

1 International Criminal Court

2 Trial Chamber III - Courtroom 1

3 Situation: Central African Republic

4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08

5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and

6 Judge Kuniko Ozaki

7 Trial Hearing

8 Wednesday, 12 January 2011

9 (The hearing starts in open session at 2.39 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 are

13 in open session.

14 PRESIDING JUDGE STEINER: Good afternoon. Please, could the court officer call

15 the case.

16 THE COURT OFFICER: Situation in the Central African Republic in the case of The

17 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.

18 PRESIDING JUDGE STEINER: Thank you very much. I think we don't need again

19 to introduce all representatives of Prosecution, legal representatives of victims, OPCV

20 and Defence team since I can recognise the same faces. Mr Haynes is here with us

21 today. Welcome. And welcome to Mr Bemba, of course.

22 So we will continue to hear the evidence of Witness 87 and for that purpose I ask,

23 please, the court officer to go briefly into closed session in order to introduce the

24 witness into the courtroom.

25 (Closed session at 2.41 p.m.) Reclassified as open session

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

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

2 (The witness enters the courtroom)

3 WITNESS: CAR-OTP-PPPP-0087 (On former oath)

4 (The witness speaks Sango)

5 PRESIDING JUDGE STEINER: Good afternoon, Madam.

6 THE WITNESS: (Interpretation) Yes, good afternoon.

7 PRESIDING JUDGE STEINER: I will first ask the court officer to turn again into
8 public session.

9 (Open session at 2.43 p.m.)

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

11 PRESIDING JUDGE STEINER: Thank you very much. Madam Witness, you are
12 welcome back to this courtroom. We all hope that you had the opportunity to take a
13 rest during the night.

14 THE WITNESS: (Interpretation) Nothing bad happened to me. I was able to rest.

15 PRESIDING JUDGE STEINER: So today you will be continued to be questioned by
16 the Prosecutor and maybe you will start being questioned by the Defence. It
17 depends on the time the Prosecution finishes.

18 I need to remind you, Madam Witness, that you are still under oath. Did you
19 understand that?

20 THE WITNESS: (Interpretation) Yes, I remember swearing the oath yesterday.

21 PRESIDING JUDGE STEINER: Very well. At the same time, we would like to
22 ensure that you continue benefiting from protective measures granted by the
23 Chamber. You have your image and your voice distorted to the public, so you
24 cannot be identified by the public. You also have a support person sitting at your
25 side, so at any time you need a break, if you feel tired or distressed, will you please

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1 just ask for that and we will grant you as many breaks as you need. Did you
2 understand, Madam?

3 THE WITNESS: (Interpretation) Yes, I've understood you well.

4 PRESIDING JUDGE STEINER: So now we are turning to Ms Kneuer to continue the
5 questioning by the Prosecution.

6 MS KNEUER: Thank you, Madam President.

7 QUESTIONED BY MS KNEUER: (Continuing)

8 Q. Good morning -- good afternoon, Madam Witness.

9 A. I would also like to wish you good afternoon.

10 Q. Thank you, Madam Witness. I hope you slept well last night.

11 A. Yes, I slept well. Nothing bad happened to me.

12 Q. Madam Witness, I will ask you some clarification questions to the information
13 that provided -- that you provided to us yesterday, and afterwards we will finish with
14 the story that you told us yesterday about the murder of your brother. I would
15 expect that we can conclude with this line of questioning before the next regular
16 break.

17 Madam Witness, during the events that you described to us yesterday, starting from
18 the first arrival of the Banyamulengue at your house at 7 a.m. until the murder of
19 your brother, did you see any other armed groups in your neighbourhood than the
20 Banyamulengue?

21 A. Before the Banyamulengue, no. Well, there were the Bozizé's rebels who were
22 in the neighbourhood. Those were the people who I saw.

23 Q. Madam Witness, just for clarification, when did the Bozizé rebels leave your
24 area?

25 A. I don't know the time of their withdrawal or the date of their withdrawal. The

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1 morning of the 30th, from 7 in the morning I saw boys who were fleeing and it was at
2 that time that I asked questions of the boys to see why they were fleeing and they
3 informed me that the Banyamulengue had entered the area and that they were very
4 bad. Afterwards I asked the young people to tell me where Bozizé's rebels were and
5 they informed me that they had withdrawn in the night and they were at PK22. That
6 was the information that these young people provided me with.

7 Q. Thank you, Madam Witness. After the arrival of the Banyamulengue, did you
8 see any soldiers of any other group?

9 A. After these soldiers arrived, I didn't see any others. Even the rebels who were
10 in the area were no longer visible. Only the Banyamulengue were all around the
11 neighbourhood.

12 Q. Madam Witness, the next clarification question I would like to ask you is about
13 the date. You mentioned the 30th, and it is not clear from the record of yesterday's
14 transcript to which month you are referring. Can you please help us with that?

15 A. It was 30 November.

16 MS KNEUER: Madam President, I would like to have a document displayed on the
17 screen just for inside the courtroom. I am referring to one of the witness statements.
18 The ERN number is CAR-OTP-0030-0171, and the specific page is 0180, and the
19 respective EVD-T number is 00008.

20 THE COURT OFFICER: The document is available on your screens by pressing the
21 button "PC1".

22 MS KNEUER:

23 Q. Madam Witness, I would like to read a portion of your written statement to you,
24 and I will put it in context. So it's at the bottom of the page.

25 Madam President, I am -- I apologise, but we need to go, please, to page 0180. If I

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1 could ask the court manager -- the court officer to scroll down a bit.

2 Madam Witness, you were asked by the investigator, and I quote, "You mentioned

3 that the rebels faced resistance and moved back. Do you know who they faced

4 resistance from?" Your response was, "President Patassé's soldiers." Question by

5 the investigator, "How long were the rebels in Boy-Rabé?" You responded, "When

6 they came, they faced resistance and moved back. I think they spent two to three

7 days, between Wednesday and Thursday of the 30 October, but the exact date I don't

8 know." The investigator asked you, "Do you know if there was something in

9 particular that happened that made them move back on 30 October?" Your response,

10 "Because the rebels entered here, President Patassé asked for help to Bemba who sent

11 the Banyamulengue to help him push back the rebels, but what happened exactly I do

12 not know."

13 Madam Witness, do you recall that you made such a statement to the investigators?

14 A. Yes, I remember having said that. Yes, the rebels, they entered into our

15 neighbourhood and I learned from the people that it was Patassé who had asked his

16 brother Bemba to aid him. That was the reason why the Banyamulengue came in,

17 but I know nothing about their entry. Otherwise, the next day towards 7 o'clock

18 when I saw the young boys fleeing, that's the reason why I had the information that

19 the rebels had already withdrawn and that they were at PK22.

20 Q. Madam Witness, I would like to direct your attention to the date, please. Back

21 then you told the investigators that the Banyamulengue -- sorry, that the Bozizé rebels

22 withdrew and the Banyamulengue arrived on 30 October. Today you stated that it

23 was November 2002. It is important for the Court -- it is important for the Court to

24 understand the timeline. I see that it is difficult for you, but it would be helpful if

25 you could explain to the Chamber what the date was to the best of your knowledge?

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1 A. It was indeed the month of October. I beg your pardon, I just made a mistake.

2 Q. Thank you for that clarification, Madam Witness. Madam Witness, I will now
3 continue asking you questions about the incident of your brother. Yesterday you
4 testified that you heard the voice of your brother saying "No, no," and I'm referring to
5 the unedited transcript page 35, line 22. Madam Witness, did your brother say
6 anything else?

7 A. When I heard his voice when he was in the bedroom with the Banyamulengue,
8 at that time I heard him say that, and after he was shot by the Banyamulengue and
9 the Banyamulengue withdrew from the house I began to hear him moan. He
10 moaned three times and then there was silence.

11 Q. When you heard your brother moaning three times, can you recall if your
12 brother at that time said anything?

13 A. Yes, he said something which I did hear. He said, "Thank you. Thank you.
14 You've killed me. You can go in peace." That is what I heard.

15 MS KNEUER: Thank you, Madam Witness. Madam President, I kindly ask to go
16 briefly in private session because I would like to elicit some information which
17 contains names.

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

20 (Private session at 3.04 p.m.) Reclassified as open session

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

22 MS KNEUER:

23 Q. Madam Witness, I would like to direct your attention to the time when the
24 fourth group of Banyamulengue left your house and what you did afterwards.

25 Yesterday you stated that you went to one of your neighbours called (Redacted). I'm

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1 referring to the unedited transcript page 36, lines 8 and 9. Madam Witness, who is
2 this neighbour called (Redacted)

3 A. (Redacted). He is one of our neighbours. He is
4 not very far from our house. (Redacted)

5 (Redacted). His house is not far from ours.

6 Q. Madam Witness, may I clarify the name, please? Did I understand that the
7 name is pronounced (Redacted)

8 A. Yes. (Redacted). That is his name.

9 Q. Thank you, Madam Witness. Now I understood it. What is your relationship
10 with (Redacted)

11 A. He is one of our neighbours, that's all. We live almost together. (Redacted)
12 (Redacted).

13 Q. Madam Witness, you just mentioned that the distance between your house and
14 the house of your neighbour is (Redacted)

15 (Redacted)." That was a quote from page 8, lines 21 and 22. To which (Redacted)
16 are you referring, Madam Witness?

17 A. Our house is not far away from (Redacted)
18 (Redacted) so I wanted to talk about the (Redacted) that is
19 behind you.

20 MS KNEUER: Thank you, Madam Witness. Madam President, just for the record,
21 if we can all agree that the witness referred to the (Redacted)
22 (Redacted)

23 Q. Madam Witness, yesterday you also stated that (Redacted)
24 (Redacted). I'm referring to the unedited version of the transcript page 36, line 23.
25 Who is that (Redacted), Madam Witness?

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1 A. Are you talking about the time when my brother died? I haven't understood.

2 When my brother died, I ran and I went to (Redacted). He was the first person

3 whose home I went to. I knocked at his door and he said to me that it was late and it

4 would be better for me to go to bed and wait for the morning.

5 I went back and I went to a neighbour's home, (Redacted). I knocked at

6 his door and he said to me that he couldn't go out because the Banyamulengue were

7 still making their rounds. So I couldn't leave and he advised me to go back and go to

8 bed. * So I wanted to cite, but I was asked not to; but here the relative I am talking

9 about is (Redacted).

10 Q. Madam Witness, first of all, I would like to apologise of not having been precise

11 enough, but you very well understood that I was still talking about the time-frame

12 when your brother was murdered and you left the house. I have to ask another

13 clarification question and it is entirely me who doesn't understand. It is not at all

14 your fault. After you went to the house of (Redacted), did you go to another

15 house?

16 A. Yes. That night, when I went to (Redacted), I then went to another member of

17 the family who (Redacted).

18 Q. Madam Witness, would you please share the name of that family member with

19 us?

20 A. His name is (Redacted).

21 Q. How are you related to (Redacted)?

22 A. (Redacted)

23 (Redacted)

24 Q. Madam Witness, I apologise, but I'm a little weak on relationships. Does this

25 mean he is your (Redacted)?

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1 A. He calls me "(Redacted) He calls me (Redacted)as well.

2 MS KNEUER: Thank you, Madam Witness.

3 Madam President, we can go back to open session, please.

4 PRESIDING JUDGE STEINER: Court officer, turn back into public session please.

5 (Open session at 3.16 p.m.)

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

7 MS KNEUER:

8 Q. Madam Witness, yesterday you explained to us the situation when you found
9 your brother lying in his blood in one of the rooms of your house, and I am referring
10 to the unedited version page 37, lines 9 until 21. Madam Witness, what was your
11 immediate reaction on seeing your brother lying dead on the floor?

12 A. After I saw him covered in blood, I was completely staggered, taken aback. I
13 didn't know what to do. I called out to the neighbour to come and take him away,
14 covered in blood.

15 Q. Thank you, Madam Witness. I would like to refer once again to your
16 testimony yesterday when you stated that the body of your brother was washed, and
17 I am referring to the unedited version of the transcript page 37, lines 21 to 23. Did
18 you observe with your own eyes that the body of your brother was washed?

19 A. He was covered in blood, and I drew close and I saw him with my own eyes.
20 He had fallen, he was spread out and he was covered in blood; the blood was flowing
21 everywhere. And the scooter was beside him, his head was turned towards the door.
22 (Redacted) came. He took him away while I was there. They took him out through
23 the back door and I spread out a cloth. I heated up some water. His -- he was
24 bare-chested, covered in blood. My uncle washed him and * he was taken to
25 PK12 --

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1 Q. Did you notice -- notice anything on your brother's body while he was washed?

2 A. What I saw was that he was bare-chested. I saw marks of bullets. They had
3 shot him in the chest. And in the back, you could see injuries, large injuries on his
4 back. That is what I saw.

5 Q. Do you recall, Madam Witness, how many marks of bullets you saw on the
6 body of your brother?

7 A. That day there were three marks from bullets on his chest.

8 Q. A few minutes ago, Madam Witness, you stated that you saw the body of your
9 brother next to the motorbike, and I'm referring to page 11, line 16. Do you know
10 why the fourth group of Banyamulengue did not take the motorbike?

11 A. That day the scooter had an antitheft device on it. They couldn't take it away.
12 They wanted to take it, but since it was locked with this device they couldn't.

13 PRESIDING JUDGE STEINER: Mr Kaufman, I could not interrupt the witness. We
14 have problems with the timing and translation, and sometimes the Defence wants to
15 intervene exactly when the witness is speaking.

16 MR KAUFMAN: I appreciate. The answer has been given.

17 MS KNEUER:

18 Q. Madam Witness, can you tell the Court how you felt when you realised that
19 your brother had been shot?

20 A. Since they had already killed him, what could I do? I heard gunshots. I was
21 completely staggered. I stayed behind the door before I ran to the neighbours to tell
22 them what had happened.

23 Q. Madam Witness, during my questioning I referred you several times to your
24 prior statements. Do you agree to these statements being admitted as evidence into
25 the record?

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1 A. Yes, those statements would have to be placed on the record.

2 MS KNEUER: Madam Witness, I do not have any further questions for you and I
3 would like to thank you for your time and your patience during my examination.

4 PRESIDING JUDGE STEINER: Thank you, Ms Kneuer. So since we haven't
5 received any filing from the legal representatives containing their intention to
6 question the witness, it's time to turn to the Defence and I ask the Defence whether
7 the Defence would like to start immediately their questioning or we could have the
8 break and start after the break? It's up to the Defence.

9 MR LIRISS: (Interpretation) Your Honour, my colleague, Nick Kaufman, will
10 cross-examine the witness and he would like to do so after the break, but first and
11 foremost he would like to introduce something which is of importance to our case
12 and then after that we can have our break.

13 PRESIDING JUDGE STEINER: Mr Kaufman.

14 MR KAUFMAN: Thank you, Madam President. I just wish to bring to the
15 Chamber's notice the fact that the Defence are suffering from a technical problem at
16 the moment. We are not receiving emails via the external parties' network. The
17 upshot of this is that we haven't received at the present moment in time the
18 edited -- or, sorry, the unedited transcript which the Prosecution have been referring
19 to this afternoon in their questions. We also haven't received, of course, the victims'
20 application that was requested yesterday.

21 Now, both of these documents are vital documents as far as we are concerned for the
22 purpose of cross-examination. We are mindful of the observation of the learned
23 Chamber yesterday that the Defence would be entitled to start cross-examination
24 today, but not necessarily so. We were under the impression that perhaps we could
25 start tomorrow, Thursday. Of course, we will finish the cross-examination by the

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1 end of the week. I even anticipate that I will finish my part of the cross-examination
2 before I hand it over to my learned friend, Mr Kilolo, tomorrow.

3 But what I propose, and I respectfully request from the Chamber, is that after the
4 break I start with a few introductory questions - I won't go into any substance - and
5 then I will respectfully request that the Chamber adjourn for the day and that we
6 restart tomorrow morning. Thank you, Madam President.

7 (Trial Chamber confers)

8 PRESIDING JUDGE STEINER: Thank you, Mr Kaufman. The Chamber was
9 informed about the technical problems faced by the Defence at least in relation to the
10 requested victim application. In relation to this specific request, VPRS is already
11 with the application to be given to the Defence, if the Defence so agrees, in hard copy
12 in order for the Defence to start consulting the hard copy. And I ask the court officer
13 whether the same could be done with the transcript, yesterday's transcript?

14 So the court officer informs that even in relation to the transcript, it can be given to
15 the Defence in hard copy in order to allow the Defence at least to start its examination
16 and -- examination, not cross-examination. The Chamber insists in not using the
17 "cross-examination" expression since it does not reflect what happens during the
18 sessions here. The Defence is going to examine the witness.

19 So since Defence says that it would just make some introductory questions, the
20 Chamber would like to know whether it will be possible to do it now or if the Defence
21 insists on having a break before making its introductory remarks? It's up to the
22 Defence, of course.

23 MR KAUFMAN: Yes, Madam President. With respect to cross-examination, I fully
24 understand the rationale of the Chamber. Just old habits die hard, as they say.
25 May I consult my learned leader, Mr Nkwebe, as to whether he wishes me to start

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1 now or after the break?

2 Maître Nkwebe would like to take advantage of the break, if that is possible.

3 PRESIDING JUDGE STEINER: It is possible. So we are going to have a

4 half-an-hour break even to allow Madam Witness to take some rest, and we will

5 return at 10-past-4. So I please ask the court officer to go into closed session in order

6 for the witness to be brought out of the Court.

7 (Closed session at 3.33 p.m.) Reclassified as open session

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

9 (The witness stands down)

10 THE COURT OFFICER: All rise.

11 (Recess taken in closed session at 3.35 p.m.)

12 (Upon resuming in closed session at 4.15 p.m.) Reclassified as open session

13 THE COURT USHER: All rise.

14 PRESIDING JUDGE STEINER: Please be seated. I ask, please, the court officer to

15 introduce the witness into the courtroom.

16 (The witness enters the courtroom)

17 PRESIDING JUDGE STEINER: Court officer, please, we can go into open session.

18 (Open session at 4.16 p.m.)

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

20 PRESIDING JUDGE STEINER: Thank you. Madam Witness, welcome back.

21 THE WITNESS: (Interpretation) Thank you.

22 PRESIDING JUDGE STEINER: Are you ready to continue with this session and to

23 be questioned by the Defence?

24 THE WITNESS: (Interpretation) Yes, if there are questions, and of course I will

25 answer questions if they are asked of me.

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1 PRESIDING JUDGE STEINER: Just to remind you that at any time if you need a
2 break you just ask the Chamber and the break will be granted.

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

4 PRESIDING JUDGE STEINER: Madam Kneuer?

5 MS KNEUER: Madam President, with your leave, I would like to address a concern
6 of the Prosecution. The Prosecution received actually today the list of documents for
7 the purpose of examination of this witness from the Defence.
8 The Prosecution would greatly appreciate if the Defence could comply with your
9 Honours' order - and I'm referring to ICC-01/05-01/08-1023, paragraph 16(ii), and to
10 provide to the Prosecution the respective list three full working days in advance.
11 I am also referring, your Honours, to Regulation 52(2) of the Regulations of the
12 Registry, and I bring this matter up because it's not the first time that it happened.
13 We had the same situation on 2 December, and I am referring to transcript
14 ICC-01/05-01/08-T-42-Conf-ENG, page 24, line 20 to page 25, line 10. Thank you,
15 Madam President.

16 PRESIDING JUDGE STEINER: Yes, Mr Kaufman.

17 MR KAUFMAN: Yes, Madam President, your Honours, if I may just return on that
18 particular matter. The Defence believes that a certain amount of collegiality should
19 be applied in this situation. Of course, we don't wish to deny that there are decisions
20 of the Court and these decisions should be obeyed at all times. Nevertheless,
21 we -- as I explained earlier, we are facing some certain technical problems at the
22 moment which has prevented us receiving emails on time and also delivering emails
23 on time, it should be stressed.
24 Furthermore, sometimes the necessity for a certain document only becomes apparent
25 during the examination-in-chief, so of course whilst we wouldn't want this to be

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1 necessarily the rule we would in certain circumstances - and hopefully these will be
2 rare circumstances - need to request the Prosecution for a certain amount of flexibility
3 and perhaps leeway in allowing us to introduce documents technically beyond the
4 three-day deadline. That's all I have to say on the matter, Madam President.

5 PRESIDING JUDGE STEINER: I think the Chamber is satisfied with the Defence's
6 explanation and also taking into account that the Prosecution finished its questioning
7 of the witness in advance. So this is also an unexpected circumstance that could
8 justify some delay by the Defence and according to Mr Kaufman it's going to be of
9 course an exception, not the rule. So I hope the Prosecution accepts this situation as
10 such.

11 MS KNEUER: Madam President, of course the Prosecution is always flexible and
12 open to exceptions, but I would also like to stress that the deadline for the initial list to
13 be submitted to this Chamber would have been last Friday, so -- and to the best of my
14 knowledge, last Friday there were no technical problems. And in addition, I think
15 the initial list should be at least submitted three days in advance.

16 I fully understand that during examination-in-chief a situation may occur that
17 triggers the Defence to amend their list, but we should differentiate both situations
18 and for the last one the Prosecution is utmost flexible.

19 PRESIDING JUDGE STEINER: I think we can overcome this discussion now, this
20 issue, and go straightforward to the beginning of the questioning of the witness by
21 the Defence. Mr Kaufman, please.

22 MR KAUFMAN: Yes, with your leave, Madam President, your Honours.

23 QUESTIONED BY MR KAUFMAN:

24 Q. Good afternoon, Madam Witness. I hope you had a short rest just now.

25 A. Thank you.

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1 Q. My name is Nick Kaufman and you met me a few days ago at the
2 familiarisation session. That's correct, isn't it?

3 A. Yes, we met.

4 Q. And, as you know, I am going to be asking you questions on behalf of
5 Mr Bemba. You understand that, don't you?

6 A. Yes, I understand that.

7 Q. And, as I told the learned Judges earlier, this afternoon we are only going to be
8 dealing with certain preliminary matters. We are not going to get into the substance
9 of the matters that you've been telling this Court. Do you understand?

10 A. Yes, I understand.

11 Q. Now, I would like to ask you how many times, if you can remember, you have
12 told the story of these events to different people?

13 A. I didn't speak about this to anybody, apart from the people from the ICC.

14 They are the only ones I told this story to. They asked me questions at home; I
15 answered them. Later on, there were investigations. I was called so as to collect
16 my -- take down my statement.

17 Q. Did you tell anybody in your family about what had happened to you?

18 A. Yes, I did speak to them about this. For instance, I spoke about the death of my
19 brother to them. My parents weren't there and, when they came back, I gave them
20 all the information.

21 Q. I don't want you to give names, because we are in open session at the moment,
22 just tell us the relationship between you and them. Okay? Who did you tell about
23 the events in your family; their relationship to you?

24 A. These were my parents, the parents with whom we live in the same house with.

25 Q. Did you tell the father of your brother who was killed?

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1 A. Yes, I told him all about it.

2 Q. Did you tell him about all the events that happened on the different visits of the
3 so-called Banyamulengue to your house?

4 A. Yes, but it was his house that was pillaged and his own child was killed in that
5 house. How could I not tell him about it? He asked me questions and I told him
6 everything that had happened.

7 Q. Did you tell him about the exact events of the visit at 9 o'clock before your
8 brother was killed?

9 A. Yes, I told him everything that happened from start to finish.

10 Q. The father of your brother - your uncle, I think that's how we've referred to him
11 during the hearings - do you know what he does nowadays; his job? Don't give any
12 identifying features, please, apart from his job.

13 A. For the time being, he has gone into retirement. He isn't working any longer.

14 Q. Before he went into retirement, what was his job?

15 A. He was a (Redacted).

16 Q. Was he the sort of (Redacted) that you would tell (Redacted)-- the way (Redacted)
17 had been (Redacted) to? The (Redacted) who would hear (Redacted) ?

18 A. He worked at the (Redacted). (Redacted)

19 (Redacted)

20 Q. Are you aware that your uncle made a complaint about the events which
21 happened at your house and his house on the dates which you've been talking about?

22 A. Yes, he did file a complaint.

23 Q. With whom did he file that complaint?

24 A. He filed the complaint in relation to human rights; at least that was what I was
25 told.

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1 Q. Are you aware that he filed the complaint with le procureur de la République
2 pres d'un tribunal de grande instance d'un palais de justice à Bangui?

3 A. Yes, he told me that he had filed his complaint at the human rights department.
4 That's what he told me.

5 Q. Are you aware that your uncle asked in the confines of this complaint to be
6 compensated for the 67,000 francs that had been stolen from you?

7 A. Yes, the 67,000 francs belonged to me, and his money was in the safe that was in
8 his wife's bedroom, but the 67,000 francs belonged to me.

9 Q. Are you also aware that your uncle asked to be compensated for the death of
10 your brother?

11 A. Probably it is in the complaint that this was mentioned, but I'm not aware of
12 that. All I know is that the Banyamulengue took away 67,000 francs and this amount
13 belonged to me.

14 Q. Now, my question, Madam Witness, to you is if you told the events of the
15 evening at the hour of 21 -- sorry, 21 hours in the evening from start to finish to your
16 uncle, why there is no mention whatsoever of your rape in the document which was
17 filed with the le procureur general de la République?

18 A. Well, it was rather shameful to talk about this, but I did speak to him about it,
19 but he chose not to mention it in his complaint.

20 Q. But he's a policeman; he's used to hearing things of this nature and he was
21 complaining to the Court.

22 PRESIDING JUDGE STEINER: Mr Kaufman, do you want the witness to speculate
23 the reasons why her uncle did something or did not do something? Maybe she is
24 not even understanding your point.

25 MR KAUFMAN:

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1 Q. Madam Witness, I shall ask the question in another manner perhaps. Are you
2 aware that your uncle also filed a victim's application with the Court?

3 A. I think that this is the complaint that he made to the human rights department
4 and that that complaint was transferred here.

5 Q. Well, let me ask you another question. Do you know who Ngoungaye
6 Wanfiyo is?

7 A. Yes, Ngoungaye Wanfiyo was my lawyer. I know him very well.

8 Q. Was Ngoungaye Wanfiyo also your uncle's lawyer?

9 A. Yes, he was my lawyer and he was also my uncle's lawyer.

10 Q. Do you know if your uncle told Ngoungaye Wanfiyo about your rape?

11 A. Well, I can't know whether he did so or not. I myself did speak about the rape
12 to Mr Ngoungaye.

13 Q. When was the first time you met the investigators or any person from the ICC?

14 A. It was in 2008 that I began to meet with investigators.

15 Q. Do you remember (Redacted), two investigators from the OTP, the Office of the
16 Prosecutor?

17 A. Yes, I know them.

18 Q. Before you met with (Redacted), did you meet with any other people from the
19 Office of the Prosecutor?

20 A. Yes, I did meet several others and I met them on several occasions.

21 Q. Was this in 2008 or before 2008?

22 A. I don't remember anymore, but in any case most of these investigations took
23 place in 2008.

24 Q. In your statement to (Redacted)- for the convenience of the Chamber,
25 it's CAR-OTP-0030-0199 - you said the following, "First before becoming of the

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1 Prosecutor here a group of three white people came to our place and I showed them
2 the place where my brother was killed." Who were these three white people who
3 came to visit you?

4 A. These three people who came were -- I didn't know if they were members of the
5 ICC. There was no way I could know that.

6 Q. In the same statement, you said that there was a second visit. The Prosecutor
7 himself, Mr Ocampo, visited you at (Redacted). Do you remember that?

8 A. Yes. When this white person came, we had -- other people came, they left, and
9 the Prosecutor as well came accompanied by other white persons, and they came to
10 the neighbourhood. And he didn't have the time to come to us at home because he
11 was tired, so he asked us to meet him on the Tuesday at (Redacted) and that is how
12 we went to meet him in the afternoon at 2 o'clock. And that is how we met him.

13 Q. Who organised this visit of the Prosecutor, if you know, to (Redacted) ? If you
14 don't know, say you don't know.

15 A. I don't know who organised this visit, but I just received a telephone call asking
16 me to go and meet him.

17 Q. Who telephoned you and asked you to go and meet him; that is, the Prosecutor?

18 A. You want me to give you the name of the person? I don't understand.

19 Q. Was it a victims organisation that asked you to go and meet with the
20 Prosecutor?

21 A. We learned that the Prosecutor had come and that he wanted to meet the
22 victims, and that is how he -- or how we decided to go and meet him at (Redacted)
23 (Redacted)

24 Q. Was Ngoungaye Wanfiyo at this meeting?

25 A. On that day, the day on which we met the Prosecutor at (Redacted), he was

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1 present.

2 Q. Do you know who Bernadette Sayo is?

3 A. Perhaps I know her, but not very well.

4 Q. Tell us what you know about her.

5 A. What I know about Bernadette Sayo? Well, I know nothing. I don't know
6 what I can say about her.

7 Q. Madam Witness, I only asked you the question because you said "perhaps
8 I know her," so I shall ask you one last question about her. Do you know where she
9 works?

10 A. Yes, I learned at Bangui. I heard her name, Bernadette Sayo, Bernadette Sayo,
11 at Bangui. I don't know what she did. Is she a minister? I don't know.

12 Q. Well, I shall leave off Bernadette Sayo now. Let's go back to the Prosecutor and
13 his visit and what happened during that visit. In your statement you said that they
14 took your photo, the people who came with the Prosecutor; is that correct?

15 PRESIDING JUDGE STEINER: Mr Kaufman, which part of the statement please?

16 MR KAUFMAN: I do apologise. It's the same page, Madam President. It's
17 CAR-OTP-0030-0199 for the benefit of the Court.

18 Q. Madam Witness, let me repeat the question for you once again. Do you
19 remember having your photo taken with the Prosecutor, Mr Moreno-Ocampo?

20 A. Yes, took photos together. We took photos together.

21 Q. Do you remember showing the Prosecutor photos of your brother who died?

22 A. On that day I showed his photograph and he asked me to explain the story. I
23 explained the story in Sango and his interpreter interpreted into English. He saw the
24 photograph and he asked us to keep them safe. That's what he said.

25 Q. Whilst the Prosecutor was hearing your story about what had happened, was

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1 anybody in his entourage taking a note of what was said by you?

2 A. Yes, there were a lot of people, but I couldn't follow everything that they were
3 doing, were they taking notes or were they just carrying out interpretation of the
4 interpreter into English? I don't know. There were a lot of them.

5 Q. After you told Mr Moreno-Ocampo your story and the events and what had
6 happened, what did he say to you?

7 A. Perhaps I've forgotten what he said, but he said we would have a meeting at the
8 CPJ? That's what he said.

9 Q. Do you know what the CPJ is?

10 A. No, I don't know.

11 Q. Did the Prosecutor tell you - and, Madam President, your Honour, this is
12 CAR-OTP-0030-0200. Did the Prosecutor tell you that he was investigating into
13 those events to arrest, to send the one responsible to prison?

14 A. Yes, that's what he said to us.

15 Q. And did he tell you who was responsible for these events.

16 A. He told us that he was seeking for the person responsible for the events which
17 occurred in the Central African Republic in order to put that person into prison.
18 That's what he said.

19 Q. Did he give you the name of that person?

20 A. Yes, he gave the name of the person by saying the name of "Bemba."

21 MR KAUFMAN: Thank you, Madam Witness. I have no further questions this
22 evening, Madam President. I think that might be a good place to break. Thank
23 you.

24 PRESIDING JUDGE STEINER: Thank you very much, Mr Kaufman. So something
25 else?

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1 MR KAUFMAN: Yes, Madam President, but I think this better be raised when the
2 witness is not in the Chamber anymore. Thank you.

3 PRESIDING JUDGE STEINER: Thank you very much, Mr Kaufman.

4 Madam Witness, today's hearing comes to its end. Now you will be able to take
5 some rest and we will continue tomorrow morning with your questioning by the
6 Defence. We thank you very much for your patience, for your strength, and we wish
7 you a very, very restful evening. So we will see you tomorrow at 9.30 here in the
8 courtroom.

9 Please, court officer, let's go into closed session in order for the witness to be taken out
10 of the courtroom.

11 (Closed session at 16.59 p.m.) Reclassified as open session

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

13 (The witness stands down)

14 PRESIDING JUDGE STEINER: Mr Kaufman, is there anything you need to speak to
15 in closed session or we can turn into open session?

16 MR KAUFMAN: Madam President, I think it had better be done in closed session
17 because it concerns the victim's application form. The request is essentially for the
18 lifting of redactions. Maybe I can try in open session, if Madam President prefers.

19 PRESIDING JUDGE STEINER: I always prefer open session. Court officer, please,
20 let's turn into open session.

21 (Open session at 5.01 p.m.)

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

23 PRESIDING JUDGE STEINER: Thank you. Mr Kaufman.

24 MR KAUFMAN: Yes. Thank you, Madam President, your Honours. As you are
25 aware, we were given a few hours ago the victim's application form of the uncle

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1 which has been referred to in these proceedings for the purposes of cross-examination.

2 One of the issues in contention in this case is the time of the events concerning which
3 the witness is giving evidence. It is, therefore, essential for us to know the dates on
4 which the witness's brother met his death.

5 We have received as an annex to the victim's application form a document which is
6 entitled on one side "fiche de déclaration du décès," which we have already received
7 in another format, but here it has been more redacted than the version that we have.
8 And on the other side --

9 PRESIDING JUDGE STEINER: Would you please tell me the page?

10 MR KAUFMAN: It doesn't have page numbers, Madam President, and that's why
11 I'm having to refer to it as an annex and giving the title of the document.

12 PRESIDING JUDGE STEINER: Which date you are referring to? The date of the
13 recess? The (no interpretation).

14 MR KAUFMAN: The (no interpretation) has been redacted. It's barely legible.
15 Maybe it's just my French, but the date is certainly not clear here.

16 PRESIDING JUDGE STEINER: The date of the death --

17 MR KAUFMAN: Yes.

18 PRESIDING JUDGE STEINER: -- is not redacted at all.

19 MR KAUFMAN: No, it is not redacted, Madam President, but it's certainly not clear
20 and we have no idea whether or not that can be perhaps clarified with reference to the
21 original document. It certainly is of extreme importance to the conduct of the
22 Defence case.

23 PRESIDING JUDGE STEINER: So the version I have here in my hand, la fiche de
24 déclaration du décès, la date du décès, 31 October 2002, the place, son domicile and ...
25 circonstance du décès in the place of jour et heure du (sic) levée du corps,

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1 31 October 2002, 4 o'clock in the afternoon.

2 MR KAUFMAN: With that document, Madam President, we have no problem. We
3 have another version of the same document - less redacted for some strange
4 reason - it is the document which is on the other side of the page, and it's entitled, "act
5 du décès." I think it --

6 PRESIDING JUDGE STEINER: Yes. I think it's a problem with the copy, but we'll
7 see what can be done. My copy is also -- we will see what can be done. Maybe the
8 document that is with the application has a problem, because my copy is also not
9 legible, but we will see what --

10 MR KAUFMAN: Thank you, Madam President. Essentially, the request is twofold.
11 First of all, to clarify what's actually written and, secondly, to see if there is -- if the
12 Chamber would be minded to lift the redactions on this document as well, if there
13 really is any justifiable need for these redactions. Thank you.

14 PRESIDING JUDGE STEINER: It will be double-checked.

15 So first the Chamber has one issue that can be dealt with in open session and it is
16 related to the email received by the Chamber on Monday, 10 January, from the case
17 manager of the legal representatives for victims, asking the Chamber whether
18 requests for legal representatives to question witnesses should be in a specific format
19 or whether it suffices to make such requests by email.

20 The Chamber draws the legal representatives' attention to its decision on the
21 participation of victims in the trial and on 86 applications by victims to participate in
22 the proceedings of 12 July 2010, filing 807, corrigendum, which explicitly says that the
23 discrete applications to participate in the trial should be made in writing, paragraph
24 H of the disposition.

25 The exact quote is, the Chamber instructs the legal representatives of victims who

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1 wish to participate during trial proceedings to set out in a discrete written application
2 the nature and the detail of their proposed questions to witnesses seven days before
3 the witness is scheduled to testify. This is the end of the quotation.

4 In addition, the decision on common legal representation of victims for the purpose of
5 trial is filing 1005 of 10 November 2010, paragraph 39, repeats the same language.

6 The decision on directions for the conduct of the proceedings, filing 1023 of
7 19 November 2010, paragraphs 18, 19, refers back to these two decisions and sets out
8 that the legal representatives who wish to participate during trial should set out the
9 nature and detail of their proposed questions as well as specify in what way the
10 personal interests of the victims are affected in a discrete application at least seven
11 days before the witness is scheduled to testify.

12 THE INTERPRETER: Message from the English booth: Could the Presiding Judge
13 please slow down.

14 PRESIDING JUDGE STEINER: I'm really sorry. Should I repeat? The Chamber
15 can, therefore, clarify that following the decisions just mentioned the legal
16 representatives should make formal written filings seven days in advance to question
17 witnesses setting out the nature and detail of their proposed questions as well as
18 specifying in what way the personal interests of the victims are affected. This is also
19 the practice in the two other Trial Chambers at the Court and the practice that this
20 Chamber wants to keep.

21 So now before we adjourn the session, the Chamber has another decision. Please,
22 Maître Douzima.

23 MS DOUZIMA-LAWSON: (Interpretation) Thank you very much, your Honour.
24 We are aware of the decision of the Court. If for the Witness 87 we haven't asked
25 questions, it is because we haven't found an interest in asking questions because in

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1 reading the -- in reading the transcript, we think it's quite clear.

2 Now, where it concerns the next witness, I think that in the deadline we will have
3 made the application to ask questions to the witness, but I would like to say that last
4 year you also asked me personally, to the extent that up to that point the witnesses
5 were clients of Counsel Zarambaud, the interest that there was in asking questions to
6 them, and I think that I have already expressed that.

7 So I would like to know if every time or each time I have to say or explain why I
8 would like to or state the interest I have in asking questions to these witnesses?

9 PRESIDING JUDGE STEINER: Thank you, Maître Douzima. If I well understood
10 the point, you are asking whether every time you want to question a witness you
11 should show to the Chamber the interest of your clients in questioning on the
12 information to be given to that witness; is that correct? Because I see here there is a
13 problem also related to witnesses that are clients of Counsel Zarambaud.
14 It doesn't matter if the witness is also a victim and represented by Maître Zarambaud.
15 Once your clients show interest in the information to be given by a given witness, you
16 can ask for permission to ask questions. Did I answer to your question,
17 Maître Douzima?

18 MS DOUZIMA-LAWSON: (Interpretation) The problem is not that. What I
19 wanted to know is if every single time I want to intervene or question a witness who
20 is a client of Zarambaud's, if I have to justify each and every time the interest I have in
21 asking a question to that witness?

22 PRESIDING JUDGE STEINER: Yes, you have to. This is the practice of the two
23 Chambers, Maître Douzima, since participation of victims at the trial stage it's
24 dependent on their specific interest in a certain act of the proceeding.

25 So the fact that victims were authorised to participate in the proceedings does not

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1 grant in advance the right to participate in every single act of the proceeding. The
2 Chamber is entitled to decide on a case-by-case basis on whether there is a real
3 interest of the victims to question a witness or to have access to a document, et cetera.

4 MS DOUZIMA-LAWSON: (Interpretation) Thank you very much. I've
5 understood now.

6 PRESIDING JUDGE STEINER: Thank you for your intervention, Maître Douzima.

7 So I ask now our court officer to go into private session, since the Chamber has a
8 decision that should be issued in private.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 Let's go back into open session, please.
- 10 (Open session at 5.22 p.m.)
- 11 THE COURT OFFICER: We are in open session, Madam President.
- 12 PRESIDING JUDGE STEINER: Thank you very much. Still the last information
- 13 that in my view -- in the view of the Chamber is of the interest for the Defence. The
- 14 Registry informs that, even if the parties and participants do not receive the
- 15 notification emails, they have access to the transcripts by using either iTranscend or
- 16 TRIM. They are also in a position to print these documents.
- 17 On the one hand, parties and participants have always access to the real-time session
- 18 by using iTranscend. Once the edited version is distributed, it is also uploaded in
- 19 iTranscend and the parties and participants can consult it.
- 20 On the other hand, they can also access the transcripts using TRIM. The numbers
- 21 attributed to the transcripts are consecutive. For example, Tuesday's transcript bears
- 22 reference "ICC-01/05-01/08-T-44", Wednesday's transcript bears reference
- 23 "ICC-01/05-01/08-T-45" and, therefore, today's transcript will bear reference
- 24 "ICC-01/05-01/08-T-46". So we hope this information is useful for the Defence while
- 25 the technical problems are not completely solved.

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1 With this information I would like to thank very much the Prosecution's team, legal
2 representatives of victims, representatives of OPCV, the Defence team, Mr Bemba,
3 Jean-Pierre Bemba, as always our interpreters and court reporters thank you very
4 much, and this session is adjourned and we will resume tomorrow morning at 9.30 in
5 the morning. The session is adjourned.

6 THE COURT USHER: All rise.

7 (The hearing ends at 5.25 p.m.)

8 CORRECTIONS REPORT

9 The Court Interpretation and Translation Section has made the following corrections
10 in the transcript:

11 * Page 7 line 3 to 4:

12 "His name is not --(Redacted) is corrected by "His name is not (Redacted) but
13 (Redacted)

14 * Page 8 lines 8 to 9:

15 "So I wanted – I was asked not to – the relative was (Redacted)" is corrected by

16 "So I wanted to cite, but I was asked not to; but here the relative I am talking about is
17 (Redacted)

18 * Page 9 lines 24 to 25:

19 "he was taken to PK22 -- in order to take him to PK22 " is corrected by "he was taken
20 to PK12 "

21 RECLASSIFICATION REPORT

22 Pursuant to Trial Chamber III 's Second Order, ICC-01/05-01/08-2223, dated 4 June

23 2012, and the instructions in the email dated 7 October 2013, the version of the transcript
24 with its redactions becomes Public.