

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, 2 October 2012
8 (The status conference starts in open session at 10.12 a.m.)
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE STEINER: Good morning and welcome.
13 Could, please, court officer call the case.
14 THE COURT OFFICER: Thank you, Madam President. Situation in the Central African
15 Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, ICC-01/05-01/08.
16 PRESIDING JUDGE STEINER: Thank you.
17 I would like to welcome Prosecution team, legal representatives of victims, Defence team,
18 Mr Jean-Pierre Bemba Gombo, the representatives of Registry and VWU, and for the
19 record I would ask the parties and participants to introduce themselves and their teams,
20 starting by Prosecution. Ms Kneuer.
21 MS KNEUER: Thank you, Madam President. Good morning, your Honours. The
22 Prosecution is represented today by Alex Whiting, prosecution co-ordinator; Frédérique
23 Besse, case manager; and myself, Petra Kneuer, senior trial lawyer. Thank you very
24 much.
25 PRESIDING JUDGE STEINER: Thank you.

1 Legal representatives of victims.

2 MS DOUZIMA LAWSON: (Interpretation) Thank you, your Honour. I am Maître
3 Marie-Edith Douzima Lawson, legal representative of the victims. Next to me is Maître
4 Zarambaud Assingambi, legal representative of victims. And we have Virginie Roche,
5 one of our case managers. Thank you.

6 PRESIDING JUDGE STEINER: Thank you, Maître Douzima. Maître Kilolo.

7 MR KILOLO: (Interpretation) Good morning, your Honours. The Defence today is
8 represented by Ms Kate Gibson, legal assistant; Maître Jean Jacques Kabongo Mangenda,
9 case manager; and myself, Aimé Kilolo, lead counsel.

10 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo.

11 Mr Dubuisson.

12 MR DUBUISSON: (Interpretation) Thank you, your Honour. On the Registry Bench for
13 the VWU you have Shakhnoza Abdullaeva, who is a legal officer; then there is Lejla
14 Komarica, who is an administrative and operational officer; Bibiana Becerra-Suárez, legal
15 officer in my officer; and myself, Marc Dubuisson, Director of Court Services on behalf of
16 the Registrar, Ms Silvana Arbia.

17 PRESIDING JUDGE STEINER: Thank you very much, Mr Dubuisson.

18 I would like to welcome our interpreters and court reporters as well.

19 The Chamber convened this status conference in order to inform the parties, participants
20 and the public about certain issues that have arisen during the presentation of
21 Defence -- evidence by the Defence and the decisions taken by the Chamber to deal with
22 them.

23 The Chamber wants to inform that we'll have this first part of this status conference in
24 public, and as requested by Defence, after a break, we will go into an ex parte status
25 conference with Defence and VWU, ex parte and in closed session.

1 On 7 June 2012, the Chamber issued its decision on the submissions of Defence evidence,
2 it's filing 2225, and in this decision the Chamber, inter alia, ordered the Defence to adjust
3 the order of appearance of its witnesses so as to start with the testimony of the proposed
4 expert witnesses, followed by those witnesses that were in possession of or did not face
5 obstacles in obtaining travel documents. In addition, the Chamber ordered the Defence,
6 the VWU and the Registry to assess and report on the feasibility of various alternatives to
7 live testimony in The Hague.

8 On 29 June 2012, the Defence filed its confidential, ex parte Defence and VWU only,
9 "Third Defence Submissions on the Presentation of its Evidence," filing 2238-Conf-Exp,
10 and Conf-Exp-AnxA and Conf-Exp-AnxB. In its filing, although reiterating its request to
11 call its witnesses in the order it had originally submitted, the Defence proposed an
12 amended order of the first 21 witnesses in accordance with the Chamber's decision 2225 of
13 7 June 2012.

14 On the same day, the Registry submitted a report in which it informed the Chamber of the
15 preliminary steps that had been taken in order to ensure the appearance of Defence
16 witnesses as well as of possible alternatives to live testimony in The Hague. In this
17 context, the Registry suggested considering the possibility of holding in situ hearings at
18 the seat of the International Criminal Tribunal for Rwanda, ICTR, in Arusha, Tanzania,
19 filing 2239-Conf-Exp.

20 The Registry and Defence submitted redacted versions of their filings on 31 August and
21 19 September respectively.

22 On 6 July 2012, the Chamber filed its "Decision on the Third Defence Submission on the
23 Presentation of its Evidence." A public redacted version of this decision was filed on 28
24 September 2012, filing 2242-Red. In this decision, the Chamber, inter alia, decided upon
25 the order of appearance of Defence witnesses and ordered the Registry to carry out

1 consultations and feasibility, security and budgetary assessments in relation to in situ
2 hearings at the ICTR in Arusha.

3 In line with the order decided upon by the Chamber, the first four Defence witnesses,
4 three experts and one crime-based witness, appeared before the Chamber between 14
5 August and 18 September 2012.

6 Witness D04-07 started his testimony on 19 September 2012 and appeared before the
7 Chamber on 20 and 21 September. However, for reasons unknown to the Registry or the
8 Chamber, Witness D04-07 did not present himself to continue giving his testimony on
9 Monday, 24 September 2012. The Registry was informed that the witness had left his
10 accommodation during the evening of Sunday, 23 September 2012. His current
11 whereabouts are unknown to the Court.

12 According to the current order of appearance, Witness D04-07's testimony was to be
13 followed by that of Witness D04-11, who was scheduled to travel to the seat of the Court
14 between 26 and 27 September 2012. However, on 27 September, the Chamber was
15 informed that the witness had not boarded the plane that had been booked for him. The
16 current whereabouts of the witness are also unknown to the Court.

17 The relevant national authorities were duly informed about these incidents and requested
18 to provide information on the witnesses' whereabouts should these become known to
19 them.

20 In relation to Witness D04-07, on Tuesday, 25 September 2012, the Chamber decided to
21 partially lift the protective measures granted to the witness and to provide his profile to
22 the relevant authorities in order to enable them to carry out the necessary investigations.

23 In light of this situation, the Chamber recalls that pursuant to its oral decision of 24
24 September, the testimony of Witness D04-07 is suspended, transcript of 25 September 2012,
25 T-251-Conf-Eng-ET, page 4, line 25 to page 5, line 1, until further notice.

1 In relation to Witness D04-11, the Registry has, upon instruction from the Chamber,
2 cancelled the flight ticket booked for him and informed the relevant authorities that the
3 reasons for which his travel visas were initially granted are no longer valid.
4 The Chamber once again underlines that pursuant to Article 64(2) of the Statute, it shall
5 ensure that the trial is fair and expeditious. As already stressed in its decision of 6
6 July 2012, measures to achieve these objectives may include recourse to alternatives to live
7 testimony in The Hague and/or alteration of the order of witnesses, in case this is
8 considered by the Chamber to be warranted by a compelling reason.

9 In the present circumstances, in view of the incidents involving Witnesses D04-07 and
10 D04-11, and given that six weeks have already passed since the beginning of the
11 presentation of evidence by Defence, the Chamber is of the view that there exists such
12 compelling reasons justifying further alteration of the order of appearance of Defence
13 witnesses.

14 Therefore, after consultation with Defence and VWU, the Chamber will decide upon an
15 amended order of appearance of Defence witnesses. In this regard, it should be stressed
16 at the outset that in view of the potential difficulties in relation to the appearance of a
17 number of witnesses, the Chamber is considering hearing the testimony of some of these
18 witnesses via video link from a location which would be more easily accessible for the
19 relevant witnesses or in situ at the seat of the ICTR, in Arusha, Tanzania. To that end,
20 the Chamber has instructed the Registry to prepare a feasibility and budgetary assessment
21 so as to enable the Chamber, after having heard the parties, to take an appropriate
22 decision on the matter.

23 A decision on the updated order and modalities of appearance of Defence witnesses will
24 be taken into due course in order to enable all parties and participants to adequately
25 prepare for the questioning of the witnesses. In any event, the Chamber informs parties,

1 participants and the public that the hearing of Defence evidence will resume on
2 15 October 2012.

3 Before concluding this part of the Status Conference that was destined for the Chamber to
4 provide parties and participants with relevant information, the Chamber would like to
5 give the parties and participants the opportunity to provide some preliminary
6 observations on the issues discussed. I would like to start by Defence.

7 Maître Kilolo.

8 MR KILOLO: (Interpretation) Thank you, your Honour, for allowing us to address the
9 Court.

10 On behalf of the Defence, I would simply like to recall that we still have about 59
11 witnesses scheduled to testify at the request of the Defence, and the majority of those
12 witnesses - that is 35 witnesses - do not have any problem, so that is more than half of the
13 60 witnesses.

14 So we believe that those witnesses can testify under normal circumstances without any
15 interruptions, such as those that we have experienced recently, and that is because some
16 of those witnesses are already located in Europe, not very far away from the seat of the
17 Court. Those witnesses do not have administrative problems, such as access to passports
18 and travel documents, and lastly those are witnesses that really do not have any problems
19 of vulnerability.

20 That said, it goes without saying that some of the other witnesses have a few difficulties,
21 and we believe in that regard that it is important that, from now on, there should be
22 psychological care provided to vulnerable witnesses; that is right from the country of
23 origin from which they are travelling.

24 So there are witnesses who might be likely to incriminate themselves, and the others have
25 fear of reprisals, either against themselves or members of their families.

1 So there are issues that have arisen. Some witnesses are wondering what will happen
2 during their stay in The Hague, and this has to do with the security measures to be taken
3 even outside of the courtroom. "Will I be safe, even at the place of my lodging outside of
4 the courtroom?"

5 There are other questions that arise. For example, "While I am testifying at The Hague,
6 what will happen to the members of my family, my wife and children, who remain in the
7 country that I have travelled from?"

8 And we believe that including witnesses that are in countries where there are no local
9 representative offices of the ICC, it is important that the Registry should send someone to
10 assist those people and answer the questions that they may have to ask, and we believe
11 that if that is done that it would make it possible to resolve most of the issues and make it
12 possible for witnesses to appear without any inappropriate interruptions.

13 That is what the Defence wish to say for now. Thank you.

14 PRESIDING JUDGE STEINER: Maître Kilolo, when you mentioned some of your -- of
15 Defence witnesses that have no problems with travel documents, and mainly in relation to
16 those that already live in Europe, we are talking about five, if I'm not wrong? Only five
17 witnesses. It's a very small percentage in the Defence list.

18 MR KILOLO: (Interpretation) Your Honour, it's 35 witnesses, about 60 per cent of
19 Defence witnesses. In that major category of witnesses I can break it down to two
20 subcategories and five of them are actually resident quite close to the Court, but there are
21 other 30 witnesses who are able to appear almost immediately and who do not have any
22 special concerns that may be obstacles and interruptions in our proceedings.

23 PRESIDING JUDGE STEINER: Maître Kilolo, I'm sorry. Just before I give the floor to
24 the Registry, in relation to these witnesses - these 30 witnesses you mention - that are
25 according to you "... able to appear almost immediately and who do not have any special

1 concerns that may be obstacles and interruptions in the proceedings," has already the
2 Defence confirmed the willingness of all these 30 people to appear before the Court and
3 testify?

4 MR KILOLO: (Interpretation) Yes, Madam President. These witnesses have
5 confirmed their readiness and given their consent to appear before the Court.

6 It is for this reason that we want to insist on the point that the problems that have arisen
7 so far have been in relation to a number of witnesses who appear to be vulnerable by
8 virtue of their profile. If you compare this to what obtained for the witnesses of the OTP,
9 you would note that at any point a VWU staff was on ground - a staff of the field office
10 was on ground - meeting the concerns of those witnesses, but when it came to some
11 Defence witnesses they -- who did not come, or who did not show up as such for their
12 testimonies, the issue is that those witnesses never had any contact with the witness
13 protection services and I think that this -- we think that this is a very important aspect of
14 our work which has to be done and should be done even in countries where there is no
15 ICC field office. That would make it possible for us to solve about 70 per cent of the
16 problems.

17 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo. We are not going into
18 details --

19 MR KILOLO: (Interpretation) 90 per cent of the problems.

20 PRESIDING JUDGE STEINER: -- at least during this public hearing, but just for the
21 record in relation to the two witnesses we know -- we all know what happened with the
22 contact sent by VWU in order to make our arrangements for their travelling to the seat of
23 the Court.

24 Mr Dubuisson, could you please make observations on what Defence has just mentioned?

25 MR DUBUISSON: (Interpretation) Thank you, your Honour.

1 We must be very clear here on one thing. We are talking about protection measures.
2 There are two types of measures: One set of protective measures which are
3 non-procedural, that is measures that are taken on the field, upstream, during an
4 investigation. During the investigations conducted by the OTP, or by the Defence, some
5 necessary contact must be made with the VWU section in order to deal with specific
6 requests for protection.
7 Now, the Prosecutor in the discharge of his duties can and did make such requests which
8 were answered accordingly, but as for the Defence upstream we did not receive any
9 specific requests for protective measures.
10 That is why it is necessary for us today to contact the Defence to see how we can identify
11 the gaps in the files regarding matters that were not raised with us. So today it is not
12 possible to compare what was done with the Prosecutor in relation to requests that were
13 effectively made, as opposed to what was or what was not received from the Defence by
14 way of requests. We will, however, seek to address these issues.
15 Now, in addition to these non-procedural measures which take place outside of the Court
16 and which may deal with witnesses who are not called upon to testify, there is another set
17 of protective measures which relate strictly to procedure and these are the measures that
18 fall squarely within the purview of the Chamber; measures that are taken in Court, use of
19 pseudonyms, distortion of voices and specific measures as such. It is true that a witness
20 can still claim that they do not feel confident enough, because they do not know what
21 protective measures will be offered here in Court.
22 Now, if there were no protective measures provided upstream then it is possible that such
23 witnesses may have those concerns, and we therefore need to be coherent in terms of the
24 protective measures that are provided here for the witness during the testimony and the
25 impact that such may have on the field, not only regarding the witness but also regarding

1 his family. So indeed it is important for us to contact the Defence so that they work
2 closely with VWU in order to clarify these issues and to put in place the necessary
3 measures.

4 Now, beside these protective measures as such there are also other measures to assist the
5 entire process, such as providing psychologists or social workers to assist witnesses
6 during their stay here at The Hague, or even outside of The Hague when it is in relation to
7 matters pertaining to the work of the Court.

8 These are the kinds of assistance measures which include escort services during travel; the
9 presence of staff members in the hotels; various activities that may be scheduled during
10 the witnesses' stay here; and then, mindful of specific needs that may have been defined
11 upstream, there is also the need to liaise with national authorities. That is why it is
12 important for us to have a global view of these issues, and that is not the case today.

13 I'll conclude by addressing the issue of vulnerability. Vulnerability is clearly defined
14 here in the Court. There is a protocol on vulnerability. We have psychologists who are
15 ready to intervene during testimony within the courtroom and outside the courtroom.
16 What I'm saying, therefore, is that there is a gamut of resources available to the OTP, to
17 the legal representatives and also to the Defence, and that is why contact needs to be
18 made with the Registry in order to sort out all these difficulties.

19 PRESIDING JUDGE STEINER: Maître Kilolo, would you like to comment on the
20 observations made by Mr Dubuisson?

21 MR KILOLO: (Interpretation) Madam President, I am particularly happy to note the
22 recognition of this need for closer collaboration between the Registry and the Defence in
23 order to provide the best possible assistance to our vulnerable witnesses.

24 PRESIDING JUDGE STEINER: I think Defence has understood that, in order for the
25 Registry and VWU to provide Defence witnesses with all assistance needed, including

1 protection, the Registry and VWU need to receive information from the Defence. So
2 maybe we are having a problem on the flow of information between the Defence and
3 Registry.

4 The Chamber has been always - always - very careful in terms of security assessment of
5 witnesses, no matter Defence, Prosecution or legal representatives' witnesses, and at least
6 as far as I know Defence has not -- the Chamber has not received an assessment - an
7 individualised assessment - on Defence witnesses, so even the Chamber is not aware. It's
8 the first time that the Chamber hears that your two first witnesses were to be considered
9 as vulnerable. So that's why I'm insisting on the point of flow of information.

10 I would like to ask if Ms Kneuer would like to address any issue. Ms Kneuer?

11 MS KNEUER: Thank you very much, Madam President, your Honours.

12 The Prosecution would like to make a submission. I try to do it in public session. I
13 hope I do not need to have -- I hope I don't have to ask for a private session.

14 The Prosecution stands ready to assist the Chamber, the parties and participants and we
15 are aiming to contribute to accomplish two core issues: The first one is to solve the
16 current problems and the second one is to maintain a clear record.

17 As Madam President has already reiterated, within the first two months, counting from
18 mid-August when we started with hearing the evidence of the Defence, until we will
19 resume on 15 October, we heard five witnesses. So in 60 days we heard five witnesses,
20 and the Prosecution is concerned that if we keep this pace, if we make the math, it may
21 take up to more than 30 months to hear the remaining 58 witnesses. So the Prosecution
22 stands ready to assist the Chamber and to contribute to the efficiency of the proceedings
23 in light of a speedy trial principle.

24 We are open to any solutions proposed, including hearing evidence via video link, as well
25 as conducting trials in situ.

1 However, we would like to emphasise that the solutions considered will in fact solve the
2 problems. We need to have clarity on what has happened with these witnesses so far
3 and what potential risks or problems for future witnesses may be. If we don't know the
4 cause, then it's difficult to apply the proper solution. Is it availability? Is it travel
5 documents? Is it security? Is it vulnerability?

6 The Prosecution doesn't have access to the entire case docket to that extent, but there are
7 some indications to us what may be the cause. We can infer. I'm not saying we can
8 speculate, but we can make inferences, and here we are concerned.

9 Witness D7 decided not to continue his testimony, and the next witness, D11, disappeared
10 as well. Is that a coincidence? As we know from a report from the Registry, and I'm
11 referring to filing 221 paragraph 6, and I'm not going into more detail, Madam President,
12 your Honours, but there is a link between these two witnesses, according to that report.
13 So for us, it is important to understand why suddenly two witnesses who have a link are
14 disappearing, and, more importantly, there is a litigation before your Honours with
15 regard to one of the witnesses, and again, it is critical for the Prosecution that the witness
16 appears and testifies exactly about the issue in the confidential filing.

17 But these are all questions that the Prosecution suggests should be answered, and that
18 there will be a clear record on what is happening, and, most importantly, who bears the
19 responsibility. We understand that perhaps the Prosecution may not be privy to all this
20 information, but we suggest that a record, either confidential or ex parte, will be kept of
21 what's going on right now.

22 Also, the Prosecution is taken by surprise that 30 Defence witnesses are ready to testify.

23 Well, we have clear instructions by your Honours that the Defence should start calling
24 witnesses for which travel documents, et cetera, is not a problem. On the other hand, I
25 would like to recall a submission that Defence counsel Haynes made on 15 June 2012, and

1 I'm referring to transcript 219, page 21, line 20, and I quote: "Your Honour will no doubt
2 be acutely aware that between 9 December 2011 and 13 March 2012, the Prosecution called
3 three witnesses, and that's a period of 95 days, or one witness every five weeks. I
4 promise you we will do better than that. But I do anticipate that certain witnesses from
5 the region will, from time to time, present the sort of difficulties that the last few witnesses
6 in the Prosecution case presented the Chamber in terms of their availability."
7 Well, I think the Defence needs to be bound by their promise to do better, and now I'm
8 coming to the core. It appears to the Prosecution that the Defence is bearing
9 responsibility for what is happening right now. If we look at the status conference held
10 in March, on 27 March - it's the same transcript, 219 - if we look at page 23, lines 2, and I
11 quote: "The break." Sorry, Mr Haynes is speaking: "The break has enabled me to
12 consult with the VWU about how best to manage the problems of bringing Defence
13 witnesses and we are, in principle, in agreement upon, as it were, a timeline for the
14 provision of the necessary information to them, and as it were, a modus operandi which
15 will probably, insofar as we can, involve the Defence case being called in, as it were,
16 chapters of those witnesses who present similar problems." And it continues on page 25,
17 line 25, but I will not read that out, for obvious reasons.
18 So, my question is: What happened since March 2012? So far, our experience in this
19 case is that VWU could successfully transfer, in a secure manner and in a timely manner,
20 the Prosecution witnesses, and I think one of the reasons was that the Prosecution
21 provided the VWU with the necessary information, complete information, way in advance
22 of the transfer, and also in two other cases the Registry was very successful to bring
23 witnesses for Defence and Prosecution. So my question is: What happened? What
24 actually did the Defence do to support the VWU? Did they provide information? Were
25 the information complete, were they in time? These are critical questions to determine

1 the cause of the issue.

2 And also when Mr Haynes referred that Defence will do better than the Prosecution, he
3 referred to problems that arose in the Prosecution case in terms of availability, but it
4 appears here that we are talking about travel document issues, and this is a pure logistical
5 issue. It will certainly involve communication with a number of States. I'm not saying
6 it's easy, but it can be dealt with and the Registry has proven that they can do it in a
7 successful manner. And, in addition, if we look at the security issue, and I think I can
8 say it safely, although the order was given in private session, but now that you, Madam
9 President, mentioned it, for one witness the Chamber was left the morning of the
10 testimony of the witness with no information about the security situation. That is how
11 much the Defence cares about their own witnesses. Although the Chamber had
12 instructed the Defence to provide additional information on the security of the witness,
13 they didn't do so, and this is very surprising. So the inference that the Prosecution is
14 drawing is there may be a lack of providing the necessary information in a timely manner
15 to the appropriate entities, organs, within the Court and, to that extent, I'm referring your
16 Honours to transcript 248, page 2 line 1, page 4, line 20; that is the oral ruling of your
17 Honours.

18 The reason why I'm emphasising this so much is that we envisage the next step by the
19 Defence. The Defence will claim that it's not their fault, it's someone else's fault that the
20 witnesses are not coming here and will request interim release or, even worse, request
21 your Honours to terminate the trial, and this cannot happen. This Court is absolutely
22 capable to conduct trials, but the parties and participants need to provide the necessary
23 support.

24 Again, Prosecution stands ready to assist your Honours in what way ever, may it be video
25 link testimony, may it be a trial in situ. In terms of impact on the Prosecution's

1 preparation for trial, I would suggest to your Honours that if the order changes, the order
2 of the witnesses will change, which is inevitable, obviously, that the Prosecution will be
3 given two weeks prior notice to prepare in a meaningful manner and to conduct
4 somewhat expeditious questioning. I think it's not asking too much, two weeks is really
5 very short, and considering that in any event the list of documents is supposed to be
6 submitted seven working days in advance, two weeks appears to be doable. And again,
7 the impact of the change of the order is tremendous for the Prosecution. We are -- we
8 were provided with information on 63 witnesses on 13 July, and we are allowed by your
9 Honours to conduct investigations, but if the order changes on short notice it's neither
10 possible for us to conduct a focused, meaningful investigation, nor to prepare in a -- in the
11 necessary manner.

12 Thank you, Madam President, your Honours.

13 PRESIDING JUDGE STEINER: Thank you very much, Ms Kneuer.

14 The Chamber will discuss a new proposal that was made by Defence. It's just a proposal,
15 that's why it was directed only to the Chamber, not yet to the Prosecution and legal
16 representatives. It is the intention of the Chamber to hold, soon after this status
17 conference, an ex parte status conference with Defence, in which -- after which at least the
18 order of the next witnesses will be decided and informed to the Prosecution and legal
19 representatives, we hope today, which will give, in any case, for the Prosecution, the two
20 weeks Prosecution is requesting, since the Chamber will resume only on 15 October. Is
21 there anything, legal representatives would like to comment?

22 MR ZARAMBAUD: (Interpretation) Thank you, your Honour. From a legal point of
23 view, I don't think that the legal representatives of victims have any opportunity to
24 intervene in any manner to improve the situation. Of course, our only concern is
25 that -- well, we need to submit our list of questions in advance, and that will be easier in

1 the case of the Defence witnesses if there were a file, and I think, really, that would
2 reassure witnesses as well. Not only would they meet -- not only would they meet with
3 the Prosecution, but through the questions put to them, the witnesses would have some
4 kind of idea of what questions might be put to them at the hearing, and it seems to me
5 that of course, obviously, for a witness, it is difficult, it is difficult if they only discover in
6 the courtroom what sort of questions they can expect.

7 So I think we even saw one particular expert witness who said, the linguistics expert, he
8 said he had never actually met with the Defence before appearing. And since it is the
9 Defence that is calling these witnesses, if these witnesses meet the Defence well before the
10 hearing, in the country of origin, quite clearly, that would reassure them and they would
11 have a better impression of, or a better idea of what to expect in the courtroom, and they
12 would consequently not be overly troubled.

13 So we make these observations and bring them before you for your august consideration.

14 PRESIDING JUDGE STEINER: Any comment, Maître Douzima?

15 MS DOUZIMA LAWSON: (Interpretation) No. We have consulted one another and I
16 stand by my colleagues remarks.

17 PRESIDING JUDGE STEINER: This is another point that has already been discussed
18 previously in this Chamber, that the lack of information on the content of the testimony
19 and the difficulties that Prosecution informed, Prosecution has been facing in contacting
20 the witnesses in advance, are really creating some extra delays in the questioning of
21 witnesses since witnesses come to the courtroom without Prosecution and legal
22 representatives and the Chamber being aware on the content of the testimony.

23 What the Chamber received from Defence was just a summary that looks like an index but
24 without any reference to the content of the testimony itself, so making it difficult for the
25 Chamber and for the Prosecution and legal representatives to prepare its questioning in

1 advance, but in any case it's been recommend to Defence to try to co-operate with
2 Chamber and the parties in that respect, and the Chamber is sure that Defence will do its
3 best in order to provide Chamber, parties and participants with something more
4 substantial in respect to the testimony to be given and to co-operate with and facilitate the
5 Prosecution meetings, previous meetings with -- and investigations in relation to each
6 Defence witness.

7 Maître Kilolo, I would like to give you back the floor, because maybe you have comments
8 on what was said by Prosecution and Maître Zarambaud.

9 MR KILOLO: (Interpretation) Thank you, your Honour. I really don't want to get
10 into some sort of controversial debate, in light of the regrettable statements made by the
11 OTP.

12 The Defence would have expected Ms Kneuer to put her observations, bearing in mind
13 the central consideration of this status conference, namely the true problems relating to
14 security, support measures for Defence witnesses, with a view to facilitating their
15 appearance before the Chamber here at the seat of the Court without any interruptions,
16 but to engage in accusations and speculation regarding the Defence and witnesses being
17 called by the Defence this is really not in good faith. They are not acting in good faith.

18 To conclude, I'd like to say that our witnesses are entirely ready to appear. Our
19 witnesses are available. At least at this particular time the 35 first witnesses that I was
20 mentioning earlier, there are no problems relating to availability of Defence witnesses.
21 The only difficulty that we have had relates to two witnesses, who, in one case, the person
22 was unable to continue his testimony; the other did not appear before this Chamber.
23 And here, in this open session, we cannot set out a number of practical concerns that can
24 be summarised as follows: It is only because of security concerns that those witnesses
25 were unable to continue their testimony before this Chamber. That is our analysis.

- 1 Thank you.
- 2 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo. We'll have opportunity to
3 analyse any further elements or information that Defence is able to provide the Chamber
4 and Registry and during the ex parte status conference that will be held in a few minutes.
5 Is there anything else, at least in relation to this public part of the status conference, that
6 Registry or VWU would like to add? Madam Kneuer?
- 7 So, therefore, we will now suspend the present status conference. We will return in
8 half-an-hour at 11.35 for the second part of this status conference that will be held in
9 closed session ex parte Defence, VWU, Registry only.
- 10 I thank very much the Prosecution team, the legal representatives of victims for their
11 presence and we will now suspend and resume in half-an-hour.
- 12 The hearing's suspended.
- 13 THE COURT USHER: All rise.
- 14 (The hearing ends in open session at 11.06 a.m.)