

Trial Hearing

(Open Session)

ICC-01/05-01/08

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, 28 January 2011

8 (The hearing starts in open session at 11.32 a.m.)

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

10 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. Could please, court officer, call the

14 case.

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

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

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

18 PRESIDING JUDGE STEINER: Thank you very much. I would like to welcome the

19 Prosecution team. I note the absence of Ms Kneuer, the Prosecutor.

20 MR SCALIOTTI: Madam President, your Honours, good morning. In fact, there is

21 a slight change in the composition of the Prosecution team. For this hearing I will

22 replace Mrs Kneuer, and I am Massimo Scaliotti, trial lawyer. Thank you.

23 PRESIDING JUDGE STEINER: Thank you very much. I welcome the legal

24 representatives of victims, the Defence team, Mr Jean-Pierre Bemba Gombo, our

25 interpreters and court reporters. We are going to proceed with the questioning of

1 Witness 81, but before that I was informed, first, the Chamber needs to address an
2 issue and then the Defence would also like to address an issue.

3 I ask Maître Liriss, would you prefer to do it in open, or closed, session?

4 MR LIRISS: (Interpretation) In open session, your Honour, would be preferable but
5 before the witness enters the courtroom.

6 PRESIDING JUDGE STEINER: So maybe, Maître Liriss, this is the right moment for
7 doing that because after your observations I would turn into closed session, and
8 before the witness comes in I also -- the Chamber also has an issue to be raised. You
9 have the floor, Maître Liriss.

10 MR LIRISS: (Interpretation) Your Honour, your Honours, two days ago I raised an
11 issue. I posed a question that concerned presenting the witness with a transcript of a
12 witness previously heard. I think I, in fact, expressed myself clumsily and that gave
13 rise to some confusion. In your decision 1033 on the proceedings, this issue was not
14 raised, but other Chambers follow a different procedure.

15 For example, in Katanga, decision 1665 in the French version, according to that
16 decision, in the course of the cross-examination certain things are possible, provided
17 the witness's security can be guaranteed; provided this condition is met, it is possible
18 to present, or to refer to, the transcript of a witness's testimony, a previous witness's
19 testimony.

20 This is also the case in the Lubanga case, decision number 303. If the other
21 Chambers follow such a procedure, if this is common practice for them, the
22 Defence believes that if this Chamber hasn't dealt with the issue, we could perhaps
23 adopt this procedure. This would be interesting, in that it wouldn't be right if the
24 witness didn't have the possibility of providing an explanation of the contradictions
25 that appear if the witness just had to wait for these contradictions to appear at the end,

1 without the witness having the possibility of having explaining him or herself about
2 the contradictions.

3 With regard to the contradictions, the case law of the ICTY also deals with this matter,
4 and I'm referring to the Delic case in relation to this matter, addendum to the
5 guidelines on the decision on presenting and admitting evidence and on the conduct
6 of counsel. It's a Trial Chamber -- dated 22 October 2007.

7 And this is why the Defence suggests that the Court examine this possibility in the
8 light of the case law that has been established and the practice established by other
9 Chambers. You should examine the possibility for the Defence to act in this way,
10 subject to a certain guarantees for the security of the witness. The Defence should be
11 able to refer to -- refer to contradictory evidence given by previous witnesses if the
12 same case is concerned or the same issue is concerned. Thank you, your Honour.

13 PRESIDING JUDGE STEINER: Thank you very much, Maître Liriss. The
14 Chamber will deliberate on your specific request and, before the start of the second
15 part of today's hearing, the Chamber will issue a decision in this respect.

16 I ask please, court officer, to turn into closed session briefly, first for the Chamber to
17 address an issue -- sorry. Mr. Scaliotti.

18 MR SCALIOTTI: Madam President, just shortly, the Prosecution would like to
19 reiterate on this issue its position. The Prosecution's position as it was anticipated at
20 the hearing of last week is that, of course, for security concerns the OTP policy is
21 always not to show the identity of witnesses to other Prosecution witnesses.

22 Having said that, the Prosecution also endorses the Chamber's concern, and
23 recommendation is expressed at the last hearing that at this stage it would be
24 premature to allow the Defence into this line of questioning concerning possible
25 contradictions between different testimonies.

1 And finally, anyway, the main point for -- and the main concern for the Prosecution is,
2 of course, that as long as this practising case would be allowed that, of course, the
3 identity of the witness who testified previously, of course, would be not revealed to
4 the public. Thank you.

5 PRESIDING JUDGE STEINER: Thank you, Mr Scaliotti, and I apologise for not
6 giving you the floor before. It was my fault. I please ask court officer to turn into
7 closed session.

8 *(Closed session at 11.42 a.m.) Reclassified as Open session

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

10 PRESIDING JUDGE STEINER: Before the witness is brought into Court to continue
11 her testimony, with her questioning by the Defence, the Chamber would like to raise
12 a matter in relation to yesterday afternoon's questioning by Mr Haynes concerning
13 the manner in which Mr Haynes proceeded, when the Presiding Judge intervened to
14 query the line of questioning taken by counsel. And I quote from the transcript as
15 follows: Transcript reference ICC-01/05-01/08-T-55-ENG RT, page 66, lines 1 to 10,
16 and I start quoting:

17 "Presiding Judge: Mr Haynes, I think it's reasonable (Redacted)
18 (Redacted) why are you asking what she thinks (Redacted) was feeling?
19 I think it's becoming maybe too confused for the witness. Mr Haynes: Yes.

20 Question: But what did you think about it, what (Redacted)

21 (Redacted) What did you think about it?" Meaning the

22 Presiding Judge was interrupted while intervening.

23 The Chamber considers this disregard for the Presiding Judge's intervention is not an
24 acceptable way for counsel to conduct himself and he is verging on being
25 disrespectful, whether intentional or not.

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1 The Chamber expects all counsel appearing before it to show due respect to the
2 Judges of this Court and to address the Bench appropriately, as counsel of
3 Mr Haynes' standing should well be aware. This is, as well, the rule provided for in
4 Article 7 paragraph (1) of the Code of Professional Conduct for Counsel.
5 This is not the first occasion that the Chamber has noted less than courteous
6 behaviour from Mr Haynes towards the Bench, but the Chamber expects that it will
7 be the last. Thank you.

8 And now I ask please, court officer, to bring the witness into the courtroom.

9 Mr Haynes, it's not open for debate. Please.

10 (The witness enters the courtroom)

11 WITNESS: CAR-OTP-PPPP-0081 (On former oath)

12 (The witness speaks Sango)

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

14 (Open session at 11.47 a.m.)

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

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

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

18 PRESIDING JUDGE STEINER: Did you manage to sleep well and to take some rest?

19 THE WITNESS: (Interpretation) Yes, I had a good rest.

20 PRESIDING JUDGE STEINER: Are you feeling better on your toothache? Have
21 you received medication or assistance for your problem?

22 THE WITNESS: (Interpretation) Yes, I feel better. I took some medicine.

23 PRESIDING JUDGE STEINER: So, Madam Witness, we are going to continue today
24 with your questioning by the Defence. I just would like to remind you that you are
25 under protective measures, which means that your image and your voice are being

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1 distorted in the broadcast; therefore, the public outside the Court cannot identify you
2 by your face or by your voice. I also need to remind you that when we are in public
3 session you should avoid mentioning names of family members, of neighbours or
4 places, or any information that could lead to your identification or the identification
5 of your family members. Do you understand that, Madam?

6 THE WITNESS: (Interpretation) Yes, I do.

7 PRESIDING JUDGE STEINER: I also want to remind you that you are still under
8 oath. Do you understand that, Madam?

9 THE WITNESS: (Interpretation) Yes, I understand that.

10 PRESIDING JUDGE STEINER: So at any time you feel tired or distressed, or you
11 need a break for any reason, you just let us know and we will suspend the hearing.
12 Now I'm going to give the floor to the Defence that will continue questioning you.
13 Mr Haynes, you have the floor.

14 MR HAYNES: Thank you, Madam President.

15 QUESTIONED BY MR HAYNES: (Continuing)

16 Q. Good afternoon, Madam Witness, or good morning, just.

17 A. Good afternoon.

18 Q. I'm going to ask you just one more question about something we were talking
19 about yesterday afternoon and, for that purpose, we need to go very briefly into
20 private session, Madam President.

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

22 *(Private session at 11.52 a.m.) Reclassified as Open session

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

24 MR HAYNES:

25 Q. Madam Witness, do you remember yesterday afternoon before we finished we

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1 were talking about the occasion when (Redacted) went to meet Ms Sayo a few months
2 ago?

3 A. Yes.

4 Q. And do you remember you told us that (Redacted) was taken for an interview?

5 A. Yes, I remember that.

6 Q. Did (Redacted) tell you who he was interviewed by and why he was
7 interviewed?

8 A. I couldn't know. All he said is that he had been called by Ms Sayo and he
9 added that, in the course of the interview, there were soldiers nearby and he was
10 interviewed -- or soldiers by his side.

11 MR HAYNES: Thank you very much. Well, we can now go into open session,
12 please, Madam President.

13 PRESIDING JUDGE STEINER: Court officer, please.

14 (Open session at 11.54 a.m.)

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

16 MR HAYNES: Thank you very much.

17 Q. When you attended OCODEFAD groups, were there any discussions about the
18 availability of compensation?

19 A. Yes, this was discussed.

20 Q. And what did you understand compensation was available for?

21 A. After the atrocities we had been the victims of, we told ourselves that once the
22 perpetrators had been identified it was necessary for them to pay compensation
23 following the acts of violence that they had committed against various individuals.

24 Q. And did you understand that compensation would vary according to the
25 amount you lost or the amount you suffered?

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1 A. No, I know nothing about that.

2 Q. Very well. I'd just like you to look at a document, please. It's, to use the short
3 form, it's number 6 on the Defence list of documents and perhaps the best page for
4 the witness to look at is page 9.

5 PRESIDING JUDGE STEINER: Level of confidentiality, Mr Haynes?

6 MR HAYNES: I'm very sorry, it's confidential and should be kept within the
7 courtroom.

8 (Pause in proceedings)

9 THE COURT OFFICER: The document is available on your screens, page 9, and it
10 has been registered in the record of the case as ICC-01/05-01/08-954-conf-annex 371,
11 redacted version number 2. And the document is confidential.

12 MR HAYNES: If you would be so good just to scroll the document down so that the
13 witness can look at the handwriting under section "D."

14 Q. Are you able to see the writing on the screen, Madam Witness?

15 A. Yes.

16 Q. Is that your writing?

17 A. I can't even write.

18 Q. This is an application form to become a victim in these proceedings. Do you
19 remember that form being filled out on your behalf?

20 A. Do you have the NGO in mind? What exactly do you have in mind?

21 Q. Well, let's try it another way. Do you know whose writing that is on that
22 form?

23 A. No, I don't.

24 Q. Can you see in the bottom right-hand corner that there's a mark? Is that a
25 mark made by you? Can you see it right in the bottom right-hand corner?

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1 Somebody might be able to make it bigger for you. Can you see that mark?

2 A. Yes, I've seen it. I know that things go back from a long time ago. I can't
3 remember all the details. I can't tell you if it was me who marked that there.

4 Q. Well, if we go to page 1 of this form, please. Have you ever seen a form like
5 that before?

6 A. No.

7 Q. And please don't think this is an unkind question, but can you make a mark to
8 indicate your initials, or signature?

9 A. Yes. My way of signing consists of putting a line towards the back, drawing a
10 line backwards.

11 Q. We can go back to the other page, if you want, but did that mark in the bottom
12 right-hand corner of that page look like a mark you had made, or not? I don't want
13 to be unfair to you. If you want to see it again, we can go back to page 9. That
14 might be better, please.

15 It's on the screen for you now, Madam Witness. Would you look at it. Does that
16 look like a mark you would make to indicate your name, or not?

17 A. Yes, it's my signature.

18 Q. Okay. And can you remember whether, when you put your signature on that
19 form, there was any writing on it? Or was it blank?

20 A. How can you fill in a form that's blank? It was filled in before I signed it.

21 Q. Okay. Well, we no longer need that document on the screen because I'm going
22 to move on.

23 Now, at various times there have been a lot of soldiers passing through PK12; would
24 you agree?

25 A. Which soldiers are you talking about?

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1 Q. Well, let's start with the soldiers under the command of Mr Bozizé. How
2 many times do you recall seeing them in or around PK12?

3 A. When they arrive, they come by car. They come in vehicles. They came twice
4 before leaving again.

5 Q. Can you help us as to what they looked like in terms of their dress?

6 A. They were all in uniform and they had turbans.

7 Q. What sort of uniform?

8 A. It was a green type of uniform.

9 Q. Plain green, or camouflaged?

10 A. It was diverse. There was some which were green and there were other
11 uniforms which were khaki.

12 Q. Thank you very much. Did you see, in and around PK12, the forces under the
13 command of Mr Miskine?

14 A. No, I didn't see them.

15 Q. What about the forces of the Central African Army, the FACA, or the
16 Presidential Guard?

17 A. No, I didn't see them. Abdoulaye walked around with two bodyguards.
18 That's the only time I saw him, but I didn't see any other soldiers.

19 Q. So, other than the forces of Mr Bozizé, which soldiers did you ever see in PK12?

20 A. There weren't other forces.

21 Q. Very well. But was there fighting in PK12 on a number of occasions over a
22 period of years?

23 A. No. There was only fighting when Bozizé entered but, in terms of Bangui, no,
24 just the fighting with Patassé's men.

25 Q. And so that we are clear, who do you mean by "Patassé's men"?

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1 A. Patassé's troops, they were composed of Libyans and green berets who were
2 allied and they attacked at Bozizé.

3 Q. And where did the green berets come from?

4 A. It was the Presidential Guard responsible for the security of President Patassé
5 who was in Bangui.

6 Q. And did you actually see members of the Presidential Guard?

7 A. No, but it was the soldiers of the country. They didn't come from anywhere
8 else; I saw them.

9 Q. Where did you see them?

10 A. Before they also patrolled, as well as the red berets.

11 Q. And who were the red berets?

12 A. They are the forces of the Central African Republic Army.

13 Q. And so that we're complete, did you also see soldiers of the Central African
14 Army?

15 A. But who are the soldiers of the Central African Army? They are the green
16 berets and the red berets.

17 Q. Were they the only soldiers you saw wearing berets of any colour?

18 A. But who else was there? There were the Libyans who were allied with the
19 red -- with the green berets. Afterwards, the Libyans left. Who else was there?

20 Q. Very well. I want to try and concentrate now on the men who attacked you
21 and see if we can work out when that happened. You told us yesterday, in answer
22 to a question from the Judge, that you were 17 when these events took place. Do
23 you confirm that?

24 A. Yes, I can confirm that.

25 Q. And without being too particular, is it right that you were born in 1982?

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1 A. Yes.

2 Q. And again without being too particular, you were born about halfway through
3 the year, weren't you, in the summer months?

4 JUDGE ALUOCH: Excuse me, Mr Haynes. Would she know what summer
5 months is? Do they have seasons in that country?

6 MR HAYNES: That's a very, very fair observation. If nobody objects, I will put the
7 month to her, if that doesn't specify too much.

8 Q. You were born in July, weren't you?

9 A. Yes.

10 Q. So the events you've described to us must have occurred in 1999 or 2000. Do
11 you agree with that?

12 A. That's correct.

13 Q. Can you help us as to what time of year these events happened to you, perhaps
14 the month?

15 A. I told you that I don't know much where it concerns the date.

16 PRESIDING JUDGE STEINER: Mr Haynes, maybe it helps if you mention which
17 events you are referring to.

18 MR HAYNES: Yes. I thought I prefaced these questions by saying I wanted to
19 concentrate on the men who attacked her. If I didn't do that, I'll --

20 Q. So that we're clear, Madam Witness, we're talking about the attack upon you.
21 Can you help us as to what approximate time of year it was?

22 A. I told you that when an event, a serious event, arrives you can't remember the
23 date because you're so shocked by it.

24 Q. Okay. Then let's leave aside the date. When did you first know that these
25 troops had arrived in your area, the troops that came to your house?

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1 A. It was a Saturday.

2 Q. Okay. Can you help us with the time of day; was it light or dark?

3 A. They entered in the morning.

4 Q. Was it before you had got up or after you had got up?

5 A. We had already got up but we hadn't had breakfast on that particular day.

6 Q. Okay. Well, from your daily routine, can you give us some idea what time of
7 day that was?

8 A. It's different for every person. Some people get up at 5, others 7, some 8, but
9 on that day we got up at 6 in the morning.

10 Q. I don't want us to misunderstand each other. I'm not talking about the day
11 they came to your house; I'm talking about the day the troops arrived in your area.
12 Is that what you are describing to us?

13 A. I told you that it was a Saturday morning when they took over the area.

14 Q. Good. Well, we are understanding each other quite clearly. And what was it
15 that you first noticed about the presence of these troops?

16 A. When they arrived they were wearing bags, rucksacks. Some of them had
17 Rangers and others had Paladium shoes.

18 Q. Thank you. And how many days later was it that they came to your house?

19 A. It was the same day as their arrival. They were carrying objects on their back
20 and they took over the whole area. They were going from door-to-door.

21 THE INTERPRETER: The interpreter adds that they were also armed, in the
22 previous answer.

23 MR HAYNES:

24 Q. Thank you very much. So I know time is very difficult, but how long after

25 they -- you noticed their arrival did they come to your house? Was it an hour, more

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1 than an hour or something like that?

2 A. I told you that they came towards 6 in the morning. We woke up and one of
3 our brothers came back from the main road to inform us that they had arrived and
4 they had taken over the whole neighbourhood.

5 Q. And when you say one of your brothers informed "us," was that the whole of
6 your family including your father, for example?

7 A. He was next to the door to give us this information, and we asked the question,
8 "Where are they?" And he answered us, "They are on the main road."

9 Q. Probably my fault, but what I really wanted to know was who you meant by
10 "we" and "us." Who was there?

11 A. I was with my father, my mother, my brother -- my brothers.

12 Q. And was that the first you had heard about these troops, that morning when
13 your brother came to tell you, your father, your mother and your brothers?

14 A. We learned the news of their arrival, or we had learned the news of their arrival
15 for a long time, but it was on that day in the morning when he came back from the
16 main road to say that they were already there.

17 Q. I better just clear up that last answer. When you said, "We learned the news of
18 their arrival or we heard the news of them arriving for a long time," what do you
19 mean by that?

20 A. I don't remember the exact duration, how much time it took, but it was during
21 this event, this fighting, we learned that the Banyamulengue were coming.

22 Q. Thank you. That's what I thought you meant. Now, being careful to avoid
23 mentioning names, how many sisters did you in fact have who were living on the
24 compound at that time?

25 A. There were many of us.

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1 Q. I don't mind if you're wrong by one or two, but what was the approximate
2 number of sisters who were living with you at that time?

3 A. There were many of us in the house; 32.

4 Q. Thank you. And were any of your sisters older than you?

5 A. Yes.

6 Q. Do you remember now how old the oldest sister was?

7 A. I said that I had no idea of her age.

8 Q. Okay. Were any of your sisters about the same age as you?

9 A. No.

10 Q. Okay. Was there a sister who was about four years older than you?

11 A. Yes, she was there.

12 Q. And did you have a sister who was about 18 years of age?

13 A. She was there.

14 Q. And one who was about 16?

15 A. If she was 16, well, it means that I'm older than she is.

16 Q. Well, was there a sister amongst all the people at that compound who was
17 younger than you, who would be now about 24 years old?

18 A. Yes, it's possible because the event took place a long time ago, so it is quite
19 possible that she is 24.

20 Q. Thank you very much. Now, again, without mentioning her name, I want to
21 ask you some questions about your mother. Now, she is -- she has sadly passed
22 away, hasn't she?

23 THE INTERPRETER: The interpreter did not hear an answer from the Sango booth.

24 MR HAYNES:

25 Q. And Madam Witness, did you hear my question?

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1 A. Yes, I heard your question.

2 Q. I'm sorry. I'm not trying to upset you, but is it correct that your mother has
3 died?

4 A. Yes, my mother has died.

5 Q. And do you remember when she died?

6 A. I don't remember.

7 Q. Okay. Can you help us as to how long it was after the events you've been
8 telling us about when you were attacked?

9 A. I can't remember the exact date.

10 Q. Well, was it more or less than five years ago?

11 (Pause in proceedings)

12 PRESIDING JUDGE STEINER: Maybe you could repeat the question, Mr Haynes.

13 MR HAYNES:

14 Q. Yes. I know times are difficult, but do you think it was about five years ago
15 that she died, or a bit more?

16 A. I wouldn't know. She probably died two months after the events, but I can't
17 remember exactly.

18 Q. Very well. I'm going to remind you of something that you said when you
19 were interviewed and, for the benefit of everybody else, I'm going to ask that
20 document number 2 on the list of documents for this witness be placed into eCourt,
21 and it's page 0282 that I'd like to direct everybody's attention to.

22 THE COURT OFFICER: The document is available on your screens at page 282.

23 And for the record purposes, this document is referenced as EVD-T-OTP-00019 and is
24 marked as confidential.

25 MR HAYNES: Thank you very much. And can it just be scrolled up a little bit?

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1 Thank you very much.

2 Q. You were asked some questions about your mother who was in the house at the
3 time you were attacked. That's correct, isn't it? I'm sorry, Madam Witness, again,
4 it's probably my fault. It's right, is it, that your mother was in the house at the time
5 you were attacked?

6 A. Yes, she was in the house.

7 Q. And so you were asked by the interviewer, "You said before that your mother
8 was in the living room, too, and that she was sick. What happened to her?" And
9 you said, "They did not do anything to her. They were saying things to her, but my
10 husband spoke with them. They threatened him but they gave up. At that time, I
11 do not know what exactly happened to her, but she could not use her left hand and
12 leg. So, after what they did to me, she died."

13 And you were asked, "Since when could not your mom move her left leg and hand?"

14 And you said, "She started suffering one month before the arrival of the
15 Banyamulengue."

16 Is it right that your mother's disability occurred before the day on which you were
17 attacked by about one month?

18 A. Yes, it was one month, because at that time she was ill, she had (Redacted)
19 (Redacted)

20 Q. And during the events of your attack, she remained inside the living room of
21 the house you lived in; is that correct?

22 A. Yes, she was there. She couldn't move. She was in the living room from
23 morning to night.

24 Q. And during the attack on you, did anybody fire any gunshots inside the house?

25 A. Yes. But as the soldiers were in the neighbourhood, they would fire shots.

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1 Q. But were there any inside the house?

2 A. No fire was opened in my house.

3 Q. What about outside in the compound?

4 A. Yes, shots were fired there.

5 MR HAYNES: Very well. Madam President, can we just go into private session for
6 one question, please.

7 PRESIDING JUDGE STEINER: Court officer, please.

8 *(Private session at 12.44 p.m.) Reclassified as Open session

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

10 MR HAYNES:

11 Q. Madam Witness, did you have an uncle who was called (Redacted)

12 A. Yes.

13 Q. Can you tell us what his surname was?

14 THE INTERPRETER: The interpreter in the Sango booth says that he didn't hear the
15 witness's answer.

16 MR HAYNES:

17 Q. Could you tell us what his surname was again, Madam Witness?

18 (Pause in proceedings)

19 Madam Witness, are you okay?

20 A. Yes, everything is fine now. I wasn't able to hear the interpretation for a
21 moment but now everything's fine.

22 Q. Good. Please tell us if you've got trouble with your headphones or hearing the
23 interpretation. I was just asking you whether you knew what the family name or
24 surname was of your uncle (Redacted)

25 A. His family name is (Redacted)

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1 Q. Thank you very much. And to jog your memory, I'm going to ask that we look
2 at another page of the document that's in eCourt. It's the same document, but can
3 we look at page 285, please.

4 PRESIDING JUDGE STEINER: Mr Haynes, please. Maître Douzima wants to say
5 something. Maître Douzima.

6 MS DOUZIMA-LAWSON: (Interpretation) Thank you, your Honour. I just
7 wanted to ask the Defence to provide us with a reference for the French version so
8 that we can follow everything.

9 PRESIDING JUDGE STEINER: Is it possible? Is it possible, Mr Haynes, in order to
10 facilitate that you make the reference to the French translation?

11 MR HAYNES: I'm sure that within a few seconds or minutes it can be done in
12 relation to this page and I will try and make sure that any other references I'm going
13 to use this afternoon I can give dual references for. But whether I can facilitate
14 Ms Douzima immediately, I somewhat doubt.

15 PRESIDING JUDGE STEINER: Maître Douzima, the French translation is 0034-0626.
16 You can proceed, Mr Haynes.

17 MR HAYNES: Thank you very much.

18 Q. You were asked, "What was the name of your uncle?" And you said, (Redacted)
19 (Redacted) And you were asked, "What happened to (Redacted) And you said,
20 "The Banyamulengue wanted to take away his cart. He refused and resisted them,
21 so one of them shot and killed him." And you were asked, "When did this happen to
22 (Redacted) "It happened three days after what they did to us. They came to take
23 the cart. He refused and they killed him."

24 And I think we can, rather clumsily now, go back into open session because that's the
25 last time the name will be mentioned.

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1 PRESIDING JUDGE STEINER: Court officer, please.

2 (Open session at 12.50 a.m.)

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

4 MR HAYNES:

5 Q. Without mentioning his name, you only have one uncle by that name, do you?

6 (Pause in proceedings)

7 Madam Witness, are you receiving a translation of the questions I'm asking you?

8 A. Everything is fine again, but I wasn't receiving any interpretation for a moment.

9 Q. Okay. Is it right that one of your uncles was shot and killed three days after
10 you were raped?

11 A. Yes, that's true.

12 Q. And where did that happen?

13 A. All of this happened in PK12.

14 Q. And did you see his body after he had been shot?

15 A. I wasn't in the vicinity of the incident; I was at home taking care of my baby.

16 Q. But did you see him afterwards, after he had died?

17 A. How can one see someone who has already died?

18 Q. Was there a funeral?

19 A. At that point in time, there were soldiers all over the place. How could
20 someone organise a funeral, since the place was rife with weapons?

21 Q. Then what happened to his body?

22 A. As far as his body is concerned, I've already told you that my baby was ill.
23 I was at home, I heard sounds. It's the father who came to provide us with
24 information and later I heard nothing else.

25 THE INTERPRETER: The interpreter from the Sango booth would like to point out

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1 that he didn't hear the witness's last sentence.

2 MR HAYNES:

3 Q. What did your father tell you?

4 A. He came to tell us that what the Banyamulengue had done to (Redacted) was
5 intolerable. They wanted to take his cart and, as he tried to resist, they started
6 beating him and they killed him.

7 Q. How did you know he had been shot?

8 A. My father came to tell us that he had been killed, that a weapon had been used
9 to kill him. That's what I learned.

10 Q. Where did you believe he had been shot, in what part of his body?

11 PRESIDING JUDGE STEINER: Mr Haynes. Mr Scaliotti?

12 MR SCALIOTTI: Yes, Madam President, I think that this line of questioning is
13 definitely harassing the witness. She has already clearly stated that what she knows
14 was related to her by her father, so I don't see how she can provide further
15 information about this specific fact. Thank you.

16 PRESIDING JUDGE STEINER: Maybe if Mr Haynes rephrases and asks what she
17 learned about that.

18 MR HAYNES:

19 Q. Did you learn where, in terms of the part of his body, he had been shot?

20 A. He was shot in the ribs.

21 MR HAYNES: Thank you very much. I note the time and that is the end of a
22 particular topic, Madam President.

23 PRESIDING JUDGE STEINER: Mr Haynes, just for organisational purposes, is the
24 Defence -- has the Defence already an estimation on how long it would take to
25 continue questioning the witness?

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1 MR HAYNES: It is my profound wish to finish this afternoon and I will do my best.

2 PRESIDING JUDGE STEINER: Thank you very much. Madam Witness, we are
3 going to suspend now our hearing in order for you to have lunch and to take some
4 rest. We are going to be back at 2.30 in the afternoon when the Defence will
5 continue questioning you. I'm asking the court officer, please, to turn into closed
6 session in order for the witness to be taken outside the courtroom. In the meantime,
7 we will suspend and resume at 2.30 in the afternoon.

8 *(Closed session at 1.00 p.m.) Reclassified as Open session

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

10 (The witness stands down)

11 THE COURT OFFICER: All rise.

12 (Luncheon recess taken at 1.01 p.m.)

13 *(Upon resuming in closed session at 2.35 p.m.) Reclassified as Open session

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

15 PRESIDING JUDGE STEINER: Good afternoon. The Chamber has an oral decision
16 to be issued, but since it can be issued in open session, we are going first to ask court
17 officer to bring the witness in, and as soon as we turn into open session and before the
18 continuation of the questioning, the Chamber will issue its decision.

19 (The witness enters the courtroom)

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

21 (Open session at 2.37 p.m.)

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

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

24 THE WITNESS: (Interpretation) Good afternoon, your Honour.

25 PRESIDING JUDGE STEINER: Did you have lunch and manage to take some rest?

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1 THE WITNESS: (Interpretation) Yes, your Honour, I had an opportunity to have
2 lunch and to rest.

3 PRESIDING JUDGE STEINER: Madam Witness, we are going to continue with you
4 giving your testimony, being questioned by the Defence, but before that the Chamber
5 is going to issue a decision on a procedural issue, so you don't have to be concerned
6 about that. It's something that relates the Chamber and the parties and participants.

7 So, the decision is the following: On 26 January 2011, Defence counsel, Mr Liriss,
8 informed the Chamber that he wished to refer to Witness 38's transcript of
9 24 November 2010, in questioning Witness 23. This occurred shortly before the
10 lunch break, and upon resuming at 2.30, Mr Liriss proceeded to seek guidance from
11 the Chamber, and I quote, as to "whether it is possible to show the witness a
12 statement from another witness and bearing in mind security imperatives, and if its
13 not possible, whether the Defence can read out in his absence for the Chamber the
14 particular statement from another witness which contradicts statements made by this
15 witness."

16 This comes from transcript 54, English, edited, page 18, line 12.

17 Prior to hearing observations from the Prosecution and in response -- there is a
18 mistake here, page 23, 26 January 2011.

19 Prior to hearing observations from the Prosecution and in response the Presiding
20 Judge stated that, and I quote, "For reasons of safety of witnesses, one witness does
21 not know that another person is also a witness, and for that reason it's not possible
22 that the Defence informs the witness that another person has already given a
23 statement to the Prosecution and will come to the Court. Contradictions should be
24 discussed or pointed out by the Defence once both witnesses have come and given the
25 statements here before the Chamber. So it's for a later stage for the Defence to be

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1 free to show whatever contradictions, and I don't think it would be appropriate or
2 even possible at this stage to inform or let the witness know that someone else is also
3 coming to testify."

4 The Presiding Judge then made a correction as she had understood that Witness 38
5 had not yet given evidence, when in fact he had. This correction did not alter the
6 substance of the response that had been given.

7 The Prosecution submitted that it shared the Chamber's concerns about security,
8 stating that it is a standard policy of the OTP not to share with its witnesses who other
9 OTP witnesses are. The Prosecution also added that even though Witness 38 had
10 already testified, there is still a security and protection concern and also there is at
11 least the possibility that witnesses may be recalled for what reason, and this would
12 make the provision of security and protection, in particular for the OTP and the VWU,
13 even more difficult.

14 The Prosecution also submitted that it understands, accepts and endorses that the
15 Defence is testing the credibility of the witness and his or her testimony but, if it goes
16 to contradictions, then the Prosecution would greatly appreciate if it could be
17 circumvented in a way that the identity of other OTP witnesses would not be
18 revealed.

19 The Chamber then made its decision stating that, and I quote, "The Chamber
20 understands that there will a proper time for the Defence to compare statements and
21 to present to the Chamber -- to make submissions to the Chamber in relation to the
22 contradictions that the Defence finds in one, two, three, four statements. So the
23 Chamber sees no reason why we should now, right now be alerted -- or prevented,
24 really, or to take into account contradictions. So we are going to ask the Defence to
25 go back into the questioning of the current witness and, at any time, the Defence will

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1 be allowed to make its submissions on this and other contradictions that may appear
2 in relation to statements. That's the Chamber's decision on the issue."
3 This morning, Maître Liriss made further submissions on this same issue. The
4 Defence submitted that the practice of putting transcripts of evidence from witnesses
5 that have already given evidence at the Court is commonplace in both the Katanga
6 case (see Trial Chamber II decision 1665) and the Lubanga case (see transcript 303
7 from 17 June 2010, page 24, 25).
8 The Defence submitted that it does not consider that Trial Chamber III has yet ruled
9 on this point, as it is not addressed in the Chamber's decision on the conduct of trial
10 proceedings, filing 1023, and so it invited the Chamber to follow the practice in the
11 two other Chambers as it submitted it would not be right if a witness did not have the
12 possibility of providing an explanation on the contradictions that appear.
13 Counsel also quoted ICTY jurisprudence from the Delic case. The Defence
14 submitted it should be able to refer to contradictory evidence given by previous
15 witnesses if the same issue is concerned. The Prosecution objected to this course
16 reiterating its position, as had been stated in the hearing on 26 January and to which I
17 have just referred.
18 The Prosecution submitted that, for security concerns, the OTP policy is always not to
19 show the identity of witnesses to other prosecution witnesses. The Prosecution also
20 endorsed the Chamber's concern and recommendations expressed at the last hearing
21 that at this stage it would be premature to allow the Defence to pursue this line of
22 questioning concerning possible contradictions between different testimonies.
23 The main concern for the Prosecution is, as long as this practice would be allowed,
24 that the identity of the witness who testified previously should not be revealed to the
25 public. The Chamber stated it would deliberate and issue its decision immediately

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1 after lunch.

2 Having now considered this matter, it seems that there has been a misunderstanding
3 on the part of the Chamber as to the precise nature of the Defence request for
4 guidance when the Chamber's instructions were sought on 26 January. The
5 Chamber understood that the Defence was referring to the use of written, signed
6 witness statements, rather than statements made by witnesses that had already
7 testified in court and whose evidence was contained in the transcripts of the
8 proceedings. It is the use of the word "statement" rather than "transcript evidence"
9 that appears to have caused the ambiguity.

10 Following this morning's exchange, as summarised, the Chamber understands that
11 the Defence is requesting a ruling from the Chamber on the use of "transcript
12 evidence" from this case. Taking into account the practices of Trial Chambers I and
13 II in the Lubanga and Katanga/Ngudjolo cases respectively, the Chamber will, in
14 principle, allow the use of witnesses' evidence contained in the transcripts from this
15 case on the condition that, firstly, the identity of the witness who testified and whose
16 evidence is being quoted is not revealed to the witness who is being asked the
17 questions; instead, a pseudonym should be used. And, secondly, that no other
18 information that could lead to identifying the witness who previously testified is
19 revealed.

20 Finally, the Chamber reserves its position to determine otherwise on a case-by-case
21 basis, as appropriate. So now I think we can proceed with the Defence questioning
22 of the witness and, for that purpose, I give the floor to Mr Haynes.

23 MR HAYNES: Thank you very much, Madam President.

24 Q. Good afternoon, Madam Witness. Did you have a nice lunch?

25 A. Good afternoon, sir. I did have a good lunch.

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1 Q. Good. There were people in PK12 who came from the Congo, weren't there?

2 A. Yes.

3 Q. And those people spoke Lingala and Sango; is that right?

4 A. They spoke Lingala. Some of them spoke French.

5 Q. Did some of them speak Sango?

6 A. No.

7 Q. Did you often go into the centre of Bangui, and were there such people who
8 lived there, Congolese people?

9 (Pause in proceedings)

10 Thank you for that indication. Were there people who lived in the centre of Bangui,
11 who came originally from Zaire, the Congo?

12 A. They were the Banyamulengue who came from Zaire.

13 Q. Well, what I was going to ask you was whether people who lived in the Central
14 African Republic and who came from Zaire were sometimes referred to as
15 "Banyamulengue."

16 A. No, they would be called the mônô.

17 Q. And were there many of these mônô who lived in Bangui?

18 A. They lived in another neighbourhood and they would come to do odd jobs.
19 There were many of them.

20 Q. Thank you. Do you know what events caused them to come and live in your
21 country?

22 A. No, I don't know.

23 Q. Do you remember when you first noticed the Congolese community in Bangui?

24 A. The ones who came to find work, odd jobs, when I was a child they already
25 were there doing odd jobs.

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1 Q. Thank you. And apart from the boy you've told us about who came with the
2 soldiers on the morning of your attack, did you know anybody personally who was
3 from Zaire?

4 A. No.

5 Q. And did you know whether any of these people from Zaire were recruited as
6 soldiers into the Central African Army at this time?

7 A. No.

8 Q. Thank you. Now, can we move on to the arrival of the soldiers at your house.
9 Is it the case that you first saw them by looking out of the window or out of a door, or
10 something like that?

11 A. I was outside when they arrived.

12 Q. And did it appear to you that they were not looking for your house or your
13 compound in particular, but were going to many houses?

14 A. I said that they didn't come just to our home; they were throughout the entire
15 neighbourhood.

16 Q. Thank you. And can you help us as to how many soldiers entered your house?

17 A. They were walking in a group. They weren't all -- they weren't alone, they
18 were walking throughout the neighbourhood. I couldn't tell you how many there
19 were. They walked in a group.

20 Q. Well, I wonder if I can help you by looking at something you said a few years
21 ago, and it's the same document we've been looking at, document 2 on the Defence
22 list. It is page 0259 in English. The French reference in full is CAR-OTP-0034. The
23 first page of this document 0626, and this will be at page 0604 in the French.

24 Henceforth, I will only give the last four numbers in both languages.

25 THE COURT OFFICER: Mr Haynes, you said that you want page 0259 but the

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1 document on the Defence list of documents starts already with page 0268.

2 MR HAYNES: Then I'm sorry, it must be document 1.

3 THE COURT OFFICER: The document is available on your screens at page 0259 and,
4 for the record of the case, this document has been attributed reference
5 EVD-T-OTP-00018 and is marked as confidential.

6 MR HAYNES: Thank you very much. Could we go down towards the second half
7 of the page, please.

8 PRESIDING JUDGE STEINER: Mr Haynes, just to help legal representatives, in the
9 French version it's 0034-0592.

10 MR HAYNES: Thank you very much. I think in fact I might need the next page.
11 No, I may have to come back to this. I've plainly got a bad page reference. We'll
12 move on, if I may.

13 Q. At the time the soldiers arrived, so far as you know, was your father in his own
14 house?

15 A. My father was in his house.

16 Q. How did you know that? Had you seen him that morning?

17 A. Of course I saw him if I can claim or, rather, affirm that he was there.

18 Q. And what time of day was it that the soldiers arrived?

19 A. They arrived at 6 o'clock in the morning. It was already daytime.

20 Q. And what time of day was it when they finally left?

21 A. After doing the harm they did, they left at around 10 or 11 o'clock.

22 Q. And by that do you mean both the first and the second group or just the first
23 group?

24 A. The first group had already withdrawn; they had finished looting by around
25 9 o'clock and it is only later that the second group arrived.

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1 Q. How long after the first group left did the second group arrive?

2 A. I can no longer remember the time but they arrived a little after the departure of
3 the first group, a few moments after their departure.

4 Q. Thank you. And what were you doing at the time of the departure of the first
5 group?

6 A. I wasn't doing anything in particular.

7 Q. You weren't making tea?

8 A. That was at the beginning, in the morning when I was preparing breakfast,
9 that's when they arrived, and I couldn't even finish my work.

10 Q. Now, which group of men was it which asked you for money; the first group or
11 the second?

12 A. The first group asked us for money. When we said that we had none, they
13 entered the house to start gathering the various items.

14 Q. And if I understand your evidence correctly, they stole one mattress and two
15 suitcases; is that correct?

16 A. The suitcase belonged to our children. They took the mattress and they also
17 took my bags.

18 Q. So they didn't have very much to carry, did they, the first group of men?

19 A. They are the ones who emptied the house. They took many things.

20 Q. But they put them all into two suitcases; is that correct?

21 A. They didn't put these things in those suitcases. They took mattresses, other
22 items that they wrapped up and took away with them.

23 Q. So are you saying they took more than one mattress?

24 A. Yes. I'm also referring to our clothes. They also took our foam mattress. I
25 didn't mean to speak about numerous mattresses, a number of mattresses.

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1 Q. So it was just one mattress. And how many bags?

2 A. *I only had one bag with clothing. They took my baby's suitcase and
3 my husband's suitcase, too. That's what
4 they took away with them.

5 Q. Okay. Now, I've located the reference I wanted to the number of men. It's
6 page 258 in the English, and if you just give me a second, 0604 in the French.
7 Can we go towards the bottom, please?

8 Madam Witness, when you were asked questions about this in 2008, you were asked,
9 "Do you remember how many of the Banyamulengue of the first group entered your
10 house?" And you said, "There were around 15 men." Does that sound now to be
11 about right to you?

12 A. You know that this all happened a long time ago, so I've forgotten everything,
13 and now when you question me this is the only answer I can give you.

14 Q. Well, in your mind's eye, can you see about 15 men coming in on that first visit?

15 A. That was just an example that I provided. I don't have the exact number in
16 mind so this is just an estimate, a rough estimate.

17 Q. How many of those men were carrying something on their head?

18 A. * They all carried things on their heads. I don't know where they started
19 collecting these items, gathering these items.

20 THE INTERPRETER: The interpreter in the Sango booth notes that the witness is
21 speaking too fast.

22 JUDGE ALUOCH: Sorry, Mr Haynes. I see your question was: How many of
23 those men were carrying something on their head? And I see the answer as, "They
24 all wore something on their heads." So definitely the two of you are not talking
25 about the same thing.

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1 MR HAYNES: No, it's because the word is the same word in French, I imagine.

2 Q. How many of those men had goods from your house upon their heads?

3 A. I couldn't check everything they were carrying on their heads.

4 Q. How many of those men had goods from your house on their backs?

5 A. I have already told you that I don't know how many of them there were.

6 Q. Presumably, afterwards you could check exactly what they had taken; is that
7 right?

8 A. Yes, I checked everything. They had taken our mattress, our clothes and
9 suitcases that belonged to my baby and my husband. Those are all the items that
10 they took.

11 Q. But the items they took could have been carried by two or three men, couldn't
12 they?

13 A. There were many of them and they would walk around in groups, in a group.
14 When they carried items out, other members of the group would carry them.

15 PRESIDING JUDGE STEINER: Mr Haynes, just one second. Madam Witness, the
16 interpreters are asking you please to speak a little bit slower because they are having
17 difficulties in interpreting what you say. Thank you.

18 And Mr Haynes, when they finish interpretation, you should count to five before
19 asking another question. It is the time we need for the transcript to be finalised.
20 Thank you.

21 MR HAYNES: Yes. I'd forgotten myself in that regard in the last few minutes.
22 I'm sorry.

23 Q. I just want to have a look at something else you said in 2008, and it's document
24 2. In the English, page 275; and in the French, page 0617.

25 THE COURT OFFICER: The document is available on your screens and is marked

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1 as confidential. The reference assigned is EVD-T-OTP-00019.

2 MR HAYNES:

3 Q. I just wonder if you could help us with this. In 2008 you were asked, "You said
4 that a first group of Banyamulengue arrived in the morning and a second group
5 arrived that same day later on. Could you tell us now what did this second group of
6 Banyamulengue do when they arrived to your house?" And you said, "When they
7 came, they asked for money and then they said they wanted to have women."
8 Having been reminded of what you said then, was it the first or the second group that
9 arrived that asked for money?

10 A. I have told you that the first group asked us for money and we said we had
11 none. They entered the house and looted. The second group arrived and they
12 asked for women.

13 Q. So did you make a mistake when you were interviewed in 2008 when you said
14 the second group asked for money?

15 (Pause in proceedings)

16 Are you receiving a translation of what I'm asking you?

17 A. Could you repeat the question, please?

18 Q. Absolutely. Was it a mistake when you said in your interview in 2008 that the
19 second group of men asked for money?

20 A. You know, these events took place a long time ago. I can't remember these
21 things today. And I'm before a tribunal today, so that's why I'm saying this.

22 Q. So you can't remember whether it was the first or the second group of men that
23 asked for money as you sit here today; is that right?

24 (Pause in proceedings)

25 We're having a problem with the translation again, or --

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1 A. Apparently there was a technical problem.

2 Q. Okay. Well, I will move on. How far apart are the two houses in which you
3 and your father were living on the compound?

4 A. There weren't two houses in the compound; there were three.

5 Q. I understand that. What is the distance between each of the houses then, if you
6 could tell us that?

7 A. *There was no distance between the houses *My father's house was beside and
8 the house of one of my father's other wives,
9 not my mother, was in front

10 Q. Okay. And the area in between all the houses, how big is that?

11 A. As far as the surface is concerned, the house was in front of my father's and
12 mine was in front of my mother's.

13 THE INTERPRETER: If the interpreter has understood this correctly, says the Sango
14 booth.

15 MR HAYNES:

16 Q. The area between the houses, would it be as big, for example, as the area of this
17 courtroom?

18 A. Yes, roughly speaking, but it was square.

19 Q. Thank you. And from your house can you hear what is happening in the
20 compound, the area between the houses?

21 A. If the people were speaking outside, yes. But if it was inside, I'm not got (sic)
22 to be able to know about what is being said or to hear what is being said.

23 Q. The room in which you were raped, is that a downstairs room in your house?

24 A. No, there is no basement. There are five rooms. I was raped in the living
25 room. So there was no basement.

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1 Q. And does the living room face out onto the compound?

2 A. Yes. You have access to the courtyard from the living room.

3 Q. By "access," do you mean a door? Can you see out onto it, onto the
4 compound?

5 A. I don't understand your question.

6 Q. If you stand in your living room, can you see your father's house?

7 A. From my living room, I can see the back of his house.

8 THE INTERPRETER: If the interpreter in the Sango booth has understood this
9 correctly.

10 MR HAYNES:

11 Q. Can you see the other house of the three from your living room?

12 A. No, I can't.

13 Q. Thank you very much. Now, during the attack on you your mother was in the
14 living room, wasn't she?

15 A. Yes, I had to say that she was in the living room.

16 Q. And as far as you were aware, there was nobody outside in the area between
17 the houses; that's also right, isn't it?

18 A. There were people; each person was at his home. They came. I was at home.
19 They came and found me in my home; I was at home.

20 Q. Your husband was not in the living room at the time that you were attacked,
21 was he?

22 A. He was outside with the baby.

23 Q. Outside where?

24 A. He was at the door. When he spoke, they threatened him, so he left the living
25 room and he was down there with respect to the door, outside.

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1 Q. I have to ask you this. Was your husband actually in your house at the time of
2 these events?

3 A. When they came in, he was in the living room with the child in his arms, and
4 they asked him, and when they said that they wanted to sleep with me, he tried to get
5 involved. They threatened him and he went out, and he was outside of the house.

6 Q. Do you mean that, outside of the house as opposed to outside of the room?

7 A. He left the living room and he was outside.

8 Q. Okay. Now, your husband spoke Lingala, didn't he?

9 A. Yes, he spoke Lingala.

10 Q. And did he help you to understand what these men wanted?

11 A. *When he was speaking to them, they were threatening, and he was telling me
12 so in Sango. And even the ones who had arrived and asked for some things, he
13 explained -- he had explained it to me.

14 Q. Sorry, who was only speaking in Sango?

15 A. Amongst the Banyamulengue no one was speaking Sango. They spoke -- they
16 did not speak Lingala. They spoke in French.

17 Q. I just -- it might have been a bad translation or a misunderstanding, but you
18 said at line 16 to 17 of the English transcript, "When he spoke to them he was -- they
19 were threatening and he only was speaking in Sango." Is that what you said?

20 PRESIDING JUDGE STEINER: Mr Haynes, Maître Zarambaud wants to say
21 something. Witness. Witness, please. Maître Zarambaud.

22 MR ZARAMBAUD: (Interpretation) What I see here, it is not indicated in this way.
23 She said that they spoke Lingala and French. The Court could always ask the
24 question again, or my learned friend opposite could also ask the question again.

25 PRESIDING JUDGE STEINER: Mr Haynes, as always there will be a double check

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1 with the -- in the edited version of the transcripts, but for the continuation of your
2 questioning maybe you could ask the very same question again, please.

3 THE INTERPRETER: Message from the interpreters: The English interpreter
4 wishes to point out that what the witness said was "He spoke to me in Sango."

5 MR HAYNES: I think we'll wait for a perfected version of the transcript in the
6 circumstances, with respect.

7 Q. So had your husband not been there and able to speak to you in Sango, you
8 would not have been able to understand what these men wanted; is that right?

9 A. I couldn't because it wasn't my language.

10 Q. Thank you. You have told us the names of the men who raped you. Did you
11 learn those names during the course of the rapes, or at a later stage?

12 A. It was after. That was when I learned their names.

13 Q. When after did you learn their names?

14 A. I no longer recall the actual moment but, after committing these acts of violence
15 and abuse, they left and they went away, to go dig trenches, and they gathered to
16 speak to one another, and that is when I came to learn their names.

17 Q. Thank you very much. Then we will come back to that. But you've told us
18 that the soldiers finally left at about - and I'll be corrected if I'm wrong - 10 or 11
19 o'clock in the morning; is that correct?

20 MR SCALIOTTI: Madam President, the Prosecution would be grateful if the
21 Defence could give us the reference of the -- piece of evidence that they are referring
22 to. Thank you.

23 MR HAYNES: I can but I'll just ask an open question to simplify it, if that's all right
24 with you, Madam President?

25 PRESIDING JUDGE STEINER: It would be better if you repeat. It would facilitate

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1 everyone's life, Mr Haynes.

2 MR HAYNES: Okay.

3 Q. At what time in the morning did the soldiers eventually leave?

4 A. I said that they left at around 9 or 10 in the morning. I couldn't tell you the
5 exact time.

6 Q. And what did you do then?

7 A. After their departure I was bleeding and I had to make a preparation with
8 leaves and then sit in this liquid.

9 Q. And how long did that take?

10 A. I wasn't sitting in it all of a sudden. I had to boil the water and then I waited
11 until the concoction cooled down before I could use it for a bath. And I sat in it for a
12 while before I went out again.

13 Q. Madam Witness, I know it's difficult but did this entire process take --

14 PRESIDING JUDGE STEINER: Mr Haynes, please.

15 MR HAYNES: I'm very sorry.

16 MR SCALIOTTI: Yes, Madam President. I would like to point out that the fact that
17 this line of questioning is becoming, in the Prosecution's view, a bit intrusive. And
18 also considering the recommendations for special measures that were given by the
19 Victims and Witnesses Unit with particular regard to the mode of the questioning,
20 and the fact that intrusive questions should be avoided, in the Prosecution's view the
21 Defence should refrain from continuing into this line of questioning. Thank you.

22 PRESIDING JUDGE STEINER: I think Mr Haynes would agree that maybe it's
23 becoming too embarrassing for the witness. If you could, please, change a little bit
24 the line of questioning in this respect.

25 MR HAYNES: Yes. Well, I don't want to get into an argument. The question was

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1 only, "What did you do then?"

2 Q. But after you got out of the bath, what did you then do?

3 A. What could I do? I got out of that water, and I couldn't take the medication I
4 hadn't found, so I stayed and I didn't do anything.

5 Q. So you didn't go to PK22?

6 A. You're asking me questions, and you're going back to the same questions. My
7 head is spinning. You haven't asked me questions about PK22.

8 Q. Well, did you or did you not go to PK22 on the same day that you were
9 attacked?

10 A. After committing the acts of violence and abuse, I thought that the others were
11 going to come. So my mother and I, we went to PK22. Unfortunately, when we got
12 there the same acts were going on there, so we had to turn back.

13 Q. I don't want to be accused of an intrusive question, but did you go to PK22
14 before or after you had the bath?

15 PRESIDING JUDGE STEINER: Sorry, Mr Haynes. This is going too far.

16 MR HAYNES: Very well.

17 PRESIDING JUDGE STEINER: Madam Witness, are you feeling well to continue
18 with your questioning? You said your head was spinning.

19 THE WITNESS: (Interpretation) I agree.

20 PRESIDING JUDGE STEINER: Do you want a break or do you want to continue?

21 THE WITNESS: (Interpretation) We can keep on going, but if it's to ask me other
22 questions, it would be better to clear things up, to ask these questions clearly so I can
23 understand; otherwise, I will be lost.

24 PRESIDING JUDGE STEINER: Mr Haynes, the Chamber would very much
25 appreciate if not only you stop with such intrusive and sometimes offensive questions,

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1 but if possible that you follow the recommendation given by VWU, taking into
2 account the literacy level of the witness, to put to her simple, open-ended questions in
3 order for the witness to understand exactly what you are asking for. Thank you very
4 much.

5 MR HAYNES: Madam, would you prefer it if we stopped now? There are only
6 seven minutes left and I'm plainly not going to finish this afternoon. It does trouble
7 me when witnesses say their heads are spinning. It doesn't seem to me to be fair.

8 PRESIDING JUDGE STEINER: Maybe, Mr Haynes, it's the best course of action.

9 Madam Witness, the Chamber decides that it's better if we stop here. Then you can
10 take your time to rest, to enjoy the weekend and when we come back on Monday the
11 Defence will continue with your questioning. Is that fine with you, Madam?

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

13 PRESIDING JUDGE STEINER: Mr Haynes, at this point in time do you have already
14 any idea on how long it will take on Monday for the Defence to conclude its
15 questioning?

16 MR HAYNES: I would not have thought it will take more than one session, but one
17 always tends to run back through the transcript. Certainly, it's a shortened day on
18 Monday, isn't it, but even so I would think we would conclude this witness on
19 Monday.

20 PRESIDING JUDGE STEINER: Thank you very much. Has already the
21 Prosecution any idea on whether the Prosecution intends to re-direct?

22 MR SCALIOTTI: Madam President, for the time being, the Prosecution does not
23 envisage any re-direct examination of the witness, unless of course the further course
24 of the testimony will require that.

25 PRESIDING JUDGE STEINER: Thank you very much. We are going to adjourn,

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1 but we'll resume on Monday at 2.30 in the afternoon. Maître Liriss, please.

2 MR LIRISS: (Interpretation) Your Honour, thank you. My colleague is trying, as

3 much as possible, to take into account your recommendations, as well as those from

4 the VWU. I don't see from a personal point of view how he can try to shed light on

5 these matters for the Chamber regarding the likelihood of the testimony. I don't

6 know -- I think we absolutely need some instructions in this regard.

7 If I were to explain to you what he's trying to get, I would be revealing my strategy,

8 but asking whether that same day in accordance with her statement the witness

9 travelled 10 kilometres (inaudible) to PK22 and then come back the same day, I don't

10 see how he can ask the question any other way, other than saying, "What did you do

11 after?" unless I've misunderstood.

12 Honestly, your Honour, I think that the Prosecution is trying to keep us from doing

13 our work, claiming that offence is being given. There you have it. The Defence has

14 no interest or no need to offend anyone and especially not the victim of such a horrific

15 crime. I thank you, your Honour.

16 PRESIDING JUDGE STEINER: Mr Liriss, the Chamber would never have interfered

17 if the question put to the witness would have been whether the witness in the same

18 day travelled 10 kilometres to PK22, whether the witness came back in the same day.

19 It's completely different, Maître Liriss, asking the witness if she went to PK22 before

20 or after taking a bath. I'm sorry, Maître Liriss, maybe as head counsel you could sit

21 with your co-counsels and, with your good sense that you have demonstrated you

22 have, to show that the same questions can be put in a different manner, without

23 causing any prejudice to the rights of the Defence.

24 The Chamber is quite attentive in order to, all the time, protect the rights of the

25 accused in this courtroom but these rights have to be balanced with the dignity of the

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1 person who came to this Court to testify. Thank you very much. And on behalf of
2 the Chamber, I really recommend that the Defence change not the content of the
3 questions but maybe the way the questions are being put to a highly vulnerable
4 person.

5 We are going to adjourn for today. We are going to resume on Monday at 2.30 in the
6 afternoon.

7 Madam Witness, we wish you a very nice and quiet and restful weekend.

8 I would like to thank the Prosecution team, the legal representatives of victims, the
9 Defence team, Mr Jean-Pierre Bemba Gombo, our interpreters and court reporters,
10 wishing all of you a nice weekend. We are going now into closed session in order
11 for the witness to be taken outside the courtroom and, in the meantime, this session
12 will be adjourned.

13 *(Closed session at 3.58 p.m.) Reclassified as Open session

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

15 (The witness stands down)

16 THE COURT OFFICER: All rise.

17 (The hearing ends at 3.59 p.m.)

18 CORRECTIONS REPORT

19 The Court Interpretation and Translation Section has made the following corrections
20 in the transcript:

21 * Page 31 line 2 to 3:

22 "I only have one bag with items, clothing. They took my baby's child * and -- they
23 took my baby's suitcase and my husband's suitcase, too " is corrected by "I only had
24 one bag with clothing. They took my baby's suitcase and my husband's suitcase,
25 too"

26 * Page 34 line 7 to 9:

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1 "My father's house was -- was there right nearby and the house of my mother was
2 in front of the co-wife, the house of the co-wife was in front " is corrected by
3 "My father's house was beside and the house of one of my father's other wives, not
4 my mother, was in front"

5 SECOND CORRECTION REPORT

6 The Court Interpretation and Translation Section has made the following correction
7 in the transcript:

8 *Page 36 lines 11 to 12

9 "When he spoke to them he was -- they were threatening and he only was speaking in
10 Sango, and the ones who arrived and asked for some things, he explained -- he had
11 explained it to me. "

12 Is corrected by

13 "When he was speaking to them, they were threatening, and he was telling me so in
14 Sango. And even the ones who had arrived and asked for some things, he
15 explained -- he had explained it to me. "

16 THIRD CORRECTION REPORT

17 The Court Interpretation and Translation Section has made the following correction
18 in the transcript:

19 *Page 31 lines 18

20 "They all wore something on their heads " is corrected by "They all carried things on
21 their heads "

22 *Page 34 lines 7

23 "There was no distance between the houses " is added before "*My father's house
24 was beside and the house of one of my father's other wives,"

25 RECLASSIFICATION REPORT

Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and ICC-01/05-01/08-3038, and the instructions in the email dated 9 September 2013, the version of the transcript with its redactions becomes Public

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- 1 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and
- 2 ICC-01/05-01/08-3038 and the instructions in the email dated 9 September 2013, the
- 3 version of the transcript with its redactions becomes Public.
- 4