

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

1 International Criminal Court

2 Trial Chamber III - Courtroom 2

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 Tuesday, 28 June 2011

8 (The hearing starts in open session at 10.40 a.m.)

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

10 Please be seated.

11 PRESIDING JUDGE STEINER: Good morning. Could, please, court officer call the

12 case.

13 THE COURT OFFICER: Good morning, Madam President, your Honours. This is

14 the case in the situation of the Central African Republic, The Prosecutor versus

15 Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08. Thank you, your

16 Honours.

17 PRESIDING JUDGE STEINER: Thank you very much. Good morning. Welcome

18 the Prosecution team, the legal representatives of victims, the Defence team,

19 Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters, court reporters.

20 We will continue today with the testimony of Witness 108; testimony given by way of

21 video link. I ask, please, court officer to help me here in order to have the witness on

22 my screen.

23 WITNESS: CAR-OTP-PPPP-0108 (On former oath)

24 (The witness speaks French)

25 (The witness gives evidence via video link)

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- 1 PRESIDING JUDGE STEINER: Good morning, Mr Witness.
- 2 THE WITNESS: (Interpretation) Good morning, Madam President.
- 3 PRESIDING JUDGE STEINER: Good morning, court officer, Mr Rojas.
- 4 THE COURT OFFICER (CAR): (Interpretation) Good morning, Madam President.
- 5 PRESIDING JUDGE STEINER: We will continue today with your testimony,
- 6 Mr Witness, starting your questioning by the legal representatives of victims, but
- 7 before I give the floor to the legal representatives I would ask here our court officer,
- 8 please, to turn briefly into private session.
- 9 (Private session at 10.42 a.m.) * Reclassified as Open session
- 10 THE COURT OFFICER: Madam President, we are in private session.
- 11 PRESIDING JUDGE STEINER: Thank you, court officer. The Chamber was
- 12 informed by Mr Rojas, our court officer in Bangui, that yesterday during the
- 13 testimony of Witness 108 two local lawyers wanted to enter the conference room in
- 14 order to be present during the questioning of the witness and, following VWU
- 15 instructions, the court officer denied access to these two lawyers to the conference
- 16 room.
- 17 The two lawyers informed that they were there assisting Maître Douzima and Maître
- 18 Zarambaud, but the witness expressed preference for not having anyone at the
- 19 conference room. So the court officer consulted the Chamber on what would be the
- 20 best way of dealing with the issue, and the Chamber bears in mind two important
- 21 aspects:
- 22 The first one, and more important one, the fact that the witness prefers to give his
- 23 testimony only in the presence of the court officer, without other persons in the
- 24 conference room; second, because the two lawyers, although assisting Maître
- 25 Douzima and Maître Zarambaud, are not - at least officially - counsels with a

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1 procedural stand in the present case.

2 In the presence of such counsels, as well as of any other persons in the conference
3 room, would imply the Presiding Judge issuing orders to the court officer to evacuate
4 the conference room whenever we have to turn into private session, which would
5 cause disruptions in the proceedings.

6 So, bearing in mind these two factors, the Chamber keeps the position assumed by the
7 court officer yesterday in order not to allow anyone other than the court officer and
8 the two IT technicians in charge of handling the equipment in the conference room
9 during Witness 108's testimony.

10 Court officer, please, could we turn back into open session.

11 (Open session at 10.46 a.m.)

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

13 PRESIDING JUDGE STEINER: Thank you.

14 Mr Witness, are you ready to continue giving your testimony to this Court?

15 THE WITNESS: (Interpretation) Yes, I am, Madam President.

16 PRESIDING JUDGE STEINER: Mr Witness, it's my duty to remind you that you are
17 still under oath. Do you understand that, sir?

18 THE WITNESS: (Interpretation) Yes, I understand, Madam President.

19 PRESIDING JUDGE STEINER: So I will now give the floor to Maître Zarambaud,
20 who will start questioning you. He will introduce himself to you, Mr Witness.

21 Maître Zarambaud, you have the floor.

22 MR ZARAMBAUD: (Interpretation) I thank you, Madam President, your
23 Honours.

24 QUESTIONED BY MR ZARAMBAUD: (Interpretation)

25 Q. Mr Witness, good morning.

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1 A. Good morning, Maître.

2 Q. My name is Maître Zarambaud Assingambi of the Central African Bar as you
3 certainly know, given that I have appeared before you in a number of cases and that I
4 also introduced myself to you during the familiarisation session. I am one of the
5 legal representatives of victims here, alongside my learned colleague Maître
6 Marie-Edith Douzima. Madam President and Madam Kneuer told you yesterday
7 that it is necessary to protect the identity and not to disclose the identity of some
8 witnesses and some persons. In that regard, and given that we are in open session,
9 we shall continue to use the names we agreed to yesterday; namely, "Charlie," Paul,"
10 Peter," Mary," Nick" and "Anne." I hope you do remember those names.

11 A. Yes, I remember very well, Counsel.

12 Q. Thank you. My first question is the following: In your application for
13 participation you included the log-book that was abandoned in your house that was
14 forcibly occupied by the Banyamulengue, and you referred to that log-book yesterday.
15 In that document, that log-book, mention is made of the arrival of the Banyamulengue
16 at PK12 on 26, 30 and 31 October 2002. I am referring here to document number 43,
17 44 and 45, which were appended to your application for participation, in which it is
18 further stated that, and I quote, "The visit of our President, Jean-Pierre Bemba, in the
19 company of Chief EMG, General Amoune and his staff, that visit was truly a source of
20 encouragement for the troops and the leaders," end of quote. I'm referring here to
21 documents 46 and 47 appended to your application for participation. Question:
22 Were you able to subsequently get confirmation of the information that I have just
23 quoted?

24 A. Thank you, Maître. The documents which I found in my house, I read through
25 them, just as you did, and then following information and intelligence generally

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1 available to us it would appear that the president, the leader of that army, allegedly
2 went to the area, but I am not able to confirm that, because I myself did not see
3 Mr Bemba with my own eyes while he was in Bangui.

4 MR ZARAMBAUD: (Interpretation) Thank you.

5 Madam President, pursuant to the decision of the Court, I would like to seek leave to
6 move into private session so that I may put the next question.

7 PRESIDING JUDGE STEINER: Court officer, let's turn into private session for a
8 while.

9 (Private session at 10.53 a.m.) * Reclassified as Open session

10 THE COURT OFFICER: Madam President, we are now in private session.

11 MR ZARAMBAUD: (Interpretation)

12 Q. Mr Witness, we are now in private session and you are free to state whatever
13 you want to and it would be heard only by those who are in this courtroom and by
14 yourself, as well as the court officer who is next to you, so feel free to speak freely
15 about any issue. So before I put my question to you, I would like to refer to one of
16 your statements, at page CAR-OTP-0046-0011, in relation to the possibility of
17 forwarding (Redacted) This is what you said, and I quote, (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted) end of quote, that is paragraph 1. And

22 then, more specifically in relation to the possibility (Redacted)

23 (Redacted) this is what you stated, and I

24 quote, "(Redacted)

25 (Redacted) end of quote. That will be paragraph 8.

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1 Another quote, (Redacted) end of quote, and that

2 would be the penultimate paragraph. (Redacted)

3 (Redacted)

4 A. I thank you. Our environment in Africa is one that is quite complicated,

5 particularly given that the Central African Republic is a neighbouring country to the

6 Democratic Republic of the Congo. Our borders are rather porous and it is for that

7 reason that I felt (Redacted)

8 (Redacted) That is the reason for which I made those representations.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted) It would appear that this last request was not

14 taken into consideration. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted) I

18 am testifying so that the truth may be established and that my testimony may also be

19 given publicly.

20 Q. I thank you, Mr Witness. My third set of questions will relate to the attire and

21 the foot gear of the Banyamulengue and also to determine whether they were wearing

22 any insignia or ranks. The Prosecutor put these questions to you yesterday, and

23 I think you provided the answers and for that reason I may not want to repeat the

24 same questions.

25 PRESIDING JUDGE STEINER: Do we turn back into open session?

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1 MR ZARAMBAUD: (No interpretation)

2 PRESIDING JUDGE STEINER: Court officer, please turn into open session.

3 (Open session at 10.59 a.m.)

4 THE COURT OFFICER: Madam President, we're back in open session. Thank you.

5 MR ZARAMBAUD: (Interpretation)

6 Q. Witness, I was saying in private session that it was not necessary to repeat the

7 questions regarding the attire worn by the Banyamulengue and their insignias

8 and -- because you answered those questions yesterday that were put to you by the

9 Prosecutor. The same applies to the fourth series of questions that I intended to put

10 to you regarding the language that the Banyamulengue were singing in and

11 regarding how you knew that the language was Lingala. You answered those

12 questions yesterday. Therefore, I'm not going to repeat the same questions.

13 My fifth set of questions is as follows: In the document CAR-OTP-0046-0020,

14 paragraphs 6, 7 and 8, that there were young boys and girls under the age of 15. Can

15 you confirm that or, on the contrary, is that not the case?

16 A. I can confirm that is the case. When I saw them for the first time, they were

17 young people and, in my opinion, there were youngsters under the age of 15. I can

18 confirm that.

19 Q. Thank you. My next series of questions: You stated in CAR-OTP-0046-0037,

20 paragraph 8, and I quote, "Unfortunately, the Banyamulengue stayed in my house for

21 three months and the army couldn't do anything to get them out."

22 My first question is as follows: Do you know why the Central African Army could

23 do nothing to get the soldiers out of your house?

24 A. When I learned with confirmation that my home was occupied by (Redacted), with

25 his militiamen and women, I did everything I could to find out who could help me,

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1 but during those troubled times I thought of someone I knew in the army hierarchy.

2 The name is Nick.

3 THE INTERPRETER: The interpreter would like to signal that there seemed to be a
4 portion of no sound.

5 THE WITNESS: (Interpretation) The Banyamulengue were occupying my house,
6 and myself and my family, we were distressed and so I asked that person whether he
7 could do something in the hierarchy to tell them that the house they were occupying
8 was not the house of a politician, but rather the house that belonged to a judge, a
9 magistrate, a person who was not involved in politics, who was not on Bozizé's side,
10 nor on Patassé's side, in the present conflict and therefore that it would be a good idea
11 for them to leave my home. Unfortunately, I can confirm what you stated, which is
12 that I received no feedback from Nick, and after a few days of silence I realised that
13 Nick could not do anything and therefore I just kept silent and observed the situation
14 throughout that period.

15 MR ZARAMBAUD: (Interpretation)

16 Q. Thank you very much. Another question on the same topic: Did you go to
17 the higher political authorities and is it true that they were not able to do anything to
18 retrieve your house?

19 A. At that time, I think that there was no better way to reach political authorities
20 than to go through the military authorities, and that's exactly what I did and,
21 unfortunately, with -- to no avail.

22 Q. Thank you very much. One last question on this topic. At the time of the
23 events, as you've already stated, you said you were the dean of the investigating
24 magistrates. Did the Prosecutor of the Republic go to you in order to open an
25 investigation, if only on your own personal case, but also on behalf of the numerous

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1 other victims?

2 A. At the time, at the time of the events, indeed, I was the dean of the investigating
3 magistrates, but after the successful coup d'état which took place on March 15, 2003,
4 toward the end in June/July there was a general movement on the part of -- or, rather,
5 there were changes made amongst the magistrates and I was transferred to another
6 job and it was Oradimo Pamphile who took over on August 11, 2003. So up until
7 that date, I had not received any request to open a case on the part of the Prosecutor
8 of the Republic, or any request for a case as a partie civile in that matter. And later,
9 when my colleague was contacted -- as you know, he was in charge of the case and I
10 did not open a case myself because, as I said yesterday, I did not believe that some
11 day, in the future, those who were responsible for looting my house would ever be
12 judged, for legal reasons given, the texts that we had at the time, the laws that we had,
13 but also because of the political environment at the time. So, personally, I did not
14 take any action.

15 MR ZARAMBAUD: (Interpretation) Thank you very much. My last question
16 relates to material damages and psychological harm that you suffered. Again, on
17 those matters, I think that you gave full answers in response to the questions put to
18 you by the Prosecutor, so it is not necessary for me to repeat those questions and
19 therefore I have completed my examination, and I would like to thank you for having
20 answered my questions. And thank you, Madam President, your Honours, for
21 having allowed me to put these questions. Thank you very much.

22 PRESIDING JUDGE STEINER: Thank you very much, Maître Zarambaud. Now,
23 Mr Witness, Maître Douzima-Lawson has some questions. She was, as well,
24 authorised by the Chamber to question you. So I will give the floor to Maître
25 Douzima.

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1 MS DOUZIMA-LAWSON: (Interpretation) Madam President, your Honours,
2 thank you.

3 QUESTIONED BY MS DOUZIMA-LAWSON: (Interpretation)

4 Q. Good morning, Mr Witness.

5 A. Good morning, Maître.

6 Q. As the Presiding Judge has just stated and as my colleague has just explained, I
7 am legal representative of victims, alongside of Maître Zarambaud. I am not going
8 to be very lengthy, because some of the questions I intended to put to you have
9 already been asked of you by either the Prosecutor or Maître Zarambaud. I would
10 like to ask you some questions in order to clarify a few points for the benefit of the
11 Chamber regarding your statement made to the OTP and also the statements that you
12 made yesterday during yesterday's hearings in response to questions put to you by
13 the Prosecutor.

14 Witness, my first question relates to one of the statements made during the
15 investigation. The reference is CAR-OTP-0046-0017. And you stated, Witness, to
16 the investigators --

17 PRESIDING JUDGE STEINER: Just to remind you to use in your question the codes
18 that we accorded yesterday. Thanks. Sorry to interrupt you.

19 MS DOUZIMA-LAWSON: (Interpretation) Yes, Madam President, I will do that.
20 I will use the code names.

21 Q. You indicated to the investigators, Witness, that it was on Friday, November 1,
22 2002, that Mary called you to announce to you that people were running in every
23 direction because of Bemba's militiamen, who were raping women and brutalising the
24 population. How do you know that it was indeed Friday, November 1, 2002?

25 A. Well, the reason I stated it was Friday, November 1, 2002, is because, if my

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1 memory serves me well, the fighting that had started on October 25 up to 30 October,
2 that is, starting on Wednesday, the 30th, the authorities at the time were making
3 announcements, saying that the entire city of Bangui was under control, and on
4 Thursday 31 I gave myself a day to wait and to observe what the situation was in the
5 city and that's when I heard information that traffic was normal, was fluid, and things
6 were returning to normal and, therefore, it was on 1 November that I decided to go to
7 my office to go back to my files. So it was because of those events that make me
8 remember that it was on November 1, in the afternoon, that Mary called me to tell me
9 about those events.

10 Q. Do you know where the MLC militia was before they reached your
11 neighbourhood on November 1, 2002?

12 A. I have no information about that because as you know, and because of the
13 function I occupied, I was not involved in politics nor was I involved in any military
14 activity and therefore I had no information about that.

15 Q. Thank you very much, Witness. On the same page of that document you
16 stated that you thought that the Banyamulengue group that you saw at PK8,
17 marching in single file towards PK12, was a different group from the group that was
18 already in your neighbourhood. What makes you say that?

19 A. I thought that was the case on the basis of the statements made by Mary, when
20 Mary called. And then it took time for me to leave the city to go to PK8, to park the
21 car, to get out of the car, I think that if there were already individuals in that zone it
22 was a different group that I saw and that's why I expressed that hypothesis.

23 Q. Thank you. Witness, I'd like to go on to the statements you made yesterday.
24 This is the real-time transcript, page 28, line 12 to 14, in the edited version it's page 22,
25 lines 22 to 26, and you stated the following: When Mary called you, she said that

1 there were rumours in the zone, in the zone where you lived, according to which
2 there were foreign forces that were brutalising people. Can you tell us what exactly
3 she stated? In relation to your statements made to the investigators, you had stated
4 that foreign forces were brutalising people.

5 A. She told me that there were rumours that people were relating about the arrival
6 of the Banyamulengue. According to her, these were rumours and people were
7 panicking. According to these rumours, there was looting and violence. Those
8 were the words she used and so, since I was afraid, I -- that's what explains the
9 statement I made yesterday.

10 Q. Aside from Mary, did you have any other information on November 1, 2002, in
11 the afternoon, regarding those events from other sources; from other individuals?

12 A. Aside from Mary, I did not have any other information, because when I went
13 home to my parents' house that's when we were told that the soldiers were marching
14 in single file along the road, as I said yesterday, and I parked the car to get out of the
15 car. And the second piece of information (Redacted) who
16 confirmed that evening that the gate in front of my house had been broken.

17 Q. Thank you. Yesterday, Witness, you stated that you listened more frequently
18 to RFI, in particular news about Africa. This is page 24, lines 18 to 19 in the real-time
19 transcript; in the edited version, page 21, line 10 to 11. Witness, did you hear on RFI
20 about the arrival of the Banyamulengue in the Central African Republic and any
21 information about the crimes that had been committed?

22 A. As was the case of all citizens, I heard the analyses given by the journalists on
23 RFI about the arrival of the Banyamulengue to support Patassé's regime and I heard
24 about the crimes that were committed. I learned about it. I heard it like everybody
25 else, without being able to verify it myself.

1 Q. Did RFI mention any crimes committed by other troops in the Central African
2 Republic at the time?

3 A. I don't have any additional information about that question, because RFI was
4 saying each day that there was a conflict, and every day they described the conflicts
5 and the crimes that occurred, but I didn't really distinguish between who might have
6 been responsible for these events.

7 Q. Witness, I'd like to go back to your statement to the OTP. The document is
8 CAR-OTP-0046-0037. This question -- well, you may have the impression that this
9 question has already been put to you, but I'm looking for additional precision.
10 You stated that you had informed the higher authorities of the Central African
11 Republic army, in particular Nick, but that Nick couldn't do anything to get rid of the
12 Banyamulengue who were occupying your house and, therefore, these
13 Banyamulengue stayed for three months.
14 In your opinion -- well, since you've said the authorities couldn't do anything, in your
15 opinion why is it that those officials in the Central African Republic army, why is it
16 that they couldn't do anything?

17 A. Well, I was quite astonished, I must say, because I thought that the army, which
18 is supposed to be able to protect the population, in particular civilians, that the army
19 should have acted. And in addition to that, given that I was a judge, a magistrate,
20 and that I was in function I thought that the political and military authorities would
21 have put pressure on the occupiers so that my home be made available to me.
22 And to this day I do not understand the attitude of the authorities why it was that
23 they had so many difficulties, why is it that Nick could not arrange for my house to
24 be made available. And I must say to this day I still do not understand why.

25 Q. Thank you. Thank you, Witness. My last question relates to your statement

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1 CAR-OTP-0046-0038. You stated that and you heard that many objects had been
2 carried over to the other side of the river. According to what you heard, did anyone
3 tell you how or when those objects were taken to the other side of the river and by
4 whom?

5 A. Well, from where I was staying during those troubled times, the militiamen
6 looted and carried off many things to the other side of the river and this occurred in
7 spite of the denials of the authorities at the time who stated that they were doing
8 whatever was necessary so that not even a slightest little needle would get across the
9 border, but in spite of that indeed a lot of property was taken across the border.

10 Q. Well, who was taking the property across the border?

11 A. Well, of course, naturally it was the Banyamulengue.

12 MS DOUZIMA-LAWSON: (Interpretation) Thank you, Witness, for having
13 answered my questions. Madam President, thank you very much. I have finished
14 my questioning.

15 PRESIDING JUDGE STEINER: Thank you very much, Maître Douzima. Maître
16 Kilolo? Mr Witness, now the Defence will start questioning you and therefore I'll
17 give the floor to Defence counsel Maître Kilolo. He will introduce himself to you.
18 Maître Kilolo.

19 MR KILOLO: (Interpretation) Madam President, thank you.

20 QUESTIONED BY MR KILOLO: (Interpretation)

21 Q. Witness, good morning.

22 A. Good morning, Maître.

23 Q. Let me introduce myself. As the Presiding Judge has just stated, my name is
24 Maître Aimé Kilolo, I am one of Mr Jean-Pierre Bemba's lawyers and I will be
25 examining you for the Defence.

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1 I would like to begin right away with my first question: Witness, I'd like to recall
2 one of the statements you made to the investigators - that is, the OTP investigators in
3 Bangui - and I am referring here to the document CAR-OTP-0046-0053, document
4 number 5 in the Defence list of documents. You stated that, at the time of the events,
5 the only representatives of the Banyamulengue were the military people. Do you
6 remember making that statement?

7 A. Yes, Maître, I do.

8 Q. What military are you talking about?

9 A. I'm talking about the Central African Republic soldiers, the military, who were
10 at the time in the army.

11 Q. What is the basis for your stating -- for you making that statement?

12 A. Well, I state that because, as I said in my statement, it did occur when I was
13 driving around to see or to hear that those soldiers were with their Central African
14 Republic colleagues; fellow soldiers.

15 Q. Witness, I'm going to refer now to another statement you made to the OTP
16 investigators, which is document CAR-OTP-0046-0040. This is document 15 in the
17 Defence list. You stated the following, I quote, "Yes, throughout that period, that is
18 the three months between November 2002 and February 2003, I saw vehicles and
19 individuals who were identified as being chiefs who were going from PK12 and the
20 centre of town. They were accompanied by officers from the national army. I
21 would see their vehicles driving on the main road." Witness, can you confirm this
22 statement?

23 A. I confirm that.

24 Q. In the same document, this is the question that was put to you: "When you
25 state 'their car,' whose car are you referring to?" Answer, your answer: "The

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1 vehicle which transported the high-level people responsible for the Banyamulengue
2 and the officers of the national army." Witness, do you confirm that?

3 A. I confirm that.

4 Q. I am now going to refer to another statement which you gave to the
5 investigators of the Prosecutor. This is document CAR-OTP-0046-0041, 15th
6 document of the Defence list. This is the question that was put to you: "Who was
7 this chief that you speak about?" Your answer: "The chief of the Banyamulengue."
8 Question of the investigator: "How do you know that they were the chiefs of the
9 Banyamulengue?" Your answer: "I knew that it was the chief because they were
10 with the national military leaders, the superior officers of the Central African
11 Republic." Witness, do you confirm this statement?

12 A. Yes, that is what I saw and I confirm that.

13 Q. Could you tell the Court, to your knowledge, why were they together?

14 A. Unfortunately, on this point, Mr Kilolo, I cannot say why they were together.
15 Sometimes I was in my car. Sometimes I saw different cars. I didn't know why
16 they -- I didn't know what they were doing, what the point of what they were doing
17 was, and why they were together, unfortunately.

18 Q. Witness, I'm going to refer to another statement that you made on this subject
19 for the investigators of the Prosecutor, and this is the document CAR-OTP-0046-0050,
20 the fifth document of the Defence list. And this is the question that was put to you:
21 "Could you tell us who was this high-ranking leader that you saw in the vehicle?"
22 Your answer: "The person responsible for the army -- persons responsible for the
23 army, but I don't know their names." Next question: "And how do you know that
24 it was people responsible for the army?" Your answer: "We saw them, because
25 they were officers, high-ranking officers, of our army, and we had seen them with the

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1 Banyamulengue," end of quote. Witness, does this statement reflect the remarks
2 which you made to the investigators?

3 A. I confirm that we saw them, us the citizens, when they were with the
4 Banyamulengue, without knowing what their names were.

5 Q. Witness, given your experience of military matters, given that you've done
6 military service, could you tell the Chamber what ranks in the Central African army
7 these high-ranking officers corresponded to?

8 A. Unfortunately, I can't tell you what rank they had. As I said, these were people
9 that we saw perhaps when I was in my car, or perhaps when I was by the roadside,
10 but I couldn't tell you exactly what their names and ranks were, unfortunately.

11 Q. What makes you state that the Banyamulengue leaders were together with
12 high-ranking officers; Central African high-ranking officers? Why do you say that it
13 was high-ranking Central African officers?

14 A. We used, for example, to see them at ceremonies, and when during this period
15 you see a vehicle with an officer that's passing by, followed by a vehicle with
16 Banyamulengue chiefs, that makes it possible for you to reason in such a manner.

17 Q. Witness, when you speak about Central African Republic officers of high rank,
18 who are you referring to exactly?

19 A. I already said, Counsel, that I don't have other details to give on this point. It
20 was leaders who had been seen and, if I was able to see them, I saw them as any other
21 citizen did. Unfortunately, I don't have any precision to give in this regard.

22 Q. Witness, with a view to shedding light on this for the Chamber, when you speak
23 of high-ranking officers, by way of example, are we talking about a soldier, a corporal,
24 somebody from the troops, or are you talking about a general, a colonel, who was
25 directly associated with -- in the command of military operations in the field?

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1 A. I would like to state that I'm not in the military sphere. I didn't say that these
2 officers were in the operations. What I said was that during this period, going to
3 work, we would see vehicles and we would say: Well, those are the officers' vehicles
4 followed by those that we thought belonged to the Banyamulengue military chiefs."
5 Without any precision; I repeat that.

6 Q. How often did you personally come across Central African high-ranking
7 officers going through the streets between PK12 and the town centre during the
8 events?

9 A. Yesterday I said to the Prosecutor and to the Chamber that during this period
10 we saw them, but asking me to quantify, well, that's something I don't think I can do.

11 Q. At this time, did you leave your house every day?

12 A. I said that after total control of the town the government had asked for services
13 to restart so the administration, as I have said previously to the investigators, was
14 functioning and from PK8, from where I was renting somewhere, I went to my work
15 and this was on work days.

16 Q. This will doubtlessly be my last question on this point: Because you went out
17 every day, can we say that you met on your way, at least once a day, Central African
18 officers of a high rank who were going about the roads between PK12 and the town
19 centre?

20 A. I can't confirm that, Counsel. I can't state that, Counsel.

21 Q. What could you say on this subject?

22 A. I've said I cannot confirm that to say that at least once a day, to give that
23 quantity. What I said to you was that I couldn't put a figure on the amount of times
24 we, as citizens, came across the Banyamulengue chiefs and the Central African
25 leaders.

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1 Q. Witness, I'm going to go back to another statement that you gave to the
2 investigators of the Prosecutor. This is document CAR-OTP-0046-0051, the fifth
3 document on the Defence list. This is the question that was put to you: "Could you
4 describe the vehicle on board which you saw the high-ranking leaders?" Your
5 answer: "In general, they were military vehicles, sort of pick-ups, four-by-fours."
6 Additional point: "The cars, did they have particular registration or licence plates
7 which would make you think that they were military vehicles?" Your answer: "It's
8 easy here to recognise the vehicles due to the green military colour which they have."
9 Do you confirm that?

10 A. Yes, I confirm that.

11 Q. These military vehicles, were they identical or similar to those which you
12 usually saw which belonged to the Central African national army?

13 A. As I said to the investigators, the vehicles -- the military vehicles in my country
14 are recognisable by their colour. They are often coloured green. Military green is
15 their colour. That's it.

16 Q. Witness, I'm going to remind you of a statement which you gave to the
17 Chamber in the hearing 26 June 2011, page 30, lines 26 and following. You stated the
18 following: "In substance, the Banyamulengue came to support the regime of
19 President Ange-Félix Patassé, the late Ange-Félix Patassé." Do you remember this
20 statement you made?

21 A. Yes, I remember making this statement.

22 Q. Why do you say that?

23 A. Because I think at the time everybody knew, and even the authorities at the time
24 knew, and they spoke about the arrival of the Banyamulengue, so I think that this
25 issue was known by everyone. It was known that the aim of their arrival was to

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1 support the late Patassé's regime, who was faced with a rebellion.

2 Q. What were the authorities at the time that spoke about the arrival of the
3 Banyamulengue in the Central African Republic? Were they the government
4 authorities? Were they military authorities?

5 A. Where it concerns this arrival and taken from the different statements that were
6 made on RFI, then it was a matter of the civilian governmental authorities.

7 Q. Witness, could you be a bit more precise for the Chamber, perhaps by giving an
8 indication with regard to the function of these civil government authorities that spoke
9 about the arrival of the Banyamulengue in the Central African Republic?

10 A. Counsel Kilolo, if you have all the information, at the time you will remember
11 that even the highest authority of the time, when questioned, said that the
12 Banyamulengue were in harmony with the population. So if already the late
13 President Patassé spoke in such a way --

14 Q. To your knowledge, where it concerns President Patassé, what role did he play
15 within the framework of operations carried out by MLC soldiers in the Central
16 African Republic?

17 A. This is something I don't know. I've always said and I've always repeated that
18 I was not in a political sphere, nor was I in a military sphere. I listened to the radio
19 just as any other citizen would.

20 Q. Witness, in your application for participation as a victim - and here I am
21 referring to document number 7 of the Defence list, page 10 - you indicated in
22 particular that the political authorities at the time, of which Ange-Félix Patassé and
23 which his military staff were also -- that they were also responsible for the events.
24 Do you remember saying that?

25 A. It was an opinion that I gave. Where it concerned the question that was put to

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1 me in the application form, "According to you, who is responsible for the events," I
2 mentioned Mr Jean-Pierre Bemba and his militia and I mentioned Ange-Félix Patassé
3 and his military staff, but today it is for the Chamber and for the Chamber alone, in
4 light of the evidence in the case, to say who is the true person responsible for that.

5 Q. Witness, why did you state that the former President Ange-Félix Patassé, as well
6 as his military staff, that they too were responsible for the events?

7 A. I had stated, and as I have said, in answering the question which was put
8 vaguely in the form, because the political leaders at the time, well, that was
9 Mr Patassé and his staff. The president, the chief of the militia, was Mr Bemba, and
10 his militia who committed atrocities, and it is in that regard that I said that "In my
11 opinion - in my humble opinion - the responsibility should be sought at that level."

12 Q. Witness, could you clarify the Chamber with regards to the issue as to why you
13 indicated the former President Ange-Félix Patassé as well as his military staff,
14 irrespective of Mr Jean-Pierre Bemba?

15 A. I didn't indicate Mr Patassé or his military staff irrespectively or independently
16 of Mr Bemba. You have to be clear. I was asked to answer the question as to the
17 responsibility, in my opinion, and I said that the responsibility lay either with
18 President Patassé and his staff, and here I put Mr Bemba and his militia too. So, in
19 my opinion, I indicated the lines with regards to -- now, in terms of who is
20 responsible now, that's something that I can't say. With regards to the investigations,
21 it's only the Chamber who'll be able to state this one day.

22 Q. Witness, what do you understand by military staff of President Patassé at the
23 time of the events?

24 A. It's obvious that there is a reality, political and military. You have military staff,
25 and this is the military aspect, that's all. There aren't any other precisions that need

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1 to be made in this regard. With regards to the military, that's what I understand by
2 "staff."

3 Q. Witness, if you wish, we can go into private session. Could you communicate
4 certain names to the Chamber of military staff who supported the former President
5 Ange-Félix Patassé at the time of the events?

6 A. No, Counsel Kilolo. No, Mr Kilolo, I have repeated it. You know my status:
7 I am a judge. I never took part in a military or political meeting, and I think that I
8 am here as a victim of the pillaging of my house. I'm not going to go into that
9 political arena or military arena, because I have no information with regard to the
10 responsibility. Thank you.

11 Q. Witness, did you undergo any military training before you started your career?

12 A. Yes, I stated yesterday to the Prosecutor as well as to the Chamber that before I
13 became a judge, as is the custom in our country, I went through two years of military
14 training.

15 Q. Witness, in this regard, are you familiar with any high-ranking officers in the
16 army and are you familiar with their functions?

17 A. When I was in the army I knew certain officers, in particular the ones who were
18 in charge of the magistrates' school.

19 Q. Do you know any of those who were with the MLC and who fought against the
20 rebellion?

21 A. I cannot answer that question, because at the time I had no information in that
22 regard.

23 Q. Witness, is it true to say that your position consists in saying that your home
24 was occupied by military leaders of the MLC? Is that your position?

25 A. My position is that, against my consent, my home was looted during the period

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1 of the armed conflict and that my home was illegally occupied by a military chief of
2 the MLC, with his militiamen, and that this lasted for a period of three months. That
3 is my position.

4 Q. Is it correct to say, Witness, that you complained about this to Nick?

5 A. Yes, I can confirm that. As I've stated to Maître Douzima a few moments ago, I
6 complained about this to Nick on the telephone.

7 Q. If you so desire, we can go into private session. My question is as follows:

8 What role -- or, rather, what was Nick's responsibility during the time of these events?

9 PRESIDING JUDGE STEINER: Court officer, turn into private session, please.

10 (Private session at 12.04 p.m.) * Reclassified as Open session

11 THE COURT OFFICER: Madam President, we are in private session.

12 PRESIDING JUDGE STEINER: Mr Witness, if you know the answer, you can
13 respond to the Defence since we are in private session.

14 THE WITNESS: (Interpretation) Thank you, Madam President. I would like to
15 state that I did not know what the precise responsibilities of Nick were, but I did
16 know that he was a colonel in the army and as such he could have helped me taking
17 the necessary measures so that the Banyamulengue leave my house. That is what I
18 knew and that is why I called him.

19 MR KILOLO: (Interpretation)

20 Q. We're still in private session and, therefore, we can speak freely. Are we
21 talking about Colonel Thierry Lengbe?

22 A. Yes, I am talking about Thierry Lengbe.

23 Q. Where did that colonel work at the time of the events?

24 A. I didn't know exactly where he was in the military hierarchy. I wasn't
25 absolutely certain what his position was, but I knew that -- I knew his rank and I

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1 thought that given his level of responsibility he could help me, but to tell you exactly
2 where he was posted unfortunately I cannot answer that question precisely.

3 Q. To your knowledge, did he have access to the zone under governmental control
4 at the time of the events?

5 A. What do you mean by "zone under governmental control"?

6 Q. As an officer of the Central African armed forces, could he travel freely
7 throughout the zone between the centre of town and PK8?

8 A. I cannot give you an answer to that question because, as I stated, we didn't meet
9 face-to-face with Colonel Lengbe, but given that I knew him I called him because he
10 was a high-ranking officer and I asked him to help me in whatever way he could in
11 order that my house be returned to me; that those who were occupying it leave.
12 That's --

13 Q. Witness, you referred to high-ranking Central African officers. Was Colonel
14 Thierry Lengbe an example of what you mean when you use that expression?

15 A. In military hierarchy, when you've reached the rank of captain, commander,
16 colonel, you're a high-ranking officer, Maître Kilolo.

17 Q. Witness, I'd like to refer to your statement to the investigators of the OTP. This
18 is document CAR-OTP-0046-0037. This is document number 15 in the Defence list.
19 How are we to understand your statement according to which, and I shall quote, "I
20 thought that the army would intervene to make the Banyamulengue leave my house,"
21 end of quote?

22 A. The army has a role to play, which is to protect the civilian population, and
23 given that I was a civilian and in addition a judge, therefore not involved in politics,
24 and given that my house was illegally occupied by foreign forces, the army could
25 have legally protected my property by informing those military leaders that they

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1 were occupying an apolitical figure and that they should allow the judge to go back to
2 his home. And, therefore, this is why I thought that the army of my country could
3 have protected me and returned my house to me.

4 MR KILOLO: (Interpretation) Madam, may we go back into open session?

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

6 (Open session at 12.10 p.m.)

7 THE COURT OFFICER: Madam President, we're back in open session.

8 MR KILOLO: (Interpretation)

9 Q. We are again in open session, Witness, and therefore if we are to mention any
10 names please do remember to use the code names.

11 Do you know why the high-ranking officers in the Central African army did not
12 respond to your request to get the Banyamulengue soldiers out of your house, or
13 rather the MLC soldiers out of your house, who were occupying it as you say?

14 A. As I stated earlier before the Court, to this day I do not understand why the
15 army, who is responsible for protecting civilians, why it is that they were not able to
16 get those militiamen out of my house. To this day I do not understand why.

17 Q. As regards the granting of housing to soldiers in the Central African Republic at
18 the time of the events, did you learn that it was the military hierarchy who provided
19 housing to the MLC soldiers in the Central African Republic?

20 A. I have no information about that, but what I do know - that is, what I learned
21 (Redacted) - (Redacted) and they looted for the first time,
22 and when they broke the gate and the door of the house and when they saw what
23 I had inside, they began singing because they thought they had found the house that
24 belonged to a white man. That's what I was told. And then the chief decided to
25 settle into the house.

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1 So to say that it was Central African Republic authorities or army that gave out the
2 housing, I have no information regarding that question; but I think - I think - that the
3 homes, the houses, were selected on the basis of how beautiful they were. If it was a
4 nice house, if it was fully furnished as was the case with my house, then it (Redacted)
5 (Redacted) That's what I think, at least.

6 MR KILOLO: (Interpretation) As regards that matter, for the benefit of the
7 Chamber, I would like to refer to the real-time transcript dated May 10, 2011, page 12,
8 line 11 to 28. This is document ICC-01/05-01/08-T-107. This is a witness statement.
9 Madam, may we go into private session for a few moments, please?

10 PRESIDING JUDGE STEINER: Court officer, please turn briefly into private session.
11 (Private session at 12.15 p.m.) * Reclassified as Open session

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

13 MR KILOLO: (Interpretation)

14 Q. Witness, we are now in private session, therefore we can express ourselves
15 freely. Is it correct that at the time of the events (Redacted) were in
16 fact the (Redacted) and also the (Redacted)
17 (Redacted)

18 A. Yes, that's correct.

19 Q. I will refer to those individuals in open session and I would like to suggest that
20 we use a code name. Would you mind if we called -- if we use "André" for
21 (Redacted)

22 A. No, no objections to that.

23 Q. And I would like to suggest that we use the name "Luke" for (Redacted)
24 (Redacted) Have you understood?

25 A. Yes, that's fine. I followed what you said.

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1 Q. I would also like to mention (Redacted) I believe this name has already
2 been mentioned in open session. Do you have any objection to our continuing along
3 those lines?

4 PRESIDING JUDGE STEINER: The references to (Redacted) were redacted from
5 the public transcript.

6 MR KILOLO: (Interpretation)

7 Q. In that case, Witness, I would suggest that (Redacted) be referred to
8 as "François"; is that okay?

9 A. Yes, I have taken note of that.

10 MR KILOLO: (Interpretation) May we go back into open session?

11 PRESIDING JUDGE STEINER: Before we go into public session, just to remind you
12 and the witness that it is not enough to attribute codes to persons, but it is important
13 not to mention their functions, because they can be identified by their functions.

14 Court officer, please turn into public session.

15 (Open session at 12.19 p.m.)

16 THE COURT OFFICER: Madam President, we're back in open session.

17 MR KILOLO: (Interpretation)

18 Q. Witness, did the Prosecutor's investigators try to contact through you André in
19 order to find out whether he was informed of the fact that your house had been
20 looted?

21 A. I believe that at the time the investigators asked about the professional
22 hierarchy and I indicated who was who and I informed them that almost all of my
23 colleagues, my colleagues who were judges, were aware of what had happened to me
24 and that it went from -- it was word of mouth, if you will, without -- rather without
25 their actually calling them in to question them.

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1 Q. We're in open session, Witness, so please do not mention the functions of any
2 individuals we are speaking about. Now, as regards Luke, did you inform the
3 investigators of the Prosecutor, or did they try to come into contact with him through
4 you to find out whether they -- whether that person was informed of the fact that
5 your house had been looted, as you have described it?

6 A. As I said, the investigators simply asked me the names of those persons in the
7 hierarchy and I do not know whether or not they had an opportunity to come into
8 contact with those persons. I cannot tell you that. I don't know.

9 Q. Witness, do you know whether or not André or Luke were -- whether they
10 informed the President Ange-Félix Patassé about the looting that you have
11 mentioned?

12 A. I have no information about that.

13 Q. Witness, when you went back to your house, is it correct that you did not
14 inform Nick of what you saw; that is, that your property had been pillaged in your
15 compound?

16 A. As I've stated, I was in contact with Nick only when I tried to find a solution to
17 get the Banyamulengue out of my house, and since Nick apparently couldn't do
18 anything we didn't see each other again until such time as I was able to fix up my
19 house to the best of my ability and to return to the house with my family.

20 Q. Is it correct, Witness, that you did not report the looting of your house to
21 anyone in the government at the time of the events?

22 A. Officially, no. Perhaps some of my colleagues, judges or inhabitants of PK12,
23 who were all aware of what had happened to me, perhaps - and I say perhaps - they
24 informed a member of the government, but I personally did not, but it might have
25 been certain colleagues, judges, who were aware of the situation.

1 Q. Witness, is it correct that you did not inform the President Ange-Félix Patassé of
2 the looting that you have alleged regarding your house?

3 A. I did not have any means of access to President Patassé. The only military
4 person that I informed about this event was Nick. Now, perhaps Nick informed
5 President Patassé, but I don't know. What I do know is that my answer is, no, I did
6 not do anything of the sort.

7 Q. Would it be correct to say that you were in contact with the local gendarmerie
8 and had been since the very first day when you learned of the incursion of the
9 Banyamulengue, as you call them, in your compound?

10 A. Yes. As I said to the investigators, and as I stated yesterday, given the
11 situation and given that I was an investigating magistrate I attempted, through the
12 gendarme at PK12, to obtain any possible information regarding the situation and
13 how things were evolving in that zone as well as around my own house.

14 Q. When you went back to your home in 2003, did you call in the gendarmerie to
15 report the looting of your property?

16 A. No, no, because when I went back the first time in February I saw what the
17 situation was and I thought that, on the basis of what I thought and what I saw about
18 the political situation in particular, that the only thing I had in mind was to go back to
19 my home. I didn't think of reporting it, as such, and therefore the report was only
20 made much later once I was absolutely certain that there was indeed an investigation
21 being carried out by the ICC.

22 Q. Are you referring to the report that you had the gendarmerie do (Redacted)
23 (Redacted) when they heard Mary and Peter?

24 A. Yes, that's what I'm referring to, because at the time I didn't make a police
25 report. Given the general context at the time, there would have been no point and,

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1 therefore, it was when I learned that they were collecting information on victims and
2 investigating and gathering evidence, that is when I produced the document and I
3 asked the gendarmerie to go and interview (Redacted)

4 MR KILOLO: (Interpretation) Madam President, do you think we can have a few
5 more minutes so we can complete our questioning?

6 PRESIDING JUDGE STEINER: I will have to consult the interpreters and court
7 reporters.

8 THE INTERPRETER: We can indeed, your Honour. No problem for the
9 interpreters.

10 PRESIDING JUDGE STEINER: Sorry?

11 THE INTERPRETER: From the interpreter, no problem for the interpreters.

12 PRESIDING JUDGE STEINER: Thank you very much. Three minutes, Mr Kilolo.

13 MR KILOLO: (Interpretation)

14 Q. Witness, is it correct to say that you chose not to report the looting - the alleged
15 looting - of your home immediately in February 2003, when you returned to your
16 house, and preferred to wait six years later, that is (Redacted), to do so?

17 A. Well, Maître, I would like to say that at the time the situation was such that I
18 was terribly upset. I told you that the army was able to do nothing and at the time I
19 really saw no way out. I didn't see much point in any police report, given the
20 situation at the time. We had to wait until the early phases of the proceedings that I
21 decided that, for reasons of making the truth appear, I decided to make that
22 statement.

23 Q. Witness, my question is as follows: When you went home in February of 2003,
24 why didn't you sue as a partie civile in the court system of your own country?

25 A. Let me repeat. At the time the context just did not make that possible and the

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1 legal instruments that we had just did not enable us to carry out any action, at least in
2 my opinion, and therefore the only hope was an international investigation under an
3 international court. I felt that, given the context at the time, given the situation of
4 your own client, unfortunately the environment did not make it possible. I hope that
5 this answer has been clear.

6 Q. Witness, and yet you allege that the administration continued to function, that
7 you yourself continued going to your office. How can you explain the -- how can
8 you explain your silence, whereas you could have given the authorities the
9 opportunity to be informed about the alleged looting in due time?

10 A. I have stated that this is related to the context which just did not make that
11 possible, and many witnesses have already spoken. It was when the investigation
12 was open that witnesses came forward, and I think I've been very clear on this
13 question.

14 Q. I shall conclude with this question. In 2003 --

15 PRESIDING JUDGE STEINER: Give us the opportunity to listen to the answer,
16 please, Maître Kilolo.

17 MR KILOLO: (Interpretation)

18 Q. I'd like to finish with the following: You said you waited until (Redacted)
19 (Redacted), whereas as a judge yourself, you certainly know that an inquiry was
20 opened up in 2003 in Bangui, in particular, on the behest of the investigating judge,
21 Mr Oradimo, but you didn't do anything at that time to inform the authorities of the
22 alleged events that you are speaking about today?

23 A. You have most likely had the opportunity to examine that case file, but I can say,
24 Maître Kilolo, that the colleague, Oradimo, was in charge of that case and again, given
25 the context at the time and for personal reasons, it seemed to me that the only solution

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1 was an international proceedings. As I will repeat, it was when the investigation
2 before the ICC was opened that I thought that at last justice would be done and that
3 the individuals would be tried, et cetera, given the environment at the time. Again,
4 thank you.

5 MR KILOLO: (Interpretation) Witness, we've gone somewhat over time. I thank
6 you very much.

7 PRESIDING JUDGE STEINER: Mr Witness, thank you very much. We will
8 adjourn for today. We don't have a session this afternoon. We will resume
9 tomorrow morning at 9.30 at Bangui time, 10.30 in The Hague time. We thank you
10 very much and wish you a restful day, if possible.
11 I thank you very much for the Prosecution team, the legal representatives of victims.
12 Thank you very much, the Defence team, Mr Jean-Pierre Bemba Gombo. A very
13 special thanks to our interpreters and court reporters for their indulgence once again.
14 We will adjourn for today and resume tomorrow morning, 10.30 here in this
15 courtroom, 9.30 in Bangui time. Thank you very much to the court officer, Mr Rojas,
16 that is in Bangui, to our court officer and court usher here. This hearing is
17 adjourned.

18 THE COURT USHER: All rise.

19 (The hearing ends in open session at 12.37 p.m.)

20 RECLASSIFICATION REPORT

21 Pursuant to Trial Chamber III 's Second Order, ICC-01/05-01/08-2223, dated 4 June
22 2012, and the instructions in the email dated 17 September 2013, the version of the
23 transcript with its redactions becomes Public.