

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 Tuesday, 22 February 2011
10 The hearing starts at 9.01 a.m.
11 (Closed session)
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
17 (Expunged)
18 (Expunged)
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20 (Expunged)
21 (Expunged)
22 (Expunged)
23 (Expunged)
24 (Open session at 9.03 a.m.)
25 COURT OFFICER: (Interpretation) We are in open session,

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

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1 your Honour.

2 PRESIDING JUDGE COTTE: (Interpretation) Good morning, ma'am.

3 THE WITNESS: (Interpretation) Good morning.

4 PRESIDING JUDGE COTTE: (Interpretation) Can you hear what I'm
5 saying?

6 THE WITNESS: (Interpretation) Yes.

7 PRESIDING JUDGE COTTE: (Interpretation) And how are you today?

8 THE WITNESS: (Interpretation) Yes.

9 PRESIDING JUDGE COTTE: (Interpretation) Very well. We can
10 begin -- or, rather, we can continue the proceedings.

11 Mr. O'Shea, please proceed.

12 MR. O'SHEA: (* Microphone not activated) ... your Honours, thank
13 you very much.

14 QUESTIONED BY MR. O'SHEA: (Continued)

15 Q. Good morning, madam. I hope you survived the night of cold. I
16 didn't manage to very well, but that's the -- that's the weather of
17 The Hague, I'm afraid.

18 Continuing from yesterday --

19 MR. O'SHEA: Your Honours, I have an echo in my ears. Is there
20 an explanation for that?

21 PRESIDING JUDGE COTTE: (Interpretation) I will ask the
22 Court Officer, who apparently is able to reply to any and all questions.
23 Personally, I do not here an echo, but if you are hearing an echo in the
24 headset, we'll have to deal with this problem. Do you still hear an
25 echo? Are all the other microphones turned off to ensure that there's

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1 no --

2 MR. O'SHEA: Well, it's there. Maybe it's because I'm using my
3 own earphones. Let me see. Yeah, that does make a slight difference.
4 That's a shame because I prefer these ones.

5 Q. Madam, continuing from yesterday, we were talking about the
6 two meetings which you had in September of last year, and my question now
7 is this: Did any of the victims who were present on those days express a
8 personal opinion about who was responsible for the attack on Bogoro?

9 A. Yes. There were some victims who were giving their testimony.
10 You know, victims know who was responsible for the attacks that occurred.

11 Q. I'm waiting for a translation. I don't know.

12 THE INTERPRETER: Message from the English booth: We did provide
13 an interpretation. I believe it was recorded. Perhaps counsel could
14 look at the English transcript.

15 The English interpreter will repeat. The answer was:

16 "Yes, there were some victims --" the interpreter will repeat
17 the last reply:

18 "Yes, there were some victims who were giving their testimony.
19 You know, victims --"

20 MR. O'SHEA: I'll just continue.

21 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea, just to
22 ensure that the discussions are quite clear, perhaps we need a bit of a
23 technical update. Perhaps it would be best for you to repeat your
24 question and we'll have the witness answer again so that everything is
25 perfectly clear. Could you please put your question again. The witness

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1 shall answer, and that way we can have a linear record of our
2 proceedings, so to speak. Is that all right by you?

3 MR. O'SHEA: Well, actually, Mr. President, I see that an answer
4 came on the transcript, and I'm happy with that answer if it came out on
5 the French transcript.

6 PRESIDING JUDGE COTTE: (Interpretation) Could you please read
7 out the reply that you received just to make sure that we are all on the
8 same -- dealing with the same information.

9 JUDGE DIARRA: (Interpretation) I don't understand this
10 resistance. I did not understand the question. The reality is that I
11 did not understand the question.

12 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea, we shall
13 try to get things off to a good beginning this morning. Could you please
14 put your question once again.

15 Mr. Luvengika.

16 MR. LUVENGIKA: (Interpretation) Your Honour, with leave, I
17 would like to ask my learned friend Mr. O'Shea to be very specific in his
18 question, particularly in terms of time. I have the impression that the
19 witness -- I have the impression that the witness did not quite
20 understand the scope of the question.

21 PRESIDING JUDGE COTTE: (Interpretation) I'm looking at page 3
22 of the French transcript, line 19, and Mr. O'Shea was speaking. He said:

23 "The victims who were present that day, did one of them --"

24 Line 15:

25 "So, ma'am, let us continue with our discussion from yesterday

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1 when we were talking about the two discussions that you had in September
2 of last year."

3 And then "... my question is as follows: Now, the victims who
4 were present that day, did one of them express a personal opinion about
5 the person or people responsible for the attacks on Bogoro?"

6 And our witness, at line 24 of the French transcript, replied
7 saying:

8 "Yes, there were victims who gave their testimony."

9 Now, I'm not so sure that the entire answer was transcribed. I'm
10 not a hundred per cent sure of that in any event. Perhaps the simplest
11 thing, Mr. O'Shea, would be to re-put your question, and the witness will
12 be able to provide a more detailed reply, and then we will proceed from
13 that point on.

14 MR. O'SHEA: Yes. Very well, Mr. President, but can I just say
15 that I'm -- I'm a little disturbed by the intervention of my learned
16 friend a moment ago. If he wants to say, "I have the impression that the
17 witness that --" if he wants to make a statement to that effect, he must
18 ask the witness to go out first or not say it. When I'm asking a
19 question of this nature it is fundamental, and particularly in this case
20 where -- where counsel was present at these meetings.

21 PRESIDING JUDGE COTTE: (Interpretation) Understood, Mr. O'Shea.
22 I believe that we have to ensure that all parties do everything to ensure
23 that things are as simple as possible for the witness. We don't want the
24 witness to have the impression that she is being in the middle of a
25 procedural discussion.

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1 Please proceed, Mr. O'Shea.

2 MR. O'SHEA: Yes. Thank you, Mr. President.

3 Q. Yes, madam. My question was simply this -- and I think you
4 understood the question. I'm going to put it again. Following on from
5 what we were talking about yesterday, you mentioned -- we were talking
6 about two meetings that you had on the 10th and 11th of September, 2010,
7 last year; right? And for the assistance of Their Honours, I will recall
8 that I asked you yesterday how many people were present, and your answer
9 was that there were some other victims present.

10 So my question today is this: On these two days, the
11 10th of September and the 11th of September, 2010, did any of the victims
12 present express an opinion on who was responsible for the attack on
13 Bogoro?

14 You've given an answer, and it was understood by me at any rate,
15 but could you please repeat your answer.

16 A. Yes. I said that on the day that we had the meeting there were
17 victims, and each one of the victims provided his or her version of the
18 events. The victims were identifying the people responsible for the
19 events that occurred. You know, when we meet, each victim comes with his
20 or her version. Each victim has lost family members. As well, all the
21 victims identified the people responsible of the events that occurred
22 there.

23 Q. Thank you. Now, during your interview in September 2010, on the
24 10th and 11th of September, 2010, having given your story, was your story
25 read back to you?

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1 A. You know, you can't sign a document that has not been read back
2 to you.

3 Q. That's your -- your opinion, is it? You would not sign a
4 document that was not read back to you; is that right?

5 A. Yes. It was only after the reading back that I could sign a
6 document.

7 Q. So would it be right that contrary to what you said yesterday,
8 you did, in fact, sign your application form to participate in these
9 proceedings after having had it read back to you?

10 A. Could you please ask your question again.

11 Q. Yes, of course. On the 6th of May, 2008, you made an application
12 to participate in these proceedings, and you were assisted by another
13 person in filling in the application form, and you have explained to us
14 that that was one person. You have accepted that you signed that
15 application form, and my question is this: When you signed that
16 application form, was that after the contents of that application form
17 had been read back to you?

18 A. A person came to see me. That person asked me who I was, and I
19 asked that person who she was, and she told me that she was in charge of
20 finding the victims. So on the basis of her answer, I realised that it
21 was an important matter, and I signed the document.

22 Q. But just so that we're very clear, let me repeat my question one
23 last time. A moment ago, you said that you would not sign a document
24 which was not read back to you. So here's my question again for one last
25 time: The application form that you filled in 2008, was its contents

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1 read back to you before you signed it?

2 A. They gave me clear explanations, clear and precise explanations.

3 When I understood these explanations, I signed the document.

4 Q. And are these clear and precise explanations clear and precise
5 explanations of what you had told them -- or what you had told her,
6 sorry?

7 A. Yes. The person came with the form and asked me some questions.
8 I answered the questions, so the person said to me, "If your statements
9 are correct, sign the document," and I signed the document.

10 Q. Thank you. Now, subsequent to those meetings on those two days
11 in September of last year, at the end of last year, in December, very
12 shortly before Christmas, on the 16th of December, 2010, and then again
13 at the beginning of this year, not so long ago, on the 10th of January,
14 2011, you again were interviewed about what happened in Bogoro and about
15 your particular story; is that right?

16 A. Yes, that is right.

17 Q. And when you had stated the things that you wanted to state on
18 those days, were you asked to sign your statement?

19 A. Yes. At the end, I signed the documents.

20 Q. And before you signed the statement, was the contents of that
21 statement read back to you?

22 A. They asked me questions. I answered the questions. They wrote
23 down my answers. But I didn't know what the content was of what they
24 were writing down.

25 Q. So is your answer that your statement on those two days was not

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1 read back to you before you signed it?

2 A. Yes. Well, I knew very well. They asked questions, and I
3 answered the questions, and they read the questions and answers, and
4 that's -- they said, "Is that how you answered the question?" And I
5 said, "Yes."

6 Q. Now, on those days, your -- I'm still talking about the last
7 interviews that you had, the very end of last year and the beginning of
8 this year. On those days, you spoke about your original application form
9 which you had made in 2008, didn't you? Do you remember -- do you
10 remember talking about it?

11 A. Yes.

12 Q. And when you were discussing with people in that interview about
13 your application form, was that application form shown to you on that
14 day?

15 A. I remember when I was asked the question about the earlier form,
16 they asked me whether I had signed the earlier form, and I said yes, I
17 had signed the 2008 form. Because in 2008, I was asked whether I was in
18 agreement with what had been written on the form, and I said yes.

19 Q. Do you remember who it was who asked you whether you had signed
20 your 2008 application form in your last meeting?

21 A. Yes, I remember. Do you want me to give that person's name?

22 Q. Yes, please.

23 A. Well, you know, when we are asked questions, we answer the
24 questions in the presence of an interpreter and that interpreter spoke to
25 us in Swahili. It was a lady. Her name was Flora Mbuyu.

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1 Q. And who was the person asking the questions?

2 A. The person who was asking the question was Nsita, Mr. Nsita.

3 Q. Now, apart from asking you whether you had signed your
4 application form in 2008, were you shown your application form in 2008?

5 A. Yes, there was a form, and I saw it, and when I saw it, I
6 remembered that, indeed, I had made that statement.

7 Q. Now let me move on to a different topic. During your course of
8 your evidence, you described who the ethnic groups were at Bogoro prior
9 to 2003, so I'd like to ask you about that. You say that there were
10 Lendu who were part of the population in 2003. Did those Lendu include
11 men and women?

12 A. Yes. At the time when we were living in Bogoro, amongst the
13 population there were Lendu and Ngiti men and women.

14 THE INTERPRETER: "Ngiti men," repeats the witness.

15 THE WITNESS: (Interpretation) And there are still men and women
16 of these ethnic groups in the region.

17 JUDGE DIARRA: (No interpretation)

18 MR. O'SHEA: I can assist Her Honour. The witness referred to
19 Lendu and Ngiti in her last answer. My question was: "Did that include
20 men and women?" And she says, "Yes, there were Lendu men and women," and
21 she referred to Ngiti men.

22 Q. Were these Lendu and Ngiti men and women present in Bogoro among
23 the population in December 2002?

24 A. Yes. They were part of the population that was living there in
25 that year and indeed before. When they were nice to us, they would give

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1 us information, and they also spoke to the Hema who were in Bogoro as
2 well.

3 Q. And in December 2002, were there significant numbers of Lendu and
4 Ngiti living in Bogoro?

5 A. No, there weren't many of them. Some had already left, but some
6 had remained behind. So there were both Lendu and Ngiti in that year,
7 and they were the ones who provided information to the Hema who were
8 there.

9 Q. And can you estimate how many Lendu and Ngiti were living in
10 Bogoro in December 2002?

11 A. At the time, I was running my business, and my job was not to
12 count the number of Ngiti or Hema or Lendu there were in the population.

13 Q. Did you meet them during the course of your business activities?

14 A. When you went around in town, you would meet the people, of
15 course, who live in the same town. That's quite usual.

16 MR. O'SHEA: Can I go into closed session, please, your Honour,
17 and I'll stay in closed session for a little while, so I'll try and group
18 my questions together in closed session.

19 PRESIDING JUDGE COTTE: (Interpretation) Could we therefore
20 please, Madam Court Officer, move into closed session.

21 And, Mr. O'Shea, as soon as you feel that we can move back into
22 open session, tell us as quickly as possible, please.

23 MR. O'SHEA: Yes, indeed.

24 (Private session at 9.36 a.m.)

25 (Expunged)

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1 (Open session at 10.23 a.m.)

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

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

6 For the benefit of the public, we have been in private session
7 for quite some time now because the questions being asked by Mr. O'Shea
8 in the context of his cross-examination were questions that could have
9 identified the witness. They dealt to a large extent with where the
10 witness lives. Our witness, complying with the instructions we gave her
11 yesterday, has been speaking calmly and slowly, and of course that led to
12 our remaining in private session for a long period of time.

13 Before moving into open session, the Court also reminded
14 everybody that the allocated speaking time is to be respected. The
15 speaking time decided upon in the paragraph 29 of the ruling of the
16 9th of November, 2010, which was drawn to everyone's attention at the
17 beginning of the meeting, and also that Mr. Luvengika questioned the
18 witness for a period of 1 hour and 57 minutes yesterday.

19 Mr. O'Shea, you may continue.

20 MR. O'SHEA: Yes. And just to assist your Honours, I can make it
21 plain, it's not my intention to attempt to establish facts through this
22 witness. The entirety of my cross-examination so far, and I think the
23 remaining part of my cross-examination is likely to have the sole purpose
24 or virtually the sole purpose of dealing with the reliability and
25 credibility of this witness, and of course, the statement which led to me

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1 having to do that did not take, in itself, more than three minutes
2 between question and answer. So it's less a question of the
3 proportionality of what I'm doing in comparison to my learned friend and
4 more a question of what I need to do in order to deal with that one
5 potentially damaging sentence.

6 But that having been said, I hear your Honour and I am
7 sympathetic to your Honour's concerns, and I will proceed as
8 expeditiously as I possibly can.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. O'Shea.
10 It is always difficult to strike a balance between substance, on the one
11 hand, and on the other hand, the necessary *expediency in the proceedings.
12 Please continue.

13 MR. O'SHEA:

14 Q. Now, Madam Witness, you have professed to have been living in
15 Bogoro, and as a result, you followed the events which preceded the
16 Bogoro attack. When I say "the events," you followed what would have
17 been happening in Bogoro in the weeks or months or even years prior to
18 the Bogoro attack.

19 Now, am I to understand your evidence to be that prior to the
20 attack of the 24th of February, 2004 -- sorry. Sorry. It's 2003. Just
21 illustrates how easy it is to -- to have a slip of the tongue or
22 recollection even on something that's very basic in the trial. 2003,
23 that prior to that attack there were no other attacks on Bogoro itself.
24 Is that your position?

25 A. Before the attack of 2003, there had been another attack in 2001.

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1 Q. So why was it that when you had the warnings in 2002 and early
2 2003 with respect to the February attack, you thought that it might only
3 be pillage? Why was that?

4 A. I thought that because when there was an attack in 2001, we, the
5 members of the population sought refuge at the Bogoro Institute, and at
6 that time there was fighting between soldiers, and the Lendu were doing
7 nothing more than looting. But those who were unlucky enough to be
8 caught along the way were killed. That being said, there were not that
9 many victims. That is why we thought that when another attack occurred,
10 we would go and seek refuge at the camp and that we would be safe there.

11 Q. So in 2000 -- the attack of 2001, did that include your village?

12 A. Yes. During that attack, the assailants came from the mountain,
13 and they went by way of the centre and very close to us, and then they
14 moved towards the institute.

15 Q. Did they reach the institute?

16 A. No. They did not arrive at the institute because the soldiers
17 were more numerous than the assailants. The assailants were made up of
18 members of the population whose only aim was to loot, whereas the
19 soldiers had weapons. That is why the forces were disproportionate, and
20 the assailants, less strong in comparison with the soldiers, fled after
21 doing some looting here and there.

22 Q. And which group did the soldiers belong to in 2001?

23 A. They were members of the national army known by the acronym APC.

24 Q. And in 2001, did the -- did the male members of the population in
25 Bogoro assist the APC to fend off the attack?

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1 A. The members of the population of Bogoro at that time did not help
2 the soldiers. Some hid in the bush, others in houses, others fled. And
3 that was the day when they headed towards Kasenyi.

4 Q. Now, in the months and weeks leading up to the 24th of February
5 attack, what was the name of the commander of the troops in the camp at
6 the Bogoro Institute?

7 A. I didn't know the name of the commander of those soldiers,
8 because they were soldiers from the regular army. So I didn't know the
9 name of that commander.

10 Q. But at that time, there must have been discussions amongst the
11 population about the soldiers who were there in large numbers in the
12 middle of the town.

13 A. I'm talking to you about the events in 2001. At that time -- or,
14 rather, the fighting in 2003. That was the third fight. After 2001 and
15 2002, there was other fighting as well.

16 Q. So when you say that you don't know the name of the commander of
17 the soldiers in the UPC camp, you didn't know that name in 2003; is that
18 correct?

19 A. It wasn't the UPC. It was the APC.

20 Q. Let's talk about 2003 for a moment. Who were the soldiers at the
21 Bogoro Institute in 2003?

22 A. In 2003, the soldiers from the UPC first drove out the Ugandans
23 who went back to Bunia. That was first. So first there were the
24 Ugandans and then the APC soldiers, and when the attack occurred in 2003,
25 it was the UPC who were at that place, but many of them died.

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1 Q. Just so that we're clear, is it your position that you don't know
2 the name of the commander of the UPC troops in 2003?

3 A. There was a commander in 2003 on site, but I've forgotten the
4 name of that commander. I can tell you what I know, but I can't make
5 something up. I know that there were soldiers, I know there was a
6 commander, but I don't know the name of that commander.

7 Q. So is it right that during the time that the UPC was there, that
8 commander's name would have been mentioned a number of times, but it's
9 just that you don't remember that name today?

10 A. During the course of that year, I wasn't paying attention to the
11 activities of the soldiers. I was focusing on my own activities. So
12 it's difficult for me to answer that question.

13 Q. In which month and year did you hear the name "Germain Katanga"?

14 A. I heard the name "Germain Katanga" when preparations were
15 underway for the third attack.

16 Q. You explained to the Court that those preparations -- or, rather,
17 that the rumours regarding those preparations occurred a little before
18 2003, and then you clarified that this was in December of 2000 -- 2002
19 and January of 2003.

20 Was it in December 2002 that you heard the name
21 "Germain Katanga"?

22 A. Well, usually we celebrate Christmas in December. At that time,
23 the Ngiti women would go to the market with their foodstuffs. At one
24 particular point in time there were many of them, and at another time
25 very few of them came. We were used to going to see the -- seeing them

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1 at the marketplace. And they hid nothing. They told -- they said, "We
2 see you coming to the marketplace, but in our locality some training is
3 going on." And we asked them, "What kind of training?" And they said it
4 was training for the young people. They went on to say that
5 Germain Katanga was gathering the young people and bringing them together
6 in a training camp. And after Christmas, we had learned nothing. Later,
7 in January, the same women told us that the situation was worsening, and
8 they told us, "Well, we're coming here to the market to get some salt,
9 *You should go into the forest. There will be an attack.." They added that Katanga was
10 in the process of training young people in Geti.

11 Q. Did they use the word "Katanga"?

12 A. Yes. They mentioned the name of Germain Katanga.

13 Q. Did they say "Germain Katanga," did they say "Germain," or did
14 they say "Katanga"?

15 A. They gave both names. Everything that was going on, some members
16 of the population told others.

17 Q. So in these discussions that you had with these Ngiti, did you
18 hear the name of other people? Did you hear other names?

19 A. Yes, other names were mentioned.

20 Q. And which names were those?

21 A. Another person was mentioned who had a group. That person was
22 Cobra Matata. His name was also mentioned.

23 Q. And which other names were mentioned?

24 A. These women were giving the name of the person who brought
25 disturbances to our locality, in particular, Germain Katanga,

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1 Cobra Matata, and Yuda. Those are the three names that were given.

2 Q. Did you ever hear the name Kandro, spelt K-a-n-d-r-o?

3 A. I'm not familiar with that name.

4 Q. Did you ever hear the name Kabayonga?

5 A. I don't know that name. I've given you the names of the people I
6 know.

7 Q. Since 2005, there's been a lot of discussion of Germain Katanga,
8 hasn't there?

9 A. I left the locality in 2003. I knew those names already, and
10 those names were known to other people well before that time.

11 Q. But since 2005, you've heard the name Germain Katanga a lot,
12 haven't you?

13 A. After the attack, we learned that Germain Katanga and other
14 people were travelling about from one place to another, and it was said,
15 for example, that such and such a person committed such and such an act
16 at a particular place.

17 Q. When you were having your interviews in 2008 and in 2010,
18 with Mr. Nsita, with NGOs, or when you were having meetings with other
19 victims, did anybody ever say to you that if Germain Katanga was
20 convicted, that you could get reparations?

21 Are you having trouble with that, answering that question?

22 A. It's difficult for me to answer your question. I don't
23 understand.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea, you do need
25 to make sure that the question was understood. You might want to

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1 rephrase the question. I, too -- I'm not entirely sure that the witness
2 understood the question. You have three minutes, so please rephrase your
3 question.

4 MR. O'SHEA:

5 Q. Has anybody ever explained to you that if at the end of this
6 trial Mr. Katanga is convicted, that this could help you get reparations,
7 compensation?

8 A. At one particular time I asked the question whether -- if after
9 the statements that I'd just given, what the outcome would be. That is
10 the question that I asked, but up until now I have not had any answer to
11 that question.

12 PRESIDING JUDGE COTTE: (Interpretation) We only have
13 four minutes left, Mr. O'Shea. Either you have a short question, or we
14 continue after the break.

15 MR. O'SHEA: I have one short question and then we can have the
16 break, if that's okay.

17 PRESIDING JUDGE COTTE: (Interpretation) Please, go ahead.

18 MR. O'SHEA:

19 Q. So is it -- is it your evidence that you have been asking the
20 people that have been assisting you, including the lawyers and the NGOs,
21 that after you have given your statements what would the outcome be and
22 no one has given you an answer? Is that your evidence?

23 MR. LUVENGIKA: (Interpretation) No, that is not what the
24 witness just said. I would encourage my learned friend to re-read the
25 statement to the witness. She did not speak about testimony.

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1 PRESIDING JUDGE COTTE: (Interpretation) We will now suspend the
2 hearing. Everyone shall focus. Mr. O'Shea shall put his question again
3 during the second part of today's hearing.

4 Before we take our break and before the witness leaves the
5 courtroom, since we have to go into closed session, I would like to ask
6 the Court Officer to give an EVD number to the list that we were using
7 yesterday. We didn't do that.

8 Madam Court Officer, could you remind me? I believe it was the
9 list that Mr. Luvengika -- no, no, no. It is -- it is the name of a
10 person who was working as a shepherd or herder. And I believe we need an
11 EVD number for that person.

12 COURT OFFICER: (Interpretation) Thank you, your Honour. That
13 document shall bear the number EVD-V19-00003.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

15 COURT OFFICER: (Interpretation) And shall be recorded as
16 confidential.

17 THE INTERPRETER: Overlapping speakers.

18 PRESIDING JUDGE COTTE: (Interpretation) Would you like this
19 name to be placed on the case file? Do you remember the name of the
20 locality where a member of the family was living, or should I give you
21 some time to think about that and we will talk about it later? It's as
22 you wish.

23 MR. O'SHEA: I think I mentioned the name in open court
24 afterwards, if I remember correctly, in which case it's not necessary,
25 but I suppose there's no harm in it.

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1 PRESIDING JUDGE COTTE: (Interpretation) You are correct. I
2 myself spelled it out, I believe.

3 Witness, you will now have half an hour to rest. Thank you very
4 much for helping us this morning. We will go into closed session so the
5 witness can leave the courtroom in a low-key manner.

6 Mr. O'Shea, I'll remind you that we will resume with you at
7 11.30, and you will have to think very carefully about the amount of time
8 that you have left, and then we will turn to Mr. Kilenda and
9 Professor Fofé in accordance with the arrangement that has been made.

10 (Closed session at 10.58 a.m.)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Open session at 10.59 a.m.)

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

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

21 We will now suspend the hearing and resume at 11.30.

22 Recess taken at 11.00 a.m.

23 On resuming at 11.35 a.m.

24 (Closed session)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Open session at 11.35 a.m.)

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

9 PRESIDING JUDGE COTTE: (Interpretation) Over to you,

10 Mr. Luvengika.

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

12 Judge, for letting me speak. I wanted to say a couple of things. The

13 first point concerning my intervention concerns Mr. O'Shea's style of

14 questioning. I think that there have been some things which have already

15 been stated and confirmed before this Court, and when he is pointing out

16 what the witness already said in her statements, previous statements,

17 then there should be a communication of the statements, and there should

18 be re-reading of the statements by the witness.

19 Up until now we have not interrupted in order not to disrupt the

20 proceedings and in order to save time. However, we wanted to remind the

21 Court of this principle, so that for the further parts of the proceedings

22 and so that the Defence in the cross-examination, we can comply with the

23 customs and usage of this Court. That is the first point.

24 The second person concerns the rules of confidentiality. The

25 legal representation teams are extremely careful about the rules, the

1 rules of conduct, and I am referring, in fact, to the transcript of
2 today, page 31, line 25.

3 I think, personally, we should not start to delve too deep into
4 the relationships that Mr. Katanga had with the clients. This witness is
5 giving evidence as an independent witness, and I think it would be not a
6 good thing if we were to push her to relate the substance of the
7 discussions which she had with her counsel.

8 This I wanted to say to you, Judge, in the absence of the
9 witness. Thank you.

10 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea, please,
11 very briefly.

12 MR. O'SHEA: Yes. I find myself in front of a pile of buckets
13 and spades, because when we're dealing with Prosecution witnesses, we
14 have a lot more latitude with regard to the length and depth of our
15 cross-examination, so I have to cut to the chase, and I have to, to some
16 extent, overrun the courtoisie of providing all the transcript references
17 when I -- when I feel that the points I'm making are known by the other
18 parties. So certainly I will attempt to comply with what my learned
19 friend says, but at the same time, I'm under the cosh.

20 With regard to the interview process, I'm addressing motive, and
21 I'm addressing contamination, motive of the victim to testify against the
22 accused, and contamination from others. And there's nothing unusual or
23 unethical about asking questions about the interview process. It's done
24 all the time. In fact, I don't remember a single criminal trial I've
25 been involved in where it hasn't been touched upon, to be honest.

1 PRESIDING JUDGE COTTE: (Interpretation) Well, thank you to both
2 of you.

3 On the first point, that is to say the references to the
4 statements themselves, which are always desirable, of course. Mr. O'Shea
5 has stated he always wants to get down to brass tacks straight away, but
6 let us agree, nevertheless, that it would be preferable to refer to the
7 witness's statements so that at least things are clear for the witness.
8 And this is also useful for the examination, cross-examination for this
9 witness, and for the following witness. So insofar as is possible, it
10 would be preferable to refer to the relevant passages in the statements.
11 There's no problem in the statements which we have. They are very short.
12 I think we can refer to them very quickly if necessary.

13 On the second point, the Chamber was expecting this point to be
14 made and actually thought it would have been made earlier. The question
15 asked at the end of page 31 of the provisional transcript in French, I'm
16 putting this in inverted commas, "could," could bring into question the
17 Legal Representative of the victim. However, we do understand what the
18 purpose was to allow Mr. O'Shea to continue. He said he was particularly
19 interested in the reliability of this witness victim, so I think it's
20 good to point out that everybody can make their -- or express their own
21 points of view. The Court has taken notice of it, and we will now
22 pursue.

23 Let us move back into closed session so that the witness may
24 enter, and then Mr. O'Shea will continue his cross-examination.

25 Mr. O'Shea, I do understand that I'm pressing you a little here,

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1 but you know me well now. Have you any idea how long your
2 cross-examination will last? Reveal yourself.

3 MR. O'SHEA: Well, it's difficult because I'm constantly, second
4 by second, thinking how I can cut down the branches. I will try my best
5 to be finished in the next 15 minutes or so, but if I -- if I go slightly
6 over that and -- don't guillotine me, please.

7 PRESIDING JUDGE COTTE: (Interpretation) No. Since 1981, France
8 has stopped beheading people, stopped this type of punishment.

9 Madam, could we move back into closed session, please.

10 (Closed session at 11.45 a.m.)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Open session at 11.46 a.m.)

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

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

22 Madam Witness, once again good morning to you.

23 THE WITNESS: (Interpretation) Good morning.

24 PRESIDING JUDGE COTTE: (Interpretation) We will continue, and

25 Mr. O'Shea is going to finish his cross-examination, so you will

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1 therefore be once again answering his questions.

2 Mr. O'Shea.

3 MR. O'SHEA:

4 Q. Madam Witness, hello again. Without referring to your previous
5 statements earlier during these proceedings, I'm just going to -- to ask
6 you straight. Has it ever been explained to you by anyone what will be
7 the consequences for you if Germain Katanga is convicted?

8 A. This is a question which I've never had the opportunity to talk
9 about, given that the Court has not yet given its decision on this.

10 Q. Right. Next, I'm going to put it to you, and what I mean by that
11 is that it's my position, our position for Mr. Katanga, that in the
12 latter half -- in the latter part of 2002 and the first weeks of 2003,
13 Ngitu women could not come to the market in Bogoro. If they did so,
14 their life would be in danger.

15 A. I did not say this. I didn't talk about these two weeks.

16 Q. I'm not talking about two weeks. I'm talking about from
17 August 2002 until February 2003. I'm saying it would have been too
18 dangerous for any Ngitu woman to come to the market in Bogoro. That's
19 what I'm saying to you. Do you agree?

20 A. Yes. They went to the market. The women went to the market,
21 because it was the women who brought food to sell on the Bogoro market.

22 Q. Well, it's my suggestion that they wouldn't have done that during
23 that period, Ngitu women or Lendu women.

24 A. Well, if you say that the Lendu didn't come, how is it that they
25 could be in the church? They used to go to the church.

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1 Q. Well, you see, my position is that -- that the difficulty here is
2 the difference between your account and the truth, because the reality is
3 that, yes, you know Bogoro very well; and, yes, you may have lived there
4 a long time; and, yes, you may have visited there during the relevant
5 period we're talking about in this trial, but you were not living there
6 during the relevant period in this trial. That's -- that's why you are
7 able to give details about Lendu and Ngiti women, because Lendu and Ngiti
8 women may very well have come to the market and to the church at the time
9 you were living in Bogoro, but during the time of these events in
10 February 2003 and earlier, that was impossible.

11 A. In 2002, before Christmas, the women used to come in groups. At
12 the beginning of 2003, they were scared of coming.

13 Q. Right. Now, you've spoken about an attack in 2001, an attack
14 which you say did affect your village. You've spoken about the attack in
15 2003. Was there an attack on Bogoro in 2002?

16 A. Yes, there was indeed an attack. Yes, there was indeed an attack
17 in 2002. I've forgotten the month or the date, but I can confirm that
18 there was an attack in 2002.

19 Q. And did that attack affect the place where you were living?

20 A. Yes. They started, (Expunged)
21 (Expunged)

22 Q. And these attacks must have strained the relations between the
23 Hema and the Lendu, did they not?

24 A. Are you referring to the attack of 2002?

25 Q. The attacks of 2001 and 2002, both of which reached your village,

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Questioned by Mr. O'Shea (Continued)

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1 must have affected the relations between the Lendu and the Hema of
2 Bogoro. It must have strained those relations.

3 A. After the first attack of 2001, these people killed and looted.
4 After that, the road was reopened. The Ngiti could move around, because
5 the soldiers were there on the spot, and anybody who harmed or killed
6 somebody else was stopped by them. So the Ngiti and the Lendu could move
7 around.

8 Q. But there was tension between the two groups, was there not?

9 A. Despite the fact that the situation was not good, but it wasn't
10 worse than in 2003. In this period, it was the soldiers which were
11 ruling. The Lendu couldn't attack the Hema, and the Hema couldn't attack
12 the Lendu during this period, because the soldiers were there, and the
13 soldiers were imposing the rule, and people lived together within the
14 community.

15 Q. And you see, in August 2002 and subsequently, when the UPC came,
16 they were also attacking Lendu and Ngiti villages. That's correct, isn't
17 it?

18 A. Could you ask your question again, please.

19 Q. Was the UPC attacking Lendu and Ngiti villages from August 2002?

20 A. When elements of the UPC were in the town, they would patrol, and
21 the soldiers all patrolled within the area which they were in charge of.

22 Q. In 2001 and 2002 and the beginning of 2003, the relations between
23 the Hema and the Ngiti and the Lendu were not good, were they?

24 A. Yes. Relations amongst the different ethnic groups were not
25 good, but towards the end, things were even worse.

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1 Q. You see, we know what you said yesterday in court, so I don't
2 need to bear back on that, but I'd like to remind you of what you said in
3 your statement, your first statement that you gave to the Legal
4 Representatives of the 10th and 11th of September, 2010, at paragraph 3,
5 and I read in French, and because my French is so bad, I hope your
6 Honours will give me a few more seconds to my time:

7 "(Interpretation) Before the war of 2003, there were different
8 tribes in Bogoro, Hema, Nande, Azande, Lulu, Alurs, Ngiti, Lendu, and
9 Bira. Amongst us, relations were generally good. There had already been
10 troubles, but in the surrounding villages. I never thought that we -- I
11 would live through what we lived through in February 2003."

12 (In English) Now, that is significantly different from the
13 testimony that you're giving now, isn't it, because you're now saying
14 that there were -- there was an attack in 2001, there was an attack in
15 2002, and contrary to this paragraph, both of those attacks affected your
16 village and that relations were not good between the ethnic groups but
17 that they got worse. Those are two significantly different positions,
18 aren't they? Would you like to explain them?

19 A. Well, when you asked me the question, "When you were living in
20 Bogoro, what ethnic groups were there," I gave the list of ethnic groups
21 that lived in Bogoro, and I mentioned the Azande and the others, and that
22 is how it was. Those were people who were living there before the war.
23 There was an NGO that we called the Ibuna (* phon) Society, *Société*
24 *d'Ibuna*, and that is an NGO that brought people together at Bogoro.
25 You're talking about 2001, 2002, 2003. Attacks took place, and it was

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1 the attack of 2001 that led to the members of the Iguna (* phon) Society
2 being afraid. They were white missionaries and they left, but before
3 that you had different ethnic groups living together in harmony.

4 Q. And I'd just like to put to you one last time that the UPC were
5 attacking Ngiti and Lendu villages between August 2002 and February 2003,
6 including, for example, Zumbe, Lakpa, and Songolo. Do you agree?

7 A. From Bogoro to Songolo there is quite a long distance. The UPC
8 could not go there. How could they set about doing that? How could UPC
9 soldiers set about crossing over, getting to the other side, going from
10 one place to the other among the places that you mentioned? It was
11 impossible.

12 Q. Okay. That's your position. I'll -- I'll move on to something
13 else -- well, what about Lakpa and Zumbe, because they're very close to
14 Bogoro, aren't they?

15 A. I'm sorry, what are you saying? I don't really understand.

16 Q. Did the UPC attack Lakpa and Zumbe in 2002, early 2003?

17 A. I did not see UPC soldiers go -- going to Zumbe, because at the
18 beginning of 2003, when we had already been given information about the
19 attack that was being prepared, the UPC was carrying out patrols in the
20 area that was under their control, within the boundaries of that area.

21 Q. You see, for example, I suggest to you that if you'd been in --
22 living in Bogoro on the 31st of August, 2002, you couldn't possibly not
23 know that the UPC had attacked Songolo on that day.

24 A. I didn't hear about that UPC attack against Songolo, and I'm
25 really wondering whether the UPC had the means to attack Songolo.

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1 Q. And you also would have heard of attacks on Zumbe and Lakpa,
2 especially those locations, since you were so close to them. This would
3 have been the subject of rumours had you been living in Bogoro at the
4 relevant time.

5 (Expunged)

6 (Expunged), and I

7 will talk about what happened, but I will limit myself to what I know. I
8 will not talk about what I don't know about.

9 Q. All right. Now, on the day of the 24th of February, 2004, you
10 say that you woke up at 5.00 in the morning to the sound of gunshots, and
11 those gunshots were coming from the direction of the institute of Bogoro;
12 is that correct?

13 A. That was not in 2004. It was in 2003, but it is true.

14 Q. Yes, my fault. 2003. And -- and when you came out of the house,
15 did you hear gunshots coming from the other direction, from the direction
16 of Bunia?

17 A. No, not at all. There were no gunshots coming from Bunia. I
18 heard shots coming from the Bogoro Institute.

19 Q. And when you were running towards the Waka mountain, did you hear
20 gunshots coming from the Waka mountain?

21 A. Between the institute and Waka, you have a -- it's not a
22 1 kilometre distance. When we were fleeing, we could still hear
23 gunshots.

24 Q. But my question is: Did you hear gunshots coming from the
25 Waka mountain or only from the area of the Bogoro Institute?

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1 A. I did not tell you that I was leaving from Mount Waka. I left my
2 house to head towards the institute, and because there were violent
3 gunshots coming from the institute, we could not go there. We went
4 somewhat to the side of it. But when we arrived on Waka hill, we hid for
5 a while and then we left again. There were no gunshots coming from
6 Waka hill. There were gunshots coming from the institute, and that is
7 where there were soldiers, and also where civilians died, civilians who
8 were there also at the institute.

9 Q. Were you -- were you aware of the point in time when the UPC ran
10 out of ammunition?

11 A. With regard to ammunition, that is a military matter. A civilian
12 really can't judge.

13 There was an attack in Bogoro. There were deaths among the
14 soldiers as well as among civilians. There were Lendu and Ngiti, a large
15 number of them, and because all of the ways through were blocked, people
16 had to flee. For the people who were in the camp it was difficult to get
17 out. There were civilians in the town, but no civilian got into the camp
18 because there were soldiers in there. So as a civilian, I really could
19 not say at what point the soldiers ran out of ammunition.

20 Q. You see, I suggest to you that being located where you were
21 located as you have described to this Court, it would make absolutely no
22 sense to run towards the Bogoro Institute, because you were 30-minutes'
23 walk away from the Bogoro Institute. You woke up to firing coming from
24 the Bogoro Institute, and therefore, you -- what you -- what you -- what
25 you did didn't make any sense. But what you -- what you said in your

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1 application form about reaching the Bogoro Institute and then going up to
2 Waka mountain, that would make more sense, you see.

3 Do you see the problem?

4 A. I did not get to the institute. There was no way of getting
5 there. And from my house, to be able to run away -- well, normally we
6 intended to go to the institute, but because the route was blocked, we
7 went to Waka hill. The Lendu and the Ngiti had not yet got to the hill.
8 They were still fighting against the people who were coming from the
9 town. There were soldiers who were heavily armed who had surrounded the
10 area where the institute was located, and so I did not get to the
11 institute.

12 Q. Now, when you're -- when you're going to Uganda from Bunia, you
13 explain the following in your statement at paragraph 16, you say:

14 "(Interpretation) We went through Bogoro."

15 A. Yes, that's right. There is only one road which goes to Uganda,
16 and that's the one that leaves from Bogoro.

17 Q. (In English) And -- and you went -- you went through Kasenyi.

18 A. When you leave Bogoro to go to Uganda, you have no other option
19 but to go through Kasenyi.

20 Q. And you -- and you continue at paragraph 16. You say:

21 "(Interpretation) We were in a vehicle which was moving slowly.
22 The houses no longer had roofing. The straw houses had been burnt. The
23 grass was growing where there had been houses. The Kavali primary
24 school, which is along the road, no longer had its sheet *metal roofing. The
25 CEKA church did not either."

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1 A. Yes. We travelled in a large truck of the UPDF soldiers, and
2 when we were on that vehicle, it was possible to see what was going on
3 along the roadway. Because it was a military convoy, the soldiers were
4 driving slowly to try and channel the flow of people who were walking to
5 get away, and there were a lot of people on the road.

6 Q. (In English) The Ugandans were travelling slowly, but they were
7 travelling continuously, weren't they, because they had an objective,
8 which was to get to Uganda.

9 A. I am not talking about stopping, but, for example, when I come
10 out of here and go outside, I can see the people around me or the people
11 who are close to where I am walking. And so when we were in that vehicle
12 travelling along that road, we could see what was going on around the
13 roadway, along the roadside.

14 Q. But you agree that the vehicle did not -- the vehicles did not
15 stop. You agree with that.

16 A. The vehicle did not stop, but it was travelling slowly.

17 Q. You see, I suggest to you that if you're coming from Bunia and
18 your objective is Uganda and you're going via Kasenyi, the route that you
19 would take, in fact, the route that the Ugandans did take, would not
20 allow you to see the Kavali primary school or the church CECA, would it?

21 A. No, you are wrong. The Kavali school is on the roadside, and the
22 CECA 20 church was a local church which was there on the Bogoro road on
23 the left side, and the school was on the right side of the road. And
24 everything that was going on along the roadside was clear to be seen.
25 Nothing was hidden.

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

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1 Q. Yes. Well, that's -- that's wrong, isn't it, because the --

2 *l'église* CECA is down the road that goes towards Diguna?

3 A. That is another road. You are talking about a different road.

4 There were two missions. There was an IEC mission, and then there was
5 the CECA 20 mission, and in Dodoy there was also another church, and that
6 church was not far away from the primary school, but it was not the same
7 road as the one that I'm talking about. When we came back, there was no
8 church, and there were no more houses there. The NGOs built other houses
9 and other churches. Even the Diguna NGOs' buildings were not there
10 anymore. Where did all those buildings go?

11 MR. O'SHEA: If I could just go into closed session for one
12 minute, your Honour.

13 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if you
14 would.

15 (Private session at 12.22 p.m.)

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8 (Open session at 12.25 p.m.)

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

11 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea, you can
12 continue.

13 COURT OFFICER: (Interpretation) The document remains
14 confidential.

15 MR. O'SHEA:

16 Q. Could you please look at those four names mentioned there. Don't
17 mention any of the names out loud, please. Just use the numbers 1, 2, 3
18 or 4. Just read through the names in your own time and then tell us if
19 you recognise any of those names.

20 Have you had a chance to read them? I should have asked you if
21 you read. I assume --

22 A. Yes. Yes, I have read them. I have read the list.

23 Q. And do you recognise any name on that list?

24 A. I recognise the name appearing at number 1. With regard to
25 number 4, I know the last name mentioned -- or, rather, I know the

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

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1 first name only of that name, because I can see that there is a -- there
2 is a list of names mentioned under number 4. I don't know the other
3 names. I just know the first name.

4 Q. Now, with regard to number 1, when was the last time you saw that
5 person?

6 A. I lived in the same collectivity as that person listed at
7 number 1, but the person in question lived more specifically in the
8 locality of Dodoy.

9 Q. When was the last time you saw that person?

10 A. I don't remember the last time I saw that person, because we
11 didn't live in the same locality, and I did not often go out of my
12 locality. So if you want me to tell you the truth, I don't remember
13 exactly when the last time was that I saw this person.

14 Q. Have you seen this person this year or last year?

15 A. This person is currently living in Kasenyi. I saw her last year,
16 and I also saw her this year, but she lives in Kasenyi. But her mother
17 and the other members of her family are in Bogoro.

18 (Defence counsel confer)

19 MR. O'SHEA: Can I just have one moment, please, your Honour, to
20 consult with Mr. Hooper?

21 PRESIDING JUDGE COTTE: (Interpretation) Yes, you do have a
22 moment to consult him and then conclude.

23 (Defence counsel confer)

24 MR. O'SHEA:

25 Q. Do you know where that person was on the 24th of February, 2003?

Witness: Witness DRC-V19-P-0002 (Resumed) (Open Session)
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1 A. During that year, she was with me there, but I don't know whether
2 she was there on the date that you gave, because there's a long distance
3 between her parents' home and the place where we were.

4 Q. And at that time was she living in Kasenyi?

5 A. No. It was quite recently that she set up her residence in
6 Kasenyi after her time in Uganda.

7 Q. And you know this person. Do you believe she knows you? Have
8 you had conversations together in the past?

9 A. This person knows me as a resident of Bogoro, just as I know her
10 as a resident of Bogoro.

11 MR. O'SHEA: Those are -- those are all my questions.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. O'Shea.

13 Before the Mathieu Ngudjolo Defence team addresses the Court, the
14 Chamber, at the end of this cross-examination by Mr. O'Shea, would like
15 to receive some information from the witness, details that we believe are
16 important.

17 Yesterday, and this is in the French transcript, page 50 and 51,
18 you mentioned an item of information that came from a group of women who
19 had come from Beni, and that information had to do with the names of the
20 people responsible for the attack of the 24th of February, 2003. You
21 gave two names at page 51 of the transcript, lines 1 to 3, the names of
22 the two accused.

23 This morning, once again, you spoke of these women who came to
24 the market and gave you some information according which preparations
25 were underway for an attack, and you gave us three names, the name of

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1 Mr. Katanga, the name of Cobra Matata, and then Yuda.

2 Now, I'm saying this just to remind you of your previous
3 statements.

4 Similarly, yesterday, once again page 50 of the French
5 transcript, you mentioned training that apparently was given by a person
6 that was referred to as number 2. Now, the information provided from
7 number 2 and the names of the people responsible that number 2 gave to
8 your parents and that your parents passed on to you the next day, were
9 the names of the people responsible the same as the names of the people
10 that the women spoke of at the marketplace?

11 THE WITNESS: (Interpretation) Yes. The people who were at the
12 marketplace told me the same thing as person number 2, person number 2 on
13 the list.

14 PRESIDING JUDGE COTTE: (Interpretation) So you thus confirm
15 what you said yesterday that we find at page 50, lines 21 and 22. And
16 this also comes from person number 2, and also from these women who were
17 at the market. So the names of the two accused people.

18 My second question that I would like to ask you, Witness, is as
19 follows: You heard these rumours, the information, that you received at
20 the market. Did you pass on this information to the civilian and
21 military authorities of Bogoro, you or other people, or did you keep this
22 information to yourself?

23 THE WITNESS: (Interpretation) Other people informed the
24 authorities, I didn't, and thus soldiers conducted some patrols.

25 PRESIDING JUDGE COTTE: (Interpretation) Patrols, yes, but do

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1 you have the impression or the feeling, if you remember, that -- do you
2 remember if these alerts that were given to the civilian authorities and
3 to the people responsible for the camp were taken seriously? The
4 authorities of the UPC camp.

5 THE WITNESS: (Interpretation) That item of information was
6 true, and that's why the information was important, so that people would
7 know what was going on in the area.

8 PRESIDING JUDGE COTTE: (Interpretation) Yes, but do you have
9 the feeling that the civilian authorities, the civilian people
10 responsible for Bogoro, as well as the military authorities, were aware
11 of the importance of this information, or did they think, in your
12 opinion, that this information was just a different view point, and it
13 was something that was not going to be any more than what occurred in
14 2001 and 2002? In your opinion, did they really assess the seriousness
15 of the events that were being prepared for?

16 THE WITNESS: (Interpretation) At that time, we saw the number
17 of soldiers increased, and I think that increase was due to the decision
18 taken by the authorities who were there on site.

19 PRESIDING JUDGE COTTE: (Interpretation) Who is now speaking?
20 You, Mr. Kilenda. Very well. Mr. Kilenda, you have 45 minutes this
21 morning at your disposal, and then you will continue tomorrow.

22 Now, once the Court Officer has given the Chamber the exact
23 amount of time taken by Mr. O'Shea, we will give you the same amount of
24 time. Now, you may not exceed the time taken by Mr. O'Shea, but for the
25 next witness, you will have to endeavour to do your very best.

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1 Now, I can see that madam -- the Court Officer -- the
2 Court Officer informs us that Mr. O'Shea took 2 hours, 31 minutes, which
3 is much more than what Mr. Luvengika began (* as interpreted).

4 We shall begin this witness. You shall not exceed this amount of
5 time. Try to take less time, and for the next witness, we shall all have
6 to be very disciplined.

7 Now, before Mr. Kilenda addresses the Court, we will now provide
8 an EVD number to the list that Mr. O'Shea just made use of, that list
9 with four names on it.

10 MR. O'SHEA: I should have mentioned that. I'm not good with
11 some of these small procedural points. Yes, it should have an EVD
12 number.

13 PRESIDING JUDGE COTTE: (Interpretation) Court Officer.

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

15 This list of names recorded as DRC-D02-0001-0431, shall be
16 attributed the following number: EVD-D02-000109, and shall be registered
17 as confidential.

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

19 Mr. Kilenda, you may proceed.

20 MR. KILENDA: (Interpretation) Thank you, your Honours. First
21 of all, I wish to reassure the Chamber that my team will not exceed the
22 time-limit that you have set out. I believe that the jurisdiction in
23 this regard is quite clear.

24 PRESIDING JUDGE COTTE: (Interpretation) It is very constant.

25 QUESTIONED BY MR. KILENDA:

Witness: Witness DRC-V19-P-0002 (Resumed) (Private Session)
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1 Q. (Interpretation) Good afternoon, Witness.

2 A. Good afternoon.

3 Q. I am Jean-Pierre Kilenda. I am a lawyer, and I belong to the
4 Brussels Bar in Belgium, as well as the Kinshasa-Gombe Bar in the
5 Democratic Republic of the Congo. I am here as Defence counsel for
6 Mr. Mathieu Ngudjolo, and I would like to ask you a number of questions,
7 and this, of course, is because one day the Chamber shall be ruling on
8 this case that is before us.

9 MR. KILENDA: (Interpretation) Your Honour, with your leave,
10 could we please go briefly into closed session.

11 PRESIDING JUDGE COTTE: (Interpretation) Court Officer.
12 (Private session at 12.45 p.m.)

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Witness: Witness DRC-V19-P-0002 (Resumed) (Private Session)
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12 Page 59 expunged – Private session.

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19 (Open session at 1.03 p.m.)

20 COURT OFFICER: (Interpretation) We are now in public session.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

22 MR. KILENDA: (Interpretation)

23 Q. Madam Witness, I would like to refer to the standard application

24 for participation in a procedure, a case, before the International

25 Criminal Court. This is a document which you signed on the 6th of May,

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1 2008, and I am reading point 1 of section D in which you were asked for a
2 detailed description of the crime -- alleged crime or crimes which are at
3 the origin of this request, and you say:

4 "On the morning of the 24th of February, 2003, Bogoro woke up to
5 the sound of heavy and light arms fire of the Lendu, Ngiti, and Bira.

6 Myself (Expunged)

7 (Expunged) managed to get to the

8 Bogoro Institute where most of the civil population of Bogoro had got to.

9 When the UPC soldiers were short of munitions, it was chaos and people
10 were running for their lives. The enemies invaded the school and the
11 whole village. One of those running behind me --" and I stop here.

12 And then on the 10th of January, 2011, last month, in fact, when
13 you make your complementary statement, paragraph 6, you say, and I quote
14 here, I'm quoting you:

15 "Initially I wanted to go to the institute, but, in fact, I
16 didn't get there because the gunfire was too heavy. Since it was
17 impossible for me to get there, I headed for the Waka hill by going
18 through the bush."

19 Now, Mr. O'Shea and even Mr. Luvengika will correct me if I'm
20 wrong, but this morning when Mr. O'Shea asked you about these statements,
21 you said, I think on page 7 of the transcript -- Mr. O'Shea wanted to
22 know if you had re-read -- if you had been read back your text before you
23 signed it, and you said that you couldn't sign, you wouldn't sign a
24 document which had not been read to you.

25 Do you have any explanation to make to the Court about the

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1 differences between these two versions? In 2008, you say that you
2 reached Bogoro Institute, and in 2011, you say that you didn't make it
3 there. Do you have any explanation whilst, in fact, both statements were
4 read back to you?

5 A. I didn't go to the institute. The route which led to the
6 institute could not be taken. I wanted to go there, but it was difficult
7 to get to the Bogoro Institute.

8 Q. But in 2008, five years after the Bogoro events, why did you say
9 that you managed to get to the Bogoro institute?

10 MR. LUVENGIKA: (Interpretation) Your Honour.

11 PRESIDING JUDGE COTTE: (Interpretation) Yes.

12 MR. LUVENGIKA: (Interpretation) I'm sorry to interrupt
13 Mr. Kilenda. As I was saying just now, we only ask for one thing, to be
14 honest with the witness. Mr. Kilenda, therefore, is referring -- should
15 refer to the response given by the witness in her answers. There is a
16 difference between what was filled in in the first statement and the
17 statement which she made to the Legal Representatives. Mr. O'Shea has
18 questioned the witness about a statement which she made which she said
19 she wouldn't sign, so why when filling up this form she didn't re-read
20 it. I think she said that she trusted the people, she trusted the
21 person, and therefore signed the document. She didn't say that it had
22 been read back to her.

23 PRESIDING JUDGE COTTE: (Interpretation) I think we'll need to
24 go back to the transcript.

25 MR. LUVENGIKA: (Interpretation) This is on page 63.

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1 PRESIDING JUDGE COTTE: (Interpretation) Answering a question
2 posed by Mr. O'Shea, it seems to me, personally, that Madam Witness this
3 morning said, at the end of a very lengthy discussion, that the questions
4 which she had been asked when she filled in her application form and the
5 answers which she gave had been read back to her. That doesn't mean to
6 say that she re-read it, but it seems to me that the questions and her
7 answers were re-read back to her, and it was at the end of that process
8 that she signed. This is what I remember, although I haven't read the
9 transcript of the beginning of the hearing.

10 MR. O'SHEA: Without going to specify sentences in the
11 transcript, in fact, at one point the witness said that she had not had
12 the application form read back to her. At another point in her evidence,
13 she said that she had had the application form read back to her. And yet
14 on a third occasion she had said that the application -- she'd never seen
15 the application since the time she filled it in, and then on another
16 occasion she said that she did. So we have four responses relating to
17 the application form, as far as I'm concerned, which can be paired into
18 twos so far as how they lie.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
20 Mr. O'Shea.

21 What I think is important is that the sense of your -- of the
22 line of your questioning this morning was to try and discover if the
23 witness had been able to check at the time when the redaction -- the
24 drawing up of her application request was coming to an end, if it
25 accurately reflected what she had said. And the Court had noted down, as

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1 she spoke, what she said. She said that the questions -- my answers were
2 read back to me, the questions were read back to me, my answers were read
3 back to me, and your Presiding Judge got the feeling that the witness had
4 not just signed anything at that point in time. I think Mr. Luvengika
5 and his learned friend will probably agree with me.

6 One thing is for certain. The Defence counsel of
7 Mathieu Ngudjolo simply wants to establish at this time, not wanting to
8 put the witness in any difficulty, is simply trying to understand why
9 there is a discrepancy between one form where apparently the witness
10 reached the Bogoro Institute and another form where the witness says that
11 she did not manage to get to the Bogoro Institute. And the witness, if
12 she can, will try -- through the questioning of Mr. Kilenda will try and
13 give us further details. Perhaps it is a question of nuance or simply
14 detail.

15 Madam Witness, we are listening to you.

16 I will not reformulate the question of Mr. Kilenda, but the Court
17 would simply like to know how you can explain the fact that, in 2008, you
18 indicated that you had reached Bogoro Institute, and in 2011, you said
19 you didn't get there. This may seem to you as a very artificial
20 question, whereas on the 24th of February, 2003, you were trying to save
21 your life and the life of your child. We have certainly understood this,
22 but if you could fill in this detail, explain this detail, then we would
23 be happy. If you can't, then Mr. Kilenda will move on to another
24 question.

25 Have you understood what I've been saying, Madam Witness?

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1 THE WITNESS: (Interpretation) Yes, I have understood. However,
2 I am very surprised by the fact that you were saying that I went to the
3 institute, because I did not go to the institute at that time, because
4 after the death of my child, I fled to the Waka hill, which is not close
5 to the institute, and I took another path to there, and I found a place
6 to hide. So I did not go to the institute because there was no way for
7 me to get there.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much
9 indeed, Madam Witness. So Mr. Kilenda and the Court will remember what
10 you have said here, under oath, that you could not get to the institute,
11 and that you were forced to go somewhere else. Mr. Kilenda has an answer
12 to his question. It's perhaps not what he wanted to hear.

13 MR. KILENDA: (Interpretation) I certainly have my answer.
14 Thank you.

15 Q. Madam Witness, from 2001 to February 2003, were the schools open
16 in Bogoro?

17 A. There was an attack at the beginning of 2001, and from that point
18 onwards, the schoolchildren were moved elsewhere and the school was
19 closed.

20 Q. Where were the children moved to?

21 A. The school was moved towards Bunia.

22 Q. And 2002, were there any schools in Bogoro?

23 A. No. There were no schools in Bogoro in 2002. However, there
24 were some buildings which were used for schooling, but there were no
25 pupils in the school establishments.

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1 Q. Where did your own children go to school?

2 A. I was scared to send my children to school, because there was no
3 schooling going on. So I stayed at home with my children.

4 Q. Thank you very much indeed, Madam Witness. Do you know (Expunged)
5 (Expunged), the organisation called (Expunged)?

6 A. No.

7 Q. You have never ever been in contact with (Expunged)?

8 A. What did they do? All I know is that after the attack, I
9 witnessed the presence of a certain number of NGOs in Bogoro.

10 Q. Amongst these NGOs was there not (Expunged)?

11 JUDGE DIARRA: (Interpretation) You have been asked what NGOs
12 were present. You will understand through reading the file.

13 MR. KILENDA: (Interpretation) Could you give me one minute,
14 please, your Honour.

15 (Defence counsel confer)

16 THE INTERPRETER: Filling in from the English booth, the remark
17 by Judge Diarra was: You were asked, Mr. Kilenda, what the activity of
18 (Expunged) was.

19 MR. KILENDA: (Interpretation) Could we move into closed
20 session.

21 PRESIDING JUDGE COTTE: (Interpretation) We have seven or
22 eight minutes left of this hearing. We are moving into closed session --
23 private session.

24 (Private session at 1.20 p.m.)

25 (Expunged)

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13 (Open session at 1.25 p.m.)

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

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much
16 indeed. We have very little time ahead of us. For the public we have
17 just had a discussion which deserved being held in closed session.
18 Ms. Denis, however, would like to say a few words in open session before
19 the court rises.

20 MS. DENIS: (Interpretation) Thank you very much, indeed,
21 your Honour. I will try and be brief and I will try not to speak too
22 quickly, which is one of my faults. I note that this request of filed
23 for participation which we have -- all have knowledge of, let me just
24 say, though, we have not had disclosure of the list of documents which
25 the Defence counsel wants to use. This is as a rule which is compulsory

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1 in The Hague, everybody works on the basis of this rule. It's a simple
2 courtesy to ask if our colleagues, our learned friends would also comply
3 with this vis-a-vis ourselves. So I would like to thank in advance our
4 learned friends for complying with this rule.

5 PRESIDING JUDGE COTTE: (Interpretation) We have time ahead of
6 us until tomorrow, if necessary. We can, of course, make up for anything
7 which was overlooked or forgotten. If Mr. Kilenda wants to produce new
8 documents, then do please communicate the list so we can work under the
9 best possible conditions tomorrow.

10 Madam Witness, thank you very much indeed for these four hours
11 you have spent with us. Thank you for answering these rather insistent
12 questions sometimes which may have surprised you and perhaps knocked you
13 off balance, but nevertheless they have borne fruit, and we would like to
14 thank you for having contributed to our better understanding of what
15 happened.

16 Court Officer, could we move back into closed session so that the
17 witness can move out of the court and then we'll go back into public,
18 open session in order for the Court to rise.

19 (Closed session at 1.28 p.m.)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Open session at 1.28 p.m.)

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

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

7 The Court would like to thank everybody who has attended and assisted to

8 this hearing. We see with great satisfaction that our court reporters

9 have made no comment at all on too fast a pace of speaking or

10 noncompliance with the five-second rule. So this is something which is

11 noteworthy.

12 The hearing ends at 1.29 p.m.

13 CORRECTION REPORT

14 The Court Interpretation and Translation Section has made the following corrections

15 in the 16 transcript:

17 * Page 45 line 24:

18 "which is along the road, no longer had its sheet roofing " is corrected by

19 "which is along the road, no longer had its sheet metal roofing"

21 * Page 25 line 11:

22 " the necessary diligence in proceeding " is corrected by

23 " the necessary expediency in the proceedings"

24 * Page 29 line 9:

25 "get some salt, and there will be an attack " is corrected by

- 1 “get some salt. You should go into the forest. There will be an attack.”
- .2 RECLASSIFICATION REPORT:
- 3 Pursuant to Trial Chamber II's email instructions dated 28th of June 2012, the
- 4 redactions ordered by the Chamber have been implemented.