

1 International Criminal Court

2 Trial Chamber II - Courtroom 1

3 Situation: Democratic Republic of the Congo

4 In the case of The Prosecutor v. Germain Katanga - ICC-01/04-01/07

5 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra

6 and Judge Christine Van den Wyngaert

7 Sentencing Hearing

8 Tuesday, 6 May 2014

9 (The hearing starts in open session at 9.31 a.m.)

10 THE COURT USHER: All rise.

11 The International Criminal Court is now in session.

12 Please be seated.

13 PRESIDING JUDGE COTTE: (Interpretation) The hearing shall now commence.

14 Please be seated.

15 I see that Mr Katanga is present. Good morning, Mr Katanga.

16 Mr Prosecutor, you now may address the Court and provide a brief response to the

17 questions that were put to you yesterday late in the day. And I would remind you

18 that we do have some questions about the aggravating circumstances, and in your

19 March filing you mention jurisprudence from a number of ad hoc tribunals saying

20 that such circumstances must be linked to the crimes charged and in other words that

21 would be the crimes confirmed by the Pre-Trial Chamber, and we would like to

22 determine whether that is indeed the approach that the OTP is adopting.

23 MR MACDONALD: (Interpretation) Thank you very much, your Honour. In

24 response to the two questions, because the two are linked, you see, but to give a

25 simple reply to the question that was just put, these are not charges that were

1 confirmed before the Pre-Trial Chamber but rather charges that the accused person
2 was found guilty of. That is the principal in question.

3 If you don't mind, if I could translate the position taken by the OTP in filing 3444,
4 paragraphs 24 and 25. Indeed aggravating circumstances must be proved beyond all
5 reasonable doubt.

6 As a matter of principle, aggravating factors -- well, there are two scenarios: Either
7 they can be linked to the crimes for which the accused person was found guilty or
8 they can be linked to the personal circumstances of the accused, for example, previous
9 convictions. And I make reference to Rule 145, subsection -- paragraph 2(b), which
10 states that an accused person with a prior criminal background -- well, that
11 background can be taken into account, but there need not necessarily be a link with
12 the crimes for which the accused person was found guilty.

13 As far as -- well, aggravating factors must be related to these crimes. And there is a
14 subcategory for the second particular case. If the aggravating factor for which
15 we -- on which we are basing ourselves is a crime for which the convicted person was
16 not found guilty of, or if the accused person was not convicted, that aggravated factor
17 can be taken into account at the time of sentencing, as long as it is directly related to
18 the crimes for which the accused person was found guilty and was foreseeable from
19 an objective point of view. That is the position taken by the OTP before the Appeals
20 Chamber in the Lubanga case.

21 That position was adopted by international criminal tribunals, for instance, the ICTY,
22 the ICTR and the Special Tribunal for Sierra Leone.

23 The rulings in question are mentioned in our filing before the Appeals Chamber, and
24 I believe the filing is 2968.

25 In that particular case, when aggravating factors are related, and were objectively

1 foreseeable, the Prosecution must demonstrate that these crimes themselves and their
2 foreseeability were proven beyond all reasonable doubt. However, and this is an
3 important point, it is necessary to prove beyond all reasonable doubt the link between
4 the accused person and these crimes.

5 So this is the position being taken by the OTP. I don't know whether I've simplified
6 sufficiently, but this is a translation, so to speak, of the position taken by the OTP in
7 filing 3444. I have made no change to the position that is set out in our filing. And
8 I thank you.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you, sir, for those
10 clarifications.

11 Mr Luvengika, it is now your turn to address the Court. Please go ahead. Ideally,
12 this -- these remarks should be concluded by 10.30, so you have nearly an hour ahead
13 of you. Please proceed.

14 MR NSITA: (Interpretation) Thank you, your Honour. Thank you for allowing
15 me to address the Court. I think that I will not be going beyond the 45 minutes that
16 you have allotted me.

17 With your leave, your Honour, I wish to advance a number of items of information
18 that the victims believe are essential, and I will also express their views and concerns.
19 I apologise in advance if some of my remarks are similar to those made by the Office
20 of the Prosecution yesterday. As Mr Hooper pointed out yesterday, there are many
21 points regarding the victims that the Prosecution has already made before this
22 Chamber yesterday.

23 * Your Honours, the script has already been written, and can no longer be changed at
24 this particular point. If we make reference to the seriousness of the crimes, some
25 people may be tempted to stress that the majority of the Chamber only retained the

1 murders of 60 people, the people killed in Bogoro, but the majority also established
2 that a much higher number of people died during the attack.

3 And taking this approach would be reducing the extent of the harm done to a
4 certain -- to merely a number of -- a figure, a particular number, but that is not
5 sufficient. But we are not talking about a few victims here and there, we are talking
6 about the entire community of Bogoro that was hurt by the attack. One person
7 might have lost an entire family; another person, one child; one person perhaps lost
8 his parents, a sister, a brother, a friend.

9 According to testimony, the village was literally strewn with corpses. As
10 Mr Byaruhanga reminded us yesterday, very few families were able to recover the
11 corpses of their family members who had been killed. Very few people were able to
12 organise a proper funeral or a period of mourning owing to a lack of resources.
13 They had lost everything during the attack. Many people were injured and were the
14 victims of cruel attacks. Some still bear the scars of bullets or machetes.

15 Mr Byaruhanga also explained to us that the suffering is continuing for some victims.
16 They still have not been able to obtain adequate care. The survivors must deal with
17 the sorrow of having lost family members and friends. And what's more, they still
18 struggle to regain their earlier standard of living, or even just a decent level of living.
19 Before the attack Bogoro was a major centre for raising animals and it was an
20 economic centre.

21 Now, these facts exist, but they are not the fundamental cause of the harm suffered by
22 the victims. And for those of you who are familiar with towns in Africa, I think you
23 must realise that an increase in unemployment owing to poor economic conditions in
24 major cities, that is one thing, but the situation is even worse in the smaller centres;
25 people who are unemployed will move to another town to find another job, another

1 way of supporting themselves.

2 The victims are having very difficult time going back to their older way of life because,
3 you see, they lost everything. Before the attack Bogoro was a major centre, an
4 economic centre in the region. Many civilians lived there and for the most part they
5 were living well. Some raised cows, others had small businesses, or at least they
6 were able to cultivate their land and thus provide for their basic needs. The
7 residents of the town were proud that they could educate their children and offer
8 them a future.

9 On 24 February 2003, the attackers wiped Bogoro off the map. We're not talking
10 about minor looting or one or two buildings destroyed here and there. In this case
11 an entire village was struck. Buildings had their roofs removed and then were burnt
12 down after every single possession was taken out. There was looting of chickens, of
13 goats, cattle, and in the Hema tradition this is of great importance. Cattle is in actual
14 fact a local way of saving money. It is -- cattle are used as a form of savings so that
15 one can pay a dowry, so that one can school one's children or buy possessions.
16 After the attack, the victims had no choice. They had to flee. They left everything
17 behind them. Most have had to live in extremely difficult conditions and in some
18 cases they had to take refuge in IDP camps. They had to build new lives for
19 themselves elsewhere. They have not even had the resources to go back to Bogoro.
20 Others were traumatised so badly by the attack that they cannot even dream going
21 back to the town.

22 Your Honours, I think that everyone in this room can understand the trauma
23 experienced by these people in light of the way that the crimes were committed, and
24 that is another aspect that underscores the seriousness of the crimes.

25 I think everyone remembers the testimony of Witness P-249, and I quote, "They

1 arrived at night and there was no way for the civilian population to flee in the middle
2 of the night. That is why they conducted all their operations at night," end of quote.
3 Yes, the attackers arrived early in the morning at dawn and they grabbed people as
4 they lay sleeping and killed them. There were many attackers and very soon Bogoro
5 was completely cut off. In a few hours this village fell and was held by the attackers,
6 despite the protection of the UPC soldiers.

7 The attackers, the -- did not content themselves with just taking over the village.
8 They continued to hunt down civilians and kill them. They shot at civilians who
9 were fleeing their houses. They killed the civilians who had taken shelter at the
10 institute. They drew people out of their hiding spots and then killed them.

11 Of course, your Honours, my learned friends opposite may argue that
12 Germain Katanga played only a very incidental role in these crimes, they might say
13 that his degree of participation was minimal and they may claim that the sentence
14 should be not as harsh as would have been the case if he had been present, or if he
15 had had a -- had control over the crimes, but I think if we were to take that approach
16 we would be overlooking the fundamental issue.

17 What did Germain Katanga actually do? Even though he did not order the crimes,
18 or encourage people to commit them, what was his actual behaviour? What role did
19 he play in these crimes?

20 In the particular -- in this particular case it is not a matter of just organising
21 transportation of a few weapons. This man was able to win the confidence of those
22 around him and the key military allies. This is a man who gained this confidence
23 and trust and then ensured that these people would be supplied with weapons so that
24 they could attack Bogoro. This was the man who made the attack on Bogoro
25 possible, the way that the attack had been drawn up, and the purpose of the attack

1 was to eliminate the civilian population by looting their possessions, by destroying
2 their possessions. It cannot be denied that Germain Katanga played a key role in the
3 commission of the crimes.

4 In addition to the seriousness of the crimes, the victims believe, your Honours, that
5 the Chamber should take three aggravating circumstances into account: First of all,
6 the -- the particular vulnerability of the victims. Many women, children, elderly
7 people and newborns were targeted during the attack. They were killed or injured
8 even though they were defenceless and it was entirely possible to recognise them; to
9 see who they were and how vulnerable they were.

10 The second aggravating circumstance: The cruelty of the crimes. Some victims
11 were stripped of their clothings. Some corpses were cut into bits. Often the
12 machete blows were to the neck and to the legs. The victims called out. They
13 begged to be spared.

14 The third aggravating circumstance is the discrimination; in other words the attackers
15 checked the ethnic origin of the people who were detained and then killed.

16 Everyone who was deemed to be a Hema was killed.

17 In light of all these elements, the Defence has presented a number of attenuating
18 circumstances. Your Honours, I will not respond to these points in great detail, but I
19 will express some comments made by my clients.

20 Indeed Mr Katanga was only 24 at the time of the events, but this was not something
21 special. He was not the only young man at that time. Unfortunately Africa - and in
22 particular the DRC - is full of young men, or very young men, who find themselves
23 recruited into militia. The facts show that at the time Mr Katanga was very
24 experienced and well-respected.

25 The Defence also tries to justify his behaviour by mentioning the context of the day;

1 namely that it was necessary to protect the Ngiti community from constant attacks.
2 However, I think you will acknowledge that there is a difference between defending
3 one's community and contributing to crimes that wiped out an entire village.
4 The Defence has also mentioned Mr Katanga's involvement in the demobilisation and
5 peace process. Perhaps that was a sign that he has -- he had changed his behaviour,
6 or maybe he just sensed that the wind was shifting.
7 The Defence describes Mr Katanga as an intelligent young man who is adaptable.
8 He can adapt to circumstances. Perhaps he decided he would be a good boy, so to
9 speak, so that he could improve his position. No one will ever really know.
10 Now, mention was made of his good behaviour during the hearings, or in other
11 words his co-operation with the Chamber, but this was a choice that he made
12 knowing fully what the facts were and that he decided to speak before the Chamber
13 because that was his strategic choice; his choice to defend himself.
14 He has been playing the role of a good school boy and I think we've all been able to
15 take stock of this man. He wants to be agreeable, to please people, yet not a single
16 time did the Chamber hear him express any remorse or regret for the victims. On
17 the contrary, it was very difficult for him to acknowledge that civilians may have
18 been killed. He talked about stray bullets. He talked about professional soldiers as
19 if it were entirely out of the question that civilians may have been killed. His
20 attitude was to deny any possibility that animals could be razed -- that were being
21 razed in Bogoro and that looting occurred.
22 Mr Byaruhanga confirmed one point yesterday. Despite his official position, he has
23 no knowledge of the accused doing anything for the victims. The victims do not see
24 how any extenuating circumstances could affect the sentencing of this man.
25 Your Honours, before I conclude, I wish to say a few things about the Defence's

1 application for a reduction in the sentence.

2 The Defence is asking that the accused person's rights, which were violated in the
3 DRC, be taken into account and his sentence should be reduced accordingly.

4 I do not wish to address the actual violations themselves, but it is difficult to hold the
5 Court responsible for any violations that may have been done by national authorities.

6 I refer the Chamber to an ICTR decision in Rwamakubwa and the references have
7 already been provided to the Chamber. The facts were similar. In that particular
8 case, the Chamber refused to take into account the period of time during which the
9 accused person was detained by national authorities because they were not acting
10 pursuant to an arrest warrant for the tribunal. The Defence also wishes
11 Mr Katanga's detention in the DRC to be taken into account as of 20 February 2005.

12 The Defence has not demonstrated sufficiently, either in law or in fact, that
13 Mr Katanga was detained beginning on 26 February 2005 for behaviour related to the
14 crimes in question.

15 This interpretation advanced by the Defence is far too broad. The Chamber will
16 come to its own conclusions because this is, of course, the Chamber's bailiwick.

17 Your Honours, I wish to conclude by repeating a few points made by this Chamber
18 itself. You said that the legal representatives of victims are not a second Prosecution.
19 We are not here to represent the international community. We are here -- well, we
20 do hope that the OTP will continue with its -- for the time being we are here to put a
21 face on these -- on the victims of these crimes. We are here to ensure that the victims'
22 voices are heard.

23 The seriousness of these crimes cannot be reduced to just a number of casualties. We
24 must take into account the long-term effects on the victims. The harm that has been
25 done has hit an entire community. People will be victimised for generations.

1 During my recent meetings with my clients, I spoke to elderly ladies who had been
2 widowed between 60 and 86 years of age. Often these ladies were ill, had no
3 strength. They had lost everything at the time of the attack. These people -- to use
4 Mr Byaruhanga's terms, these people are no longer in any position to put their lives
5 back together, to manage somehow, and yet each and every day they must struggle to
6 meet the needs of their families.

7 I spoke to a number of widows who had been the victims of the attack on 24
8 February 2003. These women are alone. They suffer greatly from loneliness and
9 they have no financial resources, no dowry that could be offered.

10 THE INTERPRETER: Correction: "No widowers who are alone and who have no
11 dowry to offer."

12 MR NSITA: (Interpretation) I have spoken to parents who have to choose which
13 child will go to school, which particular child within an entire family will be lucky
14 enough to go to school.

15 I spoke to young people who said to me and acknowledged that they have nothing in
16 their lives. All their opportunities, their opportunities to study, all these
17 opportunities were taken away from them on 24 February 2003.

18 I spoke and I saw people who are struggling to put their lives back together, to live
19 somehow, to survive. I have met with people who are thirsty, who have a thirst for
20 justice. They only wish fair justice, taking into account the key role played by
21 Germain Katanga in the commission of the crimes of the attack on Bogoro on 24
22 February 2003.

23 PRESIDING JUDGE COTTE: (Interpretation) The Court thanks you,
24 Mr Luvengika. We shall consider your submissions when deliberating, and we
25 merely wish to say that we realise that this has been a difficult exercise for you. This

1 is the second time that a Legal Representative of Victims speaks before the Court, and
2 I see that you were able to remain within the boundaries of your role and play your
3 role so effectively.

4 Now, it is now 10 o'clock. How would you like us to proceed, Mr Hooper? We
5 have one hour before the usual break time, but I believe the break might be an
6 interruption for you and may bother you perhaps.

7 Would you like us to suspend for half an hour and resume and proceed for two hours
8 thereafter, or do you want us to continue and take a break and then continue
9 thereafter? We leave it to you because it is your decision, and we would like these
10 proceedings to unfold under good conditions.

11 MR HOOPER: As indeed you've ensured throughout the trial and I'm grateful for
12 that. I don't mind the break. I can take it at an opportune time and what is a break
13 for me will be a relief for you, so that will perhaps serve my purpose too. So let me
14 start now and in that way I'm quite sure we won't be sitting past the luncheon
15 adjournment today and it will ensure that that's the position. So I'd prefer that.
16 So if I may start to address you --

17 PRESIDING JUDGE COTTE: (Interpretation) You can now address the Court for
18 one hour, Mr Hooper.

19 MR HOOPER: First of all, may I thank both Mr MacDonald and Mr Luvengika for
20 their submissions.

21 Over the past two months all of us, the parties and representative have, of course,
22 made extensive written submissions and submitted those to the Court, us in our filing
23 3445 and 3456, which amounted, and this is just the Defence written submissions, to
24 over 70 pages. So a great amount of matters have been said and have been
25 submitted, and I'm not going to repeat them I hope overmuch this morning.

1 The primary object, of course, is for you, the Judges, at the end of this process to settle
2 upon the appropriate sentence, in the words of the Statute and of the rules, taking
3 into account both the mitigating and the aggravating circumstances.

4 The Statute and the Rules are relatively brief in terms of your sentencing function or
5 indeed the manner in which you reach that appropriate sentence.

6 There is undoubtedly and in my submission quite correctly a discretion left to you,
7 the Judges, as to how you get, if I can put it like that, get it right.

8 In making our submissions this morning, one thing I want to emphasise at the outset
9 is that in touching on what we submit are aspects of mitigation, we don't seek to
10 diminish the seriousness of the offences as, indeed, we stated and quoted in
11 paragraph 15 of our second submissions to you on sentencing, "mitigation seeks to
12 diminish the sentence, not the crime."

13 May I say at the outset that I'm -- my understanding is that as far as those matters of
14 which Mr Katanga was acquitted, that the sexual offences of rape and sexual slavery,
15 that those matters are not matters that I need concern myself this morning in
16 addressing the Court.

17 I say that despite noticing that the Prosecution make some reference, indeed,
18 relatively extensive reference in their paragraphs 9 and 19 of their filing 3445 to both
19 the sexual offences and the use of child soldiers in Bogoro.

20 Our position, as indeed it's been stated in our previous filings, but to make it
21 abundantly clear, is that applying indeed both general principles that a person cannot
22 be held responsible for an act, unless something he himself has done or failed to do
23 justifies holding him responsible, and applying the position that's found in the
24 application by the Lubanga Trial Chamber in sentencing, that in respect of
25 Mr Lubanga that they found in his case that it was not appropriate to take into

1 account, for example, sexual offences that concern child soldiers -- child soldiers of
2 which he had been of course convicted -- but nothing suggested, the Court said
3 there, that Mr Lubanga ordered or encouraged sexual violence, that he was aware of
4 it or that it could otherwise be attributed to him in a way that reflects his culpability.
5 And, indeed, of course, this Chamber will be very aware, of course, of its own
6 position taken in terms of its own judgment in respect of those aspects.
7 So I'm not going to say anything further in respect of that, of those areas, and
8 particularly the sexual offences may one readily concede that if indeed
9 Germain Katanga had been convicted of sexual offences as well of rape and of the
10 matters relating to sexual slavery, that that would have inevitably justified a more
11 severe sentence and quite rightly so.
12 So laying that aside, I don't seek to diminish this morning the seriousness of the
13 crimes for which he's been convicted, and I certainly don't seek to diminish in any
14 way, and we the Defence have kept in the forefront of our minds from the outset of
15 this trial the suffering caused to the victims, the people and civilians of Bogoro who
16 have suffered both death and loss as a result of that attack on 24 February.
17 The Defence have assumed a consistent position throughout this case, and it's been a
18 position that has been assumed on instructions and after discussion with
19 Germain Katanga himself. And I can include Germain Katanga in expressing those
20 sympathies, genuine sympathies for the victims, and it mustn't and shouldn't be lost
21 sight of, and that is contrary to suggestions that have been made otherwise.
22 Germain Katanga has never denied that civilians suffered and were killed, and he
23 said so as such in his responses to both the Prosecution and to the victims.
24 May I perhaps take this opportunity to remind the Chamber what he said at the
25 conclusion of the submissions that were made, and I'm looking at transcript T-340 at

1 page 48 at line 5. And I want to stress that these words came from Germain Katanga.
2 I was not the author of them; he was the author of them, and these are his words,
3 though I recite them of course now in translation in English, and he said this, quote,
4 "Today my thoughts go out to all the victims of the conflicts in Ituri in general and
5 particularly the conflict in Bogoro. My thoughts go out to all those who have lost
6 loved ones, who have lost their prosperity and their wealth, for all those whose pride
7 and dignity have suffered. I extend to them my compassion in regard to all the
8 suffering that they have suffered because of the foolishness and wickedness of human
9 nature."
10 I feel faced with those words, and I stress his words, uncontrived, it is quite wrong
11 and misplaced to suggest that Germain Katanga has never expressed, and
12 importantly so, his appreciation, his sense of loss and harm that was done to those
13 victims.
14 Mr Luvengika, this morning spoke movingly of the widows and others that he has
15 met in what is, we all acknowledge, the very difficult and sensitive role of being the
16 Representative of Victims in a case such as this. We know what he says is right, is
17 accurate and true.
18 And we've met, of course, those members of Ngiti society and Lendu society and
19 indeed other ethnic groups who also suffered during the wars of the Congo years, the
20 Congo wars, and in particular during the particular divisions between Hema and
21 Ngiti and Lendu society. Many, many communities within Walendu-Bindi suffered
22 grievously. There are many such widows. We've met them, too.
23 This was a tragedy that befell all that community and it befell it largely because
24 government was absent and anarchy reigned.
25 Now, our submissions today this morning and in our written submissions concern of

1 course firstly the position of Germain Katanga in respect of those crimes, secondly,
2 the circumstances in which he found himself and, thirdly, his circumstances since
3 then. And we submit overall that there is extensive mitigation of his position upon
4 which the Chamber can act so as to substantially reduce and lessen the severity of his
5 sentence.

6 May I say right at the outset that nothing I say this morning is in any way intended,
7 nor do I seek -- nor can I or should I seek in any way to go behind the verdict of the
8 Chamber in respect of those -- the convictions. And I'm sure that the Court will
9 appreciate that that is, of course, my correct position.

10 On 24 February 2003, the village of Bogoro was attacked. There is no doubt, and it is
11 upheld in your judgment, that Bogoro was a wholly legitimate military target. After
12 all, it had within it a camp occupied by over a hundred, maybe 200, trained UPC
13 soldiers, heavily armed. It was the UPC that had been an aggressor on neighbouring
14 Lendu and Ngiti communities, and Bogoro itself occupied a controlling and strategic
15 position, nor is there any doubt that it was part of the Government of Congo's
16 intention to regain position of its eastern province and that Bogoro was a stepping
17 stone in that direction.

18 However, we acknowledge, of course, that the Chamber by a majority has found that
19 there was, in addition to that plan, that legitimate plan, a parallel plan by Ngiti
20 combatants to wipe out Bogoro by destroying it and killing its civilian inhabitants,
21 and that it was to that plan that Germain Katanga has been found to have contributed
22 by assisting in the supply of weapons, that being his essential role in terms of the
23 judgment of the Chamber, and without which role the attack could not have been, or
24 might not have been, so successful, and that his contribution to that plan in that way
25 was done knowing that it was a plan to wipe out Bogoro.

1 So that's the position in terms of the findings in sum as I understand them to be.
2 Now, that finding, which is essentially a finding of an accessory role, is very different
3 to the basis upon which his personal liability for the crimes was advanced and
4 maintained by the Prosecution over the past seven or eight years.
5 The Prosecution case, as we know, was that it was essentially Germain Katanga's plan,
6 this attack was organised by him, essentially, using a militia controlled by him,
7 robotic like, who would do his every command and was commanded by him, who
8 participated in the attack himself, led and directed it, and then sat in triumph under
9 the cypress trees in the centre of Bogoro surrounded by the dead and dying and
10 witnessing atrocities; whereas the Chamber found that that was not the picture that
11 emerged in its search for the truth.
12 And at paragraph 19 of our second filing, the Defence set out that the following facts
13 to its understanding were established by this Chamber: First of all that
14 Germain Katanga was not present at the crime, it did not find that proved; that the
15 Chamber did not find that Germain Katanga had effective control over the
16 perpetrators; that the Chamber did not find that Germain Katanga led or planned the
17 attack; that the Chamber found that his role was limited to helping the delivery and
18 distribution of the firearms before the attack; and that the Chamber did not find that
19 Germain Katanga intended that crimes be committed, but rather that he had
20 knowledge that they would be.
21 We've heard, and both the Prosecution and the Legal Representatives, or Legal
22 Representative, have made submissions relating to their being no hierarchy of
23 offences. We agree. We fully accept the position stated by Judge Fulford, for
24 example, in the Lubanga case.
25 What's self-evident is that every case depends when it comes to sentence on its own

1 particular facts, as found by the Chamber, and it must be so obvious that the
2 difference between the two, between the purported story that was advanced by the
3 Prosecution relentlessly over seven years and the finding in this judgment, which is
4 essentially far more benign, that those differences, the difference between the two,
5 creates its own hierarchy and it's a significant one deserving on the one hand of more
6 punishment and on the other less punishment. After all, one has presence, one has
7 his control over the crime, and the other does not. And so just in that finding, the
8 Court inevitably takes a significant step towards providing the basis for a less severe
9 sentence.

10 And an accessory role is on particular facts significantly different, and this is where
11 perhaps when we look at the examples or cases that are quoted by the Legal
12 Representative, Celebici, Nikolic, that is not sufficient just to take the words of the
13 sentencing judge. What's necessary and what hasn't been done, with respect, in
14 those submissions by the Legal Representative is that we need to have some idea of
15 the facts upon which such judgment was reached. And what one finds there in both
16 Celebici and Nikolic is a very different scenario. In each case you're dealing with
17 direct participation, perpetrators, we're dealing with events that took place, not in a
18 few hours as in Bogoro, but over an extended period of time, and we're dealing with
19 people who enjoyed their crimes, who were sadistic, who tortured. In Nikolic's case
20 a period of time over four months involving the murder of thousands of Bosnian
21 Muslims at Srebrenica, with Nikolic himself at the centre of the activity.

22 So an accessory role in those circumstances is very different in our submission to the
23 role that Germain Katanga played in the circumstances in which -- in which he played
24 it.

25 It seems to us that the benchmark crime amongst the crimes that Germain Katanga

1 has been convicted is that of the murder of civilians, whether that murder is
2 subsumed or not into the offence of attack on a civilian population.
3 The number killed is of relevance unfortunately, in a way, because such mathematics
4 of course are not attractive, but they can be necessary. It's difficult to say, as the
5 Chamber found -- difficult to say exactly how many lost their lives that day. The
6 Chamber has found 60, at least, and that there were many more, but 60 certainly that
7 were identified, of which 30 were killed by Ngiti, that is as part of their plan.
8 We need bear in mind that of course during those events, during the killings,
9 Germain Katanga was not there, that he did not himself intend that there would be
10 killings, that he had no control at the time the killings were being done, that he had
11 no say in whom was killed, that he had no say in the manner in which they were
12 killed. We don't know if he had been there, whether or not he would have played a
13 restraining role. Perhaps he would have from what we know about him.
14 Fortunately for Germain Katanga, who did not intend civilians to be killed, it's
15 perhaps fortunate that the plan to wipe out the civilian population did not succeed.
16 And I say that because if we look at the numbers, if we look at numbers based on the
17 minimum of 800 people being inhabitants of Bogoro at the time, we can see, of course,
18 that 1 per cent of that number would be eight persons. If we look at 30 people killed
19 by Ngiti, we're talking a little over 3 per cent of a population.
20 And so we're in this position, or at least Germain Katanga perhaps is fortunate in
21 being in the position of being able to say, well, whatever their plan was, fortunately at
22 least 90 per cent of the population escaped, maybe as much as 95 per cent, and that's
23 not without some significance.
24 As I say, such mathematics I appreciate is not attractive when talking about the loss of
25 any human life, but it becomes perhaps of some significance in these cases.

1 Indeed, given the position of Germain Katanga being an accessory by supplying arms
2 and distributing them, and given the numbers involved, one wonders whether eight
3 years ago, or nine years ago, the Prosecution on those facts would even have sought a
4 warrant of arrest against Germain Katanga. One suspects they would not.
5 So there's the significance of the differences between the declared viewpoint of the
6 Prosecution at the outset of the trial, based on evidence that we all know was
7 incorrigible, a litany of untruth, and the Defence has at least played the role in this
8 trial of assisting you, the Judges, to the truth or nearer to the truth, and we come and
9 emerge into the light of a judgment based on findings very different to those that
10 were advanced by the Prosecution, advanced because the investigation was not done
11 well, nor adequately.
12 Yesterday the Prosecution drew the analogy of sentences in national and domestic
13 courts. We need to be very careful to avoid such analogies. I mean, how else
14 otherwise would we explain, for example, that people are and have been convicted of
15 genocide and have received sentences of 8, 12, 15 years?
16 Even Anatole Nsengiyumva, for example, who was the G2 in the Rwandan army 15
17 years, and that, as with these genocide cases, all of them -- or nearly all of them
18 concerned, of course, with Rwanda, concerning a course of conduct over three or four
19 months. I hazard that one explanation why the approach to sentencing is different
20 in these courts and in these cases concern, though it is with high crime, crimes against
21 humanity and war crimes, is that the courts inevitably have to recognise that they are
22 dealing with individuals who are caught up in extreme and exceptional
23 circumstances and often in circumstances where society has collapsed around them.
24 And was not Germain Katanga aged 24 at the time of Bogoro caught up in events that
25 were extreme and exceptional? I submit he was caught up in events and placed in a

1 position that none of us can possibly have ever experienced or possibly not even
2 imagined that.

3 The Chamber's heard of his personal circumstances. On an aside, it's the position in
4 this court, unlike probably any other sentencing court certainly on any domestic
5 jurisdiction, that there's no independent body to provide you, the Judges, with a
6 social psychological report or the like. There's no, as it were, objective independent
7 body to assess the general situation of an accused when it comes to sentence.
8 Instead you have to take it primarily from the evidence that you've heard and to some
9 extent from my submissions and as Defence counsel inevitably I may be viewed as
10 less than objective, but I hope I do retain in my submissions a sufficient degree of
11 objectivity for them to be provided or to be given some weight.

12 We know that he was born on 28 April 1978, so his birthday was just last week of
13 course, and that he was brought up by his uncle in Isiro, about 1,000 kilometres away
14 from Walendu-Bindi. He didn't think it was his uncle. He thought his uncle was
15 his father. In 1996 his father, as he thought he was, was killed in the Congo wars;
16 that is towards the end of the first Congo war as Rwanda made its way up towards
17 Kinshasa. He was a very young man at that time.

18 He left Isiro, as you've heard, and in 1998, at the end of 1998 in October, he arrived in
19 Aveba for the very first time to meet his family there; his father there for the very first
20 time. So here was a young man arriving in a new society, not speaking the language
21 of that society, and when he did arrive he found his family were having to take
22 shelter in the bush, the schools were closed, the hospital was closed and the Ugandan
23 army was killing and pillaging in the area.

24 They left in 2001, the Ugandans, but they returned as you've heard in 2002. I won't
25 repeat the history that you've heard, which the Defence summarised in its Defence

1 closing brief at paragraph 553, and a background, as we understand it, that is not or
2 sought to be contradicted.

3 At that time in 2002, Walendu-Bindi was subjected to mass killings by the Ugandans.
4 The administrator of Chef Akobi, who was mentioned
5 yesterday - Chef Akobi - buried alive by the Ugandan army, just one of the atrocities
6 that was inflicted on the Ngiti population, and Germain Katanga himself witnessed
7 the murder of fellow school chums by the Ugandan army.

8 You know that the International Court of Justice has ruled that between August '98
9 and 3 June 2003, a significant timeline, quote, "Uganda engaged in military activities
10 against the DRC on the latter's territory by occupying Ituri and by actively extending
11 military, logistic, economic and financial support to irregular forces having operated
12 on the territory of the DRC," unquote, and among those irregular forces and principal
13 among them at the time we're concerned with was the UPC.

14 And terrible things were done, as you know, and you've heard from the United
15 Nations Special Report that's been referred to. I'll give its reference again:
16 EVD-OTP-00206. There may be one zero too many there. That's 0206. It stated
17 that at the relevant time, "The UPDF ...", the Ugandan army, quote "... based in Gety,
18 together with Hema and Bira militia groups, carried out large scale operations against
19 the Ngiti villages in the Walendu-Bindi collectivity. Hundreds of Ngiti localities
20 were completely destroyed during bomb attacks by Ugandan army helicopters,
21 together with Hema militia on the ground. A local NGO report reported a total of
22 2,867 civilians killed, 77 localities completely destroyed and the displacement of
23 40,000 civilians."

24 That's part of the background to these events, and it was those circumstances that led
25 Germain Katanga through the self-defence groups to the militia. Bear in mind that

1 he was still at school, in his fourth and fifth year.

2 It's been mentioned here that he's a well-educated man. He's certainly an intelligent
3 man and he's certainly a man who's taken advantage of his circumstances over the
4 past several years, particularly those spent here in The Hague, but let's not put too
5 fine a gloss on the word "education". His only diploma is the one exhibited annexed
6 to our second filing. A school leaving certificate attained in 2004.

7 But though not greatly educated, he was brave and undoubtedly intelligent, had the
8 advantage of speaking Lingala and some French, probably quite good French, and
9 perhaps because of his personality and his nature he was, it would seem, befriended
10 by the notable and by the sage. Kisasi and Kakado both warmed to him.

11 All of these circumstances propelled Germain Katanga at a young age to be, if I can
12 use the word neutrally, a representative of his immediate community in Aveba.

13 And that was the extent essentially of his influence, aside from the control of a small
14 number of about 60 militia in Aveba, none of whom have been proved participated in
15 the Bogoro attack.

16 As far as the UPC is concerned, I know that you, the Judges, have indeed considered
17 the position in your judgment - and again we refer to that in our second filing in
18 respect of sentence at paragraph 9 - where you speak and acknowledge that
19 Walendu-Bindi had been encircled, was subject to repeated attacks, multiple
20 offensives by the UPC and you conclude that the suffering of the Ngiti community
21 was undeniable. And you go on to say also that you noted that the 15
22 November 2002 grievance letter paints a very vivid picture of the sheer turmoil and
23 utter abandonment afflicting the grassroots Lendu community. Those are quite
24 exceptional circumstances for a young man of 24 to find himself having to make
25 decisions.

1 He goes to Beni. He does not, as far as we know, go specifically to Beni in order to
2 get arms. He goes to Beni for help to see those who are militarily in charge there on
3 behalf of his community. He's provided with arms. Kinshasa and the RCD-K/ML,
4 who do know what war in Africa is like and what it involves, provided these arms
5 and they provided them with a clear military objective it would appear whatever the
6 cost.

7 Well, what was Germain Katanga aged 24 to do? Was he to say, "No"? Was he to
8 refuse those weapons, living as he was with no State presence or authority, no
9 national army or police, in a community continuously subjected to attacks by the UPC
10 and atrocity?

11 Germain Katanga became part of the supply of the weapons and he facilitated, like a
12 conduit or part of the conduit, the passage of arms that were sent to him by plane to
13 Aveba and its distribution.

14 One raises in paragraph 12 of our submissions the paradox that someone in that
15 situation is confronted with if they know that those arms are to be used to commit
16 crime, and it is a dilemma, isn't it? It is certainly a very difficult dilemma at 24.

17 What was he to do? I wonder what any of us would have done placed in his
18 situation, aged 24, in those circumstances.

19 Age is clearly relevant in this case. You can make misjudgments at 24 which you
20 won't make in your more mature years. You can be manipulated more easily by
21 others, your elders and so-called betters. You can be fed a lie, or an incentive, or a
22 theory, or a Hema ideology.

23 Given the particular circumstances that he found himself in, the pressures his
24 community was under and which he had to respond to, the role of the UPC that
25 became identified with the Hema because it was composed 100 per cent of Hema, in

1 those circumstances, particularly aged 24, one can lose one's orientation. One can
2 lose one's moral compass. Age is relevant.

3 There's reference made by the victims' representative to the case of Jelusic, another
4 young man. It's a very different circumstance though, isn't it? Again, Jelusic was a
5 perpetrator over a period of time. Sadistic, a torturer, a man who proudly called
6 himself "Adolf Serb." A rather different picture to the personality I suggest that you
7 find before you today.

8 And Bogoro is an isolated incident on the facts of this case as far as Germain Katanga
9 is concerned. There's not a before, and there's not an after to hold against him in
10 terms of behaviour. There's no evidence here that he participated in a course of
11 conduct. This is one attack on one day. It starts at 5.30 in the morning. And who
12 would expect otherwise if you're leading an attack against an enforced village across
13 open country without armoured vehicles, what other time of day other than night are
14 you going to attack?

15 It starts at 5.30 or so and it is all over by lunchtime, 1 o'clock, seven hours or so, not
16 exactly an easy win, about the fact -- we talk about the same time as Waterloo.

17 That's quite a firefight, 5.30 to 1 o'clock. This isn't a continuous course of supporting
18 in any way or contributing in any way to repetitive course of crime on the part of
19 Germain Katanga. It's a contribution to one on one day. Nor is he present to
20 control the acts or to instigate the acts.

21 And most importantly, he has, on your finding, no effective control over the group.
22 So these are in our submission very, very significant components of your judgment
23 that go substantially to mitigate the sentence in this case.

24 And age is clearly relevant for other reasons as well, because age -- a young age
25 normally demonstrates a capacity for rehabilitation. Rehabilitation is part of any

1 sentencing regime. And even in these courts it remains an important part of
2 sentencing content.

3 In our submission, Germain Katanga has demonstrated a very clear capacity for
4 change, and by that we don't mean the taking-advantage-of-situation kind of change
5 that was just suggested by the victims' representative. Certainly there is no
6 sufficient evidence, as Mr Luvengika just said, "We will never know." Well, I
7 suggest that, in fact, we do know, because you can sometimes judge a man by what
8 he does, and in this particular occasion we should look very carefully, as I know you
9 will, as the events post Bogoro.

10 And we have, first of all, his contribution to the peace process, and perhaps I can
11 come to that as I'm now about to embark on that particular aspect, the post-Bogoro
12 aspects and mitigation. And perhaps I can address you in half an hour's time in
13 respect to that and take the break at this moment with your leave.

14 PRESIDING JUDGE COTTE: (Interpretation) Quite so. We shall proceed in that
15 manner since you will be turning to a new topic. It is ten-minutes-to-11, so I would
16 suggest that we resume at 11.25 on the dot. This will allow for our break and, Mr
17 Hooper, you will be able to continue at that point. We shall now suspend.

18 THE COURT USHER: All rise.

19 (Recess taken at 10.49 a.m.)

20 (Upon resuming in open session at 11.28 a.m.)

21 THE COURT USHER: All rise.

22 PRESIDING JUDGE COTTE: (Interpretation) We shall now resume.

23 Please be seated.

24 I see that Mr Katanga is with us. Very well.

25 Now, before I allow Mr Hooper to address the Chamber again, the Chamber must

1 issue a brief ruling that is intended to deal with a problem relating to the admission of
2 evidence.

3 In filing 3456, confidential, of 8 April 2014, the Katanga Defence asked the Chamber
4 for the admission into evidence of a series of documents. This series of documents
5 included document DRC-D01-0001-1057, yet this document was not appended to the
6 Defence's observations. The Defence did not ask for document DRC-D02-0001-1056
7 to be placed on the case record, although it was, in actual fact, appended to its
8 observations.

9 In order 3463, confidential, handed down on 10 April 2014, the Chamber agreed to the
10 application from the Defence and thus ordered the Registry to place document
11 DRC-D02-0001-1058 to be placed on the case file. The Chamber did not rule on the
12 other document DRC-D02-0001-1056.

13 In an email sent to the Chamber, to the Prosecutor and to the legal representative of
14 victims on 15 April 2014 at 6.11 in the evening, the Defence did specify that the
15 request to place document DRC-D02-0001-1057 on the case record was made
16 inadvertently and the document was not to receive an EVD number.

17 In an email sent to the Chamber on 5 May 2014 at 11.35 in the morning, the legal
18 representative, ever vigilant, drew the Chamber's attention to the fact that the
19 Chamber did not order that DRC-D02-0001-1056 be placed on the case -- in the case
20 file.

21 However, the Chamber does observe that this particular document was disclosed on
22 10 April 2014 after asking the Defence whether they indeed intended to request
23 admission of document DRC-D02-0001-1056, which was appended to their
24 observations of 8 April 2014. The Chamber did order the Registry to place the
25 document on -- in the case file DRC-D02-0001-1056 and to assign an EVD number to

1 said document.

2 Thank you very much for your patience. I must point out that this ruling was
3 necessary but perhaps not entirely scintillating.

4 Now, sir, you may resume.

5 MR HOOPER: Thank you, Mr President.

6 I was moving on to events that occurred post-Bogoro and reference -- I make
7 reference to those because there clearly is, in my submission, the strongest evidence
8 possible here of a great capacity for rehabilitation that he's shown by his conduct, and
9 this isn't and has not been just -- is not the actions of the man seeking or pursuing the
10 main chance, as was suggested.

11 So let's start post-Bogoro on 24 February 2003 and we come to March. Yesterday you
12 may recall the witness who spoke of meeting Germain Katanga in March at Dele.

13 Right from the outset, Katanga is expressing his interest in peace and reconciliation.

14 This was not, as the Prosecution suggest, something that started in 2004 with
15 demobilisation; this is a process that started in March of 2003. Germain Katanga
16 becomes a member of and party to the commission de pacification de l'Ituri, the
17 commission for pacification in Ituri. And reference is made in our second
18 submissions in paragraph 57 in respect of that.

19 The -- if I can just remind myself, in fact, at this stage, this is under the subject of
20 Mr Katanga's conduct after the act, under (b), the support to the peace process. 22
21 March 2003, he signed the ceasefire agreement facilitated by MONUC on behalf of his
22 community, then a participant for the commission I've just mentioned. And on 21
23 November there's the political accord between the various groupings that's signed.

24 So that shows efforts towards peace and reconciliation that don't deserve to be
25 viewed cynically; they are positive acts.

1 And meantime it's apparent that Germain Katanga is taking a different path and
2 disassociating himself from other commanders. That was demonstrated, wasn't it,
3 with the evidence yesterday that we heard of Germain Katanga positively intervening
4 at the request of the witness, as he told us, in order to obtain the release of the COOPI
5 hostages - COOPI I understand is a German NGO - hostages who were under, as the
6 witness said, a threat of being killed and of losing their lives. And that witness goes
7 to Aveba, and this is in March -- or April, I think, of 2003, and Germain Katanga takes
8 the trouble to go with him to Bavi-Olongba to try and talk that very difficult man, as
9 we know him to be, Cobra Matata, into releasing the witnesses -- into releasing the
10 hostages. They were there for three or four days and their release is achieved.
11 The Court has seen in the course of the trial various MONUC, that is United Nation
12 force reports, and they've been referred to also and attached in the annex to our
13 second submissions. And a list of them is -- and you'll find them, in fact, at annex 1
14 of that -- of those submissions. There's quite -- there's quite a number of them, but
15 may I emphasise that the Defence hasn't put them all in, this is a sampling of some,
16 and at the conclusion, of course, at annex 6 you have a summary, a table which
17 Ms Menegon kindly drafted for me which summarises the contents of those various
18 MONUC observations.
19 And as I submit, one sees through there, one can distinguish quite clearly the attitude
20 MONUC has towards Germain Katanga as opposed to the difficulties they're facing
21 with the UPC and the FNI. And those reports we're dealing with are largely, I think,
22 are almost entirely reflective of the situation in 2003.
23 So commission for pacification, actions that the witness has spoken about, the political
24 agreement, the MONUC reports all showing a young man of 24 who is taking a
25 particular path. Towards the end of 2004, that path concludes, doesn't start, it

1 concludes with the demobilisation process.

2 And there's already indications in the MONUC reports that Germain Katanga is open
3 to these discussions. And you heard from the witness yesterday in relation to the
4 role that he witnessed Germain Katanga playing in demobilisation, a positive role, so
5 much so that it would not, that demobilisation - and this is our submission - it would
6 not have happened without him. His role was that significant.

7 And there are other statements which the Chamber can find annexed and submitted
8 to you as annexes to the second of our submission documents and referred to from
9 paragraph 67 of those written submissions. Let me just turn that up for myself for a
10 moment. And paragraph 67 deals with those documents in part. Annex 3 is a
11 statement by a man called (Redacted), and can I please very briefly refer you to that.
12 You needn't turn it up. I'll seek to summarise it, but it's a significant statement from
13 (Redacted)
14 and he arrived in Aveba (Redacted)
15 (Redacted) and what one finds -- excuse me one moment, I'm
16 being distracted.

17 And what in fact we find there is that he stays in Aveba for ten months.

18 Indeed I've been asked in fact to have his name removed. He'd prefer his name to be
19 confidential. So I know there's a process here, but we don't normally engage in it,
20 but can I ask that the name I've just mentioned be struck, if that's the appropriate
21 phrase, from the public record?

22 But --

23 PRESIDING JUDGE COTTE: (Interpretation) Court officer, if you could prepare
24 an order to that effect for that redaction.

25 MR HOOPER: Now, he plays a significant role in CONADER, and it's quite plain

1 when one looks at that account -- and he has nothing to do with Germain Katanga;
2 he's there for a completely different purpose and interest. He spends ten months in
3 Aveba. Incidentally, one notes there that he finds that Germain Katanga's wife at
4 that time is working for a children's NGO when he arrives in Aveba, but that's beside
5 the matter. What he witnesses is that Germain Katanga is taking a very separate
6 path and that other militia are not favourable to demobilisation, and this is as late as
7 September 2004.

8 And he specifically mentions Cobra Matata, Anguluma and Yuda as people who were
9 causing difficulties. Instead he gets full co-operation from Germain Katanga, who
10 provided security for him. And he notes that after Germain Katanga left - that
11 would have been, of course, in early 2005 - that slowly but surely problems returned,
12 and those problems continue to this day.

13 In 2006, Aveba was attacked and very many of its female citizens were raped by
14 Congolese army troops. Some say as many as 200.

15 Only last year it was attacked and people murdered in the hospital in Gety.

16 And Cobra Matata, who himself goes to Kinshasa, who somehow manages to get
17 back to -- to Ituri, has set up, re-established himself, largely at Bavi-Olongba, feeding
18 off no doubt the gold that can be dug out of the ground there, but when
19 Germain Katanga left there was peace and there was reconciliation.

20 And just pausing there, if we think of that process, what an extraordinary thing this
21 young man did - I mean, it's in a way amazing that he did it at all - and that he got
22 others to do it, to demobilise, to lay down the gun, after you've had a society, or part
23 of a society, that's been stricken for ten years by anarchy and insecurity and yet you
24 manage to carry the day towards peace and reconciliation.

25 He chose, unlike others, to pursue peace and did so from an early stage. From

1 March 2003, we say. That's immediately after the Bogoro incident. He chose to
2 divest himself of his militia. Quite an extraordinary thing to have done, because if he
3 had any power that was the source of it, and he encouraged and set an example to
4 others to the extent that demobilisation in Walendu-Bindi succeeded.
5 And he chose instead the uncertainties of joining the national army, that may I say
6 held no great benefit for him and in fact we submit led to his betrayal because he
7 wasn't very long in Kinshasa before he was arrested and swept up with all the others
8 under quite a fictitious, at least initially quite a fictitious, arrest -- reason for arrest in
9 relation to MONUC troops who had been killed of which he plainly had nothing to
10 do; killed in Kafe, way to the north of Zombe.

11 The Court has found that Germain Katanga succumbed to anti-Hema ideology, in
12 which case one can only submit that it was a transitory thing. There is no deep
13 rooted anti-Hema ideology of course in this area and, as we heard yesterday
14 from -- from the Chief of Bogoro, Ngiti and Hema are living today pacifically without
15 difficulty.

16 And Germain Katanga for his part protected Hema. We know that because a
17 Prosecution witness told us about the two soldiers that he safely conducted, or had
18 conducted, up to Beni who were Hema. He extended shelter in May 2003 to those
19 who were fleeing Bunia as a result of renewed UPC attacks. Hema people.
20 Indeed, reference is made again in our submissions in respect of that at paragraph 69.
21 "You cannot chase someone ...," he said, "... who is fleeing from the house of his
22 brother to come to your house and you're supposed to be his enemy."
23 P-267 also spoke of that, a Prosecution witness. "The salvation of all those
24 people ..." -- that Prosecution witness said, "The salvation of all those people who
25 sought refuge in the south ...", as in Walendu-Bindi, "... was due to the fact they were

1 taken in. I've talked about people who could not continue to Beni, 200 kilometres
2 away, and they found refuge among the Ngiti population."
3 And there were other examples of him protecting the Hema at that time, again
4 perhaps a distinction amongst those in the militia, certainly those whose names we
5 know commanding in other areas who didn't have such attitudes, and generally we
6 submit that the evidence shows -- and it was supported by witnesses and is
7 supported by the other witnesses annexed to our second written filing, a number of
8 witnesses there from the Aveba Ngiti population, who testify to the decency with
9 which Germain Katanga has generally treated the local population, again unlike
10 many others, and the other evidence that's referred to again in our written
11 submissions.

12 And all this at 24. And it takes something, some strength of character, to stand apart
13 from the mob, as it were, to lead people to other choices, to other attitudes, and he's
14 played his full role in that. He was just 24 at Bogoro.

15 The history of his arrest is set out in some detail, as you know, from paragraph 77
16 onwards. Mr Katanga has been detained since 26 February 2005, following his arrest
17 by the DRC authorities at that point, and he's in custody from then until today,
18 May 2014; a period of nine years and three months in prison, the prime of his life.
19 He was of course at first in Kinshasa Prison. We've been there. We've seen it.
20 I think we saw the nicer bit. It was still terrible. He was there from February 2005
21 more or less until October 2007. The date of transfer here, when he's handed into the
22 custody of the ICC in Kinshasa, was 17 October 2007. Two-and-a-half years,
23 therefore, in -- in that prison.

24 And until he came here he had no contact with his family, who of course were some
25 2,000 -- over 2,000 kilometres away in Eastern Congo, such is the size of that country.

1 And he's been here from effectively 17 October - he arrived on the 18th - until today.
2 Six-and-a-half years and he's only now, what, 36.
3 There's a full argument contained in our submissions, which I don't repeat, as to the
4 time that should be taken we submit into account not as it were in mitigation of
5 sentence, but as a reduction on any sentence he receives.
6 First of all of course, and this is the easy bit, calculating the period from 17
7 October 2007 until the date of sentence. The second part of course is our
8 submissions relating to the time he spent, the two-and-a-half years, in Congo, which
9 we submit should all fall to be discounted, reduced, taken into account once the
10 sentence has been imposed, because we say and submit that the evidence plainly
11 shows, at least to a sufficient level of the -- on a balance of probabilities, that he was
12 arrested for essentially his crimes -- allegedly in terms of crimes against humanity
13 committed in DRC, including specifically Bogoro. He's even questioned about
14 Bogoro specifically. We say that that, therefore, qualifies and should qualify as
15 being activities underlying the crimes with which he's charged here. Anyway, the
16 full argument is set out in our submissions and I don't repeat it.
17 And there's an alternative in fact submission and that it to do with constructive
18 custody; that is a view that can be taken as to when his custody, though it was in
19 Congo, nevertheless could be and should be considered as custody constructively at
20 the ICC because it's done for and at the behest of the ICC. Alternatively, that it was
21 done at such a time and in such circumstances that the ICC assumes a responsibility
22 in respect of that period of time.
23 So those two alternative arguments are also contained in our submissions, as you
24 know.
25 There's also an additional plea that we make in submission in relation to the time that

1 he's spent in custody, and that is that when he was in custody in the Congo there
2 were serious breaches of his fundamental rights in DRC and that those are mitigating
3 factors that should be taken into account and that the Court has discretion to take
4 those factors into account in reducing his sentence. So nothing to do with discount
5 of sentence, but to do with mitigating the level of sentence. Again, those matters are
6 set out in our written submissions and I don't go into them in detail now.

7 There is, of course, also a matter that the Court may very well think should be taken
8 into account and that is the nature of trial here over the past seven years. These
9 trials are a burden to everyone, we fully appreciate that, but they are clearly also a
10 heavy burden on the individual accused. Particularly in a case such as this when his
11 loved ones are so far away, Germain Katanga has had very little contact with people
12 outside during the time he's been here. He gets, well, no visitors really, apart from
13 us and the bi-annual visits by his family that I'm very, very pleased to say the
14 Registry provide and are to be greatly commended for providing. And so it's been
15 quite a difficult and some -- at times a lonely time for him here. He hasn't always
16 had a lot in common with the various presidents that he's met of course at the
17 detention unit.

18 He's shown considerable co-operation with the Court. The Prosecution, if I may
19 say so, were rather mealy-mouthed yesterday in failing to acknowledge that, but it
20 merits acknowledgement. Here was a young man who under stress and strain, even,
21 for example, when false allegations were made by him by Witness 219, for example,
22 led him being put into solitary confinement for about six weeks, he's throughout
23 co-operated with the Court. He's never raised the slightest insolence to this Court.
24 He's conducted himself well.

25 I think the Prosecution made mention of his not turning up at the confirmation

1 hearing. That was, I think, for two days. He gave instructions that the
2 confirmation hearing should not be disrupted and should continue in his absence.
3 He was particularly upset, not having seen his family for almost four years, that he
4 alone amongst the detainees at the detention unit hadn't received a visit. That was
5 because the Congolese government claimed it had run out of passport paper.
6 Anyway, frustration led to his absenting himself from the Court for two days, all of,
7 what, six/seven years ago.

8 The Court well knows that he has co-operated through both his own evidence and
9 through the witnesses that he's called, he's provided this Chamber with more truth
10 than was ever uttered by a Prosecution witness.

11 He's provided this Court in its search for truth with extensive information,
12 information that one must acknowledge could and perhaps appears to have led to his
13 conviction and also throughout his presentation of his case, and we present it on his
14 instructions, provided this Court with insight into the extraordinary lack of truth, a
15 litany of untruth through all the principal Prosecution witnesses as revealed in your
16 judgment.

17 We say that is co-operation.

18 There's been a report from the detention unit. Over the past seven years, I've had a
19 very positive impression of Germain Katanga and his relationship particularly with
20 those custody officers who have had day-to-day dealings with him, both here and
21 particularly at the detention unit, and there's a kind of comradeship there. He has
22 excellent relationships, even one offered to come to this Court to speak on his behalf,
23 and there aren't very many prisoners I've ever had contact with where that's
24 happened. The circumstances don't allow it for probably obvious, can I say,
25 establishment reasons.

1 And he's also helped others. I'm aware, for example, the help he gave one particular
2 president detained here from West Africa who was very unwell and the assistance
3 that he gave him.

4 So nine and a half years, the best years of his life, or they should have been.

5 Fortunately, he has a strong -- a strong family, and they were here in fact just last
6 week. And he has that advantage, I suppose, to look forward to, we hope, that he
7 can join that family, provide the support he hasn't been able to do for the last ten
8 years to them and be supported by them in the future.

9 I wouldn't normally do this, because it might be seen as a plucking of heart strings,
10 but I want to put a face to this family. And I have photographs of them. I'm going
11 to pass them up with the Court's leave, because I'm sure that you, the Chamber,
12 would be interested. And I have a copy for my friends. There's some more.

13 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, I would like to take this
14 opportunity to ask you to really clearly -- make it clear to us what the family situation
15 of Germain Katanga is, the number of children that he has, legitimate children,
16 adopted children, because he has also adopted children as far as we know. We have
17 a certain degree of uncertainty in that regard. The information that we have makes it
18 difficult for us to know the exact number.

19 At the same time, we would like to clarify that and, please, at the same time, please,
20 could you indicate their ages to us. Thank you.

21 Mr Hooper, the Chamber has no obstacle to Germain Katanga answering himself.

22 He can tell us the number of children that he has, their ages. If you wish, you can
23 always give the floor to him as you see fit.

24 MR HOOPER: The immediate family, you have a photograph in front, and probably
25 the one I'm looking at is of five people together. The one on the left is Denise, his

1 wife. She's the one wearing the hood. The young man there is Guillaume, who is
2 15 and is one of the adopted members of the family. I say "adopted." There is not a
3 court order or court order of adoption. It's that I put African adoption in terms of
4 family members whose own family had difficulties, who have been taken in by
5 Germain and Denise, and from an early age, and Guillaume is one.
6 The girl is Alaine. Alaine hasn't been -- isn't in these photographs, because she
7 didn't come on last week's visit. But she has been here before, and I have met her.
8 And then we come to his own children. And from right to left we have Samson,
9 who's ten. And he was -- well, he's ten, so he was born in 2004, just very shortly
10 before Germain moved to Kinshasa. So he didn't see him again until the first family
11 visit here, which as I remember was in 2008, the end of 2008, and he was then
12 I remember about four years old/five years old.
13 Then we have his sister, Anita, who's eight.
14 And then last but not least we have the two-and-a-half-year-old, who thanks to
15 Mr Dubuisson, if I can put it like that -- not quite like that, but thanks to Mr
16 Dubuisson's visits and the conjugal nature of those visits was conceived here and is
17 called Carolina. I was hoping for Davinia, but -- and a reflection of, obviously,
18 Caroline Buisman's closeness to the family.
19 Now, they live all together as a family in Aru, which is on the very border with
20 Uganda. I think it's 500 kilometres from -- 450 kilometres north of Bunia, a long way
21 from Walendu-Bindi, but still in Ituri. And of course they've lacked his support and
22 life has not been easy for them, and it's not been easy for him because he's lost in his
23 prime years all the -- what one would know about enjoying seeing one's children
24 grow up.
25 In fact, I've missed one out. So we have Alla, who is there, who is in fact 21. Sorry,

1 that was my misunderstanding. Guillaume, who is 17, and Consolante, who is 13.
2 They have all been here at one time or another. We have met those three. Those
3 are the three who have been adopted into the family and live with the family. And
4 then, yes, Samson 10, Anita 8, and Carolina two and a half.

5 PRESIDING JUDGE COTTE: (Interpretation) So that's six children. Six children.
6 Three children which I call legitimate, biological if you put it like that, and others
7 which have been looked after. Thank you.

8 MR HOOPER: (Microphone not activated) We've had the advantage of meeting
9 them fairly regularly over the past several years. They're a credit to Denise and to
10 Germain.

11 Now, yesterday the Prosecution spoke of setting an example and so have the victims,
12 but Germain Katanga, given these circumstances in which he found himself at
13 24, 2004, does not merit being used as a whipping boy by the ICC. There were
14 bigger and better targets which a failure of adequate investigation has not placed
15 before you or this Court.

16 Germain Katanga was living in quite an extraordinary and exceptional situation. He
17 had to make choices, often choices that were imposed by exceptional circumstances
18 on him at the time when he was young, relatively not-well educated, no secondary
19 education at a time when he had great responsibilities thrown on him relative to his
20 age.

21 He made a terrible misjudgment or mistake, while at the same time one wonders
22 what else one could have done in his situation. And he's otherwise behaved
23 decently, both with respect to the people he was living with and those that he has
24 come into contact with himself. He's behaved decently and he's made a positive
25 effort and led his community with him in seeking peace and reconciliation. No

1 small thing for someone his age in those circumstances in that history. And that all
2 should be acknowledged, that should be made the example because it's exceptional
3 and rare, and he has suffered ten years of prison already.
4 I'm going to conclude with just an extract from transcript 322 of 13 October 2011 when
5 Germain Katanga was being questioned and the picture was being presented to him
6 of the Prosecution case, and he replied in this way, "Mr Prosecutor, I don't see myself
7 in this picture that you are painting. I was not that great man you're trying to
8 portray me to have been. I was not that person. But maybe today, as I talk to you
9 today here, if you were to put me back in that stage we might compare and see who I
10 may really have been, but if you look at me today and compare me to what I was
11 before you will see that there is a clear difference. I have evolved here. I am grown
12 up now. Things have developed in my mind here, Mr President, and I'm gradually
13 beginning to understand a number of things. Before now, I was not the person I am
14 today," unquote.

15 And those are my submissions.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Thank you, Mr Hooper.
17 Before asking the Prosecutor if he would briefly reply, knowing that you will of
18 course have the final word, the Chamber would like to ask you a couple of questions
19 to express your feelings with regards to two points.

20 Firstly, where it concerns the circumstances, the aggravating circumstances
21 mentioned by the Prosecutor, we would like to know what you think about his
22 argument according to which Germain Katanga would have abused his authority in
23 his capacity as president of the Ngiti militia from the collectivity of Walendu-Bindi?
24 What is your reaction to that point?

25 The Prosecutor also in his submissions yesterday also referred to these aggravating

1 circumstances as an abuse of authority. Do you have the possibility to answer us
2 with regard to that point?

3 Briefly, we have 40 minutes during which you have to answer two questions, wait for
4 a potential reply from the Prosecutor and a reply from you and also Germain Katanga
5 as well.

6 MR HOOPER: In relation to abuse of power or official capacity, we submit that that
7 concept is misplaced in the circumstances of this case. First of all, based on your
8 finding that Germain Katanga had no effective authority or control, that's very
9 significant in our submission to that particular question.

10 One would have to -- or, at least the Prosecution would have to establish clearly both
11 the power and the official capacity. I don't think that's for us to do.

12 Secondly, one should concentrate also on the word "abuse". We submit he didn't
13 abuse any position. In a way, you could say he did what an intermediary would do
14 and no more.

15 And also one needs to look in the round at the application of that phrase "abuse of
16 power" or "official capacity" to the circumstances, the reality of it, and also take into
17 account the kind of situations which one can attach to that phrase, "abuse of power"
18 or "official capacity".

19 It might, for example, involve a position where you're the holder of a power or
20 authority through which you can corrupt, but it's no part of his intention that people
21 should be killed, for example.

22 Those are our submissions in respect of that aspect.

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

25 The second question, we would like some clarification with regard to the mitigating

1 circumstances. There is an important role for you, rightly, that Germain Katanga
2 played after Bogoro. Here we're not going back into the whole demonstration of
3 what happened, but could you just tell us the circumstances in which the agreement
4 on cessation of hostilities was signed by Germain Katanga on 22 March 2003? Do
5 you consider yourself in his defence that on that day he really truly intended to bring
6 his support to the peace process? While as the Chamber indicated in paragraph 1353
7 of the judgment, based on the testimony of the accused, that it was the MONUC
8 representatives and the Ugandan authorities who invited, perhaps even called the
9 important figures in the conflict which was affecting Ituri. That was the case of
10 Germain Katanga, who was one of one such figure, and who insisted that he sign this
11 peace agreement.

12 So in this signature by Germain Katanga of 22 March 2003, what part of that is will
13 and wilfully assumed, or on the other hand, is it something that was done because he
14 was invited to do so and it was almost imposed upon him?

15 Do you see what I'm trying to weigh up here? If you could add some clarification in
16 that regard, that's important for us.

17 MR HOOPER: Well, we've heard Germain Katanga's own position in respect of that.
18 Just give me one moment. I'll just try and remember the name of the colonel
19 involved.

20 Yes. It's -- you may remember seeing the video with Colonel Kale Kayihura who
21 was the GOC -- the general.

22 PRESIDING JUDGE COTTE: (Interpretation) Kale Kayihura, who was a brigadier
23 general - a Ugandan brigadier general - who held an important position at that time.
24 That's it.

25 MR HOOPER: Well, he'd been occupying Eastern Congo for several years, so -- but

1 I don't think he's drawn the attention of any investigations yet.

2 Yes, he was there. And you remember the video camera pans around and
3 eventually it settles on Germain Katanga? I don't know if you have that image in
4 your mind. It's certainly an image you can -- if you can't recall to mind, you can
5 recall because it's an exhibit in the case. It's an image I've got in my mind standing
6 here and speaking to you because what you see in Germain Katanga is, I submit, a
7 very fearful young man caught in that camera, completely out of his depth.

8 Now, what happened there as the big wheels turned, he's being manipulated so far
9 and there's a degree of manipulation that goes on, there's no doubt about it, and his
10 hand, as I understand it, is almost brought to bear on for that signature as he tells it.

11 We have a phrase in English which I dare say probably translates directly into French,
12 but I won't try it. You can take a horse to water, but you can't make it drink. But he
13 drank and he did so almost straight away because we know that from the witness
14 yesterday, we know that from his being just a few weeks later on the peace and
15 reconciliation committee, we know that from MONUC reports. We know that that
16 was a young man undergoing change in his mind, but in his heart, because he's a
17 decent man, he wanted peace and reconciliation. And throughout those subsequent
18 months, very quickly, May, for example, Hema welcomed into Ngiti land.

19 He's -- he's demonstrated that. Indeed, it demonstrates an uncynical approach, in
20 my submission.

21 I don't know if that -- I hope that assists. At least it's, I think, a reflection of our
22 position.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Hooper. It was
24 important to have this clarification and your point of view, the point of view of the
25 Defence.

1 Mr Prosecutor, or Madam Prosecutor, I don't know which of the two of you would
2 like to reply? We would just ask you to do so briefly such that Mr Hooper can also
3 answer you briefly and so that Germain Katanga can have the time that he wishes in
4 order to express his point of view.

5 MR MACDONALD: (Interpretation) Thank you, your Honour, your Honours.
6 The exercise that we've undertaken since yesterday is an exercise which involves
7 setting the sentence. Here we're not going back over matters and pleading once
8 again with regards to the facts of the case. The Chamber made a majority decision.
9 Mr Katanga was found guilty. This is not a matter of going back to the material facts
10 and speculate and fill in holes, so to speak, within the ruling handed down by the
11 Chamber.

12 Furthermore, even though this is a matter of sentencing a man, Mr Katanga is not a
13 victim here. The victims came and gave testimony. They live in Ituri. Mr Katanga
14 chose his destiny. No one imposed anything on him.

15 Most of the people living in the Ituri region, the vast majority were not members of
16 the militia and certainly were not commanders of the FRPI. One mustn't lose sight
17 of that fact so one can impugn the ruling on appeal. Today it's easy to say that the
18 Chamber did not believe certain witnesses, but the Chamber has found Mr Katanga to
19 be guilty. One cannot deny that.

20 Mr Katanga is his --

21 MR HOOPER: I'm sorry, I may have misunderstood the position. I thought my
22 friend was going to respond to the question, not as it were re-open his position.

23 MR MACDONALD: (Interpretation) Your Honour, this is a re --

24 PRESIDING JUDGE COTTE: (Interpretation) I heard that investigations had been
25 botched. I believe other people heard that remark made as well. So the

1 Prosecutor -- the Prosecution is not to go back to the material facts. He is to give a
2 brief reply and then you will have the final word. That is the essential point.

3 MR MACDONALD: (Interpretation) Mr Katanga is being described as a man of
4 peace and this is provided as mitigating circumstances. Mention is made of the
5 peace agreement.

6 Let us take note of Mr Katanga's testimony in this regard. We brought Witness 404
7 before the Chamber and it was said that he was a man of peace, but according to that
8 witness Mr Katanga never attended the CPI meetings on 2 April. He never signed
9 the agreement. He said that he went back to the -- to Bunia on 14 April 2014. He
10 was to meet Mr Ndjabu at a hotel. He did not meet that person. Transcript 318.
11 Not only was he forced to sign the peace agreement, according to his testimony. He
12 never attended those hearings of the Ituri Pacification Commission. And so that
13 testimony, the testimony of 404 that we heard yesterday, must be dismissed in light of
14 the testimony of Mr Katanga himself before this Bench under oath.

15 JUDGE DIARRA: (Interpretation) If the Prosecutor could be so kind as to specify
16 that in this particular case the CPI is meant -- is taken to mean the Ituri Pacification
17 Commission. I think that might be a useful point.

18 PRESIDING JUDGE COTTE: (Interpretation) Indeed, CPI might be misleading in
19 this case. In this particular case, we are mentioning the Ituri Pacification
20 Commission.

21 MR MACDONALD: (Interpretation) One final point. Yesterday you asked about
22 the behaviour of Mr Katanga towards the institution and before this Chamber. Do
23 we see signs of a person who has co-operated? Our reply was that Mr Katanga's
24 behaviour was quite normal, but certainly nothing out of the ordinary.

25 We noted - and we do still note - that Mr Hooper spoke to the education of

1 Mr Katanga and his command of certain languages. Mr Hooper said, transcript 28,
2 line 18, today's transcript, and I quote -- and I'll quote -- I beg your pardon, page 28,
3 line 16, and I'll quote, (Speaks English) "Though not greatly educated he was brave
4 and undoubtedly intelligent, had the advantage of speaking Lingala and some French,
5 probably quite good French."
6 (Interpretation) Mr Katanga chose to testify in French after five years of hearings
7 before the institution. This is not a mitigating circumstance because it has nothing to
8 do with the charges - the counts - for which he was found guilty. When the
9 Chamber assessed the mitigating factors in their entirety, the Chamber must take that
10 fact into account.
11 If Mr Katanga improved in French over the course of the years then he waited until
12 the very last minute before he said so, and it was just in the very final days before his
13 testimony that he said. During the hearings he never raised his hand and said, "I no
14 longer require Lingala interpretation because my French is better." He was listening
15 to the proceedings in French without a headset for months at a time. I think the
16 Chamber should take that into account when considering mitigating circumstances.
17 One cannot say that this is an aggravating factor, but it is an important factor when
18 one assesses the alleged co-operation of Mr Katanga with this institution.
19 Furthermore, Mr Hooper is well aware of the difficulties that this institution has had,
20 including financial difficulties. He himself has been affected. Mr Katanga could
21 have saved tens if not thousands of euros and we can't ignore that.
22 And the reason that I -- for raising this issue now is that Mr Hooper raised the issue.
23 When the question was put to me yesterday I had to bite my tongue, because that
24 argument is not necessary to justify a sentence of 23 to 25 years, but I -- I thank you
25 for allowing me to make these points.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

2 Mr Hooper, your final reply before Mr Katanga is allowed to --

3 MR HOOPER: I'm just wondering how much the Prosecution could have saved this
4 institution with proper investigations, but that's a cheap swipe and I withdraw it.

5 Lingala translations proved difficult. The decision was taken that it would be better

6 for Germain to speak in French to you, the Judges, than speak in Lingala and suffer

7 the difficulties that we were meeting all the time with translation. I don't say that's

8 the Lingala translator's fault. It's just the fact that it was such a difficult task to

9 translate. One wonders whether it's really a worthy point for the Prosecution to

10 have raised at this stage.

11 The -- we've made our submissions. I've nothing -- nothing more to add to the

12 substance of them, other than to thank my friends for their participation in this

13 hearing and your Honours for your, as usual, great patience.

14 Thank you.

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

16 Germain Katanga, the Rome Statute sets out in Article 67(h) that you are allowed to

17 address the Court at this particular stage of the proceedings. Please go ahead. You

18 have slightly more than 15 minutes, close to 20 minutes, to say what you have to say.

19 So please speak into the microphone and make your remarks.

20 MR KATANGA: (Interpretation) Your Honours, greetings.

21 More than two-and-a-half years ago, you gave me the opportunity to testify before

22 this august Bench.

23 On 21 November 2012, the Chamber handed down a decision disjoining my case from

24 the case of the man I was detained with, Mathieu Ngudjolo. The decision regarding

25 Mr Ngudjolo, handed down pursuant to Article 74 of the Rome Statute, was issued on

1 December 2012.

2 In its ruling of 21 November 2012 the Chamber clearly indicated that you intended to
3 change the mode of responsibility relating to me, basing yourselves on a legal
4 recharacterisation of the events.

5 I was acquitted by the majority on the day the verdict was handed down and I was
6 found guilty of being an accomplice. In contrast, Judge Christine Van den Wyngaert
7 issued a dissenting opinion.

8 The majority ruled that I was an accomplice to the crimes committed when Bogoro
9 was attacked on 24 February 2003 because I had attended a number of meetings in
10 Beni. These were meetings held to plan military operations of the coalition
11 government in Kinshasa. EMOI, FAC and the RCD-K/ML, APC, these were the
12 various attendees. The purpose was to regain control over Ituri, to take control away
13 from the UPC.

14 I was in a position to provide weapons and ammunition and to welcome the troops as
15 well as their commanders, but who was I to keep the Head of State from doing his
16 duty to the country? Everyone knows full well that any and all Sovereign States
17 have a duty to have even just a militia to defend the integrity of that State's territory
18 and to ensure the safety of the population, and you ruled that I was aware of the
19 militiamen's intent to attack the civilian population and to kill them. That was never
20 my intent.

21 If the majority have found me guilty of being an accomplice, what is the Prosecutor
22 waiting for to bring the main perpetrator and the co-perpetrators to justice?

23 Today we find ourselves at the sentencing phase of the trial, and I would like to thank
24 all my lawyers who have worked tirelessly to provide all the evidence that they had
25 at their disposal so that the truth should emerge.

1 In conclusion, I wish to say that I shall now never forget the victims of this war.
2 I know the pain that is endured by those who lost family members and friends. I
3 offer them my compassion from the bottom of my heart.
4 I would like to say this to the victims from my community, betrayed by those whom
5 we assisted in the past and who became their executioners, I tell the victims I think of
6 their suffering day and night.
7 That is all I have to say, your Honour.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Katanga.

9 We now have come to the end of our proceedings. The Chamber shall deliberate
10 regarding the sentencing and will hand down its ruling at 9.30 in the morning on 23
11 May here in this courtroom. So it will be at 9.30 on 23 May here in this courtroom.
12 After these two days of hearings, the Chamber wishes to thank everyone who has
13 assisted us in our work, the interpreters, the court reporters, the court officer and all
14 the staff who ensure the technical support necessary for the hearings. So we shall
15 see one another on 23 May.

16 The hearing is now over.

17 (The hearing ends in open session at 12.46 p.m.)

18 CORRECTION REPORT

19 The Court Interpretation and Translation Section has made the following correction
20 in the transcript:

21 * Page 3 lines 23-24:

22 "Your Honours, I have already prepared my notes and it is not possible to change
23 them at this particular point." Is corrected by

24 "Your Honours, the script has already been written, and can no longer be changed at
25 this particular point."