

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra, and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Thursday, 26 May 2011
10 The hearing starts at 9.06 a.m.
11 (Closed session)
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
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21 (Open session at 9.07 a.m.)
22 COURT OFFICER: (Interpretation) Your Honour, we are in open
23 session.
24 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
25 Court Officer.

Witness: Witness DRC-D02-P-0161 (Resumed) (Open Session)
Questioned by Mr. Fofé (Continued)

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1 Madam Witness, good morning.

2 THE WITNESS: (Interpretation) Good morning.

3 PRESIDING JUDGE COTTE: (Interpretation) I do note that you can
4 hear me clearly. Your headset is working properly. We are going to
5 carry on with the proceedings. Yesterday when we adjourned,
6 Professor Fofé had just started his examination of you. We will
7 therefore let him proceed.

8 Professor Fofé, please.

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

10 WITNESS: WITNESS DRC-D02-P-0161 (Resumed)

11 (Witness answered through interpreter)

12 Questioned by Mr. Fofé: (Continued)

13 Q. Good morning, Madam Witness.

14 A. Good morning.

15 Q. Are you fine? Did you sleep well?

16 A. Yes.

17 Q. Madam Witness, I read the answers you gave to the questions we
18 put to you yesterday. I have no further questions. I wish to thank you
19 once more for coming to give testimony before the International Criminal
20 Court. Thank you very much.

21 MR. FOFÉ: (Interpretation) And thank you, Your Honours.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
23 Professor Fofé.

24 Mr. Prosecutor, please take time -- take the time to get yourself
25 ready because it's now your turn to examine the witness.

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

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1 MR. DUTERTRE: (Interpretation) Good morning, your Honours, and
2 thank you.

3 Questioned by Mr. Dutertre:

4 Q. Good morning, Madam Witness.

5 A. Good morning.

6 Q. My name is Gilles Dutertre. You will remember that we met
7 briefly during the courtesy visit, and today I am going to put questions
8 to you on behalf of the Prosecution team. I would like you to feel at
9 ease. If you do not understand any of my questions, please kindly ask me
10 to repeat. The most important thing is for you to understand the
11 questions well so that you can answer them. Do you understand?

12 A. Yes.

13 MR. DUTERTRE: (Interpretation) Your Honour, I wish to go into
14 private session because I have a series of questions which are of an
15 identifying nature.

16 PRESIDING JUDGE COTTE: (Interpretation) Yesterday we realised
17 that it was a bit difficult for us to keep moving in and out of private
18 session. And I hope you are going to put all the identifying questions
19 in private session so that the public can hear the proceedings later on.

20 MR. DUTERTRE: (Interpretation) It's difficult for me to say
21 now. I don't want to take any risks, especially given that this witness
22 is a protected witness and we have a limited number of redaction orders.

23 PRESIDING JUDGE COTTE: (Interpretation) Very well. But please,
24 you should be careful and endeavour to have us move into open session as
25 soon as possible. Yesterday we were able to manage private and public

Witness: Witness DRC-D02-P-0161 (Resumed) (Private Session)
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- 1 sessions well and this was for the benefit of the public.
- 2 Court Officer, should we move into private session, please.
- 3 (Private session at 9.12 a.m.)
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Witness: Witness DRC-D02-P-0161 (Resumed) (Private Session)
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17 (Open session at 9.36 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 Prosecutor, you may proceed.

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

24 Q. Madam Witness, you were living in Aveba, you were there for a

25 long time, and you knew Germain. So in evidence you're saying that you

1 only knew those two brothers, Adoula and Alma. Is that what you're
2 saying?

3 A. There's another one I know who's a nurse.

4 Q. We'll take things stage by stage, Madam Witness. Adoula and Alma
5 are nicknames, aren't they?

6 A. Yes. They're the names I know them. I don't know their family
7 names.

8 Q. Adoula was a member of the militia, wasn't he?

9 A. No, he was never a militiaman.

10 Q. What did he do? What did Adoula do, Madam Witness?

11 A. When I met him, Adoula was a school child.

12 Q. How about Alma, he was a member of the militia, wasn't he?

13 A. No, he wasn't a militiaman either.

14 Q. What did Alma do, Madam Witness?

15 A. I met Alma when he was at school too.

16 Q. Madam Witness, you talked about a brother who was a nurse.
17 Jonathan was a nurse, wasn't he, if you recall?

18 A. I don't know the name Jonathan.

19 Q. What name did you know him by?

20 A. I knew the nurse as Kandadhu.

21 Q. Where was Kandadhu in 2003?

22 MR. HOOPER: Two different spellings in two lines. Obviously our
23 interpreters are doing their best to reflect the phonetics, but it may be
24 helpful when we come to words we haven't met before if my friend could
25 perhaps invite the witness to spell them.

Witness: Witness DRC-D02-P-0161 (Resumed) (Private Session)
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1 MR. DUTERTRE: (Interpretation) Of course.

2 Q. Could you spell the name Kandadhu, please.

3 A. K-a-n-d-a-d-h-u.

4 Q. And in 2003 Kandadhu lived in Beni, didn't he?

5 A. Yes, at one stage he was in Beni for his studies.

6 MR. DUTERTRE: (Interpretation) May we go briefly into private
7 session, your Honour.

8 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, we'll go
9 briefly into private session.

10 (Private session at 9.41 a.m.)

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21 (Open session at 9.44 a.m.)

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

23 your Honour.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

25 Prosecutor.

Witness: Witness DRC-D02-P-0161 (Resumed) (Open Session)
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1 MR. DUTERTRE: (Interpretation)

2 Q. Madam Witness, the two brothers of Germain that you mentioned,
3 Adoula and Alma, were there when you were a student in Aveba, weren't
4 they?

5 A. (No interpretation)

6 THE INTERPRETER: We haven't had the interpretation. The Swahili
7 booth is asking the Prosecutor to ask the question again.

8 PRESIDING JUDGE COTTE: (Interpretation) We've had a difficulty.
9 The Swahili booth has asked you to ask the question again and then we'll
10 get full interpretation.

11 You may proceed, Prosecutor.

12 MR. DUTERTRE: (Interpretation) Thank you, your Honour.

13 Q. Madam Witness, the two brothers, Alma and Adoula, you mentioned
14 were in Aveba when you were, weren't they?

15 A. Yes.

16 Q. Do you know John Musangura, the brother of Germain?

17 A. I don't know John Musangura.

18 Q. Do you know Patrick Mbodina, another of Germain's brothers?

19 A. I don't know Patrick Mbodina.

20 Q. There might be a problem with translation, I said Patrick

21 Banjina, B-a-n-j-i-n-a, another of Germain's brothers?

22 A. I don't know him.

23 Q. And you know Bakara Djarido?

24 A. I don't know. Are you talking about Bakara Djarido?

25 Q. Bakara.

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1 A. Bakara.

2 Yes, I know Bakara.

3 Q. He was a member of the militia, wasn't he, Bakara, Germain's
4 brother?

5 A. Baraka, Germain's brother, was not a militiaman.

6 Q. But he was demobilised, wasn't he, Madam Witness?

7 A. No, I don't know. I don't know if he was demobilised.

8 Q. Madam Witness, I would say that John Musangura Nduru and
9 Patrick Banjina were Germain's brothers and that they were in Aveba while
10 you were there?

11 A. Even if they were in Aveba, I couldn't know all the members of
12 Germain's family.

13 MR. HOOPER: (Previous translation continues) ... I offer my
14 friend on the Prosecution our knowledge of the nicknames they use.

15 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, you have
16 heard the proposal made by the Defence of Germain Katanga. You can carry
17 out your cross-examination as you wish, but I would just like to repeat
18 that in the end everything that can help the Bench see things more
19 clearly would be a good idea. You may proceed.

20 MR. DUTERTRE: (Interpretation)

21 Q. Madam Witness, you often went to Germain's place and you used to
22 visit Denise, didn't you?

23 A. Yes.

24 Q. But your testimony says that you don't know the two brothers I
25 was talking about?

1 MR. HOOPER: I object to that question, particularly as I've
2 offered my friend the nickname that they're known by and which this
3 witness has used.

4 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, the Bench
5 is closely endeavouring not to interfere in the strategies chosen by the
6 parties. The Bench does not know them. From time to time the Bench may
7 detect them or guess them, but in all events clarity must prevail no
8 matter what hesitation or silence or difficulty a witness may have in
9 answering. If we can get details from the witness on any knowledge he
10 may have had or may not have had of Germain Katanga's brothers, if she
11 only knows them by nicknames, then now is the time to make things clear.
12 You have devoted the time which you deem necessary and we're not casting
13 any doubt on that, on establishing which brothers the witness knew.
14 You're presenting the names which are no doubt those of the official
15 registrar's records, but we may guess that a resident in Ituri at the
16 time living in Aveba may have only known certain people by their
17 nicknames. So Mr. Hooper has made the proposal on two occasions and at
18 this point it seems like a good idea to take up this suggestion. That is
19 the position of the Bench which I would like to state very clearly.

20 MR. DUTERTRE: (Interpretation) Thank you, your Honour. I just
21 have one question which is simple.

22 Q. Now, Madam Witness, you used to go to Germain Katanga's place but
23 you don't know the two names which I have given to you; is that right?

24 A. I do not know Patrick Bumba (* as interpreted).

25 Q. Madam Witness, you said that you knew Denise Katanga, the wife of

1 Germain Katanga, but you knew her very well, didn't you?

2 A. Yes, I know her.

3 Q. Denise is even one of your friends, isn't she?

4 A. Yes.

5 Q. You say that you met her a long time ago in Nyakunde, so that
6 means before 2001, and that you lived in the same neighbourhood. What
7 was the name of the neighbourhood in Nyakunde where you used to live at
8 the time, same district where you lived with Denise -- where Denise lived
9 too?

10 A. We lived at Mission, the shopping centre in Nyakunde.

11 Q. That's the neighbourhood where the Ngiti lived, isn't it,
12 Madam Witness?

13 A. No, there weren't just Ngiti people. There were a number of
14 ethnic groups.

15 Q. I've understood that, but the Ngiti people lived in that
16 neighbourhood, didn't they?

17 A. Ngiti lived in another neighbourhood, but there were a lot more
18 of them in the Mission neighbourhood. You know that the Mission
19 neighbourhood was divided into two parts.

20 Q. At a later date, Madam Witness, you attended the wedding of
21 Germain and Denise Katanga in Aveba, didn't you?

22 A. Yes.

23 Q. That was in 2002, wasn't it, Madam Witness?

24 A. Yes.

25 Q. It was even in December 2002, wasn't it, Madam Witness?

1 A. I don't know what month the wedding was in, but it was in 2002.

2 Q. When you were in Aveba you were a close friend of Denise's and
3 you were often with her, weren't you, Madam Witness?

4 A. No, we didn't visit one another. I used to go to her place.

5 Q. Well, one thing's clear, Madam Witness, and that is that you were
6 used to seeing Denise and that you were often with her; isn't that right?

7 A. Yes.

8 Q. You also know Androsi, Denise's big sister, don't you?

9 A. Andro who?

10 Q. Denise's big sister, Androsi, you knew her, didn't you?

11 A. I know Denise's big sister.

12 Q. What name do you know her by? What's her name, Madam Witness?

13 A. I know Denise's big sister called Avaci (* phon) -- Albertine,
14 and I know another one called Bebi and I know another one called Aimée.
15 They're the only ones I know.

16 Q. Do Denise's sisters live in Bunia?

17 A. Yes.

18 Q. They live in the Kindia neighbourhood; correct?

19 A. For the time being, Denise's elder sister who is a director
20 somewhere is in Yambi.

21 Q. Yambi is a neighbourhood of Bunia; isn't that so?

22 A. Yes.

23 Q. And the other sisters live in the Kindia neighbourhood; right?

24 A. Aimée lives with her sister who is a director or headmistress,
25 but with regard to Bebi I do not know where she lives.

1 Q. And Denise was living with her elder sister in Bunia when Germain
2 went to Kinshasa; is that correct?

3 A. Yes.

4 Q. And when Denise comes to Bunia, she visits her elder sister; is
5 that correct, Madam Witness?

6 A. Yes.

7 Q. And you have the opportunity to see Denise in Bunia when she
8 visits her elder sister; isn't that so, Madam Witness?

9 A. Before, when Denise visited her elder sister, I would see her;
10 but sometimes I did not see her and I only heard that she had come to
11 visit.

12 Q. In any case, sometimes you saw her when she visited; correct?

13 A. I saw her only once, but I did hear that she had visited and sent
14 me greetings.

15 Q. She was a good friend of yours and you went to see her when she
16 came to Bunia; right?

17 A. Yes. I would have liked to see her, but as I have already said I
18 saw her only once, when she was on transit. The other times when she
19 visited, I did not have the opportunity to see her.

20 Q. Madam Witness, you also know Germain Katanga very well; correct?

21 A. I know him very well.

22 Q. Madam Witness, you have stated that you met Germain Katanga for
23 the first time in Komanda and he was living in Lolwa. He was coming
24 there as part of his studies and you were also studying in Komanda. That
25 was when you met him for the first time. Please, I would like to have a

1 clarification regarding the situation that prevailed in Komanda at that
2 time, when you were living there.

3 A. I was living in Komanda at the school.

4 Q. And which year was this? Please assist us if you can.

5 A. It was before the war. I no longer remember the year; however, I
6 was in the first year of secondary school and this was before the war.

7 Q. Madam Witness, you were in the first year of secondary school.
8 Germain is older than you. He is nine years older than you, so what
9 level was he at at that time in school, Madam Witness?

10 Please go ahead, Madam Witness, you can answer.

11 A. At that time I was not attending the same school as Germain. I
12 got to know him because I heard others talking about him, but I did not
13 know him very well because we were not attending the same school.

14 Q. Very well. So under what circumstances did you get to meet him?

15 A. It so happens that in any given area people can talk about
16 someone, his ethnicity, his father, and so on and so forth; and because
17 of that, you develop interest in the person. That is how I got to know
18 him and I would say "good morning" and so on and so forth. So I didn't
19 know very much about him.

20 Q. Madam Witness, where were you living before you moved to Komanda?

21 A. Before I went to Komanda, I was living in Nyakunde.

22 Q. Let us now go back to Germain. After Komanda you saw Germain
23 again in Nyakunde, that is, before the attack of 2001, the war between
24 the Biras and the Lendus; right?

25 A. Yes.

1 Q. Under what circumstances did you see him?

2 A. I saw him when he came to see his grandfather who was living in
3 Nyakunde.

4 Q. Madam Witness, what was his grandfather's name?

5 A. I knew his grandfather by the name of Émile Tasima.

6 Q. Madam Witness, can you spell Tasima?

7 A. T-a-s-i-m-a.

8 Q. So you see -- you saw Germain at his grandfather's place when he
9 came to see his grandfather?

10 A. Yes. That is where I saw him.

11 Q. And on how many occasions did you see him come to visit his
12 grandfather in Nyakunde?

13 A. I saw him only once at that place. You have to understand that
14 we were not living in the same neighbourhood. I saw him while I was
15 passing by.

16 Q. Madam Witness, Denise was living in Nyakunde at that time and
17 Germain would come to visit her; isn't that so?

18 A. At that time Denise was there, but I do not know whether she and
19 Germain knew each other.

20 (Prosecution counsel confer)

21 MR. DUTERTRE: (Interpretation)

22 Q. You remember that we used the name Louis yesterday. Do you
23 remember who the name refers to, Louis?

24 A. I do remember.

25 Q. Madam Witness, Louis was living with Denise in Nyakunde; is that

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1 correct?

2 A. Yes, they were living together.

3 MR. DUTERTRE: (Interpretation) Can we quickly go into private
4 session, your Honour?

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

7 (Private session at 10.14 a.m.)

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20 (Open session at 10.15 a.m.)

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

22 Mr. President.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

24 Please proceed, Mr. Prosecutor.

25 MR. DUTERTRE: (Interpretation)

- 1 Q. Madam Witness, Denise was a member of a choir; correct?
- 2 A. Yes, she was a chorister.
- 3 Q. And you were also a member of that same choir with her; correct?
- 4 A. Mr. Prosecutor, you have to be clear. When you ask that question
- 5 are you referring to Nyakunde or Aveba?
- 6 Q. You are absolutely correct, Madam Witness. I was talking about
- 7 Nyakunde.
- 8 A. In Nyakunde, she was a member of another choir which was
- 9 different from mine.
- 10 Q. I will stop there on this particular issue and we will go back to
- 11 Germain Katanga, Madam Witness. When you arrived Aveba it was less than
- 12 two weeks after the battle of Nyakunde which was led by Kandro; is that
- 13 correct?
- 14 A. Yes.
- 15 Q. On which day did the battle of Nyakunde take place,
- 16 Madam Witness, that is, if you remember?
- 17 A. The battle of Nyakunde took place on the 5th of September, 2002.
- 18 Q. So you arrived Aveba around mid-September 2002; is that correct,
- 19 Madam?
- 20 A. I arrived Aveba towards the end of the month of September, and I
- 21 arrived in September so as to register at the school. So this was in
- 22 September after the battle in question.
- 23 Q. And you stayed in Aveba without going anywhere else; is that
- 24 correct, Madam Witness?
- 25 A. Yes.

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1 Q. And you saw Germain once again there in Aveba; isn't that so?

2 A. Yes, I saw him.

3 Q. Did you know the residence of Germain Katanga's father,
4 Madam Witness? You did know it; right?

5 A. Yes, I know his residence.

6 Q. It is in the direction of Atelengba; correct?

7 A. That is correct.

8 Q. And it is a brick house; correct?

9 A. Yes, indeed.

10 Q. And you shared a meal several times with Germain in his father's
11 house; isn't that correct, Madam Witness?

12 A. Yes. I was in the habit of having my meals in that house.

13 (Prosecution counsel confer)

14 MR. DUTERTRE: (Interpretation)

15 Q. When Germain was in his father's house you could see that there
16 were combatants protecting that house; correct?

17 A. Yes.

18 Q. And Germain had an escort, a guard detail; right?

19 A. Yes, that is correct.

20 Q. And Garimbaya was the one who was responsible for Germain's
21 escort; isn't that so?

22 A. Garimbaya was also an Afande, that is, a commander. But I do not
23 know whether he was the leader of Germain Katanga's escort or not.

24 Q. Subsequently you had meals in Germain's place when he went to
25 live in the BCA camp; isn't that so?

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1 A. Yes.

2 Q. You also went to Germain's place at the BCA camp and shared meals
3 there; right?

4 A. Yes, I had a meal there once.

5 Q. And you visited Germain's family at the BCA camp; correct?

6 A. Yes, that is correct.

7 Q. And you also went to the BCA camp with the choir, where you saw
8 Germain Katanga; is that correct?

9 A. Yes. We had gone into the habit of going there for evangelical
10 purposes.

11 Q. And you also saw Germain when you went there for that purpose;
12 isn't that so?

13 A. Yes, we saw him.

14 Q. To which church did that choir belong, that is, the choir in
15 which you were a member, Madam Witness?

16 A. It was the Protestant church.

17 Q. And was that the Church of the Emmanuelli Community 39,
18 Madam Witness?

19 A. That is correct.

20 Q. You nodded, so you agreed. So this was Pastor Vicky's church,
21 Madam Witness; isn't that so?

22 A. Yes, that is correct.

23 Q. Madam Witness, Pastor Vicky obviously came with you to the BCA
24 camp for evangelical activities; isn't that correct?

25 A. Yes, he also went there.

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1 Q. Madam Witness, there was a jail in the camp; is that correct?

2 A. Yes, there was a jail.

3 Q. Madam Witness, can you describe to us that jail.

4 A. There was a house that had been built and it was pointed out to
5 me as the jailhouse; however, I did not know what happened inside that
6 house because I never went in there.

7 Q. But you were told that it was underground, a house had been built
8 there, but a hole had been dug which was indeed the jail; is that
9 correct, Madam Witness?

10 A. What did you say?

11 Q. Madam Witness, you were told that the jail was a hole in the
12 ground and that there was a house built over it; is that correct,
13 Madam Witness?

14 A. Yes, I did hear about that.

15 Q. There was a parade ground in the camp; isn't that correct,
16 Madam Witness?

17 A. I did not know everything that happened in the camp, if there
18 were march-passes or parades that took place in the camp, I have no idea.
19 But I used to see soldiers running in the morning.

20 Q. So there were exercises and training taking place there. They
21 were running; is that correct, Madam Witness?

22 A. Yes, I know about that.

23 Q. There was also a court in the camp; isn't that so, Madam Witness?

24 A. That is possible, but I did not know.

25 Q. Madam Witness, you knew Commander Bahati, isn't that correct, you

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1 heard about him; right?

2 A. I knew Commander Bahati.

3 Q. And he was in the BCA camp; is that correct, Madam Witness?

4 A. Yes, he was at the BCA camp.

5 Q. And he used to travel to Zumbe; is that correct, Madam Witness?

6 A. Commander Bahati was a native of Zumbe, but whilst he was in that
7 locality I do not know whether he used to go to Zumbe or not. All I know
8 is that he was a native of Zumbe.

9 Q. And he was referred to as Bahati de Zumbe, or Bahati from Zumbe;
10 is that not correct, Madam Witness?

11 A. Yes.

12 Q. There were combatants in Zumbe; is that correct, Madam Witness?

13 A. Yes, I did hear mention of that.

14 Q. And you know that Mathieu Ngudjolo was the leader of the
15 combatants in Zumbe; is that not correct, Madam Witness?

16 A. I did hear mention of that, but I did not see him.

17 Q. Very well. You did not see. But you know Nibo Char. Is that
18 correct, Madam Witness?

19 A. Yes, I do know Nibo Char.

20 Q. And he was a combatant; is that correct, Madam Witness?

21 A. Yes, he was.

22 Q. And he was based at Germain's place; is that correct,
23 Madam Witness?

24 A. He was in Germain's group, but he had his own house.

25 Q. He is Bahati's brother; is that correct, Madam Witness?

1 A. Yes, he was a relative to Bahati, someone from his family.

2 Q. And Nibo Char used to live in Nyakunde; is that correct,

3 Madam Witness?

4 The same applies to Bahati, he lived in Nyakunde as well I

5 suppose?

6 A. Yes, Bahati lived in Nyakunde as well.

7 Q. And you did see them in Nyakunde before fleeing from Nyakunde in

8 August 2001; is that correct, Madam Witness?

9 A. At that time Bahati was living in Bunia. It was Nibo Char who
10 was in Nyakunde.

11 Q. Nibo Char had the rank of commander, Madam Witness; is that
12 correct?

13 A. I am not in a position to know. I did not know his rank. I
14 simply saw him wear a uniform, but I do not know his rank within the
15 army.

16 Q. Sometimes Nibo Char would go from Aveba to Zumbe; is that
17 correct, Madam Witness?

18 A. I cannot give you an answer to that. I do not know whether he
19 used to go from Zumbe to Aveba.

20 Q. Madam Witness, when the combatants moved, they needed a road map,
21 didn't they -- they needed an authorisation to travel, didn't they?

22 A. I beg your pardon? Could you please rephrase that question.

23 Q. Yes, indeed. When the combatants moved, they had authorisations
24 or laissez-passer, didn't they, Madam Witness?

25 A. I knew nothing about their movements because I did not have all

1 the information related to the camp or the soldiers who used to live
2 there.

3 Q. You know Oudo Jackson, Madam Witness?

4 A. Yes, I know Oudo Jackson.

5 Q. And he was the radio operator in the BCA camp, wasn't he?

6 A. Yes, he was the phoney or radio operator.

7 Q. Commander Garimbaya was at the BCA camp at the beginning, wasn't
8 he, Madam Witness?

9 A. Yes, he used to live in the camp.

10 Q. And it was when the camp was opened at the airport that he moved
11 to that camp at the airport as commander; is that correct?

12 A. Yes, he was the commander at the airport.

13 Q. And this was when planes started landing, he was there to ensure
14 security; is that correct?

15 A. Yes.

16 Q. Madam Witness, initially is it not true that there was certain
17 people who were living along the road leading to the airport and that
18 they were relocated from there to ensure that planes landed in that area?

19 A. I don't know anything about that. All I know is that the houses
20 around the airstrip remained there because this was close to the mission.
21 I don't know whether or not people were located from that area. I used
22 to see people around there, around the airstrip.

23 THE INTERPRETER: Correction from the English booth: People
24 living on the airstrip.

25 MR. DUTERTRE: (Interpretation)

1 Q. You said whilst you were in Aveba your father was no longer
2 living. Germain took pity on you and he acted as your protector; is that
3 correct, Madam Witness?

4 A. Yes.

5 Q. And Germain helped you to pay your school fees. Would I be right
6 to say that you are grateful to him for having paid your school fees in
7 Aveba?

8 A. Yes, that is correct.

9 Q. (No interpretation)

10 A. (No interpretation)

11 Q. (No interpretation)

12 A. (No interpretation)

13 MR. HOOPER: We've lost the interpretation on the transcript, the
14 English transcript. I don't know what's happened. You'll see that the
15 last questions and answers are not interpreted.

16 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, how can
17 we make up for this?

18 THE INTERPRETER: We had microphone problems in the English
19 booth. We apologise.

20 If that excerpt of the French transcript could be read out, we
21 would interpret it.

22 (Trial Chamber and Court Officer confer)

23 PRESIDING JUDGE COTTE: (Interpretation) I will read from the
24 French transcript. Page 29, from line 20, because I think that is where
25 you lost the English translation.

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1 Mr. Dutertre asked the following question:

2 "Q. You also knew Germain's father; is that correct,
3 Madam Witness?

4 "A. Yes, I do know him.

5 "Q. And he worked at this health centre located not far from the
6 place where you were living; is that correct, Madam Witness?

7 "A. Yes.

8 "Q. Could you please give us the name of Germain's father,
9 Madam Witness?

10 "A. I know him by the name of Nduru."

11 I think that it was at that point that Mr. Hooper rose to inform
12 us that they could not get the English translation. I think that is
13 settled now.

14 Mr. Dutertre, you may proceed, sir.

15 MR. DUTERTRE: (Interpretation) Thank you, your Honour.

16 Q. Madam Witness, you also know Francine, Germain's sister; is that
17 correct?

18 A. I know Francine.

19 Q. And she was also in Nyakunde before August 2009; is that correct?

20 A. Yes, she used to live there.

21 Q. And she was also a member of the choir in Nyakunde; is that
22 correct?

23 A. Yes.

24 Q. And you also knew her there, didn't you, Madam Witness?

25 A. Yes, I knew her there.

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1 Q. And she lives in Bunia, in the Kindia neighbourhood currently; is
2 that correct, Madam Witness?

3 A. Yes.

4 Q. And you do have opportunity to meet her in the Kindia
5 neighbourhood, don't you?

6 A. Yes. I am used to meeting her within that neighbourhood.

7 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, I beg your
8 pardon. We have to rise at this point to give the witness an opportunity
9 to perform one of her responsibilities as a young mother. This is a
10 condition we have to respect in the course of her testimony.

11 Court Officer, we are going to rise for 30 minutes -- sorry.

12 Witness, we are going to rise for 30 minutes so that you can go
13 and attend to your baby who needs you. In any case, we hear the baby's
14 crying. This Court is attentive to all problems, including this
15 particular problem which we think you should address.

16 I apologise, Mr. Prosecutor, this is a message which I have
17 received right now from the unit. We will reconvene at 11.20 and try to
18 see how we can stay within the limits of our recording tape.

19 Court Officer, shall we move into closed session, please.

20 (Closed session at 10.47 a.m.)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Open session at 10.48 a.m.)

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

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

9 Yes, Prosecutor.

10 MR. MACDONALD: (Interpretation) I beg your pardon, your Honour.
11 When do we start again because regardless of the time at which we are
12 going to start, given that we are going to change tapes I would like to
13 propose, with your leave of course, that we should resume at 11.30.

14 PRESIDING JUDGE COTTE: (Interpretation) I think it's preferable
15 for us to start at 11.20. If we find that the tape is going to run out
16 at that time, we will stop there. But if we have an extra length of tape
17 we are going to carry on for two or three further minutes. We are going
18 to rise now and start again at 11.20. 11.20 then.

19 Recess taken at 10.49 a.m.

20 On resuming at 11.31 a.m.

21 (Closed session)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Open session at 11.32 a.m.)

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

8 Honour.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

10 Madam Witness, you were able to deal with your baby. Was there
11 any specific problem?

12 THE WITNESS: (Interpretation) Yes, I was able to calm the baby.

13 PRESIDING JUDGE COTTE: (Interpretation) Well, that reassures us
14 all.

15 Prosecutor.

16 MR. DUTERTRE: (Interpretation) Thank you, Your Honours.

17 Q. Madam Witness, you know Alain Metu, don't you?

18 A. Yes, I know him.

19 Q. He lived in Nyakunde, didn't he?

20 A. That's right.

21 Q. And you knew him when he was living in Nyakunde, didn't you?

22 A. Yes, I knew him.

23 Q. He also lived in Aveba, didn't he?

24 A. Yes, that's right.

25 Q. He lived in Pastor Vicky's house, didn't he?

- 1 A. Yes, he lived in Pastor Vicky's house.
- 2 Q. I'd just like to go back a bit. In Nyakunde he used to live with
- 3 Denise, didn't he?
- 4 A. That's right.
- 5 Q. At the moment he's living in Bunia, in the Kindia neighbourhood,
- 6 isn't he, Madam Witness?
- 7 A. That's right.
- 8 Q. His father is called Omvuani, isn't he, Madam Witness?
- 9 A. I know his father but I don't know his name.
- 10 Q. You used to see Alain Metu from time to time in Bunia, didn't
- 11 you, Madam Witness?
- 12 A. That's right.
- 13 Q. Madam, Jeannot Malivo Kagaba. You knew him too, didn't you?
- 14 A. Who are you talking about?
- 15 Q. I'll repeat it, Jeannot Malivo Kagaba.
- 16 A. I don't recognise that name.
- 17 Q. Madam, you knew Bonheur Mugango Awenya, didn't you?
- 18 A. I know that person.
- 19 Q. And he lived in Aveba, didn't he, Madam Witness?
- 20 A. That's right.
- 21 Q. When did you see him for the last time, Madam Witness?
- 22 A. In which town?
- 23 Q. Just tell me when you last saw him, Madam Witness. Where and
- 24 when.
- 25 A. I used to see Bonheur in Bunia.

1 Q. He lives in the Kindia neighbourhood; is that what I'm to
2 understand, Madam Witness?

3 A. That's right.

4 Q. Do you know Philémon Manono Anyodi, Madam Witness?

5 A. Yes, I know him.

6 Q. And he lived in Aveba, didn't he, Madam Witness?

7 A. Yes.

8 Q. And it's the brother of Oudo Jackson, isn't it, Madam Witness?

9 A. That's right. Philémon Manono Anyodi.

10 MR. HOOPER: Sorry, just before we're losing the point, but again
11 there's a phonetic translation -- well, phonetic naming on the transcript
12 and my friend has the correct names, and it's as well perhaps that the
13 correct names are there or they'll lose or may lose any future
14 significance.

15 PRESIDING JUDGE COTTE: (Interpretation) Well, we're going to
16 check to make sure we have the right spelling. Now we have Jeannot
17 Malivo Kagaba, I don't think there's any problem. Bonheur Mugango
18 Awenya. Madam Witness, Mugango, is this M-u-g-a-n-g-o, Mugango, is that
19 right? But in fact it was the Prosecutor who asked the question.
20 Perhaps it's the Prosecutor who could confirm the spelling. Is this the
21 right spelling, M-u-g-a-n-g-o, Mugango?

22 MR. DUTERTRE: (Interpretation) Your Honour, it's Mugangu,
23 M-u-g-a-n-g-u, and then Awenya, A-w-e-n-y-a.

24 PRESIDING JUDGE COTTE: (Interpretation) Perfect. Fine. Now
25 the transcript can have the correct recording of the spelling of this

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1 family name. Then we had Mr. Philémon Manono Anyodi, and, Prosecutor, do
2 we spell Manono the way it's pronounced; is that right?

3 MR. DUTERTRE: (Interpretation) That's right, your Honour.

4 PRESIDING JUDGE COTTE: (Interpretation) And Anyodi,
5 A-n-y-o-d-i, as written on the transcript; is that right ?

6 MR. DUTERTRE: (Interpretation) Exactly, I can confirm that.

7 PRESIDING JUDGE COTTE: (Interpretation) Fine. Then indeed,
8 perhaps we can check each time we have a new family name, we can make
9 sure that the spelling which the court reporters cannot invent is the
10 right spelling.

11 You may proceed, Prosecutor.

12 MR. DUTERTRE: (Interpretation)

13 Q. Madam Witness Philémon Manono Anyodi was the private secretary of
14 Germain Katanga in Aveba, wasn't he?

15 A. He was secretary.

16 Q. You know David Adirodu Achelle, A-c-h-e-l-l-e, David Adirodu
17 Achelle, you knew him, didn't you?

18 A. Yes, I know him.

19 Q. And he grew up in Nyakunde, didn't he, Madam Witness?

20 A. That's right.

21 Q. And he also lived in Aveba, didn't he, Madam Witness?

22 A. That's right.

23 Q. What did he do in Aveba, Madam Witness?

24 A. I don't know what Adirodu did. I can just say that he was a
25 friend of Jackson.

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1 Q. Okay. But he was a militiaman, wasn't he, Madam Witness?

2 A. I don't know if he was a militiaman. I often saw him with the
3 operator.

4 Q. Madam Witness, you also knew Régine Kaswera, I'll spell it,
5 K-a-s-w-e-r-a?

6 A. I don't know Régine. Could you tell me if she has another name,
7 otherwise the first name Régine doesn't ring any bells.

8 MR. DUTERTRE: (Interpretation) Could we just go into private
9 session as a precautionary measure, please?

10 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, brief
11 private session, please.

12 (Private session at 11.47 a.m.)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Open session at 11.49 a.m.)

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

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
12 Prosecutor.

13 MR. DUTERTRE: (Interpretation)

14 Q. Madam Witness, Francine was also active in this association,
15 wasn't she?

16 A. Yes, she was a member of that association too.

17 Q. Madam Witness, you know Christian Mbodjima Mbaraza, I'll spell
18 it. Christian, everyone knows that name. Mbodjima, M-b-o-d-j-i-m-a.
19 And then another name, M-b-a-r-a-z-a. You know that person, don't you?

20 A. No, I don't know what you said there, Mbodjima Mbaraza.

21 Q. To help you, now Christian Mbodjima Mbaraza lived in Nyakunde.
22 Does that help you remember?

23 A. The name Mbodjima is unknown to me. I don't know who it is.

24 Q. He had a nickname, Mbomba, M-b-o-m-b-a, which you may know.

25 A. I don't know this Mbodjima you're talking about.

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1 Q. Do you know someone called Christian who lived in Nyakunde?

2 A. No, I don't know this person called Christian.

3 Q. Madam Witness, you know the person called Safco Mbadjona Mandro,

4 I'll spell it: M-b-a-d-j-o-n-a, and then Mandro, M-a-n-d-r-o. Safco

5 Mbadjona Mandro.

6 A. I know a person called Safco but don't know his other names.

7 Q. Madam Witness, this is Safco who was in Kandro's escort?

8 A. I know him, I know Safco.

9 MR. DUTERTRE: (Interpretation) One moment, your Honour.

10 (Prosecution counsel confer)

11 MR. DUTERTRE: (Interpretation)

12 Q. Madam Witness, did you also know Léonard Katobe Adhizo?

13 A. I don't recognise that name.

14 Q. Madam Witness, you left Nyakunde in 2001 because there was an

15 attack and a war between the Lendu and the Bira?

16 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

17 MR. FOFÉ: (Interpretation) I think the Prosecutor should use

18 the term which was used by the witness for the parties involved in that

19 battle.

20 PRESIDING JUDGE COTTE: (Interpretation) So what were the terms

21 used by the witness?

22 Do you remember them, Prosecutor, so that we can use them again?

23 Professor Fofé would like this to be corrected.

24 MR. DUTERTRE: (Interpretation)

25 Q. There was a war in Nyakunde in 2001 which was why you fled,

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- 1 wasn't it, Madam Witness?
- 2 A. That's right.
- 3 Q. And you said in your evidence that it was an ethnic war, didn't
- 4 you, Madam Witness?
- 5 A. Indeed I did.
- 6 Q. And it was between the Lendus and the Biras, wasn't it,
- 7 Madam Witness?
- 8 A. Yes.
- 9 Q. Or more accurately, between the Ngiti and the Bira,
- 10 Madam Witness?
- 11 A. It was the Ngiti against the Bira, and in the Bira group there
- 12 were also Hema.
- 13 Q. Later you were in Songolo and Songolo was attacked; that's right,
- 14 isn't it, Madam Witness?
- 15 A. That's right.
- 16 Q. Do you remember the date of the attack, Madam Witness?
- 17 A. I can remember the year but I've forgotten what month it was.
- 18 Q. It was late August 2002, wasn't it, Madam Witness?
- 19 A. That's right.
- 20 Q. And it was the Hema soldiers that attacked, wasn't it,
- 21 Madam Witness?
- 22 A. Yes.
- 23 Q. Hema soldiers that came from Nyakunde, weren't they,
- 24 Madam Witness ?
- 25 A. Yes.

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- 1 Q. And also from Bunia; correct?
- 2 A. Yes.
- 3 Q. And there were Ngiti civilians who were living in Songolo that
4 were killed; isn't that so, Madam Witness?
- 5 A. Yes, that is correct.
- 6 Q. And then the Ngitis revenged with an attack against Nyakunde on
7 the 5th of September, 2002, Madam Witness; isn't that so?
- 8 A. Yes, they attacked Nyakunde.
- 9 Q. And many people were killed amongst the Hema and the Bira in
10 Nyakunde; correct, Madam Witness?
- 11 A. Yes, I heard of that.
- 12 Q. There were hundreds of people killed. This was something that
13 was known. Is that correct, Madam Witness?
- 14 A. I do not know the precise number of people who were killed;
15 however, I heard that people were killed.
- 16 Q. And these people were civilians, that is, those who were killed,
17 Madam Witness; is that correct?
- 18 A. I was not present to find out what category of people were
19 killed. I heard that people were killed.
- 20 Q. And this was known to everyone. Everyone heard about it,
21 Madam Witness; isn't that so?
- 22 A. Yes.
- 23 Q. Everybody also got to know that Nyakunde hospital was looted at
24 that time; is that correct?
- 25 A. Yes, that is true.

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- 1 Q. And Kandro was the leader of the Ngiti combatants, wasn't he?
- 2 A. Yes.
- 3 Q. And Kandro died shortly after the Nyakunde battle; is that
- 4 correct, Madam Witness?
- 5 A. Yes, that is correct.
- 6 Q. And Kandro was killed at the Bavi market; correct?
- 7 A. Yes.
- 8 Q. And you were still in Bavi at that time when he was killed,
- 9 weren't you?
- 10 A. Yes, I was in Bavi Avenyuma.
- 11 Q. And he was killed by Cobra Matata's men, wasn't he,
- 12 Madam Witness?
- 13 A. Yes.
- 14 Q. And this is a fact that is well-known by everyone; isn't that
- 15 correct?
- 16 A. Yes, that is correct.
- 17 Q. Madam Witness, you lived in Komanda. You certainly are also
- 18 aware that Komanda was attacked in August 2002, are you not?
- 19 A. Yes, Komanda was also attacked but I do not know who attacked
- 20 Komanda because I was not there.
- 21 Q. Madam Witness, after Kandro was killed, the Ngitis handed over
- 22 Kandro's rank to Germain Katanga; is that correct?
- 23 A. No. It was not the Ngitis. I heard that information from the
- 24 soldiers. It was not the Ngitis.
- 25 Q. Madam Witness, my question was as follows: After Kandro was

1 killed, Germain succeeded him; correct?

2 A. When Kandro died, his position was given to his brother; however,
3 it was said that the position should be taken over by Germain.

4 Q. And Kandro's position was given to Germain, wasn't it,
5 Madam Witness?

6 A. Yes. That position was given to Germain, but he did not make use
7 of it.

8 Q. You mentioned the travel authorisations or laissez-passers
9 yesterday which were issued to displaced persons coming to Aveba to allow
10 them to pass through the town. Am I to understand that these were
11 documents issued to those people to enable them pass through the town?

12 A. The displaced persons who left Aveba and who were going to
13 North Kivu received travel authorisations.

14 Q. And these authorisations were prepared and issued at the BCA
15 camp, weren't they, Madam Witness?

16 A. Yes.

17 Q. And the documents were issued under the authority of
18 Germain Katanga, weren't they, Madam Witness?

19 A. Yes.

20 Q. You testified that there were planes landing in Aveba, and when
21 these planes arrived this was a novelty, this was something that was not
22 frequent; is that correct, Madam Witness?

23 A. Yes.

24 Q. And you yourself, you saw those planes, didn't you Madam Witness?

25 A. Yes, I saw them.

1 Q. And you even remember seeing three planes, don't you,

2 Madam Witness?

3 A. Yes.

4 Q. And, Madam Witness, these planes came from Beni, didn't they?

5 A. Yes.

6 Q. And we do agree that these were small aircraft, don't we?

7 A. They were planes. I do not know what type of planes they were

8 but they were not large planes.

9 Q. These were small propeller-driven planes, weren't they,

10 Madam Witness?

11 A. No, I didn't know anything about the types of plane.

12 Q. And there were medications and other items transported aboard

13 these planes for the health centre; isn't that correct, Madam?

14 A. I saw planes land in Aveba carrying weapons and ammunition.

15 (Prosecution counsel confer)

16 MR. DUTERTRE: (Interpretation)

17 Q. Madam Witness, there were planes which brought weapons but there

18 were also other planes which did not carry weapons but which carried

19 medications; isn't that so?

20 A. There was a small aircraft that brought medications.

21 Q. And these were small DSF (* as interpreted) planes; is that

22 correct, Madam?

23 A. Yes.

24 Q. When planes brought weapons, Germain Katanga was called; is that

25 correct, Madam Witness?

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

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1 A. Yes, he was called.

2 Q. And the weapons were taken to the BCA camp; is that correct,

3 Madam Witness?

4 A. Yes.

5 Q. And that is where Germain lived; is that correct, Madam Witness?

6 A. He was at the camp, but I do not know the final destination of
7 the weapons. You know, there were two commanders in the same camp.

8 Q. Madam Witness, these planes that carried weapons were from the
9 Mango Mat company; is that correct?

10 A. No, I do not know the name of the company that owned those
11 planes. All I saw were the planes.

12 Q. There were also civilian passengers on those planes; is that
13 correct, Madam Witness?

14 A. I did not know whether there were civilians or not; however, I
15 saw soldiers alight from those planes.

16 Q. But you are aware that David Adirodu took one of those planes,
17 didn't he?

18 A. That should be true.

19 Q. Madam Witness, you know Pascal Alezo, don't you? Alezo Sipa?

20 A. I know Sipa.

21 Q. He also flew on that plane, didn't he, Madam Witness?

22 A. Yes, that could be true.

23 Q. Madam Witness, you also know Muhito, don't you?

24 A. Yes, I know him.

25 Q. Germain Katanga also took that plane, didn't he, Madam Witness?

Witness: Witness DRC-D02-P-0161 (Resumed) (Open Session)
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1 A. Yes.

2 Q. He even went to Beni on foot and returned by plane; is that
3 correct, Madam Witness?

4 A. Yes.

5 Q. And this was in late 2002; correct, Madam Witness?

6 A. Yes, it could have been towards the end of the year 2002.

7 Q. And this was even before his wedding, wasn't it, Madam Witness?

8 A. Germain went to Beni for the first time when he was already
9 married. In any case, that is what I remember.

10 Q. And when he returned by plane, he came back with boxes of
11 weapons; is that correct, Madam Witness?

12 A. Yes.

13 Q. When Germain went to Beni, he went on foot and he had an escort,
14 didn't he?

15 A. He went with some people. I do not know whether they were his
16 bodyguards.

17 Q. These people he travelled with were combatants, weren't they,
18 Madam Witness?

19 A. Yes, some of them were combatants.

20 Q. This means that there were civilians who also travelled with him
21 on foot to Beni; isn't that so?

22 A. The civilians who travelled with them had gone to sell their
23 cattle because they were in the habit of travelling to Beni.

24 MR. DUTERTRE: (Interpretation) Just one moment, your Honour.
25 (Prosecution counsel confer)

1 MR. DUTERTRE: (Interpretation).

2 Q. Madam Witness, Yuda was the commander in Kagaba, but he came to
3 Aveba from time to time to see Germain, didn't he?

4 A. Yuda used to come to Aveba when the plane landed.

5 Q. Other commanders also came to Aveba, didn't they, Madam Witness?

6 A. I do not know whether other commanders came there. You know, I
7 did not have all the information related to the camp.

8 Q. Madam Witness, you know Cobra Matata, don't you?

9 A. Yes, I know Cobra.

10 Q. And he used to come and see Germain in Aveba, didn't he,
11 Madam Witness?

12 A. I never saw him there. I do not know whether he was in the habit
13 of visiting Germain or not.

14 Q. You know Oudo Mbafele, don't you, Madam Witness?

15 A. Where did he live?

16 Q. He was a commander, Commander Oudo Mbafele, you know him, don't
17 you? He was the commander at Medhu at the Jerusalem camp?

18 A. Yes, I know Oudo.

19 Q. And he used to go and see Germain in Aveba, didn't he,
20 Madam Witness?

21 A. I do not know.

22 (Prosecution counsel confer)

23 Q. Madam Witness, there were commanders from other camps who came to
24 Aveba to fetch weapons, didn't they?

25 Madam Witness, do you want me to repeat the question?

Witness: Witness DRC-D02-P-0161 (Resumed) (Open Session)
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1 A. Yes, please do.

2 Q. Madam Witness, there were commanders who came to Aveba to fetch
3 weapons; isn't that so?

4 A. That could be true, but frankly I do not know.

5 Q. Madam Witness, you gave a statement to the Defence on the 30th of
6 April, 2011, didn't you?

7 A. Yes.

8 Q. This was very recent; isn't that so, Madam Witness?

9 A. Yes.

10 Q. And you signed that statement, Madam Witness, didn't you?

11 A. Yes.

12 Q. And, Madam Witness, you even initialled every single page, didn't
13 you?

14 A. Yes, that is correct.

15 MR. DUTERTRE: (Interpretation) Your Honour, I would like a copy
16 of the statement to be presented to the witness, a clean copy.

17 PRESIDING JUDGE COTTE: (Interpretation) Very well.

18 Court Officer, Court Usher, can you kindly fetch that clean copy
19 of the witness's statement, and that is the statement that she gave to
20 the Defence. It was already referred to during Mr. Hooper's examination.

21 Thank you, Court Usher.

22 MR. DUTERTRE: (Interpretation)

23 Q. Madam Witness, this is indeed your statement and it begins with
24 the number at the bottom DRC-D02-0001-0715, isn't it?

25 A. Yes, it is my statement.

Witness: Witness DRC-D02-P-0161 (Resumed) (Open Session)
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1 MR. DUTERTRE: (Interpretation) I will go to page 7, paragraph
2 2, your Honour, and I will read it myself.

3 Q. Madam Witness, you state as follows, and I quote:

4 "Combatants from other villages came when there was a plane to
5 take back boxes to their camp."

6 This is indeed your statement, isn't it, Madam Witness?

7 A. Yes.

8 MR. DUTERTRE: (Interpretation) Your Honour, the usher can
9 retrieve the statement so as not to distract the witness.

10 PRESIDING JUDGE COTTE: (Interpretation) Very well.

11 THE WITNESS: (Interpretation) Please refer me to the precise
12 excerpt.

13 PRESIDING JUDGE COTTE: (Interpretation) Court Usher, can you
14 try to locate page 7, paragraph 2, so that the witness should be able to
15 see that paragraph?

16 MR. DUTERTRE: (Interpretation) Does the witness read French?
17 That is why I decided to read it myself.

18 PRESIDING JUDGE COTTE: (Interpretation) Madam Witness, can you
19 correctly read that excerpt in French?

20 THE WITNESS: (Interpretation) Yes, I can read in French.

21 PRESIDING JUDGE COTTE: (Interpretation) Very well. Take the
22 time to read that sentence that the Prosecutor has just read out and
23 which is reflected in the transcript.

24 THE WITNESS: (Interpretation) I have read the paragraph and
25 what is here is different from what you read. I will read it out myself.

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1 "There was -- there were people and they came when there was a
2 plane."

3 I did not say that they came to take weapons.

4 PRESIDING JUDGE COTTE: (Interpretation) Madam Witness, maybe
5 there was a small problem in the interpretation, but I can see line 26 of
6 page 49 of the French transcript, the Prosecutor says as follows:

7 "On page 7, Madam Witness, you said, and I quote:

8 'Combatants from other villages came when there was a plane to
9 take boxes to their camp.'

10 "Is that indeed your statement, Madam Witness?"

11 And you answered:

12 "Yes."

13 And when you listen to what the Prosecutor said and compare it
14 with what is in the statement, we believe that the Prosecutor's reading
15 was faithful.

16 Mr. Prosecutor, you can proceed.

17 And, Court Usher, take the statement and give it back to the
18 Prosecutor.

19 Yes, Mr. Hooper.

20 MR. HOOPER: Can I just intervene in respect of one detail. It's
21 the question that provoked the reference to this statement and it appears
22 at line -- at page 48 at line 17 in the English, and you'll see there
23 that what is being put is that there were commanders from other camps who
24 came to Aveba to fetch weapons. And he repeated the question:

25 "Q. There were commanders who came to Aveba to fetch weapons;

1 isn't that so?

2 "A. That could be true. But frankly, I do not know."

3 And then we have:

4 "Madam Witness, you gave a statement to the Defence ..."

5 And we can see in the statement not "commanders" but "combatants"
6 are mentioned in any event.

7 PRESIDING JUDGE COTTE: (Interpretation) For everything to be
8 clear, we will return to the provisional French transcript, page 48, line
9 26, where we read the following question from the Prosecutor:

10 "Madam Witness, there were commanders who came to fetch weapons
11 in Aveba; is that correct?"

12 Answer by the Witness, line 28:

13 "That could be the case, but frankly I do not know."

14 Page 49, line 1, Mr. Prosecutor says:

15 "Q. Madam Witness, you gave a statement to the Defence team on
16 the 30th of April, 2011; is that correct?"

17 "A. Yes."

18 So on the one hand we have a question which talks about
19 commanders who came to fetch weapons, and on the other hand recently,
20 that is, much lower in the transcript, the question of combatants, that
21 is, mention of combatants from other villages who came when a plane
22 landed to take crates back to their camp. We have understood what you
23 said, Mr. Hooper. Everyone has before them two different passages of
24 questions and answers, an exchange between the Prosecutor and the witness
25 with the differences mentioned. On the one hand we hear mention of

1 "commanders," and on the other hand we hear mention of "combatants." And
2 the use of a verb in the first case which is not the same verb that was
3 used in the second case. So that is clear to everyone. We are not going
4 to draw any conclusions at this point in time and we will allow the
5 Prosecutor to carry on with his cross-examination.

6 MR. DUTERTRE: (Interpretation)

7 Q. Madam Witness, so combatants did come to Aveba; is that correct?

8 A. Yes, and they did so when a plane landed.

9 Q. And they came to take back crates to their camp; is that correct?

10 A. Yes.

11 Q. Madam, I am going to change subjects here. I would like to
12 revisit the issue of Louis. You do not know Louis's date of birth,
13 Madam Witness, do you?

14 A. I do not know.

15 Q. And you do not know his precise age, Madam Witness, do you?

16 A. I do not know his age; however, given that we grew up in the same
17 locality, I believe that he is older than me.

18 Q. That was not my question to you, Madam Witness. I simply asked
19 you whether or not you knew his exact age, yes or no?

20 A. I don't.

21 Q. Madam Witness, in your statement you say the following:

22 "According to me, (Expunged) deposited one of the weapons of Garimbaya
23 because Garimbaya was a combatant and had many weapons."

24 My question to you is the following: You did not see that happen
25 yourself, did you?

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1 A. I was not an eye-witness of that event, but that must have been
2 the case.

3 (Prosecution counsel confer)

4 MR. DUTERTRE: (Interpretation)

5 Q. Madam Witness, who told you that? Who told you that (Expunged)
6 deposited a weapon that belonged to Garimbaya? This is not mere
7 speculation on your part, is it?

8 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, we
9 should strive to use the terms which we chose yesterday.

10 Madam Witness, please answer the Prosecutor's question. Since I
11 intervene, I will repeat the question to you. The Prosecutor asked you:

12 "Who told you that, namely, that Louis deposited Garimbaya's
13 weapon? Isn't that mere speculation on your part?"

14 I am repeating this question to you because I interrupted.

15 MR. DUTERTRE: (Interpretation) Your Honour, it was a slip of
16 the tongue. It is pure speculation, that's what I meant to say.

17 PRESIDING JUDGE COTTE: (Interpretation) Well, it's up to you to
18 clarify the point.

19 THE WITNESS: (Interpretation) It's not speculation on my part.
20 I said that Garimbaya took many civilians to that -- to the site.

21 THE INTERPRETER: Message from the Swahili booth, could the
22 witness slow down and repeat her answer for the benefit of the Swahili
23 interpreters.

24 PRESIDING JUDGE COTTE: (Interpretation) Madam Witness, I am
25 sorry, I have to interrupt you. Please, you should speak more slowly so

1 that the interpreters can better translate your answer. You should
2 repeat what you said because the interpreters could not hear you. Please
3 kindly rephrase your answer to Mr. Dutertre's last question. Thank you.

4 THE WITNESS: (Interpretation) It is not pure invention on my
5 part. One of his friends who joined at the same time with him -- well,
6 it's Garimbaya who brought that person to the site because Garimbaya
7 brought several people to the site.

8 MR. DUTERTRE: (Interpretation)

9 Q. Madam, who told you that? How did you come to know that?

10 A. They came to the site or they entered the site with Fabrice.

11 (Prosecution counsel confer)

12 MR. DUTERTRE: (Interpretation)

13 Q. Madam Witness, who told you that? Where did you obtain that
14 information from? It's not something you witnessed personally, is it?

15 A. I have just provided you with an answer. When they went to the
16 site, they went together with Fabrice, and Fabrice was living with me in
17 the same house. And it is Garimbaya who took Fabrice to the site because
18 Fabrice was a civilian.

19 Q. Fabrice, Fabrice who, Madam Witness?

20 A. (No interpretation)

21 THE INTERPRETER: The last answer provided by the witness was not
22 interpreted because the Swahili interpreter did not hear what she said
23 clearly.

24 PRESIDING JUDGE COTTE: (Interpretation) Madam Witness, I would
25 like to ask you to repeat the answer, the last answer you gave. And

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1 please speak slowly. I know this might be a fastidious exercise for you,
2 but the interpreters did not hear you and it's important for them to
3 accurately translate what you said. So I would like to apologise for
4 your patience.

5 MR. FOFÉ: (Interpretation) I beg your pardon, your Honour. I
6 wish to ask the Prosecutor to turn off his microphone when he finishes
7 his question because when he leaves his microphone open there is -- this
8 creates some background noise and it makes it difficult to hear the
9 witness's answer. So we would like him to kindly turn off his microphone
10 when he finishes putting his question to the witness.

11 (Trial Chamber and Court Officer confer)

12 PRESIDING JUDGE COTTE: (Interpretation) Taking the floor before
13 this Court requires good rhetorical qualities and the ability to
14 manipulate these devices well. Mr. Dutertre has understood what you
15 said. The Court Officer supports what was said by Mr. Fofé.

16 And, Madam Witness, please, we would like you to repeat your
17 answer. Thank you for your patience, but we would like you to repeat
18 your answer clearly. Thank you.

19 THE WITNESS: (Interpretation) I talked about Fabrice Banga.

20 MR. DUTERTRE: (Interpretation)

21 Q. Madam, when did Fabrice Banga tell you this?

22 A. Fabrice told me whilst we were in Bunia, and he was with him in
23 Bunia when they received the last sum of money.

24 THE INTERPRETER: Correction: Or they were with him in Bunia
25 when they received the last sum of money.

Witness: Witness DRC-D02-P-0161 (Resumed) (Open Session)
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1 MR. DUTERTRE: (Interpretation)

2 Q. Madam Witness, you did not mention that in your statement. This
3 is new. This is the first time you are mentioning it here, in the
4 courtroom. We do not find this in your statement.

5 MR. HOOPER: Well, it's a product -- it's a product of question.
6 If you ask certain questions, you get certain answers. That's surely the
7 point.

8 PRESIDING JUDGE COTTE: (Interpretation) That's right,
9 Mr. Hooper.

10 Mr. Prosecutor, you may proceed.

11 MR. DUTERTRE:

12 Q. (No interpretation)

13 A. I know what I said in my statement. I said that I thought that
14 he had handed over one of the weapons of Garimbaya. And if I gave you
15 the answer you're talking about, it is because you asked me a certain
16 number of questions and it is difficult to answer you and I answered you.
17 I have answered you already. I have answered your question already. I
18 gave you the same answer.

19 THE INTERPRETER: The Swahili booth would like to state that in
20 the witness's last answer she did talk about Patrice and not Fabrice.
21 Thank you.

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

24 Mr. Prosecutor, you heard. I think we actually are talking about
25 Fabrice and not Patrice even though the witness used that name a short

1 while ago.

2 MR. DUTERTRE: (Interpretation)

3 Q. Madam Witness, one thing is certain, in your statement you did
4 not mention Fabrice Banga as the source of that information. This is new
5 information today, Madam Witness.

6 THE INTERPRETER: There is a question which was not translated by
7 the English booth. The question was about the fact that the witness does
8 not mention Fabrice and this was new information she was providing in the
9 courtroom.

10 THE WITNESS: (Interpretation) Yes, it's true, that does not
11 appear in my statement.

12 MR. DUTERTRE: (Interpretation)

13 Q. Madam Witness, when Mr. Hooper asked you about the persons who
14 were living with you in Aveba, you did not provide Fabrice's name; isn't
15 that correct, Madam Witness?

16 MR. HOOPER: May I refer my friend to both page 13 and 14 of her
17 statement where the name Banga Fabrice appears.

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

19 MR. DUTERTRE: (Interpretation) I am talking about the testimony
20 that was given here yesterday in the courtroom. I'm not talking about
21 the statement, Mr. Hooper. Yesterday the witness --

22 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, I think
23 that it's important for the witness to know very precisely the
24 excerpts -- or to know exactly when you relate her, when you direct her
25 to the statement she gave to the Defence team of Mr. Katanga and when you

1 refer her to her testimony given yesterday. It's important for the Court
2 to ensure that the testimony is given under the best conditions possible.
3 I would like to direct you, therefore, to make express reference to the
4 statement when you're dealing with the statement and to the testimony of
5 the witness when you are referring to such testimony, because this can be
6 quite disruptive. Thank you. Let's proceed.

7 MR. DUTERTRE: (Interpretation) Yes, your Honour.

8 Q. Madam, yesterday when you provided Mr. Hooper with the names of
9 people who used to live with you, you did not mention Fabrice; is that
10 correct?

11 A. I was not living with Aveba -- I was not living with Fabrice in
12 Aveba, but he was there. And at the site in Aveba weapons were also
13 received. However, I was with Fabrice in Bunia. At Aveba he went to
14 hand-over weapons together with the others.

15 Q. Madam Witness, when I talk about Frank, when I mention Frank, you
16 know who I'm talking about? Or would you like us to return to private
17 session to tell you who that pseudonym relates to?

18 A. I do not remember his name. I think it would be proper for us to
19 move into private session.

20 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, let's
21 move into private session briefly because this exercise is difficult and
22 we would like the witness to understand whom the Prosecutor is referring
23 to.

24 (Private session at 12.52 p.m.)

25 (Expunged)

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- 1 (Expunged)
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- 11 (Open session at 12.53 p.m.)
- 12 COURT OFFICER: (Interpretation) Your Honour, we are in open
- 13 session.
- 14 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
- 15 Court Officer.
- 16 Prosecutor, you may continue.
- 17 MR. DUTERTRE: (Interpretation)
- 18 Q. Madam Witness, Frank used to visit the soldiers and he used to
- 19 talk to them; is that correct?
- 20 A. Yes.
- 21 Q. And Frank knew Germain; is that correct?
- 22 A. Yes, he knows him.
- 23 Q. And Frank used to visit Germain often; is that the case?
- 24 A. Frank used to go to the camp because we were living close by the
- 25 camp.

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1 Q. But he used to visit Germain; is that correct?

2 A. Yes, he used to.

3 Q. And they used to talk to each other; is that correct?

4 A. Yes. They talked to each other in the sense that they would
5 greet each other.

6 Q. However, Madam, when you say that Frank used to visit Germain,
7 they wouldn't just stop at greeting each other. You don't visit somebody
8 just to greet them, don't you think so?

9 A. They used to greet each other because Frank was not a soldier, he
10 was a civilian, and I don't know what they would tell each other because
11 Frank was not a soldier.

12 Q. Frank left Nyakunde in 2001 when all the Ngitis left Nyakunde; is
13 that correct?

14 A. I do not know. I do not know the circumstances under which Frank
15 left Nyakunde, but prior to the battle in question I used to see him in
16 Nyakunde.

17 Q. But while you were in Bunia -- when you fled Nyakunde you arrived
18 at Bunia; is that correct, Madam Witness?

19 A. Yes.

20 Q. Madam Witness, yesterday you said:

21 "Prior to the attack on Bogoro, I knew that Frank was living in
22 Bunia."

23 That is the answer you gave to a question put to you by the
24 Presiding Judge. And then you talked about the time when everybody fled
25 from Bunia after the Bogoro battle.

1 A. I did not fully understand your question. Could you please
2 repeat it?

3 Q. Yes. Yesterday you talked about an episode in Bunia after the
4 Bogoro battle when everybody fled away from Bunia. You know what I'm
5 talking about?

6 A. Yes, I do understand.

7 Q. At that point in time, Madam Witness, it was the UPC that took
8 over Bunia; is that not correct?

9 A. That is correct.

10 Q. And the people who fled away from Bunia were the Lendus, the
11 Ngitis, and people of other ethnicities; is that not correct,
12 Madam Witness?

13 A. Yes, that is correct.

14 Q. And they were fleeing from the UPC; is that correct,
15 Madam Witness?

16 A. Yes.

17 Q. And at that point in time Frank was one of the people who fled
18 away from Bunia; is that correct, Madam Witness?

19 A. Yes.

20 Q. You do remember yourself that you fled from Bunia before the fall
21 of Lopondo because of the strife caused by the UPC and that there was
22 insecurity. That's what you said, do you remember?

23 A. Yes.

24 Q. And after the UPC, after Bunia, in August 2002, and when Lopondo
25 fell at that time, the Lendus, the Ngitis, and other ethnic groups also

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1 fled Bunia, didn't they, Madam Witness?

2 A. Yes.

3 Q. And the UPC stayed in Bunia until the combatants forced them out
4 of Bunia, that was at the time of the battle of Bogoro; that's what it
5 was, wasn't it, Madam Witness?

6 A. Yes, that's right.

7 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, have you
8 completed this line of questioning? I'm asking you the question because
9 we're up against a similar problem which we had earlier. As I'm not an
10 expert in child care, I don't think I can keep deferring the urgent
11 messages which I'm receiving and I would like to know if you can or
12 cannot, and I can understand it's difficult and unpleasant for you, but I
13 wonder if we could have a complete end to the questioning at the moment.

14 MR. DUTERTRE: (Interpretation) Your Honour, I have one
15 question, it's not the final question, but I have one and then we can
16 release the witness.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you for your
18 flexibility.

19 MR. DUTERTRE: (Interpretation)

20 Q. Madam Witness, during this period in Bunia when the UPC had
21 control of the city between August 2002 and March 2003, the non-Hemas
22 were in danger, weren't they?

23 A. Yes, they were.

24 MR. DUTERTRE: (Interpretation) We could stop there for the
25 moment, your Honour.

1 PRESIDING JUDGE COTTE: (Interpretation) Once again, thank you,
2 Prosecutor. We shall not make any speculation as to why this little
3 child wants to have his mother released in the middle of your
4 cross-examination.

5 Madam Witness, we shall stop there because your second child is
6 calling for you and as it is a small infant the Court must give in to its
7 demands. We shall see you again tomorrow morning, Madam Witness, at
8 9.00 a.m. for the Prosecutor to complete the cross-examination.

9 Court Officer, we shall go into closed session so that the
10 witness can discreetly leave the courtroom.

11 We shall see you tomorrow, Madam Witness, and thank you for your
12 co-operation in the course of this morning's session.

13 (Closed session at 1.03 p.m.)

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12 Page 65 expunged – Closed session.

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 - 20 (Expunged)
 - 21 (Expunged)
 - 22 (Open session at 1.10 p.m.)
 - 23 COURT OFFICER: (Interpretation) We are in open session, your
 - 24 Honour.
 - 25 MR. HOOPER: Before we rise, it relates to Monday, the 6th of

1 June. The calendar shows and has shown now for some time that we're not
2 sitting that day, and certainly I think many of us -- certainly I made
3 arrangements in that light. But the VWU in our conversations with them
4 have a different agenda where we are sitting. And I see a look of
5 surprise from the Bench which I'm very glad to witness and I think that's
6 answered my question. Thank you.

7 PRESIDING JUDGE COTTE: (Interpretation) You have the answer to
8 your question. It was understood that there would be no hearing on
9 Monday, the 6th of June. The Legal Representatives may have been
10 mistaken because the different schedules for hearings took a long time
11 before they were finally settled. There were conditions set depending on
12 the obligations of Courtroom 1 and we didn't know when the work was going
13 to be completed there, and so perhaps Mr. Gilissen and Mr. Luvengika had
14 still been using an interim schedule.

15 I shall ask the usher who has been very good in dealing with this
16 to send the last version of the schedule, but there's one thing which is
17 very clear, we will be sitting next week Monday, Tuesday, and Wednesday.
18 Thursday is ascension Thursday and we shall not be sitting Thursday or
19 Monday -- Friday or Monday, and we shall resume on Tuesday, the 7th of
20 June.

21 Mr. MacDonald.

22 MR. MACDONALD: (Interpretation) Briefly, your Honour, I raised
23 this question when I ran into your colleague, Madam Pauline Baranes, who
24 confirmed that we were not sitting on the 6th, and then I asked the
25 question - this is why I have risen here - because according to the

1 calendar summer holidays are coming up and I had understood that we are
2 going to suspend on the 15th of July. I think it's Friday, the 15th of
3 July, unless I'm mistaken.

4 PRESIDING JUDGE COTTE: (Interpretation) Yes.

5 MR. MACDONALD: (Interpretation) And then we're resuming on the
6 15th of August, so we have a four-week period. In theory, the Court
7 recess is only three but I understand there's an additional week which
8 has been scheduled. And now here's my question: Are we sure that we
9 will not be resuming before the 15th? Or otherwise you know, your
10 Honour, there are some of our colleagues in our team who come from --
11 far-flung countries. I'm one of them but I'm not the only one. We have
12 colleagues from New Zealand and other places and for these colleagues
13 this is an important point. They need to know now what the dates are or
14 would the Bench be thinking of extending that period? Would we likely to
15 start on the 22nd? This is why I'd like to ask the question regardless
16 of the decision. Of course, we shall accept the decision, but we -- I
17 would like to assure you that we would be very pleased to have four
18 weeks. I can see my colleagues looking too. I think we've been working
19 a great deal. So this is my question for the end of the session. Thank
20 you.

21 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, I am just
22 looking at my diary here. One thing is clear, we shall certainly not be
23 resuming before the 15th of August, but in my opinion we will be resuming
24 on the 15th of August. Well, everything will depend on the state of the
25 work, but it's clear that the recess period for this goes from Friday,

1 the 15th of August (as interpreted) in the evening to the 15th of August
2 in the morning, so that gives us four weeks. If we were going to resume
3 after the 15th of August we would tell you that, but we can be sure that
4 we're not going to start before the 15th. This doesn't mean that nothing
5 will be done in the week of the 8th to the 15th, but there may be things
6 other than hearings because we all need to go through the preparatory
7 stages of resuming the case.

8 There you are. Now, do you feel that we can suspend the hearing?

9 Court Officer, this is open session. The hearing will resume
10 tomorrow morning at 9.00, and we trust that it won't be too long for this
11 witness who quite clearly has a child who can't understand why the mother
12 is in the courtroom instead of with the child. The hearing is suspended.

13 The hearing ends at 1.16 p.m.

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