

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 Tuesday, 30 November 2010
10 The hearing starts at 9.02 a.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session.
14 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
15 The accused persons are here. Good morning, gentlemen. We can
16 start.
17 Good morning to everyone.
18 Before we call Witness 0166, the Chamber would like to issue an
19 oral decision on the application filed by the Defence team of
20 Thomas Lubanga.
21 On 25 November 2010, the Chamber received an urgent application
22 filed by Maitre Catherine Mabilie, counsel for Mr. Thomas Lubanga, to
23 obtain disclosure of the redacted confidential version of the transcripts
24 of the hearing -- or testimony of Witness P-0028 in this case. That
25 application bears the number 2581. In order for us to rule rapidly, the

1 Chamber on that same day looked at the e-mail and requested observations
2 from parties and participants setting the 26th of November, 2010, at 16
3 or 18 hours as deadline. By filing number 2582, the Defence team of
4 Germain Katanga declared that they had no objection to the application
5 filed by the Defense team of Thomas Lubanga and that they even supported
6 it. The Defence team of Mathieu Ngudjolo for their part stated that they
7 were not in agreement. The same also applied to Legal Representatives of
8 Victims.

9 The Prosecutor in filing number 2583, stated that he agreed to
10 such disclosure but subjecting it to conditions imposed by
11 Trial Chamber I in its decision number 1372 of 4 June 2008, paragraphs 12
12 and 13, and requested that the said Trial Chamber I should approve of
13 this beforehand. The Prosecutor also requests that excerpts in closed
14 session which are not related to the intermediaries P-0143, P-0183,
15 P-0136 should not under any circumstances be disclosed to third parties
16 by the Defence team of Thomas Lubanga.

17 The Chamber therefore orders the Prosecutor to, within the
18 shortest time possible, disclose to the Defense team of Thomas Lubanga
19 the transcripts of the testimony of Witness 0028 in this case and that
20 this disclosure should be done through an unredacted version.

21 Subject to this disclosure -- well, this disclosure is subject to
22 the same protection measures as those that were applied in -- during the
23 hearing in closed session. Such disclosure shall natural be subject to
24 the conditions which are imposed by Trial Chamber I in the Lubanga case.
25 See its decision number 1372 which I just mentioned, decision of 4 June

1 2008.

2 However, since Ms. Catherine Mabille requested this disclosure
3 only because she wanted to better understand the role played by certain
4 intermediaries, namely P-0143, P-0183, and P-0316, the Chamber intends to
5 grant the application of the Prosecutor, namely that passages that were
6 conducted in closed session and which are not related these
7 intermediaries should not under any circumstances be disclosed to third
8 parties by the Defence team of Thomas Lubanga. It therefore requests
9 Trial Chamber I to observe this condition.

10 Ms. Buisman, Mr. Hooper, you received our e-mail yesterday
11 informing you of the approval of the Chamber that Ms. Buisman can conduct
12 the cross-examination of Witness 0166 on condition that
13 Mr. Germain Katanga is in agreement.

14 Is that the case, Mr. Katanga? Very well. I can see you
15 nodding.

16 And also on condition that Mr. Hooper or Mr. O'Shea should be
17 present during that cross-examination. Do we agree?

18 MR. HOOPER: (* Previous translation continues) ... late this
19 morning. I've been put into a state of, sort of, hibernation I think by
20 this weather.

21 PRESIDING JUDGE COTTE: (Interpretation) (* No interpretation)

22 MR. FOFÉ: (Interpretation) (* No interpretation)

23 PRESIDING JUDGE COTTE: (Interpretation) (* No interpretation)

24 In any case, it's working again. Mine is working. Very well.

25 Before Witness 0166 enters the courtroom, the Chamber would like

1 to inform you about the protection measures that this witness is going to
2 benefit from in the course of his testimony. Witness 0166, who has been
3 called by the OTP, has the dual status of victim and witness.

4 On 25 November 2010, the Prosecutor informed the Chamber that, to
5 the best of his knowledge, the witness did not express the wish to
6 benefit from protective measures in the courtroom. By e-mail of 26
7 November 2010 sent at 11.34, the Chamber received an application filed on
8 the eve by Mr. Luvengika, the Legal Representative of this witness,
9 requesting him -- requesting that he should be authorised to meet his
10 client before he starts his testimony in order to discuss with him on
11 issues related to his security.

12 The Chamber stated that this meeting would be authorised only for
13 that purpose and on condition that it is held in the presence of a member
14 of the VWU. That meeting took place under these conditions on the 29th
15 of November, 2010; that is, yesterday. At the end of that meeting, the
16 Legal Representative sent an application to the Chamber, application
17 number 2586, requesting that the witness should benefit from the
18 following protective measures: Voice distortion, image distortion, as
19 well as the attribution of a pseudonym.

20 On that same date, that is the 29th of November, 2010,
21 Witness 0166, himself, clearly stated in the course of his meeting with
22 VWU his wish to benefit from these three protective measures in order to
23 protect his identity from the public. VWU feels that these measures
24 would make it possible to reduce the impact that his testimony as a
25 Prosecution witness before the Court could have on the life of this

1 witness.

2 Do you have any comments to make with respect to the three
3 measures which the witness is requesting, which VWU's requesting as well,
4 Mr. Hooper or Ms. Buisman?

5 MS. BUISMAN: Good morning, Mr. President, my Honourable Judges.
6 We have no objection. Thank you.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

8 Mr. Kilenda or Professor Fofé?

9 MR. FOFÉ: (Interpretation) We have no objection, your Honour.

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
11 The Chamber would like to remind you once more that it is fully aware of
12 the importance of holding open sessions. However, the Chamber feels that
13 it is important for a witness to give testimony under conditions which do
14 not put his life at risk, conditions which enable him or her to express
15 themselves freely, and this is going to help us to attain our common
16 objective of manifestation of the truth.

17 The Chamber, however, notes that the witness has stated that he's
18 afraid that there might be -- there might be reprisals resulting from his
19 testimony, and he has stated that only a few members of his family are
20 aware of the fact that he is giving testimony before the Court, and so
21 the Chamber feels that under these circumstances, protecting the identity
22 of Witness 0166 -- or, rather, the identity of Witness 0166 should be
23 protected, and that only the protective measures sought would make it
24 possible for us to achieve that objective. The Chamber, therefore,
25 wishes to enable this witness to benefit from the use of pseudonym, voice

1 distortion, and image distortion.

2 Such a decision will entail that we go into closed session
3 whenever the witness gets into the courtroom and whenever he leaves, and
4 also when certain questions are put to him which might lead to the
5 disclosure of his identity.

6 The Chamber would also like to underscore that the witness would
7 like to express himself before the Court in Swahili.

8 Court Officer, could we please go into closed session so that the
9 witness can come into the courtroom before we return to public session,
10 please.

11 (Closed session at 9.13 a.m.)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Open session at 9.14 a.m.)

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

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

24 THE WITNESS: (Interpretation) Good morning.

25 PRESIDING JUDGE COTTE: (Interpretation) I can see that you

1 understand me clearly.

2 Mr. Witness, the Court is going to listen to your testimony. You
3 have come to help the Court to better understand the crimes of which the
4 accused people are charged, and so your testimony's of utmost importance
5 to us. Thank you for coming.

6 It must have been explained to you that the Prosecutor, who is
7 seated on your right, that is to my left, and that office represented by
8 Ms. Darques-Lane is going to put questions to you in her
9 examination-in-chief. After her, the Legal Representatives, seated on my
10 left, will ask you questions. It's possible that the Judges might also
11 put questions to you. After that, the Defence counsel of the two accused
12 persons on my right, that is on your left, will ask you questions within
13 the framework of a cross-examination.

14 The Victims and Witnesses Unit must have informed you that you
15 are not supposed to disclose to anyone outside this courtroom, disclose
16 your testimony to anyone outside this courtroom. You should not discuss
17 your testimony with people outside this courtroom.

18 The Court has decided to have you benefit from certain protective
19 measures in order to protect your identity. We will refer to you by a
20 pseudonym. We will not refer to you by name. And if we have to mention
21 any names that could lead to disclosure of your identity, we will go into
22 private session. The Court has also decided that your image is going to
23 be distorted on television and computer screens; that is, in the
24 broadcast of these proceedings. The Court has also decided that you'll
25 benefit from voice distortion so that no one would recognise you.

1 You will have to speak very slowly, as I am doing right now.
2 Speak straight into your microphone. Raise your voice. Do not hesitate
3 to raise your voice. And you have to observe a very simple rule, and
4 that is you have to do a mental count of 1 to 5 before you answer any
5 question which is put to you. This is to facilitate the job of the
6 interpreters and stenographers. And, please, during the course of your
7 testimony, do not change your language of evidence. You are going to be
8 using Swahili, and what you are saying will be translated into French and
9 then into English. So please do not change your language in the course
10 of your testimony, because this will complicate the job of the
11 interpreters, interpreters we all depend on.

12 Before the Prosecutor starts putting her questions and before you
13 do your solemn undertaking, we are going to ask you to state your
14 identity, and for you to do that, we are going to go into private session
15 in order to avoid your recognition by members of the public.

16 Court Officer, could we go into private session, please.

17 (Private session at 9.19 a.m.)

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24 (Open session at 9.22 a.m.)

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

1 your Honour.

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

4 Before we start -- before you start your testimony, you have to
5 swear to speak the truth. This is what we call a solemn undertaking. I
6 am going to read it very slowly so that you can understand its full
7 meaning. Please listen to me attentively:

8 "I solemnly declare that I will speak the truth, the whole
9 truth, and nothing but the truth."

10 Have you understood me clearly, Mr. Witness?

11 THE WITNESS: (Interpretation) Yes.

12 PRESIDING JUDGE COTTE: (Interpretation) Do you, therefore,
13 undertake to speak the truth, the whole truth, and nothing but the truth?

14 THE WITNESS: (Interpretation) Yes. I will speak the truth and
15 nothing but the truth.

16 WITNESS: WITNESS DRC-OTP-P-0166

17 (Witness answered through interpreter)

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

19 The Court would like to ask you to listen very attentively. You have
20 just undertaken to speak the truth, the whole truth, and nothing but the
21 truth. If, in the course of your testimony or in responding to any
22 questions put to you, you do not speak the truth, you could be prosecuted
23 before the International Criminal Court for false testimony, and if this
24 is proven, you might be sentenced. Have you understood me clearly?

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

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1 PRESIDING JUDGE COTTE: (Interpretation) Very well.

2 The Court has taken note that the provisions of Article 69(1) of
3 the Statute has been fulfilled, as well as Rule 66(1) and (3) of the
4 Rules of Procedure and Evidence.

5 Once more, Mr. Witness, I would like to remind you that you
6 should speak loudly and clearly as you are doing now. You should not
7 change your language in the course of your testimony.

8 Before you, I believe, you have a jar of water and a glass.
9 Please feel free to have a drink in the course of your testimony. The
10 Court will not take any offence if you pour some water into the glass for
11 yourself. That's what it has been set there for. You will be talking a
12 lot, so you will need a drink from time to time.

13 I also think you have close to you a box of paper serviettes.
14 Please use it whenever you feel the need to. The Court has no problem
15 with having a witness blow his nose.

16 The most important thing for us is that you should be comfortable
17 in this courtroom as you provide the clarifications we wish to obtain
18 from you.

19 Madam Prosecutor, you have the floor. We are listening to you.

20 MS. DARQUES-LANE: (Interpretation) Thank you, your Honour.
21 Good morning. Good morning, your Honours.

22 QUESTIONED BY MS. DARQUES-LANE:

23 Q. (Interpretation) Good morning, Mr. Witness.

24 A. Good morning.

25 Q. Mr. Witness, as the Presiding Judge explained to you, we have to

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1 speak slowly, because we are using a minimum of three languages in these
2 proceedings. If you find that my questions are not clear, please do not
3 hesitate to ask me to repeat the question or to rephrase it. Similarly,
4 if I put a question to you which you cannot answer because you do not
5 know the answer, simply tell me, "I do not know." Do you understand,
6 Mr. Witness?

7 A. Yes, I understand.

8 Q. Similarly, as the Judge explained to you, we have protective
9 measures in place, measures which are there to protect you and to protect
10 your relatives, your close ones. To that end, I'm going to give you a
11 list, a list containing the names of your family members and people you
12 talked about in the course of your interview with officials from the OTP.
13 I would like to request you that if you have to allude to any of these
14 individuals, you should identify them by the numbers that you find next
15 to their names. I'm going to give you that list now.

16 PRESIDING JUDGE COTTE: (Interpretation) The usher's just left
17 the courtroom, but I believe he's going to return, but could that list of
18 names be distributed rapidly so that we can start with the
19 examination-in-chief, please.

20 THE INTERPRETER: Message from the English booth: Could a copy
21 of the list be sent up to the interpreters as well, your Honour. Thank
22 you.

23 PRESIDING JUDGE COTTE: (Interpretation) Does the witness have a
24 list? Well, the witness has a list now.

25 Mr. Witness, you have before you a list of names, and against

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1 each name you have a number. The Prosecutor is not going to use the
2 names, she is going to use the numbers, and when you answer her
3 questions, you should use the numbers as well.

4 Prosecutor, you may proceed.

5 MS. DARQUES-LANE: (Interpretation)

6 Q. Witness, could you please tell us if you are married, and, if so,
7 to whom? Could you please identify the person using the code number next
8 to their name.

9 A. Number 3.

10 Q. Do you have any children?

11 A. Yes.

12 Q. How many children do you have?

13 A. I have eight children.

14 Q. Could you please identify the oldest of your children using a
15 number from the list.

16 A. Number 5.

17 Q. Could you please identify your father and your mother from that
18 same list.

19 A. My father is at number 1, and my mother at number 2.

20 Q. Mr. Witness, please tell us your ethnicity.

21 A. I am Hema.

22 Q. Before getting started with my examination-in-chief proper, I
23 should like to give you one final warning, and it concerns a NGO that you
24 have mentioned in your statement. When you refer to that organisation,
25 if you do mention it, I would ask you to simply refer to it as "the

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1 organisation" and not to mention its name so as to protect the members of
2 that organisation, because members of the Defence do not know the name of
3 that organisation; is that clear, sir?

4 A. Yes.

5 Q. Witness, do you recall having met with members of the Office of
6 the Prosecutor in 2007?

7 A. Yes, I remember that.

8 Q. Do you also remember that following those interviews a written
9 statement was drafted?

10 A. Yes, I remember that.

11 Q. Have you re-read it and signed it?

12 A. I read it, and I signed it.

13 Q. As for the content of that statement, does it accurately reflect
14 the content of your interviews?

15 A. What was written in that document reflects accurately what I
16 stated.

17 Q. And so the information contained in this statement, are we to
18 believe, reflects the truth to the best of your knowledge?

19 A. There were some facts that I heard about from other people, and
20 there are other facts that I knew firsthand.

21 MS. DARQUES-LANE: (Interpretation) Your Honour,
22 Honourable Judges, in the light of what we have just heard from the
23 witness, I should like paragraphs -- the paragraphs that have been
24 admitted by Decision 2362 of the 3rd of September, in other words,
25 paragraphs 1 to 65, paras 86 to 92, and 120 to 141, to be admitted into

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1 evidence. At the end of the testimony, we shall be requesting EVD
2 numbers for those paragraphs.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
4 Madam Prosecutor. This is the logical conclusion of Decision 2362 that
5 the Chamber, indeed, did hand down on the 3rd of September, 2010, with
6 partial admissions of certain paragraphs from the witness statement.

7 Therefore, Court Officer, please take note of this.

8 Madam Prosecutor also stated that an EVD number will need to be
9 attributed to these paragraphs. Court Officer, I'm wondering if that
10 should be done now or perhaps at the outset of the second session today
11 after the pause. That might be the best solution.

12 Please continue, Madam Prosecutor.

13 MS. DARQUES-LANE: (Interpretation)

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15 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

16 Counsel Luvengika. You know how very careful the OTP is when it comes to

17 security measures and risks of identifying the witness.

18 So, Madam Prosecutor, please be even more careful than you

19 already are. I am sure that you are aware that the questions you are

20 putting may bear a relation with the security risks. You may proceed.

21 MS. DARQUES-LANE: (Interpretation) I should like to move into

22 private session if we may, your Honour.

23 PRESIDING JUDGE COTTE: (Interpretation) Do you think this will

24 be for a long duration or no?

25 MS. DARQUES-LANE: (Interpretation) No.

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1 PRESIDING JUDGE COTTE: (Interpretation) Very well, then. Let
2 us move into private session, Court Officer.

3 Madam Prosecutor, please request a return to open session as soon
4 as you feel this is possible. Thank you.

5 (Public session at 9.43 a.m.)

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7 (Open session at 9.47 a.m.)

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

9 your Honour.

10 PRESIDING JUDGE COTTE: (Interpretation) Please proceed,

11 Madam Prosecutor.

12 MS. DARQUES-LANE: (Interpretation)

13 Q. In your statement, Witness, you mentioned three major attacks on

14 the village of Bogoro. Could you please give us the dates or at least

15 the years of those attacks?

16 A. Yes, I am able to do that. The first attack took place from the

17 9th to the 11th of January, 2001. The second attack occurred on the 14th

18 of August, 2002. The third attack was on the 24th of February, 2003.

19 Q. During the third attack, that of the 24th of February, 2003,

20 where were you at that time?

21 A. The third attack took place on a Monday, the 24th of February,

22 2003. I was at home. I had stayed at home with my children, including

23 my oldest son. We were at home while my wife and the other children had

24 already left Bogoro. They had gone to Kasenyi. They had fled the

25 fighting, because Bogoro had been attacked on more than one occasion, and

1 they did not feel safe in Bogoro, and so part of my family went to
2 Kasenyi. I had spent three months without seeing them. I received word
3 that my wife and one of my children were ill and that my family was
4 living in a very difficult situation, and they can could not buy enough
5 to eat.

6 So as it turns out, at that time the vehicles making transport --
7 making the transport link between Bogoro and Kasenyi were escorted by
8 soldiers. They would come to Bogoro, they would spend the night, and the
9 next day they were escorted. On one Sunday, these vehicles were to leave
10 for Kasenyi, and I took that opportunity to take a seat aboard that
11 vehicle to visit my family and the following day to return to Bogoro on
12 that same vehicle. And so I left, I went to Kasenyi, and I arrived in
13 the morning.

14 In Kasenyi, a soldier sent someone to tell me that Bogoro had
15 been attacked and that it was no longer possible for the soldiers in
16 Kasenyi to go to Bogoro as reinforcements, and so I stayed in Kasenyi and
17 followed the situation in Bogoro from there. This means that when the
18 enemy entered Bogoro, I was physically in Kasenyi.

19 Q. Excuse me for interrupting you. I just wanted to come back to
20 one point, if I may. You said that you had taken advantage of the fact
21 that a convoy was leaving for Kasenyi, and you took a seat on that
22 vehicle; is that correct?

23 A. Yes.

24 Q. And that convoy was leaving on the 23rd of February; is that not
25 so?

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1 A. Yes.

2 Q. How long did you stay in Kasenyi?

3 A. I stayed several days in Kasenyi, about one month. My family
4 even left me in Kasenyi, because they fled to Uganda. It was no longer
5 possible for me to go back to Bogoro, because Bogoro was already in enemy
6 hands. It was no longer possible to go back to Bogoro.

7 After one month, I went to Uganda to join my family.

8 Q. How much time did you stay in Uganda?

9 A. I went to Uganda in March and I spent some time there, and then I
10 went back to Kasenyi. So I stayed in Uganda from March to November 2004.
11 It was in November that I returned back to our country when I heard that
12 peace had been restored in the region. The head of the collectivities --
13 the head of collectivity had come to Uganda, and we met with him, and he
14 went back to our country, and so I followed him back to Kasenyi.

15 Q. Sorry for interrupting you, Witness. I should just like to focus
16 on one detail, if I may. When you say you went back to your country, did
17 you mean in the same year or in the following year, because you mentioned
18 the date of November 2004, and yet the attack was in February 2003?

19 A. No. No. I think that the fighting was on the 24th of February,
20 2004. And as I said, I went to Uganda, and it was in November of 2004
21 that I returned back to our country, and more precisely, to Kasenyi.

22 Q. So you returned to your country a few months later but in the
23 same year; is that correct?

24 A. Yes.

25 Q. When you say --

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1 MS. BUISMAN: We see the date 24 of February 2004, and I want to
2 say from our part we accept that's an error, if that helps.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
4 Counsel Buisman. We are convinced that is the case.

5 Madam Prosecutor, please make of that what you will. Thank you.

6 MS. DARQUES-LANE: (Interpretation)

7 Q. Witness, yes, please go ahead.

8 A. Yes, your Honour. Here I think you have just made an important
9 remark. It was indeed a mistake. It was in 2004. At that point in
10 time -- no. I said that it was in 2003 that I returned. It was at the
11 end of 2003, if my memory serves me correctly, that I returned to our
12 country.

13 PRESIDING JUDGE COTTE: (Interpretation) Witness, the Defence
14 team of Germain Katanga stood up to say that they did not see any problem
15 with restoring the correct date for the record. And when
16 Madam Prosecutor asked you about the dates of the different attacks
17 Bogoro, you said that the first attack had taken place in January 2001;
18 the second one was in August 2002; and you had said that the third one
19 was on the 24th of February, 2003, and yet later you talked about
20 February 2004. So I think that Madam Prosecutor and Germain Katanga's
21 team both agree that it is 2003. It was 2003, more precisely on 24th of
22 February, 2003, that the attack took place. And so that is the basis of
23 the questions that Madam Prosecutor was using to ask her questions. So
24 she was asking when you came back. She appears to have understood that
25 you returned in November 2003. So if you could confirm that we will move

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1 from there.

2 MR. GILISSEN: (Interpretation) Perhaps the team of
3 Mr. Mathieu Ngudjolo could take a position on this. That would avoid any
4 problems.

5 PRESIDING JUDGE COTTE: (Interpretation) Could you please tell
6 us, Professor Fofé, 2003 or 2004?

7 MR. FOFÉ: (Interpretation) As concerns the date of the third
8 war in Bogoro, this is a well-known fact. It was in 2003. But the
9 problem is with the second date, in fact, the date of return. Now, it is
10 up to Madam Prosecutor to elucidate that question.

11 PRESIDING JUDGE COTTE: (Interpretation) Very well. That is
12 precisely how I understood the matter, and now I'm turning to her to do
13 precisely that. Thank you very much for that. The Legal Representatives
14 and the Defence teams appear to have no objection.

15 Madam Prosecutor, you may proceed.

16 MS. DARQUES-LANE: (Interpretation)

17 Q. Mr. Witness, let me go back in time. Just now, you said that the
18 attack took place in February 2003, and this is recognised by the Defence
19 teams. You said that you went to Kasenyi. You stayed there a certain
20 period of time, then you went to Uganda, and after that you went back to
21 your country.

22 When you returned to your country in the same year of the attack,
23 November 2003, did you go back in that same year, or did you go back in
24 November 2004, which would mean that you were outside of your country for
25 over one year. Could you clarify your movements, please.

Witness: Witness DRC-OTP-P-0166 (Open Session)
Questioned by Ms. Darques-Lane

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1 A. Yes. One can get dates wrong. I know that I promised to say the
2 truth. I remember this date. It is the month of November, and this is
3 the date which I mentioned in my statement.

4 Q. Mr. Witness, we all agree that these facts happened a long time
5 ago. If you do not remember clearly a date, simply say that you do not
6 remember. The main thing is that you do tell us what you do remember.
7 Do you understand?

8 A. Yes.

9 Q. In your statement, you said in the Prosecutor's Office that
10 (Expunged)
11 is that true?

12 A. Yes. When I returned from where I was in Kasenyi, I went to
13 Bunia. That was when the road was open. When I got to Bunia, I found
14 people who had fled Bogoro who had formed a committee of refugees who
15 were compiling lists of people who were killed on the 24th of February,
16 2003.

17 (Expunged)

18 (Expunged)

19 to the point where the investigations actually started.

20 MS. DARQUES-LANE: (Interpretation) May I ask for a moment,
21 please.

22 (Prosecution counsel confer)

23 (Expunged)

24 (Expunged)

25 MS. DARQUES-LANE: (Interpretation)

1 Q. Mr. Witness, I'm going to ask you questions now about the way in
2 which this list was drawn up by this committee. In order not to identify
3 some of the members, can I ask you, when you refer to this list, to refer
4 to the numbers which you have opposite their names on the list which I
5 gave to you; is that agreed?

6 Mr. Witness, could you tell us who you believe compiled the list
7 of this committee with the numbers here identifying the different people?

8 A. Before I give these numbers, could I say this: The committee had
9 a president, and there were members of the committee. Now, I don't know
10 if you are asking me to name the people who made up this committee or
11 not.

12 Q. Let me try and be clear. Could you give us the name of this
13 president but identify him using the numbers.

14 A. This is person identified by the number 7.

15 Q. Who drew up the list of victims in this committee? Can you give
16 me the name of the committee member who did this, giving me his number?

17 A. Number 8.

18 Q. Do you know when this list of victims was established?

19 A. I know that they started to draw up this list in the same year,
20 2003. This was in Bunia. Almost at the end of the year. The people who
21 escaped, the people who escaped with their lives, went to Bunia, and
22 these were the people who met and started to identify the people who had
23 disappeared, and this was when they started to draw up the list.

24 Q. How many names were on this list, if you remember, of course?

25 (Expunged)

Witness: Witness DRC-OTP-P-0166 (Open Session)
Questioned by Ms. Darques-Lane

Page 25

1 Q. Mr. Witness, are you referring to the total number of victims

2 (Expunged)

3 (Expunged)

4 included the number which I have just given.

5 Q. Could I come back to a detail. Can you explain if the committee

6 established its own list? Do you remember the number of victims on the

7 committee's list?

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 Q. Did any other people draw up lists of victims of the attack on

12 Bogoro or of the attacks, in the plural, on Bogoro?

13 A. When I left Kasenyi, there was a MONUC team which had arrived.

14 They met with people, particularly displaced people from Bogoro,

15 including myself. This team arrived before I went to Bunia. We talked

16 (Expunged).

17 (Expunged)

18 (Expunged)

19 office. When I went to Bunia, I realised the list of the people from

20 Bunia was a reliable list because it was drawn up by people who had come

21 from Bogoro, and they had a draft model which they had received from a

22 NGO, a NGO which deals with human rights.

23 Q. Please do not give the name of this NGO.

24 (Expunged)

25 A. Well, as I said just now, one day before the attack I went to

Witness: Witness DRC-OTP-P-0166 (Open Session)
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1 Kasenyi, but my son stayed at home in Bogoro, and since he was in the
2 house, he was at home, the battle was there. God saved his life. He hid
3 in the bush until he was lucky enough to be able to go to Bunia. He went
4 to Bunia and spent one week in Bunia there. He found other people in
5 Bunia, and together they left going to Tchomia through the bush and then
6 up to Kasenyi where I was. I talked to him. I asked him questions about
7 the events in Bogoro, and he told me everything that happened there, and
8 he gave me the names of some people who had been killed, because these
9 were people he was with in Bogoro. (Expunged)
10 (Expunged).

11 MR. LUVENGIKA: I don't know if we should go into closed session
12 to talk about -- in order to avoid the risk of identification from the
13 witness, because it seems that all the accounts from the witness here in
14 front of the Chamber could easily identify people. I don't know if the
15 Prosecutor's Office had thought of providing all possible protective
16 measures. We are in favour of having open sessions, but we feel that
17 this story which is told by the witness at the moment could lead to the
18 identification of certain people, at least the way the story is being
19 told at the moment.

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

21 Yes. The affiliation link is making the situation complicated,
22 Madam Counsel.

23 MS. DARQUES-LANE: (Interpretation) Maybe we could move briefly
24 into private session, and I think my colleague would like to make a
25 suggestion.

Witness: Witness DRC-OTP-P-0166 (Private Session)
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1 PRESIDING JUDGE COTTE: (Interpretation) Could we move into
2 private session, please, Court Officer.
3 (Public session at 10.18 a.m.)
4 (Expunged)
5 (Expunged)
6 (Expunged)
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Witness: Witness DRC-OTP-P-0166 (Private Session)
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Page 30 expunged – Private session

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1 (Open session at 10.27 a.m.)

2 COURT OFFICER: (Interpretation) We're in public session.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much
4 indeed.

5 Over to you, Madam Darques-Lane.

6 MS. DARQUES-LANE: (Interpretation)

7 Q. Mr. Witness, can we go back to the list drawn up by number 5. Do
8 you know how many names were on the list of number 5?

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 Q. Mr. Witness, excuse me for interrupting you. We're going to move
14 for a brief period into private session. Thank you.

15 PRESIDING JUDGE COTTE: (Interpretation) We are returning to
16 private session, because some information has to be given to the witness.

17 Court Officer, please.

18 (Private session at 10.29 a.m.)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness DRC-OTP-P-0166 (Private Session)
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Page 32 expunged – Private session

Witness: Witness DRC-OTP-P-0166 (Open Session)
Questioned by Ms. Darques-Lane

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4 (Expunged)

5 (Expunged)

6 (Open session at 10.33 a.m.)

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

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

11 Madam Prosecutor, you may proceed.

12 MS. DARQUES-LANE: (Interpretation)

13 Q. Mr. Witness, number 5 contacted number 15 to give him the names
14 of victims. Were these victims, victims of the attack on Bogoro, the
15 attack of the 24th of February, 2003?

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 Q. I apologise for interrupting you.

21 MS. DARQUES-LANE: (Interpretation) Your Honour, I'm afraid
22 we'll have to return to private session.

23 PRESIDING JUDGE COTTE: (Interpretation) Fine. Let's go into
24 private session then. Please go ahead.

25 (Private session at 10.34 a.m.)

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Page 34 expunged – Private session

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Witness: Witness DRC-OTP-P-0166 (Private Session)
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13 Page 38 expunged – Private session

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13 Page 39 expunged – Private session

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Witness: Witness DRC-OTP-P-0166 (Private Session)
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Page 40 expunged – Private session

Witness: Witness DRC-OTP-P-0166 (Closed Session)
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12 (Closed session at 10.57 a.m.)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Open session at 10.58 a.m.)

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

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
24 Court Officer.

25 We stand adjourned, and we will reconvene at 11.30.

Witness: Witness DRC-OTP-P-0166 (Closed Session)
Questioned by Ms. Darques-Lane

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1 Recess taken at 10.58 a.m.
2 On resuming at 11.33 a.m.
3 (Closed session)
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged)
9 (Expunged)
10 (Expunged)
11 (Expunged)
12 (Open session at 11.34 a.m.)
13 COURT OFFICER: (Interpretation) We're in open session,
14 your Honour.
15 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
16 Court Officer.
17 Witness, now we are back here for another period of two hours.
18 Madam Prosecutor, you may proceed. For the moment, I remind you,
19 we are in open session.
20 MS. DARQUES-LANE: (Interpretation) Thank you, Your Honour. I
21 should like to ask that we move into private session so that I can ask my
22 remaining questions to the witness.
23 PRESIDING JUDGE COTTE: (Interpretation) Very well, then.
24 Court Officer, may we please move very briefly into private session.
25 (Private session at 11.35 a.m.)

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Page 43 expunged – Private session

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Page 44 expunged – Private session

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Page 48 expunged – Private session

Witness: Witness DRC-OTP-P-0166 (Private Session)
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17 (Open session at 11.58 a.m.)

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

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

22 Just a few words for the members of the public. The Chamber was
23 in private session because the questions put to the witness from the
24 Prosecution could have been of an identifying nature for the witness.

25 For the moment, Madam Prosecutor, you've come back to these

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1 excerpts from the witness statement which have been admitted into
2 evidence through the decision of the 3rd of September, 2010, Decision
3 2362, and you thought that it might be better not to give an EVD number
4 to each of the admitted paragraphs, but, rather, to give one overall EVD
5 number for the entire corpus of the paragraphs. Is that correct?

6 So, Court Officer, if you could, please, may you please attribute
7 an EVD number to those paragraphs. Thank you.

8 COURT OFFICER: (Interpretation) Thank you, your Honour.
9 Paragraphs 1 to 65 and 86 to 92 and 120 to 141 of -- under Decision 2362
10 shall have the number EVD-OTP-00202, and this is registered as a
11 confidential document.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
13 Madam Prosecutor.

14 MS. DARQUES-LANE: (Interpretation) (Expunged)
15 (Expunged). So
16 this is the document DRC-OTP-1007-0029. Could the Court Officer please
17 give us an EVD number for that document.

18 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

19 MR. FOFÉ: (Interpretation) Yes. Thank you. I simply wanted to
20 clarify one thing: The paragraphs of the decision which obtains the EVD
21 number or are we talking about the paragraphs of the statement of the
22 witness?

23 PRESIDING JUDGE COTTE: (Interpretation) I believe these are the
24 paragraphs of the statement made by the witness as they were approved by
25 Decision 2362. Do we agree on that, Madam Court Officer? Things are

Witness: Witness DRC-OTP-P-0166 (Open Session)
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1 clear.

2 Now, on the point of this list which we have in hand and which
3 the witness was questioned about, Court Officer, could we have an EVD
4 number for this, please.

5 May I remind you that the reference of this is DRC-OTP-1007-0029.

6 COURT OFFICER: (Interpretation) Thank you. This EVD number is
7 as follows: EVD-OTP-00203.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much
9 indeed, Madam Court Officer.

10 Madam Prosecutor, you have finished your questioning.

11 Mr. Witness, Madam Prosecutor has now finished her
12 examination-in-chief. We're now handing over to Mr. Gilissen, who is
13 representing a group of victims who will now ask you questions, questions
14 which have already been passed on to the Chamber.

15 MS. DARQUES-LANE: (Interpretation) Excuse me. I have just been
16 reminded of something important. This list must remain confidential.
17 Thank you very much and I apologise for the interruption.

18 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed, thank you.
19 It was an important point. Madam Court Officer, you have taken note of
20 this.

21 Mr. Gilissen, you have the floor.

22 MR. GILISSEN: (Interpretation) Thank you very much, indeed.

23 Good morning, your Honours.

24 QUESTIONED BY MR. GILISSEN:

25 Q. (Interpretation) Mr. Witness, Good morning. My name is

1 Mr. Jean-Louis Gilissen. I am a lawyer at the Belgium Bar in Liège and I
2 represent the victims in this case, victims of a rather special nature,
3 since I am the Legal Representative of the group of child soldiers who
4 took part in the attack on Bogoro on the 24th of February, 2003.
5 Anything concerning child soldiers, therefore, interests me especially,
6 and the aim of my questions, the questions I would like to ask you, is to
7 give information to the Chamber so that the Chamber can understand, for
8 better and for worse, the most objective nature possible of the
9 information you are giving so that the truth can be told and the Chamber
10 can make its decision with the full circumstances in its cognizance. I,
11 therefore, need your help, Mr. Witness, to provide us with information
12 that we perhaps do not have or to confirm information that we perhaps do
13 not know about. So, Mr. Witness, we will try and move forward together
14 through these different questions.

15 My first question, Mr. Witness, concerns the existence or not
16 within different armed groups in Ituri around the end of 2002 up to
17 halfway through 2003. Mr. Witness, do you know if in the armed groups
18 between 2002 and 2003 any children who were child soldiers?

19 A. I will answer on the basis of what I know. I cannot answer about
20 armed groups out with Bogoro. My answer will only concern Bogoro.

21 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

22 MR. FOFÉ: (Interpretation) I beg your pardon. Your Honour,
23 thank you very much. I would simply like to come back to the paragraph
24 of the statement of the witness which has just obtained an EVD number to
25 point out that paragraph 120 is not covered by your decision. In other

Witness: Witness DRC-OTP-P-0166 (Open Session)
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1 words, paragraph 120 is excluded from the paragraphs which were admitted
2 by your ruling. There we are, Mr. President.

3 PRESIDING JUDGE COTTE: (Interpretation) The ruling of 2362 of
4 the 3rd of November, 2010, is in English. Paragraph 101 -- in the
5 reasoning for the decision which I don't quite remember, I don't know if
6 we said that the paragraph 120 was included or not. I am just reading
7 through this looking for this passage. Paragraph 22, we see in the
8 translation which I'm roughly making for the needs of the analysis, the
9 Chamber divided the statement of the witness up into three parts: Part
10 A, paragraph 65 to 85, 93 to 108; part B, concerning the current attack
11 and involvement of different groups of people, paragraph 109 to 120; and
12 C includes the rest of the statement.

13 I think, Professor Fofé, in fact every time the final figure
14 which is quoted is a figure which is included. If I look at the
15 statement I have in hand, this is the statement in which were underlined
16 we have the paragraphs which were admitted, and I believe that paragraph
17 120 was indeed included (* as interpreted).

18 MR. FOFÉ: (Interpretation) I beg your pardon, Mr. President.
19 If we look at the final page -- I should start at paragraph 28.
20 Paragraph 28, it says: (* Microphone not activated) (In English) ...
21 part B, the Chamber is not convinced that it would be appropriate to
22 admit into evidence those parts of the statement which relate directly to
23 the attack of 24 February 2003, pursuant to Rule 68(b). The Chamber
24 finds that part B deals with matters which may be of considerable
25 significance to the case. If the Prosecution wishes to rely on this

Witness: Witness DRC-OTP-P-0166 (Open Session)
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1 testimony, it must orally examine P-(* No interpretation) (In English) on
2 this point. (* No interpretation) (* Indiscernible) (In English) or
3 dispositive --

4 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé, I think
5 I have found the place.

6 Madam Court Officer, what are the paragraphs to which you just
7 now gave an overall EVD number? Could you remind us of them once again,
8 please.

9 COURT OFFICER: (Interpretation) Mr. President, yes, thank you.
10 The paragraphs to which I gave an EVD number are 1 to 65, 86 to 92, and
11 120 to 141.

12 PRESIDING JUDGE COTTE: (Interpretation) You took as a starting
13 point for the third group paragraph 120, but paragraph 120 should be
14 attached to a portion because from 109 to 120 -- and this was excluded
15 from the documents admitted. Thank you for that remark. Thank you for
16 your understanding of my understanding of English.

17 Madam Court Officer, we therefore must exclude paragraph 120.
18 Everything you said was right except for paragraph 120 which is not
19 admitted.

20 Thank you very much to you, Professor.

21 MR. FOFÉ: (Interpretation) Mr. President, just a comment on the
22 list which was used by Madam Prosecutor. You usually give an EVD number
23 to similar types of lists, and I think it would be a good idea to give an
24 EVD number to this list.

25 PRESIDING JUDGE COTTE: (Interpretation) We will do this

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1 straight away.

2 Madam Court Officer, this list has been submitted to the witness
3 this morning, and we have not, in fact, awarded a number to it.

4 COURT OFFICER: (Interpretation) The list has -- which was
5 distributed this morning is EVD-OTP-00204 and will be registered as a
6 confidential document.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
8 indeed.

9 Mr. Gilissen, would you like to resume your questioning?

10 MR. GILISSEN: (Interpretation) Thank you very much, indeed.
11 Paragraph 120 is, in fact, included in the exclusion. I think we all
12 agree on that now.

13 PRESIDING JUDGE COTTE: (Interpretation) Please do not
14 overemphasise this point, Mr. Gilissen.

15 MR. GILISSEN: (Interpretation) No. On the contrary. I was
16 simply stating the point.

17 Q. Witness, you can see that things are complicated in this court,
18 and while we smile at certain things, please do understand that we
19 understand the gravity of the situation, and sometimes when the occasion
20 arises on other points, not including the facts, we do sometimes smile
21 because it is very difficult to listen to such serious events.

22 Mr. Witness, I would like to know if you could tell me out of the
23 armed groups which were operating in Ituri if there were any children
24 included in this group if they were child soldiers, and we leave you to
25 go back to the answer you were giving.

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1 A. If your question refers to Bogoro, if you want to know if there
2 were any child soldiers amongst the combatants in Bogoro, I can answer,
3 but if you want to know if there were child soldiers in other armed
4 groups which were outside of Bogoro, then I cannot answer that. I would
5 also like to add that I was used to seeing child soldiers in the
6 demobilisation sites. I saw young people, but it was difficult to know
7 what their age was precisely. I saw a certain number of young people in
8 the Kasenyi site. On the point of combatants in Bogoro, I can answer
9 your question.

10 Q. Thank you very much, Mr. Witness. Can I try to help you, because
11 it is very complicated. We say that a child soldiers is a young person
12 aged under 15 in an armed group. That is the basic rule of thumb if that
13 is of any help to you.

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea.

15 MR. O'SHEA: If my friend is going to give a definition to the
16 witness, first of all, he shouldn't. But if he is going to give a
17 definition to the witness, that definition should be correct. There are
18 different definitions of child soldiers, pending on which international
19 organisation is defining them, and my learned friend's question
20 incorrectly summarises those definitions. Better not to give a
21 definition to the witness, especially if it's going to be incorrect.

22 PRESIDING JUDGE COTTE: (Interpretation) I think, Mr. Gilissen,
23 the wisest course would be what we usually do, trying to obtain from the
24 witness details, if that is possible, from what I've heard this will not
25 be easy, but trying to obtain from the witness information about the

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1 approximate age of the children or young people he saw particularly in
2 the demobilisation sites, particularly in Kasenyi as the witness has
3 said. You may continue, Mr. Gilissen.

4 MR. GILISSEN: (Interpretation) Thank you very much, indeed.
5 Thank you to my learned friend as well. You are not wrong at all, and I
6 will attempt to rephrase my questioning.

7 Q. What I am interested in, Mr. Witness, is the children aged under
8 15. What can you tell us about what you saw, what you knew, what you
9 learned concerning the participation or not of children aged under 15 in
10 these groups or of the presence of children aged under 15 in these
11 demobilisation sites?

12 A. Concerning the demobilisation site in Kasenyi, I must say I did
13 not see children aged under 15. I saw children aged over 15, because at
14 that time, I was still in Kasenyi, since I had not yet returned with my
15 family to Bogoro, I could see there.

16 Q. Your question -- sorry, your answers could be -- in fact, lead me
17 to be a lot more brief than I thought. Whether we're talking about the
18 troops in Bogoro or those which at any time attacked the village of
19 Bogoro, could you provide us any information about the presence of young
20 combatants of the type we have just mentioned, or, on the contrary, do
21 you have no information you can give us, in which case I will cease my
22 questioning, because I don't think there would be any point in pursuing
23 my questioning.

24 A. Well, to begin with, I would like to say the following: In the
25 groups that were in Bogoro and in the groups of which attacked Bogoro, I

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1 only saw one child who could have been aged under 15. The child I am
2 talking about, I know his name. If you authorise, I can give his name.
3 He was part of the group that was in Bogoro. If you give me the
4 authorisation, I will say his name.

5 PRESIDING JUDGE COTTE: (Interpretation) Mr. Gilissen, do you
6 want to have the name of this young person who apparently was part of the
7 group that was in Bogoro? I think we have to be clear about which group
8 this was.

9 MR. GILISSEN: (Interpretation) Yes, Mr. President. The name is
10 not interesting. It is of no interest to me, and listening to the
11 witness, I have the impression that it will be difficult to go any
12 further without moving into a kind of testimony that could perhaps pose
13 ethical problems, and therefore I think that it would be in everybody's
14 interest that I simply thank the witness, which I would like to do now.

15 Mr. Witness, I will be a lot shorter than I thought I would be.
16 I would like to thank you, in any case, for your assistance in helping us
17 to find the truth. Your role is undeniably an important one. I would
18 like to thank you for having left the place where you are currently, and
19 I do wish you a very pleasant and good return home.

20 PRESIDING JUDGE COTTE: (Interpretation) Mr. Gilissen, thank you
21 very much.

22 Mr. Luvengika, you have the floor. You have presented us with
23 the series of questions which you would like to ask and which are part of
24 your mission as Legal Representative.

25 MR. LUVENGIKA: (Interpretation) Thank you very much indeed,

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1 your Honour. Madam Judges, good morning.

2 QUESTIONED BY MR. LUVENGIKA:

3 Q. (Interpretation) Witness, good morning. My name is
4 Fidel Luvengika. I am the Legal Representative of the victims of the
5 attack on Bogoro, and it has been authorised for me to participate in
6 these proceedings. I would like to ask you a few questions concerning
7 the locality of Bogoro, its physical construction, the lie of the land,
8 and the place where it is actually situated.

9 As Madam Prosecutor pointed out, I would like you to answer your
10 questions on the basis of what you remember. If you do not know or if
11 you have forgotten, then you can say that, and you can say this on the
12 basis of the events which you experienced or -- of the events which you
13 knew of.

14 Could you tell us if you have an idea of what the Bogoro
15 population was like before the attack. Give us -- so that we can have an
16 idea of the number of victims. Can you tell the Chamber how big the
17 population of Bogoro was in numerical terms before the 2003 attack.

18 A. If I recall correctly, before the war there was a population
19 census, and the population number was estimated at 6.325 people, if my
20 memory serves me correctly. Before the fighting, there were 6.325
21 inhabitants. After the fighting, the number could have been around
22 3.000, around 3.000 inhabitants. I'm not talking about Bogoro as a town
23 itself. I'm talking about Bogoro as a collectivity. These are the four
24 places which go to make up the collectivity of Bogoro.

25 Q. Thank you very much, Mr. Witness. Are you able to give us the

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1 figure concerning Bogoro, the city centre, the town itself? I understand
2 there is Bogoro centre, which is made up of Dodoy and Bagaya. These are
3 the two localities which make up Bogoro centre and which were the target
4 of the attack in February 2003. Do you have any idea of what the
5 population was then and what it is now?

6 A. I believe that this is a difficult question to answer. It would
7 be difficult for me to give you precise figures. As far as I know,
8 Bogoro centre was more populated than Nyakeru and Akero before the
9 fighting. After the fighting, Bogoro centre had a bigger population than
10 (Expunged)
11 (Expunged)
12 (Expunged)
13 (Expunged). I would
14 I say that Bogoro centre is more densely populated, heavily populated,
15 than the other localities.

16 Q. Thank you. Just a small detail here. The figure which you gave
17 of 3.000 or so inhabitants after the attack, this figure does not take
18 into account the displaced people; is that correct?

19 A. No. The displaced people are also included in this figure.
20 These are the people who have returned. They are displaced people who
21 have returned home, other people who have not returned home. Those who
22 have returned home are counted. Those who have not returned are not
23 counted because there are a certain number of displaced people who are in
24 Bunia who have not yet returned to Bogoro.

25 Q. What do you think is preventing the other inhabitants of Bogoro

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1 from returning home today?

2 A. As far as I know, this is a question I am asking of Bogoro
3 inhabitants. I say to them, "Why do you not want to go home?" When
4 somebody flees, there is a reason for this. The person who has fled is
5 often the victim, has lost all his goods, everything has been stolen, his
6 house has been destroyed, and these people went to Bunia to try and
7 restart their lives. These people have got used to their new life in
8 Bunia, and this is why these people have never returned to Bogoro,
9 because these people no longer have any houses in Bogoro. They no longer
10 have anything to eat. These are the reasons why these people who are
11 currently in Bunia or in Kasenyi, these are the reasons that these people
12 give me.

13 I'm not talking about people who are in refugee camps in Uganda,
14 because these people are stuck there. They cannot go home. However, the
15 persons who are able to return do so if they have the means to.

16 Q. Well, to avoid going into private session, I would like --

17 PRESIDING JUDGE COTTE: (Interpretation) Witness, do you want to
18 take the floor? We are listening to you.

19 THE WITNESS: (Interpretation) Yes. With respect to the figures
20 which I just gave about the persons who just returned to Bogoro, those
21 figures also include people who were not living in Bogoro originally and
22 who are today living in Bogoro. I am talking about the people who used
23 to live in neighbouring localities such as the chiefdom of Babira, the
24 chiefdom of Bahema which were located next to the Bogoro groupement. You
25 also have our brothers from the Balendu Bindi locality who have come to

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1 live in Bogoro. All these people are included in the figures, which I
2 gave.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you for that
4 clarification, Mr. Witness.

5 Mr. Luvengika, you were talking about the possibility of Court
6 going into private session. We are listening to you.

7 MR. LUVENGIKA: (Interpretation) I would like to avoid us going
8 into private session. Well, unless the Defence has an objection with the
9 way I formulate my question.

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 A. Before the war, there were stock breeders in this groupement.
17 You had people who were raising cattle, raising goats, and raising
18 poultry. These individuals were carrying out the activities very well,
19 and it was only after the war that these people were scattered, and
20 several of them had their livestock pillaged, and so they scattered and
21 went to live in other places. Some of them returned and started to
22 rebuild their stock breeding activities again. That's what I can tell
23 you about the stock breeders.

24 Q. Thank you. In your answer you talked about stock breeders. My
25 question to you is the following: Were all inhabitants of Bogoro or all

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1 the families in Bogoro involved in stock breeding activities, or was this
2 an activity that was reserved for a particular group of people?

3 A. I think that this was an activity that was carried out by

4 (Expunged)

5 (Expunged)

6 involved in this. You know, when a Hema dies, his son takes over his
7 stock breeding activities. And when the girls reached the age of
8 marriage, the girl's family would receive cattle as dowry from her
9 husband's family, and so people who do not have cattle could agree with
10 the girl's family that they will pay the dowry in cash instead of giving
11 cattle. However, the money paid should be equivalent to the value of the
12 cattle requested.

13 The raising of cattle is something which is of capital importance
14 to the Hemas. That's what I can tell you about stock breeding
15 activities.

16 The same applies to the other tribes that were living there, as
17 well as to the other tribes that were living around Bogoro. There was
18 even a committee of stock breeders which was called Prodel. That
19 committee which was called Prodel in Bogoro was composed of stock
20 breeders from Nyakeru, stock breeders from Babira, and stock breeders
21 from Walendu-Bindi.

22 THE INTERPRETER: The Swahili interpreters would like the witness
23 to repeat the names of the other tribes.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness.

25 Mr. Witness, I beg your pardon to interrupt you. Could you please repeat

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1 what you just said, and could you please clearly pronounce the place
2 names you mentioned. You said there was a committee of stock breeders
3 called Prodel. Could you please spell Prodel, that is, say it letter by
4 letter, please.

5 THE WITNESS: (Interpretation) Prodel is spelled as follows,
6 P-r-o-d-e-l.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you. You also
8 mentioned several place names. You said that committee called Prodel in
9 Bogoro was composed of, and you mentioned the names of certain
10 localities. Could you please clearly say those names so that we can hear
11 and understand them. Thank you, Mr. Witness.

12 THE WITNESS: (Interpretation) Your Honour, with your leave, if
13 I mentioned Prodel, well, you have to understand that all these
14 localities had their own chapters of Prodel. Kagaba had its chapter.
15 Soke had its own. And all these localities were able to set up a
16 pharmacy where all these people could buy medicine for their cows.

17 There was a Prodel chapter in Bogoro, and that chapter was
18 composed of persons who were living there. The people from Babira were
19 part of the Prodel in Bogoro. In Walendu-Bindi, there was another one,
20 and in Soke there was another. However, the pharmacy was set up by all
21 these chapters of Prodel, and that pharmacy was located in Bogoro.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Witness.
23 Mr. Luvengika, you may proceed.

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

25 Q. Mr. Witness, could you please tell us about the status of farming

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1 activities in Bogoro? Were there any cultivated farms, farms cultivated
2 by the inhabitants, and what type of crops were grown there?

3 A. Yes. Prior to the attack, the population carried out farming
4 activities. In these three localities there were farms, and there were
5 stock breeding activities as well.

6 There was an organisation called BPI which provided assistance to
7 farmers.

8 THE INTERPRETER: The Swahili interpreters would like the witness
9 to repeat what he just said. The Swahili interpreters would like the
10 witness to repeat what he just said.

11 PRESIDING JUDGE COTTE: (Interpretation) Mr. Luvengika, could
12 you please ask the witness to repeat what he just said, because the
13 interpreters had difficulties hearing him.

14 MR. LUVENGIKA: (Interpretation) Yes.

15 Q. Mr. Witness, could you please repeat your answer. The
16 interpreters could not hear you. And please try to speak slowly in order
17 to facilitate things for the interpreters. Thank you.

18 A. I think you asked me to say something about farming, agricultural
19 activities, and I started mentioning the names of organisations that were
20 responsible for farmers. I said that there was a service called BPI,
21 which was the office of the Ituri project, *Bureau du projet Ituri*, in
22 French. This was a service that was responsible for providing guidance
23 to stock breeders and farmers. That service demarcated areas where farm
24 work could be conducted and areas where stock breeding activities could
25 be carried out.

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1 There was another area that was reserved at the request of the
2 customary chief for farming, and that is where farming was conducted. I
3 don't know if you have understood me clearly.

4 Q. Yes, I understood you, Mr. Witness. I with like to return to my
5 question to ask you what type of farming or what type of crops were grown
6 by the families in Bogoro. What type of crops were grown by the
7 inhabitants of Bogoro?

8 A. They grew cassava. They grew sweet potato, corn, beans, and
9 various types of vegetable. They are called green vegetables, but since
10 you have requested me to use only Swahili, well, that's how they were
11 called. They also grew tomato, cabbage. And those who lived close to
12 cattle pens could use cattle dung to grow banana.

13 Q. Mr. Witness, could you please inform the Chamber, after harvest,
14 what would the population do for harvest? Did they use the crops
15 cultivated for home consumption, or did they do something else with it?
16 What did they do with the harvest?

17 A. The farmers would use their farm produce for home consumption, or
18 they would sell it to buy basic necessities like clothing or pay for the
19 schooling for their children. And those who had a large harvest could
20 use proceeds from the sale of such harvest for their health expenses, to
21 cover their health expenses. To the best of my knowledge, that is how
22 they managed the produce obtained from their farms.

23 Q. Thank you. Could you please tell us the value of a cow in Bogoro
24 market.

25 A. Do you want to know how much they obtained when they sold their

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1 cattle? You know, you have big cows and you have small cows. If you
2 have a bull, for example, you could sell it for more than \$600, \$620 or
3 \$630. You can even sell a bull for as high as \$650, a bull that weighs
4 between 480 and 500 kilogrammes.

5 Meanwhile, a female cow could be sold for about \$400 or over
6 \$300. And a calf can be sold for about \$50. And such calves could
7 easily be bought in Bogoro market, and their price changed from \$50 to
8 \$200.

9 Q. Thank you very much. Could you please inform the Chamber, what
10 was the ratio of houses with metal roofing sheets compared to thatched
11 houses in Bogoro before the attack? Were there minimal houses with metal
12 roofs than thatched houses or was this the reverse?

13 A. Well, to tell you the truth, I'll telling you the following: There were many more
14 thatched houses than houses that had metal roofing sheets. Most of the houses
15 with metal roofs were located in the centre of Bogoro. In the environs of Bogoro,
16 you had more thatched houses than houses with a metal roof.

17 Q. Thank you. Mr. Witness, from what you learned, could you please
18 tell us whether the UPDF, that is the Ugandan army, was amongst the
19 attackers who attacked Bogoro?

20 * A. Well. Um...the UPDF army, um...when...

21 Q. I would like you to be very brief. You just tell me whether you know or not. And if
22 you know, please tell us how you came about having that information, but please
23 kindly spare us the details.

24 A. From the information I obtained from victims and the survivors of
25 that attack, that is the attack on Bogoro, these persons informed me that

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1 they saw and recognised soldiers of the UPDF. UPDF soldiers fought side
2 by side with the Ngiti and Lendu fighters. They told me that the UPDF
3 was amongst the soldiers or the fighters who attacked Bogoro. They also
4 informed me that a UPD soldier was giving assistance to the people who
5 were there and that that individual said, "We did not come here to kill
6 people. We came to attack the soldiers of the UPC."

7 Q. Thank you. Before I conclude this examination, I would like to
8 ask you personal questions.

9 You will remember that in November 2007, you filed an application
10 to participate in the proceedings, an application that was granted. In
11 your application, you talked about the harm that you suffered. Could you
12 please inform the Chamber what is or what was the harm that you suffered
13 as a result of the attack on Bogoro?

14 A. I beg your pardon. I have a difficulties answering your
15 question. It is a difficult question. I do not know whether or not you
16 want to know about the personal harm I suffered or the harm other people
17 suffered as well.

18 Q. Your personal harm or the harm suffered by your family. What did
19 you lose as a result of that attack on Bogoro which occurred in February
20 2003?

21 A. I will answer your question by saying the following: My family,
22 my wife, my children, and I, none of us died on the day of the attack.
23 However, we lost property. We lost property. I also lost my house.
24 That is the harm I suffered. I lost my property, I lost my home. My
25 house was burnt down, and it was a thatched house. I would not say it

1 was a house roofed with sheet metal. I lost all the property I had in my
2 house. Apart from what I have just told you, I don't have any other
3 property that I lost.

4 Q. When you talk about property, you're trying to speak rather
5 generally, but I'm wondering, do you know what kind of assets were lost?
6 You said that most of the Bogoro families had livestock, and you said you
7 didn't know if your house had been burnt, but can you tell me what
8 property, what assets were in the house at the time of the attack? Do
9 you still remember? Also, there was mention of land. Did you have any
10 land in Bogoro? Could you please give us any details about what you've
11 lost in terms of assets, a farm or land?

12 A. Yes. I did have 36 cattle beast. These cows were kept at my
13 brother's, and his cows and my cows were all lost. Among those 36, there
14 were other cows that belonged to my brother-in-law or sister-in-law, but
15 I don't have all the details about the distribution of ownership of those
16 cows. I had three goats. I don't remember how many chickens I had.

17 And in the house there were assets. There was a bed. There was
18 a table, chairs, chairs for sitting on as well as armchairs. There was
19 crockery, plates and glasses. There was clothing.

20 My wife fled with some of that, but as for the remaining assets,
21 it's difficult to carry them all, and they remained behind in the house.

22 As for the cows, there were some cows that were at my brother's
23 house, which means the son of my mother, my mother that was there with
24 another man, and they took the cattle when they wanted to go with the
25 cows to Uganda. They weren't his own cows. There were other cows as

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1 well. And they were my cows too. But even other people, when they
2 wanted to cross Semliki, they had cattle. Well, my -- with my
3 brother-in-law, in the Kasenyi attack they were taken. They took away my
4 cows. They were in that herd.

5 Q. Thank you, Witness.

6 MR. LUVENGIKA: (Interpretation) Your Honour, I have no further
7 questions. I would like to offer my thanks to the Chamber. Thank you.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
9 Counsel Luvengika.

10 Witness, the Chamber has a few questions to put to you.

11 QUESTIONED BY THE COURT:

12 PRESIDING JUDGE COTTE: (Interpretation) Do you know what
13 happened to the people who were killed in Bogoro? Do you know whether
14 they were buried? Are you able to tell us how things occurred once they
15 were killed?

16 A. In that regard, when the attack occurred, there were two groups
17 that I knew who came to fight. In those groups, as you just asked me,
18 there were UPDF soldiers. Before that attack, there were other groups
19 who had come to attack the UPC. At that point in time - so now we're on
20 the 24th of February, 2003 - they fought with the UPC soldiers, and when
21 they did that, there were a lot of deaths, and no one was interested in
22 going about burying the falling, because enemies -- these fighters, when
23 they came, they stayed for a few days. From the moment when the first
24 brigade of the government forces, the government of Congo forces, came,
25 they were the FARDC forces. There were also MONUC blue helmet workers.

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1 They came to chase out those people, and they came in November 2003, if
2 my memory serves me correctly.

3 When they arrived, they drove out those people. So from February
4 right through to November, they found these combatants were there. So
5 they were chased out, and they headed towards the Walendu-Bindi
6 collectivity.

7 That is what I know on that topic.

8 PRESIDING JUDGE COTTE: (Interpretation) Another question, and
9 this one is even more focused, Mr. Witness.

10 Throughout the discussions this morning, we learned that the
11 Bogoro inhabitants were able to disinter their loved ones who had been
12 killed once they came back after they had fled, and they learned that
13 they were their loved ones because of a combination of information about
14 the human remains and the clothing that was found. Could you please tell
15 me -- or us about how many people were able to be identified and
16 reinterred after that, or are you not able to give us that information?

17 A. I only know two cases personally, two cases. The first case was
18 a husband who had identified his wife who had been killed. She was
19 identifiable thanks to her clothing.

20 The other case was a man. He had been killed along with many
21 other children, but his -- with other people, but his children wanted to
22 identify their father, and they affirmed that this was the skeleton or
23 the human remains of their father. So they collected the bones and went
24 to bury them, and the same was true for the woman who was identified.
25 They were both identified in this way. And the names of those people

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1 also appear on this list.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Witness. Do
3 you know what happened to the bodies of this attack that were never
4 found, the bodies from that attack on the 24th of February, 2003? Do you
5 know what happened to those bodies ultimately?

6 A. Well, bones could be found everywhere. They weren't buried.
7 Even to this day you can see them. There were bodies that the enemy had
8 buried near the school. They were buried nearby. This was near to the
9 camp, at the entrance to the camp by the school. This school had been a
10 UPDF camp and then it was an UPC camp. It was also the camp used by the
11 combatants once the UPC was driven out. They stayed there as well, and
12 the bodies were buried in a mass grave, and I think that with the
13 authorisation we received, we were able to exhume those bodies, and then
14 we were able to inter them near the road, but there were many decomposed
15 bodies. It was difficult to identify those individuals. There were only
16 those two cases where relatives were able to identify their loved ones.

17 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, one final
18 question. Throughout this morning we have heard mention of a list of
19 victims of Bogoro. It's been mentioned several times this morning.

20 Have you had the opportunity since the attack to meet up with the
21 person who was otherwise considered deceased, someone who it was believed
22 had been killed during the attack but someone who in reality had survived
23 and who you were able to meet up with afterwards?

24 A. Yes. I do not know the exact number of people who had
25 disappeared like that, but I know that there was one woman who had -- was

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1 still unmarried at the time of the attack. I think that she was going to
2 get married. That's what I was told. But at the time of the attack, I
3 thought that she was dead. I thought she had already been killed. But
4 when we were in Kasenyi, I learned that this woman had been abducted.
5 They took her to the combatants camp in Kagaba. She told me this
6 herself. From there we heard that she had become pregnant there at that
7 camp. She was given to a combatant who was supposed to accompany her to
8 Uganda, but when they were crossing the Ugandan border, this combatant
9 let her go free to give birth. I think she was going to Karagutu in
10 Uganda, the route of bulls, to go and give birth, and after that, she
11 escaped and she took the Ntoroko route, this is near Lake Albert. So she
12 crossed over to Kasenyi with her new-born baby. If you would like me to
13 give you the name of that woman, I could give it to you. And I know she

14 (Expunged)

15 (Expunged)

16 (Expunged)

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

18 Ms. Buisman, if you would like to use these last 15 minutes to
19 commence your cross-examination, you may do so.

20 MS. BUISMAN: Thank you, Mr. President.

21 QUESTIONED BY MS. BUISMAN:

22 Q. (* No interpretation)

23 A. I'm fine, thank you.

24 Q. My name is Caroline Buisman, and I am going to ask you some
25 questions on behalf of Mr. Germain Katanga. First of all, I just wanted

1 to confirm with you that prior to this statement that you signed, there
2 was also an investigation -- the person I think I can say that in public,
3 (Expunged), who interviewed you, and this was on the 4th of
4 February, 2006; is that correct?

5 A. Do you want to ask me about the man who interviewed me?

6 Q. I would want you to confirm to me that this interview did indeed
7 take place, if you have a recollection of it. 2006.

8 A. I recall very clearly. I know that he came to Bogoro.

9 Q. And you talked, but there was no signed statement. You -- you
10 answered questions, but you did not sign a statement; is that correct?
11 In 2006.

12 A. Yes. At the time that we met, there were questions put to me. I
13 don't remember exactly which questions were asked of me, but I remember
14 speaking with him.

15 Q. Thank you. And you also made an application as a victim before
16 this Court as I think you have already confirmed. Do you confirm? In
17 November 2007.

18 A. Yes. I remember that, and I confirm it.

19 Q. And one very brief question in private session, please.

20 MS. BUISMAN: Can we go into private session.

21 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could we
22 go into private session, please.

23 (Private session at 1.17 p.m.)

24 (Expunged)

25 (Expunged)

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1 (Expunged)
2 (Expunged)
3 (Expunged)
4 (Expunged)
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6 (Expunged)
7 (Expunged)
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14 (Expunged)
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17 (Expunged)
18 (Expunged)
19 (Expunged)
20 (Expunged)

21 *(Open session)

22 Q. Thank you, Witness. I'll move on. Your languages you speak. If
23 I'm correct, you speak Kihema, Kiswahili, and French; is that right?

24 A. Yes.

25 Q. And you are a Hema from the south; is that correct?

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1 A. Yes, I am Hema South.

2 Q. And you confirm that the Hema from the north, they speak Kilendu
3 but not the Hema from the south; is that correct?

4 A. Yes, that is true.

5 MS. BUISMAN: Sorry. We can go into open session.

6 PRESIDING JUDGE COTTE: (Interpretation) Let us please move back
7 into open session, please, Court Officer.

8 (Open session at 1.21 p.m.)

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

11 PRESIDING JUDGE COTTE: (Interpretation) Counsel Buisman, you
12 may proceed.

13 MS. BUISMAN: Yes, and that last question could actually be in
14 open. So I don't know if we can still correct that after.

15 Q. Witness, you spoke about three attacks, three main attacks, and
16 then you speak about several others. I'll go through them with you. The
17 first attack, you say, was the 9th of January, 2001, and you say there
18 were 110 people who died during that attack. Do you confirm that?

19 A. That is true. And it was me along with the survivors, together with
20 the security forces from UPDF who came to assist people. They arrived
21 on the same day, the 9th, in the evening. They drove out the enemy.
22 And on the 10th, the UPDF soldiers helped us to go and collect the bodies
23 so that we could inter them, and that's how we arrived at that figure 105.

24 Q. Thank you. And then you spoke about the second attack which is
25 on the 14th of August, 2002, and you mentioned 32 people who died. Do

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1 you confirm that?

2 A. I confirm, because I was physically present. The UPDF fighters
3 were in Bogoro. This was when they were getting ready to leave, but
4 luckily they were still there, and they tried to drive out the enemy, and
5 we went out to try and collect the bodies. A lot of bodies were
6 scattered by the road. And we arrived quite precisely at the figure of
7 32 deaths, and we proceeded to bury those people.

8 It appears there was only one disappeared person unaccounted for.
9 We don't know where that person went.

10 MS. BUISMAN: I think that's a convenient time, your Honours.
11 Thank you.

12 Thank you, Witness.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
14 Counsel Buisman.

15 Thank you, Witness.

16 Court Officer, is it technically possible to reclassify as open
17 the part in the French transcript on page 82, from lines 24 up to page
18 83, line 4? These were questions about the languages spoken by the
19 witness, and they were not in open session. If it's possible, could they
20 please be shifted into open -- an open classification in the definitive
21 version of the transcript.

22 Witness, thank you very much for your participation this morning.
23 We shall see one another again tomorrow morning at 9.00 so that
24 Madam Buisman can continue with her cross-examination, and then we shall
25 move on to the cross-examination from the Mathieu Ngudjolo Defence team.

1 Now, Court Officer, we shall move into closed session so that the
2 witness may discreetly leave the courtroom. See you tomorrow, witness.

3 (Closed session at 1.26 p.m.)

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 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 The hearing ends at 1.28 p.m.

22 CORRECTION REPORT

23 The following correction has been made to the transcript:

24 * On page 9 lines 3, 7 and 8: (Expunged)

25 RECLASSIFICATION REPORT

1 Pursuant to Trial Chamber II's instruction dated 30th November 2010,
2 the excerpt of the transcript starting page 75 line 21 to 76 line 7 is reclassified from
3 Private session to Open Session.
4 SECOND CORRECTION REPORT
5 The following correction has been made in the transcript:
6 * Page 67 line 20:
7 "A. Well. Um...the UPDF army, um...when..." has been added.