

Trial Hearing
Witness: CAR-OTP-PPPP-0063

(Open Session)

ICC-01/05-01/08

- 1 International Criminal Court
- 2 Trial Chamber III - Courtroom 2
- 3 Situation: Central African Republic
- 4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
- 5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and
- 6 Judge Kuniko Ozaki
- 7 Trial Hearing
- 8 Thursday, 19 May 2011
- 9 (The hearing starts in open session at 9.36 a.m.)
- 10 THE COURT USHER: All rise. The International Criminal Court is now in session.
- 11 Please be seated.
- 12 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
- 13 in open session.
- 14 PRESIDING JUDGE STEINER: Good morning. Could, please, the court officer call
- 15 the case.
- 16 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
- 17 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
- 18 PRESIDING JUDGE STEINER: Thank you very much. Good morning and
- 19 welcome the Prosecution team, legal representatives of victims, the Defence team,
- 20 Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters and court
- 21 reporters. We will continue today with the questioning of Witness 63, and for that
- 22 purpose I ask, please, the court officer to turn briefly into closed session in order for
- 23 the court usher to bring the witness in.
- 24 *(Closed session at 9.38 a.m.) Reclassified as Open session
- 25 THE COURT OFFICER: We are in closed session, Madam President.

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1 (The witness enters the courtroom)

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

3 (Open session at 9.40 a.m.)

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

5 PRESIDING JUDGE STEINER: Thank you very much. Good morning,

6 Mr Witness.

7 WITNESS: CAR-OTP-PPPP-0063 (On former oath)

8 (The witness speaks Sango)

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

10 PRESIDING JUDGE STEINER: Did you manage to rest?

11 THE WITNESS: (Interpretation) Yes, indeed. Yes, indeed, your Honour.

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

13 THE WITNESS: (Interpretation) I am ready.

14 PRESIDING JUDGE STEINER: Mr Witness, I need to remind you that you are still
15 under oath. Do you understand that?

16 THE WITNESS: (Interpretation) I understand it fully.

17 PRESIDING JUDGE STEINER: I would like to remind you as well that you are
18 still -- that you are covered by protective measures, that your image and your voice
19 broadcast outside the courtroom are being distorted so that the public cannot identify
20 you. That means that, in public session, you should avoid giving information that
21 could lead to your identification. Names of family members, of friends, of
22 neighbours, all this information, if need be, we go into private session and then you
23 can speak freely because nobody will hear what you are saying. Do you understand
24 that, Mr Witness?

25 THE WITNESS: (Interpretation) I do understand that, your Honour.

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1 PRESIDING JUDGE STEINER: And finally, Mr Witness, if at any time you need a
2 break, just let us know and you will have as many breaks as you need. Can I call the
3 Prosecution to continue questioning you? Mr Iverson.

4 MR IVERSON: Thank you, Madam President. Good morning, your Honours.

5 QUESTIONED BY MR IVERSON: (Continuing)

6 Q. Good morning, sir. How are you?

7 A. Good morning, sir. I must say I feel -- I feel all right.

8 MR IVERSON: Could I ask the court officer to please display the image of the laptop
9 that is on the Prosecution table.

10 PRESIDING JUDGE STEINER: I think we should first go into private session.

11 MR IVERSON: Yes. Yes, Madam President, may we first go into private session?

12 PRESIDING JUDGE STEINER: Court officer, please.

13 *(Private session at 9.45 a.m.) Reclassified as Open session

14 THE COURT OFFICER: We are in private session, Madam President. If I may,
15 Madam President, just to remind everybody in court, you can view, as yesterday, all
16 the documents that are going to be played from the laptop of the OTP Bench by
17 pressing the button "PC1" in the black controls next to your screens. Thank you.

18 MR IVERSON:

19 Q. Sir, at the end of the day yesterday we played the fifth sequence from the video
20 clip, (Redacted) And for the record, that's from

21 CAR-OTP-0039-0058. I'd like to have that played again, (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted) I think we're all set, so if we could please play sequence number 5.

25 (Video extract played)

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1 (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted) And when the Banyamulengue
17 arrived, they would just start shooting anywhere. And after Mr Bozizé's men left,
18 the population got closer to them and it is then that they told the population to stand
19 aside because the population could be confused with Bozizé's men, could be taken to
20 belong to Bozizé's men. And some people were saying that the Banyamulengue
21 were already starting to loot, and many people said, "Well, if the Banyamulengue are
22 here, they probably have something specific in mind and that's all that they should be
23 doing, whatever reason they came for. But looting people, stealing from people's
24 homes, that's something else. They should not be doing that." (Redacted)
25 (Redacted) "Did you see any Central African soldiers with the

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1 Banyamulengue?" And the answer was "No, I didn't see any Central African soldiers,
2 I only saw the Banyamulengue." But if you have any other questions to ask of me, I
3 shall do my best to answer.

4 Q. Sir, you mentioned (Redacted) didn't see any Central African
5 soldiers with the Banyamulengue. And I believe the speaker mentioned specifically
6 presidential guardsmen. Did you at any time during your encounters with the
7 Banyamulengue witness any Central African soldiers or presidential guardsmen
8 within the ranks of the Banyamulengue, or among the Banyamulengue?

9 A. From the very beginning of my statement here in this courtroom, I think I have
10 said repeatedly that the soldiers of my country, when Mr Patassé resorted to the
11 Banyamulengue, well, the latter and Mr Bemba no longer trusted the national army.
12 They took their own decisions and they only trusted the men that they had come
13 over.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. The speaker in the video mentioned that the Banyamulengue threatened to
24 shoot at everyone, without exception. Did you ever witness the Banyamulengue
25 actually carrying out this threat?

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1 (Redacted)

2 (Redacted) the Banyamulengue were actually shooting from one side of the road at
3 the other side, hurting and wounding some people, killing some people in front of the
4 lycée Miskine. You could see three or four dead people on the street. There was
5 another body also lying further down, close to an army place. The Miskine drug
6 store -- well, in front of that drug store, there was also a body on the ground. And
7 this is not something I was told; this is actually something that I saw myself.

8 Q. Who were the people that they were killing in front of the lycée Miskine?

9 A. Well, you know, in most cases these were stray bullets that actually struck
10 passers-by and those passers-by fell and died. Now, I cannot tell you which
11 particular person was killed. (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. Who were the people that were killed in front of lycée Miskine, though? Who
15 were they?

16 A. They were Central Africans. I said that next to the Danzoumi (phon) house,
17 there was also a lifeless body on the ground, and close to the lycée Miskine, there
18 were three corpses on the ground. Right next to the Miskine pharmacy, there was
19 also a lifeless body on the ground. And all of these people were Central Africans.

20 Q. Sir, do you know if these people who were killed were part of the Bozizé rebels?

21 A. No, they were not Bozizé's rebels. Bozizé's rebels at their base did not have
22 shirts. They just had scarves around their heads. They were bare-chested. Some
23 of them had jeans. I didn't see a corpse of one of Bozizé's men with my own eyes.
24 Those lifeless bodies I mentioned were Central African people; they were civilians.

25 Q. How difficult was it for you to distinguish between Bozizé rebels and

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1 Banyamulengue?

2 A. I haven't understood the question. Could you repeat it, or put it a different
3 way so I can understand?

4 Q. Were you able to tell the difference between a member of Bozizé's forces and a
5 member of the Banyamulengue?

6 A. Yes, that is true, I am able to make that distinction. I was born there, I grew up
7 there and I know most of the Central African Republic soldiers.

8 Q. How difficult was it for you to make that distinction between Bozizé forces and
9 members of the Banyamulengue?

10 A. Yes, I can make that distinction. The only difference is as follows: Bozizé's
11 rebels did not go around in the neighbourhoods. They wore jeans. They never
12 went into the neighbourhoods. No one can accuse Bozizé's men of going into the
13 neighbourhoods and mistreating the civilian population. When they came, they
14 stayed on the main roads until they left. That is what I can say. I can make that
15 distinction very clearly.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 Q. Sir, I'd like to play for you the sixth sequence of CAR-OTP-0039-0058, and that's
- 11 from (Redacted) and in (Redacted)
- 12 (Redacted) If we
- 13 could please play sequence 6.
- 14 (Video extract played)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted) And you can see that they were taking various items
- 20 out of the building behind the centre for disabled people, close to the church, the Our
- 21 Lady of Africa Church.
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted) Their
2 vehicle was parked at the 4th arrondissement service station, and they were loading
3 the looted goods onto the vehicle. As soon as they put the goods on the vehicle, they
4 would go back to the neighbourhood, to fetch other goods. That's what you've seen
5 on this particular video footage.

6 THE INTERPRETER: The Sango interpreter requests that someone asks the witness
7 to please speak more slowly.

8 MR IVERSON:

9 Q. Sir, if you could please just slow down your pace a little bit. The interpreters
10 are asking you to speak a little bit more slowly.

11 THE INTERPRETER: Many thanks from the interpreters.

12 MR IVERSON:

13 Q. Sir, do you know what the two individuals at the beginning of the video were
14 carrying on their backs?

15 A. As I just told you, they were goods that belonged to private individuals that
16 they had looted. They were bags full of these various items that had been taken, and
17 they were putting them in their vehicle that was parked in front of the Catholic
18 church, Our Lady was the name of that church, in the 4th arrondissement.

19 (Redacted)

20 (Redacted) If a thief goes into your
21 house, he will take everything he finds, even if -- even if it's just some *baby
22 excrement wrapped up in a handkerchief or a scarf, the thief will take that if he thinks
23 it's valuable. So what was in those bags? It was looted goods in those bags.

24 Q. In the video there was an individual, and you said that these were
25 Banyamulengue already, there is an individual who jumped out of the back of a

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- 1 pickup truck with a red-coloured piece of headgear. (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted) So it would be difficult to identify which one, or
- 14 which part, constitutes the beginning of the events.(Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted) And if I receive a call on my phone, right
- 19 away I know if the person at the other end of the line knows me. So if you ask me
- 20 questions about -- such questions, it will be difficult for me to answer accurately.
- 21 But if you ask other questions, I can go back to that and try to give you some details.
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. Sir, I'd like to play for you the seventh sequence of CAR-OTP-0039-0058, and the

23 (Redacted)

24 (Redacted)

25 (Redacted) If we could please play sequence 7.

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- 1 (Video extract played)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 MR IVERSON: Thank you, sir.

23 Madam President, your Honours, at this time the Prosecution would like to tender

24 CAR-OTP-0039-0058 to the Court and ask that it be given an EVD-T number.

25 PRESIDING JUDGE STEINER: Mr Haynes.

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1 MR HAYNES: Well, I'm not going to go as far as to say I object, but it's been a
2 couple of weeks now since we had the Appeals Chamber decision about the tendering
3 into evidence of documents and other exhibits and, in our submission, we need to
4 review the process by which exhibits are tendered into evidence. Almost certainly
5 this videotape will become an item of evidence, but it is not properly yet an item of
6 evidence because the Court has only had the opportunity to review seven snippets of
7 it and the whole exhibit has not yet been placed into evidence. It will be done in
8 cross-examination.

9 But the broader point is this: The Appeals Chamber decision really directs the Trial
10 Chamber to consider on a piece-by-piece basis the provenance, admissibility,
11 reliability, probity and prejudicial effect of each piece of evidence sought to be
12 tendered and, in our submission, the proper procedure for that from this moment
13 forward is to review the items of evidence which each party seeks to tender at the
14 conclusion of each witness's evidence.

15 So my submission at this point is that the Prosecution's application is inappropriate in
16 relation to the whole of the videotape, which has not been used with this witness, and
17 is premature in any event.

18 PRESIDING JUDGE STEINER: Thank you very much, Mr Haynes, to remind the
19 Chamber of its duties. The Chamber is mindful of the decision of the judgment of
20 the Appeals Chamber. The Chamber is on its way to issue a decision which intends
21 to implement the Appeals Chamber judgment, so for the time being the parties are
22 invited not to tender, or to request the tendering, of any document or materials into
23 evidence until the moment the decision of the Chamber on the implementation of the
24 Appeals Chamber judgment is issued.

25 You can proceed, Mr Iverson.

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1 MR IVERSON: Thank you, Madam President. The Prosecution does intend to
2 tender the video at the proper moment. In large part the Prosecution actually agrees
3 with the Defence in their assessment of how evidence is tendered, and in this case one
4 possible alternative would be to tender the individual clips of the video that was
5 shown. However, if the Defence doesn't have an objection then the Prosecution
6 doesn't see any reason why the whole video couldn't be tendered, but again that will
7 be later on in the proceedings and the Prosecution understands that. Thank you,
8 Madam President.

9 Q. Sir, I would like to return to the photographs that we were viewing earlier, and
10 for that purpose I would ask that the court officer please display CAR-OTP-0035-0242.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted) You see he has a grenade

23 between his teeth. Is that how you hold a grenade? I don't think so. That's the

24 way they behave. (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. And who is the individual depicted in the photograph?

9 A. It's a soldier. It's a Banyamulengue soldier.

10 MR IVERSON: Could I ask the court officer to please display CAR-OTP-0035-0256.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted) The individual on the right, in the

19 middle of the photo, with a red beret, is the commander of the group. (Redacted)

20 (Redacted)

21 Q. Who are the individuals depicted in this photograph?

22 A. On this photograph you see Bemba's soldiers, called Banyamulengue.

23 Q. (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 MR IVERSON: Could I ask the court officer to please display --

4 PRESIDING JUDGE STEINER: Sorry, Mr Iverson, to interrupt you, I have a

5 follow-up question. Mr Witness, you mentioned that the individual in the right, in

6 the middle of the photo, with a red beret, is the commander of the group. May I ask

7 you whether, by chance, you know the name of this leader of the group?

8 THE WITNESS: (Interpretation) No, I don't know his name. (Redacted)

9 (Redacted)

10 (Redacted)

11 PRESIDING JUDGE STEINER: And how did you realise that he is the leader of the

12 group? Which indications he gave that he was the leader of the group?

13 THE WITNESS: (Interpretation) I know it (Redacted)

14 (Redacted) he was commanding. (Redacted)

15 (Redacted)

16 PRESIDING JUDGE STEINER: Thank you very much. Mr Iverson.

17 MR IVERSON: Thank you, Madam President. Your questions actually prompted

18 another question from me, so I'll ask it now.

19 Q. I notice in the foreground there's an individual wearing a red beret next to an

20 individual wearing a green beret. It appears that both these berets have some type

21 of emblem. Do you know if these emblems have any significance?

22 A. Which emblem are you talking about; on the shirt or on the beret?

23 Q. On the berets, sir.

24 A. I don't apprehend very well because the emblem is slightly to the side. Only

25 the people from the water and forest service wear green berets, as well as the

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1 Presidential Guard people. As the emblem is tipped to the side, I can't see whether
2 it's from the forest and water people or from the Presidential Guards.

3 Q. And is the person wearing the green beret either from the forest service, or from
4 the Presidential Guards?

5 A. On this photograph there is no person from the water and forest service or from
6 the Presidential Guards. They are all Banyamulengue. I've told you in one of my
7 statements, all of the military gear is things that they've rounded up, anything they
8 can find.

9 MR IVERSON: Could I ask the court officer to please display CAR-OTP-0035-0258.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. What country were these soldiers from?

19 A. They are from Central Africa, Central African Republic.

20 Q. Do you know if Central African soldiers are authorised to have facial hair, in
21 uniform?

22 A. It's difficult. I mentioned that I (Redacted)
23 and so I'm very familiar with soldiers, and soldiers are always clean-cut and they're
24 disciplined. They're very concerned about their garments and their bodily hygiene,
25 and none of them have beards in this photo.

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- 1 PRESIDING JUDGE STEINER: Mr Iverson, if you allow me. Mr Witness, maybe
- 2 we have a translation problem. I would like you to confirm if this is what you said.
- 3 It is on page 23, line 7/8, (Redacted)
- 4 and the individuals are soldiers from another country." Is that what you said, that
- 5 the individuals are soldiers from another country?
- 6 THE WITNESS: (Interpretation) No, that is not what I said. The soldiers that you
- 7 see on this picture are soldiers from our country, and what they wear is Central
- 8 African uniforms. (Redacted)
- 9 (Redacted) I repeat, they're soldiers
- 10 belonging to the national army of the Central African Republic.
- 11 PRESIDING JUDGE STEINER: Thank you very much for the clarification.
- 12 Mr Iverson, would you have any problem in continuing after the break?
- 13 MR IVERSON: Of course not, Madam President.
- 14 PRESIDING JUDGE STEINER: Thank you very much. Mr Witness, we'll have now
- 15 half-an-hour break, in order for you to take some rest and as well --
- 16 THE WITNESS: (Interpretation) I'm sorry, your Honour, I'm sorry, I have a
- 17 question myself. And I also have a statement to make, because I do not understand
- 18 the procedure which is now in place. Now, obviously, I am a witness. I have
- 19 accepted to come here of my own free will, and two or three days ago I answered a
- 20 question that I should not have answered. I should have asked you for the
- 21 authorisation, since you have all the power invested in you, I should have asked you,
- 22 your Honour, for your authorisation to tell me which of the counsels of Bemba has
- 23 always been with Bemba, ever since he was born, and then when he turned 19, and
- 24 which of the lawyers today Bemba took after this case he has against the Central
- 25 African Republic.

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1 I would like to know what the distinction is between all of these lawyers so that if one
2 of them asked me a question then I can be in a position to answer. It is only in that
3 way that I would be able to give a good answer, an appropriate answer, in reference
4 to whatever question is put to me, because, you see, when I go back to my country I
5 wouldn't -- I will never return here.

6 And now I must tell you that I'm a little bit exasperated. I am, in fact, angry, and
7 I cannot continue giving statements when, as I'm speaking to you now, please look at
8 me, my body is trembling, and I cannot continue speaking. I want to have a clear
9 knowledge of Bemba's lawyers. Who of these lawyers was with him until the age of
10 18; that is to say, until the time at which the conflict broke out in Central Africa? I
11 have to know who was with him before and who was with him afterwards. I have a
12 great deal of respect for that profession, but I do not want to give answers that are not
13 appropriate because please remember, when I leave this room and I leave this country,
14 I will not be coming back. That is all. Thank you.

15 PRESIDING JUDGE STEINER: Mr Witness, the Chamber will pay due attention to
16 your concerns but, in the meantime, the Chamber will ask the proper section of the
17 Court, which is in charge of giving you whatever kind of assistance you need, to send
18 someone to sit with you and to have a very open and honest conversation with you,
19 in order for VWU to bring to the Chamber a clear image of your concerns.
20 I will ask now during the break that someone from VWU goes to you and give you
21 the opportunity to repeat what you just said and to explain, in a very clear manner,
22 what are your concerns, what are your fears. The Victims and Witnesses Unit is here
23 to give you assistance and protection. We are going to suspend for half-an-hour. If
24 need be, you can take more time while you have the opportunity to have this
25 conversation with the person in charge of taking care of you.

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1 After that, if need be, the Chamber will hold a hearing with the parties, to listen to the
2 parties and will come back with a decision, and I repeat if need be. Is that fine with
3 you, sir?

4 THE WITNESS: (Interpretation) I have heard you very well, Madam President.

5 PRESIDING JUDGE STEINER: We are going to suspend. I will ask, please, the
6 court officer to get in touch immediately with VWU, in order for the representative of
7 VWU, maybe together with a psychologist, to have an interview with the witness.

8 It's 10-past-11. If we don't need to extend the break, we will resume at 20-to-12.

9 Court officer, please turn into closed session, in order for the witness to be taken
10 outside the courtroom, and in the meantime, we are going to suspend.

11 *(Closed session at 11.09 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 11.10 a.m.)

16 *(Upon resuming in closed session at 11.58 a.m.) Reclassified as Open session

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

18 PRESIDING JUDGE STEINER: Welcome back. Before we bring the witness into
19 the courtroom, I would like to summarise the summary that was given by VWU to
20 the Chamber now during the break, and apparently the witness is a little bit confused.
21 He thinks that the Defence is questioning him. Maybe the familiarisation process
22 was not successful, and so his concerns is that because Defence doesn't know the case,
23 or doesn't know Mr Bemba, that maybe the answers can be misunderstood.
24 So the first thing is that apparently he is confused about the roles, the different roles,
25 that are played here in the courtroom.

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1 He also asked the VWU whether he could refuse to answer to some questions,
2 because there are some questions that he didn't want to answer, and he was informed
3 by VWU that, yes, he needs to answer. If he has any doubts he needs to address the
4 Chamber.
5 And finally he said that, this was even a little bit confused for VWU, but in any case
6 that in his view the counsel for Mr Bemba should be someone that knows Mr Bemba
7 since before the events, since Mr Bemba was young, because this is the only way for
8 counsel not to mislead the Chamber. It is something in this respect that was not
9 clear even to VWU, but in any case I am transmitting you the information we received,
10 and maybe we need some time to have a better picture of the witness's concerns.
11 In any case, the only things that the Chamber recommends the parties to deal with
12 this witness in a way respecting his fears and concerns and his doubts.
13 I must say that this morning, before we started, I could notice that the witness
14 appeared to be tired. (Redacted)
15 (Redacted)
16 (Redacted) because it appears that he is seeing that as someone doubting
17 on his honesty, so maybe if the Prosecutor explains that there is a need, it is a
18 formality for the Prosecution to put these kind of questions to the witness.
19 So maybe we can proceed and, if we have any other doubts, of course the Chamber
20 will keep the parties and participants informed. Ms Kneuer, please.
21 MS KNEUER: Thank you, Madam President, and the Prosecution is grateful for the
22 update of VWU's meeting with the witness. If I may, obviously VWU conveyed the
23 information to you that the witness was asking if he is allowed to refuse to respond to
24 certain questions. Do we have by any chance information if that is related to a
25 security concern that the witness has and, if so, what would be a possible solution

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1 suggested by VWU or any other entity? And also, if I may, I realised I believe it was
2 two days ago that the witness made a statement when he was looking at the pictures
3 that he is reliving through all these events again, and my question would be which
4 support is the witness receiving, perhaps from a psychologist during this his
5 testimony; in particular, considering that we may need another one or two hours and
6 I expect Defence counsel also to take a couple of days? These are basically the two
7 questions which the Prosecution would like to address.

8 PRESIDING JUDGE STEINER: Thank you, Ms Kneuer. In relation to the first
9 question, no, according to the very brief report made now in the deliberation room by
10 the representative of VWU, the witness was not expressing any specific fear in terms
11 of security, but I can of course ask VWU to give us a more detailed report on that
12 respect.

13 It was clear today that during his questioning in relation to one of the pictures that the
14 witness said very clearly that he didn't want to answer any further questions in
15 relation to that specific picture, so I could maybe ask VWU to address the issue of this
16 specific picture and ask the witness to say why he didn't want to say anything else,
17 because maybe through this concrete situation we can obtain more precise
18 information from the witness.

19 In any case, the Chamber will ask VWU for a more detailed report. Usually, the
20 reports made by VWU are directed to the Chamber, and not to be given to the parties,
21 but the Chamber will of course for the benefit of the parties and participants and for
22 the continuation of the trial make the parties and participants informed on any
23 developments and it's clear that the witness is ready to continue giving testimony
24 today. The only things that I suggest, Mr Iverson, is to start explaining to the
25 witness why sometimes it appears that the Prosecution is repeating questions (Redacted)

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1 (Redacted) Is that fine with the Prosecution?

2 MR IVERSON: Yes, Madam President. I will do my best to explain to him what

3 exactly I am doing, because obviously it is a bit confusing (Redacted)

4 (Redacted), and I will explain again who I am.

5 PRESIDING JUDGE STEINER: And if Defence thinks that something else needs to

6 be addressed?

7 MR HAYNES: Nothing, your Honour. I will of course introduce myself fully to the

8 witness so that he understands who I am and where I come from so that --

9 PRESIDING JUDGE STEINER: And the fact that you have a good knowledge of

10 your client, et cetera.

11 MR HAYNES: Yes.

12 PRESIDING JUDGE STEINER: That may help.

13 MR HAYNES: Yes. Like you, I did note first thing this morning that he appeared

14 to be unusually tired and perhaps a little low in mood, so I know you will keep an eye

15 on that.

16 PRESIDING JUDGE STEINER: We need all of us to take into consideration that the

17 witness left his country maybe two weeks ago, spent more than a week on

18 familiarisation process and waiting for his questioning to start and it's taking longer

19 than expected, his testimony, so the fact that a witness now may be exceptionally

20 tired and maybe impatient, we should take into consideration and be sensitive to

21 these aspects.

22 So if it is fine with the parties, I will ask the court usher to bring the witness in.

23 Court usher, please.

24 (The witness enters the courtroom)

25 PRESIDING JUDGE STEINER: Court officer, we can turn into private session,

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1 please.

2 *(Private session at 12.09 p.m.) Reclassified as Open session

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

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

5 THE WITNESS: (Interpretation) Good afternoon.

6 PRESIDING JUDGE STEINER: We know that you were contacted by Victims and

7 Witnesses Unit. Did you feel more comfortable in having someone to talk with?

8 THE WITNESS: (Interpretation) Yes, I feel better.

9 PRESIDING JUDGE STEINER: The person that was in touch - in contact - with you,
10 did this person explain to you about your concerns and are you satisfied with the
11 explanations given?

12 THE WITNESS: (Interpretation) That's right. He explained to me -- he explained
13 things to me and now I feel much better.

14 PRESIDING JUDGE STEINER: In any case, Mr Witness, if you still have any doubt,
15 any concern, any fears, you just let us know. We can try to help you in giving your
16 testimony. We can explain to you if something is not clear. If you need a break, if
17 you need to talk again to VWU, please let us know.

18 THE WITNESS: (Interpretation) I understand.

19 PRESIDING JUDGE STEINER: Can we then continue with your testimony?

20 THE WITNESS: (Interpretation) Yes, your Honour.

21 PRESIDING JUDGE STEINER: Mr Iverson.

22 MR IVERSON: Thank you, Madam President.

23 Q. Sir, I would just like to state again that my name is Eric Iverson and I am a trial
24 lawyer, and I have been representing and continue to represent the Office of the
25 Prosecutor within the International Criminal Court. We all realise that being a

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1 witness can be a stressful event, sometimes an intimidating event, so we all, everyone
2 in the courtroom, appreciates your strength, your energy and your patience with all
3 of these questions that we have for you. I can assure you that the questions that we
4 ask are very important and it is also important to hear your answers, because you
5 have plenty of information. And I would just like to underline something that
6 Madam President said: That if you need a break at any time, please let us know. Is
7 that clear, sir?

8 A. Yes, that's very clear.

9 Q. Sir, something else that I would like to clarify. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted) so I don't know the answer to those questions that I'm asking and I'm

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1 asking them to just ensure (Redacted) and they may seem like

2 obvious questions to you. Is that clear, sir?

3 A. That's very clear.

4 Q. Okay, thank you for your cooperation. It is appreciated. Could I please have
5 the court officer display CAR-OTP-0035-0258.

6 Sir, we were looking at this photograph earlier. I would like to ask, do you know
7 why -- or, what the different uniforms are here? I see that the two individuals in the
8 foreground on the left and right are wearing what looks like camouflage uniforms
9 and the other uniforms that you can see look to be solid pattern olive drab uniforms.

10 Is there is a difference between the different individuals or units represented by these
11 uniforms?

12 A. Well, you can see on this photograph that all the people who are seated are
13 soldiers sitting in the chairs, as well as the two others who are wearing civilian
14 clothing. (Redacted)

15 (Redacted)

16 (Redacted)

17 they are indeed soldiers from the Central African Republic Army.

18 Q. Sir, do you know if these soldiers are all from the same unit?

19 A. Yes, they all belong to the RDOT. You can clearly see on the uniform of the
20 one who is in the background, there is an insignia that represents this particular unit.
21 The premises are located at PK12, right beside the golf *at PK12, and that military
22 base is to be found at that place.

23 Q. I see also that at least two of the individuals are wearing what appears to be a
24 red sash on their left shoulders. Do you know if that has any significance?

25 A. Of course, I don't have any difficulty telling you about that. I think I told you

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1 that (Redacted) and I'm familiar with soldiers, so I do know. The
2 red sash that they have on the shoulder indicates clearly what group they belong to,
3 and I think I told you that they belonged to the RDOT. Those are the soldiers who
4 usually wear this sash on the shoulder, and they've done so ever since that unit was
5 set up, the RDOT. It was the President - the current president, Bozizé - who was the
6 leader of that unit. He was very familiar with that unit and he took that -- well, he
7 went into the bush with part of that unit.

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. Did you ever have an opportunity to speak to a Central African soldier where
13 the Banyamulengue was the topic of conversation?

14 A. It's difficult for me to tell you that. Some of these soldiers, when I would go by,
15 they knew that (Redacted) the Banyamulengue and we would talk
16 about that. They knew that when the Banyamulengue arrived in Bangui, (Redacted)
17 (Redacted) but I didn't talk to them about what I was doing because the
18 soldiers -- because soldiers are like snakes.

19 Q. Do you know if the Central African soldiers had an opinion about the
20 Banyamulengue?

21 A. You're asking too much of me. I don't know how I could tell you that in this
22 room. You're asking too much of me. It's hard for me to tell you.

23 Q. What was the relationship between Central African soldiers and the
24 Banyamulengue? How would you describe that relationship, if there was one?

25 A. Well, what I can tell you in particular in terms of this question, if I were to go to

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted) On this
- 12 photograph, you'll see that they're all Central African Republic soldiers. They didn't
- 13 have any weapons. When those Banyamulengue will be arrived, all the soldiers of
- 14 our country were disarmed. Only the Banyamulengue had weapons.
- 15 You asked me a few moments ago about what was the relationship between the
- 16 Central African Republic soldiers and the Banyamulengue, but a soldier, well, you
- 17 can recognise a soldier when he has a weapon. Let us take the example of this room.
- 18 There are some security officers in this room, but if they are not armed they can't be
- 19 considered to be security officers. I said -- well, I gave an example a few moments
- 20 ago. Let's say I go to your home and all of a sudden I start to assault your wife, what
- 21 would your reaction be? How would you react to me?
- 22 (Redacted)
- 23 (Redacted)
- 24 MR IVERSON: Could I ask the court officer to please display CAR-OTP-0035-0260.
- 25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 A. I mentioned a while ago that at Damara there was an ammunition dwelling.
4 That's where we -- where they placed the heavy weapons and ammunition used by
5 the Banyamulengue. It's that place.

6 (Redacted)

7 (Redacted)

8 Q. And who are the individuals depicted in the photograph?

9 A. The individuals on this snapshot are Banyamulengue, Bemba's soldiers. In
10 Damara, they were in charge of security of this ammunitions depot. They were in
11 charge of the security around the ammunitions depot, and also the booty in their
12 possession, that was stored there.

13 Q. In your encounters with the Banyamulengue, did you ever have occasion to
14 hear the term "poudrier"?

15 A. I have just said that some of those individuals spoke French. They were career
16 soldiers, Mobutu's soldiers, and they knew what a poudrier was. That's where
17 ammunitions were stored.

18 Q. Do you know if the Banyamulengue used this term, "poudrier"?

19 A. Amongst the Banyamulengue, some of them were not schooled, not all of them.
20 I told you that those persons there, they used it. Those people at the depot.

21 Q. Sir, do you know how they acquired ammunition?

22 A. When they reached Bangui, they took the ammunition in their vehicles and
23 transported them to Damara. Some of them transported the ammunition from the
24 aircraft until Damara. The first group I saw with my own eyes in Bangui, and which
25 was going to Damara by foot, they had their arms on their shoulders and they had

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1 cases of ammunition and at PK12 all their materiel was convoyed to Damara by
2 vehicle.

3 Q. Did they ever use their ammunition that they brought along with them to
4 Damara?

5 A. They shot fire. That's what allowed them to get to Damara. They started at
6 200 Villas to PK12, to Nguerengou and PK45, so they were shooting along the way
7 until Damara. How could they have reached Damara without shooting?

8 Q. Do you know if the Banyamulengue ever received a resupply of ammunition?

9 A. I am going to repeat myself. At Damara, the Banyamulengue had vehicles.
10 They had vehicles which allowed them to shuttle between Bangui and Damara in one
11 day. They could go once or twice back and forth. At 2100 hours or 2200 hours we
12 could see their vehicles around Damara. (Redacted)

13 (Redacted) They were full, this type of lorry. They were armed when they went to
14 Damara.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted) Here

22 you've got two of them. In that depot, in fact there are four rooms in that dwelling
23 and you see cases of ammunition. You had them in all of the rooms. There are
24 ammunitions behind the Banyamulengue, 80 centimetres of room just to allow you to
25 move through, but all of the rooms were full of ammunition.

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1 Q. To whom did this dwelling belong?

2 A. That building is located in front of Mustapha's occupied house, on the other side

3 of the road from Damara. The house belongs to someone who resides in Damara.

4 As they were moving forward, they occupied this, and I followed them after (Redacted)

5 (Redacted)

6 (Redacted)

7 A. On this photograph, since I have other information, on the ground you see a red

8 carpet, a rug. Before that that was in the Catholic church in Damara, and they used

9 this rug to set up their ammunition and weapons.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted) If you have additional information, you know,

14 please feel free to tell the Court that additional information, but just try to be

15 mindful -- just try to answer the question that I pose, and we can get to that

16 information that you want to tell the Chamber after we get through the (Redacted)

17 questions, if that's all right with you, sir.

18 A. I've apprehended what you said.

19 Q. Thank you, sir.(Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. Sir, are there any other items of significance that you see in this picture?

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1 A. I believe that I was able to give all the information about that photograph.

2 MR IVERSON: Thank you, sir. If I could ask the court officer to please display

3 CAR-OTP-0035-0263.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted) the individuals taken in the picture -- I mentioned the

8 kadogo, these small persons. I mentioned that they looked either like Fula or

9 Rwandans, and this picture is a representation of the description I gave about these

10 people.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted) When you leave the Damara station behind this school, underneath the

16 trees there is a strip that goes to Bakangolo.

17 Q. Sir, you mentioned that -- the word "kadogo." Could you tell us who are the

18 individuals in this photograph?

19 A. The three individuals are Banyamulengue, Bemba's soldiers. One of the things

20 I'd like to state about this photo, just one thing. In one of my statements, when they

21 crossed, they had types of weapons that we didn't have. I saw this type of weapon

22 in films, and this was the first time for me to see their type of weapon and it was the

23 Banyamulengue who were carrying them.

24 On this photograph there's a person with a grenade, and this type of grenade is only

25 belonging to the Chinese. (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. Sir, could you point us to the place on the picture where you see a grenade?

5 For the record, he placed a red mark on the piece of equipment on the soldier on the

6 right-hand of the photograph. The piece of equipment looks like a carrot, shaped

7 like a carrot, coloured like a carrot.

8 PRESIDING JUDGE STEINER: Mr Haynes?

9 MR HAYNES: I imagine that's where he was going to place it. I'm just a bit

10 concerned how that might appear in the record. He could, of course, mark it on the

11 screen and we could save it with a different exhibit number and then we would know

12 what he was talking about.

13 PRESIDING JUDGE STEINER: I ask the court officer how to proceed in order to

14 have a marked copy of this very same photograph.

15 THE COURT OFFICER: Yes, Madam President. Actually, the witness used a

16 SMART Board and put a red dot on the grenade in the photo, and this picture has

17 been captured and it can be seen now by everyone on your screens if you push the

18 button "PC1" and, if agreed, this photo will be uploaded and then would be filed on

19 the record of the case, or attributed an EVD-T number at a later stage.

20 PRESIDING JUDGE STEINER: I think the photo can be uploaded, and in relation to

21 EVD-T number, it will be given on a later stage, together with the other evidence to be

22 tendered.

23 If I may, Mr Iverson, since we have the picture on the screen, I would like to ask the

24 witness: When you mentioned "kadogo," you say that kadogo is a small person.

25 This word "kadogo," which language this word belongs to?

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1 THE WITNESS: (Interpretation) "Kadogo" is a term used by the Banyamulengue
2 soldiers, and I put the question and they said that "kadogo" means a person of small
3 size.

4 PRESIDING JUDGE STEINER: Thank you very much. Mr Iverson.

5 MR IVERSON:

6 Q. Sir, you mentioned that when the Banyamulengue came to your country, they
7 had different weapons and you mentioned the grenade. Do you know if the rifles
8 that the Banyamulengue used were similar to the rifles used in the Central African
9 Republic?

10 A. You mentioned "grenade" and "rifle." Which question are you asking me to
11 reply to? Are you asking about the grenade, or the rifle?

12 Q. Sir, I'm asking you about the rifle. Did you notice in any of your encounters
13 with the Banyamulengue whether the Banyamulengue rifles were any different from
14 rifles used in the Central African Republic?

15 A. Yes, they were different types of weapons. Some of the weapons carried by the
16 Banyamulengue were such that I had never seen carried by Central African soldiers.
17 There were several types of weapons. The weapon carried by the Central African
18 soldiers were Kalashnikov-type, but the weapons, like a wooden butt and the iron
19 barrel, that was the first time I saw it, and they were carried by the Banyamulengue.

20 MR IVERSON: Again, thank you, sir, for keeping your energy up and for your
21 patience with my questions.

22 Madam President, I think it's time for the lunch break. Thank you.

23 PRESIDING JUDGE STEINER: Mr Witness, we will have now our lunch break.

24 You have time to take to have lunch and to take some rest. It's 1 o'clock. We will
25 resume at 2.30. If during the break you feel the need to have anyone from VWU to

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1 talk with, you just ask and a person will be with you in order for you to express any
2 other concerns, or just to have a chat. It is up to you to request the presence of
3 someone from VWU. Do you understand that, sir?

4 THE WITNESS: (Interpretation) I fully understand, Madam President.

5 PRESIDING JUDGE STEINER: So I ask, please, the court officer to turn into closed
6 session in order for the witness to be taken outside the courtroom. In the meantime,
7 we are going to suspend and resume at 2.30.

8 *(Closed session at 1.01 p.m.) Reclassified as Open session

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

10 (The witness stands down)

11 THE COURT OFFICER: All rise.

12 (Luncheon recess taken at 1.02 p.m.)

13 *(Upon resuming in closed session at 3.04 p.m.) Reclassified as Open session

14 THE COURT USHER: All rise.

15 THE COURT OFFICER: Good afternoon, your Honours, Madam President. We are in
16 closed session.

17 PRESIDING JUDGE STEINER: Good afternoon. Welcome back. We apologise for the
18 delay; a few issues, including a follow-up on the witness's state of mind, the Chamber was
19 waiting for. The Chamber will receive later, maybe, a report. The witness is ready to
20 continue giving testimony, but again has mentioned some concerns, some issues, that in
21 due time the Chamber will be in a position to discuss with the parties.

22 We were informed that Prosecution still has a certain number of pictures to be shown to
23 the witness.

24 MR IVERSON: Yes, Madam President. With regard to that, I would like to make a
25 proposal to the Chamber. We have 13 photographs remaining that we would like to

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1 show the witness, and there's one that is currently being discussed that was on the screen
2 before we broke and so it's a total of 14.
3 We would like to show the witness 14 colour copies of the photograph - the physical
4 copies - (Redacted) all at once for all 14 photographs, and then
5 each individual photograph can be shown on the screen to ask the follow-up questions. I
6 think that that might be a more efficient way of dealing with the remaining photographs.
7 Thank you.

8 PRESIDING JUDGE STEINER: Mr Haynes, would you -- what do you think about the
9 proposal that at least would avoid (Redacted) --

10 MR HAYNES: Yes.

11 PRESIDING JUDGE STEINER: -- (Redacted)

12 MR HAYNES: Yes, I can see the sense of it. What I may just want to do very briefly is
13 to isolate the 14 hard copies I've got myself, so that Mr Bemba can see them, and then we
14 can assist in this expedition.

15 PRESIDING JUDGE STEINER: Maybe Mr Iverson could --

16 MR HAYNES: I think I know which ones they are, because Mr Iverson is going in an
17 order that I'm following as well.

18 PRESIDING JUDGE STEINER: Yes, but maybe for the sake of the record it would be
19 important for us to have the numbering on the copies and, as soon as we have that, I will
20 ask the witness to be brought into the courtroom.

21 MR IVERSON: Thank you, Madam President. The ERN numbers of the 14
22 photographs are as follows. So the one that we were currently viewing is
23 CAR-OTP-0035-0263. Then we have CAR-OTP-0035-0269, CAR-OTP-0035-0277,
24 CAR-OTP-0035-0280, CAR-OTP-0035-0288, CAR-OTP-0035-0291, CAR-OTP-0035-0293,
25 CAR-OTP-0035-0294, CAR-OTP-0035-0307, CAR-OTP-0035-0309, CAR-OTP-0035-0321,

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- 1 CAR-OTP-0035-0324, CAR-OTP-0035-0246 and the last one is CAR-OTP-0035-0339.
- 2 PRESIDING JUDGE STEINER: Mr Haynes, is that fine? The pictures will be shown in
- 3 any case on the screen one-by-one.
- 4 MR HAYNES: Yes.
- 5 PRESIDING JUDGE STEINER: (Redacted)
- 6 (Redacted)
- 7 MR HAYNES: Yes, that's fine.(Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 MR IVERSON: (Redacted)
- 11 (Redacted)
- 12 MR HAYNES: That's very -- that's very fair.
- 13 PRESIDING JUDGE STEINER: So let's try and see whether this last part of today's
- 14 hearing goes smoothly. Court usher, please could you introduce the witness into the
- 15 courtroom.
- 16 (The witness enters the courtroom)
- 17 PRESIDING JUDGE STEINER: We can turn, please, into private session.
- 18 *(Private session at 3.13 p.m.) Reclassified as Open session
- 19 THE COURT OFFICER: We are in private session, Madam President.
- 20 PRESIDING JUDGE STEINER: Thank you. Good afternoon, Mr Witness.
- 21 THE WITNESS: (Interpretation) Good afternoon once again, your Honour.
- 22 PRESIDING JUDGE STEINER: Are you feeling well and ready to continue giving your
- 23 testimony?
- 24 THE WITNESS: (Interpretation) There's no problem, your Honour.
- 25 PRESIDING JUDGE STEINER: If at any time you need to address the Judges, please do

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1 it. Do not hesitate. That's fine with you?

2 THE WITNESS: (Interpretation) I've heard what you said and I understand that.

3 PRESIDING JUDGE STEINER: So, Mr Iverson.

4 MR IVERSON: Thank you very much, Madam President.

5 Q. Sir, we have approximately -- we have exactly 14 photographs left to show you, and

6 what I would like to do is in a moment I will ask the court usher to retrieve the hard

7 copies - the paper copies - of the photographs and provide them first to the Defence, if

8 they wish to view them, and then to you so you can look at each of those 14 photographs

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted) Is that clear to you, sir?

14 A. That's fine by me.

15 MR IVERSON: If I could ask the court usher to please retrieve the batch of

16 documents - 14 documents - that are referred to on page 47, lines 18 through 23, and first

17 provide them to the Defence and then to the witness. Thank you.

18 Q. Sir, I would like you to page through each document and then, when you're done

19 looking at all the documents, please look up at me so that I know that you've finished.

20 (Pause in the proceedings)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 MR IVERSON: Could I ask the court usher to please retrieve the exhibits at the witness

8 table and provide them to Madam President. Could I ask the court officer to please

9 display CAR-OTP-0035-0269.

10 (Redacted)

11 (Redacted) The

12 Nguerengou checkpoint.

13 Q. Who is the person depicted in the photograph?

14 A. The person in this photograph is a Banyamulengue. (Redacted)

15 (Redacted)

16 (Redacted)

17 A. I've told you, judging by the way he's dressed, he was acting like he was a low-level

18 leader, reporting to a higher level leader who was at the head of all the other groups.

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. When you say he's holding a grenade, are you referring to the black item with a

23 metal object sticking out of it in his right hand?

24 A. Well, what he has in his right hand is a telephone. He has the grenade in his left

25 hand. You can't quite see it. It's somewhat hidden in his left hand. This person

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1 couldn't walk around without a weapon.

2 Q. Sir, do you know what kind of telephone he was holding?

3 A. There were several brands of telephone and they would take various kinds of
4 telephones from private individuals, so I'm not in a position to know what particular kind
5 or what particular brand of telephone that he has in his right hand.

6 MR IVERSON: Could I ask the court officer to please display CAR-OTP-0035-0277.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. And who are the people depicted in this photograph?

12 A. The person who is seated on the hood of the vehicle is the aide-de-camp. When he
13 wanted to move around, he would be behind him. The other person beside the vehicle,
14 as I was saying, was a shoe-shiner before the events. Once they arrived, he joined up
15 with them. He was a prisoner and he used to shine their shoes and he was like a servant.

16 Q. What were the -- the aide-de-camp who is sitting on the hood of the truck, (Redacted)
17 (Redacted)

18 (Redacted) It might have been the first time for her that she had

19 a radio set. You see, if someone acquires such an item for the first time, it's like an egg
20 that has fallen from heaven, from the sky.

21 Q. Do you know where the aide-de-camp acquired the truck and the radio?

22 A. With regard to the radio set, this was the result of looting. They stole that. When
23 they crossed the river, they didn't have the radio. They looted many stores, shops and
24 private dwellings. They were like ants that devoured everything along their path, and
25 this went to the chief from Bangui.

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1 PRESIDING JUDGE STEINER: Mr Iverson. Please, Witness, just a clarification. Both
2 these persons are men? Or there is a man and a woman? Maybe we have a translation
3 problem here. Could you please clarify that?

4 THE WITNESS: (Interpretation) Thank you, your Honour. You're perfectly correct to
5 ask for this clarification. On the photograph there are two men. One of the men had
6 lightened his skin artificially and the other did not. That's why there's a difference
7 between the two on the photograph.

8 PRESIDING JUDGE STEINER: Thank you very much.

9 MR IVERSON: Thank you, Madam President.

10 Q. Do you know where they acquired the truck?

11 A. It's the person who had contacted their chief and invited them here. He's the one
12 who gave the vehicle.

13 Q. Do you know the name of the person who gave them the vehicle?

14 A. It's Ange-Félix Patassé.

15 PRESIDING JUDGE STEINER: Mr Iverson, if I may, before you go to the next one.

16 Mr Witness, is there anything you would like to mention about this picture?

17 THE WITNESS: (Interpretation) All I could add about the photograph is that it's taken
18 behind Major's house, the chief of the Banyamulengue. All of Mustapha's instructions
19 went through him before they were transmitted to the other Banyamulengue. You see in
20 the bush, you see on the photograph, there are Banyamulengue in ditches, with their
21 weapons pointed towards Sibut. That's all I could add about that photograph.

22 PRESIDING JUDGE STEINER: Do you happen to know the name of this Major?

23 THE WITNESS: (Interpretation) No, I don't know his name. All I know is that all of
24 the Banyamulengue called him Major - Major - that's how I knew him.

25 PRESIDING JUDGE STEINER: Thank you very much. Mr Iverson.

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1 MR IVERSON: Thank you, Madam President. Could the court officer please display

2 CAR-OTP-0035-0280.

3 (Redacted)

4 (Redacted)

5 Q. And who is depicted in this photograph?

6 A. On this photograph, I'll tell you that it's the driver/mechanic, who is a Ugandan
7 nationality. I mentioned him in previous statements. Here he is on the photograph.

8 Q. To which person are you referring in the photograph?

9 A. I am referring to the person who is wearing a sleeveless T-shirt and who is placing
10 his arm on the shoulder of the small person.

11 Q. And who are the other people in the photograph?

12 A. I stated in my declaration that each team has a chief of group, and the mechanic is
13 the chief of his group, the group commander, and you see behind there is another person
14 with a beard, and the person behind the bearded person, who is older. The child, the
15 kadogo, with beads like with a munitions belt around his neck, these are the members of
16 the defence of the driver. You know, the small children of the group killed without
17 mercy. Sometimes, when you conversed with their chief, they pointed their weapons at
18 you.

19 Q. Sir, if I could just remind you to keep a slow pace for the interpreters. To which
20 armed group did these armed men belong?

21 A. They crossed the river on behalf of Mr Bemba and for the Banyamulengue. They
22 are soldiers from Zaire.

23 Q. Sir, you mentioned the mechanic/driver who's in the camouflage tank-top, that he
24 was also the chief of a group. What types of soldiers were in his group? Were they
25 other mechanics, or did they fulfil other functions within the Banyamulengue?

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1 A. It's a mechanic and driver. He's the chief of the auto fleet and he's surrounded by
2 small-sized soldiers around him, and they ensure his security wherever he goes.

3 Q. Sir, are there any other items of significance that you would like to mention from
4 this photograph?

5 A. The most significant detail I could add regarding this snapshot is that, if you look
6 closely, the child - the kadogo, I call him - if you look closely, he is not even 13 years old,
7 this boy. But, if he points his weapon at you, he will not lower it until he's killed you,
8 and he -- if he kills you *he feels no regret at all. I could give you a longer explanation,
9 but I could do it better with the photos that are coming.

10 Q. Well, since you mentioned it, I would like to ask you did you ever witness young
11 Banyamulengue soldiers doing exactly this, what you said, lowering their weapons and
12 killing people?

13 A. I saw them shoot, but I did not see them kill anyone with their weapons. However,
14 the residents whom I met before meeting them, those residents told me always that those
15 children were more violent and merciless than the larger men.

16 MR IVERSON: Could I ask the court officer to please display CAR-OTP-0035-0288.

17 (Redacted)

18 (Redacted)

19 Q. And who are the individuals depicted in the photo?

20 A. They are Banyamulengue, Bemba's soldiers. I told you in my statement that some
21 of these Banyamulengue are former soldiers, having served under the Mobutu regime,
22 and they were the chiefs under the Banyamulengue. They were accustomed to telling
23 me that they were from Kinshasa, they were Kinwa, and you can see that their skin is
24 lighter. That was characteristic of them. They used cosmetic products to do this.

25 Q. Do you know if any of these two individuals had particular roles within the

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1 Banyamulengue?

2 A. Both of them that you see, I mention the one with the wide-brimmed hat, he is the
3 group commander based behind the Kagbia school. (Redacted)
4 (Redacted) of the property of an inhabitant of PK12 who had fled already, and each time I
5 look at them they seem like brothers. They're always together and they behave like
6 brothers. They always have a group under their command, and those soldiers are
7 always in the bush around the house where they were located.

8 Q. The man with the wide-brimmed hat that you mentioned is holding something in
9 his right hand. Do you know what that was?

10 (Redacted)

11 (Redacted)

12 (Redacted) I told you these people were very clean.

13 (Redacted)

14 (Redacted)

15 (Redacted) Is there anything else of

16 significance within this photograph that you would like to mention?

17 A. I don't believe I have much to add. I know it's a group that I'm quite familiar with
18 and before occupying the dwelling they had first of all chased away the owners, and I
19 would like to add that their group took the route towards Bossembélé. They did not go
20 to Damara, they went towards Bossembélé, and once they left I can't give you any
21 information as to what they did when they were present in Bossembélé.

22 MR IVERSON: Could I ask the court officer to please display CAR-OTP-0035-0291.

23 (Redacted)

24 (Redacted)

25 Q. And who is depicted in this photo?

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1 A. The individuals on the photo are Banyamulengue. They are Bemba's soldiers.

2 The one with the yellow scarf and boots, without a weapon around his shoulder but with
3 a spear, he's Mr Cercueil.

4 Q. What is the significance of the outfit that Cercueil is wearing?

5 A. As I said earlier, if you observe Cercueil's behaviour, this represents the name he's
6 given. His garments are a traditional outfit worn by the national ballet dancers. They
7 found this in the home of the persons, and they took it and that's why he's parading
8 around with it.

9 Q. Sir, is there anything else of significance that you would like to mention about this
10 photo?

11 A. I don't have much more to add about this photo because the behaviour, but you can
12 imagine the scarf on the head belonged to some young Muslims from PK12, and the other
13 soldier is one of the Banyamulengue chiefs and he's next to him. He also had certain
14 functions.

15 Q. Do you know what his functions were; not Cercueil, but the other individual?

16 A. Cercueil is a commander and the one next to him is like a security agent; security
17 man.

18 MR IVERSON: Could I ask the court officer to please display CAR-OTP-0035-0293.

19 (Redacted)

20 (Redacted)

21 Q. And who is the person in the picture?

22 A. It's a Banyamulengue, whom we called also "Bemba's soldier." (Redacted)

23 (Redacted) the taxi is in front of a dwelling abandoned by its owners.

24 Q. This may be an interpretation issue, I don't know, but was this person singled out
25 and called "Bemba's soldier," or are you just referring to the Banyamulengue in general

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1 being referred to as "Bemba's soldiers"?

2 A. I was speaking in general terms. He also belongs to Bemba's soldiers.

3 Q. Okay, thank you for that clarification. What is this individual holding in his left
4 hand, up to his face?

5 A. What he's holding with his left hand is a walkie-talkie.

6 Q. Do you know how many of Bemba's soldiers had walkie-talkies?

7 A. I'm afraid I can't really tell you with any accuracy, because it wasn't definitely me
8 who gave them the equipment in question, so I have no idea how many of them had
9 walkie-talkies.

10 MR IVERSON: Thank you very much, sir.

11 Madam President, I believe that it's time. Thank you.

12 PRESIDING JUDGE STEINER: Thank you, Mr Iverson. Although we started with a
13 certain delay, the fact is that our interpreters were available and waiting for us, and
14 therefore it's time for us to adjourn to give the witness the opportunity to take some rest.
15 Thank you very much, Mr Witness, for your efforts in continuing with your testimony. I
16 would like to remind you that, if you have any -- any questions, or doubts, or concerns,
17 there will be always someone from the Victims and Witnesses Unit ready to give you any
18 kind of assistance you need, so please don't hesitate in calling someone if you need to talk
19 to someone.

20 I thank very much the Prosecution team, the legal representatives of victims, the Defence
21 team, Mr Jean-Pierre Bemba Gombo. Thank you very much for our interpreters, court
22 reporters, for the representatives of VWU that are following very closely these
23 proceedings.

24 We are going to turn into closed session in order for the witness to be taken outside the
25 courtroom. In the meantime, we are going to adjourn and we will resume tomorrow

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1 morning at 9.30 in this very same courtroom. Court officer, please.

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

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

4 (The witness stands down)

5 THE COURT OFFICER: All rise.

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

7 CORRECTIONS REPORT

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

9 in the transcript:

10 *Page 44 line 8

11 "If he kills you, he suffers no rebuke." Is corrected by "if he kills you he feels no

12 regret at all."

13 *Page 9 lines 21 to 22

14 "if it's just some -- something for a baby wrapped up in tissue paper. A thief will

15 take that..." Is corrected by "if it's just some baby excrement wrapped up in a

16 hankerchief or a scarf, the thief will take that..."

17 *Page 27 line 21

18 "right beside the golf at PK12" Is corrected by "right beside the golf course at PK12"

19 RECLASSIFICATION REPORT

20 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and

21 ICC-01/05-01/08-3038 and the instructions in the email dated 24 October 2014, the

22 version of the transcript with its redactions becomes Public