

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 -

5 ICC-01/05-01/08

6 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki

7 Trial Hearing

8 Thursday, 2 December 2010

9 (The hearing starts in open session at 2.37 p.m.)

10 THE COURT USHER: All rise. The International Criminal Court is now in session.

11 Please be seated.

12 THE COURT OFFICER: Good afternoon, your Honours, Madam President. We

13 are in open session.

14 PRESIDING JUDGE STEINER: Good afternoon. Could, please, court officer call

15 the case.

16 THE COURT OFFICER: Yes, Madam President. Situation in the Central African

17 Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, case

18 reference ICC-01/05-01/08.

19 PRESIDING JUDGE STEINER: Thank you very much. So, first, I would like to

20 welcome the Prosecution's team, the legal representatives of victims, OPCV and the

21 Defence team and, of course, Mr Jean-Pierre Bemba Gombo.

22 Before calling the witness and continuing with her questioning, the Chamber needs to

23 address a couple of issues that have arisen and so the Chamber has prepared a couple

24 of oral decisions.

25 The first one relates to the appointment of Mr Kaufman as a co-counsel for the

26

1 Defence team.

2 On 7 May 2010, the Chamber issued its "Decision on the Prosecution's request to
3 invalidate the appointment of legal consultant to the Defence team" (Decision 769) in
4 which it was clearly stated that there were no persuasive indications that
5 Mr Kaufman was involved in or privy to confidential information as a staff member
6 of the Court relating to the Bemba case (paragraph 46 of that decision). The request
7 by the Prosecution was therefore dismissed and no application for leave to appeal
8 was made.

9 On 29 November 2010, the Chamber was informed that the status of Mr Kaufman
10 within the Defence team had changed from that of legal consultant to co-counsel.
11 As a consequence, Mr Kaufman is now to enjoy the same rights as the other counsel
12 on the Defence team.

13 At the hearing on 29 November 2010, the Prosecution objected to Mr Kaufman's new
14 appointment and submitted that it would file additional information for the
15 Chamber's consideration as to the existence of a conflict of interest.

16 The Chamber ordered the Prosecutor to file a formal submission by
17 30 November 2010. The Prosecution duly filed a request to invalidate the
18 appointment of associate counsel to the Defence team (Filing 1066) and the
19 Defence filed its observations thereto on the same day (Filing 1067).

20 In its application, the Prosecution submits that in addition to the facts previously
21 asserted, in particular an email from Mr Kaufman expressing his pleasure at sharing
22 an office with an attorney on the Bemba trial team, because it would enable him to
23 learn what was going on in that case, the Prosecution has subsequently located
24 internal memos that reflect Executive Committee meetings with all senior lawyers.

25 The Prosecution argues that these memos identify what was discussed at the

1 Executive Committee meetings, which included prosecutorial strategy on witness
2 protection, disclosure and modes of liability in the Central African Republic, situation
3 Bemba case, and it is submitted that Mr Kaufman, as a senior lawyer in the office,
4 repeatedly attended such general strategy discussions while the case against
5 Mr Bemba was one of the three active cases in the office. For these reasons, the
6 Prosecution requests that the Chamber invalidate Mr Kaufman's appointment as a
7 co-counsel.

8 The Defence contends that there is nothing new in the Prosecution's application and
9 that the Chamber, as formerly constituted, has therefore already considered the
10 matters raised by the Prosecution.

11 Having considered the submissions made, the information now relied upon by the
12 Prosecution in filing 1066, which was said to constitute "new information," is all
13 information that the Chamber has addressed in its 7 May 2010 decision (Filing 769),
14 see paragraph 43 of that decision.

15 The internal memos referred to by the Prosecution in its most recent filing (Filing
16 1066), do not take the matter any further or provide new or different evidence as to
17 the extent of Mr Kaufman's involvement in the Bemba case such as to merit the
18 Chamber's reconsideration of the matter.

19 The Chamber already considered the email referred to as well as strategy meetings
20 with which Mr Kaufman may have attended. Curiously, this information has only
21 been submitted by the Prosecution upon Mr Kaufman's appointment as a co-counsel
22 yet, arguably, it would surely have applied equally to Mr Kaufman's existing position
23 as legal consultant.

24 The Prosecution acknowledges that the previously constituted Chamber has ruled on
25 the issue of Mr Kaufman's appointment and in this latest filing the Prosecution

1 appears to be effectively seeking the Chamber to review its original decision.

2 There was no appeal lodged by the Prosecution to the original decision and, absent

3 any new information about which the Chamber had no knowledge at that time of its

4 original decision of 7 May 2010, there is no basis on which the Chamber should

5 reconsider the matter. This is in keeping with the jurisprudence of this Chamber, as

6 well as that of the Court generally (see, for instance, Decision on the "Requête de la

7 Défense aux fins d'obtenir de la Chambre de Première Instance III des décisions

8 appropriées avant l'ouverture du Procès prévue pour le 22 Novembre 2010",

9 paragraphs 9 and 10).

10 The Chamber, therefore, dismisses the Prosecution's request as being a request for

11 review, rather than providing new information which may significantly alter the

12 basis on which the original decision was taken. Mr Kaufman, therefore, can

13 continue in his newly appointed capacity as co-counsel.

14 In relation to the issue of agreed facts that arose during yesterday's hearing --

15 (Pause in proceedings)

16 PRESIDING JUDGE STEINER: In relation to the issue of agreed facts that arose

17 during yesterday's hearing, regarding Witness 22 not needing to be questioned by the

18 Prosecution on the details of the alleged multiple rapes of which she is a victim and

19 the subsequent agreement between the Prosecution and the Defence that in relation to

20 this witness elements 1 and 2 of the crime of rape as a war crime and as a crime

21 against humanity (meaning penetration and force or threat) would constitute agreed

22 facts, the Chamber refers to the filing made by the Defence this morning (Filing 1069).

23 In yesterday's hearing, the Chamber requested the Defence to clarify in writing before

24 today's hearing the extent and details of the facts that were considered to be agreed

25 by the Defence. In today's filing, however, the Defence retracts yesterday's

1 declaration, withdrawing what it calls a "procedural concession" - and it's between
 2 quotation marks, "procedural concession" - made to the Prosecution. The
 3 Defence also submits that it intends to question the witness in relation to the same
 4 facts and, if necessary, to cover all the details.

5 The Chamber finds it regrettable that this approach has been taken by the Defence, as
 6 it considers that it directly affects the expeditious conduct of the proceedings as the
 7 Chamber in yesterday's hearing spent important time in hearing the parties in order
 8 to facilitate matters on a possible agreement of facts.

9 In order to ensure fairness of the proceedings, and in accordance with Articles 64(2),
 10 64(6)(f), 64(8)(b) of the Statute, the Chamber therefore authorises the Prosecution, if it
 11 so wishes, to go back to the line of questioning that it abandoned in yesterday's
 12 hearing in view of the Defence 's concession, given that this concession has now been
 13 withdrawn.

14 Now, turning to the mode of questioning. In relation to the mode of questioning,
 15 and having especially in mind the Defence filing from today, the Chamber considers
 16 necessary to remind the parties and participants that this witness has been granted
 17 additional special protective measures in accordance with Rule 88(1) and (5) of the
 18 Rules of Procedure and Evidence, and that all parties should ensure that the witness
 19 is guided through her testimony by using short, simple open-ended questions, with
 20 questions being asked in a non-confrontational, non-pressuring manner. More
 21 importantly, the parties and participants are reminded that, when the witness is
 22 questioned about sexual violence, they should formulate their questions using
 23 appropriate language to avoid embarrassment and unnecessarily intrusive questions.

24 In this respect, the parties and participants should be aware - should be recalled - that,
 25 in accordance with Rules 70 and 71 of the Rules of Procedure and Evidence, the

1 Chamber will prevent any attempt by the parties to ask questions directed at: (i)
2 inferring consent of the victims for the sexual violence suffered by reason of any
3 words or conduct, silence or lack of resistance; (ii) questioning the credibility,
4 character or predisposition to sexual availability of the witness by reason of the
5 sexual nature of the prior or subsequent conduct of the witness; and (iii)
6 demonstrating the prior or subsequent sexual conduct of the witness.

7 So the Chamber will really prevent any violation to Rules 70 and 71 of the Rules of
8 Procedure and Evidence.

9 Yesterday evening, after the hearing, the Chamber received an email request from the
10 Defence stating that it wanted to consult an (Redacted), providing such
11 person with redacted versions of confidential exhibits EVD-P-02427 and EVD-P-03094
12 for the purpose of determining the date on which (Redacted) was contracted by reference to
13 the laboratory analysis.

14 Please, court officer, let's go into private session for a while.

15 (Private session at 2.53 p.m.) * Reclassified as Open session

16 THE COURT OFFICER: We are in private session, Madam President.

17 PRESIDING JUDGE STEINER: Thank you. The Defence submitted that this
18 information is important to scientifically establish if the infection contracted by the
19 witness was contracted during the period of the charges alleged.

20 We can go back into open session, please.

21 (Open session at 2.54 p.m.)

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

23 PRESIDING JUDGE STEINER: Thank you. Having consulted the Prosecution as to
24 the availability of redacted versions of the aforementioned exhibits, the Chamber was
25 informed that the Prosecution has already disclosed a redacted version of exhibit

1 EVD-P-02427, on 7 November 2008, and that a redacted version of exhibit
2 EVD-P-03094 could be provided to the Defence today, although having been
3 previously disclosed on 4 November 2009.
4 The documents concerned are documents that are private and confidential to the
5 witness, but disclosed to the Defence to assist it in preparing its case. It is with that
6 very purpose in mind that the Chamber questions why it is only now being asked if
7 this material could be disclosed to a third party in redacted form in order for the
8 Defence to obtain the information to use as part of its case.

9 The Defence has had the documents concerned since at least November 2008 for
10 exhibit EVD-P-02427 and November 2009 as regards EVD-P-03094 - these particular
11 exhibits were in fact attached to the victim's application and so were available to the
12 Defence as well since 2008.

13 Further, the Defence has known that the witness to whom these documents relate was
14 to be called to give evidence before the winter recess since at least 26 October 2010
15 when the Prosecution filed its revised order of its witnesses at trial (Filing
16 975-Redacted) which the Chamber approved on 4 November 2010 (Filing 996).

17 The Defence has therefore, on the most conservative estimate, had over a month to
18 make such a request to the Chamber, and yet nothing was done until now when the
19 witness is actually in the middle of giving evidence and the Prosecution has almost
20 finished its questioning.

21 The Chamber finds this a wholly unacceptable way of proceeding, which also has
22 potential to disrupt or delay proceedings due to the untimely manner in which the
23 request has been made. In these circumstances, the Defence request to disclose this
24 material to a third party pursuant to Rule 87(3)(b) of the Rules of Procedure and
25 Evidence is denied.

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Witness: CAR-OTP-PPPP-0022

1 Following on from yesterday, the Chamber will continue hearing the evidence of
2 Witness 22 who is still being questioned by the Prosecution. The Chamber has
3 received an updated psychological assessment from the VWU and, whilst the witness
4 is able to continue to give her evidence, based on the assessment the Chamber would
5 like to request that the parties and participants do not insist on making her repeat the
6 details about the rape unless absolutely necessary.

7 Before asking the court officer to bring the witness into the courtroom, the
8 Chamber would like, finally, to inform the Defence that the version of Witness 22's
9 application for participation in the proceedings as granted by decision 320 in
10 2008 - back in 2008 - is going to be sent to the Defence team, as well as the
11 applications of the remaining dual status victims/witnesses with the minimum
12 redactions, only those strictly necessary, in order for the Defence team to assess such
13 applications for participation.

14 So now we need to go very briefly into closed session only to allow the witness to be
15 brought into the courtroom. Court officer, please.

16 (Closed session at 3.01 p.m.) * Reclassified as Open session

17 THE COURT OFFICER: We are in closed session, Madam President.

18 (The witness enters the courtroom)

19 PRESIDING JUDGE STEINER: Court officer, could you please go back to open
20 session.

21 (Open session at 3.02 p.m.)

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

23 PRESIDING JUDGE STEINER: Thank you very much. Good afternoon, Madam
24 Witness.

25 THE WITNESS: (Interpretation) Thank you very much.

Trial Hearing

(Open Session)

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Witness: CAR-OTP-PPPP-0022

1 PRESIDING JUDGE STEINER: I hope you had a restful night and that you feel

2 comfortable in continuing with giving your testimony before the Chamber.

3 THE WITNESS: (Interpretation) Yes, I rested well.

4 PRESIDING JUDGE STEINER: Before you start being questioned again by the

5 Prosecution, the Chamber would like to reassure you that should you need a moment

6 during the questioning, there is no problem. At any time you may indicate if you

7 want a short break in order to compose yourself. Do you understand that, Madam?

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

9 PRESIDING JUDGE STEINER: Finally, the Chamber needs to remind you as well

10 that you are still under oath. Do you understand that, Madam?

11 THE WITNESS: (Interpretation) Yes, I am aware of that.

12 PRESIDING JUDGE STEINER: Thank you very much. So then I give the floor to

13 the Madam Prosecutor.

14 MS KNEUER: Thank you, Madam President.

15 WITNESS: CAR-OTP-PPPP-0022 (On former oath)

16 (The witness speaks Sango)

17 QUESTIONED BY MS KNEUER:

18 Q. Good morning, Madam Witness. I'm glad to hear that you rested well.

19 I would like to ask you a clarification question. Yesterday you told us about six

20 Banyamulengue in your bedroom. Do you recall if there was any commander or

21 chief amongst these Banyamulengue?

22 A. I did not see anyone amongst them who seemed to be the leader because I

23 didn't identify anyone who was the oldest one because they were all the same.

24 Q. With regard to the situation in the living room, could you identify any leader

25 among these Banyamulengue?

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1 A. I don't know about that. Since they were all quite similar and had almost the
2 same face, I couldn't identify one in particular that I would describe as being the
3 leader, or the person in charge.

4 Q. Thank you, Madam Witness.

5 Madam President, I would like to go briefly into private session.

6 PRESIDING JUDGE STEINER: Court officer, please.

7 (Private session at 3.08 p.m.) * Reclassified as Open session

8 THE COURT OFFICER: We are in private session, Madam President.

9 MS KNEUER: Madam President, I would like to show to the witness document

10 CAR-OTP-0004-0316, with the EVD number P-03094.

11 PRESIDING JUDGE STEINER: Has the document been displayed?

12 THE COURT OFFICER: Yes, Madam President, the document is available on your
13 screens.

14 PRESIDING JUDGE STEINER: So we need to assign an EVD number to such a
15 document. Court officer, please.

16 THE COURT OFFICER: Yes, Madam President. The document already has an
17 EVD-T number, which is EVD-T-OTP-00125, and it's currently classified as
18 confidential.

19 MS KNEUER:

20 Q. Madam Witness, do you know this document?

21 A. Yes.

22 Q. Do you want me to read it to you?

23 A. Yes, I agree.

24 MS KNEUER: Madam President, with your leave, I would like to invite my

25 colleague Mr Badibanga, who is a native French speaker, to read the document, to

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1 facilitate interpretation.

2 MR BADIBANGA: (Interpretation) This is a certificate dated (Redacted). "I, the
3 undersigned, (Redacted), hereby certify that I have been treating since
4 (Redacted), who was referred to me by
5 the association called (Redacted). (Redacted) explained to me at that time that
6 she had been raped by two people identified as members of the Congolese militia
7 called Banyamulengue in (Redacted). At that time, she presented with severe
8 post-traumatic stress disorder and an (Redacted) that was detected in (Redacted)
9 probably semi-recent. (Redacted). The cause and effect link between these
10 two items of information with the alleged origin is very probable. Attenuated signs
11 of post-traumatic stress syndrome are still clearly seen: Sadness, overall sense of
12 pessimism and inhibition. The (Redacted) is progressing and now (Redacted)
13 is clearly called for.

14 Certified, issued at the request of the person in question and provided for any and all
15 purposes." Signed: (Redacted).

16 MS KNEUER:

17 Q. Madam Witness, did you understand the content of the document?

18 A. Yes, I've understood.

19 Q. Can you please explain to the Court under which circumstances you obtained
20 this document?

21 A. Well, for the first testing, I realised that was done at the national laboratory and
22 the second one I was at the office of (Redacted) or at the community hospital
23 and I explained to him what had happened and I asked him to issue the certificate.

24 Q. Can you explain what the national laboratory is?

25 A. If a hospital, a place where it -- correction. It is a hospital where testing can be
2.12.2010

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1 done; biological tests.

2 Q. Do you recall the name of the hospital?

3 A. The laboratory is located beside the general hospital, so that is the name that is
4 given to that laboratory.

5 MS KNEUER: Madam President, I would like to show to the witness now another
6 document, and it is -- has the EVD-T-OTP-00128 number, which is

7 CAR-OTP-0007-0569. It's a confidential document as well, but we are still in private
8 session.

9 THE COURT OFFICER: The document is available on your screens.

10 MS KNEUER:

11 Q. Madam Witness, do you know this document?

12 A. Yes, I recognise it.

13 Q. Madam Witness, may I ask if the document is readable to you or do you prefer
14 a hard copy?

15 A. I would prefer a hard copy.

16 MS KNEUER: With your leave, Madam President, I have one here which appears to
17 be clearer.

18 Q. Do you know what this document is about?

19 A. This document is the result of the testing that I had that were prescribed or
20 ordered, rather, by the doctor.

21 THE INTERPRETER: The Sango interpreter adds that it was at the (Redacted).

22 MS KNEUER:

23 Q. What do you understand is the result of this testing?

24 A. I didn't figure it out myself. When I took the results to the doctor he told me
25 that (Redacted) but he didn't

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1 explain to me in the way that is shown on this document.

2 Q. (Redacted)

3 A. (Redacted)

4 Q. (Redacted)

5 A. (Redacted)

6 MS KNEUER: Madam President, I don't need the document anymore. Madam

7 President, considering filing number 1069, the Prosecution has to ask a few questions

8 with regards to elements 1 -- element 1 of the respective crimes. I will try the utmost

9 to be very sensitive.

10 Q. Madam Witness, you told the Court that the three Banyamulengue slept with

11 you in your bedroom. Can you please explain to the Court what you mean by "they

12 slept with me"?

13 A. They slept with me the way a man sleeps with a woman. That is how they

14 slept with me.

15 MS KNEUER: Madam President, may I ask to guide the witness on this topic a little

16 bit?

17 PRESIDING JUDGE STEINER: Bear in mind the difficulties of the topic under all

18 aspects, not only traumatisation but cultural aspects, you are allowed to.

19 MS KNEUER:

20 Q. Did the three Banyamulengue penetrate you?

21 A. Yes, they penetrated my body with the male part of their body.

22 PRESIDING JUDGE STEINER: Madam Prosecutor, are you sure that you have not

23 asked this question before? As far as I remember from yesterday's questioning,

24 these questions were asked even in relation to the use of condoms or ejaculation. So

25 are you sure that you need to repeat, to ask the witness to repeat? It's just for you to

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1 consider.

2 MS KNEUER: I agree that I asked questions about the usage of a condom and
3 ejaculation. The question is if this is satisfactory to establish the element of
4 penetration. It is sort of indicative, and if you advise I can leave it at this point.

5 PRESIDING JUDGE STEINER: Let's try to go then ahead with --

6 MS KNEUER: I think we can move to the open session, Madam President.

7 PRESIDING JUDGE STEINER: Court officer, please.

8 (Open session at 3.27 p.m.)

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

10 MS KNEUER:

11 Q. Madam Witness, at the very beginning of your testimony Madam President had
12 asked you questions about the statement that you have given to the investigators.
13 Do you remember that?

14 A. Yes, I remember.

15 Q. Madam Witness, do you agree that your written statements are being admitted
16 as evidence to this Court?

17 A. I agree.

18 MS KNEUER: Madam President, I understand that the statement was already
19 admitted into evidence pursuant to the ruling of the majority of the Chamber, so I
20 take it it applies also for this statement specifically.

21 PRESIDING JUDGE STEINER: Yes. For the time being, the decision is still in force.

22 MS KNEUER:

23 Q. Madam Witness, is there anything else you wish to share with the Court about
24 the events that you experienced or witnessed?

25 A. What I really felt, what happened to me also happened to other people that I

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1 knew. I also know many people who were subjected to those acts. I saw them
2 myself. They explained to me what had happened to them. There were three of
3 them. They experienced the same thing as myself. That is all that I can add.

4 MS KNEUER: Madam Witness, I don't have any further questions. Thank you.

5 PRESIDING JUDGE STEINER: Thank you, Madam Prosecutor. My learned
6 colleague, Judge Joyce Aluoch, would like to put some questions to Madam Witness.
7 You have the floor.

8 JUDGE ALUOCH: Thank you. Madam Witness, may I? I just want to seek one
9 clarification from your testimony that you gave on Tuesday; that was 30 November.
10 This is particularly recorded at page 18 of the transcript, lines 23, 24, 25, and I will
11 quote just a very small portion of it to refresh your memory before I put the question.
12 This is what you said in part, "During that time we stayed inside the house, shut up
13 in our house, and then one day about 4 or 5 in the morning it was raining very hard
14 that day and we were still in bed."

15 Now, what I want you to clarify, which I did not get clearly from that testimony, was
16 the position of the lighting at that time. You estimated the time to be 4 or 5. I take
17 it that that would have been 4 or 5 a.m but, if I'm wrong, just correct me? Was there
18 sufficient light? Was it coming from the window, from the door, because you are
19 able to see that at least six people entered your bedroom, three of them sexually
20 attacked you and three of them were busy ransacking your cupboards?

21 If it was not natural light that is coming from the windows, or the doors, what sort of
22 light was it, or how were you able to -- because you were able to see how they were
23 dressed in uniform? That's what I'm interested in having you to clarify, please.

24 Thank you.

25 THE WITNESS: (Interpretation) Thank you. As I have already said, it was

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1 raining. It was around 5 a.m., but not 4 a.m. It was daylight, the curtains were
2 drawn and, when they came in, I was able to see from my room that it was already
3 daylight outside. That is how come I was able to see them. They stayed inside the
4 house for quite some time, and during that entire time that they were in the house it
5 was daylight and I was able to see them clearly. That is what I can say.

6 JUDGE ALUOCH: Thank you very much. I needed to hear that from you. Thank
7 you.

8 PRESIDING JUDGE STEINER: Madam Witness, now the legal representatives of
9 victims would like to put to you some questions, including the counsel that was
10 appointed by the Chamber to be your legal representative, Maître Zarambaud, that is
11 present in this Court. So if you don't have any objection, I will give the floor to the
12 legal representatives of victims to put to you some questions. Is that fine with you?

13 THE WITNESS: (Interpretation) That is fine with me.

14 PRESIDING JUDGE STEINER: So may I ask, Maître Douzima-Lawson or
15 Maître Zarambaud, who is going to start? Maître Zarambaud, you have the floor.

16 MR ZARAMBAUD: (Interpretation) Thank you, Madam President.

17 QUESTIONED BY MR ZARAMBAUD: (Interpretation)

18 Q. Good afternoon, Madam Witness .

19 A. Thank you.

20 Q. The legal representatives are following after the Prosecution. This means that
21 some of the questions that I wanted to ask have already been answered, so I will set
22 aside those questions and I will move on to those that have not been answered.

23 Madam Witness, my first question is as follows:

24 You said that they used a knife to cut some of your clothes, to tear some of your
25 clothes, while undressing you. Were you injured in the process?

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1 A. No, I did not suffer any injuries. They grabbed me by my jacket and they used
2 a knife to tear it, so I was not injured.

3 Q. Thank you. My second question is as follows: Did you immediately receive
4 any treatment? But the witness has already answered that question by saying that
5 she was given money to go and do some tests, so I will skip that question.
6 My third question was also answered, when she said that before the events, before
7 the rape, (Redacted). I wanted to know
8 whether (Redacted), but she has already answered that
9 question by stating that the break-up was linked to the rape. I will therefore not ask
10 that question again.

11 I have two last questions. Madam Witness, you said that one of your uncles was
12 almost shot dead, but it was thanks to the barking of the dogs that his life was spared.
13 Now, what were the after effects of that incident on your uncle?

14 A. They had asked us for money and, when they did not find any money on us,
15 they said they had received instructions from President Patassé to kill everyone ten
16 years and older, so they told us that that was being done deliberately. They took my
17 uncle to go and shoot him but, since the dogs were barking, he was no longer killed.
18 He was in good health and after that he left on a trip, but since his departure I have
19 not heard any negative information about him.

20 Q. Thank you. One last question. Regarding your eldest uncle who has been
21 responsible for bringing you up ever since you were young is now deceased, that is
22 what you told us, (Redacted), so what I would like to
23 know from you, Madam Witness, is that since you have been here at The Hague who
24 has been taking care of (Redacted) and who was taking care of you since you say that
25 you have no job?

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1 A. I struggled to survive with (Redacted). If I succeed to find something to eat, I
2 share it with him. Before travelling here I went and asked one of his uncles to help
3 take care of him for me, and he accepted and that is how come I came here.

4 MR ZARAMBAUD: (Interpretation) Your Honour, I have no further questions.
5 Thank you.

6 PRESIDING JUDGE STEINER: Thank you, Maître Zarambaud. Just to remind
7 Maître Zarambaud, and as well Maître Douzima-Lawson, that according to decision
8 1023 issued by the Chamber on 19 November 2010, paragraph 19, in addition to the
9 questions that legal representatives sent to the Chamber in advance, you may ask the
10 Chamber to authorise you to put further questions that are related to the questioning
11 made by the Prosecution. So if you have any further clarification you need, or any
12 question that is directly linked to the Prosecution questioning or the witness's
13 answers, you are allowed to ask the Chamber's authorisation to do so. It's just to
14 clarify.

15 MR ZARAMBAUD: (Interpretation) Thank you, Madam President, for that
16 reminder.

17 PRESIDING JUDGE STEINER: Maître Douzima.

18 MS DOUZIMA-LAWSON: (Interpretation) Much obliged, Madam President.
19 I would like to ask for leave to address the witness in her language - that is
20 Sango - for the purpose of better understanding.

21 PRESIDING JUDGE STEINER: So, Maître Douzima, Sango is not a working
22 language of the Court. I think it would be quite unorthodox to allow you to speak in
23 a language that is not an official, or a working language of the Court. So, I would
24 prefer that you address the witness in English or French. Thank you.

25 MS DOUZIMA-LAWSON: (Interpretation) Very well. I will speak to her in

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1 French.

2 QUESTIONED BY MS DOUZIMA-LAWSON: (Interpretation)

3 Q. Madam Witness, in your statements to the OTP, French version, page 28, lines 7
4 to 9, you said that you saw on television that that is what they did in their own
5 country and that "they" here are the Banyamulengues, and that is the same thing that
6 you were subjected to. What did you mean by that?

7 PRESIDING JUDGE STEINER: Madam Witness, I think it would be more
8 convenient if the specific page and paragraph of the statement is on our screens and
9 on the witness's screen. Then she can read what you say she said.

10 MS DOUZIMA-LAWSON: (Interpretation) Page 28, French version, of her
11 testimony.

12 I'm sorry. It is in fact page 49, OTP-0034-0049.

13 THE COURT OFFICER: We have displayed on your screens document
14 CAR-OTP-0034-0037_R01. That is the first page of the document. And the
15 page counsel is referring to would be the one ending in 0049.

16 PRESIDING JUDGE STEINER: Thank you very much. I was trying to find -- you
17 can repeat your question, Maître Douzima, please.

18 MS DOUZIMA-LAWSON:

19 Q. Madam Witness, what I said was this: In your statement to the OTP, and I'm
20 referring to the first paragraph of the page in question, you said that you had seen on
21 television that that is what the Banyamulengues had done in their country. It is the
22 same thing that you were subjected to. What precisely did you mean by that?

23 A. I stated that I had not known them before. I only watched the wars amongst
24 themselves on television. I had never known them and I did not know them. It is
25 what they did there that they came and did here. I had not known them. I only

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1 through them through the television. I only saw them the day they came to our
2 house.

3 Q. Thank you. In all your statements you stated that you were raped by three
4 men. Why is it that in the medical certificate that was presented to us a short while
5 ago (Redacted) mentioned two people?

6 A. I told him that it was three men. I do not know why it turned out the way it
7 did. If it were two men, I would have said two, but since there were three, I told
8 him that there were three people.

9 Q. Thank you. Do you know any other women - at PK12, of course - who were
10 victims of rape and who were subsequently abandoned by their partners?

11 A. Regarding the people that I know in PK12, after everything that happened, we
12 met and they explained things to me. They said that the same Banyamulengues who
13 raped me also raped them, but regarding the fact that their husbands or partners
14 abandoned (Redacted), they did not say that. The fact is that all of them were raped by the
15 Banyamulengues.

16 Q. You also mentioned the Congolese accent. You said the Congolese Zairians.
17 What do you mean by Zairian accent?

18 A. I said that because I have a brother whose mother hails from the other side of
19 the river, so he used to visit us, and that is how we spoke. We teased him and we
20 would ask him how to say, "good morning," "how are you doing." He would
21 answer us, so we were in the habit of listening to him speak. And the day that these
22 people came, they spoke in the same way that our brother used to speak. That is
23 why I said that they had the accent of people from the other side of the river.

24 Q. I would like to have some clarification regarding what is referred to as the
25 accent of the people from across the river.

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1 A. Like our brother told us in Bute (phon) -- he was telling us they said "yaka," and
2 when they came in, those were the same words that they used to address us. That is
3 what made me say that these were people from across the river.

4 Q. In your testimony of yesterday, page 32 of the French transcript, you stated that
5 they gave up on the idea of killing your uncle and instead killed one of your dogs.
6 They took the dead dog away with them. Do you have any idea what they did with
7 that dead dog after they took it away?

8 A. I learned later that they were in the habit of eating dogs, and when they shot the
9 dog dead, they took it away, certainly to eat it, because we heard that they were in the
10 habit of eating dogs.

11 Q. Thank you. In the testimony of yesterday, 1 December, line 9, page 50, while
12 speaking about (Redacted) who was murdered by the
13 Banyamulengues in Sango, and in answer to the Prosecutor's question about (Redacted)
14 (Redacted), you said (Redacted)." Can you tell us whether
15 that means that (Redacted)

16 A. I am not able to answer that because I did not see him and I was not told
17 precisely how old he was, but since I saw his younger brothers, I believe I can
18 estimate that (Redacted) that is in relation to his brothers. I never saw
19 him before that unfortunate incident.

20 Q. While you were in (Redacted), did you hear of any women who had been raped
21 by the Banyamulengue?

22 A. When I arrived in (Redacted), I went further inside to my (Redacted)
23 and it was there while (Redacted) that (Redacted) told me that they had
24 sought refuge in the bush. So I was not at the centre of (Redacted) itself, so I wasn't
25 able to discuss with the people from there and, therefore, I could not have had that

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1 information.

2 MS DOUZIMA-LAWSON: (Interpretation) Thank you, Witness. That concludes
3 my examination, your Honour.

4 PRESIDING JUDGE STEINER: Thank you very much. Witness, now it comes to
5 the moment in the procedure that you are going to be questioned by the
6 Defence team. Can we start immediately? Do you need a break? Are you feeling
7 comfortable? Can we continue with the hearing?

8 THE WITNESS: (Interpretation) I believe we can continue with the hearing.

9 PRESIDING JUDGE STEINER: Thank you very much, Madam Witness. Now I
10 give the floor then to the Defence. Since yesterday, the Defence appeared to be so
11 sensitive to the issues to be discussed, I hope today in its questioning of the witness
12 the Defence pays attention to the need of protect this witness against re
13 traumatising, pain, et cetera. So I believe the Defence is able to proceed with the
14 questioning in those questioning. So the Defence has the floor.
15 Madam Prosecutor?

16 MS KNEUER: Madam President, may I ask for permission that two of my staff
17 members switch seats?

18 PRESIDING JUDGE STEINER: Of course. Maître Liriss?

19 MR LIRISS: (Interpretation) Thank you, your Honour. Mr Haynes will
20 commence with the cross-examination and rest assured that we will do everything
21 possible to protect the witness's well-being and to abide by your instructions.

22 PRESIDING JUDGE STEINER: Mr Haynes. Mr Haynes, if I may? Mr Haynes?
23 If I may just to remind you, whenever you think that some sensitive information is
24 going to be said, that you ask for a private session, please.

25 MR HAYNES: Certainly. I don't know whether we are in private session at the

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1 moment.

2 PRESIDING JUDGE STEINER: No, we are not. We are in open session.

3 MR HAYNES: I want to just clarify one matter in private session to start off with,
4 but before I do that I will just introduce myself to the witness.

5 QUESTIONED BY MR HAYNES:

6 Q. Good afternoon, Madam. I'm going to be asking you some questions today.

7 We've got about half-an-hour until the break, and then a couple of hours afterwards.

8 I'm going to do my best to finish my section today, but can we now go into private
9 session?

10 PRESIDING JUDGE STEINER: Court officer, please, let's go into private session.

11 (Private session at 4.05 p.m.) * Reclassified as Open session

12 THE COURT OFFICER: We are in private session, Madam President.

13 PRESIDING JUDGE STEINER: Mr Haynes. Mr Haynes, if I may remind you also
14 about speaking slowly, please.

15 MR HAYNES: Thank you.

16 Q. Madam, you have answered a lot of questions about (Redacted), but I am still not
17 clear: (Redacted)

18 A. As I said when the question was put to me the day before yesterday, I was
19 somewhat surprised. As I said, in 2002 (Redacted), which means that today
20 (Redacted). The day before yesterday I was a little upset, taken aback, and
21 that's why I couldn't provide you with his precise age. Please excuse me for that.

22 Q. Not at all. I just wanted to clear that up. We can now go into open session,
23 please.

24 PRESIDING JUDGE STEINER: Court officer, please.

25 (Open session at 4.07 p.m.)

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

2 MR HAYNES:

3 Q. Did Bozizé's forces arrive in PK12 at the beginning, in the middle or at the end
4 of October 2002?

5 A. They arrived -- well, I don't know exactly when they arrived. I don't know
6 exactly how to answer that question.

7 Q. Well, I'm going to see if I can help you. I've got here a calendar of 2002, and if
8 you can change seats and we can put it on the Docucam, I'd like you to have a look at
9 it. Can you read letters and numbers?

10 A. If I can't remember the date exactly, what can I show you in that calendar of
11 yours?

12 Q. Well, let me see if you can. Can somebody put this on the machine, please,
13 and can she change positions?

14 PRESIDING JUDGE STEINER: Are you offering this document as an exhibit?

15 MR HAYNES: Yes, in due course. I'm sorry for the unusual procedure, but I have
16 spoken to the Prosecution this morning about it and there's no objection.

17 MS KNEUER: Madam President, it is correct that --

18 PRESIDING JUDGE STEINER: Mr Haynes. Mr Haynes, please. Madam
19 Prosecutor.

20 MS KNEUER: It is, indeed, correct that Mr Haynes left me a voice message. I
21 didn't have a chance to return his call before the hearing today. Indeed, the
22 Prosecution does not object to the calendar as such, but perhaps your Honours could
23 clarify the procedure with regards to providing a list with the documents that are
24 supposed to be used during the hearings three days in advance by the Defence, this
25 would be helpful.

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1 Also, in the future, because it's not clear for the Prosecution, as of which date the
2 three days should be calculated. I'm sorry, Madam President. I'm referring to
3 decision 1023, paragraph 16(ii).

4 PRESIDING JUDGE STEINER: I think the main problem is that it appears that the
5 Defence understood quite well the procedure since the Defence has filed -- or has sent
6 to the Chamber, that is saying, the list of documents with the three days before the
7 start of the testimony of the witness, and if I'm not wrong had sent later an updated
8 list. So the Chamber can only regret that the Prosecutor comes with something that
9 is not on that list, but taking into account that this is just a calendar the Chamber will
10 admit.

11 MR HAYNES: I'm very grateful.

12 PRESIDING JUDGE STEINER: Sorry. When I said "Prosecutor," I was referring to
13 Defence. You can proceed, Mr Haynes, please.

14 MR HAYNES: Thank you. I think the witness will need to change seats briefly.

15 Q. Madam, can you see the calendar that is on the device in front of you? Did
16 you hear my question? I'd like to know that you can see the calendar.

17 A. I can see it.

18 Q. And can you see the month of October?

19 A. Yes, I can see the month of October.

20 Q. And can you see that the date 26 October fell on a Saturday in 2002?

21 A. I can't see that very clearly because it's in English.

22 Q. Can you see the numbers "26" in October?

23 A. Yes, I can see that number. I can see the 26th.

24 Q. And can you see at the top of that column it says "SAT", which is short in
25 English for Saturday?

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1 A. I can see that.

2 Q. And can you see that there was no Friday in October 2002 after the 26th?

3 A. I can't see that.

4 Q. So please help us, did Mr Bozizé's troops arrive on the first, second, third or
5 fourth Friday of October in 2002?

6 A. As far as the date is concerned, as the events unfolded over a period of time
7 they took place on a Friday. This was a day of prayer for us and it was on that day
8 that they arrived.

9 Q. When you gave evidence in answer to Madam Prosecutor's question, you told
10 us the date 26 October. Why do you remember that date?

11 A. I remembered that, because we were to go to pray on that Friday and we were
12 to return home the following day. That is why I remembered the date of the 26th,
13 but if it's after that date, well, it was certainly on a Friday.

14 Q. Very well. We will leave it there for now, but I may come back to it. How far
15 is your house from the place where you went to pray?

16 A. It's quite far away. It's on a hill. We had to go to pray on the hill. We
17 prepared ourselves to go there on Friday in order to return on Saturday. We got
18 ready to go there on that Friday and that's how they arrived, or that's when they
19 arrived, and as a result we were not able to go to pray.

20 Q. How far had you gone from your house when you were first aware that they
21 had arrived?

22 A. I would say that we were about 200 metres away.

23 Q. Thank you. And what was the first thing that you saw?

24 A. The first thing that I saw was people running in all directions in front of us.

25 We were just leaving and people were running, coming towards us. We asked them

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1 what was happening, and they told us and we went to see what was happening with
2 our very own eyes.

3 Q. And who were these people?

4 A. The population, those who were walking along the road going to market, those
5 who were carrying out their tasks. It was the population; the people.

6 Q. And where were they running from?

7 A. The people came from the main road - the main asphalt road - and were fleeing
8 in the direction of the interior.

9 Q. Why were they fleeing?

10 A. They were fleeing, because they had seen the vehicles of Bozizé's troops and the
11 troops were also crying out, "Flee. Leave the road," and they would also shoot into
12 the air and that's why the people were fleeing.

13 Q. Were they leaving their homes?

14 A. No, they didn't leave their houses. They were coming from the main asphalt
15 road and they were fleeing in our direction. They didn't leave our house to flee.
16 They were fleeing from all directions.

17 Q. How many people were fleeing?

18 A. There were many people.

19 Q. I know it is difficult, but are we talking about many hundreds of people?

20 A. Yes, I could say that it was such a number, because the events were taking place
21 at the barrier and at the market as well. There were a lot of people where the buses
22 and taxis were parked, so there were a lot of people.

23 MR HAYNES: Madam, I think it's time that we have a break.

24 PRESIDING JUDGE STEINER: Thank you very much. Before the break,

25 Mr Haynes, can we take the document from the projector?

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1 MR HAYNES: Yes, it perhaps ought to have an EVD-T number now if it can be --

2 PRESIDING JUDGE STEINER: Yes, better to do it now, then if you need it later it

3 will be put again, of course.

4 MR HAYNES: Thank you very much.

5 PRESIDING JUDGE STEINER: Madam Witness, we are having now a break. You

6 have an opportunity to take some rest. We are coming back in half-an-hour. So I

7 please ask the court officer to lower the blinds in order for the witness to be taken out

8 of the courtroom.

9 (Closed session at 4.26 p.m.) * Reclassified as Open session

10 THE COURT OFFICER: We are in closed session, Madam President.

11 (The witness stands down)

12 PRESIDING JUDGE STEINER: So we are suspending now for half-an-hour. We

13 will resume at 5 o'clock sharp, when the Defence will continue its questioning. This

14 hearing is suspended.

15 THE COURT OFFICER: All rise.

16 (Recess taken at 4.27 p.m.)

17 (Upon resuming in open session at 5.11 p.m.)

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

19 THE COURT OFFICER: We are in open session, your Honours.

20 PRESIDING JUDGE STEINER: So, before we resume the questioning, the Chamber is

21 planning to sit tomorrow a little bit earlier, in order for parties and participants to be able

22 to go home a little bit earlier, taking into account that we don't have hearings in the

23 morning.

24 So the Chamber, unless there is any strong objection from any of the parties or

25 participants, is planning to sit tomorrow starting at 1.30 and then we can go until 6 o'clock.

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1 Is that fine with everyone?

2 Okay. So, let's resume the questioning of the witness. Court officer, please lower the
3 blinds for the witness to be brought in.

4 (Closed session at 5.12 p.m.) * Reclassified as Open session

5 THE COURT OFFICER: We are in closed session, Madam President.

6 (The witness enters the courtroom)

7 PRESIDING JUDGE STEINER: Court officer, please, could you turn into open session.

8 (Open session at 5.14 p.m.)

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

10 PRESIDING JUDGE STEINER: Thank you. Madam Witness, we will continue then
11 with your questioning by the Defence counsel. Mr Haynes.

12 MR HAYNES: Thank you, your Honour.

13 Q. I just want to go back to one question I asked you before the break, which may have
14 been wrongly translated. The other day, on 30 November, at page 5, line 12, you told us
15 that Bozizé's soldiers fired shots in the air and made people leave their houses. Is that
16 what you were witnessing on that Friday?

17 A. That's what I want. That's what I saw. When we went out there were people who
18 were fleeing towards us, saying that Bozizé's troops had come in, and when we went out
19 we saw them in the car and that they were shooting. They asked the people to get out of
20 the way. At the same time, they were shooting in the air. That is what led me to say
21 that Bozizé's troops were telling people to flee.

22 Q. And were these people frightened?

23 A. Who are you talking about? I didn't understand your question.

24 Q. The people who were fleeing.

25 A. Those people were afraid because -- how should I put this? People were shooting
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1 in the air. There certainly were stray bullets, and people were afraid of the stray bullets.

2 We, too, were afraid.

3 Q. Thank you, Madam. Did you see people who were injured by bullets?

4 A. No, I didn't see any.

5 Q. And do you know when, if ever, these people came back to their houses?

6 A. Those people went back to their homes. Since there were those disturbances,
7 everyone was trying to get back to their respective homes. So they were running about,
8 trying to find some way to go back to their own homes.

9 Q. But did some people leave PK12 permanently and go, for example, to Boy-Rabé or
10 Fou?

11 A. I don't know. Those people were not part of my family, so I didn't have any such
12 information about them.

13 Q. What did you hear the soldiers saying, while you were on the street?

14 A. The soldiers were asking people who were alongside the road to get out of the way,
15 to go away, and -- well, that's what I heard, and as for the rest, I don't know what they
16 said to the others.

17 Q. Did you hear them say they were going to take the country by blood?

18 A. Yes, I heard them say that.

19 Q. And were not many people wounded?

20 A. I heard it said that there were some people who were injured because of the stray
21 bullets, but I didn't see any with my own eyes. I heard about that.

22 Q. Thank you. Now, I just want to ask you about a couple of very specific people.

23 The first is the spokesman of President Patassé. What happened to him that day?

24 A. That day, Bozizé's troops, when they came in, some stayed at PK12; that is to say at
25 the gendarmerie at PK12, at the checkpoint. They took the spokesperson of Patassé.

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1 The day they abducted him, I don't know. That day, they beat him up and they
2 liberated -- released him, and he went by way of another road. We saw him when he
3 was fleeing. It was said that he was Patassé's spokesperson, who had been taken, beaten,
4 but then he was released and we saw him fleeing.

5 Q. Thank you. Now, earlier, you told us that the local administration all fled. Who
6 did you mean by that?

7 A. I didn't say the authorities or members of the local government; I was talking about
8 people who were alongside the road, and in light of the events, those people were afraid
9 and those people fled. I didn't talk about members of the government or authorities.

10 Q. Very well. We'll move on. How many soldiers did you in fact see on that day?

11 A. We saw, with our own eyes, we saw three vehicles in a row, and we fled to go back
12 home. And after that, what happened, well, I didn't see.

13 Q. And how many soldiers were in those vehicles?

14 A. I didn't see them. I don't know because I didn't try to determine how many of
15 them there were.

16 Q. Can you tell us even approximately? Are we talking about ten, or more than ten?

17 A. I saw that there were many of them, and since we were afraid we were just trying to
18 take refuge, so I can't give you an estimate as to the figure, or the number.

19 Q. Okay, but can you help us as for how long you were outside on that Friday?

20 A. That Friday, we stayed at home from the morning until 1 in the afternoon, when -- at
21 that time we got ready to go out. So, when we went out, that was when the soldiers
22 arrived, and we went back into the house and we stayed in the house until the evening.
23 So, that evening, we were afraid. We had a hard time sleeping. We stayed together, the
24 family, and we talked about things and no one was -- and someone who was tired went to
25 sleep. We stayed at home but we did not go out.

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1 Q. And have I understood you correctly that you didn't go out the next day either?

2 A. The next days we, that is to say the women of the house, we did not go out, but my
3 uncles went to get some food for us.

4 Q. Thank you. Now, did Bozizé's forces establish any military bases at PK12?

5 A. I have no knowledge about that. I just saw them at the gendarmerie at the
6 checkpoint, but I don't know where they had their base.

7 Q. How far was the gendarmerie from where you lived?

8 A. The place where I live, compared to the gendarmerie, is somewhat away, a certain
9 distance. There are fences that separate us; there are walls.

10 Q. I understand that it is separated, but what is the distance between your home and
11 the gendarmerie?

12 A. I would say the distance is about (Redacted) from the gendarmerie.

13 Q. Thank you. Did you come to understand what types of men made up Mr Bozizé'
14 forces?

15 A. What I observed personally amongst Bozizé's troops is that when they talked there
16 was a mixture. There were Chadians and the Central Africans.

17 Q. And where did the Central Africans come from?

18 A. I'm not able to tell you because the events were some time ago.

19 Q. Just beyond the barrier at PK12 there was a military base called RDOT; do you
20 remember that?

21 A. Yes, I do.

22 Q. And what sort of soldiers were based there?

23 A. I do not know because during that period I did not go out so it is not possible for me
24 to know who was there.

25 Q. What happened to the soldiers who were at that base after the Friday when Bozizé
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1 arrived?

2 A. The soldiers who were working at that base, when they heard the shouting, they
3 fled and so the soldiers came and occupied the place.

4 Q. Did some of those soldiers join Bozizé's forces?

5 A. That I do not know.

6 Q. Didn't you see that happening?

7 A. I did not see.

8 Q. Well, I just want to refresh your memory. So can we have into eCourt, please,
9 CAR-OTP-0007-0504, and the document should not be broadcast.

10 THE COURT OFFICER: The document is available on your screens and it's document
11 CAR-OTP-0007-0504_R01. Could you confirm?

12 MR HAYNES: Yes.

13 THE COURT OFFICER: If I may, for the future, can I be -- could you just refer to the first
14 page of each document? It's for us easier to search for the document in the eCourt portal.
15 Thank you.

16 MR HAYNES: Thank you for the guidance. It's probably better, having thought about
17 it, that we go briefly into private session because I'm going to read from the document.

18 PRESIDING JUDGE STEINER: Court officer, please, let's go into private session.

19 (Private session at 5.38 p.m.) * Reclassified as Open session

20 THE COURT OFFICER: We are in private session, Madam President.

21 MR HAYNES: Thank you.

22 Q. Madam Witness, have you seen a document like this before? This is a record of one
23 of your interviews with the Prosecution. Did you hear my question?

24 PRESIDING JUDGE STEINER: Mr Haynes, just one question to the court officer. The
25 reference given is on the English version. I would like to know whether the witness has

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1 in front of her the French version, because she cannot read English.

2 MR HAYNES: The court officer and I've discussed this. It's not possible to have two
3 versions of the same document on the system at the same time.

4 PRESIDING JUDGE STEINER: So I ask myself, how can the witness confirm what she
5 said if it is in a language she does not understand?

6 MR HAYNES: We can provide her with a hard copy of the page in French. Or
7 probably better still, if I read it out slowly, it will be translated into Sango.

8 PRESIDING JUDGE STEINER: Mr Haynes, just a minute. I'm discussing what to do.
9 (Pause in proceedings)

10 PRESIDING JUDGE STEINER: Only the number of the French version

11 CAR-OTP-0034-0041. If need be, a hard copy can be given. I have one here; it can be
12 given to the witness. Yes, Madam.

13 MS KNEUER: Madam President, I would like to bring to your attention that the version
14 used seems to be the not correct one. It appears to be the version R01, but there's a newer
15 version of the same document, R04, which is on the list of evidence, on the updated list of
16 evidence, which means that the latest version reflects lesser redactions, if that matters.

17 PRESIDING JUDGE STEINER: Sorry, Madam Prosecution, maybe I misunderstood.
18 You say that the French new version has been filed as evidence; is that correct?

19 MS KNEUER: No, Madam President. I was referring to the English version that is on
20 the list of evidence and, as a matter of fact, on the list of documents provided by the
21 Defence it is the correct version, 04, but the one that is displayed appears to be 01.

22 PRESIDING JUDGE STEINER: So let's try to solve the impasse. Mr Haynes, please
23 read very slowly the relevant paragraph and, therefore, the witness will receive an
24 interpretation into Sango.

25 MR HAYNES: Thank you, Madam.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0022

1 Q. Witness, during your interview you said this:

2 "During the confrontation between Bozizé and Patassé, we did not know at that time.

3 That was far from us. But when Bozizé decided to flee the capital, of course he fled

4 (Redacted). Next to (Redacted) there is a (Redacted). We saw

5 militaries taking vehicles and joining them. We heard that those militaries were leaving

6 to join Bozizé's rebellion." Did you see that?

7 A. I did not see that. I only heard about it. That is why I told them about it.

8 Q. You also said:

9 "In Bozizé's forces, there were only the Central African militaries. The normal Central

10 African militaries were mixed with innocent -- I mean with civil population who were not

11 militaries, but who joined them."

12 PRESIDING JUDGE STEINER: Where is that, Mr Haynes?

13 MR HAYNES: It's the answer above.

14 Q. Was that your observation of the men who comprised Bozizé's forces?

15 A. Yes, that is correct.

16 Q. And how were they dressed?

17 A. They had military uniforms, but I did not clearly observe their uniforms. I only

18 saw the -- a piece of fabric that they had. They had yellow and red armbands.

19 Q. How did you conclude they were the normal Central African militaries?

20 A. I was not close to them. When they came in we only saw them and they were

21 shouting, and then we returned home. It was only afterwards, when my uncles went to

22 the roadside, that they would see them and come and tell us about it at home. That is

23 how we got to know such things.

24 Q. Now, after you returned home, how long did you stay inside the house without

25 going out?

Trial Hearing
Witness: CAR-OTP-PPPP-0022

(Private Session)

ICC-01/05-01/08

1 A. After having seen them, we returned home and we stayed at home during that
2 entire period. Only (Redacted) would go out.

3 Q. And is it the case that you heard nothing from outside that sounded like fighting?

4 A. On the day that they arrived, we heard gunshots. There was gunfire from the
5 direction of Bangui, and we heard that gunfire after they came in and even in the night we
6 continued hearing the gunshots.

7 Q. Did it continue after that night?

8 A. No, not up until morning. We heard the gunshots up to a certain time and then we
9 went to bed.

10 MR HAYNES: Thank you. We can go into open session now, please.

11 PRESIDING JUDGE STEINER: Court officer, please.

12 (Open session at 5.51 p.m.)

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

14 MR HAYNES:

15 Q. Do you know how many Congolese people live in PK12, even approximately?

16 A. I do not know how many of them are there.

17 Q. Is it many thousand?

18 A. I do not know.

19 Q. Okay. I'm coming now to the night when the soldiers came to your house. How
20 did you know it was between 4 and 5 o'clock in the morning?

21 A. Because it was beginning to be daylight and people had started coming out of their
22 houses. That is when they arrived.

23 Q. Do you not have a clock in your bedroom?

24 A. I have a clock in my room, but I did not try to look at the time.

25 Q. Okay. And did you have a cell phone in the bedroom as well?

Trial Hearing
Witness: CAR-OTP-PPPP-0022

(Open Session)

ICC-01/05-01/08

1 A. Yes, I had a cell phone.

2 Q. Is it the sort of cell phone, or was it the sort of cell phone, that tells you the time and
3 the date?

4 A. I had left the cell phone to charge, so when they arrived I wanted to go out and see
5 what was happening. I could not at the same time look at my cell phone to see what
6 time it was.

7 Q. I wasn't really asking you that. I was asking you whether it was the sort of cell
8 phone that displays the time and the date?

9 A. No.

10 Q. If you wanted to know what date it was on any day in your life, how would you go
11 about finding that out?

12 A. I would look at a calendar.

13 Q. Thank you. Did you have a calendar in the house?

14 A. There was a calendar in the sitting room, but none in my room.

15 Q. Between the arrival of Mr Bozizé's forces in (Redacted) and the arrival of these soldiers at
16 your house, had you seen any other soldiers?

17 A. No, I did not see any soldiers come in to disturb us.

18 Q. But had you seen any other soldiers in the street after you had gone back into the
19 house on that Friday?

20 A. I did not go out. How would it have been possible for me to see those people?

21 Q. And had you from within the house heard noise of the movement of a lot of people,
22 or anything like that?

23 A. I have no recollection of that. That was really a long time ago.

24 Q. Thank you. How many of the soldiers who came into your house spoke to you?

25 A. (No interpretation)

Trial Hearing
Witness: CAR-OTP-PPPP-0022

(Open Session)

ICC-01/05-01/08

1 THE INTERPRETER: The interpreter apologises for not having switched on his
2 microphone.

3 THE WITNESS: (Interpretation) The first person who entered the room is the only one
4 who spoke to me, but while we were in the living room a number of them spoke to us.
5 They were certainly quite numerous. But those who spoke to us, well, there can't have
6 been more than about ten of them.

7 MR HAYNES:

8 Q. And you understood what they said, each of them?

9 A. Yes, I could understand.

10 Q. Including what was said to your uncle outside?

11 A. Which uncle of mine are you referring to?

12 Q. Well, I'll put the question another way. You understood when one of the soldiers
13 said, "All houses with fences are being used to harbour rebels"?

14 A. Well, I don't know. Maybe I've forgotten.

15 Q. What language was that said in?

16 A. Who are you referring to?

17 Q. "All houses with fences are being used to harbour rebels."

18 A. When the Banyamulengue said that -- well, in fact, I haven't understood your
19 question. Could you rephrase it, please?

20 PRESIDING JUDGE STEINER: Mr Haynes.

21 MR HAYNES: Yes, it is my fault.

22 PRESIDING JUDGE STEINER: Yes, I don't understand the question either, because she
23 said that she doesn't remember. Then you ask in which language they talk. So, maybe
24 if you rephrase, it becomes clearer.

25 MR HAYNES: I think I'll move on.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0022

1 Q. The soldiers that came to your house, did they have any walkie-talkies or any other
2 communication devices?

3 A. I couldn't say. Mostly, they were searching for money and for cell phones. After
4 having taken such items, they tried to find other things. They were quite fond of mobile
5 phones.

6 Q. Did you notice, when they first came in, if any of them had any communication
7 devices?

8 A. I don't know about that. They only took our mobile phones, but as to what they
9 brought with them, I really don't know.

10 Q. These are the only two questions I'm going to ask you about what happened to you,
11 okay? You noticed that one of the men who slept with you had the initials "GP" on the
12 arm of his uniform. Was he the only one who had those initials?

13 A. He wasn't the only one because they all wore such uniforms.

14 Q. And I think you noticed that they smelt bad. Was the smell on their uniforms, as
15 well as their bodies?

16 A. It was the body odour they had.

17 Q. Thank you. Well, I'm going to leave that alone now. On this night that this
18 terrible thing happened, it was also the day that you and your family left your home,
19 wasn't it?

20 A. Yes, it was on that very same day that we fled from the house.

21 Q. Why do you recall the date 26 October?

22 A. Perhaps I forgot about it because these events took place a long time ago. We were
23 in the habit of going to pray in the evening and return on the 26th, so I remember that
24 date. Friday must have been the day after our return. Friday wasn't the 26th. As
25 these events took place a long time, I must certainly have forgotten this.

Trial Hearing
Witness: CAR-OTP-PPPP-0022

(Open Session)

ICC-01/05-01/08

1 Q. Do you remember nearly three years ago spending two or three days in Bangui,
2 talking to two ladies called (Redacted)?

3 A. Yes, I remember that.

4 Q. And what did you think their jobs were?

5 A. (Redacted) That's what
6 they told me.

7 Q. And were you comfortable talking to them?

8 A. I haven't understood your question. You spoke about problems. Could you
9 perhaps explain that?

10 Q. More simply, did you tell them the truth?

11 A. I told them the truth.

12 Q. And since you have been in The Hague, have you had an opportunity to listen to or
13 read what you said to (Redacted)

14 A. Yes, I've had the opportunity to do so.

15 Q. Do you remember what the Judge asked you two days ago, whether you had read
16 those and whether they were true, those interviews?

17 A. Yes, I remember that.

18 Q. And you confirmed that they were.

19 A. Yes, I can confirm that it's the truth.

20 Q. Well, I'd like you to have a look at something you said during those interviews,
21 please. It's the same exhibit we were just looking at, and the page we want this time is
22 0495 in the English.

23 PRESIDING JUDGE STEINER: Mr Haynes, can it be read in public session?

24 MR HAYNES: No.

25 PRESIDING JUDGE STEINER: So let's go then into private session. Is

Trial Hearing
Witness: CAR-OTP-PPPP-0022

(Private Session)

ICC-01/05-01/08

1 that -- Mr Haynes? Mr Haynes, I'm asking you whether we should go into private
2 session.

3 MR HAYNES: I'm very sorry. I didn't understand the question. Yes, we should.

4 PRESIDING JUDGE STEINER: Court officer, please.

5 (Private session at 6.15 p.m.) * Reclassified as Open session

6 THE COURT OFFICER: We are in private session, Madam President.

7 MR HAYNES:

8 Q. I'm going to read to you what you said about when these events occurred. I'm
9 going to read it very slowly and I want you to listen carefully. This is what you said:

10 "At that time we knew that something wrong was happening. (Redacted)

11 (Redacted). There are two roads there; one going to Damara, one going to Boali.

12 On 26 October 2002 it was a normal day. We were at home. On a Friday, if I remember
13 well, we were prepared to go for a prayer. When we started to leave we saw the two
14 roads full of vehicles, full of people with guns who started to fire in the air. We realised
15 they were coming."

16 Then the investigator asked you, "The day you are describing right now, was it Friday?"

17 And you said, "Yes, it should have been on a Friday. I say it is Friday because Friday is
18 the prayer day. That day there were lots of vehicles with people with guns. We saw
19 people fleeing everywhere and saying 'Bozizé is coming.'"

20 Then the investigator asked you, "For you it is clear that it was a praying day, and you
21 were preparing for praying, but can you be sure that day was the 26th of October? Are
22 you completely sure?" And you replied, "I want to be clear to you. There is a Friday
23 and a 26th. The Friday was the day of the entry, that means it was before the 26th. I
24 cannot remember the date. It could be 18, 19 or other. It was before the 26th. After
25 that, they were pushed back by Banyamulengue. The 26th is not the day of the entry.

Trial Hearing
Witness: CAR-OTP-PPPP-0022

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1 The 26th is the day when Banyamulengue entered our house."

2 Do you confirm that is true?

3 A. I can confirm that but, as this took place a long time ago, I may have forgotten this,
4 but I accept what I stated there.

5 Q. Thank you. Now, after these events, did you maintain contact with people who
6 were in PK12?

7 A. With whom, for example? What kind of people?

8 Q. People who came to your house or people you talked to on the side of the street.

9 A. I haven't quite understood your question.

10 Q. It's just that you talked about how things calmed down a few days after these events
11 happened to you, and I wondered where you got your information that things calmed
12 down.

13 A. When I say that things calmed down, we fled PK12 and set off in the direction of
14 (Redacted) (phon). Some time later we saw that people had returned to their homes and
15 had started carrying out their activities again. We no longer heard gunshots. Even the
16 hospital started functioning again, and that is why I said that the situation had become
17 calm again.

18 Q. Thank you. Can we now please have an eCourt -- CAR-OTP-0004-0316. It's the
19 certificate we looked at earlier. Forgive me, I didn't note the EVD-T number.

20 PRESIDING JUDGE STEINER: Mr Haynes, should we continue in private session?

21 MR HAYNES: Absolutely.

22 THE COURT OFFICER: The document is displayed on your screens and, for the record,
23 is a document referenced with the EVD-T-OTP-00125 and it's marked as confidential.

24 MR HAYNES: Could we bring the document down just a little bit, please? I probably
25 meant "up." Thank you.

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1 Q. Can you read that, Madam?

2 PRESIDING JUDGE STEINER: Madam Prosecutor?

3 MS KNEUER: Madam President, I think this question was already asked when I
4 presented the document to the witness and she answered with "no."

5 MR HAYNES: I'll cut to the chase, as it were.

6 Q. Who is Goungaye Wanfiyo?

7 A. Goungaye Wanfiyo was a lawyer in my country, the CAR, the Central African
8 Republic.

9 Q. How long has he been your lawyer?

10 A. He became my lawyer when I filed a complaint. That is how I engaged him as my
11 lawyer.

12 Q. When was that?

13 A. These things took place a long time ago so I can't remember dates very clearly. I
14 can't provide you with such information. I no longer remember the date.

15 Q. This certificate has the date on it (Redacted). Was he your lawyer then?

16 A. I don't know.

17 Q. (Redacted)

18 (Redacted) in March 2008?

19 A. I don't know exactly.

20 Q. Can we just come down this document a little bit so the witness can see it. Thank
21 you. You've been asked already about whether you told (Redacted) that you were raped
22 by two people. Did you tell (Redacted) that you were born in (Redacted)

23 A. I didn't say to the doctor that I was born in (Redacted). I said I was born in (Redacted). I said
24 that it was three years. I don't know whether he understood me.

25 THE INTERPRETER: Correction, that it was three men. I don't know whether he

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ICC-01/05-01/08

1 understood me properly.

2 MR HAYNES:

3 Q. And did you say to the doctor that you were -- that these men slept with you in
4 September of 2002?

5 A. I didn't say that to him. I just explained to him what had happened. I didn't talk
6 to him about the month of September.

7 Q. Thank you. I know you don't know when he first became your lawyer, but how
8 many times do you think you saw Mr Goungaye Wanfiyo in total?

9 A. I don't know.

10 Q. Was it more than once?

11 A. I don't know exactly, so --

12 Q. Do you know if he had a copy of your interviews with the Office of the Prosecutor?

13 A. I don't know.

14 Q. Have you seen him since those interviews in March 2008?

15 A. I don't know.

16 MR HAYNES: We are just going to look at one more document. This is a document
17 that we received yesterday evening. It's in Trim, it's not in Ringtail, and the number is
18 ICC-01/05-01/08-188, confidential annex 11. I correct myself. We received it this
19 morning.

20 PRESIDING JUDGE STEINER: Mr Haynes --

21 MR HAYNES: Madam?

22 PRESIDING JUDGE STEINER: -- 188 confidential annex, so the number here is not -- are
23 you talking about the application?

24 MR HAYNES: Yes.

25 PRESIDING JUDGE STEINER: So just the number does not --

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1 MR HAYNES: I think that is the number I read out.

2 (Pause in proceedings)

3 PRESIDING JUDGE STEINER: Do you have the page number you want to have
4 displayed, Mr Haynes?

5 MR HAYNES: (Microphone not activated) Can we start, please, with page --

6 PRESIDING JUDGE STEINER: Microphone, please.

7 MR HAYNES: Firstly, page 3 of 24. We are going to have to look at more than one
8 page, I'm afraid. Can we just go down a little bit?

9 (Pause in proceedings)

10 PRESIDING JUDGE STEINER: Sorry, Mr Haynes, you can proceed.

11 MR HAYNES: Thank you.

12 Q. In what year were you born?

13 A. I was born in (Redacted).

14 Q. Is -- does this form contain your writing?

15 A. It is my handwriting.

16 Q. Why does it say you were born in (Redacted)

17 A. Well, I -- it is written that I was born in (Redacted). It's because during the events my
18 birth certificates were lost. After that I wanted to do some training, and in terms of the
19 age requested I had to redo the birth certificate in order to take the training and that is
20 what remained.

21 Q. So you chose a different date of birth for yourself; is that what you're saying?

22 A. Yes, I did that because the criteria for the training that I wanted to take
23 were -- were -- you see, it was greater than my true age, so I wanted to redo the birth
24 certificate for that reason.

25 Q. So, so that we are clear, did you forge a birth certificate?

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1 PRESIDING JUDGE STEINER: Sustained.

2 MS KNEUER: Thank you, Madam President.

3 PRESIDING JUDGE STEINER: Witness, you don't have to answer the question, at least
4 the way the question was put. Mr Haynes for sure will rephrase that.

5 MR HAYNES: Yes.

6 Q. Did you also apply for a passport on the basis of your new birth certificate?

7 A. Yes, I asked for a passport on the basis of the new birth certificate because the old
8 one, the old birth certificate, was in a bag, and when the assailants took the bag, they must
9 have thrown away the birth certificate. As for the training that I wanted to take, I had to
10 get a new birth certificate, and it was on that basis that I obtained -- I wanted to obtain a
11 passport.

12 Q. Did anybody help you to obtain either your birth certificate or your passport?

13 A. With regard to my passport, it was my uncle. Given that I was affected, he wanted
14 me to do the training, and he asked me to find the information, and he said to me: Since
15 your birth certificate was thrown into the mud, you'll have to get another one with this
16 age and, on the basis of that, you will be able to obtain a passport." So he was the one
17 who helped me do it, as well as the passport.

18 Q. What about the lawyer, Mr Wanfiyo, did he help you at all?

19 A. With regard to the lawyer, I don't know what to say about him. I don't know what
20 to say.

21 Q. Well, if we can look at page 19 of this document now. Can you see that, Madam?
22 Mr Wanfiyo appears to have helped you fill in this application; do you remember that
23 now?

24 A. I remember that.

25 Q. And we know that he had the doctor's certificate. Did he not ask you: "Why is
2.12.2010

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1 your date of birth different on this application form and in your passport"?

2 A. He asked me to bring the document to the doctor, so that would be -- it would be
3 corrected, but when I went there, the doctor was no longer there; he had been reassigned.
4 And so, that is why the certificate remained as such.

5 Q. Can we look now please at page 11. Is that your writing?

6 A. It is my handwriting.

7 Q. I'm going to do the same thing that Madam Prosecutor did, and I'm just going to ask
8 Mr Kilolo to read a short passage in French to you here, nice and slowly, so that it's
9 translated into your language.

10 MR KILOLO: (Interpretation) I quote: "And then they took me by force and took me
11 into a bedroom and, one-by-one, three of these men raped me."

12 MR HAYNES:

13 Q. Which room were you taken into?

14 A. In my bedroom. I said that when I heard the noise I got up, I opened the door, and
15 I saw -- ran into them. They grabbed me and took me into the bedroom. That is what
16 happened.

17 MR HAYNES: Madam President, it's a few minutes early but I just want to check
18 whether there's anything else I need to put.

19 PRESIDING JUDGE STEINER: Yes. Just reminding you that at 7 sharp we need to
20 finish so we need two minutes in advance in order for the witness to leave the room. It's
21 up to you otherwise --

22 MR HAYNES: Absolutely. I'm not going to ask any more questions now. I'm afraid it
23 probably means I'm going to have to check my instructions overnight. I had hoped we
24 could let this lady go today but I have been a little longer than I thought. I'm very sorry.

25 PRESIDING JUDGE STEINER: You don't need to apologise. You are still within your

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1 time limits.

2 So then we are going to finish the questioning for today. We want to thank you very
3 much, Madam Witness, for your effort, being questioned the whole afternoon. So now
4 you deserve some rest and we will continue with your questioning tomorrow afternoon.
5 So the Chamber thanks you very much and wishes you a restful night.

6 Please, I ask court officer to lower the blinds in order for the witness to be brought out of
7 the courtroom.

8 (Closed session at 6.53 p.m.) * Reclassified as Open session

9 THE INTERPRETER: The Presiding Judge's microphone is on.

10 THE COURT OFFICER: We are in closed session, Madam President.

11 (The witness stands down)

12 THE COURT OFFICER: And just for the record of the case, the calendar that was shown
13 today early during the session will be attributed EVD reference *EVD-T-D04-00002, and
14 will be classified as public.

15 PRESIDING JUDGE STEINER: Just two things before we -- you can please open the
16 blinds, court officer.

17 (Open session at 6.55 p.m.)

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

19 PRESIDING JUDGE STEINER: Thank you very much. Just to inform the Defence that
20 the Chamber has already asked VPRS to send the Chamber a new redacted version with a
21 minimum of redactions of the witness application and we hope that tomorrow morning
22 we'll be able to send this new version to the Defence.

23 As I said in the beginning of the hearing, in relation to dual status, as soon as possible, we
24 are going to refer to the Defence team the -- all applications just with the minimum
25 necessary redactions.

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(Open Session)

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1 I have one question to the Defence team: Whether the Defence can estimate how long it
2 will take to finish completely the questioning of the witness, whether it will be possible to
3 finish tomorrow?

4 MR LIRISS: (Interpretation) If you don't mind, your Honour, I will consult my team.
5 Ma'am, my colleague informs me that he has great hopes of finishing tomorrow but, if
6 that is not the case, it would be about one hour on the following day.

7 PRESIDING JUDGE STEINER: (Interpretation) The next day means Monday.

8 MR LIRISS: (Interpretation) Possibly, but he will make every possible effort to
9 conclude by tomorrow.

10 PRESIDING JUDGE STEINER: So, reminding all parties and participants that tomorrow
11 we are sitting as from 1.30 in this courtroom. I would like to thank very much
12 Prosecution team, legal representatives of victims, OPCV, the Defence team,
13 Mr Jean-Pierre Bemba Gombo and as always thank you very much for our interpreters,
14 court reporters, our court officers, that deserve to receive our recognition by the end of
15 every and each day.

16 So this hearing is now adjourned, and we will resume tomorrow at 1.30.

17 THE COURT USHER: All rise.

18 (The hearing ends in open session at 6.59 p.m.)

19 CORRECTION REPORT

20 The following correction has been made in the transcript:

21 *p.48 line 13

22 "EVD-T-DEF-00002" is corrected by "EVD-T-D04-00002"

23 RECLASSIFICATION REPORT

24 Pursuant to Trial Chamber III 's Second Order, ICC-01/05-01/08-2223, dated 4 June
25 2012, and the instructions in the email dated 24 September 2013, the version of the

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1 transcript with its redactions becomes Public.