

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, 2 December 2010
10 The hearing starts at 9.02 a.m.
11 (Closed session)
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Witness: Witness DRC-OTP-P-0166 (Resumed) (Open Session)
Questioned by Mr. Fofé (Continued)

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1 (Open session at 9.06 a.m.)

2 COURT OFFICER: (Interpretation) Your Honour, we are in public
3 session.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
5 Court Officer.

6 Good morning, Mr. Witness.

7 THE WITNESS: (Interpretation) Good morning.

8 PRESIDING JUDGE COTTE: (Interpretation) We thank you for being
9 with us this morning, because we know that you are not in very good shape
10 health-wise, and that is why we appreciate the fact that you are here.

11 Professor Fofé is going to continue with his cross-examination,
12 and so I would like to give him the floor at this juncture.

13 MR. FOFÉ: (Interpretation) Thank you very much. Good morning,
14 your Honours.

15 QUESTIONED BY MR. FOFÉ: (Continued)

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

17 A. Good morning.

18 Q. Mr. Witness, we are going to continue with our examination, and
19 we will strive to conclude it within the time-limit set by the Chamber.
20 To start, I would like to have the usher give to you the list of names
21 which we used yesterday, as well as your statement and the interview
22 notes.

23 MR. FOFÉ: (Interpretation) We would like the witness to have
24 those documents before him.

25 Q. Mr. Witness, we wish to have a better understanding of these

1 Bogoro attacks. In paragraph 31 and subsequent paragraphs of your
2 statement before the investigators of the OTP -- as I was saying, in that
3 paragraph 31 and subsequent paragraphs, you talk about the attack of
4 Bogoro of the 14th of August, 2002. That attack took place after the UPC
5 had chased out Governor Lompondo and the APC from Bunia; is that correct?

6 A. Yes.

7 Q. And you stated before the investigators of the OTP that the APC
8 was the national army of Ituri. You say this in paragraph 45 of the
9 statement. My question to you is the following: Do you know the
10 ethnicities of the soldiers of the APC?

11 A. No, I did not know the ethnicities of APC soldiers. All I knew
12 is that it was a government army.

13 Q. As you said, the APC was the army of the government, the national
14 army of Ituri, as you said in paragraph 45. Now, amongst these soldiers
15 were there Lendus?

16 A. I did not say that there were Lendus within the ranks of the APC
17 army. I said that the attack of the 14th of August, 2002, that is, that
18 battle, pitted a group that was in Kasenyi against others, because in
19 Kasenyi there were APC soldiers who were stationed there -- or, rather,
20 UPC soldiers who were stationed there. When Lompondo was chased out of
21 Bunia, the APC soldiers fought against the soldiers who were in Kasenyi.
22 The soldiers of the APC fled to a location 14 kilometres away from
23 Kasenyi. They went to settle at the foot of a hill in a place called
24 Mandre. As I said earlier, there was -- there was a young man there who
25 was one of the soldiers of the APC, and he was of Hema ethnicity. That

1 soldier did not want to join those who were there and who intended to go
2 to Zumbe. They had fled from Kasenyi, and it was said that they were to
3 go to Zumbe to meet the fighters from Lendu North, and together they were
4 to go and attack Bogoro.

5 After one week, that young man arrived at the UPDF camp and
6 provided that information.

7 Q. Mr. Witness, I apologise for interrupting you. We do not have
8 much time. Thank you very much.

9 In your answer, you mentioned the presence of a young man of Hema
10 ethnicity who was an APC soldier. This means, therefore, that within the
11 APC there were Hemas as well. That is it. There were Hemas in the ranks
12 as well.

13 A. Yes. Yes. For example, that young man who deserted the group.
14 In order to give information to UPDF soldiers, he was of Hema ethnicity.

15 Q. Thank you, Mr. Witness. I would like to put it to you that
16 within that APC army there were Lendus as well. You probably don't know
17 this, but I am putting it to you that there were Lendus within the ranks
18 of that army as well. What do you say to that?

19 A. It is very difficult to me to confirm such information, namely
20 that there were Lendus within the ranks of the APC. To the best of my
21 knowledge, I knew -- I know that APC soldiers went to join the soldiers
22 of Lendu North, and together they planned to go and attack Bogoro. The
23 young man said that the soldiers did not have enough ammunition.

24 THE INTERPRETER: The Swahili interpreter did not hear the last
25 part of the witness's answer.

1 MR. FOFÉ: (Interpretation)

2 Q. Thank you, Mr. Witness. I would also like to suggest to you that
3 there were people of Bira ethnicity, Alur ethnicity and Nande ethnicity
4 within the APC. As you said very well, it was the national army in
5 Ituri. Anyway, let's move on.

6 Paragraph 33, describing the same war of the 14th of August,
7 2002. In that paragraph, you state that you saw the population fleeing
8 towards the UPDF camp during that attack.

9 The question I have for you is the following: The civilian
10 population -- was the civilian population advised to seek refuge in the
11 military camp in case of attack?

12 A. I don't know whether any instructions were given to the civilian
13 population. However, the population usually had the reflex of going to
14 seek protection from soldiers. That is why they were in the habit of
15 going to seek refuge in the camp of the UPDF.

16 Q. For us to carry on on this point, I would like you to look at the
17 list that you have before you. I am going to ask you a few questions
18 about number 15. May I remind you that we are going to use that
19 appellation, number 15. I hope you have not forgotten our manner of
20 working yesterday. We will continue examining this paragraph 33, and I
21 will ask you a few questions on number 15; that is, Mr. Number 15.

22 The first question is the following: With respect to this
23 instruction given to the civilian population, (Expunged)
24 (Expunged)?

25 A. No. No.

1 Q. So 15 did not know the person who gave such instructions to the
2 population?

3 PRESIDING JUDGE COTTE: (Interpretation) Yes, Madam Prosecutor.

4 MS. DARQUES-LANE: (Interpretation) I beg your pardon for
5 interrupting. I don't want to interrupt the cross-examination.

6 The witness just said no instructions were given, so I don't see
7 why these questions are being put to the witness.

8 MR. FOFÉ: (Interpretation) Very well. Very well. I do agree.

9 PRESIDING JUDGE COTTE: (Interpretation) Let's proceed then.

10 MR. FOFÉ: (Interpretation)

11 Q. Mr. Witness, please turn to paragraph 107 of the statement. In
12 this paragraph, you state that you heard from the survivors of the Bogoro
13 attack that many people died at the military camp, soldiers and civilians
14 who had fled to that area for protection. They all died there.

15 Do you confirm that this is your statement?

16 A. Yes.

17 Q. Similarly, in paragraph 44 -- well, if you can turn to that
18 paragraph, fine. If not, the parties and participants can take a look at
19 it.

20 Similarly in paragraph 44 of the interview notes, you state that
21 many people were massacred near the camp, because many people had rushed
22 to the soldiers to seek protection. Are these indeed your statements,
23 Mr. Witness?

24 A. Yes, those of my statements.

25 Q. Thank you very much. In paragraph 44 of your statement, you

1 state that the UPC arrived in Bogoro in the month of August 2002, three
2 days after the departure of the UPDF, after the departure of the Ugandan
3 soldiers of the UPDF?

4 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé, are you
5 indeed talking about paragraph 44?

6 Yes, Madam Prosecutor. You wanted to say something?

7 Professor Fofé, can you clarify the point?

8 MR. FOFÉ: (Interpretation) It's paragraph 47.

9 PRESIDING JUDGE COTTE: (Interpretation) Very well. For the
10 benefit of the record, it's paragraph 47.

11 Mr. Witness, turn to paragraph 47 of the statement.

12 And, Professor Fofé, please repeat your question.

13 MR. FOFÉ: (Interpretation) Yes, indeed.

14 Q. In paragraph 47, you declare that the UPC arrived in Bogoro in
15 the month of August 2002, three days after the departure of the UPDF.

16 May question to you, Mr. Witness, is the following: Do you know
17 why the UPDF soldiers left Bogoro?

18 A. I do not know why they left Bogoro. I saw them leaving Bogoro
19 through Boga. First of all, those who were Ngiti left, those who were
20 Nboga left, and those troops which were stationed in Bogoro also left.
21 However, the attack of the 14th of August, 2002, found them there. Later
22 on, they left. And UPC soldiers arrived three days afterwards. I do not
23 know why the UPDF left Bogoro.

24 Q. Well, to refresh your memory, I would like you to turn to
25 paragraph 118 of your statement. This is what you say in paragraph 118,

1 you say:

2 "The reason why the UPDF left Bogoro --" or, rather, let me
3 repeat. Let me repeat. Let me read from the text to be accurate.

4 I begin:

5 "The reason why the UPDF allegedly attacked Bogoro was because
6 the UPC had fallen out with the UPDF and had asked them to leave Ituri."

7 Is that indeed your statement, Mr. Witness?

8 A. Yes. That is indeed my statement.

9 Q. Should we understand, therefore, that it was because of this
10 conflict between the UPC and the UPDF that the UPC soldiers arrived to
11 take up position in Bogoro on that date?

12 A. To the best of my knowledge, the UPDF was in disagreement with
13 the UPC. The UPC publicly declared that the UPDF had departed to go to
14 Uganda and that is why I know or came to obtain this information.

15 Q. Thank you, Mr. Witness. Please kindly turn now to paragraph 57.
16 I'm going to quote paragraph 57:

17 "The UPC in the camp of Bogoro had SMG rifles. They had rocket
18 launchers, grenades, and weapons with a battery connected up with wires.
19 I do not know how they used this last type of weapon, but what I do
20 remember is that the UPC soldiers asked the population not to go near the
21 wire. I saw the weapons when I visited the camp. Every soldier had an
22 SMG."

23 Mr. Witness, these UPC soldiers who had taken up position in the
24 Bogoro camp, therefore, had heavy weapons; is that not true?

25 A. Yes, as I said in my statement.

1 Q. And in paragraph 49 -- if you could turn to paragraph 49. Let me
2 quote this. Paragraph 49, this is what you say:

3 "As a means of defence, the UPC had dug holes half a metre wide
4 and half a metre deep around the camp. Apart from this hole or this
5 channel which ran round the camp, there were no walls, barbed wire, or
6 fencing around the camp. They had placed mines at the entrance on the
7 side where the enemies arrived."

8 I will stop there.

9 My question is as follows, Mr. Witness: The civilian
10 population -- could the civilian population not step on these mines?

11 A. The path into the camp -- in fact, there was a road leading the
12 roundabout from the centre. It was the roundabout leading into the camp,
13 and this is where the population went. This was the road up along the
14 hill which I mentioned, the Waka hill, and this is the road the
15 population could take to go into the camp.

16 Q. Mr. Witness, in the movement of panic when the population was
17 fleeing the gunfire, might they not stand on the mines in these moments
18 of absolute panic? When the population was terrified and rushing towards
19 the camp, might the population not stand on the mine and be injured?

20 A. You know, this main road which I'm talking about at the
21 roundabout, it's a very good road. It goes right up to the camp. From
22 the camp you can leave the camp taking the Waka road. I think they
23 didn't lay on any mines on this road because people used this road.

24 There was not fighting every day. Since August 2002, and I
25 believe right up until the end of 2002 when there were the first, second,

1 third, fourth attacks which started which were taking place.

2 Q. On the basis of what you learnt, the soldiers who had attacked
3 Bogoro on the 24th of February, 2003, had also used heavy weapons in
4 order to get the UPC out of Bogoro; is that correct?

5 A. Possibly, yes. On that day, I was not there. One day before I
6 left for Kasenyi, I left one day before the fighting started. So that
7 could be correct. They are also human beings. They were soldiers, and
8 so quite possibly they had heavy weapons, but I was not there on that
9 day.

10 Q. You are implying in paragraph 64 of your statement --
11 paragraph 64. This is what you say:

12 "Since the UPC had often repulsed the soldiers, this time I was
13 not worried. Concerning the attack of February 2003 -- concerning the
14 attack of February 2003, on the basis of what some survivors said, the
15 attack was bigger than expected. (Expunged)

16 (Expunged)

17 (Expunged)

18 So some survivors said that this was a bigger attack than
19 expected. That is indeed what you said, Mr. Witness.

20 A. Yes, that is how it happened.

21 Q. Thank you very much indeed, Mr. Witness. Mr. Witness, yesterday
22 in his cross-examination -- her cross-examination, my learned colleague
23 Ms. Caroline Buisman asked you questions about paragraph 111 of your
24 statement, 111. Let me quote once again this paragraph:

25 "The survivors only saw the uniforms of the soldiers. They did

1 not identify the commanders of the groups, except for Ngudjolo."

2 To go into this question, could I call on you to look at your
3 interview notes, paragraph 39, please.

4 In this paragraph number 39, this is what we read -- and I will
5 be careful. I will replace one word by suspension points:

6 "Nobody said to ... that they had recognised the commanders who
7 had led the attack."

8 Mr. Witness, it would appear from this that in the course of the
9 interview of the 4th of February, 2006, you did not state that certain
10 survivors had identified Ngudjolo. You did not say that; is that not
11 true?

12 A. Could you please repeat your question.

13 Q. We are talking about paragraph 111 of your statement. If you
14 could compare that with the other document, and the Court Usher will
15 assist you, sir.

16 So in paragraph 111 of your statement which dates from 2007,
17 February 2007, you said, and I quote:

18 "The survivors only saw the uniforms of the soldiers. They did
19 not identify the commanders of the groups, except for Ngudjolo."

20 But if you look at paragraph 39 of the interview notes, which
21 date from the 4th of February, 2006, you gave the same piece of
22 information. You say:

23 "Nobody said to ... that they had recognised the commanders who
24 headed the attack."

25 My question is, therefore, as follows: In 2006, you did not say,

1 you did not say, that the survivors had recognised Ngudjolo. You did not
2 say that. Because if you had said it, then the investigator would
3 certainly have noted it down.

4 A. Well, here let's try and look at things. We see here in
5 paragraph 111 that we're talking about what the survivors said, what they
6 said to me. Now, if we refer to paragraph 39 -- in paragraph 39 I said
7 what is written here.

8 Q. In paragraph 39, the name "Ngudjolo" is not mentioned.

9 A. I think that number 39 -- paragraph 39 explains things very well.
10 If you read the paragraph right through to the end, then you get the
11 explanations.

12 Q. Very well. I will read the paragraph out in whole. Let me
13 quote:

14 "Nobody said to ... that they had recognised the commanders who
15 were leading the attack. According to him, this was a well-planned
16 offensive on Bogoro, Tchai, Mandro, and Bunia. He heard on the BBC radio
17 that they (Ngoma of PUSIC and Mama Akiki of PUSIC) had stated that they
18 had taken Bogoro."

19 The name "Ngudjolo" is not mentioned, Mr. Witness. What can you
20 say to that?

21 A. I have nothing to add apart from this statement which is written
22 here under paragraph 39.

23 Q. Mr. Witness, you are here before the Court, before the Judge, and
24 you must tell the truth.

25 In 2007, did anybody suggest to you that you should mention the

1 name of Ngudjolo?

2 A. Nobody suggested that I mention the name of Ngudjolo.

3 Q. Thank you very much.

4 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé,
5 Mr. Witness, you have seen that we have here two statements which differ.
6 In that of 2006, which are interview notes, no mention is made of the
7 presence of Mr. Ngudjolo, and then in the 2007 statement, mention is made
8 of the presence of Mr. Ngudjolo on the basis of what survivors said.

9 It is very important for the Court to understand which of these
10 two pieces of information should be -- can be taken into consideration by
11 the Court. Should the Court base itself on paragraph 39 of the interview
12 notes of February 2006, or should the Court look more particularly at the
13 content of paragraph 119 in the statement of 2007? We need your help on
14 this point, Mr. Witness.

15 THE INTERPRETER: Correction from the English booth: It was
16 paragraph 111 in the statement.

17 THE WITNESS: (Interpretation) In paragraph 111, 111, here I see
18 the way the statement is drafted. We're talking about what the survivors
19 said to me, and this is what is written. And now if we refer to
20 paragraph 39, it is true that the name of Ngudjolo does not appear, but
21 if we look at things properly, we see that there are words which I
22 explained.

23 If you would like me to explain properly paragraph 39, then I can
24 give you a short explanation.

25 PRESIDING JUDGE COTTE: (Interpretation) In fact, Mr. Witness, I

1 think you have understood what we all want to understand. We want to
2 know which of the two statements best fits what was told to you by the
3 survivors. Do you understand what I mean?

4 The first statement does not talk about Mr. Ngudjolo, and the
5 second one does. So it is important for us to know exactly what the
6 survivors said to you. Did they say to you that they had seen -- or some
7 of them had seen Mr. Ngudjolo, or did no survivors say this? It would be
8 very important for us for you to answer this, and I think this is the
9 thrust of Professor Fofé's questioning, which I'm passing on because it's
10 very important for the Court.

11 THE WITNESS: (Interpretation) On paragraph 111, you have to
12 understand that this statement was a statement which came basically from
13 the survivors. This is what they said to me. If we refer to
14 paragraph 39, it is true that they did not know who had led the attack,
15 because here I explain how the attack on Bogoro of the 24th of February,
16 2003, how the attack took place. They had a plan at the time when the
17 UPC and PUSIC -- it seems that PUSIC had separated from the UPC. This
18 was what I had heard from the BBC. The UPC group which had split off to
19 form PUSIC, this was a group which went to meet up with the FNI Kampala
20 group, and it was after that that they started the attack. They attacked
21 first Bogoro, and then they took Bunia. So I don't know what you want me
22 to say. Here in paragraph 111, these are -- this is what the survivors
23 said to me, except they saw Ngudjolo in 111. However in paragraph 39,
24 they do not talk about Ngudjolo. I can't tell you which group or which
25 commander directed these operations.

1 So if we try and understand things, if you look at the names in
2 brackets, they're not Lendu. They're Hema. This means that, as far as I
3 understand things, when the UPC split, there was one group which split
4 off to make up PUSIC, and the way in which UPC made their declaration,
5 they said the UPDF had to pull out of Ituri. The UPDF was able to come
6 to an agreement with the FNI to fight against the UPC. That is what I
7 know, and this is what it written.

8 Apart from that, I have nothing else to add concerning these two
9 paragraphs.

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

11 Professor Fofé, I think that you can continue questioning.

12 MR. FOFÉ: (Interpretation) Thank you very much, your Honour.

13 Q. Mr. Witness, if we look at paragraph 111, can you tell me when
14 the survivors gave you the name of Ngudjolo? When was this?

15 A. I know the -- I know when the fighting took place, and at that
16 time there were survivors who fled to go to Kasenyi. Amongst them there
17 were soldiers who had fled, and civilians too. These were the people who
18 talked to me at Kasenyi. They told me how they recognised Ngudjolo.

19 Q. Who were these survivors who gave you the name of Ngudjolo? This
20 is a crucial point. You must give us the name of these survivors. We
21 have to know the names of these survivors who gave you this piece of
22 information.

23 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor.

24 MS. DARQUES-LANE: (Interpretation) Before we have the witness's
25 reply, perhaps we should move into private session in order to obtain the

1 names of the survivors.

2 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, before we
3 move into private session, do you have any names to give us of survivors
4 who talked about Mr. Ngudjolo being there in Bogoro? This is the
5 question of Professor Fofé. If you have names to give us, then we can
6 move into private session. If you do not have any names, we will remain
7 in open session.

8 Do you remember any names, any first names? Do you remember the
9 way in which these survivors were able to point out Mr. Ngudjolo?

10 Do not give these names before we move on to private session.
11 Please tell us.

12 THE WITNESS: (Interpretation) I did not remember these names.
13 People came, they left, and I wasn't really thinking about remembering
14 their names at the time.

15 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé, you may
16 continue.

17 MR. FOFÉ: (Interpretation) Thank you very much.

18 Q. Witness, I should like to refer you to paragraph 46 of your
19 statement, please.

20 In this paragraph, paragraph 46 of your statement before the OTP
21 investigators, you say that prior to the Bogoro attack that -- attacks
22 that you mentioned, you only knew Mathieu Ngudjolo as a member of the
23 Red Cross which assisted people in Katonie-Vilo.

24 You add in paragraph 123 -- and I would refer you to
25 paragraph 123.

1 In paragraph 123 of your statement before the OTP investigators,
2 you added that it was once you had returned from Uganda that you learned
3 that Mathieu Ngudjolo -- and I shall pause for a moment because I see you
4 do not yet have it before you.

5 So in paragraph 123, you added that it was once you had returned
6 from Uganda that you learned that Mathieu Ngudjolo was the leader of an
7 armed group and that the first time that you had heard word of him was at
8 the point in time when he had been arrested in Bunia. That is what then
9 you say about Mathieu Ngudjolo, first of all in paragraph 46 and then
10 confirmed later on in paragraph 123.

11 My first question is as follows: When did you return from
12 Uganda?

13 A. I returned from Uganda in November 2003.

14 Q. And when was Mathieu Ngudjolo arrested in Bunia?

15 MS. DARQUES-LANE: (Interpretation) Excuse me for interrupting.

16 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead.

17 MS. DARQUES-LANE: (Interpretation) Forgive me for interrupting,
18 Professor Fofé. I just wanted to go back to paragraph 123, if I may,
19 because I know that you were summarising in order to save time, and you
20 had interpreted this paragraph in a way that I think is actually very
21 important.

22 In the declaration, it says:

23 "Afterwards, when I returned from Uganda, I heard about
24 Mathieu Ngudjolo. I heard that he was the head of an armed group. I
25 heard on the radio that he had been arrested," et cetera. "This was the

1 first time that I had had news of him."

2 And that was quite different to what you had said, because you
3 stated that that was the first time that he had ever heard word of him,
4 first time that he ever heard his name, ever heard of him, and I think
5 that this nuance is important. Given that the witness is reading from
6 the French version and speaking in Swahili, I think it's vital that we
7 read word-for-word the text that is before the witness's eyes.

8 Thank you very much.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you for that
10 clarification.

11 Professor Fofé, you may proceed.

12 MR. FOFÉ: (Interpretation) Thank you. Perhaps we need to read
13 the paragraphs in their entirety, paragraph 46 and paragraph 123, because
14 these are paragraphs which have been admitted into evidence, and since
15 they have been tendered into evidence, they have an EVD number. And that
16 is why I, just to save time, paraphrased them, but perhaps we need to
17 read them in their entirety.

18 I'm in your hands, your Honour. Should I read the two paragraphs
19 out?

20 PRESIDING JUDGE COTTE: (Interpretation) I think they've now
21 been partially read out at the start of your questioning on this, and
22 Madam Prosecutor has now just made the clarification that she wanted to
23 make. So I think that we now have both paragraphs in perspective.

24 MR. FOFÉ: (Interpretation) Thank you very much, your Honour.

25 Thank you.

1 Q. Witness, you asked -- answered my first question when I asked you
2 about your return from Uganda. You said that you returned from Uganda in
3 November 2003.

4 My second question, then, is as follows: When was
5 Mathieu Ngudjolo arrested in Bunia?

6 A. I didn't commit that date to memory, but I know that it was upon
7 my return, and I returned into November 2003. I stayed in Kasenyi for a
8 brief period of time before moving up towards Bunia.

9 Unless I am mistaken, it should have been in 2004. It would be
10 in 2004 that I heard the news on the radio that he had been arrested.

11 Q. And so it was at that point in time that you heard of him being
12 described as a military leader; is that not correct?

13 A. Yes. It was during that period of time that I learned that he
14 was at the helm of the Lendu-Tatsi armed group. In other words, the
15 group from Zumbe.

16 Excuse me, let me continue. When I was in Bunia, I learned that
17 he had asked people to grab their belongings and to leave with him to
18 Zumbe. For example, there was a young person who was called Tuki, and he
19 took a mortar with them and left for Zumbe. These are the information --
20 this is the information that I got when I was in Bunia, having returned
21 from Uganda.

22 Q. Thank you very much, Witness. Witness, on the basis of what you
23 learned, how much time did the attack on Bogoro of the 24th of February,
24 2003, last?

25 A. I could not give an accurate answer to this question. All I know

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1 is that there was fighting on that date and that UPC elements fled and
2 others died and his group remained in Bogoro until the arrival of the
3 first brigade from the FAC and the Blue Helmets. Once the Blue Helmets
4 arrived, the group who had taken control of Bogoro left. I would not be
5 able to tell you, therefore, how long the fighting lasted.

6 MR. FOFÉ: (Interpretation) I get the feeling that the very last
7 part of the witness's answer has not been reflected in the transcript.

8 PRESIDING JUDGE COTTE: (Interpretation) Witness, in my
9 transcript I see that:

10 "When the Blue Helmets arrived, the group that had taken control
11 of Bogoro left. I would, therefore, not be able to tell you how long
12 this battle lasted."

13 Is that where you ended what you were saying, Witness? You did
14 not add anything else after that?

15 THE WITNESS: (Interpretation) I said that upon the arrival of
16 the first brigade and that of the MONUC Blue Helmets - and this was at
17 the -- towards the end of the month of November - that the Blue Helmets,
18 therefore, arrived and the first brigade, which was in the FARDC, and it
19 was then that the first group which had taken control of Bogoro left.
20 And the group that had taken control of Bogoro did so on the 24th of
21 February, 2003.

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

23 THE INTERPRETER: Overlapping microphones.

24 THE WITNESS: (Interpretation) I would not be able to tell you
25 which group remained. I know that there were two groups. And even when

1 I came back from Uganda, it was that group there that had opened up the
2 road which actually enabled the trucks to move towards Kasenyi. This was
3 towards the end of the month of October or perhaps in early November when
4 vehicles were able to start going to Kasenyi.

5 And I should like to -- I took that opportunity to go to Bogoro.

6 And when I arrived, those two groups were there. And I was not able to
7 identify the two groups. There were trucks. There was one truck, and
8 the driver had been asked to load up the load.

9 THE INTERPRETER: Would Professor Fofé please let the witness
10 finish speaking.

11 PRESIDING JUDGE COTTE: (Interpretation) Very well. We were at
12 the point of unloading that truck, I believe, Professor Fofé.

13 JUDGE DIARRA: (Interpretation) A message from the Swahili booth
14 for Professor Fofé, and that is could you please let the witness finish
15 speaking before picking up your question.

16 PRESIDING JUDGE COTTE: (Interpretation) Yes. I didn't mention
17 that, because I thought that Professor Fofé might have heard it. So --
18 you didn't hear that? Well, thank you, Judge Diarra, for bringing that
19 to my attention.

20 MR. FOFÉ: (Interpretation) Thank you, your Honour.

21 Q. Witness, yesterday in response to a question put by my learned
22 colleague Caroline Buisman, you said that this war, the 24th of February,
23 2003, in Bogoro, had been led by the Walendu-Bindi, the Walendu from the
24 north, the UPDF. And I'm referring to transcript 226, page 4, lines 2
25 to 6. This is what you stated yesterday.

1 And yet, if you look at the interview notes, and I don't know if
2 here again we could ask the assistance of the Court Usher, you're talking
3 about -- I'm going to mention two paragraphs from these interview notes.

4 Yesterday, I believe that Counsel Buisman referred to
5 paragraph 14, and I'll come back to that, but first of all I'd like to
6 look at paragraph 23, paragraph 23 of the interview notes which I shall
7 quote. I shall quote from paragraph 23:

8 "... went to Bunia to seek leave to return to Bogoro, because
9 MONUC had repulsed the Lendus that had set up there, and they had
10 returned back to the Walendu-Bindi collectivity. Pétronille Vaweka, who
11 was a district commissioner, had, in fact, said that once the government
12 soldiers had occupied Bogoro, they [meaning the displaced persons] would
13 be able to return."

14 Is that indeed your statement, Mr. Witness?

15 A. Yes, it is indeed my account. In this passage, I said that they
16 went back to their collectivity, the Walendu-Bindi collectivity.
17 Therefore, we're talking about this group that had left that place, and
18 they were on good terms with the FRPI.

19 As for the Lendu North, I think that they went back home but I
20 didn't mention it. I did, nonetheless, know that the group that was in
21 Bogoro, as of the 24th of February, 2003, well, there were only two
22 groups who were able to remain. They were the Walendu-Bindi group and
23 the Lendu North group. (Expunged)
24 (Expunged). We wanted to go
25 back, and when we went there, we found the Walendu-Bindi people *in situ*.

1 Q. Thank you. Let us now move to paragraph 14. And I quote:

2 "The third attack on Bogoro took place on the 24th of February,
3 2003. It was by the combatants of the Walendu-Bindi collectivity. It
4 needs to be borne in mind that these combatants frequently attacked the
5 UPC in Bogoro. As of the end of 2002, upon seven occasions they had
6 attacked Bogoro and stolen cattle. It was only upon the eighth attempt
7 that they unseated the UPC on the 24th of February, 2003."

8 My question is as follows, Witness, my question is: In these two
9 paragraphs, you mentioned neither the Lendu North nor the Lendu from
10 Zumbe. You have not mentioned them in this statement of 2006. What do
11 you have to say to that?

12 A. In this paragraph, I was talking about the third attack. This is
13 in paragraph 14.

14 All of the attacks that occurred in 2001 and 2002 had been
15 launched by the Lendu North; in other words, the group from Zumbe. There
16 were, nonetheless, other attacks in other places, and I have lumped them
17 all together, and I talked about eight attacks on that centre.

18 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor.

19 MS. DARQUES-LANE: (Interpretation) Yes. I just wanted to
20 rectify something on the transcript, if I may. On the transcript, we can
21 see that coming back to Professor Fofé's question:

22 "My question is as follows, Witness:

23 "In these two paragraphs you neither mention the Lendu of the
24 north nor the Lendu from Zumbe. You did not mention them in 2006."

25 But I think this needs to be limited to paragraph 14, because in

1 paragraph 36 of the investigator's note, which was drafted in 2006, the
2 witness does indeed state that:

3 "According to the survivors who spoke of this, to ... the attack
4 was conducted by three groups on three different axes," and here he talks
5 about the collectivity of Walendu-Bindi, that of Wabida
6 (* as interpreted), and that of the Walendu-Djugu. So I just wanted to
7 offer that clarification for the benefit of the Chamber.

8 PRESIDING JUDGE COTTE: (Interpretation) Very well. We have
9 taken note of that.

10 Professor Fofé.

11 MR. FOFÉ: (Interpretation) Thank you very much. But we should
12 underscore that in that paragraph, paragraph 36, the information comes
13 from the survivors, and we have already talked about that a moment ago
14 and we are not going to spend too much time on this, but we're talking
15 about the survivors, these anonymous survivors.

16 Q. Witness, just a brief word about the FNI. In paragraph 119 of
17 your statement for the OTP investigators, that is your statement of 2007,
18 paragraph 119, you said and I quote -- and I will quote this entire
19 paragraph because it was not among the list of paragraphs admitted into
20 evidence by the Prosecutor. So in paragraph 119 you say, and I quote:

21 "When I was in Bogoro, just prior to the attack of the 24th of
22 February, 2003, the group of Lendu fighters was not called the FNI. They
23 started to be known by that name just after the Bogoro massacre when
24 there was a kind of meeting of delegations of Hemas, Lendus, and from the
25 United Nations. This meeting took place in Bunia in 2003 and lasted

1 about 14 days. This was a meeting of the Ituri Pacification Committee.
2 It was at that point in time that we started talking of the FNI. When
3 this meeting took place, I had already left Bogoro. It was my ... who
4 told me about the meeting and the FNI when we met in our capacity as
5 displaced people in Uganda."

6 Is that indeed your statement, Witness?

7 A. Yes.

8 Q. Thank you very much. Witness, I should like to refer you very
9 quickly to paragraph 26 of that same statement, which is one of the
10 paragraphs admitted into evidence, and I would like to ask you a few
11 questions about this, because this has been admitted. It is a very short
12 paragraph.

13 It is a short paragraph, Mr. Witness, and you say in this
14 paragraph:

15 "The Hemas don't know how to kill."

16 My question is as follows: To the best of your knowledge, was
17 there no Hema attack against Lendu village? To the best of your
18 knowledge, can you affirm that?

19 A. If I said that -- I said that the Hemas don't know how to kill.
20 Within the UPC there were fighters from other ethnic groups, but most of
21 them were indeed Hemas. And when the UPC took control of Ituri, it is
22 true that UPC fighters did, some of them, for example, go to Zumbe. They
23 conducted a battle there, and I'm aware of that. They went from Bunia,
24 and they went to Zumbe. I do know that.

25 Q. So you therefore recognise that this paragraph does not contain

1 the truth.

2 A. No. When I said that the Hemas don't know how to kill people,
3 all I wanted to say was as follows: That from the time that has gone by
4 up to my age here and now today, I had never heard of any Hemas going out
5 to kill Lendus or that Hemas wanted to make the Lendus suffer in their
6 own villages.

7 It was only at the time that the armed conflict started between
8 the Hemas and the Lendus that I saw the Hemas teaching fighting
9 techniques to their young people.

10 Well, with respect to my statement, would I say before the armed
11 conflict, the Hemas did not know how to kill. But this started happening
12 when the armed conflict broke out between the Hemas and the Lendus. When
13 that happened, the Hemas took special measures to defend themselves.
14 That is the explanation I can give you with respect to that paragraph.

15 Q. I am going to ask you to clarify one point. Mr. Witness,
16 following the massacre perpetrated by the Hemas against the Ngiti, the
17 Ngitis left Bogoro in 1992; is that not the case?

18 A. Could you please repeat that question?

19 Q. The question is as follows: Is it not the case that after the
20 massacre of the Ngitis by the Hemas, the Ngitis left Bogoro in 1992?

21 A. No. It was not the Hemas who killed the Lendus or the Ngitis.
22 No. It was an armed conflict which started in the Lake Albert plain at a
23 locality called Nyamavi. It is a village. Fighting broke out in that
24 area. The Hemas were killed. They were chased out.

25 The conflict started when the Hemas started a market in Nyamavi

1 village. Soldiers arrived at that village, and they chased out the
2 Hemas. The Hemas went up to the hill and went all the way to Bogoro.

3 It was an armed conflict. It was not the fact that the Hemas
4 were killing the Ngitis. In 1992, it was an armed conflict.

5 Q. Just one last question on this passage, Mr. Witness. Do you know
6 why there are two churches; namely, *grand Ceca et centre d'évangélisation*
7 Diguna in Bogoro. Why is it that there are two churches, can you tell us
8 the reason briefly, please.

9 A. At the beginning there was one church, and that was Ceca 20. A
10 conflict broke out within the church council. A conflict broke out
11 between the pastor and the faithful. Certain members of the faithful and
12 the pastor wished to leave the church to create their own community, and
13 that is how we had a reformed Ceca 20. At that time, there were several
14 conflicts. There were two Ceca 20s, the original Ceca 20 and the
15 reformed Ceca 20, and it is the members of Ceca 20, that is the reformed
16 Ceca 20, who remained in the church house while the others, that is the
17 original Ceca 20, went to reside in a new church house in Diguna. The
18 Missionaries of the Evangelization Centre gave them a room and they used
19 that room at the church house. And even at the time of the conflict they
20 were on the other side.

21 I can say that even today the big church is in the hands of
22 Ceca 20, original, that is the original Ceca 20.

23 Q. Thank you, Mr. Witness, but I would like to put it to you that
24 the evangelization centre of Diguna which is point 9 in your sketch
25 EVD-D02-00099, the Diguna evangelization centre was created after the

1 Ngitis were massacred in 1992 by the Hemas. That's a suggestion. You
2 may not agree with me, but let's move on.

3 Mr. Witness, in paragraph 39 of your statement, your statement to
4 the OTP investigators, paragraph 34, you said the following:

5 "I knew that they were Lendu fighters, because they were
6 speaking the Kilendu language, and they were dressed in civilian
7 clothing."

8 My question to you is the following: Could you please tell us
9 what the different tribes of Ituri are, that is the tribes that speak the
10 Kilendu language.

11 A. I beg your pardon. Could you please give me the reference?
12 Could you please show me the paragraph that relates to your question?

13 Q. It is paragraph 34 of the statement you made to OTP
14 investigators, the statement of the year 2007. Towards the end of that
15 paragraph, paragraph 34. The fourth line from the bottom. I quote:

16 "I knew that they were Lendu fighters, because they spoke the
17 Kilendu language and they were dressed in civilian clothing."

18 Can you see that?

19 A. Yes.

20 Q. My question to you, therefore, is the following: Can you please
21 tell us the various tribes in Ituri which speak Kilendu?

22 A. Apart from the Lendus themselves, that is the real Lendus who
23 speak the Lendu language, apart from them, you have the people of
24 North Hema who speak Kilendu. Those are the two ethnic groups which
25 speak that language and which reside in the territory of Djugu. Apart

1 from Mahagi in Irumu territory, it is the Hema Mahagi, they call them
2 Hema Mahagi, they live in the Irumu territory. They speak two languages,
3 Hema and Kilendu.

4 Well, to sum up, therefore, the people of North Hema speak
5 Kilendu.

6 Q. What about the Mbisas? Do you know them?

7 A. Yes, I know them.

8 Q. Don't they speak Kilendu as well?

9 A. Yes, they speak Kilendu, and they live in Djugu territory.

10 Q. What about the Ndos, Ndo?

11 A. No. I don't know whether or not the Ndos speak Kilendu. As far
12 as I know, they speak Kilulu.

13 Q. Well, let's move on. Let's not waste any time on that.

14 Mr. Witness, could you please turn to the list of names.

15 Witness, without mentioning the person's name, do you know the individual
16 who is number 16?

17 A. Yes, I know him.

18 Q. We are not going to call out that name, but we can see who that
19 person is. Do you have any ties to this person? If you have such ties,
20 do not describe them. Simply say yes or no. Do you have any ties with
21 this individual?

22 A. He is a Hema, and I am also a Hema. We are not very close, that
23 is, in terms of clan or sub-clan. The only thing I know is that he is
24 Hema, and I am Hema as well.

25 Q. At that point in time, from January to February 2003, what was

1 number 16 doing? What was his profession?

2 A. He was a cattle herder in Bogoro.

3 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor.

4 MS. DARQUES-LANE: (Interpretation) Maybe I misunderstood. Are
5 you talking about the 16th -- number 16?

6 PRESIDING JUDGE COTTE: (Interpretation) No, I'm not talking
7 about that document. I'm talking about the list of names.

8 MS. DARQUES-LANE: (Interpretation) I have understood now. I
9 beg your pardon.

10 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé, you may
11 proceed.

12 MR. FOFÉ: (Interpretation) Thank you, your Honour.

13 Q. You said he was a herder, is that it?

14 A. Yes.

15 Q. And what type of animals was he herding? What did he raise?

16 A. I saw that he raised cows.

17 Q. And did the cows belong to him?

18 A. I know that he was a cattle herder. Well, you know, in our
19 place, if someone has a place for keeping cattle, he may receive cattle
20 from other people, other people who would want him to keep the cattle for
21 them. So I used to see him with such cattle, and I think that the cattle
22 belonged to him.

23 Q. Okay. Thank you, Mr. Witness. To the best of your knowledge,
24 did you ever hear that he had a problem with the law because of
25 cattle-related issues? Did you get any such information?

1 A. What court are you talking about? Are you talking about the
2 High Court of Bunia?

3 THE INTERPRETER: The Swahili interpreters would like Mr. Fofé to
4 let the witness finish talking before he puts his questions.

5 PRESIDING JUDGE COTTE: (Interpretation) Mr. Fofé, we could
6 carry on after the break.

7 JUDGE DIARRA: (Interpretation) The interpreters are complaining
8 again.

9 PRESIDING JUDGE COTTE: (Interpretation) Well, Mr. Fofé wanted
10 so much to keep to the time allotted to him that sometimes he tended to
11 forget.

12 Well, we are going to go for a break, and when we return you can
13 complete your cross-examination.

14 MR. FOFÉ: (Interpretation) Thank you so much, your Honour. I'm
15 reassured. I was trying to stay within the time allotted to me.

16 Q. Witness, yes, we are talking about the *tribunal de grande*
17 *instance* of Bunia, the High Court of Bunia.

18 A. To the best of my knowledge, this individual, number 16, did not
19 appear before the court. Maybe it was his brother who was taken to court
20 because one of the children in that family stole cattle. So the matter
21 was referred to the court. I don't know whether or not he went or
22 appeared before the court. Well, if he did, he must have done so like a
23 member of the public, any member of the public, but I don't believe that
24 he had any personal problem with the court.

25 Q. Thank you, Mr. Witness. I would like you to help us once more

1 with the location of certain places. Yesterday, if you remember, I asked
2 you a certain number of questions on places and the distances between the
3 places. Before we go into that, let me ask you a question, Mr. Witness.

4 Do you know the Manzikala farm?

5 A. Yes.

6 Q. Could you please tell us what the distance is between the
7 Manzikala farm and the UPC camp in Bogoro? That is the distance between
8 the two places?

9 A. The UPC camp was located within the premises of the school. So
10 the distance between that school and Manzikala farm must have been about
11 2 kilometres, more or less. That is just an estimate.

12 Q. Thank you. With the assistance of the usher, I would like to
13 show you the sketches we used yesterday, EVD-D02-00099.

14 MR. FOFÉ: (Interpretation) Would I like to inform the Chamber
15 that I would like the witness to annotate this document, and at the end
16 of the process we would like another EVD reference to be attributed to
17 the document.

18 Q. Mr. Witness, yesterday, you talked about the crossroads between
19 point 1 and point 2. Can you please indicate what we called yesterday
20 the roundabout located between point 1 and point 2. You should write the
21 letter R on the spot, point 1 and point 2. Point 2 is the Babiase
22 groupement. Point 1 is the veterinary camp.

23 Yesterday, I asked you a certain number of questions, and we
24 called that crossroads a roundabout. Could you therefore write the
25 letter R on the spot.

1 A. (Marks)

2 Q. I can see that you've done so. I am also looking at the time.

3 Mr. Witness, while describing the road that leads from that
4 roundabout to Medhu, you mentioned the cattle market. You talked about
5 the Nyakibira stream. You also talked about the Nyamusenyi stream, as
6 well as Tinda. I am referring to transcript 226, page 65, lines 3 to 19.

7 Mr. Witness, just to help the Court, could you extend that sketch
8 from point R, from point R you should try to draw the road which goes all
9 the way to Medhu. Approximately that you should draw from point R the
10 road that leads to Medhu. Draw it all the way up to Medhu, indicating
11 the cattle market, the various streams, the first Bira village, and then
12 Medhu. Is that possible? Can you just do an approximate sketch?

13 A. I don't have enough space for that.

14 Q. Maybe I would like to seek the assistance of the Court Officer
15 and the usher. Is it possible to staple an extra sheet of paper to that
16 sketch just to enable the witness to continue the sketch, to draw the
17 sketch? We can do that during the break.

18 PRESIDING JUDGE COTTE: (Interpretation) You'd like us to
19 enlarge the part of the document, the part of the document that ends with
20 00099? We enlarge that part in order to give the witness space to
21 continue with the drawing?

22 MR. FOFÉ: (Interpretation) Yes, your Honour, but since he's
23 going to be drawing, making a hard copy on paper, I was wondering whether
24 we can't staple a typing sheet to the sketch just to give him more space.

25 PRESIDING JUDGE COTTE: (Interpretation) My question to you was

1 is it possible to enlarge just part of this sketch, print it, and then
2 use that part of the enlarged sketch which will have more space for
3 continuation of the drawing by the witness? Is that possible,
4 Court Officer?

5 I think we have to finish all of this before we hear what the
6 witness is trying to say, within two minutes.

7 Witness, do you have any solution to propose to us?

8 THE WITNESS: (Interpretation) I think it's very clear here.
9 When you leave the roundabout which is indicated here, there is a road
10 leading to the cattle market. I could put a point there. And there is
11 another direction leading to the first river, and I could put -- indicate
12 another point there. And then you have a road leading to Medhu.

13 I think it's very clear. If you leave the cattle market, you
14 will reach the Nyakibira River, and then you'll find a road that leads
15 directly to the village of the Wabira, and from the village of the Wabira
16 you are going to enter Medhu.

17 PRESIDING JUDGE COTTE: (Interpretation) The only problem is
18 that Professor Fofé wants you to draw something, albeit an approximate
19 sketch.

20 Court Officer, is it possible for us to enlarge a part of this
21 sketch to which a new EVD reference shall be given?

22 Professor Fofé, tell us what part of the sketch you would like us
23 to enlarge. Do you want us to enlarge the entire right-hand part of the
24 sketch?

25 MR. FOFÉ: (Interpretation) We could start enlarging from the

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1 UPC camp. That is the upper section. So we enlarge the top right-hand
2 side.

3 PRESIDING JUDGE COTTE: (Interpretation) So you start from above
4 the junction located near the UPC camp, and you enlarge the upper section
5 of the sketch, so that when we return from break, the witness will be
6 able to do the sketch on that part as Professor Fofé has requested. Is
7 that okay?

8 (Trial Chamber and Court Officer confer)

9 PRESIDING JUDGE COTTE: (Interpretation) That is what we are
10 going to do. We will go into closed session because we do not -- our
11 tape is running out. We will go into closed session so the witness can
12 leave the courtroom.

13 Mr. Witness, we will reconvene at 11.30. Thank you for all the
14 information you provided this morning.

15 (Closed session at 11.00 a.m.)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Open session at 11.01 a.m.)

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

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

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1 Professor Fofé, how much time do you still have left
2 approximately?

3 MR. FOFÉ: (Interpretation) Thank you, your Honour. I am going
4 to make even more effort to complete my cross-examination in 30 minutes.
5 I will try.

6 PRESIDING JUDGE COTTE: (Interpretation) Very well.

7 MR. FOFÉ: (Interpretation) Also given the -- the health
8 condition of the witness.

9 PRESIDING JUDGE COTTE: (Interpretation) May I inform you that
10 he was hospitalised yesterday afternoon. We did not know whether or not
11 he was going to spend the entire night in hospital. In any case, he
12 seems to have a clear head, but we should not tire him out.

13 The Chamber has a few questions to put to him in order to clarify
14 issues related to list of victims.

15 And I would like to say that the technical problems raised
16 yesterday were not technical problems as such but problems related to
17 poor usage of the equipment.

18 We will reconvene at 11.30.

19 Recess taken at 11.03 a.m.

20 On resuming at 11.34 a.m.

21 (Closed session)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Open session at 11.35 a.m.)

6 COURT OFFICER: (Interpretation) We are now in open session.

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

8 Mr. Witness, the Court Officer has enlarged during the break the
9 upper part of the sketch, which will be handed to you. A copy will be
10 provided to you. I think that there are sufficient copies for everybody.
11 And once you have this enlargement before you, Professor Fofé will once
12 again ask you his question.

13 Madam Court Officer -- I beg your pardon. Mr. Court Usher, could
14 we have this enlarged drawing handed out. This is reference D02-00099.
15 The upper part is enlarged. We do not have enough copies for everybody.
16 We will put this onto the overhead projector, therefore, as soon as
17 Professor Fofé obtains the details which he is seeking.

18 MR. FOFÉ: (Interpretation) Thank you very much.

19 Q. Good morning once again, Mr. Witness. We will try and finish as
20 quickly as possible, and I would like to thank you straight away for all
21 the effort you're making.

22 What I would like to try and learn, and this is a very important
23 point for us and for the Court, is if you could indicate the itinerary
24 which you talked about, leaving from point R on the roundabout, moving up
25 it Medhu, and you say that the cattle market was on the route. Can you

1 indicate that. Can you indicate the streams and rivers. Can you
2 indicate the first Bira village and then Medhu. Thank you very much.
3 And, please, we are not asking for a detailed map. We simply would like
4 an approximate indication of these places.

5 A. Professor Fofé, would you like me to use the red or the black
6 felt-tip pen?

7 MR. FOFÉ: (Interpretation) Mr. Usher, could you please tell us
8 which pen is the most visible for everybody.

9 PRESIDING JUDGE COTTE: (Interpretation) The red one. The red
10 one.

11 THE WITNESS: (Marks)

12 MR. FOFÉ: (Interpretation)

13 Q. Have you finished, Mr. Witness?

14 A. Yes.

15 MR. FOFÉ: (Interpretation) Can we put this on the overhead
16 projector, please. And this is public evidence.

17 COURT OFFICER: (Interpretation) If you want to view the
18 document, then please press view "Docu Cam," "Docu Cam" button.

19 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

20 MR. FOFÉ: (Interpretation) Thank you.

21 Q. Can you give us the name of the first Bira village. Can you tell
22 us as it is? This will be written in the transcript. What is the name
23 of the first Bira village, please?

24 A. The first village is the Nyakibira locality.

25 Q. This Nyakibira locality is at the point where you have

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1 mentioned -- pointed out "First Bira village."

2 A. Yes. Yes, indeed. Yes. (Expunged)

3 (Expunged) the Sidabo groupement

4 in which is situated the Nyakibira locality.

5 Q. Thank you very much.

6 MR. FOFÉ: (Interpretation) No more questions on this document.

7 Perhaps we could give an EVD number to the sketch?

8 PRESIDING JUDGE COTTE: (Interpretation) Could we do this

9 straight away, please, Court Officer.

10 COURT OFFICER: (Interpretation) Thank you. The sketch will be

11 referenced EVD-D03-00072.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

13 Professor Fofé, you can continue.

14 MR. FOFÉ: (Interpretation) Thank you, Mr. President.

15 Your Honour, at this stage I would like to move briefly into private

16 session.

17 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could we

18 move of into private session, please.

19 (Private session at 11.49 a.m.)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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13 Page 41 expunged – Private session

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Witness: Witness DRC-OTP-P-0166 (Resumed) (Private Session)
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Witness: Witness DRC-OTP-P-0166 (Resumed) (Private Session)
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19 (Open session at 12.03 p.m.)

20 COURT OFFICER: (Interpretation) We're in open session now.

21 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé, you may
22 proceed.

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

24 At this juncture in our cross-examination, I should like to

25 request EVD numbers for the list of names that we have used. This is the

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1 document DRC-D03-0001-0458. And also for the other sketch which has the
2 number DRC-OTP-1007-0026.

3 PRESIDING JUDGE COTTE: (Interpretation) Twenty-six or 27?

4 Excuse me. Are you talking about the sketch upon which the witness wrote
5 the letter R this morning?

6 MR. FOFÉ: (Interpretation) Your Honour, we used two sketches
7 this morning.

8 PRESIDING JUDGE COTTE: (Interpretation) Yes. I'm following
9 you. Oh, now I have it. I beg your pardon. I have it now.

10 So, Court Officer, for the moment we have the list of names with
11 code number beside them, which should be attributed an EVD number, and
12 also this sketch which I had muddled up, which is 1007-0026.

13 COURT OFFICER: (Interpretation) Thank you, your Honour.

14 The list of names which is under number DRC-D03-0001-0458 will be
15 EVD-D03-00073, and will be listed as a confidential document.

16 The redacted public version of the sketch which is
17 DRC-OTP-1007-0026 will be given the EVD number EVD-D03-00074, and shall
18 be listed as a public document.

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

21 Professor Fofé, please proceed.

22 MR. FOFÉ: (Interpretation) Thank you, your Honour.

23 Witness, this concludes our cross-examination. On behalf of the
24 Mathieu Ngudjolo Defence team, I should like to thank you for the
25 information that you have provided for the Chamber. Thank you, and bon

1 voyage as you travel back home.

2 Your Honour --

3 THE WITNESS: (Interpretation) Thank you.

4 MR. FOFÉ: (Interpretation) Your Honours, thank you.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

6 Professor Fofé. No, we -- a moment ago we already dealt with the sketch.

7 Everything is fine.

8 FURTHER QUESTIONED BY THE COURT:

9 PRESIDING JUDGE COTTE: (Interpretation) So, Witness, before
10 handing over to Madam Prosecutor for a redirect, the Chamber would like
11 to come back for a moment back to this list of victims that we were
12 talking about yesterday, because before we part company, it's very
13 important for us to have you clarify a few points.

14 In transcript 226, which was yesterday's hearing, on page 55, as
15 of line 22, when we were talking about this list yesterday, you stated
16 that to the best of your knowledge, some young people whose names were
17 listed on that list were perhaps kadogos, but that you were not able to
18 confirm that fact.

19 The Chamber, before we part company, should like to know whether,
20 to the best of your knowledge, there were adult civilians who were
21 participating in the defence of Bogoro on the 24th of February, 2003.
22 You may have already mentioned it, but we should like to hear you confirm
23 this.

24 Were there adults civilians who were taking part in the defence
25 of Bogoro? I'm talking about civilians.

1 A. In any case, I didn't see them. There were no adult civilians.
2 I did not see any adult civilians participating in that attack -- in this
3 attack -- in these attacks on Bogoro.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you for that
5 clear answer. And there is another point that we would like to have some
6 clarification on from you, if possible.

7 Do you know of a group known as the Bogoro Youth Group for
8 Security, and if you have knowledge of such a group, can you tell us
9 something about it? What is the exact activity of that group?

10 A. At the point in time in which the UPC fighters arrived, they
11 spoke to the community that they found there, and they said that they
12 were coming to protect the Bogoro region, and therefore, among the
13 civilians it was important for young people to remain vigilant, to keep
14 an eye out and see whether any enemies were entering the Bogoro region.
15 In other words, that these people had to move around, remain vigilant,
16 and if there were any enemies who had infiltrated, then it would be up to
17 these young people when they were moving about the village to see them.
18 That was the organisation that the UPC introduced.

19 PRESIDING JUDGE COTTE: (Interpretation) To your knowledge, was
20 this a very large group? Were there many youngsters involved in this
21 group?

22 A. There weren't many young people. They were young people who
23 had -- that they had seen who didn't want to go elsewhere. They wanted
24 to stay in Bogoro, and that is why the UPC fighters convinced them. They
25 said to them that it wasn't only up to them to ensure the security. They

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Further Questioned by Ms. Darques-Lane

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1 also needed the assistance of the young people who had to move around, to
2 make sure that -- that there weren't enemies coming from this place or
3 from that place, and so there were young people keeping an eye out in the
4 centre and around Bogoro, and that's what they were doing.

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

6 Before passing over to the Prosecution, Judge Diarra,
7 Judge Van den Wyngaert, do you have any questions to ask the witness?

8 JUDGE DIARRA: (Interpretation) No, thank you.

9 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor, you
10 have the floor then.

11 MS. DARQUES-LANE: (Interpretation) Thank you, your Honour. As
12 I had announced yesterday, I have just one question to put to the
13 witness.

14 FURTHER QUESTIONED BY MS. DARQUES-LANE:

15 Q. (Interpretation) The question relates to the exchange between
16 the Chamber and the witness the day before yesterday. Transcript 225,
17 and I'd like to come back to a few sentences that were exchanged between
18 the Presiding Judge and the witness.

19 PRESIDING JUDGE COTTE: (Interpretation) Excuse me, which page
20 are you on?

21 MS. DARQUES-LANE: (Interpretation) Page 64, line 17 to line 27.

22 Q. So the question had been put to the witness:

23 "In Witness, one final question. This morning we have mentioned
24 upon several occasions a list of victims from Bogoro which had been
25 prepared."

1 On line 29:

2 "Witness --" no. Beg your pardon. I will come back.

3 The question that was asked:

4 "Was someone who we believed had been killed in the attack, did
5 you ever have the opportunity of seeing people afterwards who had, in
6 fact, not been killed during the attack?"

7 The answer from the witness is:

8 "Yes. I don't know exactly how many people who had disappeared
9 like that, but I do know that there was a woman during the attack. She
10 was still single and she was a young woman," and it goes on from there.

11 Mr. Witness, could you please refer again to that list.

12 PRESIDING JUDGE COTTE: (Interpretation) Could we please ensure
13 that the witness has the list that the Chamber has before it. Can we
14 please make sure that the witness has a copy before him.

15 Madam Prosecutor.

16 MS. DARQUES-LANE: (Interpretation) Thank you.

17 Q. The person that you were referring to at that particular point in
18 time, I was wondering is it the person whose identity is noted at entry
19 114? Without reading the name out loud, please.

20 A. Yes, that is her. Yes, the person under entry 114.

21 MS. DARQUES-LANE: (Interpretation) Your Honour, could we please
22 move very briefly into private session.

23 PRESIDING JUDGE COTTE: (Interpretation) Yes.

24 Court Officer, given that the upcoming question appears to be of
25 an identifying nature, could we please move into private session.

- 1 (Private session at 12.17 p.m.)
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- 14 (Open session at 12.18 p.m.)
- 15 COURT OFFICER: (Interpretation) We're in open session,
- 16 your Honour.
- 17 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
- 18 Madam Prosecutor, you may proceed.
- 19 MS. DARQUES-LANE: (Interpretation) I have no further questions
- 20 for this witness, your Honour.
- 21 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
- 22 Madam Prosecutor.
- 23 Do Mr. Gilissen or Mr. Luvengika wish to take the floor again
- 24 before we part company with the witness?
- 25 MR. GILISSEN: (Interpretation) Thank you, your Honour. We did

1 not want to ask any further questions, but I did want to make a
2 suggestion to the Chamber. This morning we heard the witness talking
3 this morning about the APC. I would like to make a suggestion. There
4 was one thing that did not get very clear between the exchanges made
5 between Mr. Fofé and the witness, and I was just wondering if it would be
6 possible to find out about the role of this young Hema, this young
7 soldier, and find more about the conditions in which the witness thought
8 that we were talking about it.

9 FURTHER QUESTIONED BY THE COURT:

10 PRESIDING JUDGE COTTE: (Interpretation) Do you remember that
11 this morning we were talking about a young Hema man? Do you recall that?

12 A. Yes, I remember. It was not a child. It was an adult. I can
13 say that he was a young -- a young adult, because he was married -- or he
14 is married, and at that point in time he had a child. He joined the
15 military service at that point in time, and he became an APC soldier.
16 Then he was sent to the section of soldiers in Kasenyi, and when the UPC
17 controlled Ituri, the UPC fighters had fought against Lompondo, who was
18 the head of operations and at the same time the governor of Ituri. When
19 the UPC group unseated him, the UPC took control. And even on the side
20 of Djugu. In fact, the whole of the Ituri region was under the UPC
21 control. And since this young person was in Kasenyi and the UPC elements
22 were also in Kasenyi, the APC fighters failed, and they fled and there
23 were some of them who managed to arrive within 14 kilometres of Manje.
24 You have to go up a hill and over to Zumbe. It was at that point in time
25 that he heard about a plan was being made to go to Zumbe to meet with the

1 elements in Zumbe, and him, because he was a Hema, he heard of this plan
2 saying that they were to go to Zumbe to attack Bogoro, and that is how he
3 was able to leave that group even before Manje. They hadn't even reached
4 Zumbe. It was when he was on the road to Bogoro, and he -- the military
5 soldiers who were there were from the UPDF.

6 Now, that was the explanation that he gave me. If you wish me to
7 reveal his identity, I can.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
9 That is enough for that particular matter.

10 Mr. Luvengika, any observations?

11 MR. LUVENGIKA: (Interpretation) No. I have no further
12 observations, your Honour.

13 PRESIDING JUDGE COTTE: (Interpretation) Ms. Buisman, would you
14 like to put any final questions for the Katanga team?

15 MS. BUISMAN: (* Previous translation continues) ... no further
16 questions. Thanks.

17 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé or
18 Counsel Kilenda?

19 MR. FOFÉ: (Interpretation) Thank you, your Honour. Just one
20 moment, please.

21 (Defence counsel confer)

22 MR. FOFÉ: (Interpretation) Thank you, your Honour. We have no
23 further questions for the witness, but having thought about it, we would
24 like to obtain an EVD number for the sketch which is EVD number
25 EVD-D02-00099, with the letter R written on it. Thank you.

1 PRESIDING JUDGE COTTE: (Interpretation) Yes. A moment ago I
2 had the feeling that there was yet another one to be attributed. Could
3 you please give an EVD number to that initial sketch upon which the
4 witness had written the letter R for "Roundabout."

5 COURT OFFICER: (Interpretation) The sketch containing the R
6 will be EVD-D03-00075.

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

9 Witness, now it is time to part company. You are going to leave
10 us. We've been here since Tuesday morning together. We want to thank
11 you very much for your contribution to the Court but also to all of the
12 parties and participants here. And we are very aware of the fact that
13 you have done this since yesterday under rather difficult circumstances,
14 because you are not exactly in fine fettle. The cold here in The Hague
15 must have been a shock to you, and we wish you, as has been the case with
16 many other witnesses who have come before us, bon voyage as you return
17 home, and we hope that you have as clear and simple a future ahead of
18 you.

19 Once more before we part company, I would like to remind you that
20 what has been said here, what has been said during your testimony, is
21 yours and yours alone. Please do not talk about it with anyone else.

22 Thank you very much, Witness.

23 Court Officer, let us move into closed session so that the
24 witness may leave the courtroom discreetly, and then we will come back
25 into open session just so that we can adjourn the session.

1 Good-bye, Mr. Witness.

2 THE WITNESS: (Interpretation) My thanks to you also.

3 (Closed session at 12.26 p.m.)

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10 (Open session at 12.27 p.m.)

11 COURT OFFICER: (Interpretation) We're in open session,

12 your Honour.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

14 Court Officer.

15 We shall meet again Monday at 2.30 p.m., Court Officer, and not

16 at 9.00 like last week. We will be back at 2.30 p.m. for Witness 0317.

17 The accused persons, we will see you then.

18 For the members of the public, I apologise. We are finishing

19 today's hearing earlier than anticipated because we are finished with the

20 witness.

21 The Court would like to offer special thanks to the Court Usher

22 who has been so helpful through the testimony, taking initiatives, to

23 make sure that documents were in the appropriate place at the right time

24 so as not to interrupt the smooth running of proceedings. We want to

25 thank him for his diligence.

1 Thank you also to all of those who have assisted us,
2 interpreters, court officers, and technicians of all different stripes.
3 Thank you very much.

4 We rise until Monday at 2.30 p.m.

5 The hearing ends at 12.29 p.m.

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