

1 International Criminal Court
2 Pre-Trial Chamber II - Courtroom I
3 Presiding Judge Ekaterina Trendafilova, Judge Hans-Peter Kaul and
4 Judge Cuno Tarfusser
5 Situation in the Republic of Kenya - ICC-01/09-01/11
6 In the case of the Prosecutor versus William Samoei Ruto,
7 Henry Kiprono Kosgey, and Joshua Arap Sang
8 Confirmation of Charges Hearing
9 Saturday, 3 September 2011
10 The hearing starts at 9.33 a.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session.
14 PRESIDING JUDGE TRENDAFILOVA: Good morning. (Microphone not
15 activated) ...
16 Good morning once again to the Defence teams, to the Prosecutor
17 team, to Madam Chana, and everyone if there is someone in the public
18 gallery.
19 Today we're going to spend the whole day, all the sessions, with
20 the questioning of the witnesses that the Defence team of Mr. Ruto
21 presented, and before we invite the witness into the courtroom, on behalf
22 of the Bench, I would like to make some clarifications.
23 Regarding first the order of the questioning -- I'm sorry.
24 Court Officer, would you please call the case.
25 COURT OFFICER: Thank you, Madam President. Good morning. Good

1 morning, your Honours.

2 This is the Situation in the Republic of Kenya, in the case of
3 the Prosecutor versus William Samoei Ruto, Henry Kiprono Kosgey, and
4 Joshua Arap Sang, case number ICC-01/09-01/11.

5 Thank you, Your Honours.

6 PRESIDING JUDGE TRENDAFILOVA: Thank you, Court Officer.

7 So I go back to some clarifications to be made by the Chamber.

8 The order of the questioning of the witnesses is provided in the law and
9 the guiding provision mainly is Rule 140. Of course, first, it will be
10 the Defence team calling the witness to put questions to the witness, and
11 this is the provision of Rule 140, paragraph (2)(a) of the Rules of
12 Procedure and Evidence. Then, it is the Prosecutor's turn to put
13 questions to the witness. The Legal Representative of victims, if
14 Madam Chana could justify that the personal interests of victims are
15 affected, not might be, not could be, but are affected by the testimony
16 and the information provided in the testimony by the Defence and upon
17 authorisation of the Chamber, we might grant you the opportunity to ask
18 some questions, Ms. Chana. But this is the principal approach of this
19 Chamber that is presented in the decision regarding victims participation
20 in the confirmation hearing and all related proceedings, that apart from
21 the explicit provisions that provide you explicit rights, we're going to
22 grant you participatory rights on a case-by-case basis.

23 And the Chamber, according to the provision of Rule 140(2)(c) can
24 always ask questions before the parties, in between the questioning of
25 the parties, thereafter, but what is absolutely imperative is that the

1 Defence will have the right to question last the witness if it deems it
2 necessary.

3 Second, the parties may question witnesses only on issues
4 relevant to the subject matter of the case pending before the Chamber and
5 also touching upon the issues of reliability or credibility of the
6 witnesses -- the witness testimony or other relevant matters, and here we
7 are guided by the provision of Rule 140(2)(b). Thus questions that go
8 beyond the subject matter of the case pending before the Chamber or
9 issues related to the reliability or credibility of the witness are going
10 to be overruled.

11 Third, I would like to very shortly touch upon the issue of the
12 so-called leading questions.

13 As the parties and participants in this case know, the subject of
14 the leading questions is perceived to be a controversial one. Given that
15 the Statute, the Rome Statute, is a unique combination of the two major
16 legal systems, it is neither a common law nor a civil law, or as it is
17 called in the academic papers, Romano-Germanic type of major -- one of
18 the major criminal justice systems, the Chamber has decided not at all to
19 enter into any debate on the interpretation of leading questions, but,
20 rather, we would like to explain that the questioning party should
21 refrain from formulating its questions in such a way as to actually
22 provide the answer to the witness, or in simple terms, to put the answer
23 into the mouth of the witness.

24 The Chamber, as we know, as provided by the statutory documents,
25 is duty-bound to establish the truth for the purposes of the decision on

1 the confirmation or not confirming the charges. And in order to fulfil
2 this duty assigned by law, the Bench needs the witness's own
3 recollections of the event under consideration in the current case.

4 Thus counsel on both sides, on the side of the Prosecutor, on the
5 side of the Defence teams, please refrain from asking your questions in a
6 way that is not going to be tolerated by the Chamber.

7 Fourth, regarding the right of the witness -- of the witnesses
8 against self-incrimination. The Bench would like to make the following
9 points: Victim -- the Victims and Witnesses Unit has provided us with a
10 familiarisation report where it has explained to the Chamber all the --
11 the undertakings by the Victims and Witnesses Unit regarding the -- the
12 witnesses' travel to the country, the accommodation and, in particular,
13 they have explained the right against self-incrimination as provided in
14 Rule 74 of the Rules of Procedure and Evidence. However, the Chamber
15 itself, before we proceed with the questioning of the witness, we're
16 going very shortly to explain the right against self-incrimination to the
17 witness, because it is the duty of the Chamber, apart from the duties of
18 anyone involved or related to these proceedings, to take care that a
19 witness appearing before the Court wouldn't be prosecuted or shouldn't be
20 obliged to answer questions that could self-incriminate the witness.

21 Next, the Chamber is willing to respect the wishes of some of the
22 witnesses, if they have such wishes, to obtain legal advice either from a
23 legal advisor that the witness is coming with or, as we have ordered the
24 Registry, to provide for an independent legal advice provided by -- by
25 the Registry and providing special facilities for the meeting of the

1 witness in question with the independent legal advisor. However, as
2 clarified in the decision on the schedule number one, thereafter in the
3 order that was issued by the Registry to organise the facilities for
4 these meetings, it was clarified that the legal advisors are not going to
5 be permitted in the courtroom together with the witness.

6 Now, if there are no other issues on behalf of the Chamber, there
7 are no other issues to clarify, if some of the Defence teams or the
8 Prosecutor or Ms. Chana would like to raise some issues, we're ready to
9 listen to you.

10 Ms. Chana, you have the floor.

11 MS. CHANA: Madam President and members of the Bench, may I seek
12 your kind indulgence to make an application at this stage. Madam
13 President, you have alluded to it just now that the Legal Representative
14 has the right to question witnesses as long as it affects the interests
15 of the victims. I would, in that regard, ask you to allow me to question
16 the victims and my questioning would be limited only to destruction of
17 property, looting, in line with my victims' concern that these charges
18 have not been --

19 PRESIDING JUDGE TRENDABILOVA: Ms. Chana, thank you very much. I
20 would like still to make a clarification that you cannot know in advance
21 whether the testimony is affecting the interest of your clients as
22 provided in Article 68(3) where the drafters decided to say where the
23 personal interest of victims are affected. This means that if in the
24 course of the witness testimony you would come across some issues that
25 are affecting the interests of all those witnesses that you're

1 representing, just very shortly you have still to justify your request
2 and you will be granted if the request is justified.

3 MS. CHANA: I'm obliged for that clarification, Madam President.

4 PRESIDING JUDGE TRENDAFILOVA: Thank you. Any other issues to be
5 raised by anyone present in the courtroom? No.

6 Then, Court Officer, would you be so kind to invite, to usher the
7 first witness, namely Mr. Cheramboss, appearing on behalf of the Defence
8 team of Mr. Ruto, to usher him into the courtroom.

9 Are there some problems?

10 (Trial Chamber and Court Officer confer)

11 PRESIDING JUDGE TRENDAFILOVA: We have a wait a little bit for
12 the witness, who doesn't have any problems.

13 Did the Defence teams have time to rest yesterday? And Mr. Ruto,
14 Mr. Kosgey, and Mr. Sang, could you rest?

15 MR. RUTO: Under the circumstances.

16 PRESIDING JUDGE TRENDAFILOVA: Because you have to be fit.

17 (The witness entered court)

18 PRESIDING JUDGE TRENDAFILOVA: Good morning. Good morning,
19 Mr. Cheramboss.

20 THE WITNESS: (Microphone not activated) ...

21 PRESIDING JUDGE TRENDAFILOVA: So please, you can sit down for a
22 moment.

23 Mr. Cheramboss, you are before -- do you hear me?

24 THE WITNESS: I do, your Honour.

25 PRESIDING JUDGE TRENDAFILOVA: You're before Pre-Trial Chamber II

1 of the International Criminal Court. You're called to give testimony in
2 the case of the Prosecutor against Mr. Ruto. You're going to be
3 questioned first by the Defence of Mr. Ruto, then by the Prosecutor, the
4 Chamber, and we're sitting here in front of you, myself,
5 Ekaterina Trendafilova, on my right, Judge Hans-Peter Kaul, on my left,
6 Judge Cuno Tarfusser. We can ask questions according to the law whenever
7 we find it necessary. The Legal Representative of victims, Ms. Chana,
8 who sits on my left, if she would come across issues in your testimony
9 that could be perceived as affecting the personal interest of the victims
10 that she's representing, and their number is 327, and if she can justify
11 this concern, the Chamber could authorise her to also ask you some
12 questions, but the last will be always the Defence team of Mr. Ruto to
13 pose questions to you.

14 Have you been involved about the procedures before the Court,
15 Witness?

16 THE WITNESS: Yes, your Honour.

17 PRESIDING JUDGE TRENDAFILOVA: By the Victims and Witnesses Unit?

18 THE WITNESS: Yes, your Honour.

19 PRESIDING JUDGE TRENDAFILOVA: I have received, and my colleagues
20 as well, the report of the Victims and Witnesses Unit, but apart from
21 this duty of the Victims and Witnesses Unit, the Chamber will very
22 shortly remind you of, first, the provision of Article 69(1) and Rule 66
23 of the Rules of Procedure and Evidence, according to which, witness --
24 every witness shall make a solemn undertaking as to the truthfulness of
25 the evidence that you are going to provide. In accordance with the said

1 provisions, you're required to give an undertaking for the testimony and
2 the information that you're going to provide to us and to all the parties
3 and participants today in your testimony.

4 I would like also to remind you of the existence of the
5 provisions of Article 70(1)(a) and Rule 66(3) of the Rules of Procedure
6 and Evidence, according to which the Court has jurisdiction over the
7 offence of giving false testimony before the Chamber and that are under
8 the obligation to tell the truth, and also if you refuse to comply with
9 your responsibilities, under Rule 65(2), as long as you have agreed to
10 appear before the Court, you're expecting to provide your testimony, and
11 also about the existence of provisions that assign the power of the --
12 assign the power to the Chamber to sanction witnesses and any other party
13 or participant that are disrupting the normal conduct of the proceedings
14 or that they are proceeding with a behaviour that -- that is perceived by
15 the founding fathers of this institution as offences to the
16 administration of justice.

17 Now, did you understand our expectations, Mr. Cheramboss?

18 THE WITNESS: I did.

19 PRESIDING JUDGE TRENDAFILOVA: So now I would ask you to stand
20 up, not for the whole of the testimony that you're going to provide to
21 the Chamber, but just for the purposes of making a solemn undertaking,
22 and I would ask the Court Officer to assist you in this.

23 COURT OFFICER: I solemnly declare.

24 THE WITNESS: I solemnly declare.

25 COURT OFFICER: That I will tell the truth.

1 THE WITNESS: That I will tell the truth.

2 COURT OFFICER: The whole truth.

3 THE WITNESS: The whole truth.

4 COURT OFFICER: And nothing but the truth.

5 THE WITNESS: And nothing but the truth.

6 WITNESS: WITNESS KEN-D09-P-0001

7 PRESIDING JUDGE TRENDABILOVA: My second question is and request
8 to you, Mr. Cheramboss, to identify yourself by stating your full name,
9 your place and date of birth, your marital status and your current
10 occupation, your nationality as well.

11 THE WITNESS: Thank you. My name is Samson Kimng'eny Cheramboss.
12 I'm a resident of Nandi south District, Aldai constituency, Nandi county.
13 I was born in 1947 in Nandi county at a place called Kapkoi. I am
14 married, with six children. I'm a Kenyan by birth. I'm currently a
15 farmer and a small businessman.

16 PRESIDING JUDGE TRENDABILOVA: Thank you, Mr. Cheramboss. You
17 can be seated. Before we start with the questioning, I would like to
18 tell you that apart from the explanations that you have been provided by
19 the Victims and Witnesses Unit about your rights and obligations, on
20 behalf of the Bench I have to explain to you again the right against
21 self-incrimination pursuant to Rule 74 of the Rules of Procedure and
22 Evidence.

23 You have the right, Mr. Cheramboss, to object to make any
24 statement that might tend to incriminate you. This is the provision of
25 Rule 74, paragraph (3)(a). And we have to assure you that the evidence

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1 that you're going to provide in response to the questions asked by the
2 Defence team, by the Prosecution, by the Chamber, possibly by the
3 victims' Legal Representative, will not be used directly or indirectly
4 against you in any subsequent prosecution by this Court, of course,
5 reminding you about the exception that Articles 70 and 71 and,
6 accordingly, Rule 171 provide for offences against the administration of
7 justice for a misconduct before the Court.

8 I said everything that should be said on behalf of the Bench, and
9 now the floor is over to the Defence team of Mr. Ruto, again asking you
10 just to keep in mind that the questions are supposed to be relevant to
11 the subject matter and not to contain the answer that the witness will
12 provide.

13 MR. KILUKUMI: Thank you, Madam President and your Honours.

14 Questioned by Mr. Kilukumi:

15 Q. Good morning, Mr. Cheramboss.

16 A. Good morning.

17 Q. Mr. Cheramboss, could you please tell the Chamber whether you
18 were engaged in any formal employment?

19 A. Yes, your Honour. I was employed as a police officer in the
20 Republic of Kenya. I retired on the 31st of August, 2002. By the time
21 our senior deputy commissioner of police one, a rank which is equivalent
22 to that of a principal deputy commissioner of police in Kenya.

23 Q. When were you first recruited in the police force?

24 A. Your Honour, I was recruited on the 1st of August, 1965, and rose
25 through the ranks to the rank that I have just stated.

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1 Q. Could you please tell the Chamber whether you know one
2 William Samoei Ruto, the gentleman seated to my immediate right.

3 A. Your Honour, I know William Samoei Ruto. I started knowing him
4 way back in -- when I was still serving as a police officer.

5 Q. Please tell the Chamber under what circumstances you got to know
6 Mr. Ruto.

7 A. Your Honour, in 1997, when I was the presidential escort
8 commander, Ruto was elected as a Member of Parliament for Eldoret North,
9 and he subsequently was promoted to -- to -- to be a minister, and by
10 that time is when I firstly knew him.

11 Q. During your duties as presidential escort commander, where were
12 these duties being carried out?

13 A. Your Honour, as the presidential escort commander, it was my
14 responsibility to oversee the security of the head of state at his
15 residential place at State House and in all the functions that the head
16 of state would perform or visit.

17 Q. From 1997 - you've told the Chamber that's when you got to know
18 Mr. Ruto - have you been in contact with him frequently since 1997?

19 A. Your Honour, occasionally when I -- when I was still serving,
20 yes.

21 Q. After your retirement in August 2002, were you in contact with
22 William Ruto?

23 A. Your Honour, rarely, rarely.

24 Q. Mr. Cheramboss, please tell the Chamber whether you have been to
25 the home of the Honourable William Ruto.

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1 A. Your Honour, I have never, never stayed at his compound or been
2 in his house at any given time.

3 Q. For the benefit of the Chamber, Mr. Cheramboss, could you please
4 tell the Court how far your home is in relation to Sugoi where Mr. Ruto
5 has his home?

6 A. It is approximately about 130 kilometres from my home. It's
7 about.

8 Q. Mr. Cheramboss, could you please the Chamber from which community
9 in Kenya you come from.

10 A. Your Honour, I'm a Kalenjin.

11 Q. Mr. Cheramboss, please tell the Court how many sub-tribes are
12 there among the Kalenjin people?

13 A. The main ones are seven. The last two, three -- comes to about
14 ten.

15 Q. For your part, Mr. Cheramboss, you come from which sub-tribe?

16 A. The Nandi community.

17 Q. The Nandi community. Mr. Cheramboss, do you know the
18 Honourable Henry Kosgey, seated in the middle to my left?

19 A. I know him, your Honour.

20 Q. When did you first get to know the Honourable Henry Kosgey?

21 A. I have known him for quite some time. Longer than Mr. Ruto.

22 Q. In your introduction, you told the Court that you come from Aldai
23 constituency.

24 A. Yes, I do, your Honour.

25 Q. Do you know which constituency the Honourable Henry Kosgey comes

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1 from?

2 A. Yes, your Honour. He comes from Tinderet constituency.

3 Q. And how far is it from your home, Aldai constituency, to Tinderet
4 constituency?

5 A. It's about 37 kilometres, your Honour.

6 Q. Mr. Cheramboss, do you know Joshua Arap Sang, the gentleman
7 seated in the row behind me to my left?

8 A. I do, your Honour.

9 Q. When did you first get to know Joshua Arap Sang?

10 A. About three years ago is when I started hearing him as a
11 broadcaster, but knowing him and meeting him, I met him for the first
12 time last year, 2010.

13 Q. Please tell the Court under what circumstances you met
14 Mr. Joshua Arap Sang.

15 A. Your Honour, we happened to be together in a function in Eldoret,
16 at the rehabilitation centre.

17 Q. That's where you first met Joshua Arap Sang?

18 A. Yes, your Honour.

19 Q. Could you please just give some explanation about this
20 rehabilitation centre you met.

21 A. Your Honour, Haven Rehabilitation Centre is a centre started by a
22 gentleman called Pastor Rono in Eldoret. It rehabilitates the drunkards.
23 That is what I can explain, your Honour.

24 Q. I see. And what was your purpose of your visit there,
25 Mr. Cheramboss?

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1 A. I had a relative who was graduating at that centre.

2 Q. Now, Mr. Cheramboss, please the Court whether William Ruto has
3 been to your home in Aldai constituency.

4 A. Your Honour, Ruto came to my house for the first time on the
5 26th of June, 2010. He was coming from a visit or a function at
6 Father Mayer Secondary School in Aldai constituency. So he came to my
7 place at about 3.00 p.m. on his way home to see where I live. That was
8 on the 26th of June, 2010.

9 THE INTERPRETER: Message from the interpreters: Could counsel
10 and witness please observe a five-second pause.

11 MR. KILUKUMI:

12 Q. (Previous translation continues) ... is of the record and
13 gravity. Mr. Cheramboss, did Mr. Ruto visit your home in the year 2007?

14 A. Your Honour, Ruto had not been to my place until the 26th of
15 June, 2010. He had never been to my place at all, your Honour.

16 Q. Mr. Cheramboss, do you know a gentleman by the name of
17 General Koech?

18 A. I know General Koech.

19 Q. Please tell the Court what General Koech -- what position he was
20 holding in the Kenyan army.

21 A. He was the deputy chief of general staff.

22 Q. Do you know when he retired?

23 A. I can't recall, your Honour.

24 Q. Please tell the Chamber whether General Koech has been to your
25 home.

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- 1 A. No, your Honour.
- 2 Q. Have you, Mr. Cheramboss, been to the home of General Koech?
- 3 A. No, your Honour.
- 4 Q. Mr. Cheramboss, please tell the Chamber whether you know a
5 gentleman known as Lieutenant-General Augustin Cheruiyot?
- 6 A. I do, your Honour.
- 7 Q. Under what circumstances did you get to know
8 Lieutenant-General Augustin Cheruiyot?
- 9 A. When I was serving in the Kenyan police force service, he was the
10 army commander of the Kenya armed forces.
- 11 Q. How would you describe your relationship with
12 Lieutenant-General Augustin Cheruiyot?
- 13 A. I would say he was a colleague.
- 14 Q. Has Augustin Cheruiyot been to your home?
- 15 A. No, your Honour.
- 16 Q. Mr. Cheramboss, several Prosecution witnesses have stated in
17 statements that you had a meeting in December 2007 in your home attended
18 by, amongst others, Mr. Ruto, Mr. Kosgey, Mr. Sang, General Koech, and
19 Augustin Cheruiyot. What is your reaction to those statements?
- 20 A. Your Honour, no meeting was ever held at my place, at my house,
21 in December as alleged, and none of the people mentioned here were in my
22 place, even in December.
- 23 Q. Mr. Cheramboss, do you -- in 2007, did you hold any position in a
24 political party?
- 25 A. Your Honour -- no, your Honour.

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1 Q. Have you at any time been an official of any political party?

2 A. Not at all, your Honour.

3 Q. Mr. Cheramboss, you've told the Chamber that you've never been to
4 the home of Mr. Ruto at Sugoi.

5 A. Yes, your Honour.

6 Q. It has been alleged in statements recorded by Prosecution
7 witnesses that you, Mr. Cheramboss, among other people, General Koech,
8 Lieutenant-General Augustin Cheruiyot and yourself were at the home of
9 Mr. Ruto in 2007. What is your reaction to those statements?

10 A. Those are total false allegations, your Honour. I've never been
11 to Ruto's place. We -- at any given time, and this can be tested by
12 anybody.

13 MR. KILUKUMI: Thank you, Madam President, I have no further
14 questions for the witness.

15 PRESIDING JUDGE TRENDAFILOVA: So you have exhausted all the
16 questions.

17 MR. KILUKUMI: That is the only issue I wanted the witness to
18 testify on.

19 PRESIDING JUDGE TRENDAFILOVA: Thank you.

20 Then the Office of the Prosecutor, please, you have the floor.

21 You may proceed, please.

22 MS. TAI: Thank you.

23 Questioned by Ms. Tai:

24 Q. Good morning, Mr. Cheramboss.

25 A. Good morning, Madam Prosecutor.

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1 Q. I would like to ask you first about some questions about your
2 career. Yes?

3 A. Yes, ask.

4 PRESIDING JUDGE TRENDAFILOVA: Mr. Cheramboss, do you feel at
5 ease?

6 THE WITNESS: Very much at ease.

7 PRESIDING JUDGE TRENDAFILOVA: So we can proceed. You do not
8 need a break?

9 THE WITNESS: We can proceed, your Honour. I'm very much at
10 ease.

11 PRESIDING JUDGE TRENDAFILOVA: Thank you.

12 So go ahead, Ms. Tai.

13 MS. TAI:

14 Q. As part of your career, sir, were you appointed as the commander
15 of the GSU?

16 A. I was the General Service Unit commander.

17 Q. Okay.

18 A. Yes, your Honour, I was the commander.

19 Q. And is that recognised as a light -- elite squad?

20 A. It is not a squad. It is a wing of the police force or police
21 service.

22 Q. Okay. Does it have specialised training?

23 A. It has, your Honour.

24 Q. Can you tell us what type of specialised training that it has?

25 A. Your Honour, the General Service Unit is a wing that is used by

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1 the Kenyan government when we have a (* indiscernible) of raids, riots,
2 and also security along the borders.

3 Q. And what type of training is involved for that particular wing?

4 A. It is police and paramilitary.

5 Q. Can you further describe what type of training that wing -- those
6 wing members receive?

7 A. It's maintenance of law and order, protection of life and
8 property, and (* indiscernible), et cetera.

9 Q. I'm sorry, first, how long did you hold that position?

10 A. I was the commander of the General Service Unit for the -- for
11 three good years.

12 Q. And is that the top position?

13 A. What do you mean by "top position"?

14 Q. You are the general commander in the GSU, correct, for three good
15 years?

16 A. Yes, I was the commandant, and the commandant General Service
17 Unit is under the commission of the police of Kenya.

18 Q. Now, back to my question regarding training, sir. What type of
19 training did you receive for that position?

20 A. I was training in Kenya. As a person, I was training as a police
21 officer in Kenya and outside Kenya.

22 Q. Did --

23 PRESIDING JUDGE TRENDABILOVA: Mr. Cheramboss, would you speak a
24 little bit slower for our interpreters.

25 THE WITNESS: Thank you, madam, your Honour.

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1 PRESIDING JUDGE TRENDAFILOVA: Yes. To take advantage of
2 asking -- making this -- this comment, what was the period when you had
3 this top position as -- as alleged by -- as asserted by the
4 representative of the Prosecutor, the three-years period?

5 THE WITNESS: Three years, your Honour, as a commandant General
6 Service Unit.

7 PRESIDING JUDGE TRENDAFILOVA: Yes, when?

8 THE WITNESS: From 1999 to 2002 when I retired.

9 PRESIDING JUDGE TRENDAFILOVA: Thank you.

10 THE WITNESS: Thank you.

11 PRESIDING JUDGE TRENDAFILOVA: Thank you.

12 MS. TAI:

13 Q. Back to the question on training, sir: Were you trained on the
14 use of weapons?

15 A. Your Honour, as a paramilitary man, definitely I was trained on
16 weapons.

17 Q. Can you please articulate for the Chamber what type of training
18 you received?

19 A. What do you mean, the training in arms? What do you mean?

20 Q. Yes, with respect to weapons.

21 A. Small arms. When I say "small arms," you're trained on how to
22 maintain law and order by using small arms. Small arms, I mean pistols,
23 grenades, AK-47, G3s up to a certain limit which the laws of the country
24 allows.

25 Q. Were you -- excuse me. Were you trained on conducting safe

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1 passage of roads? Let me ask you a different question.

2 A. Yeah.

3 Q. Were you trained on how to erect roadblocks?

4 A. Yes. Roadblocks, yeah, it's a matter for every policeman, yes.

5 Q. Okay. And can you explain to the Chamber what type of training
6 you received?

7 A. A roadblock -- if a roadblock is laid, your Honour, you must have
8 at least eight policemen. Two policemen on both sides of the road, two
9 policemen beside the roadblocks, four policemen checking the traffic, and
10 then you have a small team now carting those who are working along the
11 road checking the traffic.

12 Q. Were you also trained on the deployment of troops?

13 A. Your Honour, as the commandant GSU, I was trained about the
14 companies that we have in the General Service Unit. So I was trained to
15 deploy the companies in the unit.

16 Q. And were you trained in the redeployment of troops?

17 A. That was my responsibility to train my troops.

18 Q. For redeployment?

19 A. The government decides where the troops go, and then that was
20 done.

21 Q. I'm not asking you, sir, what the government decided. I'm asking
22 you if you had training in the redeployment of the troops?

23 A. I was trained.

24 Q. What type of training did you receive?

25 A. If the government decides that certain company should move to one

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1 place, it was my responsibility to do that, your Honour.

2 Q. Okay. And can you describe for the Chamber how it's done?

3 A. I'll give you an example: If a company is in Mombasa and you
4 have a problem in western Kenya, the Ministry of Internal -- Internal
5 Security decides and say we have to move a company to the western Kenya.
6 It was my responsibility to ask the company commander to move to where
7 the government has decided.

8 Q. Mr. Cheramboss, I'd like to now move on to another topic.

9 A. Come again?

10 Q. I would now like to move on to another topic.

11 A. Go ahead.

12 Q. Mr. Cheramboss, you know why we are here today.

13 A. I know, your Honour.

14 Q. When you did you first learn about this particular situation at
15 the International Criminal Court?

16 A. About the incident, or when did I learn -- come again?

17 Q. Sure. I'll re-ask the question.

18 A. Yes.

19 Q. When did you first learn about this incident, this case, at the
20 International Criminal Court?

21 A. On the 30th -- on the night of 30th June 2007 is when this
22 incident occurred.

23 Q. Is when you learned?

24 A. About the violence, yes.

25 PRESIDING JUDGE TRENDABILOVA: Ms. Tai, please ask your question

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1 very clearly to the witness, because obviously Mr. Cheramboss didn't get
2 it.

3 MS. TAI: I understand. Thank you.

4 Q. Mr. Cheramboss, we are here today at the
5 International Criminal Court; correct? Yes?

6 A. Yes.

7 Q. When did you first learn about the International Criminal Court's
8 involvement?

9 A. I can't remember the exact date, but immediately after -- after
10 the negotiations. I don't remember the exact dates.

11 Q. Can you give us a month or a year?

12 A. I don't want to guess. If you allow me to guess, your Honour, I
13 can guess because I don't have it on record. Can I guess?

14 PRESIDING JUDGE TRENDAFILOVA: Go ahead, Mr. Cheramboss. What
15 you remember, your recollections, sir, what is important for the Chamber,
16 as they are.

17 THE WITNESS: Thank you. It was about 2008. I don't remember
18 the month and I'm not very sure of the date.

19 MS. TAI:

20 Q. 2000 and --

21 A. I said I don't want to guess. I don't remember the dates.

22 Q. Fair enough. As you sit here today, are you aware that you have
23 been identified as a participant?

24 A. Your Honour, from the statement that I held a meeting in my
25 place, that is when I know where I have been identified with this case.

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1 Q. You know that?

2 A. Yes, your Honour.

3 Q. And are you aware, sir, that you have been identified as a
4 commander?

5 A. Exactly. That is why I've given my evidence today. It has been
6 alleged.

7 Q. Now, when did you first learn that you're identified as a
8 participant?

9 A. I confirm that you as Prosecution had identified me this year,
10 but there has been rumours. But this year's when I confirmed --

11 Q. Okay.

12 A. -- you had identified me.

13 Q. First, how did you learn that?

14 A. It was in the papers.

15 Q. Did you discuss that with anyone?

16 A. I -- no.

17 Q. What did you do when you learned?

18 A. I thought it was just a rumour until this year when I confirm.

19 Q. How did you confirm?

20 A. From ...

21 Q. Did you talk to anyone?

22 A. I spoke to -- I spoke to the advocates whether there's anything
23 about me. He said no. I don't do my own inquiries --

24 Q. Okay.

25 A. Let me finish. I was told you had mentioned me as having held a

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1 meeting at my place. I was told by the Defence, and that's why I've
2 given evidence.

3 Q. You were told it by the Defence.

4 A. Yeah.

5 Q. Who? Who told you?

6 A. The advocate.

7 Q. Who told you?

8 A. The advocate.

9 Q. What is the advocate's name?

10 A. Katwa.

11 Q. And when precisely did you speak to Katwa?

12 A. When I was making my statement.

13 Q. Mm-hmm.

14 PRESIDING JUDGE TRENDAFILOVA: Ms. Tai, I'm sorry, I received a
15 message from the interpreters in French asking that we make pauses.

16 MS. TAI: Sure.

17 PRESIDING JUDGE TRENDAFILOVA: After the answer of the witness,
18 before going ahead with your question, to pause. Go ahead.

19 MS. TAI: I'll do my best. Thank you.

20 THE INTERPRETER: Many thanks from the interpreters.

21 MS. TAI:

22 Q. Mr. Cheramboss, you said that you were told by Katwa; is that
23 right?

24 A. Yes.

25 Q. When were you told?

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1 A. Last month.

2 Q. That was the first time?

3 A. Yes, your Honour.

4 Q. When last month?

5 A. I don't remember the exact date.

6 Q. Sometime during the month of August.

7 A. Yes, your Honour.

8 Q. Who initiated this contact?

9 A. Your Honour, when I got the information, I personally said as a
10 Christian I will give evidence voluntarily as a person on what had been
11 alleged against me, and I said I'll give evidence, a sworn evidence
12 before the ICC on what transpired. Nobody forced me, and I told them I
13 want to give evidence.

14 Q. Sir, I did not ask you that particular question. The question
15 was when did -- was first when you had contact with Katwa, and secondly,
16 who initiated that contact? Was it you or was it him?

17 A. When I got the information that had been mentioned, it was me who
18 said I should give the evidence, me.

19 Q. So you contacted him.

20 A. I told him I want to give evidence.

21 Q. So you contacted him.

22 A. Yes, your Honour.

23 PRESIDING JUDGE TRENDABILOVA: I'm sorry, I would like to ask a
24 question.

25 Mr. Cheramboss, you said a while ago that you had the information

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1 about the case. First you made one statement. In 2008, for the first
2 time, you understood that there was a situation or a case before the ICC,
3 the International Criminal Court, and you know it due to the negotiations
4 going on. I didn't understand what negotiations, number one. I would
5 like you to make a clarification on this.

6 Thereafter, you said that it was the Defence counsel, Mr. Katwa,
7 who informed you about your name being involved in -- in some way by the
8 Prosecutor in the facts as alleged by the Prosecutor about some meetings
9 taking place in your place, in Mr. Ruto's place, and so on. Now, just a
10 second ago, you said that you said that you were the one to approach
11 Mr. Katwa. So what exactly is your answer? I would ask you to clarify
12 to me. Maybe I didn't get exactly your point.

13 THE WITNESS: Your Honour, when Katwa told me about the
14 information that my name had been floated around, that I was -- I hosted
15 an illegal meeting at my place, the issue of witnesses for
16 Honourable Ruto came up, and I personally said -- I hope I'm being --
17 you're getting me, your Honour.

18 PRESIDING JUDGE TRENDAFILOVA: Yes, I do.

19 THE WITNESS: It is me who now said I'm prepared as a person -- I
20 was not approached after discussion. I am prepared to give evidence on
21 what's transpired at my place and any allegations made between me and
22 Ruto and Honourable Kosgey and (* indiscernible). It is me.

23 PRESIDING JUDGE TRENDAFILOVA: Thank you very much,
24 Mr. Cheramboss. And what about this statement that you made about year
25 2008, without --

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1 THE WITNESS: Yeah, your Honour.

2 PRESIDING JUDGE TRENDABILOVA: -- recalling the exact date, that
3 you understood about the involvement at the International Criminal Court
4 from, I quote you, "the negotiations"? What negotiations you meant?

5 THE WITNESS: Your Honour, the presidential -- the election
6 results was highly contested in Kenya, and because of the points our
7 questions raised, negotiations between the two parties was initiated,
8 which was presided by persons named at that time or referred as
9 personalities. The discussion between the PNU and the ODM resulted in
10 what I'm now referring that a coalition government was put in place, and
11 now it was said that investigations to the violence in Kenya be
12 initiated. That is what I know up to there, your Honour.

13 PRESIDING JUDGE TRENDABILOVA: Thank you very much. Thank you.

14 Ms. Tai, the floor is over to you.

15 MS. TAI:

16 Q. So if I understood you correctly, you learn about this situation
17 first during the negotiations; correct?

18 A. Yeah, correct. Yeah.

19 Q. But you don't talk to anyone about it?

20 A. Sorry?

21 Q. You do not discuss this fact with anyone?

22 A. It was in a public domain about the issues.

23 Q. Is your answer no?

24 A. Discussing with somebody we -- your Honour, we discuss in Kenya
25 on what has been put in domain. So do I say no or yes. Because if

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1 something has been in the papers, people discuss in various places. So I
2 don't know what Madam Prosecutor is saying you discussed with which
3 person. Who ...

4 Q. If I understood you correctly, you said that you learned of this
5 situation in the press; right?

6 A. I did what?

7 Q. Learned of this situation in the public domain. Yes? Is that
8 what you said?

9 A. Yes.

10 Q. After that, did you discuss this situation with another person or
11 persons? First you said no and then I think you started to say yes, so
12 I'm just asking you to clarify that.

13 A. You know, you're taking me back and front. Which one are you
14 referring to in particular, because you're saying 2008? I want it to
15 come up clearly.

16 PRESIDING JUDGE TRENDABILOVA: Ms. Tai, this is a valid answer,
17 because Mr. Cheramboss already explained that they discuss in the public
18 domain.

19 MS. TAI: Yes. My question -- but I will move on.

20 (Trial Chamber confers)

21 MS. TAI:

22 Q. Secondly, you said that you were talking the next moment -- was
23 that you spoke to Katwa about this last month and that you told him that
24 you wanted to -- to testify?

25 A. Yes.

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1 Q. Was that your only discussion with Katwa about this?

2 A. Your Honour, when you are discussing an issue, I don't know
3 whether one is limited to discuss only one point. We discussed various
4 issues.

5 Q. I'm asking you if that was the only time that you spoke to Katwa
6 about this. That was only on one occasion.

7 A. We have discussed with Katwa last month, I think, after me
8 volunteering to give evidence. We have discussed, I think twice or
9 several times. It wouldn't be once. Because when you discuss, and
10 you -- there are other issues that follow, and that's exactly what I did,
11 your Honour. It's not once.

12 Q. How many times?

13 A. I can't -- I can't count, because we would even discuss the same
14 day twice on the telephone. So I can't say once.

15 Q. So many times.

16 A. Not so many times. At times twice, but it was last month. I
17 didn't give a record of that.

18 Q. Sorry?

19 A. I didn't give a record of how many times we discuss.

20 Q. You can't remember.

21 A. It's difficult because you are talking to somebody twice or three
22 times a day. You can't ...

23 Q. Would you not agree, sir, that this would have been an important
24 event?

25 A. This is a very important event, and I don't think if I knew that

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1 I would record every time I spoke to Katwa I would have done it.

2 Q. But you don't remember?

3 A. I can't remember specifically how many times I spoke to him. And
4 as a Christian I don't want to lie and say this is how it is.

5 Q. Now, today you told us that you have never been -- never stepped
6 into Mr. Ruto's house; is that correct?

7 A. Hundred per cent correct.

8 Q. Do you know where his house is?

9 A. I'm told it is in Turbo or it's in Uasin Gishu North. That's
10 Eldoret North. I've never been there.

11 Q. The question is not whether you have been there.

12 A. I've not been there.

13 Q. Do you know where it is?

14 A. I don't know where it is, but I'm told it is in Eldoret North.

15 Q. So you aren't able to describe this home for us; is that right?

16 A. The house?

17 Q. Mm-hmm.

18 A. I cannot.

19 Q. Now, I'd like to ask you some very specific questions about
20 December of 2007.

21 A. Do it.

22 MS. TAI: Just one moment, your Honour.

23 (Prosecution counsel confer)

24 MS. TAI: Just one moment. Sorry.

25 PRESIDING JUDGE TRENDAFILOVA: Take your time, Counsel.

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1 MS. TAI: Thank you.

2 (Prosecution counsel confer)

3 MS. TAI:

4 Q. First, I'd like to direct your attention to November of 2007.

5 A. Yeah, go ahead.

6 Q. In November of 2007, did you attend a meeting at the Sirikwa
7 hotel?

8 A. No, your Honour.

9 Q. Do you remember attending any meetings in November of 2007?

10 A. Where?

11 Q. Any meetings with William Ruto.

12 A. I don't remember any meeting I attended with the Honourable Ruto
13 in November. I don't remember.

14 Q. Let's move on to December 6th. Yes?

15 A. Yes.

16 Q. Did you attend any meeting with Mr. Ruto or Henry Kosgey?

17 A. Where?

18 Q. I'm not asking you where. I'm asking if you did.

19 A. I don't remember attending any meeting with Honourable Ruto and
20 Kosgey.

21 Q. Okay. Where were you on December 6th?

22 A. I must have been in Aldai constituency.

23 Q. You must have been.

24 A. Yes, I must have been, because all of December I was at home.

25 Q. Sorry?

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1 A. The whole of December I was at home.

2 Q. At home?

3 A. Nandi South, that is, Aldai constituency.

4 Q. In Aldai?

5 A. In Aldai.

6 Q. Who were you with?

7 A. Your Honour, I didn't keep the diary where I was, but to my
8 recollection, I was at home.

9 Q. Who were you with?

10 A. I didn't keep a record of where I was. As a small farmer and as
11 a retiree, I was not giving my daily events.

12 Q. I understand that, but you said you were at home.

13 A. I don't want you to put words in my mouth. I said I must have
14 been in Nandi South, Aldai constituency.

15 Q. But not at home?

16 A. You know, in -- your Honour, can I explain what I mean by that?

17 PRESIDING JUDGE TRENDABILOVA: Of course, go ahead.

18 THE WITNESS: When I say I'm at home, it's not that I'm sitting
19 in my house. I can first go to my business place, go to a friend's
20 place, but it's difficult to put a diary that was (* indiscernible)
21 unless it's a big occasion where you say, I was here.

22 MS. TAI:

23 Q. Fair enough. Do you remember who you were with?

24 A. I don't.

25 Q. No particulars?

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1 A. No particulars.

2 Q. Okay. Now, I'd like to draw your attention to December 14th.

3 A. Yes.

4 Q. Do you recall what you were doing on December 14th?

5 A. No.

6 Q. Can you tell us who you were with?

7 A. I said I can't remember. I can't remember. That's the question

8 you've asked me. I can't remember.

9 Q. No details.

10 A. No details.

11 Q. December 16th, the same question.

12 A. No details at all.

13 Q. Mm-hmm. You don't know who you were with or what you were doing.

14 A. Exactly.

15 MS. TAI: Just one moment, your Honour.

16 PRESIDING JUDGE TRENDABILOVA: You have all the time, until 11.00

17 when we have a break.

18 MS. TAI: Just one moment, please.

19 (Prosecution counsel confer)

20 MS. TAI:

21 Q. Do you --

22 MS. TAI: I'm sorry, just one more set of questions.

23 Q. You indicated, sir, that at one point -- is it Mr. Ruto that came

24 to your house?

25 A. Yes, your Honour. Ruto came to my house on the

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1 26th of June, 2009. And I want to repeat: 26th of June, 2009.

2 Q. And 9. Ten? And what were the circumstances?

3 A. He was our chief guest in pride ceremony at

4 Father Mayer Secondary School.

5 Q. And why did he come to your house?

6 A. I personally told him, Mr. Ruto, I want you to know my place.

7 Q. Mm-hmm.

8 A. And after the meeting, it was around 3.00 p.m. he passed my place

9 for about ten or less than ten minutes, and he went. That is what
10 happened.

11 Q. Who else was -- was present?

12 A. He was present with the chairman of the county council and myself
13 and my wife.

14 Q. Chairman of the county council?

15 A. Yeah, with the councillor of that place and my wife.

16 Q. And what is the councillor's name?

17 A. Councillor Ruto.

18 Q. So there's three of you or four?

19 A. Councillor Ruto, myself, and my wife and children, so we were
20 more than ten. We were many.

21 MS. TAI: That's it. I have nothing further.

22 Questioned by the Court:

23 PRESIDING JUDGE TRENDABILOVA: Mr. Cheramboss, what was the dated

24 when you met for the first time Mr. Ruto in your place, because a while

25 ago you said it is the 26th of June, 2010, and now you're --

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- 1 A. Correction, your Honour. It is 2009, your Honour.
- 2 PRESIDING JUDGE TRENDAFILOVA: What you said right now.
- 3 A. I said it right, your Honour.
- 4 PRESIDING JUDGE TRENDAFILOVA: Okay.
- 5 (Trial Chamber confers)
- 6 PRESIDING JUDGE TRENDAFILOVA: The Defence or Ms. Chana --
- 7 (Trial Chamber confers)
- 8 PRESIDING JUDGE TRENDAFILOVA: Just a moment. Judge Kaul would
- 9 like to pose questions. We have ten more minutes till the break.
- 10 JUDGE KAUL: Mr. Cheramboss, in the year 2007, before the
- 11 elections held on 27 December, did you meet Mr. Ruto?
- 12 A. No, your Honour.
- 13 JUDGE KAUL: You now say that in the entire year before the
- 14 elections, you never met Mr. Ruto?
- 15 A. Not meeting, your Honour. I met Ruto. What I'm talking about is
- 16 my house, but I met Ruto in 2002 -- 2007. I met him, but he had never
- 17 been to my house.
- 18 JUDGE KAUL: I'm aware that you said that Mr. Ruto was never at
- 19 your house.
- 20 A. Yes, your Honour.
- 21 JUDGE KAUL: But I would like to know whether you met Mr. Ruto in
- 22 the course of the year 2007 before the elections, and if so, when and how
- 23 many times?
- 24 A. Your Honour, I met Ruto I think once in 2007 when he was passing
- 25 up Kaptumo centre. That's 2007, once.

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1 JUDGE KAUL: I did not understand it. Could you repeat your
2 answer.

3 A. Your Honour, I met Ruto once in 2007 when he was passing from his
4 campaign at Kaptumo once. I don't remember the month but I met him once
5 in 2007.

6 JUDGE KAUL: Could you describe the circumstances under which you
7 met Mr. Ruto?

8 A. Yes, your Honour. It was during the campaign time, and he was
9 criss-crossing the Aldai constituency, which Kaptumo falls under.

10 JUDGE KAUL: Did you meet him alone or together with other
11 persons?

12 A. No. There were so many people. So as somebody campaigning, we
13 were able to meet him, wish him the very best as he moves to other areas.

14 JUDGE KAUL: So this was an event in the election campaign. Do I
15 understand you right?

16 A. This was -- you see, during the elections, your Honour, there was
17 preprimaries for the ODM and the other parties. So Ruto was
18 criss-crossing because he wanted to be a representative of ODM. That is
19 the time I met him, because he was criss-crossing. But after that he
20 went back to his Eldoret North to campaign for parliamentary seat. So I
21 met him when he was criss-crossing the constituency trying to become a
22 representative or a candidate for ODM.

23 JUDGE KAUL: I understand that you are saying that you met him
24 during an election event when he was campaigning for -- for the
25 elections. Can I repeat the question? How many people were present at

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1 the event when you met him?

2 A. There were very many. I won't say there were very few. It was
3 during the day-time, and it was very many.

4 JUDGE KAUL: Did you have a bilateral conversation with Mr. Ruto?

5 A. No.

6 JUDGE KAUL: Did you shake hands with him?

7 A. No.

8 JUDGE KAUL: Can you indicate at least the month of the meeting
9 with Mr. Ruto?

10 A. Your Honour, I can't recall.

11 JUDGE KAUL: You cannot.

12 A. I cannot recall, your Honour.

13 JUDGE KAUL: Thank you. No further questions for the moment.

14 Thank you.

15 PRESIDING JUDGE TRENDAFILOVA: Ms. Chana, you wanted to raise --

16 MS. CHANA: Yes, your Honour.

17 PRESIDING JUDGE TRENDAFILOVA: -- some questions.

18 MS. CHANA: Nothing from the evidence which has emerged I have
19 any questions to put, but I don't know whether I would be allowed to just
20 ask a few questions of the witness given his stature and standing and
21 knowledge of the country during the violence whether there was, to his
22 knowledge, any burning and looting of property. That would be the only
23 one question I would put to him.

24 PRESIDING JUDGE TRENDAFILOVA: As far as there are just five
25 minutes left, I'm going to discuss with my colleagues, and after we come

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1 back at 11.30, we shall give you our answer.

2 The Defence. Would members of the Defence team would like to ask
3 some questions in the remaining minutes?

4 (Defence counsel confer)

5 MR. KILUKUMI: Madam President, may I seek clarification? Is it
6 time for me to do re-examination, or is it for my colleagues, if they so
7 wish, to question the witness.

8 PRESIDING JUDGE TRENDAFILOVA: We shall proceed if there is
9 something that does not require a lot of time. You can ask your question
10 now up to 11.00, otherwise we shall proceed after we come back to the
11 courtroom after the break.

12 MR. KILUKUMI: Madam President, given that the representative for
13 the victims may be asking questions, it would only be fair that I do
14 re-examination after they are finished.

15 PRESIDING JUDGE TRENDAFILOVA: Of course, this is without any
16 doubt. It was clarified.

17 MR. KILUKUMI: Yes, thank you, Madam President.

18 PRESIDING JUDGE TRENDAFILOVA: So now we shall have a break, and
19 we shall resume our session 11.30.

20 COURT USHER: All rise.

21 (The witness stands down)

22 Recess taken at 10.55 a.m.

23 On resuming at 11.29 a.m.

24 (Open session)

25 COURT USHER: All rise.

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1 PRESIDING JUDGE TRENDAFILOVA: We are back, and we resume our
2 session. I would like to ask first my colleagues whether they would like
3 to pose some questions at this point in time.

4 JUDGE KAUL: I would like to reserve the option to ask additional
5 questions at the end before the Defence.

6 PRESIDING JUDGE TRENDAFILOVA: Please, Court Officer, would you
7 usher the witness, Mr. Cheramboss.

8 (The witness takes the stand)

9 PRESIDING JUDGE TRENDAFILOVA: Mr. Cheramboss, we welcome you
10 again to the courtroom.

11 I would like to ask the Prosecutor's Office, do you have some
12 additional questions, because we stopped at this point and Judge Kaul was
13 asking some questions. During the break you could have reconsidered the
14 answers.

15 MS. TAI: I just have one simple question, actually.

16 PRESIDING JUDGE TRENDAFILOVA: Go ahead, Ms. Tai.

17 MS. TAI: Thank you.

18 PRESIDING JUDGE TRENDAFILOVA: Mr. Cheramboss, now the
19 representative of the Prosecutor is going to ask one additional question.

20 Further Questioned by Ms. Tai:

21 Q. Mr. Cheramboss, this morning we listened very carefully to what
22 you've said and if I understand you correctly, you've been a commander
23 for decades; is that right?

24 A. What do you mean by "decades"? Decades, yes.

25 Q. You've held your position as the GSU commander?

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1 A. I said I was the GSU commandant for three years.

2 Q. And if I understand your testimony correctly, you have nothing
3 more than a passing acquaintance with Mr. Ruto?

4 A. Your Honour, as I said - I want to repeat my answer - I first met
5 Ruto in 1997 when I was the (* indiscernible) commander. 1997 I think I
6 said in my evidence.

7 Q. And that's the extent of your relationship?

8 A. We have been meeting occasionally. The relationship is not
9 related to me at all.

10 MS. TAI: Okay. Nothing further.

11 PRESIDING JUDGE TRENDAFILOVA: Thank you, Ms. Tai.

12 Now the legal representatives of victims, Ms. Chana, the Chamber
13 decided to grant you this opportunity but keep it concise and to the
14 point still.

15 MS. CHANA: (Interpretation) I am most obliged to you,
16 Madam President.

17 Questioned by Ms. Chana:

18 Q. Mr. Cheramboss, good morning to you.

19 A. Good morning.

20 Q. I am the legal representative of the 327 victims which have been
21 recognised by this case. I just want to ask you a few questions, sir,
22 about your personal knowledge of the post-election violence. Now,
23 irrespective of who is to blame, would you acknowledge that crimes were
24 committed in the Rift Valley province in 2007 and early 2008?

25 A. Your Honour, crimes were committed not only in Rift Valley but in

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1 parts of Kenya, in several parts of Kenya. Crimes were committed.

2 Q. Yes, Mr. Cheramboss. I am concentrating on Rift Valley for the
3 purposes of my questions.

4 A. Yes, crimes were committed.

5 Q. Yes. Would you also acknowledge that the crimes typically
6 consisted of burning of houses, looting, and the population having to
7 flee from their homes? Would you say that those were the nature of the
8 crimes to the ordinary civilians in the Rift Valley province?

9 A. It was.

10 Q. You would agree with that. Thank you, Mr. -- would you also then
11 accept that, from your knowledge, of course, that mostly they were
12 Kikuyus who -- who suffered this fate?

13 A. Not only Kikuyus, your Honour. Even the Luos, even the Kisiis,
14 even the Kalenjins. It was violence that cut across the tribes.

15 Q. Yes. I understand that everybody suffered, but would you say in
16 the Rift Valley provinces it was -- of course there were other tribes who
17 also were the victims of violence, but would you say it was mostly
18 Kikuyu?

19 A. The majority were Kikuyu.

20 Q. Yes. Thank you, Mr. Cheramboss. Do you also accept,
21 Mr. Cheramboss, that a lot of them are still living in camps unable to
22 return to their home areas?

23 A. Your Honour, to my knowledge, of course this is knowledge. Some
24 have decided not to return to their respective farms because of their own
25 reasons, as we are speaking right now with the stability in the country.

Witness: Witness KEN-D09-P-0001 (Open Session)
Further Questioned by the Court

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1 Q. So if I understand you, Mr. Cheramboss, what you're saying is
2 that people are living in these camps because they want to?

3 A. I didn't say it was because of their volition because we don't
4 have any other violence in Kenya. It's based on some of their own
5 personal reasons.

6 Q. So they're living in the camps for their personal reasons. Yes.
7 Thank you. And would you also acknowledge that the conditions in this
8 camps are deplorable for the people living in them?

9 A. I have never been to any of the camps so I won't say it is good
10 or bad.

11 Q. Yes. Well --

12 A. I've not been to those camps.

13 Q. Thank you kindly, Mr. Cheramboss, for answering my questions.

14 A. Thank you.

15 MS. CHANA: (Interpretation) Thank you, Madam President.

16 PRESIDING JUDGE TRENDABILOVA: Thank you, Ms. Chana. You may be
17 seated.

18 Now we proceed with the Defence team of --

19 (Trial Chamber confers)

20 PRESIDING JUDGE TRENDABILOVA: Judge Kaul would ask some
21 questions.

22 Further Questioned by the Court:

23 JUDGE KAUL: Mr. Cheramboss, do you -- do you know a place in
24 Kenya which is called the Sirikwa hotel?

25 A. It is Sirikwa hotel I know, your Honour.

Witness: Witness KEN-D09-P-0001 (Open Session)
Further Questioned by the Court

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1 JUDGE KAUL: How far is it from your place?

2 A. From my rural home to Sirikwa is 81 -- to be precise, is 81
3 kilometres.

4 JUDGE KAUL: Yes. Have you met Mr. Ruto once at the Sirikwa
5 hotel?

6 A. Not even a single day.

7 JUDGE KAUL: Yeah. Mr. Cheramboss, do you -- do you know
8 Mr. Cheruiyot and -- or -- do you know Mr. Cheruiyot?

9 A. Augustin Cheruiyot I know him, if he's the one you're referring
10 to, your Honour.

11 JUDGE KAUL: I'm referring to him.

12 A. I know him, your Honour.

13 JUDGE KAUL: On Koech, K-o-e-c-h.

14 A. Koech. I know him, your Honour.

15 JUDGE KAUL: Have you had meetings, a meeting or meetings in 2007
16 with Mr. Cheruiyot and Mr. Koech?

17 A. No, your Honour.

18 JUDGE KAUL: Do you know a person called Mr. -- I withdraw this
19 question. I withdraw this question. Thank you very much.

20 PRESIDING JUDGE TRENDABILOVA: Thank you.

21 Now, the team -- Defence team of Mr. Ruto. Do you have
22 questions? You have the -- the right to ask your questions last.

23 MR. KILUKUMI: Thank you, Madam President. Madam President, I
24 had consulted and the lawyer for Mr. Sang said he wanted to question this
25 witness before I can do my re-examination. I don't know whether that is

Witness: Witness KEN-D09-P-0001 (Open Session)
Questioned by Mr. Kigen-Katwa

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1 permissible by the Chamber.

2 PRESIDING JUDGE TRENDAFILOVA: In case the testimony of any other
3 witness would touch upon some of the other suspects' interests, of course
4 their counsels could pose some questions. Of course to the limited
5 extent of what was mentioned regarding Mr. Sang.

6 MR. KILUKUMI: Thank you, Madam President, and I'm grateful.

7 PRESIDING JUDGE TRENDAFILOVA: So you have the floor, Mr. Katwa.

8 MR. KIGEN-KATWA: Thank you very much, Madam President and
9 your Honours.

10 PRESIDING JUDGE TRENDAFILOVA: Of course, please, I shall ask you
11 to adhere to our guiding that was presented by me in the introductory
12 comments.

13 MR. KIGEN-KATWA: Yes.

14 PRESIDING JUDGE TRENDAFILOVA: And so the questions are relevant,
15 they are relevant to the interests of your client --

16 MR. KIGEN-KATWA: Yes, Madam President.

17 PRESIDING JUDGE TRENDAFILOVA: -- and without posing questions
18 which contain the answer.

19 MR. KIGEN-KATWA: Most obliged, Madam President.

20 Questioned by Mr. Kigen-Katwa:

21 Q. Good morning, Mr. Cheramboss.

22 A. Good morning.

23 Q. Can I ask you whether in the course of your investigation which
24 you say you came to be aware as being conducted by the Office of the
25 Prosecutor whether you were, in fact, ever interviewed by the Office of

Witness: Witness KEN-D09-P-0001 (Open Session)
Questioned by Mr. Kigen-Katwa

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1 the Prosecutor?

2 A. No, your Honour.

3 Q. And would you have been easily available and ready if you had
4 been asked to comment on whether or not you participated?

5 A. Absolutely, yes.

6 Q. Now, you say you know of my client initially as a broadcaster.
7 Did you say that?

8 A. I did so.

9 Q. And then you met him much later?

10 A. Yes, your Honour.

11 Q. Could you tell the Court again when was it that you met him?

12 A. It was last year.

13 Q. The year 2010?

14 A. The year 2010, your Honour.

15 Q. Could you tell the Court under what circumstances you came to
16 know Mr. Joshua Sang before you got to meet him?

17 A. He's a very good broadcaster, and Kass FM is in our vernacular
18 language. Somebody like me who was retired, I occasionally opened
19 Kass FM to hear the news in Kalenjin.

20 Q. Thank you very much. So, in fact, that was my question: So you
21 actually listened to Kass FM from time to time?

22 A. Exactly, your Honour.

23 Q. Now, in the course of listening to Kass FM, it is said that
24 Joshua Sang held out messages to the effect that certain people should be
25 evicted from Rift Valley. May I ask you if you recall hearing anything

Witness: Witness KEN-D09-P-0001 (Open Session)
Questioned by Mr. Kigen-Katwa

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1 to that effect?

2 A. That is totally untrue. For the times that I opened my radio
3 Kass FM, I have never heard Joshua Sang inciting or saying anything that
4 affects other tribes like what you have just mentioned.

5 Q. Mr. Cheramboss, my question is very specific: Did you ever hear
6 him say that either Kikuyus or Kisiis or Kambas should be evicted from
7 Rift Valley?

8 A. No, your Honour.

9 Q. Did you hear him say either expressly or impliedly that
10 Rift Valley desires to create a bloc -- a voting bloc?

11 A. No, your Honour.

12 Q. Now, you told the Court a moment ago that, in fact, following
13 negotiations and mediations, a coalition government of ODM and PNU came
14 into existence.

15 A. Yes.

16 Q. May I ask you, do you know if there are any ODM Members of
17 Parliament from Rift Valley?

18 A. There are, your Honour.

19 Q. May I ask you in the same vein, are there any members of PNU from
20 Rift Valley?

21 A. Yes, your Honour.

22 Q. Rift Valley province?

23 A. Rift Valley province.

24 THE INTERPRETER: Message from the interpreters: If the witness
25 could be asked to slow down, please.

Witness: Witness KEN-D09-P-0001 (Open Session)
Questioned by Mr. Kigen-Katwa

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1 THE WITNESS: Thank you.

2 MR. KIGEN-KATWA:

3 Q. May I ask you: Is there any population of a concentration of
4 population of Kikuyus in Rift Valley?

5 A. They are there.

6 Q. Could you just tell the Court what areas, even only three, a
7 sample of three concentrations which produced a Member of Parliament in
8 PNU. Even general areas like districts if you can't remember
9 constituencies?

10 A. Yes, the PNU Members of Parliament who produced a PNU member, we
11 have one West Pokot. We have Marakwet. We have Marikas -- I think it is
12 Marigat, yeah.

13 Q. You will however confirm those are areas predominantly Kalenjin
14 occupied?

15 A. Exactly, your Honour.

16 Q. They voted in a member who went into the PNU. Could I ask you --

17 PRESIDING JUDGE TRENDABILOVA: Mr. Katwa.

18 MR. KIGEN-KATWA: Yes, your Honour.

19 PRESIDING JUDGE TRENDABILOVA: I received again a message from
20 the interpreters to slow down, you and the witness.

21 MR. KIGEN-KATWA: Thank you. I'm sorry, Madam President.

22 PRESIDING JUDGE TRENDABILOVA: Not too much, but still your page
23 should slow down.

24 MR. KIGEN-KATWA: I undertake to be more slow.

25 Q. Cheramboss, could you tell the Court if there are other areas

Witness: Witness KEN-D09-P-0001 (Open Session)
Questioned by Mr. Kigen-Katwa

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1 which are predominantly Kikuyu dominated in Rift Valley and who also
2 generated PNU Members of Parliament? Even as districts, if you can't
3 remember constituencies.

4 A. Molo.

5 Q. Yes, Molo.

6 A. Naivasha is one.

7 Q. Naivasha?

8 A. Nakuru.

9 Q. And you are talking of districts --

10 A. In Rift Valley.

11 Q. (* indiscernible) now it is said by witness that you actually
12 distributed guns. Do you have a answer to that question?

13 A. I've answer to it.

14 Q. Yes.

15 A. I have not at any given time stored or distributed arms of any
16 kind.

17 Q. Could you tell the Court, Mr. Cheramboss, if -- could you tell,
18 Mr. Cheramboss, if it is in fact only Rift Valley that had violence in
19 the -- after the announcement of presidential results in the year 2007,
20 if you know?

21 A. Your Honour, can I explain in a lengthy statement? I say can I
22 answer that question using quite a number of words?

23 PRESIDING JUDGE TRENDABILOVA: Yes, please go ahead.

24 THE WITNESS: The Defence, I want to say the violence erupted
25 spontaneously in most parts of the country where the presidential

Witness: Witness KEN-D09-P-0001 (Open Session)
Questioned by Mr. Kigen-Katwa

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1 elections results were announced. And to my understand, it was not
2 anything planned. It just erupted because of the perceived rigging of
3 elections. And the investigations appear to have been tailored through
4 certain communities because how come violence erupted in Mombasa,
5 Nairobi, Kisumu, Nakuru, and then all of a sudden it is tailored through
6 a particular community which is the Kalenjin. That is why I was asking,
7 your Honour, that let me explain and you have give me the authority.
8 That is what I wanted to say thank you.

9 PRESIDING JUDGE TRENDAFILOVA: Although your answer -- although
10 your answer was not a direct answer to the question of -- of the counsel.
11 So -- and on behalf of the Bench, there is a point to make, Mr. Katwa.
12 We asked you to ask questions that are related to your client and not to
13 go beyond this. Where do you go? What is your line of -- of reasoning
14 and your strategy?

15 MR. KIGEN-KATWA: Madam President, my point in respect to my
16 client was that he incited violence that eventually ensured in the
17 specific areas alleged by the Prosecutor, and the question that I want to
18 raise -- the submissions is to pose the question whether my client was
19 responsible for the violence that arose all over the place, or there's an
20 alternative explanation that it was actually spontaneous and directly
21 related with the results of the presidential elections.

22 PRESIDING JUDGE TRENDAFILOVA: Well, your answer was the one you
23 gave already, Mr. Cheramboss.

24 THE WITNESS: I gave -- and then that's why I requested you to
25 give me -- to explain.

Witness: Witness KEN-D09-P-0001 (Private Session)
Questioned by Mr. Kigen-Katwa

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1 PRESIDING JUDGE TRENDAFILOVA: Do you have some other questions.

2 MR. KIGEN-KATWA: Only one, Madam President. The question I want
3 to put to the witness, Madam President, relates to documents that were
4 supplied under confidential circumstances. And I was inquiring if I
5 could request to have the question posed to the witness in camera. I
6 have particularly a set of list of people with whom it is alleged that my
7 client and Mr. Cheramboss had a meeting, and I just wanted to put them to
8 the client without prejudicing the right of those -- the contents -- the
9 writers of the contents of those notes.

10 PRESIDING JUDGE TRENDAFILOVA: Court Officer, after shortly
11 conferring with my colleagues, in order to grant the request of the
12 counsel to -- to ask this last question, we have to go into a private
13 session.

14 (Public session at 11.51 a.m.)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

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Witness: Witness KEN-D09-P-0001 (Private Session)
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Page 51 expunged – Private session.

Witness: Witness KEN-D09-P-0001 (Private Session)
Questioned by Mr. Kigen-Katwa

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Witness: Witness KEN-D09-P-0001 (Private Session)
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Witness: Witness KEN-D09-P-0001 (Private Session)
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Page 54 expunged – Private session.

Witness: Witness KEN-D09-P-0001 (Private Session)
Questioned by Mr. Kigen-Katwa

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Witness: Witness KEN-D09-P-0001 (Private Session)
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Page 56 expunged – Private session.

Witness: Witness KEN-D09-P-0001 (Private Session)
Questioned by Mr. Kigen-Katwa

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Witness: Witness KEN-D09-P-0001 (Private Session)
Questioned by Mr. Kigen-Katwa

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18 (Open session at 12.05 p.m.)

19 COURT OFFICER: Madam President, your Honours, we're in open
20 session. Thank you.

21 PRESIDING JUDGE TRENDABILOVA: You have the floor.

22 MR. KILUKUMI: Thank you, Madam President.

23 MS. TAI: My apologies. Given that Mr. Katwa has had the
24 opportunity to question regarding Mr. Sang, we would like the
25 opportunity. I understand that the Defence has the last word and has the

Witness: Witness KEN-D09-P-0001 (Open Session)
Further Questioned by Ms. Tai

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- 1 opportunity to conduct --
- 2 PRESIDING JUDGE TRENDABILOVA: It will follow after you then.
- 3 MS. TAI: Thank you.
- 4 PRESIDING JUDGE TRENDABILOVA: Because I haven't seen, Ms. Tai,
- 5 that you stood up and you wanted the floor.
- 6 MS. TAI: Yes.
- 7 PRESIDING JUDGE TRENDABILOVA: Of course. Of course. This is
- 8 another Defence team posing different questions. Of course you have to
- 9 have the right to ask the questions yourself.
- 10 MS. TAI: Yes.
- 11 PRESIDING JUDGE TRENDABILOVA: You have the floor.
- 12 Further Questioned by Ms. Tai:
- 13 Q. Just a few questions, Mr. Cheramboss. You have told the Chamber
- 14 that you listened to Kass FM; correct?
- 15 A. Occasionally.
- 16 Q. Right. In December of 2006, when did you listen to Kass FM?
- 17 A. I did not put a date on when I listened to Kass FM. You open
- 18 when you have time.
- 19 Q. So you don't know?
- 20 A. I don't know.
- 21 Q. Okay. With respect to November of 2007, did you listen to
- 22 Kass FM?
- 23 A. Yes, occasionally.
- 24 Q. When?
- 25 A. I don't have the dates. I don't write.

Witness: Witness KEN-D09-P-0001 (Open Session)
Further Questioned by Ms. Tai

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1 Q. Morning, noon --

2 A. It's mostly mornings before I go for my personal duties.

3 Q. Okay. How many mornings in one week?

4 A. It depends when I have time. I don't count.

5 Q. So you don't know.

6 A. No.

7 Q. And in December of 2007, the same question.

8 A. The same answer.

9 Q. You don't know.

10 A. Yes.

11 Q. Now, you've told the Chamber that, in your opinion, the
12 post-election violence was spontaneous; is that right?

13 A. Yes.

14 Q. But you're telling us that but you did not attend any meetings;
15 is that right?

16 A. Yes.

17 Q. And did you not go to Mr. Ruto's house.

18 A. Yes.

19 Q. So you really don't know?

20 A. I don't know.

21 Q. That's right.

22 PRESIDING JUDGE TRENDAFILOVA: Is that all you wanted to ask,
23 Ms. Tai? Okay.

24 Now finally Mr. Kilukumi.

25 MR. KILUKUMI: Thank you, Madam President, and your Honours.

Witness: Witness KEN-D09-P-0001 (Open Session)
Further Questioned by Mr. Kilukumi

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1 Further Questioned by Mr. Kilukumi:

2 Q. Mr. Cheramboss, you told the Chamber that you met Mr. Ruto at
3 Kaptumo, in the course of 2007 during a campaign meeting?

4 A. Yes, your Honour.

5 Q. Could you please give a description to the Chamber in the place
6 where this meeting was taking place?

7 A. It was within Kaptumo trading centre which is about 18 kilometres
8 from my place. It is about 15 kilometres south of Kapsabet. It's about
9 also 20 kilometres west of Nandi Hills.

10 Q. Was it in a public or in a private place?

11 A. It was public.

12 Q. Are you in a position, Mr. Cheramboss, to estimate the number of
13 people who were in attendance in that meeting?

14 A. Yes, your Honour.

15 Q. Sorry?

16 A. Yes.

17 Q. Please give an estimate to the Chamber.

18 A. It was slightly over 200 people.

19 Q. Slightly over 200 people.

20 A. Yes, please.

21 Q. Did you notice in the meeting any presence of the media?

22 A. No, your Honour, I don't remember see anybody from the media
23 house -- any of the media houses.

24 Q. Thank you. Mr. Cheramboss, you've been asked by the Prosecutor
25 about the 6th of December, 2007, your whereabouts. You remember that?

Witness: Witness KEN-D09-P-0001 (Open Session)
Further Questioned by Mr. Kilukumi

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1 A. As I said in my answer to the Prosecution, I don't remember.

2 Q. Mr. Cheramboss, I'm asking you, did you hear the Prosecutor
3 asking you specifically about the 6th of December, 2007.

4 A. She asked about 6th, and I think I --

5 Q. 6th of December?

6 A. Yes, your Honour.

7 Q. Very well. My question is: Do you recall being in either your
8 home or in Mr. William Ruto's home and in Mr. Ruto's company on that
9 particular date?

10 A. The answer is no.

11 Q. Thank you.

12 A. The answer is no.

13 Q. Do you recall the Prosecutor specifically asking about your
14 whereabouts on the 14th of December, 2007?

15 A. I do remember.

16 Q. Now, please tell the Chamber were you in the company of
17 William Ruto either in his home or at your home or on this particular
18 date?

19 A. The answer is no, I was not with Ruto.

20 Q. Mr. Cheramboss, the Prosecutor again specifically sought to know
21 your whereabouts on the 16th of December, 2007. My question is: Do you
22 recall being in the company of Mr. William Ruto either in his own home at
23 Sugoi or at your own home at Aldai?

24 A. No, your Honour.

25 Q. Thank you very much, Mr. Cheramboss.

1 MR. KILUKUMI: Thank you, Madam President. That's all for this
2 witness.

3 PRESIDING JUDGE TRENDABILOVA: So there are no more questions.

4 We thank you very much, Mr. Cheramboss, for coming here to
5 The Hague in order to present your recollections of some important events
6 taking place in your country. You're free to go, and we wish you a safe
7 trip back home. Thank you very much.

8 THE WITNESS: Madam President, I want to say thank you. Thank
9 you very much for the way you have treated me at the ICC Court, and I
10 want to say thank you to the Defence, thank you for the Prosecution, or
11 the Prosecutor. May God bless you.

12 PRESIDING JUDGE TRENDABILOVA: Thank you.

13 Court Officer, would you usher Mr. Cheramboss.

14 (The witness withdrew)

15 (Trial Chamber confers)

16 THE INTERPRETER: The Presiding Judge may wish to turn off her
17 microphone.

18 PRESIDING JUDGE TRENDABILOVA: Now, Court Officer, would you
19 usher the next witness of Mr. Ruto, Mr. Kabarosna Henry Kiprono, by the
20 nickname of Murei. Could you usher him into the courtroom.

21 As Judge Tarfusser is asking me why we're waiting, I received the
22 information that the witness is on his way to the courtroom. Somewhere
23 in the building of the ICC.

24 COURT OFFICER: Your Honour, I -- I would like to quickly add to
25 that that I was informed by the Victims and Witnesses Unit that they had

1 already started bringing the witness upstairs as at the time the current
2 witness ended his testimony. So he should be here any moment from now.

3 PRESIDING JUDGE TRENDABILOVA: Thank you.

4 COURT OFFICER: Thank you.

5 MS. TAI: Madam President, I just have one procedural matter that
6 perhaps we can use this time efficiently.

7 PRESIDING JUDGE TRENDABILOVA: Please address it to the Chamber.

8 MS. TAI: In the questioning of the first Defence witness, there
9 was questioning by the Defence, then there was questioning by myself, and
10 then, of course, Mr. Katwa, on behalf of Sang, went. Would it be
11 possible to restructure this in the interest of judicial economy so that
12 the Defence, whomever they may be, question once and then I would just
13 have the opportunity one time.

14 PRESIDING JUDGE TRENDABILOVA: Of course it could be accepted.

15 MS. TAI: I would prefer that.

16 PRESIDING JUDGE TRENDABILOVA: As you have seen in the schedule,
17 there was no time allotted to the other Defence teams, because this
18 witness comes, Mr. Cheramboss, with regard to the specific case regarding
19 Mr. Ruto.

20 MS. TAI: Yes.

21 PRESIDING JUDGE TRENDABILOVA: Of course if in his testimony he
22 would touch upon issues related to the other suspects in the case, their
23 Defence teams would be given the floor. So this is agreeable to us --

24 MS. TAI: (* overlapping speakers) thank you.

25 PRESIDING JUDGE TRENDABILOVA: -- that the Defence teams exhaust

1 their questions and then only thereafter, then the representative of the
2 Prosecutor will have the opportunity to just take once the floor.

3 MS. TAI: Thank you very much.

4 PRESIDING JUDGE TRENDAFILOVA: So it's solved, sorted out.

5 (The witness entered court)

6 PRESIDING JUDGE TRENDAFILOVA: Please take a seat. Good
7 afternoon. Good afternoon, Mr. Kabarosna. As far as the report of the
8 Victims and Witnesses Unit informs us that you would prefer that you're
9 questioned in Swahili.

10 THE WITNESS: Yes.

11 PRESIDING JUDGE TRENDAFILOVA: Okay. So do we have a Swahili
12 interpreter? Thank you very much.

13 So now we proceed. I shall ask you to speak relatively slowly in
14 order for the interpreters to be able to do their job.

15 Mr. Kabarosna, you're before the Pre-Trial Chamber II of the
16 International Criminal Court for the purpose of giving testimony in the
17 case of the Prosecutor versus Mr. Ruto, Mr. Kosgey, and Mr. Sang, but, in
18 particular, you have been identified as a witness by the Defence of
19 Mr. Ruto.

20 I would like to inform you about the order in which questions
21 will be -- who is going to question you first and followed by the other
22 parties and possibly participants in these proceedings. First, of
23 course, will be the Defence of Mr. Ruto to -- to put questions to you.
24 Thereafter, if in your testimony you would have touched upon some issues
25 related to the other suspects in this case, namely Mr. Kosgey and

1 Mr. Sang, their Defence teams would have the opportunity to ask you some
2 questions. Then the floor will be given to the representative of the
3 Prosecutor. The Chamber can ask questions any time if the Judges wish to
4 do so to make some -- to -- to seek some clarifications. But the Defence
5 team of Mr. Ruto will have last the floor to ask some additional
6 questions if need be.

7 I would like to inform you, also in addition to the work done by
8 the Victims and Witnesses Unit that you have to make a solemn undertaking
9 as to the truthfulness of the evidence that you will provide in these
10 proceedings. You're required also to refrain from giving false testimony
11 because in accordance with Article 70(1)(a) and Rule 66(3) of the
12 Rules of Procedure and Evidence the Court has jurisdiction over offences
13 of giving -- the offence of giving false testimony before this Chamber,
14 because making a solemn undertaking you are obliged to tell the truth
15 about your recollections regarding the events on which you're going to be
16 questioned.

17 In addition, I have to inform you about your right against
18 self-incrimination as was done by the Victims and Witnesses Unit, but the
19 Bench has its own responsibility regarding your right against
20 self-incrimination pursuant to Rule 74 of the Rules of Procedure and
21 Evidence. Pursuant to this legal provision, you may object to make any
22 statements that might tend to incriminate you. This is the text of
23 Rule 74(3)(a).

24 And second, you should be informed that the evidence provided by
25 you will not be used directly or indirectly against you in any subsequent

1 prosecution by the Court. The exception could be only in case the way
2 you behave could be considered as an offence against the administration
3 of justice or misconduct before the Court as provided in Article 70, 71,
4 and Rule 171 of the Rules of Procedure and Evidence.

5 Now I would like you to stand up and to be assisted by the
6 Court Officer to make a solemn undertaking.

7 COURT OFFICER: I solemnly declare.

8 THE WITNESS: (* No interpretation)

9 COURT OFFICER: That I will speak the truth.

10 THE WITNESS: (* No interpretation)

11 COURT OFFICER: The whole truth.

12 THE WITNESS: (* No interpretation)

13 COURT OFFICER: And nothing but the truth.

14 THE WITNESS: (* No interpretation)

15 WITNESS: WITNESS KEN-D09-P-0002

16 (Witness answered through interpreter)

17 PRESIDING JUDGE TRENDAFILOVA: Thank you very much. Just remain
18 for a moment standing, Mr. Kabarosna, because we would like you to
19 identify yourself by stating your full name, date and place of birth,
20 marital status, languages spoken, and current occupation.

21 THE WITNESS: (Interpretation) Madam President, my name is
22 Andrew (* as interpreted) Kiprono Murei.

23 THE INTERPRETER: The Swahili interpreter would like to know
24 whether the witness is using the Swahili channel.

25 PRESIDING JUDGE TRENDAFILOVA: Do you use the Swahili channel,

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- 1 Witness? The Court Officer is going to help you.
- 2 My learned colleagues proceed.
- 3 THE WITNESS: (* No interpretation)
- 4 PRESIDING JUDGE TRENDAFILOVA: Please proceed. Your full name.
- 5 THE WITNESS: (* No interpretation)
- 6 PRESIDING JUDGE TRENDAFILOVA: Once again.
- 7 THE WITNESS: (Interpretation) Thank you. My name is
- 8 Kiprono Murei. I was born in 1959, in Nandi. I am married and father of
- 9 four children. Currently, I live in Uasin Gishu in Uasin Gishu county.
- 10 I work in the committee for peace in Eldoret West. I am a member the
- 11 committee for peace in that district and that is where I live.
- 12 PRESIDING JUDGE TRENDAFILOVA: Please, you may be seated.
- 13 THE WITNESS: (Interpretation) Thank you.
- 14 PRESIDING JUDGE TRENDAFILOVA: Now the Defence team of Mr. Ruto,
- 15 you have the floor to start the questioning of your witness.
- 16 MR. KILUKUMI: Thank you, Madam President and your Honours.
- 17 Questioned by Mr. Kilukumi:
- 18 Q. Mr. Murei, please tell the Chamber whether you know
- 19 Honourable William Ruto.
- 20 A. I do know him.
- 21 Q. For how long have you known Honourable William Ruto?
- 22 A. I know the Honourable Ruto when he became a member of the
- 23 government in 1982 (* as interpreted).
- 24 Q. Mr. Murei, do you know where the home of Honourable William Ruto
- 25 is situated?

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1 A. Yes.

2 Q. How far is your home from the home of Mr. Ruto?

3 A. It's not far. My house is about a hundred metres away from
4 Mr. Ruto's house.

5 THE INTERPRETER: Overlapping speakers.

6 THE WITNESS: (* No interpretation)

7 PRESIDING JUDGE TRENDABILOVA: Let us make pause --

8 THE INTERPRETER: Message from the interpreters: The pause was
9 not respected, and unfortunately the interpreters were not able to
10 ensure -- determine who was speaking.

11 PRESIDING JUDGE TRENDABILOVA: Yes. Would you, Counsel, really
12 wait while the interpreters could translate from Swahili and only
13 thereafter you can make your point.

14 MR. KILUKUMI: Thank you. I'll do that, Madam President.

15 PRESIDING JUDGE TRENDABILOVA: Once again, would you repeat your
16 question that the interpreters couldn't translate for the rest of us.

17 MR. KILUKUMI: Yes.

18 Q. Mr. Murei, could you please tell the Chamber whether
19 Mr. William Ruto is your immediate neighbour.

20 A. Yes, he is a close neighbour.

21 Q. Please tell the Court when did William Ruto put up his home at
22 Sugoi, if you know.

23 A. The Honourable Ruto built his house in Sugoi -- well, less than
24 ten years ago. That is when he built his house.

25 Q. Please tell the Chamber whether Mr. Ruto found you already

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1 settled at Sugoi when he was building his home there.

2 A. Yes. I was there already.

3 Q. During the construction of his home at Sugoi, did you participate
4 in that activity?

5 A. Yes. I carried some stones. Well, I transported them with my
6 tractor. I had a contract with him.

7 PRESIDING JUDGE TRENDABILOVA: Wait, please.

8 MR. KILUKUMI:

9 Q. Mr. Murei, could you please tell the Chamber among the people who
10 were engaged in the construction of the home of William Ruto, from which
11 communities they came from.

12 A. The people who were working to build Mr. Ruto's house were people
13 who were living there in that area, people from the Kikuyu, Kisii
14 ethnicities and even Luhya, and some Kalenjin people.

15 Q. Mr. Murei, please tell the Chamber whether you go at any time to
16 the homestead of Mr. Ruto.

17 A. He is my neighbour, my immediate neighbour, and so we live there.

18 Q. Mr. Murei, please tell the Chamber who is your Member of
19 Parliament?

20 A. The Honourable Ruto.

21 Q. Mr. Murei, in the year 2007, during the general election held in
22 Kenya, did you attend any meetings in the home of
23 Honourable William Ruto?

24 A. Yes, I did attend all the meetings that were organised at his
25 home.

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1 Q. Mr. Murei, are you in a position to tell the Chamber at least how
2 many meetings were held in the home of Honourable Ruto in the year 2007?

3 A. Four meetings were held in the home of the Honourable Ruto.
4 There were various people in attendance --

5 THE INTERPRETER: Correction: Who were taking part in the
6 campaign.

7 PRESIDING JUDGE TRENDABILOVA: Just a moment, Counsel. Do you
8 have transcript --

9 MS. TAI: I do.

10 PRESIDING JUDGE TRENDABILOVA: To make a point while the
11 questioning is going on.

12 MS. TAI: My point is, your Honour, is we have been provided with
13 an offer of proof, as you well know, and that it does not include the
14 subject matter of which this witness is testifying about. It does not
15 include meetings.

16 PRESIDING JUDGE TRENDABILOVA: But the counsel can ask about --
17 about.

18 MS. TAI: (* overlapping speakers) yes. I'm just pointing out
19 this is the only information we've received.

20 PRESIDING JUDGE TRENDABILOVA: Well, the purpose of the witness
21 appearing before the Court is to be asked questions. Of course, if the
22 parties are to treat the opposite party with respect and to keep the
23 integrity of this communication, this information should have been
24 provided to you. But anyway, let us proceed with the questioning.
25 That's why I was referring just to some -- if I can characterise moral

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1 values expected in these communications.

2 Counsel, you have the floor.

3 MR. KILUKUMI: Thank you, Madam President and your Honours.

4 Q. Mr. Murei, were these meetings open to all members of the public?

5 A. Everyone living in that district took part in that meeting. I'm
6 talking about people who were asked to vote ODM.

7 Q. Mr. Murei, please tell the Court whether you know
8 Samson Cheramboss personally.

9 A. I do know Samson Cheramboss. I do know him well.

10 Q. Please tell the Chamber when is the first time you had contact
11 with Samson Cheramboss.

12 A. The first time I saw Cheramboss was in 1982 in Kitale. He was a
13 police inspector.

14 Q. Please, Mr. Murei, tell the Chamber of the four meetings that you
15 said were held in the home of Honourable William Ruto, did you see
16 Samson Cheramboss in that home?

17 A. During the four meetings that were held in the home of the
18 Honourable Ruto, well, I didn't see Cheramboss there, and I attended all
19 four of those meetings.

20 Q. Mr. Murei, there are statements recorded from Prosecution
21 witnesses which state that in some of these meetings guns were
22 distributed by Honourable William Ruto. What would you say about that?

23 A. Well, I would like to tell this Chamber that no weapons were
24 distributed. No firearms were distributed to the population, and what's
25 more, it is forbidden for civilians to have weapons.

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1 Q. Mr. Murei, for the years that you have known Mr. Ruto as your
2 neighbour, what kind of a person is he? Would you give the Chamber a
3 description of him?

4 A. I have known Mr. Ruto as a neighbour, and everyone likes the man,
5 and he likes the people in his village. And when you leave his home, you
6 find yourself -- well, actually there's a Kikuyu person who lives close
7 to him. Everyone gets along with him very well.

8 Q. Mr. Murei, did you participate in the general election held on
9 the 27th December 2007, in the Republic of Kenya?

10 A. Yes, I did take part in the election held on the 17th --

11 THE INTERPRETER: Correction from the Swahili booth, the 27th.

12 THE WITNESS: [Interpreter] -- of December, and then, well, the
13 votes were counted and the honourable member was elect to parliament to
14 represent his district. He went off to take up operations or his duties,
15 rather, in Nairobi.

16 Q. Mr. Murei, could you please tell the Chamber how did you get to
17 know that Honourable William Ruto was in Nairobi and he left after he was
18 declared Member of Parliament for Eldoret North?

19 A. Everything was shown on the television, and a committee was
20 responsible for determining who had been elected. During this election,
21 between Odinga, Mwai Kibaki.

22 Q. Mr. Murei, could you please tell --

23 A. And at that time it was announced that Ruto was in Nairobi.

24 PRESIDING JUDGE TRENDABILOVA: Now you go.

25 MR. KILUKUMI:

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1 Q. Mr. Murei, please tell the Chamber what happened after the
2 announcement of the presidential elections on 30th of December, 2007.

3 A. When the results of the presidential election were announced, the
4 people had hope, but when the results were announced, disturbances broke
5 out starting in Nairobi when it was announced that Kibaki was the
6 president of the republic. These disturbances spread to Mombasa and then
7 throughout the entire country. The disturbances continued.

8 Q. Mr. Murei, please tell the Chamber how did you get to know that
9 the violence first started in Nairobi, then Mombasa, and as you said, the
10 whole of the country?

11 A. Everything was broadcast on the television. For example, we
12 could see that people had demolished Larei (* phon) in Nairobi, and there
13 were also demonstrations seen. This was seen throughout the entire
14 country. People could see the disturbances on their television sets.

15 Q. Mr. Murei, please tell the Chamber what happened in your
16 neighbourhood at Sugoi after the announcement of the presidential
17 election results.

18 A. After the results of the presidential election were announced, we
19 took a number of measures in Sugoi. We said that we did not want any
20 violence to occur in our area, and with the Kikuyu, who had taken refuge
21 with a Kalenjin person fearing an attack that evening, we decided that
22 our neighbours should not be killed. And the next day, on a Sunday, we
23 gathered together the Kikuyu people. We stayed with them for three days,
24 and we called the police on the telephone, and the district commissioner
25 as well to try to ensure these people's safety who were being threaten.

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1 Q. Mr. Murei, please tell the Chamber which community do you
2 yourself come from?

3 A. I am a Nandi person.

4 Q. Mr. Murei, you told the Court that your Kikuyu neighbours went
5 and stayed in Kalenjin homes for three days and you were calling the
6 police. Please tell the Chamber what was the reaction from the police.

7 A. We received no assistance from the police ourselves. Before we
8 decided to take these people -- there were more than 100 of them. We
9 took them to Mrs. Dior's home. Rebecca Dior's home. So that she could
10 ensure that those people would be protected and that they would not be
11 killed. So once we had gone to that person's home, to their office, the
12 police of our country, Kenya, killed 5 Kalenjin people. They were shot.
13 A Kalenjin person was killed and a child in -- of five years old was also
14 killed. Bloticha (* phon) was also killed. Daniel was killed,
15 Jualakali (* phon), and a person who -- a deaf person as well. A deaf
16 person was also killed.

17 Q. Mr. Murei, please tell the Chamber Rebecca -- Rebecca Muturi
18 comes from which community in the Republic of Kenya?

19 A. Ms. Rebecca Muturi is a Kikuyu person, and she is an official of
20 the district within the Tabo (* phon) division.

21 Q. Mr. Murei, apart from the Kikuyu neighbours in Sugoi, are there
22 other communities living in Sugoi?

23 A. Yes, there are other ethnic groups, the Kisii, who do have some
24 farms there and live there. The Jaluo (* phon) who are shoe menders,
25 shoe repairers. They have been there for many years. The Toka (* phon)

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1 who work in Sugoi. Sugoi is a locality that has inhabitants who are of
2 various ethnic origins.

3 Q. Mr. Murei, you've told the Chamber that about you escorted about
4 a hundred people to the district officer, Rebecca Muturi. Please explain
5 to the Chamber whether the Hankan (* phon) came from one community or
6 they came from which communities?

7 A. These people, this group of approximately 100 people, were from
8 the Kikuyu family and they were being threatened. However, with the
9 Jaluo, we went with them and we turned them over to the state, and then,
10 after that, we held some meetings to try to ensure that they could go
11 back to their farms. We had our leader, our chief, who wore the official
12 garments, and he helped us with the reintegration of these people. The
13 government had announced that these people were to return to their homes.
14 So we were the first people to bring our neighbours back home and help
15 them return to the community, and today I wish to state before the ICC
16 that we did not have any camps for displaced people in our electoral
17 district, in our constituency.

18 Q. Mr. Murei, you've told the Chamber that five people were killed
19 by the police. Please tell the Chamber from which communities did these
20 people -- five people who were killed come from?

21 A. I wish to state before this international court that those five
22 people who were killed were from the Kalenjin ethnic group.

23 Q. Mr. Murei, please tell the Chamber whether at your neighbourhood
24 in Sugoi any properties were destroyed belonging to other communities.

25 A. Yes. They lost their properties, but no one was killed.

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1 Q. To your knowledge, please, Mr. Murei, please tell the Chamber are
2 all your neighbours living together peaceably today?

3 A. Thank you. Since 2008, we have been living with our neighbours,
4 and one can't tell that there had been problems. Up until 2008, we lived
5 in peace, and there are marriages between people belonging to the
6 different groups and there are no problems amongst us.

7 Q. Thank you very much, Mr. Murei. If the Chamber gives me another
8 opportunity, I will question you further.

9 MR. KILUKUMI: Thank you, Madam President and your Honours.

10 PRESIDING JUDGE TRENDAFILOVA: Thank you, Counsel Kilukumi.

11 I would propose that we take the break, the lunch break, and that
12 we resume with the session and the questioning of Mr. Murei at 2.30.

13 Well, there is a proposal from the Bench that if all the parties
14 and participants would agree that we commence at 2.00 in order for us, as
15 promised by the Chamber, not to proceed with the sessions till 8.00 we
16 shall finish after we finish with the questioning of this witness.

17 Are you fine that we resume our sessions at 2.00? Okay. So you
18 accept 2.00 we shall be in the courtroom. For the moment, the hearing is
19 adjourned for 2.00.

20 I'm sorry, as if I -- I'm very much sorry, interpreters, as if I
21 take it as a given that you are always so kind that you would agree.
22 Would you -- would you agree that?

23 THE INTERPRETER: Yes, your Honour. I believe that is possible.

24 PRESIDING JUDGE TRENDAFILOVA: Thank you very much and we promise
25 to finish after all the present here are satisfied with the questioning

1 of the witness. Thank you very much indeed.

2 The hearing is adjourned.

3 COURT USHER: All rise.

4 (The witness stands down)

5 Luncheon recess taken at 1.01 p.m.

6 On resuming at 2.01 p.m.

7 (Open session)

8 COURT USHER: All rise.

9 PRESIDING JUDGE TRENDABILOVA: Good afternoon. Please be seated.

10 Are there some new faces in the different teams?

11 MR. KILUKUMI: Madam President, and your Honours, Professor

12 Kithure Kindiki is part of our team and he has just joined us.

13 PRESIDING JUDGE TRENDABILOVA: Welcome, Professor. Someone else

14 in the Prosecutor's team? No. So the Defence of Mr. Ruto is over with

15 the questioning for the moment?

16 MR. KILUKUMI: For the moment.

17 PRESIDING JUDGE TRENDABILOVA: Yes, I understood you correctly.

18 If the other Defence teams would be of the opinion that something -- that

19 the witness said I'm just -- before we ask the Court Officer -- ushers

20 the witness into the courtroom, do you intend to take the floor and to

21 ask questions to the witness, to Mr. Murei?

22 MR. ORARO: (Microphone not activated)

23 PRESIDING JUDGE TRENDABILOVA: Okay. In order for us to

24 organise.

25 Mr. Katwa?

1 MR. KIGEN-KATWA: With your permission, Madam President, and your
2 Honours, I would request to ask only two questions.

3 PRESIDING JUDGE TRENDAFILOVA: Yes, and very carefully about the
4 confidential --

5 MR. KIGEN-KATWA: Yes, Madam President. Thank you.

6 PRESIDING JUDGE TRENDAFILOVA: Court Officer, would you kindly
7 usher the witness into the courtroom.

8 (The witness takes the stand)

9 PRESIDING JUDGE TRENDAFILOVA: Mr. Murei, you're welcome again to
10 the courtroom. The Judges hope you had lunch and you are fine to proceed
11 with the testimony.

12 So you're fine? Could we proceed, Mr. Murei?

13 THE WITNESS: (Interpretation) Yes, I am ready.

14 PRESIDING JUDGE TRENDAFILOVA: Thank you.

15 So now the team of Mr. Kosgey has the floor and counsel Katwa has
16 two questions and hoping that --

17 MR. KIGEN-KATWA: Madam President --

18 PRESIDING JUDGE TRENDAFILOVA: -- they will be relevant and to
19 the point, concise.

20 You have the floor, Mr. Katwa.

21 MR. KIGEN-KATWA: By way of correction, Madam President, I am for
22 Sang, not for Kosgey.

23 PRESIDING JUDGE TRENDAFILOVA: I'm sorry, for Sang, yes.

24 MR. KIGEN-KATWA: (* Indiscernible) your Honours.

25 Questioned by Mr. Kigen-Katwa:

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1 Q. Mr. Murei, could you confirm if in any of the meetings you said
2 you went to in Mr. Ruto's home, Mr. Joshua Sang, my client, was present,
3 in the -- up to the year 2007.

4 A. With regard to the four meetings that took place at Mr. Ruto's
5 house, Mr. Sang was not present.

6 PRESIDING JUDGE TRENDABILOVA: As far as I listen to the
7 interpretation, I shall just give you a sign that you proceed, Mr. Katwa.
8 So, please.

9 MR. KIGEN-KATWA:

10 Q. My second question, Mr. Murei, is if you listen to Kass FM radio,
11 and if you do, if you heard any comments from Joshua Sang saying either
12 evict any people or punish any people, particularly Kikuyus, Kisiis, and
13 Kambas?

14 A. That did not occur. Mr. Sang did not have the power to throw
15 people out from a location that they had lived in for over 40 years just
16 by talking over the radio, over Kass FM.

17 MR. KIGEN-KATWA: That's all, Madam President. Thank you.

18 PRESIDING JUDGE TRENDABILOVA: Thank you, Mr. Katwa.

19 Now, the floor is over to you, Ms. Tai.

20 MS. TAI: Thank you.

21 Questioned by Ms. Tai:

22 Q. Good afternoon. Sir, my understanding is that on examination you
23 stated that your first name was Andrew; is that correct?

24 A. (No interpretation)

25 THE INTERPRETER: Message from the Swahili booth: Could the

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1 witness please be asked to repeat clearly what he has just said because
2 the Swahili booth did not hear what the witness said. Thank you.

3 PRESIDING JUDGE TRENDAFILOVA: Mr. Murei, there is a request from
4 the interpreters that you repeat your answer and that you speak a little
5 bit louder so that they can translate what you say.

6 MR. HOOPER: Could I suggest he moves a bit closer to the
7 microphone because he (* overlapping speakers) --

8 PRESIDING JUDGE TRENDAFILOVA: Yes, yes. This is, well - thank
9 you, Mr. Hooper - a good suggestion.

10 Maybe, Ms. Tai, you repeat your question so that Mr. Murei could
11 repeat his answer.

12 MS. TAI: Sure.

13 Q. Sir, my understanding is that during the examination this morning
14 you stated that your first name was Andrew. Could you repeat your full
15 name for us now.

16 A. My name is Henry Kipto (* phon) Murei.

17 Q. Do you go by any other names?

18 A. I do have a name that I was given when I was a football player.

19 THE INTERPRETER: Message from the Swahili booth: The Swahili
20 interpreter did not understand whether it was -- whether the name was
21 Apti or Abti. Could the witness please be asked to clarify his response.

22 PRESIDING JUDGE TRENDAFILOVA: Again, a question from the
23 interpreter, would you speak louder and once again explain what exactly
24 your name is, whether it is Apti or Abti with B instead of P. With B?

25 THE WITNESS: (Interpretation) The name is Abdi.

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1 MS. TAI:

2 Q. This morning -- I thought you said the word -- first name Andrew.

3 Do you ever use that name?

4 A. No.

5 Q. Aside from Abdi, do you use any other names or have you used any
6 other names?

7 A. Not at all.

8 Q. Have you ever been employed by the police?

9 A. No.

10 Q. Now, sir, you have told us this morning that your job was to work
11 on a peace commission in Eldoret West; is that correct?

12 A. That is true.

13 Q. And what are the responsibilities of your position now?

14 A. We are seeking peace for the entire country of Kenya, and not
15 only for the North Eldoret or north --

16 THE INTERPRETER: The Swahili interpreter corrects.

17 THE WITNESS: (Interpretation) -- not only for West Eldoret or
18 Eldoret West.

19 MS. TAI:

20 Q. Where do you physically do your work?

21 A. I conduct my duties in Eldoret West.

22 Q. Yes. Do you conduct them in your home or a different location?

23 A. I work in the subdistrict and also at the district level.

24 Q. Right. I'm asking you for your physical location. Do you work
25 physically at home or physically elsewhere?

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1 A. All our meetings are held in our subdistrict and also at the
2 level of the district. I also have an office at the district or within
3 the district itself.

4 Q. Right. And again, where is this office located? Can you give us
5 any further description?

6 A. The district commissioner gave us an office or a room or some
7 space within his office, and that is where we conduct our duties from.

8 Q. And where is that office located?

9 A. This is room 109 which is located within the district
10 commissioner's office. That is where my office is to be found.

11 Q. How far away is this room 109 from your house?

12 A. It is 40 kilometres afield from my home.

13 Q. And during 2007, what was your occupation?

14 A. In the year 2007 I was at home. I am very active in my local
15 church and I am also a farmer.

16 Q. When you say that you are very active in your church, can you
17 please describe to us what your activities consisted of in 2007.

18 A. I was a community elder within the church.

19 Q. Yes, and my question was: What did your activities consist of?
20 What did you do?

21 A. I had a number of duties to conduct, preaching and teaching. I
22 taught the Bible notably.

23 Q. Where did you do your preaching?

24 A. This is to be found in Kapsethi (* phon) sub-location.

25 Q. How far away from that -- is that Kapsethi location from your

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1 home?

2 A. It is to be found at a distance of 2 kilometres away only.

3 Q. And then you mentioned teaching, that you were teaching in 2007.

4 Where and what were you teaching?

5 A. I shall hark back to that detail by saying the following. In our
6 church, Seventh Day Adventist church, I was a preacher. I also taught
7 Bible studies.

8 Q. So how many hours a week did you preach as well as teach?

9 A. If we did not have any particular duties within the week or
10 during the week, we would go to the church on the Saturday. And that is
11 when I would provide teaching until 4.00 in the afternoon.

12 Q. So only one day a week?

13 A. That is correct.

14 Q. You also said that you were a farmer. Can you tell us what --
15 generally what you were farming and how many hours a week you were
16 farming?

17 A. You asked me how many hours I gave over to agriculture on a
18 weekly basis, how many hours I used to farm, well, if I did not have
19 enough to do in the fields, I would also take care of livestock. I took
20 care of cows, of a herd of cows. This activity might take me an entire
21 day.

22 Q. So on average in one particular day, how much time did you spend
23 working, either with livestock or farming?

24 A. I would work from 8.00 in the morning until 6.00 in the evening.
25 I might use that time for my work in the fields.

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1 Q. Now, sir, this morning -- I'm going to move on to another topic.

2 Let me ask you one more question. So would it be fair to say that you
3 were working a majority of the time?

4 A. That is correct.

5 Q. Now I'm going to refer back to some information that you gave us
6 this morning. Okay? If I remember correctly, you stated that you had
7 met Mr. Ruto in 1982, is that correct? First.

8 A. I said that I met him for the first time in 1992.

9 Q. (Previous translation continues) ... thank you. And then if I --

10 A. In 1992, yes.

11 Q. And that at one point you had a contract with him, correct, where
12 you carried some stones?

13 A. That is correct.

14 Q. Were you paid for that work?

15 A. Yes, he did pay me.

16 Q. How much?

17 A. It would depend on the amount or weight of stones that I carried
18 for him.

19 Q. But collectively how much?

20 A. I merely received a sum of 10.000 shillings for him for all the
21 work that I completed.

22 Q. How long -- how long was this contract for? What duration of
23 time?

24 A. It took me a week to complete the work and he paid me a sum of
25 10.000 shillings, after which I left.

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1 Q. Have you received or done any other jobs for Mr. Ruto, aside from
2 that job?

3 A. No, I did not complete any other contracts for him apart from
4 this one.

5 Q. Any other jobs?

6 A. (No verbal response)

7 Q. Now, if I understood you correctly this morning, you indicated
8 that William Ruto is the Member of Parliament for your area; is that
9 correct?

10 A. That is true.

11 Q. And how long has he been the Member of Parliament for your area?

12 A. He has been MP for our area since 1997.

13 Q. You also told us that he was -- Mr. Ruto was your neighbour; is
14 that right?

15 A. (No verbal response)

16 THE INTERPRETER: Answer from the Swahili booth: The witness
17 nods his head.

18 MS. TAI:

19 Q. Can you answer "yes" or "no" for us, sir.

20 A. Very well.

21 Q. So ...

22 A. He is indeed our MP.

23 Q. And your neighbour?

24 A. Yes.

25 Q. And can you describe the size of his house so that the Chamber

1 knows what this neighbourhood looks like.

2 A. Honourable Ruto's house is built using modern materials. It is a
3 large house up on the hill. The roof is well built, it is quite large or
4 wide, and when you gain access to the house the entryway to the house
5 gives on to the main road. The houses to the back -- the entrance to the
6 back of the house or the various entries to the rear of the house give on
7 to the fields. The roof of the house is made of tiles.

8 Q. Can you describe --

9 A. The house itself is on one level.

10 Q. I think you told us it was a very large house. Is it possible
11 for you to tell us what that means to you?

12 A. It is a house that was built using the most modern technology. I
13 cannot really tell you how wide it is. I don't know how to measure the
14 width of a house. However, I can say it is the kind of house that can
15 only belong to somebody who has had a good job.

16 Q. What about the size of the property, can you describe for us the
17 size of the property? I understand you are a farmer, so if you can
18 relate it into acres.

19 A. I'm afraid I cannot really give you an estimate of the surface of
20 the property in question. I am not able to do so. I'm not able to tell
21 you how large that area is, the surface area.

22 Q. Is it the same size as your property?

23 A. My house is smaller than his. My house has only two rooms.

24 Q. And Mr. Ruto's house?

25 A. When I worked there carrying stones on his property, the house

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1 was barely being built at the time so I cannot tell you how many rooms
2 the house was made up of.

3 Q. Now, sir, this morning you referred to four meetings that you
4 attended in 2007; correct?

5 A. That is correct.

6 Q. Would you not agree that aside from those four meetings, that it
7 is possible that other meetings could have been held at Mr. Ruto's home
8 while you were working?

9 A. The meetings which took place at his house were announced thanks
10 to a loudspeaker. Now, if there were any other meetings apart from these
11 four meetings, I really do not know about them.

12 Q. And he doesn't report to you what he does; correct?

13 A. No.

14 Q. Now I'd like to ask you some questions about -- about this year.
15 When was the last time, aside from today, that you saw William Ruto?

16 A. The last time I saw Honourable Ruto was when he gave us money for
17 our sector. I cannot remember exactly the date, but I think he did give
18 money for the CDF.

19 Q. (Previous translation continues) ... that?

20 A. I'm afraid I cannot give you the exact date. I cannot remember
21 the date.

22 Q. (Previous translation continues) ... how about a month or a year?

23 A. It was on several occasions. The first time, I'm still talking
24 about this particular year, in the month of May. And the second time
25 must have been sometime after that, very recently in fact.

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1 Q. (Previous translation continues) ...

2 A. About a week afterwards, but at that particular time I was not
3 present.

4 Q. Okay. So the last time that you saw Mr. Ruto was when the sector
5 got money from Mr. Ruto; is that correct?

6 A. That is correct.

7 Q. (Previous translation continues) ...

8 A. That is correct.

9 Q. How much money did the sector get?

10 A. We received 30 million shillings, Kenyan shillings. That money
11 was distributed within his constituency.

12 Q. But that was Mr. Ruto's contribution; is that right?

13 A. It was money for the CDF and from the CDF itself.

14 Q. Now, I would like to bring your attention to -- to this -- to the
15 International Criminal Court. Okay? When did you first learn --

16 A. Agreed.

17 Q. When did you first learn about an ICC investigation?

18 A. Well, I found out through the radio, in fact. I heard that the
19 Kenyans were one of the cases that were being dealt with in this Court
20 after the presidential elections, must have been in December 2009.

21 Q. When did you first learn of Mr. Ruto's involvement with the
22 International Criminal Court?

23 A. I cannot remember the exact date. What I do know, however, is
24 that I learned that there were investigations that were being carried out
25 in connection with Mr. Ruto.

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1 Q. And what did you do with that information?

2 A. Well, we had no particular difficulty with that piece of news.

3 We told ourselves that justice would be done. We had no choice. We
4 wanted justice to be meted out.

5 Q. So did you contact Mr. Ruto or did Mr. Ruto contact you?

6 A. To tell you the truth, I do not even have his telephone number
7 even though he is my neighbour. We had no way of confirming what was
8 being said or, on the contrary, to prove that it wasn't true.

9 Q. So my question is: How did you get here today? Who contacted
10 you? If you don't have Mr. Ruto's phone number, how was that connection
11 made?

12 A. When I learned that someone was needed in order to provide
13 testimony concerning the distribution of weapons, it was then that I took
14 a stand. But what I do remember is that no weapons were distributed and
15 no people were killed, to my knowledge.

16 Q. But how did you learn that someone was needed?

17 A. I received that piece of news from Mr. Ruto's counsel.

18 Q. And who's that?

19 A. His name is Mr. Katwa.

20 Q. How did you receive this information from Mr. Katwa? On the
21 phone? In person?

22 A. The information was clear. The information was confirmed by the
23 government. Afterwards, Katwa also learned from the committee of
24 16 people, of which I'm the president, that we existed, and this is how
25 he came over to us and we began our contacts.

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1 On that committee there were people from various ethnic
2 communities, amongst them the Kalenjin and the Kikuyu.

3 Q. So this contact occurred in person?

4 A. That is exact. That is how I met Mr. Katwa, when he actually
5 came to our offices.

6 Q. Okay. And when was that?

7 A. I'm afraid I cannot remember the exact date, but it was at the
8 beginning of this year, 2011.

9 Q. And what did he tell you?

10 A. He wanted to know how we had organised our work in Sugoi, how we
11 had been able to take the people to the various areas, and how we were
12 able to get those people back into their homes. And in the course of our
13 contacts, he wanted us to provide all of our statements to him in
14 writing, which is what we did. Even the Kikuyu also handed in those
15 statements in writing.

16 Q. (Previous translation continues) ... in January of this year, is
17 that right, or the beginning of this year? I'm sorry, sir.

18 A. Yes.

19 Q. Was that the only time that you met with him?

20 A. It was the first time. Thereafter he came a second time around.

21 Q. (Previous translation continues) ... that?

22 A. I cannot remember the exact date because, in fact, I had no idea
23 that you were going to ask me that question.

24 Q. Can you remember the month?

25 A. I would not like to mislead you, so I will not give you any

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1 specific month.

2 Q. Just sometime between the beginning of this year and today; is
3 that right?

4 A. It was neither at the beginning or now, but somewhere in between.

5 Q. And did you provide a statement, you said, as in writing?

6 A. That is correct.

7 Q. (Previous translation continues) ... in your own handwriting?

8 A. There is a statement that I drafted myself and there is another
9 statement that he produced.

10 Q. And did you sign both of those statements?

11 A. That is indeed right.

12 Q. And did you give them to Katwa?

13 A. Yes, indeed, I did.

14 Q. Now, did you watch anyone else give statements too?

15 A. There were very many of us at the time drafting statements.
16 Amongst us there were Kisii and Kikuyu.

17 Q. Did you witness any other statements of these other people?

18 A. We were all present, and each one got two sheets of paper.

19 Q. Were you provided with any instructions?

20 A. No, no. Everyone drafted in his own manner -- everyone put down
21 on paper what they saw.

22 Q. And did you talk to one another as you were writing down on paper
23 what you saw?

24 A. No, no. Every person drafted his own statement as we had already
25 done beginning in 2008. We were not dictated what we had to put down.

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1 We gave each our own personal version.

2 Q. So it was in your own words then; is that correct?

3 A. Indeed, it was my version. I described things that I saw myself
4 with my own eyes and that is what I put down.

5 Q. Okay. Thank you. I now would like to move on to two other
6 topics very briefly. My first topic is that you described what happened
7 in Sugoi in December of 2007 this morning.

8 A. Yes.

9 Q. And you told us that the Kikuyu had to take refuge?

10 A. Yes, yes, that's what I said.

11 Q. And what -- can you tell us why they had to take refuge?

12 A. What made them take refuge was the fact that President Kibaki is
13 from the Kikuyu ethnic group and he had rigged the elections. And the
14 other Kikuyu told themselves that they had to take refuge and seek
15 shelter from the acts of violence that were being perpetrated upon them.

16 Q. Why did the Kikuyu seek refuge with the Kalenjin, as you
17 described this morning?

18 A. The Kikuyu knew all too well that when they sought shelter with
19 the Kalenjin they would be safe. Nothing ill could befall them, even
20 during the war.

21 Q. And why is that?

22 A. When someone goes to the place of a Kalenjin, then that person is
23 safe. And there's no problem between the Kalenjin and the Kikuyu. We
24 have mixed marriages among us.

25 Q. But, sir, I'm asking you why people were safe, why Kikuyus were

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1 safe if they went to seek shelter with the Kalenjin?

2 A. Well, they felt safe because indeed -- there is the custom of
3 mixed marriages between our two communities and they knew that nothing
4 evil could befall them if they were with the Kalenjin.

5 Q. But safe from whom?

6 A. Well, yes, they felt safe throughout that period. They were not
7 worried about anything. Nothing could -- they felt that nothing could
8 ever happen to them and they could not be the subject of any attacks
9 whilst they were with us.

10 Q. Okay. Because why?

11 A. You will not go after somebody who has married a person that
12 belongs to your own community and vice versa.

13 Q. I just have two more questions. Sir, you told us this morning
14 that you are the chairman of the peace committee; correct?

15 A. That is correct.

16 Q. Can you tell us how you got this position?

17 A. I was elected to that position. When we led the Kikuyu to the
18 district officer, we took them back to their places afterwards. And then
19 I was appointed the head of that committee. And I am indeed very happy
20 to have been chosen to exert that particular function.

21 Q. And did Mr. Ruto appoint you to that position?

22 A. No, no. The Honourable Ruto only learned afterwards, after I was
23 appointed, and Mr. Ruto's sister was the wife of a Kikuyu.

24 Q. So he did not have anything to do with that appointment; is that
25 correct?

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1 A. He had no say in the matter at all. It was the people who
2 elected me to that position.

3 MS. TAI: Just one moment. I ask your indulgence, please.

4 PRESIDING JUDGE TRENDAFILOVA: Yes, of course, you have.

5 MS. TAI: Madam President, your Honours, I have no further
6 questions. I pass the witness. Thank you.

7 PRESIDING JUDGE TRENDAFILOVA: Just for a moment I would like to
8 confer with my colleagues on one point.

9 (Trial Chamber confers)

10 PRESIDING JUDGE TRENDAFILOVA: Now, before we proceed giving the
11 floor to the Defence team to have the last word, I would like on behalf
12 of the Chamber, in the presence of the witness, to issue the following
13 oral order.

14 The Chamber, based on Article 69(3) second sentence which reads:

15 "The Court shall have the authority to request the submission of
16 all evidence that it considers necessary for the determination of the
17 truth."

18 The Chamber orders Counsel Katwa to submit to the Chamber the
19 written testimony, the written statement, made by Mr. Murei and the one
20 prepared by Mr. Katwa but both of them being signed by Witness Murei.

21 And I'm referring also to several provisions of the professional -- of
22 the conduct -- the Code of Professional Conduct for counsel, namely,
23 Article 24(3), the first sentence; Article 25(1); and Article 31(b).

24 Mr. Murei --

25 THE WITNESS: Yes, Madam.

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1 PRESIDING JUDGE TRENDAFILOVA: Mr. Murei, as of this moment on,
2 the Chamber asks you not to give any written statements nor to sign any
3 statements that are not prepared by you. Did you understand me,
4 Mr. Murei?

5 THE WITNESS: (Interpretation) I'm afraid I did not understand
6 fully.

7 PRESIDING JUDGE TRENDAFILOVA: As of this moment, the Chamber
8 requests you not to make any written statement, nor to sign any written
9 statement prepared by someone else related to the current case where you
10 kindly appeared as a witness. You understand us, Mr. Murei?

11 THE WITNESS: (Interpretation) Yes, I do understand.

12 PRESIDING JUDGE TRENDAFILOVA: Yes. So, Mr. Murei, do you feel
13 fine that now we give the floor to the Defence team ...

14 (Trial Chamber confers)

15 PRESIDING JUDGE TRENDAFILOVA: I'm sorry, Judge Tarfusser would
16 like to ask the witness one or several questions.

17 Questioned by the Court:

18 JUDGE TARFUSSER: You said this morning and confirmed this
19 afternoon that your job is in this peace commission.

20 A. Yes, I did state that.

21 JUDGE TARFUSSER: Then you said that you carried stones when
22 Mr. Ruto was building his house. That is correct?

23 A. Yes, that is correct.

24 JUDGE TARFUSSER: And now, in the afternoon, you said as well
25 that you work in the church and you work as a farmer?

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1 A. That is correct.

2 JUDGE TARFUSSER: My question is: Have you a salary, and if yes,
3 who is paying this salary or how do you -- what are you and your family
4 living from?

5 A. I'm a livestock rearer and I sell milk, and within the peace
6 committee we do not receive a salary. We work voluntarily. So, as I
7 said, I sell my milk and my revenue allows us to survive.

8 Now, with regard to the schooling of my children, I pay the
9 school fees by selling agricultural produce from my farming activities.

10 JUDGE TARFUSSER: So your job is not in the peace committee but
11 is to be a farmer?

12 A. I do both. Within the peace committee we convene meetings on
13 specific dates, and outside of my tasks within the peace committee I go
14 about my daily duties at home.

15 JUDGE TARFUSSER: Is the peace committee linked to an
16 institutional body in Kenya or to a political party?

17 A. The peace committee does not have any affiliation with any
18 political party. This is a committee that was set up on a national
19 level, that has a president and a secretary, and the office for this
20 committee is to be found in Nairobi. On a territorial level, offices do
21 exist also at a district level within various districts. And these
22 committees themselves do not take care of political issues. The members
23 are elected by the people.

24 JUDGE TARFUSSER: I'm -- the last question. Coming to the four
25 meetings in 2007 you said you attended in the house of Mr. Ruto. My

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1 question is: Did you attend these four meetings -- did you attend four
2 meetings or were there held four meetings in 2007?

3 A. I personally attended those four meetings. We were told what was
4 to be on the agenda of those four meetings, and we were informed that
5 certain individuals would be coming to the meetings with a view to
6 raising awareness within -- amongst the people as to the election of the
7 EDM party, within West Eldoret.

8 JUDGE TARFUSSER: The last question: Can you exclude that one or
9 more other meetings beside these four you attended took place in 2007 in
10 Mr. Ruto's house without your knowledge?

11 A. I did not receive any information to the effect that another
12 meeting were to have taken place at his house. I would have received
13 this information had there been such a meeting because we did receive
14 such information. We were neighbours.

15 JUDGE TARFUSSER: Yes, but this triggers another question. Is
16 Mr. Ruto somehow, I would say, obliged or does he keep you informed about
17 meetings he has in his house; and if yes, why?

18 A. He did not inform us. Everyone knew that a meeting was to be
19 convened.

20 JUDGE TARFUSSER: Well, okay. Thank you.

21 PRESIDING JUDGE TRENDABILOVA: Mr. Murei, how do you feel? Are
22 you at ease or are you tired?

23 THE WITNESS: (Interpretation) No, I am not tired yet.

24 PRESIDING JUDGE TRENDABILOVA: So till the end of the session we
25 have 15 minutes and I can grant the floor to the Defence team of Mr. Ruto

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1 to ask you some questions if they want to. Will it be fine with you? So
2 the floor is over to --

3 THE WITNESS: (Interpretation) No problem at all.

4 PRESIDING JUDGE TRENDAFILOVA: (* Previous translation
5 continues) ...

6 MR. KILUKUMI: Thank you, Madam President and your Honours.

7 Further Questioned by Mr. Kilukumi:

8 Q. Mr. Murei, you have been asked about names that you use, so
9 different names that you may be using. Please tell the Chamber what is
10 your clan name or family name.

11 A. My name is Kabarosna.

12 Q. Mr. Murei, earlier on you told the Chamber that you are a Nandi.
13 Please confirm to the Court whether the Nandi is one of the subtribes of
14 the Kalenjin people?

15 A. Yes, they are a subtribe.

16 Q. Mr. Murei, you told the Chamber about CDF. Please clarify to the
17 Chamber whether the moneys that go to CDF in the Republic of Kenya come
18 from individual Members of Parliament or whether it is funding from the
19 central government to different constituencies.

20 A. Every Kenyan constituency receives money, and every MP receives
21 money which he or she then hands over to the constituency to pay for the
22 projects that have been planned within a specific constituency --

23 THE INTERPRETER: Overlapping of microphones.

24 MR. KILUKUMI: Yes, thank you.

25 Q. Mr. Murei, please clarify to the Chamber what the money from CDF

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1 is used to do in a constituency?

2 A. The funds earmarked by the government to the CDF are supposed to
3 be used for construction projects such as schools or youth movement
4 projects and any other projects that the population has identified as
5 being important within the CDF. So these are school projects or projects
6 for financing university studies for young people. So the funds are
7 allocated and distributed according to districts. It is the development
8 committees of the various districts that decide where and how the money
9 is to be allocated.

10 Q. Mr. Murei, you've told the Chamber about peace committees.
11 Please clarify to the Court whether to be a chair of a peace committee at
12 any level is elective or whether it is appointment through a Member of
13 Parliament.

14 A. The peace committee is not designated itself by an MP. This
15 committee is elected at the subdistrict level. There are other
16 committees within the district and also at the division level. The
17 elections are conducted up to the district level; that is to say that the
18 elections are not organised at the initiative of the MP, him or herself.

19 Q. Mr. Murei, please confirm to the Chamber that the peace
20 committees were established by the Government of Kenya after the violence
21 that broke out in 2007-2008. Mr. Murei, please --

22 A. I did not understand you well. Could you please repeat your
23 question.

24 THE INTERPRETER: The Swahili booth asks that counsel wait for
25 the interpretation to be provided before he then answers the question or

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1 puts another question himself. Thank you.

2 PRESIDING JUDGE TRENDAFILOVA: Now you repeat your question --

3 MR. KILUKUMI: Thank you --

4 PRESIDING JUDGE TRENDAFILOVA: But in a way that it does not
5 contain the answer and you just wait for an affirmative response.

6 MR. KILUKUMI: Thank you, Madam President and your Honours.

7 Q. Mr. Murei, please tell the Chamber when were the peace committees
8 established and by whom?

9 A. There were peace committees either -- even under President Moi,
10 and in the year 2007 the members of the peace committee were elected.
11 And the truth be told, within the peace committee itself a president, a
12 vice-president, and a secretary are elected. At the national level there
13 is the national secretariat itself --

14 THE INTERPRETER: Overlapping of microphones again.

15 PRESIDING JUDGE TRENDAFILOVA: Mr. Counsel, you just have to
16 wait. You took the opportunity that I didn't give you a sign while I was
17 talking with my colleague and you proceeded. There is overlapping. So
18 once again, repeat your question. And by the way, how much time do you
19 need?

20 MR. KILUKUMI: Madam President, I have concluded.

21 PRESIDING JUDGE TRENDAFILOVA: Ah, you have concluded.

22 MR. KILUKUMI: Yes.

23 PRESIDING JUDGE TRENDAFILOVA: But you have to repeat your last
24 question.

25 MR. KILUKUMI: Yes, I will repeat (* indiscernible) question,

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1 Madam President.

2 PRESIDING JUDGE TRENDABILOVA: Yes, thank you.

3 MR. KILUKUMI:

4 Q. Mr. Murei, thank you very much for your testimony. I have no
5 further questions for you.

6 A. I thank you.

7 Q. Thank you.

8 PRESIDING JUDGE TRENDABILOVA: Yes, thank you very much.

9 Mr. Murei.

10 THE WITNESS: Yes, Madam.

11 PRESIDING JUDGE TRENDABILOVA: This concludes your presence here
12 in the courtroom. We would like to thank you very much for coming to
13 assist the International Criminal Court in its endeavours to establish
14 the truth for the purposes of our duty, what we have to do. We hope that
15 we didn't put too much pressure on you and you are free to go, and we
16 wish you a safe trip back home, to your beautiful country.

17 THE WITNESS: (Interpretation) I thank you.

18 PRESIDING JUDGE TRENDABILOVA: Thank you.

19 Court Officer, would you usher -- thank you.

20 (The witness withdrew)

21 PRESIDING JUDGE TRENDABILOVA: So I didn't give a dead-line. I
22 shall be very much obliged, Counsel Katwa, if today after we finish you
23 could furnish me with these two documents, the statement, one, in
24 writing, in the handwriting of Mr. Murei, the other one prepared by you
25 as a professional, but both of them signed by the witness.

1 MR. KIGEN-KATWA: Madam President, with your permission, and your
2 Honours, the statement would be -- I would have to obtain it from Nairobi
3 from the counsel who kept it. The statement was recorded in my presence
4 by another counsel who actually is a judge in Kenya now.

5 PRESIDING JUDGE TRENDAFILOVA: Yes, so as soon as possible.

6 MR. KIGEN-KATWA: Yes, Madam President.

7 PRESIDING JUDGE TRENDAFILOVA: We shall be very much obliged if
8 we could have these two documents. Yes.

9 MR. KIGEN-KATWA: I can undertake to deliver it by Wednesday,
10 this coming Wednesday.

11 PRESIDING JUDGE TRENDAFILOVA: Thank you very much.

12 If there is nothing else.

13 Ms. Chana, you didn't give any sign that you wanted to pose some
14 questions, that's why we just decided that you're not interested in
15 asking the questions.

16 MS. CHANA: You're quite right, Madam President. I have no
17 questions of this witness. Thank you.

18 PRESIDING JUDGE TRENDAFILOVA: Thank you, Ms. Chana. Yes.

19 I thank the parties, the Prosecutor's office, the Defence teams,
20 the suspects. I thank very, very much the interpreters that are very
21 patient and very kind with us, also the court reporters, the
22 stenographers, the security officers, the court staff. I would like to
23 thank those present in the public gallery in a beautiful Saturday, as we
24 know is the weather outside this courtroom. We finished, as we promised
25 to the Defence team and especially to Mr. Hooper, whom yesterday I

1 promised that you were going to keep what we have agreed upon. So we
2 shall start, we shall resume, our hearing on Monday, 2.30 in the
3 afternoon in this very same courtroom. Until then, have a pleasant stay
4 and enjoy the good weather that we rarely have here.

5 The hearing is adjourned.

6 COURT USHER: All rise.

7 The hearing ends at 3.25 p.m.

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