

1 International Criminal Court
2 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra, and
3 Judge Christine Van den Wyngaert
4 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
5 In the case of the Prosecutor versus Germain Katanga and Mathieu
6 Ngudjolo Chui
7 Trial Hearing
8 Friday, 25 March 2011.
9 The hearing starts at 9.00 a.m.
10 (Open session)
11 COURT USHER: All rise. The International Criminal Court is now
12 in session.
13 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
14 The accused persons are in the courtroom. Good morning,
15 everyone.
16 The Prosecutor, before the witness came in you wanted to address
17 the Court. Please go ahead.
18 MR. GARCIA: (Interpretation) Good morning, Mr. President, your
19 Honours. Everything depends on whether Mr. Hooper intends to object to
20 our asking the witnesses questions on the document in question, and that
21 is document D02-0001-0470. And if that is the case, your Honour, I would
22 like then to explain to the Chamber how that document is relevant for the
23 cross-examination of the witness. If the Chamber wishes, we could plead
24 this issue right now or later. I defer to the Chamber.
25 PRESIDING JUDGE COTTE: (Interpretation) Given that the witness

1 is not with us right now, it is preferable that you make your submission
2 right now. If you intend to use the document, Mr. Hooper will respond
3 and then we will determine. The document in question is on the list of
4 documents that was transmitted to us by the Prosecutor and two days ago
5 the Defence team of Katanga objected to the use of this document.

6 So, Mr. Prosecutor, tell us what is the relevance of this
7 presentation and what has led you to ask to use it, whereas this is not a
8 document from the witness that we have with us right now. Please go
9 ahead.

10 MR. GARCIA: (Interpretation) Mr. President, the Chamber is
11 correct. This is not a document from the witness, but when you look at
12 the chain of custody of the document you will see that it is a document
13 from 2010 which was transmitted from (Expunged) and that
14 is expected Defence witness -- well, maybe we should go into private
15 session, your Honour, because I don't want to mention that witness.

16 PRESIDING JUDGE COTTE: (Interpretation) You don't want to refer
17 to the witness by his number?

18 MR. GARCIA: (Interpretation) I could but I have just mentioned
19 the name, but I wanted to say that it is a document that was transmitted
20 by a potential Defence witness who is going to testify --

21 MR. HOOPER: Just so we're clear, that witness's name is
22 protected until he gives evidence.

23 PRESIDING JUDGE COTTE: (Interpretation) Exactly. That is why
24 we will not mention him now. We have fully understood that it is a
25 document from a potential Defence witness and this witness might be

1 called later. Please proceed.

2 MR. GARCIA: (Interpretation) Yes, your Honour. It is a
3 potential Defence witness who is supposed to have handed in this document
4 about child soldiers or people who were not child soldiers at that time.
5 So it becomes very important to question the witness here right now so as
6 to know how he met that other Defence witness, what they talked about,
7 what was the nature of their discussion. Because what is obvious, your
8 Honour, is that if there are two Defence witnesses who discussed then
9 there is a high risk of contamination in the sense that the information
10 was shared on the upcoming testimony. This is essentially the reason why
11 we would like to question that witness.

12 Normally I agree with the Chamber that when a document does not
13 come from a particular witness, except in exceptional circumstances, we
14 cannot cross-examine the witness, but this is related to the two Defence
15 witnesses, and I would like to mention that on several occasions during
16 their cross-examinations the Defence teams have had to follow lines of
17 questioning to establish that there was likely contamination. I want to
18 point out to the Chamber that this issue is very important, and that is
19 what I want to talk about to the Chamber. It relates to the chain of
20 custody and the credibility of the witnesses because the witness who is
21 going to come later will testify to this same issue of child soldiers who
22 were demobilised or not at the time in question.

23 So since the two witnesses are going to testify to the same issue
24 it is important for us to cross-examine this witness. Respectfully
25 submitted, your Honour.

1 PRESIDING JUDGE COTTE: (Interpretation) Do you have any
2 observations, Mr. Hooper, after having listened to the Prosecutor?

3 MR. HOOPER: Well, I'd merely suggest that the route my friend is
4 taking to explore this issue is really going backwards. It's not
5 necessary to go to the document. We haven't hidden the fact that the
6 provenance of the document had a chain that started with that witness
7 through this witness to us. That's something we've revealed so that's
8 not in dispute. I assume what my friend wants to ask this witness is
9 whether he has any relationship with that witness or any other and he's
10 free to ask that. I don't see why it's necessary to refer to this
11 document. Certainly the contents of the document are quite irrelevant I
12 would submit to this witness.

13 (Trial Chamber confers)

14 PRESIDING JUDGE COTTE: (Interpretation) Everything is clear in
15 the sense that we know that this document was not prepared by
16 Witness 136, who is currently testifying, so he cannot authenticate it.
17 Nevertheless, the document relates to the demobilisation of child
18 soldiers and we have been told that a number of young people who
19 presented themselves as having carried weapons or been combatants did not
20 actually fight. So given what the witness said yesterday,
21 Mr. Prosecutor, you can make use of this document. But given that the
22 document is not from the witness, the Chamber will make its determination
23 in light of the type of questions that you ask. So, please, you are free
24 to use that document.

25 MR. GARCIA: (Interpretation) Your Honour, just for information,

Witness: Witness DRC-D02-P-0136 (Resumed) (Open Session)
Questioned by Mr. Garcia (Continued)

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1 this will depend on the way in which the cross-examination on this issue
2 unfolds. Maybe it may not be necessary for me to use that document. It
3 will depend on the witness.

4 PRESIDING JUDGE COTTE: (Interpretation) Very well.

5 Court Officer, can you have the Court Usher please bring the
6 witness into the courtroom.

7 (The witness takes the stand)

8 PRESIDING JUDGE COTTE: (Interpretation) Good morning.

9 THE WITNESS: (Interpretation) Good morning.

10 PRESIDING JUDGE COTTE: (Interpretation) I can hear that you --
11 I see that you can hear me very well.

12 THE WITNESS: (Interpretation) Yes.

13 PRESIDING JUDGE COTTE: (Interpretation) So we are going to work
14 very well this morning. You are ready?

15 The Prosecutor, you can now proceed with your cross-examination.

16 WITNESS: WITNESS DRC-D02-P-0136 (Resumed)

17 (Witness answered through interpreter)

18 Questioned by Mr. Garcia: (Continued)

19 Q. Good morning, Mr. Witness.

20 A. Good morning.

21 Q. Today, Mr. Witness, I have some more questions for you.

22 A. You are welcome.

23 Q. I would like to begin by asking you some questions for
24 clarification, and then we will move on from where we left off our
25 cross-examination yesterday. During your testimony you told us about

1 your brothers. You mentioned Kandadhu Aletsobi, you mentioned Francine
2 and Germain. You talked about John Musangura and also mentioned
3 Jonathan, obviously yourself. Are you the youngest in the family?

4 A. No.

5 Q. Can you give us the number -- the names of those who are younger
6 than you in your family?

7 A. There is Banjina Patrick.

8 Q. Can you spell that name, Banjina, for us, please.

9 A. B-a-n-j-i-n-a. And then there is Bakara.

10 PRESIDING JUDGE COTTE: (Interpretation) Please spell that name
11 also very clearly as you have just done.

12 THE WITNESS: (Interpretation) B-a-k-a-r-a.

13 MR. GARCIA: (Interpretation)

14 Q. Can you give us the full name. I think you said Bakara. Does he
15 have a first name?

16 A. Djarido.

17 Q. Can you also spell that one, please.

18 A. D-j-a-r-i-d-o.

19 Q. Do you have any other younger brother?

20 A. No.

21 Q. Let us begin with the first name that you gave, Banjina, Patrick.
22 How old is he right now?

23 A. He is 28-years-old now.

24 Q. And where does he live currently?

25 A. He is a teacher in Bukiringi.

1 Q. Mr. Witness, with regard to Patrick, was he a member of the
2 militia in 2002/2003?

3 A. No.

4 Q. And Djarido, how old is he now?

5 A. 24-years-old.

6 Q. Except I'm mistaken, Mr. Witness, you said yesterday that you had
7 three younger brothers. Is that possible?

8 A. That was a mistake. I have two younger brothers.

9 (Prosecution counsel confer)

10 MR. GARCIA: (Interpretation)

11 Q. Mr. Witness, we are going to continue from where we left off
12 yesterday, and I wanted to -- us to revisit this issue of your first
13 meeting with Logo. You told us that this happened on the road; is that
14 correct?

15 A. Yes, it is true, I met him on the road.

16 Q. And if I understand you correctly, there had been some sort of
17 communication before between yourself and Logo; is that correct?

18 A. No.

19 Q. Mr. Witness, I just want to understand. Yesterday during your
20 testimony you told us that you met Logo on the road; is that correct?

21 A. Yes, that is correct.

22 Q. And that was your first meeting with him?

23 A. Yes.

24 Q. During your testimony on page 70 of the French transcript
25 yesterday, you told us it was on the road that we met him. There were

1 many people; is that correct?

2 A. Yes, he was with other people.

3 Q. Who were the other people, Mr. Witness?

4 A. Caroline and the driver who was with them.

5 Q. Witness, are you telling us that this meeting was a total
6 coincidence, that is, you met the members of the Defence team
7 representing your brother, you met them coincidentally?

8 A. Yes, I was on my way and they also were travelling. That is how
9 come I met them for the first time.

10 Q. But, Mr. Witness, before that meeting you knew who represented
11 your brother in the Defence team, you knew about Logo? You knew those
12 things?

13 A. No, I did not. But I had heard that there was someone -- that
14 there was a team representing my brother, but I did not know who were the
15 members of that team.

16 Q. Mr. Witness, you have just told us and confirm that this was
17 between one year and two years ago that you came to know for the first
18 time who represented your brother; is that your testimony?

19 A. Yes.

20 PRESIDING JUDGE COTTE: (Interpretation) It is absolutely
21 necessary for both of you to observe the five-second rule because the
22 Court Officers -- or rather, the court reporters have been having
23 problems. So, Mr. Prosecutor, you have to speak more slowly.

24 JUDGE DIARRA: (Interpretation) Can we count on you,
25 Mr. MacDonald, to alert your colleague? Thank you.

1 PRESIDING JUDGE COTTE: (Interpretation) So the Prosecutor has a
2 great responsibility this morning.

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

4 Q. Mr. Witness, we will come back to the facts as testified to by
5 yourself yesterday. You told us that you met Logo and part of the team.
6 You are not sure about the specific date but you said that it was more
7 than one year ago but less than two years ago; is that correct?

8 A. Yes, that was my testimony yesterday.

9 Q. Mr. Witness, when was the last time you spoke with your brother
10 Germain Katanga?

11 A. It was more than one year ago.

12 Q. Can you tell us the month, Mr. Witness?

13 A. It was in 2009.

14 Q. If I understand you correctly, you are not able to tell us the
15 specific month?

16 A. No.

17 Q. We are going to come back to this conversation later, but what I
18 would like to say, Mr. Witness, is ever since your brother Germain was
19 arrested and detained at The Hague you have had the opportunity to speak
20 with him on several occasions?

21 A. It was a long time ago that I spoke with him.

22 Q. Witness, I will ask you the question once again. I understand
23 that it was a long time ago, but my question is: Did you speak to him on
24 several occasions ever since his detention here at The Hague, yes or no?

25 A. No.

1 Q. So how many times did you speak with him, to the best of your
2 knowledge? Please take your time.

3 A. At least on two occasions.

4 Q. If I understood you well, you said at least twice?

5 A. Yes.

6 Q. Is it possible that you spoke with him more than twice, maybe
7 three times, four, five times?

8 A. If I'm not mistaken, it could not have been up to four times.

9 Q. Very well, Mr. Witness. But my question to you is simple. Your
10 brother has been detained here for quite some time. If you spoke with
11 him, it should be something important, it's not something that you would
12 forget?

13 A. Yes, indeed.

14 Q. Now, can you tell us the number of times that you spoke with him?
15 You said maybe not four. Is it three times?

16 A. It is four times.

17 Q. So you spoke with him four times; is that correct?

18 A. Yes.

19 Q. Mr. Witness, I am looking at you and it looks like you are still
20 thinking or reflecting. Is it possible that you spoke with him more than
21 four times?

22 A. I'm here to tell the truth, and I am continuing to tell the
23 truth. And as I have already said, it was on four occasions.

24 Q. You have told us about the last time you spoke with him. Now,
25 relating to the three other conversations that you had with your brother

1 while he was in detention, in which year or years did those conversations
2 take place?

3 A. It was in early 2010.

4 Q. Very well, early 2010. What about the two other conversations?

5 Let me facilitate the task for you, Mr. Witness. Let us begin with the
6 first conversation that you had with your brother after he was brought
7 here to The Hague. In which year did that conversation take place?

8 A. It was mostly during that period, 2010, that we were able to
9 speak a little bit on the phone.

10 Q. I did not understand you well, Mr. Witness. Maybe I'm the one
11 who is confused. You talked about four conversations. You talked about
12 a conversation last year and you talked about early 2010. The two other
13 conversations, when did they take place?

14 A. In early 2010, that is, in January I spoke with him; and then
15 later on again during the month of March.

16 Q. If I understand you well, it was in March 2010?

17 A. Yes.

18 Q. Would I be correct to say that you had telephone conversations
19 with your brother before 2009, Mr. Witness?

20 A. Before 2009 I was in Aveba - I was not yet in Bunia - and there
21 there is no telephone network.

22 Q. Did you have any news of your brother while you were in Aveba?

23 A. Yes.

24 Q. What you are telling us, Mr. Witness, is that before 2009 you did
25 not make an attempt to communicate with your brother while he was

1 detained here?

2 A. I was in Aveba. There was no phone network in Aveba and I did
3 not have a phone at the time, I didn't have a means to communicate with
4 him.

5 Q. I have understood, Mr. Witness, that you were in Aveba but you
6 were able to travel. Now, when you say that you did not have his
7 telephone number, you could have spoken to someone within the family.
8 You could have asked anyone within the family to obtain his phone number.
9 Didn't you do that? Mr. Witness, why are you looking to the left? Why
10 are you looking at the accused person when I am putting this question to
11 you?

12 MR. HOOPER: May I say for the record that I have been sat here
13 watching and I haven't seen the accused -- I'm sorry, I haven't seen the
14 witness look this way except perhaps once some time ago.

15 PRESIDING JUDGE COTTE: (Interpretation) That is on record,
16 Mr. Hooper.

17 Mr. Prosecutor, please proceed without interpreting the attitude
18 or the movement or the features -- the facial features of the witness as
19 you try to explore this issue of dates of telephone conversations.

20 MR. GARCIA: (Interpretation)

21 Q. Mr. Witness, did you try to secure your brother's phone number ?
22 Did you try to look for a way to communicate with him?

23 A. I am wondering since he was in detention, was it possible for him
24 to have a phone? Was it possible for him to have a telephone number
25 which I could use to communicate with him?

1 Q. What you are telling us, Mr. Witness, if I understand you
2 correctly is that as of today you do not know whether your brother was
3 able to communicate with persons outside of The Hague, outside of the
4 Court, with persons living in Aveba?

5 A. Could you please repeat your question.

6 Q. Mr. Witness, let us change subjects here. Let me ask you a last
7 question. If I understand your testimony correctly, you were not able to
8 secure a means of communicating with your brother before 2009; is that
9 your evidence?

10 A. Yes. Furthermore, whilst he was in Kinshasa I communicated with
11 him, that was before 2009, but not while he was here. I communicated
12 with him while he was in Kinshasa.

13 Q. Mr. Witness, you must have heard through your family members that
14 they had communicated with him in 2008 and 2007 or did you not hear
15 anything of that nature?

16 A. Yes, the family spoke to him whilst he was in Kinshasa before
17 2009.

18 Q. Mr. Witness, I am not talking about Kinshasa. I would like to
19 know from the time your brother was detained here in The Hague you must
20 have heard from your family members that they have discussed with Germain
21 and they must have told that he was doing well. You must have received
22 such information since the month of October 2007 when he was detained
23 here in The Hague, you must have obtained such information?

24 A. Yes, we got news about Germain and I did say this clearly, that
25 we got news of Germain.

1 Q. Tell me, Mr. Witness, you said you had four telephone
2 conversations with Germain. Did he tell you about what takes place here
3 in the courtroom? Did he talk about witnesses coming to give evidence
4 against him?

5 A. No. He wanted to get information about the family and he asked
6 about my studies.

7 Q. You, Mr. Witness, must have been curious, I believe. You were
8 talking to your brother. He is detained here in The Hague for serious
9 crimes. Didn't you ask him questions about what this is all about, who
10 came to give evidence against him, and so on?

11 A. No. I did not ask him questions about witnesses. I rather asked
12 him news about the evolution of his case and not about witnesses.

13 Q. Mr. Witness, were you not curious to know about the persons who
14 had come to give evidence against your brother?

15 A. I beg your pardon. Could you repeat?

16 (Prosecution counsel confer)

17 MR. GARCIA: (Interpretation)

18 Q. Mr. Witness, you are the brother of Germain Katanga. Were you
19 not curious to know about the persons who had come from the community to
20 give evidence against your brother here in the courtroom?

21 A. No.

22 Q. So you were not curious at all?

23 A. Please?

24 Q. You were not curious about that?

25 A. That was not my concern.

1 Q. When you said you were trying to monitor the evolution of the
2 case, I believe that that also included what people came to say in the
3 courtroom about your brother or against your brother; is that correct?

4 A. Could you please repeat your question.

5 Q. When you said that you were monitoring the evolution of your
6 brother's case, this implies that you were interested in what witnesses
7 were coming to say about your brother since you said you were monitoring
8 the evolution of the case --

9 MR. HOOPER: This witness hasn't used the phrase "monitoring the
10 evolution of the case," not at all. What he said, essentially, was that
11 he didn't ask any questions about witnesses, that he was -- there was
12 discussion or he, as I understood, he had an interest in the evolution,
13 as he put it, of the case. It's a very big step to saying that this
14 witness in these rare phone calls is monitoring the evolution. I hope my
15 friend, he's, you know, cross-examining - I appreciate that - and he's
16 using his skills and techniques that way, but let's not mislead the
17 witness.

18 PRESIDING JUDGE COTTE: (Interpretation) I am looking at the
19 draft transcript of the French, page 16. In line 2 you asked the
20 following question:

21 "But you, Mr. Witness, you must have been curious I believe. You
22 were talking to your brother. He is detained here in The Hague for
23 crimes, serious crimes. Did you not ask him questions to know about who
24 had come to give evidence to know about the case?"

25 Now, let's listen very attentively to the reply of the witness,

1 line 7:

2 "No, I did not ask him questions about the witness."

3 I'm reading the draft transcript.

4 "No, I did not ask him questions about the witness. I simply
5 wanted to know about the evolution of his case, not about witnesses."

6 Mr. Prosecutor, you wanted to know whether the questions he asked
7 about the case related to certain issues about the witness. Well, that
8 is what we get from the draft transcript, pending what we might get when
9 we listen to the audio recording again. So, Mr. Prosecutor, we are going
10 to proceed on those terms.

11 MR. GARCIA: (Interpretation)

12 Q. Mr. Witness, I'm going to ask you a last question on this matter.
13 When you talk about the evolution of his case, we understand that when
14 you use that term you are referring to what is said here in the
15 courtroom. You want to know about what is said against your brother; is
16 that correct?

17 A. No, that is not correct.

18 Q. Just to make things clear, when you talk about the evolution of
19 the case, you're not talking about what is happening here in the
20 courtroom, about the accusations against your brother, about the
21 evidence; is that correct?

22 A. What I asked him was at what level has your case arrived? Do you
23 go to the courtroom or you are not yet going to the courtroom? Those are
24 the types of questions I put to him.

25 Q. Should we understand that he did not tell you anything about what

1 was said here in the courtroom? He didn't tell you anything about the
2 witnesses? He did not give you any such information in the course of the
3 four phone conversations you had with him?

4 A. Not at all.

5 Q. We are now going to change the subject matter here now,
6 Mr. Witness.

7 Yesterday you mentioned the name John Musangura, who is your
8 brother if I understood you correctly; is that correct?

9 A. Yes.

10 Q. And if I understood you well, you said that he has been living in
11 Bunia for the past ten months; is that correct?

12 A. Yes.

13 Q. Would it be correct to say that your brother does not live in
14 Bunia, that he rather lives in Aveba and that he is a taxi-driver?

15 A. Of course. Earlier he used to work in Aveba as a taxi-driver,
16 but since he had not yet received his -- earned his diploma, he was sent
17 back to go to Bunia to continue his studies and that is why he is in
18 Bunia now. He has not gone to Bunia for settling. He has not gone to
19 Bunia to settle there. He has gone only for studies.

20 Q. If I understood you correctly, you are saying that he partially
21 lives in Bunia?

22 A. Yes, he lives in Bunia sometimes. His house or his home is in
23 Aveba.

24 Q. You are telling us, therefore, that he lives in two different
25 places; is that correct?

1 A. At this moment he is in Bunia because of his studies. When he
2 completes his studies, it's highly possible that he will return to Aveba.

3 Q. Tell me, Mr. Witness, does the name Bahati Ringi mean anything to
4 you?

5 A. Bahati who?

6 Q. Bahati Rungu.

7 A. Could you write down the name because maybe the way you are
8 reading or pronouncing the name is confusing me.

9 Q. It is Ringu, R-i-n-g-u.

10 A. Could you please spell the second name again.

11 Q. I'm sorry, I'm mistaken. The name is R-u-n-g-u.

12 A. The name Bahati Ringi, well I do not know that name.

13 (Prosecution counsel confer)

14 MR. GARCIA: (Interpretation)

15 Q. I heard you pronounce the name Ringi. However, what about the
16 name Rungu, does it mean anything to you?

17 A. Yes, Rungu means something to me but Ringi I do not know.

18 Q. Now, the name Bahati Rungu, does that name mean anything to you?

19 A. I know Rungu.

20 Q. Is Rungu one of the friends of your brother John, someone who was
21 in the militia in 2002/2003?

22 A. The Rungu I know was not a friend to my brother John.

23 Q. Very well. But was he someone who was in the militia in
24 2002/2003?

25 A. No.

1 Q. I am going to read out another name, Mr. Witness, Claude Mbakama.

2 Is that the name of one of the friends of your brother John?

3 MR. HOOPER: If we are going to perform this exercise, can my
4 friend please spell the name so that the witness can see the name. If
5 the witness wants to have a piece of paper or pen to jot down the name as
6 it's spelled, because sometimes that exercise isn't straightforward.

7 MR. GARCIA: (Interpretation) I will wait for the witness to
8 give an answer, but if the witness requests the name to be spelled then I
9 would do so.

10 PRESIDING JUDGE COTTE: (Interpretation) I think it would be
11 proper for you to just spell the name. The witness has said that he has
12 difficulties understanding you because the way you pronounce the names
13 confuses him. So please try to spell the names so that he can write down
14 the name as you spell it. Right now we are talking about Claude Mbakama.
15 Is Mbakama written the way it is pronounced? Mr. Prosecutor, try to
16 spell the name and let the witness write it down.

17 MR. GARCIA: (Interpretation) The name is spelled M-b-a-k-a-m-a.

18 THE WITNESS: (Interpretation) I do not know that name.

19 MR. GARCIA: (Interpretation)

20 Q. I have one last name to propose to you, Mr. Witness, Avuta. Is
21 that the name of someone who was the friend of your brother John?

22 A. I think it's best for you to give the full name because there are
23 many Avuta's in my village. I can't tell you a lie about that. It's
24 best for you to read out the full name.

25 Q. I understand, Mr. Witness, but my question is simple: Does your

1 brother John have a friend called Avuta? To the best of your knowledge

2 does he have a friend called Avuta?

3 A. No.

4 Q. Mr. Witness, we are going to change subjects. Yesterday you also
5 talked very briefly about the attack on Nyakunde?

6 A. Yes.

7 Q. You mentioned Kandro and the APCs; is that correct?

8 A. Yes.

9 Q. You also mentioned the reasons or one of the reasons for that
10 attack, namely, that the people of APC wanted to reach Lopondo. That's
11 what you said yesterday; is that correct?

12 A. Yes.

13 Q. Just to clarify things here, would I be right to say that the
14 attack on Nyakunde was essentially Ngiti vengeance for the attack that
15 had been -- the attack on Songolo that took place a few days ago; would I
16 be correct to say that?

17 A. No.

18 Q. Mr. Witness, you certainly agree with me that at the end of
19 August 2002 there was an attack on Songolo; is that correct?

20 A. Yes.

21 Q. And that attack on Songolo was launched by UPC soldiers; is that
22 correct?

23 A. Yes.

24 Q. Those UPC soldiers were stationed in Nyakunde at the time they
25 attacked Nyakunde; is that correct?

1 A. Yes.

2 Q. Now, Mr. Witness, Nyakunde was attacked five days later because
3 the Ngitis attacked Nyakunde after Songolo was attacked; do you agree
4 with me?

5 A. It was not the Ngitis who launched the attack. I said it was the
6 APC that went to attack Nyakunde.

7 Q. Mr. Witness, I am not talking about who launched the attack. I
8 am simply telling you that an attack took place before Songolo and there
9 were Ngiti victims as a result of that attack. Would I be right to say
10 that?

11 A. Yes. In Songolo there were victims.

12 Q. And these victims were of Ngiti ethnicity; is that correct?

13 A. In Songolo the majority of the people are Ngiti.

14 Q. When Ngitis later on attacked Nyakunde, when they attacked the
15 UPC they were right to do so; is that correct?

16 A. I am not in a position to say whether they were right or not, but
17 they went and attacked Nyakunde.

18 Q. But you agree with me that the Ngitis had a motive. Let's not
19 talk about the APC for now. The Ngitis and Kandro had a motive for going
20 to attack Nyakunde, in order to wreak vengeance on them for what had
21 taken place in Songolo; do you agree with me?

22 A. Well, they went to attack Songolo. I don't know whether their
23 objective was vengeance.

24 Q. Mr. Witness, would I be right to say that many civilians were
25 killed, massacred, in Nyakunde, that there was pillaging that took place

1 in Nyakunde and that the purpose was not only to open the road. Do you
2 agree with me on that point?

3 A. Of course there was war in Nyakunde and when you have a situation
4 of war you have victims.

5 Q. You agree with me that civilians were massacred, that civilians
6 were killed, that there was pillaging in Nyakunde?

7 A. I have just told you that in a situation of war you will always
8 have victims.

9 (Prosecution counsel confer)

10 MR. GARCIA: (Interpretation)

11 Q. Mr. Witness, where were you when the attack on Nyakunde took
12 place?

13 A. I was in Aveba.

14 Q. You mentioned Kandro, but you will agree with me that other Ngiti
15 individuals participated in the attack on Nyakunde; right?

16 A. If there were other commanders -- all I know is that the
17 commander who was most known was Kandro.

18 Q. You were in Aveba and you must have heard of other names. I can
19 understand that Kandro's name was most cited, but there must have been
20 other Ngiti commanders who participated in the attack. It was a
21 large-scale attack; it was not a small attack. We do agree on that,
22 don't we?

23 A. Normally when people go to war, they do not go alone. They go
24 with troops. Kandro went with troops, and it is with those troops that
25 he accompanied the APC.

1 Q. If I understood your evidence well, you are not in a position,
2 you are not able to give us the names of other commanders?

3 A. Apart from Kandro, other names I heard about were the names of
4 the head of the APC who was with Kandro. The name was Faustin.

5 Q. To complete on this point, Mr. Witness, you will agree with me
6 that this was a large-scale attack that required the presence of many
7 people?

8 A. Yes, of course I said a person cannot go and attack alone. A
9 person goes with troops, and the two persons whose names were most cited
10 were the names of Kandro and Faustin from the APC.

11 Q. Just one last question, Mr. Witness. You were in Aveba when you
12 heard about all of this; is that correct?

13 A. Yes, I was in Aveba.

14 Q. At that time you must have had many sources of information about
15 the people who participated in the attack?

16 A. I have already informed you that the participants were Kandro's
17 group and the APC.

18 Q. We are going to change subjects here, Mr. Witness. Yesterday I
19 asked you how Germain Katanga obtained his weapon. We talked about this
20 briefly just before the end of yesterday's hearing. Do you remember
21 that?

22 A. Yes.

23 Q. On that subject you informed us that you were not certain, you
24 couldn't say anything because you were not present on the battle-field;
25 is that correct?

1 A. Yes.

2 Q. And if I understood you well, you were not on the battle-field
3 and you cannot tell how things went on; is that correct?

4 A. Yes.

5 Q. Do you remember having given a statement - and I think it should
6 be shown to the witness - and that is D02-0001-0547, confidential.

7 MR. GARCIA: (Interpretation) I don't know whether we can show
8 him on the screen. That would be easier.

9 MR. HOOPER: I've got a hard copy here which will inevitably be
10 more helpful, I suspect, to the witness Mr. Registrar.

11 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
12 would it be possible to show him on the screen? The witness could at the
13 same time be given a hard copy. This is the document, Madam
14 Court Officer.

15 COURT OFFICER: (Interpretation) You would need to press PC 1 to
16 see this document.

17 MR. GARCIA: (Interpretation)

18 Q. Could I refer you, Mr. Witness, to page 3 of your document,
19 paragraph 2. You said, and I quote:

20 "Germain got his first fire-arm during a battle in Kasana. He
21 had got it from a Ugandan whom he had killed. It was after Bukiringi."

22 That's your declaration, your statement; is that correct?

23 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, will you
24 look at page 3, paragraph 2, and you go down to line 6, the beginning of
25 line 6, where there is the section which the Prosecutor has just quoted.

1 Take your time to read it and then the Prosecutor will repeat his
2 question so that it is quite clear.

3 MR. GARCIA: (Interpretation)

4 Q. Mr. Witness, have you had the opportunity to read this?

5 A. Yes.

6 Q. You see that you said in your statement he got his weapon from a
7 Ugandan whom he had killed?

8 A. Yes, that is indeed what is in my statement.

9 Q. When that -- I don't understand, Mr. Witness. You said in the
10 hearing that you didn't know because you weren't on the battle-field. So
11 why do you state in this statement, which is your statement and we would
12 expect it all to be true, why do you state something which is incorrect?
13 Do you understand what I mean? It's not true if you don't know whether
14 or not he obtained this weapon.

15 A. The weapon was recovered. That's what I said. He had -- I said
16 here that he had killed a Ugandan, but I said here - and I've been quite
17 clear yesterday - that either the Ugandan had thrown the weapon away or
18 he had been killed.

19 Q. But, Mr. Witness, what I'm saying is that you here are saying you
20 were not at the battle-field so you didn't know. So why in this
21 statement did you make a statement which is not true? There is no
22 ambiguity here in your statement. You say categorically how the weapon
23 was obtained. Do you understand me?

24 A. Even in my statement I said the same thing, but the person who
25 drafted the statement misrepresented me.

1 Q. So you are saying that it is the person who transcribed your
2 statement who made the mistake?

3 A. Yes, particularly these lines.

4 Q. But, Mr. Witness, you understand French and if I understand
5 correctly you re-read this statement and you initialled each page. So if
6 there was a mistake when you re-read the statement you must have said
7 there is a mistake in this sentence. And it is a key sentence, I'm sure
8 you will agree with me.

9 Mr. Witness, I've given you about 30 seconds. I understand you
10 have no answer to this subject so I would move on to a different subject
11 with your permission?

12 MR. HOOPER: (Previous translation continues) ... 15 seconds I
13 would say.

14 PRESIDING JUDGE COTTE: (Interpretation) We will say a short
15 silence.

16 Prosecutor, please continue.

17 MR. GARCIA: (Interpretation)

18 Q. Mr. Witness, I want to move on to the issue of the child
19 soldiers. Yesterday Mr. Hooper questioned you about a red book, a pink
20 book, which contains 952 names. Do you recognise that document? Do you
21 remember what we're talking about?

22 A. Yes.

23 Q. And in your testimony you said that three-quarters of the people
24 who appeared in that document were not combatants; is that correct?

25 A. Yes.

1 Q. But do you realise -- do you realise what you're saying,
2 Mr. Witness? Three-quarters of 950, can you say here in this courtroom
3 that approximately 700 people -- that you knew 700 people? You knew
4 their background when you weren't even in Aveba for a year? Could you
5 certify to the Chamber here that three-quarters of those people in the
6 document were not combatants? Is that your testimony?

7 A. A year is not so long. A year is only 365 days. If you
8 calculate the time I spent there up to the time I left Aveba, of course I
9 could know all these children from the village.

10 Q. But this is a whole problem, Mr. Witness. Do you realise that
11 according to the witness who presented that document there were children
12 from the UPC, from other regions, did you know that?

13 A. I know.

14 Q. So you're also able to tell the children (as interpreted) whether
15 children from the UPC or people from UPC in that document were not
16 combatant. How do you know that if they weren't even in the same region
17 as you?

18 A. I omitted the UPC-K from the list.

19 Q. I understand. But what'd you do about all the other children?
20 You must realise that it wasn't just one group. The children came from
21 four or five other groups. What you're saying -- are you telling the
22 Chamber you went to all these different groups? What did you do? How
23 were you able -- how were you able to certify that there were children
24 coming from different regions, different groupings where you didn't live
25 according to what you told us from your background? How can you say they

1 weren't combatants? You must agree with me you're not in a position to
2 state this to the Chamber.

3 A. I will clarify the situation as regards those children. They
4 were cases of militias, children left their own homes, and I have to
5 explain to you how they left their homes. Will you allow me to explain
6 this?

7 Q. Mr. Witness, is this connected to the question I put to you? I
8 asked you how do you manage to tell the Court, to the president, to the
9 Judges here before you, that children or peoples --

10 MR. HOOPER: (Previous translation continues) ... please give
11 the -- please give the --

12 MR. GARCIA: (No interpretation)

13 MR. HOOPER: (Previous translation continues) ... the opportunity
14 to answer as he wished to answer.

15 PRESIDING JUDGE COTTE: (Interpretation) We will all begin by
16 respecting the five-second rule to make the debate audible and so that it
17 can be transcribed.

18 Mr. Witness, you were prepared to give an answer. The Prosecutor
19 just wanted to make sure that your answer was to the question he put to
20 you. If it is in line with the question he put to you, you have the
21 floor and we are -- we will listen to you. Continue, please.

22 THE WITNESS: (Interpretation) Could the Prosecutor please
23 repeat the question.

24 PRESIDING JUDGE COTTE: (Interpretation) That would be
25 judicious.

1 Prosecutor, please repeat your question briefly, please, because
2 perhaps the witness -- you speak a lot and you have to give the witness
3 time to answer. So please put your question to him calmly.

4 MR. GARCIA: (Interpretation).

5 Q. Mr. Witness, there were children in this document who come from
6 several -- five different groupings. Do you agree with me that you did
7 not know all of them?

8 A. Okay. Can I explain -- will you allow me to explain how I knew
9 that those children were not militias even in the militia even if they
10 came from other groupings? Will you allow me to explain that?

11 PRESIDING JUDGE COTTE: (Interpretation) We are listening to
12 you, and you, too, please speak calmly. We are listening to you.

13 THE WITNESS: (Interpretation) There were -- we have five
14 groupings here, the Aveba grouping, Bukiringi grouping, Zadou (* phon),
15 and Bamuko. From all these areas, the local NGO which works in
16 partnership with Save the Children, from all these -- the NGO had offices
17 in all these groupings and they had people working there.

18 So what did these people do? I was a member of this association.
19 What did these young people do? They went to the villages -- they went
20 to see each of the -- each parent and instead of explaining to the
21 parents that they were looking for -- they were looking for child
22 militias, they went to the parents and said there are kits being given
23 out at the transit centre, so don't waste this opportunity. Send your
24 children and they can obtain one of kits. And the parents let their
25 children go to the transit sites and I myself made four trips to Songolo.

1 I myself brought the children to the transit -- from the transit sites to
2 their home in Songolo by motorbike with another person. There were two
3 motorbikes which the people had rented to take the children back to their
4 homes. And when we got there, it was very funny. All these children
5 were in school. They weren't even at home, they were at school. And the
6 four days they spent at the site were the four days they missed school.

7 So there were no children who left the militia centres to go to
8 the transit centre. And I -- that is why I can state to you that these
9 children were not in the militia.

10 MR. GARCIA: (Interpretation)

11 Q. Mr. Witness, I understand your explanation. I don't know whether
12 it's answered my question, but you must realise that when you say
13 "three-quarters," that's 6- 700 people. Do you understand the scale of
14 what you're saying?

15 A. Yes, I do understand. But if -- if -- if we were to go back to
16 my home I could show you that the names of these children -- I know them.
17 I know more than them. I know more than the names I gave there. I could
18 show you. I could show you where they live, who their family members
19 are, I could show you this. Everywhere -- if I were to go there with you
20 I could point them all out, even now.

21 Q. But your list contains 73 names; is that correct?

22 A. Yes, but I know more than the 73 names.

23 Q. In that case, Mr. Witness, you're saying that six, seven years
24 later you're in a position to give us the background of 6- 700 people, do
25 you realise that, and 73 people as well six, seven years after the events

1 and you know who was and who was not included? This is not important for
2 you. You didn't know that you would today be answering questions on
3 this, so why would you remember all these facts?

4 A. I didn't -- I remember what?

5 Q. For you six, seven years ago this issue of who was or who was not
6 a child soldier couldn't -- wouldn't have been important to you, wouldn't
7 have a notebook noting down who was or who was not a child soldier, so
8 how come you can remember it six, seven years on?

9 A. These were the children I grew up with. How could I not know
10 their names. These were children I was in charge of in school. Of
11 course I know their name. How could I forget their names? The children
12 I was in the choir with in the school, could I forget their -- I was in
13 the choir within the church. Could I forget their names?

14 Q. You didn't sing in the choir and you didn't play football with
15 6 - or 700 people, Witness.

16 A. You gave these 73 names and you said how could I forget these 73
17 names six, seven years on. That's why I answered your question.

18 Q. Another question, Mr. Witness, the organisation
19 Terre des Enfants, you know this organisation, do you?

20 A. Yes, I know Terre des Enfants.

21 Q. Do you know the procedure they followed to check the
22 authenticity, to check whether there were really child soldiers who were
23 going to the transit sites?

24 A. On the spot in Aveba, I know what they did. I know what methods
25 they applied to get the children.

1 Q. Then surely, Mr. Witness, you know the three forms, A, B, and C,
2 used to determine whether a child really was a child soldier or not.
3 Were you familiar with those three forms?

4 A. I don't know those forms, but I do know what they said to each
5 parent in each house to get the children and to accompany the children to
6 the demobilisation site.

7 Q. Well, Mr. Witness, if I understood you testimony correctly, you
8 didn't know this business of forms A, B, and C; you didn't know exactly
9 how that worked in Terre des Enfants. I'm talking of these forms. Is it
10 yes or no?

11 A. I don't know those forms, but I do know what happened.

12 Q. Are you aware, Mr. Witness, that at the beginning when a child
13 soldier went to the transit site there was a commander or leader who drew
14 up a list of the child soldiers. That list was sent to the high command
15 and there was somebody very -- a specific person who took the children to
16 Terre des Enfants?

17 A. Negative, I repeat, negative. That was not done in our area.

18 Q. And form B where there were a lot of questions put to know
19 whether the child was a child soldier, you know nothing about that form
20 either?

21 A. On the 22 questions I that those 22 I abstain. We did not --
22 those 22 questions were not asked.

23 Q. And you don't know what form C was either?

24 A. No, I don't know what form C was. If you could tell me what it
25 consisted.

1 Q. Well, Witness, you don't really know what happened in
2 Terre des Enfants? Am I right? You didn't know what procedure they
3 followed. I've just asked you several questions and you can't answer
4 them.

5 A. On the problem of the forms -- on these problems of these forms,
6 A, B, and C, those were their documents, their documents in their office.
7 But in fact, if those documents were used it was not to select the
8 children but it was just to draw up their files in the office. But the
9 children were picked up by chance.

10 Q. Mr. Witness, let's leave aside this business, Terre des Enfants
11 and your list. Do you agree with me that there were child soldiers --
12 children under age 15 who were in the militia in 2002/2003, children aged
13 12-14 who were members of the Ngiti militia; do you agree with me on that
14 point?

15 A. If I didn't agree with you I wouldn't talk of three-quarters.

16 Q. So you do agree that there were child soldiers?

17 A. Some.

18 Q. Mr. Witness, you say "some," but I think I'm right to say there
19 was quite a high number of them. It wasn't two or three or ten, it was
20 far more. Am I right, Mr. Witness?

21 A. I said "some." I don't know how many it would be.

22 Q. Mr. Witness, we're not talking of fewer than 100. You agree with
23 me, do you not, that there were hundreds and hundreds of child soldiers,
24 children aged under 15 involved in the various militias because there
25 were several in the Walendu-Bindi grouping.

1 (Prosecution counsel confer)

2 MR. GARCIA: (Interpretation)

3 Q. I -- the one-quarter -- I don't know if you think it's a large
4 number in Walendu-Bindi. My question is whether you agree with me that
5 there was a large number of them.

6 A. Agreeing or not agreeing with you, but I said three-quarters of
7 them were not militia. That leaves one-quarter. How many -- it would be
8 one-quarter of those lists.

9 JUDGE DIARRA: (Interpretation) One-quarter would -- one-quarter
10 of -- would not be a tenth. The Prosecutor is asking you to do some
11 mental arithmetic.

12 (Prosecution counsel confer)

13 MR. GARCIA: (Interpretation)

14 Q. Mr. Witness, just one point of clarification relating to the red
15 book -- to the pink book. I think it's EVD-OTP-00120 possible -- if
16 that's possible, for the pink document. In fact, I could hand the
17 witness my copy.

18 My question is as follows, Mr. Witness: At the beginning of this
19 morning's hearing you said that one of your brothers was called
20 Djarido Bakara. Is it possible that that brother was demobilised at some
21 stage?

22 A. Yes, he too was demobilised with the children.

23 Q. If I understand correctly he is the brother of Germain Katanga
24 and he was demobilised?

25 A. Yes, he was demobilised.

1 Q. Can you remember what year?

2 A. You will see his name on the list and you will see the year.

3 Q. We will change subject now, Mr. Witness.

4 MR. HOOPER: Just before we move from that subject, I hope the
5 witness is in no way being misled by the compounding of questions that
6 have been made, but we all know that this document doesn't, in fact, list
7 children of less than 15. It lists young persons aged less than 18 on a
8 criteria of being associated with armed groups.

9 MR. GARCIA: (Interpretation)

10 Q. Yesterday, Mr. Witness, there was a list of names. I don't know
11 whether you still have it.

12 PRESIDING JUDGE COTTE: (Interpretation) We must give him the
13 list. He must have the list, and it might be useful for other questions
14 in the future.

15 MR. GARCIA: (Interpretation)

16 Q. The questions will refer to the person under number 5.
17 Yesterday, Mr. Witness, in the direct examination questions were put to
18 you and you were asked whether you knew a brother of this individual
19 under number 5, and you said number 7. Look carefully at number 7.

20 A. Yes.

21 Q. Is it one person or two people?

22 A. These are two people.

23 Q. Number 7, is it one person or two? Because when the question was
24 asked to you yesterday you mentioned that person, number 7, as being a
25 brother.

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1 A. The person who wrote it down wrote the names of two brothers of
2 number 5. There is one first name and then the post name added to number
3 7.

4 MR. GARCIA: (Interpretation) With your leave, your Honour,
5 private session in order to clarify this.

6 PRESIDING JUDGE COTTE: (Interpretation) Very well. Indeed, it
7 appears the names have to be mentioned.

8 So, Court Officer, let us go into private session so that the
9 witness should be able to explain to us the person or persons who bear
10 those names at number 7.

11 (Private session at 10.31 a.m.)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Open session at 10.33 a.m.)

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

9 Honour.

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

11 MR. GARCIA: (Interpretation)

12 Q. Witness, regarding the person at number 5 -- well, let me

13 rephrase my question. You mentioned yesterday on several occasions that

14 you are not so good with dates, but let me still ask you the question.

15 When did you meet this person at number 5? Was it before your departure

16 to Beni or after when you returned?

17 A. It was after I returned.

18 Q. Can you tell us which month it was.

19 A. When I came to Aveba I met him immediately, and this was in

20 December.

21 Q. Are you certain, Mr. Witness, that it was in December? And

22 please remember that you are under oath.

23 A. I am what?

24 Q. You are under oath.

25 A. I arrived Beni at the end of 2003 in December.

1 Q. But you did not know that person before; is that correct?

2 A. Before my departure?

3 Q. Yes.

4 A. Yes, that is correct.

5 Q. What is your answer, Witness? Did you know that person or not?

6 A. I did not know him before I left for Beni, but I was with his
7 elder brother.

8 (Prosecution counsel confer)

9 MR. GARCIA: (Interpretation)

10 Q. Mr. Witness, you said that you sang in the church. Can you tell
11 us the name of that church?

12 A. *Communauté Emmanuel*, 39th.

13 Q. Was it Pastor Vicky who was in that church?

14 A. There were many pastors in that church. If you want I can
15 mention the names of those pastors.

16 Q. My question was more specific, Witness. Was Pastor Vicky in that
17 church?

18 A. You are asking whether he was in that church?

19 Q. Mr. Witness, what did you not understand in my question? My
20 question was simply: Was Pastor Vicky in that church? Did he come there
21 sometimes?

22 A. Yes, he was there in that church.

23 Q. Is there a reason why you were hesitating to answer that
24 question?

25 A. I was wondering whether you were asking whether he was the only

1 one there in charge of the church, but I later understood that you were
2 asking whether he was one of the pastors of the church.

3 Q. Do you know Pastor Vicky well?

4 A. He is my pastor. I'm a Christian and I know the pastor.

5 Q. Is he also Germain's pastor?

6 A. A pastor is not only for one person. He is there for all the
7 faithful, for all the Christians.

8 Q. Mr. Witness, try to answer the question. It is quite specific.

9 Is he also Germain Katanga's pastor? Does your answer mean that you were
10 saying yes?

11 A. Are you asking whether he is a pastor for an individual or
12 whether he is a pastor in the *Communauté Emmanuel*? Because someone can
13 have a pastor who does individual preaching to them, but he could also be
14 for all the faithful and all the Christians.

15 Q. Was he Germain's pastor? In other words, is he someone who was
16 an acquaintance of Germain Katanga's?

17 A. Please, you can rephrase your question. You can ask me whether
18 Germain worshipped in that church because he was not the only one who was
19 the pastor in that church, there were several of them.

20 JUDGE DIARRA: (Interpretation) Maybe the Prosecutor can ask
21 whether Germain Katanga belonged to the *Communauté Emmanuel* 39. The
22 witness cannot say that every faithful has a pastor. We will not
23 understand each other.

24 PRESIDING JUDGE COTTE: (Interpretation) The Prosecutor can ask
25 that question, but it seems that he wants to go beyond that and try to

1 determine whether there were any links between Pastor Vicky and
2 Germain Katanga.

3 JUDGE DIARRA: (Interpretation) There are inevitable aspects
4 that he cannot skip.

5 PRESIDING JUDGE COTTE: (Interpretation) Please proceed,
6 Mr. Prosecutor.

7 MR. GARCIA: (Interpretation)

8 Q. Witness, we will go stage by stage. Did Germain Katanga go to
9 that church, that is, the church in which Pastor Vicky worked?

10 A. He went to that church.

11 Q. My next question, Mr. Witness, is as follows: (Expunged)
12 (Expunged)

13 (Expunged)

14 A. I do not know whether they spoke to each other.

15 Q. But at least you will have an idea whether they were
16 acquaintances, whether they spoke to each other out of the church. I
17 believe you also went to that church several times?

18 A. Yes. Well, outside of the church I was not present to be able to
19 know whether he spoke or not with Pastor Vicky. After the service
20 closed, everyone would go back to their own home.

21 Q. I do understand, Witness, but the fact remains that Germain is
22 your brother, so I believe you have more information than that. I
23 understand that people went back home, but he is your brother and so I
24 suppose you were with him at some point.

25 A. Yes, I was with him.

1 Q. Mr. Witness, did the Pastor Alain attend that church?

2 A. There is no Pastor Alain in Aveba.

3 Q. I'm referring here to Alain Metu.

4 A. Alain Metu attended that church, that is, when he was there in
5 Aveba.

6 Q. Can we also say that Alain Metu is an acquaintance of
7 Pastor Vicky's, that they know each other and they speak to each other
8 outside of the church?

9 A. Yes.

10 Q. Do they know each other well, Mr. Witness? Are they friends?

11 A. They are not friends.

12 Q. Would I be correct to say that Alain Metu is also an acquaintance
13 of Germain Katanga's?

14 A. Since he lived in Aveba it is not possible for him not to know
15 Germain Katanga, so he knows him.

16 Q. So your answer is that they know each other; is that correct?

17 A. He knows Germain Katanga.

18 Q. Now, currently, Witness, you are attending university. Are you
19 attending university with Alain Metu?

20 A. He's in the medical school in Nyakunde, whereas I am doing
21 agronomy in the Shalom University. These are two different universities.

22 Q. But you know each other?

23 A. We know ourselves as student colleagues.

24 Q. Is it not correct that you are living together with him right
25 now?

1 A. Yes, he lives in his house and I live with my elder sister.

2 Q. Your elder sister, what is her name?

3 A. Francine.

4 Q. Is it possible, Mr. Witness, that you lived with Alain at some
5 time?

6 A. No, it is not possible.

7 Q. But you agree with me that you are good friends all the same, you
8 and Alain?

9 A. We are friends because we are students. When you are students
10 you can all be friends. We are not very close. It is not a close
11 friendship.

12 Q. But you knew him before you were students?

13 A. Yes, I knew him as a nurse. He was a nurse.

14 Q. And if I understand you correctly, Alain visits you frequently or
15 you visit him?

16 A. I do not go to his house.

17 Q. You don't go to his house but he comes to your house?

18 A. No.

19 Q. But you meet at certain places and you discuss?

20 A. No.

21 PRESIDING JUDGE COTTE: (Interpretation) Let us please observe
22 the five-second rule.

23 MR. GARCIA: (Interpretation)

24 Q. If I told you, Mr. Witness, that Alain Metu sometimes visits
25 Francine; is that correct?

1 MR. HOOPER: (Previous translation continues) ... interrupt and
2 object to the assertive nature of the questions. My friend's
3 cross-examining this witness. He should be asking questions. You only
4 have to look at the last 12 questions to see effectively how misleading
5 that kind of questioning can be. It's quite easy to formulate a question
6 that's at least as effective as making an assertion, which in fact the
7 witness doesn't agree with.

8 PRESIDING JUDGE COTTE: (Interpretation) We agree, Mr. Hooper.
9 Mr. Prosecutor, please proceed with your cross-examination, but
10 be a bit more focused as I told you a short while ago even though in the
11 heat of the cross-examination you are being very fast.

12 MR. GARCIA: (Interpretation)

13 Q. Just a few more questions, Mr. Witness. Talking about
14 Pastor Vicky, would I be correct to say that he is married to Julienne
15 Mugo who is the cousin of Denise Katanga; is that correct?

16 A. Yes, that is correct.

17 Q. Can you tell us where Denise lives right now?

18 A. Yes, right now she's in Aru.

19 Q. I have one more question for you, Mr. Witness, so be patient.

20 MR. GARCIA: (Interpretation) With your leave, Mr. President,
21 can we go briefly into private session just to mention one name?

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

23 (Private session at 10.50 a.m.)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Open session at 10.51 a.m.)

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

13 Honour.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

15 Prosecutor, please.

16 MR. GARCIA: (Interpretation)

17 Q. Mr. Witness, when was the last time you have spoken to that

18 person we just mentioned?

19 A. That person had left the area six years ago. Since then he went

20 to study in Kisangani and he is currently in Kisangani.

21 Q. Mr. Witness, when was the last time you spoke with him?

22 A. Many days ago. It has been many days since I last spoke with

23 him.

24 Q. Can you tell us if it was last year or before, a few months ago,

25 a few weeks ago? Can you be more specific?

1 A. When I spoke with him it was in December 2009 when he came to
2 Bunia on holiday.

3 Q. Are you telling us that the last time you spoke with him was in
4 2009?

5 A. Yes.

6 Q. Are you sure about that, Mr. Witness?

7 A. Yes.

8 Q. I will tell you why I am asking you that question, Witness. We
9 have a document, a list of names, and that name -- that list of names is
10 supposed to have come from you. It is a list of 50 names. I do not know
11 whether that list can be mentioned to them. It is DRC-D02-0001-0470.

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

13 MR. GARCIA: (Interpretation)

14 Q. Do you have the document with you, Witness?

15 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, it is a
16 document that was mentioned at the beginning of the hearing.

17 MR. HOOPER: (Previous translation continues) ... pass the
18 witness a hard copy of --

19 PRESIDING JUDGE COTTE: (Interpretation) Very well.

20 COURT OFFICER: (Interpretation) The document can be accessed
21 through PC 1.

22 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, my own
23 document is in colour and it is much more legible, so the Court Usher
24 will show you that document so you should make sure it is the same
25 document before we present it to the document (as interpreted). So,

1 Court Officer, show Mr. Hooper this document, return this other one to
2 him, and show the witness my document which will be brought back to me
3 later. We have very little time left, Mr. Prosecutor. Maybe we will
4 have to continue after the break. We have three minutes.

5 MR. GARCIA: (Interpretation)

6 Q. I simply would like to confirm with you, Mr. Witness, according
7 to your testimony it was more than 12 months ago in 2009 that you last
8 spoke with that person; is that your testimony?

9 A. Yes.

10 Q. Mr. Witness, the information that we have concerning this
11 document which was sent to us by the Defence team, that is, by
12 Mr. Hooper, is that this document was sent from you in late 2010 and that
13 it was Chris who gave -- that it was the person that we mentioned who
14 gave you that document in 2010. So you will understand that it is not
15 true that you spoke with him last in 2009. Do you agree with me on that
16 point?

17 A. There are several ways. It is not always face-to-face that a
18 document can be handed over. Documents can be sent, so the document was
19 sent.

20 Q. You are telling us that you received this document. You must
21 have spoken to him before that. It didn't just happen by coincidence?

22 A. No.

23 Q. You spoke with him just before?

24 A. In which way?

25 Q. Mr. Witness, it is up to you to tell us. I do not know. I have

1 the information that you received this document from the person that we
2 mentioned. So you agree with me that you at least spoke with that person
3 about this document?

4 A. No.

5 MR. HOOPER: I can confirm that at least as far as we're
6 concerned. This document I can --

7 MR. GARCIA: (No interpretation)

8 PRESIDING JUDGE COTTE: (Interpretation) Please do not speak at
9 the same time, especially if I myself -- I also intervene.

10 Mr. Hooper, you are aware that the witness is listening to you.
11 In principle, you never say just anything, but be careful what you say.

12 MR. GARCIA: (Interpretation) Mr. President, I believe that we
13 have to do this in the absence of the witness because we are talking
14 about the chain of custody.

15 PRESIDING JUDGE COTTE: (Interpretation) Unfortunately, we are
16 cut by time, whereas it would have been interesting to continue with this
17 cross-examination. We are compelled to suspend. We are going to break
18 for 30 minutes. And Mr. Witness, you are going to rest during that time,
19 after which Mr. Hooper will take the floor because I have interrupted him
20 suddenly because of the time, and then the Prosecutor will continue with
21 his cross-examination and conclude before Mr. Gilissen takes over.

22 Court Usher, can you kindly accompany the witness out of the
23 courtroom, please.

24 See you shortly, witness.

25 (The witness stands down)

1 PRESIDING JUDGE COTTE: (Interpretation) Court is suspended. We
2 will reconvene at 11.30.

3 Recess taken at 11.00 a.m.

4 On resuming at 11.32 a.m.

5 (Open session.)

6 COURT OFFICER: All rise.

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

8 Mr. Hooper, you wanted to take the floor before we went for
9 break. We were examining a document which was provided by Witness 160 to
10 our witness. Do you wish to take the floor now?

11 MR. HOOPER: I was merely seeking to indicate at 11.00 that if
12 the Prosecution require any further details as to the provenance of this
13 document and the chain, we're more than ready to provide them.

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, before
15 the witness returns to the courtroom, do you have anything to say?

16 MR. GARCIA: (Interpretation) I have nothing to add. I just
17 wish to continue with my line of questioning.

18 PRESIDING JUDGE COTTE: (Interpretation) Very well. Could you
19 give us an indication of the amount of time you need to complete your
20 cross-examination, Prosecutor?

21 MR. GARCIA: (Interpretation) I think it's not going to take
22 more than ten minutes.

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

24 Court Officer, Court Usher, could you please bring the witness
25 into the courtroom.

1 (The witness takes the stand)

2 PRESIDING JUDGE COTTE: (Interpretation) Can you hear me,
3 Mr. Witness?

4 THE WITNESS: (Interpretation) I hear you clearly.

5 PRESIDING JUDGE COTTE: (Interpretation) Fine. We are going to
6 resume.

7 Mr. Prosecutor, you may proceed.

8 MR. GARCIA: (Interpretation)

9 Q. Witness, we are going to return to this issue of documents, the
10 document you said you received from someone, the person whose name we
11 mentioned before the break. Do you understand what I'm talking about?

12 A. Yes.

13 Q. Before we went for break I asked you the following question. You
14 had said earlier that it was always possible to receive documents that
15 were sent, and I understood you saying that you must have spoken to him,
16 to that person earlier, before receiving the document?

17 A. No.

18 Q. Would I be right to say that you know that person -- that you
19 knew that person at the time?

20 A. Yes, I knew the person at the time.

21 Q. And do you still know the person now?

22 A. Yes, he has left the village and he has gone to live around
23 Kisangani.

24 Q. Would I be right to say he's your friend?

25 A. Yes, we knew each other well when he was at home. Even now I

1 still know him.

2 Q. So you are very good friends; is that correct?

3 A. When we were in the village, yes.

4 Q. You told us that you received this document, it was given to you
5 and you did not request for it before it was given; is that your
6 evidence?

7 A. Yes. I did not ask for it. I merely received it.

8 Q. I'm sorry, Mr. Witness. I did not understand the beginning of
9 your answer. Could you repeat it. Take your time.

10 A. With respect to this document, I did not contact that individual.
11 He too did not contact me. I merely saw the document sent to me.

12 Q. If I understand you correctly, Mr. Witness, you are telling the
13 Chamber today that this document which relates to demobilised child
14 soldiers was received by you by mere coincidence, by accident. It's not
15 a document that you requested for. Is that your evidence?

16 A. I did not request for this document.

17 Q. You did not request for it and it reached you by coincidence and
18 it is your evidence that you did not discuss with this individual about
19 this document?

20 A. No.

21 Q. You agree with me, Mr. Witness, that you recognised what this
22 document is, you recognised the information which is in this document?

23 A. I had the document at my disposal.

24 Q. If I understood you well, Mr. Witness, it is only today that you
25 are getting acquainted with the information in this document?

1 A. Yes. The document was in an A4 envelope.

2 Q. Just one last question, Mr. Witness. Did you talk to that person
3 about the case, about what is happening here at the Court?

4 A. Not at all.

5 Q. If I understand you correctly, in summary you received a
6 document, you did not request that document, but the document has
7 information which is relevant to this case. You did not discuss with the
8 person who sent you that document in order to request for that document;
9 is that the case?

10 A. The document was in a closed envelope. I did not ask what the
11 content of the document was.

12 Q. To conclude, Mr. Witness, after receiving that document you did
13 not deem it proper to ask the individual who sent it to you what the
14 envelope was all about?

15 A. He handed the document over to me through someone else when he
16 was going to Kisangani, and he has been in Kisangani all this time and I
17 am in Bunia.

18 Q. So your answer to my last question is you did not contact him to
19 find out what was in the document?

20 A. Yes.

21 Q. Let us change subjects here, Mr. Witness, and I will ask you the
22 last series of questions. With respect to Germain Katanga, you said that
23 you saw him for the very first time - and correct me if I'm wrong - in
24 1998 approximately; is that correct?

25 A. I think you have added one year.

1 Q. So what is the correct date?

2 A. You talked about 1998? It was in -- oh, yes, that's right. It
3 was in 1998. You know, we speak Belgian French. And we talk of mille
4 neuf huit (* phon) instead of quatre-vingt dix-huit which is 98 in
5 English.

6 Q. What was Germain Katanga doing before you met him in the year
7 1998?

8 A. He was in Lolwa very far from Aveba and it is along the road
9 which leads to Mombasa. He was a student. He was still studying there.
10 I don't know what his other activities were.

11 Q. Would I be right to say, Mr. Witness, that before that
12 Germain Katanga had undergone military training as a civilian guard?

13 A. You are wrong to say that. I have never heard any mention of
14 that. No one has ever mentioned that. This is the very first time I am
15 hearing such information from you.

16 Q. So your answer is no? You deny that he underwent military
17 training as a civil guard?

18 A. Personally I will say no because this is the very first time I am
19 hearing that he underwent training as a civil guard at that point in
20 time.

21 MR. GARCIA: (Interpretation) Your Honour, with your leave I
22 would like to consult my colleague before I return to the examination of
23 the witness.

24 (Prosecution counsel confer)

25 MR. GARCIA: (Interpretation) Your Honours, I have no more

1 questions for this witness at this point in time. Thank you.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
3 Mr. Prosecutor.

4 Mr. Gilissen, you have the floor. In accordance with decision
5 1665 you sent a list of questions to the Bench and the Defence of
6 Mr. Katanga received that list of questions. And in accordance with the
7 decision that was rendered yesterday, I asked you to pay attention to the
8 second point that was raised. You have the floor.

9 MR. GILISSEN: (Interpretation) Thank you, Your Honours.

10 Questioned by Mr. Gilissen:

11 Q. Good morning, Mr. Witness.

12 A. Good morning.

13 Q. My name is Jean-Louis Gilissen and I am appearing before this
14 Court as the Legal Representative of Victims, victims who are or were
15 child soldiers. And the questions I am going to ask you through the
16 Chamber are questions that relate essentially to child soldiers or their
17 interests.

18 MR. GILISSEN: (Interpretation) We prepared a set of questions,
19 your Honour, and based on what has already been broached in this
20 courtroom I will try to focus only on certain questions so that we will
21 avoid duplication. And we would like to proceed in this manner because
22 this morning most of the points that I intended to raise have already
23 been raised by the Prosecutor and I do not want to waste the Court's
24 time.

25 Q. Now, under or with the leave of the Chamber the first question I

1 have - and again I repeat that this is with the Chamber's leave - I would
2 like to know -- you did a sketch some time ago under DRC-D02-0001-0436,
3 the table of 73 names. In that table you make a distinction between the
4 children who were from the militia and those who were associated with
5 armed groups. Could you tell us what criteria did you use in order to
6 establish that distinction between the children?

7 A. The children associated with the army -- well, I use the term
8 "associated" because these children were living with certain militias or
9 militia members. That is why I used the term "associated."

10 Q. Could you please be more explicit. I do not understand you
11 correctly. Maybe that is my fault, but could you please try to explain
12 this further, what you mean by children associated with armed groups?

13 JUDGE DIARRA: (Interpretation) You are not alone. I did not
14 understand the answer as well.

15 THE WITNESS: (Interpretation) Thank you. Children associated
16 with armed groups were children who lived with a militia member. That is
17 why I referred to them as children associated with the army. I don't
18 know if that makes it any clearer for you.

19 MR. GILISSEN: (Interpretation)

20 Q. If that is your criteria for making a distinction, then it is
21 very clear, but if you have other -- any items of information, please
22 feel free to give us that information so that we can better understand
23 your table.

24 A. Well, I will give you additional information depending on the
25 questions that you put to me.

1 Q. Now these children who lived with militia members, were they the
2 children of soldiers? Did they have any particular role to play? Why
3 would children live with soldiers?

4 A. At the beginning these were the children of militia members, and
5 sometimes if a militia member was living with a given family then the
6 children will be there.

7 Q. Let's proceed step by step together so that we can understand
8 each other and to enable the Bench to have a clear idea of what you are
9 talking about. If I understood you correctly, we were talking about
10 soldiers and you are talking about militia members. So there were two
11 categories of children living with militia members. You had the children
12 of the militia members and other children who were living with militia
13 members; is that correct?

14 A. Yes. And furthermore, some militia members would leave the camps
15 to live -- in order to go and reside with their family members in the
16 neighbourhood. And so children of such neighbourhoods or who lived in
17 such families were, to my thinking, considered as children associated
18 with armed groups.

19 JUDGE DIARRA: (Interpretation) I would like Mr. Gilissen to get
20 the witness to specify. Where we talk about soldiers we talk about
21 militia members, I think it's important for us to establish a difference
22 between the two. The witness just uses the terms interchangeably, but
23 Mr. Gilissen and those of us sitting on the Bench have to make sure that
24 the witness is talking of militia members or of soldiers. We have to be
25 clear on that point. Which is he referring to?

1 MR. GILISSEN: (Interpretation) Thank you.

2 Q. You just heard what Judge Diarra said, Mr. Witness. This is one
3 of the problems we have had. All through your evidence you have been
4 talking about soldiers. Sometimes you talk about militia members and
5 sometimes you talk of militias and other times you talk of the army.
6 Now, could you tell us clearly, to your understanding when you talk of
7 soldiers or when you talk of militias members, when you talk of the army,
8 do you mean the militia -- when you talk of soldiers, do you mean militia
9 men? Or are you talking about soldiers in one instance and talking about
10 the militia or militia members in another instance?

11 A. In general there was no army. We only had militias. So when I
12 talk about the army or when I talk about soldiers I answer depending on
13 the question or the words you used in your questions. When you mentioned
14 "army," in my answer I used "army." When you used "soldiers," in my
15 answer I used "soldier." That's why.

16 Q. If I understand you correctly, Mr. Witness, in Aveba between
17 December 2002 and March 2003 all those who bore weapons in that area, all
18 the fighters were militia members. There was no army in the conventional
19 sense of the term. There was no regional or national army; is that
20 correct?

21 MR. O'SHEA: (Previous translation continues) ... according to
22 testimony we've heard.

23 PRESIDING JUDGE COTTE: (Interpretation) Mr. Gilissen should ask
24 his question again more generally so that with the help of the witness we
25 will be able to understand what is being said about soldiers who belonged

1 to an army or militia members who belonged to militias and explain the
2 respective roles of the various parties without locating these events in
3 Aveba, as Mr. O'Shea has suggested.

4 MR. GARCIA: (Interpretation) Thank you and thanks to Mr. O'Shea
5 for his intervention.

6 Q. Witness, let me be more focused in my questions. In
7 Walendu-Bindi in early 2002, or from the -- from 2000/2002, according to
8 your experience and in your evidence you used the terms which I have just
9 mentioned, "army, militia, soldier, militia member, child soldier," all
10 these terms refer to the militia that were operating within
11 Walendu-Bindi; is that correct?

12 A. Yes. All these terms relate to the militias operating within
13 Walendu-Bindi.

14 Q. Thank you very much. Thank you, Mr. Witness. In the FRPI
15 militia to the best of your knowledge, were there any child soldiers in
16 that militia? That question was put to you earlier without the use of
17 FRPI. That's why I wish to put the question to you again.

18 PRESIDING JUDGE COTTE: (Interpretation) Yes, Mr. Hooper.

19 MR. HOOPER: And can my friend define what he means by that
20 "child soldier" phrase?

21 MR. GILISSEN: (Interpretation) Yes, your Honour. Page 33 of
22 the English transcript, paragraph 8, a short while ago he answered the
23 question on child soldiers and it was about soldiers under the age of 15
24 and he answered the question. I don't think -- I think the concept is
25 clear. The witness did not ask for any clarification. The Defence did

1 not ask for any clarification. And I think that my question is clear
2 enough and does not require any clarification. Otherwise, I run the risk
3 of giving a definition which might be challenged. Remember some days ago
4 my friends of the Defence challenged the definition which I gave.

5 PRESIDING JUDGE COTTE: (Interpretation) Yes, Mr. Hooper.

6 MR. HOOPER: Yes, but if it needs challenging it will be
7 challenged I'm sure. But we're talking here and have been talking here
8 for several hours in relation to that book containing names which we all
9 know relates to young people and children less than 18 years old. That's
10 not our concern in this Court. Our concern in this Court is child
11 soldiers less than 15, and in the context of this Court that means child
12 soldiers used in combat and it means child soldiers used in combat at a
13 particular place at a particular time.

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness,
15 Mr. Gilissen has referred you to statements that you made. Mr. Hooper
16 has given some definition of what this is all about. Now you should
17 answer Mr. Gilissen's question. And if you forgot the question, he will
18 ask it again.

19 THE WITNESS: (Interpretation) I would like him to repeat his
20 question.

21 PRESIDING JUDGE COTTE: (Interpretation) He will repeat his
22 question and you should answer it to the best of your knowledge.

23 MR. GILISSEN: (Interpretation)

24 Q. Mr. Witness, you talked about child soldiers and it has nothing
25 to do with my definition, and I'm not talking about any children whose

1 names are written on any list, either a list coming from you or a
2 demobilisation transit centre. I don't know why we are bringing this
3 concept into your question which was very open and very clear. It
4 doesn't help understanding of the question. My question was a simple
5 one. To the best of your knowledge, the child soldiers you talked about
6 did you -- were they -- were there such children within the ranks of the
7 FRPI?

8 A. In the FRPI there were many cases of -- many types of militia
9 members. In Aveba there were no child militia members, but there were
10 some child militia members in other areas to which I did not go. I would
11 like to apologise for using the term "child militia members." I am using
12 this term because the transit centre in Aveba gave them the name "child
13 soldiers." Normally we should have been talking about child militia
14 members. I don't know if that is clear enough for you.

15 PRESIDING JUDGE COTTE: (Interpretation) Mr. Gilissen, if I've
16 understood correctly, we have an additional distinction or a new name.
17 On the one hand it seems that we have soldiers who belong to an army. Up
18 to now we have spoken of militia members who are members of a militia,
19 but there may also be child soldiers. And it is for you now to try and
20 get additional clarification if you feel that is necessary for the legal
21 representation of your victims who are child soldiers. You have the
22 floor. I think the witness is prepared to give clarification, but
23 obviously he needs very precise questions on this subject; otherwise I
24 think he understands all the questions being put to him. We have
25 understood this since yesterday.

1 MR. GILISSEN: (Interpretation) I understand you correctly, your
2 Honour. I think I need clarification. The situation has been getting
3 more complex than ever.

4 Q. Mr. Witness, but no doubt because the situation is difficult.
5 You spoke of child combatants, child soldiers, now child militia members,
6 and I would like you to give us your understanding of these three
7 concepts. Do you use these terms to refer to the same individual just
8 giving a different name for each group of people or do these names
9 correspond to very different groups of people?

10 A. All these terms I have used to refer to child militia members.

11 JUDGE DIARRA: (Interpretation) Sir, he said they are child
12 militia members, but at the demobilisation centres they used the
13 expression "child soldiers" to refer to all these groups. So we will
14 also refer to child soldiers although they have no link with the army.
15 They are children who are members of a militia, but instead of referring
16 to child militia members he has used the expression "child soldiers" and
17 that is a terminology used. I was confused about whether they were
18 soldiers or militia members, but I think we've now understood the logic
19 he has followed.

20 PRESIDING JUDGE COTTE: (Interpretation) Now for us to be quite
21 clear, your question -- in your question you referred to three
22 categories, child combatants, child soldiers, and child militia members.
23 You put that question to the witness for him to say whether those three
24 categories referred to the same category of people. The witness stated
25 that those three categories as far as he was concerned were all child

1 militia members. I think it is his vocabulary, that's your right,
2 Mr. Witness. We will talk in terms of child militia members which, if I
3 have understood correctly, also covers child combatants and child
4 soldiers. That is our basis, our starting point, unless it is your final
5 point.

6 MR. GILISSEN: (Interpretation) As far as I am concerned, your
7 Honour, I think we are talking about the same thing. It doesn't matter
8 what bottle is used as long as the content is satisfactory. We will use
9 whatever vocabulary suits you best.

10 Q. Mr. Witness, we will use the same word. These child militia
11 members, you referred to these child militia members in a rather indirect
12 way. You said that three-quarters of the demobilised members were not
13 actually child soldiers or child militia members but the remaining
14 quarter who were demobilised, the others -- the others who were not
15 demobilised, could you speak about them? Could you tell us in particular
16 as far as you know how they became child militia members? What was their
17 status? How did they live? And above all that I can repeat my questions
18 in order -- in line with your reply, and how the Ngiti community
19 considered those children. Thank you.

20 A. Yesterday I spoke about the war in -- against the Ugandans in the
21 Walendu-Bindi area. What the Ugandans were doing to the Walendu-Bindi
22 population, they burned their houses, killed innocent people, looted
23 houses, looted hospitals, even the schools were torched. And everyone
24 defended themselves. So at that time everyone, including the women and
25 the children and elderly people and young people, everyone went to fight.

1 And it was at that time that the children were included among the militia
2 members. You couldn't distinguish between them. There were too many and
3 it was too much for us. We had to defend ourselves. That was the
4 situation. Other children were children who were taking revenge for the
5 death of their parents who had been killed by the Ugandans. As far as
6 they were concerned, they had to fight against the enemy who had killed
7 their parents.

8 Q. Thank you very much, Mr. Witness. What you've just said is
9 important. If I've understood you correctly and if I'm mistaken please
10 tell me, there was a kind of general mobilisation of the population. You
11 said young people, mothers, elderly people, young people, everyone was
12 involved. There was general mobilisation; is that correct?

13 A. Yesterday I said that when the Ugandans attacked we used the
14 horn -- we used the traditional flutes to warn the village to -- so that
15 everyone could come and defend themselves. That was the situation.

16 Q. And the enemies of your community, you spoke of the Ugandans,
17 where would you position the UPC in relation to enemies of your
18 community?

19 A. Yesterday I said that the UPC began to attack our area when
20 Lopondo passed through. At that time they attacked several areas, and
21 even now we don't know what their aim was in all these attacks against
22 our community. And it was the same as the Ugandans. We had to defend
23 ourselves.

24 Q. So, Mr. Witness, this general mobilisation was designed to defend
25 yourself against the Ugandan enemies and against the UPC?

1 A. Yes.

2 Q. And this general mobilisation was a mobilisation of all the Ngiti
3 communities in Walendu-Bindi?

4 A. Yes, all the Walendu-Bindi communities who were being attacked.

5 Q. In that case, I must confess why -- I don't understand why Aveba
6 was an exception. Why did you say earlier that this was not the case in
7 Aveba? If it was a general mobilisation, the whole of -- affecting the
8 whole of Walendu-Bindi, why were there no child soldiers in Aveba
9 precisely?

10 A. While the Ugandans were attacking Aveba, that was the case in
11 Aveba; but when the Ugandans stopped attacking, the children all went
12 back to their normal life because there was no war in Aveba at the time.
13 But at the borders of the other areas there were attacks all the time,
14 all the time.

15 Q. You showed us and you said that you knew a lot of people and you
16 gave a very long list of names with the addresses, the occupations, lots
17 of detail, showing that you knew the population very well. Could you
18 give us some names of some of these militia soldiers, these child
19 soldiers, these combatant children. You said you assessed three-quarters
20 of them. You must know some of the names, otherwise this document
21 wouldn't be reliable. Could you give us some names without these
22 details, just the names?

23 MR. HOOPER: (Previous translation continues) ... if we're going
24 to name names or there may be names that are to be named, it should be
25 done in closed session.

Witness: Witness DRC-D02-P-0136 (Resumed) (Private Session)
Questioned by Mr. Gilissen

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1 PRESIDING JUDGE COTTE: (Interpretation) To respond briefly to
2 that question we will go briefly into private session. I think you spoke
3 of three-quarters. Mr. Gilissen, in the comments made by the witness
4 this morning, it seemed to me that the percentage of militia or combatant
5 children was one-quarter.

6 MR. GILISSEN: (Interpretation) Yes, your Honour, you're quite
7 right. I got the figures wrong.

8 PRESIDING JUDGE COTTE: (Interpretation) Yes, we don't want to
9 have to answer unnecessary questions afterwards when we look at the
10 transcript.

11 Madam Court Officer, can we go into private session briefly so
12 that the witness can give some names.

13 (Public session at 12.12 p.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

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Witness: Witness DRC-D02-P-0136 (Resumed) (Private Session)
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Page 65 expunged – Private session.

Witness: Witness DRC-D02-P-0136 (Resumed) (Private Session)
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Page 66 expunged – Private session.

Witness: Witness DRC-D02-P-0136 (Resumed) (Private Session)
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Page 67 expunged – Private session.

Witness: Witness DRC-D02-P-0136 (Resumed) (Private Session)
Questioned by Mr. Gilissen

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Page 68 expunged – Private session.

Witness: Witness DRC-D02-P-0136 (Resumed) (Private Session)
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Page 69 expunged – Private session.

Witness: Witness DRC-D02-P-0136 (Resumed) (Private Session)
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21 (Open session at 12.30 p.m.)

22 COURT OFFICER: (No interpretation)

23 MR. HOOPER: Can we have the number again, please, the EVD
24 number. It's -- I don't think that's a problem. We don't need to go
25 into closed session, but it hasn't come out on the transcript.

1 (Trial Chamber and Court Officer confer)

2 MR. HOOPER: And it should have a V number I think.

3 PRESIDING JUDGE COTTE: (Interpretation) We will give you the
4 number and we will suspend briefly for the witness to withdraw and then
5 we will continue without leaving the courtroom.

6 COURT OFFICER: (Interpretation) Thank you, your Honour. The
7 document will be EVD-V08-00001.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

9 Court Usher, please accompany the witness where he wishes to go
10 and please keep him close by so that we can resume very quickly.

11 (The witness stands down)

12 PRESIDING JUDGE COTTE: (Interpretation) I believe that in the
13 absence of the witness we can now sort out the issue of the documents
14 that might have been given EVD documents, but in reality, the Prosecutor,
15 you had a list of names which should already have an EVD number?

16 MR. GARCIA: (Interpretation) With regard to the document it was
17 not shown to the witness, or rather, it was shown to the witness. I do
18 not know whether it should be given an MFI reference.

19 PRESIDING JUDGE COTTE: (Interpretation) It is a document that I
20 myself handed over. Well, given that this document will highly likely be
21 used by Mr. Hooper, we can give them or it an MFI reference number. But
22 for the time being, Court Officer, you have to hand it back to me for my
23 own file.

24 Mr. Gilissen, do you have many more questions for the witness so
25 that we should organise our session?

1 MR. GILISSEN: (Interpretation) Your Honour, I think I will have
2 at most one question and maybe some follow-up questions. But I really
3 have just one question.

4 PRESIDING JUDGE COTTE: (Interpretation) And you, Mr. Luvengika,
5 do you intend to ask questions? And I'm seizing the opportunity of the
6 witness's absence to sort out these issues. Do you intend to ask
7 questions?

8 MR. LUVENGIKA: (Interpretation) No, your Honour, and I thank
9 the Chamber for giving me that opportunity. But in light of the
10 questions by the Chamber and the questions put by my colleague
11 Mr. Gilissen, I do not think that I will have any questions for the
12 witness. Thank you.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

14 Contrary to what you may think, the Court is frequently thinking
15 about the Legal Representatives. They are not underrepresented here, but
16 they have a smaller margin of manoeuvre than those of the Defence teams
17 and the Prosecutor.

18 (The witness takes the stand)

19 PRESIDING JUDGE COTTE: (Interpretation) Is everything fine?

20 THE WITNESS: (Interpretation) Yes.

21 PRESIDING JUDGE COTTE: (Interpretation) Very well. We can
22 continue. Mr. Gilissen has just one more question for you.

23 MR. GILISSEN: (Interpretation)

24 Q. Yes, just one more question. I will not be very long. Still to
25 your knowledge, these child soldiers, the child combatants, what happened

1 to them as far as you know personally? What can you say about the fate
2 or the various fates of these children?

3 A. I would say at this point that those children are in school, they
4 are studying.

5 Q. So they did not have any difficulties resuming normal life, their
6 school life as if nothing had happened?

7 A. So far I have not realised that anything was strange for them
8 returning to the classrooms.

9 Q. That is your answer, the witness -- Mr. Witness, and I respect
10 it. Thank you for your collaboration. Thank you for coming to testify
11 before this Court with all the subjectivity that it involves, just as we
12 all are subjective, and I thank you for it.

13 A. Thank you also.

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness,
15 Mr. Fidel Luvengika, who is the Legal Representative of a high number of
16 victims does not have any questions to put to you. But before we ask
17 Mr. Kilenda whether he has any questions for you and handing over the
18 floor for a final word from Mr. Hooper, the Chamber would like to have a
19 clarification from you.

20 Questioned by the Court:

21 PRESIDING JUDGE COTTE: (Interpretation) Do you still have the
22 list of names with numbers in front of you? If you don't, we will give
23 you a copy.

24 A. No, it was taken away.

25 PRESIDING JUDGE COTTE: (Interpretation) A copy will be given to

1 you.

2 Yesterday you told us that to your knowledge the people at number
3 1 - and I will allow you the time to look at the paper - you told us that
4 to your knowledge the people at numbers 1, 5, and 8 had not been members
5 of the militia.

6 A. What I know about those two numbers is that number 1, I found him
7 that -- when he was a student. He was singing in the choir and he was a
8 football player in Aveba. I left him there when I went to Beni and he
9 never told me that he had been a member of the militia. And even today,
10 even before separating with him in Bunia, he never told me that he had
11 been a militiaman, even though we continued speaking on the phone. When
12 he was in Kinshasa, he never told me he had been in the militia until we
13 stopped communicating.

14 The second one, that is number 5, he is the small brother of
15 someone else and we were very familiar with his family, and at no time
16 did his father or mother or brother ever told me that he was a
17 militiaman. As for me, when I returned, I found him at the home of his
18 parents in Aveba and then later in his elder brother's house in Bunia.
19 At those times he was a civilian and he never told me that he had been in
20 the militia anywhere.

21 As to number 8, I saw him, he was a salesman when I arrived
22 Aveba. And after his boss bought a vehicle for him, he became a driver
23 to assist his boss to transport people in that vehicle. And he also
24 never told me that he was a militia man. I cannot tell you a lie. I do
25 not know his family. I know only him. That is what I'm telling you.

1 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, what you
2 are saying is important and the Court is listening to you, and we are
3 listening to what you are saying with very keen attention. However, can
4 you confirm despite that that those three people were never militiamen?
5 You have information which makes you think that they never were members
6 of the militia, but can you confirm that they never actually were members
7 of the militia? And if I'm asking you that question it is because you
8 told us that from December 2002 to December 2003 you were in Beni.
9 During that period of one year, did you ever meet any of those people?
10 Obviously not for number 5 because you told us that you saw him only in
11 December, but for the two others we are not doubting what you are saying.
12 We simply want to better understand the facts that we are going to
13 adjudicate.

14 A. Regarding number 1, when I left Aveba, as I've told you, he was
15 not in Aveba. He was not even in our collectivité. He was out of there.
16 According to what I heard from number 1, he had come to Aveba for family
17 reasons and no one told me that he had been a member of the militia. And
18 I confirm once again that to my knowledge, based on what I know about
19 number 1, he was not a member of the militia. The same applies to number
20 5. As far as I know, he was not a member of the militia.

21 PRESIDING JUDGE COTTE: (Interpretation) But we agree that you
22 never saw any of the three while you were in Beni during that year?

23 A. Unfortunately, when I was in Beni number 1 was in Oicha. I did
24 not go to Oicha to see him there. Number 5 was in Bunia before my
25 departure. They were all there. They left Bunia after the disturbances

1 that broke out in Bunia and they travelled together with his parents to
2 Aveba. And there he was not doing anything.

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

4 Mr. Kilenda, yesterday you did not wish to take the floor our
5 decision 1665 provides for the possibility of your taking the floor when
6 given leave. Do you wish to address the Court?

7 MR. KILENDA: (Interpretation) Thank you, your Honour. I just
8 would like to say good-bye to the witness who is certainly going to leave
9 us very soon.

10 PRESIDING JUDGE COTTE: (Interpretation) Very well. Thank you,
11 Mr. Kilenda, that is good and that is courteous because the witness
12 helped us.

13 Mr. Hooper, you have the final word and this has to be in the
14 record.

15 MR. HOOPER: Yes, thank you.

16 Further Questioned by Mr. Hooper:

17 Q. Can I ask you to look at EVD-V08-00001, the hard copy of which we
18 have because it's the document you just wrote at Mr. Gilissen's
19 invitation. And can you just have that put in your hands for a moment,
20 please.

21 Just so we're clear, the names that are written on that list,
22 were they people who were demobilised through the demobilisation site or
23 not?

24 A. All the names on this sheet of paper are of people who were
25 demobilised in the demobilisation centre, and those people went there in

1 order to take advantage of the kits that were being given there. I don't
2 know whether I've answered your question.

3 Q. Well, my next question is this: Were they true child soldiers or
4 not?

5 A. All those children were not soldiers, they were not members of
6 the militia.

7 Q. Yes, thank you. Now, when was your brother Germain brought here
8 to The Hague?

9 A. He was arrested in Kinshasa and we did not know the reason for
10 his arrest in Kinshasa. It was suddenly that we heard over the radio in
11 Aveba that Germain had been taken here, to The Hague, for war crimes and
12 crimes against humanity in Bogoro village. That is how we got to learn
13 about this over the radio.

14 Q. Can you remember which year that was that you learnt about it
15 when he was transferred here, in Holland?

16 A. I believe that it was in 2008.

17 Q. Yes, it was October 2007. There's no dispute about that. Now,
18 may I also ask you this: When was the last time you met your brother,
19 Germain?

20 A. The last time I met him was on the day that he was leaving for
21 Kinshasa. He came and greeted us with our parents at home. That was the
22 last time I saw him. We separated then until today.

23 Q. And again, there's no dispute about that date. It's 4th of
24 January, 2005.

25 And when he was going to Kinshasa, what was that for, can you

1 remember?

2 MR. GARCIA: (Interpretation) Mr. President.

3 PRESIDING JUDGE COTTE: (Interpretation) What is your concern?

4 MR. GARCIA: (Interpretation) I am objecting to the relevance of
5 these questions. The issues that are being raised now are new. This is
6 not something that was dealt with by the Prosecution in the
7 cross-examination. This should not be allowed in re-examination.

8 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, you have
9 understood that the rules have not been completely respected in -- but
10 however it is not uninteresting to hear the witness talk about things
11 that are important to this case. But try to focus your questions to what
12 is strictly relevant to the presentation of your defence. Thank you.

13 And, Mr. Witness, you can see the procedure is extremely
14 complicated.

15 MR. HOOPER:

16 Q. Well, I'll draw away from the question. I don't require an
17 answer from you, Mr. Witness, Jonathan. It just remains for me to say
18 that through the graciousness of the Judges you are to be allowed to
19 visit your brother for 30 minutes. I understand that that visit will
20 take place immediately after we rise now, this morning. And I'm sure
21 through me you thank the Judges for that facility. And all it remains
22 for me to do is thank you for taking the time and making the effort as it
23 has been to come all this way to give evidence, to give evidence for your
24 brother before this Court. So *asante sana et qoui eric*.

25 A. On my part I would like to thank you very much for assisting me

1 for the questions that you have put to me, and I also thank you for
2 allowing me 30 minutes to greet my brother. That is very courteous of
3 you.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
5 Mr. Witness. You have come from a very far away place to come and
6 testify in defence of one of the accused who happens to be your brother.
7 We have listened to you with keen attention and you have answered all the
8 questions put to you to the best of your knowledge and the Court thanks
9 you. And we hope you will have a pleasant family reunion with your
10 brother and then a safe return to your country and a successful
11 resumption of your activities, because we have understood that you are
12 still studying and that will enable you to have a good profession. The
13 Court would like to thank the parties and participants.

14 MR. GARCIA: (Interpretation) Yes, your Honour, it is just to
15 make sure that the document that was mentioned was given an MFI
16 document -- an MFI reference.

17 PRESIDING JUDGE COTTE: (Interpretation) Do we have that MFI
18 reference number, Court Officer?

19 MR. HOOPER: It's a V document, isn't it? That document's a V
20 document. It's already been admitted.

21 MR. GARCIA: (Interpretation) No, we are not referring to the
22 same document. It is a table that was shown the
23 document (as interpreted).

24 PRESIDING JUDGE COTTE: (Interpretation) It is a document that
25 you may actually produce yourself sometime later.

1 COURT OFFICER: (Interpretation) Thank you, your Honour.
2 Document DRC-D02-0001-0470 will bear the reference MFI-OTP-00249
3 and it will be filed as confidential.

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

6 Mr. Witness, I will not repeat everything that we have told you.
7 I thank you. I thank the parties and participants for the tone of the
8 proceedings. We will meet again on Wednesday, Thursday, and Friday to --
9 for the appearance of the first detained witness who is a common witness.
10 If there's nothing else to deal with, then we will adjourn -- well,
11 Mr. Witness, we were going to go out before you and that is not polite.
12 So the Court Usher is going to accompany you out.

13 (The witness withdrew)

14 PRESIDING JUDGE COTTE: (Interpretation) And Court is adjourned.

15 The hearing ends at 12.57 p.m.

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