

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 1

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 v. Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Thursday, 11 February 2010
10 The hearing starts at 2.04 p.m.
11 (Closed session)
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
17 (Expunged)
18 (Expunged)
19 (Expunged)
20 (Expunged)
21 (Expunged)
22 (Expunged)
23 (Expunged)
24 (Expunged)
25 (Expunged)

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 2

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Open session at 2.07 p.m.)

11 COURT OFFICER: (Interpretation) We are in open session, your
12 Honour.

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

15 So tomorrow there is a slight change in the schedule. You have
16 already been informed, but I will remind you that we will sit from 9.30
17 to 11.00, from 11.30 to 1.00 p.m., and from 2.30 to 4.00 p.m.

18 Mr. Prosecutor, you wanted to make an observation? We are
19 listening to you.

20 THE INTERPRETER: The Prosecutor's microphone.

21 MR. MACDONALD: (Interpretation) Mr. President, yesterday in
22 transcript 99, the edited version, on page 73, line 15, you asked a
23 question, and the witness answered as from line 20 in French. According
24 to what we understood, the witness mentioned the word "kadogo," and it
25 was translated into "a small fighter." We would like to draw the

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 3

1 attention of the Chamber to that point.

2 And in the same vein, I would like to go back to the application
3 that we made on Tuesday during the hearing, that is, the request to
4 listen to one of the answers given to the witness, because according to
5 us the interpretation was not complete. I can give you the details once
6 again. It is transcript 97, edited version, page 67 -- I'm sorry,
7 page 65 -- or, rather, 55. 97, edited version, line 13. I do not know
8 whether that passage has been cross-checked.

9 (Trial Chamber and Court Officer confer)

10 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, after
11 having discussed with the Court Officer, she had told me yesterday with
12 regard to your application of 48 hours ago that that had been referred to
13 the Registry and that there could have been a difficulty but that a
14 report was being drafted that will be submitted to the Chamber in answer
15 to your request.

16 Regarding your first question today, this will also be part of
17 the report that the Registry will make, and we will brief you on that.

18 Do we agree? Very well.

19 Now, let us turn to the witness.

20 WITNESS: WITNESS P-0250 (Resumed)

21 (Witness answered through interpreter)

22 PRESIDING JUDGE COTTE: (Interpretation) Good afternoon,

23 Mr. Witness. Can you hear us well?

24 THE WITNESS: (Interpretation) Yes.

25 Questioned by the Court: (Continued)

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 4

1 PRESIDING JUDGE COTTE: (Interpretation) The headset is
2 functioning, and with your answer we also understand that your microphone
3 is functioning correctly. So we are going to continue with the questions
4 that we started putting to you yesterday, and I would like to remind you
5 once again that some of those questions may lead you to feel that it is
6 repetition, but the Chamber simply wants to clarify some of your answers,
7 obtain precise information and additional information.

8 Let us go back to Zumbe. That is the beginning of your
9 testimony. Now, with regard to Zumbe, can you tell us once again who
10 appointed Mathieu Ngudjolo as Chief of Staff?

11 A. It was the people who had complained about the injustice in
12 Ituri. Those were the ones who decided to designate him as Chief of
13 Staff.

14 PRESIDING JUDGE COTTE: (Interpretation) Can you be more
15 specific? The people who were complaining about injustice, what
16 precisely do you mean by that?

17 A. When the UPC had driven out Lopondo from Ituri, some civilians
18 had fled. It was those people who had fled to Zumbe who chose him to
19 become their leader.

20 PRESIDING JUDGE COTTE: (Interpretation) In Zumbe did
21 Mathieu Ngudjolo answer to the civilian authorities?

22 A. Even though he was the Chief of Staff, there was a leader of the
23 groupement of Bedu-Ezekere. This means there was someone above him, and
24 this person was living near us.

25 PRESIDING JUDGE COTTE: (Interpretation) Do you have any idea of

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 5

1 the relationship between that civilian authority and the soldier that
2 Mr. Ngudjolo had become?

3 A. If there is no relationship, you cannot refer to someone as Chief
4 of Staff in that groupement. It was not a desert. This was a village in
5 which people had been living for a long time.

6 PRESIDING JUDGE COTTE: (Interpretation) Very well.

7 Mr. Witness, we are going to revisit the composition of the troops of
8 which you were a member. Were there many displaced persons? You used
9 the term "war-displaced persons." So were there many war-displaced
10 persons amongst the troops who assembled in Zumbe?

11 A. There were many war-displaced persons, but there were no white
12 war-displaced persons.

13 PRESIDING JUDGE COTTE: (Interpretation) Let me put the question
14 in another way. Were the troops mainly made up of inhabitants of Zumbe,
15 or were there more war-displaced persons amongst the troops than the
16 inhabitants of Zumbe?

17 A. It was the people who were in the villages that made up the bulk
18 of the war displaced. They tried to live in that area while waiting for
19 the intervention of the central government. It was people who had
20 originally come from that village who had gathered there.

21 PRESIDING JUDGE COTTE: (Interpretation) Very well. Amongst
22 those people that you refer to as war-displaced persons who came to Zumbe
23 and who had not been living there, to your knowledge were there any
24 orphans?

25 A. If you are referring to displaced persons, I can tell you that

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 6

1 the population of Walendu-Tatsi had been massacred. Part of the
2 population sought refuge in the town, and they came back. Some of them
3 had actually fled from Bunia after Lopondo had been defeated.

4 PRESIDING JUDGE COTTE: (Interpretation) In the company to which
5 you belonged, were there any soldiers who were younger than you and less
6 experienced than you in the area of weapons handling, for example?

7 A. In the Democratic Republic of Congo, it would be difficult for me
8 estimate someone's age. In any case, there are even the members of the
9 pygmy population. It is very difficult to estimate the age of someone
10 except his or her parents tell you.

11 PRESIDING JUDGE COTTE: (Interpretation) You have already told
12 us that you are not in a position, you do not feel that you can estimate
13 someone's age with precision.

14 A. I will give you an example. When you see somebody of this height
15 with three children, are you going to refer to him as a pygmy? He's a
16 parent. He's a father of three children.

17 PRESIDING JUDGE COTTE: (Interpretation) For parents, that is
18 for a father and a mother, would -- would it have been an issue of pride
19 for such parents to see their son participate in the resistance against
20 the enemy?

21 A. Amongst the combatants there were soldiers. There were no
22 children.

23 PRESIDING JUDGE COTTE: (Interpretation) The issue of soldiers,
24 the situation of soldiers, and children seems to you to be incompatible.
25 Is that so?

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 7

1 A. As far as I'm concerned, there were several people of this
2 height. If such a person is a father of three, how am I going to refer
3 to them as children? I saw parents of that height, and I cannot call
4 them children.

5 PRESIDING JUDGE COTTE: (Interpretation) Let us move on to
6 something else. What was the attitude of the combatants when an enemy
7 took flight?

8 A. They were patient, and they would wait in the hope that maybe the
9 following day the members of the government would arrive, because what
10 happened in Ituri involved specific people with specific objectives. And
11 let me add that the life that was led by people in that area was
12 difficult, because there were the inhabitants of Bira who could go so as
13 to enable as all to arrive that place. There were people who went right
14 up to North Kivu. People were hoping that the government would
15 intervene. People were surviving and fighting for their survival.

16 PRESIDING JUDGE COTTE: (Interpretation) I'm not very sure that
17 you have fully understood my question. Several times in answer to the
18 Prosecutor's questions you said that you were motivated by your
19 commanders, and so my question to you is as follows: When the fighters,
20 including yourself and your comrades, were faced with an enemy that was
21 fleeing, what was your attitude? It is possible for an enemy not to be
22 courageous and to want to flee. What was your attitude in such cases?

23 A. When the enemy runs away, it means that -- that he was no longer
24 in his territory. He goes to his place and we take over the place. That
25 is, when he presents himself as being an enemy. The displaced persons

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 8

1 stayed put. Even the members of the APC received displaced persons at
2 that location.

3 PRESIDING JUDGE COTTE: (Interpretation) Can you tell us whether
4 you received instructions from your commanders or from the general staff
5 regarding the attitude when enemies flee? If an enemy is in flight, are
6 you supposed to allow them to go back to where they came from, or were
7 there any other instructions?

8 A. The soldiers did not go to the toilets or to the farms. Their
9 objective was to kill and to destroy. It is for that reason that we were
10 fighting them. We had to fight them so that they should not do that. If
11 they fled, then they had failed, and our objective was to guard the
12 positions through which they could come in.

13 PRESIDING JUDGE COTTE: (Interpretation) And if by chance a
14 fighter captured an enemy, what did he do with that enemy?

15 A. There were enemies that were taken hostage and killed. Others
16 stayed there, and they lived in Zumbe. They were captured and stayed in
17 Zumbe.

18 PRESIDING JUDGE COTTE: (Interpretation) Do you know whether
19 certain enemies who were captured were actually tried before any courts?

20 A. For example, there was one person who was captured, and he lived
21 in Zumbe right up to the end of the fighting. Even today if you go there
22 you will find his house. This was someone who was captured, and he lived
23 with the population.

24 PRESIDING JUDGE COTTE: (Interpretation) Still with regard to
25 Bogoro, yesterday the Prosecutor asked you whether you had seen any

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 9

1 elderly people in Bogoro, and unless I'm mistaken, your answer was "No."

2 The Chamber would like to know whether during the attack at
3 Bogoro you and the other fighters saw any mothers, any elderly women in
4 the streets or in the houses. Did you see any of those women who might
5 have fled upon seeing the soldiers arrive?

6 A. There were soldiers in Bogoro bearing various types of weapons
7 and wearing military uniforms.

8 PRESIDING JUDGE COTTE: (Interpretation) Can you tell us whether
9 the most efficient, the most courageous fighters were rewarded?

10 A. There were no presents. No one gave any presents to anyone.

11 THE INTERPRETER: The Swahili interpreter did not understand the
12 last part of the witness's answer.

13 THE WITNESS: (Interpretation) There were no cafeterias. There
14 was no place to go, so everyone tried to feed himself the best way they
15 could. So everyone tried to get what they could get.

16 PRESIDING JUDGE COTTE: (Interpretation) The interpreter did not
17 quite understand the last part of your answer, so could you repeat or at
18 least summarise your answer, please.

19 A. There were no -- or, rather, there was no motivation for the
20 soldiers who were in Zombe. There were no rewards in the favour of the
21 commanders. Perhaps your fellow soldier could have something little to
22 share with you, but there was nothing in the camp to give anyone.

23 Sometimes we were given nails to make arrows because there was
24 not enough ammunition. If there could be empty drums, we could cut them
25 out and transform them into arrows.

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 10

1 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, please
2 tell us, at the end of the fighting, when Bogoro was taken over, were
3 there any relationships between the young girls and the Lendu combatants?

4 A. I do not know whether there were marriages. If there were
5 marriages, it could have been with -- because of love. (Expunged)
6 (Expunged)

7 PRESIDING JUDGE COTTE: (Interpretation) During your previous
8 testimony and even today, you told us several times that Bogoro was a
9 military town in reality, a garrison, a garrison town, but where did the
10 families of the soldiers live. The families of the commanders and the
11 families of the soldiers, where did their wives and their children live?

12 A. I don't know, but those who were in Bogoro, they came by convoy
13 to Tchomia and they could also go to Bunia. I don't know where the
14 soldiers had the members of their family, to tell you the truth.

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 11

1 A. It had been a ruin for a long time, and that's where the soldiers
2 were living, even the Ugandans who had left Gety. There were lots of
3 them who were there. And if it was a recent ruin, I would have been able
4 to -- to have it rebuilt.

5 PRESIDING JUDGE COTTE: (Interpretation) Do you know if houses
6 were damaged or even destroyed on the day of the attack in February 2003?

7 A. We were able to get sheet metal from around -- from the houses.

8 PRESIDING JUDGE COTTE: (Interpretation) Can you tell us if the
9 combatants - and you're one of these combatants - could you tell us if
10 these fighters were authorised to take what they found, particularly from
11 houses? Were they able to appropriate what they found in the houses?
12 Had they authorisation to do that? Can you speak to us about that?

13 A. There were people who had found things to eat in the camp, and
14 they took advantage of that, at least the first few people who were able
15 to get there.

16 PRESIDING JUDGE COTTE: (Interpretation) Do you know if it's
17 possible to appropriate what you found in houses occupied by the soldiers
18 who you chased out?

19 A. We had driven out the enemy. The enemy took all their goods, and
20 obviously we took advantage of what they had left behind. I would say
21 that there would -- they hadn't left anything.

22 PRESIDING JUDGE COTTE: (Interpretation) When Bogoro was taken,
23 did this make it possible to take over control of the commercial roads?
24 For example, did the -- was it possible for the trade to establish itself
25 more easily after Bogoro was taken? Do you have an idea of such

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 12

1 follow-up to your victory?

2 A. After our victory in Bogoro, we reopened the market, and people
3 came from Kasenyi, Bindi, Zumbe, even from Bunia to come to Bogoro.

4 There are even some who came from Dele. So there weren't soldiers.

5 THE INTERPRETER: The cabine Swahili interpreter would like to
6 remind the witness to speak louder.

7 PRESIDING JUDGE COTTE: (Interpretation) The witness is asked to
8 speak more slowly so that everybody can better understand what he says.

9 You told us that the market, therefore, had basically started
10 functioning again fully before the attack. Was there the possibility to
11 get supplies easily in Bogoro?

12 A. Bogoro was occupied by a military force, and these soldiers could
13 allow people to take their goods to Uganda or Bunia, but there wasn't a
14 market as such. There weren't civilians who could go and buy goods from
15 the market square.

16 PRESIDING JUDGE COTTE: (Interpretation) The day of the attack,
17 did you note on that day the existence of troop movements of troops who
18 were going through Bogoro?

19 A. There were birds that could fly.

20 THE INTERPRETER: The interpreter would like to make a
21 correction, that the previous answer did not speak about troops, it was
22 speaking about animals.

23 PRESIDING JUDGE COTTE: (Interpretation) So in around Bogoro and
24 this area, how did the soldiers feed themselves, the soldiers who you
25 drove them out? How did they feed themselves?

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 13

1 A. There were tanks. There were -- there were neither soldiers nor
2 were there shops in Bogoro.

3 PRESIDING JUDGE COTTE: (Interpretation) I'm going to ask you
4 the question again. Perhaps you don't know, but could you say what the
5 military ate who were living in Bogoro until the time that you drove them
6 out?

7 A. There was flour, there was fish. There were only -- there were
8 just -- there were just troops. I understand that their -- their leaders
9 had sent them to get something to eat.

10 PRESIDING JUDGE COTTE: (Interpretation) Before starting the
11 fighting in Bogoro, did the witch doctors or feticheur intervene to give
12 strength to the fighters?

13 A. We sung, and to be able to have a higher degree of morale and
14 courage, we made a noise. We made -- we produced sounds with horns to be
15 able to -- to be able to -- to be able to drive up our morale, and to be
16 able to beat drums as well.

17 PRESIDING JUDGE COTTE: (Interpretation) So all this motivation
18 that you've often spoken about, this was -- essentially expressed itself
19 in terms of songs; is that right?

20 A. This -- this replaced the effects of witch doctors. Even -- even
21 in the church you sing when people are tired. We learnt to sing when we
22 were in Bogoro. And in the church we learnt to sing, and when we went to
23 Bogoro, we learnt to sing to make them think that there were people who
24 were singing who were passing.

25 PRESIDING JUDGE COTTE: (Interpretation) Yesterday and a few

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 14

1 days ago, you mentioned the words of a song, words which refer to birds.
2 Were there other songs that you remember?

3 A. We sung so many times this song in Swahili, that's why I was able
4 to remember the text. They could also sing a song in a language that I
5 knew. Another person could -- might beat a drum and use a horn.

6 PRESIDING JUDGE COTTE: (Interpretation) Good. Witness,
7 currently it's now the Defence teams who are going to carry out a
8 cross-examination. The Prosecutor has asked questions to you. The
9 Chamber has asked questions to you. It could also do so at another time
10 during the proceedings while you're there, but we are currently going
11 into a phase which is that given over to the Defence teams. I don't know
12 if it's the Defence team of Mathieu Ngudjolo who is going to start or
13 that of Mr. Katanga. It's that of Germain Katanga. So you are going to
14 turn to your left in such a way as to be able to see those lawyers who
15 are asking questions to you, and in the same way as you did to -- for the
16 Prosecutor and myself, you are going to reply to these questions. And
17 you will always remember fundamentally that you have sworn to tell the
18 truth, the whole truth, and nothing but the truth. And at a much more
19 practical level, you have to speak slowly, you have to speak loudly, and
20 you have to speak square on into the microphone.

21 Counsel David Hooper, if it is you who is to take the floor, you
22 have it.

23 Questioned by Mr. Hooper:

24 Q. (Microphone not activated) ... I represent Germain Katanga, and
25 I'm going to be asking you questions certainly all of today and probably

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 15

1 much of tomorrow, and if at any time you don't understand any of my
2 questions, you'll let me know; all right? Do you understand?

3 A. (No interpretation).

4 Q. I want to just ask you about some matters that the learned
5 President was just asking you. Is it right that before attacks took
6 place that your superior officers expressly told you not to harm
7 civilians? Is that right?

8 A. We were told, "If you see -- if you see civilians." When we went
9 into Bogoro, there weren't civilians. So we went to fight the soldiers
10 who were there.

11 Q. But before the attack or any attacks, is it right that you were
12 told expressly by your superiors that if there were to be any civilians,
13 if you found any civilians, you were to leave them alone and not hurt
14 them?

15 A. Yes. They said that to us.

16 Q. Now, I'm going to ask some questions in a moment that may reveal
17 some personal details, and generally if I ask you any question and you
18 think that this might reveal your identity, then you very quickly let us
19 know. Now, we don't need to go in closed session straight away, but
20 there will come a time in a few minutes, I apprehend, when we will, but I
21 think I can put this generally. (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 16

- 1 (Expunged)
- 2 (Expunged)
- 3 (Expunged)
- 4 (Expunged)
- 5 (Expunged)
- 6 (Expunged)
- 7 (Expunged)
- 8 (Expunged)
- 9 (Expunged)
- 10 (Expunged)
- 11 (Expunged)
- 12 (Expunged)
- 13 (Expunged)
- 14 (Expunged)
- 15 (Expunged)
- 16 (Expunged)
- 17 (Expunged)
- 18 (Expunged)
- 19 (Expunged)
- 20 (Expunged)
- 21 (Expunged)
- 22 (Expunged)
- 23 (Expunged)
- 24 (Expunged)
- 25 (Expunged)

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 17

- 1 (Expunged)
- 2 (Expunged)
- 3 (Expunged)
- 4 (Expunged)
- 5 (Expunged)
- 6 (Expunged)
- 7 (Expunged)
- 8 (Expunged)
- 9 (Expunged)
- 10 (Expunged)
- 11 (Expunged)
- 12 (Expunged)
- 13 (Expunged)
- 14 (Expunged)
- 15 (Expunged)
- 16 (Expunged)
- 17 (Expunged)
- 18 (Expunged)
- 19 (Expunged)
- 20 (Expunged)
- 21 (Expunged)
- 22 (Expunged)
- 23 (Expunged)
- 24 (Expunged)
- 25 (Expunged)

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 18

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 MR. MACDONALD: (Interpretation) Could we go into private
7 session, please, so that I'm able to express myself freely.

8 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, we'll
9 now go into private session so the Prosecutor can express himself in the
10 conditions which he considers desirable in order to do so. Please go
11 ahead.

12 MR. HOOPER: Can I just indicate that --

13 PRESIDING JUDGE COTTE: (Interpretation) Time for the
14 intervention of the Prosecutor which I will -- what we don't want to do
15 is to -- we don't want to take up your own time of your
16 cross-examination.

17 (Private session at 2.53 p.m.)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 19

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 19 - Expunged - Private session

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 20

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 20 - Expunged - Private session

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 21

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 21 - Expunged - Private session

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 22 - Expunged - Private session

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 23

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 23 - Expunged - Private session

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 24 - Expunged - Private session

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 25 - Expunged - Private session

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 26

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 26 - Expunged - Private session

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 27

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 27 - Expunged - Private session

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 28

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 28 - Expunged - Private session

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 29

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 29 - Expunged - Private session

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 30

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page 30 - Expunged - Private session

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 31

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 31 - Expunged - Private session

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 32

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 32 - Expunged - Private session

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 33

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 *Q. Now, when you get to Zombe, you told us how when you got there
12 there were no camps, but that over the months a degree of organisation
13 developed.

14 A. The people organised themselves when they fled, and there was a
15 force that was present in Bunia which chased out the people who were
16 being followed. That's why they organised themselves. The Lendu, they
17 formed the FNI. And these people had an internal organisation, Chief of
18 Staff or other posts, but they were war-displaced persons, and through
19 their presence they

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 34

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 *A. When the number of the population increased in Zumbe people
22 organised themselves in self-defence to be able to protect where they'd
23 fled, and I was part of this

24 (Expunged)

25 (Expunged)

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 35

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 *A. In this groupement there was a party or a military organisation.

6 There was a camp. There was military positions, and there were different

7 camps, and so it

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 *A. This -- it was in the name of several people who were there in

21 the camp. It wasn't just for him. He was the representative of the camp

22 in the centre of Zumbe. He was commander of the company, but he had

23 hierarchical superiors above him. You could have a function, and you

24 could send somebody to the general staff, and

25 (Expunged)

Witness: Witness P-0250 (Resumed) (Private Session)
Questioned by Mr. Hooper

Page 36

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

13 (Open session at 3.51 p.m.)

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

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

18 MR. HOOPER:

19 Q. And if I refer to post, we all know what I'm talking about, and I
20 don't need to spell it out.

21 So we're now in open session, and you've told us in general terms
22 so far a little bit about Bogoro, its schools and villages, and that
23 70 per cent of the houses there you thought had iron roofs, and you've
24 told us a little bit more about -- about yourself.

25 MR. MACDONALD: I --

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 37

1 MR. HOOPER: Now --

2 MR. MACDONALD: I object, your Honour, to what Mr. Hooper just
3 did. We were in closed session, and now what was mentioned in closed
4 session is being summarised for the public in Ituri. That's exactly what
5 he's doing. That's exactly what he's doing in a public session,
6 summarising the information provided by this witness.

7 MR. HOOPER: Well, yes. That's been my practice in other
8 tribunals and people haven't got quite as excited. The issue is this:
9 These matters are of such generality that they don't seek to identify
10 this witness, and of course they don't. But it's appropriate, isn't it,
11 that when we're in closed session, we come out if it, if it's possible to
12 briefly summarise some of the issues that don't identify the individual
13 speaking, then it's in the interest of justice that that's done.

14 PRESIDING JUDGE COTTE: (Interpretation) The Chamber will make
15 an effort not to make a quick decision. On one side the Prosecutor is
16 right. It would be not right through a summary, even if it was a short
17 summary, to take up in open session what we have just heard in closed
18 session. It could perhaps not be without use, however, for the public
19 nature of the hearings to rephrase the question in a more general
20 context. Once again, the exercise is a bit difficult, so I think you
21 have to be very -- it has to be very brief if you're going to be any
22 summary. If in other institutions there is this possibility, yes, I'm
23 sure, but we've always have to think about the witness that we've got
24 ahead of us, and we have to bear in mind the specific risks that there
25 are to this particular witness in a particular given case and in a

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 38

1 particular country and case as well, and on this basis we will be
2 listening to you. There are six minutes before the break.

3 MR. HOOPER:

4 Q. I want to come to Swahili. You speak Swahili. You're listening
5 to this hearing in Swahili. You learnt your Swahili at school; is that
6 right? And in your community, of course.

7 A. It is not a Swahili-speaking village. We speak Kingwana. We
8 study Swahili at school. Swahili is a course just like English is,
9 geography is. I studied Swahili as a course. So I don't speak it
10 perfectly because I normally speak Kingwana.

11 Q. And that's what I really want to come down to. You're Lendu, and
12 your primary language is Lendu. You live where you lived, where a form
13 of Swahili is spoken called Kingwana, as you've told us, which is
14 different to Swahili; is that right?

15 THE INTERPRETER: The interpreter -- the Swahili interpreter
16 didn't understand the answer.

17 PRESIDING JUDGE COTTE: (Interpretation) Witness, everybody is
18 very satisfied to hear you speak, but please speak slowly, very slowly.
19 We're going to have this answer, and then we'll have a break after this,
20 because for technical problems we have to stop a bit before 4.00. So
21 please give the answer again so that it can be well translated so that
22 Counsel Hooper and us all can hear it perfectly.

23 MR. HOOPER:

24 Q. I think the question was that Swahili and Kingwana are different,
25 aren't they?

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 39

1 A. Swahili is one of the national languages in the Democratic
2 Republic of the Congo. What I'm speaking here, yes, this is Swahili, but
3 to tell you exactly, it's not real Swahili. I'm talking Kingwana. What
4 I would say is that if I make the effort to speak Swahili, then people
5 will think that I'm trying to have a farce, for example. If a friend of
6 mine listens to me now, he would think that I'm making a comedy because I
7 learnt Swahili at school and I don't master it perfectly.

8 Q. And even Kingwana changes, does it not? If you're from
9 Kisangani, for example, your Kingwana would be different than if you're
10 from perhaps Kagaba?

11 A. Swahili from an inhabitant of Kagaba and of an inhabitant of Kobu
12 is different, because somebody who lives in Kobu is used to his language
13 which is Kilendu, and he will have a particular tonality. And it's
14 exactly the same case for the person from Kagaba. But the person who
15 speaks Swahili -- well, you have to go and see professors or teachers of
16 Swahili, or to journalists as well, because they have studied Swahili and
17 they speak it perfectly. They master it perfectly. I studied, for
18 example, singular, masculine, feminine, one, two, three, four, yes, I can
19 say that, but afterwards I went -- I will go back into Kingwana.

20 Q. And --

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

23 Thank you, Counsel Hooper.

24 We are therefore going to adjourn. The security officers will be
25 kind enough to take Germain Katanga and Mr. Ngudjolo out of the

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 40

1 courtroom. The Court Officer is now going into closed session so that
2 the Usher can take the witness out the courtroom for the coming half
3 hour.

4 (The accused withdrew)

5 (Closed session at 3.59 p.m.)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Open session at 4.00 p.m.)

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

17 PRESIDING JUDGE COTTE: (Interpretation) Perfect. So we are now
18 adjourning. We shall take it up again at 4.30.

19 Recess taken at 4.00 p.m.

20 On resuming at 4.32 p.m.

21 (Closed session)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 41

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Open session at 4.34 p.m.)

10 COURT OFFICER (interpretation): We are in open session, your
11 Honour.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Madam Court
13 Officer.

14 Mr. Hooper, please proceed.

15 MR. HOOPER: There are some maps which have been printed out, and
16 I hope they can be distributed, and when people have got them we can
17 perhaps say a little bit more about them.

18 We -- we've been discussing this over the last few days, and I'm
19 afraid what's happened is that we managed to agree something, but we
20 haven't got enough copies for people to have. Oh, maybe we have. I
21 don't know.

22 MR. MACDONALD: (Interpretation) I am sorry. To come to
23 assistance of Mr. Hooper, Mr. Hooper asked us, that is at his request, at
24 his instructions, to submit two maps. We handed over a first map of
25 Bogoro. I was informed that you had enough copies. There is a second

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 42

1 map of the region of Walendu-Bindi. I understand that the Chamber can
2 look at that one. We have copies, and if needed I can hand them over,
3 but I do not know with which map you would like to start, Mr. Hooper.
4 Walendu-Bindi?

5 MR. HOOPER: (Microphone not activated) ... Walendu-Bindi. The
6 larger map, geophysical map with -- yes, Walendu-Bindi.

7 MR. MACDONALD: (Interpretation) I can hand over two copies to
8 the Legal Representatives. We have one, and I believe --

9 PRESIDING JUDGE COTTE: (Interpretation) And if possible, we can
10 follow, several of us.

11 MR. MACDONALD: (Interpretation) I understand it's going to be
12 shown to the witness.

13 Mr. Usher, please maybe you should keep one copy of the map to
14 show to the witness. (In English) One is too --

15 MR. HOOPER: Could I hand one of these smaller ones up to the
16 Bench, and if the -- the larger map can go to the witness. In fact, the
17 smaller A4 size is perhaps more -- it's smaller print, but it's more --
18 easier to handle, of course, because it's not taking up so much space.

19 MR. MACDONALD: Just --

20 MR. HOOPER: The print's smaller on this one, and in introducing
21 this -- this plan, can I just indicate that we've been in discussion with
22 the Prosecution about this. This plan is going -- this map will change
23 over the next few days because there's errors in it, but those errors, I
24 hope, aren't going to intrude into our discussions with this witness, but
25 there are some other -- there are some places on this that are --

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 43

1 (Defence counsel confer)

2 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, given that
3 we are in open session and without questioning the fact that we have
4 these documents with us now, the Court Officer would like one of the
5 copies of the map to be placed on the overhead projector so as to
6 illustrate the public proceedings. Otherwise, it would be a bit
7 difficult.

8 MR. HOOPER: If the projector goes on, I'll lose sight of the
9 witness because when it's on I can't see him because the contraption
10 comes up.

11 JUDGE DIARRA: (Interpretation) Is it very important that you
12 should see him physically? If you can hear each other, is that not
13 enough?

14 MR. HOOPER: No. I like to see the witness.

15 PRESIDING JUDGE COTTE: (Interpretation) And you will have --
16 you would like to see the witness without any blurring, because if I
17 understand you correctly, the overhead projector causes problems. Maybe
18 technically in future is it possible to do something to ensure that the
19 projector does not cause problems?

20 COURT OFFICER: (Interpretation) Mr. Hooper, would it be
21 possible to just try and find out whether you can follow?

22 MR. HOOPER: I was going to suggest that, because it's when I'm
23 sitting down. It may be standing up I won't have the problem.

24 Can I also say that there's voice distortion going on in terms of
25 the public gallery, and I've been informed that my voice is more

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 44

1 distorted than usual. It's being distorted and it's very difficult for
2 people to follow from the public gallery. Can I draw that attention to
3 the court management. Thank you.

4 PRESIDING JUDGE COTTE: (Interpretation) Very well. By chance
5 there are members of the public coming into the gallery.

6 So we are going to try to put a copy of that map on the overhead
7 projector, and we are going to see whether it is -- the reflection is as
8 intense as during the other days.

9 COURT OFFICER: (Interpretation) Mr. Hooper, can you indicate
10 the level of confidentiality of the document? Is it public or
11 confidential?

12 MR. HOOPER: It is a public document, and can I correct what I
13 said just a moment ago, and that's simply this: This is a map where the
14 names, so far as we know, have been changed so that it approximately
15 illustrates the correct position. The Chamber will notice that
16 Lake Albert is -- is obscured on the right of the map, and in order to
17 make the map fit. We'll try and correct that over the next few days but
18 we've lost Kasenyi and Tchomia as a result. The Chamber, I'm sure, will
19 recall that both Kasenyi and Tchomia are on Lake Albert, and we'll come
20 back to that in due course.

21 COURT OFFICER: (Interpretation) In order to see the document,
22 press on the button "Docu Cam Witness" near your computer. Thank you.

23 MR. HOOPER: And, Judge Diarra, I can see the witness. So
24 there's not a problem. Thank you very much.

25 PRESIDING JUDGE COTTE: (Interpretation) You can see the

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 45

1 witness, and it's not too bright? Very well, proceed.

2 MR. HOOPER: The --

3 PRESIDING JUDGE COTTE: (Interpretation) What is going on,
4 Mr. Prosecutor?

5 MR. MACDONALD: (Interpretation) Is it the A4 or the A3 version
6 that we have?

7 PRESIDING JUDGE COTTE: (Interpretation) I believe that it is
8 the smaller version of the map that has been placed on the projector.

9 MR. MACDONALD: (Interpretation) If we have the A4 version,
10 Mr. Hooper, and that is his suggestion, it is possible to have a better
11 resolution than the A3 version. Maybe it's easier to see the whole thing
12 on A3, but there's better resolution on the A4.

13 PRESIDING JUDGE COTTE: (Interpretation) Now, what we can see on
14 our screens, Mr. Hooper, is that enough for you to continue with your
15 cross-examination? The part that appears on the screen, is it the part
16 that corresponds to the questions that you'd like to ask?

17 MR. HOOPER: It's not clear, is it, from what I can see on my
18 screen. If that's what the witness is having to see, it's not clear, and
19 it might be that he would be better off with a hard copy. And I see the
20 witness has a hard copy.

21 Q. Mr. Witness, looking at the hard copy, are you sufficiently
22 familiar with looking at maps to be happy, to be content referring to
23 this map? Can you find Zumbe on it, for example?

24 A. Yes. In front of me on the paper I can see Zumbe, but I cannot
25 see it on the screen.

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 46

1 Q. Well, let me press on then. And looking at your paper copy, we
2 can see Zumbe, and you've told us how you fled there from Bunia. We can
3 see Bunia on the plan. Passing, you told us, via Dele, which we can see
4 on the plan, and up to Zumbe. And as I understand your evidence, it was
5 to Zumbe in the groupement Bedu-Ezekere that you went to; is that right?

6 A. Yes. I left Bunia and went to the Bedu-Ezekere groupement, and
7 particularly the locality of Zumbe.

8 Q. And at that time you were not a militia; is that right?

9 A. When I left Bunia to go there, I was not a member of any militia.

10 Q. And Zumbe, when you got there, you told us that at the time you
11 got there there were no camps. Is that right?

12 A. There were no camps in Zumbe. There was only a primary school in
13 Zumbe as well as a church.

14 Q. And there came a time when the APC arrived under
15 Commander Faustin, and you put that at about a month and a half, I think,
16 after you yourself arrived in Zumbe; is that right?

17 A. I didn't quite understand your question.

18 Q. Sometime after you reached Zumbe, the APC forces, commanded by
19 Commander Faustin, arrived in Zumbe. Do you remember telling us about
20 that? Yes or no?

21 A. Yes, I do remember. That is what I said, and it is the truth.

22 Q. And you thought that was, as I recall, a month and a half after
23 your arrival there in Zumbe; is that right?

24 A. The members of the APC arrived in Zumbe one month later.

25 Q. And you told us that while they were there, they were given a

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 47

1 field by the primary school and set up a camp there. Do you remember
2 telling us that?

3 A. They also used the buildings of that primary school.

4 Q. While they were there, did -- did they train you or not?

5 A. No one received any training in Zumbe. The APC trained a few
6 people and went away with them, and today they're still members of the
7 APC. The APC trained a few people and then left with them.

8 Q. And how long did they stay for before they left?

9 A. They stayed for one week to one and a half weeks there, and in
10 fact, when they left, they did not leave together to go to the same
11 direction. They left in three groups or, in fact, in three waves.

12 Q. While they were there, did they attack Bogoro?

13 A. After they arrived, they had a lot of courage. They thought they
14 were going to succeed, but they tried in vain, and then they went on
15 their way.

16 Q. Well, the question was: While they were there, did they attack
17 Bogoro? And is the answer to that yes?

18 A. Yes, they attacked Bogoro. It was an attempt, but the APC
19 soldiers did not even reach the centre of Bogoro. They arrived at Limbo,
20 and more specifically, at the place where the government office of Bogoro
21 was located. So they did not go very far. They returned to Bogoro to
22 prepare their departure.

23 Q. And how many APC troops came to Bogoro -- sorry, came to Zumbe?

24 A. There were many APC soldiers who came there, many. There were
25 more than 350 members of the APC who came to Zumbe.

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 48

1 Q. In fact, it was a complete battalion, was it not?

2 A. It was more than a battalion. There were 250 people and 200
3 others. So I would say that it was approximately two battalions.

4 Q. And how big do you say a battalion is? How many in a battalion?

5 A. A battalion is made up of about 250 people, but the number of
6 soldiers was higher. I would say that it was practically the entire APC
7 that was moving about in the company of Napoleon.

8 Q. I'm sorry, who was Napoleon?

9 A. If you read the history books, this is someone who is known. And
10 if you ask the primary schoolchildren, they will sing the song "Napoleon
11 and his 100 soldiers."

12 Q. Perhaps it got lost in translation, the point you were making.
13 I'm not concerned about it, except that there were in fact about 500 APC
14 soldiers who arrived at Zumbe, fleeing from the UPC forces. That's
15 right, isn't it?

16 A. I did not say 500 soldiers. I said more than 350 soldiers.
17 These were the soldiers of the APC. When Lopondo was defeated, those who
18 were near the borders, given that Lopondo also wanted to flee, but when
19 he arrived there, he saw that there was no longer any way out, so he
20 followed Lopondo.

21 Q. Now, can we just look very briefly at the plan that you've got in
22 front of you. You've found Zumbe, and we can see that. Now, there's a
23 road in red indicated that leads off to the right, just over halfway up
24 the plan, and that's a road that we all know and accept takes us, first
25 of all, to Kasenyi, and then moving up a little to the north we get to

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 49

1 Tchomia. So we bear those places in mind.

2 Now, we can see where Zumbe is. You've identified it already.

3 And is it right to say that at that time Zumbe was effectively surrounded
4 and cut off by UPC forces?

5 A. In Zumbe there were only civilians and the population who lived
6 there previously. The distance was 14 kilometres from the town of Bunia,
7 which at that time was held by the UPC, and it was 8 kilometres from
8 Mandro, where the UPC soldiers were also.

9 Q. Just pause there. We can see Bunia, and if we move a little to
10 the right of that, immediately above Zumbe, a little bit to the north
11 is -- there's Mandro indicated. We can see that.

12 At that time, is it right that there were also UPC forces at
13 Kasenyi and Tchomia, as well as at Bogoro?

14 A. There were UPC soldiers in Bunia and in Bogoro, but next to the
15 lake, that's to say in Kasenyi, there were APC soldiers.

16 Q. Let me put it like that. When the APC soldiers left that area by
17 the lake, is it right that that area by the lake was taken over by the
18 UPC?

19 A. Yes, that's correct. The UPC governed in all -- or had taken
20 over the whole zone. Afterwards, there was a group which was created.
21 This group was called -- or this movement was called PUSIC. This is a
22 party that was borne from misunderstanding between UPC soldiers.

23 Q. Now, you told us previously in your evidence that Zumbe, or the
24 area, was attacked 36 times; is that right? And who attacked the area in
25 that way?

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 50

1 MR. MACDONALD: (Interpretation) I -- I'm standing up with
2 regard to the question of 36 and Zumbe. I think the witness said a
3 different place than Zumbe when it is a matter of 36 times in his
4 previous testimony. I'm not going to lead it, but I can think of the
5 place. The witness didn't mention Zumbe.

6 PRESIDING JUDGE COTTE: (Interpretation) Does the witness
7 remember in a statement or testimony the place in which he said which
8 place was attacked 36 times?

9 THE WITNESS: (Interpretation) It was Lagura. There was a
10 battalion of the FRPI, part B, and at that time they went in 36 times,
11 but they weren't able to conquer it, and then they were driven out a few
12 days afterwards. Afterwards, there was the war in Zumbe, in Kanzi, but
13 in the locality that I mentioned at the start, they tried and they
14 attacked 36 times.

15 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead,
16 Counsel Hooper.

17 MR. HOOPER: I don't know if that was a translation.

18 Q. Let's just go over that. Lagura is part of the groupement, is it
19 not, of Bedu-Ezekere?

20 A. Yes, that's true. I can say that it is the start of Monts Bleus,
21 and it is there that Pascal Kute was.

22 Q. And looking at our map it's not marked but, very roughly, is it
23 right to say it's up on top of the hill above Katonie?

24 A. It is there (indiscernible) Bogoro and Katonie, behind these two
25 localities. That's where the mont starts that I mentioned. Katonie is

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 51

1 in the middle, and Kavalega should be between the two localities. It is
2 from this place that you can go to Kavalega.

3 Q. And when did these 36 attacks take place? Were you there when
4 those attacks took place?

5 A. For us it was like a football match or a school. Every day they
6 tried in the morning, and towards 1.00 they couldn't reach their
7 objective, so everybody who was there knew, even those people who had
8 survived the war.

9 Q. And who was -- who was coming to attack?

10 A. There were Ugandans, the UPC soldiers, UPDF, and from the UPC.

11 Q. I asked that because my script suggested or said it was the FRPI
12 that was attacking. So we can clear that up. So that was the English
13 translation or the transcript.

14 So it's the UPDF or UPC -- UPC who are coming, as I understand
15 it, up to Lagura and attacking it on 36 occasions, and this occurred
16 when? Was this during the time you yourself were in Zumbe?

17 A. I can tell you the following: There is no day where the FRPI
18 fought against the FNI. I said UPC and UPDF, who were next to Mandro and
19 Bunia. It was them who fought against the people who were in the
20 territory. Sometimes they even went and fought against those who were in
21 Bindi.

22 Q. You see, the problem is that you're speaking Kingwana, aren't
23 you, not Swahili?

24 A. I speak Swahili, but I know people who come from different
25 places, so I also speak Kingwana. If you can read the Bible, which you

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 52

1 will be able to understand the Swahili, because the Bible is written in
2 Swahili.

3 Q. What language are you speaking into the microphone with? It's
4 Swahili, is it, or Kingwana?

5 A. As I come from the Democratic Republic of Congo, I can say I
6 speak Swahili.

7 Q. All right. Now, when all these APC soldiers arrived in Zombe,
8 was there enough food to feed them all? What effect did their presence
9 have on the local people who were there in terms of food?

10 A. There was at a certain time three people who had to share one
11 potato, and others had to just drink water.

12 Q. And you've spoken of these displaced people, refugees who came
13 from other areas to Bedu-Ezekere. How many people, approximately, came
14 up there to live to escape the problems in other places?

15 A. It was perhaps the satellites which can evaluate the number of
16 people. I couldn't tell you how many people there were at that time.

17 Q. Now, during this time could you go down to do your shopping in
18 Bogoro or Bunia if you wanted your potatoes or food? What was the
19 position?

20 A. Those -- there were some who went via Fichama and Kindia without
21 going into Bunia, but some of them, they were brave and they went right
22 to Bunia to just get a box of soap. They were like thieves, I could say.

23 Q. You said last week that if you had gone down Bogoro it would have
24 been suicide. Why was that?

25 A. There was no means to go to Bogoro. There was just no way of

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 53

1 doing it. From Zumbe to -- on the main road which goes to Bunia or
2 Kasenyi, I can say there were only dogs who went that way.

3 Q. I just want to show a few photographs relating to Zumbe. I hope
4 it won't take long, just to give us a little idea of the kind of place
5 that we're talking about.

6 MR. MACDONALD: (Interpretation) Your Honour, the Prosecution
7 doesn't have an objection, but it does raise a legal issue with regards
8 to the evidence and your decision 1665 to the Defence evidence, and
9 this -- my argument also refers to our application or submission of the
10 start of the month of November where we asked the Chamber to decide on
11 the question of disclosure of evidence which could be used by the Defence
12 during this trial, during our proceedings, and so I think it is important
13 to go back to this issue and we can continue. I just raise this matter.
14 The Prosecution doesn't have an objection.

15 We've received, if I'm not wrong, on Monday we received -- I
16 think it was Monday, I could be wrong, we received in the afternoon a
17 copy of the list of evidence that the Defence was going to show to this
18 witness. This photo was taken on the 1st of December, 2008, by
19 Mr. Hooper himself, I think, if I understand his list, and so our
20 application referred to the disclosure of evidence, and in the response
21 1604, the Defence said they didn't have any evidence to disclose which
22 would be within 07 -- Rule 78 or 79, but I see that certainly we have
23 photos which have been used which they could have disclosed, and the
24 Prosecution would have like to have been able to see these beforehand, a
25 long time ago, but the -- what -- I'm not objecting at this stage of

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 54

1 matters. I would like to be able to come back and to plead on this point
2 more at a later time, perhaps for the next witness, or if not, for other
3 documents that the Defence would like to show to this witness,
4 independent of the fact that this document was disclosed by the
5 Prosecution or that it goes directly from -- whether it's from the
6 Defence to the Prosecution --

7 PRESIDING JUDGE COTTE: (Interpretation) The submissions which
8 you are referring to, not 1665 but the other one at the start of
9 November, is that the submission which relates to Rule 78? Is it that
10 one?

11 MR. MACDONALD: (Interpretation) Yes, your Honour, 78. And I'm
12 sorry, I don't have that number because I wasn't expecting this.

13 PRESIDING JUDGE COTTE: (Interpretation) No. I just want to
14 refresh the memory of the President --

15 THE INTERPRETER: The speakers are now cutting each other off so
16 the interpreter can't follow.

17 MR. MACDONALD: (Interpretation) Yes, this submission. This
18 submission, your Honour, which the Chamber mentioned, it was for -- to
19 render a decision in the month of February or at the start of February
20 during a Status Conference, and after that your instructions in decision
21 1665 were -- were filed. And I would also like to draw your attention to
22 paragraph 103 among others of your decision, and I think it's 107, 108 as
23 well, but I have my file behind me with the points.

24 THE INTERPRETER: Could one of the microphones be switched off,
25 please, because two microphones are on. Thank you. Judge Cotte's has

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 55

1 been switched off.

2 MR. MACDONALD: (Interpretation) This is a question of
3 interpretation. I think that is the term to be used here?

4 PRESIDING JUDGE COTTE: (Interpretation) Without any error on my
5 part, in the decision 1665, paragraph 103 concerns the use of documents
6 for an examination-in-chief, and paragraph 107 concerns the use of
7 documents with a view to cross-examination, and it is within the
8 framework of the cross-examination, it's possible to use all documents
9 already in the proceedings, including transcripts of statements which
10 have -- or which has already appeared before the court under applicable
11 protection measures. And paragraph 108, which if the party which carries
12 out the cross-examination knows in advance that during the
13 cross-examination of a given witness it is going to refer to a document
14 which has not yet been presented in the proceedings, then it has to
15 inform the Chamber and the Court Officer at least three working days
16 before the envisaged hearing or submit the electronic version of the
17 document concerned in accordance with Regulation 52(2) of the Regulations
18 of the Registry. So I think that the list of the photographs that the
19 Defence of Germain Katanga proposes to use during its cross-examination
20 have indeed been transmitted to each one of us.

21 You indicated on Monday. I don't have the date before me, but it
22 was at the beginning of the week, indeed. The three-day deadline seems
23 to have been respected to me. No? We are -- it is Thursday today.

24 MR. MACDONALD: (Interpretation) Let me take three days --

25 PRESIDING JUDGE COTTE: (Interpretation) Yes.

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 56

1 MR. MACDONALD: (Interpretation) In the afternoon during the
2 hearing this was sent by e-mail.

3 PRESIDING JUDGE COTTE: (Interpretation) Okay.

4 MR. MACDONALD: (Interpretation) Around 4.00.

5 PRESIDING JUDGE COTTE: (Interpretation) Understood.

6 MR. MACDONALD: (Interpretation) No objection.

7 PRESIDING JUDGE COTTE: (Interpretation) It is the possibility
8 to remind you of this deadline for the good of everybody. It has to be
9 respected. Otherwise, yes, Prosecutor.

10 MR. MACDONALD: (Interpretation) Otherwise I would also like to
11 raise the following question. It is important -- and this is a question
12 of interpretation in light of our submission 1529. I can find the
13 number. This evidence was not filed for -- in the proceedings. It could
14 have been done from December 2008 via Rule 78 or 79. You will remember
15 that the Defence responded to our submission 1529 in its submission 1604,
16 and I would like to draw your attention to it. I won't read it in
17 English, but paragraphs 4 and 5, particularly paragraph 5 where the
18 Defence indicates that it has no evidence to provide in the proceedings,
19 and if it did have it would have disclosed it, and I submit respectfully
20 that this photo does come within such a context, and it could have been
21 provided for the proceedings.

22 And if we also talk about paragraph 108, if the evidence hasn't
23 been submitted you have a three-working-day deadline before the start of
24 the cross-examination which is too short, not for the photos -- these are
25 photos, yes. But if there are other documents, there can only be -- this

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 57

1 will just have a surprise effect on the Prosecution or the participants,
2 because the Prosecution or the participants have the right to be able to
3 investigate with regards to this evidence beforehand before it is shown,
4 for a multitude of different reasons. And it is within this framework,
5 your Honour, that I would like to remind you --

6 JUDGE DIARRA: (Interpretation) Suddenly you're going very, very
7 quickly, against your normal demeanour.

8 MR. MACDONALD: (Interpretation) I'm going to slow down the
9 debate, or my remarks.

10 But it could happen, your Honour, that for certain evidence which
11 could come within the framework of 108 that the three days is not
12 sufficient for the Prosecution to receive disclosure of evidence intended
13 to be shown by the Defence.

14 Now, when it concerns evidence disclosed by the Prosecution,
15 either which we want to use or which has been disclosed in accordance
16 with Rule 79 or -- Rule 77 or Article 67(2), we are not talking about the
17 same thing. We are talking about documents related to investigations of
18 the Defence and which could be used to cross-examine a witness. I submit
19 that there should be room to interpret them within the light of our
20 application 1529 on which the Chamber has not yet ruled.

21 Thank you.

22 PRESIDING JUDGE COTTE: (Interpretation) We're for the going to
23 get into the substantive debate at this time. The Chamber simply takes
24 note of the fact that it hasn't yet ruled on application 1529 which
25 relates to Rule 78 on the inspection of evidence in the control -- in

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 58

1 possession or under the control of the Defence. The Chamber also notes
2 the fact that you suggest to it to amend or to complete paragraph 108 of
3 the decision of the 1st of December relating to Rule 140.

4 In terms of my reactions, instinctive reactions, we cannot -- on
5 each of the paragraphs of this decision, we can't go into interpretations
6 or complements. This is a decision which is -- has effectively had
7 weight because it constituted some ground rules, but it is a decision
8 which, unless we are wrong, could give rise to a request for leave to
9 appeal if it was the case that certain measures that were taken didn't
10 correspond with the legal analysis that you gave or, in practice, didn't
11 seem to be possible to implement.

12 So we reflect on all that, but I just wanted to allow myself to
13 have a reminder on that point. But thank you for your intervention.

14 Counsel Hooper, before we go to the photographs, we have to
15 reserve a place for these -- these maps, and in accordance with the order
16 which was issued orally on the 29th of November -- 25th November, I would
17 like to ask the Registrar to register these maps. There was agreement on
18 the part of the different parties, and I propose that they register them
19 with an MFI number unless you wish to ask for their immediate admission
20 to the case file as EVD. So is an MFI number all right for the moment or
21 is it already an EVD, an item of evidence?

22 MR. HOOPER: Well, it can be either, but we're quite content at
23 this stage it could be MFI, particularly as we're hoping to get a more
24 inclusive map at a later stage to replace this one.

25 PRESIDING JUDGE COTTE: (Interpretation) Yes, Mr. MacDonald.

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 59

1 MR. MACDONALD: (Interpretation) Just to complete the debate,
2 the -- I think because the witness spoke about this card I think it
3 should be given an MFI number, and then afterwards we can see if the map
4 which will come, which I have provided my colleagues with by e-mail, with
5 Tchomia and Kasenyi, if that will satisfy them and if it doesn't change
6 what the witness has already commented on. But in the meantime, I think
7 it is important for it to have an MFI number.

8 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, as there
9 is agreement on this, then we shall give this document, this map -- well,
10 you are invited to give it an MFI number.

11 Counsel Hooper, you can therefore -- unless the Court Officer
12 gives us the number now -- yes, Court Officer, we are listening to you.

13 COURT OFFICER: (Interpretation) President, this map will have
14 the number MFI-D02-000001.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Court
16 Officer.

17 You had an objection, Professor Fofe?

18 MR. FOFE: (Interpretation) No, Mr. President. It is not an
19 objection. It is, rather, a precaution. The Prosecutor has just
20 referred to his application 1529, to which the Defence of Mathieu
21 Ngudjolo had responded with its filings 1560 of the 26th of October,
22 2009. The Chamber has not yet handed down a ruling on those exchanges.
23 However, that is not my immediate concern. My concern right now relates
24 to paragraph 108 of your directives, and to be more precise, of your
25 instructions number 1665.

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 60

1 I would like to draw the attention of the Chamber to the fact
2 that the Defence of Mathieu Ngudjolo applied that paragraph 108 very
3 strictly. And I am saying this because I do not want us to have any
4 problems at the time that we intend to produce the materials which we
5 disclosed to the Chamber and to the Registry in accordance with the
6 deadlines laid down in paragraph 108, which relates to the implementation
7 of Regulation 52(2) of the Regulations of the Registry. That was a
8 precaution.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
10 Professor Fofe. It was a filing of the 4th of February, 1025, and this
11 was even beyond the deadline of the -- of three days. That was a mention
12 of the materials that you were going to produce during your
13 cross-examination.

14 Now, an MFI reference has been given to that map, and then
15 Mr. Hooper is going to continue with his cross-examination.

16 Please proceed.

17 MR. HOOPER: So we're going to turn to some photographs, I hope,
18 I anticipate quite briefly. The photographs are introduced just to give
19 a flavour of the geography which -- of the area, and the photographs that
20 I'm going to ask the responsible officer to display, can I just indicate
21 the numbers on the -- can I just refer to the final number, because
22 they've got a long preliminary number. You don't need that. I'll just
23 give you the short numbers. And in the sequence of 50 and then 62, 63,
24 64, 65, 66, and then finally 70. So if I can start -- I'm only going to
25 show them one at a time. I appreciate that.

Witness: Witness P-0250 (Resumed) (Open Session)
Questioned by Mr. Hooper

Page 61

1 So the first photograph is photograph --

2 COURT OFFICER: I'm sorry, Mr. Hooper. We need the whole number
3 for the transcript.

4 MR. HOOPER: Very well. All this sequence of numbers is prefixed
5 by the longer number, DRC-D02-0001-0050, and then 61, 62, 63, 64, 65, 66,
6 and 70, with the same figures, of course, preceding them. So the first
7 one is the number 50. And if that's up and the witness can --

8 COURT OFFICER: In order to view this document, please press
9 "PC 1" on the remote controls near your PCs.

10 MR. HOOPER:

11 Q. Witness, if I -- can you see a photograph on your screen? You
12 don't have a photograph.

13 A. There is no photograph.

14 Q. Have you got a photograph now?

15 A. Yes, I can see it now.

16 Q. Now, this photograph is just a -- a general image, and if you
17 leave Bunia, after some kilometres of driving, on the left-hand side of
18 the road as you drive towards Bogoro, the Monts Bleus start to appear,
19 and this is a photograph of one part of the Monts Bleus that runs by the
20 side of the road going from Bunia in the direction of Bogoro. So if
21 you're on that road going to Bogoro, this is on your left. Do you
22 recognise that scene?

23 A. Yes, if it is the road from Bunia to Bogoro, then I do recognise
24 it.

25 Q. And very simply, looking at this photograph, I suggest it shows a

1 typical view of the Monts Bleus, and we notice that there's no trees or
2 very few trees there, and that's the general situation, isn't it? The
3 Monts Bleus in this part are quite barren.

4 A. Yes.

5 Q. Now, the next photograph is 62, and this is -- yes, certainly.

6 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, in order to
7 avoid fastidious work, at the end of the presentation of the photographs
8 we will ask for a reference numbers, the MFI reference numbers, and the
9 Court Officer will give it photograph by photograph, or is it already an
10 exhibit that you would like to tender?

11 MR. HOOPER: Unless my friend has any objection, it's a
12 photograph. It proves itself really, and we ask for it to be an evidence
13 number. We will ask that in due course anyway. It will save
14 reconfiguring the numbers. So could this be an EVD number, and if so,
15 can you let us know what number that is? Thank you.

16 THE WITNESS: (Interpretation) Mr. President, I would like to go
17 and ease myself.

18 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer,
19 please let us go into the closed session to allow the witness to go and
20 ease himself. And before that, could the security officers please escort
21 Mr. Katanga and Mr. Ngudjolo out of the courtroom and bring them back in
22 as soon as the witness is out.

23 (The accused withdrew)

24 (Closed session at 5.39 p.m.)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Open session at 5.40 p.m.)

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

12 Mr. President.

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

14 The security officers can now bring in the accused persons.

15 (The accused entered court)

16 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor,
17 regarding the EVD numbers to be assigned to this photograph and those
18 that will follow.

19 MR. MACDONALD: (Interpretation) At this point, Mr. President,
20 the Prosecutor would like to object to having EVD numbers assigned to
21 these photographs. It does not mean that the Prosecution is not going to
22 come back to the Chamber to say that we do not have an objection, but to
23 be frank, we did not have the opportunity to look at those photographs
24 closely and to compare them with the 360-degree presentation, and there
25 is also the way in which questions are being put to the witness. It is

1 mainly speculation.

2 If I look at page 67 of the transcript:

3 "Can you see the photograph now?" That is line 4.

4 "Yes, I can see it.

5 "Q. It is said that this is a general view when you leave
6 Bunia," and so on, and then the witness replies:

7 "Yes, if it is the road from Bunia to Bogoro, then I recognise
8 it."

9 He said "if" to that suggestion. So at this point I do not think
10 that there is certainty here, particularly when the photographs are
11 told -- are shown to the witness and then he comments.

12 I understand that we are in cross-examination and that leading
13 questions can be asked as to whether the witness recognises those
14 pictures.

15 PRESIDING JUDGE COTTE: (Interpretation) This is not a final
16 objection, so what we can do, Mr. Hooper, is to give an MFI number to
17 each photograph, and at the end of the photo presentation we are going to
18 ask the question again. And if there is no objection at that point, then
19 we will assign EVD numbers if that is what you wish.

20 MR. HOOPER: (Previous translation continues) ...

21 PRESIDING JUDGE COTTE: (Interpretation) I thought that opinion
22 was in the affirmative.

23 And, Madam Court Officer, I think you're doing double work, but
24 we understand why this is necessary. We will go photograph by
25 photograph. After each photograph you're going to give us an MFI

1 registration number, and after the complete presentation, maybe tomorrow
2 morning, you'll give us the EVD numbers or not. Is that agreed?
3 Perfect.

4 Now, do we know whether our witness is prepared to come back? In
5 that case, let us revert to closed session, please.

6 (The accused withdrew)

7 (Closed session at 5.45 p.m.)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Open session at 5.46 p.m.)

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

21 PRESIDING JUDGE COTTE: (Interpretation) Very well.

22 Mr. Hooper, please proceed with your cross-examination.

23 MR. HOOPER:

24 Q. Sir, I think you've still got the photograph you were looking at
25 before, and can I assert, and we can prove it later, that this photograph

1 was taken in December of 2008. Now, I mention that, Mr. Witness, to ask
2 you this: From your knowledge of the -- this area, is there -- is there
3 very much change in the vegetation and the like during the year or what?
4 Is there a dry season and a wet season? Can you help us as to that?

5 A. At this place, at the road coming from Bunia, there is a bridge
6 called Nyamusole and then to the right there is the Bogu bridge. During
7 the dry season you can see that the vegetation is dried up. And at other
8 places you will see clouds.

9 Q. The next, I think five photographs, take us of an ascent of the
10 Monts Bleus and along the plateau road at the top. And the first
11 photograph is 0062.

12 PRESIDING JUDGE COTTE: (Interpretation) Before showing that
13 photograph on the screen, the Court Officer is going to give us the MFI
14 number for the first photograph.

15 COURT OFFICER: (Interpretation) Your Honour, the previous
16 photograph will bear the number MFI-D02-00002.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you. The next
18 photograph should appear on your screen.

19 COURT OFFICER: (Interpretation) Mr. Hooper, I would just like
20 to ask the confidentiality level of the photograph.

21 MR. HOOPER: Public. All these photographs are public, unless
22 there's any objection.

23 Next photograph.

24 Q. There are various ways, I understand, to go up the Monts Bleus.
25 This, as we can see, is not a normal roadway and is part of an ascent of

1 the mountain. Again, Mr. Witness, looking at this photograph, we can see
2 that there's not a great deal of vegetation and a lot of stones and
3 rocks. Would you agree that that's typical of the sides of the mountain,
4 of the hills leading up to the top?

5 MR. MACDONALD: (Interpretation) Before the witness answers,
6 Mr. President, it is being suggested that these are the Monts Bleus, and
7 automatically the witness is being asked whether he recognises the place
8 and whether it is the vegetation that appears on the Monts Bleus. The
9 specific location is not indicated at all, and it is either one of two
10 things. Either the witness recognises the place or he does not, and if
11 he recognises it, then he can comment independently of the fact that
12 something is being suggested to the witness.

13 (The Trial Chamber confers)

14 MR. MACDONALD: (Interpretation) The reason that I'm saying that
15 is because the Blue Mountains is a long chain of mountains of many
16 kilometres, and there are several ascent and descent routes.

17 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, during a
18 cross-examination, it is indeed possible to ask the questions that you
19 wish to ask, whether they are closed or open questions or even leading
20 questions; but maybe it would be appropriate each time a photograph is
21 shown to begin by asking whether the witness recognises the photograph,
22 because a priori we are not in the Alps or the Pyrenees. We are in the
23 DRC. So we may think he will recognise the vegetation in Ituri but it
24 would not be bad idea to ask whether he recognises the place first before
25 continuing with your questions. Thank you.

1 MR. HOOPER: The difficulty is that it's such a general scene and
2 it's put forward not as a specific place other than being on these
3 mountains, as a generic view really. So can I -- let me ask the witness
4 in any event.

5 Q. Mr. Witness, is the view in the photograph familiar to you?

6 A. If you go straight towards the mountains, you will see the
7 waterworks. There are people here, young people who dig for stones for
8 buildings in Bunia town, and even at that particular place there was a
9 plane that crashed.

10 Q. I think that's a yes. Can I take you to the next photograph and
11 just ask you once you've seen it whether you recognise the scene it
12 shows. And that's photograph 63. Before we leave, may I remind myself
13 that the last one needs a number.

14 COURT OFFICER: The present photograph will bear the number
15 MFI-D02-00003.

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

17 MR. HOOPER: And the next photograph is all those numbers ending
18 in 63. I don't know if I can indicate the direction and then ask the
19 witness, but I suggest that this is at the top of the Monts Bleus, moving
20 towards Zombe.

21 Q. Now, regardless of what I say, Mr. Witness, looking at that
22 photograph, are you familiar with the scene it shows?

23 A. It must be the area -- well, I think further away there is
24 Kamutso. That is where Mathieu Ngudjolo lived. So we are coming from
25 the headquarters of the Bedu-Ezekere region, and we are going to a

1 village which is called Bala or something like that.

2 THE INTERPRETER: But there is another village that the
3 interpreter did not hear.

4 PRESIDING JUDGE COTTE: (Interpretation) Can you tell us,
5 Mr. Witness, whether you mentioned another village? The interpreter says
6 that he did not hear it, if indeed you mentioned a second village, the
7 last one.

8 THE WITNESS: (Interpretation) I said that it was the village of
9 Bogu. In fact, Bogu is a mountain and inside there is a valley, and on
10 the other side there is another mountain. It is here that a plane
11 crashed at one point.

12 MR. HOOPER: Can we have an MFI number, please, for that
13 photograph before moving on to the next one. Thank you.

14 COURT OFFICER: (Interpretation) Mr. President, this photograph
15 will be MFI-D02-00004.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you. So, fourth
17 photograph.

18 Mr. Prosecutor, Mr. Hooper, Mr. Kilenda, Mr. Luvengika, and
19 Mr. Gilissen, so that our hearing should not be incoherent, when there is
20 a photograph, without saying that we are at this particular location, it
21 seems to me appropriate for you to indicate that we are on the road
22 moving from here to here, because what we are looking for is the
23 determination of the truth.

24 MR. MACDONALD: (Interpretation) That is what you mentioned a
25 short while ago. My learned colleague has to ask him whether he

1 recognises the place in the first place because we do not know. The
2 Chamber has no information, and at that time the witness might be misled
3 voluntarily, and we do not want that.

4 PRESIDING JUDGE COTTE: (Interpretation) Let us clarify. You
5 should not say that these are the Blue Mountains or the Monts Bleus. You
6 have to ask whether the witness recognises it, and if he does, then we
7 continue with the examination. And if the witness does not recognise the
8 location, then it would be proper for the person examining or
9 cross-examining to provide a clarification regarding what specific
10 location we are at before the examination continues.

11 MR. HOOPER:

12 Q. So let me just ask you this, Mr. Witness. You may not have it --
13 or you still have it on your screen. Yes, it is. That photograph on
14 your screen at the moment, on what mountain is that? Where is that? Let
15 me ask you this: Is that the Monts Bleus or not, or is it part of the
16 Monts Bleus or not?

17 A. I see a so-called road from the headquarters of the Bedu-Ezekere
18 groupement towards Kambutso.

19 Q. We're going towards Kambutso in that photograph. And if we go
20 right along to the end of this road as we see it stretching ahead of us
21 there, where will we end up? Where does that road take us? Just tell us
22 some places along that road.

23 A. This road goes to Ezekere, to Mbala, Kambutso, Zumbe, and you
24 don't see any more, but you just see a path that was -- goes towards Ble
25 (phoen) and Bogoro.

1 Q. Right. Thank you very much. And if we look at, indeed, the map
2 that we have, we can see the names Ezekere, Kambutso, and Zumbe on our
3 plan.

4 MR. HOOPER: Can I go to the next photograph, 0064.

5 THE INTERPRETER: Could the witness say what he said again.

6 PRESIDING JUDGE COTTE: (Interpretation) Witness, you've just
7 stated a comment which the interpreter didn't get. Please could you say
8 it again.

9 THE WITNESS: (Interpretation) The people who left Mandro went
10 on this road, that is to say, they left Ezekere to go to Zumbe, and they
11 were able to -- they were in Zumbe for ten days. The people in Zumbe
12 fled towards Lagura. It was Bosco who was leading this group on the
13 front.

14 MR. HOOPER:

15 Q. Now, the next photograph is 0064, and, Mr. Witness, are you
16 familiar at all with the scene in this photograph?

17 A. This is a -- it follows on another photo that we've just seen.
18 At -- at the top where the trees are it's the village Kambutso Diguna.
19 It is a locality that we call Tsiba Mbala.

20 Q. Thank you very much. And just before we leave that photograph,
21 we can see the houses on (indiscernible), straw houses there. Are those
22 typical of the area?

23 A. The situation which there was at the time in the collectivite of
24 the Walendu-Tatsi after the massacre.

25 Q. But are such houses typical or -- of the area or untypical?

1 A. People build. They build.

2 PRESIDING JUDGE COTTE: (Interpretation) Witness, it's
3 important. Witness. Witness, please look at me. It is important that
4 you reply to the question that's being asked to you.

5 THE WITNESS: (Interpretation) There were people who left their
6 houses to go and attack other people in another place.

7 JUDGE DIARRA: (Interpretation) You were asked, if the houses
8 that you can see on this photo are the -- are typical houses of that
9 area. That is such a simple question and quite far from any of the other
10 answers that you've proposed to us. Make an effort and bring your answer
11 closer to the question asked. Thank you.

12 THE WITNESS: (Interpretation) Yes. It's the type of house that
13 you find there.

14 JUDGE DIARRA: (Interpretation) Thank you, Witness.

15 MR. HOOPER: If we can give -- I think that will be 005 as an MFI
16 number.

17 COURT OFFICER: This photograph will bear the number
18 MFI-D02-00005.

19 MR. HOOPER:

20 Q. If we go on to the next photograph, which is 0065. And again,
21 looking at that photograph, is that a scene with which you're familiar?

22 A. This is part of Bindi, when you leave Lenghabo to go to where you
23 had the Artemis force which had removed people.

24 THE INTERPRETER: The interpreter did not hear the last part of
25 what was said.

1 THE WITNESS: (Interpretation) It was near Lenghabo, where the
2 Artemis force was.

3 PRESIDING JUDGE COTTE: (Interpretation) Please, can you answer
4 again so that the interpretation can be complete. Thank you.

5 MR. HOOPER:

6 Q. And in relation to the place that we saw on the last photograph,
7 can you help us where this photograph is in relation to the last
8 photograph, if you know?

9 A. It is near Bogu mountain of Dolanda. This is the place where the
10 French went to fight the people from the FRPI near Mayi Ya Tinda.

11 Q. Just let me ask this question: Is this on the Blue Mountains or
12 not? The Monts Bleus or not, as far as you know? Just -- just ...

13 A. I said that it could be part of Monts Bleus at Dolanda. If it's
14 not that, that would then be near Medhu and Tinda, where there was
15 fighting between the Artemis force and FRPI soldiers.

16 Q. Okay. So -- all right. Let's leave it like that. Can you just
17 tell me this: Can we see anything in the -- is there a lake in the
18 distance, can you see there? It's not clear on the screen, perhaps, but
19 can you see Lake Albert in this photograph or not?

20 A. When you are in -- if you are in Bogu, you can't see Lake Albert,
21 not even if you were in Tinda.

22 Q. All right. Let's leave it like that.

23 MR. HOOPER: We'll leave this photograph. Can I just say that we
24 assert that this is taken in -- on the Monts Bleus, just after the last
25 photograph was taken, looking east, so that in fact what one can see

1 there is Lake Albert. Now, this witness doesn't recognise the photograph
2 as such. It might be best just if I withdraw it, not ask for it to have
3 an MFI number at this stage. We can prove it in due course if need be,
4 and I can move on to the next photograph, and the next photograph is
5 0060 -- oh, hold on.

6 (Trial Chamber and Court Officer confer)

7 PRESIDING JUDGE COTTE: (Interpretation) Counsel Hooper.
8 Counsel Hooper, it would appear to be difficult on the pretext that the
9 witness didn't recognise what you thought he would recognise to not give
10 it a number given that it was presented and he did talk about, and it is
11 now an integral part of our proceedings. So we are going to give it an
12 MFI number, and then you'll go on to the next photo.

13 MR. HOOPER: Thank you.

14 COURT OFFICER: (Interpretation) Your Honour, this will have the
15 number MFI-D02-00006.

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

18 MR. HOOPER: Thank you. And the next photograph is -- and the
19 last photograph, in fact, I think, will be 0066.

20 Q. And looking at this photograph, do you -- do you recognise the
21 scene?

22 A. If you like for clarifications, you have to move the photo a bit.
23 You have to circulate the photo. I will explain why.

24 Q. This isn't a -- one of the clever photographs that moves about.
25 It's a straightforward photograph. I can't change the image at all. I

1 can invite you -- I can suggest that it's moving towards Zombe, and I
2 don't know if that helps you, looking at it.

3 MR. MACDONALD: Objection. Objection.

4 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor.

5 MR. MACDONALD: (Interpretation) The witness asked to have paper
6 version to be able to comment on photo and give a reply to it, and my
7 colleague says it's not possible, which isn't right, and secondly, takes
8 the opportunity at that time to suggest what it is.

9 PRESIDING JUDGE COTTE: (Interpretation) I'm sorry,
10 Prosecutor --

11 MR. MACDONALD: (Interpretation) Indicating a place.

12 PRESIDING JUDGE COTTE: (Interpretation) Now, I didn't have the
13 feeling that the witness was asking for a paper form of the photograph.
14 What he asked was if you could, in the clarification, you have to move
15 the photo a bit. You have to circulate or rotate the photograph. I'll
16 give you the explanations. I have the feeling that Mr. Hooper understood
17 it, as I understood it myself, that the witness thought it was a
18 360-degree photo as the one you presented to us and that it was possible
19 to rotate it, and we were going to ask him what he wanted.

20 So, Witness, when you asked Counsel Hooper to circulate the
21 photograph or to rotate it or turn it -- I have to find the transcript.
22 In the clarifications, you said, "You have to move the photo. You have
23 to rotate it. I will give you explanations."

24 What exactly do you want to say with this? Do you want this
25 photograph to be given to you on paper, or do you want it to move on the

1 screen?

2 THE WITNESS: (Interpretation) To turn the photo on the screen
3 and then I could see other places, which would make it possible for me to
4 confirm where it is. If not, the only photo I see before me cannot help
5 me. That is just tiring my eyes.

6 MR. MACDONALD: (Interpretation) I would like to apologise to my
7 colleagues and to the Chamber for this intervention. I was the only
8 person who didn't understand.

9 PRESIDING JUDGE COTTE: (Interpretation) No, no. Prosecutor,
10 there is nothing wrong with that. Two-hour sequences of sessions are
11 long, and there's only eight minutes left. Apparently everybody is a bit
12 tired, the witness too. Counsel Hooper will make an effort to obtain the
13 answers with regards to this photograph which he has presented; and if he
14 doesn't manage to obtain the answer that he wishes, I think that we will
15 stop this evening, because there is a certain degree of tiredness, and
16 perhaps you don't feel as I do, but it's an intense heat in this
17 courtroom as well.

18 (Defence counsel confer)

19 PRESIDING JUDGE COTTE: (Interpretation) Counsel Hooper, do you
20 think you'll be able to -- with regards to this photo that's still on the
21 screen, do you think you'll be able to ask a couple of questions about it
22 before the end of our hearing?

23 MR. HOOPER: Certainly can. Certainly.

24 Q. Witness, can you see a building in the middle of the screen, in
25 the distance, behind the palm tree? It looks like it might have a green

1 roof, even a blue roof. Do you recognise that building? It's just the
2 top of a building, I think.

3 A. I see the building in question. I don't know what -- could it be
4 a hospital, the hospital which was in Zumbe?

5 Q. Well, I won't tell you that answer, but I'm just asking you. Do
6 you recognise the building or not? You're saying you think it might be
7 the building in Zumbe. You're not sure.

8 A. I don't see the other parts of the building which could allow me
9 to confirm exactly what it is, but it should be the hospital, because in
10 front of it I can see a place that I could think -- think -- that looks
11 like the marketplace which was in Zumbe.

12 Q. All right. So you think that that might be Zumbe. Let's leave
13 it like that, and thank you very much for your cooperation.

14 MR. HOOPER: And can that be marked with an MFI number, please.
15 Thank you.

16 COURT OFFICER: (Interpretation) Mr. President, this will have
17 the number MFI-D02-00007.

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

20 The court would also like to thank the witness for his
21 participation in this hearing today. And it now turns towards
22 Mr. Katanga and Mr. Ngudjolo to ensure that they have been able to follow
23 the proceedings. You've been able to follow? The microphones are
24 working? You have even been able to, even in silence, participate in
25 this hearing, yes? Good. Very good.

1 Court Officer, we're therefore going into closed session.

2 Security officers, you can therefore escort Mr. Katanga and
3 Mr. Ngudjolo outside.

4 And we will be back here at 9.30 tomorrow. Once they have gone,
5 and once we are in closed session, then our witness can leave.

6 (Closed session at 6.25 p.m.)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Open session at 6.26 p.m.)

20 MR. MACDONALD: (Interpretation) I see that we are now in open
21 session. I would like to annoy the Chamber a bit like the pupil who asks
22 a question right at the end.

23 PRESIDING JUDGE COTTE: (Interpretation) I see it's very
24 difficult for you to separate yourself from being that pupil in the
25 class.

1 MR. MACDONALD: (Interpretation) I would just like to say that
2 following the intervention of Counsel Fofe on this subject of disclosure
3 of the list, the Prosecution does not have access via eCourt to any of
4 the documents that have been presented, so I don't know if it's possible
5 to do the necessary with regards to the Registry, the Registry services,
6 to help the team of Counsel Kilenda in order to see whether we can have
7 access for the Office of the Prosecutor. So when the list was provided
8 to the Chamber this week, the Prosecution, one, had not received a copy
9 of this list, but secondly, was not informed that there was Ringtail
10 access. And we don't have access, having verified it. So the
11 Prosecution has no idea of the documents which have been put into
12 Ringtail.

13 (The Trial Chamber confers)

14 PRESIDING JUDGE COTTE: (Interpretation) One minute for
15 recording left. Professor Fofe, if not we'll take this up tomorrow
16 morning because this is an important problem.

17 MR. FOFE: (Interpretation) Your Honour, the Defence would --
18 with regards to paragraph 108, we would like to refer to that.

19 MR. GILISSEN: (Interpretation) We haven't received anything.
20 Unlike the Defence team of Katanga's team, there isn't an obligation, but
21 it would be extremely welcome by the Legal Representatives.

22 PRESIDING JUDGE COTTE: (Interpretation) Without doubt, there is
23 a place to examine a complement of paragraph 108. Thank you for this
24 intervention. The session is adjourned. We will be back at 9.30
25 tomorrow.

1 The hearing ends at 6.29 p.m.

2 RECLASSIFICATION REPORT

3 *Pursuant to Trial Chamber II's email instructions dated

4 10 July 2012, the excerpts of the transcript page 35 lines 5 to 7,

5 page 35 lines 20 to 24, page 34 lines 21 to 23, page 33 lines 11 to 19

6 are reclassified as public, as ordered by the Chamber.