

1 International Criminal Court
2 Trial Chamber II - Courtroom I
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Thursday, 18 November 2010
10 (Closed session)
11 The hearing starts at 9.02 a.m.
12 (Expunged)
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24 (Open session at 9.06 a.m.)
25 COURT OFFICER: (Interpretation) We are in open session,

Witness: Witness DRC-OTP-P-0028 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

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1 your Honour.

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

4 (The accused enter the courtroom)

5 PRESIDING JUDGE COTTE: (Interpretation) The accused are with
6 us. Good morning, gentlemen.

7 Good morning, Witness. Can you hear me?

8 THE WITNESS: (Interpretation) Good morning. I can hear you
9 just fine.

10 PRESIDING JUDGE COTTE: (Interpretation) Very well. We can
11 continue with the proceedings.

12 Mr. Gilissen, you were addressing the Court yesterday and I now
13 give you the floor.

14 MR. GILISSEN: (Interpretation) Good morning, your Honours.
15 Good morning, colleagues.

16 Questioned by Mr. Gilissen: (Continued)

17 Q. (Interpretation) Good morning, Witness. With your permission,
18 we will continue with my questions and I believe I will be finishing my
19 questions quite quickly. Yesterday, we ran out of time, and if I had had
20 a few more minutes, if the schedule had allowed us a few more minutes,
21 I would have been able to finish but I think I will be able to finish
22 quite soon.

23 Yesterday, at the end of the day, I was speaking about your
24 return to civilian life. In a few words, could you, and without running
25 the risk of identifying yourself, could you explain to us the path that

1 you took once you returned to civilian life? And bearing in mind,

2 I would like you to speak to this issue as a former militiaman. Did you

3 have difficulties returning to civilian life? Thank you very much.

4 A. Could you rephrase your question? That will help me understand

5 you properly.

6 Q. After demobilisation, Witness, once you left the militia, could

7 you tell us what became of you?

8 A. After demobilisation, in principle, we were supposed to remain in

9 our villages and live there. Unfortunately, during that period, the

10 militiamen had no longer any power in our village, but, rather, the

11 regular army of the Republic of the Congo had the power, the FARDC. And

12 the FARDC soldiers did not want to see children any longer in our

13 collectivity. If a FARDC soldier saw a young person, he thought that the

14 young person was his enemy, and the FARDC soldiers were in the habit of

15 stopping young people. Other than the FARDC soldiers, there were also

16 former combatants who hadn't left, who hadn't gone to the demobilisation

17 site and those young men were in the habit of stopping other former

18 militiamen who had left the militia, and they tried to force them back

19 into the militia or they would make them suffer. So those were the

20 difficulties that we found ourselves up against.

21 I would add the white man who came to our village no longer

22 wanted see the young people moving about the locality because he thought

23 they were militiamen.

24 THE INTERPRETER: Correction, they thought they were militiamen.

25 THE WITNESS: (Interpretation) I remember one day, after I had

1 gone to the site, and Germain had already left, he went to Kinshasa,
2 I went back to live in the house of a family member.

3 I remember that I was stopped one day by the white person, and
4 I was accused of having burnt down the house of one of the villagers,
5 whereas in actual fact I was sleeping. I was sleeping at home. One of
6 my cousins woke me up and he started to hit me. I woke up and we fought,
7 and then he fled. He went into a house of someone who lived in the
8 locality. I was very worked up, and I was looking for some way of
9 finding that cousin. I chased him, but I couldn't force the door. So
10 I took a match and I burnt down the house because I was angry.

11 All those events occurred at the time when Bahati from Zumbe was
12 in the village and Bahati from Zumbe didn't like me. He didn't want me
13 there. For a long time, that man had not liked me. So Bahati from Zumbe
14 said, "Now, since you have burnt down the house of an inhabitant of the
15 locality, I am arresting you." He took me and he turned me over to the
16 white people who were in Aveba, and these white people arrested me and
17 they put me in prison. They put me in a tank and took me all the way to
18 Bunia. When we got to Bunia, the leader of these white people said that,
19 no, I would not be judged and that I would go back to my village, and my
20 parents should take care of me.

21 That event occurred when I was in Bunia, and the police officers
22 of the Congolese government did nothing. They were asked to release me,
23 and that I was supposed to go back to my family, but those police
24 officers refused. They wanted money, they kept me for a while in the
25 prison. And the members of my family were able to get the money to have

1 me freed and that's how it came to be that I went back to my village.

2 I'll tell you this: I suffered -- I have suffered a great deal
3 over the course of my life. I have suffered a great deal. I have
4 suffered a great deal.

5 Q. Witness, this is the impression that we all have, or at least as
6 far as I'm concerned, that is the impression I have. The difficulties
7 that you had, when you were in the militia, and if I understand
8 correctly, these difficulties continued after you went back to civilian
9 life. To your knowledge, Witness, to your own personal knowledge, what
10 about the other young people, the *kadogo*, the child soldiers, the young
11 people who found themselves in the militia? Did they have the same kind
12 of difficulties when they went back to civilian life? Did they have
13 problems or have you no knowledge of that?

14 A. I would say this: When the combatants were demobilised, most of
15 them were unable to live in civil, civilian life. Most of them were
16 arrested again and forced back into the armed movement of Cobra. Cobra
17 didn't like to see demobilised combatants. He needed those people.

18 You know, I was able to flee the village because I was lucky.
19 I was lucky to have a family member in Bunia. It was very -- a stroke of
20 good luck for me to be able to flee. But the other combatants who didn't
21 have the same luck, who didn't have a family member elsewhere, went back
22 to the militia. They went back to be with Cobra. I don't know what
23 happened to them after that.

24 Q. Once again, with the leave of the Chamber, I had said I would
25 need five minutes but in light of what was just said, I take a personal

1 interest in this particular point.

2 Now, sir, you say that he needed those people, that Cobra needed
3 those people. What do you mean by that? You say he needed them. Why?

4 A. During that period, Cobra started to fight the army of the
5 Democratic Republic of Congo, the FARDC. Cobra wanted to rebuild his
6 movement. During that same period, Cobra made an agreement with the Hema
7 people, the UPC soldiers. They formed a coalition with the UPC of Bosco.
8 And Bosco arrived in person in the locality of the Ngiti people, where
9 they continued their movement. I don't know -- I don't know what really
10 happened. I don't know what Cobra wanted. I don't know. I don't know
11 anything about politics. The people who fought against the UPC and,
12 oddly enough -- and oddly enough, I didn't understand what happened. I
13 don't know how that alliance was formed.

14 Q. Witness, I will stop asking you questions. I don't want to
15 trouble you. And with the leave of the Chamber, I will finish with the
16 following question. Now you've just told us you didn't understand
17 anything about politics. When you look over the course of your life and
18 the days when you were halted and then forcibly abducted and placed in a
19 camp, today, do you understand what happened in Ituri? Does this have
20 some meaning for you or do you have the feeling of incomprehension?

21 A. Up until now, I've understood nothing about what happened.
22 However, I do have one thing in my mind. Up until now, a Hema has been
23 the enemy for me. A Hema person is an enemy for me, that is my truth.
24 Other than that I have no other truth. My enemy are the Hema people up
25 until now.

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1 Q. Thank you very much, Witness. I know it wasn't easy for you, and
2 I trust, and I truly hope, that things go better for you and that the
3 future will be brighter for you, brighter than what you have experienced
4 over the past few years. Thank you very much.

5 MR. GILISSEN: (Interpretation) Thank you very much,
6 your Honours.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
8 Mr. Gilissen. Mr. Luvengika, you may proceed.

9 MR. LUVENGIKA: (Interpretation) Good morning, your Honours.
10 Thank you, your Honour, for allowing me this opportunity to address the
11 Court.

12 Questioned by Mr. Luvengika:

13 Q. (Interpretation) Good morning, Witness. My name is
14 Fidel Luvengika, and I am the Legal Representative of the victims of
15 Bogoro. I am going to ask you some questions so that I can better
16 understand what happened to these victims in Bogoro. I do hope that I
17 will not be very long with my questions.

18 Now, at last Tuesday's hearing, you said -- you said:

19 "I fought on the side of the road from Kagaba towards Bogoro, and
20 at the end of the attack we moved towards the camp."

21 Could you explain to us what your target was, when you say that
22 you were fighting on that side, were you fighting against the UPC
23 soldiers or against the civilian population or the two at the same time?

24 A. During the fighting in Bogoro, it was difficult for us to make a
25 distinction between the civilians and the combatants.

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1 I would say that the ones who were killed in the classrooms were
2 civilians, as well as the old people who died in their houses. Other
3 than those two categories, everyone we saw was armed, so it is difficult
4 to make a distinction between civilians and UPC combatants. But for us,
5 we thought the two categories were our enemies.

6 Q. Yes. These combatants on that side, did you have a specific
7 target in the streets of the village of Bogoro, or did you conduct the
8 attack house by house?

9 A. No. It was not as specific like that. We were shooting at all
10 the places that fire was coming from, gun-fire was coming from. So if
11 you noticed gun-fire from a particular direction, you would shoot in that
12 direction. Our objective was to destabilise the UPC position who were in
13 Bogoro. We didn't have an objective or a mission to fight house by
14 house, no. We had come to attack the camp. That was our main objective.
15 But it was important to shoot at any direction from which gun-fire was
16 coming.

17 PRESIDING JUDGE COTTE: (Interpretation) Your microphone,
18 please, Mr. Luvengika.

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

20 Q. During yesterday's hearing, you said -- when you spoke about the
21 discipline of the combatants, you said that they had to respect the
22 population and protect the population. Which people were you speaking
23 about? Did that include the Hema people?

24 A. No. If I said that, well, it was about the way people were
25 living in the village. I was talking about the Ngiti people, not about

1 the Hema people. You know for us the Hema were enemies. I was talking
2 about the Ngiti people, not the Hema people.

3 Q. Thank you, Witness. Are we to understand that during the attack
4 on Bogoro, even if you could distinguish between soldiers of the UPC and
5 the civilians, that was not all that important, they were all targets to
6 you? Is that correct?

7 A. Yes. All of them.

8 Q. Tuesday, you told us that you saw the bodies of women, of
9 children and of old people after the attack on Bogoro. In accordance
10 with what you said, you saw these bodies both inside and outside the
11 school; is that correct?

12 A. Yes. I said that there were bodies everywhere, outside and
13 inside. But I was specific saying that in the classrooms, there were
14 more bodies, and the bodies were piled up one on top of another. They
15 were the bodies of women and children, and other people who were in those
16 classrooms. So there were many bodies in those classrooms.

17 Q. Could you tell us approximately how many civilians were killed by
18 the attackers? Do you have an approximation to provide? Were there just
19 a few civilians or many civilians killed?

20 A. In my opinion, if we talk about civilians, we are talking here
21 about the elderly or grandparents and also women and mothers. But it is
22 very difficult to tell the corpses apart. That is to say, the corpses of
23 civilians and those of soldiers. Some of them had been wounded by
24 gunshot.

25 Q. According to what you were able to note at the institute --

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1 MR. FOFÉ: (Interpretation) I'm sorry to interrupt.

2 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé, please.

3 MR. FOFÉ: (Interpretation) Yes, I thank you, Mr. President.

4 There is a serious problem of interpretation. Page 11, line 25. 25, 26.

5 PRESIDING JUDGE COTTE: (Interpretation) Yes, what are we
6 talking about here?

7 MR. FOFÉ: (Interpretation) The witness provided his answer
8 saying that it was difficult to distinguish between the bodies, that is
9 to say, to distinguish between the Hema adults, the civilians, and the
10 soldiers, because all of them had ammunition, all of them had weapons,
11 but the interpretation does not reflect that response provided by the
12 witness in Swahili, that is lines 25 and 26.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
14 Professor Fofé, that is page 11, line 24. We have here the draft
15 transcript in French on the screen, and I will leave this to those who
16 read the English. We can see in the French transcript that it is
17 difficult to differentiate the civilian from the military corpses. And
18 that there were some of them who had been wounded by gunshot.

19 So, Witness, the best thing for you would be to tell us what
20 response you had provided to Mr. Luvengika; notably, were there many
21 civilians who were killed or a few civilians who were killed? You
22 started by saying: "I would say that if we were talking about civilians,
23 in this case, we are talking about the elderly or grandfathers and women
24 and children." And if you could please reiterate your answer so that it
25 be correctly interpreted as well as possible. Thank you very much.

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1 THE WITNESS: (Interpretation) Yes. As I just said, it was
2 difficult to distinguish between the adults, the male adults, and the
3 young people who died on the UPC side in Bogoro. It was not possible for
4 us to ascertain whether they were civilians or soldiers. This was
5 because they all had weapons. However, I could say with reference to
6 some of them that they were civilians because they were women and
7 children. Some children. And young girls and grandfathers, as I just
8 said. They were grandfathers and mothers. But it was difficult to be
9 sure that they were civilians or soldiers. There were corpses strewn
10 everywhere and there were many of them. There was not just one or two
11 bodies around. There were many bodies in Bogoro.

12 PRESIDING JUDGE COTTE: (Interpretation) I thank you,
13 Mr. Witness.

14 Maître Luvengika, please proceed.

15 MR. LUVENGIKA: (Interpretation) I once against forgot to put my
16 microphone on.

17 Q. Mr. Witness, could you please tell us how the combatants behaved
18 when they were in the houses of the Bogoro villagers? May -- let me
19 rephrase my question. You said at an earlier stage that there were
20 elderly people who died in their houses. Could you please tell us how
21 those elderly people died?

22 A. Those people had been hacked with machetes or they had been
23 killed with spears or knives.

24 Q. During your testimony before the Chamber, you stated that on the
25 occasion of the attack upon Bogoro, you had a firearm in your possession

1 that you had retrieved during a battle. Could you please tell the
2 Chamber whether all those combatants in Bogoro had a firearm in their
3 possession?

4 A. No. Not all combatants had firearms. Some of them had spears,
5 others had bows and arrows, others had machetes and knives. But those
6 who were in possession of rifles would walk ahead of the others, ahead of
7 the other combatants, and those who had spears and other weapons would
8 bring up the rear. They transported the ammunition and other property,
9 goods. Those who were bringing up the rear did not have rifles. They
10 were walking behind those that did.

11 Q. And what role was played by the combatants who had bladed
12 weapons, apart from the fact that they were carrying the ammunition?

13 A. Those who had spears were transporting the ammunition, or those
14 who had rifles would go by to see what had happened and were they to find
15 bodies on their way, then they would cut them up and they would then
16 pierce them with their spears. They would do things of this nature.
17 Those who had bows and arrows would also take up position, and they would
18 aim at the adversary in order to fire at them, in order to fire arrows at
19 them or spears. So I reiterate, those who had spears and other
20 traditional forms of weaponry would bring up the rear and walk behind
21 those who were bearing -- combatants who were bearing rifles, in order to
22 finish off the corpses.

23 Q. So if I understand you correctly, with regard to what you
24 clarified yesterday during the hearing, no pity was shown; is that
25 correct?

1 A. Indeed, no pity was shown, and that was said in the context of
2 the killings, as you have just said yourself. So activities conducted
3 involved killing and looting, and that is why -- and it is in that
4 context that people said that no pity was shown.

5 Q. I thank you, Mr. Witness. Could you please tell us what the
6 reaction of the commander was or of the commanders were, when they saw
7 their combatants killing civilians? Did they punish those combatants?

8 A. I never saw anyone receiving any form of punishment. Nothing was
9 said and nothing was done in that context. I was not witness to it in
10 any case.

11 Q. During your testimony before the Court, you stated, or you
12 described to us the looting that followed the attack on Bogoro, more
13 particularly during yesterday's hearing. You said to us that anything
14 that was looted, that could be looted, was. Could you tell us whether
15 the combatants only looted the houses of inhabitants or would they also
16 loot other buildings, such as schools, churches, the health centre, and
17 other buildings of this nature?

18 A. The combatants were looting willy-nilly, whether it be at the
19 military camp, the health centre, everywhere.

20 Q. You also talked about the fact that cows and goats were looted.
21 Do you know what or at what price the looted cow or cows were sold in the
22 Walendu-Bindi collectivity and at what price they were sold at the Beni
23 market?

24 A. The cows in the village of Walendu-Bindi were sold in two
25 different manners. On the one hand, the cow might be slaughtered and

1 sold for meat, and on the other, it might be sold while still alive. The
2 cow would get a better price in Beni because it would receive a price of
3 \$100, but in the village, amongst the Walendu-Bindi, the price of a cow
4 was lower than that in Beni, less than \$100, at least. So in Beni, a cow
5 would receive a better price.

6 Q. Do you know what happened to the harvest of the village of Bogoro
7 and to its crops?

8 A. I do not understand what you mean by crops or harvest.

9 Q. In the Bogoro locality or within the groupement where Bogoro was
10 to be found, there were fields belonging to the villagers. And my
11 question is: What became of those fields where crops were planted, and
12 what happened to the harvest or yield from those crops?

13 A. When the crops were ready to be harvested in the fields, and when
14 they were ready for consumption, they were used by the combatants who
15 were there on location. However, I do not know what became of other
16 crops that remained. All I do know is that the crops ready to be
17 harvested were used as supplies and as a source of food for the
18 combatants.

19 Q. During yesterday's hearing, you also made mention of the fact
20 that houses were destroyed. According to what you were able to see, how
21 many houses were destroyed? Were there just a few houses here and there,
22 or were -- are we talking about all the houses of the village that were
23 destroyed?

24 A. These were the houses within the collectivity. I would say that
25 all the houses, all the houses, within the village, with the exception of

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1 those occupied by combatants, all the other houses were sacked or
2 destroyed, but the house would not be destroyed in its entirety. When it
3 was straw-covered, it would be set on fire. If it had a sheet-metal
4 roof, then the sheet-metal roof would be removed and any objects of value
5 to be found in the house would be looted.

6 Q. I thank you, Mr. Witness, and this will be my last question to
7 you. In the face of such looting and destruction, destruction of houses
8 in the village of Bogoro on the occasion of the attack in February 2003,
9 what was the reaction of the commander or the commanders when they saw
10 the combatants looting? Did they react? Did they blame them? What was
11 their reaction? Did they punish them?

12 A. I did not note any reaction on their part.

13 Q. I thank you very much, Mr. Witness.

14 MR. LUVENGIKA: (Interpretation) Mr. President, I have finished
15 with my examination.

16 PRESIDING JUDGE COTTE: (Interpretation) I thank you,
17 Mr. Luvengika.

18 Mr. Witness, before we allow the Defence for Germain Katanga to
19 address the Court, the Chamber would like to ask you a number of points
20 of clarification with regard to responses that you furnished the Office
21 of the Prosecutor over the last few days, with regard to a number of
22 points that are very different in nature, one from the other. So it will
23 be necessary for you to call upon your memory.

24 Page 43, lines 6 to 11, of transcript 216, you told us that you
25 had lived for a certain duration of time in Avenyuma. At page 9,

1 transcript 217, lines 13 to 15, you said at a later stage that there was
2 a camp located in this place.

3 Could you simply clarify as to whether during your stay in
4 Avenyuma, you came into contact with any of the soldiers in that camp?
5 I do not believe you stated this. We would like to have this additional
6 item of information or point of clarification, please.

7 THE INTERPRETER: Could the witness be requested to speak louder,
8 please, Mr. President?

9 PRESIDING JUDGE COTTE: (Interpretation) Please speak louder,
10 Witness.

11 THE WITNESS: (Interpretation) There was a camp in Avenyuma but
12 it wasn't a camp as such. There were a number of houses belonging to
13 civilians that were used as military camp. It was not a camp that had
14 been constructed there. It was -- there were a number of houses that
15 were occupied by combatants, and anyone passing by could see combatants.
16 However, during that period, the combatants from Avenyuma were very
17 severe. The civilians could not approach their camp with any ease. This
18 was a headquarters and there were many killings. They were very strict
19 towards the population. One could not enter into contact with soldiers,
20 one could not easily approach them and have any dealings with them. They
21 were very severe and strict.

22 PRESIDING JUDGE COTTE: (Interpretation) I thank you,
23 Mr. Witness. Another question because we want to be certain that we have
24 understood you correctly. Page 52 of transcript 216, lines 14 to 25, you
25 told us that Commander (Expunged) had taken you forcibly to the camp in the

1 Bulandjabo region. We have retained that piece of information. We have
2 understood it.

3 Now, when you went to Aveba, did you go of your own volition or
4 did you go there under force? We would like to be certain that we have
5 understood you correctly in this regard. So to Bulandjabo you were taken
6 forcibly, but did you go to Aveba voluntarily or were you taken there
7 under force? Could you please specify this or repeat what you said.

8 THE WITNESS: (Interpretation) We took refuge in the direction
9 of Aveba. Nobody took me to Aveba. I went there when I was fleeing,
10 because in Bulandjabo, life was very difficult and I needed to flee. I
11 had to go to Aveba myself.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Witness.
13 When you were in Aveba, did you have the opportunity to meet an
14 inhabitant from Aveba whose nickname was (Expunged) ?

15 THE WITNESS: (Interpretation) Who did you refer to?

16 PRESIDING JUDGE COTTE: (Interpretation) A person whose nickname
17 was (Expunged) Did you have the
18 opportunity to meet this individual?

19 THE WITNESS: (Interpretation) I know the individual by the name
20 (Expunged)

21 (Expunged) but if it is the person who lived in
22 Aveba, I knew him very well.

23 PRESIDING JUDGE COTTE: (Interpretation) And what was the
24 activity of the individual (Expunged) that you knew in Aveba?

25 Did this person have any particular profession?

1 THE WITNESS: (Interpretation) (Expunged) lived in Aveba was
2 not somebody from our neck of the woods. He was somebody who had come to
3 settle. He had settled there from a village. (Expunged)
4 (Expunged)

5 (Expunged)

6 PRESIDING JUDGE COTTE: (Interpretation) Is this somebody who
7 used to come to the camp, or was he working outside of the camp? What
8 can you tell us about this individual, with regard to what you know of
9 this individual and their activities at that time, with regard to the
10 contacts they had with you or with other individuals who might have been
11 living in the camp?

12 THE WITNESS: (Interpretation) I would see (Expunged), quite simply.

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged). During the day he would come to the camp, he
17 would eat there, he would do everything he needed to do and then he would
18 leave again.

19 PRESIDING JUDGE COTTE: (Interpretation) To your knowledge, you
20 saw him in Bogoro -- sorry, I mean Aveba. Did you see him there before
21 the attack or after the attack? Was he in Aveba before the attack or
22 after the attack on Bogoro?

23 THE WITNESS: (Interpretation) Your Honour, I do not have any
24 further information to provide you in this regard, but I can quite simply
25 tell you that this man lived in Aveba for a long time.

1 PRESIDING JUDGE COTTE: (Interpretation) I thank you.

2 Page 12 of transcript 217, lines 9 to 20, you told us that the
3 soldiers from Avenyuma had, at a certain moment in time, preferred to
4 have as their chief Commander Yuda rather than Commander Ndkolobo. I'm
5 sorry, do excuse my pronunciation. You said that at a certain moment in
6 time, the soldiers of Avenyuma had, if you like, chosen Yuda over
7 Ndkolobo. How did you come to learn that there was a quarrel within the
8 confines of this camp and that some people preferred Yuda to Ndkolobo?
9 How did you learn that piece of information?

10 THE WITNESS: (Interpretation) Your Honour, there were many
11 quarrels between combatants, and this was a known fact to anybody or
12 everybody in Aveba. So not all the combatants lived together peacefully.
13 There were arguments between them. And that happened quite often.

14 PRESIDING JUDGE COTTE: (Interpretation) So that happened often
15 and people knew about it quickly. Do you know whether Germain Katanga,
16 as the person responsible for the FRPI, as you told us, intervened? Did
17 he intervene in these quarrels to settle things down?

18 THE WITNESS: (Interpretation) Your Honour, I can tell you that
19 in that camp, when a combatant revolted, he only showed respect to the
20 old Bayonga. Honourable Judge, you can even kill a member of the
21 population and flee and go see old Bayonga who would protect you. But
22 if, for example, you were to kill someone, and if you stayed at that
23 place, the members of the family or the sympathisers of that person would
24 come and fight you. So people only respected the old man known as
25 Bayonga.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you, sir.

2 Page 17, transcript 217, lines 2 and 3. And this is a quite
3 different question. You told us that the code name of Katanga was Simba,
4 over the radio, or Ali Akpa. Now, we know the meaning of the word
5 "Simba." Do you know whether Ali Akpa had a particular meaning?

6 THE WITNESS: (Interpretation) I didn't say "Ali Akpa," I said
7 "Ariakpa." And in the Ngiti lingua, that means "lion," or "leopard." I
8 have no other explanations to give you.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you. That's a
10 very satisfactory explanation. I believe it was yesterday or the day
11 before that, rather, in the transcript 217, page 50, lines 25 and 28, and
12 I will read out very quickly.

13 "After the battle, we all met up in Bogoro. There was no people
14 from Medhu, but at the same time as we attacked, there were other people
15 in Medhu who launched an attack against Medhu. But myself, I was not
16 with the combatants who attacked Medhu. We found ourselves all together
17 after the victory in Bogoro."

18 Could you give us a few details about this battle in Medhu or do
19 you not know anything about what happened there? Who was fighting whom
20 in Medhu? Who were the parties who were fighting?

21 THE WITNESS: (Interpretation) I think it was transcribed
22 incorrectly. I said that there was a battle in Bogoro. People from our
23 part of the world knew that the attack was going to be launched from two
24 places, from Kagaba and from Medhu. I said that I was not in the group
25 that attacked from Medhu. I was part of the group that attacked from

1 Kagaba. There were combatants who had gone by way of Medhu and they had
2 the same objective, namely, to launch an attack on Bogoro. So it was one
3 single attack made up of two components of the FRPI. There were people
4 from Bavi who were supposed to go by way of Medhu and launch an attack on
5 Bogoro. So the objective was not to attack Medhu. To be more specific,
6 I was part of the combatants who attacked going by way of Kagaba. So
7 I did not say that Medhu was the target.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much for
9 that clarification, which was very useful. Thank you, Witness.

10 Now, transcript 272 (* as interpreted), page 52, line 26, you
11 said, and Mr. Luvengika touched upon this point earlier, that you were
12 bearing a firearm during the battle of Bogoro. Do you remember who gave
13 you that firearm, and when it was given to you? Had you been bearing it
14 for a long period of time? Was it given to you just before the battle?
15 Who gave it to you? If you remember.

16 THE WITNESS: (Interpretation) Yes. When someone recovers a
17 firearm on the battleground, and takes the firearm back to the camp, and
18 we didn't always move about with a firearm. Sometimes we would give the
19 firearm to the store, and when there was a programme to carry these arms,
20 we would give them back. As for the firearm I had when I was fighting in
21 Bogoro, it was one that I received at the camp in Aveba. It wasn't a
22 weapon that I recovered. It was a weapon that had been provided to me.

23 PRESIDING JUDGE COTTE: (Interpretation) Do you remember how
24 this weapon was provided to you? You may not remember the name of the
25 person who gave it to you but do you remember the rank or the status of

1 the person who gave you the weapon?

2 THE WITNESS: (Interpretation) As I just said, when we moved
3 towards Bogoro to launch an attack on that place, we left with Dr. Dogogo
4 (* as interpreted). He was the one who distributed the weapons, the
5 firearms, and the other pieces of equipment that we needed to have.
6 Dr. Dogodo, I believe it was Dr. Dogodo who gave me that weapon. If
7 I recall correctly.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Witness.
9 Four questions about the soldiers of the APC that you spoke to us about.
10 Now, you said in response to a question from the Prosecutor, I believe,
11 that in Aveba there were approximately -- you couldn't give us an exact
12 figure but approximately 25 soldiers from the APC who had set up
13 operations in Aveba. Who did they report to? Who gave them orders?

14 THE WITNESS: (Interpretation) The APC soldiers who were based
15 in Aveba? If I'm not mistaken, they reported to Commander Blaise.
16 Amongst the commanders of the APC, Blaise was based in Aveba. There was
17 also operator Mike, and he used the communications equipment.

18 PRESIDING JUDGE COTTE: (Interpretation) Yes, you did mention
19 Commander Blaise. Now, to your knowledge, did new soldiers of the APC,
20 new soldiers of the APC, come to the collectivity of Walendu-Bindi to
21 take part in the attack on Bogoro? Were reinforcements brought in, APC
22 soldiers who arrived to take part in the attack on Bogoro?

23 THE WITNESS: (Interpretation) Your Honour, I don't remember.
24 I do know that the APC soldiers who took part in the attack on Bogoro
25 were the ones who were found in the collectivity of Walendu-Bindi. I

1 don't believe that special reinforcements were brought in to launch the
2 attack.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you. At the time
4 of the attack, that is to say, just before the attack and during the
5 attack on Bogoro, do you know whether these APC soldiers were obeying
6 their own leader? For example, Commander Blaise? Or at the time of the
7 attack, were they following the orders of the commanders of the other
8 groups? In particular, of the FRPI?

9 THE WITNESS: (Interpretation) I would say that those combatants
10 followed the orders given. There was no one leading them to give them a
11 specific order, so they obeyed any order. Each order that was given to
12 all the combatants together.

13 PRESIDING JUDGE COTTE: (Interpretation) To your knowledge, was
14 Commander Blaise reporting to Germain Katanga?

15 THE WITNESS: (Interpretation) Your Honour, I have no idea. All
16 I know is that Commander Blaise was a friend of his. I don't know if he
17 was higher ranking but I know that Germain was the highest-ranking
18 person. I know that the two were friends, but I don't know which one was
19 higher ranked of the two.

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

21 Mr. Hooper, if you wish, you may begin your cross-examination.

22 MR. MACDONALD: (Interpretation) If you don't mind, your Honour,
23 before my learned friend begins, and this is with a view, your Honour, to
24 ensuring cordial exchanges, without encroaching upon the decorum, so to
25 speak, which you ensure, your Honour, and with all due respect, the

1 Prosecution wishes to avoid having to rise and make objections, and
2 wishes Mr. Hooper to be able to conduct his cross-examination. But, of
3 course, your Honour, just to avoid the Prosecution having to rise, just
4 as a reminder, I remind all that when one makes reference to earlier
5 statements, usually the practice is that these statements are shown to
6 the witness so that the witness can refresh his memory, and answer --
7 provide an answer in context. The same thing for the transcripts. As
8 the Chamber just did. One makes reference to the transcript, not just
9 for any old thing. There are some things that are known to all, but for
10 more specific technical points, I think that the Chamber understands what
11 the Prosecution is referring to. So when there are more specific
12 references, I believe one must cite the passage or show the document to
13 the witness so that he can make reference to it. The witness can read
14 French, although he is replying in Swahili, and the goal, of course, is
15 to ensure cordial exchanges and for us to proceed speedily.

16 Furthermore, I do know that this may not be really the Defence's
17 area, but there were some specific topics that were touched upon in
18 private session, and I would remind all that when one comes to such
19 topics, we need to go into private session. But if necessary,
20 your Honour, it is possible that at some points I may rise, not to
21 interrupt my colleague but, rather, to provide a reminder that these
22 topics need to be dealt with in private session. So I believe -- I
23 believe that it is important to make this point now so that we do not
24 have to interrupt Mr. Hooper or Mr. Kilenda or Mr. Kilenda's team. There
25 you have it.

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1 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
2 Mr. Prosecutor. I think your approach has been entirely understood and
3 its objective is to ensure proceedings are not interrupted too often by
4 objections. And Mr. Hooper will ensure that the references to the
5 transcripts are provided properly and that the documents are shown to the
6 witness at the right time. The Court Usher will be on the lookout and
7 will speedily show these documents to the witness. The Chamber also
8 wishes to specify that, for his examination-in-chief, the Prosecution
9 used, I believe, 7 hours and 8 minutes.

10 Mr. Hooper, you may proceed.

11 MR. HOOPER: Thank you.

12 Questioned by Mr. Hooper:

13 Q. And good morning to you, Witness.

14 A. Good morning.

15 Q. There is a list of names and places, it's a short list, which
16 I propose to use, which can be distributed, of course, to the witness, to
17 avoid from time to time, I hope, needing to go into closed session. I'm
18 grateful for my friend's cautionary comments in respect of going into
19 closed session and I certainly well understand and respect his motives.
20 May I suggest to my friend that if at any time I appear to be broaching a
21 subject that he thinks should be in closed session, that he merely shout
22 out "closed session," and I'll understand and the Court will understand
23 that that's a point of view being expressed. I'll pause for reflection
24 and either concede the ground readily and willingly or perhaps explain
25 myself a little better to you, Mr. President, and you, the Judges.

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1 So there's some documents here to be distributed. As I say, one
2 to the witness, please, one to each of the Judges, and as far as it can
3 go after that.

4 THE INTERPRETER: A message from the English booth, if the
5 interpreters could be provided with a copy of this document, we would be
6 most grateful.

7 MR. HOOPER: (* Overlapping speakers) ... if it hasn't we will
8 try and get a copy to you straight away.

9 PRESIDING JUDGE COTTE: (Interpretation) Sorry about that. Now,
10 this document prepared by the Katanga team is being provided to everyone.
11 The Prosecution is reviewing it and the witness will be provided with
12 this document in just a moment.

13 Usher, you can provide this document to the witness, and this
14 document will be a memory jogger for you, or will help you as Mr. Hooper
15 conducts his cross-examination.

16 MR. HOOPER: And how many would the booths like?

17 THE INTERPRETER: A message from the English booth, four copies,
18 please, one for each booth.

19 MR. HOOPER: Thank you very much. I hope they are coming to you.
20 If there isn't a sufficient number there, please let me know.

21 Q. Now, Mr. Witness, this trial has been going on now for many
22 months, and it's a trial which is being shown through video link on
23 television, computer televisions. Have you watched any of it? Have you
24 watched any of these proceedings? No criticism of you necessarily, if
25 you have.

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1 A. No. I have never listened to this trial. I listened to the
2 Lubanga trial.

3 Q. All right. So you watched that on the television screen, the
4 Lubanga trial; is that right?

5 A. I just told you that I have listened to the Lubanga trial on
6 television.

7 Q. But not this one. Why not this one, the one what you're perhaps
8 most interested in?

9 A. Sir, we can see that you're a lawyer by the robes you are
10 wearing. Please cut to the chase. Don't beat around the bush. You are
11 a lawyer. I can see that you are wearing the robes that we see. Don't
12 ask me why I didn't listen to the trial of a particular person. In my
13 statement, in my written statement, I didn't say that I listened to
14 anyone's trial.

15 Q. Now, let's cut to the chase. You were first seen by the
16 Prosecutor in December of 2005; is that correct?

17 A. I have no documents to consult in order to consult -- confirm
18 that but if you have any such documents, I concede that.

19 Q. Am I right in saying that before you came into this court to give
20 evidence, that you were provided with documents, or had access to them,
21 or someone read them to you, relating to all your previous statements
22 that you'd made to the Prosecutor? Am I right in saying that that
23 happened? You had the advantage of that?

24 A. Listen to me. What I'm going to say and what I know is that I
25 have in my -- and what I have in my memory.

1 Q. My question was: Before coming into court, did you have access
2 to the various statements that you'd made on prior occasions to the
3 Prosecutor?

4 A. The Office of the Prosecution did not read out my statements to
5 me, my written statements. I don't talk to people from the OTP. If
6 there was some programme of reading out a statement, well, those are the
7 people who have those statements and do what they want of them. It's not
8 you. It's not the Judges.

9 But I can tell you something, sir. If you want us to continue
10 our discussion, and if you want the truth to be told, I believe that I'm
11 telling you the truth, and if you want us to move ahead without any
12 difficulties, don't try -- don't try to give me a hard time. My life has
13 been tormented. My collectivity as well. If you think that you're on
14 Germain's side, it's because you have work to do. You have interests,
15 you have your own interests in all of this. So please don't torment me
16 excessively. Above all, I must say that Germain is a brother of mine.
17 He is a person I love a great deal. And furthermore, I feel sorrow. It
18 is difficult for me to answer these questions you are going to ask me.
19 Tears are coming to my eyes. So please go ahead in a gentle way.

20 PRESIDING JUDGE COTTE: (Interpretation) Witness, before we give
21 Mr. Hooper the floor, a few moments ago, you made some remarks, remarks
22 that you wanted to make, and it's also true that the Defence counsel have
23 a legal obligation to behave in a courteous fashion with witnesses. And
24 they do that. They respect that legal obligation. They've done so ever
25 since the beginning of this trial. They have respected this legal

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1 obligation, and the Court would remind them of that if they did not
2 respect that obligation. It's part of our rules, and rules of the court,
3 88(5), actually. And Mr. Hooper and Mr. Kilenda have a job to do;
4 namely, they must defend their clients and, as such, they must ask you
5 questions. So please strive to answer their questions as best you can as
6 you have done so far. And I'm quite sure -- the Court is quite sure that
7 things will unfold properly. Everyone will show proper respect to one
8 another. So, please, go ahead. We are listening.

9 THE WITNESS: (Interpretation) Yes. Your Honour.

10 THE INTERPRETER: Message from the Swahili booth, could he be
11 asked to repeat what he's just said.

12 PRESIDING JUDGE COTTE: (Interpretation) I apologise, the
13 interpreter did not hear what you had to say after "your Honour." He did
14 not hear what you said. Could you reiterate, please.

15 THE WITNESS: (Interpretation) I was talking about the piece of
16 paper that I was given, that I was -- I have just been given. I -- they
17 have given me this to frighten me. That's why I'm talking about
18 grimaces. I know all these names. I have them in memory. And in
19 response to the questions put to me previously, I do not have any need to
20 read my responses on a piece of paper. So the Defence can move forward
21 with their questioning.

22 PRESIDING JUDGE COTTE: (Interpretation) Very well, Witness.
23 But in Mr. Hooper's mind, probably, most probably, at certain moments
24 during his cross-examination, rather than using the word or the name, he
25 will ask you to use the number. He will explain this to you. I do not

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1 believe that he was handing this piece of paper to you with a view to
2 impressing you in any way. He is using this as a tool. He will explain
3 this to you in a moment. So let us continue. But this explanation had
4 to be provided to you. Things will be conducted in mutual respect.

5 Mr. Hooper, please proceed.

6 MR. HOOPER: Yes, thank you.

7 Q. So my second question, Mr. Witness, let me repeat it, before
8 coming into court as a witness, did you have the opportunity of access to
9 your previous statements that you had made to the Prosecutor?

10 A. Yes, it is true that I provided statements a long time ago, and
11 the VWU called me and I was given my statements so that I could read over
12 them again, which I did.

13 Q. And do you remember that your first contact with the Prosecutor
14 was in 2005 or not?

15 A. Yes.

16 Q. Now, before this Court, the route of your story, as we heard,
17 starts in Nyankunde, and then goes to Bunia, and then goes to Oicha and
18 Avenyuma, and involves a bicycle and being abducted when you were trying
19 to get this bicycle back. We've all heard that. Do you agree that the
20 first time you told the Prosecutor that story in over five years of
21 contact was only in October, in fact only about three weeks ago? Do you
22 agree that's the first time you told the Prosecutor that account? Three
23 weeks ago?

24 A. Am I to answer that?

25 Q. Yes. It's a question. Do you agree the first time you told the

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1 Prosecutor that account was just three weeks ago?

2 A. If you are referring to the bicycle, yes, that is true. It was
3 the first time that I was making mention of this.

4 Q. Yes. Well, we'll come to see in detail what you said. Is it
5 right that you had previously claimed that you were abducted while you
6 were at school or coming or going to school in Aveba? Had that been your
7 previous story? Is that right?

8 A. Yes. That's what I said. Yes.

9 Q. Now, before I come to clarify the account that you now give to
10 this Court, can I just ask you a question involving an answer you gave in
11 relation to a question from the Judges a moment ago, where you mentioned,
12 as I understood it, someone called Dogogo? Would you be good enough to
13 spell the name so that we have it correctly?

14 A. Do you say Dogogo? Could you please reread the page of the
15 transcript when I talk about Dogogo, so that I may recall what that
16 person did?

17 Q. I'm asking you -- you mentioned a name of someone who you thought
18 gave you the weapon that you used at Bogoro, as a section commander, as
19 I recall. Can you give us that person's name again, please, and spell it
20 for us just so we have a correct spelling of the name, as you understand
21 it?

22 A. His name was Dr. Dogodo, not Degodo. His name was Dogodo, and I
23 am pronouncing this well. No, it's Dogodo and not Degodo.

24 Q. So in my understanding that would be D-o-g-o-d-o, Dr. Dogodo.

25 Thank you.

1 A. His name was Dr. Dogodo.

2 Q. Right. Now let's come back to your account. And you were born
3 and brought up at the place that's indicated by letter A on the document
4 in front of you. In fact, there may be an N missing there as the fourth
5 letter but we can all, I think, see and appreciate that that's meant to
6 be the place that we've heard quite a lot about. I can't recall whether
7 your birth place was and where you grew up was, in fact, in closed
8 session or not. I think it's been in open session as well. But I see
9 Mr. MacDonald helping me. He doesn't need to get up and say a lot.
10 I understand. So that's a closed session subject. Now, you see the
11 mechanics we are using here and you see why you've got that list. It's
12 not to frighten you, sir. It's to save the court curtains having to be
13 opened and shut all the time, you see.

14 So place A, as we know, is your place of birth, and it was there
15 that you attended primary school and you also went and completed, is this
16 correct, the first year of your secondary education there at letter A?
17 Is that correct? And don't mention the name because obviously that's why
18 we are using the letter A. First year secondary, you completed in the
19 place at letter A; is that correct?

20 A. Yes, if you are talking about the first year of secondary school,
21 it is true.

22 Q. And don't tell us the name of the university where you might be
23 but I understand from statements I've seen made by you that you are at
24 university today, or you have been at university; is that correct?

25 A. No. I have not yet started at university. I have only just

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1 finished my secondary studies.

2 Q. All right. My misunderstanding. And what year did you finish
3 your secondary studies?

4 THE INTERPRETER: Message from the Swahili booth, the witness's
5 answer is very hazy.

6 THE WITNESS: (Interpretation) I finished my secondary studies
7 during those years.

8 MR. HOOPER:

9 Q. Let me put the question again. Which year did you finish your
10 secondary studies? We are now in 2010. When did you finish your
11 secondary studies?

12 A. According to what I just told you, when I said "those years," it
13 was in the month of June or the month of July.

14 Q. Which year, please?

15 A. I have already answered that question saying that it was at the
16 end of the month of June of this year.

17 Q. That didn't get through to me, I'm sorry. So June/July 2010; is
18 that right?

19 A. Yes. We are talking about this year, this current year.

20 Q. Thank you. Now, what year did you finish your primary school
21 studies? Can you help us, please?

22 A. I do not know.

23 Q. When you say you do not know, I mean, can you help us at all,
24 approximately, or have you no idea when you finished your primary school
25 studies at place A? So you shook your head in a negative way.

1 A. Impossible.

2 Q. All right. So what year -- can I ask you this: What year did
3 you start your first year secondary school? Always an important time in
4 a young man's life. But what year was that? Can you help us?

5 A. I shall provide you with a clear response. I started my first
6 year of secondary school before I took flight, before I fled the location
7 written against the letter A. The war started and we fled. We fled on
8 the first occasion and we went towards Bunia, and it was during that year
9 that I started my first year of secondary school.

10 Q. Am I correct in understanding that you completed your first year
11 of secondary education before fleeing the place at letter A? You'd
12 finished that first year? And after finishing was the time when you fled
13 to Bunia? Is that right?

14 A. Yes.

15 Q. Now, obviously, when things happen, an important part of your
16 story, and I dare say over the past five years you've reflected on this,
17 so let me ask you: What year was it when you fled to Bunia?

18 A. I shall help you to understand me. I just said that after the
19 first year of secondary school, just after, we fled to Bunia. But I do
20 not remember the year. I simply know that it was at the end of the first
21 year of secondary school that I left my localité in order to take refuge
22 in Bunia. If you are aware of the year, then you can complete my
23 response by making mention of the year, but I am not aware of it.

24 Q. You told us on Monday, at page 38, line 17 of the transcript
25 T-216, and my reference is relating to these movements, all relate to

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1 transcript 216 of Monday, the 15th of November, you told us that you'd
2 spent a year in Bunia. Is that right? You spent a year in Bunia?

3 A. I do not know whether I remained there for the whole year but
4 I was clear, very clear, in saying that I completed my second year of
5 secondary studies in Bunia.

6 Q. So you completed your second year in Bunia and the school year
7 ends or runs, I understand, from September until July; is that right? So
8 you'd start in September, you'd finish your course in June or July of the
9 following year? Would that be right?

10 A. I have just furnished you with the piece of information -- this
11 piece of information, notably, that I simply completed my second year of
12 secondary school at that location. But as you just said, the school year
13 starts in the year -- in the month of August, where I'm from, and it runs
14 until the end of June or the beginning of July.

15 Q. Now, which school did you attend in Bunia?

16 MR. MACDONALD: May I propose that we give the name in closed
17 session?

18 MR. HOOPER: Just say "closed session," and I'll pick it up
19 straight away. Can we go into closed session for the answer, please?

20 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed. We shall
21 move into closed session, but might one not give a number to that
22 location or that locality. But let's go into closed session for the time
23 being, that is, private session.

24 (Private session at 10.53 a.m.)

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 (Open session at 10.54 a.m.)

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

16 Mr. President.

17 PRESIDING JUDGE COTTE: (Interpretation) I thank you.

18 Mr. Hooper, please proceed.

19 MR. HOOPER:

20 Q. And how long was it after you completed that second year of
21 secondary school in Bunia -- in Bunia, how long was it before you had to
22 flee Bunia? How many weeks or months was it?

23 A. Please, do not ask me to provide you with clarification as to the
24 week or the month. I clearly told you that when the APC left Bunia
25 during the war, I also left Bunia. It was during that very period. I do

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1 not know the date, nor do I know the month, the precise month.

2 Q. Well, let me help you, because, as Mr. MacDonald tried to help
3 you over the last few days, we all accept that Lopondo and his APC
4 soldiers fled Bunia in the first week of August of 2002. 2002, first
5 week of August. Now, you'd finished your second year, as I understand
6 it, in end of June or July, and I'm asking you, after you'd finished
7 school, finished that second year, how long did you have to stay in Bunia
8 before you had to flee, before you left? Can you help us with that?

9 A. Well, you have just made mention of the date when the APC
10 soldiers of Lopondo left Bunia, and I am telling you that during that
11 turmoil, I also took flight.

12 Q. All right. So it shouldn't be too difficult to work out, if we
13 have given you early August as the date, perhaps you can reflect on it
14 during the break and I'll come back to the subject at 11.30 when we meet
15 again. Thank you very much, Mr. Witness.

16 PRESIDING JUDGE COTTE: (Interpretation) I thank you, Mr. Hooper
17 and Witness. Thank you. We shall now suspend the hearing for
18 30 minutes. Security officers, could you please show Messrs. Katanga and
19 Ngudjolo out of the courtroom? We shall meet again in half an hour.

20 (The accused withdrew)

21 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could we
22 please go into closed session for the witness to be shown out of the
23 courtroom.

24 See you later, Mr. Witness.

25 (Closed session at 10.59 a.m.)

- 1 (Expunged)
- 2 (Expunged)
- 3 (Expunged)
- 4 (Expunged)
- 5 (Expunged)
- 6 (Expunged)
- 7 (Expunged)
- 8 (Expunged)
- 9 (Open session at 10.59 a.m.)
- 10 COURT OFFICER: (Interpretation) We are in open session,
- 11 Mr. President.
- 12 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
- 13 Court Officer.
- 14 We shall now suspend and we shall meet again at half past 11.00.
- 15 Recess taken at 11.00 a.m.
- 16 On resuming at 11.33 a.m.
- 17 (Closed session)
- 18 (Expunged)
- 19 (Expunged)
- 20 (Expunged)
- 21 (Expunged)
- 22 (Expunged)
- 23 (Expunged)
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1 (Expunged)

2 (Expunged)

3 (Open session at 11.35 a.m.)

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

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

8 (The accused enter the courtroom)

9 PRESIDING JUDGE COTTE: (Interpretation) Now, the accused are
10 with us.

11 Good morning, Witness, we shall now resume the hearing. Can you
12 hear me?

13 THE WITNESS: (Interpretation) Yes, your Honour.

14 PRESIDING JUDGE COTTE: (Interpretation) Very well. We can now
15 resume.

16 Mr. Hooper, please proceed.

17 MR. HOOPER: Thank you, your Honour.

18 Q. Welcome back, Mr. Witness.

19 And so if we accept, as we all do, that Lopondo and the APC were
20 driven out of Bunia in the first week of August of 2002, and that you
21 completed your studies at the end of the school year in Bunia, the second
22 year of secondary school, which would be July, early July 2002, and you'd
23 been in Bunia for a year, you would have arrived there in about the
24 middle of 2001. And we can tell that you would have started your
25 secondary school, according to you, in the year 2000 at place A. And

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1 that's not a very difficult exercise, is it?

2 And my question is this: I understand the school year in Ituri
3 and in DRC ends on a very specific date, on the 2nd of July of each year;
4 is that right? The school year ends July the 2nd in each year, a date
5 I'm sure all --

6 A. (No interpretation).

7 Q. -- yes, all the students, I'm sure, know and look forward to
8 that. So July the 2nd, school ends. And that would be the end of your
9 second year of secondary school. And my question is: How long after
10 that date, the 2nd of July, 2002, how long was it before you left Bunia
11 for Komanda and Oicha, how long elapsed?

12 A. I believe I gave you a specific reference. I fled because of the
13 fighting. I did not travel in a normal fashion. I fled. I fled the
14 fighting. I don't have further information about the date.

15 Q. So we don't lose our step in this history that we are talking
16 about, can I go back to place A? Can I refer you to the person whose
17 name appears at number 5 in our list? Do you have the list there in
18 front of you? If you look at number 5, we have that man, who is the
19 younger brother of the person who appears at number 6. So we all got
20 that? Number 5 is the younger brother of the person at number 6; is that
21 right?

22 A. That's right.

23 Q. And when the war came to place A, and number 6 left for Bunia, is
24 it right that he left his younger brother, that is, the man at number 5,
25 to look after his property, his house, in place A, and that you stayed

1 and helped look after that property, young though you were, with
2 number 5? So number 6 leaves place A, and you and number 5 stay in
3 place A for a time and you look after the property; is that right?

4 A. You just said the truth.

5 Q. And you, in fact - I don't know if this helps you - left with
6 number 5 in order to go to Bunia in November of 2001. So that's about
7 nine months -- nine or ten months before the APC get chunked out of Bunia
8 in August of 2002. Does that -- now I mention that, does that help your
9 memory?

10 A. If I recall correctly, I would say that it's true, I lived with
11 him but we didn't live together for a long time. It was just for a short
12 period. After that, he had the opportunity to leave and I followed him
13 after. So there you have it.

14 Q. All right. And number 5 -- I'm sorry, let me get back here to
15 number 6, that's the older brother. He and several members of his family
16 left Bunia, a couple of days before Lopondo got kicked out of Bunia, and
17 he took his family by plane first to a place called Nyankunde and then on
18 to Oicha. Do you remember that?

19 A. Yes. I remember.

20 Q. And you remained with the younger brother, number 5, for a few
21 days in Bunia before the two of you fled to Komanda. K-o-m-a-n-d-a. Is
22 that right?

23 A. Yes, we left then, after them.

24 Q. And at Komanda, you and number 5 came to separate. Number 5 went
25 off to do some religious studies nearby and eventually returned to Bunia,

1 while you continued and went to Oicha; is that right?

2 A. Yes.

3 Q. And Oicha is spelled variously O-i-c-h-a and O-y-c-h-a, and Oicha
4 is far away, isn't it? It's no longer in Ituri; is that right? Is it in
5 North Kivu or -- North Kivu, is it?

6 A. Yes.

7 Q. All right. Well, I don't have a map suitable today. I was
8 tempted to use the Prosecutor's map but it defeated my eyesight, and I'll
9 try and bring a better map because I'm not going to finish you today.
10 Over the weekend I'll try and get a better map so we can all better
11 understand the geography and come back to it briefly then.

12 So you get to Oicha where you find that number 6, the older
13 brother, has set up house, and am I right in understanding that you then
14 live with him for a time?

15 A. Yes. We stayed together for a while.

16 Q. And then later, did number 5 come and join you all in Oicha? Is
17 that right?

18 A. I believe that when number 5 arrived, I had already left.

19 Q. Well, I suggest you hadn't, and you remained living in Oicha
20 until January 2003. I know you're not very good on dates and times. You
21 made that very clear. It would mean that you were in Oicha for about
22 four or five months with that family, with number 5 eventually and
23 number 6 throughout.

24 A. No. I don't remember anymore. I no longer recall. I don't
25 believe that Mr. 5 -- number 5 was there, not really.

1 Q. Now, let me ask you, then, this: How long did you stay in Oicha?

2 A. To my knowledge, I didn't stay for a long time. I confirm that
3 I stayed there but not for a long time.

4 Q. Well, try and help us as to how long you remember you stayed
5 there.

6 A. It is impossible for me to remember.

7 Q. Well, "impossible" is a very emphatic word and I know you must
8 have been thinking about all these things for many years. Is it
9 impossible for you to help us? Or do you just not remember?

10 A. I would like to tell you this: At no time in my life did
11 I remember that story, those events. I would like to ask you, please,
12 not to say that anymore, no longer say that, because it was five years
13 ago, I don't remember the -- that story.

14 Q. All right. Then let's go back, then, and just clarify a few
15 matters, if I may trouble you, that you told us about on Monday. There
16 came a time after you'd been in Oicha, and this is your recollection,
17 I stress, when you were -- when you went to the place at D. If you look
18 at D on the list, it starts with S. I think that was in closed session.
19 Yes. And you told us that, as I understand it, you went to look for your
20 father or not? Can you remember? Why was it -- what took you to go to
21 place D and to leave Oicha? What was the reason that you remember?

22 A. Up until then, well, I find nothing difficult. I'd like to ask
23 you to look at letter 6 -- or, rather, number 6. Number 6 is the son of
24 number 7, and I was living with number 6 in Oicha. Number 6 gave me some
25 items that I was supposed to provide to number 7, give to number 7 in the

1 village: salt, oil and gasoline, if I recall correctly.

2 Q. I understood that you went also to look for your father or -- is
3 that right or not?

4 A. Yes. The objective was to go and live with my father, but I was
5 supposed to begin by dropping off those goods that had been given to me,
6 and that was also going to help me locate the place where my father was
7 living.

8 Q. And how did you travel to place D from Oicha? Did you walk? How
9 did you get there?

10 A. Well, actually, my feet even swelled up because I had to walk
11 through the forest. I walked with people whom I didn't know. It took us
12 seven days to walk through the forest. I was travelling with strangers,
13 but for me it was a matter of getting to the village, and so we left
14 together with the -- with those people whom I didn't know.

15 Q. Indeed, it's a long way. And you were carrying the gasoline and
16 the salt and the other items, were you?

17 A. Yes. With me I had the fuel, it wasn't an entire canister or
18 jerry can, they were small amounts, small amounts of salt, oil and fuel.
19 Small amounts. Let me specify. With regard to the oil, it was a
20 five-litre container of oil. You know, each time we took a rest, we
21 would use the oil that I had.

22 Q. So after a week's walking through the forest, you get to your
23 destination at D, and there you meet the person referred to as
24 "grand-dad," number 7, as you've explained, the father of number 5 and
25 6 -- or certainly of 6. And as I understood you to say, you only just

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1 arrived and the next day fighting occurred, which meant that you had to
2 leave; is that right?

3 A. Yes.

4 Q. And in leaving, you left, as I understand it, number 7 in -- in
5 (Expunged), and you went off in the direction of C on the list? Starts
6 with A.

7 A. We left with him but we didn't go in the same direction. I was
8 going in the direction of C, and he went in the direction that you just
9 mentioned, but we were not together.

10 Q. Why weren't you together?

11 A. You know, when you flee fighting, it's an individual matter.
12 Each person heads off in his own direction. There is no planning when it
13 comes to such things.

14 Q. Now, I was unclear as to the position of the bike. Did you take
15 the bike with you or not?

16 A. I took the bicycle with me but it was not on that day. It was
17 not on the day of the battle. It was later on. When I retrieved it on
18 the road, I met the individual who had seized it from me.

19 Q. All right. So this got a little more complicated. So you left
20 because of the fighting. You left, you say, with number 7 but you made
21 your separate ways to C; is that right? He went to C as well; is that
22 right? Number 7 went to C?

23 A. I say the following: I went in the direction of letter C, and he
24 also went in the direction of the area of letter C but I do not know
25 precisely which location he went to.

1 Q. All right. Well, you get to C, don't you? Do you ever see him
2 at C, ever see number 7 there?

3 A. If my memory serves me correctly, it must have been -- or he must
4 have been in the vicinity of that location, but I can't tell you the
5 precise location. I can confirm that I fled letter C.

6 Q. Well, we are not talking about fleeing from letter C at the
7 moment. We are talking about your fleeing from letter D to go to
8 letter C. And my question is: Did you see the grand-dad, number 7, at
9 C?

10 A. I have just said that. What is more, I just confirmed the fact
11 that I went in the direction of letter C. When we fled both of us went
12 towards that location, but we did not go the same way.

13 Q. I'm just trying to clarify this detail. You got to C. And did
14 number 7 join you there or did you see him there at C later, once you'd
15 arrived?

16 A. I would say the following: I was to be found at letter C when we
17 left together, that is to say, he and I went in the direction of
18 letter C. But we took a different way. We were going in the same
19 direction, however.

20 Q. All right. Now, just listen to the question. Did you see him at
21 letter C?

22 A. I no longer recall.

23 Q. All right. Now, how far is it, can you help us, approximately
24 how far is it between the place at letter D and the place at letter C?
25 How far is it approximately?

1 A. It is not a great distance between the two.

2 Q. All right. How long did it take you to get there? To get to C
3 from D, fleeing soldiers? How long did it take you?

4 A. You see, I would not be able to tell you how long that could
5 take. That place is hilly, that is to say, there are ups and downs, and
6 it is difficult for me to estimate the duration that it would have taken.

7 Q. Well, I'm not asking you to give it, you know, within minutes
8 or -- how many hours would it take to do that journey? Or how long did
9 it take you to do that journey?

10 A. We were fleeing. A war was raging. So I would not be in a
11 position to tell you how long it took us. During the war, people flee.

12 Q. All right. Now, as I understand it, now that you'd got to
13 place C, where you stayed with the gentleman at number 8 on our list, and
14 a cousin of yours, his wife, and you arrive and you don't have this bike,
15 this *velo*. How long was it after getting to C that you decided to go
16 back to D in order to get the bike? That's if I've understood you
17 correctly, if that's what you did. How long was it before you went back
18 to D to get the bike?

19 A. I would say the following: I did not spend long time -- a long
20 time, and then I went back in order to retrieve the bicycle.

21 Q. Whose bicycle was it?

22 A. The bicycle belonged to the wife of number 6.

23 Q. So you go back to D in order to get the bike, and how long did
24 that journey take you?

25 A. I have already answered that question. I would not be able to

1 tell you how long it took me. I do not know. But what is for certain is
2 that I returned in order to retrieve the bicycle.

3 Q. And you get the bicycle; is that right? You find the bicycle?
4 And then you come back again from D intending to get to C, this time with
5 the bicycle? Is that right?

6 A. Yes. When the bicycle was snatched from me, I left the location
7 against letter D, in order to go to the location against letter C.

8 Q. And as I understand your story, it's on that journey, having gone
9 to get the bike, to bring it back, that you meet the man at number 10 on
10 the list?

11 A. Yes.

12 Q. Now, let me just come back to this business of the bike. Would
13 I be right in saying that that bike was, in fact, given to you by
14 number 6 in 2001 in order for you to bring manioc, which is something
15 that's eaten, to Bunia while the family, that is, number 6 and his family
16 were in Bunia before they fled because of the Lopondo business, and you
17 would bring manioc to Bunia from time to time, and then one day in 2001,
18 you said, or 2002, you said that the bike had been lost, and that was the
19 end of the manioc business? Is that right? Is that a -- is that what
20 happened?

21 A. Yes. That is true. I used the bicycle when moving about.
22 I used it in order to transport cassava flour, and at that time we were
23 in Bunia. However, I was not the one who left it in the village or left
24 them in the village. You are saying something that is true but you have
25 not specified that I was not the one who left the bicycle in the village.

1 Q. Now, what was your purpose in retrieving the bicycle? What did
2 you want to do with it?

3 A. I would respond in saying the following: My aim was to protect
4 the bicycle. It was family property. And I would stress that there were
5 good relations between us.

6 Q. So what were you going to do with the bike?

7 A. I wanted to keep it. I wanted to take good care of it because it
8 was family property.

9 Q. Now, on this journey back, you told us how you met the person at
10 number 10 and that he abducted you, and you then went eventually with him
11 to Aveba where he then told you that you could leave but the bike had to
12 stay. You never got the bike back; is that right?

13 A. To date, I have not been able to retrieve it.

14 Q. Did you ever ask Germain to help you get the bike back?

15 A. No. I never -- I did not ask him. When I became a soldier,
16 I asked number 10 for the bicycle. We reached an agreement. He promised
17 that he would buy me a new bicycle. However, he has not kept his
18 promise.

19 Q. Why buy you a new bicycle? What happened to the bike he took?

20 A. When he snatched the bicycle, the bicycle was in a good
21 condition. It was brand new.

22 Q. Well, it wasn't, I suggest, exactly brand new, was it? It had
23 been used to take cassava and make long journeys into Bunia. Anyway,
24 that's your reason, that it was no longer brand new and he promised you a
25 new bike. I see. This number 10, did he remain in Aveba as a combatant

1 during your time there?

2 A. Yes. He remained as a combatant.

3 Q. And just on this history that you've told us, after he'd sent you
4 away from Aveba and stole your bike, you said you went back to Aveba on
5 several occasions to try and get the bike back. How many times did you
6 go from place C to Aveba in order to try and get that bike back, do you
7 say?

8 A. I would say on two occasions, two or three occasions, but I do
9 not have any specific information in this regard.

10 Q. And altogether, how long altogether did you spend at place C?

11 A. I did not spend long there. I would estimate the duration of my
12 stay at approximately two months. I do not have a specific time-frame.

13 Q. No, I understand. So we have flight from Bunia to Oicha, you
14 can't help us, as you say, it was impossible for you to say how long you
15 were in Oicha. While you're there, you go to D, and then via Aveba back
16 to C. And at C, you're there for a couple of months.

17 A. I said at the most two months.

18 Q. Yes. I understood you. And after that, on one of these visits
19 to Aveba, at Kaswara, which is just outside and to the north of Aveba,
20 you get abducted by (Expunged) and his soldiers, as you've told us,
21 who takes you and various goats to Bulandjabo camp. So from Kaswara to
22 Bulandjabo, may I ask you how long did that journey take you when you
23 were abducted, approximately?

24 A. I would not be able to provide you with an approximation. We
25 walked during the night.

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1 Q. So were you arrested during the day? As I understand -- how long
2 do you say you walked? Did you walk all day and all night and some of
3 the next day? Give us some idea. After all, you did the walking. Give
4 us some idea how long that took you. I know it was unpleasant time but
5 how long did it take you, if you can remember?

6 A. This did not take two days. I would say that it took hours.
7 I remember it only too well. And I've just said so. We arrived at our
8 destination during the night.

9 Q. All right. And you can't help us as to approximately how many
10 hours? Half a day, longer than half a day?

11 A. I said the following: We left our location of departure and
12 reached our destination at night-time.

13 Q. All right. And then you told us how you had a period of military
14 training. And again, how long did you spend at this place, Bulandjabo,
15 if you can remember?

16 A. I did not spend long in Bulandjabo. Then I fled.

17 THE INTERPRETER: The Swahili interpreter did not hear the
18 witness's last words.

19 MR. HOOPER:

20 Q. Sorry, Mr. Witness, what we heard you say was, "I didn't stay
21 long," and at the end, "I fled," but we may have lost something that you
22 said. So could you -- if you can remember, could you repeat your answer
23 for the interpreter? Because we didn't quite hear everything you said.
24 So my question was how long did you spend at Bulandjabo, and if you can,
25 can you answer that question again, please?

1 A. I said the following: I said that I did not spend long there and
2 that I subsequently fled that location.

3 Q. All right. Well, I'll ask you again, if you can just help us
4 just a bit more, were you there for weeks or months? Can you remember?

5 A. I did not spend months there, no. I did not spend months there.
6 What I do know is that the training took four to five days --

7 THE INTERPRETER: Correction, five to six days.

8 MR. HOOPER:

9 Q. And where was the training? Was that at Bulandjabo?

10 A. I shall remind you in saying the following: I do not know our
11 collectivité very well. I do not know what parts -- what are its
12 components, if you like. It was the -- in the camp that Kisoro was
13 building, that was below Tseyido. In fact, it was in Tseyido locality.
14 At that moment in time I did not know the village very well, but I do
15 remember that it was in the vicinity of the camp, that is, the camp
16 occupied by Kisoro.

17 Q. So how far was the training from the camp? The place where you
18 trained, from the camp, how far was that?

19 A. I would say the two places were close to one another. It was
20 inside the camp.

21 Q. Forgive me, I'm just looking up something that, very briefly,
22 I seem to recall. All right. Let me come back to that because there is
23 a reference I've mislaid. All right. Thank you very much for clarifying
24 that history.

25 Now, I'm going to come now to the previous accounts that you've

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1 given, both in relation to your history of abduction and previous
2 histories. So the time prior to and up to the time you get to Aveba
3 camp. But first of all I want to start, if I may, with some personal
4 details of yourself and for that we'll need to go into closed session,
5 and I suspect for some time, by which I mean at least half an hour and
6 probably longer than that.

7 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, we will
8 go into private session now.

9 (Private session at 12.33 p.m.)

10 (Expunged)

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14 Page 54 expunged – Private session

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13 Page 66 expunged – Private session.

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Witness: Witness DRC-OTP-P-0028 (Resumed) (Private Session)
Questioned by Mr. Hooper

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Witness: Witness DRC-OTP-P-0028 (Resumed) (Private Session)
Questioned by Mr. Hooper

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Witness: Witness DRC-OTP-P-0028 (Resumed) (Private Session)
Questioned by Mr. Hooper

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Witness: Witness DRC-OTP-P-0028 (Resumed) (Private Session)
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- 15 (Closed session at 1.27 p.m.)
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- 25 (Open session at 1.27 p.m.)

1 COURT OFFICER: (Interpretation) We are in open session,
2 Mr. President.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Court Officer.
4 Now, Mr. Prosecutor, you should recall that we are not in the presence of
5 the accused.

6 MR. MACDONALD: (Interpretation) Could we receive from the
7 Registry the number of minutes or hours in terms of duration for
8 Mr. Hooper's cross-examination? Could we receive this systematically
9 without having to always have to calculate at the end of every day
10 whether we are still in time, that is to say, four hours and 12 minutes
11 or whatever?

12 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, do you have
13 an approximate estimation of the time that you will need? Of course, you
14 found -- you started this morning, we are pretty sure that you shall be
15 using the day of Monday. We don't know -- quite know how you're going to
16 be sharing the time with the team representing Mr. Mathieu Ngudjolo, but
17 what is an approximate estimation in terms of time-frame?

18 MR. HOOPER: Well, it's difficult because if you calculate the
19 question rate as against answer rate, it is a slow process, and I quite
20 see that I'll take up Monday, and I think I'll probably go into a bit of
21 Tuesday. But my impression is from my friends they are not going to be a
22 great deal of time with this witness. And perhaps more to the point,
23 I think I can assure the Court that the subsequent witness is not going
24 to take very long, as far as we are concerned.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Hooper.

1 It is true to say that we have a witness to whom we do not have to recall
2 that he has to speak slowly, let's make the most of that situation.

3 Yes, Mr. Gilissen.

4 MR. GILISSEN: (Interpretation) Just very briefly. I am not sure
5 whether I will be able to be present this coming Monday. It would seem
6 that I should be able to come but there is an unforeseeable circumstance,
7 a professional one. But if I am not able to attend, then please I do
8 apologise, and I will be represented adequately, of course, by my learned
9 friend.

10 PRESIDING JUDGE COTTE: (Interpretation) Yes. Thank you,
11 Maître Gilissen, if you have to be absent on Monday, we understand only
12 too well and we'll be glad to see your assistant or your co-worker take
13 your place.

14 We shall meet again Monday, 9.00 a.m. Court is adjourned.

15 The hearing ends at 1.30 p.m.

16 CORRECTION REPORT

17 The following correction has been made in the transcript:

18 *Page 20 line 7

19 "tiger." is corrected by "leopard".

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