

1 International Criminal Court
2 Trial Chamber II - 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 the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial hearing
9 Thursday, 21 October 2010
10 The hearing starts at 9.02 a.m.
11 (Closed session)
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
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18 (Expunged)
19 (Expunged)
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21 (Expunged)
22 (Open session at 9.03 a.m.)
23 COURT OFFICER: We're in open session, Your Honours.
24 PRESIDING JUDGE COTTE: (Interpretation) Thank you. The accused
25 persons are here. The witness is here as well.

1 Can the witness hear me correctly -- clearly? [

2 THE WITNESS: (Interpretation) Yes, I hear you clearly.

3 PRESIDING JUDGE COTTE: (Interpretation) Very well. Good
4 morning, Witness. Before I give the floor to Mr. Hooper to continue with
5 his cross-examination, the Chamber would like to ask him whether he
6 maintains his request to lift the redaction which he requested yesterday
7 and a request to which the Prosecutor responded yesterday afternoon,
8 stating that he intended to give information on the family ties, existing
9 family ties, but not on the identity of the relative concerned. The
10 hearing continued after the intervention of Mr. Hooper. Well, the
11 Chamber would like to know whether Hooper wishes to maintain the request
12 that he made yesterday. He could give his answer in the course of the
13 hearing. I would like to give you time to -- well, yesterday at the
14 hearing, you expressed your desire to see certain redactions lifted at
15 the beginning of a paragraph, paragraph in an investigator's note, and
16 the Prosecutor responded in the afternoon, saying that he was ready to
17 provide information relating to family ties but not the name of the
18 person concerned. We would like to know from you whether you maintain
19 that the redaction should be lifted.

20 MR. HOOPER: Yes, sorry. Yes, please. We would ask the Chamber
21 to consider the appropriate level of redaction.

22 PRESIDING JUDGE COTTE: (Interpretation) Well, the Chamber would
23 follow what the Prosecutor proposed, namely, that you should state the
24 family ties and maintain a redaction of the name of the person. However,
25 the information about the family ties would facilitate the job of the

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1 Defence team. If that could be done this morning, it would make things
2 easier for everyone.

3 MR. MACDONALD: (Interpretation) Thank you, your Honour. We're
4 going to send the information about family ties by e-mail to all the
5 parties and participants in response to the e-mail we received from the
6 Chamber.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.

8 Mr. Hooper, you may proceed with your cross-examination. You
9 have the floor.

10 MR. HOOPER: Very well.

11 Questioned by Mr. Hooper: (Continued)

12 Q. Mr. Kilenda's been -- and Mr Fofe have been good enough to
13 indicate that they consider that they would need tomorrow or a
14 substantial part of tomorrow to cross-examine the witness, question the
15 witness, taking into account at least some possible time that the
16 Prosecution might require, which leaves me essentially with today. I'd
17 say this: I don't feel today would be adequate for the questions I've --
18 I've got to ask. I'll say no more at this stage. I'm having to make
19 choices in terms of my questions and skipping areas which I would
20 otherwise want to ask and engage in. I'm having to step over that, and
21 I'll -- but I'm obviously having to -- to make some difficult decisions,
22 and so I'm not going to pursue more, a not insignificant area, for
23 example, the FRPI and its structure which we touched on yesterday.

24 Mr. Witness --

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

1 Mr. Hooper, the Chamber hears you clearly. Use the four hours we have
2 this morning to the maximum. You have the floor.

3 MR. HOOPER:

4 Q. Now, I don't dispute on behalf of Mr. Germain Katanga that there
5 came a time when he was first addressed by others as president of the
6 FRPI and later appointed by Kakado as president of the FRPI and later
7 self-proclaimed himself president of the FRPI. The dispute between us
8 might be when that occurred.

9 Can I -- can I ask you this: Would it be fair to say that
10 whenever or at whatever point he received a position of authority within
11 the FRPI, would it be fair to say that Germain Katanga, while he tried to
12 control things, sometimes he did not succeed in doing so? Would it be
13 fair to express the situation like that?

14 A. Before we continue, I think we should continue from where we left
15 off yesterday. I would like that the Presiding Judge should allow for me
16 to be given the manifesto of the FRPI and later on I will answer your
17 question.

18 Q. Well, I don't want to ask you questions this morning about that.
19 I don't have the time. I'm having to cut that the out. So can you
20 please answer my questions, and I will leave it to His Honour the Judge
21 to address your situation at the end of my questions. Can you answer the
22 question I just put to you? Would it be fair to say that while Germain
23 Katanga tried to control things, he didn't always succeed. Would that be
24 a fair reflection?

25 A. Yes, that is correct.

1 Q. And yesterday you were asked by the Judges some questions about
2 Bayonga. Would it be fair to say that Bayonga, in fact, gave promotions
3 within the military structure?

4 A. Bayonga proposed Germain's name. He was the person who appointed
5 Germain, and it was Germain who appointed soldiers to their positions.
6 He was the one who appointed soldiers. I remember Bayonga said the
7 following: "I have just made appointments within the administration.
8 Now I will make appointments in the army." But he did not do that. The
9 list of appointees of FRPI soldiers was prepared by Germain.

10 Q. Well, can I suggest that Germain, in fact, gave ranks -- well,
11 there came a time when he gave ranks, and that was largely within the
12 group at Aveba, but that it was Bayonga who gave the more senior ranks
13 out, you know, those above, you know, a captain or lieutenant or that
14 kind of position. He gave the more senior ranks out, did he not,
15 Bayonga?

16 A. The ranks awarded by Bayonga were awarded before the creation of
17 the FRPI. It was at that point in time that he appointed colonels and
18 majors, and this was well before the creation of the FRPI.

19 Q. Because I'm looking at your paragraph 109 in your statement. Let
20 me just read it. It's not very long. It reads:

21 "Bayonga was the one who gave promotions, like that of Bahati,
22 who he called Major. Germain gave promotions to lieutenants, captains,
23 subordinates."

24 That's right, isn't it?

25 A. I think that the translation is not very good perhaps. There

1 were the senior officers, colonels and majors, but before the rank of
2 major, what other rank do you have?

3 Q. I think maybe we're agreeing that colonels, majors, the superior
4 ranks, were handed out by Bayonga. We agree on that, I think, do we?

5 A. He awarded these ranks very early on. I don't know what
6 chronology of events you're referring to. He awarded the ranks before
7 the creation of the FRPI. I think Germain was promoted to the rank of
8 colonel before the creation of the FRPI. Kandro was promoted to the rank
9 of colonel before the creation of the FRPI. Major Move, as well. I
10 think that here we are talking about the period that preceded the
11 creation of the FRPI. I don't know if I am going off topic here. If
12 that is the case, well, then you will bring me back to the subject
13 matter.

14 Q. Well, whatever your view is, your historian's view may be,
15 essentially you agree with me, whenever it was, according to you, it was
16 Bayonga who handed out these senior ranks, colonel, major, that kind of
17 level. Would that be right?

18 A. What period are you referring to?

19 Q. Right. I'm moving on. Would it be fair that -- to say that
20 Germain depended on Bayonga? He obeyed his orders?

21 A. Do you want to know whether or not he obeyed military orders or
22 spiritual orders?

23 Q. Well, I'm -- I don't want to get caught up in semantics. If
24 Bayonga said to Germain Katanga, for example, "Go and kill someone," what
25 would Germain's position have been, would you say?

1 A. Bayonga never issued such orders, on no day at all. One day we
2 went to see Bayonga, and there were also politicians who had created the
3 FNI and the FRPI, the director of cabinet, Chura. There was also Sipa,
4 the director of cabinet of Ndjabu. Bayonga asked him who they were and
5 they said, "We are politicians." And he said, "I cannot talk to
6 politicians." He asked them another question and I cannot remember the
7 person the question was directed to. He said, "If you kill 100 persons,
8 would you be able to bury them on the same day?" And the person said,
9 "No, I would not be able to." And then he added, "If you're able to do
10 so, fine. But you should have a war conscience. Not politicians,
11 because politicians are responsible for the killings that are taking
12 place. But advisors cannot go before a Tribunal."

13 Now, I don't know whether or not Bayonga could issue such orders.
14 I remember that one day he said, "You are killing people, whereas you are
15 brothers." That's it.

16 Q. Let me just read to you paragraph 110, or part of it, from your
17 statement. It's not long.

18 "Germain depended on Bayonga. He obeyed his orders. The old
19 Bayonga was not military but an old sage, like a war advisor. If Bayonga
20 spoke today to Germain and says to him, 'Go kill this person.' Even if
21 you do whatever miracle, this person will die."

22 Those are your words. But do you agree with them today?

23 A. I just explained to you, talked to you about the responsibility
24 of Bayonga in the war. You have to know the situation or the
25 circumstances under which Bayonga could issue orders. This is not to

1 say, however, that all crimes were ordered by Bayonga. When the war
2 spread to Beni, Aveba, and other places, Bayonga no longer had any
3 influence.

4 Q. Now, you were asked by, I think, the learned Judge yesterday if
5 Germain reported to Kakado, and you said Germain did not report to him.
6 Is that right?

7 A. I think we are beating about the bush here. I described the role
8 played by Kakado in the Ngiti community. I talked about the powers he
9 had. He had spiritual powers. He did not have military powers. What he
10 did was to make the people stronger and to boost their morale. He was
11 somebody who had the ear of the community.

12 Q. Just coming back to my question. Yesterday you said, when you
13 were asked by the learned Judge whether he reported to Kakado, you said
14 no, he didn't. And I'm asking you, do you stand by that?

15 A. From the spiritual standpoint, yes, he reported to Kakado; but
16 with respect to military decisions, Kakado never took such decisions, and
17 I do not agree with that.

18 Q. (* Microphone not activated) because it was, in fact, very clear
19 from the Presiding Judge. This was at yesterday's transcript, 207, at
20 page 23 in the English, line 10. To your knowledge, you were asked:

21 "Did it ever happen that Germain would visit Chief Bayonga in
22 Tshei in order to report to him, since he appointed him as president of
23 the FRPI, to report to him on activities? Could you tell us to the best
24 of your knowledge?"

25 The witness:

1 "No. Germain did not report to him. It was rather him who would
2 call to provide advice. That's all. No, he was not reported to."

3 Paragraph 111 of your statement, you say this:

4 "The person that decided the attacks was Germain. The person
5 that had the order on the front on the attacks was Germain. He brought
6 only the report to Kakado, or if they are in the process in preparing
7 whatever attack, we indicated to Kasaki. So it's Kasaki that informs
8 Bayonga."

9 Is that right?

10 A. Yes. Kasaki used to inform Bayonga.

11 Q. And Germain brought the report to Kakado, you said. Is that
12 right?

13 A. You are asking me questions, and you want me to answer by yes or
14 no. It was not a type of mechanism that was automatic in place. There
15 were different events, and things were took -- like happened in this
16 order. It wasn't like it was an organised set-up. So he could talk to
17 Kasaki, or he could talk to the old man, but there was not an organised
18 structure in place which required that information should first be given
19 to Kasaki and then Kasaki would report to Bayonga, no. He could say the
20 situation in this or that part is as follows.

21 I have been asking that the manifesto of the FRPI should be
22 handed over to me. I know exactly why I am making that request.

23 Q. Well, I'm not going to do that, certainly not at the moment. If
24 I -- if I get time to do, I'll do it.

25 When you talk about all these insights you have into the

1 organisation, we must remind ourselves, mustn't we, that you were
2 essentially there as (expunged).

3 (Expunged)

4 (Expunged). That's right, isn't it?

5 A. Yes.

6 Q. And during the lifetime of the FRPI, you've managed to tell us
7 about a battle planned at Chai, and of course Bogoro and Mandro. That's
8 right, isn't it?

9 A. Yes.

10 Q. Was there a time when -- and let me put this from your statement,
11 because I accept this event occurred and it occurred in May or June of
12 2003, and that was -- I'm looking at paragraph 133 of your statement:

13 "Germain -- Germain Katanga made a declaration or statement
14 saying that the Hema that lived in the Lendu-Bindi collectivity should
15 not be killed."

16 Is that right? Did he make that statement, first of all, and do
17 you agree that statement was made in May or June of 2003?

18 A. I agree, and I will tell you the period in question. This was
19 when the population fled Bunia on the 11th of May. They arrived Medhu --

20 Q. (* Overlapping speakers)

21 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, please.

22 MR. GARCIA: (Interpretation) I have not interrupted
23 Mr. Hooper's cross-examination since yesterday, but this is the third --
24 second or third time that the witness is being interrupted whereas he is
25 explaining his answer on an issue that is very important. It is not up

1 to Mr. Hooper to determine whether -- what is relevant or not. He has to
2 be fair to the witness. The witness did not conclude his answer. He has
3 information to provide to the Chamber.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
5 Mr. Prosecutor. The Chamber is going to address himself to -- address
6 ourselves to the Chamber.

7 The witness has twice asked for the manifesto. Mr. Witness, the
8 Defence team of Mr. Germain Katanga, just like the Defence team of
9 Mathieu Ngudjolo, will conduct their cross-examinations the way they
10 wish. They are the ones who decide, and if Mr. Hooper does not intend to
11 revisit the manifesto, that is his problem.

12 And, Mr. Hooper, it is true that the witness should be allowed to
13 finish the answers that he wants to give. He does not give us very long
14 answers. He's usually brief and clear, so let us allow him to finish his
15 answers and then you proceed.

16 I would simply like to point out that I am very cautious when we
17 are dealing with a provisional transcript. I want to draw your attention
18 to the fact that yesterday in the questions -- during the questions that
19 we asked, we wanted to know the existing relationship between Bayonga and
20 Germain Katanga. I do not believe that I mentioned Mr. Kakado at any one
21 point. That is what I wanted to clarify.

22 Mr. Witness, you wanted to say something?

23 MR. HOOPER: Sorry, just on that clarification. They are the
24 same person. Bayonga and Kakado are the same person. Their names are
25 used -- I missed that. I thought there were several people here, but --

1 the -- I'll ask the witness in due course.

2 Could I say in terms of the manifesto so that the witness can
3 hear me, I promise if I have the time I will come back to that. I've had
4 to turn the page on that. I've had to make a choice.

5 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed. Yes. We
6 understood that you had to make some choices, and the Chamber has even
7 tried to see whether it is possible to continue tomorrow afternoon. We
8 are not sure, but we are going to try to see whether we can have one
9 additional hour or one and a half hours.

10 Regarding Kakado and Bayonga, I do agree with you, but in order
11 to avoid confusion later, it is not a bad idea to use the same name all
12 the time.

13 Now, Mr. Witness, tell us what your concern is. Now you have
14 taken the hands off your head, because you looked rather concerned there.
15 We are listening to you.

16 THE WITNESS: (Interpretation) Yes. This is what I would like
17 to say: We are here in a courtroom. I remember that yesterday, before
18 the break, Defence counsel talked about disturbances. He said there
19 would be disturbances, and that is why we are here. We do not need the
20 spirit that preceded the disturbances in our country to spread to this
21 court. He used aggressive language yesterday. I'm a layman and he's an
22 officer of the court, and he should act as such. He should stop
23 intimidating me, torturing me to get me to say things that I'm not ready
24 or willing to say.

25 If I have lied, then I am prepared to admit it. If I tell the

1 truth, then I will be ready to admit it, but he should not frighten me.
2 When he asks a question, he should allow me to answer, to express myself
3 as I need to do. He should not compel me to answer with a yes or a no.
4 He should not continue to try to intimidate me. Otherwise, I will remain
5 silent.

6 Thank you. I think we should work in an atmosphere of fairness.

7 There are two things. There is fire on one side, and then there
8 is justice on the other hand. I'm not Germain's enemy. If he did
9 something wrong, I will say that he did something wrong. And if he did
10 something right, I will do the same. And you can see what is true or
11 false in my statement.

12 If Germain said what you have just suggested, it is true, I will
13 confirm it to you, and I can even tell you when he said that, and what I
14 was saying was that what happened, happened. When the refugees left
15 Bunia, they arrived Medhu, and they were on their way to Beni. In Medhu
16 they started killing refugees, that is, Hema refugees. One day a young
17 girl was abducted and taken to Aveba. Germain was informed immediately,
18 and then he said, "You should not kill the Hemas. The Hemas who are here
19 are fleeing. They fled Bunia because the Hemas attacked Bunia. You have
20 to protect the Hemas who are here in our area."

21 Germain said that, and I am saying it because he said it and it
22 is true. Thank you.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

24 Mr. Witness, you would have realised that this morning, just like
25 yesterday, the representative of the OTP stood up because he felt that

1 you were not being given enough time to speak or that Mr. Hooper was a
2 bit too aggressive towards you. The Chamber intervened and told you that
3 he is the one who has the right to determine whether the conditions of
4 the cross-examination are good or not. So far we have not had the
5 feeling that those conditions are not bad (* as interpreted). You have
6 to understand that Mr. Hooper is defending an accused person who, if
7 convicted, is liable to a long sentence. So this is part of his defence,
8 and the questions that he puts to you may appear to you to be rude from
9 time to time, but he is simply doing his job as a Defence counsel, and
10 he's not trying to maltreat you. So you can be reassured of that.

11 So please answer the questions, and Mr. Hooper has just called on
12 you now to take the time to answer the questions. You are here to tell
13 the truth, and that is what we expect from you, and we expect you to do
14 so in a calm manner. But everybody is playing a different role. You
15 have to fully understand that. At the same time as you have been doing
16 so far, please give brief but clear and precise answers. That is
17 important for the Chamber and also for all the parties and participants.
18 We are going to work in a constructive manner.

19 Mr. O'Shea.

20 MR. O'SHEA: (* Previous translation continues) listening in
21 French and I heard your Honour say: "*Jusqu'à maintenant nous n'avons pas*
22 *l'impression que les choses était -- les conditions n'était pas faites,*"
23 or something to that effect. But in the English transcript, it reads:
24 "So far we have not had the feeling that those conditions are not bad,"
25 which is the opposite. I think your Honours were saying that the

1 conditions had been fulfilled, not that the conditions had not been
2 fulfilled. So it's a mistranslation into the English. I just wanted to
3 make that clear just in case it was mistranslated in the other language
4 such as the witness is listening to.

5 PRESIDING JUDGE COTTE: (Interpretation) The sentence that I
6 would like to see in the transcript is the follows -- as follows: The
7 Chamber considers that the conditions or circumstances under which the
8 cross-examination of Mr. Hooper has been conducted ever since the
9 beginning are good.

10 JUDGE DIARRA: Mr. Witness, I'm going to add to what the
11 Presiding Judge has said. You are the one being asked questions in
12 cross-examination, so you are in a good position to assess whether
13 Defence counsel is trying to intimidate you or not, but if you understand
14 that someone is trying to intimidate you, then you can have a way to
15 resist that intimidation. So do not feel intimidated. He is doing his
16 job, so do not see it as an attempt to intimidate. And if that is the
17 case, you have to resist that intimidation. You are not there to be
18 intimidated. You are there to answer the questions to the best of your
19 knowledge. Tell us what you know, and what you don't know, you don't
20 say. You are here in a situation of total security, material and moral.
21 That is what I wanted to add.

22 PRESIDING JUDGE COTTE: (Interpretation) Yes. Mr. Witness, it
23 was important what Judge Diarra told you. And remember one thing: What
24 we want from you, Mr. Witness, is just the truth.

25 Mr. Hooper, please proceed.

1 MR. HOOPER: And the thought of sitting on a Friday afternoon is
2 a genuine incentive to everyone. Thank you.

3 Q. Mr. -- Mr. Witness, let me come to the issue of -- you see, we
4 all like our weekends, Mr. Witness. It's -- it's -- I'm sure you do too.

5 The camps. Do you remember you were good enough to draw on a
6 plan the various places where the camps were? And I'm not going to spend
7 time in that, because I accept that there was a time in 2003 when all
8 those camps existed. The dispute between us, if I can put it like that,
9 is that they all pre-existed March of 2003. And you'll remember my
10 position in terms of you is that you didn't arrive in Aveba until May.
11 We remember that.

12 Now, let me ask you this: (Expunged)
13 (Expunged)

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, I hope
15 you're not rising inappropriately, because we are trying to make
16 progress.

17 MR. GARCIA: (Interpretation) Just to suggest to Mr. Hooper,
18 because he's talking of issues related to trade by the witness. So if he
19 has several questions to put to the witness on this issue, then we have
20 to go into private session, because we have a limited amount of
21 redactions.

22 PRESIDING JUDGE COTTE: (Interpretation) We apologise to you,
23 because it was a good thing that you stood up. Let us avoid any such
24 things.

25 Please proceed, Mr. Hooper.

1 MR. HOOPER:

2 Q. Did you visit all the camps or not?

3 A. I believe that you have my statement, and in my statement a
4 question was asked to me as follows: How did you know that all those
5 camps existed? That is what the investigators asked me. And my answer
6 was this: "I was able to know about all that because, generally
7 speaking, the camps were located close to the markets." I do not believe
8 that I said in my statement that I entered inside the camps to visit the
9 camps, but what I said was that the camps were located near the open
10 markets, public markets, or near the roads that people used to go to the
11 markets.

12 If you have a different version, then I am not aware of that, but
13 I do remember that that is how I answered the questions put to me by the
14 investigators.

15 Q. I appreciate you have a very good memory of the statement that
16 you've been reading, but I'm asking questions of you here independent of
17 that. Sometimes I may refer to a statement, but if I don't, I'm just
18 looking for an answer from you. So, for example, I asked you then, "Did
19 you visit all the camps?" And what you said was -- you answered a
20 different question. You said, "Well, I didn't go in the camps. I went
21 to the markets." All right? That's a useful answer for me, but let me
22 ask the question again, because it might be a yes or no answer here.
23 Now, the question is: Did you -- and I'll formulate it in a different
24 way. Did you visit all the places where you indicated there were camps
25 or just some of those places?

1 A. There is camp which was located near the lake. I did not go
2 there. There are two camps, the Baguma camp and the Similiki camp. I
3 did not go to those camps, but I went to the other camps. In other
4 words, I went to the areas in which those camps were located. And if you
5 look at the sketch, I said that I knew the commanders of some camps, and
6 I indicated that, but I did not indicate the names of the commanders of
7 certain other camps, which means that I did not know those commanders.

8 Q. And did you visit these places before March of 2003 or only some
9 of these places and visited the other places later?

10 A. You are talking of visiting them before 2003? Well, my
11 activities were not limited to the period before 2003, even after that.
12 I'm trying to think. Later, I went to Bukiringi, for example. I went to
13 look for a nurse in Nyanza, and I saw that there was a camp in Bukiringi.
14 This was in 2003. And if we take another example apart from Bukiringi, I
15 would like to simply say that I travelled to all the other areas.

16 Q. The camps you gave to us, for example, you said to us, oh, those
17 all existed before the Bogoro attack. I want to ask you: You mentioned
18 and have ringed a place called Lagabo. Did you visit that place?
19 L-a-g-a-b-o. Did you visit that place?

20 A. I do not believe I mentioned Lagabo.

21 Q. All right. Well, let's take the time, as we must, to look at
22 EVD-OTP-00197.

23 MR. HOOPER: I don't know if we've still got the original
24 document that this witness had when he was provided it and circled the
25 camps.

1 I've got a paper copy here. Can he have that, please. That's
2 unmarked. Thanks.

3 Q. So you can see there you've circled Lagabo, and that was in the
4 context of where there were camps. In the -- in the transcript when you
5 did that, it came out as Lengabo, which is a different place, but we can
6 see from your map it's Lagabo, L-a-g-a-b-o.

7 Now, all I'm asking, very simply, is did you visit that camp
8 before March of 2003? Yes or no?

9 A. Let me give the necessary clarification. The Lengabo camp was in
10 Djunde. You passed through Medhu, and then you would go to Djunde. That
11 is where the Lengabo position was located. You had to pass through
12 Medhu, and the commander there was the late Tonda, and that was before
13 May. I learned that there was a position located there, and I was also
14 told that there was a commander there. Later on I actually met that
15 commander.

16 Q. Did you go to Lagabo that you've circled?

17 A. I have just given you that clarification. That was the Lengabo
18 camp near Djunde, and Djunde was between Lengabo and Medhu.

19 THE INTERPRETER: From the Swahili booth, can the witness be
20 asked to repeat the last part of his answer.

21 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, the
22 interpreter did not hear the last part of your answer, so if you can
23 kindly repeat, we would really appreciate it. Thank you very much.

24 THE WITNESS: (Interpretation) This is what I said: Lengabo
25 camp was located in the Djunde area, that is which is between Lengabo and

1 Medhu. The commander was a Bira known as Tonda. He was known as
2 “*opérateur*” or “operator.” He was in Djunde where his camp was located.

3 MR. HOOPER:

4 Q. Thank you very much. And I heard and understood your earlier
5 reply. I'm asking you about Lagabo that you circled on this plan. And
6 my question is -- you circled that as a place where there was a military
7 camp or position. My question is: Did you visit that before the time
8 that there was an attack on Bogoro?

9 MR. GARCIA: (Interpretation) There seems to be some confusion
10 here. I do not know whether it is voluntary or not on the part of
11 Mr. Hooper, and this confusion concerns whether it is Lagabo or Lengabo,
12 and the witness has been talking about Lengabo. I do not have that
13 document on my screen. I think we may need to see it to see what
14 Mr. Hooper is referring to.

15 PRESIDING JUDGE COTTE: (Interpretation) Court Usher, please, if
16 you can call up that document on the screen so that we should try to see
17 whether there is confusion between Lengabo and Lagabo, and we can
18 anticipate that it will not take a lot of time, and this will avoid
19 further interruptions.

20 Court Usher, that is the document that is before the witness.
21 Please call it up on the screens.

22 I have been told that this will take some time. Last week we
23 were given these large maps and we can see south of Bogoro -- or, rather,
24 Judge Diarra has just pointed out that to me. There is the locality of
25 Lagabo, L-a-g-a-b-o, there. So, Mr. Hooper, can you clarify the

1 situation with the witness so as to determine whether Lagabo is also
2 spelled as Lengabo. Thank you.

3 Court Usher -- Court Usher, let me hand back this document to
4 you.

5 In order for us to be sure that we don't have both Lagabo and
6 Lengabo.

7 MR. HOOPER:

8 Q. (* Previous translation continues) Lengabo. I'm asking you about
9 Lagabo. And if we look at that map that you've got, and I've handed the
10 EVD document to the Bench, we can see that you've circled Lagabo,
11 L-a-g-a-b-o, which is just a few kilometres from Bogoro. And I'm asking
12 you, did you visit that camp?

13 A. I am talking about Lengabo, and if I circled that area, I was
14 referring to Lengabo. I'm referring to Lengabo, and in order to go to
15 Lengabo you leave Bunia through Nyakunde. That is, you are going the
16 direction of Nyakunde. Then after Dele there is a village known as
17 Lengabo. Then there is a shortcut to Medhu at the place known as Tatu.
18 The position of Lengabo was located in the Djunde village as I have just
19 said.

20 Q. So am I right in saying your answer really is, "I circled Lagabo.
21 That was a mistake. I meant somewhere completely different." Would that
22 be fair?

23 A. Yes. If Lagabo is an entirely different place -- well, when I
24 circled Lagabo, I was thinking about an entirely different place, which
25 is not Lagabo.

1 Q. Very well. Now, Lakpa Golgota, there was no camp there before
2 the Bogoro attack, was there?

3 A. Yes. There was a camp on the Golgota hillside. There was a red
4 flag flying on that hill.

5 Q. They're different places. Golgota more in the valley with a
6 hill, rather like a pyramid. Lakpa. There was no camp at Lakpa, was
7 there?

8 A. Lakpa is the name of a locality, but Golgota is the name of the
9 hill. The Golgota camp, in order to get there you had to go up the hill,
10 and they talked about a mount of Golgota which is the local word for the
11 place where Jesus Christ was crucified.

12 Q. There was no camp there, was there, no camp?

13 A. So what was there then?

14 Q. Let me ask you about Medhu. There was a camp at Medhu, I
15 suggest, but not until August. I'm sorry, not until May, when people
16 were chased out of Bunia. May 2003. Do you agree or disagree?

17 A. I disagree.

18 Q. The unit at Kagaba was known as Simba Battalion and was so named
19 in March 2003. Do you agree or disagree?

20 A. I don't know why you want to make me believe things that I did
21 not say. To the best of my knowledge, we'd never talked about the Simba
22 Battalion. We were talking about a mobile garrison, because we called
23 these garrisons, and I don't know if on paper we mentioned Simba, and I
24 don't know if in your documents there is such a camp mentioned, but to my
25 knowledge it was a garrison.

1 Q. Well, I suggest it was known as the mobile *garrison* when it was
2 under the command of Kandro, and when it moved to Kagaba en masse, it
3 became the Simba Battalion and was known and well known as the Simba
4 Battalion. Do you accept that?

5 A. If you ask me the question today and you asked the question to
6 another person, they will talk about a garrison, but in the document it
7 is listed as Simba, and that's your truth. What I know is that there was
8 a mobile garrison.

9 Q. Excuse me. At Aveba, the unit became known as the
10 Leopard Battalion only after March 2003. Do you agree or disagree?

11 A. Yes.

12 Q. There was never a battalion called the Cobra Battalion. Do you
13 agree or disagree?

14 A. It was not a battalion but, rather, a brigade.

15 Q. The biggest camps were those at Bavi Olongba and Kagaba. Do you
16 agree or disagree?

17 A. When you talk about Bavi, how can you still be focused on Kagaba?

18 PRESIDING JUDGE COTTE: (Interpretation) Perhaps there has been
19 some mis-interdiction. Please reformulate your question again,
20 Mr. Hooper.

21 MR. HOOPER:

22 Q. There were two -- the two biggest camps were as follows: The
23 camp at Bavi Olongba, first of all, and secondly, the camp at Kagaba.
24 Those were the two biggest camps. Do you agree or disagree?

25 A. I think I said the following: In Bavi there were a lot of

1 soldiers.

2 Q. There was no camp at Lengabo before the attack on Bogoro. Do you
3 agree or disagree?

4 A. There was no camp in Lengabo but, rather, in Djunde. In Djunde
5 there was a camp.

6 Q. In short, what I'm suggesting to you is your knowledge of camps
7 is a picture of the camps, not as they were at the time of the battle of
8 Bogoro -- or for Bogoro, but as things were in 2003 and into 2004. Over
9 a much longer period, I suggest, is the picture that you've given us and
10 which came to your knowledge.

11 A. Yes, I can answer your question. I think that it is you who has
12 said it. Your statement reflects what you have been told when it comes
13 to the camps that had been built at Bogoro. After Bogoro, there was no
14 Walendu-Bindi military activity. There was nothing else that was of
15 significance done in that area. I think when you refer to the camps,
16 you're referring to camps that were created afterwards.

17 Q. Can I come on to the subject of planes and delivery of munitions.
18 You've spoken of Across airline. Was it always the same plane that
19 brought the material?

20 A. The airline, Across airline, was initially called Mango Mat, and
21 afterwards the company changed its name. It was then called Across
22 airline.

23 Q. I asked that because when you were first seen by the
24 investigators on the 15th of December, 2005, you said -- or they record
25 at their paragraph 10 that you, they give your name, remembered that an

1 airline from Mango Mat came from Beni to Aveba and brought the first
2 100 AK-47s with munitions. That's what you said then. And it's just I
3 asked the question because in your statement you've said at 219:

4 "The arms came from Beni. The deliveries were always assured by
5 the same plane, Across airline, a company that was based at Beni."

6 So you've answered that question by saying they -- it changed
7 its name. Is that right, Across changed its name to Mango Mat? Is that
8 right?

9 MR. GARCIA: (Interpretation) Your Honour, with your leave,
10 unless I have misunderstood, I think that we've just heard as stated by
11 the witness is that the reverse was true.

12 MR. HOOPER: I'm sorry. That was my error. I wasn't doing it
13 deliberately.

14 Q. That Mango Mat changed its name to Across. That's your
15 explanation, is it? And did the name on the plane change? Did it now
16 say "Across" instead of "Mango Mat" on the plane?

17 A. I think that I clearly said that the company was initially called
18 Mango Mat, and subsequently the name changed to Across airline.

19 Q. And did the name change? Did they have the name on the plane?
20 Was it written "Mango Mat," and then did that change? Was that name
21 changed to "Across" for you to know that?

22 A. I think that you should be able to situate this in the period in
23 which it was called Mango Mat and also know in which period it changed
24 name. Don't believe that air drops of weapons were done only in Aveba.
25 No. They started in Mongbwalu. And this aviation company, this airline,

1 called Mango Mat, it is the same airline. They had two kinds of planes,
2 Mango Mat and Across Airlines, and it -- the aircraft had the name
3 Mango Mat written on it.

4 Q. (* Previous translation continues) you saw, it had "Mango Mat"
5 written on it; is that right?

6 A. You want to say I saw that where, in Aveba or in another place?
7 You're referring to Aveba, I would say this: In Aveba, Mango Mat never
8 came. Mango Mat landed in Mongbwalu, but I want to clarify. They are
9 the same company which did different flight paths.

10 Q. So why did you tell the investigator in 2005 that it was a
11 Mango Mat plane that landed at Aveba with the first 100 AK-47s?

12 A. I would say the following: If you notice that the investigators
13 write something down on the document, you need to know that this was done
14 after several conversations. We spoke on several occasions on different
15 issues. We could talk Mongbwalu. We could also talk about Aveba, and it
16 could be that there was some confusion when it came to the correct use of
17 these terms.

18 Q. We understand you well now. Mango Mat never landed at Aveba. It
19 was always Across Airlines.

20 Can I suggest that Across Airlines, in fact, changed its name to
21 Mango Mat? That was the order, Across then Mango Mat.

22 A. I do not follow your logic there. I disagree.

23 Q. How many planes, whatever they were called, did you see land at
24 Aveba?

25 A. I think that if you read my statement, I did not give an exact

1 number of landings. I have never stipulated that. I have never given an
2 exact number of aeroplanes landing.

3 Q. I'm not troubled at the moment about your statement. I'm asking
4 you now. How many planes did you see land at Aveba, if you can tell us?

5 A. I think that I have already answered this question. I have never
6 said that there were five or six landings. Why? Because there were
7 times when I was not present in Aveba. So it's difficult for me to know
8 whether there were 10 or 15 landings. I don't think that I ever gave any
9 clarification about the number.

10 PRESIDING JUDGE COTTE: (Interpretation) May I interrupt you for
11 a moment, please, Mr. Hooper. I just wanted to say to the Chamber that
12 it is possible for us -- sorry, may I please rectify. I wanted to say to
13 all parties and participants that it is possible tomorrow to work for two
14 hours in the morning and then to break from 1.30 till 2.30, and resume
15 our hearing at 2.30 and continue till 4.00 p.m. This would give us
16 30 minutes more if you wanted to put any further questions, but you might
17 not have been able to if we had stuck to the original plan. This would
18 also give Mathieu Ngudjolo's team a little extra time. So if you feel
19 that the time is required by you but that you would like to save some of
20 your cross-examination time for other witnesses, this would be possible.

21 Remember that we want to respect the 60 per cent principle,
22 60 per cent of the speaking time for your cross-examination, but it's up
23 to you to handle the time as you -- as you like. It's in the interests
24 of you and in your client.

25 Mr. Prosecutor, please be brief.

1 MR. MACDONALD: (Interpretation) I just wanted to say that it is
2 likely that we'll have a re-examination of this witness given the way the
3 cross-examination is going, which means that we want to come back to his
4 previous statements, and -- and put everything back into its context,
5 which means we would like to add an additional 1.5 hours so that the
6 Prosecution can re-examine, that this is most likely.

7 PRESIDING JUDGE COTTE: (Interpretation) Well, if Witness 219
8 must stay with us until the beginning of November, then he will stay with
9 us until the beginning of November. The Chamber feels that unless it's
10 for court management issues that it would be worthwhile allowing him to
11 stay on longer at The Hague, then so be it. We'll have one hour 30 extra
12 tomorrow which hopefully will be enough time to resolve all of these
13 issues.

14 And so now we may resume. And, Witness, I would like you to
15 remain calm, because we will be able to fix all of this up at 4.00 p.m.
16 tomorrow.

17 Mr. Hooper.

18 MR. HOOPER:

19 Q. Sorry, the last time I ask this: How many planes did you see
20 land?

21 A. I think that I have already answered your question. I have
22 nothing further to add over and above what I have already stated. I was
23 not able to count the number of planes landing in Aveba because there
24 were moments when I was at Aveba, and there were moments when I was not
25 present at Aveba. The only truth that I can state is that I did say --

1 see planes land in Aveba. You want me to agree to things that I have not
2 seen.

3 Q. Well, perhaps there's a misunderstanding between us. Obviously
4 I'm not asking you to tell us about planes you didn't see, because, for
5 example, you were somewhere else than Aveba, but my question is really a
6 simple one. How many planes did you see yourself?

7 A. The planes that landed in Aveba were initially munitions supply
8 planes, and afterwards there were medical supplies, and the third kind
9 were MONUC planes.

10 Q. Well, I'm not asking you about MONUC planes. I'm asking you
11 about planes that perhaps were delivering munitions and the like that you
12 talked about. And I'll ask you one last time, please, if you can bring
13 yourself to answer this question, how many of those planes did you see
14 land yourself?

15 A. One, just one.

16 Q. And what date was that, do you recall?

17 A. I do not recall the date.

18 Q. And on that occasion - and I'm assuming it was weapons or
19 ammunition that was delivered - to where was the ammunition taken at
20 Aveba?

21 A. To Germain's residence.

22 Q. Which residence?

23 A. The residence which was his father's house.

24 Q. Did you ever meet someone called Blaise Koka?

25 A. I do not know him.

1 Q. Or Lieutenant Pip, P-i-p?

2 A. I did not know Lieutenant Pip.

3 Q. During your time in Aveba, you never even heard of their names;
4 is that right?

5 A. No.

6 Q. And the third of the trio is a name you have mentioned, I think,
7 and that was someone called Mutombo. Did you meet him?

8 A. No. I have never seen him, but I have heard of him.

9 Q. Yeah. And -- right. So you were unaware or are unaware of
10 those -- of those people. And I'm not going to ask you further questions
11 just at present on that.

12 When was Germain Katanga wounded? It's a fairly well-known
13 event, but can you help me about it?

14 A. He was wounded during the battle of Chai.

15 Q. And how long was he in hospital for?

16 A. I cannot provide you an answer. I know nothing about it.

17 Q. Now, there's a phonie, a number of phonies. You also mentioned a
18 Thuraya yesterday. T-h-u-r-a-y-a, a Thuraya, which is a satellite phone.
19 Do you know where Germain Katanga got the satellite phone from, who gave
20 it to him?

21 A. When Germain returned from Beni, he had that telephone.

22 Q. Approximately which date did the phonie arrive, do you say, in
23 Aveba?

24 A. The person who brought the phonie was Commander Move. He brought
25 it from Nyakunde.

1 Q. Well, we'll come back to that. And when it was brought, where
2 was it first set up?

3 A. The phonie was in the camp.

4 Q. Was the phonie ever placed in the health centre?

5 A. There was another small-sized phonie at the health centre, what
6 was called the white phonie.

7 Q. Yes. That was the -- sort of the missionaries' phonie. But I'm
8 talking about the black Kenwood. Was that ever put in the health centre,
9 to your knowledge?

10 A. I know nothing about that. I know that it was located in the
11 camp.

12 Q. Did you ever meet someone called Kasereka? That's
13 K-a-s-e-r-e-k-a, Kasereka.

14 MR. HOOPER: He answered no, but I didn't get a translation.
15 Sorry.

16 THE WITNESS: (Interpretation) I would like to know where I
17 would have met him.

18 PRESIDING JUDGE COTTE: (Interpretation) The witness is asking
19 where. You asked did you know anyone by the name of Kasereka, and the
20 witness answered, "Where?"

21 MR. HOOPER:

22 Q. And I'm asking you in the context of Aveba at a time prior to the
23 attack on Bogoro. He was also known as Mike IV. That's Mike with the
24 Roman numeral IV.

25 A. I have never lived with him, and I did not see him.

1 Q. Have you heard of him?

2 A. Yes, I have heard that name, Kasereka, "Mike IV."

3 Q. And what did he do?

4 A. I don't know anything about it.

5 Q. Well, let me enlighten you. He arrived and was later joined by

6 Blaise Koka, Mutombo, and Lieutenant Bip. I said "Pip" before. It's

7 Bip, B-i-p. So there was a group of them. You don't know anything about

8 that; is that right?

9 A. I knew that group, but I have never lived with it.

10 Q. Now you say you do know that group. Maybe I misunderstood you a
11 moment ago. You didn't know them when I named them. You do know that
12 group. Just tell us what you know about them, please.

13 A. I think that all of that is well written out in my statement. I
14 said the following, I will say what I know, but I cannot say anything on
15 what I do not know anything about. If I say that I heard talk about them
16 and that I don't have any further clarification, what more do you want me
17 to say?

18 Q. I don't recall anything of this in your deposition, so don't get
19 nervous thinking you may have said something in your deposition and
20 perhaps forgotten about it. I'm asking you, did you know that group?
21 You've now said, "Yes, I've heard about them." And my question is:
22 Well, what did they do? What was their function? Do you know?

23 A. I don't think we understand each other. In my entire statement,
24 I told the investigator that I will only talk about the things I know
25 about and that I won't say anything on things I am not aware of. And I

1 said that if I do not have any concrete material on the subject matter, I
2 will not say anything about it.

3 And the point you're talking about, I discussed it with Germain
4 during the telephone conversation. We talked about APC soldiers. I told
5 Germain that, "If you say they used you, that is true." But then I asked
6 him, "Why? Why are you suffering? When you travel on board the same
7 canoe, then you are going to sink together." That is what I told Germain
8 when I spoke to him on the telephone. But I have never lived with that
9 group, and in my statement I said clearly that there were things that I
10 knew about and that there were also other things that I knew nothing
11 about. Let's not go any further than that with respect to these officers
12 of the APC or their marriage in Beni. I never provided such detail to
13 the investigators.

14 Q. Yes. Well, it was a little unclear. So Blaise Koka, was he in
15 Aveba? You told me a moment ago you didn't know anything about it, but
16 you seem to know something. Was he in Aveba at all?

17 A. I cannot provide an answer. At the very beginning, I told you
18 that the name Mutombo rings a bell, and now you're moving on to other
19 details which could mislead me.

20 Q. All right. You see, I suggest that if you were in Bogoro in the
21 weeks prior to -- sorry, in Aveba in the weeks prior to Bogoro, you could
22 not have not known, on the basis of your evidence, your knowledge, your
23 position that you've told us about. You would have known about
24 Blaise Koka, you would have known about Lieutenant Bip, you would have
25 known about Mike IV, and you don't. And the reason you don't, I suggest,

1 is because you weren't in Aveba at that time, were you?

2 MR. GARCIA: (Interpretation) With your permission, your Honour.

3 PRESIDING JUDGE COTTE: (Interpretation) Go ahead.

4 MR. GARCIA: (Interpretation) With respect to this issue and
5 given the manner in which the question is formulated, I find it
6 inappropriate. The witness has never said that he knew these people. He
7 said he had heard mention of one of these people, but he did not confirm
8 that these people were in Aveba at the same time that he was there, and
9 so the premise of Mr. Hooper's question was not accepted by the witness.
10 And then he went ahead to ask him why he never knew these people, whether
11 they were there. This witness never agreed to the first part of
12 Mr. Hooper's question.

13 I know that the Chamber has already asked Mr. Hooper not to ask
14 questions in this manner. So I think we should be fair with the witness.
15 If he does not agree with the first premise, then we cannot carry on to
16 ask the second part of the question.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
18 Mr. Prosecutor. Mr. Hooper do not ask -- was not asking any question.
19 He was just expressing his viewpoint, which is his personal viewpoint but
20 which might not be shared by the witness. However, in the transcript
21 page 36, from 24, he simply expressed his viewpoint. He said it was a
22 suggestion.

23 From that point, Mr. Hooper, you can ask your question after you
24 expressing what you said was your suggestion, a suggestion that might be
25 not be shared by the witness. You may proceed.

1 MR. HOOPER: And it also had the function indirectly of
2 underscoring for you, the Judges, that there was here a very significant
3 part of this witness's testimony.

4 PRESIDING JUDGE COTTE: (No interpretation)

5 MR. HOOPER: Yes. Thank you.

6 Q. Can I ask you this: Who operated the phonie, the Kenwood, before
7 Jackson Juliette Oscar Oudo, was trained? Who operated it?

8 A. The only person I know in that capacity was Oudo.

9 Q. Do you accept that Oudo Juliette Oscar, in fact, went to Beni to
10 be trained and only returned in mid-January 2003?

11 A. No, I am not aware. I don't know.

12 Q. Now, this is something from your evidence you won't agree with,
13 but I have a duty to put it to you for the benefit of the parties and
14 Judges, in a nutshell. You see, I suggest that it was Mike IV, who was a
15 radio operator of the APC, who brought the Kenwood phonie in December
16 from Beni, a phonie provided by EMOI, E-M-O-I, for communication between
17 Beni and Aveba. It didn't come from Nyakunde, and it was Mike IV, I
18 suggest, who operated it until Jackson was trained up and returned in
19 January.

20 Do you agree with any of that, apart from Jackson's return, of
21 course?

22 PRESIDING JUDGE COTTE: (Interpretation) Mr. Garcia, please.

23 MR. GARCIA: (Interpretation) Your Honour, I am hesitating to
24 interrupt, and I try to interrupt only when it is absolutely necessary,
25 and I also interrupt because what Mr. Hooper said is not consistent with

1 the evidence given by the witness. I think there's a confusion between
2 what we call the white phonie and what the witness called the black
3 phonie, the Kenwood, and this -- this confusion is evident in
4 Mr. Hooper's question. I wish to bring this to the attention of the
5 Chamber. And this is a clarification which I deem important. I don't
6 want to reiterate what the witness said with respect to the provenance of
7 the white phonie, but there is a distinction that should be made between
8 the two and this distinction is capital.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you. When the
10 witness talks about phonies in the course of this hearing he made a
11 distinction between the various phonies.

12 Witness, you heard the suggestion made by Mr. Hooper. He is
13 asking you to say whether you agree with that suggestion. You should
14 answer to the best of your knowledge with respect to this issue of
15 phonies, making a distinction between the phonies. We are not asking you
16 anything more -- anything else more than that. We are listening to you,
17 Mr. Witness.

18 If you want Mr. Hooper to rephrase that question, he will do so
19 so that things will be clearer to you, because the question was asked
20 some time ago. But if you want Mr. Hooper to repeat the question, he
21 will repeat it, and he will repeat it slowly so that you can analyse it
22 carefully in your mind.

23 MR. HOOPER: I've only been speaking about the black phonie
24 throughout, and what I'm doing now by way of this question or assertion
25 is fulfilling my duty under 1665, my duty of putting my case to the

1 witness.

2 Q. And what I'm putting to you is this: This phonie was never taken
3 from Nyakunde. This phonie, the black Kenwood, came courtesy of EMOI,
4 E-M-O-I, from Beni and was brought by Mike IV, the APC operator, to be
5 used at Aveba to communicate with Beni. It was brought in December. Do
6 you know anything about that, yes or no?

7 A. As I said, the phonie came from Nyakunde, and I confirm that.
8 The late Move arrived one day, and he said, "Do you see that phonie over
9 there? If you go to Beni and you find someone who is looking for a
10 phonie of good quality, you should come and tell me, because this
11 apparatus belongs to me. I procured it in Nyakunde. It was packaged in
12 a carton, and I thought that the carton was full of dollar bills, but
13 when I opened it I found this phonie."

14 That is what Move told me, and I confirm that, because Move
15 talked to me about it. He wanted me to look for customers for him, for
16 clients. Now, whether he lied to me or not, that is the question, but I
17 would like to state and to confirm that the apparatus came from Nyakunde
18 and this information was provided to me by Move.

19 Q. And where is Move today?

20 A. Move's dead.

21 Q. Yes. Right. Now, you mentioned -- where was the phonie kept?
22 You've told us before, but just remind me, please.

23 A. The phonie was kept at the BCA.

24 Q. In fact, to transcript 205, I think you told us that it was in
25 the camp in the house where Germain Katanga lived. Is that right?

1 A. Yes.

2 Q. Cobra Matata, you said, he -- he had a phonie, too, and I accept
3 that he did, but later. May I suggest and ask if you have any knowledge
4 of this: He had a phonie in a vehicle that he had stolen from an NGO
5 called COOPI, C-O-O-P-I. It's an Italian NGO, supplies food and medicine
6 and the like, and that NGO had its vehicle stolen by Cobra Matata. That
7 was after Bunia fell in March, though; is that right? That he came into
8 possession of the vehicle with the phonie attached to it only after Bunia
9 fell? Do you agree with that or disagree with that?

10 A. This took place, rather, before the fall of Bunia.

11 PRESIDING JUDGE COTTE: (Interpretation) Your last question,
12 Mr. Hooper, before we rise.

13 MR. HOOPER:

14 Q. When do you say Germain Katanga moved to live in the camp BCA?

15 A. It was after the battle of Bogoro.

16 Q. It was after the 12th of May, wasn't it?

17 A. I cannot give you a clarification on that point. I don't know
18 whether it was before that date or afterwards. All I know was that it
19 was after the battle of Bogoro.

20 MR. HOOPER: Thank you.

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

22 Mr. Witness, we are going to take a 30-minute break. That should
23 give you time to rest after this morning's proceedings.

24 Court Officer, could we go into closed session so that the
25 witness can leave the courtroom.

- 1 (Closed session at 10.57 a.m.)
- 2 (Expunged)
- 3 (Expunged)
- 4 (Expunged)
- 5 (Expunged)
- 6 (Expunged)
- 7 (Expunged)
- 8 (Expunged)
- 9 (Expunged)
- 10 (Expunged)
- 11 (Open session at 10.58 a.m.)
- 12 COURT OFFICER: We're in open session, your Honours.
- 13 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
- 14 Court Officer.
- 15 We stand adjourned, and we will reconvene at 11.30 a.m.
- 16 Recess taken at 10.58 a.m.
- 17 On resuming at 11.31 a.m.
- 18 (Closed session)
- 19 (Expunged)
- 20 (Expunged)
- 21 (Expunged)
- 22 (Expunged)
- 23 (Expunged)
- 24 (Expunged)
- 25 (Expunged)

1 (Expunged)

2 (Open session at 11.32 a.m.)

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

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

6 Mr. Witness, can you hear me?

7 THE WITNESS: (Interpretation) Yes, I can hear you.

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

9 Mr. Hooper, please proceed with your cross-examination.

10 MR. HOOPER: Yes, thank you.

11 MR. KILENDA: (Interpretation) Your Honour, it looks like we
12 have a problem with the transcript.

13 PRESIDING JUDGE COTTE: (Interpretation) Court Officer -- well,
14 I believe everything is working well again, because I can see what I have
15 just said. Apparently everything is working now. So, Mr. Hooper.

16 MR. HOOPER: (No interpretation)

17 PRESIDING JUDGE COTTE: (Interpretation) Court Officer,
18 Mr. Hooper would like to say something to you.

19 (Trial Chamber and Court Officer confer)

20 MR. KILENDA: (* Microphone not activated)

21 PRESIDING JUDGE COTTE: (Interpretation) Given that everybody in
22 this courtroom needs to be at ease, Court Officer, you have to ensure
23 that the temperatures are well regulated, and if by any chance during our
24 hearing one of the members of any of the teams wishes to go out for one
25 reason or the other, so long as the courtroom is not disrupted in any

1 other -- in any way, we do not see any problem with that.

2 Mr. Hooper, please.

3 MR. HOOPER: Yes.

4 Q. Welcome back, Mr. Witness. Just before the break, I was asking
5 you whether you could recall when it was that Germain Katanga went to
6 live at the BCA, and you said you couldn't remember - I've forgotten your
7 exact words - when it was, but it was after the battle of Bogoro,
8 sometime after the battle of Bogoro. Is that right? Is that your
9 recollection?

10 A. Yes.

11 Q. (* Microphone not activated) transcript of the 24th of February,
12 2007. That's document 1032-0122, at page 13 -- or line 1370, 1370,
13 through to 1393, and it's a short part. It's page 39 of the transcript,
14 and you're -- you're asked this question at 1376, you were asked:

15 "Is it -- did Germain ever construct a house or have a domicile
16 in a house other than that of his father?"

17 And your reply is at 1385:

18 "Germain was there --"

19 Let me read the French slowly, and we'll have the translation.

20 So in French at 1385:

21 "(Interpretation) Germain was there in his father's house, but
22 after Bunia was taken, after the 12th of May, he returned to the military
23 camp."

24 (In English) And that's how you expressed it at that time. And

25 I suggest that that's right, that it was after the 12th of May that

1 Germain, together with his wife Denise and baby, moved into the house in
2 the BCA that you described on your sketch as the second residence or
3 second house, the one on the right as you enter the camp. My question
4 is: Do you agree that it was after the 12th of May that Germain,
5 together with his family, moved into that house?

6 A. Yes.

7 Q. And before then -- before that do you agree that his house where
8 he lived was his father's house on the road coming up from Kagaba into
9 Aveba, not far from the airport?

10 A. Yes. That was his father's house.

11 Q. And so at transcript 205, at page 26, I want to ask you about
12 your answer to this: You were asked where the radio was set up. By that
13 we're dealing with the black Kenwood. The question was at page 26,
14 line 2:

15 "Q. Where was his radio set up, Witness?"

16 Let me give you the full question. I'm sorry I'll start again.

17 "Q. You mentioned Oudo Juliette Oscar. Where was his radio set
18 up, Witness?

19 "A. His radio was set up in the camp, in the house where
20 Germain Katanga lived."

21 At line 7, just below that:

22 "Q. Where were the munitions kept, Witness?

23 "A. There was a house where the radio was kept, and in that same
24 house the ammunition was kept."

25 All right. So you have the radio and ammunition in the same

1 house, and you say that was the house where Germain Katanga lived, and I
2 suggest that that answer was wrong. Germain Katanga never had either
3 ammunition or a radio in the house where he lived, first of all. Do you
4 agree with that?

5 A. I do not agree with that.

6 Q. Now, just quickly if I can touch on a few things. First of all,
7 I'm interested to ask you about someone called Boba Boba, and we've heard
8 a little about Boba Boba from earlier witnesses in this case.

9 As far as you are concerned in your evidence, am I right in
10 saying that you would say that Boba Boba never came to Aveba until after
11 Bogoro? Is it -- let me put the question more simply. Is it right that
12 Boba Boba never came to Aveba until after the battle of Bogoro?

13 A. No, he never came to Aveba.

14 Q. Before Bogoro, do you have any knowledge of any delegation from
15 Zumbe, particularly one led by or including Boba Boba, coming to Aveba?

16 A. The Zumbe delegation that went to Aveba, well, I never spoke
17 about that delegation.

18 Q. Indeed. And can I just read part of paragraph 251 of the
19 statement you know well. I'll just read the two sentences at the
20 beginning:

21 "I do not have knowledge about soldiers or the commanders at
22 Zumbe participating in the meetings and Lendu representatives coming chez
23 Ngiti to prepare the attack on Bogoro. I know because I was there."

24 Is that correct?

25 A. Yes.

1 Q. And again I read a line from your statement and ask you whether
2 you still agree with what is said, and it's at paragraph 259 dealing with
3 the Ugandans:

4 "There was no contact established between the people of the FRPI
5 and the UPDF before the attack. The UPDF was not in Aveba."

6 And again, do you agree with that?

7 A. Yes.

8 Q. Thank you. And if I can go to another part of -- paragraph 240
9 dealing with supplies, and you've spoken about supplies, and you've told
10 us in your evidence about supplies coming from Bogoro, and you say in --
11 in your statement at paragraph 245:

12 "But to attack Bogoro, this came from Lubumbashi, for Beni, and
13 then Beni Aveba, Aveba Kpandroma, Beni Kpandroma. If it was free, it was
14 clear that the UPC was the enemy of the government in Kinshasa. The UPC
15 dislodged Kinshasa's allies, for example, Lopondo in Bunia. It was for
16 that reason that they created EMOI," E-M-O-I, "and that they gave FRPI
17 soldiers uniforms, boots, arms. On the uniform was written 'FAC.' You
18 could find a soldier with three or four uniforms. So it was like a
19 government force there beside us. On the subject of FAC uniforms, I
20 state that they were distributed before the Bogoro attack, mainly to
21 commanders, and those wore them during the attack. It was not all the
22 soldiers that had a uniform. Many soldiers of rank were in civilian
23 clothes or had UPC uniforms."

24 And again, do you agree with the statements that you made in that
25 statement?

1 A. Yes. I mentioned EMOI.

2 Q. Well -- all right. Well, let me -- and EMOI provided uniforms,
3 uniforms that were distributed, plenty of uniforms, but worn mainly by
4 commanders at Bogoro. Do you -- do you stand by what you say there?

5 A. I did not say that EMOI distributed military uniforms to the
6 commanders in Bogoro. Can you please re-read that excerpt?

7 Q. Certainly. Just give me a moment to find (* Microphone not
8 activated). Talking of Kinshasa is the subject, and you said:

9 "It was for that reason they created EMOI and that they gave
10 FRPI soldiers uniforms, boots, and arms. On the uniform was written
11 'FAC,'" which we know is *Forces Armées Congolaises*, "you find a soldier
12 with three or four uniforms," et cetera.

13 Do you agree with that today?

14 A. Yes, I agree that that is my statement.

15 Q. At 258 in the same statement, it's a very short paragraph of one
16 sentence. Let me read it to you and ask you if you agree with it.

17 "I am asked if a commander was appointed for the attack."

18 Now I pause. You're talking of the Bogoro attack. Let me start
19 again.

20 "I'm asked if a commander was appointed for the attack. For the
21 attack there was not really an organisation that said, 'You go with this
22 section. You go with that section.' It was a mass movement."

23 Do you agree with that statement that you made?

24 A. I would like some clarification. Are you talking about the
25 movement of troops towards the place of the attack or the return movement

1 from the place of the attack back to base?

2 Q. Well, the context is the attack on Bogoro, and it's a paragraph
3 that stands alone. Let me just read it to you again more slowly.

4 "I am asked if a commander was appointed for the attack."

5 Let me just pause there. Mr. Dutertre and others were there in
6 December, and clearly there was a question here from them to you that's
7 now been recorded in your statement in this way. All right? So let me
8 just read it again.

9 "I am asked if a commander was appointed for the attack. For the
10 attack, there was not really an organisation that said, 'You go with this
11 section. You go with that section.' It was a mass movement."

12 A. Let me clarify. When I said that it was not a matter of telling
13 this person or that person to go with another person, it is because there
14 was no such organisation. Everyone moved depending on the target that
15 had been selected and at the place where they had to go and fight.

16 Q. I see. All right. Now, you may recall talking about commando --
17 Commander Kisoro, K-i-s-o-r-o, and you stated that, in your opinion,
18 Kisoro was a commander that nobody could control, certainly
19 Germain Katanga could never control.

20 In February 2003, did Kisoro attack Aveba?

21 A. Yes. Kisoro attacked Aveba.

22 Q. Was there a battle that lasted several days, off and on?

23 A. No, the battle did not last for several days.

24 Q. What do you know of the battle, or what do you say you know of
25 the battle? May I ask you the first question: Were you there, first of

1 all?

2 A. Go ahead with your question.

3 Q. Were you there during the battle that you're about to describe?

4 A. When Kisoro attacked Aveba, I was in Beni. I went there after
5 the attack and after he had been forced to retreat.

6 Q. Right. I'll need some clarification, please. Can you repeat
7 your last answer, because it's -- it's come out in my ears as -- it's not
8 your fault. Just repeat what you've just said, please. You were in Beni
9 during the attack, or you went there after the attack? I had two
10 contradictory statements from you. That may not have been what you
11 intended. Just tell us what your position is. Were you present at the
12 attack that Kisoro made, or were you in Beni?

13 A. On the day of the attack, I was not there. I was in Beni. I
14 went there after the end of the attack, and at that time he had already
15 been pushed back.

16 Q. Yes. Sorry. That was my own misunderstanding. I understand
17 now. So you were in Beni. So I suggest that attack lasted off and on
18 for four days. You disagree with that. And that after that, Kisoro took
19 up a position not far from Aveba with his many troops and waited in a
20 threatening position. Do you know anything about that?

21 A. After Kisoro had been pushed back from Aveba, he went and took
22 refuge in Kaswara. Subsequently, he returned to Bavi. No. It is not
23 actually Kaswara. It was another village located at the crossroads
24 leading to Geti and Tchekele. That is the direction he took. That is
25 where he took refuge.

1 Q. Kisoro had several hundred men, did he not?

2 A. I do not know about the strength of Kisoro's forces. I did not
3 count the number of men that he had.

4 Q. And what led or preceded that battle in February, I suggest, was
5 that in February, Kisoro had arrived at the airport in Aveba when a plane
6 arrived delivering weapons and demanded weapons be given him, to the
7 point where he aimed an RPG, rocket-propelled grenade, at the plane,
8 threatening to destroy the plane unless he was given weapons. Have you
9 heard or witnessed anything like that?

10 A. I heard about that.

11 Q. You heard about it. You weren't present when that happened?

12 A. No. The day that he attacked the aeroplane, I was not present.

13 Q. And the time he attacked or tried to attack that plane, I
14 suggest, was about mid-February 2003. Does that accord with your own
15 recollection?

16 A. No -- yes, it was in February 2003. Yes, it is true. It was in
17 February 2003.

18 Q. And did you also learn that at the time that he held up that
19 plane, Adirodu, Dr. Adirodu, had arrived with the plane and the
20 ammunition? Is that right?

21 A. I didn't know that detail, because I hadn't heard of that.

22 Q. (* Microphone not activated) Mr. Witness. I distracted myself
23 there for a moment, but I have -- don't worry, I have been listening
24 carefully to what you say.

25 Right. Just dealing with Kisoro, you suggested that he was

1 present at Bogoro. May I suggest that he was not a commander who was
2 present at Bogoro.

3 Sorry, I'm putting -- I'm saying that -- asking you do you still
4 say that Kisoro was at Bogoro, because I don't accept that he was. I
5 suggest that he wasn't one of those who was there.

6 MR. GARCIA: (Interpretation) I was wondering if Mr. Hooper
7 could provide us with the exact reference from the transcript, please.

8 PRESIDING JUDGE COTTE: (Interpretation) Could we indeed find
9 the passage where the witness presumably said that he was present at
10 Bogoro?

11 MR. HOOPER: Off the back of my head I haven't got it, but I
12 think we'll come across it when we come to Bogoro in more detail. In any
13 event, I'll provide it as soon as I can.

14 PRESIDING JUDGE COTTE: (Interpretation) Very well. Thank you.

15 MR. HOOPER: Just give me one moment. I'm sorry.

16 PRESIDING JUDGE COTTE: (Interpretation) By all means.

17 MR. HOOPER:

18 Q. When arms were delivered -- I'll just read out your paragraph 217
19 in your statement. So if you could bear with me for a moment, and then
20 I'll ask you if you stand by what you say, whether you agree with what is
21 written here and what I'm going to read to you. Quote -- and you're
22 talking -- this is the context of planes landing with ammunition or arms.
23 217:

24 "There was a briefing from Beni upon the arrival of arms. This
25 briefing came from the *Etat-Major du Operations Integres*, EMOI, based at

1 Beni, and was addressed to different satellites. It was said that a part
2 of the arms had to stay there."

3 Is that correct, was there, in fact, instructions from EMOI in
4 Beni as to how arms were to be divided?

5 A. I do not know if the passage you have just read is actually in my
6 statement. I did not know if I said that there had been talk of sharing
7 out the munitions or weapons via satellite communications. I do not
8 recall having said that --

9 Q. Well, I can -- do you read French?

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

11 MR. MACDONALD: (Interpretation) I'm sorry, your Honour. I
12 think that there might be a problem with the translation, and as concerns
13 in particular the word "satellite" in this context. What is written in
14 the text and what has been translated is different. The use of the word
15 "satellite" in this context does not talk about satellite telephone.

16 PRESIDING JUDGE COTTE: (Interpretation) It talks about the
17 notion of satellite communications. Perhaps we need to choose the words
18 carefully so that there is no confusion.

19 You may proceed, Counsel Hooper.

20 MR. HOOPER: I would ask Ms. Menegon to read the -- that part
21 that I've read.

22 MS. MENEGON: (Interpretation) "Upon the arrival of weapons,
23 there was a briefing from Beni. This briefing came from the integrated
24 headquarters of operations, EMOI, based in Beni, and was addressing
25 different satellites. It is said that part of the weapons needed to

1 remain there."

2 MR. HOOPER:

3 Q. Yes. Right. So it's satellites in the sense of groups. Right.

4 Jolly good. So you've heard that. So what's your comment, please?

5 A. Yes. In my opinion when I was talking about satellites, I was
6 referring to different positions. Initially there was Aveba, but there
7 were other positions in different localities, and so when I'm talking
8 about satellites in this sense, I'm not talking about satellite
9 communications. I'm talking -- which are in orbit. I'm talking about
10 positions in relation to Aveba.

11 Q. But you otherwise agree with what you say there about EMOI giving
12 briefings, instructions as to how the arms were to be divided. You agree
13 with that, do you, what you say? Can you -- I don't -- ndiyo. Thank you
14 very much.

15 A. Yes.

16 Q. (* Microphone not activated) nods. Now, I notice in the next
17 paragraph you speak about this incident with Kisoro and his attack on the
18 plane. Let me just read that bit to you slowly. This is what is written
19 at paragraph 218:

20 "Germain didn't want to give any weapons to Kisoro because he
21 could have done something wrong to the population. Kisoro stood in front
22 of the plane with his rocket launcher when the plane wanted to take off.
23 They tried to calm him down, so they gave him some arms. Kisoro left
24 with these arms and then returned to attack Aveba. Germain came, and so
25 they fought all the way until where they sell cows in Aveba."

1 Do you agree with what you've said there? Do you agree with that
2 today?

3 A. Yes.

4 Q. Sorry. And it continues:

5 "They fought for approximately four days."

6 Do you agree with that?

7 A. Yes. I said that. I said that they had fought for about four
8 days.

9 Q. And then it reads:

10 "(Interpretation) We fled."

11 Do you agree with that?

12 A. If I have said, "*Nous nous sommes enfuis*," "we fled," that is
13 because the whole of the community was at Aveba and they had to settle in
14 other localities, and that's why I said, "We fled." In French, "*Nous*
15 *nous sommes enfuis*."

16 Q. You see, if we look back at what you said earlier here, you talk
17 about, 215:

18 "AK-47s came from Beni by Across aeroplane."

19 216, you say:

20 "I could see the plane, which was big, and the cartons were also
21 big."

22 You talk about the briefing, and then you say, 218:

23 "Kisoro wanted to hit this plane with a rocket."

24 And then you talk about Kisoro standing up in front of the plane
25 with his rocket launcher and the fighting for four days. And my question

1 is: You're saying, aren't you, here, really that you were present?

2 Quite clear.

3 MR. GARCIA: (Interpretation) With your leave, your Honour.

4 PRESIDING JUDGE COTTE: (Interpretation) Yes.

5 MR. GARCIA: (Interpretation) With the -- the translation that

6 Mr. Hooper said, I don't think that it was this paragraph -- "*cette*

7 *avion*," paragraph 218.

8 PRESIDING JUDGE COTTE: (Interpretation) I don't have para 218

9 in front of me. Could we please read it out? Oh, thank you, Judge.

10 MR. HOOPER: The -- the context starts at 215, delivery by an

11 aeroplane, Across Airline.

12 216: "I could see the plane." Description of it.

13 218: "Kisoro wanted to hit this plane with a rocket. We fled."

14 Q. Anyway, I'm saying as it's recorded here, it's clear, I -- I

15 suggest, that you're talking about one plane, one incident, and you an

16 observer. You say, "No, I wasn't there. I was in Beni." That's the

17 clear position, isn't it, between us?

18 A. I shall answer you. I think that in my statement I talked about

19 return flights, and I gave some details about that. And when I made my

20 statement, the one that you have before you and the other statements that

21 I made, I didn't give details point by point. I simply gave explanations

22 to the investigators in response to their questions. I did not give a

23 very detailed statement. You are going through item by item, and you're

24 mixing up different things from various paragraphs, and you want me to

25 answer with a simple yes.

1 I have given the investigators a statement in relation with --
2 with the events in question, and I went stage by stage.

3 PRESIDING JUDGE COTTE: (Interpretation) In any case, Witness,
4 what is most important is what you tell us here today. You must have
5 this very clear in your mind. You have made statements. Mr. Hooper
6 cites them. The Prosecutor also cited them. But what counts and what we
7 shall retain is what you say here and now.

8 You may proceed, Mr. Hooper.

9 MR. HOOPER:

10 Q. Did you see Adirodu get off any of these planes -- or get off the
11 plane, the one flight you saw?

12 A. Adirodu came via the first plane that landed in Aveba.

13 Q. And did you witness that yourself or not?

14 A. Yes, I was there when the first plane landed.

15 Q. And you told us that you only saw one plane land. I'm looking at
16 page -- paragraph 22. You're talking about how often there were
17 deliveries, and you say this:

18 "The plane could arrive today and then a week later. Sometimes
19 it landed once a week. It is only before the Bogoro attack that the
20 rotation became more rapid. Before the Bogoro attack, it was landing
21 regularly. This means today, tomorrow, today, tomorrow, today,
22 tomorrow."

23 A. Here is what I have to say: Even if we come back to the Kisoro
24 incident, it is not the same aircraft that we are talking about every
25 time. You are trying to get me off track. Before you asked me about the

1 brand of the planes in these trips, you talked about the name, and here
2 you're talking about one single aircraft. I think we are getting off
3 track. The plane made several landings, and Adirodu --

4 THE INTERPRETER: The Swahili booth interpreter did not catch the
5 end of the witness's reply. Could he please be asked to repeat it.

6 PRESIDING JUDGE COTTE: (Interpretation) Witness, could you
7 please repeat the end of your reply, because the interpreters had some
8 difficulty catching it. Please don't repeat all of your answer, just the
9 end of your answer. If you can please focus on that part. Thank you.

10 THE WITNESS: (Interpretation) Well, this is what I am saying:
11 We are not talking about one single aircraft which made trips. There
12 were several trips and several landings. And Kisoro had learned that
13 there was an aircraft bringing weapons to Aveba, and he decided to come
14 in situ to recover some weapons, to procure some weapons. That's what I
15 wanted to say.

16 MR. HOOPER:

17 Q. And -- and when Kisoro came was Adirodu there on the plane?

18 A. I said to you that there were several aircraft, and the one that
19 I saw was the first one, and it was -- and Adirodu came on board that
20 flight with some munitions, but that is not the same plane that Kisoro
21 had threatened to attack.

22 Q. Thank you very much. That was dealing with -- with your answer,
23 but my question is this: If you were present, as you say you were, in
24 Aveba in the day or week or so before Bogoro, the Bogoro attack, and if
25 planes were landing in Aveba regularly at that time, that is, today,

1 tomorrow, today, tomorrow, today, tomorrow, why is it you only saw -- why
2 is it you saw no planes yourself if you were there?

3 THE INTERPRETER: The witness was laughing.

4 THE WITNESS: (Interpretation) Sir, I should like to say to you
5 the following: I think that you are misinterpreting or you have a very
6 poor memory. Allow me to explain the situation to you. Let's see if you
7 follow me.

8 The first plane, or the first trip, in fact, this train didn't --
9 plane didn't land one time, and we're not talking about one single brand.
10 We're talking about three separate things. Firstly, trips, which means
11 one round-trip, there and back. And this was not one single plane.
12 There were several aircraft. When it comes to the name or the brand, it
13 was the same name. And when it comes to the first trip or that first
14 landing, it was at that particular point that Adirodu arrived, with that
15 first landing. I think that that describes the situation.

16 MR. HOOPER:

17 Q. Well, let me ask the question again. I'm not asking you about
18 this first plane with Adirodu, the one plane you saw landing. I'm asking
19 you about these planes that in your statement you say were arriving
20 regularly. And you say by "regularly," today, tomorrow, today, tomorrow,
21 today, tomorrow. Every day in the days -- the run-up to Bogoro, the
22 battle of Bogoro. So why didn't you see any of those planes land if you
23 were there?

24 A. Well, I think that even up to now we still don't understand each
25 other. When I talk about trips made by planes, you say today, tomorrow,

1 today, tomorrow, and then you ask why I had not seen these planes land.

2 I do not know. Perhaps you're asking me something, but I don't
3 understand it. If you follow my statement, you will see that I talk
4 about a plane which landed several times. It was not one single landing.
5 There were two, three -- several landings. I did not say that I had seen
6 one single landing and that that was all there was. I did not say that.

7 Q. Well, I think you did. Now, let's come to the Bogoro -- the
8 Bogoro attack, and you said this last week in transcript 205, page 49,
9 line 5, you said:

10 "Bogoro was not like other attacks. It was very well planned and
11 organised."

12 It was not like other attacks. What other attacks are you
13 talking about?

14 A. I think that from the outset here in my statement I am talking
15 about the tribal war between the Lendu and the Hema. And I said that
16 this was not my first war. It was not the first war that I had seen in
17 Bogoro, and it was not the first time that I had seen people fighting in
18 Bogoro.

19 Now, if I were to give you details about the Bogoro attack,
20 and -- this is because I could see it was different in the way it was
21 organised. The manner in which the various fighting parties were
22 organised or focused in order to attack Bogoro, that was what I mentioned
23 when I said this about the Bogoro attack.

24 Q. At paragraph 244 of your statement you're talking about the
25 Bogoro attack which you say, if I'm not mistaken, the attack was on a

1 Monday, and then you say this:

2 "It was the second attack, because the first attack had failed.

3 The FRPI had been repulsed. After that, there was a resupply, and then
4 the second attack was organised."

5 Now, am I right in saying that there was an attack on Bogoro just
6 two weeks before the attack that chased out the UPC, and is that what
7 you're referring to and hence the need for the resupply? Is that right?

8 A. I do not know.

9 Q. All right. So what are you talking about, about this previous
10 attack where the FRPI was repulsed and where it required resupply of arms
11 before there could be another attack? What attack are you talking about,
12 please?

13 A. I would say as follows: I am free to reply yes or no. You
14 cannot force me to say something that I do not wish to say. We are
15 talking about an attack, and you get off track and you talk about an
16 attack and fresh supplies, and I accept your suggest -- you want me to
17 accept your suggestion about another attack, but I cannot accept what you
18 are saying, and -- and make them my own. I -- I do not agree with what
19 you are saying.

20 PRESIDING JUDGE COTTE: (Interpretation) Things have to be very
21 clear. Counsel Hooper is putting these questions to you, and if you are
22 able to reply to them because you have seen or heard or experienced the
23 events to which he is referring, then you are bound to respond and tell
24 the whole truth. But if it is an event which you have neither seen,
25 heard, or experienced, then you can say that you do not know or that you

1 cannot answer.

2 Yet again, I remind you what we expect from you is obviously not
3 to invent responses, but, rather, to tell us the truth if you know the
4 truth, if you know the truth.

5 Let us proceed.

6 THE WITNESS: (Interpretation) Thank you, your Honour. I would
7 like to take the floor one minute. If you ask a question, please ask --

8 MR. HOOPER:

9 Q. (* Previous translation continues) I merely read part of your
10 statement from December last year. I'll read it again. You're talking
11 about the Bogoro attack, the one we're interested in here in this court.
12 And you say:

13 "It was the second attack, because the first attack had failed.
14 The FRPI was repulsed. After that, there was a resupply, and then the
15 second attack was organised."

16 So it's not something I'm making up. And I'm asking you, tell us
17 about this first attack that failed. When was it? Who led it? What do
18 you know about it?

19 A. Very well. That is how you should have asked the question,
20 because you're now giving me time to answer your question.

21 I think I threw some light, I gave detailed explanations to the
22 investigators on the various attacks. I did not make a lot of comments
23 on the first attack. I did not provide any names. I did not give any
24 specific information, because I was not present.

25 Q. But from what you've said, that attack failed, and then there was

1 a re-supplying of arms. Then once that re-supply had taken place,
2 presumably by air, there was another attack, this one successful. So
3 just tell us, what do you know about the first attack? When do you say
4 it was? I mean, you say you were there at the time or living in,
5 visiting Aveba regularly. What can you tell us about it, please? If you
6 can't, say so.

7 A. I cannot.

8 Q. Now, last week at transcript 205, page 44, you spoke about your
9 knowledge of the Bogoro attack and what happened. And we can turn to
10 those pages, but I'm not going to go through it. I'll summarise it, I
11 hope fairly, in saying that there was a meeting at Aveba, you told us.
12 This is at page 41 onwards. There was then a parade which you didn't
13 attend. Then the soldiers left, leaving no one behind other than
14 civilians, women and children. They went out that evening, "to spend the
15 night a few metres from Bogoro."

16 I want to ask you about this meeting. At page 44, you told us
17 that the meeting was attended by all the officers based in Aveba. That's
18 at line 12 on page 44, and you named them, Sipa, Muhito, Bahati,
19 Kachuaki, Safari, John, and organised in the BCA camp, and it was chaired
20 by the head of all the commanders, Germain. He was the one you say who
21 chaired the meeting. (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged) At
2 page 20 -- sorry, page 46, line 1, you say he said the following day
3 there was going to be fighting in Bogoro. The morale of the troops had
4 been boosted, and you said that Germain personally took the radio to call
5 the people of Bogoro to inform them he was going to attack them the
6 following day.

7 I just say all that to remind us, and I hope to assist you as to
8 that part of your evidence that I want to ask you about.

9 So just a quick question. What time did the soldiers leave
10 Aveba?

11 A. I stated in my -- I made it clear in my statement that it was the
12 afternoon.

13 Q. Don't -- don't worry about your statement. Mr. President has
14 said, you know, it's what you say here in that chair that matters, and --
15 what time in the afternoon, if you can help us? Do you know the time
16 that they left?

17 A. It must have been at about 3.00 p.m. or 4.00 p.m.

18 Q. Did you see Germain Katanga?

19 A. Yes. On the day of the fighting, Germain Katanga was in Aveba.

20 Q. And -- just looking at your statement. How do you say he was
21 dressed? If you can remember.

22 A. Germain was dressed in military uniform.

23 Q. And there's a selection of uniforms for us. What kind of uniform
24 was it, UPC, FAC, or another? What kind of uniform was it?

25 A. It was the military uniform from Beni. It was the uniform of the

1 FAC.

2 Q. Is that *tache-tache*, or is it a plain green colour?

3 A. I have forgotten.

4 Q. All right. And from your statement, I think you say he had a red
5 beret on. Is that right? Did he have a red beret on? Right.

6 A. A red beret.

7 Q. Thank you. Now, that meeting with the commanders, clearly you
8 weren't present at that meeting; is that right?

9 A. I was not present.

10 Q. So I just want to read some parts of your statement in just
11 December of last year. Paragraph 244 -- it's paragraph 244 under the
12 heading "The Bogoro attack. Planning the attack."

13 "I was present during the meeting that took place in Aveba during
14 which the battle plans for attacking Bogoro were discussed. It took
15 place on a Sunday, the day before the attack."

16 What do you say about that?

17 A. Nothing.

18 Q. Let me go to paragraph 245, and again we recall how this
19 statement's being taken with the assistance of Mr. Dutertre trying to
20 encapsulate, of course, the situation. 245:

21 "I am asked who I saw and heard at the meeting. For the attack
22 on Bogoro, not all the commanders were there. There were only some
23 commanders who were there at Aveba. The commanders with which Germain
24 programmed were Garimbaya, Bahati de Zumbe, Pascal Sipa, Baby de
25 Bukiringi, Move, Bambiri (* phon), and Muhito Akobi."

1 "I forgot to indicate," you said, "that there was another
2 commander present at Aveba who was called Mutombo."

3 And you go on to say this:

4 "Germain called these men there."

5 247:

6 "Germain said, 'Now is the time to attack Bogoro. We have the
7 strength of the we have all that is necessary. We must attack Bogoro.'
8 He explained the strategy, et cetera."

9 So why were you telling Mr. Duterte in December you were there
10 at the meeting and recounting those events as things you saw and heard?

11 A. Let me make a few clarifications on this point. Yes, I attended
12 the meetings, and the planning of the attack on Bogoro was not done
13 during one meeting only. You will notice that there were several
14 meetings held for several attacks, but I did not participate in the
15 meeting on the attack on Bogoro. I think I have already given
16 clarifications on that point.

17 Q. Well, you've given a different story on that point. That's my
18 point. And indeed, and I'm looking at DRC-OTP-1030-0585, which was a
19 deposition taken from you on the 19th of November, 2008, where at page 1
20 the investigators say:

21 "Now we want to talk about the attack on Bogoro."

22 And you're asked:

23 "Were you present --"

24 This is at line 5:

25 "Were you present in meetings where the plans to attack Bogoro

1 were discussed?"

2 And your answer is:

3 "*Oui, j'étais.*"

4 Line 40:

5 Then you're asked:

6 "Can you describe what you saw, what you heard at this -- at
7 these or this meeting."

8 And you say for the attack on Bogoro, and then you go through it
9 in detail, discussing who's there.

10 And then at page 3, line 75, you're asked this:

11 "Is it that before this Sunday or did -- before this Sunday, had
12 you heard it spoken about, or did you participate in meetings in which
13 they spoke about the attack on Bogoro before this Sunday?"

14 In other words, they're saying, did you hear about the attack on
15 Bogoro, or did you participate in meetings about an attack on Bogoro
16 before this Sunday? And you say, line 81:

17 "*Non. Non.*"

18 So, Mr. Witness, with the greatest respect to you, I suggest
19 you've changed your story. You've gone from the position where you
20 attended a meeting quite clearly to a position where you didn't, and I'm
21 asking you, can you explain this difference? Is it because you've
22 changed your story? Is it because the investigators didn't understand
23 you or you didn't understand them? What's the explanation you'd like to
24 take this opportunity to provide us with, if any, if you feel you want
25 to?

1 A. As concerns the meeting held on the eve of the attack on Bogoro,
2 I was not present. However, I attended other meetings.

3 Q. What other meetings? Because they asked you that, you see,
4 whether you had heard or attended before that meeting, but what other
5 meetings? When were they? Please tell us. On the issue of Bogoro, what
6 other meetings did you attend?

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

9 MR. GARCIA: (Interpretation) Mr. Hooper is referring DRC --
10 DRC-OTP-1030, and the statement that Mr. Hooper's making is different
11 from what we find on this page, on lines 75 to 77, and I can read it out
12 to the Chamber.

13 PRESIDING JUDGE COTTE: (Interpretation) Go ahead.

14 MR. GARCIA: (Interpretation) Just to clear this confusion. The
15 question is:

16 "Before that Sunday had you ever heard about or did you ever
17 attend meetings during which mention was not made of the attack on Bogoro
18 before that Sunday?"

19 I think it's slightly different from what Mr. Hooper said, that
20 is, his translation of the question. The question that was put to him
21 was, did he attend meetings during which mention was not made of the
22 attack on Bogoro. I simply wish to draw the attention of the Chamber to
23 this point. I think we have to be very careful when we are making free
24 translations of statements in documents.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

1 Mr. Prosecutor. In any case, for the Chamber this is an important point.

2 Mr. Witness, we would like to know whether you attended other
3 meetings during which the attack on Bogoro was discussed, that is,
4 previous to the meeting held on the eve of that attack, a meeting which
5 you said you did not attend. This is a question which deserves to be
6 answered. Did you attend meetings that had to do with the future attack
7 on Bogoro, meetings held prior to the meeting held on the eve of the
8 attack, the meeting which you said you did not attend? That is the
9 question put to you by Mr. Hooper, and it is a question whose answer, the
10 answer you're going to give, is of capital importance to the Chamber.
11 You should try to reflect very carefully on this. These events happened
12 a long time ago, so you have to reflect very carefully, and please
13 provide us with an answer.

14 THE WITNESS: (Interpretation) I think I have already answered
15 that question. I said the following: Yes, I attended several other
16 meetings. If you look at my statement, you will find that there are
17 certain things that happened in Aveba whilst I was present there. There
18 are other events that took place at the time when I was not present in
19 Aveba, but when I returned, I was informed of what was said at such
20 meetings.

21 I gave clarifications. I said the following: I said that on
22 Sundays I was not in Aveba. I -- consequently, I did not go to the BCA
23 because it was a market day. On other days I attended meetings during
24 which the issue of the attack on Bogoro was discussed.

25 THE INTERPRETER: The Swahili interpreter corrects: "I attended

1 other meetings during which the attack on Bogoro was discussed."

2 THE WITNESS: (Interpretation) There were other meetings which
3 were held. For example, there were serious meetings which were held
4 during which everyone had a role to play. There was someone who was in
5 charge of presiding the meeting. There was a rapporteur and there was a
6 moderator. Those were formal meetings that were held, on the one hand.
7 On the other hand, there were informal meetings during which people came
8 together and they just spoke in -- just in a manner.

9 Let me add the following: Yesterday you showed me the manifesto.
10 On the cover page of the manifest it is written --

11 THE INTERPRETER: The Swahili interpreter did not clearly hear
12 the term used by the witness and would like to say that the witness is
13 speaking a bit too fast.

14 THE WITNESS: (Interpretation) You will find in my statement
15 that what I did is clearly written and what I'm saying is clearly
16 written. There are several other people who have made the same
17 statements as myself and you will find this clearly written in my
18 statement. I would like to state, I would like to confirm that, yes, I
19 attended certain meetings. Now, as to whether I attended the meeting of
20 Sunday, no, I didn't attend Sunday meetings --

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Witness.
22 The interpreters had certain difficulties when you said something --
23 well, understanding when you said something about the cover page of the
24 manifesto. You used certain expressions, used certain words. You said
25 it was written and that the interpreter did not hear what you said was

1 written on the coverage page. He only heard the word "army." Could you
2 repeat what you said.

3 JUDGE DIARRA: (Interpretation) And please speak more slowly.

4 THE WITNESS: (Interpretation) Thank you. This is what I said:
5 It is written "Pipa army," or "*armée pipa*" in French.

6 MR. BIJU-DUVAL (interpretation): And how is the word "pipa"
7 spelled?

8 THE WITNESS: (Interpretation) P-i-p-a.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Witness.
10 You have indeed answered the question. The Chamber would not like to get
11 involved in Mr. Hooper's cross-examination. However, since you said you
12 attended other meetings during which the attack on Bogoro was discussed,
13 the Chamber would like to ask you in what capacity did you attend those
14 meetings? Why were you invited to these meetings? What reason motivated
15 you to attend these meetings? And after you provide your answer
16 Mr. Hooper will continue with his cross-examination. But this particular
17 point -- well, on this particular point, we would like you to say -- we
18 would like to understand your answer.

19 THE WITNESS: (Interpretation) I believe that if you look at my
20 statement, you will find that I explain the reason why I was present in
21 the camp. I was not invited to these meetings. What I mean is that
22 there might be a discussion on a particular subject, and I would be
23 present by some form of coincidence and then would I hear everything.
24 That is the explanation I can give with respect to my presence at that
25 place.

1 I was never invited to any meeting, and I never stated that I was
2 invited. It just happened that I was regular in the camps. I was
3 present in the camps on many occasions, and that is why I can say that I
4 attended the meetings.

5 Everything I said here will be found in my statement.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Witness. I
7 would now like to give back the floor to Mr. Hooper, but please do
8 remember what was said a short while ago. Your statements are important,
9 but it's even more important for us to know what you think today in the
10 courtroom. The statements you make now are of capital importance here in
11 the courtroom.

12 Mr. Hooper, you may proceed, sir.

13 MR. HOOPER: Yes. Sorry, I was discussing --

14 Q. Let me take you to another extract, if I may, and briefly. I was
15 going to ask Ms. Menegon to read this, but she pointed out that it, in
16 fact, is in English, so I'll do this myself. So I'm looking here at a --
17 the statement you gave, or deposition that you gave on the 24th of
18 February, 2007. It's document 10 -- OTP, et cetera, 1032 -0122, at
19 line 826. And the number, in fact -- let me give you the better number.
20 0175-0553. So that's the number for reference. 0175-0553, and I'm
21 looking at page 23. And you're talking about when you first knew
22 anything about Bogoro, and there's a second extract I'm going to refer
23 to. So I'm reading from line 806, and this is what you say:

24 "It was a certain Sunday, in the afternoon. I saw soldiers
25 passing by. I didn't know what was happening. I saw so many soldiers

1 passing by. I heard they were speaking in the mother language of the boy
2 where I was staying," and you name the boy. We can see the name. I
3 won't, we're in public, mention it. I'll refer to him as X.
4 "I heard they were speaking in the mother language of the boy
5 where I was staying, X. X started chatting with those soldiers who were
6 coming from the camp going out, and then they answered him in the
7 language that they were going to attack Bogoro. And then they went --
8 and then they went by. I didn't catch what they said, and then I called
9 X. I asked him, 'What did they say?' And he told me they were going to
10 attack Bogoro. And then at that time Nyakunde had already fallen. They
11 went up to the evening -- they went in the evening towards -- at about
12 4.00 p.m."

13 And I'll pause there. So there you are at that part talking
14 about this group who are leaving and you being obviously surprised and
15 having to find out what it's all about.

16 Then I'd like to take you, if I may, to line 1197 to 1275. Can I
17 just say there's a mix-up in my notes here because it's in French now and
18 I must have got that mixed up.

19 Unfortunately, the DRC-OTP number has come off the bottom. We
20 can only read a bit of it but it's not enough to identify the page.
21 Perhaps I can come back to that briefly, very briefly, at another time.
22 Basically from memory, it's a -- I think a fuller account, but along the
23 same lines, that you were just sitting there. You see soldiers come by,
24 and you get X to speak to the soldiers, and that's the first thing you
25 know there's going to be an attack the next day.

1 Did that happen? Is that how you learnt about Bogoro, not being
2 at a meeting or hearing about a meeting from anybody?

3 A. This is my answer to you, I will begin from the beginning: In my
4 statement, I said the following -- that is the first statement that you
5 have referred to. I said the following: I did not enter the camp on
6 Sunday, but (expunged). I was in that
7 house, and we saw soldiers passing by in the evening.

8 The person you have referred to as X asked the soldiers a
9 question, and the soldiers said, "No. We are going to attack Bogoro."
10 That is how come we knew that something was in the offing.

11 The soldiers passed by, and after that, the person who came to
12 confirm that to us was Juliette Oscar. That is what was mentioned in the
13 first statement, and I repeated in the second statement. That is what
14 happened.

15 Q. Can I just read from your paragraph 252 of your statement and ask
16 you if you agree with it:

17 "I was at BCA when the message was passed to the Lendu at Zumbe
18 by the use of the phonie that the attack was to take place on the 24th of
19 February."

20 Is that right?

21 A. They were communicating. I am not saying that I was at the BCA
22 on that day. Prior to that day they had been communicating, and I state
23 this clearly in my statement. What confirmed to us that the Bogoro
24 attack was going to take place was the communication through the phonie,
25 and there was communication taking place with Zumbe because there was a

1 phonie. That is what is in my statement.

2 Q. Let me just read that bit again, a bit more of it perhaps so we
3 have the context. This is 252. I'm just adding a sentence or two
4 before:

5 "The organisation of the attack on Bogoro between the Lendu and
6 Ngiti was done by phonie. One did not call the Lendu during the attack.
7 One was organising the battle together with the Lendu. I was at BCA when
8 the message was passed to the Lendu at Zumbe by the use of the phonie
9 that the attack was to take place on the 24th of February."

10 Did you ever tell Mr. Dutertre or anyone else that you were at
11 the BCA when that message was passed?

12 A. I think that you and I have a problem of understanding when I am
13 talking about the BCA. I'm telling you about what happened. I talked
14 about the entire event that took place in Bogoro, but I was not
15 describing an event that took place in a single day. That is, on the eve
16 of the attack. I have described to you what they were doing.

17 Q. Yes. Of course, you've told us you didn't go to the camp where
18 the phonie was on the Sunday. That's your evidence, isn't it?

19 A. Yes.

20 Q. Thank you. Now, off they go at about 4.00 to Bogoro. Now, I'm
21 going to read from paragraph 277, and just so you can confirm the
22 distances here.

23 "From Bogoro to Kagaba is 12 kilometres, and Aveba to Kagaba is
24 37 kilometres. To get to Bogoro from Aveba, you go through Geti and
25 Kagaba."

1 So do you confirm that on your figures there, on your figures
2 there, it's 49 kilometres from Aveba to Bogoro? Is that right?

3 A. If we are discussing logically -- and, in fact, yesterday I asked
4 you a question. I did not have any instrument to measure the distance.
5 I simply gave you an approximation. So it is possible that I could give
6 a distance that is slightly longer than reality.

7 Q. No. I accept that it's 50 kilometres between Aveba and Bogoro.

8 Now, you haven't said much about -- or any of this in your
9 evidence. I appreciate this. It hasn't been referred to by anyone. So
10 let me just ask you about what you say here at paragraph 278 under the
11 heading "Execution of the Attack," and ask you again if you agree with
12 what you say here or what is recorded you say here.

13 "The next morning, about 5.00 in the morning, we heard the sound
14 of bombs, of cries."

15 Did you? Did you hear the sound of bombs and cries?

16 A. Can you read out that excerpt the way it is? I'm asking you
17 to -- to read my statement correctly and see whether I said that there
18 was a noise of bombs and cries. If that is the case, then I was
19 misinterpreted.

20 MR. HOOPER: Okay. Start again. It's just that you had an
21 overlap. Sorry.

22 MS. MENEGON: (Interpretation) I will read paragraph 278:

23 "The following morning at about 5.00 a.m., we heard the noise of
24 bombs and shouts at ..."

25 MR. HOOPER:

1 Q. Question: Did you hear bombs and shouts at 5.00 in the morning?
2 Could you hear bombs and shouts from Bogoro? That's the question.

3 A. I do not believe that I said that. That was not what I said when
4 I gave my statement. In fact, I'm not even sure that you are reading my
5 statement.

6 What I said was this: At around 5.30 a.m., we heard explosions
7 or detonations of heavy weaponry. That continued throughout the day, and
8 about -- at about 3.30 p.m., Mamale arrived and said, "Bogoro has just
9 fallen."

10 So please cross-check the statement.

11 Q. I've just read exactly what's there. Even in French it's been
12 read to you, and you allude to bombs and cries. At paragraph 279 you
13 say:

14 "Towards 1500 hours, the detonations decreased and then they
15 stopped."

16 Let's forget the word "cries" there and let me ask you this: Are
17 you saying that you could hear detonations from 50 kilometres away?

18 A. When a bomb explodes in Bogoro and even in Tchomia, it is
19 possible to hear it in Aveba without any difficulty. Only small-weapons
20 fire cannot be heard. But if bombs are thrown, you can hear them
21 explode.

22 Q. All right. Now, I understand heavy --

23 A. Aveba is on the summit.

24 Q. Sorry. Aveba's on the summit. I understand heavy weapons were
25 used at Nyakunde which you've told us is 50 kilometres away --

1 MR. MACDONALD: (Interpretation) Just a moment, your Honour.

2 I'm sorry to interrupt. There was the end of a sentence that was not
3 completely translated, and my learned colleague interrupted.

4 PRESIDING JUDGE COTTE: (Interpretation) Very well. Yes,
5 Mr. Witness, you said that Aveba was on the summit, and that Bogoro is --
6 what did you want to say?

7 THE WITNESS: (Interpretation) Yes. Bogoro is located further
8 down towards the valley.

9 PRESIDING JUDGE COTTE: (Interpretation) Very well. Further
10 down towards the valley.

11 Thank you to all. Please proceed, Mr. Hooper. You had stopped
12 after saying, "I understand that heavy weapons were used in Nyakunde,"
13 and that is where you were interrupted.

14 MR. HOOPER:

15 Q. Let me ask you this. You told us yesterday you couldn't hear the
16 fighting in Nyakunde, and that was just 20 kilometres away. Why couldn't
17 you hear the fighting in Nyakunde 20 kilometres away but you could hear
18 fighting in Bogoro 50 kilometres away? Did you know?

19 A. In order for you to defend your client, I will ask you to
20 actually go on a field visit in Aveba. You have to familiarise yourself
21 with the geography and that will be helpful to you. Between Aveba and
22 Nyakunde, there is an obstacle. There is a mountain called Omi. It is,
23 in fact, a mountain chain between Aveba and Nyakunde. Aveba is on one
24 side, while Nyakunde is on the other side of the chain, of the mountain
25 chain. And so that mountain chain can, of course, reduce the noise of

1 the bombs and make it less possible to hear them.

2 Q. Okay. Well, thank you. You told us that the next morning, and
3 you mean the next morning, you go to Bogoro, and you went there with --
4 am I right? You went there with X, did you, the person I've referred to
5 as X? Is that right?

6 A. Yes.

7 Q. And how did you get there?

8 A. We have estimated that Bogoro was 50 kilometres away, but that is
9 when you take the main road. There is a shortcut from Tchekele. There
10 is as place called Aline where there is a small forest. You leave
11 Mount Nyata (* phon) on this side and then you arrive directly at Lakpa.
12 So there is a shortcut. That is why I suggested that you should visit
13 the area. That will help you. The road going to Bogoro and then to
14 Aveba is a road that has many bends and curves. If you take that road,
15 it will take you a lot of time, whereas the shortcut will reduce the
16 travel time.

17 Q. But you're walking; is that right?

18 A. Yes. I went there on foot.

19 Q. And what time did you leave?

20 A. I left in the morning.

21 Q. What time? What is it light, or were you walking in the dark?

22 A. It was already daylight.

23 Q. Which is about 6.00 in the morning. And you -- you got there at
24 what time? Remind us what time you got there, please.

25 A. I was not wearing a watch, but if I try to approximate, it must

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- 1 have been around 9.00 a.m.
- 2 Q. Fifty kilometres, or close to that. (Expunged)
- 3 (Expunged)
- 4 (Expunged)
- 5 (Expunged)
- 6 Q. Don't answer the question. Just a moment.
- 7 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, let us
- 8 go into private session, and given the time, this will obviously be the
- 9 last question. Let us go very quickly into private session.
- 10 (Private session at 1.24 p.m.)
- 11 (Expunged)
- 12 (Expunged)
- 13 (Expunged)
- 14 (Expunged)
- 15 (Expunged)
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- 25 (Expunged)

Witness: DRC-OTP-P-0219 (Resumed) (Private Session)
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13 Page 78 expunged. Private session.

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1 (Expunged)

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10 (Expunged)

11 (Closed session at 1.30 p.m.)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Open session at 1.30 p.m.)

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

20 MR. HOOPER: Before we rise, can I just indicate that I've got

21 further than I thought that I would get today. I -- I've yet to discuss

22 with him a plan he's drawn and a few references to what happened in

23 Bogoro. That's the substance of what I've got, and if I -- if we have

24 time, and Mr. Fofe's keeping a very close eye on me, I know, if we have

25 time, then I'll revert to asking a few questions on the manifesto, in

1 fairness to the witness. And I've also got the issue of the transcript
2 of the telephone call.

3 Now, the best way I'm going to suggest that that could be dealt
4 with is we've had the Registry translate and check its translation, and
5 we've all had that, and what I was going to propose was that we play the
6 tape so you can hear the tape. Even if we don't understand the language
7 of Swahili, we can still hear the tone of voice. I think that's
8 significant in this case. And while that's being done, rather than
9 burden our translators and interpreters with a contemporaneous recording,
10 I'd invite the Prosecution and the other parties to accept the
11 translation that the Registry has done, which is in French, and we can
12 all follow that. And that exercise will take no more than 20 minutes,
13 and that will be everything in respect of that document. So that's the
14 speedy way of doing it, and I would invite the Prosecution to agree that
15 that's both expeditious and fair to all. He'll hear the Swahili. We can
16 follow it in our languages, and it's all done and dusted, efficiently and
17 quickly and we won't have all those problems we had in the great bog of
18 audiotapes and videotapes that we found earlier.

19 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, just be
20 aware that we have no recording time left. Whatever you're saying is not
21 being recorded.

22 MR. MACDONALD: (Interpretation) The Prosecution would like the
23 parties to be informed about the duration of the cross-examination so
24 far. Mr. Hooper has exhausted his time, because it was clearly indicated
25 that they had 60 per cent of the Prosecution time, and I think they are

1 running over that time once again.

2 Regarding the translation, I think the Registry should review the
3 translation. We looked over that a few days ago. There are little bits
4 and pieces of sentences that are missing. It is nothing really
5 significant. The information should be sent to the Registry, if
6 necessary, but I think the practice has always been to listen to the
7 material, the material itself, the audio presentation, and then the
8 interpreters can follow, obviously maybe with the translation provided by
9 the Registry also.

10 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, is it
11 possible that we can listen to the audio of the telephone conversation
12 recordings that Mr. Hooper is referring to? It is in Swahili, but it
13 should be translated. And probably not the entire recording but just
14 parts of it. And if at the same time the French translation can be
15 cross-checked, that would be good.

16 MR. HOOPER: Can we send an e-mail to that effect, just setting
17 out -- we've got an edited redacted version of the audio. We can just
18 press the button and it's very clear. Well, it seemed clear to me. Can
19 we send just a résumé of our proposals to you and to the Prosecutor and
20 see if we can reach an agreement by tomorrow morning in respect of the
21 way we can deal with this?

22 MR. MACDONALD: (Interpretation) We were sent -- we should be
23 sent the timing and the exact excerpts. That is the practice, for
24 example, when some parts are longer than others.

25 THE INTERPRETER: It is not possible to provide accurate

1 interpretation because of overlapping speakers.

2 PRESIDING JUDGE COTTE: (Interpretation) Once again,
3 Court Officer, please inform us about the time stamps in the afternoon so
4 that we all know what it is all about. If we're able to finish tomorrow
5 at 4.00 p.m., that would be good. Otherwise, we will resume the next
6 time.

7 Court is adjourned.

8 The hearing ends at 1.42 p.m.

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