

1 International Criminal Court

2 Trial Chamber I - Courtroom I

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 Prosecutor versus Germain Katanga and

7 Mathieu Ngudjolo Chui

8 Trial Hearing

9 Monday, 11 October 2010

10 The hearing starts at 2.02 p.m.

11 (Open session)

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

14 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.

15 The accused are in the courtroom. Before we bring in the witness
16 to the courtroom, the Chamber would like to hand down an oral decision on
17 the application of the Prosecutor, dated the 23rd of September, 2010, for
18 the purpose of taking a further statement from Witness P-0028.

19 Before reading the decision itself, the Chamber would like to
20 point out that the reading will take place in open session even though
21 the filings related thereto are still classified as confidential. In
22 order to ensure the public nature and transparency of the proceedings,
23 the Chamber calls on the parties to submit public versions of their
24 filings by proposing redactions that they think are necessary.

25 By application number 2406 of the 23rd of September, 2010, the

1 Prosecutor asked the Chamber for leave to carry out a new interview of
2 Witness P-0028, who is in the process of familiarisation, and to take a
3 further statement in light of information that he has received. To that
4 end, he points out that on the 6th and 7th of September, 2010, counsel
5 for Witness P-0028 informed him that the witness wanted to clarify or
6 even modify some of his prior statements.

7 The Prosecutor submits that a new interview of Witness P-0028,
8 before he testifies before the court, will make it possible to have an
9 expeditious and efficient conduct of the hearings without causing any
10 prejudice to the Defence. He further points out that the interview with
11 the witness will be limited to those new elements. The interview can
12 take place very shortly, and the Defence teams would then be able, and I
13 quote, "through disclosures to have access to new potentially exculpatory
14 or incriminating evidence." To that end, he adds that if the statement
15 so taken contains potentially incriminating information, he will then
16 seize the Chamber to seek leave to disclose the information as
17 Prosecution evidence.

18 The Chamber notes that the initial application of the Prosecutor
19 was classified as confidential and ex parte and reserved to the OTP, to
20 VWU, and to counsel for Witness P-0028. The Chamber further notes that
21 on the 27th September 2010, in answer to a request made by e-mail of the
22 24th of September, 2010, the Prosecutor submitted a confidential redacted
23 version of his application so as to make it accessible to the parties and
24 participants. The Chamber set a time deadline of the 5th of October,
25 2010, to those parties to respond to the application.

1 On the 30th of September, 2010, the Defence for Mathieu Ngudjolo
2 filed its confidential response. The Defence stated that they do not
3 have any objection in principle, but pointed out that they would reserve
4 the right to ask for additional investigation time if the interests of
5 the accused person Mathieu Ngudjolo are put into play.

6 On the 5th of October, 2010, the Defence for Germain Katanga
7 filed its own confidential response. The Defence indicates that they are
8 not opposed to a new interview or to a new statement. Pointing out the
9 particular circumstances in which Witness P-0028 already travelled to the
10 Netherlands and during which at one point he showed that he was reluctant
11 to testify in this particular case, the Defence is requesting that the
12 interview should be recorded and transcribed and disclosed at the same
13 time as the additional statement pursuant to Rule 77. The Defence points
14 out that the Prosecutor would have to provide justification, pursuant to
15 the provisions of Regulation 35 of the Regulations of the Court if he
16 intends to add the statement to the list of Prosecution evidence because
17 the time limit for that has been exceeded.

18 Lastly, in light of the additional statement that will be taken,
19 the Defence reserves the right to apply for additional time for
20 investigation before the witness testifies.

21 By e-mail of the 7th of October, 2010, the Prosecutor informed
22 the Chamber that he was in a position to carry out the recording of the
23 interview that would take place with Witness P-0028 in Swahili and French
24 and disclose those items at the same time as the written statement. He,
25 however, pointed out that if that is done, there would be no need to

1 provide a transcription.

2 The Chamber notes that the Defence teams are not opposed to a new
3 interview with Witness P-0028 and the taking of a further statement from
4 that witness. The Chamber further notes that the Defence teams reserve
5 or wish to reserve the right to ask for new investigation time in light
6 of the substance of the further statement. The Chamber is of the opinion
7 that the disclosure of the statement and the recording of the interview
8 would make it possible for the Defence teams to have sufficient
9 information without it being necessary for a transcription to be also
10 disclosed.

11 The Chamber has therefore decided to grant the application of the
12 Prosecutor and calls on the latter to take the statement and record the
13 interview as soon as possible.

14 Regarding disclosure, the Chamber is of the opinion that the
15 statement should be disclosed immediately pursuant to Rule 76 of the
16 Rules of Procedure and Evidence and that the recording should be
17 disclosed pursuant to Rule 77. Once the disclosures have been done, the
18 Chamber will determine, in the event that it is seized, whether it is, on
19 the one hand, for the Prosecutor to add that statement to his list of
20 Prosecution evidence, and on the other hand, whether it is necessary to
21 grant additional time to the Defence teams.

22 Court Officer, let us go into closed session to allow the witness
23 to come into the courtroom and then we will revert to open session.

24 (Closed session at 2.10 p.m.)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Open session at 2.12 p.m.)

7 COURT OFFICER: We're in open session, your Honours.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

9 Court Officer.

10 WITNESS: WITNESS DRC-OTP-P-0012 (Resumed)

11 (Witness answered through interpreter)

12 PRESIDING JUDGE COTTE: (Interpretation) Good afternoon,

13 Witness.

14 THE WITNESS: (Interpretation) Good afternoon.

15 PRESIDING JUDGE COTTE: (Interpretation) I can see that you can

16 hear me.

17 THE WITNESS: (Interpretation) Yes.

18 PRESIDING JUDGE COTTE: (Interpretation) Witness, we are once

19 again in the courtroom this afternoon, and Mr. Hooper will continue with

20 his cross-examination.

21 Mr. Hooper, please.

22 Questioned by Mr. Hooper: (Continued)

23 Q. Good afternoon, Mr. Witness.

24 A. Good afternoon.

25 Q. Now, when we left things on Friday, you were in the hands of the

1 CMI, having been arrested on the 24th of December of 2002, and I want to
2 pick up my questions from that point.

3 You were in custody, I understand, for two weeks; is that right?

4 A. Yes.

5 Q. And when you were there, who questioned you?

6 A. On the first two days -- in fact, let me begin by making a
7 correction. It is not the CMI that had arrested me. I had been arrested
8 by the neighbourhood policemen, and it had been soldiers who had come and
9 taken me from the house to the police station, and the following day the
10 Chief of Police questioned me, and then he said he thought the problem
11 did not concern him, and he decided to release us. It was at that time
12 that we were transferred to the CMI. There were three inspectors there
13 who were questioning us. I do not know their names. We were sleeping in
14 the cells, and two or three days after the questioning we were brought
15 back to the police station, and there at the police everyone was released
16 except me because there were people in my house. And since then no one
17 questioned me again. So I was taken to the safe house, and I stayed
18 there for one week and a few days until I was let go. So I was taken
19 back to the police station, and there I was told to go home, but while at
20 the safe house, no one questioned me.

21 Q. During that time in custody did you meet Nobel Mayombo?

22 A. No. He was such a senior officer that he could not take care of
23 our issues. There were inspectors working under him that were
24 responsible for questioning us.

25 Q. Can I just provide the spelling for that. That's N-o-b-e-l,

1 Nobel, and Mayombo, M-a-y-o-m-b-o.

2 Did you ever meet him?

3 A. Several times.

4 Q. He was, at the time, the head of military intelligence for
5 Uganda; is that right?

6 A. Yes.

7 Q. Following that arrest and detention, did you become an informant
8 for Ugandan intelligence?

9 A. No.

10 Q. We've just dealt with events right at the end of 2002, and it
11 would follow from what you've told us that you were detained on
12 Christmas Eve and kept in over Christmas and the new year and released
13 sometime in early January. Do you remember the date of your release?

14 A. No. I do not remember, but it was in early December. I do not
15 remember the specific date.

16 PRESIDING JUDGE COTTE: (Interpretation) Early January you mean?

17 THE WITNESS: (Interpretation) Yes, early January 2003.

18 MR. HOOPER:

19 Q. Now, I want to step back six months to June of 2002 and ask you
20 about an incident involving Wamba dia Wamba, who, we may recall, had been
21 head of the RCD and still clung, in his mind anyway, to a position within
22 the RCD.

23 Is it right in June 2002 that Thomas Lubanga arrived in Kampala
24 in order to discuss things with Wamba dia Wamba? Do you remember that?

25 A. I do not know, and, in fact, I do not believe so.

1 Q. Let me ask you this: Are you aware of Wamba dia Wamba signing a
2 document whereby he gave -- or whereby Nobel Mayombo, who we've just
3 mentioned, was to receive the sum of \$340.000 payable by the RCD/K-ML?
4 Have you ever heard of that as something that happened?

5 A. Yes.

6 MR. HOOPER: Can we just go into private session just for one
7 question.

8 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.

9 (Private session at 2.20 p.m.)

10 (Expunged)

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22 (Expunged)

23 (Open session at 2.26 p.m.)

24 COURT OFFICER: We're in open session, your Honours.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

1 Mr. Hooper, please proceed.

2 MR. HOOPER:

3 Q. So in June of 2002, an arrangement was entered into whereby the
4 head of security in Uganda, Nobel Mayombo, was to be paid \$340.000 from
5 exploited minerals and to be paid by the RCD/K-ML, or at least by
6 Wamba dia Wamba.

7 Now, that money having been paid, is it right that
8 Thomas Lubanga, who was visiting Kampala for talks with Wamba dia Wamba,
9 was then arrested or detained by the Ugandan authorities and flown to
10 Kinshasa, and indeed, was that what the purpose of that money was, to
11 have Lubanga arrested and given over to Kinshasa?

12 A. I do not know what you're talking about, Counsel. I was not a
13 member of any of those parties. I was not a member of Lubanga's party,
14 and I do not know anything about the compromises that they made at the
15 beginning.

16 What I know is that when Wamba dia Wamba was at the
17 Silver Springs and he wanted to leave, Mr. Camille Kibonge received
18 Wamba dia Wamba because it was not Lubanga himself who went to Bunia.
19 Lubanga had been invited together with a delegation by the Ugandan
20 authorities and he was staying at a hotel right next to my home. That is
21 where he was staying. That is where he was arrested and taken to
22 Kinshasa. I do not know that it had anything to do with the money that
23 you have talked about. On the other hand, before Wamba dia Wamba left
24 for Kinshasa, he was staying at the Africana hotel. And in the Africana
25 hotel, his room was guarded by Camille Kibonge because he was head of

1 security, and the military security officers that you mentioned came to
2 that room. It is Camille who told me that. So he came and went into the
3 room of his boss, and he himself, Camille, went into the room because he
4 did not know what was going to happen in that room. He told him not to
5 accept that issue of money, that he had taken money. And so they reached
6 a compromise that if that happened, the -- Wamba dia Wamba's people who
7 had stayed in Silver Springs would not be driven away from there, and
8 Uganda would be able to help those who went to Kinshasa.

9 It was under those circumstances that Kibonge was able to be
10 helped to travel back to Kinshasa. He was supposed to travel in the same
11 plane that was taking Thomas Lubanga to Kinshasa. But I would like to
12 add that that issue of money that you are talking about had nothing to do
13 with Lubanga discussing with Wamba dia Wamba. It had nothing to do with
14 that. The fact is that the colonel had corrupted Mr. Wamba, and that is
15 his body-guard who told me that, so that he should not inform the panel
16 that he had received that money.

17 Q. Indeed. Now, I'd like to come to the -- discuss a little about
18 the UPC, and -- would it be fair to say that you became very close to
19 members, Hema, who composed the UPC?

20 A. No.

21 Q. Now, following the events in Kisangani that we touched on last
22 week, when Uganda and Rwanda fought one against the other, following that
23 the RCD/K-ML went and formed its headquarters in -- in Bunia; is that
24 right?

25 A. Yes. Yes, that's correct.

1 Q. And about that time, indeed more specifically in July of 2000, is
2 it right that there was a mutiny of the Hema soldiers who made part of
3 the -- made up part of the RCD/K-ML's army? There was a mutiny by the
4 Hema soldiers, July 2000.

5 MR. MACDONALD: (Interpretation) With your leave, your Honour.
6 Last Friday, we already had several questions that had to do with various
7 matters, the historical background well before the attacks of 24 February
8 2003. The Prosecution can understand the relevance of some questions,
9 but at this particular stage, your Honour, I'm really wondering about the
10 relevance when one tries to go into the details of all of those matters.
11 That's -- so be it. There has been some written material provided, and
12 there were some bar table motions. Reports were prepared by various NGOs
13 regarding the historical background of the events, and also the testimony
14 of certain witnesses in the Lubanga case, your Honour, including the
15 testimony of this witness. So to speed things up, we could admit that
16 testimony into evidence, or we could move more quickly on the relevant
17 points, the more important points.

18 We're talking about events that go back to the year 2000; namely,
19 how the Ugandans form the UPC, and so on and so forth. I believe that
20 for some questions here, we are drifting away from the necessary points,
21 the necessary points to understand the background of this particular
22 case.

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

24 Mr. Hooper, I think you realise that the Chamber does want to
25 avoid repetition and would like you to go to the essential questions. So

1 we wish to remind you, if you wish to have an answer to that question,
2 please ask the question again, which has to do with the year 2000, but
3 please remember that we do want to make progress in these proceedings so
4 perhaps you could focus more closely on what's absolutely necessary.
5 Please proceed.

6 MR. HOOPER: Yes, certainly. I just stress that last week, in
7 fact, we discussed some of the contextual background, some of it within
8 the knowledge of this defendant, up until 2000. I'm picking up that
9 history again because it is relevant, and as we'll see as, I think, my
10 questioning unfolds.

11 Q. So 2000. Basically the UPC, as an identifiable body becomes
12 founded, is this right, in September of 2000? Is that right?

13 A. I think that, as the Prosecutor said, there is the UN report on
14 that, as well as reports from Human Rights Watch that discuss the matter.
15 I wasn't a member of the UPC. I wasn't a Hema. So the setting up of
16 that organisation, I don't think that really has anything to do with me.

17 Q. But my understanding, sir, is that Chef Kahwa told you many
18 details about this; is that right?

19 A. Yes. He told me about the process that led to the creation of
20 the UPC. That is correct.

21 Q. And did you learn that subsequent to its creation that Hema
22 soldiers received significant training in Uganda? Is that right?

23 A. Yes. Not just learned about it. I actually visited a camp where
24 they were receiving the training, in Rwabisengo. I went there.

25 Q. And why did you do that?

1 A. Because since there was no way of leaving Bunia to go to Paidha,
2 in Uganda, we began to go by way of the Kasenyi plain. People would
3 cross from Biguma. Biguma is another village. I don't know whether you
4 know about that village. B-i-g-u-m-a. That village is on the side of
5 the Congo, but it faces Budiba, a Ugandan town, and people would cross at
6 that point. We took the vehicle from the other side, but this time we
7 asked that all Congolese going to Kampala go first to the military camp
8 that was there. So under those circumstances, we were taken to the
9 military camp, but once there, there was a Ugandan soldier in the truck
10 that we had, and he argued with the camp commander. We stopped there,
11 and we -- it was asked that the vehicle not leave.

12 Q. Can I just interrupt you. It may be that you're giving us
13 perhaps a little more information than we need in interest of a little
14 speed.

15 Anyway, you came to visit --

16 A. No, it's not a lot of information that you need because you asked
17 to me how it came to be that I was there and I was explaining to you why
18 I was there. You sat that it's too much information. I hadn't even
19 finished with my explanations and you say you don't need the answer. I
20 was saying that the truck had stopped there at that point because they
21 were going to do a check of everyone who was going towards Kampala, and
22 they -- and we saw that the Hema were being trained there. So those were
23 the circumstances.

24 Q. Sorry, I wasn't clear. Did you go into the camp yourself?

25 A. Yes. The vehicle went to the camp, because it was right there at

1 the camp. We were asked. The soldiers were there, and we had to go by
2 that way. We had to have our papers checked by someone. It might have
3 been a police officer, and this time there was a change. We had to go by
4 way of the camp. And when we got to the camp -- you see, the conflicts
5 between the soldiers and the people who were responsible, the Congolese
6 people, their conflict, they said no if it's like that. Tibasima, go see
7 Tibasima to explain that the Ugandans are starting to bother us. And
8 that was at the camp where they were having the training. We were there
9 for about two hours before the vehicle was allowed to go, and we realised
10 that this training was underway there.

11 Q. Now, was Kahwa one of the founder members of the UPC?

12 A. Yes, I think so.

13 Q. And --

14 A. That's what he said.

15 Q. And later, of course, as we know, president of PUSIC. What about
16 Kisembo Bitamara, was he one of the founder members of the UPC?

17 A. I don't really understand what you're asking about, Biquamba.

18 I've -- I --

19 Q. I will ask it again because it may not have been related. Let me
20 put the question again, was Kisembo Bitamara also a founder member of the
21 UPC?

22 A. I don't think it was that person. Bitamara, Bitamara.

23 B-i-t-a-m-a-r-a. I don't know whether he was a founding member of the
24 organisation, but I don't think so.

25 Q. Was he a member of the UPC?

1 A. Yes. He was a member of the UPC, since he came from PUSIC to the
2 UPC.

3 Q. And was he a founder member also of PUSIC?

4 A. That question is complicated insofar as -- I already explained to
5 you. Well, I said to the Court earlier that sometimes when -- it was
6 difficult to determine when things started and who really was a founding
7 member. If you're talking about the beginning of PUSIC, when we were
8 still at meetings to set up the FNI, Bitamara wasn't there, but when we
9 drew up the constitution of PUSIC, Bitamara was there. So under those
10 conditions, you could say that he was a founding member of PUSIC.

11 Q. It's just a document which I can't show you. It's one of the
12 documents we got from the Prosecution just last week, and I may submit it
13 a little later. I'm not going to dwell on it now, but it has -- it's a
14 letter dated the 9th of November, 2004, and it has the person who is --
15 performs the function at number 2 on our list, and also Kisembo Bitamara,
16 and both described as *membres fondateurs*. Anyway, let me perhaps come to
17 that once we've -- and, indeed, that wouldn't be inconsistent, of course,
18 with what you've just said.

19 Let me ask you about another personality, and again please
20 correct me if my pronunciation is wrong or my spelling of it is wrong.
21 The name is Kyaligonza and I spell that K-y-a-l-i-g-o-n-z-a. Kyaligonza,
22 if that name means anything to you. Was that person also a founder
23 member of the UPC?

24 A. Once again, could we go back to the concept that you were using
25 when you talk about founding members. I think we really have to look at

1 this concept, because we can define that concept in different ways and we
2 won't agree on that.

3 Q. Let me put it a different way taking that into account.

4 Kyaligonza, was he one of the mutineers, one of the UPC mutineers who
5 then came to found the UPC?

6 A. Yes. Kyaligonza was part of the mutineers.

7 Q. Would you be good enough to spell that name for us, because it
8 may be slightly different to my spelling. I'm sorry to take up time with
9 that, but it's important to get it on the -- on the record. Could you
10 spell ...

11 A. No. It was spelled correctly. Sometimes he was called
12 Kyaligonza, but in many of the documents it was Tchaligonza.

13 Q. Fine. He had a slightly variable name. And a substantial number
14 of Hema were trained in Uganda. Is it right, to your knowledge, that
15 Chef Kahwa called on the members of his community, he called for the
16 "youngest Hema to be sent," the youngest Hema to be sent for training?

17 A. No. I don't know whether he said to send the youngest ones. I
18 just know that the members of his community had agreed for them to go
19 take the training. That is true. But don't forget that there was Hema
20 training that occurred also in Mandro. The --

21 Q. Yes, I'll come to Mandro.

22 A. Okay.

23 Q. It's just that in the statement you made back in 2005, I see this
24 at paragraph 79:

25 "Kahwa told me he had told the chefs of collectivity to send the

1 most young Hema they could."

2 I'm not going to dwell on it. Do you remember Kahwa telling you
3 anything like that?

4 A. I don't remember exactly whether he said "the youngest Hema," but
5 what I do know is that many of the people who did the training were
6 young. But he said to me that sometimes they sent the youngest -- no, I
7 don't remember that.

8 MR. MACDONALD: (Interpretation) I wish to draw the Chamber's
9 attention to a matter of semantics here. Paragraph 79, when you read the
10 French version I think there may be a misunderstanding in the way the
11 phrasing -- the phrase was uttered in English, and I think we need to be
12 careful now to draw this to your attention.

13 PRESIDING JUDGE COTTE: (Interpretation) As we did last week, we
14 will provide the witness with the statement that he made to you, the
15 Office of the Prosecutor, at that time, as well as the document with
16 various tabs from the Katanga Defence team.

17 Now, in this paragraph, paragraph 79, I read, line 4:

18 "Kahwa had told me that he had informed the leaders of the
19 collectivity to send as many young Hema as possible."

20 That is the sentence taken from its context. I have just read it
21 out. Now, could the witness be provided with --

22 MR. HOOPER: I accept there may be a difference between sending
23 as many young Hema and sending the youngest Hema. I accept that and I
24 don't pursue the point. Between the -- my English translation is
25 secondary to the text, obviously.

1 Q. Can I ask you about Thomas Lubanga. Did you ever meet
2 Thomas Lubanga?

3 A. Yes.

4 Q. Did you meet him many times or just a few times?

5 A. Well, I don't know what you mean by "several times." If you mean
6 more than twice, yes.

7 Q. Well, would you say you met him many times?

8 A. Yes. More than two times. Several times.

9 Q. Now, you've told us to your knowledge the UPC had a large number
10 of child soldiers; is that right?

11 A. Yes, they had some.

12 Q. Not some. A large number you told us. Is that right?
13 Seventy-five per cent, as I understood it.

14 A. What I saw -- I met the soldiers of the UPC with Kyaligonza in
15 Shari, and many of those soldiers whom I met myself and saw with my own
16 eyes, most were children. There may have been other people in other
17 places whom I didn't see or in the bush whom I didn't see. So I couldn't
18 tell you about that, but the UPC group that I saw in Shari led by
19 Kyaligonza and Kasangaki, I saw that most were children.

20 Q. Did you know Robert Pimbo? That's Robert, and Pimbo is
21 P-i-m-b-o. Did you know him?

22 A. Not in the UPC, but I knew him when he left the UPC.

23 Q. All right. Are you aware that when he was in the UPC, he was the
24 national general secretary in charge of mobilisation? Are you aware of
25 that?

1 A. Yes.

2 PRESIDING JUDGE COTTE: (Interpretation) Yes, Prosecutor.

3 MR. MACDONALD: (Interpretation) I reiterate my earlier
4 objection, and I would remind the Chamber of the following: The
5 witness's testimony in Lubanga is over. He gave testimony in the past,
6 and now they are going over it again. I don't know whether they're
7 looking for contradictions, but I do think at this particular stage,
8 your Honour, the topics or the details that are being asked of the
9 witness go beyond what should be relevant in this particular case, our
10 case.

11 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, just an
12 initial reply. A few -- a few responses to the Prosecutor, perhaps
13 reassurances about the relevance of these questions. Yes, this is not
14 the Lubanga trial. That is not our bailiwick. Now, do you have a
15 particular objective in mind when you are -- ask these questions,
16 bringing up these issues? Could you explain to us and to the Prosecution
17 exactly what the relevance is?

18 MR. HOOPER: Yes. First of all, as far as I'm aware, I've not
19 made any reference nor have any of my questions been provoked or
20 motivated by anything I've read in the Lubanga case. I've read this
21 witness's evidence in the Lubanga case. He said precious little. I'm
22 not, as it were, sourcing my questions from that. I don't know why my
23 friend keeps going on about the Lubanga case, its transcript, or his
24 desire to have it admitted.

25 These are relevant questions, because it's difficult for me to

1 express it perhaps entirely. I don't mind if the witness leaves the
2 court except it will just take time. I've almost -- I think it will
3 rapidly become apparent why I'm asking these questions. In fact, I'm
4 surprised the Prosecutor hasn't seen it, but -- maybe he has, which is
5 why he's on his feet a lot.

6 PRESIDING JUDGE COTTE: (Interpretation) Perhaps he has entirely
7 understood what you're driving at. Please go on, and please remember
8 that we need to make steady progress. We don't need to rush through
9 things, but we need to make calm and steady progress and not to bother
10 the witness with excessive pauses that tend to be -- make things worse
11 rather than better.

12 MR. HOOPER: Yes, I agree.

13 Q. I'm looking at the office that we see indicated (Expunged)
14 (Expunged), and it's right to say, is it not, that Robert Pimbo became the
15 deputy of that office. Is that right?

16 A. Could I have that piece of paper?

17 PRESIDING JUDGE COTTE: (Interpretation) If it is tab 2, I think
18 we'll have to provide the witness with a copy of the red book, as we did
19 last week.

20 And, Mr. Hooper, this means you'll have to repeat your question
21 now that the witness has the documents in front of him.

22 MR. HOOPER:

23 Q. So Robert Pimbo, who had been in charge of mobilising child
24 soldiers, essentially, for the UPC, became the deputy of the person who
25 held the office (Expunged); is that right?

1 A. I don't know if he was responsible for recruiting child soldiers.
2 You're the one who's saying that. But what I know is that when I was in
3 Kinshasa, I went back and I was told that now that person has been
4 appointed deputy. Where his activities were carried out before, that's
5 something I don't know. I wasn't the person who appointed him. I found
6 him there.

7 Q. All right. But you confirmed, as I understood it a while -- just
8 a few questions ago that he was the national secretary for the UPC in
9 charge of mobilisation. Isn't that right?

10 A. No. When you speak about confirming, Counsel, you're the one who
11 said "confirm." I didn't say that. You asked me and I said it was him
12 who had told me that he was responsible for the mobilisation when I met
13 him for the first time, but he was no longer in that organisation.
14 That's what he said. He said he was there. He could tell me something
15 different, but that is what he told me. He could have deceived me, but
16 he -- with regards to confirmation, that's something I never said.

17 Q. Right. Going forward a couple of years to the mid-2002 and
18 coming to the period that most concerns us, you were aware - is this
19 right? - or became aware or can confirm this from what you've learnt
20 subsequently, that Chef Kahwa went to Kigali in June or July of 2002, and
21 is that something within your knowledge?

22 A. Yes. He told me. It was he himself who told me that. When we
23 met in PUSIC, he told me that.

24 Q. And having met President Paul Kagame, K-a-g-a-m-e, and the head
25 of the Rwandan army, James Kabarebe, K-a-b-a-r-e-b-e, he came away from

1 Kigali, Chef Kahwa, with a promise of arms, munitions, advisors, and
2 trainers. The Rwandans promised him all that. Is that right, at least
3 as far as Chef Kahwa told you?

4 A. Yesterday, or the day before yesterday, I read on the internet
5 that Chef Kahwa had been questioned in prison in Bunia, and he had been
6 asked where these arms came from, and he said that, "I cannot answer this
7 question unless you can ensure security for my family." They insisted,
8 and he said no. He said, no, that I am not in a -- "Well, I'm in
9 security because I'm in prison, but I can't guarantee that my family is
10 safe." And I read that. I photocopied it, and I -- this document.
11 That's the answer that he gave in prison to the commission who went to
12 see him in 2005. So I don't think that if we are in open session that I
13 can answer such a question.

14 Q. Well, I'm -- if you feel it touches on your security, we can go
15 into closed session. Do you really think this touches on your security,
16 something that Chef Kahwa told you about what happened when he went to
17 Kigali? Do you really think that needs us to go into closed session? If
18 you do, we'll go into closed session. Would you think you can answer it
19 in open session? Entirely a matter for you.

20 A. Yes, he said that.

21 Q. And as a result, is it right that Kahwa then set up the camp at
22 Mandro?

23 A. I think so, yes.

24 Q. And the Rwandans fulfilled their promise - is this within your
25 knowledge? - and began dropping supplies by Antonov plane, a big plane,

1 dropping supplies on to Mandro, parachuting supplies or dumping them out
2 of the back of a plane, whatever, and they started supplying Chef Kahwa
3 and his men at Mandro. Is that right?

4 A. Yes.

5 Q. Now, about that time, that is July 2002, you -- you go back to
6 Bunia; is that right?

7 A. I know -- don't remember exactly the date. It was about ten
8 years ago. If you want to continue with your questioning --

9 Q. Well, we can do it another way. What date did you leave Bunia to
10 go back to Kampala in August?

11 A. I no longer remember. I don't remember the date anymore.

12 Q. All right. But as we know, it's in August that the UPC attack
13 and get rid of Governor Lompondo and the RCD/K-ML, and you're in Bunia
14 when that happens. That's right, isn't it?

15 A. Yes.

16 Q. And it's right that you'd only been in Bunia for a couple of
17 weeks or so by then, and you didn't stay very long after Lompondo had
18 been chased out. You left and went back to Kampala; is that right?

19 A. Yes. You've already asked me this question, and I answered the
20 same thing.

21 Q. At that time did -- in August when they attacked, did Kahwa,
22 Chef Kahwa, consider himself to be the -- the leader of the UPC in Bunia
23 given that Lubanga was not there?

24 A. There's a small aspect that I would like to add to your
25 knowledge, and that is that those military leaders, the Hema military

1 leaders, here I want to speak about Kyaligonza, Kasangaki, Kisembo
2 Floribert, and all the others, had never considered Kahwa as their leader
3 in the army, even when he said himself that he was the reason why,
4 because they said they had not finished military training, and that was
5 while they were training as officers in Jinja. He hadn't finished going
6 back. He hadn't finished carrying out the activities, and this meant
7 that they never accepted him as their leader. Even when Kyaligonza had
8 joined PUSIC, they never, never followed the orders of Chef Kahwa
9 exactly, because he -- for him, he -- he wasn't a soldier. They
10 themselves stated that. And Chef Kahwa was a lot more concerned with the
11 troops of his collectivity, these young people who he had had trained
12 himself, but not with all the other leaders, no.

13 In the month of August, Chef Kahwa was the -- saying that he was
14 considered the chief then. No. These soldiers never accepted him. It
15 was the soldiers who stayed in the residence of Lubanga. These soldiers
16 there who can say that that person is the leader if Lubanga isn't there.

17 Q. All right. Well, let me just put the question just for clarity.
18 Is it right that in August, whether or not these other soldiers looked
19 down on him because he wasn't a trained soldier, is it right that for his
20 part Chef Kahwa considered himself leader in place in Bunia in August
21 2002? That was the view he had of himself is the question.

22 A. I don't know. He didn't say that to me.

23 Q. And whether it was he or Kyaligonza or Kisembo or any of the
24 others, it's right to say that the UPC were then guilty of clear
25 atrocities against Lendus and Ngitis that they found in Bunia in

1 August 2002; is that right?

2 A. Yes, that's true. Not just there. A lot of times they continued
3 to carry out atrocities against this population. That's true, I know.

4 Q. I want to ask you about something you said recorded on the
5 transcript for, I think, last Wednesday, and that's transcript 197, and
6 I'm looking, of course, at the English, at page 59, at line 24, and I'll
7 just read this sentence out to you. This is you speaking. You said:

8 "To my knowledge, right from the beginning of the UPC of Ituri, I
9 don't remember a village that was directly attacked by the Hema."

10 Do you remember saying that, and do you stand by that? Do you
11 agree with that?

12 A. Yes. I said that since I went to Bunia, in PUSIC. Not in
13 August. Since I went to Bunia, when we trained PUSIC to go for the
14 commission of pacification. I do not remember. If you haven't noted it
15 well. Sorry, but I said that since we went back, that's with PUSIC. In
16 the month of March 2003.

17 Q. Well, let me then pose another question. Do you agree that from
18 the very start of the UPC, it engaged in a large number of attacks
19 against both Lendu and Ngiti communities? Do you agree with that?

20 MR. HOOPER: I see Mr. MacDonald's helpfully risen.

21 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor.

22 MR. MACDONALD: (* Overlapping speakers) (* Previous translation
23 continues) your Honour. It's just that we need to put a time-frame from
24 the creation of the UPC. Where does that start exactly in Mr. Hooper's
25 mind?

1 MR. HOOPER: Well, if you'd been listening instead of
2 interrupting my questions earlier, we've asked questions of this witness
3 as to when the UPC was established. That was why I was asking questions.
4 And please sit down just for a moment. And I've established through this
5 witness, as far as he's concerned, that the UPC was founded in about the
6 end of 2000. After that, there was training. So we're talking about a
7 time frame from certainly 2001 onwards. And indeed I can ask the witness
8 because there's no one better placed really to help us, Mr. Witness, as
9 to this.

10 Q. Mr. Witness --

11 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead,
12 Witness. It's up to you to answer.

13 THE WITNESS: (Interpretation) Yes. I don't think what the
14 counsel is trying to say really comes exactly from me. The UPC is the
15 group -- and the group of -- the UPC and the group of mutineers are two
16 different things. If you want to mix them, the group of mutineers was
17 called Chui Mobile Force. That was the name that they had, Chui Mobile
18 Force. And they went forward with this group as just an organisation
19 which was a military organisation.

20 But the UPC was created as a political party, as a political
21 party, and I know -- I remember having met Madam Lotsove in Kampala who
22 did instigate the fact that Thomas Lubanga could be the president of this
23 group, and the UPC, never mind the time that the UPC creation might have
24 taken, but as political party, an organised political party, this was
25 towards the month of August, not in 2000.

1 In 2000, there was a group of mutineers called Chui Mobile Force,
2 and Chef Kahwa was -- or said that he was the leader of that. When you
3 mix the two, there's confusion. That causes problems, and that's why I
4 would ask you to define right from the -- define the concept right from
5 the start, because from that we know where you are.

6 Q. Well, obviously everyone wants me to do that, so let me assist
7 you. And I'm looking again at the statement you made in 2005, which was
8 doubtless closer to the time.

9 Mutiny of soldiers in July 2000. I'm not so much concerned with
10 that. Then at paragraph 5 you say -- you're talking of Lubanga:

11 "In September of 2000, he created with others the UPC, *Union des*
12 *Patriotes Congolais*." And at paragraph 88, you say:

13 "Thomas Lubanga and his sympathisers officially created the UPC
14 on the 15th of September, 2000, or at least this is the date that appears
15 from -- in their statute."

16 So would we be right in saying that towards the end of the year
17 2000, to your knowledge and understanding, the UPC came into existence as
18 a separate political force, which is what I put to you.

19 A. Yes. At the start it was not a political force, because this
20 group was operating under RCD/K-ML of Mbusa Nyamwisi, and Lubanga himself
21 was minister with Mbusa Nyamwisi until there was the war with Molondo.
22 And how could he be minister in one party and at the same time be the
23 president of this party? No. It was a group of soldiers at the start.
24 Never mind if I've spoke about the UPC. But if you read the record,
25 you'll see that I speak about the Chui Mobile Force if you read it well.

1 If by error the investigators have written "UPC," well, I know that's the
2 UPC, as you have mentioned, that I said officially it was created as a
3 political party, and that's what I think, but in order to get to that
4 stage, there was a military group which developed with another name, and
5 that's it.

6 Q. Right. So our understanding is, and tell me if I'm wrong,
7 mutiny, soldiers called Chui, C-h-u-i, Mobile Force, UPC founded a little
8 while later towards the end of that year in 2000, and becoming a quite
9 independent force in conflict with the RCD/K-ML, obviously certainly by
10 the time that they attack the RCD/K-ML in August of 2002. Does that, in
11 general, reflect fairly the position?

12 A. This group, before attacking -- well, before the RCD/K-ML --
13 before it became the RCD/K-ML you had officers who had military training
14 in Uganda. They joined the FLC, the *Front de Libération du Congo*, which
15 was led by Mr. Jean-Pierre Bemba, and --

16 Q. I don't think we -- it's such a complicated area. We've been
17 talking about the UPC starting off as a mutiny of soldiers in July 2000
18 or so. Towards the end of that year, the UPC as a name comes into
19 existence founded by Thomas Lubanga, and then we get a clear division
20 when they start fighting, obviously, with the RCD/K-ML in 2002 in August.
21 Does that fairly reflect the -- the development, as it were, of the UPC
22 or not?

23 A. No. No. You have taken parts, but as you need the history,
24 please allow me to tell you the history thereof.

25 Q. Well, if you know it, please do.

1 A. Okay. I said when they came back, Tibasima had taken all the
2 soldiers who were Chui Mobile Force, and he gave them as a contribution
3 to the group that they had organised with Jean-Pierre Bemba, the FLC.
4 These soldiers went there. They stayed in Gbadolite. But after, when
5 there were problems between the leaders, Tibasima Mbusa, first of all he
6 went to South Africa and Jean-Pierre Bemba had to leave Ituri. He went
7 back to Gbadolite and when he arrived there, he was asked to bring back
8 the Hema soldiers who were there. These soldiers went back by foot in
9 order to go to Bunia. The time that they were in Bunia, there was still
10 not a decision to create a group, but they hadn't been placed anywhere as
11 they -- had not been the case. They stayed with Thomas Lubanga, and that
12 is where they organised themselves. But if they hadn't gone back, they
13 would have stayed in Gbadolite. They didn't -- he couldn't come and
14 fight in Bunia. They couldn't come and fight in Bunia, but as Bemba, so
15 that there was no longer an interest in keeping them in Gbadolite, while
16 they had already -- they'd already broken the links that bound them in
17 the FLC. That's the reason why they couldn't be placed anywhere and they
18 revolted against Mbusa Nyamwisi, and that is the true situation. So you
19 have forgotten this aspect, this intermediate step from where -- when
20 they went to Gbadolite and coming back from Gbadolite. That's the part
21 that was missing.

22 Q. Is it right that in 2001 and 2002, there are a great number of
23 attacks by Hema militias often working with the Ugandan army in Ituri,
24 attacks again Lendu and Ngiti communities? Is that right? A great
25 number of attacks, with civilians killed, rape, houses burnt, cattle

1 stolen, villages pillaged? Was that a consistent position throughout
2 2001 and 2002, to your knowledge?

3 A. I don't remember really the dates. I don't have the date context
4 to mind, but what I do know is that it's true that at the start the
5 Lendu, they were really maltreated by the Hema. Myself, I went into two
6 village which had just been burned, and after the attack they were
7 burning the villages. There was still houses which were on fire. I saw
8 these houses. I went by. I know that this situation happened. That is
9 true.

10 Q. And when the UPC became its own force and in control of Bunia and
11 surrounding areas, the UPC persisted in attacks on local Lendu and Ngiti
12 communities, did it not, through 2002 and into 3 -- 2003? Is that right?

13 A. I wasn't there, but I couldn't stay there either, because I knew
14 that the Hema were attacking even those who were not those originally
15 from Ituri. I know that they were doing that. I couldn't stay there.
16 They were really being worse than people thought.

17 Q. And not only were hundreds upon hundreds of people killed --
18 well, first of all, is that right, hundreds upon hundreds of people were
19 killed in those attacks, civilians, children, old people? Isn't that
20 right?

21 A. I don't know very well, because I said I wasn't there. There
22 have been a lot of reports which we received from Human Rights Watch or
23 the MONUC report from the United Nations. We've had the reports, so
24 everybody knows what happened through the reports. So I couldn't tell
25 you that there were children or whatever. I wouldn't be able to tell you

1 that.

2 Q. Well, you're not being somewhere hasn't stopped you giving
3 evidence about it. We've heard so much of your evidence that's like
4 that.

5 I'm asking you, to your knowledge, is it right that hundreds upon
6 hundreds of women and children and civilians and old people were murdered
7 by Hema attacks, including attacks by the UPC from mid-2002 to 2003? Are
8 you really saying you can't tell us about that? Are you really telling
9 us that's not within your knowledge?

10 A. Well, I've already told you that I know that a lot of people
11 died. I've already told you that. It's not a matter of repeating myself
12 ten times over the same thing. I also added that I myself, I couldn't
13 stay there because I knew that they were even killing those people who
14 weren't originally from there. I didn't deny that there were deaths, but
15 when it comes to giving the details of children or old people or
16 whatever, I know that people were killed. People were burnt in the
17 houses. That I know.

18 Q. I'm holding a list here with probably close to a hundred
19 identified attacks. Hundreds of people killed, women impaled, tortured.
20 I could go through it with you, but I won't do that because Mr. MacDonald
21 might get up or say it would take too much time.

22 PRESIDING JUDGE COTTE: (Interpretation) You are already on your
23 feet, Mr. MacDonald, so please go ahead.

24 MR. MACDONALD: (Interpretation) That is not what I would say,
25 your Honour, but I think the witness has answered. This is a fact that

1 is not disputed. No one disputed that. One can say there was a
2 conflict. The Prosecutor can admit that. It is an open secret that in
3 2002/2003 in Ituri there was a conflict. That is what Mr. Hooper wants
4 the witness to admit, and the witness has been admitting it from the very
5 beginning. But if you -- we want to start bandying around figures, then
6 we have to be very careful, because this is not the appropriate witness
7 for that. Maybe this is a good way of accepting the application of the
8 Prosecutor to submit certain documents on that issue.

9 PRESIDING JUDGE COTTE: (Interpretation) Very well. The Chamber
10 notes that you are more or less agreed. On the one hand, the witness is
11 saying that he cannot say any more than he has said, because he has even
12 acknowledged having seen the results of certain attacks. Mr. Hooper says
13 he has list, and he's not going to give all details, at least for the
14 time being. So we can proceed, and please try not to interrupt.

15 MR. HOOPER: Thanks.

16 Q. And coming to Bogoro, was it within your knowledge that there
17 were many attacks launched from Bogoro against local communities, again
18 where large numbers of people were killed? Was that within your
19 knowledge?

20 A. No.

21 Q. Not something you've ever heard or learned about as a
22 representative on the human rights investigatory body, for example?
23 That's not something you've ever heard about; is that right? Is that
24 what you're saying?

25 A. That there were many attacks in Bogoro?

1 Q. Attacks by the UPC stationed in Bogoro against the local
2 communities, Lendu and Ngiti communities. Attacks at Zumbe, 80 killed.
3 Lakpa, Kagaba, Songolo, Singo, many others. Not something you've ever
4 heard of?

5 A. No. I heard that there was an attack in Songolo. That is true.
6 I heard about that. But the others launched from Bogoro, as you have
7 said, I'm not aware of that. Whether the attacks were launched from
8 Bogoro or elsewhere, I do not know. But I remember the attack on
9 Songolo, because General Kisémbé Floribert told me that he had been
10 injured there. He was going to die because he had been hit by a
11 bullet, but he was evacuated through Sota and taken to Bunia. So I know
12 that there was an attack in Songolo. And in a nutshell, I'm also aware
13 that many Lendu, Ngiti villages were attacked by UPC soldiers. I know
14 that, but from where they came I cannot tell you, but I know that many
15 villages were attacked.

16 Q. Were you aware that about 300 UPC troops were stationed in Bogoro
17 in early 2003?

18 A. I have told you that ever since I left there in August I did not
19 go back until March. So what the UPC was doing, what they were
20 organising, I'm not aware of that. If they had 300 people in Bogoro,
21 then I'm not aware of that.

22 Q. And I think you can and do confirm that the UPC was an
23 exclusively Hema force and one -- would that be fair? Do you agree with
24 that?

25 A. They also had other forces. For example, the FRPC forces led by

1 General Jerome Kakwavu in Aru. Those belonged to the UPC, but all the
2 soldiers were not Hema until they defected in January or February of
3 2003, but the vast majority of UPC soldiers were of Hema ethnicity, that
4 is true.

5 Q. And is that also true of PUSIC? In fact, exclusively Hema,
6 PUSIC, was it not?

7 A. Yes.

8 Q. With the one exception, and that is the person who held the
9 office at number 2; is that right?

10 A. No. Officially, the Chief of Staff was not a Hema, officially.
11 In meetings outside, the Chief of Staff came from another province, but
12 in reality he did not carry out those functions of Chief of Staff. There
13 were already -- there were also other people in the general staff who
14 were not Hemas. Almost all of them had run away. They had fled from the
15 party, and that's why amongst all the leaders there were only Hemas.

16 Q. Very well. Is it right that Chef Kahwa told you that he was not
17 interested in politics? In fact, what he appeared to be interested in
18 was -- was money. Would that be right?

19 A. Yes, that is true. He said that he was not really interested in
20 politics, but in money. Fortunately, he was arrested because of money,
21 not because of politics.

22 Q. And -- and what led you to join the organisation at number 3 and
23 in the capacity that you did? What -- what on earth were you doing that
24 for?

25 A. When I read -- and I'm referring to moving through the various

1 organisations in which I was a member. If you look at that, you will
2 realise that I became involved with all organisations that were
3 militating in favour of the unity of our country and joining Kinshasa.
4 If you look at them one by one, you'll know that that was the ultimate
5 aim.

6 When we joined PUSIC, that was the ideal thing. So the ideal
7 solution was to pacify Ituri and then join with Kinshasa. That's why
8 President Kabila had accepted to fund the operation.

9 I did not become a member of that group because there were Hemas
10 there. No, that is not the case, because initially more than half of
11 them were not Hemas. To the contrary. I feel much closer to Ngitis and
12 Lendus than to the Hemas. But in that organisation, I worked a lot to
13 bring the two groups together. I never stayed in the Hema camp for very
14 long. I was always outside, and trying to bring together the two groups.
15 But if I joined that group, I felt initially that the group could
16 facilitate the end of the war in Ituri and bring us closer to Kinshasa.

17 Those were the basic objectives that we had.

18 Q. But the composition of PUSIC, with people like Kyaligonza and
19 Bitamara in it, who I suggest had committed atrocities for several years,
20 how could you be moved to join an organisation with these people who just
21 changed hats, really, from UPC to PUSIC? They were the same people,
22 weren't they? Same people who had been committing atrocities all around.
23 Did you think you could really influence and help control these people?

24 A. When the question was put to me whether Mr. Bitarama -- Bitamara
25 Kisembo was a founder of PUSIC, I believe my answer was yes or no -- yes

1 and no. I said that it depended on what we considered as the beginning
2 of PUSIC. I said that at the beginning when we organised PUSIC and had
3 meetings with the FNI to form FIPI and so on, Kisembo was not there. At
4 that time, he was on mission in Bukavu, sent by Mr. Thomas Lubanga.
5 Mr. Kyaligonza was not there. He was a UPC commander.

6 In the month of March, the UPC was routed by the UPDF. So when
7 we started that group, all those people were not there. Those people
8 came afterwards. If you look at the first lists, apart from the
9 traditional leader of the Bahema South who had come to support the party,
10 the vast majority of the leadership were not Hema. If things changed
11 thereafter, it was because when the UPC took a different direction and
12 the soldiers of Kyaligonza went to Shari, the Ugandans preferred that
13 those soldiers in Shari should join PUSIC, because when they left,
14 everything that they had as weapons, they gave them to Shari, not to
15 PUSIC.

16 All the leaders had been invited, and I know Colonel Ngudjolo is
17 aware of that. The leaders were invited by the Ugandan commanders, and
18 they spoke without any politicians. So this was an independent group
19 from the UPC.

20 So these people were not there in the beginning. Later on, we
21 realised that there were some criminals there. And those criminals such
22 as one Saidi, we took him to MONUC, and we informed MONUC about people
23 that he had executed. So we asked MONUC to take responsibility for him,
24 to take him over even though he was a commander. We handed him over to
25 MONUC.

1 MR. HOOPER: May we just go into close session for one matter.

2 Thank you.

3 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.

4 (Private session at 3.47 p.m.)

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16 (Closed session at 3.56 p.m.)

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23 (Open session at 3.57 p.m.)

24 COURT OFFICER: We're in open session, your Honours.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

1 Court Officer.

2 We will now suspend until 4.30.

3 Mr. MacDonald, we have very little time. Did you want to address
4 the Court?

5 MR. MACDONALD: (Interpretation) Thank you, your Honour. Very
6 briefly. We noted your decision on P-0028. Are we authorised to
7 communicate with his counsel to see whether she has to be present?
8 Obviously, I would prefer to call her to discuss with her whether she
9 wishes to be present or not.

10 PRESIDING JUDGE COTTE: (Interpretation) Insofar as P-0028
11 decided to appoint a counsel, I think it is obvious that P-0028 would
12 prefer that counsel to be present. We need to advance in this case in a
13 way that the presentation of your evidence should be concluded around the
14 22nd of November. We are going to discuss it again at the end of the
15 testimony of this witness, and we will compute the time periods.

16 After the Chamber's decision, we grant you leave to contact the
17 counsel of P-0028 and discuss everything with her, and if the witness
18 wishes his counsel to be present, then she has to be present.

19 Court is suspended. We will resume at 4.30 p.m.

20 Recess taken at 3.59 p.m.

21 On resuming at 4.33 p.m.

22 (Closed session)

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4 (Open session at 4.35 p.m.)

5 COURT OFFICER: We're in open session, your Honours.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

7 Court Officer.

8 Witness, can you hear me?

9 THE WITNESS: (Interpretation) Yes.

10 PRESIDING JUDGE COTTE: (Interpretation) Everything is working

11 fine.

12 Mr. Hooper, please proceed.

13 MR. HOOPER:

14 Q. Mr. Witness, we'd spoken earlier of Chef Kahwa's efforts to get

15 arms, successful efforts to obtain arms from Rwanda for the UPC.

16 Once PUSIC was set up, where did PUSIC get its arms from?

17 A. From Uganda.

18 Q. Can I refer just briefly -- you have the folder, Mr. Witness, in

19 front of you, the red-bound soft folder, and I'm looking at the document

20 behind tab 10. It's two pages there that's been printed out. And just

21 for the record, it concerns DRC-OTP-0106.0247. But we have it in hard

22 copy, and that serves my purposes. It's not, perhaps, very distinct, but

23 it's dated the 10th of May, 2003, and that together with the document of

24 receipt printed on the next page, dated the 11th of May, 2003, does that

25 represent an arms supply by Uganda to PUSIC at that date, 10th and 11th

1 of May?

2 A. Yes.

3 Q. And does it, in fact, relate to, and I'll just give a list and
4 you can tell me whether you agree with this: 200 AK-47s; 600 *chargeurs*,
5 that's the pack that hold the cartridges for AK-47; 24.000 cartridges,
6 amongst other things. But would that be right? Is that what that arms
7 supply relates to?

8 A. I think it's written there. It's a document for goods going out.
9 Our weapons and ammunition that were leaving the depot.

10 Q. And where was the depot?

11 A. There were several. I couldn't tell you exactly where, but there
12 were several.

13 Q. Was this one at Mbuya? That's M-b-u-y-a. Mbuya.

14 A. Yes. Yes.

15 Q. And where is Mbuya?

16 A. Mbuya is in Uganda.

17 Q. And did you go with somebody yourself to collect these weapons?

18 A. There was someone who was responsible for going to get the
19 weapons. If it wasn't Chief Kahwa himself, there was also his driver,
20 whose name was Ali Dumba. He was a Ugandan, but he was also a soldier
21 beforehand. Those were the two who had the authority to go fetch weapons
22 and wherever -- wherever they had to go to get them. This time it was in
23 Mbuya, but sometimes they would go get them elsewhere. At the CMI, one
24 time I was with him when they were supposed to pick up ammunition there
25 that was to be taken to Chief Kahwa, yes.

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8 A. Yes.

9 Q. All right.

10 MR. HOOPER: Can we go into closed session, please.

11 PRESIDING JUDGE COTTE: (Interpretation) We will go into private
12 session, and we will try to ensure that it is a brief private session.

13 Madam Court Officer.

14 (Private session at 4.43 p.m.)

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14 (Open session at 4.56 p.m.)

15 COURT OFFICER: We're in open session, your Honours.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

17 Court Officer.

18 Now, with regard to this question from the Katanga Defence team

19 having to do with a document that was identifying for the witness, that

20 explains why we had to go into private session.

21 Mr. Hooper, you may proceed.

22 MR. HOOPER: Thank you, Your Honour. I'd like to look at the

23 document THAT we have at tab 12, and for the record, this relates to

24 DRC-OTP-0106.0298. It's a private document.

25 Q. And do you have that on your -- in your document? If you turn to

1 tab 12, Mr. Witness, you'll see this document. It's private in terms of
2 showing, but I can discuss it in open. It's a PUSIC document dated
3 Kampala, 5th of April, 2004.

4 Now, as far as you can recall, by April 2004 was Chef Kahwa still
5 president of PUSIC or not?

6 A. I don't remember, because officially he had never written a
7 letter saying that he was no longer president.

8 Q. Now, we can see at the bottom who the signature -- signatory is
9 for PUSIC, and I don't need to -- to look at that. We can see there's
10 a -- there's a secretary general, there's an army commander, and another
11 army commander who have signed that. And if we look at the third
12 paragraph, it -- it's plain that that relates to something that we
13 discussed in closed session. We needn't go into that.

14 Now, the -- the -- remind ourselves, this is the 5th of April,
15 2004, which will become perhaps a little more significant in a moment,
16 but we can see that there's complaints in the first paragraph about the
17 Ngiti, that they've restarted killings and lootings on the lake; that
18 they'd attacked PUSIC's cantonment; that the Ngiti people, it says, have
19 decided "to collaborate with the enemies of Uganda. The resent Ngiti
20 attacks against Uganda interests can confirm that."

21 And then I'm going to read the next paragraph to you as you can
22 read yourself because you're good in English. It reads:

23 "For strategic reasons, Ngiti people prefer to live at the border
24 of Albert Lake and Semliki River, which constitute the border with
25 Uganda. That land occupied by the Ngiti in the plain of Kasenyi, *de*

1 *facto* and *de jure*, belongs to Hema people. PUSIC has decided to move the
2 Ngiti away from the border with Uganda. To accomplish that, PUSIC will
3 be going to move 400 troops from Shari cantonment and to concentrate them
4 in the plain of Kasenyi; we mean from Nyamavi to Burasi localities." And
5 that's N-y-a-m-a-v-i, Burasi, B-u-r-a-s-i.

6 And then it refers to a request for \$40.000 US for that work.

7 This was an offer to get rid of the Ngiti on the Kasenyi plain,
8 was it not? Quite clear. I mean, it's got a word, we know, when people
9 attack people and move them like that there's a word we use. I'm not
10 going to use it here, but that was the offer that PUSIC, and we're in
11 open session, bear that in mind, PUSIC was quite clearly making this very
12 clear offer at a price of \$40.000 US in April 2004 to the president of
13 Uganda through his minister of defence. Is that right?

14 A. No. This money, when you read the last paragraph, you would find
15 that it was the remaining part of the money which I gave the explanations
16 to you about. The problem is that almost all these commanders who were
17 leading the army, particularly the Hema, really wanted a lot of money.
18 When Kyaligonza came into PUSIC, he also needed money. He had learned
19 that there was an amount of money which the president had proposed to us.
20 The 200 million was that. There was a part of it, and what he wanted, he
21 was a friend of Kyaligonza's and General Kayihura, he preferred to
22 negotiate himself with Kayihura so that he could have this money. And so
23 he went to see Kayihura. Kayihura said to him no. Now, we've received
24 instructions. It's difficult for you yourself as a soldier to be able to
25 carry out this operation. You have to about through the politicians, and

1 for us we were asked as well. You have to meet the minister, Mbabazi,
2 who was minister of defence, and you cannot go and meet Mbabazi. That's
3 a politician. You have to go through the political wing of the PUSIC in
4 order to do that. And that is how they wrote this letter. And you can
5 even see in the English who was there. You're going to see that this was
6 an English person or that it was made by English persons themselves, and
7 I think in the office of Kayihura this letter was proposed with the hope
8 that if Uganda saw this letter of the politicians, they would have to
9 unblock this money. But unfortunately that wasn't accepted. That was a
10 fact.

11 But the second problem was that the Hema did not have the
12 strength to fight against the Ngiti in the plain of Kasenyi. Military,
13 they couldn't do that, and we all knew that. And the Ugandans knew that
14 as well. They knew that the Ngiti, the Lendu, were stronger militarily
15 than the Hema. And a lot of times in meetings, they advised that, "Well,
16 you have to make an effort to come to an agreement with the Lendu,"
17 because militarily in the field the Lendu were capable.

18 Even if they had said that they could drive out the Lendu from
19 Kasenyi plain, they couldn't. They had weapons. It wasn't that there
20 was a lack of weapons to do so. It wasn't that the money was lacking
21 because they had the customs from Tchomia where they got money from.
22 More than that. They could do that, but they did not do have the
23 strength, the force to do that. And if they didn't attack the Lendu, not
24 because they started to like them, but because physically they understood
25 that they were not able to attack them. I think that they themselves,

1 they knew that. They knew that the Lendu and the Ngiti even -- they knew
2 that these people couldn't go and fight them. Even Germain knew that.
3 And then they tried to write this, but with a view to receiving the
4 money. They thought that this money was going to be given. That could
5 be put in their pockets, but it was never given.

6 Q. Right. Now, we can see that paragraph 4 relates to quite a
7 specific subject, and that is, "Where's the balance from the 200 million
8 shillings that we're owed?" That's clear. But I'm asking you about
9 paragraphs 2 and 3. And I wasn't going to use the term, but just so
10 we're quite clear, what I suggest this is is an offer for \$40.000 to
11 ethnically cleanse the Kasenyi plain of Ngiti, isn't it?

12 A. I understand that you haven't wanted to accept what I have
13 explained to you, but I repeat, there never was an intention to carry out
14 any kind of ethnic cleansing. That was never the case. I explained to
15 you the aim of this letter which you can consider or not consider. You
16 are free in that regard.

17 What is true is that General Germain was confronted by the
18 Ugandans himself, and he was told that he was collaborating with the
19 enemies of Uganda on the border. I think more than two times he was
20 called in that regard, and he was told that he couldn't continue to
21 collaborate with the Ugandan rebels who were almost in his territory. So
22 the Ugandans, it is true, they were concerned due to the border
23 separating them from the DRC, and in the relations, Kayihura, he wanted
24 there to be a lot of Hema troops out of fear that the Ugandan rebels
25 could send Ngiti troops. And it's true that that's what he was thinking.

1 But there never was a question in any meeting or in any decision
2 that the people were going to attack the Ngiti. Even if the letter is
3 written, as I said, in that way, the aim of it was to try to persuade the
4 Ugandan government to unblock the money that was meant to come, but it
5 has nothing to do with going into the field and attacking.

6 Q. All right. And can we just go into closed session for one
7 question.

8 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, for a
9 question, private session, please.

10 (Private session at 5.09 p.m.)

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5 (Open session at 5.11 p.m.)

6 COURT OFFICER: We're in open session, your Honours.

7 PRESIDING JUDGE COTTE: (Interpretation) Perfect.

8 Counsel Hooper.

9 MR. HOOPER:

10 Q. Now, that letter that we've been dealing with is dated the 5th of
11 April, 2004, and just a few weeks before then, the person who you've
12 described at the beginning of your evidence as, yes, a friend, Germain
13 Katanga, was with you in Kampala; is that right? In February 2004, he
14 was with you in Kampala, wasn't he?

15 A. Yes.

16 Q. And as I understand it, at the time that letter was sent, the
17 person whose name appears at (Expunged)-- had become a
18 representative of Germain Katanga and the FRPI in Uganda; is that right?

19 A. Yes.

20 Q. Thank you.

21 MR. MACDONALD: (Interpretation) With the leave of the Chamber,
22 I would ask briefly to go into private session to deal with a
23 technicality with regards to this point. As -- to deal with this issue
24 that Counsel Hooper's dealing with. I'm sorry it has to be done in
25 private session. It can't be done in open session.

1 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if you
2 please.

3 (Public session at 5.13 p.m.)

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5 (Open session at 5.25 p.m.)

6 COURT OFFICER: We're in open session, your Honours.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

8 MR. HOOPER: Now, I had my attention drawn to a document which I

9 hadn't seen last week which isn't on the list of documents produced, but

10 we'll add that tonight and so it will be formally there, but I think I

11 can deal with it with the witness in this way:

12 Q. Mr. Witness, is it right that --

13 MR. HOOPER: Oh, I think it is there. I think that's what

14 Ms. Menegon was just about to tell me, correct me. Thank you very much.

15 Can I then call it up as DRC-OTP-0086.0013. And I think -- is that there

16 on the screen? I don't know yet.

17 PRESIDING JUDGE COTTE: (Interpretation) Not yet. It will be

18 soon, but we still -- no. I think that it is just being put on the

19 screen. The accused, can they see that document? Can our witness see

20 that document? This is a document with columns.

21 Usher, can you make sure that in order for the cross-examination

22 to continue that the witness has the right copy in front of him. Thank

23 you, Usher.

24 Please go ahead, Counsel Hooper.

25 MR. HOOPER: Just very briefly.

1 Q. This document is dated 24th of September, 2003, and it's a
2 document with the stamp of the Republic of Uganda, and it's a business
3 registration -- it's a document for business registration registering a
4 business or business name. Now, the business name to be registered there
5 is PUSIC, and beneath that it says: "General nature of the business."
6 And it says: "General merchandise." And at number 8 in the column it
7 says: "Other business occupation, if any, of each of the individuals who
8 are partners," and it says: "Traders."

9 We are in open session, Mr. Witness, but from your own knowledge,
10 what was the purpose of registering PUSIC as a company for general
11 merchandise or trading? Why was that? If you know.

12 A. No, I don't know.

13 Q. Did you have any dealings with the *maison militaire* in Kinshasa?

14 A. Yes.

15 Q. And when was that?

16 A. I don't remember.

17 Q. Approximately which year, for example, would that be? Can you
18 help us as to that?

19 A. No, I no longer remember what year it was. 2004, but I don't
20 know.

21 Q. So now we're in -- in terms of my questions, we're in 2003. You
22 return to Bunia on or about the 17th of March, after the FIPI meetings.
23 There comes a point when you visit -- or, rather, pass through, really,
24 Bogoro. I'm a little unclear as to the function, if any, that you were
25 performing at the time you went to Bogoro, so can you help me as to that?

1 Were you just passing through in order to go to Kasenyi, or were you
2 there as part of a delegation? Can you help me?

3 A. The two.

4 Q. Very well. Thank you. Now, a little later that year, in May,
5 you come back from Uganda, as I understand it, via -- or over
6 Lake Albert, Albert, and this is at a time at the end of May when the
7 Ugandan army is in the process of leaving Ituri. And can I just ask you
8 this: When the Ugandans left Ituri, did they leave your group, the Hema
9 PUSIC group, with a lot of their arms and ammunition?

10 A. It is true when we arrived, in fact, when we were there, it is
11 true that Chef Kahwa had done a handing over and recuperation. That is,
12 he had been given a certain amount of weapons or -- and ammunition. I do
13 not know exactly the quantity of arms, because it was around 2.00 a.m.,
14 in the morning. Yes, we received those.

15 Q. Well, am I right -- am I correct in understanding it was a very
16 large quantity of ammunition and arms that the Ugandans kindly dropped
17 off? Rather than take it with them to Uganda, they left their -- a lot
18 of their arms with you, didn't they?

19 A. You're talking of a large quantity of weapons as if you were
20 there. Well, I've told you that I do not know the precise quantity of
21 weapons that they left, but I know that they handed over arms and
22 ammunition. That I am aware of.

23 Now, talking about large candidates -- large quantities, I do not
24 know. When you talk of large quantities, what specifically does that
25 mean for you? If you say large quantities means beginning from such and

1 such an amount, I can agree or disagree with you. So what do you mean by
2 "large amounts"? But remember that we had canoes. We did not use a
3 truck to carry those weapons, so I do not think that the canoe that we
4 used could carry such large amounts you are talking about. We travelled
5 on water.

6 Q. Yes, but the Ugandans were going the other way, weren't they? So
7 they were in Ituri with their arms and ammunition, and am I right in
8 saying that before leaving Ituri, nothing to do with pirogues, that they
9 gave a lot of it to PUSIC? Is that right?

10 A. No. They could not abandon their weapons to PUSIC, because we do
11 not know exactly how many quantities of weapons they actually had to
12 begin with, but what they handed over was put in the canoe, and we took
13 them to Kasenyi. And we were in that canoe. They had heavy weaponry
14 that they themselves could take away. They had motorboats, and they
15 could take those weapons to Uganda, because they were by the side of the
16 lake. So when they took whatever they had to take, and they gave us what
17 they wanted to give us, we left, and they also started going back home.
18 Those who left on foot went through Bogoma (* phon) and the others went
19 across the lake. So as I have told you, when you are talking about
20 quantities, you have to be specific what you mean by large or small
21 quantities.

22 Q. Very well. I may return to that later or first thing tomorrow.

23 Now, you first met Germain Katanga in Kinshasa in August 2003 at
24 the fourth CCGA meeting. In fact, it would be fair to say you had little
25 contact with him and had a few conversations with him with others, i.e.,

1 other people, not just you and him, other people about, at the
2 Grand Hotel in Kinshasa, on the terrace there. Is that right?

3 A. So do you think that when I asked to talk with the general we
4 were in a large group of people?

5 Q. I'll make it clear. There was little to no contact made during
6 the meetings themselves, but you met him with others sitting about having
7 general conversation on the terrace of the Grand Hotel in Kinshasa.

8 A. Let me repeat the question that I asked you. When I discussed
9 with him the problems with Uganda, was it general conversation with
10 others or was it in private?

11 Q. Well, I suggest that there was little what I would call serious
12 conversation with Germain Katanga when you were in Kinshasa. What do you
13 say to that?

14 A. Well, since I do not know what you mean by "serious
15 conversation," that has not been defined. We got to know each other. I
16 came to know him. He knew me. We introduced each other. We had a lot
17 of time, not in public as you say, to discuss. It is true that this
18 happened.

19 Q. Well, you see, I don't accept what you say, that there was
20 anything like an extensive or meaningful conversation, and no private
21 conversation really. But what I suggest happened, though, was at one
22 point at one of these meetings on the terrace your phone rang, and you
23 told Germain, "There's someone here who wants to talk to you." And you
24 passed the phone over to him, and on the other end of the line was a
25 person called Emmy Allio, which I think is spelled, for the sake of the

1 spelling, E-m-m-y, A-l-l-i-o.

2 So my question is: Do you recall an incident where your phone
3 rang, it was Emmy Allio, and you passed the phone over to Germain for him
4 to talk to Emmy Allio? Do you recall that?

5 A. No. In Kinshasa, Mr. Allio never talked with Germain. He never
6 did that. I myself did not know Allio very well. I knew
7 General Kayihura with whom we had a conversation, and he could not call
8 me from Kampala and say, "I want to talk with Germain," without knowing
9 whether I had any links with Germain, knowing that I was in a Hema group
10 which was on the other side. No. I had a discussion with Germain.
11 Otherwise, I couldn't simply hand him the phone. I have told you that
12 the first time Germain did not travel as agreed, but on the second time,
13 in October, Allio came to Bunia.

14 Q. (* Microphone not activated)

15 A. No, please wait.

16 Q. We're going to get a bit confused. Please bear with me. I'll
17 let you have your answer. You see --

18 A. I'm also asking you to bear with me. Please allow me to finish.

19 Germain conversed with Allio in October. So these were two
20 different times. You have to bear that in mind.

21 Q. All right. Well, I may be putting a different recollection to
22 you, but I'm going to put it.

23 Two telephone calls in Kinshasa, both at the Grand Hotel, on the
24 terrace. The first telephone call you made and said to Germain, "There's
25 someone here who wants to speak to you," and he refused to speak. That

1 is, Germain wouldn't take your phone. And later in the week, another
2 call, a call made to you, perhaps you'd sent a text is a suspicion, and
3 you said, "There's someone here who wants to speak to you." You handed
4 over the phone, and it was Emmy Allio. Now, you say no, that didn't
5 happen.

6 What I suggest happened was on that second call, Emmy Allio told
7 Germain Katanga that President Museveni wanted to speak with him and
8 would he please come to Kampala on the way home. You facilitated the
9 call, I suggest, but you didn't actually participate very much in it. It
10 was Emmy Allio who did the convincing, not you.

11 What do you say to that?

12 A. I believe that you are mistaken. You are mistaken. Allio became
13 involved in this matter two months later. It was two months later that
14 he became involved. If afterwards you ask me how precisely it happened,
15 I can explain to you, but at the beginning it did not concern Allio. It
16 concerned General Kayihura. Even Allio did not know me. He did not know
17 me because I had never met with him. On the other hand, I knew Kayihura.
18 How could he have called me when I didn't know him? He did not know me.
19 So somewhere along the line there is a mistake. Maybe Germain is the one
20 who forgot when he told you that story, but at that time I did not know
21 Emmy Allio. I came to know him afterwards.

22 There the issue involved the general, and I did not give the
23 telephone to Germain and he refused, no. He had accepted that it was all
24 right. He was going to go there. But when we arrived at Bunia, he
25 disappeared. I do not know how he left.

1 So if you have the time to continue the conversation with him or
2 you can meet with his friend with whom we travelled, they can explain to
3 you how we had met, how we had agreed. You can meet his friend with whom
4 we went. He was the one who convinced Germain that it was necessary to
5 go. I believe you have met Alezo Pascal.

6 Q. Let me pass from Kinshasa to Bunia a couple of months later. Is
7 it right that that was the next time that you met Germain Katanga was in
8 Bunia during further meetings of the CCGA?

9 A. I think I have already said so.

10 Q. (* Previous translation continues) Just helpful to get us back
11 into context, you see. And at those meetings, Germain Katanga came as
12 commander of the FRPI. Isn't that right?

13 A. Yes.

14 Q. And I don't know if you know this, but it was MONUC who would
15 helicopter him in from Aveba to Bunia for those meetings, often on a
16 Monday or a Friday. Is that right?

17 A. I no longer remember how he came, but it is possible that MONUC
18 went to fetch him.

19 Q. And during one of these visits, I suggest Emmy Allio was also in
20 Bunia, and it was he who proposed to Germain Katanga that he go to
21 Kampala in order to discuss matters with President Museveni. Is that
22 right?

23 A. And where did they meet?

24 Q. I think they met in a hotel there, together with Pascal Alezo.

25 A. That's it. Well, if you have had the time to discuss with Pascal

1 Alezo, he will tell you that I was the one who convinced Pascal Alezo to
2 convince Germain. It had nothing to do with Emmy. The person that you
3 know is Alezo. I know that you cannot ask Allio. I'm asking you to ask
4 Alezo. I persuaded Alezo, and he convinced Germain. Allio did not
5 discuss with Germain to convince him, no.

6 Q. In fact, I suggest -- in fact, I suggest it was Emmy Allio who
7 said to him, "Well, look, if you go to Kampala, I'm willing to go to
8 Aveba and stay there until you come back." It wasn't you who said that.
9 That was Emmy Allio who suggested that.

10 A. In any case, I think this is becoming comical. I do not know why
11 I should start arguing here and there. You can accept what I'm saying or
12 not accept it. I am telling you that there was somebody that I convinced
13 to go and convince Germain.

14 What was Emmy going to do in Aveba? How was he going to go
15 there? Why? They were afraid. They were afraid. I'm telling you. I
16 knew that they could not do anything to Germain in Uganda. I was certain
17 about that. That is why I was prepared to go there, but the Ugandans
18 could not take that risk.

19 Counsel, I think you are just telling stories here. It is
20 pointless to continue, because I stand by what I said. I cannot change
21 it. If you have already received another testimony, you can keep it, but
22 since -- if you cannot meet Emmy, it would be better to contact Pascal
23 Alezo and ask him. That is simple, instead of wasting time trying to say
24 who persuaded who. That is not necessary. Whether I persuaded him or
25 not or I did not persuade him, how is that going to be useful to you?

1 What I know is that he went there, and I know what he told me, but
2 convincing him whether I was God or Christ, that is not my problem. I do
3 not even see the relevance. What is important is that we had the
4 opportunity to be together. We discussed together. I think that is the
5 important thing. It is not an honour for me to have persuaded him or
6 not. It is not an honour.

7 Q. Just ask you this. Having heard and indeed read a lot of what
8 you've said about the Ngiti, were you, in fact, willing to go and live in
9 Aveba while he went to Uganda?

10 A. Can you repeat the question?

11 Q. Considering -- considering all the things you've said and I've
12 read that you've written, you know, the killings, people being eaten,
13 goodness knows what else, are you saying that you were willing to go and
14 live in Aveba and stay in Aveba?

15 A. No, I did not say that. I told Germain that he could go to
16 Uganda, and if they were not sure, since he was afraid that he could be
17 arrested there, I said, "You can leave me in Aveba as a hostage, and in
18 that way, upon your return you will release me."

19 I'm giving you testimony of a situation that happened a long time
20 ago. The Germain that we're talking about is not the old Germain. He
21 had changed completely.

22 For me, when I heard that he thought he could cohabit with Hemas,
23 we prepared a plan, because President Museveni had asked that we should
24 put together a plan for Hemas and Lendus. They were there in my house
25 with Mr. Ngoma. When I saw that Mr. Ngudjolo had decided sincerely to

1 cohabit with Hemas, I felt that he was really sincere. I understood that
2 there was no longer any necessity for me to make more efforts. We are
3 talking about the old Germain, not the new Germain or the new Ngudjolo.
4 These are different people.

5 I am testifying, but that does not mean that I cannot see any
6 value in the people I know. Even if I don't tell you, another person can
7 tell you. Those were the relationships that we had.

8 Q. Just again, just so we bear in mind, the time you're talking
9 about, I mean in early 2003 (sic), Germain was 23. He'd turned 24, so he
10 turned 25. He was 25 when you met him in August 2003 (sic); is that
11 right?

12 A. When you're talking of years, age, I do not know. My memory is
13 not so strong for me to remember. I remember major events, but when you
14 talk about somebody having a birthday on this day -- I've even forgotten
15 some of the birthdays of my children. So it would be difficult for me to
16 remember whether he was 22 years, 25 years and so on, no.

17 Q. Was Emmy Allio in Bunia?

18 A. When?

19 Q. Before Germain went to Kampala for the first time, which was
20 October 2003.

21 A. Yes. In 2003, Emmy Allio had come to Kampala. He did not come
22 to Kampala on behalf of Germain. He came to Kampala --

23 Q. Was at that Kampala or Bunia? Sorry, it's being translated as --
24 sorry to interrupt you, Witness, there was a run of -- I don't know if it
25 was a misunderstanding or not. Where did Emmy Allio go to? Was it Bunia

1 or Kampala?

2 A. I'm sorry. I was the one who said Kampala instead of Bunia.

3 Emmy Allio had come to Bunia, but not for Germain. Germain was a
4 secondary issue. He had come to reach an arrangement with Mr. Kiseembo
5 Bitamara so as to look at the possibility of knowing the location of the
6 PRI elements. Those were the Ugandan rebels who were together with the
7 UPC. That was reason.

8 Just a moment, please. He also gave money to Kiseembo to rent the
9 office premises that PUSIC used. That was the purpose of the visit of
10 Emmy, but he also needed to meet Germain Katanga and discuss with him the
11 possibility of going to meet with the president. Germain was still
12 hesitating, so the person who actually convinced him to go was Alezo
13 Pascal. Alezo even accepted to accompany him. It had not been planned
14 that he would accompany him, but he decided to travel with him at that
15 time. But the purpose of the visit of Allio was that issue which was
16 linked to his country.

17 Q. Yes. And just so we're clear, this is before Germain's first
18 visit to Kampala; is that right? In October.

19 A. Yes.

20 Q. I thought, and I may be mistaken, earlier you said you didn't
21 know any Emmy Allio until later, but you seem to know all he's doing
22 here. So when did you first meet Emmy Allio then?

23 A. Emmy Allio, I met him in October. It was still in October. I
24 said he came to see. He knew Kiseembo Bitamara, and Kiseembo Bitamara was
25 supposed to have a chat with him, and they knew what they were organising

1 amongst themselves, and they went on to work together later. And Kisembo
2 Bitamara was the one who introduced me to Emmy Allio, and since he was
3 going to give money so that we could rent the offices that we used,
4 naturally we had to receive that money, and we had to know where it came
5 from. So that's how I came to meet Emmy. That was the first time that
6 we were able to speak with Emmy.

7 Q. And how much money did Emmy give you, give PUSIC?

8 A. Not me. It was an arrangement with Kisembo Bitamara. Not with
9 Chief Kahwa but with Kisembo Bitamara. How much, I don't know. I don't
10 know how much they gave.

11 Q. Is it right that Emmy Allio gave you \$5.000 in order to
12 facilitate the trip of Germain to Kampala?

13 A. No. He did not give me \$5.000 to facilitate that trip.

14 Q. How did you pay for the trip?

15 A. Emmy Allio had facilitated. He had calculated, and I remember,
16 the aeroplane tickets to leave Bunia and go to Beni. The tickets for the
17 vehicles from Beni to -- from Beni to Kasenyi. The vehicle tickets, he
18 had calculated that. He calculated the bus tickets from -- from the
19 border to Kasese, and when. He even said that, "When we go, I will be
20 there to receive you." He had calculated that, and we paid just for the
21 tickets to go to Beni, and we hired three Motos to go to Kasenyi, and we
22 crossed. I called him and asked him, and I said, "We're in Kasenyi."

23 Five thousand dollars? That's a lot of money. It doesn't make
24 sense. There was the calculation of the aeroplane tickets, and he said
25 there, "Take a bus, and that way you will be able to sleep in a hotel."

1 Even that hotel we didn't pay. If he had given me the money to pay the
2 hotel, but I said to him, "How are we going to sleep there?" And he
3 said, "We will send you someone." He sent someone and this person had
4 paid for the hotel bill. He paid for the hotel bill. We just spent the
5 night there at the hotel. Even to go to the hotel, we took the bus from
6 Lapal (* phon) to get to Kampala, and from -- once we got in Kampala, we
7 got the vehicle that the person number 7 and that person took the vehicle
8 with everyone, and we went to the hotel from there. We never saw Allio
9 again. So ask me if we had seen him. We saw him the day of the
10 departure, that's all.

11 Q. Very well. My question was, did he give you any money?

12 A. Yes. I don't remember how much. It was the equivalent of paying
13 the trip for Bunia to Beni, and then the vehicle from Beni to Kasese.
14 That's all, but not \$5.000. It wasn't even a thousand dollars, not even
15 a thousand dollars.

16 Q. Very well. So Emmy Allio gives you money. I've suggested the
17 sum he gave you. He was expecting some money back from you but it didn't
18 come. Isn't that right? You didn't give him any change, did you? When
19 you got to Kampala, there was no -- all the money had gone, hadn't it?

20 A. Sir, Counsel, in all these armed groups I was a capitalist, and I
21 would lend money. I lent money to the groups. So I could even pay for
22 the transportation for the others. That wasn't a problem. It wasn't
23 expensive, you understand. And you didn't ask. There wasn't enough
24 money. That's what I mean by that. And myself, I was able to do that.
25 I warn you of that.

1 Q. Now, let's come to Emmy Allio. Who is he?

2 A. Emmy Allio was a journalist, first of all, a journalist from "New
3 Vision" in Uganda. But in addition to that, as I started to get to know
4 him, I realised that he was also working with the external security
5 forces of Uganda. He was working with the external security forces. But
6 that was not his profession. That was not his task. His real profession
7 was that of journalist. He was a journalist for "New Vision."

8 Q. Well, thank you. May I suggest his job was intelligence officer,
9 and his cover was being a journalist for "New Vision." In fact, he
10 became head of Ugandan external intelligence, did he not?

11 A. Thank you very much for that piece of information. I didn't know
12 that he had become -- I knew that when he had finished his education in
13 law, it was suggested that he work officially with the external
14 intelligence service, but he refused. He wanted to be a diplomat
15 instead. So thank you for giving me that piece of information that he
16 had become responsible for security in Uganda. Thank you for that
17 information.

18 Q. Well, that's no real surprise to you, knowing what you do about
19 him, is it?

20 A. Yes. I'm telling you that he told me that it had been suggested
21 to him. When he finished his education in law, he had been offered work,
22 official work. He worked -- it wasn't really -- he was a journalist
23 covering military matters, in actual fact. Sometimes the government
24 would send him to do a report or to cover a situation that was related to
25 the army, because in the news -- amongst the newspapers, "New Vision,"

1 the military branch, that was his work, and that is why he said that he
2 could do that. It was -- it surprises me that he was taken, because he
3 had worked in that area for a long time.

4 Q. Now, let's --

5 A. At least according to him.

6 Q. Now, let's come to this first trip to Kampala. In the course of
7 this trip, there's the visit to President Museveni, and you go with
8 Germain and Pascal Alezo to meet the president; is that right?

9 A. Yes.

10 Q. And did Emmy Allio go too?

11 A. I no longer recall. I knew that we left with Mayombo Noble, the
12 person who drove us in his vehicle. I remember -- I no longer remember
13 if Allio was there.

14 Q. So you're driven to see Museveni, about -- a journey of about
15 200 kilometres; is that right? From Kampala to Mbale, M-b-a-l-e; is that
16 right?

17 A. *I don't know how many kilometres it was, but I know that it was
18 in Mbale.

19 Q. A sort of Camp David, a sort of country retreat for the
20 president; is that right?

21 A. I don't know.

22 Q. You went there. Did it seem that sort of place? Quite a
23 distance from Kampala? Never mind, that's -- distance doesn't matter.
24 And you were driven by Noble Mayombo, who we talked about earlier today.
25 He was, you described, a very distinguished figure, the head of the CMI,

1 the chieftaincy of military intelligence. He was the man who drove you;
2 is that right? As you've told us. And also there, I suggest, was Emmy
3 Allio and another man called Peter Karim. That's K-a-r-i-m. Together
4 with Germain and Pascal Alezo. So that was the group, I suggest, that
5 went to see the president. Does that jog your memory?

6 A. Yes. You've refreshed any memory, since I remember it's true.
7 There was Mr. Peter Karim, but I don't believe that we left with him in
8 the same vehicle. I remember that there was another person who was in
9 charge, Pupal. I remember Pupal who had just been appointed the person
10 responsible for foreign intelligence, the foreign intelligence of Uganda.
11 I can't remember anymore if Emmy was there. But when we were in the
12 room -- when we were in the room, we were alone, only Germain Alezo,
13 myself and the president. I don't know whether there was someone else.
14 I don't recall. But the others, Emmy and the others -- in any event, I
15 don't think they were there.

16 Q. And you at this stage were a Ugandan intelligence source, were
17 you not, or agent? Perhaps not agent, a source, were you not? They were
18 looking to you for information. That's why you were there.

19 A. It wasn't necessary. A source doesn't need to be there to start
20 to listen. A source provides information.

21 You see, sir, in Ituri, I really didn't have the intent to make a
22 political career within those groups. They were tribal groups. And why
23 did I persist within those groups? Well, it was for other reasons: To
24 get enough information to provide to my country, to the international
25 community. And they pushed me to do that as well. That's why it was

1 very important for me to be there. Not because I was hoping to get
2 something, but I knew that I could get enough information if -- if --
3 that compromised my country and if I could deliver it to the
4 international community.

5 I didn't want any harm to be done to a community that appeared to
6 be weak, like the Ngiti, the Lendu. I did not want that, because I knew
7 that there were charges that were not founded against them. And if
8 Germain left for there, well, he will explain to you why. Because we had
9 been accused of many things, and I had said to Germain, "It would be
10 better if you yourself speak to the president and explain rather than
11 letting someone believe something about you." And that's what he did.
12 He explained the situation, and the president understood him. He said,
13 "We will work together under those conditions." But for me, I thought it
14 was a good thing to do such a thing. A good thing.

15 Q. Now, the conversation, much of it, was concerned with the Nalu, a
16 rebel force against Museveni. And I think you have touched on that. But
17 may I suggest that, in fact, Nalu were never anywhere near Ituri. They
18 were down in the Kivus, the other side of Beni. Isn't that right? There
19 were never in Ituri at all.

20 A. Since that's a suggestion -- you're suggesting that to me? Well,
21 you can do so. You can make that suggestion. You don't know about
22 Ituri. You don't even know about --

23 THE INTERPRETER: Inaudible.

24 THE WITNESS: (Interpretation) So you can confirm that Germain
25 was there or not. That does not interest me. I'm not interested in -- I

1 don't know what you're driving at.

2 MR. HOOPER:

3 Q. What I'm driving at, let me put it like this, was that this was
4 all a bit of a false premise and that -- let me put this: I suggest that
5 what Museveni was looking for was an excuse to come back into Ituri.
6 That's what he wanted, wasn't it? He wanted to come back into Ituri and,
7 you know, if he had to say, "I'm going there to protect Uganda from the
8 Nalu," then that would be a justification. Isn't that what was going on?

9 A. That is what you are suggesting to the Court. People, I think,
10 are taking note of that. It doesn't commit me. You can say that, and
11 they will take note of that.

12 Q. Can I just -- with this trip, just a few things about it. I
13 don't need to know a lot about it, but I'm right in saying that the
14 difficulty for Germain Katanga at the time was that he was not allowed to
15 leave Ituri because MONUC would have stopped him leaving, and this was
16 one reason why you had to take the more difficult route that you took; is
17 that right?

18 A. Who would keep him from leaving Ituri? Because we left Ituri and
19 it wasn't a secret. We went through an open door. There was an
20 immigration service. There were MONUC soldiers. They let us go, and we
21 got on onto the aeroplane. But the problem wasn't MONUC. The problem
22 was Germain didn't want his Lendu and Ngiti brothers to know that he had
23 gone to Uganda. That was his problem. The problem was not with MONUC at
24 all, because they were to come and go, but they were afraid.

25 THE INTERPRETER: Correction: He was afraid of what others would

1 say.

2 THE WITNESS: (Interpretation) That was the problem.

3 MR. HOOPER:

4 Q. Well, I say Ituri, you flew from Beni -- sorry, from Bunia to
5 Beni, still in DRC; is that right?

6 A. Yes.

7 Q. And then you took a -- motorbikes and eventually managed to cross
8 the border into Uganda, and throughout that time am I right in saying
9 that Germain was armed? He had a gun with him. Another problem that he
10 may have had. Is that right?

11 A. I never saw him with a weapon, since even if he had one, he
12 couldn't go into the office of president where he was receiving people
13 with a weapon. He couldn't do that. He did not have a weapon.

14 Q. Then in -- when you got to Beni, you were arrested, were you not?
15 Or detained. Let me put it like that. You were detained by the
16 authorities there, and you had to pay a \$300 bribe to get out, didn't
17 you?

18 A. No. I was never arrested in Beni. Well, I didn't want people to
19 know I was there. He didn't want to know. I was never arrested. As is
20 the case in all airports, I don't know exactly what they asked for, a
21 vaccination card, a baptismal certificate, whatever, but when they asked
22 for that, I was asked for a document that I didn't have. I didn't have
23 the document. I no longer remember whether it was a baptismal
24 certificate or something like that, and the possibility was to say, "No,
25 I don't have such a thing" and to give \$5.00, and I went through. I was

1 never arrested. I went and I spent the night there.

2 You can ask me why we left and went by motorcycle. It's because
3 we arrived in the evening and we didn't want to spend the night there.
4 Earlier it was a single opportunity. We could have taken the vehicle and
5 gone, but we arrived, and it was in the afternoon, and we wanted to cross
6 the same day. But I was never arrested. And paying -- and pay \$300 to
7 do what? Well, I had my card. Well, it might have been a baptismal card
8 or something like that that I didn't have. It was a common practice in
9 the airports.

10 PRESIDING JUDGE COTTE: (Interpretation) Very well. Mr. Hooper,
11 I think that will be all for today.

12 Madam Court Officer, could we please go into closed session so
13 that the witness can leave the courtroom.

14 THE WITNESS: (Interpretation) Please, your Honour. My --
15 couldn't we keep on going and finish with this point?

16 PRESIDING JUDGE COTTE: (Interpretation) We can't finish this
17 evening, but I am ending the hearing right now so that we can talk about
18 that, but tomorrow morning we will resume. In any event, we thank you
19 for the contribution that you have made over the course of the day, and
20 until tomorrow.

21 (Closed session at 6.24 p.m.)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Open session at 6.24 p.m.)

5 COURT OFFICER: We're in open session, your Honours.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

7 Court Officer.

8 Mr. Hooper, the Chamber has been very careful and over the course
9 of a very long afternoon that must have been quite difficult for you, we
10 have been trying to call -- draw your attention to something that has to
11 do with scheduling. As I said a bit earlier, at the end of the testimony
12 of this witness and before we begin with 219, we will take stock together
13 of the amount of time that has been used by each party, and we will then
14 calculate the amount of time remaining. But with regard to this specific
15 witness, you must know that at the current time, at this particular point
16 in time, it would appear that the Office of the Prosecution with its
17 examination-in-chief used 8 hours and 20 minutes. Mr. Luvengika --
18 Mr. Gilissen used 59; Luvengika, 26 minutes; and at this particular
19 moment you have used 8 hours and 10 minutes.

20 Let us not forget the ruling 1665 that said that
21 cross-examination would represent approximately 60 per cent of the
22 duration of the examination-in-chief conducted by the Prosecution.

23 The Chamber has allowed the Defence teams to take stock of the
24 time, and we've been very respectful of the way that you have used your
25 time with the opportunity to compensate. You may use less time for one

1 witness and more for another, but all the same, you will have to be very
2 careful about the calculations that are then done, because the Chamber
3 has to keep an eye on the rate of proceedings, and we do have to remind
4 you of the amount of time remaining.

5 Now, you will be continuing tomorrow with this witness, but I
6 think you will have to be very careful. You will have to be very careful
7 not to spend too much more time with Witness 12. You are very close to
8 the amount of time, four minutes within the amount of time that the
9 Prosecution used.

10 We understand your concerns, of course, but you must consider the
11 amount of time that you'll have for the remaining witnesses. So that was
12 the only piece of information that I wanted to pass on to you.

13 MR. HOOPER: Well, it's definitely taken me longer than I
14 thought, but that's certainly that not unusual, I'm afraid. It's always
15 difficult to judge these things. I'm also dealing, perhaps, with the
16 general issue of credibility with the witness and that's always difficult
17 to measure. I'd be surprised if I can finish him -- I hope to finish him
18 by tomorrow. I'd have thought I will finish him by tomorrow, but I've
19 got significant matters to put to him. And what I'd ask is that, you
20 know, in a way -- I know the Court is doing this and has done this. It's
21 seeing it in a general context of -- of evidence. We've been shorter
22 with others, as you know, and in the round I hope -- I hope we haven't
23 been abusing the allowance that the Court's given us in order to -- to
24 make the case that we need to make or perceive we need to make, in any
25 event, in respect of each particular witness. So (* Previous translation

1 continues) with two matters with this witness. I'm dealing at present
2 with the visits to -- to Kampala. That's a significant part of his
3 evidence, and the (* indiscernible) conversation. I can't overstep that.
4 I also want to ask him questions about his participation in what was
5 known or became known as the new rebellion. That goes to a general issue
6 as to what this man really was up to at the time in contrast to how he
7 wishes to be perceived, and that's -- that's quite important again to us.
8 So those are -- those are the two areas I have to deal with tomorrow.

9 As I say, looking ahead, I think that it will balance out. Let
10 me put it like that. That's been my feeling. Not necessarily with this
11 witness, but in terms of -- well, perhaps the next witness, for example.
12 I may not be taking this amount of time but approaching that witness in a
13 different way. The next witness similarly. We've got one witness after
14 that may take some while, and that is the witness that the Prosecution
15 have prevaricated about and who's going to be re-interviewed again, 28,
16 but I think the others we're going to find ourselves within limits.

17 So I hope I'm not overtrying the Court's patience and indeed
18 tolerance. I wouldn't want to abuse that position but it's very
19 difficult to make these points in an alternative way. There may be a few
20 questions I needn't have asked, but I hope overall the general direction
21 of my questioning I hope has been and will, I hope, prove to be
22 legitimate. That's a concern.

23 So I appreciate the Court's concern. I'm not -- I'm not brushing
24 it off by any means. I'm very alert to it. It's just that it is
25 sometimes difficult to confirm particularly when you've got a witness of

1 a particular kind, and this is a witness of a particular kind. I'm
2 having to approach him in a particular way. So I hope that may not be
3 exactly the answer I'm sure that, Mr. President, you and your brother
4 Judges had hoped to hear from me. Maybe you thought I was going say I
5 was going to sit down shortly, but I've got important fences to jump, and
6 I'm going to have to do it, and I hope carry you Judges with me.

7 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, we have 30
8 or perhaps 40 seconds. As I have been saying, we are very respectful of
9 the Defence's efforts. Our Court Officer gives us charts with faithful
10 records of the amount of time taken by the various parties and
11 participants so that everyone can have a dashboard, so to speak.

12 Now, you are not boring us with this witness. We are following
13 your cross-examination, and the witness has a certain presence, and he
14 may not have been an easy witness to examine or cross-examine. We are
15 merely drawing your attention to the fact that this is a witness that is
16 taking a lot of your time, and you will have to be very vigilant. The
17 Katanga Defence team will have to be very careful about the total amount
18 of time that you have already used and the amount of time that will be
19 remaining to you. That was the only point that we wanted to make, saying
20 it to you and for -- the Ngudjolo Defence team can also take note of our
21 remarks, but chance being what it is, well, there is a certain amount of
22 time to be dealt with.

23 Now, we have a few moments. At the end of Witness 12 we will
24 take stock of the amount of time used.

25 We thank our colleagues, as usual, and tomorrow we will resume at

1 9.00 a.m.

2 The hearing ends at 6.33 p.m.

3 CORRECTION REPORT

4 The following correction has been brought to the transcript:

5 * Page 78 lines 17 and 18: "I don't know how many kilometres, but I think it is
6 in the suburbs." is corrected by: "I don't know how many kilometres it was,
7 but I know that it was in Mbale."

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