

1 International Criminal Court
2 Trial Chamber II - Courtroom I
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial hearing
9 Tuesday, 7 June 2011
10 On resuming at 11.34 a.m.
11 (Open session)
12 COURT USHER: All rise.
13 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
14 Court Officer, Usher, if you would so kind as to bring in the
15 witness into the courtroom.
16 (The witness takes the stand)
17 PRESIDING JUDGE COTTE: (Interpretation) Can you hear me well?
18 THE WITNESS: (Interpretation) Yes.
19 PRESIDING JUDGE COTTE: (Interpretation) In that case, we can
20 continue.
21 Prosecutor, please, you have the floor.
22 MR. GARCIA: (Interpretation)
23 Q. Witness, I'm just going to go back to this issue of the meeting
24 with Logo, and in your testimony and your signing thereof, you provided
25 to the Defence. I understand you still have the statement before you; is

1 that correct? Well, the first thing that I wanted to ask you before I
2 put any more questions to you is that: You stated that Logo was with you
3 when you signed this statement, were other people also with you when you
4 signed that statement?

5 A. (* No interpretation)

6 Q. Where were you, Witness?

7 A. Kisangani.

8 Q. I understand you were in Kisangani, but where exactly were you?
9 Were you in your office?

10 A. No, not in the office, but we were somewhere else. Do I have to
11 tell you where we were?

12 Q. Are you able to describe the place where you were? Were you in
13 your residence?

14 A. No, I was not in my residence.

15 Q. So you weren't in your office. You weren't in your residence.
16 You were in a public place. Where did this take place?

17 A. It was in a private place.

18 Q. Okay. But you don't want to tell us exactly where.

19 A. This question is something -- well, I would like to know if you
20 need the house in which we were or the avenue in which we were or the
21 commune in which we were.

22 Q. Well, Witness, I note that you don't want to answer the question
23 and I'm going to move on to the next question. Is it not true, Witness,
24 that in this statement which you have before you, you received it by
25 e-mail; is that correct?

1 A. Received the statement by e-mail?

2 Q. Is it correct? Tell me if I'm right or wrong. You received this
3 statement by e-mail before 28th of April, 2011, you printed it out, and
4 you printed out the last page, and you can see that the last page is
5 different to the other pages of the statement, and you signed it, you
6 scanned it, and you sent it back to the Logo to the Defence team; is that
7 correct?

8 Witness, is there a reason why you keep constantly looking at --
9 over to the accused?

10 A. Please excuse me.

11 Q. I asked you a question.

12 MR. HOOPER: (* Previous translation continues) ... this witness
13 and perhaps he glanced over once, he looked around the courtroom quite
14 busily. So I don't want that statement to go and stand by itself on the
15 transcript because it's not an accurate statement.

16 MR. GARCIA: (Interpretation) I was here myself and on several
17 occasions we've addressed this issue of Logo, and the witness has looked
18 without cease at the accused, and that's not -- wasn't done within his
19 testimony of the Court.

20 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, please
21 continue. The witness is perhaps more mobile than other witnesses, and
22 he looks left, he looks right, he looks -- he's not looking behind him.
23 We're not going to stick on this point. Please continue.

24 MR. GARCIA: (Interpretation)

25 Q. Is it not correct that in this statement here that you have

1 before you that you received it by e-mail, probably before the 28th of
2 April, that you printed it out, and you scanned the last page thereof.
3 If you look at the last page, Witness, page 12, you will tell us that
4 it's different from the other pages. You scanned it and you sent it back
5 to Logo. Is that not correct, Witness?

6 A. That is not correct.

7 Q. So you never received this document by e-mail before receiving
8 the visit of Jean Logo?

9 A. Jean Logo received it by e-mail.

10 Q. I don't understand your answer. Did you say Logo received it by
11 e-mail?

12 A. Yes. If Logo received it by e-mail, yes. But I didn't receive
13 it by e-mail. I received it, as I said, via Logo. If it was Logo, he
14 scanned it, yes.

15 Q. Well, I'm right to say that you had an e-mail at the time when
16 you met Mr. Logo?

17 A. Yes, I've got an e-mail.

18 Q. How long have you had that e-mail for?

19 A. I do not remember.

20 Q. A few years at least; is that correct?

21 A. Yes, for a few years, a few months.

22 Q. Are you going to say how many, Witness? I presume you have been
23 working since the 13th of December. In -- your e-mail, is it not true
24 that you had it already for several years?

25 A. For several years? I don't understand what you mean by that.

1 Q. You have an e-mail address in which you can receive e-mails, and
2 you have had for several years.

3 A. No, I haven't had that for several years. It's for several
4 months.

5 Q. So for how many months have you had an e-mail address? Tell me,
6 Witness, am I right to say that Jeannot Kagaba Malivo helped you to scan
7 this statement, the last page of it, and send it to the Defence?

8 A. If he received this statement by e-mail, I don't know, but I
9 didn't receive mine by e-mail.

10 Q. Witness, I'm going to tell you something. I explained to you why
11 I'm asking these questions, because you can clearly see, Witness, when
12 you look at your statement that your initial doesn't appear at the bottom
13 of the page; isn't that right?

14 A. Your initials?

15 Q. The initials, initials of your signature. They don't appear at
16 the bottom of each page of the statement; am I not right?

17 A. Yes. Yes, you are right.

18 Q. So you stated to us that you re-read your statement, but they
19 didn't ask you to sign each page?

20 A. They didn't ask that.

21 Q. Witness, you would agree with me that next to where it's written
22 "Witness," it's not the name or the signature of Logo that appears there.
23 It is your name, your signature; is that correct?

24 A. Yes, it's my signature, because my statement is not -- Logo can't
25 sign my statement. I'm the one who has to sign my statement. Logo - how

1 am I going to put it? - he -- he was a bridge, because with regards to my
2 statement, that was being filed. So during all our interviews, whether
3 it was in Bunia, whether it was in Kisangani, I spoke on the record, and
4 this meant that I could not come here and sign my declaration.

5 Q. We've understood that, Witness, but is this the -- this is the
6 reason why and the reason I put it to you that the statement that was
7 sent to you is something you signed the last page of. You sent it back
8 to the Defence, because -- and where it's written "Witness," you see
9 nowhere the signature of Logo, while you confirm here under oath before
10 the Chamber that he was present with you. You are a lawyer, so why did
11 you sign under "Witness"? It was up to Logo to sign that if he was the
12 witness?

13 A. I can't -- don't understand the procedure. I don't know why Logo
14 had to sign it.

15 Q. I understand, Witness, but you are a lawyer. You saw the word
16 "Witness."

17 A. I saw "Witness," and I thought that I had to come and testify
18 here.

19 Q. So you agree with me, Witness, Jean Logo didn't sign this
20 statement anywhere; is that correct?

21 A. On this statement? No. It's not his statement. How could he
22 sign it? I don't understand. I don't understand how he could sign that
23 when it's my declaration. It wasn't Logo who declared this.

24 MR. GARCIA: (Interpretation) There no other questions for this
25 witness, your Honour.

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

2 Counsel Gilissen notified us that he could not be present at this
3 hearing. The person who represents him, does that person have any
4 questions to put in his stead.

5 THE INTERPRETER: Microphone.

6 MR. NARANTSETSEG: I apologise. OPCV doesn't have any questions
7 at this moment. On behalf of Mr. Gilissen, of course.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
9 Counsel Luvengika, you provided us with certain questions which were
10 anticipated in submissions which we received in useful time. Do you have
11 questions to put now to the witness, taking into account the answers that
12 he has already provided to the Defence and to the Prosecutor, questions
13 which should, of course, fall within the mandate which is entrusted to
14 you. You have the floor, Counsel Luvengika.

15 MR. LUVENGIKA: (Interpretation) Thank you very much. Good
16 morning, your Honour.

17 Good morning, Witness.

18 THE WITNESS: (Interpretation) Good morning.

19 MR. LUVENGIKA: (Interpretation) Given the questions that were
20 put by my colleague, Counsel Hooper, and thereafter, by the Prosecutor on
21 the attack on Bogoro and the answers that were given by the witness
22 thereto, I have no other questions to put to the witness. Thank you very
23 much.

24 PRESIDING JUDGE COTTE: (Interpretation) We would like to thank
25 you, Counsel Luvengika.

Witness: Witness DRC-D02-P-0160 (Resumed) (Open Session)
Further questioned by Mr. Hooper

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1 Professor Fofé, would you like within the framework of your final
2 observations to ask any questions to the witness? You have the floor.

3 MR. FOFÉ: (Interpretation) Thank you very much. Good morning,
4 your Honour. Good morning, Witness.

5 We have followed, and we have attentively followed all the
6 answers that you gave to the Prosecutor's questions, and we have no
7 questions to ask you. We would like to thank you for your availability.

8 Thank you, Your Honour.

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

11 Counsel David Hooper, you have the floor.

12 MR. HOOPER: Yes. Thank you, Mr. President. Just -- just a
13 couple of things to clarify.

14 Further questioned by Mr. Hooper:

15 Q. You have been asked about the camp at Geti, the militia camp at
16 Geti, and you described it last week in part referring to the camp being
17 in some houses. Can you just explain what kind of camp it was that you
18 saw? Just remind us, if you could, in Geti.

19 MR. GARCIA: (Interpretation) Can I object, your Honour? This
20 question was already put by Counsel Hooper in examination-in-chief, and
21 the witness answered it. I can even give the reference to it, and then
22 we don't have to waste any time on this, which is a repeat of the
23 testimony.

24 PRESIDING JUDGE COTTE: (Interpretation) If this will help
25 clarify things, if it will make it possible for the witness to provide

Witness: Witness DRC-D02-P-0160 (Resumed) (Open Session)
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1 additional clarification, we're going to listen to it. What is important
2 is that he doesn't contradict what he already says. Please answer the
3 question, Witness.

4 THE WITNESS: (Interpretation) I haven't understood the
5 question.

6 MR. HOOPER:

7 Q. You were asked some questions this morning about the militia in
8 Geti, and you were telling us last week what you knew about the camp,
9 where it was in respect of some house that they'd occupied. Can you just
10 describe what that camp was like that you saw in Geti? Where they were?
11 It may not be a camp as such, but, you know, could you just describe
12 where the militia were in Geti? Let me put the question like that.

13 A. As I said before, in Geti they never built a camp like that with
14 small little houses all around, but in Geti the combatants lived in the
15 houses of some traders. There were -- there was a house, a large house,
16 a building in which the fighters lived, so that was 4 metres of land.
17 Well, a football pitch was there, and next to -- it was next to Geti
18 market. And so the fighters were living in that house itself, among the
19 people, because it was right next to the road there. So it was in -- in
20 that house that constituted in the camp -- today camp, because the
21 combatants were living therein.

22 THE INTERPRETER: And the interpreter corrects: 50 metres and
23 not 4 metres.

24 MR. HOOPER:

25 Q. Thank you. And I'm wondering if you can help us who do not know

1 Geti where you were living in Geti. Is it possible for you to explain it
2 in such a way that if we were to visit Geti we might be able to find it,
3 for example? So bear that in mind. Where were you living in Geti at
4 that time?

5 A. I was living in three different neighbourhoods in Geti. I
6 firstly -- first of all, I lived in -- with the *préfet* of the institute
7 of Geti at that time, and the house of the prefect at that time was,
8 well, it was in that house that the chief of the collectivity is living
9 in now. So the house in which the chief of the collectivity is in today,
10 the -- was where the prefect of studies was. Well, that's in -- opposite
11 that camp. If you go to Geti, you will see that it's in -- it's opposite
12 that camp, and after that I lived next to the Geti institute. I lived
13 next to Geti institute, and having lived in the -- next to the Geti
14 institute, I then lived -- well, Geti institute is on the other side, the
15 other side of the camp, and so it's on the other side of the Ugandans'
16 camp. From Geti institute you can see the Ugandans camp in this way. So
17 I also lived there.

18 And after that, for reasons -- well, because these villages
19 without electricity, I went to live in mission Geti, because in
20 Misugeti (* as interpreted) -- the Geti mission is a Catholic mission, so
21 in the Catholic mission of Geti, next to it all the houses around it have
22 electricity to 6.00 or even to 8.00. That made it possible to study. So
23 I went to Geti mission to live there, and Geti mission itself where I was
24 living is not far from the other institute. So we were living near to
25 the centre there, and around 50 metres away there's a Catholic church,

1 and a hundred metres from the other side there's the Abaka institute, and
2 that's where I was living when I lived in Geti. I lived in three
3 different places while I was living in Geti.

4 Q. And where was this shop with its basic provisions where Joe would
5 work after school or whenever? Where was that?

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 Q. Now, you told us how you started your fifth year, 2002,
15 September, and up until February and then you had an exam problem or
16 whatever it was. Now, you were asked this morning about Joe and whether
17 Joe, for example, if he had gone away for a week or a month in Geti,
18 whether you would necessarily know that he had, and I'm asking questions
19 about that.

20 Now, I'm not just talking about any part of the time you were
21 living in Geti. I want to ask you about a specific period and whether
22 you know from what you saw and heard where Joe was during this specific
23 period, and the period is about the time you started your fifth year at
24 the Geti school, September 2002, October 2002, November 2002, December
25 2002, January 2003, February 2003, March 2003. In respect of that

1 period, do you know where Joe was?

2 A. September, October, November, December, even 2003, Joe's in Geti.
3 Joe's in Geti, because what's certain -- well, when you live in the same
4 neighbourhood, there are two or three days you can -- might not see the
5 person, but you know person's there because after one or two weeks you
6 will see them again. Even if you haven't seen him in the previous week,
7 you're gonna see them again, but during this period of time he was there.

8 Q. Okay. Those are all my questions, and I have no other questions
9 from you, and it just leaves me to say -- to convey my thanks to you on
10 behalf of the Defence, on behalf of Germain Katanga, indeed, for making
11 the effort to come here to assist the Judges, and indeed to assist
12 Germain Katanga by your evidence, and I thank you very sincerely for
13 those efforts. Thank you.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
15 Counsel Hooper.

16 Witness, your testimony is coming to an end. Counsel Hooper has
17 already addressed their thanks to you. The other parties have already
18 done so. The Chamber would like to thank you in its turn. As
19 Counsel Hooper said, having accepted to undertake this long journey to
20 come to us, you have answered lots of questions which were put to you,
21 and everything that is said before this Court during your testimony
22 cannot be disclosed outside this court. These are exchanges that you
23 shall keep to yourself. They are for the Court and they are for you.

24 We would like to now wish you a good return back to where you
25 live, and as you exercise functions which are of administrative

1 responsibility, we wish you all the very best in the exercise of those
2 functions. Thank you very much, Witness. So we shall therefore leave
3 you now.

4 Usher, if you would be so kind as to escort the witness out of
5 the courtroom.

6 After this hearing, that is to say at 13.30, if you have no
7 opposition to it, Germain Katanga and his team have asked to be able to
8 meet you briefly so that Germain Katanga can express directly his thanks
9 to you.

10 Thank you, Usher.

11 (The witness withdrew)

12 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer, we
13 have to break for 20 minutes, and therefore we will come back at 12.20
14 for the next witness.

15 The hearing is therefore adjourned.

16 Recess taken at 12.08 p.m.

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