

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Monday, 14 June 2010
10 The hearing starts at 2.04 p.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session.
14 PRESIDING JUDGE COTTE: (Interpretation) Court is in session.
15 Please be seated.
16 Before we bring in Witness 280 to the courtroom, we would like to
17 provide you some information and maybe give the floor to Mr. Hooper, who
18 last Friday expressed the intention to address the Court. But before
19 that, we will allow the team of Mr. Ngudjolo to address the Court.
20 Mr. Kilenda, on Friday, the 11th of June, 2010, you informed the
21 Chamber that you intended to file today, the 14th of June, 2010, a motion
22 to prosecute Witness 279 under Article 70 of the Statute. The Chamber is
23 waiting for the filing of this motion, as well as the observations of the
24 parties and participants before making its determination. But you also
25 drew the attention of the Chamber to the necessity of not allowing the

1 witness to leave The Hague, so this was a request which was not
2 accompanied by any grounds, but it is provisional.

3 In the afternoon of the 11th of June, 2010, the Chamber learnt
4 that as soon as the testimony of the witness ended, the witness, who has
5 been here for a while, could fly home on Sunday, the 13th of June, 2010.
6 Given that the Chamber had no legal foundation to keep that witness in
7 The Hague, did not oppose that departure, which took place yesterday,
8 Sunday. But we would like to point out that this is a witness who is
9 part of the witness protection of the court and who has been relocated.
10 So this is someone who can be located at any time and who could be
11 contacted if your motion that you intend to file is granted.

12 This is the information that we wanted to give you.

13 MR. KILENDA: (Interpretation) Thank you, Mr. President,
14 your Honours. That motion was filed this morning, and you will soon have
15 notification to that effect.

16 Regarding the repatriation of Witness 279, that is not a problem
17 with us. This was an application filed with the Chamber, and you can
18 make your determination. However, the witness is still at the disposal
19 of the court, and if you granted our motion, you yourselves, you know the
20 measures that would be appropriate to take.

21 Thank you, Mr. President.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Kilenda.

23 Mr. Hooper, you wanted to address the Court on Friday. You can
24 do so now. If I read the record correctly, it is about document
25 DRC-OTP-1023-0073.

1 MR. HOOPER: Yes. This is a document that contains certain facts
2 that are capable of either being admitted by the parties or alternatively
3 being adduced by the parties as evidence. And Mr. MacDonald has been
4 good enough to send me an e-mail over the weekend in which he states that
5 the Prosecutor would like a little more time to consider his position as
6 to whether those matters can be admitted or not, and we're very content
7 with that, and I should think by the mid part of this week that decision
8 one way or another will have been taken by the Prosecution. So we
9 needn't trouble you with that this morning -- this afternoon, rather.

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Hooper.
11 You are not troubling the Chamber. It is simply a document that concerns
12 the date of birth of the witness; is that correct?

13 MR. GARCIA: (Interpretation) Yes, that is correct. As
14 Mr. Hooper said, we are examining the document, and we will file a
15 response this week.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
17 Mr. Garcia.

18 Before the witness is brought into the courtroom, we are going to
19 discuss the protection measures that could be granted to Witness 280. As
20 has been the case so far, this witness is affected by decision
21 number 1667 of the 23rd of November, 2009, relating to protection
22 measures for certain witnesses. In accordance with his expressed wishes,
23 he will be granted the following measures: The use of a pseudonym, voice
24 distortion, and face distortion. So this will mean that we will go into
25 closed session when he enters or leaves the courtroom.

1 In light of the observations made by the VWU, Witness 280 should
2 be considered as vulnerable, which is a situation provided for by
3 decision number 1667, mentioned above, of the 23rd of November, 2009, in
4 paragraph 14. The unit had the opportunity to discuss with this witness
5 on the 18th and 19th of May, 2010, and subsequently, the unit informed
6 the Chamber that this boy who is still young and who was even much
7 younger at the time of the events still remains very traumatised by what
8 he experienced, and he seems to be particularly vulnerable. This is why
9 in the instant case the unit is proposing, and we judge this on a
10 case-by-case basis, the drawing of a curtain that prevents any visual
11 contact between Witness 280 and the two accused persons, it being
12 understood that the accused persons would be able to see the witness's
13 face on their screens. This was a wish expressed by the witness.

14 The unit also advises the presence of a psychologist in the
15 courtroom if necessary. The unit is following the proceedings from their
16 offices. It is the opinion of the unit that the witness could keep his
17 concentration for more than one hour, but that is only if he makes a
18 supreme effort. That is why it is suggested that the Chamber plans for
19 limited hearing options with sufficiently long pauses.

20 The unit also draws the attention of the Chamber that the witness
21 is still traumatised by what he saw and experienced. It cannot,
22 therefore, be excluded that sometimes he may react in a very emotional
23 way when certain topics are discussed or that he might be irritated by
24 certain questions.

25 The Chamber intends to follow the recommendations made, more so

1 because these difficulties of concentration were already encountered with
2 Witness 279, but the description given to us about Witness 280 makes us
3 think that the situation will be similar or even more complicated.

4 In the same vein, the unit recommends that questions should be
5 put in a simple manner and phrased as to be quite easily understood.

6 I will now ask the parties whether they have any observations to
7 make about the recommendations advanced by the unit, which is a neutral
8 organ of the court. And as the Chamber always does, just like you we
9 attach great importance to the proceedings being as public as possible,
10 but we also wish to point out that the testimony that is useful for the
11 ascertainment of the truth presupposes that the testimony of the witness
12 be taken under the best circumstances, particularly psychological.

13 With regard to the curtain separating the witness from the
14 accused, the Chamber reserves the right to grant that request, but we
15 also reserve the possibility to reverse that decision depending on the
16 attitude and demeanour of the witness, as well as on the observations
17 that the parties can make as to whether those measures can be maintained
18 or not.

19 We have a common objective, and that is to ensure that the
20 proceedings are carried out under the best possible conditions and that
21 the witness should provide the information that we need to have.

22 Mr. Hooper, Mr. Kilenda, do you have any observations regarding
23 what I have just said?

24 MR. HOOPER: No thank you, Mr. President.

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

1 Mr. Kilenda?

2 MR. KILENDA: (Interpretation) We have no objection.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

4 Regarding the Prosecution and the Legal Representatives, do you
5 have any observations?

6 MR. LUVENGIKA: (Interpretation) No observation.

7 MR. GARCIA: (Interpretation) No objection.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you. The Chamber
9 now decides that the implementation of the separation measure between the
10 witness and the accused persons will require Mr. Mathieu Ngudjolo, as has
11 already happened before, to sit next to Mr. Katanga. And we would like
12 to remind you that you should not communicate during the proceedings.

13 The decision also implies that the witness will come into the
14 courtroom and leave the courtroom in the absence of the accused persons,
15 who will have to come into the room after him and leave before him.

16 We also adopt all the measures recommended by the unit. We will
17 organise our hearings into segments of 50 minutes with ten-minute breaks,
18 insofar as the exchanges between the parties do not modify our schedule,
19 but the unit recommended that we do not have very long segments.

20 The Prosecution points out that Witness 280 will testify in
21 Swahili, and it is possible that he will need the assistance of an
22 interpreter who could help him with writing or reading.

23 Mr. Prosecutor, please.

24 MR. GARCIA: (Interpretation) With your leave, Mr. President, in
25 the absence of the witness, the Prosecutor would like to inform the

1 Chamber and all the participants that we intend to have the witness
2 identify the accused persons at one point during his testimony,
3 preferably towards the end when there is a factual foundation to proceed
4 with that identification. I believe that the Defence team of Mr. Hooper
5 objected to the use of certain materials that the Prosecution disclosed
6 to Mr. Hooper, and if we have to have a debate on this, it should take
7 place at the time that the Prosecution intends to carry out that
8 identification.

9 I also have copies of the two CDs that were disclosed to the
10 Defence teams, and I do not know whether the Chamber wishes to examine
11 these copies for now or to keep them. We think EVD references should not
12 be given right now, but I believe the Chamber can have the CDs if they
13 wish to examine them.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Prosecutor.
15 Through an e-mail of Thursday, the 3rd of June at 18.46, the OTP informed
16 us that in relation to Witness 280, they would use a video-clip
17 DRC-OTP-0080-0011. Is that correct?

18 MR. GARCIA: (Interpretation) Yes, that is correct. These are
19 excerpts from that video recording.

20 PRESIDING JUDGE COTTE: (Interpretation) And it is the part from
21 17:30 to 20.35.

22 MR. GARCIA: (Interpretation) Yes. This is a montage of the
23 clips that have been identified by the Chamber. So we will look at the
24 pictures. Then there is a break, and then we move on to the next person
25 in that meeting. In certain cases the excerpts are only photographs of

1 each of the participants in that meeting. So those two excerpts are in
2 the CDs that we wish to hand over to the Bench.

3 PRESIDING JUDGE COTTE: (Interpretation) Yes. After receiving
4 your mail of the 3rd of June, 2010, the Bench decided to view this
5 sequence, that is from 17:30 to 21.35, and we were of the opinion that
6 only that sequence should be presented to the witness for the purpose of
7 identification. That is our opinion for now.

8 MR. GARCIA: (Interpretation) Yes, Mr. President. What we did
9 essentially was to take that recording and our technician was able to
10 isolate the various images, and so it is no longer to view -- it is no
11 longer necessary to view the full four minutes. You simply see a picture
12 of the person, pause, and move on to the next person.

13 PRESIDING JUDGE COTTE: (Interpretation) Even before we debate
14 this point, we seemed to be of the opinion that viewing this part from
15 17:30 to 21:35 shows a certain number of people, and the Chamber feels
16 that we can rely on this excerpt after having listened to the parties.
17 We are relying on the full four minutes of the recording, and we would
18 like to know whether the Defence teams actually viewed the four minutes
19 in question.

20 Yes. Apparently Mr. Kilenda is nodding in agreement, and
21 Mr. Hooper also.

22 Now, will the Defence teams wish to take the floor now and make
23 their observations and allow the Prosecutor to use the excerpts later, or
24 do you prefer to take the floor at the specific time that the Prosecutor
25 intends to present the recording?

1 MR. GARCIA: (Interpretation) With your leave, Mr. President,
2 before the Defence teams take the floor, I simply wish us to be clear on
3 this issue. The Prosecution targeted three or four minutes, the ones
4 referred to you, Mr. President, and then we did a montage, a compilation
5 that was forwarded to the Defence teams. So that montage is made based
6 on the three to four minutes that we have provided to the Chamber.

7 PRESIDING JUDGE COTTE: (Interpretation) In light of the
8 discussion that we had on the 26th of May, during which Mr. O'Shea spoke
9 at -- at length, and Mr. Kilenda also, in your montage did you isolate
10 the two accused persons, or did you allow the excerpt as it is from
11 15:30 -- from 17.30 to 21:35, in which we can see 13 people?

12 MR. GARCIA: (Interpretation) What we did is that we took the
13 13 people in those four minutes, and we shortened the time so to save the
14 Court's time. All those 13 persons appear, so what you actually see is
15 that you see a photograph of one person which is frozen, and then there
16 is a pause, then we move on to the next person, and so on and so forth.
17 And the previous excerpts showed Germain Katanga first, and we reserved
18 the order to ensure that it is not Germain Katanga who appears first.
19 But we took into consideration the opinion of the Chamber so as to
20 produce a sequence that is fair and which includes 13 people. So we are
21 going to ask the witness a neutral question.

22 And the reason why I wanted to talk about it is that all the
23 legal discussion will depend on what the witness actually says in the
24 courtroom. There is, of course, going to be a foundation question, and
25 this will depend on the answer of the witness, and the Prosecutor will

1 then take the decision as to whether the witness should be asked to
2 identify the accused persons. So the debate should take place towards
3 the end of the testimony, after the Prosecution would have taken the
4 decision as to whether there is a sufficient legal foundation to proceed
5 with that identification.

6 If it is not necessary, then we are carrying out a debate in a
7 vacuum, all respectfully submitted, Mr. President.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
9 Mr. Prosecutor, given that it is not certain that the Prosecution is
10 going to use this video-clip, we are not going to debate the issue. The
11 Chamber would like to simply remind the Prosecutor of the statements made
12 by Professor Fofe and Mr. Hooper.

13 If an excerpt has to be shown to the witness, nothing should
14 allowed to predetermine the answer of the witness. This was the
15 essential matter that we talked about a few days ago.

16 Personally, I feel that what we saw in the video corresponds to
17 the montage. One of the accused appears second, while the others -- the
18 other is at number 5. So we would like to accept your wish. And the
19 important thing is, and I am talking here to the Defence teams, contrary
20 to what happened in the past, the Prosecutor has made his intention known
21 very early; whereas for Witness 279, he had expressed that intention
22 towards the end of the direct testimony. It still remains to be seen
23 whether he maintains his point of view. And if his proposal is granted,
24 we will determine the conditions under which that video-clip should be
25 projected, but it is not time for that yet.

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1 So, Mr. Prosecutor, we are in the -- in an expectant mood to see
2 what you are going to do.

3 Security officers, please escort the accused persons out for a
4 brief moment.

5 Accused persons, you are going to have to go back and forth from
6 time to time, but we have no choice but to proceed in this -- in this
7 manner.

8 (The accused withdrew)

9 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please
10 take us into closed session.

11 (Closed session at 2.28 p.m.)

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24 (Open session at 2.32 p.m.)
25 COURT OFFICER: (Interpretation) Your Honour, we are in open

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1 session.

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

4 Yes. Witness, we will sometimes be in open session, sometimes in
5 private session. The hearing in private session is required when things
6 might be said that could lead to your being identified, or to the
7 identification of people close to you, but what is going to happen now
8 can be stated in public.

9 So let me repeat once again that the Court will be hearing your
10 testimony. You are here to assist the Court in better understanding the
11 facts that occurred in Bogoro, in better understanding the facts
12 concerning the accusation of the two accused.

13 The first questions, as you've already heard, are going to be put
14 by the Prosecutor, and then you will be questioned by the legal counsel
15 of the victims who have been authorised to attend the proceedings. The
16 Bench may also have questions to put to you, either one of the two Judges
17 sitting beside me, or I myself might put questions. And then it will be
18 the counsel of the accused.

19 I'm reminding you of all of this even though you know it already.

20 The representatives of the VWU have already told you that what
21 you're going to be stating before this Court must not be divulged
22 elsewhere. Your testimony is reserved for the court. You are not to
23 speak outside the court with other people about what you're stating in
24 the course of the hearings.

25 In the course of the hearing we will not use your name. We will

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1 refer to you quite simply as Witness or Witness 280. That is so that
2 nobody can identify you. Your voice will be distorted so that it is not
3 recognised. Your face will also be distorted so that on the screen you
4 cannot be recognised. And as you see, for the time being there is one
5 curtain which separates you from the two accused. In the course of the
6 hearing, the Bench will decide whether that curtain should remain where
7 it is or not, but for the time being, it is there and you will not have
8 sight of the accused, nor they of you.

9 You have water on your table. There is a box of Kleenex. You
10 may well be tired from time to time, and if that happens, please tell us.
11 What is important for the Court is that we have before us a witness who
12 feels well and can give the clearest, most precise answers possible to
13 the questions that will be put to you.

14 So I wanted to explain this to you, and I'm putting it in simple
15 terms and saying to you that you should also express yourself in simple
16 terms.

17 You are asked to speak into the microphone. Please make sure
18 that you are speaking into it. Speak clearly, speak slowly, and do not
19 switch from one language to another. If you give an answer in Swahili,
20 please remain in Swahili. There are interpreters here who will interpret
21 what you say, but it is precisely because there are interpreters that you
22 must remember to speak slowly so that they have the necessary time to
23 understand what you are saying and then to put what you have said into
24 the French and English languages.

25 So, Witness, we're now going to move into private session while

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1 we ask you to give us your identity.

2 So, Court Officer, could we please move into private session.

3 (Private session at 2.37 p.m.)

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23 *THE WITNESS: (Interpretation) For the time being, my only job
24 is to testify.
25 (Expunged)

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23 (Open session at 2.42 p.m.)

24 COURT OFFICER: (Interpretation) We in open session,

25 your Honour.

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

3 Witness, this is a very important moment for you. Before you
4 begin testifying, you must take an oath which is to tell the truth. It
5 is a solemn undertaking. I shall read it to you slowly so that you can
6 fully understand its significance.

7 "I solemnly declare that I will tell the truth, the whole truth,
8 and nothing but the truth."

9 Have you fully heard what I've said?

10 THE WITNESS: (Interpretation) Yes. It will difficult for me to
11 say it in Swahili.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Witness.
13 What is important is that you have heard and understood and that you
14 answer the following question: Do you undertake to tell the truth, the
15 whole truth, and nothing but truth?

16 THE WITNESS: (Interpretation) Yes.

17 PRESIDING JUDGE COTTE: (Interpretation) Fine. The Court once
18 again asks you to listen very closely to what I'm saying. You have just
19 undertaken to tell the truth. If in the course of your testimony, in
20 answer to questions that will be put to you, if you do not tell the
21 truth, legal action might be taken against you by the International
22 Criminal Court for perjury. And if the facts were to be proved, you
23 could be sentenced.

24 Have you fully understood this?

25 THE WITNESS: (Interpretation) Yes.

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1 PRESIDING JUDGE COTTE: (Interpretation) Fine. In which case
2 the Court notes that there's been full compliance with Article 69(1) of
3 the Statute and Rule 66(1) and (3) of the Rules of Procedure and
4 Evidence.

5 Witness, I've already told you this, but let me tell you once
6 again: Speak into the microphone, speak clearly, speak slowly so that
7 the interpreters understand what you are saying, and do not switch
8 between languages in the course of your testimony.

9 Witness, it is now quarter to 3.00. We're going to try to
10 continue for a little over an hour, in other words, until 4.00 p.m. For
11 an hour and a quarter. For the remainder of the hearing we will try to
12 be in the courtroom for 50 minutes and with breaks of 10 minutes in
13 between. We are, however, beginning now at a quarter to 3.00 only, so we
14 are going to try to continue until 4.00.

15 Prosecutor, you have the floor.

16 Witness, it's going to be the Prosecutor who is going to begin by
17 putting questions to you.

18 Questioned by Mr. Garcia:

19 Q. (Interpretation) Good day, Witness.

20 A. Good day.

21 Q. Can you hear me?

22 A. Yes.

23 Q. Let me introduce myself. My name is Lucio Garcia, and I am from
24 the OTP. On behalf of the Prosecutor I'm putting questions to you today
25 and probably over the next few days as part of the chief examination --

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1 the examination-in-chief.

2 MR. GARCIA: (Interpretation) Your Honour, I have a number of
3 questions to put which will require us to go into private session. I
4 shall try to be as brief as possible, and I would ask the Bench, when we
5 can, to go back into public session.

6 PRESIDING JUDGE COTTE: (Interpretation) Fine. Thank you. We
7 would ask you all to be very careful, because we must stick to the rules.

8 Court Officer, we will briefly go into private session.

9 (Private session at 2.51 p.m.)

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25 *THE WITNESS: (Interpretation) As regards the work that I did,

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1 *that was what it was.

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6 *A. I've given the answer. I did that work. I did that job as a
7 militia. So that's

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13 *A. I didn't choose to join the FNI. I never wanted to be a soldier,
14 but it was the circumstances. It was something that happened. War broke
15 out, and we were taken and enlisted into military service.

16 Q. Witness, I appreciate it's difficult for you to talk to us about
17 this, but you must tell us about it. You said you were taken. Explain
18 to us what happened. Start by telling us where you were when you were
19 taken. Where were you living?

20 A. (Expunged) When war broke out,
21 the FNI and UPC, well, it is at that time that they took us so that we
22 could be part of the FNI.

23 Q. With regard to the date that you were taken, if I give you as a
24 reference point the fall of Lomondo in Bunia, and we know that that
25 occurred in August 2002, were you taken after the fall of Lomondo or

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1 *before?

2 A. It was after the fall of Lompondo.

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)

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1 (Expunged)

2 (Expunged)

3 (Open session at 3.04 p.m.)

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

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

7 Prosecutor, you may continue.

8 MR. GARCIA: (Interpretation)

9 Q. Well, Witness, you said that you were on the hill when you were
10 taken. Who came to take you?

11 A. The person who came to take me was called Kute.

12 Q. That person named Kute, did he come alone or did he come with
13 other people?

14 A. He was accompanied by other people.

15 Q. Who were those other people?

16 A. It was their guards, his body-guards.

17 Q. So this gentleman, Mr. Kute, what was he wearing?

18 A. He was wearing what we would call overalls. It's the type of
19 clothing that mechanics would wear, and it was red.

20 Q. What were the body-guards wearing?

21 A. They were wearing civilian clothing. That's the way it was.

22 THE INTERPRETER: It was like a military uniform. That was added
23 by the interpreter.

24 MR. GARCIA: (Interpretation)

25 Q. Just to be clear, you said that they were wearing civilian

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1 clothing and others were wearing military uniforms. Could you confirm
2 that, please? Tell me if I'm right.

3 A. Civilian clothing. In other words, someone would wear jeans and
4 a military uniform on top. Others would be wearing the military uniform
5 underneath, and others would be wearing entirely civilian clothing, and
6 some would have a weapon, a gun or a machete.

7 Q. And Kute, did he have a weapon? Was he armed?

8 A. Yes.

9 Q. What type of weapon?

10 A. An SMG.

11 Q. So you said that when you were taken you were in the hills.
12 Where exactly is that? What hill are you referring to specifically?

13 A. I was fleeing towards Zumbe. I did not get as far as Zumbe.
14 They caught me at Ladile. Ladile is before you reach the top of the
15 hill. It's before getting there, and so it's halfway.

16 Q. In order for us to understand, Witness, were you alone to flee or
17 were there other members of your family who fled with you? How did all
18 that occur?

19 A. I fled alone. We were many people, but the members of my
20 family -- well, I was alone.

21 Q. And you said they caught up to you. When you say they caught up
22 to you, who are you referring to? Are they specific people? Are they
23 body-guards? Are you referring to Kute? Who exactly were those people?

24 A. It was his body-guards. Kute and the commander. It was the
25 body-guards who were looking for soldiers, and they were stopping

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1 everybody.

2 Q. Let's just go back a little. You said that when you were caught,
3 you fled. Why did you do that? Why did you flee? What happened for you
4 to flee at one point?

5 A. It was a fight. Well, perhaps there are a few things that I
6 could say, but there are a few things that I remember still, but there
7 are other things that I saw and that I did, but I've forgotten about
8 those because it was three or four years ago, and so there are some facts
9 that I have forgotten. I'm only human.

10 They took me during a battle, during a fight. It was in Bunia.
11 It was the battle between the UPC and the FNI, but I don't remember the
12 day nor the year. I've forgotten that.

13 Q. You said that it was the body-guards who caught you. Is that
14 correct?

15 A. Yes.

16 Q. Could you explain to us exactly what happened? I understand that
17 you fled and the body-guards caught up with you. Were they armed when
18 they caught you?

19 A. I think I've already answered that. They had weapons. They had
20 machetes. Others had knives, and others had guns.

21 Q. Did they say anything to you when they caught you?

22 A. When they took me, there were a number of us. I saw that there
23 were other people who had already been arrested. There were other people
24 who were being taken. In other words, they were taking people who were
25 still young, those who could still go and fight. There were some people

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1 who were allowed through. If you were allowed through, then that meant
2 you were lucky; but if you weren't lucky, then you were arrested.

3 Q. And what were you told when you were arrested?

4 A. They said, "You are being arrested." They would take us as
5 prisoners, but when we got to the camp, then we were told that we would
6 be soldiers. But on the road, they would never tell us why we were being
7 arrested.

8 Q. You said that when they took you, there were a number of you.
9 And how many people were taken at the same time, at the same time as you?

10 A. I couldn't count how many. The only ones being arrested were
11 just numerous people, but we didn't have time to count how many. It was
12 difficult.

13 Q. Just to give us an idea, was it more than five or fewer than five
14 people who were arrested?

15 A. I think I already answered that question. I couldn't count them.
16 That was not possible. I didn't manage to count how many people were
17 arrested.

18 Q. You also said that they took people who were young. In your
19 estimate, how old was the youngest person who was arrested?

20 A. I don't know how to say it, because when you look at me, well, I
21 could say that I was ten years old and someone else might say 18. So I
22 can't guess the age of those people.

23 Q. So, Witness, please explain to us. You said that at one point
24 the body-guards arrested you. Where were you taken?

25 A. When they took me, they took me to the Lagura camp.

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1 Q. And when you arrived at the Lagura camp, were you welcomed in any
2 way?

3 A. They took us like they would take prisoners. When you're taken
4 prisoner, well, they bring you into the prison.

5 Q. Can you describe to us what type of prison it was that they took
6 you to?

7 A. It was a house, a big house. They put us in that house. We were
8 there. They would feed us.

9 Q. Can you tell us how many people were in that big house?

10 A. I couldn't count how many people.

11 Q. How long did you stay in that house?

12 A. We didn't spend many days there. I don't know how many -- how
13 many days we spent there, but it was a few days. After we started the
14 training.

15 Q. Now, Witness, we're going to talk about that training. What did
16 the training consist of?

17 A. We learned how to shoot a weapon, as well as knowing the plan of
18 attack on the enemy.

19 Q. Did you learn anything else during that training?

20 A. No. We just ran.

21 Q. We will go into the details of the training in a few moments, but
22 just so that it's clear for everyone, perhaps you could explain to us how
23 that training started. Did someone tell you about? Were you brought
24 together as a group and told how you would be trained? What happened?

25 A. They made us all go outside. The first time, we started to run.

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1 We ran from Lagura to Zumbe, and we ran as far as the Zumbe aeroport, and
2 then we went back to camp.

3 Q. And who ordered you to do that, to run?

4 A. Kute.

5 Q. What was Kute's military rank?

6 A. We didn't know the ranks at the time. We just called him
7 "Commander." He was our commander. He was the superior commander,
8 Commander-in-Chief.

9 Q. You said that during this training, among other things, you
10 learned how to shoot a weapon. Who was the trainer for that? Who showed
11 you how to use a gun?

12 A. There were many people. Commander Kute himself showed us how to
13 shoot. There were other people that were found before that who showed us
14 how to shoot a gun and to load a gun. We'd learnt all that, how to load
15 a gun and then fire. That is what we learnt then. That's what we learnt
16 when we arrived there at first.

17 Q. Who told you that you had been taken to then become a soldier?

18 A. The same person. When you're there, there's always someone that
19 you can talk to. There was nobody who told us, but when the training
20 started and the way we were being taught, then you yourself would know
21 that you've become a soldier.

22 Q. You also stated that by being part of this military group that
23 you would know the attack plan on the enemy. What is that plan that
24 you're referring to?

25 A. It's a plan to attack the enemy. They are the ones who would

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1 drive us to the place where we would have to attack. Well, there they
2 would brief us and say which group goes to the right, which group goes to
3 the left, which group goes straight ahead, and they would tell us how to
4 surround the enemy, how to get out, and how to stop them so that the
5 people don't flee. Those are the things that we learned. That was what
6 the training was all about.

7 Q. Can you give us more details, that is, regarding what you were
8 told about attacking?

9 A. There are many ways of attacking. For example, a shot can be
10 fired to alert everyone, or on the other hand, one can shoot directly
11 without warning. There are many ways or many techniques of attacking.
12 The first one is to fire a gun. You attack by firing.

13 Q. And who gave you that training regarding where you had to go, to
14 the left or to the right, and how to attack? Who was the person who
15 provided you with that information?

16 A. When I left the army, that would have been the time for you to
17 ask me that question, because it was all still fresh in my memory, and I
18 knew the names of everyone. Right now I'm not in a position to tell you
19 that information.

20 Q. You told us that you were taught how to surround the enemy. Who
21 was that enemy?

22 A. The UPC. Our enemy was the UPC, as well as Chief Kahwa's
23 soldiers. I've forgotten the names of those soldiers or the group to
24 which they belonged.

25 Q. Mr. Witness, regarding the people who were given this training,

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1 can you tell us whether they were adults or children or whether they were
2 all mixed up, it was a mixed group?

3 A. The training was given to everyone, whether adults or children.

4 Q. Can you tell us whether there were many of you being given that
5 training? How many people approximately received that training?

6 A. This is what I can tell you: I do not know the precise number of
7 people concerned, and even if you asked me that question several times, I
8 will not be able to give you an answer. I will answer only the questions
9 that I know.

10 Q. Mr. Witness, if you are able to answer, please simply describe to
11 us how that training was conducted. Can you tell us the time at which
12 the training took place and the duration?

13 A. There was no specific duration for the training. You could start
14 training today, and if there is a battle, you're going to go and fight.
15 The training was continuous -- continuing training, and there was really
16 no end, because we had to learn all the time.

17 Q. Can you tell us the number of days or weeks or months during
18 which you received training?

19 A. I do not know whether I spent a week or a month. I do not know
20 what approximation to make. The only thing I know is that I received
21 training, but I cannot tell you that I started on this day and that I
22 ended on such and such a day. The only thing I can tell you is that we
23 received training and we learned how to load a weapon and fire.

24 Q. Regarding the techniques for attacking that you learned, can you
25 elaborate on those?

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1 A. How can I tell you about attacking techniques?

2 Q. You told us that at one point, as part of the training, you were
3 told to go left or right to attack the enemy. Were there any specific
4 techniques or strategies that you were taught during the training?

5 A. In order to know the techniques, you need to be me -- to be with
6 me on the battlefield, and that is when you'll know the techniques that I
7 learnt. I cannot tell you now. I can show you those techniques on the
8 battlefield. I will show you how it was done. But here on the spot, I
9 cannot tell you.

10 Q. I understand that we are not on the field here, but are you able
11 to describe these techniques for us to enable us to understand?

12 A. What I'm telling you is this: The technique was to defeat the
13 enemy. You would arrive and then you defeat the enemy. That is my
14 answer.

15 Q. Mr. Witness, did you receive a weapon at the end of the military
16 training?

17 A. Yes. I received a weapon when I was going to fight. I started
18 fighting with a machete and a knife. I received a weapon later on.

19 Q. You have told us that you started fighting with a machete and a
20 knife. If I understand you correctly, it was during the military
21 training that you were given those weapons, the machete and the knife.

22 A. The training took place with a gun, but this gun belonged to
23 someone who had already received that weapon, and you were given
24 treatment using the weapon. But when you went to battle and you were
25 victorious, it was your duty to bring home the weapons belonging to the

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1 enemy, and then you would be able to fight with that weapon.

2 Q. What type of weapon did you have? What type of gun did you have?

3 A. At the beginning, I was given a rifle, an LMG rifle, which is a
4 rifle with a feeder, a feeding chain.

5 Q. Just to be clearer, Witness, can you be more specific? Can you
6 spell that for us? You talked of a type of gun.

7 A. It is an LMG. I do not know how to give you the details. If you
8 want me to spell, I believe it is L-M-J (sic).

9 Q. Who gave you that weapon?

10 A. I received that weapon. I got that weapon in the battlefield.
11 No one gave it to me.

12 Q. Can you give us details about how you obtained that weapon?

13 A. I found a UPC soldier who was wounded. He was not able to run
14 away because he was injured in the leg. The gun had fallen about
15 5 metres away from him, and he was not able to get it back.

16 I arrived. I killed him. I hacked him to death with a machete,
17 and then I picked up the gun.

18 Q. Can you tell us the war or attack during which this happened?

19 A. This was during an attack on a hill. The UPC soldiers came to
20 attack us, and we used to fight against them. It was during such
21 occasions that we would pick up weapons. They came from where they were
22 based or from Kasenyi, in the direction of Thea (phoen) or Bogoro. They
23 came and provoked us on the hill where we were, and that is how come we
24 fought in that area.

25 Q. Did this attack take place before your training, during your

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1 training, or after your training? At what time specifically?

2 A. It was during the same period. Training was ongoing, and the
3 attack took place during that period. There was no peace where we were.
4 It was possible that we could spend one week without fighting, but a few
5 days later we would have to fight once again.

6 Q. What about the other people who received military training just
7 like you? Did they have weapons?

8 A. This is what I told you. Those of us who started training did
9 not have any guns. We did not have anything. It was not after the
10 training. It was actually after certain battles which took place during
11 the period that we were receiving training. That is, it was during such
12 occasions when we went to fight that we would bring back guns. Each
13 person would bring guns back from the battles. This is how come at one
14 point everyone had his own gun.

15 Q. Witness, during that military training was any mention made of
16 the Hemas to you?

17 A. You know very well that I was a member of the FNI. Even if no
18 one has told you that yet, you know that while we were receiving
19 training, we were told that we had to fight against the UPC. And the UPC
20 was a party of the Hemas. And whether they were soldiers or civilians,
21 we received training to fight against the Hemas, all the Hemas.

22 Q. And what were you told specifically regarding those people,
23 whether they were soldiers or civilians?

24 A. This is what I heard with my own ears at one point; that is, we
25 were told that when fighting the Hemas, we had to fight against all the

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1 Hemas, the Gegeres. That was our objective. Our objective was to fight
2 against the Hemas and the Gegeres, because they were one and the same
3 thing. That is what I was told. Kute told me that. He told me that we
4 were there to fight against the Hemas and the Gegeres.

5 (Prosecution counsel confer)

6 MR. GARCIA: (Interpretation)

7 Q. You told us about military training. Did you also participate in
8 military parades when you were in Lagura?

9 A. Yes. There was a parade every morning. The parades involved
10 military -- or, rather, physical exercises -- or, rather, we began with
11 physical exercises, after which there was the parade, and then everybody
12 would return to their place.

13 MR. FOFE: (Interpretation) I'm sorry, Mr. President. I do not
14 want to interrupt the Prosecutor, but I think he should make an effort
15 not to ask leading questions. He has already done that twice.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
17 Professor Fofe.

18 Mr. Prosecutor, please proceed.

19 MR. GARCIA: (Interpretation)

20 Q. Mr. Witness, can you explain to us what the parades consisted of?
21 You told us that there was a parade every morning. What did you do
22 during those parades, so that the Chamber can better understand them.

23 A. There was a parade every morning. After the physical exercises,
24 we would go back. We will -- we would stand up. We would do our own
25 exercises. As you know, we would march, and then that was it.

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1 Q. And who conducted the parades?

2 A. Kute himself conducted the parades.

3 Q. As far as you can remember, apart from Kute were there any other
4 people who conducted the parades?

5 A. Yes, there were people, but it is impossible for me to give you
6 an answer because I do not remember their names. I do not know whether
7 you want me to give you references. I can only give you names. If I
8 know the names, I will give them to you; and if not, I will not give them
9 to you.

10 THE INTERPRETER: And the Swahili interpreter points out that the
11 witness is speaking too fast.

12 MR. GARCIA: (Interpretation)

13 Q. Mr. Witness, I would like to ask you to speak more slowly so as
14 to enable the interpreters to better interpret what you are saying. Are
15 we agreed?

16 And what were you told during those parades?

17 A. The only thing that I know about the parades would be to march.
18 I do remember that we were told something, but I have now forgotten. I
19 cannot tell you specifically what I was told. If I give you an answer,
20 it would mean that this is something that I added myself, and it is not a
21 good thing.

22 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, we are
23 going to have to break now because I have been informed that there is
24 very little recording time left. Do you think we can stop now?

25 MR. GARCIA: (Interpretation) Yes, indeed, Mr. President. I was

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1 going to suggest that to you.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

3 Mr. Prosecutor.

4 Mr. Witness, accused persons, we are going to break now. We will
5 resume again at 4.30 for two segments of 50 minutes each.

6 Security officers, can you please escort the accused persons out
7 of the courtroom.

8 (The accused withdrew)

9 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, let us
10 go into closed session to allow the witness to leave the courtroom.

11 Thank you, Witness. You are going to rest for 30 minutes, and
12 then we'll meet back here again.

13 (Closed session at 3.56 p.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Open session at 3.57 p.m.)

23 COURT OFFICER: (Interpretation) We are in open session,
24 your Honour.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

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1 Court Officer.

2 The hearing is suspended. We will resume at 4.30 p.m.

3 Recess taken at 3.57 p.m.

4 On resuming at 4.33 p.m.

5 (Closed session)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Open session at 4.35 p.m.)

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

18 your Honour.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

20 Court Officer.

21 As we are waiting for the accused to be seated -- it's been done.

22 So, Witness, we will be continuing until about 5.00 p.m. (as

23 interpreted) or shortly afterwards. Then we'll have another ten-minute

24 break, and after then after have another 50-minute session.

25 Can you hear me?

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1 THE WITNESS: (Interpretation) Yes.

2 PRESIDING JUDGE COTTE: (Interpretation) Fine. Witness, could I
3 ask you to remove your glasses in the courtroom, please, if you don't
4 mind, so that we can see you. Thank you.

5 Prosecutor, please proceed.

6 MR. GARCIA: (Interpretation)

7 Q. Good afternoon once again, Witness.

8 A. Good afternoon.

9 Q. Before we move on to something different can, there are a number
10 of questions I'd like to put in order to get clarifications on the
11 military training.

12 First of all, can you tell us whether the people who were taking
13 part in the military training were boys, girls, or both, or was it just
14 boys or men?

15 A. I was just with boys in the place where I did the training.

16 Q. You also told us that you'd been taken to the camp together with
17 other people. Could you tell us, while you were undergoing that military
18 training whether or not there were other people who came to join the
19 group that was already going through the military training? Were there
20 other people brought to the camp after you had already arrived there?

21 A. When I arrived there, there were other people already. And when
22 I was there, I was just with the people in my group. Nobody came to join
23 us.

24 Q. And what about the people you met there once you got to the camp?
25 Were they adults or children or both?

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1 A. When we arrived, we found adult soldiers there. They were people
2 who at the time had the same age as me.

3 JUDGE DIARRA: (Interpretation) Your Honour, I wonder whether
4 that answer was correctly translated. I heard that he said that there
5 were adults, and then he's saying they were the same age.

6 PRESIDING JUDGE COTTE: (Interpretation) I'm going to read
7 lines 18 and 19 from the transcript, page 46:

8 "When we arrived there, we found adult soldiers. They were
9 people who at the time had the same age as me."

10 That was the answer. I'd like to ask whether the Swahili
11 interpreters can confirm that this is indeed what was said by the
12 witness.

13 THE INTERPRETER: The witness started by saying that there were
14 adults, your Honour. After that, he said they were people who had his
15 age at the time.

16 PRESIDING JUDGE COTTE: (Interpretation) Fine. That's fine as
17 far as the interpretation is concerned.

18 Thank you, Judge Diarra.

19 MR. GARCIA: (Interpretation)

20 Q. In order to clarify this for everybody, you said that you met
21 adults. You also refer to people who had the same age as you at the
22 time. Is that indeed what you said to the Court?

23 A. I said that there were people of my age at the time and others
24 who were adults.

25 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed. It was up

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1 to you, Prosecutor, to obtain that information. We didn't think we had
2 to do it ourselves. Thank you anyhow.

3 MR. GARCIA: (Interpretation)

4 Q. Witness, as far as you know, which was the ethnic group that the
5 other people undergoing the military training belonged to, ethnic group
6 or groups?

7 A. Almost all of the ethnic groups were represented. Only the Hemas
8 and the Gegeres were not represented.

9 Q. Can you tell us why the Hemas and the Gegeres were not
10 represented?

11 A. It's not easy to answer that question. The Hemas were our enemy,
12 and the Gegere as well. So they were our opponents. We couldn't work
13 together with our enemies.

14 Q. Witness, you said that you underwent training. What did you do
15 in the camp? Did you have a specific task entrusted to you after the
16 military training?

17 A. As far as I was concerned, at a certain point I was part of the
18 MP, the military police.

19 Q. And in relation to the military training, at what point were you
20 then appointed as a member of the military police? Was it days or weeks
21 afterwards? Could you give us an idea?

22 A. I don't remember the date when I was appointed as a member of the
23 MP. I've forgotten the date. It's difficult for me to recall.

24 Q. Who appointed you as a member of the MP, the military police?

25 A. In our group, if we were lucky we became military police,

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1 particularly if you knew somebody who was influential. Then you didn't
2 suffer, and that meant you could be -- become part of the military
3 police, and as such, the living conditions were not as tough.

4 Q. You say when you were lucky, and then you also said and when you
5 knew somebody who was influential. In your case, who was the influential
6 person that you knew?

7 A. There were a lot of influential people. I cannot give you the
8 name of the influential person who helped me to join the military police.

9 Q. Could you give us further explanation concerning your latter
10 answer. You said you could not give us the name of the influential
11 person. Why is that?

12 A. It's not that I cannot give you the name of that person. It's
13 really that I've forgotten the name of that person. So you'll appreciate
14 that it's impossible for me to give you the name.

15 Q. Can you tell us -- well, I understand that you cannot tell us
16 which was the influential person that you knew, but if I understand
17 correctly, there was somebody who appointed you military policeman. Is
18 that correct? Was it a specific person who appointed you in that
19 capacity?

20 A. I did not choose to join the military police. I was appointed
21 thereto. I was selected.

22 Q. Fine. Can you tell us who specifically appointed you?

23 A. I would ask you to put your questions more clearly. I told you
24 that I don't know. I cannot remember the name anymore. Do I have to
25 give you my own name in that case?

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1 Q. Witness, if I understand correctly, and this is to clarify things
2 for us, the influential person was also the person who appointed you as a
3 military policeman; is that correct?

4 A. Yes.

5 Q. Well, I understand that you cannot recall the name. Could you
6 give us the military rank of that person? If you can, that is.

7 A. I think that within the militia that I belonged to, people didn't
8 have ranks. It was only at a later stage that ranks were introduced.
9 You understand there was somebody who was a chief, a leader, but at that
10 time we didn't differentiate people according to their ranks.

11 THE INTERPRETER: And the Swahili interpreter did not understand
12 the last sentence spoken by the witness.

13 PRESIDING JUDGE COTTE: (Interpretation) At the very end of your
14 sentence it was missed by the interpreter. He didn't hear what you said,
15 so could you repeat the end of your sentence, please.

16 THE WITNESS: (Interpretation) As I understood things at that
17 time -- well, we only had ranks or grades afterwards. It's true that we
18 knew who the superiors were in the camp. We knew Kute, Mbulo, but as for
19 ordinary militia --

20 THE INTERPRETER: Your Honour, would you be good enough to switch
21 off your microphone.

22 PRESIDING JUDGE COTTE: (Interpretation) I do apologise to the
23 interpreters. It's not good for me to be here in the air-conditioning of
24 the courtroom.

25 THE INTERPRETER: And that means we missed the end of the answer,

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1 your Honour.

2 PRESIDING JUDGE COTTE: (Interpretation) Witness, because I
3 sneezed twice, the interpreters were unable to hear the end of your
4 sentence, and I do apologise. It's entirely my fault. It's very
5 important that we get the end of your last sentence, and I promise I will
6 no longer sneeze into an open microphone.

7 MR. GARCIA: (Interpretation) If I may, your Honour, I could
8 perhaps read what we have on the transcript, and the witness can then, if
9 necessary, add what needs to be added.

10 PRESIDING JUDGE COTTE: (Interpretation) Yes, but if the
11 interpreters didn't hear, then they couldn't interpret, which means that
12 the transcript wasn't complete.

13 So, Witness, would you be good enough to repeat the end of your
14 last answer, if you can recall. Let me just read to you what I see on
15 the French transcript, which was heard, interpreted, and transcribed, and
16 that's line 5 of page 51:

17 "As I understood at that time, well, we only got ranks or grades
18 afterwards. It's true that we had superiors in the camp. We knew Kute
19 and" phonetically, "Mbulo. But as for ordinary militia --"

20 And that's where we've got a gap, a blank. So could you please
21 repeat what you said. I'd appreciate it.

22 THE WITNESS: (Interpretation) I said there were ordinary
23 militia, but they didn't have specific ranks. They didn't wear the
24 insignia of a lieutenant, for instance. We knew that they were
25 commanders, for instance, a section or company commander. I had --

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1 THE INTERPRETER: And the witness stops.

2 MR. GARCIA: (Interpretation)

3 Q. Witness, if I've understood correctly, you started to say
4 something, "I had." Could you finish that sentence?

5 A. I was going to add something that's nothing to do really with
6 that answer, which is why I stopped.

7 Q. Witness, you said that you were appointed as a military
8 policeman, and I'd like to put a question to you in that regard. The
9 people who were appointed military policemen, did they do anything
10 important, significant? What was the reason for being appointed as a
11 member of the military police?

12 A. I was appointed as a member of the military police later, and I
13 was responsible for supervising the military so that they didn't threaten
14 the civilians. That's what my duty was within the military police.

15 Q. You've just explained to us what your tasks were as a military
16 policeman. What did you do when there were incidents involving soldiers
17 threatening civilians?

18 A. As a military policeman, you had to make sure that the soldiers
19 didn't leave the camp. You had to make sure that they weren't wandering
20 off all over the place, because if they got out, they would drink
21 alcohol, and they would become more dangerous. And if such things
22 happened, then we had to take intelligent control over the situation.

23 Q. And when you talk about civilians, where were they? I understand
24 that you were in a camp. Now, the civilians that were being threatened,
25 where were they exactly?

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1 A. The civilians were in the village. Our camp was set up in the
2 village, and the civilians were all around us. We were mixed together,
3 the civilians and the military.

4 Q. And as a military policeman, did you carry a weapon?

5 A. At the time, my friends had guns but I didn't. We were military
6 policemen. The soldiers were afraid of military policemen, because if we
7 arrested a soldier, then they were beaten. We had the powers to arrest
8 military policemen. We used -- some of us used to carry weapons and
9 others didn't.

10 Q. And how many of you were there who acted as military policemen in
11 the Lagura camp?

12 A. There were many of us. Not very numerous, but I can't give you
13 the exact number. That's a problem I have. I can't be specific, so I
14 don't want to say a number that might be wrong.

15 Q. Based on what you saw, could you tell us whether the other people
16 who acted as military policemen, were they approximately the same age as
17 you? Were they younger or were they older, based on what you saw?

18 A. Some were older; some were younger. It was a mixture. At that
19 time, all of the soldiers were considered the same whether they were
20 adults or children.

21 Q. In order to fully understand, could you tell us what happened
22 when there was an incident involving civilians. Who would call upon your
23 services, your services as military policemen?

24 A. Well, I had the task of being a military policeman, and I carried
25 out my duties as such. However, I was trying to see how I could get away

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1 from those duties. There were many things going on around me. Sometimes
2 we were at the camp, and there were other things that were happening
3 outside of the camp.

4 Q. We understood that there were other things going on outside of
5 the camp, and my question is the following: When there was an incident
6 involving civilians, who would come to advise you that there was an
7 incident, and when you were apprised thereof, what would you do?

8 A. We were in a village. The civilians had the opportunity to come
9 right up to the camp to give us information. Sometimes they would give
10 information to the soldiers who were at the entrance to the camp.

11 Q. Those who were members of the military police, including
12 yourself, did you have your own residence or your own place to stay?

13 A. All of the soldiers lived together. We were all mixed together,
14 both the soldiers and the military police.

15 Q. Witness, the people who had committed that wrongdoing, you
16 mentioned that sometimes civilians were threatened. What happened to
17 those people? What would the military police do with the people who
18 uttered those threats?

19 A. The military police would arrest a soldier who would commit a
20 wrongdoing. That soldier would be sent to detention or to prison in the
21 camp, and those soldiers would stay there, and then he might be released,
22 and he would be given certain tasks to fulfil.

23 Q. Did anyone try those people, those soldiers who had committed a
24 wrongdoing?

25 A. I don't know how to answer that. If a soldier committed a

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1 wrongdoing, then we had to arrest him and bring him back to camp. The
2 person who was responsible for this was to go and arrest the person and
3 bring them back to the depot. And the people who were responsible for
4 us, such as Commander Kute or his subordinate, would judge the person, or
5 try them, if you will.

6 Q. So you can tell me whether I understood correctly. First of all,
7 that person was brought to the -- was brought to the cell, and if I'm not
8 mistaken, then after that the person would appear before the person
9 responsible for the camp; is that right?

10 A. Yes.

11 Q. When you talk about people who were responsible, you mentioned
12 Commander Kute or his assistant. Can you give us the name of the
13 assistant, the person who made decisions in his absence?

14 A. We had a commander, and Kute's assistant, whose name I've
15 forgotten, but sometimes when Kute was absent we could be brought in
16 front of the person responsible for us, the military police. The
17 commander of the military police was called Pitchen.

18 Q. And when those people were brought before Kute or before his
19 assistant, what happened exactly?

20 A. I never had the opportunity to partake of that. I don't know
21 what happened. That was not part of my job function. My task was to
22 stay at my work station.

23 Q. Well, Witness, I understand that you did not have the opportunity
24 to partake in this, but generally when someone was brought before Kute,
25 what did Kute do the following day? Was there a hearing? Did he decide

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1 what kind of punishment there would be? What did Kute do?

2 A. I don't know what he did. I do know that every prisoner was
3 given a task, a cleaning task, the task of cleaning the camp, that's all.

4 Q. Correct me if I'm wrong, Witness, but when a task was given to
5 the prisoners, that happened after appearing before Kute or his
6 assistant.

7 A. Yes. After appearing, then he was given the task.

8 Q. And as far as you are concerned, were there other tasks that were
9 given to the prisoners who would appear before Kute or his assistant?

10 A. I know there were various types of work. For example, we may
11 have to clean the camp, or fetch water, or dig holes for toilets, or dig
12 a hole that would then be used as a prison.

13 Q. To your knowledge, Witness, did Kute or his assistant make any
14 distinction depending on the seriousness of the wrongdoing that was
15 committed by the prisoner?

16 A. Yes. For the soldiers, the most serious punishment -- or,
17 rather, the most serious wrongdoing was to consume alcoholic beverages.
18 When the soldier came back, then he would threaten civilians, and that
19 was the most serious wrongdoing. There wasn't anything more serious than
20 that.

21 Q. With regard to civilians, acts that would have been committed on
22 civilians, what would have been the most serious wrongdoing?

23 A. A serious wrongdoing would have been, for example, if a civilian
24 is not respectful toward a soldier, then the soldier could shoot the
25 civilian.

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1 Q. But the wrongdoing committed by soldiers toward the civilians,
2 what kind of wrongdoing would that be on the part of the soldiers?

3 A. Oftentimes there were civilians who were older than the soldiers,
4 and they might think that they could hit the soldiers. In such cases,
5 soldiers could shoot and kill a civilian.

6 Q. Did it sometimes happen that soldiers would hit civilians without
7 any reason?

8 A. No. A civilian could be hit if there had been some provocation
9 or if it were because of a woman.

10 Q. Was any wrongdoing committed by soldiers that pertained to
11 personal belongings such as pillaging?

12 A. Yes. Often the looting that we did was on Hema or Gegere. When
13 we went to combat, then we would do some looting.

14 Q. So if I understood you correctly, you're talking about pillaging
15 of goods that belonged to the Hema or Gegere; is that correct?

16 A. Yes, that's it.

17 Q. And the soldiers that did that type of looting of goods that
18 belonged to Hema civilians, were they punished? Yes or no?

19 A. No.

20 Q. And so with regard to acts committed by soldiers on civilians,
21 were there abductions sometimes, abductions of civilians by soldiers?

22 A. I can't give you any information about abduction, because I never
23 partook in any abduction, and that is why I can't tell you any more than
24 that.

25 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, we will

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1 probably suspend now. If you'd like to continue on this topic you may,
2 but we agreed that we would suspend at 5.25.

3 MR. GARCIA: (Interpretation) I don't have any further questions
4 on that.

5 PRESIDING JUDGE COTTE: (Interpretation) All right. So we will
6 suspend for ten minutes or so, so that you can rest a little.

7 Security officers, could you please escort out Mr. Katanga and
8 Mr. Ngudjolo.

9 (The accused withdrew)

10 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could we
11 please move into closed session so that the witness can discreetly leave
12 the room.

13 (Closed session at 5.23 p.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Open session at 5.24 p.m.)

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

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1 your Honour.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

3 Court Officer.

4 The hearing is now suspended. We will resume at 17.38.

5 Recess taken at 5.24 p.m.

6 On resuming at 5.37 p.m.

7 (Closed session)

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 5.39 p.m.)

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

21 your Honour.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

23 Court Officer.

24 Witness, can you hear me well? Is everything working properly?

25 THE WITNESS: (Interpretation) Yes.

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1 PRESIDING JUDGE COTTE: (Interpretation) Very well.

2 Prosecutor, please continue with your direct examination.

3 MR. GARCIA: (Interpretation)

4 Q. Witness, just to remind you about where we were, at the time of
5 the break I was asking you whether you were aware of any misconduct by
6 soldiers in the Lagura camp against civilians. And you told us that you
7 were not aware of any abduction because you did not participate in any
8 case of abduction, but my question is as follows: You did not take part
9 in any abduction, but did you ever hear about any persons being abducted
10 by civilians -- or, rather, by soldiers in Lagura camp, that is, soldiers
11 who abducted civilians?

12 A. Could you kindly repeat your question, please. I did not quite
13 understand it.

14 Q. Mr. Witness, were you ever aware or did you ever hear that
15 soldiers from Lagura camp had abducted civilians?

16 A. In Lagura camp I never saw any soldiers go and abduct people and
17 bring them back to the camp.

18 Q. Mr. Witness, you have told us that soldiers accused of misconduct
19 were brought before Kute or his deputy. Were there any cases where
20 soldiers were taken outside of the camp or to the other camps?

21 A. I believe we are talking about something else, because initially
22 we were talking about abductions, and I told you that I did not see
23 soldiers abduct anyone to take to another camp, and now you're talking
24 about something else. We did not complete our discussion on one topic
25 and you moved on to another issue, and so it becomes difficult to answer

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1 all your questions.

2 Q. Witness, I'm going to put the question to you again. To your
3 knowledge, were there any soldiers who were accused of misconduct in
4 Lagura camp taken elsewhere? Were they taken elsewhere or to other
5 military camps?

6 A. Yes. I can answer that question. You have asked a question
7 about where I was. When a soldier was guilty of perpetrating an act in
8 Lagura, he could be put in prison, or he could be taken out and
9 transferred to Zumbe camp.

10 Q. And what was done to such prisoners who were taken to Zumbe camp?

11 A. I do not know. It was the superiors who decided that soldiers
12 would be taken to Zumbe camp. I do not know what happened to the
13 soldiers there, but they were taken to Zumbe camp.

14 Q. And who was the superior or commander or the leader in Zumbe?

15 A. There was a Mbulo in Zumbe, Commander Mbulo.

16 Q. Just to be clear, can you spell that name to us, can you spell
17 that name for us, Mbulo?

18 A. M-b-o-l-o. I'm sorry, I forgot the correct spelling. I think it
19 is actually M-b-u-l-o.

20 Q. And who was the military superior of Commander Mbulo in Zumbe?

21 A. The most senior commander of the FNI was Mr. Ngudjolo.
22 Mr. Ngudjolo was our overall commander.

23 Q. To your knowledge, what happened to the prisoners when they were
24 taken to Zumbe? Were they tried? What precisely happened?

25 A. Regarding what I know, when a soldier left from our camp in

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1 Lagura to Zumbe, we stayed in our camp, and he went to Zumbe. What
2 happened there concerned the people in Zumbe. As far as we were
3 concerned, it was impossible to know what happened in Zumbe.

4 Q. If I understand you well, Witness, you were the one, as well as
5 the other military policemen, who escorted the prisoners to Zumbe, or was
6 there someone else?

7 A. Other soldiers took the prisoners to Zumbe. Sometimes it would
8 be soldiers coming from Zumbe who took the prisoners back to Zumbe.

9 Q. Even if you do not know specifically what happened in Zumbe, did
10 you hear anything about those prisoners after they had left? Did you see
11 them afterwards? Did you hear anything about what happened in Zumbe?

12 A. It was not possible to have news of the soldiers. We had a large
13 camp, a very large camp, in Lagura and Zumbe, so following up information
14 about someone who had left was difficult, so I could not do that. You
15 could know about what was happening to those who were in our camp, those
16 who were in the same place as ourselves.

17 Q. Witness, do you know whether there were police or military police
18 in Zumbe at the time?

19 A. Well, the military police in Zumbe was present. There was a
20 military police force there. As to what they did in Zumbe, it's
21 difficult for me to know, but I do know that they were there.

22 Q. Witness, as regards the military police that you were part of
23 when you were in the Lagura camp, you said that there were people of your
24 age and indeed even younger people. Could you tell us why such young
25 people as yourself were chosen for this sort of work as military police?

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1 Indeed, some were chosen who were even younger.

2 A. It doesn't mean that they were chosen because of the age factor,
3 whether you were younger or older. It was a question of luck. If you
4 were to go into the military police, then that's where you went. And for
5 us, the young ones, we didn't give a second thought to it. If you were
6 told to do something, then you just did it. And I knew that if anything
7 happened, my reaction was to shoot, because I was -- I didn't have the
8 physical strength. So I would shoot someone and kill them.

9 Q. If I understand correctly, and you'll correct me if I'm wrong, if
10 there was a problem with any soldier, then you might shoot them, or some
11 of your comrades did. You didn't hesitate to shoot. Is that correct,
12 you didn't hesitate to shoot at the soldiers?

13 MR. HOOPER: (Previous translation continues) ... in the
14 afternoon, but my friend's been, if I may say so, admirably concerned
15 about leading questions, but I think that last one.

16 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, I would ask
17 you to focus your questions, please. And at this stage, to facilitate
18 things for the witness, to try to make life generally easier for him,
19 perhaps you could shorten your questions, even though we understand what
20 you're getting at.

21 MR. GARCIA: (Interpretation) Yes, your Honour.

22 Q. You said if something happens then I shoot at you, if there was a
23 mistake committed by a soldier. What do you mean by a misconduct or a
24 mistake?

25 A. Sometimes if you're sent to arrest a soldier who'd been involved

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1 in some misconduct or misdemeanour addressed at a civilian, or if it was
2 a problem between civilians and then you turned up, and the soldier
3 starts to load his gun to turn it on you, to fire at you, and if you're
4 ready, then you'd just shoot at him.

5 Q. Witness, we're going to change subject, and for the next few
6 minutes I would like us to move on to the issue of the Lagura camp where
7 you were. You mentioned Commander Kute. You also mentioned somebody by
8 the name of Pitchen, if I've understood correctly. If I'm not mistaken,
9 he was the commander of the military police. Do you know the name of any
10 other leaders or commanders who were in Lagura at that time?

11 A. Yes. There were many of them. As to recalling their names,
12 well, I did know a lot of names. I could have given you the names of the
13 10 to 20 commanders I knew, but these names escape me. When I left,
14 everything to do with the military left me, so I've forgotten their
15 names. I've forgotten of the names of many of the people who lived there
16 and who I knew when I was there.

17 Q. Well, if I've understood correctly, aside from the name Kute and
18 the name Pitchen, the other names that you did know you have now
19 forgotten; is that correct?

20 A. There are some. There are some that I've forgotten, and if I
21 continue to give thought to this, if I remember some, I'll tell you; but
22 if I can't remember their names, then I cannot. The name might be
23 important, but for the moment I've forgotten the names of those people.

24 Q. Do you need some time to think about this, or can you carry on
25 thinking while we move on to other questions?

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1 A. I'm here to testify. As far as I'm concerned, I came here to
2 testify about what I know, what I saw, and that is what I'm doing here.
3 That is what I want to do here, to testify.

4 Q. In that case, I'll move on to another matter. As regards the
5 Lagura camp, was it a large camp? Can you tell us about the camp, the
6 camp that you were in?

7 A. It was a large camp, but it wasn't any bigger than that at Zombe.
8 It was a big one, but not a very big one.

9 Q. Were there houses in the military camp?

10 A. Yes, there were houses.

11 Q. Did the Commander Kute live in the military camp at Lagura?

12 A. Do you mean really live there? No, he didn't live in the camp.
13 He lived outside the camp but very close by. However, there was a house
14 in the camp where he would spend his time.

15 Q. And what about the soldiers at the Lagura camp? Did they have
16 places to stay in, accommodation, houses?

17 A. We had small houses. There were a lot of them. We had built
18 them in the camp.

19 Q. And there were how many of you to each house?

20 A. There was one house for one person. If you built your house, you
21 lived in it on your own.

22 Q. Was there a place in the camp where the weapons and munition were
23 kept?

24 A. Yes.

25 Q. And the weapons and munitions were held in what sort of

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1 structure?

2 A. It was in a house. There was a house that was considered as the
3 store for weapons and munitions.

4 Q. Was anybody, one or several people, responsible for the security
5 of that house to make sure that nobody could take a weapon without being
6 authorised to do so?

7 A. The house was inside the camp, so there was permanent security.
8 We were there. We, as the military police, were opposite that store. It
9 was impossible for anybody to get in. The only person who couldn't get
10 in was the enemy.

11 Q. What sort of arms were stored in that house?

12 A. What I saw, well, I saw SMGs, NATO. There were some LMGs as well
13 and some bombs. We also had a mortar. We also had an RPG.

14 Q. You mentioned NATO, N-A-T-O. What exactly is that weapon? Could
15 you describe it to us?

16 A. NATO is a long black rifle with a small charger.

17 Q. Can you tell us what was the size of that house in which the
18 weapons were stored? I understand that you referred to a small house
19 that you lived in. Was this house the same size, larger? Could you
20 compare it to your house.

21 A. No, that house was larger than my house. Our houses, the houses
22 of the soldiers, were small in comparison to that weapons store.

23 Q. Witness, in order to obtain arms, weapons, or ammunition in the
24 house, what did you have to do? Was there a specific procedure to be
25 followed?

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1 A. If there was fighting, it was possible to go and take weapons.

2 Q. And when there was no fighting, was it necessary to ask
3 permission from somebody in order to take the weapons?

4 A. No. The weapons were only used during wartime. If there was
5 fighting, they were handed out to the soldiers. So guns were only given
6 to people who didn't have any.

7 Q. And who was responsible for handing out the weapons that were in
8 that house?

9 A. Well, as far as we were concerned, it was Kute who was in charge.
10 When there was fighting, Kute went into the store and he handed the
11 weapons and the ammunition out.

12 Q. As far as you know, Witness, did Kute first of all have to
13 contact a superior before he could hand out these weapons, or did he do
14 it of his own volition?

15 A. I would say the following: I didn't say that a particular
16 individual gave the order to distribute the weapons. Before weapons were
17 distributed, there was a superior who was above all of us. He was in
18 charge of giving the order to hand out the weapons. Kute didn't give
19 that order. He had to refer to his hierarchal supervisor.

20 As far as I am concerned, for example, one day when the weapons
21 were being handed out, I saw him do that. I saw him hand out the
22 weapons, but I don't know who he got the authorisation from in order to
23 do so.

24 Q. You said that before the weapons were handed out there was a
25 superior who was above all of you. Who was that superior who was above

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1 all of you, above you, above Kute? Who was the superior who was there at
2 the Lagura camp?

3 A. There was Mr. Ngudjolo. He was the number one. He was the
4 chief, chief of everybody.

5 Q. Witness, we're now going to change topics, and we'll go back a
6 little in time.

7 MR. GARCIA: (Interpretation) And for that, your Honour, I would
8 like to move into private session.

9 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, we'll
10 now move into private session, please.

11 (Private session at 6.12 p.m.)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

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Page 65 expunged. Private Session.

Witness: Witness P-0280 (Private Session)
Questioned by Mr. Garcia

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22 (Open session at 6.25 p.m.)

23 PRESIDING JUDGE COTTE: (Interpretation) Witness, this evening's
24 hearing will be adjourned, and we would like to thank you for your
25 contribution and for the answers that you gave to the questions. As for

Witness: Witness P-0280 (Closed Session)
Procedural Matters

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1 the questions on your schooling, it is important for the Chamber to know
2 your background prior to the events on which you will testify in a more
3 specific manner when questions are asked of you.

4 Witness, we will therefore reconvene tomorrow at 9.00 a.m. to
5 continue with the examination by the Prosecutor.

6 Prosecutor, do you have any idea how much time you will take?

7 Will you use the entire morning?

8 MR. GARCIA: (Interpretation) Yes, probably, your Honour.

9 PRESIDING JUDGE COTTE: (Interpretation) Security guards, could
10 you please escort the two accused out of the courtroom.

11 Mr. Katanga and Mr. Ngudjolo, we will see you tomorrow morning at
12 9.00.

13 Court Officer, we will now move into closed session so that our
14 witness can leave the courtroom.

15 (Closed session at 6.26 p.m.)

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15 The hearing ends at 6.28 p.m.

16 CORRECTIONS REPORT

17 The following corrections have been made to the English transcript:

18 * Page 15, lines 14 to 15

19 (Expunged)

20 Is corrected by

21 (Expunged)

22 * Page 21, lines 9 to 10

23 (Expunged)

24 Is corrected by

25 (Expunged)

RECLASSIFICATION REPORT

- 1 *Pursuant to Trial Chamber II's email instructions dated 10 July 2012,
- 2 the following excerpts of the transcript are reclassified as public,
- 3 after the indicated redactions have been implemented,
- 4 as ordered by the Chamber:
- 5 *Page 16 lines 23 and 24
- 6 *Page 23 line 25
- 7 *Page 24 lines 1, 6, 7, 13 to 25
- 8 *Page 25 lines 1 and 2