

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of the Congo - ICC-01/04-01/07
6 In the case of The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui
7 Trial Proceedings
8 Thursday, 26 November 2009
9 (The hearing starts at 9.43 a.m.)
10 (Open session)

11 THE COURT USHER: All rise. The International Criminal Court is now in session.

12 PRESIDING JUDGE COTTE: (Interpretation) The hearing is now starting. Please
13 be seated. The two accused are present in the courtroom. Court officer, can you call
14 the case which we are hearing today.

15 THE COURT OFFICER: (Interpretation) Thank you, President. Situation of the
16 Democratic Republic of the Congo, case of the Prosecutor v. Germain Katanga and Mathieu
17 Ngudjolo Chui, ICC-01/04-01/07.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Mr Kilenda, we should have
19 a representative of the Registry at the start of the hearing this afternoon to be able
20 to provide us with the information which you wished to have and which we also wish to
21 have with regards to the difficulties of broadcasting on Tuesday, 24 November, in the
22 Democratic Republic of the Congo. Apparently it wasn't possible to have this this morning,
23 but this will be done this afternoon instead.

24 So, within this hearing the Chamber would also like to make certain precisions
25 with regards to the value of the evidence which was admitted during the pre-trial phase.

1 The Chamber notes *ipso facto* with regards to the evidence admitted during the Pre-Trial
2 Chamber, and it therefore asks that this evidence be subject to a new presentation and,
3 therefore, a new request for the admission of this evidence has to be made.

4 Now, where it concerns Mr Luvengika, the request that you made yesterday to
5 have access to the evidence - the Prosecution evidence - the Chamber has to clarify its
6 position and will do so at the start of the hearing -- sorry, the second part of the
7 hearing, so that you can have a clarification in this regard during the second part of
8 this hearing.

9 So, court officer, we are going to ask you to set up the closed session such
10 that the witness can come in who is going to be heard this morning.

11 (Closed session at 9.46 a.m.)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

- 1 (Expunged)
- 2 (Expunged)
- 3 (Expunged)
- 4 (Expunged)
- 5 (Expunged)
- 6 (Expunged)
- 7 (Expunged)
- 8 (Expunged)
- 9 (Expunged)
- 10 (Expunged)
- 11 (Expunged)
- 12 (Expunged)
- 13 (Expunged)
- 14 (Expunged)
- 15 (Expunged)
- 16 (Expunged)
- 17 (Expunged)
- 18 (Expunged)
- 19 (Expunged)
- 20 (Expunged)
- 21 (Expunged)
- 22 (Expunged)
- 23 (Expunged)
- 24 (Expunged)
- 25 (Open session at 9.51 a.m.)

1 THE COURT OFFICER: (Interpretation) Your Honour, we are now in open session.

2 PRESIDING JUDGE COTTE: (Interpretation) The Court would like to thank you.
3 We are, therefore, once again in open session and the Court is going to take the solemn
4 undertaking of the witness. The Court is going to ask the witness to listen.

5 Before starting your testimony, you have to take an oath to say the truth and
6 here this is a solemn undertaking which I am going to read slowly so that you can understand
7 the importance of it. I am going to read it now, "I solemnly declare that I will tell
8 the truth, the whole truth and nothing but the truth." Have you understood me well? You
9 can reply with "Yes", or "No."

10 THE WITNESS: Yes.

11 PRESIDING JUDGE COTTE: (Interpretation) Very well. So, you commit yourself
12 to telling the truth, the whole truth and nothing but the truth? Can you respond to that?

13 THE WITNESS: Yes.

14 PRESIDING JUDGE COTTE: (Interpretation) The Court would like to thank you.
15 It's going to ask you once again to listen very carefully. You have just made a commitment
16 to tell the truth. If during your testimony or in replying to the questions that are
17 put to you you do not tell the truth, you can be prosecuted before this Court for false
18 testimony and, if the facts are demonstrated, you could be subject to a conviction. Have
19 you also understood that well?

20 THE WITNESS: Yes.

21 PRESIDING JUDGE COTTE: (Interpretation) The Court, therefore, takes note of
22 that, that it is satisfied with the provisions and obligations of Article 69(1) of the
23 Statute and Rule 66 of the Rules of Procedure and Evidence; namely, paragraphs 1 and
24 3.

25 Before starting your testimony, the Court would ask the witness to speak slowly,

1 to speak loudly, not to change language during his testimony. It is very important indeed
2 that the words of the witness be well understood by the interpreters and, as such, by
3 the Court and by all the participants. Have you also understood that well?

4 THE WITNESS: Yes, I have understood that.

5 PRESIDING JUDGE COTTE: (Interpretation) The Court would like to thank you,
6 and it will now give the floor to the Prosecutor who is going to put some questions to
7 you.

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

9 QUESTIONED BY MR MACDONALD: (Interpretation)
10 Q. Witness, as the Presiding Judge mentioned, we have to speak slowly to ensure
11 that the interpretation is made of what is said and that the court reporters can follow
12 our proceedings as well. I am then going to put a series of questions to you.

13 But before doing so, your Honour, with your permission I would ask for a partial
14 closed session, or a private session, with a view to give additional information in addition
15 to what was said in private session previously.

16 PRESIDING JUDGE COTTE: (Interpretation) This request is authorised.
17 (Private session at 9.56 a.m.)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 6 – Expunged – Private session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 7 - Expunged - Private session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 8 – Expunged – Private session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 9 - Expunged - Private session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 10 – Expunged - Private session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 11 - Expunged - Private session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 12 - Expunged - Private session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 13 – Expunged – Private session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 14 - Expunged - Private session.

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Open session at 10.37 a.m.)

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

12 PRESIDING JUDGE COTTE: (Interpretation) We are back in open session,

13 Mr Prosecutor. You can proceed with your examination.

14 MR MACDONALD: (Interpretation)

15 Q. Without mentioning any other names for the time being, can you tell us whether
16 there are other people -- there were other people with you at the location at which you
17 were?

18 (Expunged)

19 (Expunged)

20 Q. You mentioned the names of three people a short while ago. Without coming back
21 to those names, given that we are in open session, I would simply like to ask you for
22 the time being whether there were any other people with you or close to you at the location
23 that you just referred to and which you marked with an "X"?

24 A. Yes.

25 Q. How many more people were there?

1 A. Well, you know, we were in a centre, so there were many people. I do not know
2 whether you wish me to describe what was happening in the two houses.

3 Q. Were there members of your family with you?

4 A. Yes, in the house which was above us, that is towards Kavali, there were members
5 of my family in that house.

6 (Expunged)

7 (Expunged)

8 Q. Very well. We will come back to those people and to their names, but for the
9 time being please describe to us the Bogoro village. To begin with, in which collectivity
10 was this village located?

11 A. Bogoro village is located in the Bahema South collectivity.

12 Q. And Bahema South, is this considered to be in the territory of Djugu or
13 Walendu-Bindi?

14 A. Bahema Sud is in the north, and it's -- it borders the Walendu Djugu and on
15 the eastern border there is the Walendu-Bindi.

16 Q. So, if you would allow me to then take up what you have just mentioned: Bogoro
17 was on the border; is that right?

18 A. Yes. The collectivity or the sector Bahema Sud has two borders. And on the
19 one side, there is the collectivity Wabia (phon).

20 Q. Could you indicate to us at the time of the attack, if you could indicate to
21 us approximately the population of Bogoro at the time of the attack, just before 24 February
22 2003, Bogoro had how many inhabitants or residents?

23 A. Bogoro had a lot of people, but I couldn't give you the exact number of the
24 population at the time.

25 Q. Without giving an exact number, could you indicate to us approximately, in your

1 opinion, a figure or a number?

2 A. Bogoro had -- was made up of four localities and, at this time, I didn't know
3 very well these localities to be able to give you the precise number of persons who were
4 living there.

5 Q. If we refer today, in 2009, to how many -- well, I would then like to ask the
6 following question: How many inhabitants or residents are there in Bogoro today, if you
7 know?

8 A. Today, and according to the survey that was carried out in the first quarter,
9 Bogoro has approximately 3,000 inhabitants.

10 Q. Before the attack, immediately before the attack on the village of Bogoro, on
11 24 February 2003, were there more inhabitants or fewer inhabitants than today?

12 A. No, there were more inhabitants. Before this attack, all the ethnic groups
13 were represented, or almost all ethnic groups were represented in Bogoro.

14 Q. Could you indicate to us the name of these ethnic groups?

15 A. Yes. Before the guerre, there were Hema, Lendu, Ngiti, Alur, Kakwa, Nande,
16 Lubara, as well as other ethnic groups.

17 Q. For the purposes of the transcript, I think that we can have an understanding
18 with regards to the spelling of these groups, dear colleagues of the Defence. Can you
19 describe to us verbally, orally for the moment, the typography, that is to say the environment
20 around Bogoro, the geography of Bogoro, starting with its situation. Could you describe
21 Bogoro, the village of Bogoro, its layout?

22 A. Where it concerns the layout of the village of Bogoro, it's a village which
23 is made up of woods and hills and rivers.

24 Q. In the translation that we had in French, they make a reference to hills.

25 A. Yes.

1 Q. Could you indicate to us the name of these hills?

2 A. In the locality of Bagaya, there is Waka Hill; and in the locality of Dodoy
3 there is Rwakalongo Hill. And in the locality of Nyakeru there is Rwakaleba Hill. And
4 in the locality of Dodoy, there is a religious mission where there is a chain of mountains
5 *Mont Bleu*, Blue Mountains.

6 Q. I think that for the purposes of the transcript, we could quickly spell the
7 names of these hills, with your permission, Mr President, starting with the Waka Hill.
8 How do you spell Waka?

9 A. W-A-K-A.

10 Q. You have referred to a second hill; could you please spell that?

11 A. The second hill is Rwakalongo. R-W-A-K-A-L-O-N-G-O.

12 Q. Another -- this will -- perhaps the witness could write them and then we could
13 submit the evidence and give it an evidence number, perhaps.

14 PRESIDING JUDGE COTTE: (Interpretation) It would seem to me that the witness
15 is becoming familiar with the technical instruments available to the witness, the microphone
16 which is now well in front of his mouth. It seems to me that he is speaking slightly
17 quicker than at the start of his testimony. The Court would simply like him to speak
18 somewhat louder, but I think that we can continue for the moment as we have been doing.

19 MR MACDONALD: (Interpretation) Very well.

20 Q. The third hill, if you please, can you spell that hill?

21 A. The third hill is Rwakaleba. R-W-A-K-A-L-E-B-A.

22 Q. I think that the fourth reference that you have made is to a mountain chain
23 *Mont Bleu*, Blue Mountain.

24 A. Yes.

25 Q. *Mont Bleu* is okay? What is the name in the chain of mountains *Mont Bleu* of

1 the hill which is nearest Bogoro village? Is -- could you give me the name of that particular
2 mountain? Where it concerns Lagura, could you spell for us this name, please?

3 A. R-L-A-G-R-A.

4 MR MACDONALD: (Interpretation) Your Honour, how many minutes do we have before
5 the break given that we have perhaps --

6 PRESIDING JUDGE COTTE: (Interpretation) Well, we have started our hearing with
7 a delay, and we would normally have until -- well, I think we started 15 minutes late,
8 I think, so I think we can go until 11.15.

9 MR MACDONALD: (Interpretation) Good. So, at this particular moment, I would
10 ask us to call -- or present a piece of evidence. And if you would allow me to give you
11 the number, the exhibit number.

12 THE WITNESS: If you would excuse me, Prosecutor, I would like to respell this
13 hill that I have just spelt for you. It was L- -- it starts with Lagura and not Ragura.

14 MR MACDONALD: (Interpretation) Thank you. Thank you, witness. With your
15 permission, your Honour, I would like to call the exhibit DRC-OTP-1044-0099. We have
16 a laptop with us, and we have been able to work with this piece -- with this evidentiary
17 item from the Bench. Here we are. Perhaps the court officer could indicate what we have
18 to do.

19 THE COURT OFFICER: (Interpretation) The system that I have indicated is the
20 same, PC-1 and select 1-2, and then you have then the control of the computers.

21 MR MACDONALD: (Interpretation) Thank you very much.

22 Q. Do you recognise, Witness, what you see on this picture?

23 THE INTERPRETER: The interpreter cannot hear the witness.

24 MR MACDONALD: (Interpretation)

25 Q. Please, could you speak a bit louder, witness.

1 MR MACDONALD: Is this --

2 THE COURT OFFICER: (Interpretation) This is public or confidential?

3 MR MACDONALD: (Interpretation) It is public.

4 THE WITNESS: It is a photo of Bogoro. The building that you can see is the
5 Bogoro institute.

6 MR MACDONALD: (Interpretation)

7 Q. So, what was this Bogoro Institute? What is it?

8 A. It was a military camp of the UPDF and then later by the UPC who occupied the
9 camp. We can see -- well, I think that we see one, two, three, four, five doors. Yes.

10 Q. And where do these five doors go?

11 A. To the -- on the main road, the first door is the class room of the first year,
12 second -- or second year. Third door, third year. Fourth door, fourth year. And fifth
13 door, fifth year.

14 Q. So we can see the building, it is painted white, and we can see there's a roof.
15 I think I can make a suggestion with regards to the roof. I would say it's a sheet-metal
16 roof. This building, has it always been this colour?

17 A. This building or this school was refurbished by white people, but before there
18 was a sheeting, a roof sheeting, which was replaced by the new metal sheeting.

19 Q. And this -- with regards to these renovations, could you tell us when these
20 renovations took place? Or the year or the month?

21 A. It was towards 2009, probably. Probably in December. Or it was, rather, at
22 the beginning of this year. Either end of 2008 in December or in January this year.

23 Q. Thank you. We are now going to show you a series of pictures. I am going to
24 ask you to comment on these pictures. So, could you indicate to us on this second picture --

25 MR MACDONALD: (Interpretation) And I don't know, your Honour, how -- if we

1 can electronically seize this picture to make it an evidentiary item. Perhaps not. But
2 just to give some precision here, when we put the cursor on the circle -- we are going
3 to go backwards. We are going to show you. We put the cursor on the circle, you can
4 see a number at the bottom of the screen, and here it's number 016, just at the bottom
5 of the picture. So, we are now going to enter into the presentation -- and so the picture
6 that we can see is -- one can consider image -- picture 16, such that we know what picture
7 we are referring to and the picture that the witness is referring to. This is a proposal
8 that the Prosecution would make to the Chamber.

9 Q. Sir, could you tell us what you see on this image and describe it?

10 A. I see the same building -- it was when Makemo (phon) came to do the de-mining
11 of the area.

12 Q. How long had those mines been there for?

13 A. I think those mines were placed on 24 February 2003.

14 Q. And behind -- now, we see the doors, and there is that area where you'd had
15 the fifth grade, so I will consider that this angle is -- let's call it the front of
16 the Bogoro Institute, but if we look behind, what do we see there?

17 A. Behind we see some trees that were chopped down, and a toilet.

18 Q. If we look further behind, what do we see?

19 A. We see houses, newly constructed houses.

20 Q. We are going to zoom in now. I beg your pardon, we are going to go back to
21 the exhibit. Unfortunately, we don't have a mouse, so it's not possible.

22 What is the name of this area behind the institute where the houses are, the
23 houses that we see on this image?

24 A. The three houses with the metal roofs behind the church -- the school are found
25 beside a path that leads towards those Bayo.

1 THE INTERPRETER: The interpreter would point out that the sound quality is
2 very poor.

3 JUDGE DIARRA: (Interpretation) I would like to ask our court usher to help
4 the witness with his microphone.

5 PRESIDING JUDGE COTTE: (Interpretation) Yes. Generally speaking, Madam
6 Courtroom Officer, in light of the fact that we are using rather complex technology in
7 this hearing room, could the Registry provide the witness with a person who will make
8 sure that the microphone is close to his mouth? Now, the court usher can't always be
9 close to the witness and carry an order to the table where the Registry people are. The
10 Court is putting itself in the shoes of the witness, who is dealing with a rather complex
11 arsenal of technological devices. I would imagine that it will be easier later, but this
12 is his first half day in the courtroom. Perhaps the courtroom usher could remain by his
13 side.

14 The Court would like to ask the witness, the Court is speaking directly to the
15 witness: Could you try to speak close to the microphone, even if you have to shift from
16 one computer to another, because the interpreters must be able to hear you properly so
17 that we can all understand what you are saying? And the Court thanks the witness.

18 Mr Prosecutor.

19 MR MACDONALD: (Interpretation)

20 Q. Let us resume. You were referring to three houses. The first three houses,
21 I understand they are behind the institute and they are almost parallel to one another.
22 And that path, does that path have a name?

23 A. Yes. No, that road leads to the fields and, on the other side, there is the
24 former residence of Bayo. At the time, there were Belgians there. There was a residence
25 there.

1 Q. Could you spell out "Bayo"?

2 A. Yes. B-A-Y-O.

3 Q. This road, or this path, if we look at the houses, were they in front -- was
4 it in front of the houses or behind?

5 A. Behind two houses, and also there is another house where the mango trees are,
6 and that house is on the other side of that road.

7 Q. We see immediately behind the three houses a series of trees. Do you follow
8 me?

9 A. Yes.

10 Q. Were -- was this road in front of or behind those trees?

11 A. The house that is facing the straw house is on the other side of the road, and
12 the straw-roofed house is on the other -- the route goes between the houses.

13 Q. I see. If we look at the orientation of the photo, we seem to see a hill. Is
14 this one of the hills that you referred to earlier when you were giving testimony?

15 A. Yes. It is the Rwakalongo hill.

16 Q. Very well. We will now continue with another image. Thank you. I would like
17 to ask you what we see here.

18 A. This is the back part of the school building. And further, we tried to build
19 a hangar.

20 Q. I beg your pardon. You said lower down at the back behind the institute?

21 A. Yes, quite so.

22 Q. We will now rotate this image. The hill that we see at the back --

23 And I will be concluding, your Honour, since it's nearly the time for the break.

24 First of all, at the very back of the image, we see these hills. We have been
25 calling them hills. Do these hills have a name?

1 A. The hills on the left-hand side, it's the Rwakalongo hill. And where you see
2 two antennas between the cypress trees are residences. And after the cypress trees, there
3 is Katolica Katonie. And to the right, it's not very visible on the photograph, one finds
4 the Lagura hill.

5 Q. We have other images. We have other images, sir, and we will be getting back
6 to those places, but if we zoom out -- or we can just leave it as is. If we look at the
7 bottom of the hill and we look in the grass, what do we see there in the centre of the
8 image where we see the trees, and at the bottom of these trees we see some objects, coloured
9 objects, what are they?

10 A. I think that at that place there are grasses and -- and trenches. I beg your
11 pardon. Behind this grass that has been cut, the grass that has been cut, there is green
12 vegetation.

13 Q. And we see trees, is that not so?

14 A. Yes.

15 Q. Now, at the bottom of these trees, what do we see?

16 A. At the bottom of these trees, I see a house with a sheet roof -- sheet metal
17 roof, a new one.

18 Q. That house wasn't there at the time of the attack on Bogoro? This is a recently
19 built house?

20 A. Yes. It's one of the houses that are being built. Before the attack, there
21 were houses which were destroyed, and then after some NGOs tried to build small houses
22 for members of the population.

23 PRESIDING JUDGE COTTE: (Interpretation) Mr Prosecutor, we need to suspend;
24 and secondly, we would draw your attention to the way you are wording -- the way you
25 were wording your last questions.

1 MR MACDONALD: (Interpretation) Indeed, I understand. I will be explaining
2 how I am directing my questioning. When there are specific questions, I draw the witness
3 to certain areas and ask more open-ended questions, but to speed things up -- and I see
4 that my colleagues opposite have not opposed. So, sometimes I suggest some obvious things,
5 but when I move on to more controversial or relevant matters, I ask more open-ended questions.

6 PRESIDING JUDGE COTTE: (Interpretation) Could we suspend, Madam Courtroom
7 Officer. Could we please go into closed session so that the witness can leave the courtroom.

8 THE COURT OFFICER: (Interpretation) Closed session.

9 (Closed session at 11.16 a.m.)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Open session at 11.16 a.m.)

15 PRESIDING JUDGE COTTE: (Interpretation) Our hearing will now suspend and we
16 will resume at 11.45. And this morning we will make up for the delay that we took this
17 morning, and the Court will ensure as much as possible that no delay occurs so as not
18 to upset the various schedules of the various participants. We don't want to make things
19 more difficult for our interpreters, our courtroom -- or pardon me, our court reporters,
20 and all others working here in the courtroom. So, we will now suspend.

21 THE COURT USHER: All rise.

22 (Recess taken at 11.18 a.m.)

23 (Upon resuming at 11.46 a.m.)

24 THE COURT USHER: All rise.

25 PRESIDING JUDGE COTTE: (Interpretation) Court is in session. Please be seated.

1 Madam Court Officer, can we go into closed session for the witness to be brought in.

2 (Closed session at 11.47 a.m.)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Open session at 11.49 a.m.)

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

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Madam Court Officer, and
11 thank you also for implementing the suggestion to have another member of the Registry
12 benefit from services that facilitate the technical aspect of the trial.

13 Mr Prosecutor, you can address the Court.

14 MR MACDONALD: (Interpretation) Thank you, your Honour. For purposes of the
15 record, we would like to point out that the previous image - that is, the one that I
16 will refer to as the 360-degree image - bears number 38. We will go back to that photograph.

17 THE INTERPRETER: Correction from the interpreter. It is actually number 38.

18 MR MACDONALD: (Interpretation)

19 Q. Witness, a short while ago you talked about the grass that is seen on that photograph,
20 and you said that it had been cut; and behind that, there is some green vegetation which
21 seems to be taller. Now, on 24 February 2004, can you describe to us that vegetation
22 which was there? And I apologise. I actually meant 24 February 2003.

23 A. With regard to that vegetation, it is on the field of a school institution.
24 You have buildings with metal sheet roofs, and on that location there were houses occupied
25 by members of the population.

1 Q. Please tell us, talking about the state of the vegetation, the height and the
2 dimensions, can you give us any precisions on that?

3 A. The grass or vegetation was short at that time.

4 Q. What was the height of the vegetation at the time and at the location where
5 the houses are now, including the farms in the vicinity of those houses?

6 A. Before the war, there were farms at that place.

7 Q. Very well. Now, we are going to set aside that picture and then show you a
8 different photograph. We can still see the institute and we can see the hill. Do you
9 know the name of that hill?

10 A. Yes. It is the Waka Hill.

11 Q. We will give the number of that image, and that is photograph number 17 for
12 the record. Now, we will move on to photograph number 18. It still shows the institute;
13 and beyond that, there is a larger hill and there is another hill at the centre of the
14 picture. Let us begin with the hill on the right. Can you tell us the name of that hill?

15 A. It is the *Mont Bleu* or the Blue Mountain chain Lagura.

16 Q. Just to be sure about the interpretation, to the right that is the Lagura Hill?

17 A. Yes.

18 Q. And at the centre, what do we see there?

19 A. Way beyond there, at the centre we can see a house with a metal sheet roof.

20 There is another hill there in the direction of Ezekere.

21 Q. For the record, can you please spell Ezekere?

22 A. It is spelt E-Z-E-K-E-R-E.

23 Q. We are going to zoom in and focus on the Ezekere Hill, and I am going to describe
24 to you what appears there. At the place that you have identified as Ezekere, there are
25 trees. Can you see those trees?

1 A. Yes.

2 Q. And if you look to the right of the picture - that is, where the trees begin - what
3 can you see there; that is, if you are in a position to tell us?

4 A. Where those trees are, they extend right up to the valley, and you have the
5 River Basanje there which flows into Lake Albert.

6 Q. Can you please spell out the name of the river that you have just mentioned?

7 A. The name of that river is spelt B-A-S-A-N-J-E. Basanje.

8 Q. Now, look at the screen and cross-check whether that spelling is correct. Witness,
9 is the name of that river spelled correctly?

10 A. No, there is a mistake. Let me repeat the spelling. B-A-S-A- --

11 Q. Is there an "A" after the "S"?

12 MR MACDONALD: (Interpretation) I am sorry, your Honour. I would like to
13 intervene, because the witness is trying to spell a word and is following the transcript.
14 And if the court reporter or the transcript can immediately indicate the letter that
15 has been mentioned?

16 A. Yes.

17 Q. Let us repeat the spelling, please.

18 A. Basanje is B-A-S-N- -- the letter "Z" or "J" has to be somewhere.

19 Q. Very well. And what is the last letter?

20 A. The last letter is "E."

21 Q. Very well. Now, let us go back to the trees. When you look to the right - that
22 is, at the bottom of the valley - does that location have a name?

23 A. When you cross that valley, you will reach the locality known as Kabalega.

24 MR MACDONALD: (Interpretation) Can my colleagues allow me to spell that word
25 "Kabalega"?

1 MR KILENDA: (Interpretation) Your Honour, we are dealing here with the witness.
2 It is up to the witness to spell. I would even propose, if you have no objection, that
3 he be given a piece of paper and he can write down the words correctly.

4 PRESIDING JUDGE COTTE: (Interpretation) Very well. All this shows that it
5 is indispensable to have a document with the names of hills, localities, rivers, valleys,
6 and so on and so forth, so as to have more fluid exchanges. Personally, I have difficulties
7 understanding why, when the witness is speaking and spelling, it is so difficult to have
8 the letters that he is mentioning on the transcript. He is extremely slow when he is
9 making a spelling, and maybe there is a technical difficulty that the courtroom officer
10 is trying to explain to me.

11 There is always an explanation for everything. We know that the transcript
12 has perfectly spelled words and written, but the witness is speaking in Swahili, and
13 there's a whole interpretation that it has to go through, and this produces the slowness,
14 which is the explanation of the slow transcription that we have on our screens.

15 So, I would like for this day and tomorrow that the witness writes on a piece
16 of paper -- if this is something that is more comfortable for our hearing, then this
17 would be fine, but when he's written something on a piece of paper, what is he going
18 to do then? Can somebody explain that to me? Is he going to show it to who? Is he going
19 to raise it? What's he going to do?

20 MR MACDONALD: (Interpretation) Perhaps if you would allow me, your Honour,
21 perhaps my colleague would put their confidence in me such that I could spell what appears
22 on the piece of paper, and after the hearing - or after, when we are in suspension, I
23 would put this piece of paper to the -- or give this piece of paper to the Registry who
24 will be able to show it to the colleagues. If we have to have an evidence number, the
25 Prosecution would have no objection to that.

1 JUDGE VAN DEN WYNGAERT: (Interpretation) Prosecutor, I have a question of a
 2 technical level. Couldn't you pass around a document before hearing a witness, because
 3 it's not challenged whether these are the names of places that are subject to being challenged,
 4 but then it might be interesting to have the name for the first term, but as there is
 5 no challenge to this, maybe we can save time by providing a document first and showing
 6 it to everybody?

7 MR MACDONALD: (Interpretation) Yes, your Honour. Exactly. We are going to
 8 prepare such a document. And we would like to apologise. With regards to the amount
 9 of documents that there are, this is something that we have forgotten to prepare, but
 10 we already do have a certain glossary of the names of certain places, but obviously there
 11 are some that the witness might know that we don't know ourselves.

12 Now, I think that Kabalega isn't a place that there is any kind of challenge
 13 to, but it might be the case because the colleagues from the Ngudjolo team don't want
 14 me to spell this place.

15 PRESIDING JUDGE COTTE: (Interpretation) So, yes, Mr Kilenda.

16 MR KILENDA: (Interpretation) We haven't said that we were going to challenge
 17 the identity of certain places. The problem is, that we are meant to be dealing with
 18 the witness, and we don't have the right to interrupt the Prosecutor who is asking the
 19 question. He is putting the questions, and he has an objective; but from the moment that
 20 he stresses certain names, it is also as important that the witness can also spell these
 21 names correctly. That is it.

22 Other than that, we haven't raised any objection regarding to the -- or any
 23 kind of challenge to certain names of places. If it is a matter of spelling, it is better
 24 that it is the witness who does it, because it is the witness who is before you and who
 25 is going to shed light on this case. Other than that, we have no objection whatsoever.

1 PRESIDING JUDGE COTTE: (Interpretation) So, no controversy here. Everything
2 is fine. We are just together trying to find a way of improving our means of functioning.
3 This is completely normal at the start of trial.

4 The Office of the Prosecutor is going to improve its filings which make it possible
5 for us to save time. The Defence teams and the legal representatives of victims must
6 also look at what has been said up to now, because they also come in second place and
7 third place, and maybe even in fourth place; but in the immediate present -- so please,
8 would you be so kind, when the Prosecutor asks the witness to spell a name, could you
9 provide him with a piece of paper and give him something to write with, and the witness
10 will write in a clear way the name in question, and then you will give it to the Registrar -- or
11 the court officer, rather, who will then read that out. And that will completely comply
12 with a fair trial.

13 Now, Prosecutor, it is over to you.

14 MR MACDONALD: (Interpretation)

15 Q. Could you please spell the name Kabalega -- or could you write it, rather? Please,
16 could you write that name?

17 (Pause in proceedings)

18 A. Please, excuse me. Please, excuse me, Prosecutor. There is another name which
19 is written in Kilendu -- sorry, I've noticed Kabalega and Kavalega.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Witness, for this
21 clarification. The name will now be read out by the court officer.

22 THE COURT OFFICER: (Interpretation) So the two possible spellings are
23 K-A-B-A-L-E-G-A. K-A-B-A-L-E-G-A. Or Kavalega, K-A-V-A-L-E-G-A. And this document on
24 which this -- which has been written on, will be filed into the record and will have
25 the number EVD-OTP-0004.

1 PRESIDING JUDGE COTTE: (Interpretation) The Court would like to thank you,
2 court officer. Prosecutor, please continue.

3 MR MACDONALD: (Interpretation)

4 Q. If we go back to Lagura and Ezekere, Lagura and Ezekere are in which *groupement*?

5 A. Lagura is in Ezekere *groupement*.

6 Q. And the hill Ezekere is in which *groupement*?

7 A. In the same *groupement*, Ezekere.

8 Q. On 24 February 2003, Ezekere *groupement* -- to your knowledge, did it include
9 the inhabitants of what ethnic group?

10 A. This *groupement* was lived in by the people of the Lendu north group.

11 Q. What is the main village in your knowledge of the Ezekere *groupement*?

12 A. Personally, I've never been to that *groupement*. However, I know two villages
13 there, Kavalega and Katonie. I only know those two.

14 Q. You have just mentioned, therefore, the villages of Kavalega and Katonie. I
15 see that Katonie has been spelled, so I won't ask the witness to spell it again if the
16 way in which it is written is acceptable to everybody.

17 A. Yes.

18 Q. In the *Mont Bleu* mountain range, are there other villages that are at a higher
19 altitude than Katonie and Kavalega?

20 A. To tell you the truth, all the villages - well, I don't know all the names of
21 all the villages in Ezekere and, personally, I have never visited this *groupement* outside
22 the localities that I have named.

23 Q. Why haven't you visited these places before?

24 A. The *groupement* of Ezekere is an area which is situated upon some hills. I have
25 never gone up these hills. I have only been as far as Katonie and Kavalega.

1 Q. We are now going to look at a picture. We are going to go into another presentation,
2 rather, a 360-degree presentation, which has the number 40. On the picture that we can
3 see, I understand that we can still see Bogoro institute, can't we?

4 A. Yes.

5 Q. We are going to turn the picture towards the right. I would like you -- I would
6 like to ask you to stop the picture here. What do we see on this picture? Where are
7 we?

8 A. Here we are at the entry of the school building.

9 Q. We can see trees. What types of trees are they?

10 A. There are mango trees.

11 Q. Okay. I would ask to turn the picture further towards the right. Thank you.
12 You have made a reference to this structure previously on another picture. What is that?

13 A. There was a man who wanted to build a cinema here, but he wasn't authorised
14 to do so, and that is the reason why this building was demolished.

15 Q. On 24 February 2003, was there any type of structure in this place?

16 A. Yes. On the right, slightly to the right, there was a building which was the
17 office of the school management.

18 Q. Now, if we continue to turn the picture towards the right, we are going to stop
19 here. Now we are going to go out of the picture and we are going to go to the next one,
20 which is number 41. What can we see here at the top of the picture when we look towards
21 the centre? What is that building?

22 A. This is the construction. This is the cinema construction that they wanted
23 to make at that time and, behind it, you can see the school building.

24 Q. You mean the Bogoro Institute?

25 A. Yes, that's right.

1 Q. We are now going to turn the picture to the right and we are going to stop the
2 picture here. What can we see on this picture?

3 A. Here we can see a vehicle which is parked on the road. This is the road that
4 goes to Bunia.

5 Q. Okay, we are now going to turn the picture further towards the right and we
6 are going to stop here. Can you describe what we can see on this picture?

7 A. Yes. We are at the crossroads between the road which goes towards Gety and
8 the road which goes to Kasenyi.

9 Q. We are going to try to describe this picture. What can we see? We can see a
10 tree which has been cut. If we look immediately above this tree trunk, we can see a road.
11 This is the road that goes towards which place?

12 A. The road on the right-hand side goes towards Gety, to Boga as well.

13 Q. So if we continue straight on, we can go to Gety and we can also go to Bogoro?

14 A. No, I said Boga; I'm sorry, Boga.

15 Q. Should we - please, could you spell "Boga".

16 THE COURT OFFICER: (Interpretation) It is spelled B-O-G-A, and the paper will
17 be bearing the mentioned -- EVD-OTP-0005.

18 MR MACDONALD: (Interpretation)

19 Q. The road to the left, left of the road to Gety, leads where?

20 A. The road to the left leads to Kasenyi, Tchomia and Semaliki.

21 Q. If you don't mind me to be a bit leading, I would assume that these three places
22 are all in the Lake Albert region.

23 A. That is right.

24 Q. Could you please --

25 If you don't mind, could my Defence colleagues agree with me on the spelling

1 as we see it on the transcript? I will reformulate my question. Mr Kilenda?

2 PRESIDING JUDGE COTTE: (Interpretation) No problem from Mr Kilenda, and I think
3 I saw Mr Hooper nod. Go ahead.

4 MR MACDONALD: (Interpretation) Thank you.

5 Q. The tree that was cut down, do you know when it was cut down, in what year,
6 if you know?

7 A. That tree didn't exist before. Since there were traffic accidents at that point,
8 that's why the MONUC officers tried to show the image and they brought up this crossroads
9 so people could drive around. So that tree did not grow there. It was placed there.

10 Q. If we turn to the right, rotate the image to the right, and we will stop here
11 and we will exit that image. The next image that we are going to look at is number 19.
12 Could you tell us what we see on the screen on this image?

13 A. Okay, on this image, as I was explaining beforehand, there are two roads; to
14 the right, the road that goes to Gety, and on the left the road that goes towards Lake Albert.
15 A bit further to the right, a bit more to the right, there is the mission, the Diguna
16 mission. It is the CECA 20 mission, and then after that, the road to Kasenyi, there is
17 a building and it is an old building that was called the *attené de Bogoro* (phon).

18 Q. We are going to move forward and zoom in on what you called Diguna, and could
19 you confirm is this the place we are talking about? With the cursor I am going to show
20 you here. I don't know if you can see the cursor move, but we see trees, and right here
21 where I am putting the cursor, what do we see there?

22 A. There is a fence and houses.

23 Q. Yes, what is the name of this place here where I am putting the cursor?

24 A. It is the Diguna mission.

25 Q. I see. Here, where I have placed the cursor, what do we see here?

1 A. There is a building that is used as a school for Bogoro.

2 Q. And just above here there seems to be a hill, right here where I have placed
3 the cursor, right at the horizon. What is the name of that hill?

4 A. This hill did not have any particular name on the map, but we were in the habit
5 of calling it Tekatu.

6 Q. Could you write that out?

7 PRESIDING JUDGE COTTE: (Interpretation) Sir, while the witness is writing out
8 the name, the Chamber would just like to know whether these comments about the photographs
9 that you are showing us, will you be asking similar questions when we get to Witness
10 419?

11 MR MACDONALD: (Interpretation) No. The objective for that witness is
12 different, but there's no --

13 PRESIDING JUDGE COTTE: (Interpretation) No, you are entirely free to conduct
14 your examination as you wish. I just wanted to --

15 MR MACDONALD: (Interpretation) I am trying to respect the five-second rule.
16 I will use the expression "preparing the way", or "setting the stage", rather.

17 PRESIDING JUDGE COTTE: (Interpretation) Apparently, he has written out the
18 name.

19 Yes, Mr Courtroom usher, could you take that piece of paper over to the courtroom
20 officer, and she will read out the name. Thank you.

21 THE COURT OFFICER: (Interpretation) Tekatu. T-E-T-K- -- "A", pardon me. And
22 the document will be entered into the file --

23 MR MACDONALD: (Interpretation) One last question.

24 THE COURT OFFICER: (Interpretation) -- number EVD-OTP-0006.

25 MR MACDONALD: (Interpretation)

1 Q. Behind this hill, what do we see far off?

2 A. At the very back, we see Lake Albert. That's where we find Tchomia, Kasenyi.

3 Q. Good. We will now exit this image and we are going to move to image 42. Do

4 you recognise this building?

5 A. Yes. It's a hotel, a hotel that remained as such after the 2003 war, or fighting.

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 Q. Without revealing the name of the owner, but does the hotel itself have a name,

13 to your knowledge?

14 A. This hotel does not have a name. To designate this hotel, we use the name of

15 the owner.

16 Q. I see. We are now going to move the image, rotate it right, to the right, and

17 we will stop here. This road goes where?

18 A. This road goes to the central area of Bogoro. It is a road that goes towards

19 Bunia.

20 Q. We are going to continue rotating the image to the right and we will stop here

21 for now. If we look far off to the horizon, and I will put the cursor over here in the

22 very far distance, what is that?

23 A. You are talking about the very far back - I see. The background? I see clouds

24 and that is where the land slopes down directly to Lake Albert.

25 Q. Good. We will continue rotating to the right and we will stop at this building

1 here. On 23 February 2004, what was the state of this building? 2003, I beg your pardon.
2 23 February 2003?

3 A. At that time, the second house was not there. The wall here did exist and it
4 was the house or the owner of the parcel of land. When the NGO came to build houses for
5 the people, the owner of this parcel of land said that his house was small and there
6 was -- and they were in a big hurry to build. Regarding the second house, he was going
7 to build that later.

8 Q. On 24 February 2003, what state was the wall or the house that we see here where
9 only one wall remains?

10 A. That house was very well built. It was only after the fighting that the house
11 had been - was destroyed.

12 Q. Good. We will rotate the image to the right, and I understand that this is
13 the same road, but what is this direction? In what direction are we looking at here?

14 A. This road leads to the cross roads.

15 Q. I understand that you are indicating the roundabout and the French transcripts
16 or translation says *carrefour*, the cross roads?

17 A. Yes.

18 Q. Is it a roundabout, the roundabout we saw earlier where the tree trunk was located?

19 A. That's right. That road leads that roundabout.

20 Q. Thank you. Pardon me, fine. We are going to rotate the image slightly to the
21 left and, once again, we will stop and we see the house that had been destroyed once
22 again. What was the state of the vegetation in that area at that place on 24 February
23 2003?

24 A. The vegetation at that place was the same. There were trees, as you can see,
25 but there was a lawn; it was a nice plot of land.

1 Q. Good. We will now exit this image and this concludes the description or the
 2 use of this visual presentation. In this visual presentation we have seen some houses
 3 that had straw roofs, houses that you said had been rebuilt, and I would like us to now
 4 talk about the whole matter of the buildings that existed in Bogoro before the attack
 5 of 24 February 2003. How many schools were there in Bogoro, schools that -- how many
 6 schools existed?

7 A. Well, the number of schools in the central area, there was *et paix* Kavali; there
 8 was the *école d'application* Bogoro at the mission, and there was the Bogoro institute
 9 and the Muzora institute, and in the locality of Nyakeru there was a primary school and
 10 an institute.

11 Q. Could those names be spelled out, the names of those schools?

12 A. Yes.

13 THE COURT OFFICER: (Interpretation) Mr President, with your leave, the
 14 document DRC-OTP-1004-0099 * is entered into the record as DRC-OTP-0007. Now, the names
 15 of the schools. The Kavali Primary School is spelled K-A-V-A-L-I; Cecazo Primary School
 16 C-E-C-A-Z-O.

17 THE WITNESS: (Interpretation) I am sorry, it is not Cecazo, it is CECA 20.

18 THE COURT OFFICER: (Interpretation) It is C-E-C-A 20. Muzora institute, spelt
 19 M-U-Z-O-R-A. Bogoro institute, B-O-G-O-R-O. Nyakeru Primary School spelt N-Y-A-K-E-R-U.
 20 Jakeru institute.

21 THE WITNESS: Nyakeru.

22 THE COURT OFFICER: (Interpretation) Nyakeru, three class rooms and Nyakeru
 23 is spelt N-Y-A-K-E-R-O. The document with the names of the schools will be number
 24 EVD-OTP-0008.

25 MR MACDONALD: (Interpretation)

1 Q. After the attack, what was the state of the schools?

2 A. After the attack, all those schools were destroyed except the Bogoro institute,
3 which we saw a short while ago.

4 Q. On 24 February 2003, what was at the Bogoro institute?

5 A. As I have already said, there was a military camp belonging to the Ugandans.
6 The UPC subsequently occupied that location and there was fighting at that place on that
7 date.

8 Q. Apart from the institute, what other structures were there in the UPC military
9 camp?

10 A. Apart from that school, there were other smaller buildings that we normally
11 call manyatas. These buildings were occupied by soldiers and they were surrounded by
12 a trench. The soldiers could go to this trench to communicate with other soldiers.

13 Q. And where was this trench located in relation to the camp? Can you describe
14 it to us?

15 A. The trench was behind a school and it was dug around the entire military camp,
16 but there were other trenches that had been dug inside that perimeter.

17 Q. How were those trenches inside the perimeter called?

18 A. They were known as communication or communication. I do not know whether it
19 is a French or an English word.

20 Q. What was the size of those trenches inside the perimeter? Can you describe
21 them to us, please?

22 A. Only one person could fit inside the trench and I would say that the trench
23 was about one metre deep.

24 Q. You have stated that there was a UPC military camp there. How were the UPC
25 soldiers dressed?

1 A. At that time, the UPC soldiers wore camouflage uniform. It was a mixture of
2 colours normally known as tache-tache.

3 Q. Can you tell us the colours of that uniform?

4 A. There was green, yellow. That is what I can say.

5 Q. Can you tell us how many UPC soldiers were stationed in the camp at the institute?

6 A. I cannot give you the precise number. At that time I would say that there were
7 between 100 and 200 soldiers.

8 Q. How were they armed?

9 A. Generally speaking, I can tell you that I noticed that they were bearing individual
10 weapons: SMGs, RPGs and other weapons usually carried by soldiers in general.

11 Q. In the case of attack, were there any instructions given to the civilian population?

12 A. Whenever there was an attack, we would receive messages from the military camp.
13 We were told that the enemies were going to arrive and that the members of the population
14 should hurry to the camp in the event of an attack, so whenever there was an attack the
15 members of the population rushed to the military camp because they were told that there
16 was no way of protecting them outside of the camp and that is the reason why the members
17 of the population went to the military camp whenever there was an attack.

18 Q. During the visual presentation, you referred to a mission at Diguna. What was
19 the state of that mission before the attack of 23 February 2003?

20 A. Before the attack, the mission was in a good state of repair. It was only after
21 the attack that the buildings were destroyed. The roofing sheets and the windows and
22 doors were removed.

23 Q. What was the organisation that used the building, that mission?

24 A. There was the CECA 20 church at that location and there was another community
25 of Protestant missionaries of Diguna.

1 Q. Were there any other missions or churches in Bogoro village?

2 A. Yes, there were other churches amongst which you had Catholic churches, the
3 CEPAC and the CIA which was also known as Reform. There was also the CECA 20 building
4 and other churches.

5 Q. Witness, please look at the transcript on your screen to verify whether the
6 names that you mentioned are correctly written.

7 A. Yes, they are written correctly.

8 Q. What was the state of those missions, or churches? Well, let me rephrase. What
9 was the state of the missions and the churches that you have just mentioned before the
10 attack at Bogoro?

11 A. Before the attack at Bogoro, all the buildings of the various missions were
12 in a good state, but during the war the churches were destroyed. The roofing sheets,
13 doors and the benches were all taken away.

14 Q. A point of clarification following your answer. You have referred to the period
15 of the war, but I would like to ask you a specific question. On 24 February, or after
16 24 February 2003, what was the state of those churches after the attack on Bogoro; that
17 is the churches or the missions?

18 A. After the attack, no one stayed in Bogoro. Upon our return, after we had fled,
19 we realised that the buildings had been destroyed and we started rebuilding them.

20 MR MACDONALD: (Interpretation) With your leave, your Honour, I would like to
21 take a moment.

22 Q. Before the attack on Bogoro on 24 February 2003, you said a short while ago
23 that there were houses. What was the state of most of the houses in Bogoro at that time?

24 A. I believe that all those houses -- well, as you know, when you decide to build
25 a house, you try to build it in a good way, so all those houses were in a good state.

1 It was after the war that the houses were destroyed, but when the displaced persons returned
2 they started rehabilitating those houses.

3 Q. You have mentioned a war. Which war are you referring to?

4 A. I think we were talking about what happened on 24 February 2003. It was after
5 that war that the Bogoro inhabitants left. Some of them went to seek refuge in Uganda,
6 whilst others went to Bunia. It was only after the events that the displaced persons
7 returned home.

8 Q. So when you used the expression "war" you were referring to the Bogoro attack,
9 if I understand that is what you just mentioned?

10 A. That is right.

11 Q. In what state were the houses after this war of 24 February?

12 A. After this attack we went back, but when we arrived the houses had been destroyed.
13 Some of them had been completely raised to the ground and with other structures only
14 the walls were left and we see -- saw the Ngiti and Lendu, who had occupied manyata,
15 these little houses, which had been built alongside the road, and it was only afterwards
16 that the NGOs arrived in Bogoro and started to build houses which had metal sheeting.

17 Q. You have just mentioned that, when you came back, Lendu and Ngiti were installed
18 in Bogoro.

19 A. Yes.

20 Q. Were there people of other ethnic groups there?

21 A. No, no, there were only these two ethnic groups. It was only afterwards that
22 other communities, or other ethnic groups, came.

23 Q. You -- we want to go into this aspect later, but I want to go into this. So,
24 you came back. You went back to Bogoro. When did you do so, if you remember? The month
25 or the year?

1 A. We returned to Bogoro, if my memory serves me well, in 2005 if my memory serves
2 me well.

3 Q. And when you returned to Bogoro in 2005, did you stay in Bogoro?

4 A. Yes, we returned to Bogoro in 2005, but I can't give you the exact date. Then
5 there were troubles and so we also fled to Kasenyi and Bunia, and I think that during
6 May 2005 we again went to Bogoro and we stayed there without any problem.

7 Q. So if I understand what you have just said - and correct me if I am wrong - you
8 arrived firstly in 2005 in Bogoro and you returned and then you had to leave again to
9 come back later; is that right?

10 A. That is right.

11 Q. Why did you flee the first time in 2005?

12 A. We fled because we were -- we had returned and we had learnt that the enemies
13 were going to come to Bogoro again. So we had seen Maman Vawka, who was the governor
14 of the region, and she came and she talked to the head or the leader and she suggested
15 that we left. We didn't have permission to reinstall ourselves in Bogoro, because there
16 was still the war going on around this region.

17 MR MACDONALD: (Interpretation) Your Honour, I would suggest taking a break
18 now. We can come back with the name of the person who was mentioned and write it. Perhaps
19 the witness can do so during lunch, I don't know maybe outside the courtroom, on a piece
20 of paper and read it afterwards, if that is appropriate for the colleagues, because that
21 would be then outside the courtroom.

22 PRESIDING JUDGE COTTE: (Interpretation) I think the most simple thing is for
23 him to write it now and then he can give it to the court officer who can read it out
24 later, so if somebody could please give him a piece of paper and something to write with.

25 MR MACDONALD: (Interpretation) So, this is the last name that he just mentioned

1 we are talking about? Okay, so if the witness could write it, the governor.

2 PRESIDING JUDGE COTTE: (Interpretation) That is right. Court officer, please
3 keep guard this document. The Court is going to ask you to call for a private session
4 for the witness to come out of the session and then we will go into public session and
5 please indicate what time we will finish and start again. Thank you.

6 (Closed session at 1.15 p.m.)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Open session at 1.16 p.m.)

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

13 PRESIDING JUDGE COTTE: (Interpretation) We are now in open session, so the
14 hearing is now adjourned and it will start again at 2.45 for one-hour-and-a-half. The
15 session is now adjourned.

16 THE COURT OFFICER: All rise.

17 (Luncheon recess taken at 1.17 p.m.)

18 (Upon resuming at 2.49 p.m.)

19 THE COURT USHER: All rise.

20 PRESIDING JUDGE COTTE: (Interpretation) Our hearing is resuming. Please be
21 seated. The accused are with us and, at the beginning of this resumption of the open
22 session, we have a representative of the Registry that Mr Kilenda has just given some
23 information to about the various difficulties we were having yesterday at the same time.
24 Ma'am, you now have the floor. Please go ahead.

25 MS UCIEDA: Thank you, Mr. President, your Honours. I would like to stress,

1 to start with, that the Outreach Unit of the Court is highly committed to ensure that
2 the proceedings are properly publicised and understood and by the public in general but
3 in particular by the affected communities.

4 One of the means that we use when there are key hearings or important moments
5 as the beginning of a trial is to broadcast through the national television. In this
6 particular case, when the trial started on the 24th, a Tuesday, the national television
7 of Congo has only one possibility to receive the images from abroad. There is only one
8 satellite.

9 The satellite was booked by the Outreach Unit, with time in advance, and we
10 didn't have any indication - I will slow down for the interpreters - we didn't have any
11 indication at that time that we could have any problems. Only the night before the beginning
12 of the trial we were informed that the part of the satellite that goes from Paris to
13 Congo was fully booked. Just for you to understand. The satellite works like a telephone
14 line. If you are speaking, it is busy and you cannot call. This is what happens.

15 When we realised that we had problems, we activated the plan B, and the plan
16 B consisted of different activities. First of all, we informed key actors in the field
17 about 100 local leaders, religious leaders in Ituri, members of the NGOs, journalists,
18 leaders of groups of women, that we were having problems, to avoid surprises and to manage
19 the expectations, because we've been working with them for quite a long time. We have
20 a good relationship and there is trust. So we didn't have any problems. We didn't feel
21 that we could have problems and actually there were no problems at all. They understood
22 perfectly and we promised them that we would make all efforts to ensure that they would
23 be, as soon as possible, well informed.

24 The second action that our team here in The Hague took was to follow the whole
25 day the proceedings; the opening statements of the different participants; and they were

1 on the phone the whole day, informing the people in the field and with this information
2 our staff in Bunia were able to give interviews to all local radios, the radio community,
3 12 in Ituri explaining: One, what were the problems that we had faced and two, what were
4 the big lines of the opening statements of all participants to the proceedings.

5 The first activity that we undertake was to produce a summary of the proceedings.
6 We produced a summary in different parts and, by producing these short summaries, we
7 were able to send them through internet to our field offices. These summaries were broadcast
8 by the local television in Ituri the day after, Wednesday, yesterday.

9 On the top of everything, we made a copy of the whole day and we gave it to
10 a staff member of the Court who was travelling yesterday to Congo. He's arriving today
11 and will give that copy to the national television and with the support of the ministry
12 of communications of the country, the national television has ensured us that tomorrow
13 the whole day will be broadcast, starting at 7 in the morning, which is the most important
14 news of the day.

15 I explained all this to - expressed as I said at the beginning - the high commitment
16 that we have, that the Outreach Unit of the Registry has, to ensure that the affected
17 communities are properly informed and not only that they get images but also that they
18 really understand what is happening.

19 For the rest of the trial we have, I think, based on previous experiences and
20 all these years of work, a very good plan that it will ensure that the communities are
21 informed. We are not broadcasting on daily basis through the national television, it
22 is not possible, but we produce weekly summaries that are broadcasted through the local
23 media, not only the television but the radio in Ituri, which is much more important,
24 but also summaries that are used by our local staff to go to the villages, using a portable
25 screen, a generator, and a beamer, and organising what we call town-hall-style meetings

1 with hundreds of people in the different villages and allowing them to see on the screen
2 what happens here.

3 These are regular activities that our staff in the field are conducting, were
4 conducting in the previous trial and will be conducting in this trial. All these activities
5 are public and not the only ones, of course. We conduct regular meetings with the religious
6 leaders, with the local leaders, local authorities, with the local NGOs.

7 We organise training for journalists; we organise training for NGOs; for groups
8 of women, so there are a lot of activities to ensure that everyone understands properly
9 what happens. These activities, as I said, are public and regularly updated in our website.
10 The problem that we had on the first day was just a technical problem and a punctual
11 one and, as I said, we had a plan B because these kind of challenges are the challenges
12 that we are facing on daily basis when conducting outreach activities in the field.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Mr Kilenda, since you
14 were the one who originally asked for this explanation, are you satisfied by the explanations
15 that were just provided?

16 MR KILENDA: (Interpretation) Thank you, Your Honour, I'm entirely satisfied,
17 particularly since we have heard indirectly from our resource person that --

18 THE INTERPRETER: Inaudible.

19 MR KILENDA: -- that indeed the beginning of the trial was broadcast in a way.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you for those explanations that
21 you just provided us with, and thank you for all the other efforts of your team to ensure
22 that this trial is covered well beyond this courtroom and the public galleries. You may
23 now leave the courtroom.

24 Speaking of technical problems, Mr Gilissen, Mr. Luvengika, you had a few -- we
25 have a few technical matters to deal with before you -- before we provide you with the

1 answer that we promised you. We will now call the witness, who will be testifying this
2 afternoon. Mr Macdonald.

3 MR MACDONALD: (Interpretation) Thank you for giving me this opportunity to
4 address the Court. I would remind the Chamber or specify, rather, the following details:
5 It is 3 o'clock. This is the afternoon session, and I'm quite sure that the day has been
6 very long for the witness, and I also believe that it's important to remind the witness
7 that if he feels tired he can say so.

8 Why am I raising this point? Because I noticed that the one-and-a-half-hour
9 sessions, well, the second one, the witness I noticed seemed to be feeling tired, and
10 in the afternoon, another one-and-a-half-hour session, when we talk about the very details
11 of the attack, may be not only difficult but, beyond that, that may lead to a certain
12 amount of fatigue and that could lead the witness to just answering for the sake of answering
13 to a question so that he can finish more quickly.

14 The Prosecution would like to avoid that, of course, and avoid the witness being
15 tired for no point. Clearly, the Prosecution will have to continue questioning tomorrow
16 morning, and I believe that it's always more easy to talk about some things with a witness
17 in the morning. So there you have it.

18 PRESIDING JUDGE COTTE: (Interpretation) Well, sir, the Court is perfectly aware
19 that giving testimony is a trial, particularly for witnesses coming from a very far distance,
20 and particularly when giving testimony leads to stirring up memories.

21 Now, we had some technical difficulties and we had the impression at the end
22 of the morning that things were going better. The testimony was -- was slow, there was
23 time to think, and I don't believe that the witness was feeling any, from your side,
24 from the Defence side or from the Court, any impatience or any nervousness. He felt that
25 he was being listened to.

1 Now, we have various timing considerations so we will listen to him calmly this afternoon,
2 and he will answer your question during the hour-and-a-half, and if you have to continue
3 tomorrow morning, certainly you can continue tomorrow morning.

4 So I will ask the courtroom -- now, this being said, if you feel that -- or
5 if we feel that he is excessively tired, we will strive to take that into account. Madam
6 Courtroom Officer, could you please, could we please go into closed session while the
7 witness enters the courtroom.

8 (Closed session at 3.03 p.m.)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Open session at 3.06 p.m.)

5 PRESIDING JUDGE COTTE: (Interpretation) We are back into open session. Mr.
6 Prosecutor, please proceed.

7 MR MACDONALD: (Interpretation) Thank you, Your Honour.

8 Q. Sir, we will now touch upon the attack itself. Of course, this is an open session
9 and we will not mention the names of people that you may have found yourself with. We
10 may go into a private session or an ex parte hearing to reveal the names of those people;
11 agreed?

12 A. Yes, agreed.

13 MR KILENDA: (Interpretation) Your Honour, when we suspended you promised that
14 we would resume and we would be spelling out the names of the -- the name of the governor.

15 PRESIDING JUDGE COTTE: (Interpretation) Yes, sir, you are increasingly
16 my -- you are becoming more and more my memory, so to speak. It was agreed that yes,
17 at very beginning of the hearing, you would spell out the name of the governor mentioned
18 at the end of the morning session, and I believe that you were going to spell that out
19 on a piece of paper.

20 THE COURT OFFICER: (Interpretation) The name was written on a piece of paper
21 and it is Maman, M-A-M-A-N, Vawka, V-A-W-K-A, and this paper has been put in the file
22 and will be EVN-OTC-0009.

23 PRESIDING JUDGE COTTE: (Interpretation) The Court thanks you, Madam Courtroom
24 Officer. Mr Macdonald, you definitely now have the floor.

25 MR MACDONALD: (Interpretation) Thank you.

1 Q. Without revealing the names of the people that you were with on 24 February
2 2003, in an *ex parte* session you indicated the place where you were on the morning, or
3 at the beginning of this affair, without going back to the place. Now I would like to
4 know what did you do, or what was happening on 24 February 2003?

5 A. Okay. On that date, the morning, we heard bullets flying and I woke up. I heard
6 bullet shots from the direction of the camp. I looked for another way to get to the camp
7 and then I found the enemies had already taken possession of the camp when I saw them
8 from far away. They saw me and they started to shoot in our direction. They started
9 to shoot at us.

10 I took the road towards Babira, or the way towards Babira. I wasn't very far
11 away. I had just crossed the river and I saw them from far away. A group of young -- of
12 people were coming towards me. When I saw them, I turned and I hid by the river. I stayed
13 there for a while and the sound of the shooting continued until we heard the frequency
14 of the shooting was less and less.

15 I was still there by the river and, when things gradually calmed down, passers-by
16 could be seen in the road and at that time someone who was with us in our hiding spot
17 came out. When he came out, I heard shots at him and I realised that he had just been
18 killed. And then I asked the friends that I was with, I asked them again if they could
19 move us, get us out of where we were and whether we could move somewhere else, or we
20 had to move away.

21 We went along the river. We went to a place where we rested. We stayed there
22 for a while, and then I started to see the smoke come out of the camp and people were
23 taking objects from the camp and were going up the hill. After, I said to myself it would
24 be better for us to move ahead because -- because of the hiding spot and we were with
25 our friends. At a point - at one point - we heard the shooting resume from everywhere

1 and much more intense shooting. That was from the morning until the beginning of the
2 evening and even until the night we heard the shooting, the sound of the bullets.

3 The next day it was the same thing in the morning. We could hear the shooting
4 in all directions. And then I saw some people who came from the office of the *groupement*
5 and they burnt down the house of a Protestant minister and went to the camp. Once they
6 got to the camp, the house was still smoking and we stayed there for a while and we hid
7 there. And we were so hungry, at one point we were so thirsty, we had nothing to eat
8 or drink, and we stayed in the bush in that state the next day again. I started to think.
9 I said to myself, "We're not going to survive. We're not going to survive in such a state."

10 The next day, one of us came out. He came out. He came out. He went to inspect.
11 He looked at the house in the village. He was stopped. He was taken to the camp. He
12 was asked, "Where are the soldiers?" He arrived at the river where we were and he started
13 to call us, using our names. "Come out. Come out," he said. "The enemy is gone." I
14 said to myself, "No, no, no, that's not true."

15 Under those circumstances, I told myself it's important for us to get out and
16 go to Bunia. Those with whom we were decided to cross the road and go to Kasenyi, and
17 I told myself it is not easy to cross that road because there was gunfire. We had to
18 go to Bunia.

19 This was the fourth day. I came out and I passed through the bush. I went through
20 the hills towards Bunia. I went through Nyakeru, where I rested for a while as night
21 fell. I spent the night under the trees. I woke up and I told myself that I should not
22 stay asleep under the trees until the morning. I had to go across to the other side,
23 and that is what I did. I thought that across the road there will be a bush in which
24 I could hide, but I found that the bushes had been burnt down. I continued on my way
25 and, as soon as I found a bush, I hid there and spent the night.

1 On the way to Nyakeru, I saw two women in the farm and I passed them and, when
2 I came to the bush near Lengabo, I woke up once again and I heard gunfire - the sound
3 of gunfire. I woke up and I left, and at that time the two women that I had seen were
4 surprised. I asked them what had happened and they explained to me that they had gone
5 to the farm, that they had seen Ugandans coming from Bogoro and going towards Dele. I
6 asked them whether I could join them and we moved on together.

7 I saw a man with his wife and, when they saw me, they were surprised. They
8 said, "Look, you are still alive." And I said, "Yes." They asked me for news of my father
9 and I told them that my father had gone to Kasenyi and I had stayed back with my younger
10 sister. We went on conversing, and after 30 minutes I left them there and I went into
11 Bunia.

12 In Bunia, I saw Ugandan soldiers standing guard everywhere in the streets. They
13 told us to stay calm. The man and his wife that I had met on my way told me the following.
14 The fighting was very difficult. Many Ugandan soldiers were injured. I saw trucks
15 transporting the Ugandan soldiers passing and, even right now, there are still Ugandan
16 soldiers that are wounded. So, I went out and I left.

17 Upon my arrival at Bunia, we were received there. We stayed in Bunia and it
18 was at that time that I met --

19 Q. Maybe without mentioning names -- and I apologise for interrupting. We are
20 going to come back to what you said, but you may conclude.

21 A. Thank you.

22 Q. Mr Witness, I understand that you have just provided a lot of information to
23 the Chamber, but let me go back to the beginning and we will deal with your testimony
24 on a day-by-day basis; that is if it is okay with you. So, on 24 February 2003, at what
25 time did you hear the sound of gunfire?

1 A. On that day it was around 5.00 a.m. It was 4 to 5.00 a.m. that morning that
2 I heard the sound of gunfire and I woke up from sleep. When I woke up, I went in the
3 direction of the camp.

4 Q. How were you dressed?

5 A. I was wearing a pair of shorts and a polo shirt marked with certain inscriptions.
6 I heard gunfire and I stood up and I started running without wearing any other clothes.
7 I did not have a pair of trousers and that is how I went outside.

8 Q. You were wearing the clothes that you had just described to us, but did you
9 take anything along with you?

10 A. I did not take anything with me. I just went out.

11 Q. You have said that you went in the direction of the UPC camp where the Bogoro
12 institute is located; is that correct?

13 A. Yes, that is correct. On my way to the camp, I saw from afar that the camp
14 was surrounded by the enemies. They saw me and started shooting at me. I had to pass
15 by the river before going to Wabira (phon) and then I hid by the river itself.

16 Q. I am going to change my headset. At the time that you were going in the direction
17 of the camp, you have testified that they were shooting at you. Can you tell us where
18 the people shooting in your direction were positioned? Were they in front of you, to
19 your side, or behind you?

20 A. When I started going towards the camp, passing through Sitaki Avenue, when I
21 was on that avenue I was able to see the military camp and the school. As I was about
22 to climb up towards the camp, I saw the enemies who had surrounded the camp. One of them
23 saw me and started shooting in my direction. I turned back and returned to the Sitaki
24 Avenue and that is where I hid.

25 Q. Am I therefore to understand that the person who was shooting at you was in

1 front of you? He was facing you?

2 A. Yes, that person was in front of me.

3 Q. When you turned back, you have told us that you returned to where specifically?

4 A. I turned back and took the road going towards the Biras. I had to cross a river
5 and I saw a group of people in front of me coming towards me. I told myself that I could
6 have some problems, so I decided to turn around once again and go and hide by the river
7 with some of my friends.

8 Q. The first time you turned around, that is when someone was shooting in your
9 direction, did you have your back to him? Where was this person in relation to you at
10 that time?

11 A. When I saw that person shooting at me, I turned around and I hid. That person
12 did not see me and I went back to the road that I have mentioned, after which I hid.

13 Q. How was that person dressed? Can you describe him to us?

14 A. No, the person was wearing civilian clothing.

15 Q. What was he shooting at you with; that is if you know?

16 A. It would be difficult for me to answer that question. I was quite far away
17 and I cannot describe the type of firearm that he used to shoot at me.

18 Q. At that time, can you describe to us what type of lighting was there when you
19 heard the sound of gunfire and you started going towards the UPC camp?

20 A. It was towards sunset, but I was still able to see people. I would say, that
21 it was about 6.00 p.m. It was beginning to get dark. In fact, what I meant was around
22 6.00 a.m.; that is, 6 in the morning.

23 Q. When you went into hiding, can you describe to us your first hiding place? Can
24 you locate it on the sketch that you, yourself, drew for us when your statement was taken
25 and to which we referred this morning?

1 A. I believe that on the sketch that we saw I indicated the location of river Bayo,
2 and I showed you the road from the Sitaki Avenue towards the Biras. When I came close
3 to the river, I left the road and I took another path.

4 MR MACDONALD: (Interpretation) Madam Courtroom Officer, would it be possible
5 to place the exhibit which now bears an EVD number -- I do not quite recall, but I believe
6 it was 1 or 2, but what is of interest to us is the page that ends with 0089. The first
7 page is 0088.

8 (Pause in proceedings)

9 MR HOOPER: Well, I'm being asked to put this screen, non-reflective screen,
10 but for the life of me I can't see how anyone sitting in the public gallery can possibly
11 see what's on this screen. It's impossible.

12 My -- Ms Stoflique, an intern, is sitting there, and I know she can't see my
13 screen. If I put this particular piece of plastic on the screen, I can't see the screen
14 from where I'm sitting and Mr. O'Shea can't see the screen. Now, it's not my fault that
15 the court facilities has been developed in a way which is largely impracticable, and
16 we're trying to solve this as best as we can. Now, I --

17 PRESIDING JUDGE COTTE: (Interpretation) Mr David Hooper, you have fully
18 understood that you are not a victim of persecution here.

19 MR HOOPER: But I'm sensitive to the possibilities. I'll move to the rear row
20 from tomorrow; but in the meantime -- and by "meantime," I'll put this -- the gadget
21 on, the plastic bit, if I can find it again. But, you know, there needs to be a bit of
22 accommodation here and a bit of common sense, and I do not see how anyone sitting in
23 the public gallery can possibly see this screen. It's as simple as that.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, it is quite clear that you
25 will be less comfortable than Mr Kilenda in that position; but based on what I think

1 I understood, that filter at that location was put in place by the Registry services
2 in light of reasons that seemed to them to be sufficiently important.

3 I also was made to understand that this system of filters was used before Trial
4 Chamber I for the computer screen located at the place where you are now. And this may
5 not have led to any difficulties, even when there was no one to your immediate right.

6 When any confidential document was being presented, it was possible to verify
7 whether someone out there could see it. So, it is regrettable that we should be delaying
8 our proceedings right now, given that amongst the materials that the Prosecutor would
9 like to have projected onto the screen there is one that might be confidential.

10 I am proposing to you, if you wish, to contact after the hearing the head of
11 the Registry services so that they can explain to you the reasons behind that decision
12 to ask the person occupying your place to use that filter on the screen. So if you have
13 no objection, may we continue with our hearing this afternoon with the filter in place
14 and then we will try to clarify everything afterwards?

15 MR HOOPER: Yes, certainly.

16 PRESIDING JUDGE COTTE: (Interpretation) The Court thanks you, Mr Hooper. And
17 Madam Courtroom Officer, if you can comply with the Prosecutor's wishes, we will be able
18 to proceed.

19 MR MACDONALD: (Interpretation) I would like to use a new version. I do not
20 want the copy in which the "X" was marked this morning. So, Madam Registrar, if we can
21 take DRC-OTP-1007-0088, and then place it on the screen; that is, page 0089. Thank you.

22 Q. Witness, can you see that exhibit on the screen; that is, the sketch that you
23 drew yourself? If possible - and if it is not possible, we will go to the next page,
24 that is 0090 - please mark with an "X" the location of your first hiding place. Maybe
25 you may need to change seats to mark that "X." As you recall, your sketch was made up

1 of three pages. You have that page on the screen, but if it is not possible, we can put
2 on the page that you saw this morning.

3 MR MACDONALD: (Interpretation) With your leave, Your Honour, page 0090 can
4 also be shown to the witness.

5 A. Perhaps you should show me another page, because I cannot identify that location
6 on this page.

7 Q. Let us now place the same exhibit, but page 0090 on the screen, please.

8 A. Very well. Here you can see the road leading to the collectivity of the Biras.
9 As to the place where I was hiding, that is it. That is where I hid.

10 Q. What happened at that location?

11 A. It was here that I found a little bush of reeds, and that is where I hid.

12 MR MACDONALD: (Interpretation) If we can tender that sketch.

13 THE COURT OFFICER: (Interpretation) This document will be EVD-OTP-00010.

14 MR MACDONALD: (Interpretation)

15 Q. With your permission, I will ask you a question: You said that before going
16 to that location you met the enemy. Who was that enemy?

17 A. These were the enemies who had come from the locality where the Biras were living.
18 So, I believed that these were Biras in civilian clothing. They had dogs and were carrying
19 machetes and spears. I would say that they were mainly carrying traditional weapons or
20 edged weapons.

21 Q. Can you tell us, what is behind the Waka mountain; that is, when you are at
22 the institute and you are looking at the Waka mountain, what is behind the mountain?

23 A. Behind the Waka mountain there is a river that goes through Nyakibira and which
24 separates Bira from Babiase and Bogoro, and the locality of the Biras can be seen on
25 the other side.

1 Q. Let me rephrase. Do you know where Medhu is located?

2 A. When you leave Bogoro institute going towards Waka mountain, you can see a path
3 that goes in that direction; and behind Waka mountain, you can cross the Nyakibira river.
4 And to your right, there is the locality of the Biras; and to the left, there is Ada,
5 Soke and Medhu,

6 Q. Perhaps you wrote down the names of those localities that you just mentioned.
7 You mentioned Nyakibira and other names.

8 PRESIDING JUDGE COTTE: (Interpretation) Please, court officer, if you could
9 read it out.

10 THE COURT OFFICER: (Interpretation) So we have the word Medu, M-E-D-U; the
11 name Bavi, B-A-V-I; and the name Songolo, S-O-N-G-O-L-O. The word Soke, S-O-K-E; and
12 the word ADA, A-D-A. On the right the word or the names Sidabo, S-I-D-A-B-O; the river
13 Nyakibira, N-Y-A-K-I-B-I-R-A; and then we have Waka, W-A-K-A. This document will have
14 the number EVD-OTP-00011.

15 MR MACDONALD: (Interpretation) Thank you. Very good.

16 Q. On the other side of Waka mountain, there was a path. Is it a road that you
17 can go on by car, or what type of -- or could you describe the road to us?

18 A. No, only motorbikes or bicycles could go on that road, or path perhaps better
19 said.

20 Q. So from Bogoro institute on the side of the mountain, this area, this path or
21 road separated in two, is that correct, one side going towards Bira and the other side
22 going towards these places where the names you've mentioned?

23 A. When you go towards Mount Waka and you go down towards the river, you cross
24 this river and you end up on two paths: one goes towards the Bira community and the other
25 one goes towards Soke.

1 Q. And which communities live in that area?

2 A. In Soke, Songolo, Bira and Bavi they are lived in by the Ngiti, while in Ada
3 there are Hema and in Sidabo you have the Bira.

4 Q. Going back to the place where you were, when you were in the place where you
5 put a cross, what happened? What happened in that place? What have you seen? What did
6 you hear?

7 A. When I was next to this river I heard gunfire in the camp and, from my hiding
8 place, I heard people taking metal sheeting off houses and I could -- and I also noticed
9 that the noise made by the people who were stealing this metal sheeting stopped. I heard
10 them call those who were hiding and ask them to come out of their hiding places.

11 Q. Did you have -- or you were with how many people at that time?

12 A. I had five people next to me by the river.

13 Q. How were these five people dressed who were with you?

14 A. One of them was a soldier from the UPC and I found him there hiding in the bush,
15 and the others were dressed in civilian clothing.

16 Q. The others, were they armed?

17 A. No, they did not -- they were not armed.

18 Q. And the UPC soldier, was he armed?

19 A. Yes, the soldier did have a weapon.

20 Q. And so you heard people asking you to leave, or come out?

21 A. That's right, I heard people who were speaking a local language who were saying,
22 "Come out, come out. The enemies have gone." And I stayed hidden and I thought, "That's
23 not true." We stayed there. One of the people we were with, the person whose name I
24 gave, was hungry and such he said, "I want to leave to go and find food from the house,"
25 and when he left and got to the trees then I heard gunfire and I understood that the

1 enemy was still there. And I said to my friends, and including the soldier, I told them,
 2 "If we ..." -- "Let's get out of here, because they will come and follow where that person's
 3 come from and they're going to catch us." And the soldiers -- the soldier and a civilian
 4 stayed there, and the two others and myself and another person, well, we left and we
 5 went further away to hide ourselves. And when we left, one of -- one who didn't come
 6 with us, he stayed there; that is to say just me and other people left.

7 Q. I would like to know what the language -- in what language the people were asking
 8 you to come out?

9 A. They were speaking in Swahili and they were also speaking in Kihema.

10 Q. When a Lendu communicates with a Hema --

11 MR FOFÉ: (Interpretation) Please, Mr President, the witness has not spoken
 12 about Kilendu. The witness spoke about Kihema and Swahili. Where does the Prosecutor
 13 take Kilendu from?

14 PRESIDING JUDGE COTTE: (Interpretation) Explain yourself, Mr Prosecutor.

15 MR MACDONALD: (Interpretation) I asked which language the Lendu and the Hema
 16 (phon) asked when they speak to each other. I wasn't able to finish.

17 MR FOFÉ: (Interpretation) This is a way of leading the witness towards Kilendu.
 18 The Prosecutor has not asked a basis. He's put a precise question. He's asked precise
 19 questions to the witness and, if that person has answered that clearly, he has done so
 20 by saying that the people who called out have used the Swahili language and Kihema. So,
 21 where does Kilendu come into this?

22 PRESIDING JUDGE COTTE: (Interpretation) Reformulate this question - your
 23 question - for the Court.

24 MR MACDONALD: (Interpretation) The witness mentions that he heard the Swahili
 25 language that was used. I can try and reformulate my question to be able to know, or

1 to try to shed light on -- or to try and elucidate.

2 Q. Well, when a Ngiti or a Lendu speaks with a Hema, what language is that done
3 in to the extent that they don't have a common language?

4 MR FOFÉ: (Interpretation) Please, Mr President.

5 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

6 MR FOFÉ: (Interpretation) Mr President, we are currently questioning a witness
7 with regards to precise facts and there is a methodology for asking questions to the
8 witness, and it is the witness who guides us. The way in which the Prosecutor is doing
9 this is not acceptable because, until now, the witness has not spoken about the Lendu
10 language; he had spoken about Swahili; he spoke about Kihema; and previously he had spoken
11 about Bira, and I don't see by what chance the Prosecutor wants to introduce Kilendu.
12 It's not admissible.

13 MR KILENDA: (Interpretation) If I may, this is even more the case given that
14 everything is happening live and everything is taken in the transcript. So at no moment
15 was Kilendu mentioned. This, his question was precise, and I would say when the witness
16 says to us that these people were speaking a local language, the Prosecutor asked a precise
17 question: "In what language were these people speaking?" And the answer was very precise
18 and clear : "Swahili and Kihema."

19 PRESIDING JUDGE COTTE: (Interpretation) Good. Professor Fofé, Kilenda have
20 expressed themselves. Prosecutor, you can ask your question. Ask it.

21 MR MACDONALD: (Interpretation) Thank you, your Honour. I was going to
22 reformulate it.

23 Q. In what language does a Lendu and/or a Ngiti speak when they meet with a Hema
24 person?

25 A. When a Lendu or a Ngiti meet a Hema, they have to speak in Kihema because there

1 are Hema who live with the Ngiti and then they can speak in Kingiti. If a Ngiti had lived
2 with a Hema, he would speak in Swahili. Why am I saying this? The conflicts happened,
3 the armed conflicts happened afterwards in the region but before, a Hema and a Ngiti,
4 these were brothers; that is to say that the Hema had Ngiti wives and vice-versa. A Hema
5 could normally, should normally know the Ngiti language and a Ngiti would know the Hema
6 language. Even today, if you go to Bogoro, you will find Ngiti who know Kihema and vice-versa
7 as well, and there are Hema who know Kilendu and there are Lendu who know Kihema.

8 Q. Are you able to indicate to us who spoke in Swahili?

9 A. Are you speaking about the day of the attack?

10 Q. I'm speaking about the time when you were asked to come out and Swahili and
11 Kihema were used. Are you able to distinguish what accents there were when the people
12 speak in Swahili?

13 A. Okay. When we were in the bush and before the conflict, or before the start
14 of the fight, rather, the clashes, in the morning, when you asked me the question as
15 to whether there were soldiers who gave us information, I said yes. I said yes, there
16 were soldiers who gave us information according to which the enemy was going to enter.
17 At that time who was the enemy for us? For us the enemy were the Lendu and the Ngiti,
18 and these people, they came from two roads; the Road from Ngiti and the Lendu road as
19 well. When we were attacked on 24 February 2003 we had -- we knew that it was Lendu and
20 Ngiti who attacked us. When I was in the bush, hiding, when I heard that they called
21 to us in Kiswahili and Kihema to come out of our hiding place, I analysed this. I was
22 afraid and I said to myself no. Just after the gunfire, can they really ask us to come
23 out of our hiding place? That's not really a good sign. When one of our people comes
24 out, and when there was gunfire, that wasn't a Hema that had shot him. I'd understood
25 that the enemy was still there, and it's at this moment that I understood that it wasn't

1 a Hema who was asking us to come out of our hiding place, but it must have been a Ngiti
2 who had called us to come out of the bush.

3 Q. And the person who came out of the bush, what happened to him or her?

4 A. He said that he was hungry and he remembered that we had left food at the house,
5 and this is why he left to go and get some food from home. And when he left, at a short
6 distance away I heard gunfire.

7 Q. Have you seen that person since?

8 A. No. No, I never saw him again. I've never seen him again afterwards because,
9 afterwards, we left to go to Bunia. I never saw his body.

10 Q. But since 24 February 2003 have you seen him?

11 A. No. No. No, I never saw him again. I only knew afterwards that he -- I only
12 found out afterwards that he was dead.

13 Q. Without giving the name of any persons, how did you know that he was dead?

14 A. Okay. You want to know how I found out that he was dead? Okay. I only saw
15 him leave and then I heard gunfire, and I understood that this person had been killed;
16 that's the first point. Secondly, there was a person with whom we were in the bush, hiding.
17 The person who stayed with the soldiers, when this person came out, out of the hiding
18 place to see what was happening after a few days, this man told me that he found a body
19 on this road and he went home. He went to see -- to his home. He went to see how the
20 house had been destroyed and how the metal sheet roofs had been taken, and then on the
21 road he had found -- seen the enemy.

22 The enemy took him to the camp, and it's at this place that they asked him to
23 show the hiding place of the other soldiers. And at that time he came back, accompanied
24 by the enemy, to the place where we were hiding, and they stayed a bit further away with
25 the soldiers and I was a bit nearer. And that's when it happened that my -- he called

1 my name out, the names of other people who were there, and they invited us to come out
2 of our hiding place because the enemy had gone.

3 And when they noted that we didn't come out, they let them go and they asked
4 him to go into the bush to go and find us. And he came into the bush and he hid, not
5 far from where we were hiding, and he left via an abattoir next to Bogoro and he tried
6 to get away because -- he tried to get away next to the abattoir. And he -- we then found
7 ourselves with him in Bunia, and it's when we were in Bunia that he explained everything
8 that has happened at that time.

9 Q. Okay. So the place you marked with an "X" when you were hidden in this place,
10 firstly, how much time did you spend there in this hiding place?

11 A. We stayed for about -- we stayed there until the afternoon because we were separated
12 from the other friends. So we stayed there until the afternoon.

13 MR MACDONALD: (Interpretation) I'm just looking at the time.

14 PRESIDING JUDGE COTTE: (Interpretation) What time do we finish our session?
15 At 4.15. Therefore we've got very, very little time.

16 MR MACDONALD: (Interpretation) I propose then that we stop here instead of
17 going into the next part.

18 PRESIDING JUDGE COTTE: (Interpretation) We will then start tomorrow morning,
19 or continue tomorrow morning. I would ask the court officer to put -- set up the closed
20 session such that the witness can leave the courtroom.

21 And we would like to thank the witness who has spent his day here and with the
22 participants in this hearing.

23 Court officer will make the session open again once the witness has gone so
24 that we can finish the session, and such that I can make a technical announcement.

25 So, court officer, if you could please take us into closed session.

1 THE COURT OFFICER: (Interpretation) We are now in closed session, Your Honour.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you, court officer.

3 (Closed session at 4.12 p.m.)

4 (Expunged)

5 THE COURT OFFICER: (Interpretation) We are now in open session, Your Honour.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you, court officer.

7 Before finishing this session, I would just like to indicate to Counsel David
8 Hooper... So, before finishing this session, I would just like to indicate to Counsel David
9 Hooper that I will make contact with the director of the Registry's services and I will
10 ask him to be present in the antechamber of the courtroom at 9.15, before the start of
11 our hearing, so we can discuss this with the director of the Registry services with regard
12 to the issues that are of concern to you.

13 MR HOOPER: Thank you very much.

14 PRESIDING JUDGE COTTE: (Interpretation) So, the session is now adjourned. We
15 will come back here at 9.30.

16 (The hearing ends at 4.14 p.m.)

17

18

19

20

21

22

23

24

25

1 CORRECTION REPORT

2 After verification in the French transcript, the Court Officer spoke in French, the following
3 modification has been brought into the English transcript:

4 Page 39 line 14:

5 "document DRC-OTP-1004-0098" is corrected by document "DRC-OTP-1004-0099"