

1 International Criminal Court
2 Trial Chamber II - Courtroom I
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial hearing
9 Wednesday, 23 February 2011
10 The hearing starts at 9.01 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 First of all, I'd like to say good morning to everyone. Good
16 morning, accused.
17 Now, before we bring in the witness, the Chamber wishes to spend
18 a few moments on the application from the Ngudjolo Defence team, and
19 while that is being dealt with, this has to do with the redaction of the
20 identity of the parents of this witness.
21 Now, in the view of the VWU, a neutral organ of the court, as is
22 often recalled, protection of family members of witnesses is particularly
23 important, and as I was saying yesterday, it is only when receiving very
24 specific targeted requests with proper grounds, it is only under such
25 circumstances that the Chamber can consider lifting such measures.

1 Now, before we render our decision on this point, Mr. Kilenda, if
2 you are in agreement, we would like to ask you to provide us with some
3 additional information. Now, if the answer to the questions for you, if
4 the answer may reveal a Defence strategy that you wish to put into effect
5 over the course of your cross-examination, please say so.

6 Now, the Chamber will take this into account during the taking of
7 its decision. We do not have a closed mind on this issue, but after this
8 brief discussion, and Mr. Luvengika will give his viewpoint, he may have
9 already made up his mind on the matter, but in any event, in the
10 transcript of yesterday's hearing, the 22nd of February, page 47,
11 line 18, the witness told us that number 2 lived in Kavalega. In the
12 e-mail that was sent to us yesterday evening, and I believe all parties
13 and participants have had an opportunity to see it, you seem to be saying
14 that number 2 no longer lived in that location, had not been living there
15 since January 2002, the date of -- of some shelling.

16 MR. KILENDA: (Interpretation) Thank you. Good morning,
17 your Honours. First of all, I would like to specify that I, myself, made
18 a mistake when I said the 10th of January, 2002. It was the
19 10th of January, 2001. 10th of January, 2001. And in reply to your
20 question, we continue to maintain that Kavalega was shelled. No one was
21 living there. So number 2 was not living there according to the items of
22 information that we have at our disposal.

23 PRESIDING JUDGE COTTE: (Interpretation) Very well. Just to
24 make sure we've understood, Kavalega, January 2001, was shelled, and
25 according to you, it was such, so drastic, that the population was no

1 longer living there, and in particular, number 2 no longer lived there in
2 December and --

3 MR. KILENDA: (Interpretation) That's correct.

4 PRESIDING JUDGE COTTE: (Interpretation) Might it be possible,
5 and this is a question that the Chamber is asking itself, is it possible
6 before the lifting of the redaction is done, could we come back to this
7 point with Witness number 2 so that we can ask for additional information
8 regarding the residence of number 2? Yesterday she said Kavalega.
9 Perhaps we could go into this in greater depth and try to determine
10 whether in December 2002 number 2 was still living in Kavalega so that we
11 can make quite sure -- so that we can be quite sure of this point.

12 MR. KILENDA: (Interpretation) Well, since we are attempting to
13 establish the truth, that would not be a problem at all.

14 PRESIDING JUDGE COTTE: (Interpretation) So we will question
15 number 2, we will try to establish this point about the parents of
16 number 2 or go back to this point with number 2.

17 So the Chamber is now venturing on to more difficult ground, but
18 in this e-mail yesterday, you told us that you wished to establish
19 whether (Expunged)
20 (Expunged). We see that in yesterday's transcript, page 48, line 15,
21 22 February, the witness did (Expunged)
22 (Expunged). Other than the reliability of this witness, is this
23 matter of major interest to you, sir?

24 MR. KILENDA: (Interpretation) Thank you, your Honour. With
25 regard to this concern to verify the credibility of this witness, we

1 believe, rightly so, that this is of major interest to us. It will allow
2 us to establish the exact dealings between -- between number 2 and the
3 father of this witness.

4 PRESIDING JUDGE COTTE: (Interpretation) Very well. That being
5 the case, we shall see, in light of the additional replies that the
6 witness will provide.

7 In the meantime, Mr. Luvengika, what is your position on the
8 matter? I think you can see that the Chamber is willing to revisit its
9 position in light of submissions being made right now.

10 MR. LUVENGIKA: (Interpretation) Thank you, your Honours.

11 Your Honour, our position was entirely in keeping with what the
12 Chamber just set out. We thought that the grounds provided, the reasons
13 given for the lifting of this redaction were not relevant enough, and we
14 thought that the Defence of Mr. Ngudjolo could, during cross-examination,
15 ask questions of the witness to gain further detail.

16 With regard to the first point, namely the residence in Kavalega,
17 I think it might be sufficient to ask the witness what does she mean
18 exactly by "residence" or "residing." Does it mean that this person was
19 originally from that place during that period of time? Did that meeting
20 occur? Did the witness say that number 2 came from Kavalega? We have no
21 idea. So we said to ourselves that perhaps during cross-examination, and
22 myself, I was -- during re-examination, I could ask new questions to
23 obtain further clarity. And after these two endeavours, we would, of
24 course, rely upon the wisdom of the Chamber to come to a determination.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

1 Mr. Kilenda, your mind can be at peace. You can go back to these
2 two issues, the residency in Kavalega and the studies.

3 Are there any other points the parties or participants wish to
4 raise in light of this --

5 MR. O'SHEA: Mr. President, I'm grateful that you turned to me
6 anyway. Our basic position of principle, and I speak on a level of
7 principle, because it might come to affect us at some point, is that when
8 it comes to the question of redactions and the preparation of
9 cross-examination, if -- if Defence counsel has an interest in knowing a
10 fact in the preparation of his cross-examination, it's at the stage of
11 preparation that it must be done. It's not reasonable, in my submission,
12 to expect counsel to take risks with the witness while the witness is in
13 the box with regard to information he doesn't know. So -- so that's just
14 a question of Defence strategy -- well, not Defence strategy, actually
15 strategy for any counsel in a courtroom, which, in my submission, ought
16 to be taken into account. If there is a question of lifting a redaction,
17 it should really be done before the cross-examination, in my submission.
18 Otherwise, it just places counsel in too difficult a position. That's
19 just a general remark.

20 PRESIDING JUDGE COTTE: (Interpretation) That is a personal
21 observation but of general application.

22 Prosecution, any remarks?

23 MR. GARCIA: (Interpretation) Good morning, your Honours. Very
24 briefly. I disagree with what Mr. O'Shea is saying. Basically, this is
25 a redaction that was authorised by the Chamber, and I believe grounds,

1 specific, important grounds are required for lifting such a redaction.
2 One must not forget that the Defence counsel, including Mr. Kilenda,
3 received this -- these statements a while ago. They have had the time to
4 reflect upon the matter, to consider all these matters, to determine how
5 their cross-examination was going to unfold and ask for a lifting of a
6 redaction. One cannot come in at the last minute and say, "Oh. Well, it
7 seems to us that this redaction should be lifted," without providing
8 details or justification that would make the lifting of such a redaction
9 legitimate.

10 In light of the arguments or the explanations provided by
11 Mr. Kilenda, your Honour, I don't see any justification that would allow
12 the Chamber to lift this redaction.

13 With regard to the cross-examination, clearly the Defence
14 attorneys, in particular Mr. Kilenda, have the opportunity to
15 cross-examination -- to cross-examine the witness, to find details, and
16 in that way, the lifting of a redaction is not necessary. In my opinion,
17 this is no risk, as Mr. O'Shea sets out. This is a part of
18 cross-examination. One can find details, and if that is the case,
19 Mr. Kilenda has not yet begun asking questions that would be relevant in
20 this regard. So, all this submitted with due respect, your Honour.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
22 Now, ever since the beginning of this trial, and we have been together
23 here in the courtroom for a while now, I think that we have seen that
24 this issue of redactions and the lifting of redactions, well, the Chamber
25 has, well, the Chamber has always favoured a pragmatic approach, a case

1 by case approach, and this has made the work of the various parties more
2 difficult, the various people who make observations, who review
3 submissions. The work is difficult. It is difficult to anticipate the
4 various possibilities.

5 I can't really speak on behalf of Mr. Ngudjolo's team, but it is
6 possible that during testimony of a witness that various items of
7 information may open various doors leading in various directions. So
8 everything that can be done in advance should be done in advance. That's
9 quite clear.

10 We will now bring in the witness. Mr. Kilenda will continue his
11 cross-examination as he planned and will determine what is the right
12 moment or the right time to return to these matters. If he is satisfied
13 with the answers, we will leave it at that. If -- if he determines that
14 he must make a new request, he will do so, and at that point the Chamber
15 will come to a determination.

16 There are always various elements to take into account. It will
17 depend on the information and also the other concern, which is the
18 protection of witnesses. We must ensure that there is no excessive
19 burden upon the witness or members of her family.

20 Court Officer, we'll go into closed session now so that the
21 witness can come into the courtroom.

22 Court Usher, could you please fetch the witness.

23 (Closed session at 9.17 a.m.)

24 (Expunged)

25 (Expunged)

Witness: Witness DRC-V19-P-0002 (Resumed) (Closed Session)
Questioned by Mr. Kilenda (Continued)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Open session at 9.20 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 Good morning, Witness.

12 THE WITNESS: (Interpretation) Good morning.

13 PRESIDING JUDGE COTTE: (Interpretation) I see that you can
14 hear. You can hear me properly?

15 THE WITNESS: (Interpretation) Yes.

16 PRESIDING JUDGE COTTE: (Interpretation) Very well. We will
17 continue our work today, and please don't hesitate to take a drink of
18 water whenever you need to. Mr. Kilenda will now be resuming his
19 cross-examination.

20 Mr. Kilenda, please proceed.

21 MR. KILENDA: (Interpretation) Thank you.

22 QUESTIONED BY MR. KILENDA: (Continued)

23 Q. (Interpretation) Good morning, Witness.

24 A. Good morning, Counsel.

25 Q. I hope you had opportunity to have a good rest. We will now

1 resume the cross-examination. Once again, I will ask you to make an
2 effort. We hope that we will not be keeping you for very long, but it's
3 just that we really need information from you, information that will help
4 the Chamber to render its decision one day.

5 Yesterday, when Mr. O'Shea concluded his cross-examination, the
6 Chamber, speaking through the Presiding Judge, made a number of remarks,
7 and I would refer parties and participants to yesterday's transcript,
8 232, page 43, line 19 on, and I quote, this is the Presiding Judge who is
9 speaking:

10 "Thank you. Thank you, Mr. O'Shea. Before allowing
11 Mr. Ngudjolo's Defence team to address the Court, the Chamber, at the end
12 of cross-examination by Mr. O'Shea, wishes to obtain some items of
13 information from the witness, information that is important, in our
14 view."

15 And the Presiding Judge was speaking to you. He went on to say:

16 "Madam Witness, yesterday, and this is also in the French
17 transcript, page 15 -- 51, you provided some information that came from a
18 group of women who came from Beni, and that information had to -- well,
19 actually was the name of the people responsible for the attack of
20 24 February 2003, and you gave two names at page 51 of the transcript,
21 lines 1 to 3, the names of the two accused in this trial."

22 The Presiding Judge went on to say at the following page, line 1
23 and on, and I quote:

24 "This morning, once again you mentioned these women who came to
25 the marketplace and gave you information according to which an attack --

1 or, rather, the preparations for an attack were underway, and you gave us
2 three names, the names of Mr. Katanga, Mr. Cobra Matata, and Yuda."

3 And the Presiding Judge was reminding you of what you had said.

4 The Presiding Judge went on to say, lines 6 and on, and I quote:

5 "Similarly, yesterday, and still this is page 50 of the
6 transcript, French transcript I'm referring to, you mentioned some
7 information that apparently was given to your parents by a person that we
8 refer to as person number 2." The Presiding Judge asked a question,
9 line 9:

10 "The information provided by number 2, and in particular the
11 information given to your parents, and the next day your parents passed
12 on this information to you in turn. Were the names of the people
13 responsible the same names as the ones given to you by the women at the
14 market?"

15 And you answered, line 14:

16 "Yes. The people who were at the market said the same thing,
17 that person number -- the same thing as what person number 2 said."

18 The Presiding Judge went on, line 16, to say:

19 "So you confirm the words that were said yesterday that we find
20 at page 50 of the transcript, lines 21 and 22, and we also -- according
21 to you, number 2 also said that these women -- no, correction, that the
22 women came -- who came to the market also gave these names, the name of
23 the two accused."

24 My question is as follows: Today, are you in a position to give
25 the Chamber two or three names of these women, at the very least two or

1 three names?

2 A. Those women would come to the market, but they weren't people who
3 I knew. I didn't know them by name. They were people who would come and
4 buy various items at the market. I would see them each time. We would
5 see them. We would see them all at the market when they came, without
6 knowing their names.

7 Q. So you don't know even a single name, a single name of these
8 various women who would come to the market?

9 A. No. I never went to their homes. I'm speaking -- I never went
10 to their market. I'm speaking of our market. At our market there are
11 many people who come and go. You can't know everyone by name. You might
12 go and buy some items at the market or sell things, and each person would
13 come to buy or sell, but you may not necessarily know the names of
14 everyone who came to the market.

15 Q. Thank you very much, Witness. We will continue.

16 MR. KILENDA: (Interpretation) Your Honour, with your leave, I
17 would like to call up the power of attorney of the 6th of May, and this
18 is an annex to the application for victim status of the person A191, and
19 I believe this is already in eCourt under ERN number
20 DRC-V19-0002-0003-R03.

21 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could
22 you please call up that document on the screen.

23 MR. KILENDA: (Interpretation) And these items are confidential.

24 PRESIDING JUDGE COTTE: (Interpretation) Very well. The
25 confidentiality of these documents shall be respected.

1 COURT OFFICER: (Interpretation) To see this document, you need
2 to press the button "PC 1."

3 MR. KILENDA: (Interpretation) Could we turn to page
4 DRC-V19-0002-0020-R03. We have a copy which we can make available to the
5 witness.

6 Q. Madam Witness, yesterday, answering one of my questions when I
7 was referring to the transcript yesterday, this was page 57, line 6:

8 "Do you know an organisation named (Expunged) and
9 you answered: "No."

10 I would like you to look carefully at the document which is on
11 the screen. Can you see this?

12 A. Yes.

13 Q. Do you recognise this document?

14 A. Yes.

15 Q. It was you who wrote your name on this document?

16 A. Yes. This is my writing.

17 Q. Is this your signature at the bottom of the page?

18 A. Yes.

19 Q. Could you tell the Court why you signed this power of attorney?

20 Why did you give a power of attorney to an organisation which you didn't
21 know?

22 A. Yesterday, when I was asked this question, we weren't talking
23 about -- or it wasn't a question of this NGO. I didn't even understand
24 what "NGO" means. When I signed this document, it was in the presence of
25 another person.

Witness: Witness DRC-V19-P-0002 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

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1 Q. Please don't quote the name of this person, but was this the same
2 person who took the document to you in your home?

3 A. Yes.

4 Q. So personally, you did not actually consult this organisation.

5 A. No. I did not take that initiative. They were the ones who came
6 to see me.

7 Q. Thank you very much, Madam Witness.

8 MR. KILENDA: (Interpretation) Your Honour, with your
9 authorisation, would it be possible to show up on the screen the second
10 power of attorney, which is dated on the 16th of July, 2008, and this is
11 an annex to the application for participation. The number is
12 DRC-V19-0002-0003-R03, and I'd like to look at page
13 DRC-V19-0002-0021-R03. And this is still confidential, your Honour.

14 PRESIDING JUDGE COTTE: (Interpretation) Of course.

15 Mr. Luvengika.

16 MR. LUVENGIKA: (Interpretation) I would like to just say
17 something, reminding my learned friend that the names of the organisation
18 up until now have been blacked out, and for the -- this cross-examination
19 to continue, instead of quoting the names of the organisations, could we
20 use another method. (Expunged)
21 (Expunged)

22 I wanted to draw your attention to the fact that doing this, you
23 are going to put in danger the people who are working for this
24 organisation.

25 PRESIDING JUDGE COTTE: (Interpretation) It's not really a very

1 complicated question. For this cross-examination to continue, I think we
2 can avoid quoting the name and simply say "NGO," because the witness now
3 understand what "NGO" actually means, and the name of the NGO figures on
4 the document. Let us, indeed, try to avoid publicising the name of the
5 NGO in question, because for reasons which we may or may not be aware of,
6 there could be dangers for them. So for the pursuit of the
7 cross-examination, the name of the NGO that appears on the power of
8 attorney we're looking at, this will not be pronounced. We will simply
9 say "NGO," the NGO which you gave power of attorney to. And of course,
10 our witness, who is following this very attentively and is understanding
11 what is being said, will, of course, do this.

12 And we will now ask the Court Officer to show up on the screen
13 the relevant document. We have this.

14 Thank you, Mr. Kilenda.

15 MR. KILENDA: (Interpretation) Thank you, your Honour. I will
16 follow your instructions to the letter, and I would like to reassure you
17 that concerning the use I will be making of this document, I will not, of
18 course, quote the name of my colleagues. I will not make the mistake
19 either of trying to understand what the nature was of the conversations
20 which the witness had with these learned friends.

21 PRESIDING JUDGE COTTE: (Interpretation) We are sure of this.
22 We, of course, knew you would do this.

23 MR. KILENDA: (Interpretation) Thank you.

24 Q. Madam Witness, if you look at the second document, which is on
25 the screen, do you recognise this?

Witness: Witness DRC-V19-P-0002 (Resumed) (Private Session)
Questioned by Mr. Kilenda (Continued)

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1 A. Yes.

2 Q. And you wrote your name on this?

3 A. Yes.

4 Q. And it's your signature at the bottom of the page?

5 A. Yes. This is my signature, with the name (Expunged)

6 Q. Witness, could I draw your attention to the fact that you must
7 not quote the names which appear on this document.

8 Could you tell the Chamber if, on the day that you signed this
9 document, the three lawyers were present?

10 A. Yes. We were all together when I signed this document.

11 Q. Was that the first time you had seen them?

12 A. No. It's difficult to remember.

13 Q. Thank you very much, indeed, Madam Witness. We will stop there
14 for these two powers of attorney.

15 MR. KILENDA: (Interpretation) With your permission,
16 your Honour, could we move very briefly into closed session, your Honour.

17 PRESIDING JUDGE COTTE: (Interpretation) Very briefly.
18 Madam Court Officer, we will move into closed session.

19 (Private session at 9.40 a.m.)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness DRC-V19-P-0002 (Resumed) (Private Session)
Questioned by Mr. Kilenda (Continued)

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1 (Expunged)
2 (Expunged)
3 (Expunged)
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged)
9 (Expunged)
10 (Expunged)
11 (Expunged)
12 (Expunged)

13 (Open session at 9.43 a.m.)

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

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

16 Mr. Kilenda, you may continue.

17 MR. KILENDA: (Interpretation) Thank you, Judge Cotte. With
18 your permission, we would like to see the identity card of the witness on
19 the screen. This is under RN DRC-V19-0002-0047-R0 --

20 THE INTERPRETER: The end could not be heard properly by the
21 interpreter. The microphone cut.

22 MR. KILENDA: (Interpretation) I'm being told that this is not
23 the final version of the reference.

24 PRESIDING JUDGE COTTE: (Interpretation) This is not 4748.

25 COURT OFFICER: (Interpretation) Could you please tell us how

1 confidential this is, Mr. Kilenda.

2 MR. KILENDA: (Interpretation) It's not confidential (* as
3 interpreted).

4 PRESIDING JUDGE COTTE: (Interpretation) Can everybody see this
5 document?

6 Mr. Kilenda.

7 MR. KILENDA: (Interpretation) Thank you, your Honour.

8 Q. Madam Witness, could you please look at this identity card. Is
9 it indeed yours?

10 A. Yes.

11 Q. When did you obtain this card?

12 A. I received this ID card when I reached the age of majority. My
13 parents gave me this card when I was at home. My parents gave it to me,
14 and I still have it.

15 Q. So it was your parents who undertook the administrative approach
16 to obtain this card.

17 A. You know, at this time when you had a child, you had to go
18 through administrative proceedings to get the card. When I reached the
19 age of majority and when I was going to get married, it was my parents
20 who went to get this card for me.

21 Q. This card is dated 20th of June, 1973. And when your parents
22 gave it to you, did they give it to you with this photo which we see on
23 it?

24 A. No. The photograph came afterwards, after I had had the
25 children. This photo initially did not appear on the ID card. I put

1 this photo on the card when I got married.

2 Q. You said that your parents gave you this card when you reached
3 the age of majority. What age was that?

4 A. No, I don't know how old I was at the time.

5 Q. Do you know in what year they gave you the card?

6 A. No. I only know what age I got married at.

7 Q. And the photograph of your husband was added in at what date?

8 A. No, I don't remember in which year we went to the registration
9 office.

10 MR. KILENDA: (Interpretation) Your Honour, would it be possible
11 to ask to show up on the screen the other side of the card.

12 PRESIDING JUDGE COTTE: (Interpretation) DRC-0048, I believe, is
13 the reference. So could we have the other side of the card shown on the
14 screen, please.

15 MR. KILENDA: (Interpretation) May I continue?

16 PRESIDING JUDGE COTTE: (Interpretation) Yes, of course.

17 MR. KILENDA: (Interpretation)

18 Q. Madam Witness, could you look carefully at this card, please.
19 Please do not say the name of your husband. Do not say the names of the
20 children which appear, because all of this is blacked out. Could you
21 simply answer this question: The names of the children which appear on
22 this card, are these the names of your children?

23 A. Yes, these are my children.

24 Q. All of your children?

25 A. These are the names of the children who are still alive. The

1 others were already dead.

2 Q. Could you please tell the Chamber, and do not say the names,
3 would you please tell the Court where you see the child who died in the
4 Bogoro attack.

5 A. The child who died in the attack does not appear on this card.
6 Her name had been removed.

7 Q. And where precisely was it removed?

8 A. After the war, it was important to go to the registry office to
9 strike out the names of the children who had died and to put in the names
10 of the children who had been born.

11 Q. But generally speaking, when a child is born, his name appears on
12 the card, and when he dies, there is written beside his name "died" or
13 "deceased." So what do you have to say to that?

14 A. His name was removed -- her name was removed. "Deceased" was not
15 added beside her name. Her name was simply removed.

16 Q. If her name was removed, then initially it did appear on the
17 card?

18 A. The names of all the children I had before the fighting appeared
19 on the card, because initially I had eight children.

20 Q. So if I understand you correctly, if a child is born in 2008, for
21 example, his/her name is added in. Then if you have other children born
22 in 2009, 2010, their names are added in, and when a child dies, the name
23 is taken off and taken off the registry. Is that correct?

24 A. You know, all this procedure of striking the names off a card,
25 all this happened after the fighting.

1 MR. KILENDA: (Interpretation) Your Honour, I don't want to talk
2 about my personal experience, because I also have the card, but for the
3 clarity of the proceedings, could we see the original, if that were
4 possible.

5 PRESIDING JUDGE COTTE: (Interpretation) Do we have the original
6 of this identity card? Court Officer, do you know if we have the
7 original of this card?

8 Mathieu Ngudjolo's Defence team is taking a line of defence
9 trying to clarify the conditions under which a name could have been
10 struck off, the name of a child who died.

11 Court Officer.

12 (Trial Chamber and Court Officer confer)

13 PRESIDING JUDGE COTTE: (Interpretation) Could -- the precise
14 nature of your request, are you wanting the non-redacted version of the
15 card which could be in circulation, or by "original," what precisely do
16 you mean, because in all probability the original which you'll be given
17 will be exactly the same as what we're seeing on the screen, except that
18 the blacking out will not be on it. We will therefore have no extra
19 information other than what we are already seeing on the screen.

20 MR. KILENDA: (Interpretation) The original of this card is in
21 green, and if I recall correctly, there is a column for births and
22 another column for deaths.

23 PRESIDING JUDGE COTTE: (Interpretation) Yes, perhaps, but maybe
24 I'm not stating things clearly. We're talking about the original of the
25 identity card of this witness.

1 MR. KILENDA: (Interpretation) Yes.

2 PRESIDING JUDGE COTTE: (Interpretation) We have before us a
3 copy of this card with redactions which are represented by large black
4 squares, and we do see from this copy that there are no extra columns
5 which you would perhaps like us to see. If this extra column doesn't
6 appear here, how could we have an extra column on the original? Do you
7 think the number of columns has been reduced?

8 MR. KILENDA: (Interpretation) Perhaps.

9 PRESIDING JUDGE COTTE: (Interpretation) Well, Court Officer, do
10 we have the original of this card?

11 Mr. Luvengika, do you know if the original actually exists in the
12 court, because we can't make it appear out of thin air. Does the
13 *Unit have the original in its possession?

14 MR. LUVENGIKA: (Interpretation) Unfortunately, we do not have
15 the original of the identity card, but we were the ones who supplied the
16 copy which has been presented here, and I can tell you that this card
17 does not have a column mentioning deaths.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
19 Mr. Luvengika. The Court Officer will, nevertheless, check with the
20 *relevant Unit to see, if they have the original of the card.

21 As we see the copy on the screen and as we see it on the paper
22 copy as well, we note that this is a document which is photocopied on
23 both sides, and there are four parts to it. And it would seem that
24 through photocopying, that no column could have been reduced, a column
25 which may have mentioned deaths. The four parts seem of equal dimension

1 to me, but we will check with the VW unit to see if the original is
2 available. If they do not have the original, then, Mr. Kilenda, quite
3 simply you will continue questioning with the answers which the witness
4 is giving her (* as interpreted). We have an identity card here on which
5 appears the names of the children which are alive. The question is
6 how -- children who have died, how their names could have disappeared off
7 this card.

8 So we will leave the Court Officer to check this, and
9 Mr. Kilenda, would you like to continue perhaps on another line of
10 questioning.

11 MR. KILENDA: (Interpretation) Have I understood correctly that
12 it's my learned friend opposite, Mr. Luvengika, who has a copy?

13 THE INTERPRETER: Five-second rule not respected.

14 MR. KILENDA: (Interpretation) He says he was --

15 MR. LUVENGIKA: (Interpretation) When we met with the victim, we
16 obtained a photocopy of the person's identity card, and we were the ones
17 who produced and disclosed this copy. What's more, we have provided the
18 Chamber with a colour photocopy of the card. It was not very legible, so
19 that is why the Presiding Judge asked us to provide a copy that would be
20 more legible and that is why we provided that copy.

21 PRESIDING JUDGE COTTE: (Interpretation) Witness, you might be
22 surprised by all of this discussion, but the Defence team of Mr. Ngudjolo
23 finds this to be an important point. So we have to move on.

24 So I'll ask you a question. Did you come to The Hague with your
25 original identity card? In other words, amongst your various

1 possessions, belongings, do you have the original of your identity card?

2 THE WITNESS: (Interpretation) No. I was travelling on my
3 passport, and I also brought my voter's card with me, because those are
4 the documents that were required of me in Kinshasa, and that is why I did
5 not bring this particular card with me. Why? They want to know the
6 colour of this card? I don't understand why he is insisting so much on
7 this point.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
9 Madam Witness, for your answer, which is very specific.

10 Now, the unit told us that they did not have the identity card.
11 Only the witness might have it amongst her various belongings. The
12 witness has just told us that she travelled on her passport, which is
13 logical, and her voter's card. So we are not in a position to produce
14 this -- the original of this identity card during the hearing.

15 Mr. Kilenda, if you could continue with what we have at hand.
16 You may have noticed that the witness is wondering why you are insisting
17 and why you want to know why a child who has died is no longer mentioned
18 on a card. Is there a particular column? Is there something written in
19 the margin? You still have an opportunity to ask a few more questions on
20 this point.

21 JUDGE DIARRA: (Interpretation) I beg your pardon. If the
22 identity card is renewed after the death of the child, is it necessary to
23 put the child's name and then to strike it out?

24 PRESIDING JUDGE COTTE: (Interpretation) That is an excellent
25 point, but I'm afraid I really can't be asking the questions. It is up

1 to Mr. --

2 THE INTERPRETER: Judge Diarra inaudible.

3 MR. KILENDA: (Interpretation) I'm sorry. I am really very
4 sorry, but we are defending a number of major interests here, and I
5 certainly don't take Mr. Ngudjolo's defence lightly.

6 I am from the Congo. I hold the same kind of identity card, and
7 I can tell you that not everything that is to be found on the cards is
8 here. Now, in short, the ruling of the Chamber must be respected. I
9 will continue my cross-examination, but I reiterate, this card is
10 incomplete.

11 PRESIDING JUDGE COTTE: (Interpretation) We are certainly not
12 underestimating the importance of your task and the concern, your concern
13 and that of Mr. Fofé, namely, providing the best possible defence to
14 Mr. Ngudjolo, but we cannot begin investigations of the finer points of
15 civil status documents in the Congo.

16 Now, we don't know whether these identity cards have varied over
17 the years. In many cards, the cards do vary. They change over the
18 years. Now, the one that you received may have about issued at a
19 particular date with a particular column. Was that the same case at the
20 time of this card's issuance? It may be possible that changes have been
21 made to the card.

22 You may continue to ask a few questions. You must realise that
23 sooner or later, the witness will no longer be in a position to reply,
24 but please continue with your defence.

25 MR. KILENDA: (Interpretation) Thank you. We will leave it at

1 that. We don't have the original at hand, and I thank you.

2 Q. Madam Witness, we shall now move on. Do not give the names, but
3 do you remember that we were talking about person number 2? Are you in a
4 position to tell us where person number 2 was living?

5 A. Are you talking about now, or are you talking about the past?

6 MR. KILENDA: (Interpretation) Your Honour, I'm not hearing any
7 sound.

8 PRESIDING JUDGE COTTE: (Interpretation) Can you hear me,
9 Mr. Kilenda? Can you hear me?

10 THE WITNESS: (Interpretation) Yes.

11 PRESIDING JUDGE COTTE: (Interpretation) One moment, ma'am.
12 Mr. Kilenda is not hearing your answer.

13 Let us make an effort to respect the five-second rule.

14 Can you hear now? You can hear. Very well.

15 The witness replied to your answer, and I will read out her
16 reply. She said:

17 "Are you talking about now, or are you talking about the past?"

18 Mr. Kilenda, perhaps you may wish to obtain an answer about the
19 entire period.

20 MR. KILENDA: (Interpretation)

21 Q. The entire period, in 2002 and 2003, where did person number 2
22 live?

23 A. During that period, person number 2 was living in a place called
24 Kavalega.

25 Q. Thank you, Witness. Today do you know where this person now

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1 lives?

2 A. Yes.

3 Q. And where is that?

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 Q. And in what year was that?

12 MR. LUVENGIKA: (Interpretation) Beg your pardon, your Honour,
13 but perhaps we could briefly go into private session in light of these
14 questions.

15 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed. We will
16 do this in private session so that the witness can speak more freely.

17 Court Officer, if we could move into private session.

18 (Private session at 10.11 a.m.)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)
2 (Expunged)
3 (Expunged)
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged)
9 (Expunged)
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12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
17 (Expunged)
18 (Expunged)
19 (Expunged)
20 (Expunged)

21 (Open session at 10.14 a.m.)

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

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

1 Mr. Kilenda, please resume. Please resume the beginning of your
2 earlier question.

3 MR. KILENDA: (Interpretation) Thank you.

4 Q. Ma'am, would it be possible for you to make a diagram, a little
5 sketch showing your house, (Expunged), the house where person
6 number 2 lived, the house of your parents, and perhaps the house of a few
7 of your neighbours? Would it be possible for you to do that for us?

8 A. The house of person number 2 was in Kavalega, and Kavalega is far
9 away from the place where I was living.

10 Q. You are right, ma'am, but as for the rest, other than the house
11 of number 2, would it be possible for you to make a little sketch showing
12 your house, your parents' house, the house of a few of your neighbours
13 and the place where (Expunged) was and perhaps even the
14 Bogoro Institute? Might that be possible?

15 PRESIDING JUDGE COTTE: (Interpretation) Witness, of course it
16 won't be possible for you to show the exact distances on an empty sheet
17 of paper. I couldn't do that myself. But do you think you could do
18 this? Do you think you could make a sketch showing the positions of your
19 house, the house of your -- your house, the restaurant? Do you think you
20 could do that or not? If you are not good at sketching or making
21 diagrams, say so. If you feel that you can do so, please tell us, and we
22 will give you a blank sheet of paper and a pen.

23 THE WITNESS: (Interpretation) The place where the house of my
24 parents was is also far away from my house. You know, there were several
25 roads, and it's very complicated. I don't know that I would be able to.

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1 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, insofar as
2 the Chamber -- well, since we can't actually go to the places in
3 question, but we do have the impression that Kavalega is more of an
4 outlying area in relation to Bogoro, and the witness seems to be hesitant
5 to making a sketch. Is it absolutely necessary for your defence?

6 MR. KILENDA: (Interpretation) The witness told us that Kavalega
7 was the place where person number 2 lived, and we agree with her, that we
8 could drop that point, but we are wondering about the other people.
9 Would the witness be in a position to make a sketch to show us the
10 various positions? If she can't, she can merely say that she can't.

11 PRESIDING JUDGE COTTE: (Interpretation) Ma'am, all you need to
12 do is simply reply to this request from Mr. Kilenda if you feel you are
13 able to do so. We don't want to ask you to do the impossible.

14 THE WITNESS: (Interpretation) I'm not able to make a sketch,
15 because it's very complicated for me.

16 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, please
17 proceed.

18 MR. KILENDA: (Interpretation) Very well.

19 Q. Thank you, Witness. We will leave it at that. On Mr. -- on
20 behalf of Mr. Ngudjolo and the entire team, I would like to thank you for
21 your answers to our questions.

22 MR. KILENDA: (Interpretation) Your Honour, if it is all right
23 with you, could we please obtain a number of ERN numbers for the various
24 documents we have produced.

25 PRESIDING JUDGE COTTE: (Interpretation) Certainly. Thank you.

1 I believe there was an annex to the participation form, and that was the
2 annex that made reference to an NGO.

3 MR. KILENDA: (Interpretation) Two annexes.

4 PRESIDING JUDGE COTTE: (Interpretation) And the other one that
5 refers -- gives the name of three counsel. So we need those
6 two ERN numbers, and ERN numbers for the two sides of the identity cards.
7 So three documents, but one document is printed on both sides.

8 COURT OFFICER: (Interpretation) Thank you.

9 Document DRC-V19-0002-0020-R03 shall bear EVD-D03-00076.

10 Document DRC-V19-0002-0021-R03 shall bear EVD-D03-00077.

11 Document DRC-V19-0002-0047-R01 shall bear EVD-D03-00078.

12 And the three documents have been recorded as confidential.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

14 Madam Court Officer.

15 Now, before Mr. Luvengika begins his re-examination,
16 Madam Witness, I would like to ask you a question, and please listen
17 carefully. I think you've seen that Mr. Kilenda wanted to obtain a great
18 many details about the various items of information that are shown on
19 your identity card, and the Chamber does have a question, and we shall
20 now ask you this question.

21 This child -- the question -- the child in question was born in
22 February 2002. That is the date that you remember. Now, at that time
23 the region you were living in, and you said this yesterday, was very
24 unstable. Do you remember declaring the birth of this child during this
25 time of great instability in -- in the Ituri District when the child was

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1 born? Was the birth registered?

2 We are trying to better understand why the name of this child is
3 not to be found any longer on the identity card.

4 THE WITNESS: (Interpretation) Before the war, all the civil
5 status offices were working in Bogoro, but after the war the offices were
6 moved to Kasenyi. And when this child was born, the offices were still
7 in Bogoro, and it was very necessary to register the child's birth, and
8 the chief was conducting a census to count the various children who had
9 been born and -- and who had died, and the civil registry was not far
10 from where I was living.

11 PRESIDING JUDGE COTTE: (Interpretation) So the Chamber should
12 take it that (Expunged)birth was indeed recorded.

13 THE WITNESS: (Interpretation) Yes.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you, ma'am.

15 Mr. Luvengika, you shall now resume -- or Ms. Denis, either one
16 of you, I'm not sure which one of you, and the Prosecution may wish to
17 make final observations, followed by the two Defence counsel.

18 Now, Mr. Luvengika.

19 MR. LUVENGIKA: (Interpretation) Thank you, your Honour, for
20 allowing me to address the Court.

21 FURTHER QUESTIONED BY MR. LUVENGIKA:

22 Q. (Interpretation) Good morning, Witness.

23 A. Good morning.

24 Q. I would like to ask you a few questions, and this won't take a
25 lot of time, but I would like to shed light on a few matters for the

1 benefit of the Court. I'd like to begin by asking you some questions
2 about your citizen's card, since we've been talking about these matters.

3 A few moments ago, you told the Chamber that this citizen's card
4 was obtained by your father. Was that the case for all the children?
5 Let me specify: For all these children.

6 A. Yes. There were (Expunged) of us in the family, and when we grew up,
7 our parents provided us with these cards.

8 Q. And a few moments ago, you stated that the various pieces of
9 information on this card which my learned friend drew attention to,
10 namely the Defence counsel of Mr. Ngudjolo, these various items of
11 information were added later on. Do you remember the authority you
12 turned to for the adding of these additional items of information?

13 A. I went to the civil status office to do so.

14 Q. Could you tell us where the civil registry or the office of
15 civil status is located.

16 A. The registry office is located -- we went to the civil registry
17 office in Kasenyi. That was after.

18 Q. To the best of your recollection, were these items of information
19 added before or after you received your voter's card?

20 A. This name was mentioned on my card afterwards, but I already had
21 that card with me, and it was when my family had received the dowry,
22 because, you see, in my part of the world you can't put the name of your
23 husband on the card until the dowry has been received.

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

25 MR. FOFÉ: (Interpretation) I'm sorry to interrupt, but I see at

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1 page 43, line 2, 3 and -- 3, that the answer was not faithfully recorded
2 in the transcript. Perhaps a bit more time is needed, but what we see
3 here on the transcript is far too summary in comparison to the important
4 details that the witness had provided. I'm pointing that out, because
5 this is a very important point.

6 PRESIDING JUDGE COTTE: (Interpretation) Well, page 34, line 2,
7 we see the following:

8 "The civil registry office ... we went to the civil registry
9 office in Kasenyi. That was afterwards."

10 Yes, that is rather pithy. So I think the recording of the
11 proceedings will have to be listened to very carefully, and the
12 transcript will have to be checked, and I understand that you're
13 stressing this point because this is important.

14 MR. FOFÉ: (Interpretation) Indeed, because the witness said
15 that she went to the office with a person, and I think that detail should
16 be transcribed.

17 Thank you, your Honour.

18 PRESIDING JUDGE COTTE: (Interpretation) Well, we make this
19 request of the transcribers when the final version of the transcript is
20 prepare. Thank you.

21 MR. FOFÉ: (Interpretation) Thank you.

22 MR. LUVENGIKA: (Interpretation) With your permission, I would
23 like to ask the question once again to the witness in order to have a
24 more detailed answer, hoping that this will be noted this time.

25 PRESIDING JUDGE COTTE: (Interpretation) Please do ask your

1 question.

2 MR. LUVENGIKA: (Interpretation)

3 Q. As you've just seen, Madam Witness your answer was not properly
4 recorded in the transcript, so I will ask the question once again.

5 Where was the registry office you went to in order to add in
6 details on your citizen's card?

7 A. The registry office in question was in Kasenyi, so I went to the
8 registry office in Kasenyi after the war.

9 PRESIDING JUDGE COTTE: (Interpretation) Mr. Luvengika, could
10 you please have the detail added in if there was somebody accompanying
11 the witness at the time. We may be able to better understand the
12 circumstances.

13 MR. LUVENGIKA: (Interpretation)

14 Q. When you went to the registry office, who were you with? Don't
15 say the person's name, but just describe who that person was.

16 A. Our parents give us permission to go to the registry office, and
17 therefore I went with my husband. And that was the day when the
18 photograph of my husband was put on the card.

19 Q. So, Madam Witness, when you say that you went to the registry
20 office after the war, does that mean after your return from Uganda?

21 A. Yes, indeed. It was after we returned from Uganda and we were
22 living in our home.

23 Q. Madam Witness, on Monday when you were giving evidence, you said
24 that you had ten children, and on the citizen's card which we have looked
25 at this morning, we see only seven children identified or mentioned.

1 Could you tell us, when you came back from your exile in Uganda, when
2 this card was drawn up, how many children did you have?

3 A. Before the war, I had eight children, and when I went to Uganda,
4 I had one other child who was born there. I returned back to Congo, and
5 I had another child, so in total, nine children. Three of these ten
6 children died, and seven are still alive.

7 MR. LUVENGIKA: (Interpretation) Your Honour, with your
8 permission, I don't know if we can have another look at this card. Maybe
9 I should ask the witness first.

10 Q. You have just seen a copy of your citizen's card, and you have
11 certainly seen the dates of birth of your children. Amongst the children
12 who are mentioned on this card, do you see the three children who died,
13 or amongst the others, do you see them?

14 A. The names of the children who died do not appear on the card.
15 That was forbidden in our collectivity, and therefore we had to remove
16 the names of these children from the card. Number 7, the figure
17 number 7, is the youngest child, who is 3, who is 3 years old.

18 Q. Madam Witness, could you please tell the Court if the citizen's
19 card is still up-to-date and valid in the Democratic Republic of Congo.

20 A. Well, if this card was not valid, then the names of the children
21 would not have been recorded on it. This is a question you would have to
22 ask of the collectivity chief. When I arrived, they wrote down the names
23 of the children, and on the voter's code, you do not write the names of
24 the children. So if you do not have the green card, then you have to
25 find another card which must be drawn up. If this card were not valid,

1 then the children's names would not be inscribed on it.

2 Q. Thank you very much. Madam Witness, I would like to come back to
3 another question which was asked of you yesterday. If you can cast your
4 mind back, and just to go quickly, I will try and sum up what you said
5 yesterday when you were being questioned by Mr. O'Shea. This was on the
6 point of the meeting you had in September 2010 with the members of my
7 team. You said that there had been other victims who were present.

8 My question is to find out, the time when you made your
9 statements and talked to the members of my team, were there other people
10 in the office or in the room where you were?

11 A. In that room there were very few people. We would go in one at a
12 time. Rather like today; I am here in this courtroom alone. Nobody
13 accompanied me.

14 Q. So the day you went to meet the members of the counsel team, you
15 were alone.

16 A. Yes. I was alone.

17 Q. Still referring back to the evidence you gave yesterday, and as
18 you said in your previous statements, when you say that in 2003 or the
19 period preceding 2003 relations were good amongst the different
20 communities which lived in Bogoro, concerning the other communities, the
21 Hema community, when you say this, are you referring to the people who
22 lived in Bogoro, or are you talking about the region of Ituri in general?
23 When you're talking about the good relations, when you say there were
24 good relations, was it relations amongst the people living in Bogoro, or
25 are you talking in a general fashion about the different ethnic groups

1 living in the Ituri region as a whole?

2 A. I am not here to give evidence about what happened in Ituri.

3 I am only talking about what happened where I lived. And therefore, I

4 talked about the ethnic groups which were in Bogoro, and I was not

5 referring to Ituri.

6 Q. Madam Witness, could I ask you a question, but be careful,

7 because we are in open session, coming back to number 2. Could you tell

8 us if number 2, at the moment, is your -- your father, and you continue

9 to have relations, the same kind of relations, as you had before the

10 Bogoro attack?

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 Q. Madam Witness, can I ask you a final question. You've already

21 answered this question. This was on Monday, but I would like to ask you

22 it once again.

23 When you decided to file an application to participate in these

24 proceedings as a victim, to testify about what you lived through, what

25 were you expecting from the justice system? What are you expecting from

1 the Judges who are listening to you at the moment?

2 A. I would like the Judges to deal with this dossier that the people
3 concerned know what bad things they have done and for the Judges to give
4 the right decision. They should look at the dossier whereby I have come
5 here and that they listen to me in a correct fashion. This is why I am
6 here.

7 Q. So to sum up what you have just said, what is important for you
8 is that justice should be done. Is that correct?

9 A. Yes.

10 Q. Madam Witness, thank you very much indeed for your patience and
11 for having answered my questions.

12 MR. LUVENGIKA: (Interpretation) Your Honour, I have finished.

13 PRESIDING JUDGE COTTE: (Interpretation) Mr. Luvengika, thank
14 you very much.

15 Before handing over to the Prosecutor, Madam Witness, on behalf
16 of the Chamber, I would like to ask you a question. Perhaps you can
17 answer it. This may allow us to clarify all these issues surrounding the
18 citizen's identity card. Right at the beginning of your evidence-giving,
19 you talked about the decease of two children. I will not mention their
20 first names. Death by disease. Even if it is difficult for you to
21 recall this, but do you remember the dates of death of these
22 two children? Do you remember the years when these two children died of
23 disease?

24 THE WITNESS: (Interpretation) I didn't say that I only lost
25 two children. I lost three children. The first died in 2003. Second

1 also died in 2003 when we were in Bunia. We were displaced people at
2 that time. And the third child died in 2005 when we returned back to the
3 country for the elections.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

5 Deliberately I did not mention the third child whom we have been talking
6 quite extensively about.

7 For the Prosecution, do you have any final comments to make
8 before of the witness leaves the courtroom?

9 MS. VARGA: We do not have any questions for this witness.

10 Madam Witness, I wish to thank you, and wish you a safe trip back
11 home.

12 PRESIDING JUDGE COTTE: (Interpretation) Madam, thank you.

13 Mr. O'Shea.

14 MR. O'SHEA: Mr. President, your Honours, I tested your patience
15 yesterday with regard to time, and it's certainly not my intention to
16 extend that patience today. There is one matter which arises due to
17 disclosure of information which the Chamber is aware of, disclosure of
18 the information to the Katanga team in relation to this witness, and that
19 information has led me to the necessity of coming back to a question
20 which I had put to this witness earlier. And I'll just for now give you
21 the transcript reference so that your Honours understand what I mean. I
22 don't want to discuss it in detail in front of the witness. But I'll
23 just give you the transcript reference.

24 (Defence counsel confer)

25 MR. O'SHEA: Sorry about that. The transcript reference is

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1 page 49 of yesterday, lines 4 to 17 in the English transcript. So I'll
2 just go straight to that matter. And then there's another issue which I
3 won't put to the witness because of the time constraints, but I will tell
4 your Honours what the issue is and leave it to your Honours' discretion
5 as to whether your Honours wish to raise it with the witness.

6 FURTHER QUESTIONED BY MR. O'SHEA:

7 Q. Madam Witness, let me ask you this --

8 MR. O'SHEA: Can we go into closed session, please.

9 PRESIDING JUDGE COTTE: (Interpretation) We will move back into
10 private session, Court Officer, please. If Madam Menegon could be kind
11 enough to tell me what the reference is in the French transcript. I
12 don't have the English transcript from yesterday before me.

13 (Private session at 10.53 a.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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Page 41 expunged – Private session.

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22 *(Open session) PRESIDING JUDGE COTTE: (Interpretation) Well, we therefore are
23 having to deal with conditions which are very weighty and difficult. The
24 two hours are up. We can no longer continue with the proceedings for the
25 moment. We will come back in half an hour.

1 Madam Witness, we will back here at half past 11.00 for a few
2 brief moments before we finally say good-bye to each other. For the
3 moment, the Court will rise.

4 For the moment we have been private session. We will move into
5 closed session.

6 Court Officer, you will lift the confidentiality of what I've
7 just said, because what I've just said should be made public, and we will
8 come back at half past 11.00. And let me point out the final
9 observations should concern what has been said in the final parts of the
10 hearing.

11 (Closed session at 11.00 a.m.)

12 (Expunged)

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23 (Open session at 11.01 a.m.)

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

25 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, thank

1 you.

2 It has been agreed, so that this appears on the transcript, that
3 Mr. O'Shea shall send a short e-mail that will allow us to resume at
4 11.30 with the final observations of parties and participants.

5 The Court Officer shall ensure that the next witness will be
6 ready to give testimony at 11.45.

7 The hearing is now suspended.

8 Recess taken at 11.02 a.m.

9 On resuming at 11.35 a.m.

10 (Open session)

11 COURT USHER: All rise.

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

13 The accused are with us here in the courtroom. We shall now
14 resume the proceedings.

15 Very well. Now, just a matter of discipline during the hearings
16 and to organise our work.

17 Mr. O'Shea, if yesterday you realised that a particular point
18 could not be touched upon during your cross-examination, it would have
19 been better to have advised us of that yesterday by e-mail or this
20 morning by e-mail so that before allowing Mr. Luvengika to carry out his
21 re-examination, you would have been in a position to briefly resume your
22 cross-examination, but that was not the case. That should be the case in
23 the future, because now we find ourselves obliged to bring the witness
24 back in and give you the floor so that you can ask a question of the
25 witness to bring out some information about contact that she may have had

1 with another witness, but we'll have to then give the floor to
2 Mr. Luvengika, and this will lead to the proceedings being conducted in a
3 certain framework that should have been avoided.

4 So we will go into closed session so the witness can come in.
5 Then Mr. Luvengika will take the floor, and then we'll have some final,
6 and I mean very final --

7 Mr. Prosecution, please do not make things any more complicated.

8 MR. GARCIA: (Interpretation) I will try not to make things more
9 complicated for the Chamber. However, all the same, we all must respect
10 Ruling 1665 of the Chamber, and I believe if we allow one party to have
11 exception to one of these paragraphs, things may be somewhat unfair for
12 the other partners. I won't comment on the explanations provided by
13 Mr. O'Shea. I believe the Chamber has already made a decision in that
14 regard. But I would remind the Chamber, and Mr. O'Shea more
15 particularly, that he had the opportunity to make this point known to the
16 Chamber, as the Chamber just pointed out. And secondly, this whole issue
17 of credibility related to a possible contamination was already explored
18 by Mr. O'Shea yesterday. I make reference to the French transcript,
19 page 42, lines 14 to 21, 22, 23.

20 Your Honour, one must not forget that Mr. -- what Mr. O'Shea is
21 pleading is this matter of contamination. The Defence just realised
22 that, but the questions asked of the witness yesterday dealt with
23 contamination. Why ask the witness whether she already had previous
24 contact with another witness? When did she have contact with this other
25 witness? That would have allowed to establish whether there had been

1 contact, and the Chamber would have been able to infer contamination.

2 Yesterday, Mr. O'Shea made a clear decision not to venture into
3 that area with regard to contamination. After the fact, he can't think
4 of that a second time during the night, review his strategy, and then
5 rise today and say that he just realised that this was important. He
6 realised it yesterday and that is why he requested the appropriate
7 questions yesterday.

8 So I would merely raise that issue with the Chamber and remind
9 Mr. O'Shea that all parties are subject to the same rules of procedure.
10 I realise there may have been a mistake made, but questions were asked
11 with regard to this whole issue of contamination. With all due respect,
12 your Honour.

13 PRESIDING JUDGE COTTE: (Interpretation) Mr. Garcia, your
14 submissions were quite respectful, of course, and we thank you for that.
15 Another observation: The Office of the Prosecution has been extremely
16 low key, quiet, during the examination of this witness. You did -- now,
17 you have reminded us of what the Chamber just reminded Mr. O'Shea of a
18 few moments ago. Now, this is all somewhat difficult, because we do not
19 know what kind of clarifications Mr. O'Shea wishes to obtain from the
20 witness.

21 Now, when we read yesterday's transcript, French transcript,
22 page 42, that there were some questions put to the witness to determine
23 when she saw number 1 the last time, so as to determine whether the
24 witness saw this person in the DRC or elsewhere and that needed to be
25 cleared up. It needs to be cleared up very quickly, and what is of

1 interest to the Chamber is that any difficulties or -- are cleared up
2 before a witness actually leaves for the DRC, and so we have decided that
3 we'll have to set aside to some extent our general rules. But you must
4 not forget, Mr. O'Shea, and you said it in the e-mail you just sent us,
5 that don't forget the position taken by the Chamber on the
6 27th of January last, and that was a decision taken in conjunction with
7 the VWU, a neutral organ of the court.

8 Now, we will now go into closed session so the witness may come
9 into the courtroom. Once in the courtroom, Mr. O'Shea can ask the
10 necessary questions of the witness. Mr. Luvengika shall respond. If the
11 Prosecution has something to say, they may say so, then Mr. Kilenda, and
12 Mr. -- correction, the last two Defence witnesses.

13 We have 15 minutes to deal with all of this, because our next
14 witness must begin at noon. At noon we shall begin hearing the next
15 witness.

16 (Closed session at 11.43 a.m.)

17 (Expunged)

18 (Expunged)

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24 (Expunged)

25 (Open session at 11.44 a.m.)

Witness: Witness DRC-V19-P-0002 (Resumed) (Open Session)
Further Questioned by Mr. O'Shea

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

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

5 Witness, can you hear me?

6 THE WITNESS: (Interpretation) Yes, I can hear you.

7 PRESIDING JUDGE COTTE: (Interpretation) Very well. Witness,
8 Mr. O'Shea will ask you one last question, and after that Mr. Luvengika
9 will have his turn, and perhaps the Prosecution will intervene, then
10 Mr. Kilenda, Mr. O'Shea, and then within the next 15 minutes, your
11 testimony should be over.

12 Mr. O'Shea, please proceed.

13 MR. O'SHEA: Could -- could the witness please be shown
14 EVD-D02-00109, confidential.

15 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if you
16 could please do so.

17 MR. O'SHEA: Is Madame Greffier having a difficulty? I can do
18 this by going into closed session and putting the name. Or I can just
19 hand this up, actually, to the witness. I know what I'm talking about.
20 I'll just hand this up to the witness. We've asked --

21 COURT OFFICER: (Interpretation) Please press "PC 1" to view the
22 document in question.

23 PRESIDING JUDGE COTTE: (Interpretation) There we are. I
24 believe this is the list in question.

25 Mr. O'Shea, this is the list? Yes? The list is coming. Yes.

1 THE WITNESS: (Interpretation) Yes.

2 MR. O'SHEA:

3 Q. Okay. Now, have you seen the person listed at number 1 while you
4 have been in The Hague?

5 A. No.

6 Q. Have you seen the person listed at number 1 while you were
7 travelling to The Hague?

8 A. Well, your question troubles me. Do you think that when I came
9 here I knew whom I was supposed to come with or whom I came with, that I
10 knew that person?

11 PRESIDING JUDGE COTTE: (Interpretation) Madam Witness, you have
12 just been asked to tell us, as you undertook to say the truth, whether
13 the person whose name is beside the letter 1 is a person whom you know
14 and with whom you travelled to The Hague. That is Mr. O'Shea's question,
15 and you just have to answer that question.

16 THE WITNESS: (Interpretation) I just said this. I thought that
17 I was there -- here to talk about my personal story. That is why I gave
18 you the previous answer.

19 PRESIDING JUDGE COTTE: (Interpretation) Madam Witness, I
20 understand very well, but as I've said several times, some of the
21 questions that are being asked of you may seem to be rather odd or
22 off-putting and may not appear to be related to what you saw and what you
23 experienced in Bogoro on the 24th of February, 2003, but these are
24 questions that may be important to one of the parties or participants,
25 and perhaps even for the Chamber itself. So please give the best answer

Witness: Witness DRC-V19-P-0002 (Resumed) (Open Session)
Further Questioned by Mr. O'Shea

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1 you can, to the best of your recollection, whether you travelled at the
2 same time as this person on the list, person number 1. That is all there
3 is to it.

4 THE WITNESS: (Interpretation) Yes, now I understand. I thought
5 that I was going to be talking about my personal story, but after making
6 that clear in your question, I now remember what happened.

7 We were together in the plane, but with regard to the housing,
8 each one of us is housed separately. And yesterday, I answered you
9 saying that I know this person because we used to live in the same area
10 but in different localities.

11 MR. O'SHEA:

12 Q. When you say that each of you one is housed separately, have you
13 seen that person while you've been in The Hague?

14 A. Each one of us is in a different place, a different place from
15 where the other person is.

16 Q. I will ask my question one last time and then I will leave it.
17 Have you seen that person while you have been in The Hague? Yes or no?

18 A. I saw her the day we arrived. We saw one another, but after
19 that, each one of us has been housed separately.

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

21 Mr. Luvengika, would you like to resume?

22 MR. LUVENGIKA: (Interpretation) I did want to ask one tiny
23 question of the witness and then I will leave it at that.

24 FURTHER QUESTIONED BY MR. LUVENGIKA:

25 Q. (Interpretation) Madam Witness, still with regard to the same

1 person, did you speak to this person ever since you arrived here in
2 The Hague.

3 A. When we arrived here, well, we arrived together. As I was
4 saying, we were on the same plane and we arrived at the same time at the
5 same place. But why should we speak to one another once we were here,
6 because each one of us, we have, each one of us, our own personal story.

7 Q. Indeed. With regard to the personal history of each one of you,
8 did you tell anything about your own personal story to this other person
9 when you were here in The Hague?

10 A. Not at all. When I leave this hearing room, I go back to the
11 room where I'm housed.

12 MR. LUVENGIKA: (Interpretation) Thank you very much,
13 your Honour. I have no further questions for the witness.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
15 Mr. Luvengika.

16 The Prosecution.

17 MS. VARGA: We have no questions, Mr. President.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

19 Mr. O'Shea, any very last observations?

20 MR. O'SHEA: (* Previous translation continues) ...

21 PRESIDING JUDGE COTTE: (Interpretation) You are a wise man.

22 Mr. Kilenda.

23 MR. KILENDA: (Interpretation) Thank you. With leave, we would
24 like to find out the date of birth of the two other children who died.

25 PRESIDING JUDGE COTTE: (Interpretation) I asked that question

1 earlier and the witness replied before the break. Now, I'm not sure if I
2 can refer to the right line of the realtime transcript, and I believe she
3 said 2003 for one, but you will find that in the transcript.

4 MR. KILENDA: (Interpretation) It was the date of death.

5 PRESIDING JUDGE COTTE: (Interpretation) I beg your pardon. No.
6 No, we shall not begin a debate on that issue. We will leave it at that.
7 Otherwise, we could spend years with this witness who really would be
8 wondering, then, why she had come to The Hague.

9 Now, to conclude this last exchange, the Chamber wishes to remind
10 all of the position taken on -- in the e-mail of 27 January 2011, 1152.
11 In that e-mail, the Chamber agreed, and this is an e-mail that was
12 broadly distributed, has been sent to all parties and participants, in
13 the e-mail the Chamber gave its approval after full consideration with
14 regard to the VWU, saying that the four witnesses would travel together
15 and possibly would be housed at the same hotel. However, that
16 authorisation had a number of very specific conditions attached to it,
17 that the witnesses would not be sitting beside one another in the plane,
18 and there would be no opportunity for them to discuss the factual matters
19 of their testimony during their stay.

20 The Chamber set those conditions very clearly for the unit, and
21 we have no reason to believe that these instructions were not complied
22 with.

23 At the end of the e-mail, we say that we stress that for the
24 unit, they will have to regularly and -- remind the witnesses that they
25 must not discuss the content of their testimony, and more generally

1 speaking, until all their testimony is completed, the witnesses must not
2 discuss matters relating to this trial.

3 The witness has just replied to your question and in response to
4 additional questions from Mr. Luvengika, and we will leave it at that.

5 Now, Madam Witness, if you could look at me, because we are about
6 to conclude.

7 Madam Witness, the Court wishes to thank you, because you have
8 spent two -- nearly two and a half very difficult days to us. You have
9 had to cast your mind back to some very painful events for you. You have
10 given us your story, and you have had to answer questions that you may
11 not have always understood the point of, but everyone was playing his or
12 her role here, and everyone has done their very most to help us come
13 increasingly closer to the truth. You have helped us greatly. Like all
14 of those present, we wish to wish you a safe trip home. We thank you.
15 We remind you that you must not speak about everything you have discussed
16 during the two and a half days of testimony. Farewell, ma'am.

17 THE WITNESS: (Interpretation) Thank you very much.

18 PRESIDING JUDGE COTTE: (Interpretation) We would like to thank
19 you.

20 Court Officer, could we move back into closed session so that the
21 witness can leave the courtroom. Then we'll go into open session, so
22 that on behalf of the Chamber, I can give the parties and participants
23 details about the protection measures which the next witness will be
24 enjoying.

25 (Closed session at 12.01 p.m.)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Open session at 12.02 p.m.)

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

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

10 For the Prosecution, do you wish to make a statement?

11 MR. DUTERTRE: (Interpretation) Well, it's really to make an
12 application to the Bench in order to have a five-minute break so that we
13 can change over the teams for the Prosecuting counsel, who are not the
14 same people.

15 PRESIDING JUDGE COTTE: (Interpretation) Five minutes, and we
16 will stay on the Bench.

17 Yes, Mr. Luvengika.

18 MR. LUVENGIKA: (Interpretation) Your Honour, please.

19 PRESIDING JUDGE COTTE: (Interpretation) Mr. Luvengika.

20 MR. LUVENGIKA: (Interpretation) I would like to ask the Court
21 to allow us to exchange our seats with Madam Denis. She will be leading
22 the examination-in-chief of the next victim witness.

23 PRESIDING JUDGE COTTE: (Interpretation) Of course.

24 Madam Denis, would you like to move into the seat beside you? And I
25 would also like to take advantage of the fact that we're having a short

1 break here to encourage everybody to be mindful of time. We have just
2 gone through the questioning of the previous witness, but let's not
3 forget that the questioning should be 60 per cent of the time of the
4 person who has cited the witness. We have up until Wednesday, end of
5 morning, but wisdom would require that we have finished questioning this
6 upcoming witness by Friday at 1.00 p.m. I think we should all bear this
7 in mind.

8 THE INTERPRETER: Correction from the English booth: We have
9 until 1.30 p.m. on Friday.

10 PRESIDING JUDGE COTTE: (Interpretation) Has everybody been able
11 to find their seats, set up the computer, settle into their chairs
12 properly, get their headsets on properly?

13 The Chamber will therefore start.

14 We are now going to receive a second witness victim represented
15 by the legal counsel for the main group of victims. This witness will be
16 enjoying protection measures, the usual protection measures which the
17 Court defined after consultation with the unit for protection of victims
18 and witnesses in the 2663 communication of January 2011, and this has
19 been communicated to everybody. She will, therefore, have a pseudonym.
20 Her voice will be distorted. Her face, the image of her face, will be
21 distorted, and we will move into private session every time identifying
22 elements could be given.

23 The Court has noted that you are all ready for this and that you
24 are doing your utmost to avoid these frequent moments of private session.
25 We have a list accompanied by numbers which should allow us to remain in

1 open session without quoting names.

2 The witness will be speaking in Swahili and requires no
3 assistance for reading or writing.

4 One question concerning the health of the witness. The victim
5 and witness protection unit has indicated this witness suffers from back
6 pain which could make it difficult for her to remain seated for periods
7 of two hours. We may, therefore, have to, or at least we will suggest
8 that after an hour, we will suggest that she might want to stand up to
9 stretch her legs.

10 Concerning her coming into the courtroom and her leaving the
11 courtroom, it was suggested to the Court that the curtains should be
12 drawn so that this witness may not see the -- her regard may not -- her
13 eyes may not cross with those of the two accused.

14 We have to consider this witness as vulnerable for several
15 reasons. Indeed, recalling certain events have shocked her and, in fact,
16 have sustainably disturbed her, profoundly disturbed her. The Court,
17 however, considers that drawing the curtains could be considered as
18 excessive.

19 As we did for two previous witnesses, the Court will simply allow
20 the witness to come into the courtroom with the accused not being in the
21 courtroom so that she does not find herself facing the accused, and she
22 will leave the courtroom in the same way, without the accused being
23 there.

24 Let me sum up. We will not draw the curtains around the witness
25 when she is giving evidence, and the accused will be sitting to her side.

1 When the witness comes in, as we have already done on several occasions,
2 the accused will leave the courtroom, and when the witness leaves the
3 courtroom -- before she does that, the accused will go out. And these
4 two accused will, of course, stay in the same seats otherwise.

5 Court Officer, could we now move into closed session. Could the
6 security officers therefore accompany Mr. Katanga and Mr. Ngudjolo Chui
7 out of the courtroom. They are now used to this exercise.

8 (The accused withdrew)

9 PRESIDING JUDGE COTTE: (Interpretation) Please don't take them
10 too far away, because they'll be coming straight back in.

11 (Closed session at 12.10 p.m.)

12 (Expunged)

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22 (Open session at 12.11 p.m.)

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

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

25 Good morning.

1 THE WITNESS: (Interpretation) Good morning.

2 PRESIDING JUDGE COTTE: (Interpretation) I -- you can hear me
3 properly; is that correct?

4 THE WITNESS: (Interpretation) Yes.

5 PRESIDING JUDGE COTTE: (Interpretation) Fine. Before moving
6 very briefly back into closed session so that you can state your
7 identity, the Court would like to tell you that as you are giving your
8 evidence, we will not reveal your identity. We will call you
9 "Madam Witness" in a very impersonal fashion. Your voice will be
10 distorted so that it cannot be recognised, and the image of your face
11 which is projected from here will also be distorted. Throughout the
12 proceedings, everybody will attempt to avoid asking questions or using
13 names or words which may identify you. Therefore, we will sometimes move
14 into private session, and this will also require you - we will explain
15 things - to use numbers instead of referring to specify names.

16 You will come into the courtroom without the accused being
17 present, and you will leave the courtroom without them being present.
18 They are seated on your left, but you will speak to the courtroom, and
19 therefore it is us that you will look at, even if -- or when you are
20 answering questions which are posed by people sitting on your left or
21 right.

22 We know that you suffer from back pain. You've come with a
23 cushion. Do please use it.

24 Today we have roughly one and a quarter hours ahead of us. I
25 don't think we will need to call for any break in proceedings. Tomorrow

1 we will be having two-hour sessions. If after an hour or so, if you feel
2 you need to stretch your legs and relax your back, then simply tell me.
3 Raise your hands and say, "I don't feel very well," or I will ask you.
4 What is important is that you feel as well as you can physically and
5 mentally so that you can give useful evidence. In any case, we are very
6 pleased to have you with us.

7 Court Officer, we are going to move into closed session so that
8 the witness can state her identity.

9 (Private session at 12.15 p.m.)

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- 21 (Open session at 12.18 p.m.)
- 22 COURT OFFICER: (Interpretation) We are now in open session.
- 23 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
- 24 Madam Witness, before you give your evidence, before you start
- 25 answering questions, you must take an oath to say the truth. This is a

1 very important and solemn undertaking. I will read it out slowly so that
2 you can truly understand the importance of this. Do please listen
3 carefully.

4 "I solemnly declare that I will say the truth, the whole truth,
5 and nothing but the truth."

6 Did you hear me correctly?

7 THE WITNESS: (Interpretation) Yes.

8 PRESIDING JUDGE COTTE: (Interpretation) So, madam, do you
9 undertake to say the truth, the whole truth, and nothing but the truth?

10 THE WITNESS: (Interpretation) Yes. Yes, I will say that.

11 PRESIDING JUDGE COTTE: (Interpretation) Please do listen
12 attentively. Again, you have just said you will say the truth, the whole
13 truth, and nothing but the truth. That is your promise.

14 If in the course of your testimony or whilst you are answering
15 the questions of the people who are here you do not say the truth, you
16 could have action taken against you for perjury, and if perjury were
17 proved to be true, you could be sentenced. Do you understand what I have
18 just said? Have you heard what I have just said?

19 THE WITNESS: (Interpretation) Could you explain this to me once
20 again, please.

21 PRESIDING JUDGE COTTE: (Interpretation) Of course. You have
22 promised to say all of the truth, nothing but the truth, and if in the
23 course of your answers to questions whilst you are giving evidence, if
24 you do not say the truth, you might be prosecuted before this court for
25 having given false evidence, and you could be sentenced.

1 This is information which I'm giving you. This is information
2 which is a warning. The interpreters are translating this to you.

3 Do you understand what I have just said?

4 What is important for us is you should say the truth, the whole
5 truth, nothing but the truth and that you understand and know the
6 consequences of what you might say which would not be the truth.

7 Have you understood me?

8 THE WITNESS: (Interpretation) Yes. Yes, I understand.

9 PRESIDING JUDGE COTTE: (Interpretation) Then the Court notes
10 that it has satisfied Article 69(1) of the Statute; Rule 66,
11 paragraphs (1) and (3) of the Rules of Procedure and Evidence.

12 May simply remind you, madam, that you should speak out clearly,
13 that you should speak slowly, and do sit straight in front of the
14 microphones as you are doing at the moment. When you're asked a
15 question, then just wait a little before you answer so that the
16 interpreters have time to interpret properly and so that everybody here
17 can hear the interpretation properly. This will also allow the
18 court reporters to note down what you are saying properly. These are
19 people who are noting what is being said.

20 And you can, of course, drink some water. There is a water jug
21 beside you. Do not hesitate to take some. You will be speaking. Your
22 mouth may become dry. Please help yourself. There is no problem for the
23 Court if you simply stop for a second to fill up your glass and drink the
24 water. We all do the same thing.

25 You also have a box of handkerchiefs which you can use if you

Witness: Witness DRC-V19-P-0004 (Open Session)
Questioned by Ms. Denis

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1 need them. The Court will not be offended in any way, if you need to use
2 a handkerchief while you are speaking. We want you to be at ease while
3 you are giving your testimony.

4 Do you understand, madam?

5 THE WITNESS: (Interpretation) Yes, I understand.

6 PRESIDING JUDGE COTTE: (Interpretation) Good. Then we can
7 start.

8 Madam Denis, you may start.

9 MS. DENIS: (Interpretation) Thank you very much indeed. Thank
10 you. I have a small echo in my headset.

11 QUESTIONED BY MS. DENIS:

12 Q. (Interpretation) Good morning, Madam Witness.

13 A. Good morning to you as well.

14 Q. How are you feeling today?

15 A. Today I'm fine. I've been feeling good since I got up this
16 morning.

17 Q. My name is Catherine Denis. I work with Mr. Fidel Nsita.

18 I'm going to ask you some questions. If these questions are not
19 clear to you, then do not hesitate to ask me to repeat things. Do you
20 understand?

21 A. Yes, I understand.

22 Q. We're going to talk about events which took place quite a while
23 ago. You may not remember things, you may not know things, and in
24 answering your question, do not hesitate to say, "I don't remember," or,
25 "I don't know." Is that clear to you?

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1 A. Yes, that's quite clear.

2 Q. Thank you. The Presiding Judge just underscored the fact a few
3 minutes ago that you have protection measures. There are some things we
4 will not talk about in open session. There are names we will not mention
5 in open session, and in order to help you to do this, we have prepared a
6 list, and on this list you see a number or a letter which correspond to
7 names.

8 MS. DENIS: (Interpretation) I'm going to ask -- with the
9 permission of the Judge, I would like to ask the Court Officer to provide
10 this document, which comprises a list of names with attending numbers,
11 and I believe that, in fact, this document was sent to you yesterday
12 evening.

13 PRESIDING JUDGE COTTE: (Interpretation) This is a list on which
14 we see the names of four people and a place name. Does everybody have
15 this? This was an e-mail which was sent out yesterday evening at 22.43.
16 Apparently everybody has it.

17 So you can explain how we are going to proceed to the witness.

18 MS. DENIS: (Interpretation)

19 Q. You have just been provided with a document on which you can see
20 names and numbers. We will not talk about this immediately, but in the
21 course of my questioning I may refer to this document, and then I would
22 ask you to be careful about using the numbers and the letters. Is this
23 clear to you so far?

24 A. Yes, I understand, and I have this document.

25 Q. Thank you.

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1 MS. DENIS: (Interpretation) Your Honour, if you would allow, I
2 would like to go into closed session so that we can talk about a few
3 personal details.

4 PRESIDING JUDGE COTTE: (Interpretation) Yes.

5 For the public, certain questions, as usual, are going to be
6 asked of the witness which concern the identity of the witness, and
7 therefore we must move into private session.

8 So, Court Officer, could we move into private session, please.

9 (Private session at 12.30 p.m.)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

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12 Page 66 expunged – Private session.

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7 (Expunged)

8 (Open session at 12.40 p.m.)

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

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

12 Ms. Denis, please proceed.

13 MS. DENIS: (Interpretation)

14 Q. Ma'am, you told us that before the attack in Bogoro on the
15 24th of February, 2003, you were living in Bogoro. Now, when you were
16 living in Bogoro, were you living in a house that belonged to you? Did
17 you live in your very own house?

18 A. I think that -- could you explain more? I haven't understood
19 properly.

20 Q. My question was whether you lived at home in your own house, or
21 perhaps you were still living with your parents.

22 A. Are you referring to the day of the battle or before that battle,
23 before that attack?

24 Q. Thank you, ma'am. You did well to ask me to be clearer. I'm not
25 talking about the day of the attack. We will talk about that in a few

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1 moments, but I am trying to understand the situation when you were living
2 there, and I wasn't speaking about the actual day of the attack, but
3 generally speaking, where were you living in Bogoro before the tragic
4 events?

5 A. Well, I would tell you this: Before the attack I was living at
6 home, but I think that I really haven't understood. You're not
7 explaining this to me very well.

8 PRESIDING JUDGE COTTE: (Interpretation) Madam Witness,
9 Ms. Denis is asking you whether before the attack, whether you were
10 living alone at home in a house, or whether you were living with your
11 parents, in the same house as your parents. I think this is what she's
12 trying to understand. What conditions were you living in? Were you at
13 home like a child who is still living with one's parents, or were you
14 independent at that time, living in a different house? How far away was
15 it from your parents' house? I think that is what she is asking you
16 about, about the conditions you were living in at that time.

17 THE WITNESS: (Interpretation) Before the attack, I was living
18 all alone. And it was my own house.

19 MS. DENIS: (Interpretation)

20 Q. Do you know the institute in Bogoro?

21 A. Yes. I am familiar -- I'm very familiar with the
22 Bogoro Institute.

23 Q. Do you remember or do you know what the institute was being used
24 for in the year 2003?

25 A. In 2003, the children were no longer going to the school within

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1 the institute because of the war.

2 Q. Were the premises occupied by other people or by something else?

3 I'm speaking of the premises of the institute.

4 A. Within the institute, that is where we would take shelter when
5 there were attacks.

6 THE INTERPRETER: "Each time there was an attack," corrects the
7 interpreter.

8 MS. DENIS: (Interpretation)

9 Q. And why did you choose to take refuge at that particular place?

10 A. Because that institute was being used as a military barracks.

11 Q. Could you tell us which military force was using the institute?

12 A. It was the UPC soldiers who were at the institute.

13 Q. And what were the sort of dealings or the relationship between
14 those soldiers and the people living in Bogoro? Did they get along well?
15 What was the relationship like?

16 A. There were no problems between the civilians and the soldiers.
17 Those soldiers were there to ensure the safety of the civilian
18 population, because at that time there were regular attacks, and to
19 protect the population, those soldiers came to ensure people's safety at
20 that place.

21 Q. Now, when you tell us that there were regular attacks, could you
22 tell us who was attacking Bogoro?

23 A. It was the Lendu and the Ngiti who were leading those attacks.

24 Q. Just to help us understand what life was like in Bogoro, could
25 you tell us which ethnic groups were present in Bogoro before the 2003

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1 attack?

2 A. Before the attack, there were Hema people. There were other
3 ethnic groups such as the Lulu. They, too, lived in Bogoro.

4 Q. When you speak of other ethnic groups, could you be more
5 specific? What other ethnic groups were there other than the Hema people
6 and the Lulu people?

7 A. No.

8 Q. And what were the relations like between the various groups, the
9 various ethnic groups living in Bogoro? Did people get along? Was the
10 situation calm or not calm?

11 THE INTERPRETER: The witness asks what does the word "ethnie"
12 mean in French, the word "ethnie," "ethnic group."

13 PRESIDING JUDGE COTTE: (Interpretation) Now, would the word
14 "community" be easier for you? In Bogoro there was a Hema community.
15 Were there other communities with other names? Once again, even if the
16 word "ethnie," "ethnic group," and "communauté," "community," are not
17 quite the same, this might be helpful to help you answer this question
18 from Ms. Denis, which is of interest to all of us. This is why I am
19 making this point.

20 You said that there were Hema people and Lulu people. So there
21 was a Hema community, a Lulu community. Were there communities of people
22 bearing other names?

23 If the question is too difficult, Ms. Denis will move on to
24 another matter or perhaps ask the question later.

25 THE WITNESS: (Interpretation) Yes. Could you ask the question

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1 once again?

2 PRESIDING JUDGE COTTE: (Interpretation) A few moments ago you
3 mentioned the Hema people and the Lulu people who were present in Bogoro.
4 Ms. Denis is asking you whether there were other ethnic groups, and I
5 have asked you whether there were other communities, and a few moments
6 ago you mentioned the Lendu and the Ngiti people who would come from time
7 to time and attack the locality where you were living. So there you have
8 it.

9 On the basis of that information, there was the Hema community,
10 the Lulu community, the Lendu community, the Ngiti community. Were there
11 other communities that you might recall?

12 I am using the word "community" instead of speaking of "ethnic
13 group."

14 THE WITNESS: (Interpretation) Well, I would tell you this in
15 reply to that question: There were other ethnic groups there such as the
16 Gegere people.

17 PRESIDING JUDGE COTTE: (Interpretation) That's very good.
18 You've answered Ms. Denis's question.

19 Now, might there be other groups? You are the person who can
20 answer. Were there other groups?

21 THE WITNESS: (Interpretation) Other than those ethnic groups
22 which I just mentioned, there were no other ones. There were Hema
23 people, there were Alur people, and Gegere people. Those are the only
24 ethnic groups who were living in Bogoro at that time.

25 PRESIDING JUDGE COTTE: (Interpretation) Ms. Denis, please

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1 proceed.

2 MS. DENIS: (Interpretation) Thank you.

3 Q. A few moments ago, you mentioned regular attacks by Lendu and
4 Ngiti people on the village of Bogoro. Now, I'm not speaking yet of the
5 attack that occurred on the 23rd of February, 2003. Could you just
6 possibly tell us when some of these attacks occurred, the years in which
7 these attacks occurred.

8 A. I think that when I was very young, in 1981, there was an attack
9 that occurred. At that time, I was not smart enough to understand what
10 was going on. In 2001, there was another attack, and then there were
11 other attacks that occurred after that, but I have no memory of the dates
12 or the months.

13 Q. Well, if you don't mind, I would now like to ask you some
14 questions about the day of the attack itself.

15 MS. DENIS: (Interpretation) Your Honour, most unfortunately, I
16 must now ask for us to go into private session. I just have far too many
17 items of identifying information.

18 PRESIDING JUDGE COTTE: (Interpretation) If we could go into
19 private session.

20 (Private session at 12.59 p.m.)

21 (Expunged)

22 (Expunged)

23 (Expunged)

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25 (Expunged)

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1 (Open session at 1.12 p.m.)

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

4 PRESIDING JUDGE COTTE: (Interpretation) Ms. Denis, you may
5 continue.

6 MS. DENIS: (Interpretation)

7 Q. Just now you said that your children were not in Bogoro with you
8 on the 24th of February, 2003, the day of the attack, because you had
9 sent them away to be safe. Why did you send your children away? Did you
10 know there was going to be an attack?

11 A. Because of the attack of 2001, we had to have a house built
12 elsewhere. Every time the Lendu and Ngiti created safety problems with
13 us, I sent my children away.

14 Q. Do you mean that you sent the children away a long time before
15 the attack of 2003? Perhaps they'd already been there since 2001.

16 A. I can tell you that this was before the attack of 2003, and in
17 the course of this attack, things were not quiet in Bogoro. The
18 situation was precarious.

19 Q. So on the day of the attack, you were in a house which was not
20 your own. How did you come to understand that there was an attack
21 occurring?

22 A. Could you please ask your question again.

23 Q. On the day of the attack, you were in a house. How did you come
24 to understand that there was an attack? Were you asleep when the attack
25 started?

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1 A. That day I was sleeping, and towards 4.00 in the morning, just
2 before daybreak, I heard noise and gunshots and that woke me up.

3 Q. From what you heard and from what you remember, where did the
4 gunshot -- the gunfire come from?

5 A. The gunfire was coming from everywhere, from the direction of the
6 Lendu and of the Ngiti.

7 Q. Why do you say that it came from the Lendu and Ngiti directions?
8 How did you know this?

9 A. Personally, I know that there was gunfire coming from one side or
10 the other. I could say, therefore, that the gunfire was coming from the
11 zones occupied by the Ngiti, and other gunfire came from the Lendu side.

12 Q. Could you try and help us out a little here, Madam Witness,
13 because we don't know your village as well as you do. Could you try and
14 explain things. The Ngiti and the Lendu were situated in a certain
15 direction away from the Bogoro village. Are you trying to say that they
16 were situated in a certain direction outside of the Bogoro village?

17 A. Yes. There was a zone occupied by the Ngiti and one which the
18 Lendu occupied. There's a road which comes from Bunia, and that was the
19 side that the Lendu lived on. There's also a road which leads to the
20 Ngiti, and this same road leads into the direction -- leads towards the
21 direction of the Bogoro mission.

22 Q. Madam Witness, I could ask you to try and slow down a little when
23 you're speaking. That would be useful for the interpreters.

24 I'm going to ask you another question. You said, "I heard
25 gunfire." You said, "I heard noise." What other noise did you hear?

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1 A. There were shouts. There were whistles. There were drums. And
2 with the people shouting, you could hear Lendu shouts, and you could hear
3 shouting in the Ngiti language.

4 Q. So the shouting, the whistles, the drums came from the people who
5 were attacking you; is that correct?

6 A. Yes.

7 Q. Are you still all right, Madam Witness? We only have
8 five minutes left, I believe.

9 A. I feel a little tired, but if we only have five minutes left,
10 then I think we can continue between the two of us.

11 PRESIDING JUDGE COTTE: (Interpretation) So you can ask one or
12 two more questions if they are not too long, Madam Denis.

13 MS. DENIS: (Interpretation)

14 Q. You said that you heard the Lendu and the Ngiti. How do you know
15 that it was the Lendu and the Ngiti? How did you know that it was their
16 language?

17 A. We know if somebody is speaking Lendu or Ngiti, and they know
18 when we are speaking in Hema.

19 MS. DENIS: (Interpretation) Your Honour, if you will, I will
20 stop here for today, because I want to move on to another part of the
21 account of the witness, if you will, your Honour.

22 PRESIDING JUDGE COTTE: (Interpretation) Permission granted.
23 The witness has just spent quite a few minutes with us. She has
24 understood under what conditions evidence-giving takes place. I think
25 she will feel more at ease tomorrow. We're therefore going to stop. We

1 will come back tomorrow at 9.00 for the examination-in-chief.

2 I will ask the security agents to be kind enough to conduct
3 Mr. Kilenda -- no, Mr. Kilenda will walk out by himself in a few minutes'
4 time. Mr. Katanga and Mr. Ngudjolo Chui, who do not need to come back,
5 because once the witness has left, we will be -- the Court will be
6 rising.

7 (The accused withdrew)

8 PRESIDING JUDGE COTTE: (Interpretation) I beg your pardon,
9 Mr. Kilenda. The letter K is really a total disaster for me.

10 We are now going to move into closed session so that the witness
11 can leave the courtroom.

12 (Closed session at 1.25 p.m.)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Open session at 1.26 p.m.)

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

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

1 We must take into account, tomorrow and after tomorrow, the
2 rather slow answers of the witness, which makes things slightly easier
3 for the interpreters and the court reporters, but it will perhaps slow
4 our work down. Perhaps she may feel more at ease tomorrow.

5 I would like to salute Mr. Kilenda before we leave.

6 The Court rises.

7 COURT USHER: All rise.

8 The hearing ends at 1.27 p.m.

9 RECLASSIFICATION REPORT

10 Pursuant to Trial Chamber II's oral instruction dated 23rd of February 2011, the
11 excerpt of the transcript page 42 line 22 to page 43 line 10 is reclassified from
12 private session to open session.

13 CORRECTIONS REPORT

14 The Court Interpretation and Translation Section has made the following corrections
15 in the transcript:

16 *Page 21 line 13

17 "Does the division have the original" is corrected by "Does the
18 Unit have the original"

18 *Page 21 line 20

19 "...the relevant division, the VWU..." is corrected by "...the
20 relevant Unit to see..."

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