

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Wednesday, 16 June 2010
10 The hearing starts at 9.05 a.m.
11 (Closed session)
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
17 (Expunged)
18 (Expunged)
19 (Expunged)
20 (Expunged)
21 (Expunged)
22 (Expunged)
23 (Expunged)
24 (Open session at 9.07 a.m.)
25 COURT OFFICER: (Interpretation) We are in open session, your

1 Honour.

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

4 Professor Fofe, I believe you wanted to make a point of
5 clarification. Please go ahead.

6 MR. FOFE: (Interpretation) Thank you very much. Mr. President,
7 your Honours, good morning.

8 After re-reading transcript ICC-01/04-01/07-T-153-CONF-FRAET of
9 the hearing of the 10th of June, 2010, I realised that there was an error
10 on page 58, lines 18 to 19. The word "dessinateur" which appears on line
11 19 is incorrect. It should be replaced by the word "destinataire." At
12 my request, the case manager contacted the Court Officer about that
13 error. In order to cross-check it, the Court Officer asked the French
14 court reporters to re-listen to the excerpt that includes the error. The
15 French court reporters confirmed that I pronounced the word "dessinateur"
16 instead of "destinataire" during the hearing of the 10th of June, 2010.

17 It therefore appears that I must have mispronounced the word
18 "dessinateur," which was what was in my mind. Obviously there was a
19 problem of diction, that is of pronunciation of that word. So given this
20 error in diction on my part, it was the word "destinataire" which came
21 out and was included in the transcript as "dessinateur."

22 In order to understand this error, which if looked at in the
23 context in -- of my statement is nonsense, it would be appropriate to
24 read transcript 153-CONF-FRAET, page 58, from lines 5 to -- rather, lines
25 5 to 22. In lines 19 and 20, for example, I did not intend to say that

1 the Prosecutor of the International Criminal Court was the "destinataire"
2 or the person who drew the sketch. What I wanted to say instead was that
3 the Prosecutor of the International Criminal Court was the "dessinateur"
4 of the sketch. That is the person for whom the sketch was intended.

5 I made a point of pointing out this correction so that it should
6 be done in the transcript and notified to the Honourable Judges as well
7 as to the parties and participants.

8 Thank you very much, Mr. President, your Honours, for allowing me
9 to do that correction.

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
11 Professor Fofe. I do not think that there is any objection from anyone.

12 MR. GARCIA: (Interpretation) Mr. President, I think Mr. Fofe
13 tried to tell us what he wanted to say exactly at that time, so it is
14 actually an addition. And when he made that statement, I was trying to
15 find out who had actually drawn that sketch.

16 PRESIDING JUDGE COTTE: (Interpretation) Very well. So now we
17 are quite comfortable with the word that has been put there, that is
18 "destinataire." We all agree on that.

19 Good morning, Mr. Witness.

20 THE WITNESS: (Interpretation) Good morning.

21 PRESIDING JUDGE COTTE: (Interpretation) You can hear me well,
22 and that is very good. Witness, we are going to continue with the direct
23 examination of the Prosecutor.

24 Having contacted VWU, you -- yesterday, we agreed that in
25 principle, we will not simply have hearings of 50 minutes each, but we

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1 will look to the witness to indicate to us if he is tired. If he's
2 tired, then we can split up the hearing.

3 I've realised that you, Mr. Witness, are capable of giving
4 testimony for two straight hours, but if that is not the case, please
5 indicate to us. We are going to go to 11.00 a.m. without interruption,
6 but if you are really tired, please kindly inform us.

7 Mr. Prosecutor, you can now continue.

8 MR. GARCIA: (Interpretation) Thank you very much,
9 Mr. President, your Honours.

10 Questioned by Mr. Garcia: (Continued)

11 Q. (Interpretation) Good morning, Witness. Witness, can you hear
12 me?

13 A. Yes.

14 Q. Mr. Witness, today I will begin by asking you a certain number of
15 questions in order to elicit clarifications on what you have told us over
16 the past two days. You started by telling us in your testimony that the
17 FNI had several camps. You told us about the Lagura camp in which you
18 were. You also mentioned the Zumbe camp. Now, can you tell us about the
19 other camps of the FNI?

20 A. As far as I know, I knew Zumbe camp, Lagura camp. There were
21 other camps located in other villages outside of Zumbe. These were
22 villages located on hills.

23 THE INTERPRETER: And the Swahili interpreter did not hear the
24 end of the witness's answer.

25 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, the last

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1 word that you mentioned was not understood by the interpreter. You said
2 that there were other camps located on hills, and the interpreter did not
3 hear your last words. So please kindly repeat. Thank you.

4 THE WITNESS: (Interpretation) These camps were in the villages
5 not far away from Zumbe. These were villages that were very close to
6 Zumbe, and that is where the camps were located.

7 MR. GARCIA: (Interpretation)

8 Q. Can you tell us the names of those villages?

9 A. I believe I have already said that I no longer remember the names
10 of those villages.

11 Q. Do you need some time to reflect on that or would you prefer us
12 to continue?

13 A. I can give you the name of one village, but I cannot remember any
14 others, and that village is Kambutso. There was a camp in Kambutso.

15 Q. Can you tell us who was the commander in Kambutso?

16 A. I have no idea.

17 Q. In the course of your testimony I asked you some questions about
18 soldiers who had committed offences, and you talked to us about that.
19 You told us that some of the soldiers were sent to Zumbe while others
20 remained in Lagura camp. Can you tell us why some of those soldiers who
21 had committed offences were sent to Zumbe?

22 A. They were sent to Zumbe because that is where the largest camp
23 was located.

24 Q. Can you please elaborate on that? What do you mean by saying
25 that they were sent there because it was the biggest camp? Why was that

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1 important?

2 A. I believe I was clear. I said that the main camp was located in
3 Zumbe, and it was a camp that it was -- that was much larger and more
4 spacious.

5 Q. What I would like to know is why it was that certain soldiers
6 stayed in Lagura while others were sent to Zumbe. Was there any
7 particular reason why some of those soldiers were sent to Zumbe?

8 A. I have no idea, because the person who transported the soldiers
9 there was our superior, and I do not know why he took those decisions.

10 Q. And when you say that the person who was transporting the
11 soldiers was your superior, who are you referring to?

12 A. I believe that ever since I started my testimony I have been
13 telling you that our superior was Kute.

14 Q. Mr. Witness, are you able to tell us the nature of the offences
15 that were committed by those soldiers who were sent to Zumbe?

16 A. These were offences such as when soldiers shot at each other and
17 injured themselves. They would be sent to Zumbe for such offences.

18 Q. To your knowledge, when they arrived in Zumbe, who was
19 responsible for trying those soldiers, that is, if they were tried.

20 A. I can tell you what I saw. I do not know who was responsible for
21 trying those soldiers once they arrived in Zumbe. All I know is that
22 those soldiers were taken to Zumbe. They were transferred to Zumbe if
23 they shot at their fellow soldiers.

24 Q. Very well. I do understand that you have said you did not see
25 what happened to those soldiers in Zumbe, but did you hear anything about

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1 what happened to them there? Did you receive any information?

2 A. No.

3 Q. Witness, during your testimony you also told us that you had
4 fetishes on your person. Those fetishes made it possible for you to
5 distinguish between members of the various ethnic groups. Can you tell
6 us what those fetishes were? What were they precisely?

7 A. These fetishes involved making cuts our bodies, and we also had
8 amulets, and then there were other products that were put in our bath
9 water, the water that we used to take a bath.

10 Q. And regarding those fetishes, the amulets and the others that you
11 have referred to, when were they given to you?

12 A. We were given those articles, those fetishes, before we went to
13 battle. That is when our skin was cut. There were also some other small
14 items that I have forgotten.

15 Q. In order to be very clear, when you say that you received those
16 fetishes when you were about to go to war, are you referring to the
17 battle in Bogoro, the Bogoro attack, or other battles?

18 A. During all the other attacks. For example, if other groups came
19 to attack us or during the Bogoro attack, the same practices were
20 observed.

21 Q. Please explain to us further the circumstances under which you
22 received those fetishes. My first question would be: Who gave them to
23 you?

24 A. The person who gave us those fetishes was a person of goodwill.
25 The spirit of the village would send that person and say, "Go and give

1 the soldiers those fetishes." So there was no person in particular who
2 issued an order for an individual to go -- come and give us fetishes.

3 Q. Was that done in a group or were you alone when you received the
4 fetish?

5 A. In a group.

6 Q. What were you told about the fetishes?

7 A. They were speaking in their language, in Kilendu.

8 Q. Were you given any particular instructions as to how to use the
9 fetishes?

10 A. Yes.

11 Q. What were you told?

12 A. Well, they said the following: First of all, you mustn't take a
13 woman by force. Secondly, you must not pillage others' property. Those
14 were the two conditions. In addition, there was another condition which
15 was that you must not cross a stream or you must not put your foot in a
16 river.

17 Q. You mentioned cuts. What exactly do you mean by that?

18 A. On the body but also on the head and on all the joints of the
19 body they would make cuts.

20 Q. And what was the purpose of these cuts?

21 A. This would help us so that a bullet would not hit us. Even if
22 you were bombed, your body would not be hit.

23 MR. FOFE: (Interpretation) Your Honour, if I may.

24 I beg your pardon, Prosecutor.

25 Your Honour, there's something at that we have noted which is a

1 bit bizarre. Some of the passages in the witness's answers, once
2 transcribed on the screen, are then erased, and we've noticed three
3 examples of this, and I don't know whether we need to check that.
4 Perhaps we need to take a closer look right away, and perhaps we need to
5 request that the witness leave the courtroom for a few moments. It's
6 extremely important, your Honour.

7 PRESIDING JUDGE COTTE: (Interpretation) Well, Professor Fofe,
8 just a question. The passages that are removed that you're referring to,
9 are these matters of substance or is it the kind of thing that we see on
10 a very regular basis where the first rough draft, if you will, disappears
11 and then reappears with a more elaborate version? Is that what's
12 happening?

13 MR. FOFE: (Interpretation) No, your Honour. In fact, passages
14 are being removed, and we're afraid that, in fact, they be removed
15 definitively. So I think we need to check that.

16 PRESIDING JUDGE COTTE: (Interpretation) Fine. We will then
17 check that right away.

18 Security officers, would you please escort the two accused out of
19 the courtroom so that the witness can then withdraw.

20 Why are you worried about the witness being present in the
21 courtroom?

22 MR. FOFE: (Interpretation) Having thought about it, I think he
23 can stay in the courtroom. We can do the checking in the presence of the
24 witness.

25 PRESIDING JUDGE COTTE: (Interpretation) My two colleagues were

1 worried about that, and thank you for that answer.

2 Professor Fofe, can you please tell us the page numbers of the
3 three items that you're referring to so that we can all check the French
4 transcript.

5 MR. FOFE: (Interpretation) Thank you, Your Honour. We've
6 noticed the following: First of all, on page 7 --

7 PRESIDING JUDGE COTTE: (Interpretation) Yes.

8 MR. FOFE: (Interpretation) -- line 10.

9 PRESIDING JUDGE COTTE: (Interpretation) We're on page 7, line
10 10.

11 MR. FOFE: (Interpretation) The witness said the following, and
12 it was transcribed:

13 "During all the attacks --" this was in answer to a question.

14 "During all the attacks, for example when they came to attack us," and
15 those words do not appear in the French transcript. He said:

16 "For example, when they came to attack us."

17 PRESIDING JUDGE COTTE: (Interpretation) We have to be careful
18 not to overlap and follow the five-second rule.

19 So on line 10, it should state:

20 "During all the attacks or even during the Bogoro attack, the
21 same practices were applied."

22 And you have the impression that the phrase "when they came to
23 attack us" was removed.

24 MR. FOFE: (Interpretation) Yes.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you. That's the

1 first point. We will have to have the tape re-listened to in order to
2 check the transcript, to check that you are indeed correct.

3 MR. FOFE: (Interpretation) The second point is on the same
4 page, line 15, referring to fetishes in answer to a question of the
5 Prosecutor. The question was roughly: "What person gave you the
6 fetish?"

7 The witness said:

8 "It was no one who gave us the fetish."

9 PRESIDING JUDGE COTTE: (Interpretation) I'm reading from the
10 transcript. On line 15 it says: "There was someone of goodwill," and
11 then there's a passage that's cut out, and then there's a reference to
12 the fetish, but apparently there was a mixture in the transcript of the
13 question and the answer.

14 MR. FOFE: (Interpretation) Yes, your Honour. I may be
15 mistaken, but I believe the witness did not say it is -- and I quote:
16 "It is a person of goodwill." Now, I may be wrong. I may be wrong.

17 THE INTERPRETER: Two speakers at the same time. Unfortunately,
18 the interpreter cannot do both.

19 MR. FOFE: (Interpretation) I am certain, however, that what he
20 did say was "there was no one who gave us the fetish."

21 PRESIDING JUDGE COTTE: (Interpretation) On line 15 you believe
22 he did not say "There was no one, not a person in particular, who gave us
23 the fetish"?

24 MR. FOFE: (Interpretation) He stated -- the witness stated
25 that: "There is no one who gave us the fetish."

1 JUDGE DIARRA: (Interpretation) There seems to be some
2 confusion. I would like to ask the Prosecutor to restate the question
3 and have the witness answer. He's here with us, and the simplest
4 solution, to be clear, we don't want to try to interpret what he said or
5 didn't say, we can simply ask him to repeat his answer. We're all here.
6 We can listen to what he has to say and it will be transcribed.

7 JUDGE COTTE: (Interpretation) Yes. We shall do that, but let
8 us please finish listing the items that Professor Fofe wanted to point
9 out.

10 Mr. Kilenda, in a moment, please. The Prosecutor will be able to
11 repeat the question, but it is important that the transcription of what
12 the witness -- or, rather, the recording of what the witness said be
13 compared to the transcript. There's no question here of calling into
14 question anyone's intentions. I'm sure Professor Fofe is simply speaking
15 for reasons of clarification.

16 MR. KILENDA: (Interpretation) Yes. It's a question of
17 clarification. We're following at the same time. If there's an answer
18 given by the witness to the Prosecution's questions, the answer has been
19 transcribed and then a few moments later erased and replaced by something
20 that does not correspond to what the witness said. So Judge Diarra's
21 suggestion to have the question repeated to the witness said is a very
22 good idea, but that does not prevent us from -- well, when the Prosecutor
23 refers to conditions, were there any conditions when the fetishes were
24 given out, I believe that on page 10, line 22 and following, the witness
25 said, "One, do not take a woman by force. Two, do not pillage, and

1 three, do not cross a stream." And that was transcribed, and then right
2 after that the first point was removed regarding women. The first point
3 about not taking a woman by force was removed from the transcript. At
4 least that is what we saw. And indeed, the witness is here in the
5 courtroom so we can repeat the question.

6 Our concern, you see, is that the witness's answers not be
7 transcribed fully and faithfully.

8 MR. HOOPER: I'm sorry to take --

9 PRESIDING JUDGE COTTE: (Interpretation) Go ahead.

10 MR. HOOPER: I hope to assist.

11 (The Trial Chamber confers)

12 PRESIDING JUDGE COTTE: (Interpretation) I beg you pardon,
13 Mr. Hooper. Go ahead.

14 MR. HOOPER: I hope to assist, because obviously repeating the
15 question and obtaining an answer doesn't always provide necessarily
16 information that may have been given previously.

17 I can confirm that my handwritten note is -- as to when a fetish
18 was received was in all attacks when people came to attack us, the Bogoro
19 attack, the same practice was followed." So there's a reference in my
20 handwritten note to "people coming to attack us" but it's not in the
21 English transcript either.

22 In respect of the other matters, I understand that the witness
23 said in Swahili that it was the ghost of the village who provided the
24 fetish, or directed the giving of the fetish, the "l'espirit," the ghost
25 of the fetish, which doesn't appear, I think, in either the French or the

1 English translation.

2 In respect -- in respect of the last matter in terms of the
3 instructions, the three instructions that have been referred to remain in
4 the English transcript. In other words, "They said you must not take a
5 woman by force," that is in the English transcript, as is "You must not
6 pillage. You must not put your foot in a stream." So there's a
7 difference, in other words, between the transcriptions. Some of the
8 omissions that Professor Fofe's referred to, or the one omission, that
9 appears -- that is the same case in the English transcript, but in the
10 other examples it's more complete. And as I say, in addition to the
11 transcripts, I've received information which needs to be checked because
12 I don't know, and that is to the effect that the witness spoke of the
13 ghost of the village.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Hooper,
15 for that contribution.

16 Inasmuch as there is a certain amount of emotion here in this
17 discussion, in particular as regards the transcription of the answers
18 given by the witness, I would like to ask the Prosecutor who has taken
19 note of the three items that need to be checked, we're going to ask the
20 Prosecutor to check those points. However, we all know that court
21 reporting and interpretation are not exact sciences. We believe that the
22 interpreters, on the one hand, who are helping us, and the court
23 reporters, on the other hand, whose work depends on the interpreters, we
24 all know that they are working with the utmost professional --
25 professionalism, but at the same time, realtime court reporting cannot be

1 absolutely perfect right from the beginning, and I have to say that I
2 myself was not used to working with court reporters and transcripts, and
3 I've been following on the screen right from the start, and I've noticed
4 that often the first draft, if you will, is proximate, and then it's
5 improved upon and it becomes if not perfect but much better, because the
6 fact is we do not always express ourselves perfectly. As the day goes
7 along once it is corrected having listened to the recording, it becomes
8 the final transcript that we base our discussions on.

9 So you've put forward a number of questions. We're going to try
10 to clarify those, but if we were to go back over the entire transcript
11 and repeat all of the questions the whole case would last for eight
12 years, but we understand, of course, that Professor Fofe's team has
13 expressed valid concerns.

14 (The Trial Chamber confers)

15 PRESIDING JUDGE COTTE: (Interpretation) This is again another
16 opportunity to thank the interpreters and the court reporters who work
17 with us, and once we've thanked them, there's always a poison arrow, so
18 to speak, to remind them that we're extremely demanding indeed, and we --
19 given the three points that Professor Fofe has pointed out, we are indeed
20 very demanding as to the quality of the transcript, and we understand
21 that it cannot be absolutely perfect in the first draft, but with the
22 various correction procedures it can be perfected by the next day.

23 Prosecutor, you have taken note of the three points here.
24 Please -- well, Witness, you have heard this discussion. Please be very
25 careful to give precise answers so that they can be transcribed as

1 precisely as possible. All this discussion shows how very important your
2 testimony is. I'm sure you realise that already, but you understand it
3 even further now that you've heard this discussion.

4 So we will go back to the matter on page 8, and, Prosecutor,
5 would you ask the witness what kind of instructions were given so
6 that we be perfectly clear and that those instructions be transcribed
7 clearly.

8 MR. GARCIA: (Interpretation) If I may, your Honour, I
9 understand that -- well, if there are any problems, the Defence can
10 always take note of the problems and point them out to the Court Officer
11 so that we work in an even more efficient way. The only comment that I
12 would make, I of course cannot repeat all of my questions if there is a
13 word or a letter or something that disappears in the transcript.

14 PRESIDING JUDGE COTTE: (Interpretation) Yes, of course. Thank
15 you, Prosecutor, and thank you for your goodwill, and I want that word to
16 appear in the transcript.

17 There was a precise concern here, and that is how the Chamber
18 understood the comments made, and having expressed this concern enabled
19 us to remind the interpreters and the court reporters that we understand,
20 of course, the difficult working conditions but that we need them to be
21 extremely attentive, and I am certain that such matters will not be
22 repeated, and if that were to be the case, we would contact the
23 Court Officer in order to ascertain or, rather, to have the tapes
24 re-listened to to check the content of the transcript. This is indeed
25 something somewhat exceptional.

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1 Mr. Garcia.

2 MR. GARCIA: (Interpretation) Your Honour, let me just repeat
3 the questions the way I put them initially in order not to lead to any
4 mistakes on the part of the witness.

5 Q. Witness, we're going to repeat some of the questions in order to
6 clarify the answers for the members of the Chamber and the participants.
7 My first question is regarding the fetishes that you received. Could you
8 tell us when you received those fetishes.

9 A. I said when they came to attack us on the hill we received those
10 fetishes, or when we had to go fighting.

11 Q. Did you receive that kind of fetish before the Bogoro attack?

12 A. I believe I answered that question in saying the following:
13 Every time we were to go to fight, when we were attacked or when we
14 attacked others, each time, yes, we were given fetishes.

15 Q. Who was the person who gave you those fetishes?

16 A. Well, there was not a specific person who was in charge of giving
17 us the fetish. It was a person of goodwill, someone from the village who
18 was directed by the spirits who said he would come and give fetishes to
19 these young men. So he -- or, rather, these soldiers, and so he gave us
20 the fetish.

21 Q. And I'm going to ask you again the following question: You
22 referred to the conditions that accompanied the fetish. Can you repeat
23 those conditions, please?

24 A. Here are the conditions -- I followed your discussion, and this
25 is what I said: Amongst the conditions, first of all, do not pillage.

1 Do not take a woman by force. In other words, do not rape. Those were
2 the main conditions that were -- or the main rules that were given to us
3 before going off to combat, but otherwise during a different period there
4 were no particular conditions, but I think I'm being clear. Sometimes
5 there were conditions, clear conditions, that were given to us, that is,
6 not to take a woman by force and not to pillage, and on other occasions
7 there were not precise conditions given.

8 Q. Could you explain the last part of your answer where you said
9 that there were occasions where there were conditions and other occasions
10 where there were not conditions.

11 A. Yes. It's difficult for me to explain. Well, the condition is
12 related to the battle. For each battle there were conditions.

13 Q. Witness, when you state that the condition was linked to the
14 battle and that for each battle there were conditions, what exactly did
15 the conditions depend on?

16 A. The conditions were related to the fact that, first of all, if
17 you were going to fight in a village where there were only Hemas there
18 were specific conditions. And secondly, if you're going to a village
19 where there is a mixed population there would be other conditions. For
20 example, you would be told, "Do not pillage houses. Do not commit
21 atrocities on persons who are not Hema, only -- fight only against the
22 Hemas." Those were the conditions.

23 Q. When you were fighting against a village composed solely of
24 Hemas, what were the conditions -- or, rather, what were the orders that
25 you were given?

1 A. We were told to pillage the cows, the property. We were told to
2 do whatever we wanted. We had permission to do anything. But in other
3 places there were different conditions. We were told to pillage only
4 some groups of the population and not others.

5 Q. When you say you had free rein, you said you had the green light,
6 did that mean that you could kill civilians?

7 A. Yes. We killed civilians. When we went to a Hema village, we
8 didn't know that there were civilians. In fact, the families had weapons
9 at home. Even if the person was a civilian, they had weapons at home.

10 Q. And when you went to attack a village that was inhabited by Hemas
11 and other people of other ethnic origins, what were the orders you were
12 given in that case?

13 A. I think I already answered that question. I have just answered
14 that question.

15 Q. Who gave those conditions? Who gave those orders?

16 A. These conditions were given by the person who provided the
17 fetishes.

18 Q. Witness, we're going to change subject. During your testimony,
19 you spoke to us about the preparations for the attack on Bogoro. You
20 spoke to us about the fact that you had obtained weapons, munitions, and
21 also that -- you also spoke about -- there was an assembly before the
22 attack on Bogoro. So apart from these two preparatory elements, were
23 there any other preparations other than this concerning the attack on
24 Bogoro?

25 A. We did nothing to attack Bogoro previously. We didn't do

1 anything in advance.

2 Q. Were there parades before the attack on Bogoro, military parades?

3 A. Before the attack on Bogoro, we were all gathered together. We
4 were gathered together in one place, and we were told that we had to
5 attack Bogoro the next day, those of us who were in Lagura. Some of us
6 were standing up, some were sitting down. We discussed this, and we were
7 told that the next day we had to attack Bogoro.

8 Q. You stated during your testimony that when speaking about the
9 attack on Bogoro, "We went in in accordance with the plan that we were
10 given." This plan that you were given, were these verbal orders? Was
11 there a document? What type of plan are you talking about exactly?

12 A. No. It was a discussion, a verbal discussion. We knew that we
13 had to go down. It was shown the path that we had to follow. This was
14 stated orally.

15 Q. Where it concerns these paths that you had to follow, which paths
16 were they exactly?

17 A. I think I spoke about the different routes yesterday. We went by
18 Mayi Ya Franga. This was a route that my group and myself, we used. I
19 cannot tell you the other routes that other comrades used who were not
20 with us.

21 Q. Are you able to tell us how many different groups participated in
22 the attack on Bogoro from your camp?

23 A. It was a battalion that went to launch the attack.

24 If you would excuse me, I think I've just made a mistake. It was
25 not a battalion. If it was a battalion, then there would have been a

1 very high number of people. I think that there were about two companies.
2 We were two companies who went firstly. These two companies went below
3 Mayi Ya Franga.

4 Q. You say that there were two companies which went first of all,
5 and then who followed?

6 A. I can't know who followed afterwards. I have told you what
7 happened in terms of my group.

8 Q. Just a point of clarification, Witness. When you talk about Mayi
9 Ya Franga, what exactly is that? Is that a road? Is that a river? What
10 is that exactly?

11 A. It is a river, a stream, which runs along a road. When you go in
12 the direction of Kasenyi, you will see this stream on the right-hand
13 side.

14 Q. Witness, what was the strategy in the attack on Bogoro?

15 A. I think that I have answered this question yesterday. We even
16 spoke about the strategy. I said how we entered into the place and how
17 we took control of Bogoro. I think everybody noted what was said on this
18 subject.

19 Q. That's correct, but what was said with regards to the strategy in
20 the attack on Bogoro before the attack on Bogoro?

21 A. I think -- I think you'll have to ask your question again so I
22 can understand it better.

23 Q. You said during your testimony that Bogoro was surrounded. Is
24 that correct?

25 A. Yes.

1 Q. So when, with regards to this strategy, did you know that you
2 were going to surround Bogoro before the attack?

3 A. We followed the indications of the operation commander. We
4 followed the instructions of the operation commander. The operations
5 commander guided us, and therefore we follow his recommendations and we
6 surrounded Bogoro.

7 Q. And what were the recommendations?

8 A. I know that the commander who was leading us there was receiving
9 orders from the commander of operations. So he guided us. I don't know
10 how he communicated with his commander, but he was making gestures to
11 show us how to launch the attack. If he indicated right, you went right.
12 If he indicated left, you went left.

13 Q. How did you know that Bogoro had been surrounded?

14 A. I knew that Bogoro had been surrounded when we launched the
15 attack. When I arrived, I didn't know that other members of the group
16 were on the other side. My comrades said that the -- that our troops
17 were on the other side. I didn't see them. My comrades told me that.
18 And it was only after the battle that I noted that indeed other comrades
19 had been on the other side of Bogoro in order to launch the same attack.

20 Q. When you mentioned the other side of Bogoro, what place are you
21 talking about exactly?

22 A. I didn't know who had closed the road from Bunia. There were
23 also other people who had blocked the road from Gety. Ourselves, we
24 occupied the road that went towards Kasenyi.

25 Q. Did you learn who closed the road, the road that came from Bunia?

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1 A. I know that the people in my group, the FNI, had held the route
2 that went through Kasenyi. Others had come from Zumbe and Bunia. And
3 everybody knew where they had to go through. I can't tell you precisely
4 what our -- what other route was taken by other members of my group.

5 Q. To your knowledge, Witness, who blocked the road from Gety?

6 A. I don't know what to tell you. Next to Gety there were FRPI
7 soldiers. Next to the hill there was Zumbe. On one side there was the
8 FNI, on the other the FRPI, and below the UPC. In Kasenyi and in Bunia,
9 there were UPC soldiers. I couldn't tell you who blocked the Gety road.
10 I couldn't give you information on the place where my group was.

11 Q. Witness, before the attack on Bogoro had you seen commanders
12 coming from outside, outside the -- or did you see them at Lagura camp?

13 A. I don't know what the commanders were doing. I could see a
14 commander. He went through, but I didn't know what that commander was
15 doing. We were just soldiers. I didn't spend my time trying to learn
16 what the different commanders do -- did when they were coming through.

17 Q. Who were the commanders who came through to Lagura? I don't know
18 what -- I don't need to know what they did. I just am asking who these
19 commanders were who came to the Lagura camp.

20 A. They were commanders from Zumbe village, a village quite far away
21 but which was at a certain height. These commanders came through the
22 village.

23 Q. Who were these commanders?

24 A. There were a lot of Lendu commanders who were in the village, but
25 I don't know their names. I was in Lagura. We were part of the same

1 group, but it's difficult to know what their names were.

2 Q. You mentioned that some came from Zumbe. Are you able to
3 remember the name of the commander from Zumbe who was in -- or the
4 commanders who came from Zumbe who were in Lagura camp before the attack
5 on Bogoro?

6 A. I only saw the operator Mbulo who had come from Zumbe. He had
7 come to Lagura.

8 Q. Were there FRPI commanders who came to Lagura camp before the
9 attack on Bogoro?

10 A. I did not see any.

11 Q. Witness, I just want to go back to something that you mentioned a
12 short while ago. We said that the commander who guided you on the attack
13 on Bogoro, he was receiving orders from the operational commander. Who
14 was that exactly?

15 A. Kute was, firstly, the commander of operations, but he was also
16 our commander, and the person who was guiding us at a certain time was
17 receiving orders from Kute.

18 (Prosecution counsel confer)

19 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, ladies and
20 gentlemen of the Defence team, apparently there's a technical problem
21 which is disturbing the good understanding of the interpreters in Swahili
22 and Lingala. There is a very annoying hum on the channel. This has to
23 be repaired in order for them to work properly. They can't do so
24 otherwise. We're now going to have a break for 30 minutes until 11.00.
25 Then we will start our hearing again from 11.00 to 12.30, for one hour

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1 and a half. We will break for 15 minutes to 12.45, and then we will take
2 it from 12.45 to 1.30, for another 45 minutes.

3 I'm sorry for this problem. So we're going to have a half-hour
4 break now. We will be back from 11.00 to 12.30. We will suspend 15
5 minutes, and then we'll go from 12.45 to 1.30. This will make it
6 possible for the Prosecutor to continue under good conditions, because
7 the conditions are no longer satisfactory.

8 Security officers, please could you escort out our two accused
9 from the courtroom.

10 (The accused withdrew)

11 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please
12 take us into closed session.

13 (Closed session at 10.28 a.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Open session at 10.29 a.m.)

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

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
2 Court Officer.

3 The hearing is therefore adjourned for 30 minutes, and
4 afterwards, we will come back.

5 Recess taken at 10.33 a.m.

6 On resuming at 11.11 a.m.

7 (Open session)

8 COURT USHER: All rise.

9 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.

10 I will be very brief, because the Swahili Lingala interpretation
11 booths are still facing the same difficulties, and apparently these
12 difficulties cannot be resolved within the space of the coming hour or
13 hour and a half, so this compels us to adjourn this hearing, and I'm
14 sorry about that, and we will resume only tomorrow. I am sure that this
15 will mess up your schedule, and this will chop up the direct examination
16 of the Prosecutor.

17 I do not have any technical solution for this problem, and I
18 believe it is also a problem for us, the Bench, and this is because we
19 wish our proceedings to be regular. So there cannot be interpretation.
20 The accused persons are here with us, and I believe the unit will explain
21 the situation to the witness.

22 We will meet here again tomorrow at 2.00 p.m. as planned and then
23 on Friday.

24 The hearing is hereby adjourned.

25 The hearing ends at 11.16 a.m.