

1 International Criminal Court

2 Trial Chamber II - Courtroom 1

3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and Judge

4 Christine Van den Wyngaert

5 Situation in the Democratic Republic of the Congo - ICC-01/04-01/07

6 In the case of The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui

7 Trial Proceedings

8 Friday, 27 November 2009

9 (The hearing starts at 2.07 p.m.)

10 (Open session)

11 THE COURT USHER: All rise.

12 PRESIDING JUDGE COTTE: (Interpretation) The hearing is now in session. Please
13 be seated.

14 Before bringing in the witness, the Chamber would like to give a response to
15 the request made of the legal representatives of victims and it will read it shortly.
16 In the comments on the order of questioning of witnesses, filed on 6 November 2009 by
17 the legal representatives of victims' filing 1605, this request amongst others, to order
18 the Prosecutor to communicate to the Defence and to the legal representatives of victims
19 the definitive order of appearance of the victims called for each section of the trial
20 and, at the latest, seven days before the date of the appearance of the victim -- the
21 witnesses concerned.

22 This was given to the Prosecutors and the Defence to communicate to the legal
23 representatives of victims as soon as possible and at the latest seven days before the
24 appearance of the witnesses concerned, the list of documents and the documents themselves
25 which the parties intend to rely on during the cross-examination of the witnesses.

1 In its decision of 20 November 2009, adopted in accordance with Rule 140 of
2 the Rules of Procedure and Evidence, the Chamber would like to rule on the procedure -- or
3 the Chamber ruled on a procedure to be adopted, on the procedure to be adopted where
4 it concerned the particular order of appearance of the witnesses, that's paragraph 8,
5 as well as where it concerns the use of documents for the main examination, for the
6 examination-in-chief; this is paragraph 103.

7 The question that we have to resolve is whether the legal representatives can
8 have access to the documents themselves with a view to making it possible to have effective
9 participation for victims in the proceedings in accordance with Article 68(3) of the
10 Statute, in the presentation of evidence by the parties to the proceedings, the Chamber
11 orders the parties to disclose to the legal representatives of victims the documents
12 that they intend to use during the examination-in-chief of the witnesses.

13 In particular, the Chamber orders the parties to make accessible to the legal
14 representatives of victims, via the Ringtail system, all the documents which are mentioned
15 in the list which is mentioned in paragraph 103 of the decision of 20 November 2009 and
16 at the same time as the list that -- at the same time this list is disclosed.

17 Translation in French of the decision relating to Rule 140, issued on 20 November
18 2009, should be available today.

19 Court officer, please, could you indicate to us the time that has been spent
20 by the Prosecutor on the examination of the witness since yesterday morning?

21 THE COURT OFFICER: (Interpretation) Between yesterday and today, so 40 minutes
22 this morning -- 14 minutes this morning. But, overall, four hours, 54 minutes with regards
23 to the legal questions put by the different counsel.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you, court officer. So, four
25 hours, 54 minutes, taking into account the time also given to an interesting discussion,

1 also with regards to the technical difficulties. With regards to the first examination
2 of witness who's come from afar, the Chamber considers it's fair to add to the time that
3 the Prosecutor would have available 60 minutes.

4 MR MACDONALD: (Interpretation) With your permission, if you would give me -- if
5 I could just make a point with regards to the minutes noted by the Registry and just
6 check something in this regard.

7 Thank you, your Honour.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Prosecutor. So, we won't
9 go systematically into accounts of this, we will just take into account the difficulties
10 that there were yesterday. Yes, Counsel O'Shea.

11 MR O'SHEA: President, your Honours, I apologise for getting on my feet at this
12 stage, I was just searching for an appropriate moment to do so.

13 I have a very short procedural matter I would like to raise orally. It won't
14 involve any argument or anything of that nature, but I would like to raise it now with
15 your Honour's permission.

16 Effectively, we would like to request this Chamber to grant us an extension
17 of time, and it relates to this: On the 23rd of this month, your Honours will remember
18 that we had an argument on the issue of clarification of the charges. Your Honours rendered
19 a decision, for which we are grateful, denying our application but inviting the Defence
20 and the Prosecution to get together to try and resolve our difficulties of clarification
21 based on the existing documents.

22 Now, if we were to seek leave to appeal from your Honours, I think it's under
23 Rule 155 of the Rules, it would have to do that within five working days. I note that
24 under Regulation -- under Regulation 35, time limits may be varied if grounds are provided
25 in a written or an oral application.

1 The ground upon -- what we seek an extension of time in relation to is the filing of
2 leave to appeal of your Honour's -- I'm sorry, I am speaking too fast.

3 What we seek is an extension of time for the time for filing of an application
4 of leave to appeal your Honours' decisions, and the ground upon which we seek that extension
5 of time is that we would like first to exhaust the remedy which your Honours have provided
6 us; that is to say, we would like to first engage with the Prosecution and see what the
7 Prosecution is capable of doing in assisting us with a clarification of the charges,
8 and then decide whether it is appropriate to seek leave to appeal your Honours' decision.

9 So that's what we are seeking. It's something I have already discussed with
10 Mr Macdonald, and I asked him, you know, how long he thought we would require to resolve
11 this matter. He tells me that he would like time to think about that, so I make the application
12 now, and perhaps Mr Macdonald, at another appropriate time, can let us know, if he agrees
13 with this application, how much time he would -- he thinks we would both need to resolve
14 the matter.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Counsel O'Shea. Last
16 Monday, we spoke about this question with regards to precision as to the Chamber's -- we
17 didn't give a particular time frame for you to get together on this particular point,
18 no? So, okay. Well, the problem of extension of the time frame isn't something that
19 we play with. It doesn't seem to be able to respond to you from the Bench without us
20 having taken the time to discuss this with the Chamber.

21 If we take the -- if we take Monday as a point of the departure, then the appeal
22 would already be over now. Thank you, Counsel O'Shea. This will make it possible for
23 you to respond -- to respond to you on Monday morning.

24 Court officer, I think that we can now go into closed session to introduce the
25 witness.

1 MR GILISSEN: (Interpretation) Your Honour, I would just like to make an
2 observation: We really have a feeling that the decision that you have just issued doesn't
3 give access, if I understand, to the table summarising the charges which was made by
4 the Prosecutor. That's how I understand it.

5 PRESIDING JUDGE COTTE: (Interpretation) I am not able to respond to you
6 immediately on that point.

7 MR GILISSEN: (Interpretation) If I -- if it should be the case that we don't
8 have access to the table summarising the charges, perhaps we could get a decision from
9 the Chamber in this regard without having to put in an application such that things become
10 more clear in this regard.

11 PRESIDING JUDGE COTTE: (Interpretation) Counsel Gilissen, you will also have
12 a response from us on Monday morning.

13 MR MACDONALD: (Interpretation) With your permission, I think this is a new
14 request for the first time on which the parties have had -- haven't been able to speak,
15 because the Chamber should decide on the participation modalities, but it was never an
16 issue there of the table. I am not saying that's the position of the Prosecution for
17 the moment. Counsel Gilissen has raised the issue, so I think that we have to take into
18 account this aspect as well.

19 PRESIDING JUDGE COTTE: (Interpretation) Perhaps this will also be taken into
20 consideration in the decision issued on Monday morning. So we are now going into closed
21 session for the witness to come in.

22 (Closed session at 2.20 p.m.)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Open session at 2.21 p.m.)

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

4 PRESIDING JUDGE COTTE: (Interpretation) So this session is -- we are now in
5 open session again. Prosecutor, you have the floor.

6 MR. MACDONALD: (Microphone not activated)

7 THE INTERPRETER: No microphone from the Prosecutor.

8 MR MACDONALD: (Interpretation) Court officer, if you could bring up this sketch
9 that was prepared by the witness and which we referred to yesterday, mainly, page -- the
10 middle page, I would describe it as, DRC-OTP-1007-0089, but without any marking.

11 Q. Witness, I am going to ask you to look at the screen, and perhaps you might
12 have to move seat in order to do so to mark the place -- I am therefore going to ask
13 you to look at this part of your sketch and to mark the place where this house of the
14 minister was.

15 A. I think that I can't recognise the place on this sketch.

16 Q. Is it possible in that case to show perhaps the previous page of the same sketch;
17 namely, 0090?

18 Are you able to see the place where the house of the minister you referred to
19 was - this morning - the house that was burnt by the fighters?

20 A. We can go to the other page.

21 Q. You mean the previous page which you just saw? If we can put 0089, please.

22 Very well. Yesterday, Witness, you referred to a moment in the days following
23 the attack that you went to Bunia.

24 MR MACDONALD: (Interpretation) We can take the image away now, take the picture
25 away, court officer. If we could save that image and give it an exhibit number before

1 we move on to the next question.

2 THE COURT OFFICER: (Interpretation) The document will be put in the file with
3 OTP-0013 as the number.

4 MR MACDONALD: (Interpretation) Very well. Either the witness could stay where
5 he currently is or -- I don't think I have any other exhibit to show him or any other
6 image to manipulate on a screen. Very well.

7 Q. Could we now move towards -- as you yesterday said during your testimony to
8 Lengabo, I realised that after a few days you went to that place; is that correct?

9 A. Yes.

10 Q. And you met a couple, you said?

11 A. Yes.

12 Q. My question is as follows: In Lengabo, were there other people, other than
13 this couple there?

14 A. In Lengabo, when I left, got off the road, there were other people there just -- I
15 spoke to the person who recognised me, and I recognised that person, and I asked the
16 question about the situation in Bunia.

17 Q. The other people who were there, where did they come from?

18 A. No, the people who were there were the inhabitants of that village, the village
19 of Lengabo.

20 Q. To your knowledge, the civilians who had left Bogoro, where did they go to,
21 for the most part?

22 A. All those who left Bogoro took that road. All the people went by Lengabo.

23 Q. The refugees in Lengabo, did you see any of them, any refugees of the attack
24 on Bogoro in Lengabo?

25 A. The refugees who fled the Bogoro attack, we are talking about the first attack

1 and the attack of the 24th, I recognised none of them. I left by way of a road that doesn't
2 go by the central part. I took a path, an indirect path.

3 Q. I see. I would like to ask you some questions about Nyakeru. Nyakeru is found
4 how far away from the UPC camp, if we were to make a direct line?

5 A. Nyakeru, the road that goes into Nyakeru goes into the main road of Bunia. If
6 you go to Nyakeru, you go by Bogoro, you get to Nagero (phon) and to the right -- no,
7 to the left, you move a little bit forward and you see the entrance to Nyakeru. Nyakeru
8 is somewhere between 13 and 14 kilometres away from Bogoro.

9 Q. So when you arrived there in Nyakeru, yesterday you said that you had seen some
10 things. You said that you had seen the general situation there, is that not so?

11 A. Yes.

12 Q. Could you repeat what sort of state the place was in?

13 A. As I explained, when I left Nyakeru, I didn't take the main road. I went through
14 the bush. When I got to Nyakeru, it was night-time. Night was falling. I saw the situation.
15 It had been burnt. Everything was destroyed. In Nyakeru, there was nothing. And when
16 I wanted to leave Nyakeru, crossing Lengabo, in Nyakeru I saw two women in the fields.
17 I saw them from far away. And when I left Nyakeru, I crossed the Bogu river in Lengabo.
18 When I continued towards the river, I saw two bodies. I kept on going, and I went and
19 hid. I went to hide in the bush by Lengabo at night-time. The only light was the moonlight.

20 Q. Can you make a distinction between the gender of the corpses? Were they men
21 or women?

22 A. I couldn't make that distinction because, when I saw those dead bodies, I thought
23 that they were young people, children, about ten years old. I didn't pay attention to
24 look carefully because I, myself, was scared.

25 Q. Then you went to Bunia, I gather, as you told us at the very beginning of your

1 testimony.

2 A. Yes.

3 MR MACDONALD: (Interpretation) Now I would like -- unless, your Honour, unless
4 you would like me to pause momentarily. So, at this stage, I'd ask for private session,
5 your Honour.

6 PRESIDING JUDGE COTTE: (Interpretation) Madam Courtroom Officer, could we go
7 into private session, please?

8 (Private session at 2.38 p.m.)

9 (Expunged)

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12 (Open session at 2.42 p.m.)

13 THE COURT OFFICER: (Interpretation) Open session.

14 MR MACDONALD: (Interpretation)

15 Q. What did you learn from the account of these two people when you were in Bunia?

16 A. When I met them in Bunia, first of all, I was happy and they were happy, too,
17 that we had met up there in Bunia again. Secondly, we told each other how we had been
18 able to survive and get back to Bunia.

19 Q. What were you told about fleeing, about getting away?

20 A. They told me this: They took the same road as I had, and they went to Kahirihohu
21 (phon). But, once they got there, they took a different route than I did, because I took
22 the mountain road or path.

23 Q. Initially, you talked about going to -- that they wanted to go to Kasenyi, and
24 you decided not to follow them, and you took a different path. Did they tell you any
25 information about -- well, the fact that they had gone towards Kasenyi?

1 A. The fact that -- the idea of going to Kasenyi was a suggestion that I had made
2 to them when we were in the bush. We said to them, "Listen, let's not stay here, because
3 the bush had been burnt. Let's get out of here and find some way to get to Bunia." And
4 after thinking, they refused, and they said they didn't have any family members in Bunia.
5 And they said, rather, they had family members in Kasenyi. So, I said to them, nearly
6 all of the members of my family were in Kasenyi, but all the same we had to go to Bunia
7 first, and then find a way to go to Bunia -- to Kasenyi, rather, and we stayed there
8 the whole night. And then, after that discussion, I left them there and I moved towards
9 Bunia, and then they, too, tried to find a strategy to get away and get out of that place.
10 And that's why one day later -- my memory isn't very good. They left and they took my
11 itinerary and looked for a way to get to Bunia. They didn't go to Kasenyi as they thought
12 they were going to initially.

13 Q. You weren't with them, but they told you what they did or what they tried to
14 do; is that not so?

15 A. Yes. I wasn't with them, because I went before them. But then later, they told
16 me how they had left that place after me and met up with me later in Bunia.

17 Q. Do you know whether they tried to get to Kasenyi?

18 A. No. No, they didn't try to go to Kasenyi. They got to Kasenyi after Bunia,
19 because first they went to Bunia and then they tried to get to Kasenyi.

20 Q. Now, I understand - and we won't name names, because this is an open session,
21 sir - I understand that after, in Bunia, you also met survivors of the attack of 24 February
22 2003 on Bogoro and you talked to them about what had happened or how events had unfolded
23 in Bogoro; is that not so?

24 A. Yes, that's right.

25 Q. And I understand that with some of these people, you talked about the situation

1 or what had happened to some women or young girls.

2 A. Pardon me; could you repeat your question?

3 Q. Certainly, I will repeat my question. Once you got to Bunia, you talked to
4 survivors, and my question is: Did you talk about what happened to some women or some
5 young girls during the attack?

6 MR O'SHEA: May I suggest that my learned friend rather uses a formulation such
7 as: What did you talk about.

8 MR MACDONALD: Is it an objection?

9 MR O'SHEA: Yes; it's leading.

10 MR MACDONALD: (Interpretation) Now, I understand that I can do that, but then,
11 if the witness, depending on the answers that he provides, I may ask you to -- to refresh
12 his memory. I certainly can't lead the witness, but we must make progress, and that is
13 why the Prosecution is asking questions that may come very close to that dividing line
14 between a leading question and a non-leading question.

15 PRESIDING JUDGE COTTE: (Interpretation) It seems to me that you should be trying
16 to get the answers you want with questions that are phrased differently.

17 MR MACDONALD: (Interpretation) With leave, could we go into private session?

18 PRESIDING JUDGE COTTE: (Interpretation) Madam Courtroom Officer, could
19 you -- could we please go into private session?

20 (Private session at 2.50 p.m.)

21 (Expunged)

22 (Expunged)

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2 (Expunged)

3 *A. (Expunged) is among the people who were taken hostage during the Bogoro attack.

4 First she hid, and then when he left the -- his hiding spot, he was taken to the camp,

5 and when they got to the camp with him, he had to carry things to go toward the Ngiti

6 locality. And when they went to Ngiti locality, some girls had been caught as well. And

7 once they were there, she was married to an enemy soldier. Him and another woman stayed

8 there and (Expunged). Myself, I didn't meet that person. It was a long time ago.

9 (Expunged)

10 (Expunged)

11 (Expunged)

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1 (Open session at 3.30 p.m.)

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

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

4 Mr Prosecutor, please proceed.

5 (Expunged)

6 (Expunged)

7 (Expunged)

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12 (Expunged)

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15 (Expunged)

16 (Expunged)

17 Do you remember writing those names on a piece of paper when you met with the

18 OTP?

19 A. Yes, I remember giving that name -- those names.

20 MR MACDONALD: (Interpretation) Fine. The Prosecution would ask whether we

21 could call exhibit DRC -- but before showing it -- I will just give you the number, but

22 before showing it, I think we have to make sure it can't be seen by the public, but we

23 will continue in public session -- open session. DRC-OTP-0070-0092 annex 3 of the statement.

24 I beg your pardon. First page.

25 MR O'SHEA: Mr President, is it the intention of the Prosecutor to place this

1 document in front of the witness?

2 PRESIDING JUDGE COTTE: (Interpretation) Mr Prosecutor?

3 MR MACDONALD: (Interpretation) I am getting mixed up with my microphone hear,
4 changing languages. The witness just clearly said that he doesn't remember the names.
5 He just said that during his hearing, he mentioned those names. We have the annex, and
6 I would like to refresh his memory.

7 MR O'SHEA: Well, thank you, Mr Prosecutor, for that clarification. I remind
8 your Honours of the criteria -- sorry, I am receiving a translation myself. Hang on a
9 second.

10 The criteria that your Honours set out earlier today with regard to this type
11 of matter, I don't think that your Honours' assessment of this witness as being an articulate
12 witness who expresses himself well without difficulty, et cetera, have changed.

13 The document which the Prosecution is wishing to put in front of this witness
14 is a document -- I am aware that the witness is listening, but it doesn't matter I don't
15 think at this stage. The document which the Prosecutor wishes to put in front of the
16 witness was part of the witness' statement taken by the Prosecutor. So, the Prosecutor
17 has played a role, let me just put it that way, has played a role in the production of
18 that document.

19 This witness has just given evidence - quite extensively, I may add - about
20 women that he knows about who have had experiences, women from Bogoro. That evidence
21 has been lucid, clear and helpful.

22 This exercise that we are going through now is simply an exercise in the Prosecution
23 wishing to get in other things which have been said before. In my respectful submission,
24 that doesn't fall within the parameters of the guidance that your Honours gave earlier
25 today. And insofar as it is an exception -- it is an exception to look at a document

1 produced at another time to refresh a witness' memory, this is, as it were, the exception
2 of all exceptions, because it is the witness statement produced with the assistance of
3 the Prosecution in 2007, so not contemporaneously with these conversations that this
4 witness has had with these other women. And, therefore, I submit that it is not appropriate
5 to allow the Prosecution to go through this exercise.

6 PRESIDING JUDGE COTTE: (Interpretation) Brief observations, Prosecutor,
7 because we are not going to take up the whole discussion of this morning.

8 MR MACDONALD: (Interpretation) Just very briefly, your Honour. Obviously,
9 I think your decision of this morning is -- values for a case-by-case basis with regards
10 to the situation that we are investigating.

11 PRESIDING JUDGE COTTE: (Interpretation) Particularly on a case-by-case basis
12 with the witness we have before us.

13 MR MACDONALD: (Interpretation) The witness mentioned at the time that -- well,
14 he says, "I don't remember the name." So -- this morning, the objection hadn't established
15 this, so if you give me a certain degree of time, perhaps I will be able to remember
16 it. So, once outside the courtroom and next time he comes back.

17 So, in this precise case, your Honour, the objection of my colleague is based
18 on the weight to be accorded to the replies to be given; and it is up to the Chamber
19 at the end of the proceedings to value the credibility of the witness, in the light of
20 the fact that he had to reflect with regards to his memory to be able to give these names.

21 PRESIDING JUDGE COTTE: (Interpretation) Whatever the trust that you give to
22 the wisdom of the Chamber to evaluate this, the Chamber would like the proceedings to
23 develop in the most fair way as possible. This morning we made comments on rule -- on
24 the paragraph 109 of the guidelines of 20 November and you had this opportunity. The
25 witness was present at the time. You had the opportunity to -- well, with regards to

1 the status of this witness the objection is noted; rather, the objection of Counsel O'Shea
2 is favourably received and you can continue with another question.

3 MR MACDONALD: (Interpretation)

4 Q. How many days did you stay in Bunia for, after fleeing the war in Bogoro?

5 A. When we arrived in Bunia, we learnt that the enemy was close to the village
6 of Bunia and so we organised ourselves and we exchanged ideas with friends and we said
7 that it was necessary to go to Kasenyi to join the members of our family, and when I
8 was in Bunia with other young people we therefore had exchanges with regards to ideas
9 and we went in the direction of Mont Bleu. We went down the mountain, going via Tchomia,
10 to go towards Kasenyi.

11 Q. Just, you said that - just clarification with regards to Mont Bleu which you
12 said you passed by - I understood that you didn't go via Ezekere?

13 A. No. When we left Bunia we took the direction of Mandro, and we therefore went
14 next to the village of Mandro, and there we could see Ezekere on our right-hand side
15 because, in fact, towards the left there is a road which goes towards Kasenyi via Tchomia.

16 Q. So once you went to Kasenyi, did you stay in Kasenyi?

17 A. When we went to Kasenyi, we stayed there for approximately one week, but we
18 noted that the UPC soldiers were afraid; they slept in the bush. They were afraid and
19 that is why some of us sought to cross the border into Uganda. Myself, I met somebody
20 who was trying to see how he could get his family into Uganda, and I joined this family.
21 I spent the night with these people and the next day we took a canoe and, with the members
22 of his family, we left.

23 Q. When you were in Kasenyi, did you find out what had happened in Bunia and Mandro?

24 A. When we were in Kasenyi, there were soldiers from the UPC who were from Kasenyi,
25 and these soldiers had their families in Kasenyi and they had received information from

1 family members in Kasenyi, in Tchomia and in Bunia. So what happened in Mandro and Bunia
2 we were informed of by the soldiers and when the members of the population of Kasenyi
3 noted that the soldiers were afraid, then the population there were also afraid and they
4 fled.

5 Q. Why were the UPC soldiers afraid who were in Kasenyi?

6 A. There were several reasons to be afraid. Firstly, the road to Bogoro was a
7 main road and, when we were in Bogoro, the people were thinking that when Bogoro falls
8 it will be difficult to live in Bogoro because they said that, once Bogoro falls, Bunia
9 and Kasenyi as well will also fall, so when they saw that Bogoro had fallen they said
10 in Kasenyi the situation was uncertain because it was difficult to have any kind of support,
11 and that is the reason why the people had concerns in this regard.

12 Q. When you went to Uganda, you -- I understand that you returned to Kasenyi and
13 yesterday you mentioned that you returned to -- in 2005 you went back to Bogoro, you
14 had to leave, and you spoke to us about the governor; do you remember that?

15 A. I said that when we returned to Bogoro for the first time, the situation in
16 terms of security wasn't good. There were troubles here and there, and that is why the
17 governor asked us to leave Bogoro to go back to Kasenyi, waiting for peace to be re-established
18 in Bogoro.

19 Q. I am going to ask a few questions for precisions with regards to your testimony
20 yesterday on the subject of your return to Bogoro. Yesterday you mentioned that there
21 were Ngiti and Lendu, and you also referred to the fact that they had their houses, and
22 you used the expression "manyata" if I am not wrong. What are manyata? Can you physically
23 describe what these manyata look like?

24 A. To our knowledge, if we base ourselves on what the military call it, manyata
25 are small huts or houses covered in straw which can be slept in.

1 Q. I want to verify whether the interpretation is correct, but I heard a word that
2 I do not want to mention but, generally speaking, who are those who live in manyatas?

3 A. Manyata is a word that was used by the soldiers. When we returned to Bogoro,
4 all the small houses that had been left were known as manyatas. These were houses built
5 with dried earth, and thatched with straw, with a small sitting area. That is why these
6 houses were known as manyatas. They were small houses for soldiers. I think that the
7 people who were there were living on -- in those houses which were just make-shift houses.

8 Q. You have said that there were manyatas and there were Lendus and Ngitis there.
9 What did those people do? What was their profession; that is, those who were living in
10 Bogoro at that time?

11 A. When we arrived Bogoro, we found soldiers of the FARDC there, as well as Ngitis.
12 The soldiers of the FARDC had their wives and Ngitis also had Ngiti women. Those Ngiti
13 women would go to their farms, which were not far away from the village, and then there
14 was a small market close by, and the Ngitis frequented those markets or, rather, that
15 market. These were people who came and bought items from travelling salesmen who came
16 carrying goods in their vehicles.

17 Q. I understand that you stayed there for some time; you left and then you returned?

18 A. Yes. Yes, indeed.

19 Q. Did you go up to Mount Waka when you returned and settled in Bogoro?

20 A. Yes, I took a walk to Mount Waka. Perhaps you can ask me why I went there?
21 I went there to find out about the situation, how people had passed through there. I
22 also wanted to assess the information that had been given to me by young people to the
23 effect that there was hunting going on in that area, so I went to that hill to cross-check
24 that information. And anyone who was able to get there could see the clothes on the ground
25 and recognised them as belonging to such-and-such a person, so people asked themselves

1 questions regarding what had happened there.

2 Q. What could be seen on Mount Waka? You have mentioned clothes; what did you
3 see there precisely?

4 A. When I talk about clothes, it is because there were many skeletons on Mount
5 Waka, and these skeletons and bones were spread all over the place, and it was possible
6 to identify one's family members by the clothes that were on the skeletons, because it
7 was possible to say this could be this person's skeleton. This is what I meant.

8 Q. Did you see anything or, rather, did you do anything with the skeletons that
9 you found there at that time?

10 A. Those skeletons remained on Mount Waka. One day, while I was in school, I learned
11 that those remains had been buried, but before those remains were buried the members
12 of the families of the victims asked the chief, I believe, that those remains should
13 be buried. The chief wanted to know when those remains could be buried and I believe
14 that request was made to the ICC.

15 Q. You mentioned clothes; what type of clothes were those? Belonging to whom?
16 I had two questions. Those were two questions and I am going to rephrase. To whom did
17 those clothes belong?

18 A. The clothes that we found there were the subject of discussions by those who
19 went there, who wondered whom those clothes belonged to. I learnt that an application
20 had been made to the International Criminal Court to bury the clothes belonging to Mr. Matiya.
21 It is his children who went to that location and said that those were their father's
22 clothes. There was a skeleton and they realised that part of the remains had not been
23 burned, so the parents applied to the ICC to be able to bury the remains.

24 Q. And Matiya, was he a resident of Bogoro, or where did he come from?

25 A. Yes, Matiya was an inhabitant of Bogoro.

1 Q. Was he a soldier or a civilian?

2 A. He was a civilian and I think that he was a church pastor.

3 Q. I do understand that you drew up a list of the names of people who died as a
4 result of the attack on Bogoro on 23 February, on 24 February 2003?

5 A. Yes; but excuse me. Are you referring to the names of the people who were killed
6 during the attack of 24 February 2003?

7 Q. Yes. Please tell the Court how you drew up that list?

8 A. I was not the only one who prepared that list. Upon our return, each person
9 came forward with the names of their family members who had been killed. This is work
10 that we did in a group. There was a group of young people who came together to try and
11 remember the people who had been killed. That group had a president, or chairperson,
12 and while we were preparing the list, or rather after drawing up the list we submitted
13 it to the chief. He himself had prepared his own list, he asked us for our list and we
14 gave it to him.

15 MR MACDONALD: (Interpretation) At this point, your Honour, I will end here
16 and I would like to thank the witness. Unfortunately, the Prosecution could not conclude
17 this afternoon. We have a few questions left, not many, and that should take us about
18 30 minutes on Monday, and after that I suppose the legal representatives of the victims
19 will have questions.

20 PRESIDING JUDGE COTTE: (Interpretation) The Court would also like to thank
21 the witness and will ask the courtroom officer if we could go into closed session so
22 that the witness can leave the courtroom and then we will return to open session for
23 a number of practical matters. Could we please go into closed session.

24 (Closed session at 4.00 p.m.)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Open session at 4.01 p.m.)

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

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much. Mr Macdonald,
10 on Monday morning you will need about half-an-hour to finish your examination of the
11 witness?

12 MR MACDONALD: (Interpretation) I am sorry, your Honour, but you have to put
13 your headset on when the blinds are -- go up.

14 PRESIDING JUDGE COTTE: (Interpretation) So, Monday morning you need about
15 half-an-hour to finish your questioning?

16 MR MACDONALD: (Interpretation) 30 minutes/45 minutes maximum. I would rather
17 say 45 minutes, but I understand you know this is the worst -- the first witness and
18 we have covered some things, or dealt with some things, that we won't have to deal with
19 with others. We had the visual presentation. We didn't actually visit the location of
20 the events. So I think the work we did with that witness was useful, even though it was
21 somewhat longer than what we had thought.

22 PRESIDING JUDGE COTTE: (Interpretation) So, we can assume that all of Monday
23 will be devoted to Witness 233 and it is not entirely out of the question that we may
24 have to continue with him on Tuesday for at least part of the morning.

25 The Court would just like to indicate to all participants that we will be sitting

1 every day next week from Monday morning to Friday, but that we will not be able to sit
2 in the following week, the week of the 7th to the 11th, except for Thursday the 10th,
3 so we will have to make changes to our schedule next week to see what is actually possible
4 to do.

5 The technical constraints being what they are, I can no longer speak because
6 apparently nothing is being recorded any more. We will now adjourn and see each other
7 on Monday morning.

8 (The hearing ends at 4.05 p.m.)

9 RECLASSIFICATION REPORT

10 *Pursuant to Trial Chamber II's email instructions dated 10 July 2012, the excerpt of
11 the transcript page 13 lines 3 to 8 is reclassified as public after the indicated redactions
12 have been implemented as ordered by the Chamber.