

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 Judge Kuniko Ozaki
6 Trial Hearing
7 Thursday, 17 February 2011
8 (The hearing starts in open session at 9.33 a.m.)
9 THE COURT USHER: All rise. The International Criminal Court is now in session.
10 Please be seated.
11 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
12 in open session.
13 PRESIDING JUDGE STEINER: Good morning. Please, could the court officer call
14 the case.
15 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
16 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
17 PRESIDING JUDGE STEINER: Thank you. I welcome the Prosecution team, the
18 legal representatives of victims, the Defence team, Mr Jean-Pierre Bemba Gombo.
19 Good morning to our court interpreters and court reporters. We will continue today
20 with the questioning of Witness 42, but I was informed that the Defence would like to
21 raise an issue and I ask the Defence whether it would be in open or closed session?
22 MR HAYNES: Closed session, Madam President.
23 PRESIDING JUDGE STEINER: Please, court officer, turn into closed session.
24 *(Closed session at 9.35 a.m.) Reclassified as Open session
25 THE COURT OFFICER: We are in closed session, Madam President.

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1 PRESIDING JUDGE STEINER: Thank you. Mr Haynes.

2 MR HAYNES: Thank you, Madam President. I believe the Chamber is aware from
3 an email yesterday that the Defence would wish disclosure of the dates of travel of
4 this witness to The Hague and Witness 23 - I can use his name, we're in closed
5 session – (Redacted), from Holland back to the Central African Republic. That's
6 all we want. We don't want the routing or the times, or anything like that, just
7 confirmation of the dates of travel of those two witnesses, and I will briefly explain
8 why we say that is highly relevant.

9 On 20 January of this year, pursuant to an application by the Prosecution that the
10 (Redacted), an order was made to that effect and, so
11 far as we are aware, (Redacted). As I'm sure you are
12 aware, (Redacted) and, in case you need reminding, (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Accordingly, if effect was given to -- I suppose it's a misdescription to call it 'your
17 order,' but your permission that (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted) 10 February was, coincidentally,

21 the date upon which this witness commenced his evidence.

22 Now the relevance of this is that when he was initially asked questions about his last
23 contact with (Redacted), this witness stated that he had last spoken to

24 (Redacted) just before his departure for The Hague and that he believed that to

25 have been on or about (Redacted). When confronted with an earlier answer he had

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1 given which suggested he knew that (Redacted) had come to The Hague, had
2 given evidence and had returned to Bangui, he told us, as you know, (Redacted)
3 (Redacted) some time soon after, one supposes, 4 February when he
4 told us he left Bangui to come to The Hague. So I imagine it could have been that
5 date, or perhaps a day later.
6 Now, if (Redacted)
7 that meeting is simply impossible, because at the time he says the meeting took place
8 (Redacted)
9 The dates of travel of the two men who are said to be parties to this meeting at
10 (Redacted) is, therefore, crucial to determine the credibility of this witness. And
11 it's not just the proof of an invention of a meeting at (Redacted), it is the questions
12 that the Chamber would necessarily then go on to ask itself: Why would a witness
13 invent a meeting to explain away his knowledge of another witness's attendance,
14 evidence and return? And that would go a long way to showing the sort of
15 contact -- I won't use a word as strong as "collusion," but it would show the sort of
16 contact that would lead the Chamber to question the independence and reliability of
17 both witnesses' evidence.
18 Now, I'm not going to overdo it. That is why I say it is relevant. That is why I say
19 this limited information ought to be disclosed to us and, without seeming to put
20 undue pressure upon you, this witness is not going to be here for that much longer.
21 We would appreciate a determination of this issue as soon as you feel able to do so.
22 Is there anything else I can say to assist you?
23 PRESIDING JUDGE STEINER: Thank you, Mr Haynes, for the long reasoning for
24 your request. I just ask whether the Prosecution would like to make any observation
25 on such request?

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1 MS KNEUER: Thank you, Madam President. The Prosecution does not have
2 reservations that the travel dates would be provided to the Defence. I don't see
3 security implications, but that would be the final call of the VWU.

4 PRESIDING JUDGE STEINER: So the Chamber was already aware about the motion
5 to be put forward by the Defence. The Chamber sees no risk or increasing risk to the
6 safety and security of the relevant witnesses if the dates of their travels are informed
7 to the Defence and, therefore, the Defence asks the court officer and the assistant legal
8 officer -- the legal officer of the Chamber to get in touch with the Registry ordering
9 the Registry to provide -- the Chamber asks, sorry, to provide the information to the
10 Chamber as soon as possible. In any case, no later than 4 o'clock this afternoon.
11 Just clarifying, the information will be provided to the Chamber and will be sent to
12 the Defence and Prosecution immediately, of course.

13 MR HAYNES: Thank you very much, your Honour.

14 PRESIDING JUDGE STEINER: Could we bring the witness in?

15 MR HAYNES: Are you asking me? There is no further matter that we wish to raise
16 that would prevent the witness coming in now, your Honour.

17 PRESIDING JUDGE STEINER: So the court usher could, please, bring the witness
18 in.

19 (The witness enters the courtroom)

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

21 (Open session at 9.45 a.m.)

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

23 PRESIDING JUDGE STEINER: Thank you.

24 WITNESS: CAR-OTP-PPPP-0042 (On former oath)

25 (The witness speaks Sango)

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- 1 PRESIDING JUDGE STEINER: Good morning, Mr Witness.
- 2 THE WITNESS: (Interpretation) Good morning, your Honour.
- 3 PRESIDING JUDGE STEINER: Did you manage to rest during the night,
- 4 Mr Witness?
- 5 THE WITNESS: (Interpretation) Yes, your Honour, I was able to rest well last
- 6 night.
- 7 PRESIDING JUDGE STEINER: Have you had any news about your son? Is he
- 8 doing fine?
- 9 THE WITNESS: (Interpretation) Yesterday, or the day before yesterday before the
- 10 hearing, I had the opportunity to call him and we spoke to each other.
- 11 PRESIDING JUDGE STEINER: So the Chamber is happy with this information,
- 12 Mr Witness. Before we will continue with your questioning, I need to remind you
- 13 that you are still under oath. Do you understand that, Mr Witness?
- 14 THE WITNESS: (Interpretation) I understand.
- 15 PRESIDING JUDGE STEINER: I also want to remind you that you are under
- 16 protective measures, that your voice and image that are broadcast outside the
- 17 courtroom are being distorted, so people outside the courtroom cannot identify you
- 18 by your face, or by your voice, but in order to keep that protection, we need your help.
- 19 We ask you, please, not to reveal in public session any names of friends, family
- 20 members, activities that you exercise, information that can lead to your identification.
- 21 If need be, we go into private session and then you can speak freely. Do you
- 22 understand that, sir?
- 23 THE WITNESS: (Interpretation) I understand perfectly, your Honour.
- 24 PRESIDING JUDGE STEINER: Thank you. Are you ready to continue then giving
- 25 your testimony?

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1 THE WITNESS: (Interpretation) I came for that, your Honour. I can tell you that

2 I am ready.

3 PRESIDING JUDGE STEINER: Thank you. Mr Haynes, you have the floor.

4 MR HAYNES: Thank you very much, your Honour.

5 QUESTIONED BY MR HAYNES: (Continuing)

6 Q. Good morning, sir. I hope you're well.

7 A. Good morning, counsel.

8 Q. I hope we're coming towards the end now, but we will probably take all of
9 today, so be strong and if you're feeling less than strong please tell us so we can give
10 you a break. Is that okay?

11 A. Yes, that is fine by me.

12 Q. Okay. I want to go back to the arrival of this column of soldiers. What was
13 the most remarkable thing about them?

14 A. What I saw in particular was that, when I saw them walking in columns, I was
15 not able to see young people who were ten years old. I didn't see women with
16 babies. That is the particularity that I wanted to highlight. The soldiers that I saw,
17 they carried weapons with ammunition. I didn't see that. The particularity was
18 that I saw soldiers who were marching. They had the same uniform, they had
19 vehicles, but the particular aspect with regards to them was that they were wearing
20 berets. I also saw that they were wearing shoes that were different. They were
21 wearing boots and that makes me say that they had a particular aspect to them.

22 PRESIDING JUDGE STEINER: Mr Witness, sorry to interrupt you. There was a
23 problem with the sound. You can complete your answer. Have you completed
24 your answer?

25 THE WITNESS: (Interpretation) I was speaking about particular features or

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1 distinctive features when these soldiers were walking. I was -- when they were
2 marching, in fact. I was speaking about that.

3 PRESIDING JUDGE STEINER: Mr Haynes, is it making difficult for the Defence to
4 listen to the interpretation, or can we continue?

5 MR HAYNES: It is very difficult to say, but my concern is that there's no distortion
6 of the voice.

7 PRESIDING JUDGE STEINER: I hope it is only inside the courtroom.

8 MR HAYNES: Yes, I appreciate your concern immediately, but we were listening to
9 it and it sounded like --

10 (Pause in the proceedings)

11 PRESIDING JUDGE STEINER: Mr Haynes, there is no problem with the distortion
12 of the voice outside the courtroom.

13 MR HAYNES: Very well.

14 PRESIDING JUDGE STEINER: So the problem is the speakers inside the courtroom
15 and someone is already taking care of that. So if it's not causing prejudice to the
16 Defence, you can continue.

17 MR HAYNES: Thank you very much.

18 Q. I just want to ask you a couple of things about what you said earlier in your
19 testimony. What is a boubou?

20 A. I didn't use this term in the answer that I've just given, so I don't understand
21 clearly what you are talking about.

22 Q. Okay, I will come back to that later. I'd like to go back to the sketch you drew,
23 please, and to call it up simply it is document 4 on the Defence list of documents and
24 it is confidential. Is that clear enough for you to see, sir?

25 A. Yes, I can see it clearly.

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1 Q. I am just going to ask for it to be brought up a little bit so that we can just bring
2 your house onto the screen. Thank you. Now, you have given us some help in the
3 past with distances, but I wonder if you can tell me how far it is from your (Redacted)
4 (Redacted)

5 A. (Redacted)

6 PRESIDING JUDGE STEINER: Ms Kneuer.

7 MS KNEUER: Thank you, Madam President. I am wondering if that shouldn't be
8 asked in private session.

9 MR HAYNES: I can put the question in another way.

10 PRESIDING JUDGE STEINER: Thanks, Mr Haynes.

11 MR HAYNES:

12 Q. In drawing this plan, you used certain letters to indicate locations. Can you see
13 them?

14 A. Yes, I can see them.

15 Q. Can you see the letter "L"?

16 A. Yes.

17 Q. And can you see the letter "H"?

18 A. Yes.

19 Q. Can you help us, what is the distance between those two locations?

20 A. I have not measured the distance between the letter L and the letter H. I don't
21 know exactly what that distance is. The figures that I gave you are approximate,
22 because I have never had occasion to check, so I can't say exactly. I would say that to
23 go from letter L to the big road, I would estimate the distance at 500 metres and so I
24 could estimate the distance from letter L to letter H to be about 200 metres.

25 Q. Thank you. Presumably, you've walked from the location L to the location H,

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1 so you can tell us how long it would take to walk there.

2 A. From letter L to letter H it only takes a few minutes. It doesn't take an hour. I
3 think that at a relatively quick pace it might take ten minutes; between ten and
4 15 minutes, according to how fast someone is walking. I've never had occasion to
5 time that walk, so I can't be absolutely sure.

6 Q. No, that's very helpful of you. And just so that we can understand the
7 geography, can you see the location at letter H from the location at letter L?

8 A. I have not understood your question. Can I see letter H from letter L? Letter
9 H is a fair distance away so from letter L, I can't see letter H and I have to walk to get
10 to letter H; but from letter L, I cannot see letter H. I have to move somewhere else.

11 Q. Thank you. That was exactly what I was asking you, and I wonder if we could
12 just move the document down the screen a bit. We might lose letter L, but I want to
13 bring another document -- another building into view. Perfect, thank you.

14 Now, do you see letter "E"?

15 A. Yes, I see letter E.

16 Q. Now, again, how long would it take you to walk there? About how far is it
17 from letter L?

18 A. Starting from letter L to get to letter E, I think - or I would estimate - that the
19 number of minutes it would take I would approximately estimate this distance to take
20 10 to 15 minutes to cover. But from letter H to letter E -- if you leave from letter H,
21 you can see letter E; and I think that that distance, the distance between H and E,
22 would take five minutes to cover at most. But at a minimum you could reach letter E
23 from letter H in one to two minutes.

24 Q. Thank you, that's really very helpful. Now, on the day when the column of
25 troops arrived, where was it that you went to stand and watch them?

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1 A. Could you please scroll the sketch up again so that I can see letter L again, then
2 I can indicate my position.

3 Q. Of course, we can.

4 A. Thank you. Here I am indicating letter L. From letter L you reach letter J, and
5 it is on that road indicated by letter J that the column was moving and, at that point,
6 the information had already spread around the district. And because we were not
7 very far away from letter J, we moved forward and we saw them progressing. So
8 that was my position. I left (Redacted) letter L, and I moved towards letter J, and it is
9 from that point that I saw them moving forward.

10 THE INTERPRETER: Interpreter correction, page 10, line 19, it should be two to
11 three minutes, not one to two minutes. Thank you.

12 MR HAYNES:

13 Q. And was that the only occasion during the events that you went to the road and
14 watched such a thing taking place?

15 A. I have said that on that day, the 7th, the day on which they arrived between
16 3 p.m. and 4 p.m., they were moving forward; that is, they were on letter J. And, at
17 that point, already the information, the news, had spread around the district. So on
18 the sketch I marked a house, or houses, that is habitation in French. There are
19 houses in that area and the formation had already moved through that whole area. I
20 also received this information and I decided to go to the roadside. From there, I
21 could see them marching.

22 Q. Thank you, but what I was asking you was this only happened on one occasion,
23 didn't it, that you went to the road and watched a column go past?

24 A. When they took that road, it was quite an event. After observing this event, I
25 went back home. If there had been another such event, no doubt I would have come

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1 out to see it, because this march made a big impact on the community. The news
2 spread around the community, we went out to see them march and then everyone
3 went home. During that same period, a day later or one or two days later, because I
4 was free to walk around I observed the traffic, how the authorities were moving
5 around in vehicles.

6 Q. Thank you. Now, have you always kept a diary?

7 A. Are you talking about the diary that I was keeping, or that I'm supposed to have
8 been keeping during the events?

9 Q. I don't know whether you kept a diary during the events. Did you?

10 A. When I went out I did not have any documents, but these are events that took
11 place. I am an educated person and I remember the events, and I had all of this in
12 memory, so if it is a matter of reproducing all of this I can do so without difficulty, but
13 I did not keep a diary and everything that I have recounted is everything that I have
14 kept in memory. I do not have a diary.

15 Q. Very well. Now, do you remember yesterday when you told us that
16 Mr Moreno-Ocampo came to Bangui on 27 May 2007?

17 A. Yes, according to the -- in accordance with the question I think I was asked, I
18 believe I said that the President of the Court arrived in Bangui and his visit followed
19 the government of the Central African Republic referring the matter to the Court. It
20 was perhaps to observe the events with regard to which the matter had been referred.
21 I think that is why he came to Bangui, and during that visit he became convinced as to
22 the reality of those events. I could estimate that there was at least one thousand
23 victims present and I think that that was sufficient demonstration of the fact that there
24 had been crimes, that there had been genocide in this land. We had discussions and
25 I think that after that the inquiries were opened.

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1 Q. Thank you. And do you remember yesterday when you told us that your first
2 interview with the investigators of the ICC was on 13 May 2008?

3 THE INTERPRETER: The Sango interpreter says that he did not hear the date.

4 THE WITNESS: (Interpretation) Yesterday you asked me whether the
5 investigators interviewed me only once. I said, no, they interviewed me the first
6 time before Bemba was arrested in Belgium. A team came. If memory serves it was
7 13 May. I was called at about 1.30 p.m. They asked me questions and I answered
8 them, and then I went back home. And then later, around 25 May, I heard that
9 Mr Jean-Pierre Bemba had been arrested in Belgium. That is what I said. And then
10 there was a second time, they came back in August to meet me, and that is what I said
11 yesterday.

12 Q. Thank you very much. And, again, you remember the date of Mr Bemba's
13 arrest being 25 May, do you?

14 A. No, but Bemba was arrested after my statement. Whether it was 25 May I
15 couldn't say exactly, but I'm sure that it was around that date.

16 Q. Okay. And do you remember telling me yesterday that your three interviews
17 with the investigators of the ICC were between 22 and 25 August 2008?

18 A. That is what I said.

19 Q. Sir, would you say you were good at remembering the dates of significant
20 events?

21 A. What major events are you talking about? Events are extraordinary
22 occurrences that have left an impact on the life of the country. I could mention the
23 arrival of the Banyamulengue. Outside that event, I don't think there is another
24 major event for which I could give the date.

25 Q. Let's have a look at that major event in your first interview. It's document

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1 number 1 on the Defence list and can we have a look, please, at the bottom of page
2 0799? Could we have the bottom of the page, please? Now, do you remember
3 yesterday afternoon, right at the end of my questioning you, we read the six lines
4 underneath the two square brackets?

5 A. Yes, we did read this yesterday.

6 Q. And do you agree that in this and the other passage we looked at you are
7 describing the arrival of the Banyamulengue?

8 A. Yes, I remember. I know something. When the investigators arrived to ask
9 me questions, I had not had time to prepare my answers. I'm a human being. After
10 my statement, I thought things over to see whether I had spoken truly or not and I
11 realised that there were certain things that were not right. And so the following day,
12 before resuming the interview, the second interview, I explained to the investigators
13 that on the previous day I had given them information that was not accurate. I
14 would like to specify that the date of 27 October that I cited as being the date of the
15 arrival of the Banyamulengue was a mistake. On the third day of our interview, I
16 told the investigator that the date that I had given, 27 October 2002, coinciding with
17 the arrival of the Banyamulengue, was actually wrong and I had the opportunity to
18 correct it. So if you go a little bit further down in the document, you will see that the
19 mistake was corrected. That's what I said.

20 Q. 27 October is a very specific date. What is its significance to you?

21 A. I have said that the rebels arrived on 27 October and they were trying to enter
22 the town to take power. They came a first time and after failing they withdrew.
23 The second time they came was the 27th, and they entered the town and then they
24 also retreated that time and it was when they wanted to retreat that they kidnapped
25 an official. When they entered on the 27th, they stayed until the 6th and they fought,

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1 but because they were weak they felt that it was better to kidnap someone in a high
2 position and it was only after that that the Banyamulengue arrived. Is it because this
3 official was kidnapped that the authorities from Bangui called upon the
4 Banyamulengue? I don't know, but that is how that date ended up sticking in my
5 mind, the 27th I mean.

6 Q. What was it that happened that night, 22 August 2008, to cause you to change
7 the date on which you said the Banyamulengue arrived?

8 A. I said that on the 27th that date had made an impact on me because it's the first
9 time that people had come and called me so that they could ask me questions. They
10 wanted me to give them information about everything that had happened in Bangui.
11 I agreed to do so and I presented myself and so they asked me questions, and then on
12 22 August it was investigators from the International Criminal Court who called me
13 to ask me questions.

14 Q. Do you remember what date you told the investigators on May the 13th was the
15 date of the arrival of the Banyamulengue?

16 A. I said that 13 May is not the date of the entry of the Banyamulengue. At to
17 point in my statement did I talk about 13 May. 13 May was the day of the first
18 interview with the investigators from the International Criminal Court. It was
19 13 May 2008. That date does not correspond to the date the Banyamulengue
20 entered.

21 The Banyamulengue came twice. In 2001 they based themselves in Ouango. After
22 the battle they left and then a second time they came back in 2002 and that time they
23 deployed themselves in PK12. They stayed there and they committed acts of
24 violence. It was not until 15 March that they retreated and returned where they'd
25 come from definitively. 13 May was the date on which I was interviewed.

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1 Q. Sir, I apologise, that was a clumsy question. 13 May, when you -- 13 May 2008,
2 when you first met with investigators from the ICC, were you asked then what was
3 the date of the arrival of the Banyamulengue?

4 A. I can't recall that, because it goes back a long time now. They asked me what
5 had happened and if I remembered well, and I simply explained to them what had
6 happened; the abuses suffered, the rape of my daughter. I just limited myself to that.
7 I talked about the lines that were established. I didn't go into details to give them
8 dates. I explained things to them as I have just told you, because I don't have
9 documents to remind me of what I said. I can't really tell you more.

10 Q. Very well. Did you prepare for that interview on 13 May 2008?

11 A. No, Counsel, I did not prepare, but everything that I suffered I remembered
12 clearly. Somebody waking me up abruptly is something that I can remember,
13 because I experienced it. I don't need to prepare myself before meeting people. If
14 I hadn't suffered those abuses, all right, but these are events that I experienced. I
15 lived through this, so I didn't need to prepare myself before meeting them. At any
16 time, at any place, I can remember this.

17 Q. Thank you. And how long before you went to this interview on 22 August
18 were you called to make an appointment?

19 A. I said it here and I'm going to say it again, it was the same question I've already
20 answered, as I said. I stated the following: We have all our contact details. All of
21 the contact details are with the NGO. I don't know how or what the investigators
22 did to have my number. I don't know.

23 I didn't have the address of the International Criminal Court to make it possible for
24 me to send information directly to the Court. One day I stayed and suddenly my
25 phone went off and then I saw that it was a foreign number on the phone and I

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1 answered the call, and the person who was speaking asked me the question to know
2 if I was Mr Such-and-such. I said, "Yes, that is me," and he said that in the coming
3 days we were going to meet in Bangui.

4 He introduced himself, reassuring me that in the coming days he was going to go to
5 Bangui to speak to me. As it was in my interest, I too was interested in this. We
6 stayed in contact, and on the day that was indicated we arrived in Bangui, he asked
7 me if it was me? I said, "Yes." And he said to me, "Can we meet?" I said, "Yes."
8 And then he set a time and place, and that was how I ended up going to have that
9 interview with him on the 25th.

10 Q. Okay. Let me see if we can shorten this. Do you agree that in your interview
11 of 22 August you told the investigators that the date of the arrival of the
12 Banyamulengue was 27 October and that you remembered that date?

13 A. I think that I said to counsel that what I said I rectified the third day afterwards,
14 and in the document that you have if you continue reading it you will discover that it
15 was rectified because every time I started the interview I brought clarifications with
16 regards to the facts that had been taken down. I think I said all that and it's in this
17 document. I also think I said that I'm human; I can also make a mistake.

18 Q. So you said that on the 22nd, and then you went home for the night. What
19 event made you realise you had to clarify the date the following day?

20 A. I remember saying yesterday here that the investigations as they were carried
21 out in the Central African Republic are unprecedented. I was aware that this
22 investigation had an international dimension and that I could not let myself say
23 anything that would be untrue.

24 I had different ways of putting questions to people, because I know that some of them
25 have a good memory and I could get information from such people. I could go up to

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1 the person, one or two people, in order to verify what I had said, and that would
2 reassure me when it came to giving a statement or providing testimony. Nobody
3 was suggesting anything to me, so in the interviews I was able to correct any errors
4 that there might have been, but I was able to sound out different people.

5 Q. So is that what you did about the date of the arrival of the Banyamulengue; you
6 sounded out different people?

7 A. No, that doesn't mean that I sounded out just anyone. I am a victim. The
8 attacks that I was a victim of are known where I live. I might have forgotten the date
9 on which they occurred, because I didn't know at the time there was going to be a
10 trial.

11 Now, in my country, I know that it couldn't happen, so I hadn't written things down
12 in a notebook, the dates that is. The situation being such, to give reliable information,
13 I got information; and I think in life, when you have doubts, you can always refer to
14 someone. That's it.

15 Q. Sir, we are in open session, so please be careful with the use of names, but who
16 did you refer to about the date?

17 A. I think I said yesterday here that we came up with a code to talk about certain
18 persons who said that for -- in order to designate such-and-such a person, I could
19 speak about the assistant, and we came to an agreement on the term "assistant." And
20 I think that I said that (Redacted).

21 There are ceremonies in which he takes part. What happened to me was in the
22 evening the next day I didn't know where my child had been taken. I went to see
23 him, to tell him what had happened to me, and to say, "Do you know what happened,
24 because the Banyamulengue came and they did such-and-such to me, look at my arm.
25 And I don't know where they've taken my son?" And he said, no; he, himself, he

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1 didn't know how we were going to proceed because the Chief of Staff was Bemba's
2 son.

3 And after that, I continued. I met the loyalists who told me that they could do
4 nothing, and I went back and somebody told me that the child was at the staff HQ. I
5 went there. I didn't get to the staff HQ. We stayed next to the road and, if I had a
6 map, I could show you from the road where I was positioned after that.

7 Well, we took a -- we were positioned next to the road to see what was happening at
8 the staff HQ. And when they took the child, I went back home, that's what I said,
9 because he had information. And in our discussions, he told me that. I did all of
10 that with the intention of not providing erroneous information.

11 THE INTERPRETER: The Sango interpreter asks that the witness be asked to speak
12 slowly.

13 PRESIDING JUDGE STEINER: Mr Witness, the Sango interpreter is asking you
14 please to speak a little bit slower. He's having difficulties in following you. Thank
15 you.

16 MR HAYNES:

17 Q. And thank you for your last answer. Now, following on from what you have
18 told us this morning, did you see the arrival in PK12 of more than one armed force
19 during the period of the events?

20 A. I said that at the time of the events there was no -- there were no other troops
21 other than the Banyamulengue.

22 Q. Well, what event then were you describing in your interview when you talked
23 about the first and second coming of Mr Bozizé's troops?

24 A. The question that was put to me was if at the time of the events there were other
25 troops, and by "other troops" what I understood from that was troops who came from

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1 outside, foreign troops, but the rebels, they are Central Africans. They're not foreign
2 troops, because with regards to the question that was put to me these troops, well,
3 other troops, I thought they were referring to foreign forces, but if the question is
4 whether at the time the events took place there -- or who were the troops, I think I
5 could have given an answer which was correct. I consider that the other troops that
6 you were speaking about were the Banyamulengue.

7 Q. Okay, well let's move on. In October 2002, would you say that the population
8 of PK12 was substantially loyal to the elected government of President Patassé?

9 A. I never sounded out the population of PK12 to know if they were in favour of
10 the government, or the regime of Patassé. I have never carried out such surveys.
11 I mean, everybody has their own convictions with regard to the activities of the
12 government. The population could be dissatisfied, because the civil servants were
13 several months behind in their salary payments and you know that it's the civil
14 servants who make the economy work, or the activities, because they get their
15 monthly salaries and that makes it possible to develop activities which make the
16 country work.

17 Under that regime, unfortunately, there were delays in payment, and this -- I think it
18 was 24 months, two years, the population how could they not be dissatisfied? In
19 order to answer the question, I think that the population of PK12 was very unhappy
20 because the salaries hadn't been paid.

21 THE INTERPRETER: The Sango interpreter once again asks that the witness be
22 asked to slow down some more, please.

23 PRESIDING JUDGE STEINER: Mr Witness, I'm really sorry, but again the Sango
24 interpreter is asking you please to speak slowly. It's not your fault, it is the normal
25 way we speak, but as I told you here we have to speak even more slowly. It's not

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1 your fault. Thank you.

2 THE WITNESS: (Interpretation) Thank you very much, Madam, your Honour.

3 You know, it's just a custom to speaking quickly, but I will make the effort to slow

4 down. Believe me, I'm not doing this intentionally. It's just the way I am.

5 PRESIDING JUDGE STEINER: I'm sure it is, Mr Witness. That's why I said it's not

6 your fault. It's that because we have so many interpreters, they need time to

7 translate from Sango to French, from French to English and vice-versa. That's why

8 sometimes I have to interrupt you and remind you to speak slowly, but you are doing

9 very well. You don't have to apologise.

10 THE WITNESS: (Interpretation) Very well, understood. I shall do my best to

11 slow down, even if it takes the whole day. I will speak much more slowly.

12 MR HAYNES:

13 Q. Did you see the arrival of Mr Bozizé's troops into PK12 when they first arrived?

14 A. But that's where I live. I know everything that happens in the locality. I was

15 there when they arrived. They occupied la Barrière, and it was from there that they

16 were progressing. They drove out the loyalists who were in la Barrière, and the

17 rebels took over the place and they fled. So it was the rebels who had taken over

18 PK12, and they didn't pillage. I saw them.

19 Q. Thank you. And how did the local population react to their arrival?

20 A. I think that it was a moment of joy for the population. This population was fed

21 up.

22 THE INTERPRETER: "The population was really fed up," insists the witness.

23 THE WITNESS: (Interpretation) What they really wanted was change. They

24 wanted to see the sunshine.

25 MR HAYNES:

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1 Q. Well, was the area dangerous at that time because of the military situation?

2 A. No, it wasn't a matter of dangerous areas, because when they arrived they
3 occupied the roadblock, because the loyalist troops were the ones responsible for the
4 service there. So there was the gendarmerie and there were the soldiers. There was
5 also the police on the border.

6 So when they arrived, they occupied having shot into the air and, after the loyalists
7 had fled, they took over that roadblock or barrier and the civilians were moving freely.
8 Activities weren't paralysed. Service was still functioning. That was PK12.

9 Now, in Bangui, there were concerns. In PK12, we were free. We were able to
10 move about freely.

11 Q. So amongst the civilian population, when Mr Bozizé's forces arrived did
12 anybody run away?

13 A. No. Where it concerns the civilian population, nobody was fleeing, because
14 nobody ran away, because people run away when there's a danger, when there's a
15 threat. And when they came, they fraternised with people, with the local people in
16 the locality. But why, why should this population have fled?

17 Q. Did they fraternise with you?

18 A. Well, these are the soldiers of my country. If among these forces there was
19 somebody I knew, certainly that person would have greeted me. He would have
20 asked the question, "How are you doing, Papa?" I would have said, "Yes, it's fine."
21 That's also if that was somebody I knew, but there was nobody that I knew.
22 They were soldiers and there was no reason to approach them to talk to them. They
23 were soldiers; I was a civilian. I mean, what -- as a civilian, what would the subject
24 of any discussions be with me?

25 Q. How did you conclude that these were Central African soldiers?

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1 A. I think I stated that if I knew somebody who was one of these troops, I would
2 have spoken to that person. These people speak the language I'm speaking now. It
3 is Central Africans who are speaking Sango, so I can't make a mistake where it
4 concerns their identity.

5 MR HAYNES: I think it's just after 11 o'clock, in fact.

6 PRESIDING JUDGE STEINER: Mr Witness, we are going to have now half-an-hour
7 break in order for you to take some rest. It's 11 o'clock. We'll be back at 11.30. In
8 a minute, the court officer will turn the session into closed in order for the witness to
9 be taken outside the courtroom. In the meantime, we are going to suspend and we'll
10 resume at 11.30. Court officer, please.

11 *(Closed session at 11.02 a.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 (Recess taken at 11.02 a.m.)

16 *(Upon resuming in closed session at 11.36 a.m.) Reclassified as Open session

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

18 PRESIDING JUDGE STEINER: So, welcome back. I would ask, please, court usher
19 to bring the witness in.

20 (The witness enters the courtroom)

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

22 (Open session at 11.38 a.m.)

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

24 PRESIDING JUDGE STEINER: Thank you. Mr Witness, welcome back.

25 THE WITNESS: (Interpretation) Thank you, Madam President.

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1 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony?

2 THE WITNESS: (Interpretation) I am ready and at your disposal.

3 PRESIDING JUDGE STEINER: Thank you very much. Mr Haynes, you have the
4 floor.

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

6 Q. Sir, welcome back.

7 A. Thank you.

8 Q. I'm going to carry on exactly where we left off before the break. Did you
9 actually speak to any officer, or soldier, from Mr Bozizé's forces?

10 A. I did not have the opportunity of talking with these troops even in their first
11 coming, nor during their second coming.

12 Q. Did you speak to anybody who said they had spoken to Mr Bozizé's soldiers?

13 A. No, I haven't spoken with anyone who recalls having spoken with the troops of
14 Bozizé, no.

15 Q. Thank you. How was it, therefore, you concluded that Mr Bozizé's forces
16 spoke in Sango?

17 A. I have told you that PK12 is a small locality. When you go towards the
18 shopping area, you pass by people walking on the road. You can hear them
19 speaking. They were walking around. They were deployed along the different
20 roads. They were checking people. They were looking out for and pursuing
21 enemies. So, when we walked around, we could hear them speaking and that is
22 how we knew that they were people from the local area.

23 Q. Thank you very much. Now, how were Mr Bozizé's forces dressed?

24 A. Bozizé's troops were rebels. They were not regular troops. They had
25 bandanas around their heads. They had -- well, I didn't pay attention to their

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1 clothing. Some of them had nothing on their heads. Some just had bandanas or
2 turbans around their heads.

3 Q. Thank you. And what vehicles, if any, did they travel in?

4 A. They had come from a great distance. They couldn't come on foot.

5 Unfortunately, I was unable to find out the origin of these vehicles and so I'm not in a
6 position to answer these questions. These are troops, these are soldiers. Where did
7 they find those vehicles? I can't tell you, but I know they came on vehicles.

8 Q. And how long did they stay in PK12?

9 A. With regard to the first time, they didn't last and I didn't pay attention. I can't
10 give you an exact estimate, but I can say that they didn't last long. On the second
11 time that they came they went further, because they moved through to the capital and
12 they occupied a large area. The first time they tried to penetrate, but they were
13 enable to do that, so the first time they weren't there long.

14 Q. And the second time?

15 A. I have told you that the second time they arrived on 27 October. They
16 penetrated the town and they got through to the Barthélemy Boganda high school,
17 and they took longer before they retreated. They retreated on the 6th and it was
18 only the next day, the 7th, that the Banyamulengue arrived.

19 Q. And where did they form their bases in PK12 during that period?

20 A. I have told you that these rebels were based at the level of the checkpoint.
21 They did not establish their base in the districts. They just occupied certain public
22 buildings, like the police headquarters. There you have the accommodation for the
23 policemen, the gendarme, the housing for the soldiers in the various hangars, and
24 that is where they established themselves. They didn't need to come in and fight.
25 They simply had to stay there and watch to see what was going on.

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1 Q. And during that period, how did they feed themselves?

2 A. These are soldiers. No doubt they have their internal organisation, but most of
3 these soldiers were local people. There were even people who came from PK12 in
4 those forces, but I can't give you details about their organisation. Did they have
5 supply lines? Did they have food rations? I have no way of knowing. I can't give
6 you any details about that.

7 Q. And after their arrival, did life go on as normal?

8 A. They did not brutalise any inhabitants from PK12. They did not loot, or pillage,
9 from the inhabitants of PK12. People were afraid because of the gunshots, because
10 of exchanges of fire between the rebels and the loyalists, and that is why people
11 preferred to stay at home. They were terrified. People were not coming to the
12 market because of the general situation. That's all I can tell you about it.

13 Q. When they left, and the loyalist forces arrived, how were the loyalist forces
14 received by the local population?

15 A. The loyalists were also local people. The rebels too were local people, even
16 after the rebels retreated, but the loyalists were also local people. They also had
17 family members in PK12, so it was a purely military matter. Civilians had no part in
18 it. Could we ask them, "Why didn't you come when the rebels were there?" Well,
19 they were moving around. They were walking around. They were looking and
20 watching, as they normally did.

21 Q. Thank you very much. To clarify my question, I meant how did the
22 population react when the first column of soldiers arrived on 7 November, which you
23 say was the date?

24 A. Did I tell you that troops came and that the population welcomed them? I said
25 that the first arrival of the rebels in Bangui, when they were pushed back by the

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1 loyalists, is an event for which I don't remember the date, but I told you that their
2 second arrival - the second arrival of the troops of Bozizé - was
3 7 October -- 27 October. 7 November was the arrival of Jean-Pierre Bemba's
4 Banyamulengue.

5 Q. Well, just so it's clear, how did the population receive the Banyamulengue?

6 A. The rebels arrived, they tried their hand and then they retreated. The purpose
7 of the rebels was to bring change to the country, and that is even what the population
8 wanted because the population had suffered too much. There was no money, no
9 wages being paid and they didn't have enough to eat. The population welcomed the
10 rebels warmly. There was no misunderstanding between the population and
11 Bozizé's rebels. They tried to bring change and then they retreated. It was only
12 after that that Bemba's troops arrived on the 7th. In the minds of the population,
13 people thought that Bemba's troops had come in connection with the arrival of the
14 rebels, but the population couldn't know what was going on. The population
15 couldn't know what their primary objective was. Did they come to chase the rebels
16 off? Did they come to do something else? We had no way of knowing. If they
17 had done positive things perhaps we would have welcomed them differently, we
18 would have received them differently, but only a day after they arrived they begin
19 committing -- began committing acts of violence and abuse. They began to rape,
20 they began to pillage, so what welcome would you expect?

21 MR HAYNES: Could we go briefly into private session, Madam President?

22 PRESIDING JUDGE STEINER: Court officer, please.

23 *(Private session at 11.55 a.m.) Reclassified as Open session

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

25 MR HAYNES:

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1 Q. I'm going to read to you what another witness we heard said and see whether
2 you agree with it. If you don't agree, just say so. This is 25 January 2011, English,
3 page 48, line 16 to 23, and it's our Witness 23, and the reason I've gone into closed
4 session is because it was a passage of evidence heard in closed session. This witness
5 was asked, "Why were the Banyamulengue received with joy when they arrived?",
6 and he said, "The people had received them with joy because, when there was
7 fighting or battles, nobody could go out and carry out their occupations. Nobody
8 could go to the market. We thought that they were coming to help us, to free us
9 from the situation, to make it possible to go to the market and find something to eat in
10 order to be able to have something for the children. We were happy." Do you
11 agree that that is how the Banyamulengue were received when they arrived?

12 A. I think that those of us who come here to testify before this Court, we come in
13 each in a different way, each according to his or her own convictions. The witness
14 who gave you this information, is this person really a victim? Is this someone who
15 really suffered the atrocities committed by the Banyamulengue? I really can't say. I
16 do not share that point of view. I think that those of us who are the true victims,
17 who live in the town of PK12, I know that nobody in PK12 warmly welcomed the
18 Banyamulengue. Each house, each dwelling, in PK12 was visited by the
19 Banyamulengue, and given that could people welcome them with open arms? I
20 don't think so. So I don't share that point of view.

21 Q. Thank you.

22 PRESIDING JUDGE STEINER: Mr Haynes, are we continuing in private session?

23 MR HAYNES: Thank you for the reminder. No, we're not.

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

25 (Open session at 11.59 a.m.)

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

2 MR HAYNES:

3 Q. Now, as I understand the position, after the line of soldiers arrived in PK12 they
4 shortly went off to fight a battle in PK22; is that correct?

5 A. Yes, that's correct.

6 Q. And how long was it after they arrived in PK12 that they went off to fight that
7 battle?

8 A. I said that they arrived on the 7th. After that, they took over the
9 neighbourhood to establish the demarcation lines, and they came towards 15.00 hours,
10 16.00 hours. As it was already evening, they couldn't do any more and, as such, they
11 established their base in that place, and they also started to dig the different trenches
12 and to take up strategic positions. That is what I observed them doing from my
13 house.

14 And the next day a team stayed on the demarcation line. Another team carried out
15 pillaging. As they had just come, they were being very prudent in how they
16 progressed. And when they didn't meet the enemy, they came back to their base;
17 and the next day, they would continue in that way. It was on the third day that they
18 came to PK22, where they clashed with the enemy. Before that, they would go out
19 and they would come back to their base. It was on the third day that there were
20 skirmishes with the rebel forces.

21 THE INTERPRETER: Repeats the witness.

22 MR HAYNES: Thank you very much.

23 Q. So if you had gone to PK22 within three days of the arrival of these men, you
24 would have found PK22 under the control of Bozizé's forces; would you agree?

25 A. Bozizé's forces didn't reign in that area. Everything that -- all that I know is

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1 that when they left, they went to PK22, and it was the forces who came afterwards
2 who followed them but a civilian couldn't go close to their base. Did they establish
3 their base within the school of PK22, or whether they were in the bush or whether
4 they had an ambush for their enemy, that's something that I can't know. All I know
5 is that when the Banyamulengue followed them, there were clashes in that place.

6 Q. Well, perhaps I can put it another way and you may have already answered this.
7 On the day of their arrival in PK12, a substantial force of Banyamulengue did not go
8 on to PK22, so far as you knew.

9 A. I have no idea of the organisation they established in PK12 when they arrived.
10 Those who took the Damara road -- well, the ones who took the Damara road and
11 who I saw leave, it was those who are the ones that I saw. If another contingent
12 came afterwards to follow them is something that I don't know. I'm not God. But
13 what I saw, those who I saw take the Damara road, I saw them going to the end of the
14 village before coming back; and when they came back, they took over the
15 neighbourhood.

16 The next day, furthermore, I don't know if it was in the evening if they said to
17 themselves that, well, one part should follow the enemy and another should stay at the
18 base. I'm not God, so I don't know, but what I do know is that a large part of their
19 troops followed the rebels and chased the rebels. So they went in the direction of
20 PK22 and it was in the -- on the third day that there were skirmishes.

21 Q. Thank you very much. During that period, did you remain in your house and
22 compound?

23 A. You know, soldiers (Redacted)

24 (Redacted) How could I abandon my family to leave? I was still at the house.

25 When I heard gunfire, I didn't move; I was there. You know, when you say PK12 is

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1 12 kilometres, PK22 is 22 kilometres; and if you try to calculate the distance between
2 PK12 and PK22, you can see the distance in terms of kilometres. So certainly PK22
3 was ten kilometres away.

4 And you know that we, who were living in PK12, were subject to gunfire. We heard
5 heavy weapons, explosions, and everybody knew there were heavy clashes there. I
6 was still in front of my house. I couldn't leave. I was afraid. I was afraid of being
7 attacked, so I preferred to stay at home.

8 Q. Other than the soldiers (Redacted) during that period
9 did you see any other soldiers?

10 A. At that time, I didn't note the presence of our troops. There were only the
11 presence of those who had dug the trenches. (Redacted) the rebels - when
12 they arrived in PK12 a few days later - they retreated and then the Banyamulengue
13 came.

14 After the retreat of the rebels, the only forces who were in PK12 were the
15 Banyamulengue; and some of their troops pursued the rebels, and others stayed in
16 PK12 because, according to them, PK12 was already besieged by them, because PK12
17 constituted the door, the entry to Bangui. So they were there to be able to control
18 entry to the town, and they had some of their troops who were pursuing the rebels.

19 Q. Thank you. But let me see if I can make the question better. During the days
20 you stayed in your house, (Redacted)
21 (Redacted), couldn't you?

22 PRESIDING JUDGE STEINER: Mr Haynes, just put the questions in a manner that
23 we don't have to go into private sessions, not having to provide redactions, please.

24 MR HAYNES: Absolutely. I wasn't thinking.

25 Q. Did any soldiers come to your house before the day on which you and your

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1 family were attacked?

2 A. I said that when they arrived, they established their line. Everybody knew that
3 it was the Banyamulengue. When they established their demarcation line, we didn't
4 have a problem with them. (Redacted) I had no
5 problem with them.

6 Those who were positioned in the different trenches were still there, and the soldier
7 (Redacted) we greeted him. He greeted me. I

8 greeted him, he greeted me, and he was calmly in front of my house. I already
9 described the circumstances under which the attack took place, so I can't repeat that.

10 At that time, they hadn't entered my house, hadn't raped me or pillaged my house.

11 It was just at the time when the circumstances occurred that I told that they started to
12 attack me.

13 Q. The soldiers in the trenches, how were they dressed?

14 A. Counsel, I have something to say to you. I already told you that the soldiers
15 were dressed in an extremely varied manner. What I saw was that there was a
16 young man in that place who was working as an auxiliary for the gendarmerie.

17 They're the police assistants. We call them auxiliaries.

18 Now, this person was working with the soldiers and this auxiliary was dressed in
19 military attire. You know, on the checkpoints it's the auxiliaries who are responsible
20 for the -- for controlling or for checking the identity of those who pass through, and
21 the auxiliary in question was working with the police, so the military uniform that he
22 had received during his service was -- is something he still had. But he didn't wear it,
23 he kept it at home. And when the Banyamulengue arrived, we were still there,
24 together with them, and I told you that this person (Redacted).

25 (Redacted)

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1 Where they were, it was very far from us, and it was his sister who made their food.
2 And one day he went to speak to the Banyamulengue, and when he went back home,
3 one of the Banyamulengue had pursued him home and followed him home, and he
4 entered into the house and there he saw that he had military clothing attached to the
5 wall, or hanging up against the wall, and he said, "Ah, the person who gave you that,
6 is that a rebel?"

7 Anyway, I told you, my son there, he escaped justice by death. He arrived -- well,
8 they thought that this person was a rebel, and he managed to flee. Afterwards, they
9 came back to the house, they pillaged the whole house, and they said to themselves,
10 well, the area in question has to be declared as a rebel area, and they considered all
11 the inhabitants of the zone as rebels.

12 Q. Now, can you answer the question I asked you, which is how were the soldiers
13 in the trenches dressed?

14 A. They were wearing the clothes that they had come with. They had kept the
15 uniform that they had.

16 Q. Were they in a uniform?

17 A. I told you that some of them had military uniforms. Some had military shirts,
18 civilian trousers, and vice-versa. Is that what you call uniform, or was it a contrast of
19 uniforms?

20 Q. Did any of the soldiers from the trench, or the trenches, ever come into your
21 house, apart from using the toilet?

22 A. Before the event I said that those who were based in the trenches stayed in their
23 positions, and they were watching their positions. They didn't go into people's
24 houses. They just stayed in their positions. It was only after the events broke out
25 that they took advantage of that to enter into people's houses, and that's what I said

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1 here. I said that they threw me to the ground and they held me on the ground. I
2 didn't see what was happening. Perhaps it was at that time that the others who were
3 on the line entered into the house of people in order to kill, rape and pillage. And
4 they were shooting into the air, perhaps to attract the attention of others to come.

5 Q. So, I want to be clear about this: The young soldier in the trench that you have
6 told us about, that you spoke to regularly, did he come into your house?

7 A. The soldier who was (Redacted)

8 (Redacted) I used to greet him. He would also greet me. And he
9 never entered into my house before the events. He stayed in his position. It
10 was -- well, did he enter after the events? That's something I do not know. But
11 when the events started, I was held to the ground. I had my face on the ground. I
12 wasn't able to see who entered and who did not enter.

13 Q. So, did you or did you not see the young soldier who you spoke to regularly in
14 your house at any time?

15 A. I repeat: I, I was only present -- well, how would I know if he came into my
16 house? I said that he didn't enter my house before the events, but if he entered
17 during the events, that is something that I cannot tell you.

18 Q. Thank you. Did you recognise any of the soldiers who entered your house as
19 being from the trenches?

20 A. After the start of the events, there were a lot of soldiers on my compound.
21 Who could I recognise? I was totally shocked, overawed. My child was being
22 beaten up. They were dragging him around. There were others who were on top
23 of me. Others were abusing people. How could I recognise people in this state? I
24 couldn't recognise anyone. Even if I can recognise you, Counsel, in such a state of
25 confusion, could I recognise you in such a state of confusion? No.

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1 Q. Thank you very much. Now, just a slight departure. The soldiers in the
2 trenches (Redacted) did you ever see them eating their meals?

3 A. What were they eating? If I still had the sketch, I could show you what their
4 positions were. They cooked their food on the line. They didn't have a system of
5 food rationing. There wasn't a vehicle which came and distributed rations to them,
6 no. They cooked their food themselves on the line and we saw them eating it.

7 PRESIDING JUDGE STEINER: Mr Haynes, just one minute. Court officer, let's go
8 very briefly into private session.

9 *(Private session at 12.25 p.m.) Reclassified as Open session

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

11 PRESIDING JUDGE STEINER: Thank you. Mr Haynes, I ask you, please, to try to
12 avoid the references to (Redacted)
13 because we have already sent many requests for redactions, and if we continue doing
14 that, we'll have to stop the broadcast. And, Mr Witness, please don't refer to the
15 (Redacted), because this could lead to your
16 identification. Is that fine with you?

17 THE WITNESS: (Interpretation) That is certainly fine by me, but it's the question
18 that the counsel's asking me. When he speaks (Redacted)
19 (Redacted) how can I answer that? When he asks me this type of question, how am I
20 meant to answer it? So, due to politeness, I have to tell you to -- or to reply in a
21 certain way. I know that this manner of asking questions, that is a technique to
22 threaten my security. I asked here the Court, have measures been taken to ensure
23 my security. I had already raised the question here, and I raise the question again.

24 PRESIDING JUDGE STEINER: Mr Witness, the Defence counsel is not going to
25 mention any more (Redacted)

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1 (Redacted). The times you mentioned that, they were redacted from the transcripts,
2 so you don't have reasons to worry about. You understand that?

3 THE WITNESS: (Interpretation) I understand. But I just follow things to see if it's
4 the truth or a lie.

5 PRESIDING JUDGE STEINER: Thank you, Mr Witness. We can turn into open
6 session, please, court officer.

7 (Open session at 12.28 p.m.)

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

9 MR HAYNES:

10 Q. Sir, why do you mention the fact that there were no vehicles delivering rations
11 to the soldiers?

12 A. Because in all military organisations, when soldiers are deployed in the field in
13 precise positions, at lunchtime they are brought food. That's known all over the
14 world, but since the arrival of these troops there was no rations distributed. They
15 didn't even have water bottles. They didn't even have any type of plate in which
16 they could be served food, I didn't see that, but how were they meant to get food?
17 Were they going to put it in their hands? And that's the reason why I say there was
18 no food distributed. They did it themselves. They requisitioned the cooking pots,
19 the plates, in order to make their food. They seized chickens by force of the
20 inhabitants. They didn't want to see the domestic animals. They pursued the goats
21 publicly and they cooked them. In this situation, what rations do you want to speak
22 about, counsel?

23 Q. Did you not see vehicles distributing rations to the soldiers in PK12?

24 A. During the events in question, I did not see any vehicles distributing food to the
25 Banyamulengue. If I had seen that, I would have said so. I didn't come here to lie.

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1 I mention what I personally have seen.

2 Q. Did you not see members of the local population cooking food and taking it to
3 soldiers?

4 A. But who would trust them so far as to take them food to eat? They took
5 people's foam mattresses. They took people's plates. They took people's pots and
6 pans. How could the inhabitants have prepared food for them and brought it to
7 them? How? I don't understand.

8 Q. Did nobody that you know ever tell you that his family prepared food for
9 soldiers?

10 A. Counsel, I have never stated any such thing.

11 Q. Has nobody ever said that to you, that people in PK12 prepared food for
12 Banyamulengue soldiers?

13 A. I have told you that, after the line was established, they found a woman who
14 would prepare food in the district. She had enormous pots and they took those pots
15 and they cooked their own food. After having forcibly taken the chickens, they
16 would prepare them themselves. It was only after the events when there was a
17 violent clash, when they became violent, that they began to mistreat people and to
18 force people to cook for them. They even kidnapped and forced my children to go
19 into their kitchen and cook for them, to split wood for them, to fetch water for them
20 from the wells, but I did not see and I have never said in my statement at any time
21 that I saw anyone voluntarily prepare food for them and take it to them. I've never
22 said that, counsel.

23 Q. I'm not suggesting that you have. I was just asking if you had ever heard of
24 such a thing. Now, I'm not asking you about your compound, or your toilet, or your
25 well, but when was the first time that any soldiers ever came into your house?

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1 A. I have already told you that before the events no soldier came into my house.
2 When they arrived, they did not come into my house. Even before they arrived, the
3 soldiers from the local area did not go into my house, or into anybody's house. If a
4 soldier comes into your house that means that that person has a search warrant, or if
5 you are thought to have committed some sort of offence. So before their arrival no
6 soldier had come into my house and, even when they arrived, they didn't come into
7 my house. They came into my house when those events started. That is the time
8 when they began to loot and to take all of the goods from my house. I have never
9 heard about that from anybody.

10 Q. And what was the date of that event?

11 A. Which event are you referring to?

12 Q. The date when the soldiers came into your house?

13 A. I have told you that those soldiers came into my house when my boy was
14 assaulted. It's when those events took place in my compound, when they began,
15 that they began to mistreat us. They took my son away. They thought that I was a
16 rich man, and that is why they came into my house to destroy everything, to loot, to
17 do whatever they wanted. They came in at the time of the attack.

18 Q. I only wanted to know what the date of the attack was. Can you tell me?

19 A. I have no idea what the date was, but it was during that event that they came
20 into my house. I don't remember the exact date.

21 Q. Can you help us as to why you can't remember the exact date of this significant
22 event?

23 A. It certainly was an important event but, you know, when you don't remember
24 exactly what a date was, you shouldn't give approximate dates. After these events I
25 was really very disturbed and that's why I can't remember the exact date of the events,

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1 and if memory serves I think that the events took place on a Saturday; the last
2 Saturday of the month of November. I think that I have said that.

3 Q. Well, how long was it after the arrival of the troops in PK12? Can you
4 remember that?

5 A. I didn't say that they attacked me as soon as they had arrived, or straight after
6 their arrival, no. They were moving forward, and it was after the clash, the defeat at
7 the hands of the enemy, that they began then to attack and assault people in PK12, in
8 the cattle market at Kabongo, pretty much all over the place. They were assaulting
9 people, they were looting, they were doing all kinds of terrible things to the
10 inhabitants, but before that they hadn't taken anything from me. It's true that I was
11 raising poultry, but they didn't touch my birds. We were living side-by-side with
12 them in peace, but the attacks began at the time when the boy stood up against them
13 and tried to prevent them from doing what they wanted to. That's when they
14 attacked, but to tell you exactly what the date was when these events took place
15 would be difficult for me.

16 Q. Well, we now know it was after the movement to PK22. You've told us the
17 clashes there were on 10 November, so it was after 10 November; is that correct?

18 THE INTERPRETER: The English interpreter apologises. We are not getting
19 interpreting through into French.

20 THE WITNESS: (Interpretation) We were looking at each other. We were
21 together before that clash. Before then, they didn't touch me. They preferred to go
22 out and commit their assaults elsewhere, loot elsewhere. They were not hurting me.
23 They didn't do me any damage. They began to attack me only when they wanted to
24 take goods from my son and he resisted them. That is when the real attacks began,
25 so I cannot give you the precise date on which the events took place.

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1 MR HAYNES:

2 Q. Can you help us as to how long it was after the clash in PK22?

3 A. The date when the events took place, I do not remember. Was it five days later,
4 a week later? In any case, I'm not able to give you an exact date.

5 Q. Was it before or after the visit of Mr Bemba?

6 A. I think that the attack that I was a victim of took place before the arrival of
7 Mr Bemba.

8 Q. And in what month did Mr Bemba visit PK12?

9 A. I have already told you that Bemba was not able to come immediately to visit
10 his troops. He came because he had heard that his men were committing acts of
11 violence, and that this was quite unacceptable and the international press was already
12 talking about it, and that everybody was already complaining about this behaviour.
13 No doubt he was informed of this, and that is why he came, but I think that that
14 is -- even what he had done in 2001, because when his men arrived in the Ouango
15 district, they had committed similar acts of rape, of looting and other atrocities, and
16 the NGOs and the international press were denouncing them. And his reaction was
17 slow. It was only later that he decided to withdraw his men and take them back to
18 Equateur Province.

19 This is the same thing that he did in PK12. He waited until his troops had taken
20 their pleasure, and he only stepped in later so that people would see that he was
21 coming to pacify the population but, in fact, the opposite was true. He was only
22 coming to accentuate the population's suffering.

23 Q. Again, I only asked you in what month he visited PK12. Could you answer
24 that, please?

25 A. Yes. But before I tell you about the month, I need to tell you about the acts that

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1 your client was responsible for, so that you understand what happened. So I want to
2 tell you why it was that he came. Now, to answer your question, he came in the
3 month of November.

4 Q. Thank you very much. Now, where did your son keep his spices and
5 provisions?

6 A. He stored his goods in my house; he had a room in which he stocked all of those
7 goods.

8 Q. And how many times previously had soldiers come to take goods from him?

9 A. I told you that when they arrived, they established themselves. You know that
10 these people are only human, they can get hungry, and you know also that they
11 didn't have food rations. So the following day they had to find some way of feeding
12 themselves.

13 At that point, they launched into a hunt for domestic animals; dogs, poultry, goats.

14 Any animal that came within their reach they would take to use as food. Now, you
15 know that to cook food you need to have condiments, so they needed oil, they needed
16 salt, and other things. And you know that, at that time, the market was not
17 operating so my son came back home and he was selling from the house so
18 neighbours could easily get the provisions they needed from our house.

19 As he was selling from our house, and as he had also (Redacted)

20 (Redacted), and as they saw that my son was selling oil, in the first instance they came to
21 take provisions free of charge. They came a second time and did the same. And
22 the third time my son said, "No. Listen, you've already helped yourselves free of
23 charge a first time, a second time. This time I'm not going to let it happen," so he
24 resisted them and that is how the fight began.

25 Q. Thank you. And did they come into the house on those three -- on those two

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1 previous occasions that they visited to get supplies from your son?

2 A. My house is right like a wall that is alongside it. My compound is quite big
3 and there is a mango tree that I like to sit against, and right next to that there is a toilet.

4 And (Redacted)

5 (Redacted). From where he was selling things, he could see the

6 Banyamulengue and they could see him and that is why they wanted to take those
7 goods and they wanted to take them by force.

8 Because my son protested, they punched him and, as a man, he couldn't turn the
9 other cheek. He fought back. He said, "Look, it's not because you're soldiers that I
10 will let you get away with this," and that is how he answered them back and that is
11 how things began.

12 Q. Were you there on each of the visits of the soldiers to get supplies from your
13 son?

14 A. I have told you that during the events I did not leave the house; I was always
15 there at home. You know, I gave the money to my son so that he could start running
16 his small business, and I had that money because I had asked for loans. And I said
17 to my children, I told my children what the various reimbursement dates for that loan
18 were, and I set things up so that they would pay me back certain amounts of money
19 so that I could actually pay back those loans. And I gave them advice so that they
20 would proceed in that way, so that I would be able to pay off the loans. That is how
21 I monitored the commercial activities of my son.

22 Now, one day my son said to me, "These men came and took goods without paying
23 for them from me." And I said to him, "Look, let it go. It's not serious. You know
24 that they're soldiers, they're (Redacted), I'm sure they're just
25 trying to provoke you so please don't answer them back." And my son said, "Dad,

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1 listen, if they come back again I am sure I am going to resist, even if I die for it. They
2 might kill me for doing it." And that is how it came to be that the third time they
3 came back, as a man, he stood up to them.

4 JUDGE ALUOCH: Mr Haynes, your question to the answer that has just finished
5 was line 25, I think it is page 51, line 25, "Were you there on each of the visits of the
6 soldiers to get supplies from your son?" Did you mean, were you present, did you
7 see, or what did you mean?

8 MR HAYNES: That's what I meant, yes.

9 JUDGE ALUOCH: Okay.

10 MR HAYNES:

11 Q. Did your son tell you about the first occasion or were you present to see what
12 happened?

13 A. I was present. You know, there are two mango trees in my compound; under
14 one of them, my wife and I like to rest, and under the other mango tree my son was
15 selling his goods. And where I was sitting, when the soldiers came up to him, I
16 could see them coming. I could see them coming. They came over; they stopped
17 over there. And when I saw them, I knew that they were coming to take things and
18 without paying.

19 I have already said here that Mr Bemba who sent them here had not given them
20 money. They came, and they took food from the population. They wanted to get
21 their provisions free of charge. And I thought, well, the fact that they have not been
22 given any money and that they are taking food without paying the population
23 constitutes a crime. That's a war crime against the population.

24 You know, if somebody comes and forcibly takes goods, you can't let them keep
25 doing that. You can't let them get away with it. If you try and intervene, if you try

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1 and object to it, you get attacked. Well, is that acceptable? When you want to
2 protest against certain behaviour, that immediately creates an opportunity for those
3 attackers to come and assault you and loot your possessions.

4 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. Mr Witness, we are going
5 now to suspend for a while - it's our lunch break - in order for you to have lunch and
6 to take some rest and we are going to continue in the afternoon. It's 1 o'clock. We'll
7 be back at 2.30. I will ask the court officer, please, to turn into closed session in order
8 for the witness to be taken outside the courtroom. In the meantime, we are going to
9 suspend and resume at 2.30. Court officer, please.

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

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

12 (The witness stands down)

13 THE COURT OFFICER: All rise.

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

15 *(Upon resuming in closed session at 2.39 p.m.) Reclassified as Open session

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

17 PRESIDING JUDGE STEINER: Good afternoon. Could, please, the court officer
18 bring in the witness.

19 (The witness enters the courtroom)

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

21 (Open session at 2.40 p.m.)

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

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

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

25 PRESIDING JUDGE STEINER: Did you have lunch and manage to rest a little bit?

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1 THE WITNESS: (Interpretation) Yes, I was able to have some lunch and have a
2 rest.

3 PRESIDING JUDGE STEINER: Can we continue with your testimony?

4 THE WITNESS: (Interpretation) Yes, we can continue.

5 PRESIDING JUDGE STEINER: Thank you very much. Mr Haynes, you have the
6 floor.

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

8 Q. Well, good afternoon, sir. I hope you're well-rested.

9 A. Thank you, I rested well.

10 Q. Good. Before we went to lunch, we were talking about the first occasion that
11 soldiers came to get oil and spices from your son, do you remember?

12 A. Yes, I remember.

13 Q. And you were telling us that you were there. Can you help us as to when that
14 was? Was it before, or after, the clashes at PK22?

15 A. I don't know what clashes you're speaking about. Before or after what clashes
16 in PK12?

17 Q. Oh, I'm sorry, it's obviously been mistranslated into French. I said PK22. You
18 have told us on a number of occasions that you could hear fighting, a battle, in PK22
19 on 10 November. Do you recall that?

20 A. Yes, I said just now that when the Banyamulengue came, they went to PK12,
21 they set up their base there and the next day they pursued the rebels. They went
22 and they came back, they went out and they came back, and when they arrived at
23 PK22, there were clashes, or skirmishes. That's what I said. And you asked me the
24 question as to whether it was after these events that the soldiers took the spices of my
25 son by force, and I said that it was after. It was after the clashes at PK22. When

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1 they were defeated, they withdrew and they committed atrocities thereafter.

2 Q. How long after the first occasion that the soldiers took your son's spices did
3 they come back the second time?

4 A. These are small details. I can't remember any more. I can't speak about this
5 exactly how often they came to my house.

6 Q. All right. Well, I don't want you to feel I'm forcing you to answer a question
7 you can't, but can you help us as to how long it was after they first came until they
8 came when your son was arrested?

9 A. I said that they established a base. They spent the night, and then they went
10 and they came back. And at that time they hadn't done any harm to the population.
11 That was in the second -- or to the population that was in the sector. They hadn't
12 touched them. It was only after, having undergone this defeat, that they then
13 withdrew and that evening itself they started committing the atrocities. They
14 deployed in the whole area, all the neighbourhoods. They left the area where we
15 were to go and commit atrocities in other neighbourhoods.

16 When they gathered objects from there, they took animals as well and then they came
17 back, but us who were living in the sector, they hadn't touched us. I can tell you that
18 from my house, or in front of my house, there is a small path for pedestrians, and they
19 took that path to go and commit atrocities in other areas of town. And they really
20 went over the top, and because of that, the young people - the inhabitants - they came,
21 they were armed, they had bladed weapons, and just to come up to their base to
22 attack them, and the soldiers were present next to this line which had been
23 established, and where they were they positioned their weapons towards the town of
24 Bangui. And the inhabitants of the neighbourhood came with machetes and other
25 weapons, but because they saw that the soldiers were armed, they asked them to

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1 leave, and they said all that in Sango. Because they didn't understand Sango, they
2 saw, or they noticed, that the population were rising up, and the Banyamulengue,
3 they were armed. They took a position and that is how the population got -- became
4 afraid and they withdrew. And the Banyamulengue, or the chief who was next to
5 them, gave an order to go back to the houses. We went home, to the house, to our
6 houses, closed the door and we stayed there for a long time inside the house. Here I
7 stated that (Redacted) He
8 had his military uniform with him. When they saw that he was a soldier associated
9 with a sergeant (Redacted), they spoke to him about what
10 had happened: The fact that they had driven us into our houses, closed the doors.
11 They came to our houses to open the doors and we came out. When they gave the
12 order to the children to go inside, myself, as the father of children, I said that I could
13 not go inside together with the children. I withdrew and it was the children who
14 went inside. Myself, I was outside. And it was at that time that they started to
15 provoke the population, and because the population rose up, they came back to see
16 the different articles that my son was selling and they took them by force once and
17 twice. He said nothing, and the third time, he tried to stop them. He said, "But
18 what I sell makes it possible for me to feed my children and you're coming and you're
19 taking everything without paying," and he objected and it was after that that they
20 beat him up. I can't say exactly whether it was five days, a week. I can't give you
21 an exact date. I wouldn't be able to do that.

22 Q. When was this popular uprising?

23 A. I told you that PK12 was a small locality. They had taken over the whole
24 locality. At the crossroads, there are neighbourhoods right up to the gendarmerie.
25 They'd taken over that whole sector. I wasn't expecting there to be an uprising. I

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1 was in my house and I saw an angry crowd arrive. I don't know exactly where they
2 came from. I can therefore -- I therefore can't say, yeah, where they came from.

3 Q. Where did they arrive?

4 THE INTERPRETER: The Sango interpreter did not hear.

5 MR HAYNES: I'm sorry.

6 Q. Where did the crowd arrive?

7 A. I told you that they arrived at the line; the line that (Redacted)

8 (Redacted). They were positioned there. Others had taken over the

9 neighbourhood and some of the troops had gone to pursue the troops. And those

10 who had taken over the neighbourhood, they had done so with a view to stealing the

11 domestic animals. Perhaps it was to feed those who were on the front - at the

12 front - and this is how or why they went to get supplies of food. Perhaps the

13 population, due to these excesses, rose up, and perhaps they did it in hope; in hope of

14 stopping these atrocities being committed, or abuses being committed. You know

15 that in PK12 there are different neighbourhoods. I don't know exactly where these

16 people came from.

17 Q. Very well. Did this happen after 10 November, when there was the clash at

18 PK22?

19 A. Yes, it was after the clash at PK22.

20 Q. But I think, from what you say, before the soldiers first came to your house to

21 take spices from your son?

22 A. I didn't understand your question.

23 MR HAYNES: It doesn't matter. I think you've already answered it. Can we

24 briefly go into private session, Madam President?

25 PRESIDING JUDGE STEINER: Court officer, please.

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1 *(Private session at 2.59 p.m.) Reclassified as Open session

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

3 MR HAYNES:

4 Q. Sir, you mentioned that the chief told the angry crowd to go home. Who do
5 you mean by "the chief"? And we're in private session so you can use a name.

6 A. I never said that the chief had asked for the people to go home. What I said
7 was that, at the time, they were committing these abuses in the neighbourhoods
8 around us. They were getting food, they were getting flour, they were getting
9 tapioca. Everything that they could find, everything that could be eaten they took,
10 and they took it to their base.

11 The population found it too much. This population was fed up, and the young
12 people from the neighbourhood decided to go to the base in order to protest. And
13 that's why for example to get to the main road, to get there you have to -- well, you
14 have (Redacted)

15 Now, as there was a whole crowd there, and given that this (Redacted)
16 (Redacted) they were opposite the Banyamulengue. And the crowd saw that the
17 soldiers were armed, and this crowd stopped, and in the crowd there were people
18 who were saying, "Leave. Your chiefs are asking you to leave. Leave."
19 The Banyamulengue didn't understand what was being said in French, because the
20 crowd was armed with machetes, knives and with sticks, or clubs. These
21 Banyamulengue were, therefore, on guard.

22 There was a situation, the crowd withdrew, (Redacted)
23 (Redacted) -- he said that
24 everybody should go into the house. (Redacted)
25 (Redacted)

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1 (Redacted) what was happening.

2 I didn't say that it was their chief who asked them to go, but it was somebody in the
3 crowd who was saying to them that their chiefs were asking them to leave and to go
4 to the main road.

5 THE INTERPRETER: If the interpreter has understood correctly, adds the Sango
6 interpreter.

7 MR HAYNES:

8 Q. Yes. Well, perhaps what you said was not properly translated the first time,
9 but, if I may say so, sir, if you just slowed down a little bit we might get a better
10 translation of what you're saying. Don't think me rude, but I think it would help us
11 all if you could just slow down a little. Is that okay?

12 Now, the day on which the soldiers arrested your son you believe was a Saturday.
13 Why do you believe that?

14 A. I told you that it was a Saturday, because if the day before is a Saturday, then
15 the day after is a Sunday. And so if -- the day before Sunday is a Saturday.

16 MR HAYNES: Thank you very much. We can go back into open session now,
17 Madam President.

18 PRESIDING JUDGE STEINER: Court officer, please.

19 (Open session at 3.05 p.m.)

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

21 MR HAYNES: Thank you.

22 Q. And were you in the compound when the soldiers arrived on that day?

23 A. What soldiers are you talking about, the Banyamulengue?

24 Q. Yes, the soldiers who arrested your son.

25 A. I told you that at the time when the rebels retreated in -- from PK22, on the

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1 following day, on the 7th, those soldiers arrived at PK12. They used the same road
2 as the rebels. They used the same road that the rebels had used, and they went to a
3 point where there were no more houses in order to establish their demarcation lines
4 of defence. I was there, I saw them moving forward and I thought that they were
5 going on to PK22, so I went back home. Oddly, we saw them come back and set
6 themselves up and establish their lines. I was present there and I saw them do it.

7 Q. Sir, will you just listen to me for a minute. The questions I'm asking you now
8 are about the Saturday when the soldiers came to your house and arrested your son.
9 Do you understand that?

10 A. Yes, I've just had that clarification.

11 Q. Okay. So can you concentrate on that day for me, please?

12 A. I think that I have said that the events took place on a Saturday, at about that
13 time, and it was raining lightly. I think that that is in one of my statements. I was
14 asked earlier what day it was and I told you that I didn't remember the date, but that
15 the following day was a Sunday and that's what I answered.

16 Q. Okay. Now, where were you when the soldiers arrived?

17 A. My compound is relatively big. I have a small house which I built and which
18 serves as the kitchen. I was there with my wife. My son was under the mango tree
19 where he has his stand, his stall. I usually am sitting with my wife, and each time
20 they would come and take the essential goods, and my son came back and reported to
21 me, "No, Dad, they're taking these goods."

22 Not long after that, they came and they took other goods. I said that they couldn't
23 keep doing that. They couldn't keep repeating those acts, said my son. And I said
24 to him, "Look, don't worry about it.

25 THE INTERPRETER: The witness gave a Sango proverb.

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1 THE WITNESS: (Interpretation) The third time that this happened my son could
2 not accept this behaviour, and so that time he protested and he resisted. I was
3 present with my wife and we were eyewitnesses to the events.

4 MR HAYNES:

5 Q. Thank you. Now, apart from you and your wife, how many other people were
6 in the house?

7 A. I told you that my children were also there. In my statement, I gave the list
8 and the names of my children. I have many sons and I also have two daughters.
9 During the events, one of the daughters was away in the provinces, but among all my
10 sons there was my little girl and there was no one else. I was there with my family
11 and with my children.

12 Q. Okay. And who was out in the compound, if anybody?

13 A. You know, you are opposite soldiers (Redacted)
14 (Redacted) These soldiers were keeping watch and these soldiers were well
15 able to find out who lived in that compound. Now, could those soldiers allow
16 someone else, a stranger, to come into the compound and watch over them? Did
17 that not attract their attention? Could those soldiers accept people coming from
18 outside to my house to watch what they, the soldiers, were doing?

19 Q. Which, if any, of your children was out in the compound? And please don't
20 give any names.

21 A. I told you that I had five or six children. There was my son, who was selling
22 produce; there were his younger brothers; and there was the little girl. There were
23 also other boys and two little boys and a girl.

24 Q. And were they all outside?

25 A. That was their home. Where else would they be? It was their home. They

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1 could go inside and get something and then come out and sit down under the mango
2 tree. It was their home.

3 Q. When did you first know there was a problem between your son and the
4 soldiers?

5 A. My son is not a soldier, so why would he have had problems with soldiers?
6 Was my son a Banyamulengue? Did he come from Équateur Province? Is that why
7 he was having problems with soldiers? No, my son was at his home. These people
8 came and they established their line (Redacted), and those people
9 provoked him, and they provoked him by taking his goods, and that's how he became
10 exasperated and he resisted and the situation degenerated into a fight.

11 Q. What did you see when you went outside?

12 A. I haven't understood your question. Go out to go where?

13 Q. Well, unless I've misunderstood you, I thought you told us that you and your
14 wife were inside the house. What was it that made you go outside the house, if
15 indeed you did?

16 A. I have not said here that I was inside with my wife. I said here that there was a
17 mango tree, under which I had set up a little hanger, or awning, a small shed, or
18 shelter. Under this shelter under the mango tree, my wife had her cooking
19 equipment. That's where she would prepare food. But given the general
20 atmosphere, my wife didn't feel like preparing food and so we were under that
21 shelter where my wife normally did the cooking. We were under that shelter under
22 the mango tree and we were watching. I could clearly see my son where he was
23 selling his products.

24 We could also see the Banyamulengue stationed on their line. We could see them
25 manoeuvring. We could see them coming and going, and so we were witnesses to

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1 all of their movements from morning to evening. Some of them went off into the
2 districts, some of them crossed my compound when they came back, other people
3 were coming back from the town with the loot that they had taken, with the goats,
4 with the kids, with the chickens. I was outside and I saw it all with my own eyes.
5 This is not something that was reported to me by somebody else.

6 Q. Sir, we are in open session. I'm only trying to ask you about things that
7 happened inside your compound, so please be careful about anything you might say
8 which might identify where your house is. Did you remain outside in the
9 compound that day?

10 A. Well, at night we would go inside to sleep, but in the morning we had to go
11 outside and we had to stay outside and see what was going on. We could go inside
12 if there was something to do inside, but if there was nothing to do inside, then we
13 were outside and we were looking. So I was outside during the events. At night I
14 go inside and I go to sleep there. In the morning I come outside. At night I go back
15 inside to go to bed. I was there right until the clashes of PK22. I was not a prisoner.
16 I was free to move around. I could go into the town centre, I could go out to the
17 checkpoint, I could do anything I wanted. I could go for a stroll.

18 Q. What happened after the fight started with your son?

19 A. Which child are you talking about? I'm sorry, could you please ask me the
20 question again so I understand?

21 Q. Did more than one of your sons get arrested, or just the one?

22 A. I have told you when the soldier came to take goods for the third time, my son
23 pushed him back and said that he couldn't allow him to take the goods without
24 paying. There were three of them who came to take these articles. The three of
25 them couldn't take the goods at the one time, so one of them had stretched out his

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1 hand to take an article and this is the one that my son pushed back and he said, "If
2 you have the money, I will give it to you. If you don't have the money, I will not
3 give it to you," and that is when the soldier reacted and said, "I'm a soldier. You're a
4 civilian. Who are you to refuse me?" and then he hit him. And my son was also a
5 robust man and so he reacted. He knocked the Banyamulengue down, and the other
6 two seeing their colleague on the ground, how were they going to react? Were they
7 going to just stand there, with their hands in their -- their arms folded?

8 Q. So what did they do?

9 A. Seeing that he had already knocked down their companion, the other two, and
10 the one who was on the ground and got up, started to beat my son up. They started
11 kicking him. You know, one person against three is not in a balanced fight. He
12 couldn't withstand them. All of the others who were in the trenches, who were on
13 the line, saw that there was some noise and they began to fire into the air, to alert
14 other people and to attract other soldiers, and so others who were in the trenches
15 started to converge on the place where they were hearing the gunshots coming from
16 and so they invaded my entire compound. They didn't even come and ask me
17 questions to find out what was going on. They just converged on the area where the
18 gathering was taking shape.

19 Q. Thank you. And what happened to your son after he had been beaten up?

20 A. He was on the ground. His mother and I were under the mango tree, under
21 the shelter. We couldn't stay sitting there. We got up. All of the other brothers
22 who were close by came running. The small children started to cry and to shout.
23 They were crying. There was a lot of noise. My little girl was crying and crying.
24 His mother and I tried to intervene and we asked what my son had done. What had
25 he stolen?

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1 By trying to ask that question, automatically somebody hit me. I was struck in the
2 face and I found myself on the ground, and he was saying with his bad French that
3 my son was a rebel and they started to drag him off. These Banyamulengue were
4 weaklings. They didn't even have the strength. Because they weren't eating well,
5 they weren't strong enough to carry him, but my son was able to resist, but I could see
6 how they were hitting him with the butts of their rifles and I told him, "Look, just stop
7 resisting." And then, in the meantime, another group dragged my other children,
8 who were crying, back inside and they were mistreating them then too. That's what
9 happened.

10 Q. Okay. So, while you were outside, your son was dragged off and your other
11 children were dragged inside. Is that a correct summary of the position?

12 A. If I didn't experience it, why would I -- why would I tell you otherwise? Why
13 would I lie? I'm not lying to you. I'm telling you about things that I experienced
14 myself. I'm telling you that at the time when I was surrounded, a group went inside
15 with my daughter. They made the boys lie down inside because the room was big,
16 and it was at the time they were taking things from inside.

17 At the same time, the other team was outside, and they ordered me to go inside and
18 they told me too to lie down, face down, and my wife was lying down next to me.
19 They trampled me to stop me from seeing what was going on and what they were
20 doing, and it's at that time also that they dragged my daughter behind the building,
21 and my sons were close by, and they dragged them off to where they had their
22 demarcation line to make them do the cooking.

23 Q. So at some point all of you were inside the house; is that correct?

24 A. At the beginning, there were some neighbours and they could see what was
25 happening; and it was only afterwards, when they began to shoot, when there were

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1 gunshots everywhere - even in the shopping centre of the town, even there there were
2 gunshots - a lot of people were following these gunshots, the gunshots that were
3 going off everywhere, but who could stay outside? So all of the neighbours went
4 back indoors to shelter from these gunshots.

5 Q. Which room were you in once you had been taken inside?

6 A. My house had five rooms. There was a living room in the middle, and they
7 made me go into the living room. I was in the living room, I was not in one of the
8 other rooms, and in the living room they made me lie down with my wife.

9 Q. Was anybody else in the living room?

10 A. It was just my children in the lounge, because the lounge was big. In the living
11 room, my children were there and myself as well. I followed them into the living
12 room. There was no foreigner there, but there was the Banyamulengue who were
13 there as well.

14 Q. About how far is it from the house to the outside shower and latrine?

15 A. From inside the house to the latrine, I think it's about 20 metres. The latrines
16 are part of my compound.

17 Q. And you've told us about (Redacted). About how
18 far away from your house is her house?

19 A. My house was further down, whereas my neighbour's house was higher up.
20 From my house to my neighbour's house, it's about 25 metres. When my neighbour
21 spoke to me, I can hear her. When my neighbour speaks, I can hear her from my
22 house.

23 Q. Thank you. Now, as you've told us, you have more than one daughter, don't
24 you?

25 A. Yes, I have daughters, but at that time there was only one. There was only one

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1 who was with my sons.

2 Q. And she was the youngest daughter; is that correct?

3 A. She was the second last one to be born.

4 Q. How old was she at the time?

5 A. During these events, she was ten years old. I even stated her exact age in my
6 statement.

7 Q. Now, your next youngest daughter was three years older than her, wasn't she?
8 At the time, she was 13?

9 A. What other daughter are you talking about, counsel?

10 Q. Well, you have a daughter, don't you, who is older than the one who was
11 raped?

12 A. Counsel, I don't understand the question. Do you want to show me the list of
13 my children on the screen? That would help me answer your question.

14 MR HAYNES: I can certainly do that. And it's probably easiest if we go into
15 private session to do that, Madam President.

16 PRESIDING JUDGE STEINER: Court officer, please, let's turn into private session.

17 *(Private session at 3.37 p.m.) Reclassified as Open session

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

19 MR HAYNES: Can we please see document number 1 on the Defence list at the first
20 page, 0786. Are we in private session, Madam President?

21 Q. I want you to look at child number (Redacted) and child number (Redacted), please. Child
22 number (Redacted), that is a girl, is it?

23 A. That is correct, because the list -- on this list is just my children, and their
24 mother is (Redacted). The mother of those who were raped,

25 number (Redacted), the one who was raped, (Redacted). Number (Redacted) and

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1 number (Redacted) are (Redacted). All the other children were born -- they are
2 (Redacted). The child you are speaking about, number (Redacted), it wasn't
3 her who was raped. It was number (Redacted) who was raped, because this is the list of all
4 the children that I had.

5 Q. But child number (Redacted) was born on (Redacted) and, therefore, in October 2002 -- or
6 November 2002 would have been 13 years old; is that correct?

7 A. Yes, that's her age, but the matter didn't concern that one. The one who was
8 raped was (Redacted) it was her who was the victim of
9 that rape, so the question should concern the person who was raped.

10 MR HAYNES: Can we change the document in eCourt, please, and have a look at
11 Defence document number 5 and, to start off with, to familiarise the Witness with it
12 we'll just look at the first page, please.

13 PRESIDING JUDGE STEINER: Could you please inform the Chamber the number
14 of this first page, please?

15 MR HAYNES: I think it's called page 1. It's the victim application, Madam
16 President. I think we just number them 1 to however many.

17 PRESIDING JUDGE STEINER: Mr Haynes, do you mean page 3?

18 MR HAYNES: That's a good suggestion. I was going to show him the very front of
19 it but, yes, your Honour is absolutely right. Page 3 is a much better idea.

20 THE COURT OFFICER: The document is available on your screens and, for the
21 record of the case, it's referenced as ICC-01/05-01/08-328-Conf.Anx6, redacted version.

22 MR HAYNES:

23 Q. Now, you were telling us earlier in your evidence about the filling in of forms.
24 Do you remember seeing a form like this one, and please say if you would like to see
25 some more of it because we can easily do that for you?

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1 A. The form that we had to fill in, one part of that was in English and one was in
2 French, but we didn't write it ourselves because there were people who followed a
3 special training course to do that, so it was those people who filled in the forms. I
4 never had it -- I saw the person who was filling it in.

5 Q. Thank you. Where did you see the person who was filling it in?

6 A. Are you talking about my form?

7 Q. Yes, your form firstly. Where did you see the person who filled in your form?

8 A. This form was filled out at the OCODEFAD headquarters. I think that I've told
9 you that I was with -- I belong to an organisation called OCODEFAD and this form
10 was filled out there and at that time. I don't know if we are in private session at the
11 moment. Could you tell me if we are?

12 Q. Sir, we are. I specifically asked that we were in private session for this.

13 A. This form was filled out at the headquarters of OCODEFAD. At that time,
14 certain people who belonged to OCODEFAD did training and a certain (Redacted)
15 is the person who helped me to fill out the form. The coordinator of the NGO who
16 coordinated the activities after Madam Sayo's appointment, that was Eric Kpakpo,
17 was also helping to fill out the forms. So there were two people at OCODEFAD who
18 helped with the filling out of forms.

19 Q. Thank you very much. Can we move through the document. I'm going to
20 pick out two pages and the first is page 13, please. Sir, are you able to read that?

21 A. Yes. Are you referring to the handwritten paragraphs, what is written there by
22 hand, or what is typed?

23 Q. No, the handwritten paragraph. I wonder if you would just do us the favour
24 of reading out just the first paragraph in your excellent French so that we could have
25 it translated for us?

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1 A. Do you want me to read it out as from the words "Je souhaite," is that right?

2 Q. Yes, just those three lines, please, sir.

3 A. "I would like this information to be transmitted to enable better understanding
4 of the events that I experienced at the time."

5 Q. And is that what you wanted?

6 A. I think that I have been clear. I said that this form that was filled out -- excuse
7 me, this form was created so that the victims, or the people who considered them
8 victims, could fill it out, and I said that there was a mixture. There were some
9 paragraphs in French and others in English, and the person who helped me to fill out
10 this form had had training. It was (Redacted) called (Redacted) who helped
11 me to fill out this form. In doing this, afterwards he did not give me the form to
12 re-read at the end, so I thought that he had done it properly, that he had filled it out
13 well.

14 Q. Okay, but did he request from you information so that he could fill it out?

15 A. Yes, of course. He asked for information. He asked under what
16 circumstances the events took place. After filling out the heading, he asked me to
17 recount the events. After that, he immediately began to write out his -- write out
18 those responses.

19 Q. Thank you. I wonder if we could now go to page 18 of the document, and
20 could we go to the middle of the document, please. Sir, will you count down from
21 the top with me, one, two, three, four, five, six, seven lines. Can you see it begins
22 with the word "maitrisé"?

23 A. Yes, I can see that. "It was in this or during this process that they take my son
24 away at 4 p.m. and he spent the night. During that time one of my daughters was
25 abducted -- or one of my daughters was abducted by other elements. They

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1 undressed her and they violated her out the back despite the cries of the poor girl,
2 who was 13 years old."

3 Q. Thank you.

4 A. "It was thanks" --

5 Q. That's all that I wanted you to read out for us. Did you tell the (Redacted) who
6 filled in this form that it was your 13 year old daughter who had been raped?

7 A. I think that there are several errors and anybody can make mistakes. And that
8 statement, when it was written down, was not given to me for re-reading, because
9 after the statement was taken, the investigators gave me a copy to be re-read. So
10 when I made my statement to the investigators, I was able to re-read it, and if you
11 accept it, you could confirm each line, but when this form was filled out, I was not
12 given it to re-read. Maybe there are errors. My daughter who was raped was not
13 13 years old. She was ten years old, not 13.

14 MR HAYNES: I know it's a little bit early, but the next section I'm going to is three
15 or four sections of interview and won't be achievable in four minutes.

16 PRESIDING JUDGE STEINER: Mr Witness, before we finish, let me just ask you a
17 follow-up question. In this formula - if the court officer could show the bottom of
18 any of the pages, it doesn't matter - you didn't sign this page, did you?

19 THE WITNESS: (Interpretation) They required us to put our thumbprint on the
20 document. I could have signed it, but their requirement was to fingerprint it. If
21 they'd asked me to sign it, I would have done so.

22 PRESIDING JUDGE STEINER: So that means that you put your fingerprint on it?

23 THE WITNESS: (Interpretation) Yes, that is correct.

24 PRESIDING JUDGE STEINER: Thank you. Let's turn into open session, please,
25 court officer.

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- 1 (Open session at 3.57 p.m.)
- 2 THE COURT OFFICER: We are in open session, Madam President.
- 3 PRESIDING JUDGE STEINER: Thank you. Mr Haynes, are you ready to give the
- 4 Chamber an estimation on --
- 5 MR HAYNES: I was praying you wouldn't ask me that.
- 6 PRESIDING JUDGE STEINER: But you knew I would.
- 7 MR HAYNES: I guess so. I don't think I will take another whole day, but whether
- 8 in fact the lesser of the two evils is to perhaps lose a bit of time by not having a
- 9 witness here, sitting around, is a matter which you may wish to consider. I really
- 10 did hope this would go much quicker than it has, but it just hasn't. It's probably my
- 11 fault, but --
- 12 PRESIDING JUDGE STEINER: Thank you, Mr Haynes.
- 13 Mr Witness, we are going to adjourn for today. It was a very tough day for you.
- 14 You deserve to take some rest. We are going to continue tomorrow morning. We
- 15 hope you have a very restful night and that we can allow you to go back home very
- 16 soon, but tomorrow morning we will be meeting here again.
- 17 I will ask the court officer, please, to turn into closed session in order for the witness
- 18 to be taken outside the courtroom.
- 19 I want to thank very much for the Prosecution team, the legal representatives of
- 20 victims, the Defence team, Mr Jean-Pierre Bemba Gombo. I'd like to thank the
- 21 interpreters and court reporters. We are then turning into closed session, and we
- 22 will adjourn and resume tomorrow morning at 9 .30. Court officer, please.
- 23 *(Closed session at 4.00 p.m.) Reclassified as Open session
- 24 THE COURT OFFICER: We are in closed session, Madam President.
- 25 (The witness stands down)

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- 1 THE COURT OFFICER: All rise.
- 2 (The hearing ends at 4.01 p.m.)
- 3 RECLASSIFICATION REPORT
- 4 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and
- 5 ICC-01/05-01/08-3038 and the instructions in the email dated 21 October 2013, the
- 6 version of the transcript with its redactions becomes Public.