

Witness: Witness DRC-D03-P-0707 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

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1 International Criminal Court
2 Trial Chamber II - Courtroom I
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial hearing
9 Friday, 28 October 2011
10 The hearing starts at 9.04 a.m.
11 (Open session)
12 (The witness takes the stand)
13 COURT USHER: All rise. The International Criminal Court is now
14 in session.
15 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
16 Good morning, everyone. Good morning to the accused.
17 Mr. Kilenda, if you wish, you may proceed with your examination.
18 MR. KILENDA: (Interpretation) Thank you, your Honour. Good
19 morning, your Honours.
20 WITNESS: WITNESS DRC-D03-P-0707 (Resumed)
21 (Witness answered through interpreter)
22 Questioned by Mr. Kilenda: (Continued)
23 Q. (Interpretation) Good morning, Mr. Ngudjolo.
24 A. Good morning, Mr. Kilenda. Good morning, your Honours.
25 Q. Are you feeling well?

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1 A. Yes, I am feeling well.

2 Q. Very well, Mr. Ngudjolo. I'd like to remind you that we need to
3 speak slowly, and please respect our golden rule, the five-second rule.

4 Mr. Ngudjolo, yesterday, seven minutes before the end of the
5 hearing when the Presiding Judge asked me to collect my thoughts, and we
6 were talking about the photo journalist who apparently went to Zumbe, and
7 in reply to one of my questions, and I'm referring to transcript 327,
8 page 66, line 26 to 27, I was asking you a question. I asked you whether
9 you remembered having a visit from that person in Zumbe or Kambutso, and
10 your answer, page 67, line 1, was, "No, Counsel," and then you gave
11 further information, lines 4 to 12, page 67, and you explained to us that
12 from the 30th of May to the 20th of July, 2003, you were not in the
13 groupement of Bedu-Ezekere, and consequently, you did not have a visit
14 from that person, that you did not receive any journalist or any
15 photographer, and that is lines 10 to 12 of that same page. My question -- of
16 page 67.

17 My question is as follows: Do you know a person by the name of
18 Hélène Vesperini?

19 A. No, I don't know that person, Counsel.

20 Q. But the photo journalist, the Prosecution witness said that you
21 were at the Zumbe camp and that your interview with Hélène Vesperini had
22 been held at the command post at that particular camp. What do you have
23 to say in this regard?

24 A. Counsel, as I said yesterday, on the 30th of May, 2003, I left. I went to
25 Beni. On the 20th of July, 2003, I went back to Kambutso. Regarding the

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1 camp, well, he was a photo journalist. If we had been together, he would
2 have even taken a photograph of me, and nothing would have kept him from
3 photographing the camp. What's more, I would say this: Your Honours, Zumbe is
4 located about 10 kilometres away from Bunia. The UPDF was in Bunia, and they had
5 combat helicopters. So did MONUC.

6 THE INTERPRETER: Interpreter correction: The distance between
7 Zumbe and Bunia.

8 THE WITNESS: (Interpretation) And God willing, when you get to Bunia, you will see
9 that Zumbe is on the flight path between Bunia and Entebbe. Any plane that goes from
10 Bunia to Entebbe has to fly over Zumbe. It's necessary. And as a result, if there were
11 a camp in Zumbe it would have been seen from above. And when the ARTEMIS force
12 arrived, they had helicopters, and they flew over that area, the general area of Zumbe.
13 They also had vehicles, and they would go as far as Zumbe. Nothing would
14 have kept them from photographing the camp that people say was located in
15 Zumbe. We were on good terms with the French soldiers from MONUC.

16 If they wanted to know anything at all, let me tell you. Zumbe is
17 not in a forest and nothing In Zumbe, when people had to hide, they would hide in
18 the grottos, the caves, the rocks. What would have kept them from
19 photographing the camp if there had been a camp in the Ezekere groupement?
20 Planes go that way, be it a MONUC helicopter or French soldiers. Everyone would go
21 there and fly over that territory because it is not far from the town. It's not far from the
22 town. Consequently, Counsel, be it Zumbe or the groupement of
23 Bedu-Ezekere, there never was a camp, even if we would take August 2002
24 'til March 2003, even if we consider that period of time between March, May,
25 June, July, August. There was no camp in Zumbe, Counsel. I thank you.

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1 MR. KILENDA: (Interpretation)

2 Q. Thank you, Mr. Ngudjolo. Now, do you have the list that I had
3 distributed yesterday, the list with the names of the various witnesses?
4 I asked you not to show that list to the public. Do you have that list?

5 A. No, Counsel.

6 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could you please
7 provide a copy of this list to Mr. Ngudjolo.
8 And, Mr. Ngudjolo, please make sure you keep this list right in
9 front of you so it's not visible.

10 MR. KILENDA: (Interpretation) Q. Please have a look at number 20, the name at
11 number 20, but don't give the person's actual name. You and I, we will be very careful
12 not to mention that name. This is Witness 176, a witness that appeared on behalf of
13 the Katanga team. Do you know this person, Mr. Ngudjolo?

14 A. Yes, I do know this person.

15 Q. Where did you meet this person?

16 A. I met this person in Kambutso in August 2006.

17 Q. How did you come to meet this person? What were the
18 circumstances? Please explain.

19 A. In July 2006, we had signed a peace agreement with the government
20 in Kinshasa, and after signing that agreement, our soldiers were to join
21 the national army, so the leftovers, that is to say, the residual groups of all the various
22 armed groups who were not to be integrated into the national army came and joined
23 us in Kambutso, and consequently this witness arrived, and he had brought his
24 weapons, and he joined us, and that is when we met one another.

25 Q. And what was the framework exactly? Under what circumstances did

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1 he join in with you?

2 A. He came for the integration process, integration into the armed
3 forces of the Democratic Republic of the Congo.

4 Q. But this witness said here before the Chamber, and this was under
5 oath, he said that you were the highest ranked commander in Zumbe. What
6 do you have to say in this regard?

7 A. Counsel, your Honours, the day that that witness gave testimony,
8 I almost stood up and challenged his statements right there, then and there, *but
9 the procedure didn't allow me to do so.

10 During that period of time, August 2002 to March 2002 --

11 THE INTERPRETER: Says the Lingala interpreter.

12 THE WITNESS: (Interpretation) -- I was not a member of any
13 political military group, and consequently I wasn't the commander of the
14 FNI, and the FNI was not yet in our area.

15 MR. KILENDA: (Interpretation) Your Honour, page 7 of the
16 transcript -- correction, page 5 of the transcript, in reply to my
17 question, the witness said -- no, lines 7, 8, 9, he said: "The day that
18 that witness gave testimony, I almost got up and challenged his
19 statements right then and there. I nearly told him that it wasn't
20 true," and the witness added: "But the procedure didn't allow me to do
21 so." That particular phrase at the end was not recorded in the
22 transcript.

23 PRESIDING JUDGE COTTE: (Interpretation) Very well. If the
24 staff could check that point when preparing the final version of the
25 transcript to determine whether or not that was indeed said.

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1 Please continue, Mr. Kilenda.

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

3 Q. Mr. Ngudjolo, you just said that during that time, August 2002
4 until March 2002 --

5 A. I meant to say 2003.

6 Q. Exactly. You said, "During that period of time,
7 I was not a member of a single political/military group,
8 and so I was not the commander of the FNI. The
9 FNI had not yet arrived in our part of the world."

10 But what were you doing then?

11 What was your line of work, or what activities were you engaged in?

12 A. Counsel, I was a nurse. I was working as a nurse, and what's
13 more, I was training a number of community health workers.

14 Q. Mr. Ngudjolo, now, if we've correctly understood, ever since
15 yesterday you have been telling us that you were coming back from Bunia,
16 you had gone back to Zumbe on the 14th of August, 2002; is that
17 correct?

18 A. Yes, that's right, Counsel.

19 Q. And exactly what did you do when you got to Zumbe?

20 A. Counsel, when I got to Zumbe, I was a -- a student. I was
21 studying at the IPN ... at the ITM, and there the theory
22 continued until the third year. It was a four-year programme. I had
23 already finished all the theoretical courses, and all I had to do was the
24 practical courses or, in other words, the placement. At ITM, the
25 placement was mandatory, and each student had to do a placement of 1,200 hours.

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1 I started my placement at the hospital in July, and I'd only been
2 there for a month. I hadn't done all the necessary hours. And once I
3 got to Zumbe, I thought that peace would be re-established in Bunia and I
4 would be able to go back to continue my placement. I spent two weeks in Zumbe,
5 and then I went to Kambutso, and I was in Kambutso waiting for the security
6 situation in Bunia to improve.

7 Courses were supposed to resume in September, and August went by.
8 Nothing was stable, and then in September, I realised that I was going to
9 lose that year of schooling, and since many people were there in Kambutso, I took an
10 initiative. I decided to set up a health centre in Kambutso, which would
11 allow me to continue doing my placement so that I could do the necessary
12 numbers of -- correction, the number of hours.

13 THE INTERPRETER: Interpreter's correction: "1,200 hours."

14 THE WITNESS: (Interpretation) So I sent out invitations to the chiefs and to other
15 members of the community. I convened a meeting with a view to setting up a health
16 centre in Kambutso.

17 MR. KILENDA: (Interpretation). Q. And what was the date on which you opened
18 up that health centre in Kambutso?

19 A. The meeting about opening the health centre was on the 22nd of
20 September, 2002, but we did have some difficulties regarding the
21 premises. I had some sheet metal and some rafters for roofing, but I didn't have the
22 wood for building a house, so I asked people for help. I asked them if they could
23 provide some wood, and fortunately I did receive that assistance, and so I was able to
24 build that house. And I would like to ask the Chamber to go and see that
25 house, because it is still standing.

1 Because when I said that I built a house, some -- someone might think it was a
2 house made out of durable materials or a mansion. It might take years or months to
3 build a house, but the kind of house I'm talking about -- you see, this was during the
4 war, and the house was built very, very quickly. So I think that it might be
5 better for someone to go there and actually see that house rather than
6 our talking about it here.

7 It took me a month to build that house, and at the end of the construction we began
8 to work. In other words, by late October, we had begun working in that house.

9 Q. Could you briefly describe this house to us? What did it look like?

10 A. Well, in our part of the world, this is how we build a house: we start with a
11 foundation. You dig some holes, and you put some posts or pieces of lumber into
12 the ground and * you build a kind of belt, that is to say, a frame. If the house is made
13 out of durable materials, we put some lintels, and above, we put the framing.

14 On top of the framing, we place the sheet metal.

15 As for the walls, we take reeds, and we bind the reeds. together with rope or string,
16 Then we make some mud and use it to make the walls.

17 And then the house is done. That is how we build a house in our part of the world.

18 Q. How many buildings were there in all?

19 A. Two buildings.

20 Q. And what kind of services were offered at this health centre or
21 this health post?

22 A. Well, one building was for the maternity unit, and the other
23 building was for a dispensary. In actual fact, in the dispensary, we had
24 a waiting-room, and that is where these patients would come. We had a
25 consultation room and then a room for providing treatment. We also had a

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1 room for a laboratory, and then another room was for the pharmacy.

2 That's how I would describe the dispensary to you. And the dispensary

3 only had one entrance, one door.

4 Q. So you can confirm that if we were to take a plane to Kambutso today, we would

5 still see that health centre. It is still standing.

6 A. Yes, Counsel. The maternity unit also had a waiting-room at the entrance, and

7 a delivery room, and then there was another room, and

8 it was for the women and the newborns after they had given birth. So the maternity

9 unit had only three rooms, and once -- you see, when we built it, there were

10 three doors to go in, one to the east and two to the south. So it was

11 almost directly facing the dispensary, but the eastern door, because of

12 the wind, we decided to do away with that particular door and now there's only

13 two doors to the maternity unit.

14 MR. KILENDA: (Interpretation) Your Honour, with your leave and

15 if the parties have no objection thereto, I would like to call up one

16 after another the photographic evidence, DRC-D03-0001-0603, entry 18;

17 DRC-D03-0001-0604, this is entry 19; DRC-D03-0001-0705, this is entry 20;

18 and DRC-D03-0001-0706, and this is entry 21.

19 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please could

20 you be so kind as to bring these up on the screen, these four

21 photographs.

22 THE INTERPRETER: And the interpreters correct: It was "0704" and

23 "0703."

24 MR. KILENDA: (Interpretation): Public.

25 PRESIDING JUDGE COTTE: (Interpretation) These are public in nature.

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1 COURT OFFICER: (Interpretation) These photographs can be seen
2 on the screen, "PC1." I beg your pardon.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
4 So, Mr. Kilenda, everybody can see the photos in front of them.

5 MR. KILENDA: (Interpretation):

6 Q. Can you see this photograph well, Mr. Ngudjolo?

7 A. Yes, Counsel.

8 Q. Are these the buildings that you were speaking to us about?

9 A. That is correct, your Honour.

10 Q. And the building on the left, what is that?

11 A. The building on the left is the maternity unit, and this building
12 is -- or the building -- well, the building on the right is the dispensary.

13 MR. KILENDA: (Interpretation) Your Honour, we would like to
14 have an EVD number attributed to that if there is no objection thereto.

15 PRESIDING JUDGE COTTE: (Interpretation) What I would propose to you is if
16 you present the four photographs and then we will give four EVD numbers to them.

17 MR. KILENDA: (Interpretation) Exactly. Thank you very much.

18 PRESIDING JUDGE COTTE: (Interpretation) Very well.

19 MR. KILENDA: (Interpretation) Thank you, thank you, Your Honour.

20 PRESIDING JUDGE COTTE: (Int.) Court Officer, apparently Counsel Kilenda would
21 like the second photograph also to be put up on the screen. This has the number 704.

22 COURT OFFICER: (Interpretation) Your Honour, photograph 704 is
23 on the screen.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

25 Counsel Kilenda.

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

2 Q. Mr. Ngudjolo, can you see this photograph?

3 A. Yes, Counsel.

4 Q. What does it represent?

5 A. It is the maternity unit. You can see these two doors. Those
6 are the doors that I spoke to you about. And the third door I spoke to
7 you about, that is on the other side, and it's that door that we blocked
8 because of the wind. It is facing the east, and there is a lot of wind
9 blowing from that side.

10 Q. Thank you very much, Mr. Ngudjolo.

11 MR. KILENDA: (Interpretation) Court Officer, please, could you
12 be so kind as to show 705.

13 COURT OFFICER: (Interpretation) The photograph is now on the
14 screen, your Honour.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
16 Counsel Kilenda.

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

18 Q. Mr. Ngudjolo, can you see this photograph?

19 A. Yes, Counsel.

20 Q. And what is this building?

21 A. This is the dispensary.

22 Q. Thank you very much, Mr. Ngudjolo.

23 MR. KILENDA: (Interpretation) Now still with the leave of the
24 Chamber, if we could now view 706.

25 COURT OFFICER: (Interpretation) The last photograph is on the

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1 screen now.

2 PRESIDING JUDGE COTTE: (Interpretation) Counsel Kilenda.

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

4 Q. Mr. Ngudjolo, do you see this last photograph?

5 A. Yes, I can see it, Counsel. And just to add something, you can
6 see in the background behind the maternity ward there is the house of
7 Mama Jeanne with whom we were working. She was a midwife and her house
8 was just behind, not far. Well, it was 50 to 60 metres from the
9 maternity ward.

10 Q. And the people who are standing there, who -- who could that be,
11 if you could tell us?

12 A. The persons who are standing -- or the person standing up on the
13 right next to the dispensary, that's him. It was he who was the nurse
14 called Likpa, the head nurse, Likpa Ngure, and it was
15 this person who wrote this attestation of service provided, and he's the
16 person who holds the post of nurse at the moment there.

17 MR. KILENDA: (Interpretation) With your leave, we would like to
18 have EVD numbers for all these photographs.

19 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if you'd
20 be so kind.

21 COURT OFFICER: (Interpretation) Thank you, your Honour. The
22 document DRC-D03-0001-0703 will have the number EVD-D03-00121.

23 The photograph DRC-D03-0001-0704 will have the number
24 EVD-D03-00122.

25 The photograph DRC-D03-0001-0705 will have the number

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1 EVD-D03-00123.

2 And the photograph DRC-D03-0001-0706 will have the number

3 EVD-D03-00124.

4 All these photographs shall be registered as public.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
6 Court Officer.

7 Counsel Kilenda, please continue.

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

9 Q. Mr. Ngudjolo, are you able to mention the names of certain people
10 who worked in this health centre?

11 A. Yes, Counsel. The first person is called Kiza Ngaluba. He was the main
12 nurse, and I appointed that person to assist me in the signing of my placement
13 report. There was Mama Jeanne who was responsible for the maternity
14 ward. And we had Longadi Philippe. There were some people on a placement who
15 I was training, health workers, there was Manje Bulu, Ndaki
16 (as interpreted), Lubanga Ngube, Lokpa. I forgot, or I can't remember his
17 other name. I can't remember it, but perhaps later I will be able to
18 remember it.

19 Q. Okay. If you can remember it later, you can mention it. Now,
20 you stated that among others there was Mama Jeanne who was responsible
21 for the maternity ward. What is the full name or surname of Mama Jeanne?

22 A. Yes. Her name was Tabo Lisi.

23 Q. Thank you very much, Mr. Ngudjolo. This staff, were these staff
24 paid?

25 A. With the exception of those doing the traineeships, the others were

1 paid. They had a salary, like the nurses.

2 Q. And who paid these staff?

3 A. The people who were sick, they bought pharmaceutical products,
4 and that made -- that was a source of revenue, money, and the women who gave
5 birth, they also paid. They paid for the service. And according to the guidelines on
6 health zones, we kept 40 per cent of the money -- the revenue was kept
7 to purchase medicines. 40 per cent was --was to pay the workers,
8 and 20 per cent was supposed to be sent to the health zone.
9 Five per cent was for the upkeep of the equipment
10 of this health centre. So as nurses, we
11 shared 40 per cent of the revenue.

12 MR. MACDONALD: If I could just interrupt my colleague. I just
13 make a comment with regards to the spelling. Perhaps with Mr. Ngudjolo
14 we could check the spelling on page 12, line 19. There was Manje, and
15 then you speak about Bulo, or is it Mbulo? I just wanted to know if it's
16 Mbulo or Bulo. If we could have a confirmation in that regard.

17 PRESIDING JUDGE COTTE: (Interpretation) How do you spell
18 Manje Ndaki? And then between them, is it Mbulo or Bulo?

19 THE WITNESS: (Interpretation) It is Manje Bulo. If you allow
20 me to spell it, Manje, M-a-n-j-e, Manje. Bulo, B-u-l-o.

21 PRESIDING JUDGE COTTE: (Interpretation) So that's the same
22 person, Manje Bulo.

23 THE WITNESS: (Interpretation) No, those are two different
24 people. Mbulo is a different person. The complete name of Mbulo is Mbulo Bumbi.
25 Mbulo Bumbi. M-b-u-l-o, Mbulo. Bumbi, B-u-m-b-i. Mbulo Bumbi. Bumbi.

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1 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
2 Mr. Ngudjolo. Counsel Kilenda.

3 MR. KILENDA: (Interpretation)

4 Q. But for everything to be clear because the question of the
5 President was: Did Manje Bulu -- is that the same person?

6 A. Manje Bulu is one person. That is one person, one sole person.

7 Q. Did this person work with you?

8 A. Certainly.

9 THE INTERPRETER: Overlapping speakers.

10 MR. KILENDA: (Interpretation)

11 Q. And Mbulo who you spoke about, who is that?

12 A. Mbulo is someone who lives in Kambutso, a young person from
13 Kambutso. At the meeting on the opening of the health centre in
14 Kambutso, he was there. He was one of the people who was invited there,
15 and he also made a contribution to it. He gave some wood for the construction
16 of the Kambutso health centre, but he is not a nurse nor is he a health worker.

17 Q. Thank you very much for these details, Mr. Ngudjolo. Now, I
18 would like to call up the transcript 327, the French transcript, page 29, lines 1 and 2.

19 You said yesterday that on the 6th of February, 2008, and here I
20 quote you:

21 "I was arrested, and I was handed over to the
22 International Criminal Court."

23 Could you tell us, Mr. Ngudjolo, why you were arrested and why
24 you were handed over to the International Criminal Court?

25 A. I went to the general staff HQ in order to get the salary of the

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1 officers with whom we were taking the training at the superior military college,
2 because at that time I was the head of our class. Everything with regards to the
3 money for the rations of the other officers, that concerned me, so I went to the general
4 staff headquarters in order to get that money, and I returned. I left this money, and
5 then I was asked to go to the *auditorat*, the Auditor's Office, and when I got, there,
6 they said that they had an arrest warrant for me concerning the clashes in
7 Bogoro of the 24th of February, 2003, and it is for that reason
8 that they invited me. They showed me this arrest warrant,
9 and they told me that I had to go to
10 The Hague.

11 Q. And you said that it was for acts said to have been committed in
12 Bogoro on the 24th of February, 2003, and where were you on the
13 24th of February, 2003?

14 A. On the 24th of February, 2003, I was in Kambutso.

15 Q. What were you doing in Kambutso, Mr. Ngudjolo, on that day?

16 A. Counsel, on the 24th of February, 2003, at 5.00 in the morning
17 Mama Jeanne came to wake me up. There was a difficulty in the maternity
18 ward which she was dealing with, and it was a woman who was having
19 problems giving birth. She called upon me, I opened my door, and she said
20 the following:

21 "There is a lady who came at 4.00 in the morning." And she had
22 done everything to help her give birth, but she had not been able to so
23 she wanted me to provide my assistance. And we went, and at that time we
24 heard gunfire, we heard the sound of shelling coming from Bogoro. We went to
25 the maternity ward, and I went straight in. I looked at this woman. I

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1 looked at her, and I noted that the head of the child was already ready
2 to come out, but this lady had a problem with regards to the contractions.
3 She had weak contractions, and so I asked the question to Mama Jeanne, I
4 asked her when this woman -- when this lady arrived, what was her -- what
5 state was she in? And Mama Jeanne said that she -- when she'd arrived, "I
6 looked at her and I was able to see the head of the child, but she had no
7 contractions, and she was tired." And so I asked her another question,
8 had the waters already broken in the maternity ward or when she -- had
9 she -- when she arrived, had the waters already broken? And she told me
10 that the waters had already broken at home before she arrived at the
11 maternity ward. And at this stage, we had to move very quickly in order
12 to save the life of the newborn.

13 I administered certain products to this lady so that there would
14 be good contractions, and after that, she did have the contractions, and
15 towards 6.00 the child saw the light of day. The child came out but was
16 very tired because he had taken a lot of time to come out. And when a
17 child normally is born in good health, as soon as that child comes out,
18 the child should cry. That's a good sign, but this child did not start
19 crying, and so I took this child when he came out. I cut his umbilical
20 cord, and I cleaned him. We covered the child, and we put the child aside. And then
21 I was waiting for the mother to deliver the afterbirth. And since the contractions
22 were weak, this -- delivery of the afterbirth caused another problem, and because this
23 lady did not -- was not in good health, I stayed there.

24 I was waiting for the delivery --

25 THE INTERPRETER: "I was waiting for the afterbirth," corrects

1 the interpreter.

2 THE WITNESS: (Interpretation) -- and at the same time I was
3 trying to resuscitate the newborn, but afterwards this newborn
4 died. It was around -- it was between 9.00 and 10.00. This child died
5 before the afterbirth was expelled.

6 I had to -- I had to give the mother a drip. It took some time for her condition to
7 get better so that I could administer more products so there
8 would be new contractions such that the placenta would come out of her --
9 from her stomach -- from her body. I waited, and this afterbirth
10 came out, but late, at around 1300 hours. That was the situation.

11 And after the afterbirth was delivered, we kept this lady, and the father of
12 the child left with the body of the newborn, and I continued to watch over
13 this lady until the evening. And that is what happened on that day.

14 Normally the case of this woman is a difficult case. If it was a
15 normal birth, when this lady had birthing pains and when the waters
16 break, then the child should come out directly, and after that you cut
17 the umbilical cord, and 10 to 15 minutes normally there is the afterbirth which
18 comes out afterwards. But in the case of this lady this was difficult,
19 because there were contractions which had started when she was still at
20 her home, and the waters broke before. So the water broke early. And
21 when she arrived
22 at the hospital, the waters had already been broken for a long time at
23 that time, and in addition to that, it was the sixth time that she had been pregnant.
24 And among the -- when you have -- with pregnancies at high risk, the first and
25 the sixth pregnancies can be identified as such, or when you have twins, that's one

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1 example, or if a child is in a bad position in the mother. That's
2 also -- these are high-risk pregnancies, for example. And as this lady
3 had already given birth to several children, it was her sixth pregnancy, it
4 is for that reason that this lady had this difficulty. It was a difficult
5 pregnancy because of that, and at the end, this ... we spoke with her husband, this
6 lady, she lost her child, and she had a problem to give birth at that time.

7 In order to understand this day well, when I was caring for this
8 lady, in reality on that day I was meant to start my work at 8.00,
9 because on that day, the trainees had been on duty, but because there was
10 an emergency, I came before, before I was meant to start. So I arrived
11 at my workplace at 5.00 in the morning, and I worked until this lady had given birth.
12 I stayed a bit longer in the maternity ward, and the trainees weren't aware
13 that I was there.

14 Around 7.00, or past 7.00, I left the maternity ward, and I went to
15 see the trainees who were at the dispensary. I went and asked them to
16 leave, because I was already there, and they left. That day we had a
17 meeting of the health committee.

18 While we were there, I was going back and forth between the maternity unit
19 and the dispensary. It was then that we met with the president of the health
20 committee. He had come to take part in that meeting, and when I was
21 coming out of the maternity unit, he was already at the dispensary. We
22 started conversing. At that time there was gunfire, and so the meeting could
23 not take place.

24 That is how I spent that day of the 24th of February, Counsel.

25 MR. KILENDA: (Interpretation)

1 Q. Thank you, Mr. Ngudjolo, for all those details.

2 MR. KILENDA: (Interpretation) Your Honour, could I take a
3 moment out to consult with Professor Fofé.

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

5 MR. KILENDA: (Interpretation) Thank you.
6 (Defence counsel confer)

7 MR. KILENDA: (Interpretation)

8 Q. Mr. Ngudjolo, you have just described to us how you spent the day
9 of the 24th of February, 2003. Now we will come back to clarify some of
10 the essential points to further understand what happened on that day, so please
11 listen carefully to my questions.

12 First question: What were the working hours at the Kambutso
13 health post?

14 A. Our schedule was as follows: If someone worked in the morning,
15 he had to start work at 8.00 a.m. and stop at 2.00 p.m. Others would
16 replace him and work in the afternoon from 2.00 p.m. to 6.00 p.m.
17 There were others who worked in the evening. They started at 6.00 p.m., and they
18 would close at 8.00 p.m. So that – they would finish work at 8.00 a.m. in the morning
19 (interpreter correction). Those were the working hours at the Kambutso health centre.

20 Q. In the night of the 23rd to the 24th of February, 2003, who was
21 on duty at the Kambutso health post?

22 A. It was the interns Manje Mbulo and Longadi Philippe.

23 Q. Where did Longadi live, that is, if you know?

24 A. I beg your pardon. Longadi's house was in Kambutso.

25 Q. And who was supposed to replace Longadi on that day, to take over

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1 from him?

2 A. I, myself.

3 Q. At one time -- at what time was he relieved?

4 A. It was between 7.00 and 8.00 a.m. I cannot give you precise
5 information about that, but I can tell you it was between 7.00 and
6 8.00 a.m.

7 Q. Precisely where did you relieve him, take over from him?

8 A. It was at the dispensary.

9 Q. When did Longadi leave the Kambutso health post?

10 A. When I arrived, I told him that he could leave, and at that time,
11 they left.

12 Q. Do you know where he went to?

13 A. I know that he went back home.

14 Q. If you can remember correctly, when would you, yourself, have
15 normally started work?

16 A. Counsel, I have already told you. On that day, I was supposed to
17 start work at 8.00 a.m.

18 Q. And at what time did you actually start work?

19 A. At 5.00 a.m.

20 Q. And why did you start work earlier than planned?

21 A. Counsel, there was an emergency in the maternity unit.

22 Q. How were you notified of that emergency?

23 A. As I have already said before, Mama Jeanne came to look for me.

24 Q. If I understood you correctly, you told us that on that day, you
25 had a meeting of the health committee and that the chairman of that

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1 health committee had arrived. Can you tell us the name of that
2 chairperson?

3 A. The chairman of the health committee was called
4 Likpa Jigu Gustave.

5 Q. What was the purpose of the meeting? What was it supposed to be about?

6 A. Whether it was at the health post or at the hospital, at the end
7 of every month there was a monthly meeting to assess our activities and
8 also draw up the accounts statement. In other words, how the work had been
9 done, prepare a report of the health centre, pay the salaries of the medical and
10 paramedical staff and examine the problems that had arisen in the health centre. That
11 was the purpose of those meetings. Those kinds of meetings were held on a monthly
12 basis and were supposed to bring together the members of the health committee.

13 Q. At what time did you run into the chairman of the health
14 committee?

15 A. At around 9.00 a.m.

16 Q. You stated that the meeting did not take place. Can you briefly
17 tell us again why that meeting did not take place?

18 A. We could hear gunfire and shelling. For that reason, people were
19 afraid, and they thought that they could be hit, and therefore they had
20 to be careful. That is why the meeting did not take place. So there was
21 gunfire, very loud gunfire and the sound of very heavy shelling.

22 Q. Since the meeting did not take place, what did the chairperson of
23 the health committee do?

24 A. When he arrived, I had a conversation with him. He started by
25 saying, "Well, I am going to go to the hill to see what is happening."

1 He went there. He stayed there for about one hour, and then he returned
2 to tell us that the events were taking place in Bogoro. Since the gunfire and shelling
3 was loud, it was impossible for us to meet. That is why the meeting was postponed.

4 Q. Do you know approximately at what time he returned to tell you
5 that the sounds were coming from Bogoro?

6 A. He returned from the hill at around 10.00 a.m.

7 Q. Did he see the lady who had just given birth?

8 A. No. He could not have seen her. He was not a member of the medical staff,
9 and she was still in labour. If the woman had finished successfully given and birth and
10 was in the common room, then any visitor could have seen her. But at that time the
11 woman was in the delivery room, it was difficult to see her. So he could not
12 have seen her.

13 Q. You have just said that the chairperson of the health committee returned
14 to the health centre at around 10.00 a.m. Now, when did he leave again?

15 A. He did not stay for long. He left immediately to return to his
16 home.

17 Q. Mr. Ngudjolo, I have listened to you carefully. I believe that we all listened to
18 you attentively when you
19 spoke at length about the lady giving birth, or *accouchement* and
20 *délivrance* in French. Is there a difference between those two words?

21 A. Yes, there is a difference. When we talk about giving birth,
22 this is what happens: First of all, there are contractions, and then the child comes
23 out, and the third stage is the delivery of the afterbirth, and those three stages make up
24 delivery, that is to say, helping a woman to give birth. When the child comes out of
25 the woman's belly but the placenta is still inside the mother's body then you have not

1 completed the delivery, since the child and the placenta must come out. And if both
2 have not come out then there is a risk either for the lady or for the child.

3 Q. What was the situation of the newborn baby?

4 A. The newborn baby was in distress. He had been showing signs of not being well
5 since he was still in the mother's womb. In medical language, it is called fetal distress.
6 After his birth, I examined him: his heartbeat was lower than the normal rate, and he
7 was already showing signs of weakness even before he was born, while still in his
8 mother's womb. Generally children move about when still in the wombs of their
9 mothers, which is a sign that they are doing well and are alive. And if the child is not
10 moving, then there is a problem. And if you measure the heartbeat, you will realise
11 that it is low, and if the child dies, then the heartbeat stops.

12 Q. Please remind us at what time did the child die?

13 A. The child died between 9.00 and 10.00 a.m.

14 Q. And what happened to the dead body of the child?

15 A. The dead body was taken home. We did not have a morgue. At that time, there
16 was insecurity, and there was the sound of shelling and gunfire. We could not keep
17 the body, and since it was the body of a child ... In our place, in our area, when a child
18 dies he is buried very quickly. That is our tradition.

19 Q. Who took the dead body of the child home?

20 A. It was his father.

21 Q. Did you know his father's name?

22 A. Yes. His name is Richard Enjukpa.

23 Q. And what happened to the mother in the meantime?

24 A. I kept the lady under observation for four days, and when she got
25 better she was released from the health centre and she returned home.

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1 MR. KILENDA: (Interpretation) On page 23 of the transcript,
2 lines 7 and 8, Mr. Ngudjolo had said that there was no morgue, but it
3 is not in the transcript. Perhaps someone could check that point when preparing the
4 definitive version of the transcript, as is usually done.

5 PRESIDING JUDGE COTTE: (Interpretation) In any case, we did not hear the word
6 "morgue" or "mortuary" in the interpretation, so that has to be cross-checked in the
7 audio. Mr. Kilenda, I do not intend to intervene in your
8 examination-in-chief, but I believe that there are a certain number of
9 things that the witness has explained to us twice. As far as we are
10 concerned, what happened that morning is very clear, in any case, in the version
11 given to us today by Mathieu Ngudjolo, and I think we could move on, but we are
12 aware that this day of the 24th of February is very important for you. So please
13 proceed. We were talking about that lady being released after four days of
14 care in the maternity unit, so please proceed from there.

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

16 Q. Mr. Ngudjolo, at what time did Mama Jeanne leave the health post?

17 A. Mama Jeanne and myself stayed there 'til evening. Her house is
18 located not far away from the health centre, but we stayed at the health
19 centre 'til the evening.

20 Q. For how long did you take care of the lady who had just given
21 birth?

22 A. After the birth, she stayed there for four days, after which she
23 returned home.

24 Q. Thank you, Mr. Ngudjolo, but there is something that worries me somewhat,
25 and you are in the best position to explain this. Some Prosecution

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1 witnesses, and we will talk about them later, alleged that they saw you
2 in Bogoro on the 24th of February, 2003, at around 10.00 a.m. ... around 11.00 a.m.
3 What can you tell the Judges about this at this point?

4 A. Counsel, a man cannot be everywhere, except God. It was not
5 possible for me to be at two different locations at the same time. I was
6 in Kambutso. I could not have been in Bogoro at the same time.

7 Q. But, Mr. Ngudjolo, there were other Prosecution witnesses who
8 testified here that you were the supreme commander of the members of the
9 FNI during that period. What can you say about that?

10 A. Counsel, the FNI did not exist at that time, and as I have
11 already explained, in the Ezekere groupement there was no
12 political/military movement. I was not a member of any
13 political/military movement. This means that I was not a member of the
14 FNI. The FNI arrived in Bunia on the 18th of March, 2003.

15 Q. Mr. Ngudjolo, other Prosecution witnesses testified here under
16 oath to the Judges that you were the one who sent the combatants from
17 Zumbe to go to Bogoro and fight on the 24th of February, 2003. What do you
18 have to say to that?

19 A. Counsel, I was not responsible for the combatants. I did not
20 have any soldiers under me, under my authority. I was with the medical
21 staff, and I was providing training to paramedical staff, to the health workers.
22 One should not confuse the training of medical staff and military
23 service. That did not concern me. You cannot transform the medical staff
24 into soldiers. I was not there. I did not send anyone there.

25 Q. Can you tell us about the means of communication in your

- 1 groupement between August 2002 and March 2003?
- 2 A. Counsel, at that time we only had local means of communication.
- 3 We did not have modern means of communication. I have heard people here talking
- 4 about radio-telephones, Thuraya phones, and so on. No, we did not
- 5 have those means of communication, your Honours. We did not have them.
- 6 There were no radio-telephones, no Motorolas. The Motorola base antenna was set
- 7 up in the Ezekere groupement, more specifically, in Zumbe, by an NGO, that is a
- 8 German NGO, Agro-Action Allemande, the AAA. So that was in Zumbe. It was that
- 9 NGO that set up that antenna in 2006. The mobile phone network arrived in Bunia in
- 10 April 2003. The first customers were registered or served by Celtel, and this company
- 11 began operations in April 2003. You can cross-check this information on the internet.
- 12 All this information can be found there. The Thuraya headquarters was in Kampala,
- 13 Uganda. Everyone knows this.
- 14 As for satellite phones, if you go to the Thuraya building in Kampala and you
- 15 check, you will see that on the list of all the customers, you will not find my name.
- 16 Other than that, what other means of communication were there? We had no
- 17 other modern means of communication.
- 18 Q. Mr. Ngudjolo, what do you mean by local means of communication?
- 19 A. Well, we had drums, bells. We would also use the horns of goats
- 20 and the horns of other animals. So those were the means of
- 21 communication.
- 22 Q. Mr. Ngudjolo, you just mentioned a German firm, Agro-Allemande
- 23 something. Now, exactly where was the antenna belonging to this firm?
- 24 A. Well, the antenna was set up beside the CECA 20 church in Zumbe.
- 25 MR. KILENDA: (Interpretation) With your leave, your Honour, could we

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1 please call up item number 1 on our list, DRC-D03-0001-0349. This is a
2 public document.

3 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, this is
4 a photograph. Could it please be placed on the computer screen.

5 COURT OFFICER: (Interpretation) Your Honour, this photograph
6 can be viewed by pressing "PC1."

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

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

9 Q. Mr. Ngudjolo, can you see this photograph?

10 A. Yes, I can see it.

11 Q. What is this a photograph of?

12 A. Well, this is the antenna of the Motorola network, and the NGO
13 Agro-Action Allemande had set this up in Zumbe.

14 Q. When was this antenna set up?

15 A. I don't know the exact specific date, but when I got to Kambutso
16 in 2006 to sign the agreement with the government of Kinshasa, the
17 antenna was there. I thought it -- I think it was set up in 2006. This is what I have
18 learned.

19 Q. And if you know, could you tell us why it was set up in Zumbe?

20 A. The antenna was set up to help with communications, because
21 they had various things to do. It was to facilitate relays, because at
22 the time, this NGO was rebuilding various roads, and the antenna was a relay
antenna for their communications.

24 Q. Were there telephone providers at that time in Ituri between 2002
25 and 2003?

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1 A. No, not at all. The first cellphone provider was Celtel, and that company arrived
2 in Ituri, more specifically, in Bunia in April 2003.

3 Before that there was no provider of a telephone network in Ituri.

4 MR. KILENDA: (Interpretation) Your Honour, could we have an EVD
5 number for this item?

6 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, now, for
7 this photograph DRC-D03-0001-0349, could we have an EVD number.

8 COURT OFFICER: (Interpretation) Thank you, your Honour. This
9 photograph shall bear the number EVD-D03-00125 and shall be registered as
10 a public document.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

12 MR. KILENDA: (Interpretation) May I continue?

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

14 MR. KILENDA: (Interpretation)

15 Q. Mr. Ngudjolo, did you have a Thuraya device?

16 A. No, Counsel, I didn't.

17 Q. Between August 2002 and March 2003, you did not have a Thuraya
18 device?

19 A. I never used any such device.

20 Q. Do you know, if you know, who was operating the Thuraya network
21 at that time?

22 A. What I do know is that the Thuraya provider was in Kampala. That's where
23 the headquarters were. And the owner was a Belgian citizen. He was the
24 one -- he was the one who owned that, and he was in Kampala.

25 THE INTERPRETER: Interpreter's correction: The witness said,

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1 "In my entire life I never used a Thuraya device."

2 MR. KILENDA: (Interpretation)

3 Q. And the name of that person?

4 A. I don't know his name; it's a difficult name.

5 MR. MACDONALD: (Interpretation) Your Honour, I would like to perhaps assist
6 the Chamber and my learned friend. The Prosecution --- I believe that we are getting
7 to some documents --- the Prosecution is willing to concede that as Mr. Ngudjolo
8 mentioned, there never was any Thuraya in his name, and if that person were to
9 come and give testimony that he would say so, that according to his records, there
10 was no Thuraya telephone in the name of Mr. Ngudjolo. So I think we could gain
11 some time here if the -- if the Chamber is willing to accept this as a proven fact. Of
12 course with the agreement of Mr. Hooper, even though this does not have to do with
13 his client. We are willing to make that admission regarding the facts.

14 PRESIDING JUDGE COTTE: (Int.) Thank you. Indeed, amongst the various items
15 adduced by Mr. Kilenda, there was several -- actually, two pieces of correspondence.

16 THE INTERPRETER: Inaudible. Mr. Kilenda's microphone is not on.

17 MR. KILENDA: (Interpretation) Several pieces of correspondence.

18 PRESIDING JUDGE COTTE: (Interpretation) Several pieces of correspondence.

19 MR. KILENDA: (Interpretation) Entry number 3, 4, 5, 6, 7, 8 and 9. And in light of
20 what the Prosecutor just said... Pardon me. So, entries 3---

21 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed---

22 THE INTERPRETER: Overlapping speakers.

23 PRESIDING JUDGE COTTE: (Interpretation) Yes. I have reduced somewhat the
24 number of pieces of correspondence with a network provider in Kampala, and the
25 Prosecutor has just said that he is willing to concede that Mr. Ngudjolo did not have

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1 a Thuraya telephone from that provider. Mr. O'Shea, now, from your side do you
2 have any difficulties with this admission?

3 MR. O'SHEA: No, not at all. No objection.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you. And I thank the Prosecutor
5 as well. We can certainly save some time on this particular matter. Now, did you
6 want to demonstrate that Mr. Ngudjolo did not have during that period of time,
7 August 2002 to March 2003, any Thuraya equipment? Now, as evidence, you wish to
8 present the correspondence to that effect, which you have just mentioned, and most
9 likely you would like us to allocate an EVD number to this correspondence, but---

10 MR. MACDONALD: (Interpretation) Objection.

11 THE INTERPRETER: Message from the interpreters: We have many overlapping
12 speakers.

13 PRESIDING JUDGE COTTE: (Interpretation) And why?

14 MR. MACDONALD: (Interpretation) ... at this time.

15 PRESIDING JUDGE COTTE: (Interpretation) Why?

16 MR. MACDONALD: (Interpretation) Because these are statements, Your Honour.
17 They should call the gentleman here to testify. The Prosecution has conceded that
18 there was no Thuraya from that company in his name. It's as if some photographs had
19 been provided without the presence of Mr. Renaud Khan. The Defence will make an
20 objection. One cannot introduce testimony like this. Some procedures could have
21 been followed in the past. We are willing to make an admission regarding the facts,
22 which may amount to the same thing, but technically I would argue that we cannot
23 introduce items with testimonial value in this manner.

24 PRESIDING JUDGE COTTE: (Interpretation) We'll have to speak
25 more slowly and respect the five-second rule.

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1 MR. MACDONALD: (Interpretation) I am speaking too quickly.

2 THE INTERPRETER: Many thanks from the interpreters.

3 PRESIDING JUDGE COTTE: (Interpretation) Mr. Ngudjolo, to your knowledge,
4 during that period of time were there other providers, other than this particular
5 company that had set up operations in Kampala? To your knowledge, were there other
6 providers that you might have been a customer of, that you might have had a
7 subscription with?

8 THE WITNESS: (Interpretation) No, your Honour. There was only
9 one Thuraya company in Kampala.

10 MR. MACDONALD: (Interpretation) Just to simplify things, I will
11 say that we do not object to these documents being adduced into evidence
12 within this very specific and restricted context, but our concern, of
13 course, is that placing items with testimonial value on the record without the
14 witness being actually present, and so that was what I was driving at a
15 few moments ago, because as you know, Rule 69 does exist, whereby one can make
16 prior applications, as we did for certain Prosecution witnesses. That is why I
17 objected. But under these circumstances, to gain some time let us avoid this
18 particular debate, and let EVD numbers be given.

19 PRESIDING JUDGE COTTE: (Interpretation) Very well. Let us be very much aware
20 that it is difficult to liken this correspondence between Defence counsel and the
21 provider of a telephone network to testimony from a witness.
22 Let's leave it at that. Thank you. I think we have made some progress. Now, Court
23 Officer, please give these EVD numbers just -- just before ... or rather, when we
24 resume so as to avoid wasting time because they are relatively long. Now, we are
25 speaking of items 3 to 9 -- number 3 to 9 on the Defence list of items. So at 11.30 a.m.,

1 please assign EVD numbers to them. For the time being, Mr. Kilenda shall continue
2 his examination.

3 MR. KILENDA: (Interpretation) Thank you. I'd also like to
4 thank the Prosecutor in this regard.

5 Q. Mr. Ngudjolo, from August 2002 to March 2003, were you aware of
6 the FNI? Did you know anything about this group?

7 A. No. No, Counsel. I learned about the existence of the FNI later
8 on, the 18th of March, 2003, in Bunia.

9 Q. What does this mean, this acronym FNI?

10 A. The FNI stands for *Front des Nationalistes et Intégrationnistes*,
11 National Integrationalist Front.

12 Q. Were you a member of this group?

13 A. The actual FNI, the short form, no. Rather, I was part of the FNI/FRPI
14 alliance, but I never was a member of the FNI, strictly speaking.
15 Rather, I was a member of the alliance between the FNI and the FRPI.

16 Q. But, Mr. Ngudjolo, the Prosecution claims that you were the
17 highest ranked commander of the FNI. What would you say in response to
18 that?

19 A. The Prosecution has said that I'm the commander of the FNI. No,
20 that was not the case. No, I was never a commander of the FNI. The
21 person -- that -- [interpreter correction] that declaration is not correct.

22 Q. Under what circumstances did you learn about the FNI?

23 A. On the 18th of March, 2003, I met the president of the FNI,
24 Floribert Ndjabu, someone who I had known for a long period of time. We
25 met at the Kappa hotel in Bunia town. And they had come back from Kampala, and

1 that day there was a great ceremony held, and MONUC had organised it in
2 Bunia. All the political/military groups and the representatives of the
3 various communities had been invited to the ceremony to sign an agreement
4 concerning the hostilities in order to put an end to the war, and that is when I met
5 Floribert Ndjabu, and that is how I came to learn about the FNI.

6 Q. Who founded the FNI?

7 A. To my knowledge, it was Floribert Ndjabu.

8 Q. Did he tell you where he created the FNI?

9 A. Yes, Counsel, in Kpandroma.

10 Q. Why did he take an interest in you?

11 A. Well, we knew one another. If you could give me some time so
12 that I can explain this to you in greater detail.

13 On the 7th of March, 2003, in Bunia, I met General Kale Kayihura.

14 There was myself, Saidi, Lobho Justin. General Kale Kayihura was trying to meet
15 with Chief Manu, but I was not aware of this, because on the 6th of March when we
16 arrived in Bunia, my wife Sema was in Bunia because, you see, she is not from
17 the Lendu tribe. She is not from my tribe. She was in Bunia, and when I
18 got to Bunia on the 6th of March I went directly to her home and I spent the night
19 there. On the 7th of March, I woke up in the morning and I went back to the village
20 of Kambutso where I was working. So I met Lobho Justin and Saidi and
21 Captain Kiza who were going to the airport to meet with the general,
22 General Kale Kayihura. And when they saw me, they stopped and they told
23 me that they were on their way towards the airport. I asked them why and
24 they told me that the general was looking for the leader. But since the leader was
25 not there they were going instead of him. They asked me to go along with them and

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1 I said yes, as long as this meeting did not last for long, because I had to go to the Hill.

2 We got to the general's place, and he told us that he was

3 looking for the Leader -- well, the General introduced himself first. I too introduced

4 myself. We all introduced ourselves. And I introduced myself to him as a nurse. I

5 told him I was a nurse. And he told us this: Now that the war is over,

6 the people who kept peace from returning have left, that is to say, the

7 UPC. And he said that they [the UPDF] would leave and that the Government, our

8 government [of the DRC], was going to come, under the terms of the agreement they

9 had reached. You see, the members of the government were going to come to bring

10 about reunification of the country and that all the armed groups and people who

11 wanted to join the national army would be included into the army, the Congolese

12 Armed Forces. At that time, the army --

13 THE INTERPRETER: Inaudible.

14 THE WITNESS: (Interpretation) -- was called the FAC. They would be

15 integrated into the army and would receive the proper rank, and those who did not

16 want to join the army, you see, because at that time many civilians in Ituri had

17 firearms, because of the war. There were some people who weren't even part of any

18 political/military groups but they had firearms. So, he said that those who did not

19 want to become soldiers would be demobilised and in exchange they would be given

20 money. And what's more, he added that since some young people from our area did

21 possess firearms, we should go and tell them about this program. People who

22 wanted to join the army would be gathered together, and people who did not want

23 to do that would be disarmed and demobilised. And so at that time, I wanted to join

24 the army. And that is why when Floribert Ndjabu arrived on the 18th of March, he

25 saw me in a military uniform, and when we met, he -- he gave me the plan of the FNI.

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1 He explained to me how they had worked in Kampala, and he told me that since they
2 had come back, they intended to reorganise the army, and he asked me if I could help
3 him with this task if I wanted to. Since he knew me, and he had seen me in military
4 uniform, he asked me if I could work with him, and I agreed. I spoke to him. Now,
5 you see, at that time I did not belong to any group. And so that is how it came to be,
6 Counsel.

7 MR. O'SHEA: Forgive me, your Honour. At line -- sorry, at page 33, line 7, and
8 page 33, line 12, of the English transcript, there is reference to the name
9 Lubo Justin, spelt L-u-b-o. I presume that's Lobho and not Lubo, but I
10 suppose if it's not different in the French transcript, it's for the
11 witness to clarify.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Now, on
13 page 32, line 28 of the French transcript, I read: "And then I met Lobho
14 Justin, L-o-b-h-o, Justin." Apparently Mr. Ngudjolo said Lobho, "L-o," and
15 not "L-u"; is that correct?

16 THE WITNESS: (Interpretation) Yes, Your Honour, it is Lobho as you
17 did say, L-o-b-h-o.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Mr. O'Shea,
19 we'll have to ensure that the English transcript is in compliance with
20 what Mr. Ngudjolo just said and in compliance or matching, rather, the
21 French transcript.

22 Mr. Kilenda, Mr. Ngudjolo has just given us some information
23 about the conditions in which between the 7th and the 10th of March, if
24 we've understood correctly, he met General Kale Kayihura and
25 Floribert Ndjabu, and he also told us the conditions under which he was

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1 led to become a soldier, and I think that's where we are right now.

2 I'm sure you want to bring out some other points in this regard. If
3 you have a short question that would bring a short reply, please ask it now --
4 otherwise everything shall be done at the beginning of the second session.

5 MR. KILENDA: (Interpretation)

6 Q. A very short question. Mr. Ngudjolo, could you specify on what
7 date did you join this alliance between the FNI and the FRPI?

8 A. I joined that alliance after the 21st of March, 2003, in Bunia,
9 that alliance between the FNI and the FRPI.

10 Q. Thank you.

11 MR. KILENDA: (Interpretation) We can stop at this point because
12 after I will be starting another line of questioning.

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

14 Court Usher, could you please escort Mr. Ngudjolo to his usual
15 seat in the courtroom.

16 (The witness stands down)

17 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, at the
18 beginning of the next session at 11.30, could you please read out the EVD
19 numbers that have been allocated to the correspondence between
20 Mr. Kilenda and the telephone network provider in Kampala?

21 And we will now suspend our hearing and resume at 11.30.

22 COURT USHER: All rise.

23 Recess taken at 10.59 a.m.

24 On resuming at 11.32 a.m.

25 (Open session)

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- 1 (The witness takes the stand)
- 2 COURT USHER: All rise.
- 3 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
- 4 Court Officer, you are going to read the EVD numbers which have
- 5 been given to the correspondence that was mentioned a moment ago between
- 6 the Defence team of Mathieu Ngudjolo and a telephone company, and you
- 7 will also take this opportunity in order to give EVD numbers to the two
- 8 lists of names which have been communicated by the Defence team of
- 9 Germain Katanga a few weeks ago but which we
- 10 have not given EVD numbers to, and the list of names which was provided
- 11 by the Defence team of Mathieu Ngudjolo, a list which we use on a daily
- 12 basis and have been doing so since yesterday morning. You now have the floor,
- 13 Court Officer.
- 14 COURT OFFICER: (Interpretation) Thank you very much,
- 15 your Honour.
- 16 The document DRC-D03-0001-0654 will have the number
- 17 EVD-D03-00126.
- 18 Document DRC-D03-0001-0656 will have the number EVD-D03-00127.
- 19 The document DRC-D03-0001-0657 will have the number
- 20 EVD-D03-00128.
- 21 The document DRC-D03-0001-0658 will have the number
- 22 EVD-D03-00129.
- 23 The document DRC-D03-0001-0659 will have the number
- 24 EVD-D03-00130.
- 25 The document DRC-D03-0001-0660 will have the number

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- 1 EVD-D03-00131.
- 2 Document DRC-D03-0001-0661 will have the number EVD-D03-00132.
- 3 All of these documents will be registered as public documents.
- 4 And then for the list distributed by the Defence team of
- 5 Mr. Ngudjolo, the number will be EVD-D03-00133.
- 6 The list distributed by -- the list of names distributed by
- 7 Mr. Katanga's Defence team will have the number EVD-D02-00233.
- 8 These two lists are registered as confidential documents.
- 9 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
- 10 Court Officer.
- 11 Counsel Kilenda, you can continue if you so wish.
- 12 MR. KILENDA: (Interpretation) Thank you very much, your Honour.
- 13 Your Honour, for the proper functioning of the transcript, we have noted that
- 14 the name of the husband of the lady who gave birth, Mr. Richard Linjukpa, and the
- 15 name of the president of the health committee, Mr. Gustave Likpa Jigu, were not
- 16 correctly written, and we don't have to do that right now, but we do want
- 17 to point out that we want that to be taken into account when the version is
- 18 being finalised we want the correct spelling of these names to be taken from the list --
- 19 as on the list of names that we communicated yesterday.
- 20 PRESIDING JUDGE COTTE: (Interpretation) Understood. Thank you,
- 21 Counsel Kilenda. So we shall now continue.
- 22 MR. KILENDA: (Interpretation) Thank you very much, your Honour.
- 23 Q. Mr. Ngudjolo, on page 35 of our transcript today, line 18, you
- 24 were answering my question which was to ask you on what date you had
- 25 joined the FNI/FRPI alliance and you said it was the 21st of March, 2003; is that

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1 correct?

2 A. No, I spoke about the 22nd of March, 2003.

3 Q. Thank you, Mr. Ngudjolo. The FRPI, do you know the FRPI?

4 A. Yes, I know the FRPI. *Force de Résistance Patriotique en Ituri*
5 is what it stands for.

6 Q. When did you get to know the FRPI?

7 A. When we met, Germain Katanga and myself, in Dele on the 8th of
8 March. It was at that time that I got to know the FRPI.

9 Q. You say you met Germain Katanga in Dele on the 8th of March.
10 The 8th of March of what year?

11 A. The 8th of March, 2003.

12 Q. If you know where the FRPI was created and who was it created by?
13 Do you know where it was created and who it was created by?

14 A. To the best of my knowledge, the FRPI was created in Beni by
15 Dr. Adirodu.

16 Q. What were your functions within this alliance FNI/FRPI?

17 A. The proposal that had been made was to be the Deputy Chief of Staff
18 responsible for operations.

19 Q. When did you become Deputy Chief of Staff of the FNI/FRPI
20 responsible for operations?

21 A. I started after the 22nd of March, 2003.

22 Q. What was the composition of the military staff of the FRPI?

23 A. When President Ndjabu came, it was to make an alliance with the
24 FRPI, and on the 18th of March, when he arrived he told us that an
25 alliance had to be made, and he gave a certain -- and he made a certain

1 number of proposals, but there was a question, and that was the absence of Germain,
2 and on the same day Ndjabu went back to Kampala. he did not spend the
3 night of the 18th of March in Bunia, and when -- and then when Germain came,
4 Ndjabu had already left. When Germain arrived, Ndjabu had already left.
5 Germain arrived, when Ndjabu had had already left. When Ngabu left after the
6 meeting about the pacification of Ituri Germain arrived.

7 So the alliance that we've spoken about had not been made
8 concretely but proposals had been made. Where I was concerned, I started working
9 provisionally after the 22nd of March in Bunia.

10 Q. Who appointed you to that post?

11 A. President Ndjabu did that. So that's -- this is the structure that he put in place:
12 The general Chief of Staff of the FNI-FRPI was Maître Kiza, and his deputy
13 was Germain Katanga. Godas and myself, we were the two deputies. Godas
14 was Deputy Chief of Staff responsible for administration and logistics.
15 Myself, I was proposed for the position of -- Deputy Chief of Staff responsible for
16 operations. That was it basically.

17 Q. Should we consider that these are the people who had the
18 different functions or who held the different functions?

19 A. Yes. The organisation at the level of the general staff had --
20 there was a G staff, a G1, G2, G3, G4, and G5. And we had three brigades.
21 There was one in the north in Kpandroma, one brigade in the centre in Bambu, and
22 the southern brigade was in Gety, and that was the provisional structure
23 of the alliance, FNI/FRPI. And as you know, in a brigade you have
24 battalions, companies, and sections.

25 Q. Mr. Ngudjolo, what criteria were taken into account to give you

1 this function of Deputy Chief of Staff responsible for operations of the
2 FNI/FRPI?

3 A. There weren't criteria properly, in the proper sense of the term.
4 It was just the case that I was a member of the Civil Guard, I had been trained
5 as a civil guard, and from my point of view -- well, Ndjabu said to himself that I
6 could help him organise and structure the military staff of the FRPI/FNI. That's
7 the reason why. As for the rest, I don't know what his other motivations were.

8 Q. Thank you, Mr. Ngudjolo. In your capacity as
9 Deputy Chief of Staff responsible for operations of the FNI/FRPI, did you
10 carry out certain military operations?

11 A. No, Counsel. When the provisional structure of the alliance
12 FRPI/FNI had been made between the 22nd of March to the end of March, the
13 beginning of April, General Kisempia arrived in Bunia. He
14 arrived, he came for the integration of all armed groups into the FAC,
15 and so he then broke up all the structures of the armed groups, and he established
16 another structure for all the armed groups in Ituri so that they would
17 all be integrated into it, especially since he was the commander
18 of a military region, whereas the general Chief of Staff had a higher rank than the
19 commander of a military region.
20 The fact that he had given a mandate by the government and that the armed
21 groups were not yet recognised, nor even appointed by the
22 president of the Republic --- consequently, these members of the armed groups could
23 not have a rank higher than his, and that's the reason why
24 he cancelled all the existing structures and he gave us a new structural configuration
25 to reorganise all the armed groups in Ituri and, in particular,

1 the FRPC of Jérôme Kakwavu; the FPDC of Thomas Unencan;
2 the FNI/FRPI of Floribert Ndjabu; and the PUSIC of Chief Kahwa; Except for the UPC.
3 Apart from the UPC, he brought all these groups together with a view to forming a
4 block for the integration. That is how these things happened.

5 Q. And your provisional structure, FNI/FRPI, did it function in
6 reality?

7 A. No, Counsel. No, it didn't really function, and this is the
8 reason why: You know that the FNI was autonomous, as was the FRPI. In
9 order to make the alliance, there was a problem. This was a problem
10 with regards to the different posts, because when Floribert arrived, there
11 was -- he was a Lendu from the north. He was the President, and his Minister of
12 Defence was also a Lendu from the north, Uchu (phon).

13 THE INTERPRETER: And the interpreter did not hear the surname.

14 THE WITNESS: (Interpretation) The general Chief of Staff,
15 Maître Kiza Germain, was also a Lendu from the North. Godas Sukpa,
16 who was proposed as Deputy Chief of Staff responsible for administration and
17 logistics, was also North Lendu. Mathieu Ngudjolo, Lendu Nord. North
18 Lendu as well. So for the Lendus from the South there was only one representative
19 at the deputy level. So they were not satisfied. And that is the reason why the
20 military headquarters didn't function properly.

21 Q. You mentioned a name. Buchu...

22 A. Yes, I did, Bichu Chtya. It is written as follows: B-i-c-h-u,
23 Bichu. B-u-c-h-u, Buchu. Chtya, C-h- t-y-t. Chtya.

24 Q. Mr. Ngudjolo, still in your capacity as Deputy Chief of Staff
25 responsible for operations, did you work with Mr. Germain Katanga?

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1 A. Counsel, in Bunia we were together.

2 Q. Mr. Ngudjolo, when did you see Mr. Katanga for the first time?

3 A. On the first time, it was the 8th of March, 2003, in Dele.

4 MR. KILENDA: (Interpretation) Your Honour, with your leave, I
5 would like you to look at entry 32. We would like to show the video
6 extract which was already given the number EVD-OTP-00176.

7 MR. MACDONALD: (Interpretation) An objection, your Honour. If
8 you would give me 30 seconds. The last time I got up, perhaps I spoke
9 too quickly. So with a view to avoiding any trouble, I would just like to speak
10 to my colleagues in order to structure our objection properly.

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

12 MR. MACDONALD: (Interpretation) Your Honour, I'm going to refer
13 the Chamber to a document which is -- states our objections, and it is
14 principally at point 5. We wrote in English, but I would like to make an
15 analogy. Perhaps I will take some time on this because it also has
16 repercussions on other video excerpts, so perhaps we could resolve this
17 issue as of now. Certainly it will affect the others, or possibly it will affect the others.
18 I would like to remind the Chamber or take the Chamber back to the testimony of
19 Chief Manu when there was a presentation of a video -- or we wanted to
20 present a video of a speech that Chief Manu or a presentation which he made
21 before the Prosecutor, and this is the same sort of thing.
22 Now, at this stage of the proceedings, first of all, there's no preliminary question
23 which was asked or anything.

24 We just want to go directly into the presentation of a video, but
25 beyond that if there are preliminary questions, the witness or the

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1 accused was present for some of these video extracts, and despite
2 his position, that is, he is one of the accused and he is testifying at the end.
3 Indeed, he is speaking after hearing all of the evidence, or perhaps
4 he was able to see some of these excerpts when they were shown at the
5 time that they received EVD numbers. However, here we are talking about prior
6 statements of the witness.

7 Certainly in common law there is a principle whereby one cannot
8 present a previous statement in written or video form to demonstrate, "Well,
9 look. Now the witness is showing consistency and, therefore, he is more credible."
10 The effect of repetition over time or in space
11 does not mean that when we are here in the Chamber today, one becomes more
12 credible.

13 Now, if there's an allegation on the part of the Prosecution or a
14 party that the witness is lying, then, for example, you can go back to
15 previous statements and say, "No, he has already said this." So that
16 does introduce a certain reliability to the previous statements which are being
17 challenged by one of the parties, but here this isn't the case. There is
18 no allegation from us. What our colleagues want to do is to say, "well,
19 the witness is speaking now let's look at what he actually said
20 previously." So there is a consistency to his statements.
21 Now, if it is to situate the Chamber in time and in space, once again this cannot be
22 done unless the Chamber gives leave to refresh the memory of the witness. And
23 then, it is Decision 1665 and the criteria that apply. So essentially it was in this regard,
24 your Honour, that we object. I think that if we want Mr. Ngudjolo -- or he can be
25 asked questions about the event in question, situating it in time without

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1 showing him the video excerpt. He is able to testify about these meetings.
2 He is able to -- irrespective of where these videos were filmed or the context in which
3 they were filmed. But if they want to show them to him in order to say, "Oh! Of
4 course, this is the event that you're referring to," you can also show him the video
5 without the sound. This is another option.

6 Even though the videos and nearly all these same excerpts are to be found on our
7 list for cross-examination, this does not allow the Ngudjolo team to now
8 show the videos to him since the objective is not the same. The
9 Prosecution put these items on the list as necessary in the event that we
10 decide to go back to what the witness could say. So in a nutshell,
11 the videos cannot be used to corroborate remarks that the witness may say
12 here in the courtroom. In other words, they can't be used as a crutch to
13 support Mr. Ngudjolo's testimony unless the Chamber agrees that this is
14 possible in order to refresh his memory, and all of this in light of ruling 1665, of
15 course, and the criteria set out in that ruling.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
17 Mr. Kilenda, briefly before the Chamber expresses our viewpoint.

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

19 PRESIDING JUDGE COTTE: (Interpretation) Please tell us exactly
20 what you intend to do by playing these videos.

21 MR. KILENDA: (Interpretation) Yes. We should have started by doing that.
22 I had the Prosecutor's 7 objections translated, and I shall read them out briefly:
23 "the Prosecution has objected on the basis of the theory
24 of previous testimony, and -- or statements, rather. It is said that the
25 accused cannot make reference to his own past statements to demonstrate that

1 he is honest, since he is consistent, thereby trying to increase his
2 credibility.” But how does the Prosecutor know that we wish to use these videos
3 to demonstrate the honesty of Mr. Ngudjolo? How does he know that?
4 Simply put, we believe that motives are being impugned here,
5 and that is not right.

6 The Prosecution is very, very far away from the objectives that
7 we are pursuing.
8 Now, in our filing 3164, dated 21 September 2011, which we sent to you
9 and to all the parties and participants, we gave everyone the various topics
10 that Mr. Ngudjolo's examination-in-chief
11 would bear upon, and we said, *expressis verbis*, at point 40, that
12 Mr. Ngudjolo was going to counter all
13 allegations from the Prosecution witnesses or from other parties and
14 participants. It is entirely normal finding ourselves before you today
15 that Mr. Ngudjolo would give explanations of certain events that were
16 attributed to him or some of his own statements.

17 Now, when Mr. Ngudjolo said, for example, that he was a
18 well-trained soldier, well, he has to explain to the Chamber why he made
19 that statement, or when Mr. Ngudjolo says this wasn't the first time that
20 he went to war, I think it's quite normal for -- to have him listen to his own words
21 again so that he can provide explanations to the Chamber.
22 So that is the only purpose. All the various excerpts that have been chosen
23 are not meant in any way to refresh the
24 memory of Mr. Ngudjolo. I remind you. He was seated here for several
25 months. He saw all these witnesses come one after another and he viewed

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1 all the various video excerpts. He's quite familiar with them. I'm not trying
2 to refresh his memory, but I'm wanting him to be reminded of
3 statements he made or incriminating statements attributed to him, and then
4 I will ask him questions to determine what he thinks and allow him
5 to provide explanations to the Chamber.

6 My aim is not to demonstrate the honesty of Mr. Ngudjolo.

7 He will provide appropriate explanations and at the
8 appropriate time the Chamber will deliberate and come to its conclusions.

9 It is not the task of Mr. Ngudjolo to prove his honesty

10 As the Prosecutor claims we are doing.

11 THE INTERPRETER: Five-second rule not respected.

12 MR. MACDONALD: (Interpretation) That may be another objective,
13 but the witness is here. We can situate it in time. We can tell him,
14 "Well, do you remember being at a particular place? Was such and such a
15 person present?" We can help him by situating him and ask him what he
16 remembers of a particular event, as was done with Chief Manu, for
17 example. It's the same thing.

18 So Mr. Ngudjolo can be asked preliminary questions, and they will –
19 and then we will see how things unfold.

20 But the extract in question, even though it
21 is in evidence, it could --

22 THE INTERPRETER: Inaudible.

23 MR. MACDONALD: (Interpretation) Mr. Ngudjolo must testify
24 despite his position. He has to testify on the basis of his memory, what
25 he remembers himself.

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1 PRESIDING JUDGE COTTE: (Interpretation) Very well.

2 Prosecutor, we have listened carefully to what you have to say.

3 Mr. Kilenda, we have also listened to your remarks and you rightly
4 reminded us of this situation, which is quite an unusual one, namely an
5 accused person giving testimony. In previous weeks, he was able to view
6 videos and listen to them.

7 Very well. Mr. Prosecutor, in turn, you likened this to the
8 showing of a video during testimony by Mr. -- Chief Manu, and this was a
9 video dating back to July 2009, showing the Prosecutor of this court being greeted
10 by Chief Manu in Zombe. And this is an important point. We do take note
11 that that video when it was shown did not have an EVD number at the time.
12 It was a video that we all learned about at the same time. In this
13 particular case, we are dealing with several videos that were shown and
14 used during testimony given by Prosecution witnesses. They were
15 incriminating witnesses for Mr. Katanga and Mr. Ngudjolo, and the
16 situation is different here, quite a bit different, in actual fact.

17 What's more, unless I'm mistaken, these videos show the accused at
18 various points in time who is -- the accused who is now giving testimony.

19 Now, he has made this decision to give testimony, and today it is
20 important for him to have his time to provide explanations about these videos
21 which have been used as incriminating items of evidence, and so, Mr. Kilenda,
22 we are asking you -- now, perhaps you could introduce these videos so that
23 Mr. Ngudjolo and all of us can recall these various sequences. We would remind you
24 not to ask Mr. Ngudjolo to confirm the remarks that he made, but, rather ---
25 and likely this is what you have in mind ---

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1 ask him questions that would lead him to making comments about
2 the particular sequences. He can provide explanations that he thinks may be useful
3 to the Chamber so that we can properly understand all of this.

4 These are the circumstances. We see no drawback to your doing that.

5 So you may do so for the first video extract, and for the other ones. But once again,
6 perhaps a few introductory remarks to help situate him, but no requests
7 for him to confirm what was said, but, rather, he can give comments.

8 Court Officer, could we show the first video, EVD-OTP-00176,
9 please.

10 MR. KILENDA: (Interpretation) Please, I shall comply with your
11 instructions, but I would like to put a few questions to Mr. Ngudjolo
12 first, yes, and then the court clerk can prepare.

13 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, go ahead.

14 MR. KILENDA: (Interpretation) Thank you.

15 Q. Mr. Ngudjolo, now, video extract EVD-OTP-00176, you,
16 Mr. Ngudjolo, you described yourself as the Chief of General Staff and
17 the divisional commander of the FRPI. What do you say in response to
18 that? Why did you describe yourself or introduce yourself in that
19 manner?

20 A. Thank you, your Honours. Thank you, Counsel. I think that
21 everything that you heard in this video extract, well, I think there are
22 other passages that do exist as well in which I introduce Dark as the
23 commander of operations in Bogoro, and in these various extracts from the
24 videos the Prosecutor wanted to show that I had authority. As far as I'm
25 concerned, I have to answer the Judges, telling them the circumstances in

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1 which I made those statements, and that is why I would like these various
2 clips from the videos be shown with image and sound so that I can explain
3 myself.

4 Secondly, Counsel, a few moments ago I said that on the 7th of March,
5 2003, when we met with the general, well, I told you -- I told you about
6 the explanations that he gave to me, and I would like to explain to the
7 Judges, because before the Judges or, well, anyone else here, I want them
8 to understand how it came to be that a nurse became a soldier so quickly.
9 I think everyone is awaiting that explanation. I don't know,
10 your Honour, whether you will allow me to provide the explanations.

11 PRESIDING JUDGE COTTE: (Interpretation) Mr. Ngudjolo, these are
12 the explanations that we have indeed been waiting for quite a long time.
13 Now, in the course of the questions from Mr. Kilenda when these videos are shown,
14 if you're in a position to provide us with explanations, we will listen to you very
15 carefully. I do believe our -- that these videos are confidential, judging by what the
16 Court Officer has told me. Now, if that is the case, please have the
17 blinds lowered behind the witness so that the public cannot see the screen.

18 We have to determine if they are confidential, which I cannot tell you right now.

19 MR. MACDONALD: (Interpretation) Regarding the confidentiality
20 of these videos clips, now, just to remind you of the context in which these
21 videos were filmed by the ... commented upon and adduced into evidence, I remind
22 you we need to protect the identity of a number of witnesses.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Prosecutor.
24 We do remember the circumstances under which they were shown the first
25 time before the Court, and we are entirely aware of the witnesses who

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1 provide commentary at the time.

2 So, Court Officer, I think we'll have to have the blinds dropped
3 when the first video is shown, and the public shall understand that these
4 measures are taken so as to protect the identity of the witness
5 who filmed the videos and made comments about them

6 Thank you. Please proceed.

7 Mr. Ngudjolo, we have carefully taken note of what you've just
8 said. You are concerned. You want to provide explanations so that we can
9 all understand the circumstances under which you became a Deputy Chief of
10 Staff in very short order, being a nurse previously, in an organization you told us
11 about a short while ago. So please take this opportunity to provide explanations.

12 Mr. Kilenda.

13 MR. KILENDA: (Interpretation) Thank you, your Honour. Now,
14 this starts at the 55th second and goes all the way to time-stamp 1:03.

15 COURT OFFICER: (Interpretation) Please press "PC1" to view the
16 video.

17 (Video-clip played)

18 MR. KILENDA: (Interpretation)

19 Q. Did you hear that video-clip?

20 A. Yes, I did hear it, Counsel.

21 Q. Were you there? Where were you?

22 A. Well, that was at Radio Candip in Bunia in March 2003. The 30th
23 of March, 2003.

24 Q. And on that date, you introduced yourself as a colonel. When did
25 you receive that rank?

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1 A. Counsel, I appointed myself to that rank after our meeting with
2 General Kale Kayihura. I appointed myself because ... I appointed myself after the
3 conversation that we had with him, and that is what led me to joining the
4 army, becoming a soldier.

5 So how did I get to that particular position? In our part of the
6 world, well, after the war, after the reconciliation between the various
7 armed groups that were clashing with the government in Kinshasa, all the
8 belligerents met in Sun City, and they came to an agreement, an agreement
9 to lay down arms, and according to these agreements, their combatants
10 were to be put into the national army at the ranks that they held, and
11 the civilians or the various civilian political/military groups were to become
12 political parties. At that particular time, all the armed groups in
13 Ituri -- well, not all of them went to Sun City, be it the UPC of
14 Thomas Lubanga or the FNI of Floribert Ndjabu or the FPDC. Those
15 groups did not go to Sun City,
16 but according to the Sun City agreement which was called an inclusive
17 comprehensive agreement, that is to say an agreement that applied to all
18 Congolese people, those agreements stipulated the following: Even if the
19 armed groups in Ituri did not take part in the meetings, that didn't
20 necessarily mean that these armed groups shouldn't be integrated into the
21 national army, and it didn't either mean that their unarmed branches
22 shouldn't become political parties.

23 When the process of reintegration of all the rebel movements began,
24 starting with the MLC of Jean-Pierre Bemba, the RDC/Goma and the RCD-K/ML
25 of Mbusa Nyamwisi, the National MLC, the National RCD of Roger Lumbala,

1 when the process began, then the integration of all the armed
2 movements in Ituri began. The general officers were appointed and then the higher
3 – or superior – officers in Ituri were appointed in the national armed forces of the
4 Democratic Republic of the Congo. The UPC and the FNI political movements and
5 other groups became political parties and still are political parties today, and at
6 the present time the FNI of Floribert Ndjabu is a political party. This
7 party has members of the national assembly as well as provincial members
8 of legislative assemblies. And the same holds true for the UPC and -- for a number
9 of other groups.

10 Myself, personally, I would say that when I learned that
11 integration was going to occur, well, I know how appointments are carried
12 out in the army.

13 Your Honours, it takes a great deal of time for one to be
14 appointed general. That is never done in periods of peace. During
15 Mobutu's reign, within the army, the hierarchy was in the following manner:
16 You had the marshal at the very top and then the general officers and
17 then the superior officers, and at the bottom you had the
18 junior officers, then finally the first class junior officers,
19 the second class junior officers, then the corporals, and then at the very
20 bottom the privates.

21 In our country, in the Congo, we follow the organisation chart of
22 the Belgian army, because you see the Belgians were the ones who
23 colonised the Congo. So we tend to go with the Belgian organization
24 chart or structure. We have the same ranks as in the Belgian army.

25 Now, to become a soldier, well, first of all you're a civilian

1 and then you're recruited, and then you have to undergo six months of
2 training. After six months of training you become a second class
3 private, and then to be promoted to first class, you have to spend at
4 least three years in the army. If you finish those three years, you will
5 receive that appointment and you will become a first class private. And
6 then to become a corporal in the army, you have to take training,
7 training, the proper -- the relevant training to become a corporal.
8 After that, you stop at that particular rank. If you want to become a
9 second class non-commissioned officer, to become
10 a sergeant, for example, you have to take three months of training at the sergeants'
11 school. If you pass all the tests, you are ranked sergeant. After three
12 years you can be promoted to sergeant major -- I beg your pardon, first
13 class sergeant major, and then after three years you are promoted to sergeant
14 major.

15 If you want to rise higher within the non-commissioned first-class officer
16 category, you have to take more training to become a warrant officer. Then you
17 become a second class warrant officer. Then after three years of experience, you
18 become a first class warrant officer, and then after another three years and you are
19 promoted to chief warrant officer and then you stop there.

20 If you want to become a junior officer, for
21 example, sub-lieutenant, lieutenant or a captain or something like that, in
22 our day you had to have a state diploma, a baccalaureate degree as it is
23 referred to in Europe. And so you have to have that diploma, the baccalaureate, and
24 then you go through a competition at the officers' school. And then after that you
25 have two years of training, and if during the course of that training you are

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1 successful you are appointed sub-lieutenant. After three years you can
2 then be promoted to lieutenant. After another three years you may be
3 appointed captain, to the rank of captain, and then you stop at that
4 level.

5 Now, if you intend to become a senior officer, you have to
6 be a captain, and you have to have three years of seniority as a captain.
7 Then after that, you have to go through an entrance exam, and if you pass
8 that exam -- or competition, rather, you take training at the centre for
9 higher military training. Then you have two years of training and
10 eventually you become a technical officer at the army headquarters. After three
11 years you become a major, then moving on lieutenant-colonel, and then eventually
12 you move on to attain the rank of Colonel, a full-fledged colonel, as was my case here.

13 Now, you see, your Honour when we met with General Kale Kayihura,
14 he explained all of that to me, and at the time of the civilian guard, I
15 was just a corporal, and within all the armed groups, there were people I
16 knew, people who had never had any military training at all, who had
17 never been part of the army, and they themselves gave themselves various
18 ranks. For example, Floribert Kisembo from the UPC. Kisembo is my
19 colleague. We studied together at the -- in the sixth grade in Bogoro,
20 and we even shared a bed in Gety. I know him very well.

21 In March -- no, rather, in April 2002, Kisembo was
22 Bosco Ntaganda's bodyguard in Bunia and that was during the time of the mutiny,
23 and in August 2002, when Lompondo was driven out --- I heard it on the radio ---
24 Kisembo became a major general, the
25 equivalent of a divisional commander.

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1 Your Honour, a division has four brigades, a brigade has 3,500
2 men; that is to say, a division has about 14,000 men and he became a commander of
3 a division. Somebody has -- who in the month of April was a bodyguard
4 in the month of August becomes a general -- a major-general.
5 Kisembo, where did he do his military training?

6 PRESIDING JUDGE COTTE: (Interpretation) I'd like to interrupt
7 you, Mr. Ngudjolo. I let you speak in a very full way about the military
8 career path as it's organised in the Democratic Republic of the Congo, whether
9 it's privates, non-commissioned officers or
10 officers. So -- and what you have demonstrated is that in theory, going
11 up the different ranks is done in a fairly slow way, and you have
12 to have training which makes it possible to get to the higher levels, and
13 at the same time you have just given us example with Kisembo who in a few
14 months went from being a bodyguard to being the general of a division, if I
15 am right.

16 Now, coming back to you, you have given us a very useful sketch.
17 Now, please come back to you, yourself, and your transition from a medical -- or
18 paramedical career to this rank of colonel that you have just said you
19 awarded yourself. So if you could please tell us, could you please give us
20 more details with regards to your personal situation in light of what
21 you've just indicated to us as the context? We are listening to you.

22 THE WITNESS: (Interpretation) Thank you very much, your Honour.
23 You see why I wanted to say that. Well, it was to make you understand,
24 so you could understand the process which consists of giving ranks to
25 soldiers right from the level of private to a colonel. Thirty years are

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1 needed for somebody to be able to become a colonel, your Honour. I had a
2 golden present. I couldn't leave this golden present, because when I
3 heard that our country was going to be reunified and those who were going
4 to be put into the army were going to keep their respective ranks, I decided to join
5 the Congolese Armed Forces so that I would be integrated as a senior
6 officer, and that's why I entered with the rank of colonel. As a civil
7 guard, I was a corporal. If I had to join the army with the level of a
8 corporal, well, my colleagues in the army would be my superiors, and I
9 would have to obey them, and that would make me suffer. That was the
10 reason why I decided of my own volition to go into the army with this
11 rank, and at that time Ndjabu arrived and I took advantage of that in
12 order to enter via him into the Armed Forces, your Honour.

13 It wasn't a miracle. It was in this way that things happened to
14 me. If I had the possibility to create a politico-military group of my
15 own, I would have done so, but at that time I didn't do it because I didn't have
16 the means to do it. I didn't have the training, the necessary training,
17 and I didn't know how these armed groups worked. I didn't know any of that
18 when I arrived in Bunia. It was there that I found out all the truth with regards
19 to the changes occurring in the country. When we were in Kambutso, groupement
20 Ezekere, we knew nothing. We just saw that the war had broken out. People were
21 defending themselves. That's the way it was. And that's how I gave myself
22 this rank. You can see that in a video excerpt where General Kayihura,
23 Kale Kayihura, called me "doctor." And in other video excerpts, you can
24 see where I introduce myself as a colonel, but did I not belong to any
25 group at that time, and that's why during the signing of the agreement of cessation of

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1 hostilities, I signed as one of the representatives of the Lendu community. And
2 this is how things happened. That was my situation. That's all I can
3 tell you, your Honour.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

5 Counsel Kilenda, please continue.

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

7 The witness with all these details has really addressed a lot of questions,
8 so I'm going to take up a different line of questioning with him.

9 Q. Mr. Ngudjolo, the Office of the Prosecutor accused you of having
10 sent Boba Boba to Mr. Germain Katanga with a view to negotiating the plan of
11 attack of Bogoro of the 24th of February, 2003.

12 My first question: Do you know Boba Boba?

13 A. If you would be so kind as to excuse me, Counsel. I know
14 Boba Boba.

15 Q. How do you know him?

16 A. Boba Boba -- well, I know Boba Boba since my childhood from
17 Kotoni. We grew up in Kotoni. That's where we got to know each other.

18 Q. And during the period from August 2002 to March 2003, where was
19 Boba Boba?

20 A. When I came back from Bunia, Boba Boba was in Ladile.

21 Q. During this period did you work with Mr. Boba Boba?

22 A. No, Counsel. Counsel, I didn't work with Boba Boba. He wasn't
23 medical staff. I was a nurse. I worked as a nurse.

24 Q. Could you please look at the paper that I handed out, and in particular, number 4.
25 thereof You will see a name. Please do not say that name in public. You will know

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1 who this person is. This person, who is a witness of the Prosecutor, here
2 under oath told the Judges that you -- you sent Boba Boba to
3 Germain Katanga to negotiate the plan of attack of Bogoro on
4 the 24th of February 2003, and he added that it was you who -- you who decided on
5 the mission in Aveba. What are your comments in that regard?

6 A. Counsel, I know this person. (Redacted). When I was in
7 Kambutso, I would met his family. (Redacted)
8 (Redacted). At that time, this
9 person, therefore, did not live in our area. In fact, he wasn't in the
10 groupement of Ezekere. I knew that he was in the collectivity of
11 Walendu-Bindi. He said that I had sent Boba Boba. No. That is false.

12 THE INTERPRETER: The interpreter adds that he was studying in
13 Walendu-Bindi.

14 MR. KILENDA: (Interpretation)

15 Q. Mr. Ngudjolo, do you know what happened in Bogoro on the 24th of
16 February, 2003? You told us that you weren't there, but do you know what
17 happened in Bogoro?

18 A. Counsel, as I said before, on the 24th of February, 2003, I heard
19 gunfire, shelling, explosions from Bogoro..In the evening, I
20 listened to the news on Radio Candip from Bunia, and I heard that Bogoro had just
21 fallen. The soldiers coming from Kinshasa and who went through Beni with the
22 UPDF forces had fought and driven out the UPC from Bogoro. I
23 heard all that on the radio.

24 Afterwards, I was astonished by this news, really astonished,
25 because the government of Kinshasa was the enemy of the UPDF. So I

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1 wondered how can it be that the UPDF and the soldiers of the Kinshasa
2 government were fighting within the same group? It's not something I
3 could believe. When I arrived in Bunia, it was at that time that I really
4 found out what was happening in Bogoro, and it was then that I found out
5 that the Kinshasa government was working together with the UPDF. Before
6 that, we didn't know about all that.

7 We learnt that there had been clashes between the Lendu, the APC and the
8 UPDF, such things, but we didn't know what the reality of the situation was
9 with regards to the battle of Bogoro. It was in Bunia that I found this
10 out.

11 Q. Thank you, Mr. Ngudjolo. Do you know the RCD/K-ML -- RCD-ML --
12 RCD/K-ML?

13 A. Yes, I know the RCD/K-ML. Its leader is Mbusa Nyamwisi.

14 Q. What were the objectives of this group?

15 A. At the start, the RCD/K-ML was led by Wamba. When he left
16 it was Mbusa. This movement was fighting the Kinshasa government. Their
17 objective was to drive the president, who was in Kinshasa, to drive him
18 out and take power. That was their primary objective. It was a rebel
19 movement.

20 Q. And in Ituri, where was this movement based?

21 A. The RCD/K-ML was based in all five territories of Ituri.

22 Q. And in Bunia precisely, who was directing the RCD/K-ML?

23 A. The -- the head of the RCD/K-ML was Governor Lompondo. The
24 person responsible was Governor Lompondo. The second vice-president of
25 this movement was in Bunia, Uringi Padolo.

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1 Q. Do you know the integrated operational staff, EMOI?

2 A. Yes, I know this structure, the EMOI. I know EMOI, the EMOI.

3 The integrated operational staff, yes, I know it. *État-Major*

4 *Opérationnel Intégrée* in French.

5 Q. When did he speak to you about this structure for the first time?

6 A. The first time that I heard about the EMOI was in Bunia at

7 Kisempia Sungilanga's house.

8 Q. If you know, do you know how this EMOI was structured?

9 THE INTERPRETER: The interpreter says it is

10 Major-General Kisempia Sungi Langa in the previous answer.

11 THE WITNESS: (Interpretation) The EMOI was structured in the

12 following way: There was a general Chief of Staff and there were

13 two deputies, one responsible for operations and the other was

14 responsible for administration.

15 MR. KILENDA: (Interpretation)

16 Q. Who were the leaders of the EMOI that you knew?

17 A. At that time in Bunia I met a leader of the EMOI, Colonel Duku.

18 He was responsible for intelligence.. The person

19 responsible for operations --

20 THE INTERPRETER: The Lingala interpreter did not hear the name.

21 THE WITNESS: (Interpretation) But I never met that person, and

22 the person responsible was the Colonel Aguru. I didn't meet him, but I

23 always did hear about him.

24 PRESIDING JUDGE COTTE: (Interpretation) There's a name missing.

25 You spoke to us about Colonel Duku, who was responsible for intelligence,

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1 and apparently the interpreters did not get the name of the person who
2 was responsible for operations. The Deputy Chief of Staff responsible for
3 operations, could you give us that name if you know it, and please articulate clearly.

4 THE WITNESS: (Interpretation) Thank you. Thank you,
5 your Honour. He was called Colonel Kilebele. K-i-l-e-b-e-l-e. K-i-l-e-b-e-l-e, Kilebele.

6 MR. KILENDA: (Interpretation)

7 Q. Mr. Ngudjolo, could you look at the sheet which I gave you. Please ensure no
8 one can see it. Look at number 1. Very well. Do you know this person?

9 A. No, I don't. I saw this person for the first time -- the
10 first time I saw this person it was in this courtroom.

11 Q. You never met him before?

12 A. No, Counsel.

13 Q. Very well. This person before the Judges here had stated that
14 the Ngiti had a coalition with the Lendu, the FNI which was led by
15 Mathieu Ngudjolo, that it was the FNI/FRPI which prepared the attack on
16 Bogoro.

17 What explanations can you give to the Judges on the subject of
18 that statement?

19 A. I have two things to say in that regard. The first is as follows:

20 At that time, the FNI didn't exist in the groupement of Bedu-Ezekere, and

21 secondly, the alliance FNI/FRPI was made after the 22nd of March.

22 And I would add to that, thirdly, the population of

23 the groupement of Bedu-Ezekere had no interest in Bogoro. There was no interest in

24 going to do something in Bogoro. That wasn't of interest to us. There was no

25 interest in going there.

1 Q. According to this person who testified here before the Judges, according to him
2 you were the hierarchical superior of the commander of Zumbe with the late Kute,
3 Boba Boba, Lobho, Chef Manu, and Saidi. And for the operation of Bogoro,
4 it was you who was in charge of that. What is your answer to that?

5 A. Counsel, in the groupement of Ezekere, there were no soldiers, and I
6 wasn't in charge of soldiers. I was a nurse. I was a nurse. I was never the boss of
7 Chief Manu. He was the head of the groupement, and his boss was
8 the *chef de collectivité*, chief of the collectivity. I was a person
9 among the rest of the population under the authority of Chef Manu. There were no
10 soldiers at that time. Myself, I wasn't a soldier at that
11 time either.

12 Q. Still regarding this man, here before the Judges, he stated that you
13 allegedly met him in Bunia with Uwechi Frank and that on that occasion he said
14 that -- you said that Germain had provoked the war in Bogoro but that he
15 was not able to win the battle --

16 MR. MACDONALD: (Interpretation) Your Honour, I would like to
17 formulate an objection. When it comes to quoting the words, or the case
18 in this way, then you have to really quote the extract of the testimony properly. It
19 has to be precise, because paraphrasing at this time could be very risky.

20 PRESIDING JUDGE COTTE: (Interpretation) Counsel Kilenda, if you
21 did note, in the preparation of your examination, the reference in the
22 transcript, please could you refer to it, but please avoid over-lengthy and tedious
23 readings of the transcript. You are trying to sum up things to help us
24 move forward quickly, but it's up to you to try and strike the right
25 balance between the wish of the Prosecutor, which one certainly

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1 understands, and at the same time the lack of usefulness of over-lengthy
2 readings. So that's in your hands. I leave it to you.

3 MR. KILENDA: (Interpretation) Thank you very much, your Honour.
4 If I give you a list of my questions, you will see that I put all the
5 references in, but I didn't give them in order to save time, but if that's
6 the request, I can comply with it.

7 PRESIDING JUDGE COTTE: (Interpretation) Maybe you could give
8 the reference while at the same time you make your own summary. The
9 Office of the Prosecutor can look at the reference, and if it feels that the
10 summary is not faithful, because, after all, anyone can make a mistake or
11 maybe it's too quick, and if that is the case, the Office of the Prosecutor will be able to
12 point that out to us. So please could you continue.

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

14 Q. Mr. Ngudjolo, in the transcript of hearing 206, pages 9 and
15 10, line 13 to 14, you are said to have said to Uwechi Franck that
16 Germain Katanga provoked the war in Bogoro and that if you had not gone
17 to help him then he wouldn't have been able to cope with it. Do you know
18 Uwechi Frank, firstly?

19 A. Yes, I know Uwechi Franck.

20 Q. Who is he?

21 A. Uwechi is an APC member. He was in the 13th Battalion of the APC which
22 was based in Mongbwalu. He was working under the orders of Commander Papy.

23 Q. Do you acknowledge having met with this person?

24 A. No, no. If I remember correctly, he said that we met in prison when
25 I was in prison, whereas I never met that person, Franck, when I was in

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1 prison.

2 Q. Is it correct that you stated what I have just said?

3 A. No.

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

5 MR. O'SHEA: I'd just like, if I may, to request that -- if I
6 may, to request that the entire answer of the witness at transcript 206
7 of the 19th of October, 2010, from lines 2 to 7 be read to Mr. Ngudjolo,
8 because, in my submission, it's important that the entire context is
9 there, because the first expression used in inverted commas "... *je ne*
10 *sais pas ce que Germain avait fait*" is not included in what's been put
11 to the witness now. I don't know if it will make a difference to the way
12 in which Mr. Ngudjolo responds, but I think it's important for us that
13 the actual response of the witness is put so that it's fully
14 contextualised.

15 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, please go
16 back to that transcript in question, page 9 and 10, transcript 206. And
17 Mr. O'Shea was asking that the entire passage be read back, namely
18 lines 2 to 7. Please do so, if you could. Take your time to find the
19 appropriate transcript.

20 MR. KILENDA: (Interpretation) Would you mind if I sit down for
21 a moment?

22 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead. No
23 problem. And if you could help us identify all the players in this scenario. I think if
24 you read out that passage, that would be useful. It would refresh our memories as
25 well. We would be able to remember exactly who Mr. Uwechi Franck is, because

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1 we are having some difficulty remembering who he was. After all, we have heard
2 testimony about many people ever since the trial began, particularly since the
3 remarks in question apparently came from this person, this Franck Uwechi.

4 JUDGE VAN DEN WYNGAERT: (Interpretation) Perhaps which witness on the 19th of
5 October, 2010, was appearing? Which witness gave this -- gave testimony?

6 PRESIDING JUDGE COTTE: (Interpretation) 2011, actually. Transcript 2000 --
7 correction, transcript 206. I think that was in October of that year, actually.

8 JUDGE VAN DEN WYNGAERT: (Interpretation) Because I was basing myself on the
9 2010 transcript.

10 THE INTERPRETER: Inaudible.

11 PRESIDING JUDGE COTTE: (Interpretation) Real-time transcript 206, 19th --

12 THE INTERPRETER: Overlapping speakers. The English interpreter
13 is very sorry.

14 MR. KILENDA: (Interpretation) Your Honour, the question that
15 was put to the witness at that time was:

16 "Witness, did you have an opportunity at any particular point in
17 time to have a discussion with Mr. Ngudjolo about the attack on Bogoro?"

18 This is page 9 of this particular transcript. And as of line 2:

19 "A. No. I did not talk to him about that, but one day after the
20 battle when I was talking to him, he said that to me. He said, 'I don't
21 know what Germain had done.' There was a problem between the two of
22 them. He said Germain provoked the war in Bogoro, but he was not able --
23 He wouldn't have been able to
24 win the war if I hadn't gone to help him. He would not have been able to
25 win because he had been driven back several times." End of quote.

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1 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Now, this
2 is transcript 206, so this must be from October 2010, since we are now dealing with
3 transcript 328. So, indeed, we're dealing with a transcript that goes
4 back a to 2010. Now, my memory is failing me: I believe the witness who appeared
5 on that date was indeed the witness who is listed on your list as number 1.
6 Yes. I see Mr. O'Shea nodding.

7 MR. O'SHEA: 219.

8 PRESIDING JUDGE COTTE: (Interpretation) Yes. I think we're all
9 on the same line now, and I believe Mr. O'Shea obtained a satisfaction with full --
10 a full reading out of that passage which is of importance.
11 You may now proceed, Mr. Kilenda.

12 MR. KILENDA: (Interpretation)

13 Q. Mr. Ngudjolo, you just heard the passage that I read out. What
14 is your reaction to the passage I just read out?

15 A. Yes, I do have a reaction. First of all, I don't know him, and I
16 never talked to him about that.

17 Q. Thank you, Witness. If we could look at that list once again,
18 and please make sure the public doesn't see it.

19 Now, the second person, number 2, that particular person, do you
20 know this person, person number 2 on the list?

21 A. No, I don't know that person.

22 MR. KILENDA: (Interpretation) Your Honour, regarding this
23 particular person, transcript T-217, French version, page 37, line 8.

24 Q. This person was talking about the attack on Bogoro on the 24th of
25 February, 2003, and he said that he took part, that person took part in

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1 the attack. And at one particular point, they were running short of
2 ammunition, and they even thought of fleeing, but at that particular
3 point, the people from Zumbe came to assist them, and that was at about
4 9.00 or 10.00 in the morning.

5 Q. What would you say in response to this statement?

6 A. Counsel, first of all, I don't know what he's talking about.
7 Secondly, your Honours, the battle of Bogoro was not a raid. It was an
8 attack, and after the attack, the place was occupied. Bogoro was
9 attacked, and after the attack Bogoro was occupied and administered for
10 several months. And so if in the past I said that there was no action taken
11 without a particular self-interest, that -- what I meant by that was after Bogoro
12 fell, no one amongst the Zumbe people had gone to live there in Bogoro.
13 Because if we had some interest in that, well, we might have -- if we had an
14 interest, we might have attacked -- if the person here said -- what the
15 person said here is not correct. This is the first time that I've seen
16 this name here.

17 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, I'm going
18 to interrupt you, because for the second time Mr. Ngudjolo has told us
19 that Bogoro did not represent any particular interest.

20 I believe that's how you put it, Mr. Ngudjolo, that it was not of
21 any particular interest for the people of Zumbe. Could you explain what
22 you mean by that? Why was it that Bogoro did not represent any
23 particular interest in the eyes of the people of Zumbe? I think you said
24 that a few moments ago, and if I cast back my mind, I -- I do remember
25 you saying that.

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1 THE WITNESS: (Interpretation) Your Honours, those of us living
2 in Bedu-Ezekere -- well, if I said that we had no interest in attacking
3 Bogoro, it's because, first of all, from a business point of view or
4 trading point of view, the people of Zumbe would go to Bunia. Bunia was
5 the place -- rather, the Bunia marketplace was the one they went to.
6 There was no point in us going to Bogoro.
7 Secondly, we're talking about a tribal context here, and there
8 were conflicts between the various ethnic groups. And when the territory
9 was carved up, so to speak, by the Belgians and distributed to various
10 groups, Bogoro remained in the Irumu area and the Bedu-Ezekere groupement
11 was in the Djugu territory. And there is a clear boundary. There's a road, you see.
12 And be it a road or a waterway, that would be the boundary and no one could change
13 that. It's not like a concession of land and one owner might move a marker so his
14 concession of land would be bigger. We were talking about a territory.
15 We are talking about two distinct territories. We are in one territory, and Bogoro is
16 located in another territory. If one day a Lendu from Djugu were to go and claim
17 Bogoro saying that he was the owner, if Bogoro were to be a problem
18 amongst the Lendu from the south, the southern Lendus, well, that would
19 be regarding a portion of land in the localities of Nombe, Lakpa, and Lengabo. The
20 problem with this portion of land began when the area was carved up --. You see, part
21 of the Lendu population remained in Irumu. That is why in Lakpa, Nombe and
22 Lengabo, although situated on the Lendu-Bindi side, people speak Kilendu. So the
23 conflict regarding this land dates back many years. And when we talk about
24 conflict between the Lendu and the Hema, this is a conflict that goes
25 back a great many years. This is the year 2011, but this goes back more

1 than a hundred years, all the way back to 1911. So in the time of Mobutu to deal with
2 this conflict regarding the ownership of this land, the Mobutu government had
3 created three localities that were called *poste d'état*, government posts supporting
4 Nombe. And so, the populations of these three localities did not come under the
5 Hema of Bogoro from an administrative view, nor did they come under the
6 Walendu Bindi territory and yet in terms of the localities and the
7 groupement and the territories and the customary powers, that is why we
8 use the expression *collectivité chefferie*. It relates to areas controlled
9 by a chief, a customary chief, who has the authority. As for the territories,
10 and so on, authority is no longer customary in nature -- only the wise men choose the
11 authorities of a particular locality or a groupement, but at the territorial level, it
12 is the government that appoints the authorities.

13 In Nombe, that is in the territory that has been -- it's within the territory that the
14 authority is designated. At first, it was an Alur person. He ... he was supposed to
15 come from the Mahagi territory. The chief of staff was an Alur person. After his
16 death, an Ngiti person was designated, Bahati Azodia. Rather, he was designated at
17 the level of the territory. That was the situation.

18 So if you learn that after the battle of Bogoro civilians set
19 up -- or went to live in Bogoro, those were civilians from Nombe who went
20 to live there, and the chief of locality who went to live there came from
21 Lakpa, and the chief of the government post for Nombe came and set up his office in
22 Bogoro, and that's how things occurred. When people say that the Lendu
23 occupied Bogoro, that's not right. Things unfolded in the way that I
24 have just described to you.

25 PRESIDING JUDGE COTTE: (Interpretation) Mr. Ngudjolo,

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1 Mr. Kilenda, I've interrupted you, and I'm sorry about that, but Mr. --

2 MR. KILENDA: (Interpretation) No, no. You didn't interrupt me
3 at all. That was a very logical question. Actually, your question has
4 allowed us to save some time.

5 Q. Witness, if you could look at number 3, the third name on our
6 list. Can you see that name? Do you know this person?

7 A. I don't know that person. I saw that person for the first time
8 in this courtroom when that person was sitting in this very seat where
9 I'm now seated.

10 Q. But in the transcript, transcript T-230, page 21
11 (as interpreted), line 1 and on, this person said to the Chamber that
12 the authorisation to visit Bogoro was granted by you.

13 Once again, transcript 230, page 25, line 11, that the Ugandans
14 had asked you for authorisation to go to Bogoro. What comment would you
15 make in this regard?

16 THE INTERPRETER: Interpreter correction: The first transcript
17 reference was 230, page 21. Page 21.

18 THE WITNESS: (Interpretation) Counsel, I have a great deal of
19 respect for this lady. However, I was very surprised by her statements.

20 Now, if the Judges will allow -- well, I would have liked us to
21 have started with the video. I think you'll recall that it was a video
22 with General Kale Kayihura in March, at the Bunia airport, and the general referred
23 to me as doctor, and he said, "Doctor, if you have a problem, come and find me.
24 Come and see me. I don't want to see anyone bearing weapons here."
25 General Kale Kayihura said that to me. He was speaking to me.

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1 So why was it that I was in a position to go and give orders to a
2 general? How could that be possible?

3 The UPDF was an occupying power. The UPDF was frightening, even
4 to the government in Kinshasa.

5 Now, for the government to send soldiers to Bunia or
6 rapid-response police officers to Bunia, negotiations were necessary so that the
7 UPDF would allow the government of Kinshasa to dispatch people there. So
8 how could I, an ordinary citizen, what authority did I have to frighten
9 or intimidate the Ugandans or oblige them to do things, oblige UN
10 troops to come in or any such thing? That never happened, Counsel. The
11 Ugandans never asked me for authorisation to have UN forces or members
12 come and carry out an inquiry on site. That never happened.

13 MR. KILENDA: (Interpretation)

14 Q. Transcript 228, page 43, line 22. This same person said that she
15 met you the day after the meeting with -- the meeting of the
16 Ituri Pacification Commission, and you were having a meeting behind the
17 Hellenic Centre on the 5th of April, 2003. You were having a meeting and that
18 she had asked for a meeting with you and that you had met with this
19 person the same day to discuss Bogoro and Mandro.

20 Now once again, transcript 228, page 44, line 5, the person added
21 that there were soldiers at the entrance of the house that you were using
22 as your office and that you met with this person and you had a discussion
23 with this person.

24 Once again, transcript 228, 44, line 12. You apparently
25 confessed that you had organised the attacks on Bogoro and Mandro and

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1 that apparently you confided in this person saying that if all the Hema
2 had to be killed, women and children, that you were going to do so
3 because they were all armed.

4 What did you say -- what do you say in response to such
5 allegations?

6 A. Counsel, even if you were to go to the Congo during times of
7 peace, well, you know, there would be some conditions from a safety point
8 of view, and you're a Congolese person yourself. Now, that person who is
9 not a Congolese person, who does not speak any of the languages spoken in
10 the Congo, how could that person, after 6.00 in the evening, all by
11 herself go and look for me at the meeting place and speak to me? Wasn't she afraid?

12 I never met this person. I only saw this person here. And when
13 I saw that person here, I didn't remember her in the slightest. If I had met
14 her in the past I could have said that I had known her, but I didn't recognise
15 her. I don't know her. What's more, she is not a nun, or a religious
16 person. I was not to go and see her and confess things to her, nothing
17 of the sort.

18 Now, what proof does she have that I allegedly said some things
19 to her?

20 Secondly, Counsel, now on that date in March, the 18th, and we can see it on the
21 video, in the presence of the Special Representative of the UN Secretary-General in
22 the Congo, I signed the agreement as a representative of the Lendu community,
23 and the person who said that the Lendu South -- the Lendu of the south
24 and the north had signed, that person works for the UN. And I recently
25 saw that person on the television during the conflict between Gbagbo and Ouattara.

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1 That person is now a UN spokesperson in Côte d'Ivoire, I believe, and that person
2 came here with a report saying that the FNI of Ngudjolo had fought in Bogoro and
3 that was put on the case file. But, your know, actually on that date, in the presence of
4 the special representative of the UN Secretary-General to the Congo, that day I was
5 signing as a representative of the Lendu community, and that person said that the
6 Lendu representative had signed. So I'm surprised that that same person
7 came here with a report and said something else. So I really wonder
8 where she got that information from to mention me in a report and send it
9 to New York and say that I was responsible for the FNI and that I'd
10 fought in Bogoro; whereas the agreement to cease hostilities that I
11 signed, that was brought here by the Prosecutor, it was UN members who
12 provided it to the Prosecutor. So why is it that that person would
13 mention in the report that I was a member of the FNI?

14 Thirdly --

15 PRESIDING JUDGE COTTE: (Interpretation) I believe we're going
16 to have to adjourn now. We have no more time left. We can't record any
17 longer.

18 Mr. Ngudjolo, if you could go back to your place.

19 Mr. Kilenda, if you could return to this topic, please do so on
20 Monday. We will be resuming Monday at 9.30.

21 Court Usher, could you please escort Mr. Ngudjolo to his seat.

22 (The witness stands down)

23 PRESIDING JUDGE COTTE: (Interpretation) The Court thanks all
24 those who have been assisting us, in particular our Lingala interpreters
25 who have allowed us to listen to and understand Mr. Ngudjolo's remarks.

1 Accused, we shall see you again on Monday, and the hearing is now
2 adjourned.

3 THE COURT USHER: All rise.

4 The hearing ends at 1.30 p.m.

5 CORRECTIONS REPORT

6 Pursuant to the Decision ICC-01/04-01/07-3216 issued by the Trial Chamber II
7 on the 13th December 2011, this transcript has been revised and corrected.
8 Please note that the corrections have been implemented directly into the
9 transcript.

10 SECOND CORRECTIONS REPORT

11 The Court Interpretation and Translation Section has made the following corrections
12 in the transcript:

13 *Page 5 lines 8 to 9

14 "to say that it was not true. Unfortunately, the procedure here does not allow for this"
15 Is corrected by

16 "but the procedure didn't allow me to do so."

17 *Page 8 lines 12 to 17

18 "you build a circle of posts, and if the house is made out of durable materials, we have
19 to place the lintels after raising up the walls. But in our area, all we have to do is form
20 a circle of posts and then comes the roof structure, and on top of that we place the
21 sheet metal. As for the walls, we take reeds, and we tie the reeds to the posts with
22 rope or string, and we make the walls out of clay. And then, the house is done."

23 Is corrected by

24 "you build a kind of belt, that is to say, a frame. If the house is made out of durable
25 materials, we put some lintels, and above, we put the framing. On top of the framing,

- 1 we place the sheet metal. As for the walls, we take reeds, and we bind the reeds.
- 2 together with rope or string, Then we make some mud and use it to make the walls.
- 3 And then the house is done.”