

1 International Criminal Court
2 Trial Chamber II - Courtroom I
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 The hearing starts at 2.03 p.m.
10 COURT USHER: All rise. The International Criminal Court is now
11 in session.
12 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
13 The accused are with us. Good morning.
14 Before having the Witness 0323 appear, the Chamber would like to
15 issue an oral decision on application 2499 presented on the 2nd of
16 November, 2010, by the Defence of Germain Katanga.
17 During the hearing of the 1st of November, 2010, Counsel David
18 Hooper, counsel of the Defence for Germain Katanga, raised different
19 questions related essentially to the possibility of a relocation of
20 Witness 0028 as well as an additional statement recently received from
21 the same witness by the Prosecutor. The Chamber asked Counsel Hooper to
22 put these submissions into writing to be filed by the 2nd of November,
23 2010. The Defence fulfilled this obligation by filing on the date
24 envisaged an urgent and confidential application with the number 2499.
25 During this hearing of the 1st of November, the Chamber asked the

1 parties and participants to provide it with responses by the 4th of
2 November, 2010, and a similar deadline was set for the Registry for
3 providing its observations. On the 4th of November, 2010, the Chamber
4 received from the Prosecutor, the Registry, and the Legal Representatives
5 the filings respectively numbered 2512, 2513, and 2509.

6 Having examined these different submissions, the Chamber issues
7 the following decision:

8 On the disclosure requests, the Defence asks that there be urgent
9 disclosure of all of several documents: A report from the VWU, number
10 1247-Conf-Exp of the 28th of May, 2010; the Prosecutor's response to this
11 report, number 2157-Conf-Exp of the 3rd of June, 2010; a submission of
12 the Prosecutor, number 2301-Conf-Exp of the 12th of August, 2010; the
13 transcript of an *ex parte* hearing of the 2nd of October, 2009,
14 T-73-CONF-EXP.

15 For the Defence, the disclosure of these documents would enable
16 it "to be better informed and assisted," particularly in order to conduct
17 its cross-examination of Witness 28 and to assess, and here I quote:

18 "The credibility of the witness as well as the extent of the
19 incentive which may have been -- may have led him to agree finally to
20 testify."

21 The Chamber would like to remind everyone that it already ruled
22 in the clearest possible way in its decision number 2305 of the 18th of
23 August, 2010, on the issue of disclosure to the Defence of submissions
24 which we would remind you are classified as *ex parte*. It highlighted
25 that, and here I quote our decision:

1 "The *ex parte* nature of a confidential exchanges which have a
2 link between -- or which rather take place between one of the parties and
3 the unit on the subject of the protection of a witness would seem
4 justified by the necessity to guarantee good cooperation between the
5 parties concerned and the unit with a view to ensuring the implementation
6 of protection which is as effective as possible for the witness."

7 As such, it -- with a view of ensuring the fair running of the
8 proceedings, the Chamber considered that it is important that certain
9 information contained in the submissions and transcripts be brought to
10 the awareness of the Defence teams. As such, it ordered the Prosecutor
11 to, and here I quote:

12 "Communicate to the Defence and to the Legal Representatives of
13 Victims in accordance with the modalities which it considers the most
14 appropriate the evidence which comes under Article 67(2) of the Statute
15 and Rule 77 of the Regulations."

16 The Prosecutor executed this on the 1st of October 2010 by
17 disclosing document DRC-OTP-1058-0060 which contains, among other things,
18 the extracts of some of the documents in question. The Chamber considers
19 that in proceeding in this way the Prosecutor fulfilled the disclosure
20 obligation that the Chamber had imposed on the Prosecutor.

21 After this a new examination was carried out on the four
22 documents mentioned by the Defence, after which the Chamber considered
23 are that the arguments that had been mentioned did not contain new
24 elements of such a nature to make it go back on the principle which came
25 up in its decision of the 18th of August, 2010. This decision, in fact,

1 with a view to transparency, had the precise objective taking into
2 account the *ex parte* nature of the exchanges that had taken place to make
3 it possible for the Defence teams to have a sufficient number of
4 evidentiary items which could be used to question the credibility of this
5 witness and to favour a better preparation of cross-examination
6 concerning that witness.

7 The Chamber considers, therefore, that given the elements within
8 its decision of the 18th of August, 2010, and in the document disclosed
9 by the Prosecutor on the 1st of October, the fair nature of the
10 proceedings was guaranteed and the Defence does have sufficient
11 information in order to be able to fully exercise its rights.

12 On the guarantee of relocation that is alleged to have been given
13 to Witness 0028, the Defence points out that on page 25 of the
14 above-mentioned document, DRC-OTP-1058-0060, disclosed by the Prosecutor,
15 there is a reference to a report by one of its investigators relating to
16 a meeting that was held on the 6th of September, 2010, in The Hague, on
17 the unit's premises and in the presence of representatives of the
18 Prosecutor, from the VWU of Witness 0028 and that witness's counsel.

19 In an e-mail dated the 24th of October, 2010, the Defence of
20 Germain Katanga asked the VWU for clarifications with regard to a
21 relocation abroad guarantee after the testimony, which the VWU is said to
22 have given to Witness 0028. The Defence considers that the answer that
23 the VWU gave it with regards to this point in an e-mail of the 28th of
24 October, 2010, still shows certain contradictions and therefore asks that
25 it is transmitted with a copy of the transcription or a *proces-verbal* or

1 a report of that meeting.

2 The Prosecutor in his answer of the 4th of November, 2010, said
3 that the Prosecution was ready to disclose an investigative note drafted
4 about this meeting while it would also be subject to 5 proposed
5 redactions. Having examined the proposed redactions and unless the
6 Prosecutor considers that it is essential to consult the VWU on the 5th
7 proposal in advance, which it should -- should have done urgently, the
8 Chamber therefore gives its green light to proposals two, as well as
9 proposal three, but only where it concerns three words related to
10 relocation or locality. It considers that the proposed redactions one,
11 three, where it concerns a pseudonym, a number pseudonym, and four, are
12 not justified, so it therefore asks the Prosecutor before Wednesday the
13 10th of November, 2010, at 6.00, to disclose all -- to disclose this
14 document to all the parties and participants.

15 Where it concerns the proposal to redact number 1 related to
16 paragraph 2 of Annex B, the Chamber considers that the information in
17 question generally does merit and therefore can be brought to the notice
18 of the Defence. With regards to the particular circumstances that
19 covered Witness 0028's testimony, this information does seem
20 incontestably to be relevant for the preparation of cross-examination.
21 Furthermore, its communication would have to be carried out due to its
22 general nature and could not affect the security of the witness.

23 The Chamber would like to stress that the position adopted is
24 limited to the circumstances which are very particular of the case in
25 point here. The VWU, for its part, considers that the minutes of this

1 meeting of the 6th of September, 2010, prepared by the Prosecutor, only
2 partially reflect the points raised by its representatives. It also
3 proposes to produce for the Chamber its own minutes and to prepare a
4 redacted version thereof.

5 The Chamber therefore asks the Registry to disclose to it these
6 minutes with the proposed redactions which are considered indispensable
7 before Tuesday the 9th of November, 2010, at 1600 hours. A possibly
8 redacted version will thereafter be disclosed to the parties and
9 participants.

10 Court Officer, if you could draw the attention of the VWU to this
11 point in our oral decision.

12 Now, with regards to the breakdown of money spent on P-0028, the
13 nature of financial incentives included in the relocation project and the
14 investigation with regards to school fees, another point that appeared in
15 the application of the Defence of Germain Katanga.

16 This Defence, during the hearing of the 1st of November, 2010, as
17 in its recent submission, asked the VWU to provide detailed information
18 on the total expenditure carried out for Witness P-0028. Whether this
19 concerns housing, food, school fees, lawyers' fees, health insurance,
20 relocation, as well as on the results of an investigation related to
21 money spent on a school establishment. In an e-mail of the 28th of
22 October, 2010, in answer to a previous request of the same type presented
23 by the Defence of the 24th of October, the VWU invited them to refer to
24 the information of a general nature that was made in the hearing of the
25 30th of August, 2010, by the director of court services on all the

1 financial undertakings for the witnesses, whether they be relocated or
2 not.

3 The new request of Counsel Hooper is based on the provisions of
4 Article 64(2) of the Statute and invites the Chamber to order the VWU to
5 produce this information. It considers that the fair proceeding -- of
6 the proceedings is in question, and it states that:

7 "Everything that concerns the fact that a witness has been
8 relocated or has benefitted from nonnegligible advantages does clearly
9 raise problem with regards to the credibility of the witness. The nature
10 and the scope of the advantages consented to the witness can compromise
11 that person's credibility, because he can be tempted to give false
12 testimony with a view to being called to a hearing. The obtaining of
13 such information is necessary in order correctly prepare
14 cross-examination of a witness who could draw profit from his appearance
15 before the International Criminal Court."

16 In its observations of the 4th of November, 2010, the Registrar
17 reiterated the terms of the e-mail of 28th of October, 2010, recalling
18 that, and here I quote:

19 "The management of expenditure that the Registry undertook under
20 Rules 81 to 86 of the Regulations of the Registry come under its internal
21 procedures and are not shared with participants to the proceedings."

22 He also reminded that the director of court services on this
23 point provided detailed explanations during the hearing of the 30th of
24 August, 2010. He also confirmed as well that the Registry covered
25 expenses of the witness linked to the appearance before the court and

1 that he did not intend to enter in the detail of the expenses undertaken,
2 nor to reveal the result of the investigations that the VWU had carried
3 out with regards to the subject of these expenses.

4 The Chamber, first of all, would like to recall that the
5 Prosecutor has brought to the Defence the information of a financial
6 nature that were available to it. Having analysed the jurisprudence of
7 the ad hoc tribunals cited by the Defence, mentioned by the Defence, they
8 do show that essentially in its different cases the courts' or tribunals'
9 concerns did prescribe the disclosure of the amounts of the sums that the
10 Prosecutor himself and not the Registry had undertaken for a victim.

11 In this regard the Chamber can only stress that in the present
12 case the expenditure that Counsel Hooper wants to see disclosed -- or the
13 amount of which he wants to see disclosed were not undertaken by the
14 Prosecutor but by the Registrar of this court, a neutral organ, in
15 applying the provisions of the Regulations of the Registry and in
16 accordance with internal procedures which it does not consider that it
17 has to reveal. The Chamber therefore has no element which would enable
18 it to think that the behaviour adopted by the Registry with regards to
19 Witness 0028 can be of such a nature as to harm a fair trial and it
20 therefore does not intend to order the disclosure anything above what has
21 already been done orally at the hearing of the 30th of August.

22 At a more general level, the Chamber notes that the fear shown by
23 the Defence of Germain Katanga, according to which, and here I quote:

24 "Everything that concerns the fact that a witness has been
25 relocated or has benefitted from nonnegligible advantages does raise

1 problems with regards to the credibility of the witness cannot only
2 concern Witness 0028 but this fear could also be extended it all
3 witnesses who have enjoyed, for imperative security reasons, relocation
4 measures which inevitably are expensive."

5 It also notes that the competence which is ascribed to it the VWU
6 in this field, which is a neutral organ of the Registry, constitutes an
7 essential guarantee and makes it possible to ensure that the requirement
8 of fairness is satisfied.

9 The Chamber finally also recalls that the Defence will be able to
10 ask any useful questions with regards to these different points to the
11 witness during the cross-examination that it will carry out, and it will
12 be fully -- and the Defence will be fully able to evaluate the
13 credibility thereof.

14 Now, with regards to the disclosure of the statement of P-0028 to
15 the Defence of Thomas Lubanga.

16 The Defence of Germain Katanga requests authorisation to disclose
17 the additional statement of Witness 0028 dated the 25th of October, 2010,
18 to the Defence team of Thomas Lubanga because in its estimation this
19 statement raises an important point relating to the behaviour of
20 intermediaries. The Chamber is aware that certain intermediaries are
21 common to the Lubanga case and the case with which it is seized. It
22 would have recalled that the disclosure of this type of material does
23 come under disclosure obligations which have to -- which the Office of
24 the Prosecutor has to satisfy on basis of Article 67(2) of the Statute
25 and/or of Rule 77 of the Rules of Procedure and Evidence. It is

1 therefore incumbent upon it to assess whether it must, in the case in
2 point, proceed with such disclosure for the Thomas Lubanga defence.

3 The Chamber would therefore like to draw attention to this point
4 and it also points out in paragraph 31 of its response of the 4th of
5 November, 2010, that the Prosecutor intends to fulfil the statutory
6 obligations incumbent upon it.

7 Now, with regards to the request for clarification at paragraph
8 25 of the decision of the Chamber, dated the 18th of August, 2010. The
9 Chamber shall limit itself to noting that the Defence of Germain Katanga
10 has definitively chosen to file on the 3rd of November, 2010, application
11 number 2508 with a view to the reconsideration or the authorisation for
12 leave to appeal be granted on the decision 2305 of the 18th of August,
13 2010, on the situation of Witness 0028. This application shall be
14 examined once the observations have been submitted of the other parties
15 and participants.

16 Now, with regards to the date of the testimony of Witness 0028.
17 The Defence highlights that:

18 "On the 26th of October, 2010, the additional declaration of
19 Witness 0028 of the 25th of October, 2010, was received by it, and that
20 on different points it has to carry out investigations."

21 It therefore asks that this witness does not appear before the
22 15th of November, 2010.

23 During the hearing of the 3rd of November, 2010, the date of the
24 testimony of Witness 0028 has, in accordance with this, been held for the
25 15th of November, 2010. The cross-examination of the Defence team will

1 therefore not start until after this date of the 15th of November.

2 Court Officer, we are now going into closed session in order to
3 make it possible for Witness 0353 to enter into the courtroom, and then
4 the Prosecutor shall finish with the examination-in-chief.

5 Prosecutor, please go ahead.

6 MR. DUTERTRE: (Interpretation) Good afternoon, your Honour.
7 Good afternoon, Judges. Very briefly before the witness comes into the
8 courtroom, where it concerns the investigator's notes and the redaction
9 5, I think that the VWU did not have the intention for that to be
10 redacted, so I think that this fifth redaction does not need to be
11 redacted. I would, however, briefly like to mention another point, and
12 this is one which is linked to Witness 0028.

13 Your Honour, Judges, you will rather that P-0028 had given a
14 written statement recently, and in this statement P-0028 formulates an
15 allegation with regards to the person P-0183. We have obligations under
16 Article 54(1)(A) of the Statute, and we are acting in conformity with
17 them as soon as we can. Indeed, we questioned 0183 as a suspect witness
18 with audio and video recording. We also took a written statement in
19 accordance with the prescriptions for that witness, that is, that we take
20 a written statement even when there is an audio recording of the
21 exercise.

22 The Prosecution, last week, went and met 0183. He finished
23 giving his statement yesterday, the 7th of November, 2010. That is
24 yesterday, Sunday. We disclosed to the Defence today by e-mail at 12.20
25 the written statement of P-0183 which is 12 pages in all. To that we

1 added a one-page annex. So in total we spent a 13-page document.

2 We are probably going to be able to send an audio recording later
3 on, and next week we are going to disclose the statement, the annex, and
4 the audio recording. We have tried to act as soon as possible, that is
5 in disclosing this material to the Defence within the shortest possible
6 time.

7 That's what I wanted to raise before the Chamber at this
8 juncture, your Honours.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
10 Mr. Prosecutor.

11 Well, we are not going to start a discussion on these points now.
12 The statement that was taken last week *in situ* does not in any way
13 undermine your obligation to disclose to the Defence team of Thomas
14 Lubanga.

15 MR. DUTERTRE: (Interpretation) With respect to disclosure in
16 the Lubanga case, the Prosecution is going to honour its obligations, and
17 I can say here that I believe that disclosure of P-0028 in the Lubanga
18 case should be -- is currently being done as I speak.

19 PRESIDING JUDGE COTTE: (Interpretation) Are you referring to
20 the Katanga case?

21 MR. DUTERTRE: (Interpretation) Well, with respect to Katanga --
22 I am referring to Lubanga case. Disclosure is going on, and disclosure
23 for 0183 is going -- or was done this morning by e-mail, and we are in
24 the course of this week going to make a formal disclosure. That's
25 statement was taken yesterday.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much for
2 this clarification, and especially for the information related to your
3 fifth redaction proposal which relates to the investigator's note. I
4 think your point clarifies the decision which the Chamber has just given.

5 Court Officer, could we go into closed session so that the
6 witness could come in.

7 MR. HOOPER: Very quickly and on quite a different note. The
8 Chamber will recall that last week following a Defence application leave
9 was granted to us to show a photograph of Witness 0353 to a party who had
10 provided evidence in relation to someone, as the Chamber knows, and the
11 Prosecution know, who carried the same first name.

12 We've shown the party the photograph. The party did not
13 recognise 0353, and from our further inquiries we are quite satisfied
14 that, in fact, the provider of that information was speaking of somebody
15 else showing the same first name as 0353. I mention that because, of
16 course, the Court received information last week, redacted as far as the
17 Prosecution and other parties were concerned. So having started that
18 here, as it were, having started that, perhaps, thought in your minds I
19 want to make it clear what the position is. So it was for us a red
20 herring. I don't know what that translates to in French, but it was a
21 false path.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
23 Counsel Hooper. You wanted to carry out this verification and you did
24 so. Thank you for sharing the findings, the results with us.

25 At this juncture we're going to call in the witness.

1 We are listening to you, Mr. Prosecutor. You wish to take the
2 floor.

3 MR. DUTERTRE: (Interpretation) Your Honour, thank you. Yes.
4 Just one clarification. The transcript apparently has not reflected what
5 I said. I am saying that it was in the Katanga case that we made a
6 disclosure by e-mail of the statement of the P-0183, and we are going to
7 make a formal disclosure in the course of the week. And with respect to
8 Lubanga case, the team that is in charge of that case is going to honour
9 its obligations, naturally.

10 PRESIDING JUDGE COTTE: (Interpretation) Fine. That is clear.
11 I think that right now we are going to call the witness to come into the
12 courtroom, that is Witness 0183.

13 THE INTERPRETER: Correction from the English booth:
14 Witness 0353.

15 (Closed session at 2.35 p.m.)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Open session at 2.36 p.m.)

23 PRESIDING JUDGE COTTE: (Interpretation) Witness, good
24 afternoon.

25 THE WITNESS: (Interpretation) Good afternoon.

Witness: Witness DRC-OTP-P-0353 (Resumed)(Open Session)
Questioned by Ms. Darques-Lane (Continued)

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1 PRESIDING JUDGE COTTE: (Interpretation) Can you hear me
2 clearly?

3 THE WITNESS: (Interpretation) Yes.

4 PRESIDING JUDGE COTTE: (Interpretation) That's perfect. We are
5 going to continue with our proceedings.

6 I wish to greet the lady who is accompanying the witness. Good
7 afternoon.

8 Madam Witness, you should remember that you should -- that you
9 have to speak straight into the microphone. You speak slowly and try to
10 raise your voice so that the interpreters and the court reporters can to
11 the best of their ability carry out their activities.

12 Madam Prosecutor, you have the floor.

13 MS. DARQUES-LANE: (Interpretation) Thank you, your Honour.

14 Questioned by Ms. Darques-Lane: (Continued)

15 Q. (Interpretation) Good afternoon, Witness.

16 A. Good afternoon.

17 Q. I am going to -- well, let me remind you that we are in open
18 session, and if you, therefore, have to give somebody's name, someone you
19 met or the names of some of your relatives, please, you should consult
20 the list that I gave to you on Friday and make use of it.

21 Can you hear me?

22 A. Yes, I understand.

23 Q. I would like to go back to the account which you gave to us last
24 week on Friday. I will ask you to give me more details on that account.

25 Before you went to Geti, you told us that the fighters asked you

1 to carry two suitcases; is that correct?

2 A. Yes.

3 Q. What did you do with those two suitcases?

4 A. I carried them all the way to the destination.

5 Q. Where did you deposit them once you arrived at your destination?

6 A. I deposited them at the place where I was living.

7 Q. What do you mean by that?

8 A. At the place where we arrived, at Geti, in the house in which I
9 was living, that is where I deposited the suitcases.

10 Q. Before you left Bogoro, did you see other combatants taking
11 anything from the houses?

12 A. Yes.

13 Q. Could you please describe to us what you saw, that is, with
14 respect to the things that the combatants were taking from the houses?

15 A. Whilst we were in Bogoro, before we left they took items from
16 various houses. The women of the combatants also came, and they would
17 take their loincloths, and they would tie up items in them. And the
18 combatants would also chase after cows and goats.

19 Q. Last Friday you told us that young people from the village kept
20 these cows and these goats and that they took them out of the village.
21 Were these young people, young villagers from Bogoro, or were they
22 combatants?

23 A. These were young people from Bogoro.

24 Q. Do you know what happened, what became of these young persons?

25 A. I don't know what became of them, because I was no longer with

1 them. Everyone fled in his or her own direction. I do not know whether
2 they were killed or not.

3 Q. Before you left Bogoro, you told us that you passed near the
4 school. Could you please tell us where that school was located?

5 A. Before going to Geti, we passed through the school. After that,
6 we left the school and went all the way to Geti, and at that place there
7 is a road junction, and there is a road that is going to Kasenyi, and
8 there is another road that's going to Geti. We took the second road.

9 Q. Yes, but I would like to know about the school. Where was it
10 located? That is, can you situate the distance in relation to the
11 military camp you talked about on Friday that is in Bogoro?

12 A. The school was located in Bogoro. However, the school was not
13 near the camp. May I add that the school and the camp were both located
14 in Bogoro, and the name of the school was Institute Muzora, or Muzora
15 Institute.

16 Q. You said -- you talked about classrooms. How many classrooms
17 were there in the school?

18 A. There were classrooms right up to the classroom for the sixth
19 form.

20 Q. Now, when you arrived at Geti, yesterday you -- sorry, on Friday
21 you told us about a camp. Was that camp surrounded by a fence?

22 A. Could you please repeat your question. I did not understand it.

23 Q. Very well. On Friday, you told us that in Geti there was a camp,
24 that is, a camp to which the combatants were going. Was there a fence?
25 At the entrance of the fence, was there a gate?

1 A. Yes. There was a wooden fence, a wooden gate.

2 MR. HOOPER: One of the problems about going back over evidence
3 is that quite naturally you fall into a leading mode of asking questions.
4 Now, we may recall that last week this witness was asked to describe the
5 camp, and we got the product of that last week. Now we come back to a
6 very specific and, perhaps it might be said, subjective question. It's
7 just that I hope in the future my friend steers clear of that difficulty.

8 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor, your
9 questions were almost suggestive it, and Mr. Hooper has made a very
10 helpful -- has given a very helpful reminder.

11 Professor Fofe, you want to say something?

12 MR. FOFE: (Interpretation) Yes, your Honour. I would like to
13 point out that when the Prosecutor was talking about Friday, that is not
14 correct. I think she is referring to Thursday, because we did not sit on
15 Friday.

16 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed.

17 Madam Prosecutor, I think you have to take all these points into
18 consideration. Could you please, then, proceed.

19 MS. DARQUES-LANE: (Interpretation) Could I please, your Honour,
20 take a moment to discuss with my colleagues.

21 (Prosecution counsel confer)

22 MS. DARQUES-LANE: (Interpretation) Your Honour, I would like to
23 remind my learned colleague of the Defence Mr. Hooper, I would like to
24 refer him to transcript 213, page 68, from lines 15 to 22. I would like
25 to -- I am not going to go into the questions which I put to the witness,

1 but this subject was not exhausted. So to ask whether there was a fence
2 in that area is relevant. That's not a question which I put to the
3 witness then. So with your leave, therefore I would like to go ahead.

4 PRESIDING JUDGE COTTE: (Interpretation) Yes. Go ahead, ask
5 your question, the witness will answer, and we'll carry on.

6 MS. DARQUES-LANE: (Interpretation) Yes, the witness did answer
7 that there was a fence.

8 Q. Madam Witness, could you please tell us whether there were guards
9 stationed at that gate or fence, as we called it?

10 A. To the best of my knowledge, I saw only one gate, and I did not
11 see the guards. I would like to say that there was only one gate and it
12 was made of wood.

13 Q. On Thursday you talked about a young man, a young man whom you
14 recognised.

15 A. Yes.

16 Q. Where did you know him?

17 A. He was a young man who used to live in Bogoro.

18 Q. Madam Witness, to be more precise, I was referring to the young
19 man who was killed in Geti. Did that young man see you?

20 A. No, he did not see me.

21 Q. You said that the villagers in Geti were chanting that he had --
22 he had to be killed. What language were they singing in or chanting in?

23 A. They were speaking Swahili.

24 Q. Last Thursday you said that at the Geti camp you saw G.

25 A. Yes.

1 Q. Did you see the other young girls again, the young girls who were
2 captured with you in Bogoro?

3 A. No. I did not see them again in Geti. I only saw G.

4 Q. Did you see these young girls again in another place apart from
5 Geti?

6 A. Yes. I saw them again when I was back home in Bunia. I saw only
7 one of them. I also saw G in Bunia. I also saw -- well, give me a
8 minute. I saw G. I also saw H in Bunia after I left Geti.

9 Q. What did you discuss about? That is, what did you and H discuss
10 about?

11 A. When we saw each other again, we did not wish to talk. When we
12 saw each other the first time, we started crying. I asked her whether
13 she had returned. She said yes. She asked me the same question, and I
14 said yes. We did not wish to discuss this matter further. We separated
15 and went our separate ways.

16 Q. You talked about a third young woman. Did you ever see her again
17 after the Bogoro attack?

18 A. Yes.

19 Q. Where did you see her?

20 A. I saw her in Bunia. However, I do not know where she lives now.
21 One day we met each other. We greeted each other. She asked me whether
22 I had returned, and I said yes. Then she said that there was nothing
23 more to add and that we should simply thank God for keeping us alive and
24 for helping us to return back here.

25 Q. Madam Witness, do you know whether other young girls were taken

1 in Bogoro, captured in Bogoro and taken to the camp of the combatants
2 apart from the four of you?

3 A. Four of us were captured. Now -- but I don't know what happened
4 to the other girls. The only thing I know is that four of us were
5 captured. I don't have any information on other girls.

6 Q. Madam Witness, you told us that you spent a long time at the Geti
7 camp. How did you leave the camp?

8 A. There was a lady who was a good friend to my mother. (Expunged)
9 (Expunged). She was friendly with those
10 people. And when she saw me there she was astonished. She asked me,
11 "What are you doing here?" And I answered, saying that in the course of
12 the fighting I was captured and brought here. "They brought me here and
13 their wife." She promised to fight to have me released and that she
14 would take me home, and I said, "Thank you. If you can do that for me,
15 that would be very good." Then she said, "This is what we are going to
16 do: You are going to start introducing yourself as my sister-in-law. We
17 will call each others sisters-in-law until one day I can see how I can
18 get you freed." One day she asked a combatant about my release and the
19 man said no. The lady came and told me that, "I tried to have you
20 released but it's not possible. I will keep trying. I will try to do it
21 again on another day." And I told her, "Fine. I will be patient."

22 A few days later the lady came back and she looked for me and she
23 told me the following: "I have just arrived, and today I will try to
24 have you freed." She went and saw a man, and she told him, "Please, sir.
25 I consider you as my brother-in-law because you have gotten married to my

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Questioned by Ms. Darques-Lane (Continued)

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1 sister. I wish to seek your permission to take my sister-in-law with her
2 for a while, and I will bring her back later on." So the lady pleaded
3 with the man, the man relented, and that is how I left the camp with the
4 lady and went away.

5 Q. Where did you go to?

6 A. I went with this lady to a village called Koga, a village called
7 Koga.

8 MS. DARQUES-LANE: (Interpretation) Your Honour, can we briefly
9 go into private session so as to find out the name of the person
10 mentioned by the witness.

11 PRESIDING JUDGE COTTE: (Interpretation) Very well. Court
12 Officer, private session, please, so as to ask identifying questions.

13 (Private session at 3.01 p.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Open session at 3.02 p.m.)

4 COURT OFFICER: We're in open session, your Honours.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

6 Madam Prosecutor.

7 MS. DARQUES-LANE: (Interpretation)

8 Q. You told us that J spoke with a man so as to allow you to leave.

9 Who was that man?

10 A. This was the combatant in whose house I was living.

11 Q. On Thursday, you testified that at the time of the attack your
12 sister left the house to go and seek refuge at the school. What happened
13 to your sister?

14 A. After the events, I felt or I knew that she was dead, but, in
15 fact, she was not dead. When I left the place, I went to Kasenyi, and I
16 looked for her address. I was told that she was not dead, that she had
17 gone to Uganda. So I followed her there, and I asked her, "How come you
18 did not die?" And she said, "I was at the school, and when I heard
19 people shouting and singing, I left and went and hid myself in the bush."
20 This is what my sister told me.

21 Q. You talked about your brother-in-law who was also present during
22 the attack and who also tried to flee.

23 A. Yes.

24 Q. What happened to him?

25 A. I asked him that question. He told me that he had initially fled

1 to the bush and then he felt that he could die there, so he went to the
2 school and hid in the toilets of the school, and they could not enter
3 into those toilets, and that is how come he was able to survive.

4 Q. When you talk about the school, are you referring to the Muzora
5 Institute or the Bogoro Institute?

6 A. Yes. That was the Bogoro Institute in Bogoro itself.

7 Q. Did your sister tell you what she saw at the Bogoro Institute
8 during the attack?

9 MR. HOOPER: That's a very leading question in the circumstances.
10 She never said that's where she was. It's very important. That's a very
11 significant leading question. I'm sorry.

12 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor, it is
13 important to clarify everything. I believe that there was a beginning of
14 a clarification, and you can improve on that; that is, distinguish
15 between the Muzora Institute and the Bogoro Institute so that we all
16 should be clear about it. So you have to ask questions where the sister
17 was and in what particular toilet of the institution the brother or -- or
18 the brother-in-law hid.

19 MS. DARQUES-LANE: (Interpretation) Just a moment.

20 PRESIDING JUDGE COTTE: (Interpretation) Very well.

21 (Prosecution counsel confer)

22 MS. DARQUES-LANE: (Interpretation)

23 Q. Witness, I was asking you about the specific school that you were
24 referring to, that is the school to which your sister went.

25 A. The school -- or, rather, my sister went to the Muzora Institute.

1 We refer to it, too, as the Muzora Institute. It is also known as the
2 Bogoro Institute. It is the same school.

3 Q. How long did she stay there?

4 A. She did not tell me how long she stayed there.

5 Q. What did she observe while there?

6 A. She did not want to tell me, because when we were discussing all
7 those things, I would start to cry, and when she saw that, then she
8 stopped talking about those things. She didn't want to continue.

9 Q. Witness, you talked to us about your sister's son. Can you tell
10 us what happened to that son?

11 A. That child was a small child. He was four years old. He was
12 with his mother wherever she went. She was with his mother all the time.

13 Q. Witness, have you been back to Bogoro ever since the attack?

14 A. No. Ever since that attack took place, I have never been back to
15 Bogoro. However, I did pass through the road while I was going to
16 Kasenyi.

17 Q. And why have you never gone back there?

18 A. I do not want to do that. Even now I do not want to go back
19 there, because I have bad memories. Even when I think of what happened,
20 I am distressed. I do not need to go back there and to live there.

21 (Prosecution counsel confer)

22 MS. DARQUES-LANE: (Interpretation) Your Honour, we have no
23 further questions.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
25 Madam Prosecutor.

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Questioned by Ms. Goffin

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1 Madam Witness, the Prosecutor has concluded her direct
2 examination and now is the turn of the Legal Representatives of the
3 victims who will put some questions to you if they so do wish.

4 Ms. Goffin, are you the one to begin or is it Mr. Luvengika?

5 MS. GOFFIN: (Interpretation) Good afternoon, your Honours, I
6 will begin with your leave.

7 PRESIDING JUDGE COTTE: (Interpretation) Very well.

8 Questioned by Ms. Goffin:

9 Q. (Interpretation) Good afternoon, Witness, my name is Julie
10 Goffin. I work with Mr. Gilissen. You saw him last Thursday. He
11 represents a specific category of victims, that is child soldiers.

12 Madam Witness, to the extent possible, I would like to have some
13 clarification on one point that you spoke about last Thursday. You said
14 that there were armed children in the Geti camp. Regarding the age of
15 the children, you told us that you could not say with any certainty how
16 old they were but that you were older than them. You say that you could
17 tell they were children and that in any case, you were older than them.

18 Can you give us an idea of how many months or years were you
19 older than them? That is, in terms of months and years, what was the
20 probable difference in age between you and the youngest of those
21 children?

22 A. It is not possible for me to tell you their precise ages. Based
23 on what I saw, they were children. Just by looking at them, I could tell
24 that they were younger than me. Maybe they were just as old as me, but I
25 could see that they were children. It is difficult for me to -- to

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1 estimate their ages, but I think they could have been 17 years old. I

2 was 17 years old, and they were younger than 17 years old.

3 Q. Can you say that they were very much younger than 17 years? Can
4 you give us an approximate number of months or years that you would say
5 they were younger than 17 years?

6 A. I would estimate that they were younger than 17. They were not
7 as old as me. I realised that I was older than them, and they seemed to
8 be more of children than myself.

9 Q. Thank you very much, Madam Witness, for testifying before this
10 court. I have no further questions.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Ms. Goffin.
12 Mr. Luvengika, you have the floor.

13 MR. LUVENGIKA: (Interpretation) Thank you, Mr. President, your
14 Honours.

15 Questioned by Mr. Luvengika:

16 Q. (Interpretation) Good afternoon, Madam Witness. My name is
17 Fidel Luvengika Nsita. I am the Legal Representative of the victims who
18 have been admitted to participate in the proceedings, that is, the
19 victims of Bogoro. I am going to seek some clarification from me -- or,
20 rather, from you on your testimony so far before the court. The first
21 series of questions that I would like to put to you -- well, before I do
22 that, would I like to remind you that there are certain names that you
23 can mention without problem, but there are other names that you do not
24 have to mention, in which case I will respectfully ask the
25 Presiding Judge for us to go into private session so that you could give

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1 us those names.

2 I have one very personal question for you, and it relates to the
3 Hema culture. Without mentioning names, we have -- we know you to have
4 two names. You have told us that you have a name used to refer to you in
5 normal life and that you have another name that you use at school. With
6 the little experience that I have following my regular visits to your
7 community, it seems to me that your second name -- or, rather, the name
8 that you use publicly to introduce yourself is not an original Hema name;
9 is that correct?

10 A. My first name is the name that is not Hema. Apart from that, the
11 other name is a Hema name.

12 Q. Very well. I withdraw what I said, because when I looked at the
13 names, it seemed to me to be from -- or, rather, it seemed to be a
14 different name, and I will also drop the other questions on this issue
15 that I wanted to ask you.

16 During your testimony, you explained to us that there were four
17 of you girls who survived the massacre in the house in which you lived.
18 I want to talk about the three other girls, and my questions will concern
19 those three young girls. We are already using letters for two of them.
20 I would like to ask you to help us to have an idea about those victims in
21 relation to the victims that we are defending.

22 Now, the person known as G, who was a survivor and who was with
23 you, do you have an idea of her age?

24 A. It is possible that we are the same age. We have the same
25 physical structure.

Witness: Witness DRC-OTP-P-0353 (Resumed)(Open Session)
Questioned by Mr. Luvengika

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1 Q. Do you know the members of her family, her parents, brothers and
2 sisters? Do not give me any names. Just answer yes or no if you know
3 that family.

4 A. Yes, I know the members of her family. I know them.

5 Q. Do you know their names?

6 A. No, I do not know their names, but we know each other. I even
7 know her family, but we were not very used to each other. I know her
8 very well, and even her parents. I know all of them.

9 Q. Do you know what G's father was doing in 2003? Who was he? Did
10 he have a profession? Did he have an occupation?

11 (Expunged)

12 Q. Thank you, Madam Witness. I will now move on to the young girl
13 that we have identified with the letter H. If you know the occupation
14 that I am going to ask you about, do not say it in open session. I am
15 talking about the young girl who was abducted at the same time as
16 yourself. Do you know how old she was?

17 A. The other girl, that is H, is that the one that you're referring
18 to? Well, I do not know her age, because she seemed to be older than us.
19 She was physically bigger than us, so it is possible that she would be
20 older than us.

21 Q. Thank you. Do you know her family, her father, mother, and
22 siblings?

23 A. I do not know her family very well.

24 Q. And the third young girl whose name you do not remember, do you
25 at least know the members of her family?

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Questioned by Mr. Luvengika

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1 A. No.

2 Q. Thank you. During your testimony, you said that the attackers
3 attacked the house in which you lived. Do you know whether those
4 assailants attacked other houses in the same manner?

5 A. They attacked other houses. It was not only our house that was
6 attacked. I saw that with my own eyes. There were houses that no longer
7 had any doors, so it seems that they attacked all the houses, not only
8 our own.

9 Q. Did you see those houses only after the fact, or were you a
10 witness to the attacks against the inhabitants of other houses in Bogoro
11 on that day?

12 A. I saw that when they took us outside, and when we went outside, I
13 saw houses that no longer had doors. The doors had been broken. And
14 while we were in the house, we could hear noises. There were people
15 shouting, crying, and I knew that those people were being killed, and if
16 that was not the case, their doors were being broken, because they broke
17 down their doors and then they killed them. So that is what I thought.

18 Q. Thank you. You also testified that the neighbours took refuge in
19 your sister's house (Expunged)
20 (Expunged). Did you
21 see any houses set on fire at that time?

22 A. At that time, I did not see any houses which had been set on
23 fire. I only saw doors that had been broken.

24 Q. During that attack, whether in your sister's house where you had
25 taken refuge or during the time you were taken away by the assailants,

1 can you explain to us how the combatants were behaving towards the Hema
2 women?

3 A. This is what they normally did: They were singing, and they were
4 shouting. Those that they had said would be their wives, they said, "Do
5 not be afraid. You are our women." But for the others they said, "You,
6 the Hemas, you look down on us. You will see something today. You are
7 whose women today? We are going to marry you without even paying any
8 dowry." That is what they were saying.

9 Q. Did you see or hear about any cases of rape in Bogoro against
10 young girls or any other women in Bogoro on the day of the attack?

11 A. On the day of the attack, I did not see any girls or women who
12 were raped, no. When I arrived at that moment, it was then that they
13 raped me without wanting to (as interpreted). Apart from that, in Bogoro
14 I did not see any women or girls being raped.

15 Q. After the events did you hear anything about that?

16 A. After that, I did not hear people talk about that. As far as I'm
17 concerned, whenever people start talking about the Bogoro battle, if I'm
18 there, I leave. I do not continue listening to them, because they could
19 identify me. I do not want people to know that I was with those
20 assailants, because I would no longer have any value amongst those
21 people. I would be ashamed. So whenever people started talking about
22 that, I would leave. I would not stay with them.

23 Q. So in your community or your family environment, how are girls
24 seen who have been victims of sexual violence?

25 A. In our family, in the Hema, if a girl who has married one of

1 these people, if you're one of them, you are neglected. You have no
2 longer any value. In our community, we cannot the marry with these
3 people, because our community finds these people to be people of a low
4 class.

5 Q. Witness, by that you mean that you have problems to integrate
6 into your society. Do you feel rejected by your community?

7 A. Yes, before all in my community. My father never wanted us to
8 speak about this matter. Myself, this matter hurt me a lot, because
9 within my family, if they found out that I was there, I would no longer
10 have had any value. Myself, I thought that I was no longer a person
11 among others, and from time to time my father tried to encourage me. He
12 said that things such as that do happen to people in the world, and he
13 encouraged me to forget what happened. He said, "It's in the past, you
14 have to forget it."

15 Q. Witness, we're going to change subjects. On Thursday, you stated
16 that when you went to the school, and here I quote you:

17 "Later I saw that there were cows. I don't know where they had
18 taken the cows from, and they asked the young boys who were there to
19 leave with these cows and these goats."

20 Could you give an estimate just as to the number of cows and
21 goats which were by this school? I know that you were not in a state in
22 order to be able to count them, but could you give an order of magnitude?
23 Ten, fifty, a hundred cows or goats? By what order of magnitude could
24 you estimate these cattle?

25 A. I have difficulty in making an estimation, because at that time

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1 we were very afraid. It was very difficult for us to count, but there
2 were lots of cows. There were more than 20 of them.

3 Q. In accordance with what you noted, was it cattle that was in
4 Bogoro, that belonged to the people from Bogoro?

5 A. Yes. It was their cows, because these people, they don't have
6 cows. These are with the Hema, and all the cows that they took were Hema
7 cows.

8 PRESIDING JUDGE COTTE: (Interpretation) Counsel Luvengika, if
9 you could speak more slowly, please.

10 MR. LUVENGIKA: (Interpretation) Thank you, your Honour. I
11 shall try.

12 Q. Do you know what happened to these cows that you saw at the
13 institute or at the school?

14 A. I do not know, because when we went there, we were separated from
15 these young people who were looking after the cows. They went elsewhere,
16 and I went in another direction.

17 Q. During your testimony, you spoke to us about a fighter from your
18 sister's house who seemed to be the chief, and he gave orders to his
19 colleagues. Could you confirm that this fighter who gave orders saw and
20 knew what the other fighters were doing, that is to say, pillaging that
21 was carried out in the house of your sister, as well as in the other
22 places? Could you confirm that this fighter who gave orders was aware of
23 all these events?

24 A. Yes. Yes, because he was present when the goods was -- the
25 properties was taken out of the houses, he was there. And when we left,

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1 he was there too. He had seen young people and how they -- well, when I
2 was being hit, he told them not to kill me. He saw how these people were
3 breaking -- these young people were breaking down the doors.

4 Q. Could you also confirm that these fighters who were giving orders
5 were, indeed, aware of the fact that you had been captured and taken by
6 force to Geti?

7 A. Yes.

8 Q. Do you know if this fighter was aware of your presence in the
9 camp in Geti?

10 A. Yes, he was aware of that, because we went to Geti, and we stayed
11 there. He knew that I had been taken to Geti. He was aware of that.

12 Q. A last question, witness. In accepting to come to testify before
13 the Court on what you had experienced, seen, and heard, what do you hope
14 for from justice? What are you hoping for from the International
15 Criminal Court? Could you tell the Judges what you feel in your heart at
16 this time?

17 A. What I would ask the Judges, it would be better that they arrest
18 these people or their chiefs and that they be convicted to pay account
19 for the fact that they have caused harm, because we as victims, we have a
20 lot of suffering. Because these people have to be punished.

21 Q. I would like to thank you, Witness.

22 MR. LUVENGIKA: (Interpretation) Your Honour, Judges, I have
23 finished with my questions. I would like to thank you.

24 (The Trial Chamber confers)

25 PRESIDING JUDGE COTTE: (Interpretation) I will just ask you for

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Questioned by Mr. Hooper

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1 a moment.

2 Counsel Hooper. Counsel Hooper, if you so wish, you can commence
3 with your cross-examination. I will allow you to introduce yourself.

4 Questioned by Mr. Hooper:

5 Q. Good afternoon, Mademoiselle Witness.

6 A. Good afternoon.

7 Q. Habari.

8 A. Good afternoon.

9 Q. Now, my name is David Hooper, and I'm asking questions on behalf
10 of Germain Katanga. I will finish my questions today, and I want to tell
11 you straight away, Madam Witness, I'm not going to ask you any questions
12 about the nasty things that happened to you with those two men. I'm not
13 going to ask you anything that will embarrass you at all.

14 Now I think before I start asking you general questions, I think
15 it might help us all - excuse me - if we get to know a bit clearer about
16 where you were living and when, and because that's going to -- I'm just
17 trying to think whether it will necessarily lead to identification. Yes,
18 I think it will. I think my questions are very likely to lead -- or more
19 likely lead to identification because they concern where you were living
20 and the like, and so for that reason they would need to be in closed
21 session, and I see the time, and I think most likely that I'll take the
22 time up to the break which is only 15 minutes' time, Madam Witness.
23 You're going to get a half an hour break when we get there.

24 So if we could go into closed session. I apologise to those
25 following the trial in the public gallery, but I'm afraid it's an

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1 inevitable consequence of the protective measures for this witness.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

3 Counsel Hooper.

4 Court Officer, we shall go into private session if witness

5 protection so requires, and that would seem to be the case.

6 (Private session at 3.44 p.m.)

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12 Page 37 expunged – Private session

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13 Page 38 expunged – Private session

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- 25 (Open session at 3.55 p.m.)

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

3 Counsel Hooper, we will continue after the break.

4 Court Officer, please take us into closed session -- or, rather,
5 the open session so that -- so that -- or closed session so that the
6 witness can leave.

7 Witness, we will be back at 4.30, after a break.

8 (Closed session at 3.56 p.m.)

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13 (Expunged)

14 (Expunged)

15 (Open session at 3.57 p.m.)

16 COURT OFFICER: We're in open session, your Honours.

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

19 The hearing is therefore suspended. We will be back at 4.30.

20 Recess taken at 3.57 p.m.

21 On resuming at 4.31 p.m.

22 (Closed Session)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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8 (Open session at 4.33 p.m.)

9 COURT OFFICER: We're in open session, your Honours.

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
11 Court Officer.

12 Witness, we are going to have another two-hour session.

13 Mr. Hooper is going to continue with his cross-examination.

14 Counsel Hooper, you have the floor, sir.

15 MR. HOOPER: Thank you.

16 Q. And hello again, Witness.

17 A. Good afternoon.

18 Q. Now, the -- we're dealing with how long you'd been giving in
19 Bogoro at your relatives'. I just want to come back to that.

20 Prior to the attack when you were taken away, can you remember
21 how long you'd been living in Bogoro?

22 A. I cannot tell you how long I had been living in Bogoro prior to
23 the attack. However, it wasn't a long time. It was in the year 2002, I
24 believe. Towards the end of that year.

25 Q. All right. Now, can I ask you, in the period before the time

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Questioned by Mr. Hooper

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1 when you were taken away by those men, were you going to school or not?

2 A. Yes. I was attending school at that time.

3 Q. And I'll ask the question and we may have to go into closed

4 session, possibly not, but I'm going to ask you this: Which school were

5 you attending? That's a fairly general question in terms of being a

6 member of the population, so I don't think there's a need, myself, to go

7 into closed session. If you're happy as well to answer.

8 Which school were you attending prior to the time when you were
9 taken away?

10 A. I was attending the Muzora Institute.

11 Q. And that was a secondary school, was it?

12 A. Yes.

13 Q. And that was in Diguna; is that right?

14 A. No, it was not in Diguna. I know that the Muzora Institute which
15 I was attending at the time was not located in Diguna.

16 Q. Very well. So where was the Muzora Institute that you were
17 attending? Where was that?

18 A. The institute was located in Bogoro. From my home, you went
19 directly to the institute, so it was not in Diguna.

20 Q. And was it called anything else, this Muzora Institute?

21 A. We also referred to it as the Bogoro Institute or the Muzora
22 Institute.

23 Q. So for you they've got one and the same name; is that right?

24 A. That's correct.

25 Q. And were you going to that school in the days or weeks before the

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1 attack where you were taken, taken away?

2 A. Before the attack there were some disturbances, and so we were
3 not attending school. People were afraid, and we kept hearing that war
4 was going to break out. So before the start of the war, I was not going
5 to school.

6 Q. Now, when you were seen by the Prosecutor some time ago, you told
7 them then that you'd only been in Bogoro a month prior to the attack.
8 Would that be right or not?

9 A. That is possible. I had a discussion with them, but I cannot
10 remember everything we discussed then. That is difficult.

11 Q. But are you saying that -- well, whether it was a month or
12 longer, that during that time you did go to this school; is that right?

13 A. I have not fully understood your question. Could you please
14 repeat it.

15 PRESIDING JUDGE COTTE: (Interpretation) Yes, Madam Prosecutor.

16 MS. DARQUES-LANE: (Interpretation) I simply -- I would like our
17 learned friend of the Defence to give us the transcript reference that he
18 is quoting. That would help us to locate the statement of the witness,
19 and, if possible, he should show it to the witness.

20 PRESIDING JUDGE COTTE: (Interpretation) So we are talking about
21 the transcript which contains the statement of the witness, declaring
22 that she had been in Bogoro one month prior to the attack. If that is
23 possible, could the team of Mr. Hooper give us the date and the reference
24 of that transcript.

25 MR. HOOPER: Could I confess to being under a slight handicap in

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1 as much as for the first time I left all my notes in London when I
2 travelled last night. So I have been trying to re-piece and retract.
3 The hardest bit of course is the references. But it's -- I can give the
4 general reference, and it was in the first interview, that is interview
5 one -- thank you. Interview one of the 13th of January. 13th of
6 January, 2009. So that was when the interviews take place. I will
7 assist the witness.

8 Q. Witness, you may recall that towards the end of 2008, I think in
9 November, you were seen briefly by the Prosecutor, but they were
10 concerned about your position, and they then adjourned their questioning,
11 and they came back to it in January, and you were interviewed on the 13th
12 of January, the 14th of January, and then the 15th of January over some
13 time, and the -- line 502, indeed, of that where you're asking this
14 question:

15 "How -- how long had you been living in Bogoro before?"

16 And you said:

17 "Before the fight I was there for about one month."

18 Now, you're living down near the church that you indicated. Can
19 you remember the name of the pastor of that church at the time when you
20 attended it? I know it's a long time ago, but can you remember his name?

21 A. It is difficult to remember the names of the pastors who were
22 there, because there were many of them.

23 Q. All right. I'll accept that. What about your teacher at school?
24 Can you remember the name of your teacher.

25 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor, go

1 ahead.

2 MS. DARQUES-LANE: (Interpretation) I apologise for
3 interrupting, but maybe we should go into private session, because I
4 believe that the name of her teacher could end up being identifying
5 information since there are not many schools in Bogoro.

6 MR. HOOPER:

7 Q. Well, let me put it like this: Don't answer the question just
8 for the moment. If you can remember the teacher's name, we'll go into
9 closed session. If you can't remember, we'll stay as we are. May I
10 suggest that's -- so don't give a name. Can you remember the name of
11 your teacher?

12 A. There were many teachers. We did not only have one teacher in
13 the class. However, I can tell you that I remember the names of half of
14 the teachers who were in that school.

15 Q. I'm asking really about teachers who were teaching in the weeks
16 before the attack. Do you remember those?

17 I'll tell you why I'm asking, because my understanding is that
18 school had been closed for quite a long period, you see, because of the
19 problems.

20 A. Yes. The school was closed at the time when the attacks were
21 going to happen. So before that, the school was closed. However, I do
22 remember only the name of my French teacher, and I remember that at the
23 sixth hour on that day we had a French lesson, and after that we did not
24 have any other classes. And so I do remember what happened on that day.

25 Q. All right. And I take it you're talking about the day when the

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1 school closed. Can you remember how long it was before the attack that
2 the school was closed?

3 A. It is difficult to answer your question. A lot of time went by,
4 and a lot of time has gone by, and it is normal for me to forget. I
5 cannot tell you with certainty the number of days that preceded the
6 attack.

7 Q. But as far as you can remember, was it just days or was it weeks
8 or months before the attack that that school closed? Can you remember?

9 A. I cannot remember, but if I try to reflect on this, then I can
10 tell you that it must have been some months and not days, but to tell you
11 the truth, a lot of time has gone by, and I'm trying to forget all these
12 events, and my most ardent desire is to try to wipe all of these things
13 from my memory.

14 Q. Well, I understand that, and I understand you were only 16 at the
15 time, and that eight years -- well, seven years have gone by, and I
16 understand that you'd like not to think about these things. I understand
17 that. Forgive my questions, but it's just to clarify a few things.

18 Now, you told us this morning and again last week that the school
19 was located in Bogoro but was not near the camp, the military camp, and
20 in your interview last year when you were asked how far the camp was from
21 the school, you said it was a 15-minute walk. That's at -- on the 13th
22 of January, line 492.

23 I want to ask you this: How far do you say the military camp
24 was -- I'm sorry.

25 PRESIDING JUDGE COTTE: (Interpretation) Yes, Madam Prosecutor.

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1 MS. DARQUES-LANE: (Interpretation) I sympathise with my learned
2 friend who does not have the transcript before him, but I don't think it
3 suffices to quote what the witness said on a given date without providing
4 us with the reference so that we can follow what he is saying. If we can
5 rise in order to give him the opportunity to get the references, fine.

6 PRESIDING JUDGE COTTE: (Interpretation) Of course we can take
7 two or three minutes in order to give Mr. Hooper's team time to look for
8 the various excerpts in the transcript.

9 MR. HOOPER: It will take a lot longer than that, and I don't
10 want to strain the patience of the Court. I think we can -- we can deal
11 with it. Just -- just at page 12 of the transcript last week.

12 PRESIDING JUDGE COTTE: (Interpretation) Transcript 213?

13 MR. HOOPER: Yes, 213. Just one moment.

14 MS. DARQUES-LANE: (Interpretation) I can give you the
15 transcript which was prepared at that time, because I have it right
16 before me.

17 MR. HOOPER: No, the transcripts I've got -- it's just that, as I
18 understand it, you're asking for the specific reference to the witness's
19 evidence I've referred to. I'll just come to that in a moment.

20 MS. DARQUES-LANE: (Interpretation) I would like that every time
21 you make an allusion to the transcript of 2008, you should please give us
22 the reference as well.

23 MR. HOOPER: Ah, well, you've noted the weakness in my armour
24 today, I can see that, but we will definitely try to -- to, of course,
25 put your mind to rest that we've not misleading the Court or the witness.

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1 Just one moment.

2 (Defence counsel confer)

3 MR. HOOPER:

4 Q. So today's reference I can't give a transcript reference, but you
5 will remember it was said, because it was said just a short time ago, the
6 school was located in Bogoro but was not near the camp. The school was
7 called Institute Muzora. There were classrooms up to the sixth form. We
8 all remember that being said.

9 And in terms of what was said in the other reference, I take you,
10 if I may, to the first transcript of the 13th of January. I think I gave
11 that reference a moment ago. And at line 668 in that first transcript,
12 668, the question was --

13 MS. DARQUES-LANE: Excuse me.

14 MR. HOOPER: And that's at page 20. If I can read it and then be
15 interrupted, it reads very simply, the witness is asked:

16 "How long would it take to walk from the headquarters to the
17 school?

18 "For those people? For the soldiers?

19 "Yes."

20 And then the answer's given at 669:

21 "Fifteen minutes maximum."

22 I'm just asking the witness now if I may, have it --

23 Q. Now, Madam Witness, how far was the school from the camp? Can I
24 ask you that, please?

25 A. Today, it is difficult for me to give you the distance. A lot of

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1 time has gone by. I came here to tell the truth, and in answer to your
2 question, I will say I have already forgotten.

3 Q. All right. Okay. Now, let me ask you another -- another
4 question, and it's about the soldiers at the camp. Now, I don't expect
5 you to have counted them, and I don't expect you to give me an accurate
6 number, but as far as I can remember, about how many soldiers were there
7 in Bogoro, protecting Bogoro, at the camp?

8 A. That question is a difficult one. I cannot tell you the number
9 of soldiers. I was not impressed in knowing what the soldiers were
10 doing. I did not count them. I knew that the place was occupied by
11 soldiers. It is difficult for me to give you the number.

12 Q. Now, looking at the same interview at line 623 where you've been
13 asked how many soldiers there were, and you gave the same answer, really,
14 as you gave today. Let me just read what you said. You were asked how
15 many soldiers were there in Bogoro and you said at line 623:

16 "I was unable to count them, but there were more than ten."

17 Would that be right, that there were more than ten soldiers
18 there?

19 A. That is possible. I told the persons who were interviewing me
20 that I could not give an exact number of soldiers. I said that there
21 must have been more than ten. And I can't be any more precise than that.

22 Q. Now, you were also asked last Thursday about the soldiers, and at
23 page 12, at line 17, you were asked:

24 "Who were these soldiers?"

25 And you said:

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1 "These were Ugandan soldiers. We were in the habit of calling
2 them the Ugandans."

3 And indeed in your statement in 2009, you refer to them as
4 Ugandans. So my -- that's your recollection, is it, that these soldiers
5 were referred to as the Ugandans; is that right?

6 A. Yes.

7 Q. And again last week -- I'm doing this so I don't have to ask you
8 all these questions again. You were asked how they were dressed, and you
9 said:

10 "They were in a military uniform, a green coloured uniform, and
11 they didn't have any camouflage uniform. Their uniform was of one
12 uniform colour."

13 Do you remember that?

14 A. Yes.

15 Q. Now, again, we've heard what happened to you when the attack
16 happened, and you saw quite disgusting and unimaginable things, and I
17 don't want to remind you of all that, but let me ask you this -- and I
18 know it's very difficult given the situation you were in, that situation
19 you were in, but how long did the fighting take place? How long did that
20 battle take place before the fighting sort of stopped? Can you remember?

21 A. I cannot remember. I cannot tell you how long it took. That was
22 not my primary concern. We were afraid all the time, so I don't know how
23 long it took. But when the sound of gunfire ceased, then we concluded
24 that the fighting had stopped.

25 Q. All right. Thank you. Neighbours came to stay at your

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1 relatives' house. Do you recall the names of any of those neighbours?

2 Can you help us with any of their names?

3 A. There were many neighbours who came to our home. However, I
4 remember only the names of the women with whom we -- I was abducted.

5 Q. And those women, were they your neighbours?

6 A. Yes.

7 Q. And by that I mean they -- they lived very close or close to the
8 house you were living in; is that right? They lived in the same area
9 there.

10 A. Yes. We were all living together in Bogoro, that is, apart from
11 the girl whose name I no longer remember. She did not live in our
12 neighbourhood, whereas the other girls lived right next door to us.

13 Q. Now, there came a time when you told us how you were taken to the
14 school, or towards or near the school, because you've made it clear you
15 didn't actually go into the school. Can we just be clear, is that the
16 school that you refer to as the Muzora Institute?

17 A. Yes.

18 Q. And so that we're plain and for you, that's the same as the
19 Bogoro Institute; is that right?

20 A. Yes.

21 Q. And how far -- when they took you there, how far were you from
22 the camp? Can you remember or not?

23 A. When we were in Bogoro, we were living very close to the school.
24 I can say that we were not living near the camp, but we were living near
25 the school.

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1 Q. All right. Now, you told us how you then left with the cows and
2 the goats and the Bogoro boys and the assailants, and you -- you went not
3 down the road to Kasenyi but on the other road and that eventually you
4 got to Geti; is that right?

5 A. Yes.

6 Q. This is another difficult question, I know, but do you know sort
7 of what time you left Bogoro?

8 A. It would be difficult for me to answer your question, because I
9 did not have a watch to refer to time, so I cannot give you the precise
10 time.

11 Q. No. All right. But did you get to Geti -- was it still light
12 when you got to Geti?

13 A. Yes. It was during the day.

14 Q. Now, you mentioned the man who was giving the orders. You know,
15 the man who said, "Leave her alone," when they were suggesting you were
16 Hema and not Nande. The person who was giving orders and who then said,
17 "Come on, let's go." And you were asked last week if you could describe
18 that man, and you told us at page 49, line 23, that he was -- let me --
19 let me get the accurate quote so I don't get it wrong.

20 And at page 20 -- 49, sorry, 23, you were asked -- well, let me
21 ask you this: You were asked if you could describe the individual, and
22 you said:

23 "Well, it's -- a lot of time has passed and I have not thought
24 back over those episodes of late."

25 And you were asked:

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1 "Was this person wearing a uniform or not?"

2 And you said:

3 "This person was wearing ordinary clothing and had a Motorola
4 radio in their hand."

5 And you were asked what you meant by "ordinary clothing."

6 "Did you mean civilian clothing?"

7 You said:

8 "Not civilian clothing. He was wearing a pair of shorts.

9 Sometimes I see soldiers wearing clothing of this type."

10 He had a Motorola, you say. He was carrying a gun. All right.

11 So that's what you recall.

12 Is that right? That's your recollection of how that man giving
13 the orders, the commander -- thank you very much.

14 A. Yes. Yes, I remember.

15 Q. Now, I do realise it's a long time ago, but I want to ask you
16 about something you said last year when you were asked about what he was
17 wearing at 359 on transcript three of the 13th of January, for my
18 friends. You were asked this: You were asked what he was wearing on the
19 day of the attack in Bogoro, and your answer was:

20 "On the day of the Bogoro attack, he was wearing the UPC
21 uniform."

22 Now, I know it's a long time ago, but you see the difference.

23 One man you have in shorts, and then another description of him a year
24 ago you have him in a UPC uniform.

25 Now, I know this is probably a hard question again for you, but

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1 can you remember was he in shorts or was he in a UPC uniform? And if you
2 can't remember, it doesn't matter.

3 A. Yes, I remember. After you read the document, I did remember.

4 Yes, I had said that he was wearing a pair of shorts, and I gave
5 details to the effect that that type of clothing was worn both by
6 soldiers and civilians. When someone is dressed like that, it is
7 difficult to know whether he is a soldier or a civilian. As you know, in
8 Ituri, the UPC soldiers were in the habit of wearing camouflage uniforms.
9 That is why I said that his clothes were similar to those of UPC
10 soldiers.

11 Q. Otherwise known as tache-tache; is that right?

12 A. Yes.

13 Q. Now, you were also asked last week whether you'd seen him again.
14 That's another document I've got to pick up here, so give me a moment,
15 Madam Witness. And that's at page 65. You were asked if you'd seen that
16 man, that commander, again, and you may remember, I'm sure you do, that
17 you said at line 18 -- again, let me say you'd spoken about a young man
18 being killed. I'm not going to go into that. I know that is a nasty
19 incident for you, but you were asked whether the commander man was
20 present, and you said:

21 "No. I didn't see him at that time."

22 And then you were asked:

23 "Did you see him at some other time during your stay at Geti?"

24 And you say:

25 "No, I didn't see him. I was very much afraid. I didn't travel

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1 about."

2 Is that right? You didn't see him again? You didn't see him in

3 Geti? Is that right?

4 A. Yes.

5 JUDGE DIARRA: (Interpretation) When the question is put in this
6 way, "You did not see him again," when she answers, "Yes," then I do not
7 understand the answer. Maybe counsel, Mr. President, could rephrase the
8 question.

9 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, I will
10 leave it up to you to put your question again, or maybe I should ask the
11 question.

12 Did you see that person again? Without using any negation. So,
13 Madam Witness, did you ever see that person again?

14 THE WITNESS: (Interpretation) No, I never saw him again in
15 Geti.

16 PRESIDING JUDGE COTTE: (Interpretation) Please proceed,
17 Mr. Hooper.

18 MR. HOOPER: All right.

19 Q. Now, you speak of Geti, and again looking at what you said last
20 year, the second transcript, at line 174 of the 13th of January -- you
21 talk about your arrival in Geti, and am I right in saying that when you
22 arrived the people taking you there told you that it was Geti? They
23 said, "This is Geti. This is where we live." Is that right?

24 A. Yes.

25 Q. Now, my understanding of what you told us was that you were there

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1 for three months; is that right?

2 A. Which place are you referring to?

3 Q. Geti. When you got to Geti, you were there, altogether, for

4 three months, about three months. Would that be right?

5 A. No. I cannot give you the precise period that I stayed in Geti.

6 You know, I arrived in June. It is difficult for me to do the

7 calculation. Please, I'm asking you to do the calculation yourself. If

8 you look at the time at which I arrived and then you calculate from the

9 exact date of the beginning of the fighting.

10 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor.

11 MS. DARQUES-LANE: (Interpretation) I'm sorry to interrupt, but

12 I wanted to ask Defence counsel to give us the ERN numbers, because we

13 are really not able to follow, and that for the record also, we need to

14 know where we are at.

15 MR. HOOPER: Well, I'm looking at the second transcript for the

16 14th of January. And it has various numbers, because of course we get it

17 in redacted form, but I'm sure that can't be too difficult to find. It's

18 the second transcript of the 14th of January.

19 MS. DARQUES-LANE: (Interpretation) Usually at the bottom of the

20 page there is usually the ERN number there.

21 MR. HOOPER: You're quite right, and this one is 1036-0415.

22 PRESIDING JUDGE COTTE: (Interpretation) Before you continue,

23 Mr. Hooper, I simply want to ask some clarification from the witness.

24 I can read on page 56, line 14 of the French transcript,

25 Madam Witness, Mr. Hooper asked you the following question:

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1 "When you went to Geti, you stayed there for approximately three
2 months; is that correct?"

3 And on line 16 of the French transcript, you said:

4 "No. I cannot give you the precise time that I spent in Geti
5 because, as you know, I arrived in June. It is difficult to calculate."

6 Did you actually say the month of June, Madam Witness?

7 THE WITNESS: (Interpretation) No. I arrived there in February,
8 and I left that place in June. That is why I asked you to do the
9 calculation yourself.

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
11 Madam Witness, but there might have been a difficulty with the
12 provisional transcript. So you arrived in February, and you left in
13 June; is that correct?

14 THE WITNESS: (Interpretation) Yes.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
16 Madam Witness.

17 Mr. Hooper, please proceed.

18 MR. HOOPER: Yes. Just one moment.

19 Q. And indeed, can I just confirm that if you look at your first
20 interview on the 13th of January, that's DRC-OTP-1036-0285, you're asked
21 about the dates. (Expunged)
22 (Expunged)

23 "June. I arrived back --"

24 This is at line 420. You say:

25 "Arrived back in Bunia in June, and I went back to school in

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1 September."

2 And "That was 2003," you added. So that is, indeed, obviously
3 the last answer got a bit mixed up. So that's what you were saying right
4 at the outset of your interviews. Which is about three months. March,
5 April, May, and sometime into June.

6 As I understand it, the first month you stayed in -- out of sight
7 because you were scared. Is that right?

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged). I'm asking about the time

13 that you were in Geti, and we know that that was for a little over three
14 months. And am I right in thinking that you were, for the first month of
15 the time that you were in Geti, you didn't go out much. You didn't leave
16 the house you were because you were afraid that if you did you might be
17 recognised and there'd be problems, but that there came a time when you
18 did feel that you could get out a bit more in Geti; is that right?

19 A. Yes.

20 Q. And you wandered around a little bit in the village there, but
21 I'm right in saying you find it difficult to describe Geti to us, the
22 place; is that right? It's difficult for you to describe it to us.

23 A. It would be difficult for me to describe Geti to you. You know I
24 was not in the habit of moving about inside the village. I was in the
25 house.

1 You know, Geti is a mountainous area. It is difficult for me to
2 describe it to you. The only thing I saw was the bush and the hills. I
3 cannot give you a description that I did not know.

4 Q. Well, that's quite right, nor should you. Now, what about these
5 two -- two men? I just want to ask you this: Did you ever learn what
6 the name of either one of them was? Did you ever get a name or hear
7 someone else tell you what one or the other one was called?

8 A. No. I only heard the words Afande. Others referred to him as
9 Afande. One day I tried to ask him his name, and did he not want to
10 answer. He told me, "Listen, everyone calls me Afande."

11 Q. Now, the two men -- the first man, and as I understand it, that's
12 eventually the second man stopped bothering you and it was just the first
13 man, so I'm talking about that first man, can you describe him to us at
14 all? I know it's a long time ago, but is it possible to describe him?
15 If not, then again, don't worry about it.

16 A. You know, it is difficult for me to tell you that. My heart is
17 hurting. I cannot go into that. Please understand me. I did not want
18 to go back into that if you want me to think about this man again.

19 Q. No. Let's leave that alone then. Now, let me ask you about the
20 other -- the other girls who were taken with you from Bogoro, and we have
21 our list. Mine's somewhere. I've found it. Have you got your list
22 there? If you need to refer to them -- all right. I'll refer to them by
23 the letters we've given them.

24 A. (* No interpretation)

25 Q. You've got your list. Good. So let's look at -- let's look at

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1 G. Now, my understanding is that you saw her in Geti once you were up
2 there, and you had a conversation with her; is that right?

3 A. Yes.

4 (Expunged)

5 (Expunged)

6 A. Yes.

7 Q. And do you know where she lives today?

8 A. No. I do not know where she currently lives. In the past we
9 used to see each other, but that is not the case today, so I no longer
10 know where she lives.

11 Q. Now, what about H? Looking at her name. Get the right letter on
12 the line so we're not mixed up. H, did you see her again in Geti when
13 you were up there, or did you see her at all in Geti after you got there?

14 A. I never saw H again in Geti. H came with us up to Geti, but I do
15 not know where she was. I only saw the person that we mentioned before
16 and that is G.

17 Q. But again from what you've told us today, I understand you did
18 see H again(Expunged). Is that
19 right?

20 PRESIDING JUDGE COTTE: (Interpretation) Madam Prosecutor.

21 MS. DARQUES-LANE: (Interpretation) Would it be possible to go
22 into private session, because we are discussing the movements and
23 residences of protected witnesses. Thank you.

24 PRESIDING JUDGE COTTE: (Interpretation) Counsel Hooper, do you
25 have a lot of other questions of the same type which might necessitate

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- 1 going into private session?
- 2 MR. HOOPER: No, and I don't see why this would trigger this
- 3 particular sensitivity. I've asked her about H, and the witness herself
- 4 has told us that she saw her.
- 5 It's the intervention that causes the problem, perhaps to some
- 6 extent. There isn't a problem. (Expunged)
- 7 (Expunged)
- 8 (Expunged)
- 9 (Expunged)
- 10 (Expunged)
- 11 Prosecutor.
- 12 MS. DARQUES-LANE: (Interpretation) Can we go into private
- 13 session? Then I could express myself on this subject.
- 14 PRESIDING JUDGE COTTE: (Interpretation) We shall go shortly
- 15 into private session.
- 16 (Private session at 5.31 p.m.)
- 17 (Expunged)
- 18 (Expunged)
- 19 (Expunged)
- 20 (Expunged)
- 21 (Expunged)
- 22 (Expunged)
- 23 (Expunged)
- 24 (Expunged)
- 25 (Expunged)

Witness: Witness DRC-OTP-P-0353 (Resumed)(Private Session)
Questioned by Mr. Hooper

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1 (Expunged)

2 (Expunged)

3 (Open session at 5.32 p.m.)

4 COURT OFFICER: We're in open session, your Honours.

5 PRESIDING JUDGE COTTE: (Interpretation) Perfect.

6 Counsel Hooper, please go ahead.

7 MR. HOOPER:

8 Q. You saw that person again you told us. Do you know where she is
9 today, H?

10 A. Currently, I don't know where she is.

11 Q. Now, I want to put some names to you, and we'll need to go into
12 closed session for that. So can we revert back to that status?

13 PRESIDING JUDGE COTTE: (Interpretation) Court Officer.

14 (Private session at 5.33 p.m.)

15 (Expunged)

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21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness DRC-OTP-P-0353 (Resumed)(Private Session)
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13 Page 63 expunged – Private session

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13 Page 64 expunged – Private session

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Witness: Witness DRC-OTP-P-0353 (Resumed)(Private Session)
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12 Page 66 expunged – Private session

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Witness: Witness DRC-OTP-P-0353 (Resumed)(Private Session)
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13 Page 67 expunged – Private session

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Witness: Witness DRC-OTP-P-0353 (Resumed)(Private Session)
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13 Page 68 expunged – Private session

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Witness: Witness DRC-OTP-P-0353 (Resumed)(Private Session)
Questioned by Mr. Hooper

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13 Page 69 expunged – Private session

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13 Page 70 expunged – Private session

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Witness: Witness DRC-OTP-P-0353 (Resumed)(Private Session)
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12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Open session at 5 .58 p.m.)

24 COURT OFFICER: We're in open session, your Honours.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

Witness: Witness DRC-OTP-P-0353 (Resumed)(Open Session)
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1 Court Officer.

2 The Chamber has just had a private session, because the questions
3 put by the Defence of Germain Katanga would lead the witness to answer by
4 giving names which were particularly identifying. Counsel David Hooper
5 stated at the end of this period in private session that he had finished
6 with his questions, and he thanked the witness for her contribution. He
7 also wished her the best of luck in her personal and professional life.

8 Professor Fofe is going to take the floor, but the team of
9 Germain Katanga would like to have EVD numbers attributed to certain
10 documents, and it shall provide us with a list thereof.

11 We're listening to you, Counsel Hooper.

12 MR. HOOPER: The first document is the photograph that we saw,
13 and its reference at present is DRC-OTP-1028-0079 -- sorry, 74. It's a
14 French 4. And the other document --

15 MS. DARQUES-LANE: (Interpretation) Your Honour, this is a
16 confidential document. I just wish to bring that to your attention.

17 PRESIDING JUDGE COTTE: (Interpretation) So the document
18 DRC-OTP-1028-0074, confidential, is the first document. And the other
19 document, Mr. Hooper, is?

20 MR. HOOPER: The photograph of the church, DRC --
21 DRC-D02-0001-0349. And would I have thought that could be a public
22 document in the circumstances.

23 PRESIDING JUDGE COTTE: (Interpretation) Note taken.

24 Court Officer, for the first document which is confidential,
25 could you please give an EVD number.

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1 THE INTERPRETER: Correction from the English booth: The
2 reference was DRC-OTP-10102-80074 (as interpreted).

3 PRESIDING JUDGE COTTE: (Interpretation) You can give that
4 number -- your reference, and you should remain seated.

5 COURT OFFICER: Your Honours, thank you. The document
6 DRC-OTP-1028-0074 is a confidential document, and it shall be given
7 number EVD-D02-00081.

8 The second document, the DRC-D02-0001-0349, a public document,
9 shall be given number EVD-D02-00082.

10 Thank you.

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

13 Counsel Hooper, before I give the floor to Professor Fofe, I
14 would like to state that the small lamp, the small red indicator on the
15 witness bench shows when it is red that we are in open session, and when
16 it's green we are in private session, and when we are in private session,
17 the witness can feel free to talk. So, please, you should look at those
18 lights, and then you will be able to know whether we're in open session
19 or private session.

20 MR. HOOPER: Is that new? It's not new. See how observant one
21 can be in these situations. I hadn't noticed it. Mr. O'Shea is also
22 astonished to discover such a useful tool. If only we'd known it the
23 last few months it would have helped.

24 PRESIDING JUDGE COTTE: (Interpretation) Well, Mr. Hooper, you
25 will certainly say that this is my fault and that I should have drawn

1 your attention to this earlier. I have tried to do this on many
2 occasion, but I think I usually have an oversight. I discovered this
3 about one year ago, and it took me some time to understand it, and now I
4 know. Red means that we are in open session. Green means we are in
5 private session, which means that the witness is free to speak as much as
6 he or she likes.

7 Professor Fofe, you have the floor.

8 MR. FOFE: (Interpretation) Thank you, your Honour.

9 Questioned by Mr. Fofe:

10 Good afternoon, Madam Witness.

11 THE WITNESS: (Interpretation) Good afternoon.

12 MR. FOFE: (Interpretation) My name is Jean-Pierre Fofe. I am
13 co-counsel within the Defence team of Mathieu Ngudjolo. Our team has
14 listened to your testimony before this Chamber with much attention. We
15 have no questions to put to you. We would like to thank you for making
16 this trip to give and give evidence before the International Criminal
17 Court. The only thing that we're going to do is to wish you a safe trip
18 back to the place where you live. Thank you very much.

19 Thank you, your Honour.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
21 Professor Fofe.

22 Madam Prosecutor, do you have any questions to put to the witness
23 within the framework of re-examination?

24 MS. DARQUES-LANE: (Interpretation) Your Honour, can I have one
25 minute, please?

1 PRESIDING JUDGE COTTE: (Interpretation) You can take three if
2 you so wish.

3 MS. DARQUES-LANE: (Interpretation) Thank you, your Honour.
4 (Prosecution counsel confer)

5 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, you have
6 the floor.

7 MS. DARQUES-LANE: (Interpretation) We don't have any more
8 questions for this witness.

9 PRESIDING JUDGE COTTE: (Interpretation) You have no more
10 questions. Thank you very much.

11 Counsel Hooper, do you have any final comments before the witness
12 leaves us?

13 MR. HOOPER: No, just to wish the witness, again, a safe journey
14 back.

15 PRESIDING JUDGE COTTE: (Interpretation) And Professor Fofe, do
16 you have anything to add?

17 MR. FOFE: (Interpretation) Nothing to add, your Honour.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you to all of
19 you.

20 Madam Witness, we are going to rise -- or, rather, you are going
21 to leave us. The Court thanks you immensely for coming all the way to
22 this place, for giving us your time, and for accepting to dredge up
23 difficult and painful memories for you, and of course you said on several
24 occasions that you are trying to chase these memories away from your
25 mind. Your contribution is invaluable, and we thank you for it. You

1 heard the various parties and participants wishing you a safe trip back
2 to the place where you live, and good luck for the remainder of your
3 personal and professional life. We wish you success.

4 You will remember that what you have given to us here as evidence
5 should be kept to yourself. You should not share it with anybody when
6 you step out of here.

7 The Chamber would also like to thank the person who is sitting
8 very quietly but very competently by your side.

9 Court Officer, we are going to go into closed session so that
10 Witness 0353 can leave us.

11 Good-bye, Madam Witness.

12 THE WITNESS: (Interpretation) Good-bye and thank you.

13 (Closed session at 6.12 p.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Open session at 6.13 p.m.)

19 COURT OFFICER: We're in open session, your Honours.

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

22 We are going to rise. We will reconvene on Monday, 15th of
23 November to start the evidence of Witness 0028 with the evidence in chief
24 of the Prosecutor. However, at 9.00 on Thursday morning, we are going to
25 hold an *ex parte* hearing.

1 Court Officer, you were not with us last week. If it turns out
2 that the VWU has the information it's supposed to collect before Thursday
3 morning, then we could hold a hearing earlier. If it is possible to hold
4 it tomorrow morning or Wednesday morning, it could be a bit too early,
5 but if we could hold the hearing on Thursday morning, it's going to suit
6 everyone, I believe.

7 THE INTERPRETER: Correction from the English booth: If we could
8 hold it on Wednesday morning instead of Thursday morning, that would suit
9 everyone.

10 (The Trial Chamber confers)

11 PRESIDING JUDGE COTTE: (Interpretation) We could do without a
12 hearing if we received a filing from the unit which will be sent to the
13 team of Maitre Kilenda and to the Chamber. The only question is whether
14 such a filing would make it possible for us to dispense with a hearing.
15 So we are going to set a short time limit for the unit.

16 What we are going to request from you, Court Officer, is to ask
17 the VWU, which is going to read this transcript, to inform us by e-mail,
18 and that is the Chamber and Mr. Kilenda, whether it is in a position to
19 provide the information requested earlier than prescribed. If they have
20 such information, they should forward it to us by -- forward it to us in
21 writing. And in that case, we are going to set a date for tomorrow at
22 11.00 a.m. If we receive a filing from the unit at -- tomorrow at
23 11.00 a.m., we are going to examine it. And by e-mail exchange, we would
24 be able to determine whether we can dispense with the hearing. If we
25 cannot do so, then we are going to hold a hearing on Wednesday at

1 10.00 a.m.

2 So tomorrow at 11.00 a.m. the unit should inform us whether they
3 can send us this information. I think 11.00 a.m. is bit early. Let's
4 say tomorrow by 3.00 p.m. the unit should make us understand whether they
5 have that information, and they can send the information to us in written
6 form. And if what we find is satisfactory, then we will dispense with
7 the hearing. Otherwise, we will hold the hearing on Wednesday morning at
8 9.00 a.m.

9 We still have a little time ...

10 (The Trial Chamber confers)

11 PRESIDING JUDGE COTTE: (Interpretation) I apologise for this
12 problem that we have with our computers.

13 Well, I think we have all agreed. We meet on Monday, 15th of
14 November, at 2.00 p.m. with Witness 0028. We have come to the end of
15 this day's work. We stand adjourned. We would like to thank all those
16 who have provided with us with assistance today.

17 The hearing ends at 6.19 p.m.

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