

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO.: ICTR-01-65-T
CHAMBER I

THE PROSECUTOR
OF THE TRIBUNAL
v.
JEAN MPAMBARA

WEDNESDAY, 21 SEPTEMBER 2005
0855H
CONTINUING TRIAL

Before the Judge:

Jai Ram Reddy, Presiding
Sergei A. Egorov
Flavia Lattanzi

For the Registry:

Ms. Marianne Ben Salimo
Mr. Edward Matemanga

For the Prosecution:

Mr. Richard Karegyesa
Ms. Andra Mobberley
Mr. Didace Nyirnkwaya
Mr. Ousman Jammeh

For the Accused Jean Mpambara:

Mr. Arthur Vercken
Mr. Vincent Courcelle Labrousse

Court Reporters:

Ms. Ann Burum
Ms. Judith Baverstock
Ms. Sherri Knox
Ms. Jean Baigent

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PROCEEDINGS

1

2 MR. PRESIDENT:

3 Yes. I think we should withdraw until this is sorted out. Despite my plea that the system should be
4 checked before we are ushered into court each morning, this is a repeat of the problem we had
5 yesterday, and this is totally unacceptable.

6 JUDGE LATTANZI:

7 It's working now.

8 MR. PRESIDENT:

9 Yes. Are you ready to continue, Ms. Mobberley?

10 MS. MOBBERLEY:

11 Yes, sir.

12

13 Good morning, Mr. President. Good morning, Your Honours.

14 WITNESS AVK,

15 EXAMINATION-IN-CHIEF (continued)

16 BY MS. MOBBERLEY:

17 Q. Good morning, Witness AVK.

18

19 Witness AVK, the Court is in open session.

20

21 Good morning, Witness AVK. Can you hear me now?

22 A. Yes, I can hear you. Good morning, madam.

23 Q. Witness AVK, the Court is in open session. That means that the public and the press can hear your
24 evidence, so be cautious about information that might reveal your identity. I also remind you that you
25 are still under oath.

26

27 Witness AVK, do you recall when you heard about the death of President Habyarimana in April 1994?

28 A. Yes, I recall, yes.

29 Q. And do you recall after hearing about his death whether you saw Jean Mpambara in April?

30 A. Yes, I remember.

31 Q. Can you tell us when you saw him for the first time?

32 A. You mean seeing -- when I saw Jean Mpambara, it was on the 7th of April 1994 at around 11 in the
33 morning.

34 Q. Can you tell us where it was that you saw him?

35 A. I saw him at Akabeza centre.

36 Q. What were you doing at Akabeza centre on the 7th of April in the morning?

37 A. I was there as an ordinary citizen of Gahini, but particularly I had come there to try and learn about the

- 1 death of the former president of Rwanda, Juvénal Habyarimana.
- 2 Q. Was Jean Mpambara there before or after you arrived?
- 3 A. He came after I had already reached there.
- 4 Q. Where were you standing when you first saw him?
- 5 A. I was standing in front of a trader's house. The trader was called Gacumbitsi, Samson.
- 6 Q. How did Mpambara arrive?
- 7 A. Jean Mpambara came on board a pickup, and it was driven by a driver.
- 8 Q. What color was the pickup?
- 9 A. It was a white pickup.
- 10 Q. Was there anyone else in the vehicle other than Jean Mpambara and the driver?
- 11 A. There was also a policeman.
- 12 Q. What sort of policeman, a *communal* policeman or a gendarme?
- 13 A. It was a *communal* policeman.
- 14 Q. Did you recognise the policeman?
- 15 A. No, I did not recognise that policeman.
- 16 Q. What was the policeman wearing?
- 17 A. He was wearing a police uniform.
- 18 Q. Was he carrying anything?
- 19 A. He was carrying a gun.
- 20 Q. Other than you, were there other people at the centre that morning?
- 21 A. Yes, there were other people.
- 22 Q. About how many? Can you give us an estimate?
- 23 A. It is an estimate. I didn't count them, but it looks as though there were about 100 persons.
- 24 Q. What happened after you saw Jean Mpambara arrive?
- 25 A. After he arrived, Jean Mpambara entered into the house of Gacumbitsi, Samson, that trader. He
26 entered accompanied by Gacumbitsi, the owner of the house, and Samuel Gasana, who was working
27 at the seminary of Gahini. And he entered with the *conseiller* of Gahini *secteur*, known as -- called
28 Butera, Jean Bosco.
- 29 Q. Before he entered Samson Gacumbitsi's house, did he say anything?
- 30 A. He didn't say anything in particular other than greeting those people that were present.
- 31 Q. Did you see what happened after those people went into the house?
- 32 A. I could not enter the house, but they had talks inside the house, and we were outside the house.
- 33 Q. Witness AVK, I have been using the term "house." Can you describe what the premises were like?
- 34 A. The house was, in actual fact, a shop. It had a room in which trade was carried out. It was -- it was --
35 they were selling wares, including foreign beers. On the right there was a room which was used to -- to
36 stock the goods that were awaiting to be put into the shop itself, like empty bottles and the -- and then
37 rice and sugar that were not yet put on the market.

- 1 In front of the -- in front, there was a long veranda -- there was a veranda which was quite large, and
2 that served for people to shelter themselves.
- 3 Q. Witness AVK, do you recall how long Gasana, Gacumbitsi, and Mpambara were inside those
4 premises?
- 5 A. They took some time, but it wasn't long. I estimate it might have been about 20 minutes.
- 6 Q. Was the group made up only of the people you have named, or were there other people as well?
- 7 A. You mean inside the house?
- 8 Q. Yes.
- 9 A. There could have been some other people, but I cannot -- I cannot recall them.
- 10 Q. Where was the *communal* police officer?
- 11 A. The *communal* policeman called Brigadier Ruhiguri was also present.
- 12 Q. Can you help me with a clarification, Witness. Earlier I asked you if you recognised the *communal*
13 police officer who arrived with the *bourgmestre*. When you refer to Brigadier Ruhiguri, are you talking
14 about the same person or a different person?
- 15 A. No, I don't mean that one.
- 16 Q. Who was Brigadier Ruhiguri?
- 17 A. He was the head of *communal* police in Rukara *commune*.
- 18 MS. MOBBERLEY:
- 19 That name appears at entry 199 on the list of proper nouns.
- 20 BY MS. MOBBERLEY:
- 21 Q. What did you see happen next?
- 22 A. After the -- after about 20 minutes, those people came out and stood by the veranda. And one of them,
23 Samson Gacumbitsi, told those people who were gathered, including myself, that the country is in -- the
24 country is mourning because the head of state had -- had been killed and that there is no doubt that it
25 was the work of the *Inkotanyi* and the accomplices, who are the Tutsis, and this has interfered with our
26 way of life; and that we are going to be turned into slaves by the *Inkotanyi* and they will take our
27 property, and that he advised us to rise and avenge the head of state by killing the Tutsis.
- 28 Q. Who else was standing with him?
- 29 A. It was Jean Bosco Butera, who was standing by him, together with Samuel Gasana and
30 Jean Mpambara.
- 31 Q. Can you tell us what the reaction of the crowd was at that moment?
- 32 A. People grew very angry, very annoyed, and they received the news with a lot of anger. And they
33 promised each other that they would meet in the evening in order to implement the advice that had
34 been given.
- 35 Q. Can you tell us what happened next?
- 36 A. What followed next is that people went in various directions, waiting for the evening, to start the work
37 they had been advised to carry out.

- 1 Q. Come back to the scene you've described where people are standing on the veranda and the crowd
2 has heard this speech. Did you see what Jean Mpambara did next?
- 3 A. Yes, I could see him very well.
- 4 Q. What did he do?
- 5 A. When Gacumbitsi was still speaking, he said goodbye to the people who were there present and he
6 boarded his vehicle and left.
- 7 Q. At what point in the speech did Mpambara leave?
- 8 A. It was in the middle of the speech.
- 9 Q. What had been said before he left?
- 10 A. What had been said was that the head of state had been killed by the *Inkotanyi* and their accomplices
11 and that we should rise and avenge our father.
- 12 Q. What was said after he left?
- 13 A. After he had left, the -- we decided -- we planned on how we were going to meet in the evening.
- 14 Q. What was Jean Mpambara's reaction, if you saw it, to what Gacumbitsi had said?
- 15 A. I believe he took it all right because he never contradicted what was being said. And I can simply
16 conclude that that was his own idea too.
- 17 Q. Did you see the brigadier during that speech?
- 18 A. Yes, I saw him.
- 19 Q. Where was he?
- 20 A. He, too, was standing there.
- 21 Q. Standing where?
- 22 A. There on the veranda with the other officials.
- 23 Q. Can you describe the type of people who made up the crowd at Akabeza centre that morning.
- 24 A. They were ordinary citizens, the ordinary citizens of the locality.
- 25 Q. Were both Hutu and Tutsi represented in that group?
- 26 A. Yes. People hadn't started fleeing, and people came around because they didn't know what was really
27 happening.
- 28 Q. You've said that you arranged to meet again at the centre later that evening. Did you do so?
- 29 A. Yes, we actually met there in the evening.
- 30 Q. Do you remember what time that was?
- 31 A. It was in the evening, around 6 p.m.
- 32 Q. And were you in the same place that you had been that morning or in a different place?
- 33 A. Those who could went back home. Others hanged (*sic*) around, drinking some beer around the bars,
34 waiting for the time to come.
- 35 Q. Witness AVK, when you went back to Akabeza that evening, can you tell us what happened?
- 36 A. When we went back in the evening, we met where we had met at around 11 that morning, and those
37 people had also come back. Jean Mpambara also came shortly afterwards, and they went back to -- to

1 the room and they talked for -- for a short while. And they came out, and we stood where we were
2 standing. Butera blew the whistle. Butera, the *conseiller*, blew the whistle as they used to do to call the
3 citizens, and the number of people increased. Then Jean Mpambara spoke.

4 Q. What did he say?

5 A. He said that -- he didn't say anything differently from what Gacumbitsi had said in the morning. It's as
6 though he -- he repeated what had been said by Gacumbitsi, and he said that we have to avenge our
7 father so that we may not be turned into slaves. And he said -- he told us where we were going to start
8 from in -- in the killing of the Tutsis.

9 Q. Where was Mpambara when you heard him say that? Where was he standing?

10 A. He's on that veranda. It was an elevated veranda, and the ordinary people were standing at the lower
11 level so that whoever addressed you was elevated. He was standing on that elevated veranda
12 addressing us.

13 Q. How far away were you from Jean Mpambara?

14 A. I believe that the distance between me and him was between four and five metres.

15 Q. You've talked about people being with him that evening, and you've named Butera. Do you remember
16 anyone else who was with Mpambara?

17 A. Yes, I remember there were some other people.

18 Q. Who did you recognise?

19 A. I recognised the *responsable* of Umwiga *cellule* called Kanyamurera, Manassé. I recognised a certain
20 Semana, François, nicknamed Nyagutungwa. I recognised François Mugiraneza, who was the --
21 Mugiraneza, Alphonse, rather than François -- who was the *communal* secretary. I recognised
22 François Rudacyahwa. I recognised Ruvugo, Thadée. I recognised Bosco Mutsinzi. I recognised
23 François Ruzindana, and others whose names I do not recall.

24 MS. MOBBERLEY:

25 For the record, those names appear at numbers 86, 220, 120, 190, 206, 152, and 280 (*sic*) on the list of
26 proper nouns.

27
28 The witness gave -- the witness gave a nickname for Semana, and I'll ask the interpreters to clarify the
29 spelling.

30 BY MS. MOBBERLEY:

31 Q. Witness AVK, what was Semana's nickname?

32 A. His nickname was Nyagutungwa.

33 MS. MOBBERLEY:

34 Would the interpreters please assist us with the spelling.

35 THE ENGLISH INTERPRETER:

36 Nyagutungwa, N-Y-A-G-U-T-U-N-G-W-A, Nyagutungwa.

37

1 BY MS. MOBBERLEY:

2 Q. Did he play any role in the *commune*?

3 A. He was a member of the *cellule*. He was not the *responsable de cellule*, but he was in the executive --
4 executive committee of the *cellule*.

5 Q. And what about Mugiraneza?

6 A. Alphonse Mugiraneza was Mpambara's secretary in his office.

7 Q. Ruvugo, who was Ruvugo?

8 A. You mean Ruvugo Thadée? Thadée Ruvugo was a demobilised -- a demobilised soldier in the former
9 army. He was a lieutenant.

10 Q. Who was Ruzindana?

11 A. Ruzindana was a trader at that Akabeza centre.

12 Q. Do you recall what Ruvugo was wearing that day?

13 A. Yes, I recall how he was dressed.

14 Q. Can you tell us how he was dressed.

15 A. He was dressed in civilian clothes.

16 Q. Now, you've also mentioned Rudacyahwa --

17 MS. MOBBERLEY:

18 And, Your Honours, I have given you a reference to proper noun 190. In fact, it should be proper noun
19 194.

20 BY MS. MOBBERLEY:

21 Q. Rudacyahwa. Who was he?

22 A. He was a teacher at the Gahini language school. He had come there from the military school, where he
23 obtained the grade of sergeant.

24 Q. Witness AVK, how large was the crowd that you were a part of that evening?

25 A. Although I could not count the people, what I noticed is that the number had increased quite
26 substantially. There were about 200 people.

27 Q. And, again, were there members of both the Hutu and Tutsi ethnic groups?

28 A. That evening it was entirely the Hutu group that was present.

29 Q. Were you carrying anything?

30 A. That evening, because we knew what we were going to do, everyone was armed. And those who were
31 not armed went immediately to look for one. The ones who are soldiers were given military weapons,
32 and they were carrying those military weapons.

33 Q. Where were those soldiers?

34 A. The soldiers were with us. When we left for the small market in front of a certain waiting gate, they
35 stayed behind and they were given those weapons.

36 Q. Did you see them receive those weapons?

37 A. I did not see them receive the weapons, but I saw them stay behind. And when they came back among

1 us, they were already armed.

2 Q. What sort of weapons were they?

3 A. They were grenades.

4 MR. PRESIDENT:

5 These soldiers, were they former soldiers or were they soldiers serving at the time in the regular
6 militaries?

7 THE WITNESS:

8 They were demobilised soldiers.

9 MR. PRESIDENT:

10 So they were not wearing any uniforms?

11 THE WITNESS:

12 Yes, that's correct.

13 BY MS. MOBBERLEY:

14 Q. Did you know the names of those soldiers -- rather, those ex-soldiers?

15 A. Yes, I know their names.

16 Q. What were they?

17 A. There was Thadée Ruvugo; Mutabazi, Bosco; François Rudacyahwa; another one who is called Kanifu.
18 There was Shyaka, and there was another one called Corporal Gilbert Rutaremara.

19 MS. MOBBERLEY:

20 Those names appear at numbers 206, 152, 194, 84.

21
22 Shyaka I don't have a spelling of and will ask the interpreters to assist. And Rutaremara is at 205 on
23 the list.

24
25 Interpreters, could you assist us with the spelling of the name Shyaka?

26 THE ENGLISH INTERPRETER:

27 Shyaka is spelt S-H-Y-A-K-A, Shyaka.

28 MS. MOBBERLEY:

29 Thank you.

30 BY MS. MOBBERLEY:

31 Q. Other than grenades, were those soldiers carrying anything else?

32 A. The other weapons, rifles, had been left at Gacumbitsi. However, that night I did not see them carrying
33 those weapons, those other weapons.

34 Q. How do you know those rifles had been left at Gacumbitsi's?

35 A. At 11, just a while before, Samson Gacumbitsi, François Gasana -- rather, Samuel, Samuel Gasana, as
36 well as Jean Bosco Butera, who was the *conseiller* of Gahini, they went to the *communal* office and
37 said that they are going to see the *bourgmestre* of Rukara, Jean Mpambara. They came back around

1 10:30, towards 11, and they came back with those weapons. And they found us where they had left us
2 because they had said that they were going to ask how we should conduct ourselves in that critical
3 time.

4 Q. Did you hear them say that they had gone for advice?

5 A. Around 9:30, 10 a.m., some people didn't know -- had been demoralised, as you can imagine, when
6 people had -- the president had died, so those people, as leaders in the area of Gahini, they decided to
7 go and ask for advice as to what to do. But that was because people were turning violent and they
8 wanted to attack others.

9
10 So they said that we should organise ourselves, we should go and seek advice from the *bourgmestre* to
11 know what we should do. So that's what happened when they left us there before they went to the
12 *communal* office.

13 Q. Can you tell us -- can you help us with the chronology? When did this occur? This is the 7th of April;
14 am I correct?

15 A. Yes, that was on the 7th.

16 Q. And at about 9:30, who did you meet with? Who said these things to you?

17 A. That -- those words were spoken by Jean Bosco Butera, Samuel Gasana, and Gacumbitsi.

18 Q. And where were you?

19 A. We were at the Akabeza centre.

20 Q. You've said that between 10:30 and 11 they came back with weapons. When you say "they," who did
21 you mean?

22 A. It is those people who had gone to the *communal* office, who included the Gasana, Gacumbitsi, Butera,
23 Kanyamurera, as well as François Semana.

24 MS. MOBBERLEY:

25 Kanyamurera is listed at number 86 on the list of proper nouns.

26 BY MS. MOBBERLEY:

27 Q. Who was Gasana?

28 A. Gasana was at first a teacher in primary school. Later, the Protestant Gahini diocese set up a private
29 secondary school called Gahini Junior Seminary, and he worked there as the treasurer of that junior
30 seminary.

31 Q. And who was Semana?

32 A. I told you that Semana was a member of the *cellule* committee. That means he was a member of the
33 *cellule* executive committee.

34 Q. Who was Kanyamurera?

35 A. Kanyamurera was the *responsable* of the *cellule*. That means he was the head of the *cellule* members,
36 head of the executive committee of Umwiga *cellule*.

37 Q. Now, where did they come to with the weapons?

- 1 A. They brought the weapons in the vehicle of Gasana, Samuel, and they put them in the storeroom that I
2 talked -- I talked about earlier.
- 3 Q. How do you know they were weapons? Could you see them?
- 4 A. I saw the rifles. The grenades were in a box. I saw the rifles with my own eyes. It is Shyaka, however,
5 who told me that what was in the box was grenades, and Shyaka had been a soldier.
- 6 Q. How was it that you could see the rifles?
- 7 A. I could see the rifles because I was there when they were offloaded.
- 8 Q. What sort of rifles were they? Could you recognise them?
- 9 A. These were Kalashnikov rifles.
- 10 Q. How many rifles were there?
- 11 A. I couldn't -- I would make an estimate of about 10, around 10 rifles.
- 12 Q. You've said you saw cartons. How many cartons were there?
- 13 A. One carton.
- 14 Q. Come back to the meeting in the evening at Akabeza. You've heard Jean Mpambara telling you to
15 avenge the death of the president. What happened -- what was the reaction of the crowd to his
16 speech?
- 17 A. Because people loved Juvénal Habyarimana and because people who followed had responded
18 positively to ethnic discrimination and that because Habyarimana was Hutu and since it had been
19 explained that he had been killed by Tutsis, they felt happy because they are going to avenge the death
20 of the president, and especially because they had been given the authorisation to do so.
- 21 Q. Did you see any police officers there?
- 22 A. You mean at Gacumbitsi's house? Yes, I saw them.
- 23 Q. How many were there?
- 24 A. There was one policeman who had come with Mpambara, plus the head of the *communal* police,
25 Ruhiguri, who had come with the Kanyamurera and the others.
- 26 Q. What was Ruhiguri wearing?
- 27 A. He was wearing *communal* police office uniform. And his cap, his beret, was quite -- was different from
28 the other policemen's because he was the head of the *communal* police.
- 29 Q. Can you tell us how it was different?
- 30 A. It covered the whole head, and there were some decorations on the front part.
- 31 Q. Did you recognise the other police officer?
- 32 A. I was not able to recognise him, but there were not many. Actually, there was only one other
33 policeman.
- 34 Q. And how did you know he was a policeman?
- 35 A. They had green uniform, and so we could tell that they were policemen.
- 36 Q. Was he carrying anything?
- 37 A. He had a rifle.

1 Q. What about Brigadier Ruhiguri?

2 A. He also carried a rifle.

3 Q. After Jean Mpambara had made that speech, what happened?

4 A. After he had spoken those words, Butera blew a whistle, and people who were scattered in other bus
5 (*sic*) came around as well as those who stayed nearby. All those who heard the whistle came to where
6 we were. And we gathered in front of Wiringiye (*phonetic*), Joseph's, house about 10 metres from
7 Gacumbitsi's house. There was -- there's a space, a big -- a large space. Now -- nowadays there's a
8 market organised there. And then we made the final decisions as to how we are going to attack Tutsis'
9 houses.

10 Q. Where was Jean Mpambara at this time?

11 A. He had left.

12 Q. How long after making his speech did he leave?

13 MR. PRESIDENT:

14 Well, it's not clear if he was at the -- at this Joseph Wiringiye's (*phonetic*) house.

15 THE WITNESS:

16 (*No interpretation*)

17 MS. MOBBERLEY:

18 Yes, well, the speech was made at the centre, and they moved down the road. So I'm trying to
19 establish whether he left.

20 BY MS. MOBBERLEY:

21 Q. Did he leave before you moved to the small market?

22 A. Yes, that's the case.

23 Q. You've said that you arranged yourselves when you arrived at the small market. Can you tell us what
24 arrangements you made?

25 A. At that time it was Jean Bosco Butera who was speaking, and he was the one who was organising us,
26 and he told us where we should start, how we should move, all together, without leaving anyone
27 behind. He had a piece of paper, and he told us -- he read out the names of where we should start. He
28 said we should begin with Rugomwa's home and then Shabayiro's home, then Cassien's home, and
29 then we go to Janvier's home. Those were the homes of people in Umwiga *cellule*, and that was near
30 the road. And he said we should not go deep in the village. And then we would return and go to Higirot,
31 Justin, who is nicknamed Gasongo, and then that's where we would stop.

32 MS. MOBBERLEY:

33 Could the interpreters assist us with the spellings, please. The first name was Rugomwa, Rugomwa.

34 THE ENGLISH INTERPRETER:

35 The first name is Rugomwa, R-A-U-G-O-M-W-A (*sic*); Shabayiro, S-H-A-B-A-Y-I-R-O, Shabayiro;
36 Cassien, C-A-S-S-I-E-N, Cassien; Janvier, J-A-N-V-I-E-R; Higirot, H-I-G-I-R-O; Justin, J-U-S-T-I-N;
37 Gasongo, G-A-S-O-N-G-O.

1 BY MS. MOBBERLEY:

2 Q. When Butera told you those names, what was he doing?

3 A. After reading out those name -- those names to us, he blew the whistle for the last time as a signal to
4 take off.

5 Q. How did you know the whistle was a signal to take off?

6 A. We were used to this blowing of whistles because Butera was the *conseiller* of Gahini *secteur*, and he's
7 the only one who used to blow that whistle. And he used to blow the whistle in our community work,
8 doing different, various activities. He would blow the whistle, and those who would hear would come
9 near, would gather. He used to blow the whistle after the community's work is over so that we'd gather.
10 So this was a signal that he used in his *secteur*. Whenever he blew the whistle, the people, the
11 residents, would come to gather around him.

12 Q. How often were you required in your *cellule* to conduct community work?

13 A. In our *cellule* we did community work once a week.

14 Q. You've said that the -- let me rephrase.

15
16 From the small market where you were, how far did you have to go to the houses of the people who
17 Butera had read from the list?

18 A. From that small market to Rugomwa, there is a distance of about a hundred and fifty metres, but to
19 Shabayiro's home is a distance of about 300 metres. To Cassien's home is a distance of about
20 350 metres. To Janvier's home from that small market is about 1 kilometre. From that small market to
21 Higiros home, there is a distance of about 2 kilometres.

22 Q. Do you know which *cellule* those homes were located in?

23 A. Yes, I know the *cellule*.

24 Q. And were they all located in the same *cellule*?

25 A. No. Rugomwa, Shabayiro, Cassien's home were in the same *cellule*, Umwiga. Janvier and Higiros
26 homes are in Ibiza *cellule*.

27 Q. What happened after Butera blew the whistle?

28 A. We immediately attacked Rugomwa's home, as he had instructed us to do. We -- as we -- we were
29 forcing -- we were breaking the doors, Rugomwa fled, and he escaped us. But when his wife tried to
30 escape, he -- she was killed by a man called Munyemana.

31
32 And we rushed to Shabayiro's home. We surrounded his home. We broke down the doors by kicking
33 them. A man called Forley Kajjuka (*phonetic*), as well as Kanifu, immediately entered the house and
34 killed Shabayiro and his sister, Dina (*phonetic*).

35
36 We immediately went to Cassien's home, which is close by, and we -- we found that they had heard the
37 commotion at their neighbour, Shabayiro's, home, and we found that they had fled.

1 We immediately went to Janvier's home, surrounded his home. We were not able to force -- to break
2 into the house by breaking the doors and the windows. And at that time the ex-soldiers said that we
3 had to use grenades in order to get him. So they told us -- they told everyone to move back and lie
4 down, and then they threw a grenade at the window. I -- I did not know who were killed there.

5
6 We then continued -- continued to Higiroy's home. And because of the noise made by that grenade, we
7 found that they had also fled. Then the property that was in Higiroy's home was looted.

8
9 And because it was getting late, we returned to Akabeza.

10 Q. Can you tell us who led the group of attackers that evening?

11 A. That attack was led by Jean Bosco Butera.

12 Q. Did you see Samson Gacumbitsi during that attack?

13 A. Yes, I saw him there.

14 Q. The five people whose houses were attacked, what ethnic group were they?

15 A. They were Tutsi.

16 Q. Can you tell us what their occupations were?

17 A. Rugomwa was a teacher at the Gahini language school. His wife was a nurse at Gahini hospital.

18 Shabayiro was a teacher, and he had kids studying in secondary schools. Cassien had children who
19 were teachers, and they had a son-in-law who was a prominent member of *Inkotanyi*. I do not recall
20 exactly what Janvier was doing, but he was working, I think, in a mining company. As for Higiroy, Higiroy
21 is a driver at the Gahini language school. And his wife was also a nurse at the Gahini hospital.

22 Q. Witness LET (*sic*), how did the attack conclude, and what did you do afterwards?

23 A. After the attack had ended, when we arrived at Higiroy and found them gone, we returned. And those
24 who had looted property went back to their homes. Those who had not looted anything went back to
25 Akabeza. When we reached Akabeza, we were given something to drink by Gacumbitsi and Gasana.
26 After drinking what we had been given, we went home and we were told that we would reconvene the
27 next day.

28 Q. And what drinks had you been given?

29 A. These were modern drinks, like beer. Those who do not drink beer were given Fanta soft drinks as well
30 as local beers.

31 Q. Were you with Gacumbitsi, Butera, and Gasana throughout the attack?

32 A. We were together all along in the attack, and we even came back together after it had ended.

33 Q. The next morning, which was the 8th of April 1994, did you reconvene as you'd been asked at the
34 Akabeza trading centre?

35 A. On the 8th of the morning, the 8th of April 1994, we met again at Akabeza centre as previously
36 arranged.

37 Q. Before you went to Akabeza that morning, did you do anything in particular?

1 A. Nothing.

2 Q. Between the time you left your house and reached the centre, what did you do?

3 A. From my home to the centre, I did nothing in particular.

4 Q. What happened when you arrived at the centre that morning?

5 A. When I got to the centre, I met the others. That was the plan. And Butera gathered us again at that
6 trading centre, and we organised how we would carry out the work on that day. Butera told us that it
7 was not a matter of getting into homes but, rather, going to the bushes to flush out people.

8
9 And we were divided into groups, and there were leaders of these different groups. One team was
10 under Ruvugo. Another team was under Semana Nyagutungwa. Another team was under
11 Alphonse Mugiraneza. And another one was led by Butera.

12
13 It was like this. Akabeza is here. One team moved this way, another one here, another one there. And
14 then we -- we had to surround Ibiza *cellule*, where there were many Tutsis. We were supposed to
15 surround the *cellule* and then meet eventually after hunting down the Tutsis in that area.

16 Q. Which group were you in?

17 A. I was in the team led by Alphonse Nyaruhengeri, who was the secretary of the *commune*.

18 JUDGE EGOROV:

19 I'm sorry, but this attack on the 8th of April is not contested by the Defence, according to the
20 agreement, at least, by the parties.

21 MS. MOBBERLEY:

22 Your Honours, it goes to both foundation and it's a matter that the witness has previously testified about
23 in a previous session before you.

24 BY MS. MOBBERLEY:

25 Q. Can you tell us what happened after you had been divided into these groups?

26 A. After regrouping into different teams, each group went hunting down the people. We spent the whole
27 day looking for Tutsis where they were hiding. They were no longer in their homes because they knew
28 that their kids and kin had been killed the previous night, and they, therefore, fled from their homes.
29 Some went to the bushes. Others moved to Gahini hospital. Others went to Karubamba. The work we
30 had to do was to hunt down Tutsis in the bushes, but we did not find any.

31 Q. Were any firearms used during that attack?

32 A. As we hunted down the people, we were not using firearms. We were simply moving into bushes. As
33 we went to homes, we found people were -- had left, and it was just like that.

34 Q. Do you recall whether during that attack you saw the Accused?

35 A. Towards the afternoon I met the Accused somewhere.

36 Q. Can you tell us where you met him and what circumstances prevailed at the time?

37 A. The groups I referred to continued to hunt down the people. And in the afternoon one group discovered

1 a certain David Twamogavo. He was found in a casaba plantation of his neighbour. When he was
2 flushed out, he moved towards his room. He was a big man, a very strong man, and people feared that
3 he might be having a firearm. People could not approach him so easily as they approached the others.
4 He ran out of the bush and ran to his home. He went openly. When he got into his house, a grenade
5 was thrown at the house. The grenade exploded, but he was not injured.

6
7 At that time when the grenade exploded, I was near the house of a certain Kagina (*phonetic*) with other
8 people, about four people of a group, and the Accused arrived in his vehicle with two gendarmes. He
9 stopped and beckoned me. I went to him. He asked me where the grenade had been exploded. I told
10 him that I thought it was at David's house, then he told me, "What are you doing? Are you failing to
11 carry out your operations? What is it?"

12
13 I could not answer, and the gendarmes said, "Maybe you are short of firearms. Should we give you
14 more weapons?"

15
16 I did not answer. They continued on their journey, and I went on to David's house.

17 Q. What -- who were the targets of that day's attack?

18 A. The targets were Tutsis.

19 Q. How long did the attack continue that afternoon?

20 A. The attack continued until in the evening.

21 Q. Do you know who led the attack on David Twamogavo's house?

22 A. The leader of the attack, I do not know who was the leader of the attack. But what I know is that, when
23 the grenade exploded, all the other groups turned up to meet at that spot where the grenade had
24 exploded.

25 Q. What happened to Twamogavo?

26 A. The -- he was not injured by the grenade. He entered his house, and different people arrived at that
27 home. Then we realised that he was in his house. There was a -- some kind of fighting. We -- as I
28 said, everybody was scared of him. People tried to use arrows and bows, traditional weapons. He
29 would open the door and then close the door again when arrows were being shooting inside. They
30 were -- stones were pelted at the door. And the shooting of arrows, he would remove the arrows and
31 throw them out until he got too -- too weak to continue dodging the arrows. Then Butera and
32 Munyemana entered the house and killed him.

33 Q. When was the next time you saw Jean Mpambara?

34 A. I saw Jean Mpambara again on the 9th of July 1994 during the attacks that killed Tutsis at the
35 Gahini hospital.

36 Q. Can you repeat the date of the attack at Gahini hospital, please.

37 A. This -- the attacks were carried out on the 9th of April 1994.

1 Q. What time was it when you saw Jean Mpambara?

2 A. I saw Jean Mpambara round 10 a.m.

3 Q. Before you saw him, what had you been doing?

4 A. Before seeing Jean Mpambara, I had not come to the hospital. I had passed somewhere else in
5 operations in that killings (*sic*). I arrived a bit late. And when I came there shortly after I arrived, he,
6 too, came over, and he tried taking a short time since my arrival. And I had not done anything during
7 that short time.

8 Q. Why did you go to the hospital?

9 A. When I left my home, I arrived at Akabeza and found many people gathered there. These people had
10 come from the hospital where they had killed some people. Then we learnt that there were some
11 others there who had survived. And Butera said, "I've just learnt that there are a lot of people in the
12 hospital, and Jean Mpambara is about to take them to Karubamba. Let us go and kill them."

13 Q. You said that there had been killings earlier that morning. Did you see corpses?

14 A. I saw the corpses, yes.

15 Q. Where did you see the corpses?

16 A. The corpses were in a path that went round Gahini hospital, a path that went from Akabeza centre to
17 the Gahini parish.

18 Q. Tell us what happened when you returned -- when you went to the hospital, having seen those corpses.
19 Tell us what happened when you saw Jean Mpambara.

20 A. I was not alone. I was with others. When we got to the hospital, Jean Mpambara arrived immediately
21 after. He came and beckoned Ruvugo. He beckoned Butera. They went apart some distance away.
22 We could not hear what they were saying.

23

24 After their conversation, they came back. Thadée and Butera came back to us. Jean Mpambara called
25 a certain Nkurayija, who was hospital administrator. I heard what he told him. It was loud enough. He
26 said, "The leaders of *cellule* should come over."

27

28 Nkurayija went and called them. He said, "Tell all the people who are hiding in the halls to come out so
29 that we can provide refuge for them.

30 Q. And what did you do next?

31 A. We were waiting for any decision to be taken by the head of the *commune*. People were taken out of
32 the wards. There was a certain Mukaragwiza, Toto, a Tutsi young man who came out. There was a
33 young lady called Mukaragwiza. They were both young people. There came out Rubega. There came
34 out Nyabunyana, and some others whose names I cannot recall. They were made to sit on the -- alone
35 near the flagpole. I said, "You, you, and you board the vehicle."

36

37 Only those who remained behind were Toto, Mukaragwiza, and Kamarade (*phonetic*), said, "You go

1 back to where you were," and they went back there. The vehicle took those who had boarded it, but
2 before he entered the vehicle, he touched his head and said, "I do not understand. Is this all we have
3 to do? Can't you do something else? Can't you finish quickly?"

4
5 Then we understood that there was a problem, that we were not being appreciated. We went back to
6 Akabeza to organise ourselves, and then we came and killed the people who were left behind.

7 Q. Did you see the deaths of any of the people that you have named, Mukaragwiza, Toto? Did you
8 personally witness their deaths?

9 A. I personally witnessed the deaths of Mukaragwiza. She was one -- one was taken out of the women's
10 ward and was killed in front of the operating theatre. I witnessed that. I did not witness the death of
11 Toto, but I took him outside the building, and the police chief, Ruhiguri, took him away and killed him. I
12 later saw his dead body.

13 Q. Did you see personally Jean Mpambara later that morning before the end of the attack?

14 A. I did not see him before the end of the attack. I was in the buildings searching for people in the ceilings,
15 moving from one house to another. By the time I got out, most people had been killed. I did not see
16 him again.

17 Q. Can you tell us whether you were able to -- can you tell us how long you were inside the buildings and
18 in the ceilings looking for targets of the attack?

19 A. We spent about one hour in the buildings.

20 Q. Did you see Jean Mpambara again that day?

21 A. On that day I did not see him again.

22 Q. You've talked about Brigadier Ruhiguri being there during the attack. Did you notice any other police
23 officers, either *communal* or gendarmes?

24 A. Another policeman I saw was the policeman that moved around with the *bourgmestre*, but there were
25 two gendarmes who were at the Gahini hospital who moved with the police chief, Ruhiguri.

26 Q. What do you mean by gendarmes who were at Gahini hospital?

27 A. The two gendarmes were not the same that I had met on the 8th of April. The two gendarmes, I don't
28 know actually where they came from. But when we attacked the Gahini hospital, these gendarmes
29 were present, and they were with Ruhiguri and they showed us how to attack the hospital.

30 Q. Were they armed?

31 A. They were -- each was carrying a rifle.

32 Q. And when you say "they showed us how to attack the hospital," can you tell us what you mean.

33 A. What I mean is that, in organising the attack at Gahini hospital, there had to be taken special care not to
34 break doors, not to break windows, not to destroy the buildings, which it had to be carried out with strict
35 discipline, to kill people but without causing any damage to the hospital.

36
37 This was the special directive given, and we were told that there was no problem entering the hospital,

1 but things should be done in a -- in a kind of sly manner. We shall shoot in the air as a signal. And
2 during that -- under the noise of the gunshots, you can enter the buildings and carry out your work.
3 Nobody is going to disturb you. Things should be carried out according to plan. And those were the
4 directives given to us.

5 MR. PRESIDENT:

6 Just to be clear on this, these directives came from the two gendarmes, did it?

7 THE WITNESS:

8 Yes, the directives were given by the gendarmes.

9 BY MS. MOBBERLEY:

10 Q. Following the conclusion of that attack at Gahini hospital, where did you go?

11 A. After that attack at Gahini hospital, we left for Akabeza centre. Several cattle had been slaughtered,
12 and there was enough meat to feed everyone. After eating the meal, we left for home.

13 Q. Do you know who provided you the meal?

14 A. The meal was provided by, among others, said Shumbusho, her brother to Samson Gacumbitsi. She
15 was heading that feast. But she was assisted by others. I came just to have the meal. I don't know
16 who was assisting him.

17 MS. MOBBERLEY:

18 And if the interpreters can assist us with the spelling of the name Shumbusho, I have no further
19 questions.

20 THE ENGLISH INTERPRETER:

21 Shumbusho spelling, S-H-U-M-B-U-S-H-O, Shumbusho.

22 MS. MOBBERLEY:

23 And I have no further questions, Your Honours.

24 MR. PRESIDENT:

25 Yes. Is the Defence ready to commence cross-examination?

26 MR. VERCKEN:

27 Yes, Mr. President.

28 MR. PRESIDENT:

29 Yes, thank you.

30 MR. VERCKEN:

31 Yes, Mr. President.

32

CROSS-EXAMINATION

33 BY MR. VERCKEN:

34 Q. Good morning, Mr. Witness.

35 A. Good morning, Counsel.

36 Q. This morning you described to this Court the anger of the members of the population following the
37 death of the president and the violence that was beginning to manifest. You said that they wanted to

1 attack, and you even said that others indicated that people should organise themselves. Now, does
2 that mean that this was a spontaneous movement? Was it spontaneous anger that created that desire
3 for violence and the attacks?

4 A. Thank you for asking me such a question. That anger was not inspired by the population. It came from
5 the word that had been spoken by the leaders.

6 Q. Mr. Witness, my question is as follows: Was it the death of the president that prompted you to organise
7 violence, or was there an organisation already in existence prior to the death of the president, that is,
8 for the purpose of carrying out the massacres of Tutsis. So my question relates to the spontaneity of
9 what you have described.

10 A. Thank you, Counsel. It's a good question. In actual fact -- in actual fact, it wasn't the death of the
11 president that caused the anger of the population. Because before, and everywhere in the whole
12 country, there was a lot of ethnic discrimination, a lot of discrimination against the Tutsi. And they had
13 been killed all over the country. And even in Rukara a pastor, Alfred, had been killed because he was
14 called an accomplice of RPF *Inkotanyi*. They had meetings of the MRND all over the country to turn the
15 Hutus against the Tutsis. This was clear that, after the population was told that the Tutsi had actually
16 killed the president, after an explanation had been given, then it was a signal to kill people, to kill the
17 Tutsi.

18 Q. Can you elaborate on the last sentence? Because I heard that, in fact, this, in reality, was a signal. Do
19 you mean that this is what triggered off the killings or do you mean to say that the death of the president
20 was part of a pre-established plan?

21 A. The president's death, in actual fact, they did not trigger what happened because people had died
22 before. People had died in Bugesera before. People had died -- in Bagogwe died. And those people
23 died during the lifetime of the president. It wasn't really a trigger because before the -- before that time
24 the Tutsi had been killed all along.

25 Q. Let me now put a question to you regarding the meeting you say was held at Akabeza on the 7th of
26 April between 11 and 11:30 a.m. Can you now confirm that two *communal* policemen were present,
27 Ruhiguri and another one whose name you don't remember?

28 A. Yes, I can confirm that.

29 Q. Thank you.

30
31 Now, Mr. Witness, can you tell us specifically where Samson Gacumbitsi was when he took the floor,
32 or, rather, when he addressed the crowd after coming out of the meeting?

33 A. You say coming. He was standing by the veranda of his house in front of the -- in front of the -- the
34 door of the shop in his house.

35 Q. Can you please tell us whether this was his house or his shop?

36 A. Samson Gacumbitsi had his own private house a bit far from Akabeza. The place we are talking about
37 this morning, and which might even continue to talk about, is actually his shop.

1 Q. And where was this shop?

2 A. His shop was at Akabeza coming from Gahini hospital. When you come from Gahini hospital, it is at
3 the right. It is the third house.

4 MR. VERCKEN:

5 Mr. President, I would like a photograph to be shown to the witness for purposes of identification, and
6 that is the photograph on page 14 of the photo album. Can I show it to him? Or perhaps the registry
7 officer can show that picture to the witness.

8 BY MR. VERCKEN:

9 Q. Is this the location you were referring to, Mr. Witness?

10 A. Yes, I recognise this.

11 Q. And the elevated place which you were referring to, it seems to appear on the photograph; is that
12 correct?

13 A. Yes, this is the place on the photograph. If you can see well, this veranda is elevated. Before reaching
14 that elevated point, you have to go three steps. So whoever stands after those -- after going up those
15 three steps, you -- the person standing there is above the rest on a lower level.

16 Q. Very well. When you talk about the veranda, is it the space protected by a roof that is over the space
17 that you have just described? Is that the veranda?

18 A. The place I call a veranda is this place I'm pointing. You can see that this side is -- is one room, and
19 this is an empty space. That's where people can stand when -- while they are not inside the house but
20 whereby they are protected against rain.

21 Q. The door and the window that we can see on that veranda, is that the entrance to the bar of
22 Mr. Gacumbitsi's shop?

23 A. This door, this open door here, enters into Gacumbitsi's bar, but this room you see here wasn't there
24 before the war. There is a hair saloon, but it wasn't there before. But if you enter, you have access to
25 the storeroom, which I mentioned earlier.

26 Q. Which room did not exist before the war? I did not quite understand you.

27 A. The -- the (*no interpretation*).

28 Q. It is -- it is written there premises and you think that is the break room?

29 A. Yes, Counsel, that is the place.

30 Q. Very well, thank you. Can you now, Mr. Witness, turn over to pages 15 and 16.

31

32 The buildings on page 15 and 16, do they represent the gate into the private residence of
33 Mr. Samson Gacumbitsi?

34 A. Which page?

35 THE ENGLISH INTERPRETER:

36 Says the witness in French.

37

1 BY MR. VERCKEN:

2 Q. Pages 15 and 16, that is following the page that you have just looked at.

3
4 On page 15 the pictures are taken from further away, but on page 16 you have a close-up photograph
5 of the same gate. Do you recognise that?

6 A. On page 16 it's the gate of Samson Gacumbitsi's home, private home.

7 Q. Can you please tell this Court the approximate distance between Samson Gacumbitsi's bar and the
8 gate that we see on this photograph.

9 A. It is quite a long distance. It's a long distance because Gacumbitsi's home, private home, is not at the
10 centre, but it is quite a distance.

11 Q. Thank you.

12
13 Mr. Witness, this morning you testified that at the end of the 20-minute meeting, which was held with
14 Mr. Butera, Gasana, Mpambara, and others, those who attended the meeting came out of the place at
15 which they had been meeting. Now, could you specify where they met, to your knowledge? And
16 perhaps, if you wish, you can use the photograph.

17 A. What -- what I -- what I could tell you first is that Gacumbitsi, Butera, Gasana, Samuel, were very
18 important people in Gahini. Usually they used to sit together because they were of the same social
19 ranking. They were not -- they were not poor people, and it was easy for them to sit down and meet
20 together. I wouldn't even use the photograph. You -- is that -- that same room you can see in the
21 photograph, that is open. That is where they held their meeting. That -- that shop, that is the shop that
22 is open. So inside there they met and discussed.

23 *(Pages 1 to 20 by Ann Burum)*

24
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37

1 1045H

2 BY MR. VERCKEN:

3 Q. So that is where they met on that morning?

4 A. In that morning, in the company of Mpambara, that is where they held a meeting.

5 Q. Very well. Now, Mr. Witness, according to you, was there a small kiosk or stall close to
6 Mr. Gacumbitsi's shop which was used by another trader to sell provisions, as is the case in many
7 places in Rwanda?

8 A. As I said before, it is a trading centre. It wasn't Gacumbitsi alone who was carrying out his activity,
9 there were other traders around who were exercising that same trade.

10 Q. I understand that, Mr. Witness, but my question was, do you know whether very close to this shop, that
11 is, even adjoining that shop and even on the verandah of Mr. Gacumbitsi's shop, can you see that there
12 was another trader doing business right there?

13 A. There was nobody else who was carrying out any trading. There was nobody else exercising any trade
14 near that shop because, in actual fact, next to that there was a road.

15 Q. Very well. That was the main road that goes through the Akabeza centre when you come from the
16 Gahini hospital; is that correct?

17 A. Precisely.

18 Q. Mr. Witness, this morning you said that at the end of that meeting you saw Mr. Gacumbitsi address the
19 crowd in the presence of Mr. Butera and Mr. Mpambara. In your written statement to the investigators
20 of the OTP, you stated that at that time Samson Gacumbitsi was Jean Mpambara's spokesperson. Do
21 you confirm or deny this statement?

22 A. In actual fact, I didn't say precisely that he was a spokesperson of Mpambara. I was asked, "Why didn't
23 Mpambara speak but it was Gacumbitsi, Samson, instead?" And I replied that it seems as though he
24 was the spokesperson to the meeting that they had held. I suggest that it was badly interpreted, and it
25 is unfortunate.

26 Q. Did you reread your statement given to the investigators of the OTP before signing it?

27 A. Which statement?

28 Q. Did you sign a statement, a written statement that you are supposed to have given to the investigators
29 of the Office of the Prosecutor of the ICTR?

30 A. Yes, I signed a statement, yes.

31 Q. Did you reread that statement before signing it?

32 A. It was read to me.

33 Q. Can you read?

34 A. Yes, I am able to read.

35 Q. Why did you not read the statement yourself?

36 A. It's because I didn't know the language in which it was written.

37 Q. Was it translated to you?

1 A. Yes, it was translated to me.

2 Q. Very well.

3 JUDGE EGOROV:

4 Mr. Vercken, we are talking about the statement dated 15th of November 2003 and
5 9th of November 2004; that's correct?

6 MR. VERCKEN:

7 Your Honour, I am speaking of a statement in which it is indicated, date of interview,
8 15 November 2003 and 9 November 2004. There are two dates on the statement that I am referring to.

9 BY MR. VERCKEN:

10 Q. Mr. Witness, during the meeting that you have described, you said that there were people who were
11 important in the community because of their wealth, but also others who were important in the
12 community because of their political positions; and here I understand that to mean the *conseiller* of the
13 *secteur*, who was Butera, and his superior, who was the *bourgmestre* himself. In fact, yesterday you
14 told us just how much or how important the *bourgmestre* was, according to you, because you said that
15 because of his position you did not want to denounce him when you testified before Rwandan
16 jurisdictions.

17

18 And, so, my question is as follows: How do you explain the fact that in the presence of authorities who
19 were much higher in the community than Mr. Gacumbitsi, who was only a trader, you talk about the
20 trader, in your statement, who addressed the crowd rather than Butera or Mpambara, that is, at the end
21 of that meeting?

22 MS. MOBBERLEY:

23 Isn't this a matter of speculation for this witness, Your Honours?

24 MR. VERCKEN:

25 Absolutely not.

26 MR. PRESIDENT:

27 Yes, it's probably a question he should answer, he can answer.

28

29 Can you answer that question? Have you understood the question?

30 THE WITNESS:

31 Yes, I understand the question. I will answer the question. It is true that there are administrative levels
32 and there is a way the citizen perceives something. If you want your message to be well understood or
33 goes faster, you have to find a way of the message reaching the grassroots. If you want your message
34 to reach those people, and very strongly, you have to find the person who can pass on the message.

35 If you could pass a message when you don't have the capacity to do that, even the manner in which
36 you pass the message, but the strength you give the message is important, because Gacumbitsi was --
37 a person like Gacumbitsi was very prominent in the society of Gahini, and people recognised him as a

1 good orator. And he was given the opportunity to address the population because it was understood
2 that the message would pass clearer and even strongly than if it was given by Butera or Mpambara. It's
3 because of his qualities as a prominent orator and a person who is very close to the population.

4 BY MR. VERCKEN:

5 Q. Do you mean by that that the *bourgmestre* was not close to the members of the population under him?

6 A. I do not mean that. I mean the manner in which the message is delivered.

7 Q. Then perhaps you mean that Mr. Mpambara was really not a good orator, which would be why he
8 decided that Mr. Gacumbitsi would be the one to address the crowd?

9 A. I don't mean that. What I meant is that Gacumbitsi was the person who was socially used to
10 addressing social gatherings at various occasions. He had that capacity.

11 MR. PRESIDENT:

12 Mr. Vercken, would this be a convenient time to take the morning tea break?

13 MR. VERCKEN:

14 Very well, Mr. President.

15 MR. PRESIDENT:

16 We will adjourn for 20 minutes. Thank you.

17 (*Court recessed from 1103H to 1130H*)

18 MR. PRESIDENT:

19 Yes, please, continue.

20 MR. VERCKEN:

21 Thank you, Mr. President.

22 BY MR. VERCKEN:

23 Q. Witness, can you tell the Court whether on the 7th of April 1994 during the meeting which was held at
24 6 p.m. at the Akabeza centre, Mr. Gacumbitsi was present?

25 A. As I said earlier, he was present.

26 Q. Yet, Witness, in your testimony there is something that seems to contradict your analysis regarding the
27 reasons why Gacumbitsi intervened in the morning, Jean Mpambara took the floor.

28 A. It does not contradict that, unless you do not understand what I said. I will repeat it. I explained how a
29 message is delivered and the objective of someone to deliver a message. However, it is clear that the
30 message had already passed, had been understood because people had responded positively to what
31 had been said and the instructions had been followed. So it is clear that the message had reached its
32 objective, I think up to about a hundred per cent successful. So I think it was then easy for Mpambara
33 to speak because this was not just the beginning, this was a kind of conclusion.

34 Q. This morning you said that you saw Mr. Butera, Mr. Samson Gacumbitsi, and Mr. Gasana unload a
35 crate of 10 Kalashnikovs and they put the crate in the bar, that is, Mr. Gacumbitsi's bar. Is that what
36 you said?

37

1 MS. MOBBERLEY:

2 Your Honours, that is not what the witness said.

3 MR. PRESIDENT:

4 Yes. I can't remember any such evidence from this witness. What he said was that these three people
5 went and came back with the weapons.

6 MS. MOBBERLEY:

7 He said he saw 10 Kalashnikovs and a carton, which he was later told contained grenades.

8 MR. VERCKEN:

9 I am comfortable with those clarifications, Mr. President, counsel for the Prosecution.

10

11 Can the witness, therefore, throw more light on this episode, that is, the episode regarding the crate of
12 Kalashnikovs? What exactly did the witness see, where was he, at what point in time did he see the
13 weapons, and what happened to the carton containing the weapons?

14 THE WITNESS:

15 As it has been said, I did not say they were the ones who offloaded the vehicle, but that it is people who
16 were there, like Shyaka, who offloaded the vehicles. So what I saw coming from -- in the vehicle of
17 Gasana, Samuel, and offloaded, it was around 11 a.m., and they were put in the room just next to the
18 shop.

19 BY MR. VERCKEN:

20 Q. Therefore, you mean to say that you saw -- whose vehicle did you see arrive? Who owned the vehicle
21 and what type of vehicle was it?

22 A. I have already said that this vehicle belonged to Samuel Gasana, who was an employee of Gahini
23 private school. It was a pickup and it was yellow.

24 Q. When you say a pickup, does that also correspond to what is referred to in English as a pickup?

25 A. Yes.

26 Q. So the carton was put in the rear part of the pickup truck; is that right?

27 A. It was not in a box. The rifles were in the vehicle. There was a space for the driver and one passenger
28 or two, so -- and the rifles were in the rear part of the pickup and there were many people also sitting
29 with -- where the rifles were.

30 Q. Witness, can you be more precise? I certainly do not understand what you have just said.

31 JUDGE LATTANZI:

32 This morning you made reference to a carton. This morning the witness said that it was grenades
33 which were contained in the carton and not guns or rifles.

34 THE ENGLISH INTERPRETER:

35 The counsel says that he notices that it was guns that were said to be in the carton.

36 BY MR. VERCKEN:

37 Q. Witness, can you clarify that? As far as I am concerned, I did not hear what the Honourable Judge has

1 just said. Can you please be kind enough to clarify that point? Who was in the vehicle, and where
2 were the weapons when you saw them?

3 A. Thank you. The vehicle was -- carried the following people: Samson Gacumbitsi, Samuel Gasana. It
4 was Samuel Gasana who was driving, the vehicle was his. There was François Semana, nicknamed
5 Nyagutungwa; head of *communal* police Ruhiguri, Kanyamurera, Manassé; those who were sitting in
6 the behind part of the vehicle. It is the grenades only that were in a carton, and the rifles were just in
7 the vehicle, not in a carton or any container. That's what I said.

8 Q. Do you mean to say that the guns were in the cabin?

9 A. No, in the rear part of the pickup.

10 Q. Therefore, in the rear part, in the platform that is found in the rear part of the vehicle?

11 A. Yes.

12 Q. You just gave a list of persons who were in the vehicle, and you did not mention Mr. Butera. Was he in
13 that vehicle?

14 A. I do not know if you want me to recite everything by memory. I have mentioned this many times. He
15 was one of the people in the vehicle.

16 Q. Furthermore, when this vehicle arrived in the Akabeza centre, where did it stop?

17 A. It stopped in front of Samson Gacumbitsi at the road.

18 THE ENGLISH INTEPRETER:

19 As the witness is showing.

20 BY MR. VERCKEN:

21 Q. In front of his shop?

22 A. Yes.

23 Q. On the main road?

24 A. Yes.

25 Q. What happened once the vehicle stopped?

26 A. After the vehicle stopped, these people came out of it. I told you that we, the ordinary citizens, were
27 waiting for them to hear what they had to tell us. So the rifles were offloaded, and then immediately
28 after, the *bourgmestre* arrived. I told you it was someone who had been a soldier, an ex-soldier, by the
29 name of Shyaka.

30 Q. Where did he put the guns and the grenades, if at all they were put at the same place?

31 A. He entered the room. I did not follow him. I do not know if he put them in one place, in one spot.

32 Q. In any case, he took them inside the shop. Is that correct?

33 A. Yes, that's correct.

34 Q. Very well. Witness, you talked about a meeting which was held, still on the 7th of April 1994 at 6 p.m.,
35 and during which at some point in time Mr. Butera took the floor. I stand to be corrected by you,
36 Witness, but you said, "The meeting was held at the small market." Can you clarify what this is?

37 A. I think you misheard. I told you that after the meeting that took place at Gacumbitsi's, after having

1 decided to go and kill the Tutsis, Butera blew a whistle, and even the people who had not come to
2 Gacumbitsi's shop and the -- all the people who had not come there, we all gathered at the small
3 market in front of Joseph Umwiga's home, and that's where we received the last instructions and where
4 the names of people we were supposed to begin by killing were read to us.

5 Q. Did you, yes or no, use the expression "small markets"?

6 A. Yes, a small market. I mentioned a small market.

7 Q. With respect to Mr. Gacumbitsi's market, which you have in the photograph before you, where is that
8 small market located?

9 A. If you follow this road, there's one road -- one house here, and then after that you reach the small
10 market where there is a road leading away from that place. It's a few metres only; the distance is close.

11 Q. Very well. Going up from Mr. Gacumbitsi's bar on the main road and moving towards the direction of
12 his private residence, is that what you mean?

13 A. Yes.

14 Q. This morning, Witness, you told the Court that when Mr. Butera took the floor, he defined the first four
15 objectives of the attacks: A teacher, Rugomwa; another teacher, Shabayiro; a person whom you think
16 worked in the mines called Cassien; and a driver called Rujigo; is that correct?

17 A. Yes. Those are the names that he read to us.

18 Q. Witness, this morning you testified that one of these four objectives, Cassien, has had a son-in-law a
19 member of the RPF. Was that enough for him to be defined as a target?

20 A. I did not say that this was enough for that, although you asked me what they did. It was only sufficient
21 to be Tutsi. However, being a member of the *Inkotanyi*, it was additional. It aggravated the
22 circumstance, because it had been said that it is the *Inkotanyi* who had killed the president of Rwanda.

23 Q. Did you know the reasons, apart from the reason of ethnicity, which led -- which made the three other
24 people to be designated as targets?

25 A. There is no other reason. It is only because they were Tutsis that they were attacked. And another
26 reason is that these people were intellectuals, so -- and the intellectuals were among the people to be
27 killed because it was said that the *Inkotanyi* would come and contact them first and then they would
28 help the *Inkotanyi* to kill the Hutus.

29 Q. Do you know whether there existed at that time other disputes, apart from matters related to ethnicity,
30 among those who were going to set those objectives? And the objectives, were there ever disputes,
31 apart from disputes related to ethnicity, as far as you know?

32 A. No, I am not aware of any.

33 Q. Now, Witness, I will move on to the attack of the 9th of April against the Gahini hospital. At what time,
34 as far as you can remember, did the attack against the Gahini hospital begin?

35 A. The first thing I would like to tell you is that there were two attacks against the Gahini hospital. The one
36 that I took part in is the last. So I am not aware -- I do not know whether you are asking me about the
37 last or the first.

1 Q. I am asking you to tell us what you know, the attack in which you participated.

2 A. I already said that the attack in which I took part started at around 10 a.m.

3 MR. PRESIDENT:

4 Do you know when the first attack started, the one in which you did not take part?

5 THE WITNESS:

6 I do not know, Your Honour.

7 MR. PRESIDENT:

8 Do you know how many people were killed during the first attack?

9 THE WITNESS:

10 Yes, I do.

11 MR. PRESIDENT:

12 How many?

13 THE WITNESS:

14 Eight people were killed.

15 MR. PRESIDENT:

16 How do you know that?

17 THE WITNESS:

18 I came to know that when we came during the second attack. At the hospital, their corpses were laying
19 on the path near the hospital fence, so we passed by their corpses before we could reach the hospital.

20 MR. PRESIDENT:

21 So you saw eight corpses there? You saw eight corpses there?

22 THE WITNESS:

23 Yes, Your Honour.

24 BY MR. VERCKEN:

25 Q. So you started your attack from 10 o'clock. How many attackers were you? How many attackers were
26 there during that assault which started at 10 o'clock?

27 A. We were very many people in that attack. And even the people who were involved in the first attack
28 were still there, so we all were together from all directions. I would only give you an estimate. I think
29 we were about a thousand people.

30 Q. Those who were present during the first attack and the second wave of attackers, your estimate
31 includes all these attackers, that is, the attackers of the first phase and the attackers of the second
32 wave?

33 A. The estimate I am giving you is the one of the attackers that I saw, but even the first -- the people who
34 took part in the first attack were still there, and I came (*unintelligible*) back in the second attack. I
35 estimate I am making -- it's just an estimate as you would understand -- even people from other
36 *secteurs* like Kirenge (*phonetic*) and Rukara had come. So there were many people.

37 Q. I perfectly understand, Witness. I am asking you whether your estimate is based on the number of

- 1 people who participated, who arrived at the same time as you did to carry out the second attack, or
2 whether your estimate is a general estimate which concerns the totality of all assailants who were there
3 at that time, including the attackers of the first attack.
- 4 A. That estimate includes even the first attackers, the people who took part in the first attack.
- 5 Q. Very well. When you arrived to carry out the second attack, you met (*sic*) a hospital which had already
6 been attacked. Is that correct?
- 7 A. Yes, that's correct.
- 8 Q. Already there were attackers who were inside the hospital; is that correct?
- 9 A. There were no -- inside the compound they were not there anymore, inside the compound.
- 10 Q. Had they withdrawn, or is it that they had never entered the hospital?
- 11 A. They had entered the compound because the people who were killed were all taken out of the
12 compound. But I told you that after the attack they went to Akabeza and then they came back with us
13 during the second attack.
- 14 Q. Very well. During the second attack which started at 10 o'clock according to you, at what time,
15 according to your estimation, do you think Mr. Mpambara intervened?
- 16 A. As I said, the attack began around 10 a.m. I cannot know how much time elapsed, so I estimated. I
17 said this happened around 10 a.m. That's when we tried to take out -- people out. So it was around
18 ten that that was done, the attack where we tried to take people out of the hospital.
- 19 Q. At what time did Mr. Mpambara intervene?
- 20 A. I did not have a watch. I was not counting or checking time. I am just estimating.
- 21 Q. What is your estimate?
- 22 A. I do not understand exactly what you want to know. If someone tells you around ten. I did not have a
23 watch to check and say it is a quarter past ten. For us Rwandans that's how we estimate time. We say
24 around ten, around twelve. I cannot give the exact time. I did not have a watch.
- 25 Q. Witness, are you saying that Mr. Mpambara intervened at 10 o'clock?
- 26 A. Not exactly at ten. I just mean about that time, about ten, not exactly at ten. It might have been ten
27 past ten, a quarter past ten. I cannot give you the exact time.
- 28 Q. Was Mr. Mpambara present when you started the second attack?
- 29 A. We started the second attack after his departure.
- 30 Q. You just said that he arrived after, so I do not understand. Mr. Mpambara intervened, then the second
31 attack started; is that what you are saying today?
- 32 A. No, that's not what I said. If you followed what I said before, I said that we were at Akabeza after the
33 first attack, but we came to know that some survivors were still in Gahini hospital and that they might be
34 evacuated. And so we decided that we would go there, and when we arrived there Mpambara also
35 arrived. I told you that it was around 10 a.m. I told you how he talked to Ruvugo -- Bosco Butera and
36 Ruvugo, and how he talked with Nkurayija, the administrator of the hospital, how he talked with people
37 who were heads of the wards in the hospital. And he informed them, he told them they should tell the

1 Tutsis to come out of the wards, and they were meant to sit in front of -- in the grass compound in
2 front of -- near the flagpole. I told you how some of them were put in vehicles --

3 Q. We are going to come to that later on.

4

5 So I should understand that -- or, rather, I take it that the episode you just mentioned during which
6 Mr. Mpambara, as you said this morning, he beckoned Butera and later on Jean-Baptiste Nkurayija, this
7 episode is one that you placed between the two attacks; is that correct?

8 A. Yes, that happened between the two attacks.

9 Q. I thought that between the two attacks you were at the Akabeza centre; is that right?

10 A. How can we attack the hospital if we remain at Akabeza?

11

12 Let me explain if you did not understand. After the first attack I went to -- that's when I arrived at
13 Akabeza. I found people still gathered there, and it was said there are still some Tutsis remaining in the
14 Gahini hospital, so we all decided to go. That's the second attack. And when we arrived, we did not kill
15 anyone, but, rather, some people were taken out of the hospital. Some were taken to Karubamba,
16 others remained behind. We returned to Akabeza, and then, after, that's when we made the second
17 attack proper.

18 Q. The attackers with whom you were during that interval between the two attacks, how many of them
19 were there with you? The assailants or attackers went into the hospital but did not carry out any attack;
20 is that correct? They came back to count the corpses, give shelter to people, then they withdrew in
21 order to launch the second attack; is that correct?

22 A. I think you are just trying me too much. I cannot know the exact number. In Kinyarwanda, I said there
23 were very many. I told you there were about a thousand attackers. I think that is the estimate you
24 should keep. We were not counting people from Gahini *secteur*, Kayenzi (*phonetic*), Rukara *secteur*;
25 you cannot know the exact number of people who were involved. It was not easy to do that.

26 Q. Very well. Could you tell the Court where exactly that incident took place; that is, the incident during
27 which Mr. Mpambara beckoned to Thadée and Butera to come to him, at what location specifically?

28 A. Thank you, there is a photo. Page 8. It's on page 8. You see where there are bicycles? There are two
29 bicycles, that is, inside the compound of Gahini hospital. Then you see a flagpole. There is a small
30 road coming from the gate, then you enter. As I am sitting here, when you enter you turn right and then
31 you go round that flag, then you continue towards the maternity ward. So we entered through that gate,
32 and on the left side there is a big space. That's where we are standing with Butera. And you can see,
33 they stood where the second bicycle is, and then they talked after he beckoned to them. And then they
34 came and found him where the second bicycle is, and that's where they stood and talked.

35 Q. Witness, if you consider that the premises of the Gahini hospital is a circle, this main entrance is directly
36 opposite from the other side towards the Akabeza centre. Now, can you tell us, since you were coming
37 from the Akabeza centre, how did you travel from the Akabeza centre to this location. To describe the

1 incident that you mentioned, what was your itinerary?

2 A. Thank you. I do not know if you have reached this place. When you come from Akabeza -- coming
3 from Akabeza, you follow the road, and when you reach the fence where I told you there was -- where
4 the corpses were, near the fence there is a path that comes to the main gate, and that path is still, still
5 exists. That's the path we followed. However, at that time, it was a path, but now a road has been
6 made there; even vehicles can pass there.

7 Q. Was there a path round the perimeter fence of the hospital?

8
9 And I would like to point out to the Court that the Defence has a tape, videotape, of the area
10 surrounding the entire premises of the hospital.

11
12 So, can you tell us whether you skirted the hospital? Did you go round the hospital in order to pass
13 through the hospital, through the -- into the hospital through the main entrance?

14 A. I think, if you have the film you -- you seem, actually, not to know exactly how the place is. I would like
15 to confirm that when you come from Akabeza, there is a path that takes -- that passes by the fence.
16 Coming from Akabeza it is on the right. Now there is a guest house. There is -- they are, rather, staff
17 houses, and there is home of Sezily (*phonetic*), former home of Sezily; then you come to the hospital, to
18 the health centre, then you go down the hill to the lake. It is an old path, and it is still there, but now
19 vehicles can pass there. Maybe you took photos of the wrong place. Me, I know very well the place,
20 that's where I live.

21 Q. In any case, it means that you passed through the route that you have indicated, but not close by the
22 Protestant church, because you can pass through the Protestant church and through the other side that
23 you have indicated, and these are on opposite sides; is that correct?

24 A. The Protestant church is a bit -- is far. It is very far. It is on the left side coming from Akabeza. We
25 took the right side coming from Akabeza, which is a shorter way.

26 Q. Am I to understand Mr. Witness, that the Protestant church is close to the hospital premises?

27 A. That's correct. That's correct.

28 Q. Very well. I want us to be very clear here because I have not quite understood you. The incident
29 during which Jean Mpambara was conversing with Butera, Thadée and Nkurayija, does that take place
30 close to the flagpole in front of the main entrance of the Gahini hospital? Is that what you said?

31 A. What don't you understand?

32 Q. I do not understand the explanations that you have given. I just want some clarification.

33 A. I will explain again. I told you that he came in using the main gate, as appears in this photo. I showed
34 you a small road that he used near the second bicycle. We were around here.

35 THE ENGLISH INTERPRETER:

36 He says the Accused.

37

1 BY MR. VERCKEN:

2 Q. The main entrance of the hospital; is that correct?

3 A. Then immediately he beckoned Butera and Thadée, they took a few steps near where the bicycle is
4 and they had their little chat. Afterwards, Butera and Thadée came back and he called Nkurayija. They
5 talked again, and I have explained what they talked about. Afterwards they asked the heads of wards,
6 asking them to pull out people who were hiding in the hospital, and to -- some people to be taken to
7 Karubamba, and afterwards we left. I have explained that already.

8 Q. How many people came out to sit under the flagpole? And I am talking about the refugees.

9 A. I do not know their number, but I know the number of people who were left behind.

10 Q. And where were you when you were observing that scene?

11 A. I was just standing in front -- in the compound in front of the Gahini hospital.

12 Q. Inside or outside the premises?

13 A. Inside the compound.

14 Q. Were there more than ten people or less than ten people seated under that flagpole?

15 A. What do you mean, Tutsis or the assailants?

16 Q. The Tutsis.

17 A. I told you I do not know the number of the people who were -- who were told to sit there. There were
18 not very many people. I had no reason to count them. But I have told you that the people who
19 remained behind were three.

20 Q. And those who boarded the vehicle, what vehicle was that?

21 A. They left in Mpambara's vehicle, the vehicle which Mpambara had come with.

22 Q. It was about 10 a.m.; is that correct?

23 A. It was about 10 o'clock. If you are saying it was nearly ten, it would be much earlier, but I told you that
24 it was already 10 o'clock, about 10 o'clock.

25 Q. Did you see Mr. Mpambara talk with any white people during that incident?

26 A. There was one white man present, but one could not follow everything that was happening from every
27 moment. I saw one white man called Robert. He was standing here in front of this meeting room. I
28 believe I saw the white man, but I don't know whether he had any conversation with Mpambara.

29 Q. Were there any other vehicles parked in front of the hospital, that is, other than Mr. Mpambara's
30 vehicle?

31 A. Yes, there was some.

32 Q. Do you remember the number?

33 A. I believe there were three.

34 Q. That is in addition to Mr. Mpambara's vehicle?

35 A. Yes.

36 Q. Mr. Witness, on the 27th of April 1999, you were interviewed by the officers of the prosecutor's office in
37 Kibungo; is that correct?

1 A. I do not remember the date.

2 MR. VERCKEN:

3 Well, Mr. President, Your Honours, the Prosecutor, I am referring to the document entitled *pro justitia*,
4 27th April 1999, Celestin Sibimana, IPJ from the Prosecutor's office in Kibungo.

5 BY MR. VERCKEN:

6 Q. In this document -- perhaps you want to see that statement, Mr. Witness, I do not know.

7 A. No problem.

8 Q. In that statement you frequently mention Mr. Butera. Do you know whether Mr. Butera was a former
9 soldier or a former policeman?

10 A. Jean Bosco Butera, Jean Bosco had been a *conseiller* of Gahini *secteur*. I am not very sure, but I think
11 he had been a *communal* policeman. I do not know whether he was a soldier at any time.

12 Q. So, you have to add his name to the list that you gave a short while ago, that is, the list of attackers who
13 were former soldiers or former policemen. And I would like to recall that you gave six names that day:
14 Ruvugo, Bosco, Mutsinzi, François Rudacyahwa, Kanifu, Shyaka, and Gilbert Rutaremara, I believe.

15 A. I did not mention people who had been policemen. I mentioned people who had been soldiers. I never
16 mentioned people who had been policemen.

17 Q. To your knowledge, amongst the people who participated in the attacks, was there a category that you
18 could refer to as a category of former policemen, which would include Mr. Butera and perhaps others?

19 A. There is no such a list of people who had been policemen. And the fact that he was a policeman is
20 rather immaterial, because his responsibility then was *conseiller* of Gahini *secteur*. I don't think I
21 mentioned any such a group of policemen.

22 Q. Well, that was exactly the point of my question.

23

24 Now, let us move forward. When you were interviewed by the investigators of the ICTR at the very
25 beginning of your statement -- and I am going to read the French translation of this statement bearing
26 the dates 15th November 2003 and November 2004 -- at the time Jean Bosco Butera was the
27 *conseiller* of the Gahini *secteur*. At the time that Jean Mpambara became the *bourgmestre* of Rukara,
28 Jean Bosco had already been *conseiller* of the Gahini *secteur* for a long time. Do you know since when
29 Mr. Butera had been *conseiller* of the Gahini *secteur*?

30 A. I do not remember for how long he had been *conseiller*. I think the person who appointed him
31 *conseiller* was Munyazogeye, who removed him from the police force and appointed him the *conseiller*.
32 I cannot remember the exact year when this was done.

33 Q. Do you know in which year Mr. Mpambara became *bourgmestre* of Rukara?

34 A. I do not remember the year.

35 Q. In your opinion, what was Mr. Butera like, what was his character, how would you describe him?

36 MR. VERCKEN:

37 That is an open question, Madam Prosecutor.

1 MR. PRESIDENT:

2 No. No, you can't ask that question. We are not interested in his opinion about other people. We are
3 interested in facts.

4 MR. VERCKEN:

5 You will see later that that is probably of interest to you, Mr. President.

6 MR. PRESIDENT:

7 Well, when we come to it, we will see, but right now we don't allow that question.

8 MR. VERCKEN:

9 Unfortunately, that time may come when this witness is no longer with us. Well, there will be others.

10 MR. PRESIDENT:

11 Will you move on, please.

12 MR. VERCKEN:

13 Very well, Mr. President.

14 BY MR. VERCKEN:

15 Q. During your statements to Rwandan jurisdictions, and during your written statements, and your
16 testimony here this morning, you mentioned former soldiers as leaders of attacks. Would I be correct in
17 saying that the role of those former soldiers was important in the organisation of the attackers?

18 A. I don't know what you mean by many. Maybe the number was big, but, yes, they had a role in that.
19 You are a civilian. You know, when a civilian goes with an army guy in an attack, you feel very
20 encouraged. I told you how it was impossible to attack Janvier's home, and these former soldiers
21 assisted us; so, I believe, yes, their role was important.

22 Q. That is exactly what I wished to know, Mr. Witness.

23
24 During your testimony in front of Rwandan jurisdictions, and specifically in this *pro justitia* of 1999, you
25 stated that your participation in the three attacks, which you admit to having participated in, were not
26 really voluntary. At that time, and I am referring here to page 1, in answer to the third question, you
27 said that, "They ordered me to collect grass and to burn the house of Gacinya." And on the last
28 paragraph of that same page you say that, "Ruvugo had said that we had to go and fetch the objects at
29 Twamugabo's house." And on page 2, in answer to the second question on this page, you said that, "I
30 accompanied the attackers, even though I was not convinced."

31
32 Can you explain how you were persuaded or compelled to participate in these attacks?

33 A. Thank you, you have asked me a nice, a good question. This is what happens in the procedure of
34 confession and guilty plea. This is the normal procedure, and I would like to explain, Mr. President, if
35 you allow me.

36 THE ENGLISH INTERPRETER:

37 Defence counsel would like the answer to be repeated. Apparently, he has problems with his headset.

1 BY MR. VERCKEN:

2 Q. Or, perhaps, Mr. Witness, you could repeat. I did not hear your answer.

3 A. I was thanking you for asking me a good question, and I would like to ask the President to explain the
4 procedure about confession and guilty plea. That is why I explained the way I did in this confession.

5
6 In fact, when the system of confession and guilty plea started, we were not – well, we did not
7 understand well the system, and it was not easy to understand what was happening. Some people
8 were very scared and they were scaring us saying, “If you confess to your guilt, you will have a lot of
9 problems.” So we were trying to find -- to confess to a minimum of acts. We were trying to plead
10 innocence. We were actually not telling the truth. That's why I said I was being led -- I was being
11 misled. I was trying to go into the third category, and that third category was for people who did not kill
12 actually, the people who were escorting others but who had not actually committed those crimes. And it
13 was in that context that I made this confession. But as I understood further the system of confessions,
14 then I started telling the truth and to spill out everything.

15 MR. PRESIDENT:

16 So, in the course of these interviews, you were trying to minimise the extent of your own involvement in
17 these killings?

18 THE WITNESS:

19 Yes, that's right.

20 MR. PRESIDENT:

21 And some untruths and some half-truths; would that be the position?

22 THE WITNESS:

23 There were no lies, but there were half-truths.

24 MR. VERCKEN:

25 Thank you, Mr. President.

26 BY MR. VERCKEN:

27 Q. Still with regard to the statement of 27th April 1999 --

28 MS. MOBBERLEY:

29 Your Honours, can I just intercede briefly. At the moment there are no difficulties, but this material was
30 dealt with in a closed session.

31 MR. PRESIDENT:

32 Have we breached in any way?

33 MS. MOBBERLEY:

34 No, sir, but I am just raising it as an indicator at this point.

35 MR. PRESIDENT:

36 Yes, will you bear that in mind, Mr. Vercken? Don't jeopardise the security of this witness.

37

1 MR. VERCKEN:

2 Very well, Mr. President, I will be careful.

3 BY MR. VERCKEN:

4 Q. In this statement of 27 April 1999, a statement given to the office of the prosecutor of Kibungo, you
5 described your arrival in Gahini hospital, and this is what you said. This is on page 2 of the French
6 translation, also page 2 on the English version. This -- in the French version it is found roughly in the
7 middle of the bottom of that page -- rather, in the middle of the second part of the page towards the
8 bottom: "When we arrived at the hospital, some of us jumped over the fence to enter and found
9 themselves fighting with the sergeant, Ruhiguri, who was protecting the place. Ruhiguri fired in the air,
10 but the people continued to infiltrate, to finally enter, and chase them out." Who is Ruhiguri? Because
11 in this testimony -- this is my translation -- we have Ruhiguri. Who is this Ruhiguri?

12 A. Brigadier (*sic*) was the chief of the *communal* police in Rukara *commune*.

13 Q. He is also the one described as Ruhiguri, with "I" at the end of the name. Is that the same person?

14 A. Yes.

15 MS. MOBBERLEY:

16 Do you mind if we pause for a moment. I am not able to hear the witness's answers. Both of my
17 headsets seem to have collapsed. Thank you.

18 MR. VERCKEN:

19 Counsel, would you want me to repeat a question?

20 MS. MOBBERLEY:

21 The last question, please.

22 MR. VERCKEN:

23 I was asking the witness whether the person designated as Ruhiguri, with an "E" at the end of the
24 name, in the statement of 27th April 1999 to the prosecutor's office at Kibungo, is the same person as
25 the person designated as Ruhiguri with an "I" at the end of the name in this trial.

26 THE WITNESS:

27 He is the same person.

28 BY MR. VERCKEN:

29 Q. In this version, Witness -- and I understand this to be a version -- Sergeant Ruhiguri was fighting to
30 defend the hospital; is that correct?

31 A. No.

32 Q. In this version -- I repeat my question: In this version, in 1999, you said that Sergeant Ruhiguri was
33 fighting against attackers.

34 A. No.

35 Q. I will read to you the text: "When we arrived at the hospital, some of us jumped over the fence to enter
36 and found themselves fighting with the sergeant, Ruhiguri, who was protecting the place. Ruhiguri fired
37 in the air, but the people continued to infiltrate."

1 A. But, in your opinion, Ruhiguri, who had the gun, the rifle, did he shoot anybody? Maybe it's a problem
2 of interpretation. What do you think here the word "fighting" means?

3 Q. I have the impression that Mr. Ruhiguri, whom you define in this answer as someone who was
4 protecting the hospital, was facing some of the attackers who jumped over the fence. I also have the
5 impression that Ruhiguri, who was there to protect the place, shot in the air. But you are saying that
6 people continued infiltrating and that, finally, they were able to enter. That is what I read.

7 A. There is something -- I don't agree with the person who translated this. The word "fighting," actually,
8 the reference was made to the security of the buildings, not the security of the people, and there was no
9 fighting. There is no proof that there was any fighting at all. Nobody was injured, nor did anyone injure
10 him. There was no fighting. I know he fired in the air so that we can get in, and we had -- this was
11 according to plan. The security he was concerned with was the security of buildings. And that's what
12 happened, no single door was broken, no window was broken. So he was not concerned with the
13 safety of people and there was no fighting. There is no proof whatsoever that there was any fight. I
14 think, therefore, that if you could get the Kinyarwanda version, matters would be clearer.

15 MR. PRESIDENT:

16 Yes. Well, it is there, isn't it, but you can't read it.

17 THE ENGLISH INTERPRETER:

18 The President's microphone, please.

19 MR. PRESIDENT:

20 Yes. The Kinyarwanda version is there, but you can't read it. Is that correct?

21
22 Maybe -- can you go to the appropriate answer that you are dealing with now, and it may be possible
23 for the interpreters to then interpret, read and interpret it.

24
25 Have you got the Kinyarwanda version there? Well, can somebody give him P. 5? P. 5. You've got
26 P. 5 there now?

27 THE WITNESS:

28 Is it this?

29 MR. PRESIDENT:

30 Mr. Matemanga, can you help him get to that?

31
32 Now, Witness, have you found that answer beginning, "On the following day 9th April '94" in the
33 Kinyarwanda version? Have you found that?

34 THE WITNESS:

35 I have found it.

36 MR. PRESIDENT:

37 Well, just read it so it can be interpreted. Just read it out loudly.

1 THE WITNESS:

2 The question is, "What can you tell us about the death of these people?" The answer is, "We reached
3 the hospital. Some people jumped over its fence. There was some kind of scuffle. The chief of police
4 was protecting it, and people wanted to enter. Ruhiguri shot in the air, but people managed to enter.
5 They entered the building and pulled out the people. Mukaragwiza was cut to pieces near the -- and
6 Muhukira was also killed near the meeting room.

7 MR. PRESIDENT:

8 So it seems the word "fighting" is not there. The appropriate word is scuffle, which may be different
9 from fighting.

10 MR. VERCKEN:

11 Very well. What is of importance to me is to know in this statement what the role of -- Mr. Ruhiguri's
12 role was, his role as described by the witness. And it seems to me that following the reading of the
13 Kinyarwanda text, as translated live here by the interpreters, it is clear that Sergeant Ruhiguri was
14 protecting the place and was opposed to the assailants entering the premises of the hospital.

15 THE WITNESS:

16 In fact, the police chief was there.

17 BY MR. VERCKEN:

18 Q. For the time being, my question is related to the statement you gave at the time. We will come later on
19 to what you said, if you please.

20
21 Do you agree with me that at that time -- I did not say something else -- at that time, that is, in
22 April 1999, you described Brigadier Ruhiguri as one who was protecting the hospital premises from
23 attacks, at least, from that attack, to be more precise?

24 A. It's not right.

25 Q. Now, I am going to buttress my case with the second document. Regarding the second document, you
26 would not say that it contains an error of interpretation, you would not say that you did not read that
27 document, Witness, because it is one of your letters of confession. It is the letter out of three that we
28 have. It is the letter dated 17 April 1999. I will read the second paragraph, the paragraph that follows
29 the one in which your identity is mentioned. I will allow the Court to find the document: "On the 9th of
30 April 1994, a group comprising Lieutenant Ruvugo, Thadée, Sergeant Rudacyahwa, and
31 Corporal Kanifu Nzayisenga, came to our area looking for Tutsis. They met us in our homes, and
32 immediately led us to the hospital. When we arrived at the hospital, they entered the hospital.
33 However, an attack had taken place at that place because there were people who had been killed.
34 Subsequently they fought with the security guard of the hospital, namely, Ruhiguri, Janvier. They killed
35 two persons in my presence." Is the text of this letter clearer to you, Witness?

36 A. As I explained earlier --

37

1 MR. PRESIDENT:

2 Just hold it, please.

3 MS. MOBBERLEY:

4 There is a confusion, sir. The uncertified English translation has incorrectly swapped the dates of two
5 of the letters. So, the English version of the letter of the 17th of April '99 -- 1999, actually appears as
6 the English version of the statement dated the 6th of February 2001, and vice versa. So the dates that
7 are attributed to those letters in the English translation should be swapped. And that's why we are
8 looking at the wrong English translation as counsel is reading. So the letter that counsel is referring
9 to --

10 MR. PRESIDENT:

11 Is this part of the Exhibit P. 4 or not?

12 MS. MOBBERLEY:

13 If you will just give me a moment.

14 MR. PRESIDENT:

15 So this letter should be dated, or is dated February the 6th?

16 MS. MOBBERLEY:

17 That's right, sir, and it should be dated the 17th of April. Perhaps I am looking at the other letter. There
18 are two letters, one is dated February the 6th 2001, and one is dated the 17th of April 1999, and the
19 English version puts the wrong dates; it swaps the dates.

20 MR. PRESIDENT:

21 All right, I have got it.

22

23 Have you followed, Mr. Vercken, what's happening? The date of the letter that you have just read is
24 really 6th of February 2001, or is it 17th of April, is it?

25 MS. MOBBERLEY:

26 No --

27 MR. VERCKEN:

28 In reality, apparently -- well, I am confused. I believe the Prosecutor should present the document.

29 They are her documents.

30 JUDGE LATTANZI:

31 I understand that the letter you were reading was precisely a letter of 17th April 1999. The only
32 question, if my understanding is correct, is that the translation in English is not the proper translation.
33 That is found -- the translation is found in the letter which is now dated 6th February, and which in the
34 English version should be dated 17th April 1999.

35

36 So I believe all we have to do is make the necessary corrections by changing the pages.

37

1 MS. MOBBERLEY:

2 That's correct, madam.

3 JUDGE LATTANZI:

4 Thank you.

5 BY MR. VERCKEN:

6 Q. Witness --

7 MR. VERCKEN:

8 Mr. President, can I continue?

9 MR. PRESIDENT:

10 Yes.

11 MR. VERCKEN:

12 Or how do you want me to proceed?

13 MR. PRESIDENT:

14 Well, I think you should continue with -- because the substance of what you are putting is not altered, is
15 it? You were putting an account that doesn't quite tally with what he's been saying here (*inaudible*).

16 MR. VERCKEN:

17 I thank you, Mr. President.

18 BY MR. VERCKEN:

19 Q. In this letter which -- or, rather, which should be dated as 17th April 1999, Witness, you said that, "The
20 assailants fought with the security guard of the hospital whose name was Ruhiguri, Janvier." In this
21 letter, which you wrote with your own hand, you confirm your version in 1999. And, in my opinion, that
22 is the version you also gave to the IPJ of the Prosecutor's office in Kibungo a few days later on,
23 because you wrote this letter of confession on the 17th of April 1999. And ten days later on, that is, on
24 the 27th of April, you were questioned by the IPJ of Kibungo. Is that correct, Witness?

25 A. If you can repeat?

26 MR. PRESIDENT:

27 It was a very long question. It might help if you can split it up.

28 MR. VERCKEN:

29 Mr. President, I love long questions. Anyway, I will split it up.

30 BY MR. VERCKEN:

31 Q. Witness, do you agree that in view of this letter of confession dated 17th April 1999, your statement --
32 your *pro justitia* statement of 27th April 1999 clearly defined Mr. Ruhiguri as the security guard of the
33 hospital?

34 A. Let me say yes. But as a person who was in that attack, I should like to specify that he was not -- he
35 was not protecting people.

36 Q. Well, Witness, for the time being, I am seeking to establish what your version was in 1999. I have
37 already told you what you said in 1999. Do we agree -- or, rather, we agree that in your statement of

1 1999 you define Brigadier Ruhiguri, or designated him as a security guard within the hospital premises
2 who fought against the assailants, yes or no?

3 A. That's correct. But we should explain that there is a difference between protecting the hospital and
4 protecting the people. I know what I meant.

5 Q. Of course, Witness. I am certain that everyone here can make the difference.

6
7 Now, I will move on to your second version, the version which appears, in particular, in the written
8 statement -- witness written statement given to the investigators of the OTP which bears two dates,
9 15 November 2003 and, I think, 9 November 2004. For your satisfaction, I hope, Witness, I will now
10 read your version during this interview, or interviews, because there were several interviews,
11 apparently.

12
13 This is what I have in the French version. I am referring to page 2 of the French version. This is at the
14 bottom of the text of the statement you gave to the OTP of the ICTR. I start, "On the 9th of April 1994,
15 other militiamen, Hutu militiamen and myself, we went to Gahini hospital under the leadership of
16 Jean Bosco Gitaram (*sic*). We immediately started the attack. When Mpambara arrived, he saw that a
17 few people had already been killed. He was accompanied by Brigadier Ruhiguri, and after his
18 departure, the brigadier gave us the order to be on alert because he was going to shoot in the air for the
19 first time in order to give us the signal to enter the hospital, and that he would shoot a second time to
20 give the go-ahead for the killings to start; that he was going to shoot a third time in the air to indicate
21 that we had to leave the hospital. He also said that the gunshots fired into the air would be used -- or,
22 rather, would be helpful in causing confusion among people because the people would think that the
23 gunshots was an exchange of gunfire between the government forces and the RPF."

24
25 Is this a reflection of what you -- what I just read, is it a reflection of what you have before you?

26 A. That's not the way I consider it. I would like to give some explanation, if you allow me.

27 (*Pages 21 to 40 by Judith Baverstock*)

28
29
30
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32
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34
35
36
37

1 1300H

2 MR. PRESIDENT:

3 Could you tell us if you told the investigators what has just been read to you and as set forth in that
4 statement which was taken on the 15th and -- of November 2003 and the 9th of November 2004? Did
5 you say that to the Prosecutor?

6 THE WITNESS:

7 I stated it.

8 BY MR. VERCKEN:

9 Q. Witness, I would like to know whether this statement which has just been read to you corresponds to
10 what you describe as the truth?

11 A. The statement just read to me, yes, was made by myself. I was telling the -- the investigators of the
12 Tribunal. But considering the different files, sometimes they came to our homes and found us tired,
13 someone might be sick, and they start asking you questions. Sometimes you give answers just to get
14 rid of them. Sometimes when they read out the text to you and they found mistakes, you could even let
15 their mistakes stay -- remain in the text. There was no way of concentrating and focussing on what you
16 were saying. You could not remember whether the police chief had come with a *bourgmestre*. You
17 know, what happened during genocide is a very long story, and it requires a certain focussing to be
18 able to remember that. It's not just something you can say -- you know, that's why there are some
19 mistakes.

20
21 But regarding the shooting in there three times, you see, I think, yes, there were some gunshots, but
22 the gunshots were done at the same time. It was not one at a time. The first time, the second time, the
23 third time, well, it was not a long time. We spent about one hour there, and, you know, what I stated
24 there was something that was not really well considered. I did not have enough time to think about it
25 and focus on what was being said.

26 MR. PRESIDENT:

27 Obviously, Mr. Vercken, you're going to be some time with this witness and it's five past one. It may be
28 a good time to have something to eat.

29 MR. VERCKEN:

30 Mr. President, if you want us to take a break, well --

31 MR. PRESIDENT:

32 Would you rather finish off this subject or come back to it?

33 MR. VERCKEN:

34 Of course, Mr. President. I would rather we went for lunch.

35 MR. PRESIDENT:

36 Yeah, just for planning purposes, could you give us some indication of how much more time you need
37 to complete the cross-examination?

1 MR. VERCKEN:

2 It will all depend on the answers given by the witness. As you may have understood, his answers seem
3 to differ depending on the circumstances, on the site, the state of his mind, and whether he feels
4 comfortable or not. So, indeed, I cannot tell you exactly how long it will take. I still have a few
5 questions to put to him.

6 MR. PRESIDENT:

7 No, I wasn't seeking an exact time frame. I was merely seeking an estimate, which is always possible
8 to give for any counsel conducting a cross-examination. But if you can't, so we'll leave it at that.

9 MR. VERCKEN:

10 Mr. President, I would tell you that I need about maybe one and a half more hours.

11 MR. PRESIDENT:

12 Good. So the Prosecution should have the next witness ready.

13
14 There is one other matter that I think we should raise. There is now a motion by the Prosecution to
15 delete a number of witnesses from their witness list and to add a new witness. And since we are all
16 trying to get through this trial as efficiently as we can, it might be useful to know at this stage how the
17 parties propose to deal with this application. Does the Defence wish to file a written response to this
18 application, or do you wish to deal with it in an oral hearing?

19 MR. VERCKEN:

20 In fact, we would like to prepare a written answer, Mr. President. And if need be, we could support our
21 written submissions with oral arguments.

22 MR. PRESIDENT:

23 And I think you have five days to file the written submissions under the rules. Is that right,
24 Mr. Karegyesa?

25 MR. KAREGYESA:

26 Under the rules, Your Honours, the motions that are labelled "extremely urgent" are normally disposed
27 of within 48 hours. And we just wish to underscore that whichever outcome will impact on current
28 preparations and witness movement, so we're wondering whether Defence would oblige so that we just
29 argue it orally at a time convenient, maybe by close of business today, because the -- the witnesses
30 who are supposed to travel here, I believe, on Friday, who are amongst five that we propose to drop,
31 it's a big logistical operation picking them from wherever they are and delivering them to Kigali to catch
32 the Friday flight. So if, with your indulgence, this matter could be heard maybe later today or first thing
33 tomorrow morning. Most obliged.

34 MR. PRESIDENT:

35 Yes. How do you feel with that? Perhaps first thing tomorrow morning, is that --

36 MR. COURCELLE LABROUSSE:

37 For our part, Mr. President, we would like to have the same time as the Prosecutor in order to prepare

1 that strategy, I would say. To summarise, the Prosecutor proposes, and that is at the end of her
2 motion, proposes a sort of exchange. The Prosecutor would drop five witnesses from her list, and we
3 have been working on those witnesses, I wouldn't say for several years, but at least for some time, and
4 now we're going to be having new witnesses who would be arriving on the 17th of September. We do
5 not have any information on those witnesses. We are discovering those witnesses -- or, rather, their
6 statements. And in the final analysis -- and that's why I do not understand quite well the Prosecution's
7 logic. In the final analysis, the five witnesses, the pseudonyms I've just been given, they are not very
8 important says the Prosecution, because we can do without them, but we are told that new witnesses
9 are coming to testify on other matters. Therefore, we would like to respond in writing to these matters.
10 And there is no urgency. And if the Prosecutor thinks that he doesn't need those witnesses, well, then
11 they can be dropped from her -- her list.

12 MR. KAREGYESA:

13 My learned friend's response seems to narrow down the issues for determination by the Chamber. It
14 would appear the Defence doesn't have any objection to dropping the five witnesses, and the only issue
15 is the additional witness. And if I may advise that it's not two witnesses we seek to add, but only one,
16 although, we did make two disclosures.

17
18 But besides that, the director for registry advises that motions that are extremely urgent, especially
19 when the parties are around, should be heard within 48 hours. Where parties aren't around, there's
20 even provision for teleconferencing. And as I said, because it impacts on witness travel preparations
21 and the tight scheduling of this window for the Prosecution case, we would be obliged if this matter was
22 heard as soon as possible. Most obliged.

23 MR. PRESIDENT:

24 Obviously, this is an urgent motion, and I think the rules provide for an early disposal, so we will hear it
25 first thing tomorrow morning. And we'll be obliged if you could help us by filing written submissions, and
26 you can speak to your submissions at the oral hearing. Is that acceptable?

27 MR. COURCELLE LABROUSSE:

28 At what time are we going to prepare our written submissions, between 3 a.m. in the morning and 5
29 a.m. in the morning? There are also witnesses to be heard, so I think we have to prepare the
30 witnesses, and we do not have the same number of staff as the OTP.

31 MR. PRESIDENT:

32 Yes, well, we sympathise with you, but obviously this is the kind of motion that has to be heard properly,
33 and what time you prepare your submissions is your business. I've just indicated to you that we will
34 hear it tomorrow morning.

35

36 We'll take the lunch break now.

37 *(Court recessed from 1312H to 1445H)*

1 MR. PRESIDENT:

2 Yes, Mr. Vercken, you can continue your cross-examination.

3 MR. VERCKEN:

4 Thank you, Mr. President.

5 BY MR. VERCKEN:

6 Q. In order for us to resume smoothly, I would like to recall that before we broke up at 1 p.m., I was asking
7 you about the progress of your testimony --

8 MR. PRESIDENT:

9 Sorry, I've lost you. Can you start all over again, please. Please, I missed all that.

10 MR. VERCKEN:

11 I will repeat, Mr. President.

12 BY MR. VERCKEN:

13 Q. I was saying that in order to resume the cross-examination smoothly, I would like to recall to the Court
14 that before we broke up at 1:00, I was putting questions to you concerning your -- the progress of your
15 successive statement concerning the 9th of April 1994, and more specifically, the arrival of attackers
16 around the hospital, which included you, and your meeting with Mr. Ruhiguri. We saw the brigadier --
17 the brigadier and we saw that, first of all, you described him as someone who was protecting the
18 hospital, and secondly, as an accomplice who issue instructions.

19

20 I am not done yet with this progress because under your control, Mr. President (*sic*), I noted that after
21 having changed your testimony in -- on that point on several occasions, for reasons that you gave
22 yesterday, you continued to add details. In particular, this morning you added another detail concerning
23 this specific point. Thus, during your examination by the representative of the Prosecutor, you
24 answered to the question as to whether there was another policeman or gendarme apart from
25 Janvier Ruhiguri. You answered by saying that indeed Ruhiguri was the one who came -- who came
26 and went with Mpambara, but there were gendarmes who were at the hospital, at the Gahini hospital
27 and to move about with Ruhiguri. The Prosecutor then asked you why they were at the Gahini hospital,
28 and your answer was that there were gendarmes who were with Ruhiguri and who were giving
29 instructions. You were asked whether the directives came from the two gendarmes, and your answer
30 was yes.

31

32 Now, I would like to ask the following question: Mr. Witness, why that addition and do you think that so
33 far you've said everything you know on this matter, or should we continue to put questions to you in
34 order to know exactly what happened.

35 A. Thank you. You said a lot of things and there was a mix-up. Certain things I didn't say. You come
36 back on the idea of guarding the hospital. It was my idea. I knew what I wanted to say. You cannot
37 make me believe that the guarding was for -- for the Tutsis, no. I really meant to guard the houses, the

1 drugs, and the hospital buildings, like he told us, when he was giving us a sign to enter the hospital so
2 that we may not spoil the infrastructure. And I was saying that guarding the hospital is different from
3 guarding the Tutsis. What is clear is that the design was to protect the hospital infrastructure. What I
4 wanted to emphasise was that Ruhiguri was not guarding human beings, rather than the hospital
5 infrastructure, the house and to stop people from looting like we were looting left and right. The other
6 idea was that I said that Ruhiguri was going with the *bourgmestre* to and fro, I never said that. What I
7 said was that Ruhiguri was with the *bourgmestre* near the car on the 9th of April 1994. I explained and
8 said that it depended on how we were being asked questions. These are stories we couldn't memorise
9 and – because we didn't know that we would come and tell the same story later. So it was not easy to
10 keep remembering such stories. And the times also has played a role in this history. And I would say
11 that he wasn't with Jean Mpambara on that date. He – what I could say is that Ruhiguri was at the
12 hospital and that he shot in the air.

13 Q. Tell me, Mr. Witness, when he was fighting with the attackers who were attacking the hospital,
14 Mr. Ruhiguri, I mean, how could the attackers make a difference between the protection of property and
15 the protection of persons?

16 A. Please don't use that idea of fighting again, because there was no fighting whatsoever between him
17 and the attackers. And that question of difference between fighting and defending, in 1994 there was a
18 lot of looting. When I talk about spoiling and looting, if you are instructed that don't destroy property but
19 simply kill people, if you don't understand, then it's unfortunate. We were being given instructions, and
20 we executed the instructions as we had been told. We killed people and we left the property intact.

21 Q. In your confessional letter of 17 April 1999, you said something that is completely contrary to what you
22 have just stated, Mr. Witness, and I will refer you to page 2 of the French translation. And that is the
23 only paragraph that we have on page 2 and which I am going to read to you. "In the attack of the
24 hospital, we had the order to loot the medicines." And you have just stated, Witness, that you had
25 orders not to loot. Now, what is the truth?

26 A. What I'm trying to say is that when we reached the hospital, the instructions had been changed, and
27 when we reached there, the instruction was to be disciplined and that the new instruction was given by
28 Ruhiguri.

29 Q. Now, Mr. Witness, concerning the instructions that were given by Ruhiguri, you stated a while ago that
30 according to you, the attackers were made up of about 1,000 people. Can you explain to me, can you
31 tell the Court how Mr. Ruhiguri conveyed the instructions to the 1,000 people, that is, fire shot at the
32 entrance of the hospital, second, gunshot – a second shot meaning people should kill, and a third one
33 meaning people should go out? So how did Mr. Ruhiguri give these instructions to the 1,000 assailants
34 that were surrounding the hospital?

35 A. What I would like to tell you is that the idea or the words that I told the -- the witnesses (*sic*), so that I
36 may simply go, the -- the guns were fired by three people, and we entered, and the noise of the guns
37 made people who were inside the hospital panic, and we could get them. And the manner the

1 instructions were given, in actual fact, that was not a time to give instructions. It was very difficult for
2 anybody to hear. It was enough for him to shout loud and everybody could hear him. And all our
3 leaders, wherever they -- they went, we followed them. Nobody was doing things on his own. Nobody
4 was chasing us. Nobody was fighting us. We had enough time to listen and to perform as we were
5 instructed by our leaders, except if there was some other emergency, otherwise, we would obey the
6 instructions of leaders.

7 Q. I understand what you're saying, Mr. Witness, but that -- but the idea in your statement is to carry out a
8 coded signal, and in order to decipher a message, a code, you need to know the message. You must
9 have received the code beforehand. How did Mr. Ruhiguri make all assailants to know that -- how did
10 he make them know that his first gunshot would be the order to enter the premises and that the second
11 would mean that they should begin killing, and that the second -- the third should mean that they should
12 get out of the premises?

13 A. The shootings, the three shootings, the first and second and third, Counsel, we don't agree upon that. I
14 never accepted that. Maybe you could talk about a shot, a gunshot. As far as message -- passing a
15 message is concerned, we were not in a hurry. Nobody was fighting us. Nobody was pursuing us. We
16 were taking our time, and we are not afraid of anything, to the extent that the message wouldn't pass.
17 That before anybody entered, such a message would be given. It's not the only message. We heard
18 some other messages, and we received them and we took the orders. We had that -- such messages
19 at meetings and elsewhere and we executed whatever was -- was to be done and there was no reason
20 why we couldn't hear the message. We are speaking the same language and it is Kinyarwanda. It's
21 not even a foreign language. So it shouldn't be difficult for anybody to understand the message.

22 Q. You also used the language of gunshots?

23 A. We spoke only one language and that is Kinyarwanda.

24 Q. Yes. I'm sorry, but I -- I'm here to defend Mr. Jean Mpambara that you've come here today to accuse.
25 And I am striving to assess the manner and the statements that you have made regarding him, and I
26 will stick to what you have stated, not before the Rwandan courts because you've made us -- you've
27 told us all you think about it, but I will stick to the statements that you've made to the investigators of the
28 Prosecutor. So what I'm going to read to you now are statements that you have given to the ICTR
29 investigators, and in that those statements you state clearly that, "We began the attack and when
30 Jean Mpambara arrived, he found that a few people had been killed. He was accompanied by the
31 brigadier, Ruhiguri, and after his departure --" and I imagine that you're talking about Mr. Mpambara's
32 departure -- "the brigadier gave us the orders to be alert because he was going to shoot in the air first,
33 to mean that we should enter the hospital." So those instructions you're not saying that you received
34 them beforehand during the meetings. You are not saying that you received them, you know, just by
35 transmission of thought. You said -- you stated exactly when you received it. You said you got the
36 message from Brigadier Ruhiguri. Now I'm going to -- I'm asking you how you received the order
37 because there were 1,000 of you when the attack was in progress. I want to know exactly how you

1 received the orders. I mean, I want to know the reality.

2 A. I'm telling you, but it seems you don't want to understand. I told you that we didn't need an interpreter.
3 We spoke the same language. Nobody was pressing us from behind, to the extent that everybody
4 could hear that. It wasn't the first instruction we got, neither the last. Besides that, Ruhiguri spoke out
5 loud and people heard him, and when there is a large group, one person leads and the others follow.

6 Q. Still in that statement that you gave to the ICTR investigators, you even went further in respect of
7 Ruhiguri. You state that he said even more and that he explained that his idea of the three gunshots
8 was so good, that besides meaning the signal to enter, to massacre, and to leave the hospital, the
9 gunshots were going to make the people that were in the hospital to think. And here I am reading your
10 statement, "He declared that those gunshots --" and that is on the second page. That's the last page of
11 your statement. The last-but-one page of your statement, he said that, that is Mr. Ruhiguri, said that,
12 "The shootings would confuse the people thinking that it was an exchange between the government
13 army and the RPF."

14
15 I am rather taken aback, Mr. Witness, that Mr. Ruhiguri, within the context of such violence, took the
16 time to explain to 1,000 people who speak the same language that not only would there be this code --
17 you don't tell us how the code was communicated to 1,000 people, but then he continues to theorise
18 about the psychology of the three gunshots and the idea that gunshots would be interpreted by the
19 people as being a result of war between the government forces and the RPF. So what I'm surprised is,
20 you know, the circumstances under which Mr. Ruhiguri made such explanations.

21 A. Your Honour, I think counsel is delaying -- wasting a lot of time and is mixing testimonies that were
22 given before and after. An example is that Ruhiguri gave instructions while shooting, but those two
23 followed each other. And what is the -- what comes first, is it the giving of the instructions or the actual
24 shooting? If I'm Ruhiguri and if I say, if you shoot, you do this, is there any message to be given when
25 the message has already passed?

26 Q. Mr. Witness, do you know that the wife of the policeman Ruhiguri was Tutsi?

27 A. Yes, I do. I know.

28 Q. Do you think that with a Tutsi wife that policeman was going to encourage those who were doing the
29 killings?

30 A. Thank you very much for that interesting question. Probably because you never lived in Rwanda that
31 during the genocide and the massacres, and probably because you have very poor background about
32 Rwanda, I would like to explain to this Tribunal that genocide has some, some background. And the
33 point was that genocide was the extermination of the Tutsi race. There is a history whereby children
34 killed mothers, fathers killed children, and children killed fathers because it was in the -- it was
35 genocide. Any Tutsi who existed in that country was killed and only a few might survive -- might have --
36 a few survived.

37

1 What happened in Rwanda was unspeakable to the extent that a woman would kill her husband or vice
2 versa, or a person would kill children because the children have the ethnic background of their mother.
3 There have been lots of testimonies about this genocide.

4 Q. Mr. Witness, do you mean that Mr. Janvier Ruhiguri might have killed his wife?

5 A. I didn't say that. You misunderstood me, but it happened elsewhere, and I would like you to -- I would
6 like to suggest to you that you desist from that idea.

7

8 Your Honour, when I came here I was sick and I tried to -- to continue, but right now I feel very weak
9 and I'm on medication. I wouldn't -- I couldn't even eat my lunch. So I would like to ask for some, some
10 rest from you, Your Honour.

11 MR. PRESIDENT:

12 What sort of break would you like? If we adjourn for a while, would you be able to continue, or are you
13 looking at a longer period of time?

14 THE WITNESS:

15 I think one day will be okay for me because I'm sick. I tried to manage, but right now I feel I'm -- my
16 health is failing, so I don't feel I can continue.

17 MR. PRESIDENT:

18 Ms. Mobberley, is there a history of ill health?

19 MS. MOBBERLEY:

20 I haven't been dealing with that, Your Honour. It'll be a matter for WVSS.

21 MR. PRESIDENT:

22 Do you have any submissions to make? He's asking for an adjournment because he's not well. He
23 wants a day's break.

24 MR. VERCKEN:

25 Mr. President, I don't know what the situation is. Probably we could question the WVSS. I merely
26 recall that yesterday the witness explained to us how he was given good treatment here and how he
27 was feeling well. He said his security was assured, and he didn't tell us that he was sick, but it is
28 possible. I merely want to point out that this is happening at a crucial point of our cross-examination,
29 but if this is the case, well, I will only yield to the decision of the Court.

30 MR. PRESIDENT:

31 Is somebody from the WVSS here? Is anybody here?

32 MR. LEMA:

33 Yes, sir.

34 MR. PRESIDENT:

35 What happens normally? Do you take people like this witness to a doctor straightaway to find out
36 exactly what the position is vis-à-vis his health?

37

1 MR. LEMA:

2 He has been attended by the nurse. Actually, he has already expressed that kind of ill health to us, and
3 I called the nurse directly and she came here to attend him. I think she prescribed some sort of
4 medicine (*inaudible*) to him, and he has already taken it. And I think he can be able to continue that
5 way, Judge.

6 MR. PRESIDENT:

7 I'm sure you're not feeling well, but the point is, are you willing to continue? Are you able to continue?
8 You know, we don't want to compel you to continue. It's a choice. If you're feeling so unwell that you
9 are unable to continue, we will adjourn. But naturally we would like you to continue so that we can get
10 on with the work that is at hand. Is it true that you received some medication earlier?

11 THE WITNESS:

12 It's not only that. I went to the clinic on Monday, and I started taking drugs at -- at noon on Monday. In
13 the evening yesterday I was just managing to -- to come to -- to court, and this afternoon I couldn't even
14 have lunch. And I was given some drug and I feel extremely weak now.

15 MR. PRESIDENT:

16 Well, we propose to stand this witness down until tomorrow morning, and we would ask WVSS to
17 ensure that he's seen to by a doctor and we get a report on the state of his health tomorrow morning.
18 And if the doctor certifies that he's fit to continue to give evidence, we will hear it tomorrow morning.

19
20 But we would not like to lose the rest of the day, and we would suggest that you interpose your next
21 witness, and we will then deal with the situation as it emerges tomorrow morning.

22
23 All right. We are acceding to your request, but we are standing you down only until tomorrow morning,
24 and we will review the situation tomorrow morning based on the medical report that we get. You
25 understand that? Yes. All right. You may --

26 THE WITNESS:

27 Yes, I understand.

28 (*Witness exited courtroom*)

29 MS. MOBBERLEY:

30 Your Honour, I'm just going to need to ask WVSS when the next witness arrives. We had asked for him
31 to be here at 3:30. He may be on his way or close by. So if the registrar wouldn't mind making
32 inquiries with WVSS to find out if the next witness is in the building.

33
34 There is a matter -- a scheduling matter that I'd like to raise before he testifies. I intend the next witness
35 to be led in chief for a very short period of time. I -- it may, indeed, be possible to have his entire
36 testimony concluded by the end of today. I understand from my learned friend that that is possible,
37 although, I'm not placing any preconceptions on the extent of cross-examination. But it's likely that this

1 witness, LEF, will conclude today.

2 MR. PRESIDENT:

3 That's LET?

4 MS. MOBBERLEY:

5 LEF.

6 MR. PRESIDENT:

7 LEF.

8 MS. MOBBERLEY:

9 And there is going to be a change in the order of appearance of the next two witnesses after LEF. The
10 next witness after LEF will be AOK, who will be followed by AOI, followed by LED, and then LEK.

11 MR. COURCELLE LABROUSSE:

12 Mr. President, concerning my cross-examination of the next witness, I intend to do it, but this will
13 depend on the conclusion of the cross-examination of the last witness that has just been stood down. I
14 think it's a bit more complicated, but if the Court grants me leave, I would like to proceed with the
15 cross-examination of Witness LEF only after the conclusion of the cross-examination of Witness AVK
16 who has just left the courtroom.

17 MR. PRESIDENT:

18 Well, let's hear the evidence-in-chief and then we will see how to proceed.

19 MR. COURCELLE LABROUSSE:

20 That is fine.

21 MR. PRESIDENT:

22 Yeah. Your witness is apparently not here, so instead of sitting here and waiting, I think we will just
23 stand this down for 15 minutes, and you can find out what's going on.

24 MS. MOBBERLEY:

25 Yes, Your Honour. Thank you.

26 *(Court recessed from 1521H to 1537H)*

27 MR. PRESIDENT:

28 It is --

29 THE ENGLISH INTERPRETER:

30 Microphone, Mr. President.

31 MR. PRESIDENT:

32 Yes, you can administer the affirmation, Mr. Matemanga.

33 *(Declaration made by Witness LEF in Kinyarwanda)*

34 MR. PRESIDENT:

35 Now, Witness, do you have before you a personal information sheet?

36 THE WITNESS:

37 Yes, Your Honour.

1 MR. PRESIDENT:

2 Have you read it?

3 THE WITNESS:

4 Yes, I have.

5 MR. PRESIDENT:

6 And you've signed it?

7 THE WITNESS:

8 Yes.

9 MR. PRESIDENT:

10 And is the information contained therein accurate?

11 THE WITNESS:

12 Yes, the information therein is correct.

13 MR. PRESIDENT:

14 It's correct. Thank you. What is the exhibit number?

15 THE ENGLISH INTERPRETER:

16 Microphone, sir.

17 MR. PRESIDENT:

18 The exhibit number?

19 MR. MATEMANGA:

20 P. 7.

21 MR. PRESIDENT:

22 P. 7 admitted under seal.

23 *(Exhibit No. P. 7 admitted, under seal)*

24 MS. MOBBERLEY:

25 Thank you, Your Honour.

26 MR. PRESIDENT:

27 Yes. Yes, you may proceed.

28 MS. MOBBERLEY:

29 Thank you, sir. I'd like to begin with a brief closed session for this witness.

30 MR. PRESIDENT:

31 The Chamber is in closed session. If there is anybody in the gallery, please withdraw.

32 *(At this point in the proceedings, a portion of the transcript [pages 52 to 53] was extracted and sealed
33 under separate cover, as the session was heard in camera)*

34 *(Pages 41 to 51 by Sherri Knox)*

35

36

37

1 MR. PRESIDENT:

2 We are now in open session. Witness, henceforth, you must be very careful not to give any
3 information in response to questions which might reveal your identity. Do you understand that?

4 THE WITNESS:

5 Yes, I understand.

6 BY MS. MOBBERLEY:

7 Q. Witness LEF, did you see Jean Mpambara on the 7th of April 1994?

8 A. I saw him.

9 Q. Where did you see him?

10 A. I saw him at the Akabeza centre.

11 Q. Where was he when you first saw him?

12 A. I saw him arrive in his car with two policemen, and he stopped in that Akabeza centre.

13 Q. Approximately what time was it?

14 A. It was between 9 and 10 a.m.

15 Q. Where were you when you saw him?

16 A. I was standing at the -- in that Akabeza centre.

17 Q. Were you alone or were there other people?

18 A. There were other people, but I was a bit -- I was not with -- with that group. I was standing on my
19 own.

20 Q. What did Jean Mpambara do when you -- after you saw him arrive in the vehicle?

21 A. After arriving at the Akabeza centre, he got out of the vehicle, and there were some leaders of the
22 *cellule* and the *secteur* and a few residents. So after getting out of the vehicle, he told those
23 present there, he said that, "I used to think that the people from Gahini were strong, courageous,
24 and how can there be no -- any Tutsi corpses around when the head of state has been killed?"

25 Q. Witness LEF, you've said that there were community leaders at the Akabeza centre. Can you
26 name them?

27 A. There was the head of -- of the *secteur* Butera, Jean Bosco. There was the head of the *cellule*
28 whose name was Kanyamurera. There was another one called Nyagutungwa, as well as
29 Mpambara's secretary; his name was Alphonse Mugiraneza. And other residents from the area
30 were there as well.

31 Q. Can you give us an estimate of the number of residents?

32 A. That morning there were a few, maybe there were about 20, 30. There weren't many.

33 Q. Now, Witness LEF, you've told us what you heard Mpambara say. Who did he say it to?

34 A. He was addressing himself to the *conseiller*, Butera, as well as the other people that were with
35 him.

36 Q. And how did you hear what Mpambara said to Butera?

37 A. I was also at the centre. I was still there, so he said this -- he was telling the people, and he was

- 1 disapproving of what -- of their inaction. He was disapproving that they had not yet done anything.
- 2 Q. Can you be specific about who Mpambara was talking to? You've said he was telling the people.
- 3 You've said he was talking to Butera and the group with him. Who was he speaking to?
- 4 A. He was actually addressing himself at Butera -- *Conseiller* Butera, who was the head of *secteur*,
- 5 as well as the *responsable*, as well as the other residents who were there. So I could say that
- 6 there were only Hutus.
- 7 Q. What did Mpambara do next?
- 8 A. After addressing himself to *Conseiller* Butera and the other people there, he went and entered
- 9 Gacumbitsi's house.
- 10 Q. Did he enter alone or with other people?
- 11 A. When Mpambara entered Gacumbitsi's house, he was alone.
- 12 Q. Was this Gacumbitsi's home or was it a shop?
- 13 A. This was at Gacumbitsi's shop.
- 14 Q. How were you feeling at that time when you saw Mpambara and the others move into
- 15 Gacumbitsi's shop?
- 16 A. I -- I started feeling fear following what had happened, because if a leader who is supposed to
- 17 protect people was now inciting the people to start acts of violence, so I felt very frightened.
- 18 Q. And so what did you do?
- 19 A. After addressing himself to the people there --
- 20 Q. Continue.
- 21 A. So after hearing -- after Mpambara said what he had said, I moved away and I tried to avoid
- 22 Mpambara, and then he entered Gacumbitsi's house.
- 23 Q. And is it at that point that you went into hiding?
- 24 A. That was before I went into hiding.
- 25 Q. So what else did you see before you went into hiding?
- 26 A. After leaving Gacumbitsi's shop, he came out. But before that, when he entered Gacumbitsi's
- 27 shop, *Conseiller* Butera blew a whistle where he was standing, and then the residents came in big
- 28 numbers and surrounded him, and gathered around him.
- 29 Q. What did you see happen next?
- 30 A. *Conseiller* Butera spoke and he said that the father of the nation has died and we have to avenge
- 31 his death.
- 32 Q. What did you do next?
- 33 A. After Mpambara got out of the house, he stayed for a while where Butera was. At that time, I was
- 34 hiding just by the house. I hadn't got to hide into the room. However, I could not hear what they
- 35 spoke, what they said at that time.
- 36 Q. So while you were in hiding, how were you feeling?
- 37 A. I told you that I was very scared because of what I had just heard, that -- said by a leader and

1 what -- I was also frightened by what the head of the *secteur* had just said. So all this frightened
2 me a lot.

3 Q. Did you see Jean Mpambara leave that morning?

4 A. Yes, I saw him leave.

5 Q. Did you see him leave the shop or did you see him leave the premises? Did you see him leave
6 the property?

7 A. From where I was standing, I could not see him get out of the shop. However, I saw him get out of
8 the shop and going in the direction where he had left -- where he had parked his car.

9 Q. I didn't quite understand your answer, Witness. Could you repeat it, please?

10 A. I could not see the door because I was standing by the house, so I saw him crossing, going
11 towards where he had parked his car. And at that time, he had talked to people who had been
12 standing there. There were some residents who had been standing in an area where I could not
13 see, and he had just talked to them.

14 Q. In 1994, did the front of Samson Gacumbitsi's shop have a long veranda?

15 A. It was not a very long veranda. There was a veranda, but on the other side there was another
16 house which was on a higher ground in comparison to the shop.

17 Q. And did you have a clear view of that veranda from where you were hiding?

18 A. No, I could not see the veranda well.

19 Q. Witness LEF, can you tell us what happened or what you saw or heard after Mpambara left
20 Samson Gacumbitsi's commercial premises that morning?

21 A. I will not tell you where I was and how I felt, because this might reveal my identity. However, what
22 I will say is that after his departure, *Conseiller* Butera, Gacumbitsi and Gacumbitsi's wife, Diana;
23 Gacakuri, François, the director the SPEGA (*phonetic*); Nikobahoze, Jean, the head of
24 *Groupe scolaire*, Kanyamurera, Nyantungwa, Alphonse Mugiraneza, Innocent Bagabo,
25 Alfred Gahizi, those people held a meeting in the backyard of Gacumbitsi's shop.

26 Q. Do you know what that meeting was about?

27 A. I tried to overhear some of what was said.

28 Q. What did you hear?

29 A. At first, they had an argument. They were arguing how the killings would be conducted. And
30 some were saying that children and elderly people should be left alone, and they argued about this
31 point, and later on they agreed that they should kill all Tutsis, be it children or elderly people, that
32 all Tutsis should be killed and that anyone who should try to hide any -- a Tutsi would be taken as
33 an enemy. I heard those words with my own ears.

34 Q. Can you tell us what happened next, after that meeting? Did those people leave?

35 A. All the people who were in that meeting left.

36 Q. Now, the people who were in that meeting, did you see them or did you hear their voices? And if
37 so -- well, answer that question. Did you see the people in the meeting or did you just hear their

1 voices?

2 A. I saw them.

3 Q. Witness LEF, do you recall when the RPF arrived in your *commune*?

4 A. Yes, I recall when that happened.

5 Q. And following their arrival, did you go back to Samson Gacumbitsi's commercial premises?

6 A. Yes, I went there.

7 Q. Without telling us why you went there, can you tell us whether you found anything unusual?

8 A. RPF arrived there on the 16th. This is when it captured the Rukara area. They had actually
9 arrived there on the 15th, but -- and on the 17th, which was a Sunday, they evacuated us from the
10 school where we were, and they said we should go and stay in Akabeza centre because across
11 the hill there were ex-government forces that were engaged in the fighting, and they said that they
12 were about to shoot that area. So we went to the centre and when we arrived there, we found
13 Gacumbitsi's shop was locked, and the soldiers shot the door open and then we entered. And
14 there was a big store room because he was a big trader on Gahini area. There was especially
15 rice, sugar, salt. There were soft drinks, as well as beers. And so the soldiers told us to share out
16 all these foodstuff to the population who were very hungry.

17

18 And in so doing, we found two boxes of bullets and we found also many machetes in that
19 storeroom, and then we found the -- a box full of bullets. They took all of those bullets, but when
20 they opened them, we found that there were bullets in those boxes. So we distributed all those
21 foodstuffs to the members of the population until they were finished.

22 Q. Can you clarify one thing for me. I'm not clear in your answer whether the boxes you found were
23 all full or whether some were empty.

24 A. We found two boxes which were sealed, and they were full of bullets. The other boxes that we
25 found there were boxes of soap and other goods for sale. But these boxes of ammunition were
26 just near the many machetes that were there as well.

27 Q. Thank you, Witness LEF. Are you able to move forward in the witness stand or stand up and have
28 a look around the courtroom. Can you see everybody in the courtroom from where you're sitting,
29 or do you need to stand up?

30 A. I can see everyone in the room.

31 Q. Please have a look around and tell me whether you can see Jean Mpambara in this courtroom.

32 A. I can see him. There he is.

33 THE ENGLISH INTERPRETER:

34 The witness pointing to someone in the room.

35 BY MS. MOBBERLEY:

36 Q. Can you describe what he's wearing?

37 A. He's wearing a black suit. He's wearing spectacles. He's wearing also a necktie.

1 Q. Can you see whether he's wearing a shirt or anything underneath his suit, and if so, what colour is
2 it?

3 A. He's wearing a sweater, green sweater with white stripes, a necktie with a white shirt with stripes
4 on the collar of the shirt.

5 MS. MOBBERLEY:

6 Your Honours, is that a sufficient identification?

7 MR. PRESIDENT:

8 Yes, I think it is.

9 MS. MOBBERLEY:

10 Thank you. I have no further questions for the witness, Your Honour.

11 MR. PRESIDENT:

12 Yes, thank you.

13

14 Do you still wish to have this postponed?

15 MR. COURCELLE LABROUSSE:

16 Yes, absolutely, Mr. President. I would like to conclude, if possible, the cross-examination of the
17 witness who left and then we can begin the cross-examination of the gentleman later or after.

18 MR. PRESIDENT:

19 But you've had plenty of notice of the evidence this witness will give, have you not? What's the
20 nexus between this witness and the previous witness? Why do you want this -- why do you want
21 this put off?

22 MR. COURCELLE LABROUSSE:

23 Mr. President, you'll recall, certainly, that the beginning of the testimony of the previous witness
24 dealt with a period that this witness is referring to now. I think, therefore, that it is necessary to
25 conclude the cross-examination of the previous witness on that point, in particular, in order to
26 conduct the cross-examination of this witness, since we're talking about an event that occurred at
27 the same location.

28 MR. PRESIDENT:

29 Yeah, but if you recollect the cross-examination, that particular episode or episodes have already
30 been covered, and your colleague has moved on now to the hospital, and this witness hasn't said
31 a word about the hospital, attack on the hospital. You see, we're not trying to be difficult, but we
32 would like to get on, make efficient use of time, and get things done. You'll appreciate that. We're
33 not just being difficult with you.

34

35 I'm sure you're experienced enough to --

36 MR. COURCELLE LABROUSSE:

37 Absolutely, Mr. President, but we would want to come back to the issue that was -- the issue of the

1 morning of the 7th of April with the previous witness, and that is why this issue was briefly tackled
2 following the -- a long cross -- the long examination on the events that occurred at the hospital.

3 MR. PRESIDENT:

4 Does the Prosecution have any submissions on this issue?

5 MS. MOBBERLEY:

6 Well, Your Honour, there is no circumstance, as I understand it, in which the evidence of another
7 witness can be put to this witness to comment on. We have a very limited testimony on a very
8 limited event. It seems to me that it is a matter that can be proceeded on. Counsel are doing
9 alternative witnesses. It's not that they're presenting witness after witness themselves. Perhaps
10 this could tidily be dealt with this afternoon.

11 *(Pages 54 to 59 by Sherri Knox)*

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1 1615H

2 MR. PRESIDENT:

3 As well, we have considered this application. We think it's without merit. The case must proceed
4 smoothly and efficiently, and in the interests of efficiency, we disallow the application and would like the
5 cross-examination to start.

6 MR. COURCELLE LABROUSSE:

7 Thank you, Mr. President.

8 CROSS-EXAMINATION

9 BY MR. COURCELLE LABROUSSE:

10 Q. Mr. Witness, can you say at what time you got to the market -- to the Akabeza market on
11 the 7th of April?

12 A. Thank you. I arrived there around 3 a.m.

13 MS. MOBBERLEY:

14 Could we just have a clarification on that answer. I have two different versions, from where I'm sitting.

15 MR. PRESIDENT:

16 Could you repeat your answer? Is it the answer that is causing the problem or the question?

17 MS. MOBBERLEY:

18 The question is fine. If the witness could just repeat his answer.

19 MR. PRESIDENT:

20 Yes, could you -- Witness, could you kindly repeat your answer to that previous question?

21 THE WITNESS:

22 I was asked the time when I got to the Akabeza centre, and I said it was between nine.

23 MR. PRESIDENT:

24 Yes, we didn't hear the answer. Between nine and what?

25 THE WITNESS:

26 Around 9:20, around that time.

27 MR. COURCELLE LABROUSSE:

28 I had heard 3 a.m., Mr. President. That is in the translation into French.

29 MS. MOBBERLEY:

30 And I heard the same translation into English, but I have the benefit of two sets of translations, that's
31 why I asked for a clarification.

32 MR. PRESIDENT:

33 Well, you can ask him -- you can put further questions to him on that subject. You can put further
34 questions to him on that issue. You are right, yeah.

35 MR. COURCELLE LABROUSSE:

36 Yes, but probably I should put the same question to him, so I'll repeat that question.

37

1 BY MR. COURCELLE LABROUSSE:

2 Q. Mr. Witness, can you tell us at what time you arrived at the Akabeza centre on the 7th of April 1994?

3 A. I told you that I arrived at nine in the morning.

4 JUDGE EGOROV:

5 I heard nine in the morning.

6 MR. COURCELLE LABROUSSE:

7 That is what I heard also.

8 BY MR. COURCELLE LABROUSSE:

9 Q. Were there many people already there at that time at which you got to the Akabeza centre?

10 A. Yes, there was some people.

11 Q. Can you be a little bit clearer?

12 A. I've told you that there was some people.

13 Q. Could you tell us an estimate of the number of people who were there? About some 50 people, some
14 30 people also, more or less than that number?

15 A. When I got there, there were about 20 people, but as time passed, more people came by.

16 Q. Did you hear what people were saying or what people were talking about?

17 A. People were quiet and I wasn't, in any way, responsible for listening to what those people were saying.

18 Q. Obviously. But I'm asking you if, in fact, you heard what people were saying. I didn't imply that you had
19 the responsibility of doing so.

20 A. They were in groups and you could not approach those groups to hear what they were saying, and
21 because they knew me, I avoided getting closer to them.

22 Q. But, at least, you remained in that market?

23 A. Shortly afterwards Mpambara's vehicle came.

24 Q. I will put my question to you again. You seemed to say that you did not want to move closer to the
25 groups?

26 A. Yes. The first reason is that these people are forming groups and they were of the same ethnic group
27 and, in fact, they looked angry. I felt, therefore, that this was an unusual situation and I could not get
28 closer to them.

29 Q. Does this mean that the market was calm, but then you felt that people were angry?

30 A. Yes.

31 Q. And why do you say that you felt that the circumstances were unusual?

32 A. You can know somebody's mood, and when you know so, the problem at hand, and when you see
33 someone is not -- not wanting to look at you, you can feel that. You can feel and understand that.

34 Q. But what were the problems at that time? Were they the problems that were general to Rwanda?

35 A. The president had just died.

36 Q. Okay. So that is the event, which, to you, explained the fact that people were angry?

37 A. That's correct.

- 1 Q. In spite of all, you stayed on in the market in spite of the tense situation; is that right?
- 2 A. Immediately afterwards Mpambara came, and he arrived in his vehicle, and when he got out, I was
3 about to follow what was happening there.
- 4 Q. When you state that soon thereafter -- after what? To start with, soon after your arrival at the Akabeza
5 centre at 9 o'clock, as you said?
- 6 A. When I arrived there around nine, I found some people with their leaders, people in groups, people are
7 quiet. And shortly afterwards, the -- the head of the *commune* came -- arrived in his vehicle, he got out
8 of the vehicle and started addressing the people.
- 9 Q. Why do you say that people were in groups with their leaders? What do you mean by that?
- 10 A. What I mean is that Butera, the *conseiller*, and the *responsable* under him, were in groups with people
11 and they seemed to be making a programme, and from the fact that the president had died and
12 considering that the people there were angry, I did not approach these people to understand what was
13 happening. But one could look at them and know that they were angry.
- 14 Q. What leads you to say that they were probably drawing up a programme?
- 15 A. I do not understand that question well.
- 16 Q. I heard you say that leaders were with groups, and that they appeared to be preparing a programme. I
17 believe you said so.
- 18 A. I said that I didn't know what they were planning, but I could tell that this was unusual, that's what I
19 meant. But I didn't know what they were trying to do. Well, later on, after the arrival of Mpambara, it
20 became clear what these people were planning.
- 21 Q. At how many metres were you from the group, more or less?
- 22 A. I was in the same centre of the -- it was an open market. I don't think there were 10 metres between
23 me and these groups of people, and I've explained that people were standing in groups. Some people
24 were in groups of five, others of 10. There was some few people who were standing by their own
25 houses in that centre.
- 26 Q. Were you, therefore, on the road or in the road (*sic*)?
- 27 A. It was within the centre.
- 28 Q. Can you describe to the Trial Chamber how the Akabeza centre is configured? Is it a square? Is it a
29 road?
- 30 A. Thank you for asking me that question. What I mean is that this centre has a big place; it's an open
31 market. The -- the road passes through the centre, and that's where the -- the -- the market is next to
32 the shops, and when a car or a vehicle comes, the people standing in the way, just let it -- just let it
33 pass.
- 34 Q. You say, "When a vehicle comes by", from where?
- 35 A. There is a small road that goes through the market, one going to the residential areas or going to the
36 hospital. The centre is in the middle of the road.
- 37 Q. Very well.

1 MR. COURCELLE LABROUSSE:

2 Mr. President, I think I would like to apply for a closed session now so as to not run any risk for the
3 witness.

4 MR. PRESIDENT:

5 Yes, very well. We will go into a closed session now.
6

7 I kindly ask those in the public gallery to please give way.

8 JUDGE EGOROV:

9 Mr. Counsel, are you planning to come back into open session?

10 MR. COURCELLE LABROUSSE:

11 No, I do not believe so.

12 *(At this point in the proceedings, a portion of the transcript [pages 64 to 72] was extracted and sealed
13 under separate cover, as the session was heard in camera)*

14 *(Pages 60 to 63 by Jean Baigent)*
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CERTIFICATE

We, Ann Burum, Judith Baverstock, Sherri Knox, and Jean Baigent, Official Court Reporters for the International Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (*stenotype*) and thereafter transcribed by computer; that the foregoing pages contain a true and correct transcription of said proceedings to the best of our ability and understanding.

We further certify that we are not of counsel nor related to any of the parties to this cause and that we are in nowise interested in the result of said cause.

Ann Burum

Judith Baverstock

Sherri Knox

Jean Baigent