

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor v. Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Wednesday, 27 January 2010
10 The hearing starts at 9.07 a.m.
11 COURT USHER: The International Criminal Court is now in session.
12 PRESIDING JUDGE COTTE: (Interpretation) We will now commence
13 with the hearing. You may sit down.
14 The accused are present in the courtroom.
15 Madam Registrar, could you please call the case.
16 COURT OFFICER: (Interpretation) Thank you, your Honour. The
17 case is the Prosecutor versus Germain Katanga and Mathieu Ngudjolo Chui,
18 number ICC-01/04-01/07.
19 PRESIDING JUDGE COTTE: (Interpretation) The Chamber thanks you
20 for that.
21 Today we will be hearing Witness 250, called by the Prosecution.
22 This witness falls under decision 1667 rendered by the Chamber on the
23 23rd of November, 2009. This is a decision that concerns protective
24 measures for certain witnesses. Witness 250 shall have the benefit of
25 the following protective measures: He shall be provided with a

1 pseudonym, with voice distortion, as well as with image, or rather,
2 visual distortion.

3 Given the comments forwarded yesterday evening by the VWU, it
4 appears that this witness is also considered to be a vulnerable witness.
5 Vulnerable witnesses are witnesses who have been covered by our decision
6 of the 23rd of November, 2009. See paragraph 14 of the aforementioned
7 decision.

8 The Victims and Witnesses Unit suggests that the following
9 measures be taken for this witness: That a curtain is set up so that any
10 visual contact between the witness and the two accused can be avoided.
11 It should also be pointed out that the accused will be able to see the
12 image of the witness on their screens. The unit also suggests that a
13 psychologist from the unit be present by the witness's side in the
14 courtroom.

15 With regard to these two suggestions are there any comments, any
16 submissions that the Defence teams would like to make?

17 Mr. David Hooper or Mr. O'Shea?

18 MR. HOOPER: We've no observations. That is, David Hooper on
19 behalf of Germain Katanga. We have no observations to make at this time
20 of the hearing. We might a bit later. Thank you.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Hooper.
22 Professor Fofe.

23 MR. FOFE: (Interpretation) Thank you, your Honour. Your
24 Honourable Judges, good day.

25 We're quite concerned by this point of view that was expressed

1 with regard to the vulnerable character of Witness 250. As far as we are
2 aware, this witness, even at the time of the events, was over 15 years
3 old, even at the time of the events we're concerned with. Even if we
4 take into consideration the date of birth provided by the witness, which
5 is something that remains to be verified. At this point in time, this
6 witness is an adult. The Ngudjolo Defence would like, and this is in
7 order to be fair, we would like to know the reasons for which one
8 considers this witness to be vulnerable, because if one invokes the
9 notion of vulnerability, well, this is a fairly general concept. We
10 would like to know what it is exactly that makes this witness vulnerable.

11 We would also like to add, your Honour, Honourable Judges, that
12 such measures mainly concern witnesses who were subjected to sexual
13 violence, who were such victims. This isn't the case today with this
14 witness. We know that it's possible that there are other reasons for
15 which a witness might be considered vulnerable, not only sexual violence,
16 but as far as Witness 250 is concerned, we do not see why he should be
17 considered as a vulnerable one. Therefore, we would prefer it if the
18 accused could see the person who is appearing here to level charges at
19 them, because it's a principle according to which the accused should be
20 able to see the person who is accusing them of certain matters.

21 If we say that we're protecting this witness from visual contact
22 with the accused, well, that puts me ill at ease. In any event, we would
23 like to know the specific reasons for declaring that this witness is
24 vulnerable.

25 Thank you, your Honours.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Fofe.
2 Are there any comments that the OTP would like to make?

3 MR. MACDONALD: (Interpretation) No, your Honour.

4 PRESIDING JUDGE COTTE: (Interpretation) Do we have a
5 representative from the unit in the courtroom? Apparently not. Very
6 well.

7 MR. MACDONALD: (Interpretation) I notice that Ms. Michela
8 (phon) appeared in the courtroom a minute ago.

9 PRESIDING JUDGE COTTE: (Interpretation) Very well, thank you.
10 Please allow me a moment to confer with the two other Judges.

11 MR. HOOPER: Mr. President, sorry. I'm sorry to interrupt. I
12 didn't say this at the outset because we're eager to fall in with these
13 suggestions from time to time and not cause difficulties. What I can
14 reflect on is that in many years of practice, I've never been in a
15 position where witnesses had to sit in court with a psychologist and
16 that's dealing with vulnerable victims, victims of sexual assault and
17 child victims and, of course, victims of appalling atrocities in -- in
18 African cases. And to that extent, reflecting on what Dr. Fofe has said,
19 I support his concerns. On reflection, I support his concerns about the
20 necessity for this witness, unless there are exceptional circumstances
21 that we don't know about, needing to sit in court with a -- with a
22 psychologist. It seems an exceptional step. One must reflect on that.
23 I'm sorry I didn't raise that earlier.

24 PRESIDING JUDGE COTTE: (Interpretation) Yes, the Prosecution.

25 MR. MACDONALD: (Interpretation) With your leave, your Honour.

1 I do not agree with the comment Mr. Hooper's just made. Naturally, the
2 rule is that the accused should be able to see the witness, but often in
3 courtrooms, unfortunately, and fortunately for us, we have certain
4 technology we can use, the accused can see the witness. That's one
5 answer to Mr. Fofe.

6 I also disagree with what Mr. Hooper said about a psychologist
7 being present here. In certain local national systems, it's not rare for
8 vulnerable witnesses to be accompanied, whatever the nature of these
9 witnesses, to have someone accompanying them to support them. The
10 witness for various reasons which I haven't gone into here can only be
11 accompanied by someone from the unit if he is to be or she is to be
12 accompanied. The Statute provides for such a measure, and I'm certain
13 that the person from the unit won't be present for any other reasons.
14 The only reason for which such a person will be present is to observe and
15 to see whether one should perhaps suggest that a break be made in the
16 course of a chief -- examination-in-chief or cross-examination.

17 This is the beginning of the testimony. Perhaps with time it
18 will no longer be present to have this support person in the courtroom,
19 but the unit made such a suggestion after having met the witness, and
20 that is certainly a result of the fact that they thought that given the
21 vulnerability of the witness, it would be preferable to take such a
22 measure.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
24 Mr. Prosecutor. Please bear with me for a minute so that we may confer.

25 (The Trial Chamber confers)

1 PRESIDING JUDGE COTTE: (Interpretation) Very well. The Chamber
2 has taken note of the comments made by Professor Fofe and by
3 Mr. David Hooper. Nevertheless, there's a certain number of points we
4 would like to make.

5 In the decision rendered on the 23rd of November, 2009, the
6 number of which is 1667, I said at the beginning of this hearing that in
7 paragraph 14, and I quote:

8 "The Chamber would like to point out that the Statute provides
9 for special measures which may be taken, in particular, when victims of
10 sexual violence are testifying. The situation of victims of sexual
11 violence is not the only situation which can be considered as a
12 vulnerable."

13 In paragraph 14 the Chamber says that it's in light of the
14 comments made by the unit that the Chamber will see whether it is
15 necessary to take any special measures, and we will try and determine
16 which are the most appropriate measures. They could include, apart from
17 the ones already envisaged for vulnerable witnesses, certain special
18 measures which will make it possible to avoid visual contact between the
19 witness and the accused. The witness may also be accompanied in the
20 course of the witness's testimony by a support person if the witness so
21 desires.

22 So those are the provisions of paragraph 14 and 15 in the
23 decision rendered on the 23rd of November, 2009, and it can -- all the
24 parties have access to the decision. The VWU is a neutral body within
25 the court and has, amongst its other missions, the mission to welcome

1 witnesses when they arrive in The Hague and ensure that the witnesses are
2 capable of testifying under conditions that make it possible for them to
3 make a useful contribution to the Court and assist us in determining the
4 truth.

5 The VWU believes that they have made certain suggestions and the
6 President has just informed you of these decisions. Visual contact
7 should be avoided between the witness and the accused. The psychologist
8 from the unit can sit, as the witness is a vulnerable. So contact
9 between -- visual contact between the witness and the accused should be
10 avoided, and there should be the possibility of the witness being
11 accompanied by a psychologist. Naturally the psychologist won't be
12 present to tell the witness how to answer questions. The psychologist's
13 presence is to assure that the witness can answer questions in a useful
14 manner.

15 The Chamber would also like to point out that Trial Chamber I,
16 currently seized of the Lubanga case, has on a number of occasions taken
17 into consideration the suggestions made by the VWU, and they have taken
18 measures identical to the ones suggested by the unit today.

19 The Chamber would also like to point out that at the ICTY this
20 perhaps occurs more rarely than in our case at the ICC, but at the ICTY
21 such measures have also been taken.

22 At a meeting that we all attended on the 10th of November, 2009,
23 there were representatives present from the Registry, and they tried to
24 familiarise us with the procedures followed before the International
25 Criminal Court, and the VWU presented its working methods and the results

1 of such methods. We have conferred about the matter, and we came to the
2 conclusion that if we should set up a curtain that would prevent visual
3 contact between the accused and the witness, this would mean that we
4 would have to place Mr. Mathieu Ngudjolo at another place in the
5 courtroom.

6 So given all these factors, given our concerns, given our desire
7 to ensure that the hearing is useful, that the witness can testify under
8 appropriate conditions, the Chamber intends to follow the suggestions
9 made by the VWU last night. The Chamber considers this body to be a
10 neutral one. It's a unit that has a psychologist who is capable of
11 making evaluations that we ourselves are not capable of making. The unit
12 provided us with suggestions that should be followed, we believe.

13 It is therefore decided that Witness 2000 -- 250 shall testify
14 and will have a pseudonym, voice and visual distortion, but other
15 measures will also be taken, measures to prevent visual contact between
16 the accused and the witness, and if necessary, the witness will also have
17 a psychologist by his side, and you have understood me well. I said that
18 the role of the psychologist was clearly defined.

19 Taking this measure means that Mr. Mathieu Ngudjolo will have to
20 be seated elsewhere. As I said at the meeting on the 10th of November,
21 2009, we said that different measures should be taken. Mathieu Ngudjolo
22 will have to sit by Mr. Katanga. This measure also means that the
23 witness will have to enter and leave the courtroom without the accused
24 being present in the courtroom.

25 I'm now going to ask the security officers to briefly escort

1 Mr. Katanga and Ngudjolo out of the courtroom so that the witness may
2 enter the courtroom.

3 (The accused withdrew)

4 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofe.

5 MR. FOFE: (Interpretation) Thank you, your Honour. With all
6 due respect, we will abide by the Chamber's decision, but nevertheless,
7 we would like to draw your attention to the following: According to
8 jurisprudence in the Lubanga case, the use of screens to protect
9 witnesses or prevent witnesses from being seen by the accused is only
10 allowable in exceptional circumstances and only in the case of witnesses
11 who are particularly vulnerable. The date is the 11th of February, 2009.

12 Naturally, we will comply with your decision, but we would like
13 to underline the fact that we haven't been provided with the reasons that
14 justify the attribution of the status of a vulnerable witness to this
15 witness, Witness 250.

16 Thank you very much, your Honour.

17 PRESIDING JUDGE COTTE: (Interpretation) The Chamber has taken
18 note of your comments, Professor Fofe, and we are of the opinion that
19 Witness 250 does fall under the category of vulnerable witnesses.
20 Trial Chamber I said that it was a matter of assessment, but
21 Trial Chamber II believes that given the information provided to it by
22 the VWU, this witness is a vulnerable one and that for the sake of the
23 good administration of justice, for the sake of determining the truth and
24 hearing the witness's testimony under appropriate circumstances, such
25 measured should be taken.

1 Madam Registrar, let's move into closed session, and can we
2 please have the witness in the courtroom.

3 (Closed session at 9.27 a.m.)

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Witness: Witness P-0250 (Closed Session)
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6 (Open session at 9.37 a.m.)

7 COURT OFFICER: (Interpretation) Mr. President, we are in open
8 session.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Madam Court
10 Officer.

11 MR. HOOPER: May I just raise a matter?

12 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper.

13 MR. HOOPER: The image that's coming over the screen to me and
14 also to the two accused in the case is a distorted image. My
15 understanding was that the image was not going to be distorted for the
16 accused but distorted solely for the public. So that's probably a
17 technical matter, but I'd appreciate it if that could be corrected as
18 soon as possible.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Hooper.
20 Decidedly, we have been frequently the victims of technical problems. It
21 is obvious to me that the image of the witness on the screens of those
22 who are in the courtroom must not be distorted.

23 (Trial Chamber and Registrar confer)

24 PRESIDING JUDGE COTTE: (Interpretation) Of course, the accused
25 are going to have access on their screens to the undistorted images of

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1 the witness.

2 With regard to the participants in the room that may have a
3 visual sight of the witness, I will ask the Court Officer to make
4 suggestions.

5 So can you give us the technical measures relating to the
6 appearance of the images on the screens.

7 COURT OFFICER: (Interpretation) Thank you, Mr. President. The
8 images will be available to the two accused, and for the other
9 participants, you are requested not to press the button "Witness Cam" so
10 that we can continue producing images when we are in open session.

11 That having been done, let us come back to you, Mr. Witness, and
12 I will ask you to listen carefully. Please do not hesitate to look at
13 us, Mr. Witness and listen to me carefully.

14 Before beginning your testimony, that is, before you start
15 answering the questions that the Prosecutor will ask you, you must
16 undertake to speak the truth.

17 This is a solemn undertaking that I'm going to read slowly to
18 enable you to understand its importance.

19 "I solemnly declare that I will speak the truth, the whole
20 truth, and nothing but the truth."

21 Did you hear me reading this text?

22 THE WITNESS: (Interpretation) Yes.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Do you
24 pledge to speak the truth, the whole truth, and nothing but the truth?

25 THE WITNESS: (Interpretation) Yes, I solemnly declare that I

1 will speak the truth, the whole truth, and nothing but the truth.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Witness.
3 Once again the Court asks you to listen carefully. You have just pledged
4 to speak the truth. If during your testimony or while answering the
5 questions put to you you do not speak the truth, you should know that you
6 will be liable to prosecution before this court for false testimony. And
7 if it is proven that you have given false testimony, you are liable to be
8 convicted.

9 Have you fully understood me?

10 THE WITNESS: (Interpretation) Yes, I have fully understood you.

11 PRESIDING JUDGE COTTE: (Interpretation) The Court notes that we
12 have complied with Article 61(1) of the Statute and Rule 66 of the Rules
13 of Procedure and Evidence, paragraphs (1) and (3).

14 Now, Mr. Witness, you are facing the Chamber. You have the
15 Office of the Prosecutor to your right, the Legal Representatives of the
16 Victims to your right also, and on this other side of the courtroom you
17 have the two Defence teams of the two accused.

18 Questions will be put to you. Please speak slowly and speak into
19 the microphone. Speak in a loud voice and make an effort not to change
20 languages during your testimony. It is crucial for you to speak in the
21 same language in order for the interpreters to interpret properly for all
22 those who do not understand your language.

23 It is important that the answers that you shall give to the
24 Court -- it is important for them to be well understood by the Chamber
25 and by all the participants.

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1 Have you fully understood me?

2 THE WITNESS: (Interpretation) Yes, I have fully understood you.

3 PRESIDING JUDGE COTTE: (Interpretation) Perfect.

4 Mr. Prosecutor.

5 MR. MACDONALD: (Interpretation) Thank you, Mr. President.

6 Questioned by Mr. MacDonald:

7 Q. (Interpretation) Mr. Witness, we are currently in open session,
8 and as the President said a short while ago, I will not use your name
9 despite the fact that we know each other. I will instead refer to you as
10 "Mr. Witness" or "Witness," but before we begin, let me be sure that you
11 are receiving the interpretation in Swahili.

12 A. Yes, I am able to follow.

13 Q. You should not also be surprised by the way I am speaking,
14 because I am speaking slowly to make it possible for the interpretation
15 to be properly done. Obviously if for any reason my question is not
16 clear to you, please simply inform me and I will rephrase.

17 Lastly, we are at the beginning of a few days of testimony. We
18 will follow your pace, and if for any reason you want to take a break,
19 just inform us and we will deal with it. Also, Mr. Witness, given that
20 we have to ensure interpretation, if you have to give -- it is important
21 for you to give brief answers, and if necessary, I will ask for
22 clarification. Are we agreed on that?

23 A. Yes.

24 MR. O'SHEA: I profoundly apologise. I profoundly apologise for
25 interrupting at this stage because we've had a lot of interruptions this

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1 morning, but it seems to me that this is an important issue, and it might
2 be the only appropriate time to raise it.

3 I -- I noticed that your Honours did not make any reference to
4 Rule 74 of the Rules of Procedure and Evidence. I assume that the
5 Prosecution would have made the appropriate notification under
6 paragraph 54 of your Honours' decision of 1665, which I remind your
7 Honours is an obligation on the parties calling witnesses to inform the
8 VWU if they believe that a witness may be making self-incriminating
9 statements.

10 Now, it's the view of the Defence that we are in that position
11 here. May I just clarify that the issue of age is totally irrelevant
12 here, because the issue of self-incrimination arises not only with regard
13 to proceedings before the International Criminal Court but also with
14 regard to potential proceedings before other national courts.

15 I therefore invite your Honours, and I'm only assisting the Court
16 here, to consider whether it might be appropriate to say something to the
17 witness with respect to Rule 74 before Mr. MacDonald proceeds with his
18 examination-in-chief. I hope I'm not speaking out of turn.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Hooper
20 [sic]. Let me simply recall that on -- in its decision of
21 1st December 2009 on Rule 140, several paragraphs were devoted to the
22 issue of possible self-incriminating testimony.

23 Now, Mr. Prosecutor, with regard to Witness 250, did you have any
24 discussion on that issue? Are you in a position to answer us? In that
25 decision, the Trial Chamber, in paragraph 54, stated that the parties

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1 calling witnesses should inform VWU if they think that the witness may
2 make self-incriminating statements, and it will be considered whether it
3 is necessary to assign a lawyer who might provide the legal and useful
4 information to the witness on the basis of Rule 74, its contents and its
5 possible consequences.

6 Mr. Prosecutor, do you feel that Witness 250 falls under the
7 possible scope of the provisions of Rule 74, and if that is the case,
8 were any measures considered, and if so, were any measures taken?

9 MR. MACDONALD: (Interpretation) Mr. President, my answer is as
10 follows: The witness should not have any fear of any possible
11 prosecution before this court or before any national jurisdiction, so it
12 is not necessary for Rule 74 to be applicable. The witness may say
13 anything that he knows without any fear at all.

14 PRESIDING JUDGE COTTE: (Interpretation) Very well.

15 Mr. O'Shea, your intervention was not misplaced at all. It
16 enabled us to remember the provisions of Rule 74, the consequences
17 thereof. The Prosecutor has just given us his opinion, and I believe
18 that we can continue with our proceedings right now.

19 So, Mr. Witness, the Prosecutor will now ask you his first
20 question.

21 MR. MACDONALD: (Interpretation)

22 Q. Mr. Witness, let me refer you to a specific point which will be
23 the point of departure of your testimony. I'm referring to the
24 9th of August, 2002, in Bunia, after the fall of the Loponde government,
25 and I'm referring to an admission by the parties as referred to in the

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1 document 1609, which we recalled this week in answer to a question by the
2 Chamber.

3 Where were you on the 9th of August, 2002, when the Lopondo
4 government was overthrown?

5 A. At the time of the fall of the Lopondo government, I was in
6 Bunia, in the Kindia neighbourhood, Sagara (phon) Avenue.

7 Q. What were you doing in Bunia at that time?

8 A. I was a student.

9 Q. Briefly speaking, what happened in Bunia on the 9th of August,
10 2002?

11 A. There was a battle, a battle between the UPC and the APC led by
12 Lopondo, and that battle took place in Bunia.

13 Q. And when you are referring to the APC, I understand that you are
14 referring to the Congolese People's Army as included in the admissions by
15 the parties.

16 A. That is correct. This group was a part of the Congolese
17 government.

18 Q. How did you react to this fighting?

19 A. I fled in the direction of the mountains.

20 Q. And where specifically in the mountains did you go?

21 A. I went to the village of Zumbe in the Ezekere groupement.

22 Q. Am I to understand that the Ezekere groupement is also known as
23 Bedu-Ezekere?

24 A. That is correct. It is also known as the Bedu-Ezekere
25 groupement.

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1 Q. Now, let us briefly return to Bunia. You fled. What about the
2 people who were living in Bunia? What did they do? How did they react
3 in the midst of the fighting?

4 A. Some of them stayed in Bunia while others left and travelled to
5 North Kivu, Zombe and in the environs of Bunia, but some of them stayed
6 in Bunia town.

7 Q. Let me ask you a question concerning your ethnicity. Well, that
8 is what I would like to do, but I think it should be better to do so in
9 private session. I will wait for the directives of the Chamber.

10 PRESIDING JUDGE COTTE: (Interpretation) Let me recall as it was
11 done in November last year, that we should all bear in mind the subtle
12 balance that we have to respect between the fairness of the proceedings
13 and the necessary protection of witnesses. Of course the Court will make
14 its determination on a case-by-case basis, but we would like to ask the
15 parties that they should remember that each request for a private or
16 closed session should be done in respect of that equilibrium, and in this
17 case, since you are looking for a point of clarification, it seems to us
18 necessary to move into private session. Madam Court Reporter [as
19 interpreted].

20 MR. MACDONALD: (Interpretation) I do not think that that
21 measure is necessary. I think we can talk about ethnicity in open
22 session because that fact will inevitably come out of the testimony.

23 PRESIDING JUDGE COTTE: (Interpretation) Very well. I think you
24 can proceed. Thank you, Mr. Prosecutor.

25 MR. MACDONALD: (Interpretation) I apologise for that,

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1 Mr. President.

2 Q. Mr. Witness, what is your ethnicity?

3 A. I am Lendu Tati (phon).

4 Q. We are going to come back to that expression that you have just
5 used, that is Kati, later on in your testimony. What was the majority --
6 what of the ethnicity of the majority of the inhabitants of Bunia who
7 took flight?

8 A. There were many ethnic groups in Bunia. Biras, Lendus, Ngitis,
9 and Gegeres, and each one of them fled in different directions. Some
10 went towards Ngiti. Others went to Gegere.

11 Q. When you're referring to Gegere, I understand what you're
12 referring to the Hemas.

13 A. Yes. You have the Hema Gombe and the others who are traitors.

14 Q. So when you arrived --

15 JUDGE VAN DEN WYNGAERT: (Interpretation) Prosecutor in the
16 transcript I don't see it, but I thought I also heard Bira as well,
17 because the witness did mention Bira.

18 MR. MACDONALD: (Interpretation) The Bira was mentioned. It's
19 not in the English transcript. I don't know about the French transcript.

20 JUDGE VAN DEN WYNGAERT: (Interpretation) It's in the French
21 transcript, just to let you know.

22 MR. MACDONALD: (Interpretation)

23 Q. You fled, you said, to Zumbe, the village of Zumbe?

24 A. Yes.

25 Q. You said that this village was in the mountains and I understand

1 that you're referring to the Blue Mountains; is that right?

2 A. Yes, Blue Mountains, "Monts Bleus" in French.

3 Q. When you arrived in Zumbe, what did you do?

4 A. When I arrived in Zumbe, we finished fighting.

5 Q. What do you mean when you say you had finished fighting?

6 A. I didn't say the fighting -- or the fight for our lives. We were
7 fighting to survive.

8 Q. Okay. In the village of Zumbe at this time, are you able to
9 describe the organisation of the village at that time, to describe to us
10 how this village was protected, if it was protected?

11 A. In this village there were Catholic churches, Protestant
12 churches. There were -- there was also a market, and this is the way the
13 village was organised at the time I went there.

14 Q. Please allow me to ask for a clarification. Do you know the
15 distance between Bunia -- no, I'll come -- I'll come back to that.

16 When you arrived in Zumbe village, you said that the objective
17 was to survive, if I understood your testimony.

18 A. That is correct.

19 Q. How, therefore, was this defence organised or the survival
20 organised?

21 A. There were days -- on the Wednesday and the Friday was market
22 day, and Monday as well. There were enemies who came to this market. So
23 we organised ourselves to defend ourselves.

24 Q. How did you organise yourselves?

25 A. When we arrived there wasn't an order in which we could organise

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1 ourselves. It was a combat -- or we were fighting to survive. That was
2 it.

3 Q. And over time what happened?

4 A. After, the fighting came from Bunia and the fighting came towards
5 Zumbe, and we could see combatants in the village.

6 Q. What did you do at that time?

7 A. It was a fight for survival. We didn't have good work to be able
8 to survive.

9 Q. Who organised the defence at that time, or the survival, as you
10 put it?

11 A. At the start it was anybody. It was done individually. It could
12 be a mother. It could be a child. Everybody organised themselves in
13 their own way to defend that place. At the start it was a duty of
14 everybody to organise themselves to defend it.

15 Q. Did that change over time? Did it -- was an organisation
16 developed to defend Zumbe?

17 A. Yes. With the fighting continued, something did happen like
18 that.

19 Q. Could you explain to the Chamber what happened in that regard?

20 A. When the security -- insecurity continued and enemies attacked
21 Zumbe, there was a defence group which was set up.

22 Q. Who set up this defence group?

23 A. In the village there were customary chiefs, and they organised
24 this. This continued -- or this occurred in that manner.

25 Q. So the chiefs of that area organised or came together to organise

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1 this.

2 A. To organise the defence of Zumbe, yes.

3 Q. What type of structure was set up? Are you able to describe to
4 us the structure that was in place at that time?

5 A. As there were enemies who were there and they were -- they were
6 stopped and they were armed, we had to organise things on our side to be
7 able to deal with people who were also armed.

8 Q. Who were you defending yourselves against at that time?

9 A. There were soldiers from the UPC.

10 Q. You say that to be able to -- given the fact that these attackers
11 were armed, you had to be armed yourselves. Who organised this arming?

12 A. At the beginning it happened in the following way: Somebody
13 could be stopped anywhere and attacked, so we defended ourselves with
14 stones, and then we organised ourselves into groups of five persons.

15 Q. And who organised these groups?

16 A. There were persons -- two or three people who had been victims of
17 attacks and who had killed those people.

18 Q. When you arrived at Zumbe following the overthrow of Lopondo
19 government --

20 PRESIDING JUDGE COTTE: (Interpretation) I'm sorry, I didn't
21 understand the answer from your witness what she [as interpreted] says
22 that those were the people, among them two or three who were victims of
23 the attack and they killed those people. Are they the killers or the
24 victims? I haven't understood the answer. Please could you ask the
25 question again so that we can go back to that answer, because it is very

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1 important.

2 MR. MACDONALD: (Interpretation)

3 Q. Please could you clarify, Witness, your last answer with regards
4 to this incident where three people were said to have killed their
5 attackers.

6 A. This is an example. There could be two or three people who could
7 be attacked, and if these people were able to flee, there were lots of
8 cases and lots of problems of this type. Information were given to the
9 chefs de localite, and the chef de localite as the person responsible for
10 the village had to take measures in that regard. And that is how the
11 organisation of the movement came out.

12 Q. When you in the groupement Bedu-Ezekere, coming out of Zumbe,
13 leaving Zumbe but we're talking about the groupement level, was there a
14 military camp?

15 A. No. There was no military camp at that time, but after some days
16 there were Lopondo APC soldiers who surrounded the lake -- or they were
17 surrounded at the lake and they tried to see how to flee.

18 Q. So when you arrived at Zumbe, you say that it was only a few days
19 later that there was a military camp, that it was only later that a
20 military camp was set up.

21 A. Yes. It wasn't people of Zumbe who created this military camp.
22 It was the soldiers who fled. When they came to that area, they set up a
23 military camp.

24 Q. I understand that you say that these are soldiers who were
25 fleeing. You said in your previous answer that they were APC soldiers

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1 who were at the lake. So we're just going to focus on that for the
2 moment.

3 When you say that there were APC soldiers who were surrounded at
4 the lake, what do you mean by that?

5 A. These were soldiers who had left Bunia. There wasn't a place
6 where they could flee, as they were Congolese. They couldn't go to
7 Lake Albert or beyond -- beyond Lake Albert, so they had to find a place
8 to hide.

9 Q. Where is Lake Albert exactly? Or where were they at Lake Albert,
10 rather?

11 A. Kasenyi.

12 Q. And they were surrounded by who, these APC soldiers who were at
13 Kasenyi?

14 A. When they fought their chief in Bunia, the part who was in --
15 those of them who were in Kasenyi, they tried to find a way out because
16 there was no longer a power in Bunia. When they arrived in Zombe, they
17 find a way of going to North Kivu.

18 Q. When they arrived in Zombe, I understand -- when you said Zombe,
19 are you talking about Zombe the village, or are you referring to a
20 different place?

21 A. It is the groupement of Bedu-Ezekere, but as there were a lot of
22 people who were fleeing and walking, they called this place Zombe, and
23 that's how it was called, Zombe, but in fact it's actually the groupement
24 of Ezekere that is being referred to.

25 Q. And what were these APC soldiers doing who were in the groupement

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1 of Bedu-Ezekere?

2 A. Well, these soldiers why just trying to find a direction in which
3 they could flee or join their military leaders. They came to Zumbe, and
4 they tried to find a way of going to Lakungi (phon) in North Kivu,
5 because they had heard that their military chief was to be found in
6 North Kivu, and they wanted to get back to their military leader.

7 Q. What did they do when they got to the groupement Bedu-Ezekere?

8 A. Their objective, as I said, was to join their military leader.
9 That's the reason why they were there.

10 Q. Where did they install themselves in the groupement of
11 Bedu-Ezekere?

12 A. At this time they -- among them there were also families in the
13 village. They went to the school of Zumbe. And for the others, they got
14 to know the villages and they also lived there, but afterwards they left.
15 In order to reply to the question, they lived pretty much anywhere in the
16 village.

17 Q. So I'm just going to go back to the previous question I asked.
18 When you arrived, you mentioned that there wasn't a camp in Zumbe.

19 A. No, there wasn't a camp in Zumbe. However, these APC soldiers
20 were -- I mean, they were soldiers. They couldn't be put up in the
21 church, and this is the reason why they were given a field, and they
22 were -- or grounds, and they were able to set themselves up there.

23 Q. And this field, where was it?

24 A. This field was at the primary school of Zumbe, and they built a
25 camp in the grounds of the school.

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1 Q. The APC soldiers were led by whom? Those who were -- or those
2 who were trained at this military -- or these who set up this military
3 camp?

4 A. These soldiers had a leader. The commander of the 12th Battalion
5 called Faustin, he was considered the number one. He was not a member of
6 my family.

7 Q. He was a member of which family?

8 A. I don't know his ethnic group, but he was a commander of the
9 12th APC Battalion. He was the person who fled with all these soldiers
10 to Kasenyi, and he went to North Kivu.

11 Q. Going via Zumbe?

12 A. Yes. They spent several days in Zumbe, and afterwards they left.

13 Q. What ethnic origin did these APC fighters have?

14 A. Personally, I don't know what ethnic group they were, but they
15 were -- I know that there were different ethnic groups within the APC and
16 amongst their soldiers.

17 Q. What happened with this military camp that they built in Zumbe
18 afterwards? What happened to this camp when they left Zumbe?

19 A. The villages remained, but then the Ugandans and other soldiers
20 entered. They thought that the APC was in Zumbe, while the APC soldiers
21 had already left. They came to Zumbe. They destroyed the camp, and they
22 destroyed the civilian houses.

23 Q. We can go back to the APC later. At this time, you personally,
24 what work were you doing when you came to Zumbe?

25 A. At the start I was unemployed. I was -- I was displaced by the

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1 war.

2 Q. Afterwards, what did you do?

3 A. Afterwards, there were -- it was mentioned that the APC was in
4 Zumbe. It wasn't true, and at that time everybody took measures, and
5 everybody took measures and started to fight. That was my work
6 afterwards.

7 Q. So your work was to fight, afterwards. And you were based in
8 what place right at the start?

9 A. I was in Zumbe. I was just a war-displaced person at the start.
10 I was in the camp. I was everywhere, but generally I was in Zumbe,
11 unemployed.

12 Q. When you say that you had become a fighter, where were you posted
13 when you -- when you became a fighter? Let's start with this first
14 question.

15 A. To tell the truth, there wasn't a precise job that I had, because
16 there was the UPDF, the UPC, and Rwandan soldiers who thought that the
17 APC was in Zumbe. It wasn't true. They came to make war in the village,
18 and everybody had to take measures to deal with this situation. We came
19 together, and we started to live in a group.

20 Q. When you started to live in a group, as a group, how was this
21 group organised?

22 A. It was just a group of natives of the village. Our objective was
23 if there was a fight, we had to fight; but if there wasn't fighting, we
24 would just live like normal villagers.

25 Q. Did you have a leader?

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1 A. When our group became more structured and matured, there was one
2 person who was a chef, a chief, or a head leader and then another, so we
3 were -- we did gain a structure.

4 Q. Quite. That's the point. Can you tell us what this structure
5 is? That's what the Chamber would like to understand. What was the
6 structure that was set up?

7 A. There were one or two structures which were operational at the
8 start. There was one person who was a leader. His objective was to
9 bring order to the group. It occurred in that way.

10 Q. Who was that person?

11 A. At the start there were several people. They had -- they were
12 only leaders by name, but when we became a serious group, it was Ngudjolo
13 who was our leader, Mathieu Ngudjolo.

14 Q. Are you able to tell us how much time after your arrival there
15 was this serious organised group, the leader of which was
16 Mathieu Ngudjolo?

17 A. No, I couldn't give you the date or the number of days. It just
18 developed. It was a development that I wanted to give you. When the
19 group started to mature, we had a leader.

20 Q. And where was this leader based or posted, Ngudjolo?

21 A. Are you talking about Faustin? When he arrived, he was in the
22 primary school of Zumbe, and he was in -- his private residence was next
23 to the chef de groupement, and this is where the APC commanders lived.

24 Q. Okay. I think that I'm going to reformulate my question.

25 Ngudjolo, when he became the leader, where did he live?

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1 A. At the start Ngudjolo wasn't the leader. When we went to Zumbe,
2 it was then that Ngudjolo became the leader. He was -- he was elected by
3 the displaced population. At the beginning, he was a nurse.

4 Q. And when he became the head of this structure, when was it that
5 he -- and where did he live when they became the head of this structure?

6 A. He went to Ezekere groupement, but his village --

7 THE INTERPRETER: The interpreter didn't hear the answer of the
8 witness.

9 MR. MACDONALD: (Interpretation)

10 Q. What was his village that he was originally from? Your answer
11 wasn't understood or heard by the interpreter.

12 A. To my knowledge, it was Kambutso. That was his original village.

13 Q. For the purposes of the recording, I understand that this village
14 is pronounced Kambutso.

15 A. Yes.

16 Q. When the APC arrived in Zumbe, you said a minute ago that they
17 lived next -- or, rather, the leader, Faustin, lived next to the
18 residence of the groupement leader. Who is the groupement leader, or who
19 was the groupement leader at that point in time?

20 A. At that point in time there was a new leader that just assumed
21 that position. His name was Manu.

22 Q. So the groupement leader was called leader Manu; is that correct?

23 A. Yes, that's correct.

24 Q. At the time that Faustin's APC arrived in Zumbe, did Ngudjolo
25 play a role of any kind?

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1 A. I know that he was a nurse. I don't know whether or not he was
2 attributed other duties.

3 Q. How is it that Ngudjolo came to be your leader?

4 A. I have to tell you that there was a war raging at that time, but
5 at one point in time he became a leader.

6 Q. Do you know how he became a leader?

7 A. I don't know how he was chosen. It was during the war, and
8 during this period of time he became a leader. I'm not aware of the
9 circumstances under which this occurred.

10 Q. How did you learn that he became the leader or was the leader?

11 A. I don't know whether there was a vote or not, but the customary
12 leaders, the local leaders went to the market to introduce him to the
13 population as a leader.

14 Q. What did Ngudjolo do then after he had been appointed as the
15 leader and when you learned that he was, in fact, your leader?

16 A. When he became leader there was the war. He started working, so
17 I told myself that he had become a leader.

18 Q. And when you say that he started working, what did he do? What
19 did you mean when you said that? What did he do?

20 A. He worked during the war in the military field, so I thought that
21 he was going to find a solution and put an end to the fighting and
22 perhaps organise a -- a withdrawal, because he could give orders.

23 Q. You said, Witness, that when you arrived in Zombe there was, in
24 fact, no structure in place, and with time this structure gradually
25 developed. A certain structure developed, and Ngudjolo became the leader

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1 of the structure, and you said that this resulted in him giving you
2 orders.

3 Could you tell us how things developed at the military level?

4 Were there any camps that were established, military camps?

5 A. At the time, there were no military camps. All we could observe
6 were certain individuals massing in villages, certain groupings in
7 villages. We thought that he could be a leader, and that's how he was
8 chosen.

9 Q. I apologise. Very well, but my question is as follows: After
10 Ngudjolo became leader, were there any military camps in the Bedu-Ezekere
11 groupement?

12 A. When Ngudjolo became leader, certain positions were created to
13 fight -- fight back attacks at Bedu-Ezekere. When a position was
14 created, then ten soldiers would be assigned, for example, and that's how
15 military camps came into existence in Zombe.

16 Q. So the first camp that was created, where was it created?

17 A. The first camp was the place that Monsieur Ngudjolo resided, and
18 there were unemployed people around this site.

19 Q. And a while ago you said that the place concerned was called
20 Kambutso. That's where he resided at the time. Is that correct?

21 A. Yes, Kambutso.

22 Q. Could you tell us where other military camps were subsequently
23 established?

24 A. We didn't construct military camps. He resided in the village of
25 Kambutso. He had guards. When there were a lot of people, well, that

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1 would constitute a military camp. And he had to be surrounded by people.
2 Camp number two was at Adile (phon).

3 Q. Camp number two was at Adile (phon). And then what happened?

4 A. The third camp was in the centre of Zumbe, and there were quite a
5 lot of people there.

6 Q. Number three was in Zumbe. You said in the centre of Zumbe,
7 didn't you?

8 A. It was in the very centre, near the market. There were soldiers
9 who intervened there, but it wasn't a military camp strictly speaking, in
10 the strict sense of the term. It could be taken to be a sort of
11 community hall.

12 Q. Were there any other places where members of the military were
13 billeted in the Bedu-Ezekere region?

14 A. There was a soldier at another place accompanied by others and
15 that was at Lagura. And later a military camp was established there.

16 Q. So a military camp was later established at Lagura; is that
17 correct?

18 A. At one point in time there was a military position that was
19 transformed into a military camp. Initially it was just a residence, a
20 commander's residence.

21 Q. We'll go back to the name of the commanders later, but let's now
22 continue describing the places where there might have been camps, where
23 camps might have been established. Were there any other places where
24 this occurred?

25 A. First of all, there were military positions that had been set up

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1 to fight back the enemy in the groupement, and when a commander had been
2 appointed somewhere he would eventually establish a military camp.

3 Q. So far you have said that there were soldiers in Kambutso, Adile
4 (phon), Lagura, there were military camps at those places but were there
5 any other camps in other parts of the Bedu-Ezekere area?

6 A. No, but it was possible to move around, go to some other place,
7 join other soldiers, but you couldn't consider these places to be other
8 military camps.

9 Q. If one heads towards Mandro from Kambutso by taking this road,
10 where does this road lead to, which village? Which is the village
11 closest to Mandro?

12 A. It's in the Bedu-Ezekere groupement. That's where the main place
13 is. It's the road that goes from Kambutso and leads to the groupement
14 leader.

15 Q. Where was the groupement leader located?

16 A. He was near Ezekere, at Ezekere.

17 Q. So there is a village that is called Ezekere.

18 A. That's the main place in the groupement, but this main place is
19 called Ezekere. That's the largest place in the groupement of
20 Bedu-Ezekere.

21 Q. Very well. Were there any soldiers who were positioned at that
22 location?

23 A. There was a young man who had been deployed there, and he was
24 accompanied by others. It was a guard post. One could find six
25 individuals there, and about three weeks later there were about

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1 24 individuals there, but in general it was described as a military camp.

2 Q. Were there any positions or military camps between Kambutso and
3 Adile (phon) in this region of Bedu-Ezekere?

4 A. There was someone at Adile (phon) -- at Ladile, and this
5 individual was accompanied by a certain number of other individuals and
6 they formed a camp.

7 Q. Where? What was the name of this place?

8 A. It was at Ladile.

9 Q. I'll rephrase my question. Were there any other camps around
10 Zumbe?

11 A. There was another position in the immediate vicinity of Zumbe, on
12 a road.

13 Q. Where exactly? Could you give me the name of the place, please?

14 A. The name of the place is Masu.

15 Q. Very well. Was Ezekere also known by another name in military
16 terms, military jargon?

17 A. Ezekere was the name of the main place in the groupement, just as
18 Bunia is the main place of the District of Ituri. So Ezekere is the name
19 of the main place in the Bedu-Ezekere groupement.

20 Q. Were there any other military positions or military camps in the
21 immediate vicinity of Ezekere?

22 A. No, there were no such positions near Ezekere, but there were
23 such positions in Ladile, at the entrance to Ladile. There was a main
24 staff and there was a camp. You could be sent somewhere, for example.
25 You might be told to go to such and such a camp, and that is how we used

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1 to call this place, a military camp.

2 Q. Mathieu Ngudjolo, what is his ethnicity?

3 A. He must know his ethnicity. When I met him he was in Lendu
4 territory. I thought that he was Lendu. I also know that the Lendu live
5 in Kambutso. I don't know whether or not he has changed his ethnicity.

6 Q. When he was your leader, how would he dress?

7 A. At one point in time he started wearing a military uniform. I
8 don't know where he found this uniform.

9 Q. Could you describe this uniform for me, the colour of the
10 uniform? What were the characteristics of the uniform?

11 A. It was a uniform that resembled those worn by the DSP. It was a
12 uniform that was dark green.

13 Q. What does DSP stand for? I just want to be clear about this.

14 A. It meant the Special Presidential Division, at the time.

15 Q. Very well. Let's go back to the Zumbe camp now. There were
16 soldiers at Zumbe, and once the movement had become more structured, who
17 was in charge of the soldiers who were at Zumbe?

18 A. At the time, Mathieu Ngudjolo was in charge of them. Even during
19 the demobilisation period in Zumbe. He was the highest ranking military
20 officer in charge of them.

21 Q. Very well, but beneath him in the Zumbe military camp, who was in
22 charge of the camp?

23 A. I don't know exactly, but I know that there were people in charge
24 of organisation in the military camp. There were leaders there. There
25 were -- there were a number of individuals.

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1 Q. So who was the person with the most authority?

2 A. In addition to Mathieu Ngudjolo, there was Colonel Boba Boba,
3 Boba Boba Banga.

4 Q. Who else?

5 A. There was Saidi and others individuals from Zumbe who had a
6 certain influence.

7 Q. Saidi? Do you know this person by another name?

8 A. I know him by sight, but I don't know any other names for this
9 person.

10 Q. Who else was there?

11 A. There was Lone Nyunye and Nensika (phon) Pascal.

12 Q. What was Pascal's full name?

13 A. Pascal Kuthe.

14 Q. Just a minute ago you said -- you mentioned the name of Nyunye;
15 is that correct?

16 A. Yes, Lone Nyunye.

17 Q. Were there any others apart from the individuals you have
18 mentioned, any others who were high-ranking individuals there?

19 A. There were people we would name by their ranks. We'd call
20 someone commander, commander, for example. There was Commander Mathieu
21 Ngudjolo, Commander Patisse (phon), Saidi, Kuthe, Nyunye.

22 Q. Boba Boba, was he a commander?

23 A. Boba Boba, yes, he was a commander.

24 Q. Were there any other commanders? Any other commanders whose
25 names you can remember?

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1 A. There were other names. Certain individuals had three names and
2 a rank, but in general we only used one name.

3 Q. And you, what was your title?

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 Q. We have another five minutes before the break. Before we have
12 the break, perhaps I'll ask you the following question: Did you
13 participate in any fighting?

14 THE INTERPRETER: Your Honour, the Swahili booth hasn't clearly
15 heard the witness's answer.

16 MR. MACDONALD: (Interpretation)

17 Q. I apologise. The last part of your answer wasn't clearly
18 understood by the booth. I'll rephrase my question, put my question to
19 you again.

20 Did you personally participate in any of the fighting?

21 A. Yes, I did participate in some of the military fighting.

22 Q. Apart from Zumbe and the region of Bedu-Ezekere, well, did you --
23 did you participate in any of the fighting outside the limits of your
24 groupement?

25 A. There were certain attacks on Naguri (phon) at least 36 -- on 36

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1 occasions, and sometimes we had to go defend that place.

2 Q. Where did you go to mount a defence?

3 A. We went down to Bogoro.

4 Q. Very well.

5 MR. MACDONALD: (Interpretation) I believe we have another two
6 minutes, your Honour. We could perhaps have the break now. I believe
7 that it's necessary for the accused to withdraw first and then the --
8 then the witness, but it's your decision, naturally.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
10 Mr. MacDonald. We will adjourn briefly.

11 I'm now addressing the security officers: Please escort the
12 accused out of the courtroom first, and when we come back at 11.30, after
13 the break, please don't bring the accused into the courtroom before the
14 Chamber enters. Wait for the Chamber to ask you to bring them in. So
15 for the moment, please escort the accused out of the courtroom.

16 (The accused withdrew)

17 PRESIDING JUDGE COTTE: (Interpretation) Madam Registrar, let's
18 move into closed session so that the witness may leave the courtroom.

19 (Closed session at 10.58 a.m.)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)
2 (Expunged)
3 (Open session at 10.59 a.m.)
4 COURT OFFICER: (Interpretation) We are in open session,
5 your Honour.
6 PRESIDING JUDGE COTTE: (Interpretation) We are back in open
7 session. We will now have our break, and we will resume at 11.30.
8 Recess taken at 11.00 a.m.
9 On resuming at 11.33 a.m.
10 (Closed session at 11.33 a.m.)
11 (Expunged)
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
17 (Expunged)
18 (Open session at 11.34 a.m.)
19 COURT OFFICER: (Interpretation) We are in open session,
20 your Honour.
21 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
22 Let us resume our proceedings.
23 Mr. Prosecutor, please.
24 MR. MACDONALD: (Interpretation) Thank you.
25 Q. Witness, this morning we quickly went into the crux of your

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1 testimony, and so I would like to go back and ask you a few questions
2 before returning to certain other issues that we have already touched
3 upon.

4 Speaking generally about the geography, when you described the
5 itinerary from Bunia to the village of Zumbé, that is, using the main
6 road, when you leave Bunia what is the first village that you reach
7 before you go on to Zumbé?

8 A. From Bunia, after crossing a stream, you reach Ezekere. That is
9 Ezekere centre.

10 Q. When you leave Bunia, which is the first village that you come
11 to?

12 A. From Bunia, the first village is Dele.

13 Q. And after that, on the road in Bunia?

14 A. From Dele, you travel on to Ezekere and then from there to Zumbé.

15 Q. Very well. So the first village is Dele. And once out of Dele
16 on your way to Ezekere, you have told us that the groupement is on the
17 Blue Mountain. Can you describe to us the topography of that area that
18 is on your way to Ezekere?

19 A. I beg your pardon. Can you kindly repeat the question?

20 Q. After Dele, I understand that Ezekere is on the Blue Mountain.
21 Is that correct?

22 A. That is correct.

23 Q. Can you describe the slope that you use to travel to that
24 location?

25 A. From Dele you have valleys and slopes, but it is the same type of

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1 topography from Bunia right up to Ezekere. That is, you go to Dele and
2 then right up to Zumbe. That means that Ezekere is on a mountain. But
3 there is another shortcut from Dele to Ladile and then on to Zumbe, but
4 from Ezekere it is a slope.

5 Q. And when you say there is a shortcut, is that shortcut motorable
6 or is it a footpath?

7 A. It is usually people who are travelling on foot who use this
8 path, but also people who are fleeing.

9 THE INTERPRETER: The Swahili interpreter says he did not
10 understand the last part of the answer.

11 MR. MACDONALD: (Interpretation)

12 Q. Can you repeat the last part of that answer, when you talked
13 about people who were fleeing?

14 A. Yes. I am confirming that it is people on foot who used that
15 path. I myself went to Zumbe using that footpath, but people can also
16 travel on that path on motorbikes.

17 MR. O'SHEA: Your Honour, the witness referred to a name, Dele,
18 and coming -- coming from Bunia, there are two places which are not too
19 far away from each other, one called Dele, spelled D-e-l-e, and the other
20 called Ndele, spelled N-d-e-l-e. So I just wanted to ask if
21 Mr. MacDonald could get the spelling from the witness so I can sure as to
22 which of those two places he's referring to.

23 MR. MACDONALD: (Interpretation)

24 Q. Mr. Witness, can you spell that word for us?

25 A. There is a place known as Dhele and another which is also Dele.

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1 One of them has an H in the spelling, but the other does not have an H.

2 Q. If I understand you correctly -- which is the Dele that you are
3 referring to? Can you kindly spell it?

4 A. The intellectual would refer to it as Dhele, and the villagers
5 would refer to it as Dele, but it is the same name. It refers to the
6 same village.

7 Q. Very well, but my colleague in his cross-examination will have
8 the opportunity to seek clarification.

9 Now still regarding the geography, you mentioned Bogoro. Am I to
10 understand that there is a road between Bogoro and Bunia that is
11 motorable and can be used by bikes?

12 A. Yes, that is correct.

13 Q. Can you tell us the distance between Bunia and Bogoro?

14 A. The distance between Bunia and Bogoro is 25 kilometres.

15 Q. Very well. Now, if someone leaves Bogoro, and wishes to travel
16 to Bunia by road, what is the first village that he will come across,
17 that is, from Bogoro to Bunia?

18 A. The first village would be Dele, but apart from Dele there are
19 other villages to the left and to the right. One of them is called
20 Kavalega. It is on the right. That is, when you are coming from Bogoro
21 on the road to Bunia, the village is on your right.

22 Q. Very well. So when you leave Bogoro, there is a village on your
23 right known as Kavalega, and that village is located to your right. Now,
24 if you continue on that same road in the direction of Bunia, after
25 Kavalega what is the name of the next village?

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1 A. After Kavalega, the second village, that is where Stale (phon)
2 carried out a re-surge, and that village is called Katoni.

3 Q. Katoni. Would that be K-a-t-o-n-i, if I understand you
4 correctly?

5 A. Some people called it Katoni, others say Katoni, but to be -- but
6 generally speaking some refer to as Vilo.

7 Q. It is also known as Vilo?

8 A. That is correct.

9 Q. After Katoni, or Vilo, still on that road to Bunia, are there any
10 other villages between Katoni and Dele?

11 A. Yes. If you continue on that road, on the right there is Zago,
12 and on the left there is the village of Nyakeru.

13 Q. According to you, how far is the village of Nyakeru from Bogoro?

14 A. I would approximate that distance to be 14 kilometres.

15 Q. Very well. If you are in the village of Katoni and then you look
16 in the direction of the Blue Mountains, that is to the top of those
17 mountains, what is the village that is located opposite Katoni but which
18 is on the slopes of the Blue Mountain?

19 A. From the Blue Mountain the first village is Lagura. These
20 villages that are located on the other slope of the mountain.

21 Q. Very well. Now, let us come back to the time that you arrived
22 Zumbe after the 9th of August, 2002, when you fled, and you testify --
23 you testified - and correct me if I'm wrong - that at one point there was
24 a structure which was established, and Mathieu Ngudjolo became the leader
25 of that structure.

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1 Now, who specifically were the people under the leadership of
2 Mathieu Ngudjolo?

3 A. Ngudjolo was the leader of the fighters in the Bedu-Ezekere area,
4 towards Beni where the people who had fled had settled. That is where
5 Ngudjolo was positioned.

6 Q. So Mathieu Ngudjolo was the leader of the fighters of the
7 Bedu-Ezekere groupement.

8 Let me now ask you questions on the structure that you say
9 evolved over time. So you had these fighters who became organised, and
10 right now I'm going to focus on the organisation of that structure.

11 To begin with, was there any military training for the fighters
12 of Bedu-Ezekere?

13 A. When it was cold in Zombe, and if there were young people who had
14 received military training during the Mobutu era, those were the ones who
15 would come together and perform some exercises.

16 THE INTERPRETER: And the Swahili interpreter says he did not
17 hear the last part of the witness's answer.

18 MR. MACDONALD: (Interpretation)

19 Q. Mr. Witness, you have to speak in a louder voice, and
20 unfortunately, you have to speak more slowly so that the interpreters
21 should better understand your answers. It is unfortunate, but that is
22 the way it is and we have to make do.

23 JUDGE DIARRA: (Interpretation) He should actually be told to
24 speak into the microphone, directly into the microphone and not away from
25 the microphone. That is the crucial thing.

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1 MR. MACDONALD: (Interpretation)

2 Q. Perhaps you should move closer to the microphone if that is
3 possible. Otherwise, you have to speak in a louder voice.

4 Let me come back to what you said. You mentioned that there were
5 people who had acquired a certain military experience during the Mobutu
6 era. What did those people do specifically? Can you repeat, please.

7 A. Some of them had received military training, and they were in
8 their villages without any jobs, and since they were soldiers and it was
9 cold, they had to show the others that they had received military
10 training. And that is how come we learned about that activity, how come
11 we received that training, but we never had to pay anyone to do the
12 training.

13 Q. Did you personally undergo military training?

14 A. Yes. We used to call that military training "FOREN."

15 Q. And what does that word mean? That is, if you know.

16 A. This would just be warming-up exercises, physical exercises.

17 Q. So the military training that you received involved physical
18 exercises. Was there anything else?

19 A. When we acquired rifles, those who had already known how to shoot
20 taught the others how to do it.

21 Q. Please continue.

22 A. I was saying that apart from the training -- well, let me say
23 that it also included learning to shoot a gun, because not everyone knew
24 how to fire a rifle, and those who had the opportunity to learn for the
25 first time did so. This was the very purpose of the training itself.

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1 Q. So shooting practice and physical exercises. Was there any other
2 thing that was taught during that training?

3 A. There were other physical exercises such as those that were done
4 in primary schools, and these exercises were repeated at that time.

5 Q. Who was responsible for the military training?

6 A. It was the person that I have already mentioned, that is, Kuthe.
7 He was someone who was already well trained, and he was asking all those
8 who had already received training to teach others.

9 Q. And was this military training given by Kuthe, was it done at a
10 particular location?

11 A. We did not have a specific location for the training, but it was
12 carried out in a camp, and as a soldier, for someone to be confirmed,
13 that person would have to follow the training that he provided.

14 Q. And in which camp did this military training take place?

15 A. The training took place in Lagura. He would come there, training
16 those he found there, and then he would delegate others to continue the
17 training.

18 Q. Was this the only camp in which military training was carried
19 out?

20 A. It was in Lagura camp, and apart from that, he travelled to other
21 areas where he worked. There were officers there carrying out similar
22 activities, but every morning, every day there were training activities
23 that were carried out.

24 Q. And where did you yourself receive your own training?

25 A. I received my training at the Zumbe camp.

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1 Q. And for how long did that training last?

2 A. My training lasted for 15 days at the most.

3 Q. Did all the fighters receive military training?

4 A. People were assisted to become fighters. That is, after
5 training, by teaching them to use or handle rifles.

6 Q. Which type of weapons were used during the military training,
7 that is, for shooting practice, amongst other things.

8 A. The first arm was -- the first weapon was running, and then we
9 had to fight back after an attack. Then we received weapons.

10 Q. What type of weapons?

11 A. When we fled for the first time, we fought with arrows, and after
12 that we used the two or three SMGs that we had. There were two or three
13 SMGs for the entire groupement.

14 Q. And after that what did you fight with?

15 A. What I would like to say is that this is what we had as weapons.
16 Given that the fighting continued, we received other types of weapons.

17 Q. What were these types of weapons that you received?

18 A. At the end there were SMGs. There were bombs as well. There was
19 everything that we found in the village, that we could take out of the
20 village.

21 Q. So the military training was given with this type of weapon, if
22 I've understood that well.

23 A. Yes. Above all with SMGs.

24 JUDGE DIARRA: (Interpretation) What does he call a bomb?

25 MR. MACDONALD: (Interpretation) I'm going to go back to some of

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1 these bits.

2 Q. SMG. You also mentioned something which was translated as being
3 an Shigun. If I have understood as well --

4 A. What I call a machine-gun or Shigun. These were weapons that the
5 Ugandans had abandoned in the village. "Shigun," I said. It means
6 "machine-gun." "That's the Shigun," they told me. And I understood that
7 we called it a Shigun.

8 Q. So what you want to say is machine-gun, then. In English they
9 would say "machine-gun," is that correct, in English?

10 A. Yes. In English it's called a "machine-gun." That is correct.

11 Q. Now, you mentioned bombs. What would you like to say by -- what
12 do you mean by "bombs" exactly?

13 A. There were weapons that we had abandoned in Zumbe -- that had
14 been abandoned in Zumbe. They were bombs that we found there. They
15 could blow-up people's legs.

16 Q. I don't want to be leading, but is this what we would call
17 "grenades" in French?

18 A. Yes, these were grenades but of a very specific type, which could
19 destroy the feet of persons.

20 Q. Very well. If you would allow me.

21 JUDGE VAN DEN WYNGAERT: (Interpretation) SMG, could we have a
22 clarification of that?

23 MR. MACDONALD: (Interpretation) Yes. I would also invite the
24 Chamber to ask questions. The Bench can pose questions if they wish to
25 do so.

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1 Q. Could you describe an SMG? What is that?

2 A. I think that in French it's called an SMG or an AK-47.

3 Q. And how many bullets can you shoot with this weapon?

4 A. In its magazine I think there are 30 bullets, but it depends on
5 the amount that you -- the amount of ammunition that you have or their
6 strength.

7 Q. Are there other types of SMGs that you used apart from the
8 conventional SMG?

9 A. To my knowledge we only used SMGs. However, there were LMGs, but
10 those were had by our enemies, but we didn't have the expertise necessary
11 to know if it was an SMG or an LMG.

12 Q. Okay. LMG. What's an LMG?

13 A. This is a heavy weapon which is comparable to an SMG, but there's
14 a difference with regards to the magazine and the chain as well.

15 THE INTERPRETER: With regards to the belt, corrects the
16 interpreter.

17 MR. MACDONALD: (Interpretation)

18 Q. During this military training, were there instructions which were
19 given to the fighters who were following this training?

20 A. What do you mean by instructions?

21 Q. Were there directions which were given in terms of military
22 training?

23 A. Yes. There were directions such as if you are given a weapon
24 with two rounds, you should keep that number, even for six months. That
25 was one of the instructions that were given.

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1 Q. Beyond weapons, were other instructions given to you with regards
2 to the fighting in which you could participate?

3 A. There were, for example -- you had to fight well, because
4 everybody wanted to be able to cope.

5 Q. This was translated as everybody had to take care of themselves.
6 Could you -- could you please give us a precision in this regard.

7 A. I will explain it in the following way: When you are attacked
8 somewhere, you have to try and flee, to try and find a place to go.
9 That's what I mean.

10 JUDGE DIARRA: (Interpretation) This is an African expression.
11 I've understood it. It means to survive. Everybody -- everybody tries
12 to survive.

13 MR. MACDONALD: (Interpretation) I didn't want to suggest it.
14 With your permission.

15 Q. I would now like to go back. When the fighters were put into a
16 structure and reorganised, not -- not at the time you arrived in
17 August 2002 in Zombe but afterwards, is that not the case? And
18 Mr. Mathieu Ngudjolo was appointed as the leader. He took up his
19 position as a leader. He started his leadership.

20 At a certain time was there a staff headquarters at Bedu-Ezekere
21 for the fighters who were under the responsibility of Mathieu Ngudjolo?

22 A. Yes, there was a staff headquarters at the time that the
23 inhabitants of this hill was surrounded. It was at this time that there
24 was a staff headquarters. Afterwards, all these people ended up either
25 in CONADER or they joined the government.

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1 Q. So I'm going to ask the question directly. Before the attack on
2 Bogoro in -- which you referred to before the break, was there a staff
3 headquarters?

4 A. At this time, there was already an organisation, a staff
5 headquarters. Yes, that existed.

6 Q. Who composed this staff? Who was a member of the staff?

7 A. There was leaders such as Mathieu Ngudjolo, Mathieu -- Zombe,
8 Boba Boba. All these people were part of what we called the staff. That
9 didn't mean that wouldn't stop somebody from coming outside and being
10 part of the staff.

11 Q. If you could just allow me, I'm just going to have a look at the
12 transcript.

13 If you would allow me, I'd just like to mention something. You
14 mentioned that there was Ngudjolo, and then you said something that I
15 understood as PAC or Pat, and afterwards you mentioned Boba Boba. Could
16 you clarify PAC? What does that mean?

17 A. PAC. PAC. If you like, the word "Pacques," which I know is
18 "Easter," I didn't say that.

19 Q. You mentioned the members of the staff. There was Ngudjolo.
20 There was also Boba Boba. And were there any other people or commanders
21 who were part of the staff?

22 A. Yes. This was a military organisation. So you had a chief of
23 staff, deputy, just down to the soldiers at the lowest level, and also
24 the population as well. This was a structure -- a hierarchical
25 structure.

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1 Q. So at the top of this hierarchy, who was at the very top. The
2 Chief of Staff. Who was the Chief of Staff?

3 A. It was Mathieu Ngudjolo, but he was known as Kimbi Chui.

4 Q. Kimbi Chui. Kimbi, what does that mean?

5 A. This is a name that even the children in the village knew him by.

6 Q. Does that have a particular meaning?

7 A. Yes, a name can have a meaning. I think that this name has a
8 meaning in that language -- in his language.

9 Q. And his language is Lendu?

10 A. No. It's just a name. I don't know in which language.

11 Q. So he was known under the name of Kimbi Chui. And Chui, does
12 that have a meaning?

13 A. Yes. This name which was used on Radio Okapi, this is how we
14 started to speak about this name everywhere.

15 Q. What does it mean in Swahili?

16 A. I don't know what it means. I think that it's perhaps the Radio
17 Okapi journalist who would know what it means.

18 Q. So you don't know what Chui means?

19 A. Chui, that has a meaning in Swahili, but in that -- it's a name.
20 It came from -- the fact that a person could have this name came from a
21 radio station.

22 Q. Could you say what it means in Swahili, please?

23 A. In Swahili, "Chui" is an animal.

24 Q. And what type of animal?

25 A. There are even people -- there are individuals called Chui.

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1 There are -- there's also an animal that is called Chui.

2 Q. Could you tell us the name of this animal? There's no problem.

3 I understand that perhaps through respect for the persons you don't want
4 to mention the name of this animal, but you can do this.

5 A. I'd say this: There are people called Chui, but there are
6 animals also called Chui, and in French that means "lion." Would you
7 like me to give a translation or introduction of Swahili into French? I
8 would say "Chui" is "lion."

9 Q. Very well. So -- so who was underneath Kimbi Chui? Who were his
10 deputies?

11 A. There was Ngabu, Boba Boba, Major Bahati de Zumbe. They were
12 members of the staff in his office.

13 Q. So there was Boba Boba. There was another -- when you say Boba
14 Boba, this is Ngabu, Boba Boba Ngabu, or is Ngabu somebody different?

15 A. His real name was Ngabu. His surname was Boba Boba.

16 Q. So the other people who were in the staff, you mentioned Bahati
17 de Zumbe; is that right?

18 A. That is correct. Bahati de Zumbe was also in the staff.

19 Q. Bahati de Zumbe, could you give -- or could you tell me what
20 ethnic group Bahati de Zumbe was from?

21 A. During this period he was part -- one of the displaced persons.
22 I think that Bahati de Zumbe -- I don't know if he is Walendu Bindi or
23 from where, but this is somebody who had lived there.

24 Q. When you mention Walendu Bindi, and I understand that you are
25 referring to the Lendu sud or the people who live in the collectivite of

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1 Walendu Bindi.

2 A. Yes. When we speak about the Lendu, there are five collectivites
3 where the Walendu live, and Bindi is the last one. But all the people
4 who live there are Lendus. There's Bindi, Tati Wati (phon) as others
5 ones.

6 Q. So in the Walendu Bindi collectivite, that's mostly Lendu who
7 live there; is that correct?

8 A. Yes, those are Walendu Bindi, but to facilitate the
9 understanding, they call them Ngiti.

10 Q. So Bahati de Zumbe was a member of the staff, and under these
11 three persons, Ngudjolo, Boba Boba, Bahati de Zumbe, were there other
12 persons or commanders who were under those three?

13 A. The names that I've just given are those who were the deputies.

14 Q. So the deputies of Ngudjolo were Boba Boba, Bahati de Zumbe, and
15 underneath Bahati de Zumbe, who were the commanders?

16 A. There were people such as Saidi, Pascal and Badole (phon).

17 Q. So three persons that you've just mentioned, Saidi, Pascal who
18 you also knew, and you indicated the name of Kuthe, and a third
19 individual who you identified as Badole (phon). I just -- for the
20 purposes of the recording, we provided the names, all the names which
21 might be mentioned by the witness, and for the purposes of the recording
22 I would like to mention the name K-p-a-d-h-o-l-e, Kpadhole.

23 Kpadhole was based where in the camp which you referred to this
24 morning?

25 A. Kpadhole was a few kilometres -- kilometres away from the staff

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1 headquarters of Ladile.

2 Q. In what place? I'm sorry?

3 A. It was a place which was called Kanzi.

4 Q. Kanzi. You haven't -- you didn't mention Kanzi this morning, but
5 in -- with regard to Ezekere, what is the distance from Ezekere?

6 A. Between Ezekere and Ladile there is the village of Kanzi, because
7 Kanzi is close to Ladile. It's zero metres from the staff headquarters.

8 Q. And the group of fighters that you have just described, the staff
9 and part of its structure, at that time did they -- did that have a name
10 this group of fighters?

11 A. Among the fighters everybody had their family name. They were
12 called fighters. Everybody had an individual name.

13 Q. The organisation to which you belonged, did that organisation
14 have a name?

15 A. There were several names. There was those who called it
16 combat -- combatants of other militia, other Lendu -- other people called
17 us militia, others called us Lendu. There was only one staff
18 headquarters, and there were several places where we would stay.

19 Q. Okay. I would -- well, we have two options, and I would like to
20 turn to the Chamber.

21 MR. MACDONALD: (Interpretation) At this point in time I would
22 like to establish the place where this was. We don't have a map. The
23 Office of the Prosecutor will be -- investigators of the Office of the
24 Prosecutor did not go to the place, and we have -- do not have
25 topographic maps available with the places that have just been mentioned.

1 The witness, in his first statement, made an annex where he
2 indicated on a sheet of paper the names of these places. So he's
3 mentioned all the names that we've discussed.

4 There are two options. We can show him the exhibit, ask him if
5 he recognises it. If there's anything -- firstly, if he recognises it,
6 if he was the one who made it, and if there are any corrections to be
7 made to it. That's option one.

8 Option two is that we ask him to point out these places now, draw
9 these places now.

10 PRESIDING JUDGE COTTE: (Interpretation) At a more general level
11 I think that during the previous hearings the Chamber stated that it
12 would like, as far as possible, to have either maps or topographical
13 maps, even if rudimentary, but which would make it possible to better
14 follow the statements made by the witness. And I'm speaking from my
15 memory here, you seem to have indicated that it was a difficult exercise
16 to carry out, but I did have the feeling that you should be able to carry
17 out such an exercise. And it's certain that this morning all of us would
18 have been better able to follow the answers that the witness gave to a
19 certain number of questions which were of a very topographical and
20 geographical nature if we had had before us such a document. So the
21 Chamber would -- would like to reiterate its wish to have documentation,
22 maps which describe the area of interest in the proceedings, documents
23 which do -- have the agreement of the parties so that they can be used as
24 a reference and working documents. This is a general reminder. Unless
25 it's absolutely impossible, I do think it would be highly desirable for

1 all to have maps, however rudimentary they may be, but maps upon which
2 the names of places mentioned, Bunia, Bogoro, et cetera, et cetera, do
3 figure.

4 Now, just to go back to the option that you have proposed, the
5 Chamber turns towards the Defence. Does the Defence see an obstacle with
6 regard to efficiency and perhaps to save time, that we take the first
7 option proposed by the Prosecutor, namely, to use a document drafted by
8 the witness himself which he would like him to comment on, such that he
9 at least confirms after he has verbally stated where these areas are in
10 relation to each other; or would you prefer that we ask him for a second
11 option, namely, to redo a written document at this time?

12 It is important that you think about this option. The Chamber is
13 acting with a view to legitimate efficiency, but efficiency does not go
14 before the clarity of the proceedings.

15 So Counsel Hooper, Counsel O'Shea, what are your points of view
16 with regard to the options put forward by the Prosecutor?

17 MR. HOOPER: For my part, I have no objection to him drawing a
18 sketch here, indicating where these places are. There's not very many of
19 them, and -- there are aren't very many of them, and it shouldn't take
20 him very long.

21 Subsequent to that, it might then later be helpful, at a later
22 stage in the evidence, I would submit, it would be appropriate then for
23 the Court to have a map where it can compare the -- what's been said to
24 the -- to the known topography or -- as shown on -- on certain maps.

25 So at the moment, option two, I submit.

1 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofe, what is
2 your position?

3 MR. FOFE: (Interpretation) Thank you, your Honour.

4 In order to save time, we don't see why the Prosecutor shouldn't
5 show the witness the documents or drawings he has produced. We will see
6 how the witness uses them, and if we have any objections or criticism to
7 make, we will do so at the appropriate time. I would like to proceed in
8 this manner to save time.

9 PRESIDING JUDGE COTTE: (Interpretation) We thank both parties.
10 Just a minute, please.

11 (The Trial Chamber confers)

12 MR. FOFE: (Interpretation) I apologise, your Honour.

13 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead,
14 Professor Fofe.

15 MR. FOFE: (Interpretation) My assistant has just drawn my
16 attention to an important fact. On this drawing, on this document we can
17 find a reference that the witness hasn't mentioned yet, and it is of key
18 importance as a result. We are no longer in a position to agree to this
19 procedure. So he could draw once more the layout of the ground.

20 PRESIDING JUDGE COTTE: (Interpretation) Yes. The Prosecution.

21 MR. MACDONALD: (Interpretation) I think we can show the
22 document to the witness without showing the witness this reference, this
23 heading. All the other information will be visible. We can comment on
24 it, and we can then have this document, this image, introduced --
25 admitted, rather, into evidence.

1 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofe's
2 comments seem relevant to us. We are told that it's technically not
3 possible to hide part of a document. The testimony we've been hearing
4 since this morning concerns very directly one of the two accused, and as
5 a result we should take note of Professor Fofe's comment, which is in
6 line with Mr. Hooper's position. So therefore, Mr. Prosecutor, we will
7 choose the second option. The usher will have to assist you, provide the
8 witness with technical assistance. It will therefore be necessary to ask
9 the witness to proceed as you wish.

10 MR. MACDONALD: (Interpretation) I think we're wasting a certain
11 amount of time by not going to the drawing directly. The other
12 possibility would be to split things up and show the document to the
13 witness.

14 PRESIDING JUDGE COTTE: (Interpretation) This would be too
15 simple a solution, so we'll go for option two.

16 MR. MACDONALD: (Interpretation) Could the usher please provide
17 the witness with a sheet of paper. And a pencil or a pen.

18 THE WITNESS: (Interpretation) Before I do anything, I would
19 like to ask the Chamber for its leave to allow me to go to the toilet.

20 PRESIDING JUDGE COTTE: (Interpretation) I apologise, Witness.
21 While I was conferring with the Registrar, you said something that I did
22 not hear. Could you please repeat what you said?

23 THE WITNESS: (Interpretation) Would you please grant me a
24 little time to go to the toilet.

25 PRESIDING JUDGE COTTE: (Interpretation) Very well. We'll have

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1 a five-minute break in that case so that you may go where you desire to
2 go, and you can proceed with the drawing when you return.

3 MR. HOOPER: Can he draw the map?

4 PRESIDING JUDGE COTTE: (Interpretation) That would be
5 desirable, Mr. Hooper. I will ask the witness whether he can wait a
6 little.

7 Witness, you will be allowed to go where you want to go to, but
8 first of all it would be preferable if you could immediately draw the
9 sketch.

10 MR. MACDONALD: (Interpretation) Mr. Hooper has made a
11 suggestion. The witness could be in the adjacent room. He could return
12 once the sketch is completed unless doing it in the -- instead of doing
13 it in the courtroom.

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, I do
15 apologise. I don't want to bother the witness. I don't want a useless
16 debate about the subject, but, Mr. Hooper, do you agree to the principle
17 that the witness draws something in an adjacent room? I doubt it.

18 MR. HOOPER: (Previous translation continues) ... various places
19 he's named so far.

20 PRESIDING JUDGE COTTE: (Interpretation) In the courtroom or an
21 adjacent room?

22 MR. HOOPER: I don't mind where he does it. He can do it during
23 the short break he wants. He might be more comfortable writing while
24 he's outside. I've no problem with that myself (overlapping speakers) --
25 he's doing it. That's the main thing.

1 PRESIDING JUDGE COTTE: (Interpretation) Listen, as far as I am
2 concerned, I believe that it would be good for this sketch to be made in
3 the courtroom and not in an adjacent room. The Chamber -- the Chamber
4 wouldn't be in a position to know what -- what is there. So it would be
5 better for the witness to do it here.

6 Right now the witness will be allowed to leave for five minutes.
7 The Chamber will not leave. The witness will return rapidly and will
8 then draw the sketch in the courtroom.

9 Madam Registrar -- no. First of all, it is necessary for the
10 security officers to escort the two accused out of the courtroom.

11 (The accused withdrew)

12 PRESIDING JUDGE COTTE: (Interpretation) Please let's move into
13 closed session.

14 (Closed session at 12.42 p.m.)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)
2 (Expunged)
3 (Expunged)
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged)
9 (Expunged)
10 (Expunged)
11 (Expunged)
12 (Expunged)
13 (Expunged)

14 (Open session at 12.50 p.m.)

15 COURT OFFICER: (Interpretation) We are in open session, your
16 Honour.

17 PRESIDING JUDGE COTTE: (Interpretation) That you,
18 Madam Registrar.

19 That's perfect.

20 Mr. MacDonald, would you please ask the witness to make the
21 sketch that you require. Don't instruct the witness, but tell the
22 witness what it is that the Prosecution would like him to do exactly.

23 MR. MACDONALD: (Interpretation) Thank you, your Honour.

24 Q. Witness, before you start noting down the locations, you have a
25 sheet of paper in front of you, and I think it's important to mark Bunia,

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1 the road that goes through Dele. And after you have marked the direction
2 of the road, how it leads to Zumbe, I will then ask you to indicate where
3 Ladile is in relation to the road, as well as Masu, Ezekere, Kambutso,
4 Zumbe, and Lagura, and if possible, perhaps you could situate Kanzi for
5 us. You did refer to Kanzi as well. And similarly, I'm interested in
6 the road that goes from Dele to Bogoro. If you could locate Bogoro for
7 us in relation to all of these places on the Blue Mountain.

8 Do you understand what it is that I am asking you to do, in fact?

9 A. Yes, I do.

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Witness.

11 Mr. Prosecutor, the witness has just handed over the sketch that
12 he has drawn with the roads and the various localities mentioned this
13 morning. Can we consider this as a public document? Yes.

14 So I will ask the courtroom officer to make the document
15 accessible to everyone. Is that okay?

16 MR. MACDONALD: (Interpretation) Yes, your Honour.

17 PRESIDING JUDGE COTTE: (Interpretation) I believe that will not
18 present any technical difficulties, and you can proceed with your
19 questions on this sketch which everyone will be able to see.

20 COURT OFFICER: (Interpretation) In order to see the document,
21 you can press the button "Docu Witness Cam." Not "Cam Witness," "Docu
22 Cam Witness," actually.

23 PRESIDING JUDGE COTTE: (Interpretation) Is everyone able to see
24 the document? The accused? Yes, Mr. Ngudjolo and Mr. Katanga are
25 nodding. Defence? Legal Representatives of the Victims? That is

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1 perfect.

2 Mr. Prosecutor, does the witness himself see the document? Very
3 well.

4 Mr. Prosecutor.

5 MR. MACDONALD: (Interpretation) I want to be sure, because I
6 did not see the physical document, but are we able to see everything on
7 the document, because it looks to me like there are annotations on the
8 right that I cannot see.

9 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, I
10 believe that your suggestion has been heeded and that we can see the
11 complete sketch now on the screens. Please proceed with your
12 examination.

13 MR. MACDONALD: (Interpretation) Thank you. Unfortunately,
14 Mr. President, the witness may have to move for me to add two points of
15 clarification, and he can do that directly on the screen. We are going
16 to wait for the Court Usher to return.

17 Q. Witness --

18 MR. MACDONALD: (Interpretation) And once again, I think it is
19 better for the Court Usher to sit next to the witness instead of moving
20 back and forth. Thank you.

21 Q. The Court Usher will help you to choose a pencil or pen. It
22 doesn't matter the colour. And put a cross at the location where you
23 believe that the Nyakeru village is to be found.

24 A. (Marks)

25 Q. Very well. I can see that you have also indicated what I believe

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1 to be the abbreviation for Kavalega. That is between Vilo and Bogoro; is
2 that correct?

3 A. Yes, that is correct.

4 Q. How many Kavalegas are there?

5 A. There are two Kavalegas. We have Kavalega I and Kavalega II.
6 The two are separated by a stream.

7 Q. Can you please indicate to us where Kavalega II is located and
8 write it down on the sketch that you have just prepared.

9 A. There is a stream there, a small river. If you go up, you will
10 see a mountain.

11 Q. Very well. Thank you.

12 MR. MACDONALD: (Interpretation) At this point we would like to
13 tender the document and give it an EVD reference number.

14 PRESIDING JUDGE COTTE: (Interpretation) The courtroom officer,
15 please.

16 COURT OFFICER: (Interpretation) The number will be
17 EVD-OTP-00021.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

19 MR. MACDONALD: (Interpretation) Thank you.

20 Q. My question is as follows: Where was the staff headquarters that
21 we referred to a short while ago located?

22 A. It was in Kanzi. I'm sorry, it was actually in Ladile.

23 Q. So the military staff headquarters was in Ladile?

24 PRESIDING JUDGE COTTE: (Interpretation) No, Mr. Prosecutor.
25 That document had just been tendered into evidence, so it cannot be

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1 changed. The witness can point to the location that you wish him to
2 point to, but I do not think he can add anything else to the document.
3 It was tendered into evidence one minute and a half ago.

4 MR. MACDONALD: (Interpretation) Yes, Mr. President. I had not
5 asked him to do anything on the sketch. It can be left on the screen and
6 everyone will be able to see the locations that we are referring to, but
7 I'm asking him questions now that do not concern the sketch.

8 PRESIDING JUDGE COTTE: (Interpretation) This was a procedural
9 matter, and I pointed this out because the exercise is difficult for the
10 witness. Our usher is helping him, but independently of the
11 clarifications we wish to seek from the witness, it shows us that it is
12 important for us to have a sketch, even a rudimentary one, but on which
13 all the parties would have agreed. It may not be the correct scale, but
14 it is a sketch that you are all agreed on and which shows the position of
15 all the locations that concern us. So for the time being, it is
16 important for the witness to give his own version of the localities and
17 locations despite all the time that it may take us.

18 Mr. Prosecutor, please proceed.

19 MR. MACDONALD: (Interpretation)

20 Q. You mentioned some time ago that Kpadhole was also part of the
21 general staff, and together with Kuthe they were in Kanzi; is that
22 correct?

23 A. Kpadhole lived in Kanzi.

24 Q. Did he have a deputy in Kanzi? And I'm referring here to
25 Kpadhole.

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1 A. According to the structure, he had to have a deputy.

2 Q. Can you tell this Court the name of this person? That is, if you
3 know.

4 A. He was known as Tchembuko.

5 Q. That name is also on the list of names that was provided to the
6 interpreters.

7 Now, let us move on to Lagura. You testified that Kuthe was in
8 Lagura, if I'm not mistaken.

9 A. Yes.

10 Q. Who was his deputy?

11 A. Kuthe's deputy was known as Bebe.

12 Q. Was he known under another name?

13 A. He was also referred to as Besto or Beken (phon).

14 MR. MACDONALD: (Interpretation) I'm not going to ask the
15 witness to spell, but that last name Beken (phon) is not on the list that
16 was given to the interpreters.

17 Q. Now, let us move to Masu. Who was the camp commander there?

18 A. The company commander was called Kiza.

19 Q. Did he have a deputy?

20 A. He had a deputy whose name I no longer remember, but I would
21 recognise him if I met him.

22 Q. Who was the commander of the fighters based in Zumbe, and who was
23 the deputy?

24 A. There was Lone Nyunye in Zumbe, and there was also Ndjabu.

25 Q. Do you mean that someone called Ndjabu was his deputy? And who

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1 was commander in Ezekere? And his deputy?

2 A. There were two locations, Ezekere and Kanzi, which were commanded
3 by a single commander. There was Tchembuko and Kpadhole.

4 Q. A short while ago you said that Kpadhole was --

5 A. Kpadhole was in Kanzi, but he was also responsible for Ezekere.

6 Q. Very well. And his deputy was Tchembuko as you testified
7 earlier?

8 A. That is correct.

9 Q. And what about Kambutso? It was the place of residence of
10 Mathieu Ngudjolo, as you told us before, but was there someone in command
11 of the soldiers there? That is, apart from this place being the place of
12 residence of Ngudjolo.

13 A. There were many displaced persons there who had come from Bunia,
14 and once in Bunia they were assigned to positions of responsibility.

15 Q. Do you know whether there was anyone in command there, that is,
16 apart from Ngudjolo?

17 A. I can mention Febe (phon) and Patrick amongst others.

18 Q. You have mentioned something that sounded like Led, but I think
19 it is Lebe and Patrick.

20 A. Yes. Those were the leaders amongst many others.

21 Q. Lastly, Ladile was the place where staff headquarters was
22 located, but was there a commander in Ladile camp?

23 A. There was Bahati from Zombe. There was Boba Boba and also Saidi.

24 Q. I would like to move on to the military hierarchy which was in
25 position in Mathieu Ngudjolo's organisation. You mentioned that it was a

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1 top-to-bottom organisation, but was there a military hierarchy?

2 A. Based on what I was able to observe, he was responsible -- or,
3 rather, there were military operations, and there was a hierarchy that
4 was established.

5 Q. How was that hierarchy organised, and how were the fighters
6 organised?

7 A. Generally speaking, you had the Chief of Staff who was the
8 highest-ranking leader, and at the lowest level you had the soldiers.

9 Q. Very well. In a conventional army, soldiers are assigned to
10 groups such as sections, brigades, and so on. Was that the practice
11 amongst the soldiers of Bedu-Ezekere?

12 A. In order for an army to exist, you have to have such groups.
13 There were sections, for example.

14 Q. Can you describe to us the various levels, from the smallest
15 group to the largest, that is, how these structures were known within the
16 organisation led by Mathieu Ngudjolo?

17 A. A section had about 12 soldiers, whereas a battalion had about
18 250 soldiers.

19 Q. You say that there were sections and then also a battalion, but
20 just above a section were there any other structures?

21 A. There -- there was a group of 45 soldiers who would make up a
22 platoon.

23 Q. And what did you have above a platoon?

24 A. A company.

25 Q. And how many soldiers were in a company?

1 A. A company had 125 soldiers, but I do not know whether that group
2 had up to 125 soldiers even if it was referred to as a company.

3 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, I think
4 we will stop here after the information that the witness has given on the
5 hierarchy, sections, battalions, platoons, and so on. We have very
6 rigorous restrictions linked to another hearing that has to take place
7 here, so we have to suspend. And before the two accused persons leave
8 the courtroom, and after them the witness will then leave, the Chamber
9 would like to thank the witness for all the information that he has
10 provided in answer to the questions of the Prosecutor.

11 Mr. Witness, we will meet back here tomorrow morning for another
12 hearing at 9.00 a.m.

13 And security officers, please can you escort Mr. Katanga and
14 Mr. Ngudjolo out of the courtroom.

15 (The accused withdrew)

16 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
17 could we please go into closed session to enable the witness to leave the
18 courtroom.

19 (Closed session at 1.28 p.m.)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Open session at 1.29 p.m.)

4 PRESIDING JUDGE COTTE: (Interpretation) Before we suspend, and
5 we intend to resume tomorrow morning at 9.00 a.m. --

6 COURT OFFICER: (Interpretation) We in open session.

7 PRESIDING JUDGE COTTE: (Interpretation) I'm sorry, Madam
8 Courtroom Officer.

9 As I was saying, before resuming our hearing tomorrow at 9.00
10 a.m., the Chamber, while fully aware of the interest presented by the
11 description of the witness of the localities, topography and the various
12 units and so on, we fully understand this interest, but we would like to
13 reiterate our wish to have access to a document. Of course, we can have
14 our own small maps from such and such a databank, but the ideal thing
15 would be for us to refer to a document agreed upon by everyone.

16 MR. MACDONALD: (Interpretation) I know that we have time
17 constraints, but we disclosed maps. Maybe we can base ourselves on the
18 information provided by the witness, some of which is even favourable to
19 the -- to Mr. Ngudjolo. So we do not have anything common, but we
20 provided maps of Ituri, north, south, Bogoro, and so on, and we are
21 waiting for any rectifications, any necessary corrections to be made.

22 PRESIDING JUDGE COTTE: (Interpretation) Very well. We will
23 come back to this discussion tomorrow, because we no longer have
24 transcripts. We would like to thank the interpreters and all the support
25 staff.

1 The Court shall rise.

2 The hearing ends at 1.31 p.m.

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