

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 Judge Kuniko Ozaki
6 Status Conference
7 Tuesday, 27 March 2012
8 (The status conference starts in open session at 9.49 a.m.)
9 THE COURT USHER: All rise. The International Criminal Court is now in session.
10 Please be seated.
11 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
12 in open session.
13 PRESIDING JUDGE STEINER: Good morning. Could, please, court officer call the
14 case.
15 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
16 Prosecutor versus Jean-Pierre Bemba, case reference ICC-01/05-01/08.
17 PRESIDING JUDGE STEINER: Thank you very much.
18 Good morning and welcome Prosecution team, legal representatives of victims,
19 Defence team, Mr Jean-Pierre Bemba, representatives of VWU, of the Registry. Good
20 morning to our interpreters, court reporters.
21 For the record, I would like to -- I would like the Prosecution, then legal
22 representatives, the representatives of Registry and Defence to introduce themselves
23 and their teams, please.
24 MR BADIBANGA: (Interpretation) Good morning, Madam President. Good
25 morning, your Honours.

1 The Office of the Prosecutor is this morning represented by Mr Thomas Bifwoli, who
2 is Deputy Prosecutor, Madam Frédérique Besse, who is case manager and myself,
3 Mr Jean-Jacques Badibanga, who is also senior trial lawyer. I was following the
4 translation in English and I heard that he was a Deputy Prosecutor.

5 THE INTERPRETER: Correction from the English booth.

6 MR BADIBANGA: (Interpretation) I was saying senior trial attorney. Thank you.

7 PRESIDING JUDGE STEINER: Thank you, Mr Badibanga. Legal representatives?

8 MS DOUZIMA LAWSON: (Interpretation) Yes, thank you, Madam President.

9 My name is Marie-Edith Douzima Lawson, I am legal representative of the victims in
10 these proceedings, and for the two teams of legal representatives we have two case
11 managers who are Virginie Roche and Carine Pineau and I thank you.

12 PRESIDING JUDGE STEINER: Maître Zarambaud. Just for the --

13 MR ZARAMBAUD: (Interpretation) Yes. Well, presentations have been
14 undertaken by Maître Douzima, so Maître Douzima, myself, Mr Zarambaud, Carine
15 Pineau and Virginie Roche who are our case managers.

16 PRESIDING JUDGE STEINER: Thank you. Mr Haynes?

17 MR HAYNES: Yes, your Honour, I'm Peter Haynes, I am counsel representing
18 Jean-Pierre Bemba. I am assisted in court today by my case manager, Jean-Jacques
19 Mangenda, and Mademoiselle Hélène Soulie.

20 PRESIDING JUDGE STEINER: Thank you. Registry?

21 MR WALTENBURG: Thank you, Madam President, your Honours. The Registry
22 and Victims and Witnesses Unit is today represented by Ms Bibiana Becerra-Suárez,
23 who is legal co-ordinator in the Division of Court Services, Ms Shakhnoza Abdullaeva,
24 assistant legal officer in the Victims and Witnesses Unit, Ms Lejla Komarica, trial
25 operations co-ordinator in VWU, and myself Iwan Waltenburg, Head of Operations

1 in the Victims and Witnesses Unit.

2 PRESIDING JUDGE STEINER: Thank you very much. Today the Chamber
3 decided to hold the present status conference in order to address issues related to the
4 presentation of evidence by legal representatives of victims and by Defence.

5 We had last week and the past days filings coming from legal representatives and
6 from the Defence in relation to some issues that they intended to see addressed
7 during this status conference and if it is agreeable to parties and participants the
8 Chamber would like to start by legal representatives in order to allow legal
9 representatives to elaborate in the present status conference on yesterday's filing, the
10 filing 2176 of 26 March 2012. We just wanted to remind legal representatives that the
11 filing was made confidentially and therefore the Chamber would like the legal
12 representatives to address or to elaborate on the issues raised in the present filing
13 without going into information that should remain confidential.

14 So, Maître Douzima, would you like to take the floor, or Maître Zarambaud, or both?

15 MS DOUZIMA LAWSON: (Interpretation) Yes, thank you, Madam President.

16 We will both be addressing the Court. I shall start and then Maître Zarambaud will
17 complete what I'm saying.

18 Madam President, we, the legal representatives of victims, had expressed our
19 intention to bring a contribution to the proceedings, the proceedings to be adopted,
20 notably in terms of presenting the views and concerns of the victims that we are
21 representing, and the simple reason behind this being that in a previous decision the
22 Chamber had already stated how the legal representatives authorised to present
23 evidence were going to go about things.

24 Now, in this very order or decision, the Chamber had alluded to the proposal on the
25 part of the Office of the Prosecutor whereby they were of the opinion that victims

1 authorised to present their observations and concerns could do so via either video
2 link, or in writing, and the legal representatives were of the opinion that they did
3 have their word to say in view of the fact that they are really the trail-blazers in this
4 part of the proceedings, because these are the representatives who after all know their
5 victims closely and well.

6 Now, after having informed the Chamber of their intention, the Chamber stated that
7 it would take into account the submissions made by the legal representatives and this
8 is why the legal representatives then yesterday submitted their filing on the subject.

9 The legal representatives are of the opinion that to the extent that it is the victims who
10 have been authorised to present their observations and concerns, that they have
11 already been admitted as such to take part in the proceedings. I mean by that that
12 they have already presented their own participation forms and it was on the basis of
13 these forms that they were admitted to participate.

14 Also, with a view to allowing the Chamber to assess the relevance of the elements that
15 they were going to present during the trial, the Chamber was of the opinion that these
16 victims should be able to once again put in writing the elements that they were going
17 to present and this is what the legal representatives did last January.

18 This is why the legal representatives deem that asking these victims to present their
19 observations and concerns once again in writing would be overkill. It would be
20 redundant. This was the term that we used.

21 Now, the legal representatives would like to recall and record in fact in the decision of
22 22 February that the Chamber had authorised two victims to present evidence and
23 three further victims to present their observations and concerns and that this decision
24 was subsequent to the submissions made that I mentioned previously.

25 In this decision, the Chamber -- well, we the legal representatives noticed that the

1 Chamber had stated that victims are indeed participants who have the right to
2 present their observations and concerns when their personal interests are called into
3 play, and we believe that the statements that we have submitted on the part of these
4 victims, well, that the Chamber could as a result -- we are of the opinion that their
5 personal interest is affected here.

6 So in presenting their observations and concerns as victims, they could do so
7 individually and personally. This is what the Chamber said. However, the
8 Chamber said it was conscious - aware - of the fact that appearing in person and were
9 a number of victims to appear in person this could have been an effect on the fairness
10 and on the -- and the expeditiousness of the trial.

11 We were of the opinion that these victims should be able to present their observations
12 and concerns before the parties in order to present their views. This has the
13 advantage of enabling the Chamber and all parties to assess the credibility of these
14 witnesses via their behaviour, via their manner of expressing themselves and their
15 facial expressions whilst speaking if they come forward during the trial.

16 Now, as to the speed and fairness of the trial, this being a matter that the Chamber
17 underscored in its decision of 22 February, the legal representatives would like to
18 recall that in these very proceedings there are many victims who were admitted to
19 participate. There is no secret to this. There are 2,751 victims who have been
20 admitted to participate in the proceedings and of these 2,751 there are only five who
21 will be coming to present evidence or their observations and concerns.

22 So we noted that in the interim the Defence thought that it would be able to start its
23 case from 1 July and yesterday the Defence via another email stated that it would only
24 be able to commence its case from 15 July 2012. The Trial Chamber established the
25 beginning of the legal representatives' evidence as starting at 23 April 2012 and we

1 estimate that this will last approximately 20 days. We -- we do not believe, therefore,
2 that the victims will slow down the trial in any manner at all. I thank you.

3 PRESIDING JUDGE STEINER: Just one clarification according to what is stated on
4 paragraph 17 of your filing 2176. You mention that the estimation for about 20 days
5 of hearing. When you mention 20 days of hearing, is in respect in case the Chamber
6 decides to bring the three victims that are going to present their views and concerns,
7 or these 20 days refer only to those two that are going to testify?

8 MS DOUZIMA LAWSON: (Interpretation) These are the five victims, all of the
9 five victims, and were the Chamber to accept our request we believe that 20 days
10 would suffice to the extent that for the examination -- the examination of each victim,
11 well, first and foremost the two victims who will be presenting evidence, well, we
12 thought that we would need a day-and-a-half for the examination on the part of the
13 legal representatives and as for those who will be presenting their observations and
14 concerns we thought that there we would need two days for the legal representatives;
15 two days each. Of course it depends on the manner in which they will be answering
16 our questions. We believe that 1.5 days - a day-and-a-half - for each victim
17 presenting evidence, I repeat, and one day for each -- correction, one day for each
18 victim presenting their observations and concerns.

19 THE INTERPRETER: Correction from the English booth: One day.

20 PRESIDING JUDGE STEINER: One more question, Maître Douzima. I presume
21 that the two victims that are coming to testify and in case the other three that are
22 going to present views and concerns no matter if in court or via video conference, the
23 modalities are still to be decided by the Chamber, but can I presume that all of them
24 will present their statements in Sango, which means that interpretation will be
25 required? Am I correct?

1 MS DOUZIMA LAWSON: (Interpretation) Yes, you are indeed correct, Madam
2 President.

3 PRESIDING JUDGE STEINER: Thank you very much, Maître Douzima.

4 Maître Zarambaud, do you have anything that you would like to add?

5 MR ZARAMBAUD: (Interpretation) Yes, thank you, Madam President, your
6 Honours. I believe that my colleague, Maître Marie-Edith Douzima, has said the
7 essentials.

8 Now, as you know even better than I do, Madam President, the International
9 Criminal Court is a trail-blazer in terms of international criminal proceedings by
10 enabling victims to take part in the proceedings, and the jurisprudence for the Court
11 of -- for the Chamber of Appeal, as for the Trial Chamber, would like this
12 participation to be effective and effect.

13 We requested at the outset to present evidence or to present 17 victims, were it to
14 present evidence or to present views and concerns, and the Defence -- well, we were
15 told that -- well, the Defence told us that this would be too lengthy and that this
16 would prejudice the rights of the Defence.

17 Now, the truth be told, Madam President, I believe that the lengthiness of this trial
18 has nothing to do with the Chamber or the legal representatives or the Defence or
19 anybody. It in fact has to do with the extent or the area over which the events took
20 place and the very large number of victims, to date 2,571 (sic) Victims. I believe
21 that in other cases there are 180 and 350 respectively for the two cases.

22 So, in order to examine all the situations at hand, we need time and this is
23 independent of what the legal representatives are able to do themselves.

24 Of course, there are also facts that are independent of the goodwill of the Chamber or
25 the legal representatives. For example, a witness who is sick, who has been operated

1 on, who has been travelling, and this does not depend upon us, and as a result,
2 Madam President, your Honours, I think that in view of the fact that we have already
3 reduced, conservatively reduced this number to four in order to provide a
4 representation of what 2,571 (sic) victims went through, I believe that requesting that
5 these victims testify in writing is really not something that will bring the Chamber
6 forward in any manner, because as my learned colleague said earlier these
7 individuals are not able to read and write. They are illiterate.
8 They have already given statements in the Sango language that we have had
9 translated on two occasions and were we to request again that they testify in writing,
10 I do not believe that this would bring us forward in any matter -- in any manner
11 whatsoever and that is why we have insisted for those victims who are going to be
12 expressing their views and concerns -- of course we have heard that they will not be
13 coming here, but I believe that for the others at least -- or the least would be to have
14 them testify via video link.
15 As a result, the Chamber would be able to see those individuals expressing
16 themselves, they would be able to assess their concerns in the flesh rather than having
17 it in writing which I think would be a third time in writing.
18 So in terms of percentage of the number of victims, I saw that in the Lubanga case it
19 was approximately 22.1 per cent and in the Katanga case 1.9 per cent in terms of the
20 number of victims. In our case it's 0.07 per cent, so I believe, your Honours, that we
21 will be able of course to count upon your habitual wisdom for us not to impose a
22 further writing project upon these victims and that we will enable them to testify via
23 video link because of course they have not been allowed to come to the Court.
24 Thank you.
25 (Trial Chamber confers)

1 PRESIDING JUDGE STEINER: Thank you very much, Maître Zarambaud. The
2 main purpose of a status conference is for the Chamber to try to advance as much as
3 possible the proceedings. It is expected from the Chamber and the parties and
4 participants that proceedings in the present case are on -- are made on a fair and
5 expeditious way, and on behalf of the expeditiousness I would like to ask whether the
6 Prosecutor would be ready to respond to the -- to the observations made by legal
7 representatives, or whether Prosecution needs some time to make it by way of a
8 written response?

9 MR BADIBANGA: (Interpretation) Thank you, your Honour. I think that we
10 could immediately answer you. The position of the Office of the Prosecutor is that of
11 course we have no objection to the request as formulated by the legal representatives
12 to have the opportunity to hear victims.

13 We will of course refer to the wisdom of the Chamber with regard to a whole series of
14 decisions as regards the practicalities surrounding such a possible taking of
15 statements.

16 Now, just to make a precision with regards to the video link, the Prosecutor referred
17 to it in a submission and of course it is understood that this proposal of the Prosecutor
18 should be understood in order to facilitate the speed of these proceedings to make
19 sure that the proceedings can progress, but of course it's understood that if the
20 witness or the victims can appear in the court then of course we have no objection to
21 that, but the proposal of the Prosecutor came as a response to the difficulties at a
22 practical level and at that level we suggested such an avenue to be reviewed. That's
23 what we wanted to say with regards to the comments that have been made.

24 Now, with regards to the date to start for the legal representatives, this was
25 mentioned. We are at the availability of the Chamber such that it may set hearings

1 in this regard.

2 PRESIDING JUDGE STEINER: Thank you, Maître Badibanga. One question
3 for -- as mentioned and it's for the Chamber to reinforce the fact that the Chamber has
4 not yet decided on the modalities of the presentation of views and concerns by three
5 of the victims. In any case, my question to the Prosecution is whether Prosecution
6 intends to question or to address any kind of request for clarifications of precisions
7 from these victims that are expected to give their views and concerns?

8 MR BADIBANGA: (Interpretation) Perhaps, your Honour, with regard to this
9 point we could come back to the Chamber at a later point, but what I can tell you
10 today is that our preparations concern essentially the two victims who are going to
11 testify and with regards to that we haven't envisaged any intervention, but if you
12 would allow me that's subject to reservation that we might have to come back to the
13 Chamber on that particular point. Thank you very much.

14 PRESIDING JUDGE STEINER: Thank you, Maître Badibanga.
15 Mr Haynes, may I ask whether Defence would be ready to respond to legal
16 representatives right now, or prefer to make it by way of a filing?

17 MR HAYNES: No, we're here for that purpose and I'm ready and able to deal with
18 it.

19 Your Honour, I do appreciate - I really do - the desire of those who represent victims
20 in this case to make sure that the views of their clients are fully placed before this
21 Chamber. However, I do not propose to review the history of the process that has
22 led the Chamber to determine that those views will be appropriately represented by
23 the Chamber hearing during this phase of the case from two further victims as to the
24 events and three as to their views.

25 It was the subject of much debate in written filings and the original position of the

1 legal representatives for victims was opposed not just by the Defence, but by the
2 Prosecution as well, and the principal reason for that, and something which has not
3 been stated today, was that we have already heard from very many victims in this
4 case who were called by the Prosecution and the Chamber in our view rightly
5 determined that further duplicative evidence was unnecessary and would
6 unnecessarily prolong the process.

7 I don't propose to say any more about that and I have nothing to say about the
8 appropriate method by which the views of the three are received by the Court. I am
9 quite sure that the Chamber will determine an appropriate method and I don't
10 propose to say anything about it now, or probably in the future.

11 For us, the important thing is that the victims' case has an identifiable period of time,
12 and it does. Our submission is that to hear two witnesses and receive the views of
13 three others can be completed comfortably within 20 days and probably a good deal
14 less, and so we don't see that as, as it were, posing any problem to the future
15 scheduling of the trial, including the Defence case.

16 The one submission which we notified everybody of yesterday in an email I would
17 wish to make is that the start date of 23 April for the reception of the first witness
18 called by the legal representatives be put back by a couple of days at least and I'll tell
19 you why. We are currently heavily committed to working away from The Hague
20 and as things currently stand on 23 and 24 April it is unlikely in the extreme that the
21 accused would be represented by counsel before the Chamber because no counsel
22 would be in The Hague. Of course, if 23 April is mandatory, we'll bring somebody
23 back, but in our submission that in the long run may represent something of a false
24 economy because that work is going to have to be done at some stage and, given that
25 the victims' case will be completed comfortably before the start date for the Defence

1 case, whether or not the first victims' witness comes on 23, 26 or even 30 April, we
2 submit that would be an expedient and sensible step to take at this stage and before I
3 anticipate any travel arrangements are made for that first witness.
4 So that's really the only matter I wish to raise about the scheduling of the victims' case.
5 In our view, if the witnesses are ready it will probably take a little more than two
6 working weeks and we ask whether consideration could be given to it starting a
7 couple of days or perhaps a week later than 23 April.

8 PRESIDING JUDGE STEINER: Thank you, Mr Haynes.
9 Before we move to the next topic of our agenda, I just would like to ask legal
10 representatives if they want to add anything to what was stated by Prosecution and
11 Defence?

12 MS DOUZIMA LAWSON: (Interpretation) Your Honour, as my learned colleague
13 said, we shall leave it to the wisdom of the Chamber, but we do have a question to
14 put with regards to the presentation of views and concerns and this is to assess the
15 time it's going to take. Do the parties or will the parties also examine the victims
16 who are going to present their views and concerns?

17 PRESIDING JUDGE STEINER: Maître Douzima, before I answer to your question,
18 in relation to the two victims -- because you made an estimation of 20 working days
19 for the five victims. In relation to the two that are coming to testify, which is the
20 estimation that legal representatives could give us in terms of time of questioning?

21 MS DOUZIMA LAWSON: (Interpretation) I will go back a bit and say that the
22 20 days, or the estimate of 20 days, includes the examination of victims by the legal
23 representatives and by the parties. So, now, where it concerns the two victims who
24 have to present evidence, we considered for the two one-and-a-half days would be
25 sufficient for each victim, for each of the two victims who would present evidence.

1 PRESIDING JUDGE STEINER: This is the time requested by legal representatives to
2 question the witness, so you are not including the time needed by Prosecution and
3 Defence, or it includes? That is what I wanted to have it really clear.

4 MS DOUZIMA LAWSON: (Interpretation) Exactly. One-and-a-half days, that is
5 to say six sessions, this is for the examination of each victim by the legal
6 representatives.

7 PRESIDING JUDGE STEINER: In relation to your concern on whether the victims
8 that are called or authorised to present their views and concerns are going to be
9 questioned as well by Prosecution and Defence, it's a matter that the Chamber will
10 decide as soon as the Chamber establishes the modes of participation for those
11 victims. I just asked Prosecution and Defence to give their views in order to advance
12 the eventual decision to be given by the Chamber. Thank you, Maître Douzima.
13 (Trial Chamber confers)

14 PRESIDING JUDGE STEINER: I'm sorry, if I insist. I know that the parties and
15 participants are not in a position to give us precise estimations, but if I understood
16 legal representatives are estimating that for each victim that is coming to testify they
17 will need six-and-a-half hours for their questioning, so one-and-a-half day; is that
18 correct? Can the Chamber assume that Prosecution and Defence maybe need the
19 same amount of time, or is an assumption too hypothetical?

20 MR HAYNES: I, if Mr Badibanga doesn't mind me going first, I would have thought
21 we'd need rather less. These are not like dual-status witnesses. There are no
22 interviews about which they can be questioned at length. I would have thought the
23 questioning of them by the other parties would take rather less than the time required
24 by the party calling them, from my reading of it, and whilst I'm on my feet those
25 victims presenting their views I wouldn't have thought we would want to question.

1 That does not have the force of evidence, it does not impact upon the case against the
2 accused, and so I would not anticipate either the Defence or the Prosecution playing
3 any part in the hearing of their views, but we're in your hands as to that.

4 PRESIDING JUDGE STEINER: Maître Badibanga?

5 MR BADIBANGA: (Interpretation) The assessment of the Chamber is quite correct,
6 your Honour. We think that at the very maximum we will take the same time, but in
7 reality we're convinced at this stage that we'll take a lot less time. So I think that we
8 can advance calmly, because we'll need a lot less time for the objectives of these
9 victims. Thank you.

10 PRESIDING JUDGE STEINER: Thank you very much.

11 (Trial Chamber confers)

12 PRESIDING JUDGE STEINER: Having heard the legal representatives and the
13 parties, now it's time to give the floor to VWU, because even in relation to timing we
14 are at the hands of VWU in relation first to the progress on the issuance of
15 passports - biometric passports - for the two victims called by legal representatives to
16 give evidence in court, so the Chamber needs to be updated on how is it going. Bear
17 in mind that we are in public session, so please no details that could affect the victims
18 should be mentioned.

19 MR WALTENBURG: Thank you, Madam President, your Honours. VWU is
20 acutely aware of the fact that much depends on the speediness of logistics and, before
21 I pass the floor to my colleague Lejla Komarica who will give you further details on
22 where we stand in obtaining biometric passports for the two victims who have been
23 called to present evidence in court, with your permission I would just like to raise
24 three points which we feel are of principal importance and which we feel require the
25 Chamber's further guidance.

1 Regarding the two victims who have been called to give evidence in court, for the
2 purposes of the preparation and familiarisation of these victims they will be afforded
3 the same services by the Victims and Witnesses Unit as are afforded to witnesses who
4 are called to testify, which in our view would also include providing these two
5 victims with the opportunity to review any statements they may have prior to giving
6 evidence in court.

7 The question which remains for us is whether the Court's jurisprudence on
8 non-contact between a calling party or participant and a person appearing in court
9 would also apply for these two victims. In other words, would it be the case that
10 once these two victims arrive here in The Netherlands the only contact allowed
11 between the two victims and their legal representative would be in the context of the
12 courtesy meeting organised by the Victims and Witnesses Unit. That's the first point,
13 your Honour.

14 The second point which I would like to raise and which has already been touched
15 upon in the court this morning is regarding the three other victims who have been
16 authorised to present their views and observations.

17 Now, we understand from the deliberations in court this morning that the Chamber's
18 decision on the exact modalities of participation is forthcoming. With the risk of
19 stating the obvious, Madam President, I just have to emphasise that from the point of
20 view of the Victims and Witnesses Unit, the sooner we will know whether these
21 persons, these three victims will participate via video link or whether they will be
22 authorised to travel to the seat of the Court the better it is as this will then enable us to
23 initiate any applications for travel documents if indeed required.

24 The last principal point which I would like to raise before I pass the floor to my
25 colleague is just to perhaps alert the Chamber to the fact that a request for an

1 accompanying support person has been made for one of the two victims who has
2 been -- who have been called to give evidence in court; in other words, one of the two
3 victims who will travel. This request has been made by the team of Maître Douzima.
4 However, the Victims and Witnesses Unit has not yet received the identity documents
5 for this accompanying support person which would enable us to initiate the process
6 for a passport for this accompanying support person.
7 Moreover, in accordance with the VWU's protocol on vulnerability assessment, any
8 request from a calling party or participant to have an accompanying support person
9 travelling with a victim or a witness appearing before the Court is first subject to an
10 independent vulnerability and needs assessment by the VWU. As such, the Victims
11 and Witnesses Unit and the team of the legal representative would need to organise
12 such an assessment at the earliest given opportunity and our suggestion just to ensure
13 the momentum of the logistical preparation would be that in order not to lose
14 valuable time and of course without prejudice to the independent assessment of VWU,
15 we would propose to initiate the necessary arrangements for the passport of this
16 accompanying support person but for this we would require the identity documents
17 of the person and this will be -- the exact process of obtaining passports for victims
18 will be further described by my colleague, Ms Komarica.
19 PRESIDING JUDGE STEINER: Mr Waltenburg, just to make that I understood, so
20 you are going to swap proceedings, you are going to start by the issuance of the
21 passport even before you make the assessment on the vulnerability of the witness on
22 the need of having an accompanying person; is that correct?
23 MR WALTENBURG: That is correct, your Honour. Given the very tight
24 time-frame, we would suggest to do it like that. However, this would just be a
25 contingency and if the outcome of our independent vulnerability assessment would

1 mean that this victim does not require an accompanying support person, then we
2 would advise the legal representative accordingly and then the passport would in
3 effect be redundant.

4 PRESIDING JUDGE STEINER: Thank you, Mr Waltenburg.

5 MS KOMARICA: Madam President, your Honour, last Friday on 23 March, VWU
6 has received two birth certificates for the two victims authorised to appear before the
7 Court. Our staff has already started obtaining the required documents to submit the
8 passport application.

9 I would like to draw your attention that -- to the fact that if the authorities issue one of
10 the mandatory documents which is certificate of citizenship by this Thursday, we will
11 be able to submit the passport application. Please note that VWU has been closely
12 working with the Registry's field operations section in order to accelerate the entire
13 process. On top of this, in case -- we will be also requiring the visa. This process is
14 also lengthy and it requires additional ten days.

15 In case there will be any delays in issuance of these documents, VWU will alarm the
16 Chambers and legal representatives in a due time.

17 PRESIDING JUDGE STEINER: Is this estimation of yours compatible with the
18 estimated date for the beginning of these two victims to give evidence, meaning
19 23 April? That would give one month to VWU between receiving the documents to
20 issue the passport and get the visa. Is it realistic to think that by 23 April these two
21 victims will be able to travel?

22 MS KOMARICA: Madam President, may I consult with my colleague?

23 (Pause in proceedings)

24 MS KOMARICA: Madam President, your Honours, VWU would like to update you
25 on a weekly basis in relation to the issuance of passports, because we are planning

1 and we are aiming with the support of our field operations section to meet this
2 deadline. However, it's quite difficult to anticipate whether authorities will be
3 accurate in their statements or whether we can fully rely on this issuance.

4 We will aim in any case, but we will require -- we will -- two weeks before this
5 deadline, we will alarm you in case there is a delay.

6 PRESIDING JUDGE STEINER: Thank you very much.

7 Maître Douzima, did you understand that you are requested to give to VWU as soon
8 as possible the documents necessary for the issuance of passport for an accompanying
9 person in case VWU authorises the accompanying person to come?

10 MS DOUZIMA LAWSON: (Interpretation) Thank you very much, your Honour.

11 As the representative of the unit has said, it was yesterday that the unit asked me to
12 try to obtain the documents from the person who should accompany one of the
13 victims and that's what I did yesterday where it refers to the birth certificate and
14 I think things are going forward because it is about providing this birth certificate to
15 the VPRS representative in the field. I think there's no problem there, so we know
16 the victims and we know how things occur.

17 PRESIDING JUDGE STEINER: Thank you very much. In relation to these two
18 victims that are -- were called to come to the Court and give testimony, I first ask the
19 legal representatives and then I will ask VWU whether any protective measures were
20 sought or are going to be sought?

21 MS DOUZIMA LAWSON: (Interpretation) I think that there are no protection
22 measures that have been asked for, unless these victims make a request later as was
23 the case for some witnesses of the Prosecutor who did come here, but for the moment
24 we have asked the question to these victims and they have not asked for protective
25 measures. Unless they have not well understood why protective measures would be

1 obtained for them, but I would say for the moment there are none.

2 PRESIDING JUDGE STEINER: Mr Waltenburg, is VWU intending to make a
3 security assessment for these two victims?

4 MR WALTENBURG: Thank you, Madam President, your Honours. We
5 understood in your decision of 6 March that the deadline for the legal representatives
6 to consult with the VWU regarding any protective measures would be on 5 April.
7 Now, as Maître Douzima has just said, so far there has been no such indication for
8 such a requirement. What we would suggest, Madam President, is that we would
9 apply our, in inverted commas, "normal" procedure for these two victims who are to
10 appear in the sense that if they do raise with the VWU any security concerns as part
11 of their preparation and familiarisation we will provide them with an opportunity to
12 meet one of our protection officers who will assess their needs and provide the
13 Chamber accordingly with the information provided to us.

14 PRESIDING JUDGE STEINER: Thank you very much, Mr Waltenburg. In relation
15 to your first point, whether the Chamber would authorise any contact of the victims
16 with their legal representatives, I think the issue will be decided in due time as soon
17 as we have a definitive date for the appearance of the two victims and after
18 consultation of course with the parties. Then the Chamber will decide. There's no
19 need for a decision to be taken at this point in time.

20 I would like to ask whether VWU has any other issue that it would like to be -- to be
21 addressed in this status conference for the time being in relation to the presentation of
22 evidence by legal representatives?

23 MR WALTENBURG: Thank you, Madam President. No, apart from perhaps just
24 reinforcing the message conveyed by Ms Komarica before, obtaining the biometric
25 passports in the Central African Republic is a rather complicated process because it

1 involves obtaining a number of identity documents beforehand. However, as
2 Ms Komarica said, we are working very closely with relevant other sections of the
3 Registry. We are optimistic, I think VWU by profession has to be optimistic about
4 the logistical preparations in the field, so we are optimistic that we will be able to
5 obtain the passports in time for an appearance for 23 April, but as we proposed we
6 will keep you informed on a weekly basis about the progress we're making.

7 PRESIDING JUDGE STEINER: Thank you very much, Mr Waltenburg.
8 (Trial Chamber confer)

9 PRESIDING JUDGE STEINER: We have a number of issues now that are to be
10 addressed in relation to the Defence presentation of evidence, which of course
11 includes as well problems of timing and problems involving VWU.

12 Mr Haynes, do you think that if we continue for 40 minutes that would be enough for
13 all the issues raised by Defence to be discussed upon, or could we go to a break and
14 then we have our usual one-and-a-half hour session?

15 MR HAYNES: I'm going to opt for the latter course, because I simply can't answer
16 the first one in the affirmative with any certainty and I would hate to keep everybody
17 here until half-past-11 only for us then to have to change the tapes and have a break.
18 It's possible, but I'm really not sure.

19 PRESIDING JUDGE STEINER: So in that case I think in any case we could then start
20 and we as always suspend for half-an-hour at 11 and 11.30 we resume and continue.
21 So let's save some time.

22 Mr Haynes?

23 MR HAYNES: Your Honour, at the risk of being overdramatic, it's with something
24 of a heavy heart that I rise at this stage because it is now I fear that we all come to
25 realise the size of the odyssey we are embarked upon. I don't see any reason to deal

1 with these matters out of the public's gaze in private session. You will know that
2 there are more specifics in certain filings that are before the Court, but in round terms
3 the Defence case as we currently anticipate it will be of a similar size to the
4 Prosecution case, at least in terms of the number of witnesses called, and I pause there
5 to remind the Court of perhaps two very frightening statistics.
6 The Prosecution case began on November 22, 2010. I'm assuming it is over, although
7 it wasn't formally closed the other day, and it ended 16 months later almost to the day
8 and it comprised 38 witnesses. That is the pace at which we are moving.
9 Ordinarily one might anticipate that the Defence case would be of similar length in
10 terms of time. However, in my view - in our view - it is difficult to be that optimistic,
11 and that is really for two reasons: Firstly, we have some clear idea of the sort of
12 witnesses that the Defence are going to bring before the Chamber and they will not be
13 witnesses who have a tangential knowledge of the operation in Central Africa. They
14 will be witnesses who have a direct first-hand knowledge of the operation in Central
15 Africa and they will speak as to every one of their movements throughout five
16 months, and I think in simple terms one can anticipate that those sorts of witnesses
17 will take rather longer than those called by the Prosecution whose knowledge of
18 events was second-hand and partial.
19 The second problem I do foresee is perennial difficulties in having those witnesses
20 available. Your Honour will no doubt be acutely aware that between
21 9 December 2011 and 13 March 2012 the Prosecution called three witnesses, and that's
22 a period of 95 days or one witness every five weeks.
23 I promise you we will do better than that, but I do anticipate that certain witnesses
24 from the region will from time to time present the sort of difficulties that the last few
25 witnesses in the Prosecution case presented the Chamber in terms of their availability.

1 And so as it were in terms of the overview of the Defence case, let's be honest and let's
2 be realistic. We are looking at a period in excess of a year, probably as long as two
3 years, and that on our past experience of how long the Prosecution case took to
4 present is, as I say, honest and realistic.

5 I don't propose to go into the particular difficulties that we have experienced but, as
6 your Honour will know, there was on the Defence team one advocate who was based
7 in the Democratic Republic of Congo and whose principal function was the
8 investigation and the maintenance of contact with Defence witnesses whom we sadly
9 lost and in those terms the rebuilding of those contacts has been a job we have had to
10 start from scratch really this year, but we are working very hard and we anticipate
11 that we will be in a position to file the appropriate pre-Defence brief, together with its
12 list of witnesses and documents, ready for a start after the summer recess.

13 That's, as it were, the headings to what I have to say, and really I think that's all I can
14 usefully say this side of the break and it may well be that those remarks, which I see
15 have caused despondency around the room, need to sink in and perhaps we can deal
16 with them at 11.25 or 11.30.

17 PRESIDING JUDGE STEINER: Thank you very much for this overview of the
18 Defence concerns, and after that we really need a break and have some coffee, starting
19 by the Chamber I'm sure.

20 So we are going to suspend now and resume at 11.30. The hearing is suspended.

21 THE COURT USHER: All rise.

22 (Recess taken at 10.56 a.m.)

23 (Upon resuming in open session at 11.33 a.m.)

24 THE COURT USHER: All rise. Please be seated.

25 PRESIDING JUDGE STEINER: So, welcome back. Mr Haynes.

1 MR HAYNES: Your Honour, upon reflection, I don't really have a lot more to say.
2 The break has enabled me to consult with the VWU about how best to manage the
3 problems of bringing Defence witnesses and we are in principle in agreement upon,
4 as it were, a time-line for the provision of the necessary information to them and, as it
5 were, a modus operandi which will probably, insofar as we can, involve the Defence
6 case being called in, as it were, chapters of those witnesses who present similar
7 problems.
8 So, for example, we may commence with crime-base witnesses who come from a
9 certain region and present both us and VWU with similar problems in bringing them
10 to Court before we move on perhaps to those concerned with command issues who
11 come from a different area and present different problems there. But in any event, as
12 I have said, we have very much in mind that we're moving towards a position which
13 requires us to notify the Chamber of requests for protective measures some time
14 before the summer recess and the service of a pre-trial brief literally at the beginning
15 of the recess, and we hope and anticipate that we will be ready to call the first
16 witnesses after the recess in August because although the filing says July 15, of course,
17 that's two days after the recess begins and is theoretical, rather than realistic.
18 So that's all I have to say in principle about the scheduling of the Defence case, though
19 of course I am here to deal with any specific questions which the Chamber has of the
20 Defence at this stage.
21 Your Honour, there were two matters which we invited the Court to place on the
22 agenda today. The first I've already alluded to and that is, in our submission, there
23 does need to be a formal closing of the Prosecution case before we move on - for a
24 number of technical reasons I shan't go into - and that might as well be done today.
25 The second is we would appreciate as early a resolution as possible of the Bar table

1 motion. I appreciate it contains a lot of material and a lot of various arguments and
2 it's not straightforward but it will bear upon the list of documents we create and we
3 would appreciate it, I put it no higher, if the Chamber could render a decision on that
4 at the earliest convenience of the Chamber.

5 And the third matter is somewhat enigmatically titled "Defence Team Advocates,"
6 and this is a matter I have taken the trouble to discuss with the Prosecution and the
7 legal representatives over the course of the last weeks, and it's not a matter on which
8 I'm at this stage asking for any sort of formal ruling but one of the difficulties we are
9 going to face with the smooth conduct of the case, is a shortage of in-trial advocates
10 for reasons which are obvious, and it is highly likely that the available in-trial
11 advocates during the course of the next few months are going to be me and me alone.

12 And as we have seen during the course of this trial, advocates are not infallible, they
13 are susceptible to sickness, personal bereavement and matters which can commit
14 them away from the Court. And in order that the Defence should always be
15 effectively able to continue with its case, we simply wondered whether it would be
16 acceptable to the Chamber if the Defence were to utilise the services of Ms Gibson,
17 who of course is not officially assigned as counsel but is counsel of some experience.

18 She's got 12 years post-qualification experience and I say, with the greatest of respect
19 to all of those in this room, she probably has more experience of conducting this sort
20 of trial than any of us. She's represented several accused before the International
21 Criminal Tribunal for Rwanda and examined witnesses of all sorts including victims.

22 It's not, as it were, a facility we intend to overuse and, as I say, it's not something we
23 require or we're asking for a formal ruling on but we are aware of the fact that in both
24 the Lubanga and the Katanga cases legal assistants with counsel qualifications have
25 from time to time been called upon to examine witnesses in that case and we ask the

1 Chamber to reflect upon whether, in the circumstances, it would not be acceptable in
2 this case were the Defence from time to time to call upon Ms Gibson as an advocate,
3 and so that's that matter.

4 I don't necessarily expect an answer to that today and, as I say, a simple indication as
5 to whether it would be acceptable or not is all that at this stage I'm asking for.

6 Now, those are all the matters of general scheduling and upon our own agenda today
7 that I wish to raise but, as I say, I'm here to deal with any queries or inquiries that the
8 Court - the Chamber - may have of me.

9 PRESIDING JUDGE STEINER: Well, some points, Mr Haynes. One of the points
10 that the Chamber wanted to raise was exactly the starting date for the presentation of
11 the evidence by Defence, since as presented in filing - Defence's filing - 2175 it was
12 stated 15 July. That not only is a Sunday, but is already the beginning of the recess
13 of the Court.

14 In such period, unless urgent cases arise, hearings cannot be held. So this was one of
15 the points that the Chamber wanted to address, but now you have -- you have
16 informed, so the Chamber is satisfied that the new estimation by Defence was given
17 and the possibility of starting with the presentation of its evidence soon immediately
18 after the recess of the Court.

19 The Chamber of course understands, and there has been already issued a decision
20 establishing some time-lines for the Defence in terms of disclosure or evidence,
21 presentation of its list of witnesses, because it is also for the Chamber to decide
22 on -- or to give the final order, if need be, on the order for the witnesses to be called,
23 but of course the Defence will -- the Chamber will wait for the Defence to present its
24 proposal in that respect, but the point that the Chamber had to issue with Defence at
25 this stage is -- has been also addressed by Mr Haynes, which is the point that in any

1 event, even before formalising its list of witnesses to be called to testify before the
2 Chamber, the Defence needs to start its arrangements with VWU.
3 It's VWU, the organ - the neutral organ - of the Court in charge of assisting the parties
4 and participants, for instance, for the issuance of passports, visas that are necessary.
5 As we could see in relation to Central African Republic, new models of passports
6 were established that ordinarily take two months to be issued. So VWU and the
7 field officers are following very closely these -- all these procedures, so Defence
8 should start with the contacts with VWU as soon as possible in order for VWU to start
9 working on it.
10 The Chamber wouldn't like to have surprises in terms that witnesses cannot come on
11 the anticipated date just because passports were not issued, or lack of visas, or these
12 logistical arrangements, so this is advice that is given by the Chamber to the Defence
13 in order to start immediately with these contacts.
14 And the same in relation to protective measures. VWU can take the opportunity in
15 the meetings with the Defence team to explain the procedures that are to be followed
16 in case witnesses need protective measures. The assessment on security takes time
17 and implementation of protective measures, if need be, sometimes take a long time, so
18 the Chamber really hopes that the Defence will not come with a request for protective
19 measures at the last minute because it is really difficult for VWU to implement
20 protective measures at the last minute.
21 In relation to the remark of the Defence for the need for the Chamber to issue its
22 decision on the so-called Bar table motions as soon as practicable, the Chamber takes
23 note of course, although the Chamber deems such kind of request in a way redundant
24 because this is how the Chamber has been acting in a timely manner in order to
25 expedite procedures and ensure a fair and expeditious trial.

1 The Prosecution was given the opportunity to reply to the Defence response. The
2 OTP is expected to file the reply on 30 March - this dead-line was given by decision
3 2173 - and then the Chamber will be in a position to analyse the allegations of both
4 parties and to issue its decision on the Prosecution request.

5 One point, the point raised by Mr Haynes in relation to the Defence team advocates
6 and their request that Ms Gibson is granted authorisation to appear as an advocate in
7 the present trial, I would like to refer first of all the Defence to the Registry in order to
8 be sure that Ms Gibson is included in the List of Counsel. This is the first condition
9 for any counsel to appear before the Court and to have a procedural stand.

10 So if Ms Gibson fulfils the requirements to be included in the List of Counsel, or as a
11 counsel or as a co-counsel, the Defence needs first to address the Registry. Only
12 after the Chamber is informed about the situation of Ms Gibson, or any other counsel
13 related to its inclusion on the List of Counsel, the Chamber can take a decision on the
14 request and the Chamber then will be waiting for the contact between Mr Haynes and
15 the Registry in that respect to be formalised.

16 The Defence insists on the need of a formal closure of the Prosecution case and the
17 Chamber would like to listen to the views of the Prosecution on this topic.

18 Mr Badibanga?

19 MR BADIBANGA: (Interpretation) Just to tell you, your Honour, I'm not certain that
20 I've understood the exact content of the Defence's request in this regard. What I did
21 note in an email that came yesterday was that they said in one word, I'll take their
22 expressions (speaks English) "The formal closure of the Prosecution case,"
23 (Interpretation) and what I understand is that Counsel Haynes is saying that this is an
24 important point for the Defence without making clear what this is. So perhaps when
25 we better understand what the request is we will be better able to react to it.

1 PRESIDING JUDGE STEINER: Mr Haynes, could you please elaborate a little bit
2 more on your understanding on the meaning of "formal closure of the Prosecution
3 case"?
4 MR HAYNES: Yes. In every criminal trial in which I've appeared over the course
5 of 27 years, when the Prosecution rests it either says so - particularly in the United
6 States of America it says it rests, or in other jurisdictions it says, "The Prosecution
7 closes its case" - and until the Prosecution closes its case no other case can open.
8 There are procedural implications for this, not least, for example, were the Defence to
9 seek to challenge by way of filing that the Prosecution had made out its case, there is
10 not until a formal closure a time-line for that filing to be made.
11 Of equal importance there are certain circumstances in which after the Defence case
12 the Prosecution is entitled to reopen its case and call evidence in rebuttal of the
13 Defence case, but there is clear jurisprudence in relation to the circumstances in which
14 the Prosecution is able to do that and the formal closure of its case is necessary to
15 show that the Prosecution feels that it has presented all the evidence at its disposal at
16 that time which it wishes to do and it is thereafter shut out from simply bringing
17 other evidence it wished to call during its case at a later stage if it finds that the
18 Defence case has met its case at that stage.
19 So accordingly for a number of reasons, and consistent with the adversarial nature of
20 the Statutes and the Rules in this Court, the Prosecution ought formally to close its
21 case at this stage so that we can proceed to the Defence case properly.
22 I hope that adequately explains the position. I'm sure that that is precisely what
23 happened in Lubanga and I am sure that is precisely what happened in Katanga. It's
24 a necessary part of criminal proceedings which we are involved in here.
25 PRESIDING JUDGE STEINER: Mr Haynes, I think you raised a very interesting

1 point. I will give, of course, the opportunity to Maître Badibanga to address the
2 issue.

3 This Chamber has been very careful since the beginning of the present trial not to use
4 these expressions "Prosecution case" or "Defence case," because the Chamber has been
5 of the view that this idea, the concept of Prosecution case and Defence case, is not
6 provided for in the legal framework of the trials before this Court.

7 Maybe for the enlightenment of the Chamber it would be better if in respect of this
8 point raised by the Defence, more specifically the need of a formal closure of the
9 Prosecution case, the Chamber would benefit from a formal filing by the Defence in
10 which Defence could set the legal basis for its request, or for its expectation at least.

11 JUDGE ALUOCH: I understand Mr Haynes to be wanting the Prosecution to let
12 them know whether the last witness, 36, was their last witness, or are there -- is there
13 any other witness after that? Maybe you are thinking on those lines?

14 MR HAYNES: Your Honour took the words right out of my mouth. Yes, I simply
15 want the Prosecution to tell us whether it proposes now to call any other evidence as
16 part of its case.

17 PRESIDING JUDGE STEINER: Here we have another possible misunderstanding in
18 relation to difference of languages and different legal backgrounds. I see as different
19 situations. The presentation of the last witness or finalise the presentation of
20 evidence I see as two different things, but in any case I will give the floor to Maître
21 Badibanga to give only your first views on this issue, but we think we should all
22 benefit from a formal filing of the Defence, mainly giving the legal basis for this
23 assertion that the formal closure of the Prosecution case is expected.

24 Maître Badibanga.

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

1 sense of my previous question was precisely that I better wanted to understand what
2 we were speaking at exactly, because in the formulation as presented by the Defence
3 this could include a lot of things and it could also be reduced to very little at the same
4 time.

5 I carefully followed the presentation of Mr Haynes when he mentioned different legal
6 traditions, the American system and his experience in the courts as well, but we know
7 that the ICC is governed by a Statute - the Rome Statute - which has asked for a lot of
8 balance in the discussions between different legal systems, and as such I think what
9 should guide us are the provisions as envisaged in the Rome Statute and I have not
10 heard in his answer the least text, article or reference, legal or other, that would come
11 in support of his position.

12 I therefore join the invitation of the Chamber for this request to be put in writing,
13 which would give us the scope to be able to examine the content thereof and
14 particularly the legal basis such that we can better respond to it.

15 And where it concerns the question -- and here I agree with Judge Aluoch when she
16 asked the question with regards to the last witness, something she said. I think that
17 right from the very start of this case a certain number of decisions, in particular
18 setting out the proceedings, were taken by the Chamber, and the Office of the
19 Prosecutor in this framework has to submit before starting the presentation of its case
20 the list of witnesses that it counts on hearing, or that it intends to hear before the
21 Court.

22 Now, we have provided a list of 40 witnesses, not 38 as Counsel Haynes said this
23 morning, and 40 witnesses have been heard.

24 In our understanding, the framework in which we are allowed to function would not
25 allow the Prosecutor to have another witness without turning to the Chamber and

1 without justifying such circumstances.

2 Now, Witness 36 was the 40th of the OTP list as we have requested, and unless there's

3 an exception we have called rebuttal witnesses when the Defence has finished its case,

4 unless this scenario, then in principle we will have followed the timetable which we

5 submitted to the Chamber for all 40 witnesses who were heard here, and of course it

6 is clear that not knowing what the Defence case is we have no information on that.

7 Of course the Prosecutor can react in terms of the development of the case. As far as

8 I'm concerned that needs not to be said but if I could just go a bit further. Where it

9 concerns the presentation of evidence, we have just received yesterday an order from

10 the Chamber asking for the parties to clarify what evidence they were submitting, and

11 so our understanding is that the Chamber still has to rule on all these different aspects

12 what evidence is retained during hearings, as well as by Bar table motion. I don't

13 know the French term for that, I have to say. I hear it's "requête" in French. Thank

14 you for that.

15 Now, we think that when decisions are taken then we can of course say that perhaps

16 we don't have any additional elements to add to that, so at this moment I hear that the

17 most wise thing would be to proceed with written submissions and that the Defence

18 provide us with substantive submissions and then we will be able to respond to them.

19 Thank you very much, your Honour.

20 PRESIDING JUDGE STEINER: Thank you, Maître Badibanga. Mr Haynes, would

21 you like to add anything?

22 MR HAYNES: No, I will assess what Mr Badibanga has just said and see whether

23 for our purposes it is sufficient, and decide thereafter whether any filing is justified

24 just to seek a formal expression. It seems to me he is telling us all that he is not

25 bringing any further witnesses and it may well be that that's enough.

1 PRESIDING JUDGE STEINER: Thank you. It will be up then to the Defence to
2 decide on whether Defence wants to insist on elaborating on its proposal of formal
3 closure of the Prosecution case or not. The Chamber will not establish any dead-line
4 for the Defence to do so.

5 I would like to ask whether Prosecution wants to address any further issue?

6 MR BADIBANGA: (Interpretation) Madam President, I shall be very brief on some
7 of the points that were raised. As for the date marking the beginning of the
8 presentation of Defence witnesses, we would just like to have it observed that in
9 application of decision 2141 that you made, and that organised the schedule for
10 presentation of evidence, the Defence will have to integrate this decision into its
11 modus operandi, so were we to start after the legal recess, the Court recess, the first
12 day after the Court recess, we would have to be in possession of the various elements
13 enabling us to prepare, and according to your decision that would require a 15-day
14 period before the Defence case commence.

15 Now, if we look at the Court recess I believe that we might need to be thinking about
16 15 days before the beginning of the Court recess.

17 Now, to be clear on the matter, if the Defence wants to have, present its witness on the
18 first day after the Court recess, we therefore understand that the Office of the
19 Prosecutor, and I presume the other parties, will be receiving the documents on 1 July
20 because of course the Court recess starts on 13 July, or 15 July, and we understand
21 therefore that we shall receive the documents during that period, from 1 to 15 July,
22 and then we will go into the Court recess and after which we will hear the first
23 witness from the Defence.

24 I wanted the Defence to bear in mind that, when speaking of beginning the
25 presentation of its case, it should bear this in mind.

1 So, with the first witness we will have the first test as regards the contents of the
2 information presented. We heard what the Chamber said, that talked about either
3 written statements in English, or summaries, and we noted -- and we noted that the
4 Chamber was aware or alive to the fact that sufficient information was required in
5 order to have a good discussion with the witnesses. That's what I wanted to raise
6 here.

7 I think we shall defer to the wisdom of the Bench.

8 The Defence said that it had approached us as regards the composition of its team,
9 and we said that of course this comes down to the abilities of the Registry in terms of
10 assessing those individuals who can intervene or present submissions before the
11 Court. That is what I wanted to say, Madam President. Thank you.

12 PRESIDING JUDGE STEINER: I will give the floor to Mr Haynes, mainly in relation
13 to the first point raised by the Prosecution, bearing in mind that Regulation 19 bis of
14 the Regulations of the Court establishes at least in principle that the Court recess does
15 not affect the time limits for any procedural act. It's only in relation to hearings that
16 are supposed to be suspended unless in face of an urgent situation, but I would like to
17 first listen to Mr Haynes on whether the Defence, as a matter of fairness and courtesy
18 to the other party, would be in a position to anticipate the dead-lines for the
19 beginning of July, instead of disclosing its elements of evidence exactly in the middle
20 of the recess?

21 MR HAYNES: I simply can't answer that question at the moment. We are skeletal
22 here. There are people in various parts of the world. I hope we don't have to come
23 back to you and say that we need yet another couple of weeks to be ready to start the
24 case. We will disclose what we have to disclose in accordance with the rules and
25 with all due courtesy, but your Honour's specific question at this point in time I can't

1 deal with.

2 PRESIDING JUDGE STEINER: Fair enough, Mr Haynes.

3 Mr Haynes, would you like to add anything to the discussion in this status
4 conference?

5 MR HAYNES: Your Honour, no. Thank you very much.

6 PRESIDING JUDGE STEINER: Legal representatives, any further issue to be
7 discussed in this status conference?

8 MR ZARAMBAUD: (Interpretation) No, Madam President, except to say that
9 subsequent to the Defence proposal, notably that our witnesses start on 30 April, I
10 think 30 April is a Thursday, so why don't we just start the following Monday after 30
11 April? Thank you.

12 PRESIDING JUDGE STEINER: The Chamber will decide on the date as soon as the
13 Chamber receives a concrete information from VWU related to the availability of the
14 witness to travel and the passport, the issuance of passport, but in any case the
15 Chamber will do its best in order not to schedule the testimony of the two witnesses
16 starting on 23 April as requested by Defence. The Chamber will do its best in order
17 to accommodate this date and the parties and participants will be communicated in
18 due time.

19 I would like to ask whether representatives of VWU, or the Registry, have any other
20 issue to be addressed in the present status conference?

21 MR WALTENBURG: Thank you, Madam President. We have taken well note of
22 your instruction to begin early consultations with the Defence team about the
23 scheduling of, or the discussion on logistical arrangements, as well as organising a
24 meeting with the Defence team to explain in detail the procedure for requesting
25 protective measures.

1 What I can inform the Chamber is that we have already had a number of preliminary
2 meetings with the Defence team, in particular with regards to logistical arrangements,
3 and as Mr Haynes said we benefited from the coffee break of this morning to quickly
4 follow up on those discussions, and we understood from Mr Haynes that the Defence
5 team will be in a position to provide us with a list, at least a tentative list of witnesses,
6 by the end of April, and I would just need to emphasise that that would be most
7 useful for us because that will then give us at least a few months of lead time to
8 ensure that all the logistical and administrative arrangements are in place.

9 Thank you, your Honour.

10 PRESIDING JUDGE STEINER: Thank you very much, and from the part of the
11 Chamber we will be awaiting, Mr Haynes, just for the information related to
12 Ms Gibson's participation in hearings as soon as you have such information, of
13 course.

14 So if the parties and participants and Registry have no further issues to be discussed, I
15 would like to thank very much Prosecution team, legal representatives of victims,
16 Defence team, Mr Jean-Pierre Bemba Gombo, representatives of VWU and Registry.
17 I would like to thank very much our interpreters, court reporters.

18 This hearing is -- this status conference better saying is adjourned.

19 THE COURT USHER: All rise.

20 (The status conference ends at 12.13 p.m.)