

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele 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 versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Thursday, 18 February 2010
10 The hearing starts at 9.02 a.m.
11 (Closed session)
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12 Page 2 Expunged – Closed session

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Witness: Witness P-0250 (Resumed) (Closed Session)
Procedural Matters

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12 (Open session at 9.09 a.m.)

13 COURT OFFICER: (Interpretation) We are in open session,

14 Mr. President.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Madam

16 Court Officer.

17 Good morning, Mr. Witness.

18 WITNESS: WITNESS P-0250 (Resumed)

19 (Witness answered through interpreter)

20 THE WITNESS: (Interpretation) Good morning.

21 PRESIDING JUDGE COTTE: (Interpretation) Good morning,

22 Mr. Witness. The Chamber is happy to be with you again for this hearing.

23 We need to listen to you, all of us present here in this courtroom. The

24 Chamber needs to listen to you because we have to try two accused

25 persons. The Prosecutor and counsel for the Defence and for the victims

1 all wish to hear you and your testimony. I have told you and I repeat,
2 it's important and it is useful to everyone.

3 And I would like to repeat also that the Chamber is aware that
4 this testimony is long, that it is far longer than you thought. The
5 Chamber is aware that you are far away from your home and that you are in
6 a country where it is cold for the time being. We are in the middle of
7 winter. We understand and you have to know that we understand how you
8 feel, but you are almost at the end of the contribution that you accepted
9 to make to justice ever since 2006. You are almost at the end and so you
10 have to conclude that contribution. It is not possible for you to end
11 halfway there. We need you. Obviously you would like to know on which
12 precise day the examinations and cross-examinations will end. The
13 Chamber cannot give you a precise date, but we have reason to believe
14 that it will be at the end of next week and even before. But in order to
15 proceed expeditiously, Mr. Witness, you have to help us. This means that
16 it is important for you to answer the questions put to you briefly and
17 concisely. And if that is the case, then everything will go more
18 quickly.

19 Several times - and the Chamber understood you - you expressed
20 surprise that the same questions were being put to you several times.
21 And yet, you had the feeling that you had already told us everything; but
22 you must know that it is normal to sometimes ask for further
23 clarifications. You have to know that it is not because of a lack of
24 courtesy towards you. It is a common practice to act in that manner, and
25 that does not take away anything from the respect that the Chamber has

1 for all witnesses who, like you, have accepted to appear before us.

2 And before resuming the questions that will be put to you by the
3 Defence team of Mr. David Hooper, Mr. Hooper would like to know -- or
4 rather, the Court Officer would like to know, Mr. Hooper, regarding the
5 sketch on which the witness marked a red cross, should that be admitted
6 as an MIF (as interpreted) document or as an exhibit because it has to be
7 given a reference number.

8 MR. HOOPER: Thank you, Mr. President. I'd ask that it be made
9 evidence and receive an evidence number, please.

10 (Trial Chamber and Court Officer confer)

11 PRESIDING JUDGE COTTE: (Interpretation) I think that the
12 parties remember the sketch being referred to. Very well.

13 COURT OFFICER: (Interpretation) Mr. President, the map on which
14 the witness marked a red cross, on the 16th of February, 2010, will be
15 EVD-D02-00010.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Madam
17 Court Officer.

18 The Chamber will now hand down an oral decision on a request for
19 leave to file a reply presented by the Defence of Germain Katanga.

20 THE WITNESS: (Interpretation) Mr. President, as you have just
21 said, I accepted to testify so as to be known and popular, but that was
22 not my idea -- in fact, I'm already popular and well known.

23 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, I think we
24 obviously misunderstood each other because at no time did I say that you
25 wanted to testify to be popular. Maybe there was a problem with the

1 translation. The only concern of the Chamber was to tell you that we
2 have a lot of respect for all the witnesses who, like you, accept to come
3 and testify, and we wanted particularly to tell you that when questions
4 have been repeated several times while you feel that you have already
5 told us everything, you should not consider that repetition of questions
6 as a lack of courtesy towards you. That is part of the procedure of this
7 Court. That is simply what I wanted to point out.

8 It seems that we have a difficulty with the French transcript.
9 Is it okay right now, Madam Court Officer?

10 We have a minor difficulty with our transcript in French.

11 I will now read the oral decision which in any case has been
12 handed over to the interpreters and court reporters so that it should
13 appear on the transcripts correctly. So it is an oral decision on a
14 request for leave to file a reply presented by the Defence of Germain
15 Katanga.

16 By application 1870 of the 15th of February, 2010, the Defence
17 team of Germain Katanga sought from the Chamber leave to reply to "the
18 joint response of the Legal Representatives of the Victims to the
19 application by the Defence of Germain Katanga to be authorised to appeal
20 the decision of the Chamber on the modalities of the participation of
21 victims."

22 And this filing of the Legal Representatives is number 1841,
23 dated the 4th of February, 2010. On that same day, that is, the
24 15th February 2010, and by filing number 1873, the Defence of
25 Germain Katanga filed the text of its reply with the Chamber. The

1 Chamber recalls that according to Regulation 24-5 of the Regulations of
2 the Court, the participants who intend to reply must seek the leave of
3 the Court. The application must spell out the grounds to justify that
4 application for leave. It will be incumbent on the Chamber to grant that
5 leave or not, and in the event that leave is granted the reply shall be
6 filed within ten days of notification of the response, Regulation 34(C)
7 of the Regulations of the Court. In this case, that dead-line of ten
8 days started running as from the 4th of February, 2010, the date on which
9 the response of the Legal Representatives was filed. The Chamber
10 stresses that the application for leave to reply should be filed with the
11 Chamber as quickly as possible after notification of the response. The
12 Chamber notes that this was not done in this case because it was on that
13 same day and at the expiry of the ten-day dead-line that an application
14 for leave as well as the text of the reply were filed.

15 Under these circumstances, the Chamber authorises the Defence of
16 Germain Katanga to file a reply to the aforementioned response of the
17 Legal Representatives, given that such a reply would be conducive to a
18 more comprehensive debate on the important issue of modalities of the
19 participation of victims. The Chamber admits, but on an exceptional
20 basis, the reply number 1873, filed on the 15th of February, 2010,
21 considering that it had not yet handed down a ruling on the application
22 for leave.

23 Let us now resume the cross-examination of the witness, who is
24 with us now.

25 Mr. Hooper, over to you.

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 MR. HOOPER: Thank you, Mr. President.

2 Questioned by Mr. Hooper: (Continued)

3 Q. Good morning, Mr. Witness. And you will recall that when we were
4 last all here I was on the point of asking you questions about a previous
5 and different account that you had given of the events immediately before
6 the Bogoro attack, and I was on the point of referring to the record of
7 the interview you had.

8 MR. HOOPER: And for the benefit of reminding us all and the
9 transcript, can I specify that I will be referring to that relevant part
10 of the interview of the 6th of December, 2006, DRC-OTP-0170-0011, and I
11 will commence my review of that document at its page 0177-0347 at
12 line 689 and the following -- the pages that follow. And I produced for
13 the benefit of the Judges and parties for convenience a printed copy of
14 those pages which I will be referring. In any event, this is a document
15 which can be produced through Ringtail on the screens. The document is
16 in French -- excuse me. Thank you, Madam Registrar.

17 COURT OFFICER: I'm sorry, Mr. Hooper. Could you please -- could
18 I please repeat the ERN number and you inform me if it's correct.
19 DRC-OTP-0170-0011.

20 MR. HOOPER: Yes. That is the number of -- in registration and
21 there is a second number there which I'll also refer to and I think this
22 is the number you need, forgive me, and that is DRC-OTP-0177-0327.
23 That's 0327 at the end, in case my words got cut off. Now, this
24 documented is in French and therefore to be true to the -- sorry, I'll --

25 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor.

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1 MR. MACDONALD: (Interpretation) I'm sorry for interrupting,
2 there are different versions, redacted versions, a redacted version in
3 the eCourt and the witness can be shown the original version. But people
4 outside the Court should not see that unredacted version because the name
5 of the witness appears on that version.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Which is
7 the version which is going to be shown, the redacted or unredacted
8 version?

9 MR. HOOPER: Well, I'm quite content it's not shown on a screen,
10 for my part, and the witness can have a hard copy, because I'm only going
11 to refer to some pages. It may be more convenient and straightforward
12 for the witness to follow, should he wish to do so, the written text
13 rather than just listen to my reading out, which of course is going to be
14 translated into Swahili. So that way he would have the benefit of the
15 Swahili, the Swahili text. But I stress, I'm only going to refer to
16 certain parts of this and not the entire document, which is 10 or
17 12 pages long. It will take too long.

18 MR. MACDONALD: (Interpretation) Mr. President, it is version
19 R02 at the end, that is the French version.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

21 Now, let us hand over a hard copy to the witness so that he can
22 follow the questions that are going to be put to him by Mr. Hooper, and I
23 would like to call on Mr. Hooper to specify the page so that the witness
24 should not lose too much time to locate the excerpt.

25 COURT OFFICER: (Previous translation continues) ... document or

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1 should I keep it confidential?

2 MR. HOOPER: I really don't know the answer to that. Inasmuch as
3 this has been a redacted -- an unredacted document, I assume it should be
4 confidential. Perhaps we can come back to that in due course.

5 COURT OFFICER: But before I display the document, I need to know
6 the level of confidentiality for -- in order to know if I'm going to
7 display it to the public or not, or just the participants.

8 MR. HOOPER: Well, in fact, if we start on page -- my page 0347,
9 there's no trouble because the name of the witness doesn't appear -- or
10 yes, it does. It appears in the footnote of every page. So I think it
11 will have to be confidential or just not shown to the public. That's --
12 so we have the document on our screens for our convenience, but it
13 shouldn't be shown to the public, wherever that goes to.

14 PRESIDING JUDGE COTTE: (Interpretation) Very well.

15 So, Madam Court Officer, the document remains confidential. The
16 document -- the problem now is to know whether it is on the screens or
17 not.

18 COURT OFFICER: (Interpretation) Mr. President, the document is
19 on the screen and all you need to do is press on the button "PC-1" near
20 your computers.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Madam
22 Court Officer.

23 Mr. Hooper, please ask your question.

24 MR. HOOPER: And may I say, I hope the interpreter, and
25 particularly the Swahili interpreter, has access to this document because

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1 of course it has -- it is written -- in part the original responses are
2 in Swahili. I will be reading a translation from the document -- the
3 French translation that appears on the document of the Swahili responses
4 provided by the witness. And so it's essential that the original words,
5 the Swahili that appears in the document, are referred to. So I take it
6 that -- all is well in the booth. Yes, thank you very much.

7 THE INTERPRETER: Message from the English booth, we do not have
8 the document in the booth -- or at least the English version.

9 MR. HOOPER: Is it possible for you to have, English booth, the
10 transcript on the screen; or is that not a practicable suggestion? It's
11 on our screen -- or it can be on our screen. Can it be on your screen?
12 I'm sorry to have this third-party conversation --

13 THE INTERPRETER: Message from the English booth. We have
14 managed to call it up on one of our screens. We're fine.

15 MR. HOOPER: All right. Good.

16 Q. So I'm looking at page 0177-0347, which is page 20 of the
17 document, and I'm looking at line 689 in the French and that starts at
18 690 in the Swahili. And it reads:

19 (Interpretation) "Before the attack on Bogoro, correct me if I'm
20 mistaken, apparently there was a parade. What can you tell us about
21 that?"

22 (In English) Just pausing there, Mr. Witness, that's the start of
23 the relevant questions and I hope it becomes intelligible to you, as it
24 were, from now on.

25 And your response was: "Parade?"

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1 "Oui."

2 You can confirm it's -- that's the issue. And your response is:

3 (Interpretation) "During the parade an official brought together
4 all the soldiers and lined them up in rows, and after they were chatting,
5 the officers were chatting amongst themselves, and then they came to give
6 us the briefing about entering Bogoro."

7 "Who gave the briefing?"

8 (In English) (Previous translation continues) ... line 714.

9 (Interpretation) "The gentleman who gave the briefing that day
10 was Major Bahati."

11 (In English) And a little further down at 719:

12 (Interpretation) "And where was Mathieu Ngudjolo during the
13 briefing?"

14 (Interpretation) 722: "They were all there."

15 (In English) 729:

16 (Interpretation) "Because they had appointed Bahati as the
17 operational commander, and he was the one who was directing the
18 operations?"

19 738: "It was during the officers' meeting when they were
20 together, that's when they were able to talk about that."

21 742: "So Mr. Bahati in the briefing -- so Mr. Bahati gave the
22 briefing, the instructions in the presence of the commanders."

23 (In English) 746, this is Mr. MacDonald.

24 (Interpretation) "Including Mathieu Ngudjolo."

25 (In English) Your answer at 750:

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1 (Interpretation) "Mathieu was there, Germain Katanga was there."

2 (In English) 752:

3 (Interpretation) "Yuda was there."

4 754: "Cobra Matata was there too."

5 757: "So we were talking about before the attack on Bogoro."

6 Response: "Mmm."

7 "Q. Yesterday you mentioned that Bahati had gone to see
8 Germain Katanga with the instructions, with the plan."

9 (In English) I go, if I may, to page 24 to 804, where having
10 reviewed the position with Bahati on the previous page you say:

11 (Interpretation) "And so that was how it came to be that they
12 arrived. They gathered together. They found a compromise to attack
13 Bogoro."

14 809: "Where did the parade occur and this briefing?"

15 (In English) 815, your response:

16 (Interpretation) "Well, the parade had begun in Ladile where
17 Boba Boba was."

18 818: "And the last parade, where we were shown the techniques
19 how to go in, that was in Lagura because Lagura was on a hill and you
20 could go down from that hill directly into Bogoro."

21 823, a question: "And so in Lagura who was present amongst the
22 commanders?"

23 Reply: "The commander of -- the commanders from Lagura."

24 832: "Boba Boba was the one who led all the soldiers, taking
25 them to Lagura."

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1 Next page, 842.

2 "Q. Yes, tell me the name of the commanders who were present
3 from the FNI and the FRPI.

4 847: "The names were ..."

5 851: "Bahati."

6 853: "Yuda."

7 861: "Garimbaya."

8 867: "Dark."

9 870: "Lone Nyunye."

10 875: "Kpadhole."

11 866: "Oudo."

12 888: "They were the commanders who were present at that time."

13 891, you were asked this question:

14 "And a few moments ago you mentioned that there was

15 Germain Katanga and Cobra Matata as well, and Mathieu Ngudjolo was also
16 present?"

17 Your answer:

18 "Those were the officers, the high-ranking people. The
19 commanders that I just mentioned, those were the commanders who went into
20 the field.

21 "Q. But a few moments ago you mentioned Mathieu Ngudjolo, Cobra
22 Matata, and Germain Katanga were there, and instructions were given by
23 Bahati."

24 909: "Yes, they were there but they were seated because" --

25 line 914: "Because the soldiers were taken to as far as Lagura, where

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1 they had to get ready to move to the positions.

2 922: "So they had already met because they had gone just to the
3 level of the residence of Ngudjolo."

4 926: "And from there they left to go to Ladile, where they had a
5 meeting to give the power or to entrust power or authority to Bahati, to
6 entrust authority to Bahati."

7 (In English) (Previous translation continues) ... pages about who
8 was where, and at 966 you talk -- well, let's go over to 982, can I pick
9 it up at 982 on page 29, where the question is:

10 (Interpretation) "So Germain Katanga went to Kambutso?

11 985: "Yes, he arrived in Kambutso.

12 "And after he went to Ladile?

13 "Yes.

14 "Q. And from Ladile after that -- after that they all moved to
15 Lagura?

16 "Lagura, yes.

17 "Q. That was how much time before the attack on Bogoro?

18 "A. In two days.

19 "Q. 999, so it was two days before the attack Germain Katanga
20 went to the residence of Mathieu Ngudjolo.

21 "A. Yes.

22 "Q. 1005, and so the gathering in Lagura where Mr. Bahati
23 explained the plans, that was how -- that was how much time before the
24 attack?"

25 (In English) (Previous translation continues) ... comings and

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1 goings, and at page 1025 you say:

2 (Interpretation) "We went out. We left to go to the residence of
3 Boba Boba in Ladile, and there they chatted. They decided to work --
4 they consulted each other and they granted authority to Bahati to direct
5 the operations. On the same day we left for Lagura and Bahati had given
6 this briefing and the officers were there. And we left at night and we
7 left to take up our position -- the positions.

8 "And it was the next day, the next day, once you had reached your
9 positions, that was when you attacked the village of Bogoro."

10 (In English) (Previous translation continues) ... 1047.

11 (Interpretation) "Yes, it was in the morning.

12 "What time? What time was the briefing when the instructions
13 were given by Bahati in Lagura?

14 "A. It was around 6.00 in the evening.

15 1071: "Yes, he was showing the soldiers that in this itinerary
16 it was Commander Yuda and that if you were in a particular group or one
17 particular area you had to -- and you sensed that people were shooting
18 from the other side, you had to know that because they were people from
19 another group. And after the operations camp in the centre" --

20 THE INTERPRETER: Message from the English booth, if Mr. Hooper
21 could slow down.

22 MR. HOOPER:

23 Q. (In English) Mr. Witness, I'm sorry, it may have sounded a bit
24 fractured --

25 MR. HOOPER: Excuse me, yes.

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1 COURT OFFICER: I'm sorry, Mr. Hooper. The interpreters are
2 asking us if you could just read a bit slower.

3 MR. HOOPER: Well, I've finished my reading, so I hope that
4 problem's solved itself. The --

5 Q. Mr. Witness, I hope that wasn't too difficult for you to follow,
6 because I appreciate it's not easy to follow as I was selecting pieces
7 rather than read out and take perhaps a long time doing that. But that's
8 what you said to Mr. MacDonald, to the Prosecutor, when you had your
9 discussions in December of 2006.

10 Now, a little time after that on the 16th of June, 2007, so
11 that's a little over six months afterwards - and I'm looking here at
12 document 1013-0002, at paragraph 88, which is the statement which is the
13 product of that interview. And I'm looking at paragraphs 88 and 89.
14 That is at page 0 -- sorry, 1013-0016 at paragraph 88, lines 1 to 4 of
15 that paragraph. Again, a document in French. I'm going to refer to the
16 first four lines of paragraph 88.

17 MR. HOOPER: Yes, thank you.

18 COURT OFFICER: Sorry, there are several redacted versions once
19 again. Shall I take the last one?

20 MR. HOOPER: The last one is -- yes, it's the last one.

21 PRESIDING JUDGE COTTE: (Interpretation) Counsel.

22 MR. MACDONALD: (Interpretation) For that page we can take the
23 non-redacted version without -- insofar as the page is not shown -- as
24 long as it's not shown on the public screens.

25 PRESIDING JUDGE COTTE: (Interpretation) Very well. And before

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1 the witness responds, Mr. Hooper, our Court clerk will have to give a
2 reference number to this document. We shall continue now.

3 THE WITNESS: (Interpretation) I beg your pardon, but perhaps I
4 should give an answer. I didn't say that just when I met the members
5 from the OTP. This is a summary of what I said -- of what I've said ever
6 since two days ago. You have just provided a summary of what I already
7 have stated here.

8 MR. HOOPER: (Microphone not activated) -- in a moment.

9 Q. Well, let me summarise the position then now. You see, in
10 this -- I'm sorry.

11 MR. MACDONALD: (Interpretation) I object. I realise that the
12 witness has spoken but the document has not yet been shown. There was
13 some mention of paragraphs 88 and 89. I think those paragraphs should be
14 placed on the screen as we just did for the other document, and then the
15 witness will be able to review those two paragraphs and my colleague will
16 be able to continue the exercise that he has begun.

17 PRESIDING JUDGE COTTE: (Interpretation) Agreed. We shall
18 proceed in that manner, and once that document is on the screen,
19 Mr. Hooper, if you could strive on the basis of the reading done, could
20 you ask some specific questions of the witness so he can reply in a brief
21 and specific manner.

22 MR. HOOPER: Can I just -- can I just indicate to your Honour
23 that these aren't paragraphs I'm requiring this witness to see. What I'm
24 saying here, as we discussed on Tuesday, was that in all fairness - you
25 may recall Mr. MacDonald's intervention on Tuesday - in all fairness, I

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1 fully acknowledge that in the June statement he indicated quite clearly
2 that he withdrew his statements in December, the ones we've just read, as
3 applying to the attack on Bogoro and said he'd mixed up the attack on
4 Bogoro with the attack on Mandro when he'd made his December statements.
5 And that's all, in fact, that I refer to this document to. So I'm not
6 going any further with this document.

7 Not only that, but as he made clear in that document, he said
8 that Germain Katanga, and no other commander of FRPI, went to Zombe
9 before the attack on Bogoro. So that is quite clear that that is what
10 he's saying in June. But my interest today is, of course, the statements
11 that I've read out relating to Bogoro and what he had to say about that.

12 Q. So let me come to that, Mr. Witness. You see, in the statement I
13 read out --

14 MR. HOOPER: I'm sorry, Mr. MacDonald is on his feet again.

15 MR. MACDONALD: (Interpretation) I realise that my colleague,
16 your Honour, has suggested this way of proceeding. But once again I
17 believe that we are referring to a document, it should be called up, we
18 are referring to paragraphs and the witness should have the opportunity
19 to look at that. I'm sorry. It was 03, actually, that was the suffix I
20 should have provided a few moments ago.

21 PRESIDING JUDGE COTTE: (Interpretation) Indeed, Mr. Hooper, we
22 are concerned. We do want to move forward in a cautious manner, and I
23 think, yes, it would be best that the document be displayed and to avoid
24 unpleasant interruptions for you, unpleasant to the witness, and do not
25 favour a proper understanding of the proceedings. The Courtroom Officer

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1 will give an MR (as interpreted) number to the long excerpts that you
2 just provided and then we will be able to proceed in a much more flexible
3 manner regarding this set of answers which for -- for right now it's --
4 we're proceeding in a rather choppy way.

5 COURT OFFICER: (Interpretation) The document DRC-0177-0327 will
6 bear MRI (as interpreted) D02-00011. One last question. Before we place
7 the document, DRC-OTP-1013-0002, on the screen could you tell me what the
8 level of confidentiality is of that document.

9 MR. HOOPER: Yes, thank you very much. Again it has the name of
10 the witness on each page, so we can't put any of those pages on the
11 public screen. So it's a confidential document. And as I've indicated,
12 I'm concerned only to look or refer to the witness's dealing with his
13 previous statement and that we find that at paragraph 88 on -- I've given
14 the page and it's only this page we need to see, which is 1013-0016.
15 This document is in French.

16 Q. So let me ask you, Mr. Witness, are you comfortable reading the
17 French or would you like it translated into Swahili for you?

18 A. Well, you can read out what is written here and I will listen.

19 Q. Very well. Let me read out this part, and I'm doing this, as I
20 stress, in fairness to you. And I'll read slowly from the first four
21 lines of paragraph 88.

22 (Interpretation) "In my first statement I had indicated that
23 Germain Katanga and some FRPI commanders were in Zumbe before the attack
24 on Bogoro. I was mistaken because actually they came to Zumbe before
25 Mandro and not before the attack on Bogoro."

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

Page 21

1 (In English) (Previous translation continues) ... paragraph 89
2 you say this:

3 (Interpretation) "I am certain that Germain Katanga and no FRPI
4 commander came to Zumbe before the attack on Bogoro."

5 A. I must say that before yesterday we said that, and you're coming
6 back to these matters. There is no difference.

7 Q. (In English) All right. Now, I'm sorry if I'm repeating myself,
8 Mr. Witness. Don't let it annoy you, if I can put it like that. But as
9 you see, we have to proceed with care in these things.

10 Now, here's my question: When you gave your account to
11 Mr. MacDonald in December about what had happened before Bogoro, you
12 clearly stated that Germain Katanga, Cobra, Yuda, Oudo, and other FRPI
13 commanders had visited Zumbe before the attack on Bogoro. And that after
14 they came, after there were meetings, there was then the attack on
15 Bogoro.

16 A. You'll find the answer in paragraph 89.

17 Q. Exactly. I understand that's your position, that you mixed
18 Mandro up for Bogoro. And I'm not going to take a lot of time on this.
19 I suggest, Mr. Witness, that that can't be right what you say because you
20 didn't go to Ladile before your attack on Mandro. You didn't go to
21 Lagura before your attack on Mandro, did you?

22 A. The FRPI soldiers were not yet in the Walendu-Tatsi collectivite.
23 I'm talking about the period before the attack on Bogoro.

24 Q. And before the attack on Bogoro you told us that Yuda was not
25 there -- I'm sorry, start again.

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 Before the attack on Mandro, the second attack, you told us that
2 Yuda was not present, that Cobra was not present, that Dark was not
3 present, and that Oudo was not present, and yet you have all of them
4 present in your account in December 2006 of what happened before the
5 attack on Bogoro. So I suggest that isn't a mix-up. I suggest,
6 Mr. Witness, it's a completely different story.

7 A. I never said the contrary. What I'm saying is what is on the
8 document bearing number 89.

9 Q. And I suggest we only have to look at those pages from the
10 December 2006 statement to see that your story and what you're saying to
11 Mr. MacDonald there is completely bound up with the attack on Bogoro, not
12 on Mandro, but on Bogoro. I think we've had your answer in respect --

13 A. What I can say is the following: You are confusing between the
14 various statements. I never took a pen to write down what is written
15 here. Everything I said during my testimony here, if you followed me
16 keenly, has been coherent. I never talked about the FRPI soldiers who
17 arrived before the attack on Mandro or in Zumbe.

18 If you can no longer proceed, then just tell me and in that way I
19 can be able to go home.

20 Q. Well, I've got a few more questions to ask you, with your
21 consent, Mr. Witness. I'm going to have to trouble you with just a few
22 more questions and then I'm done. So please be patient with me. I want
23 to ask you about some names and it may be that the easiest way is for me
24 to show you a document which has been registered.

25 MR. HOOPER: And can I call it up, please, Madam Registrar, which

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 is DRC-D02-0001-0071. And I have hard copies of that for convenience's
2 sake. Can I ask that those be distributed to the Judges, please. You
3 have them.

4 PRESIDING JUDGE COTTE: (Interpretation) You have the floor,
5 Madam Court Officer, to clarify this issue of presentation.

6 COURT OFFICER: (Interpretation) Before presenting the next
7 document, I would like to give the reference and it will be
8 MFI-D02-00012.

9 (In English) Mr. Hooper, can you please tell me if you want this
10 document to be confidential, not shown to the public.

11 MR. MACDONALD: Definitely confidential. It's all protected
12 witnesses.

13 MR. HOOPER: Yes, this should be confidential, and this is why
14 it's written down rather than speaking the name.

15 PRESIDING JUDGE COTTE: (Interpretation) Very well. So let us
16 continue.

17 Madam Court Officer, if there are no further problems, we can
18 proceed.

19 Mr. Hooper, please.

20 MR. HOOPER: And may I say I strongly object to the last
21 interjection from Mr. MacDonald because it to some extent unseated my
22 question. I'm sure that was an accident. And he needn't aggravate it
23 anymore.

24 PRESIDING JUDGE COTTE: (Interpretation) Please proceed,
25 Mr. Hooper.

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

Page 24

1 MR. HOOPER:

2 Q. Now, Mr. Witness, you have some names in front of you, and each
3 of those names has a number, 1, 2, 3, 4, 5. And I don't want you to
4 refer to the names, but just the number.

5 MR. HOOPER: I'm sorry, I'm ...

6 MR. MACDONALD: I'm sorry -- (interpretation) I'm sorry to
7 intervene, but this is much too sensitive to be done in open session.
8 The risks are too high and I prefer that we proceed in private session.

9 PRESIDING JUDGE COTTE: (Interpretation) Very well. We would
10 like to work calmly and serenely and conclude this testimony, so let us
11 avoid everything that may lead to interruptions.

12 So for these questions, Madam Court Officer, let us go into
13 private session, and after that the exchanges between the Prosecutor and
14 Mr. -- and -- between Mr. Hooper and the witness can continue.

15 (Private session at 10.07 a.m.)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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12 Page 25 Expunged - Private session

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Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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12 Page 26 Expunged – Private session

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Witness: Witness P-0250 (Resumed) (Private Session)
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12 Page 27 Expunged – Private session

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Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Witness: Witness P-0250 (Resumed) (Private Session)
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12 Page 29 Expunged - Private session

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Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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12 Page 30 Expunged - Private session

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Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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12 Page 31 Expunged - Private session

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Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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12 Page 32 Expunged - Private session

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Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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16 (Open session at 10.38 a.m.)

17 COURT OFFICER: (Interpretation) We are in open session.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
19 Court Officer.

20 Mr. Hooper, please proceed.

21 MR. HOOPER:

22 Q. Mr. Witness, we're now in open session, and it's appropriate, I
23 think, that I repeat what I said, which was after many days of
24 questioning I've noticed you've answered me with great courtesy. I thank
25 you for that. And as I say, I wish you a speedy return to the DRC.

1 MR. HOOPER: And thank you, that concludes my questioning of this
2 witness. Thank you.

3 PRESIDING JUDGE COTTE: (Interpretation) If you wish, now to
4 balance the hearing, so to speak, we are going to use the remaining
5 20 minutes to hand down the ruling that I was expecting to hand down
6 during the second part of today, which will allow Mr. Ngudjolo's Defence
7 team to have those two hours and not to be interrupted immediately.

8 And now that being said, I'll take this opportunity to
9 remind - and I'm sure Mr. Kilenda and Professor Fofe will realise this
10 point. Paragraph 72 of the decision of the 1st of December regarding
11 Rule 140, and the Ngudjolo Defence team is in second place. Now, this
12 rule is not necessarily cast in stone, but in any event this will allow
13 you to strive to limit your questions to matters that bear directly upon
14 Mr. Ngudjolo. That's of course imperative for you, but please strive to
15 not ask questions that the witness has already answered during his
16 examination by Mr. Hooper. It will allow for more consistency and will
17 allow us to avoid any pointless duplication. And this is of particular
18 importance to the witness with regard to the second oral decision that
19 was to be handed down today.

20 This has to do with Mr. Luvengika.

21 Yes, the witness does not necessarily have to remain in the
22 courtroom for this part of our proceedings. We'll move into closed
23 session and the witness -- Witness, you can have 45 minutes to rest
24 before you begin answering questions from the Ngudjolo Defence team.

25 Court security officers, could you escort the two accused out of

1 the courtroom while the witness leaves the courtroom and then we will
2 have the accused re-join us for the last 15 minutes of this hearing.

3 (The accused withdrew)

4 (Closed session at 10.42 a.m.)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Open session at 10.43 a.m.)

16 PRESIDING JUDGE COTTE: (Interpretation) The accused may come
17 back into the courtroom.

18 COURT OFFICER: (Interpretation) We are in open session, your
19 Honour.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
21 Court Officer.

22 (The accused entered court)

23 PRESIDING JUDGE COTTE: (Interpretation) We are waiting for the
24 accused, Mr. Ngudjolo and Mr. Katanga, to come back into the courtroom.
25 There they are.

1 We'll allow them a moment to put on their headsets. And so they
2 have.

3 Oral ruling. On the 25th of January, 2010, Mr. Fidel Luvengika
4 filed a submission number 1789 and this was the fourth submission from
5 the common Legal Representative of the main group of victims relating to
6 the disclosure of the identity of victims. At that time he informed the
7 Chamber that 26 of the victims he was representing were consulted and
8 were not opposed to disclosure of their identity to the parties.

9 Mr. Luvengika also specified that three victims had died after
10 their application was accepted by the Court and he had been in contact
11 with their families to determine whether the families intended to
12 continue proceedings on behalf of the deceased. And the outcome of these
13 consultations will be forwarded to the Chamber "as quickly as possible."

14 Now in this filing Mr. Fidel Luvengika asked the Chamber to grant
15 the same protective measures to these victims as to the people mentioned
16 in paragraphs 11 and 12 of the third ruling of the Chamber, reference
17 number 1731, regarding the disclosure of identity of victims to the
18 parties. And that decision bears the date 17 December 2009. The Chamber
19 would like to remind all that in applying the last point of this decision
20 of the 17th of December, 2009, the Registry by way of report 1816 of
21 February the 1st, 2010, proceeded with the disclosure to the parties of
22 the identity, namely, the names and birth dates of the 26 victims that I
23 have just referred to. As for the other requests from Mr. Luvengika, the
24 Chamber refers to its previously mentioned decision of 17 December 2009
25 and hereby rules.

1 Since the Chamber has already ordered and following the new
2 recommendations in this area that have been prepared by the VWU in
3 report 1757, dated 11 January 2010, regarding the risks to victims taking
4 part in the proceedings, the Chamber has decided to -- that all victims
5 authorised to take part in the process will be granted anonymity in terms
6 of the public. On a provisional basis the Chamber grants anonymity to
7 the deceased victims that were mentioned in the fourth paragraph of the
8 filing of Mr. Luvengika, dated 25 January 2010, until -- with regard to
9 the parties until the position is known regarding the survivors,
10 regarding the -- whether or not they will continue the -- their legal
11 action.

12 The Chamber orders Mr. Luvengika to communicate as quickly as
13 possible with the families of the deceased victims, if they have not done
14 so, so as to determine the state of affairs and to inform the Chamber if
15 the families wish to communicate their identities or not to the parties.
16 It will be incumbent upon them to specify whether they are planning to
17 provide an application requesting protective measures. They will have to
18 determine whether the identity is communicated to the parties, and so
19 they will have to proceed immediately to this communication.

20 Furthermore, the Chamber would remind parties that they are
21 obliged pursuant to the code of professional conduct of counsel to ensure
22 that the members of their teams do not disclose the identity of victims
23 who have been authorised to take part in the procedure to third parties.
24 And consequently, they must limit the disclosure of this information to a
25 small number of people within their teams.

1 Finally, the Chamber would remind all that in its ruling of
2 17 December 2009, which I mentioned earlier, and I quote from
3 paragraph 13, the Chamber ruled on the request from Mr. Luvengika to be
4 informed in advance when a party intends to contact one of the victims
5 that he represents.

6 So there you have it. That was the second ruling.

7 Now, Mr. Gilissen, at the very beginning of the hearing, a few
8 moments ago, you said that you had a number of observations for us.
9 Please proceed.

10 MR. GILISSEN: (Interpretation) Thank you very much, your
11 Honour, and I believe that my learned friend Mr. Luvengika will have
12 something to say after I've finished and I will be very brief.

13 PRESIDING JUDGE COTTE: (Interpretation) We only have ten
14 minutes.

15 MR. GILISSEN: (Interpretation) I'll be very brief. We have
16 attempted complying with the --

17 MR. KILENDA: (Interpretation) I am sorry to interrupt my
18 learned friend, but could I have permission to very briefly leave the
19 Court?

20 PRESIDING JUDGE COTTE: (Interpretation) Yes, you may. There is
21 no problem with that, Mr. Kilenda.

22 Mr. Gilissen, please resume.

23 MR. GILISSEN: (Interpretation) Your Honours, we have been in
24 contact with the Victims and Witnesses Unit with a view to implement your
25 ruling of the 22nd of January, 2010, namely, the decision allowing for

1 familiarisation, and I must say we were somewhat surprised by the
2 reaction that we received. I was very careful with the assistance of my
3 case manager to write to those responsible and this is the answer that I
4 received, four lines. First of all, he said that the process of
5 familiarisation for the next witness has already been conducted without
6 our knowledge, which is unfortunate. And I really must stress, this
7 really is very unfortunate. Furthermore, I discover an e-mail, and I
8 believe this is of interest to the Chamber, this gentleman has responded
9 saying we have been informed -- (In English) (Previous translation
10 continues) ... it's for you to address, (interpretation) the Chamber that
11 is, (In English)(Previous translation continues) ... request to have a
12 courtesy meeting with witness, (interpretation) namely the witness in
13 question if granted -- if granted and then they will organise a meeting.

14 Your Honours, I have the impression that this is a way of -- and
15 I voluntarily wrote this point. I fear that the excellent administration
16 of this jurisdiction - and we are here every day - I'm speaking of the
17 administration of the Court has made a serious mistake. Now, really,
18 this is a dual mistake. The administration did not allow us to take part
19 in a process even though a ruling had been handed down, and then now they
20 expect us to come and ask - and this is for the Chamber or someone else
21 to decide - when the Chamber has already ruled on this matter. I have
22 the impression, your Honours, that this reference to a process followed
23 in the Lubanga trial, the VWU seems to want to go beyond your ruling
24 because this process is not provided for at all. I am quite sure that
25 this is a mistake and we have suggested to the unit in an e-mail in which

1 we pointed out that there was a problem, that we would endeavour to
2 correct together. But I think the Chamber will share our view. If we
3 are going to have to come before the Court once again with a new filing
4 each time there is a process of this nature, we will never see the end of
5 it. And we will add, at the request of the VWU, a condition that was
6 absolutely not provided for in your ruling. And I think this will
7 suffice.

8 Now, I think in open session this -- there should be confirmation
9 that we are allowed to intervene. I don't think that this is really an
10 incident, I wish to believe and I don't think it could really be any
11 other way, I would imagine that this somewhat unusual course of action is
12 due to the need to organise a catch-up session, so to speak, with regard
13 to the next witness.

14 Now, there you have it, your Honour. I'm -- hope I wasn't too
15 long and I hope I will not have to repeat myself.

16 MR. LUVENGIKA: (Interpretation) with leave, your Honour, my
17 remarks are very much in keeping with those made by my learned friend,
18 Mr. Gilissen. But just to inform the Chamber that it was on the
19 4th of February, actually, that was when we tried to make some progress
20 on this issue of familiarisation of witness with the unit, and we waited
21 until -- well, the unit had asked us whether we were authorised to ask
22 questions of the witness, the experts, and the accused, and we answered
23 in the affirmative. But apparently we do not share the same
24 interpretation of the ruling from your Chamber of the 22nd of
25 January, 2010, nor do we have the same view of the protocol which is

1 being followed by the VWU. Consequently, judging by our communications
2 with the unit they confirmed that they would bring the matter before the
3 Chamber and would tell the Chamber of our request, and we were very
4 astonished to learn that the VWU had approached legal counsel of the
5 Chamber. And apparently there was some question of bringing the matter
6 before the Chamber by way of an e-mail, and it was about this courtesy
7 meeting with the witness, Witness 268, and we were quite surprised to
8 learn that the familiarisation process had occurred because we had been
9 in touch with the unit well before that.

10 Now, in light of this exchange we were asked to make another
11 request or send another e-mail to the Chamber and the Chamber would reply
12 to our application. And so we wondered, we asked ourselves what sort of
13 understanding we should have of the ruling of 22 January 2010,
14 ruling 1788. And we were to ask the Chamber for confirmation -- rather,
15 for enforcement of this ruling of the 22nd of January, 2010, so that the
16 rights of the Legal Representatives of Victims would be understood by
17 everyone in the same way and that there would be no doubt.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
19 Mr. Luvengika. We have three and a half minutes. Now, I would like to
20 ask you to send us the various e-mails that you have referred to.
21 Mr. Gilissen, if you could send them to the three legal counsel of the
22 Chamber, as we said moments ago, so that we could have more information.
23 The Chamber believes that perhaps some adjustments are necessary, perhaps
24 there was a misunderstanding of some kind. It's clear that in the ruling
25 of 22 January 2010, regarding the modalities of participation of victims,

1 paragraph 79 and 80, the Chamber indicated that the Legal Representatives
2 of Victims could take part in the familiarisation process. The spirit of
3 the ruling was so. It's true that reference was made to a protocol for
4 preparation and familiarisation of witnesses before they testified
5 developed by the unit, and we will look into that once again to see
6 exactly what the terms are of this protocol. And we will make sure that
7 there are no misunderstandings. If any problems crop up we will try to
8 deal with them together, us, the Chamber, the unit; and you will have a
9 reply to these legitimate concerns that you have just expressed as soon
10 as possible. Ideally everything will be in place for Witness 268 who
11 comes after.

12 The -- we'll suspend now and we'll resume at 11.30 to hear from
13 the Ngudjolo Defence team.

14 Recess taken at 11.00 a.m.

15 On resuming at 11.33 a.m.

16 (Closed session)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Open session at 11.37 a.m.)

4 COURT OFFICER: (Interpretation) We are in open session,
5 Mr. President.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

7 First of all, to the Representatives of the Victims, Mr. Gilissen
8 and Mr. Luvengika, we have learned that the unit intends to organise a
9 familiarisation session, that is to catch up with Witness 268. That is
10 in your interest, and you were omitted mistakenly during the other
11 familiarisation exercises. So you will be introduced to that exercise as
12 it was done with all the other participants.

13 Similarly, you will be involved in the familiarisation exercise
14 planned for Witness 161.

15 Now, regarding the other problems that you raised, particularly
16 the response to the filing of Mr. Luvengika on Witness 161, we are going
17 to give you a reaction later on.

18 As concerns the Defence team of Mathieu Ngudjolo, it will be
19 difficult for you and of course everything will depend on the answers
20 given to your questions, but do you have an approximate idea of the time
21 that you would like to take today and also next week? Because since we
22 have all the courtroom to ourselves, we are going to sit for three times
23 one and a half hours, that is mornings and afternoons. So give us an
24 approximate time.

25 MR. FOFE: (Interpretation) Good morning, Mr. President. Good

1 morning, your Honours. It is rather difficult to give you an
2 approximation. Everything will depend on the answers of the witness.
3 What is certain is that we are going to use the two hours of today for
4 the first part of our cross-examination, and we are almost sure that we
5 are going to use up the four hours of Monday. And then we see what
6 happens.

7 PRESIDING JUDGE COTTE: (Interpretation) Very well. Thank you
8 very much. The floor is yours, the one of you who is going to
9 cross-examine.

10 Mr. Witness, it is the team of Mr. Mathieu Ngudjolo that will ask
11 you questions now.

12 MR. KILENDA: (Interpretation) Thank you. I would like to point
13 out to the Chamber that the entire examination of this witness will be
14 conducted by Professor Fofe and I will not intervene at all.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Kilenda.
16 So, Mr. Witness, it is going to be Professor Fofe, who is now on
17 his feet, who is going to ask you questions within the context of his
18 cross-examination.

19 MR. FOFE: (Interpretation) Thank you, Mr. President, your
20 Honours. We are the last to ask questions and so our objective is to
21 clarify the areas that still seem to be hazy. As an experienced Judge,
22 you would certainly have realised that the materials that we disclosed to
23 the parties and the participants a few days ago have probably inspired
24 some of the questions even before we begin our cross-examination.

25 Questioned by Mr. Fofe:

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Fofe

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1 Q. Good morning, Witness 250.

2 A. Good morning.

3 Q. Mr. Witness, we are sensitive to what you said on Friday, the
4 12th of February, 2010, right here before the honourable Judges. You
5 told the Chamber that you, yourself, lost many members of your family.
6 We are also aware of the fact that you have been testifying for a long
7 time. Nevertheless, we would like to ask you to make an effort to answer
8 the questions that we are going to put to you. Our objective is not to
9 hurt you, but rather to give you the opportunity to tell the whole truth
10 to the honourable Judges. We therefore appeal to you to answer slowly so
11 that the Judges should be able to follow you properly. I myself am going
12 to speak slowly, so please try to follow my pace. Speak loudly and into
13 the microphone, but slowly.

14 Mr. Witness, during the direct examination you talked about the
15 fall of Lopondo in Bunia on the 9th of August, 2002, and the flight of
16 the APC soldiers from Bunia. They went as far as Ezekere.

17 My first question is as follows. This fall of Lopondo and the
18 flight of the APC soldiers from Bunia as well as the taking refuge in the
19 Ezekere groupement, all those events were known to everyone. Isn't that
20 so?

21 A. Lopondo did not take refuge in the Ezekere groupement. He passed
22 through Bindi around Songolo. There were members of the population in
23 Ituri who were in a situation of insecurity. That is how come they fled
24 towards Songolo and Bedu-Ezekere. Those who had the means were even able
25 to travel to Nairobi, to Uganda, and to other directions.

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Fofe

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1 Q. Mr. Witness, please simply answer my questions and if you answer
2 only my questions we are going to go very fast. My question was as
3 follows: The fall of Lopondo, the flight of APC soldiers to Bunia, and
4 their taking refuge in the Ezekere groupement, all those facts were known
5 to the general public. Is that correct?

6 A. That is correct, but the APC soldiers did not leave Bunia to go
7 to the Bedu-Ezekere groupement. It was only the soldiers who were on the
8 plain, that is, the Kasenyi plain near Lake Albert, who went to
9 Bedu-Ezekere.

10 Q. Very well. And regarding where you were in Bedu-Ezekere, even
11 the people who were not soldiers were aware of the arrival of APC
12 soldiers in the Ezekere groupement; is that correct?

13 A. Yes. The civilians were equally aware.

14 Q. And you testified that those APC soldiers who had sought refuge
15 in the Ezekere groupement were fleeing from the UPC forces and that they
16 remained in the Ezekere groupement for three weeks to one month, and then
17 they went to North Kivu. Isn't that correct?

18 A. That is correct, but they did not travel directly to North Kivu.
19 They started trying to find their way and they passed through Songolo and
20 Nyankunde. It was only later that they were able to move on.

21 Q. Do you know who they joined in North Kivu?

22 A. I do not have any precise information on that, but in the
23 North Kivu there was the RCD/K-MR and another organisation led by
24 Mbusa Nyamwisi, and that is where they went to.

25 Q. To your knowledge, after that flight to North Kivu did the APC

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1 soldiers ever return to Ituri?

2 A. Ever since their departure, I never saw any signs of the presence
3 of the APC. I knew their uniforms and there was nothing to indicate to
4 me that they had returned.

5 Q. You also testified that the Ugandans came and bombed the Ezekere
6 groupement, believing that they would be able to wipe out the APC forces
7 that had sought refuge there. Is that correct?

8 A. You're talking about bombing the Bedu-Ezekere groupement. At one
9 point the locality of Kavalega was bombarded, even the banana trees there
10 were destroyed and the members of the population were compelled to flee.

11 Q. If I'm not mistaken, on the 27th of January, 2010, during the
12 hearing here before the Judges, that is, if I'm not mistaken, you
13 testified that there had been bombings in the Ezekere groupement?

14 A. Yes, this groupement was bombed, and specifically the Kavalega
15 locality. And this was particularly around Kavalega 2, and particularly
16 an area known as Ou (phoen).

17 Q. Did you personally witness that bombing; and if so, can you give
18 us a brief description thereof?

19 A. These bombings, these bombardments even destroyed trees in the
20 Vilo area, towards the Vilo church. Banana trees were destroyed and the
21 ground was dug up. I do not have any video images of what happened.

22 Q. Were there any deaths among the civilian population as a result
23 of those bombings?

24 A. So this was bombing, a case of a bombing. People were killed but
25 there were also survivors. There were even people who became disabled as

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1 a result of those bombings.

2 Q. And talking about the people who were killed by those bombs, were
3 they buried?

4 A. I think that certain people were burned in their houses during
5 the evacuation, but others were able to flee in the direction of Bindi.
6 It was impossible to stay put.

7 Q. Were all the inhabitants of the Ezekere groupement aware of those
8 bombings?

9 A. I think you should ask one of the inhabitants who was there to
10 give you details. There were helicopters and other devices, even elderly
11 people were compelled to flee.

12 Q. For further clarity, who were those who carried out those
13 bombings, who were they?

14 A. There were people who were wearing uniforms with the UPDF
15 insignias. I do not know with whom they were collaborating.

16 Q. And so to your knowledge UPDF refers to the Ugandan army; isn't
17 that so?

18 A. Yes, those were the ones who were wearing uniforms with the
19 insignia that I have just talked about.

20 Q. You also testified that when you had to confront the attackers,
21 you were able to pick up some weapons. Is that correct?

22 A. On certain positions it was possible to pick up three weapons,
23 two, or one weapon. It was possible for some of the weapons to fall
24 during the fighting, and we would pick them up.

25 Q. Which were the forces that attacked you, that is, the inhabitants

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1 of the Ezekere groupement?

2 A. This groupement was attacked by all the forces present in Ituri,
3 except the APC and the FRPI, that is, except the APC and the FRPI.

4 Q. If I'm asking you that question it is to allow the honourable
5 Judges to understand you correctly. So can you mention those forces that
6 attacked the inhabitants of the Ezekere groupement?

7 A. You had the UPDF, there was also the UPC. I would say that those
8 were the two groups involved, but I would also like to add that there
9 were also Rwandans and some white mercenaries. There were four white
10 people and they passed through a front to capture Ezekere, and amongst
11 that group there were four white mercenaries. I do not know the name of
12 that force.

13 Q. So after these attacks you, as the member of the local population
14 of Ezekere, the population of Ezekere had to defend itself. Is that not
15 so?

16 A. Well, when a boat turns over, someone who can swim will survive;
17 and the people of that place were in the same situation. I would say
18 that they had to save themselves. Everyone who found themselves in that
19 place, survivors or people who had fled earlier, they were trying to
20 survive.

21 Q. You stated that you were able to pick up some weapons, and you
22 mentioned a particular weapon in Swahili and you called it a Kengbe,
23 K-a-i-n-g-b-e -- K-e-n-g-b-e. Exactly what kind of weapon is that? Is
24 it a weapon that you shoot or is it a weapon that you place somewhere?
25 Could you explain this weapon to us? What exactly is a Kengbe?

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1 A. Kengbes are mines that are put in the ground, and if someone
2 walks on it his leg would be blown off. There were many Kengbe in the
3 location of Zumbe. After the fighting, many people stepped on these
4 weapons.

5 Q. So are we to assume that these weapons were from the UPDF, from
6 the Ugandan forces; from the UPC; and also from the Rwandans, as you
7 said? So those were the forces who placed the Kengbe in your groupement.
8 Is that so?

9 A. Well, there was a mixture of people. There was the UPC,
10 Rwandans, I would say the UPDF as well. Most of them came from the
11 Mandro road. They stayed for a day and a half or two days in Zumbe, from
12 the time they placed the Kengbe weapons. They met some women who were
13 hidden somewhere. They called these women to give them something to eat,
14 so to speak, but they hurt them. There were mothers and children amongst
15 them.

16 THE INTERPRETER: The interpreter did not hear the last part of
17 the witness's reply.

18 PRESIDING JUDGE COTTE: (Interpretation) Witness, if you could
19 just repeat the end of your last reply for the interpreters, if you
20 could.

21 THE WITNESS: (Interpretation) I was saying this: The days that
22 the mines were placed, you could find these places all over the place, at
23 the -- in the fields, by the church, by the market, by the toilets. That
24 was the day that Zumbe was regained. They had to work for a day and a
25 half or two days. The local population hid and they said to the people,

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1 "Go away, get out -- come out of the bush." And when the local people
2 obeyed that call, they massacred those people.

3 MR. FOFE: (Interpretation)

4 Q. Now, for the benefit of the honourable Judges, I'm going to refer
5 to the transcript, transcript 96, French version, hearing of the
6 4th of February, 2010, page 20, line 21 to line 24.

7 Witness, during your testimony on the Thursday, 4th of February,
8 2010, in response to a question from the OTP, you said that the entire
9 collectivite of Tatsi was empty. All the people had taken refuge in
10 Zumbe, and that Tatsi is larger than Zumbe within the Ezekere groupement.

11 So my question is as follows: Why did the entire population of
12 Tatsi take refuge in Zumbe?

13 A. Well, when you talk about the collectivite of Walendu-Tatsi, I
14 would say that that is where -- well, that it was from -- it was from the
15 Penyi groupement. Some men were recruited and some men were caught.
16 Some people were able to get away and they went to another collectivite.
17 And when they came back from Bindi, that was when the population was in
18 Tatsi, it was from Bindi. They went towards Zumbe. The first groupement
19 if you go to Tatsi, even today you will see that the locality is empty.

20 Q. Witness, you also stated that after the APC soldiers arrived in
21 the Ezekere groupement, the population there experienced famine. You
22 added that these people from the Ezekere groupement could no longer go to
23 Gety, to see the Bindi people, and they were looking for food because
24 Bogoro was being under -- assailed by the UPC and the UPDF, the Ugandan
25 army. They were everywhere in the locality of Bogoro. Is that not so?

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1 A. Yes, that's correct. The population of Tatsi fled to Bindi. At
2 that time Bogoro was occupied by the UPC. There was no possibility of
3 getting food from Bindi, it was very difficult. The people from Tatsi
4 had fled. They left the forest, the vegetation. There was no longer
5 anything.

6 Q. Tell us calmly and slowly. Before the siege of Bogoro by the UPC
7 soldiers and the UPDF soldiers, that is, the Ugandan army, what ethnic
8 groups were living in Bogoro, living together in Bogoro, before?

9 A. In relation to the ethnic groups, it was difficult. Perhaps
10 foreigners who were going towards Lake Albert, but I would say there were
11 even Bira in Bogoro.

12 Q. So are we to understand that all the ethnic groups were present
13 in Bogoro before the siege by the UPC and Ugandan armies; is that so?

14 A. All the ethnic groups in that place were soldiers, but the
15 civilian population, I would say there weren't any. There were only
16 soldiers. Some Biras who lived close to Bogoro had been driven away and
17 they lived elsewhere. If we're talking about another ethnic group, well,
18 there were people going that way from Kasenyi towards Bunia, or from
19 Bunia to Kasenyi. They were passers-by, so to speak. There were no
20 soldiers -- pardon me, there were no civilians, there were only soldiers.
21 There were no civilians. There were only soldiers.

22 THE INTERPRETER: Correction by the Swahili interpreter.

23 MR. FOFE: (Interpretation).

24 Q. We spoke about a famine. Now, the famine that hit the local
25 people of the Ezekere groupement and the fact that the UPC soldiers and

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1 the UPDF soldiers were everywhere in Bogoro, these are events that the
2 entire population of Ezekere knew about. Is that not so?

3 A. The APC who had fled were well aware of that. Commanders --
4 Commander Faustin, who was responsible for the government troops, knew
5 that; and that is why he fled. He went towards North Kivu.

6 Q. So everyone knew. And on the 29th --

7 MR. MACDONALD: (No interpretation).

8 PRESIDING JUDGE COTTE: (No interpretation).

9 MR. MACDONALD: (Interpretation) The witness did not say that
10 everyone knew. He made reference to Commander Faustin. I just wanted to
11 make that point.

12 PRESIDING JUDGE COTTE: (Interpretation) He may have -- there
13 may have been a bit of a generalisation there.

14 Please go ahead, Professor Fofe.

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

16 Q. On the 29th of January, 2010, and I make reference to the
17 transcript of the hearing of the 29th of February, 2010, page 33,
18 line 25. Allow me to put my question again. On the 29th of January,
19 2010, you specified that when these people left Bogoro, that is to say,
20 the UPC soldiers and the UPDF soldiers, that piece of news was announced
21 over the radio. Is that not so?

22 A. I would say BBC Africa often spoke of that. There was a great
23 deal -- many radio stations talked about that, BBC, even the local radio
24 stations. Everything that occurred there was broadcast by the BBC and
25 RFI.

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1 Q. And the local radio station you were mentioning, which radio
2 station was that?

3 A. For the Ituri region, I don't know whether you could call the BBC
4 and the RFI local radio stations, but I think they're international radio
5 stations.

6 Q. Now, these international radio stations are listened to by the
7 people in Ituri, is that not so?

8 A. Yes. The people often listened to news. Some people would rush
9 over to listen to the news from these radio stations, their broadcasts.

10 Q. Now, I make reference to transcript 98, French version, the
11 hearing of the 9th of February, 2010, page 55, lines 10 to 14, as well as
12 transcript 99, hearing of the 10th of February, 2010, page 22, line 23.

13 Witness, while testifying on the 9th and the 10th of February,
14 2010, you stated that an airplane dropped weapons into Mandro using
15 parachutes. My question is as follows: What was this airport -- pardon
16 me, airplane that was parachuting weapons into Mandro, if you know?
17 Where did this airplane come from? Whom did it belong to, if you know?

18 A. I don't know who owned that airplane, nor do I know what markings
19 were on that plane, but we do know that there was this plane that dropped
20 weapons down on Mandro. Some people went to Rwampara for training,
21 soldiers from the APC. They met up with soldiers from the UPC and they
22 fled. Amongst them was my uncle and he was the one who knew about
23 everything that had happened.

24 Q. And the weapons that were dropped from this plane were intended
25 for whom? What forces were these weapons intended for?

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1 A. The soldiers in Mandro. Initially it was the UPC and then they
2 grouped together with PUSIC in Bunia, Mandro, and Tchomia. It was
3 another region. It was a place where I was not. I wasn't there, and it
4 was their business.

5 Q. Now, this event, the air-drop of weapons in Mandro, did the local
6 people of Ezekere know about this? Did they not know about this?

7 A. Children were afraid, they were afraid of seeing soldiers
8 attacking them.

9 Q. So even children were aware and so the parents were also aware of
10 this; is that not so?

11 A. Everyone in the Bedu-Ezekere groupement was -- who was surrounded
12 knew about that.

13 Q. So now I would like to make reference to transcript 99, once
14 again the French version, hearing of the 10th of February, 2010, page 40,
15 lines 13 and 14.

16 Witness, you also stated while giving testimony on the
17 10th of February, 2010, that the forces based in Mandro went to massacre
18 the people of the Walendu-Tatsi collectivite. Could you tell us who were
19 these forces in Mandro and went to massacre the people of Walendu-Tatsi?

20 A. I would say that they were Hema.

21 Q. Yes, Hema people. Now, didn't these Hema people have an
22 organisation or a name that you know, that you can give to the Chamber?
23 This is for reasons of clarity, Witness.

24 A. At first I didn't know the names of their organisations. People
25 talked about the Hema arriving with weapons. One was called Kiza. He

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1 had lost his son, he had been killed in the house.

2 Q. Thank you, Witness. Now we will make reference to the transcript
3 of the hearing of the 27th of January, 2010, page 27, line -- lines 12 to
4 20. Witness, when giving testimony on the 27th of January, 2010, you
5 stated that when the APC soldiers arrived in Zumbe there were no military
6 camps in the Ezekere groupement. These APC soldiers built a camp on the
7 field of the Zumbe primary school.

8 My question is as follows: What materials did the APC soldiers
9 use to build this camp?

10 A. They arrived and there was no place for them to stay, so they set
11 up operations at the primary school for visibility. There were some huts
12 and houses made out of straw. Some of them had tents.

13 Q. And you also stated that after the departure of the APC soldiers
14 and to defend yourselves against the frequent attacks that the people of
15 Ezekere were subject to, attacks by UPC soldiers, the Ugandans, and even
16 Rwandans, a number of positions were created in the Ezekere groupement to
17 counter these attacks. Is that correct?

18 A. Sir, could you rephrase your question, please.

19 Q. I will try to summarise my question. Now, in your testimony of
20 the 27th of January, 2010, you also stated that after the departure of
21 the APC soldiers and in order to defend yourselves against the attacks by
22 the UPC, the Ugandans, and even Rwandan people, the people of Ezekere had
23 created some positions, positions from where they could fend off these
24 attacks. So these positions had been built; is that so?

25 A. To begin with, among the population there were even UPC members

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1 who were fighting against the collectivite. It was at that time that the
2 people fled to Tatsi and up to Bindi. Subsequently, the UPDF and the UPC
3 attacked and defeated the APC. And so in Zumbé there were many
4 war-displaced persons.

5 Q. I will try to ask the question all over again. In your testimony
6 you stated that when you were attacked, you set up positions to defend
7 yourselves against those attacks. Are we to understand that the
8 inhabitants of the Ezekere groupement had set up positions to defend
9 themselves against the repeated attacks of the UPDF and the UPC?

10 A. Yes, you can call that positions, but that happened afterwards,
11 after we left the collectivite. After our return, we were known as
12 combatants. We had taken the decision, if we had to die, we would die
13 for our collectivite. There were not many movements at the time. We all
14 assembled in Zumbé. So there was fighting and the consequence was the
15 arrival of the peacekeepers in the area.

16 Q. Do you remember the positions that had been set up as a result of
17 those repeated attacks against the groupement of Ezekere?

18 A. The position started from Kambutso right up to Lagura. That is
19 where the people who accepted to fight were living.

20 Q. At the time when you started defending yourselves, were there any
21 camps in the Ezekere groupement?

22 A. The places that were known as camps were the places where the APC
23 soldiers lived when they were there, but after that there were civilian
24 camps with the headquarters in Ladile. There was another camp in Lagura.
25 They were known as camps, but those were simply places where the fighters

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1 were living with their families and the civilian members of the
2 population nearby. The inhabitants were hoping that in case of attack it
3 was those combatants who were going to defend them.

4 Q. Should we understand by that that those camps were simply
5 locations, but really not camps per se? So can you describe what you
6 refer to as camps to enable the honourable Judges better understand what
7 you have been calling camps.

8 A. What people call camps were places where there could be two or
9 three rifles. So any place where there was a rifle would be known as a
10 camp.

11 (Defence counsel confer)

12 MR. FOFE: (Interpretation)

13 Q. Witness, can you give us an indication of the number of
14 combatants who were to be found at those various locations that you have
15 been calling camps?

16 A. Personally it is not easy for me to tell you, but the Chief of
17 Staff or the leader of the collectivite can tell you the number of
18 combatants who were living in the camps.

19 Q. Thank you very much, Witness. We are going to move on to another
20 line of questioning.

21 THE WITNESS: (Interpretation) I would like to ask for a brief
22 moment, Mr. President, to go and ease myself.

23 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, let us
24 go into closed session for the time being to allow the witness to leave
25 the courtroom.

1 And security officers, before the witness leaves the room, please
2 escort Mr. Katanga and Mr. Ngudjolo out.

3 (The accused withdrew)

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

5 (Closed session at 12.37 p.m.)

6 (Expunged)

7 (Expunged)

8 (Expunged)

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- 12 Page 60 Expunged – Closed session
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1 (Expunged)

2 (Open session at 12.43 p.m.)

3 COURT OFFICER: (Interpretation) We are in open session, your
4 Honour.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
6 Court Officer.

7 Professor Fofe, please proceed with your questions.

8 MR. FOFE: (Interpretation) Much obliged, your Honour.

9 Q. Let me refer to transcript number 98, French version, session of
10 the 9th of February, 2010, page 46, lines 18 to 19. And also transcript
11 number 99, French version, hearing of the 10th of February, 2010,
12 page 47, lines 11 to 18.

13 Witness, during your testimony of the 9th of February, 2010, you
14 stated that there was some radio equipment belonging to a hospital in
15 Zumbe. My question is as follows: Where was that hospital located?

16 A. If you call it a hospital, it will sound as if it was a big
17 hospital. It was simply a dispensary. It was in the market square in
18 Zumbe and operator Bahati was even a nurse in that hospital.

19 Q. And when had that radio equipment been -- or rather, set up in
20 that hospital?

21 A. I did not say that the radio equipment belonged to the hospital.
22 It was coming from Kagaba or Kekele (phoen) and it served us when we were
23 at Bindi. It was after our return that the radio equipment was given to
24 assist the Bedu-Ezekere groupement coming from the Walendu-Bindi
25 collectivite.

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1 Q. Can you tell us approximately when that radio equipment arrived
2 in the Ezekere groupement?

3 A. The question relating to the radio equipment -- well, this is
4 something that arrived afterwards. It is because people were suffering
5 and the radio equipment was brought to the area. What I can confirm is
6 that there was radio equipment there, but with regard to a time-line, I
7 cannot give you any specific answer.

8 Q. Do you know what source of energy was used for the radio
9 transmission equipment? How did that equipment function? Did it use
10 electricity or another source of energy?

11 A. The equipment used a solar panel and a battery.

12 Q. And based on those two elements, that is, the solar panel and the
13 battery, can you try to remember when approximately that radio equipment
14 would have arrived Zumbe?

15 A. It is not -- if it is not radio equipment that came from
16 Tchekele, it would have been when the APC soldiers were present, that is,
17 after their arrival. It is then that I heard people talking about the
18 radio equipment. Now, regarding whether it was operational, I would say
19 yes, because when we travelled, Boba Boba was already conversing using
20 that equipment. If I'm not mistaken, it must have been when the APC were
21 there. So I can confirm that there was the radio equipment. But when
22 they did start operating, I remember it was when Boba Boba was
23 travelling. There was a time when we had to make calls, Tchekele-Kagaba,
24 Kagaba-Lakpa, and Lakpa-Zumbe.

25 Q. Did you yourself ever see the radio equipment?

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1 A. At one point I had to stand guard where the radio equipment was
2 located.

3 Q. So can you tell us the location where that equipment was to be
4 found?

5 A. At some point the equipment was mobile. It was no longer set up
6 in Kambutso. It was necessary to look for a location where the equipment
7 would be operational, so it was taken to Ladile near Zumbe. And we were
8 looking for a place in which -- at which the network would be
9 operational. So the equipment was first set up in Kambutso, and there
10 were times at which it was brought to a place between Masu and the Zumbe
11 centre. The name of that village is Kuju (phoen).

12 Q. Since you have told us that you saw the equipment, can you
13 briefly describe that radio equipment to us?

14 A. I cannot describe that equipment.

15 Q. You cannot give us an idea about the dimensions of that radio
16 equipment?

17 A. Let me show you. That is the dimension that I'm showing you
18 right now.

19 Q. So the size was similar to the size of your computer screen; is
20 that so?

21 A. Yes, about that.

22 Q. Let us briefly --

23 PRESIDING JUDGE COTTE: (Interpretation) Yes, Mr. Prosecutor.

24 MR. MACDONALD: (Interpretation) I think we were both busy
25 taking notes or looking at our screens. When the witness referred to an

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1 object he was looking to the left. I do not know whether he was
2 referring to the computer screen or the projector or in the direction of
3 Mr. Fofe.

4 THE WITNESS: (Interpretation) I said this, this is what I'm
5 pointing at, this computer, this dimension.

6 MR. MACDONALD: (Interpretation) For the record, it is the
7 computer screen of the witness.

8 PRESIDING JUDGE COTTE: (Interpretation) Very well. Thank you,
9 Witness.

10 Thank you, Mr. Prosecutor.

11 THE WITNESS: (Interpretation) What I said was this: The
12 dimension of the radio equipment was similar to what I'm showing you
13 here.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

15 Please proceed, Mr. Fofe.

16 MR. FOFE: (Interpretation) Much obliged, Mr. President.

17 Q. Now, let us briefly re-visit your mission to Aveba, very briefly.
18 Witness, can you tell us the date on which your delegation led by Boba
19 Boba left the Ezekere groupement?

20 A. If I remember correctly, because I'm not very good at remembering
21 dates since there are many of them in my head, it was the 24th -- the
22 25th of August. That was the date on which we left.

23 Q. And what year was that, please?

24 A. I'm surprised. All I know is the day -- or rather, the date of
25 the 25th. I remember that very well. I do not know whether it was 2004

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1 or 2003. I do not know. In any case, if you look at the letter that was
2 shown to me, the year is indicated there, that is the year that appears
3 on that letter.

4 Q. On the 4th of January, 2003, in which locality was your
5 delegation led by Boba Boba to be found?

6 A. On the first day after we left we arrived Lakpa at 1.00 a.m. in
7 the morning, and Lakpa is a locality which is located in the
8 Walendu-Bindi collectivite. So that was on the first day, the 4th. We
9 arrived at 1.00 a.m., and you will understand that at 1.00 a.m. in the
10 morning is no longer the 4th. It would be the 5th. That is 1.00 a.m. in
11 the morning in Swahili.

12 Q. On the 4th of January, 2003, where was operations officer Oudo?

13 A. These are facts that I do not know. If you wish to ask me
14 questions relating to the convoy or to the delegation of which I was a
15 member and which was led by Boba Boba right up to Bindi, we had already
16 passed Cobra Matata's residence. It was at that time that we were sent
17 to take the position that Oudo was responsible for in Medhu, even
18 including the entire Songolo area for which he was responsible.

19 Q. Mr. Witness, I'm asking you specific questions so that we should
20 make rapid progress. So please, answer my questions so that we can save
21 time. I am asking you questions on your mission to Aveba.

22 A. Yes, but I saw Oudo after having left the place where Colonel
23 Cobra Matata was.

24 Q. Now, since you were in Aveba within that delegation, could you
25 tell us what is the distance between Bolo and Olongba?

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1 A. I think that the distance between Bolo and Olongba is 35 to
2 40 kilometres, 35 to 40 kilometres.

3 Q. Could you tell us how much time you have to allow for to go from
4 Bolo to Olongba on foot?

5 A. There were different people. There were civilians, there were
6 old ladies going to the market. It's hard to say, to give you that
7 amount of time, but by bicycle I could travel that distance in
8 45 minutes.

9 Q. Now, just to make things simpler for you, you yourself, if you
10 were to travel that distance by foot yourself, how much time would it
11 take you walking, going on foot?

12 A. I would say two and a half hours, but it depends on how you walk.

13 Q. Thank you very much. And what is the distance between Bolo and
14 Tatu?

15 A. I would say about 55 to 57 kilometres.

16 Q. Once again, just to have a better idea. You yourself, if you
17 were to walk from Bolo and to Tatu, walking, travelling by foot, how much
18 time would that take you?

19 A. From Olongba to Tatu, I would say I would take more than an hour
20 and 30 minutes. Aveba and Olongba. Between Aveba, one hour and ten
21 minutes, one hour and 30 minutes between Aveba and Olongba.

22 Q. Now, the distance that --

23 A. Or rather, four hours, 25, to four hours 30 minutes.

24 Q. I'll repeat my question and you can repeat your answer just to
25 make things perfectly clear. Now we're talking about the distance

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1 between Bolo and Tatu, from Bolo to Tatu, travelling by foot, walking.

2 How much time would it take you from Bolo to Tatu?

3 A. Tatu is the name of a market within Medhu. I don't know whether
4 there's a market in Medhu. It's rather Tatu that's the village. Before
5 we called that place Pindo (phoen) and to get to Pindo you need four
6 hours, it takes four hours by foot.

7 Q. Witness, once again in order to make things very clear, could you
8 specify which person led your delegation?

9 A. Our delegation was led by Colonel Boba Boba. He was the one who
10 was the commander.

11 Q. So as the head of the delegation, what did Boba Boba do as the
12 head of the delegation? Could you explain to us what he did as the head
13 of the delegation?

14 A. He was responsible as the chief -- as the head, and he took on
15 the responsibilities of a leader. We were going to a place where there
16 were other people who were in charge of things, and we could have been
17 afraid to go by ourselves.

18 Q. Furthermore, you stated that Martin Banga was the president of
19 that same delegation. So what did Martin Banga do as the president of
20 that same delegation?

21 A. When Boba Boba left the collectivite of Tatsi, he was a colonel
22 within the army, and we went to a place where there were soldiers and
23 other people. So there was someone who had to meet with the other people
24 who were in charge. We didn't call him the chef de collectivite, but he
25 played the role of someone in charge of things and that was in the

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1 collectivite of Bindi.

2 Q. On approximately what date did your delegation arrive in Bolo?

3 A. It was around the 8th.

4 Q. The 8th of which month and which year?

5 A. The first month and the name -- the year that started -- so it
6 was four days to travel the distance and it was Chief of Staff Tatsi
7 and -- between there and the residence of the FRPI where the president of
8 the FRPI lived. It took us four days from the Tatsi headquarters to the
9 FRPI residence.

10 Q. You have been talking about the 8th, the 8th of which month and
11 which year?

12 A. I've already forgotten those facts and I don't go around with a
13 piece of paper with those details on it. Simply put, it took us four
14 days to go from the Tatsi headquarters to the residence of the person in
15 charge of the FRPI. In other words, from Zumbe to Lakpa we took one day.
16 Lakpa to Kagaba, one day. Kagaba, Mandre, one day. Mandre to Aveba,
17 once again, one day.

18 Q. Now, how many people were in this delegation?

19 A. There were two sections initially. So I think you know the
20 number in -- what the two sections is made up of, what number.

21 Q. I don't know the number of people in two sections. Could you
22 tell us how many people there are in two sections?

23 A. One section has 12 people, so I could say that there were
24 12 people and four DSP. Amongst the DSP that section was four.

25 Q. So your delegation was made up of 12 people; is that correct?

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1 A. It was a delegation of two sections, so 24 people.

2 Q. When you found yourself in Aveba as part of this delegation led
3 by Boba Boba, did the FRPI exist in Zumbe? When you were in Aveba, did
4 the FRPI exist in Zumbe?

5 A. I heard about the FRPI when I arrived in Aveba, and personally I
6 saw their presence.

7 MR. FOFE: (Interpretation) Now we will ask the Court Officer
8 for her assistance. Could the witness be shown document EVD-OTP-00025.
9 And I will make reference to the transcript, transcript 96, French
10 version, hearing -- in page 19, line 25, and page 20, lines 1 and 2.
11 Transcript 96, French version, hearing of 4 February 2010, page 19, 25.

12 COURT OFFICER: (Interpretation) To view this piece of evidence,
13 please push the "PC 1" button beside your computers.

14 MR. FOFE: (Interpretation) Can the witness see the exhibit on
15 the screen?

16 THE WITNESS: (No interpretation).

17 (Interpretation) The text is not very clear.

18 MR. FOFE: (Interpretation) Perhaps we could give him a hard
19 copy.

20 PRESIDING JUDGE COTTE: (Interpretation) It would be good if we
21 could do that, yes. Now, I have a screen and I find that the contrast on
22 the screen is quite poor. Perhaps we could make those adjustments to the
23 witness's screen as well for other occasions.

24 COURT OFFICER: (Interpretation) To view the original of this
25 document, please press the button that says "Docu Cam Witness."

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1 MR. FOFE: (Interpretation) Just to re-assure everyone, I
2 believe this document is public.

3 Q. Witness, on the Thursday, the 4th of February, 2010, when you
4 were asked some questions by the OTP regarding the stamps or the seals on
5 this document, EVD-OTP-00025, you stated that you had to set it up when
6 you moved up the mountain close to Mandre. And you said when you left
7 Kagaba you went up the mountain by -- close to Mandre and that is where
8 we had the idea of having this stamp.

9 My question is as follows: Who made this stamp?

10 A. It was an old man, Tatsi, whom we found somewhere quickly. He
11 made this stamp. His name was Edouard.

12 Q. Edouard, do you know his family name?

13 A. Edouard Ngally, he lived in the locality of Ngally. It is a
14 locality called Ngally.

15 Q. Now, since you have specific information about this, could you
16 tell us approximately when this stamp was made?

17 A. Around 1.00 in the afternoon.

18 Q. Witness, could you tell us why this stamp was made on that day,
19 specifically at 1.00 in the afternoon when you were in Aveba?

20 A. We found this old man somewhere, Martin Bokpa and even Boba Boba
21 was there.

22 MR. MACDONALD: (Interpretation) I believe that the two accused
23 do have an order of non-communication, are subject to an order of
24 non-communication between themselves.

25 PRESIDING JUDGE COTTE: (Interpretation) Am I to understand that

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1 the two accused were speaking to one another?

2 MR. MACDONALD: (Interpretation) I believe -- I'm not sure but
3 -- from the distance, I'm not so sure but there might have been an
4 exchange of words.

5 PRESIDING JUDGE COTTE: (Interpretation) This is an opportunity
6 to remind the Court security officers to be vigilant. If the two accused
7 were speaking to each other at that time, we're not quite so sure, but,
8 Mr. Fofe.

9 MR. FOFE: (Interpretation) Thank you, your Honour. The
10 security officers are right beside the accused, so if there was any
11 violation of the order --

12 JUDGE DIARRA: (Interpretation) We did not really ask that. We
13 were rather directing you to try to obtain the answers, the answers that
14 are of interest to all of us.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Madam Judge.
16 Mr. Fofe.

17 MR. FOFE: (Interpretation) I'm nearly at the end.

18 Q. Now, Witness, could you tell us why this stamp was made on that
19 day at that time?

20 A. Well, for the Tatsi collectivite, everyone knew that this person
21 made these stamps. He was actually even a member of the registry, and
22 when we met with him he did not ask for payment. He wanted to help the
23 delegation by providing it with a stamp, and then after that we continued
24 along our way to Tchike (phoen).

25 Q. One last question, Witness. Now, we can see the exhibit and the

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1 OTP asked you many questions about it. Now, can you tell us, explain to
2 us if you can, why the stamp higher up is easier to see than the stamp
3 that is lower down?

4 MR. MACDONALD: (Interpretation) An objection, your Honour, on
5 the basis that the witness and what he said earlier in his replies during
6 examination-in-chief, namely, the whole question of the exhibit itself
7 and his knowledge of the exhibit. The witness is in the courtroom and
8 unfortunately I cannot explain my grounds entirely, but it has to do with
9 something relating to his knowledge thereof.

10 PRESIDING JUDGE COTTE: (Interpretation) Fine. The witness
11 shall reply and then we will break off then.

12 If the witness could proceed immediately.

13 So the question was: Why is it that the stamp higher up is
14 darker, easier to see, than the one lower below. Mr. Witness, if you can
15 answer that, we would appreciate it. Otherwise ...

16 THE WITNESS: (Interpretation) I must say that I see a stamp on
17 a piece of paper. This is a stamp and paper.

18 MR. FOFE: (Interpretation)

19 Q. Thank you very much, Witness. Thank you for today. We will call
20 it a day and we will resume on Monday.

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

22 Mr. Witness, thank you for your co-operation this morning. We
23 will see you not tomorrow but rather on Monday, at 9.30, for a day of
24 hearings over the course of the morning and the afternoon.

25 Court security officers, could you escort Mr. Katanga and

1 Mr. Ngudjolo out of the courtroom and we will see each other again on
2 Monday at 9.30.

3 Court Officer, we can go into closed session.

4 (Closed session at 1.28 p.m.)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Open session at 1.29 p.m.)

20 COURT OFFICER: (Interpretation) We are in open session, your
21 Honour.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
23 Court Officer.

24 This will be all for today's hearing and we will resume on
25 Monday, 9.30, in the morning.

1 The hearing ends at 1.30 p.m.

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