

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 Thursday, 25 March 2010
10 The hearing starts at 9.06 a.m.
11 (Closed session)
12 (Expunged)
13 (Expunged)
14 (Expunged)
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25 (Open session at 9.08 a.m.)

Witness: Witness P-0159 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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

2 THE WITNESS: (Interpretation) Good morning, Mr. President.

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

5 THE WITNESS: (Interpretation) Yes, I can hear you well,
6 Mr. President.

7 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, you can go
8 ahead with your cross-examination.

9 Questioned by Mr. Hooper: (Continued)

10 Q. Good morning, Mr. Witness.

11 A. Good morning, Mr. Hooper.

12 Q. So yesterday, we had just dealt with the point that you were
13 left -- or you remained in Bogoro, as I understand it, through 2002,
14 until the substantial attack of 2002. And then, as I understand it, you
15 moved then to Bunia for a period of time. Is that right?

16 MS. LUPING: I'm sorry to interrupt my friend, but I'm assuming
17 he's talking about the substantial attack of 2003?

18 MR. HOOPER: No. As I said in my question, the substantial
19 attack of 2002 that you told us about.

20 MS. LUPING: Sorry, perhaps if you could -- if my friend could
21 clarify for the witness to avoid confusion. Where in either his prior
22 testimony or statement that he stated he went to Bunia after the major
23 attack of 2002, just for the sake of clarity.

24 MR. HOOPER:

25 Q. Now, Mr. Witness, in 2002, was there a substantial attack on --

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1 on Bogoro? And you can answer that possibly yes and no -- yes or no.

2 A. The most serious attack, that is, the most substantial attack,
3 happened in 2003. This was an attack during which Bogoro was hit hard
4 and destroyed, and this attack took place on the 25th of February, 2003.

5 Q. Right. Just please listen to the question. Was there an attack
6 in 2002, a substantial attack, one, I understand you told us, where about
7 20 people were killed? Do you remember that?

8 A. I said that there was an attack in 2002, but it was not a
9 substantial attack, so one has to understand that. When I talk about a
10 large-scale attack, it is the one that took place on the
11 25th of February, 2003. And when I talk about the attack of 2002, it is
12 true there was an attack, but the most important attack took place on the
13 25th of February, 2003.

14 Q. All right. Well, we all know about that and that's why we're
15 here, of course, but I'm not asking you about that, as I think you know.
16 I'm asking you about the previous attack. And you may recall you told us
17 there was an attack in January 2001, correct? Is that correct? And you
18 can answer that question possibly yes or no.

19 A. If I have understood you correctly, you would like to have
20 information about a substantial attack that took place and not the attack
21 of January 2001. And I have told you that, yes, indeed there was an
22 attack during which Bogoro was destroyed, and this happened on the
23 25 of February, 2003. And if you're asking me a question about the
24 attack of the 9th of January, 2001, that is a different matter
25 altogether, if I've understood you correctly.

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1 Q. Right. Well, let's start again, please. In 2001 there was an
2 attack where civilians of Bogoro, you told us, were killed. Is that
3 right?

4 A. Yes. It was at the very beginning of the attacks, the 9th of
5 January.

6 Q. And that you've always designated, I think, as attack one. How
7 many people were killed in that attack? How many residents of Bogoro do
8 you say were killed in that attack?

9 A. Very well. I said that this was the first attack. It was the
10 very first attack. Many people were killed during that attack.

11 Q. Right. My question is --

12 A. I drew up a list, and please allow me to explain. I drew up a
13 list in my documents, and this was the list of people in whose burial I
14 participated in 2001. There were many victims. So many people were
15 indeed killed during the attack of 2001.

16 Q. Now, just listen to the question, please. Approximately how many
17 people were killed in that attack?

18 A. When I say that many people were killed, you have to understand
19 me. If you want to have details, in Bogoro those people were buried at
20 three different locations. The first place was for people who were
21 killed around the mission. If you want details, I can give them to you.
22 Other people were killed at their place of refuge. Let us try to
23 understand each other. There were people who were killed at the centre,
24 and I can also give you details.

25 Q. (Previous translation continues) ... if we don't cut in we're

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1 going to be here for several days. I've asked you a very straightforward
2 question. The answer is, "I don't know," or you can give us an
3 approximate number. So let me ask the question again, please. If you
4 can help us, if you can't, say so, approximately how many of your fellow
5 citizens of Bogoro were killed in that January 2001 attack?

6 A. I cannot give you the precise number, because I do not know. All
7 I know is that many people were killed.

8 Q. Now, we've had a number of 110 people killed. How does that fit
9 in with your own recollection? Does 110 seem about right to you, or you
10 don't know, or what?

11 A. I know that more than 110 people were killed. We counted the
12 number of people that had to be buried.

13 Q. So it wasn't a difficult question for you to answer. Now, with
14 110 of your fellow citizens in Bogoro dead, would you agree or disagree
15 that one could call that a substantial attack?

16 A. What do you mean by that? Please try to be clearer in your
17 questions.

18 Q. Well, yesterday -- my microphone was off. Yesterday I asked you
19 about the 2002 attack, which is where I started my discussions with you
20 this morning, 15 minutes ago, and this is what you said -- you referred
21 to, and this is at page 20 of yesterday's short session, you refer to the
22 2002 attack. You say:

23 "During the attack which took place in 2002 ..."

24 And you go on to talk about that, you said that during that
25 attack -- at page 21 you said:

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1 "During the attack of 2002, which I know very well, I didn't see
2 APC forces."

3 And you told us that after that attack, you went to Bunia. Is
4 that correct? Was that the attack, the attack you were telling us about
5 in 2002 yesterday, that led you to go to Bunia? Yes or no in respect of
6 that?

7 MS. LUPING: I'm sorry to interrupt my friend, but if you could
8 please clarify where the witness has stated that after the 2000 attack he
9 went to Bunia.

10 MR. HOOPER: Well, let's ask the witness now.

11 Q. Is it after that attack when about 20 people were killed that you
12 went to Bunia?

13 THE INTERPRETER: The microphone was cut off, so the beginning of
14 the interpretation was not clear.

15 THE WITNESS: (Interpretation) Well, it was the attack of the
16 25th of February, 2003. It was that attack that prompted me to leave
17 Bogoro and go and settle in Bunia right up to the time that the Ugandans
18 left and when the fighting started in Bunia. I did not say that it was
19 the attack of 2002.

20 MR. HOOPER:

21 Q. So what caused you to leave your home in Bogoro to go to Bunia in
22 2002?

23 MS. LUPING: I'm sorry, but if my friend could please state where
24 the witness has said that he left his home in Bogoro after the 2002
25 attack.

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Questioned by Mr. Hooper (Continued)

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1 MR. HOOPER:

2 Q. Mr. Witness, did a time come in 2002 when you were living in
3 Bunia?

4 A. I did not say that I lived in Bunia in 2002. I did not say that.
5 Did you see that anywhere in my testimony? I lived in Bunia in 2003,
6 after the attack.

7 I have told you that for most of my time I lived in Bogoro. I
8 did not say that I was in Bunia in 2002 or that I lived in Bunia in 2002,
9 no.

10 Q. Well, that's my misunderstanding, you see, and thank you for
11 clarifying the position.

12 So the position is this, is this correct: That prior to the
13 attack on Bogoro, the big attack of February 2003, at all times in 2002,
14 January and February 2003, up to that attack, you were living in Bogoro?
15 Is that your evidence?

16 A. I said that I was in Bogoro. We used to go to Bunia to fetch
17 supplies, and the distance between Bunia and Bogoro is about
18 25 kilometres, and quite often the inhabitants of Bogoro and elsewhere,
19 well, those who lived around Bunia, would go there to look for supplies,
20 and I used to go there and come back to Bogoro. It was only after the
21 attack of the 25th of February, 2003, that I stayed in Bunia for a long
22 time.

23 Q. Right. So that's clear. And that road between Bogoro and Bunia
24 at that time, was it a safe road to travel or not, or did you need
25 soldiers to convoy you?

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1 A. We used to pass through the bush, and we had an escort each time
2 because there were problems on that road. We passed through the bush.
3 The members of the population used to travel on foot. The main road was
4 not motorable.

5 Q. I understand. And how long would it take you on foot to get to
6 Bunia and back?

7 A. The distance between Bogoro and Bunia is 25 kilometres. You can
8 go there during a period of half a day, that is, do the return trip.

9 Q. How long do you say it would take to do the 50-kilometre return
10 trip through the bush from Bogoro to Bunia and back on foot?

11 A. One hour or a day. Bogoro-Bunia is just 25 kilometres. So the
12 return trip is 50 kilometres. That distance will not require a lot of
13 time or many hours. Each time that we went there we had the time. We
14 got up in the morning. We went to Bunia. We arrived there.

15 Q. Yes. So may I suggest that a trip like that of 50 kilometres
16 going there and back through the bush would take you at least 10 to
17 12 hours. Would you agree with that?

18 A. Not ten hours. Why ten hours? I did not say that it would take
19 ten hours.

20 Q. How long would you say it would take you to walk 50 kilometres
21 through the bush?

22 A. That didn't take a lot of time.

23 Q. Well, can you just tell us how long?

24 A. I am saying that it didn't take a lot of time.

25 Q. So I'll move on. In your statement, you tell us this -- I'm

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1 looking at paragraph 19:

2 "After the UPC took power in Bunia instead of Lomondo, (Expunged)

3 (Expunged)

4 (Expunged).

5 MS. LUPING: Mr. President.

6 MR. HOOPER: (Overlapping speakers) ... We should be in closed

7 session --

8 MS. LUPING: Yes.

9 MR. HOOPER: -- but we've passed through it now so I'm sorry.

10 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor,
11 please.

12 MS. LUPING: (Previous translation continues) ... open session
13 and ask for us to go into private session.

14 MR. HOOPER: Well, I stumbled on the name. It would have to
15 be -- going into private now might not save any time, frankly. The
16 damage, as it were, is done. I'm sorry.

17 Q. "I worked for --"

18 MS. LUPING: I am sorry, Mr. President, but the continuation of
19 this information also can potentially identify the witness. For the sake
20 of cautiousness, if we could please move into private session. We also
21 don't know what answers will be expected of this witness and it may
22 identify him.

23 MR. HOOPER: All right.

24 PRESIDING JUDGE COTTE: (Interpretation) Very well. We will go
25 into private session for the continuation of the cross-examination when

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1 it comes to such questions.
2 Madam Court Officer, please.
3 (Public session at 9.30 a.m.)
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19 (Open session at 10.31 a.m.)

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

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Mr. Hooper,
23 you can go ahead.

24 MR. HOOPER:

25 Q. Now, I want to ask you questions about your one previous

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1 opportunity to see Germain Katanga, an opportunity that is the basis for
2 you later saying you recognised him during the Bogoro attack of 2003.
3 And you told us, and I'm looking at T-119, at page 64, line 10, that
4 you'd seen Germain Katanga before the attack on Bogoro, in Bunia, and you
5 said:

6 "I know he was a soldier in the APC."

7 And you said that there was a meeting on a soccer field in Bunia
8 and that that was at the time the APC controlled Bunia. Is that right?

9 A. This is the answer that I gave you. I said that I saw him in
10 Bunia. In what circumstances? Well, it was during a rally. That is
11 what I said in my answer. I did not say that he was an APC soldier.
12 When I saw him during that rally, he was wearing a military uniform.

13 At that time, the name "Germain Katanga" was already popular. He
14 was known as one of the soldiers of the Lendu Bindi. That was my
15 testimony. When I saw him in Bunia, I was able to observe him, and then
16 subsequently I saw him again in Bogoro.

17 Q. Now, let me just read back, then, to you what you clearly stated
18 a few days ago. I've just read it to you. I'll read it again.

19 "I saw Germain Katanga before the attack on Bogoro, in Bunia. I
20 saw him. I know he was a soldier in the APC."

21 That's what you said. Now, are you changing that?

22 A. No, I am not changing anything. We have to understand each other
23 well. He was wearing an APC military uniform, and he was a soldier. I
24 did not say that he was an APC soldier.

25 Q. Well, you clearly did, but now you say he was at a meeting of

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1 Lompondo's APC, wearing an APC uniform, but that he was not APC. Is that
2 the position?

3 A. I am not saying that he was not a member of the APC. I saw him
4 during a meeting, but during that meeting I could not tell to which camp
5 he belonged. If I remember what I told you correctly, I arrived slightly
6 late to that rally, and given that there were many people and I did not
7 know him, there were people who pointed him out to me. They told me,
8 "That person is Germain Katanga." I saw him.

9 Q. And who pointed him out to you?

10 A. A friend who was in Bunia.

11 Q. And who -- what's his name?

12 MS. LUPING: I'm sorry --

13 MR. HOOPER: No, please don't interrupt. It gives the witness
14 time to think at a rather crucial moment.

15 MS. LUPING: It's a question of being in open session,
16 Mr. President (Microphone not activated) -- just a reminder, the name of
17 a friend may identify the witness. I believe we should go into private
18 session.

19 MR. HOOPER: I don't -- I dispute whether the name of a friend
20 can identify a person, a relative, perhaps, but surely not a friend. But
21 I'm in your Honours' hands.

22 PRESIDING JUDGE COTTE: (Interpretation) Out of caution we have
23 to go into private session just for the witness to answer, but the
24 witness will answer.

25 Madam Court Officer, let us go into private session so as to

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1 avoid having to order a redaction later, but particularly to ensure the
2 security of this witness to the extent possible.

3 (Public session at 10.38 a.m.)

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1 (Expunged)

2 (Open session at 10.46 a.m.)

3 MR. HOOPER: So you've been tell us how you -- sorry.

4 COURT OFFICER: Sorry, Mr. Hooper. (Interpretation) We are in
5 open session, Mr. President.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

7 Mr. Hooper, please proceed.

8 MR. HOOPER:

9 Q. You've been telling us how you walked from Bogoro to Bunia,
10 leaving Bogoro very early. You hadn't intended to go to a rally, but
11 when you got to Bunia, you went to this rally. You don't know what was
12 said, and you -- as I understand it, that was because you were a bit
13 late. Is that right?

14 A. Yes.

15 Q. And who else was there, do you say? Who else did you see there?
16 Amongst the speakers or the important people.

17 A. I was not able to know which of the authorities convened that
18 meeting. As I have told you, I'm not a politician. There were soldiers
19 who were seated there, and I do not know anything about politics.

20 Q. And your friend (Expunged), who else did he point out to you?

21 A. No one else showed me anybody.

22 Q. And did Germain Katanga speak? Was he one of the speakers?

23 A. No. I did not say that Germain Katanga was one of the speakers
24 during that meeting. I just noted that he was present.

25 Q. And how far away from him were you, do you think, in distance?

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1 A. Not very far.

2 Q. And all this occurs, in any event, before Lompondo is chased out
3 of Bunia; is that right?

4 A. I did not quite understand your question. I think there was some
5 noise or some problem.

6 Q. This all happened before Lompondo was chased out of Bunia; is
7 that right?

8 A. That is correct.

9 Q. Now, the FRPI or the -- in fact, as you've been saying it
10 regularly in this court, the FRPI -- sorry? Sorry, FPRI. The FPRI, as
11 you call it, though, in fact, in the transcripts the interpreters have
12 been saying the proper name, but if we check all the Swahili, we'll see
13 that it is, in fact, I hope, as I say.

14 Can I -- can you ask you this: When did you first hear of the
15 FPRI or the FI -- or whatever -- name you give it.

16 MS. LUPING: I'm sorry, Mr. President. The only documents or
17 transcripts we have are the edited version where the witness is stating
18 FRPI. So we do not have any information before us that there's been an
19 error. We simply have information in a transcript where the witness
20 referred to FRPI.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Madam
22 Prosecutor. On the French transcript we only saw FRPI, so we should not
23 dwell on this issue. Mr. Hooper, please proceed.

24 MR. HOOPER: Let me ask the witness.

25 Q. Mr. Witness, what do you call that organisation? What initials

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1 do you give it? Could you repeat them for us, please, slowly. Spell it
2 out. F and then what?

3 A. FRPI.

4 Q. All right. Well, we may need the tapes listened to, but that's
5 fine.

6 And when did you first hear of that organisation?

7 A. Counsel, what was your question again? I didn't quite understand
8 it. You want to know what FRPI stands for? Do you want to know what
9 that party is?

10 Q. Not a clear question. Let me put the question again to you.
11 When did you first hear about the FRPI?

12 A. That organisation mainly controlled the territory of the Lendu
13 Bindi.

14 Q. Yes. Please listen to the question. When did you first hear of
15 it? For example, had you heard of it at the time of the rally? Did you
16 hear of it later? Did you hear of it before the Bogoro attack? Did you
17 hear of it after the Bogoro attack? When did you first hear of the FRPI?

18 A. It was before the attack that I heard of the FRPI.

19 Q. How long before the attack were you aware of this organisation?

20 A. I cannot be precise about the date, but that organisation was
21 created before the attack.

22 Q. When you saw Germain Katanga, as you tell us you did, at this
23 rally and he was pointed out by your friend (Expunged), what was
24 Germain Katanga -- what was his significance to you then? Who was he?
25 What was he?

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1 A. I do not know the position that he occupied, but when I saw him
2 in military uniform -- and whoever wears that uniform is considered to be
3 a soldier. And I did not know his rank, because I myself am not a
4 soldier.

5 Q. All right. So you see a man, he's wearing a uniform, an APC
6 uniform, and your friend (Expunged) says, "That's Germain Katanga." Who did
7 you think Germain Katanga was? What was he?

8 A. I am not saying that I saw a UPC soldier wearing a UPC soldier(as
9 interpreted). I did not say he was this or that (Expunged) showed him to me.
10 He said, "You see? That is Germain Katanga." The only thing that made
11 me believe that he was a soldier was that he had an escort and he was
12 carrying a weapon.

13 PRESIDING JUDGE COTTE: (Interpretation) You have to be careful
14 not to mention the name of the friend, because we made sure that it
15 should not appear, but it is being mentioned again. So we have to
16 redact. I'm saying that for the purposes of the continuation of the
17 cross-examination in the afternoon.

18 Mr. Hooper, you have just three minutes left.

19 MR. HOOPER: Yes.

20 Q. You looked at this man. I didn't say UPC uniform, I said APC
21 uniform. And you looked at this man, and now you say he was carrying a
22 gun as well, and he had support with him. Who -- who did you understand
23 him to be? Who was Germain Katanga to you at that point? What was his
24 importance to you? Why did you focus on him?

25 A. Why are you asking me that question?

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1 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, it is up
2 to Mr. Hooper, just like any other person asking questions, to determine
3 whether it is important to ask that question or not under the control of
4 the Chamber. So you may be surprised by a question, but you have to
5 answer that question, that is, if you know the answer.

6 THE WITNESS: (Interpretation) Thank you very much.

7 When my friend showed him to me, I wanted to know him because his
8 name was popular. I had heard of that name Germain Katanga,
9 Germain Katanga, and I wanted to know who he was.

10 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, thank you.
11 We have to stop here.

12 Mr. Witness, we are going to break here for a half hour, and you
13 will be able to rest.

14 Madam Court Officer, let us go into closed session for the
15 witness to leave the courtroom.

16 (Closed session at 11.01 a.m.)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Open session at 11.02 a.m.)

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

5 Honour.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you. The hearing

7 is suspended, and we will resume at 11.30.

8 Recess taken at 11.02 a.m.

9 On resuming at 11.32 a.m.

10 (Closed session)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Open session at 11.34 a.m.)

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

23 Honour.

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

25 Mr. Hooper, you had something to say, or will you allow us the

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1 opportunity to look at the diary? We are going to ask the Court Officer
2 to provide the diary to the Chamber, and this diary will be given to the
3 witness, as we decided to do a few moments ago, so that Mr. Hooper --
4 now, Mr. Witness, you will be asked some questions, and you will have
5 your diary right before you.

6 (The Trial Chamber confers)

7 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
8 Mr. Court Usher, could you be so kind as to give the diary to the
9 witness.

10 Witness, after cross-examination by Mr. Hooper, the diary will be
11 given back to the Victims and Witnesses Unit during the redirect by the
12 Prosecution and the last remarks. So during that entire period of time,
13 the diary will remain with the VWU.

14 Mr. Hooper, you may resume where you left off or move to the
15 issue of the diary. Of course, it is up to you to make use of the
16 remaining amount of time that we have available.

17 MR. HOOPER: Thank you.

18 Q. The friend of -- we are in open session, so be guarded in your
19 answers, but the friend you mentioned at the football -- the soccer
20 rally, or the rally held at the soccer ground, do you know the name of
21 his father? Just say yes or no, and if you say no, then we'll carry on.
22 If you, yes, we'll have to go, perhaps, into closed session.

23 A. No, I don't know the name of his father.

24 Q. Now, can I come to the diary. It's going to be --

25 MR. HOOPER: Your Honours, you've seen the diary now. It's going

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1 to be difficult for me to cross-examine on that document, because it's,
2 of course, not paginated. There's no numbers on the pages. It's also my
3 submission, I hope, Mr. President, you and your colleagues agree, that
4 this is a document which needs to be seen in the round, as a complete
5 document, to better understand it's nature and that that's relevant to
6 the weight to be attached to it.

7 What I'd ask at this stage is that leave be granted that the
8 entire document be scanned and that we then would be in a position, while
9 maintaining confidentiality, of course, in terms of its contents, to
10 paginate and at a later point, first thing tomorrow, perhaps, deal with
11 the diary and deal with it expeditiously, rather than what I can regret I
12 could foresee is a lengthy process of going page by page through the
13 entries this morning.

14 So what I'd ask is that we be given leave to have the matter --
15 the entire document scanned so that we all have it in front us. We can
16 book it up and make copies available for you, the Judges, and the
17 representatives, and maybe we can do this with the assistance of the
18 Prosecution, who have already assisted us by a limited scan, but the
19 limited scan doesn't really assist us, and it's --

20 (Trial Chamber and Court Officer confer)

21 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, in
22 principle -- now, a copy, a technical form to be dealt with tomorrow
23 with -- for all participants, the Chamber agrees, but we will just have
24 to ensure with the Court Officer and your team what the various technical
25 requirements will be for tomorrow's session, but normally a solution

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1 should be found, and if indeed that means pages will have to be numbered,
2 of the photocopy, not of the original, that will certainly facilitate the
3 proceedings. So in other words, you would extend the questions about the
4 diary, and in the meantime you would move on to another category of
5 questions.

6 MR. HOOPER: (Microphone not activated) (Overlapping speakers)
7 ...

8 PRESIDING JUDGE COTTE: (Interpretation) Fine. Court Usher,
9 could you please take the diary back. The witness does not need to have
10 this diary in front of him now.

11 Now, sir, tomorrow you will have your diary before you again, and
12 most likely a copy that will have page numbers added to them so that you
13 will be able to reply to the questions asked by the Katanga Defence team.

14 Mr. Hooper, please proceed.

15 MR. HOOPER: Thank you very much, and Mr. Witness.

16 Q. Now, you recall making the statement, which is our document
17 DRC-OTP-1053-010 -- sorry. Start again. I may have made the wrong
18 reference earlier as well, but the document, in fact, I'm looking at is
19 0164-0472, which is a statement that was taken from you over two days,
20 that is, over the Friday and the Sunday of the 6th and the 8th of October
21 of 2006. You were interviewed for just over eight hours. Do you
22 remember being interviewed like that and subsequently signing and
23 agreeing that statement? Do you remember that?

24 A. Yes, I remember. I was questioned on several matters,
25 including -- well, I forget a few of the matters, but these are the

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1 matters that are dealt with in the statement.

2 Q. And it's clear the focus of this interview and your answers is
3 the -- the Bogoro attack of February 2003. That's right, isn't it?

4 A. Yes. The statement that I made has to do with the attack of
5 February 2003, the attack that occurred in Bogoro.

6 (Trial Chamber and Court Officer confer)

7 PRESIDING JUDGE COTTE: (Interpretation) I -- please, if you'll
8 forgive us, Mr. Hooper.

9 (Trial Chamber and Court Officer confer)

10 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, you may
11 resume.

12 MR. HOOPER:

13 Q. So over those eight hours of interview, with the focus on the
14 Bogoro attack and you now having told us that you recognise
15 Germain Katanga at the Bogoro attack, may I ask you this: Why is there
16 no mention of Germain Katanga in your statement?

17 A. Could you be more explicit in your question, sir?

18 Q. Why is there -- why do you make no reference to Germain Katanga
19 in your written statement?

20 A. You would have wanted Germain Katanga's name to be in my
21 statement? Is that what you are asking about?

22 Q. No. I'm saying -- suggesting I would have expected his name in
23 the statement if what you say now in evidence is correct; that is to say,
24 that you saw Germain Katanga during the Bogoro attack, and you recognised
25 who he was and knew his name. Why is it then that you make no mention of

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1 him in your written statement? Why is there no reference to him in your
2 statement?

3 A. I think that I mentioned the name of Germain Katanga in my
4 statement, if my memory serves me right, and if you look carefully, I
5 think you will see that his name is mentioned.

6 Q. Well, as you might expect as I represent him, I have looked very
7 carefully at that statement, and unless I'm corrected by the Prosecution
8 or anybody else, I have looked in vain. There's no reference to
9 Germain Katanga in your statement. Is that a surprise to you?

10 A. Thank you. If you didn't find that name in my statement, that's
11 not serious. If you are without any counsel for the Defence, that is
12 good as well, but I must say that I find myself before this court to tell
13 the truth, to say what happened in Bogoro and what I saw. I'm not here
14 to tell lies out of the -- for the fun of it or to make up events
15 regarding someone.

16 Q. All right. So why does his name not appear in your --

17 THE INTERPRETER: Correction from English interpreter: "If you
18 are not his -- if you are his Defence counsel."

19 MR. HOOPER: Thank you. I am.

20 Q. Now, why did you not mention the name when you were interviewed
21 over those -- for over eight hours? Did you forget it? Did you forget
22 to mention it? Why do you think it's not there?

23 A. Here is the reply I can give you: For eight hours, I found
24 myself before a person who was asking me questions, and some questions
25 can be answered while another person is asking you another question.

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1 Perhaps when they were in the process of taking my statement and writing
2 it down, perhaps they forgot to write down the name of that person.

3 Q. So it may have been a mistake or fault on the name on the part of
4 the investigators. I understand.

5 Let me draw -- refer to the statement. I'm going to refer to it
6 briefly, not to all of these paragraphs, but just briefly make reference
7 to them for the record.

8 Paragraph 52 of the statement you gave is headed, "Those
9 responsible for the attack." So you've spoken about this terrible
10 attack, and now you come to a specific section which is headed, "Those
11 responsible for the attack."

12 As we've heard, and as Mr. Kilenda has already dealt with it, at
13 paragraph 52 you say that you saw Ngudjolo and also someone called
14 Etienne, and you describe what they were doing and how they were dressed
15 and how you knew Etienne.

16 You then, at paragraph 57, state -- after mentioning Ngudjolo and
17 Etienne, at paragraph 57 you say this:

18 "As I already stated, I recognised another attacker, Rene," and
19 you go on to say a bit about him.

20 So that's Ngudjolo, Etienne, another attacker called Rene that
21 you claim to have recognised.

22 Then at paragraph 58 you say this:

23 "I do not know who commanded the Ngiti soldiers who participated
24 in the attack on Bogoro."

25 So that's your reference to the Ngitis at this point.

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1 Then a little later, and in fairness to you, in paragraph 63, in
2 the context of talking about the Ngiti, you say, and this is
3 paragraph 63, you talk about the -- you're talking about child soldiers
4 among the fighters. You're talking about Ngiti kadogos, and you say
5 this:

6 "They had a commander who was an adult and I heard giving them
7 orders. When he gave orders, he himself called them 'kadogo.'"

8 And you say about that person as well:

9 "I heard the person commanding the kadogo in Swahili. Though he
10 spoke in Swahili, I think he was Ngiti, because from what I understand of
11 the Ngiti, they only obey another Ngiti."

12 So there's a reference to someone you thought was commander of
13 Ngiti kadogos who you heard giving them, it would appear, orders. Do you
14 know who that person was, that commander giving those orders?

15 A. I followed you very well. Now I can see or get an idea about the
16 statement I made. When my remarks were transcribed, something was
17 forgotten.

18 This is what I said when I gave my statement: Bogoro was
19 attacked on two fronts. There were combatants from the Ngiti side and
20 from the Lendu side. The person who commanded the leader, the person who
21 commanded the Lendu North people was Ngudjolo. He was their leader.

22 If I mention the name of Germain Katanga, it is to say this:
23 There were two vehicles in the camp. One vehicle was burnt, and he gave
24 an order that the vehicle that had not been torched be taken to -- to
25 Gety, and so that same vehicle was used to transport goods that had been

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1 looted in Bogoro, and metal sheeting and many other items, and they were
2 taken to Gety, and that was under the orders of Germain Katanga.

3 Q. Let me come back, really, to my question, which you haven't
4 answered. In this statement, and I've been through it, I'm not going to
5 go through it again in detail like that, you refer to Ngudjolo, you refer
6 to Etienne, you refer to Rene. You then say, "I don't know who commanded
7 the Ngiti soldiers who participated in the attack on Bogoro."

8 Why haven't you mentioned Germain Katanga in your statement, or
9 are you saying to this Court that what you just said about Germain
10 Katanga ordering a vehicle be used to transport pillaged goods was
11 something you told the investigators at the time? What's the position?

12 A. In my statement, it can be the case that I mentioned somebody's
13 name. However, here where I am in order to give testimony with regards
14 to what I've seen, if I say I saw Etienne, if I say I saw Rene, yes,
15 these are people who I saw, given that I knew them very well. Etienne
16 was one of the commanders. The same thing for Rene. He was the FNI
17 commander. They were FNI commanders. I don't know how they came in. If
18 you want to know, you can ask me additional questions.

19 I would ask the interpreter to interpret me well. If they went
20 through which path, I don't know which one it was. Etienne and Rene are
21 commanders who led the operations because they lived on mission.

22 Q. (Previous translation continues) ... ask you this question.

23 A. (No interpretation)

24 Q. We know what you've said. Thank you very much.

25 A. I am here to testify. I am here to tell the truth, what I saw

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1 with my own eyes. That is the reason why I'm here. You can take all the
2 time that you want. I'm here for you. Let's continue.

3 They carried out this operation until they arrived in the camp.
4 In the camp I saw all the armed forces present, as I mentioned before.
5 Germain Katanga, given that I had seen him before in Bunia during a
6 meeting, I had already seen him, I had already recognised him, and this
7 is how I saw him in the attack in Bogoro on that day.

8 Q. We know what you're saying. My question is: That being so, why
9 doesn't his name appear in your statement? Why did you make no reference
10 to him at all? Why do you, in fact, say, "I don't know who commanded the
11 Ngiti soldiers who participated in the attack"? Why is there no mention
12 him at all?

13 A. I told you in this statement when I answered that I didn't know,
14 this was an answer referring to the first fight, to the first battle.

15 Q. Well, looking at the statement it's very clear, I suggest, that
16 you're talking not about the first battle but about the final battle.
17 Let me come back, though, to that aspect of paragraph 63 where you are
18 talking about a commander who addressed the kadogos in Swahili, who you
19 believe, nevertheless, was Ngiti because the Ngiti only obey another
20 Ngiti. He gave them orders, you say in your statement. He called them
21 kadogos.

22 Who was that person? Do you know who it was, that commander of
23 kadogos?

24 A. I saw kadogos, and these kadogos were the body-guard of Ngudjolo.
25 If I refer to Ngiti, that's because the Ngitis usually spoke their

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1 language, Kingiti. And usually the Ngiti respected their orders, their
2 hierarchy. For example, if their leader gives them an order, they
3 respect it correctly.

4 Q. Let me bring you back to the point. In your statement you're
5 talking about Ngiti kadogos, and you say they had a commander. Do you
6 know who that was?

7 A. No, I didn't say among the -- the commanders -- I didn't say that
8 among the Ngiti commanders of the kadogo. That wasn't my statement. I
9 ask you to listen to me properly, to re-read the document to understand
10 what I wanted to say.

11 Q. All right. Let me -- let me just briefly read it to you,
12 paragraph 63, the relevant portions, and I hope a fair representation of
13 what you've said.

14 Paragraph 63, which is headed "Presence of child soldiers among
15 the fighters." You say:

16 "When the Ngiti came from the direction of Gety, I saw among them
17 kadogos. Those I saw had firearms and had green military uniforms, the
18 same as the kind worn by the Ugandans."

19 Just pausing there, is that correct so far, that the kadogos, the
20 Ngiti kadogos you saw were in military uniform, Ugandan-type military
21 uniform?

22 A. Yes, I saw them. If I said that I saw the kadogos, yes, I saw
23 the kadogos. I -- the Ngiti -- with the Ngiti. They had military
24 uniforms which were similar to those of the Ugandans. That is the first
25 thing.

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1 The second thing is when I said the Ngiti kadogo spoke in Swahili
2 and that their commander gave them orders in Swahili, yes, the Ngiti
3 speak Kiswahili. I confirm the Ngiti do speak Kiswahili as well.

4 Q. And still talking about the Ngiti kadogos, you say this:

5 "They had a commander who was an adult and I heard giving them
6 orders. When he gave orders, he himself called them 'kadogo.'"

7 Is that correct?

8 A. Yes.

9 Q. And you go on to say this:

10 "I did not know this commander, and I do not think I would be
11 able to recognise him."

12 Is that correct?

13 A. I said the following: I heard the voice of a commander giving
14 them orders in Swahili, but I didn't know his name.

15 Q. Well, as it's written here:

16 "I did not know this commander, and I do not think I would be
17 able to recognise him."

18 So let's come back to the point. You don't mention the name
19 Germain Katanga at all at any point. Why was that?

20 A. I mentioned the name of Germain Katanga, because I saw that he
21 was present in Bogoro. I saw a vehicle which remained in the camp, which
22 was controlled by him. How can you say that I didn't mention his name?

23 Q. How many vehicles did you see that day come or go to Bogoro?

24 A. My statement will be clear. On this day there were two vehicles
25 in the camp. One of the vehicles had been burnt. Until today, the

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1 remains of this vehicle are still to be found in the camp. This
2 represents the proof of the story. Even today, in this building there
3 are bullet impacts.

4 Now, where it concerns the other vehicle, this vehicle went to
5 Gety with merchandise. I don't think you're going to bother me with this
6 question. I'm replying clearly. There were two vehicles. One was
7 burnt. The other transported merchandise to there.

8 Q. All right. My question was: During that day did you see any
9 vehicles arrive and leave Bogoro, and, if so, how many?

10 A. I answered clearly. There were -- at the camp there were two
11 vehicles.

12 THE INTERPRETER: The interpreter points out that the witness is
13 now speaking in French.

14 THE WITNESS: (Interpretation) One vehicle was burnt, and the
15 other vehicle which remained, which wasn't burnt, transported the
16 merchandise. This was a vehicle of traders, of civilians who had spent
17 nights in the camp whilst waiting to travel the next day. And the next
18 day it was the 25th, we were woken up by the fighting, and that's the
19 reason why one of these vehicles was burnt. I saw with my own eyes the
20 other vehicle which went towards Gety, which wasn't --

21 JUDGE DIARRA: (Interpretation) Witness, please don't get
22 carried away. Up to now you have testified. You've helped the Chamber
23 understand the truth. Please don't get carried away. Please remain
24 calm. Say what you know, say what you have seen, and what you don't
25 know, you do not have to answer, but please don't shout. Please don't

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1 get angry. You've got the microphone. Everybody will win that way.

2 Thank you very much.

3 THE WITNESS: (Interpretation) Thank you very much. I would
4 like you, please, accept my apology.

5 MR. HOOPER:

6 Q. Well, don't -- don't worry about that. Your -- let's go back to
7 another thing about Bogoro itself.

8 MR. HOOPER: We're in open session, I think, at the moment. Yes.
9 All right. And we can stay in open session.

10 Q. Am I right in understanding your evidence to be that prior to the
11 24th of February attack, prior to the major attack, that the women and
12 children, as well as the elderly, spent the night as usual in the
13 Bogoro Institute, i.e., that's where they bedded down for the night. Is
14 that right?

15 A. You are referring to which attack?

16 Q. From now on I'm only going to talk about the February attack, and
17 by that I mean the final attack.

18 A. (No interpretation).

19 Q. All right. Was it the habit of the population to go and spend
20 the night in the Bogoro Institute?

21 A. I said the following: Before this attack, on the same week of
22 the attack, the women, the children, and the elderly who were tired, they
23 usually spent the night in the camp.

24 Q. Now, this attack, this final attack, and I'm going to talk of no
25 other attack, did the population -- were they warned? Did they know it

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1 was going to happen or likely to happen? Had there been a warning?

2 A. No. There weren't signs or signals which would tell us of an
3 attack. How would you -- how could the enemy give such signs of such
4 attack?

5 Q. I understood there had been a radio interception, and also a
6 letter had been found on the road, as a consequence of which many members
7 of the population left Bogoro, because they anticipated an attack was
8 going to take place on the 24th. Is that right or wrong?

9 A. Every person has their way of transmitting information. Some
10 people who live in Ituri or in Bunia but who have not experienced the
11 attack on Bogoro but who know that there was an attack on Bogoro could
12 ask a question and they could give their version of the facts, according
13 with another explanation which they might have received from somebody
14 else who is from Bogoro. And it is the same for each radio channel.
15 Each radio channel has their way of transmitting or broadcasting
16 information.

17 Q. But from what you say, you did not know of any warning
18 circulating amongst the people of Bogoro that an attack was imminent; is
19 that right?

20 A. In Bogoro, we didn't know on that day that there would be an
21 attack. Bogoro wasn't informed, wasn't -- there was no information such
22 that, "Bogoro, on this day you will be attacked." If Bogoro could have
23 been told, "On that day you will be attacked," would we have found anyone
24 in Bogoro? If the population in Bogoro had received the information that
25 they would be attacked on such and such a day, would -- they would have

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1 left all their wealth there, which -- to be pillaged.

2 Q. Now, we know where your house was. We don't need to refer to
3 that. You've indicated it with a cross on a map. Where were the nearest
4 UPC soldiers to you when that attack started at 5.00 or 5.30 in the
5 morning? Where were the closest UPC soldiers to your -- to where you
6 were?

7 A. All the soldiers were in the camp.

8 Q. Were there any soldiers outside the camp at all, on patrol, or at
9 barricades or at barriers, as far as you know?

10 A. Yes. It could be possible that a soldier guards the main entry
11 of the camp if all the other soldiers were on patrol. I said I'm not a
12 soldier. I don't know the army's techniques or military secrets. All I
13 know is that some soldiers were in the camp, some were before the
14 roadblocks, before the entrances.

15 Q. Now, we know where your house is. Would you agree you are in a
16 very vulnerable and exposed position given that you've told us that that
17 was the direction that attackers often came?

18 A. Yes, I was exposed, because (Expunged)

19 (Expunged)

20 (Expunged)

21 Q. Now, when you woke up or was woken up by the shooting, you must
22 have got out of bed and perhaps gone to see what was going on. What did
23 you notice at that point?

24 A. I heard gunfire. I went out -- I got out of my bed. I didn't
25 take the road. I went through the bush. I was going towards the camp

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1 but going through the bush.

2 Q. Where did you hear the gunfire? Where did you notice the gunfire
3 was coming from?

4 A. The first gunfire I heard came from the road, Kasenyi road, and
5 it was from there that the Lendu Nord arrived. The second gunfire came
6 from next to Gety, the cemetery. At that time, I left the house.

7 Q. Now, you've told us how you couldn't make or reach the camp but
8 instead went to a hiding-place, and you've indicated on a sketch plan,
9 though to scale, where -- where that was. You marked it with an X. Do
10 you remember doing that?

11 A. Yes.

12 Q. Now, in your statement, as has already been pointed out to you,
13 in your statement you say this -- talking of that spot, you say:

14 "I was about 500 metres from the camp and could see and hear what
15 happened."

16 And if we look at your sketch plan and where you've marked it and
17 compare it to the scale that is indicated there, you're perhaps about
18 400 metres from the camp, where your X is. Four or 500 metres from the
19 camp. Does that fit in correctly with your present recollection as to
20 how far you were, how far your hiding-place was? Approximately 4 or
21 500 metres from the camp.

22 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor.

23 MS. LUPING: Mr. President, I just simply wanted to remind the
24 Chamber that when a very similar question was asked by Maitre Kilenda,
25 for the sake of clarity for the witness it would also be useful to allow

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1 him to see paragraph 51 of his statement and not only to refer to the
2 section of his statement where he refers to a distance of 500 metres.

3 MR. HOOPER: Well, your Honour, I'm going to be fair to this
4 witness. It's not necessary to do that now. I'm talking about one
5 place, and I'm focusing on that. I don't want the witness confused by
6 other places, because I'm trying to establish where he was, when it was,
7 and what he saw where he was. And so if we start with this one place and
8 we can get this clearly from the witness, it will help the next step, I'm
9 sure. So I beg to be able to continue.

10 PRESIDING JUDGE COTTE: (Interpretation) Please continue. Please
11 continue. If it is important to -- it is important to clarify this
12 question, but it's not just able to -- not just important to help him but
13 to allow him to answer under the best possible conditions. So please
14 make the question as simple as possible.

15 Please continue.

16 MR. HOOPER: All right. So let's bring up EVD-OTP-0054, and then
17 the witness can see and be reminded of the X he put.

18 Q. And if you want a hard copy, I've got a hard copy for you.

19 PRESIDING JUDGE COTTE: (Interpretation) Perhaps we could ask
20 the Court Officer to make this sketch plan appear on our screens. We all
21 have it in our minds, but it would help to have this on our screens.
22 That would clarify the answers that will be given by the witness.

23 COURT OFFICER: (Interpretation) I think that you have the EVD
24 number of this sketch plan, which I think is familiar to the Bench.

25 THE WITNESS: (Interpretation) Yes, your Honour. I don't want

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1 to interrupt you. I'm not opposed to the sketch plan being put on the
2 overhead projector, but I'm just going to ask (as interpreted) a question
3 put by Counsel Hooper.

4 He asked me the distance relating to my hiding-place, between the
5 camp and my house. I already answered that question in my statement. If
6 you remember well, the answer can be found on page 51 or 52. It is from
7 that hiding-place that I was able to see what happened in the camp.

8 It wasn't a large distance, about 50 metres. And where it
9 concerns the distance between my house and the camp, it's also not long.

10 That's what I wanted to say, but I am not opposed to the sketch
11 being put on the overhead projector.

12 PRESIDING JUDGE COTTE: (Interpretation) The position of the
13 sketch on the overhead projector means that it's available to all
14 participants. That makes it possible for everybody to understand well
15 the question of Counsel Hooper and also to understand the answer that you
16 give, even if some of these questions might have been asked to you by one
17 or other of the participants, but you will understand that this is an
18 important point, or at least it is a point which the Defence of one of
19 the two accused does ascribe a certain degree of importance to.

20 So, Court Officer, perhaps we could see this sketch plan once
21 again.

22 In principle, after pressing the button "PC 1," you should have
23 that sketch.

24 Can the accused persons see that sketch on the screen? Yes. And
25 everybody else? Very well.

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1 Mr. Hooper, please proceed.

2 MR. HOOPER:

3 Q. Now, you can see that, in fact, this is a sketch produced and
4 agreed between the parties, and I understand from what the Prosecution
5 have already told the Court that it was all done with
6 satellite-controlled precision.

7 Now, we can see there a distance shown between where the camp is
8 and the top of Waka hill. It's 650 metres. That's the scale. And if we
9 relate that to where your house is, and we don't need to specify where it
10 is, we can see that your house is about 500 metres from the camp on the
11 same scale, and we can see, can't we, that if we look where your X is and
12 relate that to the line that has the distance of 650 metres on it, that
13 you are about approximately 400 metres from the camp.

14 And finally -- please, please, please. And finally, that all
15 fits in with what you told the investigators in 2006, when you said that
16 this first, if I can put it like this, first hiding-place was 500 metres
17 from the camp.

18 So I'm asking you now, taking all that into account, do you agree
19 that you were in this, your first hiding-place you went to, about, let's
20 say, 400 or so metres from the camp? Is that right?

21 A. I think that on that day I placed crosses on the sketch. I
22 showed you the location of my house and of my hiding-place. For example,
23 I showed you my hiding-place, and from there to the camp the distance is
24 not 400 metres.

25 If you go to the field, and I placed myself where I was at that

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1 time, you'll see that that distance is not 400 metres. And when it comes
2 to the distance of 650 metres between the camp and Waka hill, it is not
3 650 metres.

4 Q. Okay. Well, we understand what you say, but you see, the
5 650 metres is a distance that's been given us by the Prosecution, and
6 they've gone and had satellite GPS measurements, clever stuff, we're
7 told. So those are the distances we're having to adopt.

8 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor.

9 MS. LUPING: Mr. President, my concern with the last comment made
10 by my friend is that we are becoming argumentative with the witness.
11 He's been asked the question, he's responded, and now he's -- we're
12 essentially descending into an argument with the witness as to whether he
13 should accept the scale of the map or not, and that should not be the
14 issue.

15 MR. HOOPER: Well, I accept I don't want to get into an argument
16 with the witness. Thank you very much.

17 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed. Let us
18 continue on the basis of questions and answers without any comments, even
19 though sometimes some comments may be made unexpectedly.

20 Please proceed, Mr. Hooper.

21 MR. HOOPER: I apologise.

22 Q. When you told the investigators that this hiding-place was
23 500 metres from the camp, was in a right or wrong?

24 A. I stated that the hiding-place was 50 metres away and not
25 500 metres away. Please pay attention to what is written. That is what

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1 I said.

2 When I am testifying here, I can see once again all the events,
3 the way they happened during that period. I talked about my
4 hiding-place, and every time I come back to that I can see the scene all
5 over again.

6 Q. All right. So we'll come back to that. Am I right in
7 understanding that you had two hiding places that day? One was the one
8 that we're talking about now, and the second one was on Waka hill. Am I
9 right in understanding your evidence is to that effect?

10 A. Yes, I agree with the first and the second hiding places. There
11 were two of them, yes.

12 Q. Right. Thank you. Back to the first, the first hiding-place.
13 You got there shortly after you were woken up by the gunfire. When you
14 came to leave that hiding-place, what had happened in the camp? What had
15 you seen, in brief, happen in the camp from that hiding-place by the time
16 you left? For example, did you see the camp overrun from that
17 hiding-place? Did you see people fleeing, the civilians fleeing, after
18 the camp was overrun?

19 And please try and keep your answer a little brief, if possible.

20 A. While I was there, I saw the members of the population in the
21 camp who started to flee. The other inhabitants who were in their homes
22 started by closing their windows.

23 Q. So you are still in that hiding-place when the camp is overrun by
24 the attackers and the people have to escape from the camp and they flee;
25 is that right?

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1 A. I was there when people started fleeing. I stayed there until I
2 was able to personally witness the death of my mother.

3 Q. And am I right in saying that the people fleeing and that tragic
4 event happened after the attackers had beaten the UPC and the UPC had
5 been forced to abandon their camp? Is that right?

6 A. Who are you referring to, the civilian members of the population?

7 Q. You've told us that the civilians fled, and from that
8 hiding-place you were witness to the tragic death of your mother. Am I
9 right in understanding that those events, the people fleeing the camp and
10 the death of your mother, happened because the UPC had lost the battle
11 for the camp and it was now being overrun by the attackers? Is that
12 right?

13 A. The members of the population started fleeing. I have already
14 mentioned the name of someone, (Expunged) who gave an order to the
15 population, and the people started fleeing, and these were the few
16 members of the population who were very afraid. They started fleeing
17 after realising that the fighting was becoming increasingly intense.
18 Otherwise, the majority of the inhabitants, that is, the men, young
19 girls, and women, who were there started fleeing. They went out in large
20 numbers when that (Expunged) gave the order.

21 Q. All right. And how many hours had you spent in your hiding-place
22 there by then?

23 A. I think I have already answered that question during my
24 testimony.

25 Q. All right. Well, you've told us that the camp fell at 8.30. Is

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1 that right? 8.30 in the morning?

2 A. Yes, that is correct. The camp fell at 8.30 a.m., and at 9.00
3 the enemy had completely invaded Bogoro.

4 Q. Now, I accept that you naturally emphasise that those are all
5 approximate times, and I, of course, accept that given the terrible
6 circumstances you were living, but as has already been pointed out, and I
7 just go back to this, you are more precise in your statement about the
8 time.

9 You say the attack began -- I'm looking at paragraph 40, if
10 you'll bear with me.

11 "The attack began about 5.30 in the morning. I remember it
12 exactly, as I looked at my watch."

13 And later at paragraph 43, you again specify that. From your
14 camp you say:

15 "The combat was violent. I saw a lot of smoke."

16 And then you refer to the person who shouts out to abandon the
17 camp, and you say:

18 "I was watching the time on my watch, and about 11.00 I heard
19 that shout."

20 So might it be that you were in your hiding-place there from
21 5.30 till 11.00, which would be, of course, quite a long time, two hours
22 less than the other time? Can you help us, briefly?

23 A. I did not say that it was at 11.00 that that person started
24 shouting. I was in my hiding-place. And if you want details, from my
25 hiding-place I tried to reach the camp at 5.00 in vain. The members of

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1 the population came out. I tried to go and save my mother in vain. I
2 stayed in my hiding-place. And when I left, it was to go to my second
3 hiding-place, that is, at the top of the mountain. And from there, I was
4 able to observe what was happening in Bogoro. This means that it was not
5 at 11.00 that the young man shouted out. At 11.00 there was already
6 pillaging going on. People were taking off the roofing sheets from the
7 houses in Bogoro at that time.

8 Q. All right. Thank you very much. Now, I'd like you to look,
9 please, at a hard copy of an image, because we can't show it on -- we
10 don't have the Prosecution laptop to show it, but it's a satellite
11 picture, DRC-OTP-1016-0224.

12 MR. HOOPER: And what has happened, the process that has
13 happened, is that the satellite image, of course, is taken very high up,
14 the photograph, very high up, and we have extracted one part of that
15 image which shows the relevant part of Bogoro. And we have copies which
16 I'd like circulated, please, and to the witness as well. The Prosecution
17 will be very familiar with this image as it's theirs. And if I could
18 have the assistance of the Court Officer to distribute these pictures.

19 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed.
20 Court Usher, please.

21 MR. HOOPER: And can you keep one or two, please, because we
22 might be marking them -- we will be marking them.

23 Q. And, Mr. Witness, here's the image coming to you. Now, looking
24 at that, you'll see it's really very much like a plan, but in this case
25 it's a photograph taken very high up. And I'm not going to refer to

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1 where your house is, but we can relate to our sketch map where it is.
2 And just looking at that, to the north we can see the roads, show the
3 white -- the white roads, the white soil of the roads, the clay roads.
4 We can see the road to the north that leads to -- to Bunia. We can see
5 the roundabout very clearly there. And to the left, we can make out the
6 roof of the Bogoro Institute. And then we can see the road that goes to
7 Kasenyi, that goes off to the left. And then if we carried down the road
8 almost to the bottom of the picture, not quite, we see the road divides
9 into two and there's a sort of triangle of roads there instead of a
10 roundabout, and just there we can see that the road continues to the
11 right to Diguna. And to the left, along the left-hand side, I suggest
12 that we can see various rock formations as well indicating Mount Waka.

13 Now, would it be possible, Mr. Witness, if you're given an
14 appropriate pen that would be visible --

15 MR. HOOPER: Is there a white pen or something like that? I seem
16 to remember we had one last week that was used that gave a clear image.

17 Q. But if there is something that can give us a clear image, can you
18 indicate where this first hiding-place of yours was? You know the area
19 very well. Can you indicate where it was? And I understand this
20 satellite image was taken in 2003, so that's helpful.

21 PRESIDING JUDGE COTTE: (No interpretation)

22 MS. LUPING: Sorry to interrupt my friend. It's just a question
23 of whether it's possible for the witness to move by the overhead
24 projector so we can all see also in what direction he has the map turned
25 around. I just want to make sure he's obviously got the map turned the

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1 right way.

2 MR. HOOPER: It would be -- if someone could assist the witness
3 it would be helpful. I think --

4 PRESIDING JUDGE COTTE: (Interpretation) The Court Usher will go
5 up to the witness and ensure that, just like us, he is looking at the map
6 from the same side, so then there is no confusion.

7 Mr. Hooper, we are also going to place a copy of the document on
8 the overhead projector so that each participant should be able to follow
9 closely, particularly if the witness has to mark the document.

10 So, Court Usher, if you can place a copy of that satellite photo
11 on the overhead projector.

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

13 THE INTERPRETER: Microphone, Mr. Hooper.

14 MR. HOOPER:

15 Q. So you've got the road to Bunia going off to the top now. You've
16 got the roundabout, and to the left, to the left, you can see the
17 Bogoro Institute, its roof.

18 Going back to the roundabout, to the right-hand side of the page
19 we have the road down to Kasenyi. If we continue down the page following
20 the other road, we get -- it will take us to Gety. And a few centimetres
21 from the bottom of the page, on that road we see another turn-off, a very
22 clear turn-off, and that goes to Diguna.

23 So looking at that photograph -- oh, I should also mention, as I
24 did, that on the left we can see some rock formations where Mount Waka
25 is.

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1 Now, are you in a position to indicate with the letter A, letter
2 A, where your first -- capital letter A. With a capital letter A, can
3 you indicate where your first hiding-place was, the one where you were
4 from about 5.00 or 5.30 in the morning until, you say, 8.30 when the
5 people fled?

6 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, the
7 Court Officer would like to know whether this is a public document.

8 MR. HOOPER: Yes, it is a public document.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Hooper.
10 Madam Prosecutor.

11 MS. LUPING: I'm sorry to interrupt. I think there's some
12 confusion here because I believe the witness was being asked to mark up
13 the document on the overhead projector, but he seems to have two maps in
14 front of him.

15 MR. HOOPER:

16 Q. Well, whichever one, if you can mark one and then we'll put it on
17 the overhead projector, perhaps. So if you can mark with a capital
18 letter A that first hiding-place, where it was.

19 MR. HOOPER: Is this on the projector?

20 Q. So now you've indicated a spot which is very close to the camp,
21 isn't it?

22 A. The location that I have just marked is not very close to the
23 camp, but from there it was possible to see everything. But I could see
24 better when I was about 150 metres away from the camp.

25 Q. Well, this spot that you've indicated on that photograph, I mean,

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1 how far do you say that was from the camp? You say that was more
2 150 metres, or what?

3 A. I did not say that it is more than 150 metres away. You want to
4 confuse me. I said it is more than 50 metres, not 150 metres.

5 Q. Well, what was translated, I understood, was:

6 "I could see better when I was about 150 metres from the camp."

7 What did you mean by that?

8 A. There has been a mistake, an interpretation mistake.

9 MR. HOOPER: I'm sorry, were those words the words of the
10 witness, or the words of the interpreter? Were the last words, "There's
11 been an interpretation mistake," the words of the interpreter, please, or
12 the words of the witness?

13 PRESIDING JUDGE COTTE: (Interpretation) Interpreters, on the
14 French transcript I see the following: "But I saw better" -- and I'm
15 quoting from the transcript. "But I saw better when I was about
16 150 metres from the camp."

17 Apparently that is the part of the sentence that has led to a
18 challenge. Mr. Hooper has the impression that he heard what I just read
19 out, and he heard that from the English interpretation, and on the
20 English transcript he's read, and I said just as he did and I'm reading
21 from the French transcript, the witness seems to be saying that is not
22 what he said.

23 Now, do you remember exactly what was said by the witness?

24 Witness, I'm asking the questions of the interpreters right now,
25 and most likely Mr. Hooper will -- may want more information from you

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1 after that, but if the interpreters remember the sentence that is at
2 question, they will tell us.

3 THE INTERPRETER: Your Honour, *in answer to Mr. Hooper's first question the
4 witness answered, and the booth said 150 metres, and then Mr. Hooper
5 asked the question again, once again, and the witness corrected himself,
6 saying it was 50 metres. That is what the booth said in response to the
7 second question.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

9 Mr. Hooper, please go on. If you could try to clear up this
10 matter for us.

11 MR. HOOPER: All right.

12 Q. So how far is this spot that you were in for several hours, how
13 far was that from the camp? And by "the camp" I mean -- let me be
14 specific, as it were. From the edge of the camp, how far was it?

15 A. From where I was, my hiding-place, I think the distance was
16 50 metres, but not 150 metres. It was a distance of 50 metres.

17 Q. And can you mark on the plan where your second hiding-place was?
18 Is that possible? On Waka?

19 A. My second hiding-place, as I said, from where I was, I went to
20 the top of Mount Waka.

21 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, if you
22 would like the witness to mark the -- the photograph again, could you
23 suggest that he use another letter so that -- rather than A, so that we
24 all know which spot he is marking.

25 MR. HOOPER:

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1 Q. Can you mark it with an X, please.

2 A. If I look at this sketch carefully, I can say that the
3 photograph, the satellite photograph, does not describe Bogoro. It is
4 false. I think that the sketch gives the aspect. It shows the locality,
5 but if there were a complete map of Bogoro, I could provide more details
6 to show where I was on Mount Waka, and I could see the -- I could see on
7 the sketch or the diagram the -- I could see Mount Waka. But what I have
8 here shows just one part of Bogoro.

9 (Defence counsel confer)

10 THE INTERPRETER: Correction from the English booth: Does not
11 show Bogoro properly.

12 MR. HOOPER: Yes. Call we call up EVD-OTP-00051, which is the
13 sketch plan, the unmarked sketch plan. And when it's called up, can I
14 invite the witness to mark on that where he says his hiding-place on Waka
15 was.

16 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
17 could you have that item placed on the screen? Thank you.

18 (No interpretation)

19 MS. LUPING: (Previous translation continues) ... procedure
20 before the following map is brought up on the screen, I'm assuming that
21 the satellite map that the witness marked, that it will have an EVD
22 assigned to it.

23 PRESIDING JUDGE COTTE: (Interpretation) Of course. Of course.
24 But we just don't know quite yet whether there might be other marks
25 placed on the diagram but -- so for the form -- for the time being, we

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1 don't know until the first photograph has received a number.

2 So, Mr. Hooper, if you could please go on.

3 MR. HOOOPER: So have we got -- we've got the sketch map up.

4 Thank you very much. And not -- and can I ask with the assistance of the
5 Court if this witness can mark with the appropriate electronic marker
6 this sketch with a mark. Perhaps the letter W.

7 Q. If you could mark this with the electronic pen with the letter W
8 to indicate the approximate point where your Waka hiding-place was? So
9 we're going to ask, Mr. Witness, if you could mark with a W on that
10 sketch the Waka hiding-place, if you can. And if you have any difficulty
11 interpreting the plan, please let me know. But perhaps the Court Officer
12 could indicate on that plan where the Waka -- where the Waka hill is
13 indicated, which is --

14 PRESIDING JUDGE COTTE: (Interpretation) Witness, on this
15 document that you have before you, have you found Mount Waka? Because in
16 that area the Defence would like you to place a W marking this spot where
17 your second hiding-place was.

18 THE INTERPRETER: The interpreter points out that our witness is
19 not speaking into a microphone, so the Swahili booth cannot hear.

20 PRESIDING JUDGE COTTE: (Interpretation) Mr. Court Usher, if you
21 could just place the microphone in front of the witness.

22 THE WITNESS: (Interpretation) Thank you. If I remember
23 correctly, it was from the yellow arrow where it is indicated 650 metres
24 and there's a little dot.

25 THE INTERPRETER: The witness says, on the screen. The witness

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1 indicates this on his screen.

2 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, would you
3 like a special reference number or anything like that to be placed on the
4 document to show the second hiding-place? As far as I'm concerned, I
5 don't quite see on my screen any mark that allows us to see this second
6 hiding-place on Mount Waka, unless I'm having trouble reading that.

7 MR. HOOPER:

8 Q. Mr. Witness, can you do a W, W, on the plan where you say the
9 hiding-place was? You're going to do it now --

10 MS. LUPING: Sorry to interrupt.

11 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor.

12 MS. LUPING: I was looking at the response provided by the
13 witness and there may be some confusion. It might be useful if he could
14 just have indicated to him what is the form on the map that represents
15 Waka Mountain and what is the form that represents the UPC camp. It
16 would just help to situate him, because I think there may be some
17 confusion here.

18 PRESIDING JUDGE COTTE: (Interpretation) You are right. Now, I
19 asked the question a few moments ago and the witness did not reply, so I
20 did deduce that he found Mount Waka on the document.

21 Now, Court Usher, could you point out this spot on the diagram,
22 the institute, Mount Waka. I think the witness did find those two spots,
23 because they are separated by a yellow -- by an arrow marked 650 metres.

24 THE WITNESS: (Interpretation) Yes, your Honour, I did see this
25 properly.

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1 I wanted to place the W a little bit higher, since, according to
2 me -- well, it's difficult to place the W at the spot where I was, so I
3 placed it a little bit lower down.

4 PRESIDING JUDGE COTTE: (Interpretation) Might it be possible to
5 give the witness another blank copy of this document so that he can place
6 his letter exactly where he wishes to place it and indicate to us -- he's
7 just said that he hasn't been able to put it at the -- exactly the right
8 spot.

9 Ah. We're going to erase that, and this document will not be
10 kept because he was not able to place the mark on the document properly.
11 So this document here is not going to be taken into consider. A blank
12 copy is being provided to the witness, and in a moment the Katanga
13 Defence team will tell us what reference number they would like assigned
14 to this document.

15 So, Witness, you can place the letter again once we give you the
16 go ahead, and take the time you need to do so. So put it exactly where
17 you wish to indicate the exact spot.

18 THE WITNESS: (Interpretation) Could I now place it?

19 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could
20 the witness place the letter?

21 As you can see, there is a zoom feature that will allow you to
22 place a letter in a much more specific manner as you wished to do so, as
23 you said a few moments ago. So you can place the letter.

24 THE WITNESS: (Interpretation) I will indicate the place by
25 placing a dot.

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1 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, I think
2 you've seen that it is a red dot. And is -- this red dot is to your
3 satisfaction? Not the location, but is this sufficiently visible?

4 MR. HOOPER: It is, yes. Thank you.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Witness --

6 MR. HOOPER: (Previous translation continues) ... document's to
7 be given numbers just yet, just in case we get another marking.

8 Q. In fact, I'm going to ask you, on that sketch, if you can, can
9 you also mark on the sketch where the valley of the Bayo River is,
10 please? If you can put a line in red where you suggest the valley of the
11 Bayo is.

12 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, it would
13 appear that for technical reasons it won't be on the document that has a
14 red document (as interpreted) indicating the hiding spot. It is not
15 possible to make a second mark, so we'll have to have a second blank
16 document of this -- a second blank copy, and you will have to ask him to
17 place that second mark on it. So we'll have three documents awaiting
18 reference numbers, the photograph, the first version of the sketch with
19 the hiding spot on Mount Waka, and then another one with the new marking.

20 MR. HOOPER:

21 Q. So on this new document, as it were, can you mark with a line
22 where the valley is, the Bayo, with a line, tracing its route, as it
23 were, so you can indicate its direction for us. Is that possible?

24 A. (Marks).

25 Q. All right. Thank you for that.

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1 MR. HOOPER: Do you want us to give numbers now or --

2 COURT OFFICER: (Interpretation) If we've finished using that
3 document, may I save it?

4 MR. HOOPER: Yes, please save it. Thank you. We'll sort out the
5 numbers when it's appropriate. All right. So --

6 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, now, it
7 was just said that three documents are awaiting reference numbers. First
8 of all, we have the satellite photo --

9 (Trial Chamber and Court Officer confer)

10 PRESIDING JUDGE COTTE: (Interpretation) Witness, everyone, I
11 think this -- these proceedings are teaching us all a great deal of
12 patience. Apparently we'll have to have another blank document with the
13 marking of the river with a -- because of a technical problem cropping up
14 again, and I think that if we hold a steady course we will finally come
15 to the end of this somewhat tedious affair.

16 MR. HOOPER:

17 Q. So, Mr. Witness. Sorry to trouble you, but the last thing you
18 did has disappeared on the electronic. So can you just trace the -- as
19 you did just -- do the same thing again, indicating where the Bayo valley
20 is, please.

21 A. Bayo. Bayo. (Marks)

22 Q. Thank you very much.

23 MR. HOOPER: And if that can be saved. And I'll come back to
24 those documents in a moment.

25 Q. But I'd like to ask you to go back -- while that's being sorted

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1 out, if I can go back to your first hiding-place and looking at the
2 satellite picture of it. Now, what was this hiding-place? Were you
3 hiding behind a tree? Were you in a bush? Were you in grass? Were you
4 standing up? Were you lying down? What was the nature of this
5 hiding-place, please?

6 A. I was standing.

7 Q. What -- what was around you? If you were standing -- you're not
8 a small man. If you were standing up, what protected you with all these
9 bullets flying around?

10 A. Where I was standing, it was beside a tree. There were trees and
11 vegetation all around.

12 Q. Where you've marked it on the satellite picture there do not
13 appear to be trees. All right. But where you were there were trees and
14 vegetation, and you were content to be standing up there rather than
15 lying down. Is that -- is that right?

16 A. Yes, I was upright. I was not lying down. I was standing up.

17 Q. And as this attack developed, was it not the case that the
18 attackers were coming from behind you or in your direction in order to
19 attack the camp and to fire on the camp? Weren't they coming from --
20 towards the camp, across those fields and ground?

21 A. Yes, you can go on asking your question, sir.

22 Q. Well, weren't the attackers -- weren't you between the attackers
23 and the camp?

24 A. I was hidden in the bush. I wasn't at the camp. And the spot
25 where I -- that I marked, my first hiding-place, I was able to see

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1 everything that was going on in the camp. And I would give you another
2 detail about that satellite image. It was a satellite image taken from
3 the air, and what you see, the little circles on these documents, or
4 sketches, those are the -- that represents the trench that was dug around
5 the camp. I'm giving you these details. And I was not far from that
6 spot. And I did everything. I was trying to find some way to go that
7 far, to get to the camp.

8 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, we'll have
9 to conclude our hearing, the time has come, and you will continue
10 cross-examination tomorrow. And tomorrow at the beginning of the
11 hearing, we will assign the most appropriate reference numbers to the
12 three documents that were mentioned by the witness at the end of today's
13 hearing.

14 We'll go into closed session so that the witness may leave the
15 courtroom, and then very quickly we'll go into open session.

16 Witness, that will be all for today. Thank you very much for
17 your testimony over this long morning. And tomorrow we will see you at
18 9.00 a.m. Have a good afternoon, Witness.

19 Court Usher, once we are in closed session, if you could escort
20 the witness out of the courtroom.

21 (Closed session at 1.29 p.m.)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Open session at 1.29 p.m.)

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

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

9 Now, just before we adjourn, and once again in a very approximate
10 way given the uncertainty that reigns with the questions and answers,
11 Mr. Hooper, do you have any idea of how much time you might need tomorrow
12 to finish your cross-examination, an approximate idea of the amount of
13 time needed?

14 MR. HOOPER: It is very difficult, I must say, with this witness.
15 I thought I was going to complete him today, and I've barely -- I'm not
16 even halfway, but I'll try and speed up and eliminate some questions
17 tomorrow, and I would have thought at this rate about three hours,
18 perhaps two.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Hooper.
20 Madam Prosecutor, that will allow you -- that will allow you to
21 assess how much time you might need for redirect and also the arrival of
22 the next witness.

23 Now, it seems not so sure whether 418 will be able to come
24 tomorrow. If that were the case, well, it might just be for the very
25 beginning.

1 Technology is concluding the meeting for us. Thanks to all
2 staff. We're now adjourned.

3 The hearing ends at 1.33 p.m.

4 CORRECTIONS REPORT

5 The following corrections have been made to the English transcript:

6 * Page 20, lines 15 to 16

7 (Expunged)

8 Is corrected by

9 (Expunged)

10 (Expunged)

11 *Page 70, line 3

12 (Expunged)

13 Is corrected by

14 (Expunged)

15 (Expunged)

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