 15 MR OMOFADE: Your Honour, I understand he has a flight booked for the morning  
16 of the 25th from New York. What that means is that that he has to be in New York  
17 for the morning of the 25th.
- 18 PRESIDING JUDGE FULFORD: You're going to have to come back to us on this,  
19 please. What is, as it were, the last opportunity for him to give evidence at this  
20 Court? And I'd have thought this all depends very much on the time of flights,  
21 Mr Omofade.
- 22 MR OMOFADE: Okay.
- 23 PRESIDING JUDGE FULFORD: It's pointless me asking Maître Mabille how long  
24 the Defence are going to be in questioning this witness because they know nothing at  
25 the moment as to what he's going to say.

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 MR OMOFADE: No.

2 PRESIDING JUDGE FULFORD: All we know at the moment is that you believe  
3 your examination of him will be somewhere between half-a-day and a day.

4 MR OMOFADE: Yes. Your Honour, as an alternative, I understand that even if he  
5 is unable to testify between the 22nd and the 24th, he's actually available for the  
6 following week and he has more latitude in the following week than maybe the week  
7 of the 28th.

8 PRESIDING JUDGE FULFORD: It's a very unattractive proposal, because we wish  
9 to have the evidence on the abuse application closed so that the Defence can complete  
10 their submissions in time for the Prosecution and the Bench to have them for  
11 Christmas, with a week to provide some kind of translation. Now, if we push his  
12 evidence over to the following week, that then becomes seriously endangered.  
13 Now, I would like us to keep, please, to the schedule, him giving evidence on the  
14 22nd, with there being enough opportunity for the Prosecution and the Defence to ask  
15 him questions. Now, I don't know anything about his commitments on the 25th or  
16 26th, but can you see whether they are so irremovable, so unmovable, that we cannot  
17 be provided with a sufficiently long stretch of time to mean that he really can  
18 complete his evidence.

19 MR OMOFADE: Your Honours, since we are going to communicate with him  
20 anyway, these are some of the issues we'll raise with him. I do understand, however,  
21 that he has to embark -- he has to go on the mission he is meant to go on on the 25th,  
22 so it does seem that he can't.

23 PRESIDING JUDGE FULFORD: He no doubt has to go on a mission, but whether he  
24 has to go on the mission on the 25th or the 26th or the beginning of the following  
25 week may be something that given the importance of this could be varied so as to

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Closed Session)

ICC-01/04-01/06

- 1 ensure that his evidence is given properly.
- 2 MR OMOFADE: Indeed, your Honour. We will liaise with him and relate back to
- 3 the Court.
- 4 PRESIDING JUDGE FULFORD: Thank you very much.
- 5 MR OMOFADE: I am obliged.
- 6 PRESIDING JUDGE FULFORD: Maître Mabilille.
- 7 MS MABILLE: (Interpretation) We still do not have the signed statement for the
- 8 witness who is due to testify next week. We have a statement -- well, we have been
- 9 furnished with a proposal of a statement. I think it's time that we had the signed
- 10 version of the statement now.
- 11 PRESIDING JUDGE FULFORD: Any chance of a signature, Mr Sachdeva?
- 12 MR SACHDEVA: Certainly, Mr President. We are hoping that it's on its way very,
- 13 very shortly.
- 14 PRESIDING JUDGE FULFORD: Thank you. 316, please, and we need to go into
- 15 closed session.
- 16 \*(Closed session at 2.16 p.m.) Reclassified as Open session
- 17 THE COURT OFFICER: We are in closed session, Mr President.
- 18 PRESIDING JUDGE FULFORD: Thank you. Witness, please.
- 19 (The witness enters the courtroom)
- 20 PRESIDING JUDGE FULFORD: Private session, please.
- 21 \*(Private session at 2.17 p.m.) Reclassified as Open session
- 22 THE COURT OFFICER: We are in private session, your Honours.
- 23 PRESIDING JUDGE FULFORD: Good afternoon, sir.
- 24 THE WITNESS: (Interpretation) Good afternoon, Mr President.
- 25 THE INTERPRETER: Message from the English booth: The witness is barely

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 audible.

2 PRESIDING JUDGE FULFORD: Sir, a number of things from me before you take the  
3 solemn undertaking at the beginning of your evidence. The first is that I've already  
4 had a message from the interpreters to ask you to remember to keep the volume of  
5 your voice reasonably loud so that everything you say is caught by the microphone.  
6 If you speak too quietly, then there's a risk that what you say simply won't be heard.  
7 You have been provided with a range of protective measures that will ensure that  
8 nobody outside of this courtroom comes to know your identity. Can I ask you as  
9 well as ensuring that your voice keeps at a reasonable volume that you don't speak  
10 too quickly because, if you do, the stenographers and the interpreters find it difficult  
11 to keep up and please build in a gap between any questions that are put to you and  
12 your answer. If you come in too quickly, the interpreters are unable to complete the  
13 job of interpreting the question before they move on to interpreting your answer.  
14 I am afraid it's rather a lot to remember, but it is very important because otherwise we  
15 simply will not get the full benefit of your evidence.  
16 There will be a card placed in front of you which has the solemn undertaking on it  
17 and I'm going to ask you to read that out, please, in public session. So the solemn  
18 undertaking, please, for the witness. Public session, please. So just pause for a  
19 moment, please, sir.

20 (Open session at 2.21 p.m.)

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

22 PRESIDING JUDGE FULFORD: Could you please read out loud the words on the  
23 card.

24 WITNESS: DRC-OTP-WWWW-0316 (Sworn)

25 (The witness speaks French)

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 THE WITNESS: (Interpretation) I solemnly undertake to speak the truth, the  
2 whole truth and nothing but the truth.

3 PRESIDING JUDGE FULFORD: Thank you very much indeed.

4 Now, Mr Sachdeva, regrettably with the last witness effectively all of his evidence  
5 was held in private session. If there is any way of being able to deliver at least part  
6 of this evidence in open session, I would ask you please to construct your questions in  
7 such a way as to make that a real opportunity, that the Court can avail itself of, but I  
8 imagine you're going to want to start in private session so that the witness can give  
9 his name and his present circumstances.

10 MR SACHDEVA: Indeed, Mr President, for the first part if we could go into private  
11 session. I have indeed thought about trying to conduct part of the examination in  
12 public and I think that we can achieve some of that, Mr President.

13 PRESIDING JUDGE FULFORD: Excellent. Thank you very much. So private  
14 session, please.

15 \*(Private session at 2.22 p.m.) Reclassified as Open session

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

17 PRESIDING JUDGE FULFORD: Yes, Mr Sachdeva.

18 QUESTIONED BY MR SACHDEVA:

19 Q. Good afternoon to you, sir.

20 A. Good afternoon.

21 Q. We've met before. My name is Manoj Sachdeva and I'm going to be asking you  
22 some questions on behalf of the Prosecution. Can you start by telling the Court your  
23 full name, please?

24 A. My name is (Redacted)

25 Q. When were you born?

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 A. I was born on 16 (Redacted) 1968.

2 Q. Where were you born?

3 A. I was born in Kisangani.

4 Q. And what is your nationality?

5 A. I am of Congolese nationality, from DRC. Congo, DRC.

6 Q. I'm going to ask you questions now about your schooling and your professional  
7 background. Is it right that from the years 1974 to 1980 you studied at the primary  
8 school at (Redacted) and obtained a certificate?

9 A. Yes.

10 Q. And where is that primary school located?

11 A. This primary school is located in the Orientale province.

12 THE INTERPRETER: Message from the English booth: The witness is very  
13 difficult for us to hear.

14 MR SACHDEVA:

15 Q. Sir, if I could ask you to -- if you can, try and speak closer to the microphone so  
16 all your answers are properly recorded. At the moment, there is some difficulty in  
17 hearing your answers. Thank you.

18 After primary school, it's right, isn't it, that you studied at the (Redacted)

19 (Redacted) in Ujango Mino from the years 1981 to 1987?

20 A. Yes.

21 Q. And what was the main topic of your studies there?

22 A. I studied accountancy and French. In addition to those two options, I took  
23 further options; notably, commercial arithmetics, commercial law and social  
24 legislation, including other things.

25 Q. Once you completed your secondary studies, you went to the (Redacted)

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 (Redacted) of Kisangani from the years 1988 to 1992; is that right?

2 A. That is correct.

3 Q. And again, what was the focus of your studies in that institution?

4 A. I studied management and commercial science.

5 Q. Did you obtain a diploma or a certificate at the end of those studies?

6 A. At the end of the first cycle, I obtained a cycle or end of cycle certificate. At the  
7 end of the humanities option, I obtained a State diploma. And then after having  
8 finished my further studies at the university, I received another diploma having  
9 succeeded in my studies.

10 Q. And is it right that your studies - all of your studies - were finished in 1992?

11 A. I believe that once I had finished my primary, secondary and further and  
12 university education, I followed further training, further training courses, and I  
13 followed seminars in the context of a certain specialisation in my studies.

14 Q. Could you tell us what further training courses you took and what areas did  
15 you specialise in after your university education?

16 A. I believe that in the context of my secondary education I could give you the  
17 example of information technology, also (Redacted) and other training courses and  
18 seminars that I no longer remember, but there were quite some - quite a few.

19 Q. You mentioned the acronym (Redacted). Is that -- does that stand for (Redacted)  
20 (Redacted). Excuse my French pronunciation, please.

21 A. That is correct.

22 Q. Your first job, or the first place that you worked, is it correct that it was as a  
23 (Redacted)

24 A. Affirmative; I taught there.

25 Q. And that was from 1992 to 1994; is that right?

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 A. Affirmative.

2 Q. What did you teach there?

3 A. First of all I taught the (Redacted) course. That was for the third and fourth  
4 years of secondary school, as it was a progressive school, and then I taught the  
5 (Redacted) class for second year, and the (Redacted) class in third year. I think those  
6 were the different subjects that I taught.

7 Q. And after that, from 1994 to 1995, is it right that you were posted at the  
8 (Redacted)

9 A. Could you please ask me the question again?

10 Q. Certainly. From the years 1994 to 1995, did you work at the (Redacted)  
11 (Redacted)

12 A. Affirmative. Indeed, I did work as the (Redacted) at what we called (Redacted).  
13 That was the (Redacted). The acronym is (Redacted),  
14 (Redacted)

15 Q. And from -- it's right that in 1995 to 1997 you were promoted and you became  
16 the (Redacted), and you were based in (Redacted)?

17 A. Affirmative.

18 Q. From 1998 to 1999 you then joined the (Redacted); is that  
19 right?

20 A. Affirmative, but I would like to offer a small detail in clarification here with  
21 regard to the (Redacted) I was talking about because, in fact, there was a division of  
22 these groups. You had (Redacted), and there was  
23 another branch that we called the (Redacted) and, yes, I  
24 did work as the (Redacted).

25 Q. Thank you for that clarification. And with respect to your work with the

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 (Redacted) what was your main -- what were your main duties

2 there as the (Redacted)?

3 A. Well, with regard to the services that I offered the government, I am not too sure

4 what the use of this is because this is really part of my government authorisation, but

5 I can offer clarification here. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. You, when you finished working in (Redacted), you became the chief of the

11 division in 1999 to 2001 at the (Redacted)

12 A. That is correct.

13 Q. And can you help us; what does the (Redacted) stand for?

14 A. (Redacted)

15 (Redacted) This is the service that I would say related to the armed group or the

16 branch of the rebellion that we called RCD-K/ML. The President was Mbusa

17 Nyamwisi. I do apologise if I have mentioned some people from my country.

18 Normally, I am not authorised to do this.

19 Q. Just again to reassure you that we are in private session, so no one outside of

20 this courtroom is going to know what you are telling us right now. And it may be

21 that I would ask you some general questions about the type of work that you did and

22 if you can answer that that would be very helpful. Thank you. Can you just tell us

23 the difference, if there is a difference, between the (Redacted)?

24 A. Thank you for the question. I have said that before the rebellion I worked in

25 the (Redacted). That was the (Redacted) under the government's

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 auspices. When the division took place, it was still under the authority of the legal  
2 government. And then, with the advent of the AFDL with the late President Moise  
3 Laurent-Désiré Kabila, there was a split. After this, there was a succession of  
4 rebellions and in this way each branch of the rebellion had its own army and had its  
5 own security service.

6 In the context of the (Redacted), or of the RCD-K/ML, the (Redacted) in fact was the  
7 (Redacted) service or, in other words, the (Redacted) of the RCD-K/ML. So  
8 (Redacted), as I said, means (Redacted), so it was  
9 a service which emanated from the rebellion not from the government. We found  
10 ourselves at the (Redacted) because, if you remember, when the rebellion occurred I  
11 was already in post, within the government of course.

12 Q. Thank you for that. Now, in 2001 and through to 2004, it's right, isn't it, that  
13 you went back to the (Redacted), and you served in  
14 (Redacted) an attache to the (Redacted); the (Redacted)?

15 A. Affirmative, but perhaps with a little bit of clarification. It was at the (Redacted)  
16 (Redacted). And it was when we were not  
17 welcome in the rebellion, and the government authority instructed us to withdraw.

18 Q. In 2004 up until today what -- where have you been working? What have you  
19 been doing?

20 A. From 2004 to date, there is one thing I would like to emphasise and it is this: I  
21 have always remained loyal to my government in my service. However, there were  
22 sometimes perhaps circumstances in which I might have worked outside of this  
23 capacity, but I always remained loyal to my government.

24 Q. And when you say that you remained loyal to your government, which agency  
25 or which part of the government have you been working in from 2004?

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 A. Since 2004, I have been working and I work still for the Government of the  
2 Democratic Republic of the Congo.

3 Q. And perhaps my question wasn't precise enough, but within which department  
4 of the Democratic Republic -- the Congolese government? Which department did  
5 you work?

6 A. I am still working in the (Redacted), and that is still  
7 the case now.

8 Q. And without going into details, can you tell the Court generally what type of  
9 work you have done and what do you do for the (Redacted), in a very general way?

10 A. Of course I can tell you this as you have reassured me that we are in closed  
11 session. The (Redacted). We have four options in general. We  
12 have the (Redacted). That means (Redacted),  
13 the (Redacted). Then we have  
14 (Redacted). We also have the (Redacted). That might  
15 be (Redacted). I am just giving you the broad outline, without going  
16 into details.

17 We have another branch, and that is the political branch, where the (Redacted)  
18 manages what we call the (Redacted). That means infrastructure, what we  
19 might term the (Redacted)  
20 (Redacted)  
21 (Redacted)

22 And finally, we also look after (Redacted). In mentioning this aspect I  
23 could include, for example, the situation of NGOs and humanitarian organisations  
24 including both national and international. We also have the problem of the five  
25 paths that comes into the socioeconomic or sociocultural aspect of things. We have

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 public health, we have roads, the issue of culture, because in the DRC we have more  
2 than 450 tribes. In short, we are managing the general situation of the country.

3 Q. Thank you for that. I want to now show you a document --

4 MR SACHDEVA: Mr President, could I ask that binders are distributed to your  
5 Honours and the parties and participants and also to the witness?

6 PRESIDING JUDGE FULFORD: Yes, certainly, Mr Sachdeva. We did receive  
7 notification that there were some objections to some documents, Mr Sachdeva. I  
8 imagine that you've resolved those with Mr Desalliers?

9 MR SACHDEVA: Indeed. They are still in the binder, but I have no intention of  
10 using them. It was just in case to prepare for an eventuality.

11 PRESIDING JUDGE FULFORD: Certainly. Good, thank you. Right. Where do  
12 you want the witness to go in the binder?

13 MR SACHDEVA: If I could ask the witness to turn to tab 40.

14 PRESIDING JUDGE FULFORD: So 4-0.

15 MR SACHDEVA: 4-0, yes. And for the Court, that is DRC-OTP-0216-0300.

16 PRESIDING JUDGE FULFORD: And this is private session material?

17 MR SACHDEVA: Yes, Mr President.

18 PRESIDING JUDGE FULFORD: Good, all right.

19 MR SACHDEVA:

20 Q. Sir, can I ask you to confirm that this document that you are looking at is your  
21 CV?

22 A. It is Curriculum Vitae and it is indeed written in my own hand. This is my  
23 writing.

24 Q. And just for completeness, is that your signature at the bottom of the last page?

25 A. Affirmative. This is my signature.

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

- 1 MR SACHDEVA: Mr President, if that could be given an EVD number?
- 2 PRESIDING JUDGE FULFORD: Certainly.
- 3 THE COURT OFFICER: Yes, your Honour. The document will bear reference
- 4 EVD-OTP-00597.
- 5 PRESIDING JUDGE FULFORD: Thank you.
- 6 MR SACHDEVA:
- 7 Q. Sir, if I could now ask you to turn back one tab and look at the document under
- 8 tab 39. And for the Court, that is DRC-OTP-0216-0293.
- 9 Sir, here we have a document entitled "Notice Personnel." Can you tell us what this
- 10 is, if you recognise this document? Please feel free to take it out of the binder and
- 11 look through it if you need to, sir.
- 12 A. Please --
- 13 Q. Did you fill this document, sir?
- 14 A. Yes, I filled it in.
- 15 Q. And can -- again just for completeness, is your signature at the end of this
- 16 document? Is that your signature?
- 17 A. It is my signature. I have already seen this.
- 18 Q. Now, you will see that this document is -- emanates from the International
- 19 Criminal Court and it's called a Notice Personnel. Can you tell us the circumstances
- 20 in which you filled in this document?
- 21 A. I downloaded this document from the ICP website -- the ICC website, excuse
- 22 me, where there were job offers, and it was in this context that I downloaded, filled in
- 23 and scanned this personnel history form.
- 24 Q. Now, if you -- if I could still ask you to look at this document and if you could
- 25 turn to the third page, DRC-OTP-0216-0295. And in the middle of the page there is a

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 section entitled "Description de Vos Fonctions," and if you could look through that  
2 paragraph and tell us if that accurately reflects the work that you did for the (Redacted).  
3 PRESIDING JUDGE FULFORD: Yes, Mr Desalliers.  
4 THE WITNESS: (Interpretation) (Redacted)  
5 (Redacted)  
6 MR DESALLIERS: (Interpretation) Excuse me, your Honour. I had an email  
7 exchange this morning which I sent to the Court by way of copy to announce the  
8 Defence position that from 2004 onwards the Defence objected to the use of leading  
9 questions with regard to the professional experience of the witness. We feel that  
10 making the witness read this document and then asking him questions about it  
11 amounts to asking him leading questions.  
12 PRESIDING JUDGE FULFORD: I think that's right, Mr Sachdeva. You are  
13 providing him in a sense with the answer by looking at what has been written on a  
14 form. I think if you want the witness to describe what he was doing at any  
15 particular relevant stage in his career, you can simply ask him the question. We  
16 don't need to go to documents in order for him to read out what he may have written  
17 down on an earlier occasion. So given the Defence objection, can you avoid, please,  
18 this form of leading.  
19 MR SACHDEVA: Indeed, Mr President. I had understood that once the witness  
20 had confirmed that this was a form that he had filled in that I then could embark on  
21 those questions, but I will do it in a non-leading fashion.  
22 PRESIDING JUDGE FULFORD: Thank you very much.  
23 MR SACHDEVA:  
24 Q. Sir, without referring to the document, you've already told us generally what  
25 the (Redacted) and the way that it is structured. Could I ask

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 you now to be more precise and tell us your role within that department from 2004 up  
2 until today?

3 A. I hope that -- with regard to structure, we have a general administration, we  
4 have the central divisions, we have the provincial divisions, we have the (Redacted)  
5 centre, we have the main and more specific offices, we have the territorial offices, we  
6 have the sub-offices and we have the outposts. That is with regard to the structure.  
7 With regard to the staff, we have a (Redacted) who is supported by  
8 deputies whom we call the (Redacted), we have (Redacted)  
9 looking after various departments, we have the (Redacted) managing the  
10 provinces, we have the (Redacted), we have the (Redacted), we have  
11 the (Redacted) and the (Redacted) which are respectively managed by a (Redacted),  
12 (Redacted), head of the (Redacted),  
13 (Redacted).

14 Q. Yes, thank you.

15 A. I have not yet finished. If I may continue? I have not yet finished. When I  
16 said that the (Redacted) has two deputies, one of those deputies is responsible for  
17 (Redacted) and we call this person the (Redacted),  
18 and there is a (Redacted) who looks after (Redacted). We also call this  
19 person a (Redacted).  
20 Finally, there is a (Redacted) who is in charge of support services  
21 and, when I talk about support, I don't know how I could equate this to the structure  
22 of the Court, but this is the branch that is mainly in charge of personnel and  
23 administration. So these are the details I can give you with regards to the structure.  
24 Coming to the position I occupied, I think that I carried out several functions, those  
25 functions did change, and these roles also correspond to my rank, the rank that is

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1    accorded to a given (Redacted). Even though there is a common denominator from  
2    the (Redacted) all the way down to the lowliest official, we are all called  
3    (Redacted); all of us without exception. For that reason you will see that even a  
4    director can be allocated to an office as an (Redacted), but will be called an  
5    administrator or a director, he might be a (Redacted) who is sent out to a given office  
6    to carry out a given function. These are the details I can give you.  
7    In terms of my own role, over the years I fulfilled various functions. I was an  
8    (Redacted). First of all, I was an (Redacted), I  
9    was an (Redacted). I have been an (Redacted)  
10    (Redacted). I have carried out various functions, but all of  
11    this is in the context of the (Redacted)  
12    (Redacted); in other words the  
13    decision makers. That is what we did.  
14    Q.    What rank do you hold now within that organisation?  
15    A.    As I said, I am now an employee, and I remain an (Redacted). I am  
16    sorry, I cannot furnish you with such details for personal reasons.  
17    Q.    During the time that you have worked at the (Redacted)  
18    specifically when you were a (Redacted), did you have persons that  
19    worked under you? Were you a manager of other staff within the organisation?  
20    A.    Yes, indeed, I defined the structure only too well. As I said, there are  
21    departments and within each department there are officers working in offices which  
22    come directly under the division. An example of this I might be a (Redacted)  
23    (Redacted). I have people who are in posts who report to me exclusively  
24    within this very field or domain. So, somebody might be assigned to the position of,  
25    say, (Redacted) I am his direct line manager.

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Closed Session)

ICC-01/04-01/06

1 As I said, I had officers throughout the service who were under me and who were to  
2 report to me, and then it was up to me, once (Redacted) and  
3 put to use, to summarise it and pass it on to my line superior.  
4 Now, there was not only me, because in addition to the office or the division in charge  
5 of (Redacted), there's also the human resources division and the (Redacted)  
6 division where I was also in charge of (Redacted). There is also the (Redacted)  
7 office. There's also the office in charge of (Redacted) and there is the (Redacted) or  
8 (Redacted) office. I believe that this is a structure or an institution rather that is very  
9 well organised.

10 Q. You --

11 PRESIDING JUDGE FULFORD: Mr Sachdeva, I'm very sorry to interrupt. Please  
12 forgive me. We're sitting 'til 5, so I need to build in some breaks. Unless it's very  
13 inconvenient, we will take one now.

14 MR SACHDEVA: That is fine, Mr President.

15 PRESIDING JUDGE FULFORD: Thank you very much. We will give the witness  
16 half-an-hour and the stenographers and the transcribers -- and the interpreters.

17 Closed session, please. Yes, thank you, usher. Thank you, sir. We will see you in  
18 half-an-hour's time.

19 \*(Closed session at 3.07 p.m.) Reclassified as Open session

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

21 (The witness stands down)

22 PRESIDING JUDGE FULFORD: 25-to.

23 THE COURT OFFICER: All rise.

24 (Recess taken at 3.07 p.m.)

25 \*(Upon resuming in closed session at 3.35 p.m.) Reclassified as Open session

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

- 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 3.37 p.m.) Reclassified as Open session
- 6 THE COURT OFFICER: We are in private session, Mr President.
- 7 PRESIDING JUDGE FULFORD: Yes, Mr Sachdeva.
- 8 MR SACHDEVA: Thank you, Mr President.
- 9 Q. Sir, in your previous answer you said that -- that you had certain employees
- 10 "and all of those people who were under me and who reported to me." And my
- 11 question is this: Roughly, how many people did you -- how many people reported
- 12 to you?
- 13 A. I believe that with regard to resources in terms of the number of employees, it
- 14 would depend upon the division or the office that we were working for, as I
- 15 underscored at the outset. We did have offices that changed. You might be in
- 16 charge of (Redacted) on one day and then on the next day you might be tasked as
- 17 head of division in charge of (Redacted) or in charge of (Redacted)
- 18 (Redacted), and each division had very limited resources.
- 19 You might find 30 people working there at one stage all the way down into the small
- 20 offices, and then at the level of the division itself, where you were working as person
- 21 in charge, you had members of personnel working in the offices there. So you might
- 22 have somebody who was in charge of an office, in addition to a contact, and an
- 23 assistant and other officers who were used to fulfil other tasks.
- 24 So, in other words, the service provided us with officers for each office in order to
- 25 guarantee efficiency,

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 but it depended from one office to another. You might find 30 employees in one  
2 office; you might find ten employees in another. Sometimes a very limited number  
3 of staff.

4 For example, in the (Redacted) section, there was a need for people who  
5 were able to draft documents, to conduct analysis, and who could then hand to those  
6 who were making decisions information that would enable them to come to some  
7 form of a decision.

8 Q. Now, earlier on when I asked you about the work that you did from 2004  
9 onwards, you said that you remained loyal to the government but that there were  
10 circumstances where you had to take work aside from that purpose. And my  
11 question is the following: From 2004 up until today, did you have occasion to work  
12 for another organisation?

13 A. I might give you a point of clarification here. Are you talking about in the  
14 country itself, or elsewhere? Could you please allow me to ask you this question?

15 Q. Certainly. Did you work for another organisation while you were still in Ituri  
16 or in the Congo?

17 A. Yes, indeed. First of all, I was working for the (Redacted)  
18 (Redacted), but at a certain moment in time I  
19 was temporarily freed from my duties and I worked, as I say, when my application  
20 was accepted to work here, for a very limited period I helped the International  
21 Criminal Court.

22 Q. When did you start -- well, let me ask you this first: When did you first have  
23 contact with the International Criminal Court?

24 A. I believe it was in the year 2005.

25 Q. Do you remember which month or which part of the year that you started

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 having contact with the ICC?

2 A. I do not know the precise date. What I do know is that it was towards the end  
3 of the year, September, October, around there. Around that time. Maybe August.  
4 I know that it was in the year 2005.

5 Q. We've spoken about the application form that you've just looked at. What  
6 position were you applying for when you filled in an application form?

7 A. When I filled in the personal history form, it was mainly with a view to  
8 applying for the post of (Redacted).

9 Q. And did you eventually -- were you eventually given that position?

10 A. Yes, I was given this position and I was notified of this decision. And I signed  
11 a contract.

12 Q. Do you recall the month in which you signed the contract, or the month that  
13 you started working in this position?

14 A. I worked for a duration of three months: January, February and March. The  
15 contract was signed, if I remember correctly, on 15 January 2006 in Kinshasa.

16 Q. How about the months of November and December 2005? Were you working  
17 under contract for the ICC at that time, or not?

18 A. At that moment in time I was not working under contract.

19 Q. You said a moment ago that you recall the time when you had initial contact  
20 with the ICC was at the end of the year; perhaps September, October, even maybe  
21 August. Can you describe the circumstances of that contact?

22 A. I thank you for the question. As I said, I was working for the government of  
23 my country and this was during the time of the Ituri Pacification Commission. If I  
24 remember well, when I came back from working in the (Redacted), I  
25 came back in order to work for the Ituri Pacification Commission. And whilst I was

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 in Bunia, I'm sorry to use this term, there were foreigners; foreigners who came to  
2 work there from the United Nations and who came to Bunia, and often they would  
3 travel via Kampala. I know a few of these people. In Bunia, we would meet.  
4 There was Artemis. That was when I was still in Kampala. And then after Artemis,  
5 MONUC came into existence and the MONUC structure is -- has many layers. I  
6 can't give you details because I do not belong to that organization, but what I can say  
7 is that within MONUC there are a number of divisions, there is the division in  
8 charge of intelligence, there is the division in charge of administration, there is that  
9 which is in charge of human rights and also there is the division in charge of children  
10 and the situation of children, and so there are a number of divisions. There's another  
11 division in charge of observation, they are called the observers, and there's also the  
12 independent electoral commission and the political branch.  
13 So we were working together with MONUC, and MONUC personnel would come to  
14 our offices in search of such-and-such a piece of information. I'll give you an  
15 example of this. Sometimes they would come in order to glean information on  
16 aircraft that had been used during certain rebellion times. You should understand  
17 that there were several rebellions that occurred one after the other, coming from DRC.  
18 There was the RCD-K/ML, there is also the UPC rebellion et cetera, and every group  
19 would come with its policy and its activities and it was on this occasion that I met  
20 some employees; some of the people working for the United Nations.  
21 At a later date, I was in contact still via the intermediary of this same -- I was working  
22 with certain investigators who were working for the -- I was working in conjunction  
23 with certain investigators who were working for the ICC. Now, the individual  
24 whom I met first and foremost who worked for the United Nations is a person by the  
25 name of (Redacted). I remember that he -- I cannot say whether he was conducting

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 investigations at the time, but he required certain information to do with the  
2 economic situation and by so saying I mean the situation to do with instances of fraud,  
3 customs fraud and also situation to do with pillaging of resources and other such  
4 issues. I came to know a certain individual by the name of (Redacted). I think he  
5 worked for the Court before subsequently working for the United Nations, if my  
6 memory serves me correctly. He was seeking information to do with aviation.  
7 And lastly - I can also maybe give you his name, if you allow - I came to meet the  
8 investigator by the name of Nicolas Sebire, and it was under these circumstances that  
9 I then entered into contact with the personnel of the Court; not only the Court, but the  
10 United Nations and other international organisations.

11 Q. And in relation to your contact with Mr Sebire, Nicolas Sebire, was that in  
12 August or September 2005 as you said a moment ago?

13 A. I think we need to make a distinction here. There was what one could refer to  
14 as contact which was on a non-formal basis, it wasn't very official in nature, but then  
15 at one moment in time it became official and that was once I had signed the contract.  
16 That is when it became official. However, what happened with Nicolas Sebire was  
17 in the informal context.

18 Q. And that is the time period I'm currently speaking about. The informal  
19 contact -- the informal context that you're talking about with Sebire, was that in  
20 August and September 2005?

21 A. I believe that it is as I said. I could not identify him at the beginning. They all  
22 came together. Maybe he was a member of the team. I did not know the fact,  
23 because they all came together; you know, a mixture, United Nations and others.  
24 This was a team that was identified as being under the auspices of MONUC, and  
25 within that team you had the human rights group, you had the ICC, you had the

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 witness group and each and every one of them worked in their own domain, but  
2 there were many of them.

3 Q. If I could ask you to look at the personal history form and turn it to the last page,  
4 and for the purposes of the Court that's DRC-OTP-0216-0299. Firstly, sir, is that your  
5 signature at the -- do you see your signature there?

6 A. Yes, I did state at the outset that this is indeed my signature.

7 Q. And you'll see in point 2, does that reflect what you have just told us in terms of  
8 your informal contacts with the ICC?

9 PRESIDING JUDGE FULFORD: Which tab are we on, Mr Sachdeva?

10 MR SACHDEVA: It's still tab 39. I'm looking at the page that's entitled "Question  
11 32E" and the ERN is DRC-OTP-0216-0299. It's the last page that's appended to the  
12 application form.

13 Q. Sir, do you want me to repeat the question?

14 A. Yes, indeed. Please do.

15 Q. Certainly. My question was in relation to point 2 on that page. Does point 2  
16 reflect what you have just told us in terms of the informal contact you had with the  
17 ICC?

18 A. I would say yes.

19 MR SACHDEVA: Mr President, I believe this document does not have an EVD  
20 number. If it could have one, with your leave?

21 PRESIDING JUDGE FULFORD: Certainly.

22 THE COURT OFFICER: Yes, your Honour. The document in tab 39, reference  
23 DRC-OTP-02116-0293 will be referenced as EVD-OTP-00599 and will be confidential.  
24 Thank you.

25 PRESIDING JUDGE FULFORD: Yes.

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 MR SACHDEVA:

2 Q. Sir, why did you decide -- why did you decide to engage or contact -- to have  
3 contact with the ICC and why did you decide to eventually work for the ICC?

4 A. Could you please repeat your question?

5 Q. Certainly. What motivated you to work for the ICC?

6 A. I thank you for the question. As I just stated, I was still faithful towards my  
7 government and I was concerned that my country was at war. People were dying.  
8 Houses and villages were being burnt to the ground. Children found themselves out  
9 in the streets. I also was a victim to a certain extent. And despite the reports that  
10 we were submitting to our line managers, nothing happened and I still regret that the  
11 situation has not changed to date. However, there is great improvement out in the  
12 field.

13 And if I did this, it was because I wanted first and foremost to help my country. I  
14 wanted peace to be restored. I also wanted that those who were individually  
15 responsible for those crimes we were aware of, that they be identified. They  
16 were -- or had already been identified and they needed to be -- they needed to be  
17 committed to trial in order to be found responsible or guilty for their crimes. So it  
18 was either those individuals who were in power, who were working in positions that  
19 they -- that no longer allowed them to be indicted or prosecuted.

20 So when I was informed that there was a court that could administer justice against  
21 these criminals, in inverted commas, and that there were investigators who were out  
22 in the field gathering evidence, and when I was informed of the fact that there was a  
23 databank of evidence, of data, of course on an informal basis we were obliged to give  
24 them this information because they needed this information.

25 Q. Let's talk about the moment when you met Mr Sebire, Nicolas Sebire. Do you

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 recall where that was?

2 A. Yes, yes, I remember, because I made contact with him in Bunia. And more  
3 specifically, I was saying more specifically around -- close to the MONUC  
4 headquarters, because as I was saying we were working with MONUC and, in fact, it  
5 was in practical terms MONUC that was administering the various services at that  
6 time.

7 There was an official who received all of the visitors within an authorised security  
8 area. There was a restaurant known as the Hellenique Restaurant, Restaurant  
9 Hellenique. There was a building next to the MONUC headquarters.

10 Q. How did that meeting come about? What were the circumstances in which  
11 that meeting with Mr Sebire took place?

12 A. First of all, on the first day there was no meeting, other than the meetings with  
13 the people we were used to seeing, the ones that I just mentioned other than Sebire.  
14 We just made contact, we exchanged telephone numbers. There was no meeting on  
15 any subject.

16 Q. And when you met Sebire at the time when you exchanged telephone numbers,  
17 did he introduce himself and, if he did, how did he do that?

18 A. I think that following the example of his colleagues, or the friends he was with.  
19 They had what we call business cards -- I'm not quite sure what you call that in  
20 English, but I know that business cards...and he introduced himself in that way with  
21 his business card. And it was on that occasion that I found out that, no, in fact, he  
22 worked as an investigator for the International Criminal Court.

23 Q. And was that information contained on his business card.

24 A. I don't have it for the time being, but I know that on the business card there was  
25 the logo, there was his name, his contact numbers at the bottom and no doubt there

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 was mention of the fact somewhere that he was an investigator, but I don't have that  
2 card with me.

3 Q. After that meeting where you made contact and exchanged telephone numbers,  
4 when was the second meeting, if there was one?

5 A. I believe that the second meeting also took place in Bunia because at that point I  
6 had not moved and it was on that occasion that we got to know each other quite well.  
7 And I remember it well, it was still at the same place; that is, the Restaurant  
8 Hellenique, the Hellenique Restaurant.

9 Q. And do you recall what was discussed at that meeting?

10 A. Affirmative. I believe that they already had a certain amount of information.  
11 They even had some photographs in their possession, and I think that on those  
12 photographs there appeared certain figures, certain people who perhaps were already  
13 identified, but I do not know by whom, and they were trying to meet those people,  
14 but it was difficult for them perhaps because, as I said, Bunia was divided into three  
15 areas.

16 When I talk about Bunia, I mean the town which was the northeastern part under the  
17 exclusive control of the UPC. Then you had the area surrounding the MONUC  
18 headquarters which was under MONUC control. And then what I would call the  
19 southeast part which was under the FNI control.

20 So you would have to divide these two tribes, which pretty much ran the town, aside  
21 from MONUC. So it was the Hema. And also when you talk about the Hema, the  
22 situation was quite confused. And then on the other side, you had the Lendu  
23 because there were several different Lendus. There were the Lendu-Pitsi, there were  
24 the Lendu-Jatsi (phon) and the Walendu-Bindi. So just to give a general description,  
25 on the one hand you had the Hema and on the other side you had the Lendu.

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 Q. And that meeting, did a discussion take place between yourself and Mr Sebire  
2 as to the type of assistance you could provide him as an investigator at the ICC?

3 A. Could you please repeat the question?

4 Q. I shall. My question is this: Did you have a discussion or did you -- did  
5 Mr Sebire tell you what type of assistance you could provide the ICC?

6 A. Yes, absolutely. I think that at the very beginning, right at the beginning, as I  
7 said, they already had a certain amount of information which perhaps they had to  
8 cross-check or confirm or verify in the field. That's one thing. And then the first  
9 contact had focussed more on the (Redacted). I think that that's what the first  
10 contact was about.

11 PRESIDING JUDGE FULFORD: Mr Sachdeva, just in terms of us being in private  
12 session, the last little while the only possible justification I think is in relation to  
13 Mr Sebire and does his name need to be referred to only in private session?

14 MR SACHDEVA: Mr President, with respect to Mr Sebire, at this stage we're still in  
15 the process of making an application to the Court, but secondly, if I may, I was just  
16 cautious because the type of work that the witness is going to describe that he did for  
17 the OTP may identify him, if it's in the public domain, and that's the area I'm going to  
18 delve into at this point.

19 PRESIDING JUDGE FULFORD: All right. Thank you. Please carry on.

20 MR SACHDEVA:

21 Q. You said that the first contact had focussed on -- focussed more on the  
22 (Redacted). What eventual role, if any, did you have in respect of the (Redacted)?

23 A. Thank you for the question. Well, as I stated at the outset, the service had  
24 data -- I won't talk about information, but data concerning the types of activity of each  
25 armed group, the fighting, because we had to report back on this. It wasn't us, but

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 there was information concerning (Redacted) that had been  
2 identified, but given that these (Redacted) were outside the security perimeter and  
3 in inaccessible areas, I would even say inaccessible to the MONUC personnel, it was  
4 entirely understandable for him, I believe, to look for a credible person. I don't say  
5 that it was me, but a credible person.  
6 Perhaps he had done that to provide such service to him. In that regard we already  
7 had that data, not just on one side but (Redacted) were to be found scattered here and  
8 there, on either the Lendu or the Hema side. And concerning my relationship to all of  
9 this, this was part of the information that I had in my possession.  
10 Q. Did you play any role in relation to the location of these (Redacted)?  
11 A. Could you please be more explicit in your question?  
12 Q. Did you take -- well, let me ask you this question: Did you visit the (Redacted)  
13 (Redacted)?  
14 A. Affirmative. And to prove that, if you would give me a map, I could tell you  
15 here and now, here there was a (Redacted), there, there there was another one.  
16 Q. And what was the purpose of those visits to the (Redacted)?  
17 A. I said this at the outset: There were deaths, tens of deaths, hundreds of deaths,  
18 and these victims were buried in inhuman, unacceptable conditions, and I do  
19 apologise because when I think back over what happened, and I hope that you  
20 yourself and the entire international community saw this on the television, perhaps  
21 there were images broadcast even over the internet, it was horrible.  
22 This was part of the information that was broadcast on all television channels and  
23 radio channels around the world: RFI, BBC, The Voice of America. It was broadcast  
24 everywhere, that on a given day there was a given clash, there were so many victims,  
25 on a given date, in a given place, at a given time, there was a confrontation. All of

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 this was being followed very closely. And when I went there, as he asked me to do,  
2 because he already had that information, the whole world was following this on  
3 television or on internet, but they did not know the exact locations of those (Redacted)  
4 (Redacted). He did not know exactly how the (Redacted).  
5 Sometimes you would see crosses, or you would see flowers surrounding these  
6 (Redacted), but it was horrible. And when he talked about (Redacted) with my  
7 clearance, because at that time I had access to all areas, whether on the Lendu or  
8 Hema side. That was a known fact. I had a neutral role by reason of my position,  
9 there were some barriers. So if somebody was not identified at these roadblocks that  
10 person was not allowed past, but we with our clearance, which related of course to  
11 my activities and my role, I went to the places where dozens of (Redacted),  
12 a hundred (Redacted). Because we didn't (Redacted)  
13 (Redacted)  
14 (Redacted)  
15 photographs.  
16 First of all, even before going, he asked me if I could take photographs for him. He  
17 asked me that question, whether I could take photographs for him, and I took the  
18 trouble to do so with all of the risks that that entailed; I went there and I took  
19 photographs.  
20 One question arose because you had to of course travel with a camera and we didn't  
21 have a camera. I knew that he already had some photos but those photographs he  
22 had needed to be confirmed; yes, indeed, at that place, according to the information  
23 he had in his possession, there was indeed a (Redacted), and these were the  
24 inscriptions that were present at that (Redacted). So I went there with a  
25 photo -- with a camera. I remember that I had that camera.

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 THE INTERPRETER: The interpreter did not catch the brand of the camera.

2 THE WITNESS: And I took the -- I gave the camera to him. He took the  
3 photographs himself. I don't know where he went to develop the photographs. I  
4 myself have never seen them. Even in our office we did not have photographs but  
5 we have -- we did have precise information concerning the location (Redacted).

6 MR SACHDEVA:

7 Q. Just so we're all clear, when you have talked about "he" and you gave the  
8 camera to him, we're talking about Mr Nicolas Sebire; is that right?

9 A. Affirmative.

10 Q. In addition to your role in relation to the (Redacted)  
11 (Redacted) and the taking of photographs, what other types of work did you do for  
12 Mr Sebire and the ICC during that period of informal contact, shall we say?

13 A. Apart from the (Redacted), I said at the beginning that he had taken  
14 certain photographs with him, certain photographs I remember that he presented to  
15 me, and on those photos there were even certain figures for whom he had an identity  
16 and he needed us to identify and locate this man and see if it was possible to meet  
17 him. That was the wish that he had expressed at that time.

18 Q. Did you play a role in identifying -- I withdraw that question, and let me ask  
19 you this. Did Mr Sebire ask you to arrange contacts with particular persons during  
20 that initial period?

21 A. Could you please repeat that question.

22 Q. Did Mr Sebire ask you to locate particular persons or individuals for the  
23 purposes of -- for the purposes of the ICC meeting with them?

24 A. Well, as I have said, at the beginning it focussed on (Redacted) and after that,  
25 the second time there were the photographs that they presented to us with the

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 identities, and indeed, we looked for those people and we found some of them, but  
2 others were not found, either because they had false identities and false addresses or  
3 because I would say perhaps they had died or fallen during armed conflict.

4 Q. For the work that you did for Mr Sebire and the ICC before you commenced a  
5 contract, were you paid?

6 A. I think that there is something we need to clarify: Paid by means of salary, or  
7 paid in terms of having expenses reimbursed? With regard to what I have just said, I  
8 would say that Mr Sebire did not pay me a salary because we had no contract; there  
9 was no contract binding me to Sebire, and at any time I could break our arrangement  
10 and refuse to provide him with information.

11 But what is true, and here I must be honest, is that the expenses incurred, because in  
12 response to requests we had to travel from one place to another, either as I said earlier  
13 to go and take photographs, because of course you could not go to these places on  
14 foot, and the only means of travelling in Bunia at that time was by motorbike. You  
15 had to pay for the transport and before you arrived perhaps you also had to make  
16 contact with certain people in charge, who were managing certain roadblocks, and  
17 inform them that given members of personnel would go through those roadblocks to  
18 prevent -- to make sure that there was a formal notification to ensure that those  
19 people would not fall victim to any kind of harassment. And then the expenses  
20 incurred by such errands, by communication and other costs would be reimbursed.

21 Q. Just explain what you mean by communications.

22 A. I believe that this is a clear term. When I say "communication," I'd said at the  
23 beginning that there were exchanges of contact numbers, in other words, telephone  
24 numbers. And to find somebody of course you had to telephone them, to telephone  
25 people you had to buy credit. You had units of credit. So when I talk about

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Closed Session)

ICC-01/04-01/06

- 1 communication, I'm talking about airtime expenses.
- 2 PRESIDING JUDGE FULFORD: Mr Sachdeva, I'm just going to give the witness just
- 3 over a five-minute break. Sir, we're just going to give you a rest. You're having to
- 4 focus on quite a lot, so we'll have one more short break before the end of the
- 5 afternoon. Closed session, please. We'll sit again at 20-to.
- 6 \*(Closed session at 4.30 p.m.) Reclassified as Open session
- 7 THE COURT OFFICER: We are in closed session, Mr President.
- 8 (The witness stands down)
- 9 PRESIDING JUDGE FULFORD: Yes, 20-to.
- 10 (Recess taken at 4.31 p.m.)
- 11 \*(Upon resuming in closed session at 4.40 p.m.) Reclassified as Open session
- 12 THE COURT USHER: All rise. Please be seated.
- 13 PRESIDING JUDGE FULFORD: Witness, please.
- 14 MR SACHDEVA: Mr President.
- 15 PRESIDING JUDGE FULFORD: Just before the witness comes in, wait a moment,
- 16 usher. Yes.
- 17 MR SACHDEVA: Sorry. I just wanted to inform the Court that if I could take three
- 18 minutes towards the end to make a submission.
- 19 PRESIDING JUDGE FULFORD: Certainly. Thank you. Good. Witness, please.
- 20 THE COURT USHER: Your Honour, if I may, I've noticed a mistake in the transcript,
- 21 English version, page 34, line 4. The correct EVD that should be attributed to tab 39
- 22 should be EVD-OTP-00598-Confidential. Thank you.
- 23 PRESIDING JUDGE FULFORD: Thank you very much.
- 24 (The witness enters the courtroom)
- 25 PRESIDING JUDGE FULFORD: Private, please.

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 \*(Private session at 4.41 p.m.) Reclassified as Open session

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

3 PRESIDING JUDGE FULFORD: Yes, Mr Sachdeva.

4 MR SACHDEVA: Thank you, Mr President.

5 Q. Sir, when we were talking about the -- your visits to the (Redacted), you said  
6 that you had taken the trouble to do so with all the risks that it entailed, and my  
7 question is as follows: What were those risks that you faced on account of your  
8 work for the ICC?

9 A. I think I said this at the outset. I said this was still within the informal context,  
10 it was not official. I was running the risk -- well, these were isolated locations and  
11 anybody who would go to such a location would find themselves the target of the  
12 militia who was still active at the time. They might put questions to them as to who  
13 they were, which movement they were from, et cetera, and if you were not familiar in  
14 such circles or known to these people or seen as a familiar place -- face in such a  
15 location where those (Redacted)

16 Now, as I said, on the way you would come across roadblocks, there were roadblocks  
17 every few metres, and these roadblocks were set up to identify all the passers-by as to  
18 which group they were members of, as to whether the individual was on their side or  
19 not, and these questions were put willy-nilly. This was the kind of risk we were up  
20 against, either you might be done away with or you might be killed. People were  
21 frightened of going there, because it was not an easy situation to be found in.

22 Q. Thank you for that, but let me try and be slightly more precise. What risks, or  
23 what security implications if any, did you face because of your work with the ICC,  
24 because of the association with the ICC, if it became known?

25 A. Could you please put this question with additional details?

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 Q. Let me try another way. When you started working informally with the ICC,  
2 did you publicise that fact? Did you tell other people that you were working for the  
3 ICC?

4 A. No.

5 Q. Why not?

6 A. I could not do that, because first of all -- well, even in relation to the place where  
7 I worked, it was forbidden for us to identify ourselves. In clear, we had been  
8 advised to avoid exhibiting our identity; that is to say that any circumstances or any  
9 aspect that might reveal identity - our identity - had to be avoided so that we could  
10 not be identified. We were not supposed to say who we were and what we did with  
11 regard to where I worked.

12 Now, when I was working for the ICC, nobody knew who Sebire was; that he was  
13 working for the ICC. Even when he came to the restaurants to eat, or when he came  
14 to tell people things or to meet other members of the Monuc, nobody was allowed to  
15 identify themselves. He was just associated with the Monuc, and at that time when  
16 we started working we did not even talk about the ICC. You could just say that you  
17 worked for an international organisation. They were visiting some areas. So we  
18 are trained for this. There are certain NGOs that are working undercover, and there  
19 are employees who are working undercover within certain non-governmental  
20 organisations who come to investigate who come to conduct missions that we call  
21 clandestine.

22 Q. In your experience and to your knowledge, what would be the consequences if  
23 it became known that you were assisting or working for the ICC at that time in that  
24 region?

25 A. In a word, I would be dead. I would have been killed. There is no explanation

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 for that. I would no longer be with us today, you would not see me before you, and  
2 all the information that I had would have disappeared. I would have not helped my  
3 country.

4 THE INTERPRETER: Message from the English booth: The witness is speaking far  
5 too fast to be interpreted. Could he be slowed down, please.

6 PRESIDING JUDGE FULFORD: Sir, I'm very sorry, your last answer has effectively  
7 been lost because you've suddenly started speaking quite quickly. Up until now the  
8 rate of delivery has been extremely good. Where we'd got to is the part of your  
9 answer when you said that you would have been killed, you'd no longer be with us  
10 today and the information that you had would have disappeared and that you  
11 wouldn't have helped your country. Everything after that I'm afraid has been lost,  
12 so could you carry on your answer from that point in time that you wouldn't have  
13 helped your country.

14 THE WITNESS: (Interpretation) I thank you, Mr President. I apologise because I  
15 was going fast. Whilst I was working, I was under -- working within territory under  
16 the control of the rebellion. Nevertheless, whilst I was there I had to serve the  
17 government, that is to say that I betrayed my position, and I did not know that I was  
18 also in cahoots with my government. There was certain information, because please  
19 allow me to tell you this... There were certain people in charge who had worked  
20 with the rebellion group and who were then voted in again. So this means that there  
21 were the same people who were working and who had made a sort of pact with the  
22 rebellion and who were once again heading up the organisation. They had been  
23 voted in again. So there was information that I had that I provided to my chief, but  
24 there was information that I could not give to my chief in view of his position - his  
25 political position that is - and that was the requirement of the government.

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

- 1 PRESIDING JUDGE FULFORD: Now, Mr Sachdeva, if we are to give you time for  
2 your submission, we'd probably better break off the witness's evidence here.  
3 MR SACHDEVA: Thank you.  
4 PRESIDING JUDGE FULFORD: Sir, thank you very much indeed for your  
5 attendance before us this afternoon. We've now got to hear a submission from  
6 Mr Sachdeva, so we're going to break off your evidence at this stage. We look  
7 forward to seeing you again tomorrow morning at half-past-9 when you can continue  
8 your evidence.  
9 Closed session, please.  
10 \*(Closed session at 4.53 p.m.) Reclassified as Open session  
11 (The witness stands down)  
12 THE COURT OFFICER: We are in closed session, Mr President.  
13 PRESIDING JUDGE FULFORD: Thank you. Public or private, Mr Sachdeva?  
14 MR SACHDEVA: Private, with your leave.  
15 PRESIDING JUDGE FULFORD: Private session, please.  
16 \*(Private session at 4.53 p.m.) Reclassified as Open session  
17 THE COURT OFFICER: We are in private session, Mr President.  
18 PRESIDING JUDGE FULFORD: Yes, Mr Sachdeva.  
19 MR SACHDEVA: Thank you, Mr President. The Defence have asked the  
20 Prosecution to disclose a photograph of a witness known as Witness 183. In fact, it's  
21 a Prosecution intermediary and this person worked with Witness 316. The identity  
22 of this person is already disclosed to the Defence and the Prosecution does not have  
23 an objection to disclosing the photograph to the Defence. However, we would ask  
24 the Court to impose certain restrictions on the use the Defence can make of this  
25 photograph.

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 The justification for those requests is a decision in the Katanga case, document  
2 number 2148, wherein similar requests were made by the Defence for photographs of  
3 Prosecution witnesses and the Chamber held that the photographs can be provided to  
4 the Defence but that, if the Defence are going to use these photographs for their  
5 investigations, there should be certain steps taken to ensure that there are no adverse  
6 security implications. Those steps are identified in paragraph 11 of that decision,  
7 and I will just paraphrase and state that they include a registration of all the persons  
8 who have been provided with the photographs, the dates when those photographs  
9 have been presented and the identities or the names of people who would have had  
10 access to these photographs during any Defence investigation.

11 I understand that perhaps it may appear to be cumbersome but, in light of the fact  
12 that Witness 183 is not in the ICC PP and therefore he has no protection at this stage,  
13 in our submission the imposition of these parameters would greatly reduce any  
14 further risk there could be from this person's photograph being publicised in Ituri,  
15 may it please the Court.

16 PRESIDING JUDGE FULFORD: Yes, thank you. While you're on your feet,  
17 Mr Sachdeva, page 12 of the real-time transcript in Katanga today has been brought to  
18 my attention, and various things that were said during the course of the hearing as  
19 regards disclosure of certain details concerning 183 to the Defence. In particular,  
20 what was referred to was a 12 page written statement of 183, together with a one page  
21 annex, and indications were given that that statement and annex were going to be  
22 disclosed in the Katanga case and similarly were going to be disclosed in the Lubanga  
23 case. Has that in fact happened?

24 MR SACHDEVA: I have been told that the statement has been, but not the annex.

25 We will see to it that the annex --

Trial Hearing  
Witness: DRC-OTP-WWWW-0316

(Private Session)

ICC-01/04-01/06

1 PRESIDING JUDGE FULFORD: Yes, unless there's a particular reason,

2 Mr Sachdeva.

3 MR SACHDEVA: Certainly.

4 PRESIDING JUDGE FULFORD: Thank you. Well, Mr Desalliers, the suggestion is  
5 that we should follow the disclosure regime adopted in the Katanga case, because  
6 they are the first Chamber to have dealt with that issue. Is there any difficulty with a  
7 register being kept of all those who have been provided with this photograph, the  
8 dates when access was afforded to them and the identity of all those who more  
9 generally have had access to the photograph?

10 MR DESALLIERS: (Interpretation) Yes, Mr President, this doesn't seem  
11 problematic for the Defence to hold information of this ilk in a register. I would like  
12 to add, however, that we are not doing this for the purposes of subsequent disclosure  
13 of this information. It is because, were we to come up against a problem  
14 subsequently, well, the suggestion of my learned friend is to hold a register and then  
15 maybe give this information on. We would object to that. But if we are asked to  
16 hold a register of information were a problem to arise at a later date, then we do not  
17 have a problem with that. That is the practice that the Defence has adopted with  
18 information of a confidential type that is used in -- for the purposes of investigation.

19 PRESIDING JUDGE FULFORD: Thank you. Mr Sachdeva, in the Katanga case,  
20 when restrictions of this sort are imposed, are the Defence then under an automatic  
21 obligation to hand over the register, or does it remain with them in case a problem  
22 emerges later down the line?

23 MR SACHDEVA: Mr President, I believe it's the latter and in any event we just  
24 want to be sure that should there be an issue that arises, there is a reasonable  
25 explanation.

Trial Hearing

(Private Session)

ICC-01/04-01/06

Witness: DRC-OTP-WWWW-0316

1 PRESIDING JUDGE FULFORD: So be it. Keep a register, please, in the terms  
2 outlined by Mr Sachdeva and please make sure that it's maintained in such a way that  
3 should a problem arise it will be available to the Court to look at if a problem does  
4 occur.

5 Thank you. We'll sit again at half-past-9 tomorrow morning in this court.

6 THE COURT USHER: All rise.

7 (The hearing ends at 5.00 p.m.)

8 RECLASSIFICATION REPORT

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