

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 Tuesday, 10 May 2011  
10 The hearing starts at 9.04 a.m.  
11 (Closed session)  
12 (Expunged)  
13 (Expunged)  
14 (Expunged)  
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24 (Expunged)  
25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Open session at 9.06 a.m.)

4 COURT OFFICER: (Interpretation) We are in public session,  
5 your Honour.

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

8 Good morning, Mr. Witness.

9 THE WITNESS: (Interpretation) Good morning, your Honour.

10 PRESIDING JUDGE COTTE: (Interpretation) Apparently you can hear  
11 me clearly. That's fine.

12 Mr. Gilissen, you may proceed.

13 MR. GILISSEN: (Interpretation) Thank you, your Honour. Good  
14 morning, your Honours. Good morning, my learned friends of the Defence  
15 team and of the Prosecution team. Good morning.

16 Yesterday, for the first time, the team of Legal Representatives  
17 of child soldiers was not represented at the hearing. This was not due  
18 to a personal decision. It wasn't even a choice that we made. In fact,  
19 Ms. Goffin, my case manager, received the leave of the Chamber to  
20 represent me. There was a health situation that occurred. Everyone  
21 knows that situation. This occurred in -- on Sunday, and so we were not  
22 able to organise as we would have liked to the legal representation of  
23 child soldiers. So the interests of these children, therefore, was  
24 protected, but this was done through a system that was implemented by the  
25 court.

1 Your Honours, this was an exceptional situation, and it will  
2 remain exceptional, and this requires some form of reorganisation. We  
3 knew that Ms. Goffin could not continue to assist us for a long time  
4 given her situation, but I can assure you that measures have been taken  
5 so that a situation of this nature would not occur again.

6 I would like to thank you for giving me the opportunity to  
7 explain to everyone how this -- what happened.

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

10 Prosecutor, you wanted to say something before we continue?

11 MR. GARCIA: (Interpretation) Good morning, your Honours. I  
12 will take the floor for a while to talk about a matter that was raised by  
13 Mr. Hooper last week. He talked about the fact that Mr. O'Shea had gone  
14 on mission, and he mentioned the possibility for certain potential  
15 witnesses of the Defence not to come to give evidence. I think it will  
16 be useful for all parties and participants to know whether a decision has  
17 been taken on that point by the Defence, and if that is the case, we  
18 should be informed as soon as possible so that we will not waste our time  
19 preparing for witnesses who are not going to come to give evidence for  
20 the Defence.

21 That is what I had to say, your Honour.

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

24 Mr. Hooper, are you able to give us some clarification on this  
25 point, it being understood that Witness 0134 is going to arrive after the

1 current witness, followed by Witness 0501. Are you able to tell us what  
2 will happen, whether we should be expecting Witness 0147 and Witness 0146  
3 and so on and so forth?

4 MR. HOOPER: Yes. Certainly all the ones you've mentioned are  
5 being called. There's been no decision yet. In all frankness, I haven't  
6 discussed it yet with Mr. O'Shea, but as soon as I do and make a  
7 decision, of course I will let everybody know.

8 PRESIDING JUDGE COTTE: (Interpretation) Fine. So thank you for  
9 giving us this information.

10 Mr. Garcia is right to say that it would be unfortunate to spend  
11 time preparing for witnesses who might not turn up. We retain,  
12 therefore, that after this witness this morning, Witnesses 0134, 0501,  
13 0147, and 0146 will appear. So we have an idea that about four witnesses  
14 are going to appear before the Chamber, and we expect your team to liaise  
15 with Mr. O'Shea and give us further clarification as soon as possible.  
16 Thank you in advance.

17 Madam Prosecutor, you have the floor. Do you have questions,  
18 additional questions, to put to the witness? We are listening to you.

19 MS. LUPING: (\* No interpretation). (In English) The Prosecution  
20 has no further questions of this witness.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you,  
22 Madam Prosecutor. What about you, Mr. Kilenda?

23 MR. KILENDA: (Interpretation) Thank you, your Honour. Good  
24 morning. Good morning, your Honours.

25 Your Honour, you'll remember that yesterday when you gave me the

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1 floor I spoke to our witness, telling him that I had no questions for  
2 him, that everything being equal, I reserved the right to return to him  
3 if need be, and that is what I intend to do this morning, with your  
4 leave, of course.

5 Questioned by Mr. Kilenda:

6 Q. (Interpretation) Good morning, Mr. Witness.

7 A. Good morning.

8 Q. As you already know, yesterday I told you that I did not have any  
9 questions for you. However, allow me to put a few questions to you this  
10 morning. My intention is not to worry you. It's simply that you are  
11 best placed to provide us with certain information that we need.

12 I wish to refer to the transcript of yesterday's hearing,  
13 number 256, page 28, lines 24 to 26. Madam the Prosecutor asked you the  
14 following question, and I quote:

15 "Is it not true that Mathieu Ngudjolo was the highest ranking  
16 commander in Zombe at the time of the attack of the 24th of February,  
17 2003?"

18 And your answer on page 29, line 2, was:

19 "I cannot know."

20 One minute later, Madam the Prosecutor, in lines 12 to 16, put  
21 the question to you again in the following terms, and I quote:

22 (Expunged)

23 (Expunged)

24 With the leave of the Chamber, I would like this excerpt to be  
25 redacted. I will not refer to your title. We know who you are, so I

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1 will not mention that.

2 "... that you were in Bogoro, which was attacked on several  
3 occasions by the Lendu, but you did not know who Mathieu Ngudjolo was.  
4 Is that your testimony today?"

5 And your answer was, that is line 17:

6 "This is what I have to tell you, madam. You have asked me who  
7 was the leader of the Lendus. I think that is your question."

8 The Prosecutor answered:

9 "I will repeat it. I think it was an easy question, but I will  
10 repeat it all the same to make things clear."

11 Page 29 still, lines 22 to 23. The Prosecutor spoke to you in  
12 the following terms, and I quote:

13 "Is it not true that during the attack of the 24th of February,  
14 2003, Mathieu Ngudjolo was the highest ranking commander in Zombe?"

15 Your answer in line 24 was the following:

16 "That is correct."

17 My question to you, therefore, is the following: Why do you  
18 respond to the same question asked by the witness (\* as interpreted), you  
19 say, "I cannot know," and then later on you say, "That is correct." Why  
20 do you do that? Why do you say that?

21 A. I think I fully understood the question put to me by the  
22 Prosecutor. I answered saying that I knew very well that  
23 Mathieu Ngudjolo was the number one during the attack on Bogoro. I do  
24 not know whether she was talking about his rank within the army or his  
25 position within the movement. When she repeated the question again, I

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1 understood the spirit of her question. She wanted to know whether  
2 Ngudjolo was the commander of operations during the attack on Bogoro. I  
3 provided her with an answer to the best of my knowledge, and I said, yes,  
4 that is correct. And that is the truth which is known by everyone.  
5 Ngudjolo was the commander who supervised operations at Bogoro on the  
6 24th of February.

7 Q. Thank you, Witness. The Prosecutor asked you yesterday to turn  
8 to page 8 of your statement, the statement you signed, and the Prosecutor  
9 read out to you an excerpt on the attackers, and in that excerpt you  
10 said, and I quote:

11 "Among the Lendu commanders whom I recognised on the  
12 24th of February, 2003, at Bogoro, there was Kute, Besto, Ndjabu of  
13 Kavalega, Mbiti, Ngadjole."

14 Now, did you know that these persons whose names you mentioned  
15 were soldiers of the APC?

16 MS. LUPING: (\* Previous translation continues) ...

17 PRESIDING JUDGE COTTE: (\* No interpretation)

18 MS. LUPING: As my learned friend is aware, at this stage of the  
19 questioning it's not appropriate to put suggestive questions to the  
20 witness. I ask that he reformulate his question.

21 MR. KILENDA: (Interpretation) I think I have a right to make  
22 the suggestion and these are my final questions.

23 PRESIDING JUDGE COTTE: (Interpretation) I think it's preferable  
24 to rephrase your question, to ask it differently without leading the  
25 witness to say yes or no. You may proceed, Mr. Kilenda, but you can ask

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1 the witness, for example, to tell you the origin of the persons whose  
2 names he mentioned. That way you may obtain the same answer, it being  
3 understood that the witness is not deaf. He's already heard your  
4 question.

5 MR. KILENDA: (Interpretation) Thank you, your Honour.

6 Q. Well, Witness, these Lendu commanders whose names you mentioned,  
7 to what group did they belong?

8 A. These commanders belonged to the Lendu movement.

9 Q. Which movement?

10 A. I do not know. I think it was called the FNI, if I am not  
11 mistaken. It was the FNI, and the Chief of Staff was Ngudjolo.

12 Q. Thank you, Mr. Witness. I would now like to turn to page 25 of  
13 the transcript. The Prosecutor, in lines 16 and 17, asked you the  
14 following question, and I quote:

15 "Is it not true that you must have known that Germain Katanga was  
16 indeed the highest ranking officer based in Geti?"

17 And your answer was, lines 18 to 23, and I quote:

18 "If you heard me well, I have already said that I started hearing  
19 mention of Germain Katanga in the month of May. And with respect to  
20 names like Cobra, Kakado, Dark, well, these are -- these are names I used  
21 to hear about. However, with respect to Germain - and I will tell you  
22 the truth - I heard mention of him for the very first time during the  
23 pacification process of Bunia."

24 I would like to ask you a few questions. Had you -- have you  
25 ever met Mr. Germain Katanga in your life, that is, prior to the



1 pacification of Ituri?

2 A. No, I do not know Germain Katanga, and I have never met him.

3 However, the first time I saw him was actually his photograph. I saw him  
4 here when the trial was being broadcast on television. That was the  
5 first time I saw him. I had never seen him before. And I said that the  
6 first time I saw him was when I came here. Before that, I had never seen  
7 him.

8 Q. You have never spoken to him, never?

9 A. Never. Never.

10 Q. Could you now tell the Judges who are listening to you the  
11 process by which you became a witness for Mr. Germain Katanga?

12 A. Through the trial which is taking place here, we heard about what  
13 is happening. We heard that people were coming here to tell lies. One  
14 day whilst I was at home --

15 THE INTERPRETER: The Swahili booth did not hear what the witness  
16 said, your Honour.

17 PRESIDING JUDGE COTTE: (Interpretation) Witness, could you  
18 speak louder into your microphone, and please repeat what you just said,  
19 because the interpreters did not hear what you said. Thank you.

20 THE INTERPRETER: The Swahili booth, your Honour, would like to  
21 say they did not understand, not that they did not hear what was said.

22 THE WITNESS: (Interpretation) I came here to give testimony in  
23 favour of Germain Katanga. Whilst I was at home in Bogoro, (Expunged)  
24 (Expunged), and this individual started asking me questions about the  
25 attack on Bogoro. I provided him with answers to the questions he asked,

1 and that individual asked me whether I knew Germain Katanga. I told him  
2 that I did not know him. And following the answers I gave him, that  
3 individual informed me that he was the lawyer of Germain Katanga. When  
4 he finished introducing himself, he asked me whether I was ready to give  
5 him answers about the situation or the event that took place in Bogoro,  
6 especially on the 24th of February, and he asked me whether I was ready  
7 to come and give the same account before the International Criminal Court  
8 at The Hague. I did not hesitate, and I told him that I was ready.

9 I believe I have answered your question as to whether I had  
10 already met Germain Katanga.

11 Following the explanations that I gave to the lawyer, he asked me  
12 to make myself available and come and testify before the International  
13 Criminal Court. That is my answer.

14 Q. Thank you very much, Mr. Witness. Can you tell the Court the  
15 name of that lawyer, the name of that individual who came and (Expunged)  
16 (Expunged)?

17 A. Yes. I believe that you have seen the person who signed my  
18 statement. That person's name is Logo.

19 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, we will  
20 make another redaction related to the occupation of our witness. I'm  
21 simply saying this in case you have another question that might lead you  
22 to mention the professional activity of the witness. Thank you.

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

24 JUDGE DIARRA: (Interpretation) Mr. President, I do not like to  
25 interfere in the questioning of the lawyers, but I really do not

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1 understand where Mr. Kilenda is going. This is a learned friend of his  
2 in the Defence team of Germain Katanga. Do we have time to start finding  
3 out about the procedure leading to the testimony of this witness? Do we  
4 have time for that? I'm sorry.

5 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda will  
6 explain to us precisely where he's going to.

7 MR. KILENDA: (Interpretation) Thank you, your Honour. The  
8 witness, understand right now, is not the client of my learned friends to  
9 my right. Trying to find out how he became a witness for  
10 Mr. Germain Katanga is very important for us, because, I'm sorry to say  
11 this, but this is an incriminating witness for my client, and it is not  
12 something to be minimised. So it is of interest to us to find out how he  
13 became a witness. He himself has said that he came here to testify for  
14 Mr. Katanga, and he is testifying for Mr. Katanga while incriminating my  
15 client. So I simply want to find out the procedure which according to  
16 which he became a witness. I'm not trying to bother him. I'm simply  
17 trying to find out what happened. And now I am reassured. I have been  
18 given a name, and I know that that person is not a lawyer.

19 PRESIDING JUDGE COTTE: (Interpretation) If you intend to  
20 continue, you can proceed, Mr. Kilenda.

21 MR. KILENDA: (Interpretation) I have one last question.

22 PRESIDING JUDGE COTTE: (Interpretation) Very well. Proceed.

23 MR. KILENDA: (Interpretation) Thank you.

24 Q. Mr. Witness, I will now refer to your signed statement, page 9.

25 MR. KILENDA: (Interpretation) Can a copy of that statement be

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1 presented to the witness.

2 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, do you  
3 have a clean copy that can be given to the witness, because the copy that  
4 we have is marked. Maybe Ms. Luping has a copy. Do you have one?

5 MR. KILENDA: (Interpretation) Yes, we have one.

6 PRESIDING JUDGE COTTE: (Interpretation) So if it is a clean  
7 copy, Court Officer, Court Usher, make it available to the witness for  
8 him to be able to refer to it. Thank you, Court Usher.

9 Mr. Witness, you have been asked refer to page 9.

10 MR. KILENDA: (Interpretation) Under the title  
11 "Germain Katanga," page 9, last paragraph. I will read out that last  
12 paragraph:

13 "There are some slightly negative feelings against the Ngiti  
14 because it is difficult to forget, but we -- or people are making an  
15 effort to reconcile people. It is necessary to continue living together.  
16 Germain, just like me, was a soldier, and just like me, he received  
17 orders from somewhere. Therefore, I do not have anything against  
18 Germain. We were doing the same thing mainly on different sides."

19 Is this indeed your statement, Mr. Witness?

20 A. Yes, that is my statement.

21 Q. Thank you. Which orders did you receive, you and  
22 Germain Katanga?

23 A. I made that statement when I learned that Germain Katanga had  
24 been accused. I asked myself certain questions, and I told myself that  
25 if that was the case, I had been a soldier just like him, and if it was

1 being said that Germain Katanga was representing Ngitis, it is possible  
2 that he would have received orders from his superiors. That is the  
3 reason why I said that. I did not mean to say that I was collaborating  
4 with him. If I said what I said, it is because he was a soldier, and I  
5 deduced that he would have been receiving orders like everyone else.  
6 That is the explanation I can give you. That was the reason why I made  
7 that statement.

8 Q. Thank you, Mr. Witness. According to you, from whom did  
9 Germain Katanga receive orders?

10 A. I cannot answer that question. It is not possible for me to give  
11 you an answer. I did not know Germain Katanga, and I did not know who  
12 was giving him orders. Maybe you can ask him that question.

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 Q. Thank you. You conclude that paragraph by saying that:

17 "We were doing the same thing, only that we were on different  
18 sides."

19 What did you mean by that? Can you explain to the Judges what  
20 you mean by the "same thing"?

21 A. When I talk about the same thing, I am referring to the same  
22 work, that is, the work done by soldiers. I was a soldier, and based on  
23 what I have learned, Germain was also a soldier.

24 Q. My very last question --

25 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, let me

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1 draw your attention to the fact that we are also going to redact the  
2 reference to our witness's rank in the military. You have to make sure  
3 that you do not ask any identifying question, because we are reaching the  
4 limit of our possible redactions. If your question is sufficiently  
5 general, then you can put it to the witness.

6 MR. KILENDA: (Interpretation) Yes, your Honour. It is a  
7 general question.

8 Q. Mr. Witness, I will conclude now. You have said that there are  
9 some negative feelings against the Ngitis. Now, which negative feelings  
10 are those?

11 A. I do not understand what you mean by "negative feelings."

12 Q. But this is what you said in your own statement. You say the  
13 following:

14 "There are negative feelings towards the Ngitis, a few negative  
15 feelings towards the Ngitis."

16 That is on page 9, and you signed that statement. So what are  
17 those negative feelings?

18 A. Regarding negative feelings or hatred, I do not know whether I  
19 talked about negative feelings or any similar feelings.

20 MR. KILENDA: (Interpretation) Thank you very much, Mr. Witness,  
21 and thank you for having accepted to answer all my questions. I have no  
22 further questions.

23 Thank you, your Honour. Thank you, your Honours.

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

25 Mr. Hooper, you have the floor for your final remarks.

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1 MR. HOOPER: Yes. Thank you. I've just got, I think, three  
2 matters to revisit from cross-examination and the questions from the  
3 Bench.

4 Further Questioned by Mr. Hooper:

5 Q. You spoke about an attack on the 10th of February, about the  
6 10th of February, just two weeks before the big attack on the  
7 24th of February. Are you in a position to tell us or remind us which  
8 ethnic group the attackers were from?

9 A. Regarding the attack of the 10th, it was an attack against the  
10 Ngitis.

11 Q. Now, you were also asked about events in Bunia after the  
12 6th of March, that is, after the UPC were chased out of Bunia. Now, you  
13 were a member of the UPC. At that time -- can I just ask you this:  
14 Where were you after the 6th of March? Did you -- did you remain in  
15 Bunia, or did you go elsewhere? What was the position?

16 A. After the Bunia attack I fled. I left Bunia (Expunged)

17 (Expunged)

18 (Expunged). On the 12th of May, we took part in the fighting.

19 The second time around, I did not go right to Bunia.

20 Q. Now, you were asked about the ethnic composition of Bogoro at  
21 various times. Can I ask you this: What's the position today in Bogoro?  
22 How are the several communities getting on in Bogoro to your knowledge?

23 A. Today, the communities are living in harmony, and all the ethnic  
24 groups are living in Bogoro. There are Lendus and Ngitis there. We are  
25 living together, and we no longer have a problem.

1 MR. HOOPER: All right. Those are all my questions, so it just  
2 really falls to me to thank you for making the effort to come here to  
3 assist the Chamber with your evidence and reflections.

4 I'm entirely in the hands of the Judge President -- oh, I see my  
5 friend is interrupting. I don't know why.

6 PRESIDING JUDGE COTTE: (Interpretation) What is happening,  
7 Ms. Luping?

8 MS. LUPING: I apologise for interrupting my learned friend, but  
9 there's just an issue. Perhaps it's just an issue with the transcripts,  
10 but it would be useful whilst the witness is here to clarify the matter.  
11 When my friend asked the first question regarding the attack of the 10th,  
12 the witness's -- as to the ethnic group of the attackers, the answer in  
13 both the French and the English transcripts is that it was an attack  
14 against the Ngitis. I'm assuming this is perhaps a translation error,  
15 but it would be useful if the witness could clarify.

16 MR. HOOPER: I think we all understood what he meant. I'm not  
17 going to raise it.

18 The only other matter I -- and I'm in the hands of the  
19 Judge President here, and in fact I'll speak, as I may, through the  
20 Judge President, and that is that you may recall -- we all know your  
21 anxiety about your family, and I don't know whether you've been able to  
22 take the matter further to your satisfaction with the Victim and Witness  
23 Unit or whether there's anything in particular that you'd like to say  
24 in -- perhaps in private session or -- we're in open session at the  
25 moment to the Judges about the situation that you find yourself in.



1        May I say, the Judges know the situation you're in. They know  
2        that there's been this problem and a lack of contact (Expunged)  
3        (Expunged)  
4        (Expunged). So this is a problem that we understand, but is there anything  
5        in particular that you'd like to say on this to the Judges now, bearing  
6        in mind we are in public session. So if it is anything perhaps that  
7        directly concerns your family, it may be that if you want to say anything  
8        we should pass into private session.

9        PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, we are  
10       going to try to stay in open session for a while.

11       When you appeared before this Chamber on the first day, after  
12       having given you the reassurances of Article 73 and the guarantees of  
13       Rule 74, I referred to filing number 2867 in which your counsel submitted  
14       in writing the observations that you wished to make on issues that could  
15       have seemed to be secondary but which related to your personal and family  
16       situation. I believe when I use those two words, we understand each  
17       other perfectly well.

18       Subsequently, in the course of the hearing you strongly  
19       underscored the importance that you attach to that aspect related to your  
20       personal and family situation, and I believe that on that occasion I told  
21       you that even if the aspect of that -- that aspect of your situation is  
22       not directly related to your testimony here, it nevertheless seemed to us  
23       to be important because it is important to you.

24       What I would like to tell you now is that the Chamber is not in  
25       the best position to deal with any problems that witnesses who come to

1   testify here might face. It is for that reason that I told you that it  
2   was incumbent on your counsel to enter into contact with VWU and try to  
3   have the situation clarified, if at all that is possible, and to also  
4   determine if it is possible to give you any further information. It is  
5   only after that preliminary work by the competent services of the court  
6   that the Chamber can intervene in case of difficulty within the scope of  
7   the attributions of the Chamber. In that case, it is possible for the  
8   Chamber to provide legal and maybe even practical solutions to any such  
9   problems. So what you told your lawyer is not something at that we  
10   believe is not important. We believe that in all likelihood your counsel  
11   is going to have discussions with VWU.

12       For our part, we would like to tell you, Mr. Witness, that you  
13   have devoted a lot of your time. You came from far away to answer the  
14   questions put to you, and these questions were very different depending  
15   on whether they came from Mr. Hooper, who is the one who called you to  
16   testify, or whether they came from Mr. Kilenda, Ms. Luping,  
17   Mr. Luvengika, or from the Bench, and I would like to remind you that the  
18   sole purpose of asking you those questions was to benefit from your  
19   presence and your knowledge of the situation at the time of the events so  
20   as to better understand the issues of interest to all the parties and  
21   participants. But we have understood that those parties and participants  
22   do not have the same interests or the same points of view.

23       In any case, Mr. Witness, thank you for your presence, and as I  
24   told you at the very beginning of your testimony, you have to keep what  
25   you have said here to yourself. We wish you a safe return to your place

1 of residence.

2 Court Officer -- Ms. Luping, please.

3 MS. LUPING: I'm sorry, Mr. President, to come back to this  
4 point, but at the moment we have nothing on record to clarify the  
5 situation as to the ethnicity of the attackers who attacked on the  
6 10th of February, 2003. It's not clear, and as my learned friend is  
7 aware, his statement is not evidence. It's a simple point. If the  
8 witness can simply confirm or the translators can confirm it was an error  
9 on their part, but if he could confirm that the ethnicity of those  
10 attackers were Ngiti. Not that it was an attack against the Ngiti, but  
11 the attackers were Ngiti. It's just a simple point for the record only,  
12 Mr. President.

13 PRESIDING JUDGE COTTE: (Interpretation) Very well. Before I  
14 took the floor, I was looking at that extract of the transcript. Let me  
15 try to locate it so that we should deal with this minor difficulty once  
16 and for all.

17 It is page 28 of -- line 28 of page 15 of the French transcript.  
18 On page 16, line 1, you have answered Mr. Hooper's question, which was as  
19 follows:

20 "Can you tell us to which group, which ethnic group, the  
21 attackers belonged?"

22 And your answer is as follows:

23 "The attack of the 10th was an attack launched against the  
24 Ngitis."

25 Is this what you really wanted to say, Mr. Witness, or do you

1 have any clarification to make?

2 THE WITNESS: (Interpretation) I don't really understand. What  
3 I said with regard to the 10th of February was that there was an attack  
4 on Bogoro. I did not say that people from Bogoro attacked another  
5 locality. Part of the Ngiti population attacked Bogoro. That is what I  
6 said. It was not an attack against the Ngiti. It was the Ngiti who came  
7 to attack Bogoro on the 10th of February.

8 PRESIDING JUDGE COTTE: (Interpretation) All right. I think  
9 that everyone will appreciate the clarification that you have given us.  
10 Some of the parties were asking for that clarification, so thank you for  
11 giving it.

12 We're now going to rise for 15 minutes to allow victim 1 --  
13 excuse me, Witness 0171 (\* as interpreted) to spend a few minutes meeting  
14 Germain Katanga's Defence team and Germain Katanga himself as we had  
15 agreed. That will allow Germain Katanga and his counsel to thank the  
16 witness more directly for the testimony that you have come to give for  
17 one of the two accused persons.

18 We will now go into closed session to allow the witness to leave  
19 the Chamber, and after the pause, we will re-open at 10.15 in open  
20 session to open the next witness.

21 Court Officer, we will go into closed session.

22 Mr. Hooper?

23 MR. HOOPER: Could you just give us a bit more time, to 10.20?  
24 It's just going in and out of the cells takes some time. 10.20 should do  
25 it. It's just that it's -- minutes get eaten up, as we know, with the

1 security arrangements.

2 PRESIDING JUDGE COTTE: (Interpretation) All right. We will  
3 break until 10.20, because we have already gone past 10.00 a.m.

4 So, Court Officer, can we go into closed session. It will take a  
5 minute and a half for the witness to leave the Chamber. That will give  
6 us our 15-minute break as anticipated. We will return at 10.20, and if  
7 we could have our message system back up and running after the break,  
8 that would be good. Ah, apparently it's working again. Unfortunately, I  
9 was not aware of that.

10 (Closed session at 10.03 a.m.)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Open session at 10.03 a.m.)

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

23 PRESIDING JUDGE COTTE: (Interpretation) We will now adjourn  
24 until 10.20.

25 Recess taken at 10.04 a.m.

1 On resuming at 10.23 a.m.

2 (Open session)

3 COURT USHER: All rise.

4 PRESIDING JUDGE COTTE: (Interpretation) Please be seated. We  
5 may now resume our hearing and call the new witness, Witness 0134.

6 Court Officer, Court Usher, could you please accompany the  
7 witness into the Chamber. Thank you.

8 This is a witness for whom no particular protective measures have  
9 been requested or provided, nor have they been decreed. The witness will  
10 be given the assurances of Article 93 and the guarantees of Rule 74. The  
11 witness's identity may be revealed in public. The testimony may be given  
12 in public subject to the citation of any names which are not to be  
13 identified. So everyone must be attentive to that point, but in the  
14 first instance, we may proceed in open session.

15 THE INTERPRETER: Interpreter correction: In fact, the witness  
16 did not require that the assurances of Article 93 and the guarantees of  
17 Rule 74 be provided.

18 (The witness entered court)

19 WITNESS: WITNESS DRC-D02-P-0134

20 (Witness answered through interpreter)

21 PRESIDING JUDGE COTTE: (Interpretation) Good morning, sir.

22 THE WITNESS: (Interpretation) Good morning.

23 PRESIDING JUDGE COTTE: (Interpretation) Can you hear me  
24 properly?

25 THE WITNESS: (Interpretation) Yes.

1       PRESIDING JUDGE COTTE: (Interpretation) Good. The Court is  
2 happy to welcome you here. You have agreed to come from afar to give  
3 testimony before us, and we thank you for that.

4       THE WITNESS: (Interpretation) I would like to thank you.

5       PRESIDING JUDGE COTTE: (Interpretation) During your testimony,  
6 Witness, when you speak spontaneously or when you are answering the  
7 questions, we would like to ask you to speak loudly, in front of the  
8 microphones. You have two microphones in front of you. To speak French  
9 because apparently you have chosen to use French. So we would ask you  
10 not to change languages. And could you please speak slowly. It is  
11 important for the interpreters to be able to interpret your words  
12 properly into English for the Defence team of Germain Katanga, and we  
13 would ask you to observe a short pause of five seconds between the  
14 question asked of you and the answer that you give. Once again, this is  
15 to allow the interpreters and the stenographers who are recording our  
16 discussions to work in appropriate conditions. I will remind you of this  
17 as necessary. If you see me or any of the other two Judges making this  
18 hand motion, it indicates that you should slow down as you speak.

19       Witness, we are in open session, and apparently you have no  
20 objections to that. We would like now to ask you to give us your name  
21 and -- that is, your first name and your last name.

22       THE WITNESS: (Interpretation) My last name is Mula Metu. My  
23 first name is Alain.

24       PRESIDING JUDGE COTTE: (Interpretation) Very good. Mula Metu  
25 Alain. Please give us your date and place of birth.

1 THE WITNESS: (Interpretation) I was born in Nyankunde on the  
2 24th of March, 1976.

3 PRESIDING JUDGE COTTE: (Interpretation) Perfect. Thank you.  
4 Could you tell us your professional occupation, your current occupation,  
5 if you have one.

6 THE WITNESS: (Interpretation) I am currently a student.

7 PRESIDING JUDGE COTTE: (Interpretation) And what are you  
8 studying, please?

9 THE WITNESS: (Interpretation) Health and development. This is  
10 my second undergraduate degree.

11 PRESIDING JUDGE COTTE: (Interpretation) And where are you  
12 pursuing your studies, please?

13 THE WITNESS: (Interpretation) Excuse me?

14 PRESIDING JUDGE COTTE: (Interpretation) Where are you studying?

15 THE WITNESS: (Interpretation) I'm studying in Bunia.

16 PRESIDING JUDGE COTTE: (Interpretation) Very well. Thank you.  
17 Witness, before you begin your testimony, we're going to ask you to make  
18 a firm -- take a firm oath to say the truth. I'm going to read out the  
19 wording of that oath so that you understand the full significance, so  
20 please listen to me clearly.

21 "I solemnly declare that I will say the truth, the whole truth,  
22 and nothing but the truth."

23 Have you understood me clearly?

24 THE WITNESS: (Interpretation) Yes.

25 PRESIDING JUDGE COTTE: (Interpretation) Witness, do you



1 undertake to speak the truth, the whole truth, and nothing but the truth?

2 THE WITNESS: (Interpretation) Yes.

3 PRESIDING JUDGE COTTE: (Interpretation) That's very clear.

4 Witness, you have just undertaken to say the truth, the whole truth, and

5 nothing but the truth. If during your testimony or in answering your --

6 answering questions put to us (\* as interpreted) you do not speak the

7 truth, you could be prosecuted by this court for false testimony, and if

8 that is proven to be the case, you could be convicted of this offence.

9 Have you understood clearly?

10 THE WITNESS: (Interpretation) Yes, very well.

11 PRESIDING JUDGE COTTE: (Interpretation) For the benefit of the

12 Chamber, Mr. Mula Metu has stated that he agrees with the provisions of

13 Article 69(1) of the Statutes and Rule 66(1) to (3), the Rules of

14 Procedure and Evidence.

15 Witness, during your testimony, please do not hesitate to have a

16 drink. You have glass of water next to you. The Court will not object

17 at all if you drink when you feel the need. You have a jug of water.

18 You also have box of tissues beside you. Please feel free to use it to

19 wipe your face, if you feel too hot, if you need a tissue for any reason.

20 The Court will see no objection to you making use of these articles

21 provided for your comfort.

22 Witness, Mr. David Hooper is now going to begin the questions he

23 has prepared for you.

24 Mr. Hooper, you have the floor.

25 MR. HOOPER: Thank you.

Witness: Witness DRC-D02-P-0134 (Open Session)  
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- 1        Questioned by Mr. Hooper:
- 2        Q. And good morning, Mr. Witness.
- 3        A. Good morning.
- 4        Q. How would you like to be addressed? Can I call you just
- 5        Mr. Metu? Is that sufficient?
- 6        A. No problem at all.
- 7        Q. Now, looking around this courtroom there won't be very many
- 8        people that you would have seen before or recognise. You may recognise
- 9        me, because I've met you in DRC, of course, dressed rather differently to
- 10       how I am today. You may also remember Ms. Buisman, Caroline, who is
- 11       there sitting behind me. And there's also a gentleman at the back of
- 12       this court here who I'm going to ask just to stand up so that he appears
- 13       above his screen. Thank you, you can sit down.
- 14       Do you know that gentleman?
- 15       A. Yes.
- 16       Q. And who is he?
- 17       A. That's Mr. Germain Katanga.
- 18       Q. Do you have any blood relation with him?
- 19       A. No.
- 20       Q. Now, what is your ethnicity?
- 21       A. I am of Lendu-Bindi ethnicity.
- 22       Q. Now, you were born in Nyankunde, the 24th of March, 1976. So
- 23       you're 35 now. I think that would that be right. What's your -- can you
- 24       just tell us a little about yourself. Are you married? Do you have
- 25       children?

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1 A. Yes. I am married and a father of two.

2 Q. Now, you told us that you are presently studying in respect of  
3 your second degree. What was your first degree, and when did you get  
4 your degree?

5 A. I obtained my first certificate, graduate certificate, in health  
6 sciences in Nyankunde in the year 2000.

7 Q. And you've already told us that you're, I think, in the  
8 second year of your studies on a second degree of health and development,  
9 and indeed I understand you've got exams next week or so; is that right?

10 A. That is correct.

11 Q. Well, we hope that we can detain you for as little as possible,  
12 and we're very grateful that you've made the effort to come here to  
13 assist the Judges.

14 Now, I want to go back to the very unhappy days that concern this  
15 court. Let's try and pick it up -- well, tell us a little about  
16 yourself. Where -- where were you brought up? Where did you grow up?

17 A. I grew up in Nyankunde.

18 Q. Have you ever been a member of any militia group?

19 A. No, never.

20 Q. Are you a member of any church?

21 A. Yes.

22 Q. Do you play any active part within the church?

23 A. Yes. I am in charge of guidance for children and the youth in  
24 church.

25 Q. Now, you've told us how you did your first degree in Nyankunde.

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

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1 Can you just help the Judges as to this: At the time when you did that  
2 degree, can you tell us a little about Nyankunde, the kind of place it  
3 was and what it was particularly known for?

4 A. Yes. Whilst I was growing up in Nyankunde and at the time I was  
5 completing my first-cycle studies, Nyankunde was known for its spiritual  
6 activities, that is, evangelical activities. Furthermore, Nyankunde was  
7 known for the large hospital located there.

8 Q. Now, do you know any -- or back then - I'm talking about the year  
9 2000 or so - did you know any members of Germain's family,  
10 Germain Katanga's family?

11 A. No.

12 Q. Now, there's a particular area of your evidence that I'm  
13 interested in, and in order to introduce it, we're going to have to go  
14 into closed session, at least for a moment while we identify that subject  
15 and decide how we're going to deal with it in open session.

16 MR. HOOPER: So can we go into private session, please, for a few  
17 minutes.

18 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please,  
19 could we move into private session to enable the witness to speak more  
20 freely.

21 (Private session at 10.38 a.m.)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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

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13 Page 29 expunged – Private session

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Witness: Witness DRC-D02-P-0134 (Private Session)  
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1 (Expunged)

2 (Expunged)

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17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Open session at 10.43 a.m.)

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

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1 your Honour.

2 PRESIDING JUDGE COTTE: (Interpretation) Very well.

3 Mr. Hooper, you may proceed.

4 MR. HOOPER:

5 Q. Do you know someone called Francine?

6 A. Yes.

7 Q. And who is that person, and how did you come to know that person?

8 A. Francine is the sister of Germain Katanga. I knew her in

9 Nyankunde, because I used to sing in the same choir with her in church.

10 Q. Do you know somebody called Denise? And again, how do you, if  
11 you know that person, come to know them?

12 A. Thank you. Denise is the wife of Germain Katanga. She grew up  
13 in the same home with me.

14 Q. And when you say she grew up in the same home as you, whose home  
15 was that and where was it?

16 A. The home was that of Mr. Mateso Mbwana (\* as interpreted). You  
17 asked about his current residence?

18 Q. No, I'm asking -- we're talking about the past at the moment, and  
19 you're saying that Denise and you grew up in the same house. Now, can  
20 you just spell -- we've got Mateso. Can you give -- spell the second  
21 name of that gentleman, Mbwana. Can you spell that for us, please?

22 A. Mateso Zaba.

23 Q. And how do you spell the second name?

24 A. The second name is spelt as follows: Z-a-b-a.

25 Q. And who is Mateso Zaba? What relation is he to you, if any?

Witness: Witness DRC-D02-P-0134 (Open Session)  
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1 A. Mateso Zaba is my older brother.

2 Q. And when you say you and Denise grew up in the same house, his  
3 house, where was that house? In which town was it?

4 A. It was not in the town. It was in a village, the village of  
5 Nyankunde.

6 Q. All right. Thank you. Now, can you tell us briefly how events,  
7 inter-ethnic difficulties, arose? Very briefly, can you tell us what  
8 happened in Nyankunde that you experienced. And let me start with this:  
9 Do you recall the Ugandans coming to Ituri, and did they come to  
10 Nyankunde?

11 A. Yes. The Ugandans came all the way to Nyankunde.

12 Q. Now, you are Lendu-Bindi. Is that, in fact, also known as Ngiti?  
13 Are you Ngiti?

14 A. Yes. That's another name for the Lendu-Bindis.

15 Q. And growing up living in Nyankunde, getting your first degree  
16 there, were there any ethnic problems?

17 A. Yes. These ethnic problems, from our experience, have always  
18 been -- have always existed from the time we were born but not with the  
19 same intensity as they occurred in 2001, 2002.

20 Q. Which -- the population of Nyankunde, very generally speaking,  
21 what was it -- what ethnicities was it composed and in what proportions?  
22 Can you help us?

23 A. Yes. First of all, Nyankunde was a collectivity belonging to the  
24 Bira people, but because of the hospital located there, many people from  
25 other ethnicities came to live there, and they lived together without any



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1 problem in the past. There you could find the Biras who were the natives  
2 the area, the Ngitis or the Lendu-Bindis, the Lendus from the north or  
3 from Djugu, the Lugbara, the Alurs, the Nandes from North Kivu, the  
4 Kakwas from Aru, and many others. However, I would like to add that the  
5 Bindi or Lendu-Bindi community was quite a big one in Nyankunde.

6 Q. Now, what happened in 2001 or thereabouts that was more of a  
7 problem as far as ethnic difficulties were concerned? What happened?

8 A. I would like to know between who and who.

9 Q. Well, let me ask you this question: Did -- did things remain  
10 peaceful for the communities in Nyankunde or not?

11 A. Thank you. At some point, first of all, in the past there was an  
12 inter-ethnic conflict, mainly between the Lendus and the Hemas. Since  
13 you asked the question, from the year 2001, in the month of August to be  
14 precise, we had an unprecedented conflict between the Biras who were the  
15 natives of the area and the Lendu-Bindis or the Ngitis.

16 Q. And what was it that happened in August?

17 A. Yes. In the month of August it happened that the Biras chased  
18 out all the Ngitis from their territory.

19 Q. Now, at that time were you living with your brother, as you've  
20 told us?

21 A. Yes.

22 Q. And John, the name we're using, John, where -- where was he  
23 living?

24 A. At the beginning, John was living with his parents, that is, in  
25 his father's house with his father and mother. However, at some point he

Witness: Witness DRC-D02-P-0134 (Open Session)  
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1 also joined us in Mr. Mateso's home.

2 Q. Aside from you, your brother, John, were there any other people  
3 living at your brother's house at that time?

4 A. Yes. Usually, and that has been the practice up to today, there  
5 are usually many people in my brother's home. Most of the time you have  
6 at least 20 people living in the house.

7 Q. All right. I won't ask you the names of any of them, but others  
8 may choose to do so.

9 So August 2001, there's a problem between the majority Bira  
10 people in Nyankunde and the Ngiti people. What actually happened? What  
11 was the problem?

12 A. Well, the problem was caused by a conflict which was -- which  
13 happened outside Nyankunde. A problem occurred in Talolo. Talolo is a  
14 Bira locality. And that problem had repercussions on those who were  
15 living in Nyankunde. As a result, the Biras chased out the Ngitis,  
16 hacking them down with machetes. And this happened in the very presence  
17 and to the knowledge of the Ugandan troops.

18 Q. Now, you say Ngitis were chased out of Nyankunde. Were you  
19 chased out in August of 2001? What happened as far as you and your --  
20 the people you were living with were concerned?

21 A. Yes. Thank you. The rest of my family moved to Bunia, my older  
22 brother Mateso and the entire family. However, I personally remained in  
23 Nyankunde, but I was in hiding.

24 (Expunged)

25 (Expunged)

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1 (Expunged).

2 Q. And what happened in November 2001?

3 A. In November 2001, I left Nyankunde and moved to Bunia where my  
4 older brother and the entire family were living. I left John behind in  
5 Nyankunde, because I was going to come back. I had to go to Bunia. I  
6 returned to Nyankunde. However, suddenly, whilst I was in Bunia, the  
7 problem started all over again and that is why we were separated for a  
8 while with John. We were separated from him for a few weeks. I remained  
9 in Bunia whilst John was in Nyankunde.

10 Q. All right. So that's -- that's November 2001, and I'm going to  
11 leave my questions at this point if this is a point to adjourn, and come  
12 back to them in half an hour's time. So we'll leave at November 2001 and  
13 we'll pick up the story from there when we come back.

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

15 Mr. Witness, while you were giving your testimony, I received a  
16 message that during the hearing you would like to have your Bible with  
17 you. I simply wish to inform you that witnesses come into the courtroom,  
18 whoever they are, regardless of their beliefs, they come to the courtroom  
19 empty-handed. Hence, you are not going to have your Bible with you, but  
20 you will certainly have it in your mind. So you are going to be  
21 subjected to the same treatment as all witnesses, but I wanted to give  
22 you this answer because you made that request. We are going to rise for  
23 30 minutes.

24 Yes, Mr. Garcia.

25 MR. GARCIA: (Interpretation) With your leave, your Honour, I

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1 did not wish to interrupt Mr. Hooper while he was examining the witness,  
2 but he was asking certain questions which could lead to the  
3 identification of the person in question. We have redaction requests  
4 which we are going to send later. I do not wish to interrupt  
5 Mr. Hooper's examination, I would like this to be done as efficiently as  
6 possible, but if he carries on asking questions in this manner, then I  
7 will be forced to stand up to interrupt. I would like Mr. Hooper to bear  
8 this in mind and that he should be careful when he is asking questions  
9 which could be of an identifying nature.

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you,  
11 Mr. Prosecutor. The exercise is quite difficult, as we all know, and  
12 there's the concern to hold our proceedings in open session. We cannot  
13 increase redaction orders in just any manner. This means, therefore,  
14 that we have to be careful. However, I do not underestimate the problem  
15 you are raising.

16 Witness, we are going to rise for 40 minutes. As I said  
17 yesterday, the Vice-President has a few commitments to take care of now,  
18 so we are going to reconvene at 11.40.

19 Court Officer and Court Usher, could you please lead the witness  
20 out of the courtroom. We will meet in a short while, Mr. Witness.

21 THE WITNESS: (Interpretation) Thank you.

22 (The witness stands down)

23 PRESIDING JUDGE COTTE: (Interpretation) We stand adjourned, and  
24 we will reconvene at 11.40.

25 Recess taken at 11.01 a.m.

Witness: Witness DRC-D02-P-0134 (Open Session)  
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- 1 On resuming at 12.08 p.m.
- 2 (Open session)
- 3 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
- 4 Court Officer, Usher, could you please bring the witness into the
- 5 Chamber.
- 6 Court Officer, where is our witness?
- 7 (The witness takes the stand)
- 8 PRESIDING JUDGE COTTE: (Interpretation) Witness, it's good to
- 9 see you again, a little later than we had originally planned, and
- 10 Mr. Hooper is going to resume his examination-in-chief.
- 11 Mr. Hooper, you have the floor.
- 12 MR. HOOPER: Yes, thank you.
- 13 Q. So the position is that we had got up to November 2001, and
- 14 you've left Nyankunde. Now, can I at this point ask you to look at a
- 15 map? I feel it might be helpful if we just orientate ourselves to the
- 16 general geography of the area in respect of Nyankunde.
- 17 MR. HOOPER: And can I call up EVD-D02-00008. And we have got
- 18 some hard copies here. Perhaps the witness could be shown one of these.
- 19 There's a copy for the Bench should it need it.
- 20 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
- 21 Usher, could you please give a copy to the witness. And the
- 22 Court Officer will ensure that this map appears on the screens, on all of
- 23 our screens.
- 24 COURT OFFICER: (Interpretation) Please press "PC 1" to see the
- 25 map.

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1 MR. HOOPER: Yes. I think looking at the screen we're probably  
2 better assisted by looking at the hard copy unless it can be enlarged,  
3 because the -- the print on this map is, I must say, exceedingly small,  
4 but we can see where the red line is, which is an indication, as we can  
5 see from the legend at the bottom of this map, described as a route  
6 nationale, and if we look to the top quarter or so of the map, we see  
7 Bunia indicated by a star.

8 Q. Have you got that, Mr. Witness? And if we go south --

9 A. (\* No interpretation)

10 Q. -- and take the route nationale, the red route, turning right  
11 there just before where Dele's marked, we come across Makabo, Oicha. And  
12 then on the left-hand side of the plan where Marabo is indicated, there's  
13 blue lines which we can see from the legend are -- well, they're rivers  
14 or water courses, and we can see there in very small print, as I've said,  
15 Nyankunde. Have you found that? It's not easy to see. Have you found  
16 Nyankunde on the map? It is very small.

17 A. Could I perhaps have another look at the screen?

18 PRESIDING JUDGE COTTE: (Interpretation) Witness, look at  
19 Bogoro, if you can see it on the map, and go well to the left, far to the  
20 left of Bogoro on a horizontal line. Stay at the same level as Bogoro  
21 and move to the far left and then tell Mr. Hooper if you have managed to  
22 spot Nyankunde. It's about 7 or 8 centimetres to the left of Bogoro.

23 THE WITNESS: (Interpretation) Yes, I think I can see it.

24 PRESIDING JUDGE COTTE: (Interpretation) Have you managed to  
25 locate Nyankunde?

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1 THE WITNESS: (Interpretation) Yes.

2 PRESIDING JUDGE COTTE: (Interpretation) All right. Good.

3 Mr. Hooper.

4 MR. HOOPER:

5 Q. And we can see looking at this plan that there's hills indicated  
6 and Nyankunde is just as you come to the hills there of Walendu-Bindi.  
7 So we can put that map to one side, and let me come back to November of  
8 2001, and you told us before the break that there'd been ethnic violence  
9 directed against the Ngitis in August which caused many of the Ngitis in  
10 Nyankunde to flee, and eventually you fled as well.

11 Now, I want to ask you about John. And at that point, that is  
12 mid-2001, can you help us as to what John was doing? He was living, you  
13 tell us, with -- with several others at -- at your brother's house,  
14 including with you. Do you know if he was attending school or not, and  
15 if so, do you know whether that was a primary school or a secondary  
16 school?

17 A. Yes. He was at school at the time, at secondary school, in the  
18 first year.

19 Q. And -- and can you help us as to how old he was in mid-2001?

20 A. In the middle of 2001, if we look at his school career, he must  
21 have been between 12 -- no, 13 and 14, because, in fact, as he went  
22 through school, sometimes he repeated a year or two.

23 Q. All right. Now, you go to Bunia in November 2001, and where did  
24 you stay in Bunia?

25 A. Thank you. In Bunia, I once again lived with the family of my

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1 older brother. They lived in the Lumumba area in Sukundeya (\* as  
2 interpreted) area.

3 Q. And where was John at that point?

4 A. As I said earlier, first of all I went to Bunia, not to flee in  
5 the first instance. First of all, it was to go and visit my family,  
6 family that I had left in August, and at that point I left John still in  
7 Nyankunde.

8 Q. Did he remain in Nyankunde?

9 A. When I went to Bunia the first time I left him in Nyankunde, but  
10 later in December of the same year, as things were not very open, I went  
11 to fetch him and he was again with Bunia -- with us in Bunia in the same  
12 house.

13 Q. How long did you remain in Bunia?

14 A. We stayed in Bunia, if I'm counting the time with John, from  
15 December 2001 to August 2002.

16 THE INTERPRETER: Interpreter correction: Page 39, line 11, the  
17 area is Yambi-Yaya.

18 MR. HOOPER: Thank you.

19 Q. And what happened in August 2002?

20 A. Thank you. In August 2002, the Lopondo war broke out which  
21 involved the APC army in Bunia, and that was the time when we fled Bunia  
22 because we were pursued by UPC soldiers.

23 Q. And just speaking about yourself for a moment, do you recall when  
24 you -- when you fled Bunia? Perhaps in relation to the fall of Lopondo,  
25 which is an event that we've all -- we all know about in this court. So



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1 in relation to the fall of Lopondo, when do you recall that you came to  
2 leave Bunia?

3 A. Thank you. With regard to the fall of Lopondo, we left Bunia  
4 two days afterwards, and we went to North Kivu with a stopover in  
5 Komanda.

6 Q. And who is "we" in this context?

7 A. In this context "we" refers to us personally, including John and  
8 the rest of the family with which we stayed in Bunia.

9 Q. All right. Just take us through the route that you took. You  
10 went to Komanda. Did you stay in Komanda? What was the position?

11 A. Thank you. In Komanda, first of all we spent one week with the  
12 rest of the family, including John, but as the situation was still not  
13 good, John went to North Kivu where our older brother Mateso already was,  
14 and I, first of all, stayed where I was, and afterwards I then turned  
15 around and went back to Bunia.

16 Q. And how long did you remain in Bunia on your return?

17 A. Thank you. On my return to Bunia, I stayed on until  
18 October 2002, and then once again we left Bunia, this time by plane, to  
19 Beni.

20 Q. And how long did you stay in Beni for?

21 A. It wasn't Beni as such, but the plane took us to Beni, and from  
22 Beni we went down to Oicha, which is 30 kilometres from Beni, and we  
23 stayed there until April of 2003.

24 Q. I'm going to ask you to look at another -- another map, and this  
25 one's reference is DRC-D02-0001-0102, and is a map of a larger area of

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1 Ituri, and I hope the relevant part that we're going to be concerned  
2 with, with Oicha. This is going to appear on the screen, and once it's  
3 on the screen perhaps you can just familiarise yourself with it and then  
4 I'll ask you some questions in respect of it.

5 COURT OFFICER: (Interpretation) To see the map, please press  
6 "PC 1."

7 MR. HOOPER:

8 Q. Now, perhaps I can direct you and others to the portion of the  
9 map that's presently being shown. If you look at the main road as  
10 indicated there on the left, just at the bottom left we can see Oicha.  
11 Do you see that? And if the magnification is reduced once more, we will  
12 see just below Oicha, Beni, again a place that we've become familiar  
13 with. So just keep looking at the map and it'll probably show Beni.  
14 Yes. So just a centimetre or so above Beni we can see Oicha indicated.

15 So you arrive yourself in Oicha in which month, sir?

16 A. Thank you. I arrived in Oicha in October 2002.

17 Q. And on your arrival, where was John?

18 A. I found John there at Oicha with the rest of the family.

19 Q. Do you know what he was doing? I mean, was he at school or  
20 what -- what was he up to that you know?

21 A. Thank you. At that time, all of us were displaced persons. The  
22 family did not means, and he was not studying at that time.

23 Q. And what did you do in Oicha, if anything?

24 A. Since I had already graduated in nursing sciences, the Oicha  
25 hospital recruited me to be taking care of displaced persons. That is

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1 where I worked at that time.

2 Q. And how long did you remain in Oicha?

3 A. Thank you. I stayed in Oicha up until April 2003, when I was  
4 called up to return to Ituri and work with the international NGO known as  
5 Medair.

6 Q. Now, Mateso's house where you stayed, did any other people stay  
7 there other than John and you and your brother?

8 A. Thank you. There were other people there. The family was very  
9 large at that time, because even the members of the family who were in  
10 Komanda came and joined this family because they had been displaced.

11 Q. And can you describe this house for us? Was it a big house or  
12 what? Give us some idea of the size, how many rooms, for example, it  
13 had.

14 A. It was a very small house which belonged to CECA 20 Oicha, and it  
15 was located right next to the Oicha primary school. It was a small  
16 house. It had only three rooms, but that whole crowd lived in the house.

17 Q. And where did you sleep, and where did John sleep?

18 A. John and all the other boys, including myself, slept in the same  
19 room.

20 Q. Now, from October, when you got there, until April of 2003,  
21 you're in Oicha. During that time, did John remain there throughout that  
22 time? What was the position with him?

23 A. Thank you. In February, I sent (Expunged), called Anyolito,  
24 to go to Aveba and see my family there and also speak with the family of  
25 my fiancée, who is actually my wife right now, with the purpose of

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1 organising my wedding in Oicha. So John decided to travel with (Expunged)  
2 (Expunged), Anyolito, to Aveba.

3 Q. Do you remember more precisely the date? What part of the month  
4 was that?

5 A. I no longer remember the precise date, because there's really no  
6 point of reference to enable me to remember it.

7 Q. All right. So sometime in February. And what happened then? So  
8 Anyolito goes together with -- with -- with John. Did anyone else go  
9 with them? What was the position?

10 A. At that time, it was North Kivu that supplied Aveba with basic  
11 commodities, so there was a large crowd of people travelling between  
12 Oicha and Aveba to fetch foodstuffs and basic commodities.

13 Q. And do you know how John and Anyolito travelled? Did they go in  
14 a vehicle or what?

15 A. Thank you. During that period, the only way to move about was on  
16 foot.

17 Q. Do you know how far Oicha is from Aveba on foot, approximately?

18 A. Yes. The distance is approximately 100 kilometres or more.

19 Q. Now, having sent Anyolito to discuss the situation with your  
20 fiancée's family, what was the outcome of that?

21 A. Thank you. The outcome was that the family of my fiancée wanted  
22 that the marriage be celebrated in Aveba at all costs and not in Oicha.

23 Q. Now, when did you come to leave Oicha?

24 A. Thank you. I left Oicha in April, specifically on the  
25 15th of April, 2003.

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1 Q. And how did you travel?

2 A. I travelled by plane, because it was the NGO Medair which was  
3 responsible for my travel for purposes of service.

4 Q. And -- and after Beni, where did you go?

5 A. Can you kindly repeat?

6 Q. So you leave Oicha. Just tell us where you went. You go in a  
7 plane from Oicha to Beni. Where do you go after that?

8 A. In fact, we took the plane from Beni to Bunia.

9 Q. And what was the situation like in Bunia when you got there, and  
10 how long did you stay there?

11 A. Thank you. At the time of my arrival in Bunia, the situation  
12 appeared to be calm. I stayed there for only three weeks, because on the  
13 10th of May, we had to leave Bunia because of increasing insecurity.

14 Q. And what caused that insecurity?

15 A. There was a further outbreak of fighting between UPC soldiers and  
16 the Lendus.

17 Q. Now, when you got to Bunia in April, did you leave Bunia at any  
18 time between getting there in April and eventually fleeing Bunia on  
19 May the 10th? Did you -- did you go anywhere, or did you remain in Bunia  
20 during that time?

21 A. Thank you. After I arrived, I thought it was a good opportunity  
22 for me to visit my fiancée in Aveba, and so I travelled from Bunia to  
23 Aveba in the course of one weekend.

24 Q. Now, by that time had you -- had you met Germain Katanga, and if  
25 you had, can you tell us the circumstances in which you met him?

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1 A. I met Germain Katanga in Aveba immediately after I arrived there.

2 Q. Now, coming to the problems of May 2003, when you came to leave  
3 Bunia because of those problems you've told us about, what route did you  
4 take and where did you end up?

5 A. Thank you. With many other displaced persons, we went through  
6 the Medhu road, and from there I went right up to Aveba.

7 Q. And what were the conditions like at that time on that journey?

8 A. What precisely do you mean by "conditions"?

9 Q. Well, there was, you've told us, a large number of people fleeing  
10 Bunia. For example, when you got to Medhu, what was the situation there  
11 like, at Medhu?

12 A. Thank you. When we arrived Medhu, I should say that the  
13 facilities were not sufficient to host all those displaced persons even  
14 just for their transit. There was no food. Sometimes we even lacked  
15 water, and the situation was critical for those people.

16 Q. Now, when you got to Aveba, where did you stay?

17 A. Thank you. When I got to Aveba, I stayed with my nephew.

18 Q. And what was his name?

19 A. He's a pastor, and he was usually referred to as Vicky.

20 Q. And how long did you stay with Pastor Vicky?

21 A. Thank you. I stayed with Pastor Vicky until the date of the  
22 ceremony of my marriage, which took place on the 12th of July, 2003.

23 Q. Now, during that time, the time that you were staying at  
24 Pastor Vicky, do you know where John was?

25 A. Thank you. John was in the same house, that is, in

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1 Pastor Vicky's house.

2 Q. And when you went to Aveba in April, that's before you fled in

3 May, do you know where John was then?

4 A. Thank you. During that period, I saw him also in Pastor Vicky's  
5 house.

6 Q. All right. So you're at Pastor Vicky's from May until your  
7 marriage on the 12th of July. Can you describe Pastor Vicky's house to  
8 us? Give us some idea of the accommodation that was available, and let  
9 us know what sleeping arrangements there were for you and John.

10 A. Thank you. If I remember correctly, his house is located right  
11 next to the Emmanuel Community 39 church in Aveba, almost opposite that  
12 church. At that time it was just a small straw house measuring about  
13 4 metres in diameter, and all of us were piled up in that house. Not  
14 only us but other displaced persons from Bunia. They were with us along  
15 with John in the same house.

16 Q. And where did you sleep, you and John?

17 A. Thank you. In that small straw house there were two rooms. One  
18 was reserved for couples and -- for the couple of Pastor Vicky, and the  
19 others -- the other room was for us who had just arrived. John was in  
20 the same house, but there was a small annex attached to the house, to the  
21 same house, and that is where he spent the night. But sometimes there  
22 were other visitors who arrived that we respected, and then at such  
23 periods we would move to the small annex with John.

24 Q. So come your marriage on the 12th of July, did you remain living  
25 at Pastor Vicky's? What was the position?

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1 A. Thank you. During that period it was difficult for me to stay  
2 there. As a displaced person, the church gave me a house in the mission  
3 premises. It was a house located near Pastor Vicky's house, between the  
4 school, the primary school in Aveba, and the church. That is where I  
5 stayed after my marriage.

6 Q. And what about John? Where was he?

7 A. Thank you. John stayed at Pastor Vicky's house, but we shared  
8 meals in my house.

9 Q. Did you remain in that -- that house after your marriage?

10 A. Thank you for the question. I stayed there for four to  
11 six months, after which I moved elsewhere.

12 Q. And where did you move to?

13 A. I went to the house that my elder brother had built in Aveba long  
14 before that, around 1993.

15 Q. And when you'd moved there, what about John? Where was he?

16 A. Thank you. During that time, since I had enough space, John came  
17 with me.

18 Q. And how long did you remain in this -- this -- this last house  
19 that you've spoken about?

20 A. Thank you. In that last house, I stayed up until October 2005,  
21 when security returned to the Walendu-Bindi collectivity.

22 Q. Now, I omitted to ask you one question. We picked up really the  
23 story in 2000 or 2001, but for how long -- for how much of his life have  
24 you known John?

25 A. Can you kindly repeat?



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1 Q. How long have you known John for?

2 A. I've known John ever since he was born.

3 Q. Now, in all the time that you were with him, from 2001, 2002,  
4 2003 in Aveba and on through 2004 and 5, to your knowledge, was he ever  
5 in the militia? Was he ever?

6 A. Thank you for that question. John was never a member of a  
7 militia group.

8 Q. Later, to your knowledge, did he ever become in any way -- I say  
9 attached. Did he ever frequent the militia or have any associations with  
10 it, to your knowledge?

11 A. Thank you. To my knowledge, John frequented the military camp  
12 because he was an acquaintance of one soldier called Garimbaya, and he  
13 visited him just like any other family member can visit their own.

14 Q. Do you know if John was ever demobilised as a militia?

15 A. Thank you. John was demobilised as a member of the militia, and  
16 when I asked him the question as to how he came about doing that, he said  
17 that the person he was with, Garimbaya, was the one who was responsible,  
18 because they had to receive something at their demobilisation site.

19 Q. Have you ever heard of someone called Nibo?

20 A. Does he have another name?

21 Q. He may also be known as Nibo Cha?

22 A. Yes, that name rings a bell.

23 Q. Now, I want to ask you about a small story or history concerning  
24 Nibo Cha, John, and a bicycle. What do you know in brief about that?

25 A. Thank you. During our stay in Bunia, that is after we had been

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1 displaced from Nyankunde to Bunia, my elder brother's wife bought a  
2 bicycle. That bicycle was used by the young boys to fetch water for the  
3 family. They could be spent some kilometres away to Songolo to fetch  
4 foodstuffs. Just before the Lopondo events, some of the boys in the  
5 family were sent to Songolo to fetch food. During the Lopondo events,  
6 those boys were in Songolo, and they stayed in Songolo with the bicycle,  
7 and the rest of us fled or moved to Oicha as I said some time ago.

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 Q. Do you know someone called Bhubhu Tito?

16 A. Thank you. Bhubhu Tito is my own father. All of the children of  
17 the family call him Bhubhu, which means grandfather.

18 Q. Do you know where your grandfather was at the end of 2002 and  
19 into 2003? Where was he living, do you know?

20 A. Thank you. During that time -- first of all, before the period  
21 that you're asking about, he was living in Singo, and that's where he was  
22 living even when we were in Nyankunde. And then with the security  
23 problems in Singo, he, too, went to Aveba.

24 Q. And how long did he remain in Aveba, do you know?

25 A. He stayed in Aveba until January 2006. During the problems we

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1    went to fetch him, and he is now living with us in Bunia.

2    Q.   So living in Bunia, and how old is he?

3    A.   About 93.

4    Q.   I want to come back to Germain, and I'm asking you about the  
5   period when you're living in Aveba, that's May onwards, for a year or  
6   two. Was Germain living in Aveba during that period that you were there?  
7   Was he living there all the -- when you came to leave Aveba to go to  
8   Bunia at the end of that period, do you know where Germain was?

9    A.   Could you please reformulate that question for me.

10   Q.   You lived in Aveba for -- after your wedding for quite a long  
11   time, and then you went to live in Bunia. Now, when you came to leave  
12   Aveba to go and live in Bunia, was Germain Katanga living in Aveba at  
13   that time? Do you know where he was?

14   A.   The only thing I know is that Germain left me in Aveba, because  
15   he had been called for Kinshasa where he met the -- he was appointed  
16   general. He left me in Aveba.

17   Q.   Now, when you first got to -- to Aveba -- that's after your  
18   return to Bunia in 2003 and before you had to flee -- flee Bunia and  
19   eventually end up living long-term in Aveba. So in April 2003, May 2003,  
20   and onwards, where was Germain Katanga living? What were his domestic  
21   arrangements, as far as you recall, when you first got there?

22   A.   Thank you. I think I've answered a question like this. At that  
23   point, Germain Katanga was still in Aveba.

24   Q.   Yes. Quite right. But do you know where -- where he was living  
25   in Aveba?

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1 A. All right. Thank you. When I visited him during that period, he  
2 was living in a place that was commonly known as BCA.

3 Q. Was he living there alone? Did he have any family?

4 A. Thank you. He was there with other militia members and their  
5 families.

6 Q. Now, living there in Aveba, what was Germain Katanga's  
7 relationship with the civilian inhabitants of Aveba?

8 A. Thank you. During the entire time that I was living in Aveba,  
9 Germain Katanga had good relations with the civilian population.

10 Q. During the time that you were there, how was Germain Katanga  
11 addressed? What -- was there any word, military word, or -- that he was  
12 addressed by?

13 A. To my knowledge, this was a term perhaps used by other militia  
14 members, they called him Kunzi.

15 Q. And where does that word come from? Is it Swahili or what?

16 A. It's a word that comes from Lingala, and I think it means chief.

17 Q. Now, during the time that you were in Aveba, what did you  
18 understand Germain Katanga's position was in terms of the militia? What  
19 was his -- what were his powers, as it were?

20 A. All right. Thank you. I can't really give you exact detail  
21 about that, because I didn't know how their camp was organised.

22 Q. Well, do you know who -- who the leader of the militia was in  
23 Aveba or not?

24 A. Not with a great deal of exactitude. They referred to him as  
25 Kunzi, but he wasn't the only one who was called Kunzi. Lots of people

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1 were called Kunzi. As soon as somebody is recognised as a leader,  
2 whether of a group of six people or 12 people or more, they called them  
3 Kunzi. I'm not a soldier. I'm not too familiar with the terms. So for  
4 my part, I can't really establish what position he occupied compared to a  
5 whole lot of other people called Kunzi.

6 Q. Now, we've heard quite a lot in this court about the FRPI. What  
7 do you know about it?

8 A. Thank you for the question. Perhaps I can't give you a very  
9 accurate answer to this either, but I know that the FRPI is the name that  
10 was given to the South Lendu militia, that is the Lendu-Bindi.

11 Q. Were you ever a member of it in any way?

12 A. No.

13 Q. Now, during your time in Aveba, did you ever hear of any  
14 suggestion of forced marriages or sexual slaves in Aveba?

15 A. Thank you for the question. During the entire time that I spent  
16 in Aveba or involved in humanitarian aid, I did not hear of these cases.

17 Q. During your time in Aveba, were you aware if Aveba was ever,  
18 during the time you were there, so from May 2003, were you ever aware of  
19 any participation by militia in Aveba in any conflict, in any battles?

20 A. Could you repeat the question, please?

21 Q. From your arrival in Aveba in May of 2003 onwards, and the time  
22 you were in Aveba, do you know if the Aveba militia were involved in any  
23 battles?

24 A. Thank you. During that time, quite frankly, we did not see any  
25 clashes in Aveba.

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1 Q. During your time in Aveba, did you ever see children bearing  
2 arms?

3 A. To my knowledge, no.

4 Q. Did you see any children in the BCA camp?

5 A. Thank you. When I went to the BCA camp, I saw children, but they  
6 were the children of militia, as I said earlier. They were there with  
7 members of their family, and the militia had their children living with  
8 them as military dependents.

9 Q. Now, we've heard in the course of this case that quite a large  
10 number of children from Aveba were demobilised as having been associated  
11 with militia. Do you know anything about that, children being  
12 demobilised in Aveba?

13 A. Thank you for the question. I was present during that time in  
14 Aveba, but I was travelling a lot because I was working for another  
15 organisation which did not have anything to do with demobilisation, but I  
16 heard that there were even children who were not militia who were  
17 demobilised.

18 Q. And do you know how that came about, how that happened?

19 A. Thank you. I think that that demobilisation happened just as  
20 people were coming into the post-conflict situation, and a lot of people  
21 had lost everything they owned. People were living in severe poverty.

22 As during the demobilisation people were given kits, the children  
23 took advantage of that to get something. There were clothes handed out.  
24 There were other items given out, and so they did it for that reason.

25 Now, in September, I went to Kagaba for a training session, and

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1 there were children like that. They left the village. They went to  
2 Bunia also to try and work or to try and get money for the school year  
3 that was coming up, and then suddenly we would see them returning in cars  
4 with an NGO saying that these were demobilised children who were there to  
5 be re-integrated. But these were children who were trying to work to  
6 earn money for the upcoming school year. Oddly, we would see them coming  
7 back with the kits as demobilised children.

8 Q. Now, I just want to go into private session for a minute or two  
9 to put a name to you.

10 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, we will  
11 go into private session briefly because there is a risk of identifying  
12 elements arising.

13 (Private session at 1.15 p.m.)

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 (Open session at 1.16 p.m.)

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

6 your Honour.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

8 Mr. Hooper, you may proceed.

9 MR. HOOPER:

10 Q. So the name I put to you, we won't mention it in open session, is

11 a name that you've just said rings a bell with you.

12 A. Yes.

13 Q. Did you see him in Aveba, and, if so, at what time,

14 approximately, in the year?

15 A. Could you please reformulate that question.

16 Q. Did you ever see him in Aveba?

17 A. Yes, I saw him in Aveba.

18 Q. Where was he living?

19 A. Well, these were displaced people with whom we had fled from

20 Bunia in 2003, and he lived with (Expunged) , an old man who actually

21 has died since.

22 Q. Do you know how the man who's name I'm not going to mention in

23 public session, the man that you said the name rang a bell with, do you

24 know how long he'd been in Aveba?

25 A. Thank you. He -- I couldn't tell you exactly how long he had



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1 been in Aveba, but until there was an opening of contact between Aveba  
2 and Bunia, because at the time we fled, there was no access between Aveba  
3 and Bunia. There were no roads open. But some two months later, roads  
4 reopened and people were able to travel between Aveba and Bunia. At that  
5 time, he was able to go back to Bunia.

6 Q. Do you know what he was doing in Aveba, how he came to be there?  
7 I mean, where did he normally live, for example?

8 A. Thank you. During that time, along with a few other carpenters  
9 and people who worked wood, he began to engage in activities involving  
10 sawing wood, wood cutting, along with the people I was living with.

11 Q. Do you know why he'd come to Aveba?

12 A. He was a displaced person who had gone to Aveba as I had.

13 Q. Do you know what had caused him to be displaced?

14 A. Thank you. Well, in fleeing Bunia, virtually everybody, all of  
15 the non-Hema felt that the place that we could hope to be safe in was  
16 Aveba. So like so many other displaced people, he took the route to  
17 Aveba.

18 Q. When you said virtually everyone fled, when was that?

19 A. That was in May 2003.

20 Q. Now, from your knowledge of the area, what would you say to this:  
21 If I said someone had claimed that they'd walked from Aveba down to  
22 Bogoro and back in the same day, what would you say to that?

23 A. It's virtually impossible.

24 Q. You gave us the name of your brother, Mateso Zaba. Has he got  
25 other names as well, and, if so, can you give us his full name just for

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1 the record, please.

2 A. Thank you. His full name is Mateso Zaba Omvuani Jacques.

3 MR. HOOPER: Now, I just want to pop back into closed session for  
4 a moment, if I may. Private session, rather, for a minute or two.

5 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.  
6 We will go into private session very briefly.

7 (Private session at 1.22 p.m.)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged). \* Open session

3 MR. GARCIA: (Interpretation) Your Honour.

4 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, go ahead.

5 MR. GARCIA: (Interpretation) I think that it would be

6 preferable if Mr. Hooper remained in private session, because if he

7 mentions the name of people involved in that incident, then it could be

8 identifying.

9 PRESIDING JUDGE COTTE: (Interpretation) Yes. All right. Well,

10 we are currently in private session. We are in private session.

11 MR. GARCIA: (Interpretation) Yes. This is just a response to

12 Mr. Hooper asking us to go back into open session.

13 PRESIDING JUDGE COTTE: (Interpretation) All right. We will

14 remain in private session so that the witness can provide the answer that

15 Mr. Hooper is looking for in the short time remaining to us.

16 Witness, if you can remember the question, could you answer it?

17 MR. HOOPER: I haven't actually put a question at the moment, and

18 it could be a question in open session, but I'll ask it in private.

19 PRESIDING JUDGE COTTE: (Interpretation) It is difficult for the

20 President of the Chamber to sign orders, to read them, and to listen to

21 you at the same time. I apologise if you hadn't yet asked your question.

22 I'm not omnipresent and omniscient. So please go ahead, Mr. Hooper.

23 MR. HOOPER: All right. Well, let's go then -- I see the time.

24 Perhaps this is a matter I can pick up tomorrow together with some other

25 matters.

1       PRESIDING JUDGE COTTE: (Interpretation) All right, Mr. Hooper,  
2   although tomorrow we're not sitting. In fact, we are not sitting until  
3   Thursday, when we will see each other again. So looking at the progress  
4   of your examination-in-chief, it would seem that you have advanced well  
5   this morning, and logically Thursday, after the first part of the hearing  
6   which is to be devoted to the legal matters set aside for a  
7   Status Conference, we will once again bring in the witness and you will  
8   continue with your examination-in-chief based on the idea that it will  
9   not be until the second part of the hearing on Thursday. We're not  
10   sitting tomorrow. Please bear that in mind. There's no hearing tomorrow.

11       THE WITNESS: (Interpretation) All right.

12       PRESIDING JUDGE COTTE: (Interpretation) Witness, thank you for  
13   your presence this morning, for the answers you have given us and for the  
14   way in which, perhaps only with two exceptions, you have fully complied  
15   with our criteria of slow speaking and five-second pauses before answering.  
16   So we will see you again on Thursday morning. The Court Usher will  
17   accompany you to the waiting-room, and we will see you again on Thursday.

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

19       PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Mula Metu.

20       (The witness stands down)

21   \* MR HOOPER: While Mr Metu is leaving, can I just mention an EVD number  
22   required in respect of the second of the maps that were shown, which was in relation  
23   to DRC-D02-0001-0102, which was the larger -- the smaller scale map of Ituri.

24       PRESIDING JUDGE COTTE: (Interpretation) All right. We are in  
25   private session, which is something I had forgotten.

1 Court Officer, from page 63 of the transcript in French, the  
2 provisional transcript, onwards, you will be able to assess at what point  
3 we should have gone back into open session. We were talking about dates  
4 of hearings and when we would resume debates. Then from our current  
5 private session, could you give the EVD number for Mr. Hooper, bearing in  
6 mind that the end of this hearing will be reclassified as open to the  
7 public subsequently.

8 COURT OFFICER: (Interpretation) Thank you, your Honour. The  
9 document with reference DRC-D02-0001-0102 will bear EVD number  
10 EVD-D02-00122, and it will be recorded as a public document.

11 PRESIDING JUDGE COTTE: (Interpretation) All right. Let's go  
12 back into open session to adjourn this hearing.

13 (Open session at 1.29 p.m.)

14 COURT OFFICER: (Interpretation) We are in open session,  
15 your Honour.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you,  
17 Court Officer. Before we leave, do not forget that Mr. Hooper sent to  
18 the Prosecution yesterday counter-proposals with regard to agreements as  
19 to the facts and locations in Bogoro. Don't forget to get together and  
20 work on those matters so that we can make progress and reach an agreement  
21 on the facts that are not in contention. That would considerably  
22 simplify the task for everybody from here on in.

23 We now adjourn until Thursday.

24 The hearing ends at 1.30 p.m.

25 RECLASSIFICATION REPORT

- 1 Pursuant to Trial Chamber II's oral instruction dated 10<sup>th</sup> of May 2011, the
- 2 excerpt of the transcript page 59 line 3 to page 61 line 12 (\*) is reclassified
- 3 from private session to open session.
- 4 CORRECTION REPORT:
- 5 An intervention has been omitted in the transcript, therefore Court Management
- 6 Section has added the following sentence in the transcript:
- 7 \*Page 60 lines 21 to 23:
- 8 "MR HOOPER: While Mr Metu is leaving, can I just mention an EVD number
- 9 required in respect of the second of the maps that were shown, which was in relation
- 10 to DRC-D02-0001-0102, which was the larger -- the smaller scale map of Ituri."