

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial hearing
9 Friday, 16 September 2011
10 The hearing starts at 9.02 a.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session.
14 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
15 Good morning to everybody. Good morning, accused persons.
16 Before we call the Witness 0965, I have three quick reminders.
17 The Office of the Prosecutor, on the 5th of September, was to transmit to
18 Germain Katanga's Defence team its observations on the bar table motion
19 that it had presented, and usually it would be the 9th of September -- or
20 it was to be the 9th of September on which the Ngudjolo Defence team
21 would deliver its own comments. I don't know if they were handed in
22 yesterday. Excuse me, that was Katanga's Defence team. Mr. O'Shea, I
23 don't know if you have prepared your response to the Prosecutor's
24 comments on your bar table motion as well as Mr. Kilenda's.
25 MR. O'SHEA: Well, we've got an application under Rule 35(2)

1 which I think is going in this morning, and with respect to the bar table
2 motion, that will certainly be put in expeditiously.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you. So for
4 Mr. Kilenda.

5 Now, the rebuttal expert report is to be handed in on -- by
6 October. By the 10th of October it is to be available. That will lead
7 to a short break in Germain Katanga's testimony. He will begin to
8 testify on Tuesday, the 27th of September, at 9.00 a.m.

9 We're now going to call the witness -- and there's an another
10 reminder. Apparently everything went well yesterday, but just a reminder
11 to everybody that we need to speak slowly. I think that goes without
12 saying. And also use short sentences to make it easier for the Lendu
13 interpreters to work. The interpreting method is somewhat different from
14 the usual procedure because of the Lendu.

15 Court Officer and Court Usher, would you please have the witness
16 brought into the room, Mr. Richard Longa Linjukpa.

17 (The witness takes the stand)

18 WITNESS: WITNESS DRC-D03-P-0965 (Continued)

19 (Witness answered through interpreter)

20 THE INTERPRETER: Interpreter correction: Page 2, line 5, the
21 missing date is 3rd of October, by 4.00 p.m. Thank you.

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

23 THE WITNESS: (Interpretation) Good morning.

24 PRESIDING JUDGE COTTE: (Interpretation) I can see that you
25 understand me clearly, so we're going to begin our work.

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1 Mr. Kilenda, the lead Defence counsel for Mr. Mathieu Ngudjolo,
2 will be asking you questions this morning. Please do not forget that you
3 should wait about five seconds, count up to five, before you answer a
4 question, and as far as possible, please give answers that are not too
5 long. In any event, speak slowly so that the interpreters can clearly
6 transmit what you are saying.

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

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

10 MR. KILENDA: (Interpretation) Good morning, Mr. President,
11 your Honours.

12 Questioned by Mr. Kilenda:

13 Q. (Interpretation) Good morning, Witness.

14 A. Good morning, sir.

15 Q. The Presiding Judge has just told you that I am
16 Mr. Jean-Pierre Kilenda. I am the lawyer for Mr. Mathieu Ngudjolo.

17 For the purposes of what really is an interview this morning, I
18 would like to call you Richard. Do you agree to that?

19 A. Yes, that's fine.

20 Q. Thank you very much, Richard. So this morning you are here
21 before the Judges. I'm going to ask you a few questions about the matter
22 of interest to them. When I have finished my questions, the Office of
23 the Prosecutor and my learned friends to my right who are the Defence
24 team for Mr. Germain Katanga and also the Legal Representatives of the
25 victims will ask you questions.

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1 A. Yes, I have understood.

2 Q. So please make yourself comfortable. When you know something,
3 please tell us, and if you do not know something, tell us that as well,
4 but one way or another, you must answer the questions.

5 A. Yes, I have understood.

6 Q. If you do not understand a question, you must tell me, because it
7 is my duty to speak clearly.

8 A. Yes, I've understood you clearly.

9 Q. Thank you very much, Richard. Richard, what is your civil
10 status?

11 A. I am not married. My wife is deceased. I am a widower.

12 Q. What was your wife's name?

13 A. Her name was Dheve Modestine.

14 Q. Thank you, Richard. We're going to talk about your wife. You
15 tell us that she is deceased. It is not easy to call up the memory of a
16 loved one who has passed away, but I would ask you to be brave and to
17 answer the questions, because the Judges who are here before you need
18 answers so that they can do their work.

19 A. Yes, I have understood.

20 Q. Richard, when did your wife die?

21 A. My wife died on the 23rd of March, 2007.

22 Q. Can you explain to us briefly, just briefly, what your wife died
23 of?

24 A. She died in childbirth.

25 Q. Thank you, Richard. Did you have children with your wife? Did

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- 1 you have children with your late wife?
- 2 A. Yes, we had children together.
- 3 Q. How many children, please?
- 4 A. We had seven children together, but five of those children died.
- 5 There are two still alive.
- 6 Q. Are you able to give us your children's names, the names of all
- 7 of your children, both those who are alive and those who are deceased?
- 8 A. The oldest was a girl. She was called Salumu.
- 9 Q. And the second child? You can continue to go through all your
- 10 children, to mention them all.
- 11 A. I would prefer to name them one by one.
- 12 Q. That's fine. That's fine, one by one.
- 13 A. The second was called Ngabu. The third was called Ndrusini. The
- 14 fourth was called Dz'su.
- 15 Q. And the fifth?
- 16 A. The fifth was called Lokana.
- 17 Q. And the sixth?
- 18 A. The sixth was called Huve.
- 19 Q. And the seventh?
- 20 A. The seventh was called Dyuve.
- 21 Q. Could you tell us the name of the five children who died?
- 22 A. The first child who died was called Salumu.
- 23 Q. And the second?
- 24 A. The second was Ngabu.
- 25 Q. And the third?

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1 A. The third was Dz'su.

2 Q. And the fourth?

3 A. The fourth was called Dyuve.

4 Q. And the fifth?

5 A. The fifth is Huve.

6 THE INTERPRETER: Interpreter correction: Page 6, line 3, it's
7 not Huve but Dyuve who died.

8 MR. KILENDA: (Interpretation)

9 Q. Richard, could you make an effort now and tell us in what year
10 Salumu died?

11 A. Salumu died in 1998.

12 Q. And Ngabu?

13 A. Ngabu died in 2004.

14 Q. And Dz'su. In what year did Dz'su die?

15 A. Dz'su died in 2006.

16 Q. And the child called Dyuve died in what year, please?

17 A. It was before -- it was around 1997. It was around the year
18 1997.

19 Q. And your child Huve, when did Huve die? If I've understood
20 correctly, there was Dyuve and also Huve.

21 A. I'm talking about Huve. Huve died on the 24th of February, 2003.

22 Q. And the child Dyuve, Dyuve, and I apologise for my pronunciation.

23 A. Dyuve died on the same day as his mother, on the
24 23rd of March, 2007.

25 Q. Thank you very much, Richard. We're going to continue talking

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1 about deceased persons, so once again, I ask you to be brave and to give
2 us the details that we need.

3 MR. DUTERTRE: (Interpretation) Your Honour.

4 THE WITNESS: (Interpretation) Yes, I've understood you clearly.

5 PRESIDING JUDGE COTTE: (Interpretation) Yes?

6 MR. DUTERTRE: (Interpretation) Could we have the spelling for
7 the children's names, because some of the names are quite similar, Dyuve
8 and Huve, for example. It would be useful if we could see the spelling.

9 PRESIDING JUDGE COTTE: (Interpretation) All right.

10 Mr. Witness, are you able to spell for us, to give us the letters that
11 spell the names of two of your children which are very similar, the child
12 you called Huve and the child that you called Dyuve? Could you just give
13 us the letters spelling the names. First of all, the name of your fourth
14 child, Huve. Does the name begin with an H?

15 THE WITNESS: (Interpretation) I don't know how to write. I
16 don't know what letter the name begins with.

17 PRESIDING JUDGE COTTE: (Interpretation) That's fine,
18 Mr. Witness. Mr. Prosecutor, this is something that the unit had pointed
19 out to us, but I did want to check whether it would be possible to obtain
20 that clarification from the witness himself.

21 Now, in Mathieu Ngudjolo's Defence team, is there someone who can
22 help us? The witness has certain difficulties that we're familiar in
23 spelling names, first names, surnames, words. Mr. Kilenda,
24 Professor Fofé, I don't think there's any particular controversy on this
25 point. As far as you know, are you able to give us the spelling of these

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1 names which are quite close in terms of their phonetics, Huve and Dyuve.

2 MR. KILENDA: (Interpretation) Yes, I can do this.

3 PRESIDING JUDGE COTTE: (Interpretation) Please do that.

4 MR. KILENDA: (Interpretation) The fourth child of the witness
5 was called Huve.

6 PRESIDING JUDGE COTTE: (Interpretation) Is it spelled H-u-v-e?

7 MR. KILENDA: (Interpretation) That's quite right,
8 Mr. President.

9 PRESIDING JUDGE COTTE: (Interpretation) Very good. That's what
10 the stenographers automatically wrote down. And the second child, Dyuve,
11 is the name spelled J-u-v-e?

12 MR. KILENDA: (Interpretation) No, it is spelled D-y-u-v-e,
13 Dyuve.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
15 Mr. Dutertre, I don't think there's any particular controversy on this
16 point because we know that we are not going to be able to obtain the
17 spelling from the witness. It's a matter of cultural difficulties.

18 MR. DUTERTRE: (Interpretation) Yes. We'll adjust to that,
19 your Honour.

20 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, you may
21 continue.

22 MR. KILENDA: (Interpretation) Thank you very much, your Honour.

23 Q. Richard, can you explain to the Judges under what circumstances
24 Huve is born on the 24th of February -- excuse me, Huve was -- died on
25 the 24th of February, 2003?

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1 A. Yes, I can explain it.

2 THE INTERPRETER: Interpreter correction: Page 9, line 1, that
3 is the 24th of February, 2003.

4 THE WITNESS: (* No interpretation)

5 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, may I
6 interrupt you just for a moment so that the interpreters may transmit to
7 us what you have just said. Please keep in mind what you wanted to
8 continue saying. I'll give you the floor again very quickly, but we do
9 need to break this passage into several sections. Let's wait for the
10 interpreters to give us your words.

11 THE WITNESS: (Interpretation) I was with my wife who had gone
12 into labour. She was having contractions, and I took her with me. We
13 were close to the bush. I took her hand - it was around 1.00 in the
14 morning - to make for the Kambutso health centre. When we arrived in
15 Kambutso, it was almost 4.00 in the morning, and you found Mama Jeanne
16 there, the nurse, the midwife who was there at the time. The situation
17 was really very difficult.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Witness.
19 Now I will ask you to continue your account, and from time to time I will
20 stop you so that we can hear the interpretation. Thank you very much.
21 You may continue. And I do apologise for interrupting you in the middle
22 of testimony, but we can't do anything different.

23 THE INTERPRETER: Many thanks from the interpreters.

24 THE WITNESS: (Interpretation) Jeanne called upon Ngudjolo, and
25 Ngudjolo came. He tried to help my wife along with Jeanne until they

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1 were able to bring the baby into the world.

2 MR. KILENDA: (Interpretation)

3 Q. Richard, you say that Jean called upon Ngudjolo, and Ngudjolo
4 came, and then they delivered the baby. And then what happened after
5 that?

6 A. Ngudjolo and Jeanne helped my wife, helped her deliver the baby,
7 and the baby -- that was until 10.00 in the morning, and then the baby
8 died.

9 Q. And when the baby died, what did you do?

10 A. When the baby died, I took his body, and I took the body back
11 home for the burial, and the burial was held at home, and the mother
12 stayed in the hospital.

13 Q. Thank you very much, Richard. Could you explain to the Judges,
14 who are listening to you very carefully, why do you remember this date,
15 the 24th of February, 2003? Why?

16 A. I remember that date because my child was born on that date.

17 Q. Thank you very much, Richard.

18 MR. KILENDA: (Interpretation) Thank you, your Honours. We have
19 concluded our examination-in-chief.

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

21 Mr. O'Shea, would you like to take the floor?

22 MR. O'SHEA: We have no questions.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. O'Shea.

24 Prosecutor, you may now proceed. Now, we see that the way things
25 are going, this hearing may end during the amount of time that we have

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1 scheduled, that is to say, up until sometime before 1.30. Now, there may
2 be questions from Mr. Luvengika or Mr. Gilissen, but given this witness's
3 profile, I think we'll have to take the same attitude, and then finally
4 we'll have observations from the two Defence teams. So, Mr. Dutertre,
5 please proceed. You have the floor.

6 MR. DUTERTRE: (Interpretation) Thank you. Could we have a
7 moment so that we can set up for the cross-examination.

8 Questioned By Mr. Dutertre:

9 Q. (Interpretation) Good morning, Witness.

10 A. Good morning. Good morning to you.

11 Q. Witness, my name is Gilles Dutertre, and we met last week during
12 the courtesy meeting, and we greeted one another. Today I'm going to ask
13 you a number of questions on behalf of the Office of the Prosecutor. And
14 let me reassure you right off the bat I won't be very long. This is not
15 going to take a lot of time.

16 Witness, if you don't understand a question, just ask me to
17 repeat it. Is that all right by you?

18 A. Yes, I understand.

19 Q. Witness, you are a Lendu person. What clan do you belong to?

20 A. I belong to the Jeanne's village, the village of Jeanne. I
21 belong to the village of Jeanne.

22 Q. Now, your answer was that you belong to the village of Jeanne.
23 Do you belong to a particular clan? What is the name of the clan you
24 belong to? Could you help us?

25 A. I haven't really understood your question. Could you please

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1 repeat it.

2 Q. Sir, you are a Lendu. What clan do you belong to?

3 A. I belong to the Tatsi.

4 Q. Thank you, Witness. Witness, you were born in Nokpa. Could you
5 tell us where Nokpa is, which groupement that place is located?

6 A. It is in the Bedu-Ezekere groupement.

7 Q. And you grew up in that groupement, the Bedu-Ezekere groupement.
8 Isn't that so, Witness?

9 A. Yes, that's right.

10 Q. And you also went to primary school in Ezekere in the 1970s.
11 Isn't that so, Witness? From 1975 to 1977.

12 THE INTERPRETER: Message from the interpreters: The interpreter
13 did not quite understand the question.

14 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, could you
15 please rephrase your question so that the interpretation can be done
16 properly.

17 MR. DUTERTRE: (Interpretation) Certainly.

18 Q. My question was: You went to primary school in Ezekere. Isn't
19 that right?

20 A. Yes, that's right.

21 Q. I'm sorry to have to hark back to this particular point, but I
22 just want to get a particular item of information from you. Now, your
23 wife Modestine, she was a Lendu person, and she was from Lone. Isn't
24 that so, Witness?

25 A. Modestine was also from the Lendu tribe, the groupement that she

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1 belonged to was the Jili groupement.

2 Q. Witness, all your children were born in the Bedu-Ezekere
3 groupement; is that correct?

4 A. Yes, that's quite right.

5 Q. And at the current time, you're living in Lone, in the
6 Bedu-Ezekere groupement as well. Isn't that right?

7 A. Yes, that's right.

8 Q. Now, you've always lived in the Bedu-Ezekere groupement, haven't
9 you?

10 A. Yes, that's right.

11 Q. Witness, you know Ngabu Mandro Emmanuel, who is also known as
12 Chief Manu. You know that person, don't you?

13 A. Yes, I do know Chief Manu.

14 Q. When did you see Chief Manu for the last time?

15 A. Could you please explain so I can understand, please.

16 Q. You saw Chief Manu recently, didn't you, not so long ago?

17 A. In recent time I didn't run into him, but I did run into him in
18 Kinshasa.

19 Q. Now, in Kinshasa, you were housed together, weren't you? Isn't
20 that right, Witness?

21 A. No, we were not housed together.

22 Q. When you ran into him in Kinshasa, you spoke to him. You met,
23 you spoke together, didn't you, Witness? Someone like you from Ituri and
24 then the chief of your groupement.

25 A. We did not have a long discussion. I just greeted him. We just

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1 greeted one another.

2 Q. And you know, Witness, that he has testified in this trial and
3 that he was in Kinshasa, and he was about to come here to give testimony
4 for this trial.

5 A. Yes, I knew that he was going to be giving testimony here.

6 Q. Who told you that? Who told you that he was a witness, that he
7 was going to be coming here to give testimony?

8 A. Pastor Lopa kept me informed of that. He confirmed that to me.
9 He told me that he was supposed to be coming here to give testimony.

10 Q. Pastor Lopa. We're talking about Pastor Lopa Koli, aren't we?
11 That's the person you're talking about, isn't it?

12 A. Yes. That is indeed the person.

13 Q. Pastor Lopa told you that Chief Manu was coming to give testimony
14 here, and he gave you the names of other witnesses as well, didn't he,
15 other people who would be come here to give testimony?

16 A. Yes, that's right.

17 Q. Witness, what other names did he give you, the names of other
18 people who would be coming to give testimony?

19 A. He mentioned Mama Jeanne and Pastor Isakara. Those are the names
20 that he gave me.

21 Q. He gave you other names, didn't he, even other names?

22 A. He also mentioned Gustave.

23 Q. Could you give us the complete name of Gustave, witness?

24 A. His name a Likpa Gustave. That is the name that I know him by.

25 Q. Other than these names, Jeanne, Gustave, what other names did he

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1 give you?

2 A. He also mentioned Lukpa Zulo (* phon).

3 Q. Why did Pastor Lopa Koli give you all those names, the names of
4 people who would be coming to give testimony?

5 A. He gave me the names of all those people because I, too, I was
6 supposed to be coming here to give testimony, that's why.

7 Q. Witness, he gave you all those names so as to encourage you, to
8 convince you to come and give testimony. Isn't that right?

9 MR. KILENDA: (Interpretation) What is the factual basis for
10 these statements?

11 PRESIDING JUDGE COTTE: (Interpretation) Let us allow
12 Mr. Dutertre to continue.

13 MR. DUTERTRE: (Interpretation)

14 Q. I shall repeat my question after this interruption:

15 Pastor Lopa Koli gave you all those names to convince you, to encourage
16 you to come and give testimony, didn't he?

17 A. Even if he hadn't given me those names, I had to come.

18 Q. Witness, you had no other choice than to come here and give
19 testimony. Isn't that so?

20 A. I wasn't forced to come here and give testimony.

21 Q. Witness, Mathieu Ngudjolo is an important person, isn't he,
22 respected in the groupement of Bedu-Ezekere? He's the colonel, isn't he,
23 and the brother of a chief, of a notability? A prominent person.

24 A. Yes, I know that.

25 Q. Witness, you had no other choice than to come here and give

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1 testimony on behalf of Mathieu Ngudjolo, Colonel Mathieu Ngudjolo, a very
2 respected person in the groupement of Bedu-Ezekere. You couldn't say no.
3 Otherwise, you would look like a traitor, wouldn't you, Witness?

4 A. That's not right. I wasn't forced.

5 Q. But you've known Mathieu Ngudjolo ever since childhood, haven't
6 you?

7 A. Yes, that is correct. I've known him ever since childhood.

8 Q. And he's someone who is respected in the Bedu-Ezekere groupement.
9 Isn't it that the case, Mr. Witness?

10 A. Yes, that is correct.

11 Q. And you also respect Mathieu Ngudjolo. Isn't that the case,
12 Mr. Witness?

13 A. That is correct.

14 Q. You respect him, and you also fear him, don't you, Mr. Witness?

15 A. That is correct.

16 Q. Mr. Witness, the pastor Lopa Koli told you what Chief Manu,
17 Pastor Isakara, Mama Jeanne, and all the various witnesses whose names he
18 mentioned, he told you what these people were going to come and say here.
19 Is that not the case, Mr. Witness?

20 A. I'm afraid I didn't understand your question.

21 Q. Mr. Witness, Pastor Lopa Koli told you what Chief Manu,
22 Mama Jeanne, Pastor Isakara and what everyone else was going to say here
23 in front of the Judges in order try and convince you to come here. Is
24 that not the case, Mr. Witness?

25 A. He go not explain that to me. He didn't say that to me.

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1 Q. Mr. Witness, the pastor Lopa Koli, he did not just confine
2 himself to giving you the names of the witnesses. He also told you what
3 the witnesses were going to say. Is that not so?

4 A. He explained to me briefly the fact that we had to come in order
5 to help Ngudjolo, to give testimony for him.

6 Q. And he also gave you all the other names, Mama Jeanne, et cetera,
7 to show that the whole of the community was behind Mr. Ngudjolo, and they
8 would come and bear witness for him. Is that not the case?

9 A. That is correct.

10 Q. When was the last time you saw Pastor Lopa Koli? Could you help
11 us out here, Mr. Witness? When was that?

12 A. Do you wish to know the time when Pastor Lopa -- the exact hour
13 of the day when he came to see me?

14 Q. I want to know the day of your first meeting with
15 Pastor Lopa Koli. How long ago, one months, two months, three months?
16 When did that encounter take place? Was it in the month of July,
17 Mr. Witness? I am trying to help you.

18 A. Yes, it was in the course of the month of July.

19 Q. And how many times did you see him? How many times, Mr. Witness,
20 did you see Pastor Lopa Koli?

21 A. We saw each other twice.

22 Q. When was the second time, Mr. Witness, more or less?

23 A. The second time must have been around the
24 5th (* as interpreted) of July.

25 Q. And before the month of July, Mr. Witness, nobody saw you to tell

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1 you that it would be a good thing to come and give testimony for
2 Mathieu Ngudjolo?

3 A. I saw no one else.

4 Q. Mr. Witness, Pastor Lopa Koli, when he came to see you, who was
5 with him the first and second time?

6 A. He came to see me by himself.

7 THE INTERPRETER: Interpreter correction: Line 23, it's not the
8 5th of July but the 25th of July.

9 MR. DUTERTRE: (Interpretation)

10 Q. And you spoke with him about your testimony, about the contents
11 of what you were going to say today in the courtroom. Is that not the
12 case, Mr. Witness?

13 A. Yes. He asked me a few questions. In fact, he only asked me a
14 few questions.

15 Q. Mr. Witness, you know Déo Lotchubo, Mathieu Ngudjolo's brother.
16 Is that not the case?

17 A. Yes, I know him. I've known him ever since childhood.

18 Q. And you see him frequently. Is that not the case?

19 A. Yes. I run into him. Even the day I went to see
20 Pastor Lopa Koli, I ran into him.

21 Q. And you saw him with Pastor Lopa. He was with Pastor Lopa,
22 Déo Lotchubo. Isn't that the case?

23 A. Yes, they were together.

24 Q. And with -- and all three of you, Pastor Lopa Koli, Déo, and you,
25 discussed your coming to The Hague in order to give testimony for

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1 Mathieu Ngudjolo. Isn't that right?

2 A. The day I ran into Déo, we did not discuss directly these
3 matters.

4 Q. Mr. Witness, you were with Pastor Lopa who had come to bear
5 witness for Mathieu Ngudjolo, and there was Déo Ngudjolo who was
6 Mr. Mathieu Ngudjolo's brother. Are you saying today under oath before
7 the Judges, because I will remind you that you have taken the solemn
8 undertaking to tell the truth. So are you going to tell us that on that
9 day with the pastor Lopa Koli and with Déo you did not speak about the
10 Mathieu Ngudjolo case? Is that what you are stating Mr. Witness?

11 A. I wanted to say that the first time that we ran into each other
12 we did not discuss this, but only when we ran into each other the second
13 time. That time we did discuss it.

14 Q. Mr. Witness, I am submitting to you that together with
15 Pastor Lopa Koli and Déo you spoke about the contents of your testimony
16 here, of what you were going to be telling the Judges here today.

17 A. Yes, that is correct.

18 (Prosecution counsel confer)

19 MR. DUTERTRE: (Interpretation)

20 Q. Mr. Witness, one short question and my questioning will be over
21 soon.

22 Isn't it true that Mathieu Ngudjolo studied, went to school, in
23 Bogoro?

24 A. I do not know. I'm not really aware of the fact whether he went
25 to school in Bogoro or not, because we do not live in the same city.

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1 Q. Witness, I would put it to you that it was Pastor Lopa Koli and
2 Déo who asked you to come here to bear witness and that you have come
3 here in order to give testimony for Mathieu Ngudjolo, to help him, to
4 help the chief that you respect and that you fear.

5 A. We have come to give help with the strength of the Lord.

6 (Prosecution counsel confer)

7 MR. DUTERTRE: (Interpretation)

8 Q. Mr. Witness, one final clarification, and this is my last
9 question. You mentioned earlier on that Pastor Lopa Koli gave you the
10 names of several witnesses, and amongst these people you mentioned one
11 first name, and I wanted some clarification. Was it Bukpa Kalongo that
12 the pastor also mentioned? Is that not so?

13 THE INTERPRETER: The interpreter has not understood the name
14 Mr. Dutertre has mentioned, the Lendu interpreter.

15 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, would you
16 repeat the name, please, because the interpreter has not well-understood
17 the name, and would you spell it out, please.

18 MR. DUTERTRE: (Interpretation) I'm looking for the exact
19 spelling of the name. B-u-k-p-a, Bukpa. K-a-l-o-n-g-o. Kalongo, g -o.

20 THE INTERPRETER: The Lendu interpreter: Would you repeat the
21 question, please, sir, for the interpreter.

22 MR. DUTERTRE: (Interpretation)

23 Q. The question was: Among the names that Pastor Lopa Koli gave to
24 the witness, the names of the various people, the other people who were
25 coming here to give testimony, there was Bukpa Kalongo. Isn't that

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1 right?

2 A. Is Bukpa Kalongo B-p?

3 MR. DUTERTRE: (Interpretation) I shall stop here. I have no
4 further questions, your Honour.

5 THE INTERPRETER: The Lendu booth should like to point out that
6 the word "fear" that the witness used means two things. To fear means
7 both to fear and to respect. It is important to bear that in mind.

8 PRESIDING JUDGE COTTE: (Interpretation) But you are referring
9 to which particular part of the witness's answer? It is not now that he
10 said that. No, it is earlier.

11 THE INTERPRETER: No, it is earlier, at 10.02. When he -- the
12 question was: "Do you respect him and do you fear him?" Fear actually
13 means respect, and later also when the word "fear" is used, it is used in
14 the sense of respecting also.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
16 So we must keep in mind these two that go together, "fear" and "respect,"
17 which are, in fact, are encapsulated into one single concept. Is that
18 not the case?

19 THE INTERPRETER: Yes, it is. Answer from the Lendu booth.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

21 Mr. Gilissen, have you any questions?

22 MR. GILISSEN: (Interpretation) Your Honour, Honourable Judges,
23 I'm rather embarrassed and I must to say why because the witness has not
24 at all broached the interests that I represent. The witness does seem to
25 be a very interesting person, but I must say that in the light of what I

1 have seen and I have heard this morning, I will keep to the same attitude
2 as yesterday in spite of everything. Thank you very much, sir.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
4 Mr. Gilissen. You know, it is important, this first trial conducted by
5 the International Criminal Court, for all of us to make sure that this
6 new role given to the victims is well played out. It is absolutely
7 important that we take into account these rules that are both strict but
8 must be also complied with.

9 MR. GILISSEN: (Interpretation) May I, sir, with your leave. I
10 believe that whatever may be my desire to intervene now, perhaps it would
11 have been -- there would have been a problem of role or equity. I'm
12 using big concepts here, and I'd like to put this to my learned
13 colleagues from the Defence teams. It seems to me that if I had tried to
14 force my way into this, there could have been a small problem. I'm
15 saying this for the sake of equity, sir, and to make everything clear.
16 I'm absolutely sure that you understand that because of the academic
17 links that unite us.

18 PRESIDING JUDGE COTTE: (Interpretation) Let's call this
19 jurisprudence.

20 Mr. Luvengika.

21 MR. LUVENGIKA: (Interpretation) Your Honours,
22 Honourable Judges, as far as I'm concerned, I have no questions to ask of
23 this witness, but thank you for calling on me.

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

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1 Questioned by the Court:

2 PRESIDING JUDGE COTTE: (Interpretation) Just like yesterday,
3 the Chamber simply wishes to obtain from the witness, if at all possible,
4 some further clarifications, as to the timing. I -- we have waited in
5 the hope that have Mr. Kilenda or Mr. Dutertre would be asking that, but
6 they didn't.

7 So I will be putting to you, sir, the following question,
8 Mr. Witness: On page 9, line 9 of this morning's transcript, there is
9 something that struck me, and that is that on the 24th of February, 2003,
10 which is a sad day for you that you remember extremely well, and this is
11 what you said, you arrived -- or you got to the health centre around
12 4.00, 4.00 in the morning, where Mama Jeanne welcomed you, and you said
13 that Mathieu Ngudjolo came later to help Mama Jeanne in the delivery.
14 You also told us that that child that was just born, the baby, died at
15 10.00 a.m. Do you remember whether at 10.00 a.m., when the baby died,
16 when you saw it yourself, do you remember whether Mathieu Ngudjolo was
17 still there at the health centre?

18 A. When the baby died, I took his body to take him home to bury him,
19 and I left Mathieu Ngudjolo at the health centre.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Witness.

21 Prosecutor, to the extent that a new element has arisen in the
22 light of the witness's answer to this question, if you wish to proceed
23 now, only within that context, you may go ahead and do so, sir.

24 MR. DUTERTRE: (Interpretation) No, I have no further questions.

25 PRESIDING JUDGE COTTE: (Interpretation) Well, Mr. O'Shea, do

1 you wish now to address the Bench?

2 MR. O'SHEA: No.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,

4 Mr. O'Shea.

5 Mr. Kilenda.

6 MR. KILENDA: (Interpretation) Thank you, your Honour. Could I
7 be please allowed a few moments of consultation with my client?

8 PRESIDING JUDGE COTTE: (Interpretation) Of course so. You can
9 do so in the back of the room if you wish to. We do have time for that.

10 (Defence counsel and Mr. Katanga confer)

11 MR. O'SHEA: My I --

12 PRESIDING JUDGE COTTE: (Interpretation) Yes.

13 MR. O'SHEA: (* Previous translation continues)... this
14 opportunity, your Honours. It appears I owe an apology to the Chamber
15 and also that I should express gratitude to the Chamber. This morning
16 you reminded us with respect to the bar table motion, and I'm very glad
17 that you did remind us, because in actual fact there was a
18 misunderstanding between the Chamber and myself, because in -- on the
19 29th of August when we dealt with this matter in court, the English
20 transcript reads as follows:

21 "THE COURT: (Interpretation) I'm not going to give an actual
22 deadline, but as quickly as possible. So the 5th and then the 9th,
23 perhaps earlier. Those are the two deadlines. If you could let us know
24 by, let us say, Thursday, the 15th of September, is that all right by
25 you, Mr. O'Shea?

1 "MR. O'SHEA: Yes."

2 And I'm afraid that I have been working under the misconception
3 that I was going to report back to the Chamber as to a new deadline, not
4 that I was actually going to submit a motion yesterday.

5 So my apologies for that misunderstanding, and I hope the Chamber
6 will understand if -- if I file that motion today.

7 PRESIDING JUDGE COTTE: (Interpretation) Very well. We shall
8 see that, Mr. O'Shea. It is true that in my memory, but all of this was
9 done orally in the course of the hearing. I do not have before me now
10 the transcript for that hearing, but from my own recollection, it is true
11 that I was expecting to receive 35, standard 35 filing for, from memory I
12 would say two documents that the Prosecutor had singled out as being new
13 documents that had not been submitted before the 7th March 2011. We have
14 not yet received that filing, but obviously it is up to you, sir, to
15 assess whether or not it's necessary to submit it. And I had thought
16 also that it was the 15th of September that the new bar table motion
17 would be submitted in the light of the unsolicited observations of the
18 Prosecutor and Mr. Kilenda.

19 We shall have to re-read all of this, and then we shall see what
20 determination we make on the matter.

21 MR. O'SHEA: It may be that on the day itself I -- I had
22 understood that there was a deadline of the 15th of September for the
23 written motion. It's just that having reviewed the transcript, it's
24 created confusion in my mind, but in any event, that motion will be filed
25 today with the permission of your Honours.

1 PRESIDING JUDGE COTTE: (Interpretation) Please, by all means do
2 submit it today, and once again we shall see how we will appreciate that
3 slight delay in the submission, it being understood, obviously, that what
4 is said in the hearing at times is less clear than what appears in
5 writing.

6 Mr. Kilenda, we have had a short break, so you may now proceed.

7 MR. GILISSEN: (Interpretation) May I intervene?

8 PRESIDING JUDGE COTTE: (Interpretation) Yes, of course.

9 MR. GILISSEN: (Interpretation) It's not on the witness but on
10 what I said earlier. My case manager's not here now, but I have already
11 spoken about that before. We have had no access to the bar table motion
12 from the Katanga Defence, and I'd like to say this in the hearing so for
13 it to appear in the record. I would be very grateful to our Defence
14 colleagues to check into this and to take the necessary and appropriate
15 measures. Thank you.

16 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, let us now
17 return to our witness, who has been forced to be present during a
18 procedural exchange which is of no concern to him. Please proceed, sir.

19 MR. KILENDA: (Interpretation) Now, at this point, if
20 Mathieu Ngudjolo's team has no further questions to ask of the witness,
21 it still would like to count on your legendary consideration and
22 discretion to gain authorisation to thank the witness and to allow him to
23 briefly greet the team.

24 We would like to say to the witness thank you very much, Richard,
25 for coming to testify before the International Criminal Court in

1 The Hague. We wish you a safe journey back to the Democratic Republic of
2 Congo. With your authorisation, Mr. President, we will have the
3 opportunity, Mr. Witness, of thanking you in person. Once again, thank
4 you very much.

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

6 THE WITNESS: (Interpretation) Yes. Thank you to you all.

7 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, your
8 testimony has come to an end. It was short, but it enabled you to answer
9 the questions asked of you and to do so very clearly. So we thank you
10 very much for your contribution. We thank you also for coming a great
11 distance to be with us here to try and clarify these matters.

12 If you have no objection, Mr. Mathieu Ngudjolo, for whom you came
13 to testify, and his Defence team would at the end of this hearing like to
14 thank you and greet you briefly. May I remind you, as I told you
15 yesterday, that everything that you have said during this hearing must be
16 kept to yourself upon your return to the Democratic Republic of the
17 Congo. You must not speak about this with people you meet.

18 I will ask the Court Officer and the Court Usher to have you
19 escorted out of the courtroom. We would like to thank the person who was
20 there to assist you.

21 THE WITNESS: (Interpretation) Thank you to all of you also.

22 PRESIDING JUDGE COTTE: (Interpretation) Good-bye, sir.

23 (The witness withdrew)

24 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea, you have
25 the floor.

1 MR. O'SHEA: Yes. If I may take this opportunity now that the --
2 this current witness has -- has left to just take up on what the
3 Legal Representative for the victims mentioned a moment ago about
4 documents.

5 It's my understanding that all the documents in question, the
6 documents which are in contention, were put onto eCourt on the 7th of
7 March, at all which is accessible to the Legal Representatives as far as
8 I know. That is save for the two documents which were the subject of an
9 objection from the Prosecution on the basis that we were to put in an
10 application under Regulation 35(2), which by the way has just been done.

11 And with regard to the -- the procedure for the observations,
12 that's contained in paragraphs 101 and 102 of the Chamber's decision 1665
13 of the 1st of December, 2009, and that procedure refers to the opposing
14 parties and not to the participants. So that -- that would explain to
15 Mr. Gilissen why the Legal Representatives have not been invoked in this
16 procedure as such.

17 PRESIDING JUDGE COTTE: (Interpretation) All right. We will
18 review all of that.

19 This hearing is ending somewhat earlier than we had expected, but
20 the witness has made his contribution to our debate. We will now part
21 until Tuesday, the 27th of September, at 9.00 a.m., and it will be
22 Germain Katanga who will be testifying as a witness.

23 Mr. Kilenda, this is something I mentioned at the beginning of
24 the hearing this morning, but I was perhaps not precise enough. Please
25 do not forget to keep us informed as to developments with regard to the

1 rebuttal expert evidence. I have retained that the report was due for
2 the 3rd of October. You will analyse the report, particularly with
3 regard to its content and its conclusions, so that we know whether the
4 expert witness will be coming to The Hague or not and so that we know
5 that somewhat ahead of time. Please send us a news flash by e-mail with
6 a copy to all of the participants. That would be most welcome when you
7 are in a position to do that, of course.

8 MR. KILENDA: (Interpretation) Yes, Mr. President. We have that
9 very much at the front of our minds, and we are setting certain deadlines
10 for the expert to prevent any delays to the court schedule.

11 PRESIDING JUDGE COTTE: (Interpretation) Very well.

12 All right. We are now going to part to do other work relating to
13 this case.

14 Accused persons, we will see each other in eight or nine days
15 from now, on the 27th of September.

16 The hearing is adjourned. Have a very pleasant afternoon.

17 The hearing ends at 10.36 a.m.

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