

Witness: Witness DRC-D03-P-0066 (Resumed) (Closed Session)
Procedural Matters

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1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Tuesday, 23 August 2011
10 (Closed session)
11 The hearing starts at 2.34 p.m.
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
17 (Expunged)
18 (Expunged)
19 (Expunged)
20 (Expunged)
21 (Expunged)
22 (Open session at 2.36 p.m.)
23 COURT OFFICER: (Interpretation) We are in open session,
24 your Honour.
25 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Court

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1 Officer.

2 Good afternoon, everyone. Good afternoon, the accused. Good
3 afternoon, Mr. Witness.

4 THE WITNESS: (Interpretation) Good afternoon.

5 PRESIDING JUDGE COTTE: (Interpretation) Before we resume our
6 proceedings with you, the Chamber wishes to acknowledge that we have
7 received from the Ngudjolo Defence team the e-mail. This was yesterday
8 at 10.44. This was sent to the Chamber and to parties and participants.
9 This e-mail included a number of attachments; namely, the correspondence
10 that your team has had with *Radio France Internationale* and Voice of
11 America and requesting information that will be useful for your defence.
12 The e-mail also had an attachment with the follow-up correspondence that
13 you sent on the 18th and 19th.

14 And I realise that you have been sending letters here, there and
15 everywhere, and I think, of course, you'll have to wait for a while
16 before you get any reply from your correspondence. All the same, the
17 Chamber thinks that we should reiterate our suggestion. Now, you may
18 have already done this, but we would suggest that you actually telephone
19 the people at RFI and VOA. And if you could stress just how important it
20 is for you to obtain these recordings and just how urgent it is for you
21 to get the recordings very quickly.

22 The Chamber will also leave it to the Office of the Prosecutor to
23 assess whether, given the framework of the Prosecution's requirement to
24 investigate both incriminatory materials and exculpatory materials, in
25 light of that, would it be possible for the OTP to intervene as well? So

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1 Mr. Prosecutor, we will leave it up to you to assess whether or not you
2 could intervene and contact these two broadcasters, be they television
3 broadcasters or radio broadcasters.

4 We will now resume our work. We had ended off on Friday at 1.30,
5 and I believe Professor Fofé was in full flight in the course of his
6 examination-in-chief.

7 Now, Professor Fofé, do you have any idea, even an approximate
8 idea, of how much time you'll be needing today? Please tell us, how do
9 you think things will unfold.

10 MR. FOFÉ: (Interpretation) Good afternoon, your Honours. After
11 reviewing the questions, I believe I will be able to finish today. That
12 is possible. Of course, it will all depend to some extent on the
13 witness's replies.

14 PRESIDING JUDGE COTTE: (Interpretation) Very well. We take
15 note that you expect to end today and so tomorrow we should be hearing
16 from Mr. Hooper and Mr. Garcia, of course. So we shall assume that
17 Witness 88 will only begin testimony on Thursday morning, so that is what
18 we have in mind for the time being. Of course, this could all change,
19 but in any event, let us begin with that working hypothesis.

20 Professor, if you could please begin.

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

22 Questioned by Mr. Fofé: (Continued)

23 Q. (Interpretation) Good afternoon, Witness.

24 A. Good afternoon.

25 Q. Are you well rested? Are you in fine fettle and ready to resume

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1 testimony?

2 A. Yes.

3 Q. Once again I would like to remind you that we need you to speak
4 loudly and slowly, slowly, please, because the interpreters need to hear
5 what you're saying properly and the court reporters also need to hear you
6 so that they can transcribe what you say. So, please speak slowly.

7 MR. FOFÉ: (Interpretation) Your Honour, you set a task for us.
8 I'm making reference to DRC-D03-0001-0328, which had been given an MFI
9 number. DRC-D03-00093, unless I'm mistaken. MFI number DRC-D03-00093.
10 And this is a diagram that shows us the structure of the base committee.
11 We have conducted some cross checks and we have been able to establish
12 that this document was provided by Mr. Ngabu, the late Ngabu Safari
13 Jean-de-Dieu, our Witness 33, to our resource person, Christophe Lopa,
14 and, in turn, the resource person gave it to Mr. Kilenda when he
15 travelled to the DRC on 26th of January. The date 20th of November was
16 placed on that document when he actually gave the document to our
17 resource person. That is why that date is there. That is the
18 information that we were able to provide regarding this document. The
19 date being 20 November 2009.

20 PRESIDING JUDGE COTTE: (Interpretation) Now, just to make sure,
21 that date, the 20th of November, was placed on the document by
22 Jean-de-Dieu Safari on the day that the document was given to him,
23 because it seems quite clear when you read the document -- we just were
24 wondering about this date, the date that the document was actually
25 drafted. And on page 2 we see that mention was made of the first -- the

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1 9th of January, 2001, to July 2003. But the document was actually handed
2 over in 2009.

3 MR. FOFÉ: (Interpretation) The 2009 date is the date on which
4 Mr. Safari gave the document -- handed it over and that is when the date
5 was put on.

6 PRESIDING JUDGE COTTE: (Interpretation) I think this point was
7 touched upon during the last hearing.

8 Now, witness, can you see which document we are talking about?
9 It's a document that you looked at last Friday, and you provided us some
10 information about the document. It is entitled, "*Structure du Comité de*
11 *base groupement Bedu-Ezekere Zumbe*." Now, if you remember, you see there
12 are some signatures on the document and also an organisation chart
13 showing various committees, for example, a health committee. Does this
14 document ring a bell? Does this ring a bell?

15 THE WITNESS: (Interpretation) Yes, I remember that.

16 PRESIDING JUDGE COTTE: (Interpretation) Do you remember whether
17 you yourself -- or do you have an idea when this document might have been
18 drafted? You may know or you may not know, but do you have any kind of
19 idea on what date this document was actually drafted?

20 THE WITNESS: (Interpretation) This document was drafted when
21 the committee in question was set up, when Ngabu Emmanuel, the chief,
22 established that committee, and last Friday, I said that I didn't have
23 any explanations to provide about the date. It was when the professor
24 asked me the question and I answered saying that I wasn't going to focus
25 on that date because at the time of the signature I had not really paid

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1 much attention to that particular date.

2 PRESIDING JUDGE COTTE: (Interpretation) Well, we can't ask you
3 for any more than what you have just told us, except, Professor Fofé, we
4 do have a document here and the witness has given us some information
5 about it. He has provided useful comments about the document. In
6 addition to his earlier remarks. And we have seen that he was -- he
7 signed the document, we now know that the document also bears the date
8 the 20th of November, 2009, and at the very least, that is the date that
9 the document was handed over to your resource person, but we are still
10 unsure as to the exact date on which the document was drafted. Do we
11 agree on that point?

12 MR. FOFÉ: (Interpretation) Yes, we agree on that point.

13 PRESIDING JUDGE COTTE: (Interpretation) Now, do you still want
14 an EVD number for this document?

15 MR. FOFÉ: (Interpretation) Yes, your Honour.

16 PRESIDING JUDGE COTTE: (Interpretation) Let us be very clear
17 about this. This document is unclear as to the date of the drafting. We
18 will assign an EVD number to it, but we may not necessarily give a great
19 deal of probative value to the document when the time comes. Are we in
20 agreement?

21 MR. FOFÉ: (Interpretation) Absolutely.

22 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if we
23 could deal with this. Could we turn the MFI number from last week into
24 an EVD number, with this traditional reservation that the Chamber -- the
25 sort of reservations that the Chamber always expresses when EVD numbers

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1 are assigned under such circumstances?

2 COURT OFFICER: (Interpretation) Thank you, your Honour. The
3 document that bears the number MFI-D03-00093 shall now bear the number
4 EVD-D03-00093.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
6 Court Officer. Before allowing you to proceed, Professor Fofé, and
7 I apologise to you and to the witness, if we could just back-pedal for a
8 moment, I'd like to inform parties and participants that the Registry,
9 pursuant to our request, did send us the report setting out the
10 conditions in which the working meeting was held, that working meeting
11 that was authorised by the Chamber, that meeting between your team and
12 Witness 88. The specific report shows us that you did not need all the
13 time that had been allocated to you, and that the meeting was entirely in
14 compliance with the requirements of the Chamber. So everyone spoke and
15 said that they wanted the meeting to be held within a very specific
16 framework and that is what happened. So that is what happened. I will
17 leave it at that. And now give you the floor. Professor Fofé.

18 MR. FOFÉ: (Interpretation) Thank you.

19 MR. GARCIA: (Interpretation) Good afternoon. My colleague is
20 having some problem with her computer and I don't know whether something
21 could be done.

22 PRESIDING JUDGE COTTE: (Interpretation) Ms Toumaj will try to
23 see what can be done. I remember that last week another member of your
24 team who was sitting in the same spot had the same difficulties, so
25 I hope that this technical problem can be dealt with quickly.

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1 MR. GILISSEN: (Interpretation) Over the last week, there have
2 been several attempts to deal with the problem but still no solution.

3 PRESIDING JUDGE COTTE: (Interpretation) You have been suffering
4 in silence.

5 MR. GILISSEN: (Interpretation) We may have been silent here but
6 not necessarily in the corridor.

7 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, try to
8 get us some results on this, please. Professor Fofé.

9 MR. FOFÉ: (Interpretation)

10 Q. Witness, before continuing with my questions relating to the
11 point that we were dealing with last Friday, at the end of the hearing,
12 I'd like to ask you a question because I would like to check one
13 particular thing.

14 Last Friday, I asked you the following question: During the
15 period from August 2002 to March 2003, were there military camps within
16 the Bedu-Ezekere groupement? And what was your answer to that question?

17 Well, I shall now repeat it. Your answer was -- from August 2002 to
18 March 2003, were there military camps within the Bedu-Ezekere groupement?

19 A. I've already answered that question. I said that there were no
20 military camps within the Bedu-Ezekere groupement. There were only
21 people from the self-defence group and they were managed or administered
22 in the traditional way, as I have already said.

23 Q. Thank you very much.

24 MR. FOFÉ: (Interpretation) Your Honour, I asked this question
25 of the witness because when I reread the transcript of Friday's hearing,

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1 the 19th of August, 2011, transcript 295, page 60, French version,
2 lines 9 to 12, page 60, French version, lines 9 to 12, lines 9 to 11 we
3 see my question and then line 11, interpretation, line 12, witness's
4 reply, and I remember very well that I took note of the answer that the
5 witness gave. He said "no." So I think we should really check this
6 point and correct the passage.

7 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if
8 someone could check page 60, line 12, so that we can ensure that the word
9 "yes" was actually uttered, well, whether it was uttered and whether it
10 was -- was it a sort of a spontaneous "yes" and then the answer was given
11 or, rather -- or was it: "Yes, there were camps"? I think we need to
12 check this point and you have asked the question again of the witness,
13 and he said "no." That was recorded on the transcript. Let's now move
14 on.

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

16 Q. Witness, I would now like to say a few things just to put you in
17 the context when we left off Friday, just before the end of the hearing.

18 MR. FOFÉ: (Interpretation) And to do so, I'll give the
19 reference to parties, participants and the Chamber, page 63,
20 transcript 295, lines 11 to 26, your Honour. If I could read out this
21 particular passage just to give the witness some context because the
22 series of questions coming up deals with this matter.

23 PRESIDING JUDGE COTTE: (Interpretation) You may do so this time
24 but insofar as is possible, please don't read out long passages before
25 putting a question, because you must remember our -- the various

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1 requirements. We have the interpreters, we have the court interpreters

2 who need to you read slowly.

3 *(Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 A. Professor, last Friday I made a statement concerning what you
6 have just talked about. If I had documents, I would be in a position to
7 give you a detailed answer. Now, in those reports there were records of
8 the events in relation to the various battles that took place. That day,
9 I had said that it's very difficult for me to remember all this. I'm not
10 a computer. I'm not in a position to do so, but if I had documents to
11 help me remember or to jog my memory, then I could answer your question.

12 Q. Witness, I think you are now acquainted with the way the
13 proceedings take place. I cannot show you a document directly, not the
14 documents I have, but what I would like to ask you to do is to make a
15 special effort to talk to us, perhaps in very rough terms, because we are
16 talking about the reports on the attacks. You were the one to mention
17 this. So I would like you to give us what *(Redacted)
18 (Redacted)
19 (Redacted) reports that recorded the attacks?
20 Can you try and make special effort to remember?

21 A. Mr. Professor, it's very difficult for me to answer that question
22 because I might say things that orally will contradict what is written.
23 That is why I told you that for the time being I have no document to help
24 jog my memory. I might state something, whereas in the document
25 something different might appear, if that's checked. That's why I'm

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1 asking you to allow me not to answer. All I can say is the truth.
2 I don't want to say any lies. Right from the start of the questions of
3 this time, since last Friday, I have always answered in a consistent way,
4 but I see that you continue to ask me the same type of questions as
5 Friday.

6 PRESIDING JUDGE COTTE: (Interpretation) Witness, one thing,
7 first of all, you must try and slow down your speech, so please be very
8 careful about that. Second thing, now, in very broad terms, indeed you
9 have undertaken to tell the truth, but the Chamber can fully understand
10 that, in the case of events that go back several years, you might not
11 necessarily be in a position to provide a fully accurate answer to the
12 questions that Mr. Fofé is asking you, but the same type of questions no
13 doubt could be asked a few hours on from now by the Prosecutor, the
14 representatives of the victims. These are two quite different things.
15 Accuracy and remembering, and of course the Chamber likes accuracy but is
16 often compelled to hear answers from witnesses that obviously have to be
17 somewhat approximate because they call on memory, and so we have to delve
18 into our memories to try and provide an answer.

19 So last week, what we realised was that you were actually in a
20 position to find answers to questions when we talked about documents, the
21 document that we mentioned earlier on, "*Structure du Comité de base*."
22 Now, Professor Fofé's current question or the questions the Prosecution
23 might be asking you in just a few moments, whatever the type of question,
24 please try and call on your memory as far as you can and don't
25 necessarily concentrate too much on the complete accuracy of such an

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1 answer. It's a good idea to do that, as far as possible, but we fully
2 understand that that's not always possible. And I think it was very
3 important, at the beginning of this hearing, for you to fully appreciate
4 the fact that we are not expecting the impossible from you but just your
5 very best. Professor Fofé.

6 *(Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted) said this to you, according to your best recollection.

13 A. Mr. Professor, if you force me to answer, this will create
14 difficulties for me in providing you with an answer. We each know what
15 our capacities are and that is why I said that I cannot make a statement
16 that might be contrary to what I believe *(Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 seven or eight years now.

25 When Ngabu Jean-de-Dieu died, I, first of all, checked the

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1 information in the documents and I didn't find anything. And two days
2 ago, when you asked these questions, there is information that I should
3 have given you but which I couldn't give you because I don't have the
4 documents to do so.

5 THE INTERPRETER: The Swahili interpreter points out that the
6 witness is going very fast.

7 THE WITNESS: (Interpretation) Professor, that is why I said it
8 was very difficult for me to answer your questions.

9 MR. FOFÉ: (Interpretation).

10 *(Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 MR. GARCIA: (Interpretation) Your Honour, if I may. Since we
18 are just starting today, the question that Professor Fofé is a leading
19 one already. We can ask open-ended questions. Let me just remind
20 Professor Fofé that his is a direct examination and so it is important
21 that the questions be general and open.

22 PRESIDING JUDGE COTTE: (Interpretation) Yes, we agree,
23 Prosecutor. Professor Fofé, please -- well, we see more or less what
24 your line of reasoning is, I believe, but you must assess whether you can
25 use neutral questions to do so. Perhaps just set aside that aspect so as

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1 to get -- well, to have a bit more time to prepare those questions.

2 That's up to you. But the formulation of the questions is important, and

3 you can see that Mr. Garcia is set to go. Go on.

4 MR. FOFÉ: (Interpretation) Thank you, your Honour.

5 Q. Witness, we shall now go on to another topic, set aside this

6 topic for the time being, and perhaps go back to it later on.

7 In any case, at any point in time, during this period of events

8 from 2002 to 2003, did you have any opportunity to see in the

9 Bedu-Ezekere groupement elements that belonged to the APC?

10 A. I don't remember the exact date. The members of the APC were in

11 the Kasenyi plain, and at the time, the groupement's chief went to meet

12 with them. He went to meet with the people in charge of this movement

13 and brought them over to Zumbe, but I was not part of that delegation.

14 Q. Where were they housed in Zumbe, do you remember?

15 A. Yes. They were at the primary school in Zumbe and they set up a

16 very large camp there.

17 Q. And how long did they stay in Zumbe?

18 A. I don't remember. But I think they stayed there more than a

19 week.

20 Q. Now, from Zumbe, where did they go to?

21 A. From Zumbe, they went towards Nyakeru and then towards Songolo.

22 Q. As far as you remember, Witness, before they left Zumbe, these

23 members of the APC, had they launched attacks from Zumbe? Did they

24 launch any attacks from Zumbe?

25 MR. GARCIA: (Interpretation) Your Honour, now, once again, I'm

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1 standing up for the second time for the very same objection. This is
2 extremely leading in view of the circumstances. Professor Fofé is doing
3 the examination-in-chief. He must ask neutral questions. What did the
4 APC when they were in Zumbe (* as interpreted). I've already allowed
5 certain leading questions, for instance, when they left and where they
6 went to, okay, so I'm not going to object each and every time. But what
7 I can see is that when I don't object, then Professor Fofé continues
8 along the same lines and asks questions that are highly leading, whereas
9 questions must be asked in open-ended neutral way. It is up to the
10 witness to provide evidence, not Professor Fofé.

11 PRESIDING JUDGE COTTE: (Interpretation) Now, concerning the
12 question on line 23, page 16 of the provisional transcript, well, we see:

13 "As far as you remember, Witness, before they left Zumbe, did
14 these members of the APC launch any attacks from Zumbe?"

15 Yes, indeed, this is somewhat leading, and it is indeed necessary
16 to try and apply one's efforts towards recentering the question. Go
17 ahead, Professor Fofé, keeping that in mind.

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

19 Q. Witness, could you please tell us what the members of the APC did
20 when they were based in Zumbe, before they left Zumbe again and go
21 towards Songolo?

22 A. When they arrived, the traditional chiefs met with them and they
23 were taken to Zumbe, they he were trying to find a route away to go to
24 the north of -- to North Kivu. It was very difficult for them to go via
25 Bogoro because at the time Bunia was already occupied by the Ugandans and

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1 the UPC members and who were working together, whereas the APC members
2 wanted to go by Bogoro and go towards the North Kivu through the forest
3 that separates the two localities. They tried to go through but were
4 unable to do so. They were repulsed, and when they attempted a second
5 time they weren't able to do so because the Ugandans and the UPC members
6 prevented them from doing so. And finally, they decided to go there at
7 night via the forest, and that is why they went through Nyakeru and
8 Songolo. From there onwards, I don't know where they went so as to reach
9 their final destination.

10 Q. Witness, I would once again ask you to speak more slowly. I am
11 looking to see whether your whole answer was transcribed. So as a result
12 of that, I'd like to ask you to slow down.

13 You have just spoken about attacks carried out by the APC.

14 MR. GARCIA: (Interpretation) Objection. We didn't talk about
15 two attacks. We talked about APC trying to get somewhere via Bogoro.

16 MR. FOFÉ: (Interpretation) I can follow the witness in Swahili.

17 PRESIDING JUDGE COTTE: (Interpretation) We must be very
18 careful. Let's take a look at the French transcript. You listened in
19 Swahili, Professor Fofé. Let me go down to line 28 to page 17 of the
20 French transcript, or perhaps line 27, and here we see:

21 When they arrived, the traditional chiefs met with them, that's
22 fine. They were trying to get through, they wanted to go to North Kivu.
23 It was difficult for them to go via Bogoro because Bunia was already
24 occupied by the Ugandans, members of the UPC that worked with them,
25 whereas the APC members wanted to go to Bogoro and North Kivu, going

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1 through the forest that separates the two places. They tried, they
2 weren't able to do so, and the second time they tried, they were
3 unsuccessful too. And that's where the trouble arises because the UPC
4 and the Ugandans prevented them from doing so, et cetera, et cetera.

5 So let's not be too hasty with our conclusions, but, yes, indeed,
6 in the witness's statements apparently there is mention made of two
7 attempts. Shall we really ask, then, two attacks? But in any case, two
8 attempts to get through which were not necessarily friendly. Let's go
9 on.

10 MR. FOFÉ: (Interpretation) Yes, we shall try and cast light on
11 this with the help of the witness, because, as I already said, I can hear
12 what the witness says in Swahili. And I recognise that the witness does
13 speak rather quickly and that is why I really insist on this.

14 Q. Witness, you have to try and help us. You can see what the
15 difficulties are. There are things that you think are obvious, but you
16 have to help us to bring out these things in a crystal-clear manner.
17 Please repeat. You told us what -- the members of APC when they were in
18 Zumbe. I would like to you repeat that once again but very, very slowly
19 indeed. Very slowly. Please go ahead.

20 A. I will try and repeat myself. You asked me a question about the
21 members of the APC, whether they were in Zumbe, I said to you, yes, they
22 were there. They were in Kasenyi, and from Kasenyi, the chief went to
23 greet them. Thereafter, they set up a base in Zumbe. You asked me
24 precisely where and I said they did so in the primary school where they
25 set up a camp. They went to Bogoro to fight, to try and get through to

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1 the place they wanted to go to, but they were repelled by the Ugandans.

2 The second time, they once again went to fight the UPC and the
3 Ugandans, because the UPC and the Ugandans worked together. And then the
4 third time they decided once again to go, by night, through Nyakeru and
5 Songolo. From there I said that I didn't know which route they took to
6 actually get to their final destination. That's what I said just a few
7 moments ago.

8 Q. Thank you very much, Witness. I think everything is now
9 perfectly clear.

10 Witness, do you know anybody by the name of Kute, somebody called
11 Kute?

12 A. Yes, I know Kute. Kute has passed away.

13 Q. How did you know him?

14 A. We -- from Katoni. He was one of my pupils and I taught him in
15 the first and second years of primary school. I was his teacher.

16 Q. How did Kute behave during this period from 2002 to 2003?

17 A. Well, I don't really know how to answer that question. I'm not
18 sure I can express this in Swahili. We would often refer to him as being
19 a highway robber, a bandit. He would take people's belongings away from
20 them by force.

21 Q. You have said already that he has passed away. Under what
22 circumstances did he die? Could you perhaps tell us what you know about
23 that?

24 A. I knew Kute well. We had family ties. His father is the son of
25 my aunt, so I knew him well. He was somebody who would create trouble.

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1 After the war, when peace had been restored, he continued to do the same
2 things as before. That is why President Ezen (* phon) met with him in
3 Kavalega where he was residing. President Ezen was armed. Arms had been
4 collected during the Bunia war, and these young people who had gone with
5 the chief, these young people fired on Kute, and that is why Kute died.
6 It was after the battle. We didn't want him to continue the same bad
7 habits as previously. The chief of the young people, that is why he
8 fired at had him in the stomach. I think it was between 2004 and 2005.
9 But I couldn't possibly give you any other details about his lifestyle,
10 but the family has certain elements in its possession.

11 Q. So if I follow you rightly, Kute was the one who first began by
12 shooting Shanyu (* phon)?

13 A. There was disorder. The president of the young people had a
14 defence. This chief realised that Kute was still making trouble and
15 that's why the president followed him. And Kute fired on the young
16 people who were accompanying the chief and the chief responded by firing
17 at Kute and Kute died and that was when we organised his funeral.

18 Q. During this period from 2002 to 2003, did Kute, during that
19 period, have somebody who commanded him, a senior officer?

20 A. I'm afraid I don't understand your question.

21 Q. You've been talking to us about Kute and saying there were
22 certain things he did. Did Kute depend on anyone from him to carry out
23 the actions that he was responsible for?

24 A. As I said the day before yesterday, we didn't have a specific
25 form of organisation or hierarchy. Everybody did what they wanted.

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1 Q. Witness, do you know an organisation that goes by the term FNI?

2 A. Yes. It is a political party which has representatives in Congo.

3 Q. In the period between 2002 and 2003, did the FNI exist in the
4 Bedu-Ezekere groupement?

5 A. I'm not familiar with the structure of the FNI, but at that time,
6 the FNI was based in the area of the Walendu-Bindi. It was created in
7 Rua (* phon) and it remained in that area. Well, as to whether the FNI
8 was in Zumbe, we don't know. We couldn't necessarily see the local
9 organisations. I would say the FNI wasn't in Zumbe in that period.

10 Q. You just said that in that period, 2002-2003, the FNI was not in
11 Zumbe, was not in your Bedu-Ezekere groupment, but I do, nonetheless,
12 want to put the following question to you in order to clarify things. So
13 let me ask you: During that period, 2002-2003, was Mathieu Ngudjolo the
14 supreme commander of the FNI in your Bedu-Ezekere groupement?

15 A. Excellency, Professor, that is a most pertinent (* as
16 interpreted) question. I said last Friday that Ngudjolo was a nurse. At
17 that time, the FNI was in Kpandroma. Between Kpandroma and Bunia there
18 is quite a distance. I have never been that distance.

19 As I've already said, the FNI was a political party with its own
20 structure. If you want to find out about the FNI during that period and
21 if you want to know about the history and the background, the creation of
22 the FNI, you just need to go to the Congo and find the president of the
23 FNI, who is in Bunia.

24 THE INTERPRETER: And the Swahili interpreter points out that the
25 witness is speaking at great speed.

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1 THE WITNESS: (Interpretation) I'm terribly sorry. I was
2 speaking too fast. I'm a teacher.

3 MR. FOFÉ: (Interpretation)

4 Q. Witness, please speak slowly, please. But I think you answered.
5 I don't know whether it has been captured. I put to you a specific
6 question and I understand your reaction to that question.

7 You say it's an impertinent question. You said that the FNI
8 didn't exist in the Bedu-Ezekere groupment in that period, 2002-2003.
9 That's what you said. But notwithstanding your answer, I do want to put
10 the question to you and I'd ask you to give us a brief, succinct answer,
11 because what you said didn't actually get fully noted down, so we just
12 want to have a simple answer in order to clarify things.

13 During that period, 2002-2003, was Mathieu Ngudjolo the supreme
14 commander of the FNI in the Bedu-Ezekere groupement?

15 A. Okay. Well, let me come back to my previous answer. I said that
16 I'm somewhat at a loss when I hear this question, because last Friday
17 I said at that time Ngudjolo was a nurse. I added this, the FNI is a
18 political party in the Congo. It has its own structure, it has its own
19 statutes, its history of its creation, and if you want to know about that
20 party, the FNI president is actually in the Congo. He has his office in
21 Bunia, there is another office in Kinshasa, so you can go and you can see
22 who are the founders of the FNI and who worked in the FNI at that period.
23 So that is the answer that I was trying to give you but rather quickly,
24 I'm afraid.

25 Q. Thank you very much, Witness. In that same period, 2002-2003,

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1 you said you were in Zumbe. So in that period, 2002-2003 -- perhaps
2 I should be more specific. Between August, the month of August 2002 and
3 February 2003, when you were in Zumbe, did you have to go on a trip, a
4 journey, at any time during that period?

5 A. I find this question rather vague. When you say "trip" or
6 "journey," where?

7 Q. Once again, let me say that I cannot provide you with any more
8 than that. I would like you to try to think back and try to remember
9 whether, during that period, whether you went anywhere, from Zumbe.

10 A. Yes. From 1999, 90 per cent of the Zumbe population moved. They
11 went to the collectivity of the Walendu-Bindi. All of the family members
12 were there, and that was why I was asking you to specify your question
13 about a trip or a journey.

14 You know, the only place we could find food, such as salt and the
15 other things, was in the Walendu-Bindi collectivity. There was a market
16 that was set up there during wartime and, in fact, that market still
17 exists today. So supplies came from Bunia, Kasenyi, Bogoro, and other
18 than that, there was virtually no access and everybody went through the
19 bush to get through to the Walendu-Bindi collectivity. And my own
20 family, my father, my mother, and the other members of my family are
21 there. Before that, my parents were in Bavi, before going back to the
22 collectivity.

23 So I asked you to be more specific as to where the journey or the
24 trip was, and the reason I asked that is because I did that journey
25 several times going back to the collectivity that I hail from. The

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1 reason I went was to buy food for my family, and my parents live there as
2 well. So I went to buy clothing, salt, and certain other food stuffs,
3 oil as well. So, oil, salt, clothing. We go up to the Walendu-Bindi
4 area, locality, to get food. It's a pretty tough journey, if you're
5 unfortunate enough to encounter a soldier, it's difficult. It can be
6 difficult for you. We went up by night, did what we had to do, and came
7 back home over the hill and through the bush.

8 So if that was what your question was about, that is my answer.
9 I travelled several times up to the Walendu-Bindi collectivity where my
10 own village is. There were brothers of mine who were there and other
11 acquaintances. So that is my answer.

12 Let me say that aside from those journeys, I wasn't involved in
13 any other journey to Bunia or any other area. So if that is what you
14 wanted by way of an answer, that is what I can say.

15 Q. Thank you very much, Witness. I'd now like to put a more
16 specific question to you. During that same period, between August 2002
17 and February 2003, did you embark upon such journeys to your collectivity
18 in Walendu-Bindi?

19 A. As I said earlier, I travelled there several times during the
20 times of war. As my parents were there, I went several times. It was
21 the only collectivity that welcomed people who had been displaced by war,
22 and in fact there were people who were displaced by the war and actually
23 stayed there. When our cattle were attacked and some of them were
24 stolen, my parents went with what remained up to our collectivity, and
25 even now my parents are still there but they have nothing, they are poor,

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1 because the cattle were their source of income, and even now I help them,
2 and I go. In fact at that time I went several times to help my family
3 out.

4 Q. Thank you. You said that you went up there, up to Walendu-Bindi,
5 which is a collectivity up there, amongst other things, to get oil, salt.
6 At which market did you purchase these goods?

7 A. It's difficult to say because there were so many markets. The
8 closest market was, if you're coming from Zumbe, where you would go
9 through the Baviba groupement and there was a district, and the distance
10 between the markets and where my parents lived was around about
11 10 kilometres. So if I was in a hurry and if I had to get back to work
12 quickly, then I would go to those markets there. And that's often what
13 we did. For instance, if we had two or three friends, we would go off
14 together. And I could buy something. I left it with my parents and
15 then -- or I left some of it with my parents and the remainder I took
16 back home with me.

17 Sometimes I went to the Aveba market and the Kengelu market.
18 I also went to the Kabona market. Those markets are around Aveba.
19 I also went to the Bavi market. I went to the third market, Sokua Tatu
20 (* phon) in Swahili, and I would go to these markets because one of my
21 brothers actually sold produce at those markets. I could even go at
22 night time. I went as often as I could.

23 I didn't go to the Songolo market. I went to the following
24 markets, Tatu, Bavi and Kabona. Aveba and Kengelu were markets where the
25 produce being sold was being sold at a good price. And those are the

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1 markets that provide food for the Zumbe population, providing people with
2 basic foodstuffs. It's difficult for me to tell you specifically which
3 market I went to because I would go to several.

4 Q. Thank you, Witness. You've given us a lot of information. And
5 we'll try to go through things step by step. First of all, you referred
6 to the Tatu market. You'll correct me if I'm wrong as regards the
7 spelling. I'd like to know whether the Tatu market went by another name
8 as well. The Tatu market, did it have another name? Tell us about the
9 Tatu market, where was it? But briefly, please, without going into too
10 many details.

11 A. The Tatu market is in the Baviba groupement in the Medu village.

12 Q. Thank you. That is what I wanted to verify. You also referred
13 to Chief Oudo, who was he? Could he tell us about him, but not at
14 length, just a brief explanation, his link with the market, for instance.

15 A. No, he wasn't really a chief. He was somebody who was in charge
16 of the market.

17 Q. He was in charge of which market?

18 A. The Tatu market.

19 Q. Please take your time and have a drink, Witness. I can wait for
20 you.

21 Witness, do you recall one of those trips that you would have
22 made to Walendu-Bindi and more specifically to Geti with Martin Banga,
23 Martin Banga?

24 A. Yes. I remember. When I went with Martin Banga, we didn't go
25 through to the centre of Geti. You know that it's the chef-lieu of the

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1 Walendu-Bindi collectivity. So we went up with Martin to the Tatu
2 market. You remember I said that was the market that was the closest to
3 us.

4 Q. Can you remember, even roughly, the date of that trip, even a
5 rough idea, which month, which year? When was it that you went with
6 Martin Banga to the Tatu market?

7 A. No. My memory fails me. It's difficult for me to remember the
8 date.

9 Q. On that trip with Martin Banga, do you remember whether there
10 were any other people with you, any other people who would have been on
11 that journey with you on that day?

12 A. No. It was just the two of us, Martin and myself. We went to
13 the market, we bought the goods we had to buy, we went to see our family,
14 and then we went back.

15 Q. Witness, do you know someone called Ngabu Mateso Martin,
16 Ngabu Mateso, aka or alias, rather, Boba Boba?

17 A. If I'm not mistaken, Boba Boba is a soldier and he's currently in
18 Kinshasa.

19 Q. Okay. Was Boba Boba with you when you went to buy food at the
20 market? Was Boba Boba with you?

21 A. No. Boba Boba lived in Ezekere. It was a self-defence group in
22 that area. It was just Martin and I who went to buy food. We didn't go
23 with Boba Boba.

24 Q. Another individual, going by the name of Cobra. Let me ask
25 whether -- well, first of all, whether you know him and, secondly, was he

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1 with you on that journey? Was Cobra with you on that journey?

2 A. I was smiling because Cobra was in Bavi. How could I have
3 travelled with him? I don't remember his surname. Cobra was a commander
4 in Bavi and I can't remember his name. Ah, he's called Matata.

5 Q. All right. What mode of transport did you use to go up to the
6 market?

7 A. To go to the collectivity of Walendu-Bindi you have to go through
8 Bogoro. It's the only road that exists. I told you that it was a
9 difficult journey. You have to go on foot and at night, going through
10 the bush, and that's why I said we went through Bugo (* phon), then
11 Lakpa, and then we entered the collectivity where we were accustomed to
12 buying foodstuffs.

13 Q. I hope that the Prosecutor will not stand if I were to say that
14 according to what you've just said, you went on foot. Is that correct?

15 A. Yes. On foot. We went on foot.

16 Q. Who decided that you and Martin were to go on that trip to
17 purchase food?

18 A. To go to a market we didn't need to wait for somebody to take a
19 decision. We just went. Our chief didn't know. We decided of our own
20 accord, and I think I'd already told you that.

21 Q. Well, Witness, I'm asking you this question and you may find it
22 impertinent. Why? Because the Prosecution is making allegations, and we
23 are cross-checking them. That is why I'm asking you questions such as
24 that one, that you may find quite obvious, but it is my duty to ask you
25 these questions and you will see in a few moments why. Despite the

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1 answer you just gave us, I'd like to ask you the following question.

2 Was it Mathieu Ngudjolo who sent you to that place, to the
3 Walendu-Bindi collectivity? Was it Mathieu Ngudjolo who sent you there?

4 MR. GARCIA: (Interpretation) Objection, your Honour. The
5 question has already been put to the witness in rather clear terms and
6 the witness also provided a clear reply. Professor Fofé is not
7 conducting a cross-examination of his own witness.

8 PRESIDING JUDGE COTTE: (Interpretation) Witness, so you stand
9 by your earlier answer, which was that you decided to go there on your
10 own initiative to that collectivity, to find -- to go get some food
11 supplies, is that your answer?

12 THE WITNESS: (Interpretation) Yes, that's what I said. We went
13 there with Martin. We went there to get some salt, some oil, some soap.
14 The supplies there were inexpensive. Everyone from my groupement went
15 there to get their supplies there. Many people, nearly 90 per cent of
16 the people at that time were living in that collectivity. Those people
17 had been displaced and were in the Walendu-Bindi collectivity. From time
18 to time, everyone would go to that market in the Walendu-Bindi
19 collectivity to get fresh supplies.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Witness.
21 Professor Fofé, if we could continue?

22 MR. FOFÉ: (Interpretation) Thank you, your Honour. The last
23 statement by the Prosecution leads me to set aside a series of rather
24 specific, practical questions. We are familiar with the Prosecution's
25 theory regarding the plans to attack the town. We are familiar with

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1 that. And I would like ask the witness some specific questions about
2 this infamous delegation. If the Prosecution keeps me from doing so,
3 that means that he will have to draw the appropriate conclusions, because
4 these are very practical, specific questions that counter the allegations
5 that deal with the Prosecution's very theory, and this is the witness
6 that we need to verify these allegations regarding the delegation,
7 your Honours.

8 PRESIDING JUDGE COTTE: (Interpretation) Well, initially we
9 can't rule out your -- some questions of yours warrant being put.
10 I think Mr. Garcia's objection really had to do with this question which
11 may seem repetitive even though it was much more targeted than your
12 earlier question. You were asking whether the two people in question,
13 Martin and our witness, had gone there of their own volition, on their
14 own initiative, or according to someone's orders, and they said they went
15 there on their own. Now, if you have another series of questions that
16 you can't ask now, well, that is up to you to decide.

17 Mr. Garcia, are you familiar with these questions?

18 MR. GARCIA: (Interpretation) Indeed. I don't know what the
19 questions are, but judging by Professor Fofé's comments, and correct me
20 if I'm wrong, I think he's asking for permission to ask questions that
21 are more leading about this trip to Geti. And I would like to say right
22 from the outset, if Professor Fofé has leading questions in this regard,
23 the Prosecution will be objecting. The witness has already replied
24 clearly about the trip, what he remembers, the people who he went with,
25 the people who did not go with him and he has told us his story. He has

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1 told us what has happened. If there are more leading questions, clearly
2 the Prosecution will object. I think what the priority here is, during
3 examination-in-chief, is to hear from the witness what he experienced.
4 That was my only comment, really, in response to Professor Fofé's earlier
5 comments.

6 PRESIDING JUDGE COTTE: (Interpretation) Very well. I think we
7 all realise, and Professor Fofé is well aware of this, that leading
8 questions are prohibited during examination-in-chief, and he really is
9 the only one who can assess at this time whether the questions that he
10 has in mind are leading or not. If they are leading, he should not ask
11 them. If they are not leading, he should go ahead. Professor.

12 MR. FOFÉ: (Interpretation) Thank you, your Honour.

13 Q. Witness, I'd like to put the following question to you. Other
14 than going for supplies, oil, salt, other than those trips to get
15 supplies, did you have another objective or another reason to go to the
16 Walendu-Bindi collectivity?

17 A. Other than that, there was no other reason, no other reason for
18 us to go there. We went there just to get fresh supplies. What else
19 would we go there for? We had nothing -- we had no other reason to go
20 there.

21 Q. Other than those markets, did you have another reason, did you
22 have to go and meet people, some other people, in that place, to
23 negotiate attack plans?

24 MR. GARCIA: (Interpretation) I object, your Honour.

25 MR. FOFÉ: (Interpretation) Your Honour, the Prosecution can

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1 help ask such questions to verify whether the witness went to negotiate
2 something, and I think we all know what this is about.

3 PRESIDING JUDGE COTTE: (Interpretation) All the same, the
4 answer to the earlier question was, was there another reason, any other
5 reason than going to fetch supplies. The witness said no, if I'm reading
6 the transcript properly. I'm looking at the transcript here. Other than
7 that, there was no other reason for us to go there. We went there just
8 to get supplies. There was no other purpose.

9 Professor, I understand your concern. Try, through the witness's
10 answers, to help the Chamber. We can only conclude that the witness
11 replied saying, "No," he only went there to get supplies. I think we
12 have to take that answer from a witness who has told us he would tell us
13 the truth, the whole truth and nothing but the truth. He is giving us
14 his replies. You may want these answers to be more specific or perhaps
15 different for the sake of clarity, as far as that goes -- well, he is
16 providing his version of the events.

17 MR. FOFÉ: (Interpretation) Your Honour, the witness has helped
18 us a great deal. This answer which he has given us is completely
19 satisfactory. As the Prosecutor, as he makes these obligations --
20 objections, pardon me -- we really have to drop this line of questioning
21 and we take note of the answer that the witness has just given us. So
22 there you have it, your Honour.

23 PRESIDING JUDGE COTTE: (Interpretation) Understood, Professor
24 Fofé. So we all very clearly have in mind the answers that the witness
25 gave regarding the purpose of these trips, the mission, so to speak.

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

2 To go on to the next topic, we would like to ask for a brief
3 session in private.

4 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could we
5 go into private session? I believe the question and the answer will be
6 identifying in nature.

7 (Private session at 4.12 p.m.)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (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 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Open session at 4.15 p.m.)

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

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Professor
24 Fofé?

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

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1 Q. Witness, how do you know Mr. C?

2 A. Well, I know Mr. C very well. His mother could call my wife her
3 aunt. When, at the current time, (Expunged), in
4 teaching. (Expunged). They are people that I know very
5 well. I even know his parents very well. Even during the time of the
6 war, they were living in Ezekere, the Bogoro hill, and we would see each
7 other all the time. And now he is in Bunia. They are in Bunia, and he
8 is the (Expunged)
9 (Expunged) So that is how I -- that is why I know him.

10 Q. Let me put the question to you once again. You may find it
11 untimely, but, in any event, was Mr. C with you, with you and Martin
12 Banga, when you travelled there to get supplies during that time, during
13 the war, August 2002 to 2003? You said that you would go to the
14 Walendu-Bindi collectivity to get fresh supplies. Was Mr. C along with
15 you when you made these trips?

16 A. No. I'm trying to cast my memory back. At that time, (Expunged)
17 pardon, Mr. C was a student in Geti and he lived with his uncle, the
18 young brother of his father who was a local merchant. He was a student.
19 He didn't live with his parents in Ezekere. He was going to school at
20 that time. After the war, I tried to see him and his father said that
21 the white man had gone with him to Europe in an ONG -- an NGO and he had
22 gone to study. I think he must be here. That's what my -- what the
23 father told me. He was a student at the Geti institute, living with his
24 uncle. It's a family that I know well. He wasn't in Zumbe at that time.

25 MR. GARCIA: (Interpretation) If you don't mind, when I look at

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1 the summary with the list of topics that would be touched upon, this
2 particular topic was not mentioned. So, the purpose of these summaries
3 is to give notice to parties, participants and the Chamber what subjects
4 will be looked at, and now we are getting into some very relevant items
5 of information and this topic was never notified to the Prosecution.
6 It's very difficult to prepare properly unless one has sufficient time.

7 MR. FOFÉ: (Interpretation) Your Honour --

8 PRESIDING JUDGE COTTE: (Interpretation) Go ahead.

9 MR. FOFÉ: (Interpretation) We are checking this, but off the
10 top of my head, unless I'm mistaken, we said that the witness would be
11 discussing his trip to Aveba. We are --

12 PRESIDING JUDGE COTTE: (Interpretation) Yes. Now, if this
13 document I have here is still up to date, mention is made of the witness
14 speaking about these trips to get fresh supplies, the people going with
15 him and the time that they would spend on these trips and so on and so
16 forth. If we get a pair of reading glasses we might focus on one
17 particular point, and we see that the extent of your questions regarding
18 Mr. C, it would not appear otherwise. It wouldn't -- it doesn't appear
19 that this summary includes any mention of this particular topic. I'll
20 give you some time to double check, to make sure of this.

21 MR. FOFÉ: (Interpretation) Yes, your Honour. If the
22 Prosecution is familiar with his theory, he will know who went with the
23 witness, who was with the witness during these trips, and we are talking
24 about people --

25 MR. GARCIA: (Interpretation) I'm sorry, Professor Fofé, I think

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Questioned by Mr. Fofé (Continued)

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1 we should go to private session if we continue giving such details,
2 because I think Professor Fofé wishes to explain his position.

3 PRESIDING JUDGE COTTE: (Interpretation) It is 25 minutes past
4 the hour. If we could clear this up quickly, we could go into private
5 session.

6 Court Officer, let us go into private session. In any event we
7 will have to suspend at 4.30.

8 MR. GARCIA: (Interpretation) We have to be very careful about
9 what we are saying. If Mr. Fofé wishes to get into the details of the
10 theory of the Prosecution, the witness should not be present in this
11 courtroom. He should leave. So I'm just giving notice to my learned
12 friend. Mr. Fofé should not go into the details relating to the evidence
13 from the Prosecution.

14 MR. FOFÉ: (Interpretation) I can reassure the Chamber that
15 I did not even have any more questions about this particular person.
16 However, I am somewhat disturbed by the Prosecution's response. Our task
17 is to counter all the Prosecution's allegations. If not, what would be
18 the point of being here? I reassure the Chamber that I have no further

19 questions regarding Mr. C. I have no further questions regarding Mr. C.
20 However, I think, your Honour, that our role is to counter all the
21 allegations made by the Prosecution, and to go back to the --

22 PRESIDING JUDGE COTTE: (Interpretation) Are we in open or
23 private? Open session, very well.

24 MR. FOFÉ: (Interpretation) I think we can stay in open session.
25 There is no point in going into private session.

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1 We said, and I believe I have the document in question, it is our
2 filing 2771, confidential annex, page 8, dated the 14th of the 3rd month,
3 2011, he will speak about his trip to Medu (Geti) with a view to fetching
4 supplies, the people who went with him and his stay. The duration of his
5 stay and the places he went there, according to the --

6 MR. GARCIA: (Interpretation) Objection. This is the kind of
7 information that mustn't be --

8 THE INTERPRETER: Overlapping speakers.

9 PRESIDING JUDGE COTTE: (Interpretation) That's enough. The
10 witness has answered the question. Let us not trade barbs about these
11 questions. The question has been put, the answer has been given.
12 Professor Fofé tells us he has no further questions on this particular
13 matter, so for the time being we will go into closed session so that the
14 witness can leave the courtroom. And, Witness, we will be resuming in
15 30 minutes, at 5.00 in the afternoon, for another session, another
16 two-hour session. So you will have some time to take a rest during those
17 two hours -- sorry, during those 30 minutes. And, Court Officer, if we
18 could go into closed session.

19 (Closed session at 4.27 p.m.)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness DRC-D03-P-0066 (Resumed) (Closed Session)
Procedural Matters

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1 (Expunged)
2 (Open session at 4.27 p.m.)
3 COURT OFFICER: (Interpretation) We are in open session.
4 PRESIDING JUDGE COTTE: (Interpretation) Thank you. The hearing
5 is now suspended and we shall resume at 5.00.
6 Recess taken at 4.28 p.m.
7 On resuming at 5.07 p.m.
8 (Closed session)
9 (Expunged)
10 (Expunged)
11 (Expunged)
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Open session at 5.08 p.m.)
17 COURT OFFICER: (Interpretation) We are in open session, your
18 Honour.
19 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Court
20 Officer.
21 Witness, can you hear me?
22 THE WITNESS: (Interpretation) Yes, I can hear you clearly.
23 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
24 We shall now resume our work for nearly two hours, and once again, so
25 that Professor Fofé doesn't have to repeat this, please let me ask to you

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1 make an effort to speak slowly. Although you have a lot of things to say
2 and you want it to be lively, we nonetheless are compelled to adopt a
3 rather leisurely and boring pace.

4 Professor Fofé.

5 MR. FOFÉ: (Interpretation) Thank you very much, your Honour.
6 That is indeed what I was intending to do.

7 Q. And, Witness, you have now heard what Judge Cotte said, i.e. you
8 must speak slowly.

9 Witness, you earlier on spoke about Oudo as being a person in
10 charge of the Tatu market. Now, when you had gone to replenish supplies
11 with Martin Banga to the Tatu market, did you send a letter to Commander
12 Oudo?

13 MR. GARCIA: (Interpretation) Objection. That is truly a
14 leading question. And in spite of the fact that the Prosecution has
15 stood again and again before the break to explain it, it has very
16 strenuous objections against any suggestions of this type, Professor Fofé
17 continues to do this in spite of the objections and including the various
18 reminders made by your Honour. Professor Fofé is carrying out an
19 examination-in-chief. He must ask neutral questions. He is suggesting
20 answers to the witness about that meeting.

21 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé, it is
22 indeed a difficult task but you must try and introduce what you
23 apparently want to introduce proceeding in, once again -- gradually
24 centring in on to the -- on to your intention. Of course, it isn't a
25 simple affair. For the time being we shall remain with that. If our

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Questioned by Mr. Fofé (Continued)

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1 guess is correct, it would not be totally irrelevant for the purposes of
2 disclosing the truth to proceed with that line of questioning and obtain
3 our answers from the witness. Please proceed.

4 MR. FOFÉ: (Interpretation) I will try and abide by your
5 instructions but I would like to call the attention of the Chamber --
6 well --

7 PRESIDING JUDGE COTTE: (Interpretation) There is apparently
8 some frustration.

9 MR. FOFÉ: (Interpretation) Well, I'll say this later on, then.
10 We are here dealing with a different set of circumstances and I will
11 explain what I mean by that at a later stage.

12 Q. Witness, when you went to get a new supplies, fresh supplies, at
13 the Tatu market, were you able to purchase everything that you needed?

14 A. When you go to market, you go there to purchase items, and the
15 items I needed were available and I was therefore able to get hold of
16 them.

17 Q. Once you had purchased what you wanted, the supplies, did you do
18 anything else in that collectivity? Did you carry out any other
19 procedure? Witness, let me try and do this differently. It's not easy.

20 Let me ask you an open-ended question. Please talk to us about
21 everything you did when you went to replenish supplies at the Tatu
22 market. Speak to us very, very slowly indeed. And I am talking to you
23 about the trip you went on with Martin Banga, because you said you had
24 gone on several trips, and what I would like to hear is about your trip
25 with Martin Banga and everything that you did on that particular trip to

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1 the Walendu-Bindi collectivity. But please proceed but very, very
2 slowly.

3 A. Thank you. I did travel with Martin Banga but only on one
4 occasion and we went to the Tatu market. It's very difficult for me to
5 remember the exact date of this trip. You asked me what we did at the
6 Tatu market. Well, the person in charge of the market is somebody that
7 belongs to my groupement and part of my family. He is in charge -- or,
8 rather, he hails from Soki from the same groupement and I too hail from
9 the Soki groupement. We met with him at the market, and I told him that
10 we had very scarce resources and that we needed soap. And he told us he

11 *(Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 this letter and went to his office, and when he came back, he gave us the
17 money. But unfortunately, he was transferred during the brassage and I
18 don't know where he is now nor whether he is alive.

19 Q. Just for reasons of clarity, could you perhaps give us the name
20 of these young people in Soki who were in charge of the Tatu market, or
21 "the" youth? Could you perhaps give us his name?

22 A. I hail from the Aveba groupement, but I'm not very familiar with
23 this groupement because I grew up with my uncles on my father's side in
24 the Walendu-Tatsi collectivity. The father of my father is Lendu Tatsi.
25 And my brother went with me there and we grew up there. Because of the

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1 war, we had to go back to our native village. That was the decision
2 taken by my father who said that we must return to our native village.
3 All this to say that we -- I am not very familiar with the people from
4 there.

5 This young man went to school with me at Bunia. That's how I met
6 him, and when we went there, I approached him and told him about our
7 *(Redacted)
8 (Redacted)
9 (Redacted) help in the letter. We needed soap. During that trip that
10 I went on with Martin, to cover my friend, I also made out a request for
11 other items, because my *(Redacted)
12 (Redacted)
13 (Redacted) correctly.

14 Essentially what I was asking for was some soap, but I don't know why
15 you're asking me this question.

16 Q. So you just said that the purpose of this letter was to ask for
17 help; isn't that so?

18 A. Yes. It was a request for soap mainly, and that is why I'm
19 wondering why you're *(Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)

23 Q. In that letter, when you asked for soap, what exactly do you mean
24 by "soap"?

25 A. I don't know how they call soap for washing clothes in Swahili

Witness: Witness DRC-D03-P-0066 (Resumed) (Open Session)
Questioned by Mr. Fofé (Continued)

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1 but *(Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. Thank you very much, Witness.

22 MR. FOFÉ: (Interpretation) Your Honours, having heard the

23 witness's answers to these questions, I would like to seek your leave to

24 confront the statement made by the witness or compare it with the public

25 exhibit EVD-OTP-00025. I would like to be able to present this document

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1 to the witness and ask him a few questions about this document, which is
2 one of the Prosecutor's documents.

3 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, before
4 we have this EVD number, it would seem that it carried a number,
5 DRC-OTP-0029-0092. DRC-OTP-0029-0092, can this be seen on the screen?

6 COURT OFFICER: (Interpretation) Is this still a public
7 document?

8 MR. FOFÉ: (Interpretation) Yes, it is a public document.

9 MR. GARCIA: (Interpretation) I would like to make sure that
10 Professor Fofé has actually asked all the introductory questions before
11 using this document because we must at all costs the avoid refreshing the
12 witness's memory. I want to emphasise this problem. I want to be sure
13 that all the questions on this topic have been exhausted, because, of
14 course, when you show a document, any information that hadn't come out
15 will -- any new information that comes out will have the relative
16 probative value.

17 MR. FOFÉ: (Interpretation) Quite right, Mr. Prosecutor. I will
18 ask the witness one last question.

19 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, well,
20 don't show the document on the screen yet, then, in that case.

21 Professor, go on.

22 *(Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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Page 46

1 (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)

17 Q. One last question before we show you this document. When you
18 were over there to replenish supplies, when you were on that trip, did
19 you ever make -- speak to other authorities, take the floor before other
20 authorities?

21 A. Professor, I was in another collectivity. Was I allowed to make
22 any speech? Is that feasible?

23 MR. FOFÉ: (Interpretation) I think we can now present the
24 document to the witness.

25 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, in that

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1 case, please go ahead.

2 COURT OFFICER: (Interpretation) This document can be seen by
3 pressing "PC 1."

4 PRESIDING JUDGE COTTE: (Interpretation) The witness can see the
5 document. The accused see the document, do they? Good.

6 MR. FOFÉ: (Interpretation) I think we should perhaps hand over
7 a hard copy to the witness because it's easier to read. On the screen
8 it's rather difficult.

9 PRESIDING JUDGE COTTE: (Interpretation) Yes, thank you.
10 Indeed, these two documents are the same. Witness, you can also take a
11 look at the hard copy which is the copy of what is up on the screen, but
12 it will be easier for you because the colour of the handwriting on the
13 screen is rather light. Professor Fofé, on the basis of that document
14 that you've already introduced, please proceed.

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

16 Q. Witness, please take a careful look at this document and tell us
17 whether you recognise it.

18 A. Yes. I do recognise it. But this document has been deformed.
19 There was no rubber stamp, and I don't *(Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Witness: Witness DRC-D03-P-0066 (Resumed) (Open Session)
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Page 48

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. Let me repeat my question. You've answered indirectly through
13 excluding certain things but I would like to have a direct and clear
14 answer to my question, if you'd be so good. At that time, during that
15 period in which you made this trip, did the FRPI exist in Zumbe?

16 A. No.

17 Q. Thank you, Witness. That is all I wanted to ask you in the
18 context of the questioning in chief, and I would like to thank you very
19 much for having answered all of my questions, some of which were
20 difficult. As of now there are others who will have questions to put to
21 you and I would ask you again to remember to be slow in providing the
22 answers.

23 MR. FOFÉ: (Interpretation) Thank you, your Honours.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
25 Professor Fofé. Mr. Hooper, do you have any questions for this witness?

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1 MR. HOOPER: We have no questions.

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

3 Prosecutor, please proceed, please take your time.

4 MR. GARCIA: (Interpretation) Thank you, your Honour. I will
5 just require one or two moments in order to set things up.

6 PRESIDING JUDGE COTTE: (Interpretation) Yes. Please go ahead.

7 Questioned by Mr. Garcia:

8 Q. (Interpretation) Good afternoon, Witness.

9 A. Good afternoon.

10 Q. Well, first of all I'd like to introduce myself. My name is
11 Lucio Garcia. I'm a representative of the Prosecutor and I will be
12 putting questions to you today. Before we embark upon those questions,
13 of which there will be several, I want to make sure that we are clear
14 about one thing. If there is any of my questions that you cannot
15 understand or that you have not understood, cannot answer or have not
16 understood, then please tell me immediately. That will make it easier
17 for us to understand each other. Have you understood this?

18 A. Yes, I'm with you.

19 Q. Witness, I will also ask you, because this is one of my
20 shortcomings as well, I would ask you to be slow, express yourself
21 clearly so as to avoid there being any problems for the court reporters,
22 the Chamber and others who are following your testimony, and I shall also
23 try to remain calm and collected and put my questions slowly.

24 Witness, I'd like to know when did you meet, or when did you
25 meet, that is, for the very first time, the Defence counsel of

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1 Mr. Ngudjolo?

2 A. I met somebody from the team, who is no longer here, Maryse was
3 her name, that was the first time. And there was somebody else of
4 Congolese nationality whose name escapes me. They came to my home and
5 they told me they would need me, they would need me to come and speak
6 before the Judges.

7 Q. Witness, as regards that person of Congolese origin, are we
8 talking about Mr. Lopa Koli, Christophe?

9 A. No.

10 Q. Are you telling us now that you do not remember that person's
11 name? Is that correct?

12 A. Perhaps you know his name because you sent him there. I just
13 remember Maryse. She was the one I spoke to and she told me they needed
14 me. When I met Maryse, that was a good five years ago.

15 Q. Witness, when I mention name Lopa Koli, Christophe, does that
16 ring any bells? Have you ever met somebody going by that name?

17 A. Yes. I have already met Lopa.

18 Q. Witness, when did you meet Mr. Lopa for the first time?

19 A. I can't remember. I've already said that I have some difficulty
20 recalling dates.

21 Q. I understand your answer, Witness. Indeed, it is often difficult
22 to remember exact dates but can you tell us whether it was last year,
23 this year? Can you give us a rough idea of when you met him for the
24 first time? If you can't, then you just need to say you can't.

25 A. You've just given an answer to your own question. If I'm not

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1 mistaken, the last time I saw Lopa was two years ago.

2 Q. Witness, did you know Mr. Lopa before he came to meet you?

3 A. Yes.

4 Q. Witness, you've just answered that you knew him already before
5 that meeting. You had known him for how long?

6 A. For a long time. For a long time.

7 Q. Okay. When you say "for a long time," does that mean five years,
8 ten years? Have you known him for your entire life?

9 A. We've always known each other.

10 Q. Witness, is this somebody who grew up in the same region as you,
11 in the same village?

12 A. No. We grew up in different villages.

13 Q. Witness, just to be sure that we understand correctly, you say
14 you've known him forever, so is it correct to say that before that
15 meeting, for the purposes of this case, you were already friends? Is
16 that correct?

17 A. We went to the same school.

18 Q. Witness, I understand that you went to the same school. But is
19 it correct that you were already friends?

20 A. We were at the same school but we were not friends.

21 Q. So when you say that you met him for the first time about
22 two years ago, I imagine that he introduced himself as a representative
23 of Mathieu Ngudjolo's Defence; is that correct?

24 A. No. Because we heard that there was a case at the ICC, we were a
25 bit scared, and he didn't tell us precisely what was the purpose of the

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1 meeting. And when my family heard that there was to be a meeting, they
2 were scared, and these people didn't tell us clearly what was the purpose
3 of that meeting.

4 I can also add that when Maryse came, I asked some very
5 substantive questions but the answer I got was very superficial.
6 Professor Fofé put questions to me. There were documents that were shown
7 to me, but at the beginning I wasn't shown them. When Maryse came, she
8 came to my house, she explained things to me superficially. She said,
9 "There is something that's going on and we will need you to come to
10 The Hague." And I said, "What? Have I been accused?" And her answer
11 wasn't clear.

12 And then two years later, there was the meeting with Lopa and he
13 wasn't clear either in the explanation that he gave me. Perhaps he
14 thought that if he explained things clearly, then I might not agree to
15 come. And when I told my father all of this, he wasn't happy at the idea
16 of my coming here but I had decided I would come anyhow and to tell you
17 what I know. But when they actually came to see me, they were not clear
18 in the explanations. If they had been clearer I could have done more,
19 I could have got documents, papers, from the village wisemen, so that
20 I could prepare myself to come here and testify.

21 Q. In this area I have one last question, Witness. If I correctly
22 understand what you've said, you were afraid of coming here to the
23 International Criminal Court in the matter of the different cases that we
24 would be dealing with at trial here; is that correct?

25 A. No, no, that's not what it is at all. This is what the pastors

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1 told us. We were with Mathieu Ngudjolo in Zombe, he's been accused by
2 the ICC, and I could go and testify before the Judges of the ICC, which
3 is why it was important for me to go to The Hague. And that's why
4 I agreed to come, to explain that we were in the same groupement as
5 Ngudjolo. I could testify as to his presence during the war, to tell the
6 Judges this. That's what I told Maryse. I said it was a personal
7 undertaking on my part and for me it's a privilege to be able to be here
8 and testify.

9 Q. Thank you for that explanation, Witness. Now I'm going to put
10 some questions pertaining to documents that you have been shown.
11 Professor Fofé asked you a number of questions concerning an *attestation*
12 *de fréquentation* of Mr. Ngudjolo. This is a certificate of attendance.
13 Do you remember the questions put to you by Professor Fofé on this
14 particular matter?

15 A. Yes.

16 Q. Witness, if I understand correctly, and we will show you the
17 document, it has the reference MFI-D03-00091.

18 COURT OFFICER: (Interpretation) This document can be seen by
19 pressing "PC 1."

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Court
21 Officer. Can we check that the witness does see the document on his
22 screen? And let us make sure that he recognises it.

23 MR. GARCIA: (Interpretation)

24 Q. Witness, can I just check with you? You can -- can you not see
25 this document on the screen? Is this the certificate that you drafted?

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1 A. Yes.

2 Q. If I understand correctly, Witness, this is a certificate which
3 was prepared, according to what it states on the document, in Katoni on
4 the 15th of June, 2011. Is that correct? Is that the date on which you
5 prepared this document?

6 A. Yes, indeed.

7 Q. Witness, I would ask to you speak up because sometimes I can see
8 you're speaking, we don't always hear the interpretation. So please
9 speak up and, if necessary, speak more closely into the microphones.

10 A. You know, I'm a teacher. When I'm talking to somebody, I tend to
11 look at the person who is talking to me, and as you, the Prosecutor, you
12 are putting questions to me, I have to watch your face, so perhaps it
13 would be necessary to ask the usher to change the position of the
14 microphone so that I can still see the Prosecutor. But it's difficult
15 for me to look straight ahead, if the questions are coming at me from the
16 side.

17 PRESIDING JUDGE COTTE: (Interpretation) Well, perhaps you
18 should move slightly backwards so that you will be in profile, so to
19 speak, but the microphone will be straight ahead of you. Witness, you'll
20 have to keep your eyes on the Prosecutor and your mouth on the
21 microphones, and I'm sure you're going to be able to do that. Please
22 proceed, Prosecutor.

23 MR. GARCIA: (Interpretation)

24 Q. Witness, if I understand your testimony in answer to
25 Professor Fofé's questions, you drafted this certificate in your capacity

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1 as head master of the school; is that correct?

2 A. Prosecutor, I was the head master of that school.

3 Q. Yes, indeed, that is your answer, then. You were the head master
4 and it was in that capacity as head master of the primary school
5 Buy-Sabuni that you signed this; is that correct?

6 A. The day before yesterday or Friday, Professor Fofé, he asked
7 questions, the same questions, and this is what I said, in Buy-Sabuni
8 there was a subsidiary of Zago. There was the teacher's payment sector
9 that investigated this and saw that there weren't even as many as 30
10 people teaching there and that's why it was shifted to Buy-Sabuni, the
11 subsidiary. That establishment is still in operation today and still
12 goes by the name of Buy-Sabuni. Since 1994, I was deputy head master,
13 and three years after, I occupied the post of head master and I still am
14 today. And on the 5th of September, God willing, I will be able to
15 return to my post as head master.

16 So, yes, my answer is: I did sign this certificate as head
17 master of the school. That was my function.

18 Q. Witness, what you just said was very important. You said that
19 that was your function. You also said that -- in answer to Professor
20 Fofé that the information on the certificate came from somebody called
21 Henri; is that correct?

22 A. Mr. Prosecutor, that is true. Let me explain. When war broke
23 out, the archives were lost. We as those in charge, the leaders, we
24 tried to do what we had to do to prepare the certificates, not just that
25 of Mr. Ngudjolo but there were many others that we drafted as well. We

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1 went to see parents to get the necessary information. It was his uncle
2 who helped us, Mr. Duba (* phon). He gave us the information so that we
3 could prepare this certificate. So that we could certify that Mathieu
4 Ngudjolo is not illiterate. I had to specify the years during which he
5 studied at school, and this was recorded on the list of certificates.

6 The war had destroyed all of the archives, and if we didn't do
7 this, it would then be very difficult for people to get hold of this
8 information. Our school was burnt down three times. So you can see,
9 when Professor Fofé asked me the question, I spoke the truth. All of the
10 files had been destroyed. I can but confirm that this certificate was
11 prepared on the basis of the information provided by members of the
12 family.

13 MR. FOFÉ: (Interpretation) Could we have that name spelled out,
14 line 18, I believe? Perhaps Mr. Prosecutor you could remind the witness
15 to speak slower, even slower.

16 PRESIDING JUDGE COTTE: (Interpretation) Witness, you did
17 mention someone by the name of Mr. Zumba (* phon). Could you spell out
18 that name for us, one letter at a time?

19 THE WITNESS: (Interpretation) D-Z-comma-D-A. D-Z-comma-D-A.
20 Dz'da.

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

22 MR. GARCIA: (Interpretation)

23 Q. Witness, once again, Witness, regarding this same document,

24 I heard your answer but is it not correct, Witness, that this name, this
25 person Henri Dz'da, his name appears no where on the certificate? Am I

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1 correct to say that?

2 A. Sir, we are not going to put the names of the parents on these
3 certificates. You realise we had a great deal of difficulty establishing
4 these certificates in the past because we had no records. In Africa we
5 use resource people who give us information. His father had already
6 passed away and the person in question was the only relation of this
7 father -- of this person. This is why we asked the paternal uncle of
8 Mr. Ngudjolo to be the resource person before we drew up this document.

9 Q. I've understood that, Witness, but what bothers me, Witness, I'll
10 tell you straight off. You were approached to draw up a certificate, you
11 did so as the head master of the primary school, and nowhere on this
12 certificate do we find any mention made to the effect that the
13 information comes not from records but rather from a person or that the
14 records do not exist. So you agree with me, Witness, that this is an
15 important item of information that should be mentioned so that people
16 know what this certificate was based on. That's rather important, don't
17 you think?

18 A. Sir, if you understood what I said -- well, I said this: As the
19 head master of the school I have the power to do this. In our country,
20 in the administration, I have the right to issue such a certificate, and
21 the certificate is valid in the country. If my inspector were to come
22 and see me, he would see the certificate and he would accept it.
23 Furthermore, to issue such a certificate, we ask for a fee of \$1 to be
24 paid.

25 There was no other source, no other resource, to establish or

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1 issue this certificate. I am the only person who can issue it. I don't
2 know what you don't like about the certificate, what you think is wrong
3 with it. Following the process that is in -- prevailing in my country, I
4 am entitled to issue a certificate like this one.

5 Q. But, Witness, you knew that this document, this certificate, that
6 you signed as the head master would be used here in the courtroom. So
7 I'll ask you the question again. Is it not correct that you should have
8 mentioned the fact that this certificate was based on what someone else
9 said and that this is hearsay and that it is not an official document or
10 it wasn't based on official document from the archives which burnt down?
11 You agree with me on this, don't you?

12 A. Mr. Prosecutor, as I said earlier, there are some practices
13 prevailing in your unit that I don't know about. I didn't know that this
14 document would find its way here when Pastor Lopa came to ask for this
15 certificate, the certificate of attendance of Mr. Ngudjolo. I gave it to
16 him. And I did what I could. And I didn't think that this certificate
17 would make its way all the way to here. I said this before. I said it
18 clearly. I didn't know that this certificate would come all the way
19 here. And there was no other way to issue the certificate. If I knew
20 that it was to come all the way to this place, perhaps my boss would have
21 signed the certificate to make it more valid. I did what I've always
22 done with all the other people. This is an official form, and we issue
23 these forms following the procedure, and it is valid, just as the other
24 documents are valid in the country.

25 Q. But, Witness, are you telling us that you didn't know that this

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1 document gathered by the resource person from the Ngudjolo Defence team
2 would be used here for the trial? You knew at the time that
3 Mathieu Ngudjolo had been charged and brought before the court. So you
4 must have known that this certificate, if it were gathered by
5 Mr. Lopa Koli, you must have known it was to be used before this court.

6 A. No, Mr. Prosecutor. As I said before, some information was not
7 received before. I think that he was respecting his code of ethics. He
8 didn't tell us everything. He asked for a certificate. I gave it. I
9 had him come into my office just like any other parent, and I did not
10 have anything else in the back of my mind regarding the final destination
11 of this certificate.

12 Q. Witness, when we read the document, we gather from it that you
13 are stating not only that he studied at the school but that he also was a
14 regular student, a regular pupil, but there is no way of checking that.
15 Isn't that so? The uncle couldn't have told you whether he went to
16 school regularly or not.

17 A. Mr. Prosecutor, I told you that this is an ordinary form, a
18 certificate of attendance. We have already -- always issued the
19 certificates in this way. All the certificates respect this format.
20 This is an official form, and this is what is given to us by the
21 government.

22 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, the Chamber
23 will allow itself to intervene already. Now the other day when Professor
24 Fofé was talking about the certificate, we were wondering just how useful
25 this certificate would be to the Chamber, particularly this information,

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1 the primary and secondary schooling of Mr. Ngudjolo. And you have made
2 this point. You are harking back to this certificate and we do
3 understand the conditions under which it was issued by a witness who has
4 told us that he has the proper authority to do so, but because the
5 records were no longer in existence, he made reference to the statement
6 made by another person, and we understand what person gave that
7 statement. Is it absolutely necessary to dwell on this and to spend all
8 this hearing time on this particular matter?

9 MR. GARCIA: (Interpretation) I reassure the -- I would like to
10 reassure the Chamber that that was my last question on the matter.

11 PRESIDING JUDGE COTTE: (Interpretation) Well, our patience is
12 quite inexhaustive, but I always seem to make such remarks just when
13 counsel is getting to his last question.

14 MR. GARCIA: (Interpretation)

15 Q. I would now like to ask you some questions about something else.

16 A. Could I please relieve myself?

17 PRESIDING JUDGE COTTE: (Interpretation) Of course, Witness. We
18 will go into closed session so that the witness can leave the courtroom.
19 We will remain in the courtroom and the Court Usher shall usher you to
20 the closest facilities.

21 (Closed session at 6.12 p.m.)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Open session at 6.17 p.m.)

6 PRESIDING JUDGE COTTE: (Interpretation) Witness, can you hear
7 me?

8 THE WITNESS: (Interpretation) Yes.

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

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Professor,
12 what's up?

13 MR. FOFÉ: (Interpretation) Nothing serious, your Honour. Your
14 Honour, as one says, you have to strike while the iron's hot. The
15 Prosecutor has just asked a number of questions of the witness regarding
16 this document, MFI-00091. MFI-D03-00091. The witness has given long
17 detailed explanations regarding this document, your Honours. And I would
18 appreciate it if the august Bench, in response to my application, casts
19 its mind back to the ruling relating to documents from victims, documents
20 that related to the special circumstances in the Democratic Republic of
21 Congo after the war. Now, I think after the explanations from the person
22 who drew up this certificate, and without any prejudice to the possible
23 probative value to be allocated by the Chamber to this document, I think
24 that an EVD number could be allocated to this number because this witness
25 is the only person who can give us information about this particular

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1 document and he has just done so sufficiently. So there you have it,
2 your Honour.

3 (Trial Chamber confers)

4 MR. GARCIA: (Interpretation) If you don't mind, I didn't have
5 an opportunity to speak.

6 PRESIDING JUDGE COTTE: (Interpretation) Go ahead, briefly, but
7 please go ahead. We are listening.

8 MR. GARCIA: (Interpretation) Basically, your Honour, when you
9 look at the document you see that this is a certificate and one would
10 think that since the person who signed it, the witness, signed it in his
11 capacity as head master of the school, you would expect that he would
12 base himself on the archives from the pool -- school and that it would be
13 contemporaneous. But now we learn that the archives have been destroyed,
14 the school has been burnt down, and that this is not really a
15 certificate. This is really just some information that has been gathered
16 by the witness from another person. So what's important here is what
17 actually happened.

18 The witness has told us that he -- he told us that this
19 information about Mr. Ngudjolo's schooling comes from another person. I
20 don't think there is any need to admit into evidence a document that
21 purports to be an official document but when we know that it is really
22 just based on some statement taken by the witness. This document has no
23 probative value and the testimony of the witness should be -- should be
24 what's taken into account, not the document.

25 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé, please

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1 proceed. It is only fitting for the Defence to speak after the
2 Prosecution.

3 MR. FOFÉ: (Interpretation) Yes, thank you. Briefly. I will
4 not strain your patience. The persons that the -- the person that the
5 Prosecutor mentions, the source of information, the information on the
6 basis of which this certificate was issued, this person's name is
7 Henri Dz'da and he is the paternal uncle of Mathieu Ngudjolo, and in
8 Africa he is referred to as "father." He is the father of Mr. Ngudjolo
9 because Mr. Ngudjolo's actual father has passed away. So it is not just
10 a relative, he is his father. And when the Prosecutor downplays the fact
11 that -- well, when he says that the archives no longer exist, well, he
12 knows very well that everything was burnt down, and the school was burnt
13 down, rebuilt, burnt down, rebuilt. This occurred several times.

14 I stress this, your Honour, because other than this witness, no
15 one else can give us or shall give us such information. He is the only
16 person who can give us information about this, and I think he has given
17 us enough information and, as I said a few moments ago, other than the
18 admission of the document, and the attribution of an EVD number so that
19 the document can remain on the case file, and then it will be you who
20 shall assign whatever weight you wish to to the document at the
21 appropriate time.

22 I would refer you to a ruling made regarding the establishment of
23 relationships or -- and this is something that the Prosecution supported
24 when it came to victims so I really don't see why the Prosecution would
25 be opposed to this document receiving an EVD number. I thank you,

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1 your Honours.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Professor
3 Fofé. I think you've seen that in the course of today's hearing, after
4 giving an MFI number Friday to a document entitled, "Structure of the
5 base committee," we thought that it was appropriate to give an EVD number
6 to that same document and to transfer or rather to transform the MFI
7 number into an EVD number. As for this document, Witness, the Chamber is
8 not disputing that as the head master you drew up this certificate basing
9 yourself on information that you were able to obtain. There were no
10 archives. We realise why. And so you based yourself on a statement that
11 you received from a relative of Mr. Mathieu Ngudjolo. And since this
12 person is a very close relative, this person who was the source of the
13 information for this document, in the eyes of the Chamber, this is
14 significant.

15 Above all, the Chamber, at this time, does not really see the
16 usefulness of knowing that Mr. Mathieu Ngudjolo was a regular pupil of
17 this school from 1977 to 1983 at the Zago primary school, which is now
18 known as the Buy-Sabuni primary school. Most likely, and I think the
19 Defence has shown this with other witnesses, anything else that comes in
20 support that provides more of a foundation for the later medical
21 occupation of Mr. Ngudjolo would be of interest to us because that would
22 allow us to better understand Mr. Ngudjolo in his broader setting. And
23 the Chamber would try to determine whether he was just a man working in
24 the field of health, was he a man working in the area of health and also
25 a member of a self defence group, or was he all of those things and

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1 perhaps even more? Right now we don't know. But this particular
2 certificate is not an essential item of evidence for us, and that is why
3 we are not going to give it an EVD number. We have spent a fair bit of
4 time discussing this document but we are not really retaining it.

5 Mr. Prosecutor, if you would please proceed.

6 MR. GARCIA: (Interpretation)

7 Q. Witness, Professor Fofé also asked you some questions about the
8 base committee, and Professor Fofé also showed you a document, and this
9 document is entitled, "*Structure du Comité de Base Groupement*
10 *Bedu-Ezekere Zumbe*." Do you remember giving testimony about this
11 committee yesterday in the hearing room?

12 A. Yes.

13 Q. Witness, I do have a few questions for you.

14 MR. GARCIA: (Interpretation) But I would like to ask the Court
15 Officer if document EVD-D03-00093 could be displayed on the screen for
16 the witness. EVD-D03-00093.

17 COURT OFFICER: (Interpretation) This document can be viewed by
18 pressing the button "PC 1."

19 PRESIDING JUDGE COTTE: (Interpretation) Mr. Ngudjolo,
20 Mr. Katanga, you have the document on your screens. The witness as well.
21 I think this document is familiar to you, Witness, because we have
22 discussed it before. Mr. Garcia.

23 MR. GARCIA: (Interpretation)

24 Q. To begin with, Witness, I would simply remind you that yesterday,
25 Professor Fofé asked you questions to begin with on the date on which

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1 this document is supposed to have been drafted. And on transcript 295,
2 pages 55 and 56, lines 10 of page 56, well, what you answered was this:
3 This document was drafted at the beginning of the war. Full stop.

4 It was at that time that he -- it was -- that he drafted it, and
5 as far as I can tell you were talking about Mr. Safari. This was the
6 answer that you gave yesterday and I think you repeated it at a later
7 occasion. Do you remember having given that answer, Witness?

8 A. Well, perhaps you could repeat your question.

9 PRESIDING JUDGE COTTE: (Interpretation) At this particular
10 point in the cross-examination, we would like to ask for your patience
11 because we have seen that concerning these questions on this document,
12 you sometimes answered, "I've already said so." Now, if the Prosecutor
13 wants to obtain additional details from you, that is in line with the
14 purpose of his cross-examination. So please do try and answer him in
15 spite of the fact that you might feel that you've already given the same
16 answer. We are beginning to get to know you and I suspect that might be
17 the case. Go ahead, Prosecutor.

18 THE WITNESS: (Interpretation) May I respond to that, please?
19 No, I'm not angry. I'm not getting worked up. The Prosecutor asked me
20 to recollect but the -- all I wanted was to -- for him to repeat the
21 question. I wasn't getting worked up.

22 PRESIDING JUDGE COTTE: (Interpretation) Well, that's fine,
23 then. You are, of course, fully entitled to ask him to repeat the
24 question, and perhaps I was over-anticipating but I think it was
25 opportune to do so in any case. Mr. Garcia, go ahead.

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1 MR. GARCIA: (Interpretation)

2 Q. Witness, I'm simply going to repeat myself. To try and be fair
3 to you, I just wanted to try and get you to remember what you'd already
4 said. When you were shown this document that's on the screen, you were
5 asked when the document was drafted. What you answered was that the
6 document had been drafted at the beginning of the war. You also added,
7 on line 14, transcript 295, page 56, that the document really went back a
8 long time, and you were talking about this particular document that's on
9 the screen before you.

10 My question, to begin with, is this: Do you remember having said
11 that? Do you remember testifying here yesterday to that effect? And the
12 answer to that question is "yes" or "no." You don't need to elaborate.

13 A. Yes. I would like to say a word. As I said the day before
14 yesterday, let me give you some details about our groupement. And then I
15 will come back to your question.

16 Q. Sorry to interrupt, but my question was a very simple one. All
17 I asked you was whether you had said this, what I just said to you. You
18 already answered the question. I simply wanted to get an answer on that
19 question, and if I need answers on other questions, I will certainly ask
20 you the relevant questions. This is the way I'd like us to proceed so
21 that we don't lose time to -- by repeating what you have already said to
22 us. You answered yes, these were the assertions that you made. So
23 please look --

24 A. No, I have something to say. Prosecutor, you're on the wrong
25 track, I think. To remember I have to see this and then I will be able

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1 to say "yes" or "no." If you're giving me a multiple-choice question,
2 well, I need to look into my memory to try and remember what I'd said.
3 If I have to use only "yes" or "no," well, then the answers would, so to
4 speak, come from your mouth. No, I need to think about this. If
5 I explain too quickly then I'll be criticised for that. I wanted to
6 explain something to you and then I will give you my answer "yes" or
7 "no." When you say that to me, it's greatly frustrating to me because
8 I don't feel free to answer you. When I give explanation it gives me
9 time. If I have to say "yes" or "no," well, I will not know how to
10 respond, Prosecutor.

11 PRESIDING JUDGE COTTE: (Interpretation) Witness, generally
12 speaking, the answers "yes" or "no," very simple answers, are sought
13 after when the questions are very short and simple. Now, if the question
14 is longer and needs -- requires explanations, of course the witness is
15 entitled to express himself and provide explanations. But you will have
16 noted that in this particular case, the Prosecutor is returning to
17 statements that you already made. He apparently simply wants you to
18 confirm whether that is what you said. And that's why he thought that
19 "yes" or "no" would be sufficient, but if you really do feel strongly
20 that you need to provide explanations, we shall certainly not deprive you
21 of that possibility. We certainly do not want to give you any feeling of
22 frustration that you've just mentioned. Go ahead, Prosecutor.

23 MR. GARCIA: (Interpretation)

24 Q. I can reassure you, Witness, my purpose is not to frustrate you
25 in any way. We simply want to get ahead as quickly and expeditiously as

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1 possible. You just said that yes, you had mentioned the fact that this
2 document went back a long way and had been drafted at the beginning of
3 the war.

4 MR. FOFÉ: (Interpretation) I'm sorry, your Honour.

5 PRESIDING JUDGE COTTE: (Interpretation) You're talking about
6 page 56?

7 MR. FOFÉ: (Interpretation) The witness had just expressed a
8 concern. The witness is the one testifying. He is the one who should be
9 allowed to have time to answer. He has expressed a desire, and I think
10 the best thing -- well, with all due respect, your Honour, there is no
11 point in making excessive haste.

12 PRESIDING JUDGE COTTE: (Interpretation) Absolutely. We have
13 the whole morning tomorrow and Witness 88 won't be coming until Thursday,
14 so the Prosecutor will be able to take his time -- or, rather, the
15 witness will take his time if he wishes, but of course, we will have to
16 finish by the end of tomorrow morning and that's perfectly feasible. The
17 Court Officer, I think, has sent to everyone the speaking times that each
18 and every one of you has been -- used since the beginning of
19 Mr. Ngudjolo's case, and we are in good time for the time being. There
20 is no source of concern here. And we think that the witness -- what
21 comes from the witness is very important to us indeed, and if he deems it
22 necessary to give explanations, he should certainly be given the
23 opportunity. I'm sure Mr. Garcia will follow my advice. We have
24 20 minutes left. Please let's use them effectively.

25 MR. GARCIA: (Interpretation)

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1 Q. When you mention that this document was drafted at the beginning
2 of the war, what do we mean by that? Which year are you talking about?

3 A. Well, now I understand. Earlier on, I said that I couldn't base
4 myself on the document because I didn't have any specific date, and if
5 I remember correctly, when Professor Fofé placed emphasis on that date,
6 I responded to him saying that I don't know what I could say about this
7 document. That is indeed what I said the day before yesterday. I don't
8 know how you grasped that. Only you can expression the concerns you have
9 about what I said on that particular day.

10 Q. Mr. Witness, my only concern is the answers that you gave us
11 yesterday in relation to this document. You were asked on what date,
12 lines 8 and following, on transcript 295, page 56, question was: "On
13 what date did Ngabu Safari Jean-de-Dieu draft the document?" What you
14 answered was, while under oath, that this document was drafted at the
15 beginning of the war. It was at that point in time that he drafted it.
16 And lower down, on line 14 -- line 13, Professor Fofé asked you on what
17 date did you personally sign this document? And you answered, Witness:
18 "Mr. Fofé, this document goes back a long time and it's very difficult
19 for me to give you an exact date. I must apologise, I can't answer you."
20 So those were the answers you gave. Do you agree, Witness?

21 A. Yes. That's what I said.

22 Q. Witness, when you look at this document, the structure of the
23 base committee Bedu-Ezekere Zumbe groupement, first paragraph on page 1,
24 what we can read there is this: The structure of the base committee was
25 made up of five committees. You agree with me, don't you, Witness, that

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1 in view of the way this is written, we are talking about something that
2 happened in the past? It was not a document that was contemporaneous to
3 the beginning of the war? Do you agree with that? This is a document
4 that refers to something that happened in the past?

5 A. Let me say this: This document, as I said the day before
6 yesterday, well, this document -- while the war was on, there was no
7 state authority. I might have forgotten to say that. This way of
8 drafting the document, this was given by the groupement chief, because we
9 couldn't just be there like animals without any organisation. And this
10 is why the chief set up this structure so as to had help protect the
11 population.

12 Q. I don't think that you answered my question. I read out:

13 "The structure of the base committee was made up of ..."

14 So the past participle is being used. And are you saying now,
15 under oath, that at the time you were asked when you wrote those reports
16 to use the past participle? Is that your testimony?

17 A. What I said was that the person who drafted this document was
18 Jean Ngabu de Dieu. He was the one to draft the document and we simply
19 signed it as members of the committee for this base structure. Do you
20 understand?

21 Q. Yes, I understand what you're saying but let me ask you the
22 question again. In the light of what I've just read out, the use of the
23 past tense, do you agree that that means that this document was not
24 drafted contemporaneously with the war? It wasn't written at that time
25 but much later on? In view of the fact of the way it is drafted? Do you

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1 agree with me on that point?

2 A. Prosecutor, before the war the state operated. Now, at the
3 beginning of this document, well, this document was written at a time of
4 the war because there was no government authority, state authority.

5 Q. But when we look at page 0329, the second page, perhaps the usher
6 could give us a hand --

7 PRESIDING JUDGE COTTE: (Interpretation) Yes, perhaps the page
8 could be turned.

9 THE WITNESS: (Interpretation) I'm sorry, I don't see that part.
10 Perhaps I could have the hard copy because I can't turn over the pages on
11 the screen.

12 PRESIDING JUDGE COTTE: (Interpretation) Yes. I fully
13 understand your request but actually the page 2 has been put up on the
14 screen now. This is the page the Prosecutor is talking about now.
15 Usher, please make sure that it's properly set up, though, so that we
16 know which part of the page we are concentrating on. And if there is a
17 hard copy, perhaps it should be handed over to the witness. It will be
18 easier for him to follow.

19 MR. GARCIA: (Interpretation) Yes, I do have a hard copy that we
20 could give to the witness so as to facilitate matters.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
22 So, Witness, please turn to page 2 of that document.

23 Prosecutor, please proceed.

24 MR. GARCIA: (Interpretation)

25 Q. Witness, just before we do that, do anything on this particular

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1 document, but when you said in the courtroom that the document went back
2 to the beginning of the war, what year was that? What year was the
3 beginning of the war, according to you?

4 A. Honourable Prosecutor, the first war began in 1999. At the time
5 the state did to some extent intervene. With the presence of the state,
6 well, the state went to Bunia but actually the UPC and the Ugandans
7 continued to control things, and the chief of the groupement at that
8 point in time started this initiative because there was a lot of work to
9 be done and it was at that time that he drafted this document. As I said
10 the day before yesterday, I do not remember exactly at what date and what
11 year the document was written. Yesterday, too, Professor Fofé asked me
12 that question and I was not in a position to answer it.

13 Q. We have understood what you said on this topic, but I was just
14 reminding you that during yesterday's hearing you said that this document
15 went back a long way in time and that it had been drafted at the
16 beginning of the war. Now, if you look at the information on this
17 page 2, second paragraph, that begins "Information" -- take a look at it
18 on the screen. Can you see the document on the screen in front of you,
19 Witness?

20 PRESIDING JUDGE COTTE: (Interpretation) I must say to both of
21 you, both you, Prosecutor, and you, Witness, you are speaking too fast.
22 Please slow down your pace to a nice largo.

23 THE WITNESS: (Interpretation) Well, to answer the Prosecutor,
24 that was in the past. Yesterday was Monday. It's not the past. The day
25 before yesterday is not the past. When you say "before" or "in the

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1 past," I don't know what period you're talking about.

2 MR. GARCIA: (Interpretation)

3 Q. Let me ask you another question. You have the document here in
4 front of you on the screen. The second paragraph begins with the word
5 "information." Can you read the word "information" on the screen? And
6 it reads as follows:

7 "This structure of the base committee was set up in Zombe on the
8 9th of January, 2001, up to July 2003."

9 So you agree with me, don't you, Witness, that this document
10 could not possibly have been drafted, as you say, at the beginning of the
11 war because the year 2003 is mentioned. So you agree with me, don't you?

12 A. Well, what you're saying, well, I cannot agree.

13 Q. What I said was not very complicated. During your testimony you
14 mentioned that this document goes back a long way in time. Those are the
15 words that you used. You also said that it went back to the beginning of
16 the war. So initially I demonstrated to you that we used the past tense
17 in the -- on the first page. And, secondly now, what I am showing you on
18 page 2 is that reference is made to 2003. So if the beginning of the war
19 was in 1999, Witness, then the document wouldn't be in a position to
20 mention the future, i.e., 2003. Don't you agree with that, Witness?

21 A. As I've already answered, what I said is that I don't agree. I'd
22 like to give some explanations. At the beginning of the war, there was
23 another chief, Chief Lusinu (* phon). When Chief Manu ruled, that is the
24 point in time when this document was written. Safari fled from the war
25 and then there was no chief, and when Chief Manu came he drafted this

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1 document, and that is how we exchanged ideas. I say this document goes
2 back a long way and that's why I'm asking you what a long way means to
3 you. What century are we talking about? And that is why we don't have
4 the same term. Ngabu Manu, that chief was the one whose initiative of
5 this. The former chief had fled and that is why the population asked --
6 population chose a new chief and that is why he drafted this document.

7 We are not referring to the same things. I said before, past,
8 but we weren't referring to the same thing. When you talk about the
9 past, you talk about yesterday or the day before, but if you interrupt
10 me, Prosecutor, I can't answer you. Let me finish what I'm saying and
11 then you can ask me another question. Let me just note this thing. The
12 Prosecutor interrupts me. He doesn't want me to go right to the end of
13 what I'm saying.

14 PRESIDING JUDGE COTTE: (Interpretation) Witness, yes, the
15 Prosecutor will allow you to go to the end but the interpreters won't be
16 able to interpret what you're saying and that would be most unfortunate.
17 I knew that this type of question --

18 THE INTERPRETER: Overlapping.

19 PRESIDING JUDGE COTTE: (Interpretation) You can answer but
20 answer very slowly. Otherwise we can't do this, but if you speak too
21 quickly your answers won't be clear. You still have four or five minutes
22 left to finish what you were saying to the Prosecutor and then we shall
23 come back to the same issues tomorrow if he so wishes. But please talk
24 calmly and slowly. I know it's very difficult, particularly when you
25 feel very strongly about things, but it is absolutely necessary. Go

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1 ahead, Witness, finish what you were wanting to say to the Prosecutor.

2 THE WITNESS: (Interpretation) So let me return to what I was

3 saying to the Prosecutor. This is what I want to say to the Prosecutor:

4 When he asked me the question, we weren't referring to the same thing.

5 I didn't understand his question properly. He said the day before

6 yesterday I had said that this document had been drafted before, and it's

7 true, I said that it was drafted before, and the Prosecutor -- well,

8 according to the Prosecutor, he harps on way back but we were not talking

9 about the same past.

10 The Prosecutor asked me when did the war begin? I said to him

11 1999. Another chief, Losimo (* phon) Safari was there, and Lokimo

12 (* phon) Safari, at the time it was drafted, had fled the war and that is

13 why we chose a new chief, Ngabu Emmanuel, Manu. He was chosen to be the

14 chief of the groupement. In view of the absence of the state authority,

15 well, because of that he set up this structure so as to protect the

16 population during the troubles. And that's the way it was, Prosecutor.

17 I think we -- there was a misunderstanding between us.

18 PRESIDING JUDGE COTTE: (Interpretation) Well, Witness, we are

19 going to stop there for today. It could well be, Witness, that there was

20 indeed, between yourself and the Prosecutor, and yourself and other

21 people here in the courtroom, that the concept of time is not identical,

22 and that this can lead to a misunderstanding on both sides which could

23 possibly explain the liveliness of your reactions. And, Prosecutor,

24 tomorrow morning, to try and shed light on all this, it might be useful

25 for you to ask the witness a couple of questions, the first -- he'll

1 answer them tomorrow. The first one is whether, according to him, in
2 2003, this was still the beginning of the war. We are talking here about
3 a long-standing war and the beginning of the war might not be conceived
4 identically by both parties. And then we need an answer on the fact of
5 whether or not he accepts that this document was drafted after July 2003.
6 We can go back to that, if you consider that necessary. But we need
7 these two parameters to begin with because that might possibly help us to
8 get on in a quiet manner. All right?

9 MR. GARCIA: (Interpretation) Fine.

10 PRESIDING JUDGE COTTE: (Interpretation) Witness, you need a
11 rest now. That is reasonable, since four hours of hearing is a very long
12 time. And, Court Officer, could we go into closed session to escort the
13 witness out of the courtroom.

14 (Closed session at 6.58 p.m.)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Open session at 6.58 p.m.)

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

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

1 Court Officer.

2 Prosecutor, we realise that you have fully appreciated that
3 this -- but clearly, this topic and what the witness is experiencing as
4 questioning him is a source of irritation to him, and in spite of what he
5 has stated we are pretty sure about that. So tomorrow morning, with a
6 night's rest and the freshness of the morning, I'm sure you'll be able to
7 continue your cross-examination in circumstances that are far more
8 tranquil. We can rely on you for that.

9 We wish to thank the interpreters from Swahili who -- for whom it
10 was a very difficult task, and for the others that follow on from the
11 Swahili to French, I'm sure it was difficult too. Thank you. Have a
12 nice night's rest.

13 The hearing ends at 6.59 p.m.

14 RECLASSIFICATION REPORT

15 Pursuant to Trial Chamber II's email instructions dated 10 October 2012, the
16 following excerpts of this transcript are reclassified as confidential.

17 *Page 10 line 3 until page 11 line 4

18 *Page 11 lines 17 to 19

19 *Page 13 lines 6 to 12

20 *Page 13 lines 16 to 23

21 *Page 14 lines 10 to 16

22 *Page 42 lines 11 to 15

23 *Page 43 lines 7 to 9

24 *Page 43 lines 11 to 13

25 *Page 43 lines 19 to 22

- 1 *Page 44 lines 1 to 20
- 2 *Page 45 line 22 until page 46 line 16
- 3 *Page 47 line 19 until page 48 line 11