

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0063

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 Tuesday, 24 May 2011

9 (The hearing starts in open session at 9.35 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, court officer call the

15 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. Welcome

19 to the Prosecution team, the legal representatives, the Defence team, Mr Jean-Pierre

20 Bemba Gombo. Good morning our interpreters and court reporters. We will

21 continue today with the questioning by the Defence of Witness 63, and for that

22 purpose I ask, please, the court officer to turn into closed session in order for the

23 witness to be brought into the courtroom.

24 *(Closed session at 9.37 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, let's turn into open session, please.
- 3 (Open session at 9.38 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 have a restful night?
- 11 THE WITNESS: (Interpretation) I did have a good rest, your Honour.
- 12 PRESIDING JUDGE STEINER: Are you feeling well and ready to continue giving
- 13 your testimony before this Court?
- 14 THE WITNESS: (Interpretation) I am ready, your Honour.
- 15 PRESIDING JUDGE STEINER: Mr Witness, I need to remind you that you are still
- 16 under oath. Do you understand that?
- 17 THE WITNESS: (Interpretation) I understand, your Honour.
- 18 PRESIDING JUDGE STEINER: I also want to remind you that you are under
- 19 protective measures, that your image and your voice broadcast outside the courtroom
- 20 are being distorted so that the public cannot identify you. In order to keep the
- 21 protection of your identity, it is important that during open sessions you don't
- 22 mention anything that could lead to your identification, such as your profession, what
- 23 you do for life, names of neighbours, of friends, of family members. If this
- 24 information needs to be mentioned, we can go into private session and then you are
- 25 free to speak because nobody can listen to you, only inside the courtroom. Do you

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1 understand that, sir?

2 THE WITNESS: (Interpretation) I understand perfectly well, your Honour.

3 PRESIDING JUDGE STEINER: And finally, Mr Witness, if for any reason you feel
4 tired, you feel distressed, or you need a break, just let us know. Is that fine with you,
5 sir?

6 THE WITNESS: (Interpretation) That is just fine by me, your Honour.

7 PRESIDING JUDGE STEINER: So then I will give back the floor to the Defence.

8 The Defence will continue questioning you. Mr Haynes, you have the floor.

9 MR HAYNES: Thank you and good morning, Madam President. Can we just
10 briefly go into private session so that I can introduce open session to the witness?

11 PRESIDING JUDGE STEINER: Court officer, please.

12 *(Private session at 9.43 a.m.) Reclassified as Open session

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

14 QUESTIONED BY MR HAYNES: (Continuing)

15 Q. Good morning, sir. I should have said that to you in open session, but good
16 morning anyway. Are you well?

17 A. Good morning, Counsel. I am well.

18 Q. Good. We are in private session now, so nobody outside this room can hear
19 what we are talking about, but in a few moments I am going to go into open session.
20 Do you understand that?

21 A. I understand.

22 Q. And I don't think any of the questions I have got to ask you should lead you to
23 tell us anything about your personal details, (Redacted)

24 (Redacted)

25 (Redacted) Do you understand

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1 that?

2 A. I understand.

3 MR HAYNES: Good. Then on that basis I think we can go back into open session,
4 please, your Honour.

5 PRESIDING JUDGE STEINER: Mr Witness, we are going to open session and,
6 according to the Defence recommendation, (Redacted).

7 Bearing that in mind, we can go into open session. Court officer, please.

8 (Open session at 9.46 a.m.)

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

10 MR HAYNES: Thank you very much.

11 Q. Now, you have told us in your evidence that MLC troops came to your country
12 on two occasions: Once in 2001 and again in 2002. Do you recall that?

13 A. Yes, perfectly well.

14 Q. And without going back through all the various things you have said, do I
15 understand your evidence correctly that during the first visit in 2001 you never spoke
16 to or met any of those soldiers?

17 A. In 2001, we heard talk about them. We went to the place where they were, at
18 the river port, and they had gone away.

19 Q. Thank you. And again a bit of historical background from you, if you don't
20 mind. The 2001 conflict was an attempted coup by somebody called Kolingba
21 against President Patassé; is that right?

22 A. That's right.

23 Q. And as far as you understood the position, the MLC troops were supporting
24 President Patassé in that conflict?

25 A. Yes, that's right.

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1 Q. So somebody who acted as Mr Kolingba's bodyguard during that conflict was
2 on the opposite side of the conflict to the MLC troops?

3 A. I don't know. I don't have any information about that.

4 Q. That's all right. We won't push that any further. During the time of the
5 arrival of the MLC in the 4th arrondissement, did you speak to any of the soldiers
6 then?

7 A. What soldiers are you talking about? The Banyamulengue, or --

8 Q. I am sorry, I spoke across you, Mr Witness, and disobeyed the five-second rule,
9 so that's two offences in the first ten minutes. I did mean the Banyamulengue, yes.

10 A. I didn't meet them when they were at the 4th arrondissement. All I was doing
11 I was doing in a discreet, low-key way.

12 Q. Well done. How long after they arrived in the 4th arrondissement did they
13 leave?

14 A. They arrived at the 4th arrondissement at about 3 or 4 in the morning, and
15 during that time there was gunfire in all areas, in all directions. I was living in that
16 neighbourhood myself and the weapons that they were shooting, well, the shots
17 were -- the bullets were falling down from where I was. When I went out at 4 in the
18 morning, I was trying to find my friends and we met up, we walked around the
19 neighbourhood. The inhabitants came out of their houses and we too came towards
20 the main road that leads to PK12. We crossed the road to go on the path that goes
21 towards the 8th arrondissement and we headed towards the Miskine neighbourhood
22 to watch what was going on.

23 Q. Thank you for that answer. Were the Banyamulengue in the 4th
24 arrondissement for a day or two, or a longer period than that?

25 A. As I just said, they arrived at the 4th arrondissement at about 4 in the morning.

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1 Around 3 in the afternoon they formed a column beside the avenue of -- the avenue
2 de l'Indépendance that leads towards PK12 and they moved towards PK12. I was
3 indeed present.

4 (Redacted)

5 at the Fouh neighbourhood as far as the Nguaragba bridge, around the hospital that is
6 found in the 4th arrondissement. (Redacted) foam mattresses that they
7 were carrying on their heads. They had suitcases and bags that they were carrying,
8 scooters as well. (Redacted) I really don't know what to say
9 about -- what else to say about this.

10 MR HAYNES: Well, what I am going to say is I think we better go into private
11 session.

12 PRESIDING JUDGE STEINER: Court officer, please.

13 *(Private session at 9.55 a.m.) Reclassified as Open session

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

15 MR HAYNES:

16 Q. It's not very important, Mr Witness, but I just want to be clear about this. Are
17 you saying that the Banyamulengue moved on from the 4th arrondissement on the
18 same day that they arrived?

19 A. Yes. The same day they arrived, they left the place at around 3 in the
20 afternoon.

21 Q. Thanks very much. And how long after they left did you first go to PK12?

22 A. Thank you. I saw them leave, heading towards PK12, and at 8 in the morning (Redacted)
23 (Redacted) I walked towards PK12. When I got to the checkpoint, I met
24 one of them. I saluted them and then (Redacted)

25 (Redacted) Some people were there, others were on the road towards Damara,

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1 others were behind the school, (Redacted)

2 (Redacted).

3 Q. Thank you. You have substantially answered my next question, but I will put
4 it any way. When you got to PK12, there was no combat going on there, was there?

5 A. That's right. When I got to PK12, there was no longer any fighting going on.

6 Q. And an advance force had already started to move towards Damara?

7 A. When they got to PK12, they went into the neighbourhood more, they moved
8 forward, and I would say two kilometres on the road to Damara, and that is where
9 there were some clashes. At PK24 there were other clashes.

10 Q. Thank you. How many days did you travel to PK12 to be with the soldiers
11 who were still stationed there?

12 A. The question you just asked me has to do with PK12, but we weren't yet moving.
13 We were still at PK12.

14 THE INTERPRETER: If that is what the Sango interpreter understood.

15 MR HAYNES:

16 Q. We may have had a difficulty with translation, sir. You went to PK12 (Redacted)
17 (Redacted) on more than one occasion, didn't you?

18 A. That is correct.

19 Q. And I know it is quite a long time ago, but I just wanted you to give us some
20 idea how many times you went to PK12?

21 A. On several occasions. I can't say exactly how many times, but it was on several
22 occasions.

23 Q. No, that's fine, but on every occasion that you went to PK12 it was an area that
24 was behind the front line, wasn't it?

25 A. Yes.

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1 Q. And was it your observation when you went to PK12 that most of the
2 population had deserted the area?

3 A. Yes, that is what I observed.

4 Q. Thank you very much. Now, if you don't mind, I would like you to give us a
5 little lesson in basic geography. Which is further from the centre of Bangui:
6 Nguerengou or Damara?

7 A. Do you want to have information concerning the distance between Damara and
8 Nguerengou? I don't know. Your question is in two parts. Which part do you
9 want me to answer, exactly?

10 Q. Well, how about I put it another way: Where did you next go (Redacted)
11 (Redacted) after PK12?

12 A. Thank you. After PK12, I went to Nguerengou and I went on foot. There was
13 no vehicles to transport me. In terms of the distance between Nguerengou and PK12,
14 well, you have to go over five hills before reaching Nguerengou. There are shortcuts,
15 but it's not a straight line. Once you get over a hill, you can't observe what is behind
16 it.

17 Q. I don't mind if you are unable to do this, but can you give us an approximate
18 distance in kilometres?

19 A. Thank you very much. I think that the question that you asked before that was
20 what I answered. The distance between Nguerengou and PK12 is something that
21 I don't know exactly, but this locality is considered as PK26.

22 Q. That's very helpful. Thank you very much. And how long after the troops
23 left PK12 did you first go to Nguerengou?

24 A. They left PK12 on the first day. On the second day, at about 11 o'clock, I left
25 PK12. When I arrived where they were towards 3 o'clock, I stayed with them and I

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1 left them at 5 o'clock to go to PK12 before I went home.

2 Q. Thanks. Were you aware whether there had been any fighting to take
3 Nguerengou?

4 A. What I know is that on the way, a long way before reaching the locality, there
5 were shots. The day before they were sending kadogo, and the people who were
6 fleeing in order to come to -- they were getting information from them. They were
7 saying that the rebels had withdrawn and that was how they made progress.

8 Q. By the time you got there the fighting was over, though, wasn't it?

9 A. No. When I arrived they were still fighting, but this was happening much
10 more towards the front. We were much more further away from that and given the
11 intensity of the fighting, we were pushed back, but if there wasn't an exchange of fire,
12 they themselves were going ahead and, given that they were speaking their language
13 that I didn't understand, I wasn't able to ask them any questions.

14 Q. Thank you. And, again, by the time you got to Nguerengou, your observation
15 was the civilian population had largely deserted the area; is that right?

16 A. Yes. Well, a long time before I got to Nguerengou, the population, or at least
17 some inhabitants who were injured or who had seen their houses burnt, had fled.
18 Some were saying that they couldn't stay in the locality because the Banyamulengue
19 were following them right into the fields to shoot at them. They were taking their
20 tapioca, raping the women and that's the reason why they couldn't go back into the
21 village.

22 Q. But just so that we are clear, (Redacted)
23 (Redacted) soldiers some kilometres from the front line, weren't they?

24 A. (Redacted)

25 (Redacted)

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1 (Redacted) There were some people who were

2 before them in the camp, 150 metres away. That's what I saw.

3 Q. Thank you. Can we move on to the last location, which is Damara. Damara
4 is quite a long journey from Bangui, isn't it?

5 A. Yes, that's correct. Damara is some distance from Bangui.

6 Q. Have you any idea how far; what its PK number would be from Bangui?

7 A. No, I don't know the distance. However, 60 or 70 kilometres as an estimation.

8 Q. That's very helpful, thank you. And so that we understand the position, did all
9 the troops leave Nguerengou and the surrounding areas to go on to Bangui -- to go on
10 to Damara?

11 A. They left Nguerengou and the day after they reached PK45. PK45 is not very
12 far from Damara and they advanced to the bridge of Mondjo. The distance which
13 separates the bridge of Mondjo from Damara can be estimated at five kilometres.
14 They shot all night, until the morning, and the projectiles reached Damara. The
15 Damara population told me that it was like thunder. The inhabitants deserted the
16 town, some took refuge in the bush. Some of them died. That's what I know.
17 They all left Nguerengou.

18 Q. Thank you. A similar set of questions. Damara was one of General Bozizé's
19 strongholds, wasn't it? He had a lot of forces in that town?

20 A. When I went to Damara, I wasn't further ahead than the Banyamulengue, I was
21 with them and, when I arrived in Damara, there was only the Banyamulengue. I
22 didn't see Bozizé's men there.

23 Q. By the time you got there, there was no fighting in Damara. That's right, isn't
24 it?

25 A. When I arrived in Damara I heard gunfire, but I didn't see any fighting.

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1 Q. (Redacted)

2 (Redacted) soldiers all many kilometres

3 behind the front line, aren't they?

4 A. The fighting, as I saw myself, took place as such fighting would where the

5 soldiers were far away. They were shooting and after that they would move

6 forward, but I didn't see any clashes as such. It was much more a question of the

7 civil -- the civilian population who were fleeing this fighting.

8 THE INTERPRETER: Who were victims of this fighting, corrects the interpreter.

9 MR HAYNES:

10 Q. Thank you. Now, you went to PK12 several times. How many times did you
11 go to Nguerengou?

12 A. Are you speaking about PK12, or Nguerengou?

13 Q. Well, you have already answered the question about PK12. You told me you
14 went there several times, but you can't be more precise than that, and I understand
15 that. How many times did you go to Nguerengou?

16 A. I went to Nguerengou five times.

17 Q. Excellent. Thank you very much. And Damara?

18 A. Where it concerns Damara, they spent one or two months there. I went several
19 times. I went in the morning and returned in the evening to Bangui. I don't know
20 exactly how many times, so I did day trips.

21 Q. Thanks very much. And on all of these visits to PK12, did you ever (Redacted)
22 (Redacted) the commission of any crime?

23 A. Thank you for this question, which I think is a very good question. It's very
24 difficult to see an armed soldier having killed a victim. When you go up to the
25 victim, (Redacted) it's difficult.

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- 1 Q. Do I take that as a "no"?
- 2 A. It's not a "no". It's a "yes". I saw scenes (Redacted).
- 3 Q. So, let's be clear: Is your evidence that you saw crimes committed in PK12?
- 4 A. I saw with my own eyes.
- 5 Q. Did you? What did you see?
- 6 A. I saw armed persons who had killed people. I saw armed persons who had
- 7 forced or they had broken down doors, and these houses were then burnt down. I
- 8 saw armed persons pillage. They were taking all the objects from houses. All that I
- 9 saw with my own eyes.
- 10 Q. Thank you. Nguerengou, on all of your visits there, did you (Redacted)
- 11 (Redacted) the commission of any crimes?
- 12 A. In Nguerengou, (Redacted) stolen objects. They had ransacked
- 13 places. They had pillaged them. That's the answer I can give to your question.
- 14 Q. (Redacted) an act of pillage?
- 15 A. I was able (Redacted)
- 16 (Redacted) the Banyamulengue carrying bags which they put into vehicles. (Redacted)
- 17 (Redacted) That was happening around the 4th arrondissement area.
- 18 Q. We are talking about Nguerengou. (Redacted) an act of pillage
- 19 in Nguerengou?
- 20 A. In Nguerengou, Magistrate Mbata, who had died, had a house there. It was a
- 21 motel. They took beds, foam mattresses, radios, plates, fridges. They emptied the
- 22 whole place and they put it in a Sovamag vehicle to carry the goods off to Zongo.
- 23 Q. Did you see that happen?
- 24 A. Yes, I was a witness to that.
- 25 Q. And your evidence is that Magistrate Mbata lived in Nguerengou; is that

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1 correct?

2 A. The owner of the motel in PK45 -- it wasn't Nguerengou, but PK45. The
3 Banyamulengue were based in Nguerengou, but going to PK45 where this motel was,
4 that belonged to the magistrate called (Redacted). It wasn't the house of Mbata. Mbata
5 had a place in PK12 and that one was pillaged.

6 Q. I would like to consider with you briefly something you said when you were
7 interviewed by the Prosecutor a few years ago. I think it's document 3 on the
8 Defence list, but in any event it is CAR-OTP-0034-0330, and it's the bottom half of the
9 page, please.

10 I am going to read this slowly to you, so that your words can be translated to you.

11 This is a record of what you said when you were interviewed by the Office of the
12 Prosecutor, and at this stage you were talking about what you saw in PK12. You
13 were asked, "Did you see any Banyamulengue actually having sex with any women?",
14 and you said, "Inside the house I do not know, but those two I saw it as I told you,
15 that the case where they were sleeping with women I did not see it." "You told us
16 that the Banyamulengue broke doors at night, took out furniture and used them as
17 firewood. Did you see that happening?", and you said, "I saw a house from which
18 they used the bed, a bench and a chair as firewood. (Redacted)

19 (Redacted)

20 (Redacted)" And you were asked, "Did you

21 actually see the Banyamulengue breaking doors, taking out furniture and using them
22 as firewood?", and you said, "I did not see them actually, but people who suffered
23 from those things were saying it and I heard them saying it." Did you see the
24 commission of any crimes in PK12, or not?

25 A. Thank you. I believe that the interpretation of what you have just read out in

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1 Sango did not come across clearly to me. "Did you see with your own eyes beds
2 being used to produce -- to make fire?" Yes, I saw that with my own eyes. I saw
3 armed soldiers who would take women into houses and sleep with them, so how
4 would I have or in what capacity would I have entered those rooms to see what they
5 were doing? I simply saw them taking the women into the rooms and that is
6 evidence of the fact that I saw what they were doing.
7 At night they would break down doors, and then during the day when I went about
8 with them I heard what the inhabitants were saying and that amounted somewhat to
9 seeing with my own eyes what had actually happened, isn't it so?

10 Q. So you didn't actually see anything happen yourself?

11 A. Thank you. Now, you are moving forward and backwards at the same time in
12 your questions. I have told you that I saw some of those acts being committed with
13 my own eyes and I did not see other acts being committed with my own eyes.

14 Q. What acts did you see being committed with your own eyes in PK12?

15 A. A short while ago, you yourself read out an excerpt of the details I provided to
16 the investigators. Now, if they had put their questions to me in the manner in which
17 you are doing now, that would have been in order. Unfortunately, the investigators
18 did not put the questions to me with an intention to incriminate me, but what you are
19 doing now is laying a trap for me, and so let me tell you that all the events that
20 occurred in the Central African Republic upon the arrival of the Banyamulengue, well,
21 a short while ago I asked you to remind me of your nationality, but you haven't done
22 so yet.

23 Q. I am English, if that helps, or British perhaps more correctly. It's a simple
24 question: Did you actually see an act of rape in PK12?

25 A. I have told you that I did not see with my own eyes, but I saw the girls

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1 concerned in the houses. So I was not there standing in front of them when those
2 sexual acts were being committed with those girls, but I saw the girls inside the
3 house.

4 Q. Thank you. Did you actually see anybody murdered in PK12?

5 A. You see, when someone is shot dead, that is different from someone who is
6 stabbed with a knife. When one is shot dead with a bullet the person dies, but one
7 might not be able to know who fired the shot.

8 Q. I want to clarify something you told us a few minutes ago. Magistrate Mbata,
9 to your knowledge, is he alive or dead?

10 A. Thank you. He is still alive.

11 Q. Did you see anybody in PK12 actually in the act of taking goods from a house?

12 A. Thank you very much. I want to pay homage to your profession. You see, I
13 am the one who (Redacted) and I went to there several times and I
14 saw how the property was being taken away. To this very day, the women who
15 took the pillaged property across are still alive. I know their homes and I have met
16 them on several occasions.

17 Q. I don't want to labour this, but do you mean you didn't actually see anybody
18 taking goods from a house? All you ever saw were the women who (Redacted)
19 (Redacted) you say took the goods somewhere else?

20 PRESIDING JUDGE STEINER: Mr Haynes.

21 MR HAYNES: Your Honour.

22 PRESIDING JUDGE STEINER: I think he has already answered, "I am the one who
23 (Redacted) and I went there several times and I saw how the
24 property was being taken away." Is that not enough?

25 MR HAYNES:

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1 Q. I suppose I ought to clarify how the property was being taken away from
2 where?

3 A. Thank you very much. From PK12, at the Marabina or to the Marabina
4 junction, that is the area referred to as the 4th arrondissement. (Redacted)
5 (Redacted)

6 (Redacted) the property was transported in a vehicle. Now, I do not know
7 where the vehicle went. I do not know its destination, (Redacted)
8 (Redacted) the property was taken away, transported in that vehicle.

9 Q. Let's move on to a slightly different question. Did you ever witness a
10 complaint by anybody at PK12 of the commission of a crime to a Banyamulengue
11 commander?

12 A. Thank you very much. The only thing, or should I say the only person I saw
13 complaining of stolen property was a soldier. He complained that his uniform and
14 his military gear had been stolen. He talked to me about it and I told him it was
15 none of my business, because his property had been taken by a soldier and that was
16 not my business at all. It is for that reason that I refused. Now, if a soldier takes
17 your property away, then you have no recourse to seek to regain or reclaim your
18 property, be it radios or mattresses and what have you. I don't see any mother who
19 would have sent her child to go and try to get back the property. That would have
20 been signing that child's death warrant for sure.

21 Q. Thank you. So during all of your visits to all of these places, that was the only
22 complaint made of a crime and that was made to you; is that right?

23 A. Thank you very much. Your question seeks to find out from me whether I saw
24 anybody complain. The only case I am aware of of a complaint is the one that I have
25 just told you about. However, I went on to wonder whether it is possible that an

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1 armed person comes to your home, rapes your wife, what can you do? If you were
2 in the shoes of those Central Africans, what would you have done?

3 THE INTERPRETER: From the interpreters, it is difficult for the interpreters to keep
4 pace with the witness, and maybe the witness could be advised to slow down so that
5 all the details of his testimony can be captured in the interpretation. Thank you,
6 Madam President.

7 PRESIDING JUDGE STEINER: Mr Witness, I have just received a request from the
8 interpreters. They are saying that it is difficult for them to keep pace with what you
9 are saying and they ask me please to ask you to slow down so that all details of your
10 answers can be captured in the interpretation. It's really important for the Chamber
11 to get all details of what you are saying, and for that purpose we need the interpreters
12 to be able to translate properly. Can we count on you, Mr Witness?

13 THE WITNESS: (Interpretation) Thank you very much.

14 PRESIDING JUDGE STEINER: Mr Haynes.

15 MR HAYNES: Thank you.

16 Q. I have just got one last question on this topic and I want to refer you back to
17 something you said to me a few moments ago. In the English transcript it is page 19,
18 lines 5 to 9, and I will read it very slowly. You said, "You see, I am the one who
19 (Redacted) and I went to there several times and I saw how the
20 property was being taken away. To this very day, the women who took the pillaged
21 property across are still alive. I know their homes and I have met them on several
22 occasions." Where are these women's homes and when and where have you met
23 them on several occasions?

24 A. Thank you very much. Counsel, what I am telling you - and I repeat - is that I
25 am the one who went to see the Banyamulengue in Damara. I am the one (Redacted)

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1 (Redacted). There were some women who came from PK5, and I would put
2 the number of women who came and went to Damara, spent the night and took away
3 the stolen property, well, the Banyamulengue spent two months - more than two
4 months - in Damara.

5 Vehicles belonging to some individuals, project vehicles, motorbikes, motorcycles,
6 project vehicles, sewing machines, mobilets, mills, grinding mills, beds and foam
7 mattresses, members of the population in Damara, the Catholic church in Damara, the
8 Protestant church in Damara, how much property did all these people or locations
9 hold? What I have already told you is that the investigators who questioned or
10 interviewed me did not put all these questions to me, so it appears that some of the
11 information was not totally disclosed.

12 Now, the point is all this property, take for example we are here in this hall. The
13 property - the said property - was stolen and taken away in a vehicle to a destination.
14 If you and I are in a house, for example, and I know that the house in which I
15 currently live is five kilometres away, I know for example that the property can be
16 taken away from my house, with is five kilometres away. So if you, for example,
17 were to take away that property and we are seated here between or within these four
18 walls, I can know that the property has been taken to my house which is five
19 kilometres away, but they being Zairean, would they know where this property has
20 been taken to?

21 Q. Well, let me break the question up. How do you know these women are still
22 alive?

23 A. I do know because, you see, Bangui, which is the capital of the Central African
24 Republic, is a town which I know very well. You see, someone who lives in Bimbo,
25 for example, can be found in Ouango and then later on in Bimbo, and you can

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1 remember having met that person and you may be able to recognise that person, but
2 these are women with whom I travelled on several occasions between PK12 and
3 Damara, so the vehicle in question was one that could transport 32 persons, or
4 thereabouts. I don't know whether you have ever travelled to Africa before to see
5 how transportation happens in Africa? I don't know whether you are familiar with
6 bush taxis which can transport as many as 30 persons. I saw them with my own
7 eyes. I even went to their homes in Foday neighbourhood, and I think that this is
8 recorded in one of my statements, and I believe that these people are still alive.
9 Yesterday you mentioned something, and I did not want to answer you on that point,
10 but today I have decided to answer that point, because yesterday you said that
11 Zaireans and ourselves were brothers. You see, your neighbour is your brother. If
12 there is a fire in your neighbour's house, it is your neighbour -- or if there is a fire in
13 your house, it is your neighbour who would be the first person to come to assist you
14 and he will not come to fan the flames. I think I made this point to you yesterday.
15 It is true that there are Zairean women in the Central African Republic who do
16 business there. There are Zaireans who cross over to the Central African Republic to
17 do business and vice-versa. They speak Sango and we speak Lingala and vice-versa.
18 That is the answer I provided yesterday and I want to say that it is this particular
19 point that I didn't want to talk about yesterday.
20 Q. Did you regard these women that you travelled with as your sisters?
21 A. Thank you very much. Thank you very much. I want to commend you,
22 because you have put a very beautiful question to me, and let me give you the depth
23 of my thinking and the level of my determination, and why I have acted in this
24 manner to this date. When these events were taking place they were very painful to
25 me as a Central African, but I did not have the courage to raise my hand and strike

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1 any Zairean. I wanted to see how the situation would unfold and that is why I was
2 able to do what I did.

3 Now, as a man, if I had taken the decision to strike somebody, or to complain, I
4 would not be present here today. We were in vehicles and people would be
5 speaking Sango, so I spoke Sango and we had those discussions in Sango and that is
6 it.

7 Q. How often did you travel with them?

8 A. Thank you very much. I did not only travel with those women. I have told
9 you that there were a lot of women from different origins travelling to and fro. The
10 houses that were occupied by the Banyamulengue in Damara hosted many people,
11 Zaireans and many other people, so when they came in numbers of 30, or thereabouts,
12 they would go to the various houses where their husbands or their companions lived.

13 Q. What different origins did these women come from, or have?

14 A. Thank you very much. I believe that most of them were Zaireans, Zairean
15 ladies. It is true that there were linguistic differences. Some were Mandja
16 Konyinge (phon). Others were known as the Mano, while others still claimed to
17 belong to several other ethnic groups. I am not familiar with all the ethnic groups,
18 but I remember the Mandja, Qwingeye (phon) and I forget the other ethnic groups,
19 but there were people from different ethnic groups all grouped together and referred
20 to as Zaireans.

21 Q. And who were their husbands, or companions?

22 A. Their husbands or companions were Banyamulengue, Zaireans who were
23 Bemba's soldiers.

24 Q. And where do these women live now?

25 A. Today, these women live at PK5 in Bangui.

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1 Q. And what language do they speak?

2 A. They speak Sango, Lingala, their regional languages, but let me tell you,
3 Counsel, that these women sell food in the Bangui market and speak Sango very well.

4 MR HAYNES: Thank you, Mr Witness. You have earned a break.

5 PRESIDING JUDGE STEINER: Mr Witness, we will have a break now, a
6 half-an-hour break. You can have coffee, take some rest. It's 11 o'clock. We will
7 resume at 11.30. I ask, please, court officer to turn into closed session for the witness
8 to be taken outside the courtroom. In the meantime, we are going to suspend for
9 half-an-hour.

10 *(Closed session at 11.00 a.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 (Recess taken at 11.01 a.m.)

15 *(Upon resuming in closed session at 11.46 a.m.) Reclassified as Open session

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

17 PRESIDING JUDGE STEINER: Welcome back. Could, please, the court usher
18 bring the witness in.

19 (The witness enters the courtroom)

20 PRESIDING JUDGE STEINER: Let's turn into open session, please, court officer.

21 (Open session at 11.48 a.m.)

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

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

24 THE WITNESS: (Interpretation) Thank you.

25 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony?

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1 THE WITNESS: (Interpretation) Yes.

2 PRESIDING JUDGE STEINER: Mr Haynes. Mr Haynes, I noticed that the last part
3 of your questioning could have been easily done in public session. Maybe if we
4 reinforce the recommendation for the witness not to mention some details, we could
5 proceed in open session.

6 MR HAYNES: Your Honour, I quite agree. It was only my own nervousness that
7 something might slip out that caused me to remain in private session. However, the
8 subject matters that are coming up I think will compel us to go into private session
9 quite early, but certainly one or two to start off with I think we can deal with in open
10 session, but I do agree a reinforcement that there are things that should not be said
11 would be helpful.

12 PRESIDING JUDGE STEINER: Mr Witness -- court officer, please turn briefly into
13 private session.

14 *(Private session at 11.51 a.m.) Reclassified as Open session

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

16 PRESIDING JUDGE STEINER: Thank you. Mr Witness, during the first part of
17 your testimony this morning, we could see that you were very, very cooperative and
18 we thank you very much for that, (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted) Is that fine with you, sir?

24 THE WITNESS: (Interpretation) That is fine by me, your Honour.

25 PRESIDING JUDGE STEINER: Thank you very much. We can start in open

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1 session, Mr Haynes, if I well understood?

2 MR HAYNES: Your Honour, we can.

3 PRESIDING JUDGE STEINER: Okay, so let's turn into open session, please.

4 (Open session at 11.53 a.m.)

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

6 MR HAYNES: Thank you.

7 Q. Welcome back, sir. Did you have a good break?

8 A. Yes, I was able to take some rest.

9 Q. Is there a significant number of people in the Central African Republic who can
10 speak both Sango and Lingala?

11 A. Many people speak Sango.

12 Q. And what about Lingala?

13 A. Are you talking about people from the Central African Republic, or people from
14 Zaire? You asked me if those people speak Sango. What I can tell you is that in the
15 Central African Republic all people from that country speak Sango, but if you are
16 talking about Lingala it would be better for you to make that clear, whether you are
17 talking about people from the Central African Republic, or people from Zaire.

18 Q. Yes, I am talking about people who live in the Central African Republic who
19 have the ability to speak Lingala. Are there many of them, to your knowledge?

20 A. Well, if the question is put that way, how can I answer? I do know that in the
21 Central African Republic there are people from France, Chadians, Americans. Do
22 those Americans speak Lingala? Do the French speak Lingala? Do people from
23 Zaire or Sudan speak Lingala? I am not in a position to know that. If you are
24 asking me whether the people from Zaire who are living in the Central African
25 Republic speak Sango, then I could answer.

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1 MR HAYNES: Well, I think we are now going to have to go into private session.

2 PRESIDING JUDGE STEINER: Court officer, please.

3 *(Private session at 11.56 a.m.) Reclassified as Open session

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

5 MR HAYNES: Thank you. I am only in private session because I want to read a

6 section of transcript that was evidence given in private session. It is one of those

7 sections that probably could have been given in open session, but because the original

8 section was in private session I will obey your injunction. The passage is at page 24

9 in the English, lines 8 to 12.

10 Q. And, sir, I am going to read it now slowly. This is what you said: "It is true

11 that there are Zairean women in the Central African Republic who do business there.

12 They are Zaireans who cross over to the Central African Republic to do business and

13 vice-versa. They speak Sango and we speak Lingala and vice-versa." Could you

14 help us as to what you meant when you said that earlier today?

15 A. Thank you. You see, we are on the border. They may speak Sango and the

16 Central African people who are able to can also speak Lingala.

17 Q. Thank you very much. So now that you understand what I am asking you, I

18 will repute the question. Are there a significant number of people living in the

19 Central African Republic who speak Lingala?

20 A. Thank you. In the Central African Republic, as I told you already, there are

21 many people who are from various different origins who live there. The people

22 belonging to the Okoma (phon) ethnic group are the ones who speak Lingala far more,

23 since they trade with Lingala speaking people, so I would say that it is much more the

24 Yakoma followed by another group who tend to speak Lingala -- who speak Lingala

25 sometimes. That's what I do know.

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1 Q. Thank you very much. And is it both women and men within that tribe who
2 speak Lingala?

3 THE INTERPRETER: Correction from the English booth. The second ethnic group
4 mentioned in the previous reply was Ngbaka.

5 THE WITNESS: (Interpretation) Yes.

6 MR HAYNES:

7 Q. Thank you very much. (Redacted)

8 (Redacted)

9 (Redacted) Do you understand?

10 A. Yes, I do.

11 Q. Thank you. (Redacted)

12 (Redacted) Do you remember that?

13 A. Yes.

14 Q. And you have told me that (Redacted)

15 (Redacted) during the conflict in your country. Do you

16 agree with that?

17 PRESIDING JUDGE STEINER: Mr Haynes, before the witness answers, could you
18 please give the reference where the witness said (Redacted)

19 (Redacted)

20 MR HAYNES: Well, he said (Redacted). I will find the specific

21 reference, if you want, but I imagine everybody remembers that answer. I will

22 confirm that with him, if you would prefer that? (Redacted)

23 Q. (Redacted)

24 (Redacted)

25 Q. (Redacted)

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1 Q. (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. Okay. Perhaps I can put it another way. (Redacted)

8 were the soldiers in a state of alert, or on a day off?

9 A. Thank you, Counsel. (Redacted)

10 (Redacted) There were no days off, because the fighting was ongoing, they

11 were advancing on a daily basis and there was no particular day of rest as such.

12 These were times of war.

13 Q. (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. Can you tell us why that is?

20 A. Thank you. I do not speak like you. You are a literate person, who has

21 studied the law and the court systems. Now, from this morning to this point, you

22 have been putting a number of questions to me. I feel that I have already answered

23 all your questions and now you are revisiting the same questions over and over again.

24 However, let me answer you as follows: I had asked you previously whether if these

25 armed soldiers had come to your home, or to your place, in your presence, and

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1 pointed their weapon at you and raped your wife, what would your reaction have
2 been? You did not answer that question, but you moved on to put other questions to
3 me. (Redacted) I was not a soldier and, even if I were a soldier,
4 bearing only one arm or one weapon, what could I have done faced with all these
5 soldiers? How could I have stopped them from doing what they wanted to do?

6 Q. Well, I just wondered if you could help us as to (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted) I would never

10 have been in a position to provide you with any answers, because I would not have
11 been able to answer your questions. (Redacted) even

12 if attempts are being made to deny the reality, reality remains the same, doesn't it?

13 (Redacted)

14 (Redacted)

15 A. Thank you. A lot of money was spent manufacturing these weapons so that

16 wars could be fought and innocent people killed. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. (Redacted)

24 (Redacted)

25 A. (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 A. (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 A. (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 A. (Redacted)
- 16 (Redacted)
- 17 Q. (Redacted)
- 18 A. (Redacted)
- 19 Q. And what means of transport did you use backwards and forwards, for
- 20 example, to Nguerengou?
- 21 A. Most of the time I went on foot. I went to Nguerengou on foot.
- 22 Q. And Damara?
- 23 A. I went to Damara for the first time on foot.
- 24 Q. (Redacted)
- 25 A. Thank you. These events happened a very long time ago and I do not

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1 remember (Redacted).

2 Q. (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 A. Thank you. All of us - all of us, myself, all of us - that all referred to one and

24 the same thing. Well, he -- (Redacted) he did not say those very

25 words. He simply said "Hey, you," and (Redacted) I simply had to obey

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1 and that is how they spoke to people.

2 I want to thank you, Counsel, because you have helped me to remember a number of
3 things that I can tell you. Some of the expressions that were used by these people
4 were, for example, "Hey, you".

5 Q. (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 A. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. (Redacted)

23 (Redacted)

24 (Redacted)

25 A. (Redacted)

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1 Q. (Redacted)

2 (Redacted)

3 A. (Redacted)

4 (Redacted)

5 (Redacted) one has to cross two, three or

6 four bridges before getting to Nguerengou. (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. (Redacted)

10 A. Thank you very much. A few moments ago I asked you to give your
11 nationality. You did so and that astonished me. I think that in your country there
12 are many -- a great deal of materiel or equipment of war, boats, many, many things
13 used for waging war, and soldiers who use this equipment, sometimes during the
14 fighting they'll have some free time, or downtime, to eat some food or have some fun,
15 even dance. So that means that -- well, these soldiers too, they did have downtime
16 that allowed them to eat something, to eat goat, for example, or eat chicken, these
17 things that they had obtained from looting. Some of them knew that on the front
18 lines they might die, but they had enlisted and they had to endure that. So that's
19 what I can say.

20 Q. (Redacted)

21 A. (Redacted)

22 Q. (Redacted)

23 (Redacted)

24 A. (Redacted)

25 Q. (Redacted)

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1 (Redacted)

2 A. (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. (Redacted)

8 A. Thank you, Counsel. Now, I don't know. In the country where you were

9 born, do people hunt? In your country, are there animals that one can kill and can

10 you take the heads of those animals back to the house, back home? And if you go off

11 to war, is it possible that you might kill people and take their possessions and bring

12 them back home, or use them whatever way you wish?

13 THE INTERPRETER: The Sango interpreter mentions that he did not hear the last

14 sentence uttered by the witness.

15 MR HAYNES:

16 Q. Sir, do you remember the last thing you said in answer to that question because,

17 if you do, can you repeat it so that it can be translated for us?

18 A. (Redacted)

19 (Redacted)

20 (Redacted)

21 A. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 A. Thank you very much. Since I am here in the country of the white people,
3 there are things that I am discovering here that I have never seen before, that I think
4 of as a dream, but it is reality. (Redacted)

5 (Redacted)

6 Q. (Redacted)

7 (Redacted)

8 A. (Redacted)

9 (Redacted)

10 the courage - the courage - that I showed (Redacted)

11 (Redacted) the kind of weaponry that they had, the crates of ammunition,

12 all the things that Bemba gave them to wage war. (Redacted)

13 (Redacted)

14 Q. (Redacted)

15 (Redacted)

16 A. (Redacted)

17 (Redacted)

18 Q. (Redacted)

19 (Redacted)

20 A. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 Q. (Redacted)
- 4 (Redacted)
- 5 A. (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 Q. (Redacted)
- 9 (Redacted)
- 10 (Redacted) They are all
- 11 (Redacted) Do you agree?
- 12 PRESIDING JUDGE STEINER: Mr Haynes, that depends on what your
- 13 understanding of (Redacted). Maybe you are giving a
- 14 different interpretation. Maybe the Prosecution could clarify, because now the
- 15 Chamber is confused (Redacted).
- 16 MR HAYNES: I will clarify.
- 17 Q. (Redacted)
- 18 (Redacted)
- 19 MR IVERSON: I think it's clear from the record what we asked the witness. (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted) What I think

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1 Mr Haynes is pointing to is context, (Redacted).

2 MR HAYNES: Your Honour, I am happy to move on.

3 Q. Now, was (Redacted) the

4 Banyamulengue?

5 A. Thank you. Nothing else, (Redacted) comings and

6 goings. That's all.

7 Q. Well, I want to show you now, or read to you, a passage from your interview

8 with the Office of the Prosecutor. Again, I think it's document 3, but for the

9 avoidance of doubt it is CAR-OTP-0034-0333.

10 Your Honour, this is a fairly substantial passage of the witness's interview, and I think

11 it's unlikely I will reach the question before 1 o'clock.

12 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. Mr Witness, we are having

13 now our lunch break. You will have time not only to have lunch, but to take some

14 rest as well. It is almost 1 o'clock. We'll be back at 2.30.

15 I ask, please, court officer to turn into closed session in order for the witness to be

16 taken outside the courtroom and in the meantime, we are going to suspend and

17 resume at 2.30.

18 *(Closed session at 12.58 p.m.) Reclassified as Open session

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

20 (The witness stands down)

21 THE COURT OFFICER: All rise.

22 (Luncheon recess taken at 12.58 p.m.)

23 *(Upon resuming in closed session at 2.58 p.m.) Reclassified as Open session

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

25 PRESIDING JUDGE STEINER: Good afternoon. I apologise for the delay and I ask,

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(Private Session)

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- 1 please, court usher to bring the witness in.
- 2 (The witness enters the courtroom)
- 3 PRESIDING JUDGE STEINER: Court officer, please let's turn into open session.
- 4 (Open session at 3.00 p.m.)
- 5 THE COURT OFFICER: We are in open session, Madam President.
- 6 PRESIDING JUDGE STEINER: Thank you. Good afternoon, Mr Witness.
- 7 THE WITNESS: (Interpretation) Good afternoon, Madam President.
- 8 PRESIDING JUDGE STEINER: Did you manage to take some rest?
- 9 THE WITNESS: (Interpretation) Yes, I rested well.
- 10 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony, sir?
- 11 THE WITNESS: (Interpretation) Yes, I am ready to proceed, Madam President.
- 12 PRESIDING JUDGE STEINER: Thank you very much. Mr Haynes, you have the
- 13 floor. We are in open session.
- 14 MR HAYNES: Thank you very much, your Honour, and good afternoon to you.
- 15 Q. Good afternoon to you, sir. Welcome back.
- 16 A. Good afternoon, Counsel.
- 17 MR HAYNES: And can we immediately go into private session and put back on to
- 18 the screen CAR-OTP-0034-0333?
- 19 PRESIDING JUDGE STEINER: Court officer, please turn into private session.
- 20 *(Private session at 3.02 p.m.) Reclassified as Open session
- 21 THE COURT OFFICER: We are in private session, Madam President.
- 22 MR HAYNES:
- 23 Q. Sir, I am going to read to you quite a long passage from your interview with the
- 24 Prosecution. Will you please listen to it carefully, as it is translated to you? Okay.
- 25 Well I am going to start reading it now. The -- you said to the interviewers, "I told

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(Private Session)

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1 him that those people you arrested were not rebels. I knew them, because they lived
2 in my neighbourhood. He told me, (Redacted), is it true what you are saying?
3 Are you sure?' And I told him, 'I am sure. I know them well. They are not
4 rebels.'" The investigator then asked you, "So what did (Redacted) do?", and you
5 replied, "(Redacted) asked me to tell him the names of those people and I gave him the
6 names and then he called them to come out. When they were arrested, (Redacted) took
7 the clothes they wore and everything they had on them. He gave them just shorts to
8 wear. There were two, (Redacted) and (Redacted)." And the investigator asked you, "What
9 happened when (Redacted) asked them to come out?", and you replied, "They were
10 dirty and barefoot. He told me to tell them to go away." The investigator asked
11 you, "Was it only that occasion that you told (Redacted) to release men that were
12 imprisoned at PK12?", and you said, "That is all." And the investigator asked you,
13 "After (Redacted) and (Redacted) were released, did you speak to them about what
14 happened?", and you replied, "No." And the investigator asked you, "Did you ask
15 (Redacted) to release other people?", and you said, "No." And the investigator asked
16 you, "What was your relationship with (Redacted)", and you said, "He knew me as a
17 (Redacted). Sometimes when
18 he arrested people, he asked me to tell him if those people were rebels." And the
19 investigator asked you, "Can you remember how many times he asked you to do
20 that?", and you replied, "Many times in other places." And if we can go briefly over
21 the page, the investigator asked you, "So not only in PK12?", and you said, "No."
22 Would you tell me when the translation to you has finished?
23 A. Thank you. I have listened to you attentively. What I would like you to do
24 for me is that you read brief excerpts so that I can be able to provide explanations. In
25 that way we can move forward, but if you are going to ask me questions on the entire

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1 passage just read out, it will take us forward and backwards at the same time and that
2 will not assist me. So I would ask you to put specific questions to me on brief
3 excerpts so that I can answer them clearly, rather than spin around in circles.
4 You see, I make this comment for a reason. I would like to answer your questions
5 and I know that you are one of the lawyers, but now I am realising that you are trying
6 to trap me and that would lead me to make statements that might not be in order.
7 So for you to help me, I would rather you put specific questions on brief excerpts to
8 me so that we can deal with these issues step-by-step.

9 Q. Sir, I will do my very best to comply with your request and, if you feel in any
10 way I am being unfair to you, please say so. My first specific question is: Did you
11 meet (Redacted) in PK12?

12 A. Thank you. In one of my statements, I mentioned that (Redacted) group often
13 stood in front of the other groups and (Redacted) group as well, and I said that
14 I had opportunity to follow them and to see what was happening on the ground.
15 (Redacted) group was one in which he had a number of men under his orders and the
16 same applies to (Redacted) group. They were like the leaders, or the chiefs of
17 their groups. They were the most enlightened of the specific groups. That is the
18 answer I can provide for now. What is your next question?

19 Q. Well, did you meet (Redacted) in the 4th arrondissement, or did you meet him for
20 the first time in PK12?

21 A. Thank you. As I have already stated, at the 4th arrondissement I did not meet
22 any of them. My first meeting with (Redacted) was at PK12.

23 Q. Was that on the first day that you went to PK12, or on a subsequent day?

24 A. When I arrived at or, rather, I went to PK12 for the first time, I did not meet
25 (Redacted) on that occasion. (Redacted)

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1 (Redacted)

2 (Redacted)

3 A moment ago I stated that, (Redacted)

4 (Redacted)

5 (Redacted) and this was the situation all the way from the 4th arrondissement to PK12.

6 Q. Did you know two people called (Redacted) and (Redacted)?

7 A. I said that I knew them and they lived in a neighbourhood whose -- or the name
8 of which neighbourhood I cannot mention. (Redacted)

9 (Redacted)

10 Q. What happened to them?

11 A. Thank you. From Damara, or rather from Sibut to Damara, all persons, men
12 and women alike, all persons arriving from Sibut must go through Mr (Redacted)
13 group, or (Redacted) group. It is their men who were posted on both sides of the road,
14 extending over 500 metres into the bushes, and in that area you would not see anyone
15 on the road, but when you go through that area, some 100 metres away, they would
16 stop you and question you.

17 Q. What happened to (Redacted) and (Redacted)?

18 A. Thank you very much. When you get to that location, and if you met any
19 Banyamulengue or Bemba's soldiers, and whenever the soldiers called out a passer-by,
20 they would take the passer-by to be like a customer and they would search the
21 passers-by to find out if there was anything in their bags and, if there was nothing,
22 they would throw the bags away, all to check if there were any items of clothing or
23 any property on the passer-by. Thereafter, the passer-by would be taken to the
24 position where (Redacted) was positioned, and it is at that position that the passers-by
25 would be questioned.

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1 Q. Were (Redacted) and (Redacted) arrested?

2 A. What I have just told you does not refer only to an individual. Now, as for
3 (Redacted) and (Redacted), whom you are talking about, my testimony is not really about
4 them. All I know is that those two persons were arrested, but I have gone on to tell
5 you that anyone who came from Sibut, going to Damara and headed for Bangui, was
6 always stopped and searched at that location.

7 Q. Where were (Redacted) and (Redacted) arrested?

8 A. (Redacted) and (Redacted) were arrested at Damara. I don't know whether you are
9 familiar with Damara, because I could give you the name of a small place in that
10 neighbourhood that is some two kilometres away from Damara town itself.

11 Q. How did you find out they had been arrested?

12 A. I saw them with my own eyes. I had a discussion with them. (Redacted)
13 (Redacted) I had an extended discussion with him, but then (Redacted)
14 asked me whether I knew them, since I went on to have such a discussion with them.
15 I told him I knew them, because they lived in the Fough neighbourhood. He told me
16 not to lie and I said to him that I was telling the truth. Then he told me to leave and I
17 left.

18 Q. Was that the first time you met (Redacted)?

19 A. I had already met (Redacted) on several other occasions. From PK12 to Damara,
20 we had met some six, seven or ten times.

21 Q. I am going to remind you of the short passage so that it is clear in your mind.

22 You were asked, "What was your relationship with (Redacted)?", and you said, "He
23 knew me (Redacted)."

24 Sometimes when he arrested people, he asked me to tell him if those people were
25 rebels." And you were asked, "Can you remember how many times he asked you to

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1 do that?", and you said, "Many times in other places." And you were asked, "So not
2 only in PK12?", and you said "No." In what other places did (Redacted) ask you to tell
3 him if people he had arrested were rebels?

4 A. Thank you. I think you have said it all. I have already told you that, if you
5 repeat the same questions to me, they begin to appear to be traps and that is not good
6 for us. At PK12, I met him. I saw him at PK12. When we got to Damara,
7 Nguerengou, I met him, I saw him again and I (Redacted)

8 (Redacted). At (Redacted) and I had a
9 discussion with him. So on that single day I may have met him a number of times.

10 So I was with him on a number of occasions.

11 Now, the location at which he arrested those boys is the same location at which he
12 arrested the Sudanese and a number of other persons, so it would seem to me that
13 you are putting the same questions to me over and over again. In any event, I am
14 waiting for you.

15 Q. On every occasion that you met him, did you tell him whether persons he had
16 arrested were rebels?

17 A. Thank you very much. (Redacted) is a soldier. I am a civilian. It is true that I
18 went (Redacted) and to be aware of a number of
19 things, and that is why I am able to provide this information to the Court today. I
20 am not a madman, but I don't have powers of divination either to be able to find out
21 from people whether those who had been arrested would be executed or not. Do
22 you think that it would have been possible for me to put that type of a question?

23 Q. I am trying to ask simple questions. Can you tell us whether you told (Redacted)
24 whether any of the people he had arrested were rebels at Nguerengou?

25 A. It was difficult for passers-by to go through Nguerengou, to go through that

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1 area. (Redacted)

2 (Redacted) so the inhabitants of Nguerengou were not present and

3 (Redacted) could not be asking of me any questions relating to that.

4 Q. When you said in your interview that you performed this function for (Redacted)
5 many times in other places, what other places were you talking about?

6 A. Thank you very much. Your question to me was about the location where I
7 saw (Redacted). My answer was that I saw him at PK12, and now you are putting the
8 same question to me again, to which I have already provided the answer several
9 times; namely, that I saw him at Nguerengou, in Damara and in other places.

10 Q. Well, I will come back to a question I asked you a little while ago. In
11 Nguerengou, did you tell him whether people he had arrested were rebels or not?

12 A. In Nguerengou, (Redacted) and myself, we did not discuss that matter; that is, the
13 issue of rebels.

14 Q. Well, where did you discuss it with him?

15 A. Thank you. You have mentioned the names of some persons, (Redacted) and
16 another individual. It is at that location that we had a discussion; that is, in Damara.

17 Q. Not PK12?

18 A. Thank you. It wasn't at PK12.

19 Q. Let's forget about (Redacted) and (Redacted) for a time. Other than them, what was
20 the procedure for your telling (Redacted) if he had arrested rebels or not?

21 A. Thank you very much. At the base, at the site rather, where (Redacted) was
22 based, I didn't go over there at night; it was in the day. I could only talk about what
23 happened during the day. I don't know what happened at night, so I couldn't ask a
24 rebel if the person arrested was a rebel or not. I could only make comments on what
25 happened during the day.

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1 Q. Did (Redacted) ask you to go to the base, or did you go there by yourself to see
2 him?

3 A. Thank you very much. I think that (Redacted) didn't know me. He couldn't ask
4 me to go there, to the base.

5 Q. And what did you do to ascertain whether people he had arrested were rebels,
6 or not?

7 A. Thank you. I spoke about my cousin. My cousin I knew. To help you, on
8 the road where I was, (Redacted). Most of the
9 people who went through were of the Mandja group. These people spoke Mandja
10 and understood. That was how I was able to know some of these people.

11 Q. So, did (Redacted) take you to see the people he had arrested?

12 A. Thank you. (Redacted) didn't take me. I went there on my own behalf and I
13 discovered things myself. (Redacted) didn't take me there.

14 Q. How did you get access to people (Redacted) had arrested?

15 A. Thank you. These people are detained next to the road, in front of the house
16 where they were based, and that's how, by passing by, getting close to the house, (Redacted)
17 (Redacted) I wasn't blind, I had both my eyes working, so I was able to see
18 them.

19 Q. What you said in your interview was, "Sometimes when he arrested people, he
20 asked me to tell him if those people were rebels." How did he ask you to tell him if
21 those people were rebels?

22 A. I already answered this on several occasions. I've explained this on several
23 occasions; explained these precise points.

24 Q. Well, I am sure I will be corrected if I am wrong, but I don't think you have. I
25 don't think you've told us how (Redacted) asked you to tell him if people in his custody

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1 were rebels. So forgive me, would you just tell us again how he asked you?

2 JUDGE ALUOCH: Mr Haynes, when -- Mr Haynes.

3 MR HAYNES: Judge Aluoch, yes.

4 JUDGE ALUOCH: When you say "How he asked you," what do you mean "how he
5 asked you"? I don't quite understand what you mean? Do you mean the manner of
6 asking, or what do you mean?

7 MR HAYNES: The circumstances of the asking.

8 JUDGE ALUOCH: That will be much clearer then, yes.

9 MR HAYNES:

10 Q. So with that very helpful intervention, I will repeat the question. In what
11 circumstances did (Redacted) ask you to tell him whether the people he had in his
12 custody were rebels?

13 A. Thank you. The way that (Redacted) and the Banyamulengue behaved, he
14 considered that all the persons who came from there were rebels, or were married to
15 rebels. He considered the women as being wives of the rebels. Whether I was there,
16 if I -- whether I was not there, he would consider the passers-by as rebels. What do
17 you want me to say exactly?

18 Q. I want you to explain what you meant when you said in your interview,
19 sometimes when (Redacted) arrested people, he asked you to tell him if those people
20 were rebels. How did that come about?

21 A. Thank you very much. He asked me questions with regards to these two
22 people, because I was in front of these people and I was asked where they came from,
23 so they could be arrested, and that was how at that exact time that (Redacted) asked me
24 the question. It wasn't on another occasion, or in another place.

25 Q. Then why did you tell the interviewer that you did this many times in other

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1 places, "Not only in PK12?" "No." Why did you say that in your interview?

2 A. Thank you very much. (Redacted) asked me the question and I said to the

3 investigators, "(Redacted) would ask me the question if these people were rebels. I

4 answered to (Redacted) that, no, these people weren't rebels, (Redacted)

5 (Redacted) I didn't say to the investigators that "(Redacted) usually

6 asked me questions with regards to any people who were arrested." I didn't say that

7 "(Redacted) spent all this time asking me questions with regards to the persons he was

8 questioning." It didn't happen like that. Every day, he didn't ask me questions

9 with regards to people who he had arrested. That's not what I said to the

10 investigators.

11 Q. Why were you telling us a few moments ago that you were able to recognise

12 people from a certain part of the country because of their ability to speak Mandja?

13 A. Thank you. I told you that the road where (Redacted) and his troops were went

14 (Redacted) I didn't say that I knew

15 people who spoke Mandja. That's a lie. I didn't say that.

16 Q. Did (Redacted) do anything in return for you helping him in this way?

17 A. I don't know what you're talking about. Did I buy something? What did I do?

18 What help did I bring to (Redacted)

19 Q. You helped him identify the rebels he had arrested, didn't you, on many

20 occasions in different places?

21 A. It was not like that.

22 Q. How was it then?

23 A. Thank you very much, Counsel. The way in which (Redacted) asked me the

24 questions, you can see he wasn't my friend. He was a soldier. He didn't ask me a

25 question in good faith. He arrested people and I talked to these people. When I

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1 stayed with them, I tried with all means possible to talk to them. This was how by
2 keeping a low profile I answered -- I answered (Redacted) questions, but I don't really
3 understand the question that you're asking me. If you have other questions to put to
4 me, please go ahead.

5 Q. What questions did (Redacted) ask you?

6 A. "Where do you know them from?" That was the question that he asked me.

7 Q. When you said, "I tried with all means possible to talk to them," what did you
8 mean by that?

9 A. I don't know. I tried. I didn't try to see them. I came in front of them, but I
10 didn't try. I went -- I just went in front of them.

11 THE INTERPRETER: The interpreter in the English booth corrects. Instead of, "I
12 tried with all means to talk to them," it should be, "I tried with all means to put myself
13 down, like keep a low profile."

14 MR HAYNES: Thank you.

15 Q. Well, I'm going to try just one last time. How many times did you do this and
16 in what places did you do it?

17 A. The first time it was in Damara.

18 Q. And after that?

19 A. There was nothing.

20 Q. What was the occasion you were talking about in your interview when you
21 mentioned PK12?

22 A. I met them in PK12. I don't remember the exact date that was.

23 Q. Did you help (Redacted) to identify rebels in PK12?

24 A. No.

25 Q. In Nguerengou?

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1 A. Not at all.

2 Q. Very well. To complete something we were talking about earlier, (Redacted)

3 (Redacted)

4 A. Thank you very much. (Redacted) and I said that -- I said that I

5 would thank you, because at the time I didn't want to find out (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. Well, I'm not going to ask you for a (Redacted)

11 (Redacted) every day you went back to Bangui?

12 A. Thank you very much. I don't know. I don't know how to explain this to you,

13 because I said that this was (Redacted). I didn't think about (Redacted)

14 (Redacted) in a general way.

15 Q. (Redacted)

16 A. (Redacted)

17 Q. (Redacted) when you left Bangui to go to

18 Nguerengou, or Damara?

19 A. (Redacted)

20 (Redacted)

21 (Redacted) I didn't have any time to

22 (Redacted)

23 Q. (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 Q. (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. (Redacted)

7 (Redacted)

8 (Redacted)

9 PRESIDING JUDGE STEINER: Mr Haynes, may I ask the relevance, please?

10 MR HAYNES: I will move on.

11 Q. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted) I want to say something to

16 you, Counsel. My country isn't like your country and your country has also had

17 difficult times, wars even, but ultimately your country has come out of that. That's

18 not the case in my case. (Redacted)

19 (Redacted)

20 It is true that you are defending or pleading for Bemba. (Redacted)

21 (Redacted) I answered you before the break, but

22 because of this war, weapons were made and sold very expensively, but the people

23 who made these weapons didn't ask for inventories or accounts with regards to the

24 ammunition. The arms that were sold were used badly and I can tell you that the

25 person who invented weapons, if they carried out an inventory with regards to the

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1 use that was made of them, of everything these weapons have destroyed, that would
2 be something that would be difficult.

3 (Redacted)

4 (Redacted) If you have any other questions, please ask
5 them. I am willing to answer them.

6 MR HAYNES: Thank you. Your Honour, that would be a convenient moment for
7 the day.

8 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. Do you have any
9 estimation, Mr Haynes, as to the length or the time the Defence still needs for
10 completing its questioning?

11 MR HAYNES: I have informally given this answer to other sources today. I am
12 confident we will finish in the morning. Whether I will go into the second session or
13 not I am not clear at the moment, but we are substantially through.

14 PRESIDING JUDGE STEINER: Thank you very much. Let's go briefly -- please,
15 Maître Liriss.

16 MR LIRISS: (Interpretation) Your Honour, my colleague lost -- didn't mention one
17 thing. There was an application for the Prosecutor and it depends on the diligence
18 with which the Prosecutor replies to our application where it concerns (Redacted)
19 (Redacted).

20 We have on two occasions insisted on this, because we want to be able to use these
21 documents possibly while the witness is there. So the answer, namely, when we will
22 have finished with our examination, is also dependent on the diligence of the
23 Prosecutor and you will have a message in answer to a question of the Prosecutor
24 which we would ask the legal basis of, or of our application. We have answered as
25 well and we are waiting for an answer from them.

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1 PRESIDING JUDGE STEINER: Is there anything the Prosecution would like to
2 comment in this respect?

3 MS KNEUER: Yes, Madam President. Thank you for giving the Prosecution the
4 floor. However, I am not sure if the witness needs to stay for this legal discussion,
5 Madam President. Whatever you prefer.

6 PRESIDING JUDGE STEINER: I think our witness is already tired. There has been
7 another day, a very tiring day. So, Mr Witness, thank you very much. You can
8 now go back to your hotel and take some rest. We wish you a very restful night.
9 We will continue with your testimony tomorrow morning at 9.30 in the morning.
10 I will ask, please, court officer to turn briefly into closed session in order for the
11 witness to be taken outside the courtroom.

12 *(Closed session at 4.02 p.m.) Reclassified as Open session

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

14 (The witness stands down)

15 PRESIDING JUDGE STEINER: I don't think we need to go into private session in
16 order just to address this issue, Ms Kneuer.

17 MS KNEUER: Madam President, (Redacted)

18 (Redacted)

19 (Redacted) However, for the Prosecution it doesn't matter if it is a private or a
20 closed session.

21 PRESIDING JUDGE STEINER: That's what I meant. So since we are already in
22 closed session, maybe you could address the Prosecution's issue on this matter.

23 MS KNEUER: Thank you, Madam President. This was a classical
24 misunderstanding.

25 Madam President, it is correct that the Defence requested yesterday at 3.40 p.m.

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1 disclosure from the Prosecution. We had responded the same day at 6.12 p.m. and
2 asked for the legal basis and justification. We received a response from the Defence
3 today at 3.39 p.m.
4 At this moment I do not want to discuss the legal justification and legal basis of this
5 request and I cannot make any firm statement at this point in time if the Prosecution
6 will grant or not the request of the Defence.
7 However, even in case the Prosecution would be open to such a disclosure, it cannot
8 be done within seconds or minutes for the following reasons: (Redacted)
9 (Redacted)
10 potential redactions that may need to be applied for the security of witnesses of this
11 Court, or identifying information with regards to the witness, such as a location
12 where he lived, meaning redactions that are in line with redactions that your Honours
13 already had granted with regard to his statement.
14 (Redacted), we would also
15 have to apply with your Honours' instructions to get the consent of such witnesses to
16 be disclosed, and ultimately there may be a situation where we would have to go
17 back to the witness to explain to us some of (Redacted) to
18 make a meaningful and considered decision with regards to any recommendation to
19 your Honours with regards to protective measures.
20 So these are logistical issues which the Prosecution would have to deal with in case
21 we would follow the Defence proposal.
22 I just want to bring this to your attention, because we believe we cannot accomplish
23 this simply overnight. We would need some time or it would require some time to
24 do a proper job to advise your Honours on any protective measures. Thank you,
25 Madam President.

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1 PRESIDING JUDGE STEINER: Thank you very much, Ms Kneuer. So since the
2 Prosecution informs that it receives the last communication from the Defence at 3.39
3 this afternoon, I think it's quite reasonable to understand why the Prosecution is not
4 yet in a position to give a proper answer to the Defence.
5 In any case, the issue of disclosure or non-disclosure of (Redacted) and the
6 issue of including the need - the potential need - for redactions shows at least prima
7 facie to the Chamber that it will not be possible to retain the witness in The Hague for
8 days, or maybe even weeks, until all issues related to these (Redacted) are
9 solved, which leads us to the possibility that the witness will have to be called again
10 in case the Defence so wishes.
11 In any case, the Chamber will be waiting for the position of the parties in relation to
12 the disclosure of the (Redacted) and the Chamber will intervene only and if a
13 disagreement needs to be solved by interference of the Chamber.
14 Court officer, please let's turn into open session, and I ask the indulgence of our
15 interpreters just for giving the Chamber the opportunity to issue a very brief oral
16 decision.

17 (Open session at 4.09 p.m.)

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

19 PRESIDING JUDGE STEINER: Thank you very much. Since there is a possibility
20 that Witness 209 starts giving his testimony tomorrow, the Chamber needs to issue its
21 decision on protective measures for Witness 209.

22 On 6 July 2010, the Prosecution filed an application for protective measures for
23 Witness 209, filing 800 corrigendum redacted. In its application at paragraph 7(i), (iii)
24 and (iv) the Prosecution requested that the Chamber assign and authorise the
25 continued in-court use of pseudonym image and voice distortion, and authorised the

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1 use of limited private session for parts of the testimony where the witness provides
2 information that would tend to disclose his identity or the identity of victims of rape.
3 The Prosecution submits that Witness 209 gives evidence, inter alia, of acts of sexual
4 violence.
5 The Defence in its response to the Prosecution request filed on 15 July 2010, filing 830,
6 submitted inter alia that it would not oppose the protective measures requested for
7 prima facie victim or witnesses of rape on the condition that a preliminary
8 examination is conducted by the Chamber in closed session.
9 On 15 September 2010, the Victims and Witnesses Unit filed its confidential ex parte
10 observations on the Prosecution request, filing 884, confidential ex parte. The VWU
11 supports the protected measures requested by the Prosecution and the necessity of
12 closed or private session when parts of Witness 209's testimony would lead to the
13 identification of victims of sexual violence so as to avoid rejection, retraumatisation
14 and stigmatisation of victims.
15 Pursuant to Chamber's obligation under Article 68 (1) and (2) of the Statute, Rule 87 of
16 the Rules of Procedure and Evidence, and Regulation 94 of the Regulations of the
17 Registry, the Chamber considers that the protective measures requested for Witness
18 209 are necessary, reasonable and proportionate. They will enable Witness 209 to
19 continue to live in his community without the fear of being identified and, as a result,
20 he will not risk being threatened or harassed.
21 The protective measures requested for Witness 209 are specifically provided for in
22 Rule 87(3) of the Rules and are considered as generally non-intrusive measures
23 allowing the Chamber to appropriately balance its duty to respect the principle of
24 publicity with its obligation to protect victims and witnesses.
25 Furthermore, the identity of Witness 209 is already known to the Defence and the

Trial Hearing

(Open Session)

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Witness: CAR-OTP-PPPP-0063

1 imposition of the protective measures requested will still enable the Defence to
2 question the witness publicly for the majority of his testimony, save for the parts that
3 could tend to identify him or crime-based victims.

4 The Chamber therefore grants the requested in-court protective measures for Witness
5 209 and authorises the use of image and voice distortion, the assignment and use of a
6 pseudonym, as well as the use of limited private sessions to protect his identity and
7 the identity of any victims he may mention during his testimony, provided that this is
8 indicated in advance to the parties, participants and the Chamber. Parties and
9 participants should make every effort to question Witness 209 on identifying
10 information at the beginning of his testimony.

11 The Chamber defers its decision on any special measure pursuant to Rule 88 of the
12 Rules, in the event that the recent assessment of Witness 209 is communicated to the
13 Chamber by the VWU.

14 The Chamber requests the Registry to take all the necessary steps for the
15 implementation of the abovementioned protective measures.

16 So I thank you very much, the Prosecution team, legal representatives of victims,
17 Defence team, Mr Jean-Pierre Bemba Gombo. I thank very much all interpreters and
18 court reporters. We are going to adjourn and resume tomorrow morning at 9.30 in
19 this very same courtroom. The hearing is adjourned.

20 THE COURT USHER: All rise.

21 (The hearing ends at 4.15 p.m.)

22 RECLASSIFICATION REPORT

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

24 ICC-01/05-01/08-3038 and the instructions in the email dated 24 October 2014, the
25 version of the transcript with its redactions becomes Public