

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Tuesday, 13 September 2011
10 The hearing starts at 9.02 a.m.
11 (Closed session)
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
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21 (Open session at 9.04 a.m.)
22 COURT OFFICER: (Interpretation) We are in open session,
23 your Honour.
24 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Court Officer.
25 Good morning, everyone. Good morning, accused persons.

Witness: Witness DRC-D03-P-0100 (Resumed) (Open Session)
Questioned by Mr. Fofé (Continued)

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1 Good morning, Mr. Witness. I can see that you are able to hear
2 me well, and we will continue with the direct examination of the Defence
3 team of Mathieu Ngudjolo.

4 Professor Fofé, I believe all of us are ready to take up this
5 morning. No leading questions, no slightly leading questions, just what
6 you have to do and nothing but what you need to do. You can now start.

7 MR. FOFÉ: (Interpretation) Thank you very much, Mr. President, I
8 can promise you that during the entire session of today I will be
9 smiling. I will not be angry.

10 PRESIDING JUDGE COTTE: (Interpretation) That is what we all
11 pledge to do and we will see what happens by 1.30 p.m.

12 MR. FOFÉ: (Interpretation) Unless my learned colleagues provoke
13 me.

14 PRESIDING JUDGE COTTE: (Interpretation) Very well. There is
15 already one restriction there. Now, please proceed.

16 MR. FOFÉ: (Interpretation) Good morning, your Honours. Thank you
17 for giving me the floor.

18 Questioned by Mr. Fofé: (Continued)

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

20 A. Good morning.

21 Q. We are going to continue and conclude our examination, and we
22 will do so calmly, slowly and I appeal to you to speak slowly. Let me
23 remind you that we are going to talk about Baudouin, and you know who
24 Baudouin is, don't you?

25 A. Yes, I do.

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1 MR. FOFÉ: (Interpretation) Mr. President, your Honours, we worked
2 on the basis of the realtime transcript of yesterday's hearing, and I'm
3 going to refer to that transcript, number 309, page 24, lines 8 to 10.

4 Q. Mr. Witness, yesterday, while speaking about Baudouin, you said
5 the following, and I will quote you verbatim, lines 8 to 10, your Honour,
6 page 24. And this is what you said:

7 "As from the year 2002, up to 2003, and even 2004, he was in the
8 Walendu-Bindi area. That is in the Ngitis' homeland. He was not living
9 with us."

10 My question to you, Mr. Witness, is this: After 2004, that is
11 the years following 2004, specifically 2005, 2006, where was Baudouin?

12 A. In 2004, he arrived in Bunia. I had also returned to Bunia. We
13 left the place where we had sought refuge, and considering that we had
14 only a small house, he stayed with another young person, (Expunged)
15 (Expunged). This means that we were living at the
16 same place, in the same area, but these young people came to my home to
17 have their meals. Whenever they had some money, they would use it to buy
18 some food for themselves. In 2005, he resumed his studies and did his
19 fifth year at the Mont Bleu. He continued with his studies, and in 2006,
20 towards the end of April, he disappeared. We did not know where he had
21 gone to. (Expunged) and other young people who did not have anything to eat
22 came to my house, and I asked them where Baudouin was. They told me that
23 Baudouin had gone away with a white person whose name I did not know.
24 I worried about that. I wondered what had happened, and I was asking
25 myself why that person had left with my son without my knowledge.

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1 I wondered whether he had found a job, what was going to become of him,
2 what he was going to do. Those young people told me that the person in
3 question had taken my child and that he wanted to take him to a school.
4 I calmed down because I thought it was a good thing, given that he was
5 going to pursue his studies. Nevertheless, I was worried because that
6 white person had taken away my child without my knowledge. I had no idea
7 who this person was who had taken my child. Was he a slender person?
8 Was he a shortish person? I had no idea how he looked like. Others were
9 saying that I had to calm down, if my child had indeed gone to pursue his
10 studies with a white person. I listened to them, I heeded their advice,
11 but I was not at ease. I did not feel comfortable, because I had no idea
12 where my child was.

13 (Expunged) told me that my child was in Kinshasa and I asked him what
14 he was doing there, was he studying or doing something else? Kinshasa is
15 very far away from Bunia. I asked (Expunged) whether he was able to speak
16 with my child, and he told me that from time to time, he was able to
17 speak with him. I frequently asked (Expunged) to call my child and to ask him
18 whether he was studying. I tried to call, myself, but without any
19 success. After several days Baudouin called (Expunged) told me that
20 Baudouin had called him. I asked (Expunged) whether Baudouin was studying or
21 working. (Expunged) told me that Baudouin was in Kinshasa and that he was not
22 doing anything.

23 MS. LUPING: (* Previous translation continues)... and we would
24 ask that perhaps a pseudonym even be given for this individual so that we
25 don't exceed the number of redactions we are entitled to in the -- every

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Questioned by Mr. Fofé (Continued)

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1 30 minutes.

2 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, let us go
3 briefly into private session so as to assign a pseudonym before reverting
4 to open session immediately afterwards.

5 (Private session at 9.15 a.m.)

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18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Open session at 9.16 a.m.)

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

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

25 Mr. Witness, you can either complete the account that you were

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Questioned by Mr. Fofé (Continued)

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1 giving or Professor Fofé is going to put another question to you.

2 MR. FOFÉ: (Interpretation) Yes, indeed, Mr. President, the
3 witness had not completed his answer.

4 Q. You had reached the point where Albert told you that he had just
5 spoken on the phone with Baudouin. He had received a phone call from
6 Baudouin. Can you continue from there? And then I will ask you some
7 further questions.

8 A. Yes. We will move on quickly, and go to the heart of the matter.
9 Albert told me that he had spoken with him. I asked him for the phone
10 number, but it was not given to me. The years went by and at the end of
11 the year 2009, I heard that Baudouin was a Prosecution witness.
12 I started wondering how a child could become a Prosecution witness, a
13 witness for a Prosecutor who was very important, a very important
14 personality in the world. I was told that he was indeed a witness of
15 that Prosecutor. I became afraid, very afraid.

16 In 2010, someone came to my home and confirmed to me that that
17 was indeed the case. I told that person no, that my child was studying.
18 He told me to try to find out whether the child was indeed pursuing his
19 studies. I had documents attesting that my child was a student, and
20 I handed over those documents to that person. During that same period,
21 someone else came to see me. I no longer remember the precise date. The
22 person was a white lady. I confirmed the same thing with her, that is
23 the situation of my child.

24 And then, in 2011, yet another white person, or rather, two
25 people came to see me. One of them was white and there was another

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Questioned by Mr. Fofé (Continued)

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1 person playing the role of secretary. I told them the same thing once
2 again.

3 In June, another person from here came to see me, and I explained
4 the same thing to that person.

5 Q. Very well. Thank you very much.

6 Mr. Witness, when you heard that Baudouin had disappeared, what
7 was your reaction? How did you feel?

8 A. When I heard that Baudouin had left, I was very worried. I had
9 great hope in that child. I wanted him to continue with his studies.
10 I was very concerned. There were many people who had not had the
11 opportunity to pursue their studies. I wanted him to study in order to
12 ensure a better life for himself, as well as be in a position to assist
13 us, his parents. When I heard that he had become a witness, a
14 Prosecution witness, at the International Criminal Court, I was very
15 disturbed, very distressed. I was not afraid to say that to all those
16 emissaries who came to see me. I wanted to know where my child was. We
17 can continue.

18 And then quite abruptly in December, or rather, in September
19 2010, specifically on the 29th, I heard that my child had returned, so
20 I asked myself where he had returned from, and where he was staying.
21 After hearing that he had returned, I saw him four days later. I was
22 told that he was staying with a certain (Expunged)
23 (Expunged). And when I heard about that, I went to find out. I was
24 told that he spent the night in Aveba, he had gone to Geti, Nkiringe
25 (* phon), Tagba and Ganza (* as interpreted). Well, I spent a difficult

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Questioned by Mr. Fofé (Continued)

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1 time during that period. My child suffered and caused a lot of
2 suffering.

3 Q. Mr. Witness, are you the only one in your family to have suffered
4 as a result of Baudouin's disappearance?

5 THE INTERPRETER: Correction from the interpreter: The last
6 location was Kparangaza.

7 THE WITNESS: (Interpretation)

8 A. His mother and myself, we suffered much more than the others, but
9 the other members of the family who heard about that also suffered, that
10 is all the members of my family.

11 In fact, there was a conflict between the members of my family
12 and the members of Ngudjolo's family, a lot of discussion took place and
13 I told myself that I needed to do something to resolve the situation
14 because the relationship between our families had become untenable. The
15 emissary who came to see us helped us a lot. He told the other family
16 that they needed to wait because something was going to happen to improve
17 the situation. And, in fact, the situation did indeed improve. When the
18 child returned, I went and saw him. He came to my house. I observed
19 him, and he was in a bad state, a bad situation. He had a strange way of
20 speaking. It seemed as if he had become probably a soldier. He knew
21 that he was in his parents' home, but even asking for food, he was rather
22 aggressive. But since he was our child, we gave him food, but he didn't
23 spend the nights at home.

24 And since I was Baudouin's father, in fact I did not have to
25 discuss with him, I was in fact very frightened by him. We called him

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1 once again for him -- he was called once again to return to Kinshasa in
2 the month of November that year. So he was called to return to Kinshasa
3 and then he made efforts to return to Kinshasa. I must pursue this now.
4 He returned on the 9th. He went to Kinshasa, and then came back on the
5 9th of December. At that time, he came by car. I don't know whether he
6 went as far as Quenego (* phon) or Sangane (* phon), but he came by car
7 in any case. I can actually tell you the exact date, the 9th of
8 December, 2010.

9 THE INTERPRETER: Correction by the interpreter: The two place
10 names were Butembo and Kisangani. Butembo and Kisangani.

11 THE WITNESS: (Interpretation) So he arrived in Dele. We were
12 not very far from there. It was on the 9th of December, 2010. He gave
13 us his bag. He asked for water. He did that rather aggressively. He
14 washed and put on his clothes again, and he didn't look at all the way he
15 was before. He didn't behave at all in the same manner as before. And
16 another day he came to the village. And he came to our house on the
17 16th, on the 16th of the same month, that is to say December. And
18 I wasn't home but his mother was there. His mother asked him some
19 questions. She wanted to know why he was behaving in that manner. She
20 said, "Well, you have disappeared but now that you've come back you
21 should stay with us at home." And the child didn't feel well. He said
22 that when he went to Tagba he was staying with his brother, and he said
23 that he would set fire to his brother's house, and he also said that it
24 would only be when his own parents died that he would be at peace with
25 himself. So that child was causing a great deal of suffering for us.

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1 So I understood that he had left for the capital of our country
2 and that he had gone there to stay with white people. And I told myself
3 that maybe he was carrying a gun and that he could kill us and we were
4 very frightened, and we -- and this caused a great deal of suffering.

5 MR. FOFÉ: (Interpretation)

6 Q. Thank you very much, Mr. Witness. You have, in fact, anticipated
7 many of the questions I would have asked of you, and you have done this
8 freely. And this is a very good thing, indeed. In this manner, I really
9 have no further questions to ask of you. You've given us all the
10 necessary elements for the consideration of the Bench. I should like to
11 thank you for this.

12 And now, sir, you will be available for other colleagues to
13 answer their questions. Thank you again, Mr. Witness. Thank you.

14 MR. FOFÉ: (Interpretation) Thank you, your Honour. Thank you,
15 Honourable Judges.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
17 Professor Fofé.

18 Mr. O'Shea, are you -- do you wish to address the Bench now, if
19 that is the case? Over to you, sir.

20 MR. O'SHEA: Counsel for Mr. Katanga has no questions. Thank you
21 very much, your Honours.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
23 Mr. O'Shea. Mr. Witness, you have just answered the direct examination
24 by the Defence of Mathieu Ngudjolo. The Defence counsel for Mr. Katanga
25 has no questions to ask of you, and therefore now it is the Office of the

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1 Prosecutor which, within the framework of the cross-examination, will be
2 putting their questions to you. Madam Luping and Mr. Garcia.
3 Madam Luping, please proceed. Take your time to set yourself up because
4 your turn to speak has come perhaps a little bit faster than expected so
5 you do have a few minutes.

6 Questioned by Ms. Luping:

7 Q. Good morning, Mr. Witness. My name is Diane Luping, and I'll be
8 asking you questions on behalf of the Office of the Prosecutor. You may
9 recall that we met briefly two weeks ago, along with two of my
10 colleagues.

11 A. In the course of the week I arrived, I didn't say anything.
12 I waited to be called to come and express myself. And this is what I
13 have just done now. I therefore agree to listen attentively to your
14 questions and to answer them.

15 Q. Thank you, Mr. Witness.

16 Now, Mr. Witness, you've explained that your family lived in
17 Bogoro and that Baudouin was schooled there. Is it right that you were
18 also -- you were working in Diguna in Bogoro at that time?

19 A. Yes. That is true.

20 Q. You also confirmed that you were living in Bunia, and I'm not
21 going to mention the part of Bunia that you've confirmed that you were
22 living in. My question is simply: Since when have you been living in
23 that area?

24 A. Thank you. I will give you an answer. I lived in Bogoro for a
25 rather long period of time. (Expunged)

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Questioned by Ms. Luping

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1 (Expunged)

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3 (Expunged)

4 and I therefore started living with my wife in Bogoro.

5 And your question, I believe, pertains to the duration of my stay

6 in Bunia. Well, in Bunia, I must say that in the year 2000, I took

7 refuge in Bunia, and I lived there in Bunia at the time. Then the war

8 broke out and we had to leave Zumbe in order to flee to Bunia. This

9 happened in 2002. And we returned to Bunia, and ever since then we have

10 remained in Bunia.

11 Q. I just want to clarify something, Mr. Witness, that's a little

12 bit unclear. Because according to the transcript, you've just explained

13 that you left Zumbe to go to Bunia in 2002. I'm sure that's probably

14 just a slip of the tongue, but could you clarify the year in which you

15 left Zumbe to return to Bunia?

16 A. I left Zumbe in 2004, and I've returned to Bunia then, at the

17 beginning of the year, when security was restored, and I left my wife and

18 my youngest children in Zumbe because the children had already begun

19 attending school in Zumbe. So I left them there with my wife in Zumbe,

20 and it's only in the year 2005 that my wife came back to join me in

21 Bunia.

22 Q. Thank you.

23 MS. LUPING: Mr. President, if we could move briefly into private

24 session, I just have a few questions of an identifying nature.

25 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please,

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- 1 let us now move into private session for sometime.
- 2 (Private session at 9.43 a.m.)
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12 Page 15 expunged – Private session.

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15 (Open session at 9.54 a.m.)

16 COURT OFFICER: (Interpretation) We are in open session,
17 your Honour.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Court Officer.
19 Please, Madam Prosecutor, proceed.

20 MS. LUPING: Thank you, Mr. President.

21 Q. Now, Mr. Witness, I'm going to ask you about a person called
22 Bukpa Kalongo. You know him, that's right?

23 A. Bukpa Kalongo was the director of the school of the primary
24 school of Buy-Sabuni.

25 Q. Am I right in also saying he was a member of the *comité de base*

Witness: Witness DRC-D03-P-0100 (Resumed) (Private Session)
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1 based at Zumbe?

2 A. Yes. He was a member of the *comité de base* and he belonged to
3 the drafting group.

4 Q. And you're related to him, aren't you? I'm not going to ask you
5 how you're related, I'll ask that in private session. But am I right in
6 saying that he's a relative?

7 A. Bukpa Kalongo is not my brother. He is a member of the
8 Walendu-Bindi ethnic group, and I belong to the Walendu-Tatsi
9 *collectivité*.

10 Q. I'll return to that point in private session. Mr. Martin Banga
11 Dheji. He's also known as Martin Komani; is that right?

12 A. I know Martin Komani. Martin Komani was vice-president of the
13 base committee.

14 Q. He's also known as *Coordinateur* Martin; is that right?

15 A. I never heard anyone call him coordinator. He was a member of
16 the base committee quite simply, and today, he is the chairman of the
17 young people in the groupement Bedu-Ezekere.

18 MS. LUPING: Mr. President, I think it's best if we go briefly
19 into private session for my next two questions.

20 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, let us
21 move into private session, please.

22 (Private session at 9.59 a.m.)

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24 (Open session at 10.02 a.m.)

25 MR. KILENDA: (Interpretation) Your Honour, if I may, as we are

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1 about to go into open session would it perhaps not be prudent to give
2 these people other first names given that they have benefitted from
3 protective measures?

4 PRESIDING JUDGE COTTE: (Interpretation) We are already in open
5 session. What do you think about this suggestion, Madam Prosecutor? The
6 suggestion of Mr. Kilenda?

7 MS. LUPING: Mr. President, we leave it to the Court's
8 discretion, but, really, I mean, these individuals have been named in
9 open session in previous testimony of other witnesses. These are well
10 known figures in the community. I don't believe it's necessary for them
11 to be assigned pseudonyms in the circumstances, and I don't believe the
12 questions I'll be asking will lead to any difficulties as described by
13 Mr. Kilenda, but we do leave it to your discretion, Mr. President.

14 PRESIDING JUDGE COTTE: (Interpretation) Well, we will continue,
15 I think, at this point, indeed most of these people are not unknown. You
16 may continue, Ms. Luping.

17 MS. LUPING: Thank you, Mr. President.

18 Q. Mr. Witness, we talked about Bukpa Kalongo and you mentioned that
19 he's a member of the *comité de base*. My question is this: This is
20 somebody who is well known to you, isn't that right, sir?

21 A. Yes, I know him very well. He is the principal of the Buy-Sabuni
22 school.

23 Q. And Martin Banga, also known as Komani, you've referred to his
24 role as vice-president of the *comité de base*. You know him very well; is
25 that right?

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1 A. Yes, I know him.

2 Q. And the *comité de base*, were you, yourself, involved in the
3 activities of this group, Mr. Witness?

4 MR. FOFÉ: (Interpretation) Excuse me, your Honour.

5 PRESIDING JUDGE COTTE: (Interpretation) Yes, Professor.

6 MR. FOFÉ: (Interpretation) I will go by your decision,
7 your Honour. I know that paragraph 73 exists, but I believe,
8 nonetheless, that with certain witnesses, we need to cut to the heart of
9 their statement. We have already addressed this subject, this subject
10 that has just been mentioned, with other witnesses, but we have not done
11 so with this witness, you see. So I will leave this to your discretion.
12 I do not think that this witness is the appropriate witness for
13 addressing this particular subject, your Honour, your Honours.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
15 Professor Fofé. We are simply dealing with this line of questioning by
16 Ms. Luping and we will allow her to ask her questions. Ms. Luping you
17 may continue.

18 MS. LUPING: Thank you, Mr. President. I'll just repeat my
19 question.

20 Q. Mr. Witness, were you, yourself, involved in any way in the
21 activities of the *comité de base*?

22 A. I had no role in the *comité de base*. I was a person who was
23 displaced because of the war.

24 Q. Now, without mentioning their names at this stage --

25 MS. LUPING: Actually, I think I better ask that question in

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1 private session, Mr. President. Could we move briefly into private
2 session?

3 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.

4 (Private session at 10.07 a.m.)

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12 Page 22 expunged – Private session.

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1 (Expunged)

2 (Expunged)

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4 (Expunged)

5 (Expunged)

6 (Open session at 10.15 a.m.)

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

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

10 Ms. Luping.

11 MS. LUPING: Thank you.

12 Q. Mr. Witness, you know Mathieu Ngudjolo's current wife,
13 Sema Kalemi?

14 A. No. I don't know her very well. But of course when she goes by
15 on the street, people say to me, "That's Ngudjolo's wife." I've never
16 spoken to her. I've never said hello to her.

17 Q. And Mathieu Ngudjolo's brother Déo Tchulo (* phon) Lotchubo. You
18 know this person, am I right?

19 A. Yes, I know Lotchubo.

20 Q. And how do you know him, sir?

21 A. Lotchubo is registrar in our sector. And that is why I know him.
22 But at the moment, he is at the Catholic church as a catechist.

23 Q. And since when have you known Mr. Déo Tchulo (* phon) Lotchubo?

24 A. I met Lotchubo before the fighting, before the war. He was
25 working as court registrar, and I also knew that he was a teacher at

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1 Buy-Sabuni in the primary school after the war.

2 Q. And how well did you know him, Mr. Witness?

3 A. No. I have no dealings with Lotchubo, but I know him given that
4 he is a court registrar and I also see him working. He's very active in
5 his work, and that is why I know him very well, the court registrar,
6 Lotchubo Déo. But I have no particular direct dealings with him.

7 Q. And he has other brothers; isn't that right, sir, if you could
8 give us the names of Mathieu Ngudjolo's other brothers?

9 A. Other than Lotchubo, I don't know any other brothers of
10 Mathieu Ngudjolo.

11 Q. Do you know a brother called Nguna?

12 A. Nguna is the child of the wife of Ngudjolo's father. The wife of
13 Ngudjolo's father is Nguna's mother.

14 Q. And in addition to Nguna, do you know any other brothers? You've
15 mentioned now that you know two of his brothers. Do you know the names
16 of any other brothers?

17 A. No. Other than them, I don't know any other of Ngudjolo's
18 brothers or sisters. You know, I am from Penyi groupement and they are
19 from the Ezekere groupement.

20 Q. Mr. Witness, now we are in open session. I'm not going to
21 confirm precisely the nature of your relationship with one of
22 Mathieu Ngudjolo's ex-wives, but would it be fair to say that you've
23 known Mathieu Ngudjolo for some time now?

24 (Expunged)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged). As far as Ngudjolo

5 is concerned, I would say that I don't have any long-term relationship

6 with him. I met Ngudjolo when he began to work in Zumbe.

7 Q. Now, Mr. Witness, just a reminder that we are in public session

8 so what we are discussing now can be heard by people outside this room.

9 So I just ask that you be cautious in mentioning any relationships.

10 Now, I just want to ask you about a person called Mr. Lopa Koli

11 Christophe. He's also known as Pastor Koli. Now, this is someone who is

12 known to you; isn't that right, sir?

13 A. Yes.

14 Q. And can you explain how you know him, sir?

15 A. Yes. I can tell you that.

16 Q. If you could please do so, we would be grateful.

17 A. Thank you. I'm going to give you some explanations about

18 Lopa Koli. Lopa Koli was the first person to give me information on the

19 subject of Baudouin. And he's also someone who helped me a lot when

20 there were the beginnings of conflict and troubles between our two

21 families. And to date, he continues to help me in this matter. He was

22 the first person who came to my home to inform me, to tell me, that the

23 child was here. I really had doubts, but he kept coming to my home.

24 He's a pastor. He kept coming to my home until he convinced me of that

25 reality. So I would say that he is someone who has helped me a great

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1 deal.

2 Q. Presumably he was someone that was known to you before he came to
3 speak to you about Baudouin, yes, sir? Since when have you known Pastor
4 Koli?

5 A. I met Pastor Koli when I arrived in Bunia in 2004. I knew that
6 he was a pastor, and he was a man who worked in the field of
7 pacification. He would go here and there to try and pacify the
8 population. Everybody knew him. Everybody knew Pastor Koli as being a
9 pacifier.

10 Q. And he knows Baudouin very well too; isn't that right, sir?
11 I mean, at one point he was Baudouin's neighbour in Bunia; isn't that
12 right?

13 A. Yes.

14 Q. And Pastor Koli at one point, he was also living in Katoni; isn't
15 that right?

16 A. Pastor Koli lived with his father in Katoni, well before that,
17 and that was at a time when I did not yet know him.

18 Q. Chief Manu, who is also known as Emmanuel Ngabu, this is someone
19 who is known by you; isn't that right, sir?

20 A. Yes, I know him.

21 Q. Can you explain how you know Chief Manu?

22 A. Yes. I can explain that to you. I got to know Chief Manu when
23 he was in Kasenyi. However, I do not know what he was doing at that
24 time. (Expunged)

25 (Expunged). I got to know Chief Manu better when he

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1 was selected as the chief of the Bedu-Ezekere groupement. That is when
2 I got to know him really well. Chief Manu helped many people. When
3 there were disturbances, he would try to restore peace as quickly as
4 possible, and he did that in Zumbe.

5 Q. Mr. Witness, Jean-de-Dieu Ngabu Safari, also known as Kpenge, and
6 I'll spell that, K-p-e-n-g-e, this is somebody who is also known to you;
7 am I right?

8 A. Yes. I know him very well. (Expunged)
9 (Expunged).

10 Q. And is he also related to Mathieu Ngudjolo?

11 A. No. I cannot give you an answer about that.

12 Q. And what was his role in the community?

13 A. Are you talking about Ngabu Safari's role in the family? Well,
14 he is someone who helped his family a great deal. In Buy-Sabuni, where
15 he went, he also helped out at the school. Even in the absence of the
16 head master of the school, he worked in that person's office. He also
17 went to the classrooms, and until his death, which happened recently, he
18 continued helping children. He taught the sixth year. And when he
19 returned to his job as a teacher, the children in the Buy-Sabuni school
20 excelled in their results. When something happened in the area, whether
21 it was a funeral or something else, he was the first to arrive and
22 provide assistance.

23 Q. And he was also a leader in the community; isn't that right, sir?
24 He was also connected to the *comité de base*, for example?

25 A. Yes. He was the secretary, the substantive secretary, of the

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1 *comité de base*. And before his death he was the president of the
2 football team in the groupement. And he was promoted to the level of the
3 *collectivité*.

4 Q. And Mateso Lodya, a nurse called Mateso Lodya - I'll spell that,
5 M-a-t-e-s-o, Lodya, L-o-d-y-a - also known as Dr. Mateso, is this
6 somebody you know, sir?

7 A. Mateso Lodya, no, I do not know him.

8 Q. Okay. Jean Logo Dhengachu, Germain Katanga's resource person,
9 this is someone that you know; am I right, sir?

10 A. He was the one working in Germain Katanga's team. He came to my
11 home one day and he came to speak to me about Baudouin. He took me and
12 we went out and had a discussion. This was my first time of seeing him.
13 And it was also the last.

14 Q. And when you met him for that first time, could you explain how
15 he identified himself to you?

16 A. Yes. When he arrived, he asked me the following question, "Do
17 you know a young man known as Baudouin?" And I asked him, "In what
18 capacity are you asking me that question?" And he told me, "Look, I am
19 one of those working in the Defence team of Germain Katanga." And so
20 I told him that I knew Baudouin, that Baudouin was one of my children,
21 and that I had learned that he had been taken as a Prosecution witness.

22 Q. Mr. Witness, I'll return to that in a moment.
23 (Prosecution counsel confer)

24 MS. LUPING:

25 Q. Mr. Witness, I'm just going to return to Chief Manu. This is

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1 somebody who -- you know, you've explained the relationship and when you
2 first got to know him better, as you put it. And he was with Jean Logo
3 when Jean Logo came to meet you; isn't that right?

4 A. Yes. They came to see me together. However, when I went out to
5 speak with Logo, he stayed back in the house.

6 Q. And you spoke to Chief Manu after Mr. Logo had spoken to you?

7 A. No. We did not speak with each other again. I did not discuss
8 with Chief Manu again. After my conversation with Logo, he left the
9 house, and both of them went away.

10 Q. Now, Mr. Witness, you've explained that you know
11 Christophe Lopa Koli very well, Pastor Koli, I should say. Presumably he
12 came to see you --

13 A. Yes.

14 Q. Presumably he came to see you on more than one occasion to talk
15 about Baudouin. Could you explain how many times he came to see you to
16 speak about Baudouin?

17 A. As I said before, he came and spoke about Baudouin. Whenever
18 there were visitors he was the one who would come and inform me about
19 them and announce them to me. When someone came to see me, he was the
20 one who would inform me about it. He was involved in several activities,
21 and as a result, I did not have the time to discuss with him. This means
22 that I was not able to count the number of times that we met.

23 Q. And just to clarify, you said: Whenever there were visitors, he
24 was the one who would come and inform me about them and announce them to
25 me. I'm assuming you're talking about visitors who came to talk to you

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1 about your son, Baudouin; isn't that right?

2 A. Are you referring to Pastor Lopa? I did not quite understand
3 you.

4 Q. Yes, I'll clarify my question, sir. You explained that Pastor
5 Koli would come and speak to you about Baudouin and whenever there were
6 visitors, Pastor Koli was the one who would come and inform you about
7 them and announce them to you. My question is as follows: These
8 visitors that you're talking about, presumably you're talking about
9 visitors who came to speak to you about Baudouin; is that right?

10 A. Yes.

11 Q. Mr. Witness, can you clarify when was the last time you saw
12 Pastor Koli?

13 A. I saw Pastor Koli for the last time was when we welcomed a
14 visitor who was coming from here. He came to inform me that a trip had
15 been prepared for me to come to this court and testify, and that I had to
16 make the necessary preparations. That is how come I accepted to travel
17 here.

18 Q. Can you recall roughly when that was, sir, that Pastor Koli came
19 to your house with a visitor to discuss your trip here to testify?

20 A. It was in May. It was on the 5th. That is when he came to tell
21 me that my trip had been prepared. But there were still some
22 difficulties, and it was for that reason that we went to Bunia. He later
23 came back to see me in July. We waited for one week before travelling to
24 Kinshasa on the 20th of July. That was the last thing that he did. We
25 stayed in Kinshasa for a period of one month. And from Kinshasa, we came

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1 here. We arrived in the morning of the 21st, that is the 21st of August.

2 Q. Now, you said you stayed in Kinshasa for a period of one month.

3 Was anybody else with you? You don't have to name the persons by name
4 necessarily. Was there anybody else with you in Kinshasa?

5 A. At the hotel where we were staying, there were two other people,
6 that is in addition to myself. That made three of us.

7 MR. FOFÉ: (Interpretation) Mr. President.

8 PRESIDING JUDGE COTTE: (Interpretation) Yes, Professor Fofé.

9 MR. FOFÉ: (Interpretation) Your Honour, I have been compelled to
10 rise to my feet because a short while ago you asked us to go to the heart
11 of the matter. I would really like to know what is the relevance of all
12 these questions? If the Prosecutor wishes to enquire about the
13 conditions in which the witness travelled, then she has to ask those
14 questions of VWU. So, your Honour, I'm wondering what the relevance is
15 of these questions.

16 PRESIDING JUDGE COTTE: (Interpretation) Ms. Luping, the Chamber
17 was of the opinion that we could guess at the objective of your
18 questions. Can you provide an answer to the Defence counsel in the
19 absence of the witness? We have only four and a half minutes left.
20 Would you need long? A long time, to do that?

21 MS. LUPING: (* Previous translation continues)... a very long
22 time to explain the relevance of these questions and they certainly
23 shouldn't be explained in the presence of the witness, but, in fact, I
24 can ask one remaining question before the break. Doesn't relate to who
25 was in the hotel in Kinshasa, but it's simply to complete this set of

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1 questions, sir.

2 PRESIDING JUDGE COTTE: (Interpretation) Very well. Ask that last
3 question and then we will break. And before the witness is brought in to
4 the court at 11.30, then you will provide some clarification to
5 Professor Fofé. Please go ahead.

6 MS. LUPING: Thank you, Mr. President.

7 Q. Mr. Witness, after the 20th of July, what other contacts did you
8 have with the Defence team for Mathieu Ngudjolo?

9 A. After that date, while I was in Kinshasa, all I did was to wait
10 for the time that I would travel to The Hague. I was asked to be patient
11 while waiting to travel. Apart from that, we did not have any further
12 contact. There was no further communication between us. They told me
13 that everything I had to say I would say it before the Judges. And here
14 I am before those Judges to tell them what I know.

15 Q. And this is my final question before the break, sir,
16 Mr. President. When there was discussion about the process of coming
17 here to testify, was there also discussion about what you would be
18 testifying about, the content of your testimony?

19 A. No. We did not touch on the substance of my testimony. We
20 simply focused on preparing my trip to come and testify before the Court.
21 We did not discuss any other matters.

22 PRESIDING JUDGE COTTE: (Interpretation) Ms. Luping, we are going
23 to stop there for now.

24 Mr. Witness, you will be able to rest during the next 30 minutes.

25 And, Court Officer, let us go into closed session to allow the

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1 witness to leave the courtroom.

2 (Closed session at 10.58 a.m.)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Open session at 10.59 a.m.)

12 COURT OFFICER: (Interpretation) We are in open session,
13 your Honour.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you. When we
15 reconvene, Ms. Luping, are you going to move to a totally different line
16 of questioning, or are you just going to provide a clarification sought
17 by Professor Fofé?

18 MS. LUPING: I'm going to be going actually to a different line
19 of questioning, Mr. President.

20 PRESIDING JUDGE COTTE: (Interpretation) Very well. The hearing
21 is suspended. We will reconvene at 11.30.

22 Recess taken at 10.59 a.m.

23 On resuming at 11.35 a.m.

24 (Closed session)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Open session at 11.37 a.m.)

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

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

11 Ms. Luping, are you now in a position to tell us, perhaps in an
12 approximate way, how long you need in order to continue your
13 cross-examination? Keeping in mind the following witness.

14 MS. LUPING: I don't anticipate having to spend very much longer,
15 Mr. President. It's hard to estimate. Depends obviously on the
16 witness's responses. Perhaps an hour or so. It really does depend.

17 PRESIDING JUDGE COTTE: (Interpretation) Then please proceed,
18 Ms. Luping.

19 MS. LUPING: Thank you, Mr. President.

20 Q. Mr. Witness, good morning again to you. Now, Mr. Witness --

21 A. (No interpretation)

22 Q. Thank you. You explained earlier on that you were born in the
23 Penyi groupement. You were also a counsellor with the Inter-Penyi
24 association; is that right?

25 THE INTERPRETER: The witness at first said yes. Now he adds.

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1 THE WITNESS: (Interpretation) I'm only the councillor to my own
2 family.

3 MS. LUPING:

4 Q. Sir, I'm talking about the Inter-Penyi association. You are a
5 councillor with that association; isn't that right?

6 A. Yes. Within the Inter-Penyi association, our intention was to
7 bring people back out of the bush, those who were living in the bush
8 during the war, so that they would reoccupy their homes.

9 Q. Now, my learned friend, Professor Fofé, asked you about a person
10 called Boba Boba, whom you confirmed that you know, that you said you
11 knew that he was a young man who was originally from Ezekere. In fact,
12 you know him very well; isn't that right, sir?

13 A. I know Boba Boba, and I know that he comes from Ezekere.

14 Q. And during the period of time that we are interested in,
15 August 2002, March 2003, you would know that he was based in Ladile; is
16 that right?

17 A. Yes, I know that he lived in Ladile.

18 Q. And he was a military leader, wasn't he, sir? He was a
19 combatant?

20 A. Boba Boba was a military (* as interpreted) within the army of
21 our country, the Congo, and when the war broke out, he had already
22 deserted. Boba Boba was an arrogant, overpowering man, and he was a
23 self-proclaimed commander of combatants, but in my opinion he was
24 somebody who was very fearful because when the war broke out he was the
25 very first one to try and take refuge in the bush.

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1 Q. And to be clear, in that period after August 2002, he was a
2 commander of combatants at that time as well, wasn't he, sir?

3 A. Boba Boba was the commander of combatants at Ladile.

4 Q. And Boba Boba, he was also a member of the same Inter-Penyi
5 association; isn't that right?

6 A. No. Boba Boba does not belong to the Ezekere groupement. We,
7 the inhabitants of the Penyi groupement, we were volunteers because there
8 were people from our side who were living in the bush, starting in the
9 year 2004, and therefore to try and bring them back out, the Inter-Penyi
10 association had to take steps, and it was we, ourselves, who set up that
11 association to come to the assistance of displaced persons.

12 MS. LUPING: Mr. President, if the Court Officer could please
13 call up a document that I'd like to show to this witness, and the ERN is
14 DRC-OTP-0093-0113.

15 PRESIDING JUDGE COTTE: (Interpretation) So this is Exhibit 15 on
16 your list. It's an exhibit which the Defence for Mathieu Ngudjolo had
17 objected to, if I'm not mistaken. That is correct?

18 MR. FOFÉ: (Interpretation) Yes, that is the case.

19 PRESIDING JUDGE COTTE: (Interpretation) What, then, where do we
20 stand, Professor Fofé, before the exhibit is shown?

21 MR. FOFÉ: (Interpretation) Your Honour, we had announced our
22 objection before the answers just given by the witness to the very last
23 questions from the Prosecutor. The answers just proffered by the witness
24 bear us out in our objection, because, Madam Prosecutor, you wish to
25 establish a nexus between the witness, the exhibit and Boba Boba. And

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1 you will have noticed that on page 2, without really going too far into
2 this matter, you will see a name on the left-hand side, the left-hand
3 column, the fourth name, you will notice there something that resembles
4 something else, but which is not that something else. So this is why I'm
5 making that objection, your Honour.

6 PRESIDING JUDGE COTTE: (Interpretation) Ms. Luping, please
7 explain to us what is the link that you see between that exhibit, the
8 relationship between that document and our witness who is now testifying
9 so that we would be in a position to better appreciate, I won't say the
10 relevance because it has many meanings but so that we can appreciate the
11 absolute need that you have to refer to this particularly in the light of
12 Professor Fofé's objection. We are listening to you, Madam.

13 MS. LUPING: Yes, Mr. President. Our understanding of the
14 objection originally from the Defence team of Mathieu Ngudjolo is that it
15 was premised on the role that this witness played within the Inter-Penyi
16 groupement and association, and the witness, himself, has now confirmed
17 that he was indeed a councillor within the Inter-Penyi groupement. And
18 so I would submit, Mr. President, that there is a sufficient link between
19 this individual and this document, and I would bring to your attention on
20 the second page, and you will see a name that appears in the left column.

21 And this witness has also confirmed the various names by which he
22 is known by.

23 On that basis, sir, I would submit that there is a sufficient
24 link.

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

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1 Professor Fofé, you very ably, however, very elliptically, you were
2 referring to that fourth name on the left-hand side column, which,
3 however, tremendously resembles the identity of the witness. So among
4 other signature in this document that Ms. Luping wishes to move forward,
5 there is the signature of the witness.

6 MR. FOFÉ: (Interpretation) I totally trust your wisdom, sir.

7 PRESIDING JUDGE COTTE: (Interpretation) Madam Luping was on her
8 toes, tiptoeing into this very carefully because she realised that --

9 MR. FOFÉ: (Interpretation) May I simply ask Ms. Luping to go
10 straight to the heart of the matter so that we can check, and if we check
11 this we may perhaps, sir, find ourselves without an objection.

12 PRESIDING JUDGE COTTE: (Interpretation) Very well, then.
13 Ms. Luping, you're invited to go to the heart of the matter. Do you want
14 that document to be displayed already and shown to the witness? This is
15 document 0093-0113. Could you, please, Court Officer, display that on
16 the screen. Is this exhibit public?

17 MS. LUPING: Confidential.

18 PRESIDING JUDGE COTTE: (Interpretation) Very well.
19 Court Officer, please. The screen is already down.

20 COURT OFFICER: (Interpretation) The document can be seen on PC 1.

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

22 Mr. Witness, the accused can see the document on display.

23 Ms. Luping, proceed, please.

24 MS. LUPING: Thank you, Mr. President.

25 Q. Mr. Witness, I see you now have your glasses on. Are you able to

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1 clearly see the document in front of you? I will be asking you specific
2 questions in relation to it. At the moment I just want you to simply
3 look at it without making any comments. But can you see the document is
4 my first question.

5 A. I must say personally I find it rather difficult to read a text
6 shown in French.

7 Q. Well, the text itself is not of concern as such, the first page.
8 I'd like you to turn to the second page of the document. If we could
9 have the second page shown to the witness. That's page 0114.

10 PRESIDING JUDGE COTTE: (Interpretation) Now, there we have it.
11 Mr. Witness, can you see that page? This is a page with a certain number
12 of names and signatures.

13 THE WITNESS: (Interpretation) I can see that page.

14 PRESIDING JUDGE COTTE: (Interpretation) Ms. Luping, please
15 proceed.

16 MS. LUPING: Thank you, Mr. President.

17 Q. Now, Mr. Witness, I'd like you to look in the left column of that
18 page, the fourth name, we are in public session so I'm not going to read
19 out that name, and you see the description of the role of that
20 individual, see the name and the role of that person. Now, that is you;
21 isn't that right, Mr. Witness?

22 A. Yes. I can see it. I see what is written.

23 THE INTERPRETER: But the witness has not yet answered the last
24 question of Ms. Luping's.

25 MS. LUPING: I understand from the interpreters that the last

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1 part of my question is still to be answered. I'll repeat my question.

2 Q. Now, this person, whose name you see there, and their role is
3 written underneath that name, now, that's you, isn't it, Mr. Witness?

4 A. I see the role which is attributed to that person that is
5 mentioned in the fourth position. However, I must say that that
6 signature you see there is not my signature.

7 Q. The reference to your name -- sorry, the reference to the name
8 and to the role, though, that is a reference to you, isn't it, sir?
9 Irrespective of whether somebody else might have signed it for you, that
10 is you that is mentioned in this document, isn't it, sir?

11 A. Yes. That is my name.

12 Q. That is your name, and that is the person -- it is you that is
13 being referred to in this letter; isn't that right, sir?

14 A. Yes. It is myself.

15 Q. And just to clarify, sir, did somebody else then sign on your
16 behalf on this letter?

17 A. I believe somebody else signed under my name.

18 Q. Now, if we turn to the first page, I'll be going back to the
19 second page in a moment, but if we turn to the first page, at the very
20 top, it's written Zumbe, the 14th of January, 2005. And the object --
21 this is not identifying so I can read it -- is stated (No interpretation)
22 and it's attentioned to a number of individuals including -- it's stated
23 minister of defence of the FNI in Bunia.

24 Now, do you recall discussions about this letter, Mr. Witness?

25 MR. FOFÉ: (Interpretation) If you please, your Honours.

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1 PRESIDING JUDGE COTTE: (Interpretation) Yes, Professor Fofé.

2 MR. FOFÉ: (Interpretation) I do not wish to dispute what the
3 Prosecutor is saying, however I did notice that one question put by the
4 Prosecutor was whether he able to see the document, and the witness
5 answered he had difficulties in French, so perhaps he might be given the
6 exact contents of this letter to see whether he's indeed able to
7 recognise it.

8 PRESIDING JUDGE COTTE: (Interpretation) Ms. Luping, please try
9 and take into account the difficulty of how difficult it is for the
10 witness, on page 1, to proceed to identifications which were obviously
11 much more simple on page 2. So perhaps, Ms. Luping, you could read out
12 in full these passages so that the witness would be in a position better
13 to identify the document if he's indeed in a position to do. And in the
14 lights of his answers on page 2, it might not be pointless to make sure
15 that he is understanding fully. Thank you.

16 MS. LUPING: Certainly, Mr. President. I apologise if I cough in
17 between.

18 Q. I'm now going to read the text on that first page to you
19 Mr. Witness, and it reads as follows. I've given you the title of the
20 letter, (No interpretation). And it reads as follows:

21 (No interpretation) (Interpretation) "Mr. Minister, in accordance
22 with the purpose presented in the margin, we ... (No interpretation)
23 (Interpretation)... Minister, we present you with our person who is
24 competent to communicate to you that the FNI is our supreme body but we
25 observe that the people concerned, that is the Lendu population, in

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1 certain places does not know how it is managed by its supreme body.
2 Mr. Minister, in accordance with the objective presented in the margin we
3 underline that at your level, the injured people from the Datule front
4 are not receiving service. This is justified by the fact that the
5 parents or the members of their family are not receiving any assistance
6 from the FNI. Our young people who are at the Datule, Nyamba, Karoi
7 (* phon) and Ngundumbe (* phon) fronts where there may be free entry of
8 enemies in the case where there is no resistance. We will restate that
9 there has been a reactivation of the above-mentioned fronts as a result
10 of preventive requirements because of the hostilities. Furthermore, we
11 request from you financial or funding for certain needs of a human nature
12 which may arise.

13 "Mr. Minister, it is not the first time that we are appealing to
14 you, but we have observed that our requests have never been met by other
15 members of the FNI. In conclusion, Mr. Minister for the defence -- for
16 defence in the FNI, should our request today once more be ignored, we
17 will withdraw our people who are at the fronts, and that will make it
18 easier for the enemies to gain free passage to the source from which
19 those moneys which we are not benefiting from come. We say to all those
20 who are reading this document or copies of it that they must raise
21 awareness of the people managing the fronts within the FNI as to the fact
22 that they must honestly and legally manage all income of the FIN" --

23 THE INTERPRETER: As it's stated in the document.

24 MS. LUPING: (Interpretation) "... in accordance with the decree
25 of the FNI president."

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1 (* In English) It's on that page with the heading

2 (Interpretation) then it ends "for the signatories."

3 Q. Now, Mr. Witness, do you now recall this letter?

4 A. Yes. I remember this. This letter was written because our young
5 people were in Ladule (* phon) and Bukpa and Nyamba were in control of
6 that place, to watch for enemies who were -- wanted to come in and
7 disturb the people in the village. The request made by this group was to
8 the effect that the FNI should come to the rescue of these people. It
9 was possible to benefit from income from the Tchomia customs authority,
10 but at the end of the day, no assistance was forthcoming. And these
11 people continued to control that area. It is by the grace of God that
12 the peace builders intervened, and thanks to various seminars that were
13 organised, they were able to raise the population's awareness of security
14 needs and of the need for peaceful cohabitation between the Lendu and the
15 Hema. Good relations therefore were re-established and the members of
16 the community were able to continue living together. And in conclusion,
17 the income from customs activities in Tchomia were not used to help
18 people, and we stopped receiving any income from that customs service.

19 Q. Thank you, Mr. Witness. I'm now going to ask that you be shown
20 the second page of this letter again, that's at 0114 and this should not
21 be seen by the public, this second page. Now you have it before you,
22 Mr. Witness, and I want to return to the name that you recognised already
23 as being your own and the role that you've already confirmed is yours.
24 Now that you have also remembered this letter, my question is this: Now,
25 do you remember now having signed this letter, now that the contents of

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1 it have been read to you?

2 A. I participated in the drafting of that letter. In fact, at the
3 moment of the discussion, when that letter was being prepared, I was
4 present, and I agreed to my name appearing on the document, but somebody
5 else has signed in my place. The person who signed did not sign for me,
6 and I think that that is the error. That person must have signed on my
7 behalf but should have said signed for me.

8 Q. Thank you for that clarification, Mr. Witness. Now, you've
9 confirmed then you have however seen this letter before; isn't that
10 right?

11 A. Yes.

12 Q. Actually, before I ask any further questions in relation to this
13 document, I would ask that an EVD number be assigned.

14 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.

15 COURT OFFICER: (Interpretation) Thank you, your Honour. The
16 document DRC-OTP-0093-0113 will bear EVD number EVD-OTP-00276, and it
17 will be recorded as a confidential document.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

19 Madam Prosecutor.

20 MS. LUPING:

21 Q. Thank you, I just have one or two questions in relation to
22 questions relating to this document, Mr. Witness. On the right side, the
23 right column, and I can mention this name in public, you'll see the third
24 name that appears in the right column and that is Ngabu Boba Boba,
25 Colonel.

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1 Now, it's right that Colonel Boba Boba signed this letter as a
2 member of the Defence; isn't that right?

3 A. I couldn't say whether this is indeed Boba Boba's signature.

4 Q. Yes, but Colonel Boba Boba's name and Colonel Boba Boba was
5 involved in this letter, wasn't he? I mean, he was one of the
6 individuals that was sending this letter to the FNI minister of defence;
7 isn't that right?

8 A. When the content of this letter was discussed, once the letter
9 had in fact been drafted or we had done the first draft, it was shown to
10 everybody, so that they could familiarise themselves with it and sign it.
11 I don't know at what point in time Colonel Boba Boba's name was put on
12 the letter, and I don't know under what circumstances he signed. I can't
13 give you information that I don't have. I don't want to lie.

14 Q. Now, Mr. Witness, you've mentioned that somebody else signed on
15 your behalf on this letter. Can you give us the name of that person?

16 A. This letter was circulated among us, the Inter-Penyi. You can
17 see that on the one hand you have the members of the Inter-Penyi and on
18 the other hand the members of the Bedu-Ezekere groupement. So it was
19 brought over to our side so that we could consent to it, and that was
20 Lubanga Guba, the person who was secretary of our group from Penyi. As
21 far as the Ezekere group is concerned, I don't know who was the
22 secretary.

23 Q. Thank you, Mr. Witness. I believe the letter can now be taken
24 away from the screens. I'm moving on to a different set of questions
25 now.

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1 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, Mr. Usher,
2 could you please recover that document? Ms. Luping, you may continue.

3 MS. LUPING: Thank you.

4 Q. Now, you also mentioned another person, Mr. Witness, called
5 Nyunye in response to a question from Professor Fofé. Now, this is
6 somebody else that you know well; isn't that right?

7 A. I know Nyunye very well.

8 Q. And in the period that we are interested in, August 2002 to
9 March 2003, he was also a military leader, wasn't he? He was a commander
10 of combatants?

11 A. Yes. Nyunye was a commander of combatants, and he was not
12 somebody who had done any studies. To be a commander, you had to be
13 courageous, to be in charge of self-defence. He was somebody who was
14 committed to sacrificing himself, who was very committed. And he
15 received the rank of commander of combatants. It is under those
16 circumstances that Nyunye took the title or the rank of commander.

17 Q. And he's also known as Lone, Lone Nyunye?

18 A. As far as I'm concerned, I just knew him as Nyunye.

19 Q. And Nyunye was a commander at Zumbe; isn't that right?

20 A. Yes. Nyunye was in Zumbe.

21 Q. And do you remember who his assistants were, Mr. Witness?

22 A. The person who assisted him was a young man. I've forgotten his
23 name. I saw young people in that place who were with him. It was a
24 young man known to me and who is already dead.

25 Q. Now, I'm going to refer you to another person called Kute. He

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1 was also a commander of combatants, wasn't he, Mr. Witness? And again
2 I'm talking about the relevant time period, between August 2002 and
3 March 2003.

4 A. Yes. Kute was a commander at Lagura. Lagura is a hill in Katoni
5 and people took refuge on that hill. Kute was trained as a soldier at
6 Nyaleke and during the war he came back. He knew how to make war and to
7 lead operations. That is why he was appointed as commander.

8 Q. And isn't it right that Kute was killed because he hadn't
9 followed orders; isn't that right?

10 A. Yes. Kute was killed. * He was somebody who was putting up barricades on
11 the road and who was looting people of their possessions. And even during the lull,
12 Kute continued such activities. He was stopping passers-by and taking their money.
13 And as a result, the elders decided to send a delegation to go and arrest Kute and
14 bring him back to the base and put him in jail. He was followed, but as he was a
15 fighter, a brawler, he began to fire on the people who had gone to arrest him. He shot
16 at a man called Shanyo, who fell to the ground, Shanyo was a combatant who had a
17 rifle, and he shot Kute when he realized that he was still following him.

18 THE INTERPRETER: The Swahili interpreter is not sure whether the witness is talking
19 about Shanyo or Sashanyo.

20 THE WITNESS: (Interpretation)

21 THE INTERPRETER: The Swahili interpreter informs us that it was Shanyo who shot
22 and killed Kute.

23 MS. LUPING:

24 Q. Now, Bebe Besta he was also a commander, wasn't he, and he was
25 second in command to Kute at Lagura in that same time period, wasn't he,

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1 and that's August 2002 to March 2003 again?

2 A. I didn't know his rank, really. There is a great distance
3 between Zumbe and Lagura, but I know that they were working together.

4 MR. FOFÉ: (Interpretation) Excuse me, excuse me, your Honour,
5 I would like to point out that the answer that the witness just gave on
6 page 48, line 26 to 28, and page 49, lines 1 to 19, I understand that
7 this is just a preliminary version of the transcript but this answer
8 needs to be properly retranscribed, your Honour. Page 48, lines 6 to 28
9 and page 49, lines 1 to 19. Thank you, your Honour.

10 PRESIDING JUDGE COTTE: (Interpretation) Yes. The transcript is
11 entirely provisional at this point, and so therefore it is approximate.
12 We would ask the stenographers to be extremely vigilant, therefore, when
13 they formalise this transcript and we thank them in advance for that.
14 Thank you, Professor Fofé, Madam Prosecutor, please continue.

15 MS. LUPING:

16 Q. And again, I'm pronouncing it probably very badly. I'm going to
17 spell it. Again it's spelt A-g-e-n-o. Spelt D-z'-n-y-o, Dz'nyo. He was
18 also a military leader based at Lagura, wasn't he?

19 A. As I said about Bebe, I don't know if he was appointed a
20 commander. All of these people were under Kute's orders.

21 MS. LUPING: Just briefly go into private session for a question
22 of an identifying nature.

23 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, just for a
24 brief moment, can we go into private session and then we will go quickly
25 back into open session.

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1 (Private session at 12.24 p.m.)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Open session at 12.26 p.m.)

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

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1 your Honour.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

3 Madam Prosecutor, you may go ahead.

4 MS. LUPING: Thank you, Mr. President.

5 Q. Now, Mr. Witness, I'm just turning to -- it's page 6 of today's
6 transcript. It's the English transcript. It's lines 9 to 10, where you
7 stated, "The years went by, and at the end of the year 2009, I heard that
8 Baudouin was a Prosecution witness." Now, my question is this,
9 Mr. Witness: First of all, who told you that Baudouin was a Prosecution
10 witness at the end of 2009?

11 A. The person who told me that Baudouin was a witness for the
12 Prosecution was Pastor Lopa. He came to see me, and he gave me that
13 information.

14 Q. And can you explain precisely what he told you about your son
15 being a witness for the Office of the Prosecutor?

16 A. Yes. I can tell you. When he arrived to tell me that my child
17 was a witness, first of all he asked me the following question, "Your
18 son, Baudouin, where is he?" And I answered him, "That young man has
19 been taken away by white people and I've learnt that he is currently in
20 Kinshasa." He said to me, "Is that true?" And I said to him, "Yes, it's
21 true. He has been gone since 2006 and people tell me that he is in
22 Kinshasa." With that, he said to me, "I'm not asking you this question
23 by accident. I'm asking you because I have learnt that your son is a
24 witness for the Prosecution," and I said to him, "Well, how can that be?"
25 And he said, "This young man has stated that Mr. Mathieu was using him as

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1 an escort. Is that true?" That is the question that he asked me. Now
2 I said to him, "For these past few years, for all of these years, this
3 young man has not been with us. He was in the Walendu-Bindi collectivity
4 in Kagaba at school. * What's more, during my discussion with the elders, we were
5 wondering when he had been a member of the escort. At that time, I asked him, "Are
6 you trying to criticize me or accuse me of something?" And he became frightened, and
7 he said to me, "Let's leave it at that. First we are going to investigate the matter." That
8 was the end of our conversation.

9 Q. And Mr. Witness, you learnt, in fact, that your son was
10 testifying not only against Mathieu Ngudjolo but also against
11 Germain Katanga; isn't that right?

12 A. No. With regard to Germain Katanga, I was not aware of that.
13 All I knew was that he was coming to testify about Mathieu Ngudjolo.

14 Q. Now, in 2009, Mr. Jean Logo came to visit you with Chief Manu.
15 You've explained this. Now, when he came to see you, he also told you
16 that your son was testifying and giving information against
17 Germain Katanga; isn't that right?

18 A. No. It was not in 2004. He visited me in 2009.

19 Q. And when he visited you, he also told you that your son was
20 testifying or giving information against Germain Katanga; isn't that
21 right?

22 MR. HOOPER: I'm going to interrupt. That is an unfair
23 presentation of a question because it's asserting as a fact that which is
24 not admitted.

25 MS. LUPING: I will reformulate my question, Mr. President.

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1 PRESIDING JUDGE COTTE: (Interpretation) Yes, please rephrase,
2 Ms. Luping. Please rephrase your question.

3 MS. LUPING:

4 Q. Isn't it right that you were asked questions about your son by
5 Mr. Jean Logo Dhengachu?

6 A. Yes. Let me answer that question. On the day that Logo came to
7 my place, he told me that the child had testified against Mathieu and
8 against Katanga. Yes, he told me that on the day he came to visit me.
9 However, before that, I knew that he was testifying against Mathieu
10 Ngudjolo.

11 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

12 MR. FOFÉ: (Interpretation) Your Honour, I am on my feet once
13 again to request that --

14 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé, let me
15 stop you right there. I would like to ask the witness to repeat his
16 answer. The Court Officer had sent me a note stating that, considering
17 the constraint of the Registry, it is preferable to ask the witness to
18 repeat his answer. What is the precise excerpt of the transcript that is
19 of concern to you right now?

20 MR. FOFÉ: (Interpretation) I waited in order not to interrupt the
21 Prosecutor. We have already gone quite far. So it would not be possible
22 to review that right now. I simply wish to refer you to page 53, lines 1
23 to 10. I believe that excerpt has to be listened to carefully and
24 correctly transcribed.

25 PRESIDING JUDGE COTTE: (Interpretation) Very well.

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1 Madam Prosecutor, in fact, it was the witness who was speaking.
2 Maybe you can repeat your question so that the witness should then repeat
3 his answer.

4 MS. LUPING: Yes, Mr. President, but the answer, in fact, on the
5 English transcript is extremely clear. So what I will do is I'll repeat
6 my question, and I'll repeat the response that appears in the English
7 transcript and ask if he can confirm that that's accurate.

8 Q. Now, Mr. Witness, I asked you:

9 "Isn't it right that you were asked questions about your son by
10 Mr. Jean Logo Dhengachu?"

11 And your response was:

12 "Yes. Let me answer that question. On the day that Logo came to
13 my place, he told me that the child had testified against Mathieu and
14 against Katanga. Yes, he told me on the day he came to visit me.
15 However, before that, I knew that he was testifying against
16 Mathieu Ngudjolo."

17 Now, that's correct, isn't it, Mr. Witness?

18 A. Initially, the pastor came and talked to me only about
19 Mathieu Ngudjolo, but subsequently, when Logo arrived, he told me that
20 the child was testifying against Germain Katanga. It was Logo who
21 informed me of that. I never saw him again up to today.

22 MS. LUPING: Mr. President, if I could have simply one minute to
23 confer with my colleagues.

24 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead.

25 (Prosecution counsel confer)

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1 MS. LUPING: Thank you, Mr. President, your Honours.

2 Q. Now, Mr. Witness, I'm just going to take you back to another part
3 of the transcript from today. I'm referring to page 6, line 13, in the
4 English transcript where you stated as follows:

5 "I was told that he was indeed a witness of that Prosecutor.
6 I became afraid, very afraid."

7 Now, Mr. Witness, isn't it right that you became very afraid
8 because your son was testifying against Germain Katanga and your chief,
9 Mathieu Ngudjolo?

10 A. Yes. I became afraid. I was really afraid, because the fact
11 that my child was involved at the highest jurisdiction in the world, that
12 frightened me. So I was afraid, given the fact that he had become a
13 witness of the Prosecutors.

14 Q. And isn't it right, sir, that you were afraid because of who he
15 was testifying against? He was testifying against your own chief,
16 Mathieu Ngudjolo, as well as Germain Katanga. Now, isn't that right,
17 sir?

18 PRESIDING JUDGE COTTE: (Interpretation) We did not receive any
19 interpretation into French. So, Ms. Luping, please kindly repeat your
20 question.

21 MS. LUPING: Yes, Mr. President.

22 Q. Now, isn't it right, Mr. Witness, that the reason you were very
23 afraid is because of who your son was testifying against, your chief,
24 Mathieu Ngudjolo, and Germain Katanga? Now, this is what made you very
25 afraid; isn't that right, sir?

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1 A. Yes. I was afraid, and that was because -- well, they were not
2 my chiefs. What frightened me most was the fact that a young child
3 should find himself as a witness of the international Prosecutor. That
4 is what really made me afraid.

5 Q. Now, sir, you've explained that there was conflict between
6 Mathieu Ngudjolo's family and your family. Now, isn't it right, sir,
7 that you were afraid for the safety of your -- let me finish. Sorry,
8 sir, I haven't finished yet -- that you were afraid for the safety of
9 your son, the safety of your family, and your own safety, sir? Now,
10 isn't that right?

11 A. Yes. I was afraid for the safety of my family. You know, my
12 family lived in Zumbe, and Zumbe is not far away from Kambutso.
13 Ngudjolo's family members said some negative things, and said that if
14 Ngudjolo did not come back they were going to kill us, those of us, the
15 family of Penyi, and that there would be fighting between our two
16 communities. That really frightened me. All that was the result of the
17 fighting that we had experienced in our *collectivité*.

18 Q. Now, Mr. Witness, you explained, when you were talking about the
19 conflict between the members of your family and the members of Ngudjolo's
20 family, and I'm going to quote you now from page 8 of today's transcript,
21 lines 6 to 12:

22 "In fact, there was a conflict between the members of my family
23 and the members of Ngudjolo's family. A lot of discussion took place and
24 I told myself that I needed to do something to resolve the situation
25 because the relationship between our families had become untenable. The

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1 emissary who came to see us helped us a lot. He told the other family
2 that they needed to wait because something was going to happen to improve
3 the situation, and in fact, the situation did indeed improve."

4 Now, Mr. Witness, that solution to that very difficult situation
5 you were in when your families were in conflict, indeed that solution was
6 to come to testify in favour of Mathieu Ngudjolo; isn't that right?

7 A. Yes. That is correct. My solution was that I should come here
8 to testify and explain the situation of my child and explain that he had
9 not worked with Ngudjolo. I made up my mind to come here. I told myself
10 that even if I had to die, then I would die, on condition that I came to
11 testify here. I also thanked all those who assisted us to come and
12 testify here. I cannot travel here to the other -- to the ends of the
13 world, and I said that even if I died before, my spirit would come here.
14 I came here because of what the court did to my child. It was for that
15 reason that I am not afraid to come and tell the truth here.
16 I volunteered to do so.

17 Q. And isn't it right, sir, that the reason you came to testify is
18 because you were scared that if you didn't, you would be a traitor and
19 you'd be putting your life and the lives of your family at risk; isn't
20 that right, sir?

21 A. Yes, indeed.

22 MS. LUPING: Mr. President, if I could just have 30 seconds to
23 confer with my colleagues.

24 PRESIDING JUDGE COTTE: (No interpretation)
25 (Prosecution counsel confer)

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1 MS. LUPING: Your Honours, Mr. President, the Prosecution has no
2 further questions of this witness. Mr. Witness, I would just like to
3 take the opportunity to thank you and we wish you a good trip back home.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
5 Madam Prosecutor.

6 Mr. Gilissen, Mr. Luvengika, considering the scope of our
7 witness's testimony and the topics or issues touched on by the OTP, do
8 you have any questions for Witness 0100?

9 MR. GILISSEN: (Interpretation) Your Honours, in light of the last
10 answers provided by the witness, I do not have any questions to ask the
11 witness. Thank you very much.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Gilissen.
13 Mr. Luvengika.

14 MR. LUVENGIKA: (Interpretation) Thank you, Mr. President,
15 your Honours, yes, considering the entire body of evidence provided by
16 the witness, I have no further questions for him. Thank you.

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

18 Mr. O'Shea, as part of your final observations, do you have any
19 questions for the witness, considering the answers that he has given,
20 both to Professor Fofé and to Ms. Luping?

21 MR. HOOPER: We have no further questions. We note the
22 Prosecution have made no questions concerning the age of the child.

23 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.
24 Thank you, Mr. Hooper.

25 MR. FOFÉ: (Interpretation) Thank you very much, your Honour.

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1 I do not have many questions for the witness.

2 Questioned by Mr. Fofé:

3 Q. (Interpretation) Mr. Witness, you have told us about the
4 potential conflict between your family and Ngudjolo's family based on the
5 fact that Baudouin had come to testify here before this Court. And you
6 have just said that in order to resolve that conflict, you accepted to
7 come and testify in this Court.

8 Mr. Witness, listen to my question carefully. Regarding what you
9 said here in this Court about Baudouin's activities between August 2002
10 to the end of February 2003, did what you said about Baudouin's
11 activities during that period -- is what you said about those activities
12 true or false?

13 A. In 2002 and 2003, Baudouin was pursuing his studies. In 2004, he
14 did not study for one year. However, in 2005, he resumed his studies.
15 Unfortunately, his life has been disrupted, his life is not good today.
16 Baudouin is no longer a normal child. He does not have normal
17 intelligence. I believe that he was intellectually killed. And
18 regarding that, I'm appealing to you to kindly assist me, because my
19 child is no longer a normal child. He does not have any conscience at
20 all about his life. He is just wandering from one place to another.
21 This is something that distresses me very much.

22 Q. Since when do you believe that Baudouin -- well, I do not know
23 how that word was translated in French. Since when can you say that he's
24 lost his way?

25 A. Personally, I realised this in 2010 when I saw that he was in a

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1 very bad state, and that continues up till today.

2 Q. As pointed out by our learned colleague, Mr. Hooper, the
3 Prosecutor did not touch on the issue of age. And I will be focusing on
4 Baudouin's activities from August 2002 to the end of February 2003. My
5 question to you is as follows: During that period, you were a refugee in
6 Zumbe?

7 PRESIDING JUDGE COTTE: (Interpretation) Ms. Luping.

8 MS. LUPING: Yes. Mr. President, your Honours, my concern was
9 with the way Professor Fofé has prefaced his following question because
10 he's referred to the issue of age, and the only concern we would have is
11 that obviously now that Professor Fofé is in re-examination, that he
12 restrict himself, as he's required to do by our Rules of Procedure, only
13 to matters that arose during our cross-examination. He's not able at
14 this point to ask any questions relating to age. He had his in
15 examination-in-chief and if the questions -- questions were not put by us
16 during our cross-examination, it's simply not appropriate for him to do
17 so now. It's also not appropriate, we would say, we have left this for
18 now, to simply reaffirm prior testimony. The last two questions have
19 simply been an exercise of reconfirming prior testimony. We would simply
20 ask Professor Fofé to focus on those questions and the information that
21 was provided during the course of the cross-examination and refocus his
22 re-examination. Thank you.

23 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

24 MR. FOFÉ: (Interpretation) Mr. President, I was simply laying the
25 foundation for my question, and I did not complete it. I am simply

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1 addressing the crucial matters raised by the Prosecutor. I am not going
2 to speak to age. I was going to focus on Baudouin's activities during
3 the material period. And I'm asking the witness the question, and it is
4 a follow-up to my first question. I wanted him to confirm to us --
5 I wanted to ask him, your Honour, whether Baudouin had been either a
6 combatant or a militiaman during that period. That was my question, sir.

7 MS. LUPING: (* Previous translation continues)... I would just
8 want to remind my learned friend that now we are in the process of
9 re-examination. We need to look at issues that arose during our
10 cross-examination and not once did we ask a question about the activities
11 of Baudouin.

12 PRESIDING JUDGE COTTE: (Interpretation) Ms. Luping --

13 MS. LUPING: (* Previous translation continues)... that's all
14 I wanted to say, Mr. President. We have heard the witness's answers
15 before on the same questions during examination-in-chief.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
17 Madam Prosecutor. You are a very difficult person to interrupt which
18 means obviously that I have to abide by the rule of the five seconds,
19 although I would have wanted to interrupt you.

20 The very final comments obviously must be confined to the
21 cross-examination framework. Obviously, we do understand,
22 Professor Fofé, that as long as the witness is there you would want to
23 get from him some ultimate confirmations. In reality, in connection with
24 the two final questions that you have asked, the witness has already
25 answered. And when the time comes, the transcript, obviously, when we

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1 get back to it, will give us a very faithful reproduction of these
2 statements concerning the activities undertaken by Baudouin during that
3 period. We do remember clearly from yesterday the answers that were
4 given by the Witness 0100 concerning his attendance at school, how long
5 that was for, and where he went to school.

6 But please proceed, Professor Fofé.

7 MR. FOFÉ: (Interpretation) Thank you very much, your Honour.
8 I was saying that I didn't have too many questions.

9 PRESIDING JUDGE COTTE: (Interpretation) But proceed, please.
10 This is the time. It is now or never.

11 MR. FOFÉ: (Interpretation) Well, I insist on the fact that the
12 Prosecution did not go into the essentials where Baudouin is concerned.
13 That is my perception of things. Having said that --

14 Q. Mr. Witness, you spoke of a conflict, a potential conflict,
15 between Ngudjolo's family and your own. Did that potential conflict have
16 an impact on what you have said before this Honourable Bench under oath
17 concerning the activity of Baudouin between 2002 and 2003, and also
18 concerning his schooling?

19 MS. LUPING: I'm sorry to interrupt my learned friend but it's
20 just a question of clarity here because in the transcript the witness did
21 not speak of a potential conflict. I'm referring to page 8, line 6.
22 There was a conflict. Those were the words of the witness. And I would
23 just ask Professor Fofé to be accurate.

24 MR. FOFÉ: (Interpretation) And in the French version, the witness
25 spoke of certain members of the family, and that wasn't even elucidated.

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1 Madam Prosecutor, you did not elucidate that point.

2 PRESIDING JUDGE COTTE: (Interpretation) The way in which the
3 Office of the Prosecutor conceived of its cross-examination and carried
4 it out may astonish you. These are points that perhaps you may wish to
5 raise during your very final presentations. However, for the instant
6 case, you must recognise that the word "potential" is perhaps one word
7 too many and there is no tragedy involved there. In fact, the witness
8 was simply describing the state of affairs between the two families. And
9 this is what we will be speaking about, since this is what you want to
10 broach but please drop the word "potential," agreed?

11 MR. FOFÉ: (Interpretation) I'm obliged, your Honour. The witness
12 spoke of a conflict between certain members of the Ngudjolo family and
13 his family.

14 PRESIDING JUDGE COTTE: (Interpretation) That is the case.

15 MR. FOFÉ: (Interpretation)

16 Q. My question is the following one, Mr. Witness: That conflict to
17 which you have just referred, did it have an impact -- I don't know
18 whether the word *incidences* will -- or "impact" is well translated into
19 Swahili. Did it have an influence, an impact on your answers, on your
20 testimony here before this Honourable Bench in connection with Baudouin's
21 activities from August 2002 to the end of February 2003? And I would
22 even say up until such a time as he was taken away, as you said, by a
23 white person? And I will stop there but let me rephrase my question. I
24 will rephrase my question, Mr. Witness, for it to be totally clear.
25 I still have some time. We still have 20 minutes.

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1 Mr. Witness, that conflict between some members of the Ngudjolo
2 family and your family, did that conflict have any influence on what you
3 have said about Baudouin and his activities between August 2002 up until
4 the time at which he was taken away, because these are the words you
5 said, taken away by a white person in Bunia?

6 A. Yes. I can say something about this. In connection with what
7 you have just said, that is to say the conflict between the two families,
8 allow me to say the following: Mathieu Ngudjolo's family wanted to see
9 their brother, that is to say Ngudjolo, if their -- if he was not to be
10 seen, there would be a battle between the Penyi family and the Kambutso
11 family. I know that at the time of the conflict some words were
12 exchanged and we thanked Pastor Lopa for the work he accomplished. He
13 approached the members of the two families, in order to calm that
14 conflict down. As long as Ngudjolo remains here, the conflict will be
15 festering. So it is not I who am going to release Ngudjolo. You have to
16 know that the white people who came to fetch my child have wasted his
17 life. It is not true what they said. I don't know whether they cheated
18 him, whether they gave him money or anything else. I do not know. But
19 today, when I see my child, I see someone who is moneyless, who is an
20 eternal wanderer. When he came back from Kinshasa, he was giving away
21 his clothes, and I don't know whether it was clothes that he got from the
22 white people, but he distributed his clothes among his friends, and today
23 he only has one item of clothing which is dirty. And I would go as far
24 as saying that he's almost mad. Before coming here, his mother told me,
25 "Buy some clothing for the child." And so I bought him a pair of

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1 trousers and a shirt. But he continued smoking marihuana, and marihuana
2 destroys a person, and this is what is frightening me the most because
3 he's no longer free. It is marihuana that leads him astray, that leads
4 his spirit astray.

5 Q. Mr. Witness, we have followed you very well and we have
6 understood you. Very briefly now, I would like you, please, to answer
7 very accurately my question, briefly. I see the state in which you find
8 yourself and I appeal to you, sir, please, to calm down and to give us a
9 very specific answer to my question. The conflict between some members
10 of the Ngudjolo family and your own family, did that conflict influence
11 your answers here before this Honourable Bench as regards the activities,
12 the schooling of Baudouin between August 2002 and 2004 or 2005? Please
13 give a simple answer to my question, Mr. Witness.

14 I will ask you please, sir, to be specific in your answer. I'm
15 on channel 0. Who is listening to the Swahili version? Mr. Witness,
16 please, I will ask you to answer briefly my question, and perhaps that
17 would be the last question, by the way. You spoke of that conflict. We
18 heard what you said about this. And my question is this: Did the
19 conflict between your two families have any influence whatsoever? Did it
20 lead you to say what you have said about Baudouin, his activities, his
21 schooling between 2002 and 2004/2005/2006?

22 A. I haven't said anything negative about Baudouin. As a father,
23 I have refrained from speaking ill about my child. I have shown
24 patience, and I wanted to come here for everybody, the white people who
25 cheated my child, who deceived him, who deceived my child, and for the

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1 Prosecutor also to acknowledge their mistake. And for them also to help
2 my child in his life.

3 MR. FOFÉ: (Interpretation) Thank you very much, Mr. Witness,
4 thank you for your answer. I have no further questions to ask of you.
5 It will now only remain for me to ask the Chamber to -- for authorisation
6 to convey my salutations to you and also for Mr. Mathieu Ngudjolo. Thank
7 you very much, indeed, sir, for having come all the way here to bear
8 testimony before the Honourable Judges. Your Honour, Honourable Judges,
9 thank you.

10 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, Mr. Witness.

11 THE WITNESS: (Interpretation) Yes.

12 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, when you
13 came into the courtroom yesterday, and before you began your testimony,
14 you took a solemn undertaking to say the truth, all the truth and nothing
15 but the truth. The Chamber has but one question to ask of you at this
16 time and it will be giving the floor back to Professor Fofé for him to
17 have the final word. Have you, indeed, Mr. Witness, told us the whole
18 truth? This is the only question this Bench puts to you. In the course
19 of your testimony, have you told us the truth?

20 THE WITNESS: (Interpretation) Everything I have stated before you
21 is the truth.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
23 Mr. Witness. Professor Fofé, I want the Defence have to have the final
24 word.

25 MR. FOFÉ: (Interpretation) Thank you very much for your question,

1 your Honour. We have nothing to add thereto, after this question of
2 wisdom, we should like to thank you for it, your Honour.

3 PRESIDING JUDGE COTTE: (Interpretation) Well, then, Mr. Witness,
4 this brings your testimony to an end. Yesterday, already, when you came
5 into the courtroom, you had already told us that you had been a long time
6 in The Hague. You have found this time to be long because it's true that
7 the previous witness's testimony was longer than was expected. However,
8 your testimony has been relatively brief, and it is hereby concluded and
9 we should like to thank you. We thank you for the contribution you have
10 made to us. We should like to thank you for the way in which you have
11 expressed yourself because, no doubt, you are one of the witnesses who
12 has best complied with the requirement of speaking slowly and enunciating
13 properly. You have made everybody's job easier, and in this connection,
14 also, we should like to thank you.

15 The Defence for Mr. Mathieu Ngudjolo and Mr. Mathieu Ngudjolo,
16 himself, should like at the end of this hearing, that is to say now, to
17 meet with you for a short time in order to greet you and to thank you.
18 If you have no objections, this is what will happen. And moreover, as
19 I indicated yesterday at the very beginning of this hearing, what you
20 have said here, sir, you will keep to yourself. You will not speak about
21 it outside. That is not necessary. It's up to this Chamber, to this
22 Bench, it is for us that you made that testimony. You will now depart,
23 and Court Officer, for the witness to leave discreetly, the courtroom, we
24 need to go back to closed session, and Mr. Witness, as with all previous
25 witnesses, may I wish you, sir, a very safe and speedy return back home

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1 where you live and where you work.

2 Court Officer, we should now like to proceed to a closed session.

3 (Closed session at 1.19 p.m.)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Open session at 1.20 p.m.)

15 PRESIDING JUDGE COTTE: (Interpretation) Please just wait for a
16 few instants, Mr. Witness.

17 COURT OFFICER: (Interpretation) We are in public session,
18 your Honour.

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

20 Mr. Witness, you have just a few instants, but we are indeed
21 listening to you if you have something to tell us.

22 THE WITNESS: (Interpretation) I should like to thank you for
23 giving me these short moments to express myself. I should like to know,
24 as I said not long ago, something in respect of the life of my child
25 which is now being wasted away. What can you tell me about this? Is

1 there going to be reparation?

2 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, we have
3 listened to you throughout your testimony, and we have noticed the state
4 of dismay and disarray, indeed, in which you find yourself, faced with
5 what you have considered as being a disrupture of the child of -- of the
6 life of your child, and we have indeed heard you clearly on this. We
7 were also able to know, because we have been very attentive, that
8 repeatedly the question has arisen of the exact age of your child, and
9 you gave us his birth date, the date of his birth and the place of his
10 birth, unless I'm mistaken, and your son here again -- again if I'm not
11 mistaken -- if we are not mistaken, your son today has come of age. So
12 it is difficult imagining even if we were competent to do so it would be
13 difficult to this Chamber to give an answer to the questions you put in
14 terms of reparation. But in any case, it would be a premature issue. At
15 the end of this procedure, once this courtroom has made its determination
16 and has rendered its judgement, then perhaps, and let me repeat, perhaps
17 this question may arise, but for the time being, this question cannot be
18 entertained.

19 So Mr. Witness, this is an answer which I'm sure does not satisfy
20 you, but it is the only one which the Chamber can give you at this point
21 in time.

22 Once again, sir, I should like to renew my expression of thanks
23 to you for having come from the Democratic Republic of Congo all the way
24 here.

25 Madam Court Officer, now we moved to closed session to allow the

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1 witness to leave the courtroom. I have perfectly understood,
2 Mr. Witness, that you're speaking about reparation which you believe is
3 due to you because of what might have been, the conditional is required
4 here, the behaviour of the Office of the Prosecutor and not the accused,
5 of course. I'm saying this for the benefit of the transcript and the
6 record to be extremely clear on this.

7 (Closed session at 1.24 p.m.)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Open session at 1.25 p.m.)

16 COURT OFFICER: (Interpretation) We are in open session,
17 your Honour.

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

19 We shall see each other again tomorrow at 9.00 a.m. We will begin by
20 listening to the representative of the Office of the Prosecutor,
21 Mr. Macdonald, I presume, because I think that you wanted to broach some
22 organisational matters. We will in a very informal way discuss perhaps
23 some of the points that he has raised and some other points the Chamber
24 has in mind so as to be able to see, more or less, what the future will
25 have in store for us, but, again, it's going to be a free and informal

1 exchange tomorrow, which won't necessarily take a great deal of time.
2 And then we will welcome the following witness, Court Officer, probably
3 around 9.30, so the meeting stands adjourned. Good afternoon to all of
4 you.

5 The hearing ends at 1.26 p.m.

6 CORRECTION REPORT:

7 The Court Interpretation and Translation Section has made the following corrections in
8 the transcript:

9 * Page 47 lines 10 to 22:

10 "He was somebody who was putting up barricades on the road and who was looting
11 people of their goods. During the war, Kute continued such activities. He was looting
12 people's goods, he was taking money from people, and as a result, the elders decided
13 to send a delegation to go and arrest Kute and bring him back to the base and put him
14 in jail. He was followed, but as he was a fighter, a brawler, he began to fire on the
15 people who had gone to arrest him. He killed a certain Shamel (* phon) who fell to
16 the ground, Sashanyo (* phon), rather, he was a combatant.

17 THE INTERPRETER: The Swahili interpreter is not sure whether the witness is talking
18 about Shanyo or Sashanyo, and continues:

19 THE WITNESS: (Interpretation) It was Shanyo who killed Kute with a bullet."
20 is corrected by

21 "He was somebody who was putting up barricades on the road and who was looting
22 people of their possessions. And even during the lull, Kute continued such activities.
23 He was stopping passers-by and taking their money. And as a result, the elders
24 decided to send a delegation to go and arrest Kute and bring him back to the base and
25 put him in jail. He was followed, but as he was a fighter, a brawler, he began to fire

1 on the people who had gone to arrest him. He shot at a man called Shanyo, who fell
2 to the ground, Shanyo was a combatant who had a rifle, and he shot Kute when he
3 realized that he was still following him.

4 THE INTERPRETER: The Swahili interpreter is not sure whether the witness is talking
5 about Shanyo or Sashanyo.

6 THE WITNESS: (Interpretation)

7 THE INTERPRETER: The Swahili interpreter is not sure whether the witness is talking
8 about Shanyo or Sashanyo.

9 THE WITNESS: (Interpretation)

10 THE INTERPRETER: The Swahili interpreter informs us that it was Shanyo who shot
11 and killed Kute."

12 * Page 51 lines 4 to 7

13 "And so at what time was he a member of the escort?" That was the conversation that
14 I had with the pastor. At that time, I asked him, "Are you trying to accuse me of
15 something?" And he said, "No. Do not be afraid. We are going to investigate the
16 matter."

17 Is corrected by

18 "What's more, during my discussion with the elders, we were wondering when he
19 had been a member of the escort. At that time, I asked him, "Are you trying to criticize
20 me or accuse me of something?" And he became frightened, and he said to me, "Let's
21 leave it at that. First we are going to investigate the matter." "