

1 International Criminal Court
2 Trial Chamber I - Courtroom 1
3 Presiding Judge Adrian Fulford, Judge Elizabeth Odio Benito
4 and Judge René Blattmann
5 Situation in the Democratic Republic of the
6 Congo - ICC-01/04-01/06
7 In the case of The Prosecutor v. Thomas Lubanga Dyilo
8 Tuesday, 9 March 2010
9 (The hearing starts at 2.35 p.m.)

10 *(Closed session) Reclassified as Open session

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

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

15 PRESIDING JUDGE FULFORD: Good afternoon. I am sorry we
16 are late. There was a short-term transcript problem. Witness,
17 please.

18 (The witness enters the courtroom)

19 PRESIDING JUDGE FULFORD: Mr Biju-Duval, can you remind me,
20 were we in public or private session when we broke off?

21 MR BIJU-DUVAL: (Interpretation) I remember that a
22 question that was asked required us to be in private session, that
23 is the last question that was asked, but before we go to that I have
24 two questions - clarification questions - to put to the witness which
25 can be -- this can be done in public session. With the leave of the

1 Bench, we can start in public session for two or three questions and
2 then return to private session in order to carry on from where we left
3 off.

4 PRESIDING JUDGE FULFORD: Certainly. Public session,
5 please.

6 (Open session at 2.37 p.m.)

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

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

9 MR BIJU-DUVAL: (Interpretation) Thank you, your Honour.

10 WITNESS: WITNESS WWW-D01-0016 (On former oath)

11 (The witness answers through interpreter)

12 QUESTIONED BY MR BIJU-DUVAL: (Interpretation)

13 Q. Good morning, Witness -- or good afternoon, Witness.

14 A. Good afternoon.

15 Q. I would like to start by asking you two or three questions
16 to get some clarification from you on certain things that you said
17 yesterday. Yesterday you said, and I quote, "The lies we had to plan
18 was that he registered children, or rather enlisted children, in the
19 army." When you said, "in the army," can you tell us what army you
20 are referring to?

21 A. Yes, I can do that. I was talking about the UPC armed group.

22 Q. Thank you. And when you said "... he had children enlisted,"
23 when you talked about "he", who were you alluding to?

24 PRESIDING JUDGE FULFORD: Can you pause for a moment before
25 answering. Yes, Mr Sachdeva.

1 MR SACHDEVA: Mr President, if I could just have a reference
2 for that particular line. I just don't recall hearing that in the
3 evidence, but perhaps I've missed it.

4 PRESIDING JUDGE FULFORD: Do you have a reference, by any
5 chance, Mr Biju-Duval?

6 MR BIJU-DUVAL: (Interpretation) It's in the French
7 transcript, page 12, lines 10 to 12.

8 PRESIDING JUDGE FULFORD: Thank you. Could you put the
9 question again, please.

10 MR BIJU-DUVAL: (Interpretation)

11 Q. Yesterday you said the lies that had to be planned were
12 to say he had children registered, or enlisted, into the army. When
13 you talk of "he," who are you referring to? Which individual are you
14 referring to?

15 A. Well, this is what I said yesterday. We prepared lies and
16 I was supposed to say that I saw Mr Thomas Lubanga enlisting children
17 into the UPC army.

18 Q. Thank you. I wish to get one last clarification from you.
19 Yesterday you said, and I quote:

20 "As far as I was concerned, he told me that I was to tell
21 the investigators that I had served as a soldier. Since I knew soldiers,
22 I went before the investigators as someone who had been in the army."

23 When you talked of "the army" at that time, what army were
24 you referring to?

25 A. As I said yesterday, that is what we planned. I have never

1 been in the army and I have never been enlisted into the army. However,
2 whilst we were talking about the army as we were planning the lies,
3 we were talking about the UPC army.

4 MR BIJU-DUVAL: (Interpretation) Thank you very much for
5 that clarification.

6 Your Honour, I think we can carry on from where we left off
7 yesterday, and for that we will need to go into private session because
8 certain names could be mentioned.

9 PRESIDING JUDGE FULFORD: Private session, please.

10 *(Private session at 2.43 p.m.) Reclassified as Open session

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

12 MR BIJU-DUVAL: (Interpretation) I have thought of another
13 way of tackling this subject matter, your Honour, in order to please
14 the Prosecutor. I would like that a binder containing several documents
15 be handed over to the witness, and I wish to show him one of the documents,
16 which is a photograph. I have, for the benefit of the Bench, three
17 copies of the binder which contains the documents which we will be
18 relying on.

19 Your Honour, would it be possible to have a copy sent to
20 the interpreters, please?

21 PRESIDING JUDGE FULFORD: Mr Biju-Duval, do we have a copy
22 of these for the interpreters? Is there a spare anywhere?

23 MR BIJU-DUVAL: (Interpretation) I have been informed that
24 a copy was sent to the interpreters, your Honour.

25 PRESIDING JUDGE FULFORD: Well, to the gentleman who just

1 asked me the question, I hope you've got one upstairs already. If
2 you haven't, could you please let me know.

3 THE INTERPRETER: We do have some documents here, your Honour.
4 Thanks a lot.

5 PRESIDING JUDGE FULFORD: Please carry on, Mr Biju-Duval.

6 MR BIJU-DUVAL: (Interpretation) Thank you, your Honour.

7 PRESIDING JUDGE FULFORD: I'm sorry, I'm slow off the mark.
8 We are going to need an interpreter for this, aren't we? Are you showing
9 individual documents to the witness? I had understood that it would
10 be necessary for him to have assistance.

11 MR BIJU-DUVAL: (Interpretation) Well, not now, your
12 Honour. We can give him a few questions before we tackle the documents
13 that would require the assistance of an interpreter. I simply wish
14 to show the witness a photograph now.

15 PRESIDING JUDGE FULFORD: Certainly. Good. Usher, could
16 you go, then, to the witness box and help the witness look at the
17 photograph that Mr Biju-Duval is about to identify.

18 MR BIJU-DUVAL: (Interpretation) The photograph is found
19 in tab 1; it's the very first document in the binder.

20 Q. Witness, may I remind you that you should rest assured that
21 we are in private session, and any information you are going to provide
22 now will remain confidential.

23 PRESIDING JUDGE FULFORD: So, usher, tab 1, please. Good.
24 Thank you.

25 MR BIJU-DUVAL: (Interpretation)

1 Q. Witness, do you recognise the individual in this photograph?

2 A. Yes, I know this individual.

3 Q. Could you please state his name before the Court, if you
4 know it?

5 A. Yes. His name is (Redacted) (phon).

6 Q. Do you know his other names?

7 A. I don't know his other names. The name I gave is the only
8 name I know.

9 Q. Thank you.

10 PRESIDING JUDGE FULFORD: Thank you, usher. That completes
11 that.

12 MR BIJU-DUVAL: (Interpretation) Your Honour, I think an
13 EVD number should be given to this document.

14 PRESIDING JUDGE FULFORD: Quite right.

15 THE COURT OFFICER: And that will be assigned EVD-D01-00113
16 confidential and that is for the one-page coloured photograph under
17 DRC-OTP-0214-0360, your Honours.

18 MR BIJU-DUVAL: (Interpretation)

19 Q. Witness, could you please tell us how you know this individual?
20 Under what circumstances did you get to know this person?

21 A. Yes, I can tell you that. I grew up together with this person
22 in the same neighbourhood, and I do know him because he used to come
23 to (Redacted). I would go even as far as saying (Redacted)
24 (Redacted).

25 Q. Thank you. To the best of your knowledge, did this individual

1 meet or have any contact with (Redacted)?

2 A. As far as I'm concerned, I know they met together. I met
3 them together one day at the hotel, so I met him at the hotel with
4 (Redacted).

5 Q. Thank you. When you say that "I met him at the hotel with
6 (Redacted)," which hotel are you talking about? Where is the hotel
7 located?

8 A. The hotel is called (Redacted) (phon) in Bunia.

9 Q. Thank you. Did you ever have the opportunity of meeting
10 (Redacted) in other places; that is, places other than Bunia?

11 A. Yes. I was with (Redacted) in Kampala, and we were together
12 with (Redacted).

13 Q. Thank you. When you say "we were together with (Redacted),"
14 it's evident that you are referring to (Redacted); is that the case?

15 A. Yes.

16 Q. When you say "(Redacted) and I were together with (Redacted)
17 in Kampala," now, that meeting in Kampala between the three of you,
18 when did it take place? On what occasion?

19 A. Well, (Redacted), (Redacted) and I met each other because (Redacted)
20 and I took the trip to go to Kampala, we prepared for the trip. So
21 we went to Kampala. (Redacted) had left (Redacted) to go to Kampala.
22 He had caused trouble in (Redacted). He had been involved in a theft,
23 had fled to Kampala, and was living in (Redacted), (Redacted)'s house
24 in Kampala. Since he was living with (Redacted), he came
25 to see me at the hotel, and (Redacted) met (Redacted) under those

1 circumstances.

2 Q. You talked about a trip to Kampala made with (Redacted).
3 Is it the same trip to Kampala that you talked about yesterday, the
4 trip during which you met the investigators from the OTP, or are you
5 talking about a different trip?

6 A. No, it wasn't another trip. It was the same trip that I
7 made with (Redacted) in order to meet the investigators.

8 Q. Thank you. To your knowledge, did (Redacted) meet (Redacted)
9 in Kampala at that point in time?

10 A. Can I give you more details before I talk about the moment
11 when they met each other? If you give me -- give me that permission,
12 then, please, I will be able to do so.

13 PRESIDING JUDGE FULFORD: You certainly can.

14 THE WITNESS: When (Redacted) and I reached Kampala, we were
15 in the hotel. (Redacted), I would say. He came
16 with (Redacted), (Redacted), who was living in Kampala and who
17 was a (Redacted). He came to see me at the hotel. We had a meal together.
18 And in the evening, he returned home.

19 (Redacted) met them at that time, and he thought of them as being
20 (Redacted). At one point I returned to (Redacted) and I left them;
21 that is, I left them behind. I left (Redacted) and (Redacted) in
22 Kampala and I returned to (Redacted).

23 So I returned to (Redacted), and (Redacted)'s wife was in (Redacted)
24 at the time. I stayed in (Redacted), and (Redacted) returned at some
25 point in

1 (Redacted), to (Redacted). At the time I was in (Redacted). When
2 he arrived, he stayed at the hotel. When he reached (Redacted), he
3 called me. I was the first person to go and see him.

4 He told me that he had business to do with certain West Africans
5 and this had to do with (Redacted). I told
6 him, fine. And he asked me to go and speak to his wife in his home
7 and to tell her that he was in town, but he said I should not
8 explain to her exactly where he was, that is, at the hotel.

9 I went to see his wife and I told her (Redacted)
10 (Redacted)
11 (Redacted). And she said, "I would like to see
12 you again in the evening." In the evening, I was not able to find
13 him.

14 The next day, he called me. He called me by phone. I went
15 to see him. I had left him in Kampala, but I then discovered that
16 he had changed. So we left that place, and we went to a bar, it was
17 during the day, and then we returned to the hotel. The name of the
18 bar was (Redacted). He had a room in the hotel, but I don't know whether
19 he had any contact with (Redacted) at that point in time.

20 But when I was leaving, I saw (Redacted) entering the hotel,
21 and (Redacted) entered after him and he went to the receptionist. He
22 went to the reception where beer was being sold. (Redacted) and (Redacted)
23 returned to the hotel together, and at that time I understood that
24 they were working together.

25 And this didn't last long. In the evening I found myself

1 in the company of (Redacted) drinking. He had money, and he said that
2 it was our last meeting, that he would be on his way, and he left.
3 At that moment in time I understood that (Redacted) and (Redacted)
4 were in contact. That is what I wanted to say to you.

5 Q. Thank you very much for that clarification. You told us
6 during this explanation that you understood that (Redacted) and
7 (Redacted) were working together. Do you have any knowledge of
8 precisely what they were doing together, the work that they undertook?

9 A. No, you have not understood me correctly. What I meant was
10 that they were not working together, but (Redacted) remained at the
11 hotel. And when I saw him at the hotel, I did not initially see (Redacted).
12 And (Redacted) lied to me by saying that he was working together and
13 had business dealings with West Africans (Redacted). And it
14 was on the next day that I saw him in the company of (Redacted).
15 They were together, and that was in the evening. And at that moment
16 he told me that he would be leaving. He said that he and (Redacted)
17 would be leaving and that we would no longer see each other. But I
18 am not saying that they were working together. That is merely what
19 I wanted to tell you.

20 Q. Thank you very much. You indicated that you knew (Redacted) well.
21 My question to you is as follows: To your knowledge, was (Redacted)
22 a soldier and a member of an armed group at any moment in time?

23 A. Yes. I know about (Redacted)'s life. Up until the moment in
24 time when he got his diploma and he went to (Redacted) (phon), he fled
25 the war. He worked for (Redacted), and then he (Redacted) and he

1 sought refuge in Kampala and he returned to (Redacted). He is in
2 (Redacted) today. He was never in the army.
3 He spent his days in (Redacted), and he often came
4 (Redacted). I was his barber, and I know him only too well. He was
5 never a member of the army.

6 Q. Thank you. I would just like you to shed light on a place
7 that you named, because the transcribers have had difficulty writing
8 this word. You talked about either (Redacted) (phon) or (Redacted)
9 (phon). Could you remind us of this name?

10 A. Yes, I can. It is the area of (Redacted) and the place is
11 called (Redacted).

12 Q. Thank you.

13 MR BIJU-DUVAL: (Interpretation) Mr President, I believe
14 that we might move back into open session. I would like to remind
15 the witness the procedure with regard to the name (Redacted).

16 Q. Mr Witness, we are going to move back into open session
17 now, and we are going to proceed as we did yesterday; notably, when
18 I spoke of Mr X, this means that I am talking of (Redacted). If
19 you wish to mention (Redacted), you need to say "Mr X." Have you
20 understood me correctly?

21 A. Yes.

22 PRESIDING JUDGE FULFORD: Public session, please.

23 (Open session at 3.06 p.m.)

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

25 MR BIJU-DUVAL: (Interpretation) Mr President, I

1 apologise. I believe that I shall have to request a closed session
2 once again, with a view to clarifying an interpretation issue with
3 respect to the individual we have just made mention of, and then we
4 will be able to move back into open session, but I believe that we
5 need to broach this issue immediately.

6 PRESIDING JUDGE FULFORD: Private session, please.

7 *(Private session at 3.07 p.m.) Reclassified as Open session

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

9 MR BIJU-DUVAL: (Interpretation)

10 Q. I apologise, Mr Witness. I'd like to return to what you
11 said on the subject of (Redacted) and (Redacted) in order to make sure
12 that I have understood correctly what you said. You told us, and I
13 quote, "I am not telling you that they weren't together." This is
14 what appears in the transcript.

15 Were you alluding to (Redacted)
16 that you were working about, or were -- that you were talking about,
17 or were you referring to something else?

18 A. Yes, I believe that you have not understood me correctly.
19 I told you the following: On the day that (Redacted) bid me farewell,
20 in the evening he said, "I am leaving. I am going with (Redacted)
21 and my wife. We have some business with (Redacted), and we will
22 no longer be seeing each other". That is what he told me on that evening.

23 Q. I thank you.

24 MR BIJU-DUVAL: (Interpretation) Mr President, I believe
25 we can move back into open session.

1 PRESIDING JUDGE FULFORD: Public session, please.

2 (Open session at 3.09 p.m.)

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

4 MR BIJU-DUVAL: (Interpretation)

5 Q. Mr Witness, during your stay in Kampala when you met with
6 the investigators of the OTP, were you given any money?

7 A. Please repeat your question. I have not quite grasped it
8 correctly.

9 Q. When you met with the investigators of the OTP in Kampala,
10 were you given any money in Kampala or anywhere else?

11 A. Yes. Well, I do not know whether it was they who gave the
12 money. Well, I didn't receive any money directly from them. The person
13 who did give me money was Mr X.

14 Q. Thank you.

15 MR BIJU-DUVAL: (Interpretation) Mr President, I shall
16 now be showing a number of documents to the witness, and I believe
17 that he will require the assistance of an interpreter.

18 PRESIDING JUDGE FULFORD: Can we go into closed session,
19 please, so an interpreter can come down into Court? Thank you.

20 *(Closed session at 3.11 p.m.) Reclassified as Open session

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

22 (The interpreter enters the courtroom)

23 PRESIDING JUDGE FULFORD: Headphones and a chair for the
24 interpreter, please. Private or public, Mr Biju-Duval?

25 MR BIJU-DUVAL: (Interpretation) I believe we can put these

1 questions in open session if we are to take the correct precautions
2 without, of course, showing the documents to the public.

3 PRESIDING JUDGE FULFORD: Good. None of these documents
4 are to be published publicly. Open session, please.

5 (Open session at 3.13 p.m.)

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

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

8 MR BIJU-DUVAL: (Interpretation)

9 Q. Mr Witness, could you please look at the document at tab
10 17. You will see that this is a document entitled in the top left-hand
11 corner a "receipt for reimbursement" and which bears a signature at
12 the bottom of the document. Do you recognise this signature?

13 A. Yes, I do.

14 Q. And whose signature is it?

15 A. It is my signature.

16 Q. Thank you. And you can see the date which appears next to
17 the signature, notably, 28 September 2005, can you not?

18 A. Yes.

19 Q. Above your signature are a number of figures where a sum
20 of \$400 is mentioned. And just above the signature, and I quote, there
21 is written, "I certify having received the sum mentioned above as
22 reimbursement of services provided and expenses incurred." At the
23 top of the document, there are two names that I shall not provide because
24 we are in open session.

25 My question to you is as follows: Do you remember having

1 received this sum of money; notably, \$400?

2 A. Well, I wasn't given this sum in one fell swoop. I was given
3 it over a number of days. I was not given it on one day; I remember
4 that.

5 Q. Thank you. Could you please refer to --

6 MR BIJU-DUVAL: Yes. I am sorry. Let us proceed in order.
7 It might be useful to register this document with an EVD number.

8 PRESIDING JUDGE FULFORD: Very sensible, Mr Biju-Duval.
9 One at a time.

10 THE COURT OFFICER: The one-page document, your Honours,
11 dated 28 September 2005 under DRC-OTP-0216-0027 would be assigned
12 EVD-D01-00114 and marked as confidential.

13 MR BIJU-DUVAL: (Interpretation) I thank you.

14 Q. Mr Witness, could you please consult tab 18, the next tab,
15 and look at the document - which is a document of the same type - and
16 I would ask you to identify the signature appended at the bottom of
17 the document?

18 A. Yes, I can see the signature.

19 Q. And whose signature is it?

20 A. This is my signature.

21 Q. Thank you. In the same way as the previous document, this
22 document makes mention of the fact that you allegedly received at that
23 moment in time the sum of \$700. Do you remember having received this
24 sum?

25 A. The truth be told, I have no recollection of the precise

1 sum.

2 Q. Thank you.

3 MR BIJU-DUVAL: (Interpretation) We would need to provide
4 this document with an EVD number, please.

5 PRESIDING JUDGE FULFORD: Please.

6 THE COURT OFFICER: One-page document, your Honours, under
7 DRC-OTP-0216-0028 would be assigned EVD-D01-00115 and marked as
8 confidential.

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

10 Q. Could you please consult now tab 20 and refer to the document
11 which is a document of the same type as those preceding, and I would
12 also ask you to identify the signature at the bottom of the document?

13 A. Yes.

14 Q. Is that your signature?

15 A. Yes.

16 Q. This document mentions indemnity for a loss of salary dated
17 25 September to 6 October 2005, and in the left-hand column is mentioned
18 a sum of \$100. Do you remember having received this sum of \$100?

19 A. I cannot recall all of this, because (Redacted) did bring me
20 some money, and he asked me to sign documents, but I do not know whether
21 I did or did not receive this sum; but in view of the fact that I have
22 appended my signature, it means that I did receive some money, but
23 I do not recall precisely what the sum was.

24 MR BIJU-DUVAL: (Interpretation) Thank you. Could we
25 please attribute an EVD number to this document?

1 PRESIDING JUDGE FULFORD: Please.

2 THE COURT OFFICER: The one-page document, your Honours, under
3 DRC-OTP-0216-0030 would be assigned EVD-D01-00116 and marked as
4 confidential.

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

6 Q. Could you now consult the last tab, tab 26. In order to
7 consult this document, which is of the same nature of those preceding,
8 could you please identify the signature at the bottom of the document?

9 A. Yes.

10 Q. And whose signature is it?

11 A. It is my signature.

12 Q. Thank you.

13 PRESIDING JUDGE FULFORD: Forgive me for interrupting. In
14 the English transcript, page 18, line 23, a first name was mentioned.
15 Does it need a redaction?

16 MR BIJU-DUVAL: (Interpretation) Yes, Mr President,
17 indeed a redaction, please.

18 PRESIDING JUDGE FULFORD: I'm very grateful to Judge
19 Blattmann for his eagle eyes having noticed that. Good. Redaction,
20 please. Yes, do carry on.

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

22 Q. This last document makes mention under the title "Loss of
23 Earnings" a sum of \$30 and under the other heading of "Transport" there
24 is a sum of \$10, making a total of \$40. Do you remember having received
25 this sum?

1 A. I do not remember very well. However, my signature bears
2 witness to the fact that I did receive it. There is no issue here.

3 Q. I thank you. I am sorry, I shall put my question again.
4 Who is the individual who gave you the money, the money that you received?

5 A. Yes. I said that nobody else - apart from this person -
6 ever gave me any money. The person who did give me money was Mr X.
7 Sometimes he would come and give me money, and then he would ask me
8 to sign a piece of paper. Sometimes I didn't sign, and he would leave.
9 You have showed me my signatures, but I do not really recollect very
10 well. Mr X was the man who gave me the money.

11 MR BIJU-DUVAL: (Interpretation) Thank you. I think we
12 would need to provide an EVD number to the last document mentioned,
13 please; that is, the document bearing the number DRC-OTP-0216-0230.

14 PRESIDING JUDGE FULFORD: Please.

15 THE COURT OFFICER: Just a correction, your Honours. The
16 document should read DRC-OTP-0216-0230 under tab 26, and that will
17 be assigned EVD-D01-00117 and marked as confidential.

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

19 Q. Mr Witness, could you please consult tab 10. At tab 10,
20 there is a document entitled "KN Store." Can you see that document?

21 A. Yes.

22 MR BIJU-DUVAL: (Interpretation) Mr President, I believe
23 that it would be preferable to move into closed session briefly, because
24 I believe that this document might lead the witness to provide precise
25 details as to his activities.

1 PRESIDING JUDGE FULFORD: Private session, please.

2 *(Private session at 3.30 p.m.) Reclassified as Open session

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

4 MR BIJU-DUVAL: (Interpretation) I thank you.

5 Q. Mr Witness, do you recognise this document?

6 A. I can see this document, but I do not remember it.

7 Q. It would seem that this is an invoice for (Redacted)
8 (Redacted). This is what is mentioned in the title of the document?

9 A. Yes, I remember this.

10 Q. Could you say to us what this bill is all about, if you
11 remember?

12 A. Yes. They were products that we bought, so that when I went back
13 to (Redacted), as I had done for a long time in the past, people would
14 ask what I had done in Kampala, and I would say that I had bought
15 these products from Mr X in Kampala. So I went back with these products.

16 Q. Thank you. And who paid for these products?

17 A. Mr X had all the money, but we did all the purchases with
18 him.

19 MR BIJU-DUVAL: (Interpretation) Thank you. I think it
20 would be a good idea to give an EVD number to this document. The next
21 document has to be looked at in public session for the same reasons.

22 PRESIDING JUDGE FULFORD: Is it public or private for the
23 next document?

24 MR BIJU-DUVAL: (Interpretation) Private session, for the
25 same reasons as the previous document.

1 PRESIDING JUDGE FULFORD: Good. EVD number then, please.

2 THE COURT OFFICER: Your Honours, the document under tab 10 is
3 identified as DRC-OTP-0208-0137 and would be assigned EVD-D01-00118,
4 marked as confidential.

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

6 Q. Witness, if you could turn to tab 19. This is a document
7 entitled "Receipt for reimbursement" and it reads, "A lump sum for
8 the purchasing of (Redacted) and this is a matter of coverage".
9 It also mentions the sum of \$200. Could you identify the signature
10 at the bottom of this document? And whose signature is this, could
11 you specify?

12 A. It is my signature.

13 Q. Thank you very much. Now, I know it is difficult and I will
14 ask the same question again: Do you remember receiving this amount
15 of money; the sum of \$200?

16 A. It is not the money that was given to me directly. We went
17 to make some purchases and I got the products. I did not receive cash.
18 I received products that we bought with Mr X.

19 MR BIJU-DUVAL: (Interpretation) Thank you. I think it
20 would be a good idea to give an EVD number to this last document.

21 THE COURT OFFICER: The document under tab 19, your Honours,
22 is DRC-OTP-0216-0029 and will be marked as EVD-D01-00119, confidential.

23 MR BIJU-DUVAL: (Interpretation) Your Honour, I think we
24 can go back into open session following the same protocol with regard
25 to Mr X.

1 PRESIDING JUDGE FULFORD: Public session, please.

2 (Open session at 3.35 p.m.)

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

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

5 Q. Mr Witness, we have understood that you met with the
6 investigators from the OTP in Kampala. After that, once again did
7 you meet with the OTP investigators a second time, after the discussions
8 in Kampala?

9 A. Yes. After that we met once again in Kinshasa.

10 Q. What preparations were made for the trip to Kinshasa?

11 A. Yes, we travelled to Kinshasa, after a while. It was after
12 2006 or 2007, I think. I was in (Redacted). I left, I went back. It was
13 about an entire year. At that point Mr X sent his spouse to get my
14 telephone number from me, because I had lost my telephone number. I
15 didn't have a telephone and I had no contact, so he sent his wife to
16 get me.

17 Q. Thank you. Now, before that trip to Kinshasa, had you had
18 any meetings with Mr X?

19 A. Yes, before I went to Kinshasa I did meet with Mr X.

20 Q. What did you do during those meetings? Why did you have
21 these meetings?

22 A. Well, I can answer, but the replies will be somewhat longer.
23 Now, before I went to Kinshasa, Mr X had sent his wife to get me. I
24 met with his wife and she said that Mr X was in the process of looking
25 for my telephone number and I said to her, "I don't have a telephone,

1 but I do have a friend who I often hang out with, and I will give you
2 his phone number and you can provide that to Mr X." And then after
3 that she left with that number.

4 My friend had already gone home and I was still in town at
5 my own home. The next day my friend came to work and said to me that
6 he had received a call from an unknown number and that call was for
7 me, and I said, "Okay, if people are looking for me, they can find
8 me. They can see me." He came to my service and a few moments later
9 Mr X called and I asked him who it was. He identified himself and
10 he said he wanted to meet with me and I said, "All right, we'll meet,"
11 and I followed him to his home. I was at his home and I was asked
12 to take a taxi and he would pay for it. I followed and we had our
13 chat and I said since I don't have a telephone, he was going to call
14 me using this number and tell me where I could get a telephone. He
15 asked me to remain brave, and I said "Fine" and I went back home, and
16 he said that it was a piece of business to be dealt with the next day.

17 The next day he called me on the telephone of my friend and
18 it was an unknown number. He called me and I said -- I was asked to
19 go to the Hellenic Restaurant and I went there in a vehicle, a
20 Land-Cruiser, a white Land-Cruiser, and someone would be in it and
21 would give me a mobile phone, and if I met that person the person would
22 see how I was dressed and I had to tell them that my name was (Redacted),
23 and he would give me a phone.

24 I got there, I met with someone. He asked me if I was (Redacted)
25 and I said "Yes, that's me," and he gave me the phone. Shortly thereafter

1 I went to Kinshasa.

2 PRESIDING JUDGE FULFORD: Does there need to be a redaction?

3 MR BIJU-DUVAL: (Interpretation) Yes, your Honour, of
4 course.

5 PRESIDING JUDGE FULFORD: Just the one name?

6 MR BIJU-DUVAL: (Interpretation) A first name was
7 provided.

8 PRESIDING JUDGE FULFORD: Thank you. Redaction order,
9 please, for that.

10 MR BIJU-DUVAL: (Interpretation)

11 Q. Witness, thank you for all that additional information.
12 Now, did you need any identity documents to travel?

13 A. Yes. I didn't have an identity card; my identity card had
14 been lost and so I said to myself that I had to get an identity card,
15 an enrolment card --

16 THE INTERPRETER: Correction from the Swahili
17 interpreter --

18 A. -- and he said to me that I shouldn't be afraid and I would
19 be given a student card and with this student card I was going to travel.
20 He got me an enrolment card and I gave him a photograph and he got
21 me an enrolment card -- no, a student card, with which I travelled.

22 Q. Thank you. Now, to make sure that everything is clear, whose
23 job was it to get this student card? Who took care of that?

24 A. Yes, it was Mr X who did that.

25 Q. Thank you very much. Now, was this student card accurate?

1 Did it provide your identity in an accurate way?

2 A. Yes, I had given them my identity and my photographs.

3 Q. When you received this student card, did you look at the
4 various pieces of information that were recorded on this card?

5 A. When I received the student card the next day, I travelled
6 immediately and there was some complications at the airport because
7 of the card. I don't know if it was a problem with the date, something
8 like that, because I had shown the card, I showed my identity, my
9 photograph.

10 Q. Now, who did you meet in Kinshasa?

11 A. Yes. In Kinshasa, the person who greeted me was named (Redacted)
12 as well, but it wasn't Mr X.

13 PRESIDING JUDGE FULFORD: Mr Biju-Duval, I think we need
14 to give the witness a rest. Would now be convenient, or is this going
15 to unduly interrupt your flow?

16 MR BIJU-DUVAL: (Interpretation) No, we can take a break
17 now, your Honour.

18 PRESIDING JUDGE FULFORD: Good. We will give you a break
19 now, sir. We will sit again at five-past 4. Closed session, please,
20 so the witness and the interpreter can withdraw.

21 *(Closed session at 3.45 p.m.) Reclassified as Open session

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

23 PRESIDING JUDGE FULFORD: Yes.

24 (The witness stands down)

25 (The interpreter exits the courtroom)

1 PRESIDING JUDGE FULFORD: Five-past.

2 (Recess taken at 3.48 p.m.) (Upon resuming at 4.05 p.m.)

3 *(Closed session) Reclassified as Open session

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

5 PRESIDING JUDGE FULFORD: Witness, please.

6 (The witness and the interpreter enter the courtroom)

7 PRESIDING JUDGE FULFORD: Public session, please.

8 (Open session at 4.07 p.m.)

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

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

11 MR BIJU-DUVAL: (Interpretation) Thank you, your Honour.

12 Q. Witness, you said that you went to Kinshasa to meet the
13 investigators of the OTP once more. My question to you is the following:
14 Whilst you were in Kinshasa, were you interviewed once more as you
15 had been interviewed in Kampala in the past?

16 A. Yes. When I reached Kinshasa I spent the first night and
17 the second night, and on Monday morning I met certain individuals whom
18 I did not know. Once I arrived, I introduced myself. I told them
19 my full name, and then they left and went to speak on the phone. They
20 spent a long time talking on the phone. I have the impression that
21 there was some confusion. We did not discuss about any other thing,
22 and then I returned. We did not talk about what happened in Kampala,
23 not at all.

24 Q. Thank you. You said you returned. You returned to where
25 after Kinshasa?

1 A. After Kinshasa, I returned home in (Redacted).

2 Q. Thank you. During the meeting in Kinshasa, you say that
3 you had the impression that there was some confusion. What do you
4 mean by that?

5 A. I said that there was confusion because when I left (Redacted), Mr X
6 told me to say that my name was (Redacted). When I arrived, they asked
7 me my name, and I said my name was (Redacted).
8 Immediately they stepped out and they spoke on the phone and shortly
9 afterwards they asked me whether I wasn't with -- or whether I hadn't
10 been with others in Kampala. I said, "Yes." Later on, a vehicle came
11 and took me away, and that's why I felt that there was some confusion,
12 that I had been confused maybe with some other person.

13 Q. Thanks. Thank you very much. Could you tell us - if you
14 know, that is - who met you in Kinshasa? Do you know the names?

15 Your Honour, maybe it would be prudent for us to go into
16 private session here just in case certain names are mentioned.

17 PRESIDING JUDGE FULFORD: Private session, please.

18 *(Private session at 4.13 p.m.) Reclassified as Open session

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

20 THE WITNESS: I do not know their names.

21 MRBIJU-DUVAL: (Interpretation) Thankyou. Noproblemat
22 all.

23 Your Honour, could we return to public session.

24 PRESIDING JUDGE FULFORD: Public session, please.

25 (Open session at 4.14 p.m.)

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

2 MR BIJU-DUVAL: (Interpretation)

3 Q. Mr Witness, could you now turn to tab 2 and examine a document
4 which is drafted in Swahili. Could you please examine that document
5 carefully. The question I have for you is the following. You said
6 that after Kinshasa you returned to (Redacted). Do you recognise this
7 document?

8 A. I know this document very well.

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

10 A. Yes, this is a document I know. We drafted it after I returned
11 from Kinshasa, when I arrived at (Redacted). Once I reached (Redacted),
12 my family members attacked me because of this problem. They said
13 certain persons had come to my home and said that I was lying about
14 Thomas Lubanga. They asked me whether this was true or false. I told
15 them that it was false, because up to that time I did not want them
16 to know what I had been doing.

17 I went to Mr X's home and I told him that the activities
18 we were carrying out with him had caused me problems. I received two
19 persons. One came to my home and I asked him what I should do. I
20 told him that I was at risk because of these problems. I told him
21 that I didn't know what I should do. He told me to return home and
22 that he was going to call me the next day and that together we would
23 find a solution to the problem. I told him "Fine" and I returned home.

24 The next day he called me. It was a day on which there was
25 a football match. I was leaving -- I left the football pitch and he

1 called me to come to his home. He told me that we were going to draft
2 this document in someone's name, on someone's behalf, and I asked
3 him "Who?" And he gave a name, and I said "No, if we do that, it's
4 going to be a bad thing; it wouldn't be proper." And I told him we
5 should proceed otherwise, and he said "Fine." He said "I am going
6 to draft the document and you are going to give this letter to the
7 person who gave you money for your trip. I said "Fine." So he drafted
8 it and he put some ink from the pen on his little finger The following
9 day, I called the person who had given me money before I made my trip
10 to Kinshasa and I handed over this letter to him.

11 MR BIJU-DUVAL: (Interpretation) Thank you very much.
12 Your Honour, for the record, I think it would be useful for this letter
13 in Swahili to be read by the interpreter so that we will have a translation
14 of the letter in court. And that way we will be able to continue with
15 our questions on the basis of the translation that would have been
16 done.

17 PRESIDING JUDGE FULFORD: There is, in fact, a translation
18 provided behind the letter, but I assume there are difficulties with
19 that? It's not agreed? What's the position in relation to the
20 translation that we find in our bundle?

21 MR BIJU-DUVAL: (Interpretation) The difficulty is that
22 we do not have a Swahili interpreter in the Defence team, and so we
23 are not in a position, or rather, it would be preferable for us to
24 confirm the translation which has been proposed by the OTP with a
25 translation done in open court.

1 PRESIDING JUDGE FULFORD: Certainly, Mr Biju-Duval. I
2 would have thought that your client would have indicated whether or
3 not he was happy with the interpretation provided, but no matter.
4 If the interpreter is happy to read out the letter slowly in Swahili
5 so that it can be interpreted in French and English, that would be
6 helpful. Would you mind doing that, sir? Thank you very much. Will
7 you do that now.

8 THE INTERPRETER: (Interpretation) "This is the voice of
9 those of us who are the authorities of the UPC. At this point in time,
10 at this moment, we are telling you that you are an enemy. We know
11 how we are going to put an end to this. Know that wherever you move
12 to, we will not rest until we find you. You should know that it's
13 your corpse that will go before the Court and confront Thomas Lubanga.
14 We know that wherever you are going to move to, we are going to find
15 you. Do you think that our strength is finished? Even your offspring,
16 we are going to wipe it out. Do whatever you like, but know that you
17 cannot escape death, and do not imagine that it's going to come from
18 elsewhere. It will come from us, the authorities of the UPC. You
19 will be buried."

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

21 Q. Witness, I would like to return to the general account that
22 you gave us, but I will proceed stage-by-stage.

23 Could you tell us once again who wrote this letter with his
24 or her pen?

25 A. It was Mr X.

1 Q. Please look at the document. At the bottom we find a mark
2 next to the three underlined -- well, three horizontal lines. Where
3 does this mark come from?

4 A. Yes, I know where it comes from.

5 Q. Could you tell us, please?

6 A. That is the ink from the pen which he put on his little
7 finger and then made a fingerprint on the paper.

8 Q. Thank you. Do you know, do you remember, where this letter
9 was written?

10 A. Yes, he wrote this letter in his home under a guava tree.
11 We were sitting on the lawn, and that is where he drafted the letter.

12 Q. Thank you. You talked about a name, a name that Mr X wanted
13 to include in this letter. What was the name?

14 A. Yes, he wanted to write the letter in Mbuna's name and I
15 said "No."

16 Q. You talked about Mbuna. Do you know his other names?

17 A. Yes.

18 Q. Could you tell us, please?

19 A. Dieudonné.

20 Q. Thank you. Do you know Dieudonné Mbuna?

21 MR BIJU-DUVAL: (Interpretation) Your Honour, I think it
22 would be proper for us to go into private session for subsequent
23 questions.

24 PRESIDING JUDGE FULFORD: Yes. Private session, please.
25 And I think there's at least one name, Mr Biju-Duval, that probably

1 needs a redaction, doesn't it?

2 MR BIJU-DUVAL: (Interpretation) Your Honour, if you are
3 referring to the name that I mentioned in my last question, I don't
4 think it will be useful. We could maintain the name.

5 PRESIDING JUDGE FULFORD: Good. Well, if no one else stands
6 up, then no redaction. But private session, please.

7 *(Private session at 4.27 p.m.) Reclassified as Open session

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

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

10 MR BIJU-DUVAL: (Interpretation)

11 Q. I would like to know whether you know Mr Dieudonné Mbuna.

12 A. Yes.

13 Q. How do you know him?

14 A. Yes, I know him. (Redacted). He came -- he
15 came narrated stories at home. That's why I refused that his name
16 should not be put on the letter. I know him very well. (Redacted)
17 (Redacted).

18 Q. And at a given moment in time, did Mr Dieudonné Mbuna exert
19 any pressure upon you or a member of your family?

20 A. No, this is not how it happened. I said that Dieudonné had
21 come to the house, and he spoke with my mother about this issue. He
22 did not threaten me at all.

23 Q. Thank you. This letter contains a number of threats from
24 officials of the UPC. Now, at any moment in time, did you come under
25 any threat from officials of the UPC?

1 A. No, I said who came to the house and who met with me. I
2 did not talk about any threats.

3 Q. Thank you. Did Mr X give any indication as to what was to
4 be written in the letter?

5 A. Please, could you repeat your question? I haven't
6 understood it correctly.

7 Q. No problem. I shall put another question to you. What was
8 the aim behind this letter? Why did the letter indicate that there
9 were threats that did not actually exist?

10 A. I had talked to him about this issue. When we were writing
11 this letter together, we thought that it would be in our interest.
12 However, when people realised that I was behaving badly, they contacted
13 me and I immediately realised that what I was doing was bad. So, in
14 order to get out of (Redacted), I had to write this letter and then the
15 officials would know how to get me out of (Redacted).

16 PRESIDING JUDGE FULFORD: Does this have to be in private
17 session, Mr Biju-Duval? We are not really dealing with names at the
18 moment, I don't think.

19 MR BIJU-DUVAL: (No interpretation)

20 PRESIDING JUDGE FULFORD: Public session, please.

21 (Open session at 4.33 p.m.)

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

23 MR BIJU-DUVAL: (Interpretation)

24 Q. You have mentioned officials that could help you get out
25 of (Redacted); which officials are you referring to?

1 A. I do not know. He told me when I met him. I talked to him about
2 the issues I was up against and he said that this letter would
3 be sent to officials and, once they had received it, they would know
4 how to get me out of (Redacted). I do not know which officials he
5 was referring to.

6 Q. Thank you. What did you do with this letter?

7 A. Yes. Well, he gave me the letter and I went to give it to
8 the individual who had given me money before I went to Kinshasa. I
9 no longer recall his name.

10 MRBIJU-DUVAL: (Interpretation) Thankyou. Onemoment of
11 indulgence, please.

12 Q. I have understood, therefore, that you no longer remember
13 his name, but do you know who he was working for?

14 A. The person who gave me the money, there was the person who
15 gavemethemoneyandMr X. HewasinchargeandIunderstood, therefore,
16 that this person worked for the ICC.

17 MR BIJU-DUVAL: I thank you. I request one more moment of
18 indulgence from the Trial Chamber. Mr President, I believe that an
19 EVD number should be attributed to the Swahili document.

20 PRESIDING JUDGE FULFORD: Yes, I think Swahili document
21 rather than the translation, given that we have now got an oral
22 translation. EVD number, please?

23 THE COURT OFFICER: DRC-OTP-0222-0004 under tab 2, your
24 Honours, would be assigned EVD-D01-00120.

25 PRESIDING JUDGE FULFORD: Thank you.

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

2 Q. We have just examined this letter and I would now like to
3 put the following question to you: Did you invent any other false
4 threats on any other occasions?

5 A. I do not know the existence of any other concoctions in
6 terms of false threats. I know of no other.

7 MR BIJU-DUVAL: (Interpretation) Mr President, I have no
8 further questions.

9 PRESIDING JUDGE FULFORD: Ready to commence this afternoon,
10 Mr Sachdeva?

11 MR SACHDEVA: I am, Mr President.

12 PRESIDING JUDGE FULFORD: Well done. Just before you do,
13 and I am sorry, do we need the interpreter with the witness or not?

14 MR SACHDEVA: Mr President, for the first part perhaps.

15 PRESIDING JUDGE FULFORD: Please proceed then.

16 Questioned by Mr Sachdeva:

17 Q. Witness, we have met before. My name is Manoj Sachdeva,
18 and I am a member of the Prosecution and I will be asking you some
19 questions today. You went to Kampala for the interview from 25
20 September 2005 until (Redacted); is that right?

21 A. That is true.

22 Q. And during that time, you were interviewed from (Redacted)
23 until (Redacted) with a break on 3 October; is that right?

24 A. I no longer recall the dates.

25 Q. And it's right that during your stay you were provided with

1 what is known as a daily subsistence allowance from the Office of the
2 Prosecutor, weren't you?

3 A. I do not know whether it was the Office of the Prosecutor
4 who gave me this money because the person who handed the money over
5 to me was somebody else.

6 Q. You were explained, were you not, that the office would
7 cover your expenses while you were in Kampala, weren't you?

8 A. That is correct. They gave me some products for my work
9 and I went home with those products.

10 Q. We'll talk about the products in a moment, but I want you
11 to concentrate on the money that was given to you for your expenses,
12 and you said you remember that. I would like you now to turn to the -- it's
13 tab 17 in the Defence's binder. I believe it's EVD-D01-0114. Perhaps
14 I can ask the interpreter to read out the description of the money
15 that was -- that's recorded in the receipt?

16 PRESIDING JUDGE FULFORD: Is this the "DSA Kampala"? Yes,
17 so you want the witness to comment, or to have brought to his attention,
18 those four or five lines; is that right, Mr Sachdeva?

19 MR SACHDEVA: Yes, Mr President.

20 PRESIDING JUDGE FULFORD: Good. Sir, could you, you will
21 see under the heading "Description" there are five lines each beginning
22 with "DSA." Could you just read those out quietly to the witness,
23 please, so that he understands what's recorded there. Thank you very
24 much. Yes, Mr Sachdeva?

25 MR SACHDEVA: Thank you, Mr President.

1 Q. And so, Witness, you can see then that this is an official
2 receipt for money to be provided to you for the expenses that you incurred
3 while you stayed in Kampala; isn't that right?

4 A. Yes. As I indicated previously, I did not receive this money
5 from the Office of the Prosecutor. It was Mr X, rather, who gave me
6 this money. However, it was not the same amount of money that was
7 written on the receipt. Sometimes I was given part of the sum in the
8 morning, some in the afternoon and then the next morning. However,
9 he would come with a document to which I would append my signature.
10 This was not money that I received from the OTP.

11 MR SACHDEVA: Mr President, may we move into private session
12 for one question?

13 PRESIDING JUDGE FULFORD: Certainly. Private session,
14 please.

15 *(Private session at 4.47 p.m.) Reclassified as Open session

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

17 MR SACHDEVA:

18 Q. Sir, if you look at the -- well, perhaps I can ask the
19 interpreter to read out the name of the person that prepared the receipt,
20 and it says Nicholas Sebire. Now, you remember him as one of the
21 investigators that interviewed you, don't you?

22 A. I met many investigators. You know, white men's names are
23 difficult. I do not know whether this is the name of a man or a woman.
24 So it is not the name of the individual who gave me the money, or who
25 had me sign my signature. The person who gave me the document was

1 Mr X, and he gave me the document at the hotel and I also received
2 the money at the hotel where I was staying.

3 Q. You were interviewed for six days. You must remember that
4 Mr Sebire was one of the investigators that was with you during the
5 interview.

6 A. Yes, I was with him at the hotel. He was the person who
7 accompanied me to the place where the investigators were.

8 Q. I am not talking about the person who accompanied you to
9 where the investigators were. I am talking about the investigators
10 that interviewed you during the interview; and my suggestion is, that
11 it was Mr Nicholas Sebire that interviewed you for six days. Now,
12 do you remember that?

13 A. Yes, questions were put to me over those days and I remember
14 that that is what happened.

15 Q. Now, when you travelled to --

16 MR SACHDEVA: Mr President, perhaps we can move into open
17 session for this?

18 PRESIDING JUDGE FULFORD: Thank you. Public session,
19 please.

20 (Open session at 4.51 p.m.)

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

22 MR SACHDEVA:

23 Q. When you went to Kampala you did not want people to know
24 the reason for your travel; isn't that right?

25 A. That is correct.

1 Q. And it's also right that during the interview this was
2 explained to the investigators, and you suggested a cover story for
3 your trip to Kampala?

4 A. Yes, indeed. We were with the investigators, and they told
5 me that I shouldn't tell anybody what I was doing in Kampala, Mr X
6 and myself. This was between us, what we were talking about, it was
7 a private matter between us, and people were not supposed to know.
8 Yes, we hid it.

9 Q. And the investigators told you that they had -- the Office
10 of the Prosecutor had responsibilities to the persons that they meet
11 and, therefore, any money provided to you for the cover story was for
12 your protection; isn't that right?

13 A. That is correct.

14 Q. In fact, when you were discussing the amount of money that
15 you wanted so that you could buy your (Redacted), you had suggested
16 \$475. Do you remember that?

17 A. This is a long time ago now, and I no longer recall.

18 Q. Well, think about it carefully. We have your statement here,
19 so I could always refresh your memory; but isn't it the case that you
20 had asked for \$475 and the Office of the Prosecutor only gave you \$200?

21 A. It is true. I explained this previously. I was given the
22 money, 200 dollars, and we went to buy products, Mr X and I. I was
23 not alone. There were two of us.

24 Q. And it is also right that the Office of the Prosecutor made
25 it very clear that the money that was being given to you was not in

1 return for any information you were to give to them?

2 A. I have no recollection of that. I have totally forgotten.
3 I have totally forgotten.

4 Q. In fact, when there was this discussion about the \$475 and
5 the \$200, the Office of the Prosecutor said to you whether the money
6 would influence your decision to continue, and you said that it was
7 no problem and you were happy to continue; isn't that right?

8 A. That is correct. That was when I was still working with
9 them.

10 Q. The Office also explained to you that it was a policy to
11 recompense you for any loss of salary during your time in Kampala,
12 didn't they?

13 A. Yes, this money was given to me, and I said to them one
14 day: "Even though I signed, I did not receive the full amount for which
15 I had signed". I told them that, and they said that there was no problem.
16 They would call Mr X, and they would have an exchange of ideas on the
17 subject.

18 Q. They discussed -- well, they asked you -- during the interview,
19 they asked you questions about the money that you earned in your business.
20 Do you remember that?

21 A. Yes, I remember that only too well.

22 Q. I just want to clarify one thing with you. The money that
23 was given to you for your (Redacted) was for your cover story, for
24 protection reasons; isn't that right?

25 A. Could you please repeat the question. I didn't quite grasp

1 it.

2 Q. Certainly. I just wanted to clarify -- I think we have
3 covered this before, but just to clarify that it was explained to you
4 that the money that was to be given so that you could buy (Redacted)
5 was for the cover story that you could have and for your protection
6 concerns?

7 A. Yes indeed. Those were the instructions, right?

8 PRESIDING JUDGE FULFORD: Mr Biju-Duval?

9 MR BIJU-DUVAL: (Interpretation) I believe that some
10 redactions are necessary with regard to references that could indicate
11 the professional activity of the witness.

12 PRESIDING JUDGE FULFORD: Certainly. Can the court officer,
13 please, scroll back and find those, perhaps with the assistance of
14 Mr Biju-Duval, by email. Yes, Mr Sachdeva.

15 MRSACHDEVA: Mr President, may we move into private session,
16 with your leave?

17 PRESIDING JUDGE FULFORD: Certainly.

18 *(Private session at 5.02 p.m.) Reclassified as Open session

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

20 MR SACHDEVA:

21 Q. Sir, you said that you still work at (Redacted);
22 is that right?

23 A. That is right.

24 Q. And do you own that (Redacted), or are you its manager?

25 A. There are two of us, two co-owners.

1 Q. And during this period or -- well, how is business? Are
2 you busy?

3 A. Yes. There's my colleague who takes over and who is there.

4 Q. You spoke about a meeting, the first meeting you had with
5 investigators in Bunia. If I were to suggest to you that this took
6 place on 18 August 2005, would that be about right?

7 A. The first time in Bunia? Is that what you talking about?
8 The first time that I met them, I believe that we didn't talk, and
9 I said to you that it was in a bar. It was at night and we didn't
10 really talk about that. I don't remember the date. I no longer remember
11 the date, the day or the month.

12 MR SACHDEVA: Mr President, actually, we can move into
13 public session, with your leave.

14 PRESIDING JUDGE FULFORD: Thank you. Public session,
15 please.

16 (Open session at 5.05 p.m.)

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

18 MR SACHDEVA:

19 Q. This place where you met, the Hellenic - I think it is called
20 the Hellenic. It is restaurant, is it not?

21 A. Yes.

22 Q. And it's next to the MONUC building; is that right?

23 A. Exactly.

24 Q. And it's on one floor with a terrace on the outside by the
25 restaurant; is that so?

1 A. That's right.

2 Q. So, when you told us yesterday that you had been on the
3 first floor, I take it you are mistaken.

4 A. No, I didn't say I was on the first floor. I said that we
5 were at the Hellenic, nearby MONUC. It's a restaurant and it's a bar,
6 it's a bistro at the same time. That is what I said. I didn't say
7 that I was on the first floor.

8 Q. Well, I can read to you what you said yesterday and then
9 perhaps you can enlighten us.

10 PRESIDING JUDGE FULFORD: Can you give the reference,
11 Mr Sachdeva. Thank you.

12 MR SACHDEVA: It is T-256, page 27, lines 1 to 7, but I think
13 that's the -- I think that's the old transcript. Perhaps I can find
14 a reference to the new transcript.

15 PRESIDING JUDGE FULFORD: Take your time, Mr Sachdeva. Do
16 you want to pick this up tomorrow morning, Mr Sachdeva, or have you
17 found it?

18 MR SACHDEVA: I have found it.

19 PRESIDING JUDGE FULFORD: Good. So, edited transcript?

20 MR SACHDEVA: Yes, and it's 256, page 24, lines 22 to page
21 25, line 3.

22 PRESIDING JUDGE FULFORD: Thank you.

23 MR SACHDEVA:

24 Q. Now, sir, I am just going to read what you said: "I arrived
25 there and, when investigators arrived, I was with Mr X and I was a

1 bit tipsy. We were taking a drink in a room and we went upstairs and
2 they arrived." Now, I take it you are mistaken since there is no
3 upstairs?

4 A. I said that we came. It was the day we were in a little
5 local cafe in the town, and in the evening we went up and it was raining
6 and we arrived at night at the restaurant, the Hellenic restaurant,
7 and I didn't say that we went up to the first floor. I said we were
8 down, but we went up towards the Hellenic. I don't think I was very
9 clear about that and I wasn't understood very well.

10 Q. Now, of course when you got there, you knew, didn't you,
11 that you were meeting investigators from the ICC?

12 A. We arrived and I didn't know that we were going to be meeting
13 with investigators. I didn't know that at all.

14 Q. Are you sure the investigators did not introduce themselves
15 to you as ICC investigators?

16 A. When we arrived with Mr X, I wasn't told -- he didn't tell
17 me that we were going to meet the investigators. So I had never heard
18 about the ICC and, when we arrived, we had some drinks and I left on
19 Mr X's motorcycle, and it was raining, and I left them there and I
20 returnrd home. And then we met the next day with Mr X, and I spoke
21 of that yesterday.

22 Q. Let me just get one thing straight. Is it your evidence
23 that up until that point, in other words when you met the persons in
24 the Hellenic restaurant, you had never heard of the ICC? Is that your
25 evidence?

1 A. I didn't know that. It's true that I didn't know, but the
2 next day when I met Mr X, well, he told me everything. He told me
3 all about that the next day. And so when we met with them, it was
4 raining, I had to leave. But it was the next day when Mr X talked
5 to me about the ICC. I would like to take a break because I have a
6 headache, please.

7 PRESIDING JUDGE FULFORD: That's just what I was about to
8 do. We are going to break for the day now, Mr Sachdeva. Thank you
9 very much indeed. We have a short oral decision to deliver after the
10 witness has left.

11 Thank you very much indeed, sir, for your help this afternoon.
12 We look forward to seeing you again tomorrow morning at 9.30, and our
13 thanks to the interpreter as well. Closed session, please.

14 *(Closed session at 5.15 p.m.) Reclassified as Open session

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

16 PRESIDING JUDGE FULFORD: Yes, thank you, usher.

17 (The witness stands down)

18 (The interpreter exits the courtroom)

19 PRESIDING JUDGE FULFORD: This oral decision addresses the
20 confidential ex parte filing made by the Prosecution on 8 March 2010,
21 document 2322, entitled "Prosecution's request for non-disclosure of
22 information in the transcripts of Witness 157 and for lifting of
23 redactions to the identity of Witness 169."

24 On 19 November 2009, the Chamber permitted the Prosecution
25 to re-interview three witnesses it had called for the purposes

1 identified in the application which was, put generally, to establish
2 whether or not they are able to assist in addressing the Defence case.
3 (See document 2192, 20 January 2010, paragraphs 39 and 66).

4 This application was not opposed by the Defence. This approach has
5 been applied with other witnesses as the Defence case has developed.

6 On 11 January 2010, the Prosecution met with Witness 157
7 for these purposes. The Prosecution applies for permission to file
8 the transcripts of the interviews then conducted with Witness 157,
9 with redactions to his current location, the names of his family members
10 and their whereabouts.

11 Witness 157 is in the Court protection programme. The
12 Prosecution submits that these measures are necessary in order properly
13 to protect these individuals and that they will not adversely affect
14 the fairness of the trial, because this information is irrelevant to
15 any known issue in the case.

16 In order to assess the proposed redactions, the Chamber was
17 provided with a chart to assist in understanding the suggested approach
18 of the Prosecution and the interview records indicating the proposed
19 redactions.

20 Additionally, the Prosecution applies to redact the location
21 of the interviews, submitting that disclosure of this information will
22 reveal the current whereabouts of the witness who, as we have just
23 observed, is within the Court's protection programme.

24 Details of the relevant family members are provided in the
25 application, which it is unnecessary to rehearse in this decision.

1 The transcripts have been provided in this redacted form to the Defence
2 de bene esse.

3 In accordance with earlier decisions of this Chamber and pursuant
4 to Article 64(6)(e) and Rule 81(4), these proposed redactions are
5 each necessary and fair, given that the material that will be withheld
6 is irrelevant to any known issue in the case, disclosure would put
7 the witness or others at risk because of the activities of the Court,
8 and the interview records remain fully intelligible and usable. (See
9 footnote 7 to the present application for examples of this approach.)
10 No lesser measure is feasible. This material does not come within
11 either Article 67(2) of the Rome Statute or Rule 77 of the Rules of
12 Procedure and Evidence.

13 Turning to the investigator's note for Witness 167, the
14 Prosecution puts the matter as follows: "The Prosecution draws the
15 Trial Chamber's attention to the fact that in the re-interview
16 transcript, bearing the ERN DRC-OTP-0222-0478 at 0495, line 51, Witness
17 0157 mentions that a certain (Redacted) was also known as (Redacted)."
18 The Chamber has previously authorised redactions to the investigator's
19 note of a person named (Redacted) who is Prosecution Witness 0169,
20 including redactions to his identity. (Paragraph 16).

21 The Prosecution has been unable to establish whether (Redacted)
22 mentioned by Witness 157 is Witness 169. But on the basis that this
23 is a real possibility, the Prosecution now seeks leave to provide this
24 information by removing the redactions to the name (Redacted).
25 Although the Prosecution is no longer in contact with this witness,

1 it proposes that the redactions remain in place as regards his location
2 and the names of members of his family.

3 The Chamber is of the view that this step is necessary for the purposes
4 of the Prosecution fulfilling its obligations under Rule 77, and that
5 it will not prejudice the security of Witness 169, or his family,
6 under Article 68, because his present location and the identities
7 of members of his family will remain protected.

8 Finally, a confidential version of the application needs
9 to be filed immediately, with a public version to follow thereafter.

10 That concludes that oral ruling. Ms Samson, thank you for
11 your speedy response this afternoon, indicating that there were no
12 difficulties in that judgment being given, given the result in private
13 session, that was extremely helpful.

14 Mr Sachdeva, absolutely no pressure at all, but given there
15 are one or two difficulties that we have been alerted to in relation
16 to witness availability, and to make sensible planning for tomorrow,
17 Thursday and Monday, do you have any sense at the moment as to how
18 long you are likely to be in the rest of your questions?

19 MR SACHDEVA: Mr President, perhaps an hour-and-a-half to
20 two hours.

21 PRESIDING JUDGE FULFORD: That's extremely helpful. Thank
22 you. I think, Maître Mabilie, that the next witness, although a short
23 witness, is then ready to commence; is that right?

24 MS MABILLE: (Interpretation) Except for the fact that the
25 witness agreed to meet with the OTP, and we were to have that interview

1 before we could begin the examination, and also, we are having a few
2 difficulties regarding this witness and at one point we would like
3 to speak to the Chamber on this matter. Other than that, we are ready
4 for examination-in-chief of this witness.

5 PRESIDING JUDGE FULFORD: Thank you. Mr Sachdeva, given
6 that this is a relatively short witness, however viewed I suspect,
7 and given that the meeting is to take place immediately before the
8 witness gives evidence, could you reflect briefly with Ms Samson and
9 Ms Struyven as to whether in reality a pre-meeting is really going
10 to be of very much assistance to you. I am not seeking to stop it
11 from taking place, but just asking you to pause for a moment to see
12 whether you really do need to have a meeting, given that the evidence
13 is going to follow pretty much immediately thereafter.

14 MR SACHDEVA: I will do so, Mr President. Thank you for
15 the indulgence, Mr President. In fact, we would maintain our request
16 for a brief interview, and perhaps the suggestion would be that the
17 examination-in-chief commences, and if your Honours would allow it,
18 the cross-examination to take place the next day so that we could digest
19 any information that has been given to us.

20 PRESIDING JUDGE FULFORD: But you'd obviously like the
21 meeting before the witness's evidence commences?

22 MR SACHDEVA: Certainly.

23 PRESIDING JUDGE FULFORD: Yes, all right. Well, I am sure
24 we can build this into the timetable. We will complete the evidence
25 of this witness. There is an issue of concern which Maître Mabilie

1 has mentioned that we'll address and in fact we've asked -- we are
2 asking for the Victims and Witnesses Unit to be present for that as
3 soon as the current witness has finished his evidence, we will then
4 give such time as is necessary for the meeting with the witness, and
5 we'll then commence his evidence. We will then see where we have got
6 to, Mr Sachdeva, as to whether or not there is an overnight adjournment,
7 but I hope the Chamber won't appear unreasonable in whatever we decide
8 over that.

9 MR SACHDEVA: Thank you, Mr President.

10 PRESIDING JUDGE FULFORD: Thank you. Good. Thank you very
11 much indeed. I am pleased to announce that we are back in this courtroom
12 tomorrow at half-past-9.

13 (The hearing ends at 5.28 p.m.)

14 RECLASSIFICATION REPORT

15 Pursuant to Trial Chamber I's emails instruction dated 25 January and
16 4 May 2012, the transcript is reclassified as public after the indicated
17 redactions have been implemented as ordered by the Chamber. All private
18 and closed sessions (*) are now available to the public with the exception
19 of the portions of the transcript that have been redacted.