

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial hearing
9 Tuesday, 16 March 2010
10 The hearing starts at 9.34 a.m.
11 (Closed session)
12 (Expunged)
13 (Expunged)
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Witness: Witness P-0323 (Resumed) (Open Session)
Questioned by Mr. Dutertre (Continued)

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1 (Expunged)

2 (Open session at 9.36 a.m.)

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

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
6 Court Officer.

7 Witness, this morning the Prosecutor is going to continue with
8 the examination-in-chief which he started yesterday, and he's going to
9 start immediately with his questions.

10 Prosecutor, you have leave to address the Court.

11 MR. DUTERTRE: (Interpretation) Thank you, Presiding Judge;
12 thank you, your Honours.

13 Questioned by Mr. Dutertre: (Continued)

14 Q. (Interpretation) Witness, today we are going to continue, and as
15 I already mentioned to you yesterday, do you feel completely free to --
16 please feel free to re-clarify questions if they're not clear.

17 THE INTERPRETER: Interpreter would ask the Prosecutor to turn
18 his microphone towards his mouth, please.

19 MR. DUTERTRE: (Interpretation)

20 Q. First of all, I'm going to take up the issues of UPC soldiers in
21 Bogoro Institute camp. Could you indicate to the Chamber if the UPC unit
22 which was based in Bogoro was a platoon, a section, a regiment, a
23 battalion?

24 A. There were the UPC soldiers.

25 Q. And these UPC soldiers -- perhaps there was a problem in terms of

1 hearing this. Was it a section? Was it a regiment? What was this UPC
2 unit called that was based in Bogoro?

3 A. It was a battalion.

4 Q. How many UPC soldiers were there in this battalion in Bogoro?

5 A. Three hundred and forty.

6 Q. Could you give us the name of the commander of this UPC battalion
7 in Bogoro.

8 A. Germain.

9 Q. Could you give us the complete name of Germain, the surname?

10 A. No. I don't know his surname. The only name that I know is
11 Commander Germain.

12 Q. Okay. In order to avoid any ambiguity, it -- are we talking
13 about a Hema?

14 A. I don't know his -- I didn't know his ethnic group. He was our
15 commander in Bogoro.

16 Q. Could you indicate to the Court how the UPC soldiers in the
17 institute camp were dressed.

18 A. They were dressed in military uniform.

19 Q. And were all soldiers in uniform?

20 A. Yes.

21 Q. When you say that they were all in uniform, please could you tell
22 us if it's a full -- if it was a full uniform, a top and a bottom part.

23 A. The -- some people had the trousers and others just had tops and
24 others had a full uniform.

25 Q. Were all the UPC soldiers at the camp in Bogoro, the institute --

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1 did they have weapons? Did all of them have weapons?

2 A. Yes, there were weapons.

3 Q. Could you indicate to the Presiding Judge and the other Judges

4 what type of weapons they had or you had?

5 A. SMGs.

6 Q. What is an SMG, Witness? Could you describe it?

7 A. An SMG, well, these are small-calibre weapons. We call them

8 SMGs.

9 Q. In addition to SMGs, were there other weapons that you had at the
10 UPC camp at the institute?

11 A. There were G2s, RPGs --

12 THE INTERPRETER: And the interpreter didn't catch the last type
13 of weapon mentioned.

14 PRESIDING JUDGE COTTE: (Interpretation) Witness, please could
15 you repeat your answer, because the interpreter didn't manage to catch
16 everything and therefore could not interpret everything. Please repeat
17 the answer. Thank you.

18 THE WITNESS: (Interpretation) There were G2s, RPGs, and
19 mortars.

20 MR. DUTERTRE: (Interpretation)

21 Q. Thank you, Witness. G2s, what are G2s exactly?

22 A. This is a type of weapon with a belt.

23 Q. Understood. The -- could you describe what RPGs are?

24 A. You want to speak about RPGs? RPGs, this is a type of weapon
25 with a bomb. It is a -- it's a weapon used to launch bombs.

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1 Q. And yourself, what type of weapon did you have personally?

2 A. I used the G2.

3 Q. I have a clarification with regards to an answer you gave
4 yesterday. You spoke about wooden weapons. I understand that we're just
5 talking about training where it concerns these wooden weapons?

6 A. What type of weapons do you want to speak about?

7 Q. Yesterday, we spoke about training, if you remember, in Mandro,
8 and you indicated that there were wooden rifles. My question was were
9 these wooden rifles only used in training?

10 A. It was wood that we used for military training. Afterwards, then
11 you'd be provided with an ordinary weapon.

12 Q. Could you indicate, Witness, if there were women soldiers in the
13 UPC camp in Bogoro?

14 A. In Bogoro there were no women, not one.

15 Q. In the UPC battalion in Bogoro, Witness, were there soldiers who
16 were not Congolese?

17 A. The soldiers who were present were Congolese.

18 Q. I understand that the UPC unit was Congolese. Were there one or
19 two soldiers who were from another country in the UPC camp in Bogoro?

20 A. There was only one UPDF soldier who came to the place where we
21 were. He was Ugandan.

22 Q. And this soldier who was Ugandan, was he also wearing an UPC
23 uniform?

24 A. No. He had his Ugandan military uniform.

25 Q. Did the battalion have a radio to communicate?

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1 A. Yes. We had a Motorola.

2 Q. Thank you. I'm just going to go back a bit with regard to the
3 question of the Ugandans. You indicated yesterday, page 77 of the
4 transcript, that there were Ugandans in Bogoro Institute. When you say
5 the Ugandans -- when you said the Ugandans before, was this the UPDF?
6 Who were these people?

7 A. The Ugandans who were in the camp -- or the Ugandans were in the
8 camp. They had a camp there. When they left, we occupied this camp.

9 Q. Okay. And these Ugandans, to which militia or army did they
10 belong to? What was their group called, if you know.

11 A. It was called UPDF.

12 Q. Do you remember at what time they left the camp of the institute,
13 the Ugandans, that is.

14 A. The Ugandans left before. It was around 2002 when they left
15 Bogoro.

16 MR. DUTERTRE: (Interpretation) Just a moment, your Honour.

17 (Prosecution counsel confer)

18 MR. DUTERTRE: (Interpretation)

19 Q. Just a clarification in this regard, Witness. You will remember
20 yesterday that we mentioned that Governor Lopondo had in August, 2002,
21 been driven out of Bunia. Could you say if the departure of the UPDF
22 from Bogoro was before or after Lompondo was driven out?

23 A. I didn't -- I don't think you understood me well. It happened in
24 the following way: Firstly, Lompondo was driven out before. The
25 fighting in Bogoro came afterwards. It was after the fighting in Bogoro

1 that Bunia was attacked. Have you understood me?

2 Q. Yes. I don't think I was very clear. Please excuse me.

3 We know that Lompondo was driven out of Bunia in August 2002.

4 Was it before or after August 2002 that the UPDF left Bogoro? Just with
5 regards to the departure of the UPDF from Bogoro. Was it after or before
6 that of Lompondo?

7 A. You want to know when the UPDF left Bogoro?

8 Q. Please. It was on -- in 2002, I want to know whether it was
9 before or after Lompondo left Bunia. If you know.

10 A. Lompondo was driven out before and after the UPDF left Bogoro.

11 Q. I will now go to the organisation of the UPC camp in the
12 institute itself to be able to have a description. So you can explain
13 that to the Bench and everyone else in this regard.

14 MR. HOOPER: I'm sorry to interrupt. It's entirely up to my
15 friend, but it would certainly assist us on this side of the court if we
16 could be a little clearer about what the witness perceived himself,
17 because we heard yesterday he was -- he joined, when he joined. We heard
18 he then went to Mandro for training. We understand for three months.
19 Where did he go after that? When he says that there was a battalion of
20 UPC, when was that? Was that at the time of Bogoro? Was it at an
21 earlier time? And if we can just have it framed in terms of -- a little
22 bit more specific in terms of the -- if it's possible, so that we don't
23 have to go over it again. That's -- and that would be the purpose.

24 (Prosecution counsel confer)

25 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, you heard

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1 the intervention of Counsel Hooper. You will appreciate the way in which
2 you're carrying out your examination-in-chief, but the Chamber would like
3 to draw your attention to the fact that everything at this stage of our
4 substantive proceedings allow us not to save time just for the sake of
5 it, but really to get to the heart of the matter is obviously welcome,
6 but obviously you may well have thought of an answer which you can
7 provide to Counsel Hooper with regards to the witness. This is up to
8 your discretion.

9 MR. DUTERTRE: (Interpretation) In order to re-clarify those
10 points, Counsel Hooper can also come back to this point should he so
11 wish. I would now like to concentrate on the UPC camp itself and then
12 the witness can describe it to us. I will come back to this question
13 later.

14 Q. Witness, you have indicated that the UPC camp was at the
15 Bogoro Institute. Have I understood you correctly that the camp was
16 around the institute?

17 A. No. The institute was inside the camp.

18 Q. Fine.

19 MR. DUTERTRE: (Interpretation) Your Honour, I would like to
20 call up on the screen the public photograph which already bears an EVD
21 number, EVD-OTP-00017.

22 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
23 could we have that photograph on the screen, please.

24 COURT OFFICER: (Interpretation) In order to see this
25 photograph, please press "PC 1."

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.

2 MR. DUTERTRE: (Interpretation)

3 Q. Witness, can you see the photograph on the screen in front of
4 you?

5 A. Yes.

6 Q. Can you tell us what the building is that you can see in this
7 photograph?

8 A. These were classrooms, and this is where the military camp was.

9 Q. When you say "classrooms," you mean the classrooms of the
10 institute; is that correct?

11 A. Yes, that's correct.

12 MR. DUTERTRE: (Interpretation) I've finished with this
13 photograph. Therefore, since it's already been entered into evidence, I
14 have no other additional request.

15 Q. Witness, where did the soldiers sleep within the camp at the
16 institute?

17 A. Inside the classrooms. They built little houses as well, and it
18 was in these little houses that the soldiers slept.

19 Q. What were these little houses made of? What material was used to
20 build them?

21 A. We used straw, wood, and reeds.

22 Q. Were these houses in front of the institute, behind the
23 institute, around the institute? Could you tell us more precisely where
24 they were?

25 A. These little houses were around the classrooms. They surrounded

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1 the classrooms.

2 Q. Witness, did some soldiers have their wives and children with
3 them in those little houses?

4 A. Some soldiers had wives, but the children didn't live at the
5 camp.

6 Q. Where did the children live, Witness?

7 A. There were many houses in Bogoro where the children lived in the
8 village, in that village.

9 MR. DUTERTRE: (Interpretation) Your Honour, I would like to go
10 briefly into private session, your Honour.

11 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
12 shall we then go into private session.

13 (Private session at 10.05 a.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

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23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Open session at 10.06 a.m.)

5 COURT OFFICER: (Interpretation) We're in open session, your
6 Honour.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
8 Mr. Duterte, please proceed.

9 MR. DUTERTRE: (Interpretation) Thank you, Your Honour.

10 Q. Witness, was there a defence perimeter around the houses that the
11 soldiers lived in and the institute?

12 A. Yes.

13 Q. And what was that perimeter exactly?

14 A. We had dug a trench, and in that trench we could -- from that
15 trench we could defend the camp.

16 Q. Did this trench go all around the camp continuously?

17 A. Yes.

18 Q. In order for the Chamber to fully understand, when you yourself
19 were standing in the trench, could you tell us, compared to your own
20 size, how high the trench was?

21 A. It came up to here, up to the chest. I would say the trench was
22 about 1 metre 20 high -- or deep, rather.

23 MR. DUTERTRE: (Interpretation) For the transcript, I would like
24 to indicate that the witness showed his chest, approximately right about
25 in the middle of his chest.

1 Q. Where was the entrance to the camp?

2 A. The entrance was open, and the trench surrounded the camp, but
3 there was an opening to enable entrance to the military camp, and the
4 rest was surrounded by the trench.

5 Q. This opening that you referred to that made access possible,
6 where exactly was that opening?

7 A. It was the ordinary entrance where -- the entrance to the
8 institute.

9 Q. Well, compared to the roundabout, was the entrance near the
10 roundabout? Was it far from the roundabout? Can you help us better
11 understand?

12 A. The roundabout was in front. When you leave the roundabout, you
13 go by the road that goes to Kasenyi, Boga, and Gety, and you go toward
14 Wima, and then in front of you a little bit further you see the military
15 camp.

16 Q. All right. Let's say you're coming from the roundabout and
17 you're going to the camp, that is the UPC camp at the institute, where is
18 the entrance that you're referring to, the opening, the gate?

19 A. Well, when you're going toward the institute and you're going to
20 Bunia, the entrance is to the right. When you're at the roundabout, you
21 can see the military camp in front of you. It's perfectly visible.

22 MR. DUTERTRE: (Interpretation) Your Honour, I would like to now
23 show a satellite photograph, which is public, but I do need your
24 permission to be able to project it from my own computer because it's too
25 cumbersome to put it in eCourt.

1 PRESIDING JUDGE COTTE: (Interpretation) Fine. Prosecutor, you
2 may do so.

3 MR. DUTERTRE: (Interpretation) It can be displayed on the
4 screen.

5 COURT OFFICER: (Interpretation) To see the image, you must
6 press "PC 1."

7 MR. DUTERTRE: (Interpretation) This is number DRC --
8 DRC-OTP-1016-0224, and this again is a public photograph.

9 Q. Witness, can you see this photograph on the screen in front of
10 you?

11 A. Yes.

12 Q. I'm going to now zoom in. I beg your pardon. It's going to take
13 a moment because the image is somewhat cumbersome. It's going to take a
14 few seconds before the zoom actually appears on the screen.

15 Now, let me first explain. Here is the road which goes down to
16 Bogoro. When you go up this way, it's the road to Bunia. Here is the
17 roundabout, at this precise point, and then to the right you have the
18 road that goes to Kasenyi, and when you go down this way, you go to Gety,
19 and the institute is here to the left.

20 Is -- do you understand this picture? Is it clear for you?

21 A. Yes.

22 Q. I'm going to zoom in again to have an even larger view of the
23 institute, and again it's going to take a few seconds. We need to centre
24 the photo on the screen.

25 Witness, again this is the road to Bunia if you go up this way,

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1 the roundabout is here. This is the road that goes to Kasenyi, to the
2 right. This road goes to Gety, toward the bottom of the screen. And
3 here is the institute. You can see the roof. That is the rectangular
4 form that you see on the screen.

5 MR. DUTERTRE: (Interpretation) Your Honour, we cannot mark this
6 image, and therefore I have printed out some copies in order to ask the
7 witness to mark a number of things, and I do have a copy for each of the
8 parties.

9 PRESIDING JUDGE COTTE: (Interpretation) You may distribute
10 them -- or, rather, the usher can do so. If you are going to ask the
11 witness to mark the picture, the background is rather dark. If we don't
12 want to waste too much time, we're going to have to find a felt pen that
13 will be visible, and I ask the Court Officer to perhaps help us with
14 that.

15 MR. HOOPER: Sorry to interrupt. Two things: Am I right in
16 thinking this is an image taken by satellite in 2003, and if so, can we
17 be told which month. And secondly, after the break or during the break
18 can we be provided with some more print-out copies of it, because we
19 don't have a sufficient -- thank you very much.

20 MR. DUTERTRE: (Interpretation) The satellite picture was taken
21 in April of 2003, and Witness 418 will be able to give additional
22 explanations regarding that aspect, and, of course, yes, we can make
23 additional copies for the Defence and Mr. Hooper's team.

24 Q. Witness --

25 MR. DUTERTRE: (Interpretation) And perhaps my felt pen is more

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1 appropriate, if the usher would be so kind.

2 PRESIDING JUDGE COTTE: (Interpretation) The important thing is
3 that the marker be sufficiently legible on the document, because we have
4 had difficulties previously that slowed down the procedure a few days
5 ago.

6 MR. DUTERTRE: (Interpretation) What is the colour of this felt
7 pen?

8 PRESIDING JUDGE COTTE: (Interpretation) I believe it's silver
9 coloured and, logically, that should show up on the picture.

10 MR. DUTERTRE: (Interpretation)

11 Q. Witness, could you -- well, first of all, you can see the roof of
12 the institute building. Could you use the felt pen to indicate the
13 trench that was used to protect the camp.

14 A. (Marks)

15 MR. DUTERTRE: (Interpretation) It's hard for me to see from
16 here without making the witness visible and without his face being shown.
17 Could we have it projected on the screen with the overhead projector?

18 PRESIDING JUDGE COTTE: (Interpretation) Yes, we can put the
19 photograph on the overhead projector.

20 COURT OFFICER: (Interpretation) Before we do so, can you tell
21 us how confidential this document is?

22 MR. DUTERTRE: (Interpretation) It's a public document.

23 PRESIDING JUDGE COTTE: (Interpretation) If it is necessary for
24 the witness to show something on the photograph, he can do so.

25 MR. DUTERTRE: (Interpretation) Well, yes. He might have to go

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1 over to the overhead projector so that he can point to the map, but we
2 have to take care that his face is still distorted.

3 COURT OFFICER: (Interpretation) In order to see the photograph,
4 please press "Docu Cam Witness."

5 MR. DUTERTRE: (Interpretation) We need to centre the photograph
6 a bit better so that we can see the institute.

7 Q. Witness, could you -- well, you told us that the trench went all
8 around, continuously around the institute. Could you draw a line showing
9 where the trench was situated, a continuous line.

10 A. (Marks)

11 Q. Thank you, Witness. Could you explain what the dots correspond
12 to that you drew a few moments ago, the dots that are outside of the
13 circle. What do they represent?

14 A. Well, I put dots which corresponded to the positions of the
15 soldiers when there was fighting.

16 Q. What exactly did these different positions correspond to? You
17 mentioned soldiers. Were the soldiers -- well, how were they positioned?
18 What exactly do these dots represent? How were the soldiers positioned?
19 I'm -- I'm not asking you to draw anything. Just tell me what you meant
20 to represent with these dots.

21 A. When there was intensive fighting, the soldiers went into the
22 trenches, but when fighting was less intensive, they came out of the
23 trenches and the soldiers were posted at these places where I drew the
24 dots all around.

25 Q. Thank you very much. Now, could you draw an arrow in order to

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1 indicate where the entrance was, the opening? Can you show us using an
2 arrow where the entrance to the camp was situated?

3 A. (Marks)

4 Q. Would you be so kind as to use the red felt pen this time,
5 because it's not very visible.

6 A. (Marks)

7 Q. Could you make it a little bit bigger, a bigger arrow, because
8 it's not very legible.

9 A. (Marks)

10 Q. Thank you very much.

11 MR. DUTERTRE: (Interpretation) I've finished with this
12 photograph, and I would like to request an EVD number for this public
13 document, and the witness can return to his regular seat.

14 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer, we
15 have indicated a number of things on this map, the trench, a number of
16 dots where the soldiers were situated, an arrow indicating the entrance
17 to the camp. Can you please give an EVD number.

18 COURT OFFICER: (Interpretation) Thank you, Your Honour. Yes.
19 This photograph shall bear the following number: EVD-OTP-00050.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
21 Mr. Duterte, you may proceed.

22 Thank you very much, Witness, for your help.

23 Please proceed.

24 MR. DUTERTRE: (Interpretation) Thank you very much, your
25 Honour.

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1 Q. Mr. Witness, can you tell us where the ammunition was stored in
2 the camp?

3 A. The ammunition was stored in an office inside the camp.

4 THE INTERPRETER: Mr. Duterte is not using a microphone.

5 MR. DUTERTRE: (Interpretation)

6 Q. Imagine that you are in a classroom in the institute and you come
7 out of that classroom. Would you be able to see that office, or is it
8 behind the institute?

9 A. The office was within the institute, inside the institute. If
10 you come in, then the institute is to your right and then the office is
11 to your left.

12 Q. And what was the material used to construct that office? Was it
13 mud bricks or blocks or what?

14 A. Yes. Yes. It was built with dried bricks.

15 Q. So it is within the perimeter of the trench; that is, inside the
16 trench.

17 A. Yes, that is correct.

18 MR. DUTERTRE: (Interpretation) Mr. President, I would like to
19 project a public video-clip, which is EVD-OTP-00046, and this video-clip
20 was produced in 2007, and what is inside may be a little bit different
21 from the situation that prevailed in 2003.

22 PRESIDING JUDGE COTTE: (Interpretation) Very well. Proceed.

23 MR. DUTERTRE: (Interpretation) I will play that video from
24 00:16 minutes to 01:52.

25 COURT OFFICER: (Interpretation) To view that video, please

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1 press the button "PC 1" next to your screens.

2 MR. DUTERTRE: (Interpretation) Let us start it up.

3 (Video-clip played)

4 MR. DUTERTRE: (Interpretation) I will stop there and then come
5 back a little bit to minute 01:39, 01:36, 01:40.

6 Q. Mr. Witness, the mountain in the background there, what is the
7 name?

8 A. Yes. It is Mount Waka.

9 MR. DUTERTRE: (Interpretation) Let us allow it to run once
10 again, and then I'll stop at 01:48.

11 (Video-clip played)

12 MR. DUTERTRE: (Interpretation)

13 Q. The building to the right, that is the institute, Mr. Witness,
14 isn't it?

15 A. Yes.

16 MR. DUTERTRE: (Interpretation) Let me rewind, and my question
17 concerns that particular image.

18 (Video-clip played)

19 MR. DUTERTRE: (Interpretation)

20 Q. This building that we can see at 01:31, Mr. Witness, what does it
21 represent?

22 A. It was the ammunitions store.

23 Q. How many rooms were there in that building, Mr. Witness?

24 A. Just one room and a sitting room.

25 Q. Was there a communicating door between those two rooms?

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1 A. Yes, there was a door, a door that led into the sitting room and
2 into the room at the same time.

3 Q. Was it possible to have direct access to the ammunition from
4 outside of the building or did you need to pass through the sitting room?

5 A. You had to pass through the sitting room and into the room.

6 MR. DUTERTRE: (Interpretation) I would like to go in briefly to
7 closed session, Mr. President.

8 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
9 please take us into private session.

10 (Public session at 10.40 a.m.)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Public session at 10.41 a.m.)

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

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1 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Please
2 proceed, Mr. Prosecutor.

3 MR. DUTERTRE: (Interpretation) Thank you, Mr. President.

4 Q. Just a point of detail. You mentioned an office, and then you
5 talked about the ammunition store. Do these two refer to the same
6 building?

7 A. That building was used as the office of the school, and when the
8 military camp was set up there, that office was transformed into a
9 logistics building.

10 Q. Earlier on you stated that you had a G2 rifle. Did you have the
11 opportunity to use other types of weapons than the G2?

12 A. You see, it was difficult to obtain those types -- that type of
13 weapon. All those who were in training could use the weapon, but it was
14 used only when the situation became difficult. It was the SMG that was
15 ordinarily used during the war.

16 Q. Apart from the G2s and the SMGs during the war, did you use other
17 types of weapons? You mentioned belt-driven weapons. Did you yourself
18 use them?

19 A. Yes. I also used those belt-driven weapons.

20 THE INTERPRETER: But the Swahili interpreter did not understand
21 the last part of the answer.

22 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, the
23 interpreter did not understand the last part of your answer, so please
24 repeat.

25 THE WITNESS: (Interpretation) I use the weapon known as the G2.

Witness: Witness P-0323 (Resumed) (Open Session)
Questioned by Mr. Duterte (Continued)

Page 22

1 MR. DUTERTRE: (Interpretation)

2 Q. And does the G2 have a belt?

3 A. Yes.

4 Q. Mr. Witness, did the UPC soldiers go on patrol outside of the
5 camp in the institute?

6 A. Yes.

7 Q. Can you tell us where those patrols were carried out?

8 A. The patrols would cover the roads towards Bunia, Kasenyi, towards
9 Mount Waka and the road leading to Gety. Those were the various areas
10 covered by the patrols.

11 Q. What was the average number of soldiers per patrol?

12 A. Each patrol consisted of one section.

13 Q. And how many soldiers are there in a section, Mr. Witness?

14 A. One section was made up of 12 soldiers.

15 Q. Was it the same soldiers all the time or was there a rotation,
16 Mr. Witness?

17 A. The soldiers changed every day.

18 Q. And were these patrols carried in -- carried out in fixed areas
19 or not? You said that they covered the -- the roads to Bunia, Kasenyi,
20 Mount Waka, and the road to Gety. Were these the specific areas always
21 covered?

22 A. They were positioned in a single position, and they would patrol
23 during the night, and during the day they would go to various areas.
24 That was the usual practice.

25 Q. How did they communicate with the camp at the institute? And I'm

1 talking about the patrols here.

2 A. When you are talking about people communicating with the base at
3 the institute, who are you referring to? Can you kindly repeat your
4 question?

5 Q. When they needed to say something to communicate information, how
6 would they go about it?

7 A. If they came across the enemy, they would start shooting, and if
8 they were overwhelmed, they would retreat to the military camp.

9 Q. Am I to understand that whenever there was a force that they
10 could not resist, the instruction would be for them to retreat to the
11 camp; is that correct?

12 A. If they were unable to retreat, they would turn around and return
13 to the camp, and if we realised that they were in a difficult situation,
14 we could go and provide back-up.

15 Q. Did you yourself participate in those patrols?

16 A. Yes. From time to time I participated, but not frequently.

17 (Prosecution counsel confer)

18 MR. DUTERTRE: (Interpretation)

19 Q. Mr. Witness, let me now move to the day on which the UPC was
20 driven out of Bogoro. You have said that you were present on that day.
21 Where precisely were you when the attack started?

22 A. I was in the military camp.

23 Q. And we are talking about the Bogoro Institute here; right?

24 A. Yes.

25 Q. Approximately what time was it when the attack started, that is,

Witness: Witness P-0323 (Resumed) (Open Session)
Questioned by Mr. Duterte (Continued)

Page 24

1 if you remember?

2 A. The attack started at 4.00 in the morning.

3 Q. Was it still dark or was it already daylight at that time?

4 A. It was still dark. The moon was in its last quarter. There was
5 a lot of light.

6 Q. At the time that the attack was launched, were you asleep or
7 awake?

8 A. I was still awake.

9 Q. And why were you awake?

10 A. We were prepared, and we were waiting for the enemy. That is why
11 we had to be awake.

12 Q. Can you tell the Presiding Judge, the Judges, and everyone how
13 did you know that the enemy -- and you mentioned that it was the Lendus
14 and the Ngitis. How did you know that they were going to attack on that
15 day?

16 A. We had monitored their communications over our communication
17 equipment.

18 Q. You have said that they were communicating. Who was
19 communicating with whom?

20 A. It was the Ngitis, and they were communicating with the Lendus.

21 Q. You are talking about communication equipment. I suppose this
22 was a radio. What languages did the Lendus and Ngitis use during that
23 communication?

24 A. You see, I do not know their languages. Amongst the Hemas who
25 were in my group who had been born in the Ngiti villages, they were the

Witness: Witness P-0323 (Resumed) (Closed Session)
Questioned by Mr. Dutertre (Continued)

Page 25

1 ones who knew the language. They were the ones listening to the radio
2 equipment, and they told us, "Look, we have intercepted the enemy saying
3 that there would be an attack on Bogoro," and they were asking
4 themselves, Where should we start cultivating our farms, at the beginning
5 or in the middle? And the Lendus answered, "We should begin in the
6 middle." So it was our equipment that intercepted their messages. That
7 is how come we were prepared for the war.

8 MR. DUTERTRE: (Interpretation) Mr. President, I believe in
9 light of the time we can take the break now.

10 PRESIDING JUDGE COTTE: (Interpretation) Very well. I believe
11 that is quite wise, Mr. Prosecutor.

12 Mr. Witness, we are going to break for 30 minutes, and you should
13 be able to rest. We will resume at 11.30 a.m.

14 Madam Court Officer, can you take us into closed session to
15 enable the witness leave the courtroom.

16 (Closed session at 10.55 a.m.)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Open session at 10.56 a.m.)

Witness: Witness P-0323 (Resumed) (Closed Session)
Questioned by Mr. Duterte (Continued)

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1 COURT OFFICER: (Interpretation) We are in open session,
2 Mr. President.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
4 Court Officer.

5 The hearing is suspended until 11.30 a.m.

6 Recess taken at 10.57 a.m.

7 On resuming at 11.33 a.m.

8 (Closed session)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

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25 (Expunged)

Witness: Witness P-0323 (Resumed) (Open Session)
Questioned by Mr. Duterte (Continued)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Open session at 11.36 a.m.)

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

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
9 Court Officer.

10 Prosecutor, you can continue or, rather, therefore -- yes. You
11 can continue with your questions.

12 MR. DUTERTRE: (Interpretation) Thank you, Your Honour.

13 Q. So, Witness, you stated before the break, and here I quote:

14 "It was our means of communication, our mechanism for
15 communication, which intercepted their messages."

16 My question is as follows: How did you personally learn that
17 your means of communication intercepted their messages?

18 A. I learnt this because we were used to getting their conversation
19 from our radio, capturing their conversations on our radio.

20 Q. Witness, you were present when the attack started. I would now
21 like you to tell us in your own words what happened on that day when the
22 attack started, please. Take the time that is necessary for you to tell
23 us this story, and please be careful to speak slowly so that the
24 interpreters can understand you well and can translate or interpret what
25 you say. So I now give the floor over to you. Please explain to us what

1 happened on that day when the UPC were driven out of Bogoro from the
2 moment the attack started.

3 A. The enemies arrived. We saw them at 4.00 a.m. They started
4 shooting, shooting at us, and we were shooting everywhere from our camp
5 in Bogoro -- they shot at us from everywhere. We were used to fighting
6 in Bogoro, but this day really was exceptional. The firing was very
7 intense. We fought from 6.00 -- from 4.00 in the morning until 6.00.
8 Then there was calm. We went back to our camp. Fifteen minutes later
9 they came back, and on that occasion they were firing. This was very
10 intensive, very heavy. We resisted, but we were not able to resist this
11 attack. The firing was so sustained and heavy that we saw that it
12 couldn't just be the Lendu and the Ngiti who was against us, but it must
13 have been Lendu, Ngiti, and Ugandan coalition to be able to carry out
14 such a sustained attack. We saw the intensity of it, and it was
15 unacceptable for us, so we had to get help from Bunia. The help did not
16 come, and as such, we abandoned town and we fled.

17 Q. Please continue, Witness.

18 A. We fled. We had a lot of regrets because of the fate of the
19 population that had been killed. All the exit routes had been closed by
20 the enemy. We tried to open a corridor near the Waka hill to be able to
21 evacuate the population as well as part of the population, and they were
22 able to take that corridor with a view to getting away, and that's how
23 this attack took place.

24 Q. Thank you, Witness. We are now going to go back in more detail
25 into this event.

1 In what precise place in the camp were you when the attack
2 commenced?

3 A. I was in the place which I would call communication.

4 Q. What is this place that you call communication, Witness?

5 A. It is in a trench. I was in a trench.

6 Q. And you were looking in what direction?

7 A. I didn't have a precise direction. I was walking in the trench.
8 I was staying in the trench.

9 Q. What type of weapon did you have on you when this attack took
10 place?

11 A. I had a G2.

12 Q. Could you state with precision what the signal for the attack
13 was?

14 A. These were shots that we considered as being the signal of the
15 attack. When the enemy came in, it started to shoot and we fled the
16 camp. We also heard that from Kasenyi people had fled the Waka line, and
17 there were attacks everywhere, and the shots and the gunfire were
18 becoming more and more intensive.

19 Q. In addition to these shots, did you hear other elements as a
20 signal that there would be an attack?

21 A. The signal for the attack was when the enemy saw the enemy.
22 Well, the enemy started to attack us directly. They entered in all parts
23 of Bogoro. There was no means of resisting them, and this is the reason
24 why we went back to the camp, because they were very numerous.

25 Q. In addition to shots, were there other noises made by the

1 attackers?

2 A. They were whistling. There were bells at that time. There were
3 all different -- there was lots of different instruments at that time.

4 Q. Did you hear if the attackers said anything?

5 A. In this noise it wasn't possible to hear what they said. At that
6 time, everybody was expecting their fate. There was this order. There
7 was -- basically, save those who can. Save yourselves. Nobody could pay
8 much attention to what anybody else was saying at that particular time.

9 Q. You indicated, Witness, that they entered in all parts of -- or
10 they entered via all areas of Bogoro. Are you referring to the patrols
11 who were on the roads from Kasenyi, Bunia, Waka Mountain?

12 A. Yes.

13 Q. And so these patrols went to the camp at -- the institute camp;
14 is that right?

15 A. They entered, yes. They entered in the morning. Others died at
16 night. We didn't continue to fight against them in the camp.

17 Q. Did you have reinforcements?

18 A. No.

19 Q. And for what reason or what meant that at a particular time you
20 stopped fighting, or what was it that stopped you at a particular time
21 from fighting, you, the UPC soldiers?

22 A. We didn't stop fighting. There was a weakness -- or a dropping
23 in the intensity of the fighting. The enemy was able to -- took the
24 strategy of reducing the intensity of fighting.

25 Q. Did you have sufficient ammunition to be able to resist the

1 enemy?

2 A. No. No, we didn't have enough. We had very little.

3 Q. When the attack started, could you detail to us where the
4 civilian population went?

5 A. All the population came to take refuge in the institute.

6 Q. When you state that they took refuge in the institute, where did
7 the -- where did you put the civilian population exactly? In what place
8 in the camp were the population, civilian population, put when they took
9 refuge in the camp?

10 A. All of them were in the camp. We protected them in the
11 classrooms. We fought, and all the civilian population was in the
12 classroom of the institute.

13 Q. I will come back to the civilians later. Can you tell us,
14 Witness, how many attackers there were?

15 A. It's difficult for me to know the exact number. They were so
16 numerous that it's difficult for me to know the exact number.

17 Q. You explained that the UPC soldiers, yourselves, you were
18 numbered between 300 and 400. Were the attackers less numerous, less in
19 number, than you?

20 A. I would say the following: They were a thousand times more
21 numerous than we were.

22 THE INTERPRETER: There were over a thousand of them.

23 The interpreter also corrects it was not between 300 and 400, it
24 was 340.

25 MR. DUTERTRE: (Interpretation)

1 Q. You mentioned that among the Lendu attackers and the Ngiti
2 attackers -- could you indicate how the Lendu were dressed?

3 A. Excuse me. When there was the fighting -- when there's fighting,
4 there's disorder. Even our own military uniform, I saw Lendu wearing
5 them. The Lendu were even wearing the military uniform of the Ugandans.
6 It's difficult to know. It was the same thing also with the Ngiti. They
7 wore different types of military uniform. Some were even in civilian
8 clothing. It's difficult to answer this question.

9 Q. Could you describe the weapons that the Lendu and the Ngiti had
10 or used during the attack?

11 A. What I heard was that they had the same type of arms or munitions
12 as we had. It wasn't different.

13 Q. When you say, "According to what I heard," would you like to say
14 with regards to the noises that you heard, or does that mean that
15 somebody told you that?

16 A. I heard gunfire, but what I can say is that they were stronger
17 than us.

18 Q. Did the enemy also have bladed weapons?

19 A. Yes, a lot.

20 Q. Could you tell us what type of bladed weapons are we talking
21 about?

22 A. There were arrows, machetes, and spears. There were also knives.

23 Q. Do you remember if you heard the Ngiti and the Lendu who were
24 attacking, did you hear them speaking?

25 A. Yes. They spoke between themselves, and they had good

1 collaboration. They collaborated between themselves.

2 Q. Do you remember having heard anything in particular? Do you
3 remember anything?

4 A. What would you like me to tell you? Heard what, for example?
5 Please.

6 Q. Are you able to remember something that you heard that they said?

7 A. No.

8 Q. Did you recognise somebody amongst the attackers?

9 A. Yes.

10 Q. Could you give us the name of the person or persons that you
11 recognised?

12 A. I recognised a person against I had fought. I knew this person
13 well, and this person also knew me well. We had lived in the same place.
14 He's called Kute. I knew him well, and I fought against him during the
15 last episode of fighting in Bogoro.

16 Q. Can you tell us, Witness, what ethnic group Kute belongs to?

17 A. Kute is a Lendu.

18 Q. Can you tell us when you saw Kute?

19 A. I saw him before the war when I was herding cows. I knew him
20 well. We lived together. We played together. There were no problems
21 between us. He lived in our village.

22 Q. Perhaps I can restate my question. The day of the attack, when
23 exactly did you see him on that day?

24 A. When the enemy came to the military camp.

25 THE INTERPRETER: The interpreter was not able to hear the last

1 portion of the answer.

2 PRESIDING JUDGE COTTE: (Interpretation) Would you be so kind as
3 to repeat your full answer, Witness, because the interpreter was not able
4 to understand the end of your response. Thank you.

5 THE WITNESS: (Interpretation) He came and I fought against him,
6 but he won because I didn't have enough ammunition.

7 MR. DUTERTRE: (Interpretation)

8 Q. Do you know what his rank was, Kute's rank?

9 A. I didn't know what his rank was during the war. It was only
10 afterwards that I heard that Kute was the commander of the -- a Lagura
11 battalion, but this is information I obtained later on after the
12 fighting.

13 Q. Is he still alive, Kute?

14 A. According to what I heard, he is dead.

15 Q. Witness, do you know who the leader was? Who was the chief of
16 the Lendu on the day of the attack, when the UPC was driven out of
17 Bogoro?

18 A. It's difficult for me to know who was in charge of the Lendu.
19 They were all mixed, and it would be difficult for me to tell you who was
20 the chief of the Lendu group.

21 Q. Witness, I would like to ask you now what was the age of the
22 attackers?

23 A. That's a difficult question. It's very difficult for me to know
24 how old they were.

25 Q. Can you tell us what was the age of the youngest attacker that

Witness: Witness P-0323 (Resumed) (Open Session)
Questioned by Mr. Dutertre (Continued)

Page 35

1 you saw?

2 A. Well, there were a lot of kadogos. There were many of them, and
3 they participated in the war, but I can't tell you exactly how old they
4 were.

5 Q. What exactly is a kadogo?

6 A. "Kadogo" means a small child, young children.

7 Q. You said that they were numerous. What weapons did the kadogos
8 bear?

9 A. They didn't have firearms. They had arrows and machetes, and
10 they were not in the front line of combat.

11 Q. Could you tell us where you were when you saw the kadogo?

12 A. I was in the camp.

13 Q. Witness, you stated that you knew there was going to be an attack
14 and that the civilian population had taken refuge inside the institute.

15 A. Yes.

16 Q. Did some of them leave before the attack?

17 A. Many civilians left before the attack, but I wouldn't say that
18 there were that many civilians living in Bogoro. The civilians settled
19 in Bogoro when things calmed down. Otherwise, they were in Bunia or
20 Kasenyi. They only returned to Bogoro to find food. And when the attack
21 took place, some civilians were on site there.

22 MR. DUTERTRE: (Interpretation) Your Honour, I would like to go
23 into private session briefly.

24 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, private
25 session, please.

Witness: Witness P-0323 (Resumed) (Private Session)
Questioned by Mr. Duterte (Continued)

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Witness: Witness P-0323 (Resumed) (Private Session)
Questioned by Mr. Dutertre (Continued)

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9 (Open session at 12.13 p.m.)

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

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
13 Please proceed, Mr. Dutertre.

14 MR. DUTERTRE: (Interpretation)

15 Q. You indicated, Witness, that you fled. Can you tell us whether
16 the attackers came into the camp or not?

17 A. The attackers came into the camp, and they did what they wanted.

18 Q. Well, when you say "they did what they wanted," what exactly do
19 you mean?

20 A. When we fled, they came to the camp, and they did what they
21 wanted. We couldn't go back to take back the military camp. We no
22 longer had the means to do so.

23 Q. Where did they enter the camp, from which side?

24 A. They entered through the main gate. Others came from Bunia, from
25 Gety, or from Kasenyi. We only had the Waka road, and we were mixed up

1 as if it were corn and beans all together.

2 Q. You said that you only had the Waka road. Was that the direction
3 you took when you fled?

4 A. Yes. We fled toward Mount Waka.

5 Q. While you were fleeing, what did the attackers do to the people
6 who were fleeing?

7 A. They shot at them. Some were attacked with a machete. Those who
8 could run away did so.

9 Q. You say they shot at them and others were hit with machetes.
10 When you say "they," do you mean civilians or do you mean soldiers?

11 A. Well, there were soldiers and there were civilians who had
12 machetes and spears and knives, and when the attackers arrived, the
13 people who had machetes started hitting and cutting members of the
14 civilian population with these weapons, with the machetes.

15 THE INTERPRETER: Interpreter's correction: Add arrows to the
16 list of weapons in the last answer.

17 (Prosecution counsel confer)

18 MR. DUTERTRE: (Interpretation)

19 Q. Witness, the attackers who were attacking the people who were
20 fleeing, did they distinguish between UPC soldiers and the civilians who
21 were also running away?

22 A. Could you repeat your question, please. You're talking about a
23 distinction, but I didn't understand your question.

24 Q. You were saying the fighters were shooting and attacking the
25 people fleeing with machetes. Now, amongst the people who were fleeing,

1 did the fighters attack only the UPC soldiers who were running away, or
2 did they also attack the civilians who were running away?

3 A. The attackers attacked both the soldiers as well as civilians.
4 They killed anyone that they found in their way.

5 Q. Could you tell us, if you remember, whether the civilians who
6 were killed were men or women?

7 A. You mean the people who were attacked, the victims? Could you be
8 a bit clearer, please?

9 Q. Yes. The people who were attacked, can you tell us whether the
10 people who were killed as they were fleeing, whether they were men or
11 women?

12 A. It -- it was men who were attacking, not women.

13 Q. Perhaps I'm not being clear. The people who were running away
14 and who were killed by the attackers, were those people who were killed
15 by the attackers, were they men or women?

16 A. There were men and women amongst the people who were fleeing.

17 Q. Can you tell us the age of the people who were killed while they
18 were fleeing?

19 A. You know, bullets don't choose the age. They kill everyone,
20 young people, old people, everyone. There were children, there were
21 elderly people amongst the victims.

22 MR. DUTERTRE: (Interpretation) Perhaps we can go quickly into
23 private session.

24 PRESIDING JUDGE COTTE: (Interpretation) Private session,
25 please, Court Officer.

Witness: Witness P-0323 (Resumed) (Private Session)
Questioned by Mr. Duterte (Continued)

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Witness: Witness P-0323 (Resumed) (Open Session)
Questioned by Mr. Duterte (Continued)

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1 (Expunged)

2 (Open session at 12.27 p.m.)

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

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.

6 Mr. Prosecutor, please proceed.

7 MR. DUTERTRE: (Interpretation)

8 Q. Witness, you referred to the path to the Waka Mountain that you
9 took when you fled. When you left the camp, which direction did you go
10 in? And when I say "you," I mean you and all the others who were fleeing
11 the camp.

12 A. We took the direction of Bunia.

13 Q. Did everyone go in that direction, toward Bunia?

14 A. Yes. The majority of the people went to Bunia. Some went toward
15 Kasenyi.

16 Q. Witness, did you go directly toward Bunia or not?

17 A. We fled to Bogu, and then I went to Bogoro. I stayed in the
18 bush, and from where I was I observed what took place. I spent the
19 night, and at 10.00 I went to -- I went back to Bogoro. The enemy was
20 all around that place.

21 Q. When did you leave the environs of Bogoro, at what point in time?

22 A. I spent the night, and then I heard people whistling and beating
23 drums in Bogoro. They were looting. It was that day that they looted
24 even the corrugated iron roofs.

25 I left the bush at 10.00, and I went to Bunia, and I stayed in

1 Bunia and I never went back.

2 THE INTERPRETER: The beginning of the question was inaudible.

3 There was no microphone.

4 THE WITNESS: (Interpretation) When I left that place it was a
5 Tuesday, and the next day I went to Bunia. That is when I learned that
6 there were many soldiers from our camp that had died. And we went to the
7 camp in Ndromo to report.

8 MR. DUTERTRE: (Interpretation)

9 Q. I believe my question was inaudible. It was my mistake. My
10 question was: When did you leave Bogoro to go to Bunia, at what time?

11 A. It was at the end of the battle. You have already asked me the
12 question once to know whether I went to Bunia at once. I said I had gone
13 to Bogu. I went to Bogoro. I went there to see what had happened. I
14 spent the night there observing what had -- what was happening from afar.

15 I saw people beating drums, whistling. They were pillaging the
16 houses, and I could see them from my hiding-place in the bush. I spent
17 the night there, and the next day I took my courage in my hands. I
18 realised that they were looking for people hiding in the bushes. That is
19 how I took the decision to go to Bunia.

20 THE INTERPRETER: Mr. President, if the Prosecutor can be
21 requested to wait for the interpretation before asking his next question.

22 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, please
23 observe the five-second pause before your next question. That is what
24 the interpreters are asking me.

25 MR. DUTERTRE: (Interpretation) Thank you, Mr. President.

Witness: Witness P-0323 (Resumed) (Open Session)
Questioned by Mr. Duterte (Continued)

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1 Q. I heard the word "Bunia" in my headset, but I did not hear what
2 else followed. I heard that word at the end of the interpretation.

3 JUDGE VAN DEN WYNGAERT: (Interpretation) That is indeed the
4 fact, and it is not the first time, because I already realised that it
5 happened many times in the transcript.

6 JUDGE DIARRA: (Interpretation) But it appears in the English.

7 PRESIDING JUDGE COTTE: (Interpretation) Very well.
8 Mr. Prosecutor, the final version is prepared after having listened to
9 the recording, so we can assume that that word "Bunia" will appear in the
10 final version of the transcripts.

11 MR. DUTERTRE: (Interpretation) Yes, Mr. President, but I do not
12 know whether the witness had answered the question. With your leave, I
13 will consult the English version.

14 PRESIDING JUDGE COTTE: (Interpretation) Very well.

15 MR. DUTERTRE: (Interpretation) Thank you.

16 (Prosecution counsel confer)

17 MR. DUTERTRE: (Interpretation) I will now move on to another
18 question after having cross-checked the transcript in English.

19 Q. Mr. Witness, can you tell us once again how long you stayed in
20 Bunia?

21 A. I spent one and a half weeks in Bunia.

22 MR. DUTERTRE: (Interpretation) Mr. President, I would like to
23 use a map which shall be marked by the witness, and this is the map that
24 is usually used here, and I have copies for everyone if they need them,
25 and we can even put an unmarked version with an EVD number so as to

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Questioned by Mr. Dutertre (Continued)

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1 project it on the screen.

2 PRESIDING JUDGE COTTE: (Interpretation) Mr. Court Usher, please
3 help to distribute the maps being provided by the Prosecutor so that each
4 participate can re-familiarise themselves with the map.

5 PRESIDING JUDGE COTTE: (Interpretation) I assume each one
6 recognises this document which has been used before. Perfect.

7 Now, Mr. Prosecutor, over to you.

8 MR. DUTERTRE: (Interpretation) I am proposing that an EVD
9 number be assigned to this map if there is no objection, and then we
10 project it on the screen.

11 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
12 left us give an EVD number to that map as it is right now in its unmarked
13 version.

14 COURT OFFICER: (Interpretation) Thank you, Mr. President. This
15 map will be EVD-OTP-00051.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

17 Please proceed, Mr. Prosecutor.

18 MR. DUTERTRE: (Interpretation) Thank you, Mr. President.

19 Q. Witness, you have in front of you a map of Bogoro. There is a
20 yellow circle with a small rectangle inside of it which represents the
21 Bogoro Institute. On the left there is a structure there in green which
22 represents Mount Waka, and then from the top downwards you have the road
23 to Bunia, that is in the northerly direction, and down to Gety. And to
24 the right of the institute you have the roundabout and a road which goes
25 towards Kasenyi, and that is to your right.

1 Can you recognise this map, Mr. Witness?

2 A. Yes.

3 Q. Let me point out that the small dots, that is the black squares,
4 correspond to houses, and then you have the indications of distances. It
5 is indicated, for example, that the distance between the institute and
6 Mount Waka is 650 metres. Is that all clear to you, Mr. Witness?

7 A. Yes.

8 Q. Witness, please use a point -- or, rather, use a dotted line to
9 mark the direction in which you fled from the camp in the
10 Bogoro Institute. You can move to the other side of the desk that is --
11 and sit in front of the overhead projector with the assistance of the
12 usher.

13 MR. DUTERTRE: (Interpretation) And it is a public document.

14 COURT OFFICER: (Interpretation) In order to see the document,
15 please press the button "Docu Cam Witness" next to your screens.

16 MR. DUTERTRE: (Interpretation)

17 Q. Witness, from the institute which is the yellow area, can you use
18 a dotted line to indicate the direction of your flight.

19 A. I'm sorry, are you asking me to indicate the place where I was
20 after I fled and where I went to, or is it something else that you are
21 asking me to do?

22 Q. Thank you for asking for that clarification, Witness, but I was
23 simply asking you to use a dotted line to indicate the direction that you
24 took while fleeing.

25 A. Very well. (Marks)

Witness: Witness P-0323 (Resumed) (Open Session)
Questioned by Mr. Duterte (Continued)

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1 Q. Can you draw a line. Can you link up the dotted line so that it
2 should be clearer.

3 A. (Marks)

4 Q. Can you start the line from the institute, Mr. Witness.

5 A. (Marks)

6 Q. And can you complete the itinerary, that is, join up the two
7 lines that you have drawn.

8 A. (Marks)

9 Q. You can use the pen to draw the line through anyplace that you
10 wish. You have to complete the line.

11 A. (Marks)

12 Q. Thank you, Mr. Witness.

13 MR. DUTERTRE: (Interpretation) Mr. President, I would like an
14 EVD number to be assigned to this map, which is a public document, and
15 the witness can go back to his seat.

16 PRESIDING JUDGE COTTE: (Interpretation) So you do not want any
17 further markings on this map? Very well.

18 Madam Court Officer, can you give it an EVD number.

19 COURT OFFICER: (Interpretation) Thank you, Mr. President. This
20 map which has been marked in red will bear the number EVD-OTP-00052.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Witness.
22 Prosecutor, please proceed.

23 MR. DUTERTRE: (Interpretation) I would like to briefly go into
24 closed session, Mr. President.

25 PRESIDING JUDGE COTTE: (Interpretation) Private session,

Witness: Witness P-0323 (Resumed) (Private Session)
Questioned by Mr. Dutertre (Continued)

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1 Madam Court Officer.
2 (Private session at 12.46 p.m.)
3 (Expunged)
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
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10 (Expunged)
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12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
17 (Expunged)
18 (Expunged)
19 (Open session at 12.48 p.m.)
20 COURT OFFICER: (Interpretation) We are in open session,
21 Mr. President.
22 PRESIDING JUDGE COTTE: (Interpretation) Very well. Go ahead,
23 Mr. Prosecutor.
24 MR. DUTERTRE: (Interpretation) Thank you, your Honour.
25 Q. You said that Bunia had fallen. Who captured Bunia at that time,

Witness: Witness P-0323 (Resumed) (Open Session)
Questioned by Mr. Duterte (Continued)

Page 48

1 Mr. Witness?

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 Q. Witness, did you get to know who were with the Ugandans, those
6 who were with the Ugandans?

7 A. No, I did not hear about that.

8 Q. Did you continue as a UPC soldier after that?

9 A. No.

10 Q. You have stated that there were 340 UPC soldiers in Bogoro. Can
11 you tell us how many UPC soldiers were killed when the UPC was driven out
12 of Bogoro?

13 A. One hundred and twenty UPC soldiers were killed.

14 Q. Can you tell us how you got to know about that figure?

15 A. When I left Bogoro, I went to the military camp to hand over the
16 weapons, and I asked them how many victims there had been, and that is
17 when I was told. That is when I went to the military camp.

18 Q. Do you know what happened to the injured persons who were taken
19 to the office, that is the armory, which was located inside the camp?

20 A. Amongst the wounded, no one survived. All of them were killed.
21 There were no survivors.

22 Q. And how do you know that?

23 A. It was people with whom I lived at the same place. Given that
24 they disappeared, I can conclude that they are no longer alive.

25 MR. DUTERTRE: (Interpretation) Mr. President, I think this

Witness: Witness P-0323 (Resumed) (Closed Session)
Questioned by Mr. Dutertre (Continued)

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1 would be a good time to break for lunch if the Chamber agrees, and I will
2 continue in the afternoon.

3 PRESIDING JUDGE COTTE: (Interpretation) Yes, Mr. Prosecutor.
4 This is indeed an appropriate time, and we are going to stop here for
5 now.

6 Mr. Witness, we are going to break for one and a half hours. We
7 are going to resume at 2.30 p.m. You will be able to have your lunch and
8 to rest, and we thank you for your contribution this morning.

9 And, Madam Court Officer, let us now go into closed session to
10 allow the usher to lead the witness out of the courtroom.

11 (Closed session at 12.54 p.m.)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Open session at 12.55 p.m.)

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

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

Witness: Witness P-0323 (Resumed) (Closed Session)
Questioned by Mr. Duterte (Continued)

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1 The hearing is suspended, and we will resume at 2.30 p.m.
2 Luncheon recess taken at 12.56 p.m.
3 On resuming at 2.33 p.m.
4 (Closed session)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged)
9 (Expunged)
10 (Expunged)
11 (Expunged)
12 (Expunged)
13 (Open session at 2.34 p.m.)
14 COURT OFFICER: (Interpretation) We're now in open session, your
15 Honour.
16 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
17 Court Officer.
18 Good morning, Witness -- good afternoon, rather, Witness. We are
19 now here for one and a half hours this afternoon, and I can see that you
20 can hear me well.
21 Prosecutor, you therefore have the floor. Do you have an idea of
22 the time which you need? Do you need an hour and a half this afternoon?
23 MR. DUTERTRE: (Interpretation) No, your Honour.
24 THE INTERPRETER: The microphone isn't pointing to towards the
25 speaker. If somebody could move it, please.

Witness: Witness P-0323 (Resumed) (Private Session)
Questioned by Mr. Duterte (Continued)

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1 MR. DUTERTRE: (Interpretation) No, your Honour. I have a
2 subject to cover, about 20 questions. It should take me around 20
3 minutes, half an hour at the most.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you. This
5 question was asked to you with a view to make it possible for the Legal
6 Representatives of Victims to ask the questions that they would like to
7 ask to the extent that a certain number of questions which were proposed
8 have already been answered to a certain extent, so you will have the
9 opportunity to prepare. Yes.

10 You may, therefore, continue with your examination-in-chief,
11 Prosecutor.

12 MR. DUTERTRE: (Interpretation) Thank you very much, your
13 Honour. I will need to go into private session, if you would allow me.

14 PRESIDING JUDGE COTTE: (Interpretation) We are therefore now
15 going into private session for an instant.

16 Court Officer.

17 (Private session at 2.36 p.m.)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0323 (Resumed) (Private Session)
Questioned by Mr. Duterte (Continued)

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Page 52 Expunged - Private Session

Witness: Witness P-0323 (Resumed) (Private Session)
Questioned by Mr. Duterte (Continued)

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Page 53 Expunged - Private Session

Witness: Witness P-0323 (Resumed) (Private Session)
Questioned by Mr. Duterte (Continued)

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1 (Expunged)
2 (Expunged)
3 (Expunged)
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6 (Expunged)
7 (Expunged)
8 (Expunged)
9 (Expunged)
10 (Open session at 2.47 p.m.)
11 COURT OFFICER: (Interpretation) We are in open session, your
12 Honour.
13 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
14 Prosecutor, you may continue.
15 MR. DUTERTRE: (Interpretation) I have no more questions. I've
16 finished my examination-in-chief. That's it.
17 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
18 Witness, the Prosecutor has finished his examination-in-chief.
19 MR. DUTERTRE: (Interpretation) Excuse me, your Honour.
20 PRESIDING JUDGE COTTE: (Interpretation) A last question?
21 MR. DUTERTRE: (Interpretation) Yes, a last question, your
22 Honour.
23 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead.
24 MR. DUTERTRE: (Interpretation)
25 Q. Before this attack, on the day of -- when the UPC were driven

Witness: Witness P-0323 (Resumed) (Open Session)
Questioned by Mr. Duterte (Continued)

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1 out, were there other attacks carried out by the Lendu and the Ngiti on
2 Bogoro while you were already present as a UPC soldier in Bogoro?

3 A. There were several attacks. They came to attack us. We drove
4 them back. But the last -- they didn't kill the population. We managed
5 to drive them back.

6 MR. DUTERTRE: (Interpretation) Thank you very much, your
7 Honour. That was really my last question.

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

10 So, Witness, the Prosecutor has finished his
11 examination-in-chief. Now it is for the Legal Representatives of Victims
12 to ask you certain questions. Counsel Gilissen will start, having made a
13 division between the questions -- between the questions he was going to
14 ask and those which are still necessary to ask where it concerns the
15 victims that he represents and who are child soldiers.

16 Counsel Luvengika, the same holds for you. The Chamber at the
17 moment would like to draw your attention to the fact that the questions
18 which you've elicited, 13 and 14, do not seem to be able to be asked
19 given the examination-in-chief which the Prosecutor has carried out and
20 the answers that the witness gave thereto. There is no factual basis
21 from the testimony of the witness today and yesterday afternoon which
22 would make it possible to provide a basis for these questions.

23 Counsel David Hooper, it is not ruled out that you can start if
24 you are ready. You can start with your cross-examination this afternoon.
25 It is therefore necessary to prepare for that.

Witness: Witness P-0323 (Resumed) (Open Session)
Questioned by Mr. Gilissen

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1 Counsel Gilissen, you have the floor.

2 MR. GILISSEN: (Interpretation) I would like to thank you, your
3 Honour. Your Honour, Judges, the witness has spoken to us about matters
4 which concern the people I represent. This morning in transcript 117,
5 page 37, lines 6 to 15, and I don't think there's any interest getting
6 out of this extremely limited framework for the time being, but in order
7 to avoid any possible difficulties with regards to subjects that were
8 addressed concerned the fact that he saw young attackers. He couldn't
9 give us an age of the youngest attacker. He indicated that they were
10 numerous in their participation in the war, and he said that a kadogo was
11 a small child, that the ones he saw didn't have fire-arms but bladed
12 weapons, which he described as arrows and machetes, and they weren't part
13 of the front line of the attackers.

14 Here I've really just tried in an objective way to address the
15 issue.

16 Questioned by Mr. Gilissen:

17 Q. (Interpretation) Good afternoon, Witness. I am
18 Counsel Gilissen.

19 A. Good afternoon.

20 Q. I represent the interests of certain child soldiers who in this
21 trial wished to appear with a view to the reparation of the harm they
22 have suffered and also with a view to the search for truth. My question
23 is quite simple, and obviously I will say this subject to the control of
24 the Bench.

25 You spoke to us about what you called kadogo. You have seen

1 them. I wasn't present in Bogoro on the 24th of February, 2003, and I
2 think that nobody in this courtroom was present in Bogoro at that time.
3 Could you, in addition to what you have said this morning, could you
4 describe what you saw with these smallest fighters in a general way?
5 Could you give us information which will make it possible for all of us,
6 the Chamber, the Defence, the Prosecutor, and myself to better understand
7 what you have seen?

8 A. Everything that you have said, arrows, machetes, and the kadogos,
9 yes. These are things that I saw among the Lendu and Ngiti fighters. I
10 didn't see them with ordinary weapons. I saw them armed with machetes.

11 They didn't come very close. They came, but they were far.

12 Q. Still and obviously in the control of the Bench and all of my
13 colleagues, so you saw, if I understand what you said correctly, you saw
14 this type of young fighter in the group of Lendu, as well as in the group
15 of Ngiti?

16 A. Yes.

17 Q. And in your opinion, sir, with prudence, were there dozens of
18 them or did -- when you tried to evaluate the number of attackers there
19 were, you said a thousand. Approximately, without being too exact, were
20 they a quarter of the fighters, a tenth, half of the fighters? Could you
21 give us an idea even if it's not 100 per cent exact?

22 A. It's difficult to give an estimation, because it's something that
23 happened. We saw it with distance. You can't evaluate the number of
24 people who are scattered throughout Bogoro. All I saw was what happened
25 in front of me. I'm not able to give an estimation with regards to the

1 number of these kadogo. It would be difficult for me to do that.

2 Q. Among those that you saw -- let's just speak about the ones that
3 you saw.

4 Were there only young people, or did you have the feeling that
5 there were also -- sorry. Did you think there were only young boys, or
6 were there also young girls?

7 A. I didn't pay attention to see if there were women, no. What I
8 can confirm is that I saw kadogo among the fighters. With regards to the
9 distinction as to whether they were male or female, I can't give a
10 precision in that regard.

11 Q. I would like to thank you very much, and also for your prudence,
12 Witness. You are right to be prudent. I would have liked to know, but
13 I'm already coming to the end of the few questions that I wanted to ask
14 you, do you feel, from what you saw, that these kadogo behaved as the
15 other fighters, the other attackers, or that they had a more specific
16 role, one that only they fulfilled? Do you have anything that you can
17 tell us in this regard?

18 A. After the fighting, the kadogo participated in the pillaging and
19 carried off the war booty. During the fighting, the kadogo collected the
20 war booty. That's what they did. And sometimes when they found a
21 person, they would attack them with a machete.

22 Q. I don't want to ask you to repeat yourself, but if I understood
23 correctly, they were participating in the fighting, and either during or
24 after the fighting they participated in the looting. And if I understood
25 you correctly, they also attacked certain persons that they ran into,

1 including civilians.

2 A. When one goes to fight, they fight their enemy, and they're no
3 longer children. They have become adults. They've become fighters. If
4 they didn't want to fight, they wouldn't be on the front lines.

5 Q. Again, with the control of the members of the Chamber, do you
6 have the impression that they were voluntary soldiers or do you not know
7 at all?

8 A. Do you mean did they come of their own will to Bogoro? Perhaps
9 you could repeat your question.

10 Q. Well, if you don't know, then you need not answer, but do you
11 have the impression that these young people were there because they
12 wanted to be there, that they wanted to fight?

13 A. I have no way of knowing. They came with other fighters, and
14 they participated together in the fighting.

15 Q. Thank you very much, Witness. Thank you for your very precious
16 help both for the Chamber. On behalf of all the participants, I thank
17 you.

18 MR. GILISSEN: (Interpretation) Your Honour, thank you.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
20 Mr. Gilissen.

21 Mr. Luvengika, you may proceed.

22 MR. LUVENGIKA: (Interpretation) Thank you, Your Honour. It
23 would seem, as you said yourself, there's no need for me to go back over
24 the last two questions that I had planned for, but most of the questions
25 that we had intended to ask have already been answered through the

Witness: Witness P-0323 (Resumed) (Open Session)
Questioned by Mr. Luvengika

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1 questions that were put to the witness by the representative of the
2 Office of the Prosecutor, and there remains a few points of detail on
3 some of the things that have been stated, and I would like to ask the
4 witness a few questions to obtain those additional details, in particular
5 as regards the civilian population that lived in Bogoro and questions
6 regarding the looting in the village of Bogoro in 2003.

7 Questioned by Mr. Luvengika:

8 Q. (Interpretation) Witness, my name is Mr. Luvengika. I am the
9 legal representative of the victims of the Bogoro attack which are
10 represented here in this case. I have a few questions for you to be
11 certain we have understood, certain aspects in particular as regards the
12 victims that I represent, and these are points that they have mentioned
13 in their own submissions.

14 You have stated that the UPC soldiers in Bogoro were about 340 in
15 number. You also stated that at the point in time when the attack
16 occurred, many of the civilians from Bogoro had already left, but they
17 did come back occasionally to get food and for other purposes.

18 Could you tell us more precisely and perhaps tell us the
19 proportion of soldiers who were in Bogoro at the time and the civilian
20 population? Can you tell us how many soldiers there were compared to the
21 civilians? Were there many more soldiers than civilians in Bogoro on
22 24th February 2003?

23 A. The civilians were more numerous than the soldiers in Bogoro.

24 Q. During the hearing this morning, the representative of the Office
25 of the Prosecutor asked you how many UPC soldiers were killed the day of

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1 the attack, and you said that when you arrived in Bunia, you went to the
2 Bunia UPC camp and that the person in charge told you that there had been
3 120 soldiers killed. At that time, were you given any information
4 regarding the number of civilians who had been killed during the battle?

5 A. No, I was not given the number of civilians who were killed
6 during the attack.

7 Q. Thank you. After the UPC camp was taken over, you said you went
8 back to Bogoro and you found a hiding-place where you spent the night, as
9 you said, and you observed what was going on in the village. Could you
10 be more precise as to what you saw? What exactly did you see at that
11 time, and can you tell us roughly what time of day it was?

12 A. It was the evening. The city fell at about 11.00. We fled, and
13 I went back around 2.00, and I saw people destroy houses, taking the
14 roofing, attacking people who were hiding in the bush, but I observed
15 that from afar. It was hard to see everything because I was far. I
16 didn't know who was doing this, but I did hear people crying, and I was
17 afraid to go any closer, to go closer to the enemy, because they might
18 kill me.

19 Q. Thank you. You mentioned roofs being taken off the houses. Can
20 you perhaps tell us who the owners of those houses were, people who were
21 looted or the roofs taken off the houses? If you know, of course.

22 A. It's very difficult to give you the names. There were many
23 houses made of corrugated iron in Bogoro, and it's very difficult to know
24 all those names. In Bogoro there were only about three or four houses
25 which remain. All the others were burned down.

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1 Q. And based on what you saw, who was doing the looting and
2 destroying these houses? Were they armed fighters? What category of
3 fighters or soldiers were carrying out these acts?

4 A. It was the Lendu and Ngiti fighters combined. They were each
5 destroying houses, and they were running away.

6 THE INTERPRETER: The interpreter points out that the witness is
7 speaking very quickly.

8 PRESIDING JUDGE COTTE: (Interpretation) Can you please slow
9 down just a bit, because the interpreters are having trouble following
10 your testimony. If you could perhaps repeat that response, and please
11 speak more slowly. Thank you.

12 THE WITNESS: (Interpretation) Well, everyone was following
13 their own interest. They would destroy a house and go away. Another
14 would come in, destroy something, loot, and then run away. The civilians
15 came, there were young people and older people who hadn't been able to
16 get their property, and some people who had rifles were able to resist.
17 But we warned the population, saying that the UPC had left, and the
18 civilians ran off to the bush.

19 THE INTERPRETER: It would seem that the witness has not followed
20 the instructions given by Judge Cotte.

21 PRESIDING JUDGE COTTE: (Interpretation) Could you please slow
22 down. We're not in a hurry. Please slow down so that the interpreters
23 can indeed interpret everything that you say.

24 Please continue, and again please speak slowly. Thank you.

25 THE WITNESS: (Interpretation) I was saying the follow:

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1 Everyone was thinking of their own interests. I hope you're able to
2 follow.

3 PRESIDING JUDGE COTTE: (Interpretation) Yes. That's slowly.
4 Fine. Please proceed.

5 THE WITNESS: (Interpretation) Okay. Someone would come and go
6 off with some corrugated iron, and then someone else would do the same
7 thing. There were women, there were children, who looted property in the
8 different houses. Are you still following me? Fine. So they looted
9 property inside the houses. Now, some people stayed in the village, the
10 ones who had weapons, and they thought the UPC would come back and fight
11 on their side, but the UPC did not come back.

12 MR. LUVENGIKA: (Interpretation)

13 Q. Thank you very much. I have one last question. While you were
14 observing this looting, can you tell us whether the civilian population
15 of Bogoro was still there in their houses and what happened to them?

16 A. I didn't see who was still in the village, but there were some.
17 But when you see how the village fell in the end, it's hard to imagine
18 that anyone could survive.

19 MR. LUVENGIKA: (Interpretation) Thank you very much, Witness.

20 Your Honours, I have no further questions.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
22 Mr. Luvengika.

23 Mr. David Hooper, are you ready to begin your cross-examination?

24 MR. HOOPER: Yes, I am.

25 PRESIDING JUDGE COTTE: (Interpretation) Fine.

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1 Witness, you will now be asked questions by the counsel for
2 Mr. Germain Katanga. This is the cross-examination, so please be so kind
3 as to answer these questions just as you did to the questions of the
4 Prosecutor and the two Legal Representatives of Victims, and again,
5 please do speak slowly.

6 Go ahead, Mr. Hooper.

7 Questioned by Mr. Hooper:

8 Q. Good afternoon, Mr. Witness. Can I just go a little bit over
9 your history just so that we're clear about it. You joined the UPC, and
10 you told us how you were then trained for three months in Mandro, and at
11 the end of your training what was the position? Did you then join UPC
12 soldiers at Bogoro, or did you go anywhere else? What was the position?

13 A. I was in Bogoro.

14 Q. And -- sorry. And when you arrived in Bogoro, were you amongst
15 the first UPC soldiers to take up a position there or was the UPC already
16 there, having taken over from the UPDF?

17 A. I was a member of the UPC, and I was part of the first group.

18 Q. And as I understand it, that group would have -- had arrived
19 there at about the time that Mr. Lopondo got chased out of Bunia, which
20 we heard was in August. Would that be right, August 2002?

21 A. When the UPC arrived in Bogoro, Lopondo had already left and he
22 was in Bunia.

23 Q. All right. Can you help us as to this, if you can't say so, but
24 approximately how long after Lopondo got chased out of Bunia was it that
25 you got to Bogoro?

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1 A. I can't give you a precise date. I have forgotten the date.

2 Q. All right. Now -- now, during your time in the UPC, can I ask
3 you this: Did you ever go on the offensive at all?

4 A. I didn't attack anyone. We were attacked, on the contrary.

5 Q. Are you aware of any attacks made by the UPC on other ethnic
6 groups in the area, whether it be Ngiti, Lendu, Bira? Are you aware of
7 any such attacks at all?

8 A. No, I don't know about that.

9 Q. Now, can I come briefly to the camp itself, and thank you very
10 much for the assistance you've given the Court already, but I just want
11 to clarify one matter, and if we can, perhaps with the help of
12 Mr. Dutertre, go to the photograph of the satellite picture that was
13 taken in April of 2003. So relatively contemporaneous with the events
14 that we're concerned with. And if we can look at that, and I don't mind
15 if you have a hard copy of it because it might be much easier for you,
16 actually, to see, and if other parties still have retained their hard
17 copies, perhaps we can deal with it like that, because I have one in
18 front of me?

19 MR. HOOPER: Can the witness, please, be provided with this hard
20 copy. I may or may not ask him to mark it, so it may be that this
21 doesn't need to be formally exhibited. It's the document we saw this
22 morning, and it's got a number, DRC-OTP-1016-0224.

23 Q. And, Mr. Witness, if you can look at the copy in front of you.
24 Now, you -- you very helpfully drew a line, a continuous line, indicating
25 what you said indicated to be the trenches or the communication trench.

1 And you also drew, you might remember, on an outer circle, or you placed
2 some dots that indicated an outer circle. Now, I'd like to invite you to
3 look at that plan again. The one -- I'm sorry, the satellite photograph
4 that you have in front of you again, and what I'm going to suggest is
5 this: Looking at it, does it not look very much as if it's the outer
6 circle that is, in fact, the line of trenches, the circle of trenches,
7 completely surrounding the camp, and the inner circle, if we look at it,
8 which is largely made up, we can see, of what might be small houses or
9 paillote houses in straw around. It might show them as they stand. It
10 might show them burnt. It's unclear. But those circles on the inner
11 circle, don't they represent a circle of houses where the UPC troops, in
12 fact, had their quarters or some of them had their quarters? Looking at
13 that photograph.

14 In other words, might it be, Mr. Witness, that obviously with a
15 difficult picture like this, when you've gone to indicate the trench, you
16 may have made a mistake, may I suggest, and what do you say to that?

17 A. I'm afraid I did not understand your question. Could you repeat
18 your question, sir.

19 Q. Well, that's my fault, and no criticism of you. It was a long
20 question.

21 You remember this morning you indicated where you thought the
22 trench was on this photograph? Do you remember doing that?

23 A. Yes, I remember.

24 Q. And I'm asking you to look at the photograph again, and just look
25 at that inner circle, the one that you marked as the communication

1 trench. And looking at it, can you see what appears to be, much of the
2 way around it, what appear to be small, dark points or circles? Do you
3 see that?

4 A. Yes.

5 Q. And looking at that, may those small dark marks or circles, in
6 fact, be what's left of the small huts, houses, that once stood there,
7 the paillote houses?

8 A. No. The outer dots, you see those dots, this was where the
9 soldiers were positioned when they left the trench. The inner circle is
10 the trench, and when the soldiers left the trench, they would be
11 positioned at those various different points that you can see represented
12 by dots.

13 Q. Let me ask the question again. I understand you're doing your
14 best and helping us, and I'm asking you to look at the plan -- look at
15 this photograph again. You see, looking at it, does it not look to you
16 as if it's the outer circle, in fact, that's the trench? You can almost
17 see the line of the trench on this photograph, can't you?

18 A. The inner circle is a trench. It was dug out. Do you
19 understand? And the outer circle, well, when the soldiers were inside
20 the trench and they were being aimed at, they would come out and position
21 themselves along that outer circle.

22 Q. All right. Well let me ask you this -- let me ask you this:
23 Before the -- the camp was attacked, were the small houses that had been
24 built to accommodate some of the soldiers, were those small houses
25 roughly in a circle, formed in a circle, or not?

1 A. Those little houses were inside of a circle. So the circle went
2 around these houses.

3 Q. All right. Well, thank you very much. I quite accept you've
4 helped us as much as you can on that photograph.

5 Now, you were asked whether there were any females amongst the
6 UPC, and I merely want to refer, if I may, to the interview that you had,
7 or interviews, that you had with the Prosecutor, and this was back in
8 2008, and you were -- and there are seven separate recordings or
9 transcripts, and I'm going to be looking at -- I think it's about line
10 600 on the fourth transcript, and you were asked about female soldiers in
11 the UPC, and your reply was:

12 "There were many female soldiers, and they wore the same
13 uniform."

14 Now, I'm just asking you that, because I understood you to say
15 this morning that there weren't any. So can you help us?

16 A. Please listen carefully. In Bogoro we did not have any women
17 within the UPC, but I can't tell you whether or not there were women in
18 other groups. But in our UPC group in Bogoro, there were no women.

19 Q. Can you help us as to why on a previous occasion you said that
20 there were many in the UPC?

21 A. Please listen to me, Counsel. Amongst the people in Bogoro you
22 have already asked me the question to know whether there were women in
23 Bogoro. In my group there were no women. Maybe in Bunia and elsewhere I
24 would say there could have been women in the UPC, but in our group in
25 Bogoro there were no women.

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1 Q. I thank you very much. Now, let me ask you, please, just a
2 little about weapons. We might not know very much about weapons, so you
3 can help us perhaps.

4 UPC soldiers bore weapons, and most of them had, you told us,
5 SMGs, and by SMG, are we talking there about a gun such as the AK-47?

6 A. What I know is that the SMG can have 30 rounds in their magazine.

7 Q. All right. Well, I understand -- in my own language SMG stands
8 for submachine-gun, a small machine-gun, but there are various kinds of
9 makes. Do you know what make of machine-gun you had? And by that I mean
10 the kind of SMG that you and other UPC had.

11 A. What we had was the series of guns that contained 30 bullets in
12 the magazine. That is what I know.

13 Q. All right. So you had a magazine, and I quite accept that, that
14 contained 30 -- 30 bullets, and how many magazines would be issued to
15 each soldier when an attack was expected? Would I be right in suggesting
16 three magazines of 30 bullets each was the normal distribution?

17 A. No, that is not correct. It was not all the soldiers who fought
18 in the same way. I could have a rifle and I use three bullets, whereas
19 another person would use only one.

20 Q. Yes, I understand that. It's my -- the way I asked that question
21 probably confused you. Let me ask it in a different way.

22 Your SMG -- thank you. Your SMG had a clip that contained 30
23 bullets. How many clips of 30 bullets would you be issued with?

24 A. No, I did not have a magazine. I had a belt-driven rifle.

25 THE INTERPRETER: The Swahili interpreter did not hear the last

1 part of the witness's answer.

2 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, the last
3 part of your answer was not understood by the interpreter. Can you
4 kindly repeat.

5 THE WITNESS: (Interpretation) What I was saying was that I was
6 using another rifle that did not have a magazine, that is, the magazine
7 for the SMG.

8 Q. Yes. All right. I'll -- that's the G2 that you spoke about.
9 I'll come back to that just in a minute, but just at the moment I'm
10 asking you about SMGs, with which you're clearly familiar, and you've
11 told us that the SMG came with a clip of 30 bullets, and I'm asking you
12 did people who have those SMGs in the UPC, did they have one clip or were
13 they issued with more than one clip of bullets?

14 A. That was difficult to know how many magazines each soldier had.
15 Each person was responsible for handling or managing his own rifle, so I
16 was not able to know what the other soldiers had as magazines.

17 Q. All right. Thank you. Let me move, then, to the G2. Now,
18 that's a larger-calibre weapon, is it, to the SMG?

19 A. Yes. The G2 has a much larger calibre than the SMG.

20 Q. And instead of having the bullets in a clip, it has bullets on a
21 belt that feeds through the gun; is that right?

22 A. Yes.

23 Q. Do you know what its rate of fire is, how many bullets it can
24 fire in a second or in a minute?

25 A. No, I do not know. In the thick of action, when you are

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1 crawling, you do not have the time to count the number of seconds it
2 takes for you to shoot, and it follows you wouldn't know the number of
3 bullets fired per second.

4 Q. All right. Well -- very well. And how many bullets would you
5 have on -- on a belt?

6 A. There are various types of belts. It could be possible for you
7 to carry ten belts of bullets, maybe even 25. It depends on your ability
8 to carry them.

9 Q. And how many bullets would there be on each belt?

10 A. I have just said that there are many types of belts. There are
11 belts with 125 bullets and others with 250.

12 Q. And when you used this weapon, did you have someone to help you
13 to carry the belts or to load the belts?

14 A. Yes. It was necessary to have someone to assist in feeding the
15 gun from the belt and another one to fire.

16 Q. And during the attack on Bogoro, who were the two people helping
17 you?

18 MR. DUTERTRE: (Interpretation) Maybe we should go into closed
19 session for that, Mr. President.

20 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
21 let us briefly go into private session.

22 (Private session at 3.41 p.m.)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0323 (Resumed) (Private Session)
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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Open session at 3.45 p.m.)

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

7 Mr. President.

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

9 Please proceed, Mr. Hooper.

10 MR. HOOPER:

11 Q. So, as I understand you, during the attack on Bogoro you didn't
12 have the assistance of anyone to help you with the G2; is that right?

13 A. During the battle, as you know, each person is trying to save his
14 own life. Are you with me?

15 Q. All right. Well, I think the answer is you had no assistance.

16 Now, you've told us of hearing -- of being forewarned about this
17 attack through the interception of communications. Would I be right in
18 saying that you yourself didn't hear or understand any communications as
19 you don't speak Ngiti or Lendu and that your knowledge of this comes from
20 others? Is that right?

21 MR. DUTERTRE: (Interpretation) I do not want to interrupt
22 Mr. Hooper, but I think he should split the question. To hear something
23 and to understand something, those are two different things. Can he
24 rephrase?

25 PRESIDING JUDGE COTTE: (Interpretation) Very well.

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1 Mr. Hooper, maybe you should split that question so that the
2 witness should be able to understand that this refers to two different
3 things and there could be two possible answers.

4 MR. HOOPER:

5 Q. You've told us about how there was a warning of the attack and
6 that this resulted from the interception of communications. Am I right
7 in saying that you yourself didn't hear those communications but received
8 knowledge of them from other people?

9 A. That is correct.

10 Q. As a result of that warning, come the start of the attack at 4.00
11 in the morning, you were awake and in your trench; is that right?

12 A. We were in the military camp. We are -- we were at our positions
13 waiting for the enemy.

14 Q. Were you in the trench?

15 A. Yes.

16 Q. And the first that you knew of this attack from what you've
17 described as the signal was when the attackers opened fire on you; is
18 that right?

19 A. Yes.

20 Q. And there then followed intense firing until eventually your camp
21 was overrun at 11.00 or about 11.00 in the morning; is that right?

22 A. Yes.

23 Q. How many G2s did the UPC have in the camp?

24 A. There was only one that was used during the battle.

25 Q. Now, you personally, did you stay in about one position or did

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1 you move about all around the camp? What was your activity during that
2 fighting?

3 A. During the battle I was fighting. I did not have any other
4 duties. I had to fight.

5 Q. Well, where were you firing your gun at? Were you firing your
6 gun towards Waka, or were you firing it somewhere else, or were you
7 firing it everywhere?

8 A. I was firing in the direction of Gety, Kasenyi, Bunia, and I was
9 firing more frequently in the direction of Gety.

10 Q. Now, I want to ask you in the remaining minutes, and I have very
11 few questions left of you -- for you, about what happened when the camp
12 was overrun at 11.00-ish, about 11.00, and what you did, and you very
13 kindly indicated on a sketch plan the route that you took, and I just
14 want to go over that with you again.

15 There was a corridor, you told us, opened that went towards Waka,
16 and you and other UPC soldiers and civilians all tried to make your way
17 along that corridor; is that right?

18 A. We were all mixed together. We took the same path as the
19 civilian population.

20 Q. And there came a time when you -- you yourself stopped, is that
21 right, and hid in a tree? Is that right?

22 A. Each person had to go his -- his own way to flee. There was no
23 way to stop at that time.

24 Q. Well, let me ask you this, because I may have misunderstood what
25 you were telling us earlier. We can see the direction you left the camp,

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1 and that took you up to Waka hill. Now, when you got to Waka hill, did
2 you -- from your indication on the plan, you seem to have climbed a bit
3 of Waka hill and then turned to the right; is that right?

4 A. That was to show the destination towards Bunia as indicated by
5 the arrow.

6 Q. Well, let me ask you this: When you got to Waka hill, did you
7 stop or did you carry on?

8 A. When I got to Waka hill, we carried on. I had already covered a
9 significant distance. It was later on that I returned to Bogoro to find
10 out what had happened. Do you understand me, Counsel?

11 Q. I'm afraid I don't, and it's my fault. Don't -- so bear with me
12 while I -- I do understand what the position is.

13 You don't stop at Waka hill. You carry on. On the sketch plan
14 you drew, you showed a line that went back from Waka hill and entered
15 Bogoro again. Are you saying that running away on the -- when the camp
16 was overrun you reached Waka hill and you carry on and you turn back into
17 Bogoro? What's the position? Just tell us again in your own words.
18 That's the easiest thing.

19 MR. DUTERTRE: (Interpretation) Maybe the witness should be
20 shown the sketch that he drew.

21 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, do you
22 remember the red line that you drew this morning on the map, or do you
23 want to have it shown to you again in order for you to answer
24 Mr. Hooper's question?

25 THE WITNESS: (Interpretation) Yes, Mr. President, I remember it

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1 well, and I am explaining it to him. I said that we left the military
2 camp. We went right up to the mountain, and from there we had to go
3 right up to Bunia. From there I returned and spent the night in Bogoro.
4 It is counsel who is not understanding me.

5 MR. HOOPER:

6 Q. No. Well, maybe I'll do better tomorrow, but I really only have
7 a few minutes of questions about this from you tomorrow. It's the only
8 subject unless I think of something overnight, so can we come back to
9 this tomorrow, and perhaps with some photographs and the plan again we
10 can better understand what happened afterwards.

11 Thank you very much, Mr. Witness.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Hooper.
13 And tomorrow the remaining questions will be put to the witness, and the
14 satellite photograph will be given back to the witness, and that will
15 make it possible for everyone to understand.

16 Mr. Prosecutor, your direct examination lasted for 2 hours, 34
17 minutes, as the Court Officer told us, and Mr. Hooper has told us that
18 unless there is a problem, he should complete his cross-examination
19 tomorrow morning.

20 So, Professor Fofe, you should know that you should begin
21 tomorrow. Is that understood?

22 MR. FOFE: (Interpretation) Yes, Mr. President. Can we know
23 when we -- or, rather, how much time we will have?

24 PRESIDING JUDGE COTTE: (Interpretation) Can you tell the time
25 that Mr. Ngudjolo's Defence team will have tomorrow taking into account

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1 the period of 2 hours, 34 minutes used by the Prosecutor?

2 (Trial Chamber and Court Officer confer)

3 PRESIDING JUDGE COTTE: (Interpretation) About 92 minutes. That
4 means one and a half hours.

5 Tomorrow, we have four and a half hours of hearings, three hours
6 in the morning and one and a half hours in the afternoon. Maybe it would
7 be wise to prepare for the arrival of Witness 159, Mr. Prosecutor. We
8 have three hours in the morning, one a half hours in the afternoon. That
9 is a total of four and a half hours.

10 MR. MACDONALD: (Interpretation) Mr. President, it is indeed
11 possible for Witness 159 to begin his testimony in the afternoon, so I
12 would therefore propose that the unit should take the necessary measures
13 to make the witness available as from 2.30 p.m., independently of the
14 time that will be used in the morning.

15 PRESIDING JUDGE COTTE: (Interpretation) So we are going to base
16 ourselves on the arrival of Witness 159 as from 2.30 p.m. So if there
17 are unforeseen circumstances, then we could continue with this witness in
18 the afternoon, but let us agree on 2.30. Is that agreed?

19 Mr. Witness, thank you for your contribution today. You have
20 spent four and a half long hours with us today, so you have a right to
21 rest. We will meet tomorrow again at 9.30 a.m.

22 The Court Officer is going to take us into a closed session to
23 enable you to leave the room, and then we are going to come back into
24 open session to adjourn, and we would like to thank all those who have
25 assisted us during this hearing.

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1 (Closed session at 4.03 p.m.)
2 (Expunged)
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11 (Open session at 4.03 p.m.)
12 COURT OFFICER: (Interpretation) We are in open session, your
13 Honour.
14 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
15 Court Officer.
16 Court is adjourned.
17 COURT OFFICER: All rise.
18 The hearing ends at 4.04 p.m.
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