

1 International Criminal Court
2 Trial Chamber II - Courtroom I
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial hearing
9 Tuesday, 24 May 2011
10 The hearing starts at 9.03 a.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session.
14 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
15 Good morning to everyone. Good morning to the accused persons.
16 We have to bring the witness into the courtroom.
17 Court Officer and the Court Usher, please bring Mr. Obia into the
18 courtroom.
19 (The witness takes the stand)
20 WITNESS: WITNESS DRC-D02-P-0146/DRC-D03-P-0340 (Resumed)
21 (Witness answered through interpreter)
22 PRESIDING JUDGE COTTE: (Interpretation) Good morning, Mr. Obia.
23 THE WITNESS: (Interpretation) Good morning.
24 PRESIDING JUDGE COTTE: (Interpretation) I find that we can hear
25 each other clearly. It is possible, therefore, for us to resume our

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Open Session)
Questioned by Mr. Garcia (Continued)

Page 2

1 proceedings. The Prosecutor's going to continue and conclude with his
2 cross-examination.

3 Prosecutor, you have the floor.

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

5 Questioned by Mr. Garcia: (Continued)

6 Q. (Interpretation) Good morning, Mr. Witness. I have only a few
7 additional questions to put to you today.

8 First of all, yesterday we spoke on several occasions about the
9 fact that you spent about three months in Aveba. Will I be right,
10 Mr. Witness, to say that you are not able to say with certainty the date
11 on which you arrived at Aveba?

12 A. On that point, I would like to say that I no longer remember the
13 date. I have forgotten.

14 Q. Very well, Witness. Also, on several occasions yesterday we
15 talked about the statement you made to the Prosecution, the statement you
16 gave on the 20th of November, the 20th and the 21st of November, 2010. I
17 would like to ask you a few questions about that meeting which you had
18 with members of the Office of the Prosecutor and the statements which you
19 made on that occasion.

20 Mr. Witness, you will remember that you gave a statement to
21 certain individuals, an investigator and Ms. Florie Huck, who is seated
22 here in the courtroom today. After signing your statement, the statement
23 you gave to the Prosecution, you made several statements to the
24 investigator and Ms. Florie Huck. I'm referring to the document which
25 bears the reference DRC-OTP-1060-0095, investigator's report.

1 Mr. Witness, is it not correct that after signing your statement,
2 you informed the investigator that you were very worried about what was
3 going to happen to you because of (Expunged)
4 (Expunged), and you added, Mr. Witness, that the
5 situation was making you ill at ease, and I quote you:

6 "If it goes on in this way, I would prefer to go back to where I
7 came from, that is, to Dele, 10 kilometres away from here."

8 Would I be right that these are statements which you made to the
9 investigator and to Ms. Florie Huck after your interview? Would that be
10 correct?

11 A. I did not hear you correctly.

12 Q. I am going to repeat, Mr. Witness. What I was trying to do at
13 the beginning was to place you in context. After giving a statement to
14 the Prosecution, you made a certain number of statements to the
15 investigator and to Ms. Florie Huck. One of the statements you made was
16 that you were very disturbed about what was going to happen to you
17 because of (Expunged)
18 Do you remember having made that statement to the persons who were
19 present?

20 A. I would like to say that I indeed said this, because it turned
21 out badly. (Expunged)
22 (Expunged) That is why I was afraid.

23 Q. And you also said, Mr. Witness, that the situation was making you
24 ill at ease and that if it carried on, you would prefer to go back to
25 where you were in Dele, that is, 10 kilometres away. I suppose that was

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Open Session)
Questioned by Mr. Garcia (Continued)

Page 4

1 10 kilometres away from Kindia. Is that correct?

2 A. That is correct.

3 Q. And, Witness, would I be right to say that you stated that what
4 happened with the International Criminal Court had put you in conflict
5 with the family of -- and you added:

6 "I do not know what can happen. People are being abducted. A
7 lot of things happen here. They can come to your home and harm you."

8 Would I be right to say you also made such a statement?

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

10 PRESIDING JUDGE COTTE: (Interpretation) Yes, Professor Fofé.

11 THE WITNESS: (Interpretation) That is correct, because --

12 THE INTERPRETER: The witness did not conclude his answer.

13 PRESIDING JUDGE COTTE: (Interpretation) The witness was trying
14 to answer a question. We will let the witness to finish his answer
15 before Professor Fofé takes over.

16 Witness, you were saying that is true, because -- could you
17 please complete your answer to the Prosecutor's question.

18 THE WITNESS: (Interpretation) That is what was making me
19 afraid, because the child had lied, and I do not like people lying about
20 others. That really frightened me.

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

22 Professor Fofé, we are listening to you.

23 MR. FOFÉ: (Interpretation) Thank you, your Honour.

24 Your Honours, as I said yesterday, I believe that at this
25 juncture in the testimony of Mr. Akurotho we should focus on the

1 essentials. A precise question has been put by the Prosecutor. He wants
2 to know the reason for the fear felt by the witness, and the witness
3 states and repeats that what frightened him was the fact that (Expunged)
4 (Expunged)
5 (Expunged)

6 That is the essential point here, your Honour, and I am
7 astonished that the Prosecutor does not delve further into this point,
8 and that he, rather, goes to deal with certain peripheral details which
9 risk wasting our time and tiring out the witness. We should at least
10 bear in mind the health condition of the witness and the fact that he has
11 been giving evidence for several hours now. Thank you, your Honour.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
13 Professor Fofé. No one disagrees that knowing whether or not (Expunged)
14 (Expunged) It is an important matter,
15 but we cannot deprive the Prosecutor in the course of his
16 cross-examination. We cannot deprive him of the possibility of trying to
17 have a better understanding of what is said by the witness and
18 establishing his credibility.

19 Prosecutor, you may proceed. You were right to say that we want
20 the witness to give testimony under the best possible conditions.
21 Prosecutor, you may proceed.

22 MR. GARCIA: (Interpretation)

23 Q. Mr. Witness, you said that what had happened with the
24 International Criminal Court had put you in conflict with the family
25 of -- whose family were you referring to, the families of

1 Mathieu Ngudjolo and Germain Katanga? Is that the case?

2 A. Well, this was due to the fact that (Expunged)

3 (Expunged), and that was hard to understand. (Expunged)

4 spoke to the children and he claimed that the children had gone away to
5 study. Now, how was it that a child who was supposed to have gone to
6 study ended up before the International Criminal Court? It seemed as if
7 I had sold my child to the white people, and I therefore had difficulties
8 maintaining good relations with my brothers because of that.

9 Q. Mr. Witness, I don't know whether you fully understood my
10 question. It was very simple. The question was the following: When you
11 told the investigator and Ms. Florie Huck that what happened with the
12 International Criminal Court had put you in conflict with the families
13 of, were you referring to the families of Mathieu Ngudjolo and
14 Germain Katanga?

15 A. I said the following: It created a conflict between myself and
16 the family of Mathieu Ngudjolo, because (Expunged)
17 (Expunged), and that's what created the
18 conflict between me and those families. (Expunged)
19 (Expunged).

20 PRESIDING JUDGE COTTE: (Interpretation) Yes, Professor Fofé.
21 Is there an interpretation problem?

22 MR. FOFÉ: (Interpretation) Yes, there is an interpretation
23 problem. Page 6, line 24 to line 28, specifically the first sentence.
24 This is what the witness said in Swahili -- well, the Swahili was
25 recorded, and the interpreters would correct me if I'm wrong. The

1 interpretation which is given on page 6, lines 24 and 25, does not
2 reflect what the witness said precisely.

3 PRESIDING JUDGE COTTE: (Interpretation) You are trying to say
4 that the witness said "that could have created conflict," instead of what
5 the interpreter said, which was that "that created a conflict."

6 MR. FOFÉ: (Interpretation) Yes. It was in the conditional:
7 That could have created, could have created.

8 Your Honour, I listened to the audio recordings prepared by the
9 Prosecutor on this matter, and I can tell you that right from that time
10 the witness has been repeating that, that that could have, that could
11 have. That's it, your Honour.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

13 Witness, since you are here with us, you are going to help us to
14 better understand what you are saying. The Prosecutor asked you whether
15 the conflict with the family of -- whether you are talking about the
16 conflict with the families of Mr. Katanga and Mr. Ngudjolo. You gave us
17 an answer, and we would like you to clarify whether that situation
18 created a conflict which is already existing or whether that situation
19 was likely to create conflict which may not have broken out between you
20 and those families. Can you clarify this point, please. Did the
21 situation create conflict between you and the families or was the
22 situation likely to create conflict between you and the two -- and these
23 families?

24 And I would like to urge the interpreters to try to translate
25 these nuances in their renditions. Give the witness time to reflect on

1 the answers.

2 THE WITNESS: (Interpretation) There was a problem, because the
3 child lied about Germain Katanga and Ngudjolo, and that is why I said
4 that this was likely to create conflict between myself and those people
5 and that is what frightened me.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Witness.
7 We understand that you were speaking in the conditional, that this was
8 likely, that this could create conflict between you and those people.
9 Thank you.

10 MR. GARCIA: (Interpretation) Your Honour, the Prosecution has
11 no further questions. Thank you.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
13 Mr. Prosecutor.

14 I would like to turn to the Legal Representatives of Victims.
15 Mr. Gilissen, given the testimony which has been given by Mr. Obia, do
16 you think you have a question or two for him?

17 MR. GILISSEN: (Interpretation) Thank you, your Honours. Good
18 morning, your Honours. I have no question to suggest to the Chamber or
19 to put to the witness. Thank you for the opportunity.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
21 Mr. Luvengika, what about you?

22 MR. LUVENGIKA: (Interpretation) Good morning, your Honours.
23 Your Honour, as it was the case for the previous witness, the content of
24 Mr. Obia's testimony does not allow me to suggest questions to the Bench
25 or to put questions to the witness. Thank you.

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Open Session)
Questioned by the Court

Page 9

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
2 Mr. Luvengika.

3 Witness, the Chamber has one question for you.

4 Questioned by the Court:

5 PRESIDING JUDGE COTTE: (Interpretation) You will remember we
6 talked about this on the first day and yesterday. We used the pseudonyms
7 "Martin" and "Sam." You know who Sam is, and you know who Martin is. Do
8 you remember?

9 A. Yes, I do.

10 PRESIDING JUDGE COTTE: (Interpretation) Very well. The
11 question from the Bench is very simple. To the best of your knowledge,
12 was Sam of the same age as Martin, even approximately?

13 A. Yes. They were almost of the same age.

14 PRESIDING JUDGE COTTE: (Interpretation) You are talking about
15 boys of the same age. Therefore, born around the same year.

16 A. Yes. That is true, but I really do not know Martin's age.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Witness.
18 Professor Fofé, you have the floor for your final comments.

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

20 Further Questioned by Mr. Fofé:

21 Q. (Interpretation) Good morning, Mr. Akurotho Obia.

22 A. Good morning.

23 Q. I am going to ask you very simple and clear questions. Please, I
24 urge you to give me clear answers, to speak slowly and loudly so that
25 everyone can hear you well. Please, you should strive to pause after the

1 question before providing your answer in order to enable or to ensure
2 good translation and recording of your answer. As the Presiding Judge
3 just said, you should try to remember the individual to whom we gave the
4 pseudonym "Sam."

5 A. Yes.

6 Q. You remember the individual we called Paul?

7 A. Yes.

8 Q. You remember the person we referred to as Martin?

9 A. Yes.

10 Q. Thank you very much, Mr. Akurotho. Mr. Akurotho Obia, when all
11 these persons contacted you, Paul or the others, and told you that (Expunged)
12 (Expunged)
13 (Expunged)

14 A. He had to go and study.

15 Q. Did those people, whether Paul or other people, did those people
16 tell you that (Expunged)

17 A. No, they didn't tell me that.

18 Q. Did those people, Paul or other people, explain to you what was
19 understood (Expunged)
20 (Expunged)

21 (Expunged)

22 (Expunged)

23 MR. MACDONALD: (Interpretation) My apologies, your Honour. I'm
24 sorry for interrupting my colleague, but in the light of what has been
25 said and what's been given, I would ask for a very brief private session

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Open Session)
Further Questioned by Mr. Fofé

Page 11

1 so that we can get the optimal level of redaction.

2 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, we shall
3 go into private session so that the witness can respond freely and give
4 us as complete a possible answer as possible. From the beginning of this
5 hearing we've been obliged to remove a number of passages which identify
6 the parties, so we shall go into private session and then,
7 Professor Fofé, you'll be able to continue.

8 MR. FOFÉ: (Interpretation) Excuse me, your Honour. With all
9 due respect, I don't think at this stage that we need to go into private
10 session.

11 PRESIDING JUDGE COTTE: (Interpretation) Well, if you feel that
12 the questions you're going to ask are not as dangerous in terms of
13 redaction, I mean, because we've heard the statements from the witness
14 from the beginning of the hearing answering questions from Mr. Garcia and
15 also your questions, but, you know, you have a quota of private sessions,
16 and we've just signed two consecutive orders for private sessions, and
17 this matter I would not like to restrict that and go and have another
18 redaction order. But if you think we can go on sufficiently with the
19 pseudonym, we can do that, but we don't want to have identifying
20 statements. We can go on with the public hearing.

21 MR. FOFÉ: (Interpretation) Thank you, your Honour. At this
22 stage I would like to refer to DRC-OTP-1060-0077. And it was given an
23 EVD number yesterday. I don't have the EVD number.

24 MR. MACDONALD: (Interpretation) Your Honour, I'm sorry to
25 interrupt my colleague again. This was a document which was presented in

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Private Session)
Further Questioned by Mr. Fofé

Page 12

1 private session, so if there are any questions on this, we need to go
2 into the -- into private session, and there's another redaction order
3 which is coming, and so we're going to reach the maximum. This is a
4 confidential document because of its content. It would be too risky to
5 continue as the witness does not always use pseudonyms in his answers.
6 So with respect to Professor Fofé and despite the efforts of all
7 concerned, including the witness, we noted that the witness does not
8 always use pseudonyms, talks about the direct relationship.

9 MR. FOFÉ: (Interpretation) We're talking about EVD-OTP-00266
10 with approval of the Court Officer.

11 PRESIDING JUDGE COTTE: (Interpretation) This was the EVD number
12 given yesterday, was it? Well, then we shall go immediately into private
13 session, Court Officer.

14 (Private session at 9.36 a.m.)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Private Session)
Further Questioned by Mr. Fofé

Page 13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 13 expunged – Private session.

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Private Session)
Further Questioned by Mr. Fofé

Page 14

1
2
3
4
5
6
7
8
9
10
11
12 Page 14 expunged – Private session.
13
14
15
16
17
18
19
20
21
22
23
24
25

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Private Session)
Further Questioned by Mr. Fofé

Page 15

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 15 expunged – Private session.

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Private Session)
Further Questioned by Mr. Fofé

Page 16

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 16 expunged – Private session.

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Private Session)
Further Questioned by Mr. Fofé

Page 17

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 17 expunged – Private session.

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Private Session)
Further Questioned by Mr. Fofé

Page 18

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Open session at 9.56 a.m.)

5 COURT OFFICER: (Interpretation) We will be public session,
6 your Honour.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
8 Court Officer.

9 The Court was in private session for a certain amount of time
10 because the question, the final comments, of the Defence of Mr. Ngudjolo
11 was referred to a transcript of an interview which may lead to
12 identification which was not wanted, but then we went on to a debate on
13 procedure, on the possibility of requesting input from the interpreters
14 in the courtroom asking their opinion of the interpretation carried out
15 when the witness gave the statement in the interview referred to.

16 Prosecutor, you have the floor.

17 MR. MACDONALD: (Interpretation) I don't know if my colleague
18 Professor Fofé has completed his final questions. I don't know if you
19 have other questions.

20 PRESIDING JUDGE COTTE: (Interpretation) I think Professor Fofé
21 said earlier that for questions to the interpreters here, he had one
22 final request, and as for his final comments, he will tell us what the
23 prospects are.

24 Professor, in answer to Mr. MacDonald, are you at the beginning,
25 the middle, or the end of your final comments?

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Open Session)
Further Questioned by Mr. Fofé

Page 19

1 MR. FOFÉ: (Interpretation) I shall be clear, your Honour. I
2 have almost reached the end, almost.

3 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, you have
4 the floor.

5 MR. MACDONALD: (Interpretation) Fine, your Honour. Well, if
6 it's for other subjects now, the Prosecutor has no comments.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you. The Bench,
8 after hearing the comment of Mr. Gilissen, the Chamber would like to
9 point out that through retransmission of the interview, going from
10 line 73 to line 238, there was the -- the playing of that recording
11 yesterday, and Professor Fofé is currently checking -- without casting
12 doubt on the interpreters there on the 17th of March, 2008,
13 Professor Fofé is proceeding so as to check that the person who was on
14 the telephone line understood the statements made. Professor Fofé wanted
15 to make sure that terms which are important and which have been focal
16 terms in our discussion for a certain time were used to give information
17 to the witness.

18 It seems at this current point in the debate that these terms
19 were used by the person calling, who was speaking French, but that one or
20 another word were not interpreted.

21 Yes, this is sampling, but it is sampling on the part of the
22 transcript which we heard yesterday, the recording which we heard
23 yesterday.

24 Professor Fofé says he has one final test, if I can use that
25 term, to use after this, and we would like to thank the interpreters and

1 say what faith we have in them. We would like to ask them to do this
2 final exercise with us, and then Professor Fofé will be able to make his
3 final comments.

4 Professor, you have the floor.

5 MR. FOFÉ: (Interpretation) Thank you, your Honour, and we can
6 stay in open session.

7 PRESIDING JUDGE COTTE: (Interpretation) That is even better.

8 MR. FOFÉ: (Interpretation) Should I repeat the reading of
9 lines 155 to 159? Very well. No problem. I will now ask my question.
10 I believe it was at that point that the interpreter intervened. My
11 question was as follows: Were the words "protection programmes," which
12 feature on line 156 of page 5 of this document, interpreted in lines 157
13 to 159 in the answer in Swahili?

14 THE INTERPRETER: The Swahili interpreter: Your Honour, in his
15 interpretation, the interpreter omitted the word "programme." In
16 Swahili, he said "*apate protection*," which means he will benefit from
17 protection.

18 MR. FOFÉ: (Interpretation) Thank you very much.

19 The last excerpt, which is very short, is on page 4, lines 125
20 and 15 -- 126.

21 MR. MACDONALD: (Interpretation) Your Honour, I would like to
22 draw your attention to the fact that we should go into private session in
23 light of the answer. The conversation was listened to, interpreted, and
24 the document is confidential. Questions are put to the witness here in
25 testimony, but this exercise at this time is unorthodox, and to avoid all

1 redaction problems, we should go into private session even only very
2 briefly.

3 MR. FOFÉ: (Interpretation) I would like to point out that in
4 line 126, there is no name. There is no relationship. The word used
5 there is a common noun, so I don't see the reason for going into private
6 session.

7 PRESIDING JUDGE COTTE: (Interpretation) Very well. We will
8 stay in open session and you will conclude the question, Professor Fofé.
9 We are on page 4, lines 125 and 126.

10 MR. FOFÉ: (Interpretation) I will read the lines as they
11 appear on the document with the assistance of our interpreters, and I
12 will quote, person on the line number 2:

13 "Person 2: If the child has to come, he will -- if he has to go,
14 he will go there."

15 THE INTERPRETER: From the Swahili interpreter: The verb "*kuya*,"
16 which means "to come," could have been used within this context to mean
17 "go."

18 JUDGE DIARRA: (Interpretation) Mr. President, I'm sorry to jump
19 into these exchanges which are already difficult, but when you say if a
20 child has to come, he will come there, but in French, you come here and
21 you go there. So I do not understand.

22 PRESIDING JUDGE COTTE: (Interpretation) Madam Diarra, the last
23 explanation given to us by one of our interpreters indicated that that
24 word could also mean "to go," which is understandable within the context.

25 MR. FOFÉ: (Interpretation) Thank you, your Honour. What we

1 wanted was the translation of that sentence, line 125. The translation
2 has been given and noted. I would like to ask one last question to
3 Mr. Akurotho.

4 Q. Mr. Witness, this will be my last question to you, and it is, in
5 fact, a question that has been put to you before. When those people told
6 you that (Expunged), where did they tell you he was going to
7 and to do what?

8 A. (Expunged)
9 (Expunged) had forgotten that entire story, and I found myself in this
10 situation when those questions were put to me, and, in fact, I was ill at
11 that time, and I had forgotten the question that you re-read to me
12 because this was a long time ago. Yesterday, I had difficulty answering
13 that question because I had forgotten.

14 MR. FOFÉ: (Interpretation) I have concluded, and I think
15 Mr. Kilenda has something to say. I do not know what he is going to say,
16 but he will assume his responsibilities.

17 PRESIDING JUDGE COTTE: (Interpretation) The Defence team of
18 Mathieu Ngudjolo is one and indivisible.

19 Mr. Kilenda.

20 MR. KILENDA: (Interpretation) Thank you, your Honour. I didn't
21 want to interrupt those interesting exchanges, but I wanted to make a
22 small correction. On page 13, line 24 of the transcript, Professor Fofé
23 states the following: The word "programme" on line 148, was it -- it is
24 translated into Swahili in lines 151 to 152, but Professor Fofé had said
25 it was lines 150 to 152. That is what I wanted to point out.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Kilenda.
2 It is important. It was lines 150 to 152. It is important to correct
3 that immediately.

4 We are in open session, and, Mr. Hooper, it is your turn for your
5 final observations.

6 MR. HOOPER: Yes. Thank you. Before I come to thoughts on the
7 protection programme, I have thoughts on the key issues that arise from
8 this witness's testimony, one being that Sam was born on the
9 18th of June, 1987.

10 MR. MACDONALD: Objection, your Honour. Objection. I'm
11 objecting to Mr. Hooper and what's doing --

12 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, what is
13 happening? We did not even hear the beginning of the question and you
14 are already on your feet.

15 MR. MACDONALD: (Interpretation) The witness is in the room, and
16 my colleague is in re-examination, and he is pleading. This is what I
17 was told the last time I was intervening, and I sat down.

18 If you -- if my learned colleague wants to speak to the Bench and
19 make suggestion, then the witness has to leave the room, because his
20 memory is being refreshed, and it is inappropriate, and this is
21 telegraphing the subjects that are to be dealt with later. It is
22 suggesting answers to the witness. It is influencing the witness, and
23 these are things that are done knowingly, your Honour, and this has been
24 done ever since yesterday. We have been mentioning it. We have been
25 repeating it. It is not to bother the Bench or the witness or to slow

1 down the proceedings, but we simply have to ensure respect for the
2 integrity of the evidence. That is what is important.

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

5 Mr. Hooper, if you can save us those general considerations, even
6 if your objective is to summarise and streamline the number of questions
7 that you will ask after. We realise that the testimony of this witness
8 is prompting some very lively reactions. You are at the final stage of
9 your re-examination. We have realised that the witness has a good memory
10 of the exchanges of proceedings in this courtroom, even though he may
11 have difficulties remembering what happened a long time ago. He's not
12 the first, he's not the last, but with regard to the exchanges that have
13 taken place in the courtroom over the past two days, we think he
14 remembers those, and, Mr. Hooper, please proceed, but continue with
15 questions. Thank you.

16 MR. HOOPER: In fact, I'm making a submission to your Honour at
17 the moment. Can I just save my friend excitement by stating that nothing
18 I'm going to raise now will in any way be reflected in any question that
19 I'm going to put to this witness. So if I may continue very briefly.

20 The essence, as we've heard, of this witness testimony is the
21 date of Sam's birth and that Sam was not in the militia.

22 Now I understood that we're working in a system, and I'm thinking
23 of decision 1665, where it is incumbent upon the cross-examining party,
24 where there is a marked difference between the case of the examining
25 party and that of the witness, then during the process of

1 cross-examination is the opportunity to put that to the witness, and that
2 has obvious advantages to everybody. It allows the witness to deal with
3 it and confront it. It allows the other parties to know where the
4 division is. It allows the Judges to understand better what issues
5 remain live issues, contested issues. It allows the Defence to perhaps
6 discover which matters are at the end of this trial going to still be in
7 dispute or not before eventually opening the many pages of a closing
8 brief.

9 Now, neither one of those key issues has been challenged by the
10 Prosecution. It's the same with previous witnesses when there were key
11 issues.

12 Does the Prosecution accept the date of Sam's birth as evidenced
13 by the birth certificate and this witness's testimony? Do they accept
14 that Sam was not in the militia as stated by this witness? I'd like to
15 know, and I think the Court's entitled to know, what the Prosecution
16 position is. It's just extraordinary that one can reach the end of a
17 cross-examination in a court at this level and not have the Prosecutor
18 pin his colours to his mast, not allow any of us to know what his
19 position is. Instead, we have hours of -- of the Prosecution poking
20 around in the undergrowth of the case, presumably going to issues of
21 credibility, but never grasping the issues that matter, and this is a
22 dereliction of function, in my submission.

23 So I, through your Honour, the Prosecution can hear what my
24 submission is, it is through your Honour directed at the Prosecution: Do
25 they accept the date of birth that appears on these documents which they

1 themselves obtained from Kilo-Moto? Do they accept that, 18th of June,
2 1987? Do they accept this witness's testimony (Expunged),
3 (Expunged)
4 (Expunged)

5 MR. MACDONALD: (Interpretation) The Prosecution is prepared to
6 respond.

7 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, the
8 question put by Mr. Hooper is very clear, even more so -- or, rather, it
9 is clear, because with regard to this witness and the preceding witness,
10 these questions are still pending. Do you wish to respond and say what
11 your position is?

12 It is still a delicate matter for the Bench. We have the right
13 to ask questions, and it is difficult for us to ask questions that might
14 be expected to be asked by one or the other of the parties. We never
15 intend to act on behalf of any party, but this is an adversarial process,
16 and each party has to enlighten each other even though they may be
17 pursuing objectives that are diametrically opposed.

18 So given this question by Mr. Hooper, can you give us any
19 clarification, Mr. Prosecutor, at this time?

20 MR. MACDONALD: (Interpretation) What Mr. Hooper has just said
21 or is trying to do is to put pressure on the Prosecution right now when
22 the witness is still present in the courtroom. I believe that this is an
23 exercise that is totally inappropriate considering that the witness is in
24 the courtroom.

25 I respectfully submit that these two questions or issues shall be

1 pleaded in writing in our oral and written final arguments. The
2 Prosecution does not admit anything at all at this point. We have the
3 onus to prove beyond reasonable doubt the essential elements of all the
4 charges, including the presence of child soldiers in Bogoro during the
5 Bogoro attack.

6 In the final analysis, will the Bench be convinced that
7 Witnesses 0279 and 0270, amongst others, were militiamen in Bogoro and
8 aged below 15 years? Well, this is an issue on which the Chamber will
9 make its determination. But I can tell you one thing, Mr. President,
10 after the cross-examinations of the (Expunged) where it was demonstrated
11 that there were flagrant contradictions with prior statements and given
12 the contrary information that we heard yesterday, it is clear that (Expunged)
13 (Expunged) who are witnesses have suffered loss of credibility, and the
14 Chamber will determine in the final analysis whether they believe (Expunged)
15 (Expunged) who are coming to contradict the actions (Expunged). It will
16 be up to the Bench to make that determination at the end of the trial.

17 You will have noticed that there is a Defence investigator in the
18 field who is acting in a certain way. The Prosecution intermediaries
19 were accused or attacked, and we were not happy about that, and this is
20 happening right now because we have a lot of things to say about the
21 actions of Mr. Logo.

22 The Prosecution presented our evidence, and we do not have any
23 reason to come back and present our case to a particular witness. Our
24 case has been presented to the Chamber, and our evidence has been
25 adduced. So we did not have any reason to present anything to the

1 witness.

2 In his cross-examinations, Mr. Hooper made certain allegations
3 against our witnesses, and he has called witnesses to support those
4 allegations, and in our cross-examination, we challenge those
5 allegations. We can ask questions to the witness and tell him that (Expunged)
6 (Expunged) and he can say no, and that answer will
7 remain no. We can ask him (Expunged)
8 (Expunged). If we ask those questions 20 times, he can still say no. So we
9 believe that the Chamber, in the final analysis, will assess the
10 individual credibility of every witness but based on the entire body of
11 the evidence.

12 That is the response of the Prosecution, your Honour. We are not
13 admitting anything at all, and if we admit anything, it will be at the
14 end of the trial when all the evidence will have been heard.

15 PRESIDING JUDGE COTTE: (Interpretation) Very well,
16 Mr. Prosecutor. That is where we are at. You know the wish of the
17 Chamber, but the concern of the Chamber is that all the parties and
18 participants should assist us to establish the truth. The Chamber needs
19 to have information that is clear from the parties and participants that
20 will make it possible for it to make a ruling or judgement in full
21 knowledge of the facts.

22 Mr. Hooper, you can proceed.

23 MR. HOOPER: Thank you, your Honour. So I'm left in the position
24 of getting on my feet at this stage not knowing even if the birth
25 certificates are accepted as genuine documents, and not knowing, indeed,

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Open Session)
Further Questioned by Mr. Hooper

Page 29

1 not having had my witness confronted by the Prosecution as to the fact
2 that he states in respect of Sam not being a witness. That's the
3 Prosecution's position. We've heard it. We know they have the burden of
4 proof. That was one thing I did agree with in Mr. MacDonald's summation
5 there, and this is their opportunity to place their case.

6 Further Questioned by Mr. Hooper:

7 Q. Mr. Witness, can I now -- sorry to have detained this morning
8 even longer we'd thought and I'm going to detain you for a little -- a
9 little longer. Can I turn first of all to the document, the transcript
10 of the tape which has now occupied us substantially in our discussions,
11 the telephone call that you received on the 2nd of March, 2008. And I'm
12 not going to ask you very much about that, and you've explained to us how
13 at that stage you didn't know, you told us, (Expunged)
14 (Expunged)

15 (Expunged)

16 Q. That Sam was in the hands of the International Criminal Court,
17 that being the 17th of March, 2008. And indeed, if we look at the
18 extract from line 76 right through to the end of any conversation with
19 you at line 239, 238 -- sorry, let's be specific, 237, at no time in any
20 of that conversation are the words "international," "criminal," or
21 "court" ever mentioned. The International Criminal Court, nor the word
22 "ICC," none of it is ever mentioned to you. And I don't really need a
23 response to that, because we can see for ourselves, Mr. Witness, what is
24 in that -- in that report.

25 MR. MACDONALD: (Interpretation) Objection.

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Open Session)
Further Questioned by Mr. Hooper

Page 30

1 MR. HOOPER: I invite the Prosecution to admit that at no point
2 in this conversation is the International Criminal Court referred to in
3 any way to the witness.

4 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, we had
5 assumed that we would avoid any general statements. I am not saying that
6 this is a general statement that you have just made, because it is at the
7 heart of our exchanges ever since yesterday, but please try to solicit
8 information from the witness. That is why he is here. You are the only
9 one speaking, and he's not speaking. The interest of the Chamber is to
10 have the point of view of the witness. Your own point of view is
11 important, but the witness is here to give his own point of view before
12 he leaves us, and that is where -- how we are going to conclude
13 Mr. Obia's testimony.

14 Mr. Prosecutor.

15 MR. MACDONALD: (Interpretation) Very briefly, your Honour. The
16 conversation is there. It speaks for itself. It also refers to previous
17 contacts that the witness could have had with the OTP.

18 PRESIDING JUDGE COTTE: (Interpretation) Yes, Mr. Prosecutor.
19 This is not a pleading. These are not pleadings that the Prosecutor and
20 the Defence have to make. We have the witness here. It is up to him to
21 tell us whether he fully understood what was being discussed during that
22 conversation or not.

23 Let us try to refocus our manner of working so as to be more
24 rigorous and ensure that answers are not dictated to the witness after he
25 listens to your conversation. And I'm not interrupting you, I'm allowing

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Open Session)
Further Questioned by Mr. Hooper

Page 31

1 you to conclude, but we have to avoid generalities by both parties.

2 MR. MACDONALD: (Interpretation) You are quite correct. That
3 was not my objection -- that was not my objective. Mr. Hooper just made
4 an allegation, and we wanted to respond to that allegation, and this is
5 the fact that the ICC was never mentioned.

6 I would like to draw the Bench's attention, and as we did with
7 the other witness, we can include that in the evidence. I draw the
8 attention of the Chamber to DRC-OTP-1062-0084. So the Prosecution is
9 asking for that document to be admitted into evidence and given an EVD so
10 that the Chamber can have all the information relevant for the case.

11 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, I
12 believe we are coming back to a statement which Mr. Hooper made a short
13 while ago. Everyone should ask for the admission of relevant documents
14 when it is their turn to speak. The cross-examination has been
15 concluded. It would have been possible in the course of that
16 cross-examination to refer to this document and to request that an EVD
17 reference be attributed to it. For the Bench -- as far as the Bench is
18 concerned, we have reached a stage where that is no longer possible.
19 Mr. Hooper is concluding with his final observations, and we should all
20 ensure that the witness, who is at the centre of this exchange, should be
21 given at least the feeling that he's participating in the exchange and
22 that he understand what's happening.

23 Mr. Hooper, proceed, sir.

24 MR. HOOPER: Thank you. I was hopeful, I'll just say that, that
25 the point that I can now make through a question would be better dealt

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Open Session)
Further Questioned by Mr. Hooper

Page 32

1 with in the circumstances by an admission from the Prosecution, and I'm
2 going to pursue that very briefly. I invite the Prosecution to admit
3 that at no time in the course of the taped interview with this witness
4 was the International Criminal Court mentioned. I invite the Prosecution
5 to admit that solely in terms of this taped interview.

6 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, try to be
7 brief. We understood from your previous statement that you do not share
8 Mr. Hooper's viewpoint, of course.

9 MR. MACDONALD: (Interpretation) The Prosecution is ready to
10 admit that the expression "International Criminal Court" does not feature
11 in the conversation.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
13 Mr. Prosecutor.

14 Mr. Hooper, proceed, please.

15 MR. HOOPER:

16 Q. You said earlier this morning that it was (Expunged) who first
17 explained to you that Sam was in -- within the protection of the
18 International Criminal Court. Is that right? It was (Expunged) who first
19 told you about the International Criminal Court and Sam's involvement in
20 it.

21 A. Yes. It was (Expunged). He started asking me questions, and then I
22 got to understand that -- then understood that Sam was already at the
23 ICC, and I asked him whether it was possible for Sam to return home, and
24 he told me no, that it was not easy, because Sam was at the disposal of
25 the Prosecutor. I told him that I was astonished, because they had gone

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Open Session)
Further Questioned by Mr. Hooper

Page 33

1 there to study. To the best of my knowledge, they had gone to study. So
2 how did the situation change? That is how it happened.

3 Q. All right. Thank you very much. Now, can we just draw up -- if
4 you can be provided, though I know it's in French, but at least see the
5 document, with DRC-OTP-1060-0013.

6 This is the interview that you had (Expunged).
7 Florie Huck, with an interpreter, which has been referred to already and
8 which took place fairly recently, November of last year, 20th and the
9 21st of November.

10 PRESIDING JUDGE COTTE: (Interpretation) Court Officer.

11 COURT OFFICER: Can you confirm the level of confidentiality,
12 please.

13 MR. HOOPER: Confidential.

14 PRESIDING JUDGE COTTE: (Interpretation) Shouldn't a copy be
15 given to the witness?

16 MR. HOOPER: It's coming to you --

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

18 MR. HOOPER: Of course it's in -- it's in French and not Swahili.
19 I'm going to read parts of it and, suitably, I hope, redact parts of it.

20 MR. MACDONALD: (Interpretation) I apologise for interrupting my
21 learned colleague. I wish to draw the attention of the Chamber to the
22 fact that we have exceeded the maximum number of redaction orders with a
23 time slot of 30 minutes.

24 PRESIDING JUDGE COTTE: (Interpretation) We still have one more
25 redaction order, and after that it will no longer be possible. So,

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Open Session)
Further Questioned by Mr. Hooper

Page 34

1 Mr. Hooper, you should be especially careful in the questions which you
2 are going to ask the witness.

3 And, Witness, you should try to be careful in the answers which
4 you are going to give. Please strive to use the pseudonyms, which I'm
5 sure you clearly remember.

6 MR. MACDONALD: (Interpretation) Your Honour, I apologise once
7 more. I simply wish to say that this fourth request will be sent to you
8 very soon. We have exhausted the number of orders. I don't know what
9 paragraph this is, but regardless of the subject matter, if it leads to
10 P-0143 or any other subject matter of a similar nature, it would be more
11 appropriate, I believe, to move into private session, although the public
12 will then be deprived of this part of the testimony.

13 PRESIDING JUDGE COTTE: (Interpretation) Well, as is always the
14 case, we are caught up between two options, the need to hold these
15 proceedings in open session and the need to ensure that identifying
16 information is not disclosed, and we have reached our upper limit of
17 redaction orders.

18 This means, Mr. Hooper, you bear a great responsibility. The
19 Chamber is ready to carry on in open session if what you are going to
20 have read out does not contain identifying information. Please strive to
21 use the pseudonyms. And I would like to remember -- or, rather, to
22 remind the witness that it is important for him to use the pseudonyms as
23 well, and when he uses the pseudonyms, he should not use qualifiers which
24 might identify the persons concerned. The witness understood this
25 procedure very well yesterday, so everything should be fine now.

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Private Session)
Further Questioned by Mr. Hooper

Page 35

1 Mr. Hooper, if you want us to move into private session, please
2 let us know. Otherwise, please proceed carefully. You have the floor.

3 MR. HOOPER: Yes. Thank you. I feel like a man mounting the
4 guillotine. It's too heavy a responsibility. I'm going to ask
5 Ms. Menegon to read various paragraphs here in French, suitably slowly,
6 and we've edited out identifying features and terms of relation, so I
7 hope it goes well.

8 MS. MENEGON: (Interpretation) Paragraph 1:

9 "I was introduced to (Expunged)--"

10 PRESIDING JUDGE COTTE: (Interpretation) Ms. Menegon, let us try
11 to avoid using identifying information, what was just mentioned.

12 We will move into private session for a while, please. Just for
13 a while, Court Officer.

14 (Private session at 10.42 a.m.)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Private Session)
Further Questioned by Mr. Hooper

Page 36

- 1 (Expunged)
- 2 (Expunged)
- 3 (Expunged)
- 4 (Expunged)
- 5 (Expunged)
- 6 (Expunged)
- 7 (Expunged)
- 8 (Expunged)
- 9 (Expunged)
- 10 (Expunged)
- 11 (Expunged)
- 12 (Expunged)
- 13 (Expunged)
- 14 (Open session at 10.44 a.m.)
- 15 COURT OFFICER: (Interpretation) Your Honour, we are in open
- 16 session.
- 17 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
- 18 Mr. Hooper, Ms. Menegon, you may proceed.
- 19 MS. MENEGON: (Interpretation) Paragraph 1:
- 20 "I was introduced to Solomon, who said that he was an
- 21 investigator for the Office of the Prosecutor at the International
- 22 Criminal Court, ICC. I was also introduced to an interpreter who comes
- 23 from the same office."
- 24 Paragraph 2:
- 25 "The investigator explained to me what the ICC was and what its

1 mandate was. He also explained the role and prerogatives of the Office
2 of the Prosecutor within the ICC."

3 Paragraph 3:

4 "I was informed that this statement was given voluntarily and
5 that I could put an end to the statement at any time. I hereby attest
6 that I have accepted to answer the questions of the investigators
7 willingly."

8 Paragraph 4:

9 "I was asked if I had any worries about my protection and my
10 safety. I was given information about the security measures available to
11 me. I asked for information about Sam, and the investigator told me that
12 he is currently under the responsibility of the Victims and Witnesses
13 Unit and that he is under the ICC Protection Programme. I hereby confirm
14 that I have no contact with Sam, that I have had no contact with Sam
15 since he left home a few years ago. I do not know where he went to or
16 whether he is already dead."

17 Paragraph 5:

18 "I have been informed of the existence of the Victims
19 Participation and Reparations Section and of its functions. I have been
20 informed that the persons to whom Judges confer the status of victim
21 could participate in future judicial proceedings and could obtain
22 reparations. However, I am not a victim."

23 Paragraph 7:

24 "I have been informed that I could be called upon to give
25 testimony before the ICC in Europe. I would not like to go to Europe. I

1 believe that my statement has been given -- or my testimony has been
2 given through the statement I am giving today. If I give a statement,
3 everyone has to be present here, the lawyers, the chiefs, and everyone. "

4 MR. HOOPER: Yes. Thank you very much, Ms. Menegon, for that
5 clear and helpful reading.

6 Q. And you indeed -- as we can see, this statement then carries on
7 for 84 paragraphs, and you tell Solomon of your family composition. You
8 discuss Sam with him. And on page 4 we can see that in paragraph 17, you
9 discuss Paul with him, and for the next 16 consecutive paragraphs. Up
10 until paragraph 32, you discuss Paul and your dealings with him. And you
11 then talk about Sam and Martin. You then discuss the person who I
12 recognise to be the Defence advocate, not named here but whose name, of
13 course, we know as Mr. Logo. And then from paragraph 49 to 59, we have
14 your account to Solomon of all your movements during the war. At
15 paragraph 60, you come back to talking about your knowledge relating to
16 Paul and what he was saying. Paragraph 67, you go through documents
17 produced by Solomon from Kilo-Moto, which are essentially the same as
18 documents dealt with earlier in this case in your questioning by me.

19 And when you gave that interview, Mr. Witness, were you doing
20 your best to tell the truth?

21 A. Everything I have been saying is true. I don't see why I should
22 be telling lies.

23 MR. HOOPER: Well, I ask that that interview be admitted and
24 given an EVD number, with the Court's leave.

25 MR. MACDONALD: Objection, your Honour. (Interpretation) If I'm

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Open Session)
Further Questioned by Mr. Hooper

Page 39

1 not mistaken, the same request was made with one of the first Prosecution
2 witnesses. A filing was submitted, I think, by Mr. Hooper. I wish to
3 refer to earlier discussion we had about Witness 0250. The Chamber must
4 have noticed, and this was repeated by the Appeals Chamber, that in the
5 ICC system, the rule is to hear the witness. We have decision ICC 5,
6 which relates to the admission of witness statements. A request has to
7 be given in advance pinpointing certain paragraphs that have to be read
8 into the court record in order to gain time.

9 It's true that the Prosecution has put questions to the witness
10 about certain paragraphs, so those paragraphs could be read into the
11 court record, but the rest of the document or the entirety of the
12 document does not constitute evidence.

13 The Prosecution made the same request about Witness 0250, and
14 Mr. Hooper objected strongly. Now that it is the turn of the -- of a
15 Defence witness, he is asking for this to be read into the record.

16 PRESIDING JUDGE COTTE: (Interpretation) I will interrupt you,
17 Prosecutor.

18 Mr. Hooper, you asked that the content or excerpts of this
19 statement be included in the case record. That suffices. We are not
20 going to give an EVD number to this statement, and you can carry on with
21 your final observations.

22 MR. HOOPER: Now, as we know, that was a statement made on the
23 20th and 21st of November last year. And then reference was made this
24 morning to a further investigator's report which is really a summary made
25 by the investigators of a conversation that took place over 20 minutes

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Open Session)
Further Questioned by Mr. Hooper

Page 40

1 after the end of the tape recording of the statement that we have just
2 looked at, which was not recorded and has been summarised in the
3 investigator's report.

4 Q. Now, at paragraph 14 of that, there's this matter, and I'm going
5 to read it and then ask you about it. Solomon reminded you that during
6 his audio-recorded security assessment you'd said you didn't have any
7 security concerns. Do you know what the audio-recorded security
8 assessment was? I ask that because I've never seen any -- any such
9 thing, but was there any separate conversation you had with Solomon where
10 you were assessed as to your security? Can you remember that? I know
11 it's a long time -- well, last year. Can you remember?

12 A. Yes. Solomon recorded my voice and as I was speaking --

13 THE INTERPRETER: Message from the Swahili booth: The witness
14 spoke very fast and the interpreters did not get what he was saying.

15 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, could you
16 repeat what you just said, and please try to speak slowly for the benefit
17 of the interpreters. You started by saying, "Yes, Solomon recorded my
18 voice," and the rest of what you said was not heard by the interpreters.
19 Please kindly repeat it.

20 THE WITNESS: (Interpretation) Yes. Solomon recorded my voice
21 as we discussed in the room. I said that at that time I had no doubts.
22 It was later on that I understood that (Expunged). had gotten involved in a
23 bad affair and I started having fears.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, we have
25 only two more minutes.

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Open Session)
Further Questioned by Mr. Hooper

Page 41

1 MR. HOOPER:

2 Q. At any time did the Prosecution --

3 MR. HOOPER: Well, I see it's two minutes to go. That's going to
4 be too long a question, I think. Perhaps we could pause there. I've
5 got, I think, one, maybe two questions to come back to.

6 PRESIDING JUDGE COTTE: (Interpretation) Very well. Witness, we
7 are going to break for 30 minutes, during which time you should rest.

8 Court Usher, please kindly lead Mr. Obia out of the courtroom.

9 (The witness stands down)

10 MR. MACDONALD: (Interpretation) Just to confirm, your Honour,
11 we are going to sit until midday?

12 PRESIDING JUDGE COTTE: (Interpretation) I am coming to that. I
13 don't think it would be appropriate to bring Witness 0161 today. Given
14 the protective measures that were requested, we need 30 minutes to
15 rearrange the courtroom. We also need 30 minutes to reconfigure the
16 courtroom for the *ex parte* hearing, which means that we are going to meet
17 again at 11.30. Mr. Hooper will conclude his final observations. We
18 will greet the witness and thank him and rise for a while, that is, for
19 30 minutes, maybe a quarter to 12.00 or at 12.00. Whatever the case, we
20 have to conclude by 12.00. That is imperative. I think that is possible
21 for Mr. Hooper. And when -- by the time we conclude, it will be possible
22 for the witness and for the Defence team of Mr. Germain Katanga and
23 Mr. Germain Katanga himself to greet the witness if they so wish. And as
24 from 15 minutes past 12.00 or 30 minutes past 12.00, depending on when we
25 are going to conclude with this witness, we will remain with the

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Open Session)
Further Questioned by Mr. Hooper

Page 42

1 representatives of the Registry and the members of Mr. Mathieu Ngudjolo's
2 Defence team.

3 We are going to rise and meet again at 11.30.

4 Recess taken at 11.00 a.m.

5 On resuming at 11.37 a.m.

6 (Open session)

7 COURT USHER: All rise.

8 PRESIDING JUDGE COTTE: (Interpretation) Court Officer and

9 Court Usher, could you please bring in the witness, Mr. Obia.

10 (The witness takes the stand)

11 PRESIDING JUDGE COTTE: (Interpretation) Witness, can you hear
12 me?

13 THE WITNESS: (Interpretation) Yes, I can.

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

15 Mr. Hooper, you have the floor to conclude your final comments.

16 We must adjourn at noon. You have the floor.

17 MR. HOOPER: Yes. Thank you.

18 Q. Mr. Obia, I have no other questions to ask you, merely, in fact,
19 to thank you for bringing yourself all the way here to put yourself at
20 our service and to obvious difficulty for yourself.

21 I have one matter, though, that perhaps I can raise with you.

22 MR. HOOPER: Which in order to do so, can I ask that we go into
23 closed session -- private session, for perhaps five minutes.

24 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, we shall
25 go into private session for a moment.

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Private Session)
Further Questioned by Mr. Hooper

Page 43

- 1 (Private session at 11.39 a.m.)
- 2 (Expunged)
- 3 (Expunged)
- 4 (Expunged)
- 5 (Expunged)
- 6 (Expunged)
- 7 (Expunged)
- 8 (Expunged)
- 9 (Expunged)
- 10 (Expunged)
- 11 (Expunged)
- 12 (Expunged)
- 13 (Expunged)
- 14 (Expunged)
- 15 (Expunged)
- 16 (Expunged)
- 17 (Expunged)
- 18 (Expunged)
- 19 (Expunged)
- 20 (Expunged)
- 21 (Expunged)
- 22 (Expunged)
- 23 (Expunged)
- 24 (Expunged)
- 25 (Expunged)

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Private Session)
Further Questioned by Mr. Hooper

Page 44

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 44 expunged – Private session.

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Private Session)
Procedural Matters

Page 45

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 45 expunged – Private session.

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Resumed) (Private Session)
Procedural Matters

Page 46

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 46 expunged – Private session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 47 expunged – Private session.

1 (Expunged)
2 (Expunged)
3 (Expunged)
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged)
9 (Expunged)
10 (Expunged)
11 (Expunged)
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
17 (Expunged)
18 (Expunged)
19 (Expunged)
20 (Expunged)
21 (Expunged)
22 (Expunged)
23 (Expunged)

24 (Open session at 11.55 a.m.)

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

1 your Honour.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
3 Court Officer.

4 Before we leave our witness, I would just like to recall what
5 Mr. Luvengika said at the end of the hearing last Friday. You remember
6 that Mr. Luvengika drew your attention to the part of message which was
7 sent to you by error, and he asked that what had been sent to you by
8 error or in partial error should not be used and should be destroyed. I
9 would like to refer to this statement which was at the end of the hearing
10 Friday, the 20th of May, at around 1.25 p.m.

11 Defence. Now, you are going to make the comment at the end of
12 each piece of testimony?

13 MR. KILENDA: (Interpretation) I have an additional application.
14 This is an exceptional statement. This is for our team to make the first
15 address to the witness because then we'll be going on to an *ex parte*
16 hearing.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
18 Court Officer, Mathieu Ngudjolo's team will be here at 12.30 and will be
19 expressing its thanks to the witness first and that will be followed by
20 the team for Germain Katanga.

21 Witness, you will be leaving. I don't know if you can hear me.
22 Can you, Witness?

23 THE WITNESS: (Interpretation) I can hear you. I can hear you.

24 PRESIDING JUDGE COTTE: (Interpretation) I would like to see
25 your eyes, if I could, have you looking at me. Thank you for looking at

1 me.

2 THE WITNESS: (Interpretation) Your Honour.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you. I would
4 like to thank you for coming to The Hague, for giving evidence at the
5 request of two Defence teams. You have answered many questions, and in
6 your own way you have tried to help the Court see what has happened in
7 the events before the Court more clearly.

8 Throughout the session, you have heard things which we would like
9 to ask you to keep to yourself. These are not to be discussed with
10 people outside the Court, be these members of your family, friends, or
11 professional contacts. We are asking you not to discuss what you have
12 said in the course of the different hearings. I'm asking you to do that,
13 and I can see that you can understand me.

14 All of us here wish you a safe trip home, and we also wish you
15 good health, and once again, thank you, Witness.

16 Court Officer, Court Usher, could you please take Mr. Obia out of
17 the courtroom. Then we shall have a 30-minute recess. We need to
18 rearrange the courtroom for an *ex parte* hearing.

19 MR. HOOPER: (* Previous translation continues) ... one minute.
20 Once the witness has managed to leave.

21 PRESIDING JUDGE COTTE: (Interpretation) Fine.

22 Good-bye, Witness.

23 MR. FOFÉ: (Interpretation) Asks if he is to come back into the
24 courtroom.

25 PRESIDING JUDGE COTTE: (Interpretation) No.

1 (The witness withdrew)

2 (Expunged).

3 (Expunged).

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you for being
5 interpreter, Professor Fofé.

6 Mr. Hooper, you have the final comment, and then we must go to
7 recess.

8 MR. HOOOPER: Can I apply for the relevant part of the transcript
9 to be submitted to the translation department at the court, that is from
10 line 74 through to line 239 of the transcript. Can I ask that that be
11 submitted, given particularly what we've heard today, and
12 Professor Fofé's comments. I think it will serve all the parties and the
13 Chamber -- the Chamber's interests if we had a careful translation of
14 that document. Clearly our interpreters today have done their best, but
15 doing things on the hoof, as it were, is never easy, as -- as they
16 reminded us from time to time, and it would be helpful to have a formal
17 translation.

18 PRESIDING JUDGE COTTE: (Interpretation) Given that we have to
19 be absolutely exact, it is DRC-OTP-1060-0077 which has become EVD -- I
20 believe it ends with 00266. It is a transcript of testimony that we
21 listened to yesterday and which led this morning to some exchanges and
22 some assistance from our interpreters at the request of Professor Fofé.
23 It will, of course, be preferable to have in our case file a translation
24 that is not in dispute. So this will apply to lines 73 to 238 inclusive,
25 and this is the part that was played back yesterday. So the Registry

1 should ensure that this translation is done within the appropriate time
2 lines and communicated to the Bench and to the parties and participants.

3 This session is adjourned, and we will meet again at 12.30, and
4 12.30 promptly, because we have -- have only one hour left, and tomorrow
5 we'll move on to Witness D-P-0161 tomorrow at 9.00 a.m.

6 The hearing ends at 12.03 p.m.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25