

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 Mathieu
7 Ngudjolo Chui
8 Trial Hearing
9 Tuesday, 23 March 2010.
10 The hearing starts at 2.04 p.m.
11 (Open session at 2.04 p.m.)
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 Prosecutor, before the witness enters, you wanted to present some
17 information, so please the floor is open to you.
18 MS. LUPING: (Interpretation) Thank you, your Honour. Good
19 afternoon, your Honour -- your Honours.
20 (In English) Before calling the witness back in, the Prosecution
21 simply wanted to bring a matter to the Chamber's attention, essentially
22 to correct a mistake and to seek to ensure that a similar mistake is not
23 made in the future in the interests of fairness to the witness. During
24 his cross-examination Maitre Kilenda correctly recited what Witness 159
25 had previously stated, but misquoted a Prosecution question to which the

1 witness had responded. Maitre Kilenda said that the witness was
2 responding to a question put by the Prosecution as to where he was at the
3 moment of the attack. He then quoted the witness's account which began:

4 "At that moment I was hidden in the bush ..."

5 The Prosecution simply wants to draw the Chamber's attention to
6 the fact that this is not correct, as the witness's account recited by
7 Maitre Kilenda was in fact in response to the Prosecution's question for
8 him to describe what he saw and heard during the attack. In fact,
9 (Expunged)
10 (Expunged)

11 The Prosecution did not wish to interrupt Maitre Kilenda's
12 questioning on this yesterday, but I would simply ask that my learned
13 friend exercise greater care to ensure that he does not misquote the
14 context or question to which Witness 159 has responded, simply to avoid
15 misleading or being unfair to the witness. Thank you.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Prosecutor.
17 Counsel Kilenda, would you like to answer that? Would you like
18 to take the break in order to look at the transcript and at the start of
19 the second part of the hearing reply then? What would you like to do?

20 MR. KILENDA: (Interpretation) Thank you, your Honour, Judges.
21 I have to admit that we spent a serious degree of time, the members of my
22 team, in preparing the cross-examination and we tried to ensure that when
23 we quote the witness or one of the parties or participants at this
24 hearing, that we can reproduce in extenso their wording. It is not
25 impossible that what the Prosecutor says is correct. I don't have the

1 time to check this immediately, but I would like in the future if she
2 notes something that she can interrupt me directly so that we can check
3 that. I think that that's a point of fairness with regards to the
4 witness and also with regards to myself and the Defence. Thank you very
5 much, your Honour.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
7 Counsel Kilenda. Perfect. I think that it's not at all in the
8 intentions of the Prosecutor to leave it to be understood that there was
9 a general behaviour, but you have done very well, both of you, to address
10 these issues. And we are at the start of the cross-examination. I'm
11 coming to that. The cross-examination of the Witness 159.

12 Counsel O'Shea, please go ahead.

13 MR. O'SHEA: Yes, thank you, Mr. President. This is an unrelated
14 matter. I come back to the issue of the diary. We would like to thank
15 the Victims and Witnesses Unit very much for according us access in
16 viewing this diary. I've managed to inspect the diary. Mr. Hooper has
17 not as yet and he will try to do so at 4.00.

18 Having inspected the diary, it seems to me that it may very well
19 be likely that Mr. Hooper would want to use the diary during the course
20 of his cross-examination. That being the case, I'm wondering if there's
21 some way in which the content of the diary could become part of these
22 proceedings or a copy could be available during the course of these
23 proceedings. I suppose it would be possible for the diary to be admitted
24 with an MFI number which would allow a sort of -- a copy of it in the
25 Ringtail, as it were. I don't know if that would be the appropriate way

1 to go about it, but what I'm essentially asking is that something be done
2 in order that we can use the diary during the course of
3 cross-examination.

4 (Trial Chamber confers)

5 PRESIDING JUDGE COTTE: (Interpretation) Counsel O'Shea, you
6 noted yesterday that I addressed the witness in terms which led that
7 person to accept that this diary be made available to all of the
8 participants. Obviously the -- this person didn't do it against his
9 heart. Now, taking up a suggestion of Professor Fofe, the Chamber
10 thought that it was both equitable and just to make the witness
11 understand that he -- this would just be for the unit and the unit would
12 be -- and the diary would be consulted in the premises of the unit. We
13 don't want to go back over what were the factors which made it possible
14 which -- to get this consent. This is basically fairness and
15 faithfulness towards him. But I certainly don't underestimate the
16 relative difficulty that that might have caused for you. Perhaps a
17 member of your team could perhaps go to the premises of the unit to
18 consult very attentively the passages in this diary which are directly
19 related to the cross-examination that you wish to carry out. But going
20 back to what was said yesterday and the acceptance factor is something we
21 seem -- we feel is difficult for us. So the diary can be consulted in
22 the premises of the unit. If it's essential for you to have -- do
23 something extra, it might be possible, but with regards to the
24 cross-examination, Counsel Kilenda, do you know how much time you would
25 wish to have today?

1 I would like to take this opportunity to indicate to the
2 Prosecutor that her examination-in-chief was three hours, 16. So if we
3 look at 60 per cent, then that would give you one hour and 58 minutes,
4 but perhaps you might want to take more time overall of the 60 per cent
5 which is accorded to you.

6 MR. KILENDA: (Interpretation) We can finish in two hours.

7 PRESIDING JUDGE COTTE: (Interpretation) So perhaps after the
8 break.

9 MR. KILENDA: (Interpretation) Yes, after the break.

10 PRESIDING JUDGE COTTE: (Interpretation) So this means,
11 Counsel O'Shea, that there is still about two hours, two and a quarter
12 hours. Perhaps there's -- there's tomorrow morning as well because we
13 don't know what the duration will be of your own cross-examination.

14 MR. O'SHEA: Thank you, Mr. President. There are essentially two
15 practical difficulties which arise. One is that for the most part the
16 entries in the diary are in the Swahili language. We do have someone in
17 our team who has some knowledge of Swahili, but we have no one fluent in
18 the language. That's one practical difficulty. The other practical
19 difficulty is that if we were to ask the witness questions about the
20 nature of his entries and why they'd been put in particular positions of
21 the diary, for instance, I'm just wondering how the witness would be in a
22 position to respond to that without consulting the diary. But I suppose
23 at that point you, Mr. President, might be in a position to order that he
24 can see the diary, that's also true.

25 Yes, and it's also important I think that the Judges see this

1 diary. I mean, we'll make a formal application that you see the diary if
2 we make reference to it during cross-examination. But for our part we
3 have no objection to the Judges seeing the diary before our
4 cross-examination. I think we'd like the Judges to do so.

5 (Trial Chamber confers)

6 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, do you
7 think that it would be possible for a translator, a Swahili translator,
8 to accompany a member of the Defence team of Germain Katanga in the unit
9 to be able to provide them with the linguistic information that would be
10 useful when it comes to the consultation of this agenda. Is that
11 technically and practically possible in the very short term?

12 COURT OFFICER: (Interpretation) Your Honour, I will have to
13 refer to the section of translation and interpretation to be able to give
14 you a very quick answer in that regard.

15 PRESIDING JUDGE COTTE: (Interpretation) If you could do so, we
16 would be very appreciative of that.

17 Professor Fofe.

18 MR. FOFE: (Interpretation) Thank you, your Honour. Good
19 afternoon, Judges. I would like to reassure the Bench that
20 Counsel Kilenda and myself have been to consult this diary. From 12.45
21 to 1.30 we consulted it. This diary poses no problem to us. It is clear
22 that we have the advantage of understanding Swahili, so we did visit the
23 location where it is. We have no particular observation to make where it
24 concerns this diary. Thank you.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

1 Counsel Fofe. This is an element which is obviously useful. The Chamber
2 can understand that the Defence team of Germain Katanga wishes to consult
3 it themselves and to be assisted where it concerns the linguistic aspect,
4 so the Court Officer is going to look at that.

5 Now, in response to the other question by Counsel O'Shea, it is
6 clear that if this diary has parts in Swahili, at this time it is not
7 necessarily essential that the Chamber views it itself. Everything will
8 depend on the nature of the questions that could be asked during the
9 cross-examination carried out by the Defence of Germain Katanga. On the
10 third point, if the Defence of Germain Katanga should during its
11 cross-examination ask precise questions with regards to the journal with
12 which the -- to which the witness will have difficulties replying, of
13 course he will be allowed to have his own diary in front of him so that
14 there can be a useful exchange. If not, certainly this would be
15 something too artificial.

16 MR. O'SHEA: (Previous translation continues) ...

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Counsel
18 O'Shea.

19 So Court Officer, we will await for an answer. If it is
20 positive, obviously, this is something that would be appreciated, but one
21 of his collaborators will go with instructions from him to the unit
22 accompanied by an interpreter or by a translator in order to view this
23 diary. I also indicated the speaking time of the Prosecutor, three
24 hours, 16, so that that would be one hour and 50 -- one hour 68
25 (as interpreted) so we will then bring in the witness so the Defence of

1 Mathieu Ngudjolo can continue with its cross-examination.

2 Court Officer, can we now go into closed session so that the
3 witness can come in, and then we will go quickly into public, open
4 session. Thank you.

5 (Closed session at 2.21 p.m.)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Open session at 2.22 p.m.)

15 COURT OFFICER: (Interpretation) We are in open session, your
16 Honour.

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

19 Good afternoon, Witness.

20 THE WITNESS: (Interpretation) Good afternoon, your Honour.

21 PRESIDING JUDGE COTTE: (Interpretation) You can hear me well
22 then?

23 THE WITNESS: (Interpretation) Yes, I can hear you well.

24 PRESIDING JUDGE COTTE: (Interpretation) We are very pleased
25 that you are here. Counsel Kilenda is therefore going to continue with

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1 his cross-examination. This is something he was doing yesterday, and you
2 will reply to his other questions.

3 Counsel Kilenda, you now have the floor.

4 MR. KILENDA: (Interpretation) Thank you, your Honour, your
5 Honours.

6 THE WITNESS: WITNESS P-159 (Resumed)

7 (Witness answered through interpreter)

8 Questioned by Mr. Kilenda: (Continued)

9 Q. (Interpretation) Good afternoon, Witness. We are going to
10 continue with our examination of yesterday. I would therefore ask you to
11 ask (as interpreted) in the most precise way possible to my questions and
12 I will try to speak slowly. I this morning looked at the transcript,
13 120, of yesterday and I noted that on page 59, lines 17 to 25 we spoke
14 about your civil status. And on page 60, lines 1 to 25, we spoke -- or
15 you spoke about your wife, your children. And on line 25 I asked you a
16 question, namely, where were your wife and children on the day of the
17 attack. And on page 61, lines 1 to 4, you replied that your wife and
18 children were in Bunia.

19 Quite simply, could you tell us how long your wife and children
20 were in Bunia for before the attack?

21 A. My wife was in Bunia before the attack.

22 Q. Since when?

23 A. I took my wife to Bunia from the attack -- when the attack in
24 2002 took place. I took her to this place for her safety.

25 Q. Thank you, Witness.

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1 MR. KILENDA: (Interpretation) With your leave, your Honour, I
2 would like Court Officer to show EVD-OTP-0053.

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

5 This is a confidential evidentiary item, therefore.

6 COURT OFFICER: (Interpretation) In order to view the document,
7 please press the button PC 1 next to your computers.

8 MR. KILENDA: (Interpretation) I'm sorry, your Honour, could you
9 order a closed session.

10 PRESIDING JUDGE COTTE: (Interpretation) So, Court Officer, we
11 are now going to go into private session.

12 Can everybody see the exhibit? Not yet.

13 (Private session at 2.28 p.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)
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21 (Open session at 2.33 p.m.)
22 COURT OFFICER: (Interpretation) We are in open session, your
23 Honour.
24 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
25 Mr. Kilenda, please proceed.

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1 MR. KILENDA: (Interpretation) Thank you, your Honour.

2 Q. Witness, now, you did say that the attackers began by shooting in
3 the general direction of the camp and their main objective was to reach
4 the camp. After attacking the outskirts they focused their shooting on
5 the military camp. That is what you said, is it not?

6 A. Yes, I did make that statement.

7 Q. Thank you, Witness.

8 MR. KILENDA: (Interpretation) Your Honour, with your leave,
9 Court Officer, could we see EVD-OTP-00054. It is a confidential item.

10 PRESIDING JUDGE COTTE: (Interpretation) It truly is
11 confidential because in the e-mail that you sent on the 22nd of March I
12 see that it actually says that it is a public document. It's truly a
13 confidential document? I'm not quite sure, EVD-OTP-00054.

14 (Defence counsel confer)

15 MR. KILENDA: (Interpretation) It is public.

16 PRESIDING JUDGE COTTE: (Interpretation) Apparently it is a
17 public document.

18 MR. KILENDA: (Interpretation) I withdraw my earlier request,
19 your Honour.

20 PRESIDING JUDGE COTTE: (Interpretation) Now, is that exhibit
21 coming up on the screen? It's on its way.

22 MR. KILENDA: (Interpretation) Could a copy be provided?

23 COURT OFFICER: (Interpretation) That item already has been
24 provided to the witness.

25 MR. KILENDA: (Interpretation) Thank you.

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1 Q. Witness, do you recognise this diagram? This is the place where
2 you hid, is it not?

3 A. Yes, I recognise the sketch here.

4 Q. And this X represents the precise location of your hiding-place.

5 A. Yes.

6 Q. Thank you, Witness. And what is the approximate distance between
7 the hiding-place and the military camp?

8 A. Between the place where I was, it wasn't -- it was not a great
9 distance between the place I was and the camp because if I could give an
10 estimate the camp was about 50 metres from the place where I was. I made
11 efforts to gain access to a trench, a trench that surrounded the camp.

12 Q. Thank you. So between your house and the hiding-place, what is
13 the closest spot in relation to the camp?

14 A. The closer place was my hiding-place.

15 Q. Thank you, Witness. How can you explain, as the war was raging
16 in the camp and in the surrounding areas you left your house and moved
17 closer to the camp where there was a clear danger?

18 A. Each time Bogoro was attacked by the attackers, we got into the
19 habit - and I'm speaking of the local populace - we had the habit of
20 fleeing towards the camp.

21 Q. But in the situation you found yourself, why did you not flee
22 towards the west, towards the Protestant mission, for example, in Diguna?

23 A. It was difficult to get to the Protestant mission in Diguna.
24 Why? Because each time the enemy attacked us, as I said earlier, we were
25 in the habit of taking refuge at the camp because our hope, the hope of

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1 the entire populace, was to be found in that camp.

2 Q. Thank you, Witness. Now, in paragraph 43 of your written
3 statement to the OTP investigators - and this is DRC-OTP-01 --

4 THE INTERPRETER: Inaudible.

5 MR. KILENDA: (Interpretation)

6 Q. -- 0472 you said, and I quote:

7 "I would say that the distance between my position and the UPC
8 camp had to have been about 500 metres. I was in a position to see and
9 hear what was occurring there, and I was at the -- I was at the fighting
10 that led to the camp falling. Throughout the entire combat I looked at
11 my watch from time to time, and so at 11.00 in the morning I heard a UPC
12 soldier whose voice I recognised. He was yelling out to the civilians
13 who were in the camp, telling them that they no longer had any ammunition
14 and that each person had to manage for himself. All the same, I did
15 recognise the voice of this soldier who was from Bogoro. I recognised
16 his voice because he was (Expunged)." I will not cite the name because we
17 are in open session. And I would ask you, Witness, not to mention his
18 name either. Then you said:

19 (Expunged)

20 (Expunged)

21 So your hiding-place was 500 metre away, is that not so?

22 A. The explanations are different because -- well, you know, when a
23 person is speaking and a second person is writing down what is being
24 said, there may be a difference. When I read this document, I found
25 differences between my statements and what was written down. There are

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1 some spots that I said things that were different from the way it was
2 recorded. What you've just said is not true. For example, you just
3 talked about the distance between my house and the military camp. It's
4 not far. If you dismiss what I'm telling you, I can tell you this: Let
5 us go to the field and I will show you where I was and how things
6 occurred from the beginning to the end. If you have any doubts, if you
7 dismiss what I say, I will ask you once again to go down again, go to the
8 field and we will see. Let us go into closed session and I will give the
9 (Expunged) and in closed
10 session I will give those names.

11 Q. We are not going into closed session, Witness. Your statement
12 was provided to us by the Office of the Prosecutor, and when we read it
13 carefully we saw that -- well, you signed your statement?

14 A. Yes, I signed it, but I'm here today not because of this
15 statement. I'm here as well because I'm aware that I am giving testimony
16 about the things that I experienced. Each time one of the parties asks
17 me a question, this brings the events back into my mind. When a party
18 asks me a question about a specific item or event, this opens up the
19 whole story to me and expands my understanding.

20 Q. Thank you, Witness. We are not going to spend endless amounts of
21 time on this, but my question is as follows: Is it possible for 500
22 metres to hear a person's voice and distinguish a person's voice, a
23 person who is calling out or yelling?

24 PRESIDING JUDGE COTTE: (No interpretation).

25 MS. LUPING: I just wish to raise an objection, Mr. President,

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1 because this question is calling for the witness to speculate. He has
2 already clearly responded to the question as to distance. I would also
3 want to bring the Chamber's attention to paragraph 51 of the witness's
4 statement. I believe there could be some confusion, and it may be in the
5 interests of clarifying the matter with the witness if this paragraph,
6 51, would also be read to the witness.

7 PRESIDING JUDGE COTTE: (Interpretation) Paragraph 51 of his
8 statement to the OTP investigators?

9 MS. LUPING: Yes, Mr. President.

10 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, would it
11 be possible to show paragraph 51 of the statement to the witness so that
12 we can obtain absolute clarity before Mr. Kilenda goes on to his next
13 question?

14 COURT OFFICER: (Interpretation) Yes, your Honour, it is
15 possible to place paragraph 51 on the screen. I would just like to ask
16 or specify the ERN number of the document. And could you give me that
17 number again, Mr. Kilenda?

18 MR. KILENDA: (Interpretation) DRC-OTP-0164-0412 -- 0472.

19 THE INTERPRETER: Correction from the English booth.

20 COURT OFFICER: (Interpretation) And what is the level of
21 confidentiality? Is it a confidential document or a public document?

22 MR. KILENDA: (No interpretation)

23 COURT OFFICER: (Interpretation) To view this document, please
24 press the PC 1 button beside your computers.

25 PRESIDING JUDGE COTTE: (Interpretation) Now, you have before

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1 you on the screen an excerpt from the statement that you made several
2 months before to the OTP investigators. Please take time to re-read
3 paragraph 51 of this statement, and once you have read it over
4 Mr. Kilenda will ask or re-ask his question. Not the question about the
5 distance, but whatever question he deems necessary. And I'm going to
6 read this point out. It reads as follows:

7 "I have to specify that after seeing my mother die I left the
8 hiding-place and I tried to go closer to the place where she had fallen.
9 I got to a position about 50 metres south of the UPC camp."

10 So that is paragraph 51 which you have re-read and we have all
11 re-read.

12 So, Mr. Kilenda, please proceed.

13 MR. KILENDA: (Interpretation) Thank you, your Honour. I just
14 wanted to observe something and point out to the Chamber that this
15 document was provided to us by the Prosecutor. If the Prosecutor is
16 pointing out paragraph 51, the other paragraph that I mentioned earlier
17 is also found in this same statement and this cross-examination is being
18 done in accordance with what has been read and what was provided by the
19 Prosecution, and in accordance with the various replies to questions
20 asked in the courtroom.

21 I don't think I've committed any sin here by asking the witness
22 to tell us whether from 500 metres he could hear a voice or distinguish
23 it from others. If he can't answer, I will take note of that. But I
24 think the question deserves an answer because a distance of 500 metres he
25 was the one who spoke of that distance in paragraph 43. And I notice

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1 that each page of this statement has been signed. So he says he is here
2 to speak the truth and he has signed this document, so I will rephrase my
3 question.

4 Q. Witness, please tell us, from 500 metres are you able to
5 distinguish the voice of a person who is yelling?

6 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, I don't
7 think there's anything sinful in what you've been saying, far from it.
8 But the witness is being confronted with distances and these are not the
9 same, and he has just said a few moments ago that he was of the view that
10 it was 50 metres, it was a short distance. I think we'll stick with that
11 for the time being, what was said in the hearing. I think we've all
12 heard him speak of a distance of 50 metres. And if necessary, if the
13 time comes, the Chamber will assess what sort of consequences -- or,
14 rather, conclusions that should be drawn and we will move on.

15 MR. KILENDA: (Interpretation) Thank you. I entirely agree.

16 Q. Witness, could you tell us what was the duration of the fighting
17 that day in Bogoro?

18 A. That day there was a great deal of fighting. It began at 5.00 in
19 the morning and it continued until 8.00 in the morning. The fighting was
20 intense.

21 Q. Thank you. And at what time did you arrive at this spot 50
22 metres from the camp?

23 A. I don't know exactly what time because there was gun-fire and
24 several things were going on at the same time. People were calling out.
25 It was not possible for me to tell what time I arrived at. The only

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1 thing that I know is how long the fighting lasted for.

2 Q. And how long was that?

3 A. I've already replied.

4 Q. Thank you, Witness. With whom were you sharing this
5 hiding-place?

6 A. I was alone, (Expunged)
7 (Expunged). His name is even mentioned here.

8 MR. KILENDA: (Interpretation) Could we withdraw this piece of
9 evidence.

10 Q. Thank you, Witness. Now, if you know - if you don't know, you
11 don't know - but today would you be able to tell who it was, the person
12 who joined you in the hiding-place?

13 A. I don't know where they are. (Expunged)
14 (Expunged)

15 Q. Thank you, Witness. Is it possible that you were -- you've
16 described the state of the vegetation at the exact spot where you were
17 hiding?

18 A. There were wild grasses growing there. The camp was surrounded
19 by mango trees. To the north there were also mango trees. And to the
20 west there was bush.

21 Q. Thank you, Witness.

22 MR. KILENDA: (Interpretation) Your Honour, with your leave
23 could we go into closed session.

24 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer, we
25 will go into closed session. And, Court Officer, could you specify

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1 whether you've had any information from the Registry regarding the
2 availability of a Swahili -- of an interpreter or a translator that we
3 were looking into earlier? If not, perhaps we'll have to provide a
4 reminder.

5 Private session. We will go into private session. It was a
6 mistake on ...

7 (Private session at 2.58 p.m.)

8 (Expunged)
9 (Expunged)
10 (Expunged)
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Page 21 expunged. Private Session.

Witness: Witness P-159 (Resumed) (Private Session)
Questioned by Mr. Kilenda (Continued)

Page 22

1 (Expunged)
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11 (Open session at 3.04 p.m.)

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

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

15 Mr. Kilenda, we begin by apologising to you because we
16 interrupted you. We have been betrayed by the English transcript, so
17 there is a need to suspend for ten minutes -- well, it looks like we have
18 good news -- well, it is never certain that we are in the worst
19 position -- well, apparently the English transcript is okay now and the
20 Court Officer who is extremely busy -- no? Well, we will therefore break
21 for ten minutes. It is 3.07 or 3.08. We are going to resume at 3.20 --
22 no, 3.18. We hope that the transcript will be repaired by then and a
23 Court Officer will transmit the information given by Mr. O'Shea.

24 Mr. Witness, you might have realised that we have technical
25 difficulties. We are going to break for ten minutes, but we will move

Witness: Witness P-159 (Resumed) (Closed Session)
Questioned by Mr. Kilenda (Continued)

Page 23

1 into closed session to allow you to leave the courtroom, and you will
2 return here in ten minutes.
3 Court Officer, let us go into closed session.
4 (Closed session at 3.06 p.m.)
5 (Expunged)
6 (Expunged)
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9 (Expunged)
10 (Expunged)
11 (Expunged)
12 (Expunged)
13 (Open session at 3.07 p.m.)
14 COURT OFFICER: (Interpretation) We are in open session, your
15 Honour.
16 PRESIDING JUDGE COTTE: (Interpretation) We will now suspend and
17 resume at 3.20.
18 Break taken at 3.07 p.m.
19 On resuming at 3.25 p.m.
20 (Closed session at 3.25 p.m.)
21 (Expunged)
22 (Expunged)
23 (Expunged)
24 (Expunged)
25 (Expunged)

Witness: Witness P-159 (Resumed) (Private Session)
Questioned by Mr. Kilenda (Continued)

Page 24

1 (Expunged)
2 (Expunged)
3 (Expunged)
4 (Open session at 3.27 p.m.)
5 COURT OFFICER: (Interpretation) We are in open session, your
6 Honour.
7 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
8 Mr. Witness, we are back in the courtroom. Can you hear me well?
9 THE WITNESS: (Interpretation) Yes, Mr. President, I can hear
10 you very well.
11 PRESIDING JUDGE COTTE: (Interpretation) Very well. We have
12 half an hour, during which Mr. Kilenda will continue with his
13 cross-examination.
14 Mr. Kilenda.
15 MR. KILENDA: (Interpretation) Thank you, your Honour. Can we
16 go briefly into private session.
17 PRESIDING JUDGE COTTE: (Interpretation) All right. We are
18 going to go into private session for a short while.
19 Madam Court Officer, please.
20 (Private session at 3.28 p.m.)
21 (Expunged)
22 (Expunged)
23 (Expunged)
24 (Expunged)
25 (Expunged)

Witness: Witness P-159 (Resumed) (Private Session)
Questioned by Mr. Kilenda (Continued)

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Page 25 expunged. Private Session.

Witness: Witness P-159 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

Page 26

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Open session at 3.32 p.m.)

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

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

10 Mr. Kilenda, please proceed.

11 MR. KILENDA: (Interpretation) Thank you, your Honour.

12 Q. Witness, did you have a watch in your hiding-place?

13 A. Are you talking about the attack that occurred on the 25th, the
14 last attack?

15 Q. I'm only speaking of the last attack.

16 A. That day I did not have a watch.

17 Q. But in paragraph 43 of your statement to the OTP investigators
18 you said that you did have a watch.

19 A. Before the OTP staff I spoke about the first and the second
20 attack. At that time I did have a watch, but during the last attack -
21 each person in Bogoro can attest to this - that attack began at 5.00 in
22 the morning. I spoke about a watch and I was speaking of the first and
23 the second attacks. Everyone in Bogoro knows what time that attack began
24 at.

25 Q. But during that attack when you heard a soldier call out, "You

Witness: Witness P-159 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

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1 have to manage on your own," that was (Expunged). I won't mention his
2 name. Now, was that the first, the second, or the third attack?

3 PRESIDING JUDGE COTTE: (Interpretation) Ms. Prosecutor.

4 MS. LUPING: Mr. President, I believe we are now back in open
5 session, are we not, and my concern is we are having to -- the
6 Prosecution's having to request a considerable number of redactions. And
7 just a reminder to Mr. Kilenda that there are only four redactions every
8 30 minutes and this is yet another redaction we are going to have to
9 make, a reference to the (Expunged).

10 (Trial Chamber and Court Officer confer)

11 MR. KILENDA: (Interpretation) Your Honour.

12 PRESIDING JUDGE COTTE: (Interpretation) Yes.

13 MR. KILENDA: (Interpretation) I was very careful not to give
14 the actual name.

15 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor, a
16 reminder -- I would remind everyone, please be very careful. Once again
17 we find ourselves facing this eternal conflict or tension between having
18 an open hearing and respecting confidentiality. And I believe all are
19 being attentive, but please be even more vigilant so we don't find
20 ourselves having difficulties. Now, it is true that with this technical
21 hindrance we cannot carry out more than four redactions per - how
22 much? - per -- four per 30 minutes. Is that correct?

23 Please go ahead, Mr. Kilenda.

24 MR. KILENDA: (Interpretation)

25 Q. Witness, I want to be fair to you and I'm going to quote what you

Witness: Witness P-159 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

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1 stated in paragraph 43 in your statement to the OTP Prosecutors. And
2 this is DRC-OTP-0164-0472, and I quote, I'm quoting you.

3 "I would say that the distance between my position and the UPC
4 camp would have been approximately 500 metres. I could see and hear what
5 was going on there and I saw the fighting that led to the UPC camp
6 falling. Throughout all the fighting I watched my -- I looked at my
7 watch from time to time, and so at 11.00 in the morning I heard a UPC
8 soldier, whose voice I recognised, who was calling out to the civilians
9 who were in the camp that they no longer had any ammunition and each and
10 every person would have to manage for himself. Now, I did recognise the
11 voice of this soldier who was from Bogoro. I recognised his voice
12 because he was (Expunged)." I will not quote the name of (Expunged) and
13 please don't you mention his name either. (Expunged)
14 (Expunged)

15 So that is what you stated before the OTP investigators. Here at
16 this hearing transcript 119, page 21, lines 19 to 21, Madam Prosecutor
17 asked you the following question, this was on the 18th of March, 2010.
18 But before that she said, and I'm quoting the Prosecutor.

19 "You spoke about the fact that the attackers took control of the
20 camp and that Bogoro fell. Do you remember what time that happened at in
21 approximate terms?"

22 And here is your answer, and this is from the same transcript,
23 page 21, lines 22 to 27 -- 25, and I quote:

24 "I did not have my watch so I could not check to see the time,
25 but I would estimate that it was 8.30; and at 9.00 everything was over.

Witness: Witness P-159 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

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1 The people of Bogoro had fled. A few had been killed. At 9.00 all their
2 operations were over because Bogoro had fallen. They had taken control
3 of Bogoro."

4 Now, Witness, what are we to conclude? Did you have a watch or
5 not?

6 A. You just read my statement. You just read my answer. But my
7 answer is clear. That day I did not have a watch.

8 Q. Thank you, Witness. On the hearing of the 17th of March, 2010,
9 you stated - and I am quoting transcript 118, page 60, lines 7 to 9 -
10 "In Bogoro there were UPC soldiers -- UPC soldiers, young people
11 from Bogoro who had enlisted in the UPC Army."

12 MR. KILENDA: (Interpretation) Now, are we in open session, your
13 Honour? Thank you.

14 Q. "They were doing their work, that is to say they were ensuring
15 the safety of the people of Bogoro."

16 When we listen to you, we wonder, now was the UPC based only in
17 Bogoro?

18 A. Thank you for your question. The UPC was not only in Bogoro.
19 When I speak of the UPC and UPC -- when I talk about Bogoro and the young
20 people of Bogoro, I would tell you this: These young people belonged to
21 the army, they belonged to the army, the group, the political military
22 group of the UPC. The UPC base was not just in Bogoro. When I speak
23 about UPC soldiers, I mean this: The young people who were under the
24 orders of the UPC Army.

25 Q. Thank you, Witness. I would like to quickly turn to the fall of

Witness: Witness P-159 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

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1 Bogoro and -- rather, the fall of Lompondo in Bunia. You know that it
2 was * the UPC that drove Lompondo *from Bunia, wasn't it?

3 A. I don't know if it was Lompondo who had chased -- I don't know if
4 it was the UPC who had chased Lompondo out of Bunia.

5 Q. Did you ever learn that the UPC had benefit from the assistance
6 of Uganda to drive Lompondo out of Bunia?

7 A. As I said earlier, that is a political question. I am not a
8 politician. I do not want to get involved in that.

9 Q. Thank you, Witness. You stated the following at that same
10 hearing of the 17th of March, transcript 118, page 71, lines 10 to 23,
11 and I quote:

12 "In the morning of that day at 5.00 in the morning we were at
13 home. I heard the first sounds of shooting. And it was like a signal.
14 The attack began directly upon Bogoro. We, the young people of Bogoro,
15 who had spent the night at home, when we heard the gun-fire usually we
16 would flee towards the camp to hide there. But that day that was not
17 possible. The attack was so intense that it was difficult for us to go
18 and hide at the camp. They shot at Bogoro. The young people came out.
19 They did their best to resist, but that was not possible. Bogoro was
20 being attacked from both sides. The attack was extremely intense, very,
21 very intense. Many people died in Bogoro. Things occurred -- many
22 things occurred in Bogoro. It was difficult to save the lives of the
23 people. When the attack began, the attackers had one objective, which
24 was to gain control of the camp. They shot in the direction of the camp,
25 at the camp. Two soldiers of the UPC were in front and they had heavy

Witness: Witness P-159 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

Page 31

1 weapons. These two soldiers died. They were shot. They were positioned
2 at the forefront."

3 And on page 74 of that same transcript, line 1 to 3, you went on
4 to say, and I quote:

5 "When that happened, that happened when the enemy was very close
6 to the camp and the enemy was already starting to drop bombs into the
7 camp."

8 My question is as follows: Now, were shells being lobbed into
9 this camp during the initial attack of 2001 and 2002, that first attack
10 on Bogoro?

11 A. In 2001 and 2002 there was no heavy weaponry used during that
12 battle. However, they were used -- that weaponry was used during the
13 last attack in 2003.

14 Q. Thank you, Witness. And what kind of weapons did those two
15 soldiers have?

16 A. Are you talking about -- which soldiers are you talking about,
17 the ones who were killed or the general's soldiers.

18 Q. The two -- (No interpretation)

19 THE INTERPRETER: Inaudible, microphone ...

20 MR. KILENDA: (Interpretation)

21 Q. * These two soldiers who died were armed. They had weapons?

22 A. Yes.

23 MR. KILENDA: (Interpretation)

24 Q. Thank you, Witness. You identified the attackers, saying that
25 they were Lendu and Ngiti people; is that correct?

Witness: Witness P-159 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

Page 32

1 A. Yes.

2 Q. At what specific time did you identify them as being Lendu and
3 Ngiti?

4 A. Thank you for your question. I will shed light on this. What
5 difference was there between a Lendu of the north and a Lendu of the
6 south or an Ngiti? A Lendu Ngiti is someone who lives in Gety, and Gety
7 is in the territory of the Irumu. The Ngiti do not use Swahili. Most of
8 the time they speak their own language, Ngiti, and when they meet one
9 another no one understands their language. How do I distinguish between
10 a Lendu from the north and an Ngiti person? The two groups wear
11 different kinds of clothes, and they behave in different ways as well.
12 So there you have it. That is why -- but they are people that we have
13 lived with in Bogoro. I know how they behave. I know their ways,
14 their -- the clothing they wear, their language. So those are the things
15 that helped me determine these two groups. The Ngiti came from Gety to
16 attack.

17 Q. I didn't want to interrupt you. I did not want to give a bad
18 impression in this courtroom, but my question was very specific. I'm not
19 doubting what you're saying, but my question was quite specific. I just
20 wanted to know: When, when did you identify these people as being Lendu
21 and Ngiti?

22 A. During the attack, when the attack began, that is when I realised
23 that there were two groups attacking us, the Ngiti from the road coming
24 from Gety. There were people speaking Ngiti.

25 Q. Thank you, Witness. Now, in paragraph 62 of the statement that

Witness: Witness P-159 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

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1 you gave the -- to the OTP investigators, you said, and I quote:

2 "With regard to the military clothing of the Lendu and Ngiti
3 fighters, I remember that these clothes were similar to those that the
4 Ugandans wore when they were present in Bogoro. I remember that they
5 were all of one colour and they were a very special shade of green. That
6 is what made me think that they might have been Ugandan uniforms."

7 My question is as follows: These soldiers, now, they reminded
8 you of the Ugandans, they reminded you of the presence of the Ugandans?

9 A. Well, to answer your question, I said this: Each time they
10 arrived there were other people along with them. Among these people
11 there were soldiers and civilians, among these people who were along with
12 them.

13 Q. There never were any Ugandans?

14 A. No. I did not see any Ugandans. I wouldn't say that I had seen
15 one, no. I did not see any. But I did see fighters, soldiers, but I
16 couldn't tell you whether they were from the APC or from Uganda. I saw
17 fighters.

18 Q. Thank you.

19 MR. KILENDA: (Interpretation) Your Honour, I think it might be
20 prudent to stop at this point so that we can gather our strength.

21 PRESIDING JUDGE COTTE: (Interpretation) We will suspend now.
22 It is five minutes to 4.00, and we will resume at 4.30 for our last
23 two-hour session.

24 Madam Court Officer, could we go into closed session so that the
25 witness can leave the courtroom.

Witness: Witness P-159 (Resumed) (Closed Session)
Questioned by Mr. Kilenda (Continued)

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1 (Closed session at 3.53 p.m.)
2 (Expunged)
3 (Expunged)
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged)
9 (Expunged)
10 (Expunged)
11 (Expunged)
12 (Open session at 3.54 p.m.)
13 COURT OFFICER: (Interpretation) We are in open session, your
14 Honour.
15 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
16 Court Officer.
17 We shall now suspend and we will resume at 4.30.
18 Recess taken at 3.55 p.m.
19 On resuming at 4.36 p.m.
20 (Open session at 4.36 p.m.)
21 COURT USHER: All rise.
22 PRESIDING JUDGE COTTE: (Interpretation) The Court is now in
23 session. Please be seated.
24 We are in open session. The accused are with us. Before having
25 the witness enter the Court, the Court would like to issue an oral

1 decision and give information which has been asked for, at least the
2 Defence team of Germain Katanga asked for, with regards to the measures
3 which can be taken to avoid the presence -- the witnesses present in
4 The Hague communicating between them. With regards to the information
5 that I will give you about this second question, the last part will be
6 given in -- or the end will be given in a very short private session and
7 the other part will be in open session, 80 per cent in open session.

8 Now, with regards to the oral decision in submission 1990
9 received this day on the 23rd of March, the Defence team of
10 Germain Katanga asked the Chamber for leave to reply to the submission of
11 the Office of the Prosecutor number 1982 filed on the 19th of March,
12 2010, a submission which is also a response to the Office of the
13 Prosecutor -- response of the Office of the Prosecutor to the application
14 of the Defence of Germain Katanga number 1960, asking for communication
15 of the transcript of the statement of the witness in the Lubanga case
16 with regards to the identity of the intermediary, asking the Defence
17 teams of the Lubanga and Katanga and Ngudjolo teams be authorised to
18 communicate where it concerns for common witnesses, common to two trials.

19 In its answer of the 19th of March, 2010, 1982, the Office of the
20 Prosecutor says in paragraph 16 and 17, he highlighted Article 8 of the
21 code of conduct of counsel, and in particular that it does not allow in
22 its point of view for the Defence to share with an accused a certain
23 number of -- or a certain amount of information which comes under
24 Articles 64(c) and 64(7) and 67(1)(b), 72 (as interpreted) of the Statute
25 and a certain number of rules of regulations and procedure and evidence.

1 And this is this -- our interpretation of Article 8 of the code of
2 conduct that the Defence of Germain Katanga would like to reply to.

3 Now, with regards to Regulation 80 -- 24(5) and
4 34(c) (as interpreted) of the regulations of the Court, the Chamber
5 considers that the issue raised presents or is of sufficient importance
6 with regards to the rights -- the exercise of the rights of the Defence
7 for this reply to be authorised. A good reading of Regulation 34(c) of
8 the regulations of the Court leads one to consider that the reply should
9 be made before the 29th of March, 2010, that is to say in the coming or
10 the ten days following notification of the response. The Chamber
11 therefore authorises this reply to be made. It recommends the Defence of
12 Germain Katanga, if it can, file its submission before the 29th of March,
13 2010, to do so, with a view to allowing the Chamber to have information
14 which is necessary to it in order to provide a response to its
15 application number 1960 which it would also like to remind is joined on
16 the 15th of March, 2010. The Defence team of Mathieu Ngudjolo joined
17 that on the number 1965. That is an oral decision issued, authorising a
18 reply.

19 Now, with regards to information -- with regards to the provision
20 or measures taken by the VWU of this Court in order to avoid that the
21 witnesses who are present in The Hague communicate between them. Where
22 it concerns the measures and provisions covering travel and
23 accommodation, the unit states that all witnesses that we have had until
24 now before this Chamber, so all witnesses have been travelling
25 separately. Where it concerns the accommodation, the unit states that no

1 witnesses have been accommodated together; they've all been lodged --
2 accommodated individually. The unit also indicates to us that all
3 witnesses reminded before and after giving testimony that they must not
4 discuss with -- their testimony with anyone or the fact -- they are not
5 to discuss the fact that they are witnesses or their testimony with
6 anyone.

7 Now, the -- it is avoided -- sorry, programmes during this day
8 are co-ordinated in such a way to avoid any contact between witnesses.
9 During the time spent at the Court, witnesses do not leave the witness
10 waiting-rooms unless they are accompanied and all movements are
11 co-ordinated to avoid any accidental contact, for example, with another
12 witness on the corridor. The VWU provides no information to the
13 witnesses with regards to any other witnesses. All the witnesses have
14 the possibility to call members of their family during their stay in
15 The Hague. All witnesses can call the members of their family with a
16 view to giving them news. All the phone calls are organised and
17 controlled by the VWU.

18 Before the witness returns to the country of residence, the VWU
19 asks the witness to provide a list of all persons they have contacted
20 during their stay in the Netherlands. The Judges, which it has not been
21 able to do yet which is something that it would like to do, the Chamber
22 therefore will ensure that at the end of the testimony they would like to
23 remind the witness that they are not to discuss the content of their
24 testimony with anyone.

25 Court Officer, for the reading of the last part of this

1 information I would like us to go into private session.

2 (Private session at 4.43 p.m.)

3 (Expunged)

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20 (Closed session at 4.44 p.m.)

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25 (Expunged)

Witness: Witness P-159 (Resumed) (Closed Session)
Questioned by Mr. Kilenda (Continued)

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9 (Open session at 4.46 p.m.)

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

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
13 Court Officer.

14 Good afternoon, Witness.

15 THE WITNESS: (Interpretation) Good afternoon, your Honour.

16 PRESIDING JUDGE COTTE: (Interpretation) We are therefore here
17 until 6.30. I note that you can hear us well. Counsel Kilenda can
18 therefore continue with his cross-examination.

19 Counsel, you have the floor.

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

21 Q. Witness, good afternoon to you once again. We are going to
22 continue with our exchanges, and I would like to go to paragraph 65 page
23 11 and 12 of your statement that you gave to the investigators of the
24 Office of the Prosecutor, document DRC-OTP-0164-0472. And I quote:

25 "The Lendu and Ngiti fighters pillaged and destroyed a large

Witness: Witness P-159 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

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1 number of houses. Almost all the houses were destroyed. I don't know
2 why they did that. In my opinion, from the start of the attack the idea
3 was to raze Bogoro to the ground. Towards 3.00 on the day of the attack
4 I could see that Bira civilians were entering Bogoro to participate in
5 the pillaging. I am certain that they were Bira because they came from
6 the direction of the village of * Sidabo."

7 Is that correct?

8 A. Yes.

9 Q. Thank you, Witness. I will now refer to the transcript 119,
10 18th March 2010, page 35, line 14 to 20, and here I quote you -- line 12
11 to 20, rather, and here I quote you. Witness, you said that:

12 "When the camp had been taken, when Bogoro fell," you could
13 observe what was happening within the camp, and you could see Ngudjolo
14 and Etienne. It was the Prosecutor who was speaking at that time, and
15 she asked a question:

16 "Did you see them inside the camp?"

17 This is what your answer was:

18 "Thank you very much. Taking into account the position of the
19 camp and the way in which I saw it, I saw them in the camp. They were
20 standing up, and they had their back turned to Mount Waka. They were
21 looking at the road which goes to Kasenyi. When I saw them, they were in
22 the camp."

23 That is what you said, is it not?

24 A. Correct.

25 Q. So, Witness, how were you able to recognise Mr. Ngudjolo while

Witness: Witness P-159 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

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1 that -- his back was turned and he was wearing a hat with a wide brim?

2 A. Ngudjolo is somebody who I know well. Ngudjolo is a person who
3 has given interviews with Ugandan journalists who were in Bunia before
4 the attack. Ngudjolo gave different interviews. He has been on
5 different television channels. Ngudjolo was known. It's very difficult
6 for me not to know Ngudjolo. He's a person who I know very well. His
7 way of dressing and his stature.

8 Q. Thank you, Witness. And the interviews that you mention, when
9 did they take place?

10 A. The -- most of the interviews of Ngudjolo took place when the
11 Ugandans were in Bunia, if I remember rightly. In the first interview,
12 this happened in the airport when he was before the Ugandan journalists
13 present at the airport. These journalists asked him questions with
14 regards to the objective of his fighting, why he was fighting, and then
15 this interview was put on television in Bunia.

16 Q. You don't know the exact date of this interview, but could you
17 tell us what year it was in?

18 A. I don't know the day or the month. What I do know is that it was
19 in 2002 when the Ugandans were present, and the Ugandans had a
20 journalist, a known journalist, who went to all the different zones to
21 interview people.

22 Q. Do you know the name of this Ugandan journalist?

23 A. I don't know the exact name. What I do know is that if I give a
24 physical description of this person, this was a person who was small
25 with -- I don't know his name exactly. He was quite stout.

Witness: Witness P-159 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

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1 Q. Thank you, Witness. On the 17th of March, 2010, in
2 statement (as interpreted) number 118, page 75, lines 8 to 12, you state
3 the following, and here I quote you:

4 "I observed something. I saw a group of people who were standing
5 up next to the camp. There was a person who had a beret. I do not know
6 how I would call -- what I would call this beret in Swahili. In French
7 we call it 'large bord -- '"

8 THE INTERPRETER: Or wide brimmed.

9 MR. KILENDA: (Interpretation)

10 Q. "When I looked, I saw a person who looked like Ngudjolo. I saw
11 another who looked like Etienne."

12 My question is as follows: Where exactly would you have seen
13 somebody who looked like Ngudjolo, where?

14 A. Please could you re-read this sentence and ask your question once
15 again so I may answer you correctly.

16 Q. Thank you, Witness. This is what I mentioned yesterday, so I
17 will state exactly what I've just said. I said, therefore, that in the
18 transcript number 118, page 75, lines 8 to 12 you stated the following:

19 "I observed afterwards something. I saw a group of people who
20 were standing up next to the camp. There was a person who had a beret.
21 I do not know what I would call this beret in Swahili. In French we call
22 it 'large bord -- '"

23 THE INTERPRETER: Wide brimmed, in English.

24 MR. KILENDA: (Interpretation)

25 Q. "When I looked, I saw a person who looked like Ngudjolo. I saw

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1 another person who looked like Etienne."

2 And my question is as follows: Where exactly did you see a man
3 who looked like Ngudjolo?

4 A. Thank you. I followed you attentively. Please do not change
5 what I say. Read what I said in all truth. This is what I said. When
6 the fighting started, when they had achieved their objective, camp had
7 already fallen. If you want to have precision whether I knew Ngudjolo,
8 when I knew Ngudjolo, then we are going to go backwards. But if you want
9 to have precision then I would say the following: I saw Ngudjolo in a
10 camp because they were standing up in the camp.

11 Q. Thank you, Witness. You will have noted that every time I quote
12 you I refer to a document. I do this because I don't want to tell lies
13 in your regard, so I read in extenso what you stated here. And I am
14 convinced that if I changed your words, I would have had an objection on
15 the other side of the Chamber. So what I have stated is what you stated
16 yourself on the 17th of March in transcript number 118, page 75. In what
17 precise place was Ngudjolo in the camp? That is my question?

18 A. At -- it was in the entry to the camp. Let me give you clear and
19 detailed explanations. I will firstly describe the camp. At the
20 beginning it was a school. There was a type of staircase if you came
21 from the main road. In front of the roundabout, there was the camp. And
22 going into the camp, you had to go up the stairs, and these stairs were
23 directly in the camp. If you positioned yourself at the level of this
24 staircase, then you were at the entry to the camp and you would see the
25 classrooms. There were even small houses which in Swahili we call

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1 "manyata." The position of Ngudjolo was at the entry to the camp just
2 above the staircase.

3 Q. Thank you, Witness. At what time was this?

4 A. Thank you. As I said before, I didn't have a watch on that day,
5 but when I saw him it was at 8.00 in the morning.

6 Q. Thank you, Witness. You said that you know Ngudjolo perfectly,
7 and here in the hearing you even said a few days ago that he was from the
8 village of Dzago. This was on the 18th of March, 2010, transcript 119,
9 page 35, lines 23 to 25. And you said that you had seen Ngudjolo before
10 the attack against Bogoro in his village of Dzago, which was located in
11 the groupement of Ezekere. Where exactly is the village of Dzago?

12 A. I told you that the Dzago village is in the Ezekere groupement.
13 To be more specific, it is a small village. From Bogoro you go to
14 Katonie, you go down to Dzago, then there is Mbogu, and from Mbogu you go
15 to Bunia. Dzago is a small village located between Katonie and Nyakeru.

16 Q. Have you ever personally been in that village of Dzago?

17 A. I know that village well, that is Dzago. It is a village that is
18 well-known.

19 Q. Thank you, Mr. Witness. And in that village of Dzago, where is
20 Mathieu Ngudjolo's house located?

21 A. I did not live in Dzago. I cannot know where his house was
22 located or the house of his family.

23 Q. Did you ever see Mathieu Ngudjolo in Dzago village, that is, you
24 personally?

25 A. Zago village is by the roadside, and each time when we left

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1 Bogoro or Bunia, before you reached Bogoro you would necessarily have to
2 pass by that village. When you leave Bogoro to go to Bunia, you have to
3 pass by that Dzago village, which is by the roadside.

4 Q. Mr. Witness, I am not disputing what you are saying about Dzago
5 village, but my question was specific. Did you ever see Ngudjolo in
6 Dzago village?

7 A. My answer is as follows: I saw him. This is a question I've
8 already answered, but you are coming back to it. I'm simply answering
9 you out of respect.

10 Q. Mr. Witness, repetition is the rule of science. It is not simply
11 to repeat; it is in order to better understand. In which year did you
12 see Ngudjolo in Dzago?

13 A. It was before, that is, during peace time. It was at a time when
14 we did not even know that war would break out. People had good -- a good
15 relationship with each other, so I cannot be very specific about that.

16 Q. And you don't even know approximately when that was?

17 A. I do not know. This was a very long time ago. It was before the
18 war, before the disturbances.

19 Q. Thank you, Mr. Witness. Can you tell this Chamber the
20 circumstances in which you came to know Mathieu Ngudjolo before 2002?

21 A. I knew him as a citizen. Just like I have already said, I used
22 to see him in his village of Dzago, and people from my place visited
23 people of that village. People from Bogoro could, for example, go and
24 play football in Katonie village, and I could see him in his village. He
25 was an ordinary civilian. But in 2002 I came to know him as a soldier

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1 when I saw him giving interviews. But prior to that, I knew him as a
2 simple civilian.

3 Q. Thank you, Mr. Witness. Do you know that in 2002
4 Mathieu Ngudjolo was a student at ITEM in Bunia, that is technical and
5 medical institute?

6 A. No.

7 Q. Thank you, Mr. Witness. You said that you saw the escort of
8 Mr. Ngudjolo. How many people made up this escort?

9 A. I have already answered that question.

10 Q. Can you kindly repeat that answer, please.

11 A. I have already answered that question.

12 Q. Does this mean you do not wish to answer?

13 A. This is what I said. His escort was made up of a group of young
14 children. As to a precise number, I cannot tell you that. I saw a group
15 of young people.

16 Q. Thank you, Mr. Witness. And from the distance that you found
17 yourself, how can you claim to have been able to approximate the alleged
18 age of the soldiers of that escort?

19 A. My answer is very simple. From a distance of 50 metres, when you
20 see what is happening you can be able to estimate and distinguish between
21 people's ages. That is what happens.

22 Q. Is that what prompted you to tell the honourable Judges that the
23 youngest of those young people was 15 years old?

24 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor,
25 please.

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1 THE WITNESS: (Interpretation) Yes.

2 MS. LUPING: Mr. President, I just wanted to object to the
3 question because this was not the original response that was given by the
4 witness in his testimony. So Maitre Kilenda has misquoted the witness.
5 I would ask him to refer to the correct information that was provided by
6 the witness originally in his testimony.

7 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, are you in
8 a position to refer to the exact testimony of the witness so that we
9 should have a clarification on the approximate age he gave?

10 MR. KILENDA: (Interpretation) Thank you, Mr. President. I
11 asked this question to the witness: How could he claim to approximate
12 the age of the members of that escort. And he said it was an
13 approximation. And then I followed up: And that is how you came to tell
14 the Judges that the youngest was 15 years old. And the witness said
15 "yes." So I do not understand that objection.

16 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor, let
17 us try to resolve that problem. What is your source, Madam Prosecutor,
18 given that yesterday Mr. Gilissen also asked a question yesterday as to
19 what the witness understood as "children." We really have to cross-check
20 between the answers and the questions.

21 MS. LUPING: (No interpretation)

22 (In English) To the transcript 119 of the date of the 18th of
23 March, 2010, page 39, and I would first refer to the question that I
24 posed to the witness from lines 11 to 14, and then I will follow with the
25 response, and with your permission I'd like to read that out. And my

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1 question was, and I quote, and I'll read from the French transcript.

2 (Interpretation) "Mr. Witness, when you say that you saw
3 bodyguards with Mr. Ngudjolo, do you remember the age of the youngest
4 bodyguard who was with him?"

5 (In English) And the response was given at line 16 in the French
6 transcript:

7 (Interpretation) "The escort -- the youngest member of the escort
8 that I saw must have been 12 years old."

9 (In English) That was the information the witness has previously
10 provided. So that was the basis of my objection, your Honour, that
11 the -- Maitre Kilenda was misquoting the witness.

12 MR. GILISSEN: (Interpretation) Mr. President, without
13 objecting, but to contribute to resolve the misunderstanding, in the
14 transcript of yesterday, page 26, lines 4 and 5, maybe Mr. Kilenda may
15 have been the victim of translation which in fact was pointed out, that
16 is from the Swahili group, because regarding the same group the following
17 was said, that is from line 1 of page 26.

18 "When I'm talking about I will say -- when I'm talking about
19 children, I will say the following. Looking at their age and their
20 belonging to an armed group, it was difficult that these children should
21 participate in military activities. I can say that the oldest was 15
22 years. Amongst these children the youngest was 15 years." Then the
23 translator said that the oldest was 15 years.

24 So if I can assist Mr. Kilenda to -- you have to understand our
25 difficulty. This is not a confrontation. This is actually the purpose

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1 of our contribution.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
3 Mr. Gilissen. You were correct in taking the floor. I was opening up
4 that opportunity for you, and the Court is not considering that there is
5 a confrontation between the Defence and the Prosecution. But there were
6 questions that were answered apparently differently, but that is the
7 difficulty that we are experiencing at that time. So, Mr. Kilenda, you
8 can proceed.

9 But, Witness, you should not be surprised at our exchanges. It
10 is part of our attempt to have a perfect understanding of the most
11 important issues.

12 Mr. Kilenda, please continue with your cross-examination. And I
13 would like to seize this opportunity, even while aware that your task is
14 not easy, you have to be very precise but not too lengthy. Please make
15 sure that you make the right quotations that cannot be disputed by the
16 Prosecution. But when you give a quotation as a foundation to ask the
17 witness a question, you can try to reduce the length of that quote to the
18 extent possible. I know that that is not easy. Please proceed.

19 MR. KILENDA: (Interpretation) Thank you, Mr. President.

20 Q. Mr. Witness, you stated before this Court that the Lendus
21 belonged to the FNI; is that correct?

22 A. Yes.

23 Q. Can you explain to the Judges what is the FNI?

24 A. The FNI is a party of the Lendus. This means the "Force des
25 Nationalistes de l'Ituri," that is, Ituri Nationalists Force.

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1 Q. Can you tell the Judges when that force was set up?

2 A. I do not know the date of creation of that force. All I know is
3 that the force was created when the war started in Ituri.

4 Q. You therefore do not know who is the founder of that force?

5 A. I do not know who founded that force. But the president of that
6 force was called Floribert Ndjabu. He was the leader of that force.

7 Q. Thank you. To your knowledge, were all Lendus members of the
8 FNI?

9 A. That force mainly controlled the Lendu territory, at least as far
10 as I know.

11 Q. Thank you, Mr. Witness. Since you know Mathieu Ngudjolo very
12 well, are you in a position to tell the Judges when he joined the FNI?

13 MS. LUPING: Objection, Mr. President. Again, a question of
14 clarity. The witness has not stated that he knew Mr. Ngudjolo personally
15 very well. He has made it clear he knew of him. He did not say he knew
16 Mr. Ngudjolo personally very well.

17 (Trial Chamber confers)

18 PRESIDING JUDGE COTTE: (Interpretation) It is important for all
19 the parties to avoid overcomplicating the task of the witness. We fully
20 understand the respective missions of the Prosecution and the Defence,
21 but you should not play on words. However, you have to be careful about
22 the words that you use. The witness said that he knew Mr. Ngudjolo well,
23 but when you add the word "personally" it may be going a bit too far. I
24 do not want us to go into a world of nuances in which we may lose the
25 witness, and he may not be able to answer the questions the way we want

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1 because of your questions and comments.

2 MR. KILENDA: (Interpretation) Thank you, Mr. President. I have
3 understood.

4 Q. Now, Mr. Witness, when did Mathieu Ngudjolo join the FNI?

5 A. Thank you for the question, but please excuse me I do not have a
6 precise answer to that. That answer would be a political answer. I'm
7 not a soldier. I'm not a politician. I am a citizen and a civilian, and
8 I'm sorry I do not have an answer to your question.

9 Q. Thank you, Mr. Witness. And I think your answer will be the same
10 if I ask you how you know that Mathieu Ngudjolo was a member of the FNI
11 and on what date he became a soldier. Your answer would be the same?

12 A. I cannot know when he joined that force, that is, the FNI. All I
13 know is that he was an FNI soldier. The FNI controlled the Lendu area,
14 and if you want I can tell you that the FNI base was in Zumbe Ezekere.
15 And when they came to attack Bogoro they came from Zumbe, they came from
16 Katonie, passing through Kavalega.

17 Q. Thank you, Mr. Witness. Do you know when Mathieu became a
18 soldier?

19 A. I did not understand your question.

20 Q. Do you know when Mathieu Ngudjolo became a soldier?

21 A. I do not know that date, but if I backtrack a little bit he was
22 known as a soldier as from 2002.

23 Q. Thank you, Mr. Witness. I will admit to you now that it is not
24 easy to talk about a loved one that was lost. During the tragic
25 circumstances that you described here on the 18th of March, 2010, the

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1 loss of a loved one is usually -- always something very terrible. I am
2 myself an orphan on my mother's side and I did not participate in her
3 funeral, so I know something about it. But I'm asking you to take
4 courage so that we understand what happened to your mother. The Chamber
5 needs to understand and to understand well, as well as the international
6 community.

7 MR. KILENDA: (Interpretation) Mr. President, with your leave
8 can we go into closed session?

9 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
10 let us go into private session, please.

11 (Private session at 5.24 p.m.)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

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22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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Page 53 expunged. Private Session.

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1 (Expunged)
2 (Expunged)
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22 (Open session at 5.30 p.m.)

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

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

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1 Court Officer.

2 Mr. Kilenda, please go ahead.

3 MR. KILENDA: (Interpretation) Thank you, your Honour.

4 Q. Witness, what was your reaction after the execution of your
5 mother?

6 A. You want to know my reaction? How?

7 THE INTERPRETER: Microphone, please.

8 MR. KILENDA: (Interpretation)

9 Q. You said that you saw your mother being killed, and then after
10 that what did you do?

11 MS. LUPING: (Previous translation continues) ... simply want an
12 understanding from my friend as to the relevance of the question as to
13 how he felt after his mother was killed. It's simply not clear to me how
14 that is relevant at all.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
16 Madam Prosecutor.

17 THE WITNESS: (Interpretation) Thank you, your Honour. That's
18 what I wanted to ask of the lawyer. Why is he coming back to this
19 matter? What does he want to know? At that time the enemies were
20 already there. They wanted to do what they could do --

21 THE INTERPRETER: The witness's --

22 THE WITNESS: (Interpretation) -- what did you expect me to do?

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you for that
24 reply.

25 It is true, Mr. Kilenda, that we did wonder and we didn't need to

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1 consult one another because we thought that you had decided to set aside
2 those questions having to do with the death of the witness's mother.
3 Now -- or perhaps these questions will have to be extremely specific and
4 targeted because on several occasions the witness has spoken of his
5 mother's death before the Court and before all participants. And I will
6 repeat his own words, as we shall not re -- he was -- he felt great
7 sorrow. That was his reaction in terms of emotions. Now, if we want to
8 hear an answer that goes beyond the sphere of emotions, the question will
9 have to be extremely specific and absolutely necessary, otherwise you may
10 continue with another line of questioning.

11 JUDGE DIARRA: (Interpretation) In reply to the remarks from the
12 Legal Representatives of Victims, the witness said that he -- said that
13 he experienced great concern.

14 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead,
15 Mr. Kilenda.

16 MR. KILENDA: (Interpretation) I don't want to create
17 controversy and I certainly will abide by your decision, but if you could
18 allow me to continue with this line of arguments I would be most
19 grateful. Now, we have dropped about ten questions dealing with this,
20 but with your leave we could ask just one question that is of concern to
21 us.

22 PRESIDING JUDGE COTTE: (Interpretation) Once again,
23 Mr. Kilenda, now you know just to what extent the Court would like the
24 proceedings to be conducted in a constructive manner, and we've been able
25 to reach that goal so far and that is our common goal, one that we all

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1 share and one that is essential. We are on a very -- in a very delicate
2 area here, and I think we need extremely specific questions so that we
3 can see exactly what is being asked and so that we don't find ourselves a
4 bit lost. So please ask your question. You say that you've dropped
5 about ten questions. And I'm -- please make an assessment. Are these
6 questions absolutely indispensable to the Defence of Mr. Ngudjolo? If
7 so, ask your questions unless there are objections, but please try to be
8 extremely selective with these questions when you are in this
9 particularly troublesome area.

10 MR. KILENDA: (Interpretation) Thank you, your Honour.

11 THE WITNESS: (Interpretation) Thank you, your Honour. This is
12 what I'm going to say. If this line of questioning causes me a great
13 deal of sorrow, it is because of the way that my mother and other people
14 were killed. There you have it. That is what is causing me a great deal
15 of sorrow. The situation is difficult to talk about and the
16 representatives of the victims are well aware of that. Some witnesses
17 gave testimony or gave statements, and now I'm being asked to talk about
18 how the people were killed in Bogoro. It is difficult, but I find myself
19 before the Court and so I have to give testimony to what I saw and what I
20 experienced.

21 Thank you, your Honour for your remarks, but all the same. You
22 must realise how the questions are asked. If someone has lost a family
23 member in an atrocious manner, it is difficult. And when I start to give
24 details about that atrocity it is shameful. It creates a great deal of
25 difficulty in terms of giving testimony. When you are defending someone,

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1 you also have to consider the person before you, the person who is being
2 questioned. I'm not saying that these questions should not be asked of
3 me, but I draw your attention to the manner in which the questions are
4 being asked and the content of the question.

5 PRESIDING JUDGE COTTE: (Interpretation) Sir, we have listened
6 very carefully to you, and the Court will remind Mr. Kilenda that before
7 you touch upon this matter, this sorrowful matter, please be aware that
8 you are on a very -- this is a very delicate matter. And Mr. Kilenda
9 will be moving on to other questions. Now -- while continuing his
10 cross-examination, if he requires additional information or a detail, I
11 think it would be important then for other aspects of the
12 cross-examination to be proceeded with.

13 So, Mr. Kilenda, if you can, please move on. Thank you.

14 MR. KILENDA: (Interpretation) Thank you.

15 Q. Now, I would like to turn to the destruction and the looting that
16 went on in Bogoro.

17 Witness, the Prosecutor on the 18th of March, 2010, transcript
18 119, page 60, lines 24, asked you the following question:

19 "Where did you see the fighters loot?"

20 And your answer line 25:

21 "The fighters who were looting, I saw them from my hiding-place
22 when," and now I'm on page 61, lines 1 to 7, you said:

23 "When I got out of my hiding-place I went up the Waka hill. I
24 hid there. It was a safe place. From that hill I was able to see
25 everything. I saw everything that happened because from the Waka hill

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1 the entire camp is very clearly visible. The Bogoro central area was
2 also visible and everything that happened, everything that was going on,"
3 you were able to see it very well. You had a good view of it.

4 Now, that is indeed what you said?

5 A. Yes.

6 Q. Thank you, Witness. At what specific time did you go up the Waka
7 hill?

8 A. I found myself from 11.00. I stayed until 12.00 -- until 3.00 in
9 the afternoon.

10 THE INTERPRETER: Correction by the Swahili interpreter.

11 MR. KILENDA: (Interpretation)

12 Q. Thank you, Witness. Whom were you with on the hill, on Waka
13 hill?

14 A. I was all alone.

15 Q. When did you leave the Waka hill?

16 A. Yes, I left that place. In other words, after 3.00 in the
17 afternoon I left that hill.

18 Q. Where did you go after you left Waka hill?

19 A. * I took the road to Nyankunde because there is a road that goes
20 via the village of Bira to Songolo, from Songoro to Nyankunde. However, I
21 did not arrive in Nyankunde, but I took this road.

22 MR. HOOPER: Some of the villages were named but not found their
23 way onto the transcript.

24 PRESIDING JUDGE COTTE: (Interpretation) The English transcript
25 is once again lacking.

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1 Madam Court Officer, could we correct that point. Mr. Hooper,
2 you were quite right in making that point.

3 MR. HOOPER: I suspect the easiest way would be to have someone
4 listen to the Swahili tape and then we can know if I'm right or mistaken
5 tomorrow. We needn't hold up things this afternoon.

6 (Trial Chamber and Court Officer confer)

7 PRESIDING JUDGE COTTE: (Interpretation) Indeed. We will
8 cross-check for tomorrow. For the time -- we will have the definitive
9 version of the transcript and that will ensure that the proper names of
10 the locations are recorded properly. Now, Mr. Kilenda, please resume
11 your cross-examination.

12 MR. KILENDA: (Interpretation) Thank you, your Honour.

13 Q. Witness, when you found yourself on Waka mountain were there not
14 enemies?

15 A. No. On the hill there were no enemies.

16 Q. But one Prosecution witness was heard here a while ago. He said
17 before the Court and he alluded to some advance soldiers or scouts --
18 (No interpretation)

19 THE INTERPRETER: Inaudible.

20 MR. KILENDA: (Interpretation)

21 Q. What do you mean? (Microphone not activated)

22 THE INTERPRETER: Microphone, please. Mr. Kilenda's microphone
23 is malfunctioning. Inaudible.

24 MR. KILENDA: (Interpretation)

25 Q. They were called Lobi (phoen), they were scouts, they went ahead

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1 of the main party.

2 MS. LUPING: I'm sorry, Mr. President.

3 PRESIDING JUDGE COTTE: (Interpretation) Mr. -- Ms. Prosecutor.

4 MS. LUPING: (Previous translation continues) ... concern here is
5 the witness is being asked to speculate and respond to a question in
6 relation to another witness's testimony. He can only simply give
7 evidence as to what he himself saw and heard. He's not in a position to
8 start speculating or guessing based on another witness's testimony.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
10 Ms. Prosecutor.

11 Mr. Kilenda, indeed, you may get the answer you wish to obtain by
12 rephrasing your question and by allowing the witness to speak on the
13 basis of what he may have seen or heard in his own circumstances of time
14 and location, the specific circumstances you referred to. So we don't
15 have any objections to your rephrasing your question, but -- rather than
16 following the wording that was objected to earlier.

17 MR. KILENDA: (Interpretation) The witness said that there were
18 no enemies, and I prefer not to dwell on this subject. I will move to
19 another.

20 PRESIDING JUDGE COTTE: (Interpretation) Yes, move on. But I
21 think it's also a good point of -- a good -- this is a good time to make
22 that point.

23 MR. KILENDA: (Interpretation)

24 Q. Witness, when did you arrive in Bunia, on what date?

25 A. I arrived in Bunia after the attack of the 25th of February.

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Questioned by Mr. Kilenda (Continued)

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1 After that attack on the 25th of February, that is when I left the place
2 where I was, the 25th, the 26th, the 27th, and it was on the 28th that I
3 arrived in Bunia.

4 Q. Thank you, Witness. Where did you seek shelter in Bunia?

5 A. In Bunia I was living in the city.

6 PRESIDING JUDGE COTTE: (Interpretation) We are in open session.

7 Mr. Kilenda, please be careful and vigilant in terms of where you
8 lead the witness.

9 MR. KILENDA: (Interpretation) Thank you, your Honour.

10 Q. And what were you doing when you arrived in Bunia?

11 A. In Bunia -- well, I wasn't doing anything in particular. I was
12 living there.

13 Q. Thank you, Witness. The Prosecutor had a question about the
14 duration of your stay there, and you said in the transcript 119, page 68,
15 line 17, you stayed there for a relatively long period of time. How long
16 were you staying there in Bunia?

17 A. Well, if I am to give you specific information about that I would
18 say this: I stayed in Bunia until the Ugandans left, and at that point
19 some enemies came and they took control of Bunia. I stayed in Bunia
20 until the 7th of May, 2003. After that date, we went with the Ugandans
21 to Kasenyi. And there I had some problems and I continued not -- I
22 decided not to continue my journey and I went back to Bunia.

23 Q. Thank you, Witness. Did you meet any people in Bunia, other
24 people who had fled?

25 MS. LUPING: Mr. President.

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1 PRESIDING JUDGE COTTE: (No interpretation)

2 MS. LUPING: Before the witness responds to this question, it may
3 be cautious to go into private session as the information the witness
4 provides to this question may potentially identify him.

5 PRESIDING JUDGE COTTE: (Interpretation) Out of a precaution we
6 will go into private session, Madam Court Officer.

7 (Private session at 5.50 p.m.)

8 (Expunged)

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11 (Expunged)

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15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Open session at 5.51 p.m.)

20 COURT OFFICER: (Interpretation) We are in open session, your
21 Honour.

22 PRESIDING JUDGE COTTE: (Interpretation) Fine.

23 Mr. Kilenda, please continue.

24 (Defence counsel confer)

25 MR. KILENDA: (Interpretation)

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1 Q. Witness, if you know - and if you don't know, just say that you
2 don't know - do you know the position of the UPC before that defeat in
3 Bogoro? What did the UPC do in other words after the attack on Bogoro?

4 A. You want to know what happened after or before the UPC was driven
5 out? I haven't really grasped your question, sir. Could you repeat it?

6 Q. Thank you. What did the UPC do after the attack on Bogoro? What
7 was the UPC's reaction?

8 A. You would like to know the reaction of the UPC in Bogoro?

9 Q. In relation to what occurred in Bogoro.

10 A. The UPC did nothing. After the attack on Bogoro, the UPC did
11 nothing. But I would say they truly regretted. The position of Bogoro
12 was capital to their interests, but there was nothing to be done. After
13 Bogoro fell a few months, the enemies had taken complete possession of
14 the locality.

15 Q. Thank you, Witness.

16 MR. KILENDA: (Interpretation) Your Honour, the following
17 questions require us to go into private session.

18 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer, if
19 we could go back into private session.

20 (Private session at 5.53 p.m.)

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25 (Expunged)

Witness: Witness P-159 (Resumed) (Private Session)
Questioned by Mr. Kilenda (Continued)

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Witness: Witness P-159 (Resumed) (Private Session)
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Page 66 expunged. Private Session.

Witness: Witness P-159 (Resumed) (Private Session)
Questioned by Mr. Kilenda (Continued)

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14 (Open session at 6.01 p.m.)

15 COURT OFFICER: (Interpretation) We are in open session, your
16 Honour.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
18 Counsel Kilenda.

19 MR. KILENDA: (Interpretation) Thank you, your Honour.

20 Q. Witness, so I said to you you weren't a politician. This is
21 something you've stated on several occasions. I know that you can't give
22 an answer to questions which should be directed towards politicians, but
23 to you as a citizen of Ituri. Where it concerns the UPC at the start of
24 your examination here you told the Chamber that in the UPC there were
25 young people from Bogoro who ensured the safety of the population -- the

Witness: Witness P-159 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

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1 security for the population. My question is as follows: Was it possible
2 for you to determine the age of these UPC soldiers?

3 A. Thank you for your question. I'm not a politician, as I've
4 stated before, neither am I a politician nor a soldier. Politics isn't
5 my field of expertise. If you want to know the age of the young people
6 within the UPC, some were 30, 35, 20 years, and 25 years of age.

7 Q. Thank you, Witness. And when you speak about young people from
8 Bogoro, you say our young people, our forces. When you speak about the
9 combatants in the UPC, why do you talk about our young people, our force,
10 when you talk about UPC fighters?

11 A. When I speak about young people, our force, because Bogoro did
12 not have an army to defend it. It had nobody to defend it. That is the
13 reason why these young people came together to defend their locality.
14 That is the reason why I use these words because they were young people,
15 brave, they were vigorous and strong.

16 Q. Thank you, Witness. If you know, are you aware of the attacks
17 launched by the Hema against the Lendu?

18 A. I am not a politician. I don't know anything.

19 Q. Thank you, Witness. So to your knowledge the Lendu have never
20 been killed by the Hema?

21 A. In Bogoro or outside of Bogoro?

22 Q. In Ituri.

23 A. If you speak about Ituri in a general way, I would answer you in
24 the following way. The Hema were killed by the Lendu, the Lendu were
25 killed by the Hema. I don't have precise information with regard to the

Witness: Witness P-159 (Resumed) (Private Session)
Questioned by Mr. Kilenda (Continued)

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1 whole region of Ituri. Here we're talking about Bogoro.

2 Q. Thank you, Witness. You stated that before the major attack on
3 Bogoro of 2003 among the civil population there were Lendu, Ngiti, Bira,
4 Lulu. That's in the transcript, transcript number 119. Now, could you
5 tell to the Judges when the Ngiti were driven out of Bogoro?

6 A. I would ask us to go to private session.

7 PRESIDING JUDGE COTTE: (Interpretation) As we need an answer to
8 this question, we shall go into private session.

9 Court Officer.

10 (Private session at 6.07 p.m.)

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Witness: Witness P-159 (Resumed) (Private Session)
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19 (Open session at 6.10 p.m.)
20 COURT OFFICER: (Interpretation) We are in open session, your
21 Honour.
22 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
23 Counsel Kilenda, you have the floor.
24 MR. KILENDA: (Interpretation) Thank you.
25 Q. Witness, in paragraph 32 of your statement before the Prosecutor,

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1 document (Expunged), on page 6 you state and here I quote you:

2 "I don't know what the name of the Lendu commander was during the
3 attack. What I learned after the attack was that the chief of the Lendu
4 Nord combatants was called Ngudjolo. In fact, after the attack on Bogoro
5 in 2002 I went to Kasenyi, and there I met one of the Lendu friends
6 called (Expunged), and it was in discussions with him that I learned that
7 (Expunged) was the chief of the combatants."

8 MS. LUPING: I'm sorry to interrupt. A reminder, we are in open
9 session and various names have been given that could potentially identify
10 the witness, so I would ask that we go into private session to continue
11 with this questioning.

12 MR. KILENDA: (Interpretation) There is no reason, your Honour.
13 These names shouldn't lead to the witness.

14 PRESIDING JUDGE COTTE: (Interpretation) Please give me the time
15 to re-read this.

16 There is a question of a conversation with a person whose name
17 was given. We -- it's preferable to take precautions. We'll go into
18 private session, Court Officer. The witness shall answer when we are in
19 private session.

20 (Private session at 6.12 p.m.)

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Witness: Witness P-159 (Resumed) (Private Session)
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Witness: Witness P-159 (Resumed) (Private Session)
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Witness: Witness P-159 (Resumed) (Private Session)
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Witness: Witness P-159 (Resumed) (Private Session)
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Witness: Witness P-159 (Resumed) (Private Session)
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Page 79 expunged. Closed Session.

Evidentiary Matters (Closed Session)

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Page 80 expunged. Closed Session.

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16 The hearing ends at 6.35 p.m.

17 CORRECTION REPORT

18 The following correction has been made to the English transcript:

19 * Page 59, lines 19 to 21

20 "I went towards Nyankunde. I took the road that leads to that locality. It
21 is a road that goes by way of the villages of Baka Bila but I did not arrive
22 in Nyankunde"

23 Is corrected by "I took the road to Nyankunde because there is a road
24 that goes via the village of Bira to Songolo, from Songoro to Nyankunde.
25 However, I did not arrive in Nyankunde, but I took this road."

1 CORRECTIONS REPORT

2 Some parts of the English transcript have been corrected.

3 Due to a large amount of corrections, these have been implemented
4 directly into the transcript. The locations of the corrections are
5 indicated by asterisk (*).