

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 Wednesday, 25 May 2011
10 The hearing starts at 9.05 a.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session.
14 PRESIDING JUDGE COTTE: (Interpretation) You may be seated.
15 Good morning, everyone. Good morning, accused gentlemen. Before
16 Witness D02-P-161 comes into the courtroom, the Chamber needs to rule on
17 an application filed by the Defence of Germain Katanga. By filing number
18 32 (* as interpreted) of the 23rd of May 2011, the Defence of
19 Germain Katanga asked for protection measures during the testimony of
20 D02-P-161. The team points out that the witness had initially planned to
21 testify publicly. At the end of the familiarisation process which took
22 place last 20th February -- Friday, the witness pointed out that he
23 feared for his safety and that of the children if he was identified as
24 collaborating with the Court.
25 The Defence therefore requests for the use of a pseudonym, voice,

1 and face distortion and private sessions where necessary if it turns out
2 that certain questions may elicit answers of an identifying nature. The
3 Prosecutor pointed out that in principle he had no objections to such
4 measures, subject to additional information from the Victims and
5 Witnesses Unit.

6 The unit consulted by the Chamber indicated that the fears
7 expressed by the witness were not unjustified, and given the witness's
8 family situation it was preferable to prevent any harassment that might
9 occur as a result of the witness's testimony before the Court. The final
10 analysis the Prosecutor deferred to the discretion of the Court and so
11 did the Defence for Mathieu Ngudjolo. The Legal Representatives of the
12 Victims pointed out to the Chamber that they did not have any specific
13 observations.

14 In light of the information at the disposal of the Chamber, we
15 believe that it is necessary to order protection measures for the
16 witness. We will use a pseudonym. We will refer to that witness as
17 Madam witness. There will be face and voice distortion and the use of
18 private sessions. The parties and participants are called upon whenever
19 necessary to use the pseudonym so as to make the proceedings as public as
20 possible. These measures seem to be necessary because the witness needs
21 to testify in a good state of mind and in a state of safety. These
22 measures will therefore necessitate a closed session when the witness
23 comes into the courtroom and when the witness leaves the courtroom. The
24 witness will provide their identity details in closed session, but will
25 take the solemn undertaking in open session.

1 Court Officer, Court Usher, please have the witness brought into
2 the courtroom once a closed session has been established, so as to allow
3 the witness to come into the room discreetly.

4 (Closed session at 9.10 a.m.)

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12 (Private session at 9.12 a.m.)

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17 (Open session at 9.15 a.m.)

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

19 Honour.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

21 Court Officer.

22 Madam Witness, before starting your testimony you have to make an

23 undertaking to speak the truth. It is a solemn undertaking. I will

24 therefore read the wording of that undertaking slowly so that you should

25 fully understand its import. The wording is as follows: I solemnly

1 declare that I will speak the truth, the whole truth, and nothing but the
2 truth. Have you understood me?

3 THE WITNESS: (Interpretation) Yes, I have understood you well.

4 PRESIDING JUDGE COTTE: (Interpretation) Very well.

5 Madam Witness, do you pledge to speak the truth, the whole truth, and
6 nothing but the truth?

7 THE WITNESS: (Interpretation) Yes.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Please
9 listen carefully. You have just stated that you pledge to speak the
10 truth, the whole truth, and nothing but the truth. If in the course of
11 your testimony or in answer to questions put to you by the parties and
12 participants or anyone else in this courtroom you do not speak the truth,
13 you could be prosecuted before this Court for false testimony. And if
14 those charges are proven, you could be convicted. Have you fully
15 understood me?

16 THE WITNESS: (Interpretation) Yes, I have understood.

17 PRESIDING JUDGE COTTE: (Interpretation) We duly note that the
18 provisions of Article 69(1) of the Statute and Rule 66(1) and (3) of the
19 Rules of Procedure and Evidence have been complied with.

20 Madam Witness, at the request of the Defence team of
21 Germain Katanga which called you as a witness and after receiving the
22 observations of all the parties and participants, the Chamber has decided
23 to order a certain number of protection measures for you during your
24 testimony in the courtroom. We will never refer to you by your name or
25 first name. We will simply say "Madam Witness."

1 THE WITNESS: (Interpretation) Very well.

2 PRESIDING JUDGE COTTE: (Interpretation) Your voice and your

3 face will be distorted so that you cannot be recognised or identified.

4 Each time that a question is put to you that may elicit from you

5 identifying information, then we will go into private session. But

6 everyone while respecting the necessity not to identify you will make an

7 effort to ensure that the proceedings are as public as possible because

8 justice has to be administered publicly.

9 Madam Witness, let me point out once again even though I notice

10 that you have already started doing so, to speak out loud, slowly, while

11 articulating well, and you have to observe a short pause of five seconds

12 between the answers and the questions. You can do this by counting to

13 five, so as to enable the interpreters to do their work properly. They

14 have to interpret your answers into French and from French into English,

15 and this requires a certain amount of time and it requires that you speak

16 clearly, loudly, and slowly. I believe you have understood me well.

17 THE WITNESS: (Interpretation) Yes, I have fully understood you.

18 PRESIDING JUDGE COTTE: (Interpretation) Everything that you say

19 in the course of this hearing and tomorrow if your testimony continues

20 should be kept to yourself. Please do not speak to anyone else about it

21 outside of the Court. You are giving your testimony to the Court and not

22 to the outside world. If you feel tired, please do not hesitate to tell

23 us; and if you think that you need to have a drink of water, there is a

24 jug of water on your table and do not hesitate to drink. We have no

25 problem with that. All of us have water on our tables to drink from time

Witness: Witness DRC-D02-P-0161 (Open Session)
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1 to time.

2 You also have a box of tissues on the table. If you need to use
3 the tissues, please do so. We have no problem in the courtroom with a
4 witness blowing his or her nose or wiping his or her face with the
5 tissues. You have been called here to give your testimony to the
6 Chamber, and so you have to give us your testimony in -- under very good
7 conditions. I believe you have understood me.

8 THE WITNESS: (Interpretation) Yes, I have understood you.

9 PRESIDING JUDGE COTTE: (Interpretation) That is perfect.

10 To your left you have the Defence teams of Germain Katanga and
11 Mathieu Ngudjolo, and to your right you have the representatives of the
12 Office of the Prosecutor and the representatives of the victims who have
13 been authorised to participate in these proceedings.

14 Now, Madam Witness, it will be Mr. David Hooper who will begin
15 his examination-in-chief now.

16 Mr. Hooper, please proceed.

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

18 WITNESS: WITNESS DRC-D02-P-0161

19 (Witness answered through interpreter)

20 Questioned by Mr. Hooper:

21 Q. Good morning, Madam Witness. My name's David Hooper. You and I
22 met earlier this year, you might remember, in Bunia. There are some
23 other people whose faces may be familiar to you in this courtroom, not
24 many out of all the people here, but some. I think you've met
25 Sophie Menegon, who sits next to me here, I think some years ago. And

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1 there's Caroline Buisman, sits just there. I don't know if you can see
2 her behind the curtain. She is just sitting on the corner. I see from
3 the look on your face you do recognise her. And Andreas here, I think
4 you may recognise him. He's had a haircut, I think, since you last saw
5 him. And at the back if I can ask him to stand up, there's the gentleman
6 there, Germain Katanga, do you recognise him?

7 A. (No interpretation)

8 Q. All right. So anyway there are --

9 A. (No interpretation)

10 Q. Well, all right. So there's some people here --

11 THE INTERPRETER: From the Swahili booth: The French channel is
12 occupied because counsel and witness are speaking at the same time.

13 PRESIDING JUDGE COTTE: (Interpretation) Do not forget to wait
14 five seconds even if you know the answer immediately, Madam Witness, or
15 the interpreters would be lost.

16 MR. HOOPER:

17 Q. All right. So let me just say: Did you recognise some of the
18 people there, and in particular the gentleman at the back who stood up,
19 did you recognise him?

20 A. Yes, I have recognised that person.

21 Q. All right. Now, the one thing we all understand in this
22 courtroom is that sitting in the chair where you're sitting is not always
23 a very happy position to be in. It must be -- you must be feeling very
24 nervous, but just realise we all recognise that and there's nothing any
25 of us want to do to make you feel nervous or uncomfortable.

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1 Now, as His Honour has just said, I will not - nor will anyone
2 else - call you by your name when we are in what is known as public
3 session. We're in public session at the moment. When we come to things
4 that are private and which may identify you, then we'll go, as you just
5 heard, into private session so that only people in this room will hear
6 about it. And I'm going to ask to go into private session now but only
7 for a few minutes while we deal with some things about your own personal
8 history which would otherwise or may identify you.

9 PRESIDING JUDGE COTTE: (Interpretation) Very well.

10 Court Officer, let us briefly go into private session for
11 questions and answers that are related to the civil status of the witness
12 and her personal life.

13 (Private session at 9.27 a.m.)

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Witness: Witness DRC-D02-P-0161 (Private Session)
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4 (Open session at 9.31 a.m.)

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

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

7 Mr. Hooper.

8 MR. HOOPER:

9 Q. Now, did you grow up in Nyakunde?

10 A. Yes.

11 Q. Did there come a time when you had to leave Nyakunde for
12 somewhere else; and if so, why was that?

13 A. I left Nyakunde after the war broke out between the Bira and the
14 Ngiti. That was the war which made me leave Nyakunde.

15 Q. Thank you very much. Now, can you remember which year that was?
16 And may I say, if at any time I or anybody else asks about a date or a
17 year and you don't remember, say so; but if you can help us with dates
18 and years, then that's very helpful. So let me ask the question again:
19 Can you remember in what year the war between the Bira and the Ngiti was?

20 A. The war which made me leave Nyakunde broke out in August 2001.

21 Q. Yes, just seeing if I'd asked this question before. And when you
22 left Nyakunde, where did you go? And again, don't tell us with whom you
23 lived, just the place where you went.

24 A. I left Nyakunde to go and settle in Bunia.

25 Q. And how long did you remain in Bunia?

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Questioned by Mr. Hooper

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1 A. I stayed in Bunia for about one year.

2 Q. And can you remember when it was that you left Bunia and the
3 circumstances?

4 A. I left Bunia because we didn't feel we were safe. People from
5 UPC were causing trouble there after the events --

6 Q. Can you remember --

7 A. -- after the events related to Lopondo.

8 Q. All right. So --

9 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, could you
10 please restate your question.

11 MR. HOOPER: Yes, I think the witness in fact has only just heard
12 the last part of the answer, and so my question was premature.

13 Q. So what happened to Lopondo, can you remember?

14 A. Lopondo was governor of the town and he was hunted out of Bunia
15 by UPC men.

16 Q. Now, when Lopondo was hunted out of Bunia, were you still in
17 Bunia or had you already left?

18 A. When the violence got worse, I left before Lopondo left. So I
19 left shortly before Lopondo fled, before Lopondo left.

20 Q. And where did you go?

21 A. I left Bunia and went to Songolo.

22 MR. HOOPER: Now, if we can just go into private session for one
23 question.

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

25 (Private session at 9.40 a.m.)

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- 13 (Open session at 9.41 a.m.)
- 14 COURT OFFICER: (Interpretation) We are in open session, your
- 15 Honour.
- 16 PRESIDING JUDGE COTTE: (Interpretation) Perfect. Thank you.
- 17 Mr. Hooper.
- 18 MR. HOOPER:
- 19 Q. So you get to Songolo. How long did you stay there for?
- 20 A. I spent three months in Songolo.
- 21 Q. And after Songolo, where did you go?
- 22 A. I left to Songolo and went to Bavi Avenyuma.
- 23 Q. And after Bavi Avenyuma, did you stay there or did you go
- 24 anywhere else?
- 25 A. After Bavi Avenyuma, I went to Aveba.

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1 MR. HOOPER: And again, if we can go into closed session --
2 private session for one question.

3 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, a moment
4 in private session.

5 (Private session at 9.44 a.m.)

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10 (Open session at 9.51 a.m.)

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

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

14 Mr. Hooper.

15 MR. HOOPER:

16 Q. All right. So now we're in public session, and again we must be
17 careful what we say. But I want to talk now and ask you about
18 Germain Katanga who you recognise here today. Just tell us a little
19 about your knowledge of Germain. When did you first meet Germain?

20 A. The first time I met Germain Katanga was in Komanda and he lived
21 in Lolwa but he wasn't a soldier yet. He went there to study. I was
22 also studying in Komanda and that was when I saw him and met him for the
23 first time.

24 Q. Now, I don't know how good you are with maps. Some people are
25 good and some people are not so good with maps. But I'm going to ask

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1 that we have a quick look at EVD-D02-00122 and that will come up on the
2 screen in front of you if that's on. Are the screens on in front of you,
3 Madam Witness? Are the screens working? I think normally there's
4 nothing on the screen unless we actually put something up for you to look
5 at. I hope that's the case and you're not seeing yourself on television,
6 as it were.

7 COURT OFFICER: (Interpretation) To see the document, please
8 press the button PC 1.

9 MR. HOOPER:

10 Q. And the same thing is coming to you now on -- in a normal format,
11 it's public, of this document --

12 PRESIDING JUDGE COTTE: (Interpretation) Please.

13 MR. DUTERTRE: (Interpretation) Good morning, your Honours. I
14 have no objection to a map being shown, but I would like to point out
15 that this was not indicated on the list of exhibits which the Defence
16 wished to show the witness. This is just to note that point.

17 PRESIDING JUDGE COTTE: (Interpretation) It seems to me that it
18 was added by a later message. We originally had four documents and the
19 map came later, at least for the Bench it was sent on Monday, the 23rd of
20 May, by Ms. Menegon at 10.20 a.m. There we are. I'm just pointing this
21 out because it was forwarded in fact.

22 Mr. Hooper, you may proceed.

23 MR. HOOPER: Yes. So -- so I hope you got that message from our
24 case manager.

25 Q. So if we look at the map - and the sole purpose of this is -- and

1 we've all seen this map before, it's in evidence, we've seen this before
2 in the case. But it just helps those of us who don't know the area to
3 see that if we go down the road from Bunia towards Beni, the main road,
4 about a third of the way along we come to Komanda. And indeed the
5 kilometres seem to be indicated on this map, 3131. So we get to Komanda,
6 and then from Komanda coming from Bunia, if we turn right we take the
7 road towards Kisangani, one of the first places we come to is Apawanza
8 and then we come to Lolwa, L-o-l-w-a. So there we have where Germain was
9 then living, we have Komanda where you were studying, and he was studying
10 too. So -- but that's all I need the plan for -- the map. So you can
11 put that on one side. I won't be looking at that again.

12 Now, you say you were at school in Komanda. What level -- what
13 year of schooling, can you remember, were you at -- were you in, in
14 Komanda?

15 A. I studied in Komanda starting in the first year of secondary
16 school.

17 Q. Now, at the time that you first saw or met Germain Katanga, he
18 wasn't, you said, a militia. Now, let's move on to the time when you
19 arrive in Aveba. Was he in the militia then or not?

20 A. When I arrived in Aveba, I saw Germain Katanga and he was in the
21 military.

22 Q. And do you know what his position was in the military?

23 A. In Aveba Germain Katanga was commander, commander of Aveba.

24 Q. Now, Aveba, you mentioned an area within which you stayed and you
25 gave it a name. Does Aveba have just one name, as it were, or does it

1 have districts or can you help us?

2 A. Aveba is Aveba. However, the area is divided in two. You have
3 little Aveba and big Aveba.

4 Q. And do those have -- well, I heard a translation of "little" and
5 "big" in English, so I don't know what was said in Swahili. Do those --
6 little Aveba and big Aveba, does it have a name or is it just described
7 in that way, "little" and "big"? Can you help us?

8 A. Little Aveba is located towards the Kengelu market. Big Aveba is
9 located around medical centre and the airport.

10 Q. All right. Now, do you know someone called Denise?

11 A. Yes, I do know her.

12 Q. And when did you first meet Denise?

13 A. Could you please make your question clearer. Do you wish to know
14 the name of the place where I met Denise for the first time? Could you
15 please kindly clarify your question.

16 Q. Yes, sorry, my question - you're quite right - wasn't clear. For
17 how long have you known Denise? How did you come to know her?

18 A. I knew Denise in Nyakunde. We lived in the same neighbourhood.
19 At that point in time, she was not yet the wife of Germain Katanga.

20 Q. When you arrived in Aveba, was Denise living in Aveba or not?

21 A. When I arrived in Aveba, Denise was not there yet.

22 Q. Can you remember when Denise came?

23 A. I saw Denise in Aveba during the ceremony of her wedding to
24 Germain Katanga.

25 Q. Right. Now, when you arrived in Aveba you were still a school

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1 girl. Did you manage to go to school in Aveba or not?

2 A. For some time I did not go to school whilst I was in Aveba, and
3 there was another point in time still in Aveba when I went to school.

4 Q. All right. So I think we just better go into private session
5 while I ask you what year you were in and details like that.

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

7 (Private session at 10.06 a.m.)

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10 (Open session at 10.10 a.m.)

11 COURT OFFICER: (Interpretation) Your Honour, we're in open
12 session.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

14 Mr. Hooper, you may continue.

15 MR. HOOPER:

16 Q. How long did you stay in Aveba?

17 A. I spent several days in Aveba. I stayed there until peace
18 returned to Bunia. That was when I left Aveba.

19 Q. Yes. Now, when you went to school - and we've dealt with where
20 you went to school so we don't need to go into those details - did you
21 have to pay any money for your education; and if so, where did you get
22 the money?

23 A. I lost my father, and while I was attending school
24 Germain Katanga met me one day returning from school. He asked me, "Why
25 are you leaving school at this time of the day?" And I told him, "I was

1 sent away because I do not have school fees or haven't paid my school
2 fees." And Germain Katanga helped me to pay my school fees.

3 Q. Now, do you know anything of the history of the big battle that
4 we've heard about in this courtroom at Nyakunde? Do you know anything
5 about the history of that, what happened?

6 A. Yes.

7 Q. And where were you when that battle took place, can you remember?

8 A. I was in Bavi, in Avenyuma, during the time of the battle in
9 Nyakunde.

10 Q. All right. So now we've got to be a bit careful here because
11 there's things that you see yourself and there's things that you learned
12 from other people. So let me ask you this: Did you actually witness
13 yourself with your own eyes anything to do with the battle at Nyakunde or
14 not?

15 A. As concerns the events of the battle of Nyakunde, I did not
16 witness them or see them with my proper eyes or my own eyes; I rather
17 heard accounts from other people.

18 Q. All right. So you've heard accounts from other people, and I'm
19 going to ask you to just give us a resumé, a summary really, of what you
20 learned from other people and what your own understanding therefore was
21 of what happened at Nyakunde. So just briefly, what was the story, what
22 did you hear?

23 A. I heard the following: Nyakunde had been burnt down. People
24 were killed and other acts were perpetrated.

25 Q. Do you know who attacked Nyakunde?

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1 A. Yes, I knew.

2 Q. All right, well who did you hear was the attacker or attackers?

3 A. As far as I'm concerned, the people I saw attack Nyakunde were
4 Kandro and his soldiers.

5 Q. All right. What happened to Kandro, do you know?

6 A. Yes.

7 Q. And again, obviously it's something you heard, but what did you
8 hear?

9 A. After attacking Nyakunde, Kandro moved on towards Bavi. There he
10 was hit by a bullet and he died. A soldier shot at him and he died.

11 Q. All right. Now, I want to come back to Germain Katanga, and you
12 said he was the leader of the combatants at Aveba. Now, was he the
13 leader of militia or combatants not at Aveba but at other places, such as
14 Bavi Avenyuma or Olongba or Kagaba or the other places where Ngiti were?
15 What was your understanding of his position during the time that you were
16 at Aveba?

17 A. No, Germain was the commander in Aveba, in big Aveba.

18 Q. Do you know if there was a camp, a militia camp, a camp for the
19 Ngiti militia? Do you know if there was such a camp in Aveba?

20 A. Yes, there was a camp in Aveba.

21 Q. Did it have a name and did you ever visit it?

22 A. It was the BCA camp. Yes, I visited it.

23 Q. Do you know if it had a commander; and if so, who it was?

24 A. Mbadu was the commander of the camp.

25 Q. Were there any other camps in Aveba that you know about?

1 A. Yes, there were other camps towards the airport.

2 Q. Do you know who the commander was of the camp or camps by the
3 airport?

4 A. With respect to the camp I mentioned, it was commanded by
5 Garimbaya.

6 Q. Now, what caused you to visit a military camp such as the BCA?
7 Why did you go there?

8 A. I usually went to the BCA camp for the following reason. Choir
9 members were in the habit of going to the camp to carry out evangelical
10 activities.

11 Q. Are we to deduce from that that you remember a member of a choir;
12 and if so, which choir was that?

13 A. It was the Coreva choir.

14 Q. Now, when you first arrived in Aveba, do you know where Germain
15 was living and did his living arrangements ever change?

16 A. When I arrived in Aveba, Germain was living in his father's
17 house.

18 Q. Did he stay living in his father's house while you were in Aveba?

19 A. No. Later on he returned to the BCA.

20 Q. And did he live on his own in the BCA or not?

21 A. He was living with his wife, Denise.

22 Q. Now, I want to ask you a general question, a general subject,
23 about Germain. How did Germain get on with the local civilians living in
24 Aveba? What in your experience and from what you could see was his
25 reputation with the civilians in Aveba?

1 A. Germain lived in harmony with the civilian population, in great
2 harmony. Germain did not wish to have problems with anybody whomsoever.
3 He never beat anyone and he would not confiscate anyone's property.

4 Q. While you were in Aveba, did you yourself ever witness any
5 incidents concerning Germain and Hema people?

6 A. Could you please repeat your question.

7 Q. While you were in Aveba, did you ever yourself witness any
8 incidents involving Germain, Germain Katanga, and people who were of Hema
9 ethnicity?

10 A. Germain had no problems with the Hemas who came to Aveba.

11 Q. Now, which Hemas came to Aveba? What are you talking about
12 there?

13 A. I am talking about the Hemas who would come or who would pass
14 through Aveba. I'm talking about Hema refugees who were fleeing from
15 Bunia.

16 Q. And what happened in respect of those people?

17 A. Those people left Bunia at the peak of the fighting between the
18 UPC and Lendu Ngiti fighters. That was the time when everyone left
19 Bunia.

20 Q. Did you yourself see Hema people in Aveba?

21 A. Yes. The Hemas also passed through Bavi to come to Aveba.

22 Q. And what was Germain's attitude to them?

23 A. With regard to Germain Katanga, he welcomed everyone properly.
24 He issued them laissez-passers to be able to travel through the town and
25 reach the road to North Kivu. For those who wanted to stay in Aveba,

1 they were completely free to do so.

2 Q. Now, in terms of the BCA which you had spoken about which you
3 visited, what was the situation -- I'm going to ask you about something
4 it's been suggested in this case may have been going on there, and that
5 is that in the camp there may have been women who had been captured in
6 battles, not necessarily Hema women but perhaps other women too, who were
7 kept prisoner and forced into marriages, became sort of sexual slaves.
8 Now, during your time in Aveba and in particular your visits to the camp
9 with the choir, did you yourself ever witness or did you ever hear
10 rumours that there were women in those camps who'd been captured and who
11 were being kept prisoner against their wishes and made to have sexual
12 relations? Did you hear any such thing during your time in Aveba?

13 A. I never heard any such thing in Aveba.

14 Q. Now, I want to ask you about something called I believe "rapt,"
15 an aspect of Ngiti culture. What, if anything, do you know about that?

16 A. Regarding rapt, this happens in the culture of the Aveba people,
17 but with regard to the soldiers under Germain's authority he did not
18 authorise his soldiers to practice such a culture.

19 Q. All right. Now, just tell us, though -- and we understand what
20 you're saying, but just so that we understand what you're talking about,
21 what is rapt in your culture, what is it?

22 A. In my culture when a man and a woman were in a friendly
23 relationship and the man wanted to marry the woman and the woman did not
24 agree, the man could meet the woman in the market, for example, and
25 forcibly take her home. Then the two families would have to agree and

Witness: Witness DRC-D02-P-0161 (Open Session)
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1 regularise the situation by providing drinks. That is what is known as
2 rapt in my culture.

3 Q. All right. What about the Hema ethnicity, do you know if they
4 have any custom like that or not?

5 A. Amongst the Hema, a young man can throw some butter on a young
6 woman, and after that the woman would officially become his wife. That
7 is what the Hema do, but I must admit that I cannot give you the details
8 about that Hema practice.

9 Q. No, but thank you anyway for that.

10 Now, in this case we are really focused on one incident that took
11 place, and that is the Bogoro attack in February of 2000 --

12 MR. MACDONALD: Objection, your Honour.

13 PRESIDING JUDGE COTTE: (Interpretation) Why are you objecting,
14 Mr. Prosecutor?

15 MR. MACDONALD: (Interpretation) We are objecting the suggestion
16 of the date of the 24th of February. This is not disputed, but that date
17 has just been suggested to the witness. We do not know whether she is
18 aware that the date is the 24th of February. There is absolutely nothing
19 in her statement about the dates and this date has just been suggested to
20 her. That is my problem, your Honour, respectfully submitted. As I have
21 said, the date of the 24th of February is not in dispute but the witness
22 has her own time-line, reference points that are personal to her and
23 which lack certain dates and months. And when such a suggestion is made,
24 a reference point is given to her.

25 PRESIDING JUDGE COTTE: (Interpretation) Very well.

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1 Mr. Hooper, please proceed, but bearing in mind that the witness
2 is now certain about the date because it has been mentioned several
3 times.

4 MR. HOOPER: I didn't mention the date. I mentioned the month,
5 but I think it was Mr. MacDonald who mentioned the date. I was careful
6 to avoid the date. But there we are. It's on the record.

7 MR. MACDONALD: (No interpretation)

8 PRESIDING JUDGE COTTE: (Interpretation) Please, let us not be
9 fussy, let us not be too fussy. It would be better to continue with this
10 examination which is going along quite well.

11 Please proceed, Mr. Hooper.

12 MR. HOOPER:

13 Q. Battle of Bogoro. Let's forget whatever date it was. Did you
14 hear about the battle of Bogoro, the big battle of Bogoro? Did you --
15 what do you know about it? Where were you and what do you know about it?
16 What can you tell us about it? Obviously you're not there, but what did
17 you hear at the time?

18 MR. DUTERTRE: (Interpretation) Mr. President.

19 PRESIDING JUDGE COTTE: (Interpretation) Yes, Mr. Dutertre.

20 MR. DUTERTRE: (Interpretation) Yes, the witness can be asked
21 what she knows about Bogoro. The fact that she was not present is
22 Mr. Hooper who is saying so. I believe he can simply ask his question,
23 it's an open question, and it is up to the witness to add details if she
24 wants to.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

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1 Mr. Prosecutor. It seemed to the Chamber that Mr. Hooper was simply
2 following up on the previous questions and he seemed to think that the
3 witness may not give evidence about personal experiences but about what
4 she heard. That is what earlier happened with the Nyakunde battle and so
5 on.

6 But, Mr. Hooper, please try to refocus your examination. Please
7 proceed.

8 MR. HOOPER:

9 Q. So what, in brief, did you learn about it, Madam Witness?

10 A. With regard to Bogoro I heard that houses had been set on fire,
11 that people were killed, and that there was looting in that town. That
12 is what I heard.

13 Q. Do you -- did you hear or what's your understanding as to who
14 attacked the town?

15 A. I heard that there was fighting in Bogoro between UPC soldiers
16 and combatants.

17 Q. And did you hear who led the combatants in that attack?

18 A. Yes, I heard that.

19 Q. And who did you hear had led the attack?

20 A. I heard it said that the Bogoro attack was led by Yuda and
21 carried out by his group. There were also other soldiers involved in
22 that attack.

23 Q. Have you ever seen Yuda; and if so, in what circumstances?

24 A. I saw Yuda when he came to Aveba, and in fact I had also seen him
25 when he had come from Beni.

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1 Q. Now, can you help us as to when Yuda came to Aveba?

2 A. Yuda was in the habit of coming to Aveba. There was a plane
3 which landed in Aveba and he would come on board that plane.

4 Q. Now, you said that you understood that it was Yuda who'd led his
5 combatants with other soldiers in the attack on Bogoro. Did you ever
6 have an opportunity to see Yuda at any time around the time that Bogoro
7 was attacked?

8 A. Yes. I saw Yuda around the time that the Bogoro attack took
9 place.

10 Q. And what was he doing?

11 A. He came to the health centre in Aveba to take some medication.

12 Q. Do you know why he needed medication?

13 A. Yes, I know.

14 Q. And what was that?

15 A. He came to receive treatment in Aveba because he had been injured
16 on the arm during the Bogoro battle. He had been hit by a bullet on the
17 arm.

18 Q. All right. Now, I'm just going to go into closed session in
19 order to give someone a pseudonym.

20 MR. HOOPER: So if we could go into private session for that,
21 please.

22 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please
23 take us briefly into private session.

24 (Private session at 10.49 a.m.)

25 (Expunged)

Witness: Witness DRC-D02-P-0161 (Private Session)
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14 (Open session at 10.51 a.m.)

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

16 Mr. President.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

18 MR. MACDONALD: (Interpretation) I would simply like to draw the
19 attention of the Chamber that we are getting confused with those various
20 pseudonyms. I just want to be sure that that pseudonym has not yet been
21 used to refer to the same person during a previous testimony. Maybe
22 Mr. Hooper can reassure us that he has not yet used that name in the
23 past, and I believe we will believe his word.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, it seems
25 that Frank is being mentioned for the first time, but if you can confirm

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1 that to us.

2 MR. HOOPER: Yes. I rarely use a name with a letter R in it and
3 I'm using one now, Frank.

4 Q. So we're going to refer to him as Frank and -- now, we mustn't
5 mention -- or let's just pop into private session again. I'm sorry. I
6 should have asked a further question perhaps, but it's just to identify
7 the grandfather.

8 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, let us
9 go back briefly into private session.

10 (Private session at 10.53 a.m.)

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11 (Open session at 10.56 a.m.)

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

13 PRESIDING JUDGE COTTE: (Interpretation) Yes, we are there. We
14 are back in open session.

15 MR. HOOPER: All right.

16 Q. So we're going to talk about Frank and you'll remember who Frank
17 is. So -- now, how long had you known Frank? I mean, how did you come
18 to know him?

19 A. I had known Frank ever since I was in Nyakunde. He was a friend
20 of my uncle's who was a carpenter; they lived together.

21 Q. At what point -- did you ever see Frank in Aveba; and if so, can
22 you remember when that was?

23 A. Yes, I saw Frank in Aveba. This was after the battle of Bogoro.
24 It was when everybody fled Bunia.

25 Q. All right. That's all my questions for the moment. We're going

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1 to have half an hour's break and then I'll come back and ask you a few
2 more questions. All right. Thank you, Madam Witness.

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

4 Madam Witness, we will indeed break for 30 minutes. We will
5 reconvene at 11.30. Please, you can take some rest during the next 30
6 minutes.

7 Court Officer, please take us into closed session to allow the
8 witness to leave the courtroom.

9 See you shortly, Madam Witness.

10 (Closed session at 10.58 a.m.)

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12 (Expunged)

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18 (Open session at 11.00 a.m.)

19 COURT OFFICER: (Interpretation) We are in open session, your
20 Honour.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

22 The hearing is suspended. We will reconvene at 11.30 a.m.

23 Recess taken at 11.00 a.m.

24 On resuming at 11.34 a.m.

25 (Closed session)

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8 (Open session at 11.36 a.m.)

9 COURT OFFICER: (Interpretation) We are in open session, your
10 Honour.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

12 Madam Witness, can you hear me well?

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

14 PRESIDING JUDGE COTTE: (Interpretation) We can now resume our
15 work.

16 Mr. Hooper, you may proceed.

17 MR. HOOPER:

18 Q. Madam Witness, you may recall your last answer to my last
19 question before the break was to this effect, that you had seen Frank in
20 Aveba, it was after the battle of Bogoro, it was when everybody fled
21 Bunia. Now, you say it was after the battle of Bogoro and indeed and it
22 was when everybody fled Bunia. Can you remember, perhaps in months, how
23 many months was it after the battle of Bogoro that everybody fled Bunia
24 and when you saw Frank? Can you remember -- help us as to how --
25 approximately how long that was after Bogoro.

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1 A. It was around three months.

2 Q. All right. Now, had Frank been living in Aveba before then, and
3 particularly if he'd been living in Aveba before Bogoro, the battle of
4 Bogoro, do you think -- would it be possible for him to have lived there
5 and for you not to have seen him? What do you say to that?

6 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor.

7 MR. DUTERTRE: (Interpretation) Objection, your Honour. For a
8 start, this is a leading question; and secondly, this is a complex
9 question. There are two questions in the one question. Mr. Hooper needs
10 to ask where he was living.

11 PRESIDING JUDGE COTTE: (Interpretation) Well --

12 MR. DUTERTRE: (Interpretation) Yes, but not in such a way
13 because this is influencing the witness in the answer.

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, could you
15 please break the question down. Thank you.

16 MR. HOOPER: All right.

17 Q. So you have him arriving at the time the people fled Bunia three
18 months after Bogoro. My question is this: As far as you're concerned,
19 could Frank have been living in Aveba before Bogoro, for example, in the
20 weeks before Bogoro?

21 MR. DUTERTRE: (Interpretation) Your Honour, it's more or less
22 the same leading question. The question needs to be open. Does the
23 witness know where he was living, and then we can go on from that but at
24 the moment the question is leading question.

25 PRESIDING JUDGE COTTE: (Interpretation) Madam Witness, you told

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1 Mr. Hooper and the Court that you said that Frank had been seen, you had
2 seen him in Bogoro -- sorry, I mean in Aveba around three months after
3 the attack on Bogoro. Do you know where Frank was living before the
4 attack on Bogoro?

5 THE WITNESS: (Interpretation) Yes. Before the attack on Bogoro
6 I know that Frank was living in Bunia.

7 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, you may
8 proceed with your questions.

9 MR. HOOPER: Yes, thank you.

10 Q. Now, when Frank arrived in Aveba, where were you living in
11 relation to where Frank was living?

12 A. When Frank arrived in Aveba, I was also living in Aveba.

13 Q. All right.

14 MR. HOOPER: Perhaps we should in fact go into closed session for
15 a little clarification on that, private session, just for a minute or
16 two.

17 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, a moment
18 in private session, please.

19 (Private session at 11.43 a.m.)

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25 (Open session at 11.48 a.m.)

Witness: Witness DRC-D02-P-0161 (Open Session)
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1 COURT OFFICER: (Interpretation) We are in open session, your
2 Honour.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

4 Mr. Hooper, you may proceed.

5 MR. HOOPER: All right. Thank you.

6 Q. So you have been telling us about Frank and other people who were
7 living in that house and Frank's first wife and second wife were there,
8 there was other people. Now, did -- let's just concentrate on Frank and
9 his family, his two wives. Did they stay living there? What was the
10 position?

11 A. His first wife was sent to Beni after two weeks, and the second
12 wife stayed with us in Aveba.

13 Q. And while Frank was living in Aveba, what did he do?

14 MR. DUTERTRE: (Interpretation) Your Honour, there are
15 indications of names of wives and when we're referring to Frank I think
16 that the indications and the references to the family relationships may
17 be identifying factors for the public and that it would be preferable to
18 go into private session.

19 PRESIDING JUDGE COTTE: (Interpretation) We shall go into
20 private session just for the indication of the occupation, the
21 possibility that it may be a very small number of people doing this job
22 in Aveba. And as far as I remember Frank's job, this would seem
23 unlikely, but we will at least go into private session for that answer.
24 As for the marital relationship I think we can keep that at an impersonal
25 level without that being a difficulty. Thank you.

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1 Court Officer, a brief private session for the details relating
2 to the occupation of the person.

3 (Private session at 11.51 a.m.)

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16 (Open session at 11.54 a.m.)

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

18 Honour.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

20 Court Officer.

21 Mr. Hooper.

22 MR. HOOPER:

23 Q. So you know someone called Michel. How well do you know Michel?

24 A. Michel is a skinny person who was in Bunia and he's not very

25 dark.

1 Q. All right.

2 A. He was in Bunia before the events.

3 Q. And how well do you know him? Do you know him a little bit? Do
4 you know him to say hello to? Do you know him -- what's your -- how
5 would you describe how well you know him?

6 A. I know him very well.

7 Q. Now, while you were in Aveba, did you ever see Michel?

8 A. Yes, I saw him.

9 Q. At that time do you know where he was living?

10 A. Michel lived in Gety, but he would come to Aveba, to his friend's
11 place and also to the market-place.

12 Q. Do you know if Michel was in the militia?

13 MR. DUTERTRE: (Interpretation) Your Honour, this is a leading
14 question. We need to have an open-ended question. The witness has
15 already been influenced, however. What should -- what was he doing?
16 That's the question which Mr. Hooper should be asking.

17 MR. HOOPER: This isn't a leading question; it's an open
18 question. The witness can say: Yes, no, I don't know. It's an open
19 question.

20 MR. DUTERTRE: (Interpretation) The open question is: What was
21 he doing? That's an open question.

22 PRESIDING JUDGE COTTE: (Interpretation) Well, let's see if we
23 can move ahead.

24 Madam Witness, the question has been asked. You can answer it.
25 We're not going to erase it. Could you please answer the question.

Witness: Witness DRC-D02-P-0161 (Open Session)
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1 THE WITNESS: (Interpretation) (Expunged) came to Aveba, to his
2 friend, and also came to the market-place in Aveba.

3 PRESIDING JUDGE COTTE: (Interpretation) Please be careful,
4 Madam Witness, that in your answers you use the different names which we
5 have given to you. Thank you.

6 You may go ahead, Mr. Hooper.

7 MR. HOOPER: We just have a difficulty with our transcript
8 because we lose it after a few minutes and we have to reset it. I think
9 it's something, I'm told, to do with the plug that might be attended to.
10 But it's ...

11 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, we have
12 an English transcript which has turned out to be a bit unruly. Could
13 somebody do something about it?

14 MR. HOOPER: Yes, I don't think it's something to be patched up
15 this morning. It's a fault that we've had for a week or two, but it's --
16 if you see we're distracted from time to time, that's normally the source
17 of the distraction.

18 PRESIDING JUDGE COTTE: (Interpretation) Things like this should
19 be avoided.

20 MR. HOOPER:

21 Q. Yes, I see you repeated your answer just from a moment ago.
22 Thank you very much for that. Do you know what Michel was doing in Gety?
23 How was he spending his time? Did he have any job? What was he doing?

24 A. Michel was studying in Gety, but he also sold a few items in the
25 market-place.

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1 Q. Now, I can't see from my transcript, but I may be wrong, but I
2 understood you to say when he came to Gety he visited someone. Who did
3 he visit when he came to -- sorry, when he came to Aveba?

4 A. When he came to Aveba he would visit Charles.

5 Q. And did Charles have another name?

6 A. Yes. We used to call him Nibo Charles.

7 Q. And do you know where he lived?

8 MR. DUTERTRE: (Interpretation) Your Honour.

9 PRESIDING JUDGE COTTE: (Interpretation) Yes.

10 MR. DUTERTRE: (Interpretation) I think we are raising material
11 here which could be identifying. Out of abundance of caution, maybe we
12 should move into private session.

13 PRESIDING JUDGE COTTE: (Interpretation) Are you sure?

14 MR. DUTERTRE: (Interpretation) When it says "he," is "he"
15 referring to Michel or Charles?

16 PRESIDING JUDGE COTTE: (Interpretation) I think I would like to
17 take the risk of issuing a redaction order. We have not yet signed any,
18 apart from the one which will be arriving soon. I think we can proceed.
19 The Defence team of Germain Katanga is doing everything possible for us
20 to stay in public session. Everything has worked out well so far, and I
21 don't see why we should not carry on and try to do what we can.

22 Mr. Hooper, you may proceed, sir.

23 MR. HOOPER:

24 Q. Let's abandon the question all together on that.

25 Michel, do you know when he got to Aveba, when he arrived there?

Witness: Witness DRC-D02-P-0161 (Private Session)
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1 A. Michel arrived in Aveba after the attack on Bogoro; however,
2 prior to the attack on Bogoro, Michel also used to visit Charles.

3 MR. HOOPER: All right. Now if we can go back into private
4 session for a minute or two.

5 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.
6 (Private session at 12.06 p.m.)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

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18 (Expunged)

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Questioned by Mr. Hooper

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.1 (Expunged)

2 (Expunged)

3 (Open session at 12.09 p.m.)

4 COURT OFFICER: (Interpretation) Your Honour, we are in open
5 session.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

7 Mr. Hooper, you may proceed.

8 MR. HOOPER:

9 Q. Thank you, Madam Witness. And may I just say at this point that
10 those who speak Swahili, you speak very clear Swahili and thank you for
11 that. Now, my question is this: Do you know how long Michel remained in
12 Aveba? Do you know when he left Aveba?

13 A. To the best of my knowledge, Michel stayed in Aveba for a long
14 time. However, at some point I was in Bunia when Michel was carrying out
15 his activities. This was between 2004 and 2006. At that time there was
16 security in Bunia and he was shuttling between Beni, Aveba, and Gety.

17 Q. You say he was shuttling between. Did you ever have any
18 opportunity to travel with him?

19 A. Yes. On one occasion I travelled with him.

20 Q. And can you remember why that was?

21 A. When I travelled with him, I was ill and I was transported in the
22 vehicle which belonged to them.

23 Q. Now, where did Michel go when he left Aveba, do you know?

24 A. Michel left Aveba to go and settle in Bunia.

25 Q. And now just one question -- we're going to have to go into

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- 1 closed session again -- private session for one question.
- 2 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.
- 3 (Private session at 12.13 p.m.)
- 4 (Expunged)
- 5 (Expunged)
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- 14 (Expunged)
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- 16 (Expunged)
- 17 (Open session at 12.15 p.m.)
- 18 COURT OFFICER: (Interpretation) Your Honour, we are in open
- 19 session.
- 20 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
- 21 Mr. Hooper.
- 22 MR. HOOPER:
- 23 Q. After Michel left Bunia and went to the place that you mentioned
- 24 in private session, did you have any contact with him; and if so, what
- 25 contact was that?

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1 A. After he left Bunia to go to the town I mentioned, I maintained
2 contact with him because we were friends.

3 Q. And how did you maintain contact?

4 A. I did not quite understand your question.

5 Q. I thought you might not. What means did you use to stay in
6 contact with him? Did you use a radio? Did you write letters? Did you
7 telephone? I mean, what -- how did you stay in contact?

8 A. I maintained contact through telephone.

9 Q. Did Michel ever say what he was doing in -- where he was?

10 A. Michel told me that he had gone to continue with his studies.

11 Q. Do you now know how he was able to afford his studies?

12 A. Could you please rephrase the question. I do not understand or I
13 do not know the town you are referring to when you talked about his
14 studies. Could you please rephrase your question, therefore.

15 Q. You told us that he said that he was going to continue his
16 studies. Do you know how he could afford to pay for his studies where he
17 had gone to?

18 A. He told me that he had a white friend who was going to help pay
19 for his studies.

20 Q. All right.

21 MR. HOOPER: Now, can we just go back, I'm afraid, to private
22 session for one area of questions.

23 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could we
24 move briefly into private session.

25 (Private session at 12.21 p.m.)

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Witness: Witness DRC-D02-P-0161 (Open Session)
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.1 (Expunged)

2 (Expunged)

3 (Open session at 12.25 p.m.)

4 COURT OFFICER: (No interpretation)

5 PRESIDING JUDGE COTTE: (No interpretation)

6 MR. HOOPER:

7 Q. Now I'm going to ask you one --

8 (Previous translation continues) ... say you know him very well. To your
9 knowledge, was Michel ever a member of any militia group?

10 MR. DUTERTRE: (Interpretation) Your Honour.

11 PRESIDING JUDGE COTTE: (Interpretation) Yes.

12 MR. DUTERTRE: (Interpretation) Objection. This is a leading
13 question. Mr. Hooper should ask what his activities were.

14 PRESIDING JUDGE COTTE: (Interpretation) Well, Mr. Hooper, that
15 was your last question on Michel --

16 MR. HOOPER: (Previous translation continues) ... friend invite
17 me to -- I'll put any question my friend suggests that will in fact help
18 the Bench in respect of this question.

19 PRESIDING JUDGE COTTE: (Interpretation) Very well. You are
20 doing your best and we thank you for that. But you have started asking a
21 question. I think you should merely rephrase it. From what we thought
22 we understood, the answer that is going to be given might be of relevance
23 to us to determine the truth. It would be unfortunate to deprive the
24 Court of that question. We would allow you to ask that question, but ask
25 it in such a way that the witness would not be influenced. That is the

Witness: Witness DRC-D02-P-0161 (Open Session)
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1 concern that is being raised on my left.

2 MR. DUTERTRE: (Interpretation) Your Honour, since Mr. Hooper
3 has invited me to make a suggestion, my question, an open one, would be:
4 What was Michel's occupation at that point in time? That would be an
5 open question which would not influence the witness.

6 PRESIDING JUDGE COTTE: (Interpretation) Madam Witness, it is up
7 to you to answer the question which has been put to you. I know this is
8 going to be complicated because you don't know whether you will be
9 answering Mr. Hooper's question or Mr. Dutertre's question. In any case,
10 you answer my question, and the question is: Do you know - and I think
11 you have already provided an answer - do you know whether or not Michel
12 had other activities at that point in time, activities other than a
13 driver or a petty trader? Did he have over activities at the time you
14 met him in Aveba? Mr. Hooper will supplement this question if he deems
15 it necessary. We do not want to substitute or take-over his role. We
16 just want to facilitate matters for both parties.

17 At the time you met Michel in Aveba, did he have other
18 activities, other than those you have mentioned already?

19 THE WITNESS: (Interpretation) No. I am not in a position to
20 say what other activities he was engaged in.

21 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, it is up to
22 you to appreciate whether you should follow-up on that answer to get more
23 clarification. The Bench would like to very cautiously withdraw -- or
24 the Judges would like to withdraw behind their bench because we do not
25 want to favour one side or the other.

Witness: Witness DRC-D02-P-0161 (Open Session)
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1 You have the floor.

2 MR. HOOPER:

3 Q. Did you ever see him in a uniform of any kind?

4 A. No, I never saw him dressed in military uniform.

5 Q. Did you ever see him with any kind of weapon?

6 A. I never saw him carrying a weapon.

7 Q. Now, in your conversations with him - and you've told us you knew
8 him well - did he ever mention to you that he had ever fought in any
9 battles or participated in combat at any time?

10 A. No, he never told me about any battle.

11 Q. If he had been in a militia, would you have known about it? If
12 he had been in a militia, knowing him as well as you do --

13 MR. DUTERTRE: (Overlapping speakers)

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

15 MR. DUTERTRE: (Interpretation) This is a very speculative and
16 leading question. Mr. Hooper has asked a certain number of questions on
17 what she saw or did not see and on what the witness was doing. You
18 yourself, your Honour, you asked a question about what else he might have
19 been doing at that time. We had a precise answer and now Mr. Hooper is
20 asking the witness to speculate.

21 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed,
22 Mr. Hooper. Please refrain from beginning your questions with "if he had
23 been a member of a militia." So you can follow-up on the answer that the
24 witness has given on the particular situation of Michel, you can do that
25 right now without speculating.

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1 MR. HOOPER:

2 Q. Did you ever hear it said that he was a member of any militia?

3 A. No, I have never heard of that.

4 Q. Now, as to any position that he is alleged to have been in in
5 respect of a militia, I'll leave my friend from the Prosecution to ask
6 you questions about that in due course.

7 So can I now turn --

8 MR. MACDONALD: (Interpretation) Can I intervene here, your
9 Honour, because we are revisiting the debate that we had yesterday. If
10 it was not yet clear, the Prosecution does not have to respond because
11 Mr. Hooper is suggesting that we should answer his question.

12 PRESIDING JUDGE COTTE: (Interpretation) You don't necessarily
13 have to take what Mr. Hooper is saying very literally -- well, I really
14 do not know.

15 MR. MACDONALD: (Interpretation) I understand, your Honour, but
16 Mr. Hooper has been constantly coming back to this with his witnesses.
17 The Chamber will make its determination regarding the assessment of the
18 witnesses after the examinations-in-chief, cross-examinations, and
19 re-examinations, and so on and so forth. The Prosecution does not have
20 to respond. The Defence in relation to the testimony of Witness 250 is
21 coming back to ask questions about the possible activities of P-250,
22 P-228, P-219. The Chamber will need to assess the credibility of the
23 witnesses and this will involve the answers that the witnesses would have
24 given about the various occupations of those witnesses.

25 These are things that are already in the case record. If you

Witness: Witness DRC-D02-P-0161 (Open Session)
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1 asked the witness the question 20 times, the witness can give the same
2 answer 20 times regarding the occupations of Witnesses 250, 228, 219, and
3 so on. And so the Defence is trying to test the credibility of -- they
4 could try to test the credibility of the witness regarding issues that
5 are at the heart of the case and this will enable the Chamber to assess
6 the credibility of those very witnesses, and each time Mr. Hooper is
7 coming back to this and each time when he does that we will give the same
8 response.

9 PRESIDING JUDGE COTTE: (Interpretation) Yes, we are fully
10 understood that this is just not a general issue but it is an issue of
11 principle that concerns both of you. The Bench simply wishes to
12 reiterate that we for our part need to be enlightened during these
13 hearings so that when the time comes we should be able to better assess
14 the facts that we are seized of. Nevertheless, we need to point out that
15 in spite of everything, everything that can be done in the presence of
16 the witness has to be done because it may seem that there are certain
17 issues that may arise in the future while we no longer have the witness
18 to provide clarifications, and this would be risky and complicated. The
19 witness has come from far away. It is a complicated, costly, and
20 necessary process, but let us seize the opportunity provided by their
21 presence and use the adversarial procedures to adduce from them evidence
22 that will enable us to try to establish the truth.

23 Mr. Hooper, you can proceed. You were talking about Louis, but
24 you have the chance to continue now.

25 MR. HOOPER: Yes, thank you.

1 Q. Sorry, Madam Witness, that didn't concern you at all, by the way,
2 all that flap. But we're talking about Louis, and Louis you told us that
3 you knew. How well did you know Louis?

4 A. Yes, I know Louis.

5 Q. Did you ever see Louis while you were in Aveba?

6 A. Yes, I saw Louis while I was at Aveba.

7 Q. And do you know where he was living at that time?

8 A. He was living in Pastor Vicky's house.

9 Q. At that time, do you know what he was doing, I mean what he was
10 doing by way of -- well, how he spent his days?

11 A. When Louis was living in Pastor Vicky's house, he was a student.

12 Q. Did he do anything else other than be a student?

13 A. No, I'm not aware of any other thing that he was doing apart from
14 going to school.

15 Q. Now, in terms of his age was he the same age as you? Younger
16 than you? Older than you? Can you help us?

17 A. As far as I know and from his physical appearance, I would say
18 that he was older than me.

19 Q. And -- just one moment. Now, you say he was going to school. Do
20 you know which school?

21 A. He attended the Ipame Institute.

22 Q. Aside from the school, did you have any other contact with him?

23 A. We were used to each other just like people who live together.

24 Q. Now, you told us he was staying at Pastor Vicky's. Do you know,
25 did he stay at -- did he remain living there or not?

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1 A. No. He did not continue living with Pastor Vicky.

2 Q. What did he do?

3 A. He returned to live with his brother when that brother came to
4 live there, and this is his real family brother.

5 Q. All right.

6 MR. HOOPER: Can we go into closed session -- into private
7 session, and I'll ask --

8 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, can we
9 go briefly into closed, or rather, private session, please.

10 (Private session at 12.45 p.m.)

11 (Expunged)

12 (Expunged)

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17 (Expunged)

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12 Page 56 expunged – Private session.

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Witness: Witness DRC-D02-P-0161 (Private Session)
Questioned by Mr. Hooper

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.1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Open session at 12.51 p.m.)

5 COURT OFFICER: (Interpretation) We are in open session, your
6 Honour.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

8 Mr. Hooper.

9 MR. HOOPER:

10 Q. So you met Louis in Bunia. At that time he was molding bricks,
11 and he told you that he was going to another town. And did he tell
12 you -- do you know why he was going to another town, how -- and the
13 circumstances that -- in which he was going to another town? Do you know
14 that or not?

15 A. No, I was not aware of that. However, he had told us that he was
16 going to study.

17 Q. And do you know how he was able to study in that town?

18 A. He had told us that he had found a white person who had promised
19 to help him.

20 Q. Have you heard from Louis since he left Bunia and went to that
21 other town? Have you been in contact with him at all?

22 A. Ever since Louis left Bunia to go to that town, I never heard
23 from him again. However, before Christmas and new year, Michel was in
24 Bunia and he gave me some information about him.

25 Q. When you say "Michel," we know who you're talking about, of

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1 course, was in Bunia at Christmas just before the new year, which
2 Christmas is that? Which new year? Which year are you talking about?

3 A. Last year.

4 Q. And how was Michel? Was he -- how was he himself? Did he seem
5 frightened at all or anything like that?

6 MR. MACDONALD: (Interpretation) Once again this is a leading
7 question.

8 PRESIDING JUDGE COTTE: (Interpretation) Very well.

9 Madam Witness, how was Michel? If you have -- if you met him
10 before last Christmas, this is a simple question, how did you find him?
11 I mean what impression did he make on you?

12 THE WITNESS: (Interpretation) I saw him, he was doing well.

13 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, you can
14 proceed.

15 MR. HOOPER: Thank you.

16 Q. Does the name Kisoro mean anything to you?

17 A. Yes.

18 Q. What do you know about him?

19 A. Kisoro came to Aveba with the aim of fighting against
20 Germain Katanga. He came to fight Germain Katanga, and when he arrived
21 everyone fled.

22 Q. When that happened, where were you?

23 A. I was in Aveba.

24 Q. Now, you spoke about visiting BCA. On your visits to BCA camp or
25 in your general life living in Aveba, did you ever see children carrying

1 weapons or having weapons? And by "weapons," I mean, you know, guns and
2 things like that. Did you ever see children like that? And by
3 "children," I mean young people who were obviously children, people who
4 would have been about your age at the time. Did you ever see children
5 armed with guns or perhaps with traditional weapons?

6 A. At that time I did not see any children carrying weapons. But
7 you know, the people of that region or area are very small in stature, so
8 it is very difficult to know whether they are actually children or
9 adults.

10 Q. But amongst your own age group, for example, were you aware of
11 people your age group who were armed or who belonged to militia groups?

12 A. No.

13 Q. Now, in this case we've heard about the demobilisation process
14 that took place in Ituri. What do you know about that? And I mean from
15 your own personal experience, yourself, were you ever involved in any
16 demobilisation process at all?

17 A. Yes.

18 Q. And what happened to you?

19 A. During the demobilisation, the soldiers had to hand in their
20 weapons. There was some who had two or three weapons and they could give
21 the weapons to civilians to hide them so that they could then say that
22 they didn't have any more weapons.

23 Q. Did you yourself ever participate in any demobilisation process?

24 A. Yes, I was also demobilised.

25 Q. Where were you demobilised?

Witness: Witness DRC-D02-P-0161 (Open Session)
Questioned by Mr. Hooper

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1 A. I was part of the demobilisation process when I handed in a
2 weapon that belonged to someone else. I did that so that I could get
3 some money.

4 Q. And where was that? Where did you hand in that weapon and get
5 some money?

6 A. I was part of the demobilisation process in Bunia.

7 Q. And how much money did you get?

8 A. I got \$410.

9 Q. And when you were demobilised, were you demobilised as an adult
10 or a young person or child?

11 MR. DUTERTRE: (Interpretation) Your Honour, perhaps a more open
12 question would have been to ask what age she gave when she was
13 demobilised?

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, could you
15 please rephrase your question so that we could get the answer.

16 MR. HOOPER:

17 Q. What age did you give, can you remember, when you were
18 demobilised?

19 A. When I was demobilised I stated that I was an adult.

20 Q. Do you know who was organising the -- that demobilisation? By
21 that, I mean do you know if there was any NGO involved in that; and if
22 so, what name?

23 A. They were agents from CONADER.

24 Q. And these agents for CONADER, did they have a name? I mean were
25 they part of an organisation other than CONADER or were they CONADER

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1 itself?

2 A. I didn't know about that. I just knew that they were people that
3 presented themselves in the name of CONADER.

4 Q. All right. And I'm not going to go into that. Others may ask
5 you about the process or any questions you may have been asked in that
6 process. I think those are all my questions. Just give me one moment,
7 please, Madam Witness. Perhaps one question and this relates to Louis,
8 Louis, that's Louis who was at Vicky's.

9 Now, do you know was he ever demobilised?

10 A. Yes, Louis was also demobilised.

11 Q. Do you know where he was demobilised and do you know whether he
12 demobilised as an adult or a non-adult?

13 MR. DUTERTRE: (Interpretation) Can we have the questions
14 separately.

15 PRESIDING JUDGE COTTE: (Interpretation) Not that I think --
16 quite clearly, we've seen that the witness has shown us that she can
17 answer two questions together when they're very short. So we can see
18 where and whether it was as an adult or -- I didn't get the end of the
19 sentence, as an adult or a non-adult. You have two very brief questions:
20 Where was he demobilised, if you know it; and do you know if he was
21 demobilised as an adult or a non-adult? Thank you, Witness.

22 THE WITNESS: (Interpretation) Louis was demobilised in Aveba
23 and when he was demobilised it was as an adult.

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

25 Mr. Hooper.

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1 MR. HOOPER:

2 Q. Thank you very much, Madam Witness, for your very clear answers
3 and your attention to some of the difficulties. There will be other
4 gentlemen now asking you questions. So just wait -- are you comfortable,
5 by the way? Are you all right?

6 A. Yes.

7 Q. I ask that because someone behind me has just (Previous
8 translation continues) ... spoken than you are. Thank you very much.

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

10 Mr. Jean-Pierre Kilenda, you now have the floor, you or
11 Professor Fofé depending on the choice that you have made, and we would
12 urge you to be very attentive to the way your questions are phrased.

13 MR. FOFÉ: (Interpretation) Thank you, your Honour. Good
14 morning, your Honours.

15 Questioned by Mr. Fofé:

16 Q. Good afternoon, Madam Witness.

17 A. Hello.

18 Q. I have a few questions to ask you, a few questions which I could
19 say are designed to complete the work which has been done by
20 Mr. David Hooper. Because as the Presiding Judge has just stated, it's
21 important for us to gain from you being here before the Judges so that we
22 can have as much relevant evidence as possible, as much as you know. My
23 first question is the following.

24 You said earlier that you had seen Yuda amongst others, for
25 example, when a plane landed at Aveba airport, a plane coming from Beni.

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1 Is this accurate? Have I understood what you said?

2 MR. DUTERTRE: (Interpretation) Could Professor Fofé give us the
3 exact reference because I'm not sure where this comes from. It may be
4 true, but I'd like to have the references. I'm sure he's noted them.

5 PRESIDING JUDGE COTTE: (Interpretation) Okay. We will go back
6 in the transcript. I am not in a position to give you the exact
7 reference to this provisional transcript. We can remember the content
8 referred to by Professor Fofé, but we have to find the exact statement by
9 the witness.

10 MR. FOFÉ: (Interpretation) Excuse me, your Honour.

11 PRESIDING JUDGE COTTE: (Interpretation) Yes.

12 MR. FOFÉ: (Interpretation) When phrasing my question, I wanted
13 to check with the witness herself if she could confirm that I had
14 properly understood. That's what I said. I don't have the reference.

15 PRESIDING JUDGE COTTE: (Interpretation) If we could just have
16 the time to find your question in the transcript. You said you had seen
17 Yuda, for example, when an airplane landed at Aveba airport coming from
18 Beni. Is that correct? Now, for me I can say that I remember it clearly
19 that the witness said earlier that Yuda would go to Aveba and that he
20 took the plane. I can't remember if it was the plane coming from Beni or
21 elsewhere, perhaps that's not the key issue, but there is one point which
22 is clear. We heard this earlier. We heard that Yuda would go to Aveba
23 by plane. So you may continue with your question. I think that's the
24 simplest point.

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

1 PRESIDING JUDGE COTTE: (Interpretation) If we find the
2 reference -- if you have the reference, Professor Fofé, could you give it
3 to us and this will avoid any further discussion.

4 MR. FOFÉ: (Interpretation) Page 32, line 10.

5 PRESIDING JUDGE COTTE: (Interpretation) Okay. Well, we shall
6 valiantly go all the back to page 32, there we are, line 10:

7 "Have you ever seen Yuda; and if so, under what circumstances?"

8 And the witness answered:

9 "I saw Yuda when he came to Aveba and I saw him again when he
10 came from Beni.

11 "Q. Could you tell us when Yuda came to Aveba?

12 "A. Yuda used to come to Aveba. There was a plane that would
13 land in Aveba. He came on board that plane."

14 So we have the two answers to two separate questions, Beni is
15 cited, Aveba is cited, Yuda is cited, and we also have the terms
16 "airplane" and "airport."

17 You may proceed, Professor Fofé.

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

19 Q. Madam Witness, please don't be disconcerted by this. This is our
20 work and it is not of direct relevance to you. The question I'm asking
21 is as follows. From what you saw, because you were there, who
22 disembarked from the plane coming from Beni?

23 A. On board the plane from Beni there was a white man and there were
24 APC soldiers and other people. Those people were on board that plane.

25 Q. In addition to the APC soldiers -- I'm saying in addition, in

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1 addition, to the APC soldiers, who else did you see disembark from the
2 plane?

3 A. They took weapons off the plane and crates of munitions came off
4 the plane.

5 Q. Still referring to what you know, Madam Witness, where did the
6 APC soldiers go?

7 A. Some of the APC soldiers who disembarked at Aveba went to Kagaba
8 with Yuda.

9 Q. Still according to what you know, had those APC soldiers been
10 involved in the attack on Bogoro on the 23rd of February, 2003 -- 24th of
11 February, 2003?

12 A. Yes, they were also involved in that attack.

13 Q. Madam, do you know a person called Mbale?

14 A. Yes, I know that person.

15 Q. Mbale is spelled M-b-a-l-e. Who was he?

16 A. Mbale was one of the APC soldiers.

17 Q. Had Mbale also taken part in the attack on Bogoro on the 24th of
18 February, 2003?

19 A. Yes, he was there.

20 Q. Thank you, Madam Witness. I still have some time for a few small
21 questions, just points of clarification. Do you remember the person
22 we're referring to by the name Michel?

23 A. Yes, I do.

24 Q. According to what you know, during the period 2002 to 2003 was
25 Michel a member of a militia?

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1 MR. DUTERTRE: (Interpretation) Objection, your Honour, for the
2 same reasons raised earlier. Mr. Fofé should be asking what Michel was
3 doing at the time. What's more, the question has already been asked and
4 the witness has already answered it. So not only is this a leading
5 question but it is a repetitive question.

6 MR. FOFÉ: (Interpretation) Your Honour, I'm sorry --

7 PRESIDING JUDGE COTTE: (Interpretation) Go ahead.

8 MR. FOFÉ: (Interpretation) The witness is not a witness for
9 the Defence of Mathieu Ngudjolo and the Defence of Mathieu Ngudjolo
10 believes that we need a clear answer on this subject because, your
11 Honour, as you said, this is very pertinent. We need this debate to go
12 on before your Bench.

13 MR. DUTERTRE: (Interpretation) I withdraw my objection.

14 PRESIDING JUDGE COTTE: (Interpretation) Well, Madam Witness,
15 you will answer Professor Fofé's question. To your knowledge, in the
16 period 2002 to 2003 was Michel a member of a militia. In your memory, to
17 your knowledge, do you remember this? We shall listen your answer and we
18 thank you for answering this.

19 THE WITNESS: (Interpretation) As far as I know, Michel was not
20 a militiaman in either Gety or Aveba. I don't know if he was a militia
21 man in another town or place. I don't know anything about that.

22 PRESIDING JUDGE COTTE: (Interpretation) Professor.

23 Thank you, Madam.

24 MR. FOFÉ: (Interpretation) Your Honour, I was waiting for the
25 transcript.

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1 PRESIDING JUDGE COTTE: (Interpretation) Please do.

2 MR. FOFÉ: (Interpretation)

3 Q. Madam, do you remember the person who has been referred to by the
4 name of Louis?

5 A. Yes, I remember that. Thank you.

6 Q. Was Louis a member of a militia? Was he a combatant? Was he a
7 militiaman?

8 A. To my knowledge, Louis lived with Commander Garimbaya who was a
9 militiaman.

10 Q. But Louis himself, to your knowledge, was he a militiaman? Was
11 he a combatant?

12 A. Louis was not a combatant.

13 Q. Thank you, Madam.

14 MR. FOFÉ: (Interpretation) Your Honour, I'm looking at the
15 clock and I think it may be preferable to suspend the hearing at this
16 point and we could continue our questions with the witness tomorrow.

17 PRESIDING JUDGE COTTE: (Interpretation) A totally exploratory
18 attempt. I would like to know - and in my opinion the answer is
19 no - should we bring in the next witness to appear tomorrow? I see that
20 you have completed your examination. We have the cross-examination, the
21 representatives of the Victims, Mr. Gilissen, who will put some
22 questions; and I would think we could -- so unless things speed up quite
23 unexpectedly tomorrow morning, we don't need to bring in the next
24 witness.

25 MR. FOFÉ: (Interpretation) Excuse me, your Honour, because

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1 we're always very attentive to the question of time and to the use of the
2 Court's time. We do not have many more questions, just a few
3 confirmations that we need from the witness. So perhaps we need to see
4 what the position is with the Prosecution and the Legal Representatives
5 before deciding on whether the next witness needs to come. I just wanted
6 to state that so that we don't have to be held responsible for this in
7 one way or another.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

9 It is no doubt difficult for you, Prosecutor, to say what the
10 situation is, to say whether you will be speaking for three hours or
11 more. It's just for question of managing the situation so that we don't
12 bring the witness in to wait to no avail in the unit here. We could
13 perhaps call the witness in after the first part of the hearing because I
14 realise that would not be very complicated, but we can leave that there
15 for the moment.

16 Court Officer, we don't need to have Witness 160 at 9.00 and
17 we'll see what the situation is at 11.15.

18 Can we go into closed session so that the witness can leave.

19 Thank you, Madam Witness, for spending this time with the Court
20 this morning and for all the answers that you have given. You have
21 expressed yourself very calmly, slowly, and very audibly which has made
22 it much easier for us all to work. And the interpreters and the court
23 reporters up in their booths would like to thank you. They can't say it
24 out loud, but they are nodding their heads in agreement. We shall now go
25 into closed session and we shall resume tomorrow morning at 9.00.

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1 (Closed session at 1.28 p.m.)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Open session at 1.29 p.m.)

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

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
11 Court Officer.

12 Justice Diarra pointed out to me that when we thanked the
13 interpreters and the court reporters, I always look to the right and I
14 forget to look to my left. Please don't think that there's any political
15 ulterior motive there, you may be mistaken. And I would also like to
16 thank the left side. The hearing is adjourned.

17 The hearing ends at 1.30 p.m.

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