

Initial Appearance

(Open Session)

ICC-01/05-01/13

1 International Criminal Court
2 Pre-Trial Chamber II - Courtroom I
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba,
5 Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse
6 Arido - ICC-01/05-01/13
7 Single Judge Cuno Tarfusser
8 Initial Appearance
9 Thursday, 20 March 2014
10 (The hearing starts in open session at 10.02 a.m.)
11 THE COURT USHER: All rise.
12 SINGLE JUDGE TARFUSSER: Good morning. Good morning and welcome to
13 everyone to this initial appearance of Mr Arido, Narcisse Arido. I think the
14 photographers have done their job already I think, so -- have they? I saw them
15 inside.
16 So please, court officer, could you please call the case. Thank you.
17 THE COURT OFFICER: (Interpretation) Thank you, your Honour. Situation in
18 the Central African Republic, in the case of The Prosecutor versus Jean-Pierre Bemba
19 Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala
20 Wandu and Narcisse Arido, ICC-01/05-01/13.
21 SINGLE JUDGE TARFUSSER: I would like first of all to apologise, Mr Arido, that I
22 do not speak good enough French to hold this hearing in French and therefore I will
23 speak in English, but we are supported by -- well supported by the interpreters and
24 so we should be able to understand each other anyhow.
25 And this brings me to the first point, which is the language issue. I assume that

1 you, Mr Arido, speak and fully -- speak and fully understand the French language; is
2 this correct?

3 MR ARIDO: (Interpretation) I'm sorry, your Honour, if you please, I have a
4 problem. I have a translation problem because I'm not getting the French
5 interpretation of what you're saying.

6 SINGLE JUDGE TARFUSSER: I repeat myself. And first of all I apologise that I
7 have to speak in English, because my French is not as good -- it's not so good to hold
8 this hearing in French, but we are supported by our interpreters and so I think we
9 could understand each other, me speaking in English translated in French and vice
10 versa.

11 So the first question I think I have to ask you is the language question, and I suppose
12 - I assume - that you fully understand and speak the French language; is this correct?

13 MR ARIDO: (Interpretation) Thank you for allowing me to address the Court.
14 Yes, indeed, I do speak French very well. I studied only in French.

15 SINGLE JUDGE TARFUSSER: Okay, for the time being thank you very much.
16 In any case, I remind everybody here from now on to speak slowly because of the
17 translation of -- the translation from English to French and from French to English
18 and I pass asking the Prosecutor to introduce his team.

19 MR GUARIGLIA: Good morning, your Honours. It's Fabricio Guariglia,
20 Prosecution's co-ordinator, appearing today together with Ms Ruth Frolich, trial
21 lawyer; Ms Olivia Struyven, trial lawyer. Our case manager is Sylvie Vidinha.
22 Thank you

23 SINGLE JUDGE TARFUSSER: Thank you. Thank you, Mr Prosecutor.
24 Before giving the floor to the Defence team, I would like to inform Mr Arido -- Mr
25 Arido that the Chamber was informed by -- recently by the Registry in the filing

1 number 251 in the record of this case that you have appointed Madame Abbe Jolles
2 from Washington DC as your defence lawyer and that you have also submitted to
3 the Registrar requests, certificate of your indigence requesting legal aid.

4 So I would like to inform you that these -- all these issues, your legal representation
5 and the legal aid issue, will be handled and decided by the Registry and then by the
6 Court in due course. For the time being and for this first appearance, and with the
7 limited scope this first appearance has, you are represented by the Office of Public
8 Counsel of the Defence of the ICC, and therefore I would like to give the floor to Mr
9 Keïta to introduce his team.

10 MR KEÏTA: (Interpretation) Good morning, your Honour. Good morning,
11 colleagues. Good morning to the technicians. Thank you for your assistance.
12 I would like to introduce my colleague Marie O'Leary, counsel; Vedrana Residovic,
13 case manager; and Mr Philip Muller, who is at the OTPC as a trainee. I'm
14 Xavier-Jean Keïta and I am senior counsel at the OPCD, as it is usually known in
15 English. I thank you.

16 SINGLE JUDGE TARFUSSER: Thank you very much, Mr Keïta.

17 Last, but not least, the Registrar and the Office of the Registrar. Please, it's yours,
18 the floor.

19 MR VON HEBEL: Good morning, your Honour. This is Herman von Hebel,
20 Registrar, and I'm assisted by Pieter Vanaverbeke, legal co-ordinator. Thank you.

21 SINGLE JUDGE TARFUSSER: Thank you very much, Mr Registrar.

22 Now, the Chamber -- I'm the Single Judge appointed by PTC II to act on behalf of the
23 Chamber as Single Judge. My name is Cuno Tarfusser, and my team is composed
24 by Frederica Gioia, legal officer; Silvestro Stazzone, assistant legal officer; and Giulia
25 Landi, intern.

1 The object and the purpose of this initial appearance of this hearing pursuant to
2 Article 60(1) and Rule 121(1) of the Rules of Procedure and Evidence is, first of all, to
3 identify properly the person, the suspect, then to determine whether they -- he has
4 been informed of the crimes which he is alleged to have committed, to determine if
5 the person has been informed of his rights under the Statute, and then to set out the
6 date for the confirmation of the charges.

7 And therefore I'd pass to do the first step, which is the identification of the suspect,
8 and I ask Mr Arido please to state your name, your place, date of birth, your
9 nationality and all what is necessary to completely identify your person. Please, the
10 floor is yours.

11 MR ARIDO: (Interpretation) Thank you, your Honour. I am Arido Narcisse,
12 born on 15 May 1978 in Bangui, and I am the son of the late Arido Bruno and Mboyu
13 Odile (phon). I am a refugee - a political refugee - and I've been living in Cameroon
14 since the year 2001 under the protection of the UNHRC. I'm married and I have
15 five children, including one adopted daughter whom I am responsible for.

16 My profession is -- is that of lawyer. I also am involved in strategy.

17 I believe I've introduced myself in -- briefly. I can provide further information if
18 you wish?

19 SINGLE JUDGE TARFUSSER: For the time being, it's enough. Thank you very
20 much, Mr Arido.

21 Mr Keïta, you asked for the floor.

22 MR KEÏTA: (Interpretation) Yes. I've noticed that the microphone didn't seem to
23 be working, at least that's what the transcript seems to show, the --

24 SINGLE JUDGE TARFUSSER: Whose microphone?

25 MR KEÏTA: (Interpretation) My microphone. And at times I'm not getting the

1 sound either. I'd like to ask if it would be possible to cross-check, when I

2 introduced my team, was everyone mentioned?

3 SINGLE JUDGE TARFUSSER: Who can give me an answer on that?

4 (Pause in proceedings)

5 SINGLE JUDGE TARFUSSER: Mr Keïta, I'm informed that we have indeed some
6 technical problems, but you can be assured that the whole hearing is also registered
7 and so the transcript will be perfectly, perfectly okay by the time the transcript is
8 ready.

9 MR KEÏTA: (Interpretation) Thank you. And I'm sorry for interrupting, your
10 Honour.

11 SINGLE JUDGE TARFUSSER: No problem, Mr Keïta.

12 Then I said, "Thank you, Mr Arido. For the time being this is enough." I would
13 now, making the second step, and ask the courtroom -- the court officer to proceed
14 to read out the counts -- to read out the counts for the suspect.

15 THE COURT OFFICER: (Interpretation) Thank you, your Honour. The
16 Prosecutor is charging Narcisse Arido for the following crimes:

17 (Speaks English) The Prosecutor is charging Narcisse Arido for the following
18 crimes:

19 (Interpretation) Count 1: Corruptly influencing witnesses under Article 70(1)(c)
20 read with Article 25(3)(c) by bribing witnesses to provide false testimony.

21 (Speaks English) Count 1: Corruptly influencing witnesses under Article 70(1)(c)
22 read with Article 25(3)(c) by bribing witnesses to provide false testimony.

23 (Interpretation) Count 2: Presenting evidence that the party knows is false or
24 forged under Article 70(1)(b) read with Article 25(3)(c) by aiding, abetting, or
25 otherwise assisting in the crime of presenting evidence that he knows is false or

1 forged.

2 (Speaks English) Count 2: Presenting evidence that the party knows is false or
3 forged under Article 70(1)(b) read with Article 25(3)(c) by aiding, abetting, or
4 otherwise assisting in the crime of presenting evidence that he knows is false or
5 forged.

6 SINGLE JUDGE TARFUSSER: Thank you very much, courtroom officer.

7 The Single Judge assumes that the arrest warrant has been served to the suspect
8 under his arrest back in November and that the suspect has by the time being fully
9 understood what he is accused of by the Prosecution. This is a question I pose:
10 Have you been served and have you understood, fully understood, completely
11 understood what the accusations are against you?

12 MR ARIDO: (Interpretation) Yes, your Honour. I did receive that information.

13 SINGLE JUDGE TARFUSSER: Okay, thank you very much.

14 The Single Judge orders now the Prosecutor to disclose to the suspect in order to -- in
15 order to put him up-to-date, of course, with the other suspect, to disclose to the
16 suspect and to put him up-to-date for the confirmation phase together with the other
17 suspect all evidence until today disclosed to the other suspects. For doing this, I
18 give a deadline for Monday - Monday, 24 March - which is in a few days.

19 MR GUARIGLIA: (Microphone not activated)

20 SINGLE JUDGE TARFUSSER: Yes, please.

21 MR GUARIGLIA: Thank you, your Honour. I'm sorry for taking the floor. Of
22 course we are ready to disclose. The question is to whom. Until such time as we
23 have counsel appointed to represent Mr Arido, we have no real counterparts to
24 provide this material. Our duty is to ensure that counsel gets the material and that
25 counsel can work with Mr Arido.

1 Now, if your Honour extends the mandate of OPCD beyond this hearing, we could
2 do it via OPCD. Our strong preference, however, would be to do it directly to the
3 counsel retained to Mr Arido.

4 SINGLE JUDGE TARFUSSER: We will -- we will in this hearing solve this problem
5 as well in a few minutes.

6 I assume also, Mr Arido, that you have been informed of your rights, but I think it
7 is -- it is good for the time being - you can be seated - that I will read you out your
8 rights in any case.

9 First of all, you are presumed innocent until proven guilty beyond reasonable doubt
10 at the trial with the burden of proof on the Prosecutor.

11 Second, you have the right not to have imposed on you any reversal of burden of
12 proof or any onus of rebuttal.

13 You have the right to receive and to have disclosed to you material which shows or
14 tends to show your innocence, mitigates your guilt and which may affect the
15 credibility of Prosecution evidence in the possession of the Prosecutor.

16 You have the right to object to the charges, to challenge the evidence presented by
17 the Prosecutor and to present evidence.

18 There will be no trial in case the charges are not confirmed at the end of this part of
19 this phase of the proceedings.

20 You will be informed promptly and in detail of the nature, course and content of the
21 charges in the language which you fully understand and speak and which we
22 learned is French.

23 You're entitled to waive your right to attend status conferences convened for the
24 purpose of the disclosure procedure.

25 You will have adequate time and facilities for the preparation of your defence.

1 You will be tried without undue delay.

2 You may make unsworn oral or written statements in your defence.

3 You have also the right to apply for interim release and you have the right to appeal
4 decisions.

5 As I said before, and now also the Prosecutor reminded, you have, and we know it
6 because we received a filing from the Registry in this direction, you have appointed
7 Madame -- as your legal -- as your legal -- as your counsel, Defence counsel,
8 Madame Abbe Jolles, as your Defence counsel.

9 Do you confirm the appointment of the Defence counsel, Abbe Jolles from
10 Washington DC?

11 MR ARIDO: (Interpretation) Thank you, your Honour. My lawyer here is in a
12 better position to --

13 SINGLE JUDGE TARFUSSER: To?

14 MR ARIDO: (Interpretation) I was saying a few moments ago that my lawyer here
15 is in a position to answer that question.

16 SINGLE JUDGE TARFUSSER: Yes, but I think it is up to the suspect - to the person
17 - to choose and to indicate who he wants to be represented by, which counsel he
18 wants to choose. And so you leave it up to Mr Keïta?

19 MR ARIDO: (Interpretation) Yes, that's right, your Honour.

20 SINGLE JUDGE TARFUSSER: Mr Keïta, please. I assume that you've spoken with
21 Mr Arido before in preparation of this hearing?

22 MR KEÏTA: (Interpretation) Yes, but we didn't touch upon that particular topic,
23 your Honour. So I would suggest that, since you've clearly put the question,
24 perhaps we should allow some time for Mr Arido to consult the Registry and
25 provide the name of his counsel. I can't take that initiative at this particular

1 juncture on because of ethical grounds. We have not yet discussed it. Thank you.

2 SINGLE JUDGE TARFUSSER: No, I fully understand that you can't decide to -- you
3 can't take decisions for Arido without having somehow discussed this issue with
4 him, but I would really very much like to solve this issue during this hearing, before
5 the end of this hearing, and therefore I would suggest to suspend for 15 minutes in
6 order to give time to Mr Arido to talk to the Registrar and to Mr Keïta and then to
7 come up with any decision which -- also in foreseeing that the deadline for Monday
8 for the disclosure of all the evidence, which rightly was pointed out by the
9 Prosecutor that he has to disclose it to the person which is then at the end the
10 counsel for Mr Keïta.

11 If you all agree, I would suspend 15 minutes and then come back and hopefully have
12 an answer. Otherwise, we will find another way. So for this reason the -- please,
13 please, Mr Keïta.

14 MR KEÏTA: (Interpretation) Your Honour, if you wish we can suspend, but I do
15 wish to say that ever since December the OPCD has received regularly various
16 documents to be forwarded on and this order that you've provided to the Prosecutor
17 to disclose information as of 24 March is not a problem. I perfectly understand that
18 it would be useful for Mr Arido and I to have a conversation, because I cannot put
19 any words in his mouth. That is why I did not want to make any particular
20 decision on this matter.

21 SINGLE JUDGE TARFUSSER: No, I fully understand that, but I think we -- the
22 time constraint is such that we have to decide as soon as possible this, which is a
23 fundamental question, the fundamental right for the suspect. So if we can do this in
24 the next 15/20 minutes, I mean after discussing with the Registrar, he is here in
25 person, with you, together with the suspect, then we have solved the problem, and I

1 am trying to solve problems, not to postpone them.

2 If this 15 minutes are not sufficient, I would say that you for the purpose also for the
3 disclosure, for this first disclosure on Monday, you, the OPCD, is still the Defence
4 counsel for Mr Arido and that, when he in the future nominates somebody else, you
5 will forward -- it is up to you to forward the materials disclosed to the counsel.

6 But first of all I would try to find the solution by today. That's why I suspend and
7 we'll come back at say quarter-to -- quarter to 11.

8 THE COURT USHER: All rise.

9 SINGLE JUDGE TARFUSSER: Hearing suspended.

10 (Recess taken at 10.26 a.m.)

11 (Upon resuming in open session at 10.46 a.m.)

12 THE COURT USHER: All rise.

13 SINGLE JUDGE TARFUSSER: So, Mr Arido, we resume the hearing at the same
14 point we left it before. I think you have had the opportunity -- and just for the
15 record, the Registry is represented also now by Mr Esteban Peralta, the Head of the
16 Legal Advisory Section, with whom you have spoken, and I think you have spoken
17 also to Mr Keïta and I was informed that you need some time, which I absolutely
18 understand -- which I absolutely understand, being perfectly aware that this is a
19 very -- a very sensitive and important question for you; a very important thing for
20 you to handle properly. So you will have all the time you need.

21 For the meanwhile, I ask the Prosecution to disclose the material always by Monday
22 to the OPCD and then it is up to the OPCD to further transfer the materials to the
23 counsel which will be appointed in the -- in due course.

24 Mr Keïta, please.

25 MR KEÏTA: (Interpretation) Your Honour, on behalf of Mr Arido, I would like to

1 thank you for being so flexible. If my learned colleague agrees I would like to
2 propose that, given that my office is merely duty counsel in this case, and so as to
3 safeguard the rights of our client, our -- the OPCD proposes that before the
4 permanent counsel is appointed, we should receive all disclosures from the OTP, but
5 to safeguard the rights of Mr Arido the time frames should be frozen and we will
6 forward the disclosures as soon as counsel is appointed and we will notify the
7 Chamber as soon as that happens so that the time frames can start running again.
8 And this is an advantage for all the parties. It enables the OPCD to assist the client,
9 and from an ethical point of view Mr Arido will continue to be assisted and advised
10 by the OPC which will according to the ethical provisions transmit all the
11 disclosures that will be made.

12 In any case, I believe Mr Peralta has already informed you that even when the
13 documents are transmitted there has to be the use of an -- a computer and so on and
14 so forth, so 24 hours is too short. In the meantime, the OPCD will guarantee the
15 transmissions of these documents subsequently and I believe this will guarantee the
16 integrity of the proceedings.

17 SINGLE JUDGE TARFUSSER: Mr Keïta, that was exactly what I was saying,
18 meaning that the deadline is for the Prosecution to file to the Defence of -- to the
19 Defence counsel of Mr Arido -- to disclose to the Defence counsel of Mr Arido all the
20 materials which have been disclosed by now to the other suspect. This can be done
21 only to the counsel which is in place which for -- until Mr Arido does appoint some
22 other counsel, it's the OPCD. Therefore, the deadline - only deadline - which is not
23 frozen is for the -- for the Prosecutor to disclose to the OPCD, then as soon as a
24 different counsel, if this will happen, a different counsel will have been appointed by
25 Mr Arido, it is up to you, but when this happens, next week some time probably, to

1 forward all these materials disclosed by the Prosecution to you to the new counsel.

2 So I think -- I hope it is clear.

3 MR KEÏTA: (Interpretation) I believe that my learned colleague and myself agree
4 on that.

5 MR GUARIGLIA: I think there are two separate things. I'm not sure whether I
6 understood the arrangement or agreement that my learned friend, Mr Keïta, was
7 proposing.

8 If we understand your ruling correctly, and -- we will simply disclose by Monday to
9 OPCD in lieu of other counsel, we comply with the deadline. The assumption is
10 that OPCD will then, once Mr Arido appoints counsel, transmit the disclosure
11 materials to that counsel. No other deadlines should be frozen and we couldn't by
12 agreement freeze any deadlines; only you could decide the deadlines stop running
13 and that should be on the basis of a request for a variation of time limits.

14 Of course if the new counsel decides -- considers that he/she needs more time he/she
15 will make a request to you and we deal with that in due course, but that is our
16 understanding of the situation.

17 SINGLE JUDGE TARFUSSER: You're absolutely correct. The only deadline is up
18 to you.

19 MR GUARIGLIA: Exactly.

20 SINGLE JUDGE TARFUSSER: Monday, end of -- close of business --

21 MR GUARIGLIA: Yes.

22 SINGLE JUDGE TARFUSSER: -- to disclose to the OPCD all the materials disclosed
23 by now to the -- all the other suspect. Full stop.

24 MR GUARIGLIA: I will comply with that.

25 SINGLE JUDGE TARFUSSER: Okay, thank you very much.

1 But I still have, just for curiosity, Mr Arido, because when I received -- when the
2 Chamber received this appointment of the -- the counsel, Abbe Jolles, I read that the
3 power of attorney was signed in Paris on 20 February 2014. My question is to you if
4 Mrs Abbe Jolles was in Paris to -- and if she -- if you signed in front of her or not?

5 MR ARIDO: (Interpretation) Thank you, Mr President. It was not possible for
6 me to know that because I was in detention and it was my French lawyer who
7 communicated the name of this lawyer to me. And this was Maître *Kdhir, my
8 French lawyer, who forwarded this dossier to me.

9 SINGLE JUDGE TARFUSSER: So you never met Madame Abbe Jolles?

10 MR ARIDO: (Interpretation) Not personally, no.

11 SINGLE JUDGE TARFUSSER: And have you ever spoken to her?

12 MR ARIDO: (Interpretation) We had a phone conversation merely because the
13 form on which her name was written was handed over to me by the director of the
14 penitentiary and it is this person who asked me to contact this lawyer.

15 SINGLE JUDGE TARFUSSER: Okay, thank you very much, but I think you
16 are -- you agree, and you've understood, that you have time to -- to make your own
17 choice and you can have the assistance of the Registry, which is independent to -- an
18 independent body inside the office -- the ICC. You've understood that?

19 MR ARIDO: (Interpretation) Thank you, Mr President. I have understood.

20 SINGLE JUDGE TARFUSSER: Thank you very much. So in the next -- in the
21 following days somebody will -- will approach you and -- from the Registry will
22 approach you in order to take your decision and communicate it to the Chamber
23 once you have taken this decision. Thank you very much.

24 MR ARIDO: (Interpretation) Thank you, your Honour.

25 SINGLE JUDGE TARFUSSER: Now we come to the last step, which is the date of

1 the confirmation.

2 The Single Judge notes that rule 165(3) of the Rules of Procedure and Evidence allow
3 for the confirmation of charges relating to the offences against the administration of
4 justice to take place, and I quote, "... on the basis of written submissions without
5 hearing", end of quote.

6 It is the view of the Chamber, as it is known, because it is not the first initial
7 appearance, that the written confirmation in this case is the most appropriate course
8 of action. And following its own decision - it is decision 255 in the record of the
9 case of 14 March - the Chamber sets the date of 30 May 2014 for the filing of the
10 document containing the charges and the list of evidence by the Prosecutor.

11 From -- on 13 June both the Prosecutor and the Defence of all suspects shall file their
12 written submissions. Obviously, in the middle between the 30 May and 30 June
13 there is a possibility for the Defence to file -- to present evidence if they deem it
14 appropriate.

15 The Prosecutor shall then have until 7 July 2014 to reply to the written submissions
16 on the Defence and the Defence teams - as they always have the last word - shall
17 have until 14 July to reply to the submissions of the Prosecutor.

18 So I just indicated the dates already -- that were already indicated in the filing 255,
19 on 30 May, for the purpose of the defence of Mr Arido.

20 I think we -- we are coming to the end of this hearing, but before I ask if anybody has
21 other comments or requests to make, I have a question of mister -- to Mr Arido, but
22 to put this question and to get the answer I would prefer to go for a few minutes in
23 private session. Please, could you -- thank you very much.

24 (Ex parte Private session at 10.59 a.m. for OTP and Duty Counsel for Mr Arido only)

25 (Redacted)

Initial Appearance

(Private Session)

ICC-01/05-01/13

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13 Page 15 redacted – Ex parte Private session OTP and Duty Counsel for Mr Arido

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1 (Open session at 11.01 a.m.)

2 THE COURT OFFICER: (Interpretation) We are in open session, your Honour.

3 SINGLE JUDGE TARFUSSER: Thank you. Now, just for -- to complete, I ask if
4 there's somebody who has, parties or participants, any other comments or requests
5 to raise? If none, as I hope, as I hope, and there are none, it wasn't a threat but
6 nearly, I declare this hearing closed. Oh, no.

7 MR KEÏTA: (Interpretation) On behalf of Mr Arido, if you don't mind, I would
8 just like to make a few comments? They will be very brief.

9 Mr Arido has been a refugee since 2001 with his family living in Cameroon. He's
10 married, he has five daughters, he has a military background and he resumed law
11 studies and actually received a Master's in business law and also another Master's
12 Degree in strategy and conflict management, thus he became a tech consultant, an
13 expert, an author. He works with a number of organisations preparing technical
14 reports. He found himself in France. When he was arrested on 23 November 2013,
15 from the -- from that time until 5 December 2013 he was not able to have any contact
16 whatsoever with his family. He wanted to make that fact known to your Chamber.
17 And this is not something that our law at the ICC allows, so it would be better to
18 stress this point.

19 Furthermore, the home that he was living in was searched in the presence of three
20 people who said that they were from the OTP. His possessions were ransacked, his
21 computer was seized, his USB sticks were also taken, both his telephones and his
22 papers were scattered here, there and everywhere.

23 He was supposed to be providing some scientific reports to a number of
24 organisations and he was wondering that if there is no reason to continue the
25 custody or the possession of these personal effects that he would like to get them

1 back so that he can resume his work.

2 In closing, in light of the question that you asked moments ago, I can tell you that
3 my client has no reason to fear anything from the other co-accused. He has nothing
4 to feel bad about, he has no problems with the co-accused or with other -- any other
5 persons. So this is what I wish to say regarding Mr Arido.

6 SINGLE JUDGE TARFUSSER: Is the Prosecution wanting to say something on this?

7 MR GUARIGLIA: Yes, your Honour. A couple of things only for the record.

8 First thing, both the arrest procedure and the search and seizure procedure in the
9 case of Mr Arido were performed by French authorities pursuant to request for
10 assistance issued by this Court and following the proper national procedures. So
11 first thing.

12 Second thing --

13 SINGLE JUDGE TARFUSSER: I would have said the same.

14 MR GUARIGLIA: Yes.

15 Second thing is that in terms of the seized material, our understanding is that seized
16 material is in the possession of the Registry. Forensic copies will be made of that
17 material and the originals will be returned to Mr Arido, so there is no -- no real
18 grievance here to be made before this Chamber. The Court is following its process
19 and appropriate remedies will be tailored. Thank you.

20 SINGLE JUDGE TARFUSSER: And my -- my comment as to the first, I think, yes,
21 we can't interfere with the French proceedings, of course. The French proceedings
22 are the ones -- the French authorities has -- have acted and -- on the request of the
23 Court and that's -- and we can't interfere, I mean, with the family contact and things
24 like that. It's not -- it was not properly in the hand of the ICC.

25 And what -- as far as the seized material is concerned, we couldn't even -- all the

1 seized materials were copied and given back to the suspects. We couldn't do it
2 before with Mr Arido because he wasn't here, so it will be done probably in the next
3 days by the Registry, which the Registry is instructed to do so, in any case, to give
4 back all the seized materials, the originals, as soon as practicable and this is for sure
5 practicable in the next -- in the next week I would say. So if there is something else?
6 I saw you -- you wanted to jump up again. I hope it is even shorter than it was
7 before.

8 MR KEÏTA: (Interpretation) I will be increasingly brief, your Honour.

9 Now, what I would like to say is this: Now, the originals shall be given back to him
10 but the jurisprudence of this Court is that during initial appearance when any
11 irregularities are not reported any country -- if there are irregularities, you see, as
12 duty counsel it is my task to report any irregularities relating to Mr Arido.
13 Just to clarify to my learned friend that if the searches were done under the control
14 of the French authorities, my client is ready to confirm that no search was done by
15 French authorities; they were done only by three people from the Office of the
16 Prosecutor. That being the case, the main concern here is -- for my client is that he
17 receive the originals as soon as is possible.

18 MR GUARIGLIA: Your Honour, at this stage, I think -- I mean, my position has
19 always been that allegations should not be made lightly in this particular fashion. It
20 is regrettable that they are levelled in this way. I repeat my previous position: If
21 Mr Keïta has -- believes that there is substance to that allegation, I invite Mr Keïta to
22 make a written submission, we will respond to that submission with all relevant
23 documentation, but I -- at this stage, I think that it doesn't serve anybody's interest,
24 certainly not this Chamber's interest, to engage in these type of discussions on the
25 basis of, basically, things made in here. Thank you.

1 SINGLE JUDGE TARFUSSER: I must -- I must say I hardly -- I hardly can believe
2 that three people from the OTP of the ICC -- I suppose this case not -- not on a very,
3 very legal basis went to -- on their own motion to France to make the search because,
4 I think -- I agree with the OTP, we have to be quite careful in saying things like that.
5 If these are substantiated in a filing, we will -- we will check and then take our
6 decisions, but I think we should leave it by now at this point and I will next
7 week -- for sure next week Mr Arido will have all the originals which are by now in
8 the possession of the Registrar. And any other question which you have to pose to
9 the Chamber, I would ask you to put it in writing so we can properly decide on it.
10 Is that okay, Mr Keïta?

11 MR KEÏTA: (Interpretation) That is suitable, your Honour. The advantage is
12 that, you see, Mr Arido was the one who was actually present, so we will see what
13 comes of all of this. Thank you,

14 SINGLE JUDGE TARFUSSER: Of course.

15 So this said, I close this session. Thank you to everybody, like always, everybody in
16 here, out here, behind the window.

17 THE COURT USHER: All rise.

18 (The hearing ends in open session at 11.12 a.m.)

19 CORRECTION REPORT

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

22 *Page 13 line 7

23 " Maître Keïta" is corrected by " Maître Kdhir"

24