

1 International Criminal Court

2 Trial Chamber I - Courtroom 1

3 Presiding Judge Adrian Fulford, Judge Elisabeth Odio Benito and Judge

4 René Blattmann

5 Situation in the Democratic Republic of the Congo - ICC-01/04-01/06

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

7 Tuesday, 26 January 2010

8 (The hearing starts at 2.30 p.m.)

9 *(Closed session) Reclassified as Open session

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

12 THE COURT OFFICER: Good afternoon, your Honours. We are in closed session.

13 PRESIDING JUDGE FULFORD: Good afternoon.

14 Maître Mabilille, we have or rather Mr Biju-Duval, I think, in fact strictly
15 speaking, we've had a request sent quite recently in relation to disclosure to you
16 of a non-redacted document which relates to this particular witness, and I think
17 it's effectively his document. There's been a series of rather unsatisfactory
18 emails between the Chamber and the victims' participation and reparations section.
19 I issued an order about 20 minutes ago that the forms should be brought here. I
20 suspect it hasn't arrived, but I'm going to ask Ms Guhr whether there's been any
21 sign of it. No. Right. I'm going to ask you, Mr Biju-Duval, if you can, to
22 continue with your questioning and then we'll deal with the document and if you
23 need more time once it's here; is that satisfactory?

24 MR BIJU-DUVAL: (Interpretation) Yes, your Honour. Thank you. I think that
25 when we finally receive this document I will need very little time to obtain the

1 information which is currently redacted. I don't think this is going to slow down
2 my questioning.

3 PRESIDING JUDGE FULFORD: While I'm on the subject, a proposal has been made
4 for disclosure with a few redactions of a number of documents which relate to
5 Witness 270's -- I'll just finish this, Maître Mabilie, then we'll go on with the
6 witness -- which relate to 270's assistance to various individuals set out in an
7 email from Ms Buteau yesterday at six minutes past 12. We agree with the proposals
8 and order that disclosure should take place in the way set out in the email
9 communication.

10 Witness, please.

11 (* The witness a/0270/07 enters the courtroom)

12 (The accused enters the courtroom)

13 PRESIDING JUDGE FULFORD: Good afternoon, sir. Private session, please.

14 *(Private session at 2.36 p.m.) Reclassified as Open session

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

16 PRESIDING JUDGE FULFORD: Sir, thank you very much indeed for coming back. I
17 hope you've managed to find your glasses and can I ask you particularly to focus
18 very carefully on the questions that Mr Biju-Duval puts to you and to limit your
19 answers to the questions that he raises. So please focus on the questions and
20 answer the questions. Thank you.

21 Yes, Mr Biju-Duval.

22 MR BIJU-DUVAL: (Interpretation)

23 Q. Thank you, your Honour, good afternoon witness. I am going to show you
24 once more the photographs registered under the reference EVD-D01-0098 and
25 EVD-D01-0097. We have a hard copy here for the witness. Yesterday you said that

1 you did not recognise this person, but you also said you did not have your glasses.
2 So I am going to put that question to you again. And could you please answer very
3 briefly to the question of whether or not you know this person in the photograph.

4 A. Thank you for asking the question. Thank you, your Honour. In the person
5 I see in this photograph is someone who seems to have an expression of regret. I
6 could compare -- would like to compare this photograph with the previous photograph
7 before I can say anything else. Yesterday the photograph was shown to me, a
8 photograph of somebody on an identification card, so if I have the two, I will be
9 able to identify the person, if possible.

10 Q. Witness, I would like that after looking at the two photographs you should
11 tell us whether or not you recognise the person in the photograph. After that we
12 will continue from where we stopped yesterday and I will show you the voter's card
13 you were referring to. But I would like you to answer this question now and tell
14 us whether or not you recognise the person in the photograph.

15 A. At first sight I don't recognise this person.

16 Q. Thank you. I will now like to continue from where we stopped yesterday.
17 And once more, I will show you this voter's card, which bears the reference
18 DRC-D01-0003-2500. I will hand over to you two documents. It the same document,
19 but one is an enlarged copy of the other to help you identify the person in the
20 photograph. So my question is the following: Do you recognise the person whose
21 photograph is found on this voter's card?

22 A. Thank you for the question. Your Honour, the person on the first
23 photograph, and I also see a photograph on the voter's card, on this photograph I
24 see the face of a child, and the face resembles the face of the father or the older
25 person in the second photograph, So I think that is the son of the first person.

1 Here I can read (Redacted) so I would like to believe that this is the son of the
2 older man in the other photograph. I see that there is an expression of regret on
3 his face. Maybe he's regretting the fate of his child.

4 PRESIDING JUDGE FULFORD: Right. Mr Biju-Duval, I think we need for future
5 reference to know which document the witness is referring to. We must have
6 numbers, please, in relation to them both so when we look at these later we know
7 which photograph is the one the witness says has the face of the child, et cetera,
8 because at the moment I confess I'm not clear as to which of the two he's referring
9 to. So can you please establish this and make sure that the numbers go in. Thank
10 you.

11 MR BIJU-DUVAL: (Interpretation) Yes.

12 Q. Mr Witness, just to make things clear, could you take the document which
13 bears the reference DRC-D01-003-2500? Do you see that reference at the bottom of
14 the page?

15 A. Yes.

16 Q. I would like to inform the Chamber that that document already has a
17 reference, an EVD number which is D01-00100. When you say this child seems to be
18 the son of the first person I saw on the photograph, are you referring to the child
19 whose photograph is found on that document?

20 A. Thank you for the question. Your Honour, I think I have already answered
21 that question. The Defence asked me a question on the victim -- about the victim
22 who was with me, the victim called (Redacted). The Defence seems to be
23 saying that (Redacted), whereas here I see the
24 name (Redacted)
25 (Redacted) And so, your Honour, I don't think we should confuse (Redacted)

1 (Redacted) (phon) (Redacted). I think that will clear the
2 misunderstanding, your Honour.

3 PRESIDING JUDGE FULFORD: Sir, the questions are really very clear. Are you
4 saying that of the two photographs the one is the son of the other? So the
5 photographs show father and son; the father in one and the son in the other? Now,
6 is that your evidence looking at the photographs?

7 THE WITNESS: Thank you, your Honour. That is exactly what I just said. It
8 seems to me, after examining the two photographs, that (Redacted)
9 could be the son of the other person in the other photograph and that that person
10 bears the name (Redacted), I think.

11 PRESIDING JUDGE FULFORD: Yes, Mr Biju-Duval.

12 MR BIJU-DUVAL: (Interpretation)

13 Q. Mr Witness, this person whose name you just read out, (Redacted)
14 (Redacted), the person who is found on the voter's card, do you know that person?
15 Do you recognise that person? Do you know him? I am talking about the person
16 whose photograph is found on the voter's card.

17 A. (Redacted)(phon) (Redacted). I see the face on the voter's card. I do
18 not know this person physically. I see the face on the voter's card and I can
19 hardly recognise it. I don't know, your Honour, the context. The reason why the
20 photograph of (Redacted) is being presented to me, could this be clarified?
21 Could you explain this to me, the reason why this photograph is being presented to
22 me? I do not understand it.

23 PRESIDING JUDGE FULFORD: I'm going to interrupt. You needn't worry about
24 the reasons. You can trust the Judges to ensure that you are only asked questions
25 that are necessary and appropriate. So, don't worry about why the question is

1 being asked. I will repeat again, please be so kind as to focus on what
2 Mr Biju-Duval is asking you.

3 Yes, Mr Biju-Duval.

4 MR BIJU-DUVAL: (Interpretation) Thank you.

5 Q. Mr Witness, I would now put to you a question about (Redacted)
6 (Redacted), and the question is the following. Is it correct that
7 the name of (Redacted) father's name is (Redacted); that is (Redacted)
8 (Redacted)

9 A. Thank you for that question. Your Honour, the name of the father of
10 (Redacted), is indeed (Redacted), but I think
11 there is a name that has been omitted because within the village he was also
12 (Redacted)

13 Q. Thank you. Similarly, is it correct that the name of the mother of
14 (Redacted) is indeed (Redacted)

15 A. Thank you for that question. Your Honour, the name of the mother of
16 (Redacted) is indeed (Redacted). So I
17 remember all three names, because these are names by which she was often referred
18 by in the village.

19 Q. Thank you. Is it correct that (Redacted)
20 (Redacted), was (Redacted)

21 A. Well, when you talk about the birth of the child, I really can't say
22 anything about that, I'm afraid. You can't know everything about the child.

23 Q. Thank you. I will now show you the application form; that is the
24 application for participation submitted by (Redacted)
25 (Redacted). This document bears the never reasons MFI-D01-D-00169. I have a hard

1 copy here for the Judge and I have other copies for the Bench. Three hard copies
2 for the Bench.

3 I would like you to turn to the third page. Do you see the number 3 at the
4 top right-hand corner of the page? You will find Section A, "Information relating
5 to the victim". Are you on that page? Could you please go down to item number 6,
6 "Place of birth", and it's written (Redacted). Does that refresh your memory as
7 concerns the place of birth of the child (Redacted) Can you see
8 item 6? Could you please speak into the microphone, because you are nodding, so
9 the interpreters can hear you.

10 A. Yes, I can see that item.

11 Q. Could you please move up to the previous item, number 5, "Date of birth:
12 (Redacted)". Can you see that?

13 A. Yes, indeed.

14 Q. Could you please put that document aside and take a look at the voter's
15 card, and there you look under the item "Date and place of birth" and there it is
16 written (Redacted). Can you see that?

17 A. Yes, indeed, I can see it.

18 Q. Do you agree with me that the civil status information of (Redacted)
19 on the voter's card and the information -- that is the (Redacted)
20 (Redacted), I mean; that the information is the same between the two
21 documents, but there's a difference in the date of birth?

22 A. First of all, thank you for the question. I think that here we are
23 talking about (Redacted) and in the next document we are talking about (Redacted), so maybe
24 I do not understand your question well. I can see here on the voter's card the
25 name (Redacted), there are three names, but on the

1 form I see two names. I see (Redacted).

2 Q. According to your evidence, from what you've said, the holder of this
3 voter's card -- is the holder of this voter's card the same person as (Redacted)
4 (Redacted) or are we dealing with two different people?

5 A. This is somebody -- they are two different people. The difference is very
6 clear. Here we have (Redacted).

7 MR BIJU-DUVAL: (Interpretation) Thank you. Could I have a moment, your
8 Honour?

9 Q. Could you please put aside the application for participation and the
10 voter's card, as well as the photograph that I gave to you. Witness, is it correct
11 that you did your third, fourth and fifth years of primary school in the (Redacted)
12 (Redacted), which is currently called (Redacted)

13 A. Yes, I studied in that school. If there is any contradiction to that
14 information I would like you to give me proof to justify your assertions.

15 Q. Thank you. In your capacity as an ex-pupil of (Redacted)
16 (Redacted), and in your capacity as a former official in the school that we talked
17 about some time ago, I am going to show you several school documents. I'm going to
18 provide a hard copy of a document entitled "Student Roll or Registry" and this is
19 from (Redacted). It bear the seal and the reference
20 number is DRC-D01-0003-2522. Before I ask you the question, I'm going to explain
21 -- provide a brief explanation about this document and how it appears.

22 Now, the first page is a cover page, and the following two pages actually are
23 a single page on the original but in a large format. In other words, the second
24 page of the document is actually the left-hand side and the third page is the
25 right-hand side of this document. So this is basically a school registry. My

1 question is as follows: Are you familiar with this kind of school registry?

2 A. Thank you for the question. When I was responsible for schools I was
3 familiar with these documents.

4 Q. I'd like to ask you to refer to the second page of the document after the
5 cover page and to look at the 15th line which bears the number -- you see there's a
6 number (Redacted). Are you there?

7 A. Yes, I am there.

8 Q. In the first column which bears the names of the students, the name of
9 (Redacted).

10 A. I see that.

11 Q. Could you refer to the second page. Can you see at the top the title of
12 year 2003-2004?

13 A. Yes, I see that.

14 Q. Could you look at the 12th line on the third page and in the column where
15 we see the names of the parents, are you there?

16 A. No, I'm lost. Thank you. I found my spot.

17 Q. Does this document correspond to the school register that you are
18 accustomed to?

19 A. I did not understand the question properly.

20 Q. Let us set this document aside for the time being. I'm going to show you
21 another document.

22 PRESIDING JUDGE FULFORD: We are going to put some numbers in for these,
23 Mr Biju-Duval. Thank you.

24 THE COURT OFFICER: This document will be assigned MFI-D00173, your Honours.

25 PRESIDING JUDGE FULFORD: Yes, I just want clarity please as to what is being

1 given the number 00173. Is that the DRC document ending 2523 and 24 and 25 and 26
2 or is it something else?

3 THE COURT OFFICER: The document in eCourt, your Honours, under
4 DRC-D01-003-2522, which has three pages, has been assigned MFI-D00173.

5 PRESIDING JUDGE FULFORD: Right. Thank you. Ours have been put together in
6 a slightly different way. Thank you very much indeed.

7 MR BIJU-DUVAL: (Interpretation) Thank you.

8 Q. I'm going to show you another document which bears the number
9 DRC-D01-003-2525. I have a hard copy for the witness. Does this document
10 correspond to what you know as a register of annual marks for students by class?

11 A. Yes, I see marks here.

12 Q. Now, on the first page left-hand column, do you see the fifth class?

13 A. Yes, I see that.

14 Q. I'd like to ask to you turn the page now and to look in the first column
15 and look at (Redacted).

16 A. Yes.

17 Q. Do you see the name (Redacted)?

18 A. Yes, I do.

19 Q. Thank you. Now, before I ask you my question I'm going to show you one
20 last document and this is DRC-D01-003-2527. I have a hard copy.

21 PRESIDING JUDGE FULFORD: Numbers, please.

22 THE COURT OFFICER: The earlier document counsel referred to under
23 DRC-D01-003-2525, your Honours, which contains two pages, would be assigned
24 MFI-D00174. And the other document under DRC-D01-003-2527 would be assigned
25 MFI-D00175, and that's just one page, your Honours.

1 MR BIJU-DUVAL: (Interpretation)

2 Q. Mr Witness, I'd like to draw your attention to this last document. This
3 document, does this document correspond to what you know as a draft school report?

4 A. Yes, I see that.

5 Q. Do you see that this is for the school child (Redacted) (phon) school
6 class 5B, (Redacted)?

7 A. Thank you for the question. Your Honour, here, this is (Redacted).
8 In my file I think I could talk of (Redacted). So I think
9 everywhere, in all these various documents, I see (Redacted) everywhere, but
10 (Redacted), I see that nowhere, so I don't know about these
11 documents, your Honour. If you would allow me to provide an additional
12 explanation, with your leave.

13 PRESIDING JUDGE FULFORD: Yes.

14 THE WITNESS: Thank you, your Honour. When you read these various documents
15 from these various files, this brings out -- this brings out the file of another
16 victim, another victim who was in the fifth year at the (Redacted). So I
17 think that, as I said, and well, you will see, there was -- a charge was filed and
18 special attention was paid to these documents. I said in my last statement that
19 (Redacted) was only a sample, a sample, insofar as the enrolment of
20 children was done at various -- at several schools. So this is a matter that could
21 be brought to the Court's attention.

22 PRESIDING JUDGE FULFORD: Yes, Mr Biju-Duval.

23 MR BIJU-DUVAL: (Interpretation)

24 Q. Mr Witness, (Redacted), this student in 5B at (Redacted), class
25 5B, according to your testimony is this student the child (Redacted)

1 (Redacted)

2 A. Thank you for the question. I repeat, (Redacted) from the fifth year,
3 from (Redacted), of that child, (Redacted)
4 (Redacted) of another student who was at the secondary school, (Redacted)
5 (Redacted). So I said (Redacted), this may be a new victim and you may have his
6 files.

7 MR BIJU-DUVAL: (Interpretation) Thank you. A moment, with the Bench's
8 leave.

9 Q. Now, you were telling us that this (Redacted)
10 is another victim. Why do you say so?

11 A. Thank you for the question. Your Honour, I said that he could be. He
12 could be another victim, because during the occupation by armed groups they took
13 children from everywhere. The (Redacted) was just one example from the
14 Mahagi Territory, and everywhere the armed groups where their work was to go amongst
15 the villages - the villages where people were hesitant - and find volunteers after
16 the awareness was risen and that was in the -- it was 23 December 2002. There was
17 a delegation of these armed groups that went to Mahagi to ask for volunteers, but
18 the community - my community - resisted because at that time, 17 December, we had
19 already signed a peace agreement in Kinshasa that was to put an end to these armed
20 groups. In light of this situation, my community resisted and said, "No, we cannot
21 blindly go along with such things when we don't know what the situation is all
22 about," and that is why the group - the groups that are before this court - had
23 chosen another option. They proceeded with the forced abduction of children.
24 There had been no volunteers, so they carried out massive widespread abductions in
25 the territory of Mahagi, in Ameer, Ndrele, throughout the territory. It's a very

1 long list and this is a deep investigation that could -- that could lead to the
2 truth.

3 Q. Thank you. I would like to show you a photograph and ask you whether you
4 recognise this person. This is document DRC-D01-0003-2518.

5 PRESIDING JUDGE FULFORD: Yes, let that be shown to the witness, please.

6 MR BIJU-DUVAL: (Interpretation)

7 Q. My question is do you recognise the person in this photograph? I'm not
8 talking about the baby in her arms, but the adult in the photograph.

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

10 Q. Thank you. Might it be possible that this person is the mother of
11 (Redacted)

12 PRESIDING JUDGE FULFORD: Sir, I am going to ask you not to answer that.
13 Mr Biju-Duval, if the witness says "I can't recognise" then it's pointless asking
14 him whether she might be the mother. She might be the mother of anyone. Could you
15 move on to the next, please.

16 MR BIJU-DUVAL: (Interpretation) Yes, your Honour. We'll just have an MFI
17 number assigned to it.

18 PRESIDING JUDGE FULFORD: Yes.

19 THE COURT OFFICER: The coloured photograph under DRC-D01-0003-2518 will be
20 assigned EVD-D01-00101.

21 MR BIJU-DUVAL: (Interpretation)

22 Q. Mr Witness, I would now like to shed some light on the point having to do
23 with the father of (Redacted)
24 (Redacted). Is it correct that his father -- the name of his father is (Redacted)? I
25 will spell it out. (Redacted)

1 A. Edika (phon), I believe it was him.

2 Q. Thank you. I'm going to ask you to refer to a document that I'm going to
3 provide to you and it is the request for participation form for (Redacted) and
4 you helped with this form, as we see by the form. I have a hard copy for the
5 witness and also a hard copy for the Bench, and this document has already been
6 given a reference number 00165 -- MFI-D01-00165. I would like to ask to you turn
7 to the third page, page 3, where we see a heading "Information concerning the
8 victim", and under this heading we find a number of headings, three, "Name of
9 father", "Name of mother", "Name of closest relative". Do you see that?

10 A. Yes, I do.

11 Q. We see "Name of brother" -- "Name of father", pardon me, (Redacted),
12 "Name of mother: (Redacted), and then the "Name of the closest relative, or
13 if you are under 18 the name of the representative: (Redacted). So, I would like
14 to ask you something to shed light on the following point. (Redacted)
15 (Redacted), are they two different people, or the same person?

16 A. I think that it's the same person, because here -- well, it may have been
17 a mistake. It's not a mistake. I know that the father is called (Redacted). It's the
18 same person. The same person.

19 Q. So your testimony is that with the person that you represent you provided
20 the same names -- the same person's name under these two headings, or in these two
21 places?

22 A. Yes, it's the same person.

23 Q. "Name of the closest relative" you put the name of his father, is that not
24 so?

25 A. Here I think that, when you read (Redacted), that's the baptismal name.

1 Q. You understand this form? It says the "Name of the closest relative", at
2 the time of filling out the form, and I understand that the name of the father was
3 provided. Is that not so?

4 A. Point 3, to our understanding, is the name of the father - the full name
5 of the father.

6 Q. But at that date am I to understand that the father was still alive?

7 A. No.

8 Q. According to your testimony, or rather your knowledge, according to your
9 knowledge, the father of (Redacted)
10 you said that he had died during the troubles, but you didn't say which troubles.
11 The troubles of 2003, which you mentioned earlier?

12 A. Yes, I think so. I think that's so.

13 Q. Thank you. You can set aside this form and now I am going to show you a
14 photograph. We see a person on this photograph and I'm going to ask you if you
15 recognise the person, DRC-D01-0003-2509. Could you provide a hard copy to the
16 witness. My question is do you recognise this person?

17 A. No.

18 Q. Thank you. So, I'm going to show you another document and you can set
19 aside the photograph and that should be provided with an MFI number.

20 THE COURT OFFICER: The one page coloured photograph, your Honours, under
21 DRC-D01-003-2509 will be assigned EVD-D0100102.

22 MR BIJU-DUVAL: (Interpretation)

23 Q. So I shall now be putting another document before you, DRC-D01-003-2501,
24 which is a voter's card. If this could please be shown to the witness in a hard
25 copy, please. Can you see this document?

1 A. Yes, I can see the document.

2 Q. Do you recognise the individual whose photograph is on this document?

3 A. With reference to the voting centre number, with the number 001, and also
4 by virtue of the names that I can read on the voter's card (Redacted), I
5 do remember this individual.

6 Q. Who is this individual?

7 A. This person was in charge of the polling station number (Redacted). This is
8 the individual number. This is the centre number, (Redacted), this is the national
9 voting number. And after having read the names (Redacted) I remember, by
10 virtue of the colour, I now recall this individual.

11 Q. Is he, yes or no, the father of (Redacted)

12 A. (Redacted)? Well, I do not quite grasp the question. Are you talking
13 about (Redacted) If you're
14 talking about the latter we said that the father was called (Redacted)
15 (Redacted) So these
16 are two separate individuals.

17 Q. Thank you. If an MFI number might be granted to this document.

18 PRESIDING JUDGE FULFORD: I think we've just given the last photograph an EVD
19 number, which was a photograph of someone who wasn't recognised. We're now going
20 to give an MFI number to somebody who was recognised. I think this is becoming
21 slightly chaotic.

22 Well, this person's just been recognised, and, there's been evidence about
23 it. I think indubitably this should have an EVD number and we'll review the MFI
24 numbers later. So an EVD number, please, for this voter's card.

25 THE COURT OFFICER: And that, your Honours, will be assigned EVD-D0100103.

1 MR BIJU-DUVAL: (Interpretation)

2 Q. I shall be putting another photograph before you under the number

3 DRC-D01-0003-2507. My question is: Do you recognise this individual?

4 A. Yes, this person is (Redacted) (phon) (Redacted).

5 Q. Could you spell this name?

6 A. (Redacted).

7 Q. And the other name?

8 A. (Redacted).

9 Q. (Redacted)?

10 A. Yes.

11 Q. May I add a further piece of information to this answer, with the leave of
12 the President?

13 A. Thank you, Mr President. The extra piece of information I'm referring to
14 is that, first and foremost, I have recognised the photograph of this individual
15 and, secondly, I have -- well, when we were filling in the forms he came to
16 complain at the (Redacted) (phon) (Redacted) saying that he also wanted to fill in a
17 form on behalf of his brother who was murdered, and we saw that the name of his
18 brother came under the code A/0037/06. So maybe the Court could make use of the
19 file number A/0037/06, and that is (Redacted), whom I know, because this
20 individual came to find us and we gave them the application form, and they filled
21 it in. And I remember well about this application form because it was our
22 association which was in possession of this form and every victim or representative
23 of victim would come and pick up a form and fill it in. This is an extra piece of
24 information that I wanted to provide you with with regard to this individual whom I
25 recognised easily.

1 PRESIDING JUDGE FULFORD: Thank you. Yes, Mr Biju-Duval.

2 MR BIJU-DUVAL: (Interpretation)

3 Q. Is this person related to (Redacted)

4 (Redacted)

5 A. I think I gave further information as to this individual. As regards my
6 personal knowledge, I do not know.

7 Q. If I put it to you that this individual is called (Redacted),
8 does this correspond with your knowledge?

9 A. I believe that I have given all the information with regard to this
10 individual. As regards the names, I cannot say, as I knew him under the name (Redacted)
11 (Redacted). If there is another name, the name (Redacted), according to your knowledge,
12 well, fine, but this does not have any link with the father's name of (Redacted)
13 (Redacted). These are two separate individuals. As I said during my testimony, since
14 1973 or 1976, in fact, in the Congo there have always been three names by virtue of
15 the principle installed by Mobutu; there were three names. So we talk of the
16 baptismal name and you will note that there can be a relationship between the
17 names.

18 This is a rather in-depth study that might need to be conducted in order for
19 you to know about the names in the Congo. I believe that I have already provided
20 enough information on the individual and if this individual gave you a photograph
21 in order for us to accelerate the procedure, or the proceedings for his brother who
22 was killed in cold blood, well, I can't give you any further information on the
23 subject.

24 Q. Did you intervene on the occasion of the wedding of this individual
25 (Redacted)

1 A. Thank you for the question, Mr President. I believe that I did not come
2 to talk about the issue of marriage here.

3 Q. I do not have any further questions on this issue. This was just a point
4 of detail that might have had a bearing.

5 PRESIDING JUDGE FULFORD: Anything else, Mr Biju-Duval?

6 MR BIJU-DUVAL: (Interpretation) I would just like for the witness to answer
7 this question, but as I said, I would not develop the question of marriage, of
8 course, but I would just like to know whether he was involved or not in any manner
9 in the marriage of (Redacted) without developing the matter further.

10 THE WITNESS: Thank you for the question. Well, if you could specify whether
11 it was civilian -- or civil or religious marriage, because in the DRC there are two
12 forms of marriage. There is a religious marriage and there is civil marriage. So
13 what type of marriage are you referring to? What would you like me to talk about
14 here?

15 MR BIJU-DUVAL: (Interpretation)

16 Q. Did you intervene or were you involved in one or in the other in any
17 manner whatsoever?

18 A. In the DRC with regard to civil marriage, it is the members of the family
19 who are involved in order to talk about the dowry. With regard to the religious
20 ceremony, well, the priest requests --

21 PRESIDING JUDGE FULFORD: It's a very straightforward question. Were you or
22 were you not involved, whether it was religious or civil, in the marriage of this
23 individual? It's really yes or no. Yes, you were involved or no, you weren't.
24 Could you just answer that, please.

25 THE WITNESS: Thank you, Mr President, for this clarification. I just wanted

1 to explain with regard to the religious marriage. Well, I am a Catholic, he is a
2 Protestant. It's difficult. So this is a difficult matter, two distinct forms of
3 marriage. A Catholic does not take part in a Protestant marriage. We might have
4 come together to celebrate after the ceremony but I was not involved in the
5 ceremony itself.

6 MR BIJU-DUVAL: (Interpretation) Thank you. I believe that we would need to
7 give an EVD number on this photograph.

8 PRESIDING JUDGE FULFORD: Right. Let's deal with this now. There was
9 helpfully provided to the Chamber last night an email from Ms Samson which reminded
10 the Chamber of the order that we gave quite some time ago in transcript 114, which
11 was there is a -- there's generally a presumption that documents being introduced
12 by the party calling the witness, particularly when they've been supplied to others
13 in advance, that they will be given immediately an EVD number so that they -- they
14 become incorporated directly into the evidence, unless there is objection raised by
15 anyone else. That is the principle we've established. It should continue to be
16 followed. These materials have been supplied in advance. So for all of the three
17 witnesses we're dealing with, unless overnight individual documents are identified
18 as being documents that shouldn't have an EVD number, all of the MFI numbers should
19 be converted into EVD numbers and this particular item should be given an EVD
20 number now, please. Thank you.

21 THE COURT OFFICER: The one page photograph, your Honours, under
22 DRC-D01-0003-2507 will be assigned EVD-D01-00104.

23 PRESIDING JUDGE FULFORD: Thank you.

24 MR BIJU-DUVAL: (Interpretation)

25 Q. Mr Witness, I shall be putting another photograph before you by the number

1 DRC-D01-0003-2513, if it would be possible to provide the witness with a hard copy,
2 please. My question will be as follows: Do you recognise this individual?

3 A. No.

4 MR BIJU-DUVAL: (Interpretation) Thank you. I do not have any further
5 questions with regard to this photograph, of course, which should be provided with
6 a reference number. I'm told that it already has a number, D01-00096.

7 Mr President, I have virtually drawn to the end of my examination and, as you
8 know, I wanted to put a number of questions, two or three very brief questions,
9 with regard to a document containing redactions. I do not know whether a
10 non-redacted -- I apologise. Yes, I apologise, Mr President. I thought there was
11 an issue, but it has been solved.

12 Q. So, Mr Witness, I shall be putting to you, or before you, a document which
13 is a participation request form that you filled out in the -- on behalf of the
14 school (Redacted). So, if a hard copy could please be given to the witness
15 and I also have for the parties, participants and the Bench some copies.

16 I shall ask you whether you recognise this document and whether it is indeed
17 the victim participation request that you filled out on behalf of the establishment
18 that you were representing. Mr Witness, have you been able to identify the
19 document without necessarily reading all the way through it?

20 A. Yes, Mr President, I have indeed identified the document.

21 Q. Would we agree that this is indeed a request for participation with regard
22 to the school that you signed?

23 A. Yes, this was a request for participation and this was for the actual
24 legal entity and the legal entity here was the school. So, I believe that this was
25 indeed the document that had the reference number D01-0026.

1 Q. Thank you. Could you please refer to page 9 under item D, or Section D.
2 At the bottom of the page, where it says when the event or events took place, you
3 wrote "March 2003", did you not?

4 A. Yes, I believe that this is a material error.

5 Q. Thank you. Could you please refer to -- Mr President, I believe that the
6 witness might need assistance in order to recognise or find this page, because it
7 is somewhat complicated. This is page 19 of 24 of the document, according to the
8 rather complex ICC referencing system, but I'm being told that -- I'm sorry, I am
9 going to guide you through the document. From the very last page of the document,
10 you have the penultimate page and the page before that bearing the title "Annex
11 Section E/1". Can you see that page?

12 A. Are you talking of B/10? Which section are you referring to?

13 Q. The following page, "Annex Section E/1". Can you see this?

14 A. Yes, I can.

15 Q. At line 4, under the title, you can also see the word, or you can see the
16 date, "March 2003", and you read "List of property destructed. Property looted by
17 the members of the armed group of the UPC of Thomas Lubanga in March 2003". Can
18 you see this?

19 A. Yes.

20 Q. Is this also a material error?

21 A. Yes.

22 Q. Thank you. The application is dated at page 16, dated 20 September 2006,
23 if you refer to page 16 of the document. Can you see that date at pages 15 and 16,
24 the date of the application? Can you see that?

25 A. Yes, I can.

1 Q. Is it correct that at that date you were no longer (Redacted)

2 (Redacted)

3 A. Thank you for the question. I believe that the form as filled out at that
4 date, notably 20 September 2006, at that time I think I (Redacted) to take up a
5 post elsewhere. But in view of the fact that I was the person who had lived
6 through the events, I was requested to do this -- undertake this at that date and
7 that is why you will note with me that I had to do precisely that.

8 MR BIJU-DUVAL: (Interpretation) Thank you. I have no further questions,
9 Mr President. I believe that we would need to give this document an EVD number, of
10 course.

11 PRESIDING JUDGE FULFORD: Thank you very much. Yes, could that happen
12 please.

13 THE COURT OFFICER: This, your Honours, will be assigned EVD-D01-00105.

14 PRESIDING JUDGE FULFORD: Thank you very much. Anything else, Mr Keta?

15 MR KETA: (Interpretation) Yes, Mr President, I do have a number of questions
16 to put to the witness.

17 PRESIDING JUDGE FULFORD: Right. That will be after we have a break. We
18 will sit again at half past 4. I've just managed to give two completely
19 contradictory indications to what should happen to EVD numbers. I rightly
20 described the previous order and I then indicated that everything that had been
21 introduced by Mr Biju-Duval should be given an EVD number but, of course, he wasn't
22 counsel who called the witness. The confusion of course arises from the fact the
23 witness is back in the witness box at the request of the Defence, but the witness
24 was of course originally called by Mr Keta.

25 I think that the assignment of EVD and MFI numbers needs some

1 reconsideration. I think the original way of dealing with it was something of a
2 blunt instrument saying that all documents introduced by the party calling should
3 be given EVD numbers but - and that's the presumption - but a presumption that none
4 of the documents by everyone else would be given an EVD number.

5 Could counsel please discuss this over the next two or three days and see
6 whether a more sensible arrangement can be arrived at that will be easier to apply.
7 Yes, Mr Sachdeva.

8 MR SACHDEVA: Mr President, I apologise, but very briefly the Prosecution
9 would also seek leave to put one or two issues to the witness on the matters
10 arising out of my learned friend's cross-examination.

11 PRESIDING JUDGE FULFORD: We will think about that, Mr Sachdeva.

12 Closed session, please.

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

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

15 (The witness exits the courtroom)

16 PRESIDING JUDGE FULFORD: Just after half past 4.

17 (Recess taken at 4.01 p.m.)

18 (Upon resuming at 4.31 p.m.) *(Closed session) Reclassified as Open session

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

20 PRESIDING JUDGE FULFORD: Will you be concise and brief, Mr Sachdeva?

21 MR SACHDEVA: Yes, Mr President, I hope so.

22 PRESIDING JUDGE FULFORD: Then you may. Witness, please.

23 (The witness enters the courtroom)

24 PRESIDING JUDGE FULFORD: Private or public, Mr Sachdeva?

25 MR SACHDEVA: Mr President, I believe this can be done in public session.

1 PRESIDING JUDGE FULFORD: Public session, please.

2 (The accused enters the courtroom)

3 (Open session at 4.33 p.m.)

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

5 PRESIDING JUDGE FULFORD: Yes, Mr Sachdeva.

6 MR SACHDEVA: Thank you, Mr President.

7 Questioned by Mr Sachdeva:

8 Q. Witness, earlier this afternoon you said that on 23 December armed groups
9 had come to the territory of Mahagi to raise awareness in order to recruit
10 volunteers. My question is this.

11 PRESIDING JUDGE FULFORD: Pause for a moment. Yes, Mr Biju-Duval?

12 MR BIJU-DUVAL: (Interpretation) Yes, your Honour. I am aware that the
13 witness talked about the events of 23 December 2002 and the question of Mr Sachdeva
14 stems from that answer which was given by the witness this afternoon. However, I
15 wish to draw the attention of the Chamber to the fact that these are new events
16 which have absolutely no bearing. They are different from the events we have been
17 discussing now for the past two weeks and which are the subject of the testimony
18 which is given by this witness. I think that it would be inappropriate that these
19 events of December 2002, which have emerged today this afternoon, that such events
20 be brought into discussion at this juncture, because that will -- if we proceed in
21 that manner we will get caught up in an interminable spiral. We will start a new
22 examination of the witness and events which we have not discussed heretofore. And
23 so the Defence objects to the discussion of these new allegations, to examination
24 of the witness with respect to these new allegations, these new events.

25 PRESIDING JUDGE FULFORD: Thank you. Mr Sachdeva, of course we haven't taken

1 up time in asking you what it was you wished to address. I had assumed that it was
2 something to do with identities. Is it in fact, therefore, that you wish to pursue
3 some questions in relation to the events of 23 December 2002?

4 MR SACHDEVA: Indeed, Mr President, that is right. And may I just add that,
5 in my submission, a precedent has already been set in terms of asking questions on
6 issues that have arisen during the examination from my learned friend. The Court
7 may recall that previously I had asked questions about the enquiries made by the
8 Defence in the field, which beforehand had not been part of the evidence of the
9 witness, and the Chamber had permitted me to ask those questions. So in my
10 submission this is following the same practice and, as I said to the Chamber
11 earlier, I will be extremely brief and in my submission these questions should be
12 permitted.

13 PRESIDING JUDGE FULFORD: Anything else, Mr Biju-Duval?

14 MR BIJU-DUVAL: (Interpretation) Your Honour, I believe that the Prosecution
15 evidence has already been concluded and I don't think it would be appropriate that
16 through this questioning the Prosecution should try to tender new evidence today.

17 (The Trial Chamber confers)

18 PRESIDING JUDGE FULFORD: An application has been made by Mr Sachdeva to ask
19 some limited questions in relation to some events that the witness referred to when
20 giving answers to Mr Biju-Duval concerning 23 December 2002. When shortly before
21 the adjournment Mr Sachdeva indicated that he wished to ask a few additional
22 questions, the Bench had erroneously assumed that he was going to address some of
23 the not altogether easy matters that concern identity and names.

24 We are of the view that allowing a development of the events concerning 23
25 December 2002 will be to introduce a wholly new element into this case, hitherto

1 uninvestigated, that arises simply because of the way in which the witness answered
2 at least one of questions Mr Biju-Duval put to him. There has to be finality in
3 relation to the evidence given by witnesses and, in our view, to allow this area
4 now to be opened up at what should be the closing moments of this witness's
5 evidence would be undesirable and against the interests of justice. Therefore I'm
6 sorry, Mr Sachdeva, you cannot proceed.

7 Yes, Mr Keta? And if I referred to 2002 that should be corrected -- if I
8 referred to 2003 that should be corrected to 2002 in the transcript, please.

9 Yes, Mr Keta?

10 MR KETA: (Interpretation) Thank you, your Honour. My questions relate to
11 the identities of two children. I am going to rely on two documents which I'm
12 going to quote. The first document -- well, these are documents which were
13 tendered by the Defence. Your Honour, I would like to propose that we move into
14 private session because I'm going to mention certain names.

15 *(Private session at 4.40 p.m.) Reclassified as Open session

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

17 PRESIDING JUDGE FULFORD: Yes, Mr Keta. Now, which documents do you wish the
18 witness to look at?

19 MR KETA: (Interpretation) The first document bear the reference MFI -- that
20 is the DRC-D01-0003-2527 and it has MFI-0016015, if I'm right. Could a copy of
21 that document be given to the witness, please.

22 PRESIDING JUDGE FULFORD: Please.

23 Questioned by Mr Keta: (Interpretation)

24 Q. Good afternoon, Witness.

25 A. Thank you.

1 Q. I don't know if you have the document before you?

2 A. Yes, I have the document.

3 Q. On that document, on the extreme left, I see the name (Redacted),
4 Class: 5B, (Redacted). Do you have that document before you? That is a
5 draft report record?

6 A. No, I'd rather have the form before me. Yes, I have found the document.

7 Q. On the extreme left you will find the name (Redacted), Class: 5B,
8 (Redacted)?

9 A. Yes, I can see that.

10 Q. And in the middle you see "Academic year: 2003/2004"?

11 A. That's right.

12 Q. Could you tell us whether during that academic year this (Redacted), we're
13 talking about, was indeed a student (Redacted)?

14 A. Thank you for the question. Your Honour, I have already answered this
15 question, saying that here we are talking about (Redacted) who is different
16 from (Redacted), because (Redacted) was in - attending
17 the (Redacted). Here we are dealing with (Redacted), who was in primary
18 school. I do not know him. Maybe this is a new person - a new individual - for
19 whom a file could be compiled by the Prosecution.

20 Q. (Redacted)

21 A. Thank you. Your Honour, (Redacted); the
22 official in charge of supervising (Redacted).

23 Q. I move to the second document that bears the reference DRC-D01-0003-2499.
24 That is also a 2005/2006.

25 A. Could you repeat the number?

1 Q. The reference is DRC-D01-0003-2499. That is results or honours roll.

2 PRESIDING JUDGE FULFORD: I don't think 2499 has been introduced so far. Is
3 this a document that's already been introduced, Mr Keta? Well, 2499 I don't think
4 is the right number. Mr Keta, can you show to the usher, please, the document that
5 you wish to introduce?

6 MR KETA: (Interpretation) Your Honour, unless I'm mistaken these are
7 documents that I received from the Defence team. That is the reference 2499.

8 PRESIDING JUDGE FULFORD: Well, we -- the Court Officer has very kindly found
9 it on the Court system and so it will come up on counsel's screens. Do you have a
10 hard copy for the witness, Mr Keta? Do you have a hard copy for the witness,
11 Mr Keta?

12 MR KETA: (Interpretation) No, your Honour.

13 PRESIDING JUDGE FULFORD: Right. Well, fortunately the Court Officer does
14 and so could the hard copy please be shown to the witness. And your question?

15 MR KETA: (Interpretation)

16 Q. Could you go down to (Redacted), where it is written (Redacted) and
17 you have "58%"?

18 A. Yes, I do see that.

19 Q. (Redacted) In what capacity were you
20 working in (Redacted)?

21 A. (Redacted).

22 (Redacted)

23 Q. The (Redacted) referred to in (Redacted), is it the same (Redacted) who filled the
24 application for participation?

25 A. I think we had only one (Redacted), unless I'm mistaken. We

1 are referring to (Redacted), and so (Redacted) would be this
2 particular individual.

3 PRESIDING JUDGE FULFORD: We need a number then, please, for this document.
4 THE COURT OFFICER: Your Honours, this document has already been assigned as
5 MFI-D00172.

6 PRESIDING JUDGE FULFORD: Thank you.

7 MR KETA: (Interpretation)

8 Q. Thank you, Witness. I have one last question to put to you through your
9 answer in your capacity as (Redacted) as you just confirmed. On the list, you
10 find certain students who have first names and some that do not have first names.
11 What was the practice in your school? Was it obligatory to have a family name, or
12 a first name?

13 A. At that time, we are referring to the year 2005. In 2005, therefore, we
14 had already adopted -- that is, after the fall of Mobutu you could write names in
15 any manner. You could write two names, or you could write three names, depending
16 on the information that was given by the child. So, I think that there was no
17 problem with names in 2005. That is from the year 1990 we did not have a problem
18 with names, but before 1990 names had to follow a particular order. That is to
19 comply with the principle of authenticity.

20 Q. One last question, Witness. Could you tell us from 2006 to 2007, could
21 you say something about your professional record and who was (Redacted) of
22 (Redacted) at the time?

23 A. Thank you for the question. From 2006 to 2007, as you would find in my
24 professional record, I was called to take up other duties, and so in my
25 professional record you will find this information. The community (Redacted)

1 (Redacted)

2 at the time it was a teacher. It was a teacher, because at that time the head
3 teacher had not yet been appointed so that I could hand over to that person.

4 Q. Could you tell us the name of (Redacted)

5 A. The person's -- the individual was called (Redacted)

6 (Redacted).

7 MR KETA: (Interpretation) Thank you, Witness. I have no further questions.

8 PRESIDING JUDGE FULFORD: Sir, that finally brings your evidence to an end.

9 I'm not going to repeat what I said to you the other day in terms of our thanks for
10 your contribution, save to observe that we are particularly grateful for your
11 preparedness to come back to give further evidence at the request of the Defence.
12 Sir, I think I can say with certainty you are now free to go and to return home.
13 Thank you very much.

14 Closed session, please. Thank you, Mr Lubanga.

15 (The accused exits the courtroom)

16 THE WITNESS: Thank you, your Honour.

17 *(Closed session at 4.54 p.m.) Reclassified as Open session

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

19 (The witness is excused)

20 PRESIDING JUDGE FULFORD: The plan, Mr Biju-Duval, is to move straight into
21 the evidence of 225. Is that convenient for the Defence?

22 MS MABILLE: (Interpretation) No problem, your Honour. We are ready.

23 PRESIDING JUDGE FULFORD: Respect observe, Maître Mabilille, that this is a
24 witness who I think has been quite upset at various stages, so can he be treated
25 with appropriate brevity and with an appropriately sympathetic stance. Good. 225

1 as soon as he's available.

2 (The witness enters the courtroom)

3 * WITNESS a/0225/06: (On former oath)

4 (The witness answers through interpreter)

5 (The accused enters the courtroom)

6 PRESIDING JUDGE FULFORD: Good afternoon, sir.

7 THE WITNESS: Good afternoon.

8 PRESIDING JUDGE FULFORD: We're extremely grateful to you for having been
9 prepared to come back for what I hope will be some short concluding evidence which
10 is going to be based on some documents that Mr Desalliers wishes to show you. But
11 I want to stress that we are grateful to you for your cooperation.

12 Public or private session, Mr Desalliers?

13 MR DESALLIERS: (Interpretation) Private session, please.

14 *(Private session at 5.01 p.m.) Reclassified as Open session

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

16 PRESIDING JUDGE FULFORD: Yes, Mr Desalliers.

17 Questioned by Mr Desalliers: (Interpretation)

18 Q. Good afternoon, Witness.

19 A. Good afternoon.

20 Q. I would like to show you a document. It is a school record that I will
21 explain to you once you actually have it before you. Could a copy of this document
22 be provided to the witness for the purposes of the file. This is document that
23 bears the reference number MFI-D00173.

24 Mr Witness, this document that I am showing to you is a three-page document
25 and it is a register and it provides the information regarding students of (Redacted)

1 (Redacted). Now, the first page is really just a cover page, and
2 I would like to ask you to go to the second page of this document, and I think
3 you'll see a series of names. And let me explain what this is all about.

4 This is a photocopy of a register and this register was in a very large
5 format and so the second page of this document is the left-hand side of the
6 original and the right-hand side of this document is the right-hand side of the
7 register, just so that you're quite clear on what this is all about. And now I'd
8 like to ask you to look at the left column, on the second page, where there are a
9 number of numbers and I'd like to ask you to please -- the second page, Mr Witness.
10 On the left, the left column, you will see various numbers. Do you see that?

11 PRESIDING JUDGE FULFORD: The page is opened. I think beginning with the
12 number 18 on the left-hand side; is that right, Mr Desalliers? Which is the number
13 at the top on the left-hand side?

14 MR DESALLIERS: (Interpretation)

15 Q. The first number is (Redacted), left column, first entry. Do you see this
16 column with the numbers on the left?

17 A. Yes.

18 Q. Could you move down on the 15th line, and that is number (Redacted). Do you see
19 the number (Redacted) to the left?

20 A. Yes, I see it.

21 Q. Just beside that, on the same line, do you see (Redacted)

22 A. Yes, I see that.

23 Q. Now, I think you told us that your name is (Redacted); is that not so?

24 A. Yes.

25 Q. Now I would like to you move to the third page of this document, and I

1 draw your attention to something at the very top of the page. In the centre we see
2 2003-2004 year. Do you see that?

3 A. Yes, I do.

4 Q. Thank you. I would now like to show you another document, and it also
5 bears an MFI number D00175. If we could provide a hard copy of that document to
6 the witness. Document 175.

7 Mr Witness, this document that I've provided you with is a draft report card
8 from (Redacted) for the 2003-2004 school year and I draw your
9 attention firstly to what we see at the very top to the left, at the top to the
10 left, do you see "Name (Redacted)"

11 A. Yes, I see that.

12 Q. Now, just below that do you see "Class 5B"?

13 A. Yes.

14 Q. And just below that (Redacted) Do you see that? Just below the
15 words "Class 5B" just before that do you see (Redacted)

16 A. Yes, I see that.

17 Q. And at the top in the middle we see "2003-2004 school year." Do you see
18 that as well?

19 A. Yes, I see that.

20 Q. Mr Witness, my question is as follows: After having seen these two
21 documents were you in the fifth year at the primary (Redacted) in
22 2003-2004?

23 A. First of all, all these documents I don't recognise. I don't see anything
24 -- I don't recognise them. I just see the name (Redacted) That's
25 what I recognise. That's all I recognise.

1 Q. Very well. You don't recognise the documents. My question is as follows:

2 In 2003-2004 were you in the fifth year of (Redacted)

3 A. That year I wasn't at school. I wasn't studying.

4 Q. Thank you. I would now like to show you another document, if a hard copy
5 could be provided to the witness. This is a document that has not yet been given
6 an MFI number, unless I'm mistaken, but it bears the number DRC-D01-0003-2503. I
7 don't believe it has received an MFI number yet.

8 PRESIDING JUDGE FULFORD: Please. Give it an MFI number.

9 THE COURT OFFICER: That, your Honour, will be assigned an MFI number D00176.

10 MR DESALLIERS: (Interpretation) Thank you.

11 Q. Witness, the document that I just provided you a hard copy of is a
12 photocopy of a document, a photocopy -- rather, a photograph of this sheet that
13 provides the results from exams that were held at (Redacted). And
14 first of all I would like to draw your attention to something that we see at the
15 top of the page. Do you see class 3A, third year A?

16 A. Yes, I see that, top of the page, left-hand side.

17 Q. Then, on the left-hand side, there is a column of figures. Do you see
18 that as well?

19 A. Yes.

20 Q. Could you please go to line 12 of this document; do you see that?

21 A. Yes, I see it.

22 Q. At this line do you see (Redacted)?

23 A. I see.

24 Q. And then over to the right we see "Gender male" and a mark "64.5." Do you
25 see that?

1 A. Yes.

2 Q. Mr Witness, were you in third year at (Redacted) in

3 2001?

4 A. Similarly, I don't -- I don't --

5 THE INTERPRETER: Inaudible.

6 A. -- I didn't study there.

7 Q. Did I understand your answer? Did you say that you didn't study at

8 (Redacted); is that what you said?

9 A. Yes.

10 Q. Thank you. Last week you mentioned that you knew a person by the name of

11 (Redacted); is that not so?

12 A. Yes, I know him.

13 Q. Now, is that a person that you know very well?

14 A. Yes, I know him well now.

15 Q. How long have you known him for?

16 A. (Redacted), I know him. Could you repeat the question?

17 Q. Yes. I would like to know how long have you known (Redacted) for?

18 A. I've known him -- I've always known him. When we were -- ever since we

19 were back home.

20 Q. Ever since you were very young children?

21 A. No.

22 PRESIDING JUDGE FULFORD: Mr Desalliers, isn't that enough? Do we need to be

23 minute about it?

24 MR DESALLIERS: (Interpretation) That's all right, your Honour.

25 Q. Witness, do you know the name of the parents of (Redacted)

1 A. The names of the parents of (Redacted)? No, I don't.

2 Q. Thank you. I am now going to show you another document, if a hard copy of
3 that document could be provided to the witness. This document has already been
4 given a reference number, D01-00100. The document that I just provided you with is
5 a copy of a voter card, and my question -- my first question about this document is
6 as follows: Do you recognise the person on the photograph on that card?

7 A. No.

8 Q. To help you, Witness, I'd like to provide you with a copy of the same
9 document, the same card, but we have expanded -- enlarged the image. If a copy
10 could be provided. This is the same document. Witness, so you have this same card
11 here, but an enlarged version, so I'll ask my question: Do you recognise the
12 person whose photograph is found on the card?

13 A. I can't identify that photograph because it's not clear.

14 Q. Very well. Thank you. Witness, could you specify again what is the
15 complete name of your father, name, post-name and the first name of your father?

16 A. It was (Redacted) (phon).

17 Q. Did your father have brothers?

18 A. The parent?

19 Q. Your father, did he -- did your father have brothers, uncles in terms of
20 you?

21 A. Yes, I had some.

22 Q. Could you give us their full names?

23 A. Yes, I can. The full name -- well, I can't say the full name because --
24 well, if it's -- I can give the first name or the post-name, but I'm not entirely
25 familiar with the full names.

1 Q. Fine. So all the names that you know, Mr Witness?

2 A. I knew -- I know, (Redacted).

3 Q. (Redacted) (phon) then; is that right?

4 A. Yes.

5 Q. Do you know any other names for him?

6 A. No.

7 Q. Did your father have other brothers, someone other than (Redacted)?

8 A. Yes.

9 Q. Could you please give us all their names?

10 A. One was called (Redacted)

11 Q. Do you know any other names, any names other than (Redacted)

12 A. No.

13 Q. Did your father have other brothers?

14 A. Yes, there were some others.

15 Q. Could you give me the names?

16 A. I said it was (Redacted). You asked me the names of the brothers of my father,
17 (Redacted).

18 Q. So there was (Redacted), who was the second name that you gave us, and there
19 was also, let me check -- I don't want to mislead you. Excuse me. You said (Redacted)
20 (Redacted)?

21 A. Yes.

22 Q. So other than those two names did your father have other brothers?

23 A. (Redacted).

24 Q. So (Redacted); is that right?

25 A. Yes.

1 Q. (Redacted)

2 A. (Redacted) (phon).

3 Q. (Redacted). Do you know other names for him?

4 A. No.

5 Q. Did your father have any other brothers, anyone other than these three
6 people?

7 A. Some of them weren't there with us.

8 Q. Very well, but just to be very clear I'm not asking you whether they were
9 there with you or not. I'm just asking whether your father had other brothers and,
10 if so, what their names were. I understand by your answer that there were other
11 brothers.

12 A. Those are the names of the uncles whom I know.

13 Q. Very well, I just want to make sure I've got it right. So your father had
14 other brothers than these three people, but you didn't know them? Is that your
15 answer?

16 A. I beg your pardon?

17 Q. Do you know how many brothers -- how many brothers your father had?

18 A. I don't know the number. There was (Redacted) and then the
19 third person I mentioned. The others were in Uganda. The others were at (Redacted)
20 (phon).

21 Q. So the others were where?

22 A. They were (Redacted).

23 Q. Thank you. Could you please give us the name of -- the names of your
24 grandparents on your father's side; that is to say your paternal grandparents? Can
25 you give us their names?

1 A. My grandfather was called (Redacted).

2 Q. Do you know his other names?

3 A. I didn't even see them.

4 Q. Do you know the name that your paternal grandmother bore?

5 A. The grand, I beg your pardon?

6 Q. Your grandmother, the mother of your father, do you know what name she
7 bore?

8 A. I don't remember the names of my grandmother very well.

9 Q. Could you now give us the name of your maternal grandparents; the names of
10 your mother's parents, that is?

11 A. On the mother's side? My maternal uncles?

12 Q. No, I'm not putting a question to you with regard to your uncles, but with
13 regard to your grandparents on the maternal side. So my question to you is what
14 are, or what were, the names of your grandparents on your mother's side?

15 A. The mother was called -- my grandmother was called (Redacted) (phon).

16 Q. Sir, you will excuse me, I might be mispronouncing this. (Redacted)
17 (phon)?

18 A. Yes.

19 Q. And your grandfather?

20 A. The grandfather was called (Redacted) (phon).

21 Q. (Redacted) (phon)?

22 A. (Redacted).

23 Q. (Redacted). And do you know whether they bear any other names, your
24 grandparents, or are these the only ones?

25 A. I only know that information.

1 Q. Thank you. Could you tell us how many brothers and sisters you had?

2 A. I had an elder sister and two brothers.

3 Q. So, there were four children? You were four children at home?

4 A. At home, myself -- yes, and myself.

5 Q. Including yourself. And your elder sister, what was her name?

6 A. My elder sister is called (Redacted) (phon).

7 Q. Do you know her other names?

8 A. Only that.

9 Q. And was she the eldest of the family?

10 A. She was the eldest.

11 Q. And who was next in line?

12 A. Myself.

13 Q. And after you?

14 A. There was (Redacted) (phon).

15 Q. (Redacted)

16 A. Yes.

17 Q. Is that a boy?

18 A. It is a boy.

19 Q. Do you know his other names?

20 A. It's (Redacted).

21 MS SAMSON: Excuse me, your Honour, I had understood that the precise focus

22 of this questioning was on a point that I feel we've moved fairly far away from.

23 PRESIDING JUDGE FULFORD: Well, it is identity. I mean, you're right that

24 this isn't following the same course as with the other two witnesses. Do you want

25 us to stop it, Ms Samson?

1 MS SAMSON: I understand, your Honour, that the issue is related to identity.
2 These types of questions were certainly asked to another of the witnesses who was
3 here previously, but my understanding was that the re-examination, if I can call it
4 that, or the focus that was permitted from the Chamber, was on a point related more
5 specifically to perhaps the documents we've already seen and some documents yet to
6 be seen. Without alerting the witness to the issue, I'm hedging somewhat in terms
7 of my explanation.

8 PRESIDING JUDGE FULFORD: Well, I suspect, given we've now done the maternal
9 side, the paternal side and we're heading down through the siblings, that there's
10 not much left of these questions. Is that right, Mr Desalliers? Are we nearly at
11 a close to this line? I certainly hope we are.

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

13 PRESIDING JUDGE FULFORD: Good. Well, noted, Ms Samson, but complete the
14 exercise, Mr Desalliers, hopefully reasonably quickly.

15 MR DESALLIERS: (Interpretation) Thank you, Mr President.

16 Q. So, you indicated to us that the brother who is next in line to you is
17 known by the name of (Redacted). Is that the only name that you know; is that correct?

18 THE INTERPRETER: No answer.

19 MR DESALLIERS: (Interpretation)

20 Q. And who came then next?

21 A. And then was there (Redacted).

22 THE INTERPRETER: Correction, (Redacted).

23 MR DESALLIERS: (Interpretation)

24 Q. Very well. So you and those three individuals are the only children that
25 your parents had; is that correct?

1 A. Yes.

2 Q. Did I understand you correctly when you testified to the effect that you
3 still -- you have a sister who is still alive together -- today?

4 A. Yes, she is alive.

5 Q. Could you tell us who of those two sisters that is?

6 A. My eldest sister.

7 Q. (Redacted)

8 THE INTERPRETER: Mr President, could a pause please be observed between
9 question and answer session. Thank you.

10 MR DESALLIERS: (Interpretation)

11 Q. I'm going to show you a document. For the record, this document has
12 already received an EVD number D01-00097. If a copy could be given to the witness,
13 please, a hard copy thereof. So, Mr Witness, do you recognise the individual in
14 this photograph?

15 A. No, I do not recognise this person.

16 MR DESALLIERS: (Interpretation) Thank you. Could another document please be
17 given to the witness? For the record, this document has already received the
18 reference EVD-D01-00104.

19 Q. Mr Witness, my question is as follows. Do you recognise the individual in
20 this photograph?

21 A. No.

22 Q. Thank you. I shall put another document to you. If the witness could
23 please receive a copy of the document under reference number EVD-D0100103,
24 reference number already attributed. Before putting a question to you on this
25 document, I would like to know, Mr Witness, whether you know an individual by the

1 name of (Redacted)

2 A. No, I do not know that individual.

3 Q. So, Mr Witness, are you saying that you do not recognise the individual on
4 the photograph; is that correct?

5 A. I can't see this person very well on the photograph. It isn't clear.

6 MR DESALLIERS: (Interpretation) One moment, Mr President, please. Could an
7 enlarged version of this same document be given to the witness, please.

8 PRESIDING JUDGE FULFORD: Could this be shown to the witness.

9 THE WITNESS: The photograph is still not clear.

10 MR DESALLIERS: (Interpretation)

11 Q. So you do not recognise the person on or in the photograph?

12 A. Yes.

13 Q. Without taking the photograph into account, I'd like to know whether you
14 know an individual by the name of (Redacted)

15 PRESIDING JUDGE FULFORD: Hasn't he just answered that question?

16 MR DESALLIERS: (Interpretation) I understood that he did not recognise the
17 person in the photograph. I would like to put the photograph to one side and find
18 out whether the witness knows an individual by this name.

19 PRESIDING JUDGE FULFORD: Well, Mr Desalliers, I may be wrong but, at the
20 beginning of the English transcript, page 42 line 2, unless I'm very much mistaken,
21 you put -- didn't you put the name to him to which he said, "No, I don't know that
22 individual"? Now, right. All right. Well, let's get through this. Put the
23 question again. Put the question again, Mr Desalliers.

24 MR DESALLIERS: (Interpretation)

25 Q. Mr Witness, I would like you to put the photograph to one side, and I am

1 simply asking you the question with reference to the name: Do you know an
2 individual by the name of (Redacted)

3 A. No.

4 Q. Thank you.

5 THE COURT OFFICER: Your Honours, for the purposes of the record, EVD-D00103
6 would consist of two images. One would be the shortened version and the other one
7 is the blown-up version and similarly for EVD D00100, again, they would contain of
8 two images. One is just a normal one and the other one is the blown-up version.

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

10 MR DESALLIERS: (Interpretation)

11 Q. Could the witness please be given the documents that have already been
12 shown to him last week; notably, the three tabs referring to his application for
13 participation.

14 PRESIDING JUDGE FULFORD: Now, Mr Desalliers, I hope this is going to be
15 wholly new material. We've given you leave to ask further questions on the basis
16 of new documents that weren't available to you. We will be extremely reluctant to
17 allow you to question the witness again on documents that have already been shown
18 to him. Now, what, in a sentence, is the justification for this, please?

19 MR DESALLIERS: (Interpretation) The question is very brief, Mr President,
20 and it has a bearing upon the identity of the father. So I shall be merely
21 referring to the application for participation which covers the identity of the
22 father.

23 PRESIDING JUDGE FULFORD: All right. Confined to that, yes, show the bundle
24 back, please, to the witness.

25 MR DESALLIERS: (Interpretation)

1 Q. Mr Witness, these documents were shown to you last week, and we discussed
2 them. I would like you, please, to go to tab 2, which is your application for
3 participation as a victim in this case. And, more specifically, please go to page
4 3. Have you found it?

5 A. Yes.

6 Q. Under item 3 we can see "Name of father" (Redacted). "Name of mother"
7 (Redacted), and just below that you wrote as closest relative, or if you are
8 younger than 18 years of age, a name of a representative. This document was
9 prepared in September 2006, Mr Witness. So my question is as follows: In
10 September 2006 did or was an individual by the name of (Redacted) the closest
11 relative to you in your family?

12 A. I beg your pardon?

13 Q. I shall put the question to you in another manner, Mr Witness. (Redacted)
14 (Redacted), are these one and the same individual, or are they two separate
15 individuals?

16 A. That is the name of my father.

17 Q. Very well. Thank you. Could another or further document be shown to the
18 witness, please. This document bears an EVD number D0100102. Mr Witness, do you
19 recognise the individual in this photograph?

20 A. No.

21 Q. Thank you. Could another document please be shown to the witness, which
22 has received the reference number EVD-D0100101. Mr Witness, do you recognise the
23 lady in this photograph?

24 A. No, I do not.

25 Q. Thank you. Could another document please be shown to the witness, which

1 has received an EVD number D010096. Mr Witness, do you recognise the individual in
2 this photograph?

3 A. No.

4 Q. Thank you. Mr President, one moment, please.

5 MR DESALLIERS: (Interpretation) Thank you. I have no further questions, Mr
6 President.

7 PRESIDING JUDGE FULFORD: Thank you Mr Desalliers. Anything else, Mr Keta?

8 MR KETA: (Interpretation) I have no questions, Mr President.

9 PRESIDING JUDGE FULFORD: Sir, we are deeply indebted to you for coming back.
10 Thank you very much. And I anticipate that that is certainly now the end of your
11 evidence and you are free to return home. Thank you very much indeed for your
12 assistance. Thank you, Mr Lubanga.

13 (The accused exits the courtroom)

14 PRESIDING JUDGE FULFORD: Closed session, please.

15 *(Closed session at 5.54 p.m.) Reclassified as Open session

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

17 (The witness is excused)

18 PRESIDING JUDGE FULFORD: Public session, please. Could Mr Lubanga come
19 back.

20 (The accused enters the courtroom)

21 (Public session at 5.54 p.m.)

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

23 PRESIDING JUDGE FULFORD: At the end of November, the 27th, in fact, in
24 document 2197, the Defence requested that one of their witnesses should be allowed
25 to give evidence by video, rather than attending court, so there would be a

1 satellite connection. The stance of the Prosecution has been not to oppose this
2 application. And as we understand it, Mr Walley, who has a particular interest in
3 relation to the witness concerned, has been provided with relevant materials.

4 Mr Walley, did you receive anything in relation to this or not?

5 MR WALLEY: I'm not sure, Mr President, that it concerns one of those
6 witnesses that concerns me directly, because I did make the link with the video
7 conference, for the Defence announced that I am particularly concerned by their
8 witnesses 14 and 15.

9 PRESIDING JUDGE FULFORD: So you're aware of the application and you're aware
10 of the link with the individual that you represent; is that right?

11 MR WALLEY: Honestly, Mr President, I was not aware -- I didn't make the
12 link between that video request of November and the number that was announced now.

13 PRESIDING JUDGE FULFORD: Mr Walley, if there is a link, would you be able
14 to indicate today, or would you want time to think about it, as to whether or not
15 you have any opposition to this application for the witness to give evidence by way
16 of a satellite link?

17 MR WALLEY: Is it possible, Mr President, to contact also my colleague, who
18 is in Congo, to discuss this?

19 PRESIDING JUDGE FULFORD: Certainly. We'd like to deal with this this week.

20 MR WALLEY: That's fine.

21 PRESIDING JUDGE FULFORD: Thank you. We'll return to this, then, a little
22 bit later in the week.

23 Maître Mabilly has indicated that she would like to make a short speech at
24 the commencement of the accused's evidence explaining and setting out certain
25 themes of the accused's case. Does anybody oppose Maître Mabilly making a short

1 speech? Ms Samson?

2 MS SAMSON: No, we don't oppose, your Honour.

3 PRESIDING JUDGE FULFORD: Thank you. Nothing is said by the representatives
4 of the victims. We would welcome it, Maître Mabilie. An explanation from you at
5 the commencement of your evidence as to how it is that the case for the Defence is
6 going to unfold or how it's anticipated would be of considerable assistance to the
7 Bench. So we welcome that proposal. It's now 6.00 and you can address us,
8 therefore, at the same time, not 6.00, that is, but at 2.30 tomorrow afternoon.
9 Anything else?

10 MS MABILLE: (Interpretation) I just wanted to say, Mr President, that we
11 were not able to resolve the issue associated with our discussion with witness
12 number 2 linked or associated with problems of translation, if I understood
13 correctly. So we are going to be meeting this evening in order to discuss this
14 with him. He will be testifying tomorrow. I wanted to draw the Chamber's
15 attention to that matter.

16 We also came up against the same concern with reference to the second witness
17 due to testify, whom we were going to request his consent so that he meet with the
18 Office of the Prosecutor, and this was not possible, either. I believe that the
19 problem is associated with the fact or availability or non-availability of
20 translators. I wanted to draw the Chamber's attention to that fact.

21 PRESIDING JUDGE FULFORD: Well, thank you very much for bringing those
22 matters to our attention. Time is now extremely precious, given that we are having
23 to share two courtrooms between three trials, and the Chamber will be very
24 reluctant, indeed, to lose time for administrative problems. So it is absolutely
25 critical that there is liaison between everyone involved as regards these problems,

1 and if they cannot be resolved by discussion, that they are brought speedily to our
2 attention, even if only by email, so that the Bench can intervene to assist, if
3 assistance is within our power. But applications to adjourn under the present
4 arrangements will be treated very skeptically. Good. But thank you for warning
5 us, Maître Mabilille.

6 2.30 tomorrow afternoon.

7 THE COURT USHER: All rise.

8 (The hearing ends at 6.02 p.m.)

9 RECLASSIFICATION REPORT

10 Pursuant to Trial Chamber I's email instruction dated 25th January 2012, the
11 transcript is reclassified as public after the indicated redactions have been
12 implemented as ordered by the Chamber. All private and closed sessions (*) are now
13 available to the public with the exception of the portions of the transcript that
14 have been redacted.

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