

1 International Criminal Court
2 Trial Chamber I - Courtroom 2
3 Presiding Judge Adrian Fulford, Judge Elizabeth Odio Benito and
4 Judge René Blattmann
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/06
6 In the case of the Prosecutor versus Thomas Lubanga Dyilo
7 Trial Hearing
8 Wednesday, 24 November 2010
9 The hearing starts at 9.32 a.m.
10 (Open session)
11 COURT USHER: All rise. The International Criminal Court is now
12 in session. Please be seated.
13 PRESIDING JUDGE FULFORD: Good morning. There are a number of
14 short administrative matters. The first is that we approve the proposal
15 of the Prosecution communicated to us last night, that the realtime
16 transcript of the evidence of 0582 and 0583 should form the basis of
17 disclosure to Trial Chamber II. There is insufficient time to wait for
18 the edited transcripts. We agree that in the first instance, there
19 should be a review of the portions that contain references to
20 Witness 0183, Witness 0321, Witness 0143, and Witness 0316 with
21 redactions being applied where necessary to those portions, and that
22 thereafter, there should be a review of the entire transcripts so that
23 disclosure can be effected with appropriate redactions.
24 If there is any difficulties with that process, the Prosecution
25 will of course raise it with the Chamber.

1 An issue has arisen in relation to an e-mail sent by the present
2 witness on the 18th of May 2006, a heavily redacted copy of that e-mail
3 has been provided to the Defence and to the Chamber. What we propose is
4 that the Defence should advance any questions they wish on the basis of
5 the parts of the e-mail that have been disclosed to the Defence. If, as
6 a result of those questions, the Prosecution are of the view that the
7 redacted parts, as a result of the questions, have become disclosable in
8 their entirety or in part, of course, the Prosecution will act on that
9 decision. If the Prosecution has any uncertainty, either now or later,
10 as to whether or not the redacted parts should be disclosed, of course a
11 non-redacted copy should be provided for the Chamber so that we can
12 review it. At the moment, as I understand it, all the Chamber has is the
13 redacted version. And as we have emphasised on a number of occasions
14 before, disclosure is primarily a matter for the Prosecution, and the
15 Chamber is only engaged in situations of uncertainty, and it is for the
16 Prosecution to determine whether or not we should be provided with the
17 full document so that we can resolve any possible difficulty.

18 We should include on the court record that the order for
19 disclosure concerning documents 181 and 183 to Trial Chamber II has been
20 extended to both Defence teams appearing before Judges of that court.

21 The Victims and Witness Unit made a filing on the 11th of
22 November of this year, document 2615. Having considered annex 2 to that
23 filing, which currently is *ex parte* VWU only, the Chamber has concluded
24 that the entirety of the contents of that annex includes material that
25 properly falls for consideration by both the Prosecution and the Defence

1 in this case. Disclosure of the material does not present any material
2 security risk to any individual. Therefore, we order that annex 2 to
3 2615 should be reclassified as confidential Prosecution and Defence only.
4 At present, we are not persuaded that there should be wider dissemination
5 of this material.

6 We turn next to document 0051. As a result of the exchange in
7 court a day or two ago, the Defence will be receiving, may already have
8 received, further disclosure as regards point 2(ii), point 2(vii) and
9 point 2(viii). As regards point 1(iv), we agree with the proposal made
10 by the Prosecution in its e-mail to the Chamber at 6.51 last night that
11 further inquiries need to be made as regards the individual mentioned in
12 point 1(iv) so as to ensure that there are no adverse material security
13 implications that may attend on disclosure of that person's identity.

14 (Trial Chamber confers)

15 PRESIDING JUDGE FULFORD: Finally, as part of these materials,
16 we -- at our request, the Prosecution provided the Chamber with e-mails
17 concerning exchanges with Witness 0583 relating to Witnesses 0016, and
18 Prosecution Witness 0015, and this arises out of point 3 of the Defence
19 e-mail on disclosure of the 19th of November, an e-mail relating to the
20 photograph mentioned in point 4 of the same e-mail, and a note, 0051, the
21 document we have just dealt with, which was point 5 of the Defence e-mail
22 of the 19th of November. On a review of the entirety of those e-mails,
23 there is nothing within them which comes within either article 67(2) or
24 Rule 77. And accordingly, in our judgement, no part of those exchanges
25 fall to be disclosed pursuant to the Prosecution's disclosure

1 obligations.

2 Mr. Sachdeva, that bundle of material provided to us should be
3 filed separately somewhere so that if another Chamber, on a later
4 occasion, has to review our disclosure decisions, there is stored the
5 documents which relate to the decision that we have just indicated.

6 You may like, during one of the less-busy breaks, to discuss the
7 matter with the Court Officer because it is of course necessary that
8 there is a proper paper trail in relation to documents that have formed
9 the subject of decisions that we've made. Now, the question really is
10 whether they simply remain with the Prosecution, the Prosecution having
11 parked them in an appropriate file, or whether they should be uploaded *ex*
12 *parte* on to the system so that they form part of the records of the case,
13 albeit on an *ex parte* basis. The difficulty is we receive them, I think,
14 in hard copy only, and so at the moment there is certainly, as far as the
15 Chamber is concerned, no electronic version of those documents. Could
16 you reflect on that?

17 MR. SACHDEVA: Mr. President, if I may, perhaps one could file an
18 *ex parte* -- not an application but provision of materials to the Chamber
19 and annex them *ex parte*.

20 PRESIDING JUDGE FULFORD: That may well be the right solution.
21 If you could discuss that with the Court Officer and if necessary come
22 back to us. If there is agreement as to a sensible approach then just
23 adopt it.

24 MR. SACHDEVA: Certainly.

25 PRESIDING JUDGE FULFORD: Thank you very much, indeed. Anything

1 else before we call the witness in?

2 Yes, Mr. Sachdeva.

3 MR. SACHDEVA: Mr. President, you had asked the Prosecution to
4 come back on a schedule for the abuse of process. If it's the
5 appropriate time.

6 PRESIDING JUDGE FULFORD: Certainly.

7 MR. SACHDEVA: On the basis that a response -- a filing is
8 provided around the 15th or 16th of December, and the translation is made
9 before the recess starts, by our count, the 21 days would reach us to the
10 10th of January 2011. Given that the Defence in our submission has
11 appeared to widen the abuse of process argument, and as your Honours have
12 observed, it is an ever-changing animal, we saw with Witness 0582 that
13 the Defence first raised the issue at this stage of the Prosecution's
14 lack of investigation for exonerating evidence. That, in a general
15 sense, had not been part of the original abuse of process argument as we
16 understood it.

17 Secondly, in our submission, there have been questions related to
18 witnesses that have never been part of the abuse of process, were never
19 questioned during cross-examination about false identities or fabrication
20 of evidence, and I say this purely to substantiate the position of the
21 Prosecution, that we would ask respectfully for the deadline to be on the
22 31st of January 2011. May it please the court.

23 PRESIDING JUDGE FULFORD: Very clear, Mr. Sachdeva. Thank you,
24 we'll reflect on that. Maître Mabilie, is there anything you wish to say
25 on this, or is it really a matter for the Chamber to determine?

Witness: Witness DRC-OTP-WWWW-0583 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval (Continued)

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1 MS. MABILLE: (Interpretation) It's difficult for us to hear that
2 the issue of exonerating investigations have never been discussed before
3 0582 and that it's a new element, a new argument. The second point that
4 was brought up by Mr. Sachdeva is that we were to limit ourselves only to
5 the issue of child soldiers. I believe that there have been three or
6 four comments on the part of the Defence to state that we were discussing
7 intermediaries who had helped prepare witnesses. We never stated that we
8 were talking solely about child soldiers. Those are the first two
9 points, the only two points that I would like to point out to the OTP.
10 I do not think that these are new issues, new elements.

11 PRESIDING JUDGE FULFORD: Well, thank you both. We will reflect
12 on this and come back with our decision in due course as to when the
13 Prosecution's filings should be entered, but thank you for reminding us,
14 Mr. Sachdeva.

15 Witness, please.

16 (The witness takes the stand)

17 WITNESS: WITNESS DRC-OTP-WWWW-0583 (Resumed)

18 (Witness answers through interpreter)

19 PRESIDING JUDGE FULFORD: Good morning, sir.

20 THE WITNESS: Good morning.

21 PRESIDING JUDGE FULFORD: Mr. Biju-Duval.

22 QUESTIONED BY MR. BIJU-DUVAL: (Continued)

23 Q. Good morning, Witness.

24 A. Good morning.

25 Q. I shall begin by showing you a document.

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1 MR. BIJU-DUVAL: (Interpretation) And I would like to ask the
2 Usher to give the witness a copy as well as the -- to the Chamber and the
3 other parties. This is a new document which has been disclosed by the
4 OTP last night.

5 Q. You will recall that I asked you a number of questions about an
6 e-mail that you sent in May of 2006, which refers to expenses incurred by
7 0316 that were difficult to justify, and that there was surprising
8 information that needed to be checked.

9 Yesterday, we received a copy of the e-mail, which include
10 mention of these points. There is an e-mail dated May 16th, 2006, and on
11 the back of the page another one dated May 18th, 2006. These documents
12 have been redacted and they are -- in fact, they do include the issues
13 that you mentioned -- that I mentioned to you yesterday. Is that the
14 case?

15 A. Yes.

16 Q. I'm not going to repeat the questions that I've already put to
17 you, but I would like to ask you whether or not, as regards the answers
18 you gave us yesterday, whether there is anything you would like to add or
19 make more precise as to the information you relayed to your superiors at
20 the time.

21 A. No, in theory. Except that it does confirm what I was saying
22 yesterday or the day before yesterday, which is that the information
23 seemed bizarre and that it needed to be double-checked, that it seemed
24 surprising, and that I couldn't believe it as is and that it needed to be
25 double-checked. So this is indeed what seems to be stated here, and this

Witness: Witness DRC-OTP-WWWW-0583 (Resumed) (Open Session)
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1 is what I reported to my superiors.

2 Q. Thank you. As regards the matter of the expenses, which is
3 mentioned in the e-mail dated May 18th, 2006, do you have anything else
4 to add?

5 A. Well, since most of the text is redacted, according to my
6 recollection, I don't think I can say anything other than what I said to
7 you yesterday or the day before. I beg your pardon.

8 Q. Thank you.

9 MR. BIJU-DUVAL: (Interpretation) Your Honour, I would like to
10 have an EVD number for this document.

11 PRESIDING JUDGE FULFORD: Certainly.

12 COURT OFFICER: The document shall bear the number EVD-D01-00391.
13 And we'll need to receive an electronic copy as it is not in the system
14 now.

15 PRESIDING JUDGE FULFORD: Gentlemen, an early morning reminder of
16 pauses, please, between questions and answers, and answers and questions.
17 Thank you.

18 THE WITNESS: Sorry.

19 MR. BIJU-DUVAL: (Interpretation)

20 Q. I have a brief question on the contacts established by
21 Witness 0015 with MONUC, regarding the delivery of weapons. To your
22 knowledge, what was the role played by 0316 in those contacts?

23 A. (Interpretation) As far as I remember, he was the one who
24 facilitated the meeting which took place in Bunia outside the MONUC
25 buildings. I believe he was the one who made it possible, who

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1 facilitated the meeting between Witness 0015 and MONUC personnel.

2 Q. Thank you. As regards the interview, the recorded interview,
3 which took place in Bunia between Witness 0015 and yourself and your
4 team, I have a few questions. Who organised the travel for Witness 0015
5 from Kampala to Bunia? What I mean is who provided him or made certain
6 that he had the necessary travel documents and did someone go with him
7 during this travel?

8 A. If I remember correctly, the return trip in October 2005 --
9 I mean the return trip after the meeting in October 2005, I don't think
10 we handled that. In other words, Witness 0015 was still in a militia and
11 was to go back to that militia, and leave with them. At least that's how
12 I remember it. So I don't think that we actually took care of anything
13 at that point in time.

14 Q. Well, could we make it more precise? Did 0316 play a role in the
15 travel of Witness 0015 to Bunia for the November interviews?

16 A. Well, as I've stated, for the return trip to Bunia, the answer is
17 no, but in order to facilitate the comings and goings each day of
18 Witness 0015 on site, I believe that he did provide help to bring the
19 witness to the place of the interview, yes.

20 Q. Thank you. Do you remember previously, that is in the month of
21 May 2006, having interviewed Witness 0015 a second time in Kampala? If
22 I may, I'd like to ask you to take a look at tab 6. At tab 6, there is
23 an interview report which refers to the place and precise dates, and this may help
24 you remember.

25 THE INTERPRETER: The interpreters would like to know whether

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1 it's the large or the small binder.

2 MR. BIJU-DUVAL: (Interpretation) The EVD number is EVD-OTP-00320.

3 PRESIDING JUDGE FULFORD: And for the interpreters,

4 Mr. Biju-Duval, are we large binder or small binder?

5 MR. BIJU-DUVAL: (Interpretation) This is the small binder. We
6 can in fact set aside the larger one.

7 THE WITNESS: (Interpretation) Yes. This was the second interview
8 of Witness 0015.

9 MR. BIJU-DUVAL: (Interpretation)

10 Q. On the second page of the document, paragraph 3 of the statement,
11 it says -- well, I'm not going to quote it because this may lead to
12 identification, but it mentions that Witness 0015 has a passport and that
13 it was delivered in Kinshasa a few days before the date of this
14 interview; is that correct? Well, my question is, who actually took care
15 of issuing this passport?

16 A. I believe, if I remember correctly, that I asked 0316 whether or
17 not he was able to facilitate the obtention of this passport for the
18 witness.

19 Q. So to your knowledge, was it indeed 0316 who took care of that?

20 A. I remember asking him to do that but as to what he actually did,
21 I'm afraid I cannot say.

22 Q. Do you know what papers, what documents, were used to establish
23 this passport?

24 A. No.

25 Q. At any point in time while you were working for the ICC, did you

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1 attempt to verify, to double-check, the identity of Witness 0015?

2 A. The first checking I did was to go through the archives that we
3 had within our team, and the second attempt -- not only to check his
4 identity, but other persons as well, but to obtain access to the
5 Congolese voters database, but that was not possible, unfortunately.

6 Q. And what were the results of these attempts to verify his
7 identity?

8 A. As I just indicated, there were searches conducted within the
9 archives, and they gave negative results, and as I said we were not able
10 to have access to the electoral data base. I think I also recall that I had
11 requested access or verification of identity with the *Tribunal de Grande*
12 *Instance* in order to ascertain whether this person was registered with
13 the civil registry, and I think that the request was sent off and the
14 cooperation division was taking care of this at the time. Unfortunately,
15 I do not remember what the result was, and I was never personally able to
16 consult the civil registry myself or civil register.

17 Q. I thank you. I am now referring, in general terms, to the
18 statement of Witness 0015, to facts or events that he presented to you
19 with regard to himself, with regard to his activities, and my question is
20 as follows. Did you try and make sure that he was sincere or ascertain
21 the accuracy of the information by questioning his spouse?

22 A. I did not interview his wife, and, if I recollect correctly, I do
23 not believe that until he joined the protection programme he had ever talked
24 to his wife about his relations with our service. In view of the fact
25 that he refused that she be in the know, we were not going to interview

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1 her.

2 Q. Could you please consult tab 5 where you can see the first record
3 of interview; that is to say, that dating back to November 2005. And
4 I'm going to be putting a number of questions to you on the interview that
5 you conducted.

6 Now, still with regard to the question of verification of the
7 statements, the first aspect, with regard to the UPC, paragraph 97,
8 Witness 0015, and I shall word this in a vague manner so that this does
9 not have any bearing on his identity, Witness 0015 indicates that -- no,
10 I believe, Mr. President, that will be far too complicated. I think we
11 should go into private session.

12 PRESIDING JUDGE FULFORD: Private session, please.

13 *(Private session at 10.04) Reclassified as Open session

14 COURT OFFICER: Can we also have the number of the document,
15 please?

16 MR. BIJU-DUVAL: (Interpretation) The number of the document is --
17 or the EVD number is EVD-OTP-000319.

18 Q. So I'll put my question again. Paragraph 97, Witness 0015 states
19 that he was promoted by Bosco to the (Redacted), and a little
20 further on, in the following paragraphs, he goes on to say that he was
21 posted to the UPC headquarters, staff headquarters, and that he served
22 there as (Redacted). My question is as follows: Did you at
23 any moment in time attempt to ascertain, with other witnesses or on the
24 basis of documents within the archives, that (Redacted) had indeed
25 existed? Did you attempt to verify this?

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1 A. As I said previously. His name did not
2 appear in any documents that we had access to. The existence of a
3 staff headquarters, of course, is verified and the existence of documents referred to
4 this type of unit too, but no document indicated this name, no document
5 that I had discovered, anyway, indeed.

6 Q. And did you conduct any specific investigations with witnesses
7 with regard to the existence of a (Redacted) under Bosco as (Redacted)
8 (Redacted)?

9 A. With regard to this specific witness, I would say not to my
10 knowledge, but generally speaking, when questions were put as to the
11 organisation, whether they be in military or political, of such and such
12 a militia, then we would ask the people who were interviewed to indicate
13 whether they knew names of individuals that were part or who were part of
14 those military units.

15 Personally, I did not verify all the points that were raised
16 during that interview. I would just like to recall that we moved from
17 one subject to another during that time. We moved from one investigation
18 to another in quite a rapid manner, and so we did not have - how can
19 I say? - it wasn't very easy for us to verify information by virtue of
20 our resources and logistics, and as I said previously, in all
21 investigations you have to verify and assess to the best you can the
22 contents of the statements and the credibility to be ascribed to the
23 witness and the statement. It needs to be truly corroborated.

24 Q. I thank you. At paragraph 170 of this statement, the witness
25 indicates, and I quote, "I do not know much about the structure and

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1 organisation of the UPC army."

2 Did this not raise your curiosity levels with regard to the
3 function that he claimed he had?

4 A. Well, yes and no. I would not imagine that Witness 0015, even if
5 he had been part of a militia, would have very detailed knowledge of
6 this. It's not surprising, I would say. But if he were to know the
7 people that he worked with or worked around, then yes. And I would like
8 to remind you that many militia at the age of 24 or 25 are --
9 self-proclaimed themselves to be (Redacted). Does that make them (Redacted) from a
purely military viewpoint? I do not think so. So I think we have to moderate or qualify the
comprehension and

11 interpretation that we want to have of this paragraph.

12 Q. I thank you. Witness 0015 states that he also belonged to the
13 (Redacted) after having left the UPC. At paragraph 152 and paragraph -- 151 and
14 152 of the written statement, he states that he was recruited by the
15 chief of staff of the (Redacted), and that he
16 was appointed chief or person in charge of the (Redacted) for the
17 (Redacted). If you would like, you might also refer to the Kampala interview
18 record, that is to say paragraph 16 thereof, EVD-OTP-00320, where he goes
19 on to say that his direct line manager was (Redacted) and another individual
20 by the name of (Redacted)

22 MR. BIJU-DUVAL: (Interpretation)

23 Q. My question is of the same nature. Did you attempt to verify
24 this specific fact alleged by the witness with regard to his position or
25 role or function within (Redacted)?

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1 A. Once again, when he mentions (Redacted) to come back to the various
2 paragraphs, as I explained previously this was a place that we did not
3 have access to. It was impossible for us to go there and meet people who
4 might confirm or deny the contents of Witness 0015's statements. Now,
5 this was a witness who was, I believe, protected at the time, and of
6 course were we to question other witnesses, we would not directly provide
7 his name. The way of going about things would be to meet people who
8 potentially had information at hand as to the organisation of this
9 militia structure and request of them that they provide the names of
10 individuals who were in charge of such and such things, and generally
11 speaking we would do this without asking the name of Witness 0015.

12 THE INTERPRETER: Could the witness please be requested to slow
13 down? Thank you.

14 PRESIDING JUDGE FULFORD: Speed.

15 THE WITNESS: Sorry.

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

17 MR. BIJU-DUVAL: (Interpretation)

18 Q. I do understand your concerns with regard to security, but was it
19 not possible, for example, to request of a person in charge of (Redacted) or
20 a well-informed individual in respect of this movement, ask them what the
21 person in charge of (Redacted) was -- who this person was?

22 A. (Interpretation) Yes. Nothing would have impeded that, but I
23 believe that you are giving a certain weight to Witness 0015 that he did
24 not have in the context of the investigation that we were conducting into
25 the (Redacted). It was more important for to us focus our

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1 investigation on the structure itself, as to whether it existed, whether
2 there was a hierarchy or not, and to potentially find the officers and
3 the soldiers who had taken part in the incidents during which or in which
4 the militia was involved. So in this case, in this investigation, the
5 fact that Witness 0015 was "yes" or "no" (Redacted)
6 (Redacted), did not really bring us much. It was definitely not the focus point
7 of our investigation as such.

8 Q. Now, let us have a look at the question from the point of view of the
9 credibility of the witness. Were you not somewhat taken aback that the
10 witness said to you:

11 "I was (Redacted) with Bosco at the UPC staff
12 headquarters and immediately after that, I was recruited to a post
13 or position of responsibility by the chief of staff of (Redacted) himself"?

14 Did you not think to yourself that this was somewhat surprising,
15 that it posed a problem of reliability, and that you had to go to the
16 crux of the problem and verify the facts themselves?

17 A. As to the fact, as to whether it was surprising, yes, it might
18 have been. Now, that was the witness's statement. He went on to make
19 other statements, to describe, for example, his role as (Redacted)
20 (Redacted). Now, the fact that he said that he was appointed by such and
21 such an individual, well, that was his statement, and at the time it was
22 virtually unverifiable for us. But we cannot exclude the possibility
23 either.

24 Q. I thank you. I shall now be moving on to another subject. You
25 stated in your written statement -- I do not know whether you made

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1 mention of this yesterday -- paragraph -- no, you did mention this
2 yesterday or maybe the day before yesterday. The day before yesterday.
3 You stated that via the intermediary or via Witness 0015 you were able to
4 enter into contact with another potential witness, were you not?

5 A. Yes, indeed.

6 PRESIDING JUDGE FULFORD: Mr. Biju-Duval, should we still be in
7 closed session or private session?

8 MR. BIJU-DUVAL: (Interpretation) I shall ask a further question
9 in private session to ascertain the identity of this individual, then we
10 will be able to move back into open session.

11 Q. Do you remember the name of that individual, the individual that
12 you established contact with through the intermediary of Witness 0015?

13 A. Yes. This is the individual mentioned in paragraph 50 of my
14 statement, an individual by the name of (Redacted). As to the precise
15 name, well, I did know it but I can't remember it, but the name we
16 referred to him as was (Redacted).

17 Q. I thank you. We might now attempt a few questions in open
18 session, but taking precautions with regard to the uttering of names.

19 PRESIDING JUDGE FULFORD: Open session, please.

20 (Open session at 10.18 a.m.)

21 COURT OFFICER: We are in open session.

22 MR. BIJU-DUVAL: (Interpretation)

23 Q. Now, with regard to the establishment of this contact, what did
24 you request of Witness 0015?

25 A. I asked him whether, by virtue theoretically of the positions

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1 that he claimed to have occupied, whether he was able to identify people,
2 trustworthy people, who would be willing to enter into contact with the
3 team, whether it be myself or other investigators, and provide us with
4 information and be ready to be a witness.

5 Q. Did he render this service? Did he fulfil this role on a number
6 of occasions without providing any names, that is? Do you remember the
7 different contacts that he might have established with -- or the number
8 of contacts that he was able to establish with different individuals?

9 A. He provided me with a number of names, notably that mentioned in
10 paragraph 50 of the statement. As to the precise number, I do not recall
11 whether there was one or many or several. He also gave the phone number
12 or phone numbers for the individual in paragraph 50, so that we might
13 enter into contact with that person.

14 Q. One moment of indulgence, please.

15 (Defence counsel confer)

16 MR. BIJU-DUVAL: (Interpretation)

17 Q. I shall ask you to consult tab 9 of the small binder. Under this
18 tab containing 14 documents, could I ask you to consult document 6,
19 please, DRC-OTP-0201-0062.

20 MR. BIJU-DUVAL: (Interpretation) And of course this document must
21 remain confidential.

22 Q. This document is entitled, "Receipt for Disbursement of Funds,"
23 dated February 2006.

24 MR. BIJU-DUVAL: (Interpretation) Yes, Mr. President, I do believe
25 that it is preferable for us to go into private session.

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1 PRESIDING JUDGE FULFORD: Private session, please.

2 *(Private session at 10.22 a.m.) Reclassified as Open session

3 COURT OFFICER: We are in private session.

4 MR. BIJU-DUVAL: (Interpretation)

5 Q. This document makes mention of the fact that (Redacted)
6 received \$30 for air time, and I quote, "For the search of information in
7 the context of (Redacted)." Could you please
8 briefly tell us what this is about, when we speak about the context of
9 (Redacted) ?

10 A. Yes, this document *a priori* was not drawn up by myself. Now, the
11 person by the name of (Redacted). I believe this was a person that
12 Witness 0015 wanted to put us in contact with, and if (Redacted) is mentioned
13 here it is because this individual was to be found in (Redacted) and that he
14 needed to make phone calls there which would explain the amount of \$30.
15 However, I do not recall whether "yes" or "no" we managed to enter into
16 contact with the individual by the name of (Redacted), but this is a typical
17 example – it is a translation - of the conversations that we had with Witness 0015 and
18 the request that we made of him to put us in contact with people who might be
19 able to assist us in the context of our investigation, yes.

20 MR. BIJU-DUVAL: (Interpretation) Might an EVD number be given to
21 this number, please.

22 COURT OFFICER: The document shall receive the evidence number
23 EVD-D01-00392.

24 MR. BIJU-DUVAL: (Interpretation)

25 Q. Do you know an individual by the name of (Redacted)

Witness: Witness DRC-OTP-WWWW-0583 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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1 (Redacted)? Does this name ring a bell?

2 A. Yes. Yes, it does.

3 Q. And to your recollection, who is this?

4 A. It's difficult for me to remember precisely, but it might be the
5 name of an individual that Witness 0015 recommended. It might be --
6 well, it's somewhat difficult to remember, I'm sorry. But to the best of
7 my recollection, it is somebody who was part of the UPC, but
8 unfortunately that's all I can remember for the time being.

9 Q. I thank you. Do you remember, or specifically you state that
10 Witness 0015 allegedly was part of this person's introduction to the OTP,
11 but maybe you might specify your recollections in this regard.

12 A. No, this goes quite a long way back. And as to the detail, as to
13 whether we met this individual or not, it's very difficult to remember,
14 you know, to give you an answer that, you know, an acceptable answer, I'm
15 sorry.

16 Q. Thank you. A moment of indulgence, please.

17 (Defence counsel confer)

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

19 Q. Do you know an individual by the name of (Redacted)
20 (Redacted)?

21 A. Yes, indeed.

22 Q. Did this person cooperate with you during the period when you
23 were investigating for the ICC?

24 A. Yes, I did know that individual. I did not request anything of
25 him personally in the context of the investigations, but this was an

Witness: Witness DRC-OTP-WWWW-0583 (Resumed) (Private Session)
Questioned by Mr. Biju-Duval (Continued)

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1 individual who was or had entertained relations with other investigators
2 of the group.

3 Q. I thank you.

4 MR. BIJU-DUVAL: (Interpretation) One moment of indulgence,
5 please.

6 (Defence counsel confer)

7 MR. BIJU-DUVAL: (Interpretation)

8 Q. In paragraph 10 of your statement --

9 MR. BIJU-DUVAL: (Interpretation) Yes, Mr. President, I do believe
10 we can move back into open session.

11 PRESIDING JUDGE FULFORD: Thank you.

12 (Open session at 10.28 a.m.)

13 COURT OFFICER: Open session.

14 MR. BIJU-DUVAL: (Interpretation)

15 Q. At paragraph 10 of your statement, you state that during the
16 month of March 2010, you had contact with the Office of the Prosecutor
17 and that you had a number of exchanges with the Office of the Prosecutor
18 in respect of intermediary 0316, Witness 0035, and Witness 0015. What
19 questions were put to you?

20 PRESIDING JUDGE FULFORD: Pause before answering.

21 Yes, Mr. Sachdeva.

22 MR. SACHDEVA: Mr. President, I -- of course I understand it's
23 parts of the witness's statement, but this question goes directly to the
24 heart of your Honour's ruling this morning that those communications
25 are -- have been deemed to be not -- non-disclosable. And accordingly,

Witness: Witness DRC-OTP-WWWW-0583 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval (Continued)

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1 the Defence is attempting to elicit the very material that your Honours
2 have ruled is not disclosable.

3 PRESIDING JUDGE FULFORD: Yes. So looking at paragraph 10, there
4 is reference there to e-mail and telephone communication in March. And
5 Mr. Biju-Duval wants to know what questions were put to the current
6 witness, presumably by the -- somebody within the OTP on 0316, 0035, and
7 0015.

8 Too general, I'm afraid, Mr. Biju-Duval. It's totally
9 open-ended. What are you actually seeking to elicit? What is it that
10 you're really directing your questions at? If we could hear that, then
11 we can make a decision as to whether or not this is an appropriate line
12 of questioning. So ...

13 MR. BIJU-DUVAL: (Interpretation) I will ask this question
14 differently.

15 Q. My question could be: During the phone conversations that you
16 had with the Office of the Prosecutor, were there questions asked of you
17 that had not been asked by e-mail? In your phone conversations, were
18 there questions that had not been set out in writing in e-mails? If the
19 Chamber will allow me.

20 PRESIDING JUDGE FULFORD: On what subject? So questions about
21 what, Mr. Biju-Duval.

22 MR. BIJU-DUVAL: (Interpretation) Questions regarding the
23 behaviour of 0316, 0035, and 0015. For instance, regarding your
24 assessment of the behaviour of 0316 or your assessment of the credibility
25 of witnesses 0035 and 0015.

Witness: Witness DRC-OTP-WWWW-0583 (Resumed) (Open Session)
Questioned by Mr. Biju-Duval (Continued)

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1 PRESIDING JUDGE FULFORD: Right. So you're being asked, as
2 I understand it, whether at the time mentioned in paragraph 10, you were
3 asked to express any further views on the behaviour of 0316 and on the
4 credibility of 0035 and 0015. Were you asked to provide a further
5 assessment?

6 A. No. The conversation was quite general, and just expressed my
7 surprise about the situation primarily on the phone, just confirming what
8 I had written.

9 PRESIDING JUDGE FULFORD: So a repetition of what had already
10 been set out by you earlier?

11 THE WITNESS: (Interpretation) In the e-mails, we indeed used
12 different terms because we had been speaking out loud, but, yes, indeed
13 it was merely a repetition of what had been written, and expressing my
14 surprise, of course.

15 PRESIDING JUDGE FULFORD: Thank you. What we will do,
16 Mr. Biju-Duval, is we'll take the first mid-morning break now, unless
17 you're very nearly at a close. You're very nearly to the close? All
18 right. Please carry on and complete your questioning, thank you.

19 MR. BIJU-DUVAL: (Interpretation) Thank you, Mr. President, I'm
20 almost finished.

21 Q. Witness, could you please go to tab 33 of the small binder. This
22 is a document with the number DRC-OTP-0234-0232. This is an e-mail that
23 was addressed to you on 11 June, 2010, by the Office of the Prosecutor by
24 which you were sent what I would call the guidelines, with a view towards
25 the drafting of your written statement. Isn't that the case? My only

1 question is the following: Do you confirm that you received this
2 document and that you read the document at that time?

3 PRESIDING JUDGE FULFORD: (Previous translation continues)...
4 Mr. Sachdeva.

5 MR. SACHDEVA: I am, and perhaps I'm being pedantic, but I have
6 trouble with the term "guidelines." In fact, if my learned friend can
7 read out what was directly written, "categories of subjects you might
8 consider for your statement."

9 PRESIDING JUDGE FULFORD: All right. Yes. Bearing that no doubt
10 important but subtle difference, did you receive it and did you read it?

11 THE WITNESS: (Interpretation) Yes, I did indeed receive it, I did
12 indeed read it.

13 PRESIDING JUDGE FULFORD: Very well, Mr. Biju-Duval.

14 MR. BIJU-DUVAL: (Interpretation) Just an EVD number and then I'll
15 be done.

16 PRESIDING JUDGE FULFORD: EVD number, please.

17 COURT OFFICER: Could you please repeat the ERN number of the
18 document? Because we cannot find it in the system.

19 MR. BIJU-DUVAL: (Interpretation) This document has not yet been
20 recorded.

21 COURT OFFICER: (Previous translation continues)... it will
22 receive the evidence number EVD-D01-00393.

23 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Biju-Duval.

24 There has been an application by the Office of Public Counsel for
25 Victims to ask questions of this witness. As I understand the

1 application, it's really in two parts. First, counsel wishes to address
2 questions on the suggested supervision by the current witness of the
3 activities of 0316 and on contact between him and Witness 0035 and
4 Witness 0015. It seems to us that to the extent that those issues have
5 not already been dealt with by other questioning, it is appropriate for
6 further questions to be put.

7 Secondly, it is argued that the witness can -- secondly it is
8 suggested that 0583 can assist on the question of the modalities of the
9 process of identification and selection of former child soldiers, the
10 role of intermediaries in that process, and the criteria under which
11 witnesses 0007, 0008, 0010, and 0011 were presented to the Office of the
12 Prosecutor, along with the assistance provided by the Prosecution and
13 intermediaries to those witnesses.

14 Once again, to the extent that these issues have not already been
15 covered by questioning by other counsel, we are persuaded that it is
16 appropriate for the OPCV to ask focused questions on those issues.

17 We will therefore turn to that questioning at 10 past 11.00.

18 Can the witness please be taken back to the witness waiting room?

19 (The witness stands down)

20 PRESIDING JUDGE FULFORD: 10 past.

21 Recess taken at 10.40 a.m.

22 On resuming at 11.12 a.m.

23 COURT USHER: All rise. Please be seated.

24 PRESIDING JUDGE FULFORD: Witness, please.

25 (The witness takes the stand)

1 PRESIDING JUDGE FULFORD: Thank you very much, sir.

2 Ms. Pellet.

3 MS. PELLET: (Interpretation) Thank you, Mr. President. We don't
4 have any questions.

5 PRESIDING JUDGE FULFORD: Mr. Sachdeva.

6 MR. SACHDEVA: Thank you, Mr. President. I also do not have any
7 further questions.

8 PRESIDING JUDGE FULFORD: And I think that then covers you as
9 well, Mr. Biju-Duval. You can't re-examine when there has been no
10 examination.

11 Sir, that brings your evidence to a close. We are acutely
12 conscious that this has not been convenient for you, and that you would
13 have preferred, for reasons which are wholly understandable, to have
14 given your evidence under rather different conditions from those which we
15 ordered. Notwithstanding your preferences and the inconvenience, you
16 have nonetheless, of your own free will, come to The Hague to assist us
17 in finding the truth in this trial. And you therefore leave this court
18 with our sincere thanks for the wholly cooperative stance which you have
19 adopted. Thank you very much.

20 The witness can now return to the witness waiting room.

21 (The witness withdrew)

22 PRESIDING JUDGE FULFORD: A little earlier this morning, I made
23 reference, and in the English transcript this is page 2, lines 18 to 20,
24 to the fact that an order for disclosure had been extended to both
25 Defence teams appearing before Judges of Trial Chamber II. The order was

1 right, but the subject matter was wrong. Rather than documents 181 and
2 183, I should have referred to our oral decision of the 12th of November
3 2010, transcript 332.

4 Mr. Sachdeva, do we know whether the next witness is immediately
5 ready or does there need to be a pause?

6 MR. SACHDEVA: My understanding is that the witness is
7 immediately ready, although there needs to be a technical setup because
8 he does have face and voice distortion.

9 PRESIDING JUDGE FULFORD: Absolutely right. Thank you for
10 reminding me. Court Officer, how long will the administration need to
11 reconfigure the machinery?

12 COURT OFFICER: I understand that 30 minutes is required to set
13 the distortion.

14 PRESIDING JUDGE FULFORD: Fine. Then 30 minutes will be granted.
15 Are the materials ready for his examination?

16 MR. SACHDEVA: Yes, I believe so. And Mr. President, my
17 colleague, Mr. Omofade will be taking this witness.

18 PRESIDING JUDGE FULFORD: Good. Prosecution first, Defence
19 second? Has that been agreed between the parties?

20 MR. SACHDEVA: Yes.

21 PRESIDING JUDGE FULFORD: Good. Unless there is anything else,
22 we'll sit then at 10 to 12, but I see there is something else.

23 Yes, Maître Mabilie?

24 MS. MABILLE: (Interpretation) Could I take advantage of this
25 moment to bring up two problems before the court.

1 PRESIDING JUDGE FULFORD: Of course.

2 MS. MABILLE: (Interpretation) The first is a request that we had
3 sent regarding the disclosure to the Office of the Prosecutor that is
4 included in the e-mail sent to the Chamber on 19 November 2010, and I would
5 like to address point number 11, and I realise that I need to ask us to
6 move into private session.

7 PRESIDING JUDGE FULFORD: Private session, please.

8 *(Private session at 11.20 a.m.) Reclassified as Open session

9 COURT OFFICER: We are in private session.

10 PRESIDING JUDGE FULFORD: Yes.

11 MS. MABILLE: (Interpretation) Mr. President, this request had
12 been included in point 11. It was the number of identification for the
13 intermediary, so for whom the Witness 0582 had given the name during his
14 testimony on November 17th, 2010, as being one of the three
15 intermediaries having signed a contract with the court. Our request had
16 been to have only the number of this intermediary.

17 We discussed with the Office of the Prosecutor, and the Office of
18 the Prosecutor refuses to give us this number, and therefore I would like
19 the court to address this difficulty, and I would like to indicate the
20 four reasons to you that are leading us to request the number of this
21 intermediary,
22 whose name is (Redacted). The first
23 reason is that the Office of the Prosecutor indicated to us that in the
24 document it submitted to us concerning the relations between the Office of
25 the Prosecutor and a variety of witnesses, this person was identified

1 with a number, and so normally we have it in our chart. That is the
2 first reason, which proves that this intermediary was in contact with a
3 certain number of witnesses.

4 Second, (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Third reason, (Redacted) was working in relations, in

9 partnership with (Redacted)

10 (Redacted)

11 (Redacted)

12 Lastly, fourth reason, the name of (Redacted)

13 has been cited in the statement of a witness communicated in our file,

14 the reference of which is DRC-0096-100.

15 We made these elements known to the Office of the

16 Prosecutor, so what I have just summarised for the Chamber. The argument

17 developed by the Office of the Prosecutor is that when we give the number

18 of this witness we would be placing him in serious danger, and therefore

19 the reason given by the Office of the Prosecutor was the safety of the

20 witness.

21 I will not hide from the Chamber that it is difficult for us to

22 understand once we have the identity of the person how the fact that we

23 would be given the number that is in the chart, how that would imperil or

24 endanger that person more than the current situation, because we know the

25 name. These are the observations I wanted to make to the Chamber to

1 indicate to it that the Defence would like to obtain the number of this
2 witness.

3 I am available to the Chamber to communicate the elements I have
4 just brought up, which add more detail to what I have just said regarding
5 the links, the relations between the various associations. So that is
6 the first point I wanted to bring up with the Chamber.

7 I have a second one but perhaps your Honour would like me to stop
8 at this first point initially.

9 PRESIDING JUDGE FULFORD: Why don't you do it all,
10 Maître Mabilie? Why don't we have point 2 as well now.

11 MS. MABILLE: (Interpretation) The second point is a point that is
12 extremely difficult for the Defence, and I think that I can bring this up
13 publicly.

14 PRESIDING JUDGE FULFORD: Thank you. Public session, please.
15 (Open session at 11.25 a.m.)

16 MS. MABILLE: (Interpretation) I apologise, Mr. President, not in
17 open session.

18 *(Private session at 11.25 a.m.) Reclassified as Open session

19 PRESIDING JUDGE FULFORD: Please proceed, Maître Mabilie.

20 MS. MABILLE: (Interpretation) We were informed two days ago by
21 the Public Office of the Defence that currently there are discussions
22 between the states parties, that in the framework of these discussions,
23 the OPCD had intervened, and that, in particular, there had been work
24 taking place regarding the method for the functioning of the Registry, of the Office of
25 the Prosecutor, in particular, the way in which monitoring could take place and

1 internal checks could take place regarding the various parties making up
2 this court. Bearing in mind that the lawyers themselves have a code of
3 conduct and of ethics, and therefore it would be the other bodies of the
4 court concerned by this discussion.

5 In the framework of this discussion, OPCD relayed two documents
6 to us that I would like to submit to the Chamber, and in particular a
7 letter of 19 November 2010, sent by Mr. Ocampo to the states parties, and
8 upon reading this letter, leads us to believe that in the representation
9 to the states parties, the Prosecutor quite seriously calls into question
10 the integrity of the Defence team.

11 I would therefore like the Chamber to authorise us to relay these
12 documents to it, and if the Chamber deems this is necessary, I would like
13 it to ask Mr. Ocampo to come and explain the allegations, these extremely
14 serious allegations, regarding our Defence team. So that was a second
15 point, Mr. President, that I wanted to submit to the Chamber.

16 PRESIDING JUDGE FULFORD: Well, Maître Mabilie, we obviously
17 wouldn't even begin to adjudicate on whether the second part of the
18 request is appropriate at this stage, whether or not there is -- there
19 would be a need for the Prosecutor himself to come to address the matters
20 that you have put before us would obviously depend on our judgement on
21 any documentation that you put before us.

22 If you consider that the letter you've referred to has an impact
23 on the proper functioning of this trial, and that includes the position
24 of Defence counsel, you are of course entitled to put that material
25 before us. It's a question for your judgement as to whether or not you

1 consider that it is something which, in reality, touches on this trial
2 rather than wider issues concerning the governance of the court. So we
3 leave it to you.

4 Good.

5 On the first point, Mr. Sachdeva, how do you want to deal with
6 this? Are you able to make submissions now or do you need an *ex parte*
7 hearing?

8 MR. SACHDEVA: Mr. President, we can make submissions now but
9 with your leave, my colleague, Mr. Omofade will address the bench.

10 PRESIDING JUDGE FULFORD: Certainly, thank you very much.

11 Mr. Omofade, obviously take your own course, but perhaps question
12 number one is: If the Defence have correctly identified the role of the
13 individual, and of course that is an if, if the Defence have, how does
14 disclosure of his number make the position materially any worse?

15 MR. OMOFADE: Your Honours, the concern that the Prosecution have
16 goes beyond security concerns as regards this individual alone, and I
17 believe that's the misapprehension that my friends appear to be labouring
18 under. The concerns we have, and that the office has generally, actually
19 relates to the witnesses that this individual has contact with on behalf
20 of the OTP. This individual happens to be the sole link, the sole
21 intermediary, between 17 witnesses of the Office of the Prosecutor that
22 are not relevant to the instant case, as well as a number of PEXO Rule 77
23 witnesses that are relevant to this case.

24 This witness himself, and this is rather subjective, has
25 expressed concerns about his own safety, it is true, and indeed has had

1 to (Redacted) on a number of occasions due to these
2 concerns. Our position, and your Honours we urge it upon you, is that
3 the disclosure also of his number in addition to his name that the
4 Prosecution also have heightens the risk, firstly to this individual but
5 more pertinently to the witnesses that he has had contact with -- that he
6 has contacts with on behalf of the Office of the Prosecutor.

7 Now, many of these witnesses, indeed most of them, live in very
8 remote parts of the DRC. The loss of our ability to utilise this
9 individual as the link point between these witnesses and the office
10 invariably leads to the loss of contact with these witnesses. So your
11 Honours, I don't go as far as to say that this is pertinent under
12 Rule 81(2), but it does have a bearing on the future investigative
13 activities of the office. So these are the points we urge upon the
14 Defence and the Chamber.

15 PRESIDING JUDGE FULFORD: Well, investigative activities of the
16 office, this is also argued on the basis of enhanced security risks for
17 the 17 witnesses.

18 MR. OMOFADE: That is also the case as well, your Honour.

19 PRESIDING JUDGE FULFORD: And just so I understand it, therefore,
20 you say that if the number is given, then now that the Defence have his
21 name, that would create the real possibility of the link being made to
22 the real person and those who he has had contact with?

23 MR. OMOFADE: The real person, his role *vis-à-vis* the Office of
24 the Prosecutor, and then thirdly what your Honour mentions, the persons
25 he's had contact with.

1 PRESIDING JUDGE FULFORD: Now, you've obviously witnessed the way
2 in which the submissions and the evidence on this abuse of process
3 argument have developed, and I'm sure, Mr. Omofade, you have reflected on
4 whether there is anything touching upon this intermediary which requires
5 disclosure to the Defence, the essential argument being that in some way
6 relevant to this application there has been inappropriate behaviour on
7 his part, and do we therefore take it that, having looked at his
8 position, you have not found anything within the materials in the
9 possession of the Prosecution, you have not found anything that should be
10 disclosed to the Defence? Certainly, yes, take a moment.

11 (Prosecution counsel confer)

12 MR. OMOFADE: Your Honour, I wisely conferred but that is the
13 case. We see no connection whatsoever to the allegations -- the current
14 submissions that are being made as regards the abuse of process argument.
15 Indeed, what we can go as far as saying is that this individual did not
16 introduce us to any current trial witnesses.

17 PRESIDING JUDGE FULFORD: So he -- right, no trial witnesses and
18 there is nothing within the Prosecution's possession that tends in any
19 way to indicate that he behaved inappropriately during his time working
20 as an intermediary or that he has collaborated with the intermediaries
21 who have been scrutinised in this trial in any way which would raise any
22 questions?

23 MR. OMOFADE: Your Honour, there is nothing. Those are my
24 submissions, your Honour.

25 PRESIDING JUDGE FULFORD: Very helpful. Thank you, Mr. Omofade.

1 Do you want to reply, Maître Mabilie, on that point?

2 (Defence counsel confer)

3 MS. MABILLE: (Interpretation) Mr. President, what I stated before
4 the Chamber was that we know that there were links - and this is what I'm
5 trying to establish - between 0143 and this intermediary because within
6 the case we have elements that prove that that is the case. That's the
7 first argument.

8 The second argument is that I just cannot understand why we are
9 not -- we are not asking about the links with other cases. We are asking
10 that in the chart that we have been given, in order to read the chart, in
11 order that the information contained in that chart be useful to us, in
12 that chart the intermediary is mentioned. Now that we know his name, and
13 since we know from 0582 that the three most important intermediaries
14 amongst them, there was this one as well, so I do not see why giving us
15 the code number of this witness, why this would lead us to dealing with
16 PEXO witnesses or exculpatory witnesses and why this would represent a security
17 danger. I'm afraid I just do not understand, your Honour.

18 PRESIDING JUDGE FULFORD: Maître Mabilie, I'm going to take you
19 up on your offer, certainly to help us understand. Would you please in
20 an e-mail set out what the factual basis is for saying that there are
21 links, for instance, with 0143 that renders this information disclosable
22 because of what that evidence establishes? How long would you like for
23 that?

24 MS. MABILLE: (Interpretation) We can do that during the day
25 today. We shall do it today, your Honour.

1 PRESIDING JUDGE FULFORD: Thank you very much.

2 Mr. Omofade, if we were to give you until, if you receive the
3 Defence e-mail today, 6.00 p.m. tomorrow, or would you wish the day after
4 to reply?

5 MR. OMOFADE: Your Honour, 6.00 p.m. tomorrow should be
6 sufficient.

7 PRESIDING JUDGE FULFORD: Certainly if you have a difficulty you
8 have liberty to apply.

9 MR. OMOFADE: I'm grateful, your Honour.

10 PRESIDING JUDGE FULFORD: Thank you very much.

11 Yes, Mr. Sachdeva.

12 MR. SACHDEVA: Mr. President, may I just -- it may be that the
13 Prosecution would like to revert to the second point my learned friend
14 raised in relation to an alleged -- in relation to that issue, and
15 I would seek leave perhaps during the afternoon to be able to respond, if
16 need be.

17 PRESIDING JUDGE FULFORD: Yes. I mean, at the moment,
18 Maître Mabilie has simply asked us to read a letter. If you want us not
19 to read the letter, then you better revert to us rather quickly, I should
20 think, if you're saying it would be inappropriate for us even to consider
21 it. We'll be sitting again at quarter past 12.00. If the view of the
22 Prosecution is that we shouldn't read the letter, could you please let us
23 know at quarter past 12.00?

24 MR. SACHDEVA: Certainly.

25 PRESIDING JUDGE FULFORD: Thank you very much. Maître Mabilie,

1 could you refrain from filing the letter until Mr. Sachdeva has had an
2 opportunity of addressing us at 12.15?

3 Yes, Mr. Keta.

4 MR. KETA: (Interpretation) Thank you, Mr. President. I would
5 like to speak about the first point made by the Defence regarding the
6 relationship between (Redacted).
7 Mention was made of (Redacted), which is in fact my
8 intermediary on site, and I would like to correct and say that (Redacted)
9 (Redacted) as the Defence stated a moment ago, and
10 (Redacted)
11 (Redacted). Therefore, in the abuse of process proceedings, you cannot
12 establish a link between (Redacted), that is what I wanted
13 stated. It would be inappropriate at this point to relate it to (Redacted).

14 PRESIDING JUDGE FULFORD: Thank you, Mr. Keta.

15 Maître Mabilie, would you ensure that Mr. Keta is copied into
16 your submissions which we will receive today.

17 Mr. Keta, you along with Mr. Omofade, have leave to respond if
18 you wish by way of e-mail by 6.00 p.m. tomorrow to any further
19 information that's provided to us by the Defence.

20 Anything else from anyone else? No? Good. Well, then we will
21 sit again at quarter past 12.00 when we will receive the evidence of the
22 next witness.

23 Recess taken at 11.42 a.m.

24 On resuming at 12.20 p.m.

25 (Open session)

1 COURT USHER: All rise. Please be seated.

2 PRESIDING JUDGE FULFORD: Mr. Sachdeva, we understand that you
3 wish to raise the issue of the letter.

4 MR. SACHDEVA: Yes, Mr. President. Thank you. The first point
5 the Prosecution would like to make is that contrary to what my learned
6 friend represented to the Court, in fact, the letter does not contain
7 anything related to the current Defence team. It contains nothing that
8 can be said to be allegations against the current Defence team.

9 This letter was drawn up in relation to discussions regarding the
10 IOM, the Internal Oversight Mechanism, and in our submission, there is
11 nothing that is controversial. In fact, the offending paragraph, if
12 indeed one can call it that, relates generally to the activities of
13 states and the activities of other organs of the court.

14 Now, the Prosecution is happy for the Chamber to receive this
15 letter, if only to demonstrate the apparent misrepresentation of my
16 learned friend at the outset, but also the Prosecution is of the view
17 that the Chamber ought not to burden itself with this issue. There are
18 more pressing issues to determine in this case, and our submission would
19 be that this complaint is of the same ilk as the one raised regarding the
20 journalist who wrote a book of fiction that my learned friend wanted to
21 raise and use court time on.

22 So those would be our submissions, may it please the court.

23 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Sachdeva.
24 (Trial Chamber confers)

25 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Sachdeva.

1 Maître Mabilie, you will undoubtedly bear in mind what
2 Mr. Sachdeva has just submitted. The essence of it being, as we
3 understand it, that there is nothing in this letter that materially
4 impacts on this trial, and the ultimate role that we've got, to make up
5 our minds on the charges levied against your lay client.

6 Now, this is ultimately a matter for you. If counsel believes
7 there is a document that we really should consider, then counsel should
8 put it before us. So you needn't respond now. We would ask you to
9 reflect on this and to make up your mind as to whether or not, in truth,
10 we should be detained by this matter.

11 Anything else before the witness comes in?

12 Closed session, please.

13 *(Closed session at 12.25 p.m.) Reclassified as Open session

14 COURT OFFICER: We are in closed session.

15 PRESIDING JUDGE FULFORD: Witness, please.

16 (The witness entered court)

17 PRESIDING JUDGE FULFORD: Good afternoon, sir.

18 THE WITNESS: (Interpretation) Good afternoon.

19 PRESIDING JUDGE FULFORD: Thank you for attending again in these
20 proceedings. In a moment, you will be asked some questions, first
21 Mr. Omofade who sits on your right, and then by counsel, Mr. Desalliers,
22 sitting on your left. We wish to reassure you that the protective
23 measures that have applied up until this stage will continue, and that
24 your identity will be withheld from the public. So rest assured that
25 anonymity for you will continue.

1 It has been some time since you last took the oath, and we will
2 ask you, please, to take it again in public session.

3 Can the appropriate card please be provided to the witness, and
4 if he requires assistance, can it be given to him.

5 Mr. Sachdeva, do you recall?

6 MR. SACHDEVA: I don't believe so, Mr. President. No.

7 PRESIDING JUDGE FULFORD: You don't recall there being assistance
8 necessary?

9 MR. SACHDEVA: Correct.

10 PRESIDING JUDGE FULFORD: Thank you very much, indeed. Good. Do
11 we have the card there? Good. Public session, please.

12 (Open session at 12.29 p.m.)

13 COURT OFFICER: We are in open session now.

14 PRESIDING JUDGE FULFORD: Sir, could you now then read out the
15 words on the card in front of you and read them out loud.

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

18 WITNESS: WITNESS DRC-OTP-WWWW-0038

19 (Witness answered through interpreter)

20 PRESIDING JUDGE FULFORD: Excellent. Thank you very much.

21 Now, Mr. Omofade, it's probably desirable if, through you, the
22 witness identifies himself again. That obviously needs to be done in
23 private session, and please recall that to the greatest extent possible
24 we should try and conduct this evidence publicly but obviously, if
25 necessary, we will move into private session.

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1 So shall we commence, therefore, in private session so the
2 witness can identify himself?

3 MR. OMOFADE: Certainly, your Honour.

4 PRESIDING JUDGE FULFORD: Thank you. Private session, please.

5 *(Private session at 12.31 p.m.) Reclassified as Open session

6 COURT OFFICER: We are in private session.

7 PRESIDING JUDGE FULFORD: Yes, Mr. Omofade.

8 QUESTIONED BY MR. OMOFADE:

9 Q. Good afternoon, Mr. Witness.

10 A. Good afternoon.

11 Q. My name is Adebowale Omofade, and I'll be asking you some
12 questions this afternoon on behalf of the Prosecution. Do you
13 understand?

14 A. Yes.

15 Q. I'm going to start by asking you to state your name for the
16 court, please.

17 A. My name is (Redacted).

18 THE INTERPRETER: Could Counsel please switch his microphone off
19 when the interpreter is speaking, thank you.

20 Q. And could you tell us your date of birth?

21 A. I was born on the (Redacted), 1984, in (Redacted).

22 Q. And just for the sake of completeness, where is (Redacted)?

23 A. (Redacted) is in Ituri.

24 Q. Mr. Witness, you've already, as the judge pointed out, you've
25 already been before this Court before, in January 2009. Do you remember

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1 that?

2 A. Yes, of course.

3 Q. And on that occasion, I believe you had the good privilege of
4 being asked questions by my friend who sits next to me, Mr. Sachdeva. Do
5 you remember that?

6 A. Yes, I do.

7 Q. It may assure you to know that most of the questions you were
8 asked then, I do not propose to go over. Do you understand?

9 A. Yes.

10 Q. Have you been in contact with the Office of the Prosecutor since
11 you attended this court in January 2009?

12 A. I'm sorry?

13 Q. Have you been back to The Hague since you came to give your
14 evidence in court in January 2009?

15 A. Yes.

16 Q. And do you remember when that was?

17 A. I do not understand. Could you put your question differently?

18 Q. Do you recall when you came back to the court -- to The Hague,
19 apart from when you came in January 2009?

20 A. Yes. I believe it was in the month of September. I believe it
21 was on the 16th of September, 2009.

22 Q. Thank you. And on that occasion, did you give a statement to the
23 Office of the Prosecutor?

24 A. Yes.

25 Q. I intend, Mr. Witness, to focus my questioning this afternoon on

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1 the contents of your statement and what was discussed when you came in
2 September 2009. Do you understand?

3 A. Yes.

4 Q. Generally, could you tell the Court when you first came into
5 contact with the Office of the Prosecutor?

6 A. The first time was in 2006, in Bunia, and if I am not mistaken,
7 it was a weekend. I was at home from boarding school, which was often
8 the case. I was at home on the weekend, and it was on the Sunday that I
9 had contact with the Office of the Prosecutor. It was of an afternoon,
10 and I would often read over my study notes on Sundays. I had the visit
11 of a friend, (Redacted) with whom I spent a lot of my time, and he said that the
12 Office of the Prosecutor was seeking an individual who had or might have
13 taken part in the Mongbwalu or Kobu fighting, and the person is called --
14 can I give the name? The name is --

15 Q. Yes, you can give the names as we are in private session.

16 A. The name is (Redacted). The name is (Redacted), this is a friend and (Redacted)
17 with whom we spent a lot of time, and he said that the Office of the
18 Prosecutor -- well, he was talking about the court, I only knew about the
19 court referred to as such, and that they were seeking somebody who had
20 taken part in the fighting in Mongbwalu and Kobu. And due to the fact
21 that he knew I had taken part in that fighting, he requested that I speak
22 with the people from the court.

23 Q. Mr. Witness, I know you've given evidence before the court in the
24 past. Perhaps you were instructed then, but can I remind you to slow
25 down as you speak because what you say and what I say both have to be

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1 translated into different languages. Do you understand that?

2 A. Yes, thank you.

3 Q. You've told us about your discussion with (Redacted), and he's
4 asking you -- he's informing you about the Office of the Prosecutor
5 looking for individuals who had fought in Mongbwalu and Kobu. Now, what
6 happened after? What was your reaction to this request by him?

7 A. I was surprised. How could he have such a piece of
8 information? Because (Redacted) is an individual I know well, and I was
9 surprised to hear what he said. By curiosity, I sought to find out what
10 the people from the court, from the Office of the Prosecutor, had to say,
11 and we took a moto-taxi, motorbike taxi with him, and in view of the fact
12 that I -- or he was driving, and we left to go to the centre of the town.
13 And we went to a hotel at the centre of the town, which is located
14 between the MONUC headquarters and the Cueb university centre, a outpost of
15 the University of Bunia, and this is where we stopped. We went into the hotel,
16 we found there an individual whom I now know, whose name is (Redacted). We
17 and called him (Redacted). And it was (Redacted) whom we met at the hotel.

18 Q. Did you come to find out (Redacted) surname?

19 A. On the first day, I did not ask for his surname but the
20 name that we were in the habit of calling him was (Redacted).

21 Q. I'm going to ask you a number of questions now back in open
22 session. Do you understand?

23 A. Yes.

24 Q. You've referred to a number of names this afternoon, firstly to
25 the name of the individual named (Redacted) and also the individual

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1 named (Redacted). For the individual named (Redacted), when we are in open
2 session, to avoid his identity being disclosed publicly, can I ask that
3 you merely refer to him as "my relative"? Would you be able to do that?

4 A. Yes.

5 Q. And perhaps more complicated, for the second individual, (Redacted), could
6 -- you could I ask that you refer to him as 0316? Could you do that, please?

7 A. Yes, yes, 0316 it is.

8 PRESIDING JUDGE FULFORD: Let's try it, shall we.

9 MR. OMOFADE: Certainly, your Honour.

10 PRESIDING JUDGE FULFORD: Sir, if at any stage you forget, either
11 the words "my relative" for (Redacted) or 0316 for (Redacted), don't worry, even
12 if you come out with the wrong name, we will be able to delete it from
13 the transcript. So don't worry about this, but if you can try and recall
14 then for (Redacted) you say "my relative," for (Redacted) you say "0316."

15 Public session, please.

16 (Open session at 12.42 p.m.)

17 COURT OFFICER: We are in open session.

18 PRESIDING JUDGE FULFORD: Yes.

19 MR. OMOFADE:

20 Q. Mr. Witness, we got to the stage where you were telling us about
21 a meeting between yourself, your relative, and 0316 at a hotel. Could
22 you tell us what happened when you met with 0316?

23 A. Yes. When we met him, I introduced myself by name, and he also
24 introduced himself. He gave his name. He started putting questions to
25 to tab 6 on that binder, please, the document just below tab 6? Do you

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1 me as to whether I had really taken part in the fighting in Mongbwalu and
2 Kobu. I showed him my demobilisation card issued by the National Demobilisation
3 Commission to prove to him that I had been a soldier, and he asked me a number of
4 the names of the high commanders of the FPLC, Kisembo et al. And I said that I
5 knew them all. And then he suggested to me that I see an individual from the Office
6 of the Prosecutor whose name he did not give to me.

7 Q. Okay. Pause there. I'm going to take you back slightly. You
8 did indicate that you gave 0316 your demobilisation card. Would you
9 normally carry this card around with you?

10 A. Yes. I have it with me everywhere, even here. I left it at the
11 hotel, but yes, I do take it everywhere with me.

12 MR. OMOFADE: Perhaps, your Honours, this might be a convenient
13 time for the binder that the Prosecution distributed to be distributed.

14 PRESIDING JUDGE FULFORD: Certainly, Mr. Omofade. With the
15 assistance of the Usher, please, thank you. I think Judges already have
16 it, so it's probably just a copy to the witness.

17 Do you have this, Mr. Desalliers? No. So a copy to
18 Mr. Desalliers, please.

19 In fact, Mr. Omofade, I'm wrong. We have the Defence binder, not
20 yours. Right.

21 MR. OMOFADE: Indeed.

22 PRESIDING JUDGE FULFORD: Thank you. Right. That's distributed,
23 Mr. Omofade, so where do you want the witness to go first?

24 MR. OMOFADE:

25 Q. Mr. Witness, you've got a binder in front of you. Could you turn

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1 have the document in front of you now, Mr. Witness?

2 A. Yes.

3 Q. Do you recognise this document?

4 A. Yes. It is my demobilisation card.

5 Q. Without going into the details of the information on it, is that
6 a photograph of you towards the right-hand side?

7 A. Yes, it is my photo.

8 Q. And in the top left-hand corner, there appears to be a number.
9 What does that number represent, please?

10 A. It is the registration number for the National Demobilisation Commission.
11 It is the number that use for, I don't know, the Commission... Conader... and you
12 will find all my identity details there.

13 Q. And which organisation issued this card to you?

14 A. I said the National Demobilisation Commission, (inaudible) the
15 demobilisation institution of the Congolese government that issued this
16 document to all of the former soldiers or members of the military who
17 chose voluntarily to leave the army.

18 MR. OMOFADE: Your Honours, I wonder if an EVD number could be
19 assigned to this document, please, or ERN number.

20 COURT OFFICER: The evidence number of the document of the card
21 shall be EVD-OTP-00630.

22 PRESIDING JUDGE FULFORD: Thank you. Yes, Mr. Omofade.

23 MR. OMOFADE:

24 Q. You have told us that 0316 asked you a number of questions to
25 which you gave him answers. What happened after that?

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1 A. When he asked me questions as to who the leader was,
2 I told him what I knew and he wanted to know if I'd accept to
3 speak to a person from the Office of the Prosecutor,
4 and I asked him where that would happen. He
5 told me that would take place in a secure location and that location
6 would be in camp Ndromo, which is where the battalions, the military
7 MONUC battalions were, and that's where I met someone from the Office of
8 the Prosecutor.

9 Q. How did you commute to where you met the individual from the
10 Office of the Prosecutor?

11 A. When we were there, 0316 called, and the jeep from the Court, from the
12 Office of the Prosecutor came to the hotel to get us and took us to camp
13 Ndromo.

14 Q. You say "us," how many of you
15 went to camp Ndromo?

16 A. When I said "us," there were three of us, meaning myself, the
17 driver who came, and 0316.

18 Q. And how long did it take you to get there?

19 A. I don't know precisely how much time. It didn't take very long.
20 It was just from the hotel to the camp Ndromo. I don't know how much
21 time.

22 Q. And when you got to camp Ndromo, what happened?

23 A. When we got to camp Ndromo, they took us to a house, and that is
24 where, after a few minutes, the person who was supposed to ask me the
25 questions came. The person from the Office of the Prosecutor.

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1 MR. OMOFADE: Your Honour, might I request at this point to go
2 into private session just for one or two questions?

3 PRESIDING JUDGE FULFORD: Certainly, Mr. Omofade. Private
4 session, please.

5 *(Private session at 12.52 p.m.) Reclassified as Open session

6 COURT OFFICER: We are in private session.

7 MR. OMOFADE:

8 Q. We are now in private session. Did the person from the Office of
9 the Prosecutor introduce themselves to you?

10 A. Yes. The person introduced herself, it was a woman, her name was
11 (Redacted), and she showed me her work card with her name, (Redacted), I
12 don't remember her surname.

13 Q. And did you introduce yourself to her?

14 A. Yes. I introduced myself showing her my demobilisation card.

15 Q. Then what happened? Please tell us.

16 A. Yes. After this introduction, she started to ask me questions,
17 where I had trained and if I knew some of the military leaders, and she
18 asked the question whether I had participated in the fighting in
19 Mongbwalu and Kobu, and I answered that I was an FPLC soldier, I had been
20 in the fighting in Mongbwalu and Kobu.

21 Q. Where was 0316 at this time?

22 A. He was outside. We were in the room. There were two of us,
23 myself and (Redacted).

24 Q. Now, Mr. Witness, I'm going to request that we go back into
25 public session now. The lady that you've referred to as (Redacted), to

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1 assist in masking her identity, could you refer to her only as "the
2 investigator"? Do you think you would be able to remember to do that?

3 A. Yes.

4 PRESIDING JUDGE FULFORD: Public session, please.

5 (Open session at 12.55 p.m.)

6 COURT OFFICER: Open session.

7 PRESIDING JUDGE FULFORD: Yes.

8 MR. OMOFADE:

9 Q. So Mr. Witness, we got to the stage where you were telling us
10 that the investigator asked you what fights you had been involved in and
11 your response to her. What happened after that?

12 A. When I answered, I said I had participated in the fighting in
13 Mongbwalu and Kobu. She asked whether I would accept to undergo an
14 interview in the Office of the Prosecutor, so I asked where the interview
15 would take place. She said that she would have to prepare that and call
16 me to find out where the interview would take place.

17 Q. Where was 0316 at this time when you were talking to the
18 investigator?

19 A. He was outside -- 0316 was outside the room where I was with the
20 investigator. The investigator and myself.

21 Q. And just for the sake of completeness, where was your relative at
22 this time?

23 A. He had stayed in the city because 0316 said that the vehicle from
24 the court would come to pick us up, and so 0316 gave him money to pay for
25 transportation because we had finished with him, my relative needed to go home

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1 and I was the one who needed to continue with 0316 and with the investigator,
2 and he left.

3 Q. Did you have any further discussion with the investigator during
4 that meeting?

5 A. Yes. After having asked where the interview would take place,
6 she said she would organise it, she would see with other people from the
7 Office of the Prosecutor in order to find out where the interview would
8 take place. For the time being, I had to wait, and wait for the date
9 that would be set for the interview.

10 Q. And was there any discussion as to how you would contact the
11 investigator or how the investigator would contact you?

12 A. Yes. The investigator gave me her phone number, the mobile phone
13 number, and she said to call if there were any problems or if she had
14 something to tell me, that she would call 0316 and 0316 would give me the
15 message.

16 Q. You yourself did not have a mobile phone at this time, did you?

17 A. No. I did not have a phone at that point in time. And she told
18 me that meanwhile, whilst waiting for the court to buy me a phone to pass on
19 messages, I could either call her to let her know, or if she had messages to give
20 me, she would do it through 0316.

21 Q. During that meeting, where you and the investigator were talking,
22 did you -- did you have this discussion about the phone in the presence
23 of 0316 or when 0316 was not in the room?

24 A. We spoke about the phone when 0316 was not there. I spoke with
25 the investigator in the room where there were just the two of us.

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1 PRESIDING JUDGE FULFORD: Mr. Omofade, we are now 1.00. In your
2 hands. Find a convenient moment, either now or when you've concluded
3 this particular series of questions.

4 MR. OMOFADE: Your Honours, this might be a convenient moment.

5 PRESIDING JUDGE FULFORD: Good. Thank you very much, indeed.

6 Sir, I'm afraid it's been a fairly short session for you this
7 morning because we were having to finish off another witness. Thank you
8 for your patience. We are going to have lunch now and we look forward to
9 seeing you again at 2.45.

10 Closed session, please, so the witness can withdraw.

11 * (Closed session at 1.01 p.m.) Reclassified as Open session

12 COURT OFFICER: Closed session.

13 (The witness stands down)

14 PRESIDING JUDGE FULFORD: 2.45.

15 Luncheon recess taken at 1.01 p.m.

16 On resuming at 2.45 p.m.

17 COURT USHER: All rise. Please be seated.

18 PRESIDING JUDGE FULFORD: Witness, please.

19 (The witness takes the stand)

20 PRESIDING JUDGE FULFORD: Public or private, Mr. Omofade?

21 MR. OMOFADE: Your Honours, we can start in public.

22 PRESIDING JUDGE FULFORD: Thank you. Public session, please.

23 (Open session at 2.47 p.m.)

24 COURT OFFICER: We are in open session.

25 PRESIDING JUDGE FULFORD: Good afternoon, sir.

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Questioned by Mr. Omofade

1 THE WITNESS: (Interpretation) Good afternoon.

2 MR. OMOFADE:

3 Q. Mr. Witness, we left off before the luncheon adjournment at the
4 point where you were having -- you said you were having a discussion with
5 the investigator about her providing you with a mobile phone. Do you
6 recall that?

7 A. Yes.

8 Q. Following that discussion with the investigator, was there any
9 further discussion with -- between both of you?

10 A. When we finished, when I had finished with her, we took the same
11 jeep, the same truck, to take us to the centre of town.

12 Q. And how many of you travelled back to the centre of town?

13 A. There were still three of us: Myself, 0316 and
14 the driver.

15 Q. In other words, you left the investigator back at the camp?

16

17 A. Yes.

18 Q. Now, on the journey back to the centre of town with 0316 and the
19 driver, did you discuss anything that you had discussed previously
20 with the investigator?

21 A. No. When we discussed with the investigator -- well, we
22 discussed inside. And when we went in the jeep to go to the centre of
23 town, we did not discuss what we had spoken about with the investigator
24 in the jeep.

25 Q. I ask you the same question about when you were commuting with

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1 0316 and the chauffeur to where you had met the investigator. Did any
2 discussions take place in the jeep as to what you were going to discuss
3 with the OTP?

4 A. When we went in the jeep from the hotel to Ndromo camp, we did
5 not discuss what was happening, what was going to happen, in the Ndromo
6 camp.

7 Q. And just to clarify, when you say "we," who are you referring to?

8 A. Myself, 0316, and the driver. We did not discuss what was to
9 take place at the camp or anything.

10 Q. You left off the investigator at the point where she agreed to
11 contact you subsequently for an interview, you've told us. Do you recall
12 telling us that?

13 A. Yes.

14 Q. Did there come a time when you were eventually contacted again by
15 the investigator?

16 A. It was after, when I was to be told when we were to leave, the
17 dates of departure for Kinshasa, not the same day, afterwards, a
18 different day from that day.

19 Q. Okay. We'll come back to when you were to leave for Kinshasa.
20 You said the investigator had arranged for you to have a mobile phone.
21 Did you eventually -- were you eventually provided with a mobile phone?

22 A. Yes. Not the same day. I was given the telephone another day.
23 That day, we just discussed. We talked about whether I had participated in
24 Mongbwalu and Kobu and what I did as a soldier and where I got my
25 training, but that day she promised to give me a telephone so that

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1 I would be able to be in contact with her and that I not have to go
2 through 0316, that we would be able to be in contact by telephone, so she
3 promised to give me a telephone but that telephone was not given to me
4 the same day. It was given to me a different day. It was not the same
5 day, it was a different day, before I left for Kinshasa.

6 Q. Okay. Tell us how you came to receive the mobile phone, the
7 telephone, then.

8 A. The day I was to be given the mobile phone, I was contacted by
9 (Redacted) through a family member, and it was a week day. I was in
10 boarding school. And this family member came to see me at school, and he
11 told me that Mr. 0316 wanted to see me. And so we took the motorbike
12 with my relative and we went to see Mr. 0316, and the
13 information that I was given by 0316 was that I was to be given a
14 telephone, but the telephone wasn't there. It was the investigator who
15 was to give me the telephone. And we waited some two hours or maybe
16 more, I'm not quite sure, and then we left the house; that is, we left
17 0316's house to go to the hotel where we met the first time. That is
18 where the investigator came in a jeep and she gave me the telephone that
19 day.

20 Q. Okay. Pause there.

21 MR. OMOFADE: Your Honours, I think there might be need for a
22 redaction, I believe, at line 10 of page 54.

23 PRESIDING JUDGE FULFORD: Absolutely right. Redaction, please.

24 Thank you.

25 MR. OMOFADE:

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1 Q. Mr. Witness, you said you arrived -- you were picked up by 0316
2 and proceeded first to a location. Where is it that you went first
3 before you went to camp Ndromo -- sorry, before you went to the hotel?

4 A. I'm afraid I didn't understand your question.

5 Q. When you left your school, what was your first point of stopping?
6 Where did you go first?

7 A. First of all we went to 0316's house, his home, and we spent a
8 few moments there while he called the investigator, and while we were
9 waiting for the investigator, we went from 0316's house to the hotel;
10 that is, where we had met the very first time.

11 Q. And who did you go with to the hotel to see the investigator?

12 A. The two of us, that is myself and 0316. We went together. And
13 the family member that had come to get me at school, he was given money
14 for transportation, and he left. He left me at 0316's house and we got some chairs,
15 and then 0316 and I went to the hotel.

16 PRESIDING JUDGE FULFORD: Can I ask you both, please, to try to
17 build in a bit of a gap between questions and answers, answers and
18 questions? It's just if you don't pause, the interpreters and the
19 transcribers find it difficult to catch up. So when a question is asked,
20 could you just pause for a moment before you reply, sir, so that we can
21 give those sitting in the various booths around this court time to keep
22 up?

23 Good, please carry on, Mr. Omofade.

24 MR. OMOFADE:

25 Q. On the journey to the hotel with 0316, did you discuss anything

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1 about your work or what you were going to do with the investigator?

2 A. No. We didn't talk about anything in particular except that 0316

3 told me that the investigator was going to give me a telephone. That was

4 the only information that 0316 gave to me.

5 Q. When you arrived at the hotel, you've told us you met the

6 investigator. Was this the same investigator you had met the first time?

7 A. Yes.

8 Q. And what happened after you met her?

9 A. We were at the hotel, and she came in the jeep that belonged to

10 the court. She parked, and then 0316 took me to the door of the car, and

11 I got into the jeep, and 0316 left, he went back to the hotel, and we discussed --

12 or, rather, I discussed with the investigator, that's when the

13 investigator gave me the telephone and a telephone card, to be able to

14 call. We discussed with the investigator, the two of us, just the two of

15 us, there was no one else.

16 Q. And did you eventually return to where you had left 0316, or did

17 you go back to your school alone?

18 A. Yes, I was accompanied to the motorcycle stop, and 0316

19 came to meet us, and he got into the jeep and they took me to where

20 I was to take the motor bike to go back to school.

21 Q. And during that period when you were with 0316, did you discuss

22 anything that had taken place between you and the investigator?

23 A. No.

24 Q. You eventually returned to school, did you, that day?

25 A. Yes, yes.

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1 Q. Did you have cause to be contacted by 0316 or the investigator
2 after that day?

3 A. After that day, since I had received the telephone already, if
4 I needed to call, all I had to do was call the investigator or the
5 investigator could contact me directly by phone, but sometimes 0316 would
6 call me, just to see if I was okay. I didn't really have to go to see 0316.

7 Q. And during those calls with 0316, would you discuss anything else
8 apart from 0316 inquiring whether you were okay?

9 A. No. We didn't discuss what I had talked about with the
10 investigator, no. We didn't discuss that.

11 Q. So apart from telephone calls between yourself and 0316, did you
12 meet 0316 again, after your meeting with the investigator?

13 A. Yes. After I was given the telephone, I was at school where
14 I lived, and I was getting prepared to go to Kinshasa for the interview,
15 and since 0316 was to get the necessary documents, that is for the flight
16 and for immigration, because we had to go through Kampala to go to
17 Kinshasa, it was 0316 who carried out those procedures, and he would
18 sometimes call me, he called me often, to fill out the forms, the
19 immigration papers, because the flight had to go through Kampala, you had
20 to have a visa, and we had to request that from the immigration
21 department. So it was 0316 who carried out all of those procedures, and
22 he would call me frequently, either to sign papers or to -- for
23 passport photos, for example, because you needed passport photos for those
24 documents.

25 Q. To fill out the papers and prepare the necessary documents, did

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1 you have to meet physically with 0316?

2 A. Yes.

3 Q. Where did that meeting take place?

4 A. Well, if he called me, I would go to his house, to 0316's house.

5 Q. You say if he called you, you would go to his house. Did he, in
6 fact, call you, and did you go to his house to fill out papers and forms?

7 A. Yes. Just to fill out the forms to get the necessary papers for the
8 trip.

9 Q. Do you remember when this was? The dates, if you remember?

10 A. I don't remember the precise date, but I remember that in March
11 of 2006 was when the interview took place, and we had to prepare ahead of
12 time so it must have been February 2006.

13 Q. During that meeting with 0316, where you discussed your travel
14 arrangements, did you discuss anything else relating to what you were
15 going to talk to the Office of the Prosecutor about?

16 A. We did not discuss the content of what I was to talk about with
17 the investigator. He was only in charge of preparing the trip, and even
18 the day I met the investigator for the first time, she warned me not to
19 talk about what I was talking about with her with other people, for my
20 own security. She warned me about that. She gave me those instructions
21 right from the first day when I met the investigator.

22 Q. And did you understand that warning to include not to speak to
23 0316 about those details?

24 A. I beg your pardon? Could you repeat the question?

25 Q. You said the investigator warned you not to speak about your

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1 activities with the OTP for your own security. Did you understand that
2 warning to also include not speaking to 0316 about your activities with
3 the OTP?

4 A. Yes. I understood that, and that's, in fact, what I did. I did
5 not discuss what I talked to the investigator about with him, and I took
6 that warning as something that applied to myself, for my own security.

7 Q. You talked earlier about the flight to Kinshasa. Tell us how you
8 travelled to Kinshasa?

9 A. The day I was to take the plane to go to Kinshasa, 0316 called me
10 and, once he had collected all of the papers, he called me from his house
11 to tell me that I was to travel to Kinshasa and that all of the papers
12 were ready and that he had to give me those papers, that is the travel
13 documents, and he called me so I went to his house, I went to 0316's
14 house, and he told me that the flight was to take off in the morning,
15 around 6.30. It was a MONUC flight. We were to take a MONUC flight.
16 And he said that it was at 6.30 and that I had to be at his house before
17 6.30.

18 So I went back to school, and that morning, the next morning,
19 I went to his house before 6.30, and I spent a short time at his house
20 while he got ready, because he was still asleep, and then he took me on
21 his motorbike to the airport, and it was the airport in Bunia. That's
22 where I took the plane to go to Entebbe – Entebbe-Kinshasa.

23 Q. You've talked about -- in your last response -- two physical
24 meetings with 0316, the first when he called you to inform you of the
25 potential flight to Kinshasa, and the second on the morning of the flight

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1 itself.

2 Now, on both of those occasions, did you discuss what you were
3 going to speak to the OTP investigators about with 0316?

4 A. 0316 and myself did not discuss what was to take place in
5 Kinshasa, nor did we talk about the information that I was to provide.
6 He did not suggest that I say something or anything like that, and since
7 he didn't know what I was to say, he –
8 there was nothing to talk about with him.

9 Q. On the morning you were meant to fly to Kinshasa, you've told us
10 that 0316 took you to the airport. Did he travel to Kinshasa with you?

11 A. No. I travelled alone to Kinshasa. He dropped me off at the
12 airport and went home

13 Q. Now, you've already told us you were in school, you were a
14 student. How were you meant to maintain yourself, to sustain yourself,
15 in Kinshasa? Were any arrangements made in that regard?

16 A. Yes. 0316 said that when I got to N'Djili airport in Kinshasa,
17 someone was going to call me, so I had to be sure my phone was on. As
18 soon as I landed someone was going to call me and come and pick me up at
19 the airport in Kinshasa, and in Bunia he said there wouldn't be any
20 problem, everything had been planned for, I would be staying in a hotel
21 and someone would come and get me at the airport, but since the flight
22 went through Entebbe, he gave me an amount of money, \$20, I had to sign a
23 paper. It was so I could get something to eat in Entebbe because I had
24 to spend the entire day in Entebbe and take another flight at 4.00, so he
25 gave me this amount of \$20 for food, and then I took the flight in

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1 Entebbe to Kinshasa.

2 Q. And it may be an obvious question, but was this 20 United States
3 dollars?

4 A. Yes.

5 Q. Did you eventually board the flight to Kinshasa via Entebbe?

6 A. Yes, I took the flight from Bunia to Kinshasa via Entebbe.

7 Q. And what happened when you arrived in Kinshasa?

8 A. Upon landing at N'Djili airport in Kinshasa, I respected the instructions,
9 that is, I left my telephone on, and an individual called me to say that
10 in ten minutes they would be at the airport to pick me up.

11 This was an individual from the Office of the Prosecutor whom I know.

12 Can I give his name?

13 PRESIDING JUDGE FULFORD: I don't see why not. Unless you want
14 us to be in private session for that?

15 MR. OMOFADE: Your Honours, out of an abundance of caution,
16 probably yes.

17 PRESIDING JUDGE FULFORD: Well, do you in fact know who it is,
18 Mr. Omofade?

19 And if you do, are there, in fact, any security concerns that attach
20 to this particular individual? It's not necessarily easy to imagine
21 that there would, but perhaps you'd like to have a quick chat
22 with Mr. Sachdeva.

23 (Prosecution counsel confer)

24 MR. OMOFADE: Your Honours, we don't know exactly who it is, and
25 that was the reason for my being overcautious anyway. We think that if

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1 this person's name is given in public session, there may be some
2 possibility of linking the individual to the witness, particularly with
3 us speaking about specific times and dates.

4 PRESIDING JUDGE FULFORD: All right. Private session.

5 *(Private session at 3.17 p.m.) Reclassified as Open session

6 COURT OFFICER: We are in private session.

7 PRESIDING JUDGE FULFORD: Do you know his name?

8 THE WITNESS: (Interpretation) Yes. His name is (Redacted), and he
9 was working for the Office of the Prosecutor. I just know his name
10 (Redacted). I do not know his other names. His name is (Redacted).

11 PRESIDING JUDGE FULFORD: All right. From now on, we'll refer to
12 him as the representative from the Prosecution, and try and avoid
13 referring to the name (Redacted) in public session.

14 Public session, please.

15 (Open session at 3.18 p.m.)

16 COURT OFFICER: We are back in open session.

17 PRESIDING JUDGE FULFORD: Yes.

18 MR. OMOFADE:

19 Q. What happened when you met with the representative of the Office
20 of the Prosecutor in Kinshasa?

21 A. When he came to pick me up at the airport, after having finished
22 our business at the airport, and after having picked me up, well, he
23 asked me to get into the jeep belonging to the OTP, and he took me to the
24 hotel where I was to be put up that day.

25 Q. And did you eventually meet with any other representatives of the

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1 Office of the Prosecutor?

2 A. Yes. On the day of the interview, I did, because it was not on
3 the same day that the interview occurred, not the day that I was picked
4 up from the airport. The next day the interview was due to commence, and
5 on the day when the interview started, I met an individual with whom we
6 were in Bunia. So those were four individuals from the Office of the
7 Prosecutor, of whom I knew only the individual whom I had met in Bunia
8 previously.

9 Q. So would it be fair to say that you met the investigator you had
10 previously met in Bunia as well as three other individuals?

11 A. Yes. I met the investigator who had been in Bunia, and the three
12 other individuals -- well, it was the first time that I had seen them.
13 And I also met my counsel in Kinshasa, who had come from Paris. That was
14 on the day of the interview.

15 Q. Now, taking you back, Mr. Witness, to the date you arrived in
16 Kinshasa, do you recall what date that was?

17 A. If my memory serves me correctly, it was the 17th of March 2006.

18 Q. And between your arrival in Kinshasa and the time that you met
19 with the four representatives of the Office of the Prosecutor, did you
20 discuss or did you have any conversation with 0316?

21 A. Could you please repeat your question?

22 Q. Between the time of your arrival in Kinshasa on -- and the date
23 you've given us, is the 17th of March, and the following day when you met
24 the investigators of the Office of the Prosecutor, did you discuss at all
25 with 0316?

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1 A. Yes. On the 17th, the day that I arrived in the evening, he
2 phoned me to ask me whether my journey had gone well, and
3 I said that everything had gone swimmingly and that there had not been any
4 problems at the airport or elsewhere -- he just wanted to make sure that I had really
5 arrived. We didn't discuss anything else apart from that.

6 Q. And on the following day, were you eventually interviewed by
7 investigators of the Office of the Prosecutor?

8 A. Yes.

9 Q. And please help us: How long did that interview process last?

10 A. The interview lasted four days, and we would work the whole day
11 over that four-day period.

12 Q. And at the end of each interview session, did you have any reason
13 to contact or speak to 0316?

14 A. No. I only talked to him on the day that I arrived. He phoned
15 me in the evening to ask me if everything was all right, and during those
16 four days, I did not communicate with him. He -- my counsel, that is,
17 told me not to communicate too much, and throughout the entire duration
18 of the interview I did not talk to 0316. Until the day that I went back
19 to Bunia, I did not talk to him.

20 Q. And it's a matter of record anyway, but did you have your counsel
21 present throughout those interview sessions?

22 A. Yes.

23 Q. Now, on the fourth day, you said the interview lasted four days,
24 what happened on the final day of the interview?

25 A. On the fourth day, when we finished the interview, I did not

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1 telephone 0316 and did not talk to him.

2 Could you ask the question in another manner, please? Maybe

3 I might not have understood it properly.

4 Q. Certainly, and it may be my mistake.

5 What happened when the interview came to an end, when you had
6 finished with the investigators?

7 A. On the day that we finished the interview, the investigator
8 handed to me the sum of \$80, maybe if I needed to buy any books. As
9 I was studying, I needed books. And I was given the sum of \$80. She gave me the
10 sum of \$80, and I signed a document. That was on the day that we
11 finished the interview.

12 Q. And did you return to Kinshasa -- oh, I beg your pardon, did you
13 return to Bunia the same day?

14 A. No. I did not return on the same day, that is the day that
15 I finished the interview. I was due to leave on the next day, that is to
16 say the day after having finished the interview of four days. Now, we
17 left for the airport, I missed the flight, I -- my name was not on the
18 list of those people who were due to fly that day. I went back to the
19 hotel and I waited for a flight on another day.

20 Q. How did you get to the airport on the first day, the day you
21 missed your flight?

22 A. The day that I missed the flight, a driver came to pick me up at
23 the hotel. I was told to leave my telephone on because I was to be sent
24 a driver to take me to the airport. The driver came very early in the
25 morning, at 5.30 a.m., picked me up at the airport -- took me to the

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1 hotel, and we tried to get me on a plane (* as interpreted). We were not
2 successful. I went or returned -- in fact, I went to another hotel with
3 the driver, where I was once again provided with accommodation. I did
4 not know the driver.

5 Q. But the following day, did you eventually manage to catch the
6 flight to Bunia?

7 A. Sorry, I did not understand.

8 Q. You've told us that on the first day you were meant to fly out to
9 Bunia, you missed the flight. Did you manage to get a flight the
10 following day?

11 A. Yes. On another day when I had fulfilled all the administrative
12 procedures for taking the flight, I took a flight on another day and
13 returned to Bunia.

14 PRESIDING JUDGE FULFORD: Mr. Omofade, I would like to give the
15 witness ten minutes, if that's a convenient time.

16 MR. OMOFADE: It certainly is.

17 PRESIDING JUDGE FULFORD: Thank you very much.

18 Sir, we're just going to give you a quick break. You're having
19 to think about a lot this afternoon. We will have ten minutes now and
20 sit again at 20 to 4.00. Closed session, please, so the witness can
21 withdraw.

22 *(Closed session at 3.30 p.m.) Reclassified as Open session

23 COURT OFFICER: We are now in closed session.

24 (The witness stands down)

25 PRESIDING JUDGE FULFORD: How are you doing, Mr. Omofade, in

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1 terms of time?

2 MR. OMOFADE: Your Honours, I fail to recall when we were meant
3 to rise today.

4 PRESIDING JUDGE FULFORD: 4.15. We'll have 35 minutes when we
5 come back. No pressure, just a mild inquiry.

6 MR. OMOFADE: I have an hour at least left with him.

7 PRESIDING JUDGE FULFORD: All right. That's very helpful. Thank
8 you very much. 20 to.

9 Recess taken at 3.30 p.m.

10 On resuming at 3.43 p.m.

11 COURT USHER: All rise. Please be seated.

12 PRESIDING JUDGE FULFORD: Witness, please. Whilst the witness is
13 being brought back in, not to delay him, we know nothing about the
14 circumstances but we have been told that there has been a problem with
15 Defence access to the court e-mail system. In our judgement, this is
16 something that should be rectified as quickly as possible, and it should
17 be treated as an absolute priority. A very large part of the work of
18 this trial is conducted via the internet, and it is wholly unsatisfactory
19 for the Defence to be relying on their private e-mail accounts, not least
20 because of potential security problems with non-ICC e-mail systems. So
21 this needs to be fixed quickly, please.

22 (The witness takes the stand)

23 PRESIDING JUDGE FULFORD: Open session, please.

24 (Open session at 3.44 p.m.)

25 COURT OFFICER: We are in open session.

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1 PRESIDING JUDGE FULFORD: Reverting to the matter that I just
2 dealt with in closed session, I will need some kind of communication from
3 the relevant section of the court which deals with it, if the Defence
4 access to the court e-mail system is not restored this evening. If that
5 doesn't happen today, I will need an explanation, please, as to why.

6 Yes, Mr. Omofade.

7 MR. OMOFADE:

8 Q. Mr. Witness, we left off where you told us about taking a flight
9 and returning to Bunia. Did you again contact or were you contacted by
10 0316 once you had returned to Bunia?

11 A. Yes. The day when I went to Bunia, when I got to the airport, I called
12 my father for him to pick me up at the airport, which was what was done.
13 And then he dropped me off at home. And the next day, so not the same
14 day, the next day, 0316 called me to -- so I would go to his house. When
15 I went to his house, we just discussed how the flights had been going
16 there and coming back, and whether my stay in Kinshasa had gone
17 well. That's all we discussed. We didn't discuss anything else
18 regarding the interview in Kinshasa.

19 Q. You've already told us you were still in school at the time. At
20 what point did you return to school, if at all?

21 A. Yes. When I went back to the airport and my father took me back
22 to the house, and the next morning I went back to school as planned.

23 PRESIDING JUDGE FULFORD: Mr. Omofade, although it doesn't appear
24 as though either of you is speaking too fast and there do appear to be
25 gaps, looking at the French transcript, there is an enduring problem in

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1 terms of the transcribers and interpreters having not caught up after the
2 questions have been put, in particular.

3 So when Mr. Omofade asks you a question, could you really build
4 in a pause before you answer so as to enable those who are assisting us
5 to keep up to speed? So delay your answer just by a bit. Please carry
6 on.

7 MR. OMOFADE:

8 Q. Do you remember when it was that you returned to school, a date,
9 if you can help us?

10 A. I don't have an exact date. I don't remember any more. I don't
11 remember the exact dates when I returned to school. But just the day
12 when I returned to Kinshasa. It was the next morning that I returned to
13 school. It was in the month of March, because I had had the week in
14 Kinshasa, two weeks in Kinshasa, so it might have been the beginning of
15 April, the end of March. I don't have a precise date that I could give
16 you.

17 Q. And apart from that occasion when you returned, when 0316 called
18 you and you met with him, did you meet 0316 on any other occasion?

19 A. Yes. After I returned from Kinshasa, when he called me, I went
20 to his house, we discussed the travel, how it went, that it went well,
21 then I went back to school. After a while I didn't go back to his house
22 because there wasn't anything I had to speak to him about precisely, but
23 there was a day when I had a problem, when I fell off of my scooter and
24 got hurt, and that was the day when I called Mr. 0316, because my phone
25 that had been given to me by the investigator had been -- had been taken

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1 by the owner of the scooter because his scooter was damaged, and so I had
2 to give him \$25 but I did not have the money so I gave him the phone. So
3 I called 0316 because when I paid what I owed to the scooter owner, he
4 didn't want to give me the phone given to me by the investigator. That's
5 why I called to 0316 to explain the problem I had with the phone. The
6 phone had been kept by the scooter owner because I had damaged his
7 scooter. I had already paid the money to him but he did not want to
8 given me the phone back, so if 0316 could intervene so I could get the
9 phone back because the phone was for the court, and 0316 10 called the police
commissioner and that's how I got the phone back from
11 the owner of the scooter.

12 Q. On that occasion, did you meet with 0316 or was your
13 communication merely over the telephone?

14 A. Yes. That day we only spoke on the phone because I called 0316
15 using a public phone, and he -- we just discussed on the phone and then
16 I was able to recover the phone. But because I had been injured, my
17 nose, he called me the next day again for me to go by his house. And
18 when I went, I left school, and he sent a person on a motorbike to pick
19 me up at school. Can I give the name of the person?

20 PRESIDING JUDGE FULFORD: Private session, please.

21 *(Private session at 3.53 p.m.) Reclassified as Open session

22 COURT OFFICER: We are in private session.

23 PRESIDING JUDGE FULFORD: His name?

24 THE WITNESS: (Interpretation) His name was (Redacted). I didn't know
25 his surname. (Redacted). I saw him often with 0316. They were often

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1 together. His name was (Redacted).

2 PRESIDING JUDGE FULFORD: Thank you. Public session, please.

3 (Open session at 3.54 p.m.)

4 COURT OFFICER: We are back in open session.

5 PRESIDING JUDGE FULFORD: Thank you.

6 MR. OMOFADE:

7 Q. And what happened when you were picked up by this person sent by
8 0316?

9 A. Yes. When he came to pick me up at school, he called me to say
10 he was supposed to pick me up because 0316 wanted to see me. So we
11 took the motorbike to his house, all the way to 0316's house. Because I
12 had cuts on my nose, 0316 told me that he had been told to take a picture of my
13 face where I had been injured. That is what was done. He took the picture.
14 I don't know how many, maybe five, approximately, because he had a camera,
15 he took my picture, and that's all. And he told me to take the pictures and
16 he'd been told to send the pictures and explain how I had been injured.
17 I explained I had fallen off of the motorbike and that is how I
18 had been injured, my face had been injured, so he took my picture and
19 that's all. And we spent some time over there at 0316's house, and then
20 I returned back to school.

21 Q. You say you spent some time at 0316's house. How long
22 approximately did you spend, do you recall?

23 A. I could say between one and two hours.

24 Q. And during that period, did you discuss any of the activities
25 that you had been conducting with the OTP with 0316 or, indeed, the

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1 gentleman that picked you up on the motorbike?

2 A. No. At 0316's house, we didn't discuss this. We did not speak
3 about my interview in Kinshasa. We did not speak about that. It was
4 just he took the picture and we did not discuss things concerning my interview and
6 what we had spoken about.

7 Q. You say -- you say you returned to school. After that occasion,
8 did you have cause at all to speak to or meet 0316 again?

9 A. Yes. I did have the opportunity to speak to 0316 again. If I remember
10 the day when I met with 0316 was the day I passed my state exam, and I knew he
had the

11 motorbike, so I met 0316 and he congratulated me on having passed my
12 state exam, and then he just told me not to fall off my bike again as before.
13 We didn't discuss very much. I was in a hurry. I just stopped to say
14 hello and not to talk to him for long. It was just a few minutes.
15 I didn't spend very much time with him.

16 Q. I'm just going to ask you to clarify what you explained. You say
17 you met 0316 and he congratulated you on having passed your exams. Well,
18 where did this meeting take place?

19 A. It was at the Cité. I was going by on the motorbike. It was unexpected.
20 It was at the Cité. It was not at his house. It was
21 at the Cité, I was going by on the motorbike. I saw 0316 so I stopped, like any
22 other person I know. Anyone else I would stop for, I had to tell them
23 that I had succeeded, I had passed my exam.

24 Q. So just to clarify, you actually met in public, did you, in the
25 middle of town? Is that what you're explaining?

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1 A. Yes.

2 Q. And apart from him -- well, apart from you informing him of your
3 good fortune in passing your exams, and him asking you to be careful on
4 your motorbike, did you discuss anything else with 0316 on that occasion?

5 A. Yes. Well, we didn't speak about anything else. I just informed
6 him I had passed my exam. It was just, I stopped just to say hello. It
7 wasn't to discuss or go to his house. We didn't set another meeting with
8 0316. And after that date, because I needed to sign up for the
9 university in Bunia, I didn't go to Bunia from time to time, I was at my parents' in
10 Ituri, about 50 kilometres from Bunia where our second house is. I was there.
11 I didn't go to Bunia very often. I didn't have anything to do there.

12 And I arrived in Bunia when I had to register for university in
13 Bunia, and it was that day when I left early in the morning and I ran
14 into 0316 at the entrance to the university. I was going to class, and
15 he had business there. We just met at the door of the university, at the
16 entrance. I said hello, and we just spoke. He asked me if I had started
17 my classes at university there and I said no, I was just starting my
18 classes at the university, and I explained I wasn't in Bunia very often,
19 I was on holiday, I was at my parents', far from Bunia. I wasn't there
20 often. It was just three days after I had arrived in Bunia after the
21 holidays.

22 Q. Do you recall what month and what year this would have been?

23 A. Yes, it was in December, December 2006, because when I took the
24 exam in June, in July had left, I moved from Bunia, I left on holiday, or I had
25 other things to do. I didn't go to Bunia very often because I was on

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1 holiday, I had other things -- I needed to help my father with his
2 business. I didn't have the time to go to Bunia. And even on the phone,
3 I didn't talk to him very often, because where we were, there wasn't a
4 phone network. It was very hard to talk by phone and if somebody wanted
5 to contact me, often they left voice messages for me, and if I had the
6 messages, it was then that I would seek out coverage to make calls. But talking to
0316 after July 2006

8 through til November or December 2006, no, I did not see him. I just saw him the day
9 I said, which was December 17th, 2006, the day when I also gave to
10 0316 -- I announced the news to him that I had succeeded. That is the
11 day I met 0316. And the last time I met 0316 was when I went to
12 university, the month of January 2007, but I don't have the precise date.
13 It might have been the last time, I can say the last time I met 0316 because in the
14 month of April, I left Bunia, I went to Kinshasa, and I didn't return until that day --
15 I haven't returned there since.

16 Q. So you're telling us that the last time you met 0316 was in
17 January 2007. Have you spoken to him since January 2007?

18 A. Since January 2007, I haven't spoken to him, even on the phone.
19 I moved away from Bunia to Kinshasa in April, and I went from Bunia --
20 through the court I went from Bunia to Kinshasa, and after that I lost
21 the phone number for 0316 for contacting him. So if he needed to contact
22 me he could have, but he didn't call me. I had lost his number.
23 I didn't contact 0316 after the month of January 2007.

24 Q. You say you had to leave Bunia in April 2007. Why did you have
25 to leave Bunia?

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1 A. I left Bunia because there had been threats on my mobile phone.
2 There were messages, threatening messages, on my mobile phone, between
3 March, April, 2007. I didn't know if it was -- who it was coming from, I
4 didn't know the number that called me often. They called me, it wasn't the
5 same number often. Often there were threatening messages but every time
6 they would change the number. It was one number one day, the next day a
7 different number. I called the court to explain that to them and that is
8 why I was moved from Bunia to Kinshasa.

9 Q. Although you called the court to complain about these threatening
10 messages, did you contact 0316 about them?

11 A. No. I did not explain to 0316 I was threatened because I had
12 counsel and I had contact with the investigator, each time I had a
13 problem the investigator had said, if there are problems, either you call
14 the court or he also gave me the number of the court protection services
15 I was supposed to call, or I was supposed to tell my counsel, my counsel
16 was supposed to inform the court.

17 In April I informed my counsel, I called my counsel to explain
18 the situation, and it was my counsel who called the court to explain and
19 to ask that I be moved.

20 Q. In fact, do you even know if 0316 is aware of the threats you
21 received and the reason for your leaving Bunia?

22 A. I didn't understand. Could you please reformulate the question?

23 Q. In fact, do you even know if 0316 is aware of the threats you
24 received on your mobile phone or the fact that you have even left Bunia?

25 A. Personally, I don't know. I don't know if he knows that I had

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1 threats or that I left Bunia because I personally did not talk about
2 having left Bunia or having been threatened. I didn't explain that to him because I
3 already had a very specific person I was supposed to explain all my problems to,
4 so there was no point in talking about personal things about myself to 0316.
5 I didn't see how that could be important.

6 MR. OMOFADE: Your Honour, I wonder if we could go into private
7 session for just one or two questions.

8 PRESIDING JUDGE FULFORD: Certainly, Mr. Omofade. Private
9 session, please.

10 *(Private session at 4.09 p.m.) Reclassified as Open session

11 COURT OFFICER: We are in private session.

12 PRESIDING JUDGE FULFORD: Yes.

13 MR. OMOFADE:

14 Q. Mr. Witness, we have been talking about the gentleman we have
15 been referring to as your relative. I believe you gave his name as
16 (Redacted). How is this individual related to you? Could you explain,
17 please?

18 A. (Redacted). I know (Redacted) well. It's a member of my family, extended
19 family. It's the (Redacted), in the family.
20 So his (Redacted) could be called (Redacted). They are not small
21 -- younger brothers or older brothers. It's not that kind of family
22 relationship but it's family, not blood ties.

23 Q. Thank you. The reason I've asked to you clarify this is I
24 believe you mentioned earlier that he is your brother. Would it be fair
25 to say he's more of a relative than your brother?

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1 A. One could say it's a person who is one of the members of my
2 family, a brother -- I call members of my family brother, but it's an
3 extended family because I don't have a close blood tie with him.

4 Q. Thank you.

5 MR. OMOFADE: Your Honours, we can go back into public session.

6 PRESIDING JUDGE FULFORD: Thank you, Mr. Omofade. Public
7 session, please.

8 (Open session at 4.12 p.m.)

9 COURT OFFICER: We are back in open session.

10 MR. OMOFADE:

11 Q. Have you ever been asked by 0316 to give a particular account of
12 events to the Office of the Prosecutor?

13 A. No. 0316 and I did not speak about things I was supposed to talk
14 about, what I was supposed to say to the Prosecutor, or what I was
15 supposed to say to the Office of the Prosecutor. I did not talk to him
16 about that. Did not discuss anything, any information I was supposed to
17 give to the Office of the Prosecutor.

18 Q. Has 0316 ever given you or promised to give you any reward for
19 giving a particular account of events to the Office of the Prosecutor?

20 A. No. He and... there were no promises or any kind of reward
21 that he would give me for saying something to the Office of the
22 Prosecutor, nothing at all.

23 Q. Have you ever entered into any agreement with 0316 to provide
24 false stories to the Office of the Prosecutor?

25 A. No, no. 0316 and I never discussed what I was supposed to say,

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1 because when I spoke to the investigator she explained to me that the
2 things I would be saying to the Prosecutor, or the interviews, that the
3 information was not supposed to come out of the room, meaning I was not
4 supposed to talk about what I'd said to the investigator to another
5 person, and with 0316 we did not discuss what I was supposed to say,
6 saying talk about this or say that or talk in this way. 0316 and I did
7 not discuss all of that.

8 Q. Did you tell the truth when you were interviewed by the Office of
9 the Prosecutor in March 2006?

10 A. Yes. I only said things that I knew. I did not blow anything
11 out of proportion or cut anything out of what I was saying. It was a
12 question of morality, ethical standards.

13 PRESIDING JUDGE FULFORD: Mr. Omofade, these have the feel of
14 concluding questions but I may be wrong. We are approximately the time
15 when we normally break off. Do you want to finish now or shall we break
16 now and resume tomorrow morning?

17 MR. OMOFADE: Your Honour, I have one further question, if I may.

18 PRESIDING JUDGE FULFORD: Certainly.

19 MR. OMOFADE:

20 Q. Did you tell the truth when you were interviewed for the second
21 time in September 2009 by investigators of the Office of the Prosecutor?

22 A. Yes. I only talked about what I had done and what I knew about.
23 I did not add anything or hold anything back, and I answered the
24 questions that were put to me. I just knew things that I knew about. I
25 am from a Christian family. I did not add anything, nor did I lie about

1 anything. I had no interest in that.

2 MR. OMOFADE: Your Honour, I have just one final question, if
3 I may.

4 PRESIDING JUDGE FULFORD: Certainly.

5 MR. OMOFADE:

6 Q. Have you told the truth, Mr. Witness, on each of the occasions
7 that you've had cause to appear before these judges?

8 A. Yes. I shall repeat what I said. I only talked about what I
9 knew about and what I had done. I did not add things or
10 keep things to myself. I answered the questions put to me. I am from a Christian
11 family. I reiterate. I have no lies to tell. Lying is a sin. I would rather have problems
12 with myself than have problems of personal morality. Not lying is of
13 importance because we do not know what expects us on the other side.

14 MR. OMOFADE: Thank you, Mr. Witness. Your Honour, that's all my
15 questions.

16 PRESIDING JUDGE FULFORD: Thank you very much, indeed,
17 Mr. Omofade.

18 Mr. Desalliers, you'll finish tomorrow, presumably?

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

20 PRESIDING JUDGE FULFORD: Good. We will hold you to that.
21 Closed session, please.

22 *(Closed session at 4.19 p.m.) Reclassified as Open session

23 COURT OFFICER: We are in closed session.

24 PRESIDING JUDGE FULFORD: Yes, sir. We look forward to seeing
25 you at 9.30 tomorrow morning.

1 Thank you very much, Usher.

2 (The witness stands down)

3 PRESIDING JUDGE FULFORD: 9.30.

4 The hearing ends at 4.20 p.m.

5 RECLASSIFICATION REPORT

6 Pursuant to Trial Chamber I's emails instruction dated 2nd November 2011 and
7 4th January 2012, the transcript is reclassified as public after the indicated
8 have been implemented as ordered by the Chamber. All private and closed
9 sessions (*) are now available to the public with the exception of the portions of
10 the transcript that have been redacted.

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