

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, and Fatoumata Dembele Diarra and
4 Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor v. Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial hearing
9 Tuesday, 16 February 2010
10 The hearing starts at 9.05 a.m.
11 (Closed session)
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1 (Open session at 9.07 a.m.)

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

4 PRESIDING JUDGE COTTE: (Interpretation) The accused are with
5 us. The witness is with us as well. Good morning, Witness.

6 Now, before I give the floor to Mr. Hooper, the Chamber wishes to
7 issue an oral ruling.

8 Now, yesterday, on the 15th of February, 2010, at the end of the
9 hearing verbally Mr. David Hooper, and he was joined in his request by
10 Mr. Kilenda, asked for disclosure of the identity of intermediary P183 so
11 as to be able to continue their cross-examination of Witness 250, and at
12 that time the OTP said that they were not opposed to that disclosure as
13 long as the Victims and Witnesses Unit was able to provide the
14 information that the OTP had asked for by way of application 1791 of 26
15 January 2010 regarding the current situation of P183 and his safety.

16 Mr. Hooper confirmed his verbal request by filing an application,
17 application 1874, which was received in the afternoon of the 15th of
18 February, 2010.

19 The Chamber has been in contact with the unit. The unit has
20 provide, but only in verbal form, information that according to the unit
21 will allow disclosure. This disclosure, however, can only occur at the
22 present time if the following condition is strictly observed: This
23 disclosure, which is intended to allow continuation of cross-examination
24 underway is, in this particular case, limited to the accused and only to
25 the parties and participants present in the courtroom at this point in

1 time. And allow me to stress, only to them. There is no question of
2 this identity being disclosed to anyone else, particularly to members of
3 the Defence teams who are not present, particularly their resource
4 people. Of course, this comes within the framework of a private session,
5 and during that private session the name of P183 shall be provided. I
6 think everyone realises that the Chamber is extremely concerned about
7 protection of the safety of any and all people who are cooperating with
8 the court.

9 Now, Mr. Prosecutor, in light of this very strict condition, are
10 you still in a position to agree to disclosure of the identity of P183
11 under such conditions?

12 MR. MACDONALD: (Interpretation) Your Honour, the two accused
13 are present in the courtroom, and they are entitled to communicate with
14 certain people at the detention centre, and thus despite your orders,
15 there are some people on their list that they can be in contact with who
16 are related to or in communication with -- either with their investigator
17 or their intermediaries. We do not believe -- because the two accused
18 are here, and since they are in a position to be in contact with the
19 outside world despite your order, we do not believe that confidentiality
20 would be maintained in light of previous behaviour by the accused in
21 light of -- even despite these strict conditions or the very strict
22 instructions issued by the Chamber. This is why we have asked for
23 protective measures for 183, to allow for disclosure in light of all the
24 information that the OTP has in our possession regarding the behaviour of
25 collaborators or intermediaries in the field and the manoeuvring that is

1 underway for their investigation. The possibility of intimidation, be it
2 direct or indirect, is such that there is a risk, and I draw the
3 Chamber's attention to this risk.

4 PRESIDING JUDGE COTTE: (Interpretation) Counsel, the Chamber
5 certainly has heard your points and would merely stress, and in a very
6 calm way, that the conditions that have been associated with the
7 disclosure of the identity of P183, and the Judge -- the Chamber is
8 looking to the accused, is an order of the Chamber, and the accused are
9 well aware that the statutory instruments of the court allow the
10 Registrar to conduct -- to monitor their conversations, and I think they
11 realise that the Chamber does have a number of tools at our disposal to
12 reduce contact -- the accuseds' contact with the outside world. And so
13 in a very calm manner the Chamber wishes to indicate that the continuance
14 of cross-examination in the court, and according to the Defence teams,
15 this requires knowledge of the identity of P183, and thus this disclosure
16 is only possible bearing in mind the conditions that have been set. And
17 the Chamber reminds all once again that these conditions constitute an
18 order of the Chamber. And speaking on behalf of the Chamber, I would
19 remind all that in this particular case, this disclosure is restricted to
20 only the people currently present in the courtroom, the accused and their
21 counsel.

22 Once the unit is -- once the VWU is in a position to provide
23 additional information regarding the measures taken to protect P183, the
24 Chamber does not rule out the possibility of a broader disclosure, but
25 that is not the case at this particular point in time.

1 Mr. Hooper, Mr. Kilenda, Mr. Gilissen, Mr. Luvengika, you may
2 wish to speak on behalf of your clients or on behalf of your respective
3 teams. Are we in agreement regarding these conditions concerning
4 disclosure of the identity of P183?

5 Mr. Hooper.

6 MR. HOOPER: Yes, certainly, and I have no objection if it's
7 revealed discreetly in writing to me rather than orally.

8 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda?

9 MR. KILENDA: (Interpretation) Thank you, your Honour. We have
10 always respected the orders and decisions of the Chamber, and we would do
11 nothing to contradict these orders, and our intermediaries in the field
12 are regularly brought up-to-date on your orders and --

13 PRESIDING JUDGE COTTE: (Interpretation) Mr. Gilissen.

14 MR. GILISSEN: (Interpretation) One question, your Honour. Now,
15 my case manager, for health reasons, is away. She's not in this room,
16 and I really don't see how I could keep my case manager from having
17 access to the transcript. Could we deem her to be represented by myself
18 this morning, or does the Chamber intend to stick very closely to the
19 letter of the order? And I just want to make sure of that point to
20 ensure that there are no misunderstandings. Of course, we will respect
21 this wise decision.

22 PRESIDING JUDGE COTTE: (Interpretation) The Chamber does not
23 want to paralyse the work of the Defence teams or your teams. We are
24 very well aware of the central role played by the case managers, and you
25 may make her aware of this ruling as if she were present, but it is very

1 important for you to stress the official, the delicate nature of this.

2 THE INTERPRETER: No five-second pause being observed in the
3 courtroom.

4 PRESIDING JUDGE COTTE: (Interpretation) A reminder: The
5 disclosure of the identity of P183 has been authorised, and it is intend
6 to allow the continuance of cross -- examination underway, but it is
7 limited to the accused and just to the parties and participants currently
8 here in this courtroom, and with the one exception of Mr. Gilissen's case
9 manager. And once again, I reiterate this condition. The Chamber counts
10 on the parties and the participants to respect this condition very
11 strictly and tells the Defence teams to make this very clear their
12 clients.

13 Now, Mr. Hooper, you now may address the Court to continue with
14 your cross-examination. Now, Mr. Hooper, I believe you were the one who
15 was going to actually carry out the disclosure of the identity. The
16 Defence knows the identity in reality. Am I to understand is that, sir?

17 MR. MACDONALD: (Interpretation) I have a certain inkling of
18 what's going on, but if we cast our minds back to yesterday, I think
19 you'll remember, your Honour, that I made an objection at a point when
20 Mr. Hooper was asking for the name of the people with whom he was in
21 contact to meet the OTP. So a first name was given, and I won't repeat
22 that right now because we're -- it was P316, to make reference to his
23 pseudonym, and he was beginning with his follow-up question, and he asked
24 if there was any other people, and I made an objection at that point.

25 Now, either we continue along that path in private session, or in

1 a few moments I could write the name down on a scrap of paper and, with
2 your leave, I will provide it to Mr. Hooper, who will be able to show it
3 to Mr. Kilenda.

4 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, do you
5 think you will immediately be turning to the issue of P316? If that's
6 the case, we will immediately go into private session.

7 MR. HOOPER: I intend to stay in public session and deal with
8 other matters. In terms of timing, I'm going to be much of this morning.
9 I'm aware of the Court's concerns about time. I can only give my utter
10 reassurance that we'll make up time, if I can put it like that, by
11 dealing much more shortly with subsequent witnesses, for example. And we
12 also have a little bit of credit, I hope, in our bank, in our time bank,
13 in respect of previous witnesses. So I may be a bit longer than I would
14 like to be with this witness for various reasons that the Court may
15 appreciate, which means that come the break this morning I think I'll
16 still be on my feet. And if the disclosure could be made to me - and as
17 I say, it can be done very discreetly - then at some point later today,
18 if necessary, we can go back into closed session and I'll deal with the
19 matter then.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Hooper.
21 The Chamber will allow you to assess at what point the private session
22 should be ordered, and I think you realised that the Chamber attaches
23 great importance to that. Now, in the meantime if your questions can be
24 asked in open session, you may resume your cross-examination. I'd like
25 to thank everyone for listening so attentively.

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 Mr. Hooper, you now may address the court.

2 MR. HOOPER: Very well. And so I'll proceed with my questioning
3 of this witness.

4 Questioned by Mr. Hooper: (Continued)

5 Q. And good morning, Mr. Witness.

6 A. Good morning.

7 Q. Now, I want to come to Bogoro. I want to come, first of all, to
8 the parade or parades that were held before Bogoro. And as I
9 understand -- well, you tell us. There was a parade before Bogoro.
10 You've told us how you come back and you're based at the camp at Zumbe,
11 and then there comes a time when there's a parade at Ladile, and Bahati,
12 as I recall your evidence, addresses the parade.

13 Now, is that right so far?

14 A. Yes, there was a parade at the headquarters in Dele -- Ladile,
15 and that was when everyone learned that Bogoro was going to be attacked.

16 Q. And who is everyone?

17 A. People from the Bedu-Ezekere groupement where the headquarters
18 were located.

19 Q. And you told us, back on the 29th of January, that Bahati
20 addresses the parade, and he shows you the plan, and he tells you words
21 along the lines of, "You're going down there. You'll contact such and
22 such," you told us, and you were issued orders.

23 Now, the plan. Did you see the plan?

24 A. Not all soldiers arrived at the parade. There were
25 representatives of the various camps who had come to represent their

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1 camps. So I did not see that I was told during the parade. I learned --
2 I heard that information.

3 Q. Well, I understood you to say that you were at Ladile. You said
4 in your evidence that, "Bahati showed us a plan," "showed us," you told
5 us, "the strategic points." So are we to understand that you didn't see
6 a plan?

7 A. Where I was, there were the commanders of different companies.
8 Not everyone had got to Ladile. Not everyone had the information that
9 Bogoro was going to be attacked. Some people who represented the various
10 movements had arrived there, and that is how we met with Bahati and the
11 other members of the military headquarters.

12 Q. Well, just so we're clear on one thing, did you go to Ladile?
13 Were you there when Bahati said and did these things?

14 A. I found myself at the residence of the company. The commanders
15 of my company were there. My commander from Ladile was there.

16 Q. I'm -- I'm clear. The residence of your company, you told us,
17 was at Zumbe. Isn't that right?

18 A. Even though the company was in Zumbe, there was a representative
19 within the general staff at Ladile.

20 Q. And who was that?

21 A. There was a representative of the Zumbe camp, the camp in Zumbe,
22 and he represented the Walendu-Tatsi collectivite as well.

23 Q. And who was that? Sorry. What was his name?

24 A. The General Ntibuse (phoen) had a chief, and that was
25 Mathieu Ngudjolo.

Witness: Witness P-0250 (Resumed) (Open Session)
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1 Q. Now, these again, I think, are straightforward questions, and
2 you've told us that the company, Zumbe Company, had a representative at
3 "l'etat-major," the headquarters. I'm asking you who was the
4 representative. What was his name?

5 A. At the general staff on that day it was he himself, the company
6 commander, the company commander of the Zumbe camp.

7 Q. Well, tell us the name, please?

8 A. His name is Lone Nyunye.

9 Q. Now, he's there as the Zumbe Company representative. Are you
10 there, too, at Ladile, or do you stay at Zumbe.

11 A. I lived where I was working, and the company commander there was
12 Lone Nyunye. There was also the staff headquarters. Everyone was at
13 Ladile, and the Chief of Staff was there. His name was Mathieu Ngudjolo.

14 Q. Just listen, please, to the question. Were you at Ladile when
15 Bahati addressed everybody?

16 A. I was not present, but our company commander was present. He had
17 gone on mission to take our work programme.

18 Q. So when you told us that Bahati showed you the plan, that's not
19 right, because you weren't there; is that right?

20 A. What I said is that he went there to take the programme, the work
21 programme, or work schedule.

22 Q. Well, I'm not going to take time going back over the transcript.
23 We can see, and we'll be able to see what you said very clearly a week or
24 so ago.

25 What time was this meeting that you didn't attend where Bahati

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1 showed everyone the plan? What time was that?

2 A. I do not know the precise time at which it started, but he left
3 the camp at 10.00 a.m., and then he returned to the camp at 4.00 p.m.,
4 and when he returned to the camp, we went directly to our exercises.

5 Q. And when you say "he," are you talking about Nyunye or Bahati?

6 A. When I say "he," I'm referring to the company commander of Zumbe,
7 and I said that the company commander left the camp at 10.00 a.m. and
8 returned at 4.00 p.m., and it is indeed Lone Nyunye.

9 Q. And which day is that in relation to the attack on Bogoro? Is it
10 the day before, two days before? What is it?

11 A. It was on the same day. We went to attack Bogoro the following
12 morning.

13 Q. So tell us what happens then when Nyunye comes back at 4.00 in
14 the afternoon. Is there then a parade at Zumbe, and are you then told
15 what's going to happen?

16 A. Yes. When he arrived, he told us the following: "I have a
17 programme that I brought back from the general staff headquarters. We
18 have to do this, this, this, and that. At 7.00 p.m. we have to be at
19 such and such a place," and he showed us the plan, the programme that he
20 had brought back, and after that we started preparing to leave.

21 Q. And when you say he showed you the programme, what did he show
22 you? Did he show you a plan, or did he just tell you things? Which was
23 it?

24 A. He spoke to us, because the plan was with the operations officer
25 at Kavalega where they had to meet. He told us -- he gave us a plan or a

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1 programme at the level of the collectivite.

2 Q. Well, you've lost me a bit there. Nyunye comes back about 4.00,
3 and he tells you what's going to happen, and then what do you do? What
4 time do you - and I'm talking about you - what time do you leave Zumbe to
5 go anywhere after that?

6 A. We left in a group, and it was close to 7.00 p.m. We used the
7 road through Lagura, and we arrived Kavalega slightly late.

8 Q. Did you go via Lagura?

9 A. Yes. We passed through Lagura. That is, with the people with
10 whom we were.

11 Q. And when you say the people with whom you were, do you mean the
12 people from Zumbe Company?

13 A. Yes. It was the people of that company. There were other people
14 who came from the direction of Ladile, and they joined us with -- they
15 joined up with us and we went together.

16 Q. Now, you told us previously that when you were told or instructed
17 about the impending attack on Bogoro, that he told you, and "he," we
18 understood -- I understood was Bahati, but anyway, "He told us that it
19 was going to start," and then you gave us various times, and I want to
20 ask you about these times.

21 You've told us variously it was to start at 6.30 or 5.30 or 6.00.
22 Now, what was your understanding that the attack was to start?

23 A. The attack had to start at 5.30 or 5.45.

24 Q. Was there another parade at Lagura?

25 A. There were camps in those various places. When the commanders

1 came out of the staff headquarters, they had the right to inform all
2 their soldiers and to tell them that we had a task to accomplish, and we
3 had to meet at such and such a place to go elsewhere. There was not
4 information that had to be broadcast over the radio. It was information
5 that required a parade to be provided.

6 Q. But you, as you went from Zumbe through Lagura down to Kavalega,
7 did you participate in a -- another parade at Lagura, or was, as I
8 understand it now, the parade at Zumbe the only parade that you attended?

9 A. I was in our parade in Zumbe. When we arrived in Lagura, the
10 soldiers were warming up making -- doing their exercises. It was no
11 longer the exercises of people from Zumbe. It was for the people who had
12 to go to Bogoro. And in any case, those exercises or warming up was very
13 important for the bodies of the individuals.

14 Q. So that warming up takes place at Lagura. Were there any
15 speeches or instructions from any of the commanders while you were at
16 Lagura?

17 A. It was during a parade that every commander would have the
18 opportunity to talk to his soldiers.

19 Q. Well, simple question: At Lagura did you receive further
20 instructions from your commander or from anybody else?

21 A. The soldiers of Lagura received instructions and -- relating to
22 the programme. This was information, this was general information from
23 general staff headquarters. When we arrived, we saw them in -- doing
24 their warm-up exercises, and we did them together.

25 Q. So that's you at Lagura. And again I'm talking about you and not

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1 other people.

2 Can you remember what time you left Lagura to go to Kavalega?

3 A. I do not recall the precise time. However, there were other
4 people who arrived at 9.00 p.m. and others at around 1.00 a.m. in the
5 morning. There were people who arrived that location from various
6 groupements.

7 Q. Yes, but I'm not concerned with what you may have heard. I'm
8 interested to know what you did, what you did yourself. Do you know what
9 time you got to Kavalega?

10 A. I was not the only one who left Lagura to go to Kavalega. We
11 travelled as a group.

12 Q. So you can't tell us what time you got there. If that's the
13 case, say so. Say, "I don't know," "I don't remember." I'm going to ask
14 you one more time. What time did you get, if you can remember, to
15 Kavalega? You can tell us the time or you can't remember, whatever.

16 A. I arrived Kavalega before 1.00 a.m.

17 Q. I just want to ask you one or two things about what you said
18 previously in fairness to you to give you an opportunity to help us to
19 understand the situation, and I'm looking at transcript 94 from the 1st
20 of February at page 5, and Mr. MacDonald, after going through quite a lot
21 of detail about what happened at Ladile and the instructions that were
22 received there that you were telling us about then asked you this
23 question, question line 17, page 5:

24 "Q. So you were among the fighters who were receiving
25 instructions in Ladile?

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1 "A. Yes. That is correct."

2 But that's not correct, is it, you tell us now. You weren't at
3 Ladile at all. Is that right?

4 A. I never said that I was in Ladile when they went to take the
5 programme. What I've told you just now is my evidence.

6 Q. Now, in respect of Kavalega, and we understand that's down at the
7 bottom of the Mont Bleu hills, beginning of the plateau that leads to --
8 towards Bogoro, you told us last week when you were asked who the
9 fighters were who assembled there, you said there was Commander Kute;
10 Commander Nyunye; and there was also Operations Officer Bahati, who was a
11 major.

12 Do you remember saying that and is that correct?

13 A. The names that you have just mentioned are the names of people
14 who had to direct operations in various parts. There was Nyunye, Bahati,
15 and even Kpadhole, who, in fact, did not go. He had to stay and guard
16 the position in Bunia.

17 Q. And what about Boba Boba? Where was he?

18 A. These people that you have just mentioned were high-ranking
19 officers. Bahati had to lead an operation. He did not have any specific
20 tasks to carry out at that place. I would like to add that it was not
21 because of Bogoro that all those people had to leave the village.

22 Q. Where was Boba Boba was the question. Was he there or was he
23 somewhere else, to your knowledge?

24 A. Kavalega was in the collectivite of Walendu-Tatsi Bedu-Ezekere
25 groupement, and Boba Boba had authority in that area.

1 Q. How far, that assembly point that you referred to at Kavalega,
2 from your knowledge, lifetime knowledge of the area, how far away from
3 the centre of Bogoro was that assembly point? Can you help us, please?

4 A. People were not assembling in Kavalega usually. It was only on
5 that day that we assembled there to go and attack Bogoro the following
6 morning. The distance between Kavalega and Bogoro is approximately 7 to
7 8 kilometres. There is a place known as Crete a few kilometres away. So
8 if my approximation is correct, then the distance between those areas is
9 5 kilometres.

10 Q. And how did you move? How did you get from Kavalega to Bogoro?
11 Did you use the main road, or did you go across the countryside?

12 A. There were many roads that could be taken, and people went there
13 using different roads. From the staff headquarters in Tatsi, there were
14 three directions, three routes. Each commander took his group through a
15 different direction. So there were three different directions. I do not
16 know whether -- how to answer your question.

17 Q. Well, I'm sorry to interrupt you. I was just trying to get you
18 to focus on the question I'd asked you. Maybe it wasn't clear, so let me
19 ask it again. What route did you take, Mr. Witness? Not the others.
20 What route did you take to get to Bogoro?

21 A. We left Kavalega. I took a road slightly below the house of
22 Chief Muzora in -- and we left through that direction, and we -- until we
23 arrived that area near Kavali. There was a college also known as Kavali.
24 There was also an institute whose name I no longer remember.

25 Q. Let me ask the question again. Did you personally use the main

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1 road, the Bunia to Bogoro road, to walk much of the way to Bogoro? Yes
2 or no?

3 A. There were groups. Bogoro was a town that was already occupied
4 by soldiers. If you're referring to me, I did not go alone. I went with
5 the members of my group. We passed through the school that I have
6 mentioned here. In fact, there was another group that passed through the
7 road where there was a certain Pastor Eliya, that is with the objective
8 of attacking Bogoro.

9 Q. You and the fellow members of your group, did you go down the
10 main Bunia to Bogoro road, or did you take another route to Bogoro?

11 A. The road that I took, well, I did not take alone. Why are you
12 saying "me"? You have to say "we." I was there with the others.

13 There was the main road to Bogoro, and if you use the road that I
14 talked to you about, that it means you go through the main road towards
15 the centre of Bogoro. I confirm that Bahati used the main road.

16 THE INTERPRETER: And the Swahili interpreter points out that the
17 witness is speaking very, very fast.

18 MR. HOOPER:

19 Q. Thank you very much, Witness. Just slow down a bit, because
20 again our interpreters are having difficulty keeping up and doing credit
21 to what you're saying. So just take it a little more slowly, please.

22 Now, just -- I'm not trying to irritate you, Mr. Witness. Just
23 listen to the questions, and I think you'll find you can probably answer
24 them yes or no.

25 Were you with Bahati's group? Yes or no?

1 A. Yes, I was part of Bahati's group, which had a strategy which
2 should make it possible for them to enter into this town.

3 Q. Did you, as part of Bahati's group, together with others in
4 Bahati's group, did you walk along the main road from Bunia to Bogoro to
5 reach Bogoro?

6 A. We didn't take this main road.

7 Q. So which route did you take?

8 A. I went under Limbo, and then by Kavali. There was a camp -- a
9 military camp there or a military position in Kavalega and it was through
10 there that we went, but there was another group that went down on the
11 main road, and that was next to Shida (as interpreted) or
12 Jida (as interpreted).

13 Q. And where eventually did you reach, you, "we," your group with
14 you in it. Where did you reach? Which point did you come to a stop?

15 A. We speak about the final destination to speak about the objective
16 that we had to make Bogoro fall. That was our objective. That was our
17 final objective.

18 Q. Well, you walked towards Bogoro, and there comes a time when you
19 reach your position, your pre-attack position you told us. How far was
20 that pre-attack position from the camp at Bogoro Institute?

21 A. Where I went through, I would say that the pre-attack position
22 was in Kavali, but another group had another point of attack towards
23 Medhu, and it's through there that they had to prepare their attack
24 against Bogoro. The final objective was to go to the Bogoro Institute
25 where there was a force which had to be defeated.

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Questioned by Mr. Hooper (Continued)

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1 Q. So your pre-attack position is Kavali, is it? Yes or no?

2 A. It wasn't Kavali. It was next to Kavali. We had to
3 go through -- down the road to go next to Kavali. You had to go there
4 to -- to keep a position there. And it was the people who left Lagura
5 and Tatsi. They had a position. There was the position of the Hema and
6 the UPC and the Ugandans as well who were holding that place.

7 Q. You didn't go to Bogoro at all, did you? You weren't there at
8 all, were you?

9 PRESIDING JUDGE COTTE: (Interpretation) Before responding to
10 the question, we would ask you to speak slowly. Speak slowly. Thank
11 you. You can reply to Counsel Hooper.

12 MR. HOOPER:

13 Q. You didn't go there at all, did you?

14 PRESIDING JUDGE COTTE: (Interpretation) Counsel Hooper is going
15 to repeat his question. He will repeat his question because I
16 interrupted him, but the interpreters would really like you to speak
17 slowly.

18 MR. HOOPER:

19 Q. You didn't go to Bogoro at all, did you?

20 A. Perhaps to get to the base of Bogoro, you had to eliminate other
21 positions. For example, when you build a house, you also have to build
22 an enclosure. And if you want to destroy a house, then you first of all
23 have to destroy the surrounding compound. So you had to take up
24 different positions to be able to get to Bogoro Institute.

25 Q. Right. What was the first position that you, "we," your group

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1 attacked? Where was it?

2 PRESIDING JUDGE COTTE: (Interpretation) Counsel Hooper, the
3 interpreters are also asking me to ask you to wait a short moment before
4 asking your question so that the interpretation can finish. This means
5 on your part and also the part of the witness that you have to -- not
6 just speaking slowly, but also to wait slightly, five seconds.

7 Please excuse me. You can continue with your cross-examination.

8 MR. HOOPER: Thank you, and I apologise to the interpreters.

9 Q. The question is: Which position did you and your group first
10 attack? Where was it?

11 A. There was -- we were ordered to go, and then there was a position
12 which was occupied by troops and -- or soldiers who were already in
13 Bogoro and that had to be attacked.

14 Q. And where was that position that had to be attacked? Where was
15 it?

16 A. I can't remember the name of the place where this position was.
17 Kavali was next to it. The road was in the middle, the road that goes
18 towards Bogoro.

19 Q. You know Bogoro like the back of your hand. Where was this
20 position?

21 A. Before getting to the centre of Bogoro and next to
22 Gidos (as interpreted), or it was on the left side. It was on the
23 left-hand side.

24 Q. Sorry, next to where? Gidos (as interpreted), did you say?

25 THE INTERPRETER: Left-hand side it was.

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Page 21

1 MR. HOOPER:

2 Q. The left-hand side of what, the main road?

3 A. It was on the left-hand side where there was a church which we
4 called Cafeza Emmanuel, and this was at the time when there were a lot of
5 people, a lot of members of the population. If my memory serves me well,
6 Cafeza Manu is what the church was called. There was a military
7 position.

8 Q. Now, I'm going to ask you to clarify some matters that you told
9 us previously, and I'm going to be looking at your transcript from T94.

10 MR. HOOPER: I don't know if that's accessible to the Judges, on
11 their screens, to make it a little clearer, but I'm going to go to page
12 18 in the English version. I'm sorry, I don't have the French account,
13 but I hope to make it clear the parts that I'm referring to, and I'm
14 going to look at line 7.

15 Q. Before I do that, can I ask you this: When you got to your
16 position, what time was it that you arrived at Bogoro?

17 A. And with regards to this position that we had been told to go to
18 to start the attack on Bogoro. There was several positions. Bogoro was
19 in the middle, and around Bogoro we had set up military positions.

20 PRESIDING JUDGE COTTE: (Interpretation) Just a second. The
21 Court Officer would like to make a communication with regards to this
22 transcript which you were just asking if we could see it on our screen.

23 COURT OFFICER: Mr. Hooper, I just wanted to say that we can only
24 display on the screens documents that have been entered into Ringtail; so
25 evidence or documents that you will use for cross-examination, but

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1 transcripts which are in Transcend I cannot display.

2 MR. HOOPER: Ah, an Achilles' heel in the system.

3 Now, my only recommendation is that the Judges are provided with
4 laptops on which these transcripts can be available to them independently
5 of the screens, because at any time if you want to look at another
6 document it's a great inconvenience to have to come off screen or find
7 another document, and that's my suggestion for the day. But I -- I'll
8 proceed on the basis, then, that these aren't documents that the Judges
9 are able to access with ease or, perhaps, at all from what I've just
10 heard.

11 Q. So let me ask you again, Mr. Witness. I'm not asking you about
12 other groups. Don't distract us or yourself with that. I'm asking just
13 about you and your group, and I'm asking you what time did you reach your
14 pre-attack position in Bogoro? What time did you get there ready to
15 start your attack?

16 A. The order was given straight away, but I can't tell you
17 immediately. I think it was maybe around 5.00 -- 5.00, 5.30, 5.45.

18 Q. And as I understand it, at this point Bahati, your group and your
19 operational commander, had placed your group on the road that goes
20 towards the central area of Bogoro. Is that right or not?

21 A. There was a group of people who were in the company of the
22 operator Bahati and who occupied that position, but Pascal went via Mayi
23 Ya Franga-Ngoroda, but I would have said this was called Ngoroda or
24 Singa. But he went to the nursery school of Bogoro where there was
25 another position on the road to Kasenyi. Operator Bahati therefore

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1 occupied part of the road.

2 Q. Simple question. Was your group under Bahati, and from what I
3 understand, were you placed on the road, on the road that leads or heads
4 towards the central part of Bogoro? Is that where you were or not?

5 A. The road that goes to the centre of Bogoro is the main road which
6 goes from Bunia to Bogoro, but there were soldiers who went down that
7 way, and others were dispersed according to the tactic -- the attack
8 tactics. These wasn't 12 people who went together. There were different
9 camps which had to be -- which we had to get to.

10 Q. I'm not interested in what other groups were doing at the moment.
11 I'm asking what you were doing. You've come from Kavalega in one way or
12 another. You've arrived somewhere, and were you in fact on the group on
13 the road that heads towards Central Bogoro, or were you somewhere else?

14 A. I arrived in the company of the group which was going towards a
15 position which had to be eliminated on the left of Kavali. In this place
16 there was an institute which we called Zambe Malamu, but that was a long
17 time ago.

18 PRESIDING JUDGE COTTE: (Interpretation) Counsel Hooper, by
19 chance does your Defence team have a map of Bogoro or -- a map of Bogoro,
20 which if your questions have to continue on -- inside Bogoro, then
21 perhaps it could be made available to all of the people who are present.

22 MR. MACDONALD: (Interpretation) I had --

23 PRESIDING JUDGE COTTE: (Interpretation) We will do,
24 Counsel Hooper, we will put it on the overhead projector so that it
25 appears on our screens if your questions continue to focus on -- within

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1 the town of Bogoro itself. You can consider that this map is public.

2 MR. HOOPER: (Microphone not activated) ...

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Thank you.

4 MR. HOOPER: I've got copies here for you, too. It's probably
5 easier to see. I think the Prosecution, and I hope representatives, have
6 copies. If not, I'll provide them.

7 COURT OFFICER: (Interpretation) I'm going to -- you press the
8 document "Docu Cam Witness," then you can come to this map.

9 PRESIDING JUDGE COTTE: (Interpretation) And, usher, if you can
10 also distribute some paper copies, then we will have on the screen paper
11 and every -- we'll have it on the screen and on paper and everyone can
12 follow it a lot better.

13 Thank you, Counsel Hooper. Thank you, Usher.

14 MR. HOOPER:

15 Q. Now, Mr. Witness, I'd like you to look at that plan and
16 familiarise yourself with it, and you'll see at the top it's the road
17 leading to Bunia. The yellow mark is -- indicates the site of the camp,
18 the UPC camp in the centre, the Bogoro Institute. That's the yellow
19 circle with the green dash in it or line which represents the five or
20 six -- the building there. And then on the left there's a number of --
21 there's an arrow with "650 metres." That's got the distance on it even.
22 And that ends up on Waka, Mount Waka. And all these distances, I think,
23 are generally accepted. The road to the south goes to Gety. You can see
24 that. The road to the right leads east to Kasenyi, and the top of the
25 map is north, and we even have some distances there.

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1 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor.

2 MR. MACDONALD: (Interpretation) For the benefit of the Chamber,
3 this map is a Prosecution map, and also the information that is on this
4 map comes from the satellite picture that you have in the presentation,
5 the 360-degree presentation EVD-6 or 7, 8, I can't remember exactly which
6 one it was. And the small squares represent buildings, houses, or other
7 such buildings from this satellite picture, your Honour.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Prosecutor.

9 MR. HOOPER: Well, I'm concerned if any part of this map is based
10 on a 360-degree picture because, of course, that was taken very recently.
11 So what I -- what I think we can accept between us is that this is a good
12 sketch map of Bogoro, a working map. We, for our part, we can't speak
13 for all the squares representing houses and buildings, but approximately
14 this is -- is the most sufficient map that we have, and we're grateful to
15 the Prosecutor for --

16 MR. MACDONALD: Mr. Hooper.

17 MR. HOOPER: -- providing it. Oh, I'm sorry. Mr. MacDonald's on
18 his feet.

19 MR. MACDONALD: Mr. Hooper, this map was prepared at your
20 request. This map and the source of it and the information on it
21 provide -- comes -- or the source is the satellite image of March/April
22 2003. As per my e-mail and the communications I had with you in relation
23 to the squares on this map, the information comes from that. When I
24 refer to the 360-degrees presentation, that satellite image of
25 April/March 2003 is in that presentation, as it is also separately on the

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1 list of incriminating evidence. So if you are now coming back on the
2 e-mails exchange I had in relation to this map, well, then, we cannot use
3 this map at all. It's one or the other. It is with the squares or it's
4 not with the squares. You give your word once, you stick to it. If you
5 change it, then we remove. That's the Prosecution's position.

6 MR. HOOPER: Well, I'm sorry, I didn't mean to upset
7 Mr. MacDonald. I apologise to him if I did then or suggest in any way
8 that there's anything inappropriate. It's not. What we're merely
9 saying, that this is a workable map, as I think we all know. We've tried
10 long and hard to get something before us that we can use, and this is the
11 product of it, and we're grateful indeed to the Prosecution for their
12 efforts in providing it, and I didn't mean to imply anything other than
13 that.

14 Q. So, Mr. Witness, if I can come to the -- to the plan in front of
15 you.

16 PRESIDING JUDGE COTTE: (Interpretation) Just a second. Thank
17 you, Counsel Hooper, for this intervention.

18 The Chamber considers that this map is a good working document.
19 At the time where we are now, I don't think we should interrupt too much
20 the cross-examination through discussions of this type even if they are
21 important, and just not to interrupt too much.

22 Court Officer, can you give this document a number. Yes? Okay.
23 Can you give it to us straight away. It's an MFI number which we will
24 give at the moment to it so that we don't have to interrupt
25 Counsel Hooper again in his cross-examination. We are listening to you,

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1 Court Officer.

2 COURT OFFICER: (Interpretation) Your Honour, this will have
3 the number MFI-D02-00009.

4 PRESIDING JUDGE COTTE: (Interpretation) That's perfect. So
5 everyone, you have this map which marks different aspects including names
6 of places and arrows, and circles, et cetera.

7 We are now listening to you, Counsel Hooper.

8 MR. HOOPER: And just so that we're -- we're clear, at the top of
9 the map, when you arrive, as it were, from Bunia, there comes a point
10 when you do a sharp bend to the right on the plan, if you follow me, and
11 then you do a sharp turn to the left and there's a more or less straight
12 circuit down towards the camp. And just at that second bend -- just at
13 that second bend on the original plan that the Prosecution kindly
14 provided, that there's a -- what appeared to be a road to -- I've
15 forgotten where it went to now.

16 MR. MACDONALD: Medhu.

17 MR. HOOPER: Medhu. Thank you very much. A road to Medhu. And
18 while we accept that there was a path to Medhu, we didn't accept that
19 there was a plan -- we didn't accept that it was a defined road as such.
20 So that's been, as it were, removed. But just to orientate ourselves,
21 and perhaps the witness is -- as well, just at the top there there's a
22 pathway or road even, for a while, that goes off towards Medhu.

23 Q. Now, Witness, I hope that didn't confuse you. On the plan in
24 front of you, can you see the yellow field circle in the middle, just
25 below the middle?

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1 A. That's -- that represents the UPC main camp.

2 Now, when you arrived with Bahati and your group under Bahati,
3 can you put a cross on your plan in front of you there, if someone can
4 give you a pen, just a cross, a small cross even, showing your initial
5 position, the position that you first took up when you arrived at Bogoro.

6 MR. HOOPER: Has he got a pen? Can we provide him with one? We
7 can give him one otherwise. Perhaps we can even give him a coloured pen.
8 Hold on.

9 PRESIDING JUDGE COTTE: (Interpretation) It seems to me that the
10 witness did take a pen. He does have one?

11 MR. HOOPER: Can I give him this one? It's working -- it's a
12 working pen, and it's a red one.

13 Q. If you can just give us a red mark which indicates your starting
14 position in Bogoro.

15 A. Where I put the cross here, you have the 1'EP
16 Kavalega (as interpreted).

17 Q. Now, all right. I'm not sure what we've done there, but I'm not
18 interested in Kavalega I or Kavalega II or anything like that. We've
19 left that. That's 5 or 6 kilometres away, and you've arrived in Bogoro
20 with Bahati and the group and you've -- excuse me.

21 MR. MACDONALD: (Interpretation) The witness seems to have said
22 "Kavali" not "Kavalega," your Honour. And perhaps he could work with the
23 projector and the screen so that we could all see.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, did you
25 say "Kavali" or "Kavalega" a few moments ago? The witness is looking at

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1 the map.

2 THE WITNESS: (Interpretation) EP Kavali.

3 PRESIDING JUDGE COTTE: (Interpretation) Fine. Courtroom
4 officer, courtroom usher, could the witness -- could you help the witness
5 with the screen. And actually, he is the only person at this time who
6 has the information, really. So if you could help him with the screen.

7 COURT OFFICER: (Interpretation) Mr. Hooper. Mr. Hooper, this
8 document, is it confidential or public? This map that the witness is
9 marking.

10 MR. HOOPER: (Previous translation continues)... confidential,
11 public.

12 Q. Thank you very much. Now, I don't know if you noticed,
13 Mr. Witness, but we've got some indications of scale on that plan, and
14 subject to anything that may be said, it would seem you're about
15 700 metres from the camp, 700 metres. Would that fit in with your
16 recollection of where you were, that this initial position of yours was
17 about approximately, very approximately, 700 metres from the UPC camp?

18 I'm sorry, Mr. Witness. Let me put the question just in case
19 perhaps you didn't ... oh, there's a translation. Let me ask the
20 question again.

21 Would you agree that's about 700 metres from the camp, from the
22 UPC positions in the Bogoro Institute; is that right?

23 A. ECP -- at one particular time, we measured the distance in
24 relation to Bogoro.

25 Q. Let me ask the question again. Where you've marked the X is your

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1 start position for the Bogoro attack once you've arrived at Bogoro. Do
2 you agree that that would be about 700 metres from the UPC positions at
3 the Bogoro Institute? Do you agree?

4 A. These are different positions found in Bogoro.

5 Q. Let me just ask the question again. Where you've put your cross
6 was in response to my asking you to indicate where you got to when you
7 first arrived in Bogoro, before the attack, where you were waiting to
8 make your attack. And you've very kindly drawn that cross, and we have a
9 scale on the plan that tells us distance and approximately that would be
10 700 metres from where the UPC camp at Bogoro Institute was. I'm merely
11 asking you, does 700 metres seem about right to you? Is that -- is that
12 your recollection, that you were 700 metres from the UPC camp?

13 A. Yes, that's right, but you're asking me questions about the
14 positions that were taken to attack Bogoro. That's why I answered the
15 way I did.

16 Q. That X that you've marked, that's where you were just before the
17 Bogoro attack started; is that right?

18 A. That's the place where we started the attack on Bogoro. There
19 were soldiers there. That is where the attack began. We couldn't start
20 the attack from another position. We took up our position, and after we
21 took up our position we settled in various places that had been
22 indicated.

23 Q. Again, I'm not concerned with any other groups except your group
24 and where you were, and that's, as I understand it, you've indicated
25 where you were with your group just before the attack started. Is that

1 right?

2 A. I can't say that I was there before the attack. I can say that
3 the attack began at a specific location. It was when the attack -- the
4 fighting began, that's where we were. We were at that place.

5 Q. And -- and what time did the fighting start?

6 A. Bogoro, as you can see on the map, I would say that around 10.00
7 we had already regained Bogoro, and we were at that place that you see on
8 the map.

9 Q. No, I didn't ask what time it ended. What time do you say the
10 fighting started, if you know.

11 A. The fighting started at about 5.30. Somewhere between 5.30 and
12 5.45.

13 Q. May I ask, did you have a watch? Were you attentive to time?

14 A. Operational Commander Bahati informed us about the launch time.
15 He organised -- what he had organised amongst the military authorities,
16 and he sent the information saying that at 5.30 or 5.45 we were going to
17 attack, and indeed at that time we did so.

18 Q. Now, when you were giving us an account of the battle previously,
19 you said:

20 "In Bogoro there were positions that we could say that they were
21 before the main entrance, and there were some side positions."

22 And then you said this:

23 "Some people came from the rear to hit us."

24 What people came from the rear to hit you?

25 A. No, I never said that. However, I can say this: According to

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1 the plan that had been established to attack Bogoro, the road that goes
2 towards Bunia had to be kept. Some people found themselves on the
3 Dele (as interpreted) side to see if there was an enemy position coming
4 from Bunia so as to be able to attack -- attack that position.

5 Q. What was "wima"? Was it a place or it was your group? Which was
6 it?

7 A. What do you mean?

8 Q. What was "wima"? You used the word "wima" in your previous
9 evidence. What was "wima"?

10 A. "Wima" is a Swahili word. In French it can be translated by the
11 word "three." It means something --

12 THE INTERPRETER: Pardon me, a correction from interpreter,
13 straight, "droit" in French. Something that does not have a curve,
14 something that is straight.

15 MR. HOOPER:

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 Do you remember saying that?

2 A. As soon as you look at the map you'll see that there is Wima.
3 You have to go by Wima to go to the central camp in Bogoro.

4 Q. So just to help us, what is Wima? I understand it's "moja kwa
5 moja," it's straight on, but what is it in relation to Bogoro?

6 A. According to me, Wima is a word. It's something that does not
7 have any curves, something that is straight.

8 Q. Let me ask you then -- I'll move on to another subject. In your
9 previous account, you were asked:

10 "Did the UPC have other positions outside the camp?"

11 That was a question that was put to you at page 18 on T94, at
12 line 19. You replied:

13 "One vehicle had flashing lights, and there was a camp. And when
14 the war occurred, it was outside the camp first, and then it entered the
15 camp. So there was a progression until the soldiers all came together
16 there."

17 What vehicle was this with the flashing lights that seems to have
18 gone into the camp?

19 A. Perhaps you have misunderstood something. I did not say that.

20 Q. Well, it's quite possible one misunderstood. Let me ask you
21 this: Did you see a vehicle at all during this attack, with flashing
22 lights?

23 A. I didn't see any vehicles. It was a battle. Some people might
24 have seen something. Others would not have. As for myself, I did not
25 see a vehicle.

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1 Q. Now, this -- in your evidence, you told us about what other
2 people were doing. For example, you told us that people had gone to
3 Diguna, some people had gone to Waka, people had come from Medhu, et
4 cetera. Now, I want to ask you this: Is that something you saw with
5 your own eyes or not, or is it something you learnt about as part of the
6 instructions before or something you heard about afterwards from people?
7 How much of that did you see yourself?

8 A. When you talk about Waka, there were soldiers. To reach that
9 position, it was necessary to fight. There were also people on the
10 Guna (as interpreted) side in order to attack from Saier (phoen) where
11 the groupement offices were. There were soldiers. There had to be
12 soldiers to attack. And after, after the attacks from the positions --
13 from the positions surrounding, that's when they attacked the central
14 position and went into Bogoro.

15 Q. Well, you told us in fact that you weren't at Ladile to hear what
16 was said there. Nyunye came and told you about going to attack. What
17 I'm asking is how did you know if a particular person or particular group
18 was at Diguna or at Waka? Had you did you know that? How did you learn
19 about it, or was this something you could see? What was the position?

20 A. The Walendu-Tatsi collectivite had a headquarters, and you see we
21 gathered in Kavalega and there was an operational commander there who had
22 all the plans from the military shots. He gave the information to the
23 people who were around him saying such a particular group will be placed
24 at such and such a place.

25 PRESIDING JUDGE COTTE: (Interpretation) I will let you answer

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1 your last -- ask your last question and then we will be suspending before
2 we have our break, because I believe we're coming to the end of our tape.
3 So this will be the last question.

4 MR. HOOPER:

5 Q. And before the battle, did you sound horns and beat drums, or did
6 I misunderstand you?

7 A. All of that expressed our anger, anger of fighting and going into
8 Bogoro.

9 Q. And so who was doing this sounding of horns and beating of drums?

10 A. Sounding -- well, you need to have breath to do that. Otherwise,
11 you might have big problems trying to whistle without enough breath.

12 MR. HOOPER: We'll hold our breath for half an hour, perhaps.
13 We'll come back to that. Thank you.

14 THE INTERPRETER: Correction by interpreters: Sounding of horns.

15 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, thank you
16 for being so disciplined.

17 Court Officer, if we could go into closed session so that the
18 witness can leave the courtroom, and we will suspend for half an hour and
19 resume at 11.30.

20 Court security officers, if you could escort Mr. Katanga and
21 Mr. Ngudjolo out of the courtroom.

22 (Closed session at 10.56 a.m.)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Open session at 10.58 a.m.)

13 MR. HOOPER: Do we get -- sorry, Mr. President. You were just
14 about to rise. Very quickly. Do we get the names of the intermediary
15 now? I don't ask them from the Bench, but is someone going to provide us
16 with the name?

17 COURT OFFICER: (Interpretation) We're in open session.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Court
19 Officer.

20 At the very beginning of the hearing I had the impression that
21 there was a bit of a cat and mouse game going on, and I think that name
22 should be provided. So when we resume after the suspension.

23 MR. MACDONALD: (Interpretation) During the break, I will go see
24 my colleague and provide that information verbally.

25 PRESIDING JUDGE COTTE: (Interpretation) Fine. We are now

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1 suspend, and we will resume in half an hour.

2 (The accused withdrew)

3 Recess taken at 10.58 a.m.

4 On resuming at 11.31 a.m.

5 (Closed session)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Open session at 11.33 a.m.)

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

18 Honour.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Court

20 Officer. The two accused are with us, the witness is present, and the

21 Chamber would like to point out to the participants that tomorrow at the

22 beginning of the hearing we are going to hand down a ruling on the

23 applications of the Legal Representatives. That is the applications 1776

24 and 1846. So tomorrow at the very beginning of the hearing, we will hand

25 down that ruling.

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1 Mr. Hooper, please proceed with your cross-examination.

2 MR. HOOPER: Thank you, Mr. President.

3 Q. And hello again, Mr. Witness. Now, you you've marked with an X
4 that spot, and we know its significance, and I want to ask you about a
5 previous reference you made, which is in document 1013-0002, a statement
6 that was made on the 16th of June in the course of three days of
7 interviews with the Prosecution, and it's about the position that you
8 took. And again if I can read from the relevant paragraph, which is
9 paragraph 101, and inflict my French on you so that I capture at least
10 the words that were used in the statement, and I'd like you to listen to
11 this, please, Mr. Witness.

12 "(Interpretation) Our group positioned itself about 100 metres
13 from the trench protecting the UPC camp, and we heard the first gunshot
14 to launch the attack. We heard the first gunshot to start the attack."

15 MR. MACDONALD: (Interpretation) I'm sorry to intervene at this
16 point. It is not to interrupt my learned colleague, it's simply a matter
17 of procedure in light of the e-mail that we received from the Registry
18 yesterday.

19 When we are using prior statements, I think it should be shown
20 depending on the level of confidentiality, whether it is in closed
21 session or in open session. That is the issue that I am raising right
22 now.

23 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed. On this
24 procedural issue, Mr. Hooper, yesterday before we adjourned I talked
25 about the possibility of having a copy of documents referred to appear on

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1 the screen. At 17.46, the Court Officer sent an e-mail to all the
2 participants. I do not know whether you yourself were able to
3 familiarise yourself with that mail, because the activities of your team
4 during this cross-examination are quite intense. So if it is possible to
5 have something on the screen to make it possible for everyone to read,
6 this will clarify things for everyone.

7 Now, regarding the question that you have just asked, we will
8 remain at the oral stage, but you have to read it out again. You have to
9 repeat the question, because the witness may have forgotten, but in
10 future all the references should be given to the court reporter -- the
11 Court Officer, together with the level of confidentiality so as to make
12 it possible for her to take the necessary measures. But for the time
13 being, you can continue with your oral question, Mr. Hooper.

14 MR. HOOPER: Thank you. The question relates to the entry I've
15 just read out which is taken from a statement made by this witness on the
16 16th of June, 2007, and I've previously given the reference number. I
17 won't repeat that again. And of course these are not documents in the
18 case, and I'm producing it as a previous inconsistent statement. And
19 that's paragraph 101, and I've read the relevant part from the French
20 original, and now I'll compose my question in this way:

21 Q. Mr. Witness, you plainly stated there that before the attack
22 started, your position was a hundred metres from the UPC positions at the
23 institute, the Bogoro Institute, not over half a kilometre away as you
24 indicated on your sketch. Can you explain the difference?

25 A. To my knowledge, my statement regarding the distance of

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1 100 metres between the Bogoro Institute related to the fact that there
2 were people entering the camp while singing. It is not 100 metres but
3 about 120 metres. It was at this point that people were entering while
4 singing, and other positions near Bogoro had already been captured. It
5 was at that point that I talked about 100 metres, because it was from
6 that position that people were singing in the camp.

7 Q. Well, there's no mention of singing, and I'm not going to further
8 take up time with that. Let's return to the account that you've --
9 you've given a little while ago. And let us remind ourselves for a
10 moment of your EVD-23 document, which I'll remind us.

11 MR. HOOPER: If that could be brought up. It's the document with
12 the plan of -- plan of attack that the witness kindly provided last week.
13 And I've got a hard copy of that if that assists the witness rather than
14 being troubled with the screen. So if it goes on the screen, he can have
15 a hard copy as well, and he can choose whichever he prefers, but it would
16 be the same image.

17 COURT OFFICER: Mr. Hooper, is this map still public?

18 MR. HOOPER: Yes, and obviously the quote I just -- paragraph
19 101, having quoted it, read it into the transcript, that is public, too,
20 of course now.

21 Q. And so we've got here your plan of attack -- and you can see
22 we've got, going from the top, on the right-hand side we have the FNI,
23 you say, Kpadhole, the reserve.

24 COURT OFFICER: In order to view this document, please press on
25 "PC 1" near your computers.

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1 MR. HOOPER:

2 Q. So from the top we have the reserve FNI in Kpadhole, and then
3 below him the FNI, you say, Bahati de Zumbe. That's your group, as I
4 understand it. And we have the FNI with Pascal Kute and Lone Nyunye, who
5 are attacking on your left, as it were. Is that right?

6 A. Yes, that is correct. You can see the road, and all those parts
7 that is left of Bogoro. That is where Bahati and his FNI group were.
8 They entered through that road to attack Bogoro.

9 Q. And Pascal Kute and Lone Nyunye, what were they doing?

10 A. There were many positions in Bogoro apart from the central camp
11 in Bogoro. There were several positions. The idea was to occupy those
12 positions.

13 MR. MACDONALD: (Interpretation) I'm sorry to intervene, but the
14 document on the screen is not the same that the Defence is referring to
15 or using. You will recall that there were two that were similar. One
16 was a draft or MFI.

17 PRESIDING JUDGE COTTE: (Interpretation) And yet I can see a
18 sketch on the screen that was prepared by the witness at the very
19 beginning of his testimony, which is just more centred than this one. I
20 can see the arrows, the word "FNI." There have been additions made in
21 red that do not feature on the other document. Is that so?

22 MR. MACDONALD: (Interpretation) I'm sorry, Mr. President, this
23 was an error of the Prosecution. We were confusing between EVD-24 and
24 EVD-22. There were several versions of that same sketch. I'm sorry.

25 PRESIDING JUDGE COTTE: (Interpretation) In any case, what is on

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1 the screen and what I have on paper corresponds with the positions of the
2 FNI and the FRPI regarding their positions.

3 So, Mr. Hooper, you can continue with your cross-examination.

4 MR. HOOPER: Yes.

5 Q. Yes. All right, Mr. Witness. Don't be distracted by that. What
6 was Kute and Nyunye doing that you know?

7 A. Kute entered through the Kusinga nursery school. There was a
8 camp in the direction of the Mayi Ya Franga. He passed through there and
9 continued to the central camp. Generally speaking, Bogoro was taken from
10 the left near the road and to the right near the road by the FNI and the
11 FRPI. That's how it was done, and Bogoro fell.

12 Q. And Lone Nyunye, what was he doing?

13 A. There was the entry through the main road from Limbo. It was
14 through that road that he entered, but they used the same route with
15 Bahati, because at one point they met up together and entered together
16 into the centre of Bogoro and right up to the Bogoro camp.

17 Kute and Lone Nyunye were deputy commanders to Bahati.

18 Q. Microphone. I want to ask you about another previous
19 inconsistency in a statement that you made on the 16th of June, 2007.
20 It's the same statement I've just referred to, which is 1013-0002, and
21 the part I'm going to read out becomes public, and again I will inflict
22 my French on you all. It's paragraph 91. And you're talking about the
23 attack on Bogoro and you say this:

24 "(Interpretation) Nyunye was not present at that time --"

25 COURT OFFICER: I'm going to display the statement, but I would

1 need to know the exact ending. There are several redacted versions.

2 MR. HOOPER: Yes. I'm afraid I'm going to, if I can, just read
3 this bit out rather than take the trouble of the time that's going to be
4 absorbed any other way, and if there's any need to correct it we can come
5 back to it. So forgive my French, but I'll read it, the complete
6 sentences that I'm going to refer to, so as I said paragraph 91 and it
7 reads as follows:

8 "(Interpretation) Nyunye was not present at that time. He had
9 been prohibited from taking part in that attack. He had been prohibited
10 by the Kodza (phoen) witch doctors. He was not the only one who had been
11 prohibited from fighting, but I remember him because he had an important
12 position. To my knowledge, he was the only one occupying an important
13 position to have been so prohibited."

14 A. I'm sorry, but maybe I was misunderstood. What I said about
15 Nyunye was this: Nyunye is someone who did not have to fight there
16 because he had a problem with his liver. He had been asked not to go to
17 Bogoro because he had to receive treatment. He had an ailment of the
18 lungs. But that was his job. His job was to take part in the fighting.
19 He had just been injured, and he was asked not to take part in the
20 fighting because the number of troops was sufficient, but he decided to
21 go and fight himself.

22 MR. HOOPER: I'm sorry. I'm being interrupted again.

23 MR. MACDONALD: (Interpretation) I'm sorry, Mr. President, to
24 interrupt my colleague, but this is still a procedural issue. An
25 exhibit, EVD-23, was shown, and the same marks on -- and indications on

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1 EVD-23. In fact, the witness had prepared two plans, EVD-23 and EVD-24.
2 The EVD-23 was done because there were problems with the marking of
3 exhibits. Maybe that should have been given an MFI, but this was a
4 sketch that was a dry run. It was a test for what he had to do, and the
5 Chamber had not accepted it. You had asked him to redo it, and that is
6 why EVD-24 was given. And the Court Officer inversed the numbers --
7 reversed the numbers when the exhibit was admitted. I have the version
8 in English. (In English) It will now be known as EVD-OTP-23, and the
9 second sketch, the one that I previously assigned the following EVD-0023,
10 will bear the number 0024. (Interpretation) And so despite the fact
11 that 0023 is the number of the exhibit, it is actually 0024 that was
12 commented by the witness with further markings as his testimony went on.

13 PRESIDING JUDGE COTTE: (Interpretation) Judge Diarra, please.

14 JUDGE DIARRA: (Interpretation) My comment concerns the witness.
15 I would like him to clarify so that I should understand whether -- I
16 don't know whether that name is Nyunye. He could not fight because he
17 had a problem with his liver or because he had a problem with his lung or
18 whether because he had been injured. That was the first question.

19 Secondly, was he supposed not to fight because he was sick and
20 there was sufficient troops, or is it because the witch doctor had
21 prohibited him from fighting? The Defence counsel is cross-examining
22 you, but it is very important for those of us on the bench to understand
23 what you are saying. So it wouldn't be useful if we are confused. So
24 please calmly clarify us. Was Nyunye not fighting because of a problem
25 with his liver, a problem with his lung, or because he had been injured?

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1 THE WITNESS: (Interpretation) Nyunye took part in the fighting.
2 He had been hit. He had been injured in the lung. It was neither a
3 witch doctor or no -- or someone else. It was simply someone who was
4 giving him advice. He told him it would be difficult for you to fight,
5 but personally, since he was a military -- a high-ranking military
6 officer, he took part in the fighting despite the fact that he had been
7 hit and that he was injured.

8 JUDGE DIARRA: (Interpretation) Thank you.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
10 Judge Diarra. Thank you, Witness.

11 I will come back briefly to the procedural issue raised by the
12 Prosecutor.

13 You need clarification, Mr. Prosecutor, and that is quite all
14 right, but I have the feeling that Mr. Hooper simply wanted a document to
15 be presented to all the participants. That is a document that was
16 prepared by the witness himself at the beginning of his testimony, and
17 this document seems to be of interest to Mr. Hooper at this stage of his
18 cross-examination, and this is not disputed because the witness marked
19 the document with regard to the positions of the groups, the FNI and the
20 FRPI, as well as the names of the commanders leading the various groups.

21 The Chamber is not taking sides in this issue, but this is a
22 working document, and it was approximately prepared. It is at the
23 beginning of the testimony that the witness was called upon to complement
24 that document by marking it with arrows or Xs, and the
25 cross-examination -- or, rather, the document simply shows whether such

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1 and such a group was at such and such -- at such and such a position, and
2 the Defence counsel would simply wish to verify that. So we should make
3 an effort not to interrupt too much, because this complicates the task of
4 the person doing the cross-examination.

5 Mr. Hooper, you have the floor.

6 MR. HOOPER:

7 Q. And you mention a school, and previously you said, and this is at
8 page 34 of T94:

9 "There was school, and during the war all this area was replaced
10 with a camp on all sides; whether it's left or right, it was a position.

11 "Q. When you say on the left side, on the right side, do you
12 mean the left and right side of the road; is that correct?

13 "That is correct," you said.

14 Now, which road are you talking about that there was a camp on
15 both sides of the road that involved a school?

16 A. It was below the camp on the road to Kasenyi. There there was
17 the nursery school of Bogoro. The nursery school of Bogoro was in Singa.
18 This is where there was a camp, and it is from there that Pascual went to
19 go to Bogoro.

20 Q. This camp on the Kasenyi road, how far away was it from the
21 Bogoro Institute?

22 A. Between this camp and the Bogoro Institute there was about
23 250 metres or 270.

24 Q. And who do you say was in this camp, the UPC?

25 A. It was the UPC position that you found there. There were camps

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1 all around Bogoro which had to attack the centre of Bogoro.

2 Q. Now let us come to what you refer to about Mount Waka. You spoke
3 about -- and this is at page 36 of T94, line 13, where you're talking
4 about:

5 "The houses of people who were watching over these positions."

6 And you were asked this:

7 "Was it at the bottom of the slope of Mount Waka or at the top or
8 by the side? Where was this position located?"

9 And your recorded response is this:

10 "It was up Mount Waka, and the guest house was at the crest of
11 Mount Waka also."

12 What guest house is that that was on Mount Waka?

13 A. There wasn't a building at the bottom of Mount Waka. There were
14 just makeshift buildings for combatants. When we were at the top, you
15 could see at the centre of Bogoro, and it's from there that there was a
16 position.

17 When I spoke about the guest house, this was a house of the AIM
18 on the road that went from Bunia towards Gety. And it is there that
19 there was a guest house. There was a mountain from which you could even
20 see Likima (phoen), and then you could also see that there was a flat
21 area, and then there was a position from which you could launch an
22 attack.

23 THE INTERPRETER: The interpreter notes that "Diguna" might have
24 been said, not "Bunia."

25 THE WITNESS: (Interpretation) From this guest house you could

1 even see part of Kavalega.

2 MR. HOOPER:

3 Q. Now, let me ask you about Diguna. You spoke about a guest house
4 in Diguna; is that right?

5 A. Yes, I spoke about that. There there was a guest house and there
6 was a position of the UPC, and it is through that way that Dark went to
7 get people together -- to gather together people in Ngulu.

8 Q. And Dark, let us remind ourselves, Dark was Yuda's number 2; is
9 that right?

10 A. Dark was the number 2 of the battalion of Kagaba, of the FRP.

11 Q. And how do you know that Dark went to Diguna? Is that something
12 you saw? How do you know that that happened?

13 A. I was a company of the operational commander before the attack on
14 Bogoro, and he was aware of what was going to happen. People knew who
15 was where thanks to him. So that there wasn't any confusion, you had to
16 know who was where at that time.

17 Q. And I take it this is Bahati you're talking about, is it?

18 A. We called him "Operator" because of the work that he carried out,
19 and we said, "If you meet such and such a person, then that -- this is
20 going to happen in this way." Without this organisation, you couldn't
21 know where Matata or Dark went. So there had to be one operator to
22 coordinate that.

23 Q. And when did you have the opportunity for Bahati to tell you all
24 these things given that you weren't at Ladile? When was that?

25 A. I -- it was -- it was at 1.00 or 2.00, and other people speak

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1 about this around me, about these matters. But personally, when we met
2 in Kavalega, I heard this as an operator. He said, "Go to Wima," and he
3 said to other people to take another direction. He coordinated the
4 movements.

5 Q. Was this when he was cracking jokes you told us about at
6 Kavalega? Is that when you say this happened?

7 A. There were times of work, and there were times for discussion.
8 For example, when you leave this courtroom, we're going to have -- you'll
9 have some time to discuss things amongst yourselves.

10 Q. Now, whatever the confusion is, it's not particularly important,
11 but EVD-24 or 23, it's the other one I want. It's the one you drew a
12 green line on. Do you remember? If that's possible. Thank you.

13 COURT OFFICER: I'm sorry, you will to be patient a bit because
14 it's a bit slow at the moment. It's a heavy document.

15 MR. HOOPER:

16 Q. All right. Well, while that's coming up, we've probably all got
17 it in our mind's eye anyway, and I'm sure you have, Mr. Witness.
18 Remember you drew a green line, and you were asked what that represented.
19 The green line was just to the right of the road, the Bunia road, and you
20 said:

21 "I had to draw a square, because we met there and we ended
22 there, and after that Yuda and Cobra Matata met with us there. So this
23 was a place of assembly, the place where we were supposed to meet."

24 Is that right, and, if so, when did you meet there with Yuda and
25 Cobra Matata?

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1 THE INTERPRETER: Your Honour, the Swahili booth has a technical
2 problem. Could the witness start his answer again.

3 PRESIDING JUDGE COTTE: (Interpretation) There's been a
4 difficulty. Please could you take up your answer slowly again. The
5 interpreter was hearing his own voice. There was a technical difficulty.
6 Please could you give your answer once again, hoping that he will be able
7 to hear it.

8 THE WITNESS: (Interpretation) It wasn't about the FNI and the
9 FRPI were meeting.

10 THE INTERPRETER: There is a technical problem again. It's not
11 possible to hear properly in the booth.

12 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, there's
13 obviously a technical problem in the booth. There's a difficulty to hear
14 the words of the witness.

15 Witness, we have some technical problems. You are not
16 responsible for that at all. So we will try and resolve them to make the
17 cross-examination to continue.

18 Prosecutor.

19 MR. MACDONALD: (Interpretation) A purely administrative matter
20 that I'd like to raise with regards to the translation into Swahili.
21 This doesn't concern the witness, but with your comments, your
22 introductory comments on the subject of submissions, 1776-1846, Legal
23 Representatives, the Prosecution just wants to inform the Chamber that
24 with regards to the VWU in its submissions, it's 1797, it developed a
25 protocol where it concerns disclosure or investigations on the issue of

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1 disclosure of the names of protected witnesses.

2 The Prosecution was under the impression that we had 21 days to
3 reply to that and we had a submission and as such there was a deadline,
4 the 18th of February. I've just pointed this all out to our office. The
5 submission which we intend to submit, it should be done today or tomorrow
6 on the issue of the protocol, and they wanted to intervene in terms of
7 the VWU and also the Defence. So I raise this point because the
8 Prosecution has certain comments to make with regard to this protocol,
9 bearing in mind that there are remarks of -- or comments of the unit
10 which could make it think that this protocol could also apply to the
11 Prosecution as well. And bearing in mind the fact that we've never been
12 consulted by the unit, the Prosecution would like to submit its comments
13 to you.

14 I just wanted to inform the Chamber of that.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Prosecutor.
16 We will have a look at that soon, and if we can't issue this decision, we
17 will inform you of that.

18 Court Officer, where are we now with the technological aspects?

19 (Trial Chamber and Court Officer confer)

20 PRESIDING JUDGE COTTE: (Interpretation) It has been indicated
21 to me, and I'll bring this to -- by way of information, the Swahili booth
22 can no longer hear. Oh, has it been re-established? Oh, that's good
23 news. The technician came and has been able to repair it, so we can
24 therefore continue.

25 MR. HOOPER: So do we have the document with the green line up

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1 now? We do. So is that -- is that "Docu Cam Witness" that we have to
2 press for that document? Oh, "PC 1." Oh, and has the witness got it?
3 Sorry to trouble you.

4 Q. It's just coming to you, but we can see there the green line that
5 you drew, and I'm asking you to remind us, please, what -- what does that
6 line represent?

7 A. It is a line without importance, which explains that there were
8 positions far from the central camp of Bogoro, which had already fallen,
9 and the objective was to gather together and to eliminate the other
10 positions.

11 Q. I'm a bit unclear. What happens? The battle starts. What do
12 you do?

13 A. There were -- there was fighting.

14 Q. What's this green line got to do with anything?

15 A. There were some positions which had already fallen.

16 Q. So what, these are UPC positions, are they?

17 A. Yes. These were positions of soldiers which were in Bogoro.
18 There were even Ugandans who arrived. People -- people who were in
19 Bogoro. In Bogoro there were a lot of people.

20 Q. Is this people attacking or people fighting for the UPC?

21 A. Soldiers lived in Bogoro, and from Bogoro they went to the
22 collectivite Bindi and also in the groupement of Ezekere, and they -- and
23 you had to destroy the force that was there, and it's this way how the
24 force went to fight. So they couldn't wipe out the population.

25 Q. No. Well, that's all here and there, but what's the green line

1 for?

2 Let me put this question to you again. When you drew that line,
3 you said -- you drew it, you said, because --

4 "We met there and we ended there. Now, after that, Yuda and
5 Cobra Matata met with us there. So this was a place of assembly, the
6 place where we were supposed to meet."

7 Is that right?

8 A. Bahati's forces had already put a ring around it. That's to say
9 that the FNI and FRPI joined together, and this is how Bogoro fell.
10 There were several soldiers who occupied positions who had to go back
11 towards the central camp, and once there it was the centre of combat --
12 it was the end of combat.

13 Q. Did you meet Yuda and Cobra Matata where that green line is?

14 A. Neither Yuda nor Cobra Matata were there, but there were people
15 who had planned to fight in Bogoro. There were people who had come from
16 Bindi and from Tatsi. It wasn't an assembly. The assembly took place
17 when Bogoro fell. So there were different positions which had formed a
18 line to encircle the camp of Bogoro.

19 Q. You see, at page 39 of T94 you draw the green line. You say - I
20 repeat it:

21 "I had to draw a square because we met there and we ended there,
22 and after that Yuda and Cobra Matata met with us there. So this was
23 place of assembly, the place where we were supposed to meet."

24 But that's not right you tell us.

25 A. I didn't say that at all.

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1 Q. And what did you actually do not fighting? You yourself, what
2 did you do? Did you fire your gun?

3 A. We used rifles. We -- in turns.

4 Q. Used the word "rifles" as translated in English. Do you mean
5 rifles or do you mean AK-47s?

6 A. I used a rifle of the type AK-47 when we spent the night in
7 Kavalega, and then I went back to Bahati Bhukasa, and then Bogoro fell,
8 and then I only used arrows.

9 Q. So did you have a gun or did you have bows and arrows? You, did
10 you have an AK-47, or bows and arrows, or both?

11 A. From the centre of Bogoro to join the positions of the Ugandans I
12 only had arrows, an arrow.

13 Q. "An arrow," says the interpreter. One arrow, is that what you
14 say?

15 A. You know, you just have one bow, and you have some arrows where
16 possible.

17 Q. And were you firing your bow and arrows at the UPC soldiers?

18 A. At one time I was distracted. And when we speak about military
19 matters, we're speaking about war. I don't have anything to add with
20 regards to that.

21 Q. And how were people dressed? Were people all in civilian clothes
22 who were fighting, the combatants, that is? Were the combatants all in
23 civilian clothes?

24 A. These people didn't have uniforms as such. If somebody was lucky
25 enough to gather a uniform, then you wore what you could find. Somebody

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1 could, for example, wear their jeans. Another person could wear their
2 personal clothes.

3 Q. Some in jeans, some wearing personal clothes. Were some people
4 in uniforms on either the -- among the combatants, whether from
5 Bedu-Ezekere or -- or from the other side? From Bindi.

6 A. The people from the FRPI did not wear uniforms. We didn't wear
7 uniforms to go fight. These people didn't even have a place to go. I
8 said to myself it was the ultimate place that we could go to.

9 Q. Was anybody killed among the combatants?

10 A. I don't know. I didn't hear of any. I heard that only one
11 commander was wounded in the arm after the fighting.

12 Q. So you didn't hear of any -- anyone on your side, as it were,
13 being killed. And who was the commander who you heard had been injured?

14 A. There was the commander, the battalion commander from the
15 "garrison" who was wounded in the leg. When he was wounded, he was asked
16 to go back to get care from Lakpa -- in Lakpa.

17 Q. So is it not right that Yuda was shot in the hand and had to
18 leave the battle early because he was wounded?

19 A. No, he did not leave early. After he left, Bogoro fell 30
20 minutes later. He was wounded in the arm. After that, he was taken for
21 treatment.

22 Q. All right. Now let's move on, then, to -- the battle is over,
23 and you say that you saw Germain Katanga and Mathieu Ngudjolo in Bogoro.
24 And what time do you say the battle finished?

25 A. It was after we had regained Bogoro. I would say they were

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1 there, but at the beginning we couldn't see them, and then later, yes.

2 Q. At what time did Bogoro fall according to you?

3 A. At 10.45. I would say before 11.00, Bogoro had already fallen.

4 Q. Now, you said in your evidence 10.00, and in a statement you've
5 made, 9.00. Which is it? Or aren't you sure?

6 MR. MACDONALD: I have to make an objection on this one.

7 PRESIDING JUDGE COTTE: (No interpretation)

8 MR. MACDONALD: (Interpretation) The source of that information,
9 9.00, where does that information come from? What place does that come
10 from?

11 PRESIDING JUDGE COTTE: (Interpretation) Counsel, now is that a
12 point in time that you found in the testimony from the witness or in a
13 written statement?

14 MR. HOOPER: It's in a written statement, the 9.00. 5th of
15 December statement, sixth transcript. And if you want the line -- I'll
16 give it to you later, if I may.

17 PRESIDING JUDGE COTTE: (Interpretation) That's understood.
18 Please continue.

19 MR. HOOPER:

20 Q. So, sir, which of these accounts is -- fits with your
21 recollection today? Was it 9.00 that the battle finished and it was all
22 over? Was it 10.00, or was it coming up to 11.00, or don't you know?

23 A. If you're talking to me about the night-time, I would say that
24 the -- to Kavalega -- from Ladile to Kavalega, it's definitely from that
25 place. That's the place I mentioned when I talked about the night-time.

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 Q. I don't know how this is being translated, but that's not, in
2 fact, the matter that was put to you. Let me put it again. You've said
3 variously that the battle was all over by 9.00 in the morning, by 10.00
4 in the morning, and by getting on to 11.00 in the morning, and I'm merely
5 asking you which of those three times, different times, would you say
6 best fits in with your recollection today as to when the battle was over?

7 A. I said this: The presence of the FNI authorities and the head of
8 the groupement of Bedu-Ezekere and Walendu-Tatsi, I would say that those
9 people, I saw them in Bogoro before 11.00. In other words, at that time
10 there was no longer any fighting going on in Bogoro itself.

11 Q. Thank you.

12 MR. HOOPER: The reference is line 53 on the 9th of December.
13 Line 93, and in French it reads:

14 "(Interpretation) Bogoro fell around 9.00 a.m."

15 Q. Move on --

16 MR. MACDONALD: (Interpretation) That's 0017-702.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Fine.

18 Mr. Witness, please -- pardon me. Mr. Hooper, please continue.

19 MR. HOOPER: Thank you.

20 Q. And let's come back to your seeing Germain -- Germain Katanga.
21 How long after the battle finished do you say you saw him?

22 A. It was 20 or 30 minutes after the battle. I would say 15 minutes
23 after the fall of Bogoro, generally speaking. It was around 11.00 or
24 perhaps even 10.45.

25 Q. At T94 we see that your responses in respect of this are as

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 follows: That the -- Bogoro had fallen. It was about 10.00, and then
2 you said before noon, and then you were asked:

3 "How much time elapsed after? What time did Mr. Ngudjolo and
4 Mr. Katanga arrive?"

5 And you said:

6 "One came three minutes after the other."

7 Is that right? Did they arrive is separately like that, albeit
8 three minutes apart?

9 A. One came from the Bindi road, and the other one from the Tatsi
10 road.

11 Q. And did you see them arriving like that?

12 A. I didn't see what you're asking me about, but they spoke, and
13 that's how I confirmed their presence as authorities.

14 Q. Well, you say you saw -- well, you say one came one way and one
15 came another. I'm merely asking did you see them or either one of them
16 arriving from those directions or not?

17 A. If we are to speak about seeing them, I would say that I saw them
18 at the crossroads where the town of Bogoro is. Someone who knows Bogoro
19 well will know -- will certainly know the place I'm talking about. It
20 was underneath the mango trees. Cobra Matata was amongst them. Oudo,
21 Bahati from Zumbe, they were all there.

22 Q. And how was Germain Katanga dressed?

23 A. He was wearing a T-shirt, a nylon T-shirt.

24 Q. Not in uniform then?

25 A. He was wearing a piece of clothing that was sold in the stores

1 that looked like a military uniform, but I realised it was a piece of
2 clothing that one buys in the shops.

3 Q. So he was wearing what, a T-shirt that looked like a military
4 uniform? Is that what your saying?

5 A. Yes, exactly. It's fabric or T-shirts that are sold in shops
6 that look like -- that are like camouflage clothing.

7 Q. I mean, what were his trousers? Were those camouflaged clothing
8 as well?

9 A. He was wearing a pair of jeans. The colour of the trousers I
10 don't know. I -- I could try to choose among the colours here to I'd
11 that colour.

12 Q. All right. And how long did you stay in Bogoro after that?

13 A. I left Bogoro at 7.00 p.m. or 8.00 p.m. to go to Kavalega.

14 Q. Did you return to Bogoro at all?

15 A. I arrived in Bogoro, but I had nothing in particular -- no
16 particular reason to go there often.

17 Q. You told us in your earlier evidence that you'd stayed in Bogoro
18 for two days. Did you stay in Bogoro for two days?

19 A. In my testimony, I said that I spent two days in Bogoro. At that
20 time, I was supposed to leave, drop someone off at Lagura. It was that
21 day, around 6.00 p.m., when we left. We got to Lagura at 8.00 p.m.

22 Q. Well, did you go off to Kavalega or Lagura that evening or did
23 you stay in Bogoro for two days, which is it?

24 A. I went to Bogoro. That was at 6.00 p.m., and the next day we
25 went back, and that was about 5.00 in the morning.

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1 JUDGE DIARRA: (Interpretation) I believe I heard 5.00 in the
2 morning, but I think six hours has been shown on the transcript or both.
3 I don't understand.

4 PRESIDING JUDGE COTTE: (Interpretation) Could the witness
5 merely repeat his reply, repeat his answer to Mr. Hooper's question when
6 he asked did you go back to those places, or did you stay in Bogoro.
7 Mr. Witness, if you could just repeat your reply. Thank you.

8 Could you repeat your question (as interpreted), Witness. It's
9 just so that we could understand.

10 THE WITNESS: (Interpretation) I would say this: The --
11 commander Lone Nyunye promised us to stay in Bogoro at around 6.00 p.m.
12 or after 6.00 in the afternoon. There were three of us. We left and we
13 went to Lagura. And the next day, at about 5.00 in the morning, we went
14 back to Bogoro.

15 MR. HOOPER:

16 Q. I'm looking again at the interview you gave on the 6th of
17 December. At line 765, where you say -- I'll give the full reference:

18 "(Interpretation) I stayed in Bogoro for five days."

19 MR. MACDONALD: (Interpretation) Your Honour, ever since the
20 beginning --

21 THE INTERPRETER: Overlapping voices.

22 MR. HOOPER: DRC-OTP-0177-0299.

23 Q. So did you stay in Bogoro two days or five days or not at all?

24 A. The five days spent in Bogoro, that was to work. From Zumbe to
25 the collectivite of Walendu-Tatsi. I was there to work, but after the

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1 battle of Bogoro, we were chosen to stay there. Myself, I did not spend
2 the night in Bogoro. I left at about 6.00 p.m. and I went to the
3 locality that I mentioned, and the next morning I went back to Bogoro,
4 and I found that the market was already open and it was operating.

5 Q. Well, did you stay then for two days or five days? What was the
6 position?

7 A. Well, if we're talking about five days, I would say that I spent
8 the night four times. I spent four nights.

9 Q. Let me ask you now, looking at the time, about Mandro. I don't
10 want to ask you many questions about Mandro, but as I understand your
11 evidence in respect of that, there was no need for a parade before
12 Mandro, because everyone seems to have understood what needed to be done,
13 and as a result there was no parade as such, no parade such as there'd
14 been before the Bogoro attack. Is that right?

15 A. The decision came down after the fall of Bogoro. FRPI soldiers
16 came from Bindi, from Chabi (phoen), and went to Zumbe.

17 Q. Well, was there a parade where you received instructions or
18 anything like that?

19 A. People came from Bogoro, and they gathered at the military staff
20 headquarters of the Walendu-Tatsi collectivite to prepare to attack a
21 location.

22 THE INTERPRETER: The name of which was not heard by the
23 interpreter.

24 PRESIDING JUDGE COTTE: (Interpretation) The name of the
25 location that you mentioned was not heard by the interpreter, and so he

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1 did not translate that name. Could you repeat the name of that location?

2 THE WITNESS: (Interpretation) I said after the fall of Bogoro,
3 there was access to Chabi and to the collectivite of Walendu-Tatsi. The
4 only place that was a problem was at Mandro.

5 MR. HOOPER:

6 Q. Now, my question is: Before Bogoro, what you say, is it right
7 that there was not a parade, there was no parade as such, unlike, for
8 example, as there had been before the Bogoro attack? Is that right? Was
9 there a parade or not?

10 A. Depending on the programmes, that's what we -- according to the
11 programme, that's what we heard. Bahati, we had from d'Isibo -- after
12 the fall of Bogoro, we attacked Mandro, and there was no parade, no
13 special parade before that last attack. The people who were in Bogoro
14 were supposed to gather, draw up a plan to attack the second location,
15 that is to say Mandro.

16 Q. And is it right that you spent the night before Mandro, or you
17 say you did, at Ezekere?

18 A. There was no way to spend the night there. People went there in
19 the morning. We attacked the location in the morning. You couldn't
20 spend the night at that place.

21 Q. Just please listen to the question. Is it right that you spent
22 the night, you yourself spent the night, at Ezekere?

23 A. It wasn't a matter of spending the night. Depending on the
24 programme that had been established, it was a matter of knowing from
25 where to leave to reach the other place, such another place. Most of the

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1 time people stayed on the Ezekere side. I would say they spent a lot of
2 the night but not the night -- the entire night. They waited until the
3 next morning, the next day, to attack, because if you arrive during the
4 day, you will be seen by the enemy. That's why we had to do it at night.

5 Q. Yes. So where were you the night before the attack on Mandro?

6 A. I ate at home where the people gathered. There were people from
7 the general staff from Ladile to go to Ezekere. My group came from Zumbe
8 to meet up with the others in Ezekere.

9 Q. So you're at Ezekere. Now, on your account was Cobra Matata
10 amongst those who attacked Mandro?

11 A. There was Germain Katanga in that collectivite. An authority was
12 needed in Bindi. That's why he was appointed. I will say the
13 collectivite of Walendu-Bindi. He was not in Mandro.

14 Q. Let me repeat the question. According to your account, was Cobra
15 Matata part of the force that attacked Mandro?

16 A. Oudo, Dark, Cobra Matata, there was no one. However, there was
17 Germain and his body-guards.

18 Q. Let me ask the question again. Was Cobra Matata amongst those
19 who attacked Bogoro?

20 A. Cobra Matata was in Bogoro.

21 Q. I'm sorry, that was a slip of my tongue. Let me put the question
22 again. Was Cobra Matata part of the attack on Mandro? We're talking
23 about Mandro now -- and I'm being displaced. Excuse me.

24 MR. MACDONALD: (Interpretation) Your Honour.

25 PRESIDING JUDGE COTTE: (Interpretation) Mr. MacDonald.

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1 MR. MACDONALD: (Interpretation) On the French transcript, the
2 end of line 16, I believe, and it's -- and it was specifically relating
3 to that question. I will switch into English. He was asked the
4 question. He responded. We're back to the same question here.

5 PRESIDING JUDGE COTTE: (Interpretation) The Chamber believes
6 there may have been some confusion with regard to the question that
7 Mr. Hooper asked. Now, Mr. Hooper, I think you were asking about Mandro,
8 and apparently Mr. Hooper misspoke and he actually said Bogoro, and he
9 said that himself --

10 THE INTERPRETER: Several overlapping voices.

11 MR. MACDONALD: (Interpretation) Mr. MacDonald (inaudible), and
12 then after you have the reply speaking of Germain Katanga, and he
13 explains why Matata was not there.

14 PRESIDING JUDGE COTTE: (Interpretation) You can't keep
15 Mr. Hooper from attempting to find a more -- to get a more specific
16 answer. Mr. Hooper, please continue.

17 MR. HOOPER: It may be only a translation problem, because the
18 English definitely is not clear. Maybe the French it is, but I don't
19 have access at the moment to the French. So let me ask the question
20 again.

21 Q. We're talking about the Mandro attack, Mr. Witness. Did Cobra
22 Matata take part?

23 A. I do not know whether he had another face when he went to Mandro.

24 Q. It's a very simple and straightforward question. I'm going to
25 ask it again, and please do your best to help us.

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1 Was Cobra Matata part of the attack on Mandro?

2 A. Cobra Matata did not go to Mandro.

3 Q. Did Yuda go to Mandro? Simple question.

4 A. Yuda neither. He could not abandon an entire collectivite
5 because of Mandro.

6 If you want to know whether Oudo was in Mandro, I will answer in
7 advance that even Oudo was not there either.

8 Q. What about Dark? Was he there?

9 A. I do not know. The president of the FRPI was himself present.
10 His presence was enough. I did not take into account the presence of
11 others. He was there with his guards amongst the people who went to
12 Mandro.

13 Q. Now, I want to go back just very briefly to Bogoro. Prior to the
14 Bogoro attack -- we're talking here about Bogoro, yes? So after you come
15 back from your mission to Aveba, you tell us you get back, there's some
16 days that pass, and Bahati comes, and you attack Bogoro. During those
17 days, did Germain Katanga, to your knowledge, come to visit Zumbe or
18 Bedu-Ezekere?

19 A. After the fall of Mandro, if they met, it would probably have
20 been in Bunia, because after the fall of Mandro, Bunia also fell. The
21 APC was fighting against the UPDF, and Bunia fell. The soldiers of the
22 FRPI and the FNI were there.

23 Mr. President, I would like to ease myself, please.

24 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer, if
25 we can go into closed session.

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1 Security officers, please escort Mr. Katanga and Mr. Ngudjolo out
2 of the courtroom for a brief moment. Thank you.

3 (The accused withdrew)

4 (Closed session at 1.06 p.m.)

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9 (Expunged)

10 (Expunged)

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Witness: Witness P-0250 (Resumed) (Open Session)
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12 Page 67 expunged - Closed session

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Witness: Witness P-0250 (Resumed) (Open Session)
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12 Page 68 expunged - Closed session

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Witness: Witness P-0250 (Resumed) (Open Session)
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20 (Open session at 1.14 p.m.)

21 COURT OFFICER: (Interpretation) We are in open session,
22 Mr. President.

23 (The accused entered court)

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

Witness: Witness P-0250 (Resumed) (Open Session)
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1 The two accused are back in the room, and the Court Officer is
2 distributing transcripts and statements to us.

3 Normally, Mr. Hooper, we should have the relevant pages on the
4 screen. I can see that it is 13.15, and we are trying to conclude this
5 hearing under the conditions that we started it in. You are trying to
6 conclude your cross-examination, but in future, as the Court Officer
7 reminded us a short while ago, in order for everyone to be up-to-date
8 those document references should be made available.

9 MR. MACDONALD: (Interpretation) I think we are coming back to
10 another issue with the transcripts that have just been distributed.

11 PRESIDING JUDGE COTTE: (Interpretation) I think we're going to
12 allow Mr. Hooper to continue with his cross-examination, because
13 otherwise the bench would be lost. You can proceed, Mr. Hooper.

14 MR. HOOPER:

15 Q. Now, Mr. Witness, you may recall back when -- on the 5th and 6th
16 of December, 2006, you met Mr. MacDonald and the Prosecution team and you
17 gave an account of various things, including what I want to discuss with
18 you now, and that is your account then of what happened before,
19 immediately before the Bogoro attack, and I'm concerned here with Germain
20 Katanga and your statements then that he came to Zombe before the attack
21 on Bogoro. All right? That's the area I'm going to talk about.

22 Now, first all, can I just ask you this if I dare: Do you
23 remember telling Mr. MacDonald that Germain Katanga had come to Zombe
24 before the attack on Bogoro, we're talking about the Bogoro attack,
25 before the attack on Bogoro? Can you remember that you told him that,

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1 first of all?

2 A. Before attacking Bogoro, he did not know anything about Zumbe.

3 He did not know the road leading to Zumbe.

4 Q. (Previous translation continues) ... to make it clear in fairness
5 to you that in June of 2007 when you saw again the Prosecutor
6 Mr. MacDonald and others, you told him, and I refer to paragraph 88 --
7 that's paragraph 88 I'm referring to now. Not of a document that the
8 Judges have in front of them immediately, but it's paragraph 88 at page
9 DRC-OTP-1013-0016, which is part of document 1013-0002, statement on the
10 16th of June, that you say at that paragraph that what you'd said
11 previously was wrong and that you'd mistaken in your mind what happened
12 before Bogoro for, in fact, what happened before Mandro. So I'm making
13 that clear, that you later retracted what you say in this statement in
14 respect of Bogoro.

15 MR. MACDONALD: (No interpretation)

16 MR. HOOPER: And I'm surprised to see, yet again, my friend on
17 his feet.

18 MR. MACDONALD: (Interpretation) Because, Mr. President,
19 paragraph 88 -- and my learned colleague is playing with words on a very
20 important point of the case. It refers to the visit of Mr. Germain
21 Katanga to Zumbe prior to the attack on Bogoro.

22 PRESIDING JUDGE COTTE: (Interpretation) This shows how
23 important it is for us to have the document on our screens. So in the
24 future, this would avoid these multiple interruptions that chop our
25 proceedings into many bits, and in future it should be possible to see

1 the documents.

2 I think there is good faith in both -- on both sides, but I think
3 that there is a problem with interpretation. Not the poor interpretation
4 of interpreters, no, but it is the interpretation of the text. So let us
5 look at everything. Let us avoid everything that may complicate the
6 proceedings and render the task of the witness more difficult. So what
7 they came here to do is to clarify things for us, not to be confused by
8 interventions that might destabilise them.

9 So, Mr. Hooper, with regard to this word which might not have
10 been chosen appropriately, try to give us the right word, because we have
11 eight minutes left, and after that the tape will end. This is something
12 that I deplore, but under normal circumstances we could have gone five to
13 ten minutes further, but here this is a technological reality that is
14 characteristic of the International Criminal Court.

15 Mr. Hooper, please proceed.

16 MR. HOOPER: Yes. I think that must have been a
17 misunderstanding, because I took great care to say it fairly and
18 squarely, and I can do no better than to read from paragraph 88 itself.
19 This is paragraph 88 of the statement of June 2007. And the Court will
20 be aware that back in 2006, the witness had said Germain Katanga had come
21 to Zumbe before the attack on Bogoro. And when this is revisited as an
22 issue in this later interview; Witness 250 says at paragraph 88:

23 "(Interpretation) In my first statement, I had said that Germain
24 Katanga and some commanders of the FRPI were in Zumbe before the attack
25 on Bogoro. I was mistaken, because in fact they came to Zumbe before

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1 Mandro and not before the attack on Bogoro. I am certain that Germain
2 Katanga and no commanders of the FRPI came to Zumbe before the attack on
3 Bogoro."

4 (In English) (Previous translation continues) ... clear, but my
5 interest is in the document that the Registry has, and I'm referring now
6 in my -- in -- for the benefit of the transcript to the interview of the
7 6th of December, 2006, DRC-OTP-0170-0011, and I've provided about ten
8 pages, but I'm not going to go through it all because I'm concerned with
9 one portion in particular. And what I propose to do, I hope in the
10 minutes remaining, is to refer to the key parts. And I'm going to start,
11 for the matter of record, on 0177-0347 at line 689, which is on the
12 first -- or the second page of the bundle you have. 689 starts -- and
13 "EM" is Eric MacDonald --

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, the court
15 is sorry, but I have been told that it is not technically possible to go
16 beyond 1.30, because even if we were able to continue, the changing of
17 the tapes requires a period that is not consistent with the Registry's
18 instructions on the duration of the session. So I'm hesitating to allow
19 you to ask your question, because in all likelihood it is going to lead
20 us beyond 1.30. So we have to stop now, which will compel you to
21 continue tomorrow morning and delay once again the cross-examination of
22 the team of Mathieu Ngudjolo. You will not receive the answers that you
23 wish. Maybe not in the substance, but in the style. So I do not want us
24 to hurry into those answers. So tomorrow we will reconvene at 9.00 a.m.,
25 and I will now ask the security officers to escort Mr. Ngudjolo and

Witness: Witness P-0250 (Resumed) (Closed Session)
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1 Mr. Katanga out of the courtroom.

2 And, Madam Court Officer, we will go into closed session to allow
3 the witness to leave the courtroom, and we thank him for the four hours
4 that he has just spent with us.

5 (The accused withdrew)

6 (Closed session at 1.27 p.m.)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Open session at 1.28 p.m.)

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

20 Mr. President.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

22 Court Officer.

23 All of us will go and take care of other things than the hearing.

24 We are adjourned, and we will reconvene tomorrow morning at 9.00 a.m.

25 The hearing ends at 1.29 p.m.