

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 Wednesday, 31 March 2010
10 The hearing starts at 9.07 a.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session.
14 PRESIDING JUDGE COTTE: (Interpretation) The Court is now in
15 session. Please be seated.
16 The accused are with us. We are in open session.
17 Court Officer, please could we bring in the witness 373.
18 (The witness entered court)
19 PRESIDING JUDGE COTTE: (Interpretation) Good morning, Witness.
20 Can you hear me well?
21 THE WITNESS: (Interpretation) Yes.
22 PRESIDING JUDGE COTTE: (Interpretation) We're going to ask you
23 at the beginning of this hearing to firstly state your name, your first
24 name, your date, place of birth, and --
25 THE WITNESS: (Interpretation) So Jean-Claude Renaud, born on

1 the 26th of April, in Laos, in Vietnam, and I am a journalist.

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

3 Before starting your testimony, you should take the solemn undertaking to
4 tell the truth. This is a solemn undertaking which I shall read slowly
5 so that you understand the importance of it. I solemnly declare that I
6 shall tell the truth, the whole truth, and nothing but the truth.

7 Have you understood that?

8 THE WITNESS: (Interpretation) Yes.

9 PRESIDING JUDGE COTTE: (Interpretation) You commit yourself to
10 telling the truth, the whole truth, and nothing but the truth?

11 THE WITNESS: (Interpretation) Yes.

12 PRESIDING JUDGE COTTE: (Interpretation) You have just taken the
13 commitment to tell the truth. If during your testimony or in replying to
14 the questions that are put to you you do not tell the truth, then you
15 could be prosecuted before the Court for false testimony, and if the
16 facts are demonstrated, you can be convicted. Have you understood that?

17 THE WITNESS: (Interpretation) I have understood that very well.

18 PRESIDING JUDGE COTTE: (Interpretation) The Court notes that it
19 has been satisfied under Article 69(1) of the Statute and Rule 66 of the
20 Rules of Procedure and Evidence, and namely, paragraphs 1 and 3 thereof.
21 The Court would like to thank you for having testified before it. It
22 would ask you when you take the floor to speak, as you have done, slowly,
23 distinctly, so that all the interpretation system works well and makes it
24 possible for all of us to be able to profit fully from what you have to
25 say, and please also make an effort to respect a five-second delay

1 between the question that's asked of you and the start of your answer so
2 that we can ensure the proper interpretation of that.

3 Prosecutor, you have the floor. You will remember the terms of
4 the oral decision of the 26th of March and which provide a framework for
5 the use which you intend to use of the written statement of this witness
6 and also of photographs annexed thereto. I don't think it's useful to go
7 back to that point. No.

8 You have the floor, Prosecutor.

9 MR. DUTERTRE: (Interpretation) Thank you, your Honour. Good
10 morning, Judges. Good morning, Witness.

11 THE INTERPRETER: The microphone is not pointing toward the
12 speaker.

13 MR. DUTERTRE: (Interpretation) I would like to draw the
14 attention of the parties and Judges and the Chamber to certain files or
15 folders. One contains the statement of the witness and the table of
16 correspondence that was prepared, and the other contains all the
17 photographs mentioned in the witness statement. I would hereby like to
18 say that we do not intend to discuss all these photographs today, but
19 around 22 or 23.

20 Where it concerns the first folder for the witness, we have a
21 table -- we have prepared one binder here. Now, with your permission I
22 would like to ask the leave of the Chamber to distribute them.

23 PRESIDING JUDGE COTTE: (Interpretation) Understood.

24 Usher, please could you give -- please could you help to carry
25 out this distribution of the binders.

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1 The Defence teams have this documentation. The accused are
2 also -- also have copies. The Legal Representatives have copies. So I
3 note that the accused also have copies.

4 Prosecutor, you can therefore start with your examination.

5 MR. DUTERTRE: (Interpretation) Thank you, your Honour. I am
6 going to proceed in two stages. Firstly, with the written statement
7 verifying that the witness consents without being evidence, and once this
8 has been tendered into evidence we can go over certain points with him,
9 namely, the photographs selected in accordance with your decision.

10 WITNESS: JEAN-CLAUDE RENAUD

11 (Witness answered through interpreter)

12 Questioned by Mr. Dutertre:

13 Q. (Interpretation) Witness, do you have the small binder, the green
14 binder, in front of you? Do you remember Witness, Mr. Renaud, having
15 been examined by the Office of the Prosecutor in March 2009 and having
16 made a sketch and commented on the photographs that you gave to the
17 Office of the Prosecutor?

18 A. Yes.

19 Q. Do you remember having re-read and signed this statement?

20 A. Yes.

21 Q. The documents before you in the green folder and which have the
22 numbers DRC-OTP-1036-0517 to 1036-0541, is this your statement?

23 A. Yes.

24 Q. Do you see your signature on each of the pages?

25 A. Yes.

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1 Q. Do you see your signature on the two last pages, that is, the
2 attestation page and the page corresponding with the sketch?

3 A. Yes.

4 Q. Mr. Renaud, the information contained in the statement, this
5 written statement, does it correspond with the truth as you know it?

6 A. Yes.

7 Q. Would you accept, Mr. Renaud, that this written statement and the
8 sketch annexed thereto be tendered into evidence?

9 A. Yes.

10 MR. DUTERTRE: (Interpretation) Your Honour, at this stage I
11 would like to ask for an EVD number for this written witness statement.

12 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if you
13 could be so kind.

14 MR. DUTERTRE: (Interpretation) Public document, excuse me.

15 COURT OFFICER: The 21-page document, your Honours, under tab 1,
16 identified with DRC-OTP-1036-0517 would be assigned EVD-OTP-00073 and
17 marked as public, your Honours.

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

20 Please continue, Prosecutor.

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

22 Q. I am now, Mr. Renaud, going to ask you some questions with
23 regards to very precise points and, in particular, ask you to comment on
24 certain pictures that you make reference to in this statement.

25 Firstly, some points with regards to your background. Before

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1 being a photographer you were in the French army, were you not?

2 A. Yes.

3 Q. And from what year to what year?

4 A. From 1985 to 1990.

5 Q. What was your function?

6 A. I was an army photographer.

7 Q. And did you have a particular rank?

8 A. Yes. I came in as equipage and was later quartier-maitre.

9 Q. Thank you. I am going on to general questions with regards to
10 your photograph, and by way of information, this concerns paragraphs 10
11 and 12 of your statement. Following paragraph 10 and 11, page 3 of your
12 statement, you arrived in the Congo on the 17th of June, 2003, and you
13 stayed until the 9th of September, 2003. We understand that you were
14 based in Bunia. And in paragraph 33, 62, 69, 86, and 100, you state or
15 you describe five trips out of Bunia and two to Zombe. And you state in
16 paragraph 12 that your aim was to be able to leave Bunia and go to meet
17 the Lendu chiefs; is that correct?

18 A. Yes.

19 Q. The blue binder which is before you contains photos
20 DRC-OTP-1036-541 -- 1036-5 -- I'm waiting for the transcript here.
21 1036-0541. And DRC-OTP -- so 10 to 1036-0572, as well as the photographs
22 DRC-OTP-1036-0573.

23 THE INTERPRETER: 76, rather, corrects the interpreter.

24 MR. DUTERTRE: (Interpretation) And to DRC-OTP-1036-0588.

25 Q. These are the photos which were provided to the Prosecution and

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1 commented on in your statement.

2 My question is the following: Was it you who personally took
3 these photographs?

4 A. Yes.

5 Q. If I understand your statement correctly, apart from the
6 photograph mentioned in paragraph 117 of your statement, when you state
7 that they'd taken Bunia on the 19th -- or that the photograph was taken
8 in Bunia on the 19th of June, 2003, all the photographs in this folder,
9 from tabs 1 to 44, were taken in Ituri between the 17th of June, 2003,
10 and the 9th of September, 2003, during the trips out of Bunia that you
11 mentioned?

12 A. Yes, I confirm that.

13 Q. And all these photographs in the white folder, which you provided
14 the Office of the Prosecutor with in 2009, these are photographs as you
15 took them in 2003?

16 A. Yes.

17 Q. I am now going to jump to paragraph 119, and would you confirm,
18 as indicated in paragraph 119, not to having asked for anything for
19 taking these photographs. I would just like you to -- I would like to
20 confirm that all the photographs I've mentioned are public. That's
21 something I won't repeat for the next ones.

22 I'm now interested in the first departure, the first trip, and
23 here I'm referring to paragraph 37 and 45, pages 7 and 8. So that's
24 paragraph 35, paragraph 7 (as interpreted) and paragraph 45, page 8.
25 Following -- according to -- or following paragraph 35 and 45, it's 35,

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1 not 37. I made a mistake. So you were in -- on the 2nd of June --
2 July 2003, you were in the village of Zumbe or you went to the village of
3 Zumbe. And in paragraph 39, you state that your objective was to see how
4 the Lendu lived and to see if there were child soldiers there.

5 In paragraph 45 you state, and here I quote, that:

6 "We arrived in the village of Zumbe, and there, a civilian chief
7 in a green shirt welcomed us and took us to the Kaserne which was at the
8 entry of the village on the left-hand side. There he took us to some
9 kind of building and presented us to the commander of the zone who was
10 called Cobra."

11 My question is as follows: Who told you that this zone commander
12 was called Cobra?

13 A. He did himself. It was the commander himself because I asked him
14 this question.

15 Q. Could you look at paragraph 45 and also go to tab 3 in the white
16 binder.

17 I see that the photograph DRC-OTP-1036-546 -- 0546, 1036-0546,
18 tab 3 corresponds with frame 14 mentioned in paragraph 45.

19 My question is as follows: With regards to this frame 14, these
20 are the notable persons at the village who welcomed you in Zumbe?

21 A. Yes.

22 Q. I'd like to go on now to photograph 46, page 9, and here you say,
23 and I quote:

24 "The children were spread out over the camp."

25 When you used the word "camp," what kind of camp was it?

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1 A. Well, when you arrive there was a barrier -- well, how should I
2 put it? A barrier between the village and the entrance to this field.
3 There was a kind of barrier -- well, there were barriers, to put it
4 simply. And when you go into the field with the barriers, through the
5 barriers, we immediately sensed - and when I say "we," I mean myself and
6 the German journalist - we could sense that it was a military camp
7 because there were various activities carried out by the children that
8 otherwise children wouldn't do.

9 Q. You go on, Mr. Renaud - and here I'm quoting your statement - to
10 say:

11 "There, Cobra called his soldiers and had them come together."

12 There was also a soldier in military fatigues who, and I quote:

13 "... threatened the children who were slow at lining up."

14 I'm still referring to paragraph 46, and could you look at tab 5,
15 please, in the white binder. This is photograph DRC-OTP-1036-0563, which
16 can be displayed on the eCourt system. Again, it's under tab 5. This
17 photograph corresponds to frame 3 that was mentioned in paragraph 46 and
18 which represents the soldier referred to.

19 My question is as follows: What are the letters written on this
20 soldier's jacket above the left-side pocket?

21 A. It's -- says FAC, Forces Armees Congolaises.

22 Q. Thank you.

23 MR. DUTERTRE: (Interpretation) I don't know whether the
24 photographs are actually displayed in time as I'm asking the question.
25 Of course, the binders make things more practical for consultation.

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1 PRESIDING JUDGE COTTE: (Interpretation) I can see that if you
2 press "PC 1," the photographs are indeed on the screen but not always
3 fully, the full picture -- thank you. They've made the modification. We
4 now have the photographs both on the screen and in our binders.

5 MR. DUTERTRE: (Interpretation) Thank you very much, your
6 Honour.

7 Q. My next question. This soldier is wearing ammunition on his
8 left-hand side?

9 A. Yes.

10 Q. According to paragraph 46, if I understand correctly, when you
11 took this photograph he was in the camp?

12 A. Yes, I can confirm that.

13 Q. I would like to go on now to paragraph 47 of your statement,
14 where you say, and I quote:

15 "Then there, he made a speech."

16 When you say "he made a speech," who does the "he," the pronoun
17 refer to? Was it Cobra or was it the soldier under frame 3?

18 A. It was Cobra and not the person wearing the military uniform. It
19 was Cobra who was speaking to the children, who was speaking to the
20 children.

21 Q. So it was indeed Cobra. Was --

22 MR. HOOPER: (Previous translation continues) ... to interrupt.
23 It's just really a point of clarification because throughout the
24 background to this case we've heard of a gentleman called Cobra Matata.
25 And I just want to make it plain the Prosecution aren't suggesting this

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1 is Cobra Matata, are they?

2 MR. DUTERTRE: (Interpretation) This is perhaps not the
3 appropriate moment to discuss that in front of the witness, but the
4 answer is no. There are several individuals who went by the name Cobra.

5 MR. HOOPER: Thank you for that clarification.

6 PRESIDING JUDGE COTTE: (Interpretation) You may proceed.

7 MR. DUTERTRE: (Interpretation)

8 Q. Well, let me repeat my question. What language was he speaking
9 when he was haranguing the children?

10 A. Well, part of it was in French, there were significant words like
11 "soldier" or "attention," "garde a vous," in French, and the rest, I
12 believe, was in Swahili. I only understand a few words in Swahili, but
13 there were key words in French.

14 Q. Thank you. So he said the word "soldier," in French, "soldat"?

15 A. Could I --

16 Q. Please wait a moment. Go ahead now.

17 A. There's something that just came to mind. The words like
18 "soldat," in French, "soldier," or "attention," "garde a vous," were said
19 for us, in fact. They were intended for us.

20 Q. Thank you. Thank you for that, Mr. Renaud.

21 I'd like to go on now to paragraph 48 and ask you to look at the
22 photograph behind tab 6 in the white binder. Now, I understand that the
23 photograph DRC-OTP-1036-0569, which can be displayed on eCourt,
24 corresponds to frame 6 referred to in paragraph 48.

25 In this photograph, which is frame 6, who is the person standing

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1 wearing a grey suit in front of the others lined up in several rows in
2 the background, including a person with a purple shirt? Who is the
3 man -- who is the person with the grey suit?

4 A. His name was Commander Cobra.

5 Q. And what is his position in this photograph?

6 A. He's standing at attention.

7 Q. The individuals behind Cobra standing at attention, are these
8 soldiers who were assembled including the children you mentioned in
9 paragraph 46?

10 A. Yes, I can confirm that.

11 Q. And what is their position behind Commander Cobra?

12 A. They are standing at attention.

13 Q. I'm still referring to paragraph 48 and I would like to ask you
14 to go to tab 7 which contains photograph DRC-OTP-1036-0570, which, in
15 fact, corresponds to frame 7 referred to in paragraph 48.

16 This is a close-up of Commander Cobra during this very same
17 event; is that correct?

18 A. Yes.

19 Q. Mr. Renaud, I'd like to go on to paragraph 49, where you state,
20 and I quote, that:

21 "Cobra was screaming, 'Hold your heads up,' which is a military
22 order, 'Tete droite,' 'Look to the right,'" and you mention that you have
23 taken pictures of the children that seem to you to be the youngest. Is
24 that correct?

25 A. Yes.

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1 Q. I'm still referring to paragraph 49 and I'd like to ask you to
2 look under tab 11 in the same white binder. I understand that
3 photograph 1036-0542 under tab 11 corresponds, in fact, to frame 10 that
4 you mention in paragraph 49.

5 My question is as follows: This frame, frame 10, is a close-up
6 where you can see to the right the same person with the purple shirt as
7 the one that can be seen under tab 6, is that correct, behind Cobra?

8 A. Yes.

9 MR. DUTERTRE: (Interpretation) Court Officer, would you be so
10 kind as to zoom-- zoom in to that person wearing the purple shirt.

11 Thank you.

12 Q. You stated in paragraph 49 that you asked Cobra how old that
13 child was, I'm referring to the child wearing the purple shirt. Can you
14 tell us what Cobra answered to your question regarding the child wearing
15 a purple shirt?

16 A. When I asked Cobra the question about the age of the children --
17 well, I didn't use the word "children." I asked him the age of the
18 soldiers that were lining up, he told me 15 years old. When I -- he
19 answered immediately and he didn't hesitate a moment.

20 Q. I'm still referring to paragraph 49, and please take a look at
21 tab 14 in the white binder. Now, this is photograph DRC-OTP-1036-0545,
22 under tab 14, and this corresponds to frame 13 referred to in
23 paragraph 49 of your witness statement.

24 This picture, frame 13, is a close-up of the child wearing a
25 purple shirt in -- is that correct, in frame 6 and 10; is that correct?

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1 A. Yes.

2 Q. I referred to frame, not the name Ephraim (phoen).

3 In paragraph 49, you state that the age given by Cobra was not
4 credible. Now, you were very close to this person with your camera. In
5 your opinion, how old was this person wearing a purple shirt?

6 A. In my opinion, he's between 9 and 11 years old, and there are two
7 aspects that if not confirm at least enable you to guess his age. If you
8 look carefully, the close-up can -- you can see that he's breathing, he
9 doesn't have an Adam's apple, he doesn't have any signs of a beard. So
10 he was a pre-puberty child. I would say -- so for me those are signs, if
11 you will, that enable me to guess the age of the child.

12 I didn't say this when I was being interviewed because I didn't
13 think of it at the time. But when the meeting was over you, when the
14 rally was over, you could hear the soldiers laugh and cry out. And this
15 child in particular had a high-pitched voice when he was crying out, and
16 not at all an adult voice.

17 Q. Thank you for that. Could you look behind tab 6 in the white
18 binder, which is DRC-OTP-1036-0569. I'm waiting for the photograph to
19 come up on the eCourt system.

20 To the right of the child wearing a purple shirt there's another
21 child standing at attention. He's wearing a blue T-shirt with a picture
22 in front on his chest.

23 MR. DUTERTRE: (Interpretation) Can we zoom in to that child, is
24 that possible, Court Officer?

25 Q. In this photograph this child seems to be shorter than the child

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1 wearing a purple shirt. How old do you think that child was, in your
2 opinion?

3 A. Well, perhaps my answer will be a wee bit ambiguous because I
4 didn't focus my attention on that child for the simple reason that I
5 focused on the child wearing the purple shirt because for a photographer,
6 if you will, with the colour of his shirt, the light purple shirt, and
7 because of his eyes, he had a very expressive face, and therefore I
8 thought he had a more expressive face. And since I needed to send a
9 photograph to the Gamma agency, I didn't focus on the child to his right
10 wearing the blue T-shirt. So I really can't tell you how old he was.

11 Q. Thank you very much.

12 I'd like to go on now to paragraphs 50 to 52. You were given
13 explanations regarding the absence of weapons in the camp, according to
14 the regulations. This is paragraph 50. And then you state that someone
15 came to show a box of ammunition. This is in paragraph 51.

16 Please look now at paragraph 52, which is on pages 9 and 10. And
17 at the same time, the photograph behind tab 16. Now, this is photograph
18 DRC-OTP-1036-0548, and this is behind tab 16, and it corresponds to
19 frame 16 referred to in paragraph 52 on page 10.

20 What is this person in the photograph showing you in his right
21 hand?

22 A. This is an anti-personnel mine of Chinese origin.

23 Q. Where was the picture taken?

24 A. It was taken in the camp, in particular in the little hut that
25 was the command centre, so to speak.

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1 Q. I'd like to go on now to paragraph 55. You indicate that you
2 walked around the village and that you photographed, as you say, and I
3 quote:

4 "... another child wearing full military fatigues, green in
5 colour, with a cap and a red armband on the left arm. And on that
6 armband were the initials FAC and PM."

7 Please stay with that paragraph, meanwhile turn to tab 20 in the
8 white binder. Now, this photograph DRC-OTP-1036-0553, I repeat
9 1036-0553, corresponds to frame 20 mentioned in paragraph 55. The
10 letters FAC, you've already told us that that means Forces Armees
11 Congolaises. Is that correct?

12 A. Yes.

13 Q. You stated that you asked the civilians who accompanied you what
14 the initials PM referred to on the armband?

15 A. Yes. And let me add, of course I know what PM means, it means
16 "police militaire," military police; however, I purposely asked this
17 question so that the answer be given either by the child or by the
18 civilian who was accompanying me.

19 Q. And what did the civilian answer or the child?

20 A. The civilian told me that it meant "police militaire," military
21 police, and that he was on duty in the village and he was doing police
22 work.

23 MR. DUTERTRE: (Interpretation) I would like to request that we
24 zoom in to the face of this child.

25 Q. In your opinion, how old was he, Mr. Renaud?

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1 A. I would say between 9 and 11 years old for the same reasons
2 mentioned earlier, the same indications.

3 MR. DUTERTRE: (Interpretation) Your Honour, before I go on to
4 the next trip, I would like to request an EVD number for this series of
5 public photographs, DRC-OTP-1036-0542, DRC-OTP-1036-0545,
6 DRC-OTP-1036-0546, DRC-OTP-1036-0548, DRC-OTP-1036-0553,
7 DRC-OTP-1036-0563, DRC-OTP-1036-0569, and DRC-OTP-1036-0570.

8 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.

9 COURT OFFICER: DRC-OTP-1036-0542 would be assigned
10 EVD-OTP-00074, your Honours. DRC-OTP-1036-0545 will be assigned
11 EVD-OTP-00075. DRC-OTP-1036-0546 will be assigned EVD-OTP-00076.
12 DRC-OTP-1036-0548 will be assigned EVD-OTP-00077. DRC-OTP-1036-0553 will
13 be assigned EVD-OTP-00078. DRC-OTP-1036-0563 will be assigned
14 EVD-OTP-00079. DRC-OTP-1036-0569 will be assigned EVD-OTP-00080. And
15 the last one, your Honours, under DRC-OTP-1036-0570 will be assigned
16 EVD-OTP-00081. And all of these will be marked as public.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
18 Court Officer.

19 You may proceed, Mr. Dutertre.

20 MR. DUTERTRE: (Interpretation) Thank you, your Honour.

21 Q. I would like to go on now to your second trip, when you went to
22 Nyankunde, and I'm referring to paragraph 62 on page 11 of your
23 statement. You refer to a second trip with a MONUC convoy on July 18th,
24 2003. You were stopped by child soldiers along the road after one hour
25 of travel, you say.

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1 In paragraph 63, and I quote, you referred to the place at which
2 you had been stopped by the child soldiers, and I quote:

3 "I know that it was a Lendu camp because the MONUC knew that it
4 was one, it was a Lendu camp."

5 And then in paragraph 64, page 11, you continue by saying that,
6 and I quote:

7 "While the head of the MONUC convoy was conversing with the Lendu
8 militia men, I was moving around the convoy and in the camp and I took
9 some photographs."

10 Still in paragraph 64, which can be read together with
11 paragraph 67, I would like to refer you to tab 23 in the white folder.
12 It can be displayed on eCourt. I believe that photograph
13 DRC-OTP-1036-0565, that is tab 23, corresponds to frame 31 that you talk
14 about in paragraphs 64 and 67 of your statement.

15 My question is as follows: Under what circumstances did these
16 militia men stand in line in that way?

17 A. Upon our arrival, these young militia men blocked the road. And
18 when the leader of the convoy alighted from the vehicle, I remember that
19 he conversed with one of the adults who were present and it was one of
20 those adults who took -- who put the children in the camps because the
21 military camp is made -- is demarcated by the tree branches, and it is --
22 there is a separation. And it is known as the military camp and the
23 barracks, and so it is this adult who made these children to line up and
24 stand at attention in the camp, which was by the roadside.

25 Q. Now, looking at the fourth person from the right who is wearing a

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1 blue uniform and who is slightly smaller than the others, in your opinion
2 how old was this militia man in blue uniform who is at the centre of the
3 photograph?

4 A. Obviously he is a minor. He should be about 11 years old, maybe
5 even 9 or 10. But that photograph is interesting because he is
6 surrounded by young militia men who are taller and certainly older, and
7 he seemed to be lost amongst these other militia men.

8 Q. And it is indeed a military uniform that he has on him?

9 A. Yes, and I would like to point out that in the discussions that I
10 had with the other militia men before, they were the ones who got these
11 uniforms from the Congolese gendarmerie or policemen who were evacuating
12 Bunia. They were the ones who took those uniforms themselves.

13 Q. Still on paragraph 64, read together now with paragraph 68, and
14 we will go to tab 24 in the white folder. This is photograph
15 DRC-OTP-1036-0566 in this tab 24, and it corresponds to frame 33 referred
16 to in paragraphs 64 and 68 of your statement.

17 The two individuals that you can see at the forefront of the
18 picture with cigarettes, are these militia men?

19 A. Yes. I would like to confirm that they are militia men because
20 they were in the previous frame, but also the children who are not
21 militia men will not come up to you and casually ask you for cigarettes.
22 So I am confirming that these are militia men because their attitude is a
23 bit casual.

24 Q. And the person who is in the background carrying a weapon, can
25 you tell us what type of weapon it is?

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1 A. It is a Kalashnikov.

2 Q. And the person on the right, the uniform that he's wearing, is it
3 similar to the one that you've already talked about, that is, the police
4 uniform, or is it something else?

5 A. Yes. I would like to point out it is the characteristic or usual
6 uniform of the Congolese gendarmerie.

7 Q. According to you, how old was this individual on the right of the
8 picture smoking a cigarette?

9 A. I would say that he was a minor. He should have been about
10 9 to 11 years old.

11 Q. And according to you, how old would the person on the left of
12 that photograph would have been, since he is also smoking a cigarette?

13 A. I think they are approximately the same age.

14 Q. And where precisely did you take this photograph?

15 A. I took it on the way to Nyankunde, when we stopped at the first
16 check-point, that is, near the Lendu camp by the roadside. That is when
17 I walked up alongside the convoy.

18 Q. On that day you turned back with the MONUC convoy?

19 A. Yes.

20 MR. DUTERTRE: (Interpretation) I'm now finished with this
21 second trip, Mr. President, and I would like EVD numbers for the two
22 photographs, DRC-OTP-1036-0565 and 1036-0566.

23 PRESIDING JUDGE COTTE: (Interpretation) Mr. Court Officer,
24 please.

25 COURT OFFICER: Thank you, your Honours. The photograph, the

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1 coloured photograph under DRC-OTP-1036-0565 will be assigned
2 EVD-OTP-00082. And the next one under DRC-OTP-1036-0566 will be assigned
3 EVD-OTP-00083.

4 MR. DUTERTRE: (Interpretation) Let me proceed, Mr. President.

5 Q. And talking about the third trip, once again it was to Zombe, and
6 this is paragraph 69 to 76 of your statement. In paragraphs 69 and 70,
7 you say that on the 19th of July, 2003, you returned to the camp that you
8 had visited in Zombe on the 2nd of July, 2003. You were with two
9 journalists, including Helene Vesperini. And in paragraph 72 you state
10 as follows, and I quote:

11 "There was a gentleman who was different from the others because
12 he was better dressed than the others. That is what struck me."

13 And then you continue:

14 "Later on I was to discover that this person was
15 Mathieu Ngudjolo."

16 And in paragraph 84 of your statement you talk about how you
17 later came to know that it was Mathieu Ngudjolo. In paragraph 75, you
18 say that you do not know what was said, and I quote:

19 "... during the interview between this gentleman and
20 Helene Vesperini."

21 When you say "this gentleman," in paragraph 75, you are referring
22 to the person that you later identified as Mathieu Ngudjolo; is that
23 correct?

24 A. Yes.

25 Q. In paragraph 76, you say:

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1 "I once again realised that there were child soldiers, like
2 during the first trip. They were there and scattered throughout the
3 camp."

4 What was the age of the youngest child soldier that you saw at
5 that time in the camp, Mr. Renaud, if you remember?

6 A. Yes, during that second trip I realised that there were child
7 soldiers of the same age as those I had seen during my first trip, but I
8 did not focus my attention on one or two children only.

9 Q. If I understand paragraph 73 very well, the interview between
10 Mathieu Ngudjolo and Helene Vesperini took place at the command post of
11 that camp?

12 A. Yes.

13 Q. I would like now to refer you to paragraph 80 in which you state,
14 and I quote:

15 "On our way back, we stopped after one hour at the foot of the
16 mountain in the camp that we had missed during my first trip. We were
17 struck by the very young children seated in front of the camp."

18 How did you know that this was a camp, Mr. Renaud?

19 A. It is the same thing because there is usually a roadblock near
20 every camp.

21 Q. Can you go to paragraph 82 and tab 25 in the white folder. I
22 believe that the photograph DRC-OTP-1036-0554, that is in tab 25,
23 corresponds to frame 21 that you talked about in paragraph 82. Regarding
24 that frame 21 you say that you knew that these children were child
25 soldiers because, and I quote:

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1 "They themselves said that they were soldiers."

2 If I understand you well, it was Helene Vesperini, who spoke
3 Swahili, who told you about this?

4 A. Yes.

5 Q. So Helene Vesperini talked to these children directly?

6 A. Yes.

7 Q. And you say that they did not carry any weapons because their job
8 was to fetch for supplies in the no man's land?

9 A. Yes.

10 Q. And who told you that?

11 A. I was told by Helene Vesperini after she discussed with these
12 children in their language, so it was the children who confirmed their
13 role.

14 MR. DUTERTRE: (Interpretation) Mr. President, I would like an
15 EVD number for photograph 1036-0554, and I have completed my examination
16 on this second -- on this other trip.

17 PRESIDING JUDGE COTTE: (Interpretation) Mr. Court Officer,
18 please.

19 COURT OFFICER: Thank you, your Honours. The coloured photograph
20 under DRC-OTP-1036-0554 will be assigned EVD-OTP-00084 and marked as
21 public.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
23 Court Officer.

24 Please proceed, Mr. Prosecutor.

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

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1 Q. Let me now move on to your fourth trip, paragraph 86 of your
2 statement. And in it you stated, I quote:

3 "On the 29th of July, 2003, I accompanied a MONUC convoy
4 travelling to Nyankunde. Their objective was to carry out reconnaissance
5 to open up a road."

6 In paragraph 87 you add, and I quote:

7 "After about one hour of travelling we crossed a metallic bridge
8 and our convoy was stopped by a group of young militia men who suddenly
9 emerged from the grass."

10 In paragraph 88 you say, and I quote:

11 "I know that we were in a Lendu zone because the head of mission
12 told me so."

13 I'm waiting for the transcript.

14 PRESIDING JUDGE COTTE: (Interpretation) It looks like we have a
15 technical problem with the transcript, the French transcript actually.
16 Thank you, Judge Diarra. Our technician is trying to sort out the
17 problem.

18 MR. DUTERTRE: (Interpretation) With your leave, Mr. President,
19 can I proceed?

20 PRESIDING JUDGE COTTE: (Interpretation) Apparently the
21 transcript is operational now. Maybe some words are skipped, but we will
22 have that in the final version.

23 Please proceed, Mr. Prosecutor.

24 MR. DUTERTRE: (Interpretation)

25 Q. You pointed out that you discovered the camp after a bridge. Let

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1 me refer you now to paragraph 90 in your statement and to tab 26 in the
2 white folder. I do understand that photograph DRC-OTP-1036-0555 in
3 tab 26 corresponds to frame 22, which you talk about in paragraph 90 and
4 that photograph can be displayed.

5 Mr. Renaud, what type of weapon is this individual carrying?

6 A. It is a Kalashnikov.

7 Q. And he also has a magazine?

8 A. Yes.

9 Q. There are a few letters written in that blue military uniform,
10 what do they mean?

11 A. I remember it very well because this was a police uniform. I
12 spoke with some of the children and tried to ask them how they got this
13 uniform. And this young man told me that he got that uniform by going
14 after a member of the -- a policeman, a Congo policeman, in June.

15 Q. How old was this child?

16 A. I think he would have been 12 or 13 years old.

17 Q. Please refer to tab 27 in the white folder, and this is
18 photograph DRC-OTP-1036-0556. And I believe it corresponds to frame 23,
19 which is referred to in paragraph 90. This is the same child soldier
20 that we just saw in frame 22; is that correct?

21 A. Yes.

22 Q. Frame 26, I beg your pardon. Frame 26. And there is a rank on
23 his epaulettes. Maybe I should repeat, Mr. Hooper. My question was:
24 Was this the same child soldier that we had seen on frame 26? And I had
25 made a mistake, I said frame 22 and yet I meant frame 26.

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1 Now, Mr. Renaud, on his epaulette there is a rank; isn't that
2 correct.

3 A. Yes.

4 Q. Now, please go to paragraph 88 and 91. In paragraph 88, you say
5 that the militia men in question decided to escort you to Nyankunde. And
6 when you look at paragraph 91 and tab 28, I believe that this photograph
7 DRC-OTP-1036-0576 in tab 28 corresponds to frame 33, which you discuss in
8 photograph 91.

9 Which type of weapon is carried by that militia man to the right?

10 A. It is a Kalashnikov, AK-47.

11 Q. And this militia man who is carrying a Kalashnikov that is on the
12 right of the picture, what was his age?

13 A. I think he was older, 12 years, maybe 14 years, 13 or 14 years
14 old.

15 Q. Now, let us go to paragraph 93 and paragraph 95. You say that
16 you arrived in Nyankunde and you were strolling around the town --

17 MR. FOFE: (Interpretation) I'm sorry, just a point of
18 clarification regarding the answer of the witness on the age of the
19 gentleman on photograph 0576. I believe that the witness said --

20 MR. DUTERTRE: (Interpretation) You want to ask the witness a
21 question directly?

22 PRESIDING JUDGE COTTE: (Interpretation) It is just a point of
23 clarification apparently, so complete your point, Mr. Fofe.

24 MR. FOFE: (Interpretation) I believe that this witness said
25 that the person was 12, 13 years, and maybe 14 years, and "maybe 14" was

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1 not included.

2 PRESIDING JUDGE COTTE: (Interpretation) I -- yes, I think it is
3 said in the French transcript. I think he was older, 12, 13, and then
4 there is P and E, but I believe I heard 14 years. It is not in the
5 transcript and I believe that the final transcript should include it. I
6 have been told that it is included in the English.

7 MR. DUTERTRE: (Interpretation) I believe this was a technical
8 problem.

9 PRESIDING JUDGE COTTE: (Interpretation) Please proceed,
10 Prosecutor.

11 MR. DUTERTRE: (Interpretation) Thank you, Professor Fofe, that
12 was very useful.

13 Q. So you arrived in Nyankunde and you strolled around the town
14 which was empty of its inhabitants and which was controlled by the
15 Lendus. This is what you say in paragraph 93. Can you now move to
16 paragraph 95 and tab 30 in the white folder. I believe that this is
17 photographs DRC-OTP-1036-0578. That is DRC-OTP-1036-0578 in tab 30, and
18 I believe it corresponds to frame 35, which you discuss in paragraph 95.

19 Mr. Renaud, were you already in Nyankunde town when you took this
20 photograph?

21 A. Yes. We were already in the town.

22 MR. DUTERTRE: (Interpretation) Court Officer, please could you
23 zoom in on the individual who is wearing or who has a weapon on the left
24 of the image and wearing something which is sort of red and orange --
25 sort of reddy-orange.

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1 Q. How old is this boy?

2 A. He's got a Kalashnikov and a magazine.

3 Q. What weapon is it?

4 A. Kalashnikov.

5 Q. How old is he?

6 A. I think he's between 11 and 12 years old. I would like to
7 clarify why I said that. I was with this boy in town a lot, I heard him
8 speak, I heard his voice a lot, and that's why I said 11 to 12 years old.

9 Q. When you say you spent some time with him in town, what do you
10 mean by that actually?

11 A. He took me to -- on a visit to the village, and in particular we
12 went to a place, a type of grange and where there were some pigeons. He
13 gave me a guided visage, if you like, and that's why I said I spent some
14 time with him.

15 MR. DUTERTRE: (Interpretation) Would you be so kind as to zoom
16 in on the boy on the right of the image who is -- also has a weapon with
17 a strap. Perhaps we could zoom in on him.

18 Q. What weapon does this boy have?

19 A. He's got an AK-47.

20 Q. What -- how old is he?

21 A. He is 11 or 12.

22 Q. 11 or 12. I would now like you to go to paragraph 96 and also to
23 tab 32 in the white binder. I understand that the photo DRC-OTP-1036-580
24 (as interpreted) in tab 32 corresponds with frame 37, which is mentioned
25 in paragraph 96. If I understand correctly, this child on frame 37 is

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1 the same as that one who's on the left of the picture in frame 35, the
2 one we saw just a moment ago?

3 A. Yes.

4 Q. He has the same type of weapon with the same magazine?

5 A. Yes.

6 MR. DUTERTRE: (Interpretation) Your Honour, I would like to
7 have an EVD number for the following public photograph:
8 DRC-OTP-1036-058 -- 0555, DRC-OTP-1036-0556, DRC-OTP-1036-0576, and
9 DRC-OTP-1036-0578, and finally DRC-OTP-1036-0580. And I've finished
10 there.

11 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.

12 COURT OFFICER: The coloured photograph, your Honours, under
13 DRC-OTP-1036-0555 will be assigned EVD-OTP-00085. The next photograph
14 under DRC-OTP-1036-0556 will be assigned EVD-OTP-00086. The next
15 photograph under DRC-OTP-1036-0576 will be assigned EVD-OTP-00087. The
16 next photograph under DRC-OTP-1036-0578 will be assigned EVD-OTP-00088.
17 And the last photograph which is under DRC-OTP-1036-0580 will be assigned
18 EVD-OTP-00089. And all of these will be marked as public.

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

21 Prosecutor, please continue.

22 MR. DUTERTRE: (Interpretation) Thank you, your Honour.

23 Q. The fifth and last trip, paragraphs 100 and 101 of your statement
24 you mention a trip on the 18th of August, 2003, in Lendu's area towards
25 Nyankunde. And there too you were with MONUC who wanted to open the

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1 route from Nyankunde to Butembo. And you stopped, by courtesy, at the
2 same place as the 29th of July, 2003, and you took photographs. Could
3 you go to paragraph 102 and also tab number 35 in the white binder. We
4 can show the photograph DRC-OTP-1036-0557 of tab 35 which corresponds
5 with frame 35 which is mentioned -- sorry, frame 24 which is mentioned in
6 paragraph 104. I would now like to zoom in on the person just on the
7 left of the person in blue who is sitting down. If we zoom in on the
8 person who's just left of the seated person, the person with the orange
9 trousers.

10 What weapon does this individual have, this person with the
11 orange trousers?

12 A. He has an AK-47.

13 Q. And in your opinion, how old is he?

14 A. Between 9 and 11.

15 Q. Can we now zoom in on to the weapons which are at the bottom of
16 the picture.

17 What is this rocket-launcher, does it have a particular name?

18 A. RPG.

19 Q. The fact that they are in this particular position, does that
20 have a given meaning?

21 A. I'd just like to clarify something here. The RPG and the
22 ammunition are in the position that they should be. When I spoke about
23 the other weapon, this was -- it's just before taking the photograph. So
24 you have the AK-47 which the children -- well, the children had it in
25 their hands. These weapons were there and just before taking this

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1 photograph they hurried to get their weapons and -- so the AK-47 which
2 they had in their hand were no longer in that position.

3 Q. Thank you. I think there might have been confusion on my part
4 there. That's something that I recognise.

5 Could we now go on to paragraph 104, paragraph (as interpreted)
6 36. I understand that the photograph DRC-OTP-1036-0561 that we can show,
7 0561, 61, if we can show that. Tab 36. This corresponds with frame 28
8 mentioned in paragraph 104. You said that you took this photograph with
9 a zoom lens. What distance were you from these two people -- with a
10 telephoto lens, rather. What distance were you from these people?

11 A. I think that I had a 180-millimetre telephoto lens. If you allow
12 me the time to evaluate that, I would say that I was around 50 metres
13 away.

14 Q. What type of weapons do these individuals have?

15 A. They both have AK-47s.

16 Q. You confirm that there is a bayonet which is mounted on to one of
17 these AK-47s?

18 A. Yes, one of the -- yes, held by one of the soldiers with a
19 green-and-yellow-coloured top.

20 Q. What age could these two boys be, Mr. Renaud?

21 A. I think they're quite young, beyond 11, between 11, 12, 13 years
22 old.

23 Q. I would now like us to go on to paragraph 106 and 105. You
24 arrived in Nyankunde finally and you take a certain number of
25 photographs, and here I'm referring to paragraph 105. Could you go to

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1 paragraph 106 now as well as tab 37 in the white binder. I understand
2 that the photo DRC-OTP-1036-0583 in tab 37 corresponds with frame 40,
3 which is mentioned in paragraph 106.

4 My first question: The boy who's seating on the left of the
5 armchair, is that the same as we already saw in the previous photos, the
6 person -- the boy who accompanied you to Nyankunde?

7 A. Yes.

8 Q. I am referring to frame 37, tab 32. The individual on the right,
9 what weapon is he carrying?

10 A. He has an AK-47.

11 Q. Behind them, the place, what is that building? What is that?

12 A. This is a command post.

13 MR. DUTERTRE: (Interpretation) Court Officer, can we zoom in on
14 the people who are seated inside this command post.

15 Q. Mr. Renaud, there we have a uniformed soldier, also with a
16 weapon, a bayonet at the end of it?

17 A. Yes.

18 MR. DUTERTRE: (Interpretation) Can we just zoom back a bit or
19 zoom out, rather, and a bit to the left of this soldier. Here I'm just
20 making a link to the next photo.

21 Q. There's a poster of children.

22 A. Yes.

23 Q. Could you now go to paragraph 108 and go to tab 39 in the white
24 binder. I understand that the photo that can be shown on the screen,
25 DRC-OTP-1036-0585, in tab 39 therefore, corresponds with frame --

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1 corresponds to frame 42 mentioned in paragraph 108.

2 MR. DUTERTRE: (Interpretation) I would like, Court Officer, you
3 to zoom, if you could, on to the individual who is on the left-hand side
4 of the photograph.

5 Q. The first question, Mr. Renaud, are you able to say what type of
6 weapons, the two weapons, that this individual is holding?

7 A. They are two AK-47s.

8 Q. Can you confirm that this person has binoculars in front of him?

9 A. (No interpretation).

10 Q. And in your opinion, what age did this individual have?

11 A. I took this photo because the child appeared very young and
12 that's why I took this photo. I think that he must have been 8 or
13 9 years old.

14 THE INTERPRETER: And the interpreter adds that the witness
15 confirmed that he did have binoculars in front of him.

16 MR. DUTERTRE: (Interpretation) If we could now zoom back out.

17 Q. The individual on the right-hand side is once again the same one
18 who accompanied you to Nyankunde?

19 A. Yes.

20 Q. We can now go to paragraph 110, and at the same time tab 41 in
21 the white binder. I understand that the photograph DRC-OTP-1036 - which
22 can be shown - 0587 corresponds with the frame 44 mentioned in paragraph
23 110. You say that it's a child soldier in this same command post. You
24 mean the same one as in frame 37 with the poster of the children on the
25 wall, which was in -- at tab 37?

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1 A. Yes.

2 Q. DRC-OTP-1036-0583.

3 MR. DUTERTRE: (Interpretation) Your Honour, I see we're getting
4 close to the break. I believe this would be an appropriate juncture to
5 take a break now, and I would have a few questions to ask when we take
6 this up again.

7 PRESIDING JUDGE COTTE: (Interpretation) The different
8 photographs which you have just asked the witness about, should they, as
9 the previous ones, be attributed an EVD number to use the time that
10 remains?

11 MR. DUTERTRE: (Interpretation) Yes, I think this is a good
12 opportunity to do so and here I will give the list of them.
13 DRC-OTP-1036-0557, DRC-OTP-1036-0561, DRC-OTP-1036-0585, and
14 DRC-OTP-1036-0587.

15 PRESIDING JUDGE COTTE: (Interpretation) So, Court Officer, if
16 you please.

17 COURT OFFICER: Thank you, your Honours. DRC-OTP-1036-0557 will
18 be assigned EVD-OTP-00090. DRC-OTP-1036-0561 will be assigned
19 EVD-OTP-00091. EVD -- sorry, DRC-OTP-1036-0585 will be assigned
20 EVD-OTP-00092. And DRC-OTP-1036-0587 will be assigned EVD-OTP-00093,
21 your Honours, and they'll all be marked as public.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
23 Court Officer.

24 Prosecutor, we are therefore going to take a break. Could you
25 just give us an idea of the time that you would need to continue this

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1 examination-in-chief?

2 MR. DUTERTRE: (Interpretation) At the most, a quarter of an
3 hour, your Honour, a priori. Perhaps I could ask for a precision or
4 clarification of an EVD number. I think we referred to the number
5 DRC-OTP-587 -- 585, rather, 92 -- I think there was a sketch.

6 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could
7 you clarify that. It was about substituting 583 with 585. The French
8 transcript at line 17 refers to 585.

9 MR. DUTERTRE: (Interpretation) It's actually 583 which we
10 wanted to tender into evidence.

11 PRESIDING JUDGE COTTE: (Interpretation) Then we do have to make
12 a substitution.

13 COURT OFFICER: DRC-OTP-1036-0583 would then be assigned
14 EVD-OTP-00092.

15 PRESIDING JUDGE COTTE: (Interpretation) Perfect. Thank you,
16 Court Officer.

17 Court Officer, Usher, it's possible for you to escort the witness
18 from the courtroom. We'll be back in half an hour and we take a break
19 from 11.00 to 11.30. See you soon.

20 (The witness stands down)

21 PRESIDING JUDGE COTTE: (No interpretation)

22 Recess taken at 10.57 a.m.

23 On resuming at 11.37 a.m.

24 PRESIDING JUDGE COTTE: (Interpretation) Court is reconvened.
25 Please be seated. Mr. Katanga and Mr. Ngudjolo are there. That is

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1 perfect. We are in open session, Court Officer.

2 Court Usher, please bring in the witness.

3 (The witness takes the stand)

4 PRESIDING JUDGE COTTE: (Interpretation) Good morning, Witness.

5 THE WITNESS: (Interpretation) Good morning once again.

6 PRESIDING JUDGE COTTE: (Interpretation) You can hear me.

7 Everything is functioning well.

8 Mr. Prosecutor, please continue with your direct examination.

9 MR. DUTERTRE: (Interpretation) Thank you, Mr. President. Just
10 a small point on the EVD numbers. There is a photograph
11 DRC-OTP-1036-0585 and there was no EVD number for that. Maybe I was
12 speaking too fast. If we can have one for that number, that will be
13 fine.

14 PRESIDING JUDGE COTTE: (Interpretation) Everything has to be
15 clear. At the end of a hearing before the break you asked for an EVD
16 number for 557, 561, 583, 585, and 587. This makes five photographs.

17 MR. DUTERTRE: (Interpretation) Yes, we thought there was
18 confusion between 583 and 587.

19 PRESIDING JUDGE COTTE: (Interpretation) So, Mr. Court Officer,
20 you have to give an EVD number for 585 and maybe change the number for
21 587.

22 COURT OFFICER: Thank you, your Honours. The photograph under
23 DRC-OTP-1036-0585 will be assigned EVD-OTP-00094.

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

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1 Mr. Prosecutor, please proceed.

2 MR. DUTERTRE: (Interpretation) Thank you, Mr. President. I
3 have two photographs left to comment.

4 Q. Let me refer you to page 18 of your statement, paragraphs 112 and
5 114, Mr. Renaud. You stated that you left Nyankunde in midafternoon to
6 return to Bunia and you stopped at the same camp at which you had stopped
7 on your way out. You took some photographs there, and this is 112. Can
8 you now please refer to paragraph 114 and then tab 43 in the white binder
9 and look at it together with paragraph 114. This photograph is
10 DRC-OTP-1036-0559. It is in tab 3 (sic) and I believe it corresponds to
11 frame 26 which you discuss in paragraph 114, and that photograph can be
12 displayed while focusing on the individual on the right of the picture.

13 Mr. Renaud, what type of weapon is being held in the right hand
14 of this boy?

15 A. It is an AK-47 with a bayonet attached.

16 Q. According to you, what is the age of that boy?

17 A. According to me, he should be 11 or 12 years old.

18 Q. Please refer to paragraph 117 of your statement and tab 45 in the
19 white binder, and this is the last photograph that we need to comment on.

20 This photograph is DRC-OTP-1036-0588, and it is in tab 45 and I
21 believe that it corresponds to frame 46 -- 45 that you have discussed in
22 paragraph 117. You took that photograph on the 19th of June, 2003?

23 A. Yes.

24 Q. And where was this?

25 A. Bunia airport.

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1 Q. Your answer was at the Bunia airport, and which occasion was
2 this?

3 A. It was during a meeting that was convened by General Thonier,
4 commander of the multi-national force which brought together the various
5 rebel factions.

6 Q. Can you tell us who is the person in camouflage uniform at the
7 forefront to the right, or rather, on the right of the picture?

8 A. It is Mr. Katanga.

9 Q. And what is his first name?

10 A. I cannot tell you his first name because I did not have access to
11 that information at that time. I came to learn about it later. I was
12 simply told it was Katanga.

13 Q. How did you know it was Katanga?

14 A. It was a MONUC press officer who told me that.

15 Q. Do you know which rebel group he was representing? And I'm
16 repeating your own expression here.

17 A. At the time that the photograph was taken, I did not know the
18 group to which he belonged and I did not know the person. I had just
19 arrived. I did not know anything about the field. It was afterwards
20 when I asked that question to the MONUC press officer that he told me it
21 was Katanga and that he was the commander of the FRPI. I would like to
22 point out that when I asked Mr. Katanga that question at the time I was
23 taking the photograph, he said -- he told me he was Commander Germain.

24 MR. DUTERTRE: (Interpretation) Just a minute, Mr. President.

25 (Prosecution counsel confer)

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1 MR. DUTERTRE: (Interpretation) Mr. President, I would like now
2 to tender into evidence photographs DRC-OTP-1036-0559 and
3 DRC-OTP-1036-0588.

4 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.

5 COURT OFFICER: Thank you, your Honours. DRC-OTP-1036-0559 will
6 be assigned EVD-OTP-00095. And DRC-OTP-1036-0588 will be assigned
7 EVD-OTP-00096. Thank you.

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

10 Please continue, Mr. Prosecutor.

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

12 Q. And very briefly, I would like to ask you whether the photograph
13 was taken on the 19th of June, 2003, page 43. The answer was yes, but
14 the year "2003" does not appear in the French transcript.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you for that
16 clarification, Mr. Prosecutor. I believe that the final version of the
17 transcript will include that detail. Please proceed.

18 MR. DUTERTRE: (Interpretation) Mr. President, I have no further
19 questions in direct examination, and I would like to make an observation
20 which could also be an application. I am in the hands of the Chamber.
21 We read your decision thoroughly on the admission of photographs, and
22 considering that we have comments on about 22 or 23 photographs today --
23 but the Prosecution was wondering whether considering the fact that you
24 have listened to the testimony of the witness today and in order for you
25 to have all the photographs to assess eventually whether the remaining

1 photographs should not be put into evidence, once again we made our
2 selection and we are totally in your hands considering -- regarding this
3 issue. But we feel that the Chamber has -- should have all the documents
4 for -- to make their determination and you have all those binders with
5 the photographs.

6 PRESIDING JUDGE COTTE: (Interpretation) Just a moment, please.

7 (Trial Chamber confers)

8 PRESIDING JUDGE COTTE: (Interpretation) Yes, Mr. Kilenda -- I'm
9 sorry, Professor Fofe.

10 MR. FOFE: (Interpretation) Thank you, your Honour. The Defence
11 of Mathieu Ngudjolo finds that this application is inappropriate. This
12 issue was debated in writing and you handed down an oral ruling on the
13 written statement of the witness and the photographs. And if we
14 understood your decision correctly, only the written statement was
15 admitted as an exhibit to be tendered into evidence. And the Prosecutor,
16 in case he's -- he did not think that your decision was appropriate had
17 the possibility of lodging an appeal. He did not do that, and we believe
18 that this decision should be fully applicable.

19 And as far as we are concerned, only the photographs presented
20 and commented here in the courtroom, that is, the photographs on which
21 the Prosecutor asked specific questions to the witness, can be admitted
22 into evidence. That is the position of the Defence of Mathieu Ngudjolo.
23 Thank you.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
25 Professor Fofe. We were expecting to hear what you have said and the

1 same result has been achieved but through a different way.

2 Mr. Prosecutor, our decision was clear. You were not prevented
3 from tendering photographs. You made your selection, you felt that the
4 photographs that have been presented to the witness are those that in
5 your opinion were the most significant, the most relevant, and they have
6 been tendered as EVD documents in the case file. The Chamber believes
7 that in addition to the answers given by the witness these are materials
8 that will be assessed in due course. So that is where we stand. That
9 was probably the expected reaction from the Defence, and the Chamber can
10 tell you that the decision that you have made is the decision that we
11 will accept for now.

12 Thank you, Prosecutor, for your direct examination.

13 Thank you, Mr. Witness, for your answers.

14 The Legal Representatives of the Victims obviously have questions
15 to ask, but just as a precaution, the Chamber would like to draw your
16 attention in order to avoid interruptions that may lead to a loss of
17 time, the Legal Representatives are not objective or subjective allies of
18 the Prosecutor. They are simply seeking to better inform themselves
19 within the framework of the representation of the interests of their
20 clients.

21 Mr. Gilissen, if you wish, you can address the Court now.

22 MR. GILISSEN: (Interpretation) Thank you very much,
23 Mr. President. Your Honours, it may not be normal, but this is just a
24 reflection before a question. I am certainly not an ally of the
25 Prosecutor, but I regret that he's -- the office did not take the

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1 decision to tender all the photographs, and this is an indicative point
2 because we are five months after the events of Bogoro.

3 And I will introduce myself to the witness.

4 Questioned by Mr. Gilissen:

5 Q. (Interpretation) Good morning, Witness.

6 A. Good morning.

7 Q. I am Mr. Gilissen, and I represent a group of child soldiers.

8 This is the domain that we are talking about, and my questions are
9 related to the order that you have presented in your testimony. You made
10 a distinction between the villages and the camp, and how the differences
11 were materialised. That is how these locations were demarcated. And
12 beyond these demarcations, I would like to know whether there were
13 movements between the villages and the camps. And more specifically, I
14 would like to know whether there was a certain degree of confusion due to
15 the presence of civilians in what you have referred to as camps.

16 A. I will give you a clear answer. There are two elements that
17 distinguish the camps and the soldiers. To begin with, the camp is
18 usually identified by an element which can be a branch or a rope,
19 something that separates civilian life from military life. Then there is
20 also a difference between a soldier living in the camp and a child living
21 in the village, and a child in the village is extremely malnourished.
22 And there are photographs probably which were not shown here but that
23 show the difference between a well-fed child and a child who is
24 malnourished and who has wounds that do not heal.

25 Regarding the second part of the question, that is, in relation

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1 to confusion as a result of movements between the villages and the camps,
2 initially I can give you just a partial answer because I never spent a
3 night in any of the villages or the camps. It is true that during the
4 day, the soldiers who were in the camps were in the camps. That is my
5 answer.

6 Q. Still under the authority of the Court and with the Court's
7 leave, still based on your experience - we are not coming out of that
8 context - did you have the feeling that the children in the camps were
9 militiamen and that there was no confusion regarding that issue?

10 A. My answer to that question is yes, because based on the
11 information that I have provided to you, from the time that I was able to
12 meet with the militiamen, I spent a lot of time with them, so I can say
13 there was no confusion.

14 Q. This is not an iron-cast formula, but you were in the field,
15 Mr. Witness, and you saw things that no one in this courtroom probably
16 saw, except maybe the accused persons. Can you describe to us the
17 atmosphere in those camps. You were there at one point and can you tell
18 us your experience to all the participants and specifically to the three
19 Judges. Can you give us, even subjectively, what you felt as the
20 atmosphere in this camp, how it was for those young soldiers, those young
21 militiamen, those young commanders.

22 A. I can tell you about the things I observed during the day
23 because, as I have already told you, I never spent the night there, and I
24 do not know what happens. What struck me and the other journalists
25 particularly was the fact that the children were more or less treated in

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1 an authoritative manner, particularly the young people who had no
2 weapons. They were really treated as subordinates, and we were wondering
3 whether those young people without weapons were civilians or soldiers.
4 But the answer was yes. They were soldiers and they were the ones who
5 were commanding them.

6 JUDGE DIARRA: (Interpretation) After -- an alternative
7 question. After two questions he said that the answer was yes. Was that
8 answer regarding the question as to whether they were soldiers or
9 militiamens?

10 THE WITNESS: (Interpretation) Let me give you an example. When
11 we saw that some of these soldiers were treated badly by the ones who
12 wore big watches, we wondered objectively whether these were just
13 ordinary children from the village or whether they were members of the
14 militia. I wasn't clear earlier on. The answer that was given by these
15 bigger children was that they were soldiers and that they were part of
16 the militia.

17 JUDGE DIARRA: (Interpretation) Thank you very much.

18 THE WITNESS: (Interpretation) Of course.

19 MR. GILISSEN: (Interpretation) Thank you, your Honours.

20 Q. Under the same conditions as the previous question and with
21 the -- with leave of the Court, you have spoken about and your pictures
22 describe -- in particular under tab 7 and 8 in the white folder, you
23 mention the rally or the meeting in the camp, and you referred to a
24 person named Cobra, and you described how things took place. In
25 particular, they said "attention," and you had the impression that they

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1 were giving these orders, "tete droite" and "garde a vous," in French,
2 for your benefit. You -- and those were the words that were said. And
3 they were children that we can see in the photographs. Did you have the
4 impression that they were used to obeying such military orders, these
5 children?

6 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofe.

7 MR. FOFE: (Interpretation) Your Honour, well, clearly the
8 witness cannot answer that question. The witness cannot know whether
9 those children were used to such orders because the witness did not live
10 with those children. So this question is a leading question and should
11 not be asked.

12 MR. GILISSEN: (Interpretation) When I give an order to my dog,
13 he doesn't turn his head in one way or the other. But I have another dog
14 which has been -- which has gone to dog school and if I say "sit," the
15 dog sits. It's a question of habit. Therefore, I would like to maintain
16 my question. It's not an innocent question. The purpose is to
17 establish, one way or the other, whether these children were supposed to
18 react like soldiers in a language that was not their mother tongue. It
19 must mean that they had been explained the meaning of these orders. They
20 were used to hearing in French "garde a vous," "attention," and that
21 they, therefore, they had to react to the orders, look to the right.

22 MR. FOFE: (Interpretation) I'm sorry, your Honour, but that
23 question should not be put to the witness because Mr. Gilissen is asking
24 the witness to draw conclusions from what he saw.

25 You may ask questions to the witness which relate to what he saw

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1 or what he heard. You may not ask him to draw conclusions.

2 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofe, we've
3 heard your objection. We have also heard Mr. Gilissen.

4 Witness, as regards the question that has just been put to you,
5 can you answer on the basis of what you saw, what you felt? Were the
6 children -- did they obey immediately or was it somewhat haphazard? You
7 were there, and from the point of view of your own subjectivity, based on
8 what you saw, can you answer?

9 THE WITNESS: (Interpretation) Let me answer as follows. When
10 we arrived in the camp the first time, it hadn't been planned ahead of
11 time. In fact, it was somewhat of a surprise arrival. And when we
12 arrived, we were introduced directly into the camp by the civilian. As I
13 said, it was a military camp. And when we arrived, there were a number
14 of young people there who were digging a hole or something -- they were
15 working. And when the person, the civilian who I was told was
16 Commander Cobra, when he called out an order, the children lined up
17 immediately. We saw that. And when they -- the order "attention" or
18 "right face" was ordered, they obeyed. So, number one, we were clearly
19 of the impression that we were in a military camp and that these young
20 people had received a minimum of military training.

21 PRESIDING JUDGE COTTE: (Interpretation) So that is what you saw
22 indeed.

23 Mr. Gilissen, do you have any other questions?

24 MR. GILISSEN: (Interpretation) Let me re-assure the Court, I
25 only have a few more.

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1 Q. I'm going to ask you a question that may surprise you, Witness.
2 Were you able to see in one of the camps that you visited or at that
3 event when you saw what you yourself called child soldiers, did you see
4 any pygmies and were you able to distinguish between those people and the
5 children?

6 A. The answer is yes. In one of the photographs of the trip to
7 Nyankunde there is a picture of pygmies. I don't know if that photograph
8 is part of the evidence. One of the pictures where you can see people
9 from the back with spears, those were pygmies. So, yes, I can
10 distinguish between a pygmy and a child, if that's the meaning of your
11 question.

12 If I may add, I was with another journalist, Marcus Bleasdale,
13 and he was very familiar with pygmies because before he went to Bunia he
14 did a photo-journalism report for a particular magazine. And so we were
15 able to distinguish between pygmies and children.

16 Q. If I understand correctly and if I may ask another question --

17 PRESIDING JUDGE COTTE: (Interpretation) Well, it's up to us to
18 stick to the rule, the five-second rule between the end of one response
19 and the beginning of the next question in order to enable the
20 interpreters to do their best to interpret what is being said.

21 Mr. Gilissen, we have heard the answer to the question. We do
22 not need to consult the photographs. The response was perfectly clear,
23 but you may proceed, Mr. Gilissen, if you so desire.

24 MR. GILISSEN: (Interpretation) Thank you, your Honour. By way
25 of indication, I do not want to go against what the Chamber has said. I

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1 have the impression that the photograph under tab 23 does show what might
2 look like a pygmy, and from what the witness has said --

3 Q. It is possible and relatively easy to distinguish between a child
4 between the age of 9 and 15 and a pygmy regardless of his age. Is that
5 correct?

6 A. Let me add. If you're thinking of the photograph under tab 23 --

7 PRESIDING JUDGE COTTE: (Interpretation) Well, we had said
8 clearly that we were not going back over the photographs. The witness
9 has given a precise answer to the question put to him by Mr. Gilissen, in
10 other words, was he able to distinguish between a pygmy and any other
11 person. The witness has answered yes. He also explained that he was
12 accompanied by another journalist who has just done a report on pygmies.
13 And if you have additional information, oral information, regarding that
14 matter we can hear that. But we already examined the photographs that
15 the OTP has tendered into evidence, and we just stated orally that we
16 were going to limit ourselves to those photographs. We're not going to
17 introduce any additional photographs or examine the photographs again.

18 MR. GILISSEN: (Interpretation) The goal was not to examine an
19 additional photograph. The purpose was to find out whether it was
20 possible to distinguish between a pygmy regardless of his or her age and
21 other -- regardless of the age of the pygmy.

22 Q. Is it true to say it is relatively easy to distinguish a pygmy
23 from a young boy aged 9 to 14 or 15?

24 A. My answer is no. When you arrive in Bunia -- in June, for
25 example, I would say no. Well, if -- well, I spent three and a half

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1 months there in the -- in Bunia. After a while you distinguish, you're
2 able to distinguish.

3 PRESIDING JUDGE COTTE: (Interpretation) Mr. Gilissen, you may
4 proceed.

5 MR. GILISSEN: (Interpretation) I believe this is my last
6 question.

7 Q. And I do not intend to torture you, Witness. You used a number
8 of criteria when the Chamber or the Prosecutor - I believe it was the
9 Prosecutor - asked you to evaluate the age, and I jotted them down. You
10 mentioned whether or not they had an Adam's apple, whether or not they
11 had any beard growth on their chin. You mentioned their breathing. And
12 you mentioned the tone of voice, whether or not the person had an adult
13 voice.

14 Can you be even more precise and can you tell us whether these
15 are your own personal criteria or whether you have discussed this with
16 other people, perhaps other more authorised individuals due to their
17 training or is this just your own subjective criterion? That's a
18 multiple question, but it is my last question. I'm shooting all of my
19 shots, so to speak, in the last question. Is this just your own personal
20 impression or was it based on these criteria that you determined the age
21 of the individuals? I hope you understand the distinction, and again
22 thank you very much for your help.

23 A. I'm going to try to answer those numerous questions as clearly as
24 possible. Now, as regards the evaluation of age, I'm trying to think
25 back on the point in time when I took the photographs. When I took the

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1 photographs what I noticed was that -- was the youth of the children. I
2 took pictures and then it's true that there was a discussion between
3 myself, the photographer, and other colleagues who were on site or in
4 cases where I showed the photographs elsewhere for editing. And there
5 was a group of people discussing the photographs and the evaluation of
6 the photographs. That's second thing. But there's another observation.

7 After that event, that meeting, if you will, children go back to
8 being children, if you will, after this event. They go back to their
9 games, their cries, their childish behaviour. That was another criterion
10 that I observed myself. And another aspect is that the reason I took so
11 many large-angle photographs was because I was often -- I would hear the
12 sound of their voices and I can hear them talk about their problems when
13 someone was there to translate what they were saying. And those were the
14 criteria which are indeed subjective in nature, but those were my
15 criteria.

16 Q. You know that lawyers are very talkative. I have again another
17 question.

18 PRESIDING JUDGE COTTE: (Interpretation) Please proceed.

19 MR. GILISSEN: (Interpretation)

20 Q. Well, I just can't resist asking this question. I'm not going to
21 refer to a particular photograph because we've stated that we're not
22 going to go back to the photographs.

23 PRESIDING JUDGE COTTE: (Interpretation) Yes, please. Please
24 understand that the photographs that have already been tendered into
25 evidence which were used by the OTP, they are part of evidence, but --

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1 and I'm -- my concern was that you be tempted to introduce additional
2 photographs which have not been discussed as of yet, and therefore we've
3 already discussed that matter. But if that's not the case, please go
4 ahead.

5 MR. GILISSEN: (Interpretation) Well, the two photographs that
6 I'm interested in relate to photographs that have already been tendered,
7 so there should be no difficulty here. I would like to refer to
8 photograph 30. This is the picture you took at Nyankunde. You were on a
9 wall. You're a little bit higher up, and you can see a sort of panoramic
10 scene with the young men who accompanied you and you can see the others.
11 You can see the second militiaman with a weapon, wearing a blue jacket.

12 MR. DUTERTRE: (Interpretation) Well, perhaps it would be
13 simpler for everyone if the picture could be displayed on the eCourt.

14 PRESIDING JUDGE COTTE: (Interpretation) Yes. In the white
15 binder this is under tab 30. If it is possible, it is a photograph we've
16 discussed. It already bears an EVD number, so there is no problem in
17 terms of that fact, and in addition it's a public document. So could we
18 have it on the screen, please. And the Prosecutor is right, it will be
19 much easier for the witness to respond if he has the photograph in front
20 of him. So all you have to do is press "PC 1" in order to see
21 photograph.

22 Mr. Gilissen, please.

23 MR. GILISSEN: (Interpretation)

24 Q. Yes, it's not up to me to evaluate your photograph, but I find it
25 frightening because you can see the duality here between the children and

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1 the soldiers. And what I find quite notable here is that there doesn't
2 seem to be any commanders, any officers --

3 MR. HOOPER: (Previous translation continues) ... the transcript,
4 it stopped some time ago, when Mr. Gilissen was talking about his -- all
5 his shots.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
7 Mr. Hooper. You know that I do not follow the English transcript live.
8 Apparently, Court Officer, the English transcript has frozen.

9 Thank you very much, Mr. Hooper. Apparently this is being fixed.
10 We need only be patient a few moments. In fact, the Court Reporters
11 continue typing but it just does not appear on the screen.

12 (Trial Chamber and Court Officer confer)

13 PRESIDING JUDGE COTTE: (Interpretation) Apparently everything
14 seems to be functioning. For those of you who are following the English
15 transcript, be re-assured the bits that are missing at present will be
16 re-inserted afterwards.

17 So, Mr. Gilissen, you may proceed and ask your last question.
18 You were referring to the photograph under tab 30.

19 MR. GILISSEN: (Interpretation) Thank you very much,
20 your Honour.

21 Q. I was referring to this photograph and I wondered whether this
22 was typical of the remainder of the town. Were there child soldiers sort
23 of all around or were they grouped around you? What can you tell us
24 about that and what was the atmosphere like in Nyankunde the day you went
25 there, and what about the buildings, the hospital, for example, in

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1 Nyankunde?

2 MR. HOOPER: I'm --

3 PRESIDING JUDGE COTTE: (Interpretation) Yes.

4 MR. HOOPER: I'm just a bit concerned about how wide-ranging
5 these questions are going. We've had no notice of them and we're now
6 onto buildings. I mean, that's not a matter that was on our agenda,
7 certainly as far as the Prosecution are concerned.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Hooper,
9 you're quite right.

10 Mr. Gilissen, I think you need to concentrate your questions on
11 what the photograph represents, what the witness can say about it, what
12 any additional information he can provide regarding the photograph. And
13 now you're asking him to go way beyond what is included in this
14 photograph. So clearly, Mr. Hooper is quite right. Please re-formulate
15 your question in a more precise manner.

16 MR. GILISSEN: (Interpretation) Yes. I will try to put my
17 question as simply as possible.

18 Q. Is this photograph a demonstration, if you will, of what the town
19 of Nyankunde had become? Is this something you could see to the left, to
20 the right, a little bit further, at the point in time when you took this
21 photograph?

22 A. When I took this picture, we were entering Nyankunde and I was on
23 the back of the truck of the Lendu militiamen who escorted us from the
24 first check-point. And what got my eye when I took this picture was that
25 there were all children, young militia members, and it's not that they

1 were provoking us so much, but they were kind of playing. They were
2 playing games like children, and that's what caught my eye and that's why
3 I took the picture.

4 The other aspect is that the little boy with the AK-47 and the
5 blue-and-white bandanna, in fact, he was the person in charge. So that's
6 it.

7 MR. GILISSEN: (Interpretation) I'd like to thank the Court and
8 again I'd like to thank the Witness indeed. Thank you very much.

9 (Trial Chamber confers)

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
11 Mr. Gilissen. If you had not done so, and therefore you were right to do
12 so, the Chamber would have asked the question about how he evaluated the
13 age. So we do thank you for that.

14 Mr. Luvengika, do you have any questions for this witness?

15 MR. LUVENGIKA: (Interpretation) Thank you, your Honour. The
16 Legal Representatives of the main group of victims has no questions for
17 this witness, your Honour.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
19 Mr. Luvengika.

20 Witness, it is now the turn of Germain Katanga's Defence team to
21 cross-examine you. So you may turn to the left side of the courtroom.

22 Mr. Hooper, are you cross-examining or is it Mr. O'Shea?

23 MR. HOOPER: Yes, it's me.

24 PRESIDING JUDGE COTTE: (Interpretation) It is you. You may
25 proceed then, Mr. Hooper.

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1 Questioned by Mr. Hooper:

2 Q. Good afternoon, Mr. Witness. As an ex-soldier and bearing in
3 mind that it was largely French forces that were holding the peace during
4 the time that you were in Ituri, did you play any intelligence role at
5 all?

6 A. No. May I perhaps add that that is part of our code ethics, our
7 deontology.

8 Q. I mean were you at all debriefed in any way after visiting, for
9 example, Zombe?

10 A. No. I would like to point out just the same that I was asked --
11 an officer from MONUC asked me about Zombe, in particular where they were
12 hiding weapons, the cave that I was told about. And I refused to answer.

13 Q. Thank you. And I totally accept your answer, may I say.

14 Now, I'm interested in the photograph that we have as our now
15 EVD-00095, which is tab 45 of the bundle. And if that can be thrown up
16 on the screen, please. And you'll recall, this is the photograph that
17 was taken on the 17th - let me get the date correct - the 19th, I'm
18 sorry, of June, 2003. And it shows a group of men and second from the
19 right in the front row is, you've identified, Germain Katanga, the
20 defendant that I represent. And may I say that there's no dispute as to
21 the correctness of that identification. And we see him standing there in
22 uniform. Would I be right in saying that that uniform is a commander's
23 uniform from the FAC, the Forces Armees Congolaises?

24 A. I cannot answer your question for the simple reason that when the
25 photograph was taken, I had just arrived in Bunia and I had no knowledge

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1 about the actual conflict. In fact, I stated that in my statement. At
2 that point in time, I didn't know whether it was the Forces Armees
3 Congolaises or whatever, and that's why I asked the MONUC press officer.

4 Q. Yes. Can I therefore reframe my question. Are you in a position
5 to help us? Do you recognise from your time you spent, all together
6 three months there, that as being the uniform of a commander in the FAC,
7 by which I mean the kind of uniform or a similar uniform perhaps, in all
8 accuracy, that a commander in the FAC would wear at that time?

9 A. The answer is no, simply because there was no typical uniform.
10 There was no particular uniform for a commander. The only indication
11 that we, as journalists, or that I myself could detect at the time was
12 that the uniform was clean or not, whether or not it was torn, whether
13 the person looked like a soldier or not. And so the answer to your
14 question is that even when I left after three months on site in the DRC,
15 it was impossible for me to say whether a particular uniform was from the
16 Congolese forces or not because there were various different types of
17 uniforms.

18 Q. Yes. I said "commander." In fact, I meant commando, a commando
19 uniform, slightly different.

20 Now, at the meeting which you said was held at the airport, can I
21 just take your recollection on that for a moment. In fact, it was near
22 the airport, but am I right, in fact, in saying that this photograph was
23 taken inside the Artemis camp, General Thonier's camp?

24 A. This photograph, no. This photograph was taken at the airport
25 because I remember very well that the delegation came out in a helicopter

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1 and they were taken to a place at the airport.

2 Q. Right. So those tents that we see behind, those were at the
3 airport is your recollection; is that right? All right.

4 And am I right in saying that the reason why that meeting had
5 been called was as part of the pacification process that General Thonier
6 was trying to get underway at that time?

7 A. Yes. But if you would allow me I would say yes now, but at the
8 time when the photo was taken I didn't know more. It was the press
9 officer who told me who the person was and who had called the meeting. I
10 didn't know the subject of this meeting at that time.

11 Q. Now, my note of your evidence a while ago was that you said: "I
12 didn't have access to his first name," Germain Katanga's first name. "A
13 MONUC press officer told me he was commander of the FRPI."

14 And I just want to draw your attention, if you have your
15 statement in front of you, to what in fact you've written there at
16 paragraph 117, where you say, and I'll read the sentence translating, as
17 it were, as I go:

18 "After having taken this photo, I went to ask him who he was and
19 he replied that he was Commander Germain. I knew a little later, through
20 the medium of one of the press officers of MONUC, that he was
21 representing the FRPI group and that it was Katanga."

22 So that's the end of the quote. So the function you give him
23 there is not as commander of the FRPI, but as a representative of the
24 FRPI in your statement. So would that be a fairer reflection of your
25 knowledge of him at that time or certainly when you wrote the statement?

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1 Now, if I can move - and I've not very many questions to ask
2 you - to this issue of children. And clearly, by that, we are concerned
3 with children who are in one way or another employed as soldiers who are
4 less than 15 years of age. That is -- that is the point really of much
5 of the evidence that you've told us as far as its impact on our
6 proceedings is concerned. And I think you may very well agree, even
7 though, of course, I've seen the same photographs that you've taken as
8 everybody else, I think you would agree that there's a large subjective
9 content, a large subjective formulation in our minds when it comes to
10 age. Would you agree?

11 A. I will answer the first question of Counsel Hooper concerning if
12 I knew or didn't know the first name or the surname of Commander Germain.
13 The answer is very easy because I went into the tent where they were
14 expecting to be -- waiting to be received and I asked the person, the
15 military person, who he was. And I made a portrait of him and he told me
16 that it was Commander Germain. So this was all that I knew. I didn't
17 know if it was a first name or his surname.

18 When I came out of this photo session, I then went to see the
19 press officer of MONUC. He told me he was called Katanga. That was the
20 first -- the answer to the first question.

21 The second, obviously you are right. It is completely
22 subjective. But at the time -- you have to understand that at the time
23 you take a photo, you choose the subjects. You don't just do them by
24 accident, as you might be shooting a machine-gun or something. No, you
25 observe, you look, and then there's a certain lapse of time before you

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1 decide or not to take a photograph or to choose a subject. And where it
2 concerns the choice of subjects that I photograph, obviously there was a
3 subjective criteria -- criterion and then there was an objective
4 criterion to the extent that we try to -- by going towards the subject
5 and by assessing whether that -- whether we are right or wrong with
6 choosing that subject to photograph, that's what we do.

7 Q. And, of course, I accept your subjective views that you've
8 expressed in terms of age. But perhaps I can put it like this: With
9 these particular people, the subject of your photographs, there are added
10 difficulties, are there not, in terms of your assessing their age. Apart
11 from racial and ethnic differences, we have problems of disease and
12 malnourishment among that particular group. Would you agree with that?

13 A. Yes, absolutely. I can see very well where your question is
14 going. Yes, there are criterias such as malnutrition which could make
15 one think that an adult or at least an adolescent has a growth delay.
16 This I'm in agreement with you about that. But as I said previously,
17 these subjects that I chose to photograph, I got to close to them and I
18 spent a certain time to that -- with that subjects. So my assessment
19 was -- over the time with them became more or less. And I say "more or
20 less" because I have to confess that at times you can make a mistake, but
21 it became objective.

22 Q. If, for example, we were to look at the photograph again that we
23 see at tab 10 -- at tab 10, that's photograph 0571.

24 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please
25 could you make this appear on the screen, photograph 10, so that the

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1 witness has the photograph before him and all of us, in fact, if we don't
2 have a paper version of it.

3 MR. HOOPER:

4 Q. Leaving aside the chap in the purple shirt on the right for a
5 moment, to my subjective eye, they all look as if they could be 15 or
6 older in that photograph. And even if I look at the man in the purple
7 shirt, it's not impossible, to my eye, that that person could be 15. I
8 mean, this is a highly subjective area, isn't it?

9 A. Where it concerns the other people in the photo, as I said
10 previously, I didn't spend time with them. I didn't concern myself with
11 them, but I did focus on this child or on this young militia, if you
12 wish, with the purple shirt. And I did observe the way in which they
13 moved, the way in which they spoke. Did he have a particular behaviour
14 of a pre-pubescent, an adolescent, or of a child? And I noted that he --
15 well, he had child games. For example, to throw things between friends,
16 and [indiscernible] child games, and the tone of the voice was a child
17 tone. And objectively, for me, it was a child not an adolescent 15 or
18 more.

19 Q. Very well. If we look at -- turn to our tab 23, for example, and
20 this is taken on your first trip to or towards Nyankunde, 0565. We have
21 that line of young men. And again, with the exception of the chap middle
22 photograph that we dwelt on and perhaps the man at the very end or the --
23 what looks like a young chap rather distantly at the very end, again
24 looking at those faces, they all look as if they could be well over
25 15 years of age, subjectively again. Isn't that right?

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1 A. I can say -- I can concede that apart from if you do look, I did
2 spend time with him as well because he -- he gave me a lot of cigarettes.
3 So -- he took a lot of cigarettes from me. So we discussed this issue.
4 I can confirm to you that he wasn't 15.

5 Q. But old enough to smoke? Has he got a weapon in that photograph?
6 He seems to be the one who hasn't.

7 A. He doesn't have a weapon, but I asked with regards to the
8 cigarettes -- the first reflex that I had was to say in French, which he
9 didn't understand, I asked him if he was an adult, which he didn't
10 understand. He didn't understand, but he did ask in a particular way, he
11 asked for a cigarette, which I did offer.

12 Q. And you made the point that he seemed lost, I think was the word
13 as translated in English, that you used in your evidence, that he amongst
14 this group seemed lost. Can I ask you to look at the next one on the
15 tab 24, if that can be shown up. These are more smoking people. 0566 --

16 MR. DUTERTRE: (Interpretation) Just a very short comment. I
17 didn't want to interrupt my colleague. But Counsel Hooper spoke about
18 the first trip to Nyankunde. Photograph 23 is on the fourth trip. So
19 Nyankunde but it's the fourth trip.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Prosecutor.
21 This was a precision that needed to be noted for everything to be clear
22 and precise.

23 Counsel Hooper, please continue.

24 MR. HOOPER: Thank you.

25 Q. So we're looking at these two -- well, three men, one in the

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1 background. Now, I think you suggested that certainly the one on the
2 right, as we look at it, in the blue gendarmerie outfit, that he was 9 or
3 11 you thought, but he looks about 15 at least, doesn't he? Look at his
4 hands, those aren't child's hands, are they? Not a young 9-year-old's
5 hands or a 10-year-old's hands. It's a difficult exercise, isn't it, in
6 truth, it's a difficult exercise?

7 A. I'm going to answer you. I do partially regret -- it's very
8 difficult to say with regards to the hands if it's a small child of 9,
9 10, 11, or a young adult. Apart from I already said during this
10 morning's session that often the children who didn't have a weapon were
11 often used for tasks which were -- for which they didn't receive much
12 gratitude. And if there was -- if you looked at the way in which these
13 tasks -- these children lived, you'll quickly come to certain results
14 with regards to their hands.

15 Q. Now, I quite accept this is not an easy life for them, but
16 looking at the size of the hand, the composition of the hand, again
17 subjectively, I have no greater skills than you or anyone else in this
18 courtroom, I'm not an expert on children and ages, let alone from this
19 area. If we look at photograph 30 or tab 30, photograph 0578, we have
20 children there. Would you accept that there seems to be a degree of
21 posing going on, perhaps for you and your camera, on these visits,
22 particularly this one?

23 A. The answer is yes, and I would like to give an argument in this.
24 On the photo -- I arrived in Nyankunde in a pickup and when I arrived
25 these children see me taking photographs. They took a break, but I

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1 didn't ask them to do that. I didn't know they took up certain
2 positions, perhaps things that they'd seen in a [indiscernible]. They
3 took up a pose, rather, not a break. And I didn't ask them to pose in
4 this way.

5 Q. Did you give them a few dollars or Rwandan francs at any time?

6 A. The answer is categorically no. The only thing that I could have
7 offered not to these [indiscernible] but were a few cigarettes that I
8 had, which they asked me for.

9 Q. Did they ask you for money?

10 A. Yes.

11 Q. Now, in our photograph 30, the lad on the left, in the red and
12 yellow, with the Kalashnikov, he's the one with the pigeons or took you
13 to see the pigeons, is that right, and we see him again in the next
14 photograph and indeed the photograph after that. Is he in fact -- can I
15 ask you to jump to 37, tab 37, that's photograph 0583. Is that the, if
16 you have it, sorry, the one there in the blue-and-white bandanna and
17 greenish shirt, is he the same one? So he, what, he met you the next
18 visit or what?

19 A. Yes, it's the same person on the photo, and when I -- if I look
20 at -- I think it's the second or third visit to Nyankunde, he recognised
21 me immediately and he took me to what he called the PC commander, and if
22 my memory serves me well, they signed a form to pass, the same child.

23 Q. Now, during the time you were there - I don't know if you can
24 help me on this - but may I suggest it was at a time when the militia
25 groups had an interest to inflate their numbers so that they appeared

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1 more important, perhaps, than they were and therefore had at least a
2 chance at a seat or a bigger seat for the pacification process and the
3 sharing out of any cake, as it were, that was going to be divided. Were
4 you aware of that at the time?

5 A. Yes. I'm aware of this question, this issue, and that's why I
6 wasn't concerned with making photographs of the militia armed to the
7 teeth or doing -- photograph a large number of militia. And the request
8 was never made by the militia themselves or their hierarchical superiors.
9 Something that has to be said is often the visits were impromptu,
10 surprise visits, and they were never warned. Because I had the
11 reputation of going out of the -- or leaving the security -- MONUC
12 security framework imposed on us, so often went to the camps or visited
13 villages or into the places where things had taken place in an impromptu
14 way. And that is how I went outside the zone of Bunia and I rented a
15 motorbike, which made it possible for me to go anywhere outside of Bunia
16 in very little time. It is true that I'd never been asked to carry out
17 this type of photographs to -- showing a lot of militia to put more
18 weight into the negotiating table, but I'm aware of that. I was very
19 careful about that.

20 Q. Well, one of your colleagues who was there, I think, that time is
21 a Mr. Bleasdale, is that right, another photo journalist or photographer
22 like yourself? Now, he was there in 2006 as well. Did you go back after
23 September of 2003 yourself? Did you ever return to the region, to Ituri
24 in particular?

25 A. No, and that's the reason why when I read my statement yesterday,

1 I mentioned his name in a handwritten page, I think page 1 or page 2,
2 just to show that there was Marcus Bleasdale, who knew the region very
3 well.

4 Q. Those are all my questions. Thank you very much. You obviously
5 lead a rather more exciting life than I do. Thank you very much for your
6 very courteous replies to my questions.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
8 Counsel Hooper.

9 Mr. Professor Fofe, you are going to proceed with the
10 cross-examination for the Defence team of Mathieu Ngudjolo. You have the
11 floor.

12 MR. FOFE: (Interpretation) Thank you, your Honour. I'm going
13 to try, but I'm sure that I will continue tomorrow.

14 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofe, that
15 doesn't astonish us at all, but I would just ask you, in this scenario,
16 to leave me perhaps the last ten minutes of this hearing to issue an oral
17 decision. So if you could go from five to to 20 past and leave the
18 Chamber, not just myself, ten minutes, then of course you can continue
19 tomorrow at 9.00.

20 MR. FOFE: (Interpretation) Your Honour, you give me the
21 opportunity to ask for a bit more, taking into account what happened in
22 the hearing, the selection of photographs by the Prosecutor, and taking
23 into account the fact that our esteemed colleague has just asked
24 questions to the colleague (as interpreted), perhaps it would be a good
25 method that we could start tomorrow, and we will finish, of course,

1 within the time without any problems.

2 PRESIDING JUDGE COTTE: (Interpretation) No, our concern was to
3 ensure that this witness does not have to come back, as we had to do for
4 the witness yesterday. So in the time framework you have tomorrow, will
5 you perhaps not necessarily need four hours?

6 MR. FOFE: (Interpretation) Absolutely, your Honour. I can
7 re-assure you that we will finish with the witness tomorrow because we
8 are going to just do some necessary cleaning up to reduce the questions.

9 PRESIDING JUDGE COTTE: (Interpretation) Well, that will
10 facilitate the work. Thank you. Of course it is up to the Prosecutor to
11 ask or to carry out, if he wishes, a re-examination. And normally, in
12 the four hours that we have tomorrow everything should be finished.
13 Perfect.

14 So the Chamber is therefore going to ask the Court Officer --

15 MR. HOOPER: (Previous translation continues) ...

16 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead,
17 Counsel Hooper.

18 MR. HOOPER: (Previous translation continues) ... attention drawn
19 to a certain matter and that is that I asked the witness or referred the
20 witness to his statement at paragraph 117, where the witness had said
21 that he had as far as his information was concerned from the MONUC press
22 officer, the last sentence of paragraph 117 that Germain Katanga, it was
23 said that he represented, or rather, was representing the FRPI group.
24 And I asked the witness whether that was a fair representation than his
25 saying that he was commander of the FRPI group. And the witness agreed

1 and nodded, but there was no answer. And I see the witness is nodding
2 again and the answer is yes, is that right, Witness? It's for the
3 transcript. That's why I'm asking the question. The nod doesn't go on
4 the transcript. So is the answer "yes," or "oui"?

5 THE WITNESS: (Interpretation) Yes.

6 MR. HOOPER: Thank you very much. Sorry to trouble you.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Witness.

8 We are therefore going to leave, finish. We'll be back here at
9 9.00 tomorrow morning for the cross-examination of Professor Fofe,
10 representing the Defence team of Mathieu Ngudjolo. Thank you for your
11 contribution throughout this morning.

12 The Court Officer, the Usher, if you would be so kind as to
13 escort the witness out of the courtroom and then we will go into private
14 session. And I indicate that to the people in the public gallery for the
15 reading of an oral decision which should be read in private session.

16 (The witness stands down)

17 (Private session at 12.59 p.m.)

18 (Expunged)

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7 (Open session at 1.06 p.m.)

8 COURT OFFICER: We are in open session, your Honours.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
10 Court Officer. Thank you to all of those who participate and help us in
11 the courtroom here.

12 We shall now rise. Court is adjourned until tomorrow morning at
13 9.00 for the very last hearing of this quarter.

14 The hearing ends at 1.06 p.m.

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