

1 International Criminal Court
2 Trial Chamber III - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and
6 Judge Kuniko Ozaki
7 Trial Hearing
8 Tuesday, 11 January 2011
9 (The hearing starts in open session at 9.36 a.m.)
10 THE COURT USHER: All rise. The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE STEINER: Good morning. Could, please, the court officer call
13 the case.
14 THE COURT OFFICER: Yes, your Honour. Just for the record, we are in open
15 session. Situation in the Central African Republic, in the case of The Prosecutor
16 versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
17 PRESIDING JUDGE STEINER: Thank you very much. First the Chamber would
18 like to welcome everybody back after the winter judicial recess and wish you all a
19 very happy new year. The Chamber also wishes to convey to Mr Gombo its
20 condolences for his loss.
21 So there are a number of matters that need to be dealt with before the next witness is
22 brought into Court, but before that I would like to ask the Prosecution, legal
23 representatives and then the Defence to introduce themselves and their teams for the
24 purpose of the records.
25 Prosecutor, please.

1 MS KNEUER: Good morning, Madam President, your Honours. The Prosecution
2 is represented today by: Eric Iverson, trial lawyer; Horejah Bala-Gaye, assistant trial
3 lawyer; Jussi Ohisalo, legal assistant; Frédérique Besse, case manager; and Madeleine
4 Somte, language assistant. Thank you.

5 PRESIDING JUDGE STEINER: Thank you very much. Maître Zarambaud.

6 MR ZARAMBAUD: (Interpretation) Thank you, your Honour. I would like to
7 pay proper respect to the Court, of course. I am here today. My colleague has been
8 stuck in traffic and has asked me to ask the Court if she could be allowed some time
9 to get to the courtroom.

10 MR NARANTSETSEG: Good morning, your Honours. Office of Public Counsel
11 for Victims is today represented by: Myself, Orchlon Narantsetseg, legal officer; and
12 my colleague, Walter, Caroline, associate legal officer. Thank you.

13 PRESIDING JUDGE STEINER: Thank you very much. The Chamber noticed the
14 presence of a representative of VWU; is that correct? Mr Zarambaud's case manager,
15 as far as I understood, is present.

16 MR ZARAMBAUD: (Interpretation) Yes, indeed. Ms Virginie Roche is with us.

17 PRESIDING JUDGE STEINER: Defence?

18 MR LIRISS: (Interpretation) Your Honour, your Honours, first of all the
19 Defence wishes -- expresses its best wishes for 2011 and Mr Bemba as well. Today
20 the Defence is represented by the usual team members: Mr Mangenda, Jean-Jacques,
21 who is the case manager; and we are pleased to announce that Ms Gibson is no longer
22 Ms Gibson, or rather no longer Miss Gibson, but she is now Mrs Gibson as she
23 married a few days ago; Mr Kaufman is with us, associate counsel, and Aimé Kilolo,
24 associate counsel; and myself, Mr Liriss.

25 PRESIDING JUDGE STEINER: Thank you very much. So, as you are probably all

1 are aware, the Chamber is sitting every day this week from 9.30 until 4 in the
2 afternoon. Due to a formal engagement of the Chamber tomorrow morning the
3 Chamber will only sit from 2.30 to 4, so the Chamber informs you now so that you
4 may make use of this time as appropriate.

5 In relation to today's hearing, the Chamber will begin hearing the evidence of Witness
6 87. By its decision of 19 November 2010, which is filing 1021, confidential, the
7 Chamber granted the next witness, Witness 87, protective measures, including image
8 and voice distortion, use of pseudonym and conducting part of the testimony in
9 private session when identifying information is to be mentioned.

10 In addition, upon assessment and recommendation by VWU, the Chamber also
11 allowed for a suitable support person to accompany the witness in The Hague
12 pursuant to Regulation 91 of the Regulations of the Registry.

13 The Chamber has also received the report from the VWU psychologist, sent to the
14 Chamber yesterday, 10 January, which recommends that the VWU support assistant
15 is allowed to sit next to the witness in the courtroom and that the psychologist is also
16 present in the courtroom to monitor the witness as appropriate.

17 The Chamber agrees with both these suggestions, due to the particular vulnerability
18 of this witness as assessed by a psychologist, and so allows the presence of these two
19 persons in the courtroom.

20 In addition, the report recommends possible measures as regards the mode of
21 questioning by counsel based on the needs and capacity of the witness. The
22 Chamber again supports these suggestions that counsel should try to use short,
23 simple, open-ended questions and should avoid asking embarrassing and/or
24 unnecessarily intrusive questions. The Chamber will closely observe the witness
25 and, if necessary, will break more frequently. Is that agreeable to the parties and

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- 1 participants?
- 2 MR LIRISS: (Interpretation) Of course, your Honour. We are in agreement with
- 3 the recommendations.
- 4 PRESIDING JUDGE STEINER: Thank you very much. So we have to go, then,
- 5 briefly into closed session in order for the witness to be brought into the courtroom.
- 6 Court officer, please.
- 7 (Closed session at 9.46 a.m.)
- 8 (Expunged)
- 9 (Expunged)
- 10 (Expunged)
- 11 (Expunged)
- 12 (Expunged)
- 13 (Expunged)
- 14 (Expunged)
- 15 (Expunged)
- 16 (Expunged)
- 17 (Open session at 9.48 a.m.)
- 18 THE COURT OFFICER: We are in open session, Madam President.
- 19 PRESIDING JUDGE STEINER: Thank you. Witness, the court officer will now
- 20 read out the words of the printed card containing the oath for you to repeat. He is
- 21 going to read very slowly and the oath will be translated for you into the language
- 22 you understand. Court officer, please.
- 23 WITNESS: CAR-OTP-PPPP-0087 (Sworn)
- 24 (The witness speaks Sango)
- 25 PRESIDING JUDGE STEINER: Maître Liriss?

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1 MR LIRISS: (Interpretation) Your Honour, please, my two colleagues have
2 not -- are not in a position to see the witness. They will be conducting the
3 cross-examination. Could arrangements be made as was done in the past?

4 (Pause in proceedings)

5 PRESIDING JUDGE STEINER: Maître Liriss, I am informed by the court officer that
6 it is not possible to get the curtain closer to the window because of the public gallery,
7 so the curtain is in the very same position as always. What the court officer is
8 suggesting is that counsel that is going to question the witness should be seated
9 where you are as the only possibility in order to have a full view of the witness, if that
10 is acceptable for the Defence?

11 MR LIRISS: (Interpretation) Last time that was dealt with with a kind of a pin. A
12 pin was used.

13 PRESIDING JUDGE STEINER: Court officer?

14 (Pause in proceedings)

15 PRESIDING JUDGE STEINER: Maître Liriss, I have been confirmed by the court
16 officer that this is the standard proceeding. It's not possible to be different, unless
17 we take the risk of having the witness being seen by the gallery, and so maybe when
18 it's time for the Defence to question the witness we can find a proper solution for the
19 problem.

20 MR LIRISS: (Interpretation) I won't take that risk. We will follow your advice,
21 but I do think that it will not be possible to change positions. I believe the
22 client - our client - will not be able to change positions and he has the right to see the
23 witness.

24 PRESIDING JUDGE STEINER: The standard proceeding is that of course the
25 accused has a view, can see the witness, through the monitors, but not directly

1 because the curtains have been always there in the very same position.

2 MR LIRISS: (Interpretation) We shall follow your recommendation.

3 PRESIDING JUDGE STEINER: Merci, Maître Liriss.

4 Madam Witness, now that you have taken the oath, can I confirm that you

5 understand what the oath means?

6 THE WITNESS: (Interpretation) I have understood.

7 PRESIDING JUDGE STEINER: Did you understand that you must give answers to

8 questions asked that are true and accurate to the best of your knowledge and belief?

9 THE WITNESS: (Interpretation) Yes, I have properly understood that.

10 PRESIDING JUDGE STEINER: Madam Witness, as you have had explained to you

11 by the Victims and Witnesses Unit staff during your familiarisation process since

12 arriving in The Hague, you will be questioned first by the Prosecution, then by legal

13 representatives of victims and then by the Defence.

14 As you know, the Chamber has put in place measures to protect our -- your identity

15 from the public, and so you will be referred to during the course of your testimony as

16 "Witness 87," or as "Madam Witness." Your voice and your image that is broadcast

17 outside the courtroom is distorted so that you cannot be identified by the public.

18 You also have a support person sitting with you in court.

19 The Chamber would like to reassure that, if at any time you feel tired, or distressed,

20 or in need of a break in the questioning, you should simply say so and the

21 Chamber will take a short break to give you some time.

22 And finally, Madam Witness, because we speak different languages there is

23 interpretation so that we can all understand each other, but because of this it is

24 important that you speak slower than normal, as I am doing now, in order to allow

25 the interpreters to do their job. And because this can seem unnatural, it may be that

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1 you start speeding up and then I will have to interrupt you and remind you to slow
2 down again. It's purely for practical purposes and should not discourage you from
3 speaking.

4 Have you understood, Madam?

5 THE WITNESS: (Interpretation) Yes, I have understood.

6 PRESIDING JUDGE STEINER: Finally, Madam Witness, I have a few questions for
7 you. Have you been given the opportunity to read, or have read to you, the
8 statement or statements that you made to the Court?

9 THE WITNESS: (Interpretation) Yes, I did have that opportunity.

10 PRESIDING JUDGE STEINER: At the time you made the statement, or statements,
11 did you do so voluntarily?

12 THE WITNESS: (Interpretation) Yes, I made those statements entirely of my own
13 volition.

14 PRESIDING JUDGE STEINER: The information you provided in your statement, or
15 statements, is it true and accurate to the best of your knowledge and understanding?

16 THE WITNESS: (Interpretation) The information that I gave is the information
17 that I experienced and that I saw.

18 PRESIDING JUDGE STEINER: Thank you very much, Madam Witness. The
19 Prosecution may now proceed with the questioning of the witness. Maybe we have
20 to go first into private session for identification? So court officer, please, let's go very
21 briefly into private session.

22 (Private session at 10.01 a.m.)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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14 (Expunged)

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17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Open session at 10.19 a.m.)

22 THE COURT OFFICER: We are in open session, Madam President.

23 MS KNEUER:

24 Q. Madam Witness, we are now in open session and I will continue with my

25 questions. I will explain to you once more what it means to be in open session, just

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1 to be very clear and that you feel comfortable. "Open session" means that the public
2 will be able to hear everything that you are saying. As Madam President had
3 explained to you earlier, the Judges have granted measures to protect you and,
4 therefore, I will be very careful in asking my questions and I kindly ask you to be
5 very careful with responding to these questions. That means, please, do not reveal
6 your identity, or the location where you live, or for example names of family
7 members or neighbours from which you could be identified. If you feel that you
8 would like to share such sensitive information with us, please let me know and I will
9 ask Madam President to go into a private session. Do you understand that, Madam
10 Witness?

11 A. Yes, I understand.

12 Q. Madam Witness, I would like to take you back in time and ask you some
13 questions about events during the time-frame of October 2002 onwards. Do you
14 agree?

15 A. Yes, I agree.

16 Q. In which town were you during the month of October 2002?

17 A. I was in the (Expunged).

18 Q. Of which town?

19 A. The town of Bangui.

20 Q. Please tell the Court what, if anything, was happening in Bangui during this
21 time?

22 A. The events were caused by Bozizé's rebels, who came from the town of
23 Batangafo and were fighting the troops of Patassé. They, therefore, arrived in
24 Bangui and there were exchanges of fire. Afterwards, they withdrew until the
25 month of October 2002. The precise date on which they arrived I don't remember,

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1 but Bozizé's rebels they came to Bangui and they fought in the capital. They spent a
2 few days there. Myself, I was selling goods by the roadside. When I saw what the
3 situation was, I preferred to sell from home. As such, on the 29th the rebels
4 withdrew and went to PK22. We don't know about these events.
5 But on the 30th, having sold, I was at the house at 7 o'clock in the morning and there
6 were several young people at the house. At 7 o'clock in the morning there were
7 young people, boys, who were running behind our house, and I therefore asked them
8 why they were running and they said that the men had come, that they were bad
9 people, they were the Banyamulengue, and as such the group with whom I was at the
10 time, all these people were afraid and they left. I was the only one left with
11 (Expunged).
12 And around 9 o'clock in the morning, as I heard it said that the Banyamulengue were
13 bad, I asked to stay in the house, on the veranda, and they left and they came before
14 the house, seven of them. They were armed and they told me, or they asked me if
15 there were rebels here, and I said, "No, go towards the market," and when I told them
16 that they left and they took the road towards that area.
17 They therefore left and some time afterwards I left with my brother and we stayed
18 under the veranda talking, and as we were hungry I had a bit of money and I went to
19 the area to get some pork. So we stayed together. Towards 2 o'clock, they came
20 from the market with goods, with televisions, radios, mattresses, and they went down.
21 They were -- well, there was (Expunged) there, (Expunged) as well. We
22 went next to the road and we saw them coming down, and when they left we went
23 back into the house and we stayed together until night fell.
24 So towards 1900 hours, first (Expunged) when he fled during the day, he came back in the
25 evening. (Expunged), we were under the veranda. We were

1 together, talking together, and there were four who arrived. Generally, there are
2 three who go into the house and one who stays outside. We didn't see him, but
3 when the others arrived -- so you have basically three people who came into the
4 house directly and then there was -- I was the only person before them and, when I
5 went in, (Expunged) they went in as well. They took the television and the
6 radio, and they took mattresses which were in the father's bedroom and they left.
7 We didn't do anything, but we left and we continued to discuss matters between us.
8 Three others turned up. The first three, that was at 7 o'clock. The next group it was
9 at 9 o'clock. So three came into the house and I was the first person to go in after
10 them, and when I went in after them one of them - perhaps it was the person in
11 charge - he held my hand and he pulled me towards the house, behind the house, and
12 the two others they stayed with (Expunged) in the house.
13 Next to the house, there are the latrines. There is a small veranda and he pushed me.
14 He took off my underwear and he had his firearm in his right hand, a torch in his left
15 hand, but he had put that down, and he took off his belt and took off my underwear
16 and he got out his penis and he penetrated me and he started to sleep with me and
17 I had my hand on my head. When he finished he ejaculated, and he got up and he
18 stood up before me and he closed his belt and he called one of his companions who
19 had done the same thing as the first. And the second, when he finished, he called
20 the third person, who was in the house, and the third person came and he did the
21 same thing as the two previous ones did. After the third person had finished, he
22 went back into the house.
23 At that time I was angry and I threw my underwear away, and when I stood up the
24 liquid was running out of my vagina. I was angry. I ran into the house. At that
25 time, two came out of the bedroom of the wife of my uncle and the son had been

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1 killed. They had broken down the door. They had broken down the safe. They
2 had taken the money. The money that I had from selling coffee, that money was
3 taken as well. When I went into the house, they went out. I sat down on a chair at
4 that point.

5 PRESIDING JUDGE STEINER: Madam Witness, just sorry to interrupt you. It's
6 just to remind you, please, if possible to avoid mentioning names. Otherwise we
7 will have to interrupt many times this information from the public records, and
8 I think Madam Prosecution can conduct in a more slow way the testimony. Thank
9 you.

10 MS KNEUER:

11 Q. Madam Witness, thank you very much for sharing this very comprehensive
12 story with us. With your permission, I would like to breakdown the events that you
13 just mentioned and ask you some follow-up questions. You mentioned the
14 following events, one at 7 a.m. in the morning and the second one at 9 a.m., which
15 was your first encounter with the Banyamulengue, then you told us that at 2 p.m. you
16 had lunch and observed certain things going on. The next incident was 7 p.m., the
17 second encounter with the Banyamulengue at your house, and the last one at 9 p.m.
18 If you agree, I would like to start with the very first event at 7 a.m. and focus for now
19 on the situation in Bangui. Is that agreeable to you?

20 A. Yes, I understood.

21 Q. Madam Witness, you described the arrival of the Bozizé rebels and you said,
22 and it's page 15, line 3, of the English transcript, "They spent a few days there." Do
23 you recall more precisely how many days?

24 A. I don't know the date, or the exact number of days.

25 Q. Do you recall the month and the year?

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- 1 A. It was in 2002 when they came from Batangafo and then they withdrew.
- 2 Q. Madam Witness, do you recall the month in 2002?
- 3 A. I don't remember the month. I just remember the month they came.
- 4 Q. That is exactly what I am referring to you. Would you share with us which
- 5 month that was?
- 6 A. It was the month of November. It was in November 2002.
- 7 Q. How do you know that the Bozizé rebels launched an attack on Bangui?
- 8 A. They came, they went into the neighbourhoods and everybody knew.
- 9 Q. Madam Witness, it is important for us to understand how everybody knew.
- 10 Can you explain that to us, please?
- 11 A. I spoke about the year, but the month they came into Bangui, well, I don't really
- 12 remember that.
- 13 Q. Madam Witness, it appears to me that there may be a problem with the
- 14 interpretation and so I will repeat my question again.
- 15 Can you explain to the Court how you know and how everybody knows that the
- 16 Bozizé rebels launched an attack on Bangui?
- 17 A. Well, they came into Bangui with weapons and they shot. That's how we
- 18 realised that they were the Bozizé rebels.
- 19 Q. Do you know against whom the Bozizé rebels fought?
- 20 A. They came to fight the country. They fought against Patassé's men.
- 21 Q. Do you know why the Bozizé rebels -- sorry, do you know why the Bozizé
- 22 rebels fought against Patassé's men?
- 23 A. They came to take over power. That is why they were fighting. That's all I
- 24 know.
- 25 Q. Thank you, Madam Witness. You mentioned earlier that the Bozizé rebels

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1 came from Batangafo. Do you know where the Bozizé rebels were based?

2 A. They came into Bangui and they said that they were based in Batangafo. That
3 is what they said to the people. They didn't say that to me personally, but that is
4 what I heard people saying.

5 Q. Madam Witness, you stated earlier that the Bozizé rebels withdraw. Do you
6 know why they withdraw?

7 A. Well, that I do not know. That was on the 29th. That is when they withdrew
8 to the PK22 base. They went to PK22 in the night, and the next day, on the 30th, the
9 people that were fleeing they are the ones -- they were the ones who said that the men
10 had withdrawn.

11 Q. When did the Banyamulengue arrive in your area, Madam Witness?

12 A. They arrived on the 30th, at around 9 o'clock, and during the night of the 31st as
13 well. That's when I saw them.

14 Q. My next question, Madam Witness, may appear obvious to you, but please still
15 answer. Can you explain what "Banyamulengue" means?

16 A. Banyamulengue? Well, these are Bemba's rebels from the other side of the
17 river.

18 Q. Again my next question may seem obvious to you, but can you explain what
19 you mean by "from the other side of the river", please?

20 A. Well, that's towards Zaire.

21 Q. When the Banyamulengues arrived in your area, were there still Bozizé rebels
22 present?

23 A. No, they were no longer there. When the Banyamulengue arrived the Bozizé
24 rebels had already withdrawn, but we weren't aware of that. It was only the next
25 day when we saw the Banyamulengue there that we realised that the Bozizé rebels

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1 had already withdrawn.

2 Q. When the Banyamulengue came into your area, what was the general reaction
3 among the civilian population?

4 A. At that time everybody had already withdrawn towards PK22. Some had
5 gone on the Boali road and the other the Bouka road.

6 Q. Madam Witness, I believe there is again a problem with the interpretation and
7 so I will ask my question again. When the Banyamulengue arrived in your area,
8 how did the people react? What did they do?

9 A. Well, when they arrived, well, what could we do? All we could do is to allow
10 them to come into our houses and let them do what they wanted, and when they
11 would have finished then they would have left us. We could do nothing else.

12 Q. Madam Witness, you mentioned earlier that people were running away, and for
13 the record it's page 15, lines 11 until 14. Can you explain to the Court why Central
14 African people were running away?

15 A. It was because they had arrived. The Central Africans had fled because *the
16 Banyamulengue had come.

17 Q. Just to have full clarity, Madam Witness, to whom do you refer when you say
18 "they"?

19 A. The Banyamulengue; the rebels that had come in. Nobody could stay in their
20 houses. Everybody had to flee.

21 Q. Did anyone in your family also flee on hearing about the coming of the
22 Banyamulengue?

23 A. Yes, two members of my family ran away. I stayed there with my younger
24 brother.

25 Q. On the morning of 30 October - and I'm referring to the 7 a.m. event - what were

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1 you doing exactly at that time?

2 A. I was selling coffee that morning, and then I went to the house under the
3 veranda when the events occurred.

4 Q. When you returned to your house that morning, who was with you at home?

5 A. When I was in the house, because I was selling coffee at the house there were a
6 lot of young people there. It was later on that I saw people running away, going
7 across the road, and I asked them why they were fleeing and it was then that they
8 said that the bad people were arriving. I asked them who were these bad people
9 arriving and they said they were the Banyamulengue. That is when people began
10 running away. Even the young people who were there with me, they too ran away.

11 Q. Madam Witness, I would like now to turn to the 9 o'clock event that you
12 described earlier to us briefly. You mentioned that the Banyamulengue came to
13 your house, and for the record it's page 15, line 16 onwards. To which house are you
14 referring, Madam?

15 A. The house that I was speaking about, well, there were three. The first was on
16 the side of the road where I sell coffee; the second house belonged to the father of my
17 late brother; the third house also belonged to the father of my late brother. That was
18 where I lived.

19 Q. On which veranda of these three houses were you on when the Banyamulengue
20 arrived?

21 A. I was under the veranda of the second house that belonged to the father of
22 the -- my late brother.

23 Q. When the Banyamulengue came to that house at 9 a.m., who else was with you?
24 Please do not mention the name. You can refer to the relationship, please.

25 A. I was with my younger brother and with somebody else. There were three of

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1 us; three of us at the house that night.

2 Q. From which direction of the house did the Banyamulengue come?

3 A. They came from the side of the house, towards the veranda. There was a
4 footpath that went alongside the house. That's how they got there.

5 PRESIDING JUDGE STEINER: Madam Kneuer, if I may, I think we have now to go
6 to a break in order to allow our interpreters for a deserved - a very
7 well-deserved - break. So we will suspend now the session and we will resume at
8 11.30. So first I ask, please, the court officer to turn into closed session in order to
9 allow the witness to be brought outside the courtroom.

10 (Closed session at 11.00 a.m.)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Recess taken at 11.02 a.m.)

15 (Upon resuming in closed session at 11.35 a.m.)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Open session at 11.37 a.m.)

23 THE COURT OFFICER: We are in open session, Madam President.

24 PRESIDING JUDGE STEINER: Thank you very much.

25 Madam Kneuer.

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1 MS KNEUER: Thank you, Madam President.

2 Q. Madam Witness, I hope you rested well.

3 A. Yes, I did rest.

4 Q. Madam Witness, before I continue to ask you a few more questions about the
5 9 a.m. event, I will ask you two questions about your identifying information which
6 can be asked in public session. I forgot to ask them earlier and I apologise for that.

7 Madam Witness, what is your nationality?

8 A. I am from the Central African Republic.

9 Q. What languages do you speak?

10 A. I speak only Sango.

11 Q. Do you have any knowledge of any other language?

12 A. No, other than French which I understand slightly.

13 Q. Thank you, Madam Witness. I will now ask you a few more questions about
14 the event when the Banyamulengue came at 9 a.m. to your house. Earlier this
15 morning, Madam Witness, you stated, and I quote from page 15, line 19 onwards,
16 "They were armed and they told me, or they asked me if there were rebels here, and I
17 said, 'No, go towards the market,' and when I told them that they left and they took
18 the road towards that area."

19 In which language did the Banyamulengue speak to you?

20 A. One of them said that to me in French. He said, "Are there any rebels here?",
21 and I said to him, "No, no rebels here. Go towards the market." That is the answer
22 I gave them and then they left.

23 Q. Do you remember, Madam Witness, how the Banyamulengue were dressed?

24 A. With regard to their clothing, they were wearing uniforms; the same uniforms
25 as those worn by the presidential guard of President Patassé.

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1 Q. Did you notice what the Banyamulengue were wearing on their feet?

2 A. Some of them were wearing boots. Others had *worn-out trainers... Others
3 were wearing flip-flops.

4 Q. Were the Banyamulengue armed?

5 A. They all were armed. The ones who came in the morning, as well as the ones
6 who came in the evening, they were armed.

7 Q. Do you recall how many arms each Banyamulengue was carrying at 9 a.m. in
8 the morning?

9 A. Each soldier had a weapon.

10 Q. Madam Witness, do you know by any chance what kind of weapon?

11 A. I'm not a soldier, but I heard it said that they had AKs. The boys said that they
12 had AKs.

13 Q. Thank you, Madam Witness. In which language did the Banyamulengue
14 speak among each other?

15 A. They spoke in the language of their country. They spoke to each other in their
16 language.

17 Q. Do you know how this language is called?

18 A. Their language is Lingala.

19 Q. Can you please explain to the Court how you are able to identify that language
20 as Lingala?

21 A. They were Banyamulengue, so the language that they spoke was Lingala.
22 That's all I can tell you. They are in the habit of crossing, coming to where we are, so
23 some of them shine shoes and that is the language that they use.

24 Q. Have you ever heard Lingala before the Banyamulengue arrived in your area?

25 A. I never heard people speaking Lingala.

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1 Q. Did the Banyamulengue speak Lingala to you as well?

2 A. They did not speak to me in Lingala. The question they asked was in French.

3 They said, "Are there rebels here?", and I responded saying, "Go to the market."

4 They spoke in Lingala, but it was when they were speaking to one another.

5 MS KNEUER: Madam President, I would like to read a portion to the witness from
6 the statement. It's a short portion, but I would seek the guidance of your Honours if
7 it should be displayed on the screen, but since it's a confidential document it could
8 not be displayed to the public.

9 PRESIDING JUDGE STEINER: Court officer, is that possible, that it is displayed
10 only inside the courtroom? Please, you can proceed.

11 MS KNEUER: I'm referring to CAR-OTP-0030-0171 at 0187, which is
12 EVD-T-OTP-00008.

13 THE COURT OFFICER: The document is available on your screens if you push the
14 button "PC1" on the remote control next to your computers.

15 MS KNEUER: I would like to go to page 0187, please.

16 Q. Madam Witness, I would like to read to you part of a statement that you gave
17 earlier to the investigators of the Office of the Prosecutor, and I quote, "How did you
18 know ..." -- sorry, I start again. It's a question of the investigator and the question
19 reads, "How did you know the language was Lingala?" Your response was, and I
20 quote, "We are here in Bangui too close to the other side of the river."

21 PRESIDING JUDGE STEINER: Maître Liriss?

22 MR LIRISS: (Interpretation) Thank you, your Honour. The Defence objects.
23 This is a question that is intended to elicit a response from the witness, who has
24 already answered the question a few moments ago, and from our point of view this is
25 harassment. We -- they seem to want to get the answer that they want. The

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1 witness has already replied. She has said that she doesn't know Lingala and she had
2 never heard Lingala spoken before, and now they are reading this to her and lead her
3 to a different answer.

4 PRESIDING JUDGE STEINER: Maître Liriss, in my view it's important for the
5 Prosecution and even for the Defence, in case there is a contradiction between the
6 written and the oral testimony, for the Defence and for the Prosecution and for the
7 Judges to understand the reasons of the contradiction and to have a clarification on
8 such point. So I allow the Prosecution to read part of the statement that was read to
9 the witness during the familiarisation process and, in case there is a contradiction, the
10 witness will be asked on the reasons for such contradiction.

11 Maître Zarambaud, I assume that you want to take the floor?

12 MR ZARAMBAUD: (Interpretation) Yes, your Honour, just to say that in actual
13 fact there may be some translation problems, because a few moments ago,
14 independently of what was read, the witness stated that she knew Lingala "... because
15 in our part of the world there are some people from the other side of the river who
16 come and shine shoes and they speak that language," so it is possible that she may
17 have understood -- she may have heard Lingala at home. "You see, there are people
18 from the other side who come over to shine shoes and they speak Lingala."

19 PRESIDING JUDGE STEINER: It's true that there are some -- may be some
20 translation problems, and Madam Kneuer please will pay attention to this
21 contradiction and try to clarify the Chamber.

22 MS KNEUER: Thank you, Madam President. Just for the record, my learned
23 colleague, Mr Zarambaud, referred to page 27, lines 2 onwards, with regards to the
24 shining shoes.

25 Q. Madam Witness, sorry for the interruption, but we had a discussion if it's

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1 allowed to ask you the question and that I read portions of your statement to you, but
2 Madam President has decided that I can proceed. I will start at the beginning again
3 so that you will get the portion that I would like you to listen to in context. The
4 question of the investigator during that interview was, and I quote, "How did you
5 know the language was Lingala?", and your response was, and I quote, "We are here
6 in Bangui too close to the other side of the river. Even before, people from the other
7 side were coming here and we also used to go there, so we could hear that they were
8 speaking Lingala. That is how I could recognise the language they were using."

9 Can you confirm that this is what you stated back then? Is this correct?

10 A. Yes, that is what I said. That is what I had said.

11 Q. Thank you, Madam Witness, that you helped us to understand and to clarify.

12 Do you recall how old the Banyamulengue were who came to your house at 9 a.m.?

13 A. Some of them were 20, 25 years and more.

14 Q. Madam Witness, you stated that the Banyamulengue were wearing the
15 uniforms that the presidential guards were wearing as well. Could you explain to
16 the Court how you know that the Banyamulengue were not soldiers from the
17 presidential guard?

18 A. *Any person is able to recognise the soldiers of his country. If these people
19 who came, if they are not soldiers from your country you will recognise them. You
20 will know that.

21 Q. Madam Witness, can you share with us how you differentiate the soldiers from
22 the presidential guards and the Banyamulengue?

23 A. I didn't understand the question well.

24 Q. At the time of the events we all were not in the Central African Republic, so we
25 need your help to understand certain details. You explained to us that any person is

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1 able to recognise the soldiers of this country, but would you share with us how you
2 do this specifically?

3 A. If they are the soldiers from my country, then I am able to recognise them
4 because of their clothing and by the way in which they speak Sango. If they are
5 soldiers who are not from my country, I know that they are not from my country.

6 Q. Thank you, Madam Witness. I would like to turn now to a new topic. You
7 mentioned earlier this morning that you saw around 2 o'clock Banyamulengue
8 coming from the market with goods, with televisions, radios, mattresses, and for the
9 record I am referring to the transcript, page 16, lines 1 to 3. I have some further
10 questions in that regard, Madam Witness.

11 Do you know to whom these items that the Banyamulengue were carrying belonged
12 to?

13 A. I don't know who owned these items. They went into the neighbourhood and
14 it was when they returned that we saw them transporting these goods and other
15 articles, but I don't know who the owners of these goods were.

16 Q. Where did the Banyamulengue get these items from?

17 A. When they arrived with us, at the start they had empty hands. They went into
18 the neighbourhood and when they returned they had these goods with them, so they
19 must have taken them from the houses of people.

20 Q. Did they carry any other goods than the ones you already mentioned?

21 A. They had televisions, radios. They had -- they had things they were carrying
22 on their backs, on their heads. They had foam mattresses. They had pots.

23 Q. Thank you, Madam Witness. Where were the Banyamulengue taking these
24 items?

25 A. They took them to their base, where they were living or staying.

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1 Q. Do you know where their base was?

2 A. They were based before the assembly. Slightly beyond the assembly, on the
3 right side, that is where they had their base.

4 Q. Madam Witness, when you observed the Banyamulengue that afternoon, did
5 you notice which language they were speaking among themselves?

6 A. We were next to the road and went in a column, so I wasn't close to them and
7 able to hear the language they were speaking. It was just next to the road. I did see
8 these lines, or columns, of people who were coming down the road. They were in
9 single file.

10 Q. Madam Witness, I would like to direct your attention now to what happened to
11 you and to your family members during that time. This might be difficult for you
12 and I would like you to feel comfortable during my next set of questions, so if you
13 need a break at any time please let me know. I also would like to remind you that
14 we are in open session, so if you have the feeling that you would like to share
15 information that is sensitive and confidential and could lead to your identification,
16 please let me know and I will ask Madam President to go into a private session. You
17 mentioned earlier that the Banyamulengue came back at 7 p.m. to your house. What
18 were these Banyamulengue doing when they returned to your house?

19 A. At 7 o'clock, I was sitting on the veranda with my brother. The
20 Banyamulengue came, three of them, and they came inside the house and I followed
21 them. My two other brothers as well followed them inside the house. They started
22 to gather the television, the radio and the furniture which was in the lounge. They
23 also took that and they left with it. We went back to sit down under the veranda.
24 I can continue with my answer? Can I continue with my answer?

25 Q. Yes, Madam Witness.

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1 A. We were sitting, speaking between us. It was around 9 o'clock. We spoke for a
2 certain amount of time, and around 9 o'clock they -- well, there were four of them who came.
3 One stayed outside and three went inside. *You had to be vigilant to see the one who had
4 stayed outside Well, I went inside with the ones who went inside, and one of them
5 took me by the hand and he forced me behind the house and he undressed me and he
6 started to sleep with me. He slept with me and after having ejaculated he then got
7 up and he called one of his colleagues who came who did the same thing, and after he
8 had finished he called another. The second did the same thing as the first had done,
9 and when he finished sleeping with me, when he had ejaculated in me, he got up, he
10 stood up and he called the third person who came. The third person came. When
11 the third person came, the second left and the third did the same thing. The third
12 did the same thing as the first two had done, and when he finished, when he had
13 ejaculated in me, he got up and he dressed himself and he took his feet off me and he
14 went back inside. I was nervous. I took the rest of my underwear off. I was
15 standing up, and I saw how the sperm was running on down my legs. I cleaned my
16 hair and I went back inside the house. When I entered the house, I saw two
17 Banyamulengue who were leaving the room of the wife of my uncle. They had
18 already broken the door and they had taken the money that I had on the table in the
19 second dining room. They left and I went to sit down on a table. I was very upset.
20 I was with my brothers. I spoke to -- speak to my brothers. I said, "They came at
21 7 o'clock. They came to pillage us and they have come back at 9 to take even more.
22 It's not good. We have to go behind the house," and we discussed this for a certain
23 amount of time and they said, "No, sister. As they have already taken everything, if
24 you leave father's motorbike under surveillance then they are going to come back and
25 they are going to take that as well." So we discussed that for a certain amount of

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1 time.

2 We discussed that for a certain amount of time. I was upset. They didn't want to

3 follow me behind the house, so I left the two of them inside and I left under the

4 veranda. The house in which we were was not very far from where we lived, so I

5 went behind the house to the house where I lived before and I went up the staircase,

6 and that's where I heard the door break.

7 At that time, I turned back to the house where my brothers were. There was a door

8 behind the house with some stairs. I went up to the door behind the house under

9 the stairs, behind the stairs, and I went -- looked through a little hole, because the

10 door was made of wood planks, but there were little spaces between them and

11 I could look between those holes and then I could see how (Expunged) went into the

12 bedroom where the scooter was.

13 So there was already a soldier in that room, and he followed him there into the

14 bedroom and I heard the noise in the room. They spent a lot of time there. The

15 others stayed in the lounge and I didn't know what they were saying. Did they

16 want to take the scooter? I didn't know. I heard this voice saying, "No, no." That

17 is what I could hear. That's what he was saying to the Banyamulengue. They must

18 have been there.

19 I was looking through the hole, and after a while the two who were in the lounge -- or

20 one stayed there in the bedroom and I heard that person. I heard how he shot three

21 times. I heard three shots, and afterwards the Banyamulengue left the room to join

22 the others who were in the lounge and then they left. And I was behind the door

23 and I knew that they wanted to take the scooter that was in the bedroom and

24 they -- because (Expunged) refused, they shot him.

25 I stayed behind the door for a certain amount of time, and afterwards I went to one of

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1 our neighbours, called (Expunged) (phon), and I knocked on the door of the house and
2 then she -- they were all inside. And I called and I called and they opened the door
3 to me and I said, "(Expunged), the Banyamulengue have entered our house and they shot.
4 I think that they wanted to take the moped and it's because (Expunged) refused that
5 they shot him," and they said, well, they had also heard gunshots, but because it was
6 late you had to wait for the morning to see what was happening.
7 I left and went behind the house, and * I went to the home of the father of one of the
8 younger children. I was living with in the house and I called at the window and I said,
9 "Look, the Banyamulengue entered our house, my brother and your child as well, and
10 they wanted to take the moped and he refused and that's why they shot him." My
11 uncle said that he could not leave. He had to look after the area. He had to go back
12 to the house and the next day we could see what had happened.
13 I went back behind the house and into the house where I lived, I sat down on the bed
14 and I had my head down. When it was daylight I left crying, "Neighbour,
15 neighbour, come quickly. Come quickly." I was shouting and, when I shouted, the
16 people started coming. The neighbours opened the first door, because in our house
17 there was a large entrance. There was one door next to where you could enter to go
18 to the second dining room. He opened the door and he took the lamp that -- the oil
19 lamp and I was behind him. He had the lamp - the oil lamp - and when he opened
20 the door I looked and I saw -- he said, "They've already killed him." And then I put
21 the lamp down, I started to scream and people started coming and I went to look at
22 the body. I didn't know what to do. Nobody could help me to wash the body of
23 my brother and that's why I decided to call one of my brothers who was living
24 somewhat further from where we were, but I saw him on the way and I said to him
25 that his brother had been killed and he said, yes, he had fled and he had gone to the

1 hill and he had heard the news and he had come to the house and he found one of my
2 uncles and people in the area. They had taken the body; the body which was bathed
3 in blood. They took the body out through the door at the back, and then I saw what
4 they did. They took the body out and I warmed water and they washed the body.
5 I went and took his clothes, so that we could dress him, and I took a sheet. I also
6 gave one of my wraps, and one of my aunts as well also gave her wrap as well, and
7 we rolled him up in that and one my brothers went to find a cart where we put a
8 carpet on and then he said as -- "Well, dad's already gone to PK22, so it's necessary
9 to -- for us to bring the body to PK22 behind so that the parents can carry out the
10 necessary."
11 That's why we started pushing the cart and the body which was in it to go to PK22,
12 which was -- and halfway there we were pushing the body and the Banyamulengue
13 were on both sides. We were pushing the trolley with the body in it and the young
14 men were helping us to push the body, but on the way the Banyamulengue
15 they -- they were taking the shoes of the people who had them and if people had a
16 watch they would take that as well. If somebody had a shirt, they would take that.
17 And beyond PK12, we were walking. We were women. We were tired. We
18 were -- the young people were outside with the body and they came to the bridge,
19 but before arriving there the young people were already beyond there. They were
20 walking.
21 When we got to Sö bridge and when we got to a certain level, the Banyamulengue
22 they stopped us in order to ask us where we were going and we said that we were
23 currently -- we were following the body to carry out the necessary proceedings.
24 They said that, "Because of one body you all want to die, so why are you taking this
25 road?"

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1 And this is why we, as women, we -- we followed the road back and we stopped once
2 again. We stopped at a tender who was selling coffee, because since the morning we
3 hadn't eaten. We bought some coffee and we were taking the -- we were taking
4 some coffee and cakes, and we were looking behind us and we saw young people
5 who were taking the body and that's how we weren't able to have the coffee. We
6 had to leave it and we took the road again to take the body to (Expunged).
7 When we arrived in (Expunged), towards 16.00 hours, when we arrived there we left the
8 body there in the lounge, and there were a boy called (Expunged) who had the idea of
9 calling a photographer in order to film the body. He looked for a photographer and
10 he asked me to stand next to the body in order to take the photograph, and thereafter
11 we took -- well, he took a photo of the body by itself. Two photos were shot on that
12 day.
13 And when we arrived in (Expunged) towards 1600 hours -- thank you. When the
14 young people heard that * the rebels were at PK22 and that the Banyamulengue were
15 following them, the young people dispersed. Some of them went to the hills. Some
16 of them went to go back towards their houses. And they came back to the house.
17 They split up into two groups. Some dug the grave, and we had an uncle who gave
18 us some wood and with that we were able to build a coffin with the plywood and we
19 buried the body next to the house.
20 And the next day, it was only the next day that the parents of the deceased brother
21 arrived, because they were informed of PK22. They had -- we had already buried
22 the body and they came and they only saw the grave. We were together and we
23 stayed thereafter.
24 Q. Thank you, Madam Witness. I see that it was difficult for you to share this
25 story with us and that you wanted to get the story off your chest. With your

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1 permission, I would for now like to focus on the event at 7 p.m. Is this acceptable for
2 you?

3 A. Yes, that is acceptable to me.

4 Q. You mentioned that the Banyamulengue took furniture out of your house.
5 Can you describe for us what furniture specifically?

6 A. These were foam mattresses, some chairs. The foam mattresses that you put
7 on chairs.

8 Q. Anything else, Madam Witness?

9 A. No, I don't have anything to add to that.

10 Q. You mentioned earlier that four Banyamulengue came to your house and three
11 stayed inside and one outside. I didn't fully understand how you made this
12 observation. Did you eyewitness that?

13 A. When they came into the houses, we would follow them; and when they went
14 out, we would follow them, as well. The torches that they were carrying allowed us
15 to realise whether -- that there were four of them, and that one of them was in charge
16 of keeping watch.

17 Q. Did these Banyamulengue carry anything else than the torches?

18 A. They were carrying torches, but they were also carrying their weapons.

19 Q. In which language did these Banyamulengue speak?

20 A. They spoke their own language.

21 Q. Did the Banyamulengue say anything to you or your brothers?

22 A. Are you talking about the house where we were or elsewhere?

23 Q. I mean the house where you were, Madam Witness.

24 A. When they came into the house, they said, "Give us money, give us money and
25 we won't kill you." That's what they said to us.

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1 Q. In which language did they say this to you?

2 A. They said that in French.

3 Q. Could you please describe to us what the Banyamulengue were wearing at
4 7 p.m.?

5 A. They had their weapons and they also carried torches. That's what I saw that
6 night.

7 Q. Did they wear uniforms?

8 A. They were wearing the uniforms, the same ones as those worn by the
9 presidential guard at the time of President Patassé.

10 Q. Do you recall what types of shoes these Banyamulengue were wearing?

11 A. Well, as for the shoes, some of them were wearing boots, those boots that you
12 generally wear during the rainy season. They also wore worn-out tennis shoes and
13 flip-flops.

14 Q. Do you know which type of guns they were carrying?

15 A. The young people said that these weapons were AKs.

16 Q. Do you know how the Banyamulengues carried away the goods that they took
17 out of your house?

18 A. That was at 7 p.m. they came to get the belongings, and then they came back at
19 9 p.m. to do the same.

20 Q. Madam Witness, I apologise, but I think we have an interpretation problem, so
21 I would like to rephrase my question.

22 How did the Banyamulengue carry the goods out of your house?

23 A. They took the belongings, and since we weren't very far from the road they took
24 them and went.

25 Q. Did they use any specific part of their body to carry it?

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1 A. Well, the person who was taking away the items carried it himself -- carried
2 them himself.

3 Q. Did these Banyamulengue take the items with your consent?

4 A. Well, they come into your house, they have weapons and they say, "Give us the
5 money, give us the money and we won't fire," but if we don't give them our
6 belongings, if we put up a resistance, they will kill us. So when they came into our
7 houses, we would just let them do what they wanted and take away our belongings.
8 It was to save our own lives.

9 Q. The Banyamulengues that arrived at 7 p.m. at your house, were they the same
10 ones that arrived at 9 a.m. at your house?

11 A. I'm not certain. I believe that those who came first weren't the same as those
12 who came later at 9 o'clock, at least as far as I know.

13 Q. Madam Witness, earlier you mentioned that the Banyamulengue were carrying
14 torches. What were the lighting conditions in and around your house?

15 A. When the events took place, we had electrical power, but then it was cut off and
16 we used oil lamps. So that the assailants had their own torches. It was very, very
17 dark and if we were able to get hold of oil, well, that was lucky but otherwise *we
18 would sleep in the dark.

19 Q. Were you in a position to observe what was happening in your house,
20 considering the lighting conditions that you just described to us?

21 A. At 7 p.m. when they came to get the belongings and leave with them.

22 Q. Madam Witness, there may be difficulties with the interpretation so I would
23 like to repeat my questions.

24 How well were you able to see what was going on in your house at 7 p.m.?

25 A. What happened was when they came into the house and got hold of the

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1 possessions, the TVs, et cetera, and then they went away.

2 Q. Madam Witness, you mentioned that it was dark outside and you mentioned as
3 well that the Banyamulengue were carrying torches. Could you see what was
4 happening in your house?

5 A. Inside the house, we had torches and the Banyamulengue had them, too. We
6 had oil lamps and they had -- the Banyamulengue had torches. That is how we were
7 able to see.

8 Q. Thank you, Madam Witness. Now I understood what you said before.

9 MS KNEUER: Madam President, this would be a good point to take a break for the
10 Prosecution. The next topic would be the sexual assault, and it may be helpful to do
11 this in a row and not for ten minutes and then proceed in the afternoon, with your
12 permission.

13 PRESIDING JUDGE STEINER: Yes, maybe it's more appropriate not to interrupt a
14 witness when the witness is talking about more complicated issues. So we are going
15 to suspend this session now and to have a longer break for lunch and we are going to
16 resume, in any case, at 2.30 if that is convenient for the parties and participants.
17 So we are going to turn into closed session in order to allow Madam Witness to be
18 brought out of the courtroom and wish that Madam can take some rest during this
19 adjournment of the session. So let's go into closed session, please.

20 (Closed session at 12.48 p.m.)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Luncheon recess taken at 12.50 p.m.)

25 (Upon resuming in closed session at 2.36 p.m.)

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6 (Expunged)

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8 (Open session at 2.37 p.m.)

9 THE COURT OFFICER: We are in open session, Madam President.

10 PRESIDING JUDGE STEINER: Thank you. Madam Kneuer, you have the floor.

11 MS KNEUER:

12 Q. Good afternoon, Madam Witness. I hope you had a restful break.

13 A. Merci.

14 Q. Madam Witness, I would like to turn your direction to the event at 9 p.m. You
15 already gave us a very comprehensive overview what happened, but I will have a
16 couple of questions to get more clarification and to get some more details which are
17 necessary for us to understand and for the Prosecution to prove the case. At the time
18 the Banyamulengue came to your house at 9 p.m., were you alone?

19 A. I was not alone. I was with my two brothers.

20 Q. When the Banyamulengue arrived, did they carry anything with them?

21 A. When the Banyamulengue came, they had a flashlight in their left hands and a
22 weapon in the right hand.

23 Q. Was there electricity, or a lamp, in or around your house at that time?

24 A. I told you that before we had electricity, but during the events, the rebels in

1 question, there were blackouts in the entire neighbourhood, in the arrondissement, so
2 we used paraffin lamps. We would buy the fuel and put it in the lamp.

3 Q. Thank you, Madam Witness, for this explanation. It is important for us to
4 understand the situation at every single event you are talking about. Given the
5 lighting conditions, were you able to clearly see what was happening in your house?

6 A. During that time, at 9 p.m. when I was taken behind the house so that they
7 could sleep with me and then they came back inside, when the last one abused me,
8 had finished, I was all worked up and I got up to go back inside the house and I saw
9 the Banyamulengue leaving the bedroom of the wife of my uncle. Two of the
10 Banyamulengue were going out of that bedroom.

11 Q. After the Banyamulengue entered your house, did they say anything to you and
12 your brothers?

13 A. What happened at 9 p.m., those who came at 9 p.m., the last one who slept with
14 me, when I came back inside the house he said something. One of them said
15 something to the others. They answered, saying, "My commander," so I heard "Mon
16 commandant" in French. Commander.

17 Q. Did the Banyamulengue say anything to you or your brothers before one of
18 them brought you behind the house?

19 A. When they went into the house, I was the first person to follow them inside, but
20 two brothers followed me as well. When they were dragging me behind the house,
21 they didn't speak to each other in front of me. Perhaps when they were
22 talking -- abusing me, perhaps they were talking to my brothers in the house, I don't
23 know, but in front of me they didn't say anything. It was when the last one had
24 finished with me, he went back to join the others and he spoke to the others and they
25 replied, saying, "Commander." That is all I heard. I don't know whether he spoke

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1 to them after that. I don't know.

2 Q. Madam Witness, you described to the Court that you were raped three times by
3 the Banyamulengue. It is not necessary that you repeat the entire story again, but I
4 will have a few questions to clarify and this is important because the Prosecution has
5 to prove the case to the Court. What part of your body did the first perpetrator
6 penetrate?

7 A. I had a wrap wrapped around my waist and I was wearing underwear under
8 that. I was wearing a T-shirt. When they took me behind the house, they took off
9 the wrap-around, they took off my underwear on one side of my legs. He opened
10 up his zipper, or the button of his pants, and he did that with his left hand. After he
11 opened the zipper, he brought out his penis and he put it in my vagina. That is the
12 part of the body that he penetrated my body with.

13 Q. Thank you, Madam Witness. Did this first perpetrator touch any other part of
14 your body?

15 A. No, he did not touch another part of my body.

16 Q. While this first perpetrator was sleeping with you, where was his gun?

17 A. The first person had his weapon in his right hand. They had the flashlight in
18 the left hand, but he put the flashlight down on the ground.

19 Q. Where did the perpetrator put the gun while he was raping you?

20 A. When he raped me, he put the weapon on the ground and he protected the
21 hand -- well, he had his hand on the weapon which was on the ground.

22 Q. When the first Banyamulengue raped you, Madam Witness, in which position
23 were you?

24 A. I was down on the ground and I had my two hands behind my head when he
25 was sleeping with me.

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1 Q. How did it happen that you were on the ground?

2 A. He dragged me behind the house deliberately and threw me to the ground to
3 sleep with me.

4 Q. Thank you for this position, Madam Witness. This is helpful. Madam
5 Witness, did your two brothers know what happened to you?

6 A. They stayed inside the house. They were aware. They knew that the
7 Banyamulengue were sleeping with me behind the house, but they couldn't do
8 anything. They all had weapons. They couldn't do anything.

9 Q. Were your two brothers afraid to be killed by the Banyamulengue?

10 A. Yes, that's what happened.

11 Q. Madam Witness, you stated earlier that after the first Banyamulengue finished
12 he called one of his colleagues to come, and I'm referring to page 34, lines 1 and 2.

13 Madam Witness, in which language did this Banyamulengue call his colleague?

14 A. They called to one another in their language.

15 Q. Madam Witness, when the second Banyamulengue raped you, in which
16 position were you?

17 A. I was still in the same position, and the same position as the one when the first
18 one slipped -- slept with me. I had my two hands behind my head.

19 Q. Madam Witness, can you please tell us which part of the body the
20 perpetrator - the second perpetrator - used against you?

21 A. The second person used the male part of his body to sleep with me.

22 Q. And which part of your body did he penetrate?

23 A. He took his penis in his left hand and put it in my vagina. That is what I
24 wanted to tell you.

25 Q. Thank you, Madam Witness. Where was the gun of the second perpetrator

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1 while he was raping you?

2 A. He still had his weapon in his right hand and he had the flashlight in his left
3 hand.

4 Q. Where did he put the weapon and the flashlight while raping you?

5 A. The weapon was in his right hand; he put it down on the ground beside me.
6 The flashlight was in the left hand, beside me like that.

7 Q. Madam Witness, I will now turn to the third rape and I will ask you similar
8 questions like for the first two perpetrators. Can you please share with us with
9 which part of his body the third Banyamulengue penetrated you?

10 A. He put -- he put the male part of his body into my body with his left hand.

11 Q. To which part of your body are you referring, Madam Witness?

12 A. My vagina. My woman's vagina.

13 Q. Did the third Banyamulengue touch any other part of your body?

14 A. No, he didn't touch another part of my body. He only used the masculine part
15 of his body.

16 Q. Where were his hands when he slept with you?

17 A. He had his right hand on his weapon and the left hand was next to the
18 flashlight.

19 Q. Where was his weapon and his flashlight placed?

20 A. The weapon was in the left hand and the flashlight was on the ground, on the
21 left-hand side.

22 Q. Madam Witness, I sense there may be a difficulty with the translation, so I will
23 rephrase my question. Where did the Banyamulengue put his weapon?

24 A. I told you he put it on ground. When I was lying down, he put it next to me.

25 The weapon was on the right-hand side and the flashlight was on the left-hand side,

1 in the left hand. The barrel of the rifle was pointing towards me, towards my leg.

2 It was pointed towards my arm and the rest towards my leg.

3 Q. Madam Witness, during these three rapes, were you able to move freely?

4 A. I remained lying down. It was only afterwards that I was able to get up.

5 Q. Madam Witness, earlier you stated, and I quote from page 33, lines 10 and 11,

6 "He took his feet off me and he went back inside." Can you please explain the

7 situation when the Banyamulengue took his feet off? What do you mean by that?

8 A. When he finished sleeping with me I was between his two legs, so he lifted up
9 his right leg and he went back into the house; but before that he called one of his
10 companions, and when the other arrived he lifted his right leg up and went out.

11 PRESIDING JUDGE STEINER: You can proceed. I think Maître Zarambaud now
12 was informed on the way for raising an objection. If you want, you have to stand on
13 your feet.

14 MR ZARAMBAUD: (Interpretation) Your Honour, I just wanted to say that in
15 number 55, line 28, there is a mention that the rifle was in the left hand and I think
16 that the witness said it was in the right hand. I would just like to thank you for that.

17 MS KNEUER: Madam President, I think we covered that because I asked for
18 clarification.

19 PRESIDING JUDGE STEINER: Yes, it is covered. Thank you, Maître Zarambaud.
20 It has been clarified when Madam Prosecutor repeated the question. You can
21 proceed, Madam Kneuer.

22 MS KNEUER: Thank you, Madam President.

23 Q. Madam Witness, during these three rapes -- no, I will rephrase, Madam Witness.
24 Were you forced to have sexual intercourse with the three Banyamulengue?

25 A. They forced me to have sexual relations with them.

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1 Q. Madam Witness, do you recall the duration of the three rapes?

2 A. I don't remember exactly how much time it lasted for.

3 Q. Do you think you can give us an estimate?

4 A. When the first came, he took time. He slept with me and it was after having
5 ejaculated that he got up, but putting it in terms of minutes I couldn't tell you.

6 Q. Thank you, Madam Witness. Madam Witness, for the time being I do not have
7 any further questions regarding the rape, but I would like to ask some more questions
8 about the pillaging that took place at 9 p.m. You mentioned earlier that the
9 Banyamulengue had taken money from you, and I am referring to page 33, line 16.
10 How much money did they take from you?

11 A. During this time the parents had already fled and so I was alone at the house,
12 and when he was shot they broke the door down and they took the money which was
13 in the safe and it could be estimated at 600,000 francs. And myself, the money that
14 I had from selling coffee, was around 67,000. So they took all that.

15 Q. Madam Witness, you just explained to us that the Banyamulengue took 600,000
16 francs from your parents. Are you referring to your biological parents?

17 A. No, it was the father of my cousin who was killed.

18 Q. At that time, at 9 p.m., did the Banyamulengue take anything else except the
19 money?

20 A. When they came, they took the foam mattresses, as well as pots which belonged
21 to the wife of my uncle, to the wives of my uncle, and the foam mattresses were the
22 children's mattresses.

23 Q. Did you consent to them taking the money and the other items you just
24 described?

25 A. When they entered, they acted as if they were home. It wasn't our will that

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1 they could do that. When they had weapons, there's nothing you could do.

2 Q. Madam Witness, earlier I asked you to describe which clothes the
3 Banyamulengue were wearing. Can you please do so again for this group of
4 Banyamulengue that arrived at 9 p.m.? Do you recall what they were wearing?

5 A. The uniforms that they were wearing when they came at 9 o'clock were the
6 same uniforms that the presidential guard had at the time of President Patassé that
7 they wore. It was the same uniform.

8 Q. Do you recall what type of shoes this group of Banyamulengue was wearing?

9 A. Where it concerns the footwear, they wore rubber boots and trainers that they
10 were wearing.

11 Q. What was the language that the Banyamulengue spoke among themselves in
12 this group at 9 p.m.?

13 A. They spoke Lingala between them.

14 Q. Despite the fact that this group of Banyamulengue wore uniforms of the
15 presidential guards of Patassé, how did you know that they were Banyamulengue?

16 A. They didn't speak the same language and their way of speaking Sango was
17 different.

18 Q. Madam Witness, you mentioned earlier - and I'm referring to page 46, lines 22
19 until 24 - that one of the Banyamulengue were called "My commander." This person
20 who was called "My commander," was it one of the perpetrators that raped you?

21 A. Yes, he was one of the perpetrators who came at 9 o'clock.

22 Q. Can you please describe what this person who was called "Mon commandant"
23 looked like?

24 A. Among them, he was short. He was quite fat, and I thought because he was
25 called "Mon commandant" he must be the one that was commanding the others.

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- 1 MS KNEUER: Madam President, I would like to ask the witness a couple of
- 2 questions about the impact of the assault and I would prefer to do that in private
- 3 session, please.
- 4 PRESIDING JUDGE STEINER: Court officer, let's please go into private session.
- 5 (Private session at 3.22 p.m.)
- 6 (Expunged)
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- 8 (Expunged)
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12 Page 46 expunged – Private session.

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1 (Open session at 3.41 p.m.)

2 THE COURT OFFICER: We are in open session, Madam President.

3 MS KNEUER:

4 Q. Madam Witness, for today we have still 15 minutes left and I would like to ask
5 you a few questions about the incident related to the murder of your brother. Do
6 you feel strong enough to continue today?

7 A. We can continue. I'm still capable of answering your questions.

8 Q. Madam Witness, earlier you explained to us that the Banyamulengue came back
9 again and that you heard a door cracking, and I am referring to page 35, lines 10
10 onwards. You explained to us, Madam Witness, that you were looking through the
11 crack of a door that you precisely described. Can you please explain to us the
12 interior of the house that you could see through the door crack?

13 A. When you leave the house, you go straight on and there's a door that leads out
14 of the house behind; but before you get to that door, there is a first sitting room and
15 then there's a second, and before you get to that one there is a room and you have to
16 go into that room to get to the second one. The door that leads out at the back of
17 the house leads on to another one where the moped was, and next to that door there
18 is a room before you go into the sitting room, and that room was the room of the
19 deceased's mother, which is on the left, and then there's another sitting room on the
20 right. And you get into that sitting room before you can go into the room where the
21 moped was. That's not very far from the door of the room where the moped was
22 located.

23 Q. When you're looking through that crack, is it possible to see the room where the
24 moped was located?

25 A. I couldn't see up to the door, but what I could see was between the sitting room

1 and the entrance door; the main entrance door. I was just behind the door, which
2 isn't very far from where the moped was located.

3 Q. And when you looked through this crack in the door, where did you see the
4 Banyamulengue that came back to your house?

5 A. I could see through the door that there were two of them in the sitting room. I
6 could hear the voices of one of them and my younger brother, who was in the
7 bedroom where the moped was located, but the other two were in the sitting room
8 and because there was the lamp I could see into the sitting room.

9 Q. How do you know that one Banyamulengue and your brother were in the room
10 where the motorbike was located?

11 PRESIDING JUDGE STEINER: Madam Kneuer, the interpreter asks you please to
12 repeat the question.

13 MS KNEUER: Thank you, Madam President. I missed that part.

14 Q. Madam Witness, how do you know that one Banyamulengue and your brother
15 were in the room where the motorbike was located?

16 A. I know that because I could hear his voice and the voice of the Banyamulengue
17 coming from the room. The other two were in the sitting room. That's how I could
18 infer that they were in the room.

19 Q. Thank you, Madam Witness. When the Banyamulengue came back to your
20 house, were they carrying anything with them?

21 A. They still had their weapons and their torches.

22 Q. Did the Banyamulengue use the torches in the house?

23 A. Yes, they came into the house with their torches.

24 Q. Considering the lighting conditions with regard to the lamp that you mentioned
25 earlier and the torches, would you say that you had a good view what was happening

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1 inside the house?

2 A. I said to you that we had an oil lamp inside the house and they -- they had their
3 torches. That is what enabled me to see what was going on inside the house.

4 Q. Thank you, Madam Witness. I will now ask you again to describe what this
5 group of Banyamulengue was wearing; the uniforms, the shoes, please?

6 A. They were wearing the same clothes as the presidential guard at the time of
7 President Patassé. Those Banyamulengue wore the same clothes.

8 Q. In which language did the Banyamulengue speak to each other?

9 A. They spoke in their language, which is Lingala.

10 MS KNEUER: Madam President, although we have five minutes left, I think this
11 would be a good point to stop for today.

12 PRESIDING JUDGE STEINER: So maybe we can adjourn then and just to thank you
13 very, very much, Madam Witness. It has been a very, very tough day, with many
14 hours of testimony. The Chamber thanks you very much, and now you are entitled
15 to rest for the rest of the day until tomorrow when we will continue with the
16 Prosecution questioning. Thank you very much, and before we adjourn I would ask
17 the court officer to go into closed session for the witness to be brought out of the
18 courtroom.

19 (Closed session at 3.53 p.m.)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Open session at 3.55 p.m.)

25 THE COURT OFFICER: We are in open session, Madam President.

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1 PRESIDING JUDGE STEINER: Thank you. Maître Liriss, you wanted to -- yes, you
2 have the floor.

3 MR LIRISS: (Interpretation) Your Honour, thank you very much. I think on two
4 occasions we have written so as to obtain in the framework of the examination of this
5 witness -- we were seeking the non-redacted version or at least very partially redacted
6 version of the request for participation made by -- which carries number a091/08
7 which specifies the victims, entitled persons, and so I would once again like to
8 reiterate that request that we made on two separate occasions so that I can receive this
9 as quickly as possible and make use of it. Thank you.

10 (Pause in the proceedings)

11 PRESIDING JUDGE STEINER: Maître Liriss, maybe we have some communication
12 problem, because I have here in my hand an email sent on 17 December 2010 exactly
13 with the last redacted version of the witness/victim application. It was the last
14 document sent before the winter recess.

15 MR LIRISS: (Interpretation) Your Honour, yes, perhaps there is a communication
16 problem. What we've received was that of the victim, the victim alone, but we didn't
17 get that for the entitled persons of the victim that are the subject matter of this
18 testimony, and I gave you the document number for that and it in fact reports on
19 exactly the same events. Now, to achieve a better understanding, perhaps I could
20 say that what we received is a0284/08 and we also sought 0391/08.

21 (Pause in the proceedings)

22 PRESIDING JUDGE STEINER: Maître Liriss, we are not in a position to give you an
23 information - a correct information - right now in relation to 0391/08, but we will turn
24 back to you this afternoon, or at the latest tomorrow early in the morning.

25 MR LIRISS: (Interpretation) Thank you very much, your Honour.

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1 PRESIDING JUDGE STEINER: If there has been any miscommunication here the
2 Chamber of course apologises, but in principle all dual status victims'/witnesses'
3 applications should have been sent to the Defence team and so we need to check this
4 information. We will do it as soon as possible.
5 So, Madam Kneuer?
6 MS KNEUER: Yes, Madam President. Just for planning purposes, the Prosecution
7 is expecting to finish with this witness tomorrow.
8 PRESIDING JUDGE STEINER: Thank you. Finish with the testimony I hope, not
9 with the witness. Sorry, it is just a joke for the end of the day.
10 The Chamber is planning to sit tomorrow from 2.30 to 6, so we are going to have two
11 sessions of one-and-a-half hours each starting at 2.30 in the afternoon, we are going to
12 have a break at 4 o'clock, resuming at 4.30 and finishing at 6 o'clock. So if the
13 Prosecution finishes before 6 o'clock so maybe then we have the opportunity for the
14 Defence to start questioning, or if the Defence so prefers we can adjourn and start on
15 Thursday. It would be up to the Defence tomorrow to decide whether it is prepared
16 to start its questioning.
17 So I would like to thank very much -- before we finish, I just received information,
18 Maître Liriss, that 0391/08 is not a dual status victim/witness. That's why maybe the
19 application was not sent to the Defence. So I may assume that the Defence is
20 requesting such application now; is that correct?
21 MR LIRISS: (Interpretation) I am sorry, but I am not sure I fully understood you,
22 your Honour. I apologise for that. We know that this is not a dual status
23 victim/witness. We know that this is a victim who is testifying about the same
24 events. We said -- we talked about eligible parties of the person here, the person
25 who was murdered, the murder that the witness is presently testifying about.

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1 PRESIDING JUDGE STEINER: Maître Liriss, I understood - and this is what I was
2 trying to explain to the Defence - that the Chamber ordered the last redacted versions
3 of the dual status victims/witnesses to be sent to the Defence and so this one was not
4 sent because it was not a dual status, but we will provide the Defence with the last
5 redacted version of the application of victim 0391/08.

6 Madam Kneuer?

7 MS KNEUER: Yes, Madam President, I am a little confused and so I would like to
8 clarify. The witness that my learned colleague is referring to is not an OTP witness.
9 He will not testify on behalf of the OTP. I understand he is referring to Witness 89.
10 89 is not on our witness list. Just to clarify this, because I had the impression from
11 what my learned colleague said that Witness 89 would testify in this Court; at least
12 not on behalf of the Prosecution.

13 PRESIDING JUDGE STEINER: Yes, I think that the Defence is referring to a person
14 that was present or suffered the same -- from the same acts perpetrated in the same
15 situation, but is not a witness. It is just a victim participating. So it is not her or his
16 testimony that is being asked, but his application for participation.

17 In any case, in relation to victim 0391/08, since he or she is represented by
18 Maître Zarambaud, I ask Maître Zarambaud whether Maître Zarambaud has any
19 problem with giving the Defence a last redacted version of this application?

20 MR ZARAMBAUD: (Interpretation) Thank you, your Honour. We have nothing
21 to hide.

22 PRESIDING JUDGE STEINER: So then it is decided. So, again, I would like to
23 thank very much the Prosecution team, legal representatives of victims,
24 representatives of OPCV, the Defence team, the presence of
25 Mr Bemba - Monsieur Bemba - and of course to thank our interpreters for their hard

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1 work with us, the court reporters and we are going to adjourn and resume tomorrow
2 at 2.30 with the continuation of the testimony of Witness 87. So this session is
3 adjourned.

4 THE COURT USHER: All rise.

5 (The hearing ends at 4.07 p.m.)

6 CORRECTIONS REPORT

7 The followings corrections have been made in the transcript:

8 *page 18 lines 15 to 16

9 "these men had come into Bangui. " is corrected by "the Banyamulengue had come."

10 *page 22 line 2

11 "used tennis shoes..." is corrected by "worn -out trainers..."

12 *page 35 lines 17 to 18

13 "we had to just do with darkness" is corrected by " we would sleep in the dark"

14 *page 48 lines 21 to 22

15 "for the ICC and to the advice that I received on behalf of the ICC that I was able to

16 forget" is corrected by "to the ICC and to the advice that I received from the ICC I

17 was able to forget".

18 SECOND CORRECTIONS REPORT

19 The Court Interpretation and Translation Section has made the following corrections

20 in the transcript:

21 * Page 25: Line 18

22 "Any person is able to recognise the soldiers of this country " is corrected by "Any

23 person is able to recognise the soldiers of his country"

24 * Page 28: Line 3

25 "You had to be vigilant to see the one who stayed outside " is corrected by "You had

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- 1 to be vigilant to see the one who had stayed outside”
- 2 * Page 30: Line 7 to 8
- 3 “I went to the father of the girl “ is corrected by “I went to the home of the father of
- 4 one of the younger children”
- 5 * Page 32: Line 14 to 15
- 6 “the Banyamulengue were following them, the rebels were already at PK22, they
- 7 disappeared “ is corrected by “the rebels were at PK22 and that the Banyamulengue
- 8 were following them, the young people dispersed”.