

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra, and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Friday, 21 May 2010
10 The hearing starts at 9.03 a.m.
11 (Closed session)
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Procedural Matters (Closed Session)

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24 (Open session at 9 .07 a.m.)
25 COURT OFFICER: (Interpretation) We are in open session,

1 Mr. President.

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

4 Good morning, Mr. Witness.

5 THE WITNESS: (Interpretation) Good morning.

6 PRESIDING JUDGE COTTE: (Interpretation) I can see that you can
7 hear me very well. Before we resume the examination-in-chief of the
8 Prosecutor, we are going to deal with a procedural matter.

9 Mr. Prosecutor, the accused persons are there.

10 MR. MACDONALD: (Interpretation) Thank you, Mr. President.

11 Yesterday the Prosecution submitted application 2115, a
12 confidential motion, and without entering into the substance of that
13 motion the Prosecution would like to request the Chamber to reduce the
14 time-line for the response to our application, given that the normal
15 time-line or dead-line is 21 days. Given the nature of that motion,
16 which is not very complex, we believe, but which is important in light of
17 the necessity to plan by the Prosecution for the coming weeks, including
18 working missions, and this would facilitate our work. That is the
19 purpose of our submission. Thank you.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
21 Mr. Prosecutor.

22 Mr. Kilenda, you have the floor.

23 MR. KILENDA: (Interpretation) Thank you, Mr. President,
24 your Honours. Application 2115 submitted by the Prosecutor yesterday --
25 well, we were expecting that and it follows a series of exchanges that we

1 had that were quite courteous but important. And as the Prosecutor has
2 said, I'm not going into the details of the motion. We believe that for
3 the time being there is no urgency that would justify the reduction of
4 the dead-line. And you would realise also that from the point of view of
5 our team we have a depleted group. We do not have another -- as many
6 people as the Prosecutor. So we are asking for time to work calmly and
7 serenely to respond. So we would like to comply with the order that was
8 set up for the preparation of the cross-examination. So there is no
9 urgency in that motion. We are going to respond in a timely manner, and
10 you will make the ruling that is appropriate. So there is no urgency
11 here.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
13 Mr. Kilenda. The Chamber remembers this motion which was filed yesterday
14 morning, if I remember correctly. You believe that there is no urgency,
15 but the Prosecutor believes that it is urgent because of operational
16 matters related to travel to the Democratic Republic of Congo. From our
17 point of view, the Chamber was due to examine that motion early next
18 week, and we believe that one of the people who is normally supposed to
19 submit an opinion is absent. That is why we had this adoption -- we
20 adopted this position regarding that motion.

21 So if you, Mr. Kilenda, if you can tell us about your previous
22 discussions, you can prepare a response and -- but we cannot impose
23 48 hours on you. We know that you have obligations regarding the
24 preparation of your cross-examination, but regarding the position of the
25 Prosecutor, we would like to satisfy to the extent possible the concerns

1 of everybody.

2 So what is the expected plan of travel to Bogoro, Mr. -- or
3 rather, the travel to the Democratic Republic of Congo?

4 MR. MACDONALD: (Interpretation) We are in open session.

5 PRESIDING JUDGE COTTE: (Interpretation) Do not give
6 confidential information.

7 MR. MACDONALD: (Interpretation) As you have heard, there was an
8 exchange of e-mails that he described as rather lively, but the legal
9 position was already explained through the e-mail. And this is based on
10 an interpretation of your decision 1134. It is not a very long
11 application and I understand that we shall not be sitting in the first
12 week of June. So there may be time during that week to look at this
13 issue. I do not know whether on the first Monday of that week, that is,
14 in about ten days' time, it might be possible for the Kilenda team to
15 respond. And the Chamber would be able during that week to hand down a
16 ruling.

17 I'm looking in terms of availability because we are not going to
18 be sitting during the first week of June.

19 PRESIDING JUDGE COTTE: (Interpretation) Both of your
20 submissions are interesting. This is a problem of an interpretation of a
21 decision of 14th May 2009. We are not going to go into details, but we
22 have to resolve this issue very quickly. I do not think it would be
23 discourteous to you, Mr. Kilenda, to submit your response, if you wish to
24 do so, that is, to the attention of the Chamber based on the exchanges
25 that you have had with the Prosecutor. So I am proposing the

1 1st of June. This is the 21st of May. This makes about ten days, and I
2 believe that it is possible for you to respond without -- within that
3 dead-line.

4 We are not going to have -- to sit during that week and we can be
5 able to examine that submission.

6 MR. KILENDA: (Interpretation) Can you give us 15 days?

7 PRESIDING JUDGE COTTE: (Interpretation) This is a Friday. We
8 are the 21st of May, so you can make your submission on Thursday, the
9 3rd of June, so you allow us two days to work. Is that all right?

10 MR. KILENDA: (Interpretation) Yes, we give our word,
11 Mr. President, we are going to make our submission.

12 PRESIDING JUDGE COTTE: (Interpretation) So Thursday, 3rd June.
13 Court Officer, please note that down.

14 Now we are going to resume with our proceedings.

15 Mr. Witness, we are going to work up till 10.00 a.m., that is,
16 after 45 minutes, and then we are going to have a break. So for the time
17 being, we are going to work for 45 minutes. I would like to remind
18 everyone, and I, myself, I have failed to comply with this provision, to
19 observe five seconds before taking the floor.

20 Mr. Prosecutor, you can continue.

21 MR. GARCIA: (Interpretation) Good morning, Mr. President. Good
22 morning, your Honours.

23 WITNESS: WITNESS P-0279 (Resumed)

24 (Witness answered through interpreter)

25 Questioned by Mr. Garcia: (Continued)

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

Page 7

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

2 A. Good morning.

3 Q. Witness, yesterday you provided us with several details about
4 your life in the Zumbe military camp. You also briefly talked about the
5 Bogoro attack. To begin today, I'm going to ask you some questions for
6 you to clarify some of the things that you told us yesterday, and then we
7 are going to talk about the Bogoro attack.

8 Mr. Witness, yesterday you testified that you were taken to the
9 Zumbe military camp along with other young people, friends of yours and
10 others. My question to you is as follows: Were there any other children
11 in the Zumbe military camp when you arrived?

12 A. When we arrived in that camp we found other children who were
13 already there.

14 Q. If you are in a position to tell us, Mr. Witness, approximately
15 how many other children were already there at the time of your arrival?

16 A. There were many of them and there were also adults.

17 Q. To your knowledge, did these children have weapons?

18 A. Those who had more military experience carried fire-arms, whereas
19 others had bladed weapons.

20 Q. And when you talk about bladed weapons, what type of weapons are
21 you referring to specifically?

22 A. Machetes, arrows, knives, and small axes.

23 Q. Are you able to tell us how old the youngest of these children
24 was, Mr. Witness?

25 A. The youngest of them would have been about 10 years old.

Witness: Witness P-0279 (Resumed)(Private Session)
Questioned by Mr. Garcia (Continued)

Page 8

1 Q. Mr. Witness, can you tell us what these children in the camp were
2 doing? What were their duties?

3 A. What I can tell you is that the children did not have anything to
4 do inside the camp. They had to wait to go and fight.

5 Q. Witness, yesterday you also told us about Commander Boba Boba.
6 Can you tell us whether that commander had bodyguards?

7 A. Yes, he had bodyguards.

8 MR. GARCIA: (Interpretation) With your leave, Mr. President, I
9 would like to request that we go into private session, in light of the
10 nature of the questions that I'm going to ask.

11 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
12 private session, please.

13 (Private session at 9.23 a.m.)

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Witness: Witness P-0279 (Resumed)(Private Session)
Questioned by Mr. Garcia (Continued)

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Witness: Witness P-0279 (Resumed)(Private Session)
Questioned by Mr. Garcia (Continued)

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16 *A. I could say he didn't have precise functions. This was a person
17 who one saw during training. He was somebody who gave training, that's
18 all.

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Witness: Witness P-0279 (Resumed)(Private Session)
Questioned by Mr. Garcia (Continued)

Page 11

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10 (Open session at 9.34 a.m.)

11 PRESIDING JUDGE COTTE: (Interpretation) Witness, please do not
12 forget. If you wish to quench your thirst, please go ahead.

13 COURT OFFICER: (Interpretation) We are in open session,
14 your Honour.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

16 MR. GARCIA: (Interpretation)

17 Q. Witness, are you able to continue answering the questions?

18 A. Yes.

19 Q. Yesterday you mentioned to us a certain Kute from Lagura. Have
20 you been to Lagura?

21 A. Yes, I have been to Lagura.

22 (Prosecution counsel confer)

23 MR. GARCIA: (Interpretation)

24 Q. Could you tell us under what circumstances you went to Lagura?

25 A. I went to Lagura when we left the Bogoro front.

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

Page 12

1 Q. Quite simply, a last question with a view to clarification, you
2 stated that you were taken to the military camp of Zumbe. There were
3 soldiers, commanders there. What was the name of the military group to
4 which these soldiers belonged in the military camp of Zumbe on Zumbe
5 hill?

6 A. Your question isn't clear. What type of group are you talking
7 about?

8 Q. Witness, I'm going to be more clear. The military group, the
9 soldiers who were on Zumbe hill, the military camp of Zumbe, what was the
10 name?

11 A. You want to know their names? What do you want me to answer you?
12 Do you want me to give the names of these people or the group to which
13 they belonged?

14 Q. Witness, I think you've understood. I think it's the name of the
15 group to which they belonged. What was the name of the military group to
16 which they belonged?

17 A. Okay. It is the FNI.

18 Q. Thank you, Witness, for these clarifications. We are now going
19 to address issues concerning the attack on Bogoro.

20 My first question on the subject is as follows. Yesterday during
21 your testimony you stated that you had undergone training prior to the
22 Bogoro attack. Could you give us details of this training.

23 A. Are you referring to the training we received? This was teaching
24 that was given in loading a weapon and shooting. This is the type of
25 information that we received.

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

Page 13

1 Q. So it may be clearer, yesterday when you testified, you spoke
2 about initial military training that you underwent the day after you
3 arrived in the camp. And you also mentioned the fact that before the
4 Bogoro attack, you followed training. I'm speaking about this training
5 that preceded the attack on Bogoro.

6 A. They were teaching us fighting techniques.

7 Q. Witness, who gave you this second military training?

8 A. It was the commanders who were present in the camp.

9 Q. Are you able to remember the names of these commanders?

10 A. Commander Crikaka.

11 Q. Do you remember the duration of this military training?

12 A. Some weeks.

13 (Prosecution counsel confer)

14 MR. GARCIA: (Interpretation)

15 Q. Witness, yesterday you also stated that Ngudjolo had given you
16 the order. Can you tell us who was present among the commanders or
17 soldiers when that happened?

18 A. What type of order are you referring to? Are you talking about
19 fighting orders?

20 Q. Yes, Witness, the order to attack Bogoro.

21 A. Where it concerns the order to attack, on that day I wasn't in
22 the camp. We went to a position to guard it. When we were planning to
23 attack Bogoro or when the plan -- when they were planning the attack,
24 they met with Germain Katanga, the leader.

25 Q. Just to be more clear, Witness --

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 MR. FOFE: (Interpretation) I would just like to -- I would
2 just like the Prosecutor to give us the exact reference of the passage in
3 which the witness yesterday stated that Mr. Ngudjolo had given the order
4 to attack Bogoro. Thank you.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
6 Professor Fofe. You anticipated a comment I was going to make, but I
7 also am going to make one now. Both for the Defence teams, Prosecutor,
8 when there is a clear reference to the words or acts accomplished by one
9 of the two accused, it is certainly preferable to give the transcript
10 reference. No matter how complicated that is, the transcript reference
11 of yesterday has to be given. And if you also read it, this is useful
12 for the witness so that he can give us a more enlightened response.

13 Now, he asked what order it was about. This type of
14 clarification would therefore be useful for everybody. I think you are
15 aware of this. Thank you in advance.

16 MR. GARCIA: (Interpretation) My question is about his words
17 transcript 141 (as interpreted), page 50, lines 8 and following are the
18 relevant lines.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Prosecutor.
20 We have perfectly understood that it came from remarks made yesterday,
21 but when his words are cited, I think that for the Defence and for the
22 witness it will prevent there being interruptions that break the rhythm
23 of your examination-in-chief.

24 MR. FOFE: (Interpretation) My concern refers to the order that
25 Ngudjolo would have given to attack Bogoro. I do not see that in the

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

Page 15

1 transcript. I could be wrong, but if the Prosecutor can indicate where
2 the witness says that Ngudjolo gave them the order to attack Bogoro,
3 that's very important.

4 PRESIDING JUDGE COTTE: (Interpretation) I have to clarify this
5 in the part of the transcript that you've just given us the reference on.
6 If it's not in those lines, then could you read them out to it. We have
7 to see if these words were said in the terms in another time of the
8 testimony yesterday. Reference in my notes are insufficient in this
9 regard. Please would you be so kind as to read out the page or the lines
10 that you have just mentioned to us, page 150, and we have to see if this
11 was said indeed the transcript yesterday. If it wasn't -- I mean
12 page 50. Please take your time. There isn't -- there's no particular
13 hurry.

14 MR. GARCIA: (Interpretation) Just to notify the Chamber that
15 the witness hears our words and that causes certain problems. I don't
16 want to influence the witness in any kind of way, so I can just say these
17 are the words of the witness, lines 8 to 11, which made me ask the
18 question about what was the order initially. And then the witness asked
19 me for a clarification, to which I added to. What I could do is
20 reformulate the question of whether -- whether there was an order.

21 PRESIDING JUDGE COTTE: (Interpretation) But just a question
22 of -- an issue of general discipline for our proceedings. When there's a
23 challenge to the accused or it refers to the charges of the accused, even
24 if this has been related to something a witness said the day before, it
25 is important for all of us that the reference is clearly given. This

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 will avoid interruption, and it will make it possible for the witness 279
2 to know with precision what words he is stated as having said that are
3 being referred to. So please reformulate your question, Prosecutor, we
4 are listening to you.

5 MR. GILISSEN: (Interpretation) With your permission, I took
6 notes, and in my questions which I prepared I ensured that it would be
7 referred to. But I can't not say that page 16, lines 9 and 10, the
8 answer is there. The Prosecutor refers, if you would allow me, to an
9 order without saying what it is. And it's the witness who replies,
10 saying, "What are you talking about, an order to fight?" It wasn't the
11 Prosecutor who suggests the order to fight, it was the witness who
12 answered in regard to a non-characterised order. I'm just re-reading it
13 to you.

14 "What type of order are you referring to, the order to fight?"

15 Because the Prosecutor did not state what type of order it was.
16 So if you would allow me, everything that has been said is a recall which
17 is necessary, but I do not see where the problem is in the case in point.

18 PRESIDING JUDGE COTTE: (Interpretation) No, I cannot miss
19 reminding you that on page 16 the answer is:

20 "What type of order are you referring to? Are you talking about
21 the order to fight?"

22 And when we get to this stage of precision in our proceedings, it
23 is important for the witness to know exactly what type of answer is
24 expected from the witness, and this means that the questions have to be
25 as precise as possible. The precision of the question is useful for the

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 witness. The possibility to refer exactly to the words of the witness.
2 This is important for the Defence as well. And it means that
3 interruptions, which break the rhythm of the proceedings, can be avoided.
4 I don't want to say more about that. I know these are rules that you all
5 respect or try to respect, but at this precise moment there was an
6 objection from the Ngudjolo Defence. I reminded the Prosecutor, but I
7 perfectly understand what you're saying, Counsel Gilissen.

8 MR. GILISSEN: (Interpretation) And I understand you better.

9 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, please
10 continue.

11 Witness, you see we have discussions which might seem somewhat
12 artificial to you, but in reality are very important to us, and for you
13 as well, because they show that we need a great deal of precision.
14 The -- we have accused, they're accused of serious crimes. We can't
15 remain at a general level. You understand that, Witness?

16 Can you hear me well, Witness?

17 THE WITNESS: (Interpretation) Yes.

18 PRESIDING JUDGE COTTE: (Interpretation) This isn't any
19 criticism made of you.

20 Let's go, Prosecutor.

21 MR. GARCIA: (Interpretation)

22 Q. Witness, I'm sorry, perhaps I was not clear in my previous
23 question, which led to this debate. I was just trying to situate you.

24 Yesterday when you testified, you spoke to us briefly about an
25 attack on Bogoro and you stated -- this is page 50, lines 8 and --

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

Page 18

1 yesterday:

2 "Mr. Ngudjolo came to give me an order. He had already planned
3 the war on Bogoro, and some days later we should go and fight in Bogoro.
4 We spent the night there and then he talked about the war in Bogoro."

5 Here what I have read is what you said yesterday. So when you
6 mentioned Mr. Ngudjolo, that he gave you an order, what was the order
7 that he gave to you?

8 A. Very well. This is a precise question. It was the order to
9 attack Bogoro.

10 MR. GARCIA: (Interpretation) Your Honour, I would like to go
11 into this question, but given the time I think there are hardly many
12 minutes left, so I would suggest that we take a break now.

13 PRESIDING JUDGE COTTE: (Interpretation) Understood. It was
14 envisaged that we would do so.

15 So, Witness, we're going to stop for ten minutes, ten minutes
16 during which you can rest.

17 Security officers, please could you escort out the accused. In
18 ten minutes we'll be back, ten past 10.00, until 11.00. See you soon.

19 (The accused withdrew)

20 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, can we
21 now go into closed session so that the witness can be discreetly escorted
22 out of the courtroom.

23 Usher, please, could you escort the witness out.

24 (Closed session at 9.58 a.m.)

25 (Expunged)

Witness: Witness P-0279 (Resumed)(Closed Session)
Procedural Matters

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7 (Open session at 9.58 a.m.)
8 COURT OFFICER: (Interpretation) We are in open session,
9 your Honour.
10 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
11 Court Officer.
12 The session is now suspended. We will be back at 10.10.
13 Break taken at 9.59 a.m.
14 On resuming at 10.17 a.m.
15 (Closed session)
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Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 (Expunged)

2 (Open session at 10.18 a.m.)

3 COURT OFFICER: (Interpretation) We are in open session,

4 your Honour.

5 (The accused entered court)

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

7 Court Officer.

8 Witness, we will now have 45 minutes of hearing. Can you hear me

9 well?

10 THE WITNESS: (Interpretation) Yes.

11 PRESIDING JUDGE COTTE: (Interpretation) Fine. We will then

12 continue.

13 Please proceed, Mr. Garcia.

14 MR. GARCIA: (Interpretation)

15 Q. Witness, just before the break you had said that Ngudjolo had

16 given you an order to attack Bogoro. What exactly did he say?

17 A. They had already planned this matter with the chief,

18 Germain Katanga. They had already planned that and they came to tell us,

19 to remind us, that we were to attack Bogoro.

20 Q. What exactly did he say to you regarding the attack on Bogoro?

21 A. Well, regarding Bogoro he said, "Let's go to war." And knowing

22 that there were both civilians and soldiers. Stray bullets, you know,

23 you have to be careful. He said, "If you see civilians, don't shoot

24 them. But if you see a soldier, you must shoot."

25 Q. Did he tell you how the attack was to be organised?

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

Page 21

1 A. I beg your pardon. Could you repeat the question.

2 Well, regarding the attack, there were two groups. There was the
3 FNI group and the FRPI group.

4 Q. And can you tell us, if you know, who the commander of the FRPI
5 was?

6 A. Germain Katanga.

7 Q. Who was present when Ngudjolo gave the order to attack Bogoro?

8 A. Well, it was as I told you. They had already talked with
9 Chief Germain Katanga about how they were going to attack, and the other
10 commanders were there.

11 Q. To be a bit more precise, this is my question. On the day when
12 Ngudjolo gave you the order to attack Bogoro, were other commanders
13 there? Were they present at that time?

14 A. Yes, there were commanders who were there.

15 Q. Can you give us the names of those commanders who were also
16 present?

17 A. Well, there was Boba Boba, Commander Crikaka as well, and others.

18 Q. Can you give us the names of the other commanders or any names at
19 all?

20 A. The others, no, I've forgotten their names.

21 Q. Can you tell us how many other commanders were there, other than
22 those whom you've already mentioned?

23 A. Well, to tell you precisely the number, I'm afraid I can't do
24 that, no.

25 Q. Was Kute present?

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

Page 22

1 A. No. Kute was at Lagura camp -- at his camp. He had already
2 received his message.

3 Q. What message had he received, Kute?

4 A. Well, it was the message to go and fight in Bogoro.

5 Q. And as far as you know, who gave him the order to go and fight in
6 Bogoro? Who gave this order to Kute?

7 A. It was Commander Boba Boba who went to transmit the message to
8 him, and he went with his bodyguards when he went to the camp, when he
9 went to Kute's camp.

10 Q. As far as you know, were there other camps that were informed of
11 the attack on Bogoro?

12 A. Do you mean Zumbe camp?

13 Q. Zumbe camp or the other camps that were on Zumbe hill. Were
14 there other commanders who received orders to attack Bogoro as well?

15 A. Well, there were other commanders, but I don't remember their
16 names.

17 Q. As far as you know, Witness, was there a precise plan regarding
18 the attack on Bogoro; in other words, how you were going to attack, from
19 what direction or what -- how the different groups were to attack Bogoro?

20 A. It's what I said. They said that the war on Bogoro was to start
21 at 4.00 in the morning.

22 Q. Just to be clear, Witness, when you say, "They said that the war
23 was going to start at 4.00 in the morning," who specifically said that?

24 A. It was Commander Ngudjolo and Boba Boba as well as other
25 commanders. They were the ones who had that plan.

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 Q. Regarding this plan that you have talked about, you have
2 mentioned the time at which the attack was going to start. Was there
3 another part of the plan dealing with the directions or routes that you
4 were going to use to attack Bogoro?

5 A. There was a road known as Katonie and that road led to Bogoro.
6 There was also another road towards the direction of Lagura and that road
7 also led to Bogoro.

8 Q. Witness, just to be clear, were you split up into several groups
9 to attack Bogoro?

10 A. As I have already said, there was the FNI group and then the FRPI
11 group.

12 Q. Were the FNI and FRPI groups subdivided into smaller groups or
13 were these simply two large groups?

14 A. Can you kindly repeat your question?

15 Q. Let me just ask you a different question. You mentioned the road
16 known as Katonie. Which group took that road?

17 A. The FNI.

18 Q. What about the road in the direction of Lagura, which group took
19 that road?

20 A. It was still the FNI.

21 Q. Who was the leader of the FNI group that took the Katonie road?

22 A. I beg your pardon?

23 Q. You have stated that an FNI group took the Katonie road. Who was
24 the leader of that group? Who was its commander?

25 A. It was Commander Ngudjolo.

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 Q. And who was the leader of the group which had taken the Lagura
2 road?

3 A. It was Commander Kute.

4 Q. And you, Mr. Witness, which was the group in which you were
5 during the attack?

6 A. I was in Commander Ngudjolo's group.

7 Q. Can you tell me in which group Commander Boba Boba was?

8 A. He was in that group.

9 Q. Are you telling us that Commander Boba Boba was in Ngudjolo's
10 group?

11 A. I beg your pardon?

12 Q. My question to you was: In which group was Commander Boba Boba?
13 And you said, "He was in that group." What group were you referring to?

14 A. It was in Commander Ngudjolo's group.

15 Q. And Kpadhole, in which group was he?

16 A. We were all in the same group, Kpadhole, Crikaka, but there were
17 other commanders who went in the Lagura direction and there they joined
18 up with Commander Kute.

19 Q. Who were those other commanders who went and joined up with Kute
20 in Lagura?

21 A. I have forgotten their names.

22 Q. Mr. Witness, apart from the Katonie and Lagura roads, did the FNI
23 use any other roads to attack Bogoro?

24 A. No.

25 Q. Regarding the FRPI, as far as you know, which road did the FRPI

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 fighters use to attack Bogoro?

2 A. It was the road through Gety.

3 Q. Can you tell us who was in that FRPI group that went through

4 Gety?

5 A. Can you please kindly repeat your question.

6 Q. Who were the FRPI commanders who took the road through Gety?

7 A. It was Commander Germain and other commanders who took the Gety
8 road.

9 Q. Can you give us the names of the other commanders that you are
10 referring to?

11 A. I know only very few of those commanders, not all of them. I
12 know Commander Oudo as well as another commander whose name I no longer
13 remember. I have forgotten the names of the other commanders.

14 Q. Regarding Oudo, which direction did he take to attack Bogoro?

15 A. Oudo took the same direction as Commander Germain Katanga and the
16 rest of their group.

17 Q. Mr. Witness, were the FRPI combatants divided into small groups
18 like the FNI fighters, that is, during the attack on Bogoro?

19 A. You want to know whether I saw young fighters in the FRPI group?

20 Q. No. You have stated that Germain's group had taken the Gety
21 road. Did other FRPI groups take other roads to attack Bogoro?

22 A. Probably. Maybe there were other roads through the bush, but I'm
23 not in the -- in a position to answer that question.

24 Q. Mr. Witness, please explain to us how the attack was conducted.

25 You have told us that it started at 4.00 in the morning. How did the

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 attack take place?

2 A. The Bogoro attack started at 4.00 in the morning. All the
3 commanders were ready for the launching of the operation, and all of them
4 knew that at 4.00 a.m. the attack was going to start. The first
5 gun-shots served as a signal. The attack therefore commenced and they
6 entered into the camp. There was gun-fire and people were killed in the
7 camp. It was at 4.00 or 5.00 in the morning.

8 Around 5.00 in the morning, the members of the civilian
9 population started fleeing. Some of the civilians were killed while
10 others fled, but it was mostly soldiers who died. Members of the
11 civilian population also perished. Even us, we lost some of our
12 soldiers. Towards the end of the fighting, Commander Ngudjolo and
13 Commander Katanga went into the room of the Bogoro school. I do not know
14 what they discussed amongst themselves.

15 Later on, we took the direction of Zumbe hill and the other
16 soldiers stayed back in the Bogoro centre, including some FRPI soldiers.
17 We returned to the camp in Zumbe, and there, I and some others had
18 already been (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 Q. We are going to talk about all that later, but now I would like
25 us to go back to the Bogoro attack. You have mentioned that civilians

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 were killed. How were those civilians killed?

2 A. They were hit by bullets. They were hit by stray bullets.

3 However, some commanders were stubborn and they killed civilians.

4 Q. And how did they kill those civilians?

5 A. How do you kill someone? During the war, as you are aware,
6 people are disturbed; and that being the case, all fighters, when they
7 see someone during the war, they kill that person.

8 Q. Mr. Witness, what weapons were used to kill those people?

9 A. There were fire-arms, machetes, knives, and small machetes.

10 Q. Did you witness those killings?

11 A. Yes.

12 Q. Witness, how many civilians were killed in that manner?

13 A. It was during the fighting. It was not possible to count them
14 because we are -- we were all disturbed.

15 Q. Were there many of them, Mr. Witness?

16 A. Yes, there were many.

17 Q. Mr. Witness, what did you do with the bodies of the civilians who
18 had been killed during the attack?

19 A. Commander Ngudjolo ordered us to bury all the bodies.

20 Q. And where were those bodies of the civilians buried?

21 A. The bodies were scattered all over the place in Bogoro, in the
22 centre of Bogoro, in the Bogoro market there were dead bodies. Even in
23 front of certain houses there were dead bodies.

24 Q. Amongst those bodies, Witness, were there women or children?

25 A. Yes.

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Questioned by Mr. Garcia (Continued)

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1 Q. And what types of injuries or wounds did you observe on those
2 bodies?

3 A. There were wounds from bullets, wounds from machetes, others had
4 been hit by arrows.

5 Q. And, Witness, how long did it take you to bury all those bodies?

6 A. We did not take more than a day to bury those dead bodies. For
7 example, if you found 20 bodies, you will put all of them in the same
8 pit. That is how we buried those bodies.

9 Q. You said that it was Ngudjolo who gave you the order to dig holes
10 or to bury the dead bodies. What precisely did he tell you?

11 A. As I have already stated, he gave us the order. He told us, "I
12 do not want to see these dead bodies; bury them."

13 Q. And the pit or grave that you have referred to in which those
14 bodies were buried, where specifically was it located?

15 A. We dug that hole. There were other holes or pits that already
16 existed before that in Bogoro camp.

17 Q. How many of those holes were there?

18 A. Which place are you referring to, the camp or some other place?

19 Q. Mr. Witness, not in the camp, other places than the camp. The
20 other holes that you dug, how many of them were there?

21 A. These were large holes. We were in the habit of digging large
22 holes. There were many of them because there were many bodies, many dead
23 bodies.

24 Q. Approximately how long did the Bogoro attack last, Witness?

25 A. The Bogoro attack, which started at 4.00 in the morning, ended at

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1 around 10.00 or 11.00 a.m. because it was a major attack.

2 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, we are
3 going to stop for the break at five minutes past 11.00.

4 MR. GARCIA: (Interpretation) Mr. President, I had been about to
5 suggest that we break now because I was going to another line of
6 questioning.

7 PRESIDING JUDGE COTTE: (Interpretation) We are going to stop at
8 the usual time, that is, 11.00 a.m.

9 Mr. Witness, we are going to stop for 30 minutes, and you will
10 have time to rest. The Prosecutor is going to resume his direct
11 examination at 11.30.

12 Security officers, please escort the accused persons out of the
13 room.

14 (The accused withdrew)

15 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please
16 take us into closed session to allow the witness to leave the courtroom
17 discreetly.

18 (Closed session at 10.59 a.m.)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)

2 (Expunged)

3 (Open session at 11.00 a.m.)

4 COURT OFFICER: (Interpretation) We are in open session,

5 Mr. President.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

7 Court Officer.

8 We will break till 11.30, and when we resume we will have two

9 parts in the second session.

10 Court is suspended.

11 Recess taken at 11.00 a.m.

12 On resuming at 11.32 a.m.

13 (Closed session)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Open session at 11.34 a.m.)

23 COURT OFFICER: (Interpretation) We are in open session,

24 your Honour.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

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1 Court Officer.

2 (The accused entered court)

3 PRESIDING JUDGE COTTE: (Interpretation) The two accused are
4 with us.

5 Good morning once again, Witness, because we are back here.

6 THE WITNESS: (Interpretation) Good morning.

7 PRESIDING JUDGE COTTE: (Interpretation) For the second part of
8 the hearing, we are therefore going to continue. What's the time now?
9 It is 11.40. We are going to continue to -- we're going to continue to
10 ten minutes before and then we're going to continue afterwards -- we're
11 going to continue to 25 past 12.00.

12 MR. GARCIA: (Interpretation)

13 Q. Witness, you told us before the break that you buried civilians
14 after the attack. How many of you dug these pits and buried civilians?

15 A. I do not know the number of the people, but there were many of
16 them.

17 Q. Witness, are you able to tell us which commanders took active
18 part in the attack as fighters?

19 A. Do you want me to give a general answer?

20 Q. What I would like to know, Witness, is firstly: Did commanders
21 take an active part in the attack; if so, what were their names?

22 A. It was the commander of the two groups, the FNI and the FRPI, it
23 was the commanders of the two groups.

24 Q. You personally, Witness, did you see the commanders actively
25 taking part -- actively participating in the attack?

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Questioned by Mr. Garcia (Continued)

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1 A. Chief Ngudjolo was present in the attack as well as other
2 commanders, such as Boba Boba. Chef Katanga was also there as well as
3 the group, his group, the FRPI.

4 Q. Witness, you mentioned to us that towards the end of the
5 fighting, Germain Katanga and Mathieu Ngudjolo Chui entered into the
6 classroom of Bogoro school, and you state that you didn't know what they
7 spoke about. That happened at approximately what time?

8 A. After the war.

9 Q. If I understand well, after 10.00, 11.00?

10 A. Yes.

11 Q. Yesterday you briefly spoke to us about UPC soldiers. To your
12 knowledge, did they have a camp in Bogoro?

13 A. Yes, they had a military camp in Bogoro.

14 Q. The school in which Germain Katanga and Mathieu Ngudjolo met, was
15 that within the UPC camp?

16 MR. HOOPER: Can I just reflect on the fact that there's been a
17 large number of leading questions. We haven't interrupted my friend's
18 flow, even when he suggested that this witness had seen the two accused
19 enter the school at 10.00 or 11.00 in the morning and got the answer
20 "yes." And again, the last question, it's not necessary to lead a
21 witness in that way. There's quite simple questions that can be
22 formulated that would take the witness to the subject for evidential
23 response.

24 And I appreciate my friend's difficulties. It's not easy asking
25 questions when you're not leading. It's one of the perhaps our few

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 advantages on this side, that we can ask leading questions. And I know
2 from having been, from time to time, on the other side, in other kinds of
3 cases, that it isn't an easy task. But I would ask my friend Mr. Garcia
4 to be just a little more cautious, please.

5 PRESIDING JUDGE COTTE: (Interpretation) Counsel Garcia, did you
6 hear the comments of Counsel Hooper? Could you be more prudent?

7 MR. GARCIA: (Interpretation) Certainly, your Honour. Just
8 where it concerns the statement of Counsel Hooper that I was leading with
9 regards to the time at which they met in the school, I would just like to
10 mention that the witness clearly stated that it was after the war, and he
11 already had said at what time that war had ended. So in this regard, I
12 don't think I was leading.

13 Now, where it concerns the last question that I put, if you would
14 allow me, your Honour, I shall reformulate it in such a way that it's
15 perhaps somewhat more neutral.

16 PRESIDING JUDGE COTTE: (Interpretation) Well, you've certainly
17 noted the difficulty of your task -- the difficulties of your task were
18 recognised, and you will continue with tact and prudence and
19 circumspection, as you are doing. We are listening to you.

20 MR. GARCIA: (Interpretation)

21 Q. Witness, where was the school you're referring to with regards to
22 the UPC camp?

23 A. The school was not far. It was next to the military camp.

24 Q. Witness, what other commander was present in this place after the
25 end of the war?

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

Page 34

1 A. Commander Boba Boba was present as well as other commanders.

2 Q. Witness, I'm going to ask you to be more precise. Who were the
3 other commanders who were also present?

4 A. Chief Germain Katanga as well as Commander Boba Boba,
5 Chief Ngudjolo, Commander Crikaka, Commander Kute, and other -- and many
6 other commanders were present.

7 Q. Where were all these commanders in relation to the UPC camp?

8 A. There was not a long distance between them and the UPC camp.

9 (Trial Chamber and Court Officer confer)

10 PRESIDING JUDGE COTTE: (Interpretation) Witness, we're just
11 moving the microphone somewhat nearer your mouth because you're speaking
12 slightly too softly. If you could make an effort to raise your voice
13 somewhat, then the interpreters will be able to hear you better and they
14 will be able to interpret well, which will help all the participants and
15 those who are in the public gallery and who are listening to us, because
16 we are in an open session here. Thank you, Witness.

17 Prosecutor, please continue.

18 MR. GARCIA: (Interpretation)

19 Q. Witness, what were these commanders doing, the ones who you've
20 just mentioned, when they were grouped together?

21 A. I don't know what they were doing in the schoolroom or the
22 classroom when they met.

23 Q. When these commanders were outside -- well, you mentioned several
24 commanders. What were they doing outside after the war?

25 A. They were outside and they were observing what was being done in

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 terms of the burying of the bodies.

2 Q. Witness, where were you in relation to these commanders who were
3 together?

4 A. I was quite far from them.

5 Q. Were you able to see them?

6 A. No.

7 Q. Witness, can you explain to us how you knew that these commanders
8 came together in a group after the war?

9 A. I have just told you. I told you that they met together at this
10 school in Bogoro. I have nothing to add to that. I don't know what else
11 they did.

12 Q. Witness, who exactly was in the classroom?

13 A. I've already answered this question. There was Chief Ngudjolo,
14 Chief Germain Katanga, as well as other commanders.

15 Q. Are you able to tell us how much time they spent in the
16 classroom?

17 A. They didn't stay in the classroom for a long time.

18 Q. What happened when they left the classroom?

19 A. You know that the commanders are watched over by their guard.
20 Chief Ngudjolo had his bodyguard which was protecting him, and the others
21 left -- or we left and others stayed, such as Chief Germain. Others
22 left.

23 Q. Witness, what happened to the houses in Bogoro following the
24 attack?

25 A. I haven't understood the question.

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 Q. Witness, in what state were the houses in Bogoro after the
2 attack?

3 A. There were houses in wattle and daub. There were houses covered
4 in sheet metal roofing, but the houses that were in wattle and daub were
5 burned. Also the sheet metal roofing was pillaged.

6 THE INTERPRETER: The interpreter corrects: It was not wattle
7 and daub but thatch houses.

8 MR. GARCIA: (Interpretation)

9 Q. Witness, to your knowledge, who burnt these houses?

10 A. It was the soldiers.

11 Q. Who took away the sheet metal roofing from the houses?

12 A. Soldiers as well.

13 Q. If you're able to answer the question, could you tell us if this
14 happened before or after the end of the war?

15 A. It happened after the war.

16 Q. Where it concerns the cattle that were in Bogoro, the cows that
17 were there before the attack, what happened to these cows --

18 MR. HOOPER: (Previous translation continues) ... we don't know
19 if there were cows there, as far as the witness is concerned.

20 PRESIDING JUDGE COTTE: (Interpretation) You have to respect a
21 chronology in the way in which you ask questions, such that you don't
22 lead the witness as to what he should answer or at least part of what he
23 should answer, but you will manage to do that. Please continue.

24 MR. GARCIA: (Interpretation) I'm sorry, Judge, I didn't think
25 this would have that effect. But I will start with a preliminary

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 question.

2 Q. Witness, to your knowledge, was there cattle or cows in Bogoro
3 before the attack?

4 A. There were cows and there were also goats in Bogoro. These
5 animals were pillaged.

6 Q. Who pillaged these animals, Witness?

7 A. The FNI fighters.

8 Q. Witness, what was the reaction of the FNI fighters, the FRPI
9 fighters at the end of the attack?

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

11 Q. Witness, were there celebrations following the attack on Bogoro?

12 A. Please could you reformulate your question.

13 Q. Perhaps you misunderstood me. Did the soldiers celebrate after
14 the attack on Bogoro? Was there a celebration?

15 A. Yes, that's always the case during war.

16 Q. What kind of celebrations were there after the attack on Bogoro?

17 A. You're referring to after the fighting; am I correct?

18 Q. Yes, indeed. The celebrations after the fighting in Bogoro,
19 celebrations that took place in Bogoro.

20 A. It was during the fighting, when the fighting took place that
21 that occurred.

22 Q. Where did these celebrations take place in Bogoro?

23 A. Could you repeat your question.

24 Q. Witness, was there a particular area, particular place in Bogoro,
25 where the celebrations took place?

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 A. I'm afraid I don't understand what you're referring to. Are you
2 talking about a feast in -- a celebration in Bogoro? What are you
3 talking about?

4 Q. Well, perhaps -- maybe it would be simpler to talk about a feast.
5 Was there a kind of feast in Bogoro amongst the soldiers after the attack
6 or during the attack? Is that when it occurred?

7 A. Yes, yes, they were crying out.

8 Q. When did this occur, the soldiers crying out, if you can tell us?

9 A. In the centre of Bogoro.

10 Q. To be perfectly clear, when you talk about acclamations, what
11 exactly do you mean by that?

12 A. Well, you see, when people are happy, when they're excited, they
13 cry out. That's what I mean by acclamation.

14 Q. Were the commanders present during those acclamations, during the
15 cheering?

16 A. Yes, yes, they were there.

17 Q. Could you tell us who exactly, which of the commanders was
18 present during these cheers, during the cheering you referred to?

19 A. Well, there was Kpadhole, there was Crikaka, and Kute, and
20 several others.

21 Q. Can you tell us where Ngudjolo and Katanga were while these
22 cheers were going on?

23 A. Well, when people started cheering, those two individuals had
24 already gone back.

25 Q. As regards Ngudjolo, where did he go back to?

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 A. Ngudjolo went back to Zumbe camp with a certain group.

2 Q. Witness, I would like to ask you to be a bit more precise. You
3 say he went back to Zumbe camp with a certain group. What group exactly
4 are you referring to?

5 A. The group of fighters.

6 Q. And as regards the other commanders, that is, the FNI commanders,
7 what did they do?

8 A. The other FNI commanders stayed in Bogoro.

9 Q. What did Commander Boba Boba do following the attack?

10 A. When people were cheering, Boba Boba and Kute were in Bogoro, but
11 we went back with them. Together we took the road to Lagura. And -- but
12 some soldiers stayed back when we left.

13 Q. So when you say "we went back," you also went back with Boba Boba
14 and Kute?

15 A. Yes.

16 Q. Were there other persons or other commanders who went back to the
17 camp?

18 A. Some commanders stayed in Bogoro.

19 Q. Could you explain. When you left with Boba Boba and Kute,
20 approximately what time of day was it?

21 A. It was in the afternoon.

22 (Prosecution counsel confer)

23 MR. GARCIA: (Interpretation)

24 Q. Which commanders are the ones who stayed in Bogoro after you
25 left?

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 A. Commander Crikaka, Kpadhole, and other commanders, as well as
2 some of the commanders of the FRPI remained.

3 Q. Which one -- which commanders of the FRPI stayed in Bogoro?

4 A. I've forgotten their names.

5 Q. As far as you know, was there someone in charge in Bogoro
6 following the attack, someone who stayed there?

7 A. No.

8 (Prosecution counsel confer)

9 MR. GARCIA: (Interpretation)

10 Q. Did you take prisoners, either civilians or soldiers, following
11 the attack in Bogoro?

12 A. No, we did not take prisoners, but we took what we call in
13 Swahili "mateka."

14 THE INTERPRETER: The interpreter indicates that the Swahili word
15 means "hostages." We took "hostages."

16 MR. GARCIA: (Interpretation) May I have a moment, your Honour.

17 (Prosecution counsel confer)

18 MR. GARCIA: (Interpretation)

19 Q. Witness, you mentioned that you took "mateka," and if I
20 understood correctly, that word means "hostage." Could you tell us if
21 they were soldiers or civilians?

22 A. They were civilians.

23 Q. Were they men or women or children?

24 A. They were women and children.

25 Q. How many women and children were there?

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Garcia (Continued)

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1 A. Well, there weren't very many.

2 Q. What did you do with those hostages, Witness?

3 A. Since they were taken hostage, they were killed in the bush in
4 Bogoro.

5 Q. Who killed them, Witness?

6 A. It was the soldiers who went with them into the bush, and they
7 killed them.

8 Q. Can you tell us what military group those soldiers belonged to,
9 the ones who killed the hostages?

10 A. They belonged to the group FNI.

11 Q. Witness, when did that take place? You mentioned that the attack
12 finished around 10.00 or 11.00.

13 A. It was at the end of the fighting. That's when the hostages were
14 taken and we went away with them.

15 (Prosecution counsel confer)

16 PRESIDING JUDGE COTTE: (Interpretation) There's seven minutes
17 remaining before we have a short break. We intended to have a short
18 break at about 25 past.

19 MR. GARCIA: (Interpretation)

20 Q. Witness, you have just stated that that's when we took those
21 hostages. Were you in the group of soldiers that took the hostages?

22 A. I was not a part of that group.

23 Q. Witness, who told you, then, what had occurred?

24 A. I saw it.

25 (Prosecution counsel confer)

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1 MR. GARCIA: (Interpretation)

2 Q. Where were you exactly in relationship to the soldiers and the
3 hostages?

4 A. I was with some of my friends near the centre of Bogoro when they
5 left with the hostages.

6 MR. GARCIA: (Interpretation) Your Honour, may I suggest we have
7 a break now. I'm going to go on to another topic afterwards, if that's
8 possible.

9 PRESIDING JUDGE COTTE: (Interpretation) Fine, Prosecutor.

10 Witness, we're going to have a brief break. It is now 22 minutes
11 past 12.00, and we shall come back at 12.35. This will enable you to
12 rest, and then we will continue until the end of the morning at 1.30.

13 Security officers, would you please escort Mr. Germain Katanga
14 and Mr. Ngudjolo out of the courtroom.

15 (The accused withdrew)

16 PRESIDING JUDGE COTTE: (Interpretation) For the accused, we
17 will be back in slightly more than ten minutes.

18 Court Officer, closed session, please, so that the witness can
19 withdraw.

20 (Closed session at 12.21 p.m.)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)
2 (Expunged)
3 (Expunged)
4 (Expunged)
5 (Open session at 12.22 p.m.)
6 COURT OFFICER: (Interpretation) We are in open session.
7 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
8 Court Officer.
9 The session is suspended. We shall be back at 12.35.
10 Break taken at 12.22 p.m.
11 On resuming at 12.35 p.m.
12 (Closed session)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
17 (Expunged)
18 (Expunged)
19 (Expunged)
20 (Expunged)
21 (Expunged)
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8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Open session at 12.37 p.m.)

15 COURT OFFICER: (Interpretation) We are in open session,

16 Mr. President.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

18 Court Officer.

19 (The accused entered court)

20 PRESIDING JUDGE COTTE: (Interpretation) The accused persons,

21 the witness will be with us in a short while. The Prosecutor simply

22 wanted to address the Court regarding the matter of scheduling and he

23 would like to do so in your presence.

24 Prosecutor, please.

25 MR. MACDONALD: (Interpretation) Thank you. The Chamber asked

1 us when we would be able to recall the witness Dr. Baccard. Ideally, we
2 would like to do that in between the testimonies of two witnesses. As
3 you are aware, it is difficult to make accurate projections, but if I
4 look at the programme that we have, I believe that it is clear that we
5 will not conclude the direct examination of Witness 279 today. The
6 Prosecution will complete that examination on the 25th, at 9.00 a.m.,
7 that would be Tuesday. So the cross-examinations will begin on the 25th.
8 I cannot attempt to guess the duration of those cross-examinations. So
9 we believe that the earliest that we can begin with Witness 280 will be
10 either the 27th, which is the most optimistic probability, but it will be
11 very likely on Friday, the 28th of May. Then we will break for a week
12 and resume on Monday, the 7th of June, at 2.00 p.m.

13 Either we can call Dr. Baccard during that week of the 7th before
14 the next witness, which -- who is Witness 267, or we may have to stop and
15 take out some time during the week of the 7th in order to free up
16 Witness 418, that is, Dr. Baccard. So this is a suggestion that should
17 allow all the parties to be able to plan. And if it is adopted, then the
18 Registry can inform Dr. Baccard.

19 As concerns the expert witness, we received information that that
20 witness will be available only as from the 16th of June, and at that time
21 we will -- we will probably be in the course of the testimony of 267.
22 And we believe that it would be preferable, given that we might even have
23 Witness 30, that we should decide on a precise date for the expert
24 witness, which is the contrary case with Dr. Baccard, given that he is in
25 the premises and he can directly come to the courtroom when called. So

1 it is preferable that we discuss this and take a decision. We can come
2 back and take a decision later, even on Tuesday. So this is a suggestion
3 that we are making for the assessment of all the participants. And even
4 with Witness 418, we would propose that he should be recalled during the
5 week of the 7th of June.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
7 Mr. Prosecutor. Indeed, it seems unlikely that the testimony of
8 Witness 279 will end before Wednesday afternoon. We have four hours on
9 Tuesday, four hours on Wednesday, so we believe that he should be at
10 least gone by Thursday. Then we will begin with Witness 280 because it
11 is important that this witness, who is already in The Hague, should
12 realise that even though there is an interruption we have to continue.
13 So the testimony of 280 will begin either on Wednesday, 27th of May, or
14 Thursday, 28th of May.

15 We will not be sitting between the 29th of May and the
16 4th of June. The ideal thing will be to call Dr. Baccard during the week
17 of the 7th of June. We cannot cut up -- interrupt the testimony of 280.
18 So maybe we can call Dr. Baccard on the -- on Friday, the 11th of June.

19 As you all remember, there was a supplementary report that you
20 all received. At the time, Mr. Hooper said that he did not plan to
21 continue with the cross-examination, but the Chamber felt that he should
22 have that opportunity after reading the supplementary report. On the
23 other hand, the Ngudjolo team was interrupted at the middle of their
24 cross-examination. So I believe that the testimony of Dr. Baccard should
25 not go beyond four hours.

1 MR. KILENDA: (Interpretation) Not even one hour as far as we
2 are concerned.

3 PRESIDING JUDGE COTTE: (Interpretation) I believe that he
4 himself will like to present his additional report, so let us plan for at
5 least two hours of hearings. So this may be an interruption of the
6 testimony of Witness 267, but we will set the time for the testimony of
7 Dr. Baccard on Friday, the 11th of June, at 9.00 a.m. That is a good
8 thing.

9 Regarding the expert in the Ngiti language, and Mr. Hooper would
10 like to ask him additional questions, the Prosecutor talked about the
11 week beginning from the 16th of June. We can decide on Tuesday, the
12 22nd of June, irrespective of the witness who is currently testifying.
13 And this person would come at 9.00 a.m. I believe that the date of
14 Tuesday is correct. We will confirm that with the Court Officer before
15 sending the request. So I will note this down. The 22nd of June for the
16 expert witness in the Ngiti language, so she will appear before this
17 Court at 9.00 a.m.

18 The Mathieu Ngudjolo team did not have any comment, but
19 Mr. Hooper wanted to ask her some questions. And we have decided that
20 Dr. Baccard, for his part, will appear at 9.00 a.m. on Friday, 11th June.
21 Is that correct?

22 MR. MACDONALD: (Interpretation) That is perfect. If I'm not
23 mistaken, it is on the 24th and the 25th of June that we shall not be
24 sitting.

25 PRESIDING JUDGE COTTE: (Interpretation) Yes, the 23rd and the

1 20 -- or rather, the 24th and the 25th of June. So there is no problem
2 for the 22nd of June.

3 So, Court Officer, regarding the Ngiti language expert, it is the
4 Chamber who has to call that witness. So you have to prepare for that
5 request. Regarding Dr. Baccard, it is also the Chamber that has to call
6 him back, so we have to prepare for that. He is coming as an expert and
7 not as a member of the OTP.

8 Thank you, Mr. Prosecutor, for that initiative which has
9 clarified matters.

10 One of the officers of the VWU has just sent me an e-mail
11 message, informing me that the psychologist working in the unit had met
12 with our witness during this brief break. I am informed that the witness
13 is very tired and he has headache. He has been given medication for his
14 headache. He would like to continue with his testimony right up to
15 1.30 p.m. I can see that the Court Officer is nodding and that is
16 correct, because I am reading this message in English and this may
17 present some risk, but I believe I'm not mistaken here. So even though
18 he is tired, he would like to continue with his testimony.

19 So this message was principally addressed to you, Mr. Prosecutor,
20 because we -- you are in command and you have to adapt your questioning
21 in relation to the way the witness is answering. Am I well understood?
22 Very well.

23 Security officers, escort the accused persons out briefly.

24 And, Court Officer, let us go into closed session to allow the
25 witness to come in.

Witness: Witness P-0279 (Resumed) (Closed Session)
Procedural Matters

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1 (The accused withdrew)

2 PRESIDING JUDGE COTTE: (Interpretation) We have 40 minutes of
3 hearing, and if we see that the witness is really in a bad way, we will
4 have to suspend before that.

5 (Closed session at 12.49 p.m.)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Open session at 12.50 p.m.)

18 COURT OFFICER: (Interpretation) We are in open session,
19 Mr. President.

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

22 The accused persons are both here. I could not see Mr. Ngudjolo,
23 but he was bending down.

24 Mr. Witness, you are back with us again. We have been informed
25 that you have been having a headache. If at any time you feel that you

Witness: Witness P-0279 (Resumed) (Open Session)
Questioned by Mr. Garcia (Continued)

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1 are too tired, do not hesitate to tell me because it is important for all
2 witnesses appearing in this courtroom to testify while in possession of
3 all their capacities. It is almost 1.00 p.m., and everything -- if
4 everything goes well, we will continue with your testimony right up to
5 1.30 p.m., but if there's not -- something that is not going on well,
6 simply tell us.

7 Prosecutor, you can continue.

8 MR. GARCIA: (Interpretation)

9 Q. Mr. Witness, before the break you told us that roofing sheets as
10 well as cows and goats in Bogoro were looted. Can you tell us where
11 those items were taken to?

12 A. It was those two groups which perpetrated that looting.

13 Q. Witness, can you tell us where those items were taken to, that
14 is, the roofing sheets, the goats, the cows? Where were they taken to?

15 A. They took the cows in the direction of the mountain and also in
16 the direction of the village of Commander Germain Katanga.

17 Q. When you talk about the mountain, which mountain are you
18 referring to?

19 A. It is actually the Zumbe hill.

20 Q. What about the village of Commander Germain Katanga, are you able
21 to tell us the name of that village?

22 A. I heard that he was living in the village of Aveba.

23 Q. Mr. Witness, you also told us that you participated in the Bogoro
24 attack as a member of Mathieu Ngudjolo's group. How old was the youngest
25 of the combatants in that group during the Bogoro attack?

Witness: Witness P-0279 (Resumed) (Open Session)
Questioned by Mr. Garcia (Continued)

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1 A. As I have already said, the youngest combatant in my group was
2 10 years old.

3 Q. Can you tell me what types of weapons those young fighters had?

4 A. Some of them had fire-arms, while others had machetes, arrows,
5 axes, and knives.

6 MR. HOOPER: Sorry, Mr. President, could I just invite the
7 witness to speak up or close to the microphone because he can't be heard
8 very clearly in Swahili. Thank you.

9 PRESIDING JUDGE COTTE: (Interpretation) That is understood,
10 Mr. Hooper.

11 Mr. Witness, to the extent possible - and you know that I ask you
12 frequently, but you should not be irritated by that - it is important
13 that you speak as loudly as possible. If you have a headache, you have
14 to speak as close to the microphone as possible. It is very important
15 for the interpreters to hear what you are saying and interpret it. It is
16 extremely important for the Court, and your testimony must have all the
17 impact that it deserves.

18 Please proceed, Mr. Prosecutor.

19 MR. GARCIA: (Interpretation)

20 Q. Mr. Witness, regarding the FRPI group which took part in the
21 Bogoro attack, according to you, how young was -- or rather, how old was
22 the youngest of its fighters?

23 A. Based on what I could observe, these young people were less than
24 15 years old.

25 (Prosecution counsel confer)

Witness: Witness P-0279 (Resumed) (Open Session)
Questioned by Mr. Garcia (Continued)

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1 MR. GARCIA: (Interpretation)

2 Q. Witness, if I understood your testimony correctly, after the
3 Bogoro attack you returned to the Zumbe hill; is that correct?

4 A. Yes, that is correct.

5 Q. What did you do after your return to Zumbe?

6 A. We were simply rejoicing because Bogoro had fallen. We were
7 happy to have captured Bogoro, and we organised a sort of feast there on
8 the Zumbe hill.

9 Q. And this feast, when did this take place exactly?

10 A. One day after the war.

11 Q. Who was present during this feast that took place in Bogoro?

12 A. The feast in Bogoro? I told you. The FNI commanders and the
13 FRPI commanders were there when we had this feast.

14 Q. Witness, I'm going to correct myself. Where it concerns the
15 feast that took place on Zumbe hill, after the attack on Bogoro, who was
16 present during that feast?

17 A. You spoke about the feast in Bogoro and now you want me to speak
18 about the feast in Zumbe?

19 Q. That is correct, Witness. Who was present at this feast in Zumbe
20 following the attack on Bogoro?

21 A. At the feast in Zumbe, there was Chief Ngudjolo with Boba Boba
22 and other commanders and also groups of soldiers were there.

23 Q. Are you able to tell us who the other commanders were who were
24 present?

25 A. There was Commander Boba Boba who was there and there was

Witness: Witness P-0279 (Resumed) (Open Session)
Questioned by Mr. Garcia (Continued)

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1 Commander Crikaka who was also there.

2 Q. Did the commanders make speeches during these celebrations on
3 Zumbe hill?

4 A. Speeches? I could say that they talked between themselves. I
5 don't know how that went.

6 Q. Did the commanders say anything to the soldiers who were present?

7 A. Yes, they did speak, but I forget what they said. I'm sorry, I
8 have a headache. I have a very bad headache. I don't feel well.

9 PRESIDING JUDGE COTTE: (Interpretation) Very well. I think
10 given the message that was addressed to the Court, we have to take into
11 consideration this headache which is regrettable -- would be regrettable
12 to continue with an examination-in-chief with a witness who is not apt
13 for it.

14 Witness, therefore we would like to release you in order to take
15 care of yourself, and we are going to end this hearing. Witness, we will
16 be back on Tuesday morning, at 9.00 a.m., for the continuation and end of
17 the examination-in-chief, and it will be the counsel representing victims
18 who will ask you the questions. Please care for yourself.

19 First of all, however, we are going to ask the security officers
20 to escort Mr. Ngudjolo and Mr. Katanga outside of the courtroom and we
21 will see them again on Tuesday morning.

22 (The accused withdrew)

23 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please
24 take us into closed session so that the witness may leave the courtroom
25 with due discretion.

1 Witness, we would like to wish you a speedy recovery and to have
2 you back on Tuesday morning in perfect condition.

3 (Closed session at 1.06 p.m.)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Open session at 1.06 p.m.)

15 COURT OFFICER: (Interpretation) We are in open session,
16 your Honour.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
18 Court Officer.

19 Participants -- please, Professor Fofe.

20 MR. FOFE: (Interpretation) I'm sorry, I was waiting for us to
21 go back into open session. I just wanted it to be noted in the record
22 that the subsequent fact to the war in Bogoro -- this feast, rather,
23 seems to have been organised in Zumbe. This is a new element, this
24 feast, which does not figure in the statement of the witness. This is
25 something that I have to say because it enters into the transcript.

1 Thank you -- or I wanted to say this so it may be entered into the
2 transcript.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
4 Professor Fofe.

5 The Prosecutor, as all of us, will check where exactly this is.
6 But as the statements are quite small, this is something that has to be
7 checked but you will pass on your statements to us at the beginning of
8 the hearing on Tuesday morning.

9 I would also like to indicate to all the participants that I
10 regret the fact that we've had to interrupt this hearing more than
11 expected. This does cut things up, but I do not think that the witness
12 could continue. He said that he had a very bad headache, and it was
13 quite apparent that he did have difficulties in replying to questions
14 that didn't seem to be too sensitive or too complex.

15 So we will be back on Tuesday morning at 9.00. The hearing is
16 now suspended. Thank you.

17 The hearing ends at 1.08 p.m.

18 RECLASSIFICATION REPORT

19 *Pursuant to Trial Chamber II's email instructions dated 10 July 2012, the
20 excerpt of the transcript page 10 lines 16 to 18 is reclassified as
21 public, as ordered by the Chamber.

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