

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Monday, 18 April 2011
10 The hearing starts at 2.31 p.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session.
14 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
15 The accused gentlemen are with us. Good afternoon, sirs.
16 Good afternoon, everyone. Before giving the floor to the Defence
17 team of Germain Katanga, the Chamber would like to hand down an oral
18 decision on the emergency -- on the urgent motion of the Defence of
19 Mathieu Ngudjolo number 2889 of the 12th of April, 2011, requesting leave
20 to transmit to an expert all Dr. Baccard's reports on three Prosecution
21 witnesses. The Chamber was seized of an urgent motion number 2889 dated
22 the 12th of April, 2011, in which the Defence of Mathieu Ngudjolo
23 requests leave to hand over to an expert admitted on the list of the
24 Registry a certain number of documents relating to the reports and the
25 testimony of Dr. Eric Baccard, who was a Prosecution witness. These were

1 all forensic reports relating to Witnesses 287, 132, and 249. All
2 transcript -- all the transcripts of the records of medical examinations
3 of those three witnesses having led to these reports and all the useful
4 extracts of the public redacted versions of the transcripts of the
5 hearings relating to the testimony of Dr. Baccard.

6 During the last hearing last Friday, the Chamber made sure that
7 none of the parties and participants had any objection to that
8 application. We can therefore hand down a ruling. The Chamber refers
9 all to the position that was adopted in the previous decisions.

10 On the 25th of March, 2009, the Chamber by decision number 988
11 granted the request of a protection measure from the Prosecutor
12 requesting that the disclosure of forensic reports -- of the forensic
13 reports should be limited to the Defence, the accused persons, their
14 counsel, and legal assistants as well as to the experts in medicine or
15 ballistics whose identity and curriculum vitae would have been
16 communicated to the OTP in advance.

17 On the 8th of July, 2009, in its confidential *ex parte* decision
18 number 1280, the Chamber extended this regime to the transcripts of the
19 recordings of the medical reports concerned. To that end, the Chamber
20 notes that the Defence of Mathieu Ngudjolo points out that they have
21 respected those guide-lines and the Prosecutor does not dispute this.
22 Furthermore, following the testimony of Dr. Baccard during which the
23 Chamber asked for the production of a complementary report and at the
24 request of a counter expert report presented by the Defence of
25 Mathieu Ngudjolo, the Chamber referred to its oral decision of the

1 23rd of June, 2010, transcript 160, the common law regime which is
2 applicable to the disclosure of all confidential documents to an
3 assistant in the case for the sole purpose of the preparation of the
4 Defence. In fact, the protection measures mentioned before were not
5 extended to the additional report and to the related documents. It
6 should be pointed out that in accordance with Article 8(3) of the Code of
7 Professional Ethics, counsel have the possibility to present, without
8 resorting to the authorisation of the Chamber, confidential documents to
9 experts or technical assistants involved in the case for the sole purpose
10 of carrying out their duties in that case.

11 This is the case when the Defence wishes to carry out on expert
12 examination of the reports presented by the OTP as evidence, or rather,
13 as incriminating evidence or produced at the request of the Chamber. The
14 counsel at that point have the obligation to implement the
15 confidentiality rules of this information given to their assistants or
16 experts. The Chamber notes that they -- there is no need to hand down a
17 ruling regarding the transmission of public redacted documents. So the
18 Chamber has no problem with granting this request.

19 The Chamber was seized by a request by the Defence of
20 Germain Katanga, that is, at 1209. It was a belated filing, but the
21 document was provided in English and French. The Chamber believes that
22 we understood the reason underlying that filing from the team of
23 Germain Katanga. It appears to us, except we are mistaken, that the
24 communication last Friday by the OTP of a document that they intend to
25 use during their cross-examination of Witness 350 constitutes a problem

1 for the Defence of Germain Katanga. That document is an interview that
2 350 is supposed to have given to a press organ which is published in the
3 document dated 10th of April, 2011. So that document arrived late in the
4 hands of the Defence team of Germain Katanga, and the Chamber understands
5 that the Defence team, considering the statements made in that document,
6 wished to have the authorisation of the Chamber to be able to meet with
7 Witness 350 who is currently in the Netherlands before he begins his
8 testimony. If that is indeed the reason for your filing, Mr. O'Shea, I
9 would like to ask you to confirm it and indicate to us the scope of the
10 authorisation that you are requesting. You would like to meet with that
11 witness. For what reason, specifically? So if you can, in as concise a
12 manner as possible, tell us that, then we will ask the parties and
13 participants here present whether they are able to make oral observations
14 right now in the courtroom which would enable us to save time because
15 there will be a one-week recess during which 350 might arrive.

16 So, Mr. O'Shea, very briefly, have I summarised the substance of
17 your application; and if so, what is the precise scope of that meeting if
18 you are authorised to have it with 350? You can address the Court.

19 MR. O'SHEA: Good afternoon, Mr. President, your Honours. Indeed
20 your Honour has understood what the Defence is seeking, and that's why we
21 thought it would be helpful to provide some sort of notice about what
22 this oral application was going to be about. It might also be helpful to
23 make the skeleton argument public if I'm not going to go into the
24 argument and it's been understood just so the public can understand it.
25 But essentially, as indicated, it is not our purpose to conduct an

1 exercise of witness proofing, which as I understand it was the mischief
2 which underlay the prior decisions in Lubanga which were referred to in
3 the protocol drafted by the Registry. So it is not our intention to
4 conduct any of the functions which properly belong to the WVU of
5 familiarising the witness with any aspect of the proceedings, neither is
6 it our intention to go through any kind of memory-refreshing exercise,
7 nor is it our intention to go through any form of rehearsal of the
8 questions that we would want to put to the witness. So this is not an
9 exercise of witness proofing.

10 What we would wish to do is, in the light of this new evidence,
11 which we have not had the opportunity to -- in the light of this new
12 evidence, which we have not had the opportunity to review with the
13 witness and could not reasonably have had the opportunity, I would
14 submit, we would like to address with the witness effectively the
15 veracity of the fact of what occurred as well as whether the witness, in
16 fact, said what was claimed to have been said. And I couch it in those
17 loose terms because I don't want to express myself too clearly in public
18 session.

19 If I may just draw your Honours' attention just as a
20 supplementary point to the skeleton argument, I've already drawn
21 your Honours' attention to the transcripts in the Lubanga proceedings,
22 but I think it's interesting to note, in particular, lines 6 to 12 on
23 page 23 of the transcript T-284 in the Lubanga decision, which I've
24 referred to, where His Honour Judge Fulford refers to the fact that these
25 were documents hitherto unseen by counsel or their team and that they

1 were not therefore on a witness-proofing exercise, but instead wished to
2 conduct an investigation for the first time in relation to a body of new
3 material. And that seems to be, although, of course, the facts are
4 slightly different from here, that seems to be the essence of what
5 persuaded His Honour Judge Fulford that that was an exceptional case and
6 we similarly here are placed in a similar position. And the kind of
7 arguments which were placed by the Prosecutor before your Honours in
8 relation to our previous motion relating to the four detainees do not
9 apply here; in other words, the question of lack of diligence does not
10 apply here.

11 I don't know if there are any other matters which your Honours
12 would wish specific assistance on.

13 PRESIDING JUDGE COTTE: (Interpretation) For the time being, I
14 think we will leave it at that. But for purposes of the transcript, the
15 pages and lines mentioned by Mr. O'Shea should be referring to the
16 English version. I do not know whether you have the corresponding
17 references in French, but we are going to try to locate them when we are
18 deliberating on our decision.

19 Now, I will ask the Prosecutor if he wishes to react and if he
20 feels that he has received sufficient information by Mr. O'Shea as well
21 as the document, the table, that was given to him. And then we will give
22 the floor to Professor Fofé and the Legal Representatives.

23 Mr. Dutertre, are you willing to react now? The witness
24 Floribert Ndjabu would say *hic et nunc*.

25 MR. DUTERTRE: (Interpretation) Mr. President, my Latin is far

1 more ancient than his. Good afternoon, Mr. President. Good afternoon,
2 your Honours. The Prosecution is able to respond to the elements
3 provided in the bilingual table and to the information that he has just
4 provided. With your leave, we can proceed.

5 PRESIDING JUDGE COTTE: (Interpretation) Very well. Please go
6 ahead.

7 MR. DUTERTRE: (Interpretation) Mr. President, your Honours,
8 following the *ex parte* submission of the Registry filings last 14th
9 April, our attention was indeed drawn to the article in question. We
10 were able to find it on the internet and the *communiqué* was available
11 from the Defence e-mail immediately afterwards. Then we added this
12 document to the list of documents that we intended to use during our
13 cross-examination, and it is in our mail of the 15th of April. Today,
14 the Defence would like to meet with Witness DRC-D02-P-350. This leads to
15 a few observations on three or four points from the Prosecution.

16 It is not a secret to anyone that the familiarisation process has
17 already begun and from the point of view of the Prosecution, we believe
18 that this should not make it possible for anyone to come back on the
19 issue of contacts between parties and witnesses. The rule on that is
20 simple and clear. Once the witness is in The Hague, there can no longer
21 be any contact between the parties and the witness. This was ruled upon
22 by Trial Chamber I. Your Chamber adopted the same position, and today we
23 cannot reopen the debate on this issue at this time. And also, given the
24 urgency, we cannot orally engage in a linguistic battle regarding the
25 scope.

1 I would like to point out that the Chamber itself did not wish to
2 reopen this debate during its decision of the 4th of March, decision
3 number 2555 related to the Defence application to be able to meet this
4 witness at The Hague. The exception in the Lubanga case which has been
5 raised or mentioned by Defence counsel, can that be adopted in this case?
6 I do not think so, your Honour, for several reasons. The situation in
7 this case is different from the Lubanga case. The Defence there was
8 authorised to meet with the witness, a witness that I can describe as
9 documentary, given that his testimony had as main purpose to introduce a
10 certain number of documents in the case. And at the last minute, the
11 production of a certain number of new documents prompted Trial Chamber I
12 to grant the Defence application for the purpose of the better
13 administration of justice. We are not in the same situation here,
14 Mr. President.

15 On the contrary, we are dealing here with Witness 350 and his
16 evidence is going to be mainly oral and not documentary, even though we
17 have not yet received the list of documents that the Defence intends to
18 use for that witness, and this is not a criticism of the Defence. So we
19 are not dealing with documents here that -- whose contents may change.
20 We have the case of a witness here who is a detained witness who has been
21 separated from his co-detainees within a framework set out by your
22 Chamber for the purpose of preserving the integrity of the proceedings
23 and avoiding contamination between witnesses. I believe this is a very
24 important point and we have to bear in mind that one of the co-detained
25 witnesses has already completed his testimony and another detainee is

1 going to begin his testimony very soon. Witness 350 is going to testify
2 very soon and the issue of influence on his testimony is a very serious
3 one now.

4 Now, the key question which you have raised, your Honour, is:
5 What does the Defence intend to do during such a meeting? We had an
6 answer from Mr. O'Shea. There is one thing, the existence of the
7 interview itself, the way it is going to be conducted and with whom.
8 There is another issue here. The contents of the article in question,
9 that is, the substance of the information. And it is the submission of
10 the Prosecution that touching on the substance of the article will,
11 voluntarily or not, constitute a sort of witness proofing, given that
12 this article generally relates to the totality of the evidence of this
13 witness. In spite of all possible precautions that might be taken,
14 asking questions on the substance of the article will influence the
15 witness in the course of his testimony.

16 So according to the Prosecution, the maximum that the Defence can
17 do should be to ask whether, yes or no, the witness made such a statement
18 to the person who interviewed him; and that should be the end of it. And
19 even then that might -- or is going to influence the witness on his
20 upcoming testimony. So, Mr. President, your Honours, the position of the
21 Prosecution is that we are not opposed to that interview, that meeting,
22 between the Defence and the witness. But in light of what I have
23 explained, and given the conditions that I would like to mention and
24 which from the point of the Prosecution are absolutely necessary. This
25 is an exceptional situation regarding the issue of contacts between

1 witnesses and parties, and given that an exceptional situation requires
2 an exceptional solution, I would refer us to the ruling when the
3 Prosecution asked to meet with its witnesses.

4 What are the solutions that can be brought in this case,
5 your Honour? The first is that since we are in the process of
6 familiarisation - which is the responsibility of the Registry - a member
7 of the Registry should be present throughout the entire meeting between
8 the Defence and Witness 350. It is the same thing that happened in the
9 case of P-28. And more specifically, your Honours, the Prosecution
10 should ask that it should be a Legal Officer, a jurist, of the Registry
11 who is in a position to follow-up what is being said.

12 The second condition that the Prosecution would like is that the
13 Registry Legal Officer who is involved should report to the Chamber that
14 there was no witness proofing and that everything happened within the
15 framework set out by the Chamber.

16 In the alternative, if the Chamber feels that a member of the
17 Registry should not be present, then the Prosecution would like to have a
18 recording of that meeting between the Defence and the witness.
19 Naturally, the Defence will need to show the witness the article in
20 question, but only that article should be shown and no other document,
21 that is, the article disclosed by the Prosecution to the Defence last
22 week.

23 Secondly, the Defence should limit their questions to the
24 circumstances under which the interview was given: when, how, and with
25 whom? But when it comes to the substance, the question should be limited

1 to knowing whether the witness made such and such a question and nothing
2 further. It would also seem necessary that a record of the meeting
3 should be drawn up by the Defence and signed by Witness 350, and this is
4 what was done in the case of Witness P-28; and this is necessary because
5 it touches the theme of the testimony of the witness, more so because we
6 are about to go into the testimony of Witness 350 and the Prosecution
7 cannot be ambushed at the last minute. So there should be a signed
8 record of the meeting.

9 Lastly, Mr. President, the Defence has to immediately inform the
10 Chamber and the parties after taking their decision as to whether they
11 will call that witness or not, because this will be important for the
12 scheduling of the proceedings.

13 So in a nutshell, your Honours, we have no objection, but this is
14 an unusual or exceptional situation. There is absolutely no real
15 precedent for that, even in the Lubanga case. So we need an exceptional
16 solution in this case. Thank you.

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

18 Before I give the floor to Mathieu Ngudjolo's Defence, we will
19 listen to the Legal Representatives of the Victims and then the Defence
20 for Mr. Ngudjolo and then back to Mr. O'Shea.

21 Mr. Gilissen, do you wish to comment on that exchange?

22 MR. GILISSEN: (Interpretation) Thank you very much,
23 your Honour.

24 Your Honour, we would like to support the principle that there
25 should be a contact between Defence counsel and this witness. We have

1 just heard this in an exceptional case. There has to be an exceptional
2 remedy, but in spite of this, we haven't really touched on the real
3 problem. It is, no doubt, up to the Chamber if it shares this feeling
4 that Defence should be allowed to do its job properly because, after all,
5 that is crucial. The rights of the Defence need to be exercised in a
6 consistent framework. If this contact were denied to talk about
7 something that is totally new to the Defence, it seems to us, for our
8 part, that this would be detrimental to the fairness of a trial.

9 Now, what needs to be defined is what exactly will be allowed
10 and, moreover, the way in which it will be allowed, no doubt. There is a
11 logical order. I think Mr. O'Shea was perfectly clear. It's not a
12 matter of refreshing anyone's memory, and so limiting what is going to be
13 done - and I think we can be fully -- we can have full trust in Defence.
14 And I've heard, of course, the arguments brought up by the Prosecutor.
15 I'm not sure that it is up to us to take a position. But in any case, it
16 seems to us that they are reasonable because they do aim at precisely
17 defining not only the limits -- not only what should not be done. And,
18 in fact, there is no intention to do anything else, there is no pretense
19 and I have absolutely no doubt that the Defence will remain in the right
20 place, but there has to be conditions to set out the framework. There's
21 always possibility for error.

22 Your Honour, that is what we have to say, but in any case, the
23 conditions might appear to be rather burdensome, but they do afford the
24 right guarantee, the right guarantee that the Defence must provide to the
25 Chamber and to the participants. Now, I shouldn't go on at any great

1 length.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

3 Maître Luvengika, do you have anything to add or do you go along
4 with what your colleague just said?

5 MR. LUVENGIKA: (Interpretation) Hello, good afternoon,
6 your Honour. Yes, I -- with my colleague, we did consult one another
7 since lunchtime on this particular issue and I have absolutely nothing
8 more to add.

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

10 Mr. Kilenda, if you're the one to be taking the floor, go ahead.

11 MR. KILENDA: (Interpretation) Thank you, your Honour. Good
12 afternoon, your Honours. Witness 350 is not just -- is not a witness
13 that the two Defence teams share. We had a document that describes facts
14 that the Defence team for Germain Katanga didn't have in its possession.
15 The facts indeed also call into question our own client, Mr. Ngudjolo.
16 If we were in the position of Mr. Hooper, we certainly would have made
17 the same application, and for this reason, your Honours, I go along with
18 the position that the Defence team has just taken and the position of the
19 Legal Representatives of the Victims. In other words, I am in favour of
20 a contact between the Germain Katanga team and the witness in question.
21 It is clear that we are aware of the need for the conditions that you are
22 going to set out to allow this contact and we shall also be very careful
23 about the way in which these are followed.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Kilenda.

25 Mr. O'Shea, you can say your final words about this question and

1 then the Chamber will take some time to respond.

2 MR. O'SHEA: (Previous translation continues) ... just for your
3 Honours' assistance, the French transcript reference which I omitted to
4 give you earlier is T-284 redacted FRA, and it's page 20, lines 1 to 5.
5 I hope that assists.

6 I'm grateful to my learned friends for the Legal Representatives
7 for taking the wise approach to this matter and accepting the reality of
8 the situation. I note that when the Prosecutor responded to our earlier
9 motion in relation to the four detainees, which, of course, was a
10 different situation, the Prosecutor, himself, noted the possibility of
11 the existence of exceptional circumstances. This is to be found at
12 page 8 of the Prosecutor's response dated the 2nd of March, 2011, where
13 the subtitle reads:

14 (Interpretation) "This context and in the absence of new
15 circumstances, this last-minute application should be dismissed."

16 (Previous translation continues) ... (In English) Prosecution
17 response to that motion reads:

18 (Interpretation) "Since Defence did not bring up any new
19 exceptional circumstances since January 2009, they could justify a
20 deviation from the principle of a ban on the principle of contact in
21 The Hague, et cetera ..."

22 (In English) So at that time, if not today, the Prosecutor did
23 recognise that possibility and we say, of course, that this is a
24 *circonstance exceptionnelle nouvelle*.

25 Your decision in relation to that previous motion, of course, did

1 not directly address this issue of whether there should be exceptions but
2 found an appropriate solution, which was that the team should go back to
3 the DRC to interview the witnesses in question. That, of course, is not
4 possible in these circumstances, and as my learned friends for the
5 Legal Representatives have quite rightly pointed out, this is a question
6 of the proper administration of justice and fairness to the accused,
7 which brings me to the question of the good administration of justice.

8 And if I'm not understood in the way I put this, your Honours, I
9 will go into private session to make it clear. But I hopefully can be
10 understood without needing to do that. Clearly here a decision has to be
11 made in the light of these new circumstances, a decision which has an
12 impact on the case of Germain Katanga, and that decision has to be made
13 by Mr. Katanga with the appropriate advice from his counsel. We would be
14 placed between a rock and a hard place if we were told, in the face of
15 this completely new document, given the nature that it has, that we could
16 not deal with it; and, in my submission, that would be contrary to
17 providing the Defence with the adequate facilities to conduct its
18 defence.

19 One also needs to bear in mind, in my submission, how easy it
20 would be for individuals or organisations on the outside to sabotage the
21 Defence case if new information could come into the trial and the Defence
22 were not given the opportunity to deal with it before making an
23 appropriate decision. And I finally come to the practical issue, the
24 issue of how this interview should be conducted. We, as counsel, are
25 officers of the Court. In the jurisdiction that we operate in

1 nationally - and hopefully also before the international jurisdiction - a
2 degree of trust is placed in our professionalism. I would not concede to
3 the idea of the Prosecutor setting out exactly which questions we should
4 ask. However, we would be amenable to drawing up a list of proposed
5 question in an analogous way to the way in which it works for the
6 Legal Representatives in Court, we would draw up a list of questions
7 which we would submit to the Judges *ex parte*, which would enable
8 your Honours to at least form a sort of review of what we are attempting
9 to do. But essentially, as I've pointed out to your Honours, what we're
10 attempting to do is to provide ourselves with the information which would
11 enable us to make a decision about this witness in the light of this new
12 evidence that we have seen for the first time.

13 And it is not our intention to, in any way, rehearse this
14 witness's evidence which was the problem which the Lubanga
15 Pre-Trial Chamber and the Lubanga Chamber was facing in prior decisions.
16 If it's of assistance, we're also not opposed to the presence of the WVU
17 on the basis that the WVU is a neutral organ. If your Honours felt that
18 to be appropriate, ironically in this instance, it's the WVU that has
19 brought this document to our attention. But I won't say that because of
20 that fact they are not neutral; they are deemed to be neutral, of course.
21 So on that basis, we would not impose that measure if it were thought to
22 be appropriate. If there had to be a recording other than a manual
23 recording of this interview, then that would perhaps be an alternative
24 measure to the presence of the WVU; and if that were the measure to be
25 taken, we would want that recording to remain confidential between the

1 Defence and the Chamber, unless exceptional circumstances arose where it
2 had to be delved into in the future.

3 I think that addresses all the issues at stake here, but this is
4 clearly a unique and exceptional circumstance. The only alternative,
5 other than a total refusal, would be to send the witness back to Congo so
6 that we could see the witness there, but that wouldn't be a reasonable
7 solution in these particular circumstances.

8 Thank you, your Honour. I'll just check if there's anything
9 else.

10 (Defence counsel confer)

11 PRESIDING JUDGE COTTE: (Interpretation) During the interview
12 that may be permitted, are you going to be taking down a new statement by
13 Witness 350 or is it simply a matter of asking him questions under which
14 circumstances the interview was made and the way in which these documents
15 need -- should be treated, all this to be looked at by the Chamber, but
16 in your mind, is there going to be a new statement?

17 MR. O'SHEA: (Previous translation continues) ... problem has to
18 be addressed when we're talking about the modalities of this interview is
19 the urgency of actually seeing the witness, and it may be that providing
20 for the presence of the WVU or providing for a tape-recording or
21 something of that nature, it may be that that might cause a short delay
22 and we need to see this witness as quickly as possible. We're certainly
23 in a position to take notes of what the witness tells us. When your
24 Honour says "a new statement," it's not our intention if the witness
25 confirms what we suspect, which is that this interview either did not

1 take place or what was said was not said, in those circumstances we would
2 not need to have a new statement. If the position is different, we may
3 need to take down something in writing. The question of whether that
4 should -- what's taken down in writing should be disclosed to others is a
5 separate question. It may be that it should be reserved to the Defence
6 only unless the need arises in the future. At the moment, all we're
7 envisaging is to take internal notes, not a statement as such, with a
8 view to making a decision about this witness because that is our problem.
9 Our problem is not extending the scope of his testimony. Our problem is
10 simply deciding what to do with the witness.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. O'Shea.
12 So we've finished the discussion.

13 Yes, Prosecutor.

14 MR. DUTERTRE: (Interpretation) Very briefly, if you'll allow
15 me. The declaration cannot be an alternative to the presence of someone
16 from the Registry. The Registry is in charge of familiarisation, so it
17 has a vocation to be present during the interview and to see how it takes
18 place. A written statement is something else designed for the parties to
19 be prepared. This is exactly what happened with Witness P-28 once again.
20 Furthermore, I think there is a need to have the statement of the
21 witness. Mr. O'Shea seems to assume what is going to happen during the
22 interview, but we need to have the position of the witness as a sign
23 recognised, et cetera. It doesn't need to be very long, but it certainly
24 is a very necessary element for preparing and making the
25 cross-examination.

1 One last point about the *ex parte* list of questions. I think at
2 this stage of the trial, and in view of the nature of such an interview,
3 there must be transparency and I don't really understand this proposal of
4 handing over *ex parte* -- an *ex parte* list of questions if it's simply a
5 matter of asking the witness how the interview was conducted and whether
6 the witness actually said what is claimed. Thank you.

7 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea, very
8 briefly, please, so that we can end on this issue. In any case, we have
9 understood this. The Chamber did want the details and we see that there
10 is no objection to the presence of a member from the UN and that no
11 statement is being envisaged, subject to what you're going to say now.

12 MR. O'SHEA: (Previous translation continues) ... what is being
13 said by the Prosecutor's office, I refer your Honours back to the
14 procedure which was put in place in this trial for giving notice to
15 parties in order to prepare for their witnesses. In the case of the
16 Defence, we were invited to provide summaries of what the witnesses were
17 going to say, and it's not our intention at this point in time to expand
18 the scope of what the witnesses are going to say, and therefore the scope
19 of those summaries. As far as we're aware, we're under no obligation to
20 disclose any kind of statement, although we have done so, statement in
21 the sense of a formal document, although we have done so as a matter of
22 courtesy in certain cases and may do so in the future. The point about
23 time to prepare is a simple one. It's time to prepare for what the
24 witness is going to say, and it's not envisaged by the Defence that this
25 is going to add anything to what the witness is going to say. Whether

1 the Prosecution chooses to explore other matters during its
2 cross-examination and whether it's allowed to do so is a separate matter.
3 But that is not the function of a witness summary.

4 PRESIDING JUDGE COTTE: (Interpretation) Very well.

5 Registrar, I think together with the Court Usher we should now
6 bring Witness 228 in. He is going to begin his testimony today. At the
7 beginning of this testimony, as with Witness 236, the Chamber must give
8 the witness the guarantees of Article 93 and Rule 74. This is something
9 that we are bound to do.

10 (The witness entered court)

11 PRESIDING JUDGE COTTE: (Interpretation) Good afternoon,
12 Mr. Witness.

13 THE WITNESS: (Interpretation) Good afternoon.

14 PRESIDING JUDGE COTTE: (Interpretation) Can you hear me well?

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

16 PRESIDING JUDGE COTTE: (Interpretation) Are you doing well?

17 THE WITNESS: (Interpretation) Yes.

18 PRESIDING JUDGE COTTE: (Interpretation) Better than Friday?
19 That is very good.

20 THE WITNESS: (Interpretation) Thank you.

21 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, you have
22 accepted to come and testify before this Chamber and you were called by
23 Germain Katanga's Defence. We thank you for being present. I would like
24 to begin by asking you to introduce yourself. That is how we always
25 begin with each witness. So please speak slowly and give us your name

1 and first name.

2 THE WITNESS: (Interpretation) Thank you, your Honour. My name
3 is Mbodina Iribi Pierre Célestin.

4 PRESIDING JUDGE COTTE: (Interpretation) Very well. What is
5 your date and place of birth?

6 THE WITNESS: (Interpretation) I was born in Boma, lower Congo,
7 on the 5th of September, 1974.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you. What was
9 your occupation at the time of your arrest, since you are currently
10 detained in Kinshasa. Right now you are at The Hague, of course, but you
11 left Congo before coming here. What was your profession before?

12 THE WITNESS: (Interpretation) Your Honour, I was a teacher at
13 the time of my arrest. Before that, I did not have any job.

14 PRESIDING JUDGE COTTE: (Interpretation) Very well. So we will
15 note that you were a teacher at the time of your arrest?

16 THE WITNESS: (Interpretation) Yes.

17 PRESIDING JUDGE COTTE: (Interpretation) So we will address you
18 as Mr. Iribi or Mr. Mbodina, or should we say Mr. Mbodina Iribi? What is
19 the form of address that you will prefer?

20 THE WITNESS: (Interpretation) My name is Mbodina.

21 PRESIDING JUDGE COTTE: (Interpretation) Mbodina?

22 THE WITNESS: (Interpretation) Mbodina, yes, that is it,
23 Mr. President.

24 PRESIDING JUDGE COTTE: (Interpretation) Very well. Now, before
25 everything else, the Chamber would like to give you the assurances that

1 counsel for Germain Katanga requested in your favour as provided for in
2 Article 93(2) of the Statute. Having been consulted in advance under
3 Rule 191 of the Rules of Procedure and Evidence, the Prosecutor indicated
4 that he did not have any objection to such assurances being given to you.
5 Furthermore, in application of this same provision, the lawyer who was
6 designated for you by the Registry at the request of the Chamber and as
7 requested of him by the Chamber, he sought to have your observations in
8 application of Rule 191. It seems that you still wish to benefit from
9 those assurances even if you inform the Chamber of your reservations in
10 filing number 2812 of the 1st of April, 2011, submitted by your lawyer.

11 That said, in accordance with the terms of Article 93(2)
12 mentioned above, the Chamber would like to give you the assurance that
13 you will neither be prosecuted nor detained nor subjected by the Court to
14 any restriction whatsoever of your personal freedom for any act or
15 omission committed prior to your departure from the
16 Democratic Republic of Congo.

17 The Chamber would also like to remind you of the rights conferred
18 on you by Rule 74 of the Rules. Your lawyer, whom you met on the 31st of
19 March as well as on the 1st and 11th of April, 2011, at The Hague,
20 notified to you this Rule 74 of the Rules and explained to you the
21 conditions under which the Chamber can give you the guarantees. He would
22 also have explained to you the nature of those guarantees as well as the
23 substance of the other provisions of the Statute or Rules mentioned in
24 that Rule 75. That, in any case, is what transpires from the
25 aforementioned filing number 2812 of the 1st of April, 2011, submitted by

1 your lawyer.

2 Furthermore, your lawyer would have given you an independent
3 legal opinion on any other question that you would have asked him.
4 Rule 74 mentions very clearly that you have the right not to answer any
5 questions put to you if the statements that you make in your answers
6 might tend to incriminate you. And the Chamber would like to inform you
7 that you can use that right not to reply at any time. The same Rule
8 stipulates that in such a case, and only in such a case, the Chamber can
9 give you a certain number of guarantees as follows: If you decide to
10 answer, then the evidence contained in your testimony will remain
11 confidential and shall not be revealed to the public or to a state. That
12 evidence will not be used directly or indirectly against you in future
13 prosecutions or proceedings before the Court, unless it is in application
14 of Articles 70 and 71 of the Statute which refers to very specific cases.

15 In application of paragraph 4 of Rule 74, the Prosecutor was
16 consulted and he indicated that he had no objection to those guarantees
17 being given to you. The same applies to the authorities of the
18 Democratic Republic of Congo who made their position known on the 7th of
19 March, 2011, specifically referring to a letter addressed to the
20 Prosecutor of the Court on the 30th of January, 2009, by the minister of
21 justice of the DRC and in which -- under to which the Chamber expressly
22 referred in his decision 2748 of the 28th of February, 2011,
23 paragraph 28. On that same day, the same authorities specifically
24 referred to Article 19(1)(c) of the agreement on the privileges and
25 immunities of the International Criminal Court to which it is a signatory

1 in which it is stipulated that the witness shall benefit from immunity
2 from legal process of every kind in respect of words and -- words spoken
3 or written and all acts performed by them in the course of their
4 testimony and which immunity shall continue to be accorded even after
5 their appearance and testimony before the Court. At the procedural
6 level, if you ask for these guarantees to be granted, this will lead the
7 Chamber to order that some parts of your testimony should be given in
8 closed session. It will also order under Rule 74 that the contents of
9 the parties relevant to your testimony should not be divulged and any
10 violation of this provision will lead to the sanctions provided for in
11 Article 71.

12 The implementation of those guarantees would also lead the
13 Chamber to order that the relevant parts of the transcripts of the
14 hearings should be placed under seal. It should be pointed out here that
15 the attention of the Prosecutor, the accused persons, counsel for the
16 Defence, Legal Representatives of Victims, and all other members of the
17 staff present in the courtroom and following through electronic
18 retransmission to the consequences of any violation of these provisions.

19 I would like to point out that regarding your identity, you
20 have -- you have indicated that you would wish to waive the right under
21 paragraph 7(b) of Rule 74. The counsel for Germain Katanga has indicated
22 to us that you wish to testify publicly and that there is no objection to
23 your identity being known. Your own lawyer did not dispute this filing.
24 It is therefore not necessary to distort your face or voice which will be
25 transmitted on the screens during your testimony. The public nature of

1 the proceedings is the rule rather than the exception, and therefore the
2 Chamber notes your decision.

3 What I have just read out to you, Mr. Mbodina, is a little bit
4 complicated but your lawyer would have talked to you about it. Have you
5 understood me clearly?

6 THE WITNESS: (Interpretation) Thank you, your Honour. I have
7 fully understood what you have read as well as the references you have
8 made to my lawyer's explanations and all is fully understood. Thank you.

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

10 Apart from the guarantees that the Chamber can give you in case
11 of self-incrimination, there are also procedural or operational
12 protection measures which can also be taken in order to ensure your
13 security or welfare. The Chamber would like to remind you that we handed
14 down an oral order on the 30th of March, 2011, instructing the Registry
15 to continue the discussions initiated with the DRC authorities so as to
16 provide * an adequate protection for your family. In addition, the Chamber
17 instructed the Registry to report to it on the protection measures that
18 they may have to take in favour of your family. The text of that order
19 is in the hearing report or transcript number 242, page 17, lines 12, to
20 page 19, line 24, and the Chamber wishes to reiterate this to you.

21 Lastly, Mr. Hooper, counsel for Germain Katanga, has informed the
22 Chamber that you would like to have parts of your testimony take place in
23 closed session, particularly when you have to refer to certain names, and
24 these observations are in filing number 2790 of the 21st of March, 2011,
25 paragraph 4. That request was not explicitly reiterated by your lawyer,

1 but if this is still your wish, in the course of the audience, the
2 Chamber would like to inform you that we will determine on such
3 protection measures on a case-by-case basis. It will therefore be
4 necessary for you, yourself, to indicate to us at what precise time you
5 feel that you may not answer a question unless it is answered in closed
6 session because of the names that you intend to mention. That will all
7 depend on you. Is that also clear, Mr. Witness?

8 THE WITNESS: (Interpretation) Yes, Mr. President, your Honours.
9 I have also waived that right, that is, I will speak publicly without
10 face distortion and I will speak in public. That was my decision.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
12 Mr. Mbodina.

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 So, Mr. Witness, your testimony can now begin. However, before
23 starting, you need to make a solemn -- take a solemn oath. You have
24 certainly been told about this when you arrived in The Hague. You must
25 make the solemn commitment to tell the truth. I will therefore read out

1 slowly this solemn commitment so that you can assess its importance
2 fully. The commitment is as follows: I solemnly declare that I will say
3 the truth, all the truth, nothing but the truth.

4 Have you heard me very well?

5 THE WITNESS: (Interpretation) I did, indeed.

6 PRESIDING JUDGE COTTE: (Interpretation) Therefore, do you take
7 the commitment to say the truth, all the truth, and nothing but the
8 truth?

9 THE WITNESS: (Interpretation) I do pledge to say the truth,
10 nothing but the truth, and all the truth, your Honour.

11 WITNESS: WITNESS DRC-D02-P-0228

12 (Witness answered through interpreter)

13 PRESIDING JUDGE COTTE: (Interpretation) The Court would like
14 you to listen very carefully once more. You have just taken the
15 commitment to tell the truth, nothing but the truth, all the truth.
16 Should during your testimony or when answering questions that you might
17 be asked, you do not tell -- say the truth, you might then be subjected
18 to legal proceedings before the International Criminal Court for false
19 testimony and should the facts be demonstrated you might be sentenced.

20 THE WITNESS: (Interpretation) I have heard what you said and I
21 have understood.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
23 Witness. The Court takes note that the prescriptions of Article 69(1) of
24 the Statute have been complied with as well as with Rule 76, paragraphs
25 (1) and (3) of the Rules.

1 Now, Mr. Witness, throughout your testimony from your deposition,
2 we will ask you, as you usually do, to speak in a loud voice, to speak
3 slowly. When you use a -- the name of a person or a location, if it is a
4 bit complicated, could you spell it out, please, so that we can be
5 certain that we have heard the same name. There's also another rule we
6 all need to comply with. In other words, we must wait five seconds
7 between the moment when a question has been asked and the point in time
8 where you answer. This is in order to facilitate the work of the
9 interpreters and the court stenographers. Sometimes debates can go very
10 fast, so we all need to pay attention that we do respect that little
11 pause which enables the interpreter to finish his work. You speak
12 French, therefore you're not going to change languages during your
13 testimony. You will not disclose outside the court anything you say here
14 and do not hesitate to ask to have a break to drink if you are thirsty,
15 because you're going to have to talk a lot, do not hesitate to use the
16 paper tissues that you have. If you have a cold, drinking and blowing
17 your nose is a perfectly convenient attitude before this Court. You need
18 to feel at ease so that you can answer as precisely and as completely as
19 possible the questions that you are going to be asked.

20 Are we in agreement?

21 THE WITNESS: (Interpretation) Yes, indeed.

22 PRESIDING JUDGE COTTE: (Interpretation) We are now going to
23 give the floor to David Hooper, who is going to start his questioning.
24 He's on your left-hand side.

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

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Questioned by Mr. Hooper

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1 Questioned by Mr. Hooper:

2 Q. Good afternoon, Mr. Witness. Looking around this courtroom, I
3 should think that there's very few people you know. You've met me
4 before, as you may recall, and I think you've met Ms. Buisman, who sits
5 behind me here, before. I'm just pointing her out so you can see some
6 familiar faces here -- are you having a bit of trouble there with
7 machinery?

8 And I'm now going to ask if you also recognise the gentleman who
9 I'm inviting to stand up at the back of the court, and do you recognise
10 that gentleman and can you do more than nodding your head because nodding
11 your head doesn't get on the transcript, so we need yes or no or don't
12 know; whatever the answer may be. So let me ask the question again: Do
13 you recognise the gentleman presently who just stood up in the back of
14 the court?

15 A. Thank you, David. I know him. I know this gentleman perfectly
16 well .

17 Q. And can you give us his name, please?

18 A. I know him as Germain Katanga.

19 Q. As we start, what I'm going to ask happen now is that you be
20 given a map of -- a pretty straightforward map of Ituri. And it's
21 EVD - this is for the record I'm reading the -- our court reference for
22 this document, Mr. Mbodina - it's EVD-D02-00118. And I've got a hard
23 copy for you which I pass up. And at the same time as this is coming,
24 can I also ask that you be given a blank piece of paper and a pen to
25 write with so that you can jot down names that crop up, make a note of

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1 the name, and then spell the name for us. Because from time to time,
2 we're going to get names that we're going to need the spelling from you,
3 and it proves sometimes easier if you manage to make a quick note and you
4 can read the word -- spell the word back to us from that. So there's the
5 plan coming to you.

6 COURT OFFICER: (Interpretation) Press on PC 1 to see the
7 document.

8 MR. HOOPER:

9 Q. Now, I'm not -- I'm going to refer to this plan from time to
10 time, but perhaps it's -- I hope it's not going to be necessary to call
11 it up. I hope that we can get -- there's a further hard copy for the
12 Bench. Try and get some more done, but this is a document that it might
13 be useful to keep to hand, it saves time.

14 Now, don't worry about the plan just at the moment because from
15 time to time in your evidence, myself or others in the court, or, indeed,
16 yourself might want to refer to it to assist us. Now, before I come
17 to -- to start your evidence, really, you've said that you, as I
18 understand it, that you're not concerned, or rather, you've decided not
19 to ask for your evidence to be held in private or closed proceedings; but
20 can I stress that if in the course of your testimony you change your mind
21 or you feel that there are sensitive matters perhaps you hadn't
22 considered before, let us know and we'll consider -- the Judges will
23 consider whether it's appropriate then to go into a private session or
24 not. So, in short, you are to be the master, really, of whether we go
25 into closed session or not, at least by way of your requests.

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1 Now, just one other matter, can we go into private session for
2 just one minute while I deal with a private matter that concerns you.
3 PRESIDING JUDGE COTTE: (Interpretation) Madam Registrar, we are
4 now going to move into a private session.

5 (Public session at 3.48 p.m.)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Open session at 3.51 p.m.)

16 COURT OFFICER: (Interpretation) We are now in public session

17 again, your Honour.

18 PRESIDING JUDGE COTTE: (Interpretation) I give the floor to

19 David Hooper.

20 MR. HOOPER:

21 Q. Very well. Now, Mr. Mbodina, you have told us just a little bit

22 about yourself. You told us that you were born on the 5th of

23 September, 1974, at Bo ma. Just pausing there, can you instruct us as to

24 where Boma is in the Congo.

25 A. Thank you. I said that I was born in lower Congo, specifically

1 in Boma. Boma is located in the Democratic Republic of Congo exactly in
2 the province of lower Congo. Thank you very much.

3 Q. How far would that be approximately, would you know, from Bunia?

4 A. Thank you, counsel. I can't say precisely how distant Boma is
5 from Bunia; however, I would say more than 3.000 kilometres.

6 Q. Which gives us some idea of the immense size of your country.

7 And are you -- are you married and do you have children?

8 A. Thank you, counsel. I'm married and I'm the father of three
9 children. Thank you.

10 Q. Again, perhaps I can, as it were, lead on these matters, but I
11 don't think we're going to be in any way dispute. Your maternal
12 language, I understand, is Ndruna, is that right, and is that the Ngiti
13 language?

14 A. Yes, indeed.

15 Q. And in addition to that you speak, obviously, French, as you're
16 speaking to us now, Swahili, Lingala, and some English; is that right?

17 A. Yes, thank you. I speak French, Swahili, Lingala, and rather
18 poor English. Thank you.

19 Q. And having completed secondary education, did you do any -- did
20 you go to university and did you get any qualification from university;
21 and if so, can you tell us about it, please?

22 A. Thank you, counsel. I completed my primary and secondary studies
23 and then I went to university. I hold a bachelor of arts in literature
24 from the University of Bunia. Thank you.

25 Q. And can you help us as to what year you graduated?

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1 A. Thank you. I graduated in 1998.

2 Q. Now, the next matter I want to turn to I am going to just deal
3 with very briefly now and return to it in more detail towards the close
4 of my questions. The subject is this: Where you've been for the last
5 several years. It's no secret to any of us that you've been, in fact,
6 held as a prisoner at the central prison, that is, Makala prison in
7 Kinshasa in the DRC; is that correct?

8 A. Yes, thank you, counsel. Well, since the 9th of March, 2005, I
9 have been held in jail at the central prison of Makala in Kinshasa, and I
10 would like to emphasise that I have never been judged. Thank you.

11 Q. You've never been judged. Do you know what you're held for, what
12 you're detained in prison for?

13 A. Thank you. Frankly, I don't know. I don't know why I am held in
14 prison for the very simple reason that the reasons why I have -- I was
15 arrested change day after day. First of all, when we were arrested, we
16 were told - and, in fact, that is mentioned in the temporary or
17 provisional arrest warrant that was served on us while we were
18 arrested - that we were being held for having breached the security of
19 the state. That was the first reason that was given. A little after,
20 given the influence of the United Nations and the media, we learned that
21 we had been arrested in the aftermath of the events that occurred in Kafe
22 on the 5th of February, 2005, and you will easily understand that this
23 refers to the death of nine blue helmets in Ituri. And, specifically, we
24 were -- this was not given to us as a reason for being held, but
25 nevertheless, we learned it through the media. And subsequently when the

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1 general auditor of the united forces of the Democratic Republic of Congo
2 submitted a request, we found out in this request that another reason was
3 being put forward; in other words, we were allegedly guilty of crimes
4 against humanity, war crimes, because of events that had occurred in
5 Ituri.

6 Moreover, once more, this is not finished, because a few days
7 later following a session in which the charges against Germain Katanga
8 were confirmed and in which the Congolese legal authorities intervened,
9 in this case Colonel Mutanzini (* phon), and he referred to the events in
10 Ituri, crimes against humanity, and then we learnt that another reason
11 was the events that had occurred on the 5th of February. So, in fact,
12 it's been utter chaos. I really don't know the reasons why I've been
13 arrested, and that's the situation six years and soon seven years after
14 my arrest. Thank you for your attention.

15 Q. Well, thank you for that summary. And just my last question on
16 this point on this subject: When was the last time you were brought
17 before any Court or judicial authority in respect of your detention?

18 A. Thank you. The last time I appeared in a Court was in 2007,
19 2007, unless I'm making a mistake. I'm not absolutely sure, but I would
20 say that it was in 2007 during the last hearing relating to a procedure
21 that was related to the extension of our detention. And at that point in
22 time, we were informed that the normal 60-day period of our detention had
23 been extended and I believe that extension has now been finished for four
24 years. So that extension has actually ended four years ago, and that was
25 the last time I appeared in Court, was probably in 2007. Thank you.

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1 Q. Thank you. And I say I will come back to that subject towards
2 the close of my questions to you. Now, you've identified the accused,
3 one of them here, who sits behind me right at the back, as
4 Germain Katanga as someone you know. Now, your -- am I right in saying
5 your ethnicity is Ngiti; is that correct?

6 A. Yes, indeed. We have the same ethnic group, Mr. Germain Katanga
7 and I, myself. Thank you.

8 Q. Are you otherwise related by blood to him?

9 A. Thank you, counsel. No, I have no blood ties with
10 Germain Katanga. I'm Ngiti. I'm from the Baviba group. He's from the
11 Bolema group. We don't have any blood ties. I'm not, very simply, from
12 Germain Katanga's family.

13 Q. Now, you've told us your birthday, in 1974. At that time, may I
14 ask you, what was your father?

15 A. Thank you, counsel. I was born in lower Congo, in Boma, to be
16 precise, and at that time, my father, after having studied in Belgium,
17 worked in the lower Congo for the company writing Zaïroise, a Congolese
18 company, he was a manager. We spent most of our childhood there, and
19 afterwards he was forced to go back to Kinshasa where he became a Member
20 of Parliament, a Member of Parliament, as I said. He -- that -- he held
21 two mandates in that period. He was a GMR -- GMP. That was the only
22 party that existed in our country, the republic -- Democratic Republic of
23 Congo. Thank you.

24 Q. And just for context, that would have been the time of, of
25 course, the extended presidency of President Mobutu; is that right?

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1 A. Exactly. Thank you.

2 Q. And where did you spend most of your life, where were you? When
3 you were growing up, that is, and going to school, just take us briefly
4 through that; born quite the other side of the Congo, as you've told us,
5 from Bunia. Where did you grow up and what did the family do over that
6 time, in brief?

7 A. Thank you, counsel. I can't really say where I grew up because I
8 moved around a lot. From Boma, where I was born, I went to Kinshasa and
9 my family, my father, my mother, my older sister, and my brothers, we
10 lived in Kinshasa for a while and that's where I completed my primary
11 education. After Kinshasa, we went to Bunia. In Bunia -- well, since my
12 dad was the Member of Parliament of Bunia jurisdiction, he came back to
13 Bunia as well. And that's where I began my secondary education. I've
14 done my first part of secondary education in Kinshasa, so I did the
15 second part in Bunia. And from Bunia, I was sent to the small seminary
16 of Fataki, the small -- the little seminary of Fataki. That is located
17 in the Djugu area, about 60 kilometres away from Bunia, and that's where
18 I completed my secondary education studying arts, which was also called
19 philosophy, Latin, and now (* indiscernible). So I spent four years of
20 my secondary studies and I passed my university entrance exam in
21 the (*indiscernible). I nearly became a priest; unfortunately, that was
22 not my fate. And from Fataki, I went back to Bunia because there was a
23 problem of the religious wedding of my parents who felt they forced to do
24 it. And instead of going back to become -- to the seminary to become a
25 priest, I decided to study in a university. So I enrolled in the

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1 University of Bunia, where I spent five years, and around 1998/1999, I
2 passed the equivalent of bachelor of arts in literature.

3 So that's how I would sum up my childhood and the beginning of my
4 life. The last ten years I've been married. I have three children. My
5 wife lives in Kinshasa with one child and the other two are with my
6 parents in Bunia. Unless there are other questions you would like to ask
7 me, that's what I would have to say about this. Thank you.

8 Q. Thank you very much, Mr. Mbodina. And just to move that on to
9 the next step, after you got your degree from the University of Bunia,
10 what did you do?

11 A. Thank you, counsel. After finishing my studies, my university
12 studies, I immediately started to teach. I was a teacher in a state
13 school, an institute, where I taught French, philosophy, as well as some
14 PE classes, I also taught some PE classes. I also became a member of the
15 intelligence so as -- where I started off as an employee, and that was in
16 1998 when the -- was taking over. I started working for this
17 intelligence department. So, first of all, I was a teacher. At around
18 1998/1999, I started to work in intelligence after having completed my
19 studies. Thank you.

20 Q. (Previous translation continues) ... intelligence. What was the
21 name of the intelligence agency that you worked with or for?

22 A. The names changed over time. In 1998, the rebellion was in full
23 swing and our -- I was working for -- it's called the ANR, the
24 National Intelligence Agency. Of course, this department was a
25 department that was divided into two different units, one called the --

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1 ANR was in charge of collecting information and there was also the DG --
2 DGN, the national -- so, in fact, the -- these two units were therefore
3 working at the same time, and I started working for them in 1998. As the
4 years went by, names changed, and depending on which unit we're referring
5 to --

6 Q. (Previous translation continues) ... pause you there, as it were,
7 so we don't step too big a step at this moment. Just before we leave
8 this first named agency, the ANR, you referred then to it being 1998, or
9 so, and the rebellion, you said, was in full swing. Can you just tell us
10 briefly which rebellion you're talking about?

11 A. Thank you. I was talking about the RCD rebellion, the second
12 liberation, so to speak; and, in fact, that was when, in August 1998, the
13 RCD started a rebellion and that is what I was referring to.

14 Q. And just so we have it in context, what was the RCD rebelling
15 against?

16 A. Just a slight correction here. I believe before that it was the
17 rebellion of the AFDL in 1997 and 1998. And in August, it was the
18 RCD-Goma, as it was called. Now, talking about the grievances of the
19 RCD, frankly I do not know. Sorry about that, but I really cannot answer
20 that.

21 Q. So you told us you started working with the ANR and which -- what
22 was the ANR an agency of, if I can put it like that? What was it an
23 agency of, which group or section or -- was it an agency of?

24 A. Thank you, Mr. Hooper. The ANR was an intelligence service, and
25 at that time it was said to be under the authority of the presidency, and

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1 this was a service that guarded intelligence about national life and they
2 carried out operations, investigations, spying, or rather, espionage and
3 counter-espionage with the purpose of guiding the decision-makers to take
4 decisions that satisfied the aspirations of the population. That is why
5 each time an intelligence officer sent a memo to the hierarchy, there was
6 always a column "opinion and consideration." So this was used to guide
7 the decision-makers to take a good decision. So this is what I can say
8 about the service known as the ANR. This is just how the general
9 structure was, but the ANR was a public service. And even during the
10 rebellion during the war of the AFDL, it had another mission, to assist
11 the government to carry out its responsibilities. So you had obligations
12 of arrests within the framework of assisting the state to function
13 properly. That is what we did. Personally, as a collaborator, we were
14 simply the small fish, and our job was to gather information here and
15 there and hand it over to the competent authorities.

16 Q. All right. And the AFDL, where was its headquarters?

17 A. In Kinshasa.

18 Q. So that we're clear, the AFDL at the time you started working in
19 the *Agence nationale de renseignement* was the Kinshasa government of the
20 day; was that the position?

21 A. Yes. Thank you, counsel. When I'm talking about the AFDL, I'm,
22 in fact, referring to the Kinshasa government. After having led the war
23 from the east to the west, they took control of the entire country and
24 that is the government I'm referring to.

25 Q. And that's probably very clear and apparent to you, but it may

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1 not be apparent to all of us here, to me. So that's the position. You
2 start working of -- working with a public service, with the government in
3 Kinshasa. And what happens then? You told us that the name of the
4 agency changed, et cetera. What happened to the agency and to you, just
5 help us with that, please.

6 A. Thank you, counsel. In 1991, there was an AFDL rebellion in
7 which Kabila and -- Laurent Kabila and the others started a war against
8 the incumbent government; that is, the Mobutu regime. And during that
9 period of armed conflict, Kinshasa -- Kabila and his supporters arrived
10 in Kinshasa and took over power. They started governing the country, and
11 this was in 1997. Now, in August 1998, there was another conflict which
12 started in Goma this time around by the former allies, and the name of
13 the service at the time of the AFDL -- the name of that service was ANR,
14 but later on when the RCD started its rebellion the intelligence service
15 became the ACR. That is Congolese Intelligence Agency. So from 1997 to
16 mid-August 1998, it was the ANR, and I worked as a collaborator and this
17 was a low-level position in which I was responsible for gathering
18 information in the streets.

19 And in August 1998 the RCD-Goma took over control of eastern
20 Congo and the name changed to the ACR, that is, the *Agence Congolese de*
21 *Renseignement*. I hope that helps, Mr. Hooper.

22 Q. Yes, it does, thank you very much. And when it changed to the
23 ACR, what was your position?

24 A. Thank you, counsel. I was promoted through the ranks from
25 collaborator, I became an analyst in the department of research, and the

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1 service was already the ACR by that time. And after a few months I
2 quickly became the head of the research section or department of research
3 and analysis. After that I was appointed director in charge of general
4 intelligence, and this was a position that was confirmed by Bemba at the
5 time of the FLC.

6 Q. (Previous translation continues) ... with Bemba and the FLC which
7 is another matter perhaps I can pick up after the break because I see
8 there's only a minute or two left.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Hooper.
10 We are going to take our break.

11 Mr. Witness, Mr. Mbodina, we are going to have a 30-minute break,
12 during which you will be able to rest, and we will reconvene at 5.00 p.m.

13 Court Officer, Court Usher, please kindly accompany Mr. Mbodina
14 outside of the courtroom. We will meet again in 30 minutes' time,
15 Mr. Witness.

16 (The witness stands down)

17 PRESIDING JUDGE COTTE: (Interpretation) The hearing is
18 suspended. We will reconvene at 5.00 p.m.

19 Recess taken at 4.28 p.m.

20 On resuming at 5.03 p.m.

21 (Open session)

22 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could
23 the witness please be brought in.

24 (The witness takes the stand)

25 PRESIDING JUDGE COTTE: (Interpretation) Can you hear me,

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1 Witness?

2 THE WITNESS: (Interpretation) Yes, I do.

3 PRESIDING JUDGE COTTE: (Interpretation) So you do. As far as I
4 understood, I was told that towards 6.00 p.m. you need to take
5 medication. If that is the case, please feel free to do so. You need
6 some water there so that you can take the medication at the time you've
7 been instructed to do so, so that your treatment can continue adequately.
8 Of course I don't know any details about your treatment, but if you need
9 to take medicine, please point that out to me and take the time that it
10 requires. Go ahead.

11 Mr. Hooper.

12 MR. HOOPER: Yes, perhaps I can be reminded to stop at about
13 6.00, if I'm still going as I think I will be.

14 Q. Right. So you were telling us about your functions within the
15 security services of, first, the AFDL when you were in the ANR; and then
16 later when there was a further rebellion by the RCD you became a head of
17 the research section in what was then called the ACR. And in that
18 respect, you -- I take it it wasn't the AFDL, it was the RCD. Which RCD
19 was it, because we've heard of quite a number of RCDs? When the AFDL
20 security agency was replaced by the ACR, the ACR was with which movement
21 or government, if you like?

22 A. Thank you, Mr. Hooper. The ACR, the Congolese intelligence
23 agency, is part of the -- well, was under the RCD-K/ML.

24 Q. And at that time, who was the head of the RCD-K/ML?

25 A. The RCD-K/ML was, first of all, led by Professor Wamba dia Wamba,

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1 and then subsequently Mbusa took over the leadership of this rebel
2 movement.

3 Q. And when Mbusa took over the leadership, what was your
4 position -- I mean, not your position, but did you continue to work for
5 the agency or what? What was the position?

6 A. At the time of Mbusa, I began as the analyst at the research
7 section, the research and analyses section. Later on, I went up the
8 various positions, director in charge of general intelligence, head of
9 the Aru and Mahagi posts. And the last function I fulfilled was
10 territorial director for Kanyabayonga, and there I was already in north
11 Kivu.

12 Q. All right. We will return over that very briefly now. Before we
13 broke you spoke of working for the security bureau, but at the time of
14 the FLC. Can you briefly help us as to what the FLC was?

15 A. Thank you for your question. The FLC was a grouping of
16 movements, rebel movements that shared out the control over the Ituri.
17 At that time the FLC brought together the MLC, the RCD-K/ML, Mbusa
18 Nyamwisi and Tibasima and the UPC. Those were the movements that were
19 grouped and were part of the FLC. This was led by the MLC with Bemba,
20 who was its president. At that time, the intelligence services changed
21 name. There were two of these services. One of them was in charge of
22 inland security, called the inland security bureau; and the other one was
23 in charge of external intelligence, and it was called the inland -- or,
24 rather, external security bureau. At the time I -- my duties were in the
25 inland bureau. I was director in charge of intelligence at the main post

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1 in Ituri. These were duties involving the general intelligence in Bunia

2 and in the Ituri, in general. Thank you.

3 Q. And you speak there in the context of the FLC. What happened to

4 the FLC?

5 A. Thank you for your question, counsel. The FLC was disrupted. It

6 didn't last very long, in view of the ambitions of its members, and the

7 MLC went back to its home ground. The RCD-K/ML continued to control the

8 Ituri. The agreement creating the FLC was founded on the control over

9 Ituri, and, as a result, it broke up and the FLC disappeared.

10 Q. Now, your position you mentioned Aru and Mahagi, and again if we

11 look at the plan that we have, and if you look at it we can see on

12 EVD-DRC-D02-00118 at the top of the -- towards the top of the plan we can

13 see both where Mahagi and Aru is to the very north-east and north tip of

14 Ituri. And how long did you spend, if any, in Aru and Mahagi at that

15 time?

16 A. First of all, I was in the Ariwawa post before I was appointed as

17 deputy director at Aru in charge of intelligence, and in Aru -- well, I

18 didn't spend much time there, half of a year, I would say. And Mahagi, I

19 was sent there after Aru, and there I spent a few months --

20 JUDGE DIARRA: (Interpretation) Did he said that he was

21 chancellor, did he?

22 MR. HOOPER: Well, no, not my understanding of it. No. Let's go

23 back to it. There may have been a translation or transcription error so

24 let's just go back to that.

25 Q. You've been talking about going to Aru and Mahagi. Before -- you

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1 said before you went to Aru, you named a place, but could you spell the
2 place because we didn't get the spelling. That's what I heard in the
3 English that before you went to Aru you were in somewhere and Wawa, or
4 something like that, it's been transcribed into English but it's not a
5 word that I think we've met. So can you spell that for us, please.

6 A. The name is spelled as follows: A-r-i-w-a-r-a. There we are.
7 Ariwara.

8 PRESIDING JUDGE COTTE: (Interpretation) Now, in the French
9 transcript, to be perfectly clear, page 49, line 14, you say that:

10 "I was first chancellor at the Ariwara post before I was deputy
11 director in charge of intelligence at Aru."

12 So this word "chancellor," depending on the language, probably
13 covers different tasks.

14 JUDGE DIARRA: (Interpretation) I simply wanted to know what
15 "chancellor" means in this context so that I can follow what the witness
16 is saying.

17 THE WITNESS: (Interpretation) Yes, you're quite right. Ariwara
18 is an area, territory, which is within Aru. Aru is the territory, and
19 Ariwara is some 30, 40 kilometres from there. It is a trading centre.
20 It is an administrative area that relies on Aru. And at Ariwara, there
21 is a post. The services operating at that time in Ariwara were called a
22 post, and within that service there was a head of post, a deputy, and a
23 chancellor, a *chancelier*. The *chancelier* is the person in charge of
24 migratory documents. He is in control of population movements coming in
25 and leaving Ariwara. That's what we called chancellor, *chancelier*. This

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1 is a function that I fulfilled before I went on to Aru as the head of the
2 post there.

3 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, you can
4 continue with the thread of your examination. We had a short
5 interruption there.

6 MR. HOOPER:

7 Q. So Aru for six months and then Mahagi for a few months. And
8 where did you go after Mahagi?

9 A. I left Mahagi when the conflict was at its height in Ituri and I
10 reached Bunia. I spent just a few days there and then went to north
11 Kivu, north Kivu, in particular Beni.

12 Q. Now, there's a date that's well-known and referred to in this
13 Court and it's -- or rather an incident, that is, the fall of Governor
14 Lopondo of the RCD-K/ML and his being chased out of Bunia. And in
15 relation to that event, which we know was in August 2002, where were you
16 when Lopondo fell, as we call it? When he fell from power, where were
17 you?

18 A. Thank you, Mr. Hooper. When Lopondo fell, I had just reached
19 Bunia, so I was in Bunia at the time that Lopondo was forced to leave the
20 city of Bunia.

21 Q. And you went to north Kivu. Where did you go in north Kivu from
22 Bunia?

23 A. I went to Beni. I had no relatives in Beni and I joined the
24 department that I was going to. This was a place everybody was going to
25 and I did that too and the department provided me with lodging there

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1 throughout my stay.

2 Q. And you referred to working for the ACR, the name of the agency
3 under the RCD-K/ML, you've told us. What was the position at Beni? Did
4 you continue to work for the ACR or did you take some other employment?
5 What was your situation?

6 A. When I reached Beni, I didn't have any particular status. I was
7 on the same footing as any other intelligence officer who has moved away
8 from the location where he works. I was recognised as the head of the
9 Mahagi post, and when I reach Beni I was there as a simple officer,
10 intelligence officer, that co-operated with the service. Subsequently, I
11 try -- I was re-enlisted by the ACR general management and that -- and
12 there, I was in charge of analysis, intelligence, and comparing data when
13 I was there in Beni. Those were my occupations once I had reached Beni.

14 Q. And did it continue like that or did things change? What was the
15 position?

16 A. Things didn't change completely because when you are part of the
17 intelligence service, you're there for good, just like military service.
18 I continued to offer my know-how to those services until the president of
19 the movement decided to appoint me as territorial director in charge of
20 intelligence at Kanyabayonga. Nonetheless, this function -- well, I
21 didn't actually exercise it because of the difficulties, because of the
22 insecurity that prevailed in north Kivu. At the time, the RCD-Goma was
23 the one to take control of Beni-Butembo, and there were a lot of
24 situations of insecurity at the time. I continued therefore to serve in
25 the RCD as a territorial director, but I was on the spot in Beni and

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1 operated from Beni and in the vicinity thereof in the specific context of
2 the functions that had been entrusted to me by the service.

3 Q. All right. And if I can just on this point call up
4 EVD-D02-00119, it's another map and just to remind us where Kanyabayonga
5 is in relation to Beni.

6 A. Kanyabayonga --

7 Q. Just pause a moment because in a moment -- we could give you a
8 hard copy. It's easier for you to see.

9 MR. HOOPER: This is a map we've seen already and it's on ... ?

10 COURT OFFICER: PC 1.

11 MR. HOOPER: PC 1. Thank you very much.

12 Q. So we'll see that on the screen and you have a hard copy. And if
13 we look, more or less, towards the middle, there's Beni. And if we go
14 directly towards the bottom of the plan at the bottom of that lake. We
15 can see in two words Kanyabayonga. And, can you help us, is that the
16 place to which you've just said you were nominated as territorial
17 director for the ACR?

18 A. Thank you, counsel. Yes, that is precisely Kanyabayonga. That
19 is where I was appointed territorial director in charge of intelligence
20 at the time.

21 Q. Now, I'd like to ask you about the FRPI, and may I approach it in
22 this way. Do you -- can you help this Chamber, this Court, as to how the
23 FRPI came to be created?

24 A. Yes, counsel. The FRPI was created as follows: After the fall
25 of Lopondo another -- in August 2002, war had taken on -- was becoming

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1 widespread and there was also conflict in Mongbwalu and in the vicinity
2 thereof. The populations in these various places all converged towards
3 north Kivu because that was an area which might be described as being
4 safe. From Bunia, people were displaced and found themselves in Beni
5 from Mongbwalu as well, from all over the place, and people talked to one
6 another and found themselves under the authority of the power in place,
7 the RCD-K/ML, and the combatants who had fled Mongbwalu and its vicinity,
8 and others that had fled from Bunia came together to think about a
9 framework, a framework, a structure that could channel or could
10 channel - how to say? - their ideals.

11 And people got together in a hotel, Hotel Casino. At the
12 Hotel Casino there were many people and including myself. And there,
13 after a meeting that went on for two days, we looked first for a name
14 that could enjoy consensus. Everybody was putting forward names either
15 to refer to the past or Lendu movements. Sometime people were talking
16 about FREC and FREL, or any other name, I can't remember what. And
17 Dr. Adirodu also proposed a name, FRPI, and we chose that name for the
18 very simple reason that this name was already known in the Kinshasa area
19 and to avoid losing all the contacts that had been established under that
20 name we had to chose -- after a heated debate about what name to give to
21 the new movement, everybody agreed on "FRPI."

22 And in this meeting there are a lot of people from Bunia, from
23 Mongbwalu, but also from Gety and other places because all the refugees
24 had been through the Walendu-Bindi area -- and that's where the FRPI was
25 born. There was an initiative taken by displaced people, combatants,

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1 refugees, who came to realise what their disastrous situation was like in
2 Beni and decided to rally around a new organisation with the purpose
3 precisely of resisting. That's what I can say about the context in which
4 the FRPI was born.

5 Q. Now, in terms of its structure, its organisation, what can you
6 tell us about that?

7 A. Thank you, counsel. The FRPI is not a conventional organisation
8 and not sort of - how could I put it? - classical sort of structure where
9 people have very determined positions. The FRPI was a movement created
10 by people and its structure consisted in a simple co-ordination
11 committee, in which there was a co-ordinator, who at that point in time
12 was Mr. Floribert Ndjabu, and his deputy, Sambidhu, and two advisors.
13 One was in charge of security, that was I, myself; and I had a deputy.

14 So that was, roughly speaking, the structure. But furthermore, a role
15 was played by another brother, Dr. Adirodu, who was the spokesperson.

16 Well, there are a lot of problems in terms of appointing people.
17 Some people didn't want to work with other people, and that's where you
18 really had a lot of clashes between very ambitious people, and
19 Floribert Ndjabu wanted at all price to be co-ordinated and Dr. Adirodu
20 wanted his brother to have that position. So at the end, we held an
21 election and we appointed Mr. Floribert Ndjabu as our co-ordinator.
22 That's what I could say about the structure of the FRPI.

23 Q. Now, you mentioned Dr. Adirodu. Who was he and are you any
24 relation to him?

25 A. Yes, he's a doctor, GP; and, yes, I'm a relative of his. And

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1 he's actually my aunt's son. And before -- I am a relative of his -- at
2 that point in time, he was a doctor. He was also a victim of the events
3 in Ituri. He had also fled Bunia to go to Beni. Of course the advantage
4 he had was that he, first of all, took part in the Kinshasa conference
5 aimed at settling the situation in Kivu in 2001, and it's -- I believe
6 it's in that period that he introduced the name of FRPI. I'm not
7 absolutely sure. But he was in Beni with us and he took part in the
8 meeting -- the two-day meeting which might have gone on for longer, in
9 fact, that led to the FRPI being set up. Thank you for your attention.

10 Q. Thank you. Now, Floribert Ndjabu, who was he, and is he any
11 relation to you?

12 A. Floribert Ndjabu is a brother, very old friend of mine. I knew
13 him at the seminary. He was ahead of me in the Fataki seminary. And
14 when the FRPI was created, we met in Beni. But before that we were in
15 Bunia because he was appointed as an official of the RCD-K/ML. We met
16 quite regularly, also at church, we were from the same parish,
17 Roman Catholic parish in Bunia. We had been in contact for a long time.
18 In Beni, we met as people fighting for the same cause, sharing the same
19 fate, so we met in Beni and that's where, together with him, we took part
20 in the foundation of the FRPI.

21 Q. (Previous translation continues) ... minor seminary -- now, can I
22 just ask you this: In terms of structure, you've spoken about a
23 co-ordinator. Did the FRPI at that time use the word or have a function
24 of -- or did someone have a function in the FRPI with the nomination
25 "president"? Was there a president in the structure?

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1 A. Thank you for your question. No, as far as I know, that's not
2 the case. We didn't have a president of the FRPI when it was set up, and
3 the structure we built was a co-ordination with a president and his
4 deputy and two advisors. Thank you.

5 Q. Now, were you still part of this with the RCD-K/ML, and what was
6 the relationship at that time between the RCD-K/ML and this new FRPI
7 structure?

8 A. Thank you, counsel. Yes, I was definitely, at that point in
9 time, a member of the RCD-K/ML. Even when the FRPI was set up, the RCD
10 had an interest in controlling the FRPI, and its activities didn't bother
11 them at all, not at all. And its links with the combatants, the Lendu
12 fighters, did not date back to the FRPI; it went back -- they went back
13 to the period of Wamba dia Wamba. Or when Commissioner Depelchin was in
14 charge of internal affairs. And this complicity between the RCD and the
15 Lendu did not begin with the birth of the FRPI. So its activities didn't
16 bother them at all because all were aiming for the same objectives.
17 Thank you.

18 Q. Now, I'd like to show you a document, if I may, and that's
19 EVD-D002-0063. It's a document the Chamber is familiar with and it is
20 the -- I'll show you the document, first of all. I've got a --

21 MR. GARCIA: (Interpretation) Would it be possible, your Honour,
22 for the title of the document to be announced so that we can decide if we
23 raise an objection or not. Could we do that first?

24 PRESIDING JUDGE COTTE: (Interpretation) Apparently, when we
25 look at the list handed over by the Defence team, EVD-D02-0063 appears on

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1 the eighth position in the list. Unless I'm mistaken, I'm sure you can
2 identify it without any problems.

3 You're saying that you would object to this document? So
4 Prosecutor, could you tell me what's your problem with this document?

5 MR. GARCIA: (Interpretation) As my learned friend MacDonald
6 said earlier, talking about evidence previously, when a document is
7 presented to the witness, a document which the witness has not signed,
8 that he has not drafted, it is preferable initially to ask preliminary
9 questions and what is important in this approach is that one should not,
10 sort of, jolt the memory of a witness with a document. So questions are
11 asked, procedures are always being accepted, this is the way we've always
12 operated even with the Prosecution's witnesses; i.e., first of all, there
13 are preliminary questions that are asked, everything depends on how the
14 witness answers, and, subsequently, the document is then shown to him so
15 that he can answer other questions. That's my objection.

16 PRESIDING JUDGE COTTE: (Interpretation) Well, Mr. Hooper, this
17 sends us back to an objection at the beginning of your questioning of
18 Witness 236. Could you, indeed, introduce in a more constructive manner
19 this document, although we all know it and although we've read its
20 page 9, please. So do so, so we don't waste any time, and the witness
21 will answer afterwards.

22 MR. HOOPER: I did it in this way because I didn't anticipate for
23 a moment the Prosecution was going to object to either the document or
24 this witness's association with it, but let me do it formally.

25 Q. The FRPI, did the FRPI ever have a manifest, a political

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1 manifest?

2 A. Thank you, counsel, for your question. Specifically, when the
3 FRPI was set up, no document was drafted to report the creation of this
4 movement. Upon the initiative of the Dr. Adirodu, a document entitled
5 "Manifest of the FRPI" was drafted afterwards. Personally, I saw it, I
6 actually had it in my hands, and I also saw that my name appeared in it.
7 I don't know how that happened, how my name turned up in it. Although I
8 was at that meeting, I was never asked to take part in drafting this
9 document. Therefore, as far as I know, this document is the sole
10 responsibility of the author of said document.

11 Q. I thank you. Now, if I can just show you a document, I've got a
12 hard copy version of it which may be easier for you to see. And I see
13 I've highlighted your name on it and I don't know if that raises an
14 objection, possibly it does. I've got another one. Very well. So can I
15 pass this up to you. We have the documents on PC 1. It's EVD-D02-00063,
16 and I show you this document, please. Have you seen that document, of
17 which that's a copy, have you seen that document before?

18 A. Yes, yes, I have already seen it.

19 Q. Is that the document that you've just alluded to in your
20 testimony?

21 A. Precisely, that's the document I was referring to.

22 Q. All right. Can we look at the first page, first of all, headed
23 "*Republique Democratique du Congo*," underneath "*Force de Résistance*
24 "*Patriotique en Ituri*," FRPI. And then in a box section in the middle,
25 "*Manifeste de la résistance*," and then it's got "*Traduction et*

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1 *publication*" and it's got Aveba-Kpandroma, Kpandroma it's spelled there,
2 "*Janvier 2003 porte-parole nationale*." (Interpretation) January 2003,
3 national spokesman, (In English) Did you know what the reference is to
4 *porte-parole nationale*? What does it mean?

5 A. Thank you, counsel. I've already seen this document, I've
6 already read it. I've actually even -- I've noticed that reference to
7 national spokesman, and it's hard to say precisely who is being referred
8 to unless, of course, you assume that it is the author of this document.
9 He's the one who wrote it, he designed it, he drafted it, so it must be
10 him. By consequence, I would say it's Dr. Adirodu.

11 Q. (Previous translation continues) ... Logo there at the bottom, it
12 has the words "FRPI," that's in the rondle at the bottom. FRPI, *Armée*
13 *Pipa*, do you know what *Armée Pipa* is, what's the reference there?

14 A. Well, counsel, here I have to talk about the history of our
15 ancestors. The Pipa army, it's not -- well, it's not Pipa army, but the
16 name Pipa in the past was given to a weapon, a weapon that was used by
17 our ancestors. And, in fact, I can see it in the seal. It is that spear
18 you can see, and Pipa stood for the spear and the spear was talked about
19 as one way we could fight, as a weapon that could be used to wage war.
20 And in the time of ancestors, they used to use this Pipa weapon. I don't
21 know in what context it is used here, but, in my opinion here, reference
22 is being made, could be made, to the army, the army of combatants who
23 were using such weapons who were such rudimentary weapons to resist. So
24 the name Pipa army is a reference to the fighters who were using spears,
25 machetes, sort of rudimentary weapons to fight back and wage war. So

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1 Pipa is a purely historical reference and it is shown here, depicted, in
2 the seal.

3 Q. All right. Now, you've seen this document but it's not you who
4 drafted it. I think we've had a previous opportunity of looking at the
5 document or we will do so. Could I just take you to the page where the
6 column is headed "to." That's on DRC-00126 -- sorry, 0126-0414, it's the
7 column headed "to," which is on the second page of the text. And on that
8 page we can see that there's a number of organisations named and I want
9 to ask you, if I may, if you recognise or have heard of any of these
10 organisations. The first one that's listed there is FAP, *Force de*
11 *autodéfence populaire*, (interpretation) Popular self-defence force.
12 (In English) Did you -- have you heard of that organisation or not?

13 A. No, I never heard of such a popular self-defence force.

14 Q. And then underneath there we've got BOB, B-O-B, *Bureau de*
15 *organisation Bhale*, (interpretation) Bhale organisation bureau, (In
16 English) Have you ever heard of that organisation?

17 A. Yes, I've heard of that, the Bhale organisation bureau or BOB.
18 It was based, to a greater extent, in Mongbwalu. I heard of it, yes.

19 Q. Where was that based?

20 A. In Mongbwalu and in the surroundings of Mongbwalu, in the Djugu
21 territory.

22 Q. And if we look at our plan, the first plan that we looked at
23 today, the sort of brown plan, we've got a coloured version of it. You
24 can see where Mongbwalu is to the north-west of Bunia. And we've
25 discussed that geography before. Now, the next name -- sorry, the next

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1 name is FAL (interpretation) *Force de autodéfence Lendu*. (In English)

2 Lendu self-defence force. Have you heard of that organisation?

3 A. Yes, I have heard of it. This was the same time as BOB, and at
4 the same time I did hear about this Lendu self-defence force.

5 Q. And the next one is FREL, (interpretation) *Force de Résistance*
6 *contre extermination du Lendu*, (In English) the force aimed at resisting
7 the extermination of Lendu -- (Previous translation continues) ...

8 A. Yes, FREL and FREC that follows are names that appeared when the
9 FRPI was set up in north Kivu. As I said at the outset, a lot of
10 proposals were made in terms of names. All sorts of people made
11 proposals, and in particular you did have FREL. That, in fact, will be
12 swiftly changed into FREC, the force resisting the extermination of the
13 Congolese, because that was to give a more national dimension. So I
14 might be anticipating here, but that's why that name-change occurred. So
15 the two names, as far as I know of course, appeared when the FRPI was set
16 up.

17 Q. Now, if we turn to the last page, the last page on which there's
18 script, we have the list of names at annex 10, if you can find that. And
19 the first name is Angaika Didi, and then we go down that list and at the
20 bottom there's a name. Do you know that name?

21 A. At the bottom of the list you are referring to somebody called
22 Iribi Pitsou, or maybe it's the other way around, and that's my name, of
23 course, and sometimes I'm also called Pichou. And here, quite simply,
24 Mbodina has been omitted. Mbodina is my name. Iribi is my second name.
25 Pichou is my childhood name that I still carry today. Thank you.

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1 PRESIDING JUDGE COTTE: (Interpretation) Mr. Mbodina, if you
2 have to take your medicines, please take the time to actually take it.
3 Don't rush.

4 Can we continue, Mr. Mbodina?

5 THE WITNESS: (Interpretation) Yes.

6 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, please
7 proceed.

8 MR. HOOPER: Very well.

9 Q. And we've got about an hour to go and then we will break until
10 tomorrow. So let me ask you about the second name from the bottom there.
11 Do you know who that is or reference to it?

12 A. Thank you. That name is Mawazo Baudouin, I believe. To my
13 knowledge, that name refers to Dr. Adirodu because his name is
14 Baudouin Adirodu Mawazo.

15 Q. Now, did the FRPI have a military structure? And if it did, what
16 kind of a structure did it have?

17 A. Thank you. At the time that the FRPI was founded, there was no
18 military structure. The FRPI was simply a structure, a forum, that
19 brought together people who wanted to defend their interests and who did
20 not have a military structure. There was no army Chief of Staff, no
21 colonels, there were only political officers at the time the organisation
22 was founded.

23 Q. Do you know if that situation continued, that it had no military
24 structure? What do you know?

25 A. Thank you, Mr. Hooper. As I said at the beginning, the FRPI was

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1 only a political structure in which you had the co-ordinator, his deputy,
2 and the advisors. The organisation evolved over time. At the beginning,
3 there was the RCD-K/ML which assigned military missions to the FRPI, but
4 these were missions that are -- were carried out only by people who were
5 recognised as soldiers in the RCD-K/ML or people who had already
6 collaborated with the RCD-K/ML. And this is also what happened with
7 EMOI, the Kinshasa structure which was based in north Kivu and
8 particularly in Beni. Missions were also assigned to soldiers who
9 already had belonged to the rebel military structures such as the RCD and
10 the others.

11 Q. Did the FRPI ever get a military structure, a formal military
12 structure, to your knowledge?

13 A. Thank you. Yes, there was one. After the creation of the FRPI,
14 the war spread throughout the entire territory of Ituri and even to the
15 north Kivu. The existing collaboration between the RCD-K/ML and the
16 combatants continued up until the time when the FRPI -- and this was
17 after the time the Ituri pacification commission because in the meantime
18 the FNI was created, Arua, Kpandroma, and then there was Bunia and the
19 CPI. That is where there was an attempt to organise the soldiers which
20 took place at the Musafiri hotel. The FNI brought together the Lendu
21 commanders, those from Mongbwalu, Gety, Aveba, and others. That is where
22 they met to try to organise a military structure of the FRPI, and this
23 was under the auspices of the Kinshasa government because Kisempia
24 arrived -- Bunia and told all the representatives of the armed groups who
25 were there that from that time onwards he would be the Commander-in-Chief

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1 of all the armed groups. At the same time he even gave a format or
2 format for the structures, a template that included a Commander-in-Chief,
3 a deputy Commander-in-Chief, a Chief of Staff, a deputy Chief of Staff,
4 and all the staff of the military command from S-1 right up to S-5. So
5 the attempt to organise the FRPI militarily started as from that date.
6 It does not mean that the people who were there had not taken part in
7 military activities, no. There were some of them within that
8 organisation, but it had been the APC, the Congolese people's army, which
9 had been organising all military activities in which they took part from
10 Beni. I hope I answered the question. Thank you.

11 Q. Yes, quite extensively as we heard, and thank you. Can I just
12 come back to when this occurred, and you talk about it in the context of
13 the CPI. Can you just help us approximately what month and what year are
14 we talking about that there were meetings at the Musafiri hotel and this
15 attempt by Kisempia to structure this -- these forces?

16 A. Thank you. This was immediately after the work of the Ituri
17 pacification commission in 2003. I believe it was in April/May.
18 Kisempia arrived from Kinshasa to Bunia. I was there in Bunia because we
19 had just returned from Kampala. We had just come back from Kampala with
20 the delegation of the FNI and those from Kinshasa. We arrived on the
21 18th of March for the ceremony of the signing of the cessation of
22 hostilities. Immediately after that, there was a preparatory phase for
23 the work in which I took an active part. The work took about one month.
24 And after that, there were resolutions of the CPI, and one of them
25 requested the government to reestablish the authority of the state

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1 throughout the entire territory. So it was in reference to that clause
2 that the government through Kisempia was present in Ituri, and he started
3 by bringing together the representatives of all the armed groups. You
4 had the FRPI, because there the FRPI was like the armed wing of the FNI.
5 There was the UPC and then there was the PUSIC. Those were the groups
6 around General Kisempia, who at the time was the military advisor of the
7 president of the republic of Congo.

8 So I remember the sessions and it was during one of these
9 sessions that he presented the framework document which was a large
10 volume, a large book, in which the various structures were presented. He
11 confirmed that he was in permanent contact with the authorities of the
12 republic and that his mission was to ensure the control of the territory.
13 So this presentation was accepted by others and rejected by some. That
14 is how that organisation took place.

15 Q. All right. Thank you. Now, I'd like to ask you about the FNI.
16 How did that come about? What did it stand for or represent? And what
17 is your understanding of its relationship with the FRPI? So those are
18 the -- really the three questions I want to ask you on that. So the
19 first one is: How did it come about, the FNI, to your knowledge?

20 A. Thank you. The FNI emerged at the end of 2002/early 2003. The
21 initiative to create the FNI came from the Lendu eminent personalities or
22 notables from various areas but who met in Kpandroma. Those eminent
23 personalities were requested or pressured by the Ugandan government to
24 have a structure that would oppose Thomas Lubanga's UPC and be involved
25 in negotiations because at that time the war was almost at the gates of

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1 Kpandroma, and people were afraid for the population of Kpandroma and
2 also for the displaced persons, because Kpandroma was hosting many
3 displaced persons from the other Lendu areas. So these people met in
4 Kpandroma and agreed on a name. That is, the FNI, the front of
5 nationalists and integrationists.

6 Immediately after that, the Ugandan government sent a helicopter
7 to transport the representatives of that movement to Arua, where the UPC
8 representatives were in order to negotiate a cease-fire and pacification
9 agreement with Uganda. The eminent personalities who had taken that
10 initiative stood back --

11 MR. MACDONALD: (Interpretation) I would like to object here,
12 your Honour, because if I understood well the witness has stated that he
13 was in Arua. I understand that he can testify to what he knows, but so
14 far we do not know the source of information of the witness. He was not
15 in Arua. It has not been established that he was present which would
16 enable the Chamber to make its determination afterwards. I don't think
17 we have to wait for the cross-examination. At this stage it is hearsay
18 and information is given to us by a witness who was not present, and we
19 need to know the source; that is, the person or persons who gave him that
20 information. Thank you.

21 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, please can
22 you ask that information from the witness.

23 MR. HOOPER: Yes.

24 Q. What was your basis for -- of knowledge for what happened?

25 A. Thank you. At the time I was in Beni. I was not in Kpandroma

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1 where that initiative was taken to create the FNI. However, those who
2 were there told me about it, and I continued to maintain relations or
3 links with them from that period up till now. So I can say that I was
4 not in Kpandroma and I was not in Arua, but I heard about those facts
5 from those who were present including Ndjabu himself and many others who
6 were with him.

7 Q. Sorry, if you hadn't lost where you were, I had. So they go to
8 Arua. What happens there, did you learn?

9 A. In Kpandroma, where they met, they decided on the name FNI, and
10 it was Pastor Kpande who came up with that name. He suggested the name
11 and it was adopted. After that the helicopter took the people to Arua
12 where they drafted the documents relating to the creation of the FNI. So
13 the FNI in Kpandroma did not have any legal basis because there was no
14 document to attest its foundation and origin. But in Arua, with the
15 assistance of the Ugandan officers, including Captain Maguru, the
16 documents for the creation of the FNI were prepared in Arua and that
17 document was signed right there in Arua.

18 Q. At that time what, if any, connection was there between the FRPI
19 and the FNI? And I'm talking of the time when the FNI was created?

20 A. Thank you. There were links between the FRPI and the FNI. In
21 fact, when the FNI was set up, we were surprised. We were surprised
22 because it was the co-ordinator of the FRPI who was recognised as the
23 president of that armed group. At that time it was not surprising to me
24 because the FNI was also subject to struggles for power because some
25 people wanted to be the leaders to the exclusion of others. The links

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1 that existed were that after the FRPI developed its relationship with the
2 RCD-K/ML, it continued to travel or expand to other territories,
3 including Kpandroma. There were also means of communication between Beni
4 and Kpandroma, which means that there was information available about the
5 various initiatives taken by the FNI or concerning the FNI. Because from
6 Kpandroma they went to Arua where they signed the first document, that
7 is, the peace agreement between the UPC and the FNI. Unfortunately, the
8 UPC refused to sign the document. So there were regular contacts between
9 the FNI and the FRPI, which, under those circumstances, were one and the
10 same thing.

11 Q. Now, I want to ask you about EMOI, which you mentioned a little
12 earlier. What was EMOI? That's E-M-O-I.

13 A. Thank you. EMOI is an acronym which stands for integrated
14 operational general staff. This was a military structure based in north
15 Kivu, specifically in Beni. It was set up by the Kinshasa government.
16 In fact, at that time it was referred to as the former government because
17 under -- in that situation the country was governed by several
18 governments. There was the MLC in the north, the former government in
19 the west, RCD-K/ML and RCD-Goma in the east. At that time the Kinshasa
20 government, being aware of the weakness of its army, had initiated
21 political and diplomatic contacts with the RCD-K/ML which were very
22 fruitful. And the RCD-K/ML accepted that the government should operate
23 in its territory in order to oppose the advance of the RCD. So that
24 structure was set up in Beni. It was a sort of an alliance or a
25 coalition of forces which brought together the Kinshasa army, which at

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1 that point, was known as the FAC, F-A-C, and then the APC. It was later
2 joined by the Mayi-Mayi and the FRPI. As I have said, its mission was to
3 oppose the advance of the RCD but also of the MLC as well as to organise
4 various military attacks and manage all the logistical resources from
5 Kinshasa. That structure was responsible for the planning of military
6 operations in that region and provided all the resources necessary to the
7 soldiers to accomplish their missions. That is what I can say about
8 EMOI. However, we have to bear in mind that there was another EMOI in
9 Bunia immediately after the CPI. There was another EMOI at Bunia but it
10 did not last for very long because the hostilities, or rather, insecurity
11 became overwhelming and the forces of the EMOI, that is, FRPC and the FAC
12 forces, made up of soldiers and policemen brought in by Kisempia, left
13 Bunia and that was the end of EMOI Bunia, which I have said -- as I have
14 said did not last for very long.

15 Q. Right. Thank you. Let me come back to EMOI -- the first EMOI,
16 as it were, in Beni you told us about, and you told us how it was there
17 to oppose the MLC and the RCD-Goma. I'd like to ask you this: In
18 respect of the UPC, what relationship did it have, EMOI, with the UPC?

19 A. Thank you, counsel. The EMOI, in its capacity as the Beni
20 structure, did not have a very loving relationship with the UPC. The UPC
21 was the force against which EMOI was fighting. At that time, the UPC was
22 co-operating very strongly with the MLC, and they advanced and even went
23 beyond commander and even in Gety. This EMOI force made up of the FAC,
24 APC, FRPI, and the Mayi-Mayi which was to try to prevent the UPC and its
25 collaborators from getting to Beni. So there was no relationship or

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1 friendship between the two. It was a relationship of the worst type of
2 the enemy sort.

3 Q. Now, you spoke of EMOI planning military operations in the area
4 and that it provided, you said, "all the resources." What do you mean by
5 "resources"?

6 A. What I mean by "resources" and -- well, these are the resources
7 for fighting a war, the logistics in terms of arms, weapons, arms,
8 weapons, ammunition, as well as the human resources; in other words, men,
9 such as trainers or even fighters as such.

10 Q. Now, in terms of EMOI's structure - and we're talking here of
11 events before Bogoro in February of 2003 - before that event of Bogoro in
12 the months prior to that, who were the men, as it were, who represented
13 EMOI? Who were the -- who were the soldiers within that organisation,
14 the people in charge, as it were?

15 A. Thank you. February 2003, before Bogoro, the structure of EMOI
16 was led by Colonel Aguru, who was the Commander-in-Chief, as it were.
17 The Commander-in-Chief was Colonel Aguru and I think Kibelebele was the
18 lieutenant-colonel. He was the chief -- well, the Chief of Staff was
19 Ekuba. And he also had command of the general staff. For instance,
20 Colonel Duku, who was in charge of intelligence, he was S-2. Those were
21 the persons who were in charge within EMOI at the time. Concomitantly
22 with this structure there were also structures where there were
23 representatives of the forces. APC had a hundred representatives, the
24 general staff APC with General Kasereka, General David, Colonel Eva, and
25 he was also in charge of intelligence and later took over the leadership

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1 of the APC. For the Mayi-Mayi, there were many people. The Mayi-Mayi
2 was a multi-faceted organisation. There was several factions within the
3 Mayi-Mayi, the Mutu (* phon) faction, the Vita Kambala faction, and many
4 others. They represented themselves within that structure and
5 entertained ties with the EMOI. There was also the FRPI with the
6 co-ordination that was on the spot in Beni. Added to this co-ordination,
7 there were commanders who came from all over the place, Mongbwalu,
8 Aveba -- from Aveba, et cetera, and they, too, sometimes had purely
9 military ties with the authorities within the EMOI. So the structure of
10 the EMOI didn't control all of this as I have described. But to be
11 brief, I think I have given the names of the representatives. But I
12 would like to add that there were components that were part of the
13 organisation and I quoted some of their representatives.

14 Q. Thank you very much. Now, you mentioned Aguru and Kibelebele.
15 Do you know under whose orders they were?

16 A. Thank you. Could you perhaps repeat your question. The first
17 name, I don't think I heard it properly.

18 Q. Sorry. Aguru, the people in EMOI that you mentioned, colonels
19 and the -- his adjoint. Do you know whose orders they fell under? And I
20 remind you that if you want closed session, you can seek to have it. I'm
21 sure you'll have no difficulty getting it, if you want it. Are you
22 content to give your answers still in public? I'm not suggesting you
23 don't. I'm merely asking at this point whether you want to continue
24 talking in public or whether you're content or not?

25 A. Thank you. I think I can go on in the same manner, in other

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1 words, in open session.

2 Q. All right. Thank you. Then can I come back to the question and
3 that is: Do you know under whose orders Aguru and his adjoint,
4 Kibelebele, took their orders?

5 A. Thank you. From who they received their orders, from the persons
6 who had assigned the duties of the EMOI, in other words, the general
7 staff of the FAC. And here, too, it is very important to note that
8 declaration made by General Kisempia at the time, and he said that he
9 reported to the head of state directly and that his assignment came only
10 from the latter. But since the military organisation was the realm of
11 the general staff, we believe that he regularly depended on the
12 authorities of the general staff of the FAC. But this was a very
13 sensitive issue and the presidency of the republic played an important
14 role in taking the decisions. You can refer to the statement made by
15 General -- the general himself. He was an advisor to the head of state
16 and he was head of the military operations at the time. So one can
17 understand that the presidency of the republic certainly played a very
18 important hand in that. Thank you.

19 Q. Now, you spoke of provision of forces -- of resources of arms.
20 Have you got any knowledge of how arms were provided and distributed?

21 A. Thank you, counsel. The arms came from Kinshasa onboard aircraft
22 either based in Kinshasa or in Beni. The Uhuru airline, for instance,
23 was an airline that did a lot of business at the time in transportation
24 of both soldiers and weapons from Kinshasa going to Beni. In addition to
25 that airline, there were also aircraft that belonged to local companies.

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1 A large aircraft went from Kinshasa, that was Mango Mat and
2 Sita (* phon). These two companies transported military men and was
3 involved in military logistics. I was a intelligence officer at Beni at
4 the time and personally experienced the way in which all this was done.
5 From Beni -- from Beni to the hinterland of the Ituri there were also
6 airlines who carried out those transportations, Across airline,
7 Mango Mat, and Butembo airlines. They used some of the airstrips that
8 were disseminated throughout the Ituri. The three main ones are Aveba,
9 Mongbwalu, and Kpandroma. Sometimes they landed at Itendey, yes, I
10 think, once, once they landed there. Several rotations, several trips,
11 were conducted to transport equipment. And another means was also used,
12 and that was a motorbike. A motorbike was used to carry weapons and
13 ammunition and whatever the operation, whether involving a motorbike or
14 an aircraft, I did take part. We also landed at Lolwa to deposit men and
15 weapons at Lolwa. That was one of the very last flights that we carried
16 out in that region. Thank you.

17 Q. Thank you. Now, I have a particular interest in Aveba and
18 deliveries of arms to Aveba. Where, as far as you know, were arms that
19 were sent to Aveba, where were they destined, was it -- do you know?

20 A. Thank you. The weapons sent to Aveba were not directly sent to
21 the people who were in Aveba. The weapons and ammunition sent to Aveba
22 went either to Aveba or to Olongba or Kagaba or Zumbe, and in the same
23 way people would come to Beni to have contacts or establish contacts with
24 the representatives of the EMOI for the purposes of getting arms and
25 ammunition, well, similarly if cargo was sent from Beni, it was intended

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1 to the -- those commanders. So the weapons coming from there, in fact,
2 belonged to the various commanders who individually occupied certain
3 regions.

4 Q. Now, if you had a delivery, a plane delivery, of arms to Aveba,
5 do you know who would decide how that parcel of arms would be distributed
6 amongst the various places? Who made that decision?

7 A. Those who took those decisions were the ones who handed them out.
8 From -- in Beni there was a pre-established schedule that set out that
9 such and such a quantity of weapons would be going to such and such a
10 person or such and such a force, and that is how the distribution of
11 weapons took place. This was done in Beni while the pre -- the
12 consignees of these weapons were predetermined at Beni.

13 Q. Have you ever been to Aveba?

14 A. Yes, of course.

15 Q. Can you help us, how many times have you visited Aveba,
16 approximately?

17 A. Perhaps I cannot tell you precisely because at the time when I
18 was a child with my parents we would go to and fro from Bunia to the
19 village, and sometimes we would go through Aveba to get to one of the
20 villages where my parents went. But in more recent times, I think I have
21 been to Aveba twice, twice. The first time I went there coming from
22 Beni. That was, I believe, towards February 2003, maybe January, in any
23 case before Bogoro was attacked. I went to Aveba then and also later
24 when we left Bunia in 2003, May, maybe, when the UPC forces came back to
25 Bunia, I went to Aveba and I spent some two weeks there, perhaps even a

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1 bit more, and that is when I truly got to know Aveba. And I left Aveba
2 on the missionaries' plane to go to Beni to join my family which was
3 there at the time.

4 Q. All right. Thank you very much. Can I come to this -- the first
5 of those two recent visits as you describe them that was before the
6 attack on Bogoro, perhaps January to say. What caused you to go to
7 Aveba, what was the reason?

8 A. Thank you, counsel. At the time I was an intelligence officer in
9 Beni and I was working within the general directorate for the Congolese
10 intelligence agency and I carried out a mission on behalf of EMOI at the
11 time. I went into an Antonov aircraft, an Across airline aircraft. I
12 took arms and ammunition from Beni to Aveba. That was end of January or
13 February. I went there and back once, there and back from Aveba to Beni,
14 or rather, from Beni to Aveba. And there were men from the APC and the
15 RCD-K/ML forces as well as men -- or rather, as well as weapons and
16 ammunitions that were intended for Aveba and Olongba and many others that
17 were like forces that controlled those regions.

18 Q. Now, with you, you've just said there were men. Who were those
19 men, do you know their names and their functioning, ranks or anything
20 like that? Can you help us, what were they doing?

21 A. There were about ten people that I took with me from Beni. Among
22 those, only perhaps five were very important and I can quote a few names.
23 There was a certain Blaise Koka. Another one called -- referred to as
24 Lieutenant-Colonel Bipe. There was also Mutombo, Mutombo that we called
25 *Le Mouton*. There was an operator, his name was Kasereka and he was

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1 called Mike-4 Kasereka. And then there was another one, I think I've
2 forgotten his name, but his first name was Roger, Roger. These people --
3 well, their assignment was come and reorganisation the fighting forces in
4 Aveba, Kagaba, and the FRPI forces. Why was that? Well, at the time,
5 Komanda, which was a sort of crossroads that opened up towards Bunia, was
6 very much sought after by various forces, the MLC wanted to come and go
7 through Komanda to get to Beni. It was already in Mombassa and the UPC
8 also had its sights set on Komanda at the time. When the fighters took
9 control of Komanda, very soon afterwards -- well, they weren't in a
10 position to resist. The attackers would always come back and take
11 control again, and we had realised that one of the organisations was
12 behind, was at the basis of this, given some had to be taken over and * control
13 of an area had to be taken and maintained. Why was that? So as to offer resistance.
14 There was also a need, an important need, the need to reach Bunia. To reach Bunia,
15 you had to cut off Bunia from any source of supplies. And the centre for replenishing
16 supplies for Bunia was Bogoro.
17 These forces, these men had been sent out on this assignment
18 organising resistance at Komanda and also they were supposed to prepare
19 people, the combatants, to attack Bogoro. And they did, indeed, arrive
20 with equipment and others followed them. And I was on that journey with
21 them. We left them at Aveba and we, ourselves, went back to Beni. So
22 two assignments.

23 Q. Right --

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

25 MR. HOOPER:

1 Q. (Previous translation continues) ... tomorrow because we have a
2 very specific timing with the tapes, the tape-recording in Court. So
3 we'll come back to that tomorrow, Mr. Mbodina. Thank you very much.

4 PRESIDING JUDGE COTTE: (Interpretation) Very well, counsel.

5 Witness, we're going to leave now and we'll meet again next
6 morning -- tomorrow morning because we have a specific cut-off time.
7 Thank you for your contribution throughout the afternoon. Go back, have
8 a good rest, and we'll see you again at 9.00 tomorrow morning.

9 THE WITNESS: (Interpretation) Thank you very much, your Honour.

10 PRESIDING JUDGE COTTE: (Interpretation) I don't want to annoy
11 Mr. Hooper, but you don't have to answer "thank you" every time you
12 answer his questions. That will save a bit of time. I don't think
13 Mr. Hooper will be offended. You're an extremely polite gentleman,
14 that's fine, but you don't have to say "thank you very much" every time
15 you answer a question unless you really want to thank him specifically
16 for a specific questions.

17 The court officers are going to accompany you back. See you
18 tomorrow morning.

19 THE WITNESS: (Interpretation) Thank you very much.

20 (The witness stands down)

21 PRESIDING JUDGE COTTE: (Interpretation) Well, I believe we've
22 worked very hard. This is the end of our hearing and we'll meet again
23 tomorrow at 9.00 a.m.

24 Everybody stand, please.

25 The hearing ends at 7.02 p.m.

1 CORRECTIONS REPORT:

2 The Court Interpretation and Translation Section has made the following corrections
3 in the transcript:

4 * Page 25 line 16:

5 "inadequate protection" is corrected by "an adequate protection"

6 * Page 73 lines 12 to 16:

7 "control maintained and that would enable resistance to be -- to prevail.

8 There was a need, an important need, also, the need to reach Bunia. To

9 reach Bunia, you had to cut off Bunia from any route to be -- of resupply

10 and that meant Bogoro."

11 is corrected by

12 "control of an area had to be taken and maintained. Why was that? So as to offer

13 resistance. There was also a need, an important need, the need to reach Bunia. To

14 reach Bunia, you had to cut off Bunia from any source of supplies. And the centre for

15 replenishing supplies for Bunia was Bogoro. "