

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 Thursday, 13 January 2011

9 (The hearing starts in open session at 9.37 a.m.)

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

11 Please be seated.

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

13 in open session.

14 PRESIDING JUDGE STEINER: Good morning. Good morning. Could, please,

15 the court officer call 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 I welcome the

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

21 the Defence team, Mr Jean-Pierre Bemba, the interpreters, good morning.

22 Before we bring the witness in, at the end of yesterday's session counsel for the

23 Defence, Mr Kaufman, raised two issues concerning redactions to the victim's

24 application 391/08 with which he had been provided that day by VPRS.

25 Mr Kaufman

26 13.01.2011

1 firstly asked for clarification on what was written on part of the application, as he
2 submitted he was unable to read a particular date, and secondly Mr Kaufman asked
3 for the lifting of all redactions.

4 Having looked at the fiche de déclaration du décès, as well as the acte de décès, the
5 date of the death is not redacted on either document. The only information that is
6 redacted is: The number of the certificate; the information related to the centre d'état
7 civil that provided the certificate; the name of the father; the name of the mother; the
8 address of the family; and the signatures of officers that provided the certificate.

9 Counsel was not correct in stating that the version he received yesterday contained
10 more redactions than the previous version that the Defence had received. In fact,
11 there are a few less redactions. The Chamber considers that there is no reason for
12 the remaining redactions to be lifted as the redacted information is not relevant for
13 the preparation of the Defence.

14 In addition, the Chamber has checked the document as it indicated it would do. The
15 problem is with the copy of the supporting document attached to the application, as
16 the date of the death is too faint to read and so not legible. The month and year are
17 however clearly visible and, combined with the official stamped document that
18 accompanies the document on which the actual date is legible, this should be
19 sufficiently reliable for counsel's purposes, unless counsel is seeking to challenge the
20 authenticity of the document, in which case a written application should be made.

21 I have here in my hands the two documents received by counsel, the previous one
22 sent in November 2008 through filing 256 and the new document that was given by
23 VPRS to counsel yesterday, and both show the same problem with the copy. So the
24 problem is with the copy that was appended to the application, so there is no
25 problem related to further redactions just for clarification for the Defence team.

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1 So now we need to go briefly into closed session in order that the witness can be
2 brought into the courtroom. Court officer, please.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 PRESIDING JUDGE STEINER: Good morning, Madam Witness. Sorry.

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

13 PRESIDING JUDGE STEINER: Thank you. Good morning, Madam Witness.

14 THE WITNESS: (Interpretation) Good morning, Madam President.

15 PRESIDING JUDGE STEINER: Are we having translation from Sango? Oh, yes,
16 thanks. Did you manage to rest overnight, Madam Witness?

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

18 PRESIDING JUDGE STEINER: Can we continue in this morning's session with your
19 questioning by the Defence? Are you feeling comfortable?

20 THE WITNESS: (Interpretation) Yes, I feel fine. I'm ready to answer questions.

21 PRESIDING JUDGE STEINER: Thank you very much again, on behalf of the Court.
22 I need to remind you that you are still under oath. Do you understand that,
23 Madam?

24 THE WITNESS: (Interpretation) Yes, I understand.

25 PRESIDING JUDGE STEINER: I also want to remind you that you are under

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1 protective measures, meaning that your image and your voice are being distorted so
2 the public cannot see you or hear your true voice, that you have a supporting person
3 at your side and that at any time you need a break, if you feel tired or distressed or
4 for any reason, you can just ask the Bench and a break will be granted. Do you
5 understand that, Madam?

6 THE WITNESS: (Interpretation) Yes, it's perfectly clear.

7 PRESIDING JUDGE STEINER: Thank you very much. So we will continue with
8 your questioning by counsel for the Defence, Mr Kaufman. Mr Kaufman, you have
9 the floor.

10 MR KAUFMAN: Thank you, Madam President.

11 QUESTIONED BY MR KAUFMAN: (Continuing)

12 Q. Good morning, Madam Witness.

13 A. Thank you. Hello to you, too.

14 Q. Madam Witness, I'd just like to endorse what Madam President just said. I
15 apologise in advance if some of my questions may be uncomfortable for you and, if
16 you wish a break, please do not hesitate to ask.

17 A. Yes, I understand.

18 Q. So yesterday, when we left off, we were talking about a meeting which was
19 held at (Redacted) in the presence of the Prosecutor of the International Criminal
20 Court, Mr Moreno-Ocampo. Do you remember that; that we were talking about that
21 yesterday?

22 A. Yes, we did meet with the Prosecutor at the (Redacted).

23 PRESIDING JUDGE STEINER: Mr Kaufman, just one moment. Sorry to interrupt
24 you. I would like to consult the Prosecution on whether this location has been
25 redacted, or should be at least from the public?

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1 MS KNEUER: Madam President, may I consult, please, with my colleagues?

2 Thank you.

3 MR KAUFMAN: Madam President, I do apologise for speaking. The questions I'm
4 going to ask are based on public press releases from the Office of the Prosecutor.

5 The actual specific location I'm not sure, but the fact of the Prosecutor's visit is not a
6 secret.

7 PRESIDING JUDGE STEINER: No, I'm talking about the location, since the
8 Chamber is not informed on what kind of location is this one.

9 MR KAUFMAN: Yes.

10 MS KNEUER: Madam President, the Prosecution believes that it is a publicly
11 known location, but since we have 30 minutes I would prefer to double-check with
12 my team outside the courtroom and get back to you perhaps via email to the legal
13 officer.

14 PRESIDING JUDGE STEINER: Thank you. Mr Kaufman, if in the meantime we
15 just avoid the use of the name of the place. Otherwise, I will have to order
16 redactions.

17 MR KAUFMAN: Absolutely, Madam President.

18 Q. Madam Witness, yesterday I think I asked you if you remembered the date of
19 this visit and you weren't sure. May I suggest to you that it was perhaps in the first
20 part of 2008, maybe in February?

21 A. I said that it may have perhaps taken place in 2008. That's what I said.

22 Q. And do you perhaps remember that it was in the first part of 2008, perhaps
23 even the month of February?

24 A. I don't remember the date and I don't remember the month.

25 Q. Never mind, I shall move on. You say, "We met with the Prosecutor." Please

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1 don't give names. The question I want to ask you is what type of people is "we"?

2 Once again, do not give any names.

3 A. We were the victims of the Banyamulengue; in other words, all those people
4 who had been raped and who had been robbed. This was the group of people who
5 met with the Prosecutor.

6 Q. And how many victims were present, apart from yourself?

7 A. Well, there were quite a few of us, plus the organisers, among the people who I
8 knew. Apart from my uncle, there were also several others that I knew.

9 Q. Can you estimate the number of victims who were present?

10 A. I said that I didn't know what the exact number was, but there were quite a few
11 people.

12 Q. Would it be more than ten victims?

13 A. There were more than ten people.

14 Q. I apologise for asking questions like this, but it is important for us to
15 understand the number of victims who were present. Would it be more than 20
16 victims who were present?

17 A. If you separate the victims from the organisers then I would have known that
18 number, but there were quite a few people and that included the organisers. The
19 total number was more than 20. In any case, there were quite a few people.

20 Q. Madam Witness, I don't want to tax you any more with this issue. Let's just
21 agree that there were a lot of victims there, shall we?

22 A. Yes, there were quite a few victims.

23 Q. You talked about the organisers. Who were the organisers of this event?

24 A. We were called to the (Redacted). We were told that the Prosecutor wanted to
25 meet with us and we went there. The meeting was held in the house of a person, a

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1 woman, who had been killed. We were photographed and we were filmed. She
2 was a (Redacted).

3 Q. Does the expression "OCODEFAD" mean anything to you?

4 A. I don't understand what you mean.

5 Q. Well, let me help you. If I said that OCODEFAD was an organisation which
6 represented victims, would that mean anything to you?

7 A. I'm not familiar with the name of this organisation. I heard about this here.

8 Q. Did I understand you correctly in that you said you heard about OCODEFAD
9 here, or from me personally?

10 A. Yes, I just heard it coming from you. Before I wasn't familiar with this
11 organisation.

12 Q. Thank you for clarifying that, Madam Witness. Yesterday you were a bit
13 reticent to tell us the name of the person who invited you to this meeting. Now, I'm
14 going to insist that you tell us the name of that person, but I'm going to give the
15 Prosecution an opportunity to perhaps object if this might need to be in open session,
16 or perhaps in private session.

17 MS KNEUER: Madam President, without knowing the answer of the witness, the
18 Prosecution is not in a position to make an assessment.

19 MR KAUFMAN:

20 Q. Madam Witness, could you give me the name of the person who invited you to
21 this meeting with the Prosecutor?

22 A. On that day the events are from a long time ago, so I don't remember the name
23 of the person.

24 Q. That of course is an acceptable answer, Madam Witness. At this meeting with
25 the Prosecutor, did you discuss the identifying features of the Banyamulengue?

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1 A. No, we didn't speak about the Banyamulengue. It was just that the Prosecutor
2 told us that he was carrying out investigations with a view to arresting the person
3 responsible for the abuses committed in the Central African Republic to bring that
4 person to justice.

5 MR KAUFMAN: Madam President, briefly I would like to go into private session
6 because I'm going to mention a few names.

7 PRESIDING JUDGE STEINER: Court officer, please, let's go into private session.
8 (Private session at 10.03 a.m.) Reclassified as open session

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

10 MR KAUFMAN:

11 Q. Madam Witness, we are now in private session, which means I am going to ask
12 you a question and I am going to ask you if you know certain people and you needn't
13 be concerned that these people's names will be disclosed to the public. Do you
14 understand that?

15 A. Yes, I understand.

16 Q. Do you know somebody by the name of (Redacted)?

17 A. I didn't pay attention. Perhaps I knew her, but I no longer remember.

18 Q. To what didn't you pay attention? Please could you clarify that for me?

19 A. I don't know. Perhaps I knew her, but then I no longer remember her.
20 I don't -- I don't know.

21 Q. Madam Witness, do you know a lady by the name of (Redacted)?

22 A. I don't know. Perhaps she was part of the Prosecutor's delegation, but I don't
23 know. The events were a long time ago. I no longer remember anything.

24 Q. When you say that perhaps she was part of the Prosecutor's delegation, do you
25 mean that she was part of the Prosecutor's entourage, or that she was present as a

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1 victim with you?

2 A. I told you that I don't know the person whose name you are mentioning.

3 I don't know. Was that person with the Prosecutor, or whether that person was a
4 victim as myself, I don't know.

5 Q. Thank you, Madam Witness. I shan't ask you any more names. I want to ask
6 you one more issue, and I'm taking advantage of the fact that we are in private
7 session and jumping ahead slightly. You mentioned that during the events that
8 occurred in your house, when the so-called Banyamulengue attacked you, there were
9 present two other people, one by the name of (Redacted) and one by the name of (Redacted),
10 if I'm not mistaken; is that correct?

11 A. Yes, those are the two names that I mentioned.

12 Q. Madam Witness, from the information that I have it's not clear to me -- and I do
13 apologise if I am mentioning something that is a sensitive issue for you, but it's not
14 clear to me whether (Redacted) are present with us today. Are they still present
15 with us?

16 A. Yes, (Redacted) is present with us. He is alive.

17 Q. And (Redacted)?

18 A. (Redacted) is also alive. (Redacted) is also alive.

19 Q. Madam Witness, I will come back to ask you some questions about (Redacted)
20 (Redacted) later, but we will do that in open session. I won't refer to them by name.
21 Perhaps I can use a code, or just use the letter "A" for (Redacted) and the letter "G" for
22 (Redacted). Would that be acceptable to you and would you be able to remember that?

23 A. If you ask me questions, I shall answer you.

24 MR KAUFMAN: Thank you very much, Madam Witness. Madam President,
25 I think we can go back into open session now.

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1 PRESIDING JUDGE STEINER: Court officer, please go back into open session.

2 (Open session at 10.10 a.m.)

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

4 MR KAUFMAN:

5 Q. Madam Witness, the public can now hear you. I'm continuing you -- sorry, I
6 do apologise. I'm continuing to ask you questions about the different people who
7 you met and told your story to before you made your statement to (Redacted)
8 in September of 2008; (Redacted) being the two investigators from the Office of the
9 Prosecutor.

10 A. Yes, they had taken -- they took my statement -- my statements.

11 Q. Madam Witness, apart from the investigators of the Office of the Prosecutor,
12 (Redacted), and apart from your uncle who made the complaint, did you tell anybody
13 else about your rape?

14 A. Who else? I only spoke to the members of my family who weren't there.
15 When they came back I spoke to them about it, even my father. I spoke about the
16 events to my father.

17 Q. Apart from your family members, did you tell any other official organisation
18 such as the Office of the Prosecutor?

19 A. An investigator came to Bangui. People asked questions and I explained to
20 them what happened.

21 Q. And this investigator he was not from the International Criminal Court, is that
22 what you're saying?

23 A. He was working for the ICC.

24 Q. So let me conclude this question then, because I must have some clarity. Are
25 you saying that the only official organisation that you met and told the story of your

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1 rape and of the other events is the ICC?

2 A. Yes, there were white people who came to our house. We were in the lounge
3 and these white persons asked us questions and I explained to them what had
4 happened to us.

5 Q. How many white people came and heard your story on that occasion and sat in
6 your lounge?

7 A. I no longer remember what their names were, or I can't remember how many
8 there were. Maybe there were three of them, but I no longer remember.

9 Q. Did you show them the place where your brother was killed?

10 A. Yes, I showed them the place where he had been killed; even the place where
11 we had washed his body, the lounge where we laid down the body and even the
12 place where we had buried him.

13 Q. Did they take photographs?

14 A. Yes, yes, they took photos. They took photos of the different places.

15 Q. And this was before the Prosecutor's visit, was it; that is Mr Moreno-Ocampo?

16 A. For the photos? You are asking me questions with regards to the photos, when
17 they were taken? Is that what you are asking me? Is that what you want to know?

18 Q. I shall clarify myself. You just said that there was a visit of perhaps three
19 white people who came and sat in your lounge. If I'm not mistaken, you said that
20 you showed them the place where your brother met his death and where he was
21 buried and you said that they took photos. My question to you is did all this take
22 place before Mr Moreno-Ocampo's visit to Bangui?

23 A. I don't remember very well. Perhaps these people came after the visit of the
24 Prosecutor. I think even before that people had also come to photograph us, and
25 also after the Prosecutor came people also came to take photographs.

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1 MR KAUFMAN: Madam President, if I may refer the Trial Chamber to

2 CAR-OTP-0030-0199, the last paragraph.

3 Q. Madam Witness, I'm going to suggest to you that the three white people who
4 came to visit you, and as you say took photographs perhaps, came before the visit of
5 the Prosecutor?

6 A. But what did I say to you? Perhaps I forgot. I told you I didn't know. Did
7 these people come before the Prosecutor, or after the Prosecutor? I no longer
8 remember. That's what I said.

9 Q. I will move on, Madam Witness. Did you see a doctor concerning the fact that
10 you had been raped?

11 A. No, I didn't consult a doctor. It was rather the ICC that took me to see a doctor
12 for medical examination.

13 Q. The ICC took you to see a doctor for a medical examination. When exactly, if
14 you remember?

15 A. Yes, I saw doctors in 2009 and in 2010.

16 Q. Please excuse the question, Madam Witness. I shall ask it very politely. Did
17 these doctors that the ICC took you to see perform a gynaecological examination? I
18 hope that word can be translated.

19 A. Yes, they did carry out the examinations that one normally does on women.

20 Q. Thank you, Madam Witness. I apologise for that question. Madam Witness,
21 did the doctor who performed this examination take notes?

22 A. Yes, after the examination he put everything into writing.

23 Q. Do you remember the name of this doctor that the ICC took you to see?

24 A. I don't know the name of the doctor. I went to the hospital just in order to be
25 treated to follow a treatment.

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1 Q. What was the name of the person from the ICC who put you in contact with this
2 doctor?

3 A. I was just concerned with my health. If I was told to go to whatever place to
4 undergo examinations, I would go there.

5 Q. Do you remember the name of the person from the ICC who gave you, as you
6 said yesterday, antibiotics, or put you in touch with someone who gave you the
7 antibiotics?

8 A. I no longer remember the name of that person.

9 Q. And would you remember the name of the person from the ICC who put you in
10 touch with the person who gave you the psychological treatment that you talked
11 about yesterday?

12 A. I have forgotten his name.

13 Q. Madam Witness, once again apologies for the question, but after you had been
14 brutally raped why didn't you go and see a doctor?

15 A. In our country in order to see a doctor you have to have money. As all the
16 money I had had been stolen, I couldn't go to see a doctor.

17 Q. Madam Witness, are you familiar with one of the two following organisations
18 that I will give you the names of: The Red Cross, or Médecins sans frontières?

19 A. Yes, I know these organisations, but I didn't go to them.

20 Q. Do these organisations take money to see people who have been victims of rape,
21 to the best of your knowledge?

22 A. I told you I know these organisations, but I didn't go there. If it was the case,
23 I would have information in that regard.

24 Q. Madam Witness, I shall move on. Let me ask you questions about visits, or
25 contacts, with white people after the visit of the Prosecutor. Do you remember a

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1 visit with the chef de quartier?

2 A. Yes, I can hear you.

3 PRESIDING JUDGE STEINER: Madam Kneuer?

4 MS KNEUER: Madam President, the Prosecution does not have in general any
5 reservations against this question, but it's quite open. Perhaps my learned colleague
6 could refer to a specific chef de quartier? It's a very open question and it's very
7 imprecise and may confuse the witness.

8 MR KAUFMAN:

9 Q. Are you familiar with anyone who is -- who was at the time of the events a chef
10 de quartier; personally familiar with someone who was a chef de quartier?

11 A. It was the chef of our neighbourhood, our chef de quartier, just him.

12 Q. Do you know a lady by the name of (Redacted)?

13 A. Yes, that person is the chef de quartier of (Redacted). She is the chef de
14 quartier of (Redacted).

15 Q. Is this lady your particular chef de quartier, or was she your particular chef de
16 quartier?

17 A. The man, he is the chief of our neighbourhood. The lady, (Redacted)
18 (Redacted).

19 Q. I understand, Madam Witness. And you are (Redacted) yourself; is that correct?

20 A. I am no longer a (Redacted).

21 THE INTERPRETER: Correction, I am not a (Redacted).

22 MR KAUFMAN:

23 Q. Well, please do excuse me. I don't think we need to go into private session for
24 this, but according to -- it may be my ignorance of the various ethnicities in the
25 Central African Republic, but according to your witness statement it says that you are

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1 from the (Redacted). Was that correct in October 2002?

2 A. Yes, I am (Redacted).

3 Q. So I'm going to ask you some more questions about this concept, chef de
4 quartier for (Redacted). Can you explain what that role is? What does a chef de
5 quartier do?

6 A. The duties of the chef de quartier is to deal with conflicts.

7 PRESIDING JUDGE STEINER: Mr Kaufman, one second. Sorry to interrupt.

8 Madam Witness, the court officer asks you, please, to speak a little bit closer to the
9 microphone. Thank you very much.

10 MR KAUFMAN:

11 Q. Madam Witness, I think I am familiar with this concept from where I come from,
12 but is this type of role that you're describing a quasi-judicial role, resolving disputes
13 between people?

14 A. That is how things go. When there is a conflict, you go see the chef de quartier
15 and that person decides -- deals with the matter.

16 Q. So it stands to reason, Madam Witness, that such a person would be both
17 honourable and reliable; is that not the case?

18 A. Yes, that is so.

19 Q. Well, we will come back to that later. Let me continue to ask you about the
20 contacts that you had with people before you made your declaration to the Office of
21 the Prosecutor, to (Redacted). Just one question about -- last question about
22 the chef de quartier. Did you give her a declaration about what happened in your
23 house?

24 A. He wasn't the chief of our neighbourhood. He was the chef de quartier for
25 (Redacted). Our chef de quartier is (Redacted). I didn't meet that chef de quartier.

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1 Q. (Redacted) the lady (Redacted)?

2 A. We met just on the day that the Prosecutor invited us to (Redacted), so we
3 were there as well as the chief of our neighbourhood; our chef de quartier.

4 Q. Let me be clear about this, Madam Witness. Are you saying that you only met
5 the lady who we have referred to as (Redacted) on the day of the Prosecutor's
6 visit?

7 A. The lady and I did not meet like that. We did not see one another, but perhaps
8 it was her assistant, but personally we did not meet one another.

9 Q. Madam Witness, I will have a further question about that, but what I will do is
10 save it for just before the break so that we don't have to unnecessarily go into private
11 session now, if that's okay by Madam President and your Honours.

12 PRESIDING JUDGE STEINER: Yes. Mr Kaufman, I would like you, please, to try
13 as much as possible not to refer to names, because the number of redactions that the
14 Bench needs to order is quite high. So even names of members of the OTP that
15 could cause prejudice to ongoing or future investigations, so for the public those
16 names could be omitted. So if you need to refer, we will have to go to private
17 session.

18 MR KAUFMAN: I do apologise, Madam President. I wasn't aware that there was
19 a general order not to mention names of investigators of the OTP. Of course if my
20 learned friend, Ms Kneuer, objects to the fact that members of the OTP's names are
21 mentioned, then --

22 PRESIDING JUDGE STEINER: Just I'm informing that the Bench is authorising
23 redactions for the public of these names, so it's an information just for the Defence.

24 MR KAUFMAN: Thank you, Madam President, and of course I shall abide by the
25 Honourable Chamber's wishes.

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1 Q. Now, Madam Witness, (Redacted) recorded your interview, didn't they?

2 My apologies.

3 A. Yes, they recorded my statement.

4 Q. Did the two investigators from the Office of the Prosecutor sit with you and
5 take notes from you before they recorded your interview?

6 A. We were together, they wrote things down in writing and then they recorded
7 the conversation.

8 Q. If I were to tell you that the recorded conversation started on 28 September, but
9 the two investigators sat with you on 25 September - this is all in 2008 - would that
10 ring a bell? Would you remember that?

11 A. Yes, they recorded my statement in 2008.

12 Q. But before they turned on the cameras and the recording devices, they sat with
13 you a few days earlier and heard your story, is that not the case?

14 A. Yes, we stayed together and I told them everything that happened.

15 Q. And when you told them everything that had happened three days before you
16 sat with them and told them once again for the benefit of the cameras and the tape
17 recorders, did they take notes, these two investigators?

18 A. They wrote everything down.

19 Q. And by "everything," you mean the rape and the killing of your brother?

20 A. Yes, those are the facts that I related to them; the events that I related to them.

21 MR KAUFMAN: Madam President, I'm looking at the clock and I've finished -- I've
22 reached a natural point in my examination where I will be turning to a completely
23 new subject. I do have one question which I would like to ask in private session, so
24 I'm wondering whether or not this might be a good time?

25 PRESIDING JUDGE STEINER: Court officer, please, let's go briefly into private

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1 session.

2 (Private session at 10.44 a.m.) Reclassified as open session

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

4 MR KAUFMAN:

5 Q. Now, Madam Witness, we've been talking earlier about (Redacted)

6 (Redacted) a lady. Did (Redacted) ever visit your house?

7 A. I don't know whether she visited my house when I was away, I don't know, but

8 I don't remember meeting her in my home.

9 Q. Were you present when they were washing your brother's body?

10 A. Yes, I was present when the body of my brother was washed.

11 Q. And if I said to you that this lady, this lady (Redacted)

12 the washing of the body, would that ring any bells?

13 A. At that time, I was really stunned. I really didn't even know what I was doing.

14 I couldn't identify the people, or recognise the people, who were there at that time.

15 MR KAUFMAN: Thank you, Madam Witness. Madam President, the reasons why

16 I asked those questions in private session I hope are understandable to the Chamber.

17 I have no further questions at this point. I would respectfully request that we

18 adjourn so that I can start afresh on a new topic after the adjournment.

19 PRESIDING JUDGE STEINER: Court officer, let's go back into open session please.

20 (Open session at 10.47 a.m.)

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

22 PRESIDING JUDGE STEINER: Thank you very much. Madam Witness, the

23 Defence will continue to question you, but we'll have a break in order for you and for

24 all parties and participants to rest a little bit. So we'll be back at 20-past-11. Is that

25 fine with you?

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 THE WITNESS: (Interpretation) Yes, that suits me for us to come back here.

2 PRESIDING JUDGE STEINER: Therefore, we are going to suspend this hearing and
3 we'll be back at 20-past-11, so we will have a half-an-hour break. I will first ask the
4 court officer to turn the session into closed in order for the witness to be brought
5 outside the courtroom.

6 (Closed session at 10.49 a.m.) Reclassified as open session

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

8 (The witness stands down)

9 THE COURT OFFICER: All rise.

10 (Recess taken in closed session at 10.50 a.m.) Reclassified as open session

11 (Upon resuming in closed session at 11.40 a.m.) Reclassified as open session

12 THE COURT USHER: All rise.

13 PRESIDING JUDGE STEINER: Please be seated. The Chamber apologises for this
14 delay. Please, court officer, introduce the witness into the courtroom.

15 (The witness enters the courtroom)

16 PRESIDING JUDGE STEINER: We can turn into open session, please.

17 (Open session at 11.42 a.m.)

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

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

21 THE WITNESS: (Interpretation) I, too, am happy to be back.

22 PRESIDING JUDGE STEINER: Are you feeling comfortable to continue with this
23 questioning?

24 THE WITNESS: (Interpretation) Yes, everything is fine. We can continue with
25 the examination.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

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

2 MR KAUFMAN: Thank you, Madam President, your Honours.

3 Q. Welcome back, Madam Witness. Once again, if you want me to stop in order
4 to take a break, please don't hesitate to ask me.

5 A. All right. We can go on.

6 Q. Thank you. Madam Witness, I'm now going to turn to a different topic. It's a
7 topic of dates, and in particular dates insofar as we are dealing with the events of
8 October/November 2002, but first of all a general question. Do you consider
9 yourself good with dates, in remembering dates?

10 A. We're human beings. I may have forgotten some dates, but I can more or less
11 remember years.

12 Q. So could it be the case that you might have forgotten the exact dates of the
13 events in October, the ones we have been talking about, since you only are very good
14 with years?

15 A. It was on the 29th and the 31st.

16 Q. What was on the 29th and the 31st?

17 A. On the 29th, the rebels withdrew. I wasn't aware of that event. On the 30th, I
18 heard people talking about the withdrawal of the rebels. That happened at 7 in the
19 morning.

20 Q. And these dates you remember exactly, despite that you're only very good with
21 years?

22 A. Concerning the year, that was 2002.

23 Q. Well, I'm going to ask you a more general question about dates. Your birthday,
24 when were you born?

25 A. I was born on (Redacted).

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 Q. You say you were born on (Redacted). Do you have an explanation why
2 the birth certificate, which is attached to your victim's application, says that you were
3 born on (Redacted)? The (Redacted)?

4 A. That's what's written on my birth certificate and on the original of the copy
5 which was deteriorated, and that is why I had to get hold of another copy and that's
6 what's written on it.

7 Q. So is it the document that is incorrect, or is it your recollection of your birthday
8 which is incorrect?

9 A. I was indeed born on (Redacted). That is my date of birth.

10 Q. Whilst we are on the subject of your birth certificate, in answers to the questions
11 of Ms Kneuer you said you were born in (Redacted); is that not the case?

12 A. Yes, I was born in (Redacted).

13 Q. So if you were born in (Redacted), why does your birth certificate state that you
14 were born in (Redacted)?

15 A. I was born in (Redacted) and there is a small locality called (Redacted). That's
16 what's written on the document that you have.

17 Q. So are you saying that (Redacted) and (Redacted) are one and the same place?

18 A. The neighbourhood - our neighbourhood at the time - was (Redacted).

19 Q. Is that in (Redacted)?

20 A. Yes, it is the centre of (Redacted).

21 Q. Thank you, Madam Witness, for clarifying that for me. I'm not too good with
22 geography. Now, let's return to dates insofar as they relate to the events of
23 October/November 2002. Do you remember when the rebels of Bozizé came to
24 Bangui?

25 A. That was at the beginning of 2002. They came and went, but I don't really

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 remember the exact date.

2 Q. When you say they came at the beginning of 2002, do you mean January or
3 February?

4 A. I said that they *were carrying out incursions in 2002, but I don't know the
5 precise date or month. I can't tell.

6 Q. But, nevertheless, you say that the rebels came to Boy-Rabé and stayed for two
7 or three days? Do you remember stating that to the investigators?

8 A. Yes, I do remember saying that. I said that I didn't know how time -- how
9 much time they spent there, but I said that they spent three or four days.

10 MR KAUFMAN: For the benefit of the Chamber, I'm referring to
11 CAR-OTP-0030-0180.

12 Q. You say three to four days? Madam Witness, it's very important. Madam
13 President, is there a problem with the translation? I don't seem to be getting a
14 response.

15 PRESIDING JUDGE STEINER: Maybe it's better if you could, please, repeat the
16 question. Yes.

17 MR KAUFMAN:

18 Q. Madam Witness, you said the rebels came and you believe they spent three or
19 four days; is that correct? Three or four days?

20 A. I said the number of days that they spent in that locality that I didn't know.
21 I don't know exactly how much time they spent in that neighbourhood.

22 Q. Well, when you gave your statement to the investigators from the OTP, you
23 said they spent two to three days. Would you remember that now?

24 A. Yes, I stated that.

25 Q. Very good. Now, today you say you don't remember the month or the date

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 when the rebels arrived, but I'm going to suggest to you that back then in 2008, when
2 you gave your statement to the investigators, you did remember. What do you have
3 to say about that?

4 A. Concerning my statement, I didn't give a date. I had given the year instead.

5 Q. Well, Madam Witness, I have the statement in front of me and I've referred the
6 learned Judges to the same statement and to the page and I'm going to read to you
7 what you said to the investigators. You were asked, "How long were the rebels in
8 Boy-Rabé?", and the answer you gave was, "When they came, they faced resistance
9 and moved back. I think they spent two to three days between Wednesday and
10 Thursday of 30 October, but the exact date I don't know." Do you now recall saying
11 that to the investigators?

12 A. Yes, I do remember stating that to the investigators.

13 Q. Was this portion that I have just read out to you with respect to the dates
14 something that came from you, or was it something that came from the investigators?
15 First of all, do you understand my question?

16 A. It is my statement. They asked me the question and I told them the dates.

17 Q. Well, Madam Witness, you've been telling us that you don't remember months
18 and dates, so what I'm suggesting to you is that the investigators told you the date
19 that the rebels came and left Boy-Rabé?

20 PRESIDING JUDGE STEINER: Madam Kneuer?

21 MS KNEUER: Thank you, Madam President. I would appreciate if the
22 Defence could give us a hint where they are taking their assumption that the
23 investigators are putting words in the mouth of the witness.

24 PRESIDING JUDGE STEINER: The Chamber deems necessary such clarification,
25 Mr Kaufman.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 MR KAUFMAN: Madam President, I think it is a legitimate line of
2 cross-examination in light of the witness's answer that she didn't remember months
3 and exact dates, so the question therefore arises how is it she knew the exact date at
4 the time? I don't wish to impute --

5 PRESIDING JUDGE STEINER: That would be a -- that would be a valid question,
6 the way you have just said.

7 MR KAUFMAN: Well, maybe I ought to rephrase it. Yes. I don't want it to be
8 believed that I am imputing any misconduct. Please let that be clear to everybody.
9 It's just a matter of the way investigations are conducted sometimes, suggestions are
10 made and things are taken for granted.

11 PRESIDING JUDGE STEINER: Could you please rephrase your question in a
12 non-leading way.

13 JUDGE ALUOCH: Or maybe make it as a suggestion to the witness.

14 MR KAUFMAN:

15 Q. Madam Witness, once again I repeat. You have told the Court that you were
16 not too clear on the month and the exact date that Bozizé's rebels were in Bangui.
17 That is correct, isn't it?

18 A. I told you that they were carrying out incursions in 2002. Where it concerns
19 the date of events, it was in October 2002. That's what I have in mind. I don't have
20 the exact date, but it is with regard to what happened. But in terms of the date, the
21 time that they spent in Bangui before withdrawing, that is not something that I am
22 able to tell you.

23 Q. So once again I wish to inform you that when you made your statement to the
24 two investigators the exact date of the Bozizé rebels' presence in Bangui was
25 mentioned, so my question is from whom did this come, the exact date?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 MS KNEUER: Madam President, I have concerns with this line of questioning.
2 I think my learned friend from the Defence is harassing the witness and he is
3 misrepresenting what the witness said in the statement. In her statement -- and I'm
4 referring to CAR-OTP-0030-0180 and I will give your Honours some time to find the
5 relevant page. It's the second statement, page 10, at the bottom of that page. It's
6 the third last paragraph and the witness stated, "When they came, they faced
7 resistance and moved back. I think they spent two to three days between
8 Wednesday and Thursday of 30 October, but the exact date I don't know." That is
9 exactly what the witness testified in the questioning of the Prosecution and what the
10 witness said several times into the record, and I think it is clear what the witness said.
11 She said, "I don't know the exact date and I think it was the 30th and the 29th of
12 October." Thank you, Madam President.

13 PRESIDING JUDGE STEINER: Your objection is sustained. Please continue,
14 Mr Kaufman.

15 MR KAUFMAN: Yes, I will. Just one point, Madam President. If I recollect, that
16 portion of the -- and I do apologise if my memory fails me. That portion of her
17 evidence was actually read to her by Madam Prosecutor. It wasn't that it came
18 spontaneously from her. But, in any event, I shall indeed move on.

19 Q. Do you remember, Madam Witness, the day of the week when the Bozizé rebels
20 left?

21 A. Well, it must have been a Wednesday. A Wednesday -- Wednesday night. It
22 was at that time that they left, Wednesday in the night.

23 Q. And do you remember the day of the week then when you were selling coffee
24 by the roadside at 7 o'clock in the morning, you went home and the boys were fleeing
25 and saying that the wicked Banyamulengue were coming?

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(Open Session)

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Witness: CAR-OTP-PPPP-0087

1 A. That day must have been a Thursday, approximately at 7 o'clock in the
2 morning.

3 Q. And effectively that day was the same day on which your brother met his death;
4 is that not correct? A Thursday, according to you?

5 A. It was that Thursday during the night. In the night of the 30th to the 31st,
6 during that night he was killed.

7 Q. So you're saying that your brother died between the 30th and the 31st; i.e.,
8 between a Thursday and a Friday?

9 A. Yes, it was that day.

10 Q. So, according to you, the 30th would be the Thursday and 31 October would
11 have been a Friday?

12 A. Yes, that's correct.

13 Q. Now, once again - and I think I've done my research properly, but I hope I'm
14 not mistaken - if I were to tell you that 30 October 2002 was in fact a Wednesday and
15 31 October 2002 was a Friday -- sorry, Thursday, the 31st was a Thursday, what
16 would you have to say about that?

17 A. 29 October must have been a Wednesday, the 30th a Thursday and the 31st a
18 Friday. I think that's what it was.

19 PRESIDING JUDGE STEINER: Mr Kaufman --

20 MR KAUFMAN: Yes, Madam President.

21 PRESIDING JUDGE STEINER: -- there is a problem here in the transcript with the
22 dates. Could you please make it clear.

23 MR KAUFMAN: Yes, I've seen. It's imputing me that I mentioned the day
24 Tuesday, which I did not in fact do.

25 PRESIDING JUDGE STEINER: Yes.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 MR KAUFMAN:

2 Q. Once again, I'm putting it to you, Madam Witness, that 30 October 2002 was in
3 fact a Wednesday and 31 October 2002 was in fact a Thursday. What do you have to
4 say about that?

5 A. Well, the events come from a very long time ago. I could have forgotten such a
6 detail.

7 Q. So once again, Madam Witness, I really am forced to come back and ask you if
8 you might not be mistaken as to the dates when you say the so-called
9 Banyamulengue raped you and killed your brother?

10 A. You know, during these events I was extremely upset. I could have forgotten
11 such details and maybe given a different date.

12 Q. So for the sake of example, since we're talking about the difference of a few
13 days here and there, could it in fact be the case that you were raped and your brother
14 was killed on the 29th?

15 A. My brother was killed on the same night of the day in which I was raped, in
16 that same night. I was raped. Afterwards, my brother was killed before the next
17 day.

18 Q. Madam Witness, I don't dispute the sequence of events at this moment in time.
19 All I'm asking you about is the exact date and, since I'm suggesting to you that you
20 are not very good with dates and your memory is not very good to the exact dates at
21 the time of the events because of the state of mind you were in, that perhaps the day
22 on which you were raped and the day on which your brother met his death, i.e., the
23 same day, was 29 October 2002?

24 A. The date that I gave you is something you don't want, but I don't know what
25 I'm supposed to say.

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Witness: CAR-OTP-PPPP-0087

1 Q. Let me move on, Madam Witness.

2 PRESIDING JUDGE STEINER: Madam Kneuer?

3 MS KNEUER: Thank you, Madam President. I apologise for interrupting again
4 and I didn't want to interrupt the questioning of my colleague, but my team brought
5 to my attention that there may have been an interpretation difficulty and I am
6 referring to page 32, line 1. According to our understanding, the witness didn't use
7 the term "Thursday," but "Wednesday."

8 PRESIDING JUDGE STEINER: Mr Kaufman?

9 MR KAUFMAN: Well, Madam President, I would request that the Court don't rule
10 on that at this present moment in time, but that maybe the records and tape
11 recordings be checked by interpreters at a later date and then that the learned
12 Chamber can correct the transcript as necessary.

13 PRESIDING JUDGE STEINER: You can proceed.

14 MR KAUFMAN:

15 Q. Madam Witness, if I said to you that the Defence has identified a witness who
16 will say that the so-called Banyamulengue pillaged her house in Boy-Rabé on
17 28 October, could you perhaps be mistaken when you say that these Banyamulengue
18 arrived on 30 October?

19 A. I told you that I was extremely distressed during these events.

20 Q. So you don't deny that that might be the case then; just that you were distressed
21 and can't remember?

22 A. That is what I said.

23 THE INTERPRETER: That is what you said, corrects the interpreter.

24 PRESIDING JUDGE STEINER: Mr Kaufman, I'm sorry, now I am interrupting.

25 Your question, "Could you perhaps be mistaken when you say that these

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(Open Session)

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Witness: CAR-OTP-PPPP-0087

1 Banyamulengue arrived on 30 October?", arrived where? In Bangui, or in her
2 house? The question is confusing.

3 MR KAUFMAN: I meant Boy-Rabé, by her -- in the vicinity.

4 PRESIDING JUDGE STEINER: Madam Kneuer?

5 MS KNEUER: Madam President, since we already had an interruption, I am a little
6 bit concerned about the line of question. My colleague is putting a hypothetical and,
7 as your Honour yourself just stated, confusing question to the witness and he is
8 putting information to the witness which are not yet in evidence. I think we need to
9 protect the witness.

10 PRESIDING JUDGE STEINER: Mr Kaufman, again I think the objection made by
11 Madam Prosecution is to be sustained and I see that Maître Zarambaud also wants to
12 say something. Maître?

13 MR ZARAMBAUD: (Interpretation) Thank you very much, your Honour.
14 I think that there is ambiguity in what the Defence says. It says, "If I say that a
15 witness that we have identified ...", and obviously the witness here does not know
16 that, "... had said that the Banyamulengue came on the 22nd, could you ..." -- well,
17 firstly this witness does not know that and, secondly, Boy-Rabé is a very large area.
18 It's not just because the Banyamulengue came to somebody's house on the 28th that
19 necessarily they had to arrive at everybody's house on the 28th. That's just
20 something that I want to comment on, your Honour.

21 PRESIDING JUDGE STEINER: Mr Kaufman, when we started this hearing, one of
22 the recommendations was to put to the witnesses very short, open-ended questions,
23 very clear, and in this respect I think some of your questions may have been
24 misunderstood by the witness. So I would emphasise and request you to put some
25 very objective, open-ended questions, because this is becoming a little bit confused

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Witness: CAR-OTP-PPPP-0087

1 even for the Bench.

2 MR KAUFMAN: I shall endeavour to do so.

3 Q. I just want to put it to you, Madam Witness, that the Defence has evidence
4 which we will introduce to show that the so-called Banyamulengue left the Boy-Rabé
5 area on 29 October. What do you have to say about that, if anything?

6 (Defence counsel confer)

7 MR KAUFMAN: I believe my question has been correctly conveyed to the transcript.
8 I'm just wondering whether or not it's been translated, Madam President?

9 PRESIDING JUDGE STEINER: Is it possible for the Bench to confirm that the
10 question was properly translated into Sango for the witness? So the question is,
11 "What do you have to say about that, if anything?", am I correct?

12 THE WITNESS: (Interpretation) You want me to give my reaction to what,
13 exactly?

14 MR KAUFMAN:

15 Q. Whether it's correct that the Banyamulengue left -- the so-called
16 Banyamulengue left Boy-Rabé on 29 October 2002?

17 A. Yes, some moved towards PK22, but others were still present in Boy-Rabé.
18 They spent time here, but I don't have the details with regards to the length of their
19 stay in Boy-Rabé. I've forgotten some of these details.

20 Q. When the rebels of Bozizé came to Bangui, did they meet resistance?

21 A. Yes, when they came they were faced with Patassé's men, the PG, presidential
22 guard. I don't know -- well, I know they -- did they fight, I don't know, before they
23 entered into Banyamulengue.

24 THE INTERPRETER: Before the entry of the Banyamulengue, the interpreter
25 corrects.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 MR KAUFMAN:

2 Q. Do you know what type of resistance this was? Was it gentle resistance, or
3 violent resistance?

4 A. When they entered, they shot. They fired. There was fighting *against
5 Patassé's troops. There were clashes.

6 Q. Was there shooting and fighting in the neighbourhood in which you lived
7 before the arrival of the Banyamulengue, yet after the entry of Bozizé's rebels?

8 A. Yes, when the rebels entered there were clashes. Patassé's troops fired, as did
9 Bemba's rebels.

10 THE INTERPRETER: Bozizé's rebels, correction.

11 MR KAUFMAN:

12 Q. Now, let's talk about Patassé's troops. You talked about the garde
13 présidentielle. Did you see the garde présidentielle?

14 A. No, I didn't see them myself, not in my neighbourhood. The area -- Bozizé's
15 rebels had come into our area. Patassé's troops I didn't see enter into the
16 neighbourhood themselves.

17 Q. But there was fighting in your neighbourhood, wasn't there?

18 A. Not really in the neighbourhood. It was more towards the main roads that
19 there was firing in all directions.

20 Q. Well, you've already told us that you know what the garde présidentielle
21 uniform looks like. How do you know what it looks like if you didn't see the garde
22 présidentielle at that time?

23 A. I saw the uniforms on the Banyamulengue and that's why I spoke about them.

24 Q. But how do you know that those uniforms on the so-called Banyamulengue
25 were in fact garde présidentielle uniforms?

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Witness: CAR-OTP-PPPP-0087

1 A. It was the soldiers of our -- or they are soldiers of our country; that is to say that
2 the uniform is something that we can identify. We know that these are the uniforms
3 of the presidential guard.

4 Q. The garde présidentielle is a special unit within the army of your country, is it
5 not?

6 A. The presidential guard was under -- or these were troops that came under
7 President Patassé.

8 Q. But you said you know the uniforms of the troops of your country, so I'm
9 asking you about the troops of your country. Apart from the garde présidentielle,
10 were there other troops of your country?

11 A. When the rebels came in, the presidential guard myself I didn't see them. I
12 heard the explosions, the shooting of the rebels, the shooting here and there, but I
13 didn't see them. The uniforms worn by the Banyamulengue were the same uniforms
14 as those worn by the presidential guard in the time of President Patassé.

15 Q. Apart from the garde présidentielle, are there not other troops of your country,
16 the more general FACA troops?

17 A. The FACA did exist, as well as the presidential guard. I don't really know
18 what's the distinction, but I do know what the uniform was that was worn by the
19 presidential guard.

20 Q. Well, do you know how to distinguish between the uniform of the presidential
21 guard and the uniform of FACA troops; the general Central African Army?

22 A. I couldn't make the distinction today if the uniforms were the same. I couldn't
23 say whether they were the uniforms of the FACA, or the presidential guard. Maybe
24 with the berets, but as for the other details I don't know.

25 Q. The transcript says the following, Madam Witness, "I couldn't make the

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1 distinction today if the uniforms were the same. I couldn't say were the uniforms of
2 the FACA, or the presidential guard," and I add, "... were the same." I want to ask
3 you about at the time of the events in 2002, could you then distinguish between the
4 uniform of FACA and the uniform of the presidential guard?

5 A. I couldn't make the distinction between the two. Nothing -- other than that, I
6 do know it is the uniform worn by the armed forces of my country. What I'm saying
7 today is that in the time back then I knew about the presidential guard and they were
8 called -- so that is how I can say this today. That is all I know.

9 Q. Madam Witness, please describe, if you can, the uniform of the presidential
10 guard. How do you know from their uniform that they are presidential guard?

11 A. They are uniforms that the presidential guard and the armed forces of my
12 country used to wear. Those soldiers were called the GPs. That's what I saw, that's
13 what I know and that is what I am saying.

14 Q. Is it not the case, Madam Witness - and this is my suggestion to you - that
15 someone perhaps told you that the uniforms that the so-called Banyamulengue were
16 wearing were in fact presidential guard uniforms and that's why you say it?

17 A. No one made that suggestion to me. The uniform was the same as the one
18 worn by the presidential guard. No one suggested such a reply to me.

19 Q. So once again, Madam Witness, I have to come back and ask you to describe the
20 uniforms; the colour, the details of these uniforms. You've managed to -- I apologise,
21 I'll stop the question there. Please try and describe the uniforms.

22 A. *The uniform had different markings on it, so to speak, the tache-tache pattern
23 of the Presidential Guard. Those are the uniforms I also saw the Banyamulengue
24 wearing.

25 Q. Do you remember the colour of the tâche; the markings on the uniform?

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1 A. It is the same uniform, but I couldn't say what marks were on them because I'm
2 not a soldier. I couldn't give you such details.

3 PRESIDING JUDGE STEINER: Sorry to interrupt you, Mr Kaufman. Madam
4 Witness, the Defence also asked you about the colour of the uniform. Could you
5 answer to this question, please?

6 THE WITNESS: (Interpretation) *The uniforms of the soldiers were different colours:
7 green, yellow. In any event, like the lopa (phon). Like the leopards.

8 MR KAUFMAN:

9 Q. Did these uniforms have any special insignia on them?

10 A. They were military uniforms, so they weren't ordinary pieces of clothing.

11 Q. Were these uniforms that you saw on the so-called Banyamulengue, which you
12 say are uniforms of the garde présidentielle, new or old? If you can't tell just say, "I
13 couldn't tell."

14 A. They were new uniforms. That is what I saw myself.

15 Q. Now, I thank you for describing the uniforms of the garde présidentielle guard
16 presidential. Could you equally describe for me perhaps the uniforms, at the period
17 we are talking about in 2002, of the FACA?

18 A. I don't know anything about the uniforms worn by soldiers.

19 Q. Madam Witness, let's talk a bit more about the nature of events, the resistance
20 which you talked about earlier, before the Banyamulengue as you say arrived. Now,
21 you've talked about resistance from garde présidentielle, President Patassé's soldiers.

22 Do you know of any other groups who were fighting as part of this resistance?

23 A. At that time, the rebels had entered our neighbourhood. I didn't see other
24 soldiers. What I heard and what I heard from others, well, I heard the explosions
25 between the two camps, but to see a soldier in our part of Boy-Rabé, no, other than

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1 the rebels that I saw.

2 Q. Okay. I think I've got the impression that you're quite well-informed, so I will
3 ask you about what you heard. First of all, I want to ask you if you are familiar with
4 a group called the Karakos. Does that name mean anything to you?

5 A. I heard about the Karako in Bangui.

6 Q. If I told you that the Karakos were not just in Bangui, but they were active in
7 Boy-Rabé, would that be something you would remember?

8 A. Yes, I heard people talk about the Karako in Boy-Rabé.

9 Q. And did you know that the Karako was an armed fighting militia?

10 A. I don't know about that. I have no information about that.

11 Q. Are you familiar with another armed group, which is called the Balawa or
12 Balawas. Did you hear anyone talking about that?

13 A. I've heard about them.

14 Q. And did what you hear about this particular group include the fact that they
15 were an armed militia also fighting in 2002?

16 A. I don't know about that.

17 Q. Very well. The next group, the Sarawi or Sarawis. I apologise to my learned
18 friends of the legal representatives if I'm pronouncing this incorrectly.

19 A. I've also heard about -- I've just heard about them. I don't know about them.

20 Q. So I am the person who is breaking the news to you that the Sarawis was an
21 armed militia active in 2002 in Bangui?

22 A. I heard people talk about the Sarawis and the Karako, but as to their situation or
23 their weapons I don't know. I just heard people talk about these militia, but I have
24 no information about their activities. No information about their military activities.

25 Q. Another group, SCPS - or in French SCPS - did you hear of this group?

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1 A. I've -- I'm hearing about that now. Karakos, yes, I've heard about them in the
2 past, but I had no information about their activities. As for SCPS, this is the first
3 time I've heard of such a group.

4 Q. Well, I've given you the initials, Madam Witness, maybe I will come back to it in
5 a few minutes with the full title of this organisation and you might be able perhaps to
6 recognise it. I shall continue and ask you if you are familiar with yet another group
7 or personality. I'm going to mention to you the name Abdoulaye Miskine. Does
8 that ring a bell with you?

9 A. Yes, I've heard people talk about Abdoulaye Miskine, but I never met him
10 personally or physically, no.

11 Q. Don't worry, Madam Witness, I wasn't suggesting that you met this man, but
12 perhaps you could tell us what you heard about this man.

13 A. Yes. I knew that he was involved in the war. I heard about that on the radio,
14 *during the news, but I never met him. I am not in a position to identify him.

15 Q. And did you know that Abdoulaye Miskine was fighting on the side of Patassé,
16 helping him with the resistance?

17 A. Yes, we heard about that, as everyone else did. As everyone did.

18 Q. Did you hear that Abdoulaye Miskine and his troops were very violent people?

19 A. I have no information about that.

20 (Pause in proceedings)

21 PRESIDING JUDGE STEINER: I'm really sorry, Mr Kaufman. You can proceed.

22 MR KAUFMAN: No problem, Madam President. I see we are rapidly approaching
23 perhaps the lunch break, so I shall ask one or two more questions unless the learned
24 Chamber wishes me to continue.

25 PRESIDING JUDGE STEINER: It's up to you, Mr Kaufman.

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1 MR KAUFMAN:

2 Q. We were talking about Abdoulaye Miskine, and I'm suggesting to you that this
3 individual and his troops were very violent people. And the question I want to ask
4 you is whether you heard about a massacre at a marché de bétail, a meat market?

5 A. I heard about Abdoulaye Miskine.

6 Q. Did you hear about the massacre at a cattle market or meat market that
7 Abdoulaye Miskine's troops were alleged to have committed?

8 A. I only heard about Abdoulaye Miskine, but not about that event. Perhaps I've
9 forgotten, I don't know, but I can confirm that I did hear people talk about Abdoulaye
10 Miskine.

11 Q. Okay. Let's leave Abdoulaye Miskine to one side now. I'm going to ask you
12 about one other person, a fellow called Paul Barril. Did you hear about him?

13 A. No, I don't know that name.

14 Q. Now, did you know that there was shelling and bombing going on in your very
15 neighbourhood at the time of these events?

16 A. Yes, I do know that.

17 Q. And that there was aerial bombardments from planes on Boy-Rabé.

18 A. Yes, there was aerial bombing on Boy-Rabé.

19 Q. And there was also mortar shelling specifically on Boy-Rabé.

20 A. Yes, there was mortar shelling on Boy-Rabé.

21 Q. Do you know that it has been alleged that the Libyans were bombing from the
22 air and shelling with mortar shells, Libyan troops?

23 A. Yes, I heard people talk about such accusations made regarding the Libyans.

24 Q. Now, I'm going to suggest to you -- well, isn't it the case that this bombing and

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1 shelling was occurring before 30 October 2002 at the time of the very resistance of
2 Patassé against Bozizé's forces.

3 A. I believe that the shelling of mortars was before. That was before. It was
4 another event. It happened before. What happened later was later. What we're
5 talking about happened later.

6 Q. What I'm saying is that the bombing and shelling of the Libyans was happening
7 before the arrival of the so-called Banyamulengue, according to you.

8 A. Yes, that's right.

9 Q. Tell me, Madam Witness, if your neighbourhood was being bombed from the
10 air and shelled, would you stay or would you flee?

11 A. Yes, I was supposed to go away.

12 MR KAUFMAN: Madam President, I am looking at the clock. I see it's 1 o'clock
13 and perhaps this might be an appropriate time to adjourn.

14 PRESIDING JUDGE STEINER: Thank you. It's quite appropriate. Madam
15 Witness, thank you very much. Now we are going into the lunch break. You can
16 have a rest. We are resuming at 2.30 in the afternoon. Is that fine with you?

17 THE WITNESS: (Interpretation) Yes, that's fine.

18 PRESIDING JUDGE STEINER: Thank you very much. So please, court officer, let's
19 go into closed session in order for the witness to be taken out of the courtroom.

20 (Closed session at 1.01 p.m.) Reclassified as open session

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

22 (The witness stands down)

23 PRESIDING JUDGE STEINER: Just one minute before we suspend. Maybe we, the
24 Chamber, is being over-protective, but just for the Defence knowledge in order to
25 avoid any possibility of identification of the witness's residence or family

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1 whereabouts the Chamber is ordering the redaction whenever the name "Boy-Rabé" is
2 mentioned. So if possible to replace with "your quartier," "your neighbourhood," the
3 Chamber would appreciate; otherwise, redactions can always be ordered.

4 MR KAUFMAN: Understood, Madam President. I am doing my best.

5 PRESIDING JUDGE STEINER: I am sure. I am sure. Thank you very much. So
6 we are going to suspend now, and we'll be back at 2.30 sharp.

7 THE COURT OFFICER: All rise.

8 (Luncheon recess taken at 1.04 p.m.)

9 (Upon resuming in closed session at 2.38 p.m.) Reclassified as open session

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

11 PRESIDING JUDGE STEINER: Good afternoon. So I will ask, please, the court
12 officer to introduce the witness into the courtroom.

13 (The witness enters the courtroom)

14 PRESIDING JUDGE STEINER: Good afternoon, Madam Witness.

15 THE WITNESS: (Interpretation) Good afternoon, Madam President.

16 PRESIDING JUDGE STEINER: So before we turn into public session, I just would
17 like to inform the Prosecution and mainly the Defence that I was informed that the
18 reference to the place Boy-Rabé is already on public documents so, therefore, I'm
19 asking the court officer to -- from the transcript to lift all redactions ordered by the
20 Bench.

21 The second information that I would prefer to say in closed session is related to a
22 document that apparently is the document to which Defence was referring to in the
23 morning session and yesterday, a document related to the death certificate of the
24 witness's cousin. The information that was given to the Chamber is that no less
25 redacted version had been distributed for the Prosecution or the Defence and this is

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1 the document, the version that the Chamber also had access.

2 However, the Chamber is informed that such document without redactions is already
3 part of the case file and apparently was filed by the Prosecution. The document
4 bears the number CAR-OTP-0036-0162 and received at that time the EVD-P number
5 03156. The level of confidentiality assigned to this document was confidential,
6 which means that the Defence had already access to such document.

7 The Chamber will make all efforts in order to clarify how a "no redacted document"
8 was made part of a case file since the Defence received from VPRS a redacted version,
9 but in any case in order not to cause any prejudice to the Defence the Chamber is
10 authorising the Defence, if the Defence so wishes, to make use of the document
11 EVD-P-03156 that is in Ringtail can be displayed inside the courtroom, not outside the
12 courtroom.

13 We can now go into public session, please.

14 (Open session at 2.43 p.m.)

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

16 PRESIDING JUDGE STEINER: Madam Witness, are you ready to continue with this
17 session in which you are being questioned by the Defence team?

18 THE WITNESS: (Interpretation) Yes, I'm ready to continue.

19 PRESIDING JUDGE STEINER: So just to remind you that whenever you want or
20 you need a break you just inform the Chamber.

21 THE WITNESS: (Interpretation) Yes, I understand.

22 PRESIDING JUDGE STEINER: Mr Kaufman.

23 MR KAUFMAN: Thank you, Madam President, your Honours.

24 Q. Madam Witness, once again, if you feel at any stage you need a break because of
25 my questions, do not hesitate to ask, and I will promise you that I will do my best to

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1 finish my part of the questioning this afternoon, but I give no guarantees. Okay.

2 Now, I promised you before we broke for lunch that I would come back with the

3 name of yet another of these militias, the one of which I gave you the initials, but I did

4 not know the full French name. So now I'm going to tell you the full French name of

5 this organisation and I am going to ask you if it rings a bell. The name is Société

6 Centrafricaine de Protection et de Sécurité. Are you familiar with that particular

7 organisation?

8 A. No, I've never heard of that organisation.

9 Q. And if I were to say that this was the organisation which was set up and run by

10 the ex-chauffeur of President Patassé, a man by the name of Victor Ndoubabé, would

11 that mean anything to you?

12 A. I know nobody with that name.

13 Q. Very well. We've talked about the Libyan involvement. Are you aware that

14 there were also Sudanese troops fighting with President Patassé?

15 A. Patassé's troops? Well, since we weren't together, were there Arabs? Were

16 there Libyans? Well, I can't say.

17 Q. Okay. And the very last thing on this particular topic, we've talked about

18 Libyans, I've asked you about Sudanese. I am going to ask you if you heard anyone

19 say that there were also Djibouti soldiers present fighting with the Patassé resistance?

20 A. I know nothing at all about all this.

21 Q. Now, the last question I asked you before the break concerned the bombing and

22 shelling of your neighbourhood, Boy-Rabé, and I asked you if your house was being

23 bombed and shelled would you flee, and your answer at the bottom of page 46 in the

24 unedited transcript was "I was supposed to go away." My question to you is why

25 didn't you go away? Why did you not flee?

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1 A. At the time, I was selling from my house. There was nobody -- there
2 was -- there were just a few people around and that's why I wanted to stay there and
3 continue to sell my coffee.

4 Q. You started by saying "There was nobody," and then you said there were a few
5 people. Does that mean that the majority of people had fled?

6 A. Most people had fled, but in the neighbourhood there were a few people
7 remaining here and there.

8 Q. You see, I'm finding this quite difficult to understand, Madam Witness, because
9 you painted a rather lively scene of about 30 people sitting in your coffee shop on the
10 morning of 30 October up 'til about 7 o'clock, so would you like to explain why you
11 now say that there were very few people attending your coffee shop?

12 A. I said that when I had finished the selling -- well, the young boys would come
13 because I sold coffee, and when I finished they stayed there to continue having
14 conversations with me, and people were coming in and they then fled.

15 Q. Among those who fled because of the bombing and shelling were your parents;
16 isn't that the case?

17 A. (Redacted), well, we are related.

18 Q. I am talking about the person you refer to as your sometimes father, sometimes
19 uncle, the person to whom the house belonged. He fled two days before the 30th
20 because of the shelling and the bombing, didn't he?

21 A. At the time the rebels arrived, he decided to leave; he himself, his spouse and
22 his children. I think that took more or less two or three days. That was two or
23 three days before the events occurred.

24 Q. Madam Witness, isn't the simple truth of the matter that people fled not because
25 of the so-called Banyamulengue, but because of the events of the 25th to the 30th; the

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1 events of Bozizé's rebels and Patassé's resistance all before the so-called

2 Banyamulengue arrived?

3 A. The parents, the father and mother, went ahead of the others, and the young

4 boys that arrived with whom I had conversations left because there was a group

5 coming there running. We asked them what was going on and they said to us "The

6 Banyamulengue are getting here. They are very wicked," and the young boys that I

7 was with fled, but it is true that before the Banyamulengue arrived, the parents, the

8 father, the mother, did flee because of the rebels.

9 Q. Who were these boys who were at your coffee shop? What type of people

10 were they?

11 A. These young men were the youngsters in the -- in my neighbourhood and in the

12 neighbourhood that is on the other side of the street.

13 Q. Is that the (Redacted) neighbourhood on the other side of the street?

14 A. On the other side of the street is the (Redacted) (phon) neighbourhood.

15 Q. Were these boys who were in your cafe who had stayed behind after everybody

16 had fled themselves participating in the fighting?

17 A. It wasn't until later on that the youngsters who came from the other side, after

18 they had learnt about the news about those who were arriving -- running, that is

19 when they fled. I don't know where they went to.

20 Q. But my question to you is were these boys fighting either for the rebels or for

21 President Patassé's various forces?

22 A. These young boys, well, I never saw them fight. They just came to have coffee

23 and, when they had finished eating, they left. That's all I know.

24 Q. Madam Witness, if you heard that the Banyamulengue were such wicked

25 people from these boys, once again I have to ask you why didn't you flee?

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1 A. At that time I was still selling and the people with whom I lived in the house
2 with had all gone. There was nobody else and I had to stay in the house.

3 Q. But there was someone by the name of "A" and also someone by the name of "G",
4 if you remember the names we discussed, who could have stayed behind and looked
5 after the house. Why did you have to look after the house?

6 A. The person who you are talking about doesn't live in our house. That person
7 lives in his own house on the other side, but because of the events that person came to
8 us to give us support. The only person who did previously live in the house was my
9 younger brother, who was killed. It was with him that I lived in that house.

10 Q. But, Madam Witness, your uncle also lived in that house, or right next door to
11 that house, didn't he?

12 A. Yes, his house was situated in front.

13 Q. And your uncle knows that you stayed behind to look after the house, doesn't
14 he?

15 A. Because they all left, I stayed at the house with the two brothers who are now
16 dead -- with the brother who is now dead.

17 Q. Yes, but your brother died after you say the Banyamulengue arrived. My
18 question to you is why would a woman want to stay at a house when these extremely
19 wicked people were coming, when your brother could have done all the protection
20 that was necessary? Why didn't you flee, like your uncle and his family?

21 A. It was me who didn't want to leave. I wanted to stay at the house.

22 Q. Madam Witness, the simple fact of the matter is, isn't it, that nobody told you at
23 the time that the Banyamulengue were coming who were extremely wicked people.
24 That was something that someone told you afterwards, isn't it?

25 A. I was told that at 7 o'clock in the morning. At that time when people were

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1 running through the roads, I asked them the question and they told me that the
2 Banyamulengue were coming and they were running, they were going towards the
3 national assembly and I was asking "Who was the Banyamulengue?" They said they
4 were Bemba's rebels and that they were wicked people. And on listening to that, the
5 young people decided to go.

6 Q. Well, I will move on from that now. You understand the Defence position on
7 that point. May I ask you, when people fled your neighbourhood because of the
8 shelling and the bombing, did they take their possessions with them?

9 A. Some people left with just some clothing. They couldn't leave with all the
10 property that was in their house.

11 Q. But would they take things that were perhaps particularly expensive that they
12 wouldn't want to leave behind just in case the house was bombed, or shelled, or even
13 pillaged by some of these forces who were fighting before the arrival of the so-called
14 Banyamulengue?

15 A. I said that father left before the Banyamulengue arrived. They arrived two
16 days later.

17 Q. My question is slightly different, Madam Witness. My question is the people
18 who fled because of the fighting between Bozizé's rebels and Patassé's resistance, did
19 they flee with possessions which were expensive; for example, a television, or maybe
20 a radio, maybe pots and pans if they had to find somewhere else to cook?

21 A. Where it concerns my house, it -- or they didn't go with televisions or with pots
22 and pans. No, they just took some clothing, to take that. I didn't see people who
23 were carrying televisions, or other things like that, to go with them.

24 Q. Thank you, Madam Witness. I'm now going to move on to another topic and I
25 am going to return to a topic which we discussed earlier - I only have a few more

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1 questions to ask you about this - it concerns the dress of the various people that you

2 saw. Once again I ask you to remind me, did you see Bozizé's rebels, or not?

3 A. I saw Bozizé's rebels.

4 Q. Jolly good. What were they wearing?

5 A. Some of them were wearing military uniforms. Others were wearing jeans.

6 Some had shirts. That's what I saw when they were going down the main road.

7 Q. Were they wearing anything on their heads?

8 A. I didn't see them carrying things on their heads, so I can't lie in that regard.

9 Q. Madam Witness, I think there might have been a problem with the
10 interpretation, because I didn't ask you if they were carrying anything on their heads.
11 I asked you if they were wearing anything on their heads.

12 A. I don't know what they could have on their heads. They were just wearing
13 their hats. I've nothing more to say.

14 Q. Well, you just gave me the answer I was exactly looking for. They were
15 wearing their hats. Please describe these hats.

16 A. The rebels are rebels. I can't distinguish between their different hats.

17 Q. Do you know what a beret is?

18 A. I can't distinguish between the hats.

19 Q. Okay. I don't want to tax you too much with different types of hats, but maybe
20 the colours of the hats. Was there one particular colour of hats that these people
21 were wearing, or were there numerous colours of hats that these people were wearing;
22 Bozizé's rebels?

23 A. I can't make a distinction.

24 Q. Now, I remember your answer to this question, but I want to ask it to you once
25 more anyway. Did you see any of Patassé's resistance or any of the people fighting

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1 on behalf of Patassé between the 25th and the 30th, or even afterwards, within the
2 month of October 2002?

3 A. During these events, I didn't notice Patassé's troops. I just saw the rebels.
4 They were moving around the neighbourhood. Now, where it concerns Patassé's
5 troops, I didn't see them, so I can't tell any lie in that regard.

6 Q. Very well. Now, we discussed in great detail earlier the difference between the
7 uniform of the garde présidentielle and the uniform of the regular FACA. I have one
8 more question on that which I want to ask you. Did the uniform of the garde
9 présidentielle have an ensign, an insignia on it, a badge?

10 A. I'm not aware of particular marks. When I see a soldier wearing a uniform,
11 I know, well, that's a military uniform, but I can't distinguish between different
12 insignia or other types of marks on that uniform.

13 Q. Now, Madam Witness, you've told us that during these events and the events
14 that happened at your house when you say the Banyamulengue visited there was an
15 electricity power-cut; correct?

16 A. Yes, there was indeed a power-cut. It was dark. We used oil lamps to shed
17 light.

18 Q. And according to your evidence, you were raped at some time after 9 o'clock in
19 the evening; correct?

20 A. That is correct.

21 Q. You were raped outside in the darkness, weren't you?

22 A. Yes. They made me go outside next to the house, next to our former latrine,
23 and it's there that they raped me.

24 Q. And despite the darkness and despite the light of the paraffin lamps, you
25 managed to make out the colours of the uniform of the garde présidentielle and the

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1 different types of footwear that these so-called Banyamulengue were wearing?

2 A. That night we were using oil lamps, but if it was the Central African Republic
3 soldiers wearing that uniform then I would have recognised the language they were
4 speaking. They speak Sango. The language of those soldiers was not the language
5 of my country.

6 Q. So what you're saying, Madam Witness, is that the only real identifying
7 feature as far as you were concerned at that point in time was the language; is that
8 correct? Please do correct me if I'm wrong.

9 A. They spoke the language of the Banyamulengue and they wore the uniforms of
10 the presidential guard, and it was that that -- that's what they were doing on that
11 night.

12 Q. Is it not the case that you were told that they were speaking the language of the
13 Banyamulengue after these events?

14 A. Nobody suggested that to me. They even came in the morning. I heard them
15 speak in the morning and I knew that they were Banyamulengue. Nobody told me
16 that.

17 Q. Well, Madam Witness, I'll come back to the issue of language in a minute. I
18 have one or two more questions which I want to ask you about what you managed to
19 see. Once again, I ask you when it came to the incident where you say your brother
20 met his death in the house, is it your evidence that through a tiny crack in the door,
21 with the darkness and with the paraffin lights, you managed to distinguish the
22 uniforms and the footwear of these so-called Banyamulengue?

23 A. Yes, I saw them through the crack in the door. They came at 7 o'clock and I
24 saw them before that at 7 o'clock. They came back at 9 o'clock. I saw them. They
25 were Banyamulengue. It is only after that, after the rape, that I was very upset and I

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1 went behind the house, having asked my cousin to follow me, and it was at the time
2 when I wanted to go back to my house, that's when I heard how they were breaking
3 down the door and that's why I went back and I went behind the door to look
4 through the hole. And I looked through this crack, I heard their voices, I heard how
5 they were speaking. They were speaking the language of their country, Lingala.

6 Q. Madam Witness, the language we will come to in a minute. I'm just asking
7 you what you managed to see through that crack in the door. And once again I ask
8 you, did you see through the crack in the door, not what you saw beforehand, not
9 what you saw afterwards, but through the crack in the door did you manage to
10 distinguish the uniforms and the footwear of these so-called Banyamulengue?

11 A. It was through the hole in the door that I was able to observe them in the light of
12 the lamps that were inside the house.

13 Q. Between the time that you asked "A", the man whose name starts with "A", to
14 come behind the house and between the time you heard the door being kicked in, you
15 lost eye contact with the Banyamulengue who had been at your house when you were
16 raped; isn't that the case?

17 A. I told you that at 9 o'clock, after the rape, I was very upset and I came back to
18 the house. Inside the house, I found my two brothers and I asked them to follow me.
19 I said to leave the house and to follow me so that we could spend the night in the
20 house behind the house and they refused. We tried to convince them in vain and
21 they refused. I was very upset. I left them and I went out to the veranda, went
22 round the house, and I went to the stairs in my house and that was where I heard
23 how the door was being broken down and that was how I came back on my steps and
24 I went behind the door and I started to look through that crack.

25 Q. So just so that there's no confusion, the group of Banyamulengue which raped

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1 you at 9 had left by the time you were trying to persuade your brothers to go to the
2 other house behind the house in which you were; is that the case?

3 A. What -- those who came at 9 o'clock after the rape, when we went back inside
4 the house, they took the money and then they left. I was very upset and that's why I
5 asked (Redacted) to follow me behind the house so that we could spend the night
6 there. Now, the other one said "As they've already taken everything, then all there is
7 is the scooter. There's no key on the door. If we just leave the scooter there, they
8 are going to come back to take it," and that's why I left and I got to the steps of the
9 house and I heard how the door was being broken down, so I went back and I went
10 behind the door and I looked through it, through the hole, to see what they were
11 doing. Even those who were going to out of the room where the scooter was or the
12 moped was, I saw them very well.

13 Q. You didn't see the last group of Banyamulengue entering the house when they
14 kicked the door down, did you?

15 A. I was behind the door, so there were the two planks of the door and I could see
16 through those two planks. I could see what was happening in the house. I could
17 see into the house.

18 Q. And you are saying that you saw all of the Banyamulengue - I think it was three
19 you mentioned - through that crack in the door?

20 A. Yes, yes, that's what I said. There were two in the lounge and there was one in
21 the room where the scooter was and (Redacted) was in that room with him.

22 Q. Madam Witness, I promise you this is the last question on this issue. I realise
23 that it's a slightly difficult topic, but through the keyhole -- sorry, not the keyhole, but
24 the crack in the door, I am going to suggest to you that you couldn't actually see into
25 the room where your brother was with the motorcycle. So I am asking you one more

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1 time how is it that you claim you saw all three?

2 A. No, I didn't say that I saw the three. There were two in the lounge and a third
3 was in the room where the motorbike was with my brother who had been killed.

4 Q. Now, this third one, if I understand your evidence correctly, the one who was in
5 the room who you didn't see, you didn't see his uniform, did you?

6 A. But the others who were in the lounge, they were in military uniform, so I
7 suppose that the third in the room also had the same uniform. They were all dressed
8 similarly.

9 Q. But, Madam Witness, that's your supposition that the person who shot your
10 brother was wearing a uniform of the garde présidentielle, isn't it? It's not what you
11 saw.

12 A. It's not just a supposition. When I heard the shots, I was behind the door, and
13 he left the room and I saw him meet the two others in the lounge, and they left
14 together and that's what I saw.

15 Q. Very well. I have completed that topic, Madam Witness. I'm now going to
16 move on to another topic. Now, if I am not mistaken, at the beginning of your
17 evidence in answer to questions from Ms Kneuer you said you only speak Sango and
18 a little French; is that correct?

19 A. I speak Sango and a bit of French.

20 Q. Well, I will stand corrected, but did you say you only speak Sango and a little
21 French, or do you speak other languages?

22 A. I don't speak any other languages other than those that I have just mentioned.

23 Q. Now, when the so-called Banyamulengue spoke to you directly and personally
24 on the various occasions that they visited you, they spoke to you in French, didn't
25 they?

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1 A. Well, they tried to speak in English. They said, "Give the money. Give the
2 money." That's something that you could understand. "If you don't give the
3 money, we'll kill you."

4 THE INTERPRETER: Interpreter's correction. They spoke in French. They said
5 "Give the money. Give the money. Not killed."

6 MR KAUFMAN:

7 Q. And you also said in your evidence that at the same time you heard these
8 so-called Banyamulengue speaking amongst themselves - that is, not addressing
9 you - they spoke in a language which you do not speak; is that correct?

10 A. That's right. I do not speak or understand their language.

11 Q. And I specifically remember, and I remember very well the page on the
12 transcript that this was said, it's page 27, line 7, of the English unedited transcript, you
13 said that this language which the Banyamulengue spoke amongst themselves was a
14 language which you had not heard before they arrived. Would you like to confirm
15 that, please?

16 MS KNEUER: Madam President --

17 THE WITNESS: (Interpretation) When they arrived, they spoke only their
18 language. They only spoke their language.

19 PRESIDING JUDGE STEINER: Madam Kneuer?

20 MS KNEUER: Madam President, thank you. The Defence is misrepresenting the
21 evidence of the witness. I think it was quite clear what the witness said at that time.
22 In addition, I would like to bring to your Chamber's attention that the Prosecution is
23 always interested in learning more about the Sango language. What we understand
24 is that there's one term in the Sango for two English terms to hear and to understand,
25 which may have initiated some misunderstandings perhaps the other day, but it was

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1 certainly clarified very clearly by the witness and also by Maître Zarambaud.

2 MR KAUFMAN: Madam President, if I may.

3 PRESIDING JUDGE STEINER: Yes, you may, but the Chamber recalls that this
4 specific reference to the witness was put in a context after you put the question. So
5 now it's taken again out of context. So if you are referring to the transcript, maybe it
6 would be better to have the whole part of the transcript including the one in which
7 the witness explained what she meant.

8 MR KAUFMAN: Well, this is the points that I wanted to make. First of all, my
9 learned friend Ms Kneuer's observations on complications with respect to various
10 words and their meanings in the Sango language I respectfully submit she can't make.
11 She's not giving evidence. That would be something which they will adduce
12 hopefully through their own expert witness who will give evidence in due course.
13 The second point, yes, this point was clarified at a later stage, but only after my
14 learned friend, Ms Kneuer, read it to her from her witness statement. The first time
15 that the witness gave evidence on the subject of when she heard the language of the
16 Banyamulengue for the first time, she said it quite clearly, if I am not mistaken at page
17 27, line 7, it was on their arrival.

18 PRESIDING JUDGE STEINER: I will allow Madam Kneuer to respond to that.

19 MS KNEUER: Madam President, I think the record speaks for itself. We can pull it
20 out. Before I sought full clarification of the witness, the witness already stated that
21 she heard Lingala by the people coming over to shine shoes. I just wanted to have it
22 absolutely clear in the record, that there's no doubt that the witness made the
23 statement by herself before I sought the clarification. Thank you, Madam President.

24 PRESIDING JUDGE STEINER: Thank you, Madam Kneuer. And just for the sake
25 of the hearing, I don't -- the Chamber doesn't see the explanation given by Madam

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1 Kneuer as expertise on Sango, but just to remind the Defence that maybe sometimes
2 we have some problems in interpretation. So sometimes if the question is put in
3 another way, the problems on interpretation can be solved. You can proceed,
4 Mr Kaufman.

5 MR KAUFMAN: Thank you very much, Madam President. I'm going to read from
6 the French transcript. I'm afraid I don't have the English transcript to hand at the
7 moment. As the Chamber will appreciate, we're still suffering from these problems,
8 although I am grateful to the CMS for giving us hard copies.

9 Q. You were asked in examination-in-chief questions of the Prosecution, and I am
10 referring to page 23 of the French transcript unedited at line 26, the following
11 question: (Interpretation) "Before the Banyamulengue arrived in your region ..."

12 THE INTERPRETER: Message from the English booth: Could parties and
13 participants please observe a pause. Thank you.

14 PRESIDING JUDGE STEINER: Mr Kaufman, just a request from interpretation.
15 When you change from one language to the other, you have to give a small pause in
16 order to allow interpretation to follow your wording. So, please, could you repeat
17 your question.

18 MR KAUFMAN: Yes, of course. I learn something new every day.

19 Q. At line 26 of page 23 of the unedited French transcript you were asked the
20 following question: "(Interpretation) "Did you ever -- have you ever heard Lingala
21 spoken before the Banyamulengue arrived in your region?"

22 PRESIDING JUDGE STEINER: Madam Kneuer?

23 MS KNEUER: Madam President, I am sorry to interrupt again, but my learned
24 colleague is again taking the evidence out of context. The relevant part is the
25 paragraph before.

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1 PRESIDING JUDGE STEINER: Could you please, Mr Kaufman, read the paragraph
2 before.

3 MR KAUFMAN: Does Madam President mean from line 23 or line 17, because if we
4 are going to read the whole context I'll start from line 17? Okay.

5 Q. You were asked at line 17 of this transcript: (Interpretation) "In which
6 language did the Banyamulengue speak amongst themselves?" (Speaks English)
7 And the answer that you gave was: (Interpretation) "They spoke their language;
8 the language of their country." (Speaks English) Do you remember that answer to
9 that question?

10 A. I said that they spoke their language and that they tried to speak in French.
11 They said to us, "Give us money. Give us money. We no kill you," but they were
12 speaking their own language in part. I don't know.

13 Q. And Ms Kneuer asked you at line 21 if you could explain to the Court how you
14 could identify that this language was Lingala. Do you remember being asked that?

15 A. It's the language that is spoken on the other side of the river, because in the
16 Central African Republic we speak Sango and in their country they speak Lingala.

17 Q. Well, Madam Witness, I'm going to suggest to you that they don't just speak
18 Lingala in that country, on the other side of the river. Is it your contention that they
19 only speak Lingala in the Congo; in the Democratic Republic of the Congo?

20 A. It's not my country. My country is the Central African Republic. What I do
21 know is that the Banyamulengue who came spoke Lingala. In any event, I'm not in
22 their country to find out whether there is three or four languages spoken there.

23 Q. Well, I'm going to persevere with this line of questioning a bit further, because I
24 really do want to know why you say it is Lingala. Now, you said you only speak
25 Sango and a little French. Do you know of the language Gbanda?

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1 A. My mother is Gbanda. I understand more or less Gbanda. Why do I say that
2 it was Lingala? Because the others, from the other side of the river, speak Lingala.
3 The ones who came were the Banyamulengue and that's what allows me to say this.

4 Q. Do you know Zande?

5 A. I don't speak the Zande language.

6 Q. Do you know Kaba?

7 A. I don't speak the Kaba language.

8 Q. Yakoma?

9 A. I don't speak the Yakoma language.

10 Q. One or two more. Nbaka?

11 A. I don't speak the Nbaka language.

12 Q. And the final two. Mongo?

13 A. I don't speak the Mongo language.

14 Q. And the very last one. Mbudja (phon). Mbudja. I am corrected by my
15 learned leader.

16 A. No, I don't speak the Mbudja language.

17 Q. Would you recognise any of these languages if they were spoken?

18 A. No, I don't understand. If you speak to me in Sango, I will understand you,
19 but if you speak one of those other languages you mentioned I will not be able to
20 understand you.

21 Q. Madam Witness, I gave you a list of languages all of which, apart from the last
22 two, that is Mongo and Mbudja, are spoken exclusively in our submission in the
23 Central African Republic. There are many languages and dialects spoken in the
24 Central African Republic, aren't there?

25 A. Yes, there are several languages.

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1 Q. Somewhere in the region of perhaps 60?

2 A. The number of languages? I am not in a position to give the number of
3 languages spoken.

4 Q. And the last two languages that I gave you, Mongo and Mbudja, they are
5 exclusively spoken as you would call it on the other side of the river in the
6 Democratic Republic of Congo. Are you aware of that?

7 A. No, I know nothing.

8 Q. So my question to you, Madam Witness, is once again how do you know that
9 the language that the so-called Banyamulengue were speaking was Lingala and not
10 one of these other dialects that you don't recognise and don't speak?

11 A. Lingala is spoken on the other side of the river. Lingala is spoken by the
12 Banyamulengue. It is the language that the Banyamulengue speak.

13 Q. Lingala is the language that people told you that the Banyamulengue speak.
14 That's the case, isn't it?

15 A. No one - no one - said such a thing to me. I've heard the Banyamulengue
16 speak their language. No one told me that that was the language. It was the
17 Banyamulengue themselves who spoke their language. They spoke Lingala. I
18 heard it clearly. I didn't understand, but they were speaking Lingala. I heard them
19 speaking Lingala.

20 MR KAUFMAN: Thank you, Madam Witness. I have finished that topic. Madam
21 President, would you like me to continue? I see it is 10-to-4. Oh, are we until 4.30
22 today?

23 PRESIDING JUDGE STEINER: Until 4. It is a normal session until 4.

24 MR KAUFMAN: Until 4.

25 Q. Well, the very last question on this subject of language. Is it not the case that

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1 you concluded the fact that the language which you heard was Lingala because it was
2 being spoken by Banyamulengue?

3 A. *Who are the ones who speak Lingala? It's not the people who live over there
4 who speak Lingala. I know that the people who live over there close to the shore, they
5 speak Lingala.

6 MR KAUFMAN: Thank you, Madam Witness. Madam President, once again I
7 have finished this topic. I am about to start a new topic. I don't know whether it
8 would be an appropriate time perhaps to adjourn?

9 (Trial Chamber confers)

10 PRESIDING JUDGE STEINER: Mr Kaufman, has the Defence already any
11 estimation on how long it will take for the Defence to finish? Because tomorrow is
12 Friday and so I am not talking about today, but about the whole duration of the
13 examination by the Defence?

14 MR KAUFMAN: Excuse me, Madam President. Madam President, the client is of
15 course anxious that - Mr Bemba himself - that this case continue as long as possible,
16 even this evening, so I am quite happy to go on if the Chamber is minded.

17 As far as the estimate is concerned, we anticipate somewhere in the region of three
18 hours. Definitely this witness will be going home this weekend I hope; that is taking
19 into account that the Prosecution will have to re-examine and any further questions
20 which I doubt there will be from the Defence.

21 PRESIDING JUDGE STEINER: Thank you for the estimation, Mr Kaufman. We
22 cannot go further today. We have a very strict timetable in relation to the
23 interpreters. They deserve to take a rest after three sessions of one-and-a-half hours
24 each, but the Chamber would very much appreciate it if the Defence could conclude
25 tomorrow as soon as possible by the morning session its questioning and then maybe

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1 in the afternoon the Prosecution and Defence are able to finalise.

2 MR KAUFMAN: Yes, Madam President. I shall ensure that I cut down my
3 examination as appropriate.

4 PRESIDING JUDGE STEINER: Thank you. So for today I think we have to finish.
5 We need to thank you very much, Madam Witness, for your efforts in being here for
6 so many hours. We wish you a very nice evening, a good night and we will resume
7 tomorrow morning at 9.30 when the Defence will finish its questioning. So
8 tomorrow morning you will be back and we hope it's your last day before this Court.

9 So thank you very much, and we are going, please, into closed session in order to
10 allow the witness to be taken out of the court.

11 (Closed session at 3.53 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: Let's turn back into open session, please.

15 (Open session at 3.55 p.m.)

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

17 PRESIDING JUDGE STEINER: Thank you very much. So we are going to adjourn
18 until tomorrow at 9.30. I would like to thank very much the Prosecution team, legal
19 representatives of victims - Maître Douzima, Maître Zarambaud - representatives of
20 OPCV, the Defence team, Mr Bemba, and as always thank you very much for our
21 interpreters and court reporters. So, wishing everyone a very nice evening, this
22 session is adjourned.

23 THE COURT USHER: All rise.

24 (The hearing ends at 3.56 p.m.)

25 CORRECTIONS REPORT

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1 The followings corrections have been made in the transcript:

2 * Page 33 lines 22 to 24

3 "The uniform was -- was -- had different *stains on it, so to speak, the tâcher pattern,
4 and they were worn by the presidential guard. Those were the uniforms I saw.

5 The Banyamulengue were wearing them." is corrected by

6 "The uniform had different markings on it, so to speak, the tache-tache pattern of the
7 Presidential Guard. Those are the uniforms I also saw the Banyamulengue wearing"

8 *page 36 line 15

9 "during the newspapers" is corrected by "during the news"

10 CORRECTIONS REPORT 2

11 The Court Interpretation and Translation Section has made the following corrections
12 in the transcript:

13 *Page 22, line 4

14 "I said that they came and went away in 2002" is corrected by "I said that they were
15 carrying out incursions in 2002

16 *Page 31, line 4

17 "There was fighting *between Patassé's troops." Is corrected by "There was fighting
18 *against Patassé's troops."

19 *Page 34, lines 6 and 7

20 "The uniform of the soldiers -- well, there are different colours, blue, green, yellow, in
21 any event, like the lopa (phon). Is corrected by "The uniforms of the soldiers were
22 different colours: green, yellow. In any event, like the lopa (phon)."

23 *Page 58, line 3, 4 and 5

24 "But who speaks Lingala? Not people who live there who speak Lingala. The ones
25 who live there towards the shore, they speak Lingala." Is corrected by "Who are the

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- 1 ones who speak Lingala? It's not the people who live over there who speak Lingala.
- 2 I know that the people who live over there close to the shore, they speak Lingala.
- 3 RECLASSIFICATION REPORT
- 4 Pursuant to Trial Chamber III 's Second Order, ICC-01/05-01/08-2223, dated 4 June
- 5 2012, and the instructions in the email dated 7 October 2013, the version of the transcript
- 6 with its redactions becomes Public.
- 7