

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, 17 March 2010  
10 The hearing starts at 9.32 a.m.  
11 (Closed session)  
12 (Expunged)  
13 (Expunged)  
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24 (Expunged)  
25 (Open session at 9.34 a.m.)

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

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

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

5 Good morning, Witness.

6 THE WITNESS: (Interpretation) Good morning.

7 PRESIDING JUDGE COTTE: (Interpretation) I see that you can hear  
8 me well. We are going to continue Mr. David Hooper's cross-examination,  
9 who is the Defence counsel for Mr. Germain Katanga, for one and a half  
10 hours. Then we shall have a break.

11 Mr. Hooper, please proceed.

12 MR. HOOPER: Thank you, Mr. President.

13 Questioned by Mr. Hooper: (Continued)

14 Q. Good morning, Mr. Witness.

15 A. Good morning.

16 Q. Now, you'll remember yesterday evening we were discussing your --  
17 your escape from the camp, and you told us how at approximately 11.00  
18 that morning the camp was overrun, and you made your way towards Waka  
19 hill; is that right?

20 A. Yes, that's correct.

21 Q. And that when you got to Waka hill, as I understand your  
22 evidence, you climbed Waka hill a bit and then you turned to your right  
23 and continued going. Is that right or not?

24 A. Yes, that's correct.

25 MR. HOOPER: I didn't get an English translation, but the answer

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1 was yes. Can the interpreter confirm the answer was "yes" in the  
2 transcript, please.

3 THE INTERPRETER: Yes. The answer was, "Yes, that's correct."

4 PRESIDING JUDGE COTTE: (Interpretation) In any case, in French  
5 we did hear "That's correct."

6 MR. HOOPER: Very well. I may not have had my interpretation on.  
7 I'm sorry. Very well.

8 Q. And then you were provided with a sketch plan, and you drew your  
9 route, and on that route we could see that you'd drawn a line, a red  
10 line, that took you back right into Bogoro. I'm wondering if you can be  
11 shown in some form that particular sketch. I've got it in hard copy  
12 here, actually printed out. That might be the easiest, but we can bring  
13 it up on our screens as well. So I'm going to pass to you what otherwise  
14 you may see on your screen, and we'll all remember it well, and if we  
15 need to look at it on the screen -- yes, please.

16 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could we  
17 have the drawing on the screen, please.

18 COURT OFFICER: (Interpretation) Yes, your Honour. I'm going to  
19 give you the reference, which is EVD-OTP-00052. The document is a public  
20 document.

21 MR. HOOPER: Thank you very much for the reference.

22 Q. So what you're looking on the piece of paper is what also we have  
23 on the screen, Mr. Witness, and you have it in front of you.

24 COURT OFFICER: (Interpretation) In order to see the document,  
25 you need to press "PC 1."

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1 MR. HOOPER: So you -- I can't see but -- with the Kleenex boxes  
2 and things. The witness has got the document? Thank you very much  
3 indeed.

4 Q. So looking at that, you'll see that your red line traces that  
5 route from the institute, the Bogoro Institute, up to Bogoro hill and  
6 then climbs -- sorry, Waka hill, and then climbs Waka a little bit and  
7 then turns right and makes its way directly back to Bogoro itself.

8 Now, all I want to know is are you saying that you made that  
9 journey without stopping, all that journey, or did you stop somewhere?

10 A. I'm going to respond to you. You see the path that goes from the  
11 camp up to the mountain. You see that red line. That is the itinerary  
12 that I followed. I went to the end and then I rested, and then I took  
13 the same route again.

14 Q. Well, I'm afraid that -- I'm afraid I'm still having difficulty  
15 understanding. Where did you rest? Did you can rest anywhere along the  
16 line, your red line? Did you rest anywhere?

17 A. I left the camp, and I went to the mountain. Please listen  
18 carefully. I left the military camp, and I went to up to the mountain.  
19 You see the itinerary that I followed. It's a long road, a long path  
20 that goes to Bunia, and at the end, at the end of the red line, that's  
21 where I stopped to rest, and then I went back in the opposite direction.

22 Q. Now, if you look at that plan in front of you, the end of the red  
23 line you've drawn is on the main road in Bogoro almost. So when you say  
24 the end of the red line, is that where you mean, or did you go further  
25 along the road to Bunia than is indicated on the sketch? There's a bit

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1 of confusion here, you see, so if you could clarify it it would be very  
2 helpful for us. Thank you.

3 MR. DUTERTRE: (Interpretation) I believe that the witness has  
4 answered the question clearly can twice and the answer was clear.

5 PRESIDING JUDGE COTTE: (Interpretation) Well, if we could have  
6 additional information, I do believe that would be useful.

7 Witness, on this drawing, on this map that you drew yesterday,  
8 you stopped the red line at a precise place. What we would like to know,  
9 and this is important -- just a moment, please. Let me finish. Is the  
10 end of the red line that you drew the place where you stopped to rest and  
11 where you began to go back, or is the end of the red line just an  
12 indication?

13 THE WITNESS: (Interpretation) Yes, I've understood.

14 PRESIDING JUDGE COTTE: (Interpretation) If you would be so kind  
15 as to answer this last question, which will not be repeated again. Does  
16 this red line that you have drawn on the map yesterday, does the end of  
17 this red line correspond to the place where you stopped to rest, as you  
18 said, before you then backtracked? That is what we would like to  
19 understand, no more. Thank you very much.

20 THE WITNESS: (Interpretation) Yes. That's exactly how things  
21 happened.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,  
23 Witness.

24 Mr. Hooper, please proceed.

25 MR. HOOPER:

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1 Q. Right. So now I understand you, thank you very much, to say that  
2 you left the camp. You ran towards Waka hill. You carried on running,  
3 turning right, and running back towards Bogoro, almost reaching the --  
4 the main Bogoro-Bunia road there. Having got there, you turned back.  
5 And where did you go when you turned back? Did you go back to Waka?

6 A. When I turned back, I didn't go to Waka because there were mines.  
7 I went close to Bogoro.

8 Q. You see, when you were interviewed at some length by the  
9 Prosecution back in 2008, you referred several times to your running away  
10 and eventually climbing a tree, and the tree became your point of refuge,  
11 and on several occasions you indicate for -- that that tree or that point  
12 was 4 kilometres. For example, in the fifth transcript, at line 471,  
13 you're asked whether you could see what was happening in Bogoro and you  
14 said:

15 "Yes, I saw it because I ran for 4 kilometres up the mountain,  
16 and then had I hid myself there, and I climbed up a tree, and I looked  
17 back, and I saw what was going on in Bogoro. I stayed the night there,  
18 and at 10.00 in the morning, I went on to Bunia."

19 So let me ask you this: Did you run for 4 kilometres and then  
20 climb a tree in which you spent the night?

21 A. Yes. This is what happened: I didn't run for 4 kilometres. I  
22 went further than 4 kilometres, and then I went back to about 4  
23 kilometres distance, and I climbed a tree, and I tried to observe without  
24 being able to. So I came down, and I stayed near a mountain. And that's  
25 how I was able to see the destruction of houses, the killing of people.

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1 And I moved again and the trees were behind me. So at that point I was  
2 about 4 kilometres from Bogoro, near the trees.

3 Q. Right. So -- very well. And indeed, later in your interview the  
4 interviewers obviously go back on this, and in the seventh interview, at  
5 line 132, you say:

6 "It was just there, a little bit up the mountain, and I was in a  
7 tree looking back. I guess it was about 4 kilometres from the way I  
8 could hear people and see people. I stayed there the night. The next  
9 morning I left."

10 And later, at line 184, you say:

11 "The 4 kilometres was the tree where I was sleeping, but then I  
12 would go out and go closer to look at what was going on. I was even  
13 grazed by a bullet on my head, here."

14 Now, would I be right in saying that this tree on which you spent  
15 the night would not be on this map that we look at, the sketch that you  
16 drew on? It would be, perhaps, more up towards Mbogu, up on the road  
17 towards Bunia. Would that be right?

18 A. It's the road that goes to Mbogu when you're going to Bogoro.  
19 That's where there was shooting. And I described the place. It's close  
20 to the mountain, in the woods, and that's where I was hit by a bullet. I  
21 was grazed by a bullet. I wasn't injured seriously, but I was grazed by  
22 a bullet.

23 Q. And the road to -- the road to Mbogu -- Mbogu is a river, isn't  
24 it, that actually crosses the Bogoro-Bunia road; is that right?

25 A. Yes.

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1 Q. So at this point you're clearly right off the sketch plan that we  
2 have, and -- now, I'd like to ask you, if I may, in fact, about a subject  
3 that you just raised yourself, mines. Was the UPC camp protected by  
4 mines?

5 A. You're talking about what kind of mines, sir? Could you repeat  
6 your question?

7 Q. Well, by "mines" I mean an explosive device which is set off by a  
8 person or a vehicle putting pressure on it, stepping on it or driving  
9 over it, and if you step on a mine it goes bang and probably takes you  
10 with it. That sort of mine.

11 Now, were there mines at all around the UPC camp?

12 MR. DUTERTRE: (Interpretation) Your Honour, to be perfectly  
13 fair with the witness, a moment ago when the witness referred to the  
14 terrain being mined, he was referring to the Waka Mountain. So I think  
15 that if we're going to be discussing land-mines and mines again, we have  
16 to be perfectly clear to explain to the witness what you're referring to.

17 MR. HOOPER: Very well. But some interruptions confuse rather  
18 than clarify, and that may have been one of them. The witness can answer  
19 the question, because he's been asked a specific question.

20 Q. Mr. Witness, were there mines --

21 MR. HOOPER: Sorry, your Honour, Mr. President.

22 PRESIDING JUDGE COTTE: (Interpretation) What I believe I  
23 understood was that during the direct examination there was mention made  
24 of mines that were near the Bogoro Institute. Am I correct,  
25 Mr. Dutertre?

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1 MR. DUTERTRE: (Interpretation) No. During Mr. Hooper's  
2 cross-examination, in answer to one of the questions that was put to the  
3 witness, the witness responded that he didn't go toward the Waka Mountain  
4 because it was mined. It was not in relationship to the institute that  
5 land-mines were mentioned, so I wanted to avoid there being any  
6 confusion.

7 PRESIDING JUDGE COTTE: (Interpretation) Yes. Well, I believe  
8 we can still continue and obtain an answer on this question from the  
9 witness.

10 You may proceed.

11 MR. HOOPER:

12 Q. So -- so let me ask a general question then on mines. Where were  
13 the mines, and by that I mean exploding mines. Where were they?

14 A. I didn't see any mines.

15 Q. All right. Were there mines in the vicinity of Waka hill, for  
16 example?

17 A. Personally, I didn't see any mines.

18 Q. Well, to your knowledge were mines used by the UPC? Did they  
19 mine any of the areas as a defence?

20 A. In Bogoro we did not use any mines, and I don't know anything  
21 about mines.

22 Q. Very well. Now, you mentioned a man called -- a colleague of  
23 yours who had stayed out in the bush for a week, and in your statement  
24 refer to him having to eat soil to survive, and you meet up with him  
25 later and that he's now, thankfully, alive and well and living in

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1 (Expunged)

2 I want to ask you about that man whose name is (Expunged)

3 (Expunged)

4 MR. DUTERTRE: (Interpretation) We need to go into closed

5 session for that because it could identify the person.

6 PRESIDING JUDGE COTTE: (Interpretation) Private session, Madam

7 Court Officer.

8 (Private session at 9.56 a.m.)

9 (Expunged)

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Page 11 Expunged – Private Session

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Page 12 Expunged – Private Session

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Witness: Witness P-0323 (Resumed) (Private Session)  
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Page 15 Expunged – Private Session

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12 (Open session at 10.14 a.m.)

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

14 Mr. President.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

16 Now, Professor Fofe, you can begin.

17 MR. FOFE: (Interpretation) Thank you, Mr. President. Good

18 morning, Mr. President. Good morning, your Honours.

19 Q. Good morning, Mr. Witness.

20 A. Good morning, Counsel.

21 Q. My name is Jean-Pierre Fofe. I am co-counsel in the Defence team

22 of Mathieu Ngudjolo. I'm going to ask you a few questions which should

23 enable you to provide further clarification to the Honourable Judges.

24 And as the President has just reminded you, I am asking you to speak

25 slowly to allow for interpretation, translation, and transcription of

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1 your answers, and I thank you in advance for that.

2 My first question confirms -- concerns your testimony on the 15th  
3 of March, 2010, transcript number 116, page 70, line 11.

4 Mr. Witness, in answer to a question by the Prosecutor, you  
5 stated as follows, and I quote you:

6 "I became a soldier when the UPC carried out military activities.  
7 And I repeat: I became a soldier at the time that the UPC carried out  
8 military activities."

9 My question is as follows: What were those military activities  
10 carried out by the UPC?

11 A. The military activities that took place where?

12 Q. To your knowledge, Mr. Witness, because that was your testimony,  
13 according to your knowledge what were the military activities carried out  
14 by the UPC at the time that you became a UPC soldier?

15 A. It is necessary to know the war in which the UPC participated and  
16 then ask yourself whether it was the UPC that attacked or whether it was  
17 the UPC that was attacked. This is what we have to begin by clarifying.

18 Q. Maybe you can tell us about the attacks carried out by the UPC at  
19 that time.

20 A. We have to know where the UPC launched or would have launched any  
21 such attack.

22 Q. Very well. I will come back to this later.

23 Still in reference to transcript number 116, hearing of the 15th  
24 of March, 2010, same page, 70, lines 15 to 16. The Prosecutor also  
25 referred you to the date of the 9th of August, 2010 -- or, rather, 2002.

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1 The day on which the Lompondo government was driven out of Bunia.

2 Mr. Witness, you stated that you became a soldier of the UPC  
3 after the departure of Lompondo from Bunia. That is what you said on  
4 line 19 of the same page. My question to you is as follows --

5 MR. DUTERTRE: (Interpretation) I'm sorry, Counsel. I have a  
6 problem with your reference, page 70. I cannot locate that reference on  
7 the transcript.

8 MR. FOFE: (Interpretation) Transcript 116, page 70, lines 15  
9 and 16 and line 19.

10 MR. DUTERTRE: (Interpretation) That means it is the French  
11 transcript?

12 MR. FOFE: (Interpretation) Of course it is the French  
13 transcript. We are working with the French version of the transcript.

14 PRESIDING JUDGE COTTE: (Interpretation) Please proceed,  
15 Professor Fofe.

16 MR. FOFE: (Interpretation) Thank you, Mr. President.

17 Q. Witness, my question is this: You are well aware that  
18 Governor Lompondo was guarded by soldiers of the APC; isn't that correct?

19 A. That is correct.

20 Q. Which was the army that drove Lompondo and the APC soldiers out  
21 of Bunia?

22 A. What I can tell you is this: I was not in Bunia when Lompondo  
23 was chased out, so I cannot answer your question. I was in Bogoro at  
24 that time.

25 Q. And I am putting it to you that it was the UPC that drove

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1 Lompondo and the APC out of Bunia. You know that, don't you?

2 A. I do not know.

3 Q. Based on what you heard, who drove out Lompondo?

4 A. I cannot tell you lies. I do not know who chased out Lompondo.

5 Q. When Lompondo was driven out of Bunia, where did he take refuge?

6 A. I do not know.

7 Q. Do you know to which politico-military movement Lompondo  
8 belonged?

9 A. These are things that happened in Bunia. I was in Bogoro. The  
10 distance between the two locations is 25 kilometres, and so I do not  
11 know.

12 Q. Mr. Witness, you are well aware that the APC was the army of the  
13 RCD-K/ML of Mbusa Nyamwisi; isn't that correct?

14 A. I saw this written on the military uniforms. It was on those  
15 uniforms that I saw "APC" written.

16 Q. Mr. Witness, do you know that there were Ngitis and Lendus in the  
17 APC?

18 A. I did not quite understand you. Can you please repeat your  
19 question?

20 Q. Yes, I will repeat. Do you know that there are Ngitis and Lendus  
21 in the APC?

22 A. Amongst the members of the APC, I am asking myself the question  
23 how is it possible to find Ngitis and Lendus?

24 Q. I will now refer to transcript number 117, hearing of the 16th of  
25 March, 2010, French version, page 6, line 12.

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1 Mr. Witness, this was yesterday, Tuesday, 16th of March, 2010.

2 In answer to a question by the Prosecutor, you stated that the Ugandans  
3 left Bogoro around 2002. You pointed out, and I quote you:

4 "Lompondo was driven out before and after the UPDF left Bogoro."

5 Line 7. Page 7, line 7 of the same transcript.

6 This is my question: To your knowledge, Mr. Witness, how did the  
7 Ugandans leave Bogoro? Were they driven out by the UPC?

8 A. The Ugandans were never driven out of Bogoro by the UPC. The  
9 Ugandans had their own agenda, which consisted of returning home to  
10 Uganda. They left Bogoro, and the UPC army came and occupied Bogoro  
11 because Bogoro could not remain empty. The population of Bogoro could  
12 not stay without security.

13 Q. At that time, when Lompondo was driven out of Bunia and when the  
14 UPDF had left Bogoro, in terms of the relations between the UPC and the  
15 UPDF, were they good or were they bad?

16 A. There was a good relationship.

17 Q. Still referring to transcript 117, page 62, line 18 -- lines 18  
18 to 23.

19 Witness, yesterday in answer to a question of Counsel Hooper, you  
20 stated that after your military training, which lasted for three months  
21 in Mandro, you were sent to Bogoro.

22 Without too much detail, just by way of an estimate, when  
23 approximately did you arrive in Bogoro after your training as a UPC  
24 soldier? When was that approximately?

25 A. You know, with the estimations you can make mistakes. When we

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1 left Mandro, we went directly to Bogoro.

2 Q. You can't remember approximately when it was, what year, in what  
3 year it was?

4 A. I didn't manage to retain the years. The only date that I can  
5 remember is my date of birth.

6 Q. Thank you very much. Before the war in Bogoro, 24th of February,  
7 2003, what were the ethnic -- what were the different ethnic groups  
8 present in Bogoro among the civil population?

9 A. There were several different ethnic groups in Bogoro. There were  
10 Lendu. There were -- those who weren't in Bogoro, rather, were the Lendu  
11 and the Ngiti, but the other ethnic groups were there in Bogoro.

12 Q. Could you try to state the other different ethnic groups who  
13 lived in Bogoro before the war of the 24th of February, 2003.

14 A. Yes. There were the Bira, Lulu. They were present in Bogoro.  
15 These were the ethnic groups with which we lived in Bogoro.

16 Q. Witness, as you were in Bogoro -- when you were in Bogoro, did  
17 you take part in the attack which was launched by the UPC in Katonie on  
18 the 9th of January, 2001?

19 A. I don't remember this attack.

20 Q. Did you -- have you never heard people speak about the attack on  
21 Katonie by the UPC?

22 A. The people who went to fight in Katonie were not the UPC forces.  
23 The Ugandans had left Bogoro, and before the Lendu came to fight Bogoro  
24 when the Ugandans were there. So the Ugandans counter-attacked, and the  
25 fighting went all the way to Katonie. And that's why I say it wasn't the

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1 UPC. It was more like the UPDF fighting in Katonie.

2 Q. At the time the UPDF was allied with the UPC; is that correct?

3 MR. DUTERTRE: (Interpretation) I was wondering if  
4 Professor Fofe could establish the date of the creation of the UPC before  
5 talking about the alliance between the UPDF and the UPC.

6 MR. FOFE: (Interpretation) You really think that it's  
7 appropriate to establish this with this witness?

8 PRESIDING JUDGE COTTE: (Interpretation) We note that with  
9 regards to the issue of dates, there is clearly difficulty. The witness  
10 really has difficulties. If Professor Fofe is able to give this  
11 clarification and if he can facilitate certain answers from the witness,  
12 why not? The most important thing is that there are answers with regards  
13 to the strategy carried out by the Defence of Ngudjolo but that they get  
14 answers with regards to the link that might have existed at the time  
15 between the UPDF and the UPC.

16 So continue, Professor Fofe.

17 MR. FOFE: (Interpretation) Thank you, Your Honour.

18 Q. Yes, Witness. My last question is as follows: You know well  
19 that at this time the UPDF was allied to the UPC. UPC and UPDF were  
20 friendly forces.

21 A. At this time, UPC was not yet in Bogoro. At this time, the  
22 Ugandans fought with the Lendu in Katonie, so there was a counter-attack.  
23 The Ugandans attacked Katonie, and the Lendu pushed them back and vice  
24 versa. So there was no relationship of alliance between the UPC and the  
25 Ugandans, because the UPC was not yet present in Bogoro.

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1 Q. Thank you, Witness. Now, as a UPC soldier, what were the attacks  
2 launched by the UPC in which you participated? Apart from the fighting  
3 in Bogoro, what were the attacks launched by the UPC in which you  
4 participated as a UPC soldier?

5 A. The attack of the UPC against the Lendu in Bogoro, the Lendu  
6 attacked us at 5.00 in the morning. We were used to pushing them back to  
7 their own home area. They attacked us and they counter-attacked. We  
8 never attacked the Lendu in their homes. It was them who came to attack  
9 us in Bogoro every time.

10 Q. I am now going to refer to your statement before the  
11 investigators of the Prosecutor, and here I'm referring to the document  
12 DRC-OTP-1022-41 -- 0041, the 10th of August, 2008. Page 13, line 430 and  
13 432.

14 Witness, you stated before the investigators of the Prosecutor:

15 "We were there in Bogoro, and we attempted to sell tobacco,  
16 anything, because there wasn't any real work to do."

17 My question is, therefore, as follows: When you say "we," does  
18 that mean that you were numerous, you UPC soldiers in Katonie, that you  
19 had small jobs, that you had work as small traders?

20 A. Follow me: I was an inhabitant of Bogoro. I lived in Bogoro,  
21 and due to the fact that I was a soldier in this place, I had personal  
22 aptitudes in addition to doing other work in that place. As an  
23 inhabitant of Bogoro, I knew how to conduct a small business in Bogoro.  
24 You could be a soldier, but at the same time you could also deal with  
25 your own affairs. I'm not saying that all the soldiers had small jobs,

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1 but all of them were able to run their own lives.

2 Q. Thank you very much. And among your colleagues in the UPC who  
3 were also natives, inhabitants of Bogoro, were there others who did the  
4 same as you, who also had small jobs such as yourself?

5 A. No. Listen, it's difficult to know the private life of all  
6 individuals. Everybody had their own private life. Not everybody  
7 carried out the same type of activity. Everybody had their own personal  
8 business, so it's difficult to know the depth of the personal life of  
9 each and everyone.

10 Q. Referring to the same document, page 7, line 225 to 233.

11 Witness, in your statement before the Prosecution investigators,  
12 speaking about the attack on Bogoro, the 24th of February, 2003, you  
13 stated the following, and here I quote you:

14 "This time there were numerous tribes: There were Ugandans,  
15 there were the APC, and there were the FAC. All these groups were mixed  
16 with the Lendu, and they destroyed Bogoro."

17 Further, later in the document, the same document but this time  
18 finishing with 0043, on page 6, line 123 -- 183, rather, you added,  
19 Witness, that you recognised the FAC due to the Lingala language and  
20 their clothing.

21 My question is as follows: Among the fighters who attacked  
22 Bogoro on the 24th of February, 2003, were there FAC soldiers, Force  
23 Armees Congolaises, Congolese Armed Forces; is that correct?

24 A. Yes.

25 Q. And you know, Witness, that the FAC, Congolese Armed Forces, was

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1 the army of the legitimate Kinshasa government; is that not correct?

2 A. I don't know. I saw them. I don't know what type of alliance  
3 there was between the Lendu.

4 Q. Thank you, Witness. Do you know that there was -- there is in  
5 the Congolese Armed Forces Ngiti and Lendus?

6 A. Listen, I was a fighter, and I saw the fighting. I saw the  
7 intensity of the fighting with my own eyes. I saw military uniform with  
8 writing "FAC" on it. I knew they were from the Lendu ethnic group, but I  
9 saw "FAC." They belonged to the APC, but I saw them with my own eyes.  
10 They were Lendus. They had come to fight us. A Lendu, Ngiti, APC  
11 forces, FAC forces, all these people, were they in military uniform of  
12 the APC or not? That's the question I would ask you.

13 Q. Thank you for your answer. I cannot answer your question,  
14 because I am the one who is asking the questions.

15 Referring to the same document which finishes with 0043, page 3,  
16 line 100. Witness, you stated that during this attack on Bogoro of the  
17 24th of February, 2003, you recognised Ugandans by their specific  
18 uniform, and you stated, and here I quote you, I quote:

19 "We captured this Ugandan, and he explained to us. He said that  
20 they had a plan to attack Bogoro, and it's because of that that he fled.  
21 He stayed with us for approximately one month, and afterwards they came  
22 to attack Bogoro."

23 That is exactly what happened. Is that not correct?

24 A. Yes, that is correct.

25 Q. Thank you. And you have confirmed in transcript 110 -- 117, page

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1 5, lines 18 to 19. You have confirmed that. Thank you very much.

2 Witness, can you confirm to us that the commander, Germain, of  
3 the UPC, your battalion commander in Bogoro, was dead at the time of the  
4 attack on Bogoro, 24th of February, 2003?

5 A. Yes. He was already dead.

6 Q. Other than Commander Germain, your battalion commander, what --  
7 or who were the other commanders present in Bogoro at the time of this  
8 attack?

9 A. After -- there were several commanders after him, but I don't  
10 remember their names. Some of them are already dead, and it's difficult  
11 to remember their names.

12 Q. Referring to the document finishing 0041, page 21, line 708. At  
13 the same time, transcript 117. This is the hearing of the 16th of March,  
14 2010, page 2, line 24.

15 Witness, you stated before the investigators of the Prosecutor  
16 that you had a organised structure in Bogoro, and here before the  
17 Honourable Bench, you confirmed that there was a battalion of the UPC in  
18 Bogoro. My question is as follows: How was this battalion organised or  
19 structured, this UPC battalion in Bogoro?

20 To be more clear was there a company, a platoon, et cetera, et  
21 cetera? How was this battalion organised?

22 A. All the company was in -- well, you had a company in the camp as  
23 well as different platoons.

24 Q. You were part of which company yourself?

25 A. I was a member of the 1st Company.

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1 Q. Who was the commander of your company?

2 MR. DUTERTRE: (Interpretation) I don't know if Professor Fofe  
3 wants to go into closed session for this point which could identify  
4 someone.

5 PRESIDING JUDGE COTTE: (Interpretation) Please let's go, then,  
6 into private session for this, and it would be good -- we don't have much  
7 time. It would be good if the witness could answer this question.

8 Professor Fofe, we are in private session. You can give the name  
9 of your commander. Are we in private session yet? Not yet.

10 (Private session at 10.55 a.m.)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

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8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Closed session at 10.58 a.m.)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Open session at 10.59 a.m.)

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

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1 Honour.

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

4 The hearing is, therefore, suspended. We will be back at 11.30.

5 Recess taken at 11.01 a.m.

6 On resuming at 11.34 a.m.

7 (Closed session)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Open session at 11.35 a.m.)

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

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

18 Witness, we are going to continue. Can you hear me well?

19 THE INTERPRETER: Your Honour, the witness's microphone was not  
20 on, but he did say, "Yes."

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

22 Professor Fofe, you may proceed for your cross-examination.

23 MR. FOFE: (Interpretation) Thank you, your Honour.

24 Q. Good morning again, Witness.

25 A. Good morning.

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1 Q. We are going to continue our discussion, and during the next  
2 seven questions to come I'm going to referring to the document  
3 DRC-OTP-1022-0042, dated the 10th of August, 2008. As I said, for the  
4 next seven questions. The next question refers to page 9, line 314 to  
5 316.

6 Witness, before the investigators of the OTP you declared as  
7 follows, and I quote you:

8 "We were all at the camp. The soldiers and the population were  
9 at the camp. We went to get them, that means the population, and we  
10 brought them together there at the barracks so that they not be  
11 massacred."

12 My question is as follows, Witness: How did you proceed in order  
13 to bring the civilians to the UPC military camp?

14 A. The members of the population went toward the military camp when  
15 there was an attack, and that particular day the population came to the  
16 military camp because they knew there was going to be fighting. We made  
17 the people aware of that fact, and we got them together and they came to  
18 the military camp, and I -- and then the fighting started afterwards. I  
19 think you've been able to follow me. We didn't go out of the camp to get  
20 them. They came to the camp.

21 Q. In other words, Witness, the people, the population, had received  
22 instructions that when an attack was to occur, they were to come and  
23 group together inside the UPC camp; is that correct?

24 A. I am saying the following: The members of the population were --  
25 would flee toward the military camp when there was fighting, and we told

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1       them that they should go to the camp because we knew there was going to  
2       be an attack the next day, and so the people went to the military camp  
3       the day before, the evening before, and we were all there together inside  
4       the military camp.

5               Have you followed me?

6       Q.    Thank you. Thank you, Witness. Yes, I've followed what you've  
7       said.

8               I'm still referring to the very same document. Page 10, line 323  
9       and 324. Again you stated the following to the OTP investigators, and I  
10      quote what you said, Witness:

11              "Well, we concentrated all of the civilians in a large building  
12      at the centre, and we, the soldiers, were around, and we were shooting  
13      toward the outside."

14              Is that indeed what happened?

15      A.    The members of the population were in the classrooms inside the  
16      military camp, and we were shooting outwards. Indeed, the civilians were  
17      in the classrooms.

18      Q.    Yes, indeed, and you did state this in the transcript 117, on  
19      March 16th, 2010, on page 30, line 1 to 7. Thank you. Thank you again.

20              I would like to now refer to the very same document, on page 6,  
21      line -- I think there's a mistake here in the line numbers. I think it's  
22      12 to 46. Well, for certain it's on page 6 of the same document.

23              MR. DUTERTRE: (Interpretation) I don't want to interrupt, but  
24      we do not have a transcript in French just now. I don't know if there's  
25      a technical problem.

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1               PRESIDING JUDGE COTTE: (Interpretation) Well, if there is a  
2     technical problem, it's only on your screen because I have the last  
3     answers very clearly. Ah. It all stops where it says, "We concentrated  
4     all of the civilians in a large building in the centre, and we, the  
5     soldiers, were shooting toward the outside," and that is indeed how  
6     things took place, indeed.

7               So, Madam Court Officer, I believe there is a technical problem  
8     regarding the French transcript.

9               Thank you, Mr. Dutertre, for pointing that out.

10              We are checking the technical system, so we need to wait a few  
11     moments.

12              We've been asked to be patient for a few more moments so that  
13     everything can be restored and that we can continue the  
14     cross-examination.

15              The Court Officer has told me that everything is now restored,  
16     so, Professor Fofe, you may proceed.

17              MR. FOFE: (Interpretation) Thank you, your Honour.

18              Q.     Witness, we were discussing the point in time when the civilian  
19     population was grouped together in the classrooms, and you were  
20     positioned in such a way to respond to the enemy attack; is that correct?

21              THE INTERPRETER: The witness microphone is not on,  
22     unfortunately.

23              MR. FOFE: (Interpretation) Microphone.

24              THE WITNESS: (Interpretation) When the population -- the  
25     members of the population were in the classrooms, we were fighting

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1 outside. I think you understand that.

2 MR. FOFE: (Interpretation)

3 Q. In other words, you were using your weapons and your ammunition  
4 outside in order to fight against the enemy; is that correct?

5 A. Yes, that's correct.

6 Q. I'm still referring to the same document, 0042, page 36, line  
7 1267 to 1269, and before the investigators of the OTP, Witness, you  
8 stated that you had grouped together the civilians in a classroom and you  
9 closed the door, and you, the soldiers, fled in all directions.

10 Is that exactly what happened?

11 MR. DUTERTRE: (Interpretation) Your Honour, to be perfectly  
12 fair with the witness, if you look at the transcript on this very same  
13 page just a little bit further down, the witness stated that there was no  
14 door. So to be perfectly fair, it would be useful to repeat to the  
15 witness the entire testimony that he gave at that point in time.

16 PRESIDING JUDGE COTTE: (Interpretation) Read the entire  
17 passage, not, of course, the entire testimony but the entire passage so  
18 that there is absolutely no ambiguity in your question to the witness,  
19 inasmuch as there was an intention for the question to be ambiguous.

20 MR. FOFE: (Interpretation) Well, let me read line 1267 to 1269.  
21 This is what the witness stated:

22 "Yes. Those who were still there, we brought them together in a  
23 classroom, and we closed the doors, and all the soldiers then fled in  
24 every direction."

25 I stop there because that's the passage I'm interested in, end of

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1 quote.

2 PRESIDING JUDGE COTTE: (Interpretation) Mr. Dutertre, where did  
3 you see on this same page, including the testimony of the witness at the  
4 time, reference to the absence of doors?

5 MR. DUTERTRE: (Interpretation) It's on line 1279.

6 PRESIDING JUDGE COTTE: (Interpretation) Would you be so kind as  
7 to refer to line 1279, Professor Fofe, and read out that passage around  
8 lines 1279 and then proceed.

9 MR. FOFE: (Interpretation) Well, indeed, on line 1279 the  
10 witness says as follows:

11 "There were no doors, so we could see inside or outside, and  
12 they could see that the situation was bad, and they could go out."

13 But, of course, this sentence has to be situated in the context  
14 of that passage, in the wider context. That sentence refers to the  
15 question on line 1270, which was:

16 "Approximately how many civilians, according to you, were in  
17 that school?"

18 In any case, those are details. We can go on.

19 PRESIDING JUDGE COTTE: (Interpretation) Well, I think we have  
20 now heard the precise text, and it is now up to the witness, who has  
21 heard this exchange, to answer the question you put to him, and if he has  
22 any additional comments regarding the doors, he will do so.

23 Witness, please answer the question. Do you want us to repeat  
24 the question, because it has been a few moments now between the point in  
25 time when the question was put to you the first time and now. If you

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1 want Professor Fofe to repeat the question, he will do so.

2 THE WITNESS: (Interpretation) Yes, he can repeat the question.

3 MR. FOFE: (Interpretation)

4 Q. I will repeat that question. You stated to the investigators of  
5 the Prosecutor that you assembled the civilians in a classroom and closed  
6 the door, and that you, the soldiers, you fled in all directions.

7 Is this what happened?

8 A. As you know, the members of the population were inside, and you  
9 can imagine if you have an enemy attacking you, are you going to lock the  
10 door? At that time, the door was open, and the members of the population  
11 were in the building.

12 Q. In the same document, 0042, page 26, line 914, and at page 27,  
13 lines 9150, and then page 43, lines 1170.

14 Mr. Witness, before the investigators of the OTP you said that  
15 you had heavy weapons, SMGs, G2s, mortars, and RPGs, and that you also  
16 fired them, and here in the courtroom, and I'm referring to transcript  
17 117 of the hearing of the 16th of March, 2010, page 4, lines 17 and 23,  
18 before the Honourable Judges you confirmed that during that war in Bogoro  
19 on the 24th of February, 2003, you used the weapon known as the G2, which  
20 is a weapon with ammunition belts.

21 My question is as follows, it is quite simple and precise: On  
22 that day, that is the 24th of April -- of February, 2003, you personally,  
23 did you fire a lot?

24 A. Yes, I shot. I fired in the way I could. But if I could have  
25 been able to continue, would I not have abandon my position, but the

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1 opposite happened.

2 Q. Do you know how many attackers you were able to kill during that  
3 war?

4 A. I do not have an answer to give you. I have no answer to give to  
5 you.

6 Q. Based on your experience of the war, was it possible that during  
7 that exchange of fire you could have also killed the enemies who were  
8 attacking you?

9 A. When you have many people -- there were many people involved in  
10 the attack. I cannot tell you how many people I killed. That is why I'm  
11 telling you I do not have an answer to your questions.

12 Q. As a soldier and to the extent that you can approximate,  
13 according to you the Ugandans, the soldiers of the APC and the FAC  
14 soldiers who were amongst the attackers, could they also have died during  
15 that exchange of fire, because this was a war.

16 A. If you come out victorious in a battle, then you will be able to  
17 know the number of people who were killed, but it is difficult to do so  
18 if you were defeated, that is, to estimate the number of enemies that  
19 were killed. That is why I'm saying that I don't know how many people  
20 were killed in that battle.

21 Q. Yes. Mr. Witness, I am not asking you about the number of  
22 enemies that were killed. I simply wanted you to clarify the Judges  
23 regarding this situation.

24 You obviously also killed the enemies who are attacking you.  
25 Isn't that correct?

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1 MR. DUTERTRE: (Interpretation) But the witness has already  
2 answered this question, Mr. President. It was repeated several times.  
3 The witness has answered, and I can find this in the transcript, but  
4 counsel is repeating questions that have been answered.

5 MR. FOFE: (Interpretation) Mr. President, the witness did not  
6 give a precise answer to my question.

7 PRESIDING JUDGE COTTE: (Interpretation) Maybe the witness  
8 cannot be more precise, and in that case he will tell us, but some of the  
9 answers he may have given are not extremely precise. Either he can be  
10 more precise or he cannot, in which case he will tell us so.

11 (The Trial Chamber confers)

12 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofe, do not  
13 commit yourself to precise figures, and that is what you are doing,  
14 because the witness may not be able to do that. But it seems to me you  
15 want to know whether the witness could have seen some fighters fall  
16 wearing FAC uniforms, wearing APC uniforms, or wearing Ugandan uniforms.  
17 Given he was the one who was shooting, could he have seen fighters fall,  
18 that is, fighters wearing uniforms of the FAC or the APC or Ugandan  
19 uniforms. That is what is being asked of the witness. If you have  
20 something further to add, then tell us.

21 THE WITNESS: (Interpretation) Yes. I have understood your  
22 question now. Bullets do not have eyes. They cannot recognise people  
23 and cannot recognise trees, and when you shoot a bullet towards a human  
24 being, there are two possibilities. That bullet can strike that person  
25 and the person could die, or the bullet could miss and the person would

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1 survive. But there was no way of going to cross-check to see whether the  
2 bullet had struck the enemy or not. It was difficult.

3 MR. FOFE: (Interpretation)

4 Q. Thank you, Mr. Witness. Now I will move on to something else.

5 Yesterday, and I'm referring to transcript number 117, page 59,  
6 lines 21 and 22. You stated that when the enemy took the upper hand, you  
7 fled, and you went to Mbogu. Upon your arrival at Mbogu, you turned  
8 around and returned to Bogoro.

9 This morning, once again my learned friend Mr. Hooper came back  
10 to that issue. I'm not going to dwell on it, but I'm going to ask you  
11 for certain points of clarification.

12 Mr. Witness, can you give us an estimate of the distance between  
13 Bogoro and Mbogu?

14 A. It would be difficult for me to estimate the distance, but the  
15 two localities are not very far apart. I would say that the distance  
16 between Bogoro and Mbogu passing through the bush would be about 20  
17 kilometres. I repeat, about 20 kilometres between the two localities,  
18 that is, passing through the bush.

19 Q. Thank you. And can you tell us once again, just for purposes of  
20 clarity, approximately at what time did you start running away from  
21 Bogoro to Mbogu? Was it about 11.00 a.m. when Bogoro fell?

22 A. When we left Bogoro, it was 11.00 a.m. Are you with me? It was  
23 11.00 a.m. when we left Bogoro.

24 Q. Very well. You left Bogoro and you went right to Mbogu, and from  
25 Mbogu you returned to Bogoro. When you returned to Bogoro, at what time

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1 approximately did you arrive Bogoro?

2 A. It was after 2.00 p.m. So I arrived Bogoro after 2.00 p.m.

3 Q. Very well. And after your arrival at Bogoro, where precisely did  
4 you hide?

5 A. I hid in the bush near the hill. It was close to the hill. I  
6 hid near the trees. This is where I was struck by a stray bullet. And  
7 still in the bush, I hid under trees, and all this happened in Bogoro. I  
8 have already told you this in answer to your questions.

9 Q. Can you tell us the name of the hill that you are talking about?  
10 You told us that you sought refuge quite close to a hill. Can you tell  
11 us the name of that hill?

12 A. There are many hills at that place. I would not know precisely  
13 which hill it was.

14 Q. And can you give us an estimate of the distance between that  
15 place in which you hid and the military camp in Bogoro?

16 A. Yes. From the military camp to my hiding-place, the distance was  
17 not long. From my hiding-place it was difficult to -- it was quite easy  
18 to see the military camp, but it was difficult to identify people.

19 Q. Thank you, Mr. Witness. Let me refer now to transcript 117,  
20 hearing of the 16th of March, 2010, page 61, 161 (as interpreted), lines  
21 18 to 20.

22 Mr. Witness, in answer to a question from Mr. Fidel Luvengika,  
23 you said as follows, and I quote:

24 "They were looting property from the houses, and the people who  
25 had stayed in the village, Bogoro village, were those who were armed.

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1 They were telling themselves that the UPC would return and fight  
2 alongside them, but the UPC did not return."

3 Mr. Witness, this is my question. These people who were armed  
4 and who stayed in Bogoro village hoping for the return of the UPC, who  
5 were they?

6 A. I do not know how I can answer you, but I would say that it was  
7 the Ngitis and the Lendus who stayed in Bogoro. Have you understood my  
8 answer?

9 Q. I have understood well.

10 MR. FOFE: (Interpretation) We will be cautious and ask for a  
11 brief private session.

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

14 (Private session at 12.19 p.m.)

15 (Expunged)

16 (Expunged)

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Questioned by Mr. Fofe

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17 (Open session at 12.25 p.m.)

18 COURT OFFICER: (Interpretation) We are in open session, your  
19 Honour.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

21 MR. FOFE: (Interpretation) Thank you, Mr. President.

22 Q. Mr. Witness, I would like to ask you a few more questions for  
23 purposes of clarity.

24 When the enemy got the upper hand over you, you decided to flee.

25 Did you take your weapon along with you, that is, the G2 weapon?

Witness: Witness P-0323 (Resumed) (Open Session)  
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1 A. Yes. I took it away.

2 Q. And when you took it away, you carried that weapon right to Bogu;  
3 is that correct?

4 A. Yes.

5 Q. And when you returned from Bogu to Bogoro, you were still  
6 carrying your weapon; is that correct?

7 A. Yes.

8 Q. And you kept it with you until you went to Bunia; is that  
9 correct?

10 A. Yes.

11 Q. And what did you do with that weapon after that?

12 A. I returned it to its proprietors.

13 Q. And who were the owners?

14 A. I gave it back to store, and the store is the place where arms  
15 are returned.

16 Q. Yes. That is the place where weapons are returned, but to whom  
17 did you hand over the weapon, because there's always someone who takes  
18 the weapons. So to whom did you give that weapon?

19 A. You see, these weapons are not given during training. These are  
20 weapons that are used in service. You are not given those weapons to  
21 stay with. You are given only in time of war. If you want to throw it  
22 away, you throw it away. No one is going to ask you any questions.

23 I took the weapon, and I handed it over to the store, and I do  
24 not know what happened next.

25 Q. Yes, Mr. Witness. Unfortunately, you did not answer my question.

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

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1 There was somebody responsible at the store. To whom did you give that  
2 weapon?

3 MR. DUTERTRE: (Interpretation) Once again, I would have to  
4 interrupt my learned colleague, but we have to go into closed session for  
5 this.

6 PRESIDING JUDGE COTTE: (Interpretation) We are going to go into  
7 a brief private session just for this question to be answered.

8 Madam Court Officer.

9 (Private session at 12.29 p.m.)

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24 (Expunged)

25 (Open session at 12.30 p.m.)

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

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

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you.  
4 Professor Fofe, please continue.

5 MR. FOFE: (Interpretation) Thank you, your Honour.

6 Q. A last question with regards to this weapon. Witness, you told  
7 us that when you returned to Bogoro, coming from Bogu -- I'll just say  
8 that again for the question to be clear. So at 11.00 you left Bogoro.  
9 You went to Bogu, and from Bogu you went back to Bogoro, and you went up  
10 a tree. And when you were on the tree, did you still have your weapon,  
11 the G2?

12 A. Yes, I had it.

13 Q. And you also said to us that from this place you went to Bunia,  
14 and from Bunia you went to (Expunged); is that correct?

15 A. Yes.

16 Q. Could you tell us what route or path you took to go from Bunia to  
17 (Expunged)

18 MR. DUTERTRE: (Interpretation) Can we go into closed session,  
19 because this is a question with regards to a location. I remember, if my  
20 memory serves me well, that we were in closed session before for a  
21 similar issue. I'd just like to -- I just want to be consistent.

22 PRESIDING JUDGE COTTE: (Interpretation) My memory is not  
23 sufficiently clear to be able to say whether this is the case, but as a  
24 precautionary measure we can go into private session just for the answer.

25 Court Officer.

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

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1 (Private session at 12.32 p.m.)

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12 (Expunged)

13 (Expunged)

14 (Open session at 12.34 p.m.)

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

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

18 Please continue, Professor Fofe.

19 MR. FOFE: (Interpretation) Thank you, your Honour. Just if you  
20 would allow me a minute, your Honour.

21 (Defence counsel confer)

22 MR. FOFE: (Interpretation) Thank you, Your Honour. I would  
23 like to give a clarification with regard to the reference to the  
24 statement of the witness as these are documents with a lot of different  
25 numbers. I gave as a reference document DRC-OTP-1022 -0042.

Witness: Witness P-0323 (Resumed) (Open Session)  
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1                   My case manager has pointed out to me that the correct reference  
2     is the reference at the bottom of the document, and that is  
3     DRC-OTP-1031-0077. I just wanted to make that precision.

4                   Thank you very much, Witness. We have finished with our  
5     questions, and we would like to wish you a good and safe return to your  
6     country.

7                   Thank you, your Honours.

8                   PRESIDING JUDGE COTTE: (Interpretation) Witness, before giving  
9     the Prosecutor leave to address the court for his re-examination, we  
10    would like to ask a clarification of you.

11                  You said that within the institute there was a UPC battalion  
12    which represented approximately 340 people, at least more than 300.

13    Could you (Expunged)

14    (Expunged)

15    (Expunged)

16    (Expunged)

17    (Expunged)

18    (Expunged) Could you answer that simple question?

19                  THE WITNESS: (Interpretation) Yes. (Expunged)

20    (Expunged) and it wasn't just the Hema. There were

21    all ethnic groups who were represented other than the Lendu and the

22    Ngiti. The army that was in Bogoro was not exclusively Hema, no. There

23    were several ethnic groups who were there. Little by little, we achieved

24    a significant number, and then we received help from Commander Germain,

25    and it was at that time that the army became consistent.

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

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1 I have to say that there were several ethnic groups represented  
2 in the army other than Lendu and Ngiti.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Witness.  
4 (Expunged)  
5 (Expunged)  
6 (Expunged) to have joined the UPC ranks during this period?

7 THE WITNESS: (Interpretation) Yes, there were. Some of them  
8 are still alive today. Others are dead.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Witness.  
10 Prosecutor, you have leave to address the Court in your  
11 re-examination.

12 MR. DUTERTRE: (Interpretation) Thank you, Your Honour. I have  
13 a request to make of the Bench, namely, to carry out my re-examination at  
14 2.30 so that I can summarise the questions to the greatest extent and  
15 save time knowing that we do not have much time left in order to finish  
16 the hearing and with a view to efficiency.

17 PRESIDING JUDGE COTTE: (Interpretation) The concern of the  
18 Bench is quite simply that we have to pay attention to the next witness.  
19 So do you think that your re-examination, which might well give rise to  
20 final submissions, will be long?

21 MR. DUTERTRE: (Interpretation) It won't be excessive. We can  
22 take the next witness after this additional re-examination, but that is  
23 the reason why I would like to make that request.

24 PRESIDING JUDGE COTTE: (Interpretation) So can we envisage at  
25 least this afternoon that we will have the solemn undertaking of the

1 witness?

2 MR. DUTERTRE: (Interpretation) Indeed.

3 PRESIDING JUDGE COTTE: (Interpretation) Very well. We will  
4 proceed in this way.

5 If I could have a moment to take a point related to the following  
6 witness and of which it is important that you be informed sufficiently in  
7 advance.

8 Court Officer, we are now going to go into closed session to  
9 enable the witness to leave this courtroom.

10 Witness, we have finished slightly earlier this morning. We'll  
11 be back at 2.30 for the final questions of the Prosecutor, ultimate  
12 submissions of the Defence. So your testimony should be finished today.

13 Now, as the courtroom is -- when the courtroom is in closed  
14 session, you may leave it. We would like to thank you for your  
15 contribution this morning.

16 (Closed session at 12.41 p.m.)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Open session at 12.42 p.m.)

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

4 PRESIDING JUDGE COTTE: (Interpretation) Yes, Prosecutor. This  
5 is a communication which concerns the witness who follows, namely 159.  
6 We don't know if you will officiate for the Prosecution with regards to  
7 this witness, but it is for the -- the Prosecution that the Chamber would  
8 like to address. You indicated that you envisage during the testimony of  
9 159 to examining two videos, DRC-OTP-0080-0010 and 0080-0011.

10 In an e-mail of the 10th of March, 2010, at 13.58, the Defence  
11 of Germain Katanga stated that it intended to object. From my memory, I  
12 would say that the Defence of Mathieu Ngudjolo in October of 2009 also  
13 expressed an objection or at least reticence in that regard at the time.

14 You indicated to the Defence of Germain Katanga in an e-mail the  
15 same day, 20th of March, 2010, at 14.16, that the aim that the Office of  
16 the Prosecutor was pursuing was to come to a possible identification of  
17 Mathieu Ngudjolo through Witness 159. Mathieu Ngudjolo could be seen in  
18 two extracts, two video extracts, which you mentioned the reference  
19 numbers of and the exact duration of, and this is one of the reasons --  
20 one of the two grounds for the objections of the Defence of  
21 Germain Katanga. You, therefore, also in this regard replied where it  
22 concerned the reference and the exact duration thereof.

23 The Chamber, Prosecutor, would like to assure itself that for you  
24 it is just to try to obtain from this witness an identification  
25 recognition and that it by no means concerns introducing at this point in

1 time a new piece of evidence, because if that is the case, you will  
2 therefore go against the provisions of paragraph 97 of our 1665 decision  
3 of the 1st of December, 2009.

4 So just -- we have the concern that we would like to obtain  
5 identification of the accused Mathieu Ngudjolo, or at least that is what  
6 you have in mind --

7 MR. HOOPER: (Previous translation continues) ... I appreciate  
8 it's a question directed to the Prosecution. A week ago, as you  
9 correctly say, we raised this concern, and the Prosecution responded by  
10 specifying the particular part of the video. It's apparent that that  
11 doesn't concern directly Germain Katanga, and so it's no part of our  
12 function to object in respect to that matter. It would be a matter, if  
13 it's to be objected to at all, and it may not be, a matter for the team  
14 of Mathieu Ngudjolo.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you,  
16 Counsel Hooper.

17 This is a point which we have thought about. We asked ourselves  
18 what the interest was in acting or objecting for the Defence of Germain  
19 Katanga where it concerned the -- just the image of Mathieu Ngudjolo.

20 Thank you, however, for confirming this to us at this time.  
21 Prosecutor.

22 MR. DUTERTRE: (Interpretation) Your Honour, the Prosecution is  
23 indivisible, but this -- with regards to this examination of this  
24 witness. If it's possible, I would leave it for my --  
25 Madam Dianne Luping who will deal with the next witness. Perhaps she can

1 answer the Chamber with regards to her specific intentions for these two  
2 videos in this case in point.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Prosecutor.  
4 I think for the good administration of justice or proper administration  
5 of justice it is important that your colleague can be clearly informed of  
6 what the position of the Bench is, which I have just stated. It is -- if  
7 it is about getting from a future witness to identify or to recognise  
8 Mathieu Ngudjolo on the video extracts which you intend to produce, then  
9 the Bench, subject to certain reservations, would see no obstacle  
10 thereto.

11 If, however, it is a matter of the introducing this new  
12 evidentiary item, then please remind this person according to paragraph  
13 97, the decision of 1st of December, 2009, has to be read very  
14 attentively.

15 Now, if it's just a matter of identifying this witness, the  
16 accused -- or to recognise the accused, then using these two videos as a  
17 basis therefore, the Chamber would not have any objection to that taking  
18 into account that this objective of recognising or identifying this  
19 person is done only from the picture which can be moving but without  
20 there being the audio broadcast, just the video part.

21 So the recognition should not be confused with the introduction  
22 of evidence in this video, and that would have to be introduced by  
23 another witness. Then your colleague has -- well, your colleague has  
24 certainly thought about. This witness's testimony is imminent. You have  
25 to know this as the Office of the Prosecutor in order to well inform your

1 colleague.

2 So we -- if you would allow me, we're going to suspend the  
3 hearing. We will take 323 this afternoon, finish 323, and then I think  
4 we will have to suspend for a moment because when you have a passage to a  
5 new witness, you need certain technical modifications. I will already  
6 indicate that Witness 159 who should join us is a witness who does have  
7 the same protective measures as the witness who we are currently hearing,  
8 namely a pseudonym is used, face distortion, and voice distortion as  
9 well.

10 Court Officer, here you are.

11 Prosecutor.

12 MR. DUTERTRE: (Interpretation) Then I think with a view to  
13 identification, then I think that the video is prepared without the  
14 audio. So I think that should meet the concerns of the Chamber.

15 PRESIDING JUDGE COTTE: (Interpretation) You have almost  
16 anticipated our wishes. Also, with the intervention of Counsel Hooper,  
17 everything is clear. Witness 159 should try to identify this person with  
18 a view -- or just from a video extract that we will see but we will not  
19 hear.

20 We will therefore be back at 2.30. The hearing is now suspended.

21 Luncheon recess taken at 12.53 p.m.

22 On resuming at 2.34 p.m.

23 (Closed session)

24 (Expunged)

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11 (Expunged)

12 (Expunged)

13 (Open session at 2.35 p.m.)

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

16 JUDGE COTTE: (Interpretation) Thank you very much, Madam Court  
17 Officer.

18 Witness, the Prosecutor is now going to ask you some additional  
19 questions, his re-direct.

20 You may proceed, Prosecutor.

21 MR. DUTERTRE: (Interpretation) Thank you very much, your  
22 Honour. I would like to deal with two topics, but for the first one I  
23 would like to request that we go into private session.

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

Witness: Witness P-0323 (Resumed)(Private Session)  
Further questioned by Mr. Dutertre

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1 (Private session at 2.36 p.m.)  
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Witness: Witness P-0323 (Resumed)(Private Session)  
Further questioned by Mr. Dutertre

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Page 56 Expunged – Private Session

Witness: Witness P-0323 (Resumed)(Private Session)  
Further questioned by Mr. Dutertre

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15 (Open session at 2.43 p.m.)

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

17 Your Honour.

18 JUDGE COTTE: (Interpretation) Thank you very much.

19 Mr. Prosecutor, please proceed.

20 MR. DUTERTRE: (Interpretation) Thank you very much. This is my  
21 second and last question, and it will be very brief.

22 Q. Witness, yesterday Mr. Hooper questioned you about the trench  
23 that you drew on the satellite map, the number of which is  
24 DRC-OTP-1016-024. I'm sure we all recall the document.

25 THE INTERPRETER: Correction, 0224.

Witness: Witness P-0323 (Resumed)(Open Session)  
Further questioned by Mr. Dutertre

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1 MR. DUTERTRE:

2 Q. And I quote. Mr Hooper said:

3 "Do you see that there seem to be black dots, or at least dark  
4 dots or little spots."

5 My question is as follows, Witness. Do you know what a  
6 rifleman's hole is?

7 A. Could you perhaps repeat your question? I have no idea.

8 Q. I'm going to repeat it if it wasn't clear. Yesterday, Mr. Hooper  
9 was discussing with you and before that I discussed with you the trench,  
10 the trench that surrounded the UPC camp at the Bogoro institute. My  
11 question in general is: Do you know what a rifleman's hole is?

12 A. I am afraid I don't understand what you're saying. Can you  
13 repeat again, please?

14 Q. Well, let me try again. Do you know what a rifleman's hole is?

15 A. Are you talking about the trench that we built, or are you  
16 talking about something else? Are you talking about the round defence?

17 Q. No. This was a general question. Do you know what is meant by a  
18 rifleman's hole, a "trou de fusille" in French?

19 A. No, I don't know what that expression means.

20 MR. DUTERTRE: (Interpretation) I have no further questions for  
21 this witness. I've finished my redirect.

22 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper.

23 You may ask any further questions that you have.

24 MR. HOOPER: (Previous translation continues) ... thank you.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,

Witness: Witness P-0323 (Resumed)(Private Session)  
Further questioned by Mr. Fofe

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1 Mr. Hooper.

2 What Mathieu Ngudjolo's Defence team?

3 MR. FOFE: (Interpretation) Thank you, your Honour. I would  
4 just like to ask two short questions for clarification, but we need to go  
5 into private session.

6 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,  
7 private session, please.

8 (Private session at 2.51 p.m.)

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Witness: Witness P-0323 (Resumed)(Private Session)  
Further questioned by Mr. Fofe

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Page 60 Expunged – Private Session

Witness: Witness P-0323 (Resumed)(Private Session)  
Further questioned by Mr. Fofe

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Page 63 Expunged – Closed Session

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15 (Open session at 3.14 p.m.)

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

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

20 Mr. Witness, before beginning your testimony, you have to give an  
21 undertaking to speak the truth. It is a solemn undertaking which I am  
22 going to read slowly so that you should fully understand, and I read:

23 "I solemnly declare that I will speak the truth, the whole truth,  
24 and nothing but the truth."

25 Did you understand me well, Mr. Witness?

1 THE WITNESS: (Interpretation) Yes, I have heard you well,  
2 Mr. President.

3 PRESIDING JUDGE COTTE: (Interpretation) Now, Mr. Witness, do  
4 you undertake to speak the truth, the whole truth, and nothing but the  
5 truth?

6 THE WITNESS: (Interpretation) Yes. I solemnly declare that I  
7 will speak the truth, the whole truth, and nothing but the truth.

8 WITNESS: WITNESS P-0159

9 (Witness answered through interpreter)

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Witness.  
11 And the Chamber would like to ask you once again to follow very  
12 attentively. You have just pledged to speak the truth. If in the course  
13 of your testimony or while answering questions put to you, you do not  
14 tell the truth, you may be prosecuted before the court for false  
15 testimony, and if the facts are established, you may be convicted.

16 Have you clearly heard me?

17 THE WITNESS: (Interpretation) Yes, I have heard you well.

18 PRESIDING JUDGE COTTE: (Interpretation) Very good. The Court  
19 notes that the provisions of Article 69(i) of the Statute and Rule 66(i)  
20 and (iii) of the Rules of Procedure and Evidence have been complied with.

21 Mr. Witness, you are going to be examined by the representative  
22 of the Office of the Prosecutor, after which you will be cross-examined  
23 by the Defence teams of the accused persons, and then the representative  
24 of the Prosecutor may ask you some additional questions, then the Defence  
25 teams may make their final observations, but after the direct examination

1 of the Prosecutor, the Legal Representatives of Victims may also ask you  
2 questions, and the Bench may put questions to you at any time.

3 What we are asking you, and we may repeat it several times, but  
4 this should not disturb you, is to speak slowly, very slowly, speak out  
5 loud and speak into your microphone, and please do not change languages  
6 in the course of your testimony. It is important that the interpreters  
7 should fully understand what you're saying so that they can be able to  
8 interpret what you are saying very well into French and then into  
9 English, because we have people in this courtroom who prefer either  
10 French or English. So we are asking you to speak slowly.

11 Have you understood us well, Mr. Witness?

12 THE WITNESS: (Interpretation) Yes, I have understood you.

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

14 And the Prosecutor, please -- yes, Mr. Hooper.

15 MR. HOOPER: (Previous translation continues)... interrupt. It's  
16 a technical matter. No fault of the witness at all, and no issue arises,  
17 but it's as to the year of his birth, because my understanding is that  
18 there may have been a discrepancy between what was heard in Swahili and  
19 what is on the transcript. So would it be possible, Mr. President, for  
20 you to invite the witness to provide the year of his date of birth again,  
21 just so that that technical matter can be cleared up once and for all.

22 Thank you.

23 MS. LUPING: Mr. President, I just wanted to point out that the  
24 transcript in English and in French appears to state (Expunged) which we  
25 believe to be correct.

1                   PRESIDING JUDGE COTTE: (Interpretation) So as to begin in the  
2   best way possible, Mr. Witness, simply tell us once again your date of  
3   birth, the year, the month, and the day.

4                   MS. LUPING: Mr. President, before we continue, perhaps it should  
5   be in closed session.

6                   PRESIDING JUDGE COTTE: (Interpretation) You are perfectly  
7   correct. We are going to go into closed -- or, rather, private session  
8   very briefly so that the witness should not give any identifying  
9   information. And after that you are going to tell us your date of birth  
10   before we return to open session.

11                  So let us go into private session.

12                  (Private session at 3.21 p.m.)

13   (Expunged)

14   (Expunged)

15   (Expunged)

16   (Expunged)

17   (Expunged)

18   (Expunged)

19   (Expunged)

20   (Expunged)

21   (Expunged)

22   (Expunged)

23   (Expunged)

24   (Expunged)

25   (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Open session at 3.23 p.m.)

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

6 Mr. President.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

8 Court Officer.

9 Madam Prosecutor, please.

10 MS. LUPING: (Interpretation) Thank you, Mr. President. Good  
11 morning, Mr. President, your Honour -- or, rather, good afternoon.

12 Questioned by Ms. Luping:

13 Q. (Interpretation) Good afternoon, Mr. Witness.

14 A. Good afternoon.

15 Q. (In English) My name is Dianne Luping, and I will be questioning  
16 you on behalf of the Office of the Prosecutor in this case against  
17 Germain Katanga and Mathieu Ngudjolo. Before I start, I wanted to raise  
18 a few points with you. First, if any of my questions are not clear,  
19 please don't hesitate to let me know and please ask me simply either to  
20 repeat the question or to reformulate it. Moreover, I would ask you to  
21 please carefully listen to my questions and only answer the specific  
22 questions that I ask you. If there are any questions to which you do not  
23 know the answer, simply state that you do not know, or if there are any  
24 questions to which you do not remember the information, please simply say  
25 you do not remember.

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1                   If there are any questions that may reveal your identity, I will  
2       be asking the leave of the Presiding Judge to go into private session,  
3       which means that nobody externally can hear the information that you're  
4       providing to us that could identify you.

5                   Is all that clear, Mr. Witness?

6           A.    Yes. I have fully understood you.

7                   MS. LUPING: Mr. President, I would ask that we go into private  
8       session as I have a few questions of potentially identifying nature.

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

11                   (Private session at 3.25 p.m.)

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      (Expunged)

25      (Expunged)

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1 (Expunged)  
2 (Expunged)  
3 (Expunged)  
4 (Expunged)  
5 (Expunged)  
6 (Expunged)  
7 (Expunged)  
8 (Expunged)  
9 (Expunged)  
10 (Expunged)  
11 (Expunged)  
12 (Expunged)  
13 (Expunged)  
14 (Expunged)  
15 (Expunged)  
16 (Expunged)

17 (Open session at 3.30 p.m.)

18 COURT OFFICER: (Interpretation) We are in open session,  
19 Mr. President.

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

22 Madam Prosecutor, please proceed.

23 MS. LUPING:

24 Q. Mr. Witness, during the war in Ituri, had there been any attacks  
25 on Bogoro that you know about?

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1           A.    Yes.  When there was the fighting in Ituri, there were several  
2   attacks on Bogoro.

3           Q.    And can you recall how many large attacks on Bogoro that there  
4   had been?

5           A.    Thank you for the question.  I remember several attacks which  
6   took place, major attacks.  There were three major attacks on Bogoro.  
7   The first \* one was that of 2001, in January.  This attack  
8   took place on the 9th of January, 2001.  It was the first major attack.

9           Q.    And do you know when was the last big attack on Bogoro village  
10  that you witnessed?

11          A.    The last attack on Bogoro was the attack which meant that Bogoro  
12  was occupied.  This happened in 2003.  More precisely, the 25th of  
13  February, 2003.  This was the largest or the biggest of all the attacks,  
14  and that was the last one, and that was the one which brought Bogoro to  
15  its knees.  I was present during this attack.  We scattered and left,  
16  fled Bogoro afterwards.

17          Q.    I will be asking you to tell us what happened during this attack  
18  in February 2003, but first there are a couple of points I wanted to  
19  raise with you.

20               First, if there are any names of people who may be able to  
21  identify you, I would ask that at this stage you not mention them,  
22  because I will come back to ask you those names, and with the leave of  
23  the Presiding Judge, we can say those names in private session.

24               Secondly, I'd like to remind you to take your time, to speak  
25  slowly so as to avoid me having to interrupt you whilst you describe what

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1       happened, because if you speak too quickly, the interpreters will not be  
2       able to catch what you're saying.

3               Is that clear, Mr. Witness?

4       A.    Yes, I have understood you.

5       Q.    From the moment you first became aware that an attack had  
6       started, can you describe what you saw with your own eyes and heard with  
7       your own ears?

8       A.    Prosecutor, are you referring to the first attack or to the last  
9       attack?

10      Q.    Thank you for asking the question, Mr. Witness. I'm referring to  
11      the last big attack of February 2003.

12      A.    Thank you, Prosecutor. The attack of February 2003 started at  
13      5.00 in the morning. Nobody explained to me about this attack. These  
14      are events which I saw myself given that I was in Bogoro. I saw all  
15      these events with my own eyes from the very start to the very end. These  
16      weren't things that were told to me.

17      Q.    Mr. Witness, if you could continue and actually describe what you  
18      saw and what you heard during this February 2003 attack.

19      A.    Thank you very much for the question. The last attack on Bogoro  
20      started on the 25th of February, 2003, at 5.00 in the morning. This is  
21      how the attack started: In Bogoro there were UPC soldiers. The young  
22      people in Bogoro who had been enlisted in the UPC army, their work was to  
23      guard the population of Bogoro to ensure their safety, and everyday, as  
24      usual, the women and the children, as well as the elderly, used to spend  
25      the night in the camp, and we, the young people, we spent the night in

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1 the house --

2 MR. HOOPER: (Previous translation continues) ... isn't working.

3 And if the witness is going to go freelance and just give his account  
4 like this, we need the transcript to be able to keep up.

5 No, it is working now. I'm sorry.

6 PRESIDING JUDGE COTTE: (Interpretation) Witness, we had a  
7 technical difficulty --

8 COURT OFFICER: Mr. Hooper, can you please switch off the  
9 microphone. Thank you.

10 PRESIDING JUDGE COTTE: (Interpretation) Witness, we had a  
11 technical difficulty which has been overcome, and you can therefore  
12 continue your account from where you were interrupted.

13 We -- you were speaking to us about women and children and the  
14 elderly who spent the night in the camp, and I think it was at that point  
15 you were interrupted. So you can continue your account from there,  
16 speaking slowly. Thank you.

17 THE WITNESS: (Interpretation) I said the following: It was the  
18 women who spent the night in the camp, the women, children, the elderly,  
19 the weak. They usually spent the night in the camp. And we, the young  
20 people, we spent the night in the houses to guard the property, because  
21 there were a lot of attacks. There were -- it was said that attacks  
22 could come to Bogoro, and that was the reason why the women and children  
23 and others spent the night in the camp, and in the morning they came back  
24 to their house to continue with their normal activities.

25 Now, going back to the facts of that day, I spent the night in my

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1 house, and as usual, the women and children spent the night in the camp.  
2 This -- that week there were several attacks. In the morning of  
3 at that day, at 5.00 in the morning, we were at home. I heard the first  
4 sound of gunfire. It was like a signal. Directly, the attack started on  
5 Bogoro.

6 We, the young people of Bogoro, had spent the night in the house.  
7 When we heard the gunfire, usually we fled to the camp to hide ourself,  
8 but on that day that was not possible. The attack was of such intensity  
9 that it was difficult to go and hide at the camp.

10 They fired on Bogoro. Young people came out, and they did their  
11 best to resist. It wasn't possible. Bogoro was attacked from two sides.  
12 The attack was of very significant intensity. There were lots of people  
13 who were killed in Bogoro. Lots of things happened in Bogoro. It was  
14 difficult to save human lives.

15 When the attack started, the attackers had the objective of  
16 attacking the camp. They fired at the camp. There were two UPC soldiers  
17 who were in front. They had heavy weapons. These two soldiers were  
18 killed. They were shot. They were positioned at the front. Their names  
19 were Byaruhanga and Bataga. These are soldiers.

20 MR. HOOPER: The witness is not being controlled, and it's  
21 difficult to keep up with all that he's saying and all the details he's  
22 giving. I'm not trying to interrupt his flow, but I'm trying to keep a  
23 note. The transcript's an aid, but I'm trying to keep a note, and when  
24 we come to names and the details that he is giving us, some of which are  
25 new, it would be helpful if we could just do it a little -- just a little

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1 slower. Not much slower, just a little.

2 PRESIDING JUDGE COTTE: (Interpretation) Counsel Hooper, we have  
3 heard you. At the same time, it is important for the witness to be able  
4 to give an account of the events as he has experienced them and as he  
5 remembers them.

6 So, Witness, as you speak, and we are listening to you with a lot  
7 of interest. You'll note that some of us do take notes, so it is  
8 important for you to speak slowly. It's very difficult for somebody to  
9 have to reduce the speed at which they speak, and that surprises a lot of  
10 people, but in this courtroom the need for the interpretation means that  
11 this slower speech has to be done. You aren't used to it. We weren't  
12 used to it either at the start of our proceedings. So please make the  
13 effort to speak slowly, particularly when you are giving an account, as  
14 you are currently doing. And we all really want to understand it as well  
15 as possible.

16 Thank you, and please continue. You stopped -- or you were  
17 stopped with the two names. They were positioned in the vanguard or at  
18 the forefront. Their names were Byaruhanga, and if I've understood it  
19 well, Bataga. That's where you stopped.

20 Please continue with your account.

21 THE WITNESS: (Interpretation) Thank you. Bataga, Byaruhanga,  
22 and Bataga. Thank you very much, Presiding Judge. I will continue with  
23 my account.

24 These two soldiers who were positioned in the vanguard, these  
25 were young, healthy men. Now, whenever there was an attack on Bogoro,

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1       these two did their best to drive away the enemy. Thanks to their  
2       personal efforts and also the efforts of other young persons, the enemy  
3       had not been able to take Bogoro, but on that day it was impossible.

4               Where was I at that time? Well, I was hidden in the bush. My  
5       personal residence -- there isn't a long distance between my personal  
6       residence and the camp. I could easily flee to the camp, but on that day  
7       it wasn't possible. When our young men had done everything to defend  
8       Bogoro, it was impossible.

9               At 8.00, they launched the attack on the camp. They started  
10      around the camp. Their main objective was to reach the camp, because the  
11      enemy knew very well that our force was situated in the camp, and so it  
12      was essential to destabilise the camp.

13              They achieved their first objective. They got to the camp. I  
14      was in the bush. I was hidden next to the camp, and I could see it. I  
15      could see what was happening and saw what happened afterwards. The  
16      women, the young girls, the children, almost all the population of Bogoro  
17      was taking refuge in the camp. They were awaiting their fate.

18              When the youth continued to defend, it wasn't possible. When  
19      they saw when, they understood that the enemy, the enemy forces, were  
20      much greater than theirs. There was a soldier from Bogoro. His name is  
21      Nyakulinda. This man or this soldier went to the camp, and he shouted  
22      very loudly. He said, "Everybody must try to beat a path for  
23      themselves." And this is what -- this happened when the enemy was right  
24      next to the camp, and the enemy started to project bombs at the camp.  
25      And the first bomb which was sent into the camp -- well, there were two

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1 vehicles which came from Kasenyi, and these two -- the next day these two  
2 vehicles had to go to \* Bunia. So the first bomb that was dropped, it  
3 blew -- it set on fire the first vehicle. When the inhabitants of Bogoro  
4 or the people who were in the -- they saw that these vehicles had caught  
5 fire, and everybody started to flee. Everybody had to go in their own  
6 direction, because the enemy had won. The enemy was stronger than the  
7 people in Bogoro. Everybody had to take their responsibilities to save  
8 themselves.

9 Your Honour, please excuse me, but sometimes I -- I think I mix  
10 French and Swahili.

11 PRESIDING JUDGE COTTE: (Interpretation) Witness, you do your  
12 best. The ideal point is not to mix French and Swahili. So if you do  
13 speak slowly, it should make it possible for you to better use the  
14 language in which you choose to speak. Please continue if you so wish.  
15 If not, the Prosecutor shall ask you questions, but otherwise you can  
16 added to what you have already said.

17 THE WITNESS: (Interpretation) Yes. I wanted to continue the  
18 account to finish it.

19 When the population started to flee and the attack was coming  
20 from two sides, I approached the camp. I tried, but it wasn't possible.  
21 The small distance that separated me from the camp, well, from that I  
22 could observe what was happening in the camp, and I heard the voice of  
23 people who I knew, the voice of my mother, the voice of the wife of my  
24 uncle, the voice of different people who I knew. These people were  
25 shouting. These were cries of distress, and it was then that I

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1 understood that these people had been killed.

2 In what way were they killed? These people were killed by bladed  
3 weapons, most often machetes. These weapons that say -- the machete was  
4 much more used when people were killed in Bogoro.

5 I observed afterwards something. I saw a group of people who  
6 were standing up on the side of the camp. There was one person who had a  
7 beret. I don't know how I would call this beret in Swahili. In French  
8 we call it "large bord," "wide brimmed." And when I saw that, I saw a  
9 man who appeared to be Ngudjolo. I saw another who looked like Etienne,  
10 and I saw other young people. These are young people who lived in  
11 Bogoro. I saw Rene as well. These are young people who I saw with my  
12 own eyes, people who have lived in Bogoro, people I knew very well.

13 MS. LUPING:

14 Q. Mr. Witness, do you wish to continue with your account?

15 A. I would prefer, firstly, to stop here.

16 MS. LUPING: Mr. President, I'm just conscious of the time.  
17 We're looking at 5 to 4.00 now. My suggestion would be for us to stop  
18 for the day and continue in the morning, with your leave.

19 PRESIDING JUDGE COTTE: (Interpretation) That is what we're  
20 going to do, Prosecutor.

21 Witness, you have already answered a certain number of questions.  
22 You have given an account which you wish to stop at this present time.  
23 The Prosecutor will, therefore, continue with her examination-in-chief  
24 tomorrow, and we will see you tomorrow morning at 9.30 for three sessions  
25 which will last one and a half hour each from the morning until the

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1 afternoon. Thank you for your contribution this afternoon.

2 Court Officer, please could you take us into closed session so  
3 the witness can leave the courtroom, then we will go back into open  
4 session to finish the hearing.

5 Good-bye, Witness.

6 (Closed session at 3.53 p.m.)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Open session at 3.54 p.m.)

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

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you. We would  
18 like to thank everybody who, despite the technical difficulties, have  
19 been able to take part.

20 The hearing is now adjourned.

21 COURT USHER: All rise.

22 The hearing ends at 3.55 p.m.

23 CORRECTIONS REPORT

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

25 \* Page 71 line 7 "The first, that of 2002, in January - 2001, in January"

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- 1 Is corrected by "The first one was that of 2001, in January"
- 2 \* Page 77 line 2 "The next day these two vehicles had to go to Kasenyi"
- 3 Is corrected by "The next day these two vehicles had to go to Bunia"