

1 International Criminal Court
2 Trial Chamber II - Courtroom I
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial hearing
9 Wednesday, 14 September 2011
10 The hearing starts at 9.03 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, everyone. Good morning to the accused.
16 Now, it was agreed that we would begin today's hearing with a
17 discussion relating to organisational matters. This was something that
18 the Prosecution wanted, and I believe this will allow us to better
19 prepare for the hearings to come in the weeks to come.
20 Mr. Garcia, Mr. Dutertre, which one of you will be speaking?
21 MR. MACDONALD: (Interpretation) It will be me.
22 PRESIDING JUDGE COTTE: (Interpretation) I didn't see you.
23 MR. MACDONALD: (Interpretation) It is indeed me. Good morning,
24 your Honours. From the very back of the courtroom, here I am. Indeed, I
25 thank you, your Honour, for giving us this time to have our discussion.

1 As you said, this is discussion that will be informal in nature, and the
2 purpose is to deal with organisational matters and with scheduling.

3 Now, the first point that I'd like to touch upon has to do with
4 the testimony from the two accused. Now, as well, the Prosecution
5 realises that we won't be sitting this Friday, nor next week, that is to
6 say, the week of the 22nd of September. We won't be sitting, I believe.

7 PRESIDING JUDGE COTTE: (Interpretation) Yes. I will just check
8 that point, particularly about this particular Friday. We are not
9 sitting next week or the last week of October, but I do believe that we
10 are sitting Friday this week. Yes, we are indeed sitting on the 16th.

11 MR. MACDONALD: (Interpretation) I beg your pardon. That was my
12 mistake. Indeed, I'm speaking of the week of the 19th of September, and
13 I believe you confirmed just now that the last week of October we won't
14 be sitting.

15 PRESIDING JUDGE COTTE: (Interpretation) Indeed.

16 Now, the five last days of October have been set aside for some
17 internal matters, internal matters here at the court that will involve
18 the participation of all the Judges.

19 Now, perhaps you might want to -- perhaps you might want to keep
20 a few things in your back pocket, so to speak, for Thursday and Friday.

21 MR. MACDONALD: (Interpretation) Duly noted. In light of
22 yesterday's decision regarding guarantees, the first question is with
23 regard to the testimony of the accused, and I believe -- I think we'll
24 have to get some certainty regarding this very quickly, will they be
25 testifying under oath, or will they be taking advantage of

1 Article 67(1)(h), namely making a written or oral statement in their
2 defence without taking an oath? You see, there are these two options
3 here at the court, unlike other jurisdictions, international or national
4 courts. But I think that's the first matter. It goes without saying
5 that the other parties and participants may not have to prepare for
6 questioning.

7 Now, if the witnesses, the accused, give testimony under oath,
8 that will be a first for this jurisdiction, and these are two witnesses
9 who are important, of course, and they will be giving testimony at their
10 own trial. It goes without saying, your Honour, that the Prosecution
11 must prepare properly for such a possibility, and that is why I sent the
12 e-mail, to try to consult the Chamber, the parties and participants, so
13 we could agree to some kind of preliminary schedule.

14 Now, clearly there are four witnesses remaining, the witnesses
15 from Ituri, the expert witness -- correction, three witnesses from Ituri
16 and possibly one expert witness.

17 Now, regarding the testimony of a potential expert, we have
18 understood the Chamber's remarks, and in light of the evidence already
19 adduced, it is quite likely that -- well, without making any assumptions
20 about the expert's reports, we may be satisfied with the expert just
21 filing a report. That would avoid having to have the gentleman
22 travelling here and providing for hearings. So it may be possible that
23 towards the end of September, we may have finished with our witnesses,
24 that is to say, the witnesses coming from Ituri. So we'll still have to
25 see about the expert witness.

1 Now, of course my remarks regarding the report from the expert
2 are without prejudice. If this witness -- if this expert witness does
3 not give testimony, it's a matter of determining -- well, the first
4 scenario, the expert does not give testimony. When will the first
5 accused person give testimony, Mr. Katanga? If the expert is to give
6 testimony, his testimony might be quite brief. Well, at that point, when
7 will Mr. Katanga's testimony begin?

8 Once more, your Honour, in light of the importance of the
9 testimony from the two accused in this trial and considering the fact
10 that they are the central figures in this trial, the Prosecution would
11 like to have some time between the end of Mr. Katanga's testimony and
12 Mr. Ngudjolo's testimony to allow parties and participants and certainly
13 the Chamber as well to take in all the information provided by
14 Mr. Katanga with a view to preparing for cross-examination or adding new
15 information in light of information provided by the first accused during
16 testimony.

17 This not -- this need not necessarily be a very long period of
18 time, your Honour, in light of the experience that we've gained over the
19 past three years, your Honours. We have been working together for three
20 years now, and I would not dare to suggest a particular amount of time,
21 but I do believe that a minimum of three days would be sufficient. We
22 would have perhaps wanted a full week, but as I have said just now,
23 your Honour, I certainly won't venture into the question of the actual
24 number of days. That's certainly up to you to decide.

25 And then after Mr. Ngudjolo's testimony, I would suppose that the

1 evidence, other than applications taking the form of bar table motions,
2 would remain pending, but we would be very close to concluding evidence
3 from the witnesses, both in examination-in-chief and cross, and then we
4 would have to move on to rebuttal evidence. And I would like to reassure
5 my learned friends opposite that we have taken due note of the Chamber's
6 ruling, and the Chamber would like parties and participants to suggest
7 testimony or evidence by way of rebuttal, and the Chamber would then make
8 an assessment as to whether you need to hear that material.

9 At this particular stage, your Honours, the evidence from the
10 Defence teams has not been fully provided, and I certainly won't venture
11 to say whether the Prosecution has further information to bring to the
12 Court's attention. If in light of evidence currently on record, if we
13 intend to make such a suggestion to the Chamber, it may be a matter of
14 one witness, but then once again, your Honour, that -- once all the
15 filings have been made, we may have a particular person in mind, but as
16 the days go by, as we hear evidence from the Defence witnesses, I think
17 right now it's looking like we won't have any suggestions. Currently, we
18 have three more witnesses and then the two accused. So we'll have to
19 wait and see. It's really a matter of determining whether the learned
20 friends opposite would also like to bring forward material, although, I
21 think their stage of the proceedings is drawing to a close. And perhaps
22 the Chamber may wish to call witnesses or want -- want evidence to be
23 brought before them, and that is discretionary power that you have. So
24 it's a matter of determining when all the evidence will be heard.

25 We will also have to wait and see to determine whether there will

1 be a visit to the field, to the place where the events occurred. You
2 will be making a decision in that regard, but I believe that the
3 suggestion by the Kilenda team to organise that trip, and I suppose it
4 all depends on time and logistics.

5 If the Chamber were to agree to such a visit, February 2012,
6 well, that's a while yet. If there is no trip to the places in question,
7 if there is no rebuttal, once all the evidence is placed on the case
8 file, the Chamber will be giving how much time to the Prosecution to
9 prepare written submissions? How much time will be allocated to the
10 Defence, to the participants? How much time will be granted to the
11 Prosecution to respond, if necessary, to filings from the parties? And
12 then after that, of course, there will be final closing arguments, and we
13 are taking that for granted. How much time will there be for the last
14 filings and then the final arguments?

15 As you can see, we are looking to the future, and I think you
16 realise, your Honour, that I am touching upon these matters because we
17 want to begin this discussion so that everyone, certainly the Chamber --
18 so that everyone can organise time and resources accordingly, so that we
19 can prepare the various filings, the written submissions, and also
20 prepare for the final closing arguments. What I would like, and I'll
21 close on this particular point, unlike the Lubanga case and despite the
22 fact that we are dealing with an attack that occurred on one particular
23 day at one particular place, that attack is to be viewed from a broader
24 perspective and against a broader backdrop, and also involves two
25 accused. What's more, we have had more witnesses than was the case in

1 the Lubanga trial.

2 Once the Chamber conducts its analysis of these planning matters
3 and sets a temporary -- or, rather, a preliminary schedule, I think all
4 these considerations will have to be kept in mind. What's more, we also
5 have to take into account court recess, which are a welcome occasion for
6 everyone. Generally speaking, at Christmas the court doesn't sit for two
7 weeks or so. Many people travel back home to see their beloveds. And of
8 course, we'll have to move expeditiously and remember, of course, that
9 the accused have been in detention -- one accused has been in a detention
10 since October 2007, and the other since February 2008. We are very much
11 aware of this, and I'm sure that my learned friends also can see this
12 approach we are taking as a reasonable one, given the amount of evidence
13 that has been adduced and the various issues that will have to be dealt
14 with in closing arguments.

15 I thank you, your Honour.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Prosecutor.
17 You have expressed your concerns, and these concerns are very much shared
18 by the Chamber. Perhaps "concerns" isn't the right word. I don't think
19 we need to be worried. Perhaps we should speak about pondering,
20 pondering the various issues at hand.

21 As I said yesterday, I think -- well, we can gather observations
22 from the various parties and take stock of these issues, consider them,
23 beginning with the question of testimony from the accused. You were
24 wondering whether the accused would be giving testimony under oath or
25 rather -- or whether they would be making statements pursuant to

1 Article 67(1)(h).

2 The Chamber has in mind testimony under oath. This is what we
3 thought Mr. Kilenda's approach would be, and we also thought that was the
4 position taken by the Katanga Defence team. So we would like the two
5 Defence teams to confirm whether this is what they had in mind. This is
6 what we thought they had in mind, namely the accused would give testimony
7 under oath and that there would not be any challenge of this, that this
8 is still the objective of the Defence teams.

9 Mr. Hooper, is that indeed the case? Do you still wish to have
10 Mr. Katanga give testimony under oath?

11 MR. HOOPER: Yes, on oath, your Honour.

12 PRESIDING JUDGE COTTE: (Interpretation) Very well.

13 Mr. Kilenda, does the same hold true for you?

14 MR. KILENDA: (Interpretation) Exactly, sir. Mr. Ngudjolo will
15 be giving testimony under oath.

16 PRESIDING JUDGE COTTE: (Interpretation) Very well.

17 Prosecutor, you were concerned. You did want to know whether
18 yesterday's ruling, Ruling 3153 in response to an application,
19 application -- application 3079 from Mr. Kilenda on behalf of
20 Mr. Ngudjolo, dated the 9th of July, 2011, whether that would have an
21 influence on the ruling made, and apparently that was not the case. So I
22 think you've had an initial reply, quite a clear one.

23 Insofar as the two accused will be testimony soon under oath, the
24 Chamber has realised that Mr. Kilenda, over the past few months, has been
25 sending a list of issues that Mr. Ngudjolo will be testifying to. If you

1 are in a position, Mr. Kilenda, Professor Fofé, to disclose a more
2 detailed document so that the Prosecution can better prepare, we strongly
3 recommend that you do so, because if we have a better view of all of
4 this, we'll have a better debate, that is to say, clearer and more
5 organised proceedings.

6 We have received your earlier applications, and if you could be
7 so kind as to forward a more complete document, the Chamber sees this as
8 a very good thing indeed.

9 Now, Mr. Hooper, I think it would be a good idea if you, too,
10 could also send a list of the various matters that you're planning to
11 deal with during Mr. Katanga's testimony. I think you'll also recall
12 that during a hearing that was held on the 10th of March, 2011, the
13 Prosecution did deal with this, and I believe it was you, yourself,
14 Mr. MacDonald, and I believe all this is to be found in transcript 237.

15 Prosecutor, I believe you wanted this information within two
16 weeks, specifically a list of issues to be dealt with. I believe you
17 referred to it as a summary, a summary of issues that would be dealt with
18 by the Katanga Defence team. Mr. O'Shea had spoken, and you replied,
19 saying that at the best possible moment, this disclosure would be done
20 probably after testimony from the last witness, and we are coming very
21 close to that point in time, namely the testimony of the last witness.
22 We will be hearing from one witness today. Then we will be hearing from
23 two other witnesses. And we do have a good idea of the kind of
24 statement -- or, rather, testimony they will be giving, and then we may
25 be hearing from an expert witness.

1 Consequently, I think the time has come, Mr. Hooper, to send a
2 list of issues to be dealt with, as the Ngudjolo Defence team did, so
3 that the Chamber and the other parties, and particularly the Prosecution,
4 may prepare for all of this in an efficient manner, and I think this can
5 be done while we are hearing from our last two witnesses.

6 Once again, the scope of this testimony may not be fundamental.
7 I don't want to downplay anything, but in terms of mode -- in terms of
8 liability and all of that.

9 So what would you suggest, Mr. Hooper -- or Mr. O'Shea? Are you
10 in a position to send a list of the various issues? I think that will
11 have to be done, but what sort of time-frame are we speaking of? The --
12 the other parties, particularly the Prosecution, need to prepare, and
13 this has to be properly so that the proceedings can unfold as
14 efficient -- can be conducted as best possible.

15 MR. HOOPER: (* Microphone not activated)... compile a list of
16 subjects. Given the -- Mr. Katanga's position in the case, I would have
17 thought that the areas that he's going to talk about are pretty plain
18 anyway, as far as the Prosecution are concerned, particularly as in the
19 course of the Defence case; for example, when it came to questioning
20 Prosecution witnesses in the main, I think we put our case clearly. So
21 the Prosecution, I don't think, are going to be taken by surprise by
22 anything that's said.

23 But, yes, we'll provide a list, but I think as the Chamber
24 recognises, and I'm sure my friend from the Prosecution does, I'm not
25 going to say that it's exhaustive in the sense that there aren't matters

1 that one could not anticipate would not be touched on, that might not
2 find their way into the list. That would be an oversight on counsel's
3 part rather than -- than anything else.

4 So, yes, we'll provide a list, and we'll try and get that to them
5 by tomorrow, or Friday anyway.

6 PRESIDING JUDGE COTTE: (Interpretation) Very well. Thank you
7 very much, Mr. Hooper. I think you've understood why we've made this
8 request. You may find it obvious or evident, but I think it needs to be
9 clear to all parties in question so that we can have a list of subjects
10 that you may be dealing with, a bit of a summary, so to speak, of what
11 you have in mind, something that we may not recall as well as you do.

12 So in less than eight days, it would appear that you will be in a
13 position to send this list of subjects to everyone, and we thank you for
14 that.

15 Now, if we could move on to the approximate duration of
16 examination-in-chief of the two accused.

17 In the various documents sent by the Ngudjolo Defence team, we
18 read that examination-in-chief of this particular accused person, who has
19 agreed to give testimony under oath, may be in the order of 40 hours,
20 which gives us the impression that -- well, not to downplay the
21 importance of this testimony, but this does seem rather long.

22 Do you still think you will be needing 40 hours, because in terms
23 of our scheduling, this is not really a neutral matter.

24 MR. KILENDA: (Interpretation) Thank you, your Honours, for that
25 particular question. A few moments ago, you were suggesting that we

1 return to our list of subjects and perhaps flesh it out some more. After
2 that we will assess that particular point, namely the amount of time, and
3 then we will revert to the Chamber very quickly and suggest a reasonable
4 number of hours, because we realise that you are concerned about an
5 expeditious trial.

6 The team shall confer so that we can flesh out that list of
7 topics, and then, secondly, to assess the amount of time that will be
8 needed for examination-in-chief of Mr. Ngudjolo.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Kilenda.
10 In light of the fact that we shall not be convening next week, what would
11 be ideal is for you to submit this information in Friday's hearing,
12 within 48 hours. Would that be possible? No. It seems to me that it
13 does seem difficult to you. Could you submit it in writing then at the
14 beginning of next week, let's say by Tuesday? That does give you some
15 time to ponder matters over. Tuesday, would that be fine?

16 What day would that be, Court Officer? That would be the 20th of
17 September. So if you could transmit this via e-mail which would be
18 copied to all parties and participants the approximate, obviously,
19 duration that you think that you may require in order for
20 Mathieu Ngudjolo's testimony to be given, we'd be very grateful to you.

21 MR. KILENDA: (Interpretation) If you please, your Honour, we
22 shall do so, but if you would agree to the 21st, because we are going to
23 try and work this weekend, the whole of the team. On Tuesday, we'll be
24 spending the whole of the day with our client at the detention centre.
25 It is his case, so we have to evaluate things with him. So Wednesday --

1 Wednesday we definitely will do so.

2 PRESIDING JUDGE COTTE: (Interpretation) Then, very well.

3 Wednesday, the 21st, it will be. Before 2.00 p.m. you will be sending
4 that e-mail.

5 Mr. Hooper, as far as you're concerned, sir, if you could also
6 submit by Wednesday, the 21st of September, 2.00 p.m., an e-mail to all
7 parties and participants outlining, obviously on the basis of what
8 whatever subjects you wish to address, the approximate duration that you
9 would require for the testimony, this time as a witness, of Mr. Katanga.
10 Agreed, sir?

11 MR. HOOPER: Yes, but I'm sure the Chamber by now is approaching
12 me with grave cautions when it comes to estimates of time, and at no
13 point is it more difficult than in assessing how long a witness will be
14 at his own case, but a witness as significant as Mr. Katanga is going to
15 take.

16 I noticed a moment ago that Mr. Kilenda was invited to give an
17 indication as to how long remained, at least in terms of
18 examination-in-chief, of remaining witnesses. We didn't get a reply, but
19 it seemed to me that it was likely that a date to perhaps consider a
20 probable date for the commencement of Mr. Katanga's evidence was the
21 3rd of October. It's not actually so far away, because we go away --
22 we're not here next week. We come back and then we're into October. So
23 it would be the Monday of the week after we return.

24 I would have thought his evidence, including cross-examination
25 and questions by the various parties, would not exceed ten days. That's

1 five days perhaps in chief, maybe less. I really haven't put my mind as
2 to the situation entirely, but something along those lines.

3 I noticed earlier the Prosecution was suggesting time in between,
4 but it seems something of an unnecessary luxury, in our view, because
5 there's been years of preparation, surely, in respect of this case. And
6 in any event, if, in fact, the situation was for one accused to follow
7 the others as we anticipated it was in their evidence, then of course the
8 Prosecution have had the advantage of the examination-in-chief, as it
9 were. They'd have that time there.

10 And I hope I'm not overreaching our position here, but it seems
11 if that's the general position, then the evidence in this case could be
12 concluded by the end of October.

13 We would ask in terms of closing brief -- and just pausing there
14 and to utter a heart-felt concern, having been through one or two closing
15 briefs, I cannot but stress how complex and difficult the operation is so
16 far as the Defence position is concerned. It's a very difficult
17 exercise. I'd say almost traumatic. And I know that others who have
18 been on teams where closing briefs have been involved would not find that
19 word misplaced. So we would ask for no less a time than the Lubanga
20 team, which was a simple case compared to this, no less a period of time
21 than the Defence there got, which was three months. On a scale of
22 complexity, this case by its relatively novel charges in the
23 jurisprudence of this court, the nature of the evidence, the fact that it
24 is, of course, a case with two accused, all those matters place it in
25 quite a different category to the Lubanga case with its relatively simple

1 charges.

2 And we also echo Mr. MacDonald's concern. It may affect the
3 Prosecution team rather more than the Defence but probably not, but
4 that's in terms of the winter break and those difficulties that we submit
5 it's fair to take into account.

6 I'm not saying anything about issues of rebuttal evidence,
7 because I think as Mr. O'Shea has said on a previous occasion, and I
8 completely agree, it's impossible, really, for the Chamber to begin to
9 consider issues of rebuttal unless the issue that's claimed to be an
10 issue of rebuttal is fairly and squarely presented to the Chamber, and
11 there's little point, of course, discussion such issues until they arise,
12 and they'll arise on the application of a party. It's certainly not our
13 intention at this minute to suggest that we, for example, have any
14 intention to call rebuttal evidence. We've just concluded our case, and
15 we wait to see if there are any issues that might arise in the course of
16 the remaining testimony, but we don't anticipate that we will be in a
17 position, but we don't know.

18 So as I say, falling back onto of issue of Mr. Katanga and his
19 evidence, if the Court were minded or in a position to say that the
20 3rd of October in his case would be a work date in terms of receiving --
21 beginning to receive his testimony, then from the Defence point of view,
22 having that working date in mind would be of assistance and -- perhaps to
23 all the parties.

24 Thank you, your Honour.

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

1 for all these clarifications.

2 Needless to say, the unfolding of the proceedings within the very
3 specific context of the texts governing us is not an exact science, and
4 we therefore are not in a position to lay down with perfect certainty
5 the -- the exact beginning of every single testimony that remains to be
6 given and the exact end thereof. Likewise, and we totally agree with
7 you, Mr. Hooper, the Prosecution's team has been working on this for
8 quite a long time and will be working even more when it comes to the
9 testimonies of the two accused.

10 However, to get back to the issue at hand, let us keep in memory
11 that up until now we've got until the end of October, 23rd, I believe,
12 because the three Judges here do have internal matters to attend to
13 during the last week, so we have 19 hearings left. It is not unlikely
14 that we could in 48 hours hear out the three witnesses left, which means
15 that the date of Tuesday, 4th October, might be somewhat early for the
16 beginning of Katanga's testimony. However, the beginning of his
17 testimony in the course of that week is perfectly possible, plausible.
18 Would it be the 5th or the 6th? That we do not know. Subject,
19 obviously, to how long the expert will be giving testimony. One can
20 imagine that there might be a short pause if the expert were to come, a
21 brief pause in the Katanga proceedings. It's not to be excluded. It's
22 something to be kept in mind, to be mulled over. However, we have heeded
23 your words, Mr. Hooper. It is quite important to do what you have said,
24 and we take note of the fact that you're ready for Mr. Katanga's
25 testimony, quay witness beginning with the first week in October, and

1 that is important.

2 Mr. Prosecutor, as far as the preparation is concerned, you are
3 ready. I don't think anybody here can believe that you would not be
4 ready already for your cross-examination for the first of the two accused
5 who will be giving testimony, and even more ready once you will have
6 received in -- within a very short period of time, the list of subjects
7 upon which Mr. Katanga will be giving testimony. However, you did speak
8 of perhaps a break which may take place between Mr. Katanga's testimony
9 and the testimony to be given by Mr. Ngudjolo. We shall see that. We
10 shall see, because a priori, it might not be necessary to suspend our
11 hearings.

12 You spoke of a brief suspension which may last for three days.
13 That matter must remain in abeyance. Everything will hinge upon the
14 conditions under which Mr. Katanga's testimony unfolds. If it turns out
15 to be totally indispensable to suspend, we shall then assess whether we
16 require one day or two days. But right now, the starting idea is that
17 the two testimonies should be able to succeed each other seamlessly,
18 without any interruption at all.

19 Now, it is true that for the Bench the end of the testimony
20 towards the 21st of October would be quite a good thing.

21 Mr. Hooper, approximate, because obviously we're not asking you
22 more than we asked Mr. Kilenda for compulsory dating, but you say perhaps
23 five days for the chief, ten days in total? Fine. So let us give
24 ourselves, if you do agree, as a deadline either the 21st of October or
25 the end of the first week in November, which should enable us to have an

1 idea of the time line as regards the conduct of our proceedings.

2 Mr. Prosecutor, you also broached the issue of a possible -- my
3 pronunciation will not be as good as yours, the rebuttal evidence. You
4 said that in English. Where that particular issue is concerned, you left
5 things in a state of ambiguity, and it's a good thing you did so, because
6 you said that it all depended whether there would be any particular
7 applications. We shall have to wait. And Mr. Kilenda, Professor Fofé,
8 definitely nodding their heads.

9 Visit. On the spot. Well, definitely, you're all taken into
10 account, the observations that have been made. Very constructive, very
11 interesting, whether it be from the Legal Representatives or from the two
12 Defence teams. We're definitely not yet in a position to say, A, whether
13 this Chamber will actually travel, and, B, at which time we will do so.
14 Because you may imagine obviously that there are a number of difficulties
15 to be taken into account and particularly constraints we labour under
16 which are not all easy to deal with, constraints having to do with the
17 situation observing locally at the end of the year, constraints also of a
18 budgetary nature. However, our desire is to take a decision as quickly
19 as possible, because obviously it will impinge upon your own respective
20 agendas. One may perhaps consider that such travelling may take place
21 once the proceedings, the discussions per se, have been completed. It
22 might even take place, and I don't think there will be any obstacle to
23 that, during the time given to you in order to prepare your final written
24 briefs. We shall be giving you, as early as we can, having consulted you
25 obviously on your respective availabilities -- but as soon as possible,

1 as soon as it becomes feasible to do so, we shall do so.

2 As with regards the time for the submission of the written brief,
3 the very alternate observations, we're not yet in a position to tell you,
4 but our concern is to make sure that all of this takes place under
5 conditions of expeditiousness, which are totally compatible with our
6 procedure, and we have clearly heard Mr. Hooper on this, under conditions
7 which would enable both the Defence, the Legal Representatives and the
8 Prosecution to do useful work. This doesn't necessarily mean obviously
9 that it will be a three-month time period. Far from that. There again,
10 we shall see when we get there, because this is the type of work that
11 should have already been commenced. This is obviously not last-minute
12 work. This is the kind of work that is being nourished as the various
13 witnesses proceed with their testimonies, and we shall also see when the
14 time comes whether the Chamber wishes to call this or that witness, the
15 testimony of whom would seem to be essential for the establishment of
16 truth.

17 So to summarise things, we share your concerns, Mr. Prosecutor,
18 but these are the same concerns of the Legal Representatives and the
19 Defence counsels. We share these concerns. It is essential to have some
20 visibility ahead of us. Whatever we may already determine should be
21 determined, and we do see that certain number of things have become
22 clearer since the beginning of this conversation. Mr. Kilenda should
23 endeavour to complete his list of subjects, and he will be submitting by
24 Wednesday, the 21st, 2.00 p.m., the approximation of what Mr. Ngudjolo's
25 testimony could be. In passing, I'm sure he will have taken note of what

1 the likeliness will be of things mentioned by Mr. Hooper. Perhaps ten
2 days, five days of which would be for the chief examination. Five
3 days -- five days is quite a lot.

4 We have also -- we're also keeping in mind what Mr. Hooper has
5 said, and I know that he will be transmitting to us very quickly, in
6 three days maximum, the list of subjects to be broached with
7 Mr. Katanga's testimony.

8 This is a preliminary important -- this is a preliminary issue
9 but important particularly for the transcript. We know that both are
10 going to be giving testimony as witnesses and under oath.

11 Mr. Prosecutor, please note this is something new in the life and
12 the history of this court and also very new, rest assured of that, for --
13 in the professional history of some of the Judges in this courtroom.

14 So we are setting ourselves as the end date for the testimonies,
15 the 21st of October or the first week in November, profoundly regretting
16 that we shall not be available the last week in October, but this is
17 totally beyond our control. And we hope at least in that week we might
18 even take two days. I will ask you, please, to remain available during
19 that last week in October, because if we can recover one or two days for
20 hearings in that last week, we shall be telling you as quickly as we can.

21 We shall also be specifying as speedily as possible whether we
22 will be travelling *in situ* with you, and we have also taken note, yet
23 again, of your observations on this matter. However, Mr. Prosecutor, we
24 do wish to ask you about the change in orientation of your office,
25 because it used to be a time when your office and you, yourself, would

1 have said that it was a good thing for the Chamber to go for a local -- a
2 real visit *in situ*, but things may have changed.

3 MR. MACDONALD: (Interpretation) May I, sir? Very briefly on
4 this point. The main change is simply in the thesis that may be given in
5 rebuttal by the two accused. Taking into account that particular
6 hypothesis or theory and taken into account the time required for the
7 witnesses, our idea would be that the Chamber should go to Bogoro to see
8 things with their own eyes. But in light of the defence of the two cases
9 as it has transpired so far, we do not consider that to be necessary any
10 longer. This is the reason why we have submitted this filing, believing,
11 as we said, and it is in writing, that the necessary visual elements have
12 already been made available to the Chamber, and also the photographs
13 given by Mr. Ngudjolo's testimony with the necessary views of the hill,
14 et cetera. So it seems to us we do have the necessary visuals to
15 understand the situation *in situ*. Thank you.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
17 Mr. Prosecutor, for what you have said. We shall postpone, because we're
18 not in a condition to reply thereto yet the question as to the deadline
19 for the submission of final briefs, but it does seem to me that we have
20 finally clarified somewhat the respective time lines and it was important
21 to do so.

22 One very last clarification. Mr. Kilenda, I'm turning to you
23 now. The implementation of the decision of this Chamber as to the
24 transmission to Lyon of the originals of some of the documents, I
25 believe, from Dr. Baccard's testimony, that this could be done.

1 MR. KILENDA: (Interpretation) Thank you, sir. The Registry has
2 shown due diligence and Monday afternoon a representative of the Registry
3 personally went to the city of Lyon, and in any case, he is to have
4 handed everything in to the expert by Tuesday morning. So we are hanging
5 on to the results of this, or the answer from the Registry, but it does
6 seem to me everything has been done, and, your Honour, if I may --

7 PRESIDING JUDGE COTTE: (Interpretation) Please proceed.

8 MR. KILENDA: (Interpretation) I won't delay matters, but as
9 regards what Mr. Hooper said for the examination-in-chief of Mr. Katanga,
10 I believe he said that October, as of the 3rd of October. Let me simply
11 indicate to this Chamber that the 3rd of October is precisely the date
12 that you indicated to us the deadline for the submission of the reports
13 from the counter-experts.

14 PRESIDING JUDGE COTTE: (Interpretation) This is the reason
15 precisely why earlier I was mentioning the possibility of an interruption
16 in the testimony of Mr. Katanga should the expert show up so that we
17 would not be bound to suspend only for that reason submission of expert
18 testimony. It is not the ideal solution, but I think it would be
19 regrettable only to suspend for the expert if we see that Mr. Katanga has
20 begun his testimony. We will continue with him, and if it becomes
21 indispensable to suspend and to devote one hearing to the presentation of
22 a possible counter-expert's testimony, we shall do so then, but we do not
23 have now the necessary elements to take a final decision on this point.
24 Let me simply indicate for the time being that this is a solution to be
25 kept in mind just in case.

1 Thank you, all of you, for your contributions. We will now
2 revert to our normal proceedings to try and see them through and abide by
3 our own deadlines, the objective of which I shall have you understand is
4 obviously not to advance precipitously, but as Mr. Hooper said earlier,
5 our accused have been in detention for quite a long period of time, so it
6 is of the essence that they should know as quickly as possible now what
7 their fate is going to be in the days and months to come.

8 Court Officer, Court Usher, we shall ask you now to please fetch
9 the witness, DRC-D03-P-0410, which is the next witness, the witness of
10 Mr. Ngudjolo's Defence team.

11 Mr. Prosecutor, thank you very much indeed, sir, for your
12 contribution.

13 Before the witness comes into the room, yesterday you received an
14 e-mail from Ms. Jasmine Toumaj, our very faithful Court Officer, who has
15 indicated that the testimony of the two witnesses to be followed may give
16 rise to some interpretation difficulties because both witnesses will be
17 using Lendu as a language. You may have noticed that the interpreters
18 who will find themselves, in fact, in the booth to the left, placed in
19 the middle for the time being, will be taking a few notes in order to be
20 able to translate, which means that for all of us, this means that we are
21 going to have to speak in very shorts sentences so as to enable the
22 interpretation to take place as smoothly as possible. At the beginning,
23 I'm sure, it will be difficult, but hopefully things will settle down.
24 The Court Officer's e-mail, I think, is particularly clear and should
25 enable us to work well and to facilitate the work of these Lendu

1 interpreters, I repeat, who will be taking notes in the booth, and at the
2 beginning obviously will be extremely jittery because they would like to
3 be -- they would like to be as effective and as efficient as possible,
4 obviously. So I appeal to everyone's understanding and let us try and
5 help them out.

6 (The witness entered court)

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

8 THE WITNESS: (Interpretation) Good morning.

9 PRESIDING JUDGE COTTE: (Interpretation) I see that you hear me
10 well, which should enable us to work well together. I should like to
11 thank you, sir, for coming all the way here in order to give your
12 testimony. It is the Defence team for Mr. Mathieu Ngudjolo that has
13 called you, and we hope that you will enable us to make headway in our
14 work, in our efforts to seek the truth.

15 We shall ask you, first of all, sir, to be kind enough to tell
16 you -- to tell us who you are, to give us your identity details.
17 Generally speaking, I will also ask you to speak loudly, slowly. I
18 should draw your attention to the need for you to enunciate properly so
19 that interpreters and court reporters can do their job well, because you
20 need to be interpreted first into French and then from French into
21 English. We also like to ask you whenever you answer a question to
22 please count up to five before you give your reply, there again to make
23 sure that enough time is given to the interpreters to complete their
24 interpretation before they proceed to a new sentence.

25 Am I getting across to you, sir?

1 THE WITNESS: (Interpretation) Yes.

2 PRESIDING JUDGE COTTE: (Interpretation) Very good.

3 Mr. Witness, could you please give us your name and your first name, your
4 surname and your first, name slowly and clearly articulated. What is
5 your surname, sir, first of all?

6 THE WITNESS: (Interpretation) Thank you. Before we begin the
7 work, I have a question to ask of you. Would you authorise me to pray
8 briefly?

9 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, before
10 coming into the courtroom, sir, did you not take the opportunity to stop
11 for a moment and pray if it is so important to you? But -- but listen,
12 if you feel that you will testify better by doing so, I will give you one
13 minute, one minute, to observe a period of silence to allow you to
14 accustom yourself to this courtroom and to be fully ready to testify. So
15 you have a minute now. We will all maintain silence and work, do what we
16 need to do. During that time, you may pray if you so wish. Nobody prays
17 publicly out loud in a courtroom. You may do so silently during that
18 minute if you would like to do so. We would like to ensure that your
19 testimony unfolds in the best physical and psychological conditions. So
20 if this is important for you, we will allow you to do that. We will now
21 fall silent for one minute.

22 THE WITNESS: (* No interpretation)

23 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, I could
24 ask you not to speak aloud, please. Please speak in your head, in your
25 hard, but not out loud.

1 THE WITNESS: (Interpretation) All right. Thank you. I have
2 finished.

3 PRESIDING JUDGE COTTE: (Interpretation) You're most welcome,
4 sir.

5 Now, could you please give us your surname.

6 THE WITNESS: (Interpretation) My name is Ngabu Gopka Isakara,
7 Pastor Ngabu Gopka Isakara.

8 PRESIDING JUDGE COTTE: (Interpretation) Could you please give
9 us your birth date and the place of your birth.

10 THE WITNESS: (Interpretation) I was born in the maternity ward
11 in Bogoro on the 8th of November, 1951.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you. So you have
13 just told us that you are a pastor. Does your role as a pastor occupy
14 you full time, or do you have a professional activity in parallel with
15 it?

16 THE WITNESS: (Interpretation) I am a pastor, but at the same
17 time, I am a crop farmer. Other than those two activities, I do no other
18 work.

19 PRESIDING JUDGE COTTE: (Interpretation) Well, that's already
20 quite a lot. Thank you very much. And where are you a pastor? In what
21 locality do you carry out the role as pastor, and where do you conduct
22 your crop farming?

23 THE WITNESS: (Interpretation) I live in Katonie, and I do my
24 work as a pastor in Bogoro.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.

1 Now, Mr. Ngabu Gopka, before giving your testimony you must make an
2 undertaking to speak the truth. This is a solemn undertaking, as you
3 know. I'm now going to read out to you the formula, the wording of that
4 undertaking. I would ask you to listen to you (* as interpreted). It is
5 simple, but it is important.

6 "I solemnly declare that I will say the truth, the whole truth,
7 nothing but the truth."

8 Have you understood and heard me clearly?

9 THE WITNESS: (Interpretation) Yes, but could I ask you to
10 repeat the wording?

11 PRESIDING JUDGE COTTE: (Interpretation) Yes. I will re-read it
12 once again. Do you undertake -- Mr. Ngabu Gopka, do you undertake to say
13 the truth, the whole truth, nothing but the truth?

14 THE WITNESS: (Interpretation) Yes. When I testify, I will
15 speak the truth before my God, because I fear God, who is the ultimate
16 judge of humanity and the nations. I do not wish to draw down misfortune
17 upon me in my life, so I will speak the truth.

18 WITNESS: WITNESS DRC-D03-P-0410.

19 (Witness answered through interpreter)

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you. You have
21 therefore undertaken to say the truth, the whole truth, and nothing but
22 the truth.

23 If during your testimony or in answering the questions that will
24 be put to you by the parties and the participants you do not speak the
25 truth, you could be brought before the International Criminal Court and

1 tried for false testimony, and if that were to be proved, you could be
2 convicted of that offence.

3 Once again, have you heard me clearly?

4 THE WITNESS: (Interpretation) Yes.

5 PRESIDING JUDGE COTTE: (Interpretation) In that case, the Court
6 takes note that the provisions of Article 69(1) of the Statute and
7 Rule 66(1) and (3) of the Rules of Procedure and Evidence have been
8 satisfied.

9 Mr. Witness, what you say before this Court must be kept to
10 yourself. You are not to report those words outside the court. You are
11 not to speak about them outside the court. I think you have seen and
12 understood that it is important to speak slowly as I am doing, to speak
13 sufficiently loudly and to articulate clearly. Please do not hesitate to
14 drink if you are thirsty, if you need a drink. This is a closed room.
15 Sometimes it can get hot. Please take a drink if you feel the need. We
16 all do so. And you will also see that you have a box of tissues on the
17 table in front of you. Should you need to use them, please do not
18 hesitate to do so. The Court will in no way be bothered should you
19 choose to use these tissues.

20 We very much wish that you are able to testify in the best
21 conditions.

22 Mathieu Ngudjolo's Defence team will be asking the first
23 questions.

24 Mr. Kilenda.

25 MR. KILENDA: (Interpretation) Thank you, Mr. President, your

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1 Honours.

2 Questioned by Mr. Kilenda:

3 Q. (Interpretation) Good morning, Witness.

4 A. Good morning.

5 Q. We saw each other in the month of June in Bunia. I introduced
6 myself to you. So I am still Mr. Kilenda, counsel for
7 Mr. Mathieu Ngudjolo.

8 In Bunia, I had already become accustomed to calling you
9 Pastor Isakara. Would it bother you if I continued to address you in
10 this fashion?

11 A. I have no difficulty with that.

12 Q. Thank you, Pastor Isakara. Mr. President, the Presiding Judge of
13 this Chamber, has already told you the rules for working in this court.
14 Would I ask you to speak slowly, to listen carefully to my questions, to
15 answer the questions exactly. I will make an effort to be precise, to be
16 brief, and I would like your answers to be concise. Have you heard and
17 understood me?

18 A. All right.

19 Q. You and I are both going to make an effort to allow a five-minute
20 (* as interpreted) pause between my question and the answer you give me.
21 So please do not answer immediately. Allow me to speak. Allow the
22 interpreters enough time to interpret everything and then please observe
23 a period of five seconds before answering. Have you understood this as
24 well?

25 A. Yes.

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1 Q. Pastor Isakara, do you have another name or a nickname that
2 people know you by?

3 A. No. I only have the name that I gave you earlier.

4 Q. What is your civil status?

5 A. I am married, and I am a father.

6 Q. What is your wife's name?

7 A. My wife has a nickname, Maua. Her surname is Wayi Ruta. So her
8 name is Maua Wayi Ruta, and Maua is, in fact, her nickname.

9 Q. You have just told us that you have children. How many children
10 do you have?

11 A. At the outset, I had nine children. Four are no longer of this
12 life, and five are still with us.

13 Q. Pastor Isakara, what is your ethnic group?

14 A. I am Lendu.

15 Q. And from what collectivity do you come originally?

16 A. I come from the Walendu-Tatsi collectivity and from the Saliboko
17 groupement.

18 Q. What is your locality or your village?

19 A. My locality is called Dhera.

20 MR. KILENDA: (Interpretation) Your Honour, with your
21 authorisation, could we ask the witness to spell his wife's name, because
22 page 31, lines 3 to 4, the name does not appear to be properly recorded.

23 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness,
24 Pastor Isakara, could you please spell for us your wife's name, or
25 nickname, as you say, and her surname. We are listening to you, and we

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1 thank you for this.

2 THE WITNESS: (Interpretation) The surname is written as
3 follows ...

4 PRESIDING JUDGE COTTE: (Interpretation) Would it be easier for
5 you to write it on a blank sheet of paper? Would that help?

6 THE WITNESS: (Interpretation) Yes. Yes, I would prefer to
7 write to down.

8 PRESIDING JUDGE COTTE: (Interpretation) All right.

9 MR. KILENDA: (Interpretation) I'm actually imposing a useless
10 exercise on the witness, because I realise that my team had sent out the
11 list of names to all of the parties and participants.

12 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed, and so it
13 is the name that appears at what number?

14 MR. KILENDA: (Interpretation) Two and three. I apologise,
15 your Honour.

16 PRESIDING JUDGE COTTE: (Interpretation) No, no, not at all.
17 Mr. Witness, in fact, we already have the exact spelling of your wife's
18 surname and her first name. So Mr. Kilenda will continue his
19 questioning.

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

21 Q. Pastor Isakara, do you know Mr. Mathieu Ngudjolo?

22 A. Yes. I know Mathieu Ngudjolo.

23 Q. Could you tell the Chamber how you know him?

24 A. I have known him since he was a child given that we lived with
25 his parents in Katonie.

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1 Q. Do you have family connections with Mr. Mathieu Ngudjolo?

2 A. No, we do not belong to the same family. It is just that we live
3 together in Katonie. That is why I say that I know him.

4 Q. Do you have social connections with Mathieu Ngudjolo as a friend?

5 A. No, we are not friends. The acquaintanceship between us comes
6 from the fact that we have lived in the same collectivity.

7 Q. With the Presiding Judge's authorisation, Pastor Isakara, could
8 you please stand up and point out to us Mathieu Ngudjolo if you see him
9 in this courtroom.

10 A. Mathieu Ngudjolo is there at the back.

11 Q. Thank you very much, Pastor Isakara. You may sit down.

12 MR. KILENDA: (Interpretation) Mr. President, with your
13 authorisation, could we go into private session briefly. It will not
14 take long.

15 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could we
16 go into private session quickly.

17 (Private session at 10.19 a.m.)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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13 Page 33 expunged – Private session.

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Witness: Witness DRC-D03-P-0410 (Open Session)
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1 (Open session at 10.24 a.m.)

2 COURT OFFICER: (Interpretation) We in open session,
3 your Honour.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you, madam.
5 Mr. Kilenda, you may continue.

6 MR. KILENDA: (Interpretation) Thank you, Mr. President.

7 Q. Pastor Isakara, you have just told us that (Expunged)
8 (Expunged). Could you tell the
9 Court from what year until what year you did those studies.

10 A. We began the training in 1988, and we finished it in 1992.

11 Q. Was -- or did this training that you do lead to the granting of a
12 diploma or some sort of certificate that attests that you did indeed do
13 this pastoral training?

14 A. Yes, I did get my diploma.

15 Q. In what year?

16 A. At the end of the training.

17 MR. KILENDA: (Interpretation) Mr. President, would we be able
18 to bring up on screen document DRC-D03-0001-0685.

19 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.
20 Mr. Kilenda, did you want the document up on screen?

21 MR. KILENDA: (Interpretation) Yes, that's quite right. And we
22 also have a copy on paper if that is required.

23 PRESIDING JUDGE COTTE: (Interpretation) I think both need to be
24 put in place. Mr. Usher, could you give the witness a paper copy and
25 also put the document up on screen. As the background of the document is

Witness: Witness DRC-D03-P-0410 (Open Session)
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1 fairly dark grey, perhaps it will be easier for the witness to read it on
2 paper.

3 MR. KILENDA: (Interpretation) And to answer the Court Officer's
4 original question, could I specify that this is a public document.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

6 COURT OFFICER: You may see this document by pressing "PC 1."

7 MR. KILENDA: (Interpretation)

8 Q. Pastor Isakara, can you see this document clearly?

9 A. Yes, I can see it.

10 Q. Do you recognise it?

11 A. Yes, I recognise it.

12 Q. What is this document?

13 A. This is a diploma attesting to my Biblical training.

14 MR. KILENDA: (Interpretation) Mr. President, if the Chamber has
15 no objections, we would like an EVD number to be attributed to this
16 document.

17 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, let us
18 give this diploma of Bible studies an EVD number, please.

19 COURT OFFICER: (Interpretation) Thank you, Mr. President. This
20 document DRC-D03-0001-0685 will bear EVD number EVD-D03-00103, and it
21 will be recorded as a public document.

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

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

25 Q. Pastor Isakara, are we to understand that before you received

Witness: Witness DRC-D03-P-0410 (Open Session)
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1 this diploma attesting to your Biblical studies you had to do a number of
2 exams?

3 A. Before I received this diploma, we did do a written test, and we
4 also appeared before a panel who asked us questions about the training,
5 the Bible studies, that we had done.

6 Q. So you were given a rank or a score?

7 A. Yes.

8 MR. KILENDA: (Interpretation) Your Honour, we would like to ask
9 for the following document: DRC-D03-0001-0687, and this can be shown in
10 public.

11 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if you
12 could. If you could have this document displayed on the screen.

13 MR. KILENDA: (Interpretation) We do have a hard copy,
14 your Honour.

15 PRESIDING JUDGE COTTE: (Interpretation) The Court Usher shall
16 give this hard copy to the witness.

17 MR. KILENDA: (Interpretation)

18 Q. Pastor, can you see the document?

19 A. Yes, I see it.

20 Q. What is this?

21 A. This is a report card from school.

22 Q. And whose report card is it?

23 A. It is the report card of Ngabu Gopka Isakara. In other words, it
24 is my report card.

25 MR. KILENDA: (Interpretation) If you don't mind, we would like

Witness: Witness DRC-D03-P-0410 (Open Session)
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1 to ask for an EVD number for this document too.

2 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if you
3 could.

4 COURT OFFICER: (Interpretation) Thank you, your Honour.
5 Document DRC-D03-0001-0687 shall bear the number EVD-D03-00104 and shall
6 be filed as a public document.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you, ma'am.
8 Mr. Kilenda, please proceed.

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

10 Q. Pastor Isakara, now, when the Presiding Judge asked you a number
11 of questions, you said that you were a pastor serving in Bogoro. Were
12 you doing anything else before your current activities?

13 A. No. Before I took the training, the Biblical studies, I read out
14 the catechism, and then after that, I did that training and -- and I
15 became a pastor.

16 THE INTERPRETER: Interpreter's correction: I taught catechism.

17 MR. KILENDA: (Interpretation)

18 Q. Thank you, Pastor. Please listen to me very carefully now.
19 Well, I know you've -- I realise you've been doing well since the
20 beginning.

21 Now, could you tell the Chamber, could you tell all of us here,
22 and please be quite specific about the dates if you are in a position to
23 do so, could you tell us the various places that you have lived in ever
24 since you concluded your pastoral studies in 1992?

25 A. After that training, the council of the section met, and I was

Witness: Witness DRC-D03-P-0410 (Open Session)
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1 sent to Kavalega.

2 Q. When were you sent to Kavalega?

3 A. I was sent to Kavalega after I did my training, and I only spent
4 two years there. Later on, I went back to Katonie.

5 Q. Let us remain in Kavalega, so to speak. What years were you
6 serving in that area? You said that you spend two years there. Which
7 years were they, from what year to what year?

8 A. I finished that training in 1992, and I remained in Kavalega
9 until 1994, and then after that I was transferred to Katonie.

10 Q. Where were you in the year 2002?

11 A. In 2002, I was in Katonie.

12 Q. How long were you in Katonie for?

13 A. Well, from that time, the year I was transferred there, I have
14 remain there until now. For the time being, I am serving in Bogoro, but
15 I live in Katonie.

16 Q. And what sort of work were you doing between August 2002 and
17 March 2003?

18 A. From -- in 2002 and 2003, I was the assistant of another pastor.
19 I was an ordinary Christian. I really didn't have any official church
20 duties as such. I was waiting to be sent to some other place to carry
21 out my duties.

22 Q. Thank you very much, Pastor Isakara. Do you know the village of
23 Bogoro?

24 A. Yes, I do know the village of Bogoro.

25 Q. And why is it that you know that village?

Witness: Witness DRC-D03-P-0410 (Open Session)
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1 A. I know the village of Bogoro because that is the place where I
2 was born. And Bogoro is a place that we go by when we come from Chyekele
3 on our way to go off on vacation. That is why I know that village very
4 well.

5 Q. Pastor Isakara, are you familiar with the security situation in
6 Bogoro, the situation prevailing between August 2002 and March 2003?

7 A. I'm not in a position to know about that between -- during that
8 time it was difficult to travel about.

9 Q. Why could people not travel about the area?

10 A. In 2002 and 2003, we found ourselves in a situation of constant
11 war, and it was difficult to -- when -- to get to Bogoro or to the areas
12 around Bogoro.

13 Q. Exactly what was going on? You said that there was a war in
14 Bogoro. What was actually happening there?

15 A. Well, I really couldn't tell you everything that was going on
16 there, but we were -- when we were in Katonie, we, the inhabitants of
17 Katonie, we were living in the bush because we were afraid of the enemy.

18 Q. The enemy? What enemy are you speaking of?

19 A. The enemy that I'm talking about is the UPC army. That's who I'm
20 talking about.

21 Q. Where was the UPC based?

22 A. I couldn't tell you where the UPC was based, but we were living
23 in Katonie, and each morning we would wake up, and we see the enemy that
24 had infiltrated the area. I don't know where they came from.

25 Q. Did you learn that Bogoro had been attacked once?

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1 A. Personally, I didn't see any attack, but I did hear from people
2 that Bogoro had been destroyed -- correction, attacked by the enemy.
3 That is what I heard various people say.

4 PRESIDING JUDGE COTTE: (Interpretation) Let us be very careful,
5 Mr. Kilenda, with questions that could be leading.

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

7 Q. Pastor, you tell us that some people had said that Bogoro had
8 been attacked. Did these people tell you when Bogoro was attacked, the
9 actual date?

10 A. No, they didn't talk to us about the date. The place where I was
11 living at the time is a locality that was attacked by wild animals, and I
12 couldn't leave my farm and travel elsewhere.

13 One day when I had an opportunity to visit a friend, one of my
14 friends, that was when I heard this, but well before that time I did not
15 receive any such information about that, and I did not hear about the
16 specific date of the attack.

17 Q. Were you informed that Bogoro was going to be attacked?

18 MR. DUTERTRE: (Interpretation) I object. All these questions
19 have been leading. We have let two questions go by, but Mr. Kilenda, who
20 is conducting examination-in-chief, should stop leading the witness, stop
21 leading him to areas and to answers that he would like to elicit from the
22 witness. This will not have very much value.

23 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, indeed.
24 Please be very careful, and perhaps you should rephrase or realign this
25 particular line of questioning.

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1 MR. KILENDA: (Interpretation) Thank you. Could I consult my
2 colleagues for a moment?

3 PRESIDING JUDGE COTTE: (Interpretation) You may have one
4 minute, two or three, and if this consultation amongst yourselves allows
5 us to avoid objections, we will be able to save some time.

6 (Defence counsel confer)

7 MR. KILENDA: (Interpretation)

8 Q. Pastor Isakara, so you heard that Bogoro was going to be
9 attacked, and in turn, did you tell other people about --

10 MR. DUTERTRE: (Interpretation) Your Honour, what is Mr. Kilenda
11 referring to, what document, what transcript, what line? I think it
12 would be useful to have a reference. I also find that this is rather
13 leading, and I really think that the witness should be answering
14 open-ended questions. We are in examination-in-chief right now.

15 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, do take a
16 moment to rephrase your question. Don't hesitate to make reference to
17 earlier transcripts, because I think you can see that the Office of the
18 Prosecutor is paying special attention to how you are conducting your
19 examination-in-chief at this time, particularly in the last few moments.

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

21 Q. Pastor Isakara, what did you learn about Bakura
22 (* as interpreted)?

23 A. What I heard about Bogoro was that -- well, I heard about the
24 attack on Bogoro. However, I didn't know who attacked Bogoro. People
25 said that Bogoro had been attacked, and that is what I heard without

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1 knowing the details about the actual perpetrators of the attack.

2 Q. After you -- after you learned that, what did you do?

3 THE INTERPRETER: Interpret's correction: The previous question
4 had to do with Bogoro. The English interpreter may have said another
5 name.

6 THE WITNESS: (Interpretation) I did nothing.

7 MR. KILENDA: (Interpretation)

8 Q. Nothing at all?

9 A. I did nothing. Why? Because I'm not a military advisor or
10 anything like that. I just heard that Bogoro had been attacked, and I
11 did nothing.

12 MR. KILENDA: (Interpretation) I think I would like to ask for a
13 break. This will allow us to consult and refocus our line of
14 questioning.

15 PRESIDING JUDGE COTTE: (Interpretation) Very well. We shall
16 take our break a little bit earlier.

17 Court Usher, could you please escort the witness out of the
18 courtroom.

19 Witness, Pastor Isakara, we will now take a 30-minute break. You
20 can take some rest, and we shall resume at 11.25 for another two hours of
21 questioning.

22 (The witness stands down)

23 PRESIDING JUDGE COTTE: (Interpretation) Before we take our
24 break, I with like to hark back to the interpretation difficulties, the
25 problems we may have when the following witness gives testimony, problems

)

1 with Lendu interpretation. Now, just -- if we could gain some time and
2 make things easier, if biographical information is asked of the witness
3 and there is no challenge thereto, we might be able to save some time if
4 we consult one another and perhaps the parties could take that approach.

5 These two witnesses will be giving their identity at the request
6 of the Chamber, but when it comes to the usual questions asked by the
7 Defence team at the beginning of examination-in-chief, perhaps you could
8 come to agreements amongst yourselves regarding this biographical
9 information.

10 Now, I don't know who represents the OTP in this regard, but I
11 think it might be a good idea to proceed in this way and really just
12 focus on what's important.

13 MR. DUTERTRE: (Interpretation) Indeed, when it comes to
14 biographical information, I don't think there will be a problem. We
15 don't expect any leading questions, but if there are more difficult
16 questions, well, that's one thing, but --

17 PRESIDING JUDGE COTTE: (Interpretation) Very well. Thank you
18 for being so understanding and for your constructive attitude.

19 We shall now take our break and resume in half an hour.

20 Recess taken at 10.56 a.m.

21 On resuming at 11.32 a.m.

22 (Open session)

23 COURT USHER: All rise.

24 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.

25 Court Usher, if you're kind enough, please, to fetch the witness,

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1 Pastor Isakara, and to usher him into the courtroom.

2 (The witness takes the stand)

3 PRESIDING JUDGE COTTE: (Interpretation) We meet again, Pastor,
4 for a two-hour hearing. Can you hear me well, sir?

5 THE WITNESS: (Interpretation) Yes.

6 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, please
7 proceed with your examination-in-chief.

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

9 Q. Pastor Isakara, do you still know who Mami is and who Mami's
10 father is? So please do not mention their names in public.

11 A. Yes, I remember that.

12 Q. Thank you very much, Pastor. Pastor Isakara, between August 2002
13 and February 2003, did you meet with Mami's father?

14 A. In the course of the years 2002 and 2003, we did not meet. We
15 met in the year 2000.

16 Q. Thank you. So then -- you said in 2000. Where did you meet with
17 each other?

18 A. We saw each other in his village.

19 Q. Would you be kind enough to remind us of the name of the village?

20 MR. DUTERTRE: (Interpretation) Unfortunately, we don't have the
21 transcript. I don't know whether this is the same for everyone.

22 PRESIDING JUDGE COTTE: (Interpretation) Indeed, you're right.
23 My transcript is not displayed either. I'm sorry, Mr. Kilenda, for this
24 interruption.

25 Court Officer, please make sure that the necessary measures are

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1 taken so that the transcript can be displayed again on our screens.

2 Mr. Kilenda, we now resume.

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

4 Q. Pastor Isakara, in the year 2000, where did you see your friend,
5 in which village?

6 A. We saw each other in his village over there in Bogoro where he
7 was living.

8 Q. On what occasion was it?

9 A. Well, (Expunged)
10 (Expunged)
11 (Expunged), and it was on that occasion
12 for that purpose that we met.

13 Q. What did you say to each other?

14 A. Well, I will tell you what happened. When Papa Mami (Expunged)
15 (Expunged), he said, "Good morning,"
16 when I showed up, and he said this in his village. There were several
17 people present. At the time, we had heard that there was fighting in the
18 area of Djugu. People from Djugu had fled. The collectivity of
19 Walendu-Bindi towards the Walendu-Tatsi collectivity in the Penyi
20 groupement. And when they finally got there. They fled yet again toward
21 the collectivity of Walendu-Bindi. The government sent troops to
22 maintain the security of the population, but those soldiers sent by the
23 government turned against the civilian population. My wife was very
24 worried and said: "Considering the very changing situation, you have some
25 members of your family in Kagaba, in the Walendu-Bindi collectivity, so

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1 you must take the children and myself," and that I was to go there, and
2 that is exactly what I did. I led my family to Kagaba. And when I
3 arrived in my workplace, I was asked news about my wife and I said that
4 the situation had become very serious and that I had therefore led my
5 family to the Walendu-Bindi collectivity. He was very astonished and
6 asked me why I had done that, and he said that considering that so many
7 people are fleeing to the place, there would be negative consequences and
8 the area would be attacked and that is exactly what happened. There
9 were -- there was fighting in Nande.

10 Q. And after this meeting in 2000, did you see him yet again, your
11 friend?

12 A. Yes. We saw each other again later in 2006.

13 MR. KILENDA: (Interpretation) Your Honour, Honourable Judges, I
14 must ask for some time for the witness to leave the room, because we
15 would not like the witness to hear what we have to say. I crave your
16 indulgence for this.

17 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, do what
18 must be done.

19 Court Usher, would you please escort the witness to the small
20 room right next to the courtroom so that he remains available to the
21 Bench when required.

22 (The witness stands down)

23 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda.

24 MR. KILENDA: (Interpretation) Thank you, your Honour,
25 Honourable Judges. I'm not going to go back over the various filings

1 that you have already read and re-read. This Chamber knows, as well as
2 every party and every participant, the reasons why we have called this
3 witness. For us his examination-in-chief could only last a maximum of 15
4 or 20 minutes, but considering his answers, we are indeed now compelled
5 to address ourselves to this Chamber, and as for your authorisation to
6 either put questions directly to the witness or for the Chamber to
7 appropriate itself of the questions that we would put to the witness and
8 put those questions to him directly, and for obvious reasons may I remit
9 you to the hearing transcript 221 of 21st February 2011, on page 23, that
10 is audience transcript -- or hearing transcript 231, correction, 231,
11 page 23, lines 16 to 20. May I quote:

12 "Number two," understand by that this witness, "came to one of
13 my relatives, to the place of one of my relatives, and said, and I quote,
14 'We're both working together, but I have come to tell you to be careful,
15 because my brothers are preparing for war. They want to come here. They
16 are now training young people in order to prepare for war so as to invade
17 Bogoro, the locality of Bogoro here, and therefore you have to make ready
18 to leave.'"

19 Your Honour, Honourable Judges, we have called this witness
20 simply in order to bear out this statement and only for that, and we're
21 not going to -- we did not intend to take hours in order to do so, and
22 this is why we very humbly submit, sir, that either we're authorised to
23 ask that question directly of him. Were that not to be the case, perhaps
24 the Chamber may be kind enough to ask that question directly to the
25 witness and then our examination-in-chief would come to an end.

1 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, yes. I
2 will give you the floor, Mr. Duterte, however, I want one clarification
3 from Mr. Kilenda.

4 Would you remind us, sir, in the hearing transcript 231 of
5 21st February 2011, which I don't have before me, but of which you have
6 read page 23, whether the witness, the witness that was testifying at
7 that time and who was referring to the statement made by this witness
8 actually gave any date, specific date, as regards that information that
9 our present witness is purported to have given? I no longer remember
10 that. Was there any specific date given? Was it a matter of a few days
11 before the attack or was it just on the eve of the attack that they were
12 meeting?

13 MR. KILENDA: (Interpretation) Thank you, your Honour. It is
14 the attack of the 24th of February, 2003, precisely, and the witness had
15 said that our witness here had just before the attack informed his
16 parents that an attack on Bogoro was imminent and that therefore
17 preparations had to be made in order to leave the village.

18 PRESIDING JUDGE COTTE: (Interpretation) And we do agree that
19 these are two people that you called Mami and Mami's father?

20 MR. KILENDA: (Interpretation) That is exactly right,
21 your Honour. And may I point out that Mami did say here that she was not
22 present when our witness here said that to her relatives, but when she
23 went back to her relatives' place, to her parents, in fact, they informed
24 her of that.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

1 Mr. Prosecutor.

2 MR. DUTERTRE: (Interpretation) Your Honour, Honourable Judges,
3 good morning. I don't know whether it was just before the attack. In
4 any case, it was before the attack.

5 The Prosecution is rigorously opposed to questions being asked
6 of -- directly of the witness in -- in an examination-in-chief where the
7 questions have to be open questions. Moreover, considering that the
8 witness has already answered Mr. Kilenda's questions, he has explained
9 the witness that according to him, according to what he remembers, he has
10 said when he saw number 2 for the last time. So there's no need to go
11 back over this issue. I do not see -- please allow me, Mr. Kilenda, to
12 proceed to the end of my thinking.

13 PRESIDING JUDGE COTTE: (Interpretation) Do take your time,
14 Mr. Dutertre, because we do have some time available. So, please, sir,
15 do explain what the Prosecution has in mind.

16 MR. DUTERTRE: (Interpretation) Well, they saw each other in the
17 year 2000 and then 2006. That settles the matter. It is inappropriate
18 to ask this question directly. And also, the question cannot be -- the
19 witness cannot be asked to speculate on the statement made by another
20 witness. That is never done. It is up to Mr. Kilenda in his final
21 conclusions to bring out whatever elements he may wish to bring to our
22 attention, but the witness has been perfectly clear as to in which
23 particular period of time he saw number 2, and it is perfectly clear and
24 we need not therefore go back over that particular issue, sir.

25 We're rigorously opposed to proceeding in this fashion. Now,

1 obviously I believe that on these elements the witness has been perfectly
2 clear.

3 PRESIDING JUDGE COTTE: (Interpretation) Very well, then.

4 Mr. Kilenda, please.

5 MR. KILENDA: (Interpretation) Let me first point out that we're
6 not asking the witness to speculate. Our intention is to have the
7 witness confront that statement, and we want to confront that particular
8 allegation. There was a witness who left us some time ago, Chief Manu,
9 not to mention him, and the Prosecutor put questions of this very nature
10 to Chief Manu, particularly concerning a photographer who was supposed to
11 have taken pictures in Zumbe, and we heard the Prosecutor speaking louder
12 here, saying, "Well, sir, you're under oath. A witness came here under
13 oath and said this. What do you think about that?"

14 So it is along the same line of thinking, sir, that we turn to
15 you to see to what extent we would be authorised to ask our question. If
16 we cannot put that question, obviously we bow to the decision if this
17 were to be the decision of this Chamber. But then we would appeal to the
18 Chamber to put the questions themselves. If the Chamber does not do so,
19 then we would have simply to stand on whatever the witness has answered.
20 These are clear answers, and that would be the end of our
21 examination-in-chief. Thank you very much, your Honour.

22 PRESIDING JUDGE COTTE: (Interpretation) Very well, then.

23 Mr. Kilenda, you have been able to notice that the representatives of the
24 Office the Prosecution objected formally to your being authorised to put
25 that question to the witness. You have just expressed the wish for the

1 Chamber, to use your words, to appropriate itself of this question, to
2 take it over for you, as it were. You may have noticed in the course of
3 all of the proceedings that this Chamber, because the text in force to
4 enable us to do so, has put a certain number of questions, but every
5 single time the Chamber has endeavoured, and it hopes that it achieved in
6 doing so, not to give preferential treatment to anyone. It is not up to
7 the Chamber. It has never been up to this Chamber, allow me to use
8 rather strong words, to rush to the assistance of the Prosecutor or to
9 the assistance of the Legal Representatives or indeed the Defence teams.
10 This Chamber has only been motivated by the desire of obtaining
11 additional clarifications that seem to us necessary for the complete
12 establishment of the truth and often because this or that particular
13 question had not been put by any one of the parties or the participants
14 for reasons of their own whilst the Chamber felt that it was necessary to
15 obtain additional information.

16 In the instant case, we would, in fact, be assisting you. Again
17 to use the same expression, we would be acting to come to your
18 assistance, and this is not what we should like to do.

19 If you attempt again one or two or three questions that are not
20 suggestive or leading in nature so as to obtain from your witness the
21 information -- or, rather, the confirmation that you're seeking to
22 obtain, you can do so, sir. If not, then I would ask Mr. O'Shea to
23 proceed and the Prosecutor for his cross-examination, but again, sir,
24 we're leaving you the possibility at the risk of some repetition, but we
25 do give you the possibility of asking one or two further questions if you

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1 think that perhaps by rephrasing your questions you may make some headway
2 in the demonstration you want to make.

3 The witness may perhaps go over some of the statements that he
4 has already made today, and perhaps then it will dawn on him that he will
5 actually need to say something else that would meet with your desire,
6 sir, but we cannot go beyond that.

7 MR. KILENDA: (Interpretation) Thank you very much, your Honour.
8 The witness may perhaps be usher back into the room.

9 PRESIDING JUDGE COTTE: (Interpretation) Court Usher, please
10 escort the witness back into the room.

11 And, Mr. Kilenda, please be very careful not to put any
12 suggestive or leading questions to the witness. You have already seen
13 what the stand of the Office of the Prosecution on that way of proceeding
14 is.

15 (The witness takes the stand)

16 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, can you
17 hear me?

18 THE WITNESS: (Interpretation) Yes, I can hear you well.

19 PRESIDING JUDGE COTTE: (Interpretation) Very well, then.
20 Please proceed, Mr. Kilenda.

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

22 Q. Pastor Isakara, you've travelled a long distance to come over
23 here and to provide with some clarification to this Chamber -- to provide
24 this Chamber with some clarifications in connection with the matters that
25 are placed at the consideration of this Chamber. We're very happy with

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1 the answers that you have given to all our questions. As regards the
2 Defence team of Mr. Mathieu Ngudjolo, we have no further questions to ask
3 of you. We should like to thank you yet again for having come, and we
4 thank this Chamber.

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

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

7 Mr. O'Shea, do you wish to speak, sir, ask any questions, to
8 Pastor Isakara? If so, please proceed.

9 MR. O'SHEA: Just -- just a few.

10 Questioned By Mr. O'Shea:

11 Q. Good afternoon, Witness. My name is Andreas O'Shea --

12 A. (* No interpretation)

13 Q. My name is Andreas O'Shea, and I'm here representing
14 Mr. Germain Katanga in these proceedings, and I'd just like to ask you a
15 few questions which arise out of the subjects which have been discussed
16 with you already.

17 Now, you have indicated some connection with the village of
18 Bogoro, and you also indicated your professional activity, and in the
19 light of that, I'd like to ask you this: If a person dies in the village
20 of Bogoro, where would be the appropriate office to obtain a death
21 certificate?

22 A. Well, you are asking a question of me to which I have no answer.
23 I have no idea.

24 Q. Very well. Now, my learned friends for Mr. Ngudjolo have asked
25 you questions about your knowledge of the attack on Bogoro, and you have

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1 indicated that you heard about the attack on Bogoro when it had taken
2 place. Can I ask you this question of clarification, please: Before the
3 attack on Bogoro took place, did you have any prior knowledge that an
4 attack was to take place?

5 A. As a pastor, I don't know anything about war or about the policy
6 of the country, and in reality I did not know that Bogoro was going to be
7 attacked.

8 Q. At the time of the attack, where were you living?

9 A. When the attack took place, we were living in the country, on the
10 Lagura hill.

11 Q. Thank you. Now, you've indicated that you know Mami. Do you
12 know what the occupation of the husband of Mami was?

13 A. I only know Mami. I don't know her husband.

14 MR. FOFÉ: (Interpretation) Excuse me, Mr. President. Just an
15 interpretation issue on page 53, line -- here it is. Line 23.

16 PRESIDING JUDGE COTTE: (Interpretation) Yes.

17 MR. FOFÉ: (Interpretation) It is an answer for the question:

18 "At the time of the attack, where were you living?"

19 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, could you
20 please repeat your answer. Mr. O'Shea asked you the question:

21 "At the time of the attack, where were you living?"

22 You gave an answer. We need you to rephrase that answer so that
23 perhaps the interpretation will be more accurate. Thank you.

24 THE WITNESS: (Interpretation) At the time of the attack, we
25 were in the country on the Lagura hill.

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1 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

2 MR. FOFÉ: (Interpretation) Yes, yes. Mr. President, I just
3 want to draw your attention to the translation of the Swahili term *ori* --
4 *pori*.

5 PRESIDING JUDGE COTTE: (Interpretation) All right. Could our
6 interpreter indicate us -- indicate to us whether there are several
7 possible senses for that term?

8 THE WITNESS: (Interpretation) What I meant by this term *pori*,
9 p-o-r-i, is that we had left our homes and we had gone to hide in the
10 bush on Lagura hill, and that is where we were.

11 THE INTERPRETER: The Swahili interpreter would like to specify
12 that *pori* as used in Swahili could have several meanings. It makes
13 reference to the bush, to the forest, or to a place in the countryside.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Thank you
15 to the witness. Thank you to the interpreters. We therefore understand
16 that it is not simply a matter of living in the country, but according to
17 what the witness has just said, it is a question of, "We were hidden."
18 We take note, in any case, of what has just been indicated, and I can see
19 on this transcript that it is now appearing as follows:

20 "What I meant by the term *pori* is we had left our homes and we
21 had gone to hide in the bush on Lagura hill, and that is where we were."

22 Thank you, Witness, for at that clarification, which demonstrates
23 that a very small word can have a far broader meaning than one might
24 think, and indeed there are several possible meanings for this term.

25 Mr. O'Shea, you may continue. Thank you.

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1 MR. O'SHEA: (* Microphone not activated)

2 THE INTERPRETER: Microphone. The microphone for Mr. O'Shea,
3 please.

4 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea, no matter
5 how loudly you speak, normally that is not enough without a microphone.
6 Thank you.

7 MR. O'SHEA: Yes. My apologies.

8 Q. Before the attack took place on Bogoro, so before that time
9 period, when was the last time that you had visited Bogoro?

10 A. Before the attack, as I have already said, I had arrived in
11 Bogoro, but after 2000, I did not return to Bogoro.

12 Q. Now, with respect to Mami?

13 MR. FOFÉ: (Interpretation) Excuse me. Excuse me.

14 Mr. President, do you see the answer on page 55, line 25 to 26? That is
15 exactly the opposite of what the witness actually said.

16 PRESIDING JUDGE COTTE: (Interpretation) All right. We will ask
17 the witness to rephrase his answer once again.

18 I will ask you Mr. O'Shea's question once again, Mr. Witness.
19 Listen to me carefully:

20 "Before the Bogoro attack took place, before that period, when
21 was the last time that you had visited Bogoro?"

22 Could you please repeat your answer so that we are perfectly
23 certain that we have all understood.

24 THE WITNESS: (Interpretation) Very well. As I said with regard
25 to Bogoro, (Expunged)

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1 (Expunged)
2 (Expunged), but I was not able to finish my work because conflict broke out
3 in Nombe in the Walendu-Bindi collectivity. He left his work, and I,
4 too, had to leave my work, and at that time -- or, from that time on I
5 never went back to Bogoro.

6 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea.

7 Thank you very much, Mr. Witness.

8 Mr. O'Shea, you have the floor again.

9 MR. O'SHEA:

10 Q. Now, as I say, coming back to Mami --

11 MR. O'SHEA: I think I better go into closed session for this
12 question, I'm afraid.

13 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, we will
14 go into private session just for a moment, because the answer that is
15 going to be given might be an identifying answer, and that would not be
16 desirable.

17 (Private session at 12.10 p.m.)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Open session at 12.12 p.m.)

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

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you, madam.

11 Mr. O'Shea.

12 MR. O'SHEA:

13 Q. Now, can I just ask you to confirm that the last time that you
14 saw Mami's father was in the year 2000? I know that you -- you feel that
15 you've answered this, but can you just please confirm that.

16 I should clarify. I'm still talking about before the Bogoro
17 attack. The last time you had seen the father of Mami, before the Bogoro
18 attack, was in 2000, just to be sure that we understand each other.

19 A. I have already said that I would speak the truth, and so I am not
20 lying. I have already said before you that during those years, I had
21 work to finish, and in 2000, I did not go back to Bogoro. It is only in
22 2006 that I saw him again.

23 Q. Yes. Thank you very much, Pastor. Those are all my questions.

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

25 Mr. Dutertre. Mr. Prosecutor, I will give you the opportunity to

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1 introduce yourself.

2 MR. DUTERTRE: (Interpretation) Thank you very much,
3 your Honour. I just have -- I just need a few moments to get ready.

4 PRESIDING JUDGE COTTE: (Interpretation) Yes. Please take your
5 time.

6 Mr. Witness, Pastor Isakara, now we're going to proceed to the
7 cross-examination from the Prosecution. The Prosecutor is going to ask
8 you questions, and so now you are going to answer him.

9 Questioned By Mr. Dutertre:

10 Q. (Interpretation) Good morning, Witness.

11 A. Hello.

12 Q. My name is Gilles Dutertre. You may remember that we met briefly
13 last week during the courtesy visit, and I had the opportunity then to
14 greet you. Today, I'm going to ask you questions on behalf of the
15 Prosecution, and I hope that I will not take too long, and I should
16 finish today. If there are questions that you do not understand, please
17 don't hesitate to speak up and ask me to rephrase them or to ask them
18 again. Is that all right with you?

19 A. Yes.

20 Q. Mr. Witness, you have told us that you were born in Bogoro and
21 that you grew up in Katonie. You also went to school in Katonie; is that
22 correct?

23 A. I was born in Bogoro, and at the time my father was working as a
24 missionary in Bogoro. And when I was still young, at the age of 4 years
25 old, my father was sent to Katonie as a catechist, and that is why I,

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1 too, went to live in Katonie where I began primary school. And later
2 than -- or, after that, because there was only primary school in Katonie
3 and only one primary school, I went to do a second year in Bogoro, but
4 from then until now, I have lived in Katonie.

5 Q. Katonie is not very far from Bogoro. Do we agree? There's only
6 a few kilometres between the two; isn't that correct?

7 A. I think that it is about 10 kilometres.

8 Q. You are married, Mr. Witness. Could you please tell us to which
9 ethnic group your wife belongs?

10 A. My wife is from Geti, and she is from the Walendu-Bindi
11 collectivity, but she was born in Djugu in the Walendu-Tatsi
12 collectivity.

13 Q. So is she Ngiti; is that correct?

14 A. Yes, that is quite right. My wife is Ngiti.

15 Q. Mr. Witness, you have mentioned several times that you are a
16 pastor. It has never been specifically said that you are a pastor of the
17 CECA 20 church; is that correct?

18 A. Yes, that's right.

19 Q. And you are currently in Bogoro at the CECA 20 church in Bogoro;
20 is that correct, Mr. Witness?

21 A. That is correct.

22 Q. And did the CECA 20 church in Bogoro exist before the 2003
23 conflict in Bogoro, the conflict --

24 THE INTERPRETER: Interpreter correction: The conflicts between
25 2002, 2003?

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1 THE WITNESS: (Interpretation) You see, pastors do what we call
2 secondments. You might go somewhere and stay there for a month and then
3 be sent somewhere else. You never stay in one single place. Only after
4 you have a few years of experience might you be authorised to stay
5 somewhere for a certain period of time.

6 MR. DUTERTRE: (Interpretation)

7 Q. Thank you for that answer, but my question was more precise than
8 that, Mr. Witness. My question is: Did the CECA 20 church in Bogoro
9 already exist during the 2002/2003 conflict in Bogoro?

10 A. Yes.

11 Q. Mr. Witness, you know Bogoro well, don't you? You were born
12 there. You went there when you came there from the Chyekele institute,
13 but you also went there to visit your colleagues from the CECA 20 church
14 between the 2002/2003 conflict; isn't that correct?

15 A. Yes. I was in the habit of going through there. During holidays
16 I would go there, and at the time of Diguna, I went also to help out with
17 the teaching. I did go through there.

18 Q. When you say that you came to assist with teaching, do you mean
19 that you were helping with the religious education at the CECA 20 church
20 in Bogoro, Mr. Witness?

21 A. No. I didn't go there to teach. It is, rather, during my
22 training in Chyekele. In my holidays I would go there to try and find a
23 way to make a living in Diguna, and that is why I went there.

24 Q. And, in fact, Mr. Witness, between Katonie and Bogoro - I'm going
25 back a little bit - in fact, between those two towns there is only

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1 7 kilometres' distance; isn't that correct?

2 A. I'm trying to visualise the distance, because I'm in the habit of
3 travelling that distance, but you'll understand that there are several
4 turns in the road, several bends in the road.

5 Q. Mr. Witness, Mami's father was a good friend of yours, was he
6 not?

7 A. Yes.

8 Q. And, in fact, you knew his entire family, did you not? At least
9 (Expunged)
10 (Expunged); isn't that right, Mr. Witness?

11 A. Yes, but I know the members of his family who were -- were
12 usually with him. The others I do not know. It is in the same
13 circumstances that I got to know Mami.

14 Q. And to be entirely clear, Mami's father (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 Q. Mr. Witness, could you tell us when you were approached by

25 Mathieu Ngudjolo's Defence team for the first time.

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1 A. The first time. Well, I can't remember the exact date. It was
2 Pastor Lokpa (* as interpreted) who saw me for the first time. They came
3 to tell me that my name had been published on the list of witnesses.

4 Q. Well, I have a number of items of information to talk to you
5 about, so I'll go one step at a time.

6 So that was late in 2010 or early in 2011 when you met with
7 Pastor Lopa Koli. Wasn't that the case?

8 A. Yes.

9 Q. Where did this occur? Where did this meeting with him take
10 place?

11 A. In Bunia.

12 Q. And what were the circumstances under which you met with this
13 pastor in Bunia?

14 A. He came and told me this. A lady by the name of Mami came here.
15 Her name was Mrs. Mami. And she gave testimony here and she answered
16 some questions, and they wanted me to come and answer questions in
17 relation to the questions that were put to this lady, Mrs. Mami.

18 Q. I've understood that, but what I would like to know is how -- how
19 did it come to be that you met with them? Where did you meet with them?

20 A. I haven't understood your question.

21 Q. You knew Pastor Lopa Koli beforehand, didn't you?

22 A. Yes, I did know him.

23 Q. How long have you known Pastor Lopa Koli for? He is a pastor,
24 just as you are.

25 A. Well, you see, the father of Pastor Lopa was living in Katonie,

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1 and he was a pastor at the Catholic church. And it was in Katonie that I
2 met this man. We lived together in the same locality.

3 Q. So you know this man. You've known him ever since you were a
4 child, isn't that so, Pastor Lopa Koli?

5 A. Yes, ever since he was a child. You see, he came there as a
6 young man. He was 8 or 9 years old when he came there.

7 Q. And you were friends. You were actually friends, weren't you,
8 Witness?

9 A. For a short period of time we were friends, but, you see, they
10 left the place. They didn't stay there for a long time.

11 Q. I see. But -- so he left that place, but when he was there, he
12 was indeed a friend of yours. Is that not so? This is what I've
13 gathered from you, Witness.

14 A. No, he wasn't a friend. We were just living in the same place,
15 in the same village.

16 Q. And when you would meet up with him, you would have occasion to
17 speak to him. Isn't that so, Witness?

18 A. Could you please be more specific?

19 Q. In Katonie when he -- well, that period of time when he was
20 living there, you would run into him and speak to him, wouldn't you,
21 Witness?

22 A. No. No. We were living in the same village, but we weren't in
23 the habit of meeting one another.

24 Q. You knew that he was working on behalf of Mr. Ngudjolo's Defence,
25 this pastor, Pastor Lopa Koli.

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1 A. I learned that later when he came to see me. Before, I didn't
2 know that. When he came to see me, that was when that -- that was when I
3 learned that he was doing that work.

4 Q. Well, tell us about that first meeting with him, Witness. How
5 did it come to be that you met with him?

6 A. You would like to know why he came to see me? Well, I believe it
7 was because of Mrs. Mami's statement.

8 Q. Witness, let me put it more simply. Who started to organised
9 this meeting? How did this meeting unfold?

10 A. Well, as he put it to me, you see, my name was found on the list
11 here. I really had nothing to do with this whole matter. I didn't even
12 know why my name was mentioned here.

13 Q. We will come back to that point, but where were you when the
14 meeting was held in Bunia? But exactly where? Where were you in Bunia?

15 MR. KILENDA: (Interpretation) I beg your pardon. Your Honour, I
16 hope the Chamber will not be angry. However --

17 PRESIDING JUDGE COTTE: (Interpretation) Proceed.

18 MR. KILENDA: (Interpretation) I'm just wondering what the
19 relevance of all these questions are, because these questions really have
20 nothing to do with the arrival of this witness here. We know why this
21 witness has been called. We would be very pleased if the Prosecution
22 could ask more direct questions.

23 PRESIDING JUDGE COTTE: (Interpretation) Very well.

24 Mr. Kilenda, Mr. Dutertre perhaps may wish to respond. I don't know
25 whether he'd rather do that with the witness present or outside of the

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1 courtroom. One might think that the Prosecution is trying to relate this
2 witness to other Defence witnesses. Perhaps that is what they are trying
3 to do. Of course, I really can't respond on behalf of the Office of the
4 Prosecutor.

5 Mr. Dutertre, could you enlighten the Chamber and perhaps
6 reassure Mr. Kilenda while you're doing that.

7 MR. DUTERTRE: (Interpretation) Your Honour, it's difficult to
8 explain this with the witness here, but I think it's quite clear to
9 everyone here what I'm driving at, and I don't think this really should
10 be bothering Mr. Kilenda. I'm setting the stage, laying the foundations
11 for these questions, and I think we'll see where all this takes us. I am
12 conducting cross-examination, and I am entitled to ask questions about a
13 number of topics, and I think it will all become clear.

14 PRESIDING JUDGE COTTE: (Interpretation) Yes, you are conducting
15 cross-examination. It is true that we have all realised what the exact
16 objective of Mr. Kilenda is when he called this witness to give
17 testimony. This doesn't keep you from trying -- we think this is the
18 case: Apparently you are trying to situate this particular witness
19 within the galaxy, so to speak, of previous witnesses, and you are trying
20 to determine what the various dealings were between this witness and
21 others. Please -- please try to be very specific. Let's hope that this
22 testimony doesn't spill into tomorrow morning for very long. If that
23 were to be the case, for not very long. In any case, proceed.

24 MR. DUTERTRE: (Interpretation) Yes. Thank you, your Honours.
25 I will try to cut to the chase.

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1 Q. Witness, in response to one of my questions, you said, page 62,
2 and I quote:

3 "The first time. Well, I don't have the specific date.

4 Pastor Lokpa (* as interpreted) saw me for the first time, and he told me
5 that my name had been published on the list of witnesses."

6 Witness, could you tell us exactly which list you are talking
7 about?

8 A. No. I don't know about that list. The only thing that I do know
9 is that I was told that my name was published here and that I was
10 supposed to come here and give testimony, that my name was chosen to come
11 and give testimony.

12 THE INTERPRETER: Interpreter correction: Early reference,
13 page 62, lines 18 to 20.

14 MR. DUTERTRE: (Interpretation)

15 Q. So you knew that your name was on the list of witnesses and you
16 were going to be called to give testimony. Is that what you are telling
17 us?

18 A. Yes. I knew about -- that I was going to be coming here to give
19 testimony. But could you explain something to me? Why was I supposed to
20 come and give testimony here?

21 MR. FOFÉ: (Interpretation) One moment if you don't mind,
22 your Honour. I'll just take advantage of this point to point out page
23 67, line 4, the translation of the witness's reply. It was translated in
24 French, "My name was published here." And the verb "publish" I think
25 should be cross-checked in relation to the Swahili word, because I think

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1 the verb "publish" is somewhat distant from what was said in Swahili.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you. The
3 interpreters shall consult the court reporters and the cross-checks will
4 be done so that the best translation can be provided in the final version
5 of the transcript.

6 Mr. Dutertre.

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

8 Q. So, Witness, you were led to believe that you were to come here
9 and give testimony before the ICC. Is that what you're telling us; is
10 that correct?

11 A. Yes.

12 Q. You really didn't have too much of a choice in the matter, now,
13 did you? Do you need some more time to give an answer, Witness?

14 A. Well, I could (* Realtime transcript read in error "do") have
15 refused. So, you see, when someone has said things and I was asked to
16 come and talk about these matters, that is why I came here.

17 Q. Well, you really couldn't refuse to come here, could you.

18 MR. KILENDA: (Interpretation) Your Honour, the witness has
19 answered this question. The witness has already answered this question.

20 PRESIDING JUDGE COTTE: (Interpretation) Well, the witness asked
21 a question a few moments ago, a somewhat of an unusual question, because
22 it was put to someone from the OTP. The witness asked for clarifications
23 as to the reason why he was called to give testimony, and given that,
24 well, the Prosecutor moved on to something else.

25 Now, Prosecutor, you may proceed.

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1 MR. DUTERTRE: (Interpretation) Just one moment, please,
2 your Honour.

3 (Defence counsel confer)

4 MR. DUTERTRE: (* overlapping speakers)

5 MR. O'SHEA: (* overlapping speakers)... for the transcript, if
6 you don't mind, Mr. Dutertre. Just a problem with the transcript,
7 please.

8 This is page 67, line 13. The English states: "Well, I do have
9 refused." And on the basis of the French, I think it should read, "I
10 could have refused." In light of the present discussion, I thought it
11 was important to highlight this discrepancy.

12 THE INTERPRETER: Interpreter correction: The interpreter did
13 say, "I could have refused."

14 PRESIDING JUDGE COTTE: (Interpretation) Well, hopefully the
15 versions will correspond. If we look at page 68 of the French
16 transcript, line 12, what I read here is that, "I could have refused. So
17 you know when someone has said things and when I was asked to come and
18 speak about these matters, that is why I came here."

19 Witness, I think the simplest thing would be to repeat your
20 answer. Page 68 of the French transcript, line 7, the Prosecutor asked a
21 question. He asked you the following, line 2 to begin with:

22 "So, Witness, you were led to believe that you were to come here
23 and give testimony in front of the International Criminal Court; is that
24 correct? That's right, isn't it?"

25 Line 6, you answered:

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1 "Yes."

2 Line 7, the Prosecutor asked you:

3 "And you really didn't have too much of a choice in the matter,
4 did you, Witness? Do you need some more time to answer, Witness?"

5 And then you gave an answer, and we would like you to please
6 repeat that.

7 "Q. Did you have a choice to come and give testimony, yes or
8 no?"

9 Don't answer yes or no. Give the same answer as what you did a
10 few moments ago and please speak slowly so that the interpretation can be
11 done properly, Witness. Please proceed.

12 THE WITNESS: (Interpretation) Is that question for me?

13 PRESIDING JUDGE COTTE: (Interpretation) Yes, Witness. The
14 question was:

15 "You didn't have too much choice in the matter."

16 Could you repeat the answer that you gave us a few moments ago.

17 "Did you have a choice in coming to give testimony or not?"

18 That was the Prosecutor's answer (* as interpreter), but it
19 wasn't properly interpreted. We're just asking you to repeat your reply.

20 THE WITNESS: (Interpretation) No. I couldn't come by force. I
21 came in accordance with the statements that were made here. So I had to
22 come and answer or respond to the statements that were made here.

23 PRESIDING JUDGE COTTE: (Interpretation) Very well. I will give
24 the floor to Mr. Dutertre now. In relation to the interpreters,
25 regarding this point that wasn't interpreted correctly, it wasn't a

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1 criticism, rather, we wanted to ask the question again to make sure of
2 the answer. It certainly isn't a matter of interpretation quality. I
3 don't know Swahili at all, and I thank the interpreters for their fine
4 work.

5 Prosecutor.

6 MR. DUTERTRE: (Interpretation)

7 Q. You were told that your name was on the list, and Mr. Lopa Koli
8 told you what Mami had said here in the courtroom. Isn't that so? You
9 were given details about her statement, weren't you?

10 A. Yes. Lopa told me about that and that is why I'm here. I came
11 to hear this news.

12 Q. And you also talked to Pastor Lopa about what you were supposed
13 to say, didn't you, Witness?

14 A. He told me briefly that I was supposed to come here to give
15 testimony about Ngudjolo.

16 Q. But you went into more detail than that with Pastor Lopa Koli.
17 He told you what Mami had said, and then after that you went into greater
18 detail about your testimony; isn't that so, Witness?

19 A. No. You see, the questions were going to be put to me here.

20 Q. Witness, you met with the Defence team on several occasions,
21 didn't you?

22 A. No. I met Lopa, who came to see me. After him, it was
23 Mr. Kilenda's turn. He also came to see me.

24 Q. But you saw Lopa Koli several times, didn't you, Witness?

25 A. No. We don't live in the same place. I'm in Katonie and he's in

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1 Bunia. There's quite a distance between the two places.

2 Q. Witness, when you saw Pastor Lopa Koli, he told you about Mami's
3 statement, and you didn't talk at all about your version of the events?

4 Is that what you're telling us here before the Court?

5 A. Yes. Lopa told me this, "Mami mentioned your name," and that I
6 would be asked questions about what had happened in Bogoro, the fighting
7 in Bogoro. That's what Lopa told me. And that is why I couldn't refuse
8 to come here. That's the reason that led me to agree to come here,
9 because this is a subject that I don't know anything about.

10 MR. DUTERTRE: (Interpretation) Just a moment, please,
11 your Honour.

12 (Defence counsel confer)

13 MR. DUTERTRE: (Interpretation) Your Honours, after conferring
14 with my colleagues, I'd like to tell you that the Prosecution has no
15 further questions for this witness. Thank you.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
17 Mr. Prosecutor.

18 Mr. Gilissen, have you any questions for the witness? Please
19 proceed.

20 MR. GILISSEN: (Interpretation) Thank you very much,
21 your Honours. Good afternoon. I have no questions or questions to
22 suggest to the Chamber, no questions at all. Thank you very much.

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

25 Mr. Luvengika.

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1 MR. LUVENGIKA: (Interpretation) Thank you, your Honours. I
2 would like to ask a few questions of the witness in light of today's
3 testimony before the Chamber.

4 Questioned by Mr. Luvengika:

5 Q. (Interpretation) Good afternoon, Witness, Pastor.

6 A. Good afternoon.

7 Q. I wanted to ask you a few questions just to obtain additional
8 information. This morning in response to a question from Mr. Kilenda, he
9 asked you between August 2002 and March 2003 what sort of work were you
10 doing, and you said that you were an assistant to a pastor. And in the
11 course of your examination, you said that you had lived in Katonie and in
12 Kavalega, and I wanted to ask you to please spell out for the benefit of
13 this Chamber the following: When you finished your studies at the
14 pastoral school in Chyekele, which were the various places that you were
15 sent to in a capacity -- in your capacity as a pastor or as a member of
16 the church? In which churches and at which places did you work apart
17 from your place of residence?

18 A. After my training, I was sent to Kavalega. From Kavalega, I was
19 assigned to Katonie, and then from Katonie I have been assign to Bogoro
20 since then. At Bogoro, the council of the section met for five days in
21 2006 in some premises, and the meeting decided that I would be assigned
22 to work in Bogoro, and starting in 2009, I have been based in Bogoro. So
23 now for two years I have been working if Bogoro.

24 Q. I'm afraid I didn't quite understand what you said. After
25 Katonie, where you went in 1994, you returned to Kavalega. Is that what

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1 you said, sir?

2 A. From Kavalega, I went to Katonie, and after Katonie I was
3 transferred to Bogoro, and up until today I am the assistant to the
4 pastor of Bogoro.

5 Q. Pastor Isakara, in 2002 and in 2003 -- from 2002 to 2003, you
6 were in Katonie; is that right?

7 A. Yes.

8 PRESIDING JUDGE COTTE: (Interpretation) Mr. Luvengika, you know
9 where you are going to right now. Let's not go over the whole of the
10 pastoral record of the witness unless you believe it is absolutely
11 essential for the establishment of truth. However, the witness has
12 already given several clarifications. He may already have more to
13 provide, but let me draw your attention, please, to the fact that you
14 should be focusing your attention on essentials. Let us not forget,
15 obviously, that you were at the origing of a certain arrival at a certain
16 date and it is on this point that we would like to hear what you have to
17 say.

18 You may proceed, Mr. Luvengika.

19 MR. LUVENGIKA: (Interpretation) I'm obliged, your Honour.

20 Q. Your Katonie church, the local church depends on the Bogoro
21 section. Is that not so?

22 A. Yes.

23 Q. Therefore, during the period in question, depending on the
24 Kagoro -- Bogoro section therefore in the year 2002, 2003, you had some
25 activities, and you had to report to the Bogoro section. Is that not the

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1 case?

2 A. Well, you know, Bogoro happens to be the headquarters of the
3 section, and at the time there were 13 different premises, but there were
4 some pastors who left these places, and they belonged to the IC church,
5 and today we only have eight premises. Faced with this situation, the
6 council met, and the counsel came to the realisation that since Bogoro
7 was the seat, we needed Hema and we needed Lendu at the headquarters, and
8 for the time being there are two pastors. I am the assistant to the
9 pastor, and there is the official pastor, and both of us are attached to
10 the Bogoro church.

11 Q. Yes. We shall be getting there soon, but I'm talking about the
12 years 2002 and 2003, Pastor Isakara, and I'm referring to your activities
13 in that period. Your local Kavalega church depended on the CECA 20
14 section of Bogoro, and in your position as a local pastor, you were under
15 the authority of that section. Is that not the case?

16 A. In 2002 and 2003, there were no longer any activities, none
17 whatsoever. And I couldn't personally go to Bogoro, because there were
18 no activities. Activities were only resumed once the reconciliation took
19 place between the members of the church. (Expunged)
20 (Expunged), in the course of that reconciliation that took place in Bunia in
21 2006, and then the activities of the church resumed beginning with that
22 year, and since then and up until 2009, the section met and I was sent,
23 together with a colleague of mine, to work with the Bogoro local section.
24 However, in 2002 and 2003, there were no church members in Bogoro.
25 Everyone had fled.

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1 Q. Let us speak about the 2006 encounter or meeting. In the course
2 of that meeting, which brought together the Hema and the Lendu pastors in
3 order to bring about a reconciliation of the two communities, do you
4 remember any testimony which may have emerged in the course of that
5 meeting from Hema -- from the Hema pastor in connection with the Lendu
6 pastor who had saved his life?

7 A. Yes. During that reconciliation, all people present stood up to
8 implore God's forgiveness for everything they had done against their
9 neighbours and everything they had undergone themselves. They asked for
10 the forgiveness of the Lord.

11 MR. KILENDA: (Interpretation) If you please, your Honour, I
12 don't want interrupt here my learned colleague, but this is an element
13 that has nothing whatsoever to do with the issue at hand, nothing at all.

14 MR. LUVENGIKA: (Interpretation) I do believe it is pertinent.
15 It is germane to what we are discussing, because, if I may, in the course
16 of that meeting, the Lendu pastors who had been considered as heroes had
17 received facts from the Hema pastors that they had saved during the
18 attack, and that is subject I'm concerned about.

19 PRESIDING JUDGE COTTE: (Interpretation) We will continue.
20 Yes, Mr. Kilenda.

21 MR. KILENDA: (Interpretation) What is the relationship between
22 what my learned colleague is saying and Mami's testimony here? This is
23 what I'm worried about.

24 PRESIDING JUDGE COTTE: (Interpretation) I certainly appreciate
25 what you're saying, Mr. Kilenda, and indeed it's not a bad thing to make

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1 Luvengika refocus on the essentials of his job as Legal Representative.
2 This is what I have already done. I'm sure Mr. Luvengika has understood
3 the sense of my intervention.

4 Please proceed, Mr. Luvengika.

5 MR. LUVENGIKA: (Interpretation) Your Honour, with your
6 indulgence, I will be asking one final question which obviously in --
7 from my perception will be a subjective one.

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 A. I would say the following: Mami's father said two opposing
14 things in connection with the 2000 events, the events the year 2000. So
15 if you allow me, I would like to speak a little bit about the events of
16 the year 2000 in order to understand things better. With your
17 permission, let me say that he had said, Mami's father, two rather
18 different things if my memory serves me right.

19 PRESIDING JUDGE COTTE: (Interpretation) Please proceed,
20 Mr. Witness. We're listening to you.

21 THE WITNESS: (Interpretation) Thank you, I will.

22 I was saying that Mami's father (Expunged)

23 (Expunged)

24 (Expunged), in the course of the disorders, the unrest, I took my wife and my
25 children and took them to the Walendu-Bindi locality in order to seek

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1 shelter there, and when Mami's father asked me in connection with village
2 news what was happening, I told him that I was alone because I asked the
3 members of my family to flee considering the unrest. And he asked me why
4 I had acted in that manner, and he added that he -- there was a plan
5 connected with the Walendu-Bindi collectivity because there was going to
6 be some fighting. And it is true that in Nombe there were some events.
7 When these events took place in Nombe, I went to work and he asked me
8 whether I had been told what was happening in Nombe, and I said, "Yes, I
9 have heard about what was happening in Nombe." And I answered him with
10 the following terms:

11 "My brother, we have witnessed fighting in the area of Djugu and
12 Irumu, and here in Katonie I realised that if there were any events in
13 Nombe, that is also going to affect us here."

14 So this is what I told him in 2006.

15 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea, please
16 proceed.

17 MR. O'SHEA: (* Previous translation continues)... allow the
18 witness to give his answer, and I can obviously see the specific context
19 in which this witness is giving evidence, but I'd just like to remind my
20 learned friend through your Honours that if my learned friend has the
21 purpose of challenging the credibility of this witness, he must first
22 make a request to your Honours for authorisation to do that in terms of
23 paragraph 91, and then he has to justify that request. He may be able to
24 do so, I don't know, but it's just that he seems to be going into a line
25 of questioning without what I would submit would require prior

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1 authorisation from the Chamber.

2 PRESIDING JUDGE COTTE: (Interpretation) By all means,
3 Mr. O'Shea. In fact, Mr. Luvengika just said a minute ago it was his
4 final question, so we shall leave it at that.

5 Mr. O'Shea, have you any ultimate comments to make on behalf of
6 Germain Katanga's Defence team since the witness is still with us?

7 MR. O'SHEA: Yes, I have one -- one final matter to deal with
8 which arises out of the issue of the churches which may have -- may or
9 may not have involved the activities of this witness in Bogoro, and I'd
10 like to, if I may, show the witness a photograph which is EVD-D02-00082.

11 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, would
12 you be kind enough to please display that EVD on the screen.

13 COURT OFFICER: (Interpretation) On "PC 1." The document is
14 available and displayed on "PC 1."

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
16 Court Officer.

17 There we have it.

18 Mr. O'Shea, it would seem that the witness can now see the
19 photograph.

20 Further Questioned by Mr. O'Shea:

21 Q. So, Pastor, you have a photograph in front of you, so just look
22 at the photograph and reflect for a moment and tell us if you recognise
23 the building depicted in that photograph.

24 A. That is our church, the church where I work.

25 Q. And where is that church located?

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1 A. This church is in Bogoro, at the Bogoro mission.

2 Q. And where precisely is the Bogoro mission located in terms of the
3 geography of Bogoro?

4 A. When you go away from the centre of Bogoro and you move towards
5 Geti, you go onto the main road, and 1 kilometre away from the centre you
6 will find the church. The church is about 700 metres on the road towards
7 (* Realtime transcript read in error "Nduna") Diguna.

8 Q. Could you -- could you please repeat the name of the place where
9 you said it was on the road towards?

10 A. Yes. The road towards Geti. At the centre, there's a fork.
11 There's one road leading to Kasenyi and the other one to Geti. When you
12 go on the road to Geti, you get to a place called AM, and there is a
13 short road that takes you to the mission, and more specifically which
14 leads to the field on which the mission is built.

15 Q. And that is -- and what is the name of the church?

16 A. This is the CECA 20 church, and it is in this church that I
17 perform my duties.

18 Q. Yes. Thank you very much.

19 MR. O'SHEA: Thank you, your Honours.

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

21 Mr. Kilenda.

22 MR. KILENDA: (Interpretation) Thank you, your Honour. We have
23 no further questions of this witness. We should like to thank him yet
24 again, and we rely on you, sir, to transmit to him our sincerest thanks
25 and also to transmit the same thanks from Mr. Ngudjolo.

1 PRESIDING JUDGE COTTE: (Interpretation) Yes, obviously,
2 Mr. Kilenda.

3 Mr. O'Shea, please.

4 MR. O'SHEA: Yes. On the English transcript, on page 78,
5 line 25, you'll see there a word "Nduna," and, in fact, that's what I
6 heard in English as well through my earphones. Could it please be
7 verified as to what the actual word which was used by the witness.

8 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea, is this the
9 place where the church is supposed to be located? Is that what you're
10 driving at?

11 MR. O'SHEA: (* Previous translation continues) ...

12 PRESIDING JUDGE COTTE: (Interpretation) Because I'm going to
13 try and look it up myself in the French transcript. He said, "It was 700
14 metres on the road to ...," and this is where I had some problems also
15 with the name. Is that the phrase that you want spelt out?

16 MR. O'SHEA: I can -- I can put it to the witness, because it's
17 not a contentious place.

18 PRESIDING JUDGE COTTE: (Interpretation) Then just put to him
19 quite simply the question, because I cannot find it on the French
20 transcript.

21 MR. DUTERTRE: (Interpretation) I think it is page 80, line 7,
22 and he said, "... on the road to Diguna." On the road to Diguna.

23 PRESIDING JUDGE COTTE: (Interpretation) Very well, then.

24 That particular church, Witness, is 700 metres down the road that
25 leads to where? Yes? Yes, please proceed, Mr. Witness. On the road to

1 which place?

2 THE WITNESS: (Interpretation) Would you kindly rephrase your
3 question.

4 PRESIDING JUDGE COTTE: (Interpretation) I shall give you your
5 answer. This is what you said:

6 "When you leave the centre of Bogoro and you go towards Geti,
7 you go onto the main road, and about 1 kilometre away from the centre you
8 find the church, and the church is some 700 metres on the road to ..."

9 To where? What is the name of that locality?

10 THE WITNESS: (Interpretation) There is a company, and I do not
11 know whether I can -- it's a company called Diguna, Diguna. I think
12 there's a company there called Diguna. That -- that company's present in
13 Kenya, and it is on the road to Diguna that you find the church.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
15 Mr. Witness.

16 So it is the word "Diguna" that you would like to see on the
17 transcript, agreed?

18 MR. O'SHEA: In fact, in the French upon verification it was
19 correct. It was just incorrect on the English which is what misled me.

20 PRESIDING JUDGE COTTE: (Interpretation) Well, if the error has
21 been corrected, then we're all satisfied, Mr. O'Shea.

22 Mr. Witness, your testimony's over. We should like to thank you
23 for having come all the way here. We wish you a safe and speedy return
24 to your home country. We will remind you, sir, that you're not to talk
25 outside of this courtroom of the contents of your testimony within the

1 courtroom, and you may, when leaving the courtroom, if you have no
2 objections thereto, briefly receive the thanks of Mr. Mathieu Ngudjolo
3 and his Defence team who called you as a witness. Bon voyage,
4 Mr. Witness.

5 And we shall meet all of us tomorrow at 9.00 a.m. with a new
6 witness and under the interpreting conditions that we mentioned at the
7 beginning of this hearing. The Court should like to thank all those who
8 have helped us in the course of the morning, but obviously we shall lead
9 the witness out of the courtroom.

10 Mr. Usher, would you please usher the witness outside this
11 courtroom. Thank you.

12 THE WITNESS: (Interpretation) I have done my job.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you. That is
14 exactly what we need.

15 (The witness withdrew)

16 PRESIDING JUDGE COTTE: (* No interpretation)

17 COURT OFFICER: All rise.

18 The hearing ends at 1.29 p.m.

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