

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 Monday, 7 June 2010

10 The hearing starts at 2.38 p.m.

11 (Open session)

12 COURT USHER: All rise. The International Criminal Court is now
13 in session.

14 PRESIDING JUDGE COTTE: (Interpretation) Court is in session.

15 Please be seated.

16 Given that the technical difficulties have been resolved, and we
17 hope they have been resolved for the entire hearing, we will begin by
18 giving you some information and handing down certain decisions which will
19 delay the appearance of our witness. But we have some points of
20 clarification to make.

21 To begin with, Mr. Gilissen will be absent for today and tomorrow
22 and even beyond. He was held by a case in Belgium and he couldn't
23 postpone that case. Counsel Goffin is present and will represent
24 Mr. Gilissen and we would like to welcome her.

25 And through application number 2138 of 27 May 2010, the Defence

1 of Katanga asked for the lifting of the redactions of Witness * 267's
2 statement. In his answer 2159 of the 3rd of June, 2010, the Prosecutor
3 states that they agree with a lifting of all the redactions which were
4 authorised on -- based on Rule 82 of the Rules of Procedure and Evidence.
5 Given that two of those redactions had already been lifted, that is, in
6 paragraph 69 and paragraph 159. The Chamber notes the position of the
7 Prosecutor and the filing number 2138 of the 27th of May, 2010, of the
8 Defence of Germain Katanga has been granted.

9 On the 1st of June, 2010, you received an e-mail correcting the
10 transcript of the hearing of the 28th of May, 2010, done at the request
11 of the Prosecutor. The Registry pointed out that possible objections to
12 that correction had to be filed before the 3rd of June. To the knowledge
13 of the Chamber - and I stand to be corrected, Madam Court Officer - there
14 were no objections to the correction of that transcript, so the Chamber
15 duly notes it. And all this will appear in the record.

16 Now, regarding the high number and frequency of closed sessions,
17 on the 1st of June, 2010, Mr. Hooper filed motion number 2153 relating to
18 the closed sessions, the high number and frequency of those closed
19 sessions, and how to remedy them in order to improve the public nature of
20 the proceedings. All of you know that this is one of the constant
21 concerns of the Chamber, that we expressed ourselves on this issue during
22 the hearings of the 24th to the 28th of May; and informally, the Chamber
23 called on the Registry to begin reflection on this issue so as to improve
24 our practices. So the initiative of Mr. Hooper ties in nicely with these
25 efforts, and everybody received a copy of his filing. The Chamber would

1 hope that all the parties and participants should make their observations
2 and suggestions on this issue. If any one of you wishes to send in
3 observations on this issue, they should do so because this is an issue
4 that needs to be examined by everyone so that we can jointly come out
5 with the best possible solutions, bearing in mind that this is a
6 complicated issue.

7 Now oral decision on the application of the Defence of
8 Mathieu Ngudjolo seeking leave to respond to the observations of the
9 Prosecutor on the motion for the appointment of two experts in forensic
10 medicine and ballistics. By motion number 2141 of the 28th of May, 2010,
11 the Defence of Mathieu Ngudjolo, amongst other things, requested that the
12 Chamber appoint experts to assist in the proceedings following the
13 cross-examination started a few weeks ago as well as the re-examination
14 of Witness 418, and that a second opinion should be sought. By filing
15 2152 of the 1st of June, 2010, notified on the same day to the parties,
16 the Prosecutor made known his observations. And by filing number 2162 of
17 the 4th of June, 2010, Mr. Kilenda sought leave to respond to the
18 observations of the Prosecutor.

19 The Chamber points out that it is possible that a debate will be
20 engaged on the precise legal framework that should include this
21 application by the Defence of Mathieu Ngudjolo to appoint one or two
22 experts. The Chamber points out that the issue of finding out whether
23 Regulation 44 of the Rules of the Court should be implemented can be
24 discussed. To this end, the Chamber would like to remind you,
25 Mr. Kilenda, that during your oral presentation at the end of the hearing

1 of the 26th of May, 2010, transcript 147, pages 63, line 25, and page 64,
2 lines 1 to 4, we drew your attention to the fact that it might instead be
3 rather -- or rather, during the presentation of the Defence evidence that
4 the expert that you have just requested from the Chamber can be called.
5 The Chamber intends to authorise that response, but we remind the Defence
6 of Mr. Kilenda about the provisions of Regulation 34(C) to the effect
7 that according to the Rules of the Court, they have ten days following
8 the notification of that filing to file their own response. The
9 observations of the Prosecutor are dated on the 1st of June and were
10 notified on the same day. So accordingly, you have to file in your
11 response as quickly as possible, particularly since the availability of
12 Witness 418 is limited and we would like to hear him before the end of
13 the month of June.

14 Oral defence -- or rather, oral decision on the motion, the
15 urgent motion, of the Defence of Mathieu Ngudjolo, requesting disclosure
16 of a photograph and the identity card with photograph of Witness P-159,
17 dated 26th of May, 2010. The Chamber received motion number 2137 from
18 the Defence of Mathieu Ngudjolo requesting disclosure by the Prosecutor
19 of the photograph and identity card of Witness 159. On the 31st of May,
20 2010, the Chamber received the response of the Prosecutor indicating that
21 he does not have the identity card of this witness, but that he has three
22 photographs and that he considers that given that the identity of
23 Witness 159 is sure, the use of photographs is no longer essential for
24 the conduct of the investigations of the Defence, given the risk run by
25 this witness who is actually within the protection programme of the

1 Court. The Chamber notes that this request is in keeping with decision
2 number 2148 handed down on the 31st of May, 2010, on the disclosure and
3 use of the photographs of protected witnesses, and this was as a result
4 of a rather more general application from the Defence of Germain Katanga
5 and concerning a certain number of Prosecution witnesses.

6 The Chamber decided that the photographs and identity documents
7 in the possession of the Prosecutor and involving all the witnesses
8 targeted by the motion of the Defence should be disclosed to all the
9 parties and that the presentation of photographs of protected witnesses
10 to third parties should be preceded by a request or application for leave
11 with reasons and stating out the specific difficulties encountered. The
12 Chamber notes that Witness 159 is one of the witnesses targeted by this
13 decision, and therefore the application for disclosure from the Defence
14 of Mathieu Ngudjolo is now moot.

15 We point out, however, that the photographs of witnesses having
16 testified before the Chamber are now available in the eCourt system. On
17 the other hand, the Chamber understands that this application from the
18 Defence of Mathieu Ngudjolo is accompanied by an application to use the
19 photograph of Witness 159 for investigation purposes. The Chamber notes
20 that the Defence of Mathieu Ngudjolo did not state any difficulties
21 encountered during the process for identifying the witness on the field,
22 and no specific difficulties were raised during his testimony in Court.
23 The Chamber therefore does not see any reason to authorise the Defence to
24 present the photograph of Witness 159 to third parties, especially since
25 this witness is in the protection programme of the Court. This

1 application is, therefore, rejected.

2 Lastly, there is an oral decision on intermediaries. By filing
3 number 1960 of the 12th of March, 2010, the Defence of Germain Katanga
4 requested the disclosure of the names of all the intermediaries of the
5 Office of the Prosecutor. The Defence of Mathieu Ngudjolo subscribed to
6 that application with an additional filing number 1965 of the 16th of
7 March, 2010. In its response number 1982 of the 19th of March, 2010, the
8 Prosecutor opposed the disclosure of the names of those intermediaries on
9 the grounds, amongst others, that the intermediaries are continuing to
10 play an important role in the OTP's investigations in Ituri.

11 The Chamber points out that the decisions of the Appeals Chamber
12 in the area of redactions apply to the redaction of names of
13 intermediaries, just as is the case with witnesses, victims, and members
14 of their families. Bearing in mind the exceptional nature of every
15 redaction measure, the Chamber intends to examine on a case-by-case basis
16 any applications to institute, maintain, or lift the redaction of the
17 names of intermediaries that might be brought before the Chamber. In
18 this particular case, the Chamber will not deal with all the
19 intermediaries in general. The Chamber will limit itself to the
20 examination of the situation of intermediaries 143 and 310 which were the
21 subject of specific applications by the Defence teams in the motions
22 mentioned above.

23 To begin with, there is the situation of intermediary 143. In
24 their filings number 1376 of the 14th of August, 2009, and 1402 of the
25 18th of August, 2009, Defence counsel for Mathieu Ngudjolo and

1 Germain Katanga respectively requested the disclosure of the name of
2 intermediary 143 as part of a motion to be granted disclosure of the full
3 written statement of Witness 267 and related documents.

4 In its decision number 1483 of the 18th of September, 2009, the
5 Chamber pointed out that Witness 143 was already the subject of redaction
6 measures ordered by Trial Chamber I. In a subsequent decision number
7 1817 of the 1st of February, 2010, our Chamber maintained this protection
8 measure while calling on the Defence teams to consider filing motions
9 giving details of the reasons that they are putting forward to support
10 their applications.

11 In decision number 2434 of the 12th of May, 2010, on the
12 intermediaries of the OTP, published on the 31st of May, 2010, as a
13 redacted public document and which led to a decision to reject the
14 application for leave to appeal, number 2463 of the 2nd of June, 2010,
15 Trial Chamber I ordered the disclosure of the name of intermediary 143 to
16 the Defence team in the Lubanga case.

17 The Chamber was of the opinion, prima facie, that a certain
18 number of elements relating to the role played by the intermediary
19 justified the lifting of the redaction measures. However, it should be
20 pointed out that Trial Chamber I subjected that disclosure to the
21 implementation of new protection measures by the Victims and Witnesses
22 Unit.

23 The Chamber points out that the contradictions identified during
24 the examination of certain witnesses of the Defence in the Lubanga case
25 and which justify the decision taken by Trial Chamber I to disclose the

1 name of intermediary 143 have so far not occurred in the Katanga/Ngudjolo
2 case. However, we consider that the role of the intermediary number 143
3 in the Lubanga case cannot be artificially dissociated from his role in
4 the Katanga/Ngudjolo case.

5 Moreover, we point out, as emphasised in our decision number 1483
6 of the 18th of September, 2009, paragraph 21, and as mentioned by
7 Mr. Hooper in paragraphs 12 to 14 in his application of the
8 12th of March, 2010, the Chamber points out that this intermediary has
9 contacted six Prosecution witnesses in this case and that he has played
10 an active role. Accordingly, the Chamber is of the opinion that the
11 Defence teams of Germain Katanga and Mathieu Ngudjolo should be able to
12 carry out their investigations in the same capacity as the Defence team
13 of Thomas Lubanga.

14 That said, the Chamber orders the Prosecutor to disclose the name
15 of intermediary 143 to the Defence teams of Germain Katanga and
16 Mathieu Ngudjolo as soon as the new protection measures ordered by
17 Trial Chamber I would have come into force.

18 The Chamber points out that we do not intend to limit the use of
19 the name of intermediary 143, only to the framework of cross-examination
20 as required in our oral decision of the 16th February 2010 on the
21 disclosure of the name of intermediary 183. However, the Chamber points
22 out that it is absolutely essential that the party or participant
23 investigating should take the maximum number of precautions to avoid the
24 risk of the identity of protected persons being released to third
25 parties.

1 To that end, we point out that the protocol on the use of the
2 name of protected witnesses during investigations should be applicable
3 also to the use of the name of intermediary 143.

4 And now the situation of intermediary 310. In application
5 number 1960, dated the 12th of March, 2010, mentioned above, Mr. Hooper
6 requested the disclosure of the identity of intermediary 310 for the
7 purpose of the upcoming appearance of Witness 323. Before examining the
8 specific situation of this intermediary, the Chamber would like to point
9 out that he does not play any role in the Lubanga case and his situation
10 is therefore not similar to that of intermediary 143.

11 Insofar as the Defence teams have already had the opportunity to
12 cross-examine two of the three witnesses who have had contact with
13 intermediary 310, that is, Witnesses 161 and 323, the Chamber would like
14 to know whether they still maintain their application for disclosure.
15 And if this is the case, we call on the teams to file a new motion with
16 more details that they -- than they included in their applications 1960
17 and 1965, that is, regarding the reasons for that application.

18 In order to comply with the requirements of the Appeals Chamber,
19 the Chamber has to ensure a balance between the preservation of ongoing
20 investigations by the Prosecutor and the necessity to avoid any redaction
21 that might be prejudicial or contrary to the rights of the Defence and
22 the requirements of a fair and impartial trial. While waiting for any
23 possible new motions from the Defence, the Chamber considers that the
24 necessity to protect the investigations of the Prosecutor must be given
25 priority and that it is premature to order the disclosure of the identity

1 of intermediary 310.

2 Final remarks. The Chamber recalls that we expect to receive new
3 motions with reasons, and we will decide on a case-by-case basis. It is
4 the opinion of the Chamber, therefore, that they are not sufficiently
5 informed right now to take a decision regarding the disclosure of the
6 intermediaries.

7 Just like in the order from Trial Chamber I in its paragraph 150,
8 decision number 2434 of the 12th of May, 2010, the Chamber asked the
9 Prosecutor to file for the benefit of the two Defence teams a
10 confidential document, spelling out the contacts that existed between the
11 intermediaries, the contacts that existed between the intermediaries and
12 the witnesses, and the contacts that existed between the witnesses
13 themselves. The document should have details, among others, of the dates
14 and places of those meetings as well as the names of the persons present,
15 and that should be in compliance with the redaction measures actually in
16 force.

17 Mr. Prosecutor, we did not fix any dead-line for filing this
18 document because we know that you have a lot of work to do. Now, can you
19 give us an estimate regarding the date that you can be prepared to file
20 that document?

21 MR. MACDONALD: (Interpretation) Thank you, your Honour. It is
22 very difficult for the Prosecution to give an answer to that question.
23 Just to give you an example, I know that the work has begun on the
24 Lubanga case, but for our case, we were not expecting a decision today,
25 especially with regard to paragraph 150, subparagraph 5. And so I will

1 get back to the Chamber as quickly as possible, probably tomorrow
2 throughout the day at the very latest, to say whether we will need a week
3 or ten days. We need to have some very precise information.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
5 Mr. Prosecutor. So it would be ideal to get that information tomorrow
6 morning, and if we can't get it tomorrow, then it will be Wednesday
7 morning. And so the oral decision has been made, but we will just add
8 some specific details possibly tomorrow morning, at the latest Wednesday
9 morning.

10 Mr. O'Shea, I believe that you wanted to make a statement
11 regarding the agreement that you have reached with Mr. Kilenda and the
12 Representatives of the Victims with regard to the conditions under which
13 victims can be approached by our two Legal Representatives. All right.
14 You have the floor.

15 MR. O'SHEA: Yes, thank you, your Honours. It's a difficult
16 exercise that we have been engaging in, first and foremost because it
17 involves issues which invoke quite different and conflicting interests on
18 both sides of the room, but there have also been practical difficulties.
19 The -- we have essentially four different parties in the courtroom
20 engaged in these negotiations, each with their own perspective. That
21 obviously does complicate matters a little.

22 From the side of the team of Katanga, we have the additional
23 difficulty of the French, not that we don't understand the French, but
24 because this is a document of an official nature with important
25 consequences we're just concerned about the nuances of the French

1 language. And Mr. Hooper's level of French is one matter. My own level
2 of French is sufficient to understand the content of the document, but
3 not sufficient enough to be confident that I have fully understood the
4 nuances of the French.

5 This means that we've requested from the Legal Representatives
6 that we be permitted to draft an English version or an English
7 translation or whatever the final document is so that there is an English
8 version and a French version to any finally agreed document. We don't
9 mind if we're the ones that draft it, as English speakers, or if a
10 request is made to the official translators of the Court. It doesn't
11 really make much of a difference which way it's done because at the end
12 of the day it's just a question of agreement between the parties.

13 As things stand at the moment, we have reached a crossroads and
14 it would appear that there are certain elements on which it might be
15 extremely difficult to reach a common agreement. And it's looking
16 increasingly like this might be a matter that will end up coming before
17 your Honours to decide as a matter of law and principle.

18 That having been said, the Katanga team has, in fact, not given
19 much time to the Legal Representatives to consider their position. We
20 sent some comments at the end of last week, but apparently on a document
21 which had not been the very latest version, according to the Legal
22 Representatives. This has been one of the other practical difficulties,
23 is that there have been a number of different versions of the same
24 document floating around, and it hasn't always been so easy to keep track
25 of where we are because of the use of e-mail and certain people being

1 copied and other people not being copied and so forth.

2 And then on Sunday, comments were made on the very latest
3 version, as the Legal Representatives had presented, the very latest
4 version of this document as largely inputted by the Legal
5 Representatives, both Legal Representatives. I don't know to what extent
6 their own individual interests meet in common, but for the moment, I
7 assume that they do meet in common, and the interests of the Prosecutor.

8 It seems to me to be impossible for an agreed document to be
9 brought before the Chamber today. It seems to me to be likely that there
10 are aspects which will be difficult to agree. However, there may be some
11 benefit in allowing some supplementary time if your Honours feel that it
12 is in the interests of this process, allowing some supplementary time to
13 be sure that we really cannot agree.

14 So from the side of the Katanga team, we're certainly willing to
15 continue efforts to see if this matter can't be dealt with in a way which
16 lightens the burden on your Honours and makes it more of a question of
17 consensus. But I say that, of course, being very frank with the Court,
18 that there are -- there is a -- there seems to be a big difference of
19 opinion between the Legal Representatives and the team for Mr. Katanga.
20 I won't speak for the team for Mr. Ngudjolo. I will allow Mr. Kilenda or
21 Professor Fofe to present that position themselves. But it seems at the
22 moment certainly from our side that there are points of extreme
23 difficulty. But in my submission, there might be no harm in giving a
24 little supplementary time, especially in the light of the fact that the
25 Legal Representatives have not had a great deal of time to consider our

1 position.

2 I would propose that we be permitted until next Monday, and then
3 if really we cannot agree by that time, then it is my understanding that
4 the Legal Representatives are intent upon filing a motion. I leave it
5 entirely in their hands as to whether they want to draw up the drawbridge
6 now and file their motion now or whether they believe that it might be in
7 the interests of justice to give it some supplementary days. But of
8 course it's also for your Honours to decide whether that would be in the
9 interests of justice or we should proceed with litigation, if litigation
10 there is going to be.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
12 Counsel O'Shea.

13 Before giving the floor to the Legal Representatives of Victims,
14 I was wondering whether Mr. Mathieu Ngudjolo's Defence would like to
15 speak.

16 MR. KILENDA: (Interpretation) Thank you, Judge Cotte. Some
17 time ago we received a draft of the protocol that was prepared by the
18 Legal Representatives of the Victims. We found it was a very good draft,
19 very well written. We have made two proposals for additions, and a
20 little while afterwards, when the Legal Representatives for Victims sent
21 back the document that they had prepared, we noticed that the document
22 included the suggestions made by the Prosecutor but ours had been simply
23 rejected. We went back to the Legal Representatives of victims last week
24 to tell them that, as far as we were concerned, there wasn't just a
25 question of rights but also question of obligations.

1 Now, as our colleague Counsel O'Shea said, we noted the proposals
2 made by the Katanga team and that is a current situation. We don't know
3 what is going to happen, but we certainly subscribe to the idea that the
4 Chamber give us some additional time because we certainly think that we
5 can reach a compromise; and if that were not the case, then all of the
6 parties would have to come back to you with all of its proposals in order
7 for you to have the last word.

8 Those are our proposals, your Honours.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
10 Counsel Kilenda.

11 Mr. Prosecutor, I think you wanted to intervene.

12 MR. MACDONALD: (Interpretation) In order to give the floor to
13 the Legal Representatives of Victims, the last word, because this is of
14 particular interest to them, I would just like to say that I subscribe to
15 the request made by the Katanga team. If the Chamber could give us a few
16 extra days, that would be excellent.

17 I would nonetheless like to point out that the situation is as
18 follows. There was a decision made, 1134, and that pertains to contact
19 with other people by the witness, and so this is really an extension of
20 the ruling that you made earlier on this particular point with the
21 additional difficulties -- well, perhaps they aren't difficulties, but we
22 have to remember that the Legal Representatives of the Victims as well as
23 the parties are in a solicitor/client relationship, but we do not have
24 witnesses as our clients, just as is the case for the Defence team. But
25 the Legal Representatives of Victims have a tie to the victims.

1 I just wanted to be clear on that point, and once that is
2 clarified, I think we will be able to make some submissions to the
3 Chamber.

4 PRESIDING JUDGE COTTE: (Interpretation) Mr. Luvengika.

5 MR. LUVENGIKA: (Interpretation) Thank you for giving us the
6 floor, your Honour, ladies and gentlemen. Yes, Mr. President, I'm
7 speaking on behalf of two teams of Legal Representatives of Victims.
8 Since the month of January 2010, we have tried to make things move
9 forward with regard to the drafting of this protocol. We certainly
10 broached that topic, once again very recently. I'm not going back on
11 everything that has just been said because it is partially true. But as
12 far as we are concerned, we believe that giving additional time could
13 only be justified if the parties would concede on a few points because as
14 the Prosecutor has just mentioned, the relationship that we have with our
15 clients is not the same as the relationship that the witnesses have who
16 are subject to the prior protocol. And if I may say so, that is where
17 there are problems.

18 The Defence team has presented some arguments to us, even if we
19 had some late reactions to them -- well, we understood that those are
20 subjects on which we will have difficulty reaching a compromise. I am
21 surprised to hear the parties say that if we had additional time with
22 would be able to reach a compromise. Certainly that would be good, but
23 we recognise that the Defence does have some rights, and what we are
24 requesting while at the same time protecting the witnesses that we are
25 representing, we have to ensure that the Defence team -- the Defence team

1 will be able to proceed, but in that regard we do have a mandate to
2 fulfil and we do have obligations as professionals, and we have to
3 respect the relationship that we have with our clients.

4 Therefore, we thought that we will file a submission today in the
5 Chamber with a description of how far we have come. Obviously while
6 presenting the different positions and at the same time we will ask for
7 the Chamber's consent to be able to finalise this protocol.

8 We think that if you're dealing with human beings you could
9 always reach a compromise. We are not questioning the goodwill of the
10 Defence teams and we don't doubt that they want to negotiate an
11 agreement, but certainly we have to recognise that the issues are such
12 that it will be difficult to imagine that any of the parties are going to
13 give any ground whatsoever. And so we are counting on the wisdom of this
14 Chamber, but as far as we are concerned, as far as our position is
15 concerned, today we are filing the document as we have drafted it, while
16 including the observations that we received from certain parties. We
17 have described the positions of the various parties, and obviously we are
18 expecting the Chamber to take a position with regard to this. Thank you.

19 (Trial Chamber confers)

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
21 Mr. Fidel Luvengika. Perhaps you're pessimistic, but we are optimistic.
22 It nonetheless recognised that the three different parties thought that
23 additional time would be welcome, it also recognised there was some
24 concern on the part of the Defence team of Katanga with regard to the
25 terms used and the translation. I think that it is important for all of

1 you to say the same thing and the terms have to be translated properly in
2 all the languages. And so you are going to have until the 17th of June,
3 Thursday, the 17th of June, which means once again a weekend, and so you
4 will have ten days during which you will once again get together to try
5 to reach an agreement. Mr. Kilenda said, very optimistically, that we
6 will have to reach a compromise, and so the Chamber would like you to
7 reach an agreement. If you don't manage to reach an agreement, then for
8 the 17th of June you will have to highlight the only topic of discontent
9 or several.

10 Madam Court Officer, if you could perhaps serve as intermediary
11 with the translation services, and I would ask you to have a fairly short
12 document. I would ask all of the parties to be able to get an official
13 translation of the document in both official languages so that we are
14 entirely sure that the Hooper team has an exact translation of what is
15 written in French and vice versa. We want to ensure that all of the
16 nuances in either language are well translated, and so you have until
17 Thursday, 17th of June, 1600 hours, in the hopes that you will have
18 reached an agreement; if that is not the case, I would like you to point
19 out the areas where there is not agreement and in co-operation with the
20 translation services of the Court, even though they are overloaded with
21 work, we hope that they will be able to deal with a document which I hope
22 will not be too long.

23 That is all I had to say.

24 Yes, Mr. Prosecutor.

25 MR. MACDONALD: (Interpretation) I will give the floor to my

1 colleague. I just wanted to say a few words with regard to
2 intermediary 143 with regard to the amount of time required.

3 PRESIDING JUDGE COTTE: (Interpretation) With regard --
4 Mr. Kilenda -- Mr. Luvengika.

5 MR. LUVENGIKA: (Interpretation) Well, in order to facilitate
6 the work of the team of Mr. Katanga, if we could perhaps table with
7 Madam Court Officer the table as it currently stands in order to have it
8 translated into English, that would help Mr. Katanga's Defence team, see
9 the terms that are used in that draft document.

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
11 Counsel Luvengika. In order to facilitate the understanding between the
12 two of you, especially with regards to linguistic issues, I would ask
13 you, Madam Court Officer, to act as our intermediary with the Translation
14 Section so that their help would be provided immediately and in full
15 manner between now and the 17th of June.

16 Mr. Prosecutor.

17 MR. MACDONALD: (Interpretation) I don't have the exact terms of
18 paragraph 150, subparagraph 5. I was wondering about the information
19 that you were seeking when you mentioned all of the witnesses. Are you
20 asking about Prosecution witnesses or are you referring to all witnesses
21 that may have been met during any meetings?

22 PRESIDING JUDGE COTTE: (Interpretation) Well, I would need a
23 truck if I were to bring all of the documents containing the oral
24 decisions made by Trial Chamber I. The rules pertaining to 155 refer to
25 the decision of the 12th of May, 2010. If I'm not mistaken, I'd be ready

1 to make a correction tomorrow or at the end of today's hearing. I'm
2 referring to the contact that may have existed between the intermediaries
3 as well as any contact that may have occurred between the intermediaries
4 and the Prosecution witnesses because we are referring to any decisions
5 that may have been made by Trial Chamber I, perhaps not necessarily
6 directly involving Trial Chamber II, but definitely affecting what
7 happens in Trial Chamber I. And so tomorrow morning I will come back to
8 you. I would like to refer you to paragraph 155 (as interpreted) because
9 there is all sorts of difficulty revolving around an oral decision.

10 Madam Court Officer, we have started our hearing quite late
11 because of all these technical issues. It is nearly 3.30. We started at
12 2.45, if I'm not mistaken. I was wondering whether we could go longer
13 and not suspend at 4.00, but perhaps 4.15. That would allow us to have
14 45 minutes with our witness. Is that possible?

15 All right. We can continue until quarter after 4.00.

16 And, Counsel Hooper, that gives us a little bit more time for
17 your cross-examination. I was wondering whether we could call on the
18 security officers -- I'm sorry, what's happening? You don't want the
19 witness to enter?

20 MR. GARCIA: (Interpretation) It was just that when we parted
21 last time there was just the question of whether Counsel Hooper, during
22 cross-examination, could use the identity card of the sister of the
23 witness. That topic was broached briefly. Counsel Hooper had the
24 opportunity to formulate some arguments with regard to this. I had also
25 started to prepare some arguments. Obviously if Counsel Hooper still has

1 plans to use that identity card, I would like to then have the
2 opportunity to present the outline of my arguments to the Chamber.

3 PRESIDING JUDGE COTTE: (Interpretation) Yes. When we parted
4 Counsel Hooper was planning to file the photo of an identity card that
5 apparently pertained to the sister of the witness.

6 Counsel Hooper, do you plan to continue in that vein? If that is
7 the case, then the Prosecution will present its objection or objections,
8 and then there will be specific details that will be brought to reply to
9 the objections presented by the Prosecutor.

10 Counsel Hooper.

11 MR. HOOPER: Yes, and in fact you may recall that last time when
12 this was referred to, neither of the accused were present in Court. And
13 so I was invited, essentially, to repeat the application, and so I do.

14 The application relates to a document, the reference of which I
15 understand is DRC-D02-0001-0110, and it may assist if that document is
16 before you for the course of my submission. You will recall that this
17 document is a document that relates, as you rightly just said, to - we
18 say - that is, that the Defence assert that it relates to the sister of
19 the witness. Now, we're in open session. I don't require us going into
20 closed session. I'll avoid any identifying features in the course of the
21 submission.

22 My application is to do two things: First of all, to produce the
23 document to the witness in order to gain his evidential response to the
24 document, by that I mean to the details within it; secondly, to have the
25 document admitted as documentary evidence in the case.

1 Turning to the first limb of that application, that is, to
2 produce the document to the witness in order that he makes his evidential
3 response to matters contained within it, these are, in our submission,
4 matters that are reasonably within his knowledge, relating as they do to
5 his sister. So, for example, looking at the document, you'll see that it
6 comes in two pages, one being the reverse and one the side containing the
7 identifying features of the document. The witness, it's proposed, can
8 confirm certain features perhaps relating to that matter because it's
9 plainly an area within his own knowledge. He can tell us, for example,
10 whether the photograph on that document is indeed his sister. He can
11 tell us if the name is the name of his sister. He can tell us if, to his
12 knowledge, she is attending that particular school, which he has some
13 knowledge about because he's referred to it in any event or a place
14 similar to it in his evidence already. Whether, to his knowledge, she is
15 undergoing that particular course and whether she lives at that
16 particular address.

17 The witness is also, in my submission, in a position to help us
18 as to whether the date of birth that appears on this document is
19 consistent with his own knowledge of his sister. It's not necessary that
20 he knows the precise date of birth, though we'd submit it'd be a little
21 odd if he didn't know the date of birth of his younger sister, but even
22 if that was the case he can certainly help us as to whether the year, for
23 example, accords with his own position as far as his sister's age is
24 concerned. And that of course is relevant because of the general
25 hierarchy within which he's placed in the family, and you recall that on

1 the last occasion when we met, the witness admitted that his sister, his
2 only sister, was younger than he was.

3 So those are all matters that he can help us with. He can help
4 us with, for example, the name of the "prefet des etudes" whose stamp
5 appears on the document as to whether that's also a name that he knows.
6 So those are all matters this witness can help us with and that of course
7 is in the general context of my duty to put my case, and it's an
8 opportunity for him to react to the details of that document. And all
9 that helps in respect of my second limb, that is, producing the document
10 because, of course, if he is able to confirm many of those details, as I
11 anticipate he may be, then that all -- of course all goes to indicia of
12 reliability for the admissibility of the document.

13 My second limb of the application is that this document be
14 admitted in due course as documentary evidence under your powers to rule
15 under Article 64. My application is based obviously on Article 69(3), a
16 party may submit evidence, and it's for you, the Court, under 69(4), of
17 course, to rule on reliability and issues of admissibility and probative
18 value, and you do so, as we know, on a case-by-case basis. And the
19 portal by which the evidence can be admitted is either through the
20 witness itself - and I refer to your decision 1665 and paragraph 97
21 there, that is, where there exists an inherent correlation between the
22 document and the witness.

23 Although this isn't the witness's document, the witness is
24 peculiarly placed, that is to say, he's especially placed in order to
25 have what I would submit that inherent correlation between himself and

1 the document because of the nature of the relationship between the
2 witness and the person to which this document purports to relate.

3 In any event, I'd seek, if not through this witness, to tender it
4 because of its relevance to an important issue in the case, we all know
5 what that is; its probative value based on its indicia of reliability;
6 and its essential lack of prejudicial effect in terms of either the
7 co-accused or indeed the Prosecution's position in this case. It's also,
8 in my submission, very important in the circumstances of the position of
9 this witness that this witness gets an opportunity to deal with a
10 document such as this, and it's not the only document I propose to show
11 him. He has an opportunity now to deal with it. And this is of course
12 an issue that goes to an important matter relating to this witness's
13 testimony. Essentially, it goes to age.

14 So that's the submission.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
16 Counsel Hooper, for this clarification.

17 Prosecutor, you have the floor.

18 MR. GARCIA: (Interpretation) Your Honour, your Honours,
19 contrary to what Counsel Hooper states, the witness has no link with the
20 document which we would like to be able to use for the cross-examination,
21 Witness 279, that is. Witness 279 is not able to tell us if this
22 document is authentic or not or if the information contained therein is
23 authentic or true. This is a document - and we shouldn't forget
24 this - which comes from a third party. Now, I'm not going to mention it,
25 but the name of the place -- this is a document which comes from an

1 institute, an educational institute.

2 Now, when the witness -- the witness cannot help the Bench with
3 whether this is authentic or not. This is something that comes under the
4 Defence -- it is the Defence which in its exonerating evidence should
5 file or it should produce this document if it wishes to introduce it into
6 its final proceedings and it should establish its authenticity as well.
7 It's not up to the witness to do so. Essentially, there's a principle
8 guiding my pleadings which is that a witness can answer with regards to
9 what he has written and in what he's participated, but he cannot respond
10 with regards to a document from a third party. He can't explain to us
11 how the information was obtained, how it was given, how it was received.
12 So in practice, it is not useful for the witness to comment on this
13 document.

14 What Counsel Hooper is trying to do in cross-examining this
15 witness using this document in doing so is to make the witness change
16 answers. He has already been clear in this regard where it concerns the
17 age of his sister using a document from a third party. The witness
18 cannot answer with regards to statements contained in that document. It
19 shouldn't be permitted for Counsel Hooper to refer to it and to try and
20 to lead the witness into error on this subject. Counsel Hooper states
21 that in his exercise it's important -- or in its use it's important that
22 questions can be put to the witness with regards to the name of the
23 school, the courses, the address of the witness, the date of birth of the
24 witness, the name of the "prefet des etudes." Counsel Hooper has the
25 possibility to ask the witness all questions with regards to this

1 information without making reference to the document in question, the
2 ID card of his sister. It is not necessary for Counsel Hooper to refer
3 to it.

4 So we have to ask ourselves: Why does Counsel Hooper want to use
5 this ID card so much when he can freely ask questions with regards to all
6 these different aspect, and the problematic issue is the photograph of
7 the sister of the witness appearing in this document. I'm not going to
8 go into comments about all the repercussions, the negative repercussions
9 that there could result from showing a picture of this witness's sister
10 while he is testifying. You have to remember that the witness is in a
11 protection programme, but the remainder of the family are not. I
12 understand that the VWU, in its submission 2092, already may -- referred
13 to problems and consequences of a psychological nature with regards to
14 the witness when photographs were -- his photograph was used. And I
15 consider that the principles of the VWU in this submission also apply
16 here.

17 Now -- and that is why all the more -- the witness is here in
18 The Hague, the members of the family are elsewhere, when you show him a
19 photo of members of his photograph (as interpreted), his sister who is
20 not protected, then the witness could have reasonable fears with regards
21 to this subject. It is not necessary for Counsel Hooper to show this
22 card.

23 I'm sorry, your Honour. But essentially it is not essential for
24 Counsel Hooper to show this ID card. I think that it is inappropriate in
25 the circumstances to do so, given that this ID card comes from a third

1 party. I would just like to refer the Chamber to the fact that when
2 Counsel Hooper seized the Chamber initially on Friday of this request to
3 use this ID card, he stated that he simply wanted to give the witness the
4 opportunity to clarify the age of his sister, and this is -- what
5 Counsel Hooper wants to demonstrate with this witness is that his sister
6 is not younger than him, she's older.

7 Now, the questions have been asked in this regard to the witness
8 already during Friday's hearing, and here I'm referring to the
9 transcript 149, and more precisely page 68, 70, and 71 thereof.
10 Counsel Hooper has already attempted, he has already cross-examined with
11 complete freedom the witness to see what the age of his sister was. And
12 firstly, you have page 68, lines 20 and following, he's asked the
13 question:

14 "How old is your sister now?"

15 And contrary to what Counsel Hooper stated on Friday on line 14
16 and following of page 74, the first answer was not to be in agreement
17 with the fact. He said:

18 "I don't know. I have forgotten her age."

19 And this is different to what Counsel Hooper stated on Friday.

20 And the question was continually put:

21 "She's 22, isn't she?"

22 "A. Who?"

23 "Q. (Expunged)"

24 And the witness ultimately said yes. And when we come back to
25 this issue, I can understand that Counsel Hooper had a good reflex of

1 coming back on that because he knew that there was a certain ambiguity in
2 that regard. In the answer of the witness he wanted to clarify this
3 issue and he asked the question once again on page 70, lines 24, 25,
4 (Expunged) who is now 25 (as interpreted). That was a question of
5 Counsel Hooper. And the answer was:

6 "Who told you that?" On page 71, lines 1 and 2:

7 "How old was your young sister?" Question of Counsel Hooper.

8 Answer once again:

9 "I have forgotten her age."

10 So on two occasions, Witness -- sorry, your Honour, the Witness
11 answered the question of Counsel Hooper. He confirmed that he was not
12 able to give precisions with regards to the date because he had forgotten
13 it -- or the age, he had forgotten it. So you cannot use a document
14 which comes from a third party in order to cross-examine the witness.
15 You have to be fair to the witness. The witness cannot tell us anything
16 with regards to the authenticity of the information appearing thereon.

17 Now, with regard to all the preceding pleadings of Counsel Hooper
18 and that he -- what I would say is that contrary to what he says, he can
19 ask questions with regards to all the information. If Counsel Hooper has
20 concerns with regards to the name of the sister of the witness, he can
21 use the information which can be found in the ID card and he can ask the
22 witness to confirm this. If also there is a question with regards to the
23 matriculation number or registration number, he can ask the question.

24 So, your Honour, you can see on the ID card that this was
25 issued - unless I'm wrong here - and under the control of

1 Counsel Hooper's team, it was issued in 2010. So the witness is already
2 in a protection programme and has been for a certain amount of time.

3 Furthermore, if Counsel Hooper wants to ask him questions with
4 regards to the programme in which his sister was, he is free to do so
5 without the ID card. So all these aspects which have been mentioned by
6 Counsel Hooper, questions can be asked freely by Counsel Hooper without
7 recourse to a document on which we see the face of his sister, which
8 could have certain effects or repercussions on the testimony of the
9 witness.

10 So the principle is simple. The witness can be cross-examined
11 obviously on something that comes from him. This is not the case in
12 point here. And I would also say to you, your Honour, your Honours, that
13 if Counsel Hooper intends to produce this document, he would have every
14 opportunity to do so in the Defence evidence or exonerating evidence.
15 They could ask the -- for a document to be admitted as such, and he could
16 have the "prefet" testify in order to demonstrate the authority thereof.

17 Now, the witness that you have before you today can say nothing
18 with regards to the authenticity of this document.

19 So for all these reasons, with regards to the security issues,
20 with regards to the fears that it could give rise to for the witness, and
21 also under the general principle the fact that a witness can only --
22 cannot comment on something that does not come from himself. You have to
23 be fair to the witness and we are trying to establish the truth,
24 obviously, and I respect fully submit, your Honour, that we cannot allow
25 Counsel Hooper to use this ID card for the cross-examination.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Prosecutor.
2 We are going to ask you for a few moments.

3 (Trial Chamber confers)

4 PRESIDING JUDGE COTTE: (Interpretation) Counsel Hooper, would
5 it be possible for you, before the Bench rules with regards to the
6 objection of the Prosecutor, to give us certain clarifications with
7 regards to the conditions under which you were able to obtain disclosure
8 of this ID card of the pupil referred to, the identity of the pupil?
9 Could we have more precision with regards to the way in which you
10 obtained this document in order to enable us to form an opinion with
11 regards to its authenticity, please.

12 MR. HOOPER: You will notice on the face of the document the
13 stamp just to the left of the photograph, the name there of the -- it's
14 not totally clear, the "prefet des etudes," and you'll have, I think, in
15 your documents a third page which is, in fact, a signed statement by the
16 "prefet des etudes," dated the 21st of May, 2010, in French, where he
17 says:

18 "(Expunged)
19 (Expunged) attest by the present that the pupil,"
20 and he names her and gives details there. And the last line:

21 "The present card of the pupil is based on elements that were
22 provided," as I understand, "in accordance with the rules of the
23 institution."

24 And then a school stamp appears there with his name. And I refer
25 to that because what's happened here is the investigator for Mr. Katanga

1 went to the school to obtain that statement from him and a copy of the
2 student or the student card which is copied there, which was obtained, I
3 think, from the school or from -- or -- and as well as, if I put it like
4 that, the sister.

5 In other words, to the best of my knowledge and belief, this is
6 an authentic card that reflects the details held within the school system
7 as well relating to the witness's sister.

8 And just on a small clarificatory point, it may have been a
9 translation difference rather than anything that Mr. Garcia himself said,
10 but in the English transcript I read Mr. Garcia saying that my objective
11 here was to make the sister older than the witness, which of course is
12 not the case, our case is that she is younger. So -- and is coming up to
13 22.

14 So that's the position.

15 MR. GARCIA: (Interpretation) If you would allow me,
16 your Honour.

17 PRESIDING JUDGE COTTE: (Interpretation) Yes, Prosecutor, if you
18 please.

19 MR. GARCIA: (Interpretation) Very briefly. I'd just like
20 confirmation on the part of Counsel Hooper that it's also the sister of
21 the witness who would have disclosed this document to the Defence?

22 MR. HOOPER: Yes.

23 PRESIDING JUDGE COTTE: (Interpretation) Very well. Thank you,
24 Prosecutor.

25 So at this stage of our proceedings, the Chamber considers that

1 this ID card relating to the education of the sister of the witness is
2 relevant. The Chamber has the duty of ensuring or knowing the exact age
3 of this witness. If there is lack of certainty with regards to the age
4 of a witness who is said to have been a child soldier in this case, which
5 is one of the charges against the accused, it is important that the Bench
6 be able to assure themselves of this in the same way. The precisions
7 which have been given by Counsel Hooper with regards to the conditions
8 under which this document, this ID document, was obtained by the Defence
9 team of Germain Katanga, clarifications which were also given and which
10 make it possible for the Bench to get a reasonable idea of the
11 authenticity of this document, which make it consider that it is
12 admissible.

13 Counsel Hooper, you will present this document. The Chamber is
14 sensitive to the concerns expressed by the Prosecutor where it concerns
15 the possibility that the witness might be made uncomfortable by this
16 presentation of the document, the photograph of the sister, but the
17 principle of testimony is sometimes to find oneself in an uncomfortable
18 position. So whatever the case, Counsel Hooper will ask this question
19 and the Chamber is persuaded that this will be done, as usual, with the
20 tact and prudence which is appropriate thereto.

21 Now, the problem that we have at the moment is that the time to
22 have the accused leave and to have the witness come back and then put the
23 witness in a situation whereby he can testify will take us to 4.15. If
24 you want 15 minutes now, would you like to use this 15 minutes to have
25 the witness? Yes?

1 MR. HOOPER: Yes.

2 PRESIDING JUDGE COTTE: (Interpretation) Okay.

3 Security officers -- thank you, Counsel Hooper.

4 Security officers, please could you escort out the two accused,
5 please.

6 (The accused withdrew)

7 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, we are
8 going into closed session, the time in which the witness shall enter.

9 (Closed session at 3.59 p.m.)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Open session at 4.02 p.m.)

22 COURT OFFICER: (Interpretation) We are in open session,
23 your Honour.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
25 Court Officer.

Witness: Witness P-0279 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 Good afternoon, Witness.

2 THE WITNESS: (Interpretation) Good afternoon.

3 PRESIDING JUDGE COTTE: (Interpretation) I simply wanted to be
4 sure that you can hear me very well, and that seems to be the case. So
5 everything is working well?

6 THE WITNESS: (Interpretation) Yes.

7 PRESIDING JUDGE COTTE: (Interpretation) Witness, we had several
8 procedural issues to resolve before calling you in. We are going to be
9 together for just a brief moment, then we will break, and then you'll
10 come back for a longer period. Mr. Hooper is going to put some questions
11 to you. He will be the one continuing his cross-examination, so please
12 listen carefully to him.

13 Mr. Hooper, please.

14 WITNESS: WITNESS P-0279 (Resumed)

15 (Witness answered through interpreter)

16 Questioned by Mr. Hooper: (Continued)

17 Q. Good afternoon, Mr. Witness.

18 A. (No interpretation)

19 Q. I'd like to go back to a matter that we discussed last week, and
20 that was how long you were in the militia. Have you had time to think
21 about that over the last nine or ten days; and if so, what is your
22 answer? How long were you in the militia?

23 A. I stayed for one month and beyond in the militia.

24 Q. Now, when you say "beyond," what do you mean? Do you mean a
25 month and some days? A month and some weeks? Or a month and some

Witness: Witness P-0279 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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1 months? What do you mean?

2 A. It means a few weeks.

3 Q. All right. Now, there's some questions I want to ask about your
4 schooling, so perhaps we will have to go --

5 MR. HOOPER: We will have to go into closed session -- private
6 session in respect to those questions. That will bring me up to the
7 15 minutes.

8 PRESIDING JUDGE COTTE: (Interpretation) Very well, Mr. Hooper.

9 And for those who are in the public gallery, the questions that
10 will be put to the witness could identify him and he is a protected
11 witness, so we have to go into private session.

12 Court Officer, private session, please.

13 (Private session at 4.06 p.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

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20 (Expunged)

21 (Expunged)

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Witness: Witness P-0279 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Witness: Witness P-0279 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Witness: Witness P-0279 (Resumed) (Private Session)
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Witness: Witness P-0279 (Resumed) (Private Session)
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Witness: Witness P-0279 (Resumed) (Private Session)
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- 18 (Closed session at 4.32 p.m.)
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- 24 (Expunged)
- 25 (Expunged)

1 (Open session at 4.33 p.m.)

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

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

6 I would like to thank those who are helping us and for their
7 willingness to adjust to this new schedule. We will now resume at
8 5.00 p.m., so we will break for half an hour. The hearing is suspended.

9 Recess taken at 4.34 p.m.

10 On resuming at 5.14 p.m.

11 (Closed session at 5.14 p.m.)

12 (Expunged)

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23 (Private session at 5.16 p.m.)

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Witness: Witness P-0279 (Resumed) (Private Session)
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Witness: Witness P-0279 (Resumed) (Private Session)
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Witness: Witness P-0279 (Resumed) (Private Session)
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Witness: Witness P-0279 (Resumed) (Private Session)
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Witness: Witness P-0279 (Resumed) (Private Session)
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Witness: Witness P-0279 (Resumed) (Private Session)
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Witness: Witness P-0279 (Resumed) (Private Session)
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Page 51 expunged. Private Session.

Witness: Witness P-0279 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Page 52 expunged. Private Session.

Witness: Witness P-0279 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Page 53 expunged. Private Session.

Witness: Witness P-0279 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Page 54 expunged. Private Session.

Witness: Witness P-0279 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Page 55 expunged. Private Session.

Witness: Witness P-0279 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Page 56 expunged. Private Session.

Witness: Witness P-0279 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Page 57 expunged. Private Session.

Witness: Witness P-0279 (Resumed) (Private Session)
Evidentiary Matters

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Page 58 expunged. Private Session.

Witness: Witness P-0279 (Resumed) (Closed Session)
Evidentiary Matters

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- 1 (Expunged)
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- 18 (Expunged)
- 19 (Expunged)
- 20 (Closed session at 6.23 p.m.)
- 21 (Expunged)
- 22 (Expunged)
- 23 (Expunged)
- 24 (Expunged)
- 25 (Expunged)

1 *(Open Session)

2 PRESIDING JUDGE COTTE: (Interpretation) While the witness is
3 leaving us and even though the accused persons have already left, the
4 Court Officer will assign numbers to the student's identity card that was
5 presented by Mr. Hooper, which has (Expunged)

6 Do you wish an EVD number for that?

7 MR. HOOPER: Yes, please.

8 PRESIDING JUDGE COTTE: (Interpretation) It is the student's
9 identity card which, according to the witness, bears the year 2007.

10 MR. GARCIA: (Interpretation) Unless the Chamber has already
11 taken a decision in that regard, I would like to point out that the
12 witness did not confirm that the photograph on the card is that of his
13 sister. He only confirmed the name, but he didn't -- he did not confirm
14 the rest of the information.

15 PRESIDING JUDGE COTTE: (Interpretation) But we are right now
16 talking about the student's card for the witness which was issued in
17 2007. So it should not be any problem.

18 MR. GARCIA: (Interpretation) I was talking about the identity
19 card of his sister.

20 PRESIDING JUDGE COTTE: (Interpretation) I think it is not
21 really essential to -- for the accused persons to be present while the
22 EVD number is given, so that number will be given for the document issued
23 in 2007. I'll show the document again to all the participants so that we
24 can all agree. I have it. It is this document.

25 COURT OFFICER: (Interpretation) The student ID card of the

1 witness bearing ERN number DRC-D02-0001-0115 will be assigned the
2 following EVD number: EVD-D02-00032.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
4 Court Officer.

5 Now, with regard to the school identity card of someone who could
6 be the sister of the witness and the photograph that we have discussed,
7 assigning an EVD number will be decided tomorrow because the Defence of
8 Mr. Katanga can come back to this issue tomorrow morning. You remind us
9 about that, Court Officer, and Mr. Hooper had indicated that he wanted an
10 EVD reference for that document. We also have to decide about the
11 photograph of a young girl with a white top.

12 We will break. We will adjourn now and we will resume tomorrow
13 at 9.00 a.m., and the Prosecutor will tell us about his objection to the
14 presentation of the document that Mr. Hooper wanted to present.
15 Mr. Hooper will respond. And then the cross-examination will continue.

16 So, Court Officer, the witness will not be present at the
17 beginning of our hearing tomorrow. We were in closed session, so the end
18 of our hearing has to be reclassified as open session.

19 We will now go back to open session.

20 (Open session at 6.28 p.m.)

21 COURT OFFICER: (Interpretation) We are in open session,
22 Mr. President.

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

25 The hearing is adjourned. We will resume tomorrow at 9.00 a.m.

1 The hearing ends at 6.28 p.m.

2 RECLASSIFICATION REPORT

3 * Pursuant to Trial Chamber II's oral order dated 07 June 2010, the
4 excerpt of the transcript starting page 60 line 1 to page 61 line 19 is
5 reclassified from Closed session to Open Session

6 CORRECTION REPORT

7 The following correction has been made to the English transcript:

8 * Page 2, line 1

9 ".....the redactions of Witness 241's"

10 Is corrected by

11 ".....the redactions of Witness 267's"