

Trial Hearing
Witness: CAR-OTP-PPPP-0042

(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
6 Judge Kuniko Ozaki
7 Trial Hearing
8 Tuesday, 15 February 2011
9 (The hearing starts in open session at 9.38 a.m.)
10 THE COURT USHER: All rise. The International Criminal Court is now in session.
11 Please be seated.
12 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
13 in open session.
14 PRESIDING JUDGE STEINER: Good morning. Could, please, the court officer call
15 the case.
16 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
17 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
18 PRESIDING JUDGE STEINER: Thank you very much. I would like to welcome the
19 Prosecution team, the legal representatives of victims, the Defence team,
20 Mr Jean-Pierre Bemba Gombo and say good morning to our interpreters and court
21 reporters. We are going to continue today with the questioning of Witness 42.
22 Before that, I have an -- the Chamber has an oral decision to be issued related to
23 protective measures for Witness 79 that could not be read yesterday because of the
24 problem we had in our transcripts.
25 The decision is the following: On 24 June 2010, the Prosecution made an application

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1 for protective measures with respect to 21 witnesses (filing 800), including Witness 79,
2 filing a corrigendum to this application on 6 July 2010.

3 In this application the Prosecution requests that the Chamber grants limited
4 protective measures for Witness 79, who is identified as a victim of rape. The
5 Prosecution requests image and voice distortion, as well as the use of a pseudonym
6 and partial use of private or closed session. In addition, pursuant to Rule 88 of the
7 Rules of Procedure and Evidence, the Prosecution requested the Chamber to
8 authorise Witness 79 to be accompanied by a support person of her choice.

9 The Defence filed the response on 15 July 2010 (filing 830, paragraph 13), submitting
10 that inter alia it would not oppose the protective measures requested for prima facie
11 victims/witnesses of rape on the condition that a preliminary examination is
12 conducted by the Chamber in closed session.

13 On 25 October 2010 (filing 974 Conf-Ex) reiterating its initial observations made on
14 15 September 2010 (filing 884-Conf-Exp), the Victims and Witnesses Unit filed
15 observations on the vulnerability assessment of Witness 79. The VWU stated that it
16 supports the protective measures requested by the Prosecution with regard to the
17 alleged victims of rape, including Witness 79.

18 The VWU reported that the witness is considered vulnerable and the protective
19 measures proposed would preserve her safety and integrity. The VWU stated that
20 additional special measures may be needed considering the psychological state of
21 Witness 79.

22 The VWU also supported the Prosecution request for Witness 79 to travel to The
23 Hague with an accompanying support person. In particular, the VWU confirmed
24 that Witness 79 expressed the wish to travel with her cousin, who was assessed as a
25 suitable person to accompany the witness.

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1 In light of the above, and pursuant to the Chamber's obligations under Article 68(1)
2 and (2) of the Statute and Rules 87 and 88 of the Rules of Procedure and Evidence and
3 Regulations 91 and 94 of the Regulations of the Registry, the Chamber considers that
4 based on the VWU observations the requested protective measures for Witness 79 are
5 necessary, reasonable and proportionate.
6 The protective measures for Witness 79 are specifically provided for in Rule 87(3)(c),
7 (d) and (e) of the Rules and have been considered as generally non-intrusive measures,
8 allowing the Chamber to appropriately balance its duty to respect the principle of
9 publicity and its obligation to protect victims and witnesses.
10 Not only will they reduce the risk of threats, social stigma and/or rejection, but
11 simultaneously they will facilitate the testimony of a vulnerable witness and protect
12 her against psychological harm and re-traumatisation by minimising exposure to the
13 public.
14 In addition, the Chamber recalls the amended version of the unified protocol on the
15 practice used to prepare and familiarise witnesses for giving testimony at trial (public
16 annex of filing 1081 of 7 December 2010), in particular paragraph 12. This protocol
17 stated that, and I quote, "If, based on VWU's assessment, a witness requires an
18 accompanying person to travel, in accordance with Regulation 91 of the Regulations
19 of the Registry, such arrangements will be made." The Chamber considers that
20 whether or not an accompanying support person is necessary is a matter within the
21 competence of the VWU and therefore not for the Chamber to decide.
22 The Chamber hereby grants the requested protective measures for Witness 79 and
23 authorises the use of image and voice distortion, the assignment and use of
24 pseudonym, as well as the use of private or closed sessions to protect her identity,
25 provided that this is indicated in advance to the parties, participants and the Chamber.

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- 1 Parties and participants should make every effort to question Witness 79 on
2 identifying information at the beginning of her testimony.
3 The Chamber defers its decision on any additional special measures for Witness 79
4 until it receives the individual psychological assessment of this witness from the
5 VWU psychologist.
6 The Chamber is also aware that is still pending a decision on protective measures for
7 Witness 73. The Defence was only yesterday informed about the reclassification of a
8 request made by the Prosecution. The Chamber understands that the time limit
9 given to the Defence is quite strict, and as soon as the Chamber is informed that the
10 reclassification has taken place, if the Defence so wishes, the Defence can make oral
11 submissions in that respect.
12 Now we are going to -- I'm going to ask the court officer to go briefly into closed
13 session, in order for Witness 42 to be brought inside the courtroom.
14 *(Closed session at 9.48 a.m.) Reclassified as Open session
15 THE COURT OFFICER: We are in closed session, Madam President.
16 (The witness enters the courtroom)
17 PRESIDING JUDGE STEINER: We can turn into open session, please.
18 (Open session at 9.49 a.m.)
19 THE COURT OFFICER: We are in open session, Madam President.
20 PRESIDING JUDGE STEINER: Thank you very much. Good morning,
21 Mr Witness.
22 WITNESS: CAR-OTP-PPPP-0042 (On former oath)
23 (The witness speaks Sango)
24 THE WITNESS: (Interpretation) Good morning, your Honour.
25 PRESIDING JUDGE STEINER: Did you have a restful night?

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1 THE WITNESS: (Interpretation) Yes, I had an opportunity to get a good rest,
2 because yesterday I asked how my child was doing. My wife told me that my child
3 is doing well, so that allowed me to get a good night's sleep tonight -- last night.

4 PRESIDING JUDGE STEINER: We are very happy about the good news, sir. Are
5 you ready to continue giving your testimony to this Court?

6 THE WITNESS: (Interpretation) I am ready. For the time being, I am at the
7 Court's disposal. I am ready to answer all the questions.

8 PRESIDING JUDGE STEINER: Thank you very much. I want to remind you that
9 you are under protective measures, that your voice and image broadcast outside the
10 courtroom are being distorted, but in any case in public sessions you should avoid
11 mentioning names of family members, of neighbours, of friends, in order to protect
12 your identity and also your family members' identities. If you need to mention any
13 names or any information that could lead to your identification, we can go into
14 private session. Do you understand that, sir?

15 THE WITNESS: (Interpretation) I completely understand.

16 PRESIDING JUDGE STEINER: I must also remind you that you are still under oath.
17 Do you understand that, sir?

18 THE WITNESS: (Interpretation) Yes, that's right, I did swear an oath to tell the
19 truth, and thus I must abide by that.

20 PRESIDING JUDGE STEINER: If at any time, Mr Witness, you feel tired or
21 distressed or you need a break, just let us know and you will have as many breaks as
22 you want. We are starting this morning with legal representatives of victims putting
23 some questions to you. For that purpose I'm giving the floor starting by Maître
24 Zarambaud.

25 Maître Zarambaud, you have the floor.

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1 MR ZARAMBAUD: (Interpretation) Thank you, your Honour.

2 QUESTIONED BY MR ZARAMBAUD: (Interpretation)

3 Q. Good morning, Witness. I am pleased to hear that the news about your son is
4 good and that he is doing better and thus this is putting you in a good frame of mind
5 to continue giving testimony before the Court. I am Mr Zarambaud Assingambi,
6 and I was already introduced to you during the familiarisation meeting. I have been
7 designated - the Court has designated me - to provide a defence of the victims of
8 Bangui and the surrounding areas, to represent their interests, and thus this is the role
9 that I have been given. Today I am asking you a number of questions and I hope
10 you don't have any difficulty with any of this.

11 A. I don't have any difficulty. If you have questions, just ask.

12 Q. I did prepare a series of questions for you. Many of these questions have
13 already been asked of you by the Office of the Prosecutor and thus I have reduced the
14 number of questions that I have for you. My first question has to do with your
15 statement when you were heard by the Office of the Prosecutor in Bangui,
16 CAR-OTP-0027-0797. You were talking about the arrival of the rebels, the rebels of
17 General Bozizé when they arrived at PK12, Begoua, and my first question -- well, I'll
18 limit myself to asking you the following question: When Bemba's rebels arrived at
19 PK12, did Bozizé's rebels, were they still to be found in that location?

20 A. Thank you, sir. I stated here that Bozizé's rebels had fallen back, withdrawn,
21 one day, and it was only the next day that the Banyamulengue arrived. You see,
22 when the Banyamulengue arrived at PK12, they did not find Bozizé's rebels there.

23 Q. Thank you. You also said that Bemba's rebels used your toilet. Was that with
24 your consent?

25 A. No, it was not with my consent. I told you that I placed that toilet there for

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1 myself and my family. I didn't put it there for anyone to use, so everything they did
2 was against my will, but I could not oppose them. I could not say that they could
3 not use my toilet. You see, they had weapons. I could do nothing. I had to just let
4 them go ahead.

5 Q. Thank you. You also stated - and the reference is CAR-OTP-0027-0817 - "When
6 Mr Bemba arrived, he said to his troops ...", and I quote, "... 'If you brutalise the
7 population and they leave, how will you manage to live?'" end of quote, and I
8 would like to ask you what means of transport did Mr Bemba use to arrive, what
9 means of transport did he use to leave and how was he dressed on that occasion?

10 A. Thank you, counsel. Bemba is the President of the Équateur Province. When
11 a president meets another president, he is provided with a vehicle as well as soldiers
12 to ensure his safety. I think that he arrived at PK12 in a vehicle and there were some
13 soldiers who were providing security around him. He couldn't arrive on foot.

14 Q. Thank you. Now, the other aspect of the question was how was he dressed?

15 A. I think that I really didn't notice how he was dressed. I didn't see how he was
16 dressed. I just wanted to see how he was. I really couldn't say whether he was
17 wearing the clothing of an executive, for example. I just wanted to see what he
18 looked like, whether he was small, large, a heavy-set man, but really I wasn't very
19 concerned about the clothing that he was wearing.

20 Q. Thank you. Now, speaking about the loyalist forces of the country during the
21 time that Bemba's rebels were in PK12, you stated -- and this is in

22 CAR-OTP-0027-00821. This is what you said, and I quote, "Even the Central African
23 loyalist forces did not reach PK12. Bemba's soldiers were the masters of the area and
24 they were the authorities there." And then in another statement,

25 CAR-OTP-0027-0851, you stated, and I quote, "They ...", that is Bemba's soldiers, "...

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1 acted alone. They did not work together with the Central African soldiers. In fact,
2 they had undressed Central African officers. After such a humiliation, what type of
3 collaboration could there be?", end of quote. My first question is as follows:
4 Talking about the government forces, that is the Central African Army, the
5 gendarmerie, or in fact the defence and security forces of the country, had they
6 completely handed over the area to Bemba's rebels?
7 A. I believe that you have said it all, counsel. The rebels arrived at PK12. They
8 tried to take over power and that made them the enemies of the loyalist forces, so the
9 loyalists could not come to PK12 and the rebels could not go to the town centre either.
10 And since the rebels failed in their attempt and kidnapped the spokesperson, they
11 took him to their base at PK12, they spent one day there and the following day they
12 retreated with the spokesperson. One day later, the Banyamulengue rebels arrived
13 at PK12 and they started establishing a demarcation line. They chased away the
14 rebels and they were moving about right until the time that they engaged in the
15 skirmishes. While they were at PK12, the loyalist forces would try to find out
16 whether the rebels had succeeded in advancing, and that is why on the day that they
17 attacked my son they took him to the headquarters. When I tried to find out
18 whether they had killed him and if so where they had left the body, I went to the
19 trading centre and that is when I saw the loyalist forces arrive at PK12. Ever since
20 the events had begun, none of them had ever come there. There were not many.
21 There were a few officers. I had my injured arm in a sling. I showed it to them and
22 I told them, "Look, they attacked me yesterday and look at my injuries. They also
23 attacked my son and I do not know where they took him." That officer told me that
24 is none of my business. After I returned home, a child came and told me that my son
25 was at the headquarters. That is all I can tell you.

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1 When the rebels were at the PK12, the loyalist forces never came there. It was only
2 after the fighting at PK22 that the loyalist forces would come from time to time.
3 They came on the first day and they looked around and they saw what was
4 happening and they never returned. Only the Banyamulengue rebels were there
5 and committed -- and continued committing acts of violence.

6 Q. Thank you, Mr Witness. In the excerpt that I read out to you a short while ago,
7 you mentioned that Central African officers had been undressed and humiliated by
8 Banyamulengue rebels. Do you know any of the officers in question?

9 A. I do not know any one of them in particular, but news about what happened to
10 the officers circulated around the entire town, including the outlying officers -- areas
11 such as PK12. So what they did was brutal. It is cruel. They were under the
12 protection of the Head of State. The Head of State no longer trusted the Central
13 African forces. They suspected the Central African Army of complicity with the
14 rebels and, since the Banyamulengues were a force that had been brought into assist
15 him, they had the authority; the possibility of humiliating the Central African Army.
16 Those people had no military training and they came and undressed officers who had
17 received officer training. That is not a good thing.

18 MR ZARAMBAUD: (Interpretation) Thank you, Mr Witness. I believe I have no
19 further questions for you and I thank the Court for giving me the floor. Thank you.

20 PRESIDING JUDGE STEINER: Thank you, Maître Zarambaud. Mr Witness, now
21 Maître Douzima, who is also a legal representative of victims, is going to put some
22 questions to you. Maître Douzima, you have the floor.

23 MS DOUZIMA-LAWSON: (Interpretation) Thank you, your Honour.

24 QUESTIONED BY MS DOUZIMA-LAWSON: (Interpretation)

25 Q. Good morning, Mr Witness.

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1 A. Good morning.

2 Q. My name is Maître Douzima I am a lawyer and, as the Presiding Judge has just
3 told you, I'm also the legal representative of victims in the present proceedings,
4 together with my learned friend, Mr Zarambaud, who has just asked you some
5 questions. We are there to represent victims and we represent their opinions and
6 concerns in the Court. We requested leave to ask you some questions not because
7 we do not agree with you and not because we do not believe you. It is simply in
8 order to allow you to further enlighten the Chamber regarding the events of 2002 to
9 2003.

10 I will therefore ask you questions about your statements to the investigators in 2008,
11 as well as on your participation application form to these proceedings and also some
12 of the answers that you gave to the Prosecutor during his direct examination on
13 Friday and yesterday.

14 Now, regarding your statements to the investigators, page CAR-OTP-0027-0798, you
15 said that the soldiers of the forces that you described as bizarre had their
16 weapons -- their weapons well-prepared. I don't know what you meant by "in a
17 ready position." What do you mean by that?

18 A. I used the word "bizarre", because that was the first time. If you see something
19 really unusual, you can call it bizarre. That is what I meant by that, because the way
20 those soldiers dressed did not look like the way our own soldiers dressed. The way
21 they were carrying their weapons and their ammunition belts was unusual. They
22 carried those belts around their necks. They had pieces of cloth tied on their heads.
23 Others were wearing gardening boots and that is why I used the word "bizarre,"
24 because that was unusual for me and that was the first time I was seeing such a thing.

25 Q. My question did not relate to their clothing. When you described them as

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1 "bizarre", I was referring to the expression that you used in French, "armes bien
2 tendues." What do you mean by that expression?

3 A. I do not know in what context I used that expression "armes bien tendues"
4 because I saw others who were carrying their weapons slung over their shoulders,
5 and I was simply referring to when they passed by, they were walking in file and they
6 dug the trenches. They positioned their weapons and the weapons were in a ready
7 position, pointed towards the sky. So that is what I meant in that the barrels of the
8 weapons were pointed in the direction of the town. That is why I used that
9 expression.

10 Q. Yes, I've understood you. You also said that (Redacted)
11 (Redacted) who were carrying -- who had positioned those weapons at the
12 ready." Now, I'll go to the next question and reference is CAR-OTP-0027-0825. You
13 stated that the town had been deserted and that the population of Begoua was not
14 present at the time Mr Bemba was addressing his troops. And later on, on page
15 0027-0849, you mentioned the crowd that prevented you from looking at what was
16 happening and you also talked about onlookers who had simply come to witness
17 what was happening. Can you explain that to us?

18 A. Thank you, Counsel. I believe that when I said that there were not many
19 people around when Bemba arrived, it was because the population of PK12 is mainly
20 made up of peasants, so these are young people who were curious about finding out
21 what was happening. When he arrived, the majority of the population were elderly
22 people, but the young people came closer to try to observe what was happening in
23 that meeting where he was addressing the Banyamulengues, and he told them, "If
24 you behave in this way towards the population, how are you going to feed yourself?"
25 That is the reason why I made that statement.

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1 Q. Thank you. Still on page 0027-0825, you mentioned a Zairean who was known
2 (Redacted) because he represented the Zaireans of the neighbourhood.

3 What I would like to know is did he join the MLC troops during the events?

4 A. The Zaireans who had been in the Central African Republic and who were
5 doing petty jobs organised themselves and designated a delegate. They had been
6 there well before that in PK12 and in Begoua. That is well before the soldiers arrived.
7 Given that they were from the same country, they communicated amongst
8 themselves, but I was not always there to find out what they were saying to each
9 other. For example, if I'm here and someone from my country comes here, I can tell
10 him this is what happens here and this is how things are done. So these young
11 people who did the laundry and so on communicated with them, and they pointed
12 out houses of people who were supposed to be rich, and that is how certain acts were
13 perpetrated against those houses. So I suppose that those people indirectly assisted
14 in pointing out places where they could grab some property, or wealth.

15 Q. I would like to know whether they were given military uniforms and whether
16 they fought alongside the troops that were there.

17 A. Those young Zaireans were not dressed in military uniform; they were simply
18 going about their usual business. But the soldiers who had arrived would come and
19 discuss with them and go back. They moved around amongst them. But it is not
20 true to say that these people were given weapons and that they also took part in the
21 fighting. No, that is not correct. But they were in contact with the soldiers and they
22 exchanged information.

23 Q. Thank you. On page CAR-OTP-0027-0832, and I'm still referring here to your
24 statement to the investigators, you mentioned your neighbour who was (Redacted)
25 (Redacted). Did that person also join the Banyamulengue during the events?

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1 A. My neighbour, well, I can refer to her as my benefactor because it was thanks to
2 her that I survived. We were peasants and we were living in the same
3 neighbourhood. Before the arrival of the Banyamulengue we were living together.
4 She could come and have a meal with us in my house and I could do the same in her
5 house. We had nothing against each other. When the Banyamulengues arrived,
6 (Redacted) and some
7 single persons were renting her house, and that is the house that the Banyamulengues
8 took in order to establish their base. They visited that woman and they would speak
9 Lingala, and they would also drink and smoke. That lady is already old. She is no
10 longer strong enough to join a group.

11 Q. What is her nationality?

12 A. (Redacted) It is a subclan and she
13 is of Central African nationality, but these are people who are used to speaking
14 Lingala because they normally cross over and come back.

15 Q. Thank you. On page CAR-OTP-0027-0835, you stated that before the events
16 there was an element, that is the term that you used, who passed himself off as
17 Sergeant, and who used to come and tell you, "Papa, I want to marry your daughter."
18 What is the nationality of that person?

19 A. The Sergeant referred to was one of the soldiers of the forces who were
20 responsible for the demarcation line. They carried out patrols and if he saw people
21 gathering in a group then he would come and communicate in sign language. He
22 was everywhere and since he was not far away from my house we saw each other
23 frequently. Before my daughter would be moving about outside my house he would
24 see her. I was sitting under the mango tree. We could see each other, and he was
25 talking to my daughter. And one day he told me, "Papa, this my wife. This, my

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1 wife. I am going to marry her." And then I would smile. Sometimes he would tell
2 me, "Papa, give me some money," In the same way that someone could come and
3 ask you for something. I could tell you that he was not one of us. He was a
4 Zairean.

5 Q. Was he a soldier of the Central African Army, since you seem to say that he was
6 there before the arrival of the Banyamulengues?

7 A. No.

8 THE INTERPRETER: From the Sango interpreter, we did not quite understand what
9 the witness said because he's speaking very fast. Could the witness be kindly asked
10 to repeat, please?

11 MS DOUZIMA-LAWSON: (Interpretation)

12 Q. The interpreters are not able to keep up with you because you're speaking very
13 fast, so please kindly repeat your answer and speak slowly.

14 THE INTERPRETER: And from the English booth, if Maître Douzima could also be
15 reminded to observe a pause between the answer and her questions because they're
16 all in French.

17 THE WITNESS: (Interpretation) Thank you. What I wanted to say is that the one
18 who was before in PK12 was the delegate of the Zaireans who was living in Bangui
19 before the events. He was involved in petty jobs such as shoe-shining and doing
20 laundry for the Muslims, so he was well-settled there before the events. It was only
21 afterwards that the Banyamulengues arrived. The one who told me that he was
22 going to marry my daughter was one of the Banyamulengue soldiers who had arrived
23 on the 7th at the PK12. They established that demarcation line right to the cattle
24 market. He was part of that force. Some of them would advance while others
25 stayed behind to carry out patrols. Sometimes he would come to us and discuss

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1 with us, so we were in contact. He would tell me, "I'm going to marry your daughter.
2 I'm going to marry your daughter." And I would tell him to bring money. We
3 were joking amongst ourselves, but I can tell you that he was not a Central African
4 soldier; he was one of the Banyamulengue soldiers.

5 Q. Thank you, and I have now fully understood your answer. I am now going to
6 move on to something else and the reference is CAR-OTP-0027-0818. You stated that
7 PK12 is an economic centre of the capital, because of the cattle market, and that it is
8 also a junction or a meeting point where Cameroonians, Chadians and Sudanese
9 come to trade. As to the young Zaireans, they crossed the river to come and look for
10 jobs in Bangui. Now, I would like to know how you distinguish between the
11 Zaireans who come to look for jobs in Bangui and the other foreigners that you
12 mentioned.

13 A. Thank you. You know our country, the Central African Republic, as well as I
14 do. Central Africans are lazy by nature. They don't want to work. Central
15 Africans aren't able to shine shoes as well as the Zaireans are. The Zaireans are the
16 ones who took the initiative of doing those small jobs. When they came across, they
17 began to buy wax and brushes. They started to wander the streets, settle in front of
18 the mosques, the drinking kiosks and offering to shine shoes. It wasn't the Central
19 Africans. They are not interested in those kinds of tasks. Some would help the
20 Muslims in various activities, such as washing clothing, fetching water, helping with
21 the cooking, and they used the income from those activities to buy various things,
22 pots and pans, clothes, and then they would leave again. So they would come to
23 earn money and then they would leave. That's what I know.

24 Q. Are you saying that that is how you distinguish between Zaireans and the other
25 people; the Cameroonians and the Chadians?

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1 A. As far as the Zaireans are concerned, we recognised them through the jobs they
2 did: Shoe shining. As far as the Sudanese, the Cameroonians and the Chadians are
3 concerned, they would arrive on large vehicles, trucks, and they would approach
4 these people and ask them to do these jobs. The Cameroonians were also transitory,
5 they were people who had money, and the Zaireans would go and help them as well
6 and help them by doing their laundry.

7 Q. Thank you. You also talked about Mr Jean-Pierre Bemba's arrival, that is at
8 reference CAR-OTP-0027-0821, and you said the car in which he arrived did not have
9 a licence plate. Are you saying that there was no number plate on this vehicle?

10 A. Yes, that is true. All of the vehicles in Bangui at that time had numbers. You
11 could see "RCA" and other numbers. Sometimes the licence plate had "BG". Now
12 the licence plates have changed and you see the letters "DA" on them, but these were
13 what we call the number plates. The cars or the vehicles of high officials did not
14 have licence plates; for example, those who worked at the palace and others. This
15 particular vehicle was black and it was a Mercedes. I saw Bemba get into this
16 vehicle. I didn't see him when he arrived, but I did see him when he left. I was
17 there and there was a driver in that vehicle and somebody came and opened the door
18 for him. He climbed into that car to leave, but I can tell you that somebody who is
19 not a high authority could not make so bold as to get into a vehicle like this. I can
20 also tell you that what he came to do was very important. He came to work; to work
21 for the president.

22 Q. Thank you. On page 0027-0832, you declared as follows, "My daughter was
23 raped right next to me while my head was on the ground, and it was my neighbour,
24 (Redacted) who called a sergeant from the MLC to intervene in
25 our favour," But in the form which was your application to participate in the

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1 procedure - this is a sheet that you annexed to the form - in relating the facts you said,
2 rather, that it was thanks to the passage of a loyalist member of the FACA that
3 somebody intervened to have the girl released. Can you give us more information
4 about these two statements that you made?

5 A. In my preliminary statement, I said that my daughter was deflowered right next
6 to me. You see, I was right there. My body was in one corner, I was in the living
7 room of my house, and they dragged my daughter right along beside me next to our
8 house, because when my daughter was screaming I could hear her voice. In Sango
9 you can describe that as being right next to you. Even if she's ten metres away from
10 me, in Sango I can say she's right next to me. They dragged her behind the house
11 and she was being raped and she was screaming and I could hear, but I couldn't do
12 anything because I too was being assaulted. When these people committed these
13 violent acts, my neighbour couldn't stand it. She was very upset for me, because
14 they were beating me and my neighbour intervened. (Redacted)

15 (Redacted) And perhaps that sergeant was just passing by, to buy some of the
16 locally brewed alcohol, and she spoke to him. She said, "Look, this is a neighbour of
17 mine who is suffering. You have to go and help him." (Redacted)

18 (Redacted) and that person's son is also a loyalist.

19 There are certain details that I have not yet given. When they established that line (Redacted)
20 (Redacted)

21 (Redacted) When you leave the market, you cross the district. (Redacted)

22 (Redacted)

23 My children were there as well. The soldiers were on that line. At the outset there
24 was no noise. You didn't ask me that question, so I'm telling you. They started to
25 patrol. They were collecting chickens and others. They even went beside the

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1 school and around the market to find poultry.

2 Q. I have understood what you have said and I have understood what you meant
3 when you said "beside me;" that is you were there, you were in the vicinity. I've
4 understood. The second part of my question was this: Who intervened? Was it a
5 MLC sergeant, or was it a member of the FACA? Who intervened to save your
6 daughter?

7 A. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted) He never provoked you. You have to tell your

13 men to let him go." She was begging the commanders who were at her house to do
14 something. And so at the time when they intervened, they had already looted
15 everything, they had already accomplished their aim, and so the commanders
16 intervened late in the piece, asking those men to leave my compound. That's what
17 I can tell you.

18 PRESIDING JUDGE STEINER: Maître Douzima, since you are making reference to
19 some parts of the statement that are confidential and at the end the witness is
20 referring to certain facts and names that should be kept confidential, I'm asking you
21 whether you are going to continue in this line because in that case we are going to
22 turn into private session.

23 MS DOUZIMA-LAWSON: (Interpretation) Thank you, your Honour. In fact, the
24 question was not requiring the witness to state any names. That's why, when he
25 tried to go a little further, I interrupted him. What I'm actually going to do now is

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1 move on to another question.

2 PRESIDING JUDGE STEINER: I am please reminding the witness not to mention
3 names and identifying information.

4 MS DOUZIMA-LAWSON: (Interpretation)

5 Q. Witness, I would like to ask you when you answer my questions, bear in mind
6 that we are in open session. For that reason please avoid mentioning names. Have
7 you understood my request?

8 A. Yes, I have.

9 Q. Thank you. At Friday's hearing, the hearing of Friday 11 February, and that is
10 transcript page 13 in the French version, that's the edited French transcript, you said
11 that the Banyamulengue came on 7 November 2002 to PK2 -- PK12, excuse me.

12 A. November or December?

13 Q. Witness, even if you understand my question that I asked you in French, could I
14 ask you to wait until the Sango interpretation has finished before you answer? Do
15 you understand that request?

16 A. Yes.

17 Q. Thank you. The date is 7 November; that is the date that you indicated. Do
18 you remember the day?

19 A. The 7th of November, I don't know if it was a Wednesday or a Thursday exactly.
20 It was certainly a Wednesday or a Thursday. However, because there was a clash in
21 PK22 on the 10th, three days later, that was a Sunday, so from that I could deduce
22 that the 9th was Saturday, the Friday was the 8th, and so Thursday was the 7th. So I
23 think that it must have been a Thursday, and three days later on the 10th, there was
24 that attack on PK22. But if you ask me about the date, I think that that date,
25 probably it does correspond to Thursday.

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1 Q. Did you have a calendar at the time to check that it really was a Thursday,
2 7 November?

3 A. Well, if I say it was a Thursday, it's because I can count back. What is the 7th?
4 Well, if Sunday was the 10th, then I know that the 12th will be a given day, the 9th
5 will be a given day, and on that basis you can determine what day it was.

6 Q. I understand therefore that without the benefit of a calendar you determined the
7 day. So, still referring to your declaration of last Friday, 11 February, on page 15 of
8 the transcript, you spoke about clashes between the Banyamulengue and the rebellion
9 of President Bozizé. At that time did you hear talk of any troops other than Bozizé's
10 rebellion with whom the Banyamulengue also had clashes?

11 A. No, I didn't hear talk about troops other than the Banyamulengue who had
12 clashes with the rebels. They were the only ones.

13 Q. Thank you. Looking at the real-time transcript now from yesterday, Monday,
14 on page 24, line 25, you mentioned the radio stations on which you were following
15 events and you mentioned RFI and BBC. I wanted to know whether local radio
16 stations, Central African radio stations, were giving information at that time about
17 these events or not?

18 A. Usually, local radio stations do not cover such events. We all come from the
19 Central African Republic but events, as these events took place, were not reported on
20 the radio. We only got the news through foreign stations, not through the national
21 radio station or local radios.

22 Q. And is it that the populations of your local district did not listen to local radio
23 stations, or are you only talking on your own behalf? Are you saying that you
24 personally only listened to the BBC and RFI?

25 A. But what is the role of a radio? It's to give information about current events.

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1 There is a wide range of radio stations. There are radio stations which give news;
2 they do exist. As far as I am concerned, when I need information about current
3 events in the world or about Africa, I listen to the radio stations that I named. I can't
4 speak for the populations. They listened to the radio stations of their country. If
5 they want to listen to those radio stations, I can't stop them. Or if they want to listen
6 to advertising or music from their local area, I can't reproach them for that.

7 Everyone has his or her own ideas and motives.

8 MS DOUZIMA-LAWSON: (Interpretation) Witness, thank you very much for
9 answering all of my questions. Your Honour, I have finished my questioning.

10 PRESIDING JUDGE STEINER: Thank you very much, Maître Douzima. I think it's
11 better if we go to the break before Defence starts.

12 MR HAYNES: Thank you very much.

13 PRESIDING JUDGE STEINER: Mr Witness, we are going to have now a
14 half-an-hour break. You can take some rest. At 11.30 we will resume our hearing
15 and then the Defence will start questioning you. I'm going to ask court officer,
16 please, to turn into closed session in order for the witness to be taken outside the
17 courtroom. I inform the Defence that the document filed by the Prosecution ex parte
18 has already been reclassified and notified to the Defence, so maybe Defence after the
19 break can provide the Chamber with its observations on protective measures.
20 And after the session is turned into closed we are going to suspend and resume at
21 11.30. Court officer, please.

22 *(Closed session at 10.56 a.m.) Reclassified as Open session

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

24 (The witness stands down)

25 THE COURT OFFICER: All rise.

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1 (Recess taken at 10.57 a.m.)

2 *(Upon resuming in closed session at 11.34 a.m.) Reclassified as Open session

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

4 PRESIDING JUDGE STEINER: Welcome back. I am informed that the Defence
5 wants to make its observation before the witness is brought in, so Mr Haynes.

6 MR HAYNES: Mr Kaufman will make the submissions on behalf of the Defence.

7 MR KAUFMAN: Thank you, Madam President. As your Honours are aware, the
8 cardinal principles are the publicity of the proceedings and what the Defence would
9 term Mr Bemba's right to have his accusers make their accusations to his face. While,
10 of course, it is quite right and appropriate that all mention of the alleged assault on
11 the daughter of Witness 42 be in private session, the Defence does not feel that the
12 potential threat to Witness 73's personal security, or that of his family, justifies his
13 being afforded the full gamut of protective measures sought by the Prosecution at
14 paragraph 11 of the relevant filing.

15 I would suggest to the learned Trial Chamber that on a balancing test, the prejudice to
16 the accused's aforementioned interests outweighs the harm which would be caused to
17 Witness 73, and by way of justification I would respectfully stress three factors:

18 Firstly, the Defence has not been, to the best of my knowledge, privy to the concerns
19 expressed by VWU and thereafter communicated to the Prosecution, as mentioned at
20 paragraphs 7 and 8 of filing number 1225. The Defence has thus been deprived of
21 the opportunity to clarify Witness 73's psychological and social concerns with the unit
22 most qualified to assess their veracity.

23 I have been told to slow down, Madam President.

24 Secondly, when the Prosecution met Witness 73 on 2 April 2010, the witness, despite
25 being informed of the availability of protective measures, did not request such, nor

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1 did he raise any security concerns at that moment in time.

2 Thirdly and finally, the Defence notes that that fears expressed by Witness 73, whilst
3 of course not belittled, are nevertheless subjective fears. The Prosecution itself at
4 paragraph 9 of its filing states quite honestly and frankly that - and I quote - "The
5 objective risk of retaliation against the witness is considered to be low."

6 To conclude, the Defence opposes the imposition of all protective measures apart, of
7 course, from permitting the use of private session for references made to Witness 42's
8 identity and that of his daughter. Thank you, your Honours.

9 PRESIDING JUDGE STEINER: Thank you, Mr Kaufman. I would like to ask first
10 whether the legal representatives would like to make any observation in relation to
11 the Prosecution's request for protective measures.

12 MR ZARAMBAUD: (Interpretation) Thank you, your Honour. As you know,
13 this case and the scope that this case has taken, and also given the proximity of the
14 two shores of the river and the repercussions on the minds of victims, for all of these
15 reasons the protective measures are required. Consequently, as a legal
16 representative of victims, I can only support the request for special measures for this
17 witness who is still fearful, and rightly so.

18 The fact is the fear is certainly present, and if she is to express her views or give
19 testimony in a -- with a certain amount of confidence, these measures are
20 taken -- these special measures must be taken, and consequently I support this
21 request for special measures.

22 PRESIDING JUDGE STEINER: Thank you, Maître Zarambaud. Maître Douzima?

23 MS DOUZIMA-LAWSON: (Interpretation) Thank you, your Honour. To follow
24 up on the remarks made by my colleague, Mr Zarambaud, I also support the request
25 for special measures that has been made by the Prosecution.

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1 I would like the Defence to consider a number of factors. In actual fact, the victims
2 who have appeared so far are people who have never, never, ever travelled to Europe,
3 and when one speaks of the International Criminal Court, this in and of itself
4 frightens the witness. Just yesterday, I think you'll recall the statements that were
5 made by Witness 42, who had to ask for a private session so that he could answer one
6 specific question. So just imagine, if you will, the fears of witnesses who have dual
7 status; that is to say they are victims and witnesses when they come here to The
8 Hague.

9 When they travel to The Hague and come here at the International Criminal Court, it's
10 not a vacation for them. For them, well, they come to answer questions that are
11 asked of them. Thus, it is necessary to grant the measures that you have mentioned
12 previously so as to ensure -- and this is not just for the good of the Prosecution, but
13 also this is for the proper administration of justice. These measures must allow for
14 the proper unfolding of this trial. Thank you.

15 PRESIDING JUDGE STEINER: Thank you very much. The Defence (sic) will come
16 after the lunch break with the decision on the matter. I now ask, please, the court
17 officer to bring Witness 42 in. Just to make it clear, it is the Chamber that is coming
18 with the decision. I'm sorry, I apologise.

19 (The witness enters the courtroom)

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

21 (Open session at 11.45 a.m.)

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

23 PRESIDING JUDGE STEINER: Thank you very much. Mr Witness, welcome back.

24 THE WITNESS: (Interpretation) Good morning once again, your Honour.

25 PRESIDING JUDGE STEINER: Are you ready for being questioned by the Defence,

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1 Mr Witness?

2 THE WITNESS: (Interpretation) I am ready.

3 PRESIDING JUDGE STEINER: Thank you very much. I suppose Mr Haynes is
4 going to proceed. Just reminding Mr Haynes to put, as far as possible, short,
5 open-ended questions to the witness. Thank you very much.

6 MR HAYNES: I will certainly do my best, Madam President.

7 QUESTIONED BY MR HAYNES:

8 Q. Well, good morning, sir. I emphasise that word, because if you don't object
9 that is how I shall address you; is that okay, as "sir"?

10 A. I agree. That is a sign of respect.

11 Q. And that is what I intend. My name is Peter Haynes and I am from the United
12 Kingdom, so I will be asking you questions in English. I will try and keep them
13 short and very specific. Will you do your best to do the same with your answers?

14 A. But if your question requires a long reply, I will give a long reply. If it only
15 requires a short reply, I will give a short reply.

16 Q. Of course. You must give us all the information that you feel is necessary, but
17 it is not my desire to keep you here longer than is comfortable for you, so the shorter
18 we deal with this process, the quicker you will be finished. Do you understand?

19 A. Well, you know, it's not a good thing to rush. White people say that of this
20 world --

21 THE INTERPRETER: The English interpreter believes the witness said something
22 that can be likened to "make haste slowly."

23 MR HAYNES:

24 Q. Okay. Now, I must remind you of one more thing. This has been said to you
25 before, but it has to be said again. I will do everything I can to avoid asking you

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1 questions that would reveal your identity to the public, but will you please think
2 when you are giving your answers so that you do not give out information in open
3 session which might reveal your identity?

4 Was my last question to you translated?

5 A. I did not hear your last question.

6 Q. I thought not.

7 PRESIDING JUDGE STEINER: Mr Haynes, I'm sorry to interrupt you, but
8 apparently there was no question, unless there is a problem with the translation.

9 MR HAYNES: Very well.

10 Q. I was simply asking you if you would do your best not to say things that might
11 reveal to the public who you are. Will you do that, please?

12 A. Yes, I can do that.

13 Q. And just to underline that point, that means in particular do not give out the
14 names of people to whom you are related, or people who you know. Do you
15 understand?

16 A. Yes, I do understand.

17 Q. And if at any time you would prefer to answer questions in private session,
18 would you, as you did once on Friday, please indicate that?

19 A. I agree.

20 Q. And lastly, sir, if at any time you feel tired, or unwell, or in need of a break,
21 would you please say so?

22 A. Yes, I understand, sir.

23 Q. Good. Well, now we can move on to the questions I have for you, and the first
24 series of questions are about people that you know so I'm going to ask Madam
25 President if we can go into private session so you can answer those questions

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1 comfortably.

2 PRESIDING JUDGE STEINER: Court officer, please.

3 *(Private session at 11.54 a.m.) Reclassified as Open session

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

5 MR HAYNES:

6 Q. Sir, who is (Redacted)?

7 A. (Redacted) is my neighbour in the neighbourhood.

8 Q. Is he the neighbour who lives nearest to you?

9 A. We live almost together. There's just a footpath between his compound and
10 my compound. Our houses are built in the same way, in the same position. The
11 two houses both give on to the same side.

12 Q. So if I talk to you in open session about your nearest neighbour, you will
13 understand me to be referring to (Redacted); is that okay, sir?

14 A. Yes, I understand.

15 Q. And just so that we complete the picture, how -- how far is your house from his,
16 as opposed to your compound from his?

17 A. My house and the house of my neighbour, (Redacted), are not very far from
18 one another. I would estimate the distance at 15 metres. From the wall of my
19 house to the wall of his house, the distance might be 15 metres.

20 Q. Thank you, sir. And is his house on the line of trenches that you drew on the
21 plan that we were looking at the other day?

22 THE INTERPRETER: The English interpreter apologises. The microphone is not
23 on.

24 THE WITNESS: (Interpretation) It would be better if you could give me a sheet of
25 paper and I could make a sketch of my house in relation to my neighbour's house and

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1 it will be easier for everyone to understand.

2 MR HAYNES:

3 Q. Yes. Well, why not? Can we put, please, document number 6 on the Defence
4 list, that is EVD-P-02354, into eCourt and we'll get you to mark the screen, if that's
5 okay, sir.

6 PRESIDING JUDGE STEINER: Mr Haynes --

7 MR HAYNES: Your Honour.

8 PRESIDING JUDGE STEINER: -- may I suggest that the witness is given a hard
9 copy, because last time we had already some difficulties in having marks on the
10 screen, so maybe it would be easier for the witness to have a hard copy.

11 MR HAYNES: My only concern with that is that the hard copy document is quite
12 small of scale, but we'll proceed in that way. The document in eCourt can be
13 expanded so we might get a little more detail as to where the house is.

14 PRESIDING JUDGE STEINER: We can try. Let's see if it works.

15 MR HAYNES: Thank you very much.

16 PRESIDING JUDGE STEINER: Ms Kneuer?

17 MS KNEUER: Thank you very much, Madam President. I would like to make a
18 suggestion as well to your Honours and my learned colleague. My colleague
19 referred to the redacted version of the chart, or the sketch, and we already used the
20 unredacted one. So if it's not inconvenient, we could proceed with the unredacted
21 one.

22 MR HAYNES: Absolutely. It was a mistake on my part to refer to the unredacted
23 one.

24 THE COURT OFFICER: Document CAR-OTP-0027-0808, which bears reference
25 EVD-T-OTP-00139, is available on your screens by pushing the button "PC1," and it's

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1 marked as confidential.

2 MR HAYNES: Thank you. Could we zoom in just one time, please, and move the
3 document to the -- down and -- yes, that's perfect. Has the witness been provided
4 with a marking pen?

5 PRESIDING JUDGE STEINER: Yes, I think we need the court usher to help.

6 MR HAYNES: Thank you very much. Can we go in just one more zoom in, please,
7 and focus on (Redacted)? Perfect. Thank you very much.

8 Q. Can you see that clearly, sir?

9 A. Yes, I can see it very well.

10 Q. I'm not sure whether you have been asked this before, but all the drawing and
11 all the writing on that plan, is it yours?

12 A. Yes, that question has already been put to me about that sketch and I have
13 already confirmed that I was the one who drew it in reference to the presence of the
14 Banyamulengue in PK12. It is my sketch.

15 Q. Thank you. Well, in that event, could you draw on this screen, please, where
16 (Redacted) would be?

17 A. Can the sketch be shifted up, because my house is at the bottom and (Redacted)
18 (Redacted) So can the sketch be shifted up?

19 Q. Is that far enough up?

20 A. Yes, it is possible for me to use the small space at the bottom because the place
21 I'm showing you now represents my compound. (Redacted)

22 (Redacted) and that is where I am

23 indicating, and (Redacted) is located at this particular location; that is (Redacted)

24 (Redacted) My house is up and (Redacted). That is the

25 boundary of the compound. When you leave the house, (Redacted)

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1 (Redacted) at that location and (Redacted) is at this
2 place that I have just indicated.

3 Q. Thank you very much. Would you mind, if you can, just within the compound
4 writing the letters (Redacted) please? Thank you. Just to complete the picture, was
5 there also (Redacted)

6 A. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. Thank you. So your compound was (Redacted); is that
12 correct?

13 A. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted) and

17 their backs were to Bangui town.

18 Q. Okay. Does (Redacted) house also have an outside toilet or shower?

19 A. Yes. The toilet was right behind his house. On the other hand, my own
20 toilets were in front next to the line, because my toilets would be more visible than
21 those of (Redacted).

22 Q. Thank you. Would you mind just marking a little square within the
23 compound where (Redacted) toilet was?

24 A. I have already told you that (Redacted) house is located here and there is the
25 angle of his compound, just behind his house; that is where his toilet is located.

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1 Q. Thank you, sir. Just so that we get an idea of how the two compounds relate to
2 one another, if something is happening in (Redacted) house or compound, can you
3 see it or hear it from your house?

4 A. If I am in my compound and he is also in his compound, we can see each other.
5 I can also hear whatever is being said there. If a child is crying in his compound,
6 I can hear that child's cries. The distance is really not long. We are side by side.
7 The people who came to fetch water in his well could be seen by me. Each time if he
8 did not have any rope to fetch water in the well, he would come and ask for one in
9 my place, and I would do the same if I had a problem. So everything that happened
10 there could be seen from my house, and vice-versa.

11 Q. Thank you very much. I want to move on to somebody else now that (Redacted)
12 (Redacted) and that is (Redacted) Who is he?

13 A. (Redacted)
14 (Redacted)

15 PRESIDING JUDGE STEINER: Mr Haynes, please, sorry. Are you still going to use
16 the --

17 MR HAYNES: Madam President, yes.

18 Q. So if we are in open session, sir, and I talk about "the assistant," will you
19 understand me to be talking about (Redacted)?

20 A. Yes, I would be able to understand that you are referring to (Redacted) if you
21 say "assistant".

22 Q. And that way we won't have to use his name, okay?

23 A. Yes, but we need to have a code - a system - to prevent me from mentioning his
24 name. How will I refer to him in my testimony?

25 Q. As "the assistant," is that okay?

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1 A. Very well. If you can give me a sheet of paper, then I am going to write down
2 his name and write "assistant" next to it so that each time I want to mention his name I
3 will say "assistant".

4 Q. Okay. Well, we can probably do that in a short while. What is your
5 relationship with (Redacted), and I am using his name now because we are in
6 private session?

7 A. (Redacted) and myself are both nationals of the Central African Republic.
8 That is what links us together. Secondly, we are inhabitants of the same village and,
9 thirdly, he is the (Redacted)

10 (Redacted)

11 (Redacted) Then, fourthly, we are both members of the same NGO,

12 OCODEFAD. In that NGO, (Redacted)

13 (Redacted) He cannot accumulate two -- he cannot

14 accumulate two positions. (Redacted)

15 (Redacted) That is my relationship with

16 (Redacted)

17 Q. How far is his house from yours?

18 A. (Redacted) lives about 300 metres away from my house. He lives near the
19 chief's house, a bit further up. We live further down; that is (Redacted) and myself.

20 You have to walk about 300 metres from my house in order to reach (Redacted) house
21 in the neighbourhood.

22 Q. Is it possible to indicate where (Redacted) is on the plan that is on the
23 screen?

24 A. That is (Redacted). What I'm showing you with a pen, these
25 are all residential houses and (Redacted) is here. He is not very far from

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1 (Redacted). That is about (Redacted) and if you reach (Redacted) then you can
2 go in the direction of the (Redacted).

3 Q. Would you mind putting (Redacted) next to the (Redacted)
4 (Redacted)

5 A. Yes, I will do that.

6 Q. Okay, thank you very much. Just for the record it is, of the two rectangles you
7 have drawn, it is the one that is closer to (Redacted) do you agree with that?

8 A. That is correct.

9 Q. Just to complete the picture, would you describe (Redacted) as a friend of yours?

10 A. Friend? That is different. I have said that we live in the same village. He is
11 not my friend. Both of us live in the same village. He is the assistant (Redacted)
12 (Redacted) I consider him as (Redacted)

13 (Redacted) Secondly, we live in the same village and, thirdly, we were or we
14 are both members of the same NGO, but he is not my friend. If you have a particular
15 meaning that you want to give to that word "friend" that's fine, but I think he is not
16 my friend.

17 Q. Do you know if (Redacted) know each other?

18 A. Why wouldn't they know each other? They know each other because (Redacted)
19 (Redacted) and myself are all members of the NGO known as OCODEFAD, an NGO
20 that brings together victims of the atrocities perpetrated by the Banyamulengue. We
21 meet within the framework of that NGO to discuss our experiences. We do
22 (Redacted) and many other activities; that is (Redacted) and myself. We participate
23 in the various activities, so we know each other.

24 Q. How often do you see (Redacted)

25 A. (Redacted) lives (Redacted). He has his activities that are different from mine. We

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1 are not lazy people, so we don't sit at home just to have conversations. In the
2 mornings everybody goes about his own business, so when the time comes for us to
3 go to OCODEFAD meetings, that is where we meet and, since he is the assistant (Redacted)
4 (Redacted) He will
5 greet me and he can tell me he wants (Redacted)
6 (Redacted), but he's not my friend. We do not meet every day to
7 converse. He has his activities; I have mine. But when it comes to (Redacted)
8 (Redacted)
9 (Redacted) we greet each other. If he feels like it he can visit me and I can do
10 the same, and if we feel like it we can have a conversation (Redacted)
11 That is what happens.
12 Q. Would you mind telling us when was the last time you saw (Redacted)
13 A. I have told you that I did not see (Redacted) frequently. Recently, when I was
14 carrying out a small activity in the neighbourhood, I was (Redacted)
15 (Redacted) who is in the neighbourhood. In the evenings after -- in the evening, after
16 having finished (Redacted), I went out to have some fresh air and I met (Redacted) amongst
17 the (Redacted)
18 (Redacted) and I met him and he (Redacted)
19 (Redacted)
20 (Redacted) He told me that (Redacted)
21 (Redacted) and then he went on his way. That is when I met him physically for
22 the last time, but (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted) and that was

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1 our conversation.

2 Q. Thank you. Was that the last conversation you had with him?

3 A. Yes, that's right.

4 Q. And yesterday was 14 February. It wasn't yesterday that (Redacted)

5 (Redacted) Was it (Redacted)

6 A. I wanted to talk about (Redacted) in the morning. (Redacted)

7 (Redacted). He called me in the morning on my telephone. I was still in bed. The

8 telephone rang. It was him. He said it was (Redacted), he said (Redacted)

9 (Redacted) It was not 14 February, yesterday. (Redacted)

10 Q. And are you certain about that date?

11 A. Which date are you talking about?

12 Q. (Redacted).

13 A. I am certain. I could go anywhere you like and I would confirm that it was

14 (Redacted) in the morning. That is the time when my telephone rang, and I stress

15 that it was (Redacted).

16 Q. Very well. I want to ask you about one more person. Do you know

17 somebody called (Redacted)

18 A. I do not know him.

19 Q. I am told my French pronunciation was bad. It is (Redacted)

20 A. But who is (Redacted)

21 Q. Well, let me approach it another way since it might be my fault. Do you know

22 who is the (Redacted)

23 A. I have no knowledge as to the (Redacted). I know that the (Redacted)

24 was called (Redacted) (phon). He was the (Redacted), but I do not know (Redacted)

25 I never went to see him. I never went to (Redacted)

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1 Q. Did you know anybody called (Redacted)

2 A. (Redacted) No. I know a certain (Redacted) and his name was (Redacted) He

3 was the (Redacted) is (Redacted)

4 When you had customary law tribunals when there were disputes to settle, the chief

5 would sit. (Redacted), and (Redacted)

6 (Redacted) in order to settle disputes, but I did not take an

7 interest in what they did at that level. That's all I know about that (Redacted)

8 Q. And was (Redacted) a member of the NGO you've been telling us about?

9 A. (Redacted) was not a member of that NGO.

10 MR HAYNES: Thank you. Now, I am now done with the document on the screen,

11 and could it please be given a different EVD-T number?

12 PRESIDING JUDGE STEINER: Mr Haynes, apparently because the document

13 stayed for too long, there was a problem with the scanning and all the information

14 was lost. We have two possibilities: Asking the witness to draw again on the

15 screen and the document be immediately scanned, or for the witness to draw it in

16 hard copy the same drawings he had put in the previous one.

17 MR HAYNES: Well, I am in your hands and the witness's hands. Shall we see

18 what the witness prefers to do? It might be easier for him to draw on paper than on

19 the screen. It was plainly not an easy exercise.

20 PRESIDING JUDGE STEINER: I would suggest that we have it in hard copy and

21 then the Defence can check whether it coincides with the previous one, and then it

22 will be given a new EVD-T number.

23 MR HAYNES: Thank you for the helpful suggestion, and we might as well do it

24 now, if that's okay.

25 PRESIDING JUDGE STEINER: Mr Witness, the court usher will give you now the

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1 sketch on a piece of paper and we are asking you, please, to repeat the drawings you
2 put in the previous paper: The compound of your neighbour; the location of your
3 neighbour's house and your neighbour's shower, or toilet; and, finally, the location of
4 (Redacted) residence.

5 THE COURT OFFICER: The sketch as modified by the witness is available on your
6 screens if you push the button "Document Cam Witness" in your remote controls.

7 MR HAYNES: Thank you.

8 Q. Have you written something inside one of the houses just to the right of the
9 word "habitation," sir?

10 A. Yes. This is the chief's house.

11 Q. And we're still in private session. Can you give us his name?

12 A. The chief is called (Redacted)

13 MR HAYNES: Thank you. That's who I thought it was, but I had to ask you.

14 Then, in that event, I have no further need of the witness to mark this document.

15 PRESIDING JUDGE STEINER: Please, court officer, let's have the document
16 immediately scanned and given an EVD-TD number, please.

17 MR HAYNES: Just for future reference, what is the time limit, do we know?

18 PRESIDING JUDGE STEINER: I have no idea. It is an eCourt, Mr Haynes.

19 THE COURT OFFICER: The document as modified by the witness will be attributed
20 reference EVD-T-D04-00010, will be marked as confidential and would be scanned
21 later, but I will keep it in safe hands. And if I may answer your question, it's a
22 matter of timing and manipulation also how to manipulate the SMART Board and in
23 the future we will try to make tests for it to be operational. Thank you.

24 MR HAYNES:

25 Q. Now, again, for our code, sir, if I refer to "the chef," you will know in future I am

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1 referring to (Redacted); do you understand?

2 A. Yes, I do understand.

3 MR HAYNES: Then on that basis we will, with Madam President's leave, go briefly
4 before lunch into open session.

5 PRESIDING JUDGE STEINER: Before that, if Mr Haynes allows me, I want a
6 clarification from the witness. When you refer to the chef, (Redacted)
7 (Redacted)

8 THE WITNESS: (Interpretation) (Redacted)
9 (Redacted)

10 PRESIDING JUDGE STEINER: Thank you very much. Court officer, please turn
11 into open session.

12 (Open session at 12.48 p.m.)

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

14 MR HAYNES:

15 Q. Now, I want to ask you some questions about your nearest neighbour. How
16 did you come to know that he had spoken to investigators from the Office of the
17 Prosecutor?

18 PRESIDING JUDGE STEINER: Mr Witness, before you answer, just to remind you
19 that we are now in open session, so please don't mention names.

20 THE WITNESS: (Interpretation) I have understood. I told you earlier that we
21 were part of an NGO and I gave you the name of that NGO. When we went to the
22 various meetings of the NGO, some white people arrived and they met with us.
23 They also took down telephone numbers. We let them know that we were victims.
24 Each of us gave our identity and also gave our telephone numbers. Each person
25 gave his or her telephone number, then they left. After that, each person received a

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1 telephone call. I cannot know what was said to them by telephone. Nobody could
2 communicate to anyone else the content of those calls. I received a telephone call
3 myself and I answered the telephone, and I keep confidential what was said during
4 that call. Even when we met with each other nobody told anybody else about
5 having received a telephone call, so when we met at the various meetings of the NGO
6 we would talk about the NGO and then everybody would go back to his or her home.

7 MR HAYNES:

8 Q. I will ask the question again: How did you know that your nearest neighbour
9 had spoken to investigators from the Office of the Prosecutor?

10 A. You are right that we are neighbours. * What happened to me happened to him
11 as well; everybody knows that. If somebody came from outside and asked whether
12 these were people sent by the Prosecution, then that would be something to be -- that
13 I would feel proud about. I would say "This is going to be brought before the
14 Courts." Not everybody had a telephone. I had a telephone and, when I received a
15 telephone call, I was able to meet with the representatives of the Prosecutor. They
16 asked me if I knew about the Office of the Prosecutor and I said "He's my neighbour."
17 They said "How can I contact this person or that person?" I would say "Well, I can
18 give them my telephone and you can contact them through me." Then when I went
19 back home they called me. At that time, (Redacted) was at his home as well. When
20 my telephone rang I answered it and he also came to my house to answer a telephone
21 call from the representatives of the Prosecutor. They gave him an appointment and
22 he agreed to that appointment. When they met, no doubt he took a statement -- they
23 took a statement from him, but I cannot know the content of their interview. He also
24 said that he had no telephone and it was my telephone that he used to answer their
25 call when they called him.

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1 THE INTERPRETER: The Sango interpreter is saying that the witness is speaking
2 too quickly.

3 THE WITNESS: (Interpretation) That is how they began to make their phone calls
4 afterwards.

5 MR HAYNES:

6 Q. Was your nearest neighbour the only person who was contacted by the OTP via
7 your telephone, and please do not give us any names?

8 A. I said earlier that, first of all I went there, they heard me, they interviewed me
9 and then they asked me if I knew a certain person and they told me that person's
10 name. As that person was my neighbour I said, yes, I did know them, and then they
11 said how would they be able to get in touch with this person, and I said once I went
12 back home they would need to telephone me so that I could then call my neighbour
13 and hand the telephone to my neighbour. After that interview, I went back to my
14 home. Without saying anything to my neighbour about my interview, I simply
15 waited for the telephone call. So I was under my mango tree at home, he was at his
16 place, we were looking at each other. A few moments later my telephone rang and
17 the person on the other end of the line asked me if they could speak with someone.
18 As I knew the context already, I beckoned my neighbour over and said somebody
19 wanted to talk to him, and then I handed the telephone to him and the person on the
20 line gave him an appointment. He attended that appointment and that is how they
21 were able to interview him.

22 Q. I understand that, but what I'm asking is were there other people who were
23 contacted in that way via your telephone?

24 A. There was no other person. I told you that the victims could take somebody
25 else's telephone number and give it as their contact number if someone needed to

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1 contact them. I was called and they interviewed me and after that they asked me
2 about him. That is how I came to pass the message on to him but, other than him,
3 there was nobody else whom they telephoned on my mobile phone. It wasn't a
4 telephone for public use.

5 MR HAYNES: Thank you for that and I notice it is 1 o'clock.

6 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. Mr Witness, we are going
7 now to have a lunch break. You can have lunch and take some rest. We'll be back
8 at 2.30. We hope you take some time for yourself. I will ask, please, the court
9 officer to turn into closed session for the witness to be taken outside the courtroom.
10 In the meantime, we are going to suspend and resume at 2.30. Court officer, please.

11 *(Closed session at 13.00 p.m.) Reclassified as Open session

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

13 (The witness stands down)

14 THE COURT OFFICER: All rise.

15 (Luncheon recess taken at 1.00 p.m.)

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

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

18 PRESIDING JUDGE STEINER: Good afternoon. Welcome back. We will continue
19 with the questioning of Witness 42, but before that the Chamber has an oral decision to be
20 issued and is going to do it in closed session. It's the oral decision on the Prosecution's
21 request for protective measures for Witness 73. On 14 February 2011 the Prosecutor filed
22 a confidential ex parte application for protective measures and special measures for
23 Witness 73, it's filing 1225, which was reclassified as confidential on 15 February 2011
24 upon request by the Prosecution.

25 In this application the Prosecution requests the Chamber to assign and authorise the

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1 continued in-court use of pseudonym, to authorise image and voice distortion, and also
2 the use of private session for parts of the testimony to be given by Witness 73 where the
3 witness provides information that would tend to disclose his identity or that of Witness
4 42, or Witness 42's daughter, who was a victim of sexual violence.

5 No previous application for protective or special measures was made by the Prosecution
6 with respect to Witness 73. However, the Prosecution was informed by the Victims and
7 Witnesses Unit on 10 February 2011 that during the familiarisation process the witness
8 indicated that he would feel unsafe to testify in public session without protective
9 measures, as he feared for his personal safety and that of his family.

10 The Prosecution therefore submits that protective measures are necessary to enable
11 Witness 73 to continue to live in his current community without the fear of him and his
12 family being identified, and as a result, being re-traumatised, threatened or harassed. It
13 is also submitted that these measures are necessary in order not to defeat the protective
14 measures that were granted to Witness 42.

15 In view of the fact that Witness 73 is scheduled to commence his evidence maybe this
16 week, the Chamber requested the Defence to respond to the Prosecution's application
17 within 24 hours and later allowed Defence to make oral submissions, which was done
18 today.

19 Whilst agreeing that certain matters should be referred to in private session, the Defence
20 otherwise opposes the allocation of protective measures on the basis that the potential
21 threat to Witness 73's personal security or that of his family does not justify a derogation
22 from the principle of publicity of the proceedings which would prejudice Mr Bemba's
23 rights.

24 The Defence also submits that the witness did not request protective measures when met
25 by the Prosecution on 2 April 2010 and, in addition, that the Defence was not informed

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1 about the witness concerned by the VWU, whilst the Prosecution was, and therefore the
2 Defence has not had the opportunity to assess these concerns for itself.
3 During today's hearing the legal representatives of victims also expressed concerns for the
4 safety of the witness and the repercussions this may have on victims in the area, as well as
5 submitting that protective measures facilitate the witness giving testimony in such an
6 alien environment. This is in today's transcript, page 30, line 3 to page 31, line 1.
7 Having considered the submissions and pursuant to the Chamber's obligations under
8 Article 68(1) and (2) of the Statute and Rule 87 of the Rules of Procedure and Evidence and
9 Regulation 94 of the Regulations of the Registry, the Chamber considers that protective
10 measures requested for Witness 73 are necessary, reasonable and proportionate.
11 THE INTERPRETER: Message from the English booth. Could the Presiding Judge
12 please slow down.
13 PRESIDING JUDGE STEINER: I'm sorry. The Prosecution was informed by VWU,
14 since the witness is being called by the Prosecution and it is therefore for the Prosecution
15 to make any application for protective measures on the basis of the information provided
16 to it by VWU, that the Defence knows the VWU does not share all information with all
17 parties and participants, and as a neutral unit of the Court, there is no reason to doubt the
18 information given. The Defence will, of course, benefit from these same mechanisms
19 when it calls witnesses for Defence.
20 The protective measures requested for Witness 73 are specifically provided for in
21 Rule 87(3) (c), (d) and (e) of the Rules and have been considered as generally non-intrusive
22 measures, allowing the Chamber to appropriately balance its duty to respect the principle
23 of publicity and its obligation to protect victims and witnesses.
24 Further, the identity of Witness 73 is already known to the Defence, and the imposition of
25 the protective measures requested will still enable the Defence to question the witness

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1 publicly for the majority of his testimony, save for parts that would tend to identify either
2 him, Witness 42 or Witness 42's daughter, in addition to Mr Bemba and the Defence being
3 able to see the witness directly in the courtroom.

4 The Chamber therefore grants the requested protective measures for Witness 73 and
5 authorises the use of image and voice distortion, the assignment and use of a pseudonym,
6 as well as the use of private session to protect his identity provided this is indicated in
7 advance to the parties, participants and the Chamber. Parties and participants should
8 make every effort to question Witness 73 on identifying information at the beginning of
9 his testimony.

10 I now ask, please, the court officer to bring Witness 42 into the courtroom, please.

11 (The witness enters the courtroom)

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

13 (Open session at 2.47 p.m.)

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

15 PRESIDING JUDGE STEINER: Thank you. Good afternoon, Mr Witness.

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

17 PRESIDING JUDGE STEINER: Did you manage to rest a little bit during the lunch
18 break?

19 THE WITNESS: (Interpretation) Yes.

20 PRESIDING JUDGE STEINER: Are you ready to continue being questioned by the
21 Defence?

22 THE WITNESS: (Interpretation) I quite agree.

23 PRESIDING JUDGE STEINER: Thank you. Just before I give the floor to the Defence,
24 just to inform the parties and participants of the presence of a second court officer at the
25 side of our court officer that is on training, but he's already a staff member of this Court

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1 and therefore subject to all confidentiality duties.

2 Mr Haynes, you have the floor.

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

4 Q. Well, good afternoon, sir.

5 A. Good afternoon, counsel.

6 Q. I'm going to continue with the questions I asked - I was asking you before lunch,
7 and of course this will involve people you know and who know you and so please be
8 careful not to mention their names, would you?

9 A. Fine.

10 Q. Thank you. I want to go back to something we were talking about this morning,
11 and it's a question about the assistant and where he lives. You understand who I mean
12 when I say "the assistant," do you, sir?

13 A. Yes, I understand.

14 Q. Do you remember that you drew where his house was upon the plan this morning?

15 A. Yes, I remember.

16 Q. And (Redacted) which were made by the
17 forces that arrived in Begoua?

18 A. His house is further away. I believe to get to his house you have to walk 300
19 metres. That house is not close to the line of trenches that were dug.

20 Q. And there was no trench outside the assistant's house, was there?

21 A. Yes, that's right.

22 Q. Thank you very much. Now, I want to go back to your nearest neighbour. You
23 know who I'm talking about when I use that code, do you, sir?

24 A. Yes.

25 Q. Good. Were you present when he first spoke to the Office of the Prosecutor on

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1 your telephone?

2 A. I'm saying that when the question was asked of me, namely whether I knew him, I
3 said, yes, I did. So they told me that they were going to call me back so that I could pass
4 on the call, they called me back and I gave the telephone and he spoke to them. I don't
5 know what the topic of their discussion was. I wouldn't want to tell a lie.

6 Q. How many times was he contacted on your telephone by the Office of the
7 Prosecutor?

8 A. They called him only once. I passed on the call and they talked to him and they
9 made an appointment to meet. What happened after that, well, I don't know. After his
10 return I believe he had a telephone, so he no longer needed to use my telephone.

11 Q. Did the investigators who spoke to you tell you why they wanted to speak to your
12 nearest neighbour?

13 A. No, they didn't give me the reasons. I do know that we are victims. He was the
14 victim of violence and abuse, as I was. The fact that he was called it might have been to
15 determine the circumstances in which he had been assaulted, but to really know exactly, I
16 don't know.

17 Q. And when he had attended for an interview, did he discuss with you what he had
18 told the investigators?

19 A. I said here that it was confidential what happened, or what you -- they said to me, or
20 what you relate to them there, you can't say. In any event, the investigators advised that
21 we respect the confidentiality of the discussion. So even when they called no one else
22 would know that you were going to meet with them, so it wasn't necessary to talk about
23 that with another person.

24 MR HAYNES: Madam President, can we go briefly into private session, please?

25 PRESIDING JUDGE STEINER: Court officer, please.

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1 *(Private session at 2.58 p.m.) Reclassified as Open session

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

3 MR HAYNES:

4 Q. Sir, I want to remind you about something you said last week on 11 February, at
5 page 60 of the transcript, lines 12 to 18, and it was an answer given in private session and
6 so I'm going to read it to you in private session. Will you listen to what I'm reading very
7 carefully, please.

8 "His house is not very far from mine. I can even say that our two houses is at the same
9 place. There's only a small path separating my house from his. From my house I can
10 see everything happening in his compound and vice-versa, so he's aware of everything
11 that happens in my house. I think he will talk about it also because when the OTP went
12 there to investigate, he told them about what had happened to me. The investigators
13 were trying to find out whether I had been telling the truth, and he told them the same
14 thing."

15 I'm told the references haven't come out. It was 11 February, page 60, lines 12 to 18 in the
16 English.

17 Now, the question I have for you is how you knew that the investigators were trying to
18 find out whether you had been telling the truth?

19 A. I believe I said that he was called and interviewed just the way I was, but the events
20 that happened did not take place in his absence. He was there. He witnessed the
21 events. He observed what had happened to me, and I believe that in our discussions we
22 usually talked about it. He said that "You came close to death but those of us, your
23 neighbours, we could not intervene because they were all armed." Would he have
24 changed his story when he was talking to the investigators? No, I believe that, through
25 our discussions, I would believe that he would tell them the same version.

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1 Q. I'll try the question again: What did you mean when you said, on oath, the other
2 day, "The investigators were trying to find out whether I had been telling the truth"?

3 A. I think that the investigator, or investigators, who interviewed me have names. In
4 one of our discussions, because I've told you that we were in the habit of meeting, in one
5 of our discussions I told him about those who had questioned me. They had returned to
6 The Hague and sometimes they would call us, and maybe when (Redacted)
7 (Redacted), I would talk to them about 15 to 20 minutes and then I will
8 tell him, "Oh, it is the investigator who just called me," and then he would tell me, "It is
9 the same investigator who interviewed me." He gave the name of the investigator and
10 he was the same one.

11 After one month they returned and met him. And so if he comes and tells me that
12 questions were put to him and he said such-and-such a thing, it is obviously because we
13 had given information and they were probably try to cross-check the information that I
14 gave. So I deduced that questions were put to him to find out whether what I said was
15 true because it was the same investigator who questioned me who might have wanted to
16 check whether the stories, or our accounts, were consistent, so this is why I made that
17 statement.

18 Q. Thank you. Did the investigators ask you about the availability of other witnesses
19 when you saw them?

20 PRESIDING JUDGE STEINER: Mr Haynes, I'm sorry, should we continue in private?

21 MR HAYNES: Thank you for the direction. I will go a different way so that we can
22 come out of private quicker.

23 Q. When you said in the passage that I've just read to you, "He told them the same
24 thing," what were you referring to?

25 A. What had the investigators come to do? What type of questions were they

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1 supposed to ask us? They asked us questions on what happened to us: "You were
2 attacked? You were brutalised? Your houses were destroyed?" That is the type of
3 questions that they asked us. They wanted us to describe what the Banyamulengues had
4 done, what we had been subjected to personally, or what had happened to the neighbours.
5 So I told them that my daughter was raped; my son was brutalised; and my property was
6 looted. My neighbour was an eyewitness. Obviously, they asked him the question and
7 he confirmed what he had observed because he witnessed what had happened to me. I
8 had told them that I had a neighbour who was an eyewitness and who was in a position
9 to tell them what had happened to me. Everything happened in broad daylight, in front
10 of everyone. When they were shooting in the air, the neighbours were present. People
11 were running to hide. Amongst my neighbours he was the only man. All the others
12 were women.

13 Q. Thank you. Just one last question in private session. When you said, "I think he
14 will talk about it also," what did you mean?

15 A. I said that if the Court needs him to come and testify here, then he will come and
16 give the same account that he gave there. He will come and tell the Court what
17 happened there. So if the Court calls him, the Judges will ask him the question and,
18 obviously, he will say what happened. If the questions being put to me are put to him,
19 obviously he will mention my name amongst the victims.

20 MR HAYNES: Thank you. I think we can now come out of private session, Madam
21 President.

22 PRESIDING JUDGE STEINER: Court officer, let's turn into open session.

23 (Open session at 3.09 p.m.)

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

25 MR HAYNES:

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1 Q. Did the investigators who spoke to you ask whether it would be possible to
2 interview your son?

3 A. When they came, I was still working. They called me and they said that they
4 wanted to meet with me. I told them that I would be available at a certain time, so we
5 made an appointment. I met with them. I gave them my account of the events. We
6 had discussions for three days. The first day they interviewed me; the second day they
7 took down notes of my statement; and the third day they also took my statement down.
8 They asked me what had happened and I told them what had happened to my wife, to
9 myself and my children. They did not ask me about my children. If they had asked me
10 to go and bring the children who had been involved, I would have done so, but they
11 didn't ask me and I could not go and bring them of my own volition.

12 Q. But did they ask you about your neighbour?

13 A. The investigators did not ask me any questions about my neighbour. They did not
14 ask me even a single question about my neighbour. They asked me questions about
15 myself. It was I, myself, who, during my statement, informed them that my neighbours
16 had been eyewitnesses to what had happened to me. The events had taken place in
17 broad daylight, and they shot in the air to frighten the neighbours who were hiding, and
18 the investigators did not ask me what the neighbours did or did not do.

19 Q. Why didn't you put the investigators in contact with your wife, your son or your
20 daughter?

21 A. I have told you that the investigators asked me questions about what I had been
22 subjected to, and I told them the story. I could not compel them to ask me to go and call
23 my children. It was up to them to ask me to go and call for my daughter to tell her story.
24 They didn't ask me any such thing. If they had said, "The son who was attacked, is he
25 there?" "Yes." "Can you bring him to us so that we can interview him?" But they

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1 didn't ask any such questions. They took down my statement. They did not ask me to
2 call for my children.

3 Q. Before your neighbour went to speak to the investigators at the OTP, did you tell
4 him what questions you had been asked and what answers you had given?

5 A. When you are called and asked whether you want to testify voluntarily you accept,
6 and they ask you whether you wish to keep the discussion confidential and then you
7 accept. If after the interview someone wants to ask you what was happening, you can
8 deny. You tell them that you are coming from visiting family. So we cannot go and be
9 shouting on the rooftops that we just had an interview with the ICC, so I could not tell my
10 neighbour that this is what had happened. He was not the one who had sent me to see
11 the investigators for me to have to come and give him a report of what had happened.

12 Q. Did he tell you what he had said to the investigators of the Office of the Prosecutor?

13 A. I have told you that I spent a lot of time with my neighbour. There are things that
14 we discussed and things that we do not discuss. After meeting with the investigators, he
15 cannot come and tell me all that happened during that meeting. It is during normal
16 conversations that he can give me an idea of what might have happened, that "This person
17 interviewed me," and I would say "That person interviewed me also." It is possible that
18 they may have asked us the same questions. The main issue is that I was attacked.
19 Could I have asked him those questions? He knew that I was brutalised and my
20 daughter was raped. Did I need to tell him what I had told the investigators, given that
21 he had been an eyewitness to those events?

22 Q. When did you last see him?

23 A. Are you referring to my neighbour?

24 Q. I'm sorry. Yes, I am, sir.

25 A. But how is it possible for me to tell you when we met for the last time? I told you

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1 that we are neighbours. We see each other every day. We live next to each other. In
2 the morning, we come out of our houses and we greet each other. In the evening, we
3 come back from work and we greet each other. We met all the time. Talking about the
4 last time I saw him, I saw him before I came here, but I did not tell him that I was leaving
5 to come here. I was called up and I went and carried out all the various administrative
6 formalities and then I would come back home. I did not need to tell him. The only
7 person who was aware was my wife, as well as my child.

8 Q. Thank you. So nobody outside your family knows that you have come to The
9 Hague to give evidence; is that correct?

10 A. Yes, that is correct.

11 Q. And are you aware of the identity, without giving names, of any people who have
12 or who are going to give evidence in this case?

13 A. I know, because when the authorities called me to go and prepare my travel
14 documents, that is after an interview with the police, I met some other people. I asked
15 them what they had come to do there and they told me that they had come to follow up a
16 file. I told them that I had come to visit someone who was working in that service. It
17 was after that that I left that office, so it means that there are other people who go to that
18 office to prepare their travel documents. That is what made me to understand that the
19 people I met there are in the same situation and that it is possible that they would also
20 come here.

21 MR HAYNES: Can we go again briefly into private session to refer to some transcript
22 that was also heard in private session, please, Madam President?

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

24 *(Private session at 3.22 p.m.) Reclassified as Open session

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

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1 MR HAYNES:

2 Q. Again, this is something you said yesterday. It's at page 47 of the English transcript,
3 lines 18 to 22. So can you listen, please, very carefully, sir:

4 "I believe that there is a witness who came here and who has already returned and whose
5 name is (Redacted) That witness was called and he said, (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 How did you know that (Redacted) had been called as a witness?

11 A. Thank you, counsel. A short while ago I told you that, when I was called to (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted) While we were still at OCODEFAD, there were

15 some people who assisted us in filling the various participation application forms, so we

16 filled those forms together and, when Maître Paolina came to the ICC office, she would

17 call us. She would call me and also him. So we had already met (Redacted)

18 and so I told myself that he was certainly going to come here and, as I told you this

19 morning, (Redacted) So that was not

20 surprising for me to learn that he was coming here, because I knew that whatever the case

21 he would end up coming here. It is for that reason that I mentioned his travel to come

22 here.

23 Q. How did you know yesterday he had already returned?

24 A. I said that, because on (Redacted)

25 Where to? To travel here. I left there on the 4th, I passed through (Redacted) while he was

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- 1 coming back and I saw him. When I was alighting from the plane, they were also
2 alighting. We were the first to arrive and we were trying to look for something to eat.
3 That is why I was able to understand that he had already come here and was on his way
4 back.
- 5 Q. Who do you mean by "they"?
- 6 A. When I say "they," it is simply a respectful way of referring to that person. It's just
7 like saying "sir," as you have said.
- 8 Q. So let's be clear, was he on his own?
- 9 A. I've told you that, in order to come here, all the arrangements were made secretly.
10 Not everyone was told. You didn't speak about it with everyone. But since (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
- 16 Q. Well, I'm going to ask one more question so we can leave private session. That
17 witness was called and he said, (Redacted)
18 (Redacted) How did you know yesterday what evidence
19 (Redacted) had given to this Court?
- 20 A. I have told you that when we went (Redacted)
21 (Redacted), I was not alone. When I went to have (Redacted) I met
22 many people, including the one I have just mentioned. Others had already obtained
23 their documents, and those who had already received (Redacted)
24 (Redacted) That person and (Redacted) were the people that (Redacted)
25 (Redacted) what I have already told you

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- 1 here, and (Redacted)
- 2 (Redacted)
- 3 (Redacted) Such
- 4 information should have been given to me so it is just logical that I should be informed.
- 5 So, when he came back, (Redacted) what had
- 6 happened there, and (Redacted)
- 7 (Redacted)
- 8 (Redacted) That is what
- 9 happened.
- 10 Q. Can you please try to answer my question?
- 11 PRESIDING JUDGE STEINER: Mr Haynes, I'm sorry. You were mentioning in your
- 12 question, if I understood, "How did you know yesterday what evidence (Redacted)
- 13 had given to the Court?" To what evidence are you referring to, to this (Redacted)
- 14 (Redacted) I don't remember (Redacted) mentioning that, so I think the
- 15 question is a little bit confused.
- 16 MR HAYNES: Very well. Can we go into open session, please?
- 17 PRESIDING JUDGE STEINER: Of course. Let's go into open session, please.
- 18 (Open session at 3.33 p.m.)
- 19 THE COURT OFFICER: We are in open session, Madam President.
- 20 MR HAYNES:
- 21 Q. Sir, I'm going to ask you some questions about the man we were just talking about
- 22 in private session and I am going to call him "the assistant." You know who I'm talking
- 23 about, do you, sir?
- 24 A. Understood, yes.
- 25 Q. When was the last time you physically met the assistant?

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1 A. I cannot remember the exact date on which I last met him. What I do know is that I
2 met him before he told me that he was going to be (Redacted). I think that it was
3 probably one week before the day on which he telephoned me, (Redacted)
4 (Redacted)

5 Q. And the last time you saw him?

6 A. That's what I've just told you. When I went (Redacted), he and
7 certain other people were returning from a (Redacted) He was the last one to come and I
8 met him and I asked him where was he coming from, and he said he was coming
9 from a (Redacted). That was the last time that I saw him, and it was probably one week
10 before (Redacted) And on (Redacted) he telephoned me to say that he was leaving.

11 Q. Do you know where he is now?

12 A. Where am I at the moment? Am I in Bangui to know where he is at this point in
13 time? Even if I was the Bangui, if I didn't go to his house, how could I know exactly
14 where he was located? If I were in Bangui, then I could go to his home and I could find
15 out whether he had gone out or if he was still at home, but at the moment I am here.
16 How can I tell you where he is at this point in time?

17 Q. Well, you told us that you knew he left Bangui; how do you know he has returned?

18 A. I think I've told you that on (Redacted), my telephone rang, and he told
19 me that he had left. I know that when he said he had left, that meant he had come here,
20 here before this Court, now where we are sitting here, you and I today. In turn, I was
21 called and I was told to prepare myself to come here. Only my family and I knew that I
22 was to make this trip. And I told you that (Redacted) and
23 there was also a flight that had come in from here, and he had taken that flight and I saw
24 him there. That's what I said.

25 Q. Where in the airport did you see him?

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1 A. (Redacted)

2 number of people walking in the corridors. If there are -- is another flight which has also
3 landed at the same time, there are other people who are there also, there are also people
4 waiting to take flights. And we knew each other. If you see somebody that you are
5 used to seeing, well, of course, you will recognise them.

6 Q. Was he alone or was he with anybody else that you recognised?

7 A. There were several people who were coming in from this country and most of them
8 were Westerners. I don't know those Westerners, I don't know where they came from.
9 But I saw a number of black people like myself, and I asked him and he said no, he had
10 finished and he was coming home. But there were other people besides him there. I
11 don't know why I would have spoken to them, though.

12 Q. So you spoke to him, did you?

13 A. He and I greeted each other and he said to me that he had finished, and I had told
14 him that I was on my way, and he wished me Godspeed. He then took his leave. I was
15 with the person accompanying me and we were on our way to have some breakfast and
16 then continue on our journey.

17 Q. Do you remember the terminal number of the building you were in?

18 A. It was the first time I had seen an airport like this. I had never been in (Redacted).
19 How would I know what the terminal number was? I saw him in the hall as we were
20 passing each other. I saw him, I greeted him. I didn't try and find out more than that.
21 He speaks English. I do not, so how would I find out these things?

22 Q. What time of day was it?

23 A. I did not have a watch. I did not have a watch.

24 Q. Was it dark or light?

25 A. (Redacted) is not open to the sky to see whether it is daylight or dark. It's

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1 a large building. You can't see whether it's daylight outside or not because it's a big
2 building, artificially lit, so you couldn't see what time it was. You couldn't see whether it
3 was morning, whether it was evening. I don't know. I didn't have a watch and it really
4 wasn't in my mind to check these kinds of things. I greeted him. He continued on his
5 way, and for my part I continued on mine.

6 Q. What time was your connecting flight to Amsterdam?

7 PRESIDING JUDGE STEINER: Yes, Ms Kneuer.

8 MS KNEUER: Madam President, the relevance does not appear obvious for the
9 Prosecution, and also I'm slightly concerned and I wonder if we shouldn't go back into
10 private session. However, I could not justify in public session.

11 PRESIDING JUDGE STEINER: Let's go into private session, please.

12 *(Private session at 3.44 p.m.) Reclassified as Open session

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

14 PRESIDING JUDGE STEINER: Maître Liriss, before you take the floor, I'm also
15 concerned about this line of questioning that appears much more to investigate on the
16 modus operandi of VWU which could put at risk the safety of other witnesses. So I will
17 give the floor to Madam Kneuer, and after that I would very much appreciate if you could
18 explain to the Chamber the relevance of all these questions, including which terminal of
19 the airport and things like that, because the modus operandi of VWU is not supposed to
20 be made public. Ms Kneuer.

21 MS KNEUER: Thank you, Madam President, to give me the floor again, and as a matter
22 of fact you already expressed the concerns of the Prosecution and it relates to the modus
23 operandi of the VWU, which ultimately goes to the safety of our witnesses, and I am
24 concerned that by revealing the travel route it may be very difficult for the VWU to
25 provide for the security and the proper protection of these witnesses. Thank you,

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1 Madam President.

2 PRESIDING JUDGE STEINER: Maître Liriss.

3 MR LIRISS: (Interpretation) I fully agree with my colleague as regards questions that
4 are related to safety and, in fact, it is not us who revealed the departure airport. But,
5 your Honour, you will remember that my esteemed colleague asked friends -- asked
6 questions concerning the possible collusion between witnesses and encounter between
7 them. The fact that their story is virtually the same, their meeting with the investigators,
8 what he is trying to do here is prove that it was not possible that at (Redacted)
9 these two people should have met, one disembarking from a flight and the other boarding,
10 and so if that is the case then their communication must have taken place through another
11 channel and that would mean that witnesses are communicating information to each other.
12 So that is the line of questioning that my learned friend is pursuing. However, I am
13 going to ask him to move on to something else. Thank you.

14 PRESIDING JUDGE STEINER: I very much appreciate the fact that you informed that
15 you were going to another -- to seek another line of questioning, and I am granting the
16 Prosecutor's request for redactions on the whole part of the transcript that mentions the
17 modus operandi of the VWU in relation to airports and other information; similar
18 information.

19 You can proceed, Mr Haynes. Can we go into public session, or we take the risk of
20 having to close immediately?

21 MR HAYNES: Let's stay in private session for, as it were, the final question on this topic.

22 Q. Sir, earlier today, at page 43, lines 15 to 18, I asked you, "Would you mind telling us
23 when was the last time you saw (Redacted)" Why didn't you tell us about (Redacted)
24 (Redacted)then?

25 A. The question asked of me, was it asked about (Redacted)? I would ask you to

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1 please ask me that question again and I will give you an answer, because I do not
2 remember hearing any questions about (Redacted) this morning.

3 Q. You don't recall that you told me that the last time you saw him he told you he was
4 (Redacted) "That is when I physically met him for the last time"? Do
5 you remember saying that?

6 A. Yes, but I was talking about what happened in the country itself. You were asking
7 me when I had met him, at what time I had met him, back home in our country, and that
8 is why I answered in that way, but on the (Redacted) my telephone rang and he said (Redacted)
9 (Redacted) and so I was telling you about what was happening back home in our country.

10 Q. Yes, let's come to the telephone call. You might remember that you told me about
11 the telephone call in response to a question from me about when you had last spoken to
12 (Redacted) Why didn't you tell us about (Redacted) when I asked
13 you that question?

14 A. If you ask me a specific question, I will give you a specific answer. If you told me
15 exactly where I had met him I would have answered that, but the situation (Redacted) is
16 quite different. It's a totally different context. I told you that he had already come back
17 into the country, but your first questions concerned my meeting with (Redacted) back there in
18 our country. I told you that (Redacted) in certain circumstances,
19 but -- or, excuse me, that I had crossed paths with him in the Central African Republic
20 under certain circumstances, and then a week later my telephone rang and he told me (Redacted)
21 (Redacted) was quite different. It was entirely
22 coincidentally that we met each other (Redacted)

23 Q. Did you not understand what I meant when I asked you when was the last time you
24 had spoken to (Redacted)

25 A. Perhaps you should rephrase your question, sir, because I did not understand it

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1 properly I think.

2 Q. Very well, I will move on to one small topic before we finish.

3 PRESIDING JUDGE STEINER: Can we turn into open session?

4 MR HAYNES: I think we can, but would you mind if I just checked for a moment? It's
5 a little more difficult to check whether a passage of transcript from yesterday afternoon
6 when the system wasn't working was in private or open session. It will just take a few
7 seconds, if you don't mind bearing with me.

8 PRESIDING JUDGE STEINER: Using your good sense, the content of the information
9 appears to be confidential?

10 MR HAYNES: No. The follow-up question may -- will require the witness to be
11 warned not to give names, but the content of the question is not confidential.

12 PRESIDING JUDGE STEINER: Then let's turn into open session.

13 MR HAYNES: Thank you very much.

14 (Open session at 3.55 p.m.)

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

16 MR HAYNES:

17 Q. Mr Witness, yesterday afternoon, at page 47 of the real-time transcript, lines 13 to 18,
18 you were asked this question: "During the Banyamulengues' withdrawal from your
19 country, do you know if they committed any other abuses during their withdrawal?"
20 And you answered, "On that day apparently they were meant to go from Begoua, because
21 on the 14th -- well, on the 14th, but perhaps a witness who will come before the Court will
22 confirm that." Will you indicate to me when that has all been translated to you?

23 A. Yes, I have understood. I said that on the 14th, in the morning, when the -- because
24 the liberators arrived at Bangui at about 3 p.m., but they were threatening people with
25 knives. People fled when the liberators arrived. I said that all of the population of PK12

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1 knew what had happened. I said that any witness living at PK12 would be in a position
2 to give testimony on this. I said that the entire area of PK12 knew, because they were
3 threatening to cut everybody's throats. If you call a witness who lives in PK12 to come
4 and give testimony before the Court, no doubt they would be able to tell you about it.
5 That's what I said.

6 Q. Well, that's not quite how it came out. Did you have a witness in mind who will
7 come before the Court when you gave that answer?

8 A. The acts of violence and abuse perpetrated by the Banyamulengue were very severe.
9 This was not just a momentary aberration that affected two or three people. Lots of
10 people suffered from this. Lots of people could come and testify as to this before the
11 Court. We even talked of something in the order of 100 witnesses who could come and
12 participate in the proceedings. That means that other witnesses will come. I am sure
13 that that is the case. Nobody has told me that, but I am an educated person. I know
14 that there are other witnesses who are going to come.

15 MR HAYNES: Thank you.

16 PRESIDING JUDGE STEINER: Thank you, Mr Haynes.

17 Mr Witness, before we adjourn I have a follow-up question to you just for clarification.
18 In yesterday's transcript on page 48, 1 and 3, and in today's transcript now page 79 line 20,
19 you mentioned the time when the liberators came. When you talk about liberators, who
20 are you talking about? Who are these liberators?

21 THE WITNESS: (Interpretation) Thank you, your Honour. When I say "liberators," I
22 am referring to the rebels, the rebels for whom the Banyamulengue came. They
23 withdrew, the rebels fell back when the Banyamulengue came, they pulled back into the
24 bush and they reorganised so that they could come back to take power. When they
25 arrived in PK12, they presented themselves as liberators rather than rebels. That is how I

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1 come to refer to them as liberators.

2 PRESIDING JUDGE STEINER: If I well understood, it's Bozizé's rebels; is that correct,
3 the ones you call as liberators?

4 THE WITNESS: (Interpretation) Yes, that is right. As they came, they took power
5 from the hands of the Banyamulengue and at that point they were no longer rebels.
6 That's why we call them the liberators.

7 PRESIDING JUDGE STEINER: Thank you very much for the clarification, sir.

8 We are going to adjourn now our hearing. I thank very much for the Prosecution team,
9 legal representatives of victims, the Defence team, Mr Jean-Pierre Bemba Gombo. I thank
10 very much for our interpreters and court reporters.

11 We are turning into closed session in order for the witness to be taken outside the
12 courtroom. In the meantime we will adjourn and resume tomorrow morning at 9.30 in
13 the morning with the testimony of Witness 42. This hearing is therefore adjourned.

14 *(Closed session at 4.03 p.m.) Reclassified as Open session

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

16 (The witness stands down)

17 THE COURT OFFICER: All rise.

18 (The hearing ends at 4.04 p.m.)

19 CORRECTION REPORT

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

22 * Page 39 lines 10 to 11:

23 "What happened happened to me as well and everybody knew that " is corrected by

24 "What happened to me happened to him as well; everybody knows that".

25 RECLASSIFICATION REPORT

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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 21 October 2013, the
- 3 version of the transcript with its redactions becomes Public