

Trial Hearing
Witness: DRC-D02-P-0176

(Open Session)

ICC-01/04-01/07

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Germain Katanga and
5 Mathieu Ngudjolo Chui - ICC-01/04-01/07
6 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
7 Judge Christine Van den Wyngaert
8 Trial Hearing
9 Friday, 6 May 2011
10 (The hearing starts in open session at 9.03 a.m.)
11 THE COURT USHER: All rise. The International Criminal Court is now in session.
12 PRESIDING JUDGE COTTE: (Interpretation) Please be seated. Good morning,
13 everyone. Good morning the accused. Before the Chamber reads out an oral
14 decision, I would like to discuss the protection measures for the witness. Mr Kilenda
15 wanted to briefly address the Court. Mr Kilenda, please go ahead.
16 MR KILENDA: (Interpretation) Thank you, Mr President. Good morning.
17 Good morning, your Honours. I simply wanted to inform you that our client,
18 Mr Mathieu Ngudjolo, has been ill for three days. He has a backache. He's
19 supposed to meet with his doctor at 2 p.m., but he insisted on being present here this
20 morning, so do not be surprised that in the course of the audience he may feel unwell
21 and he may ask for authorisation to leave the courtroom.
22 PRESIDING JUDGE COTTE: (Interpretation) That was important and thank you
23 for pointing it out to us. The Chamber wishes Mr Mathieu Ngudjolo a rapid
24 recovery and, Mr Kilenda, if by any chance Mr Ngudjolo needs to leave the
25 courtroom for some time, has he agreed that the proceedings can continue in his

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1 absence?

2 MR KILENDA: (Interpretation) We would prefer that he should be present
3 during all the parts of the hearings.

4 PRESIDING JUDGE COTTE: (Interpretation) Very well. That means that all the
5 measures have to be taken so that, if he has a problem with his back, he should be
6 seated in the best possible position. If he prefers a straight-backed chair, or
7 something else, then everything has to be done and everything depends on his state
8 of health.

9 MR KILENDA: (Interpretation) It would be preferable that you ask the question
10 to him directly, so that he should be at ease.

11 PRESIDING JUDGE COTTE: (Interpretation) Mr Mathieu Ngudjolo, when you
12 have a backache, the seat that you sit on is quite important. Do you feel comfortable
13 in the chair that you are seated on right now?

14 MR NGUDJOLO CHUI: (Interpretation) Yes, your Honour, I am quite
15 comfortable, but I believe that I will try to be here to sit with you for one hour, at the
16 very least, and if it is necessary I might ask to go out for about ten minutes before
17 coming back.

18 PRESIDING JUDGE COTTE: (Interpretation) Very well. If you need to stretch
19 your legs, please indicate to us and we will suspend.

20 MR NGUDJOLO CHUI: (Interpretation) Very well, thank you.

21 PRESIDING JUDGE COTTE: (Interpretation) The Chamber will now hand down
22 an oral decision from Mr Luvengika. The Chamber is seized of a motion number
23 2856-Conf, dated 3 May 2011, from the legal representative of the common group of
24 victims requesting the lifting of redactions on the report of the unit on the
25 situation - the security situation - of Witness D02-176. The redacted confidential

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1 version of that report is referenced 2821-Conf-Red-2. Even though I already started
2 doing this at the beginning of the week, I will nevertheless give you a background of
3 how the Chamber decided on the level of classification of the information contained
4 in the said report within the meaning of Regulation 23 bis of the Regulations of the
5 Court.
6 The Chamber consulted the unit on the risks run by three Defence witnesses for
7 whom protection measures had been requested (email of 24 March 2011 at 11.29.)
8 The Chamber instructed the unit to include in the observations requested its remarks
9 on the recent developments in the situation of Witness D02-176, whose testimony had
10 been asked to be brought forward for security reasons (email of 29 March 2011 at
11 11.19.)
12 The unit then informed the Chamber, as well as the parties and participants, that it
13 was going to submit its report, which would be ex parte and reserved to the Registry
14 because it contained protected information relating to the witnesses of the Prosecutor
15 and also information that the Defence of Germain Katanga had provided to it about
16 its own witnesses. The unit, however, made a point of informing the parties and
17 participants on its position regarding the possibility of bringing forward the
18 testimony of Witness D02-176 in order to better ensure his protection (email dated
19 6 April 2011 at 11.59.)
20 By email of 6 April 2011, the Chamber indicated that it would rule in due course on
21 the classification of the report of the unit. During a hearing of the same day,
22 transcript number 244, this classification led to a reaction from Mr Luvengika, who
23 wished to have access to the said report.
24 Furthermore, still in the course of the same hearing, Mr Hooper submitted that all the
25 information relating to his witnesses provided by the unit to the Chamber needed to

1 be classified ex parte, reserved for the Defence of Germain Katanga. It should be
2 recalled that the Prosecutor himself had previously indicated that he wished to have
3 the position of the unit on the necessity to bring forward the testimony of Witness
4 D02-176 and that was done by email of 1 April 2011 at 17.39.
5 In his oral decision of 8 April 2011, transcript number 245, pages 1 to 4, authorising
6 that the testimony of Witness D02-176 should be brought forward, the Chamber
7 reiterated that it will rule very soon on the classification of the report. However,
8 considering the various degrees of classification of the distinct information, the
9 Chamber had to rule on several stages.
10 Subsequent to the submission of the observations of the unit on 6 April 2011,
11 document 2821-Conf-Exp, reserved to the Registry, the Chamber instructed the unit to
12 submit an ex parte version reserved to the Registry and the Defence of Germain
13 Katanga, after having authorised the redaction of protected information relating to
14 the witnesses of the Prosecutor participating in the protection programme of the
15 Court. This was done by email of 11 April 2011 at 12.15. This was done on
16 11 April 2011, submission 2821-Conf-Exp-Red, reserved to the Registry and the
17 Defence of Germain Katanga.
18 Considering that the report included information provided by the Defence of
19 Germain Katanga on a confidential basis within the framework of its relationship
20 with the unit, the Chamber consulted the Defence on the classification of that
21 information by email of 12 April. In fact, the Chamber considers that information
22 exchanged between a party or participant and the unit, even if such information is
23 included in reports sent to the Chamber, it has to be ex parte in order to preserve the
24 trust that underlies the cooperation which is indispensable for the effectiveness of the
25 protection of victims and witnesses.

1 After having examined the proposals for the redactions from the Defence of Germain
2 Katanga, the Chamber instructed the unit to submit a redacted confidential version of
3 the said report by email of 21 April 2011 at 9.47. This was done on 26 April by filing
4 number 2821-Conf-Red-2.

5 It is against this backdrop that the motion for the legal representative for the lifting of
6 those redactions was filed. The Chamber notes that none of the parties or
7 participants has found it necessary to respond.

8 The legal representative relies on the principle according to which ex parte
9 proceedings and redactions should be exceptional and should be authorised only on a
10 case-by-case basis, due regard given to the various interests at stake. He submits
11 that in the instant case the redacted extracts could contain information concerning
12 victims that he represents and which relate to the defence of their interest,
13 particularly statements made by the participating victims or by Witness D02-176
14 about them.

15 Lastly, he adds that the right to a fair trial and the principle of adversarial
16 proceedings requires that he should have access to such information insofar as the
17 information contributed to the basis of the decisions of the Chamber. On the last
18 point, the Chamber notes that the two decisions based on the conclusions of the Unit
19 which substance has basically been communicated to the participants were handed
20 down at the end of the adversarial proceedings, that reasons were given for them and
21 that no request for leave to appeal was submitted.

22 Furthermore, we refer you to the above-mentioned principles which are directly or
23 indirectly linked to the protection of victims and witnesses, which guided us in our
24 decision to authorise the level of classification requested by the Unit as well always
25 the redactions proposed by the Defence of Germain Katanga.

1 The Chamber would like to underscore the fact that the reports of the Unit intended
2 to clarify the risk run by the witnesses in order to decide on protection measures to be
3 given to those witnesses may not constitute a means to divulge to the parties and
4 participants information provided by the parties on their witnesses, even if these are
5 witnesses of the Defence whose testimonies are supposed to contradict the
6 testimonies of the victims who have appeared. The Chamber, therefore, rejects this
7 motion.

8 Lastly, subject to any justified objection raised in the course of the hearing, the
9 Chamber orders on the basis of Regulation 23 bis mentioned above and in accordance
10 with the principle of the publicity of the debate the reclassification of filing number
11 2856-Conf as a public document, because even though it relates to a confidential
12 report it does not itself contain any confidential information. And the existence of
13 the report in question is already in the public domain.

14 Before Witness 176 is brought into the courtroom, the Chamber would like to inform
15 you about the protection measures granted to that witness. By decision number 2851
16 of 21 April 2011, handed down on the basis of an opinion by the Unit, number 2821
17 dated 6 April 2011, the Chamber is of the opinion that Witness 176 who will start his
18 testimony right now should benefit from the various protection measures in the
19 course of his testimony in the courtroom. Those measures are in the decision of
20 21 April and I will summarise them for you:

21 He will be entitled to the use of a pseudonym, voice and face distortion. We will,
22 therefore, go into private session whenever questions or the answers that can be given
23 to those questions may reveal the identity of that witness.

24 Witness 176 will enter and leave the courtroom in closed session and, court officer,
25 that leads us to order a closed session right now to enable Witness 176 to come into

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1 the courtroom; after which, we will have him give his identification and then we will
2 go back to open session for -- and under Rules 93 and 74 we will take his solemn
3 undertaking before beginning his testimony.
4 Court officer, let us go into closed session and, court usher, please have Witness 176
5 brought into the courtroom.
6 (Closed session at 9.20 a.m.)
7 (Expunged)
8 (Expunged)
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5 (Expunged)

6 (Open session at 9.24 a.m.)

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

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you, court officer.

9 Mr Witness, before everything else, it is the obligation of the Chamber to give you the
10 assurances that counsel for Germain Katanga requested in your favour on
11 7 April 2011 and these are provided for by Article 93(2) of the Statute. Under Rule
12 191 of the Rules the Prosecutor was consulted and, on 11 April 2011, he said that he
13 had no objection to such assurances being given to you.

14 Furthermore, and in application of that same Rule 191, the lawyer who was
15 designated to represent you at the request of the Chamber sought to have your
16 observations under Rule 191 of the Rules. In an email of 5 April 2011 at 5.38, in
17 response to a question from the Chamber, your lawyer indicated that you wished to
18 benefit from the assurances under Article 93 of the Statute and he confirmed to us,
19 once again, by email of this morning at 8.34 that that was the case, so there should not
20 be any ambiguity.

21 Pursuant to that same Article, the Chamber would like to reassure you, Mr Witness,
22 that you will neither be prosecuted nor detained, nor subjected by the Court to any
23 restrictions whatsoever of your personal freedom for any acts or omissions prior to
24 your departure from the Democratic Republic of Congo to travel to the Court.

25 The Chamber would also like to recall the privileges given to you under Rule 174.

1 Your lawyer - and you met him on 5 May 2011 at The Hague; that is,
2 yesterday - explained to you Rule 74 of the Rules, as well as the conditions under
3 which the Chamber can give you guarantees.
4 He explained the nature of those guarantees and provided to you any useful
5 information about the contents of all the other provisions of the Statute or Rules
6 mentioned in that Rule. This is what transpires from filing 2867 submitted yesterday
7 by your lawyer. In fact, your lawyer must have given you an independent legal
8 opinion on any questions that you might have asked him.
9 Rule 74 states clearly, Mr Witness, that you may not answer any questions put to you
10 if there is a risk that your answers could be self-incriminating. The Chamber would
11 like to inform you that you can use that possibility at any time.
12 The same rule states that in such a case, and exclusively in such a case, the Chamber
13 can give you a certain number of guarantees, and I will summarise them to you: The
14 information given in your testimony will remain confidential and will not be revealed
15 to the public or to a State.
16 Such information will not be used directly or indirectly against you within the
17 framework of future proceedings before the Court, except these are proceedings
18 under Article 70 and 71 of the Statute. Those are very specific provisions, and your
19 lawyer must have spoken to you about it.
20 In application of Rule 74, the Prosecutor was consulted, and on 11 April 2011, he
21 indicated that he did not have any objection to such guarantees being given to you.
22 With regard to the DRC authorities, the Chamber in its oral decision of 13 April 2011,
23 noted a letter from the Minister of Justice of the DRC addressed on 30 January 2009 to
24 the Prosecutor of the Court, and whose substance was confirmed on 7 April 2011 by
25 the same minister.

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1 The authorities of the DRC also pledged that the witnesses called to testify for the
2 Prosecution and for the Defence before the Court, within the framework of the DRC
3 situation, shall not be prosecuted before DRC jurisdictions for acts and crimes that
4 they revealed to have known or participated in during their testimonies before this
5 Court, or for acts or crimes committed by them whose existence would never have
6 been known in the absence of their testimony."
7 "Those same DRC authorities also referred to Article 19(1)(c) on the agreement on
8 privileges and immunities of the International Criminal Court to which it is a
9 signatory, and it states that witnesses will have absolute immunity in respect of
10 words spoken or written by them during and after their testimony. That immunity
11 will continue to be accorded to them even after their appearance and testimony before
12 the Court."
13 Mr Witness, from a purely procedural point of view, if you asked to benefit from
14 these guarantees, the Chamber will then order that the relevant parts of your
15 testimony should take place in closed session and under Rule 74, the Chamber will
16 also order that your identity, as well as the relevant parts of your testimony,
17 shall -- should not be discussed and any violation of that ruling should lead to
18 liability under the various provisions. The Chamber will also order that
19 transcriptions of the hearings relating to those parts of your testimony should be
20 placed under seal by the Registry.
21 We draw the attention of the Prosecutor, the accused, counsel, legal representatives of
22 the victims, and all staff members present in the courtroom, or following these
23 proceedings, to the consequences of any violation of that prohibition to divulge. The
24 Chamber wished to give you those guarantees and reassurances, Mr Witness. We
25 know that your lawyer talked to you about that yesterday. Is everything clear to

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1 you?

2 THE WITNESS: (Interpretation) Yes, I think I have followed you correctly, and I
3 have understood what you've said.

4 PRESIDING JUDGE COTTE: (Interpretation) Mr Witness, thank you. You know
5 that you can ask for extra clarification on any point at any time from your duty
6 counsel. If in the course of the proceedings or afterwards you have the feeling that
7 you should bring some clarification, then please do not hesitate.

8 In addition to the guarantees which I've described and which the Chamber can
9 provide you in the case of self-incrimination, there are also procedural protection
10 measures, also operational ones which can be taken in order to guarantee your safety
11 and/or well-being.

12 The Chamber would recall that on 21 April 2011, decision 2851, ruled that during the
13 course of this hearing you could enjoy the use of a pseudonym in order to protect
14 your identity; in other words, we will call you Mr Witness or Mr Witness 176. Your
15 voice will be distorted so it cannot be identified in any way. Your face image will be
16 distorted as well vis-à-vis the public so that there too you cannot be identified.

17 The Chamber has also forbidden the parties and participants to disclose your identity
18 to anybody and points out that they must comply with the protocol concerning
19 investigations into or concerning witnesses in this hearing. Your identity is therefore
20 fully protected. Mr Witness, is this clear to you?

21 Finally, there is one last point concerning your personal and family situation, which
22 your counsel talks about in document 2867 of 5 May 2011, from paragraph 5 onwards.

23 First of all, Mr Witness, Mr Mabanga will refer to the unit for protection of witnesses
24 and victims in order to talk to them about your personal and family situation. The
25 Chamber cannot, unless there is a major problem, intervene in -- at this stage on such

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1 a topic, which it seems to the Chamber seems to be a question for the specialised
2 department of the Registry.

3 Madam Court Officer, would you please ensure that Mr Mabanga, who is the duty
4 counsel appointed by the Registry, ensure that Mr Mabanga has full knowledge of
5 this part of the transcript; in other words, what I have just said - the personal and
6 family situation of the witness in the document which was sent to us yesterday.

7 Mr Witness, we are now going to deal with your solemn undertaking, your oath. In
8 the familiarisation process, you were informed of what this covers, and let me remind
9 you of this by reading out the solemn undertaking. I will now read this out so that
10 you can properly understand the full importance of this.

11 "I solemnly declare that I will tell the truth, the whole truth, and nothing but the
12 truth." Did you hear what I said, and have you understood what I said?

13 THE WITNESS: (Interpretation) Yes.

14 PRESIDING JUDGE COTTE: (Interpretation) Now, do you undertake to say the
15 truth, the whole truth and nothing but the truth?

16 THE WITNESS: (Interpretation) Yes, I do.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Mr Witness, you have
18 just promised to say the truth, the whole truth and nothing but the truth. If, in the
19 course of your testimony or if, while answering any question, you do not say the truth,
20 you could be prosecuted by the ICC for perjury, and if these facts were proven you
21 could be sentenced. Do you understand me properly on this point?

22 THE WITNESS: (Interpretation) Yes, I do understand, sir.

23 PRESIDING JUDGE COTTE: (Interpretation) The Court therefore notes that we
24 have satisfied what is provided for in Article 69(1) and Rule 66 paragraph 13 of the
25 Rules of Procedure and Evidence.

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1 Mr Witness, you will now start to give testimony. We would like to ask you to
2 comply with a certain number of rules in the course of this testimony. As you have
3 just done, we would like to ask you to sit just opposite the microphone, to speak up
4 clearly, to speak slowly. Even if you wish to speak with enthusiasm about
5 something, nevertheless, do speak slowly because it's important for the court
6 reporters and the interpreters to be able to do their work properly. Do not change
7 the language in which you speak in the course of your testimony in order to make the
8 work of the interpreters and court reporters easier.

9 What you are saying will be translated first of all into French and then into English so
10 that Germain Katanga's Defence can properly understand, of course, and therefore
11 there is a slight time lag between what you say and what is heard by Germain
12 Katanga's Defence team. When you reply to a question by Mr Hooper or by
13 anybody else, take five-seconds pause; count up to five before you answer.

14 In the same way, the people who will ask you questions will be leaving five seconds
15 between the questions and answers. You have a jug of water before you. Do not
16 hesitate to help yourself. You will be talking a lot. You may feel thirsty. The
17 Court will not be offended in any way if you wish to help yourself to a glass of water.

18 In the same way, you have a box of handkerchiefs in front of you, and if you are, for
19 example, too hot, if you want to wipe your forehead, or if you want to blow your nose,
20 for example, the Court will not be offended at all. The Chamber wishes you to feel at
21 ease while you are making your testimony.

22 There we are, Mr Witness. It's now -- Mr Hooper, I beg your pardon. Before
23 Mr Hooper takes the floor, the usher is going to change the level of volume on the
24 headset of the witness.

25 Madam Court Officer, we may now proceed. Mr Witness, are you comfortable with

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1 the headset?

2 THE WITNESS: (Interpretation) Everything is fine. Thank you.

3 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, please.

4 QUESTIONED BY MR HOOPER:

5 Q. Good morning, Mr Witness.

6 A. Good morning.

7 Q. And you've seen me before. We've met in both Bunia and in Kinshasa, and I
8 think some other faces here you might recognise. There's Sophie Menegon, who sits
9 next to me here, and Caroline Buisman. So at least there's three faces here you know.
10 And we're representing, as you know, Germain Katanga. And on my left here, all
11 these people here representing Mathieu Ngudjolo. And I think you've had the
12 layout of the court explained to you. Obviously, you can see the Judges and over
13 there we have people representing some victims of the attack on Bogoro, and there in
14 the serried ranks we have the Prosecution.

15 So I'm asking questions now and you are a protected witness, so a lot of what we're
16 going to say is going to have to be behind closed doors, as it were, so that no one
17 outside this court learns your identity. And I just want to reassure you on one thing.
18 If, and it's quite possible, someone, very possibly me, may make a mistake and say
19 something that identifies you, that will be rubbed out of the record and people
20 outside won't hear what's said because it will be taken out of the record.

21 And the only thing I want to say on this, as His Honour the Judge has said, if at any
22 time you feel uncomfortable with any question that anybody asks you, because you
23 think it may reveal your identity unless it's in private, please say so and please ask to
24 go back into private session if we're not in private session at the time.

25 I said all this at length, because I'm looking at where I anticipate your evidence is

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1 going to take us and I see that all along the way there are identifying features. So I
2 think most of the time we're going to have to spend in private session so that the
3 public don't hear things from you.

4 Let me just ask this question, and again bear in mind don't say anything that will
5 identify you, but anything in general terms of course is okay. My first question of
6 you is this: Where were you living in February of 2003?

7 A. In February 2003 I was living in Bogoro.

8 Q. And what were you doing there? And don't say anything that may identify
9 you, for example if you had a rank don't give us your rank, but what were you doing
10 there?

11 A. I think that your question is too -- or aimed at finding out what I was doing in
12 Bogoro at that date, February 2003. Well, then in February 2003 I was part of the
13 UPC military of Thomas Lubanga.

14 Q. And did there come a time when you left Bogoro and, if so, what caused you to
15 leave Bogoro?

16 A. I don't know if your question relates to my departure from Bogoro in 2002, or at
17 another period of time. I didn't quite understand your question, sir. I left Bogoro
18 in 2003, if I recall correctly, and that was after fighting which took place in Bogoro
19 and that was why I left Bogoro.

20 Q. Yes, thank you. Thank you for your answer. Now, we'll come back to all that
21 in more detail in a moment. Now, as you know, I represent Germain Katanga, and
22 in February 2003 did you know Germain Katanga?

23 A. No, I didn't. I did not know Germain Katanga in February 2003.

24 Q. When did you first come to hear of his name?

25 A. I heard the name of Germain Katanga for the first time in Bunia. I had already

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1 left Bogoro. I have forgotten what date this was on, but I know it was during the
2 pacification campaign which was taking place in Bunia. This was pacification
3 between the Lendu and the Hema.

4 MR HOOPER: All right. Now, you've told us that you were a UPC soldier in
5 Bogoro and we can deduce that was during the attack on Bogoro which caused you to
6 flee Bogoro, and your evidence we know and anticipate is going to deal therefore
7 with the circumstances of that attack and your knowledge of things in Bogoro. I'm
8 now going to ask to go into closed session, possibly for a considerable time, in order
9 to deal with your evidence.

10 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer, could we
11 move into private session, please.

12 (Private session at 9.50 a.m.)

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14 (Expunged)

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- 23 (Closed session at 10.09 a.m.)
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3 (Open session at 10.10 a.m.)
4 THE COURT OFFICER: (Interpretation) We are currently in open session, your
5 Honour.
6 PRESIDING JUDGE COTTE: (Interpretation) Thank you, court officer. So, as you
7 see fit, you may stay in the courtroom or not but of course we wish to resume at
8 20-past. This hearing is adjourned.
9 THE COURT OFFICER: (Interpretation) All rise.
10 (Recess taken at 10.10)
11 (Upon resuming in closed session at 10.21 a.m.)
12 (Expunged)
13 (Expunged)
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21 (Private session at 10.23 a.m.)
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Trial Hearing
Witness: DRC-D02-P-0176

(Private Session)

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13 Page 23 expunged – Private session

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7 (Open session at 10.40 a.m.)

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

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

10 MR HOOPER: All right.

11 Q. Now, if needs be you can answer questions on previous attacks on Bogoro. I'm
12 not going to ask you questions about those, we know that there was an attack in 2001
13 and one in 2002, but if we come to 2003 I want to ask you not about the big attack on
14 24 February 2003. I want to ask you before that attack, in the months or weeks prior
15 to the big attack on 24 February, were there other attacks on Bogoro, or not?

16 A. Yes, I have understood your question. I believe that prior to 24 February there
17 were attacks, but of a lesser scale.

18 Q. Do you know in the course of any of those attacks whether any of the attackers
19 were killed?

20 A. Yes, if I am not mistaken, I believe that there was an attack on 10 February.
21 During that attack, we fought against the assailants and we were able to defeat them.
22 After our victory, we were carrying out patrols in the area and we identified people
23 who had been killed. There is even one attacker who had hanged himself because he
24 was afraid of being captured. * I think that ten of the attackers were killed, and on
25 our side I think we also suffered one loss. One person died.

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1 Q. Come 24 February, do you know how many UPC soldiers there were?

2 A. I believe that on the 24th our commander, Germain, had come to replace
3 Kisembo. Others had left for Kasenyi. There were fewer of us left. I believe there
4 were approximately two companies there.

5 Q. And, very approximately, how many men would that be, "two companies"?

6 A. There were about 130 of us; whereas, before then we had been about 240
7 soldiers. After that there were approximately 130 left.

8 Q. Was there any -- apart from the UPC soldiers at that time, soldiers attached and
9 under the command of UPC commanders, did Bogoro have any other defensive force,
10 armed or otherwise? The civilians, in other words, in Bogoro, were any of those
11 involved in any way in constituting any defensive force?

12 A. No, no.

13 Q. Prior to the attack of 24 February, were you aware at that time that there was
14 going to be an attack? Was there any information known to you at that time, before
15 the attack, that there was to be or there might be an attack?

16 A. Yes, we knew that an attack was going to take place. We had received that
17 information. We were aware that there was going to be an attack.

18 Q. Can you remember the circumstances, how you came by that information?

19 A. Yes. You know, we had a Motorola communication system. From time to
20 time we would try to locate the enemy frequency. The radio operator was a certain
21 Mugisa. Mugisa was a Hema, but his mother was Ngiti. Before the attack, Mugisa
22 had lived with his uncles in the Ngiti territory, and he could understand what was
23 being said in Ngiti. It was thanks to him that we were able to have that information.
24 That radio operator told us that the attackers had said they were going to come and
25 cultivate their farms. The attackers also said the people of Bogoro be ready, because

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1 we are coming to cultivate our farms there in Bogoro. If I'm not mistaken, you know,
2 (Expunged) Mathieu Babona -- Matiyase Babona was preparing to end the mourning
3 period for the victims of 2002 and 2001, and my father had made a radio
4 announcement to the effect that that celebration of the end of the mourning period
5 will take place on 23 February 2004.
6 The members of the family arrived on the 22nd and spent the eve of that day at the
7 location. Everyone heard that information on the radio, and the enemies even said
8 that, "You are preparing this ceremony and we are coming to feast together." So we
9 knew that they were going to attack at any time. Those were the circumstances
10 under which we learned that the enemy would attack. We heard that information
11 because they came from time to time and we were sure that we were going to defeat
12 them.
13 (Expunged)
14 (Expunged)
15 (Expunged) Very well.
16 So, now, with this information, with this knowledge that there was going to be an
17 attack, let me ask you what happened with the civilian people there in Bogoro? First
18 of all, let me ask you this question: By 24 February, what had happened to the
19 civilian population? Were there civilians still living in Bogoro? If so, can you help
20 us as to approximately how many? What had happened to the civilian population
21 over the preceding year or so. Please help us.
22 A. When you -- when we received information concerning that date, the soldiers
23 who had their family members there secretly told him that on such-and-such a date
24 there would be an attack and if you want to flee it is the time to do so. Personally, I
25 gave that information to my family, but since my father was someone who prayed, he

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1 stayed. And this is why he was killed. But seven families left Bogoro, but the rest
2 remained. Some of them were killed and some of them survived.

3 Q. Now, again, try to avoid mentioning your own relations, at least any
4 relationship you have with your relations, as it were, or anything that might lead
5 people to identify you because we're in open session. Let me ask you this: Just
6 generally, where was the UPC camp in Bogoro? Can you just help us where it was,
7 how big it was, what it was like?

8 A. For those who know Bogoro, the camp was located at the institute. At that
9 time, there was a technical social institute in Bogoro. When the Ugandans of the
10 UPDF arrived in Bogoro, they stayed at that school but at that time students no longer
11 attended the school so they set up camp all around that institute. That is where the
12 UPDF set up their camp, and when they left the UPC came and occupied that camp
13 that is inside the institute.

14 Q. Now, yes, we are becoming very familiar with the Bogoro camp. We've seen
15 photographs, and the like. But just explain to us, if you will, in your own words the
16 accommodation. I mean, who lived in the camp? What was the accommodation?
17 Were there houses? What were they made of? Just give us a general picture of
18 what that camp was like.

19 A. Very well. There was, first of all, the school building, and that building is right
20 at the entrance into the camp. There was also a sort of trench, and all around there
21 were small huts or manyattas and soldiers lived in those manyattas.

22 Q. Thank you very much, Mr Witness. Now is the time where we all go and get a
23 cup of coffee, and so we can -- let's do that.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, since we interrupted
25 for Mathieu Ngudjolo, we can continue 'til 10-past-11. Then we will break from

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1 11.10 to 11.40 and then we will continue up until 1.30, as usual. So you still have
2 12 minutes, if you wish.

3 MR HOOPER: Yes, certainly. All right.

4 Q. So we're going to have to just take our break a little later than usual today,
5 Mr Witness. So we've sorted that out. Let me just -- we were talking about the
6 camp and you've been talking about the manyattas. Now, the school buildings,
7 we've seen photographs of the school buildings as they currently are. Were those
8 used at all by the UPC in your time?

9 A. No. You know, we had a system according to which all the soldiers were
10 living in the manyattas, the small herds. When passenger vehicles were coming
11 from Bunia to Kasenyi, there was a house in which civilians could come and stay, but
12 the soldiers did not stay in the house. The house was empty, and it was reserved for
13 civilians in case of attack. Whenever there was an attack, civilians could take refuge
14 in that building.

15 Q. Where, if anywhere, did you keep your arms and ammunition, explosives,
16 things like that?

17 A. As I have already said, there was a building there on the spot and there was
18 another building just beside it, which was the offices of the prefect, and it was there
19 that we had left our guns and munitions. So it was the building which served as an
20 office which was just beside the institute that we left our ammunition and weapons.

21 Q. Now, at the time or shortly before the big attack in February, aside from the
22 UPC camp at the Bogoro institute, did the UPC have any other set positions in or
23 around Bogoro?

24 A. Yes. I believe I have already answered this question by saying "yes." There
25 were military positions. There was a military position on Mount Waka. When you

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- 1 were at the institute, you could see Mount Waka on the other side, and we used to
2 send soldiers up onto the mountain in order to keep an eye out for any possible
3 threats. We also had another surveillance position on the road to Diguna. This is
4 on the side of the Gety road, and when you are there, you can see at a distance
5 anybody who is approaching. So we had people who could tell us of any
6 approaching threats. I believe we had two positions, two military positions, which
7 were in fact observation posts.
- 8 For Kasenyi, we had foot patrols out there and then we would come back. But as far
9 as these two observation posts are concerned, we had soldiers who would sleep, stay
10 on the spot in order to keep an eye out for enemy threats.
- 11 Q. Now, we've heard that the Hema can be divided roughly into the northern
12 Hema or Gegere, and the southern Hema; is that correct?
- 13 A. What locality are you asking about? I don't understand very well. Could you
14 rephrase your question, please?
- 15 Q. Yes, certainly. I may have used a word that wasn't familiar to your translator.
16 I'm asking about Hema and I understand that the Hema can be divided into two
17 sub-groups, as it were. One is the southern Hema and the other is the northern
18 Hema, also known as the Gegere. Is that -- am I correct in thinking that?
- 19 A. Yes, there are two categories of Hema; the north and the south Hema.
- 20 Q. And which category do you place yourself in?
- 21 A. I belong to the south Hema group.
- 22 Q. And how were the UPC soldiers at Bogoro composed? Were they from both
23 groups, south and north Hema, or what? What was the position? What was their
24 composition?
- 25 A. As far as the UPC was concerned, there were north Hema and south Hema

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1 people within the UPC who were there in Bogoro.

2 Q. We've heard of the use of fetish among some groups in Ituri. Do you know if
3 the UPC in Bogoro used fetish, or not?

4 A. I don't know.

5 Q. You've spoken of a Motorola being used to intercept messages, or to receive
6 messages from the attackers. Do you know, did the UPC possess a phonie?

7 A. I can't tell you anything about other localities. I can tell you what there was in
8 Bogoro, but I don't know if the UPC had any phonies elsewhere. But in Bogoro, we
9 didn't have a phonie; we used the Motorola system.

10 Q. All right. Now, if we can just go into private session for one question before
11 we end.

12 PRESIDING JUDGE COTTE: (Interpretation) Could we go into private session,
13 please. This is the final question, because the Chamber would also like to ask a
14 question of the parties and participants before we adjourn. And Madam Court
15 Officer, could we move into private session, please.

16 (Private session at 11.09 a.m.)

17 (Expunged)

18 (Expunged)

19 (Expunged)

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21 (Expunged)

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1 (Expunged)
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6 (Closed session at 11.10 a.m.)
7 (Expunged)
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12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Open session at 11.11 a.m.)
16 THE COURT OFFICER: (Interpretation) We are now in open session.
17 PRESIDING JUDGE COTTE: (Interpretation) Thank you. A few minutes ago, in
18 the course of his testimony, in the course of his questioning, Mr Hooper mentioned
19 that the witness had talked about 23 February 2003 at Bogoro. Mr Hooper indicated
20 that in fact the date was 24 February, that this point was no longer contested by
21 anybody. I'm speaking from memory.
22 Looking around the courtroom, we noted that nobody was taken aback by this date.
23 Let me remind you that in the document which the Prosecution sent us at 2852 of
24 2 May 2011, point 8, we see amongst the different agreed facts, we see this: "On
25 24 February 2003, in the early morning, the village of Bogoro was attacked."

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1 The Chamber wishes that on this specific point, but also on the seven preceding
2 points which all relate to the Bogoro attack, the date of the attack, and so on and so
3 forth, we wish that in the course of the break you could look and see if you wish to
4 agree on the fact that all these facts are fully agreed upon. The Court would like,
5 when we come back, for everybody to say if there is full agreement therefore on at
6 least point 8, if not on the other points as well.
7 We will now have the 30 minutes' break, which we are all entitled to.
8 (Recess taken at 11.11 a.m.)
9 (Upon resuming in closed session at 11.47 a.m.)
10 (Expunged)
11 (Expunged)
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
17 (Expunged)
18 (Expunged)
19 (Expunged)
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21 (Expunged)
22 (Expunged)
23 (Expunged)
24 (Expunged)
25 (Open session at 11.49 a.m.)

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

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Can you hear me
3 properly, Mr Witness?

4 THE WITNESS: (Interpretation) Yes, I can hear you very clearly.

5 PRESIDING JUDGE COTTE: (Interpretation) Then we can start back. Mr Hooper,
6 you may continue your questioning.

7 MR HOOPER:

8 Q. So I would like to come, Mr Witness, to the circumstances of the attack itself,
9 and where were you when you first realised Bogoro was being attacked on
10 24 February? Where were you?

11 A. On the 24th, I was in Bogoro inside the military camp.

12 Q. At what time did the attack start?

13 A. The attack started between 4.30 and 5 a.m.

14 Q. Now, you've mentioned the UPC soldiers. Were the UPC equipped with
15 uniforms, or not?

16 A. At that precise moment in time, not all the soldiers were in uniform. They had
17 not all put their uniforms on at the time of the attack. Personally, when the attack
18 had started, or when the attack did start, I was not wearing my uniform.

19 Q. What position did you take up in the camp?

20 A. I was sleeping. I heard shots being fired - gunshots being fired. I quickly got
21 dressed, put my trousers on. I got up, I grabbed my weapon and told (Expunged) not
22 to leave the house. I said to her, "If things become critical, I will come back and get
23 you." I left the house, the shooting was starting, and I took up my position in the
24 camp. In the camp we had a communication system, and we had trenches of
25 fusiliers who were there to defend the camp and therefore we dived into these

1 trenches in order to defend the camp and we started fighting.

2 Q. And how did the fighting go after that?

3 A. When the attack started, first of all I heard gunshots. My house was facing
4 Waka Mountain, as I've already said, and when I left my house the assailants were
5 coming closer to us. They were about 100 metres away. We faced them. We
6 fought them from 5, 5.30 a.m. onwards, and at one point the fighting abated. We
7 had managed to push the assailants back to about 500 metres away from the camp
8 and we went back to the camp. There we saw that the assailants had fallen back.
9 I took advantage of this to go and see my wife. I told her not to be afraid, to stay in
10 the house because we had pushed the attackers back. In the next ten minutes, we
11 realised that the attackers were coming back at us. They attacked once again. They
12 were shouting a lot. They were making a lot of noise and there was a big group of
13 attackers. Amongst them there were women, men, children and the system was to
14 intimidate us through the noise and the singing they were making. They also had
15 whistles and they also made a lot of noise with horns, cow horns. We knew all this
16 was designed to intimidate us and this was what was often done.
17 The combatants were ahead of us. Those who were making noise were behind us.
18 We repulsed them once again. There was quite a long period of fighting at that
19 point and we realised that this was in fact a very big attack going on. We were
20 losing a lot of men. We saw our soldiers falling, and one of our soldiers was using a
21 G2 Mag, M-A-G, weapon. His name is Byaruhanga. He was just beside me. He
22 was shot in the head and he died. I knew how to use his G2 weapon and when he
23 fell, when he was dead, I picked up his weapon and I started firing with it.
24 The fighting continued up until about half-past-8 or 9 o'clock. At that point we had
25 managed to repulse the fighters, the attackers, once again. When they had fallen

1 back, we thought that they had run out of steam, that they would not come back at us
2 a third time. We managed to push them back to about 500 metres away and we
3 returned to the camp, and I went again to the house to see my wife.
4 I explained that the fighting was very heavy and very fierce, but I asked her to stay in
5 the house, to hide and not to be afraid. She was with (Expunged), and I said,
6 "My fellow soldiers so-and-so, and so-and-so have died, and the fighting is very fierce
7 indeed".
8 I picked up more munitions at that point because I was running out of munitions.
9 I had some munitions in my house, so I reloaded my gun at that point and I also
10 managed to say a few words to my wife. But the fighting was still continuing. In
11 the course of the next 10 or 20 minutes, the attackers came back once again. We
12 fought against them once again, and around 10 o'clock or half-past-10, I realised that
13 the manyattas which were occupied by the soldiers had caught fire. I could see the
14 smoke rising, and that was really the end. It was no longer possible to go back to the
15 house to get my wife.
16 The attackers were already in our midst and I realised that, when the attackers had
17 moved in, there was, on the one side, the houses catching fire and our commander,
18 Germain, said to us that we should each flee because we had lost the battle. It was at
19 that point that some soldiers went to talk to the civilians who were in the building,
20 and some of the civilians started to emerge from the building. That was when the
21 killing started. We saw attackers running to hack down the civilians. Others shot
22 at them.
23 I was able to get out of there, and before I got to Mount Waka I was surrounded by
24 attackers. These were people that I knew who called me by my name, who told me
25 to lay down my weapon. They said to me, "Lay down your weapon. You are

1 surrounded." And as a soldier mindful of war tactics, I fell to the ground, and I was
2 surrounded by the attackers who were 30 metres away from me, all around me.
3 And I fell to the ground and then I started looking at the person who asked me to lay
4 down my weapon, to see whether he was going to fire or not, to see where the gunfire
5 was coming from. He fired and, as a soldier -- well, this particular individual
6 continued firing, but there were others who weren't opening fire, and because they
7 weren't firing, I said to myself, "This is the only one who is firing. This is the only
8 one who has got ammunition."
9 I don't know whether you are following me? Maybe I'm speaking too swiftly.
10 Okay. So, having seen this particular individual who was firing -- who was firing at
11 me was the only person who had ammunition, I aimed at him and I shot at him, and
12 he fell down. The other three fled, and so I was able to recoup his weapon.
13 I also fled, and while I was running away, I could see civilians; civilians who had
14 been massacred and falling around. There were also soldiers who were falling, and
15 it was at that particular point in time that a commander who was in front of me on
16 Mount Waka, and he wasn't wearing his military uniform, but was wearing rather a
17 blue-coloured pair of trousers - jeans - and he had a Motorola. And so when I saw
18 him, I was able to identify him. I saw him fall. And it wasn't easy to recognise the
19 enemy, to distinguish between the enemy and someone from our camp. When they
20 went into the camp, they took our clothing and put it on, so it was therefore difficult
21 to identify them.
22 And God came to my aid, and I had to flee by taking Wathe Nyakakindo and
23 Nyakeru route, and from Nyakeru, I arrived at Nyamusole, and from Nyamusole, I
24 was able to continue to Lengabo. We stopped at Lengabo, where there was a
25 Tibasima farm and there were soldiers from the UPDF at that locality.

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1 We endeavoured to reach the civilians, the civilians who were coming in dribs and
2 drabs, and everybody tried to identify a member of their family, and it was at that
3 particular point in time that I tried to see whether I could find somebody of my family,
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged)

9 Q. Can I just interrupt you there? Because we're in open session, of course, and as
10 we've gone along, I'm sure adequate redactions have been made. But I think there is
11 a limit to how many corrections can be made every half-an-hour; I think there's only
12 three or four that can be made, so I'd ask you to remember we're in public session,
13 and we'd like to stay in public session as much as possible as this is relevant
14 information.

15 So let me just pause you there. You've managed, perhaps against the odds, to get
16 away and to get to Bunia, and now you're in Bunia and let me just, as it were, leave it
17 there for the time being.

18 Now, we've heard that, of course, you were part of the UPC in Bogoro and that this
19 was just a relatively small part of a much larger force of UPC who were in Kasenyi
20 and in Bunia itself. Do you know why there were no reinforcements sent to Bogoro?

21 A. At that particular point in time I didn't know why no reinforcements had been
22 sent, but a little later on, once I'd arrived at Bunia, when at the brigadier's place I
23 received an item of information that was -- that struck me, and I asked the following
24 question. I asked why that no reinforcements had been sent. This was at the
25 brigade. And the answer that was given to me was the following: We were

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1 suspected. It was said that we, who were based in Bogoro, we had set up an alliance
2 with the movement dubbed PUSIC and Chef Kahwa Panga Mandro. So it was at
3 Bunia that I received this information, but when I was in Bogoro, I had no information
4 with regard to the fact that no reinforcements had been sent to Bogoro to assist us.

5 Q. All right. So what was the effect? They suspected you were in league with
6 Chef Kahwa's PUSIC, so what effect did that have on whether reinforcements were to
7 be sent or not from Bunia to Bogoro?

8 A. You know, the Bogoro attack took place when the UPC and PUSIC had been
9 established. It had already been established at that particular point in time, PUSIC
10 had been founded, but it was a group which didn't have many people belonging to it,
11 and PUSIC had set up at Kasenyi, not at Tchomia.

12 Now, given the fact that no reinforcements had been dispatched to us, it was only at
13 Bunia that I was able to learn that we should have asked for reinforcements from
14 Kasenyi, but at Kasenyi it was thought that at Bogoro there were UPC elements there.
15 So Chief Kahwa was based in Tchomia, and the elements at Kasenyi were UPC
16 elements, but when Chief Kahwa went to Kasenyi, it was to convince the Kasenyi
17 elements to rally his flag, but he didn't come to us at Bogoro. We didn't receive
18 reinforcements from Kasenyi or from Tchomia because both sides were suspicious of
19 us, and this is really why we received no reinforcements. That's the information that
20 I learned following the fall of Bogoro.

21 Q. Now, I asked you earlier about Germain Katanga and I want to come back, if I
22 may, to him, and you told us that the first you had learnt of his name was in the
23 context of the CPI, the comité de pacification de l'Ituri. Can you remember what
24 month that was that you first came to hear of Germain Katanga's name in any way?

25 A. I don't remember the date. Having said that, I do recall the period in question,

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1 the time-frame. I think the Ituri pacification began subsequent to the fighting
2 between ourselves and the Ugandans, and we went to Bunia for the second time if I'm
3 not wrong in May. I think this was 12 May and it was at that particular point in time
4 that I heard the name of Germain Katanga.

5 Q. Now, amongst the UPC soldiers who were fighting at Bogoro on 24 February,
6 do you know approximately how many were killed?

7 A. Yes, I can know, because there were soldiers who were born in Bogoro and I can
8 cite their names.

9 Q. Yes, indeed. Don't worry with names, but can you give us an approximate
10 number? I think you told us there were about 130 soldiers there. Do you know
11 how many survived? How many were killed?

12 A. Okay. Now, with regard to soldiers who died on that particular day, they
13 numbered around 70.

14 Q. Now, after you got to Bunia yourself, how long did you stay in Bunia for?

15 A. Once I had arrived at Bunia and all the Bogoro survivors had done so, we went
16 to Kpandroma. Rather, those people who had survived the Bogoro attack went to
17 Kpandroma, but myself I didn't go there (Expunged)

18 (Expunged)

19 (Expunged)

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23 (Expunged)

24 MR HOOPER: Well, I hope we are keeping up with the redactions in respect of this.

25 I am getting a feeling that perhaps it's difficult to keep redacting, so I'm going to ask

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1 that we go into closed session now for about half-an-hour and I am going to ask you
2 questions in closed session.

3 PRESIDING JUDGE COTTE: (Interpretation) Court officer, we are therefore going
4 to move into private session, because we need to be mindful of the people in the
5 public gallery. The witness who is making his testimony before the Court is
6 benefiting from protective measures, which mean that we need to avoid that his
7 identity directly or indirectly be divulged to the general public, which can explain this
8 move into private session and the problems therefore that you will have in following
9 the proceedings. Court officer, we will now move into private session.

10 (Private session at 12.20 p.m.)

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- 14 (Open session at 1.01 p.m.)
- 15 THE COURT OFFICER: (Interpretation) We are now in open session. To look at
- 16 the photograph, you can press "PC1".
- 17 PRESIDING JUDGE COTTE: (Interpretation) Can everybody see the photograph
- 18 properly? Mr Katanga? Mr Ngudjolo?
- 19 MR HOOPER:
- 20 Q. A picture of a rather nice church. Do you know what the church is, where it is?
- 21 A. Yes, I do recognise this church, but I'm sorry -- sorry, yes, I can answer this
- 22 question, but I am very surprised. I think I am a witness here, and I will continue of
- 23 course to be a witness, but I am surprised - very surprised, indeed - by your question,
- 24 sir.
- 25 As far as I'm concerned, this question is of little importance. I'm surprised that

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1 you're asking me this question, because I talked about this in my statement. I talked
2 about my wife, and this was one of my main purposes and, of course, to talk about
3 the events in Bogoro. I don't know why you don't want me to answer this question
4 concerning my wife. Why do you not want to pursue this line of questioning?

5 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper will decide whether he
6 has any further questions for you, but you have come before this Chamber to talk
7 about facts which you allegedly know of and which took place on 24 February 2003 in
8 Bogoro.

9 Anything concerning your particular family situation which is difficult is, of course,
10 important but may not have the same portent which you accord to it, not the same
11 importance for the Court as you would attach to it. For the moment, we would like
12 with your assistance to drive as far as possible towards the truth, to understand what
13 happened in Bogoro on 24 February 2003.

14 Please, do not think that we do not sympathise with your difficult family situation,
15 but we have to continue to focus on our case in hand. If there are specific points
16 which may be of interest then we can listen to them, of course, and this is why I made
17 a comment to Mr Hooper a few minutes ago. So, Mr Hooper, back to you, sir.

18 MR HOOPER:

19 Q. All right. So let me say I'll come back to your family situation in a moment.
20 We're presently in open session, so let me ask you open session questions. So let's
21 come back to the church and deal with that briefly. For those of us who don't know
22 the area, which church is this? Which religion, as it were, does this church belong
23 to?

24 A. Thank you. I believe that I recognise this church. This is a church from where
25 I live. I was christened in this church. Today this is the building of CECA-20 in

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1 Diguna, in Bogoro.

2 Q. Do you know if there's another CECE-20 church in Bogoro or is this just the
3 one?

4 A. I think that this photo shows a church which originally wasn't this shape, or
5 form. In fact, there is no entry point.

6 THE INTERPRETER: The interpreter did not understand if the witness said that
7 there was or there was not another CECA-20 church.

8 MR HOOPER:

9 Q. Just let me ask again: Do you know if there was just the one CECA-20 church
10 or was there another one? There was an interpreter's misunderstanding. Do you
11 know if there was more than one CECA-20 church?

12 MS LUPING: Mr President, just returning to the question that was put to the
13 witness as to whether he recognised this church and the witness's response, I think in
14 fairness to the witness and for clarity for the Chamber it would be useful if
15 Mr Hooper could explain to the witness when this photograph was taken, what year.

16 MR HOOPER: Well, the photograph was taken in the last couple of years.

17 Q. Do you know whether there was more than one CECA-20 or not?

18 A. You are referring -- are you referring to the recent period or a period further
19 back in time? I haven't understood your question properly, because there is only
20 one CECA-20 church in this area.

21 Q. All right, thank you. Can I come back to one matter? Do you know an
22 educational establishment called l'institut Muzora, and I am talking back in 2003, 2002,
23 back in those days?

24 A. Yes. Between 2002 and 2003 I knew that institute, Institute Muzora.

25 Q. Do you know if, at that time, it was functioning or not?

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1 A. Yes. At that time, the Muzora Institute was no longer functioning at Bogoro.
2 It had been transferred to Bunia and it was in the Lembabo neighbourhood. I beg
3 your pardon. In the course of the year 2000 up to 2003, I think that the Muzora
4 Institute was situated just after the Nyakasanza bridge. That's where the Muzora
5 institute was, not far from Bunia. It was -- this was between 2000 and 2003, so this is
6 where the Muzora Institute was, not far from Lembabo.

7 Q. Thank you. Now, you may recall telling us you were a member of PUSIC.
8 Did you ever meet a man called (Expunged)?

9 THE INTERPRETER: The interpreter is waiting for the interpretation to come
10 through. The interpreter has not heard the answer from the Swahili booth.

11 MR HOOPER: Can I ask to go into private session, in any event?

12 PRESIDING JUDGE COTTE: (Interpretation) We've had a small technical problem
13 with the interpretation. The most recent exchange has not been interpreted and we
14 have heard voices different from those we ought to be hearing. Perhaps the witness
15 could go back to his last answer. I'm very sorry, but we have had a technical
16 problem.

17 MR HOOPER: Can we go into private session, and I'll ask the question in private
18 session?

19 PRESIDING JUDGE COTTE: (Interpretation) We'll go into private session and
20 then we will stop five minutes before the adjournment. Madam Court Officer, could
21 we go into private session, please.

22 (Private session at 1.15 p.m.)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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13 (Expunged)

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17 (Expunged)

18 (Expunged)* Open session

19 MR HOOPER: I don't think I have got any other questions, but as we are not
20 advancing the case any further this morning, can I reserve my position just in case on
21 reflection there is a matter I have omitted to put which occurs to me over the weekend?

22 But I don't anticipate there is any further questions from me at this stage. So thank
23 you, Mr Witness, and we will see you again on Monday -- Monday afternoon, I think.

24 PRESIDING JUDGE COTTE: (Interpretation) Monday afternoon, indeed. Before
25 the witness leaves us and of course, yes, Mr Hooper, you can think over whether you

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1 have any more questions for the witness or not. Can I ask if Mr Mathieu Ngudjolo's
2 team has any idea of the time they will need for their examination of the witness
3 which will be starting on Monday afternoon?
4 MR KILENDA: (Interpretation) Could Mr Hooper tell everybody whether he has
5 in fact finished his examination or not?
6 PRESIDING JUDGE COTTE: (Interpretation) He has just implied that he thinks he
7 has finished but in the course of the weekend extra questions may come to mind, and
8 we understand that if that is the case there will be a limited number of questions from
9 Mr Hooper. Is that correct, Mr Hooper?
10 MR HOOPER: I thought I made it pretty clear. I think I have finished, but as we
11 have an opportunity for reflection, let's reflect, but I am pretty sure I have finished. I
12 have got no surprise questions, nothing up my sleeve, or anything like that.
13 PRESIDING JUDGE COTTE: (Interpretation) Very well. Then we will work on
14 the basis that you may be asking for leave to ask two or three final questions at
15 half-past-2 on Monday afternoon, and then we will be handing over to the Defence
16 team of Mathieu Ngudjolo, but do you have any idea roughly of the time you will
17 need for your examination so that the Prosecution team and the witnesses -- the
18 victims' representation can organise themselves?
19 MR KILENDA: (Interpretation) We are going to be using this weekend to read the
20 transcripts of course. I think 30 minutes would be a bit of an exaggeration, in fact.
21 MS LUPING: It was just a minor point, Mr President, just to point out we are still in
22 private session.
23 PRESIDING JUDGE COTTE: (Interpretation) I do apologise. That is a shame.
24 Madam Court Officer, I think it would be very useful if the discussion which
25 started - let me look - from line 12, page 67 of the French - the provisional French

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1 transcript onwards, this was a point where Mr Hooper says, "I have no further
2 questions," et cetera, et cetera, from that point onwards can it be reclassified so that
3 these passages do appear in the transcript.

4 Madam Luping, can you give us any rough estimate of the length of time of your
5 examination of the witness?

6 MS LUPING: Mr President, we will obviously respect our allotted time. Of course
7 it will to a large extent also depend on the questions that are put for the team for
8 Mr Ngudjolo.

9 PRESIDING JUDGE COTTE: (Interpretation) Very well. It is certainly difficult
10 for you to be any more precise. So, Witness, we will see each other next Monday at
11 half-past-2, not 2 o'clock as we would have wished, but half-past-2, sitting for a total
12 of four hours, and we hope that one of the accused gentlemen will be feeling better by
13 then. Perhaps some final questions from Mr Hooper. After that, the Defence team
14 of Mathieu Ngudjolo, the questions of the Prosecution, the legal representatives.
15 Everybody has understood that on Tuesday we will probably be spending the first
16 two hours of the hearing on a different point and the witness will only be joining us
17 around 11 o'clock. Mr Witness, thank you very much indeed for this first morning
18 which you have spent with us. We will be seeing each other again on Monday at
19 half-past-2. Court usher, could you conduct the Witness 176 out of the courtroom.

20 Private session. (Expunged)

21 (Expunged)

22 (Expunged)

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25 (Expunged)

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1 (Expunged)

2 (Expunged)* Open session

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much indeed for
4 that, Mr Hooper. Yes, indeed, Mr Witness, we did get the impression that you were
5 not getting the interpretation at one point in time and we were going back over what
6 was said. The Court was saying that we were not indifferent at all to your problems,
7 but that your problems were not necessarily linked to what we hoped to learn from
8 your testimony.

9 Court usher, could you conduct the witness out of the courtroom, please. Yes,
10 Madam Court Officer, we need to go back into closed session. Thank you for
11 reminding me of that.

12 (Closed session at 1.28 p.m.)

13 (Expunged)

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15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

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23 (Expunged) (Open session at 1.29 p.m.)

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

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much indeed. We

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1 are not putting you into question at all. At least on point 8, can we agree that all the
2 parties agree that this attack took place on 24 February 2003, in the early morning, in
3 Bogoro? Yes, I'm turning towards Mr Hooper, I'm turning towards Mr Kilenda.
4 *Mr HOOPER: Yes.
5 PRESIDING JUDGE COTTE: (Interpretation): We'll leave you a little time to think
6 about the first seven questions, but on point 8.
7 MR KILENDA: (Interpretation) Yes, we do agree that this attack took place on
8 24 February 2003, no more than that.
9 PRESIDING JUDGE COTTE: (Interpretation) Does the beginning of the morning
10 pose you a real problem?
11 MR KILENDA: (Interpretation) Yes, the Court will appreciate this, but we do
12 agree on the date of 24 February 2003 in Bogoro. That is the date of the attack.
13 PRESIDING JUDGE COTTE: (Interpretation) We'll leave you time to reflect on the
14 first seven points, which are questions of geographical localisation and we -- if we
15 could, in the course of the next hearing, agree upon these considerations which
16 could -- if possible, could no longer be contested by different parties, then I think that
17 would be a considerable step forward.
18 Thank you to everybody who has agreed to help us out, taking an extra two minutes
19 of our time. We'll see each other on Monday at half-past-2. We are going to
20 adjourn, and we hope that Monsieur Mathieu Ngudjolo feels better very soon.
21 Thank you.
22 (The hearing ends at 1.31 p.m.)
23 RECLASSIFICATION REPORT
24 Pursuant to Trial Chamber II's oral order dated 6th May 2011, the two
25 excerpts of the transcript page 55 line 18 to page 57 line 19 and page 58 line 2 to 11 (*)

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1 are reclassified from private session to open session.
2 CORRECTIONS REPORT
3 The Court Interpretation and Translation Section has made the following corrections
4 in the transcript:
5 *Page 18 lines 14 to 15
6 “(Expunged)”
7 is corrected by
8 “(Expunged)
9 (Expunged)”
10 *Page 25 line 24
11 “I think that one attacker was killed”
12 is corrected by
13 “I think that ten of the attackers were killed”
14 *Page 59 lines 4 to 5
15 “I’m turning towards Mr Kilenda.
16 We’ll leave you a little time to think about the first seven questions,”
17 is corrected by
18 “I’m turning towards Mr Kilenda.
19 Mr HOOPER: Yes.
20 PRESIDING JUDGE COTTE: (Interpretation): We’ll leave you a little time to think
21 about the first seven questions,”