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**TRIAL CHAMBER II**

**Before:** Judge Bruno Cotte, Presiding Judge  
Judge Fatoumata Dembele Diarra  
Judge Christine Van den Wyngaert

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO**

**IN THE CASE OF  
*THE PROSECUTOR v. GERMAIN KATANGA AND MATHIEU NGUDJOLO  
CHUI***

**Public Redacted Version  
with Annexes A and B – confidential**

**Prosecution's Second Submission of Material as Evidence from the Bar Table  
Pursuant to Article 64(9) of the Statute**

**Source:** Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Ms Silvana Arbia

**Defence Support Section**

**Deputy Registrar**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations Other  
Section**

Pursuant to Articles 64(9) and 69(2), (3) and (4) of the Rome Statute and Rule 63(2) of the Rules of Procedure and Evidence, as well as Trial Chamber II's Directions for the conduct of the proceedings and testimony in accordance with Rule 140, rendered on 1 December 2010 ("Directions"),<sup>1</sup> the Prosecution hereby requests to tender into evidence five (5) documents for the truth of their content and without calling the authors of these documents to testify.<sup>2</sup> The documents are contained in the Prosecution's Amended List of Evidence, are relevant to the issues in this trial and are *prima facie* reliable. This is the Prosecution's second "bar table" submission ("Second Bar Table Submission").<sup>3</sup>

In addition, in order to reinforce the reliability and probative value of the facts contained in the documents submitted in the Prosecution's First Bar Table Submission, which remains pending, the Prosecution also provides brief summaries of the testimony of some trial witnesses who corroborate the documents intended to be introduced in this Second Bar Table Submission. These summaries focus on selected issues in this case.

The Defence does not object to admission of one of the documents. Both Defence teams object, however, to the request to admit the remaining four documents.

### **Confidentiality**

In accordance with the Directions,<sup>4</sup> the Prosecution has given each of the Defence teams a table depicting the content, the origin and the relevance of each of the five documents it requests to tender into evidence from the bar table. Further pursuant to the Directions,<sup>5</sup> the Prosecution attaches as Annex A<sup>6</sup> the table listing the documents;

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<sup>1</sup> ICC-01/04-01/07-1665-Corr.

<sup>2</sup> The amended List of Evidence was filed as confidential Annex A to the Prosecution's Amended Table of Incriminating Evidence and Amended List of Evidence, ICC-01/04-01/07-1643, on 16 November 2009.

<sup>3</sup> The first submission of documentary evidence was filed on 16 July 2010, see ICC-01/04-01/07-2290 with Confidential Annexes A and B ("First Bar Table Submission").

<sup>4</sup> ICC-01/04-01/07-1665-Corr, para. 102.

<sup>5</sup> ICC-01/04-01/07-1665-Corr, para. 101.

a summarized description of the content of each document; its source and its relevance. Annex A also contains an index identifying the most relevant parts of the documents. Finally, the table indicates where each document is referenced in the Amended Table of Incriminating Evidence.

The documents themselves are submitted in confidential Annex B.

The Prosecution requests that this filing and its Annexes A and B be classified as “Confidential” since they relate to confidential evidentiary material. A public redacted version of this filing will be submitted concomitantly.

### Background

1. On 16 July 2010, the Prosecution filed its First Bar Table Submission for the admission into evidence of 122 documents.<sup>7</sup>
2. Since July 2010, 10 Prosecution witnesses have completed their testimony.<sup>8</sup> On this basis, the Prosecution re-evaluated the remaining documents on its List of Evidence in order to determine whether a supplemental bar table submission was required.
3. On 18 November 2010, in accordance with paragraphs 101 and 102 of the Directions, the Prosecution provided to the Defence a further list (“Second List”) of documents intended to be introduced into evidence from the bar table. On 22 November 2010, the Prosecution provided the Defence team of Mathieu Ngudjolo with the French translation of the portions of the table that describe the relevance of these documents.

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<sup>6</sup> Annex A.1 contains the English version of the table, Annex A.2 contains the French version of the table.

<sup>7</sup> ICC-01/04-01/07-2290. For the full procedural history concerning the First Bar Table Submission and the objections to the admissibility of these documents please refer to ICC-01/04-01/07-2290, paras 1-8. The Prosecution notes that two of the 122 documents have, in the meantime, been admitted into evidence through witnesses. They are *Manifeste de la resistance* (DRC-OTP-0126-0411, EVD-D02-00063) and *Accord de cessation des hostilités en Ituri* (DRC OTP-0043-0201, EVD-D03-00044).

<sup>8</sup> Testimonies of P-267, P-30, P-2, P-12, P-219, P-160, P-353, P-28, P-166 and P-317.

4. The Defence for Mathieu Ngudjolo provided its observations on 24 November, and the Defence for Germain Katanga provided observations on 26 November 2010. Both Defence teams consent to the admission into evidence of document DRC-OTP-0089-0036<sup>9</sup> but object to the other four documents.
5. The objections of the Ngudjolo Defence<sup>10</sup> can be grouped according to the following categories: 1) lack of relevance; 2) lack of probative value; 3) lack of knowledge by the accused of the elements contained in the documents; 4) partiality and lack of veracity of the content of the documents; and 5) the fact that the witnesses connected to the documents either already appeared before the Chamber or have not been called to testify.
6. The Prosecution hereby submits its Second Bar Table Submission in accordance with the Chamber's Directions and addresses the Defence's general objections.

### **Submission of Material as Evidence from the Bar Table**

7. The applicable law and criteria that have been adopted concerning the admissibility of documentary evidence from the "bar table" are set out in the Prosecution's First Bar Table Submission. The Prosecution thus incorporates those arguments, in particular paragraphs 12-14 and 19-21. Pursuant to the Statute and a decision of Trial Chamber I,<sup>11</sup> the fact that evidence is not tendered via a witness does not *per se* cause prejudice to the Defence. The Defence remains

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<sup>9</sup> See emails sent to the Office of the Prosecutor on 24 and 26 November 2010, respectively.

<sup>10</sup> In light of the comment made by the Defence for Germain Katanga in its Response to the First Bar Table Submission, the Prosecution is not including, with this submission, the Katanga Defence's observations to the admissibility of these four documents. See ICC-01/04-01/07-2290, 30 August 2010, para. 5: "The Defence did not intend, nor expect, that these *inter partes* discussions would be disclosed to the Chamber as part of the motion and does not consider itself bound by this document in its current submissions to the Chamber."

<sup>11</sup> Article 69(2), which allows for exceptions to the principle of orality; see also Trial Chamber I's interpretation of this provision in ICC-01/04-01/06-1399, para. 22.

in a position to challenge this evidence whether through the presentation of witnesses or by other means.<sup>12</sup>

8. The Prosecution is seeking to admit five documents that it believes are relevant to the *Katanga/Ngudjolo* case, are *prima facie* reliable and will contribute to the truth seeking mission of the Chamber. Without revealing the content of the five confidential documents submitted in Annex B, these documents can be described in the following way:

- a Presidential Decree dated 11 December 2004 on the nomination of Germain Katanga as General in the Democratic Republic of Congo national army;<sup>13</sup>
- a Report of the executive of the interim administration of Ituri, dated November 2003, regarding the general situation in Ituri;<sup>14</sup>
- a *Final Communiqué* of the *Comité de Concertation des Groupes Armés de Ituri* dated August 2003;<sup>15</sup>
- the minutes of a meeting with representatives of different armed groups dated 30 September 2003 and chaired by MONUC on the coordination and evaluation of the security situation in Ituri;<sup>16</sup> and
- a MONUC Report dated February 2004 on children associated with armed groups in Ituri.<sup>17</sup>

These documents were disclosed to the Defence well in advance of the trial. Some witnesses have also testified on the topics that are the subject matter of these documents and, as described in more detail below, corroborate the content of the documents.

9. In particular, documents DRC-OTP-0107-0362 and DRC-OTP-0107-0371 are corroborated by the sworn testimony of Witness P-12.<sup>18</sup> Document DRC-OTP-

<sup>12</sup> This may also be done by way of a bar table motion, see Directions at paras 98-100.

<sup>13</sup> DRC-OTP-0086-0036.

<sup>14</sup> DRC-OTP-0091-0218.

<sup>15</sup> DRC-OTP-0107-0362.

<sup>16</sup> DRC-OTP-0107-0371.

<sup>17</sup> DRC-OTP-0152-0256.

0152-0256, the MONUC Report on children associated with armed groups in Ituri, contains information corroborated by the sworn testimony of Witness P-267, among others. In addition, Witness P-317 has testified to and provided information on the reliability of documents emanating from the MONUC.<sup>19</sup> Portions of document DRC-OTP-0091-0218, the official report issued by the executive of the interim administration of Ituri, are corroborated by Witnesses P-12, P-219 and P-28. Finally, as stated in paragraph 4 above, both Defence teams consent to the admissibility of document DRC-OTP-0086-0036.

### **Supplementary Information in Support of the First and Second Bar Table Submissions**

10. Ten Prosecution witnesses have testified since the First Bar Table Submission was filed: P-267<sup>20</sup>, P-30<sup>21</sup>, P-2<sup>22</sup>, P-12<sup>23</sup>, P-219<sup>24</sup>, P-160<sup>25</sup>, P-353<sup>26</sup>, P-28<sup>27</sup> and P-166<sup>28</sup> and P-317<sup>29</sup>. These witnesses corroborated some of the facts contained in the documents and audio/video material that form part of the First Bar Table Submission.<sup>30</sup> The corroborated facts relate to the hierarchical military structure of the FNI and FRPI; the position of Mathieu Ngudjolo and Germain Katanga as leaders of these armed groups; the alliance between the two groups and the common plan to attack Bogoro; sexual violence; use of child soldiers; as well as the knowledge and intent of the accused with respect to the crimes with which they are charged.

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<sup>18</sup> They are DRC-OTP-0107-0362 and DRC-OTP-0107-0371.

<sup>19</sup> See transcript ICC-01/04-01/07-T-228-ENG ET WT in general and more specifically ICC-01/04-01/07-T-229-CONF-ENG ET, pages 12 to 20.

<sup>20</sup> From 30 June to 15 July 2010.

<sup>21</sup> From 23 August to 6 September 2010.

<sup>22</sup> From to 28 September 2010.

<sup>23</sup> From 28 September to 15 October 2010.

<sup>24</sup> From 14 to 22 October 2010.

<sup>25</sup> From 1 to 3 November 2010.

<sup>26</sup> From 3 to 8 November 2010.

<sup>27</sup> From 15 to 25 November 2010.

<sup>28</sup> From 30 November to 2 December 2010.

<sup>29</sup> From 6 December to 8 December.

<sup>30</sup> This corroboration applies equally to the five documents that are the subject of this Second Bar Table Submission.

11. The Prosecution below summarises some of the more important aspects of the testimony of these witnesses in order to further demonstrate the reliability and probative value of the material submitted in the First and Second Bar Table Submissions.

*Hierarchical military structure of the FNI and the FRPI, the position of authority of Germain Katanga and Mathieu Ngudjolo and the alliance between the FNI and the FRPI*<sup>31</sup>

12. **Witness P-12** provided evidence that in August 2003, Germain Katanga was the Chief of Staff of the FRPI, the then military branch of the FNI.<sup>32</sup> Witness P-12 also described how and when Germain Katanga told him he was elected the leader of the Ngiti militia (after the death of commander Kandro). **Witness P-12** also stated that Katanga had confessed to organising the Ngiti troops, to aligning his militia with Mathieu Ngudjolo to attack Bogoro in order to remove the Hemas from Bogoro, and that a “carnage” had been committed in Bogoro.<sup>33</sup> Furthermore, **Witness P-12** testified having met Mathieu Ngudjolo in March 2003 for the first time in Bunia when he introduced himself as Chief of Staff of the FRPI. Mathieu Ngudjolo also represented the FRPI when he signed the Peace Agreement of

<sup>31</sup> **Insider documents** that indicate the position of Germain Katanga on top of the FRPI hierarchy and the FRPI’s military structure from at least January 2003: DRC-OTP-0172-0007, DRC-OTP-0029-0046, DRC-OTP-0029-0072, DRC-OTP-0029-0076, DRC-OTP-0029-0075, DRC-OTP-0016-0097, DRC-OTP-0028-0463, DRC-OTP-0028-0356, DRC-OTP-0136-0171, other documents indicate the position of Mathieu Ngudjolo and/or as leader either of the FRPI or the FNI and the alliance between the FRPI and the FNI: DRC-OTP-0026-0194, DRC-OTP-0126-0195, DRC-OTP-0026-0205, DRC-OTP-0132-0245, DRC-OTP-0136-0068, DRC-OTP-0102-0011; still others go to the military structure and the alliance of the two groups and their foundation: DRC-OTP-0126-0478, DRC-OTP-0029-0176, DRC-OTP-0138-0239. **MONUC documents** indicate the position of Germain Katanga and Mathieu Ngudjolo and their authority over Lendu/Ngiti/FRPI: DRC-OTP-DRC-OTP-0111-0163, DRC-OTP-0004-0040, DRC-OTP-0004-0085, DRC-OTP-0005-0012, DRC-OTP-0005-0033, DRC-OTP-0005-0100, DRC-OTP-0005-0276, DRC-OTP-0009-0372, DRC-OTP-0011-0452, DRC-OTP-0013-0297, DRC-OTP-0028-0421, DRC-OTP-0111-0147, DRC-OTP-0111-0163, DRC-OTP-0111-0808, DRC-OTP-0202-0671, DRC-OTP-0111-0730. **Video/audio materials**: DRC-OTP-0035-0076 DRC-OTP-0116-0002; DRC-OTP-0124-0008; DRC-OTP-0124-0014; **Non-ICC Court Documents**: DRC-OTP-0138-0236; DRC-OTP-0039-0294; DRC-OTP-0039-013; DRC-OTP-0039-0051; DRC-OTP-0039-0058; DRC-OTP-0141-0349; DRC-OTP-1016-0150. See also DRC-OTP-0044-0333; DRC-OTP-0074-0797; DRC-OTP-0077-0345; DRC-OTP-0154-0433 (DRC-OTP-0163-0287); DRC-OTP-1018-0171.

<sup>32</sup> ICC-01/04-01/07-T-195-CONF-ENG, pp. 37-38.

<sup>33</sup> ICC-01/04-01/07-T-195-CONF-ENG, pp. 5, 15-16; ICC-01/04-01/07-T-197-CONF-ENG, pp. 23-26.

18 March 2003 (although his signature appears under the heading of the *Représentants Lendu du territoire de Djugu*).<sup>34</sup> **Witness P-12** testified to the presence of FRPI and FNI at the meetings of armed groups; of having been present when FRPI commander DARK was introduced on Radio Candip as *Commandant d'Operations* of Mathieu Ngudjolo in Bogoro in late March 2003;<sup>35</sup> about the creation of the FNI and the FRPI and the FIPI platform organised in Kampala; and about the alliance between the FNI and the FRPI; and the complexity of the relationship between the Lendus and the Ngitis. **Witness P-12** explained that the FNI represented the political branch and the FRPI the military branch of the FNI/FRPI alliance, and that the FNI was primarily composed of Lendus while the FRPI was primarily composed of Ngitis.<sup>36</sup>

13. **Witness P-219** testified about the rise to power of Germain Katanga; the creation of the FRPI and Katanga's position as the President of the FRPI since its creation.<sup>37</sup> In addition, **Witness P-219** provided evidence of Germain Katanga's control over the Ngitis/FRPI commanders, the system of reporting, and communication between Katanga and his commanders.<sup>38</sup> **Witness P-219** described the Camp "BCA" as Germain Katanga's headquarters in Aveba; the overall military structure of the FRPI, its camps and commanders, as well as the system of communication between the camps.<sup>39</sup> **Witness P-219** testified on the cooperation between the Zombe based Lendus and Nigiti militia for the attack on Bogoro.<sup>40</sup> **Witness P-219** also indicated that he saw both Zombe and Ngiti commanders in Bogoro in the aftermath of the attack.<sup>41</sup>

<sup>34</sup> ICC-01/04-01/07-T-195-CONF-ENG, pp. 11-12, 17-18, 36-38, 41-44, 48-49.

<sup>35</sup> ICC-01/04-01/07-T-195-CONF-ENG, pp. 48-49.

<sup>36</sup> ICC-01/04-01/07-T-194-CONF-ENG, pp. 47-49, 53-69; ICC-01/04-01/07-T-195-CONF-ENG, pp. 2-6, 9-12, 14-17, 25-30, 34-38, 48-49.

<sup>37</sup> ICC-01/04-01/07-T-205-CONF-FRA, pp. 7-8, 11-12.

<sup>38</sup> ICC-01/04-01/07-T-205-CONF-FRA, p. 38; ICC-01/04-01/07-T-206-CONF, pp. 26-27; T-207, pp. 24-25.

<sup>39</sup> ICC-01/04-01/07-T-205-CONF-FRA, pp. 13-21 (camps), 22-26, 33-36 (overall military organisation, BCA) and T-207, pp. 18-19 (communications).

<sup>40</sup> ICC-01/04-01/07-T-205-CONF-FRA, pp. 46-49.

<sup>41</sup> ICC-01/04-01/07-T-205-CONF-FRA, pp. 58-62.

14. **Witness P-28** testified that Germain Katanga was appointed chief commander of the FRPI camps in Walendu-Bindi after the death of Kandro. Katanga was head of the military camp in Aveba and the highest-ranking commander of the FRPI in charge of all Ngiti combatants. He had the power to issue orders and ensure their implementation.<sup>42</sup> **Witness P-28** pointed out that the military leadership in Aveba – the “Presidency”- had a distinctive seal with the image of a lion (“simba” in Swahili”).<sup>43</sup> Furthermore, **Witness P-28** described the hierarchical military structure of the FRPI and its commanders; the location of the FRPI camps and the military training in these camps. He testified in particular about the Camp “BCA” in Aveba.<sup>44</sup> He explained the means of communication between the camps via telephones, *phonies* and ordinary mail.<sup>45</sup> **Witness P-28** stated that FRPI commanders led by Germain Katanga travelled to Beni in order to obtain ammunition to be used during the Bogoro attack.<sup>46</sup> He discussed the meeting between the FNI delegation from Zumbe and the FRPI in Aveba and their plan to attack Bogoro. Moreover, **Witness P-28** described the preparations for the Bogoro attack under the leadership of Germain Katanga.<sup>47</sup> He described how the attack was carried out by the FNI and the FRPI and how all Hemas were targeted during the attack.<sup>48</sup> **Witness P-28** also provided evidence on the alliance of the FNI and the FRPI to attack Mandro and Bunia.<sup>49</sup>

15. **Witness P-267** gave evidence about meeting Germain Katanga in Aveba in June 2004; the position of authority of Germain Katanga as President of the FRPI at the time and during the witness’s demobilisation campaign of child soldiers in Aveba from November 2004 to June 2005; Katanga’s knowledge of the presence of child

<sup>42</sup> ICC-01/04-01/07-T-216-CONF-ENG, pp. 64-69, 72-75, 77-78; ICC-01/04-01/07-T-217-CONF-ENG, pp. 5-14, 26, 40-41, 48; ICC-01/04-01/07-T-219-CONF-ENG, p. 23.

<sup>43</sup> ICC-01/04-01/07-T-216-CONF-ENG, p. 75.

<sup>44</sup> ICC-01/04-01/07-T-216-CONF-ENG, pp. 59-69, 71, 74, 77-78; ICC-01/04-01/07-T-217-CONF-ENG, pp. 5-14, 40-41, 48; see also ICC-01/04-01/07-T-218-CONF-ENG, pp. 11-13, 16-18, 25-26.

<sup>45</sup> ICC-01/04-01/07-T-217-CONF-ENG, pp. 17-18, 20-27.

<sup>46</sup> ICC-01/04-01/07-T-217-CONF-ENG, pp. 27-33, 36-38, 40.

<sup>47</sup> ICC-01/04-01/07-T-217-CONF-ENG, pp. 40, 44-57, 60; ICC-01/04-01/07-T-218-CONF-ENG, pp. 11-13, 16-18; ICC-01/04-01/07-T-222-CONF-ENG, p. 46.

<sup>48</sup> ICC-01/04-01/07-T-217-CONF-ENG, pp. 42-44, 61; ICC-01/04-01/07-T-218-CONF-ENG, pp. 18-19, 22-26, 56; ICC-01/04-01/07-T-219-CONF-ENG, pp. 6, 8-9, 13, 15; ICC-01/04-01/07-T-222-CONF-ENG, p. 50.

<sup>49</sup> ICC-01/04-01/07-T-218-CONF-ENG, pp. 26-28.

soldiers within the FRPI and Katanga's power to take decisions in relation to the demobilisation.<sup>50</sup>

16. **Witness P-2** authenticated video excerpts, from March-April 2003, depicting Mathieu Ngudjolo as Chief of Staff of the FRPI when he participated in meetings of armed groups including the Ituri Pacification Commission; his military authority over the FNI/FRPI, and signature of the peace agreement of 18 March 2003. **Witness P-2** also testified on the military authority of Germain Katanga; the alliance between the FNI and the FRPI to attack Bogoro; and the military structure of the FRPI.<sup>51</sup>

### *Sexual violence*<sup>52</sup>

17. **Witness P-12** testified that during the attack on Kasenyi of 11 June 2003, which was organised by Mathieu Ngudjolo, Lendus from Zumbe abducted women. When **Witness P-12** later met Mathieu Ngudjolo together with other Hema and Lendu dignitaries, Ngudjolo confirmed that the women were in Zumbe and were now married. **Witness P-12** also stated that other Lendu representatives who were present in the meeting said similar things to him in relation to the abducted

<sup>50</sup> ICC-01/04-01/07-T-163-CONF-FRA, pp. 60, 82-90; ICC-01/04-01/07-T-164-CONF-FRA, pp. 6-9, 12-15, 18-19; ICC-01/04-01/07-T-165-CONF-FRA, pp. 13, 15, 61, 64; ICC-01/04-01/07-T-166-CONF-FRA, p. 17-21; ICC-01/04-01/07-171-CONF-FRA, pp. 12, 18, 23-25.

<sup>51</sup> Relevant excerpts admitted into evidence are from EVD-OTP-00164 to EVD-OTP-00185 and from EVD-OTP-00187 to EVD-OTP-00190. See also para. 12 above for the references to the testimony of Witness P-12.

<sup>52</sup> Indicating the frequent resort to sexual violence and the circumstantial evidence of the knowledge and intent of the accused: **UN Resolutions and UN reports:** Resolutions DRC-OTP-0131-0153 and DRC-OTP-0131-0167 as well as UN reports DRC-OTP-0130-0273 and RDC-OTP-0074-0238 mention in a general way the frequent recourse to sexual violence in Ituri and DRC; Report DRC-OTP-0129-0437 mentions sexual slavery committed by Ngiti militia in localities including Tchomia and Kasenyi in June 2003. **MONUC Reports:** DRC-OTP-0009-0015 mentions 34 sex slaves who were liberated, and evidence of rapes committed by FNI in Lulu, Dala and Dhega in December 2003; DRC-OTP-0172-0248 mentions the aims at prevention of sexual violence in Ituri in July 2003. **NGO Reports:** DRC-OTP-0019-0153 DRC-OTP-0074-0526, DRC-OTP-0074-0797 and DRC-OTP-0159-0099 all discuss sexual violence against women in Ituri; DRC-OTP-0074-0797 (Human Rights Watch report from July 2003) mentioned that attacks on Bunia and Nyakunde resulted in rapes and abductions. **The Country Report on Human Rights Practices** by the US Government describes the sexual slavery and rape committed by the FNI militia in Ituri in 2003 (at 0130-0133, 0136). **Press articles:** DRC-OTP-0077-0429, DRC-OTP-0134-0094 both mention sexual violence in Ituri.

women. The witness further testified that this was not the only occurrence of sexual slavery committed by Lendu or Ngiti commanders.<sup>53</sup>

18. **Witness P-219** testified about the occurrence of forced marriages and wedding ceremonies in Lendu and Ngiti military camps. He mentioned two specific instances of forced marriages in the camp in Aveba and specified that Germain Katanga was aware of these practices.<sup>54</sup> **Witness P-219** also described forced marriages in Zumbe; how women who were abducted in Tchomia were forced to marry Lendu combatants and the fact that Mathieu Ngudjolo participated in at least one such ceremony.<sup>55</sup>

19. **Witness P-28** testified about having heard of female hostages captured in Bogoro who were then taken to Kagaba.<sup>56</sup> He also stated he knew two girls who were taken hostage by commander Safari Ndekote during the September 2002 Nyakunde attack and brought to the Avenyuma camp.<sup>57</sup>

20. **Witness P-267** stated that among the children he demobilised in Aveba were so-called *filles-mères* -- young girls forcibly made wives of combatants. Some of these girls had children from non-consensual relationships with the combatants.<sup>58</sup>

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<sup>53</sup> ICC-01/04-01/07-T-196-CONF-ENG, pp. 30-34, 80-81.

<sup>54</sup> ICC-01/04-01/07-T-206-CONF-FRA, pp. 38-43.

<sup>55</sup> ICC-01/04-01/07-T-206-CONF-FRA, pp. 38-39, 44-45.

<sup>56</sup> ICC-01/04-01/07-T-218-CONF-ENG, p. 25.

<sup>57</sup> ICC-01/04-01/07-T-218-CONF-ENG, p. 9.

<sup>58</sup> ICC-01/04-01/07-T-166-CONF-FRA, pp. 28-29; ICC-01/04-01/07-T-170-CONF-FRA, pp. 31-33, 48.

*Child soldiers*<sup>59</sup>

21. **Witness P-267** provided evidence on the phenomenon of child soldiers in Ituri and the large number of children recruited by Ituri-based militia.<sup>60</sup> He testified about the presence of child soldiers in Aveba in 2004.<sup>61</sup> **Witness P-267** described in detail the process of demobilization of children in Aveba, as well as the number, age and origin of the children demobilized from November 2004 to June 2005.<sup>62</sup> He testified to the fact that child soldiers demobilized in Aveba would have been recruited into the FRPI starting from 2002 onwards.<sup>63</sup> **Witness P-267** attested to the knowledge of Germain Katanga of the presence of child soldiers within the FRPI and his active participation in the demobilization process.<sup>64</sup> He also provided evidence of the presence of child soldiers in the FNI.<sup>65</sup> **Witness P-267** finally described the detrimental effect of life in the militia on the mental/physical health and welfare of the children and their difficulties adjusting back to family life.<sup>66</sup>

22. **Witness P-12** gave evidence about the recruitment of child soldiers in Ituri in general as well as more specifically in the PUSIC, FNI and FRPI. He stated that all armed groups had large numbers of child soldiers. He indicated the circumstances that led to their recruitment and the essential role they played within the militias. **Witness P-12** indicated having seen Lendu child soldiers in

<sup>59</sup> **UN Resolutions and UN reports:** DRC-OTP-0131-0144, DRC-OTP-0131-0153, DRC-OTP-0131-0167; DRC-OTP-0129-0437; DRC-OTP-0130-0273; DRC-OTP-0130-0409; DRC-OTP-0074-0040; **MONUC reports:** DRC-OTP-0009-0015; DRC-OTP-0009-0372; DRC-OTP-0011-0452; DRC-OTP-0052-0173; DRC-OTP-0011-0452; DRC-OTP-0111-0737; DRC-OTP-0111-0147; DRC-OTP-0111-0808; DRC-OTP-0172-0248; DRC-OTP-0202-0671; DRC-OTP-0202-0796; **NGO reports:** DRC-OTP-0074-0526; DRC-OTP-0154-1301; DRC-OTP-0159-0099; DRC-OTP-0163-0357; DRC-OTP-1015-0592; DRC-OTP-0074-0045; **Press articles:** DRC-OTP-0074-0058; DRC-OTP-0074-0002; DRC-OTP-0077-0345; DRC-OTP-0107-0782 ; DRC-OTP-1013-0298; DRC-OTP-1018-0171; **Video material:** DRC-OTP-0116-0002; **Other:** DRC-OTP-0093-0052.

<sup>60</sup> ICC-01/04-01/07-T-163-CONF-FRA, pp. 42-43; ICC-01/04-01/07-T-170-CONF-FRA, pp. 10, 16-20; ICC-01/04-01/07-T-171-CONF-FRA, pp. 32-35.

<sup>61</sup> ICC-01/04-01/07-T-163-CONF-FRA, pp. 72, 82-89, ICC-01/04-01/07-T-164-CONF-FRA, pp. 6- 11, ICC-01/04-01/07-T-165-CONF-FRA.

<sup>62</sup> ICC-01/04-01/07-T-165-CONF-FRA, pp. 16-21, 22, 23-25, 44-45, 58; 01/04-01/07-T-165-CONF-FRA, p. 15.

<sup>63</sup> ICC-01/04-01/07-T-165-CONF-FRA, pp. 21-26.

<sup>64</sup> ICC-01/04-01/07-T-164-CONF-FRA; ICC-01/04-01/07-T-165-CONF-FRA.

<sup>65</sup> ICC-01/04-01/07-T-165-CONF-FRA, pp. 55-56; T-170-CONF-FRA, p. 38.

<sup>66</sup> ICC-01/04-01/07-T-165-CONF-FRA, pp. 48-51; ICC-01/04-01/07-T-170-CONF-FRA, pp. 20-22, 40-42; ICC-01/04-01/07-T-171-CONF-FRA, p. 9.

Bunia in May 2003. Furthermore, he stated that both Mathieu Ngudjolo and Germain Katanga used child soldiers as escorts.<sup>67</sup>

23. **Witness P-219** provided evidence on the presence of child soldiers in Aveba, their participation in the Bogoro attack and their demobilization. He also testified that Germain Katanga had knowledge of the presence of child soldiers in the FRPI.<sup>68</sup>

24. **Witness P-28** described how he was forcibly conscripted into the FRPI militia and forced to undergo military training.<sup>69</sup> He attested to the presence of child soldiers in FRPI camps and the tasks they were given.<sup>70</sup> [REDACTED].<sup>71</sup> He also testified about FRPI and FNI child soldiers having taken part in the Bogoro attack.<sup>72</sup>

25. **Witness P-2** authenticated video excerpts showing images of child soldiers in Bunia in May 2003.<sup>73</sup>

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<sup>67</sup> ICC-01/04-01/07-T-195-CONF-ENG, pp. 61-65; ICC-01/04-01/07-T-196-CONF-ENG, pp. 66-68; ICC-01/04-01/07-T-197-CONF-ENG, pp. 37-50; ICC-01/04-01/07-T-198-CONF-ENG, pp. 53-58.

<sup>68</sup> ICC-01/04-01/07-T-206-CONF-FRA, pp. p. 29; ICC-01/04-01/07-T-207-CONF-FRA, pp. 7-8, 52-53.

<sup>69</sup> ICC-01/04-01/07-T-216-CONF-ENG, pp. 59-67.

<sup>70</sup> ICC-01/04-01/07-T-216-CONF-ENG, pp. 64, 77-78.

<sup>71</sup> [REDACTED].

<sup>72</sup> ICC-01/04-01/07-T-218-CONF-ENG, pp. 24, 59-60.

<sup>73</sup> EVD-OTP-00135, EVD-OTP-00136 and EVD-OTP-00138.

## Conclusion

26. For the foregoing reasons, the Prosecution requests that the Chamber admit into evidence the five (5) items listed in Confidential Annex A and assign them EVD numbers.



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Luis Moreno-Ocampo, Prosecutor

Dated this 8<sup>th</sup> day of December 2010

At The Hague, The Netherlands