

Trial Hearing
Witness: CAR-OTP-PPPP-0110

(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 Judge Kuniko Ozaki
- 6 Trial Hearing
- 7 Monday, 13 June 2011
- 8 (The hearing starts in open session at 9.36 a.m.)
- 9 THE COURT USHER: All rise. The International Criminal Court is now in session.
- 10 Please be seated.
- 11 THE COURT OFFICER: Good morning, your Honours, Madam President. We are in
- 12 open session.
- 13 PRESIDING JUDGE STEINER: Good morning. Could, please, the court officer call the
- 14 case.
- 15 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
- 16 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
- 17 PRESIDING JUDGE STEINER: Thank you very much. Good morning. Welcome, the
- 18 Prosecution team, legal representatives of victims, the Defence team, Mr Jean-Pierre
- 19 Bemba Gombo. Good morning to our interpreters and court reporters.
- 20 We will continue today with the questioning of Witness 110 by the Defence. For that
- 21 purpose I ask, please, court officer to turn into closed session in order for the witness to be
- 22 brought into the courtroom.
- 23 *(Closed session at 9.39 a.m.) Reclassified as Open session
- 24 THE COURT OFFICER: We are in closed session, Madam President.
- 25 (The witness enters the courtroom)

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- 1 WITNESS: CAR-OTP-PPPP-0110 (On former oath)
- 2 (The witness speaks Sango)
- 3 PRESIDING JUDGE STEINER: Court officer, please could we go into open session.
- 4 (Open session at 9.41 a.m.)
- 5 THE COURT OFFICER: We are in open session, Madam President.
- 6 PRESIDING JUDGE STEINER: Thank you. Good morning, Madam Witness.
- 7 THE WITNESS: (No interpretation)
- 8 THE INTERPRETER: Apologies from the interpreters. One moment, please.
- 9 THE WITNESS: (Interpretation) Good morning, your Honour.
- 10 PRESIDING JUDGE STEINER: Good morning to the representative of VWU as well.
- 11 Madam Witness, did you manage to rest during the weekend?
- 12 THE WITNESS: (Interpretation) Yes, I was able to rest.
- 13 PRESIDING JUDGE STEINER: Are you feeling better?
- 14 THE WITNESS: (Interpretation) Yes, I seem to be all right.
- 15 PRESIDING JUDGE STEINER: Are you ready then to continue giving your testimony?
- 16 THE WITNESS: (Interpretation) Yes, I am ready.
- 17 PRESIDING JUDGE STEINER: Madam, I need to remind you that you are still under
- 18 oath. Do you understand that?
- 19 THE WITNESS: (Interpretation) Yes, I do understand that.
- 20 PRESIDING JUDGE STEINER: I would like to remind you that you are under protective
- 21 measures; that your image and voice broadcast outside the courtroom are being distorted
- 22 so that the public cannot identify you. In order to make these protective measures
- 23 effective, you need to help us and in open session not to give any information that could
- 24 lead to your identification, for instance, name of family members, names of neighbours,
- 25 activities of family members, friends or neighbours. Do you understand that, madam?

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1 THE WITNESS: (Interpretation) Yes, I understand all of that.

2 PRESIDING JUDGE STEINER: And, Madam Witness, I also like to remind you that if
3 for any reason you need a break, just let us know and you will have as many breaks as
4 you need. Is that fine with you, madam?

5 THE WITNESS: (Interpretation) Your Honour, I understand.

6 PRESIDING JUDGE STEINER: Thank you very much. I will give the floor to the
7 Defence. Maître Kilolo, you have the floor.

8 MR KILOLO: (Interpretation) Thank you, your Honour, for allowing me to address the
9 Court.

10 QUESTIONED BY MR KILOLO: (Interpretation) (Continuing)

11 Q. Madam Witness, good morning.

12 A. Good morning.

13 Q. Once again, we are going to continue cross-examination. My first question is as
14 follows: When you speak of the time of the events in 2002, now, at the current time, the
15 first ones who arrived, the shoe-shiners, are there still as many of them at PK12, in relation
16 to 2002?

17 A. I really couldn't tell you how many there are, but I can tell you that they still do live
18 in the PK12 area.

19 Q. Now, do you know what happened with the first Banyamulengue who arrived, the
20 shoe-shiners, when Bozizé arrived, President Bozizé?

21 A. Well, I no longer saw them so I couldn't tell you what may have happened to them.

22 Q. Now, do you know whether some of them had to leave the PK12 area just after
23 President Bozizé came to power?

24 A. I learned that they crossed the river once again, and I had no information regarding
25 them.

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1 Q. Do you know whether the civilian population of the Central African Republic had
2 clashes with these first Banyamulengue who arrived, the shoe-shiners, just after President
3 Bozizé took power?

4 A. I have no idea.

5 Q. Witness, I would like to hark back to a statement that you made to the Chamber,
6 and I make reference to the real-time French transcript of 9 June 2011, page 13, lines 14 to
7 21. You told the Chamber that the first time that you saw the people that you referred to
8 as the Banyamulengue, it was when they drew close to the compound belonging to your
9 closest neighbour. Do you remember that?

10 A. Yes, I do remember.

11 Q. I would like to remind you as well of another statement that you made before the
12 Chamber. I make reference to the real-time French transcript of 9 June 2011, page 14,
13 lines 3 to 11. Now, do you remember stating before the Court that you were not God
14 and not -- and thus you were not able to know whether these Banyamulengue -- these
15 people were Banyamulengue from Zaire. You saw people running and you learned that
16 the people from Zaire had come in. Do you remember saying that, that you were not
17 God and so you couldn't know about that?

18 A. I never said such a thing. I don't understand the question that you've just asked me.
19 I told you that when I heard some noises, I went out and I asked what was going on, and I
20 was told that the Banyamulengue were coming in.

21 Q. I am now going to read out what you said. Now, the question that was put to you
22 was: "And when you saw those people, those Banyamulengue, outside of the compound
23 belonging to your closest neighbour, how did you find out that they were Banyamulengue
24 from Zaire?" And your answer was: "I'm not God to know such a thing. When they
25 came, they began to bang on his front door -- front gate, and people were running away,

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1 running in all direction and I asked myself why are people running in all different
2 directions. And I learned that people from Zaire had come into the country and had
3 started to shoot in all directions as well." Now, do you remember saying that?

4 A. I remember that very well indeed.

5 Q. Now, who told you that the people that you had seen banging on the main gate had
6 come from Zaire?

7 A. I told you that I had an employee working in my house, who was from Zaire, who
8 was a Mono.

9 Q. Now, when did you learn that these people came from Zaire?

10 A. It was when they arrived before my neighbour's compound. When they arrived,
11 they started to make noise, and I asked my house servant what language they were using,
12 and he said they were speaking in the language of his country and that they were his
13 fellow countrymen.

14 Q. And when -- where was your house servant when he told you this information?

15 A. He and I, during the events, we fled and we found ourselves together.

16 Q. Now, did your house servant know these people before he saw them in front of the
17 main gate of the neighbour's compound?

18 A. He just recognised them by the way that they were speaking, and that is what he
19 told me.

20 Q. Now, did your house servant speak to them and ask them where they came from
21 exactly?

22 A. Well, he didn't have the time to go out and do such a thing. It was a very difficult
23 situation, and it really was every man for himself.

24 Q. Now, how far is it from your compound to Port Beach, if one goes on foot?

25 A. What do you mean by Port Beach?

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1 Q. *The border, at the Ubangui River, where you cross over to go to Zongo, for instance,
2 in the Congo. Would you say it is about a 12-kilometre walk from your home, approximately?

3 A. I couldn't tell you that. All I do know is that from the centre of town to my home, it
4 is 12 kilometres but from -- to walk from Port Beach to my house, I really don't know.

5 Q. Do you know whether Port Beach is a bit further away from your home than the
6 centre of town is?

7 A. I never went to the place that you are speaking of, so how could I give you some
8 kind of idea what the distance would be?

9 THE INTERPRETER: Interpreter correction. The witness made reference to the Ubangi
10 River in her earlier reply, not to Bangui; the Ubangi River.

11 MR KILOLO: (Interpretation)

12 Q. Witness, once again, I would like to remind you of your statement made to the
13 investigators in Bangui, and I make reference to the fourth document on the list of the
14 Defence documents, OTP-0046-0286; 0286. And this is the question that was put to you,
15 and towards the bottom of the page: "Did you see the Banyamulengue elsewhere, any
16 place other than (Redacted) or on the football pitch?" And
17 your answer was: "No." Can you confirm this statement?

18 A. Yes, I confirm that statement.

19 PRESIDING JUDGE STEINER: If I may call your attention for the excerpts, that you are
20 reading from confidential filings that contain confidential information, so just be careful.

21 Q. Madam Witness, as far as the coming from Zaire of those people you referred to as
22 "Banyamulengue" goes, did you become aware of this from information that you got from
23 your employee? Is that the case?

24 A. That is correct.

25 Q. Madam Witness, did you see the rebels of the current President Bozizé at the time

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1 before the arrival of those persons you refer to as "the Banyamulengue" at PK12?

2 A. I have not understood your question. Please kindly repeat it.

3 Q. At the time of the events, prior to the arrival of those persons you referred to as "the
4 Banyamulengue" at PK12, did you have opportunity to see President Bozizé's rebels?

5 A. Well, those rebels, yes, I saw them. They came in briefly and then left, so I can
6 confirm that I saw them.

7 Q. On what date did you see them?

8 A. I no longer remember.

9 Q. Taking 30 October 2002 as a reference date, the date on which you say that you saw
10 those you referred to as "the Banyamulengue," how many days before that date did you
11 see them?

12 A. I no longer remember. I do not know.

13 Q. Could one approximately say that it was two days, three days, four days, or one
14 week before?

15 A. Those events happened a very long time ago and I do not remember those small
16 details. I no longer remember those small details.

17 Q. Does the date of 25 October 2002 ring a bell?

18 A. The failed coup d'état.

19 Q. What are you referring to, exactly?

20 A. There was a misunderstanding between the former president and the new president.

21 Q. How were the soldiers of President Bozizé's rebellion dressed?

22 A. They were wearing their usual attires.

23 Q. Can you explain, or rather describe, the attires you're referring to?

24 A. They wore military uniforms.

25 Q. Were these military uniforms that you had seen previously?

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1 A. I have told you that they were wearing their usual uniform. It was their working
2 uniform.

3 Q. Are you referring to the military uniform of the Central African Republic Army?

4 A. Yes. Yes, that is what I'm talking about.

5 Q. Are you talking about the military uniforms of the FACA?

6 A. But what other military uniform do you want me to be talking about? I am only
7 talking about the military uniform that soldiers usually wear.

8 Q. Did some civilian inhabitants, as far as you know, join President Bozizé's rebels?

9 THE INTERPRETER: Coming from the Sango interpreters: They did not hear the first
10 part of counsel's question.

11 MR KILOLO: (Interpretation)

12 Q. Madam Witness, did some civilians of the Central African Republic join President
13 Bozizé's rebels at the time?

14 A. I don't know anything about that.

15 Q. From 25 October 2002, when would you say that soldiers who were part of President
16 Bozizé's rebels -- when would you say that they left PK12?

17 A. All I know is that they did not stay there for a long time. They were there briefly
18 and then they were warded off.

19 Q. 25 October 2002 you refer to as having been the date of a failed coup d'état. Why
20 do you say that it was a failed coup d'état?

21 A. Because we had heard that something like that had happened, but was unsuccessful
22 and the attackers had withdrawn. So how else do you expect me to refer to this specific
23 point, Counsel?

24 Q. 25 October 2002, the attackers, President Bozizé's rebels, failed. They did not
25 succeed. Who were they fighting against at that time?

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1 A. They were fighting against the former president of the country.

2 Q. As at 25 October 2002, which soldiers were fighting on behalf of President Patassé?

3 A. I do not know. I know that there were clashes between soldiers, but I am not aware
4 of those details you are asking of me.

5 Q. How were the soldiers fighting on behalf of President Patassé dressed on
6 25 October 2002?

7 A. I am not able to clearly distinguish the soldiers of the country. Sometimes the
8 Presidential Guard soldiers are dressed like soldiers of FACA and vice-versa.

9 Q. Am I then to understand that it was the Central African soldiers who were fighting
10 on behalf of Bozizé on the one hand and of President Patassé on the other hand? Is that
11 what I should understand?

12 A. Well, that is what you have just said.

13 MR IVERSON: I have an objection here.

14 PRESIDING JUDGE STEINER: Mr Iverson?

15 MR IVERSON: Counsel has already established that the witness has a lack of personal
16 knowledge about these events, about who was fighting for whom, so continuing with this
17 line of questioning is basically doing nothing but just showing that she has a lack of
18 personal knowledge.

19 PRESIDING JUDGE STEINER: Maître Kilolo, in principle I agree with Mr Iverson,
20 unless you have some good arguments to show the Chamber that this kind of questions
21 are relevant in relation to the current witness.

22 MR KILOLO: (Interpretation) Madam President, what we are attempting to do is to
23 establish either the identity or the nationality of the soldiers who were fighting before
24 30 October 2002 on President Patassé's side. If you look at page 11, line 12 to 14, of the
25 French version, I put a very clear question to him -- to her about who was fighting on

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1 Patassé's side and her answer was: "I am not able to clearly distinguish between the
2 soldiers of the country. I do not know." So I follow up by asking her why she is
3 referring to the difference between soldiers of the country only, and that is why I wanted
4 to find out from her whether all those who were fighting on 25 October were soldiers of
5 the country, namely Central African soldiers, be it for Patassé or Bozizé.
6 And in the first part of her sentence, she said: "That is what you have just said," and I
7 was going to follow up with a question seeking clarification as to whether she had clearly
8 understood and whether her answer was, indeed, confirmation of the fact that it was the
9 soldiers of the country; that is, Central African soldiers who were fighting and not any
10 other soldiers on both sides.

11 PRESIDING JUDGE STEINER: I understand your point, Maître Kilolo. My doubt is
12 why you deem this question relevant to be put to a victim of pillaging. She is not a
13 specialist in armed conflict. So in which point is this question related to the subject the
14 witness is testifying before this Court? That's my point.

15 MR LIRISS: (Interpretation) Madam President, I will answer. This witness is talking
16 about looting which was carried out by men, by people, whom she thinks were soldiers of
17 the MLC. So we want to determine whether clearly those were the people she is
18 referring to, because there were a number of groups, a number of armed groups, fighting
19 against each other. And so we want to determine how each of these groups was armed,
20 how it was dressed.

21 Well, you may want to recall that previous witnesses have described Patassé's armed
22 groups, the various armed groups.

23 Furthermore, the Prosecution also put a number of questions - in fact, several
24 questions - on the looting. So the issue here is not to determine whether she saw looting
25 take place, but whether -- but to determine who of those, in those groups, committed that

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1 looting and why such looting or pillage took place on those specific dates. And she
2 thinks that it was the Banyamulengue.

3 I hope, Madam President, that you understand us.

4 PRESIDING JUDGE STEINER: The way you phrased the question, I understand you
5 Maître Liriss. Maybe if Maître Kilolo phrases the question the same way the question
6 can be allowed.

7 MR KILOLO: (Interpretation)

8 Q. Madam Witness, do you know whether at the time of the events the soldiers who
9 were on President Bozizé's side clashed with the elders or the notables of Patassé's
10 regime?

11 A. I do not know.

12 Q. Madam Witness, some information is available to the Defence, and I want to refer to
13 transcript, the edited transcript of 2 December 2011, page 32, line 27, and page -- I'm sorry.
14 Correction to the reference. Reference is edited transcript of 2 December 2010, page 32,
15 line 27, and page 33 line 2, a witness -- a statement -- testimony of Witness 0022, and I'm
16 also referring to the edited transcript of 11 February 2011, page 13, line 27 and page 14,
17 line 7.

18 PRESIDING JUDGE STEINER: Mr Iverson.

19 MR IVERSON: Well, without knowing exactly what Mr Kilolo is trying to do here, it at
20 least seems irrelevant to refer to another witness's testimony. Again, if he wants to put a
21 hypothesis to the witness, the Prosecution has absolutely no problem with that, including
22 identification of the perpetrators, clothing, et cetera.

23 But what he was previously asking was -- had to do with which forces were loyal to
24 which party? And it seemed to the Prosecution that she lacked personal knowledge.

25 And so we're unsure what's going on here but, again, at least we consider it unnecessary

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1 to refer to a previous witness's testimony to another witness. Maybe I could be proven
2 wrong, but it just doesn't seem appropriate.

3 PRESIDING JUDGE STEINER: Maître Liriss.

4 MR LIRISS: (Interpretation) I think that Mr Iverson would be edified if he read the
5 decision of the Chamber in reference to previous testimonies, on the one hand, and then
6 on the other hand I think that Maître Kilolo should have notified the Chamber and parties
7 that he was moving on to another line of questioning. So that must have been a mistake
8 on his part. It has nothing to do with the previous question, and I'm sorry about that.

9 PRESIDING JUDGE STEINER: Maître Kilolo, do you intend to quote parts of another
10 witness statement in order to confront this witness?

11 MR KILOLO: (Interpretation) Not at all, Madam President. I was simply providing a
12 reference to the Chamber for a question that I was going to put; so it would have been
13 more prudent for my learned colleague opposite to at least wait for my question before
14 raising any objection.

15 PRESIDING JUDGE STEINER: In any case, Maître Kilolo -- Mr Iverson.

16 MR IVERSON: I am sorry to interrupt again, Madam President, but if the Defence wants
17 to tie in witness testimony from previous witnesses the appropriate time to do that would
18 be at closing statements, not during the course of the testimony of another witness. So if
19 they want to make argument or reference to another witness and explain how that ties in
20 with the testimony of this witness, the Prosecution would submit that that should happen
21 at the time of closing statements.

22 JUDGE ALUOCH: Mr Kilolo, are you able to ask that question without referring
23 specifically to these transcripts that you are -- you are giving us several transcripts. Are
24 you able to only ask that question using the transcripts or are you going to ask a question
25 out of her own knowledge of events?

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1 MR KILOLO: (Interpretation)

2 Q. Madam Witness, there is some information available to the Defence whereby
3 soldiers of President Bozizé's rebel group arrived at PK12 around 27 October, and that it
4 was at PK12 that they sequestered and tortured the former spokesperson of President
5 Patassé; namely, Mr Prosper Ndouba. Are you aware of this?

6 A. I do not know about that.

7 MR KILOLO: (Interpretation) Madam President, could we move into private session?

8 *(Private session at 10.26 a.m.) Reclassified as Open session

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

10 MR KILOLO: (Interpretation)

11 Q. Madam Witness, we are now in private session and you can feel free to speak
12 without any inhibitions. Now, your neighbour, (Redacted)
13 (Redacted)

14 A. All I know is that (Redacted). Beside (Redacted)
15 (Redacted) I am not aware of anything else that he was doing.

16 Q. (Redacted) I'm sorry. Now,
17 your neighbour, (Redacted)
18 (Redacted) when Ange-Félix Patassé was President?

19 A. I have already told you clearly that he was the (Redacted). He
20 did not work at the presidency of the Republic.

21 Q. At which (Redacted) at the time when President Ange-Félix
22 Patassé was President?

23 A. He used to work at (Redacted).

24 Q. Madam Witness, it has been your testimony that some soldiers, Bozizé's rebels, were
25 wearing military uniform. As far as you know, were any other soldiers fighting

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1 alongside with them, dressed in civilian attire?

2 A. During these types of conflicts, do you think that one can have time to check the
3 attire or the dressing of the various fighters? All I know is that the combatants were
4 wearing military uniforms. How could one have stepped out in those circumstances to
5 try to find out how people were dressed?

6 PRESIDING JUDGE STEINER: Maître, should we continue in closed session?

7 MR KILOLO: (Interpretation) If we could go back into open session, please.

8 (Open session at 10.30 a.m.)

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

10 MR KILOLO: (Interpretation)

11 Q. Witness, now, I would like to make reference to your statements made to the
12 investigators. Now, this is document 2 on the Defence's list, CAR-OTP-0046-0269, at the
13 very top of the page. Now, with reference to the people that you refer to as the
14 Banyamulengue, at the time of the events, this is what you said: "They wore military
15 uniforms and some of them had civilian clothing. Others were wearing civilian
16 clothing." Is that indeed the position you have taken regarding the attire of the soldiers
17 you refer to as the Banyamulengue?

18 A. When the Banyamulengue arrived in front of my compound, well, I said that some
19 of them were wearing a uniform. The shoe-shiners were wearing civilian clothing. I
20 was able to see some Banyamulengue who were wearing military shirts and civilian
21 trousers.

22 Q. Witness, are you in a position today to tell the Chamber the name of one or several
23 people who were in attendance, who were present, when the woman was murdered, the
24 woman who was walking in front of the compound of your neighbour, and
25 who could -- can you confirm -- well, any such people who would be able to confirm such

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1 events.

2 PRESIDING JUDGE STEINER: Before the witness answers, let's go into private session,
3 please.

4 *(Private session at 10.33 a.m.) Reclassified as Open session

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

6 PRESIDING JUDGE STEINER: Now you can answer, madam.

7 THE WITNESS: (Interpretation) Now I will answer you. When I am speaking here,
8 it's important for you to pay attention. I told you that during the events there were many
9 deaths. I was not in a position to go out and see what was going on. I cannot identify
10 the person who was killed. Now, who could I mention to you here? What name could I
11 give you as a witness that you could call before the Court? I can't give you the name of
12 someone here. I can only talk about the Banyamulengue, who were present when the
13 murder occurred.

14 MR KILOLO: (Interpretation)

15 Q. Indeed. I see that my question was not picked up in the transcript so I will ask
16 the question of you once again, and this is just because it was not translated into English.
17 Are we to understand from your answer that you are not in a position to provide the
18 Chamber with the name of one or several people who were present when the murder
19 occurred, and who could confirm what you have said?

20 A. I've told you, and I now repeat: During these events, people were being killed here,
21 there and everywhere. I have told you what I saw personally but the name -- what name
22 do you want me to give you, Counsel?

23 Q. Well, if you could provide a name, please do so now; otherwise, we will go back into
24 open session.

25 A. Well, as for myself, what I saw with my own eyes, I can only talk about the

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1 Banyamulengue who shot that lady. Those Banyamulengue would be in a position to
2 tell you about other witnesses, or explain to you what happened that day.

3 Q. Well, since we're talking about the Banyamulengue, could you tell the Court the
4 names of the Banyamulengue who allegedly saw the murder of this lady?

5 A. The Banyamulengue were not citizens of my country, so I wouldn't know them by
6 name. I refer to them as the Banyamulengue, that's all. But, really, I'm not in a position
7 to know what their names are.

8 MR KILOLO: (Interpretation) Your Honour, could we go back into open session?

9 (Open session at 10.38 a.m.)

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

11 MR KILOLO: (Interpretation)

12 Q. Now, Witness, when you spoke to the investigators about the murder that you have
13 made mention of, did they try to find out from you the location of the body, so as to verify
14 what you had told them?

15 A. I haven't understood your question, Counsel. Could you please repeat it?

16 Q. Did the ICC investigators try to find out, through you, where the body was of the
17 person who was murdered, so as to cross-check what you had said to them?

18 A. Well, it wasn't up to the ICC investigators to go and verify. You yourself can go,
19 Counsel, and go see the leader of PK12 and find out where the various graves are, and the
20 leader, the chief, can show you the various graves. I'm speaking of the neighbourhood
21 leaders in PK12. They will be able to tell you where and show you the various graves.

22 Q. Now, by that do you mean that the investigators did not attempt to locate the body,
23 to verify the facts surrounding the murder?

24 A. I'm sure that I'm not the only victim that they were in touch with. They went
25 throughout all of PK12 and, certainly, I'm sure they received other information about the

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- 1 various murders. They didn't have to just ask me the question, but certainly there
2 were -- there was a murder in front of my compound. I have no reason to make up any
3 lies, thus misleading the Judges.
- 4 Q. Just to clarify matters, ma'am. Are we to understand by that that you were not the
5 person who told the investigators about where the body might be, to verify the actual
6 facts relating to the murder?
- 7 A. They asked me the question, and I told them that someone had been killed in front
8 of my compound, and I didn't know where they had taken the corpse to. That is the
9 answer that I gave them.
- 10 Q. Now, did the investigators try to get in touch with the family members of this lady,
11 through you, in order to verify the facts relating to this murder?
- 12 A. Myself, I didn't know the lady. If they had asked me the question, I would not
13 have been able -- what kind of information could I have been -- could I have given them?
14 I myself didn't know the woman.
- 15 Q. Do you remember telling the Court that there had been gunshots?
- 16 A. Yes, I do remember that.
- 17 Q. To your knowledge, did the bullets hit anything in front of the compound of your
18 closest neighbour?
- 19 A. Well, I wasn't at his home to know what happened there but, Counsel, try to talk
20 about my -- my own house. There are still marks left by bullets in my living room, also
21 on the roof, on the sheet metal roofing. There are signs of gunfire.
- 22 Q. Now, the various gunshots that you speak of, in relation to the murder that you
23 have told us about, exactly where did the gunshots occur?
- 24 A. I've told you. The people who were in front of the compound - of my
25 compound - they were the ones who shot at the lady. They were in front of the

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1 compound belonging to my neighbour.

2 Q. How many gunshots did you hear at that time?

3 A. I heard one single shot, or burst of shots.

4 Q. Now, regarding the bullet marks on your home, did you tell the investigators about
5 those marks?

6 A. I did not tell the investigators about them, but after all those various events, when I
7 went back, I did see the facts, the events, and I even saw the -- I even found the bullets,
8 some of the ammunition. There was some unexploded ordnance and I called the soldiers
9 for them to come and take care of that.

10 Q. Witness, could you explain to the Court why you are telling us about these bullet
11 marks today, in the year 2011, nine years after the events, and on 31 March 2009, 1 April
12 2009 and 2 April 2009 you made no mention of these bullet marks to the OTP investigators,
13 even though they did question you over three successive days?

14 A. That is true. They asked me questions, but they did not ask me such questions.
15 You, Counsel, you are asking me detailed questions and now I'm answering you, giving
16 you detailed replies, so that you can understand.

17 Q. Now, are there any photographs of these bullet marks in existence that could be
18 verified?

19 A. I don't have any photographs. During the events I did not take any photographs.

20 MR KILOLO: (Interpretation) Your Honour, could we briefly go into private session?

21 PRESIDING JUDGE STEINER: Court officer, please.

22 *(Private session at 10.48 a.m.) Reclassified as Open session

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

24 MR KILOLO: (Interpretation)

25 Q. Witness, we are now in private session. That means that we can speak more freely.

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1 Could you tell the Court the name of the people who buried this woman, who
2 apparently -- who allegedly was killed?

3 A. I don't know their names and really that was not my work.

4 Q. Are we to understand that you know absolutely nothing in relation to the identity of
5 a person or persons who buried this lady who had been killed, as you have told us?

6 A. I have no idea.

7 Q. Now, does the name (Redacted) ring a well?

8 A. Florentin is a person that I grew up with.

9 Q. And what is this person's nationality?

10 A. He is from the Central African Republic.

11 Q. Do you know whether he was working with the people that you refer to as "the
12 Banyamulengue"?

13 A. During those events, he remained at PK12 to keep an eye on the compound
14 belonging to his boss.

15 Q. Which boss are you talking about?

16 A. The person who had employed him as a (Redacted).

17 Q. Could you tell the Court the name of this person?

18 A. Do you want me to give the name of who? (Redacted), or who, Counsel?

19 Q. The person who employed him; his boss?

20 A. I don't know the name of the boss. I just know the first name of that -- of those
21 people, the bosses.

22 Q. Could you give us the first names of those people?

23 A. I no longer recall.

24 Q. Now, do you know whether (Redacted) was working with the people that you refer to
25 as "the Banyamulengue"?

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1 A. All I know is that he remained in the neighbourhood, but I had no other details. I
2 can tell you that he is still in the neighbourhood. He currently is still living in the
3 neighbourhood.

4 Q. Now, from what you have told us, are we to understand that you didn't know
5 whether (Redacted) was working or not with the people whom you refer to as "the
6 Banyamulengue"?

7 A. I've told you, and I reiterate, that he stayed at PK12. The events occurred a long
8 time ago. Did (Redacted) work for the Banyamulengue? Did he not? I'm not in a
9 position to know that.

10 Q. To your knowledge, did (Redacted) play any kind of role in the context of the murder
11 that you have told us about?

12 A. He is not a soldier, he never has used a weapon, so he couldn't do such a thing.

13 Q. Do you know whether (Redacted) played any kind of role within the context of the
14 possible burial of this woman who was killed, as you've told us?

15 A. I've told you that -- that he still lives in PK12. Was he involved in that, or not? I
16 don't know. I've also told you that these events occurred a very long time ago, so I no
17 longer recall.

18 MR KILOLO: (Interpretation) I would like to ask the court officer if he could please
19 display document number 2 on the screen, page CAR-OTP-0046-0277, and if you could
20 please zoom in on the first part of the page.

21 Q. Witness, I would like to refresh your memory. This is a statement that you made to
22 the OTP investigators on 31 March 2009. Now, here's the question that was put to you:
23 "When you say 'we,' who buried her?" Your answer was: "The Central Africans." The
24 investigator asked you: "Were you one of the people?" And your answer was: "What
25 I -- what do I have to do with this? The Central African people who were working with

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1 the Banyamulengue buried her." Question from the investigator: "Do you know the
2 name of the people who buried her?" Your answer was: "(Redacted), because I would
3 often play outside with him," end of quote. Witness, do you confirm this statement?

4 A. I would like to respond to your question. At the time of the events, who was in
5 charge of the situation? It was the Banyamulengue who were commanding the Central
6 African people. If the burial was done by the Central African people, where's the
7 problem?

8 It was the Central -- it was the Banyamulengue who were in charge of things. They
9 could tell the Central African people to do things, *they could give orders and above all
10 they would threaten them with their weapons. I just told you that these events date back
11 many years. My mind is not like a computer. I can't remember every detail. These -- I
12 can remember the important events, or the important circumstances. That is what I can tell you.

13 Q. We only have two more minutes. Witness, are we to understand that you stand by
14 this statement that you made to the investigators in this regard?

15 A. I stand by my statement. I'm not changing it.

16 MR KILOLO: (Interpretation) Thank you.

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

18 (Open session at 11.00 a.m.)

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

20 PRESIDING JUDGE STEINER: Thank you. Madam Witness. We have now a
21 half-an-hour break for you to have some coffee, or some tea, and to rest a little bit. It's
22 11 o'clock. We'll be back at 11.30. I ask please, court officer, to turn into closed session
23 in order for the witness to be taken outside the courtroom. In the meantime, we are
24 going to suspend and resume at 11.30.

25 *(Closed session at 11.02 a.m.) Reclassified as Open session

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- 1 THE COURT OFFICER: We are in closed session, Madam President.
- 2 (The witness stands down)
- 3 THE COURT OFFICER: All rise.
- 4 (Recess taken at 11.02 a.m.)
- 5 *(Upon resuming in closed session at 11.34 a.m.) Reclassified as Open session
- 6 THE COURT USHER: All rise. Please be seated.
- 7 PRESIDING JUDGE STEINER: Welcome back. Before we bring the witness in, I
- 8 would like to ask Defence whether Defence could give an estimation to the Chamber
- 9 in relation to how long Defence still needs to question the current witness.
- 10 MR KILOLO: (Interpretation) Your Honour, if we do not finish today, then we will
- 11 have finished tomorrow morning.
- 12 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo. I ask please, court usher,
- 13 to bring the witness in.
- 14 (The witness enters the courtroom)
- 15 PRESIDING JUDGE STEINER: Could we turn into open session, please.
- 16 (Open session at 11.37 a.m.)
- 17 THE COURT OFFICER: We are in open session, Madam President.
- 18 PRESIDING JUDGE STEINER: Thank you. Madam Witness, welcome back.
- 19 THE WITNESS: (Interpretation) Good morning again, your Honour.
- 20 PRESIDING JUDGE STEINER: Can we continue with your testimony?
- 21 THE WITNESS: (Interpretation) We can continue.
- 22 PRESIDING JUDGE STEINER: Maître Kilolo, you have the floor.
- 23 MR KILOLO: (Interpretation) Your Honour, if we could briefly go into private
- 24 session, please.
- 25 PRESIDING JUDGE STEINER: Court officer, please.

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1 *(Private session at 11.38 a.m.) Reclassified as Open session

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

3 MR KILOLO: (Interpretation)

4 Q. Witness, we are in private session so, once again, one can express oneself more
5 freely. Just to agree with you that, when I ask you in open session a question, with
6 regards to (Redacted) I will speak about "Mr F." So that is done in order to avoid
7 identifying you in open session. Is that agreeable to you?

8 A. Yes, I agree.

9 MR KILOLO: (Interpretation) Your Honour, can we now go back into open
10 session?

11 PRESIDING JUDGE STEINER: We'll turn into open session but, Maître Kilolo, take
12 care with the questions that could identify this person, even if his name is not
13 mentioned. Court officer, please.

14 (Open session at 11.40 a.m.)

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

16 MR KILOLO: (Interpretation)

17 Q. Witness, how did you know that Mr F is still living in PK12?

18 A. Because his father lives in PK12. He goes regularly to the province,
19 particularly to Damara, but his father still has a house at PK12.

20 Q. Since these events took place, until now, has he always lived at PK12?

21 A. Yes, I said that he has always lived in PK12, and he goes regularly to Damara.

22 Q. Did the investigators of the Office of the Prosecutor try, via you, to enter into
23 contact with Mr F or to check what you said?

24 A. Yes. At that time they asked me to meet him, and I asked them to leave me a
25 day. When I asked for him, they said that he had gone to Damara. He wasn't

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1 present.

2 Q. This lady who fled, was she the companion of somebody else who could
3 confirm what you have said with regards to the murder?

4 A. I only saw the woman who had been killed. I never said that I had seen
5 another person.

6 Q. Witness, are you able to communicate to the Chamber the name of this woman
7 who you say was killed?

8 PRESIDING JUDGE STEINER: Maître Kilolo, I think this question was already
9 answered two or three times.

10 MR KILOLO: (Interpretation) We are going to go forwards.

11 Q. Witness, you stated to the investigators that she died and she was buried in
12 place. And here I am referring to your statement in the document number 2 of the
13 list of the Defence, page CAR-OTP-0046-0276. I'm going to read for you the question
14 that was put to you: "Did you see what happened to this woman?" Your answer:
15 "She died. We buried her there." Do you confirm that?

16 A. When I said that she died and that we had buried her there -- when somebody
17 dies, the Central Africans they do not hesitate and they propose burying the body. I
18 confirm what I said.

19 Q. Do you remember, Witness, having declared to the Chamber that this woman
20 was buried near to the school?

21 A. I remember that there were lots of burials. It wasn't just this one woman. A
22 lot of people were buried there.

23 Q. Can you explain to the Chamber why you told the investigators that she was
24 buried there and near to the school?

25 A. No. If it was there, she wouldn't have been buried at the school, in the field of

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1 the school, but even if she was buried there at that site, it was the same day.

2 Q. Witness, what should we make of these two versions? Was she buried there,
3 or was she buried next or near to the school?

4 MS KNEUER: Madam President, I disagree with what Defence counsel is putting to
5 the witness. If I am looking at the transcript 125, English edited version, and it's
6 9 June at page 36, lines 24 onwards, and I will read it to your Honours: "Do you
7 know what happened with the woman's body?" "We couldn't abandon the body and
8 certain young people had to bury it. Often in these cases the burial took place on the
9 school grounds or on grounds in the neighbourhood." "Do you know specifically
10 what happened in this case with her body, or not?" "I do not know where the body
11 was buried." So the first suggestion made by Maître Kilolo that she informed this
12 Chamber that the body of that woman was buried in front of the school is not what
13 she said.

14 Secondly, looking at the statement that she provided, and I'm referring to the English
15 version, it's CAR-OTP-0038-0360, at 0377, she made the same statement. She
16 referred in general to the school, but not specifically with regard to that woman. I
17 think it's unfair to put something to the witness that she never said, at least not in that
18 way that the Defence is interpreting it, and then ask the witness to clarify a
19 contradiction that is not existing.

20 PRESIDING JUDGE STEINER: Maître Kilolo, I think the Prosecution is correct.
21 Maybe you could start from the beginning and ask the witness whether she knows
22 where the body was buried.

23 MR KILOLO: (Interpretation)

24 Q. Witness, could you tell us where the body of this woman was buried?

25 A. I said that this woman died. I do not know where she was buried.

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1 MR KILOLO: (Interpretation) I would like to ask the court officer to show us the
2 document 2 of the Defence list, CAR-OTP-0046-0277. And I would ask you to focus
3 on the middle of the page.

4 Court officer, if you could show the first sentence which half appears,
5 "Connaissez-vous le nom ..." "Do you know the name ..." if you would, please.

6 Q. Witness, I'm going to read for you, for your attention, the first question that was
7 put to you, and here we are in open session. We're going to be careful not to
8 mention the names. And this is the question that was put to you: "Do you know
9 the name of those who buried her?" Your answer: "Mr F because I often played
10 outside with him." Witness, do you confirm at this stage the identity of the person
11 who buried her, as from your statement?

12 A. I said when she was killed, and here I'm clarifying that Mr F, with whom I used
13 to joke with, in fact we grew up together. He told me, he told me when I asked the
14 question as to what had happened to the body of the lady, he told me that he
15 had -- that they had buried her. But I don't know what you want me to add as
16 information concerning this person.

17 Q. We're going to continue a bit further. This is the question that was put to you
18 with regards to the place of burial of this lady: "Could you explain to me where she
19 was buried in relation to the site of your house?" Your answer: "We do not bury
20 people next to the compound, but next to the school." Investigator's question:
21 "Next to which school was she buried?" And your answer: "The one where Bemba
22 held his meetings every day." Do you confirm this statement?

23 A. I confirm it.

24 Q. Now, could you explain to the Chamber why you say you don't know where
25 she was buried, and when you addressed the investigators you state precisely the

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1 place where she was buried?

2 PRESIDING JUDGE STEINER: Ms Kneuer.

3 MS KNEUER: I apologise, your Honours, to intervene again, but it's exactly the
4 same issue that I objected to earlier. The witness stated that people were, in general,
5 buried at the school. Neither in her statement, nor in any of her testimony before
6 this Court, she specifically said that the woman that was killed by the
7 Banyamulengue was buried at the school. I have more references from the transcript
8 if your Honours are interested.

9 PRESIDING JUDGE STEINER: Thank you, Ms Kneuer. I have the French version
10 of the statement here, the original statement, and it reflects exactly what Ms Kneuer
11 just said, which means that maybe Defence should not put the question in that way
12 because it's not what the witness said in her statement.

13 JUDGE ALUOCH: Mr Kilolo, can I just start by finding out if this witness was
14 present when the woman was buried.

15 Were you present? Let's start there, please. Or the information you are giving was
16 given to you by Mr F? Can you just clarify, please?

17 MR KILOLO: (Interpretation)

18 Q. Witness, were you present when this woman was buried, the woman who you
19 say was killed?

20 A. I was not present, but this information was reported to me by Mr F, and all the
21 bodies were buried next to this school.

22 Q. Witness, where it concerns the body, the remains, do you remember having
23 stated to the investigators that you did not see the body of this lady?

24 A. The person was killed in front of me, but I did not go up to her body.

25 MR KILOLO: (Interpretation) I would ask the court officer, staying on the same

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1 page, to show the last part of the page, and this is the document 2 of the Defence list,
2 page CAR-OTP-0046-0277.

3 Q. Witness, I will read for you the question that was put by you -- by the
4 investigators: "Did you see her body after she was killed?" And your answer to
5 that is: "No, not at all." Do you confirm that?

6 A. I confirm that.

7 MR KILOLO: (Interpretation) Court officer, if we could stay with document number
8 2 on the Defence list, but if we could move back to the previous page, 0046-0276, and
9 if you could zoom in on the second part of this page.

10 Q. Witness, this is the question that was put to you: "You said that she had been
11 buried there?" And your answer was: "We buried her the following day. Her
12 body started to smell." Do you confirm this statement?

13 A. That day, after her death, I acknowledge that I said that after her death she was
14 buried, but according to the information I heard she was buried the next day.

15 Q. Witness, a few moments ago you said that you had not seen the corpse, and
16 when we make reference to your statement of 31 March 2009 to the investigators why
17 did you say: "We buried her the following day. Her body started to smell"? Why
18 did you say that in 2009?

19 A. I told you that I wasn't present and I didn't see her body. That means I didn't
20 go close to the body. I told you that this information was given to me. I was told
21 that the body had stayed there until the next day. If I said that, "We buried her," that
22 means she was buried by the Central African people themselves.

23 Q. Do you remember saying that she had been shot in the back?

24 A. I said that she turned around and tried to run away. I heard gunshots. I don't
25 know exactly where she was hit, was it in the back, or on her chest, but I do know that

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- 1 she turned away, trying to run away.
- 2 MR KILOLO: (Interpretation) I would like to ask the court officer if he could move
- 3 on to document 6 on the Defence list, page CAR-OTP-0046-0302.
- 4 PRESIDING JUDGE STEINER: Maître Kilolo, I'm sorry for the interruption, but
- 5 because we are facing some problems with the transcripts I'm informed that there is a
- 6 need to reboot the system and that will take five to ten minutes. So we are going to
- 7 suspend for let's say ten minutes in order for the technicians to solve the problem.
- 8 Court officer, turn into closed session in order for the witness to be taken outside the
- 9 courtroom, please.
- 10 *(Closed session at 12.07 p.m.) Reclassified as Open session
- 11 THE COURT OFFICER: We are in closed session, Madam President.
- 12 (The witness stands down)
- 13 THE COURT OFFICER: All rise.
- 14 (Recess taken at 12.08 p.m.)
- 15 *(Upon resuming in closed session at 12.18 p.m.) Reclassified as Open session
- 16 THE COURT USHER: All rise. Please be seated.
- 17 PRESIDING JUDGE STEINER: Could, please, the court usher bring the witness in.
- 18 (The witness enters the courtroom)
- 19 PRESIDING JUDGE STEINER: We can turn into open session, please.
- 20 (Open session at 12.20 p.m.)
- 21 THE COURT OFFICER: We are in open session, Madam President.
- 22 PRESIDING JUDGE STEINER: Thank you. Madam Witness, welcome back again.
- 23 THE WITNESS: (Interpretation) Thank you, your Honour.
- 24 PRESIDING JUDGE STEINER: Maître Kilolo, you have the floor.
- 25 MR KILOLO: (Interpretation) Thank you, your Honour. I'd like to ask the court

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1 officer if we could go back to document number 6 on the Defence's list of documents.
2 It is number 6, page CAR-OTP-0046-0302, and if you could zoom into the middle of
3 the screen.

4 Q. Witness, I will read out the question that was put to you by the investigators in
5 Bangui. Now, this is the question: "I'm not talking to you about the
6 Banyamulengue in general, but rather about the one who shot her." Your answer:
7 "I didn't see him close up. He was within the group." Do you confirm that
8 statement?

9 A. I confirm it. That is indeed what I said.

10 Q. Two paragraphs further on you said, and this is in connection with the killers:
11 "I think that the killer was part of the group, because they were in front of the
12 (Redacted) Do you confirm this statement?

13 A. I haven't quite understood what you were saying.

14 Q. Now, this is the question from the investigator: "Very well, I want to make
15 sure that I've understood properly. You said that the woman had been killed by the
16 Banyamulengue?" And your answer was: (Redacted)

17 (Redacted) I think that the killer was part of this group,
18 because they were in front of (Redacted) Could you
19 confirm this statement in which you said, "I think that the killer was part of this group,
20 because they were in front of (Redacted)?"

21 A. I confirm that statement. I said that.

22 PRESIDING JUDGE STEINER: Court officer, please could we go into private
23 session.

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

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

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1 PRESIDING JUDGE STEINER: Maître Kilolo, I will beg you again to pay attention
2 to the questions, the way you put the questions, because the way you developed your
3 questions now it is public that (Redacted) is the closest neighbour; exactly what we
4 were trying to avoid. You can continue, please.

5 MR KILOLO: (Interpretation) Thank you, your Honour.

6 Q. Witness, why did you say that you thought "... that the killer was part of this
7 group, because they were in front of (Redacted) compound"?

8 THE INTERPRETER: The Sango interpreter did not hear the witness's reply.

9 MR KILOLO: (Interpretation)

10 Q. Madam Witness, could you please repeat your answer?

11 A. Because the gunshot came from that group.

12 Q. Are we to understand by that that you did not see the killer?

13 A. I didn't see the person *who fired the shot, but I did say that the gunshot came
14 from that group of people. The person was one of the people in that group.

15 Q. Witness, the gunshot - this fatal gunshot - rang out at what particular time?

16 A. Under those circumstances, one couldn't try to determine what time something
17 happened. I didn't try to determine exactly what time it was.

18 PRESIDING JUDGE STEINER: Maître Kilolo, can we go back into open session?

19 MR KILOLO: (Interpretation) Please, your Honour.

20 PRESIDING JUDGE STEINER: Court officer, please.

21 (Open session at 12.29 p.m.)

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

23 MR KILOLO: (Interpretation)

24 Q. Witness, I would like to read out the statement that you made to the
25 investigators regarding the date of the murder. And I make reference to document

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1 number 2 on the Defence's list, page CAR-OTP-0046-0274.

2 Could the court officer be so kind as to display the document on the screen, and if you
3 could zoom in on the first part of the page.

4 Witness, this is the question that was put to you by the investigators: "Where were
5 you precisely when you saw this woman being killed?" Your answer thereto: "In
6 my compound." Five paragraphs later, you're asked the question: "Could you tell
7 us on what date this event occurred?" Your answer: "It was the first day on which I
8 saw them." Do you confirm that?

9 A. I think that, whatever happens, there might be errors which have intervened but
10 I don't confirm this. I think that there's an error here.

11 Q. Could you tell the Chamber what exactly this error is?

12 A. With regards to which passage, if you'd be so kind?

13 Q. The passage which starts: "With regards to the date of the murder ..." The
14 first question was put to you, I already read that to you, "Where were you precisely
15 when you saw this woman being killed?" To which you replied: "On my
16 compound. In my compound." And further down, concerning the date of the
17 murder, you're asked the question: "Can you tell us what date this incident
18 occurred?" To which you answer: "On the first day I saw them." Do you confirm
19 that?

20 A. I said that, whatever the case, certain errors might intervene. I said that in one
21 of my statements it was at the start of the morning. Everybody can make a mistake.
22 I think that you've also made errors, and in some passages which you've mentioned
23 you, like me, can also make mistakes.

24 Q. Witness, according to your statement to the investigators, the murder of the
25 woman occurred on the same day as the arrival of persons who you call

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1 Banyamulengue; i.e., 30 October 2002. Do you confirm that?

2 A. No.

3 Q. Could you make clear to the Chamber when the murder of the woman who
4 passed in front of the compound occurred?

5 A. I told you it was the next day.

6 Q. Witness, once again, I would like to make a reference to your statement, today's
7 statement, in the transcript 13 June 2011, French version, real-time, page 26, line 24.

8 Thereto, you confirm that on the same day, the first day that the people who you call
9 Banyamulengue arrived in front of your neighbour's compound, it was then that the
10 murder of the woman took place. Do you confirm that?

11 A. Counsel, you're turning me around in circles here, confusing me. I don't
12 understand you. I can't follow you.

13 Q. Witness, I, however, am following you extremely well. 31 March 2009, in the
14 document 2 of the Defence list, page CAR-OTP-0046-0274, in 2009, two years ago, you
15 state that: "This event occurred on the first day that I saw them" with regards to the
16 murder. And today, in the transcript of 13 June 2011, page 26, line 24, you say the
17 same thing: "It was the same day that they arrived."

18 Why now do you say that it was the next day?

19 A. It is now that I understand your question. You should have been clear from
20 the beginning. Now your question is precise; I understand it perfectly. You should
21 have gone straight to the heart of the matter, rather than turning around the post,
22 which confuses me.

23 Q. Can you state to the Chamber if it was the first day on which these people
24 arrived, these people that you call Banyamulengue, that the murder took place?

25 A. You have my statement in front of you.

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1 Q. Witness, what can we retain from the date of the murder of this woman? Was
2 it the first day on the arrival of the so-called Banyamulengue in front of the
3 neighbour's compound or was it another day?

4 THE INTERPRETER: The Sango interpreter did not hear the beginning of the
5 answer of the witness.

6 MR KILOLO: (Interpretation)

7 Q. Witness, could you please repeat your answer?

8 A. That happened the day on which they entered.

9 Q. I'm now going to refer to another statement with regards to the date of this
10 murder, and now I'm referring to -- witness, you gave a statement in the hearing of
11 9 June 2011 before the Chamber. In your testimony, well, I'm referring to the
12 transcript, the French version, real-time, page 31, line 1 -- lines 1 to 16. You stated
13 that just after the departure of the Banyamulengue from your house, towards
14 6 o'clock, you went to the terrace behind the house. Do you confirm that?

15 A. I said that when the Banyamulengue entered my compound, we fled and we
16 took refuge in the bush. It was only after that we came back and we went onto the
17 verandah behind the house and, thereafter, went back into the house.

18 Q. Was it after 18.00 hours, as it says in your statement?

19 A. That is correct.

20 Q. This verandah, does this correspond to the room which is behind the house that
21 you're referring to?

22 A. The verandah -- well, on my right-hand side there is a bedroom and on the left
23 side there's also another bedroom, and the verandah is between the two.

24 Q. How much time did you remain on that verandah?

25 A. Just enough time to beat a path in order to flee. So we paid attention to try and

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1 take shelter.

2 Q. Did you spend some minutes, or rather some hours, or rather a whole day
3 there?

4 A. We were there and we stayed there, and sometimes I went into my father's
5 bedroom. I wanted to see what was happening outside.

6 Q. Would you say that was for a few hours?

7 A. I don't know.

8 Q. I would like to refer to your testimony in the transcript of 9 June 2011, and the
9 French version in real-time, page 41, lines 19 to 21. You indicated that it was on
10 leaving the verandah and going to the external toilet that you saw the incident
11 concerning the murder of the passer-by; is that correct?

12 A. I said that we were behind, and when anything happened, we left behind the
13 house. It's true, I was behind the house and I went towards the toilet when I saw
14 what happened.

15 Q. That means that on the same day, the day of the pillaging, the alleged pillaging
16 of your compound and that of your neighbour as well, that you heard the shots, or
17 the shot; is that not correct?

18 A. That is correct.

19 Q. How much time after 1800 hours did you hear these shots?

20 A. I told you that it's difficult for me to refer to this in terms of time.

21 Q. Witness, after 1800 hours, in the sector that you know, how is it possible for you
22 to see what was happening outside?

23 A. In my compound, well, it's lit and the toilet's lit as well. The compound of my
24 neighbour is also lit as well.

25 Q. Witness, are we in agreement here that in the sector in front of the compound of

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1 your neighbour, there is no public lighting? We do agree with that, don't we?

2 A. I've just told you, on her compound there is a lamp and next to my compound
3 as well. When you go towards the toilets, there is a lamp.

4 Q. Outside, on the public road outside, do we agree that in this sector there is not a
5 system of public street lighting?

6 A. No, there wasn't public street lighting, but this -- there was a place where there
7 was -- there was a (Redacted) where there was lighting and it lit up the public road as well
8 with its lighting.

9 Q. Do we agree that in this sector, from 1700 hours, it's already dark; darkness
10 starts to fall already?

11 A. Yes, it was dark, but I've already told you that in their -- her compound and on
12 my compound, there was electricity.

13 THE INTERPRETER: His compound.

14 MR KILOLO: (Interpretation)

15 Q. Witness, the (Redacted) that you talk about, was it open, despite the gunshots that was
16 occurring, and chaos?

17 A. Well, the people fled during this time. I didn't say that people were there,
18 currently (Redacted) -- that they were there (Redacted). No, they fled. They
19 abandoned everything.

20 Q. Witness, the sentry of your neighbour, or the guard, did this person see or
21 experience the murder that you speak about, this event?

22 A. Well, I told you that he was on the compound.

23 Q. Do you mean by that that he didn't see this murder?

24 A. What I said was that I was speaking to you about what I saw, but what was
25 happening inside the house of my neighbour, well, only the guard himself can tell

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1 you. I'm not God so how can I know what happened within the compound of my
2 neighbour?

3 Q. A bit later did you speak about this alleged murder with your neighbour's
4 guard or did you both speak about it on any occasion?

5 A. I said in my statement that I could not confirm or deny what I didn't see. It
6 was only after the fact, so in the discussions that people had when they spoke about
7 that.

8 Q. Witness, we're now going to go on to something else, where it concerns the
9 pillaging that you're referring to, the pillaging of your house. Witness, to go back to
10 your statement or testimony of 13 June 2011, page 48, lines 18 to 21, you say that it
11 was only after the events, the discussion, that people started to speak about it, in
12 answer to my question with regards to the murder. After the events, did you speak
13 about them?

14 A. I said that after the events, it was only afterwards that people started to speak
15 about it, to give information about it.

16 Q. Is it before the entry into power of Bozizé, or is it just afterwards?

17 A. After the end of the events, it was only after that that we started to have all the
18 information with regards to certain events.

19 Q. When you say "after the events," is this after 15 March 2003?

20 A. That's correct.

21 MR KILOLO: (Interpretation) Thank you very much. I see that it's almost 1 o'clock.

22 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo.

23 Madam Witness, we will have now our lunch break. You will have enough time to
24 have lunch, to take some rest. It's almost 1 o'clock. We will resume at 2.30.

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

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1 taken outside the courtroom. In the meantime, we are going to suspend, and resume
2 at 2.30.

3 *(Closed session at 12.59 p.m.) Reclassified as Open session

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

5 (The witness stands down)

6 (Recess taken at 13.01 p.m.)

7 *(Upon resuming in closed session at 2.34 p.m.) Reclassified as Open session

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

9 PRESIDING JUDGE STEINER: Good afternoon. Welcome back. We'll continue
10 this afternoon -- we will continue with the questioning of Witness 110. Before that, I
11 just wanted to remind the Defence team that on 9 June, our transcript - the previous
12 transcript - 126, page 50, line 11, page 50 on line 9, Maître Liriss said that probably on
13 Monday, it would bring some observations in relation to documents coming from the
14 Central African Republic's justice system and that are usually not signed. You said
15 that you would bring some information in that respect. My question is, would you
16 like to do it now, or tomorrow morning before the witness is -- starts giving
17 testimony?

18 MR LIRISS: (Interpretation) Madam President, this point is no longer timely, but
19 maybe we could deal with it when we come across any document of that nature.
20 Thank you.

21 PRESIDING JUDGE STEINER: As you wish, Maître Liriss. So I ask, please, the
22 court officer to bring the witness in. The court usher, sorry.

23 (The witness enters the courtroom)

24 PRESIDING JUDGE STEINER: Good afternoon, Madam Witness.

25 THE WITNESS: (Interpretation) Good afternoon, Madam President.

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

3 (Open session at 2.39 p.m.)

4 THE COURT OFFICER: Madam President, your Honours, we are in open session.

5 PRESIDING JUDGE STEINER: Thank you. Madam Witness, are you ready to
6 continue giving your testimony?

7 THE WITNESS: (Interpretation) Yes, I am ready.

8 PRESIDING JUDGE STEINER: Maître Kilolo, you have the floor.

9 MR KILOLO: (Interpretation) Thank you, Madam President, for giving me the
10 floor.

11 Q. Good afternoon, Madam Witness.

12 A. Good afternoon, Counsel.

13 Q. Madam Witness, is it correct that you were in your father's compound, next to
14 the toilets, when you saw the nine so-called Banyamulengue stop the woman who
15 was going by?

16 A. That is correct.

17 Q. I would like to refer to document 2 of the list of Defence documents in this
18 connection, page CAR-OTP-0046-0269. In that connection, this is the question that
19 was put to you: "Where were you exactly at the time you saw them?" Your answer:
20 "In my father's compound, in our toilets." Question from the investigator: "Were
21 you inside or outside the building?" Your answer: "In our compound, but outside
22 of the house." Is this statement correct, Madam Witness?

23 A. Yes, it is.

24 Q. Is it correct that there was a big building under construction between the place
25 at which you were and the location at which the woman was allegedly killed?

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1 A. I have told you that there was a building under construction between our house
2 and that of the neighbour.

3 THE INTERPRETER: Rather, it was a foundation that was being built, interpreter
4 corrects.

5 MR KILOLO: (Interpretation)

6 Q. To be more specific, Madam Witness, would it be correct to say that the
7 building between the spot at which you were and the position at which the woman
8 was allegedly shot was, in fact, a building under construction?

9 A. The entire surface area made up what could be referred to as our compound.
10 Well, not the entire area, but just the surface area which I referred to relating to our
11 compound.

12 PRESIDING JUDGE STEINER: Maître Kilolo, could you please give the five seconds.
13 We were still listening to the translation and you were already putting another
14 question. Thank you. You can proceed, Maître.

15 MR KILOLO: (Interpretation) I would like to ask the court officer to display
16 document number 4, CAR-OTP-0046-0289, and to show the bottom of the page.

17 Q. Madam Witness, let me now read to you the questions that the investigators put
18 to you: "Is there a building or a structure between the place at which you were and
19 the location at which the woman was shot?" Your answer: "Yes, there is a big
20 building." Next question: "Therefore, how were you able to see her being killed?"
21 Next page, please, CAR-OTP-0046-0290. Your answer, madam: "But that building
22 was at that time under construction. I am talking about the building in question."
23 Madam Witness, can you confirm that?

24 A. That is what I have just told you. I told you that the walls of the building had
25 been built, and there was a big foundation behind the house. So there was a

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1 foundation which went as far as the toilets.

2 Q. Madam Witness, when you say that the facade or the walls of the building had
3 been built up, what building are you referring to? Is it the building that was located
4 between your position and the location at which the woman was allegedly killed?

5 A. I am talking about the facade or the wall of the house which had been built up,
6 but the woman was passing at an angle and it is there that she ran into the attackers.
7 I was behind and that is how I was able to see them. She was going round the house
8 and, as she passed, she was stopped by those people. From my position, I was able
9 to see the woman at her location and I was also able to see the main road further on.

10 Q. Thank you, madam. When you talk about the facade or the wall of the house
11 that was built up, which house are you referring to?

12 A. I have just told you that I am referring to my father's house.

13 Q. Madam Witness, the fact of the matter is that you were far away from the
14 location at which the woman was shot; is that correct?

15 A. Yes, there was some distance between us, but it was not too great.

16 Q. According to you, how many metres would that distance be approximately?

17 A. I do not know.

18 Q. Were you far away from that woman?

19 A. I was somewhat far away from her.

20 THE INTERPRETER: From the Sango interpreters, would the witness be kindly
21 reminded also to observe the five-second rule?

22 MR KILOLO: (Interpretation).

23 Q. Madam Witness, you and I have to make an effort to observe the five-second
24 rule, so please when I ask you a question do pause for five seconds before answering
25 and I will attempt to do so too. Do you understand me?

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1 A. Yes, I have understood you very well.

2 Q. On the same page, document number 4 of the list of Defence documents, page
3 CAR-OTP-0046-0290, you have the document displayed for you and towards the
4 bottom of the page this is the question that was put to you: "At about what distance
5 were you from the victim when the Banyamulengue shot her?" Your answer: "I
6 was far away from her. I am not in a position to be specific."

7 Now, can you confirm that to be your statement?

8 A. Yes, I do confirm it.

9 MR KILOLO: (Interpretation) I would like to ask the Registry to display on the
10 screen document 2 of the Defence list, page CAR-OTP-0046-0270, and please go to the
11 bottom of the page.

12 Q. Madam Witness, this is the question that the investigators put to you, and I
13 quote: "Did you in any way whatsoever suffer from or pay for what happened
14 between October 2002 and March 2003?" Your answer: "No, not personally," end of
15 quote.

16 Can you confirm that, Madam Witness?

17 A. Yes, I do.

18 Q. What do you mean by not having suffered personally from the events that
19 occurred in October 2002 and March 2003?

20 A. If I gave that answer, it is because I was asked whether I had been touched or
21 hurt, and my answer was: "No." So I was not physically hurt, as such, and it is for
22 that reason that I gave that answer. The only thing that I suffered could be the
23 looting that took place in my house, and that is all I can say by way of answer.

24 Q. Would it be correct to say that from your cousin's house, the house in which you
25 sought refuge as you stated, you went back to your house often?

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1 A. In order to go from my cousin's house to our house, one had to go through some
2 checkpoints along the way. So it was not often that I went to visit the house and I
3 don't want to lie to you.

4 MR KILOLO: (Interpretation) Would the Registry please show document number
5 2 of the Defence list, page CAR-OTP-0046-0278, and please highlight the middle part
6 of the page.

7 Q. Madam Witness, this is the question that was put to you: "You left your home
8 to go to your cousin's house; isn't it so?" Your answer: "Yes. In any event, I went
9 back to my home very often to collect some things."

10 Can you collect -- can you confirm that?

11 A. Yes, I do confirm that.

12 Q. How often did you often go to your house?

13 A. When I fled I did not take any of my personal belongings with me, so from time
14 to time we tried to go back to the house to collect our clothing or some other small
15 things from the house.

16 Q. What things were you going to collect from your house very often?

17 A. I have told you - and I repeat - that I went to the house to collect my clothes, as
18 well as those of the children.

19 Q. Why did it take several trips between the house of your cousin and your family
20 compound?

21 A. We had a lot of things in the house. I also went to get information, to check
22 over the goods that were in the house, the property that was in the house. There was
23 a lot of value among the goods that were in my father's house. I couldn't just
24 abandon them. I did everything to try to bring them back and evaluate what the
25 situation of these goods was.

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1 Q. Why did you make the investigators believe that the alleged Banyamulengue
2 took everything from you and left nothing? And here I'm referring to the document
3 number 2 of the Defence list, page CAR-OTP-0046-0278, and page
4 CAR-OTP-0046-0279.

5 A. But I told you that I had left to take the clothing, but the clothing, that wasn't the
6 only thing of value in the house. There was a lot of other property of value in the
7 house of my father.

8 Q. You stated that the so-called Banyamulengue stayed for an hour at your
9 neighbour's house before going to your house; is that correct?

10 A. Yes, that is correct.

11 MR KILOLO: (Interpretation) I would now ask the court officer to show document
12 number 2 of the Defence list, page CAR-OTP-0046-01 -- excuse me,
13 CAR-OTP-0046-0271, and the top of the page.

14 Q. We are in open session, Witness. Please be careful not to give names or
15 functions which could identify you. This is the question that was put to you: "How
16 much time after being -- or having entered into your neighbour's house did they
17 break into your house?" Your answer: "They stayed for an hour with her before
18 coming to our house." Next question: "Was it the same Banyamulengue as those
19 who were at the neighbour?" "Yes," is the answer. Question -- do you confirm that?

20 A. I confirm that.

21 Q. I'm now going to go to the statement that you gave on this subject concerning
22 the identity or the belonging -- or the membership of a group, of the so-called
23 Banyamulengue, and this is in the transcript in real-time in the French version of 9
24 June 2011, page 30, lines 11 to 20. I quote the question from the Prosecutor: "Are
25 you saying that your house was pillaged at the same time as your most near

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1 neighbour's was, or was it pillaged after your closest neighbour's house?" Your
2 answer to that: "There was a group who was pillaging the house. They were
3 loading the goods into vehicles in the compound of my neighbour, and the other
4 group, which was outside the gate, was -- it was this group that came to my house
5 and which started to pillage what was in the house." Do you remember that
6 statement?

7 A. I remember.

8 Q. How do you explain, madam, that when you are asked or questioned on
9 31 March 2009, you state to the investigators that it's the same group who pillaged
10 your house and your closest neighbour's house as well, while two years afterwards
11 before the Chamber you state that there were two different groups?

12 A. I think that I haven't understood you, or you didn't understand me. I said that
13 when they entered into the compound of my neighbour they were in two columns.
14 They broke down the gate. They entered into the compound. They all entered
15 firstly and then another group came out, but if I say to you that it's the same group,
16 but they came together. The two -- those who were inside, those who were outside,
17 they were the same group who had come together. There is no difference between
18 those who were inside and those who were outside. It was just a group of
19 Banyamulengue who were behind all of this.

20 MR KILOLO: (Interpretation) I would like to refer to the document 2 of the
21 Defence list, page CAR-OTP-0046-0271.

22 Q. Witness, this is the question that was put to you by the investigators: "How
23 much time after entering into (Redacted) house did they break into your house?"

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

25 *(Private session at 3.12 p.m.) Reclassified as Open session

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1 THE COURT OFFICER: Madam President, we are in private session.

2 PRESIDING JUDGE STEINER: Maître Kilolo, again. Should we continue all in
3 private session?

4 MR KILOLO: (Interpretation) Perhaps, your Honour, I could take this question in
5 private session before going back into open session?

6 PRESIDING JUDGE STEINER: You should have asked before revealing confidential
7 information in public session. You can continue. We are in private session.

8 MR KILOLO: (Interpretation) Thank you very much, your Honour.

9 Q. Witness, this is the question that was put to you: "How much time after
10 entering (Redacted) house did they break into your house?" Your answer: "They
11 stayed for an hour at his house before coming to our house." "Was it the same
12 Banyamulengue as those who were at (Redacted) house?" Your answer: "Yes."

13 Question: "How many of them entered your house?" Your answer: "Eight."

14 Question: "How much time did they stay in your house?" Your answer: "The
15 time enough -- time in which to take everything." Do you confirm that statement?

16 A. I confirm it.

17 Q. Witness, should one understand the following: You saw nine Banyamulengue
18 in front of the compound of your neighbour, (Redacted), you stayed for an hour at his
19 house before coming to your house, and then eight of them entered your house with
20 enough time to take everything? It was the same Banyamulengue; is that correct?

21 A. If you want me to understand, then I would also ask you to make an effort to
22 understand me. I said that, when they came, they were in two columns. Having
23 taken over the compound, nine of them came out and they were in front of the gate,
24 and afterwards eight persons entered my father's compound, but I can't know the
25 number of those who were in my neighbour's compound. Nine were in front of the

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- 1 gate and eight entered my father's compound. But, Counsel, try to understand me.
- 2 Q. Thank you. I'm now going to refer to your testimony before the Chamber,
- 3 transcript of 9 June 2011, in the French version, real-time, page 29, lines 12 to 19.
- 4 This is the question that's put, or put to you: "When the Banyamulengue arrived at
- 5 your compound, were you at home?" Your answer: "I had already left the house.
- 6 I was behind the house, in the bush." Question: "From behind the house, in the
- 7 bush, were you able to see what the Banyamulengue were doing in your house?"
- 8 Your answer: "No." Is that correct?
- 9 A. That's correct. Why do I say that? When they arrived and we were in the
- 10 bush, they entered the house and they did everything they want. You know, from
- 11 the bush, I couldn't see everything that was happening inside the house.
- 12 Q. From the bush, were you able to see with your own eyes the so-called
- 13 Banyamulengue who were inside your house?
- 14 A. Next to the compound of the neighbour -- well, the compound of the neighbour
- 15 had -- or, the fence of the neighbour had a small entry point and there was a place
- 16 from where I could see them go in from our compound.
- 17 MR KILOLO: (Interpretation) Your Honour, I think that we can go back into open
- 18 session.
- 19 PRESIDING JUDGE STEINER: Court officer, please.
- 20 (Open session at 3.19 p.m.)
- 21 THE COURT OFFICER: Madam President, we are back in open session.
- 22 MR KILOLO: (Interpretation)
- 23 Q. Witness, once again I'm going to ask you the question as to when the so-called
- 24 Banyamulengue withdrew from your family compound.
- 25 A. Having committed all these abuses, they left the compound.

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1 Q. Was it the same day as when they entered your house, as you say?

2 A. I told you that, when they entered the house, they finished everything they
3 wanted to do, they withdrew. I told you that I wasn't inside the house. I was
4 already outside. I've told you that already.

5 Q. Witness, I'm going to read for your attention your testimony before the
6 Chamber. I'm referring to transcript, real-time French version, 9 June 2011, page 29,
7 line 22 to 28, and page 30, first line. This is the question of the Prosecutor: "How
8 much time were the -- or did the Banyamulengue stay in your house for?" Your
9 answer: "They stayed inside the house for the time it took to pillage everything, to
10 destroy the windows and to commit other acts of violence, and they withdrew
11 towards 1800 hours." Prosecutor's question: "In terms of hours, could you tell the
12 Chamber how much time they spent in the house?" Your answer: "I told you that
13 they left the house around 1800 hours." Witness, is that correct?

14 A. That is correct.

15 MR KILOLO: (Interpretation) I would like to ask the usher to show on the screen
16 document number 7 of the Defence list. If you look at the annex, page 9, between
17 page 9 and page 10. This is a confidential document. The following page. I'm
18 asking you to show the middle of the page.

19 Q. Witness -- Witness, we are in open session, so we're all going to pay attention to
20 not name -- give names or functions. Now, this is what you write. Witness -- or
21 court officer, please, could you show the bottom of the page, where you have the
22 signature.

23 Witness, do you recognise your signature at the bottom of this document drawn up
24 on 11 November 2009?

25 A. I remember.

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Witness: CAR-OTP-PPPP-0110

1 MR KILOLO: (Interpretation) Can we go to the middle of the page, please.

2 Q. This is what you stated, Witness: "I stayed with my cousin for a week and then
3 left to go to the neighbourhood X with X. The Banyamulengue left my house
4 February 2003 and I then went back. I then noted that all our property had been
5 pillaged and that the windows and the doors of my house were completely broken."

6 Do you confirm that?

7 A. Yes, I confirm that.

8 MR KILOLO: (Interpretation) Still with the same document, document number 7
9 of the Defence list, I would ask you to go to page 11, if you'd be so kind.

10 Q. Witness, I'm going to read for your attention what you wrote on this page.
11 First of all, I would ask the usher to show the bottom of the page, please, with the
12 signature. Witness, do you recognise your signature at the bottom of this page?

13 A. I recognise it. It's my signature.

14 MR KILOLO: (Interpretation) Can we now go back to the top of the page.

15 Q. Witness, this is what you wrote: "My house was occupied by the
16 Banyamulengue and completely pillaged. After three months of events that I have
17 described, I am able to note the damage within my house. Everything had been
18 taken and the house destroyed. Because I do not have financial resources, I cannot
19 put back my house to its original state." Do you confirm that?

20 A. That is my statement.

21 Q. Can you -- Madam Witness, can you explain to the Court why on the one hand
22 you acknowledge that you often went back to your house to collect some property
23 and yet, on the other hand, you claim that the so-called Banyamulengue allegedly
24 occupied your house up until the month -- or, rather, for at least three months up
25 until February 2003? Can you explain that to the Court?

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1 A. Yes, I can. I have said it and I'm going to repeat. I'm going to repeat it.
2 From time to time, I went back to the house to take some of the things that I wanted to
3 take. You see, at the time, I fled. I did not take the entire house with me. They
4 were the ones who had occupied the house and, when I came back, I found my house
5 in that state.

6 Q. Madam Witness, can you explain to the Court why it is that on the one hand
7 you say that the so-called Banyamulengue left your house on the same day on which
8 they came in, that is on 31 October 2002, after having pillaged everything and yet, on
9 the other hand, you claim that they continued to occupy your house up until
10 February 2003?

11 A. They did not come to PK12 on the same day and withdraw on the same day. I
12 talked to you about the act that they committed on the day of their arrival, and the
13 question must be: "Throughout the time they were at PK12, where did they stay?
14 Where did they spend their nights?"

15 Q. Madam Witness, it is for you to tell the Court. You have told this Court that
16 you very often went back to your family compound to take some of your property,
17 yet you also say that the so-called Banyamulengue had occupied your house. Can
18 you explain this to the Court?

19 A. When I went back to the house, it was briefly and it was not to spend the entire
20 period of three months there. When I fled I went back to the house briefly, and
21 when things worsened I decided to go for a long time -- to go away for a long time.

22 Q. Madam Witness, we have understood everything. It is very clear. Now,
23 regarding your neighbour - and I am referring to document number 2 of the list of
24 Defence documents, page CAR-OTP-0046-0270 - this is the question that was put to
25 you --

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1 PRESIDING JUDGE STEINER: Should we go into private session, Maître Kilolo?

2 MR KILOLO: (Interpretation) No, Madam President, I don't think it is necessary.

3 Thank you.

4 Q. Madam Witness, this is the question that was put to you: "How long did they
5 stay in his compound?", referring there to your neighbour. And this is your answer:

6 "They took their time before going to PK22. I think they must have spent an entire
7 week there." Can you confirm that?

8 A. Yes, I confirm that.

9 Q. Am I then to understand that it is your testimony that the so-called
10 Banyamulengue spent an entire week in the compound of your closest neighbour
11 before going to PK22?

12 A. I don't have mastery of all the small details. I talked about one week. Why
13 did I say one week? It is because after spending one week there they went towards
14 PK12, where they misbehaved, and then they came back and it is for that reason that I
15 said that it was one week.

16 Q. Now, referring to your testimony before the Court - and from the French
17 real-time transcript of 9 June 2011, page 21, line 22 to 25 - this is the question that was
18 put to you: "When you saw the Banyamulengue breaking into your closest
19 neighbour's compound, where were you?" Could you answer that question?

20 A. I was in our compound.

21 Q. In what part of your compound were you? Were you inside the house, or
22 outside the house but within the compound?

23 A. I was inside the house.

24 Q. In which room of the house were you and were you able to see them from that
25 room?

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1 A. I was able to see them from the room of my -- from the window of my father's
2 room.

3 Q. Are we then to understand that, when you saw those people entering your
4 closest neighbour's house, you were in your father's room specifically?

5 A. I have already told you clearly that I was inside. When I heard the noises, I
6 went to my father's room to see what was happening outside, to find out what was
7 happening outside.

8 Q. Must we then, however, take it that you were not outside of the house?

9 PRESIDING JUDGE STEINER: Ms Kneuer?

10 MS KNEUER: Thank you, Madam President. I have two concerns: The first one
11 is that Defence counsel is quoting a question from the transcript and then does not
12 provide the answer, rather asks the witness to respond to the same question again.
13 Already that is a very weird approach of confronting the witness with information,
14 but also it's repetitive. But the entire line of question that followed was already
15 asked by the Prosecution. It's purely repetitive and I am concerned that we are tiring
16 the witness.

17 PRESIDING JUDGE STEINER: Maître Kilolo?

18 MR KILOLO: (Interpretation) Madam President, I am putting these questions to
19 the witness in order to clarify what appears to me to be an incompatibility between
20 her testimony in Court on 9 June and her statement of 31 March 2009 made to the
21 investigators. That is what I was driving at when I was suddenly interrupted.

22 PRESIDING JUDGE STEINER: I will allow the question, Maître Kilolo, but just
23 reminding you that the witness is showing signs of tiredness; and once a witness is
24 tired, there is no useful information you can get. So let's try not to put our witness
25 under too much stress. Go directly to the point, please.

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1 MR KILOLO: (Interpretation)

2 Q. Madam Witness, I want to turn to your statement to the investigators of
3 31 March 2009 - and that is document number 2 of the Defence list of documents,
4 page CAR-OTP-0046-0269 - this is the question that was put to you: "Where were
5 you specifically when you saw them?" Your answer: "In my father's compound, in
6 our toilet." Next question: "Was that inside or outside the building?" Your
7 answer: "In our compound, but outside the house." Can you confirm that?

8 A. Yes, I confirm that.

9 Q. Could you shed light on this to the Court so that we may be able to understand
10 your two answers, whereby on the one hand you were inside the house and going to
11 your father's room at some point, and yet at another time you are no longer within the
12 house, you are outside the house, next to the toilets?

13 A. Why did I say all these things? When the events were taking place, people
14 were advised to -- it was advisable for people to go to a convenient location to see
15 how things were happening, so I could not have remained at one specific location.
16 Yes, I was in my father's compound. Even the toilets were still within my father's
17 compound, or within my compound, so I knew all the areas and surroundings of my
18 compound.

19 Q. Madam Witness, if I have understood you properly, the toilets were outside of
20 the house and that's what the toilets are and you were in the toilet, but on the other
21 hand you testified that you were in your father's room inside the house. How can
22 you explain that?

23 A. We had internal toilets and external toilets.

24 Q. Madam Witness, I don't want to read back your statement to you, and I'm
25 referring here to document number 2 of the Defence list, page

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1 CAR-OTP-0046 -- 0046-0269, in which you say, "In my father's compound, in our
2 toilets. In our compound, but outside the house". Please clarify for the benefit of
3 the Court.

4 A. Let me explain things to you. Our house is laid out as follows: Slightly
5 behind the house you had the external toilets, or my father's house, but those toilets
6 are still within my father's compound.

7 Q. Madam Witness, we still have about ten minutes to go and I would like to ask
8 you to make great effort to continue. Now, the question I am going to put to you is
9 important so that the Court may understand, given that the angle at which one might
10 be able to see may vary depending on one's position. So my question is: What is
11 this Court to understand when you say that you were in the toilet and outside of the
12 house, on the one hand, and again that you were in your father's room within the
13 house? What is the Court to understand?

14 A. Now, let me explain everything to you. I told you that at the time they arrived
15 I was inside, and that is where -- from the position from which I saw them arriving in
16 two columns. Now, then I came out of the house and it is when I was going towards
17 the toilet that I saw them kill the woman. That is the distinction between those two
18 points.

19 Q. Madam Witness, let me clarify things with you. Are we to understand that,
20 apart from your family compound and the compound of your closest neighbour and
21 the football field, you never saw the so-called Banyamulengue at any other location; is
22 that correct?

23 A. Even if I did not see them myself, I heard people say that they had occupied
24 many areas. It was not my job to go around and conduct investigations on what the
25 Banyamulengue were doing.

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1 Q. Would it be correct to say that you never saw with your own eyes the allegation
2 of looting taking place in other houses, or in other neighbourhoods? Would that be
3 correct?

4 A. I did not see it with my own eyes, but I heard people talk about it.

5 MR KILOLO: (Interpretation) Madam President, could we move into private
6 session?

7 PRESIDING JUDGE STEINER: Court officer, please.

8 *(Private session at 3.54 p.m.) Reclassified as Open session

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

10 MR KILOLO: (Interpretation)

11 Q. Madam witness, we are now in private session and we can talk freely. Do you
12 know (Redacted) in person.

13 A. I know him. He is a former minister.

14 Q. Does that gentleman know you?

15 A. He knew (Redacted).

16 Q. Did anything special happen to his family involving the so-called
17 Banyamulengue?

18 A. They raped a young girl there.

19 Q. Madam Witness, let us clarify this matter. Would it be correct to say that you
20 never saw in person, with your own eyes, an act of rape being committed by the
21 so-called Banyamulengue?

22 A. Yes, that is correct.

23 Q. Are you able to tell this Court the name of Minister (Redacted) daughter who
24 according to you was allegedly raped by the so-called Banyamulengue?

25 A. Her name is (Redacted).

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1 Q. Who actually told you this story, Madam Witness?

2 A. Her story is known by all the inhabitants of PK12.

3 Q. Can you tell the Court the name of the person who told you this story?

4 A. I have already told you that there was an NGO that came to PK12 and many
5 girls went to talk to the NGO about the things that they had experienced, and at that
6 time that girl also talked and that is the time at which I also received or became aware
7 of that information.

8 PRESIDING JUDGE STEINER: Maître -- sorry, Maître Kilolo. Are you -- do you
9 intend to continue questioning the witness tomorrow? Because if you intend I
10 would suggest if you agree that we suspend now, because the Chamber still has two
11 oral decisions to be issued, if it's not a problem for the Defence.

12 MR LIRISS: (Interpretation) Madam President, we were just about to tell you that
13 we are done for now.

14 PRESIDING JUDGE STEINER: Thank you, Maître Liriss.

15 Madam Witness, we will adjourn for today. You must be tired. We will continue
16 tomorrow morning. We hope you can take some rest during the night and as well
17 we hope that tomorrow morning the Defence will finish with your questioning.
18 So I will ask, please, court officer to turn into closed session for the witness to be
19 taken outside the courtroom.

20 *(Closed session at 3.59 p.m.) Reclassified as Open session

21 THE COURT OFFICER: Madam President, your Honours, we are in closed session.
22 (The witness stands down)

23 PRESIDING JUDGE STEINER: Let's turn into open session, please.

24 (Open session at 4.01 p.m.)

25 THE COURT OFFICER: Madam President, your Honours, we are back in open

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1 session. Thank you.

2 PRESIDING JUDGE STEINER: I ask whether our interpreters could again indulge
3 us with two or three minutes just for the reading of two short oral decisions.

4 THE INTERPRETER: We would be pleased to do so, your Honour.

5 PRESIDING JUDGE STEINER: Thank you very much.

6 The first -- first, I would like to ask whether the Defence has any idea on how long it
7 will take tomorrow to finish its questioning. It would be in the first part of the
8 morning, the whole morning, the whole day? Any idea?

9 MR KILOLO: (Interpretation) It is quite probable, your Honour, that we shall go to
10 1300 hours. I fear that, in accordance with developments tomorrow -- well, we will
11 have to see if we will go beyond 1300 hours or not.

12 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo. So I will first read in
13 open session the oral decision on the application to question Witness 112 submitted
14 by legal representatives of victims.

15 On 18 April 2011, Maître Zarambaud filed with the Chamber an application on behalf
16 of the victims he represents to question Witness 112. It's filing 1378-Conf. The
17 application contains a list of 15 sets of questions.

18 On 27 May 2011, Maître Douzima filed with the Chamber an application on behalf of
19 the victims she represents to question Witness 112. It's filing 1462-Conf. The
20 application contains a list of eight sets of questions.

21 Having considered the reasons given by Maître Zarambaud and Maître Douzima
22 respectively as to why the personal interests of the victims they represent are affected,
23 the Chamber allows both applications to question Witness 112.

24 Turning to the proposed questions, the Chamber, Judge Ozaki dissenting on the way
25 questions 3.1, 5, 7.1, 9.1 and 12 by Maître Zarambaud are put to Witness 112, allows

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1 the questions to be asked, save for (a) question 1 by Maître Zarambaud. This
2 question will not be allowed, as it is based on the assumption that Witness 112 has not
3 filled in any application form to be granted victim status.

4 However, Witness 112 is a dual status individual and his application is registered in
5 the record of the case and has been notified to Maître Zarambaud on
6 22 November 2010 in document 1025-Conf-Anx1, page 2.

7 Second, question 8.1 by Maître Douzima will not be allowed, as it is irrelevant to the
8 charges brought against the accused.

9 Now I ask, please, the court officer to turn into private session for the reading of the
10 second oral decision.

11 *(Private session at 4.05 p.m.) Reclassified as Open session

12 THE COURT OFFICER: Madam President, we are in private session.

13 PRESIDING JUDGE STEINER: It is oral decision on protective measures for Witness
14 112.

15 On 17 May 2011, the Prosecution filed an application for protective measures for
16 Witness 112, filing number 1412-Conf. In its application, the Prosecution requests
17 that the Chamber assigns and authorises the continued in-court use of a pseudonym,
18 authorises image and voice distortion and the use of limited private sessions for parts
19 of the testimony where the witness provides information that would tend to disclose
20 his identity.

21 The Prosecution submits that, in light of the fears expressed by the witness, the
22 requested measures should be granted in order to facilitate the witness's testimony
23 due to his subjective perception of the risk and in order to enable the witness to
24 provide his testimony freely and to continue living in his current community without
25 the fear of threats or harassment as a result of his testimony.

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1 The Prosecution further submits that the request is in accordance with the VWU's
2 recommendations in respect of victims who are in similar circumstances as Witness
3 112.

4 In its response, filing 1459-Conf, the Defence submits that the measures sought are
5 unwarranted and not adequately justified, as the fears expressed by the witness are
6 not further supported by any evidence. Therefore, the Defence requests the
7 Chamber to reject the application, or, in the alternative, to permit preliminary
8 examination of the witness in closed session in order to establish whether the
9 threshold criteria for the requested measures are met.

10 Having considered the submissions and pursuant to the Chamber's obligation under
11 Article 68(1) and (2) of the Statute, Rule 87 of the Rules of Procedure and Evidence
12 and Regulation 94 of the Regulations of the Registry, the majority of the Chamber,
13 Judge Ozaki dissenting, is of the view that the protective measures requested for
14 Witness 112 are necessary, since Witness 112 is a dual status individual and since his
15 fears are considered legitimate. They will enable Witness 112 to provide his
16 testimony freely and to allow him to continue living in his current community
17 without the fear of possible threats or harassment on himself, or members of his
18 family, as a result of his testimony before the Court.

19 The majority further considers that the protective measures are reasonable and
20 proportionate. They are provided for in Rule 87(3) of the Rules and are considered
21 as generally non-intrusive measures, allowing the Chamber to appropriately balance
22 its duty to respect the principle of publicity with its obligation to protect victims and
23 witnesses.

24 Furthermore, the identity of Witness 112 is already known to the Defence. An
25 imposition of the protective measures requested will still enable the Defence to

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1 question the witness publicly for the majority of his testimony, save for the parts that
2 would tend to identify him.

3 The majority therefore grants the requested in-court protective measures for Witness
4 112 and authorises the use of image and voice distortion, the assignment and use of a
5 pseudonym, as well as the use of limited private sessions to protect his identity,
6 provided that this is indicated in advance to the parties, participants and the Chamber.
7 Parties and participants should make every effort to question Witness 112 on
8 identifying information at the beginning of his testimony.

9 The Chamber requests the Registry to take all the necessary steps for the
10 implementation of the above-mentioned protective measures.

11 Court officer, please turn into open session.

12 (Open session at 4.10 p.m.)

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

14 PRESIDING JUDGE STEINER: I apologise for the interpreters. It was more than
15 three to five minutes because we have to speak slowly. I promise that next time I
16 will start earlier.

17 I thank very much the Prosecution team, the legal representatives of victims, the
18 Defence team, Mr Jean-Pierre Bemba Gombo. Thanks very much to our interpreters,
19 court reporters. And this hearing is adjourned and we will resume tomorrow
20 morning at 9.30 in this very same courtroom.

21 The hearing is adjourned.

22 THE COURT USHER: All rise.

23 (The hearing ends at 4.11 p.m.)

24 CORRECTIONS REPORT

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

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1 in the transcript:

2 *Page 6 line 1 to 2

3 "The border in Bangui, where you cross over to go to Zongo in Congo."

4 is corrected by

5 "The border, at the Ubangui River, where you cross over to go to Zongo, for instance,

6 in the Congo."

7 *Page 21 line 9

8 "to give orders and above all they would threaten them"

9 is corrected by

10 "they could give orders and above all they would threaten them".

11 *Page 31 line 13

12 "I didn't see the person, but I did say that the gunshot"

13 is corrected by

14 "I didn't see the person who fired the shot, but I did say that the gunshot".

15 RECLASSIFICATION REPORT

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

17 ICC-01/05-01/08-3038 and its instructions in the email dated 17 September 2013, the

18 version of the transcript with its redactions becomes Public