

Case No. SCSL-2004-14-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
SAM HINGA NORMAN
MOININA FOFANA
ALLIEU KONDEWA

THURSDAY, 02 FEBRUARY 2006
9.41 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges: Pierre Boutet, Presiding
Bankole Thompson
Benjamin Mutanga Itoe

For Chambers: Ms Roza Salibekova
Ms Anna Matas

For the Registry: Ms Maureen Edmonds

For the Prosecution: Mr Joseph Kamara
Mr Kevin Tavener
Ms Lynn Hintz (intern)

For the Principal Defender: NO APPEARANCE

For the accused Sam Hinga Norman: Dr Bu-Buakei Jabbi
Mr Alusine Sesay
Mr Kingsley Belle (legal assistant)

For the accused Moinina Fofana: Mr Arrow Bockarie
Mr Michiel Pestman

For the accused Allieu Kondewa: Mr Charles Margai
Mr Ansu Lansana

1 [CDF02FEB06A - CR]

2 Thursday, 02 February 2006

3 [Open Session]

4 [The accused present]

09:31:14 5 [Upon commencing at 9.41 a.m.]

6 PRESIDING JUDGE: Good morning. Good morning, Mr Witness.

7 THE WITNESS: Good morning, My Lord.

8 PRESIDING JUDGE: Good morning, Dr Jabbi. Dr Jabbi, when

9 we adjourned yesterday, you indicated to the Court that at that

09:42:39 10 time you were to come back to the evidence of Mr Nallo, if I'm

11 not mistaken.

12 MR JABBI: Yes, My Lord.

13 PRESIDING JUDGE: We don't want to interfere with the

14 conduct of your case, but we would like to be reassured that we

09:42:55 15 will not be revisiting areas that you have already covered by and

16 with the evidence of Mr Nallo. So, in other words, you coming

17 back with the witness to the evidence of Nallo presumably to

18 cover areas that were left unanswered. Am I right in my

19 description?

09:43:12 20 MR JABBI: Yes, My Lord, when I do come to Nallo, it will

21 be to deal with issues I have not dealt with already.

22 PRESIDING JUDGE: That is fine.

23 MR JABBI: My Lord, I think I will probably continue in the

24 area I was dealing with for some time.

09:43:28 25 PRESIDING JUDGE: On child soldiers?

26 MR JABBI: Yes, My Lord.

27 PRESIDING JUDGE: So you are not going to Nallo's evidence

28 now?

29 MR JABBI: Not immediately.

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1 PRESIDING JUDGE: We are waiting for you, Dr Jabbi. Are
2 you ready?

3 WITNESS: SAMUEL HINGA NORMAN [Continued]

4 EXAMINED BY MR JABBI: [Continued.]

09:44:00 5 MR JABBI: Yes, My Lord. My Lord, I will begin this
6 morning by saying that with special respect for Mr Margai and
7 apologies on the matter -- I say so, because, My Lord, Mr Margai
8 was my pupil-master some 25 years ago and when he raises an issue
9 I have to treat it with great respect. My Lord, with that

09:44:36 10 respect, I wish to take up an issue in the area in which he was
11 concerned with, because I consider it crucial to the defence of
12 the first accused. My Lords, this morning, I wish to come back,
13 first of all, to an item I referred to the last time only by
14 reading my own notes of the evidence, and this time to give the

09:45:10 15 precise citation in respect thereof from the transcripts. I
16 wish, accordingly, to refer to the evidence of TF2-156. I see
17 that this evidence was given in open session and maybe there will
18 be no harm, therefore, in revealing the name of the witness in

19 question.

09:45:53 20 PRESIDING JUDGE: Well, there is a difference between open
21 session and the fact that the witness testified without any
22 protection.

23 MR JABBI: As Your Lordships please.

24 PRESIDING JUDGE: You can refer, without any problem, to
09:46:03 25 any portion of his evidence.

26 MR JABBI: Yes, indeed, My Lord.

27 PRESIDING JUDGE: But you cannot disclose the name, because
28 the name was protected. The difference is that Nallo testified
29 in the open without any protection. This is different.

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1 MR JABBI: I appreciate it, My Lord. So then, my reference
2 is to the evidence of TF2-156, who was prosecution witness number
3 32, and to pages 82 to 86 of the transcripts of 25th November
4 2004. 25th November 2004, pages 82 to 86. My Lord,
09:47:17 5 notwithstanding the light tedium, perhaps, I wish to read
6 portions of the cross-examination of this witness by Mr Yada
7 Williams before I start questions to the first accused on it. I
8 crave the indulgence of the Court for the time it will take. My
9 Lord, from page 82, line 21 to line 2 on page 83, the following

09:48:03 10 exchange took place:

11 "Q. Mr Witness.

12 "A. Yes.

13 "Q. During the time the juntas occupied Bo" --

14 Q. Mr Witness, I hope you are listening very carefully.

09:48:25 15 A. Very carefully, My Lord.

16 Q. "Q. During the time the juntas occupied Bo, you said that
17 the youths put up resistance to them.

18 "A. Yes.

19 "Q. And then this resistance lasted all throughout the
09:48:52 20 junta period?
21 "A. Yes.
22 "Q. And the youths were based in Bo? They were based in
23 Bo at that time?
24 "A. Yes."
09:49:10 25 That is the first segment.
26 MR JABBI: The next segment, My Lords, is from page 83 to
27 84. Line 19 of page 83 to line 26 of page 84.
28 THE INTERPRETER: Can learned counsel take the pages very
29 slowly for the interpreter, please.

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1 MR JABBI: And I continue.

2 Q. "Q. These youths, were they referred to by any particular
3 name?

4 "A. Well, for me, I only heard them calling them 'youths'.

09:50:01 5 "Q. Were they also referred to 'vigilantes'?

6 "A. Yes.

7 "Q. And these vigilantes, were they armed?

8 "A. They didn't have guns. The youths had sticks. They
9 were using sticks.

09:50:29 10 "Q. Did they also use any cutlasses?

11 "A. Well, some of them had cutlasses. Some didn't have at
12 all.

13 "Q. Could you tell the Court how these vigilantes, how
14 they used to dress?

09:51:02 15 "A. Well, they were civilians. It's just like us. They
16 wear -- they just were in a certain group. They wear
17 civilian attire.

18 "Q. And were they large in numbers?

19 "A. There were many.

09:51:33 20 "Q. Can you tell the Court why they resisted the junta?

21 "A. Yes.

22 "Q. Go on.

23 "A. Because the juntas were breaking shops. They were

24 stealing. That was the reason why they never agreed with

09:51:55 25 them.

26 "Q. Would it be correct to say that a lot of these

27 vigilantes were killed by the RUF and the AFRC?

28 "A. I don't understand what you mean.

29 "Q. These youths or vigilantes, I mean the AFRC and the

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1 RUF, they will kill them whenever they were caught; is that
2 correct?

3 "A. Yes.

4 "Q. Could you tell the Court why the junta did not like
09:52:48 5 these youths?

6 "A. If I should tell the Court the juntas --

7 "Q. Let me ask you this question before that. You would
8 agree with me that the junta and the youths were not seeing
9 eye to eye?"

09:53:17 10 And the continuation of that is on page 85, lines 15 to 27.

11 There was in the intervening portion a slight misconception of
12 the idiom "seeing eye to eye", and that was explained. Then the
13 exchanges continued.

14 "Q. And can you tell the Court the reason or reasons for
09:53:43 15 that?

16 "A. Yes. During the time the juntas were in Bo, they were
17 doing violation of people. They burned people's houses.
18 They drove people from their houses and stole from their

19 shops. And because of that, the youth were not in
09:54:12 20 agreement with them.

21 "Q. And would it be correct to also say that -- I mean,
22 these vigilantes were also hostile to those people they
23 thought were friends of the juntas?

24 "A. That one, I don't know about it now."

09:54:33 25 THE INTERPRETER: Your Honours, the learned counsel is
26 going a little bit too fast for the interpreter to follow.

27 MR JABBI:

28 Q. The last bit --

29 PRESIDING JUDGE: Mr Jabbi, there was an interjection by

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1 the interpreters. You are going a bit too fast for them to
2 follow what you are doing here.

3 MR JABBI: Thank you.

4 PRESIDING JUDGE: So repeat the last few questions, if you
09:54:57 5 don't mind.

6 MR JABBI: The last segment I read, if I may go over that,
7 My Lord, that was from page 83, line 19.

8 Q. "Q. These youths, were they referred to by any particular
9 name?

09:55:36 10 "A. Well, for me, I only heard them calling them 'youths'.

11 "Q. Were they also referred to as 'vigilantes'?

12 "A. Yes.

13 "Q. And these vigilantes, were they armed?

14 "A. They didn't have guns. The youths had sticks. They
09:56:23 15 were using sticks.

16 "Q. Did they also use any cutlasses?

17 "A. Well, some of them had cutlasses. Some didn't have at
18 all.

19 "Q. Could you tell the Court how these vigilantes -- how
09:57:04 20 they used to dress?
21 "A. Well, they were civilians. It's just like us. They
22 wear -- they just were in a certain group. They wear
23 civilian attire.
24 "Q. And were they large in numbers?
09:57:49 25 "A. There were many.
26 "Q. Could you tell the Court why they resisted the junta?
27 "A. Yes.
28 "Q. Go on.
29 "A. Because the juntas were breaking shops. They were

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1 stealing. That was the reason why they never agreed with
2 them.

3 "Q. Would it be correct to say that a lot of these
4 vigilantes were killed by the RUF and the AFRC?

09:58:46 5 "A. I don't understand what you mean.

6 "Q. These youths or vigilantes, I mean, the AFRC and the
7 RUF would kill them whenever they were caught; is that
8 correct?

9 "A. Yes.

09:59:20 10 "Q. Could you tell the Court why the junta did not like
11 these youths.

12 "A. If I should tell the Court the juntas?

13 "Q. Let me ask you this question before that: You would
14 agree with me that the junta and the youths were not seeing

09:59:57 15 eye to eye?"

16 "Q. Would you tell the Court the reason or reasons for
17 that?

18 "A. Yes. During the time the juntas were in Bo, they

19 were doing violence [sic] of people. They burned people's
10:00:32 20 houses, they drove people from their houses and stole from
21 their shops, and because of that the youths were not in
22 agreement with them.
23 "Q. And would it be correct to also say that -- I mean,
24 these vigilantes were also hostile to those people they
10:01:13 25 thought were friends of the juntas?
26 "A. That one, I don't know about it now."
27 Q. And the last one, the last segment that I want to read from
28 this evidence is on page 86 of the transcript, 25 November 2004,
29 lines 3 to 19 inclusive. This begins with the Presiding Judge

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1 admonishing the counsel.

2 "PRESIDING JUDGE: Ask him again the one you asked
3 him and see if he will answer.

4 "Q. You would agree with me that the vigilantes also
10:02:58 5 disliked those people that were very friendly to the
6 juntas?

7 "A. Repeat it.

8 "Q. The vigilantes did not like those people."

9 Then the Presiding Judge intervenes again.

10:02:58 10 "PRESIDING JUDGE: No, put it this way, the
11 vigilantes did not like the friends of the juntas."

12 And the witness answered, "Yes." Then the

13 cross-examination by counsel continued.

14 "Q. You will agree with me that that particular group,
10:03:22 15 the vigilantes, they also did bad things to people; is that
16 correct?

17 "A. No, I did not see it."

18 Presiding Judge intervenes again.

19 "PRESIDING JUDGE: He does not know. Mr Williams, he
10:03:48 20 does not know."

21 That is the end of the citations I wanted to read. I would
22 now want to ask Mr Witness a few questions on that episode
23 recited.

24 Q. Now, of the sub-categories, civilian and hunters that we
10:04:44 25 were dealing with, to which of those sub-categories does this
26 episode belong? The sub-categories of civilians as distinct from
27 the sub-category of hunters. To which of those sub-categories
28 does this episode belong? Put the question the other way. The
29 youths in question, to which of those sub-categories do they

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1 belong in this episode?

2 A. They belonged to the civilian category.

3 Q. They belong to the civilian category. Since it is talking

4 about some interaction of some sort between the youths and the

10:06:07 5 juntas, between the youths and the juntas in Bo, which of our

6 periods we have been talking about does it belong to?

7 A. The period beginning from 25th May 1997.

8 Q. Thank you. Now, in the circumstances of this episode,

9 would the youths include children under 15 years of age?

10:07:33 10 A. The distinction between ages as to classification of their

11 social belonging cannot be safe for me. Some people call

12 themselves youths. At 45, others will refer to themselves as

13 youth, maybe as low as 10, so that is why I believe that youth,

14 the classification of "youth", I'd rather leave that to the

10:08:12 15 judgment of Their Lordships.

16 JUDGE THOMPSON: But the specific question was whether that

17 category included --

18 THE WITNESS: It did include, yes, My Lord.

19 JUDGE THOMPSON: That is the emphasis.

10:08:19 20 THE WITNESS: Yes, My Lord.

21 JUDGE THOMPSON: Inclusive --

22 MR JABBI:

23 Q. The question was not that you give the age of the entire

24 youth group --

10:08:28 25 A. Thank you.

26 Q. But whether that group would include children of less

27 than --

28 A. It definitely would include persons below 15.

29 Q. Now, as deputy Minister of Defence and the National

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1 Co-ordinator of the CDF during that period, did you have control
2 over such youths in determining whether they participate in the
3 particular episode in question?

4 A. No, My Lord.

10:10:04 5 JUDGE THOMPSON: Meaning the activities [overlapping
6 speakers]

7 MR JABBI: In these particular activities [overlapping
8 speakers]

9 JUDGE THOMPSON: -- covered by the episode.

10:10:08 10 MR JABBI: Pardon, My Lord.

11 JUDGE THOMPSON: In the activities covered by the episode.

12 MR JABBI: Yes, My Lord.

13 JUDGE THOMPSON: Not the particular episode. [Overlapping
14 speakers]

10:10:13 15 MR JABBI: The activities covered by this span of episodes.

16 JUDGE THOMPSON: Yes, quite. I thought it was a slight
17 entanglement of language.

18 MR JABBI: I am sorry, My Lord.

19 PRESIDING JUDGE: Again, Dr Jabbi, I just want to remind
10:10:26 20 you that you are doing an examination-in-chief. You should try
21 to word your questions in a less subjective way; less leading as
22 such. You could have asked the witness to inform the Court what
23 role, if any, he had to play in this, rather than ask him the
24 question you asked.

10:10:44 25 MR JABBI: Thank you, My Lord.

26 PRESIDING JUDGE: I know you are experienced enough to know
27 the difference between the two, Dr Jabbi.

28 MR JABBI: Thank you, My Lord. I will endeavour to
29 maintain that distinction.

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1 Q. I will repeat the question.

2 JUDGE ITOE: But it is already answered, why repeat it?

3 PRESIDING JUDGE: The answer was yes. He suggested -- it

4 was leading, but the answer was quite clear, it was no. I don't

10:11:19 5 think there was any ambiguity in the question.

6 MR JABBI: I just wanted to make sure that the witness

7 answered the question in its proper form.

8 JUDGE THOMPSON: You will, in fact, fall foul of the rule

9 against [overlapping speakers]

10:11:33 10 MR JABBI: Thank you, My Lord.

11 Q. As deputy Minister of Defence and National Co-ordinator of

12 the CDF, did you know this participation by the youths was taking

13 place at that material time?

14 A. Yes, My Lord, that was public knowledge.

10:12:28 15 Q. That is talking about the period as a whole in question, is

16 it?

17 A. From 25th May 1997 to "di wa dan dan", yes.

18 Q. When did you come to know of it?

- 19 A. Of the youths --
- 10:13:15 20 Q. Participation.
- 21 A. Of the youths' participation in the --
- 22 Q. In those exercises.
- 23 A. From the onset, My Lord.
- 24 Q. When it started happening?
- 10:13:24 25 A. Yes.
- 26 Q. Now, in so far as the presence of children under the age of
- 27 15, in that participation is concerned, were you in the position
- 28 to do anything about it in those capacities of yours?
- 29 A. No, My Lords.

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1 JUDGE ITOE: You are saying that you could not stop such a
2 participation?

3 THE WITNESS: My Lord?

4 JUDGE ITOE: You are saying that you were not in a position
10:14:48 5 to stop such participation?

6 THE WITNESS: Yes, My Lord.

7 MR JABBI:

8 Q. Now, can you explain to the Court why not?

9 A. Yes, My Lords.

10:15:39 10 Q. Carry on.

11 A. Youths in their various localities preventing looting and
12 carnage were performing the protection and defence of themselves
13 and properties that belonged to peaceful civilians in those
14 localities. Secondly, the government, whether that government
10:17:10 15 was by law or by force, alone had the means and the authority to
16 prevent any such activities, My Lords.

17 PRESIDING JUDGE: Do I understand you to say the government
18 had the authority or did not have?

19 THE WITNESS: No, had the authority.

10:18:04 20 PRESIDING JUDGE: Had the authority.

21 THE WITNESS: Yes, My Lord.

22 PRESIDING JUDGE: Which period of time are you talking
23 about here?

24 THE WITNESS: From 25th May 1997 to "di wa dan dan".

10:18:15 25 PRESIDING JUDGE: Thank you.

26 MR JABBI:

27 Q. The specific period we're dealing with for the moment is
28 25th May to 10th March 1998.

29 A. The same answer, My Lord.

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1 Q. Yes, thank you. Now, were you perchance present in Bo or
2 anywhere around Bo when these activities were taking place there?

3 A. No, My Lord.

4 Q. Can you say where you were over that period?

10:19:37 5 A. From the morning of 25th May 1997, seven days thereafter I
6 was in hiding.

7 Q. Where?

8 A. I was in hiding, My Lord, between Freetown and Guinea.

9 Seven days after that I was in Guinea, and from Guinea, between
10:20:10 10 the 17th -- around 17th June I left for Liberia. Monrovia,
11 Liberia.

12 Q. Watch your pace, please.

13 JUDGE ITOE: We have that evidence already. We have that
14 evidence on records.

10:20:27 15 THE WITNESS: Thank you, My Lords.

16 PRESIDING JUDGE: We had that evidence yesterday.

17 THE WITNESS: Right up to after 10th March, I had not been
18 to Bo.

19 MR JABBI:

10:20:38 20 Q. Thank you.

21 A. 10th March 1998.

22 Q. So, we now leave this episode and also the sub-category of

23 civilians and go to the sub-category of hunters during the period

24 25th May to 10th March -- 25th May 1997 to 10th March 1998.

10:21:41 25 During that period, confining ourselves to the hunters' group, do

26 you know whether children under the age of 15 participated in the

27 hostilities on the side of the hunters?

28 A. In Bo?

29 Q. No, not necessarily in Bo. Generally now. We have left

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1 those incidents in respect of Bo and also the sub-category of
2 civilians. We now take generally the sub-category of hunters all
3 over the country for the period May 25, 1997 to March 10, 1998.
4 It is a completely new sub-category and new scoop.

10:22:58 5 A. My Lords --

6 Q. I'll ask the question again.

7 A. Ask.

8 Q. Do you know if children under the age of 15 took part
9 actively in the hostilities on the side of hunters during that

10:23:17 10 period.

11 A. From 25th May to 10th March throughout Sierra Leone?

12 Q. Yes, indeed.

13 A. That was public knowledge, and I believe in my previous
14 answer to Their Lordships I have said here that the hunters were

10:23:38 15 also parents and guardians of their children. Whatever they told
16 them, they did.

17 Q. Thank you. As distinct from taking active part in the

18 hostilities, do you know whether during that period children

19 under the age of 15 years were enlisted into the hunters' groups?

10:24:31 20 A. My Lords, I need your guidance and direction in this. I'm

21 giving evidence on my own behalf. Knowledge that is knowing or

22 being aware is not my charge. It's what I did. I did not order

23 the participation of children, I did not order the enlistment of

24 children, I did not order the recruitment of children, and I

10:25:07 25 don't know of such activity by children, My Lords.

26 Q. Now, also over that period --

27 JUDGE THOMPSON: This is with regard to the category

28 hunters?

29 MR JABBI: Yes, My Lord.

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1 JUDGE THOMPSON: The answer that we just got?

2 MR JABBI: Yes, My Lord.

3 JUDGE THOMPSON: Right.

4 MR JABBI:

10:26:19 5 Q. With respect still to the hunters' group, did you, as a
6 person, have any control over the participation of children under
7 the age of 15 in hunters' activities between the hostilities?

8 A. Throughout Sierra Leone?

9 Q. Or anywhere, indeed?

10:27:08 10 A. No, My Lords.

11 Q. Okay, thank you. I take it from your last answer that
12 during that period you were also in no position --

13 JUDGE ITOE: Why do you have to go that length? Please,
14 reformulate your question. Don't surmise, don't draw

10:28:24 15 conclusions. Put questions to the witness and let the witness
16 answer, please.

17 MR JABBI: As Your Lordship pleases.

18 Q. Following from your last answer, were you, during that

19 period, in a position to prevent the participation of children
10:29:20 20 under 15 years in the hostilities on the hunters' side? I will
21 ask it again, please. Following from your last answer, were you
22 in a position, during that period, to prevent the participation
23 of children under 15 years of age in the hostilities --
24 PRESIDING JUDGE: Why don't you ask the witness what he
10:30:00 25 could do, if anything, to prevent, and let the witness give his
26 explanation, if any.
27 THE WITNESS: Thank you, My Lords.
28 PRESIDING JUDGE: If he could do nothing, well, he can
29 certainly say, "I could do nothing." Let the witness answer the

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1 question. Don't put the answer to him.

2 MR JABBI:

3 Q. Could you, during that period --

4 PRESIDING JUDGE: "What could you do?"

10:30:32 5 MR JABBI:

6 Q. In respect of the participation of children under the age

7 of 15 years in the hostilities on the side of the hunters, what

8 could you do?

9 A. In those days, especially between 25 May 1997 to 10 March

10:31:14 10 1998, I couldn't do anything. After that period, after 10 March

11 1998 --

12 Q. Watch your pace, please. We are coming to the period after

13 10 March.

14 A. I did do something, My Lords.

10:31:48 15 JUDGE ITOE: Which is already on record, I suppose.

16 THE WITNESS: Thank you, My Lords.

17 JUDGE ITOE: And I hope you don't go back to that, at least

18 to the details.

19 MR JABBI:

10:32:16 20 Q. So before coming to the period we are now dealing with,
21 just one final question. Why could you do nothing in respect of
22 that situation during this period?

23 A. A government that was using force and in which I had no
24 part to play was in control of the territory of Sierra Leone, the
10:33:13 25 government, I mean the AFRC, My Lords.

26 Q. Thank you. Now we move to the period 10 March 1998 to -
27 let us say December 1999, or, indeed even up to 10 March 2003.

28 MR TAVENER: Sorry, Your Honour --

29 JUDGE ITOE: When did you extend it to, "di wa dan dan",

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1 yes?

2 MR TAVENER: In terms of the last question, "Why did you do
3 nothing?" The witness responded to the AFRC being in power. Is
4 that his answer as to -- I don't see how that's an answer to the
10:34:40 5 question about why he could do nothing about the use of child
6 soldiers with the hunters. I just want to clarify if that's the
7 witness's -- if that's his answer, that's it, obviously, but I
8 just want to clarify is that --

9 PRESIDING JUDGE: This is his answer.

10:34:55 10 JUDGE ITOE: That's his answer.

11 PRESIDING JUDGE: The AFRC were in control of the entire of
12 Sierra Leone and he could do nothing.

13 MR TAVENER: In my submission, that's not an answer to the
14 question but I just wanted to make that point.

10:35:07 15 JUDGE THOMPSON: Well, you can take care of that in
16 cross-examination.

17 MR TAVENER: I may well, Your Honour. Thank you.

18 THE WITNESS: My Lords, the date of "di wa dan dan" is

19 18 January, the year 2002. 18 of January 2002, My Lords.

10:35:40 20 MR JABBI: So the area --

21 JUDGE THOMPSON: What period are we covering now?

22 MR JABBI: We have adopted his cut-off time, My Lord.

23 Q. The period, therefore, we are covering now is 10 March

24 2000 -- sorry, 1998 to 18 January 2002?

10:36:02 25 A. Correct.

26 Q. Now, during that period, did you do -- sorry. During that

27 period with your knowledge of the involvement of children under

28 15 years of age in the hostilities in the country, did you do

29 anything in respect of that situation?

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1 A. Yes, My Lord.

2 JUDGE THOMPSON: For just clarity's sake, are we sticking
3 to the hunters or are we broadening the scope?

4 MR JABBI: My Lord --

10:37:16 5 JUDGE THOMPSON: That's entirely your call. I just wanted
6 to [overlapping speakers] --

7 MR JABBI: Yes, I see the point, My Lord, but for this
8 phase, I am posing the question generally.

9 JUDGE THOMPSON: The point is taken.

10:37:32 10 MR JABBI: Thank you, My Lord.

11 THE WITNESS: The answer I gave was also January, My Lords.

12 MR JABBI:

13 Q. Briefly, can you explain if you have already given evidence
14 to that effect, then please take that into account in your brief

10:37:54 15 explanation.

16 A. Yes, My Lords. I am sure Their Lordships heard me on
17 record that I did inform the President, His Excellency the
18 President, that action should be taken to discourage children

19 across the country from participating in the conflict, My Lords.

10:39:01 20 JUDGE ITOE: And it was as a result of that that UNICEF

21 came in?

22 THE WITNESS: Yes, My Lord. And I'm also on record, My

23 Lord, that I did my own personal best to discourage a number of

24 children that I helped and I am still helping, My Lords.

10:38:35 25 [CDF02FEB06B - SV]

26 MR JABBI: My Lord, I have not totally exhausted this area,

27 but those aspects of them I would like to deal with more, I think

28 I will have to wait until the decision on the expungeable parts

29 of the evidence of the charges, My Lord.

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1 PRESIDING JUDGE: You mean references to the Black December
2 Operation? Is it what you're alluding to?

3 MR JABBI: That is included, My Lord. I believe there is
4 an expected ruling on a motion in respect of those elements in
10:41:13 5 the charges from the decision of the Court in the motion for
6 acquittal.

7 PRESIDING JUDGE: That's what I mean. It refers to
8 essentially Operation Black December, paragraph 25(g) and I think
9 24(f).

10:41:34 10 MR JABBI: Yes, My Lord.

11 PRESIDING JUDGE: So this is -- I mean, the motion is
12 really focussed on that matter, as such, and matters related to
13 Operation Black December. I don't recall if there was any
14 evidence at all related to use of children during those
10:42:05 15 operations. Maybe. I have no such recollection, but --

16 MR JABBI: My Lord, the decision in question covers
17 paragraphs 25(a), 25(d), 25(e), 25(f), 25(g), 26(a) and 27.

18 PRESIDING JUDGE: Yes, I do know, but I thought that,

19 unless I am totally mistaken this morning, I thought the motion
10:42:54 20 for precision, as such, referred to 24(f) and 25(g), not to the
21 totality of the decision we gave at that time. The areas that
22 appear to cause some misunderstanding, if I can put it in that
23 way, are not all the paragraphs you have alluded to because that
24 decision stands for what it is and I would suggest to you the
10:43:21 25 language is quite clear. There might have been, as I say, some
26 misunderstanding as to what it meant exactly with reference to
27 24(f) and 25(g), but not any of the other paragraphs. At least
28 that's my recollection and understanding of that motion and the
29 decision at the time. So, as I say, I don't have it, I was

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1 looking in my documents here -- I don't have it right in front of
2 me, but this is --

3 JUDGE THOMPSON: Learned counsel, the relevant count in the
4 indictment is 8, isn't it?

10:44:03 5 MR JABBI: Pardon, My Lord?

6 JUDGE THOMPSON: The relevant count in the indictment is 8.

7 MR JABBI: Yes, My Lord.

8 JUDGE THOMPSON: That's the pivot of much of your --

9 MR JABBI: Present --

10:44:17 10 JUDGE THOMPSON: -- examination-in-chief in respect of

11 recruitment, enlisting, conscripting, active participation and

12 all these alleged activities in respect of children under the age

13 of 15. So unless you are able to persuade us that there is some

14 logical nexus or legal nexus between that count and paragraph

10:44:41 15 25(g) -- because I know it's a very complex indictment, but

16 apparently I don't see why there should be this logical nexus

17 between a count that is so clear in its allegations and 25(g)

18 which is more the count relating to matters exclusive of count 8,

19 unless you can enlighten me further on this and I'm prepared to
10:45:23 20 be educated on that.

21 MR JABBI: My Lord, it's just the issue of being quite
22 aware of the decision in that matter so that its possible
23 relevance to other areas can be assessed.

24 JUDGE THOMPSON: Yes, it's just that I don't see
10:45:40 25 immediately any kind of impact of 25(g), whichever way the
26 decision goes on count 8. Unless there's something hidden there
27 that I'm not [overlapping speakers] --

28 MR JABBI: My Lord, out of abundance of caution, one would
29 probably prefer to wait until the final decision before you can

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1 be sure that it has no relevance to what you have been dealing
2 with.

3 JUDGE THOMPSON: I certainly don't disagree with that at
4 all. I'm just letting you know my own prima facie appraisal of
10:46:32 5 the issue at hand.

6 MR JABBI: I generally agree with that, My Lord, but --

7 PRESIDING JUDGE: But again, I'm looking at the motion that
8 has been filed by counsel -- by yourself and counsel for the
9 defendant and it's directed to 25(g). It doesn't deal with any
10:46:48 10 other aspect of the decision. The submissions clearly refer to
11 our comment, our decision, when we dealt with 25(g) which is
12 Operation Black December. So if you're referring to the motion
13 for, I think it's clarification whatever you have described that
14 motion to be, this is what it's all about. So it's not about
10:47:13 15 everything in the decision, but very specifically focussed on
16 25(g). So everything else in our decision stands as it is and
17 speaks for itself. So this is for you to make -- we will not
18 tell you what to do or what not to do. I think it is clear

19 enough what I have just said and what we've said in that decision
10:47:39 20 so for you to make a decision as to what you want to do.
21 MR JABBI: Yes, My Lord --
22 JUDGE ITOE: Just two questions, Mr Jabbi. Do you
23 reasonably consider that aspects of child soldiering might be
24 related to what count 8 encompasses?
10:48:14 25 MR JABBI: My Lord, may I have the question, please.
26 JUDGE ITOE: You were not listening.
27 MR JABBI: I was listening, but the end of it --
28 JUDGE ITOE: Yes. What I'm asking you is: Do you
29 reasonably -- do you have a reasonable feeling that child

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1 soldiering may be the subject of what the issue to be decided is
2 in this motion?

3 MR JABBI: My Lord, my answer to that would be very
4 cautious and it would be that it is not inconceivable that a
10:48:54 5 clarification by Your Lordships on that motion might have
6 relevance for aspects of child soldiering.

7 JUDGE ITOE: Are you prepared to go on on other aspects
8 even if this were taken to be the right perspective in this case?

9 MR JABBI: Certainly, My Lord. I just wanted to know
10:49:26 10 whether I can foresee the time when that clarification could be
11 made and determine whether it will have an effect on my strategy
12 in the examination-in-chief.

13 PRESIDING JUDGE: Again, Dr Jabbi, I can assure you that
14 that decision will clearly be issued before you end
10:49:49 15 examination-in-chief of this witness. Otherwise we will postpone
16 that. So this has to be clearly understood. Furthermore, our
17 decision will be dealing only and solely with paragraph 24(f) and
18 25(g). So nothing more. So any other paragraph in our decision

19 is not in issue and will not be dealt with. So it will be
10:50:13 20 focussed only on those two and those two deal essentially with
21 Operation Black December. That's what we're talking about.
22 JUDGE THOMPSON: So in other words, before you answer us
23 together -- so actually the sum total of what we're saying is
24 that considering the narrowness and the, sort of, what we might
10:50:43 25 call the limited compass of what the motion is about and what
26 we're called upon to determine, it is reasonably foreseeable that
27 our decision will not impact upon count 8. I'm putting it that
28 way.
29 MR JABBI: Okay. I have understood the point, My Lord.

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1 PRESIDING JUDGE: Dr Jabbi, the conclusion of your motion
2 and that of the second accused reads as follows: "On this basis
3 the Defence respectfully requests clarification from Trial
4 Chamber I to determine whether paragraph 25(g) of the indictment
10:51:21 5 is still in effect." So that's the motion and that's what we're
6 going to be dealing with.

7 MR JABBI: Yes, indeed, My Lord. My Lord, if I may deal
8 with the way the Presiding Judge put the issue in the previous
9 intervention he made where he said that the decision will
10:51:44 10 certainly be available before I conclude examination-in-chief of
11 this witness. In light of that, if I may give an idea of the
12 remaining time frame of my examination-in-chief, My Lord.

13 PRESIDING JUDGE: Yes, please do so.

14 MR JABBI: My Lord, I have been hoping that I could
10:52:07 15 complete this examination-in-chief either for Monday coming or,
16 latest, Tuesday.

17 PRESIDING JUDGE: I can assure you that latest Monday that
18 decision will have been filed.

19 MR JABBI: Thank you very much, My Lord.

10:52:24 20 PRESIDING JUDGE: Would that satisfy you?

21 MR JABBI: I will be expectant until then, My Lord.

22 PRESIDING JUDGE: Very well. You may proceed.

23 MR JABBI: Thank you, My Lord.

24 JUDGE ITOE: Don't expect to have more than you asked for.

10:53:57 25 PRESIDING JUDGE: Dr Jabbi, we are waiting for you.

26 MR JABBI: My Lord, I also discover that the portion of

27 Nallo's evidence which I wanted to end with in treating him is

28 dependent upon that decision we're asking for. So it means,

29 whilst I wanted to go on to that now, I will have to skip it for

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1 the moment.

2 PRESIDING JUDGE: So I understand you, Dr Jabbi, if we were
3 to sustain your motion you would have no more questions to this
4 witness about Nallo's evidence, because what's remaining to be
10:55:06 5 discussed with the witness refers to Operation Black December?
6 Am I putting it in a proper context to you?

7 MR JABBI: Insofar as Nallo's --

8 PRESIDING JUDGE: Yes, we're talking of Nallo.

9 MR JABBI: Yes. Insofar as Nallo's evidence is concerned,
10:55:32 10 My Lord, the decision will help me determine what to do with the
11 last element in it. Just Nallo's.

12 PRESIDING JUDGE: That's fine. We were talking of Nallo's,
13 indeed. So let's move ahead and leave Nallo's aside and you will
14 assess whatever you need to do with reference to the remainder of
10:55:49 15 his evidence once you have the decision in hand. We will
16 obviously understand that you may or may not revisit that in due
17 course.

18 MR JABBI: Yes, My Lord.

19 Q. Now, Mr Witness, I wish to take you to the allegation --

10:56:59 20 no, I believe I have covered this one. Yes, it is in respect of

21 the War Council in Sierra Leone. Now --

22 PRESIDING JUDGE: With War Council in Sierra Leone, do you

23 mean War Council while the witness was at Base Zero or you mean

24 something -- the War Council as the governing body that was

10:57:37 25 organised?

26 MR JABBI: Both, My Lord. I was meaning the wider thing

27 then I will be dealing with the specific aspects of it.

28 PRESIDING JUDGE: Right. Please proceed.

29 MR JABBI:

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1 Q. Now, just some aspects remaining of the War Council
2 operation in Base Zero, to begin with. There was generally
3 allegations by various witnesses that the War Council dealt with
4 issues and needed to seek your approval before their decision
10:58:55 5 could be put into effect.

6 JUDGE THOMPSON: Can we use language a little more
7 precisely? There was testimony in this Court.

8 MR JABBI: Pardon, My Lord.

9 JUDGE THOMPSON: Is it that there was testimony?

10:59:12 10 MR JABBI: My Lord, I have not got that yet.

11 JUDGE THOMPSON: Wasn't it that there was testimony in this
12 Court by these witnesses?

13 MR JABBI: Yes, My Lord.

14 JUDGE THOMPSON: I'm just making a distinction between the
10:59:23 15 allegations. They testified under oath -- [Overlapping speakers]

16 MR JABBI: Okay, My Lord, I will talk about allegations in
17 the course --

18 JUDGE THOMPSON: [Overlapping speakers].

19 MR JABBI: Thank you, My Lord.

10:59:41 20 Q. Now, there was evidence by various witnesses in this Court

21 that the War Council required your approval before a decision on

22 an issue taken by them would be put into effect. What do you

23 have to say about that?

24 A. My Lord, the War Council at Base Zero advised me, and it

11:00:37 25 was not for me to advise them.

26 Q. Insofar as operational decisions as to what to do in some

27 theatre of the war by the hunters, who took those decisions?

28 A. My Lords, it was a matter of advice between the War Council

29 and myself whichever direction the war was to go. In the areas

1 before ECOMOG commanders became involved with the activities of
2 the various hunter groups, and eventually the CDF, it was a
3 matter for discussion either at Base Zero with all War Council
4 members or in Guinea with the War Council members in Conakry.

11:04:03 5 Whenever it was decided that a particular action was to be taken
6 by commanders in the field against enemy forces, such decisions
7 were taken and directives given at the meeting of the War
8 Councils.

9 JUDGE ITOE: War Councils in plural?

11:05:23 10 THE WITNESS: Yes, My Lord.

11 JUDGE ITOE: War Councils.

12 THE WITNESS: Base Zero and Conakry. After 10th March 1998
13 there was no reference to War Council or War Councils either at
14 Base Zero or in Conakry, Guinea. It became -- it reverted to

11:06:28 15 Defence Council. Defence Council, My Lords.

16 MR JABBI:

17 Q. And still with reference to the War Council, can you tell
18 the Court who controlled the selection of persons who became

19 Kamajors during the life of the War Council?

11:07:59 20 A. My Lords, in this country Kamajors are age old people.

21 They had existed before my own great-grandfather. There is no

22 issue of selecting who to become a Kamajor or who not to become a

23 Kamajor. They're there permanently. They were, they are, they

24 will continue to be.

11:09:09 25 Q. Now the same question referring to a slightly different

26 concept. Can you also tell the Court who, if any, indeed -- who

27 controlled the selection of persons to be initiated into the

28 hunters' fighting force?

29 JUDGE ITOE: Hasn't that question been answered? Looking

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1 at the records, has it not been answered? There is a village,
2 there are the chiefdoms, they are this, they are the young
3 people. Young people were preferred, old men were kept aside and
4 so on and so forth. These children fought alongside their
11:10:02 5 parents, the wards fought alongside their guardians and so on and
6 so forth. I think we have exhausted that aspect of the --

7 [overlapping speakers]

8 MR JABBI: Thank you very much, My Lord.

9 Q. One more question on that. Again with respect to the
11:10:29 10 operation of the War Council and the period of its existence this
11 time with respect to initiators, can you tell the Court who, if
12 any person or group, controlled the selection and operation of
13 initiators?

14 A. My Lords, that is an exclusivity to whoever belonged to the
11:11:28 15 category of people referred to as initiators.

16 Q. Can you also tell the Court, still in that area, whether
17 initiators were responsible to the national co-ordinator of the
18 CDF?

19 A. My Lords, if we look at the organigram that was drawn at
11:12:47 20 the time when the National Co-ordinating Committee was formed,
21 you will see that these people were in a different category in
22 the organigram.

23 JUDGE ITOE: Mr Norman, give the simple answer. Put the
24 question to him again, please.

11:13:17 25 THE WITNESS: Please.

26 JUDGE ITOE: And give us a simple answer. Don't go to the
27 organigram.

28 MR JABBI:

29 Q. I am referring for the moment to the period of Base Zero

1 operations, the same period during which Base Zero existed as a
2 centre.

3 A. From September to 10th March? September 1997 to 10th March
4 1998?

11:13:46 5 Q. Yes. At that phase of operations were initiators
6 responsible to the national co-ordinator?

7 JUDGE ITOE: Did you have control over the initiators?

8 THE WITNESS: Thank you, My Lord. No, I didn't.

9 MR JABBI: My Lords, I don't know whether I can suspend my
11:14:57 10 evidence-in-chief for the usual break at this stage?

11 PRESIDING JUDGE: Very well. The Court will adjourn for 15
12 minutes.

13 JUDGE ITOE: But we would like to remind you that we
14 normally break off at 11.30. Normally. But, that being what it
11:15:19 15 may.

16 PRESIDING JUDGE: Court is adjourned.

17 [Break taken at 11.15 a.m.]

18 [CDF_02FEB06C-SGH]

19 [Upon resuming at 11.48 p.m.]

11:48:17 20 PRESIDING JUDGE: Dr Jabbi, are you now in a position to

21 resume the examination-in-chief of the witness?

22 MR JABBI: Yes, My Lord.

23 Q. Yes, Mr Witness, at various times you have mentioned an

24 organigram in your answers. What were you referring to?

11:49:23 25 A. I was referring to the organigram in preparation for my

26 answer to the question regarding the initiators, My Lords.

27 Q. Now, what was this organigram of?

28 A. This was the administrative command and fighting structure.

29 JUDGE ITOE: And is it and, on, or?

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1 THE WITNESS: And, and fighting structure of what the
2 National Co-ordinating Committee put together called Civil
3 Defence Forces. After the establishment of -- after the
4 establishment of the National Co-Ordinating Committee by His
11:51:29 5 Excellency the President.

6 BY MR JABBI:

7 Q. So can you tell the Court by whom this organigram was made?

8 A. It was made upon the instruction of the National
9 Co-ordinating Committee.

11:52:38 10 Q. You say the answer to that question that it was made upon
11 the instruction of the National Co-ordinating Committee?

12 A. Yes, My Lord.

13 Q. By whom was the organigram made on those instructions?

14 A. I was given myself a copy by the chairman of the National
11:53:15 15 Co-Ordinating Committee, I don't know by whom.

16 PRESIDING JUDGE: When you say were you given a copy of
17 that chart?

18 THE WITNESS: Yes, My Lord. Yes.

19 JUDGE THOMPSON: But you don't know the author of it.

11:53:30 20 THE WITNESS: No, I don't.

21 MR JABBI:

22 Q. Do you know when it was made?

23 A. I know it was made after the establishment of the National

24 Co-ordinating Committee. The exact date I cannot tell, My Lord.

11:54:30 25 Q. Now, I would like you to look at a certain document.

26 PRESIDING JUDGE: Before we ask the witness to speak about

27 it, Mr Prosecutor, any comment about it?

28 MR TAVENER: At this stage no, but I will certainly be

29 monitoring the evidence as to whether it will be admissible or

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1 not.

2 PRESIDING JUDGE: Mr Bockarie for the second accused?

3 MR BOCKARIE: None, Your Honour.

4 PRESIDING JUDGE: Mr Margai.

5 MR MARGAI: None, My Lord.

6 PRESIDING JUDGE: Thank you. Yes, Dr. Jabbi.

7 MR JABBI:

8 Q. Now you have just said that the organigram you have been

9 talking about was made after the formation of the National

11:56:10 10 Co-ordinating Committee. When was the National Co-ordinating

11 Committee formed?

12 A. This was by a letter from His Excellency's office which was

13 distributed to members and a copy of which I got as the deputy

14 minister of defence.

11:57:07 15 Q. And --

16 JUDGE ITOE: Let's have it for our records. Could that be

17 Exhibit 120 or so? Is that the letter you are referring to?

18 THE WITNESS: The letter was shown to me here, My Lord, a

19 date on it.

11:57:17 20 MR JABBI: [Overlapping speakers]

21 Q. 29th January.

22 A. Yes, My Lord.

23 MR JABBI: Is that Exhibit 120?

24 PRESIDING JUDGE: Yes, that was Exhibit 120.

11:57:56 25 MR JABBI:

26 Q. Is that the letter in question?

27 A. This is the letter that informed me of the establishment of

28 the National Co-ordinating Committee, My Lords.

29 Q. What is the date of that letter?

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1 A. Twenty-ninth January 1999, My Lords.

2 Q. Can we have the exhibit returned please.

3 A. Both the organigram and the letter?

4 Q. No, just the letter for the moment.

11:58:50 5 A. Thank you, My Lord.

6 Q. Now, can you have a look at the document which was given to

7 you before this Exhibit. Have you had a look at it?

8 A. I have looked at it, My Lords.

9 Q. Is that the document you referred to as the organigram in

11:59:14 10 question?

11 A. This is the organigram that was later sent to me from the

12 office of the NCC.

13 Q. Can you be any more specific of when it was sent to you?

14 If you cannot --

12:00:03 15 A. No, My Lord.

16 Q. Thank you.

17 MR JABBI: Now, My Lords, we would want to tender this

18 document.

19 MR TAVENER: The Prosecution objects to the tender at this
12:00:20 20 stage. There is no basis for it being tendered. It hasn't been
21 established when this was actually created, this document,
22 whether it was ever implemented, what it represents. All we have
23 is a schematic representation of a number of positions under the
24 heading "Civil Defence Forces in Sierra Leone." It speaks about,
12:00:42 25 for instance, there being a quarter of a million fighters. Now
26 at what stage did the CDF have a quarter of a million fighters?

27 PRESIDING JUDGE: Well, I don't want any confusion between
28 relevancy here and weight to be attached to that. So, I mean, as
29 you know, we have had a very flexible approach as to

1 admissibility of evidence and exhibits whether for or by the
2 Prosecution. So, I mean, the rule that we have applied is
3 essentially the rule of being flexible, provided it is relevant.

4 MR TAVENER: Yes, I accept that, Your Honour.

12:01:17 5 JUDGE THOMPSON: Let me add to that before you proceed with
6 your discourse. Rule 89(C), our rules, give us the authority to
7 admit evidence. What does it say? Could you read that for me,
8 Rule 89(C)?

9 MR TAVENER: I'm not disputing --

12:01:46 10 JUDGE THOMPSON: No, no, no, I want you to read the rule.
11 Let's just be a little more organised and precise in some of
12 these objections so that we ourselves can understand them as
13 judges and before we rule on them. Let us agree on the law.
14 That is our authority for admitting evidence, is it.

12:02:07 15 MR TAVENER: Yes, it is, Your Honour.

16 JUDGE THOMPSON: And can you read it, it's very short.

17 MR TAVENER: Yes, it says, "A Chamber may admit any
18 relevant evidence."

19 JUDGE THOMPSON: Right. On the issue of relevance would
12:02:17 20 you address us briefly how this document is not relevant based on
21 the evidence of the witness so far?
22 MR TAVENER: So far all we know about this --
23 JUDGE ITOE: And in answering that question I would like
24 you to advert and address your mind to the Appeals Chamber
12:02:37 25 decision in the case of the Prosecutor vs Moinina Fofana. You
26 remember that famous case?
27 MR TAVENER: Yes, Your Honour.
28 JUDGE ITOE: Right.
29 MR TAVENER: Obviously relevance relates to the indictment.

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1 That's where the --

2 JUDGE THOMPSON: Let us not start getting complicated here
3 with language. The question I posed is this -- and you have
4 agreed with me that Rule 89(C) pre-eminently governs the
12:03:07 5 admissibility of evidence in this Court. You agree with me on
6 the law?

7 MR TAVENER: Yes, Your Honour.

8 JUDGE THOMPSON: Right, and, of course, we don't want to --
9 my learned brother has just quoted a case. If that pre-eminently
12:03:21 10 governs, that's the provision under which we are authorised to
11 admit evidence. My learned brother the Presiding Judge has
12 talked about the flexibility with which we have admitted evidence
13 in this Chamber and this Court, and that is more or less in line
14 with the flexibility of other tribunals. The key word is
12:03:46 15 "relevance". That's the guidepost. As gatekeepers of evidence
16 before they get into proceedings, that's what the three judges
17 should ensure is the criteria.

18 My question is: How is this document sought to be tendered

19 not relevant to these proceedings, to the trial, in the light of
12:04:13 20 the evidence so far of this witness? In other words, the
21 document has not just come out of the blue. We have had him talk
22 about organigram, organigram, organigram. So tell me. Persuade
23 me.
24 MR TAVENER: Thank you, Your Honour. All we know about
12:04:34 25 this document so far is that at some stage the document was sent
26 to the witness. That's all we know. We know it was
27 established --
28 PRESIDING JUDGE: You said this --
29 JUDGE ITOE: After he had spoken about it earlier. After

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1 he had spoken about it in his earlier testimony.

2 MR TAVENER: He's mentioned it before in his earlier
3 testimony, but in no detail. This is the first time he has
4 spoken about it in detail.

12:04:56 5 PRESIDING JUDGE: But when he was shown the document he has
6 stated, "This is the organigram I've been talking about."

7 MR TAVENER: Yes, but there has been no basis for it. All
8 he spoke about was there was an organigram.

9 JUDGE THOMPSON: We will stop you there. What is the
12:05:12 10 basis, Mr Tavener, for the admission of documents within the
11 Special Court scheme of adversarial adjudication?

12 MR TAVENER: Relevance, Your Honour.

13 JUDGE THOMPSON: Relevance. And what rule is that embodied
14 in?

12:05:24 15 MR TAVENER: The one I have just read.

16 JUDGE THOMPSON: Right. So to what extent is there no
17 basis?

18 MR TAVENER: Because all you have in front of you is a

19 piece of paper with a schematic representation of a series of
12:05:41 20 positions. There is no factual basis for this document.

21 JUDGE THOMPSON: Now let me stop you. Let me stop you and
22 say from your knowledge of the jurisprudence, the question of the
23 content, the authenticity -- are they really matters of
24 admissibility according to the jurisprudence of the tribunals?

12:06:02 25 Are they not questions of weight? Isn't this what the entire
26 exercise of setting up an international criminal justice
27 machinery -- to get rid of the technical rules in the common law
28 system, where an objection like this would have been appropriate,
29 and in fact to synthesize the common law and the civil law

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1 system? The civil law system, the German system, the French
2 system. Free, easy admissibility of evidence. Relevance.

3 MR TAVENER: I accept what Your Honour is saying. My
4 problem is, and my submission is, that all we have is a piece of
12:06:41 5 paper, we know it's written sometime after a certain date, we
6 know that this witness has seen this document at some stage. I
7 don't see how that can form a basis. The mere fact that he uses
8 the word "organigram" and that he has seen such a document, there
9 must be more than that to make it relevant. Our concern is it
12:07:05 10 doesn't fall -- we are not even sure at this stage whether it
11 even falls within the time period of the indictment.

12 PRESIDING JUDGE: Well, your objection is overruled and you
13 will have ample opportunity to challenge this and question the
14 witness in cross-examination, when we get there, as to what
12:07:18 15 validity, if any, the Court should address to it. Then you will
16 be able to argue that in due course as well. We feel that this
17 is relevant, given the evidence of the witness, and it will be
18 admitted.

19 MR TAVENER: Thank you.

12:07:33 20 JUDGE ITOE: And it is so admitted.

21 MR TAVENER: Thank you as well, Your Honour.

22 JUDGE THOMPSON: And marked Exhibit --

23 PRESIDING JUDGE: 123.

24 [Exhibit No. 123 was admitted]

12:07:34 25 MR JABBI:

26 Q. Mr Witness, Exhibit 123, a document you have in front of

27 you there entitled "Organogram of the Civil Defence Forces in

28 Sierra Leone." Now in terms of the practical implementation of

29 the structure established in this exhibit, when did that

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1 implementation become effective?

2 A. This was in the same 1999 and I believe any time between
3 February and March 1999, My Lord.

4 Q. Thank you. Was the war in progress at that time?

12:10:28 5 A. There was still conflict and hostility, My Lords.

6 Q. What would you say was the purpose of such an instrument?

7 A. The purpose of this organigram was for effective
8 administration of the various hunter groups and the distribution
9 of the logistics provided for the hunters by the Government of

12:11:47 10 Sierra Leone, My Lords.

11 Q. Now can you tell the Court the highest rank in the
12 structure established in the organigram?

13 A. Yes, My Lords.

14 Q. Yes, please?

12:13:23 15 A. The President of the Republic of Sierra Leone was and still
16 is the national commander.

17 Q. Of?

18 A. Of the Civil Defence Forces, My Lords.

19 Q. The next in line?

12:14:05 20 MR KAMARA: Objection, Your Honour. Exhibit 123 speaks for

21 itself. It is quite clear.

22 JUDGE THOMPSON: Why would that be an objection?

23 MR KAMARA: Because the document is in evidence and it has

24 been tendered and it speaks for itself.

12:14:19 25 JUDGE THOMPSON: And which rule says that when a document

26 has been tendered in evidence it speaks for itself and therefore

27 it cannot ever be expounded upon by the examiner-in-chief or the

28 cross-examiner? Which rule says that? Would that be true if

29 the Prosecution, when the time comes, wants to cross-examine on

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1 its content? Would the same rule apply?

2 MR KAMARA: Your Honour, it's a common rule of practice.

3 JUDGE THOMPSON: No, would the same rule apply at the time

4 when it comes to cross-examine on its content? In other words,

12:14:52 5 to put certain matters to the witness which you disagree with, or

6 probably you want to say these are not an accurate portrayal of

7 the matters stated therein. Would the Prosecution be deprived by

8 the same principle?

9 MR KAMARA: No, Your Honour, and the circumstances are

12:15:10 10 different.

11 JUDGE THOMPSON: So, in other words, the document would

12 speak for itself in respect of examination-in-chief but would not

13 speak for itself in respect of the cross-examination?

14 MR KAMARA: Let me draw the distinction.

12:15:26 15 JUDGE THOMPSON: I find it extremely --

16 MR KAMARA: Let me draw the distinction, Your Honour. The

17 distinction here is the fact that on the right examination, once

18 a document has been tendered, it is common rule of practice that

19 the document speaks for itself.

12:15:40 20 PRESIDING JUDGE: Where is that rule of practice?

21 JUDGE THOMPSON: Where is this authority?

22 PRESIDING JUDGE: Where is that rule of practice? I don't

23 recall that this rule applied when the Prosecution was leading

24 this evidence-in-chief and when you produced documents, as such.

12:15:51 25 I do recall that many documents were tendered to witnesses and

26 the witnesses expanded on them.

27 MR KAMARA: Yes, Your Honour, the references were made but

28 the document was not regurgitated after it has been tendered.

29 And this is so because in cross-examination --

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1 PRESIDING JUDGE: Please explain to me what the difference
2 is between the two.

3 MR KAMARA: That is where I am coming from.

4 JUDGE THOMPSON: As you do that, so that you kill two birds
12:16:10 5 with one stone, cite the law, which says --

6 MR JABBI: Your mic, My Lord.

7 JUDGE THOMPSON: Cite the law which says that whenever a
8 document has been tendered in evidence, by whichever side, it
9 speaks for itself and therefore you cannot examine or
12:16:33 10 cross-examine it. So whilst you answer the learned Presiding
11 Judge, guide me and enlighten me on the law.

12 MR KAMARA: Again, I beg to -- I crave the indulgence of
13 the Bench if I may respond to the learned Presiding Judge, that
14 in the case on direct examination, a document which has been
12:16:51 15 tendered, it becomes a document for the Court and the Court can
16 perceive the document as itself *res ipsa loquitur*, Your Honour.
17 That is the rule I'm quoting here as a state of the law. The
18 facts speak for themselves and if the facts are presented in a

19 document, references, of course, can be made to the document, but
12:17:11 20 the document cannot be referred to or regurgitated to the court
21 position by position. And while cross-examination -- and, again,
22 it is part of the practice of the court so far that there is
23 extensive latitude in cross-examination. We can go to the
24 document, we can read it back to the witness because it has
12:17:28 25 formed part of the record of the Court. It is a fruitless
26 endeavour for us to go back through any document that has been
27 tendered and has formed part of the record for the Court, and res
28 ipsa loquitur is a position of law that I rely on on this
29 objection.

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1 JUDGE THOMPSON: Suppose I respond to say that that concept
2 is more in the context of civil law?

3 MR KAMARA: Your Honour, it is in the context of civil law
4 and in criminal as well, based on the fact that it flows across
12:17:57 5 the position of the law that a document or anything of fact
6 speaks for themselves.

7 PRESIDING JUDGE: It does not deny the fact that the
8 document speaks for itself. The mere fact that a witness may be
9 questioned about a document does not offend that particular rule,
12:18:08 10 as such. Yes, the document [overlapping speakers].

11 JUDGE THOMPSON: And added to what the learned Presiding
12 Judge said, I think the objection would have been well-grounded
13 if it were to leading questions arising out of
14 examination-in-chief. And, of course, if it were to be a
12:18:31 15 question which, in a way, in examination-in-chief seeks to
16 establish consistency and all that kind of -- but not that the
17 document cannot be explained. If -- and, precisely, I need to be
18 enlightened on this. I have not known that the doctrine of res

19 ipsa loquitur precludes an examiner-in-chief or a cross-examiner
12:18:55 20 from referring to the content of the document and putting it to
21 the witness. I don't really -- as I say, perhaps --
22 MR KAMARA: I am sorry, I may not have made myself clear
23 Your Honour. Res ipsa loquitur does not mean that he cannot
24 refer to the document. The question posed to the witness is not
12:19:11 25 reference. He is reading the document to the court, and that is
26 my objection. I will adopt the position of my learned justice in
27 mentioning that it is leading, not only leading, but the fact
28 that a document has been tendered to court, he cannot go and
29 recite the document to the court and res ipsa loquitur flows from

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1 civil law as well as criminal law.

2 JUDGE THOMPSON: All right, let's grant you that. Suppose
3 there are concepts here in Exhibit 123 that need some explanation
4 for the Bench.

12:19:31 5 MR KAMARA: Yes.

6 JUDGE THOMPSON: For example, I may not understand some of
7 it. Should the Bench be deprived of the opportunity of having
8 the witness say, "Oh, when I referred to X here, this is what we
9 mean."

10 MR KAMARA: Exactly so. That question is appropriate. In
11 that circumstance, it's appropriate. But to ask the witness (a)
12 who was the head and the organigram speaks for itself; (b) who is
13 (b); the organigram speaks for itself. That is my objection,
14 that he's reciting an entire piece of the information before the
15 court.

16 PRESIDING JUDGE: Your objection is overruled. Let us
17 proceed.

18 MR JABBI: Thank you very much, My Lords.

19 Q. So, Mr Witness, the question that was posed to you was
12:20:33 20 after the President who was national commander of the Civil
21 Defence Forces, what is next down in line?
22 A. Sorry, My Lords. The vice-president of the Republic of
23 Sierra Leone. Here it says vice-president, vice-commander.
24 PRESIDING JUDGE: Although we have overruled the objection,
12:21:13 25 Dr Jabbi, we are able to read, and unless there is something in
26 that document --
27 JUDGE ITOE: Indeed, we are able to read.
28 PRESIDING JUDGE: -- [overlapping speakers] needs
29 clarification, as such, it is absolutely not necessary that we

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1 read line by line.

2 MR JABBI: Certainly not, My Lord.

3 JUDGE ITOE: The document is there.

4 MR JABBI: My Lord, it was actually inaccurate for the
12:21:39 5 first reference to the content of the Article and of the document
6 to be construed as a total regurgitation of the Article -- of the
7 document. I have no intention to lead the witness stage by stage
8 through the entire document.

9 PRESIDING JUDGE: Okay, that is my observation.

10 MR JABBI: The first reference to the next point in line
11 where you have some nearly 26 stages certainly it would not at
12 that stage have been called a regurgitation of the document.

13 Thank you very much, My Lords.

14 Q. Now, Mr Witness, in that document there is reference to
12:22:43 15 national co-ordinator?

16 A. Yes, My Lord.

17 Q. In terms of the hierarchy of ranks in the document, what
18 position is national co-ordinator with reference to president,

19 national commander as a highest?

12:23:30 20 A. I would say number six, My Lord.

21 JUDGE ITOE: Are you saying that it is number six, or you

22 would say?

23 THE WITNESS: I would.

24 JUDGE ITOE: Because you are familiar with this.

12:23:40 25 THE WITNESS: I would. I would say because there is the

26 extension there of the vice-chairman.

27 MR TAVENER: I object again, Your Honour. The answer to

28 that last question indicates what I was saying earlier: the

29 question of relevance in this matter. It is still not clear.

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1 Although evidence has been given that this was implemented, it is
2 still not clear from this document whether or not it was fully
3 implemented, in what form it was implemented. None of those
4 essential details that ground the basis of the admission of this
12:24:13 5 document have been described to the court. The witness says, "I
6 would have been number six." Now, quite clearly when you look at
7 this diagram, you can see where he lies. But his answer suggests
8 there was no formal establishment of his position where in the
9 document he had actually occurred. That is, as a matter of fact,
12:24:36 10 did this happen? Did this organigram happen or did it not? If I
11 did, did it happen as described? If it did, when did it happen?
12 If it happened, did it happen within the indictment period?
13 These matters have not been addressed. For that reason, relying
14 on 89(C), it is not relevant.

12:24:58 15 PRESIDING JUDGE: We thank you for you comments. We have
16 ruled about it and we have not changed any of the arguments you
17 have put forward. We have not changed our decision in this
18 respect. In fact, you have not underlined anything that would

19 bring any anything new to our minds at this particular moment.

12:25:13 20 MR TAVENER: The Prosecution is simply asking for

21 certainty, Your Honour.

22 JUDGE THOMPSON: By way of comfort, actually, you will have

23 time to cross-examine extensively on this, and I will listen to

24 you most attentively.

12:25:24 25 MR TAVENER: I would simply ask for certainty at this

26 stage. It is very difficult to cross-examine when one is not

27 even certain what the witness is saying.

28 PRESIDING JUDGE: Mr Prosecutor, you will -- indeed, I was

29 going to suggest to you that everything you have put forward, as

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1 such, would be very, very good matters for cross-examination in
2 due course.

3 JUDGE THOMPSON: You may persuade us at that stage, who
4 knows.

12:25:45 5 MR TAVENER: I certainly don't, Your Honour. Thank you.

6 MR JABBI:

7 Q. Now, Mr Witness, His Lordship Justice Itoe made a comment
8 immediately after your last answer when you said "would"?

9 A. Yes, My Lord.

12:26:06 10 Q. He asked whether you meant also "do" or "would". Now, I

11 ask again. What position in this structure established on this

12 organigram does national co-ordinator fall into? You can look at

13 your organigram.

14 A. I am looking, My Lord. Starting from the national

12:26:50 15 commander, I will be number -- I will be number six. I am

16 number six.

17 Q. Thank you very much.

18 A. National co-ordinator.

19 Q. Now I will ask a question I have asked before: When did
12:27:44 20 this structure come into operation?

21 A. I did say to My Lords anytime between February and
22 March 1999, My Lords.

23 Q. For how long was it in operation?

24 PRESIDING JUDGE: [Microphone not activated].

12:28:29 25 THE INTERPRETER: Microphone, My Lord.

26 PRESIDING JUDGE: I think he has answered that question, if

27 I am not mistaken. He is certainly still in operation nowadays.

28 At least that is what I understood his answer to have been.

29 THE WITNESS: Yes, My Lords. In answer to the commander,

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1 national commander.

2 PRESIDING JUDGE: Yes.

3 THE WITNESS: He was and still is.

4 MR JABBI: Yes, that was the answer he gave in respect of

12:28:54 5 the national commander. I want to deal with the total structure

6 now.

7 PRESIDING JUDGE: Very well.

8 MR JABBI: Thank you, My Lord.

9 Q. So the question is: the structure established by this

12:29:06 10 organigram, how long was it operating?

11 A. It was being operated up to the end of January, year 2002,

12 when the logistical provisions ceased to be supplied to the Civil

13 Defence Forces, My Lord.

14 PRESIDING JUDGE: If I may on that, Mr Norman, when you say

12:29:54 15 the structure, as such, you mean the structure as such exhibited

16 on Exhibit 123?

17 A. It was being operated up to the end of January, year 2002

18 when the logistical provisions ceased to be supplied to the Civil

19 Defence Forces, My Lord.

12:29:52 20 PRESIDING JUDGE: If I may, on that, Mr Norman, when you

21 say "the structure as such", you mean the structure as such

22 exhibited on Exhibit 123?

23 THE WITNESS: Yes, My Lord.

24 PRESIDING JUDGE: So you are saying this structure was in

12:30:05 25 place until the end of January 2002?

26 THE WITNESS: Yes, My Lord.

27 PRESIDING JUDGE: Thank you.

28 MR JABBI:

29 Q. Now although you have said that this was operational from

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1 early 1998 -- sorry, 1999. I'm sorry.

2 JUDGE ITOE: He didn't say early. He said, "Any time
3 between February and March 1999."

4 MR JABBI: Correct, My Lord.

12:31:05 5 JUDGE ITOE: "Not early", "any time between."

6 MR JABBI: As Your Lordship pleases.

7 Q. Although you have specifically said that sometime between
8 February and March 1999 was the time this structure became
9 operational, I ask you whether the structure it describes was

12:31:42 10 applicable to the Civil Defence Forces organisation for the
11 preceding period; the period before 1999 down to, let us say,
12 1997. Was this structure applicable at that stage?

13 JUDGE ITOE: If it came into effect?

14 JUDGE THOMPSON: Yes, this is the question.

12:32:25 15 JUDGE ITOE: If it came into effect any time between
16 February and March 1999 --

17 MR JABBI: As Your Lordships please.

18 JUDGE ITOE: How can it have an interactive effect?

19 JUDGE THOMPSON: Quite right. In other words --

12:32:30 20 MR JABBI: I will rephrase the question.

21 JUDGE THOMPSON: Yes, it [overlapping speakers] a
22 pre-operational birth.

23 MR JABBI: I will rephrase the question, My Lords.

24 Q. Now, Mr Witness, for the period 1997 -- for the period
12:33:17 25 before, the entire period before January 1999, for that entire
26 period was there an organigram of the Civil Defence Forces, any
27 organigram?

28 A. No, My Lord.

29 Q. Mr Witness, looking at the organigram, there are a few

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1 entries on the right-hand side towards the bottom. For instance,
2 starting from the very bottom we have the entry "83,000
3 commanders." What is that entry supposed to indicate -- intended
4 to indicate.?

12:34:50 5 A. My Lords, any indication on this organigram speaks for
6 itself. It was the production of the National Co-ordinating
7 Committee, not the national co-ordinator.

8 Q. Now, Mr Witness, if I may press a little bit more on that
9 item.

12:35:42 10 JUDGE THOMPSON: Without risking cross-examining him.

11 MR JABBI: Yes, indeed, My Lord.

12 PRESIDING JUDGE: And bearing in mind that you are still
13 examining-in-chief and leading questions are not normally, on
14 certain issues, as you know, permissible.

12:35:52 15 MR JABBI: Yes, My Lord.

16 Q. Yes, Mr Witness, still with the reference to the 83,000
17 commanders at the bottom right-hand side of the structure, can
18 you tell the Court what force that figure represents; 83,000

19 commanders?

12:37:06 20 A. My Lords, as a trained military officer I can only say that

21 these indications are explanations. Before 83,000, My Lords, you

22 will see one commander per three men. The 250,000 were

23 subdivided into commands. My Lords, you will get 83,000

24 commanders of 250,000 men. That is -- to my trained mind as an

12:37:50 25 officer, that is what it indicates.

26 Q. Thank you very much indeed.

27 JUDGE THOMPSON: Yes, and this is why the document doesn't

28 speak for itself.

29 MR JABBI: That's right.

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1 THE WITNESS: Thank you, My Lords.

2 MR JABBI:

3 Q. And the Court also may not have your trained mind,

4 Mr Witness.

5 JUDGE THOMPSON: Certainly not.

6 MR JABBI:

7 Q. Military trained mind.

8 A. Thank you, My Lords.

9 Q. Now earlier on you mentioned reference to logistical

12:38:27 10 provision. When you were trying to say how long this instrument

11 operated you said up to January something something when the

12 operational logistics -- I mean, the logistical --

13 JUDGE ITOE: Up to January 2002.

14 MR JABBI: 2002, My Lord.

12:38:46 15 JUDGE ITOE: When the logistical provisions ceased to be

16 supplied by the government to the Civil Defence Forces.

17 MR JABBI: Yes, My Lord.

18 THE WITNESS: Yes.

19 MR JABBI:

12:38:58 20 Q. Can you again - maybe with your trained military mind -

21 tell the Court what these logistical provisions were. Very

22 briefly, please?

23 A. The trained military mind will not extend to logistical

24 provision. I am speaking as the deputy defence minister at the

12:39:18 25 Ministry of Defence, through which ministry these provisions were

26 made available to the civil defence from the Government of Sierra

27 Leone.

28 Q. Okay. So can you explain from that perspective?

29 A. There was an arrangement by the government of Sierra Leone

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1 providing the fighting and maintenance logistics to the civil

2 defence that the maintenance logistics in the forms of quantity

3 of rice and amount of money will not cease.

4 JUDGE ITOE: We have even gone into the number of bags of

12:40:54 5 rice and what have you.

6 THE WITNESS: I am not mentioning the number, My Lord.

7 JUDGE ITOE: Yes, we visited all this.

8 THE WITNESS: I would say would not cease on 18th January

9 when the statement "wa dan dan" was made. The provision was

12:41:24 10 extended to close as at 31st January 2002, My Lord.

11 MR JABBI: Thank you.

12 PRESIDING JUDGE: But only those portions of logistics

13 consisting of rice and money?

14 THE WITNESS: Yes, My Lord. Thereafter there were no

12:41:54 15 provisions either for weapons or for maintenance of the civil

16 defence.

17 PRESIDING JUDGE: When you say thereafter, you mean --

18 THE WITNESS: After 31st January, My Lord.

19 MR JABBI:

12:42:50 20 Q. Mr Witness, if we may move away for now from the

21 organigram --

22 A. Yes, My Lords.

23 Q. -- to certain theatres of hostilities especially, to begin

24 with, during the period 1st November 1997 and 30th April 1998?

12:44:05 25 Now, with respect to that period, when did the capture of Tongo

26 Field by the Civil Defence take place?

27 A. The message of the capture of Tongo Field got to me after

28 the ECOMOG had already entered Sierra Leone with hunter groups

29 any time between November and December 1997.

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1 Q. Do you know when the effort to capture Tongo Field started?

2 A. Yes, My Lord.

3 Q. Yes.

4 A. This was around October 1997, My Lords.

12:47:25 5 Q. Can you also tell the Court the initial instructions for
6 such an effort to commence?

7 A. Meaning I give or somebody give?

8 Q. Not whether you gave, but whether you knew those
9 instructions and by whom or when they were made.

12:48:08 10 A. My Lords, these men were already in Sierra Leone for a
11 purpose.

12 Q. Excuse me, please watch your pace.

13 A. The hunters and ECOMOG had advanced from Waterside into the
14 heart of Sierra Leone for the purposes of capturing the bases of

12:48:44 15 the junta, My Lords.

16 Q. Yes.

17 A. So, if they captured, it was the objective of their
18 purpose.

19 JUDGE ITOE: If they captured what?

12:49:13 20 THE WITNESS: Any base, My Lord, including Tongo Field.

21 JUDGE THOMPSON: Perhaps we should have that answer all

22 over again.

23 MR JABBI: Pardon, My Lord.

24 JUDGE THOMPSON: I said, perhaps we should have that answer

12:49:40 25 all over again, I am missing something. Could he repeat the

26 answer?

27 MR JABBI:

28 Q. Yes, can you repeat what you said in answer to that

29 [overlapping speakers]

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1 A. I said, My Lord, that if hunters and ECOMOG had entered
2 into Sierra Leone for a purpose and the purpose was to capture
3 the bases of the junta; that is the enemy. So, if they captured
4 Tongo Field --

12:50:24 5 JUDGE ITOE: If they captured any base, including Tongo
6 Field?

7 THE WITNESS: Any base, including Tongo Field. Thank you,
8 My Lord. That was the purpose of their objective, My Lord, that
9 was.

12:50:51 10 JUDGE THOMPSON: I thought it was the second part that
11 created for me some kind of confusion of thought, but it is okay.

12 THE WITNESS: Thank you, My Lord.

13 MR JABBI:

14 Q. What rule, if any, did the War Council have in setting that
12:51:10 15 objective; the target?

16 A. Their role was to advise that every support should be given
17 by the hunters to ECOMOG forces to facilitate the restoration of
18 democracy and reinstatement of the democratic government of the

19 President, Alhaji Dr Ahmad Tejan Kabbah. Every time we, meaning
12:52:49 20 myself and members of the War Council met, those were --

21 Q. Please watch your pace.

22 A. -- of our advice to fighters, My Lords.

23 Q. Thank you. Now, talking of yourself as National
24 Co-ordinator, did you have any communication link with the
12:54:10 25 fighters on the -- the hunter fighters on the ground in and
26 around Tongo Field during the exercise?

27 A. Electronic communication, no, My Lord. These were human,
28 individual human communication that would take days, My Lords.

29 Q. Did you get any such individual human communication about

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1 that exercise in progress?

2 A. There was someone who would travel from Base Zero.

3 JUDGE ITOE: Did you, please take the question, did you?

4 Take the question again.

12:55:45 5 THE WITNESS: Yes, My Lord, I did. There was someone --

6 JUDGE ITOE: Please wait.

7 THE WITNESS: I did, My Lord. There was someone who

8 conveyed verbal messages from me to the east, the eastern region

9 of Sierra Leone: Kenema, Tongo, Kono, and Kailahun districts, My

12:57:41 10 Lords. This was before the ECOMOG became involved in the

11 hostilities in Sierra Leone, My Lords.

12 MR JABBI:

13 Q. So was ECOMOG, in fact, involved in the fighting in Tongo

14 Field?

12:58:26 15 A. They had. My Lord, ECOMOG had moved with the hunters to

16 Kenema and beyond and Tongo field is after Kenema. So the

17 hunters moved from Kenema to Tongo Field. ECOMOG was already in

18 Kenema, My Lords.

19 MR TAVENER: I am sorry.

12:59:07 20 PRESIDING JUDGE: Thank you.

21 JUDGE ITOE: I have not followed that reply at all.

22 PRESIDING JUDGE: Yes, you were saying that ECOMOG had

23 moved to Kenema and beyond.

24 THE WITNESS: Yes.

12:59:15 25 PRESIDING JUDGE: Now you seem to be saying that the

26 hunters were -- the question was: Was the ECOMOG in Tongo Field

27 involved in Tongo Field? I am not sure I understand.

28 THE WITNESS: My Lord, I was not in the field and the

29 hunters were with ECOMOG. So if the hunters got to Tongo Field

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1 they had operated under the orders of ECOMOG.

2 PRESIDING JUDGE: You don't know that.

3 THE WITNESS: I didn't know.

4 JUDGE THOMPSON: Yes, that is his circumlocutory answer.

12:59:49 5 It doesn't really help. Again it is hypothesising.

6 PRESIDING JUDGE: So, what you know is that the hunters had

7 moved up to Kenema with ECOMOG?

8 THE WITNESS: Yes, My Lord.

9 PRESIDING JUDGE: But after that they --

13:00:00 10 THE WITNESS: After that I heard that Tongo Field had been

11 captured.

12 PRESIDING JUDGE: Yes.

13 THE WITNESS: Yes, My Lord.

14 MR JABBI:

13:00:14 15 Q. Now you said you heard that these messages sent overland by

16 individual persons.

17 A. Verbal messages.

18 Q. Verbal messages. How long did it take for a verbal message

19 from Tongo Field to reach Base Zero?

13:00:52 20 A. My Lords, I cannot tell. This was relative to human speed.

21 Q. Any rough idea of number of days.

22 A. Sometimes it took up to a week, sometimes more than a week

23 depending on the hostility of the terrain.

24 Q. Thank you.

13:01:12 25 PRESIDING JUDGE: Yes, it is 1 o'clock, so we will break

26 for lunch. So the Court will adjourn until 2.30 p.m. this

27 afternoon. Court is adjourned.

28 [Luncheon recess taken at 1.02 p.m.]

29 [CDF02FEB06D - RK]

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1 [Upon resuming at 2.45 p.m.]

2 PRESIDING JUDGE: Dr Jabbi, good afternoon. Can you please
3 resume the examination-in-chief of the accused, please.

4 MR JABBI: Thank you.

14:45:26 5 Q. Now, Mr Witness --

6 A. Yes, My Lord.

7 Q. -- my last question, I believe, was the duration of time it
8 took an individual person to communicate a verbal message from
9 the Tongo area to Base Zero. And I believe your answer was at

14:46:11 10 least a week, depending on various variables. Now, whilst the
11 hostilities in the Tongo area were going on, did you in fact
12 receive any such message about the ongoing events?

13 A. Yes, My Lord.

14 PRESIDING JUDGE: When you say "any such message",
14:46:56 15 "message" meaning what? A verbal message or what?

16 MR JABBI: Verbal message through a human -- individual
17 human communicator travelling over the distance.

18 THE WITNESS: Yes, My Lord.

19 PRESIDING JUDGE: So I better understand, does that mean
14:47:18 20 when you are giving evidence this morning, Mr Norman, that by
21 human messages, human communication, as you called them, they
22 were always and only verbal messages? In other words, the
23 runners would not convey anything in writing. It is always a
24 verbal message from whoever to whoever.

14:47:40 25 THE WITNESS: That was for security reasons.

26 PRESIDING JUDGE: I'm not questioning the validity of it.
27 I'm just asking as to how it was done. It was always verbal.

28 THE WITNESS: Verbal, human means, My Lord.

29 PRESIDING JUDGE: Thank you.

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1 MR JABBI:

2 Q. Your answer just now was that you did receive such verbal,
3 human communication. Can you tell the Court what such
4 communication was?

14:48:25 5 A. Like the capture of Tongo Field, the message was verbally
6 conveyed, My Lord.

7 Q. Did you receive any other message before the capture
8 message?

9 A. No, My Lord.

14:49:54 10 JUDGE ITOE: What about after the capture?

11 THE WITNESS: Pardon me, My Lord.

12 JUDGE ITOE: I'm sure counsel has heard me.

13 MR JABBI: I believe that he has already given the answer
14 to that question, My Lord.

14:50:08 15 JUDGE ITOE: After -- after the capture, yes. I mean,
16 after the message and the capture. Did he receive any further
17 messages?

18 MR JABBI:

19 Q. Apart from the message that Tongo had been captured,
14:50:33 20 thereafter did you receive any further messages of this nature?
21 A. Subsequent messages of relative other incidences, yes, My
22 Lord.
23 PRESIDING JUDGE: So I understand, we are still talking in
24 this respect of Tongo Field, when you are there messages about
14:51:15 25 other incidents, still in Tongo Field?
26 THE WITNESS: Yes, My Lord.
27 PRESIDING JUDGE: Thank you.
28 MR JABBI:
29 Q. Now, can you also give an example of these subsequent

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1 messages relative to other incidents?

2 A. Yes, My Lord.

3 Q. Yes.

4 A. The situation over Tongo became a ding-dong battle. One

14:51:56 5 week I received a message of the capture of Tongo by the ECOMOG

6 supported hunters. Another week I will get another message that

7 the junta had taken Tongo. That's how it was. A very anxious

8 moment, My Lord.

9 Q. Can you say how many times this sort of ding-dong message

14:53:15 10 came across to you?

11 A. Two times, My Lord. The third was when the junta finally

12 settled in Tongo. Meaning the rebels or the junta stayed in

13 Tongo until disarmament. They were finally staying there

14 together with UNAMSIL troops.

14:54:38 15 Q. Now, can you give a rough estimate as to when the rebels

16 finally settled in Tongo up until disarmament?

17 A. My Lord, these incidents took place after the reinstatement

18 of His Excellency until the 18th January when "di war dan dan"

19 statement was finally released by His Excellency.

14:55:58 20 Q. In the messages that were received, were you told of any

21 acts of large-scale killings of civilians?

22 A. No, My Lord.

23 Q. I wish to refer specifically to the evidence of one

24 witness, prosecution witness number 47, who was pseudonymed

14:57:23 25 TF2-027. More particularly to page 8 of his testimony of 22nd

26 February 2005?

27 JUDGE ITOE: 24th.

28 MR JABBI: 22nd.

29 JUDGE ITOE: 22nd.

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1 MR JABBI: Yes, My Lord.

2 Q. 22nd February 2005, page 8, I said, at lines 13 to 24.

3 Lines 13 to 24. And if you can listen carefully, please.

4 "Q. Mr Witness, you mentioned in your testimony that at

14:58:55 5 some point one Kamajor was speaking on the wireless set and

6 giving a message to somebody on the other side; is that

7 right?

8 "A. Yes.

9 "Q. And in his report he called out, 'Chief, chief'; is

14:59:32 10 that right?

11 "A. Yes.

12 "Q. Were you able to know who was the chief he was

13 referring to?

14 "A. He called, he called, 'Chief, chief, I want to speak

15:00:07 15 to chief. I want to speak to Chief Hinga Norman."

16 Now, did such a communication by a wireless set ever reach

17 you?

18 A. No, My Lord.

19 Q. The same witness said that he was communicating the capture
15:01:22 20 of 200 rebels in that process. Did you ever get to know about

21 such a message that 200 rebels had been captured in Tongo Field?

22 A. No, My Lords.

23 Q. Now, this witness also spoke about 30 to 40 corpses having

24 been observed at the entrance to the NDMC headquarter at Tongo.

15:03:18 25 Was such information ever communicated to you?

26 A. No, My Lord.

27 Q. Now, with reference to certain other towns in the Tongo

28 area, for example Lalehun -- do you know the town Lalehun in the

29 Tongo area?

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1 A. I don't, My Lord. I've only been to Tongo once ever since.

2 Q. In your life?

3 A. Yes, My Lord.

4 Q. Did you, however, at any stage during the hostilities, at

15:05:45 5 that point in time receive any message from the town and around

6 the town Lalehun in respect of the hostilities?

7 A. No, My Lord.

8 Q. Now, were you ever informed of an alleged incident of many

9 people dying as a result of being trampled upon at the NDMC

15:07:27 10 headquarters in Tongo because the Kamajors ordered everybody to

11 go to that centre during that exercise?

12 A. No, My Lord.

13 Q. Did you know of a Kamajor commander in the Tongo area

14 called Kamabote?

15:08:46 15 A. Please repeat the name.

16 Q. Kamabote.

17 A. No, My Lord.

18 Q. And did you ever receive any message that a certain woman

19 called Fatmata Kamara, who used to cook, was killed by a Kamajor
15:10:10 20 commander for allegedly cooking for rebels?
21 A. No, My Lord.
22 Q. Do you also know of a Kamajor commander called BJK Sei?
23 A. Yes, My Lord.
24 Q. Did you ever receive a message that as commander in that
15:11:36 25 area any -- that as commander in that area BJK Sei made an order
26 to all Kamajors that if any RUF rebels were caught, he should not
27 be killed. Did you hear of any such report --
28 A. No, My Lord.
29 Q. -- the area? Did you ever hear or get a message concerning

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1 one Dr Blood in the Tongo area at that time?

2 A. No, My Lord.

3 Q. And did you ever receive a message that when the Kamajors

4 chased out the juntas at Sembehun in the Tongo area, they set up

15:14:03 5 an ambush -- no, they set up checkpoints and pounced upon

6 returning villagers and killed them from time to time as they

7 were coming back to Sembehun?

8 A. No, My Lord.

9 Q. Was any report ever sent to you concerning the Kamajor

15:15:09 10 exploits at a town called Kamboma in the same area?

11 A. No, My Lord.

12 Q. Well, if we may leave the Tongo area for now, and go over

13 to the Moyamba area, the Moyamba District area. Now, did you

14 know of the Kamajor invasion of the Bradford area in the Moyamba

15:17:06 15 District during this period? Your mic, please.

16 A. My Lord, I will refer to the situation as operation rather

17 than invasion, My Lord. That was their territory.

18 Q. So adjusted. Do you remember that period of operation by

19 the Kamajors in the Bradford area?

15:17:53 20 A. Between 25th May 1997 and 10th March 1998; yes, My Lord.

21 Q. Whilst the Kamajors were operating in the Bradford area,

22 were they in communication with you electronically?

23 A. No, My Lord.

24 Q. And whilst they were also in operation there, did you

15:19:14 25 receive any messages from them by the individual human

26 communication?

27 A. No, My Lord.

28 Q. Did you learn of the capture of a treasury clerk named

29 Thomas in the Moyamba area by the Kamajors during that time?

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1 A. No, My Lord.

2 JUDGE ITOE: The treasury clerk, the name again, please.

3 MR JABBI: Thomas, My Lord.

4 Q. And did you know any Kamajor commanders by the name of Kini

15:22:01 5 Torma?

6 A. Yes, My Lord.

7 Q. Where was he operating?

8 A. Moyamba, Moyamba Town, My Lord.

9 Q. Did you know of another such Kamajor commander called Chuck

15:22:53 10 Norris?

11 A. Yes, My Lord.

12 Q. Do you know where he was also operating?

13 A. My Lord, he was the company commander to Kini Torma, who

14 was the battalion commander in Moyamba Town.

15:24:02 15 Q. Did you learn of an incident where certain Kamajors brought

16 three persons to Kini Torma and Chuck Norris at Shenge Park in

17 Moyamba, one of whom was burnt to death?

18 A. No, My Lord.

19 PRESIDING JUDGE: Dr Jabbi, could you move along a bit
15:25:13 20 quicker, please?
21 MR JABBI: Thank you, My Lord.
22 JUDGE ITOE: What was the name of the park?
23 MR JABBI: Shenge Park. S-H-E-N-G-E, Shenge.
24 Q. And did you ever hear of a Pa Aluseini Kabbah in Bradford
15:26:11 25 who was allegedly shot dead by CO Kakpata.
26 MR JABBI: Kakpata, My Lords, is K-A-K-P-A-T-A.
27 THE WITNESS: No, My Lords.
28 MR JABBI:
29 Q. Now did you know of any investigation of that incident by

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1 the resident minister PC Caulker of Bumpe Chiefdom?

2 A. No, My Lords.

3 Q. Did you know of a CDF commander called Amadu Mahoi [phon]?

4 A. No, My Lord.

15:28:29 5 Q. And another CDF commander in the same area called

6 Mohamed Koroma?

7 A. No, My Lord.

8 Q. Did you ever get a report of those two, the commander Amadu

9 Koroma -- sorry, Mohamed Koroma and Amadu Mahoi, did you ever get

15:29:24 10 a report of both of them killing a respected citizen in Bradford?

11 A. No, My Lord.

12 Q. We'll come to a well-known person in this

13 examination-in-chief. Was Albert Nallo -- what position --

14 sorry, what position in the CDF movement was assigned to Albert

15:30:54 15 Nallo in respect of Moyamba District in 1997?

16 A. None that I know of, My Lords.

17 Q. Do you know whether an investigative mission was ever sent

18 to the district officer called Matthew Manna in Moyamba by the

19 CDF?

15:32:02 20 PRESIDING JUDGE: Can you repeat that question, please? If

21 an investigative officer --

22 MR JABBI: Mission, My Lord.

23 PRESIDING JUDGE: Yes.

24 MR JABBI:

15:32:13 25 Q. Do you know whether an investigative mission was ever sent

26 to the district officer in Moyamba called Matthew Manna by the

27 CDF?

28 A. No, My Lord.

29 Q. Who was brigade commander in the Moyamba area at that time?

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1 A. I don't know, My Lord.

2 Q. Thank you. Now was Albert Nallo ever laid off his assigned
3 job in the CDF?

4 A. Later on, yes, My Lord.

15:34:28 5 Q. Would you want to explain the circumstances?

6 A. I would only say, My Lord, that sometime after the
7 restoration of democracy I was told by the administrator of Bo
8 District that Albert Nallo had been ordered to discontinue
9 functioning as a member of the Civil Defence Force, My Lords.

15:35:54 10 Q. Ordered by whom?

11 A. They had in every district a disciplinary committee, so the
12 disciplinary committee in Bo District advised the administrator
13 of the Bo District and a communication was sent to the office of
14 the Deputy Minister of Defence and the National Co-ordinator, My
15:37:20 15 Lords.

16 Q. Do you know the reasons why the committee decided that?

17 A. I don't quite remember the reasons now, but I remember that
18 at that time he was referred to as the Deputy Director of

19 Operations.

15:38:02 20 JUDGE ITOE: Can you take that again, please.

21 THE WITNESS: I said, My Lord, I cannot remember the
22 reasons. I went further to say that at that time he was,
23 according to the communication, the deputy director of
24 operations.

15:38:29 25 JUDGE ITOE: Was he, Nallo?

26 THE WITNESS: Albert Nallo.

27 PRESIDING JUDGE: What time frame are we talking about,
28 here at this juncture, Mr Norman?

29 THE WITNESS: We're talking about after the restoration of

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1 democracy, the reinstatement of the president and the formation
2 of the National Co-ordinating Committee.

3 PRESIDING JUDGE: So it is after January 29, 1999?

4 THE WITNESS: Yes, My Lord.

15:39:53 5 MR JABBI:

6 Q. Now, this removal of Nallo was he the only person so
7 affected by such action?

8 A. No, My Lord. At the time when Nallo was removed, many
9 people in the various districts who were investigated by the

15:40:48 10 various disciplinary committees for offences against the people

11 of Sierra Leone and also offences within the organisation were
12 disciplined either by removal from office or demotion from their
13 various appointed positions, My Lords.

14 Q. Do you have any specific name among this general group?

15:42:24 15 A. I can remember some names, maybe not so specific, but there
16 was a company commander called Hassan Feika. He was demoted from
17 company commander to an ordinary hunter, fighter in the Pujehun
18 District. There was Mr Kosseh Hindowa, removed from Bo District

19 administration. He was administrator of Bo District. Alhaji
15:43:39 20 Daramy Rogers he was removed from office as administrator,
21 southern region. And others, My Lord.
22 [CDF02FEB06E - EKD]
23 JUDGE ITOE: Administrator of the southern region.
24 THE WITNESS: Yes, My Lord.
15:44:25 25 MR JABBI:
26 Q. Can you give the reasons for the removal of, to begin with
27 Alhaji Daramy Rogers --
28 A. Some I can remember the reasons. Others, I cannot now
29 remember. I remember for Hassan Feika.

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1 Q. Please watch your pace. What statement did you make now
2 just before the name Hassan Feika?

3 A. I can remember some of the reason. Others, I cannot now
4 remember.

15:44:51 5 Q. That you can remember the reasons for some of those
6 people's removal?

7 A. Yes.

8 Q. Others you cannot remember?

9 A. Yes, My Lords.

15:45:01 10 Q. Yes.

11 A. For Hassan Feika for lack of control over his men whose
12 behaviour to civilians in Pujehun District were seriously
13 questionable. For Alhaji Daramy Rogers failing to give accounts
14 of cash, money and rice supplied to fighters in the southern

15:46:33 15 region, My Lords.

16 Q. Can you give the specific time frames for the removals of
17 these people, beginning, say, with Hassan Feika?

18 A. These were after the formation of the National

19 Co-ordinating Committee. It was around 1999.

15:47:35 20 Q. After January 1999?

21 A. Any time thereafter. But surely after February -- after

22 March 1999.

23 Q. After March 1999. What about the time frame for the

24 removal of Alhaji Daramy Rogers?

15:48:04 25 A. This one came after the removal of Hassan Feika. Any time

26 around June 1999, My Lords.

27 Q. Around June 1999. With respect to the district officer,

28 Matthew Manna, Moyamba District -- district officer Matthew

29 Manna, Moyamba District, do you remember any time when the

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1 following persons were apprehended and detained in Moyamba during
2 his time: the said persons being Sam Kpaka; Sesay Betty; Sefui,
3 S-E-F-U-I, Mango; Kanu Boy; Kunisa Will, K-U-N-I-S-A; and Donald
4 Kanneh. Do you remember these persons having been apprehended
15:50:46 5 and detained in Moyamba during the time of the district officer
6 Matthew Manna?

7 A. Were these names hunters? It is a police station, a whole
8 district where the police was operating.

9 Q. The question is whether you remember persons of this name,
15:51:24 10 of whatever description, persons of these names arrested and
11 detained at Moyamba during the time of the district officer
12 Matthew Manna?

13 A. I don't remember.

14 Q. Do you remember going by helicopter to Moyamba and
15:52:35 15 threatening the police to release a number of persons they had
16 detained for allegedly committing serious crimes?

17 A. No, My Lords.

18 JUDGE ITOE: This is a double-barrelled question. Does he

19 remember, first of all, going to Moyamba in a helicopter. Can
15:53:06 20 you put that to him, please?

21 MR JABBI:

22 Q. Do you remember going by helicopter to Moyamba in the time
23 of district officer Matthew Manna?

24 A. My Lords, I remember going to Moyamba several times.

15:53:29 25 Q. By helicopter?

26 A. By helicopter, by car.

27 Q. During the time of the district officer Matthew Manna?

28 A. The time frame, probably, if you remind me, but Matthew
29 Manna, I remember meeting him as a district officer there on one

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1 occasion, but I don't remember it was to release people from

2 gaol.

3 Q. Did you in fact visit Moyamba at any time to secure the

4 release of a number of persons who had been arrested and detained

15:54:27 5 by the police?

6 A. I don't remember.

7 Q. Did you at any time request the Kamajors to fight against

8 ECOMOG?

9 A. No, My Lord.

15:55:38 10 Q. If we may move over to Kenema. Do you know the period when

11 the junta in Kenema was removed? You know that time roughly?

12 A. I don't know the date. The ECOMOG had moved with the

13 hunters across the bridge, Mano River Bridge to Zimmi. From

14 Zimmi they went to Kenema, together with the hunters, and this

15:58:30 15 was between September, October and November 1997.

16 Q. Roughly from September to November 1997?

17 A. Yes, My Lords.

18 Q. Did you have any role to play in the decisions concerning

19 the target objective and the mobilisation to take it?

15:59:33 20 A. I had no role to play, My Lord, in the ECOMOG hunters'

21 activities from across the Mano River Bridge right into Kenema,

22 My Lord.

23 Q. Do you know if the War Council in Base Zero had any role to

24 play in that?

16:00:39 25 A. No, My Lord.

26 PRESIDING JUDGE: Is "no" that you don't know or you know

27 and the War Council had no role to play?

28 THE WITNESS: My Lord, "no" was to the question from the

29 counsel.

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1 PRESIDING JUDGE: But his question was do you know if it
2 had a role to play. That is why I am asking this further
3 question.

4 THE WITNESS: I don't, My Lord.

16:01:23 5 PRESIDING JUDGE: You don't.

6 MR JABBI:

7 Q. Do you know that the War Council had no role to play in
8 that?

9 A. I don't, My Lord.

16:02:00 10 Q. Now, when the effort to rid Kenema of the juntas was in
11 progress, did you have any communication with the hunter fighters
12 on the ground?

13 A. No, My Lord.

14 Q. Do you have a rough idea -- do you know how long that
16:03:04 15 effort took?

16 A. No, My Lord.

17 Q. The encounter between ECOMOG and -- the combined ECOMOG and
18 hunter forces against the junta forces in Kenema? Do you know

19 the time frame?

16:03:26 20 A. No, My Lord.

21 Q. During that exercise, before its completion, did you

22 receive any messages of the progress of events there?

23 A. No, My Lord.

24 Q. Was any report made to you during the progress of that

16:04:34 25 exercise as to any specific incidents during the exercise?

26 A. No, My Lord.

27 Q. Did you visit Kenema during the encounter of ECOMOG and the

28 hunter forces against the junta troops?

29 A. No, My Lord. I never visited Kenema between the periods 25

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1 May 1997 and 10 March 1998.

2 Q. When, after the taking of Kenema, if we put it that way,
3 when after the taking of Kenema did you first visit Kenema?

4 A. This was any time between June and October 1998, between
16:08:12 5 June and October 1998, My Lords.

6 Q. When, previous to the taking of Kenema, the chasing of the
7 juntas from Kenema, when before that did you last visit Kenema?

8 A. Before 24 May 1997?

9 Q. I am dealing with the time the junta troops were defeated
16:09:11 10 in Kenema or driven out of Kenema.

11 A. This is in 1997. I have stated to Their Lordships that I
12 never visited Kenema between 25 May 1997 --

13 PRESIDING JUDGE: And 10 March.

14 THE WITNESS: And 10 March 1998, and that was within --

16:09:40 15 MR JABBI:

16 Q. That clarifies --

17 A. Thank you, My Lord.

18 JUDGE ITOE: And that he only visited Kenema any time

19 between June and October 1998.

16:09:51 20 THE WITNESS: Yes, My Lord.

21 MR JABBI: Yes, My Lord.

22 Q. Can you be precise about your first visit to Kenema after

23 March 1998, the time, just in case.

24 A. It is difficult.

16:10:32 25 Q. Fine. Can you tell the Court in what capacity you visited

26 Kenema that first time after March 1998?

27 A. Yes, My Lord. In the capacity, My Lord, I visited Kenema

28 for the first time after the reinstatement of His Excellency the

29 President in the capacity as a deputy minister of defence to meet

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1 with the ECOMOG commanders and the hunter commanders at the
2 military headquarters of ECOMOG, My Lord.

3 Q. Can you give the Court a gist of what transpired during
4 your visit?

16:12:26 5 A. This was, My Lords, to acquaint myself of the situation in
6 Kenema Town and what really was happening in the operation areas
7 around Kenema, the entire district. This was the main purpose
8 which I remember on that first occasion. There were either two
9 or three occasions after that visit.

16:13:48 10 Q. Dealing with that first visit for the moment, did you on
11 that visit visit a place called SS camp?

12 A. I don't remember visiting SS camp during that visit. I
13 remember going to SS camp in 1996 before the overthrow. But
14 during this visit after the overthrow, no.

16:14:33 15 Q. You remember visiting SS camp in 1996?

16 A. Yes.

17 Q. Can you be more specific about the timing?

18 A. About 1996?

19 Q. 1996, the timing in 1996.

16:15:05 20 A. I believe it was around October 1996 because soon after

21 that I left for South Africa. Around that time.

22 Q. Around October 1996?

23 A. Yes.

24 Q. Can you say what transpired there during your visit?

16:15:46 25 A. Yes. It was to make arrangement upon the request of the

26 chiefs in the entire Kenema District, to make arrangement for an

27 initiator to go to Kenema because Kenema was being threatened by

28 rebels about that time. That was the purpose. And that some

29 displaced people from Kailahun and some other areas around were

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1 in SS camp and they wanted to make arrangement for the defence of
2 the displaced camp that was called SS camp, My Lords.

3 Q. What did you say SS camp was, at that time at any rate?

4 A. I said a displaced camp. Camp for displaced people,
16:17:28 5 internally displaced people. Sierra Leoneans.

6 PRESIDING JUDGE: And they were displaced people, you said,

7 from Kailahun and --

8 THE WITNESS: From Kailahun, yes, My Lord. At that time

9 the war was pressing on to Kenema.

16:17:47 10 MR JABBI:

11 Q. And on that visit in what capacity?

12 A. Deputy minister of defence. I have just taken office for a
13 few months.

14 Q. Then after March 1998 -- or, rather, let me put it this
16:18:38 15 way: Did you visit SS camp at any time after March 1998?

16 A. Yes, My Lords, I did.

17 Q. When was that?

18 A. That was on the -- on my first visit after the overthrow.

19 I was told the camp was burnt, the displaced people had been
16:19:37 20 further displaced, this time by the junta. So I went to see for
21 myself. And indeed the camp was extensively destroyed. But some
22 displaced people were still there trying to make whatever was
23 left to fix themselves some structures, My Lords.
24 Q. So, from the time you were appointed Deputy Minister of
16:21:03 25 Defence, how many times in all have you visit SS camp Kenema?
26 A. Many times, My Lords. In October 1998 His Excellency the
27 President --
28 Q. Watch your pace, please.
29 A. I'm watching. Assigned the honourable vice-president and

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1 myself to Kenema to assist the ECOMOG to finally put an end to
2 rebel activities in the entire eastern region. So, the
3 honourable vice-president and myself were resident in Kenema for
4 almost one and a half months on that assignment. And most often
16:23:01 5 himself and I went to see the displaced people at SS camp, My
6 Lords.

7 Q. So that is over that period, October to November, if you
8 were there for one and a half months. Is that over the period
9 October/November 1998?

16:23:30 10 A. That I made series of visits to the camp?

11 Q. Yes, yes, whilst you were based in Kenema?

12 A. Yes, My Lord.

13 PRESIDING JUDGE: Dr Jabbi, we will break now for 15
14 minutes before you carry on. I was waiting because I thought you
16:23:43 15 were about to wrap up about SS camp, but obviously you are not
16 finished so we will break and come back to it after the break.
17 Thank you.

18 [Break taken at 4.25 p.m.]

19 [CDF02FEB06F - EKD]

16:47:35 20 [Upon resuming at 4.55 p.m.]

21 PRESIDING JUDGE: Dr Jabbi, so you were still dealing with

22 SS Camp.

23 MR JABBI: Yes, My Lord. My Lord, there is an issue I

24 thought I should probably raise now before beginning. It would

16:56:56 25 seem to me it's possible to complete the examination-in-chief of

26 the first accused, barring any possible implication arising from

27 the decision we are expecting --

28 JUDGE ITOE: By tomorrow?

29 MR JABBI: Yes, sir. By tomorrow I may be able to finish,

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1 barring those aspects that concern --

2 JUDGE ITOE: I was just trying to pull your legs, to impose
3 a date on you.

4 MR JABBI: No, My Lord, this is what really -- I have
16:57:31 5 discussed it with my colleagues and we were talking about the
6 possibility of my winding up tomorrow.

7 PRESIDING JUDGE: Okay.

8 MR JABBI: So I just want to know what --

9 PRESIDING JUDGE: What I said to you in this respect this
16:57:48 10 morning still stands and we will act in due course. You will not
11 be -- and your client will not suffer as a result of, and we hope
12 that the trial will not be delayed because of that. I think it
13 is the best I can tell you at this moment.

14 MR MARGAI: Sorry, My Lords, if I may be heard.

16:58:08 15 JUDGE THOMPSON: If you may be of assistance, as you always
16 are.

17 MR MARGAI: Thank you, My Lords. We held a discussion and
18 I am informed that the second accused will not be asking

19 questions. Which means, according to Your Lordships' orders, I
16:58:30 20 will then need to cross-examine. I was saying to Dr Jabbi that
21 should he wind up during the morning session, I could continue my
22 cross-examination in the afternoon session. You see, because
23 what we have in mind, apart from other things, is the next
24 witness, who I believe should be here tomorrow and will only be
16:58:56 25 here for one week. And if for any reason or the other he is not
26 able to testify within the period of the one week, then, of
27 course, it may be difficult to get him back here. So these are
28 some of the considerations we have.
29 PRESIDING JUDGE: We have heard you, Mr Margai, and, as I

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1 say, we are conscious of these facts and you and your client, or
2 any accused, will not suffer because of that decision. So read
3 between the lines and whether you finish tomorrow or not, you
4 will not suffer because.

16:59:45 5 MR MARGAI: Thank you very much, My Lords. I have no doubt
6 about that.

7 JUDGE THOMPSON: I am keeping to my promise at the status
8 conference. We remain very, very passionately committed to the
9 philosophy of a fair and expeditious trial.

17:00:05 10 MR MARGAI: That has never been in question.

11 MR JABBI: My Lords, just to add some other consideration,
12 the witness that Mr Margai just mentioned, who is likely to be
13 our own second witness in the circumstances, has indicated that
14 he will be here only up to Friday next week. We don't have
17:00:26 15 entire control over the cross-examination, and it is just
16 possible that cross may go on maybe so close to Friday that we
17 would begin to get concerned about whether he would be available
18 to be taken, the witness in question. So perhaps we should also

19 be considering the possibility, if it should arise, if the need
17:00:53 20 should arise -- the possibility of having to take that second
21 witness before the cross-examination. I am not making an
22 application to that effect at this stage, but I just want to
23 introduce the possibility so that it can be considered. It is of
24 course possible that we can get undertakings from all round as to
17:01:18 25 the length the cross may take.

26 JUDGE THOMPSON: This is, of course, partly within your
27 control.

28 MR JABBI: Certainly.

29 JUDGE THOMPSON: Here I introduce the concept of the

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1 equities are again in the context of how the examination-in-chief
2 will be structured; its length, whether it will be the kind of
3 examination-in-chief that will be tailored only to the matters
4 that need to be addressed --

17:01:56 5 MR JABBI: Of the second witness, My Lord?

6 JUDGE THOMPSON: Yes, that is what I am saying. So the
7 equities here are apportioned between the Prosecution and the
8 Defence. I would tend to think that if the examination-in-chief
9 is structured in such a way as to conserve time and to give

17:02:14 10 expression to the expedition aspects of our formula, the

11 Prosecution too might well respond that way. And the Bench, of
12 course, will try as best as possible to work this kind of time
13 line which you are putting forward for consideration and to see
14 that the constraints are not as insurmountable as they may

17:02:43 15 appear. Are we on the same radar screen?

16 MR JABBI: I am endeavouring to come up on it, My Lord.

17 But, My Lord, I just introduced it so it can begin to be
18 considered actively.

19 PRESIDING JUDGE: I hope you have talked to your colleagues
17:02:58 20 on the Prosecution on this.

21 MR JABBI: We are in the process of that, My Lord.

22 PRESIDING JUDGE: I do not know which witness you are
23 talking about. I have not checked the witness list since the
24 evidence has been heard in this part of the trial. I do not know
17:03:10 25 which witness you are talking about, but I hope the Prosecution
26 has been informed who it is you are calling so there is a common
27 understanding as to who it is.

28 MR JABBI: Yes, indeed, My Lord.

29 PRESIDING JUDGE: Very well. So let us hope that

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1 everything is okay. At this stage all we can do is speculate.

2 How long cross-examination will take, I don't know either.

3 JUDGE ITOE: Precisely. This is -- we cannot control -- we

4 could control, but there is a limit to which we could control the

17:03:46 5 extent and the nature of the cross-examination in this matter.

6 And it would be, in certain circumstances, unfair to push the

7 Prosecution to precipitate the end of its cross-examination

8 merely because the witness who is supposed to be called next will

9 not be available after next week. It is good to look at things

17:04:12 10 very cautiously and it would not be advisable either for you, as

11 counsel leading this witness, to precipitate the end of your

12 examination-in-chief, because you may, as a result of certain

13 reflections, come up with some other areas where you may want to

14 examine him in chief in the interests of his defence. So, there

17:04:38 15 are all these factors that have to be considered and I would not

16 know by asking whether if that witness went away and were not

17 available next week, whether he could not be available some other

18 time to come and testify. Again, it depends on how you have

19 structured your defence, but I am worried if the Prosecution can
17:05:01 20 be done with their cross-examination in a few hours, fine, that
21 will be very fine for us. But I do not think we are in a
22 position -- the Tribunal is not in a position to speak on their
23 behalf in these circumstances.

24 MR JABBI: That's why I was just trying to introduce the
17:05:20 25 other possibility of cross having to be deferred for that witness
26 to be taken if need be. But I am not making the application now,
27 My Lord. It is just to bring it to the attention of the Court as
28 a possibility.

29 JUDGE ITOE: I am disturbed. Is it that this witness is

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1 going and will never come back to this country? What is
2 happening?

3 MR JABBI: My Lord, the witness is not a Sierra Leonean and
4 expense has been undertaken for him to come. In fact,
17:05:52 5 indications have been made that it will be difficult for a long
6 time to get them back here. So if indeed expense has been
7 undertaken for them to come -- for a witness to come and for some
8 reason or the other he cannot be taken, we will not be in control
9 of the possibility of his coming back, however long the trial
17:06:13 10 takes. He is not going to be a long witness to take. We really
11 would wish to have him taken on this visit that he is making.

12 PRESIDING JUDGE: According to the witness list, your next
13 witness is supposed to be Vice-President Demby. Is that the
14 witness you are talking about?

17:06:37 15 MR JABBI: No, My Lord.

16 PRESIDING JUDGE: That is why we say -- the witness list
17 you filed says that the next witness you are intending to call
18 was the Vice-President Demby. Then if it is not the witness,

19 that is what I meant. You had better do the co-ordination with
17:06:52 20 the Prosecution to make sure there is no problem.

21 MR JABBI: We have started doing that already, My Lord.

22 PRESIDING JUDGE: That is why I asked you the question if
23 it was, that is why I said to you I did not have the witness
24 list, but I am just looking at it now, and you had indicated that
17:07:06 25 your next witness would be Dr Demby.

26 MR JABBI: It is the particular circumstances of this
27 witness.

28 PRESIDING JUDGE: I am not arguing with you, I am just
29 saying that is -- if you want to call another witness out of the

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1 order you have filed, you may be able to do that, but you should
2 first discuss with the other side, any other counsel, to make
3 sure that there is no impediment or there is no problem other
4 than what you have described.

17:07:33 5 MR JABBI: Yes, My Lord.

6 PRESIDING JUDGE: Thank you. So, Mr Prosecutor, I did not
7 ask you for any comment at this time because we are only at this
8 moment speculating and I think we should move ahead and not lose
9 any more time.

17:07:46 10 MR TAVENER: Exactly, Your Honour. I have nothing to say.

11 PRESIDING JUDGE: Thank you.

12 JUDGE ITOE: But maybe the Prosecutor can assist us to give
13 the Tribunal possibly a time frame of how long the cross may
14 last. I am not pushing you to the wall. These things are

17:08:09 15 elastic and flexible.

16 MR TAVENER: To some extent it does depend on the answers,
17 Your Honour, so I could not estimate. It will not be as a long
18 as the examination-in-chief. It will be considerably less in

19 time than the examination-in-chief.

17:08:28 20 PRESIDING JUDGE: Very well, Dr Jabbi, let's proceed,

21 please.

22 MR JABBI: Thank you very much, My Lord.

23 Q. Yes, Mr Witness, when you visited -- or since 10th March

24 1998 has any report been made to you as to killings in Kenema

17:09:30 25 during the encounter between the hunters and the junta?

26 A. No, My Lord.

27 Q. In your visit to the SS Camp --

28 JUDGE ITOE: Sorry, may I have the answer to the last

29 question?

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1 MR JABBI: The answer was no, My Lord.

2 JUDGE ITOE: [Microphone not activated]

3 MR JABBI: My question was whether since March 10, 1998 any

4 report had been made to him of killings by the hunters in Kenema

17:10:45 5 during the encounter between the hunters and the juntas.

6 PRESIDING JUDGE: And the answer was no.

7 MR JABBI: Yes, My Lord, the answer was no.

8 PRESIDING JUDGE: Thank you.

9 MR JABBI:

17:11:15 10 Q. And since 10th March 1998 have any reports been made to you

11 about the killings of certain police sergeants and officers in

12 the police barracks by the hunters during that encounter?

13 A. No, My Lord.

14 Q. Have you by any other means - apart from reports being made

17:12:45 15 to you - have you by any other means become aware of such police

16 officers having been killed by hunters in the police barracks in

17 Kenema during that encounter?

18 A. Please repeat the question, My Lord.

19 Q. The earlier question concerned whether you had received any
17:13:17 20 reports made to you of those killings I am talking about, and
21 your answer was no.
22 A. Yes.
23 Q. A slightly modified version of it was whether, by any other
24 means, you have come to know of the killings of police officers
17:13:41 25 by the hunters in the police barracks in Kenema during that
26 encounter?
27 A. Yes, My Lord.
28 Q. By what other means?
29 A. The means of evidence by witnesses in this Court, My Lords.

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1 Q. So, from evidence adduced in this Court you have come to
2 learn of such alleged killings?

3 A. Yes, My Lords.

4 Q. Apart from any specific reports having been made to you,
17:14:51 5 and before evidence to the effect was adduced in this Court, did
6 you come to know of such killings during that encounter?

7 A. My Lord, there was no specific report.

8 Q. You have already said that. You have said there was no
9 specific report made to you. You have also said that through
17:15:18 10 evidence adduced in court here you came to know of these alleged
11 killings.

12 A. Yes.

13 Q. My question then was: Before evidence to that effect was
14 adduced in this Court, but apart from any specific reports made
17:15:40 15 to you to the effect, did you by any other means come to know of
16 such alleged killings?

17 A. I don't quite understand.

18 JUDGE THOMPSON: In effect you are eliminating reports and

19 any --

17:16:01 20 MR JABBI: Evidence. He has no --

21 JUDGE THOMPSON: You want to know whether there are any

22 other categories, any other means.

23 MR JABBI: Other than those two.

24 JUDGE THOMPSON: Other than [overlapping speakers]

17:16:10 25 evidence.

26 MR JABBI: Yes, My Lord.

27 THE WITNESS: No, My Lord.

28 MR JABBI: No.

29 Q. Now, with respect to SS Camp, was any report made to you as

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1 to several civilians having been killed at SS Camp by Kamajors
2 during the encounter in that area?

3 A. No such report, My Lord.

4 PRESIDING JUDGE: What's the difference between this
17:18:00 5 question and some of the questions before?

6 MR JABBI: My Lord, this is about a specific place, SS
7 Camp, as distinct from other areas of Kenema.

8 PRESIDING JUDGE: Okay. This witness has said he has had
9 absolutely no report about killings, so whether it is in Kenema
17:18:14 10 or SS Camp -- I take it SS Camp is in Kenema.

11 MR JABBI: It is near Kenema, My Lords. It is just to be
12 sure that --

13 PRESIDING JUDGE: That is fine. That is why I was asking
14 you the question because maybe I failed to understand something
17:18:30 15 somewhere. That's fine.

16 MR JABBI: The first question, for instance, was about
17 alleged killings in the police barracks in Kenema.

18 PRESIDING JUDGE: Yes. Now you are talking of killings not

19 necessarily of the police but in SS Camp.

17:18:47 20 MR JABBI: Of civilians in fact, My Lord, in SS Camp.

21 PRESIDING JUDGE: Thank you.

22 MR JABBI:

23 Q. Now, Mr Witness, do you know of any meeting that was held

24 in Kenema on 28 June 1998 under the chairmanship of the

17:19:41 25 vice-president? 28th June 1998, Kenema. To be precise, Kenema

26 Town Council, chaired by the vice-president, Dr AJE Demby. Do

27 you know of any such meeting, or -- carry on.

28 A. I cannot remember.

29 Q. Is that to say that no such meeting was held?

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1 A. No.

2 Q. That is not to say so. Now, Mr Witness, on your first
3 visit to Kenema after March 1998 -- that is the one where you say
4 you visited the ECOMOG office.

17:21:34 5 A. Headquarters.

6 Q. Headquarters. On that visit, did you visit the CDF office
7 in Kenema?

8 A. Yes, My Lord, every time I went to Kenema I paid them a
9 visit -- paid a visit to the CDF headquarters.

17:22:21 10 Q. Now, can you tell the Court on that first visit what
11 transpired at the CDF office whilst you were there?

12 A. I cannot.

13 Q. You cannot tell the Court what transpired at the CDF office
14 on your first visit there whilst you were there after March 10th?

17:22:51 15 A. I cannot. I have told Their Lordships that I held a
16 meeting with the CDF and ECOMOG officers at the ECOMOG
17 headquarters. But I visited CDF office, I did. Whether I held
18 another meeting there and so on, I cannot now tell, because I

19 cannot remember.

17:23:13 20 Q. I wasn't specifically asking whether you held another

21 meeting there, but whether can you tell the Court what transpired

22 there, even other than a meeting being held?

23 A. I cannot.

24 Q. You cannot remember?

17:23:54 25 JUDGE THOMPSON: Is that he cannot remember or that he

26 cannot tell the Court?

27 MR JABBI: Pardon, My Lord?

28 JUDGE THOMPSON: He is not able to remember? He can't

29 remember telling? He can't remember what transpired?

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1 THE WITNESS: Not that I don't want to tell.

2 JUDGE THOMPSON: No, this is whether you --

3 THE WITNESS: Thank you.

4 JUDGE THOMPSON: Although you cannot remember what
17:24:14 5 transpired? Perhaps it is the term, the notion of "transpired"

6 and, of course, counsel knows why he is using that word, but I

7 thought if you want to break it down.

8 MR JABBI: My Lord, he, in fact --

9 JUDGE THOMPSON: He used the word "transpired"?

17:24:33 10 MR JABBI: No, My Lord.

11 JUDGE THOMPSON: It's your contrivance?

12 MR JABBI: It's my diction.

13 JUDGE THOMPSON: Your contrivance.

14 MR JABBI: My diction, My Lord.

17:24:45 15 JUDGE THOMPSON: All right.

16 JUDGE ITOE: It's what they play on English words.

17 JUDGE THOMPSON: I thought it was your contrivance.

18 MR JABBI: My Lord, I used the word "initially" and, in his

19 answer, he was specific about not having held -- I mean not
17:24:55 20 remembering whether he held a meeting.

21 JUDGE THOMPSON: Yes.

22 MR JABBI: I then went on to say I am not specifically

23 asking whether a meeting was held, but what did happen there,

24 what transpired there, even if it was not a meeting held.

17:25:09 25 JUDGE THOMPSON: Perhaps in his mind he acquitted the
26 notion of a meeting with what transpired.

27 MR JABBI: Yes, My Lord.

28 JUDGE THOMPSON: That is why I thought, perhaps, you could

29 break it down to something other than a meeting or what

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1 transpired.

2 MR JABBI:

3 Q. Mr Witness, what happened at the CDF office whilst you were
4 there during your first visit to Kenema after March 1998?

17:25:40 5 A. My Lord, that is what I cannot remember.

6 MR JABBI: Thank you.

7 PRESIDING JUDGE: That is what I understood the evidence to
8 be.

9 JUDGE ITOE: That is what I understood it to be.

17:25:57 10 MR JABBI: Yes, My Lord. I thought so myself.

11 JUDGE ITOE: The witness understood the words used very
12 well, so he provided the reply.

13 MR JABBI:

14 Q. Did you visit any other place in Kenema on that first visit
17:26:20 15 other than the ECOMOG headquarter and the CDF office?

16 A. Yes, My Lords. I visited the paramount chief. I visited
17 the SLPP party office. I visited the Lebanese displaced camp at
18 the Lebanese school site in Kenema.

19 Q. Maybe if you can restate that, please. You visited?

17:27:19 20 A. The Lebanese school site that was being used as a displaced

21 camp in Kenema.

22 Q. Thank you. Any more?

23 A. Yes. I also met with the Lebanese community at the NIC

24 hostel grounds. It was a very busy day that day.

17:28:16 25 Q. How long did you stay in Kenema on that visit?

26 JUDGE ITOE: You say you visited the Lebanese community

27 where?

28 THE WITNESS: The community school site, and then I also

29 attended a meeting with the Lebanese community representatives.

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1 MR JABBI:

2 Q. Where?

3 A. At the NIC hostel. I stayed overnight, My Lords.

4 Q. Can you tell the Court what happened at the displaced site
17:29:02 5 at the Lebanese school whilst you were there?

6 A. I remember sympathising with those that were there, mainly
7 from Blama and other areas, My Lords. I also remember talking to
8 the Lebanese and encouraging them to stay in Kenema, My Lords.

9 Q. Why did you have to encourage them to stay in Kenema?

17:30:48 10 A. Some of them told me some of the experiences during the
11 junta occupation time. I assured them that the ECOMOG and the
12 hunters were committed to the defence of Kenema Township. So I
13 was trying to allay their fears, My Lords.

14 Q. Mr Witness, with respect to Blama, near Kenema -- Blama,
17:32:20 15 near Kenema, do you know the Kamajor ground commander who was
16 there at that time?

17 A. The chiefdom commander is the one that was previously
18 referred to as ground commander, My Lords. I know him.

19 Q. What was the name?

17:32:54 20 A. The name is Ishmael Koroma.

21 Q. Ishmael Koroma?

22 A. Yes, My Lord.

23 Q. Did you get any report about Blama relating to the killing
24 of police officers there during this time?

17:33:36 25 A. No, no, My Lord.

26 Q. Have you otherwise come to know of any allegations of that
27 nature?

28 A. Up to when I left the Court; no, My Lord.

29 JUDGE ITOE: Up to when you left the Court?

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1 THE WITNESS: I mean, My Lord, when I stop attending the
2 sittings of this Court. Up to that time, no. And now, no.

3 MR JABBI: My Lords, I intend to move into a wider area.

4 PRESIDING JUDGE: We will adjourn at this moment then,
17:35:11 5 because we normally finish at 5.30 and it is 5.35. We were
6 waiting to see if you were to conclude this specific area. You
7 have done so now, from what you say. So rather than move
8 elsewhere we will adjourn to tomorrow morning. Court is
9 adjourned to 9.30 tomorrow morning.

17:36:00 10 [Whereupon the hearing adjourned at 5.35 p.m.,
11 to be reconvened on Friday, the 3rd day of
12 February 2006, at 9.30 a.m.]

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EXHIBITS:

Exhibit No. 123 36

WITNESSES FOR THE DEFENCE:

WITNESS: SAMUEL HINGA NORMAN 3

EXAMINED BY MR JABBI 3