

1 International Criminal Court

2 Trial Chamber III - Courtroom 1

3 Situation: Central African Republic

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

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

6 Trial Hearing

7 Friday, 14 January 2011

8 (The hearing starts in open session at 9.41 a.m.)

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

10 PRESIDING JUDGE STEINER: Please be seated.

11 THE COURT OFFICER: Good morning your Honours, Madam President. We are
12 in open session.

13 PRESIDING JUDGE STEINER: Good morning. Good morning, everyone. I
14 would like to welcome the Prosecution team; legal representatives of victims, Maître
15 Douzima, Maître Zarambaud; the representatives of OPCV; the Defence team,
16 Mr Jean-Pierre Bemba Gombo; our interpreters. And I will ask, please, the court
17 officer to call the case.

18 THE COURT OFFICER: Yes, Madam President. Situation in the Central African
19 Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, case
20 reference ICC-01/05-01/08.

21 PRESIDING JUDGE STEINER: Thank you very much.

22 So we are going to continue with the questioning of Witness 87 by the Defence team
23 and, for that purpose,

24 I ask please the court officer to turn briefly into closed session in order for the witness
25 to be brought in.

1 (Closed session at 9.43 a.m.) Reclassified as open session

2 MR KAUFMAN: Madam President, if it's possible whilst the witness is being
3 brought into court, if I may make just one brief comment or submission.

4 PRESIDING JUDGE STEINER: Of course. It has to be done in closed session?

5 MR KAUFMAN: It's very brief, Madam President. It is just -- okay. I just don't
6 want --

7 THE COURT OFFICER: Just for the record of the case, we are in closed session now.

8 MR KAUFMAN: Okay.

9 PRESIDING JUDGE STEINER: So you have the floor, Mr Kaufman.

10 MR KAUFMAN: Madam President, of course it's the Prosecution's right to object to
11 questions of the Defence if the Prosecution feels that they are inappropriate. All we
12 would respectfully ask is that when objections are made that the witness remove the
13 headphones from her head so she doesn't hear the translation of what's going on.
14 That's all.

15 PRESIDING JUDGE STEINER: It's a quite peculiar request.

16 MR KAUFMAN: Well, I'll explain why, Madam President. Because sometimes in
17 the reasoning given by the Prosecutor for her objection there might contain or -- the
18 answer to the question that we are seeking or the response to the Prosecution wishes
19 to elicit from that very witness. And by -- if the matter is being translated to the
20 witness at the time, then we feel that that might perhaps impede the authenticity of
21 any potential answer that she might give.

22 If I just may add that in certain jurisdictions - of course, this Chamber will decide
23 what's appropriate for its own purposes - when objections are made concerning
24 points of evidence it is appropriate times that juries, if there is a jury sitting, are taken
25 out of the Chamber and the witnesses of course.

1 PRESIDING JUDGE STEINER: Madam Kneuer?

2 MS KNEUER: Madam President, your Honours, the Prosecution is of the opinion
3 that in certain situations it may be appropriate that legal arguments in general, not
4 only objections, should not be discussed in front of a witness.

5 However, with regards to what my colleague is referring to, all objections yesterday
6 I think did not trigger a measure to exclude the witness from hearing these objections
7 or arguments. In particular, since the objections regarding misrepresentation of
8 evidence is nothing that should be hidden before the witness.

9 If my learned colleague would have quoted the record properly, then there wouldn't
10 be a problem and I think it's actually appropriate to confront or to read to the witness
11 a part of either her statement or the record because that's what she said. It's her
12 testimony.

13 So I don't think it's conclusive what my learned colleague submitted to that extent.

14 If there is a situation which requires a decision, I think your Honours should take this
15 decision on a case-by-case basis. Thank you.

16 (Trial Chamber confers)

17 PRESIDING JUDGE STEINER: So in principle, Mr Kaufman, the Chamber is of the
18 view that in some circumstances for discussion on legal issues or very complex issues
19 there is no need for the witness even to be present, and would even facilitate
20 interpretation and legal terms and the parties and participants can discuss without
21 even the presence of the witness, but in relation to objections I think the Chamber
22 prefers to decide on a case-by-case basis instead of establishing the rule ordering the
23 witness to take off the headphones because I don't think this is, let's say, a healthy
24 measure to be taken in advance every time we have an objection.

25 The Chamber will be more attentive to -- in case it happens that it understands that

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 the Prosecution is leading the witness, or anticipating an answer, or influencing a
2 witness in its response. I think it's better if the parties conduct their questioning and
3 objections in a way that is not disruptive to the hearing.

4 Court officer, please introduce the witness into the courtroom.

5 (The witness enters the courtroom)

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

8 (Open session at 9.50 a.m.)

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

10 PRESIDING JUDGE STEINER: Thank you very much.

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

12 (The witness speaks Sango)

13 PRESIDING JUDGE STEINER: Good morning, Madam Witness.

14 THE WITNESS: (Interpretation) Good morning, your Honour.

15 PRESIDING JUDGE STEINER: Did we have interpretation? Yes, thanks. We
16 hope that you rested during the night and that you are feeling well to continue with
17 your testimony today.

18 THE WITNESS: (Interpretation) Yes, I did rest, and I am in good form today.

19 PRESIDING JUDGE STEINER: This is very good. The Chamber needs to remind
20 you of a couple of things. First, that you continue under protective measures, having
21 your image and your voice distorted to the public so the public cannot identify you.
22 You also have a supporting person at your side and we would like to remind you that
23 any time you need a break, if you feel tired or distressed, you just ask the Chamber
24 and we will grant you any breaks you need. Do you understand that?

25 THE WITNESS: (Interpretation) Yes, I've understood.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 PRESIDING JUDGE STEINER: And finally, Madam Witness, the Chamber needs to
2 remind you that you are still under oath. Do you understand that?

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

4 PRESIDING JUDGE STEINER: Thank you very much. From now on, the Defence
5 will continue to question you. Mr Kaufman, you have the floor.

6 MR KAUFMAN: Thank you, Madam President.

7 QUESTIONED BY MR KAUFMAN: (Continuing)

8 Q. Good morning, Madam Witness. I hope you rested well and I hope you give
9 me permission to continue to ask have you some questions.

10 A. Merci.

11 Q. Madam Witness, let's turn to the day of the events which you've been describing,
12 these traumatic events, and talk about what you saw at about 2 to 3 in the afternoon.
13 You said you saw the so-called Banyamulengue walking along the road carrying
14 goods. That's correct, that's what you said, wasn't it?

15 A. Yes, I said that at 2 in the afternoon when I went out and I was along the side of
16 the road, they were carrying these goods along the road. This was behind the
17 market. We went out along the side of the road and we saw them. They were
18 coming down with all these various items.

19 Q. From which quartier were they coming?

20 A. They were coming from the market and they were coming down towards -- to
21 go towards the lycée, Lycée Boganda.

22 Q. I think in your statement you said they were coming from the quartier Gbaya; is
23 that correct?

24 A. But the market, you leave the market -- you leave the Gbaya neighbourhood,
25 you get to the market and then you go down, you take the big road to go down

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 towards the Lycée Boganda.

2 Q. How many of them were there?

3 A. I didn't count, but there were many of them. They were in single file on the
4 other side of the road and they were walking down in single file. I didn't count, but
5 there were many of them that day.

6 Q. Thank you, Madam Witness. Please try and estimate a number. I'm only
7 asking you to estimate a number. You don't have to say anything else.

8 A. I told you that they were in a line. They were in single file. There were many
9 of them. They came down. There were many of them.

10 Q. More than 20?

11 A. More than 20, yes.

12 Q. More than 40?

13 A. More than 40. I said there were many of them, and they were in a single file
14 and they were coming down.

15 Q. Did this include the women and the babies that you were talking about in your
16 statement?

17 A. Yes, the women and the babies. They had the babies on their backs and they
18 were in the line. They were amongst the Banyamulengue.

19 Q. And these women were wearing a special type of skirt you said in your
20 statement. What was that skirt?

21 A. Yes, some of them had wraps. Others were wearing skirts and they were a
22 traditional form of garment that dancers would put on to dance, and we call them
23 kündü in Sango.

24 Q. Do you think it's reasonable that these wicked Banyamulengue who were
25 invading would come with dancing girls and babies?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 A. I don't know. Perhaps those women were their wives, or perhaps they were
2 part of the rebels. I was not in a position to know that. They had children who
3 were -- they were carrying on their backs.

4 Q. So there were lots of these people, and you can't possibly have remembered
5 each and every face amongst those people, could you?

6 A. I said that there were a lot of them. There were very many of them that day.

7 Q. And, as a result, you couldn't tell whether those who were coming from the
8 Gbaya quarter were those who had gone there?

9 A. Yes, they were going down the main road. They were taking the main road
10 and they left the Gbaya quartier to go downwards. I don't know whether they were
11 coming from the market, or the Gbaya quartier, but they were coming down the main
12 road.

13 Q. Now, you've already mentioned the goods that they were carrying: Radios,
14 televisions, pots and pans. That's the case, isn't it?

15 A. Yes, they were carrying radio sets, TV sets, pots and pans, foam mattresses on
16 their heads.

17 Q. Household appliances?

18 A. Yes, there were kitchen appliances.

19 Q. Madam Witness, I'm going to suggest to you that you can't tell whether these
20 people who were leaving were in fact people fleeing with their worldly possessions.

21 A. No, they were not the ones who were fleeing because of the war. Those who
22 were fleeing because of the war were Central Africans - I would have recognised
23 them - but those who were carrying things on their heads were really
24 Banyamulengue.

25 Q. Well, I shall move on. Let's now move on to the incident at 9 o'clock in the

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 evening; the incident of your rape. Now, once again, please don't mention the name
2 in full; mention the name by using the first letter of the name, okay? Who was
3 present with you before the Banyamulengue arrived at 9 o'clock? Use the letter by
4 which their name starts.

5 A. My two brothers were there. We were together.

6 Q. That is your brother who was killed and the other brother whose name begins
7 with "A," isn't it?

8 A. Yes, they were the ones who were there with me.

9 Q. And they were still there after you had been raped, weren't they?

10 A. Yes, on that day they were inside the house at the time that I was raped.

11 Q. Now, you've already told us that you told everyone in your family - well, not
12 everyone maybe, but a lot of people in your family - about the awful events of that
13 day, didn't you?

14 A. Yes, I told my father all about this when they came back. When they came
15 back, I told them the whole story.

16 Q. Did you tell the person whose name begins with "A" about what had happened
17 to you whilst you were outside with the so-called Banyamulengue and after you went
18 back into the house?

19 A. Yes, I told them the whole story, because that morning when (Redacted) , my
20 brother, was killed, I explained it to them.

21 Q. Maybe there is a bit of confusion, Madam Witness. I'm asking you
22 immediately after the rape, at about 9 o'clock, or however long it took for the so-called
23 Banyamulengue to rape you, immediately after you returned to the house and before
24 other Banyamulengue came to, as you say, kill your brother, did you then tell
25 (Redacted)-- sorry, (Redacted), about what had happened?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 A. When they were inside the house he already knew - so did the dead
2 one - because they dragged me outside and they knew that these people were
3 sleeping with me.

4 Q. You know that your uncle was interviewed by the Office of the Prosecutor,
5 don't you?

6 A. Yes, on that day he was heard so as to obtain his permission to exhume the body
7 of his son. His son had been buried next to the house, and that was not good.

8 Q. But he also gave a statement to investigators like you did, didn't he? You
9 know that?

10 A. Yes, I know he was interviewed and he was asked whether he was -- he would
11 agree to the exhumation of the body and to be able to bury it somewhere else, and he
12 gave his agreement and I was there.

13 Q. Do you know if the Office of the Prosecutor interviewed your brother whose
14 name begins with "A"?

15 A. No, he was not interviewed. I don't remember that. If he was interviewed,
16 well, I wasn't aware of that.

17 Q. Madam Witness, once again I apologise for this question. I know it's hard for
18 you to answer these types of questions, but after this brutal rape, why did you follow
19 the so-called Banyamulengue back into the house? Why didn't you just run away?

20 A. Well, it's my house and my two brothers were still there, so I went back into the
21 house so as to tell my brothers that they should leave the house. That's why I went
22 into the house.

23 Q. They would have known that they would have to leave the house. After all,
24 they'd been terrorised by these Banyamulengue who had stolen stuff earlier.

25 A. But since all the belongings had already been taken away, well, my brother

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 couldn't just leave the moped there. That's why he stayed there, and then later on he
2 died.

3 Q. You told us that later you went and alerted the neighbours after your brother
4 had been killed. Why did you not go and alert the neighbours after you had been
5 raped?

6 A. You know full well that these are very shameful events.

7 Q. Madam Witness, please understand me. I don't make light of what happened
8 to you. You must understand that. Can you estimate what time it was, more or
9 less, when the Banyamulengue left after you had been raped and you went and sat on
10 the veranda and started to try to persuade your brothers to leave with you?

11 A. It was around 9 or 10. That's when these events happened, so let me repeat
12 that it was about 9 p.m.

13 Q. Well, let me come at the same question from another angle. At about what
14 time did you hear the door being kicked in by the Banyamulengue that allegedly
15 killed your brother?

16 A. My brothers and I were discussing matters, that took some time, and I think it
17 was already towards 10 p.m. And since he refused, I went out of the house and
18 went around it, and as I was going out of the house and going down the stairs, well,
19 that is when I heard the noise of the door being kicked in. That was around 9 p.m.

20 Q. Well, I think this is not very clear, Madam Witness. It's probably not your fault.
21 Once again, are you saying that you heard the door being kicked in at about 9 or at
22 about 10 o'clock?

23 A. I told you that the events took place between 9 and 11 p.m., and that was the
24 period during which they kicked down the door.

25 Q. Well, now we have got 9 o'clock, 10 o'clock and 11 o'clock which appear on the

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 transcript. Once again, please try and be exact. At about what time do you
2 estimate that the door was kicked in?

3 A. I said that we were there at 9 p.m. and I was discussing matters with them.
4 Then I left them, to go round the house, and that was the -- that was the moment
5 when I heard the door being knocked down.

6 Q. How long did the conversation take between you and your brothers?

7 A. The conversation went on until 11 p.m., and I was upset and decided to go
8 outside, round the house, and in any case the conversation lasted some time.

9 Q. Thank you, Madam Witness. I think we've clarified that now. So how long
10 after the door was kicked in did you hear the shots?

11 A. I already told you that when I was going outside, round the house, just a few
12 seconds later I heard them knocking down the door. I came back towards the door
13 and I stayed there, and it lasted, and I looked at all this for a long time. It took a long
14 time.

15 Q. How long were you looking through the crack for? The crack in the door, that
16 is.

17 A. I spent a long time there, behind the door, and from there I could look at what
18 they were doing inside and it took a long time.

19 Q. What, an hour you were standing there looking through the crack in the door?

20 A. I was just there at the door and, you know, there were steps. I was tired, but I
21 stood there. I stood up there and I could hear them, and I was also hearing my
22 brother's voice and the voice of the person who wanted to take away the moped. So
23 I spent a lot of time there at the door.

24 Q. Madam Witness, I asked you how long you stood there at the door, looking
25 through the crack and hearing these things. Was it an hour?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 A. I cannot remember how long. What I can say is that I spent quite a long time at
2 the door.

3 Q. Well, try and estimate. Is it about as long as you've been here in court this
4 morning answering my questions?

5 A. I have said to you that I stood there behind the door for a period of time and
6 that is from where I was looking at them doing what they were doing inside.

7 Q. I must insist, Madam Witness, that you give me an answer to this question. Is
8 it about as long as I've been asking you questions this morning in court?

9 A. I think that, well, since I got here today I haven't spent much time. All I know
10 is that on that day I spent a lot of time at the door.

11 Q. So maybe more than the time you've spent answering my questions this
12 morning?

13 A. I already said to you that I spent a lot of time behind that door, and let me
14 repeat it: I spent a lot of time there; a lot of time behind that door.

15 Q. Madam Witness, isn't it the case that during that long period of time that you
16 stood behind the door you could have run away and got help if you felt that there
17 was a threat to your brother?

18 A. At that time, the Banyamulengue were the ones who controlled everything in
19 the quartier. Who could I turn to? Even my neighbours couldn't come out and
20 help us. And later on, I went to call the child of my aunt who was on the other side
21 and he too refused to come, so who could I have possibly turned to to get assistance?

22 Q. Madam Witness, are you aware of the date which is registered on your brother's
23 death certificate as the date of his death?

24 A. I think it was the 30th or 31st. That's the date I remember.

25 Q. Well, you should know. You were there. Perhaps --

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 A. (No interpretation)

2 Q. Madam Witness, can you read numbers?

3 A. What type of numbers are you talking about?

4 Q. I am talking about numerals. If I were to draw a number 4, for example, would
5 you be able to recognise that as a number 4?

6 A. Yes, I am able to read them.

7 MR KAUFMAN: Madam President, I'm fully aware of the Victims and Witnesses
8 Unit's recommendations. I don't, of course, wish to present anything for the witness
9 to read. Just if she can recognise some numbers on a document which I will display
10 for her. But since this document mentions a name that shouldn't perhaps be
11 disclosed to the public, I think it's probably best if we go into even -- well, it can be
12 private session, as long as the document is not displayed to the public.

13 PRESIDING JUDGE STEINER: Court officer, let's go into private session and the
14 document only inside the courtroom.

15 (Private session at 10.26 a.m.) Reclassified as open session

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

17 MR KAUFMAN: I think Madam President knows which document I wish to display
18 to the witness; it's the fiche de declaration de décès. Well, we have two versions of
19 this now. Pursuant to the Chamber's instructions yesterday, we can use the less
20 redacted one, but I'm quite happy to present the redacted one as well because as I said
21 I only want to -- well, I will present the -- pursuant to the Chamber's instruction, I will
22 present the less redacted one, if that's okay.

23 PRESIDING JUDGE STEINER: Could you please give the EVD number? It is an
24 EVD-P number, so it will have to be assigned an EVD-T number.

25 MR KAUFMAN: Madam President, unfortunately I don't have the EVD number. I

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 do have the ERN number if that can be of assistance to the Court. Thank you very
2 much. The ERN number, and it's from the pre-trial stage of the proceedings, is
3 CAR-OTP-0036-0162.

4 PRESIDING JUDGE STEINER: Court officer, please assign an EVD-T number to the
5 document.

6 THE COURT OFFICER: Yes, Madam President. The document referenced as
7 CAR-OTP-0036-0162_R01 will be assigned reference EVD-T-D04-00003 and will be
8 marked as confidential. The document is available on your screens.

9 MR KAUFMAN:

10 Q. Madam Witness, can you see that document on your screen? Well, perhaps the
11 court officer can help. Thank you.

12 A. (No interpretation)

13 Q. Do you see it now, Madam Witness?

14 A. (No interpretation)

15 Q. Do you see it?

16 A. (No interpretation)

17 MR KAUFMAN: Madam President, I'm lacking translation. I don't know
18 whether --

19 THE WITNESS: Yes, I can see it.

20 MR KAUFMAN:

21 Q. Thank you. I wonder if the lady who is sitting next to you might like to point
22 out to you the second line which is entitled "Date du décès." There's a number there.
23 Do you know what that number is? Can you read it for us. Thank you very much,
24 Madam Witness.

25 A. It was the 31st.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 Q. Now, the very last question with respect to this document and I am not asking
2 you to read anything. Please look at the very bottom, on the left-hand side, and if
3 the lady sitting next to you could point out the words "le/la declarant," at the bottom,
4 the bottom at the left. My question is, do you recognise that signature?

5 A. It could be that it is the signature of the father of the deceased person. I don't
6 know this signature.

7 Q. Thank you very much, Madam Witness.

8 May this be -- well, it's already been assigned an EVD-T number so it's already in
9 evidence. Thank you, Madam President. We can turn off the screens now and go
10 back into open session.

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

12 (Open session at 10.33 a.m.)

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

14 MR KAUFMAN:

15 Q. So, you were hearing this conversation and watching what was going on
16 through the crack in the door at around about 11 o'clock at night. How long until
17 you heard --

18 A. It was through this crack in the door that I was looking into the house, yes.

19 Q. Through this crack in the door, did you see the so-called Banyamulengue
20 leaving the house?

21 A. Yes. Those who killed my brother -- or the person who killed my brother, he
22 joined the others in the lounge. They left and they went out, went away.

23 Q. Now, you mentioned that your brother said something. He was moaning and
24 he said something, "Thank you. Thank you." What else did he say?

25 A. Yes, he said, "Thank you, you have killed me. Go ahead," and he started

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 moaning, "Mm-mm" I heard, and his soul departed.

2 Q. But you didn't see your brother's body until the following morning, did you?

3 A. No, I didn't see his body until the morning. It was in the early hours of the
4 morning that I discovered his body.

5 Q. But you saw the Banyamulengue leaving, didn't you, through the crack in the
6 door? That's what you said.

7 A. Yes, that's what I said.

8 Q. And how long passed from the moment that these Banyamulengue left until
9 you went in the following morning?

10 A. When I heard the shots, I went behind the door; I was there for a while to look.
11 I heard the people leaving and I went behind the door. I was there for a long time.
12 After that, I went to the neighbour to knock on the door. I said, "Open the door,"
13 and I explained to them, (Redacted), open the porte. Open the door." I said, "The
14 Banyamulengue have come into our house. I heard gunfire, and certainly they
15 wanted to take the motorbike and they shot." They also said that they had heard this
16 gunfire. They advised me to go back to sleep and wait until the morning.

17 Q. How long was it that you waited until the morning?

18 A. I told you that this lasted for some time. I went to another neighbour. I
19 knocked on her door and I said -- or as I was there with one of the sons, I said that the
20 Banyamulengue had come into our house, but I heard gunshots and is it possible that
21 they come and see what's happening? They refused to leave because the
22 Banyamulengue were everywhere, and they refused to leave the house. And -- or he
23 refused to leave the house. And then I went back to bed for a while. I looked
24 through the window and, when it was daytime, I left.

25 Q. What time did you go into the house in the morning and discover the body?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 A. It was around 4-5 o'clock in the morning, as day was breaking. I started crying,
2 screaming out, and I was calling (Redacted) who came and he was in front. Then
3 people started coming. He was in front. I was behind with a lamp. He told me
4 that he had been killed. I ran out screaming.

5 Q. Why didn't you go straight into the house immediately after you knew the
6 Banyamulengue had left, to see how your brother was, to see if he needed help, to see
7 if he needed medical treatment?

8 A. But I heard three shots. He couldn't be alive after that. I was a woman.
9 What could I do on that night? Everybody was armed.

10 Q. Madam Witness, how could you know whether he was alive or not? You've
11 told the Court you didn't see what happened in that bedroom where he met his death.

12 A. How could I not know? I heard three shots. I heard three shots, so I was
13 behind the door. He was groaning.
14 I heard that. I knew after these three shots he would have to die.

15 Q. Madam Witness, you've told the Court that you told your uncle about all the
16 details that happened. That's correct, isn't it?

17 A. Yes. After he returned, I told him everything that happened or had happened
18 during his absence.

19 Q. And effectively, you were the only person -- pardon, Madam Witness. Please
20 take your time. Madam Witness, do you want a little rest?

21 A. You can continue.

22 Q. Thank you. And effectively, you were the only ear witness, as it was, and sight
23 witness through the crack in the door, to the events which transpired in that house
24 where (Redacted) met his death?

25 A. Yes, on that day I was alone. Nobody else was there. I heard gunshots. I

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 also heard the groaning and I also saw the Banyamulengue in the house. I was alone.

2 There was nobody else.

3 Q. Did you tell your uncle that they forced your brother to kneel before they shot
4 him? I'll use the word in French, agenouillé?

5 A. No, I don't remember, but on that day -- I don't remember. I was stunned.

6 I mean, I followed what was being done from the door, but with regard to putting
7 him on his knees, putting my brother on his knees, I wouldn't be able to tell you that,
8 but what I saw with -- well, I heard him groaning and he was bathed in his blood.

9 Q. But you're the only person who could have told your uncle what happened in
10 that house, aren't you?

11 A. Yes, he was in PK22. On his return, he explained the conditions, the conditions
12 under which my brother had died. I told him everything. I was behind the door, I
13 heard shots and, when he had died that morning, we washed the body. That's what
14 I explained to him.

15 Q. Did you tell your uncle that your brother said to the so-called Banyamulengue
16 the following, and I am reading in French so I shall do it very slowly: (Interpretation)
17 "You've already taken everything. This motorbike is the only thing that remains of
18 my father. I will not let you take that."

19 (Speaks English) I will repeat my question: Did you tell your uncle that that was
20 what your brother had said to the so-called Banyamulengue?

21 A. On that day, they spent time in the house. Perhaps I said it, but I've forgotten.

22 Q. Does your deceased brother speak French -- or did he speak French? I
23 apologise.

24 A. Yes. He wasn't well-educated. He managed to put some French together; he
25 spoke a bit of French.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 PRESIDING JUDGE STEINER: Mr Kaufman, sorry to interrupt you, could you
2 please give the reference to these passages that you are mentioning in your questions?

3 MR KAUFMAN: Yes. CAR-OTP-0036-0139.

4 Q. Madam Witness, I'm going to suggest to you something. I'm going to suggest
5 that some of the things that you said to your uncle, including the things that were
6 said that you say by your brother as he lay dying, "Thank you. Thank you," they just
7 weren't heard by you?

8 A. I heard with my own ears. It was when I was behind the door. It's not
9 somebody else who told me that.

10 Q. You didn't see your brother being shot, you just heard shots, and you want the
11 Court to believe that he was murdered. That's why you say it, isn't it, that he said,
12 "Thank you. Thank you. You've killed me"?

13 A. I was behind the door. I heard gunshots in the room that he was and it was
14 from behind this door -- well, it wasn't far from the room where I was. It wasn't far
15 from the door. I heard this with my own ears. I heard the gunshots. I heard how
16 he was killed.

17 Q. Madam Witness, in what language did he say, "Thank you. Thank you.
18 You've killed me. You can go in peace"?

19 A. He said it in Sango. He said that in Sango.

20 Q. He said it in Sango because perhaps the people who did this to him understand
21 Sango; isn't that the case?

22 A. I can't know that. Could they understand Sango? I can't know that. All
23 I know is that what he said, he said in Sango.

24 PRESIDING JUDGE STEINER: Maître Douzima?

25 MS DOUZIMA-LAWSON: (Interpretation) If you would allow me, just with

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 regard to a clarification, "thank you" is also said in Sango the word "merci." That's
2 the clarification that I wanted to give.

3 PRESIDING JUDGE STEINER: Thank you. Mr Kaufman.

4 MR KAUFMAN:

5 Q. Once again, Madam Witness, I really don't make light of this and I apologise if
6 my questions are intrusive. To say "Thank you. You've killed me. You can go in
7 peace" in Sango to someone who technically according to you wouldn't understand
8 Sango wouldn't be reasonable, would it?

9 A. When he said that, they had already left. The person who was with him in the
10 chamber had - or in the room had already left that room in order to meet the others
11 and to leave the house, and it was at that time that he said, "Listen, you have killed
12 me."

13 Q. Well, if they had already left, Madam Witness, why would he say, "You can go
14 now"?

15 A. Yes, but that's what went through his head. That's what he said. That's all.

16 Q. Well, Madam Witness, that's what you think. I'm putting it to you that it was
17 just never said.

18 A. Whatever the case, I haven't invented that. What I said is what came out of his
19 mouth.

20 Q. Madam Witness, it's the Prosecution case that what happened in that room was
21 a tragic accident and it wasn't murder.

22 MR KAUFMAN: Madam President, I've finished my questioning for this session. I
23 have a very few questions to ask after the break. I see it's approaching 11 o'clock.

24 PRESIDING JUDGE STEINER: Madam Kneuer?

25 MS KNEUER: Madam President --

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 MR KAUFMAN: I stand corrected. I believe I said it was the Prosecution case.

2 It's the Defence case. As I say, habits die hard and I have been a career prosecutor

3 for more than 16, 17 years. Thank you. Of course, it's the Defence position. And

4 thank you, Ms Kneuer.

5 PRESIDING JUDGE STEINER: Mr Kaufman, the document you referred to

6 CAR-OTP-0036-0139 is a page taken from the statement of the uncle of the witness,

7 former witness, that is not a witness -- it is not in the list of evidence of the

8 Prosecution.

9 MR KAUFMAN: No.

10 PRESIDING JUDGE STEINER: So are you tendering this into evidence?

11 MR KAUFMAN: May I think about that over the break, Madam President? It is a

12 complex legal question. Of course, I'd have to factor in the Chamber's decision on

13 evidence, as well, and of course our position with respect to a prospective appeal on

14 that matter. So I would be very grateful if the learned Chamber would grant me a

15 brief adjournment on that matter to consult my learned leader and colleagues.

16 PRESIDING JUDGE STEINER: That's okay. That's fine. We are then going to the

17 break for half-an-hour. Madam Witness, now you are entitled to take some rest, so

18 were going to suspend the session and we are going to resume at 11.30. I ask, please,

19 the court officer to turn briefly into closed session in order for the witness to be taken

20 out of the courtroom.

21 (Closed session at 10.58 a.m.) Reclassified as open session

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

23 (The witness stands down)

24 THE COURT OFFICER: All rise.

25 (Recess taken at 11.00 a.m.)

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 (Upon resuming in closed session at 11.50 a.m.) Reclassified as open session

2 THE COURT USHER: All rise.

3 PRESIDING JUDGE STEINER: Please be seated. Please, court officer, could you
4 please introduce the witness in the courtroom.

5 (The witness enters the courtroom)

6 PRESIDING JUDGE STEINER: Welcome back again, Madam Witness. Court
7 officer, please, let's turn into open session.

8 (Open session at 11.52 a.m.)

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

10 PRESIDING JUDGE STEINER: Thank you. Mr Kaufman, the Chamber would like
11 to listen from you first the purpose of your quotings from a statement that is not part
12 of the evidence because, depending on the quality you want to attribute to these
13 quotes or quotations, a different solution will have to be given by the Chamber since
14 you referred to a document that is not within the -- within the evidentiary package of
15 this trial and so has no evidentiary status, so we are really curious to listen from you.

16 MR KAUFMAN: Thank you, Madam President. First of all, the Defence notes that
17 the witness from whom this statement was taken was originally on the list of
18 Prosecution witnesses and, if I'm not mistaken, later removed. Of course, if he were
19 to have been on the Prosecution list of witnesses, we would have questioned him and
20 put these matters to him and then of course we'd have put the contradictions to the
21 witness herself. We do wish for this statement to be put into evidence and, if the
22 learned Chamber will not accept this witness statement into evidence at this point in
23 time, then of course we will have to make our own decision on how we can summon
24 this person to give evidence, if necessary, specifically in order to prove the
25 contradictions.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 As I said, this statement was taken by the Office of the Prosecutor. Perhaps the
2 Office of the Prosecutor is the best person to ask why they aren't calling him to give
3 evidence in this trial. Perhaps it's because they are aware of these contradictions,
4 perhaps because it doesn't suit their case. But then the role of the Court is to
5 basically find the truth of the matter and to understand what really did happen there.
6 So I do believe that this document is important and I do believe that it should be part
7 of the evidentiary package, as Madam President calls it.

8 PRESIDING JUDGE STEINER: Therefore, Mr Kaufman, if the Defence intends to
9 rely on this document as evidence, the Chamber orders the Defence to make a written
10 application in that respect and the Chamber will decide upon the admissibility of this
11 statement as evidence for the Defence.

12 MR KAUFMAN: I do intend think that is a very wise idea, Madam President.
13 Thank you very much for that opportunity.

14 PRESIDING JUDGE STEINER: Madam Witness, now Defence counsel will continue
15 questioning you. Are you fine with that?

16 THE WITNESS: (Interpretation) Yes, they can ask me their questions. I am ready
17 to reply.

18 PRESIDING JUDGE STEINER: Thank you very much. Mr Kaufman.

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

20 Q. Madam Witness, you'll be very happy to know that these are my very few last
21 questions I'm going to be asking you. My learned friend, Maître Kilolo, will
22 probably have a few more short questions for you as well afterwards. So, do I have
23 your permission for me to continue?

24 A. Yes, if you have questions for me, I'm ready. I'm here; I can reply.

25 Q. Thank you, Madam Witness. Now, once again, I touch on this matter with the

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 maximum of respect, and I know that this was a very traumatic thing for you. What
2 I want to talk about is the occasion when you were present and your deceased
3 brother's body was being washed. Now, you talked about seeing holes in your
4 brother's body on the front and on the back. Do you remember that?

5 A. Yes, the wounds were in his side and the large wounds were in his back.

6 Q. Now, Madam Witness, I would like to give you -- I don't want you to point it
7 out on your own body. I don't think that is very respectful. What I would like to
8 do, with the learned Chamber's permission, is to give you a diagram of a human body
9 and ask you to show me on the front and on the back where you saw these wounds.
10 But, first of all, let me ask the Court if they permit me to do such a thing.

11 PRESIDING JUDGE STEINER: Does the Prosecution agree?

12 MS KNEUER: Madam President, the Prosecution does not agree for the following
13 reasons: First of all, Defence counsel didn't lay the foundation properly. Secondly,
14 considering or keeping in mind the recommendations of the VWU, I think it would be
15 more appropriate to elicit the information from the witness verbally.

16 Also, I'm concerned because the last time the Defence counsel showed the witness a
17 document and emphasised he would not make her read something, he just wanted to
18 recognise a number, he did not comply with his own statement because he made the
19 witness read something. I do not want the witness to feel even more uncomfortable
20 by being perhaps unnecessarily forced to again work with a document.

21 The next reason why the Prosecution is concerned is about the diagram itself, your
22 Honours. The diagram is not a clean one. There are a lot of numbers on it which at
23 least I don't understand, perhaps the witness may not. It appears to be confusing.
24 It may even be perceived as suggestive. In addition, it appears to be an incomplete
25 diagram. We can see a body from the front, from the back and from one side.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 I think if your Honours permit the Defence to use a diagram, it should be a clean
2 diagram and a diagram that shows all aspects of the body.

3 These are the main concerns of the Prosecution.

4 MR KAUFMAN: Madam President, if I may.

5 PRESIDING JUDGE STEINER: Okay you may, Mr Kaufman.

6 MR KAUFMAN: First of all, Madam President, your Honours, the diagram is an
7 anatomical diagram and the numbers which appear on this diagram are for ease of
8 reference. They don't suggest anything whatsoever.

9 Furthermore, the diagram is exactly the same type of diagram which appears in the
10 Prosecution's expert report by the Professor Eric Baccard, which the Prosecution for
11 some strange reason have decided not to call to give evidence in this trial, exactly the
12 same diagram where the same wounds appear according to the opinion of the expert
13 Dr Eric Baccard.

14 I would like to perhaps ask the court officer to show the Court the diagram which I
15 wish to present to the witness. I don't feel that there's anything here that can make
16 the witness feel uncomfortable. Quite the opposite. The reason why I'm doing this
17 is to make the witness feel comfortable, because I don't want to have the witness draw
18 a diagram of a human body especially in such traumatic circumstances and,
19 furthermore, I'm fully conscious of VWU's comments on the ability of the witness to
20 be able to write and read. And it is for that very reason, taking into account the
21 witness's vulnerability, that I wish to use this with the maximum of respect.

22 PRESIDING JUDGE STEINER: Is this diagram part of the case file, my first question,
23 or not yet?

24 MR KAUFMAN: Madam President, no, it's not, because it's just not evidence. It's
25 for ease of reference. It's a visual tool for the benefit of the Court to allow the Court

Trial Hearing
Witness: CAR-OTP-PPPP-0087

(Open Session)

ICC-01/05-01/08

1 to be able to -- as opposed to having the witness point to places on her body, rather
2 having something written which can be put into the Court record. That's all.

3 PRESIDING JUDGE STEINER: So, therefore, the court officer will have to assign a
4 non-evidence number; is that correct? That diagram can be presented to the witness
5 and we'll have attributed a hearing non-evidence number.

6 MR KAUFMAN: Thank you, your Honours.

7 PRESIDING JUDGE STEINER: Mr Kaufman, the corrigendum here if the witness is
8 expected to mark or make marks on the document the document will have an EVD-T
9 number.

10 MR KAUFMAN: That will be my intention, Madam President. Thank you. I
11 wonder if the document could be put onto the display unit and perhaps if the witness
12 could be given a red pen, if that's possible. This can be broadcast to the public, of
13 course.

14 Q. Madam Witness, if you can take the red pen, please.

15 A. (No interpretation)

16 THE COURT OFFICER: If I may, the document is displayed on your screens if you
17 push the button "Docu Cam Witness".

18 MR KAUFMAN:

19 Q. Madam Witness, once again with the maximum respect and understanding,
20 I know this might be difficult for you, could you mark on the diagram to your
21 left-hand side, if you look at it, on the front of the body where you saw --

22 A. Yes, I see that.

23 Q. Madam Witness, please look at the document itself. Can you see the front side
24 of the body?

25 PRESIDING JUDGE STEINER: Just one moment, Mr Kaufman. Sorry to interrupt

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 you.

2 THE WITNESS: (Interpretation) Yes, this is what I am looking at.

3 PRESIDING JUDGE STEINER: Madam Witness, you are supposed to make marks
4 in the document, so I would like to ask you and the support person to swap places,
5 please.

6 MR KAUFMAN:

7 Q. Madam Witness, look at the aspect of the body which is facing you and please
8 mark on it where you saw the three wounds with an "X," or with whatever you feel, a
9 blob, a circle. Just mark the three wounds for us.

10 Well, you's have drawn a kind of rectangle there. Is that the area in which you saw
11 the wounds? Is that what you're describing there?

12 A. Yes, that is the part where the wounds were. I've circled all that part.

13 Q. Very good. Now, within that part where the wounds were, can you put a little
14 "X"? Do you know what an "X" is, Madam Witness? Any letter. I know you drew
15 a sketch, for example, which was attached to your declaration, which you gave to the
16 statement of the Prosecutor, so could you draw a little "X" in each place within that
17 area that you saw a wound.

18 A. I told you that all the wounds were found on this part that I have circled. The
19 wounds were found on his chest.

20 Q. Madam Witness, that I don't dispute, but did you see three holes? Three
21 wounds?

22 A. Yes, I saw three impacts of bullets on his chest that went out behind on his back
23 and that frightened me. That's what I saw.

24 Q. So please put a spot, or an "X" or whatever you want, where you saw the
25 hole - each hole - within that space. Draw the hole.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 A. I told you that all those wounds were found on his chest.

2 Q. Madam Witness, look at me please, if you could.

3 A. I told you that the impacts of the bullets were found on the chest and the big
4 wounds were in his back. That is what I told you.

5 Q. Madam Witness, that's a good answer. That's fine. What I want is a bit more
6 precision. Please look at me, if you could. You have described this area. Now, for
7 the sake of example, a hole could be here, it could be here, or it could be here, or it
8 could be anywhere within there. What I would like you to do is to point to where
9 the holes were within that space. Do you understand my question?

10 A. I told you that the wounds were on his chest and many of -- much time has gone
11 past. I may have forgotten, but I said that there were three impacts of the bullets on
12 his chest and the big wounds were on his back.

13 Q. Okay. I don't want to try you too much with this, Madam Witness, but is what
14 you are saying is basically "I don't remember now where the impacts were within that
15 area" that you have highlighted?

16 A. I told you that the impacts of the bullets were on the chest and the major
17 wounds were on the back. I repeat that.

18 Q. But, Madam Witness, you've been giving me that same answer and I've been
19 trying to ask you the question in a number of different formats. I'm not asking you
20 for the area of where the wounds were; I'm asking you to point out the actual points
21 of impact. If you don't remember, that's fine, say "I don't remember." If you do
22 remember, please point out the points of impact within that area.

23 A. I've told you that all the wounds were on the chest.

24 Q. Okay, Madam Witness, I can see we're going nowhere with that, but what I
25 want to ask you: You know they came to your house to exhume your brother, didn't

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 they, people from the Office of the Prosecutor, or people on behalf of them?

2 A. Yes, I know that some people came to exhume my brother's body.

3 PRESIDING JUDGE STEINER: Mr Kaufman, sorry to interrupt. Are you still going
4 to turn back to the diagram?

5 MR KAUFMAN: If it just could be tendered into evidence and given an EVD-T
6 number, that's all. I'm not going to turn back to that diagram any more.

7 PRESIDING JUDGE STEINER: So then the witness can go back to her seat, please.

8 MR KAUFMAN:

9 Q. And people from the Office of the Prosecutor came and took swabs from the
10 mouths of your family members. Do you remember that; you and your family
11 members?

12 A. What did they take in the mouths of the members of the family? I don't
13 understand.

14 Q. Samples of saliva.

15 A. Yes, they did take samples of the saliva from my brothers, my uncle and also
16 my aunt; the mother of the deceased.

17 Q. Do you know why the OTP, or people from the OTP, came to exhume your
18 brother's remains?

19 A. They exhumed the body so as to see how many bullets entered his chest. For
20 the rest, I don't know why they did that.

21 Q. And did you know that they were going to try and find out where exactly on
22 your brother's body the bullets entered him?

23 A. Yes, I did know that they wanted to know where the impact of the bullets had
24 been.

25 Q. And is this not the reason now why you don't want to draw on that diagram I

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 gave you the exact points of impact, because you're frightened of contradicting the

2 Prosecution's evidence?

3 MS KNEUER: Madam President.

4 THE PRESIDENT: Yes.

5 MS KNEUER: Defence counsel is arguing with the witness, not posing questions.

6 PRESIDING JUDGE STEINER: Sustained.

7 MR KAUFMAN: Madam President, my last questions.

8 Q. Madam Witness, are you familiar -- I am just going to ask you a general

9 question. The term "Banyamulengue," do you know what that means?

10 A. Well, that's their name, so I can't know what it meant. We just called them "the

11 Banyamulengue."

12 Q. Does -- if I were to tell you that the Banyamulengue is a tribe in the Democratic

13 Republic of the Congo, would that mean anything to you?

14 A. All I learnt was that they came from the Congo and that the Banyamulengue

15 were in the Congo. That's all I learnt.

16 Q. So you were told that the Banyamulengue came from the Congo, were you?

17 A. Where did they come from? They came from the Congo. They came from the

18 other side of the river. Whether or not the other side of the river was called the

19 Congo, well, I don't know.

20 Q. Very well. Isn't the term "Banyamulengue" just a general notion, or a general

21 term, that was applied to everyone who was fighting with Patassé against the rebels

22 of Bozizé?

23 A. No, I didn't hear the word "Banyamulengue" before that. Perhaps others did,

24 but not me.

25 MR KAUFMAN: Madam Witness, I thank you very much and I do apologise if my

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 questions have been a bit too intrusive, and I wish you a safe journey back. My

2 learned friend, Mr Kilolo, might have a few questions for you.

3 PRESIDING JUDGE STEINER: Maître Zarambaud?

4 MR ZARAMBAUD: (Interpretation) Madam President, I apologise, but the

5 question that was raised by the Defence was, the word "Banyamulengue," whether or

6 not that meant all the people who were fighting at the side of President Patassé, and

7 the answer was, "If that was the case, well, I was unaware of that. I didn't realise

8 that 'Banyamulengue' applied to everyone," whereas in the transcript what was said,

9 "I have never heard the word 'Banyamulengue' before that," which is not quite the

10 same thing in my mind.

11 MR KAUFMAN: Madam President, if I may?

12 PRESIDING JUDGE STEINER: Yes, Mr Kaufman.

13 MR KAUFMAN: Once again, there is a transcript and there are professional court

14 interpreters into the Sango language and I'm sure that if there has been a

15 misunderstanding, then that will be corrected by the Court interpreters and not by

16 counsel or legal representatives.

17 PRESIDING JUDGE STEINER: This is the case, but the Chamber thanks Maître

18 Zarambaud for calling the Chamber and the interpreters' attention to a possible

19 problem in the interpretation. That will be, of course, corrected later in the edited

20 version when the tape is confronted with what has been said by the witness.

21 Maître Kilolo?

22 THE COURT OFFICER: If I may, Madam President, assign the EVD-T number to

23 the last document that was displayed. The document displayed and to which the

24 witness made some marks will be attributed reference EVD-T-D04-00004 and will be

25 marked as public.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 MR KILOLO: (Interpretation) Thank you, Madam President, for giving me the
2 floor. My learned friend, Mr Kaufman, has already dealt with most of the questions,
3 and I am very quickly going to ask a few questions myself that are limited to the
4 witness.

5 QUESTIONED BY MR KILOLO: (Interpretation)

6 Q. Madam Witness, good morning.

7 A. Thank you. Good morning to you.

8 Q. My name is Aimé Kilolo, I am one of the Defence lawyers, and my colleague has
9 already asked you quite a few questions. In fact, I would like to thank you for your
10 cooperation that you have showed continuously. I am going to be asking you a few
11 questions, but rest assured these are for the purposes of elucidation, and you might
12 get the impression that I am coming back to things that you have already said, but
13 this is simply for the purposes of elucidation. In fact, I have eight questions to ask
14 you. Does that suit you?

15 A. Yes, go ahead. You can ask your questions. I am ready to answer them.

16 Q. Thank you very much. My first question -- but before asking you my first
17 question, I would like to ask the court officer to make available on the screen an
18 excerpt from a statement that you made and I won't be asking you to read it out
19 yourself. I'll do it myself slowly under the supervision of Madam President and
20 then I will ask you my question.

21 So, court officer, I would like document CAR-OTP-0034-0642_R02, EVD-P-03102, page
22 655. 0655.

23 PRESIDING JUDGE STEINER: And the level of confidentiality?

24 MR KILOLO: (Interpretation) Madam President, I do believe it can be public
25 because it doesn't give elements that would enable us to identify witnesses.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 PRESIDING JUDGE STEINER: (Overlapping microphones) ... not shown on screens
2 outside the courtroom, please.

3 MR KILOLO: (Interpretation) Yes, indeed.

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

5 MR KILOLO: (Interpretation) I'm going to be reading, starting from the tenth
6 paragraph.

7 Q. I'm going to quote the question that the investigators asked you in Bangui in
8 2008 when they came to interview you. "Could you tell us what you did once these
9 young men that were fleeing said what they had said?" The answer is, the answer
10 that you gave was, and I am quoting you, "After they said that, they said that these
11 people were wicked and that Patassé had told them that since the rebels were based
12 at Boy-Rabé if they found men there these men were rebels."

13 My question, Madam Witness, is whether you can confirm that?

14 A. Yes, but the rebels were based in Boy-Rabé. Who gave the order to the
15 Banyamulengue to come to the fourth arrondissement? Who was the Head of State?
16 That was Patassé.

17 Q. Thank you, Witness, for giving us those clarifications. So it is exact to say that
18 Patassé was the one who had the military intelligence about the position of the rebels
19 at Boy-Rabé; is that right?

20 A. I asked you earlier on who was the Head of State? The Head of State was
21 Patassé. He didn't tell me to my own face, but if he hadn't given instruction the
22 Banyamulengue couldn't have come to Bangui. He was the Head of State. The
23 Bozizé rebels had attacked Bangui and that is why he called on the Banyamulengue.
24 He was the Head of State.

25 Q. Thank you for elucidation. Let me now go on to my second question. I

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 would like to ask the court officer to please make available on the screens the same
2 document that carries the same reference, but this time page 06056.

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

4 MR KILOLO: (Interpretation) Thank you very much.

5 Q. Madam Witness, I'm once again going to read out another excerpt from a
6 statement that you made to the investigators of the Prosecution at (Redacted)
7 (Redacted). Here is what you personally declared, and I'm quoting you, "At
8 the time that the Banyamulengue crossed the river, they were told how to go to
9 Boy-Rabé. When Bemba sent them to Patassé, it was Patassé who showed them the
10 way to Boy-Rabé. He, therefore, told them to go there," end of quote. Could you,
11 Madam Witness, please confirm that?

12 A. Yes, but as I already said, during the events -- well, I asked you earlier on who
13 was the Head of State? Who was giving the orders? Of course, I didn't see this
14 with my own eyes, but he was the Head of State. He was the one who gave the
15 order so that the Banyamulengue would come to Bangui. If he hadn't given such an
16 order, they wouldn't have come.

17 Q. Thank you, Witness. So it is exact to say that Patassé gave the orders to the
18 Banyamulengue to take the road to Boy-Rabé, in other words the deployment of
19 troops in Boy-Rabé; is that right?

20 A. Yes. Since he was the Head of State, since the rebels were based in Boy-Rabé,
21 he was the one who could give them directions. At least in my opinion, he was the
22 one who showed them the way.

23 Q. Thank you, Madam Witness, for that clarification. Let me once again ask the
24 court officer to please make available -- well, once again, we're talking about the same
25 document and I'm going to be reading out another excerpt on the very same page and

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 I am quoting. The question by the investigator was, "How do you know that Patassé
2 showed them the way?" Your answer, Madam Witness, was "In fact, at that time,
3 Patassé was the Head of the State and the rebels came to attack him."

4 Question by the investigator, "But how do you know that?" Your answer, Witness, "I
5 didn't meet Patassé in person. I didn't learn this from him, but from the news that
6 people told me and these young men who were fleeing, as well. Because the rebels
7 were based in Boy-Rabé, Patassé had called the Banyamulengue and had told them to
8 go there and attack the rebels. That is how I learnt this."

9 A. Yes, I can confirm that that is what I said. He was indeed the Head of State at
10 the time.

11 Q. Thank you, Madam Witness, for that clarification. So it is exact to say that
12 Patassé gave a military order to the Banyamulengue to go and attack the rebels of
13 Bozizé at Boy-Rabé; is that right?

14 A. But the rebels were there. They had -- they were all over the neighbourhood.
15 He was the one that gave the instruction since he was Head of State. If he hadn't
16 given those instructions, they wouldn't have gone to the fourth arrondissement to
17 attack the rebels. He was the one to give the order.

18 Q. Thank you, Madam Witness, for your cooperation. You have just given the
19 Chamber insight about the person who held the military intelligence, the person who
20 deployed the troops and *gave operational instructions -- and gave instructions to go
21 to Boy -- about Boy-Rabé. Let me go on to my next question.

22 In the third group of people that came to your house at 9 o'clock in the evening, you
23 said that there was one called or referred to as "mon commandant." You described
24 this person as being small in stature. Do you remember that?

25 A. On that day at 9 o'clock, there was one who spoke to the others and the others

Trial Hearing
Witness: CAR-OTP-PPPP-0087

(Open Session)

ICC-01/05-01/08

1 called him "mon commandant." That is how I understood that he was their leader
2 and I recognise that I did say that in my statement.

3 Q. Did he have any means of communication with him, a device for
4 communicating?

5 A. No, I didn't see any device in his hands. Otherwise, he simply had a weapon
6 and a torch. I didn't see a device for communicating.

7 Q. Thank you. Did you speak to the commander in question personally?

8 A. No, I didn't speak to him. He was the one speaking to his friends and the latter
9 answered him saying "mon commandant."

10 Q. Thank you. When you talk about his friends, in his attitude towards those
11 friends did he behave as if he was a comrade, a companion?

12 A. The mon commandant was part of the Banyamulengue group. They were part
13 of the same team and, since they called him "mon commandant," that is how -- well,
14 that is what I heard.

15 Q. Thank you. But because they were a team and a group of friends, don't you
16 think that after all when they called him "mon commandant" it was some sort of
17 naming code, some form of identification?

18 A. I couldn't know whether that is the case. If you asked the Banyamulengue
19 themselves, they might be able to answer you. Whether or not it was a code, I
20 cannot know.

21 Q. Did you personally see him giving orders of any type to his friends?

22 A. Well, what I heard was that he was talking to the other two Banyamulengue
23 and they answered him using "mon commandant." That's all I heard.

24 Q. So if I understand you well, you didn't hear any orders being given apart from
25 what you have just said; is that right?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 A. He spoke to them in Lingala and they answered him saying "mon
2 commandant".

3 Q. Thank you very much. I shall now go on to my next question. Madam
4 Witness, if these military men who were at your house on 30 October 2002, as you
5 stated, or spoke amongst themselves in Yakoma would you have been in a position to
6 identify this language?

7 A. If they spoke to one another in Yakoma, I would have known. If think had
8 spoken in Banda, I would have also known, but they spoke only in Lingala. They
9 spoke Lingala alone. If they had spoken in Yakoma, I would have known that.

10 Q. If these military people had spoken between themselves in Mongo, would you
11 have been able to identify that language?

12 A. I do not know the Mongo language.

13 Q. And if these military men had spoken among themselves in Zande, would you
14 have been able to identify this language?

15 A. I do not know the Zande language, but they spoke to each other in the
16 Banyamulengue language.

17 Q. And if they had been speaking to one another in Kaba, would you have been in
18 a position to identify this language?

19 A. I do not know the Kaba language.

20 MS KNEUER: Madam President, I think we are entering an area which was already
21 covered and the questions seem to be quite repetitive.

22 PRESIDING JUDGE STEINER: I agree with the Prosecution, but we will allow
23 Maître Kilolo to finalise.

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

25 Q. I would also like to thank the witness, who is giving us clarification which is

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 very important. I certainly note that if they had spoken in certain Central African
2 languages, you would not have been able to identify them. I shall now move on to
3 my next question. Do you know, Witness, the four African countries in which
4 Lingala is spoken?

5 A. No, I do not know them.

6 PRESIDING JUDGE STEINER: Madam Kneuer?

7 MS KNEUER: Madam President, I am doubting the relevance of this line of
8 questioning.

9 PRESIDING JUDGE STEINER: Maître Kilolo, could you please justify the reason for
10 these questions that the Prosecution is rising, that they are quite repetitive? What is
11 the relevance at this point in time?

12 MR KILOLO: (Interpretation) Thank you, your Honour. This is a fundamental
13 question, and why? Because there's the question as to the identification of the
14 attackers, or the so-called attackers, her identification of them. She identifies them
15 because of the Lingala language, and so there is a question: Is a person who speaks
16 Lingala, can that person only come from the Congo, or are there perhaps other
17 countries, such as the Central African Republic itself, where this language is also
18 spoken? That is the interest of such a question. Thank you very much, your
19 Honour.

20 Q. Witness, perhaps I did not hear your answer a moment ago. I was asking you
21 a question as to whether you knew the four African countries in which Lingala is
22 spoken.

23 A. No, I do not know them.

24 Q. Thank you. And if I told you that, in addition to the Democratic Republic of
25 Congo, Lingala is also spoken in three other African countries, and that this is

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 recorded in all archives, you have Congo-Brazzaville (realtime error: Brazil), Angola
2 and the Central African Republic.

3 THE PRESIDENT: Madam Kneuer?

4 MS KNEUER: Madam President, the witness answered this question already and,
5 I'm sorry, this is not a quiz. My colleague is harassing the witness and also,
6 notwithstanding that he gave an argument for the relevance, the witness also said that
7 the Banyamulengue, or the perpetrators, came from the other side of the river. Are
8 we doing now geographics to define which other countries who are speaking Lingala,
9 where they are located? I mean, again, the Defence is taking a piece of information
10 out of the context. I'm objecting to this line of questioning.

11 PRESIDING JUDGE STEINER: I think this objection is in a way precedent since all
12 these elements will be discussed by an expert in linguistics and even because I see
13 here that you situate Brazil as one of the countries where someone could speak
14 Lingala, or there is any problem here in the transcripts?

15 MR KILOLO: (Interpretation) Your Honour, it would seem to be a problem of
16 interpreting. I said the Democratic Republic of Congo. There were three other
17 countries. There was Congo, Congo-Brazzaville, which is a neighbouring country of
18 the Democratic Republic of the Congo.

19 PRESIDING JUDGE STEINER: I know that.

20 MR KILOLO: (Interpretation) And Angola and the Central African Republic,
21 places of the alleged crimes.

22 PRESIDING JUDGE STEINER: Let's refer this issue to the expert on linguistics,
23 please.

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

25 Q. I would like to go back to my next question, Witness. If I'm not wrong, before

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 the date of 30 October 2002, you had never seen nor met the so-called Banyamulengue
2 before they came to your home; is that not correct?

3 A. Before they were walking in the neighbourhood to shine shoes, but when they
4 came to carry out war, that was the first time on which I had seen them.

5 Q. If I understand correctly, the people who you call Banyamulengue, the attackers,
6 those are these people who shone the shoes in the Central African Republic prior to
7 the events?

8 A. Yes, some of them were shining shoes, and when they came to carry out war
9 that was the first time.

10 Q. Thank you for this precision which is of fundamental importance. Was it just
11 *the young people who were fleeing early in the morning who told you that the
12 so-called Banyamulengue were arriving; is that correct?

13 A. Before the Banyamulengue arrived, these young men were running around
14 everywhere, the other side of the road to go up the hill, and they were the ones who
15 told us that the Banyamulengue had arrived.

16 Q. Thank you very much. And these young people, did they tell you that the
17 Banyamulengue were extremely wicked, that they came from the other side of the
18 river; is that correct?

19 A. Yes, they told me that, that the Banyamulengue were wicked men.

20 Q. Thank you very much. Doubtlessly -- undoubtedly, Witness, I will speak
21 about a whole group of circumstances, unhappy coincidence. And in your statement
22 on the same day when this information is given to you, these wicked people who you
23 had never seen previously, who you did not know, arrive on three or four occasions
24 and they personally attack you and they kill a member of your family; is that correct?
25 Is that what happened?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 A. Yes, they came. They went to our house. It wasn't in my absence. I was
2 present. Nobody told me that.

3 Q. I can understand you, Madam Witness. Furthermore, I think anyone in your
4 position would have immediately concluded that these people were the wicked
5 people called Banyamulengue, who people had just spoken about that morning; is
6 that not right?

7 A. Those who fled at 7 o'clock, I asked why they were fleeing and they told me that
8 it was because of the Banyamulengue: "These Banyamulengue are very wicked."

9 Q. Thank you very much. And I shall now go on to my last question. Just for a
10 matter of precision, you were informed that the so-called Banyamulengue were
11 Congolese nationals, people from the other side of the river; is that correct?

12 A. But where are they from? They're from the other side of the river.

13 Q. And these people who came from the other side of the river, you stated a
14 moment ago that *they had already been in the Central African Republic beforehand,
15 working as shoe shiners in Bangui, and that they spoke Lingala; is that correct?

16 A. But these shoe shiners were in Bangui. They shine shoes.

17 Q. Madam, for clarification, these people who came to your house, they spoke to
18 you in a language that you didn't understand. That is correct, is it not?

19 A. I told you that they spoke a Banyamulengue language, the Zaire language,
20 which is Lingala. That is their language, but they tried their best in French.

21 Q. But when they spoke their language, you didn't understand that language, did
22 you?

23 A. No, I didn't understand anything of what they were saying.

24 Q. Of course, Witness, according to your statement, these people attacked you and
25 they committed abominable acts in your house. That is correct, is it not?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 A. Yes, they took away our goods and they also raped me.

2 Q. Thank you. And finally, Madam, would everyone in your place have
3 considered that these were the wicked people -- these were the wicked people who
4 had been spoken about earlier? That is the case, is it not?

5 PRESIDING JUDGE STEINER: Madam Kneuer?

6 MS KNEUER: Madam Witness (sic), the Defence counsel is asking the witness to
7 speculate.

8 PRESIDING JUDGE STEINER: The objection is sustained since the question is
9 speculation: "Would everyone in your place have considered?" Could you
10 rephrase your question, please, if you want to hear the opinion of the witness herself.

11 MR KILOLO: (Interpretation) I shall be more precise in my formulation of this
12 question, Madam.

13 Q. Given the information that you had received prior with regards to these wicked
14 people and their arrival in Bangui, and the fact that these unknown, these wicked
15 people, entered the same day on which you received this information, they arrived at
16 your home, this necessarily made you consider that it could only be these wicked
17 people who had been described to you some hours previously?

18 A. But I was told that they were wicked people. When they arrived at my home,
19 they showed that. They raped me. They took all our goods. They came back to
20 kill my brother. That shows that these were wicked people.

21 Q. To finish with regards to the issue of their language, Madam, the language that
22 these people spoke which you did not understand on the basis of prior information
23 that you had received, knowing that in accordance to the information that you had
24 that they came from the other side of the river, their language in your opinion could
25 only be Lingala; is that right?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 A. But Lingala is spoken in what country? The other side of the river, that's what

2 I know. The other side of the river is where they speak Lingala.

3 Q. Thank you very much. And finally with all this prior information that you

4 received and with the behaviour, the odious behaviour that you personally

5 experienced at your home, you therefore could only conclude that these people were

6 Banyamulengue. There were no other conclusions that you could draw from that.

7 It could only be the Banyamulengue; is that not correct?

8 A. Yes, they were Banyamulengue. I have nothing against anyone, but the people

9 who came to my house were Banyamulengue.

10 Q. Thank you very much, Madam. I shall finish there and thank you for your

11 cooperation. The Defence suggests that it is by deduction that you claim that these

12 wicked people who came to your house were Banyamulengue and that the language

13 in which they spoke was Lingala. Thank you very much.

14 PRESIDING JUDGE STEINER: Madam Kneuer?

15 MS KNEUER: Madam President, I was very patient with my learned colleague, but

16 it's repetitive -- or I rephrase. Several times he testified himself, and I would

17 appreciate if he could stop this in the future and reserve his arguments for the closing

18 statement. Either he puts a question to the witness, but he should not comment on

19 the information that the witness is providing and make an assessment or a judgment

20 on it. Thank you, Madam President.

21 PRESIDING JUDGE STEINER: Thank you, Madam Kneuer. Maître Liriss, if you

22 want to put questions or make some requests, we'll have to do it after the break. We

23 need to go into the break right now, if you don't mind.

24 MR LIRISS: (Interpretation) Your Honour, I just wanted to say that we've finished

25 with our questions and I also wanted to say to the Prosecution that we have the right

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0087

1 to draw conclusions when we consider that an investigation has not been carried out.

2 PRESIDING JUDGE STEINER: I ask Maître Liriss whether the Defence has finished
3 its questioning of the witness?

4 MR LIRISS: (Interpretation) The Defence has finished examining the witness.

5 PRESIDING JUDGE STEINER: I have been informed that the Prosecution does not
6 intend to redirect any questions to the witness; is that correct?

7 MS KNEUER: That is correct, Madam President.

8 PRESIDING JUDGE STEINER: So, Madam Witness, we have finished with your
9 testimony and this concludes your evidence before this Court. I want on behalf of
10 the Chamber, on behalf of the Court, to express the thanks of the Judges and the
11 Court for the time and trouble that you have taken to come to this country to give
12 evidence in this trial.

13 In order for the Judges to find the truth, it is critical that witnesses like yourself are
14 prepared to give evidence to assist us on the relevant issues in this case, and we are
15 aware that probably this has been inconvenient for you and possibly it may have
16 involved some personal risk.

17 You, therefore, leave us now in order to go home with our thanks. The Victims and
18 Witnesses Unit will be with you monitoring you and open for any needs you have in
19 your return home and even after that. Do you understand that, Madam Witness?

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

21 PRESIDING JUDGE STEINER: So, once again, thank you very much. I will ask the
22 court officer, please, to go into closed session in order for the witness to be taken out
23 of the courtroom.

24 (Closed session at 1.05 p.m.) Reclassified as open session

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

1 (The witness is excused)

2 PRESIDING JUDGE STEINER: I would like to ask the court reporters -- we can first
3 turn into open session, please, and in the meantime I would like to ask the court
4 reporters if we can have five more minutes because I need to issue two short decisions
5 and then we don't need to reconvene in the afternoon. Is that possible for the court
6 reporters? Thank you very much. Thank you very much for the interpreters.

7 (Open session at 1.10 p.m.)

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

9 PRESIDING JUDGE STEINER: Thank you very much. And thank you for the
10 interpreters and court reporters, and the parties and participants. It's just five
11 minutes and I will try to be very brief.

12 One is a decision on protective measures for Witness 68, who is our next witness.

13 The Prosecution applied for protective measures on June 2010, it is filing 800, with a
14 corrigendum filed on 6 July 2010. The Defence in its response, filing 830, submitted
15 that it would not oppose the protective measures and requested prima facie on the
16 condition that the preliminary examination is conducted by the Chamber in closed
17 session.

18 On 15 September, 2010, VWU filed confidential ex parte observations in relation to its
19 support to the protective measures requested by the Prosecution with regard to
20 victims of sexual violence, including Witness 68.

21 THE INTERPRETER: Please, could the judge read slightly slower. Thank you very
22 much.

23 PRESIDING JUDGE STEINER: Sorry. I will try to do it slowly. In light of the
24 above, and pursuant to the Chamber's obligation under Article 68(1) and (2) of the
25 Statute and Rule 87 of the Rules, the Chamber decides that protective measures shall

1 be granted for Witness 68. The protective measures in accordance with Article 68(1)
2 must not be prejudicial to or inconsistent with the rights of the accused to a fair and
3 impartial trial.

4 So the Chamber, therefore, grants the protective measures for Witness 68 and
5 authorises the use of image and voice distortion, the assignment and use of a
6 pseudonym, as well as the use of private or closed sessions to protect the identity of
7 Witness 68, provided that this is indicated in advance to the parties, participants and
8 the Chamber. The private or closed sessions are to be held preferably at the
9 beginning of Witness 68's testimony in accordance with the Chamber's decision 1023.

10 The Chamber defers its decision on any special measures for Witness 68 until it
11 receives a psychological assessment of this witness from VWU's psychologist after the
12 familiarisation process.

13 The second decision is in relation to a request made by Ms Douzima on behalf of
14 victims she represents, stating that she wished to question Witness 68. In an email
15 sent to the Chamber, Maître Douzima pointed out six questions that she would like to
16 put to the witness, and I am not going to specify one-by-one.

17 As a result of the Chamber's decision given on Wednesday, 12 January, clarifying the
18 manner in which the legal representatives are to make applications to question
19 witnesses, Ms Douzima sent a second email yesterday justifying the reasons why she
20 sought to question Witness 68.

21 First, whilst Ms Douzima has partly complied with the substance of the Chamber'
22 decision in that a list of questions was provided to the Chamber seven days prior to
23 the witness giving evidence, and the Chamber has also been provided with the reason
24 why the interest of particular victims are concerned, the application has not been
25 made by way of a formal filing. This is undoubtedly due in part to the clarification

1 only having been issued on Wednesday, but the Chamber is a little concerned that the
2 follow-up email sent yesterday to justify why victims have a specific interest in
3 questioning Witness 68 mentions nothing about a formal written application.

4 The Chamber will deal with the application this time in view of the circumstances of
5 the clarification being issued after the first part of the application had already been
6 made by email, but hereafter the Chamber will not accept any requests that do not
7 conform to the orders of the Chamber made by way of a formal filing.

8 As regards to the application itself, the Chamber accepts that the personal interests of
9 the victims represented by Ms Douzima are affected by Witness 68's testimony and so
10 allows Ms Douzima to question the witness. However, the Chamber will not allow
11 question 5 relating to whether or not the witness tried to resist when she was being
12 raped. This is not acceptable since it sets a dangerous precedent for future
13 questioning of this nature.

14 The Chamber takes the opportunity to remind all parties and participants of the
15 content of Rule 70 of the Rules of Procedure and Evidence for guidance on the
16 principles of evidence in cases of sexual violence.

17 So, having said that, the Chamber would like -- unless Madam Prosecution needs to
18 say something.

19 MS KNEUER: Madam President, if I can ask for five minutes, please.

20 PRESIDING JUDGE STEINER: I don't think -- we have the problem with the tape as
21 well, so if you need it, maybe we have to resume in the afternoon. Yes?

22 MS KNEUER: Thank you, Madam President. I will try to be very brief. First, the
23 Prosecution is seeking permission to respond to the application of the Defence
24 counsel on the matter of admissibility of the statement of Witness 89.

25 The second point: Your Honours asked for clarification with regards to the death

1 certificate, and I am referring to CAR-OTP-0036-0162. According to our records, this
2 document was disclosed to the Defence on 9 November 2009. The document is as
3 well on our list of evidence. The Prosecution received the document by Witness 89
4 and we applied then redactions in a limited way and, according to our standard
5 procedures, before we disclose material statements or related documents, we ask the
6 witness -- first we inform the witness and then we ask for consent.

7 The third topic I have is with regard to a potential correction of the transcript.

8 According to our understanding, in the unedited version of 13 January transcript,
9 page 26, line 24, when the witness said, "That was at the beginning of 2002," it may
10 have been the end instead of the beginning. We understand that interpretation is
11 very difficult, notwithstanding which language. So, in that context, we kindly seek
12 your permission to receive the recordings of the Sango interpretation in an effort to
13 assist the Chamber to maintain a correct record.

14 And the last point I have, Madam President, is if it would be possible that the Defence
15 counsel provides the reference of the diagram, the same diagram that Dr Baccard
16 used in his report, just the ERN number, please. Thank you, Madam President.

17 MR KAUFMAN: Madam President, if I may, on the third and fourth point?

18 PRESIDING JUDGE STEINER: Very, very briefly, Mr Kaufman, please.

19 MR KAUFMAN: With respect to the fourth point, I have the diagram in front of me.
20 Unfortunately I don't have the ERN number, but of course I'll send it by email to
21 Madam Kneuer, no problem.

22 With respect to the third point, I'm a bit surprised, Madam President, that now, after
23 the Witness has left the Chamber, that the Prosecution are talking about mistakes in
24 translation which have direct relevance to one of the central issues in this case, which
25 is essentially the date of the arrival of the so-called Banyamulengue, and questions

1 were asked about -- very specifically about was it at the beginning of January, or was
2 it at the beginning of the year, or at the end of the year, or at the end of the month.

3 These things are of crucial consequence. And if there is a mistake, then it has to be
4 corrected with the witness herself. That's my only point.

5 PRESIDING JUDGE STEINER: I agree partially with the Defence on the first point.

6 I will ask, please, the interpreters and court reporters to check again the point in
7 comparison with the tape and refer to the Chamber the information on whether the
8 tape and the transcript has been double checked on this point.

9 In relation to the other points, whatever application made by the Defence, of course,
10 the Prosecution will be given the opportunity to make its observations.

11 I think in relation to relevant points, we have come to an end, and again thank you
12 very much for the Prosecution team, legal representatives of victims, OPCV, Defence
13 team, Mr Jean-Pierre Bemba Gombo. Wishing you all a nice weekend, and a special
14 thanks, as always, for the interpreters and court reporters for the efforts and for
15 giving us these extra minutes which allows us to suspend -- to adjourn the hearing
16 today and to resume only on Monday morning at 9.30 in the morning. So wishing
17 you all a very good weekend, and this hearing is adjourned.

18 THE COURT USHER: All rise.

19 (The hearing ends at 1.22 p.m.)

20 CORRECTIONS REPORT

21 The followings corrections have been made in the transcript:

22 * Page 35 line 20

23 "gave instructions " is corrected by "gave operational instructions "

24 CORRECTIONS REPORT 2

25 The Court Interpretation and Translation Section has made the following corrections

Trial Hearing

(Open Session)

ICC-01/05-01/08

1 in the transcript:

2 *Page 40, lines 10 to 12

3 "Was it just young people who were fleeing early in the morning the so-called

4 Banyamulengue arrived; is that correct?" I corrected by "Was it just the young people

5 who were fleeing early in the morning who told you that the so-called

6 Banyamulengue were arriving; is that correct?

7 *Page 41, lines 14 to 15

8 "...that there were Central African persons previously who were shoe shiners in

9 Bangui, that they spoke Lingala; is that correct?" Is corrected by "...that they had

10 already been in the Central African Republic beforehand, working as shoe shiners in

11 Bangui, and that they spoke Lingala; is that correct?"

12 RECLASSIFICATION REPORT

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

14 2012, and the instructions in the email dated 7 October 2013, the version of the transcript

15 with its redactions becomes Public.