

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 Tuesday, 17 May 2011  
10 The hearing starts at 9.09 a.m.  
11 (Open session)  
12 COURT USHER: All rise. The International Criminal Court is now  
13 in session.  
14 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.  
15 Good morning, everyone. Good morning, accused gentlemen.  
16 Mr. Hooper, if I have understood correctly, you're not feeling  
17 very well. You have some back pain.  
18 MR. HOOPER: No, I'm fine.  
19 PRESIDING JUDGE COTTE: (Interpretation) Very well, then. We  
20 can continue with our hearing. We will call in the witness, who is a  
21 joint witness. This is Witness 0147 for one Defence team and  
22 Witness 0236 for the other Defence team.  
23 Court Officer, Court Usher, please have the witness brought into  
24 the courtroom.  
25 (The witness entered court)

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1 WITNESS: WITNESS DRC-D02-P-0147/DRC-D03-P-0236

2 (Witness answered through interpreter)

3 PRESIDING JUDGE COTTE: (Interpretation) Good morning, sir. Can  
4 you hear me?

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

6 PRESIDING JUDGE COTTE: (Interpretation) This Court is happy to  
7 welcome you, and we thank you for having accepted to come here to testify  
8 at the request of the two Defence teams.

9 THE WITNESS: (Interpretation) Very well.

10 PRESIDING JUDGE COTTE: (Interpretation) This means you heard me  
11 correctly.

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

13 PRESIDING JUDGE COTTE: (Interpretation) That is perfect. We  
14 will begin by asking you to give us your identity details and then you'll  
15 make a solemn undertaking to speak the truth, the whole truth, and  
16 nothing but the truth. I will also ask you to speak loudly, as you have  
17 been doing, to speak slowly and directly into the two microphones. I  
18 would also like to ask you to observe a brief five-second pause between  
19 the question and your answer. If you speak slowly and observe that short  
20 pause, that will make it possible for the interpreters and the court  
21 reporters to do their respective jobs properly.

22 THE WITNESS: (Interpretation) Very well.

23 PRESIDING JUDGE COTTE: (Interpretation) That is perfect.

24 Please begin by telling us your name and first name.

25 THE WITNESS: (Interpretation) My name is Bachweki Mbakama

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1 Nathanaël.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Can you  
3 tell us your date and place of birth.

4 THE WITNESS: (Interpretation) I was born in Talolo in 1956.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Do you have  
6 a current occupation? If so, please tell us what it is.

7 THE WITNESS: (Interpretation) I work at Kilo-Moto.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you, sir. As you  
9 must have been told when you arrived The Hague, you must now make the  
10 solemn understanding to speak the truth, the whole truth, and nothing but  
11 the truth. I will read out the short sentence for you, and I will read  
12 it out slowly so that you will fully understand its import.

13 "I solemnly declare that I will speak the truth, the whole truth,  
14 and nothing but the truth."

15 Did you understand me well?

16 THE WITNESS: (Interpretation) Yes.

17 PRESIDING JUDGE COTTE: (Interpretation) Now, that said, do you  
18 pledge to speak the truth, the whole truth, and nothing but the truth?

19 THE WITNESS: (Interpretation) Yes.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Once again,  
21 please listen to me attentively. You have just undertaken to speak the  
22 truth, the whole truth, and nothing but the truth. If in the course of  
23 your testimony or in answer to the questions that will be put to you by  
24 the various parties and participants here present you do not speak the  
25 truth, you may be prosecuted before this court for false testimony, and

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1 if those charges are proven, then you might be convicted.

2 Have you fully understood me?

3 THE WITNESS: (Interpretation) Yes.

4 PRESIDING JUDGE COTTE: (Interpretation) Very well. The Court  
5 duly notes that the provisions of Article 69(1) of the Statute and  
6 Rule 66 paragraphs (1) and (3) of the Rules of Procedure and Evidence  
7 have been complied with. The hearing will be in open session except when  
8 we go into private session to seek possibly identifying information. So  
9 there shall be no special protection measures applicable during this  
10 hearing.

11 I would like to ask you to not change your language, because you  
12 will be testifying in Swahili. So in the middle of your testimony,  
13 please do not change your language.

14 THE WITNESS: (Interpretation) Very well.

15 PRESIDING JUDGE COTTE: (Interpretation) You should not reveal  
16 whatever you say here in the courtroom outside. You have a jar of water,  
17 so do not hesitate to have a drink of water. That will be no problem  
18 with the Court at all if you decide to pour some water and drink. That  
19 is why that jar of water is there.

20 You also have some tissue paper on your table, and if you feel  
21 like it, you can blow your nose, and we have no problem with whatever you  
22 are willing to do in order to feel at ease during your testimony.

23 Do we agree on that, Mr. Witness?

24 THE WITNESS: (Interpretation) Yes. I understand you.

25 PRESIDING JUDGE COTTE: (Interpretation) Very well. Mr. Hooper

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1 is going to be the first one to question you, and he will determine how  
2 you wish to be addressed during your examination.

3 Mr. Hooper, you have the floor.

4 Questioned by Mr. Hooper:

5 Q. Good morning, Mr. Witness.

6 A. Good morning.

7 Q. If you look towards me just for a moment. We've met before. I  
8 met you in -- in Bunia. There I was dressed rather differently than I am  
9 today. So there's one face here that you've seen before. Whether you  
10 remember it or not is another thing. You might also remember  
11 Ms. Buisman, Caroline Buisman, who is sitting behind just here, again  
12 possibly looking perhaps even more elegant than you saw her last time.

13 A. (\* No interpretation)

14 Q. And the -- I'm asking questions on behalf of Germain Katanga. Do  
15 you know -- have you ever met Germain Katanga?

16 A. I do not know Germain Katanga. I only saw him once.

17 Q. All right. I'm going to, nevertheless, ask Germain Katanga, who  
18 sits at the back of the court here, and he's behind all these screens and  
19 people, I'm going to ask him if he'd trouble himself to stand up so that  
20 you can see him. And there he is.

21 A. (\* No interpretation)

22 Q. Okay.

23 MR. HOOPER: All right. Thank you very much, Mr. Katanga.

24 Q. So I'm going to ask you some questions that concern your -- your  
25 life. I think it would be fair to say that you've lived through some

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1     troubled times. Would that be right?

2     A. What are you referring to specifically? Can you give us an  
3     example?

4           THE INTERPRETER: The Swahili booth would like to point out that  
5     the first two replies of the witness were not interpreted but that was  
6     because Mr. Hooper was speaking at the same time.

7           PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, I believe  
8     you have heard that the first two answers of the witness were not  
9     interpreted because you were speaking at the same time. So I do not know  
10    whether you would want the witness to repeat his first answer. You will  
11    be the one to determine. Please proceed.

12          MR. HOOPER: Yes. I can see from my transcript.

13    Q. Sir, I asked you a question, and you were good enough to reply,  
14    but because I then spoke, it wasn't heard properly by the interpreters,  
15    so I'm going to ask it again. Not in the same way. Remember I asked  
16    that -- Germain Katanga to stand up, and you said something when you saw  
17    him. Can you remember what you said? Do you recognise him? Do you  
18    recognise Germain Katanga today or not?

19    A. I did not know Germain Katanga, but when I was in Aveba, I saw  
20    him once and then he later left.

21    Q. All right. Well, thank you very much. Now, you are -- you've  
22    given us a little information about yourself, where you were born,  
23    Talolo. Is Talolo near Nyankunde?

24    A. Yes.

25    Q. And I don't think there's any dispute about matters that I -- in

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1    which case, I'll lead. Are you married to Jeanette Kado, K-a-d-o?

2    A. Yes, that is correct. Her name is Kado.

3    Q. And what is your ethnicity?

4    A. I am Ngiti.

5    Q. Do you have any blood, any family relationship, with  
6    Germain Katanga?

7    A. Germain Katanga can be considered as my brother, because we speak  
8    the same language and that is Ngiti.

9    Q. But do you have any blood ties to him?

10   A. No.

11   Q. Now, I'm going to ask you about your children. How many children  
12   do you have?

13   A. I have seven children.

14   Q. Now, I'm going to ask you, if you can, to give us their names one  
15   by one starting with the eldest. Just one moment.

16       MR. HOOPER: Now, I've noticed my friend get up, and I anticipate  
17   that may be because the Prosecution consider this is something that  
18   should be in private session, and I'm entirely in the hands of the Court  
19   whether the mere naming of seven children is something that should be, in  
20   those circumstances, in private session or in public.

21       Forgive me if I don't sit down. I'll remain standing.

22       MR. GARCIA: (Interpretation) Your Honour, the issue regarding  
23   the procedure to be followed in this type of situation has already been  
24   settled. I think it would be a bit complicated for Mr. Hooper to proceed  
25   in this manner, but the Court has already handed down a ruling regarding

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1 this type of situation, and we have to follow what was decided in the  
2 future.

3 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, it is  
4 still a bit difficult to understand your reasoning, because for  
5 Mr. Hooper it was an issue of going into private session or not, but  
6 apparently for you it is a problem of procedure, and you believe that  
7 Mr. Hooper should ask the question in another way; is that correct?

8 MR. GARCIA: (Interpretation) Yes. Essentially, my concern is  
9 that these names should be mentioned in open session. I believe we have  
10 to go into private session.

11 PRESIDING JUDGE COTTE: (Interpretation) Very well. We can go  
12 into private session.

13 MR. HOOPER: (\* Previous translation continues) ... pause there  
14 and submit that there's no compelling reason to go into private session,  
15 because what we are concerned with, surely, is potential identification  
16 of a certain status of person, and in this case the recital of  
17 seven names, none of them will be highlighted by me. What I propose to  
18 do is have the seven names given and then nominate, as we've been doing,  
19 a pseudonym to one or two of those names, and there are, relatively  
20 speaking, a sufficient group of names here for their mere recital in  
21 public I would have thought surely not to prejudice the interests of  
22 anyone of a particular status.

23 We get these automatic reactions on the part of the Prosecution  
24 in these circumstances, but really, I just -- I ask my learned friend to  
25 consider whether really it's necessary that we go in -- out of public and



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1 into private.

2 MR. GARCIA: (Interpretation) According to what Mr. Hooper's  
3 saying, this is a question which is asked in the open session, but I  
4 don't see any problem with having a private session so that he can ask  
5 his question and we can get the answer in such a way that Mr. Hooper has  
6 just informed the Chamber. I think that if we proceed in open session  
7 that that is rather risky. I think we should go into private session and  
8 deal with the current issue, and I don't see why we need to have a  
9 discussion about this issue each time a witness introduces himself. This  
10 has already been resolved. It's a procedural issue. It has already been  
11 resolved once again, but each time we have a witness introduce himself we  
12 go back over the same argument. We go back over the same discussion.

13 PRESIDING JUDGE COTTE: (Interpretation) This is something which  
14 we have often talked about. We want to have as few private sessions as  
15 possible. We want to have them as short as possible as well, and the  
16 time which we just spent discussing having a possible private session  
17 could have been better used to ask the witness to provide us with his  
18 testimony.

19 To simplify things, we are going to move into private session for  
20 the witness to provide us with the names and -- first names of his  
21 children so that should this be necessary, we can give pseudonyms to the  
22 various children. That might make it possible for Mr. Hooper to  
23 continue. And then we are going to go as quickly as possible back into a  
24 public session.

25 So, Madam Court Officer, we are now going to move into private

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1 session.

2 Mr. Witness, you will answer Mr. Hooper's question -- questions  
3 once we are in private session. You'll provide us with the names and  
4 first names of your children. You will continue to speak, please, sir,  
5 slowly and clearly into the microphones. Once again, the names and first  
6 names of your children. I don't know if Mr. Hooper wants the dates of  
7 birth of the children, but he would like for you to give the names of the  
8 children in the order of their birth, beginning with the oldest. So that  
9 is the line of questioning which we'll now proceed with.

10 (Private session at 9.34 a.m.)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

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21 (Expunged)

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10 (Expunged)

11 (Open session at 10.50 a.m.)

12 COURT OFFICER: (Interpretation) We are in open session.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Please

14 proceed, Mr. Hooper.

15 MR. HOOPER:

16 Q. Very well. So we're now in public session, and during our

17 private session (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 Now, you told us --

23 MR. GARCIA: (Interpretation) Your Honour, I do not know whether

24 we should return to private session, because I will simply ask the Bench

25 to re-read what Mr. Hooper has just said. This will create a lot of



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1 difficulty, and if we continue in this manner, we will not have enough  
2 redactions.

3 PRESIDING JUDGE COTTE: (Interpretation) (Expunged)  
4 (Expunged). Let us redact  
5 that part, and afterwards we will simply mention the name without  
6 mentioning any family relationship. I believe that is the easiest way.

7 Mr. Hooper, please go ahead.

8 MR. HOOPER: I don't know. It's a sort of Alice in Wonderland  
9 world, I find sometimes. But we have a pseudonym, and what on earth do  
10 we have a pseudonym for, but anyway.

11 Q. Anyway, it's nothing to do with you. It's me who's put his foot  
12 in it, not you.

13 Now, let's go back to -- you were born -- not -- yes, you were  
14 born in 1956. You've told us that. That's right, isn't it?

15 A. I beg your pardon?

16 Q. You were born in 1956, you told us.

17 A. Yes.

18 Q. And your first child, Amos, was born in 1976, you told us, when  
19 you were 20. Would that be right?

20 A. Yes.

21 Q. And I only mention that because there's a reference to your age  
22 on the birth certificate that I underscore. Now -- which is some eight  
23 years after that.

24 Now, if -- if I can, I want to ask you about Dele and Dele Farm.

25 And what is Dele Farm? Can you sort of describe it to us, to people who

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1 haven't been there? What is it? Is it a farm? Is it -- how many people  
2 live there? Can you just help us? Give us a picture of what it's like.

3 A. Thank you for that question. With regard to Dele Farm, it is a  
4 farm where the cattle belonging to the Kilo-Moto company is kept.

5 Q. And did you have a house there, and if you did, is that where you  
6 and your family were living?

7 A. I am an employee of Kilo-Moto, and my house is located inside the  
8 Kilo-Moto camp.

9 Q. Now, I want to go back to your story of what happened to you at a  
10 particular time, and the time I'm going to start, because it's a time  
11 that we all know about and understand, is the fall of Lopondo in Bunia,  
12 when Lopondo was chased out of Bunia. Where were you living at that  
13 time, and what -- and what happened?

14 A. Thank you for the question. When Lopondo fell, I was at the same  
15 place.

16 Q. All right. Now, I see the time, and I'm now going to ask you  
17 what happened after that and that's going to take a little time.

18 MR. HOOPER: So perhaps this might be a suitable moment to  
19 adjourn, with the Court's consent.

20 PRESIDING JUDGE COTTE: (Interpretation) We will indeed suspend  
21 this hearing, because we have been sitting for almost two hours.

22 Mr. Witness, you'll be able to rest for 30 minutes, and we will  
23 see you again here at 11.30 a.m. Thank you for your contribution during  
24 these first two hours. The Court Usher will accompany you to the  
25 VWU room, and we will see you shortly, at 11.30.

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1 (The witness stands down)

2 PRESIDING JUDGE COTTE: (Interpretation) This hearing is  
3 suspended until 11.30.

4 Recess taken at 10.59 a.m.

5 On resuming at 11.33 a.m.

6 COURT USHER: All rise.

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

8 Madam Court Officer, Mr. Usher, would you please bring the  
9 witness into the courtroom.

10 (The witness takes the stand)

11 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, we are  
12 back in session now. Can you hear me well?

13 THE WITNESS: (Interpretation) Yes.

14 PRESIDING JUDGE COTTE: (Interpretation) We will continue our  
15 work.

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

17 MR. HOOPER: Thank you.

18 Q. Good morning again, Mr. Witness.

19 A. (\* No interpretation)

20 Q. Right. So we know that in early August of the year 2002, the  
21 then governor, Lopondo, Molondo Lopondo, was chased out of -- chased out  
22 of Bunia. And just before we broke for our little break, you were saying  
23 that at that time you were living at Dele Farm; is that right?

24 A. That's correct.

25 Q. Did you stay living at Dele Farm at that time or not?

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1 A. I stayed for a very brief time after Lopondo was chased out.

2 Q. And then what did you do?

3 A. Then I left because I was afraid, and I left with my entire  
4 family. We went into the mountains, specifically to the Zumbe mountain.

5 Q. Now, when you say your entire family, was Amos with you?

6 A. Amos was in school in Aveba, so therefore he was not with us.

7 Q. And what of the other six children? Were they with you or not?

8 A. Thank you for the question. All the members of my family and  
9 myself were together.

10 Q. Now, you said that you left because you were afraid. What were  
11 you afraid of?

12 A. Thank you for the question. I was afraid because the members of  
13 the UPC were trying to kill me. They were looking for me. And that is  
14 why we took the decision to flee and to go to the Zumbe mountain.

15 Q. And where did you go on the Zumbe mountain?

16 A. We went to the centre of Zumbe.

17 Q. And where did you stay?

18 A. Excuse me, your question isn't clear enough. Would you be so  
19 kind as to reformulate it.

20 Q. Certainly. When you arrived in Zumbe, did you have somewhere to  
21 live? What was the situation?

22 A. When I arrived in Zumbe, I went to see Chief Manu where there  
23 were many people who had gathered.

24 Q. And what happened then?

25 A. As far as I understood, I was the last to arrive in Zumbe. When

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1 I arrived, I saw that everyone else was already there.

2 Q. So you're there with your family, your wife, and six of your  
3 children. Where did you live? Did you have a roof over your head?

4 A. When I arrived there, Chief Manu had already received a lot of  
5 people, and when I arrived, he allotted me a house where I was to live  
6 with my entire family.

7 Q. And what sort of house was that?

8 A. Thank you for the question. Thank you for asking me what kind of  
9 shape the house was in. The house didn't have any roof, not even a straw  
10 roof. I had to go get some grass in order to cover the roof of the house  
11 in order to be able to stay in that house with my family.

12 Q. While you were living in Zumbe, what were conditions like? What  
13 was the situation there? Did you have food? Just generally.

14 A. Thank you for the question. You want to know what the living  
15 conditions were like when I was there.

16 When I arrived in Zumbe, I had some provisions with me for myself  
17 and my family, and it was thanks to those provisions that we were able to  
18 eat. But when the provisions began to run low, we found ourselves in a  
19 difficult situation, and we suffered because we were not able to get  
20 enough to eat.

21 Q. While you were in Zumbe, were there any attacks against Zumbe  
22 while you were there or not?

23 A. Yes. Thank you for the question. At one point the UPC was  
24 tormenting us in four different localities, in Bunia, Katoto, Mandro, in  
25 Kasenyi, and Bogoro. We were maltreated by the UPC soldiers and the

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1 situation was very difficult.

2 Q. Did you stay living in the house during attacks or not?

3 A. No. We took refuge in the bush at the foot of the hill.

4 Q. And how much of your time was spent seeking refuge in the bush?

5 A. Thank you for the question. Your Honour, we stayed there for two  
6 or three days. When I say "there," I'm referring, of course, to the  
7 bush.

8 Q. During the time that you were in Zumbe, did you or any of your  
9 children join the militia?

10 A. Thank you for the question. None of my children joined any  
11 militia.

12 Q. Now, how long did you or your family stay in Zumbe? Or to put  
13 the question another way: Did there come a time when you or your family  
14 left Zumbe, and can you tell us, if that was the case, when that was, as  
15 you remember?

16 A. Would you please be so kind as to reformulate your question, sir.

17 Q. How -- how long did you, you yourself, how long did you stay in  
18 Zumbe?

19 A. I arrived at the end of the school year, in the month of August.  
20 From August to December, I believe, makes three months, three months and  
21 a few weeks, but it wasn't as long as four months.

22 Q. And where did you go after you left Zumbe?

23 A. From Zumbe, after the major war that forced us out of four  
24 localities, I took my family and went to Aveba. That is where Amos, one  
25 of my children, was at the time.

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1 Q. Did you and your family travel together? What was the situation?  
2 Did you travel all together to Aveba, or did you go at different times?  
3 What was the situation?

4 MR. GARCIA: (Interpretation) Your Honour, I did not want to  
5 interrupt before, but this is a major part of the testimony. I would  
6 like to ask Mr. Hooper to not ask any leading questions. I would like to  
7 ask him to ask neutral questions. There are some questions that the  
8 Prosecution will be asking, and for that reason Mr. Hooper must be asking  
9 neutral questions, please.

10 PRESIDING JUDGE COTTE: (Interpretation) Understood.

11 Mr. Hooper, please continue, and please do your best to ask  
12 questions which do not elicit -- which will not elicit directions from  
13 the OTP so that we can continue to progress as we have been doing very  
14 regularly thanks to the very accurate answers from our witness.

15 Mr. Hooper, you may proceed, sir.

16 MR. HOOPER:

17 Q. And when did you arrive in Aveba? You, yourself, when did you  
18 arrive in Aveba?

19 A. I arrived in Aveba at the end of the month of May in 2003.

20 Q. And when you arrived in May, where was your family?

21 A. Thank you for the question. I have already said here before the  
22 Court that after the UPC attack, the major attack which took place in  
23 Zombe, I left Zombe on the 1st of December, 2002, and I left with my  
24 entire family, and we went to Aveba. We took the Kasenyi plain, where  
25 everybody was going, in order to get to the Aveba locality. But, in

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1 fact, my family had left before I did, and I stayed in Zumbe, because I  
2 had a herd of goats, and I left thereafter with my goats. I was  
3 concerned that if I left with my family and the goats, that the UPC would  
4 attack and kill us. That's why I decided to remain behind with the  
5 goats.

6 Q. Now, when you arrived in Aveba, did you arrive with your goats or  
7 not?

8 A. The goats were taken to Aveba.

9 Q. Now, why did you go to Aveba in May? I mean, what was the  
10 situation then? Why did you leave where you were in May to go to Aveba?

11 A. Thank you for the question. After the members of my family  
12 departed, I still had a field and some harvesting to do, and I went back  
13 from Zumbe to the country because I was hungry, quite simply. I lived  
14 next to my field in Dele, in the middle of the country.

15 Q. So your *shamba* was in Dele, was it?

16 A. Yes, my field was in Dele.

17 Q. All right. Now, let's go to your -- and what caused you to leave  
18 your field, your *shamba*, in Dele and go to Aveba?

19 A. I left my farm when we left Dele to go to Zumbe. My family went  
20 to Aveba, so I left Zumbe and I went very close to my farm in Dele and I  
21 lived there in the bush.

22 Q. All right. And what -- why did you leave your field, your  
23 *shamba*, in Dele? Why didn't you stay there?

24 A. Thank you for the question. I left my farm in Dele, and I did  
25 that because the UPC was looking for me. They were interested in me



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1 because I spoke in Ngiti. They were after people who spoke Ngiti and  
2 Lendu to kill them. That is why I decided to flee.

3 Q. All right. So you get to Aveba. How many members of your family  
4 were in Aveba when you got there in May?

5 A. With respect to my family members who were in Aveba, they were  
6 not close family members. We went to the home of my oldest son, Amos.

7 Q. And where was your wife and the six other children?

8 A. Thank you. Your Honour, we were there with all these children,  
9 and we settled in the same place in Aveba.

10 Q. During the time that you were in Aveba, were any of your children  
11 members of the militia?

12 A. Thank you very much. The six children and my wife went ahead of  
13 me, and I took all my children together and kept them in the house  
14 where -- which Amos had constructed for them, and none of my children  
15 belonged to the militia.

16 MR. HOOPER: All right. Now, I just want to go into closed  
17 session for a couple of minutes, and then we'll come back -- into private  
18 session, and then we'll come back to open session, again, literally in, I  
19 hope, just a couple of minutes.

20 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could we  
21 please go into private session for a while.

22 (Private session at 12.03 p.m.)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Open session at 12.04 p.m.)

13 MR. HOOPER:

14 Q. Right. Now --

15 COURT OFFICER: (Interpretation) Your Honour, we are in open  
16 session.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Mr. Hooper,  
18 you may proceed.

19 MR. HOOPER:

20 Q. Now, I want to talk about Mark. How do you know Mark?

21 (Expunged)

22 (Expunged). That is how I came to know him.

23 He and the other members of his family I consider as my own children.

24 Q. Now, when you got to Aveba, did you ever see Mark there?

25 A. Yes. When I arrived there in Bunia he had a fracture, and when I

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1 met him there, and the members of his family, my wife was already there,  
2 so I brought all of them together.

3 Q. Do you know what had happened to that family? During the time,  
4 after all, you'd left Dele with your family to go to Zumbe. Your family  
5 had then gone to Aveba. You had gone down to the *shamba*, and then  
6 eventually you'd also gone to Aveba. During that time, those many  
7 months, do you know what was happening to mark and his family?

8 A. Thank you for the question. During that time, the UPC was  
9 causing disorder in Bunia. The UPC did not want people to live there on  
10 the spot. Consequently, the population was having a terrible time.  
11 People had to flee. People went to Dele, Yambi, and Komanda. Others  
12 went to Bavi and to Songolo. Some even arrived at Kagaba and Aveba.

13 It was during that time, therefore, that the persons whom you  
14 just mentioned left Dele.

15 Q. When you said they left Dele, did they leave Dele the same time  
16 as you and your family left Dele or another time?

17 MR. GARCIA: (Interpretation) Your Honour, that is a very  
18 suggestive -- leading question. Mr. Hooper should ask neutral questions.  
19 He could ask the witness about what time, what period, what month. I  
20 know why he's putting his question, but I would like to say it is a  
21 leading question.

22 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, could you  
23 please rephrase the question. Rephrase it such that we can make  
24 progress.

25 MR. HOOPER:

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1 Q. Do you know when they left Dele? Was it the same time as --  
2 well, let's take that question. Do you know when they left Dele?

3 A. Thank you. Your Honour, when these people left at that place to  
4 go to Aveba, it was in the month of May. However, I'm not able to give  
5 you the precise date. Virtually the whole population of Bunia left the  
6 place. The only people left behind were the elements of the UPC.

7 Q. Now, in respect of Mark, did you ever learn that he was a member  
8 of the militia? Do you know if he was ever a member of a militia?

9 A. Thank you for the question. I would like to tell you that I have  
10 never seen Mark serving within a militia.

11 THE INTERPRETER: Your Honour, in the previous question, with  
12 respect to the previous question, the Swahili booth would like to know  
13 something to get a clarification from the witness. He did say that only  
14 planes and UPC elements were left behind in Bunia. The word he used can  
15 also refer to birds. Could he give us a clarification?

16 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, the  
17 interpreters faced a certain difficulty in the answer you gave to the  
18 previous question. French transcript, page 46, lines 25 and onwards, you  
19 say:

20 "When these persons left the place to go to Aveba, it was in the  
21 month of May. I cannot give you the precise date. Virtually the entire  
22 population of Bunia left the place," and you carried on saying, "Only  
23 planes and UPC elements were left in the place." Did you indeed talk  
24 about planes? Is that what you intended to say? Because the word which  
25 you used is polysemic. It can be translated in various ways.

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1 THE WITNESS: (Interpretation) Thank you. I was talking about  
2 birds, your Honour.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,  
4 Mr. Witness.

5 Mr. Hooper, you were interrupted. You may proceed now.

6 MR. HOOPER:

7 Q. Now, when you were living in Aveba, you were living, you told us,  
8 at your son -- son's house, your eldest child's house. Where were Mark  
9 and his family living in relation to you? Were they far away? What was  
10 the situation?

11 A. Thank you for the question. Well, I will provide you with an  
12 answer. (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 Q. And how far was their house from Amos's house?

19 A. The two houses were separated by about half a kilometre. I  
20 cannot give you the exact distance, but the two houses were close to each  
21 other. You only had to pass through a stream, cross a stream. There was  
22 a stream between the two houses. And I would say that the distance  
23 between those two houses is similar to the distance separating me from  
24 the Judge -- from the Judges' bench.

25 Q. All right. Yes. So that's probably about 25 -- 7 metres. Can

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1 I -- how long did you remain in Aveba?

2 A. Thank you for the question. I remained in Aveba for three years.

3 Q. Do you know how long Mark remained in Aveba?

4 A. When I arrived at Aveba towards the end of the month of May 2003,  
5 Mark and his \*family remained there, but they did not spend five months  
6 there. They went back to Bunia, when security returned ensured by the  
7 French. The French had brought back displaced persons.

8 Q. What about Pierre? How long did he remain? You said you were  
9 there for three years. How long was Pierre there?

10 A. Thank you. Pierre remained with us during all those years. We  
11 did farm work together. (Expunged)

12 (Expunged)

13 Q. Now --

14 A. That is the primary school in Mambeso.

15 Q. When was the (\* Microphone not activated) ... that you saw  
16 Pierre? Just pause a moment, sir.

17 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, there was  
18 a small problem. The French channel was blocked. We would like to hear  
19 your answer to the question put to you by Mr. Hooper, and the question  
20 was: "When did you see Pierre for the first time?"

21 I believe that was the question, Mr. Hooper.

22 MR. HOOPER:

23 Q. When did you last see Pierre, *la dernière fois*?

24 PRESIDING JUDGE COTTE: (Interpretation) Fine. Mr. Witness,  
25 could you please answer that question?

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1 THE WITNESS: (Interpretation) I apologise. I did not hear the  
2 question. Could it be repeated, please?

3 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper's going to  
4 repeat the question.

5 MR. HOOPER:

6 Q. Sorry about that. We've had a bit of a technical problem. Not  
7 your problem at all. My question is this: When did you last see Pierre?

8 A. I saw Pierre the last time when he left me at that place (Expunged)  
9 (Expunged).

10 Q. Can you remember when that was?

11 A. No. This happened a long time ago, and I have forgotten.

12 Q. All right. Well, don't worry about dates. We understand and  
13 sympathise with the situation for you, but can you just tell us your  
14 story about what happened to Pierre that you experienced?

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 Q. Now, I'm going to go into private session again just for a minute  
9 or two minutes to ask you something, and then we'll come back to open  
10 session.

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

12 (Private session at 12.26 p.m.)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 \*A. Yes, I know him. I used to see him close to my compound.

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)



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1 (Expunged)

2 (Open session at 12.28 p.m.)

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

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

6 MR. HOOPER:

7 Q. So, I want to talk about someone called George. Now, in what  
8 circumstances did you see George? What was he doing? What's the story  
9 there?

10 A. Thank you for the question. George usually came to visit us  
11 whilst I was working. Sometimes he would come and we would not be at  
12 home, and sometimes he would come to visit us and we would be at home.  
13 He had a motorcycle, and he usually parked his motorcycle close to my  
14 compound, and it was in front of the home of Mr. Mark. I usually joined  
15 him there on that spot in front of Mark's house. There were women who  
16 were seated in front of that house. And before I entered the house, I  
17 asked, "To who does this motorcycle belong?" And the women who were  
18 sitting there told me that the motorcycle belonged to Mr. Pierre, who was  
19 in the house with Mark. And he stepped out of the house, and he said,  
20 "Who is talking about me here outside?" And he said, "What are you doing  
21 here?" And he sent me away, the father of the child. He said, "Sir, get  
22 out. This is not your problem." And when I left, he took his motorcycle  
23 and he also left.

24 Later on, I asked my children what happened, and they could not  
25 provide me with an answer. Later on, I put the question to my children.

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1 I asked them, "This man who owns the motorcycle, what did he come to do  
2 here?" And they answered me saying that, "This man came to see us, and  
3 he told us that we were going to study." And I asked them, "To study  
4 where?" And my children told me, "We will provide you with more -- with  
5 a more detailed answer later on."

6 To conclude, I stayed with my children, and this man came once  
7 more, and I asked him, "What have you come to do here? You are speaking  
8 to my children in my absence. What really is happening?" And finally I  
9 decided to send my children to Kisangani. And when my child went to  
10 Kisangani, he fled. He came back later. The child had fled to Kisangani  
11 without my authorisation, and I asked him, "Where have you been?" He did  
12 not answer me, and he left again. He returned once more. I asked him,  
13 "Where are you coming from?" And he told me, "I'm coming from  
14 Kisangani." And then I asked him, "What did you go to do in Kisangani?"  
15 He told me that those of us, his parents, were needed in Kisangani, that  
16 is, his father and his mother. He told me that I would understand when  
17 things are explained to me, because he himself had difficulty explaining.  
18 I told him I did not see any reason for travelling to Kisangani. I asked  
19 him why he thought I should do so, and he told me that I would have an  
20 answer once I got to Kisangani, because they needed me and his mother in  
21 Kisangani. I told him, "If you refuse to give me information, if you  
22 refuse to tell me why I should go to Kisangani -- my wife does not have  
23 the strength or the time to travel to Kisangani, but I myself will go  
24 there and try to find out why you are going to Kisangani."

25 MR. GARCIA: (Interpretation) I don't want to interrupt, but I

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1 can see the number of redactions that are submitted to the Bench. Given  
2 the information that is being sought by Mr. Hooper from the witness, I  
3 think it would be advisable to go into private session in light of the  
4 theme that Mr. Hooper has just broached.

5 PRESIDING JUDGE COTTE: (Interpretation) That is regrettable,  
6 but we need to go into private session, because the witness is giving  
7 very personal information.

8 Mr. Witness, we are going to go into closed session - it is not  
9 your fault - and once we are there I will tell you where you were at.

10 Court Officer.

11 MR. FOFÉ: (Interpretation) Your Honour, maybe before we go into  
12 private session, I would like to point out that on page 53, lines 16 to  
13 17, the interpretation that was given should be cross-checked. It is not  
14 precisely what the witness said. Perhaps since he's going to repeat in  
15 closed session, he himself could make the necessary correction. Thank  
16 you.

17 PRESIDING JUDGE COTTE: (Interpretation) Very well. Let us go  
18 into private session.

19 (Private session at 12.37 p.m.)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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11 (Open session at 12.54 p.m.)

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

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you,  
15 Court Officer. Please continue, Mr. Hooper.

16 MR. HOOPER: Yes. All right.

17 Q. So we're now in public session and you've been talking about what  
18 had happened to you in Kisangani and that you were invited to sign a  
19 blank piece of paper, you told us, in order to assist someone's  
20 education. And you also said that Pierre asked you to say -- to say to  
21 the people in Kisangani, the white people there, to reduce his age to 15,  
22 though he was a bit older, (Expunged).

23 Now, did you tell the people in Kisangani that Pierre was 15 or  
24 not?

25 A. Yes. I accepted that, and I said that the child was 15 years



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1 old, (Expunged) had asked me to do that. He said that he was going  
2 to study.

3 Q. All right. Now, did you subsequently leave Kisangani with Pierre  
4 and return to -- to Bunia?

5 A. Yes. Pierre and I left Kisangani and returned to Bunia. Pierre  
6 had realised that those people had made me travel for nothing. They did  
7 not give me anything, not even sugar. They did not give me any dollars,  
8 nothing. So Pierre told me the following: "(Expunged), these people made you  
9 suffer. I am going to go to their office. You can just go back home. I  
10 am going to see them in their office."

11 Pierre went to their office, and after he returned, he handed me  
12 a \$10 note. He told me, "This is the money that they gave me."

13 I do not know whether they had given him more or not. He simply  
14 told them -- he simply told me, "These are the \$10 that they gave me,"  
15 and I took because it was coming from him.

16 Q. Now, after you got back from Kisangani, how long did Pierre  
17 remain living at Dele?

18 A. Thank you for the question. When Pierre and I returned to Dele,  
19 he stayed there for a few days, maybe one week or one month. I no longer  
20 remember. After that, he disappeared. He left without informing me, and  
21 I still do not know where he went right up till today.

22 Q. Since he disappeared have you had any contact at all with Pierre?

23 A. Thank you for the question. I do not have any contact with him.  
24 I do not have his telephone number, and I have not heard about him from  
25 anyone at all.

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1 Q. What about Mark? Do you know what happened to -- to Mark?

2 A. As for Mark, the situation is the same. Mark disappeared just

3 like Pierre. Both of them left, and up till today, we do not know (Expunged)

4 (Expunged).

5 Q. All right. Now, I want to show you some photographs. Certainly

6 the first ones will need to be in private session.

7 COURT OFFICER: (Interpretation) Madam Officer, we will go into

8 private session, please.

9 (Private session at 1.01 p.m.)

10 (Expunged)

11 (Expunged)

12 (Expunged)

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15 (Expunged)

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17 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Open session at 1.26 p.m.)

5 COURT OFFICER: (Interpretation) Document DRC-D02-0001-0143 has  
6 been assigned the number EVD-D02-00124.

7 Document DRC-D02-0001-0145 will be assigned number EVD-D02-00125.

8 Document DRC-D02-0001-0144 will be assigned the number  
9 EVD-D02-00126.

10 Document DRC-D02-0001-0146 will be assigned number EVD-D02-00127.

11 The annotated version of the DRC document D02-0001-0146 will be  
12 assigned number EVD-D02-00128.

13 Document DRC-D02-0001-0429 will be assigned EVD-D02-00129.

14 All of these documents are listed as being confidential.

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

17 Mr. Witness, we are now going to leave, and we will be meeting  
18 again tomorrow, because today's hearing is over. So we will be meeting  
19 again tomorrow at 9.00. Mr. Hooper will wind up his questions. The  
20 Defence of Mr. Ngudjolo will have the floor.

21 I'd like to draw your attention to how much time has already been  
22 used. This was drawn to our attention yesterday by the Court Officer,  
23 and I would like especially to draw the Prosecutor's attention to that,  
24 so that we all need to -- we can all use our time as we see fit, but it's  
25 important for the Office of the Prosecutor to understand that it has used

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1 nearly as much time as Mr. Hooper's team.

2 Madam Court Officer, Mr. Usher, would you please escort the  
3 witness from the courtroom.

4 Mr. Witness, we will see you tomorrow, and thank you very much  
5 for your contribution today to our proceedings.

6 (The witness stands down)

7 PRESIDING JUDGE COTTE: (Interpretation) The hearing is  
8 suspended. We will be here at 9.00.

9 The hearing ends at 1.30 p.m.

10 CORRECTION REPORT

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

13 \*Page 46 line 5

14 "Mark and his wife" is corrected by "Mark and his family"

15 RECLASSIFICATION REPORT

16 \*Pursuant to Trial Chamber II's email instructions dated 10 July 2012, the excerpt of  
17 the transcript Page 48 line 18 is reclassified as public, as ordered by the Chamber.

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