

1 International Criminal Court

2 Trial Chamber I - Courtroom 2

3 Presiding Judge Adrian Fulford, Judge Elizabeth Odio Benito

4 and Judge René Blattmann

5 Situation in the Democratic Republic of the

6 Congo - ICC-01/04-01/06

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

8 Wednesday, 5 May 2010

9 (The hearing starts at 9.34 a.m.)

10 (Open session)

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

13 PRESIDING JUDGE FULFORD: Good morning. Ms Samson, thank  
14 you for your timely response to our request yesterday that we need  
15 a firm proposal as to what is going to happen in relation to fingerprints.

16 We are not against the arrangements in the sense of the  
17 exercise being carried out by two suitably qualified individuals from  
18 the DRC, but the Chamber is unequivocally of the view that this entire  
19 process needs to be supervised and monitored by an appropriate  
20 individual from the Registry and that, if either the Defence or any  
21 properly interested victims wish to as it were have observer status,  
22 that this should be arranged so that they can properly watch over what  
23 takes place. We want to make sure that there can be no suggestion  
24 later that something may have gone wrong during the course of the  
25 procedure.

1           Finally, Witness 32 must not feel that he is required to  
2 do all the things that are set out in your report. This is a request  
3 that is made of him which we hope he will comply with, but it is no  
4 more than that. He must not feel that he has no choice but to accept.

5           Now, is all of what I've just said acceptable to you?

6           MS SAMSON: It is, your Honour. In fact, we had understood  
7 from the Registry that the witness's consent for this proposal would  
8 be obtained as well yet again.

9           I do raise for the Chamber's attention the fact that the  
10 Defence also provided an email this morning opposing the selection  
11 of individuals for the fingerprinting, and perhaps the Defence can  
12 elaborate on their reasoning better than I can.

13           PRESIDING JUDGE FULFORD: Yes, we haven't in fact seen that.

14           Right. What are the objections to these two individuals  
15 if the Registry is going to be carefully monitoring each and every  
16 stage of the process?

17           MR DESALLIERS: (Interpretation) We stated that there was  
18 a concern that the process be carried out by the Congolese police  
19 authorities, and the reason for these witnesses having testified  
20 through a video link was because it was somewhat sensitive to make  
21 a request to the Congolese authorities because the passports had been  
22 issued for several individuals with the same identity. And we felt  
23 that it was dangerous, if you will, to ask the Congolese authorities  
24 to carry out this process, given that the same authorities had issued  
25 the passports, and therefore we felt that it was preferable that the

1 Prosecutor of the International Criminal Court, which should have the  
2 necessary means to do so, actually carry out the fingerprinting itself.

3 PRESIDING JUDGE FULFORD: Just to explore that slightly,  
4 Mr Desalliers. Does the request to carry out this exercise necessarily  
5 reveal any of the other factors that relate to these, or to this witness,  
6 that may in turn get him into trouble in the DRC? I mean, the fact  
7 that you are taking a fingerprint from him, does that reveal that he  
8 may have been involved in obtaining a false passport from the Congolese  
9 authorities?

10 MR DESALLIERS: (Interpretation) Your Honour, we believe  
11 that the sensitive aspect, if you will, is related to the determination  
12 of the identity of a person and the fact of doing that with the Congolese  
13 authorities will draw attention to that individual and, even if we  
14 do our best not to reveal the name, the attention will have been drawn  
15 to that individual nonetheless and that is the issue in our eyes, your  
16 Honour.

17 PRESIDING JUDGE FULFORD: Ms Samson?

18 MS SAMSON: If I may, your Honour, the Prosecution was not  
19 aware of the precise sensitivities in relation to the witness, or why  
20 the witnesses were testifying via video link in relation to the Congolese  
21 authorities. Obviously, we remind the Chamber and the Defence that  
22 we are investigating and taking, you know, steps on the territory of  
23 another State and that State needs to be involved in our requests for  
24 cooperation and in the taking of these types of investigative measures.

25 That said, these two individuals will be taking the

1 fingerprints of a person who will be identified to them, whose role  
2 in the proceeding will not necessarily be identified to them. The  
3 fingerprints will then be seized by the Office of the Prosecutor,  
4 returned to The Hague and the analysis conducted by an independent  
5 third party in Europe. The results of the fingerprinting analysis  
6 does not necessarily thereafter have to be forwarded to the Congolese  
7 authorities.

8           PRESIDING JUDGE FULFORD: Forgive my interrupting. If all  
9 of the latter stages are effectively going to be done away from the  
10 DRC, why do the earlier stages? I mean, can't somebody take - those  
11 of us who practice in the criminal law have seen them many times - one  
12 of the little fingerprinting kits to the relevant part of the DRC,  
13 take the fingerprints and bring them back to Europe? What's the  
14 difficulty with that, Ms Samson?

15           MS SAMSON: There is no inherent difficulty proceeding in  
16 that way. That simply isn't the way that the Prosecution proceeded  
17 in this case. We sent the request for assistance to the authorities  
18 of the Congo, as we always do for investigative action each time we  
19 enter the country and as we're required to do. Thereafter, not knowing  
20 that introducing this person from the Congo to a member of the police  
21 force in the Congo was a problem, the request was for speedily somebody  
22 available in Kinshasa to undertake that exercise.

23           Thereafter, we could -- now we could proceed to find somebody  
24 else who is qualified to take fingerprints. We don't happen to have  
25 fingerprinting kits here but I expect that we could arrange for that.

1 It will take some more time if these two individuals are not considered  
2 to be appropriate for reasons that, frankly, still remain a mystery  
3 to the Prosecution. But if the Chamber finds that these objections  
4 are valid, then new arrangements can be made. It will just simply  
5 take more time.

6 PRESIDING JUDGE FULFORD: Very clear, Ms Samson.

7 (Trial Chamber confers)

8 PRESIDING JUDGE FULFORD: As I said earlier, Ms Samson, we  
9 are extremely grateful to the Prosecution for having responded in a  
10 timely fashion to our request yesterday. In our judgment, given the  
11 particular concerns which have been expressed principally by the  
12 Chamber in relation to the risks that this witness faces, which I'm  
13 not going to delve into in open session, it would be more  
14 appropriate - certainly safer as far as he is concerned - if this exercise  
15 was undertaken, in fact, without involving officials from the  
16 Democratic Republic of Congo.

17 Therefore, we would ask you please to liaise with Maître  
18 Mabilille so that an appropriate official, be it someone from the Registry  
19 or someone from the Office of the Prosecutor supervised by somebody  
20 from the Registry, takes the fingerprints and then secures their safe  
21 return to Europe so that they can be the subject of proper comparison.

22 We recognise this may take slightly longer than otherwise  
23 was intended but I think the benefits outweigh -- we think the benefits  
24 outweigh the delay. Thank you very much indeed.

25 MS SAMSON: We will do so.

1                   PRESIDING JUDGE FULFORD: That's very kind.

2                   Maître Mabilie, before we -- I know there are matters that  
3 you wish to raise but, before we turn to them, can I go back with you,  
4 please, to the calendar and what we can expect over the next few days  
5 and weeks.

6                   We have Witness 34 today who, on the estimates, may be  
7 completed today. That means, as I understand it, we are forced to  
8 lose Thursday because the next witness is not going to be ready until  
9 Friday.

10                  Thereafter, again tell me if I am wrong but, as we understand  
11 it, there are only two witnesses left in this group before you wish  
12 to mount submissions: one is Witness 29 and the other is Witness 297.

13                  Now, from the information that has been provided to me, there  
14 appear to be real problems in relation to both of those witnesses in  
15 terms of securing their -- their evidence immediately following the  
16 evidence of 35. And I would ask your help in moment with whether the  
17 information that we've been provided is correct.

18                  It has been suggested in relation to Witness 29 that he will  
19 be bringing with him some 20 kilograms of documents which will require  
20 about ten days' worth of Defence analysis before he testifies.

21                  First of all, well, we need to know how long the Defence  
22 are saying is going to be needed between his arrival and his ability  
23 to testify, and if any significant time is identified, we will need  
24 to know why this exercise is going to take place in The Hague prior  
25 to him giving evidence rather than having been conducted earlier in

1 the DRC.

2 Secondly, we understand in relation to 297 that the process  
3 of familiarisation may take a not insignificant period of time, and  
4 we would like your assistance please, as to when you estimate he will  
5 in fact, be ready to give evidence.

6 MS MABILLE: (Interpretation) Mr President, as regards  
7 Witness 29, Witness 29 is indeed coming with 20 kilograms of documents  
8 which are original school documents, school reports. We were not able  
9 to make copies of the full set of documents in the DRC, scan them and  
10 bring them, first of all, because the witness collected those documents  
11 in the weeks that have just preceded today and, secondly, we discussed  
12 with the Prosecution regarding the admission of school documents and,  
13 therefore, and since it was decided not to admit them as such, we have  
14 to deal with these documents. And, in order to simplify the task,  
15 however, the witness -- well, the witness refused to give up the  
16 originals.

17 We had considered sending them in the diplomatic pouch so  
18 that we would receive at least part of these documents ahead of time,  
19 but the witness has stated that he was responsible for these originals  
20 and that he had to return them and that he was the only person responsible  
21 for these documents and, therefore, vis-à-vis his own administration,  
22 he must keep the originals with him and go back with the originals.

23 Therefore, what we intend to do is that, as soon as he arrives,  
24 we will suggest both to the OTP and to the legal representatives to  
25 come and inspect these documents in our offices and then, as soon as

1 possible, we will make copies of the relevant portions of these  
2 documents.

3 I must say, your Honour, that it's difficult for me to evaluate  
4 exactly how much time is going to be required. We are going to devote  
5 ourselves to this task and endeavour to do it as quickly as possible.  
6 However, I do believe it will take a certain amount of time. Ten days  
7 is perhaps too much but, in any case, it is going to take a certain  
8 amount of time. We have to scan the relevant portions, send them to  
9 the parties, ask the parties to come in and inspect the originals in  
10 our offices.

11 So, that is my answer to your question. We have tried to  
12 anticipate this problem, and we were not able to do any better.

13 As regards Witness 297, I have less information. But we  
14 have requested 11 days of familiarisation and we felt that that was  
15 perhaps too much. We have been told that there are 600 pages of testimony  
16 and that's why that amount of time is necessary. In addition, the  
17 Office of the Prosecutor has requested to meet with that witness, but  
18 we do believe 11 days is too much.

19 Therefore, for Witness 297, we think that witness should  
20 testify first and that would leave us some time to complete the  
21 formalities for Witness 29 so that he be able to testify before the  
22 Chamber.

23 PRESIDING JUDGE FULFORD: Thank you, Maître Mabilille. When  
24 is it anticipated that 297 and 29 will arrive in The Netherlands?

25 MS MABILILLE: (Interpretation) This next Sunday Witness 29



1 will arrive, and 297 as well; both witnesses will be arriving on Sunday.

2 PRESIDING JUDGE FULFORD: Well, Maître Mabilille, if that's  
3 right, the simple and hard fact is that on the estimates that you have  
4 given, once Witness 35 has completed his testimony, we will be unable  
5 to do anything else next week, that is therefore the 3rd -- sorry,  
6 the 10th through to the evening of Wednesday, the 12th, when in any  
7 event the Chamber is rising, and it must call into question the ability  
8 of the Court to work at the beginning of the week of 17 May because,  
9 if ten days are going to be required - or slightly less than ten days  
10 are going to be required - for the familiarisation process of one of  
11 the witnesses, and if there are 20 kilograms of documents to be analysed  
12 before the other witness gives evidence, isn't there a very real risk  
13 that at least part of the week of 17 May is going to be in jeopardy  
14 as well?

15 MS MABILILLE: (Interpretation) Mr President, it's very  
16 difficult for me to evaluate exactly how much time is going to be required  
17 to deal with the documents provided by Witness 29, but I do think it  
18 would be reasonable to consider that on Monday, the 17th, we should  
19 be able to begin.

20 And as regards Witness 297, as far as we are concerned, we  
21 are ready to begin. Of course, I do understand that the Office of  
22 the Prosecutor want to meet with that witness but if, for example,  
23 we set aside Monday and Tuesday for the Prosecutor to meet with the  
24 witness, then we could begin next Wednesday for 297. The period of  
25 11 days was not at all something that we had requested.

1               PRESIDING JUDGE FULFORD: We will hear from the Prosecution  
2 in just a moment, but I would have thought with a witness who was bringing  
3 20 kilograms of documents, it might well have been advisable to ask  
4 him to arrive in The Netherlands before this coming Sunday so that  
5 there could be an opportunity for those documents to be copied and  
6 shown to the Prosecution. Mr Sachdeva, do you have -- yes, Maître  
7 Mabilles.

8               MS MABILLES: (Interpretation) Mr President, I  
9 don't -- well, what I'd like to say is that we, the Defence, have done  
10 everything we could. We gave the names 45 days ahead of time, as was  
11 requested. We were told that he hadn't received a visa. And we have  
12 said for quite some time now that we wanted this witness to arrive  
13 11 days ahead of his testimony, so I do believe - and I'm being courteous  
14 in saying this - that it's not our fault, basically, here.

15              PRESIDING JUDGE FULFORD: I wasn't allocating blame, Maître  
16 Mabilles. I was making an observation that it would have been advisable  
17 for him to have arrived in The Netherlands significantly before Sunday  
18 of this weekend. I am not saying that it is necessarily the Defence  
19 who are responsible for that. So the tone of voice is not necessarily  
20 directed at you, Maître Mabilles.

21              Yes, Mr Sachdeva.

22              MR SACHDEVA: Thank you, Mr President. For Witness 29, of  
23 course, the Prosecution similarly cannot say how long it would require  
24 to review the 20 kilograms of materials, but I would imagine that it  
25 would require frequent visits to the Defence offices to look at those

1 materials in any substantive manner. Perhaps 17 May could be feasible  
2 for the Prosecution, but we would ask that we could come back to the  
3 Chamber and identify the exact time where we would be properly prepared  
4 for cross-examination of those materials, materials which, of course,  
5 we haven't seen up until now.

6 With respect to Witness 297, the Chamber may recall that  
7 the Prosecution had asked for an interview with 297 because the matters  
8 that were going to be covered were matters that had not been hitherto  
9 covered in the previous two statements. And as I understand it, the  
10 Chamber had granted the Prosecution 11 days within which that process  
11 should take place. Therefore, in our submission, for the witness to  
12 start on Wednesday next week would not allow us proper time to prepare  
13 ourselves for cross-examination and, therefore, we would respectfully  
14 ask for a further time between our interview of the witness and his  
15 eventual testimony. It may mean, therefore, that 17 May, on Monday,  
16 could be an appropriate time to start 297, if he indeed arrives on  
17 Sunday.

18 PRESIDING JUDGE FULFORD: An additional fly in the ointment,  
19 Mr Sachdeva, is that I've just received a message from the Victims  
20 and Witnesses Unit stating that, from their point of view, Witness  
21 29, that is, the witness with 20 kilograms of documents, as far as  
22 they're concerned, will be ready to testify on 12 May, that is, Wednesday  
23 of next week. And they suggest that Witness 297 will be ready on either  
24 18 or 19 May, which is Tuesday or Wednesday of the following week.

25 In the light of what you've just said and what is, in any

1 event, self-evident from the quantity of the documents, I imagine that  
2 you may have something to say about being called upon to question a  
3 witness on -- possibly on Wednesday or Thursday of next week when a  
4 very substantial body of documents has only arrived on Sunday and isn't  
5 going to be made available to you until, the absolutely earliest,  
6 sometime on Monday, the 10th.

7 Mr Sachdeva, I think it is probably not fruitful to  
8 investigate this further now with a witness waiting. But there need  
9 to be sensible and realistic conversations between counsel on both  
10 sides in conjunction with the Victims and Witnesses Unit to try to  
11 establish a modus operandi that is going to result in the least possible  
12 waste of time for this trial, bearing in mind that the accused has  
13 been in custody for quite a long time. So can sensible and cool  
14 discussions please take place today so that, perhaps, tomorrow or Friday  
15 a sensible proposal can be made to us jointly as to how we get round  
16 the most efficient way of dealing with the next three witnesses?

17 MR SACHDEVA: Certainty, Mr President, we will do so.

18 PRESIDING JUDGE FULFORD: Thank you very much, indeed. Now,  
19 Maître Mabilie, there was something, I think, that you wished to raise?

20 MR DESALLIERS: (Interpretation) Yes, indeed,  
21 Mr President. This is in connection with Witness 35, who should be  
22 testifying on Friday and, according to our information, should be  
23 arriving this morning. He might already have arrived, in fact. Now,  
24 the familiarisation process is due to start tomorrow but, as we indicated  
25 to this Chamber via email, he is arriving with originals of documents

1 that we did not have previously in our possession.

2 These are school documents, notably, and we would wish to  
3 request of the Trial Chamber the exceptional authorisation to meet  
4 with the witness from this midday, that is, as soon as he arrives,  
5 in the presence of a member of the VWSS, of course, with a view to  
6 taking possession of these documents, taking copies and distributing  
7 them to the various participants and parties concerned.

8 Now, of course, there will be no discussion with the witness,  
9 no discussion on substantive matters, but we do want to be able to  
10 talk to him this midday, and then tomorrow we will start the  
11 familiarisation process with him.

12 PRESIDING JUDGE FULFORD: Any observations? The one  
13 observation you needn't make, Mr Sachdeva, is that the Prosecution  
14 may wish to have time to consider these documents. That's the one  
15 observation you needn't make.

16 MR SACHDEVA: Thank you, Mr President. In fact, I see that  
17 it has been mentioned but, of course, the VWU is required to be present,  
18 in our submission, during any meeting of the Defence.

19 PRESIDING JUDGE FULFORD: Yes. Mr Desalliers, as we  
20 understand it, no protective measures for the next witness?

21 MR DESALLIERS: (Interpretation) This is also our  
22 understanding, Mr President.

23 PRESIDING JUDGE FULFORD: Any reading assistance required?

24 MR DESALLIERS: (Interpretation) No.

25 PRESIDING JUDGE FULFORD: Interpreter?

1 MR DESALLIERS: (Interpretation) No, that is not needed,  
2 either, Mr President. The witness will be testifying in French.

3 PRESIDING JUDGE FULFORD: So the witness can walk through  
4 the door of the court, in open session, to the chair sitting opposite  
5 us; is that right?

6 MR DESALLIERS: (Interpretation) Indeed, Mr President.

7 PRESIDING JUDGE FULFORD: An unusual event in this trial,  
8 Mr Desalliers. I wanted to make sure one's not making a mistake.

9 Right. Witness please.

10 (The witness enters the courtroom)

11 PRESIDING JUDGE FULFORD: Good morning, sir.

12 THE WITNESS: Good morning, Mr President.

13 PRESIDING JUDGE FULFORD: I am sorry we've kept you waiting  
14 this morning, but we had some administrative matters to deal with.

15 Please, please do not be nervous at all during the course  
16 of your evidence. The judges and counsel are here to make sure that  
17 you are properly treated. Can I reassure you that we will be taking  
18 regular breaks during the course of your testimony and, most  
19 particularly, can I ask you, please, to make sure that you do not speak  
20 too quickly, and that before you answer any question that's put to  
21 you, you allow a slight pause so that the interpreters and the  
22 transcribers can catch up with what the questioner has just put to  
23 you.

24 If witnesses speak too fast, or if there's no gap between  
25 the various speakers in this court, it means that we get an imperfect

1 record of what witnesses have said. And obviously, we want to have  
2 the best possible account of your evidence. So please bear that in  
3 mind. And if you see me with my hand gesture like that, it is simply  
4 to indicate "would you please slow down." Is that clear?

5 THE WITNESS: Yes, indeed. That is clear, Mr President.

6 PRESIDING JUDGE FULFORD: Excellent. Usher, can I ask  
7 whether the witness has the solemn undertaking in front of him on the  
8 correct card? Good.

9 I hope there's a card in front of you, sir, which I'm now  
10 going to ask you to read out from, which will be your solemn undertaking  
11 to the Court to tell the truth. Could you please read out the words  
12 on that card?

13 WITNESS: UKUNYA NYONA BERTIN (Sworn)

14 (The witness answers through interpreter)

15 PRESIDING JUDGE FULFORD: Thank you very much, indeed.  
16 Thank you, usher. Yes, Mr Desalliers.

17 QUESTIONED BY MR DESALLIERS (Interpretation)

18 Q. Good morning, sir.

19 A. Good morning.

20 Q. In the past we have already had the opportunity to meet  
21 each other, but I shall introduce myself again. My name is Marc  
22 Desalliers and I am a lawyer. Today I shall be putting questions to  
23 you for the Defence of Mr Thomas Lubanga.

24 Could you please start by stating your full name?

25 A. Yes. My name is Ukunya Nyona Bertin.

1 Q. And what is your date of birth?

2 A. I was born on 13 July 1963.

3 Q. And where were you born?

4 A. In Logo.

5 Q. And could you please tell us what your profession is?

6 A. I am a teacher.

7 Q. Could you please explain to us what your professional duties  
8 are today?

9 A. Yes. I work as a teacher, but I work in the administrative  
10 section of the subdivision.

11 Q. And where is that located?

12 A. In Mahagi.

13 Q. Could you please tell us of which ethnic origin you are?

14 A. My ethnic origin. Well, I am an Alur.

15 Q. I thank you. Could you please tell us in which locality  
16 or town you currently reside?

17 A. It's called Gamba.

18 Q. I would just like to cross-check a point with you. Do you  
19 understand me properly?

20 A. Yes, I do hear you.

21 Q. Are you married?

22 A. Yes, I am married.

23 Q. Could you please state the full name of your wife?

24 A. Her name is Generose Ang'eyang'o Alirac.

25 Q. And is she still alive?



1 A. Yes, she is alive.

2 Q. I note that there might be a problem with the spelling of  
3 your wife's name -- your wife's name. You said that her name was Generose.  
4 Could you then, please, spell to us her other names?

5 A. What are you asking me, the Alur name? Her name is Alirac  
6 Ang'eyang'o. Her baptismal name is Generose, but it is abbreviated  
7 to the form Gené.

8 Q. Sir, would you mind writing the name down - this might be  
9 simpler - were a piece of paper to be given to you and a pen, just  
10 so that we can be entirely sure that we do have the correct spelling  
11 here.

12 MR DESALLIERS: (Interpretation) Could this be done?  
13 Could he please be given -- could the witness please be given a piece  
14 of paper and a pen?

15 PRESIDING JUDGE FULFORD: What do you want to happen to this,  
16 Mr Desalliers? Do you want it scanned in?

17 MR DESALLIERS: (Interpretation) No. What I suggest we do  
18 is, that we spell it out loud, Mr President.

19 PRESIDING JUDGE FULFORD: Well, I am going to leave that  
20 to you. This should be given an EVD number, in any event.

21 MR DESALLIERS: (Interpretation) So the first name is  
22 Ang'eyang'o, which is spelt A-N-G'E-Y-A-N-G'O. The second name Alirac,  
23 spelt A-L-I-R-A-C. And third name is Generose.

24 PRESIDING JUDGE FULFORD: EVD number, please.

25 THE COURT OFFICER: Yes, Mr President. This document will

1 receive the following EVD number: \* EVD-D01-00134.

2 PRESIDING JUDGE FULFORD: Thank you. Please carry on.

3 MR DESALLIERS: (Interpretation)

4 Q. Mr Witness, did you have any children with your wife?

5 A. Yes, we did have children.

6 Q. Could you please give us the names of your children - that  
7 is, the full names of your children - from the eldest down?

8 A. Yes, I can.

9 PRESIDING JUDGE FULFORD: I am going to interrupt a second,  
10 and please forgive me, sir, for doing so. If we are about to have  
11 the same problem, Mr Desalliers, might it be more time efficient if  
12 the witness simply writes down the names of his children. It's entirely  
13 a matter for you.

14 MR DESALLIERS: (Interpretation) In fact, Mr President,  
15 I believe that clarification might only be necessary for one of the  
16 names. I suggest that we ask the witness to provide or state the names;  
17 and then, if we need, we might spell just one of those names.

18 PRESIDING JUDGE FULFORD: Please continue, sir, the names  
19 of your children.

20 THE WITNESS: The eldest is called Thonifwa Uroci  
21 Dieu-Donné. The second, a daughter, is Iwuber Maractho. Then the  
22 third position, Canmwa Gathier. And then there is Aliyang'o Lelice.  
23 And then Rosine --

24 THE INTERPRETER: Inaudible.

25 THE WITNESS: -- and then --

1 MR DESALLIERS: (Interpretation) I'm sorry to interrupt  
2 you, Mr Witness. I believe that we shall follow the suggestion of  
3 Mr President, because it does seem difficult to spell these names out.  
4 Mr President, I believe that we shall, indeed, request that the witness  
5 write the names down. I believe it will be more efficient.

6 THE WITNESS: Would you like me to write down the names of  
7 all the children?

8 MR DESALLIERS: (Interpretation) Yes, please.

9 PRESIDING JUDGE FULFORD: I am glad I was right about  
10 something, Mr Desalliers. Yes, a piece of paper and a pen, please,  
11 for the witness.

12 (Pause in proceedings)

13 PRESIDING JUDGE FULFORD: Yes. It may be best to show this  
14 on the Elmo, and give the piece of paper an EVD number, please.

15 THE COURT OFFICER: The following document will have the  
16 EVD number EVD-D01-00135.

17 PRESIDING JUDGE FULFORD: Good. Please proceed,  
18 Mr Desalliers.

19 MR DESALLIERS: (Interpretation) Thank you very much,  
20 Mr Witness, I would request that the witness be given a file containing  
21 a number of documents. This is the very same file that was used  
22 previously, as was announced. And if it could please be handed to  
23 the witness.

24 Q. Mr Witness, I'm handing to you a file containing a number  
25 of documents, and these documents are separated by tabs - they are

1 red in colour - and I would request initially that you consult tab  
2 number 5 \*(EVD-D01-00103). Do you recognise this document?

3 A. Yes, I do recognise this document.

4 Q. Could you explain to us precisely what this document is?

5 A. I'm sorry?

6 Q. Could you please tell us what this document is?

7 A. I can see that this is my voter's card.

8 Q. Could you please tell us when this voter's card was issued  
9 to you?

10 A. This was when the voters registered within the DRC, that  
11 I received the card.

12 Q. Do you remember what year that was in?

13 A. I believe it was in the year 2006.

14 Q. Thank you. I would then request that you consult tab number  
15 6; that is to say, the following tab in the file.

16 MR DESALLIERS: And previously, I forgot to give a number  
17 of the previous document which already has an EVD number, which is  
18 EVD-D01-00103. And I shall now ask the witness to consult tab number  
19 6, which is a document bearing the EVD number D01-00101.

20 Q. Mr Witness, do you recognise the lady in this photograph?

21 A. Yes, I do recognise her.

22 Q. Could you tell us who she is?

23 A. This is my wife.

24 MR DESALLIERS: (Interpretation) I apologise,  
25 Mr President. I believe that I have lost the transcript.

1           PRESIDING JUDGE FULFORD: Usher, could you go and help  
2 Mr Desalliers find his transcript, please.

3           MR DESALLIERS: (Interpretation)

4           Q.   Witness, I would like you, please, to consult tab number  
5 8. And at tab number 8, we have a document bearing the EVD number  
6 D01-00104. Witness, do you recognise the individual in this  
7 photograph?

8           A.   Yes, I do recognise this person.

9           Q.   Could you please tell us this person's name?

10          A.   Eric Ndiritho Nyona.

11          PRESIDING JUDGE FULFORD: Do we need that spelt?

12          MR DESALLIERS: (Interpretation) Indeed, Mr President.

13          (Pause in proceedings)

14          PRESIDING JUDGE FULFORD: EVD number, please.

15          THE COURT OFFICER: Yes, Mr President. The following  
16 document will be under the number EVD-D01-00136.

17          PRESIDING JUDGE FULFORD: Thank you. Yes, Mr Desalliers.

18          MR DESALLIERS: (Interpretation)

19          Q.   Mr Witness, could you please tell us what your link is with  
20 this individual?

21          A.   The person I see in this photograph -- well, this is my  
22 elder brother. I am next in line after him in the family.

23          Q.   And what is your brother's profession currently?

24          A.   Previously, he was a teacher at the lycée. He now works  
25 as a secretary in the -- at the inspectorate for secondary education

1 in Mahagi.

2 Q. So, I understand that he is still alive.

3 A. Yes, he is alive.

4 Q. If you could, could you please move to tab 12 in the binder,  
5 and that is a document that already bears an EVD number, D01-0009.

6 Sir, do you recognise the person in this photograph?

7 A. Yes, I recognise that person.

8 Q. Can you tell us who this person is?

9 A. That is my oldest child.

10 Q. Could you remind us of his name?

11 A. His name is Thonifwa Uroci Dieu-Donne.

12 Q. I will have some questions for you regarding Thonifwa, but  
13 if you could -- now, you did write out the list of all your children.  
14 Could you tell us whether the children that you put on the list are  
15 still alive today?

16 A. Yes, all seven of them are alive.

17 Q. Thank you. Could you give us the date of birth of your son  
18 Thonifwa, if you know that date?

19 A. In any event, I've forgotten the date.

20 Q. Very well. No problem. Could you explain to us what -- how  
21 your child went through school, his school career, starting with his  
22 primary education.

23 A. Yes. Thonifwa began studying at the primary level at the  
24 Alikor primary school in Logo. Then, he went -- well, he went from  
25 the first year to the fourth year. Then he went to the Songe primary

1 school in Logo, also in Logo, and he did his fifth year there. Then  
2 he went to Ndrele, where he finished his primary schooling. As for  
3 his secondary schooling, he did that at the Beju institute but he did  
4 not finish the year.

5 MR DESALLIERS: (Interpretation) Thank you.

6 Your Honour, could we go into closed session for a few  
7 questions?

8 PRESIDING JUDGE FULFORD: Private session, please.

9 \*(Private session at 10.34 a.m.) Reclassified as Open session

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

11 MR DESALLIERS: (Interpretation)

12 Q. Sir, do you know a person called (Redacted)

13 A. Yes, I know that person.

14 Q. Could you tell us what his current profession is?

15 A. Today, he is a (Redacted)

16 (Redacted).

17 Q. Could you tell us how you came to know him?

18 A. This man, we were together (Redacted)

19 (Redacted), and myself - (Redacted).

20 (Redacted) and so I know him

21 well.

22 Q. Am I to understand that you were a (Redacted)?

23 A. No, I was a teacher in (Redacted) and (Redacted).

24 Q. Thank you. Did you know of any contacts between your son  
25 Thonifwa and (Redacted) in the year 2006?

1           A.    The child told me once that he was involved, that (Redacted)  
2    had had him over to his house.

3           Q.    And what else did your son explain to you about that?

4           A.    Well, he didn't really say very much. Just he -- he told  
5    me that (Redacted) told him that he was responsible for recruiting  
6    minors who had been within the rebel groups, and since he was a minor,  
7    not of age, he wrote his name. That's all the child told me.

8                   MR DESALLIERS: (Interpretation) If I could have a moment,  
9    your Honour.

10          Q.    Do you know what happened after that?

11          A.    Well, in any event, no.

12          Q.    You said (Redacted) was responsible for recruiting children  
13    and that he had written down the name of your son. Do you know where  
14    or within the framework of what he wrote down the name of your son?

15                   PRESIDING JUDGE FULFORD: Just before you answer the  
16    question. Yes, Mr Sachdeva.

17                   MR SACHDEVA: Mr President, just a small clarification. My  
18    understanding of the evidence is that his son told him that (Redacted)  
19    was responsible for recruiting children, not that he had said that  
20    (Redacted) was responsible for recruiting children.

21                   PRESIDING JUDGE FULFORD: Right. Thank you. Bearing in  
22    mind what Mr Sachdeva has just said, can you put the question again,  
23    please, Mr Desalliers, making sure that it's on a proper evidential  
24    footing.

25                   MR DESALLIERS: (Interpretation)



1 Q. Sir, did your son explain to you where he -- where his name  
2 apparently was written down?

3 A. He told me that it was -- it was at the home of (Redacted).

4 Q. And did he explain to you not the -- I'm not really speaking  
5 of the place where the name was written down, but in what context was  
6 that name written down? Why was it written down?

7 A. He did not explain a lot. He just -- the child just said  
8 to me that (Redacted) was talking about what he -- his responsibility,  
9 that is, he was in charge of recruiting minor children.

10 PRESIDING JUDGE FULFORD: It would, for various reasons I  
11 needn't go into, be convenient for the Chamber if we take the break  
12 slightly earlier this morning. Would it cause you any difficulty if  
13 we broke off now?

14 MR DESALLIERS: (Interpretation) No, your Honour.

15 PRESIDING JUDGE FULFORD: Very kind.

16 Sir, for various reasons and including giving the  
17 interpreters and stenographers a break, we are going to take the  
18 midmorning break now. Thank you for your assistance so far, and we  
19 look forward to seeing you again in half-an-hour. We'll sit just before  
20 quarter-past-11.

21 Usher, could you please take the witness back to the witness  
22 waiting room.

23 THE COURT OFFICER: Your Honours, just to make a small  
24 correction. The last document that was shown by the witness, the  
25 spelling name, the number attributed to it is the wrong number. It

1 should be attributed this number: EVD-D01-00136.

2 PRESIDING JUDGE FULFORD: Thank you. During the break, can  
3 I ask the court officer, please, to check that all of the documents  
4 put to the last witness and the witness before were given EVD numbers.  
5 There was just one photograph that I was slightly worried may not have  
6 been given an EVD number. Could a check please be made because it  
7 is going to be very difficult if there are documents and photographs  
8 that are being looked at for which there's no proper reference number.  
9 It's going to mean we're not going to be able to understand what actually  
10 has been shown to the witness.

11 Yes, Mr Desalliers.

12 MR DESALLIERS: (Interpretation) Just to correct one  
13 particular number I gave this morning. Tab 5, I made reference to  
14 EVD-D01-00100 and it should be changed to 00103.

15 PRESIDING JUDGE FULFORD: Thank you. And can I ask that  
16 that change is made at the right point in the transcript on the edited  
17 version, so that you don't have to read down to this page in order  
18 to understand there's been a mistake. The number should be corrected  
19 at the point where it was read out by Mr Desalliers. Quarter-past-11.

20 THE COURT USHER: All rise.

21 (Break taken at 10.45 a.m.)

22 (Upon resuming at 11.15 a.m.)

23 \*(Private session) Reclassified as Open session

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

25 PRESIDING JUDGE FULFORD: Witness, please.

1 THE COURT OFFICER: Just for the record, your Honours, we  
2 are in private session.

3 (The witness enters the courtroom)

4 PRESIDING JUDGE FULFORD: Do we need to remain in private  
5 session, Mr Desalliers?

6 MR DESALLIERS: (Interpretation) Yes, for a few questions,  
7 your Honour.

8 PRESIDING JUDGE FULFORD: Take us out of it as soon as you  
9 can.

10 MR DESALLIERS: (Interpretation)

11 Q. Witness, you have stated that you know Mr (Redacted). Could  
12 you tell us, starting from 2002/2003, whether you met with him within  
13 your community?

14 A. No. No, we didn't meet.

15 Q. In other words, since 2002/2003, you have never seen  
16 Mr (Redacted)?

17 A. Yes. I saw him, yes, but we didn't have any particular  
18 dealings.

19 Q. Fine. To your knowledge, do you know whether Mr (Redacted)  
20 knows that Thonifwa is your son?

21 A. Yes, he knows perfectly well.

22 MR DESALLIERS: (Interpretation) Your Honour, I believe  
23 we can go back into open session.

24 PRESIDING JUDGE FULFORD: Thank you, Mr Desalliers.  
25 Public session, please.

1 (Open session at 11.19 a.m.)

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

3 MR DESALLIERS: (Interpretation)

4 Q. To your knowledge, your son Thonifwa, has he ever had military  
5 training?

6 A. Well, training as such, no, he did not.

7 Q. And to your knowledge, has your son Thonifwa ever been a  
8 soldier within an armed group?

9 A. He was -- he was an errand boy.

10 Q. What exactly do you mean by that expression, when you say  
11 he is an errand boy?

12 A. Well, they used him, they sent him out, but he never bore  
13 arms.

14 Q. When you say he was used, who used him as an errand boy?

15 A. He was a friend of the commander's.

16 Q. Do you know which commander he was a friend of?

17 A. Commander Samy.

18 Q. And where was Commander Samy based?

19 A. He was at Ndrele. It was a centre that was close to Logo.

20 Q. While your son was an errand boy, where did he live at the  
21 time?

22 A. Well, he had left the family home and he was with the soldiers  
23 at Ndrele.

24 Q. Do you know for how long?

25 A. Well, he didn't stay many days. We went to get him, to bring

1 him back. Close to two weeks, I believe.

2 MR DESALLIERS: (Interpretation) I need a moment, your  
3 Honour.

4 PRESIDING JUDGE FULFORD: Certainly.

5 MR DESALLIERS: (Interpretation) Mr President, I believe  
6 there is a translation issue because, the way I understood, the  
7 expression used in English is "errand boy", which -- whereas in French  
8 the expression was "garçon de courses". I want to be perfectly clear  
9 that there not be any ambiguity. I know that the Prosecution is  
10 following in English, so we have to make this quite precise.

11 PRESIDING JUDGE FULFORD: Well, Mr Desalliers, using your  
12 very good English, how would you interpret "garçon de courses"?

13 MR DESALLIERS: (Interpretation) Your Honour, that's a  
14 very good question.

15 PRESIDING JUDGE FULFORD: I have done two things right today,  
16 Mr Desalliers.

17 THE INTERPRETER: Message from the English booth.  
18 Mr President, we believe that "errand boy" is the correct  
19 interpretation for "garçon de courses".

20 PRESIDING JUDGE FULFORD: Thank you.

21 MR DESALLIERS: (Interpretation) Well, perhaps I'm at  
22 fault. Perhaps it's my insufficient knowledge of English that's played  
23 games with me. I don't know. I have no further questions, otherwise.

24 PRESIDING JUDGE FULFORD: Thank you. The interpretation  
25 booth have just told me, via the airways, that they are confident that

1 "errand boy" is the right interpretation.

2 Yes, Mr Sachdeva.

3 MR SACHDEVA: Mr President, I understood that perhaps  
4 Mr Keta would, if he's permitted to, to ask questions before I start.  
5 However, I, obviously, can start, if required.

6 PRESIDING JUDGE FULFORD: Has there been an application,  
7 Mr Keta?

8 MR KETA: (Interpretation) Yes, your Honour.

9 PRESIDING JUDGE FULFORD: Yes. Given your interest in the  
10 evidence of this witness, certainly.

11 MR KETA: (Interpretation) Thank you, Mr President.

12 QUESTIONED BY MR KETA: (Interpretation)

13 Q. Good morning, witness.

14 A. Good morning.

15 Q. We have already had the opportunity to introduce ourselves  
16 yesterday, but I would like to recall my name. My name is Mr Keta,  
17 Joseph. I am a lawyer and I represent a number of victims in the present  
18 case. I would like to ask you a number of questions to ascertain certain  
19 details, and I would like to ask you to take a look at tab 26, first  
20 of all, of the document that you have before you.

21 A. 26?

22 Q. Yes, 26. Tab 26.

23 PRESIDING JUDGE FULFORD: Yes, Mr Keta?

24 MR KETA: (Interpretation) I don't know if the witness has  
25 found the correct page.

1 THE WITNESS: Yes.

2 MR KETA: (Interpretation)

3 Q. At the bottom of this page you will find the name of two  
4 individuals.

5 PRESIDING JUDGE FULFORD: Mr Keta, you've taken us to tab  
6 26. You haven't indicated which page in tab 26 you want us to go to.

7 MR KETA: (Interpretation) It's page 9 out of 13 under tab  
8 26.

9 PRESIDING JUDGE FULFORD: Thank you.

10 MR KETA: (Interpretation)

11 Q. Have you found the appropriate place? Have you found the  
12 spot?

13 A. Yes.

14 Q. At the bottom of the page there are the names of two  
15 individuals who signed this document. Could you take a look at the  
16 document and tell us if you know those individuals?

17 A. Yes, I know the two individuals who signed at the bottom  
18 of this letter.

19 Q. In the middle of this document, where it states --

20 MR KETA: (Interpretation) Well, perhaps we need to go into  
21 private session, your Honour, because these questions deal with  
22 protected individuals.

23 PRESIDING JUDGE FULFORD: Private session, please.

24 \*(Private session at 11.30 a.m.) Reclassified as Open session

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

1 PRESIDING JUDGE FULFORD: Yes.

2 MR KETA: (Interpretation)

3 Q. Mr Witness, in view of the fact that you have a perfect  
4 mastery of the French language, when it is said that Mr (Redacted)  
5 (Redacted) is the maternal uncle of the child, could you please tell  
6 me what your personal links are, in view of this document, with (Redacted)?

7 A. The truth be told, we do not have any family ties with  
8 Mr (Redacted).

9 Q. So you are challenging this document that has been  
10 established by these figures of authority?

11 A. Yes, I do challenge it.

12 Q. In which collectivity do you live precisely, Mr Witness?

13 A. I live in the Djukoth collectivity.

14 Q. And is this, in fact, (Redacted),  
15 the signature of the individual appended to the right of the document?

16 A. Yes, indeed.

17 THE INTERPRETER: Mr President, there is no gap between  
18 question and answer.

19 MR KETA: (Interpretation)

20 Q. When you heard that your son had been recruited by -- allegedly  
21 recruited by (Redacted), what was your reaction to that, knowing that  
22 this document had been brought to your knowledge, I hope?

23 A. This document was not made available to me.

24 PRESIDING JUDGE FULFORD: You are not allowing a gap between  
25 your questions and the witness's answers, and I have had --



1 THE INTERPRETER: Mr President, there's no microphone.

2 PRESIDING JUDGE FULFORD: Ah. Mr Keta, you're not leaving  
3 a gap between your questions and the witness's answer, and I've had  
4 at least one complaint from the interpreters. So pause, please, before  
5 you come in.

6 Right. Next question, please.

7 MR KETA: (Interpretation) I thank you for that comment,  
8 Mr President.

9 Q. Mr Witness, I was asking you whether these documents before  
10 you had been made available to you, and when precisely?

11 A. The document I have before me, well, this is the document  
12 that I am seeing for the first time today.

13 Q. When you were in contact with the Defence lawyers, did they  
14 not show these documents to you?

15 A. The document before me today, no. They did show me a number  
16 of documents, however.

17 Q. And before such a document -- before such a document, with  
18 such a document before you, what is your reaction, Mr Witness, in order  
19 to shed light on the matter with regard to the problem of identity  
20 of your child? Because, of course, this is a question of a (Redacted)  
21 (Redacted) here. This is where the document stems from.

22 PRESIDING JUDGE FULFORD: Mr Keta, I don't ask -- I don't  
23 understand the question, and I think it would be almost impossible  
24 for the witness to answer. It's too general and too vague. Now, you  
25 need to be more specific, and so I am going to ask the witness not

1 to attempt to answer the last question that's been put.

2 MR KETA: (Interpretation) I thank you, Mr President.

3 Q. So you can confirm, Mr Witness, that you have no family  
4 ties with (Redacted)?

5 A. No.

6 Q. I would request that, still under tab 26, you consult page  
7 8 of 13; that is to say, the previous page. Have you found it?

8 A. Yes.

9 Q. This is a birth certificate. There is the name of the figure  
10 of the authority who established this document. Do you know this  
11 individual?

12 PRESIDING JUDGE FULFORD: Just to help me, Mr Keta, where  
13 are you looking on this photocopy? Is this down the bottom of the  
14 form?

15 MR KETA: (Interpretation) It's in the middle,  
16 Mr President. Well, it is a little bit difficult to read. Just under  
17 the birth certificate words; that is to say, just in the middle of  
18 the document.

19 PRESIDING JUDGE FULFORD: Do you want to read out what you  
20 understand the name to be, Mr Keta, so that the witness -- because  
21 the handwriting is not easy to read.

22 MR KETA: (Interpretation)

23 Q. The name is (Redacted) (phon) -- (Redacted)

24 A. (Redacted) yes, I do know this person.

25 Q. And in the year 2007, what were his professional duties?

1 A. He was an (Redacted).

2 Q. So this is a certificate issued by this individual. Do you  
3 know what an (Redacted) has in terms of authority  
4 in issuing such a document in the DRC?

5 (Pause in proceedings)

6 PRESIDING JUDGE FULFORD: No, Mr Keta. Right. The witness  
7 is clearly having difficulty answering the question. Before  
8 Mr Desalliers intervenes, Mr Keta, the first sentence of your last  
9 question was an announcement: "So this is a certificate issued by  
10 this individual." Well, once again, I'm afraid that is tantamount  
11 to you giving evidence in the case. Now, it really shouldn't happen,  
12 counsel making random comments of that kind, commenting on the documents  
13 that are being put to witnesses. Now, that's point one.

14 What's your objection, Mr Desalliers?

15 MR DESALLIERS: (Interpretation) Mr President, I believe  
16 that you've already covered the first part of my objection. The second  
17 part is, that I am not quite sure that I have grasped the question  
18 myself.

19 Are we asking the witness to tell us what he thinks - in  
20 his opinion - is the role of the (Redacted) in the  
21 DRC in terms of establishing a certificate within the civil status  
22 registry? I don't know whether the witness is capable of responding  
23 to this question. And what is more, it seems that he is up against  
24 a number of difficulties in the matter.

25 THE WITNESS: Yes, indeed, I am having difficulty.

1           PRESIDING JUDGE FULFORD: I mean, Mr Keta, is it going to  
2 help us having the assistance of this witness or what this witness  
3 knows about the authority (Redacted) within the DRC?

4           MR KETA: (Interpretation) Mr President, I am somewhat  
5 embarrassed and a little bit taken aback by the constant interruptions  
6 by my learned friend on the part of the Defence, because the objective  
7 that I had in mind, Mr President -- well, I am using here the documents  
8 that my client 225 had given me, and he had said that he was (Redacted)  
9 (Redacted). So we are now ascertaining who is (Redacted).

10           So these are -- this is with regard to the documents that  
11 I have already disclosed. These are important documents that my client  
12 gave to me, and I disclosed these documents to the Defence, so I believe  
13 that it is my right to defend the documents that I have received from  
14 my client, Mr President.

15           PRESIDING JUDGE FULFORD: You are fully entitled to ask  
16 questions on them, Mr Keta. You are not permitted to give evidence  
17 and you must ask questions of the witness which he is going to be capable  
18 of answering. Right.

19           Let's have another try, please, in relation to the point  
20 that you are trying to make, and can you do so please without giving  
21 evidence yourself. Now, do you want to pursue the issue of the authority  
22 of the (Redacted) who it appears issued this document?

23           MR KETA: (Interpretation) Well, the (Redacted) has a  
24 number of functions. I am going to limit it to this; notably, that  
25 he -- I think the fact that he said that he was the (Redacted)

1 (Redacted) is satisfactory to me, Mr President.

2 PRESIDING JUDGE FULFORD: Let's move on, then.

3 MR KETA: (Interpretation)

4 Q. Mr Witness, you have already said that you do not have any  
5 family ties with (Redacted), but what is the connection between the  
6 two of you? How did you come to know each other?

7 A. We (Redacted).

8 Q. Is it sufficient, the fact that you (Redacted)?  
9 Are there no other ties or relation?

10 A. Well, I can say that he was our friend, because (Redacted)  
11 (Redacted)

12 Q. So you were completely in the know with regard to anything  
13 that he was doing in respect of your child, in particular?

14 A. Well, no, not at all.

15 Q. Mr Witness, I am going to now cover the subject of your  
16 name; that is to say, Ukunya Nyona Bertin. And I am now going to look  
17 at the voter's card. Yes, this is at tab 5. If you could please consult  
18 tab 5. So this is, in fact, your voter's card, is it not?

19 A. Yes.

20 Q. Now, the words "Ukunya Nyona" written towards the bottom  
21 of the card, is that you?

22 A. Yes.

23 Q. So you were the person in charge of registration?

24 A. Yes, I was the president or the chairman of the registration  
25 bureau.

1 Q. So you issued this card to yourself, did you not?

2 A. Yes.

3 Q. Could you tell us which year that was in?

4 A. Do you mean the registration of voters? That was in the  
5 year 2006.

6 Q. And when did the elections occur in the Congo?

7 A. I believe that they took place in the same year.

8 PRESIDING JUDGE FULFORD: Can we be in public session,  
9 Mr Keta? I think we can, can't we?

10 MR KETA: (Interpretation) Yes, indeed, Mr President.

11 PRESIDING JUDGE FULFORD: Public session, please.

12 (Open session at 11.45 a.m.)

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

14 PRESIDING JUDGE FULFORD: Yes.

15 MR KETA: (Interpretation)

16 Q. As an official in charge of registration, could you tell  
17 us with certainty that it was, in fact, possible to attain -- obtain  
18 a card in the very same year as the elections were held?

19 A. Are you referring to the voter's card?

20 Q. Yes, I am referring to the voter's card.

21 A. Yes, indeed.

22 Q. I thank you. With regard to the names of your children,  
23 Mr Witness, I have a number of questions to put to you on the subject.  
24 Why is it that of all the names that you have provided us with, the  
25 name "Ukunya" does not or is not repeated for each and every child

1 according to the law? How can you explain that to us?

2 A. Yes. I did not give that name to my children, but we inherited  
3 this name from our father. So we as boys, children, are called "Nyona."  
4 However, I did not give this name to my children.

5 Q. Now, with regard to Thonifwa, in principle he should have  
6 the name -- or at least one of the names from the father's side. So,  
7 why is it that you have not given him a name in accordance with the  
8 law?

9 A. Well, Thonifwa, the name that I gave, does have a meaning,  
10 because in principle he is the second child of the family. The first  
11 child was a daughter, who died suddenly; and after the birth of that  
12 child, well, this boy came into the world. And the name "Thonifwa"  
13 means -- well, I shall translate it literally for you. It means death  
14 is amongst us.

15 Uroci means -- it means that those who -- well, it means  
16 that those who had done harm were continuing to live. So this is why  
17 I had given him this name full of meaning, because of the child that  
18 had died. And what is more, the child that had died passed away  
19 during -- because of an illness. So to my mind, he had -- this child  
20 had been killed on purpose.

21 Q. Mr Witness, you are saying that your -- that you have said  
22 that your son went to the Beju institute. Could you tell us precisely  
23 whether he was attending that institute between 2002 and 2003, and  
24 also specifically the period 2006/2007?

25 A. Are you asking --

1 Q. I am asking you with regard to his attendance at the Beju  
2 institute?

3 A. The Beju institute? Well, I do apologise, because I am  
4 forgetting somewhat. It was just after he had come home -- had come  
5 home. I think that was in the year 2003, I believe.

6 Q. So on 2000 -- in 2003, he came home. And where had he come  
7 from?

8 A. From Ndrele.

9 Q. And in Ndrele, what was he doing?

10 A. Well, he was a member of the troops.

11 Q. And which troops were that, Mr Witness?

12 A. The armed troops, which had set up there.

13 Q. And which armed group precisely?

14 A. The UPC.

15 THE INTERPRETER: Mr President, message from the  
16 interpreter, we are having problems with the question and answer without  
17 pause again.

18 PRESIDING JUDGE FULFORD: Mr Keta, you are doing it again.  
19 The answers and the questions are coming in rapid-fire succession.  
20 The interpreters are not keeping up, and the evidence that you want  
21 the Chamber to hear is being lost as a result. So this doesn't do  
22 your own position - or that of the victims you represent - any good.

23 Please pause before you put your questions.

24 MR KETA: (Interpretation) I might come back on the last  
25 two questions, Mr President.



1 THE INTERPRETER: Message from the English booth,  
2 Mr President. No information was lost in the process.

3 MR KETA: (Interpretation)

4 Q. Mr Witness, I shall repeat the last question before moving  
5 on to another. You said that in the year 2002/2003 your son came back  
6 from Ndrele. Does that mean that he studied in Ndrele?

7 A. He went through his sixth year of primary school in Ndrele.

8 Q. And which school was that, Mr Witness?

9 THE INTERPRETER: The interpreter did not catch it because  
10 there was not a pause.

11 MR KETA: (Interpretation)

12 Q. So he never went to the Beju institute?

13 A. Yes, he also went to the Beju institute.

14 Q. In which year precisely, Mr Witness?

15 A. Well, I can't provide you with a precise year because I  
16 am forgetting somewhat.

17 Q. I am interested by the years 2006/2007. Could you provide  
18 us with clarification with regard to that school year?

19 A. 2006/2007? I believe that in 2006/2007, that was the year  
20 \* he was in Beju.

21 Q. I thank you. Mr Witness, please consult tab 26, page 7 of  
22 13. \* (MFI-D-00167) Have you found it?

23 A. Yes.

24 Q. This is a student's card bearing the name of Dieudonné  
25 Thonifwa Uroci. I do not know whether you can recognise the individual

1 in the photograph, because it is somewhat difficult to see, but do  
2 you know the individual who signed the card?

3 A. I cannot see his name clearly.

4 Q. Yes, you are right in so saying. If I can provide you with  
5 the name, the name is (Redacted) (phon). Does that name  
6 mean anything to you?

7 A. (Redacted)? No, I can't easily remember this name.

8 Q. But you were living in Logo at the time, were you not? Now,  
9 how far is it from Logo to Ndrele?

10 A. There is a distance of four kilometres between the two.

11 Q. Now, in the year 2006/2007, do you think you might have  
12 been able to know the name of the préfet in Beju at the time?

13 A. The préfet in Beju, well, at the outset it was (Redacted)  
14 and then, subsequently, he left somebody in charge.

15 Q. And you do not have the name of this individual who was  
16 in charge, do you?

17 A. The name of that individual in charge, well, I do not remember  
18 very well, but I know him to look at.

19 PRESIDING JUDGE FULFORD: Mr Sachdeva?

20 MR SACHDEVA: I am sorry, Mr President, I just couldn't see  
21 the light and I understand that perhaps there may have been a name  
22 mentioned in open session.

23 PRESIDING JUDGE FULFORD: Oh, you are quite right. Yes,  
24 yes, absolutely. We will need at least one redaction, maybe more.  
25 Can the court officer please check back. Thank you, Mr Sachdeva.

1 Yes, Mr Keta.

2 MR KETA: (Interpretation)

3 Q. Witness, I would like to ask you to please move to tab 9.  
4 I beg your pardon, tab 10 \*(EVD-D01-00130). Do you recognise this  
5 person on the photograph?

6 A. No, I don't know that person.

7 Q. And that person says that he is Thonifwa Uroci Dieudonné.  
8 What would you respond to that? How would you respond to that?

9 A. In any event, it is false. I really rather doubt.

10 Q. One last question, Witness. Did you have or might you have  
11 had a card or some other document that would prove your link with -- with  
12 the witness Thonifwa, whom you say is your son? Is there any kind  
13 of document that would show that? A baptismal certificate, for example?

14 A. There are, but I left them at home.

15 Q. Might you have a document, for example a citizen's card,  
16 back in the day there were citizen cards?

17 A. Yet, there are such documents but they are at home. I have  
18 not lost them, but they are at home.

19 MR KETA: (Interpretation) Under these circumstances,  
20 your Honour, I have no further questions.

21 PRESIDING JUDGE FULFORD: Thank you, Mr Keta. Mr Sachdeva,  
22 I imagine you've got a number of matters that you are going to want  
23 to investigate with the witness.

24 MR SACHDEVA: Yes, Mr President.

25 PRESIDING JUDGE FULFORD: Certainly. That's totally

1 understood. We will take another short break now at this stage, just  
2 for ten minutes, and you can commence your questioning at  
3 quarter-past-12. Thank you. Usher, if you could please take the  
4 witness just for ten minutes back to the witness waiting room.

5 (The witness stands down)

6 PRESIDING JUDGE FULFORD: Quarter-past.

7 THE COURT OFFICER: All rise.

8 (Recess taken at 12.05 p.m.)

9 (Upon resuming at 12.15 p.m.)

10 \*(Private session) Reclassified as Open session

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

12 PRESIDING JUDGE FULFORD: Witness, please.

13 (The witness enters the courtroom)

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

15 PRESIDING JUDGE FULFORD: Public or private, Mr Sachdeva?

16 MR SACHDEVA: Public, Mr President.

17 PRESIDING JUDGE FULFORD: Public session, please.

18 (Open session at 12.17 p.m.)

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

20 PRESIDING JUDGE FULFORD: Yes, Mr Sachdeva.

21 MR SACHDEVA: Thank you, Mr President.

22 QUESTIONED BY MR SACHDEVA:

23 Q. Good afternoon to you, witness. We have met before but my  
24 name is Manoj Sachdeva and I'm going to be asking you some questions  
25 on behalf of the Prosecution.

1 A. Thank you.

2 Q. You told us today that you were, or you are, a teacher in  
3 Mahagi, isn't that right?

4 A. Yes.

5 Q. As a teacher, I take it you are aware of the association  
6 called SECOP?

7 A. I beg your pardon?

8 Q. You must be aware of an association whose acronym is SECOP?  
9 And I can tell you the full name.

10 A. Yes, I know that.

11 Q. And am I right in understanding that this association  
12 verifies the qualifications of teachers and then assigns those teachers  
13 with a specific number?

14 A. Yes.

15 Q. Therefore, I take it you have a SECOP number?

16 A. Yes, I do have one.

17 Q. What is that number?

18 A. 10339 -- 800.

19 THE INTERPRETER: Correction from the English  
20 interpretation booth: 233892.

21 MR SACHDEVA:

22 Q. And how long has that number been assigned to you?

23 A. The SECOP number?

24 Q. Yes.

25 A. I've had that registration number since 1993.

1 Q. And before 1993, were you issued another number?

2 A. I was deemed to be a new teacher within the unit and I didn't  
3 have a registration number.

4 Q. Very well.

5 MR DESALLIERS: (Interpretation) I beg your pardon for  
6 interrupting, but the answer given was "1991" and that was properly  
7 noted in the French transcript, but the English transcript recorded  
8 as '93 and then the exchange went on with 1993. So, I thought I would  
9 point that out so we could clear up that point.

10 PRESIDING JUDGE FULFORD: Very sensible, Mr Desalliers,  
11 because otherwise there could have been a misunderstanding on something  
12 that may have been of importance to Mr Sachdeva.

13 Bearing that in mind, Mr Sachdeva, do you want to go back  
14 over it again, or is it sufficient as it stands?

15 MR SACHDEVA: It is sufficient, Mr President, thank you.

16 Q. Sir, you also told us that you were the president of an  
17 elections bureau in 2006; is that right?

18 A. I was the president of the voting office.

19 Q. And as president of the voting office, I take it your  
20 responsibility was to issue -- to register potential voters and to  
21 issue them with their voter's cards?

22 A. Yes, I had the cards signed.

23 Q. And fingerprinted?

24 A. Yes, also the fingerprinting.

25 Q. And at the bureau where you worked, was it just your

1 responsibility to issue the voter's cards?

2 A. There were five of us.

3 Q. And if you were the president, what would be their titles?

4 A. I beg your pardon? My title?

5 Q. Let me ask you the question in another way. You were the  
6 president of the bureau?

7 A. Yes.

8 Q. The other five persons that also worked there, what were  
9 their titles, if any?

10 A. Myself, I was the president of the registration centre,  
11 and there was the other one. (Redacted) himself, he was also a member  
12 of that office. He -- he was responsible for identifying people, too.  
13 Number 2, he categorised the cards. Someone else was in -- also in  
14 charge of identification, and he would take the person's identity,  
15 the identity of the voters, at the door. And there were two people  
16 who would enter the information into the computer.

17 Q. Let me try and elicit some clarity. Is it the case that  
18 only you, as the president of the bureau, were responsible for issuing  
19 the voter's card? Were you known as the issuing authority?

20 A. Yes. Yes.

21 Q. And if it happened that you weren't present when a card  
22 needed to be issued, who would be responsible for that?

23 A. Yes. From time to time there were many problems that required  
24 my attention, and (Redacted) would take over from me and take care  
25 of my duties.

1 Q. Was there anyone else who would have been responsible for  
2 issuing the voter's card, apart from yourself and, as you say --

3 MR SACHDEVA: Mr President, I do apologise, but I have just  
4 realised that --

5 PRESIDING JUDGE FULFORD: We've been organising redactions,  
6 Mr Sachdeva, as we've been going along.

7 MR SACHDEVA: Perhaps we could move, with your leave, into  
8 private session.

9 PRESIDING JUDGE FULFORD: I think they are becoming too  
10 numerous. Private session, please.

11 \*(Private session at 12.26 p.m.) Reclassified as Open session

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

13 MR SACHDEVA:

14 Q. So, I'll repeat my question. Was there anyone else, apart  
15 from yourself, as president of the bureau, and apart from, as you say,  
16 (Redacted), who was responsible for issuing the voter's card?

17 A. No. When I would go out, he would work in my stead. He  
18 was the only one, when I went out, who would work in my stead.

19 MR SACHDEVA: Mr President, we can move back into open  
20 session, with your leave.

21 PRESIDING JUDGE FULFORD: Public session, please.

22 (Open session at 12.28 p.m.)

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

24 MR SACHDEVA:

25 Q. Sir, if I can ask you to look at your voter's card again



1 under tab 5 \* (EVD-D01-00103) in the binder that you have in front of  
2 you. Do you have that there, sir?

3 A. Yes.

4 Q. Now, I'm going to ask you some questions about the figures  
5 on the top right-hand corner of the card, and just help me. The number  
6 of the centre, 5321, does that designate the municipality or the  
7 elections centre within the region?

8 A. 5321, that is the number of the voting office -- of our  
9 voting office in Ndrele.

10 Q. And 21 is, I take it, the number of the bureau, the office?

11 A. Number 21 means, well, place 2. PS2.

12 Q. Can you tell us what "PS2" means?

13 A. PS2.

14 MR SACHDEVA: Mr President, perhaps the witness said  
15 "place".

16 Q. Did you say "place 2", sir?

17 A. Two. "Two" means I registered at the second -- the second  
18 person who was working at the computer. I registered with the second  
19 person who was working at the computer.

20 Q. Sir, if you look at the last -- if you look at the number  
21 at the very right-hand side of the card, it says -- there is a number  
22 1 there. Does that mean that, in fact, you were the first person to  
23 be registered at that voting office?

24 A. Yes. According to formal instructions, the president must  
25 begin, so yes, I was the first to be registered.

1 Q. And I take it, then, that that is your signature at the  
2 bottom of the card.

3 A. Yes, that's my signature.

4 Q. And the signature is there because you are, in fact, the  
5 issuing authority; is that right?

6 A. Yes.

7 Q. Why is there no fingerprint on this voter's card?

8 A. Well, in any case, there is one, but the card has aged and  
9 it's almost torn.

10 Q. Do you have a copy of the card with you, sir?

11 A. The copy of the card? The actual card, yes, I -- well, I  
12 don't know if I brought it with me, but it might be at the hotel. I  
13 believe it's here in my briefcase.

14 Q. Very well. Thank you for that.

15 If I could just take you back up to the middle number under  
16 "Bureau." Just so I'm clear, the 21 identifies that this is the bureau  
17 that you are president of; is that right?

18 A. Yes.

19 Q. Could I now ask you to turn to the preceding document under  
20 tab 4 \* (EVD-D01-00100), which is another voter's card. Do you have  
21 that in front of you, sir?

22 A. Yes.

23 Q. And again, if I could ask you to look at the top right-hand  
24 corner, and we will see there in the middle the figure "21". That  
25 then indicates that this card was issued from the same office of which

1 you're president; isn't that right?

2 A. No. If I remember correctly, I see the name of the person  
3 who has signed this card. This card was delivered from the Logo office,  
4 not Ndrele.

5 Q. Well, sir, you just told the Court that the figure "21"  
6 identifies the bureau of which you were president of. So, may I ask  
7 you again: Does this card -- is this card issued from the bureau that  
8 you were president of, or not?

9 A. No. No.

10 Q. So, therefore, different bureaus would have the same number;  
11 is that right?

12 A. Yes, indeed.

13 PRESIDING JUDGE FULFORD: Mr Sachdeva, not wanting in any  
14 way to interfere, immediately to the left of the number 21 is, of course,  
15 the number 5323 on one card and 5321 on the other. I don't know whether  
16 that has significance that needs to be brought to the witness's attention  
17 in determining whether it was the same office. I think it probably  
18 does, doesn't it?

19 MR SACHDEVA: Yes, it does, Mr President.

20 Q. Sir, following on from His Honour's pronouncements,  
21 the -- both cards, as you will see, have the same numbers under the  
22 centre and under the bureau. Let me revise that question.

23 PRESIDING JUDGE FULFORD: I --

24 MR SACHDEVA: Yes.

25 PRESIDING JUDGE FULFORD: -- think witness himself has said

1 5321 is the number of the voting office in Ndrele. And so 5323 is,  
2 presumably, the number of a different voting office, Mr Sachdeva. I  
3 think it must follow, mustn't it?

4 MR SACHDEVA: Yes, indeed.

5 PRESIDING JUDGE FULFORD: Right. Well, isn't that a problem  
6 for the question that you've put; that it's all done in the same office?

7 MR SACHDEVA: Indeed. And I revise that question.

8 PRESIDING JUDGE FULFORD: Well, can we go so far as to say  
9 "withdraw it"?

10 MR SACHDEVA: I withdraw it, yes.

11 PRESIDING JUDGE FULFORD: Good. All right. Right. Let's  
12 move on, then.

13 MR SACHDEVA:

14 Q. Sir, just so I'm clear, the centre 5323 is where?

15 A. The centre 5323 is in Logo.

16 Q. Thank you. You talked earlier today about your son joining  
17 the UPC troops in 2003. Do you remember that?

18 A. Yes.

19 Q. And it's right, isn't it, that he went to the Wi-Lii camp  
20 in Ndrele?

21 A. Which camp?

22 Q. The Wi-Lii camp in Ndrele?

23 A. It's not Wi-Lii.

24 Q. Is it Wi-Siir?

25 A. I beg your pardon? I'd like to correct the name. It's

1 Wi-Siir.

2 Q. Thank you. And, in fact, your son was forcibly taken there,  
3 wasn't he?

4 A. Yes, indeed.

5 Q. During that -- before I ask that question, let me ask you  
6 one more question. If I were to suggest to you that your son was born  
7 in 1989, would you agree with that?

8 A. Yes, he was born in 1989.

9 Q. You have spoken about the Beju institute in your evidence.  
10 And as someone who was present in the area in 2002/2003, you would  
11 have been aware of the fighting that took place between the UPC and  
12 the FNI. Am I right?

13 A. Yes.

14 Q. And, in fact, that fighting occurred very close to the Beju  
15 and -- the Beju institute, didn't it?

16 A. Yes.

17 Q. And at some point, the UPC used the area of the school to  
18 store and to deliver ammunition, didn't they?

19 A. I have doubts.

20 Q. The Beju institute consisted of a secondary school and a  
21 primary school, didn't it?

22 A. Yes.

23 Q. You told us the names of your children, and I wanted to  
24 ask you whether you know of somebody called Aziro (phon) Biwaga?

25 A. Aziro Biwaga, no, I don't remember her.

1 Q. How about Eneko Dieumerci?

2 A. Oh, yes. The first name got me confused; it is Ashiro (phon).  
3 And Eneko Dieumerci are the children of my younger sister.

4 Q. And forgive me for my pronunciation, how about Fwaringo  
5 (phon) Nyona?

6 A. Yes. He, too.

7 Q. So they are not your children; is that right?

8 A. No, they're not.

9 Q. If I could ask you to turn to tab 20\*(MFI-D-00173) in the  
10 binder. Now, you'll see here that this is a school record from the  
11 Songo school. You will see that on the front. Do you see that?

12 A. Yes.

13 Q. And if you turn over to the next page, on the left-hand  
14 side you will see a series of numbers. And I would all like you to  
15 concentrate on the number starting 9892, besides which you will see  
16 the name Ashiro Biwaga. Are you there?

17 A. Yes.

18 Q. And as you've told us today, beside the figures 9895, 9896,  
19 9897 are the names of your children; is that right?

20 A. Yes.

21 PRESIDING JUDGE FULFORD: Yes, sir. Was there something  
22 you wanted to say?

23 THE WITNESS: Well, I remember now. I see my children listed  
24 here. The Ashiro you are mentioning is the child of my younger sister,  
25 but who was living with us.

1 MR SACHDEVA:

2 Q. Where was that? In Mahagi?

3 A. It was in Logo.

4 Q. And how about Eneko and Forenjo (phon)?

5 A. There -- there were three children. Their father had  
6 abandoned them and so they came to our house.

7 Q. And was it you that enrolled them in the school?

8 A. Yes.

9 Q. I am very sorry, sir, but I want to take you back to one  
10 last question with respect to your voter's card, and my question is  
11 this: When you issued your own voter's card, I take it that there  
12 was no one present to verify your details?

13 A. The person who plastified the card was able to check.

14 Q. And how did he do that?

15 A. The president signed, that's all, and then gave the card  
16 to the person in charge of identification, and that person had the  
17 card plastified and issued it to the voter.

18 Q. So when the president signed the card, there was no further  
19 checking of documents; is that right?

20 A. No.

21 Q. Well, my understanding of the process is the following:  
22 You, as the president, signed your own card as the issuing authority.  
23 It was then provided to the person who then plastified the card; is  
24 that right?

25 A. Yes.

1 MR SACHDEVA: Mr President, I am about to embark on another  
2 topic. I don't know if it is an appropriate moment?

3 PRESIDING JUDGE FULFORD: No, all right, Mr Sachdeva,  
4 certainly. Two things: Mr Sachdeva, over the adjournment, can you  
5 reflect on whether there's anything else that you want to explore in  
6 relation to the witness's own card which he has told us is in his briefcase  
7 upstairs. Given that it's here, if there are going to be any later  
8 submissions about it. It would be a shame to waste the opportunity  
9 given that it is actually in the building.

10 MR SACHDEVA: I entirely agree, Mr President. I was going  
11 to think it over, over the break. Thank you.

12 PRESIDING JUDGE FULFORD: Good. Take the opportunity over  
13 lunch and, if you want the witness to bring it into court this afternoon,  
14 of course send a message through the court officer and any other things  
15 that anyone else would like to do with the card, please think about  
16 it over lunch. Thank you very much.

17 MR SACHDEVA: Thank you.

18 PRESIDING JUDGE FULFORD: I think what's happened in terms  
19 of numbers this morning is quite interesting, and I've got a terrible  
20 suspicion that this has happened with many other witnesses. We have  
21 gone to a number of tabs within this binder without giving on each  
22 occasion an EVD reference number.

23 Now, I am just reflecting on what is going to happen when  
24 in due course we look back over the transcript and then try to use  
25 the Court's electronic system to pull up the document. We're not going



1 to be able to find it by entering in tab 5.

2 Now, how do we resolve this? Do we have somebody sitting  
3 down going through the transcript and whenever a tab number has been  
4 mentioned but without an EVD number laboriously entering in the EVD  
5 number? Do I pedantically in future insist that every time a tab is  
6 referred to that the EVD number must be given, notwithstanding how  
7 irritating that will be?

8 Can everybody please think about this over lunch and come  
9 back with a proposal afterwards, because I suspect when we all go back  
10 to the detail of this, in a number of weeks or months' time we may  
11 find the position extremely frustrating. So, a solution, please, for  
12 2.30 this afternoon.

13 Witness, please, back to the witness waiting room.

14 (The witness stands down)

15 PRESIDING JUDGE FULFORD: 2.30.

16 THE COURT OFFICER: All rise.

17 (The hearing ends at 12.58 p.m.)

18 RECLASSIFICATION REPORT

19 Pursuant to Trial Chamber I's email instruction dated 12th January  
20 2012, the transcript is reclassified as public after the indicated  
21 redactions have been implemented as ordered by the Chamber. All private  
22 and closed sessions (\*) are now available to the public with the exception  
23 of the portions of the transcript that have been redacted.

24

25