

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra, and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and Mathieu
7 Ngudjolo Chui
8 Trial Hearing
9 Friday, 20 May 2011
10 The hearing starts at 9.05 p.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session.
14 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
15 Good morning to everyone. Good morning to the accused persons.
16 Before we bring Witness 0147 and 0236, the Prosecutor wished to make a
17 few comments on Mr. Hooper's application number 2919 of the 19th of May,
18 2011 relating to modification of the order of appearance of Mr. Jean
19 Logo.
20 If you wish to make those observations orally, Mr. Prosecutor,
21 you may do so now; however, we would not like you to take too much time,
22 and we hope they will be as clear as possible because we would have
23 preferred to have received your observations in writing because it's best
24 for ideas to be written down, re-read, and then expressed. But in the
25 meantime we'll listen to you.

1 MR. MACDONALD: (Interpretation) Thank you, your Honour. What
2 is well conceived is usually better expressed. The Prosecution does not
3 challenge Mr. Hooper's application and we defer to your discretion.
4 There you have it.

5 PRESIDING JUDGE COTTE: (Interpretation) That was very good. It
6 was very brief and very clear, and that's a good start to our morning,
7 Mr. Prosecutor. Thank you.

8 Before the witness comes into the courtroom, the Chamber would
9 like to give you its viewpoint on the issue of the introduction of an
10 investigator's report into the Court record. We would like to thank
11 Professor Fofé and the Defence team of Mr. Ngudjolo for transmitting, as
12 agreed, yesterday afternoon their observations on this matter, that of
13 introducing into the Court record the investigator's notes of an OTP
14 investigator. The Chamber understands the viewpoint of the Defence team
15 of Mathieu Ngudjolo sent through an e-mail yesterday. Their viewpoint is
16 based on the fact that this investigator's note does not add anything to
17 the oral testimony of our witness, Witness 0147 and Witness 0236.

18 The Chamber would like to point out, however, that the Defence
19 team of Germain Katanga - and here I would refer you to transcript 263,
20 page 62, line 22 - the Chamber notes that the Defence team of
21 Germain Katanga sees consistency between the account given by the witness
22 and this report, which according to the Defence team corroborates what
23 was said. The Defence team of Mathieu Ngudjolo notes that this document
24 has not come from the witness, but the Chamber notes that this document
25 is closely related to this witness since it refers to contacts that the

1 OTP allegedly had with him in the year 2010.

2 The Chamber therefore does not see any obstacle to an EVD
3 reference being given to this document. We only have to ensure that the
4 EVD number is that of the Prosecutor or that of the Defence team of
5 Germain Katanga. The Chamber would like to state that at the appropriate
6 time it is going to see or determine what evidentiary value it should
7 give to this document.

8 Yes, Mr. Prosecutor, you may take the floor.

9 MR. MACDONALD: (Interpretation) With your leave, the
10 Prosecution would like that this document which comes from the
11 Prosecution should be given a Prosecution EVD reference for the simple
12 reason that it is the Prosecution that brought this document that used it
13 in cross-examination. You will remember that at that time Mr. Hooper did
14 not have any objection to an EVD reference being given to this document.
15 So we are doing what we should have done at the time the Prosecution team
16 was using that document, but if our learned colleagues wish that this
17 document be given a Defence EVD, that's fine.

18 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, you may
19 take the floor.

20 MR. HOOPER: Yes. Well, the time's passed I think when
21 Prosecution EVD numbers were being applied. The document itself has only
22 been directly used, as we observed, when Mr. Garcia used it. My
23 submission is that it's appropriate for this document to receive a
24 Defence EVD number. And in part I say that because it's on my
25 application that this matter is being admitted; and secondly, because the

1 nature of the document, an investigator's report, I would submit it's
2 more appropriate in this particular instant case because it is a very
3 specific case -- a very specific introduction of an investigator's report
4 is done by the Defence to my mind, in any event, cause less or creates
5 less, as it were, precedent than the Prosecution putting such documents
6 in. I think this is the position.

7 PRESIDING JUDGE COTTE: (Interpretation) Yes, Professor Fofé, on
8 the attribution of an EVD reference to the material in question, we wish
9 to hear your opinion.

10 MR. FOFÉ: (Interpretation) Thank you. Good morning, your
11 Honours, and thank you for giving me the floor. I would like to defer to
12 the judgement of the Chamber with regard to the attribution of an EVD
13 reference to the document, whether it's going to be an EVD reference of
14 the Prosecution or that of the Defence. As far as I'm concerned, that is
15 not a problem. I would rather like to seek your leave to present the few
16 reservations we had which prompted us to send the e-mail we sent to you
17 yesterday. I have taken note of the decision taken by the Chamber, I do
18 not challenge it, but I would like to put a few reservations on record.

19 PRESIDING JUDGE COTTE: (Interpretation) You can give us a few
20 explanations relating to your e-mail of yesterday and should please be
21 brief.

22 MR. FOFÉ: (Interpretation) Thank you, your Honour. First
23 reservation, paragraph 2, third line of that document, reference is made
24 to a telephone conversation between EM and P-0164. Third sentence:

25 (In English) "EM spoke on the phone with P- (Interpretation) 0614

1 (In English) with the assistance of Swahili-French interpreter,
2 (Expunged). (Interpretation) The Defence team for Mathieu Ngudjolo
3 would like to say that with respect to the content of that telephone
4 conversation, alleged telephone conversation, it is the testimony of
5 Mr. Bachweki before the Chamber which should be retained as evidence.

6 Second reservation - and here we would like to make the same
7 observations with respect to what is said in paragraph 7, and I quote:

8 (In English) "On 8th October 2010 P-0310 met with P-0614 at his
9 house, and at 1720 hours that day EM spoke by phone with P-0614."

10 (Interpretation) The same observations apply here, namely, that
11 it is the testimony of Mr. Bachweki before the Chamber which should be
12 retained as evidence. Third reservation, what is said in paragraph 3,
13 second sentence, does not emerge or does not appear, and I would even say
14 it does not tally with the evidence given by Mr. Bachweki before the
15 Chamber. This is what is said and I quote:

16 (In English) "P-0614 agreed to meet EM in Bunia on 14th September
17 2010 although he did not have a phone to stay in contact."

18 (Interpretation) Fourth reservation, what is stated in paragraph
19 3, last-but-one sentence, it does not appear or does not tally with
20 Mr. Bachweki's evidence before the Chamber, and I quote:

21 (In English) "P-0614 instead asked for P-310 to come back to his
22 house at 8.00 on 14th September 2010 and escort him to the meeting-point
23 with the OTP."

24 (Interpretation) In general, your Honours, the Defence team of
25 Mathieu Ngudjolo respectfully submits that in case of an inconsistency

1 between certain excerpts of this document and the testimony of
2 Mr. Bachweki before the Chamber, the testimony of Mr. Bachweki is
3 supposed to be considered -- should be considered as having ascendancy
4 over the report.

5 Lastly, it is proper to state, and this was said yesterday, that
6 the comments in paragraph 20 should not be admitted into evidence. That
7 paragraph, paragraph 20 therefore, should be considered as non-existent.
8 Thank you, your Honour.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
10 Professor Fofé. The Chamber has fully understood the spirit of your
11 intervention. The Prosecution has not raised any objections, they have
12 not objected to the attribution of a Defence EVD of this document. We
13 are going to give it a Defence EVD reference, therefore.

14 The last paragraph, paragraph 20, which is a personal comment,
15 Court Officer, is supposed to be redacted, it should not feature or
16 should be -- should not be part of the document which is going to be
17 admitted into evidence. I would not revisit what I said at the beginning
18 of our hearing. Professor Fofé has taken note of what I said and he
19 intends to give further explanations on the position of
20 Mathieu Ngudjolo's Defence team.

21 Court Officer, could you therefore give an EVD reference to this
22 document. It was DRC-OTP-1061-0121 if I am not mistaken, but I don't
23 think I am mistaken.

24 (Trial Chamber and Legal Officer confer)

25 COURT OFFICER: (Interpretation) Thank you, your Honour. The

1 document DRC-OTP-1061-0121, excluding paragraph 20, will bear the
2 reference EVD-D02-00138 and will be filed as confidential. Thank you.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
4 Court Officer. Could you please bring the witness P-0147/P-0236 into the
5 courtroom.

6 (The witness takes the stand)

7 PRESIDING JUDGE COTTE: (Interpretation) Good morning,
8 Mr. Witness.

9 THE WITNESS: (Interpretation) Good morning.

10 PRESIDING JUDGE COTTE: (Interpretation) I can see that you hear
11 me clearly. We are going to carry on again but for a short time.

12 Mr. Hooper, you have the floor for your final comments.

13 MR. HOOPER: I have no further questions. I wonder if we could
14 just go into closed session on one matter -- private session, sorry, for
15 a few minutes.

16 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, can we
17 go into private session for a while, please.

18 (Private session at 9.24 a.m.)

19 (Expunged)

20 (Expunged)

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11 (Expunged)

12 (Open session at 9.46 a.m.)

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

14 Honour.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

16 Court Officer.

17 For the attention of those who are in the public gallery, we
18 stayed for much longer than usual in private session because of the
19 various exchanges between the parties and participants. It was not
20 possible for those exchanges to take place in open session because
21 identifying information was discussed. We have come back to open session
22 and this is the end of the testimony of Mr. Nathaniel Bachweki. We thank
23 you, Mr. Witness, for having accepted to travel to the Netherlands to
24 give us your version of the facts. We thank you for the high quality of
25 your testimony, the efforts that you made to comply with the rules in

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1 force, that is, to speak slowly and clearly. We wish you a safe trip
2 back to your place of residence. And as I told you at the beginning of
3 your testimony, please make sure that you do not reveal outside whatever
4 you heard or said here. Your testimony was for the sole purpose of
5 enlightening the Court and we have heard it. And what we discussed in
6 private session should not be mentioned now in open session because you
7 heard what was said and it included the points of views and concerns of
8 each of the parties.

9 Court Officer, the witness will stay at the VWU premises until
10 the break, and it is during that break that the witness can be able to
11 meet Mr. Ngudjolo and Mr. Katanga, if they still wish, and also the
12 Defence teams could thank them at that time.

13 Court Usher, please accompany the witness out of the courtroom.

14 And, Mr. Witness, good-bye.

15 THE WITNESS: (Interpretation) Thank you.

16 (The witness withdrew)

17 PRESIDING JUDGE COTTE: (Interpretation) We will now call
18 witness D02-P-0146, but who also bears the number D03-P-0340. That is
19 the number for the Ngudjolo team.

20 Is there a change of team in the Prosecution side?

21 MR. GARCIA: (Interpretation) It is still me, your Honour.

22 PRESIDING JUDGE COTTE: (Interpretation) Very well. There is no
23 change.

24 Court Officer, we are not going to leave the courtroom but we
25 need to have the witness brought in. So if you can ask VWU to bring

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1 Witness 0146/0340 to the courtroom so that he can give his identification
2 details and make his solemn undertaking.

3 Court Officer, I realise that the extract in private session is
4 from page 7 to part of page 16, so this covers several pages, page 16,
5 line 22 or 21.

6 (Trial Chamber and Legal Officer confer)

7 (The witness entered court)

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

9 THE WITNESS: (Interpretation) Good morning, Mr. President.

10 PRESIDING JUDGE COTTE: (Interpretation) I realise that you can
11 hear me well; correct?

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

13 PRESIDING JUDGE COTTE: (Interpretation) Very well. We can now
14 begin your testimony. To begin with, thank you for having accepted to
15 travel to The Hague to answer the questions that will be put to you by
16 the two Defence teams of Mathieu Ngudjolo and Germain Katanga. Counsel
17 for those two accused are sitting to your left, but you will also answer
18 questions put to you by the representative of the Prosecutor and the
19 Legal Representatives of the Victims who are seated on your right.

20 But before everything else, Mr. Witness, since you have accepted
21 to testify in open session, we will ask you to give us your identity
22 details publicly. I would like to ask you to speak out loud and sit as
23 you are sitting right now to be able to speak directly into the
24 microphones. Please speak slowly, and after a question is put to you
25 wait for approximately five seconds. You can count up to five before you

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1 answer, and this is to enable the interpreters to do their job properly.

2 Which language will you testify in, Mr. Witness, Swahili or French?

3 THE WITNESS: (Interpretation) I will speak in Swahili.

4 PRESIDING JUDGE COTTE: (Interpretation) Very well. It is
5 important for you to speak slowly and observe a pause so that your
6 answers should be translated from Swahili into French and then from
7 French into English. You have chosen to testify in Swahili and so please
8 stick to Swahili.

9 THE WITNESS: (Interpretation) I have understood you.

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Please give
11 us your name and first name and please speak very slowly.

12 THE WITNESS: (Interpretation) My name is Akurotho Obia
13 Jean-Marie.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Would you
15 please give us your birth date and tell us where you were born as well.

16 THE WITNESS: (Interpretation) I was born on September 28th,
17 1958.

18 PRESIDING JUDGE COTTE: (Interpretation) Very well. Can you
19 please tell us where you were born, if you have that information.

20 THE WITNESS: (Interpretation) I was born in Zani.

21 PRESIDING JUDGE COTTE: (Interpretation) And what province is
22 that located in, just to have additional information concerning the
23 location of your place of birth?

24 THE WITNESS: (Interpretation) Zani is located in Ituri, in the
25 Province Orientale. Zani is in the Mahagi territory.

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1 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Could you
2 please tell us, Mr. Witness, what your current profession is, what your
3 job is, if you have a job.

4 THE WITNESS: (Interpretation) I am an electrician and I work in
5 the Kilo-Moto company.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Obia.
7 Before we begin your testimony, you must undertake the solemn undertaking
8 to tell the truth. I'm going to read this undertaking out to you. I
9 will read it to you slowly so that you will be able to understand it
10 clearly and understand it in all of its importance. Here is the solemn
11 undertaking, sir: I solemnly swear to tell the truth, the whole truth,
12 and nothing but the truth. Did you hear me clearly, Mr. Witness,
13 Mr. Obia?

14 THE WITNESS: (Interpretation) Yes.

15 PRESIDING JUDGE COTTE: (Interpretation) Do you swear to tell
16 the truth, the whole truth, and nothing but the truth?

17 THE WITNESS: (Interpretation) Yes.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Obia.
19 Please continue to listen to me very closely. You have just sworn to
20 tell the truth, the whole truth, and nothing but the truth. If in the
21 course of your testimony when you speak spontaneously or when you answer
22 the questions that will be put to you, if you do not tell the truth you
23 could be prosecuted before this Court for false testimony. And if it is
24 proven that you have done so, you might be sentenced. Is that clear,
25 sir?

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1 THE WITNESS: (Interpretation) Yes, I understood that very
2 clearly.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Obia.
4 The Bench thus notes that Article 69(1) of the Statute and Rule 66(1) and
5 (3) of the Rules of Procedure and Evidence have been satisfied. We will
6 begin with your testimony, sir. I would once again like to ask you to
7 speak slowly and to speak loudly, as you have been doing. Please
8 continue to do so. Sir, you have before you -- the usher will move it
9 closer. You have a jug of water and a glass. Please feel free to drink.
10 The Bench has no problem with you stopping your testimony for a moment to
11 take a drink. The water is there for you to use. You will be speaking a
12 great deal. Your throat might become dry, so please free to have a drink
13 of water. We all have water here and we all drink whenever we feel it
14 necessary. If you need to use the tissues which are in front of you as
15 well, please feel free to do so. You might need to blow your nose or you
16 might need to mop your brow. Please do not hesitate to use the tissues,
17 that will not be badly taken by the Bench. You must be able to provide
18 your testimony in the best conditions possible.

19 Mr. Witness, Mr. David Hooper will now take the floor. He
20 represents Mr. Germain Katanga's Defence team.

21 Mr. Hooper, sir, you have the floor.

22 MR. HOOPER: Thank you, your Honour.

23 WITNESS: WITNESS DRC-D02-P-0146/DRC-D03-P-0340

24 (Witness answered through interpreter)

25 Questioned by Mr. Hooper:

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Open Session)
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1 Q. Good morning, Mr. Obia.

2 A. Good morning.

3 Q. I think we all appreciate that sitting where you do must be quite
4 a lonely experience, and looking around this courtroom there probably
5 aren't very many faces that you could recognise. I've met you and if you
6 look at me perhaps you might recognise me; though, the last time we met
7 was in rather different circumstances, and I certainly wasn't dressed
8 like this. So I don't know if you do remember me, but you might also
9 remember perhaps the lady -- the lady sitting behind me here on my right,
10 Caroline Buisman or perhaps Mama Caroline as you might remember her as.

11 A. No, I don't remember. I've forgotten.

12 Q. All right. Well, that's not a problem.

13 Now, I'm going to ask you questions and I'm asking you questions
14 as you just heard on behalf of the gentleman I represent who's called
15 Germain Katanga. Can I ask you this right at the beginning: Do you know
16 Germain Katanga? Have you ever met him?

17 A. No, I have never seen him.

18 Q. Very well. Now, you've told us a little about yourself, born in
19 1958. Obviously you're Congolese and you told us you're an electrician
20 at Kilo-Moto. And we know a little bit about Kilo-Moto in this
21 courtroom, so I won't ask you very much about that. Can I ask you what
22 your ethnicity is?

23 A. I am an Alur.

24 Q. Do you have any family or other relationship with Germain Katanga
25 or his family?

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1 A. No, I have no relation to him.

2 Q. All right. Now, there's another gentleman getting up, he's going
3 to assist us. So I'm just going to stop for a moment.

4 MR. FOFÉ: (Interpretation) Just to clarify things. On line 24
5 when the witness gave his ethnicity he was very clear, in fact he
6 provided more information than came through. He said that he was
7 Alur-Djuganda. This is something which is very specific. He is
8 Alur-Djuganda. Thank you, your Honour.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
10 Professor Fofé, for that additional information.

11 Mr. Hooper, you may continue with your questions.

12 MR. HOOPER: Thank you.

13 Q. And you told us, in fact, that you were born in Zani. Where is
14 Zani in relation to Bunia, can you help us?

15 A. Zani is to the north of Bunia.

16 Q. And you tell us you were born there. Where did you grow up? Did
17 you grow up in Zani or somewhere else?

18 A. I grew up in Zani.

19 Q. Now, returning to Kilo-Moto, for how long have you been working
20 for that company?

21 A. I have been working at Kilo-Moto for 28 years.

22 Q. And I anticipate that some of your evidence will relate to your
23 living in a place called Dele, but before I come to that I want to ask
24 you this -- well, let me ask you this: When did you first come to live
25 in Dele?

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1 A. I arrived in Dele in 1989 in the month of December -- in 1999,
2 excuse me.

3 Q. And what caused you to come to live in Dele?

4 A. I fled the fighting, the combat, that was taking place in Bambu.

5 Q. And you still were working and remained working for Kilo-Moto; is
6 that right?

7 A. Yes, that's true.

8 Q. And when you came to Dele, did you come alone or did you have
9 family in Dele?

10 A. I arrived in Dele with my entire family.

11 Q. And where did you live in Dele?

12 A. I lived in the Dele farm compound which belongs to the Kilo-Moto
13 company.

14 Q. Do you know someone called Bachweki Mbakama?

15 A. Yes, I know Bachweki Mbakama.

16 Q. Now, we understand that he too was living at the place called
17 Dele farm. Can I ask you this: How far from his house --

18 A. (No interpretation)

19 THE INTERPRETER: There was some interference and the Swahili
20 booth was not able to interpret.

21 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, you have
22 to be very careful, and you have to, please, let five seconds go by after
23 the end of the question before you speak it. If you speak too soon, then
24 we won't be able to interpret. But you have been speaking very slowly
25 and we would like to thank you for that.

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1 Would you please just repeat what you just said, Mr. Hooper. You
2 said:

3 "Do you know someone named Bachweki Mbakama?"

4 You said:

5 "Yes, I know someone named Bachweki Mbakama."

6 And then Mr. Hooper said:

7 "We understand that he also lived on the Dele farm. How far was
8 his house from yours?"

9 And when you started to answer, there was interference and the
10 interpreters were not able to do their job. If you could please repeat
11 your answer to that question, sir. Thank you very much.

12 THE WITNESS: (Interpretation) There were about 20 metres
13 between our two houses.

14 MR. HOOPER:

15 Q. Do you still live in the same house as the one that was 20 metres
16 from Mr. Mbakama's house?

17 A. The house was destroyed when I moved and I now live in Kindia.

18 Q. And is Kindia in Bunia itself?

19 A. Yes. Kindia is one of the neighbourhoods of the city of Bunia.

20 Q. Now, perhaps I can put some direct questions to you. Is it right
21 that you're married to Odaro Ombili Nehema? And just before you reply to
22 that let me just spell that, that's O-d-a-r-o O-m-b-i-l-i N-e-h-e-m-a, is
23 that the name of your wife?

24 A. Yes, that is my wife's name.

25 Q. And can you help us, what is her ethnicity?

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1 A. My wife belongs to the Lubwara ethnic group.

2 Q. And let me just spell for the transcript my understanding of that
3 spelling, that's L-u-b-w-a-r-a.

4 And where does she come from?

5 A. She comes from Lubwara which is her home.

6 Q. And where is Lubwara, where is it near to help us in our
7 geography?

8 A. The Lubwara locality is located in the Aru zone and that is just
9 next to the Mahagi territory.

10 Q. In fact, we've seen Aru before in this case in another context
11 and we know that it's there in the north of Ituri. So thank you for
12 that. Now, do you have children; and if so, how many children?

13 A. I had six children.

14 Q. And are all those children alive today?

15 A. Yes, they are all alive.

16 Q. Did you have a child who is no longer alive?

17 A. Yes. One of my children passed away, but I have six who are
18 still alive.

19 Q. Sorry just to touch on this again, but was your -- the child that
20 died, was that your first-born child or not?

21 A. Yes, it was my first-born child.

22 Q. And was it a boy or a girl and how old was the child when you
23 lost it?

24 A. He died at the age of one and a half years.

25 Q. Now, I'm going to need to go into private session initially I

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1 hope just for four or five minutes. But given the nature of your
2 evidence, we may have to go back into private session from time to time.
3 By "private session," Mr. Witness, I mean that people outside this room
4 essentially won't hear what we're saying. So we go into private session
5 if it's a private matter, which I anticipate this evidence is going to
6 be.

7 MR. HOOPER: So can we go into private session, please.

8 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer, we
9 are going to move into private session for the time being.

10 (Private session at 10.24 a.m.)

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17 (Expunged)

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Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Private Session)

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16 (Expunged)

17 (Open session at 10.33 a.m.)

18 COURT OFFICER: (Interpretation) Your Honour, we are in open
19 session.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

21 Mr. Hooper, you may continue.

22 MR. HOOPER:

23 Q. Now, do you remember on the 20th and 21st of November last year
24 having an interview with the Prosecution of the International Criminal
25 Court? Do you remember having that interview?

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Open Session)
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1 A. Yes, the interview took place in Bunia. At Bunia had a
2 discussion with two persons, two white people, a man and a woman. There
3 was also an interpreter present. One of them was an interpreter.

4 Q. Yes, I think that would be correct. And I can see because I've
5 got the official document in front of me, just for the record, that on
6 the 20th of November you interviewed from roughly half past 9.00 in the
7 morning until half past 4.00 in the afternoon. And then the next day,
8 the 21st of November, you interviewed from 1.00 to 5.00 in the afternoon.
9 And a number of matters were discussed and I have a statement relating to
10 that of 84 paragraphs.

11 Now, in terms of your children, I want to turn to your second
12 child, that's your second child living, and is that child's name Ugen, if
13 I'm pronouncing it correctly, U-g-e-n?

14 A. His name is Ugeni.

15 Q. Ugeni. All right. Thank you very much. And how long after
16 the -- all right, let's just go through the names. What's the name of
17 your third child?

18 A. The name of my third child is Wasua.

19 Q. And that's W-a-s-u-a. And your fourth child?

20 A. Usaya.

21 Q. And I have that spelled as U-s-a-y-a. Does Usaya have another
22 name, a further name?

23 A. Sifa.

24 Q. Sifa, that's S-i-f-a. And your fifth child?

25 A. Angeyano.

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1 Q. And if I can spell that, A-n-g-e-y-a-n-o. And does Angeyano have
2 another name?

3 A. Mapenzi.

4 Q. And your sixth and final child, what's the name?

5 A. Maractho.

6 Q. And that's, if I may spell it, that's M-a-r-a-c-t-h-o. And does
7 Maractho have a further name?

8 A. Olama.

9 Q. Any other name?

10 A. His other name is Olama.

11 Q. All right. Now, in relation to Wasua, Angeyano, and Maractho,
12 are those boys or girls?

13 A. They are girls.

14 Q. And Wasua and Ugeni, are those boys or girls?

15 A. Boys.

16 Q. Now the name Obia appears in your name of course. What about the
17 six children, do they also have the name Obia as part of their name?

18 A. Obia is a family name. That is the name of their grandfather.

19 Q. And so as a family name do all those six children have the family
20 name of Obia?

21 A. Three children, namely, the three boys bear the name Obia.

22 Q. All right. Thank you.

23 MR. HOOPER: Now, if we can go into private session again. I
24 apologise. I -- it's sometimes difficult to collect all the questions
25 like this in one batch. I need to go into private session for a moment.

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Private Session)

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Questioned by Mr. Hooper

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

2 (Private session at 10.42 a.m.)

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25 (Open session at 10.45 a.m.)

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Open Session)
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1 COURT OFFICER: (Interpretation) Your Honour, we are in open
2 session.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

4 Mr. Hooper, carry on.

5 MR. HOOPER:

6 Q. Now, I want to ask you about someone called Sam who we know that
7 you know. Was Sam ever during the troubles, the war, was he ever in a
8 militia? Was he ever a member of a militia group to your knowledge?

9 A. Sam has never been a member of any militia at all.

10 Q. To your knowledge did ever -- did Sam ever say to you or members
11 of the family that he'd participated in the battles of Bogoro, Mandro, or
12 Kisenyi? Did he ever in any conversation with you or members of the
13 family to your knowledge ever claim that he had fought in the battles
14 there, Bogoro, Mandro, or Kisenyi?

15 A. Never. You know, I was living with (Expunged) on a daily basis and
16 he never told me anything like that.

17 Q. Can you remember when was the last time that you saw (Expunged)?

18 A. I was living with Sam during all the events we are discussing
19 here. We were separated after the war. When we returned to our village
20 of Dele, security had been restored but Sam went away without informing
21 me. I was at work. You know, I used to go to work every day and I would
22 return in the evening, and on my return I did not see him, I did not find
23 him.

24 Q. Do you know when that was when you last saw him?

25 A. I saw him recently, but I no longer remember the precise date.

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1 Q. When you say "recently," was that a few weeks or --

2 A. Yes, I said "recently," that is, after the war and security had
3 returned to the area.

4 Q. All right. So we'll come back to that in a moment.

5 MR. HOOPER: I notice the time, your Honour, and I was just
6 wondering whether it would be possible to rise just a little earlier,
7 perhaps sit earlier. I'm going to move on to another area when I come
8 back -- when we come back and documents.

9 PRESIDING JUDGE COTTE: (Interpretation) Well, if Mr. Hooper, if
10 that seems appropriate to you we are going to rise now.

11 Mr. Witness, we are going to take a 30-minute break and we'll
12 return here at 11.20. During the 30 minutes we expect you to take a
13 short rest and at 11.20 we will reconvene.

14 And, Court Officer, if we can do everything possible to rise at
15 1.30 that would be proper.

16 Court Usher, could you lead Mr. Obia out of the courtroom.

17 We will meet again in 30 minutes, Mr. Obia.

18 (The witness stands down)

19 PRESIDING JUDGE COTTE: (Interpretation) We stand adjourned and
20 we'll meet again at 11.20.

21 Recess taken at 10.51 a.m.

22 On resuming at 11.26 a.m.

23 (Open session)

24 COURT USHER: All rise.

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

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Open Session)
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1 We will resume where we left off.

2 Court Officer and Court Usher, bring Mr. Obia back into the
3 courtroom, please.

4 (Trial Chamber and Legal Officer confer)

5 PRESIDING JUDGE COTTE: (Interpretation) Apparently the VWU must
6 have thought that we were going to resume at 11.30, as it is our normal
7 practice.

8 (The witness takes the stand)

9 PRESIDING JUDGE COTTE: (Interpretation) Good morning once
10 again, Mr. Witness. We will continue with your testimony. Can you hear
11 me well?

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

13 PRESIDING JUDGE COTTE: (Interpretation) Please proceed with
14 your examination, Mr. Hooper.

15 MR. HOOPER: I'm going to seek to stay in public session, which
16 means I'll defer particular issues to towards the end.

17 Q. Mr. Witness, I'm -- Mr. Obia, I want to ask you a little about
18 what happened during the conflict that came to your area. And in order
19 to do that let's start with a particular event that everyone here in this
20 courtroom has heard about and which we can place in time, and that is the
21 fall of Lopondo, when he got chased out of Bunia. We know that to be in
22 early August of 2002. Now, can you remember where you were, where you
23 were living in early August 2002 when Lopondo got chased out of Bunia?

24 A. I was in Dele.

25 Q. Did there come a time when you left Dele because of the troubles;

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Open Session)
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1 and if so, can you tell us approximately when that was?

2 A. I left Dele towards the end when everybody had been driven out of
3 Bunia and everyone had fled Bunia.

4 Q. Do you know at that time whether the Ugandans had left Bunia or
5 were they still in Bunia when you fled?

6 A. When the Ugandans left Dele, we were in Dele, somewhere in the
7 vicinity of Dele.

8 Q. And when you fled Dele, where did you go?

9 A. When we left Dele, we went to Medhu; and from Medhu we ended up
10 in Aveba.

11 Q. And when you say "we," does that include your wife and your
12 children; and if so, how many of your children?

13 MR. GARCIA: (Interpretation) Your Honour, I would like to
14 object to these questions. The questions have to be neutral,
15 particularly the question about those accompanying the witness and what
16 happened after that. There are leading questions and we want everything
17 to be fair, but with regard to these type of questions they have to be
18 neutral.

19 PRESIDING JUDGE COTTE: (Interpretation) The question was
20 moderately leading, but we can put it this way.

21 Mr. Witness, who did you travel with? Please give your answer to
22 Mr. Hooper's questions and then he will continue with his direct
23 examination.

24 THE WITNESS: (Interpretation) I was with my wife and my six
25 children.

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Open Session)
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1 PRESIDING JUDGE COTTE: (Interpretation) Please continue,
2 Mr. Hooper.

3 MR. HOOPER: Yes. Thank you.

4 Q. And at the time you fled to Aveba, can you recall again an event
5 that we know of in this courtroom, was that before or after the time when
6 the UPC had been itself chased out of Bunia, when the Lendus, Ngitis, and
7 the Ugandans were in Bunia? When you fled, was that before or after the
8 UPC had themselves been chased out of Bunia?

9 A. I left when everyone was being driven away from Bunia. That is
10 when the UPC drove everyone out of Bunia.

11 Q. And when you say "everyone," does "everyone" in terms of
12 ethnicity, does that include Lendu, Ngiti, or what was the position in
13 terms of everyone? What ethnic groups fled Bunia at that time do you
14 know?

15 A. I'm referring to the Ngitis and the Lendus who were in Bunia
16 town. We were on that side and we left, everyone left with them.

17 Q. And again, when you say "everyone left" with the Lendu, Ngitis,
18 who is "everyone"? What are other ethnic groups fled Bunia at that time,
19 so far as you can recall?

20 A. All the ethnic groups which were in the area controlled by them,
21 all the ethnic groups left this area when they left.

22 Q. All right. Thank you. Now, you've mentioned that near neighbour
23 of yours Bachweki Mbakama. Do you know where he was at the time that you
24 fled Dele? Where was he, do you know?

25 A. He had left earlier and sought refuge on Zumbe hill. His family

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Open Session)
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1 had already gone to Aveba, and when I arrived there his family welcomed
2 me.

3 Q. Now, when you arrived in Aveba with the family, where did you
4 stay?

5 A. When I arrived I was taken in by Bachweki's family. His son
6 found a house for me where we were lodged, not far away from where they
7 were living.

8 Q. And how long did you remain in Aveba?

9 A. I stayed in Aveba for about three months.

10 Q. Now, I want to ask you about Sam again. When you got to Aveba,
11 was Sam with you or not?

12 A. He was still with me.

13 Q. Can you recall how old Sam was at that time?

14 A. At that time he was about 16 years old.

15 Q. Can you recall if at that time he was attending a school or not?

16 A. At that time he was attending school, but because of the war we
17 were forced to flee and so he no longer went to school.

18 Q. While you were in Aveba, was Sam ever part of a militia group?

19 A. No. He never joined any militia group.

20 MR. HOOPER: Now, I want to go into closed session just for a
21 moment to establish a pseudonym.

22 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, let us
23 briefly go into private session.

24 (Private session at 11.44 a.m.)

25 (Expunged)

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13 (Open session at 11.57 a.m.)

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

15 Honour.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

17 Mr. Hooper.

18 MR. HOOPER:

19 Q. So let me deal first of all with someone called Martin. When you
20 got to Aveba, did you at any time see Martin at Aveba or not?

21 A. Martin was there with all the other members of his family.

22 Q. To your knowledge, was Martin ever a member of any militia?

23 A. He was there with everyone else. He was there interacting with
24 everyone else. All of us were there at the same place.

25 Q. Indeed. But do you know whether Martin was ever himself in the

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1 militia?

2 A. No, I cannot know that.

3 Q. Now, can I ask you about someone called (Expunged). Can you describe
4 (Expunged) to us -- well, let me ask you this: How old -- are we in --

5 PRESIDING JUDGE COTTE: (Interpretation) It seems to me that you
6 were referring to Paul.

7 MR. HOOPER: Yes --

8 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, Mr. Hooper
9 was actually talking about Paul and you know who we are actually
10 referring to.

11 So please repeat your question, Mr. Hooper, so that the witness
12 should understand you.

13 MR. HOOPER: Indeed. I'm sorry for that confusion.

14 Q. I want to talk about someone called Paul. How old was Paul at
15 that time? The time that you first came to know him, how old was he
16 approximately?

17 A. I can't tell you how old Paul was?

18 Q. Well, let me put it this way: Was he in his 20s or in his 50s or
19 can you give us a very approximate idea of whether he's a young man,
20 middle-aged, or an old man. Can you just give us a very basic indication
21 like that if you're capable of that. Thank you.

22 A. He's a very old person. He must be close to 65 years old.

23 Q. All right. Thank you. Now, I want to ask you about in general
24 the circumstances in which you came to know of Paul and what, if any,
25 relevance that has to Sam. So when did you first come to know or have

Witness: Witness DRC-D02-P-0146/DRC-D03-P-0340 (Open Session)
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1 your attention brought to Paul?

2 A. I know Paul because he is a teacher in the locality in our area.

3 With regards to the children, I would say that there is no relation

4 between the two.

5 Q. Yes, I understand. And what happened in respect of -- of Paul in

6 relation -- what were the circumstances in which your -- in which Sam

7 came to leave Dele? And what, if any, role did Paul play in that? Can

8 you help us?

9 THE INTERPRETER: The Swahili booth was not able to get the
10 question in French.

11 PRESIDING JUDGE COTTE: (Interpretation) Your question was not
12 interpreted by the Swahili booth. Can we go over it again.

13 MR. HOOPER:

14 Q. Can you tell us the circumstances that led to Sam leaving Dele
15 and to any part that Paul played in that?

16 A. I'm very interested in the questions relating Paul. I don't know
17 anything about him, you know. Paul was somebody who would go here and
18 there to try enrol the children into a white man's programme. I don't
19 know how he was able to get them into the programme that I'm talking to.
20 I don't know how the whole thing worked. I myself was surprised to see
21 that the children were enrolled in this programme. Paul worked in a
22 certain framework and we as parents were not fully aware of what he was
23 doing. We were housed in the compound of the company for which we
24 worked. And we heard that children were being sought in order to enrol
25 them in a programme so that they could study somewhere. But we didn't

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1 know anything about that. We didn't know anything about the subjects, we
2 didn't know anything about the militia, and even until today we don't
3 know anything about that question.

4 Q. Did you ever see Paul with either Sam or Martin?

5 A. Yes. I saw them one day, it was about 7.00 in the morning. At
6 that time I was going to work and I saw them speaking, I saw him speaking
7 to the children. I thought that the conversation had to do with the
8 daily work that the children did in the fields, but I don't really know
9 what they were talking about.

10 Q. And what happened to Sam? What caused him -- what were the
11 circumstances whereby he came to leave Dele?

12 A. I went to work and I left Sam at the house. When I returned to
13 the house, he was not there. I started to look for him. Two or three
14 days later I was told that Sam had gotten on a -- had gotten into a car
15 which belonged to white people which was green in colour. I asked where
16 he went and I was not given any answer. I was told that he left for an
17 unknown destination.

18 Q. And what happened after that as far as you know?

19 A. After that, a while later, Paul came to me and said that the
20 children went somewhere in order to study, and I asked him when the
21 children would return.

22 Q. And did you learn when the children would return?

23 A. I asked him when these children would return after their studies.
24 I was the one who asked him that question.

25 Q. And what, if anything, did he say?

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1 A. He did not answer, he did not tell me when the children would
2 return. He simply said that when they returned they would be people who
3 would have a certain value, who would be able to be of help.

4 Q. Have you seen Sam since then?

5 A. No, I have not seen him since.

6 Q. When you speak of children in the plural, we know that you refer
7 to Sam. Do you refer to anybody else when you say "children"? Who, if
8 any, is the other person or persons?

9 A. No, please excuse me. I'm referring to Sam, and I said that
10 since then I have not seen him again.

11 Q. All right. Now, let me ask you about Martin. Do you know what
12 happened to Martin?

13 A. With regards to Martin, I don't have any information. I don't
14 know when he left. I think that his parents can probably answer that
15 question.

16 Q. All right. Thank you. Now, did you know that Sam -- that the
17 programme that you mentioned that Sam was to join, did you know, were you
18 told that that was to do with the -- with this Court, the International
19 Criminal Court?

20 A. No, I did not know. I didn't know anything about that.

21 Q. When did you first meet anyone from the Prosecution of the
22 International Criminal Court?

23 A. I can't provide you with the precise date, but it was a Saturday
24 and I spoke with them also on a Sunday.

25 Q. Now, we're in 2011 of course at the moment, last year was 2010.

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1 Were you in contact with the International Criminal Court before last
2 year, before 2010?

3 A. No, no. The first time I saw the -- a white person, it goes back
4 to the date that I provided you with earlier.

5 Q. Now, have you ever had a telephone conversation with anyone from
6 the International Criminal Court? And by that I mean a telephone
7 conversation dealing with Sam, concerning Sam?

8 A. Yes. There was a man who would call me on the telephone and he
9 would talk to me about Sam. He would provide me with information about
10 Sam, but he never spoke to me about the International Criminal Court.
11 When he spoke I didn't understand him. And when he -- I mean, when I
12 realised I didn't understand, I hung up.

13 Q. Do you know who that person was? Can you remember his name at
14 all?

15 A. No. The interpreter who had the phone is not someone that I
16 know. There was a small person who used a Jaguar to get around.

17 Q. And when you speak of an interpreter, was that interpreter with
18 you when the call was made or was the interpreter at the other end of the
19 line with the person who was trying to speak to you?

20 A. No. The interpreter was the person who came to me -- the
21 interpreter came to me in the village.

22 Q. And how did that person introduce themselves to you? Did he say,
23 "I'm the interpreter"? Or what did he say and where did he say he was
24 from?

25 A. The man told me that he was looking for witnesses and that he

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1 worked at the International Criminal Court. That is what he told me.

2 Q. All right. Can you describe that person, if you can remember?

3 A. He was a big man, a stocky person but he was short. He came to
4 me and he was the person who put me in contact with the two white people
5 who came.

6 Q. Now, that telephone conversation that you had, were you
7 speaking -- were you yourself speaking Swahili or another language?

8 A. The white man spoke English. The interpreter would interpret
9 into Swahili.

10 Q. And again, can you just remind us what the conversation was
11 about, what was said as far as you can remember?

12 A. The conversation had to do with Sam. I asked him when Sam was
13 going to return. I even asked him if it was possible for him to return
14 on vacation, and he said, "No," that that was not possible. I said that
15 we needed (Expunged).

16 Q. Did that person you were speaking to or the interpreter, did
17 either one of them tell you that they were working for the International
18 Criminal Court?

19 A. They both told me that they worked at the International Criminal
20 Court. At first they wanted to find us because they didn't know if we
21 lived there. My son gave them the address and they came to find us. And
22 they found us in our work-place.

23 Q. At that time when they came to look for you and found you at your
24 work-place, was Sam still living in Dele?

25 A. No. They came afterwards. They came after they had received

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1 information about us.

2 Q. Did you ever have a telephone conversation with a woman
3 representing the International Criminal Court; that is, a telephone
4 conversation at that time or around that time that concerns Sam?

5 A. No, I have forgotten.

6 Q. Now, I'm going to ask you something, but first of all I want to
7 know if you understand a word that I'm going to use, and that's this: If
8 someone's relocated, relocated, do you understand what that word is, what
9 it means and is there a Swahili word for that?

10 A. Yes, that means that someone has been relocated.

11 THE INTERPRETER: The same word was used in the Swahili booth to
12 interpret into Swahili to refer to the word "relocation." The French
13 word was used of course.

14 MR. HOOPER: Yes. Can I, with His Honour's leave, ask the
15 Swahili booth if there's a word for "relocated" in Swahili, if there's a
16 word or phrase that is used as synonymous with that word in English
17 "relocated."

18 PRESIDING JUDGE COTTE: (Interpretation) The question that
19 Mr. Hooper just asked -- ah, Mr. Prosecutor, what's the matter?

20 MR. MACDONALD: (Interpretation) This is something which I think
21 falls within the area of expertise.

22 PRESIDING JUDGE COTTE: (Interpretation) No, not necessarily. I
23 don't think so. We're just trying to make sure that the interpretation
24 is correct. An important word, but I think this is just a contribution
25 that is asked of the interpreters, nothing more.

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1 MR. MACDONALD: (Interpretation) The witness answered the
2 question. He said that he clearly understood what the word "relocation"
3 meant, and I would like to draw the Bench's attention to the fact that
4 Swahili as spoken in the Ituri region often uses French words when there
5 are no Swahili words. That's widely known. And the Swahili spoken in
6 Tanzania or Kenya uses English words. But I think that the answer was
7 already provided by the witness, so I don't see why we need to deal with
8 this issue. I submit to you that we are dealing with interpretation
9 issues, and I suggest that this issue falls within the area of expertise.

10 PRESIDING JUDGE COTTE: (Interpretation) I just learned that the
11 Swahili booth had a small difficulty. So what we're going to do is to
12 provide the Swahili booth with two minutes so that they can deal with
13 their problems. And in the meantime the Court Officer is going to
14 provide the witness with a glass of water since he's been speaking for
15 about an hour. And while we're waiting for the answer, we will stay here
16 in our seats and the Swahili booth will provide us with an answer to the
17 question that Mr. Hooper asked. And then Mr. Hooper will be able to
18 continue with his questioning.

19 So we are going to suspend the hearing without leaving, we'll
20 suspend for two or three minutes.

21 Madam Court Officer, perhaps we could provide the witness with
22 some water because it doesn't seem that he dares to drink some water and
23 I'm sure that he's very thirsty.

24 MR. HOOPER: Can I take advantage of this break just to pop out
25 for a moment. I'll be straight back.

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1 PRESIDING JUDGE COTTE: (Interpretation) Please do so. You can
2 even have a little longer than a few seconds.

3 (Trial Chamber and Legal Officer confer)

4 PRESIDING JUDGE COTTE: (Interpretation) So we are going to get
5 back to work. The Swahili booth wanted him to ask his question again,
6 wanted Mr. Hooper to ask his question again, if he would please be so
7 kind as to repeat it.

8 THE INTERPRETER: From the Swahili booth: Your Honour, if
9 possible Mr. Hooper should kindly repeat the question.

10 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, please
11 rephrase your question and the Swahili booth will tell you whether there
12 is even a more appropriate word and that should enlighten us all.

13 MR. HOOPER: Yes. It's an inquiry by me of the booth to assist,
14 if possible, and the question is this: We use the word "relocated." We
15 understand that's the word that's also being employed in Swahili. My
16 question is this: Is there a Swahili word or phrase that can be used
17 that is synonymous with that word "relocated"?

18 THE INTERPRETER: From the Swahili booth: Your Honour, Swahili
19 is a Bantu language. There is a system of agglutination. There is a
20 prefix and a suffix. The verb "*kuhama*" means to move, but there is
21 "*kuhamishwa*" which is relocation and there is a suffix there that means
22 "to have someone moved." That is the explanation we can give.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you to the
24 Swahili booth and their contribution is useful.

25 Is that really the problem? Are you ...

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1 (Trial Chamber confers)

2 PRESIDING JUDGE COTTE: (Interpretation) Or rather, Mr. Hooper,
3 did you receive the French translation of the answer given by the Swahili
4 booth? Maybe I intervened before the English translation was completed.
5 Were you able to hear the entire English translation?

6 MR. HOOPER: I was and I'm very grateful to the booth for that
7 assistance. I'm instructed by Mr. Katanga, who of course follows much of
8 this in Swahili, from time to time he listens in to the Swahili, that
9 until today I think the word has not "*kuhama*" or "*kuhamishwa*" has not
10 been used. The word that's been used is the French or the English word
11 "relocated." And I'll stand corrected if that's not the case.

12 Q. But can I come to you, Mr. Witness --

13 PRESIDING JUDGE COTTE: (Interpretation) Just one moment. After
14 listening to the semantic contribution from the Swahili booth, I was
15 looking at Professor Fofé who understands this language and from time to
16 time assists us to ensure that the right words are used and that the
17 interpretation is correct. I do not think he intervenes to contradict
18 the booth and the interpreters are helping us. But he simply makes
19 contributions. You have the floor, Professor Fofé.

20 MR. FOFÉ: (Interpretation) Thank you, your Honour. I simply
21 wanted to underscore the fact that when Mr. Hooper asked the question
22 directly to the witness, Mr. Obia, he himself in answer to the question
23 used the Swahili word "*kuhamishwa*," so he used the same word as the one
24 proposed by the interpreter. That said, I believe it would be better not
25 to complicate the situation of the witness. Since he himself used that

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1 same word, I believe it would be better to retain that as the translation
2 into Swahili of the term "relocation" or "*réinstallation*" in French.
3 That was my small contribution.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you for that and
5 we have concluded this little point.

6 Mr. Hooper, please proceed.

7 MR. HOOPER: Thank you.

8 Q. Do you recall having a conversation with a woman perhaps through
9 the -- with the use of an interpreter in which *your -- in which Sam's
10 relocation was discussed?

11 A. My interpreter did not mention the relocation of the child to me.

12 Q. Did you ever authorise Sam to be relocated?

13 A. No, I did not authorise the relocation of Sam. I was
14 misunderstood. The person who was interviewing me was speaking in
15 English and the interpreter was interpreting into Swahili, and there was
16 a problem of understanding between the three of us.

17 Q. All right. Now, I want to now, if I may, to turn to some
18 documents, and the first document I'm going to, I think, turn to is an
19 extract of birth EVD-D02-00042.

20 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, I
21 believe you have to have the blinds pulled down or the screens pulled
22 down behind the witness because this is a confidential document that
23 should not be seen by the public.

24 COURT OFFICER: (Interpretation) You can view this document by
25 pressing PC 1.

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1 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper -- to begin
2 with, can everyone see the documents on the screens, Mr. Ngudjolo,
3 Mr. Katanga? Very well.

4 Mr. Hooper.

5 MR. HOOPER: All right. And there's a hard copy here as well
6 which is only marked by having an EVD number written on it.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Court Usher.
8 The witness can have the hard copy to look at.

9 MR. HOOPER:

10 Q. Now, Mr. Witness, before I ask you to look at that document
11 properly, I want to ask you this: Do you remember which year you got
12 married, assuming your relationship is a formal marriage? Can you
13 remember which year you were married?

14 A. I got married between 1982 and 1983.

15 Q. Now, you mentioned at the outset of your evidence when I was
16 asking you about the dates of birth of your children, you may recall you
17 told us that you can't remember the dates of birth and that you would
18 need or like to have your documents with you. Now, let me ask you this:
19 What documents do you have -- first of all, let me ask you this: What
20 documents do you have these days that you have kept?

21 A. These are documents that were kept in the administrative services
22 of the company for which I worked. These documents were scattered all
23 around and the idea was to go and look for them in the Kilo-Moto company
24 where I worked.

25 Q. All right. Now, the document in front of you, have you seen it

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1 before?

2 A. This is a document that was issued to me by the competent
3 authorities and I handed over that document to the Kilo-Moto company for
4 them to keep.

5 Q. All right. So let's look at this document now in some detail,
6 and I think I can do it without needing to go into private session. We
7 see the document is headed "Mouvement Populaire de la Revolution" and
8 there's an address at the top relating to the republic, and "*s/region du*
9 *haut-uele, zone de watsa, bureau d'etat-civil, cite de watsa,*" and then
10 there is handwritten on the right at the top a letter "71.119." Do you
11 know what that number is?

12 A. This is my service number in the company in which I work.

13 Q. Now, if we go now towards the bottom of that document, we can see
14 that there are some stamps. The one relates to the Republic du Zaire, as
15 it was once called; and the lower stamp we can read has "*Office des Mines*
16 *d'or de Kilo-Moto*" and comes from the personnel department with a
17 handwritten certification that it conforms with the -- and then, sorry,
18 the certification that the document conforms with the original with the
19 signature, under which in handwriting appears "Chef d. div. rex
20 Kilo-Moto." And just above that we have the signature of a man whose
21 name is Mizu, et cetera, and the document which is an extract, a
22 certified extract at Watsa -- done at Watsa is itself dated 26th of June,
23 1987.

24 If we turn to the text at the top we have "*extrait d'acte de*
25 *naissance,*" the words 1980, and then it's left blank, there's no further

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1 number, but we can see that the document itself was brought into
2 existence in 1987, as we've just seen. And then we've got "*seizieme jour*
3 *de mois de Juin*," 16th of June; born at Watsa; from citizen Akurotho
4 Obia, which is yourself, of course; profession, electrician, Kilo-Moto;
5 age 29; with his principal residence at Aluru-Djuganda; and his temporary
6 residence at Avenue Bateku, number 78. And of -- and then your wife's
7 name Odharu; without a profession; aged 22; having her residence
8 principal at, and then there's LHU; and her temporary residence at the
9 same address as we saw referring to you. And then we have the words a
10 child, masculine child, who has been given the name and the post name and
11 we see the name there.

12 MR. HOOPER: And can we go into I suppose private session just to
13 utter those words for the benefit of the transcript.

14 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please
15 take us briefly into private session.

16 (Private session at 12.52 p.m.)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Open session at 12.52 p.m.)

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

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

5 Mr. Hooper.

6 MR. HOOPER:

7 Q. And then the rest of the document relates to the statement having
8 been -- declaration having been registered at the Bureau de l'Etat-Civil
9 at Watsa, and its reference is 164/87, volume number 3/87, folio number
10 1641 -- no, I'm not sure what that is actually, 164/87, so all the
11 references there are to 87.

12 Now, I want next to look at another confidential document and
13 this is EVD-D02-00043, and you can retain the document you have for a
14 moment. So just keep that to one side. I'll let you have, I hope, a
15 copy -- a hard copy of this document which we all have in any event on
16 the screen.

17 COURT OFFICER: (Interpretation) Press PC 1 to view the
18 document.

19 MR. HOOPER:

20 Q. Again, this is from the Kilo-Moto Service Medical, a certificate
21 of birth number 55. It has the name of the baby which we can see - I
22 won't utter it - consistent with the name on the document we just saw.
23 And we have masculine, your name, your wife's name, the tribe, Alur, and
24 the weight of the baby, 3.6 kilogrammes, it would appear that weight
25 being on the 2nd of July, 1987. Beneath that date of birth, and we can

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1 see what we see. I suggest it reads 16/06/1987, 7 is over-marked. Place
2 of birth I can't quite read. The date of the document is the 22nd of
3 June, 1987, and there's a signature of someone on the document. Again,
4 in relation to this document have you seen that before?

5 A. This is a document that relates to one of my children. It is a
6 document that belongs to me.

7 Q. Now, there's a further document in this sort of grouping of
8 documents which was in fact found I think by not the Defence but by the
9 Prosecution who have produced these document in the same form. Just so
10 that we're clear about that can we have DRC-OTP-10 -- sorry -- yes. Let
11 me start again.

12 (Defence counsel confer)

13 MR. HOOPER: Yes, I think I'm mistaken. There's note a third
14 document in this batch, but there's other documents to come. But these
15 two documents we needn't mention the child's name. We're still in public
16 session. You can see the name that's appeared and has been mentioned
17 just a moment ago in private session.

18 Q. Do these documents assist you as to the age of your eldest son?

19 A. I recognise that document.

20 Q. All right. Well, let me cut to it. The date of birth on these
21 documents it's suggested is 16th of June of 1987. Does that fit in with
22 your own recollection of the birth of your son, your eldest son? Is that
23 his date of birth, in other words?

24 A. Yes. Now I remember. This is indeed his date of birth.

25 Q. All right. Now, thank you. Now, there's a number of other

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1 documents I'd like to show you which were I think produced -- just one
2 moment.

3 (Defence counsel confer)

4 MR. HOOPER: So the provenance of all these documents is
5 Kilo-Moto but they've come through disclosure by the Prosecution. So
6 perhaps I can in those circumstances go through them quite quickly. The
7 first document is --

8 (Defence counsel confer)

9 MR. HOOPER: Sorry, there's a lot of numbers on this, Ms. Menegon
10 pointing me in the right direction. The reference is DRC-OTP-1060-0030.

11 MR. GARCIA: (Interpretation) I'm not sure if you read the
12 number directly, but I don't see it on my list.

13 PRESIDING JUDGE COTTE: (Interpretation) I'm also looking for
14 the document.

15 MR. HOOPER: Oh, right, it's -- basically it's gone in as a
16 bundle of 11 pages. So the nominating number is DRC-OTP-1060-0028, and
17 that is an annex --

18 PRESIDING JUDGE COTTE: (Interpretation) Yes, yes.

19 MR. HOOPER: (Previous translation continues) ... because it goes
20 annex 3 as we can see and then page 1 of 10 is the first document.
21 Page 1 and 2 we dealt with. And now we're just going to go through in
22 the order that it appears here through to page 10, and I'm looking at
23 page 3 where that particular piece of -- document is photocopied or
24 scanned. And that's -- and if we look at that and I hope I can step
25 through this quite quickly.

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1 (Defence counsel confer)

2 MR. HOOPER: These documents can be public I think. They all
3 relate to various children of the family, and if I can, as it were, lead
4 the witness through the documents we have here -- it's not a very clear
5 copy. But we have again a certificate of birth or a document called
6 certificate of birth with a number and the only matters of relevance for
7 me is the name of the child who's Wasua. And Wasua you told us this
8 morning is the third of your living children. And we can see that the
9 date of birth for Wasua is the 19th of the 10th of 1992 on that document.
10 Is that right?

11 A. That is true.

12 Q. And if we look at the next document at page 4 of the bundle that
13 we have, and I'll get one to you, Mr. Witness -- oh, you've got them. Oh
14 excellent. If you look at page 4 we have an "*extrait d'acte de*
15 *naissance*" for the same child, Wasua Uyuru, and that's the 19th of
16 October, 1992. So those two documents concern Wasua.

17 And if you go to page 5, we have a "*certificat de naissance*" and
18 this one is for Usaya who is the oldest of your three daughters, and we
19 can see there that the date of birth on the document is shown as being
20 the 29th of May, 1995. Turn over to page 6 we have an extract of birth,
21 and again that relates to your eldest daughter Usaya, and you see the
22 date of birth, the 29th of June, 1995.

23 Page 7 we have a different kind of document which relates to your
24 right of family allocation it states in respect of that daughter, Usaya,
25 who we've just dealt with. That's perhaps not so significant a document.

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1 And then at page 8 we have here again a document that attests to your
2 right to family allocation and that's in respect of Angeyano Obia
3 Mapenzi, who is the middle of your three girls, and a date of birth of
4 the 19th of November, 1997.

5 And at page 9 we have an extract of her birth certificate, 19th
6 of November, 1997. And the last document in this bundle at page 10
7 relates to the same daughter, and again with that date of birth indicated
8 on it.

9 So those are the documents, and I don't invite any further
10 comment on your part in respect of. But can I ask you this: We have
11 something for your eldest son there with a birth-date of the 6th of June,
12 1987; and then we have your second son Ugeni, you don't have a document
13 for him. Do you know when Ugeni was born? How much younger is Ugeni
14 than your eldest son? How many years or months, whatever, is there
15 between those -- your first and second boy, can you remember?

16 A. The age difference is of two years between my children. With
17 regards to Ugeni, he was born in 1989.

18 Q. All right. Thank you. Can I deal with -- come back to deal with
19 Sam. Remember we were talking about Sam earlier. Can I ask you this:
20 As I recall, I'll stand corrected and I'm not trying to prompt you, you
21 said this morning -- earlier this morning that when you went to Aveba --
22 well, what happened to Sam when you went to -- when Sam was in Aveba, was
23 he at school? I may have asked that question earlier but I've forgotten
24 the answer, so can you help me again. When you got to Aveba -- or when
25 Sam was in Aveba I should say, was he attending school in Aveba?

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1 A. When we were in Aveba, we were refugees and the children did not
2 attend school. In school they were preparing for their end-of-year exams
3 and the school principal who was also a refugee made it possible for all
4 of the refugee children to be able to take their end-of-year exams. And
5 the child that was to go to school, but he actually refused to do so. He
6 was supposed to finish his sixth year of primary school.

7 Q. Now, do you know how Sam, when he was at school, got on at
8 school? Was he a successful pupil or what? Can you recall?

9 A. He was below average, but after that he improved and he was able
10 to continue his studies.

11 Q. And when he was in six-year primary, can you recall approximately
12 what age he was?

13 A. Between 15 and 16 years I believe.

14 Q. Now, we've heard that it's -- might be generally the case that in
15 DRC students or children start school at 6 and they do six primary years
16 so that they would be coming out when they're 12 or perhaps 13. How --
17 why was it that Sam was in the sixth year of primary school with that
18 age? By that age I mean between 15 and 16. Do you know why he was in
19 sixth year primary and yet was 15 or 16 years of age?

20 A. I didn't really memorise the dates of the events. We fled Dele
21 to go to Aveba. If you look at the child's date of birth, then you will
22 be able to make an estimate also by looking at the date at which we fled
23 to Aveba. But all of those dates escape me to a certain degree.

24 Q. All right. Those are all my questions, so thank you for that
25 assistance. There will be some other questions coming to you, I don't

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1 know whether today, but thank you for your assistance today, Mr. Witness.

2 MR. HOOPER: And before I sit down I'm reminded that we need some
3 EVD numbers. The first two documents that we saw which are also part of
4 that bundle have got EVD numbers, and those -- the first two documents
5 are also in the bundle. There's no harm and no duplication there. And
6 can I ask for that bundle which is -- has at the top of it written annex
7 3, page 1 of 10, can those ten pages be given one EVD number if that's
8 appropriate.

9 (Defence counsel confer)

10 MR. HOOPER: And I'm told the reference number for you is
11 DRC-OTP-1060-0028.

12 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
13 have you located the document in question which just was enumerated by
14 Mr. Hooper, the different pages and the different numbers -- the
15 different numbers of the pages which make up that bundle?
16 DRC-OTP-1060-00028.

17 COURT OFFICER: (Previous translation continues) ... pages
18 DRC-OTP-1060-0028 and 0029 have already been registered under
19 EVD-D02-00042, so I will assign a number for the bundle of eight
20 remaining pages. So the extract of this document going from page
21 DRC-OTP-1060-0030 until DRC-OTP-1060-0037 will be attributed the
22 following number: EVD-D02-00139 and will be registered as public.

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

25 We are going to adjourn because, Mr. Fofé, I don't think it would

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1 be very useful for you to start now.

2 Mr. Witness, we are going to release you now. We will see you on
3 Monday at 2.30 p.m. We will have a hearing which is broken down into two
4 two-hour sessions and that will take us up until 7.00 p.m.
5 Mr. Mathieu Ngudjolo's Defence team will be taking the floor at that
6 point. Mr. Kilenda will be back at that time and Professor Fofé will
7 also be participating.

8 We would like to thank you, Mr. Witness.

9 Yes, Mr. Luvengika.

10 MR. LUVENGIKA: (Interpretation) I just wanted to use the few
11 minutes that we have left. This has to do with a filing that was sent
12 last month by the VPRS --

13 PRESIDING JUDGE COTTE: (Interpretation) Yes, please go quickly
14 because we have time constraints.

15 MR. LUVENGIKA: (Interpretation) There were several annexes in
16 that document, and I would like to talk to you about annex 4 which was
17 given to the parties without the picture being redacted. And the
18 Registrar of course sent a new version out to the parties. Our concern
19 is that the parties were not instructed as to what they should do with
20 the annex in question. They should -- if they would please destroy it,
21 whether they have it in electronic form or a hard copy. This is a
22 picture which was sent out erroneously and we would not like that picture
23 to be used by either of the parties. Thank you, your Honour, for
24 allowing me to bring that point up.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

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1 Mr. Luvengika. We will all have to look at the transcript because I was
2 not able to clearly identify the application, or rather, the filing that
3 you are referring to, but we will be able to find out exactly what we're
4 talking about as soon as the transcripts are finished. Before we leave I
5 would like to thank everybody here. I would also like to thank the
6 interpreter teams from Swahili and Lingala who are having some
7 difficulties. I would also like to thank the stenographers who are
8 sure -- have been having a difficult time because they are understaffed.

9 Mr. Usher, we would like you to escort the witness out of the
10 courtroom.

11 Mr. Witness, thank you for your contributions and we will see you
12 on Monday afternoon, sir.

13 (The witness stands down)

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

15 Mr. Prosecutor, I saw you get up, but the Court Officer was
16 telling me that there are no longer any tapes left. We will meet again
17 on Monday at 2.30, and so therefore, ladies and gentlemen, we are
18 adjourned.

19 The hearing ends at 1.26 p.m.

20 RECLASSIFICATION REPORT

21 *Pursuant to Trial Chamber II's email instructions dated 10 July 2012, the excerpt
22 of the transcript page 54 line 9 is reclassified as public, as ordered by the
23 Chamber.

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