

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 Mathieu
7 Ngudjolo Chui
8 Trial Hearing
9 Friday, 13 May 2011
10 The hearing starts at 9.00 a.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session. Please be seated.
14 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
15 Good morning, everyone. Good morning, accused persons. Before
16 the witness comes in, three pieces of information. You would have
17 realised that our schedule has been modified for Monday. Taking into
18 account Madam Diarra's activities, we will begin at 1.30 p.m. to
19 3.30 p.m., we will break for 30 minutes, and then we will reconvene for
20 one hour, 45 minutes. So we will adjourn at 5.45 p.m.
21 The second piece of information concerns Mr. Gilissen. He is
22 absent and he will be attending the disciplinary committee of the Court,
23 where he is acting as counsel.
24 The third piece of information concerns filing number 2825 which
25 was submitted by Mr. Mabanga regarding the family situation of

1 Witness 176. This is an issue that was raised on two or three occasions
2 during his testimony. If the parties and participants wish to make
3 comments on that filing, then the Chamber would receive them; on the
4 other hand, we would definitely want to have the observations of the
5 VWU - and, Court Officer, please convey that information to the Registry.
6 We also wish to have the observations of the OTP.

7 The rest can make remarks if they wish, but VWU and the OTP are
8 expected to make observations on that filing.

9 Court Officer, Court Usher, please have the witness brought into
10 the courtroom. We have four hours today for the testimony of that
11 witness, 134. We had the feeling that Mr. Hooper had made considerable
12 progress in his direct examination, and I would like to appeal to each
13 and all to make an effort for us to conclude within this period of four
14 hours that we are left with.

15 THE INTERPRETER: Correction from the interpreter: It was filing
16 number 2885.

17 (The witness takes the stand)

18 PRESIDING JUDGE COTTE: (Interpretation) Good morning,
19 Mr. Witness.

20 THE WITNESS: (Interpretation) Good morning, your Honours.

21 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, you can
22 proceed.

23 Witness, we are happy to have you once again with us and we are
24 continuing with your testimony today.

25 Mr. Hooper, please.

Witness: Witness DRC-D02-P-0134 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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1 MR. HOOPER: All right. Can we just go into closed session,
2 please, for a minute or two.

3 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, let us
4 go into private session.

5 (Private session at 9.05 a.m.)

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11 (Open session at 9.08 a.m.)

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

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

14 Mr. Hooper.

15 MR. HOOPER:

16 Q. All right. Now, this incident that we're talking about, can I
17 stress it's not greatly relevant to the issues that the Court are
18 concerned with, so I'm not concerned with going into the story in great
19 detail. But essentially what happened to John as a result of the
20 incident?

21 A. Thank you. After that incident and as a result of him -- of it,
22 Mr. John ended up in prison. He had just been demobilised and the
23 members of the demobilisation site considered his action as a crime, and
24 that is how come he was transferred to the central prison in Bunia on
25 that very day.

1 Q. And how long do you know did he remain in prison and what were
2 the circumstances of his release?

3 A. Thank you for the question. I no longer remember precisely how
4 long he stayed in prison, but I know that he was released from the prison
5 around May 2005 and he was actually released on bail, it was a
6 provisional release.

7 Q. And what did John do after his release? Did he -- where did he
8 go?

9 A. Thank you for the question. After John was released, we went
10 with him to Aveba. In fact, I took him on a motorbike from Bunia to
11 Aveba and he stayed with me once again in Aveba.

12 Q. Now, the person whose house had been burnt, how were relations
13 between him and John?

14 A. Are you talking about the relationship before the incident or
15 after?

16 Q. No, no, after the incident, after John's release and you take him
17 back to Aveba, what was the --

18 A. Thank you for the question. After John was released, there was a
19 process that was initiated that would lead to reparation. Unfortunately,
20 there was a situation of insecurity in Aveba and so this did not happen.

21 Q. And how, if any, did that affect the situation between John and
22 the person who'd sustained the damage to the house?

23 A. Could you kindly repeat the question.

24 Q. So there was to be some kind of settlement or compensation or
25 whatever, but there wasn't, you tell us, because of insecurity. What

1 effect if any did that have on John's position in the community?

2 A. Thank you. When that problem was being resolved there was no
3 real problem because it was certainly not an issue between John and the
4 owner of the house; it was a family problem that needed to be resolved
5 within the family.

6 THE INTERPRETER: And from the interpreters, could the witness be
7 asked to speak more directly into the microphone. He's leaning way back.

8 MR. HOOPER:

9 Q. If you could just bring yourself forward a little bit in your
10 chair so that you're closer to the microphones. Could you just push
11 yourself forward a bit further. Bring the chair forward, it's on wheels,
12 so just -- perhaps the Registry could help you. That's better. Thank
13 you very much. So that the microphone picks up your voice, you see,
14 and...

15 Now, in -- very well.

16 Now, in the time -- and you told on Wednesday your history of
17 relationship up until this time with John. You told us on Wednesday
18 about the history of your relationship with John up until this time. Can
19 I ask you this: In all that time did John ever tell you he had fought in
20 any battles or anything like that?

21 A. Thank you for the question. John never told us that he had taken
22 part in any battle whatsoever.

23 Q. Did John ever tell you, for example, that he'd ever been abducted
24 by Kisoro, for example, and taken away to be forced to become a militia?
25 Did he ever tell you any story like that?

1 A. Thank you. I never heard any such thing.

2 Q. Now, after you brought John back to Aveba after the incident,
3 what happened to John after that?

4 A. Thank you. After John was provisionally released, we went to
5 Aveba and there was no further problem until we fled when the
6 disturbances broke out again in the Gety region. After that, he returned
7 to Bunia once again.

8 Q. Can you give us a date as to when those disturbances broke out in
9 the Gety region again?

10 A. Thank you. I believe the events started around October 2005, and
11 this involved skirmishes between the militia groups and the loyalist
12 forces, that is, the FARDC. However, what prompted John to return to
13 Bunia happened in January 2006. This means that after the events of
14 October 2005 people did return to the village but it was from January
15 2006 that almost everyone fled.

16 Q. And after John went to Bunia, what happened to him that you know?

17 A. Thank you. After John and I arrived in Bunia, we and some other
18 people went back to live with Mr. Mateso Omvuani. I also started
19 building a small house so as to provide some relief to Mr. Mateso. And
20 in the meantime, John, myself, and the other boys in the house were
21 occupied with work on the making blocks. These were dried blocks, and
22 this is basically what we did during the week. However, John suddenly
23 disappeared from the family house.

24 Q. After John disappeared, did you remain -- did you have any
25 contact with him after he disappeared?

1 A. Thank you for the question. There was initially a period of
2 silence, but it was only later on that he started calling us on the
3 phone.

4 Q. And do you know what had happened to him to disappear?

5 A. Thank you for that question. We did not have any idea at all
6 initially, but when he called us he told us that there was someone who
7 was taking care of him and who was helping him with his studies.

8 Q. Do you know where he was for those studies?

9 A. Thank you. He was calling us from Kinshasa.

10 Q. Do you know who this beneficiary was, this person? Do you know
11 who the person was, rather, who was helping him?

12 A. No, we have no idea about who that benefactor was, but he told us
13 that he was someone who was taking care of demobilised children.

14 Q. Was that person white or black, do you know?

15 A. He told us that they were white people.

16 Q. And for how long did you have any contact with John? Put another
17 way, when was the last time you had any contact with John by telephone or
18 whatever?

19 A. Thank you. When John started calling us, at one point he stopped
20 and there was another period of silence. It was only last year that he
21 called me once again and I believe it was on the 28th of October last
22 year.

23 Q. Has John ever expressed any fears for his security to you? Has
24 he ever been under any threat to your knowledge?

25 A. Thank you. (Expunged)

1 (Expunged)

2 (Expunged)

3 Q. Let me ask this question: Have you ever heard that there was any
4 risk to his security? Have you ever heard from others that there were
5 any threats against him over the last several years? Do you know if he
6 was ever threatened (Expunged), for
7 example?

8 A. Thank you. The answer is no and this is because since he went to
9 Kinshasa he never returned to Bunia or Ituri where he is known.

10 Q. Now, is it right that you were interviewed by the Prosecution
11 last year?

12 A. Yes.

13 Q. I'm sure there's no dispute about this. The dates I see on the
14 interview record are the 17th of July and the 18th of July of 2010. And
15 in that interview - and I'm not going to go into it - you were asked over
16 four or five hours of interview questions relating to your movements and
17 your knowledge of events; is that right?

18 A. Yes.

19 Q. And I don't propose nor would it be appropriate for me to ask you
20 questions about what you said there but others might.

21 Those are all my questions, Mr. Metu. There will be other
22 questions of course. Thank you very much for your assistance and I'll
23 speak to you again briefly a bit later this morning.

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

25 Mr. Kilenda, who is going to take the floor in your team?

Witness: Witness DRC-D02-P-0134 (Resumed) (Open Session)
Questioned by Mr. Garcia

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1 Professor Fofé? Very well. You have the floor, Professor Fofé.

2 MR. FOFÉ: (Interpretation) Thank you very much, Mr. President.

3 Good morning, your Honours.

4 Good morning, Mr. Witness.

5 THE WITNESS: (Interpretation) Thank you. Good morning.

6 MR. FOFÉ: (Interpretation) Your Honour, at the current stage
7 of the testimony of Mr. Mula Metu, the Defence for Mr. Mathieu Ngudjolo
8 does not have any questions. Thank you.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
10 Professor Fofé.

11 Mr. Garcia, you can now begin your cross-examination.

12 MR. GARCIA: (Interpretation) Good morning, Mr. President, your
13 Honours. Just a moment for me to set up.

14 PRESIDING JUDGE COTTE: (Interpretation) Very well.

15 Questioned by Mr. Garcia:

16 Q. Good morning, Witness.

17 A. Good morning, Prosecutor.

18 Q. I'm called counsel -- I'm called Mr. Garcia and I think we've had
19 the opportunity this morning to say that. I'm going to ask you certain
20 questions for the Prosecution. Obviously, I would say if you don't
21 understand a question, please do not hesitate to ask me and I'll be able
22 to reformulate the question so that you can understand better what I have
23 said.

24 MR. GARCIA: (Interpretation) If you would allow me, your
25 Honour, I would just like to go into private session very briefly in

Witness: Witness DRC-D02-P-0134 (Resumed) (Private Session)
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1 order to have some clarification on a certain point.

2 PRESIDING JUDGE COTTE: (Interpretation) Can we go into private
3 session, Court Officer, for a moment.

4 (Private session at 9.31 a.m.)

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Witness: Witness DRC-D02-P-0134 (Resumed) (Private Session)
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- 20 (Open session at 9.36 a.m.)
- 21 COURT OFFICER: (Interpretation) We are in open session, your
- 22 Honour.
- 23 PRESIDING JUDGE COTTE: (Interpretation) Perfect.
- 24 Prosecutor, please continue.
- 25 MR. GARCIA: (Interpretation)

1 Q. Witness, you spoke to us on Tuesday as well about other persons.

2 You mentioned Pastor Vicky; is that correct?

3 A. Yes.

4 Q. Please correct me if I'm wrong but Pastor Vicky is your nephew;
5 is that correct?

6 A. Yes.

7 Q. Pastor Vicky is married with a woman called Julienne Mugo; is
8 that correct?

9 A. That's correct.

10 Q. And quite simply so this is clear, Julienne Mugo is a person who
11 lived with you in Nyakunde; is that correct?

12 A. Yes.

13 Q. When I speak about Nyakunde, I'm also speaking about 2001 when
14 you were living with John and the other persons that you mentioned; is
15 that clear?

16 A. No. Julienne -- when she married Pastor Vicky she had already
17 left Nyakunde.

18 Q. And this marriage between Julienne Mugo and Pastor Vicky, when
19 did that happen exactly?

20 A. I couldn't tell you the exact date because their first daughter
21 is so old that she already has one child.

22 Q. For clarification, Pastor Vicky, did he live in Nyakunde at any
23 given time?

24 A. Pastor Vicky lived in Singo, that's close to Nyakunde, and he
25 went to Nyakunde from time to time.

1 Q. And so that we can have some dates, was it in 2001/2002 that that
2 happened he was living in Singo? Are you able to give us a year in that
3 regard?

4 A. Well, these are matters when you had the 1980s, after that he
5 went to the public institute. And you know that pastors, they are not in
6 a fixed place. They are like nomads, they have to go from one church to
7 another, from village to another. And as such, I cannot be so precise.

8 THE INTERPRETER: The interpreter corrects, it was a Bible
9 institute and not a public institute.

10 MR. GARCIA: (Interpretation)

11 Q. You also spoke to us about Mateso Omvuani, Jack; is that correct?

12 A. Yes.

13 Q. This person, if I understand well, was married to a person, a
14 woman, Mukosi, M-u-k-o-s-i; is that correct?

15 A. Yes.

16 Q. And so that it is clear, (Expunged)

17 (Expunged)

18 A. Yes.

19 Q. Witness, when you were in Nyakunde you also knew, if I
20 understand, Francine Katanga; is that correct?

21 A. Yes.

22 Q. So that it's clear, Francine Katanga is the sister of
23 Germain Katanga, who is here in the courtroom, so that it's clear for
24 everyone?

25 A. Yes.

1 Q. Francine Katanga, how did you get to know her in Nyakunde?

2 A. I got to know her as somebody who we -- who I sang with in the
3 same church.

4 Q. What year was that in?

5 A. I think that it was before the events that -- at the war. At the
6 start she was in Aveba for studies. She came to Nyakunde and Bunia, and
7 that was how we got to know each other in Nyakunde.

8 Q. I understand. You're not able to give us a year, a precise date?

9 A. No.

10 Q. So what you're saying is that she was living in Aveba and she
11 came to visit Nyakunde, or she was living in Nyakunde and she visited
12 Aveba?

13 A. Both are possible because firstly her family was in Aveba for
14 studies. She was also in Nyakunde. Even -- well, for the studies you
15 also have -- their father was -- in Nyakunde was also coming from time to
16 time to Nyakunde and afterwards she got married in Nyakunde.

17 Q. Am I right, Witness, to say that there was also Denise who was
18 singing in one of these choirs, Denise Katanga singing in a choir in
19 Nyakunde?

20 A. Yes.

21 Q. I would also like to have some information concerning the time
22 when you were living in Bunia, and here I'm not making a reference to
23 2001/2002 but rather when you left Aveba and you went to live in Bunia.
24 You said a few moments ago that you had lived - unless I'm wrong - in the
25 house of Mateso Omvuani in Bunia; is that correct?

1 A. Yes.

2 Q. Who else was living in this house with you in Bunia?

3 A. Thank you for the question. As usual in the house of
4 Mateso Omvuani there is always a large family there. If you went there
5 now you would find a lot of people. At the time it was even worse with
6 the displacement of the population of the Gety region and it was even
7 worse at that time, so I don't know if I can mention all the members
8 there now here.

9 Q. Was there somebody called Dudu who was living with you in Bunia,
10 D-u-d-u?

11 A. Yes.

12 Q. Can you give us the full name of this person?

13 A. Dubatso Kele is the full name.

14 Q. Would it be possible for you to spell the name for us?

15 A. Thank you. D-u-b-a-t-s-o K-e-l-e.

16 Q. Thank you, Witness. Do you also know somebody called
17 Jonathan Dubatso Mbabuna Katanga?

18 A. Yes.

19 Q. For how long have you known that person?

20 A. Since Aveba, just since Aveba, that's to say 2003, from 2003/2004
21 onwards.

22 Q. Are you certain that you didn't know this person before that
23 period? I understand that we're talking about a long time ago, several
24 years ago.

25 A. No.

1 Q. And how did you get to know this person, Witness?

2 A. If you go to Aveba, there isn't a large distance between their
3 house and mine.

4 Q. When you were in Aveba was this a person you speak to?

5 A. We didn't have a lot of contact, but this was somebody -- well,
6 we were in the same village with because in the same village people knew
7 each other, they meet each other.

8 Q. Am I right to say, Witness, that this person is currently living
9 in Bunia?

10 A. Yes.

11 Q. Do you meet this person? Is this a person who you speak to when
12 you are in Bunia?

13 A. In Bunia this person's a student, I was a student. We are in the
14 different universities, so it would be unusual for us to meet each other.

15 Q. Are you friends, Witness?

16 A. No.

17 Q. Do you know who lives with this person, Jonathan Dubatso Mbabuna
18 Katanga?

19 A. I know that he lives with his older sister Francine.

20 Q. So it's clear, he lives with his older sister presently, Francine
21 in Bunia; is that correct?

22 A. That's what I know.

23 Q. Have you had the opportunity to speak to recently?

24 A. No.

25 Q. When was the last time that you did, Witness?

1 A. I don't remember anymore because everybody has their task to
2 carry out.

3 Q. Do you know, Witness, that he lives with his older sister
4 Francine?

5 A. Because since the events of the war, when they fled from Aveba
6 they were there unless they changed address in the meantime.

7 Q. Do you speak with Francine Katanga yourself?

8 A. Not at all.

9 Q. Since you were in Bunia, did you go to meet that person on
10 occasions?

11 A. Well, the reality of life in Bunia is very other than that of the
12 villages. In Bunia everybody has to watch out for their life there.
13 They're busy in their own business and I'm in my business.

14 Q. Very well, I've understood. Do you -- but can it happen that you
15 do speak to him or have --

16 THE INTERPRETER: Have speak to her, corrects the interpreter.

17 MR. GARCIA: (Interpretation)

18 Q. Have you spoken to Francine Katanga in the last years?

19 A. No, it's as if she was working in MONUC or MONUSCO at the moment
20 where I'm in my academic work. We don't have the opportunity to meet
21 each other.

22 Q. Can you tell us, Witness, where Pastor Vicky is living at the
23 moment?

24 A. Yes. Since that he came back he went to Aveba.

25 Q. Pastor Vicky, did he live in Bunia over the last years?

1 A. I do not know.

2 PRESIDING JUDGE COTTE: (Interpretation) Please could you
3 respect the five-second rule between the question and the answer.

4 MR. GARCIA: (Interpretation)

5 Q. I know it can be tiring for you, all these tiring questions, but
6 I have to ask them. My last question because what I'm trying to find out
7 here is during the last years I understand that you lived in Bunia and
8 that you lived in Bunia at a particular time with John; is that correct?

9 A. Yes.

10 Q. During this period when you lived with John in Bunia, did
11 Pastor Vicky live with you?

12 A. At a certain time.

13 Q. And if it's not the case, please tell us.

14 A. At a certain time it was the case, to be precise.

15 Q. Perhaps I wasn't precise enough. You lived with John in Bunia
16 in -- when you were in Aveba during this period, you lived with John.
17 You also said that John went at a given time. Now, during all of this
18 period, did Pastor Vicky, did he live with you at any time during that
19 period?

20 A. What I know is that Pastor Vicky went to Komanda while we were in
21 Bunia.

22 Q. So what I understand from your answer, Pastor Vicky did not live
23 with you and John while you were living in Bunia when you returned from
24 Aveba; is that your answer? If it's not your answer, then please correct
25 us and say what your answer is.

1 A. Well, I think that there's -- if we talk about Bunia there's --
2 if I remember it was perhaps -- he just went from small trips from
3 Komanda to Bunia, but when it comes to living together, that's not
4 something that I remember.

5 MR. HOOPER: My friend's questions have been to my mind quite
6 confusing. I think my friend acknowledged that himself. He started off
7 talking about Bunia. He sort of put in a bit about Aveba. Can he ask
8 clear questions about where he's talking about and what period of time.

9 MR. GARCIA: (Interpretation) Your Honour, I think the witness
10 understood the last question, he answered the question, so I don't see
11 the confusion that's being referred to.

12 PRESIDING JUDGE COTTE: (Interpretation) Whatever the case, the
13 witness seems to understand his language and his answers.

14 Prosecutor, please do try to be as precise as possible, but this
15 is advice for everyone and not just you. Please continue.

16 MR. GARCIA: (Interpretation)

17 Q. Witness, you also spoke to us on Tuesday about Germain Katanga;
18 is that correct?

19 A. Yes.

20 Q. You told us with regard to Germain Katanga that you had met him
21 in Aveba; is that correct?

22 A. Yes.

23 Q. Would I be right to say, Witness, that you had already met
24 Germain Katanga before because you met him in Aveba -- when you met him
25 in Aveba it certainly wasn't the first time?

1 A. Okay. I think that if a question is put to me, put it to me and
2 then I will be able to be precise.

3 PRESIDING JUDGE COTTE: (Interpretation) This is an invitation
4 to a more precise question, Prosecutor.

5 MR. GARCIA: (Interpretation)

6 Q. Witness, you told us on Tuesday that you met Germain Katanga in
7 Aveba; is that correct?

8 A. Yes, because the question was asked when I arrived in Aveba did I
9 see Germain Katanga, and I said yes I saw him in Aveba.

10 Q. Is it not correct that you had already met him before,
11 Germain Katanga? It's not the first time you met him when you saw him in
12 Aveba?

13 A. Please could you reformulate your question.

14 Q. Is it not correct that you had already met him in Beni at the end
15 of 2002?

16 A. Yes.

17 Q. And when you met him if I understand well, Germain Katanga was
18 already married; is that correct?

19 A. Yes.

20 Q. And Germain Katanga was already married to Denise Katanga, who
21 lived with you in Nyakunde; is that correct?

22 A. Yes.

23 Q. And at the time what did you know about her?

24 A. Thank you for the question. Apart from the -- apart from the
25 status as the husband of -- I knew nothing else about him.

1 Q. Are you currently telling us, Witness, when you met if I
2 understood it was the end of 2002, December 2002, and when you met it was
3 the first time that you heard the name of Germain Katanga; is that your
4 testimony?

5 A. Yes, I think so. The person who introduced me introduced me as
6 the husband of Denise and I met that person as the husband of Denise.

7 Q. So I understood that you met that person as the husband of
8 Denise, but the name Germain Katanga, surely witness before that date you
9 heard about Germain Katanga, you'd heard the name Germain Katanga?

10 A. Well, I don't know under what circumstance I was introduced, but
11 perhaps a name Germain, but as the husband of Denise.

12 Q. If I understand you well when you were introduced to
13 Germain Katanga end of 2002, all that you knew with regards to that
14 person Germain Katanga was that it was the husband of Denise, you never
15 heard the name -- or you never heard anyone speak about Germain Katanga
16 before?

17 A. No because if you see what I've done, then, for example, in
18 Nyakunde, I went from Nyakunde, Bunia, Bunia to Beni, and he I think was
19 in Aveba or other areas which I did not go to before I went to Aveba.

20 Q. But you did hear about Kandro at that time? Did you know Kandro?
21 Did you know who that was?

22 A. Yes, I knew Kandro because we grew up with him in Nyakunde.

23 Q. And you know that Kandro was at a particular time the chief
24 commander of all the fighters of the Walendu-Bindi, the Ngiti; is that
25 correct?

1 A. I heard about it like you.

2 Q. I did not fully understand your last question (* as interpreted).

3 You said you heard about it like me. How did you hear about it?

4 A. I heard about it from the news.

5 Q. Let us return to this issue of Germain Katanga. A question was
6 put to you on Tuesday, a question on Germain Katanga and it was
7 Mr. Hooper who asked you the question. The question related to the
8 position, to the role, played by Germain Katanga in Aveba. This is in
9 transcript 257 page 47. I'm referring to line 16 and, Mr. Witness, in
10 answer to a question put to you by Mr. Hooper about Germain Katanga, well
11 Mr. Hooper asked you the following question and I quote verbatim, line
12 15:

13 "So during the period when you were in Aveba, to the best of your
14 knowledge what was the position held by Germain Katanga within the
15 militia group? To put it in other words, what were his powers?"

16 And in answer to that question, Mr. Witness, you said:

17 "On that point I cannot give you any clear information because I
18 did not know how their camp was organised."

19 Mr. Hooper followed up with another question immediately
20 afterwards:

21 "Do you know who the leader of the militia in Aveba was, yes or
22 no?"

23 Your answer, line 22:

24 "Well, not with great clarity. There were other people who were
25 called Kunzi. He was not the only one. Amongst them there were certain

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1 leaders in charge of groups of six or twelve. In any case I am not a
2 soldier, I'm not familiar with these terms. These persons were called
3 Kunzi, but personally I do not know what position he held."

4 I have just read out to you, Mr. Witness, your answer to a
5 question that was put to you by Mr. Hooper, a question which was very
6 precise. As you -- as he just said, you would prefer precise
7 answers (* as interpreted).

8 Is it not correct, Mr. Witness, that when you gave your statement
9 to the Defence team about a month ago you did confirm that
10 Germain Katanga was the leader of the militia in Aveba?

11 MR. HOOPER: I think the witness should be shown the statement if
12 you're going to refer to it at this point.

13 MR. GARCIA: (Interpretation) I have no objection to that, your
14 Honour.

15 PRESIDING JUDGE COTTE: (Interpretation) That is correct. You
16 were referring to his statement. Do you have a statement to show to the
17 witness --

18 THE INTERPRETER: Overlapping speakers. The interpreters
19 apologise. Everybody is talking at the same time. It's not making our
20 job any easier.

21 PRESIDING JUDGE COTTE: (Interpretation) Could you inform the
22 witness, show him the page you're referring to.

23 MR. GARCIA: (Interpretation) That's correct.

24 PRESIDING JUDGE COTTE: (Interpretation) Usher, could you move
25 over to Mr. Garcia and take an annotated copy of the statement given by

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1 the witness and please show that copy to the Defence, or rather, show it
2 to me. Thank you.

3 Mr. Prosecutor, could you tell us what page this is.

4 MR. GARCIA: (Interpretation) Page 10, paragraph 3.

5 PRESIDING JUDGE COTTE: (Interpretation) Very well.

6 Witness, you have that statement before you, a statement you know
7 about. Please turn to page 10, paragraph 3, and Mr. Garcia is going to
8 put his question to you once more just so you get to understand exactly
9 what he expects of you by way of answer.

10 MR. GARCIA: (Interpretation)

11 Q. I do not wish to interrupt you, Mr. Witness, but could you please
12 read the paragraph which starts with the word "Kunzi."

13 A. Yes.

14 Q. Mr. Witness, am I right to say that in this paragraph in this
15 statement which you gave to the Defence and signed on the 14th of March,
16 2011, I understand that this statement was read out to you in French. In
17 this statement and on this page, we can find your initials at the bottom
18 of the page, you state and you affirm that Germain was in charge of all
19 militia members in Aveba. That is the statement which you gave to a
20 member of the Defence team of Germain Katanga; is that correct?

21 A. Yes, but from what I can see before me -- well, the paragraph
22 still relates to the term or refers to the term "Kunzi." I don't think
23 there's any difference between this and what I said here.

24 Q. In the statement you gave to the Defence team, you stated
25 categorically that Germain was in charge of all militia members in Aveba?

1 A. Read the lines that follow, you will see that there are other
2 names which have been mentioned.

3 Q. We are going to come to that in a short while, but please I would
4 like you to turn to page 9 as well, and the heading is "Knowledge of
5 Germain." And there is a paragraph which comes after that, and please go
6 to the sentence which starts with: "Whilst I was at Aveba ..." please
7 take your time to read that excerpt.

8 A. Yes.

9 Q. Is it not correct, Mr. Witness, that in this paragraph you state
10 the following:

11 "Whilst I was in Aveba I heard that Germain was the leader of the
12 militia ..." and you carried on saying "... I do not know the structure
13 of the organisation. I do not know whether he was the head of all the
14 militia members or only the head of the militia members in Aveba."

15 So there's no mention of Kunzi in this paragraph, and you state
16 clearly that he was the leader of all the militia members in Aveba; is
17 that not correct?

18 A. Okay. I can see "in Aveba," there's a problem of place here,
19 there's a group in one place, a group in another place, and so on and so
20 forth. I think it's on that basis that I said what I said here.

21 Q. Mr. Witness, at least you do acknowledge that whilst you were in
22 Aveba Germain Katanga was the leader of all the militia members who were
23 there?

24 A. Okay. I think there's a distinction should be made here, it's
25 written "in Aveba," I think we all understand that, "in Aveba," it is

1 different from Olongba, it is different from Bukiringi, it is different
2 from Kagaba, and so on and so forth.

3 Q. Mr. Witness, we have been talking about Aveba here and you
4 re-read the question which was put to you by Mr. Hooper and which was
5 very precise on page 47, line 15, and the question was:

6 "So whilst you were in Aveba he -- to the best of your knowledge
7 what was the position held by Germain Katanga within the militia?"

8 The question has always referred to Aveba?

9 A. Yes.

10 Q. And in the same excerpt, line 22, it's not in the statement you
11 have before you, I'm reading the transcript, Mr. Hooper asks you a
12 question precise on Tuesday:

13 "Do you know who was the leader of the militia in Aveba or not?"

14 There was never any mention of Kagaba here.

15 A. Are you asking me another question?

16 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, the
17 Chamber would like to inform you that what is important to us is what you
18 say here in this courtroom at this particular point in time given the
19 solemn undertaking you made. The questions which are being put to you
20 refer to the exact role that Germain Katanga could have played. So there
21 is your statement, the statement you gave to the investigator of the
22 Defence team; there is what you said on Tuesday. But the most important
23 thing for us is what you say in the courtroom. You can give
24 clarifications on the content of a statement that you gave previously,
25 and you have to do that here and now through the answers you are going to

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1 give and those answers will help us to understand if you know what the
2 role of Germain Katanga was because I have the impression that we are
3 running around in circles here and that these are instructions that apply
4 to all witnesses. And at this point I will give you the floor once more
5 so you carry on with your answer to Mr. Garcia's questions.

6 MR. GARCIA: (Interpretation) Your Honour, for the benefit of
7 the Court record I'm referring to page 10 of the witness statement.
8 DRC-D02-0001-0539, and I have just referred to paragraph 5 which is
9 DRC-D02-0001-0538.

10 PRESIDING JUDGE COTTE: (Interpretation) We may proceed
11 therefore.

12 MR. GARCIA: (Interpretation)

13 Q. Mr. Witness, I'm going to ask you a last question on
14 Germain Katanga's role. Do you acknowledge today that whilst you were in
15 Aveba you knew that Germain Katanga was the leader of all the militia
16 members located there, in Aveba?

17 A. I know that whilst I was in Aveba I was working for an NGO. For
18 example, when we had to plan flights to bring medication for the
19 population, we would contact him to inform him that there would be a
20 flight at such and such a time, for example. So he was informed. But to
21 say that he was the direct leader or anything of that sort, I am not able
22 to say with certainty. But I knew that we would contact him to inform --
23 to give him information relating to the activities that we were carrying
24 out, like flights to Aveba. And we would contact him to find out about
25 the security situation and so on and so forth.

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1 Q. Mr. Witness, as far as Germain Katanga is concerned, you also
2 said that you met him whilst he was in Bunia. Is it not correct that you
3 also met him in the month of April in Bunia?

4 MR. GARCIA: (Interpretation) I would like the statement to be
5 taken away from the witness at this point.

6 PRESIDING JUDGE COTTE: (Interpretation) Court Usher, if the
7 statement is no longer going to be referred to, then it should be taken
8 away from the witness.

9 MR. GARCIA: (Interpretation)

10 Q. I'm going to repeat my question, Mr. Witness. You also saw
11 Mr. Katanga in the month of April in Bunia; is that correct?

12 A. Yes, I think so, and that was on the occasion of the CPI, that
13 is, the Ituri Pacification Committee. There were other individuals with
14 him who had come to attend the proceedings of the Ituri Pacification
15 Committee which we call the CPI.

16 Q. Just to situate the time when you met him, when you saw him was
17 it before or after you returned to Aveba to see your fiancée during a
18 weekend as you told us last week?

19 A. That was after my trip to Aveba. When I returned from Beni I
20 went to Aveba. Now, when I returned from Aveba to Bunia, it was at that
21 time that the team of the Ituri Pacification Committee was meeting.

22 Q. Did you have the opportunity to talk to Germain Katanga on that
23 occasion in Bunia when you went him when he came to attend the
24 proceedings of the Ituri Pacification Committee?

25 A. No, I simply saw him amongst those who were in attendance. We

1 did not meet or talk to each other on any subject matter at all.

2 Q. You personally, who were you with when you saw Germain Katanga?

3 A. I cannot give you a clear answer on that.

4 Q. In what context did you see him, what was he doing specifically?

5 A. There were groups of people there. I remember that there was
6 Mr. Muhito who was there, someone I know very well, and I greeted him.
7 That was it.

8 Q. Just to make things clear, he was with Mr. Muhito; is that
9 correct?

10 A. He was with Muhito and the others, but the person I remember is
11 Muhito because that was one of the persons we lived with in Nyakunde
12 whilst he was teaching in Nyakunde.

13 Q. Just for the benefit of the record, when you talk of Muhito, you
14 are indeed referring to Émile Muhito; is that correct?

15 A. Yes.

16 Q. Émile Muhito, Mr. Witness, for the benefit of the Chamber, is
17 someone who was a teacher in Nyakunde; is that correct?

18 A. Yes.

19 Q. He had also worked in Songolo as a teacher; is that correct?

20 A. Yes.

21 Q. You will also agree with me that Mr. Émile Muhito also acted as
22 political advisor to Germain Katanga; is that correct?

23 A. I know nothing about that.

24 Q. Before we carry on with your meeting with Germain Katanga, did
25 you talk to Mr. Muhito?

1 A. Thank you. We lived almost in the same house with Muhito in
2 Nyakunde. He was like a family acquaintance.

3 Q. Just for us to understand your evidence better, what you are
4 telling us is that the fact that Émile Muhito was the political advisor
5 of Germain Katanga, well that's the first time you are hearing about that
6 today?

7 A. Well, that is news to me.

8 Q. That is news you are hearing for the first time; is that correct?

9 A. Yes.

10 Q. Mr. Witness, at least you know that Mr. Muhito said he was in
11 contact with Germain Katanga at that point in time?

12 A. I know nothing about that. Because I knew him as one of the
13 teachers, the prefect in Songolo.

14 Q. But when you saw him in Aveba, Émile Muhito was with
15 Germain Katanga according to your evidence?

16 A. I am talking about Bunia, when they came to attend the
17 proceedings of the Ituri Pacification Committee.

18 Q. Yes, indeed, Mr. Witness. In Bunia they were together, that is,
19 Émile Muhito and Germain Katanga; is that correct?

20 A. Yes, I found them together.

21 Q. You must have certainly asked questions to Mr. Émile Muhito, you
22 must have asked him what he was doing there, what he was doing with
23 Germain Katanga?

24 A. That was not the purpose of our discussion with him. We were
25 just greeting him as a matter of courtesy and that was it.

1 Q. Very well. So you greeted him, Mr. Émile Muhito whilst he was
2 with Germain Katanga in Bunia; is that the case?

3 A. Yes.

4 Q. You must have spoken with him on another occasion I suppose?

5 A. I believe so.

6 Q. Mr. Witness, did you ask him what he was doing there, how he came
7 to be with Germain Katanga? Were you not curious to know what
8 Mr. Émile Muhito was doing there in Bunia?

9 A. No, not at all.

10 Q. Now let's forget that time when you met him and talked to him.
11 But later on you must have asked him questions, especially given that you
12 had lived with him in the same house, you must have been curious to know
13 what he was doing there, what his role was in the Ituri Pacification
14 Committee, what he was doing with Germain Katanga? You didn't ask him
15 questions of that nature later on?

16 A. Thank you for the questions. I believe that at the Ituri
17 Pacification Committee you did not only have militia members. You also
18 had prominent figures. I considered him as one of the prominent figures
19 of the area. A teacher, a prefect could also be co-opted to participate
20 in the proceedings of the Ituri Pacification Committee.

21 Q. When you saw Mr. Katanga, was he dressed as a soldier?

22 A. No.

23 Q. And when you saw him in the month of April at that time, you
24 certainly knew that he was the head of the militia in Aveba?

25 A. Well, could you please rephrase that question?

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1 Q. When you saw Mr. Germain Katanga with Émile Muhito in Bunia, you
2 already knew at that point in time that Germain Katanga was the leader of
3 the militia in Aveba; is that correct?

4 A. No.

5 Q. And you did not wonder, you did not ask yourself the question of
6 knowing what he was doing there, Germain Katanga?

7 A. That was not my concern in any case.

8 Q. But you had already met this individual, Germain Katanga, in Beni
9 in December 2002; he had been introduced to you as the husband of someone
10 you had lived with in Nyakunde?

11 A. Yes.

12 Q. You were not curious to know what he was doing there at that
13 point in time or even later on?

14 A. No.

15 Q. Now, just one further question on Émile Muhito, would it be
16 correct to say that Émile Muhito was married to a woman who was -- who
17 went by the name of Justine?

18 A. Yes.

19 MR. GARCIA: (Interpretation) Your Honour, I would like us to go
20 into private session just for a few seconds because I wish to confirm
21 something.

22 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could we
23 move into private session for questions which might disclose certain --
24 the identities of certain persons.

25 (Private session at 10.27 a.m.)

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1 (Expunged)
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19 (Expunged)

20 (Open session at 10.28 a.m.)

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

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

24 Mr. Prosecutor, you may proceed.

25 MR. GARCIA: (Interpretation)

1 Q. You have just informed us that Justine, if I understood you well,
2 was the younger sister to Pastor Vicky's wife, that is, the younger
3 sister of Julienne; is that correct?

4 A. Yes.

5 Q. Just to make things clear, did that person live with you at some
6 point in time in Nyakunde in the year 2001 in the house of
7 Mateso Omuani?

8 A. That was before the destruction of Nyakunde.

9 Q. You say before the destruction of Nyakunde?

10 A. Yes.

11 Q. That it was at that point in time that she lived with you at
12 Mateso Omuani's residence; is that correct?

13 A. Yes.

14 Q. Mr. Witness, I would like to raise another issue, a completely
15 different issue, the name Logo, does it ring a bell with you?

16 A. What is the other name?

17 Q. This is someone who is called Logo who represents the Defence
18 team of Mr. Germain Katanga.

19 A. Yes, the name rings a bell.

20 Q. This is someone you have already met, Mr. Witness; correct?

21 A. That is possible.

22 Q. Do you need some time to think about that?

23 A. Think about what?

24 Q. My question was precise: Have you already met that person Logo,
25 representative of the team of Germain Katanga?

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1 A. Yes.

2 Q. When did you meet him for the first time?

3 A. I cannot remember precisely, but I do know that I was at the
4 place of our cousin Denise. And when he came to visit that family he
5 found me there.

6 Q. Where specifically did he find you?

7 A. At the place of another one of Denise's cousins.

8 Q. Was it not Denise's elder sister instead?

9 A. These are people who are practically from the same family.

10 Q. Very well. What I want to know is simply when you met him for
11 this first time. I'm basing myself on your statement to the OTP. You
12 said you met with him in the house of Denise's elder sister?

13 A. Yes.

14 Q. It was not Denise's cousin but her elder sister; is that correct?

15 A. She is Justine's elder sister, and if you know the relationship
16 between Justine and Denise then that is the same relationship.

17 Q. And what is the name of that person?

18 A. Androsi (* phon), Androsi Mugo.

19 Q. If I understand you very well, you met Logo in the residence of
20 Androsi Mugo who is Denise's elder sister; is that correct?

21 A. Yes.

22 Q. Can you tell us approximately when you met Logo the very first
23 time?

24 A. I no longer remember.

25 Q. And in your statement you mention a certain Maître Logo; is that

- 1 correct?
- 2 A. Yes, because he was introduced to me as a lawyer.
- 3 Q. Who introduced him to you as a lawyer, Mr. Witness?
- 4 A. Denise's elder sister that we have been talking about.
- 5 Q. So it was Madam Androsi who introduced him to you as a lawyer?
- 6 A. Yes.
- 7 Q. And this happened in the presence of Mr. Logo?
- 8 A. Since he was the one who came and found me there, it was right
- 9 next to there that Madam Androsi introduced him to me, not in his
- 10 presence but he said -- she said that he was a lawyer.
- 11 Q. According to what you say, this was just a coincidence? This
- 12 meeting was not planned?
- 13 A. That is correct. I was simply at Androsi's house and he also
- 14 came there. We did not have an appointment.
- 15 Q. What was Logo doing in Androsi's house? What was their
- 16 relationship?
- 17 A. At that time when Germain Katanga went to Kinshasa, all of
- 18 Katanga's family, that is, Denise and her children, were in Androsi's
- 19 house. Even Germain Katanga's last daughter was born there.
- 20 Q. For everything to be clear, Denise 's elder sister was there in
- 21 that residence but Denise herself was also there in Bunia in that house?
- 22 A. Yes. It was in that family that Denise was living.
- 23 Q. And did you frequently go to that house, Androsi's house?
- 24 A. Yes, I went there quite a few times.
- 25 Q. Am I correct to say that Mr. Logo frequented that house several

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1 times?

2 A. Not at all.

3 MR. HOOPER: (Previous translation continues) ... questions have
4 any real relevance.

5 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, what is
6 the purpose of that series of questions relating to the dates of the
7 meetings between the witness and Mr. Logo?

8 MR. GARCIA: (Interpretation) Your Honour, I know that
9 Mr. Hooper knows perfectly where I'm going with those questions, but I
10 cannot answer in the presence of the witness.

11 PRESIDING JUDGE COTTE: (Interpretation) Just one moment. You
12 have asked a certain number of questions in relation to the statement
13 that you referred to, a statement given to your office last July. The
14 witness answered and provided clarifications on how he was introduced to
15 Mr. Logo, where he met with him, the approximate date of that meeting and
16 the presence of the elder sister of Denise, Germain Katanga's wife. So
17 we have to make progress.

18 Mr. Hooper, you wanted to address the Court.

19 MR. HOOPER: Just in response to my friend's final comment that I
20 "knew very well where he was going." I do not know where he's going. If
21 I had known where he was going, I wouldn't have made the interjection
22 that I did.

23 PRESIDING JUDGE COTTE: (Interpretation) Duly noted.

24 Mr. Garcia, please proceed and let us make progress with this
25 aspect related to Logo.

1 MR. GARCIA: (Interpretation)

2 Q. Is it not correct, Mr. Witness, that when you met with Logo you
3 talked about John?

4 A. Yes. Thank you for the question. I simply asked him a question
5 out of curiosity.

6 Q. Out of curiosity. You did not want to speak about John's case,
7 what was happening with him?

8 (Expunged)

9 (Expunged) so I was
10 curious about that.

11 Q. But when you met with Logo, surely you discussed John's
12 background in greater detail?

13 A. No.

14 Q. You did not discuss that with Logo?

15 A. No.

16 Q. Is it not correct, Mr. Witness, that the issue of coming here to
17 testify at the ICC was mentioned?

18 A. I beg your pardon?

19 Q. Isn't it correct, Mr. Witness, that you discussed with Logo the
20 possibility of coming to testify here at the Court on the subject of
21 John?

22 A. No, this did not happen on the occasion of that coincidental
23 meeting. It was not on that day.

24 Q. Are you telling us, Mr. Witness, that there were other meetings
25 with Logo?

1 A. What was your question?

2 Q. Mr. Witness, on that day when you met with Mr. Logo it was a
3 coincidental meeting. Now, during that meeting did you discuss the
4 possibility of testifying here before the Court about John? That was my
5 question.

6 A. Talking about my testimony here?

7 Q. Yes, that is correct, Mr. Witness, coming to testify here in
8 favour of the Defence.

9 A. Very well. On that day, to be clear, I asked Logo a question
10 just out of curiosity. I wanted to know about that rumour. He told me
11 that, no, there was no problem and this was a relief for me, but it was
12 not a meeting in which someone could be asked to come and testify
13 accidentally like that; that is not what happened.

14 Q. Mr. Witness, I will have a clean copy of your statement that you
15 gave at that time to the OTP on the 18th of July, 2006, and I will refer
16 you to two specific paragraphs.

17 PRESIDING JUDGE COTTE: (Interpretation) Court Usher, can you
18 fetch that statement, please.

19 Thank you. That statement will be shown to the witness.

20 And, Mr. Prosecutor, please specify the paragraphs that you are
21 referring to.

22 MR. GARCIA: (Interpretation)

23 Q. It is DRC-OTP-1037-0045. I would like to draw your attention to
24 paragraph 25 and the first two lines of paragraph 26.

25 PRESIDING JUDGE COTTE: (Interpretation) The witness has read

1 that extract. Please proceed, Mr. Prosecutor.

2 MR. GARCIA: (Interpretation).

3 Q. Mr. Witness, you have read that statement. Is it not correct

4 that in paragraph 24 you told the Prosecutor:

5 "Logo asked me whether I could testify on (Expunged)

6 (Expunged)

7 "Logo asked me whether I could testify on the background of" and

8 I omit the name. "I told him I would do it if it was necessary. I was

9 not going to do it, but if I had time I would do it."

10 And in paragraph 26, first and second sentences:

11 "I discussed nothing else with Logo and I did not meet with him

12 again."

13 Mr. Witness, is it not correct that during that meeting which you

14 claim was accidental you discussed the possibility of coming to testify

15 here in the Court about the person in paragraph 25 and 26?

16 A. Thank you. The paragraphs are there but there were questions

17 that were put to me and I was answering them. There are other elements

18 in other paragraphs, so I cannot find a logical chain of ideas. Maybe

19 you should come back to how the questions were asked so that we should

20 know why the answers given were given.

21 Q. You confirm at least that in paragraph 26 of that same statement,

22 Mr. Witness, you stated that you did not meet with Logo again?

23 A. Yes, that is what I said on that day.

24 Q. Do you stand by that assertion? Did you meet with him again?

25 A. Regarding the day that I met with people from your office?

1 Q. Let us set aside this statement for the time being, Mr. Witness.

2 I'm asking you a precise question --

3 MR. HOOPER: (Previous translation continues) ... it's quite
4 significant, isn't it, because the witness has said: Are you asking me
5 this question in terms of the time when I met these people from your
6 office? So the date of the interview with the Prosecution is
7 significant. The question should be when did he meet Logo, was it before
8 or after the meeting with the Prosecution on other occasions?

9 MR. GARCIA: (Interpretation) Your Honour, I am coming to that.

10 PRESIDING JUDGE COTTE: (Interpretation) Yes. Be as quick as
11 possible and as concise as possible. The witness has already answered
12 some of your questions, dates, and so on. So please, you have to go to
13 the crux of the matter. Please continue.

14 MR. GARCIA: (Interpretation)

15 Q. Mr. Witness, before I come back to my question, is it correct to
16 say that this entire statement was re-read to you. You initialled every
17 page of the statement; is that correct?

18 A. Yes.

19 Q. We have already established what is in the statement, but I have
20 a precise question. Is it not correct that according to your testimony
21 that first meeting was accidental, but is it not correct that during that
22 first meeting you discussed the possibility of testifying here about
23 John?

24 A. Very well. With regard to my first meeting with Mr. Logo, given
25 that this was not even a planned meeting, he had just come to see how

1 Germain Katanga's children were doing and then he left again. We really
2 did not discuss anything on that day.

3 Q. Mr. Witness, I'm not going to stay forever on this point, but my
4 question is precise. Did you discuss the possibility of testifying here
5 at the Court about John, as stated in paragraph 25 of that statement, yes
6 or no?

7 A. No. During that first meeting we did not discuss everything that
8 you have referred to here.

9 Q. So you are telling us that paragraph 25, as it appears there, is
10 incorrect; is that so?

11 A. Can you remind me of the question related to that paragraph?

12 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, I will
13 reiterate what I said a short while ago. What is important to the Court
14 is what you are saying today. You can confirm a statement that you made
15 previously or you can give a version that is different from what you said
16 before. What is important to us is what you say here today after having
17 made the solemn undertaking.

18 So today as things stand, tell us what you believe is the truth.
19 How did things happen? That is all. Let us not go to pointless issues
20 relating the manner in which the questions were put. Simply tell us
21 whether during that first meeting you discussed the possibility of coming
22 to testify or not. That is what the Prosecution was asking you, I
23 believe, and in light of your answer we will be able to make our
24 determination.

25 THE WITNESS: (Interpretation) Thank you, your Honour. With

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1 regard to the Prosecutor's question, we were talking about the first
2 meeting with Maître Logo. It was not in the course of that first meeting
3 that he asked me whether I could come to testify here or not. I have
4 already said that that first meeting -- in the course of that first
5 meeting I was simply introduced to him and I was told who he was.

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

7 MR. GARCIA: (Interpretation)

8 Q. Mr. Witness, let me remind you also that in the second sentence
9 of paragraph 26 you stated as follows:

10 "I did not meet him again."

11 And you were referring to Logo. So according to this statement
12 you met with Mr. Logo only once, on the 17th or the 18th of July, 2006.

13 Are you telling us that the information in paragraph 25 is incorrect?

14 You never made such a statement? Because we also have recordings,

15 Mr. Witness. This interview was recorded.

16 A. And what is your question?

17 MR. GARCIA: (Interpretation) Mr. President, I do not think I
18 have any further questions on this topic. I will move on to something
19 else, so I believe we can break right now.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

21 Mr. Prosecutor.

22 Can you give us a rough approximation of the time that you will
23 need to conclude your cross-examination, please?

24 MR. GARCIA: (Interpretation) I would like to reassure the
25 Chamber that I'm trying to move as quickly as possible. I will try to

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- 1 conclude within one hour or possibly one and a quarter hours.
- 2 PRESIDING JUDGE COTTE: (Interpretation) Very well.
- 3 Mr. Witness, we are going to break for 30 minutes and you will be
- 4 able to rest. It is 10.55 and we will resume at 11.25.
- 5 Court Usher, can you take the witness out of the courtroom.
- 6 See you shortly, Mr. Witness.
- 7 THE WITNESS: (Interpretation) Thank you.
- 8 (The witness stands down)
- 9 PRESIDING JUDGE COTTE: (Interpretation) Before the end of the
- 10 hearing, Mr. Hooper will need to tell us whether he has discussed with
- 11 Mr. O'Shea the possibility of not calling certain witnesses.
- 12 The hearing is suspended.
- 13 Recess taken at 10.56 a.m.
- 14 On resuming at 11.30 a.m.
- 15 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
- 16 Hooper's team will probably not be much later. Then, perhaps the
- 17 witness could be brought into the courtroom.
- 18 (The witness takes the stand)
- 19 PRESIDING JUDGE COTTE: (Interpretation) Can you hear me well,
- 20 Witness?
- 21 THE WITNESS: (Interpretation) Yes.
- 22 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, do you
- 23 have information where this team got lost or what's happened?
- 24 JUDGE DIARRA: (Interpretation) Mr. Katanga, do you have any
- 25 news with regards to your team?

1 MR. KATANGA: (Interpretation) Your Honour, I don't.

2 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, please
3 continue with your cross-examination and you will remember our time
4 constraints. You now have the floor.

5 MR. GARCIA: (Interpretation) Thank you, your Honour. Thank
6 you, Judges.

7 Q. Witness, we're going to change subjects briefly. Do you know a
8 person called Malivo?

9 A. Yes.

10 Q. Could you tell us who this person is?

11 A. Thank you. Malivo is someone with whom -- he was also with
12 Pastor Vicky in Aveba, and I remember in Bunia then there was time that
13 we spent with him going to -- moving around during the Ituri conflict
14 time.

15 Q. And by way of position, Malivo was he with you in Nyakunde before
16 going to Aveba?

17 A. Yes. Furthermore, I remember that the day that we came from
18 Nyakunde to Bunia we were with Malivo.

19 Q. He live in -- did Malivo live in that house with Mateso Omvuani
20 at the same time as the other people who you saw previously?

21 A. In the -- not in the same house in Nyakunde but we were with him
22 in Bunia.

23 THE INTERPRETER: The interpreter states in the previous answer:
24 They were with Malivo on bike.

25 MR. GARCIA: (Interpretation)

1 Q. The name Chef Manu, does that name mean anything to you?

2 A. Yes.

3 Q. Have you already met Chef Manu?

4 A. Yes.

5 Q. On what occasion did you meet him?

6 A. Thank you. I met Chef Manu in Zumbe in the village where he was
7 chief, and this was during a service mission that I carried out in Zumbe.
8 In the month of October 2003 I went for a vaccination in Zumbe and that's
9 why -- that's when I met Chef Manu, and I went there for a measles
10 vaccination.

11 Q. And last question with regards to this trip, did you stay there
12 for a long time, trip to Zumbe?

13 A. The first time for this vaccination I went there and I spent a
14 week in Zumbe, but shortly afterwards we also went to go there during our
15 supervision.

16 Q. And with regards to this, when you went there and back what year
17 was that in?

18 A. That was regularly between 2003 and 2005, 2006.

19 Q. Witness, we're going to go back to another subject now. You
20 spoke to us on Tuesday about John and you spoke about a lot of things.
21 Counsel Hooper asked you a lot of questions about the background of that
22 person. And where I would like to come to, Counsel Hooper asked you a
23 question concerning the belonging or the membership of John in a militia,
24 John's membership in a militia. And I will go back to the question that
25 was put by Counsel Hooper --

1 MR. GARCIA: (Interpretation) If you would allow me a moment,
2 your Honour.

3 (Prosecution counsel confer)

4 MR. GARCIA: (Interpretation)

5 Q. Witness, it's -- transcript for the parties, transcript 257 and
6 it's page 44. Witness, I shall read the question that was put to you by
7 Counsel Hooper on Tuesday, line 2.

8 "Q. And during the time that you spent together from 2002 to
9 2003 in Aveba and that until 2004, even 2005, to your knowledge was he
10 ever a member of a militia? And here we're speaking about John."

11 And you answered in line 5:

12 "Thank you for the question. John had never been a member of a
13 militia."

14 Counsel Hooper:

15 "And to be fair I would also say -- I will tell you what the
16 following question was. You also -- to your knowledge, was he associated
17 with a militia? Did he go with a militia? Did he have links with a
18 militia to your knowledge?"

19 Your answer is in line 9:

20 "Thank you for the question. To my knowledge John met the --
21 went to the militia camp because he was familiar with some of the -- or
22 he was friends with a militia Garimbaya. So he did go there as he would
23 with other members of the family would visit their family members."

24 Now, do you remember having given this answer to the question,
25 it's a precise question, which was put by Counsel Hooper?

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1 A. Yes.

2 Q. Is it not true, Witness, and here I'm going to give you a fresh
3 version of your statement to consult, and here we can refer to certain
4 passages hereof. If the Court Usher could take this statement in order
5 to provide it to the witness. Thank you.

6 Witness, I'm going to ask you to pay attention to page 12,
7 paragraph 8 thereof, and if you see the figures at the bottom 05
8 DRC-D02-0001-0530, page 0541, and it's the paragraph with the line that's
9 starting: "Some months after my marriage ..." and so take time in order
10 to read this passage, if you please.

11 Witness, I can see that you've finished reading this passage; is
12 that correct?

13 A. Yes.

14 Q. Is it correct, Witness, that in this passage you state, and here
15 I will quote you:

16 "Some months after my marriage he came firstly to live in my
17 house, my family house, and he continued with his studies later. Later
18 he joined the militia. (Expunged) -- please excuse me. So the person in
19 question "was in the militia for very little time," and you continue, "he
20 joined just before the demobilisation."

21 So, Witness, you will see that there is a difference between what
22 you answered to the question of Counsel Hooper on Tuesday and what is
23 written in your statement made to the Defence, which is signed of the
24 14th of March, 2011.

25 MR. HOOPER: In fairness to the witness and in fairness to the

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1 record, the complete passage there should be read to the witness so that
2 we have its context and can compare it to what he has said in evidence.

3 MR. GARCIA: (Interpretation) Your Honour, I read the first
4 passage and I also read the whole paragraph preceding and which
5 continues, your Honour. I have no objection, but obviously --

6 PRESIDING JUDGE COTTE: (Interpretation) No, that's going to
7 take some time but please read it, start from "a few months after my
8 marriage," and please do not forget to use the name "John."

9 Yes, please go ahead.

10 MR. GARCIA: (Interpretation) Your Honour, I think that the
11 witness --

12 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead.

13 MR. GARCIA: (Interpretation)

14 Q. I'm going to read the next paragraph, that's no problem.

15 PRESIDING JUDGE COTTE: (Interpretation) Please do so and
16 continue.

17 MR. GARCIA: (Interpretation)

18 Q. So the next passage, Witness, is:

19 "John did not visit Germain" --

20 MR. HOOPER: (Previous translation continues) ... it's --
21 previously my friend --

22 PRESIDING JUDGE COTTE: (Interpretation) No --

23 MR. HOOPER: (Previous translation continues) ... at the words
24 "he was in the militia for very little time. He joined just before
25 demobilisation."

1 And what I've requested, if the Court would consent to it, is
2 that the full paragraph is put in, continuing he was in the group of
3 Garimbaya and the words that follow there down to the end of
4 *affretement* because that is a contextual reflection -- well, I won't make
5 any comment on it but it's a fairness to the witness that that total
6 passage, in my submission, is put to put into the transcript. He can
7 read it but it's important it's in the transcript.

8 PRESIDING JUDGE COTTE: (Interpretation) Very well.

9 Our concern here is to get the most clear answers as possible
10 from the witness, faced with possible differences - those are your
11 terms - between the statement which we're talking about and the
12 transcript of last Tuesday. So, Prosecutor, quite simply read from "a
13 few months" and apparently you wanted to continue, then you can continue
14 afterwards with the last part of this page 12, and then you can ask your
15 question. Please go ahead. We're listening. Start "a few months after
16 my marriage ..."

17 MR. GARCIA: (Interpretation) I understood. I'm going to
18 re-read the passage. So I'll start.

19 Q. "Later he joined the militia. John was in the militia a very
20 small amount of time. He joined just before the demobilisation and he
21 was in the group of Garimbaya. At that time it was calm, there was no
22 conflict during all this period. Before we had lived together he wasn't
23 in the militia, and it seemed to me to be impossible that he participated
24 in the combat."

25 Now, that is your statement that you gave to the Defence; is that

1 correct?

2 A. Yes.

3 Q. So you see, Witness, that in this statement, in this paragraph,
4 passage that I've read to you, you confirm in a certain way, a rather
5 certain way, that John was part of the militia; is that correct?

6 A. No.

7 Q. Witness, you stated:

8 "A few months after my marriage he came to live with me in my
9 family home. He continued his studies. Afterwards he joined the
10 militia ..."

11 Those are your words, are they not?

12 A. Yes. Perhaps there's something that I need to say in that
13 regard.

14 Q. Witness, what I want to know: Are these your words? Did you say
15 to the Defence, to the person who took your statement: "... later he
16 joined the militia ..." are you in agreement with me?

17 A. Yes. I would also like to provide an explanation in this regard,
18 Prosecutor.

19 PRESIDING JUDGE COTTE: (Interpretation) Okay. Explain
20 yourself. So please give us the clarification that will help us. We are
21 listening to you.

22 THE WITNESS: (Interpretation) Thank you. Here in this case
23 we've spoken about the term "joined," that's to say that he joined
24 that -- he joined a camp where Garimbaya was. He wasn't living with us
25 anymore at home. He was living with Garimbaya in that place, and I think

1 that I have shed light on the fact that he had joined Garimbaya not as a
2 person in the militia but as a member of the family of Garimbaya, and at
3 that time he was studying. He was studying at the school in
4 Aveba Institute. He had restarted his studies already in September.

5 MR. GARCIA: (Interpretation).

6 Q. Certainly, witness, that was your testimony. But the reason I
7 ask you the question is because in your statement you say and you
8 continue to state that John was in the militia for a very short amount of
9 time. So even give a period of time in which he was said to have been in
10 the militia.

11 A. Thank you. I think it's probably a problem with regards to the
12 terms. If we -- if we see his presence in that camp, he was already
13 among these people with Garimbaya. And it's this period, during this
14 period, as was said yesterday or Tuesday, rather, after -- after his
15 friend Garimbaya had demobilised him because what happened was that even
16 if you only visited the militia you could be demobilised. That's what I
17 was -- that's what I heard. And so this short time that he was there in
18 the camp with Garimbaya, he was demobilised as well and then he went
19 home.

20 Q. Paragraph 3 of the same page, page 12, DRC-D02-0001-0541, which
21 starts with "John was in Aveba ..."

22 A. Yes.

23 Q. Are you in agreement with me that in this passage you also speak
24 about the fact that John joined the militia and you specify the time.
25 "He joined the militia after my marriage." By -- he visited them and it

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1 was also by influence. Is that what you said?

2 A. Yes, that's what I was saying. The fact that he went to live
3 with this militia Garimbaya in his camp.

4 Q. Witness, I've re-read your statement. You've had the opportunity
5 to read it yourself and to put your initials at the bottom of each page;
6 is that not correct?

7 A. Yes.

8 Q. Then why did you not correct this if it's not the case? You said
9 that you wanted to say something else --

10 MR. HOOPER: I'm sorry. Would it not be a fairness to the
11 witness and for the benefit of the transcript if those three lines of
12 that passage my friend's just turned to are read into the transcript so
13 that we can see the context that he's talking about, because that first
14 sentence has some importance.

15 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, even if the
16 witness has the document before his eyes we're going to ensure that all
17 of this sentence is in the transcript. You will read it.

18 And, Witness, you will provide an answer thereto. We are
19 listening to you.

20 MR. GARCIA: (Interpretation)

21 Q. So, Witness, I'm going to quite simply read this passage which
22 I'm referring to.

23 "John was in Aveba at this time but he wasn't part -- he wasn't a
24 member of the militia. He joined the militia after my marriage. And
25 there were by influence and -- because he visited them and it was

1 afterwards, a long time afterwards, I don't remember the exact date
2 precisely."

3 So you admit that that was your statement to the Defence team of
4 Mr. Germain Katanga? Those are your words; is that correct?

5 A. Yes, I said that but I think that we are trying to make explicit
6 what it was exactly.

7 Q. Yes, but, Witness, you had the opportunity to read this statement
8 before putting your initials at the bottom of each page and signing the
9 last page, which confirms that the statement was read to you in French.
10 So if there was any kind of ambiguity with -- if, for example, there was
11 the issue of joining, if that was a mistake, why doesn't that figure
12 here?

13 A. Well, I think that during -- in a explanation, as we're trying to
14 be clear, that "join," for us that's -- by being in the camp where he
15 lived with Garimbaya, he joined Garimbaya in his camp, and that's where
16 he was living because there was also one of the brothers of Garimbaya who
17 was studying with.

18 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, so twice
19 the witness has today given us his answer, which is: Therefore there is
20 a distinction apparently to be made between joining the militia and
21 joining the camp where Garimbaya was or going to the camp where Garimbaya
22 was. These are his words, he's said that twice now. Perhaps we can go
23 on.

24 MR. GARCIA: (Interpretation)

25 Q. You speak about a certain Garimbaya. Who was Garimbaya, what was

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1 his function in Aveba?

2 A. I think if you continue with the reading, it even states where he
3 was. He had his camp next to the airport. There was a little aerodrome
4 in Aveba.

5 Q. If you would allow me just to go back to the statement of the
6 witness --

7 PRESIDING JUDGE COTTE: (Interpretation) Then you will read the
8 passage.

9 MR. GARCIA: (Interpretation) I'm sorry, your Honour. I didn't
10 refer to a passage in the statement. I just wanted the witness not to
11 refer to his statement while giving testimony.

12 PRESIDING JUDGE COTTE: (Interpretation) Understood.

13 Usher, can you take the statement which was put before the
14 witness, if you would be so kind and keep it because it's -- we wouldn't
15 rule out that he can be provided with it once again.

16 Now, Prosecutor.

17 MR. GARCIA: (Interpretation)

18 Q. I'm going to get back to this question. I know that you've
19 already provided an answer, but just that this is clear: What were the
20 exact functions of Garimbaya in Aveba?

21 A. Thank you. Garimbaya was -- well, he had a camp, as I said, by
22 the airport or the aerodrome in Aveba. There was a small runway if we
23 can put it like that.

24 Q. Is it also right to say, Witness, that Garimbaya was the person
25 who was in charge of Germain Katanga's escort, of his bodyguard?

1 A. I don't know the military command, but they were in two opposing
2 camps. I don't know if he escorted him from our camp because where I was
3 they were in two camps which were very different.

4 Q. I've understood that they were in two different camps, but isn't
5 it correct that he was the chief of Germain Katanga's escort?

6 A. I don't know the hierarchy.

7 Q. How much time did you spend in Aveba in total --

8 MR. HOOPER: Again, I'm sorry, but there's been very direct
9 assertions made by the Prosecutor when the questions should be more
10 neutral in my respectful opinion because it effectively misleading the
11 witness, making an assertion -- it sounds like an assertion of fact when
12 it's not.

13 MR. GARCIA: (Interpretation) Your Honour, I would just like to
14 remind Counsel Hooper that we're in cross-examination, that the
15 Prosecution never objected to Counsel Hooper when he was carrying out
16 cross-examination asking leading questions, which is fundamental to
17 cross-examination. The statements that I'm making to the witness, these
18 are statements which come from evidence. So there is a reasonable
19 grounds for all the statements that I'm making, none of them just plucked
20 from the air, as it were.

21 PRESIDING JUDGE COTTE: (Interpretation) We all have the concern
22 to try and get answers which are clear from the witness, so this does
23 mean having questions which are perfectly clear for the witness. This is
24 the only objective that we are trying to obtain and that we pursue within
25 the framework of this cross-examination and that you are trying to look

1 for and we hope that you can obtain it, otherwise that would be very
2 difficult.

3 Now, please continue, Mr. Garcia.

4 MR. GARCIA: (Interpretation)

5 Q. Mr. Witness, I would simply like you to confirm, yes or no,
6 whether to the best of your knowledge Garimbaya was the chief of
7 Germain Katanga's escort at the time you were in Aveba?

8 A. I know nothing about that.

9 Q. The question I asked you was you spent about a year and a half in
10 Aveba if I understood you correctly; is that the case?

11 A. Yes.

12 Q. And during that time you were never aware of Garimbaya's
13 functions or position; right?

14 A. Thank you. As I said, Garimbaya had his camp and I also use to
15 see him serve as an escort. I was telling you that I don't know anything
16 about military hierarchy. I cannot give you any clarification on that.

17 Q. You agree with me, Mr. Witness, that Germain Katanga had an
18 escort at the time you were in Aveba; is that correct?

19 A. Well, I used to see him with other soldiers. For example, I
20 never saw Garimbaya with him, the Garimbaya you're talking about.

21 Q. Mr. Witness, we are going to change subjects for a while. You
22 stated that you came from Aveba -- I beg your pardon, that you went to
23 Bunia in the month of April 2003; is that correct?

24 A. Yes, coming from Beni.

25 Q. Is it also correct that you saw Mathieu Ngudjolo in Bunia whilst

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1 you were there in the month of April 2003?

2 A. I saw Mathieu Ngudjolo when I was going to Zombe for vaccination
3 purposes.

4 Q. Very simply, can you confirm, Mr. Witness, whether you also saw
5 Mathieu Ngudjolo in the month of April 2003 in Bunia?

6 A. I no longer remember.

7 MR. GARCIA: (Interpretation) Your Honour, would it be possible
8 to give to the witness the statement 1055-0045?

9 PRESIDING JUDGE COTTE: (Interpretation) Well, that statement
10 should be handed to the witness once more, the statement of July 2010.
11 And could you please inform the witness of the page he should turn to.
12 And if that excerpt is not too long he should please read it out loud.

13 MR. GARCIA: (Interpretation)

14 Q. Mr. Witness, I'm referring to paragraph 20 and I will give you
15 time to look it over.

16 PRESIDING JUDGE COTTE: (Interpretation) The witness is reading
17 it and, Mr. Prosecutor, you should read it bearing in mind that you have
18 to use the right pseudonyms.

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

20 Q. Witness, in paragraph 20, second sentence, you stated the
21 following:

22 "I knew Mathieu Ngudjolo when I arrived in Bunia in April 2003.

23 Later on I met some family -- some of his family members in Zombe in

24 October 2003."

25 Mr. Witness, do you remember having made those statements to the

1 team when you met them on the 17th, 18th of July, 2010?

2 A. Yes.

3 Q. Would I be right to say, Mr. Witness, that when you met

4 Mathieu Ngudjolo --

5 MR. FOFÉ: (Interpretation) Your Honour, I beg your pardon.

6 PRESIDING JUDGE COTTE: (Interpretation) You may proceed.

7 MR. FOFÉ: (Interpretation) I understand that the Prosecutor is
8 referring to paragraph 63, instruction 1665, but I believe that it is
9 useful to stick to what the witness said. The witness did not say that
10 he met Mathieu Ngudjolo. And even in paragraph 20 which has just been
11 quoted, no mention is made of a meeting. There you have it, your Honour.

12 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, you
13 should ensure that the witness says exactly what happened in April 2003
14 as well as in October 2003. I do not want to take your place,
15 Mr. Prosecutor, but what happened exactly on those dates with respect to
16 this contact with Mathieu Ngudjolo? What does the witness mean when he
17 says "I knew Mathieu Ngudjolo"?

18 Mr. Prosecutor, could you ask the witness to give you that
19 clarification, what does he mean by "I knew Mathieu Ngudjolo when I
20 arrived in Bunia in April 2003"? The witness has understood me and he
21 can provide an answer.

22 What do you mean by "I knew Mathieu Ngudjolo," Mr. Witness?

23 THE WITNESS: (Interpretation) Thank you, your Honour. When I
24 arrived at Bunia I was called to work with an NGO, an NGO in charge of
25 providing medical care to the population in Ituri at the time.

1 Mathieu Ngudjolo was a nurse walking in his district where he was living
2 in Zumbe. During that time training courses were organised for health
3 personnel, and it was on one of such occasions that I knew
4 Mathieu Ngudjolo as one of the nurses who had come from Zumbe. And this
5 was in the Kambutso health centre to be precise.

6 PRESIDING JUDGE COTTE: (Interpretation) It's important for us
7 to understand. During that period did you hear mention of
8 Mathieu Ngudjolo as a health professional or at that point in time did
9 you meet him? That is the clarification the Prosecution would like to
10 get from you and it would be useful to the Bench as well.

11 THE WITNESS: (Interpretation) Well, we simply saw each other
12 during a training course, just as we are sitting here, he was one of the
13 participants in the training course. And the subject of the training was
14 rational prescription.

15 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, you may
16 take the floor again to get more clarification from the witness or to
17 move on to other items.

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

19 Q. Just to get more clarification, Mr. Witness, in April 2003 and
20 according to your evidence when you saw Mathieu Ngudjolo at that point in
21 time, he was serving as a nurse; is that your evidence?

22 A. Yes. I know young people that he trained in health centres and I
23 even encouraged some of these young people to carry on with their nursing
24 studies and some of them have even completed their training.

25 Q. Witness, is it not correct that Mathieu Ngudjolo at that point in

1 time was the leader of the fighters --

2 MR. FOFÉ: (Interpretation) I beg your pardon, your Honour.

3 PRESIDING JUDGE COTTE: (Interpretation) You may proceed.

4 MR. FOFÉ: (Interpretation) Your Honour, the questions put to
5 the witness were very clear questions, and the witness has given very
6 clear and very precise answers. I do not think it would be correct to
7 try to put so much pressure on him to get additional information. He has
8 given a precise answer to questions which were very clear. That's it,
9 your Honour.

10 PRESIDING JUDGE COTTE: (Interpretation) The Bench will try to
11 understand because this is important for us to understand.

12 Mr. Witness, at that time Mr. Mathieu Ngudjolo, regardless of his
13 duties as a health professional, did he have any other activities he was
14 carrying out? To the best of your knowledge, was he engaged in other
15 activities? Did he have other responsibilities which he carried out
16 cumulatively with his duties as a health professional?

17 THE WITNESS: (Interpretation) I have no idea about that.

18 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, you may
19 proceed, bearing in mind the answer which has just been provided by the
20 witness.

21 MR. GARCIA: (Interpretation)

22 Q. Mr. Witness, at that time you were certainly aware that
23 Mathieu Ngudjolo was the leader of the fighters in Zombe or is this the
24 first time you're hearing about it?

25 A. I really have no idea.

1 Q. So your evidence is: No, you never heard about it?

2 A. No.

3 Q. While we are still on this question about Bunia, you returned to
4 Bunia in April 2003. You certainly became aware at some point of the
5 manner in which Bunia was captured, how the UPDF with the assistance of
6 Ngiti and Lendu fighters had chased the UPC out of Bunia?

7 A. We were in Oicha, we heard about it whilst we were there.

8 Q. You do confirm having heard, therefore, that the UPDF with the
9 assistance of Lendu and Ngiti fighters had chased the UPC out of Bunia;
10 is that correct?

11 A. We heard about it.

12 Q. When you arrived in Bunia, is it not correct, Mr. Witness, that
13 Mathieu Ngudjolo was in control of the town with his troops?

14 MR. FOFÉ: (Interpretation) Your Honour.

15 PRESIDING JUDGE COTTE: (Interpretation) Mr. Fofé, I think the
16 witness should answer these questions. Of course this is -- has to do --
17 does not exactly relate to the relevant period at issue here. The
18 Prosecutor is trying to establish certain differences, but I'm listening
19 to you. What do you have to say?

20 MR. FOFÉ: (Interpretation) Thank you, your Honour. In my
21 opinion - and I'm trying to look the right -- I'm going to get the right
22 term here in order not to offend anybody - but I have the impression that
23 some exaggerated pressure is being put on the witness here. I think
24 paragraph 73 of your instructions is being interpreted out of proportion,
25 so to speak. The Prosecutor can ask leading questions, but here he's

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1 making certain assertions which are indeed accusations or charges,
2 charges which are really not founded, in light of the recent statement
3 and the testimony given by the witness in the courtroom. There is no
4 relationship here between them.

5 PRESIDING JUDGE COTTE: (Interpretation) Mr. Fofé, I think the
6 difficulty stems from the fact that his questions really start with, I
7 quote: "Is it not correct that ...," such a formulation could lead
8 certain witnesses to believe that that is an established fact. I
9 remember that last week Ms. Luping was using the same phraseology. It's
10 true that such a wording could give rise to certain difficulties.

11 Mr. Prosecutor, could you therefore rephrase your questions
12 differently. Maybe that would address the concern which Mr. Fofé's
13 raising. You may proceed.

14 Because we want the witness to tell us the truth to the best of
15 his knowledge.

16 MR. GARCIA: (Interpretation)

17 Q. Mr. Witness, whilst you were in Oicha, you heard that Bunia had
18 been recaptured, had been taken over. You also heard that this was done
19 by the UPDF with the assistance of Mathieu Ngudjolo and Germain Katanga's
20 troops and that they were able to chase the UPC out of Bunia in order to
21 recapture the town. Do you agree with me?

22 A. Can I speak differently and talk about what I observed when I
23 arrived at Bunia in the month of April?

24 Q. We are going to come to that later, but my question to you is:
25 Whilst you were in Oicha you must have heard that it was the troops of

1 Mathieu Ngudjolo and Germain Katanga which helped the UPDF to chase the
2 UPC out of Bunia?

3 MR. HOOPER: You know, cross-examination isn't a time necessarily
4 for tricks and games. What I'm sure the Court wants are the words of the
5 witness in terms of what the witness is going to say in terms of
6 reaction. It was put to him: "You heard that troops belonging to
7 Mathieu Ngudjolo and Germain Katanga" -- you heard that, what is the
8 basis for his saying "you heard that"? The witness has never deposed to
9 that. He didn't depose to it in the statement that we provided the
10 Prosecution, and he didn't depose that in the two days of interview that
11 he had with the Prosecution. So I think the words that my friend
12 Mr. Fofé used just a moment ago escape me, but a slightly exaggerated
13 pressure or words to that effect are being placed on the witness. It
14 would be far better if my friend avoided that particular tactic, asked
15 direct and clear questions, and then we could receive the essentially
16 unadulterated response of the witness.

17 MR. GARCIA: (Interpretation) Your Honour, once more this is a
18 cross-examination and the Prosecution has never objected to similar
19 questions being put by the Defence team and especially by Mr. Hooper. I
20 think that the Prosecution should be allowed to put questions to the
21 witness. The Prosecution is not misleading the witness. If he agrees
22 with what we say, he's going to make that known; if not, he will equally
23 make that known. I do not think that the witness is being misled in any
24 manner possible.

25 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, the

1 cross-examination, such as it has been explained in decision 1665, gives
2 the questioner a lot of elbow room, a lot of leeway. I have said that
3 the wording which you have used such as "is it not correct that," that
4 such a wording can be used, I have the impression today that this
5 wording, especially as far as this witness is concerned, could turn out
6 to be problematic. In any case, we are not stopping you from using it.
7 What would we like to say is that we do not want too much interruptions
8 in this cross-examination. And as most of the time the witness is not
9 able to establish a balance between what is in the transcript and what is
10 in the statement. Of course, the Prosecutor can proceed in this manner
11 just as the Defence does when they are carrying out cross-examination.
12 However, Mr. Prosecutor, whenever you find that the Prosecutor -- that
13 the Defence is -- sorry, the witness is able to give his version of the
14 events, let him talk, do not stop him. Because what is important is what
15 they say here in the courtroom.

16 Please try to proceed calmly and try to rely on the good memory
17 of this witness, and his memory has been very good especially as concerns
18 dates. Please, you may carry on.

19 MR. GARCIA: (Interpretation)

20 Q. Witness, once more I'm going to put the question again to you
21 very simply. Whilst you were in Oicha, did you hear that the troops of
22 Mathieu Ngudjolo and Germain Katanga helped the UPDF to chase the UPC out
23 of Bunia?

24 A. Thank you for that question. Well, to say that it was
25 Mathieu Ngudjolo or Germain Katanga -- well, I cannot give you such

1 precise information. But we did hear that the UPC was no longer in
2 control because everyone had fled Bunia because of the pressure that the
3 UPC was putting on them. And in the camp of displaced persons in Oicha,
4 people were dancing when they heard that the UPC was no longer in
5 control.

6 Q. Very well. We have understood your answer, but would I be right
7 to say, Mr. Witness, did you hear the names of Katanga and Ngudjolo
8 associated with that event? You heard that was the Lendu and Ngiti
9 troops that helped the UPDF to chase the UPC out of Bunia, that is,
10 regardless of the names of the individuals concerned; is that correct?

11 A. We simply knew that the UPC was no longer in control, and for
12 that reason certain displaced persons started moving back to Bunia.

13 Q. Witness, when you arrived at Bunia would I be right to say that
14 the UPC was no longer in control but that the UPDF troops were in town as
15 well as the Lendu and Ngiti troops, do you agree with me?

16 A. What I would like to say is that there was no particular group.
17 To the best of my knowledge there was also I think Kisembo who was also
18 in town, but I cannot be specific. I'm not in a position to say such and
19 such a group or team was in control. Everyone was there when I arrived.
20 All tribes were there, the Hemas and all the other groups, everyone was
21 there. The situation had calmed down. I think I mentioned that in one
22 of my statements, that when I arrived I found that the situation was
23 calmer than when we left Bunia.

24 Q. Witness, yes or no, did you find Lendu and Ngiti troops in Bunia
25 when you arrived in April 2003?

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1 A. In Bunia in 2003 I found the UPDF in town.

2 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, I don't
3 think you're going to get any more out of this witness. You may proceed.

4 MR. GARCIA: (Interpretation)

5 Q. We're going to change topics, Witness.

6 A. I beg your pardon, can I rest? Can I rest for a while? I feel a
7 bit ill. I have a fever.

8 PRESIDING JUDGE COTTE: (Interpretation) In that case, we are
9 going to rise for 15 minutes. If we cannot conclude this hearing at
10 1.30, as planned, well then we have an alternative arrangement, which
11 means that we can rise for 45 minutes for lunch and reconvene for a short
12 while at about 2.15 p.m., and we can sit for an additional 45 minutes to
13 conclude this hearing. And the request which has been made by the
14 witness has to be taken into account.

15 Witness, we are going to rise. The time now is about 12.30. We
16 will rise for ten minutes and reconvene at 20 minutes to 1.00.

17 Court Officer, Court Usher, could you lead the witness out to the
18 unit so that he can rest for a while, and later on when we reconvene
19 Mr. Garcia will continue with his cross-examination. If he does not
20 complete his cross-examination we will meet again at 2.15 p.m.

21 (The witness stands down)

22 PRESIDING JUDGE COTTE: (Interpretation) We will reconvene at
23 12.45. We stand adjourned.

24 Break taken at 12.27 p.m.

25 On resuming at 12.46 p.m.

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1 (Open session)

2 COURT USHER: All rise.

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

4 Court Officer, Court Usher, before sitting down please fetch the
5 witness. Given that we suspended for 15 minutes, the recording tape can
6 take us right to 1.45, if we are able to conclude by then, then it is
7 technically possible.

8 (The witness takes the stand)

9 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, courage
10 for reconvening to -- for the continuation of your testimony.

11 Mr. Prosecutor.

12 MR. GARCIA: (Interpretation)

13 Q. Mr. Witness, we are going to move on to something else. On
14 Tuesday you told us about a certain Bhubhu Tito. Do you remember that?

15 A. Yes.

16 Q. I do not want to go into the details about family relationships
17 and so on. I have a few questions about Bhubhu Tito. Are you able to
18 confirm whether Mr. Bhubhu Tito was in Singo before 2003?

19 A. During which period specifically?

20 Q. You are quite correct in asking me that question, Mr. Witness,
21 and I will be more specific. In November/December 2002 was Bhubhu Tito
22 living in Singo?

23 A. I believe it was immediately before that that he was there, but
24 the time that you have mentioned, I believe, during that period he would
25 have been in Aveba because of insecurity.

1 Q. Let us be clear, Mr. Witness. To begin with you confirmed that
2 Bhubhu Tito lived in Singo. Now, do you confirm that?

3 A. Yes, he lived there for a long time.

4 Q. And you also confirmed that he went to live in Aveba at one
5 point?

6 A. Yes.

7 Q. Are you able to tell us the precise date when he went to live in
8 Aveba? If you can, then do so; if not, there is no problem.

9 A. I cannot give you a precise date because we were not together at
10 that time. I was in Oicha and he was in Singo, so I cannot tell you
11 precisely when he left Singo to Aveba. But as soon as insecurity started
12 in Singo, he left. That is when the UPC took over control of Singo.
13 Since he was getting old at the time, he left for Aveba.

14 Q. You talk about insecurity and are we to understand that it was
15 specifically during or after the UPC attack that Mr. Tito went to Aveba?

16 A. Yes.

17 Q. Mr. Witness, I will also move on to something else, and
18 specifically Nyakunde. I will talk about the attack in Nyakunde on the
19 5th of September, 2001. If I understand you correctly, you were no
20 longer in Nyakunde when that attack took place; is that correct?

21 A. Yes.

22 MR. HOOPER: That's 2002, the 5th of September, 2002, not 2001.

23 MR. GARCIA: (Interpretation) I thank my learned friend for that
24 correction.

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

1 MR. GARCIA: (Interpretation)

2 Q. Mr. Witness, do you agree with me that it was Kandro who led that
3 attack in Nyakunde?

4 A. According to what we heard from displaced persons from Nyakunde
5 in Oicha, they confirmed it. They knew Kandro very well.

6 Q. Is it also correct to say, Mr. Witness, that Cobra as well as
7 Yuda participated in that attack also, that is, the Nyakunde attack?

8 A. This is information that we received from other people, but we
9 did not see them ourselves.

10 Q. I believe, Mr. Witness, that we all understand that this is
11 information you received from others, displaced persons from Nyakunde; is
12 that correct?

13 A. Yes.

14 Q. Is it also correct to say that Yuda was one of Kandro's soldiers
15 at that time?

16 A. According to what we heard.

17 Q. I will like to go onto something else and seek clarification from
18 you on your testimony on Tuesday. I will not go into all the details
19 about the incident about the bicycle and John, but you mentioned a
20 certain Nibo Chard; do you remember?

21 A. Yes.

22 Q. Would I be correct to say, Mr. Witness, that Nibo Chard was a
23 combatant of Aveba?

24 A. I saw him in Aveba.

25 Q. Let me repeat my question. Is it correct that Nibo Chard was a

1 combatant in Aveba?

2 A. Based on what I know about him, I saw Nibo at their house, so
3 talking about whether he was a combatant or not I do not know. I know
4 that he lived in their family home in Aveba.

5 Q. Mr. Witness, did you ever see Mr. Nibo Chard wearing a military
6 uniform?

7 A. Well, maybe when I was not there. I was not in Aveba all the
8 time. Sometimes I travelled to Bunia for professional reasons.

9 Q. So you are telling us that it is possible he might have worn a
10 military uniform while you were not there?

11 A. Maybe during my absence.

12 Q. Mr. Witness, while you were in Aveba or before that, did you ever
13 hear that Mr. Nibo Chard was part of a unit known as PPU?

14 A. I have no idea.

15 Q. Am I correct, Mr. Witness, to say that Nibo Chard grew up in
16 Nyakunde?

17 A. Yes.

18 Q. So, Mr. Witness, you knew Mr. Nibo Chard before he ever arrived
19 in Aveba?

20 A. Yes, I saw him in Nyakunde amongst other choristers.

21 Q. Nibo Chard was also a member of that choir in Nyakunde, was it
22 the same choir in which Denise was or was it a different one?

23 A. It was a different choir.

24 Q. Is this someone you associated with?

25 A. No. If you came to Kalingi (* phon) where there was the

1 missionary centre, that's where we were. So there was no contact between
2 us.

3 Q. Is it correct, Mr. Witness, that Nibo Chard is the younger
4 brother of someone known as Bahati?

5 A. I'm not aware of that.

6 Q. I will give you the full name, Bahati Talika, Colonel Bahati,
7 does that name ring a bell?

8 A. I know Bahati Talika.

9 Q. What was Bahati Talika's occupation in Aveba?

10 A. I do not know.

11 Q. Mr. Witness, you lived in Aveba for at least one and a half
12 years. Are you telling us that you do not know the position occupied by
13 Mr. Bahati Talika as a soldier?

14 A. No.

15 Q. Mr. Witness, would you agree with me that this Bahati Talika was
16 a member of the militias, the combatants who were in Aveba, and we are
17 not mentioning his position?

18 A. Yes, because that is the group from which he was demobilised
19 before joining the loyal list forces, the FARDC.

20 Q. So you knew he was a soldier but you did not know his position?

21 A. Yes.

22 Q. Does the name Bahati de Zumbé ring a bell?

23 A. This was the name he was referred to ever since Nyakunde. He did
24 his nursing studies in Nyakunde, and in the football circles he was known
25 as Bahati de Zumbé.

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1 (Prosecution counsel confer)

2 MR. GARCIA: (Interpretation)

3 Q. To your knowledge, Witness, Bahati de Zumbe, did he and
4 Nibo Chard carry out journeys to -- during the time that you were there,
5 did they carry out journeys to Aveba?

6 A. I don't know.

7 Q. And where it concerns Bahati de Zumbe, is this a person with whom
8 you spoke?

9 A. Not at all.

10 Q. Witness, we are going to change subject.

11 I just want us to go back to the issue of Aveba. When you were
12 there during the period which we mentioned, you spoke about BCA. If I
13 understand, BCA is a military camp?

14 A. Yes.

15 Q. And you told us that Germain was living at a particular time in
16 this military camp with Denise; is that correct?

17 A. Yes.

18 Q. Is it also correct, Witness, that there was a tribunal, the BCA
19 where civilians were tried?

20 A. Yes.

21 Q. Is it also correct to say that Germain Katanga could intervene in
22 these trials or in the judgements if he considered that the judgement was
23 not correct; is that right, Witness?

24 A. That is to say -- excuse me. When there was a civil -- civilian
25 problem and people were taken there, he intervened so that it went to the

1 customary chief.

2 Q. But is it not correct that he could intervene to give orders
3 himself to the soldiers?

4 A. No.

5 Q. So that this is clear, you're saying that Germain Katanga could
6 never order combatants, for example, to provide property back?

7 A. Please could you reformulate this question.

8 Q. Quite simply to make it clear, Witness, you confirm that
9 Germain Katanga could intervene, and the question that I'm asking you, is
10 it correct that he could ask, for example, fighters to give property back
11 if they'd pillaged it or whatever?

12 A. Yes.

13 Q. Thank you. So he could intervene in that regard?

14 A. Yes.

15 Q. So I'm right to say that he could also intervene when there were
16 other types of conflict?

17 A. Yes.

18 Q. And when he gave orders, the orders were followed normally by the
19 fighters in Aveba, were they not?

20 A. Not always.

21 Q. In your opinion, sometimes they weren't followed; is that what
22 you're saying?

23 A. Yes.

24 Q. We are going to change subject, Witness, and I'm going to go back
25 to the issue of the children said -- who are alleged to have participated

1 in the militia. You spoke to us on Tuesday briefly about the issue of
2 what you had heard concerning children who were in the militia; do you
3 remember that?

4 A. Yes.

5 Q. And you mentioned what you had heard with regards to Aveba
6 itself, but my question is more general. If we put Aveba aside for the
7 moment, am I right to say, Witness, that there was a problem concerning
8 the use of children under the age of 15 in the militia in Ituri in 2002
9 and in 2003, among others?

10 A. There you're asking a question with regards to Ituri in general?

11 Q. Yes.

12 A. I don't know.

13 Q. And to your knowledge, Witness, you have surely heard that
14 children were being used who were under the age of 15, whether it's the
15 Lendu militia, Ngiti, that they used these children not only so that they
16 were part of the militia but also so that they fight. You must have
17 heard people speak about that, 2002/2003?

18 A. I read it in the papers but I didn't see it myself.

19 Q. Where it concerns Aveba, Witness, do you agree with me that there
20 was a demobilisation site in Aveba opened November 2004; am I right?

21 A. Yes.

22 Q. Given that you were in place at the time, you would also have
23 known that there were children who were coming from different regions, is
24 that right, or did you not know that?

25 A. I'm sorry?

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1 Q. Are you aware of how this site was functioning?

2 A. No.

3 Q. So you have no knowledge of how it was functioning, how the
4 children were divided up, anything?

5 A. No.

6 Q. Thank you, Witness.

7 So I'm going to go back, Witness, to this issue concerning John.

8 You told us and you stated during your testimony and today and I think on

9 Tuesday as well, that (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 Did you -- also people talk about these rumours, members of the family of

23 Germain Katanga?

24 A. Well, it wasn't members of the family of Germain Katanga, but it

25 was in the street.

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1 Q. Isn't it correct that people in the street stated that it came
2 from the members of the family of Germain Katanga?

3 A. No.

4 Q. Are you certain?

5 A. Yes.

6 (Prosecution counsel confer)

7 MR. GARCIA: (Interpretation) Your Honour, I'm just going to ask
8 us to give the statement, the statement of the witness, to the Prosecutor
9 1057.

10 PRESIDING JUDGE COTTE: (Interpretation) Usher, if you could go
11 and get this copy of the statement which has already been passed around
12 this morning in order to be able to provide it to the witnesses.

13 Does he have it?

14 MR. GARCIA: (Interpretation) Your Honour, it's going to be a
15 bit easier than I had anticipated. I think that the statement --

16 Q. Witness, is it this statement that you gave to the Prosecution
17 which is before you, DRC-OTP-1057?

18 MR. GARCIA: (Interpretation) Your Honour, that is the
19 statement.

20 PRESIDING JUDGE COTTE: (Interpretation) Very well.

21 MR. GARCIA: (Interpretation)

22 Q. So, Witness, I would like you to look at page 4 thereof,
23 paragraph 1 -- paragraph 15, 1057-0048. I'm also going to ask you,
24 Witness, to look at paragraph 16 thereof.

25 Witness, I think that you've been able to read the paragraph and

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1 it's quite simply if you could comment on it, given that paragraph 16
2 states -- you state in the second sentence --

3 MR. HOOPER: (Previous translation continues) ... wouldn't
4 paragraph 15 be also fair and relevant.

5 MR. GARCIA: (Interpretation) Your Honour, with regards to the
6 precise question which I would like to ask, it's rather paragraph 16. I
7 don't see how paragraph 15 -- well, my colleague can always come back to
8 that in re-examination, but I'd just like to go on in the most efficient
9 way given that I don't want to take too much time.

10 MR. HOOPER: It may be efficient, it may not take time, but you
11 have to be fair, in my submission, and look at the first sentence of
12 paragraph 15, it's clearly relevant.

13 MR. GARCIA: (Interpretation) Paragraph 15 has nothing to do
14 with it. It's paragraph 16 which is on the precise question which I want
15 to ask. If the Chamber decides thereafter that there's ambiguity, I can
16 there of course come back to paragraph 15.

17 PRESIDING JUDGE COTTE: (Interpretation) Witness, you have three
18 minutes in order to read paragraphs 15 and 16. Read the two paragraphs
19 quickly and the Prosecutor will ask his question. Please indicate to me
20 when you have finished your reading thereof.

21 Prosecutor, he has read paragraph 15, paragraph 16. Over to you.

22 MR. GARCIA: (Interpretation)

23 Q. Is it not correct, Witness, that you stated to the Prosecution
24 during your meeting with the Prosecution you made the following
25 statement:

1 "It was the own family of Germain Katanga who had started to
2 speak about it. I know myself some members of the family of
3 Germain Katanga. I knew them because we all lived in the same village of
4 Aveba. I know the brothers and sisters and even the parents of
5 Germain Katanga."

6 So this is a passage which it talks about the rumours and you
7 stated to the Prosecution in this passage, this is what's stated here,
8 that it was Germain Katanga's own family. Is that correct?

9 A. Thank you for the question, but this -- as this paragraph 15, 16,
10 17, go into this problem that (* indiscernible) -- because if I see that
11 this comes out firstly from Mr. John himself, when you see that here. So
12 quite simply, I think that this must be a problem of the way it was taken
13 down, the person who wrote this statement here, because you yourself, on
14 seeing that, if you read the paragraph, paragraph 15, 16, 17, that does
15 not prove directly that these rumours started to circulate firstly from
16 the family of Germain Katanga.

17 Q. Witness, I'd like to take you back to paragraph 17, given that
18 you're saying that you have to read all the paragraphs. So the second
19 statement you stated that:

20 "It was in the street that we heard that the (Expunged)
21 (Expunged) came from the family of Katanga and they
22 expressed their regrets, knowing that the person in question was part of
23 my family."

24 Now, is it also another error in this place?

25 A. Yes, I think this is clear. In paragraph 15 I presented from

1 where this problem came. In paragraph -- I said that's the
2 interpretation of people in the street, how they interpreted it. They
3 thought that it came from the family of Germain Katanga; that doesn't
4 mean that these rumours did come directly from the family of
5 Germain Katanga, in fact.

6 Q. Witness, well I understand that you're trying to tell us that
7 there's a distinction to be made with regards to the words, but once
8 again you've re-read this statement and you've had the opportunity to
9 read all the passages and you've put your initials at the bottom of each
10 page and the paragraphs -- paragraph 17 clearly states that it's in the
11 street that it was said that the allegations against the person came from
12 the family of Katanga. So the question of interpretation does not figure
13 anywhere, paragraph 15, 16, or 17. I'm right, am I not?

14 A. What I said was that these were the interpretations of the people
15 in the street, they thought it came from the family of Germain Katanga.
16 But when you read paragraph 15, it's he himself, John, who told me that,
17 that there were rumours against him.

18 Q. We have understood that, Witness. You've testified that John
19 spoke to you about it, but this is about what you heard in the street.
20 I'll ask you a different question, Witness. At this time when there were
21 these rumours in the streets in Bunia, you were associated with members
22 of the family of Germain Katanga, were you not? You went to see the
23 older sister of Denise, did you not, Denise Katanga in her home? And you
24 also met other members of the family of Germain Katanga; is that correct?

25 A. No. The family of Germain Katanga, that was just his wife and

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1 two children, but not, for example, brothers or sisters or parents, no.

2 Q. Okay. So if I understand, Denise was in Bunia but you went to
3 visit the older sister of Denise in her house, and according to what you
4 said Denise stayed in the same residence so you did visit these people,
5 is that not correct, at this time?

6 A. Yes.

7 Q. So surely, Witness, at this time when you visited members of the
8 family of Germain Katanga, (Expunged)
9 (Expunged)-- or is your
10 answer: No, that was never spoken about?

11 A. I'm sorry?

12 Q. When you when to visit the older sister of Denise, surely they
13 spoke about the fact that (Expunged)
14 (Expunged)

15 A. That's not what I said.

16 Q. I'm asking you a question. Is it yes or no, did they speak about
17 it, yes or no? Did the members of the family, Denise or her older
18 sister, when you were there, (Expunged)
19 (Expunged)

20 A. No.

21 Q. If I understand your testimony, it is that every time you went to
22 visit the older sister of Denise, they -- in all the discussions they
23 never spoke (Expunged)
24 (Expunged)

25 A. No.

1 Q. Am I right to say, Witness, that when these rumours started to
2 circulate in Bunia, you were afraid, it made you afraid, personally
3 afraid, because you had a link to John?

4 A. Yes, that made us afraid because he even asked about what --
5 because we didn't expect something, (Expunged)
6 (Expunged)

7 Q. Witness, you were afraid yourself. You were afraid with regards
8 to the possible repercussions from the Katanga family towards your
9 family; isn't that correct?

10 A. I recognise the fact that I spoke about that to the members that
11 we in the family, we live together. And furthermore, there was a good
12 relationship and such an incident could affect our interpersonal
13 relationship. It was just that, that was our fear.

14 Q. Witness, be honest. When you speak about interpersonal
15 relationship, and I think in your statement you said that it would
16 perhaps be made weaker, you were afraid that there might be violence
17 committed against you or intimidation against you or members of your
18 family, following the fact (Expunged)
19 That's what you were afraid of, was it not?

20 A. I never stated violence or anything else anywhere. I just spoke
21 because people can stay together. In Africa you have this relationship
22 which counts, so when you have something, you share it with your
23 neighbours. And so if you just have this relationship, if that's going
24 to be broken, then this was our concern. We didn't speak about violence
25 or anything else, no.

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1 Q. But, Witness, (Expunged)

2 (Expunged) that mean that your family would be causing harm to another
3 family, Germain Katanga, was that correct?

4 A. Something similar.

5 Q. And when you cause harm -- unhappiness to another family, when
6 you testify against Germain Katanga, you are in agreement with me that
7 it's not just a relationship which is made weaker, there can be
8 consequences, violence, intimidation?

9 A. No, that -- no.

10 MR. GARCIA: (Interpretation) If you would allow me, can we go
11 into private session just for a few moments?

12 PRESIDING JUDGE COTTE: (Interpretation) Very briefly.
13 Court Officer.

14 MR. HOOPER: As that's happening, I regret to say I have to leave
15 Court. I made an arrangement which is quite unbreakable, and so I'm
16 standing up to just state that Mr. O'Shea of course will have the conduct
17 of the rest of the examination of Mr. Mula Metu and to express to
18 Mr. Metu my regrets that I won't be here a little later to thank him
19 personally for the efforts he's made to come here, and I do so now in
20 open Court and to assure him that, as it were, this side is represented
21 now by a very competent counsel and to regret that I have to leave in
22 these circumstances but I regret it's also unavoidable. And also
23 Ms. Buisman has to leave the Court as well, she has a wedding to attend
24 to somewhere, and I think also Ms. Wagner has also arrangements made. So
25 we're going to be somewhat depleted. Ms. Menegon, who isn't very well

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1 today, is stoutly remaining. But I'm bound to say Mr. O'Shea is in plum
2 form and will be able to competently look after us. So I regret that and
3 I regret interrupting my friend at this point. I'm sorry.

4 PRESIDING JUDGE COTTE: (Interpretation) No, no, we perfectly
5 understand. It wasn't initially envisaged that we would extend even if
6 only briefly this afternoon and these are constraints which are also on
7 everybody who helps us as well and we thank them very much. But only the
8 departure of the witness means that we've had to extend this. So,
9 Court Officer, could you take us into private session.

10 MR. GARCIA: (Interpretation) Your Honour, taking into account
11 the time, I would prefer -- we don't have the time to ask the question.

12 PRESIDING JUDGE COTTE: (Interpretation) So -- well, we will
13 thank Counsel Hooper and Ms. Wagner, they can leave us. And the
14 representation of Katanga will be done by Counsel O'Shea, and we hope
15 that Ms. Menegon will be able to last until 3.00. We're going to have a
16 break now.

17 The witness, we're all going to have lunch very quickly in order
18 to be able to be back here at 2.15 in the courtroom for a period of 45
19 minutes, during which necessarily, Prosecutor, you have to finish your
20 cross-examination in the shortest possible time.

21 For Counsel Luvengika, you didn't provide us with questions, and
22 there are none. The Chamber will only have one question, a point of
23 precision. Afterwards, it will be the final observations of the two
24 parties.

25 Court Officer, if you would be so kind as to lead our witness out

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1 of the courtroom. We will be back at 2.15.

2 Court Officer, can we leave our documents in the courtroom during
3 this period?

4 COURT OFFICER: (Interpretation) Yes.

5 PRESIDING JUDGE COTTE: (Interpretation) That will make it much
6 easier. Thank you very much.

7 (The witness stands down)

8 PRESIDING JUDGE COTTE: (Interpretation) The hearing is
9 therefore suspended. We will be back at 2.15.

10 Recess taken at 1.29 p.m.

11 On resuming at 2.20 p.m.

12 (Open session)

13 COURT USHER: All rise.

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

15 We are resuming our proceedings. The accused persons are here.

16 Court Officer and Court Usher, could you bring back the witness
17 into the courtroom, please.

18 (The witness takes the stand)

19 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, can you
20 hear me?

21 THE WITNESS: (Interpretation) Yes.

22 PRESIDING JUDGE COTTE: (Interpretation) Were you able to rest?

23 THE WITNESS: (Interpretation) Yes.

24 PRESIDING JUDGE COTTE: (Interpretation) Very well. We are
25 going to conclude your testimony in a short while.

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1 Prosecutor, you have the floor.

2 MR. GARCIA: (Interpretation) Your Honour, could we move
3 directly to private session because I see certain people in the public
4 gallery, just for a few minutes, your Honour, a few seconds.

5 PRESIDING JUDGE COTTE: (Interpretation) Very well.

6 Court Officer, shall we go into private session because
7 apparently there are questions which contain identifying information. We
8 will move into private session for a few seconds.

9 (Private session at 2.23 p.m.)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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Page 89 expunged – Private session

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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 (Open session at 2.30 p.m.)
- 14 COURT OFFICER: (Interpretation) We are in open session, your
- 15 Honour.
- 16 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
- 17 Please proceed, Mr. Prosecutor.
- 18 MR. GARCIA: (Interpretation)
- 19 Q. Mr. Witness, with regard to Émile Muhito, would it be correct to
- 20 say that at one point Émile Muhito lived in Avenyuma?
- 21 A. I do not know. I know that he lived in Nyakunde and then
- 22 Songolo.
- 23 Q. And after Songolo, do you know where he went?
- 24 A. We were in Oicha.
- 25 Q. So if I understand you correctly, your answer is no, you did not

1 know where he went?

2 A. Yes, my answer is no.

3 Q. You said he lived in Songolo. Isn't it true that after the
4 attack of the 30th of August, 2002, most of the survivors left for
5 Avenyuma?

6 A. Not only Avenyuma, there were others who went to Kagaba and
7 others to Aveba, so I cannot say where he went.

8 Q. When was the last time you spoke with Émile Muhito?

9 A. Speak about what?

10 Q. When you spoke to him, face-to-face or on the phone, when was the
11 last time you spoke with him?

12 A. I really do not remember.

13 Q. Mr. Witness, does the name Faida M-b-a-n-g-a-n-y, that is,
14 Faida Mbangany Amazone, does that name ring a bell?

15 A. No.

16 Q. You have never heard mention of that name?

17 A. No.

18 Q. This is not someone who might have lived in Nyakunde to your
19 knowledge?

20 A. The name does not even ring a bell so how should I know whether
21 he has already lived in Nyakunde or not?

22 Q. Just to be clear the name Amazone, A-m-a-z-o -n-e, Faida
23 Mbangany, it means absolutely nothing to you, you have never heard of
24 that name?

25 A. It doesn't ring a bell at all.

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1 MR. GARCIA: (Interpretation) Just a moment, your Honour, I
2 believe I'm going to conclude. I simply need to consult with my
3 colleagues briefly.

4 (Prosecution counsel confer)

5 MR. GARCIA: (Interpretation)

6 Q. Mr. Witness, I have one last question for you. Does the name
7 Jackson Baraka ring a bell with you?

8 A. Yes.

9 Q. Who is Jackson Baraka?

10 A. Jackson Baraka is the eldest son of Mateso Omuani.

11 Q. And if I understand correctly, this Jackson Baraka was also in
12 Kinshasa in 2006 and 2007?

13 A. Yes.

14 Q. And if I understand correctly, you received information also
15 about what was happening with John from him?

16 A. Sometimes, according to what he said, he did not see John. They
17 communicated by phone and he also told us how he was doing in Kinshasa.

18 Q. If I understand correctly, Mr. Witness, the other members of
19 Mr. Mateso Omuani's family were in contact with Mr. Jackson Baraka?

20 A. Yes. It was their son, he was in Kinshasa, so they could
21 communicate with him.

22 MR. GARCIA: (Interpretation) Thank you, Mr. President, your
23 Honours, I have no further questions for this witness.

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

1 Mr. Witness, Mr. Luvengika confirmed this morning that he has no
2 questions to ask you. Mr. Gilissen is not present, but in his
3 cross-examination the Prosecutor asked questions that could be related to
4 child soldiers and the Bench would like to ask you one question here.

5 Questioned by the Court:

6 PRESIDING JUDGE COTTE: (Interpretation) We would like to refer
7 you to your testimony of the first day and what we would like to ask you
8 is for further clarification if you can remember. Line 4 of page 39 of
9 transcript 257, that is, lines 4 to 7. In answer to a question from
10 Mr. Hooper you said:

11 "In February I sent (Expunged) Anyolito, to Aveba.
12 This was to see my family there and discuss with the family of my
13 fiancée, who is actually my wife, for the purpose of organising my
14 wedding in Oicha. It was on that occasion that John also decided to
15 travel with (Expunged) Anyolito to Aveba."

16 We would like to have some clarification here. Now, if you know,
17 can you tell us whether John settled in Aveba after his arrival, that is,
18 when he travelled with Anyolit o in February 2003, did he stay in Aveba?

19 A. Yes, your Honour.

20 PRESIDING JUDGE COTTE: (Interpretation) Do you know for how
21 long he stayed there in Aveba? That is, if you remember.

22 A. In any case, until I arrived Aveba for the first time. In April
23 2003 I found him in Aveba.

24 PRESIDING JUDGE COTTE: (Interpretation) Very well. Now, can
25 you tell us whether that trip with Anyolito took place in early February,

1 mid-February, or at the end of the month of February? Do you have any
2 reference points that would allow you to give us clarification on that?
3 When did he travel to Aveba with Anyolito?

4 A. Thank you, your Honour. I do not have any clear idea about that,
5 but I know that it was in February.

6 PRESIDING JUDGE COTTE: (Interpretation) You cannot tell us
7 approximately when in February?

8 A. I really cannot remember anything that would enable me to
9 remember. When I'm clear about certain dates, it is because they relate
10 to one event or the other.

11 PRESIDING JUDGE COTTE: (Interpretation) Very well.

12 Professor Fofé, it is now your turn for any possible final
13 remarks because the Bench has no further questions, and our question came
14 after the Prosecutor's question for clarification. So he cannot
15 follow-up.

16 MR. FOFÉ: (Interpretation) Thank you, Mr. President. We have
17 followed the testimony of the witness and we do not have any questions
18 for him. Thank you, your Honour.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
20 Professor Fofé.

21 Mr. O'Shea, your final observations?

22 MR. O'SHEA: Yes, thank you, Mr. President.

23 Further Questioned by Mr. O'Shea:

24 Q. Good afternoon, sir. You haven't met me before in fact, but I
25 was introduced earlier by Mr. Hooper to you. I just have a couple of

1 clarifications for you. First of all, could you tell us with regard to
2 your contact with Mr. Jean Logo whether those contacts were in the main
3 before or after the 18th of July, 2010, when you met the Prosecution?

4 A. Thank you for that question. That first contact with Maître Logo
5 took place before the Office of the Prosecutor visited me.

6 Q. And the other contacts?

7 A. The other contacts took place afterwards.

8 Q. Thank you.

9 MR. O'SHEA: Madam Registrar, I don't know if the witness
10 statement taken with the Office of the Prosecutor could be placed back in
11 front of the witness if you please.

12 PRESIDING JUDGE COTTE: (Interpretation) We will ask the
13 Prosecutor to give us his clean copy -- or you have a copy yourself?
14 That is perfect.

15 MR. O'SHEA:

16 Q. Now, this is the statement which you gave to the Office of the
17 Prosecutor, and my learned friend for the Prosecution, Mr. Garcia, has
18 asked you a number of questions relating to passages in particular on
19 page 4 of that statement. And he has drawn to your attention sentences
20 in paragraph 16 and 17 and 18 of that statement. Do you recall the
21 Prosecutor drawing attention to those paragraphs?

22 A. Yes.

23 Q. All right. Now, I'm going to draw your attention to paragraph 15
24 so that we have the full context, and I'm going to refer to John.

25 (Interpretation) "It was in the street in Bunia that we heard

1 that (Expunged). I heard that myself. When he left we
2 used to communicate."

3 PRESIDING JUDGE COTTE: (Interpretation) I have not located the
4 paragraph, but, Mr. O'Shea, do not forget to use pseudonyms.

5 MR. O'SHEA: Have you found the paragraph, Mr. President? Thank
6 you.

7 Q. Okay. I'll start again.

8 (Interpretation) "It was in the street in Bunia that we heard
9 that (Expunged). I heard that myself. When he left, we
10 used to communicate. I believe that it was before June 2006 when he
11 left. It was after his departure that he told me that he had heard that
12 people (Expunged). He
13 deeply regretted that. He had called me on the phone more than one year
14 after his departure to tell me that. I cannot give you the precise date.
15 It was after that telephone call that I started hearing rumours about
16 John in Bunia."

17 (In English) So do you have any comment on that particular
18 paragraph that I've just read out? Does that confirm or can you confirm
19 that that's what you wanted to say? Do you have any particular comment
20 on that?

21 A. Can you kindly repeat the question?

22 Q. If you can just read paragraph 15 to yourself now and just
23 confirm whether or not the contents of that paragraph are accurate.

24 A. Yes, the contents of that paragraph are correct because it was
25 Mr. John himself who called me to say what he said. Afterwards I also

1 heard that news in the streets.

2 Q. And when it says here: (Interpretation) "I believe it was before
3 June 2006 when he left. It was after his departure that he told me that
4 he had heard that (Expunged)

5 (In English) When exactly is it or how long after his departure
6 is it that he told you about hearing of these rumours?

7 A. Thank you. I believe that at one point mention is made of one
8 year later, that is, after his departure from Bunia. It starts at the
9 end of the fourth line of that paragraph: "He deeply regretted that. He
10 called me on the phone more than one year after his departure."

11 Q. So are you saying that it was about a year or more than a year?

12 A. It is stated "more than one year." It would have been one year,
13 three days, two weeks, or three months. It was more than one year.

14 Q. Those are all my questions to you. Thank you for your
15 assistance.

16 MR. O'SHEA: Those are all our questions, your Honour. Thank
17 you.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. O'Shea.

19 Mr. Witness, your testimony has now concluded. The Usher will
20 take the statement from you. Once again, we thank you for accepting to
21 travel to the seat of the Court to answer the questions put to you. This
22 morning Mr. Hooper told you that he regrets that he will not be with you
23 until the end, but Mr. O'Shea and Ms. Menegon are present. After this,
24 Mr. Germain Katanga and his Defence team will have the opportunity to
25 greet you and to thank you, and the Court Officer, please make the usual

1 arrangements.

2 We would like to remind you, Mr. Witness, that whatever you have
3 said in this courtroom should remain here and you should not talk about
4 it after you return. We wish you a safe trip to where you are going, and
5 since at the beginning of your testimony you told us about your
6 professional goals we wish you a lot of success in that respect.

7 THE WITNESS: (Interpretation) Thank you also very much, your
8 Honour.

9 PRESIDING JUDGE COTTE: (Interpretation) We wish you good health
10 also.

11 Court Officer, Court Usher, can you accompany the witness,
12 Mr. Metu, out of the courtroom, please.

13 (The witness withdrew)

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea, we simply
15 wish to remind you that it would be preferable for all of us that
16 Mr. Hooper be able to tell us on Monday at 1.30 what is the schedule for
17 the testimony of the witnesses that his team will call in light of the
18 trip that you made recently. We are not going to ask you to speak on his
19 behalf, but if he's able to tell us that on Monday, that would be
20 welcome.

21 MR. O'SHEA: I can help the Court now and then Mr. Hooper can say
22 on Monday if I was telling the truth or not.

23 PRESIDING JUDGE COTTE: (Interpretation) Very well. We are
24 listening to you.

25 MR. O'SHEA: So it's our intention - and subject to

1 reconfirmation by Mr. Hooper - but I know it's helpful for everybody to
2 get early notice. But it's my intention -- it's our intention to no
3 longer call D-06 with the name -- no name, that one.

4 And it's our intention to no longer call D-192.

5 PRESIDING JUDGE COTTE: (Interpretation) Yes.

6 MR. O'SHEA: And it's our intention to no longer D-155. And we
7 may revert to you with regard to one further witness as well.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. O'Shea.
9 So for the time being we note, subject to Mr. Hooper's confirmation,
10 D-0192 and D-0185 will no longer be called.

11 THE INTERPRETER: That is a correction: D-155.

12 PRESIDING JUDGE COTTE: (Interpretation) And this allows us to
13 keep within the forecast made by Mr. Hooper, that is, 6 to 15th June.

14 MR. O'SHEA: I can also, you know, indicate, although I'm not in
15 a position to give great precision on this at the moment, I can also
16 indicate that there is another person who I saw on mission that the team
17 has not been able to -- we're not able to secure for the purposes of
18 these proceedings prior to the provision of the list, but somebody who
19 I've seen during the course of my mission who I believe may be very
20 useful in terms of understanding in a little more detail the context of
21 the conflict between the Ngiti and the Hema in the region. Because I
22 know -- I know it's a topic upon which the Court hasn't been assisted
23 greatly so far. And -- that's a matter which I'm looking at at the
24 moment and I will discuss with Mr. Hooper, and if appropriate we will put
25 in an appropriate application asking for leave.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. O'Shea.
2 Mr. Kilenda.

3 MR. KILENDA: (Interpretation) Have we understood correctly that
4 it is three witnesses, D-06, 192, and 155?

5 PRESIDING JUDGE COTTE: (Interpretation) Very well.

6 MR. KILENDA: (Interpretation) 06 will not be called also?

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you for that
8 clarification, Mr. Kilenda --

9 MR. O'SHEA: (Previous translation continues)... allow Mr. Hooper
10 to put his final seal on this.

11 PRESIDING JUDGE COTTE: (Interpretation) We have understood that
12 the final version will be given on Monday.

13 Mr. Dutertre.

14 MR. DUTERTRE: (Interpretation) Yes, your Honour. The
15 Prosecution needs time to prepare. Can we have an indication, even if
16 the Defence does not commit itself on that, but in terms of the necessity
17 for us to prepare we need some information.

18 PRESIDING JUDGE COTTE: (Interpretation) I believe in the
19 absence of Mr. Hooper we are not going to continue persecuting
20 Mr. O'Shea. Everything will be clarified early next week, when you would
21 have contacted the captain.

22 MR. O'SHEA: (Previous translation continues) ... I'm afraid I
23 can't -- as soon as we're in a position to provide any information
24 relating to other witnesses, we will. But I've provided as much
25 information as I'm able to today.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you. We would
2 like to express our sincere gratitude to the interpreters, court
3 reporters, AV, and ICT technicians, everyone who has kindly agreed to
4 extend their working hours so that we can conclude this testimony today.

5 Court is adjourned and we will reconvene on Monday at 1.30 p.m.

6 The hearing ends at 3.00 p.m.

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