

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 2
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and
6 Judge Kuniko Ozaki
7 Trial Hearing
8 Friday, 8 July 2011
9 *(The hearing starts in closed session at 9.36 a.m.) Reclassified as Open session
10 THE COURT USHER: All rise. The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE STEINER: Good morning. Could please, court officer, call the
13 case.
14 THE COURT OFFICER: Good morning, Madam President, your Honours. This is the
15 situation in the Central African Republic, case of The Prosecutor versus Jean-Pierre Bemba
16 Gombo, case reference ICC-01/05-01/08. Thank you, your Honours.
17 PRESIDING JUDGE STEINER: Thank you very much. Good morning. Welcome,
18 Prosecution team, new faces.
19 MR BADIBANGA: (Interpretation) Good morning, your Honours. We now have in
20 addition Mrs Bärbel Carl --
21 PRESIDING JUDGE STEINER: Thank you very much --
22 MR BADIBANGA: (Interpretation) -- Prosecutor.
23 PRESIDING JUDGE STEINER: Sorry to the interpreter. Good morning, legal
24 representatives of victims, Defence team, Mr Jean-Pierre Bemba Gombo. Good morning
25 to our interpreters, court reporters. We will continue today with the questioning of

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 Witness 169 and for that purpose I ask, please, court usher to bring the witness in.

2 (The witness enters the courtroom)

3 WITNESS: CAR-OTP-PPPP-0169 (On former oath)

4 (The witness speaks Sango)

5 PRESIDING JUDGE STEINER: Good morning, Mr Witness.

6 THE WITNESS: (Interpretation) Good morning, Madam President.

7 PRESIDING JUDGE STEINER: Are you feeling well and ready to continue giving your
8 testimony today?

9 THE WITNESS: (Interpretation) Yes, I am willing to continue my testimony, in spite of
10 the fact that I am extremely tired, but I will go on so that we can finish.

11 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness, for your wish to
12 cooperate with the Court and to see whether we can finish with your testimony as quick
13 as possible, and as I said yesterday, in order to allow you to go back home to your country,
14 to your family. I'm sure Defence is prepared to finalise the testimony. Am I right,
15 Maître Liriss?

16 MR LIRISS: (Interpretation) I'd like to give you a nice surprise. We'll be able to finish
17 very quickly.

18 PRESIDING JUDGE STEINER: I'm really in the need to have good surprises,
19 Maître Liriss. Thank you very much.

20 Mr Witness, before we start, I need to remind you that you are still under oath; do you
21 understand that?

22 THE WITNESS: (Interpretation) I understand that, but I would like to point out that if
23 that is on record, then it is true.

24 PRESIDING JUDGE STEINER: Your comment is noted on the transcript that you
25 pointed out that, if that is on record, then it's true. Is that what you said?

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 THE WITNESS: (Interpretation) That is exactly what I said, Madam President.

2 PRESIDING JUDGE STEINER: So I will give the floor then to Maître Liriss. Maître
3 Liriss, you can start with your questioning.

4 MR LIRISS: (Interpretation) Madam President, your Honours, good morning once
5 again.

6 QUESTIONED BY MR LIRISS: (Interpretation) (Continuing)

7 Q. Good morning, Mr Witness. We shall make every effort to try and enable you to
8 leave today and, also, we shall do our very best to refer to your statements, but before
9 doing so, I would like to finish a question that was pending yesterday and then we can go
10 on to the telephone calls and then to the crimes. Now, relating to what we said yesterday
11 about two officers, did you in one way or the other, at any time, learn (Redacted)
12 (Redacted) that the

13 MLC troops in the Central African Republic depended on the Head of State and on the
14 military hierarchy of the Central African Republic.

15 A. Counsel, yesterday I answered you saying that the person who had invited them
16 was the President Ange-Félix Patassé. That is what I said.

17 Q. Thank you, Witness. If I will be allowed by the Chamber, I would like to refer and
18 take into account on the basis of the answer we just heard the document CAR-OTP-0020
19 page 0205 to 0207. And then again 0228 to -- or, rather, plus 0257, 0258, and 0268.

20 Witness, you stated that Mr Bemba had telephone conversations with Mustapha using a
21 Thuraya device; is that right?

22 A. That's right.

23 Q. And according to your statements these conversations took place several times a day;
24 is that right?

25 A. (Redacted) What you

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 have just said is correct.

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. You also stated the following: Apart from the case of (Redacted)

6 (Redacted) Mr Bemba speaking on the phone; is that right?

7 A. Concerning (Redacted)

8 (Redacted), and Mustapha (Redacted), and

9 Bemba called him to ask him about the looting that had been committed by the children,

10 (Redacted).

11 Q. (Redacted)

12 (Redacted)- and when he asked questions about

13 looting and whether there was looting; is that right?

14 A. That is what I know. There were two cases. (Redacted), well, he was rather far off

15 and (Redacted)

16 (Redacted)

17 Q. The investigator asked you whether -- apart from those cases, whether you

18 remembered occasions when Mustapha received orders and, if yes, what type of orders

19 did he receive? And to that question you answered "I'm going to think about it, and if I

20 remember anything I will tell you tomorrow." This statement that you made on page

21 CAR-OTP-0043-0341, is it correct?

22 A. Yes, that's right.

23 Q. Now, let's talk about the case of the (Redacted). Do you

24 remember that you stated on page CAR-OTP-0243-0294 and during the hearing on 4 April,

25 English transcript page 49, page 49, line -- I believe lines 13 to 15, where you said that you

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 overheard (Redacted); is

2 that right?

3 A. (No interpretation)

4 Q. Would you like me to read out what you said from that page?

5 THE INTERPRETER: The Sango interpreter did not hear the witness's answer.

6 MR LIRISS: (Interpretation)

7 Q. The interpreter didn't hear your answer, Witness. Could you please repeat it?

8 A. I asked you to read out what I stated, please.

9 Q. Let me just find what was relevant. When Mustapha learned that he took all of his
10 Thuraya and called (Redacted) -- when he called (Redacted), Mustapha (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted) When Mustapha had finished his conversation with

15 (Redacted)

16 (Redacted) Is that right?

17 A. Counsel, that is the answer that Mustapha gave when he called (Redacted)

18 (Redacted). Bemba, well, whether he was on the

19 spot, (Redacted)

20 (Redacted). That is what I repeated to you. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. Witness, (Redacted) but (Redacted)

25 (Redacted) Is that an

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 appropriate interpretation of your answer?

2 A. That is what I said, Counsel. (Redacted) He was having

3 a conversation with Mr Jean-Pierre Bemba. (Redacted) He

4 was the one who had it and he was the one who told Kamisi afterwards, after he had

5 finished his conversation with Bemba.

6 Q. So we agree. Okay. My question is: (Redacted)

7 (Redacted)

8 A. Counsel, all I can say is that I did not know Mr Jean-Pierre Bemba's number. When

9 he was speaking to him on the phone, he referred to him as "Excellency." Based on the

10 way somebody is speaking on the phone, it is possible to know to whom he is speaking.

11 (Redacted). He was speaking respectfully and saying, "Excellency, Excellency."

12 Who else could have been that "Excellency" in question?

13 Q. You told us yesterday that he also spoke on the phone with the President of the

14 Central African Republic. To your knowledge, what is the form of address for a Head of

15 State? Wouldn't it be, "Your Excellency"?

16 A. I believe that it depends on the circumstances. I do not know what to tell you,

17 Counsel. I really do not have an appropriate answer for you. If you have seen

18 something in my statement that indicates that he was speaking to Mr Patassé and

19 addressing him "Excellency," then you can read it to me, Counsel, so that I can confirm or

20 not.

21 Q. I have not seen any such thing in your statement. The only question I'm asking you

22 is the following: Is it because you heard that word "Excellency" that you concluded that

23 he was speaking to Mr Bemba?

24 A. As far as I'm concerned, there was no other leader who could have been giving him

25 orders. It was obvious that it was him. Of course Mr Patassé was there but, if

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 Mustapha was speaking with Patassé, (Redacted)? And if

2 he was speaking with Bemba, (Redacted)?

3 Q. Mr Witness, still with regard to the orders given by Mr Bemba, I will read out to you
4 a few questions and the answers that you gave. Listen carefully and tell me whether you
5 agree, or not. We are talking about what you consider as the orders given by Mr Bemba
6 to General Mustapha, page CAR-OTP-0043-0293, if I'm not mistaken:

7 "Question: Who decided that the soldiers belonging to Sege should take that road?

8 Answer: It was Bemba. Mustapha was frequently in communication with Bemba, and
9 (Redacted) and he was speaking with Bemba. I know that the orders

10 came from Bemba. They communicated through the Thuraya. Sometimes Mustapha
11 would step away (Redacted) when he was speaking to Bemba. Question: In that case,
12 how do you know that the orders were from Bemba? Answer: I knew that

13 Mr Mustapha had a boss, whose name was Bemba. Mustapha was simply responsible
14 for implementing orders. Bemba gave him orders and he implemented them.

15 Mustapha could not take any decisions. Question: What do you mean by 'Mustapha
16 could not take any decisions'? Answer: It was not Mustapha who was the leader of the
17 MLC, but Bemba."

18 Do you confirm that? To be fair the excerpt goes on, but it does not contradict what I
19 have already read out to you and so this is to save time.

20 A. Thank you, Counsel. I am going to tell you something and I would like you to pay
21 attention so as to understand me. You have just asked me a question. Please note that
22 we are talking about Bossembélé. Mustapha had been called from Zongo by Kamisi, and
23 when Kamisi informed Mustapha that his boat had been looted the question was who had
24 given Mustapha orders to send troops to Mongoumba? What I heard is that he had
25 received orders from there, and that is well noted in the document. I believe that you

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

- 1 have seen it. I'm not lying. I'm not here to deceive anybody. He was called from
2 Bossembélé, and I would like to elaborate so that you should understand because there
3 are many examples. I hope that someone else can corroborate what I'm saying.
- 4 Q. Let us go step-by-step. For the time being I'm simply asking you to confirm what
5 I've read out, except you have a comment on that. Otherwise, we will not make any
6 progress and I would like to conclude today. So my question is as follows: Do you
7 confirm the excerpt of your statement that I've just read out to you?
- 8 A. Counsel, let me give you an example. By the way, what does this all mean? It is
9 the truth. That is the first point. In Bossembélé he called the Excellency, and the
10 Excellency in question answered him and told him to go. (Redacted) and that is
11 what I was talking about. That is my statement, but if I did not hear what Mr Bemba had
12 said then why would I be lying?
- 13 Q. On page 0043-0361, this is how you proved that the orders came from Bemba: "Did
14 he call the others after he had called Bemba (Redacted)?" "He called the others after
15 talking to Bemba." "What did he tell the others?" "He transmitted the orders that had
16 been given." "How do you know that?" "It is clear." Do you confirm that?
- 17 A. After the parade, I clearly heard that. Counsel, I'm not a confused person. What
18 I'm telling you is what I know. I cannot tell you what I do not know. I would not want
19 to assume responsibility for someone else's sins, and I do not want to be responsible for
20 blood that has been shed by someone else.
- 21 Q. On page 0043-0360, the question is given as follows: "What type of orders did
22 Mustapha receive from Bemba? Answer: Military orders. Question: Can you give
23 us an example of the military orders that Mustapha received from Bemba? Answer: I
24 have no idea for the time being." Do you confirm that?
- 25 A. Counsel, I do regret what you are saying. If I'm answering in this manner, it means

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 that (Redacted)

2 (Redacted) I can see that you are already changing direction, as you were doing
3 yesterday.

4 PRESIDING JUDGE STEINER: Mr Witness, yesterday many times you insisted that
5 Defence should read your statement and ask you to confirm it or not, and this is what
6 Defence is doing now. He just read part of your statement and asked you to confirm, so
7 there is no reason for you to be upset or to complain now. The Defence is following your
8 instructions, so please answer to the questions put by the Defence. You understand that,
9 sir?

10 THE WITNESS: (Interpretation) Yes, I have understood you, Madam President. I
11 have the impression that Mr Liriss is trying to mislead me by setting traps for me. I have
12 the feeling that he wants me to say what I did not say; that I should confirm what I did not
13 say. Sometimes Bemba called him and gave him instructions. That is the truth. (Redacted)

14 (Redacted)

15 (Redacted) I have the impression

16 that he is trying to set a trap for me. I confirm what I said and I made a distinction
17 between what I heard and what I did not hear. That is what I can say, Madam President.

18 PRESIDING JUDGE STEINER: Thank you for your explanation, but I insist that, at least
19 in relation to last question, the Defence only read part of your statement and asked you to
20 confirm or not. This is not a trap. Maître Liriss.

21 THE WITNESS: (Interpretation) This is what I would like him to do. Let him read out
22 my statement and then I can confirm it or not, but to try to mislead me and set traps for
23 me, I cannot accept that. With the Prosecutor, Mr Badibanga, it was very clear. He
24 asked me questions about what I had said in my statement and I answered him precisely.
25 But as for him, Madam President, I'm sorry, the situation is completely different. That is

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 what I wanted to say. Thank you, your Honour.

2 PRESIDING JUDGE STEINER: Maître Liriss.

3 MR LIRISS: (Interpretation)

4 Q. Mr Witness, what I'm reading out to you is indeed from your statements, and they
5 refer to examples of the orders that were given by Mr Bemba. I will read the last one,

6 CAR-OTP-0043-0388: "You have said that Jean-Pierre Bemba was informed of cases of
7 looting and even took a vehicle from Mustapha when he returned. According to you,
8 was Jean-Pierre Bemba informed of the cases of rapes and murders that you talked

9 about?" And your answer: "Yes. Yesterday I explained to you that two soldiers had
10 been arrested in Bossembélé and they were released after three days. Maybe they were
11 released because Jean-Pierre Bemba gave instructions not to punish the children."

12 Question: "When you say that the two soldiers were released because Jean-Pierre Bemba
13 gave instructions for them to be freed, is this your opinion or did someone tell you that?"

14 Your answer: "It is my opinion." Do you also confirm that?

15 A. It is true that it is my opinion. Why am I telling you that, Counsel? I would like
16 to give you an explanation. There were things that he did, and even if Mr Bemba did not
17 give them orders to do such-and-such a thing, they were doing it and saying that it was
18 Mr Bemba who had given them the authorisation to do so. I didn't see, or observe,
19 anyone being tried or sentenced. I did not observe anyone being punished. I myself
20 know that there were things that they did that had not been authorised by him and they
21 did those things deliberately, and I believe they did that so as to attribute the
22 responsibility to him. There are many other acts that they perpetrated, which I have not
23 talked about here, but I have talked about some of the acts that they perpetrated here and
24 attributed the responsibility to Mr Bemba.

25 Q. Mr Witness, during the hearing of yesterday, English version of the real-time

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 transcript page 37, line 17, you stated as follows: "You know, there are some things that
2 he concealed from Jean-Pierre Bemba. Do you remember that?" Answer: "Yes, I said
3 that." Question: "Can you tell the Judges what types of things were concealed from
4 Mr Jean-Pierre Bemba?"

5 A. At that time Mr Jean-Pierre Bemba knew that Mustapha used to send his wife to
6 Dongo with money. He knew that he had sent her with bags of flour and many other
7 items in the boat. That is -- those are the things that people took in Mongoumba. I do
8 not know whether that is what you wanted to know.

9 Atandele said that it was Kamisi who had killed the Congolese. Was that the truth? Or
10 he was simply saying that to discredit Kamisi? Those are the examples that I can give
11 you.

12 Q. My question to you was: What type of things did the MLC troops in the Central
13 African Republic did not want Bemba to know? You have given me an example but,
14 generally speaking, what type of things were they concealing from Bemba? Because in
15 the case of Mustapha's wife, you have said that Bemba knew about it so it was not a secret,
16 but what about the things that Mustapha did not know -- did not want Bemba to know?

17 A. I have given you two examples. I have given you the example of Atandele, who
18 called Mr Bemba in Gbadolite, to inform him that the Banyamulengue, Kamisi's soldiers,
19 had killed civilians. Was that the truth? I do not believe so. Kamisi had not killed the
20 shoe-shiners. That is an example. When Mustapha sent his wife to Dongo with certain
21 items, did he tell Mr Bemba the truth about what had happened? That is the answer I'm
22 giving you, Counsel. I believe that they sometimes told lies. As you know, he was
23 angry and it was possible for him to say just anything. I do not know what answer I can
24 give to convince you, Counsel.

25 Q. That is enough for me. During the hearing of 4 July 2011, real-time transcript,

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 French version, page 7, lines 12 onwards, you testified that Mustapha (Redacted) had
2 asked Bemba to reinforce the troops and that it was as a result of that request that
3 Commander Yves arrived. Do you remember that?

4 A. I remember that. It is true, (Redacted) in
5 (Redacted)
6 (Redacted)
7 (Redacted) Counsel, that is the truth. (Redacted)

8 (Redacted)
9 (Redacted)
10 (Redacted)

11 Q. (Redacted)

12 A. Are you asking for clarification from me? (Redacted) he had asked for
13 reinforcements, who could he ask for reinforcements from? Patassé? Mazi? Or
14 someone else? (Redacted) that he had asked reinforcements
15 from Mr Bemba on several occasions. What else do you want me to tell you, Counsel?
16 You have my statement with you. Please read it. The Presiding Judge had advised you
17 to read out my statements, so please read them out for me.

18 Q. I'm asking you that question because you stated elsewhere that (Redacted)
19 (Redacted)
20 (Redacted)
21 this is real-time transcript page 26, line 1, of 4 July 2011. (Redacted)

22 (Redacted)
23 (Redacted) Do you remember?

24 A. That is my statement, and it was written down, Counsel.

25 Q. That is the reason why I am asking you the question. Since he did not mention his

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 name, how did you understand that it was Bemba that he was talking about?

2 A. He was the person that gave orders to Mustapha. Let me give you just one
3 example, the example of what happened in Bossembélé about Mongoumba: Who gave
4 him instructions that day? (Redacted) That was the example that I can give
5 you. It could have only been him.

6 Q. Witness, can one infer that (Redacted) Mustapha saying (Redacted) "I
7 have called for reinforcements from Bemba," but that you yourself believed that Bemba
8 was the person he was talking about, that Bemba was the one? Would it be correct to say
9 that since he never called Bemba by his name, as you specify yourself throughout the
10 entire operations and since there was this matter of calling for reinforcements, you
11 inferred therefore that he was talking about Bemba; is that correct?

12 A. Thank you, Counsel. As I have said, let me just give you an example. There were
13 soldiers in our country, the Democratic Republic of Congo, they came to Bangui by air.
14 Did Patassé have the power to go to Basankusu to recruit the soldiers and bring them over
15 to Bangui? I ask you that question. If you're talking about my opinion, well, let me just
16 return that question to you.

17 Q. Well, I think you've answered my question. Is it true to say, as you stated, that
18 those soldiers arrived by a Transal 730 aircraft that was -- either belonged to the Central
19 African Republic or was hired by it? This is a statement you made at 0043-0331.

20 A. That's right. It's true, that is what I said. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted) I cannot forget those details; they are like photographs, snapshots in my
25 memory.

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 Q. I gave you the French reference earlier on. The English reference is page 21,
2 hearing of 4 July 2011, edited version, page 21, lines 9 to 13: (Speaks English) "They
3 never spoke about Jean-Pierre Bemba in name, but you could understand that Bemba was
4 indeed the person who gave instructions."

5 PRESIDING JUDGE STEINER: Thank you, Maître Liriss.

6 MR LIRISS: (Interpretation)

7 Q. Witness, you said that once they got there, those troops were immediately given the
8 uniforms of the Central African Republic and were given 21,000 francs CFA, page
9 CAR-OTP-0043-0331; is that right?

10 A. Yesterday you read out that passage to me, and indeed the passage was visible on
11 the screen.

12 Q. I think you're confused. I'm talking about the reinforcements, the troops that came
13 as reinforcements; i.e., Yves' troops.

14 A. Yes, but you didn't mention Yves' name. That's why I was answering you in that
15 way. Please be clear with your questions and I will be able to give you very clear
16 answers.

17 Q. You're quite right and I apologise. So let me repeat my question, if you're willing.
18 I'm talking about Yves' troops that came over on a Transal plane that was hired or
19 belonged to the Central African Republic army. You said that that was the case. Do
20 you also agree that once they reached the spot these reinforcements were immediately
21 given uniforms and received, each of them received 21,000 CFA francs?

22 A. Counsel, if that is what is recorded then I accept. If it is not recorded, I cannot go
23 along with that. That is what I knew. They had new weapons, and that is what I said.
24 They had Kalashnikov rifles. They weren't given the Kalashnikovs in the Central African
25 Republic; they had arrived with those weapons.

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 Q. As regards the aircraft, the uniforms and the amount of 21,000, it is on record at
2 0043-0331. So now, Witness, do you remember having stated - and you stated this on
3 two occasions - that they were negotiations between Mr Patassé and Mr Jean-Pierre
4 Bemba as regards sending troops to the CAR? I can read out the relevant passages, if
5 you'd like me to do that.

6 A. (Redacted)

7 (Redacted)

8 (Redacted) Mr Demafouth was the person who had been sent
9 over there for the negotiations. These words did not come from my mouth, and I think
10 that is on record, but in any case that's what happened.

11 Q. Witness, I asked you those three questions; i.e., who transported the reinforcement
12 troops, who equipped them, clothed them, who paid them, who gave them guidance on
13 the ground in the theatre of operations and whether or not you knew that there were
14 negotiations, and that they - the troops - came on the basis of that negotiation.

15 All this was to ask you this question: Now, on that foundation, would it be right to say
16 that the reinforcements came as a result of negotiations, rather than as a result of a
17 unilateral decision made by Mr Jean-Pierre Bemba? If my question is too lengthy, I can
18 break it up.

19 A. I heard you. Counsel, I cannot say that it was because there were negotiations
20 that -- well, was it the result of those negotiations that those troops were sent to
21 Mr Patassé? I don't know but, as you know, I was not involved in those negotiations so I
22 wouldn't be able to know. This is what I heard and that is what I am narrating here.
23 I just said to you that (Redacted), told me that, told
24 me that information. Now, Counsel, it could well be that I've forgotten some details, and
25 you can read out what I stated so that I will remember, and I will tell you then if "yes" or

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 "no" I was the one to say such things. But if you ask me questions in a rather roundabout
2 way, it's not easy for me to understand you and my answers might not be right.

3 Q. I'll try and be clearer. Do you know whether the reinforcements were the result of
4 a personal decision made by Jean-Pierre Bemba, or did they come as a result of a request
5 made by a sovereign government?

6 A. Please, Counsel. Please read out my statements that you have before you so that I
7 can either confirm or deny this, deny or confirm whether I said this, whether these words
8 were mine, and then I will tell you why I said that, if I said that.

9 Q. At page 0043-0285 and 0286, this is what you say: "But I -- I knew that Bozizé's
10 troops and there was also discussion between Patassé and Bemba about an MLC
11 intervention in the CAR." Page 00 --

12 THE INTERPRETER: Or rather 0293, interpreters' correction.

13 MR LIRISS: (Interpretation)

14 Q. "Mustapha was not the one to lead the MLC. It was Bemba. I knew that there had
15 been a negotiation between President Patassé and Bemba to have the MLC troops come
16 over to the Central African Republic. Everybody knew this." This is what you state.
17 Can you confirm that, sir?

18 A. Yes. Yes, I confirm that statement, but wait a second, Counsel. Please, Counsel.
19 Madam President, I would like to apologise. That is the truth. Everybody knew that.
20 In fact, I talked about (Redacted). You no doubt will find his name in my statement. (Redacted)
21 (Redacted).

22 Q. Thank you, Witness. That's why I was asking you this question, whether it was
23 true to say that Yves' troops had not come over on the basis of a personal unilateral
24 decision made by Mr Bemba. That's all I was asking. Thank you very much for your
25 answer. Let me now go on to my last series of questions before the break. I will be

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 talking about the withdrawal of the MLC troops. You stated, "Even when Mr Mustapha
2 gave orders to his battalion leaders, he would move away from everybody." This is on
3 page 0043-0361. Can you confirm that, Witness?

4 A. Yes, I can confirm that, (Redacted). The officers around him are people
5 with -- of higher ranks. Well, he would speak to them, and you, if you wished to talk to
6 your elements in a discreet manner, you will move away from other people so that
7 nobody -- not everybody can hear what you want to say, don't you think, Counsel?

8 Q. Yes, I agree with you and that is why I asked you the question, i.e. in that case how
9 is it that you heard (Redacted)

10 (Redacted), as you stated at the hearing of 4 July, page 25, lines 17 to 23, and I will
11 give you the English language reference in just a few seconds?

12 A. I fully agree with you. Let me just say this to you. How is it that I knew that
13 (Redacted)? Well, what I said in the statement, what I know is that he
14 had gone out on the 6th and had already called on his men, (Redacted)
15 (Redacted) Is that not the case, Counsel?

16 Q. No, that's not it. Can you confirm to me that you did not hear orders (Redacted)
17 (Redacted)?

18 A. Is that on record? If it's on record, then please read it out to me please. If that is
19 what I said, then I will be able to tell you that that is the case.

20 Q. No, it's not on record. Another question: Can you confirm that you were not
21 present when Mustapha gave orders to his officers (Redacted)?

22 A. I'd like to ask you the same question again. Is that on record? Is it -- was it my
23 statement? Did I say so, or not? From Monday I have been suffering your attempts to
24 trick me and I slept very badly last night. Please read out to me that passage. If it is a
25 reflection of what I said, then I will tell you so.

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 Q. Witness, you just stated - you just said this - that at (Redacted) you said that
2 Mustapha called Yves and the others so as to (Redacted); is that not the case?

3 A. Yes, that's true. In any case, I'm getting confused. Sometimes you ask a question,
4 and then you turn it around and ask it in a rather roundabout way and I -- this is
5 confusing to me.

6 Q. Just tell us what you know. The reason I changed the formulation of my question
7 is so that you understand better. (Redacted), and my
8 question is: (Redacted), whereas you state that he sent people away
9 even when he gave orders to his leaders? That's my question.
10 For the benefit of the Chamber, "When he gave instructions to his battalion leaders
11 ..." -- well, this happened at the hearing of 4 July 2011, edited English version, page 21,
12 lines 3 to 8. If you would like me to, I can rephrase my question. You were therefore
13 not present when Mr Bemba -- I am sorry, Mr Mustapha gave instructions to his leaders in
14 accordance with what you stated at the hearing of 4 July; is that correct?

15 A. What did I say on 4 July hearing, Counsel? Since Monday, you have continually
16 asked me roundabout questions. I'm a human being.

17 Q. Well, I think we can go on. No need to stay on this question. We can go on,
18 otherwise we'll lose time. Now, during the events that took place in 2002 and 2003, do
19 you know whether Mr Bemba was ever in Damara?

20 A. I don't know. Is there something to that effect in my statement?

21 Q. I'm asking you this question, because (Redacted)
22 (Redacted). Tell us whether or not you know, that's all.

23 A. Counsel, well if I say that I don't know, whereas I did, what will you infer? Please
24 read out the passage and I will tell you whether "yes" or "no" the statements you just read
25 out are ones I uttered. I will be able to answer you very specifically.

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 PRESIDING JUDGE STEINER: Mr Witness, maybe it's better now that we go to a break,
2 if Maître Liriss so allows. I will ask VWU to come and talk to you, because maybe there
3 is a misunderstanding here and you don't understand why Defence is allowed to ask you
4 questions that were not asked by the investigators. There are many things that are not in
5 your statements just because the investigators never asked you, and the Defence is
6 entitled to ask you and you are entitled to say, "I don't know," or, "I don't remember," or if
7 you know the answer you can give the answer.

8 We cannot suppose that the Defence only comes here to read your statement and ask you
9 to confirm. A testimony is more than that. It's to answer questions that were not put
10 before -- were never put before. So maybe if you understand that, you don't get so upset
11 and we can continue with your testimony and you can answer the questions, even if the
12 questions were not asked before. Again, I say that the Chamber is vigilant and will not
13 allow anyone to put traps to you. This is not for the benefit of anyone.

14 We are going to suspend, if Maître Liriss agrees, two minutes in advance, and we will
15 resume at 11.30. I will ask, please, the court usher to accompany the witness outside the
16 courtroom, and I ask, please, the court officer to recommend VWU to meet the witness
17 and to help the witness to be prepared for the remaining of his testimony.

18 Take some coffee and some rest, Mr Witness. We will resume at 11.30.

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

20 (The witness stands down)

21 PRESIDING JUDGE STEINER: Thank you, Maître Liriss. The hearing is suspended.

22 We will resume at 11.30.

23 THE COURT OFFICER: All rise.

24 (Recess taken at 11.00 a.m.)

25 *(Upon resuming in closed session at 11.44 a.m.) Reclassified as Open session

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

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

2 PRESIDING JUDGE STEINER: Welcome back. I apologise to the parties and participants
3 for the delay; only my fault. Could please, court usher, bring the witness in.

4 (The witness enters the courtroom)

5 PRESIDING JUDGE STEINER: Welcome back, Mr Witness.

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

7 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony, sir?

8 THE WITNESS: (Interpretation) I'm ready.

9 PRESIDING JUDGE STEINER: Thank you very much. Maître Liriss.

10 MR LIRISS: (Interpretation)

11 Q. Good morning once again, Mr Witness.

12 A. Good morning, Mr Liriss.

13 Q. We are going to try to accelerate; everyone is tired, including you and myself. We
14 were discussing the alleged visits of Mr Bemba. You told us that he came to Bangui once
15 and stayed at the Sofitel and that you did not see him. Now, this is my question to you:

16 As far as you know, in light of what you heard or even observed, did Mr Bemba visit
17 Damara?

18 A. I do not know.

19 Q. Was he in Sibut, Bossangoa, Bossembélé or Bossempélé? In any case, did he visit
20 any place where there was fighting?

21 A. I did not hear any such thing.

22 Q. Thank you, Mr Witness. We will now move on to the crimes and we will discuss
23 those crimes town-by-town; is that okay with you?

24 A. Yes, that is fine with me.

25 Q. You have said that in Bangui Kamisi had misappropriated 40 bales of cotton from an

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 unidentified company. You say that these goods were stored in the home of a certain
2 Atandele; do you remember that?

3 A. That is true.

4 Q. Do you know from where Kamisi took those bales of cotton?

5 A. At that time, Kamisi was on the Sibut road in the company of (Redacted). They
6 were together. (Redacted)

7 (Redacted)

8 Q. Did you personally witness this looting?

9 A. I was not present.

10 Q. Did the person known as Atandele know that the cotton that was stored in his home
11 had been stolen?

12 A. (Redacted)

13 (Redacted)

14 Q. Did (Redacted) tell him that the cotton had been stolen? Did he tell Atandele that?

15 A. He must have told him because (Redacted) himself did not own a cotton company.

16 Atandele knew that (Redacted) with Kamisi. The same applies to the wild peppers.

17 Atandele knew that it was Kamisi who had given him those peppers. (Redacted)

18 (Redacted) Obviously he must have known.

19 Q. Did you witness or hear the conversation between (Redacted) and Atandele about
20 that cotton?

21 A. (Redacted)

22 (Redacted)

23 Q. Let us assume that Atandele knew that the cotton was stolen. Do you know why
24 he went and sought for the services of a magistrate of General Mazag (phon) who was in
25 charge of the anti-theft brigade and do you know why this general accompanied by 12

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 policemen visited the site?

2 PRESIDING JUDGE STEINER: Maître Liriss, where is this information, please?

3 MR LIRISS: (Interpretation) I'm sorry, your Honour, I'm going to give you the reference.

4 It is CAR-OTP-0043-0290.

5 Q. Mr Witness, let me repeat my question. In case Atandele knew that this was stolen
6 property, can you explain to us why is it that Atandele went and contacted the Deputy
7 Prosecutor, the anti-theft brigade under General Mazag, who himself visited the site as
8 well as policemen?

9 A. (Redacted)

10 (Redacted)

11 (Redacted) Atandele was not present, (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted) He also called Mazangue who, at the time, was the director of the OCRB.

18 All of them visited the house and they started discussing.

19 Q. Could you please spell out OCRB for the needs of the transcript and also explain to
20 us what it stands for?

21 A. OCR -- OCRB. In French, Office de Répression -- or, rather, Central African Crime
22 Prevention Office.

23 Q. According to the information that you gathered, why was it that once Kamisi had
24 given those explanations to his officers, why did they not consider it necessary to seize
25 those goods?

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 A. They themselves could assess the situation. What Kamisi had told them was true.
2 They thought it was -- there was no need to seize the goods. They left them there and
3 they went back.

4 Q. Is it right to say that both the magistrate and the director of the OCRB, on the basis
5 of Kamisi's explanations, inferred that since those facts were true, then the goods had not
6 been obtained by deceitful means?

7 A. Well, as far as I know -- well, they are the ones who could answer that question, but
8 I myself do not know. In my opinion, well, (Redacted) those goods were left with Kamisi.
9 (Redacted)

10 Q. Were you yourself convinced that these goods were obtained by deceitful means?

11 A. Counsel, well, (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. Let's be clear. (Redacted)

15 (Redacted)

16 A. Okay. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted) That's the story.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 THE INTERPRETER: If the Sango interpreter understood correctly.

25 MR LIRISS: (Interpretation)

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 Q. That's why your opinion, your knowledge of the facts, is very important. You
2 yourself, did you know that these were goods obtained by deceitful means?

3 A. I do know that that was the case, because they did not belong to them.

4 Q. Do you know who the owner was?

5 A. I think they belonged to a cotton company. I think that's it, because in Bangui there
6 are several porters who carry or who transport cotton that belong to various companies.

7 Q. (Redacted)

8 A. (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. You declared, page 0043-0291, (Redacted)

12 (Redacted)

13 (Redacted)

14 A. Counsel, (Redacted). Atandele took five of them

15 because those goods were stored at his place. (Redacted)

16 (Redacted)

17 Q. You also said that Atandele immediately called Mr Jean-Pierre Bemba; is that right?

18 A. Yes, that's correct. (Redacted)

19 he (Redacted) and said that Kamisi had committed

20 abuses and that some Congolese had died. But all this was due to anger, because he

21 absolutely wanted to keep the cotton bales and sell them and keep the money. Did he

22 actually call or did -- was this intimidating tactics? He was an arrogant man that showed
23 off.

24 Q. What means did he use to call Mr Bemba, please?

25 A. He had a telephone. He had a telephone set in his hands, and this happened in

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 Bangui, in the Castor neighbourhood. This was a mobile phone.

2 Q. In 2002 there were no cellphones in Bangui; there were only Telecel cellphones. Do
3 you remember that?

4 A. No, Counsel, I deny that. At the time, there were already GSM phones.

5 Q. Prove to me that at the time there were only portable phones.

6 A. There was an operator, I think it's called Move now, and there was the Move
7 network. I don't remember what the name of the network was, but even with Telecel
8 you could call abroad. Even with Telecel, the Telecel operator, you could have called
9 abroad.

10 Q. Mr Witness, yesterday you said this, and indeed this is also con -- refers to your
11 statement. You said that the Telecel cellphone could not work at a distance of more than
12 25 kilometres. Do you remember that?

13 A. Yes, that's right.

14 Q. You said that the GSM - I think it was France Telecom - was something that only
15 came much later. Do you remember that?

16 A. Counsel, let me just explain this to you. I lived in Bangui. I cannot lie about this
17 because I was there when all this happened. The network, the communications network
18 for telephones, well, that network covered only a surface area of 25 kilometres. In the
19 city of Bangui, which is covered by the network, you can call abroad. You can call
20 Europe. You can call all over the world.

21 Q. Let me just remind you of your statement, or your testimony.
22 Yesterday -- transcript of 4 July, rather, page 54, lines 26 to 28, and page 55, lines 1 to 6,
23 you clearly stated that the cellphone network that existed was the Telecel network in 2002
24 and that that network could not go beyond 25 kilometres and that is why the officers had
25 been given Thuraya sets. Do you remember that?

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 A. Thank you, Counsel. Thank you, Maître Nkwebe, my elder. I don't want to make
2 things difficult. I said that the Thuraya set can be used everywhere, but -- but Telecel
3 was limited by the network coverage. There was no Telecel coverage in other areas.
4 You're not being careful about what I say. Would you like me to repeat my answer
5 again?

6 Q. Yes, please.

7 PRESIDING JUDGE STEINER: Before we continue for half-an-hour discussing the
8 réseau de Telecel, let me try to ask a clarification from the Witness. Maybe there is a
9 difference between the French and English transcript.

10 In the English transcript on page 32, lines 9 and 10, the witness says, "But even with
11 Telecel you could call abroad. Even with Telecel, the Telecel operator, you could have
12 called abroad." Could, please, the witness explain what the witness meant by "... the
13 Telecel operator, you could have called abroad"?

14 THE WITNESS: (Interpretation) Thank you, Madam President, that's precisely it.
15 Using the Telecel operator, you could call abroad. You could call Europe. You could
16 call America. Even someone who has a Thuraya set in the middle of the forest, and as
17 long as you have credit on your telephone, you can call that man - that person - and
18 communicate with him. That is the truth.

19 PRESIDING JUDGE STEINER: Thank you, Mr Witness.

20 Maître Liriss, you can continue.

21 MR LIRISS: (Interpretation)

22 Q. Mr Witness, (Redacted)?

23 A. (Redacted)

24 Q. (Redacted)

25 A. (Redacted) Atandele, I think that

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 Mr Jean-Pierre Bemba knows him. We are here before a court. He was a proud man
2 and he could have done that. He was capable of doing so but, since Atandele declared
3 that he had called him, (Redacted)
4 (Redacted) He was a proud man and he did some things. Well, of course,
5 this doesn't relate to this case, but in any case he had done quite a few things in the name
6 of Mr Bemba. Now, I wonder now whether he was truly an ambassador, because in
7 Bangui that's what he was called, "ambassador," and he was thought to be Mr Jean-Pierre
8 Bemba's ambassador and I was witness to that. That's information that I can share with
9 you.

10 Q. Thank you, Mr Witness, but that is precisely the question I was going to ask. Do
11 you know whether he actually was the ambassador of Jean-Pierre Bemba, or was it just
12 something that he prided himself on?

13 A. He himself confirmed this, that he sent money, that he bought fuel and that he had
14 this transported by riverboat to Gbadolite. I know this person - this member of
15 parliament - very well. I know how he behaves. Whether he lied, well, he was the one
16 to say all this.

17 MR LIRISS: (Interpretation) For the information of the Judges, contrary to what you
18 said Atandele is not a member of parliament for the MLC. He is an independent
19 member of parliament, and we will be sending the parties a statement made by the
20 President of the Congo Parliament on this topic.

21 Q. But let's go on. So you didn't hear what he said to Jean-Pierre Bemba and you
22 didn't hear Jean-Pierre Bemba's answer either, did you?

23 A. Quite right.

24 Q. Perhaps I'm repeating myself, but in any case (Redacted)
25 (Redacted); is that right?

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 A. He was the one to say that. He was the one to assert that.

2 Q. As far as you know, did the Office of the Prosecutor interview Massaki (phon), (Redacted)
3 (Redacted) or Atandele? Did they investigate the company that owned the cotton, as far as
4 you know?

5 A. No, no, no. Why do I say this? (Redacted) As soon as they had
6 finished with Kamisi, it was Atandele who had them come.

7 Q. I'm afraid you did not understand my question. When I talk about "the Office of
8 the Prosecutor," I'm talking about the ICC Prosecutor's office. Did the Office of the
9 Prosecutor of the ICC, or to be more specific its investigators -- as far as you know, did
10 they interview these people to check the veracity of the facts, and I insist on this, as far as
11 you know?

12 A. Counsel, it's difficult to answer that question because the ICC investigators came.
13 No, I can't answer that question.

14 Q. Did the investigators (Redacted) try to enter into contact with those people?

15 A. I can't remember that. What did I say in my statement, Counsel?

16 Q. Nothing was said. Rest assured, all we want to do is check whether the
17 investigators went the whole way in checking the veracity of the facts. You said nothing
18 in this respect.

19 As far as you know, was Mustapha informed of these events?

20 A. Certainly, Counsel, but much later on. He must have learnt about them much later,
21 not the very same day. I don't think so, in any case.

22 Q. How do you know that?

23 A. (Redacted) Now, I don't remember, is this written anywhere? Perhaps
24 you could refresh my memory?

25 Q. No, I just want to find out how you know that Mustapha was informed about this

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 incident involving the cotton and Kamisi?

2 A. In my opinion, it was later on that that happened, because at the time Kamisi had
3 moved around and had gone to Gbadolite, and when he reached Gbadolite a decision had
4 been taken. Mustapha asked him to come back. I don't know whether that's written
5 down anywhere. No doubt, yes, that must be on record somewhere. He travelled later
6 to Gbadolite before returning.

7 Q. Would it be correct to say that it was because Kamisi travelled to Gbadolite that you
8 infer that Mustapha was aware, that he was aware of the theft?

9 A. Yes, I believe so. That was written down; it is in the document. Please
10 cross-check.

11 Q. Mr Witness, were you ever told, either (Redacted) or by reading a public
12 document, or from a reliable source of information, that the cotton factory that you are
13 talking about had been completely dismantled and looted by the rebels of Mr Bozizé even
14 before the MLC intervened in the Central African Republic?

15 A. There was such a factory in Bossangoa which was looted. It must have been a
16 cotton factory. Please read the relevant excerpt to refresh my memory.

17 Q. You have answered my question. You did not say anything about that in your
18 statement, but if you tell me that you learned one way or the other that the factory had
19 been looted, then that is enough for me. And I would like to refer the Chamber to
20 document number 8 on the Defence list, CAR-DEF-0002-0118, 0119, 0120 to 0123, I believe.
21 Mr Witness, you have stated that (Redacted) had a lot of trust in you. Ever since
22 you were together, did he ever threaten you at any point, or did (Redacted)
23 threaten you for you to do something or not to do something?

24 A. I do not remember. I do not remember. Was this in Bossangoa with Sege? Is
25 this indicated anywhere in my statements, Counsel?

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 Q. Absolutely not, Mr Witness. Am I to understand that this was never the case?

2 This is not a trap, Mr Witness, simply tell me the truth. Did (Redacted) ever threaten you
3 in any way at any time?

4 A. Counsel, it is possible that I said that and that I forgot it. You are asking me these
5 types of questions. Is it true, is it not true? I do not know so, please, Counsel, tell me so
6 that we can make progress.

7 Q. You did not say that in your statement, but if he had threatened you to do or not to
8 do something you would remember, wouldn't you?

9 A. That is what I just told you. Did I say that somewhere? Please tell me, Counsel.

10 Q. Let us move on. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted) is that correct?

14 A. That is correct, Counsel.

15 Q. You said that all those items had been looted or stolen; is that correct?

16 A. That is what I said. Let us move on.

17 Q. Were you present during the thefts?

18 A. Counsel, please check in my statements. I saw section commanders who looted
19 property, and some of those commanders were concealing those looted goods. Valuable
20 items were set aside - this was in PK12 - and those items were distributed. They would
21 take the valuable objects and then distribute the rest to the others. I know that. (Redacted)

22 (Redacted) Counsel, I'm telling you about

23 things that I personally witnessed. I cannot tell you a lie.

24 Q. You have told us that Mustapha had a lot of money in the Central African Republic,
25 didn't you? My question to you is this: Wasn't the money that he had enough for him

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 to buy plastic chairs, a generator, glasses, music sets?

2 A. Counsel, (Redacted)

3 (Redacted)

4 (Redacted) Mustapha bought things

5 and gave other people to transport for him. It was Brown who was responsible for

6 sending the money. He sent money to his daughter Yvette. Brown was responsible for

7 those transactions, so Mustapha definitely had money at that time, but he did not reveal

8 the amount of money that he had to Jean-Pierre Bemba. I know that he had money. He

9 also looted, but at other times he took out his own money to buy certain things. That is

10 what I know.

11 Q. That is why my question to you was as follows: You never saw him looting, so

12 how do you know that those items had not been purchased? (Redacted)

13 (Redacted)

14 A. Counsel, let me repeat what I have already said. I would like to point out that

15 these were stolen items, that is true. (Redacted)

16 (Redacted)

17 (Redacted) I know that these items were given by Maître

18 Nkwebe, for example. (Redacted)

19 (Redacted)

20 Q. In CAR-OTP-0043-0087 -- I'm sorry, let me repeat: CAR-OTP-0043-0287 and 0288.

21 You stated that you yourself bought a stolen telephone. Did you give it back?

22 A. Mr Nkwebe, you have said very correctly so that these were stolen items. You are

23 a good lawyer; you know about justice. This was a stolen item. I was not present when

24 it was being stolen. I bought that item. So, according to you, is it possible for me to

25 know the owner? I gave money to the person who brought the item to me.

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 Q. Thank you, Mr Witness. As far as you know, was Mr Bemba aware of the
2 operation that we have just talked about, transportation of TV sets, radios and so on, (Redacted)
3 (Redacted), to your knowledge?

4 A. Counsel, let me tell you this: There are certain things that he might not have
5 known, but when it comes to what the officers themselves were doing, he did not know.
6 However, whatever happened on the ground, people made reference to him. I observed
7 that the soldiers who were expecting to receive 300,000 and who were given only 21,000 to
8 calm them down, in that case, it was necessary to give them the elbow-room with regard
9 to what was happening on the field. I know some of those facts, but not all. However,
10 if you have statements, you can read them to me and I will be able to confirm or not.

11 Q. What I wanted to know was whether, as far as you know, Mr Bemba was aware of
12 those facts. Am I to understand that your answer is "no"?

13 A. If I tell you "yes," that would mean that it is true. Based on what I know, there
14 were things that were happening. It was not him who gave the instructions, but it was
15 his men who did those things and the responsibility was attributed to him. And from
16 my point of view, it was him because his soldiers were not punished. Those soldiers
17 were never tried. But given that the officer said that he was receiving all the instructions
18 from him, what conclusion could have been drawn?

19 Q. You also stated that Mustapha had issued an instruction (Redacted) to all the
20 soldiers, telling them, "Bring back everything that you loot to me and then I will
21 redistribute it." The reference is 0043-0287. You remember that, Mr Witness, don't you?

22 A. Let me repeat what I have just said. Regarding Mustapha, what you have said is
23 true. It is the truth, these are things that happened (Redacted), everything you have
24 just mentioned.

25 Q. Mr Witness, who else was present (Redacted) who could confirm this?

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 A. There were many people, but you can check that in the documents. If you
2 mentioned names, then I would be able to remember a certain number of details.

3 Q. You did not provide any names of witnesses, (Redacted)
4 (Redacted) who heard those instructions. That is why I am asking you here
5 whether you are able to remember.

6 A. Only his soldiers were present; that is all the people who were close to him.

7 Q. As far as you can remember, was Mr Bemba informed of such instructions given by
8 Mr Mustapha?

9 A. Counsel, what have I just told you? There were certain things that were happening.
10 He was not the one who gave those instructions, but the soldiers perpetrated those acts,
11 including the officers themselves. There are things that I cannot say because they do not
12 concern me. He was blamed for all those things because these soldiers, by their acts,
13 discredited him. I couldn't do anything about that. The soldiers themselves talked
14 about it. If I'm giving you information today, it is because the Banyamulengues gave me
15 that information.

16 Q. Mr Witness, I'm going to help you. I believe you do not understand my question.
17 There is a difference between giving an order and knowing what is happening. I may
18 not give an order, but then know what is happening. I do not want to know whether
19 Mr Bemba issued the orders or not. What I want to know is, based on your knowledge
20 of the facts, was Bemba aware of the instructions given by Mustapha which you have just
21 talked about, "Go and loot and bring back everything to me"? To your knowledge - and
22 it is possible that you may not know - was Mr Bemba aware of those instructions?

23 A. Thank you, Counsel. I have heard you. When you send your child and you say,
24 "My son, go inside the house and bring me a glass," if instead of bringing the glass, the
25 child brings you a cup, what would be said? They will say, "But it is his father who sent

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 him." However, the child did something other than what had been asked of him. That
2 is my point of view.

3 Q. Let us move on. Mr Witness, I'm sorry, but if you continue refusing to collaborate,
4 then I will ask the Bench to take due note of that.

5 PRESIDING JUDGE STEINER: I'm sorry, but at this point I think he answered the
6 question. In his way, he answered the question. So I don't know what you're talking
7 about.

8 MR LIRISS: (Interpretation) I clearly asked him and I distinguished between giving an
9 order and knowing that order had been implemented. And the question that I'm asking
10 the witness is not to know whether it was Mr Bemba who gave the order or not, but it is to
11 know whether he was aware of the instruction given by his commander. And he has
12 given me a roundabout answer: "When you send a child to buy a glass -- to fetch a
13 glass," and so on and so forth. That is not the answer to my question. Thank you, your
14 Honour. If you believe that that answer is satisfactory in light of the question that I
15 asked, then I will move on to something else.

16 PRESIDING JUDGE STEINER: Maître Liriss --

17 MR LIRISS: (Interpretation) I'm sorry, your Honour.

18 PRESIDING JUDGE STEINER: -- if the answer is satisfactory, or not, the Chamber will
19 decide in due time. What I'm saying is that he answered in his way. Giving an example
20 maybe is not the way you want it, by way of a "yes" or a "no." He gave an example that
21 this is, in the view of the Chamber, his way of answering the question by way of a
22 metaphor, by way of another question, by way of an example. We've been following this
23 for three days, or more than three days now. If it is satisfactory, or not, the Chamber will
24 decide.

25 Maître, it's time for us to break. I'm sorry.

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 MR LIRISS: (Interpretation) I really would have wanted to give you a surprise.

2 PRESIDING JUDGE STEINER: Maybe soon after lunch you are able to give me a

3 surprise. Thank you, Maître Liriss.

4 Mr Witness, we'll have now our lunch break. You will have time to have lunch and to

5 take some rest. We will continue with your testimony soon after lunch. It will finish by

6 today, by the end of the day no doubt, but we still need to continue after lunch. I hope

7 that after taking some rest you will be feeling well and ready to continue with your

8 testimony, and I'm sure that after the afternoon session you will be free to go home.

9 I will ask, please, the court usher to take the witness outside the courtroom. In the

10 meantime, we will suspend and resume at 2.30 in the afternoon.

11 (The witness stands down)

12 THE COURT OFFICER: All rise.

13 (Recess taken at 1.02 p.m.)

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

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

16 PRESIDING JUDGE STEINER: Good afternoon. Welcome back. Could, please, the

17 court usher bring the witness in.

18 (The witness enters the courtroom)

19 PRESIDING JUDGE STEINER: Good afternoon and welcome back, Mr Witness.

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

21 PRESIDING JUDGE STEINER: Did you have the opportunity to take some rest during

22 the lunch break?

23 THE WITNESS: (Interpretation) Yes, I did.

24 PRESIDING JUDGE STEINER: So, Mr Witness, I'll give the floor to the Defence, and

25 I think the Defence will make us a surprise and we'll finish quite soon with your

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 questioning. Am I right, Maître Liriss?

2 MR LIRISS: (Interpretation) Thank you, Madam President. The best surprises always
3 happen at the end.

4 Q. Good afternoon once again, Mr Witness.

5 A. Yes, hello, Mr Liriss.

6 Q. Do you remember talking to us about a Colonel Mondonga?

7 A. Yes, I remember.

8 Q. Was he part of one of the three battalions that were in the Central African Republic,
9 or had he come on a special assignment?

10 A. He had come on a special mission.

11 Q. Were you able to find out what that mission was?

12 A. No, I don't know. (Redacted), the children told me that he had
13 come from Gbadolite. I believe he'd come with other people, (Redacted)
14 (Redacted).

15 Q. You also stated that Mustapha had arrested twelve people for the plundering that
16 had been perpetrated in Bangui. Do you remember that?

17 A. Yes, I remember. I believe that on that day (Redacted)

18 (Redacted) and I think you can read

19 this passage in my statement. It was recorded in my statement.

20 MR LIRISS: (Interpretation) For the transcript, the question of the arrest of these two
21 people was on CAR-OTP-0043-0399.

22 Q. Mr Witness, on -- upon whose orders were these people arrested, please?

23 A. It must have been -- well, perhaps you could read the relevant passage in my
24 statement to me.

25 Q. I'd prefer to ask you this question in a more direct manner. Did Mustapha arrest

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 these people under the instructions of Mr Bemba?

2 A. Counsel, during those events many people were arrested. That's why I asked you
3 to read out the passage so that I can give you more details.

4 Q. You answered saying that everything that Mustapha did was under the instructions
5 of Mr Bemba. Now, that's a general statement, but my question is a specific one. Those
6 people were arrested by Colonel Mustapha. Do you know under whose instructions this
7 arrest took place?

8 A. Counsel, I'm going to answer you in this fashion: You see, when you speak about
9 twelve people, I asked you to state -- to read the passage. Well, on that day, (Redacted)
10 (Redacted) some Chadians who were battered and tortured, and we
11 asked questions -- we wanted to know what was going on, (Redacted).

12 (Redacted)

13 (Redacted).

14 And there were other youths, youths who raped some girls and looted, and those people
15 were whipped and released. But if you don't read out the relevant passage from my
16 statement to me, how can I remember the details? It could well be that some -- I forget
17 some details. Many things happened. Sometimes people would be arrested for having
18 committed such-and-such a crime. Sometimes they were, in fact, arrested without Mr
19 Bemba being aware. Mustapha handled this situation from his standpoint.

20 I asked you to read out the statement and I can give you details on each specific case. I'm
21 here to tell the truth. I'm not here to lie. I'm not here to lie. I am talking to you about
22 things that I personally experienced.

23 Q. You asked the question about the interview on 4 June 2009. You said that
24 Mustapha had arrested twelve people in relation to the transportation of goods looted in
25 Bossangoa. You said on this topic, "No, Mustapha did not arrest twelve people relating

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

- 1 to the transportation of looted goods from Bossangoa. These twelve people were
2 arrested in PK12 for other deeds." Next page -- so you said that they were released, and
3 then on the next page: "Was it under Bemba's instructions that they were arrested?"
4 You answer: "But everything that Mustapha did was on Mr Bemba's orders." That is
5 why I am asking you this question. Those twelve people who were arrested in relation
6 to looting not in Bossangoa, but rather in PK12, was that done under the instructions of
7 Mr Bemba?
- 8 A. Yes, I did say that. Counsel, let me have a few moments to explain things. Those
9 soldiers, they were the ones who committed the misdeeds. I'm here to testify. Are you
10 sure that Mustapha faithfully reported to Mr Bemba everything that happened on the
11 ground? (Redacted)
- 12 Q. Let me go on from what you just said before coming back to the question. You say,
13 "Are you sure that Mustapha reported to Mr Bemba faithfully everything that happened
14 on the ground?" So you are asking me a question and I'm going to turn it back to you.
15 (Redacted)
- 16 A. Let me answer you in this way. They committed misdeeds on a regular basis in his
17 name.
- 18 THE INTERPRETER: A quote in Lingala. There is a quotation in Lingala.
- 19 MR LIRISS: (Interpretation)
- 20 Q. Interpreter, do you mean that that quote -- could you repeat that quote in Sango so
21 that the interpreter can translate you, please, Mr Witness?
- 22 A. If we were not there on the spot, then how could we find out? Is Mr Bemba --
- 23 Q. Thank you. We're still with this question about whether you know whether or not
24 Mr Bemba gave those instructions for the arrest of those twelve people for the misdeeds
25 perpetrated in PK12?

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 A. I was perfectly clear in my answer. Why would you want me to go back to that?

2 Q. Never mind, let's go on.

3 PRESIDING JUDGE STEINER: Maître Liriss, one moment. Sorry to interrupt you. I
4 want a clarification.

5 Mr Witness, in your statement you talk about twelve military men and in the transcript at
6 one point you mentioned that they were Libyans. Which nationality were the twelve
7 military that were arrested and punished? Do you know that?

8 THE WITNESS: (Interpretation) The people that Mustapha had arrested were his
9 soldiers; MLC soldiers.

10 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness.

11 MR LIRISS: (Interpretation)

12 Q. Mr Witness, were you aware - did you learn, and I think you will certainly
13 remember this - that Colonel Mondonga's mission, and I am talking about Romain
14 Mondonga, you give a different first name with all the other soldiers that came, his task
15 was to investigate about the allegations relating to looting?

16 A. Well, no, I learned this from you now. I didn't know that. You are the one who
17 are telling me about this.

18 PRESIDING JUDGE STEINER: Maître Liriss, can I interrupt you again just to make a
19 correction here. In page 48-5 the witness said they were Chadians, not Libyans. It is
20 referred to my previous questions -- my previous question. Sorry, you can continue,
21 Maître.

22 MR LIRISS: (Interpretation)

23 Q. I note then that it is here that you heard for the first time what Colonel Mondonga's
24 mission was; Romain Mondonga. You spoke to us quite a bit about the press. Were
25 you -- did you ever hear a communiqué, a news release by the Central African radio,

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 according to which the inhabitants were urged to go and retrieve looted goods, looted
2 property?

3 A. These goods were stored at the police station at the port. I have tried to remember
4 but -- well, I don't know whether that is stated in my statement. If that's the case, please
5 read it out to me.

6 MR LIRISS: (Interpretation) So I just note that you don't remember this news release.
7 For the record, let me just say that I am referring to transcript -- transcript, edited version
8 in English, 23 March 2011, CAR-OTP-PPP-0119, page 36 to 38. I am also referring to the
9 document CAR-OTP-0034-1283 to 1285 and CAR-OTP-0027-0268, and finally
10 CAR-OTP-008-0199 to 0200.

11 Q. Mr Witness, you spoke about an old lady who was raped at PK12. Do you
12 remember this? You stated this on page CAR-OTP-0043-0327.

13 A. Did -- was she raped in Damara, or PK12?

14 Q. I'm talking about PK12. Did you see or hear about the rape of an old woman?

15 A. If that's recorded in my statement, you can read this out to me to help refresh my
16 memory, what is written in my statement exactly, and then I will be able to answer you.

17 Q. Since you are here to testify and to speak the truth, in principle, you should
18 remember that.

19 I will go to page 0327 and read some -- and read out an excerpt so that we can progress
20 quickly, and you even spoke of this: "On the way to Bossangoa, their commander
21 surprised them in -- while they were raping someone, and I'm talking about PK12 because
22 this is where it happened. One of the soldiers was outside of the house and the other one
23 was inside with the woman. The person who was outside had already raped the woman
24 and it was the turn of the second. The commander asked the soldier who was outside to
25 beat his colleague, who was inside, with his belt, and the person who was supposed to be

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 beaten responded as follows, 'But is it not you who started first?' Then the commander
2 understood that the two of them had raped the woman. They were initially taken to
3 Bossembélé and then moved to PK12. After that they were released after one week and
4 sent back to their positions. They were beaten at Bossembélé and not at PK12."
5 The question that I am asking you concerns PK12 and it is because you met with those
6 two soldiers in the PK12 prison; is that correct?

7 A. Thank you, Counsel. If you ask me the question in that way, then I will know that
8 you are talking about the events in Bossembélé, but when you are talking about PK12,
9 well, let me give you the necessary clarification. On that day, the two of them were
10 surprised by soldiers. One of them was outside of the door and the other was inside the
11 house. The commander then arrived and questioned the first soldier, asking him, "What
12 are you doing here? I know all of you, the soldiers," and he answered as follows, "I'm
13 just standing here. I'm not here to do anything in particular."

14 Shortly afterwards, he went into the house and saw the other soldier's colleague. He was
15 lying on top of an old lady. He immediately ordered him to leave the house. Then he
16 asked him to lie down on the ground. Then he asked the other soldier to strike him. He
17 was beating him violently and the person who was being beaten was shouting and saying,
18 "But what are you doing? Do you want to kill me? Are you not the one who started
19 well before me?" Immediately after that, the commander ordered the beating to stop,
20 and then he said, "Oh, well, is that how it is?" Then he started beating up the other
21 soldier.

22 Both of them were then taken to PK12 and imprisoned. They were together with a
23 Chadian known as (Redacted) inside the house. They were later released and returned to their
24 positions. That is what I can tell you.

25 Q. My next question is, how did you get to know about that story? Did you learn

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 about it (Redacted) from the PK12 prison? That is where you

2 saw those soldiers, isn't it?

3 A. That is correct.

4 THE INTERPRETER: From the Sango booth: Can the witness be requested to observe
5 the five minute -- the five-second pause.

6 MR LIRISS: (Interpretation)

7 Q. Mr Witness, you are being asked to observe the five-second pause. Consequently,
8 Mr Witness, it means you did not witness that rape? You did not see it with your own
9 eyes?

10 A. Counsel, is it written in my statement that I was there, yes or no?

11 Q. I would like - and the Chamber would also like - you to say whether you were
12 present. Did you observe that rape? That is important for the Chamber, whether it is in
13 your statement or not.

14 A. Counsel, I have forgotten everything. If indeed I was present, please read out the
15 passage that says so and then I will confirm it. You have to know that I cannot contradict
16 myself. If my statement says that I was present there, it means that I was indeed present.

17 Q. Mr Witness, if you saw that rape, then you would remember, and if you did not see
18 it, you would also remember because you swore to speak the truth. So tell this Court
19 whether you saw that rape, or not.

20 A. By saying that, you're compelling me to say that I was indeed present. I'm asking
21 you to clarify your question, but you're continuing to insist that I was present. I know
22 that this is your job. I have never done it. Ever since Monday, and more specifically
23 since last week 'til today, you have to know that I am a human being. I have sufficiently
24 understood what you are doing. If you force me to accept - to confirm - something,
25 whereas in reality it is not that, I would be considered as a liar. I do not want to give

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 false testimony here, but I have the impression that you are trying to put words into my
2 mouth. It would be appropriate for you to read out what I said, and if the statement
3 reflects precisely what I said, then I will confirm it to you.

4 Counsel, let us respect God and let us not be afraid of the people who are here. I think
5 that you are trying to mislead me into giving false testimony. If you do not read my
6 statement, then I will no longer answer your questions. I know that it is your job.

7 PRESIDING JUDGE STEINER: Maître Liriss, if you allow me. Mr Witness, maybe
8 there was an interpretation problem and it is my obligation to clarify that the Defence was
9 not asking you to confirm if you had seen the rape. The Defence was asking you
10 whether you had seen, or not. It is just a "yes" or "no" question. He was not saying that
11 you saw the rape, so I think it's not a tricky question and you can answer "yes" or "no."
12 And I can add one question to that: During that period, have you seen with your own
13 eyes any woman being raped in front of you? This is the sense of the question put by the
14 Defence. It's a "yes" or "no." It's is not a tricky question. The Chamber is vigilant.

15 THE WITNESS: (Interpretation) Thank you, Madam President. I saw them at PK12,
16 that is true, because on that day (Redacted) We
17 heard about that in Bossembélé, but in fact I saw them in PK12. But I think that Counsel
18 is trying to set a trap for me. He's trying to persuade me to say "yes" to something I did
19 not say. What I saw personally in Bossangoa, I have told you about it here. On that day
20 I saw a soldier with a cardboard box. On that day the girl was coming back from the
21 farm and the soldier told her "yaka." That is what I said.

22 MR LIRISS: (Interpretation)

23 Q. Mr Witness, you have said that you saw them. Did you see the soldiers in prison,
24 or did you see them in the process of raping that old lady? Let me read it to you. It is
25 on page 60, line 9: "Thank you, Madam President. I saw them at PK12." Who did you

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

- 1 see at PK12? The soldiers in the process of raping, or soldiers in prison?
- 2 A. I saw the perpetrators of the rape; that is, the people who raped the woman in
- 3 Bossembélé. That is it.
- 4 PRESIDING JUDGE STEINER: Maître Liriss, I think maybe we continue with a
- 5 misunderstanding, because you started on page 52, lines 1-2, talking about an old lady
- 6 who was raped at PK12, and then you repeated that you were talking about PK12; but
- 7 after reading the witness statement, it was clear - at least to me - that the rape did not take
- 8 place in PK12, but in Bossembélé.
- 9 So I think you and the witness are talking about different rapes, because the rape in PK12
- 10 the witness just clarified was the young lady that was carrying a card box.
- 11 Do you want me to repeat, Maître Liriss, the transcript, or maybe our transcripts are not
- 12 reflecting? I think two times at least the witness said that this old lady was raped in
- 13 Bossembélé, not in PK12.
- 14 MR LIRISS: (Interpretation) Madam President, it is neither your fault nor my fault. I
- 15 have clearly explained to the witness and I re-read the passage to him. The witness has
- 16 said that the old lady was raped in Bossembélé and then brought to detention in PK12. I
- 17 agree, and he says that it was in the PK12 prison (Redacted)
- 18 (Redacted) that he saw those two soldiers. Isn't that correct, Mr Witness?
- 19 My question now is to know whether he witnessed that rape, which took place in
- 20 Bossembélé and the perpetrators were detained in PK12. I do not think there's any
- 21 confusion. If you wish, I will repeat the questions in the correct order so that it should be
- 22 clear for the transcription. Do you wish me to do so, your Honour?
- 23 PRESIDING JUDGE STEINER: I want you to make it clear to the witness, not to the
- 24 transcript. For me, Maître Liriss, the transcript is quite clear.
- 25 Judge Aluoch, please.

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 JUDGE ALUOCH: Mr Liriss, I am looking at the transcript and the witness's answer.
2 From my reading of the transcript, page 56, where the witness -- page 56, it starts from
3 I think about line 15-16, "We heard about that in Bossembélé," specifically where he starts
4 saying "But in fact I saw them in PK12, but I think that Counsel is trying to set a trap for
5 me. He's trying to persuade me to say 'yes' to something I did not say. What I saw
6 personally in Bossangoa, I have told you about it here. On that day I saw a soldier with a
7 cardboard box. On that day, the girl was coming from the farm."

8 I get the impression that this is what the witness saw personally, what he is referring to,
9 and maybe not the other rape. That's the impression I get from this answer, Mr Liriss.

10 MR LIRISS: (Interpretation) Your Honour, I am compelled to clarify here. I am
11 discussing the crimes town-by-town. Regarding the rape in Bossangoa, we are going to
12 talk about it later. It was the rape of the young girl who, according to the witness, was
13 raped by three soldiers. He also mentioned a rape in Damara and we are coming to that.
14 The rape that I am asking him questions about now is the rape of an old lady who
15 is -- which is supposed to have taken place in Bossembélé, and the perpetrators of that
16 rape are alleged to have been locked up in PK12. That is the rape that I am talking about
17 now.

18 Q. Mr Witness, you have just given us an account of the two soldiers who were
19 surprised by their commander raping an old woman in Bossembélé. Do we agree?

20 A. Counsel, I can see that you are trying to create problems for me. I have already
21 answered that question. Even the Presiding Judge has read out part of my testimony
22 here to you. I do not know what you expect from me. I'm not going to say anything
23 else on this particular issue. Please ask me another question. I did not come here to be
24 harassed. *That is true. I am a human being. I have been here since Friday,
25 since Monday.

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 Q. Very well, I'm going to simplify things. Did you witness the rape of the old lady by
2 two soldiers in Bossembélé; the two soldiers that you saw in detention in PK12? Did you
3 witness that rape?

4 A. Counsel, if that part is in my statement, then please read it to me. You are
5 confusing me. If it is in my statement, then I will confirm it to you. Please read my
6 statement to me, and if it is true I will confirm it to you.

7 Q. Mr Witness, you did not give any statement about that. I'm asking you a simple
8 question. You said that there was an old lady who was raped in Bossembélé by two
9 soldiers who were then transferred to detention in PK12. My question is as follows:
10 Did you witness that rape in Bossembélé? And, please, I am doing my job, while trying
11 to take into account your well-being, and I have to take your well-being into account.
12 And if you feel that you do not wish to answer that question, or that you cannot answer
13 the question, then just say so and the Chamber will take due note.

14 A. I have already answered that question. Even the Judge has re-read my statement.
15 Counsel, what is going on? Everything is in my statement. Read it and then I will
16 remember. If I have forgotten, well, read out that excerpt for me and I will remember.
17 If you do not read out that extract then I will not accept it, but if you read it to me then I
18 will confirm it or deny it.

19 Q. Mr Witness, how many rapes did you witness during that period and then we will
20 ask you questions on those rapes?

21 A. Yes, I mentioned the rapes that I know about and these were noted down.

22 Q. Can you tell the Court which rapes those are?

23 A. But, Counsel, if you read out the excerpt for me, then I will remember, well, that
24 part talks about the events in Damara, or PK12, or Bossembélé.

25 I'm telling you how to proceed: "Mr Witness, in your statement it is mentioned that this

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

- 1 woman was subjected to this and this." And then I will say "Yes, I remember the details."
2 And if I do not remember, I will tell you so. But the way you are, proceeding I do not
3 understand. You have to cut to the chase. If it is in my statement, then I will know that
4 I am the one who said that. I will tell you I remember. So read, Counsel. Read.
5 PRESIDING JUDGE STEINER: Mr Witness, there is nothing in your statement saying
6 that you saw with your own eyes a rape. So now I am asking you: Have you seen, or
7 did you see with your own eyes, a woman being raped during the period between
8 October 2002 and March 2003? Not the cases that you heard. Did you see with your
9 own eyes a woman being raped? This is my question.
10 THE WITNESS: (Interpretation) It is true, thank you, in Bossangoa right in front of me
11 a young girl. I cannot lie about that. I witnessed this. When they called her "yaka
12 awa," they took some cardboard and went inside. A soldier went in and came back out.
13 Another soldier went in also and then came back out. I cannot forget that.
14 There are several things that happened. It is possible that I might have forgotten some
15 details about the event that he is referring to. I saw the soldiers there at PK12, but where
16 did the incident take place? It was in Bossembélé, and the soldiers were taken there.
17 Madam President, if I forget some details, it would be better for counsel to make things
18 easier for me by telling me as follows: "(Redacted), you said in your statement that you were
19 present on that day," and then I would react, "Very well, if that is in writing, then I will try
20 to remember the details and confirm." He is not telling me what is written in the
21 document and then he is asking me questions like that in the air. It is possible that I
22 might have forgotten some details, Madam President.
23 PRESIDING JUDGE STEINER: Thank you, Mr Witness.
24 MR LIRISS: (Interpretation) Thank you, madam.
25 Q. Let's talk about the Bossangoa rape that you saw yourself. I'm going to read out

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 what you said so as to make your task easier: "You talked about the case of a rape that
2 you witnessed at Bossangoa. Can you tell us what happened there?" This is what you
3 answer: "When the soldiers would search the houses, one of Jean-Pierre Bemba's soldiers
4 came upon a young girl aged between 14 and 15." You were asked the question:
5 "Could you describe this girl?" Your answer: "She was around 1 metre 60 tall. She
6 was quite dark-skinned and quite plump and she was pretty, fairly pretty." Now, listen
7 to this: "Automatically, the soldier asked her to sleep with him. She -- he took her by
8 the hand. He was carrying a weapon. The girl did not refuse. As soon as they had
9 gone into the bedroom, where he wanted to sleep with the woman, he came out again
10 immediately to try and get two or three cardboard boxes. He came out to go and get
11 cardboard boxes so as to lay them on the ground and do what he wanted to do with the
12 woman. He came out again ten minutes later. He was happy. He said 'Everything's
13 fine. Everything's fine.'" I don't know whether I need to read out the whole sentences,
14 but so far so good?

15 A. Counsel, you should complete reading so that I can give you clarifications. You
16 talked about asking. What you have just read is true. Please finish reading this out and
17 then I will give you the details. That is the truth. I was an eyewitness of this. There
18 were three men with only one girl. (Redacted) They didn't
19 meet up with this girl on the way. You know, relations of this type are generally
20 negotiated with gentleness, but these soldiers were armed and they said "yaka, yaka." I
21 was a witness of that and I am telling you the truth, because God hears me.

22 Q. Let's take things one-by-one. There were two other soldiers who came along, we
23 agree on that?

24 PRESIDING JUDGE STEINER: Maître, would you please make my life easier and give
25 the reference, please.

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 MR LIRISS: (Interpretation) Madam, I'm awfully sorry. I apologise. Page
2 CAR-OTP-0043-0323.

3 Q. Let's take this stage by stage, Mr Witness. Concerning the first soldier, as I read
4 this out to you, are those your very words?

5 A. Counsel, I am a man. Sexual relations are something we have all been involved in,
6 but God has taken me off that route. You are doing your job as attorney, but I am -- but
7 God is my master. Can a woman really accept to sleep with three men? No. (Redacted)
8 (Redacted) How could they have possibly come to an understanding
9 about having this intercourse? We met with her at the market in Bossangoa. The small
10 one had a weapon. He didn't speak French properly and he called this pretty girl, saying
11 "yaka," and beckoned to her. I'm telling you the truth. When he came out --

12 Q. Could we dwell on this first soldier, first of all. You said that he asked to sleep
13 with her. He had a weapon. The girl did not refuse. He took her by the hand.
14 Where was the weapon? In what position was the weapon? Explain to us. "He asked
15 her. She did not refuse. He took her by the hand." Tell me where the weapon was at
16 that moment, please, Mr Witness?

17 A. I cannot tell you that he had taken his weapon and threatened her, and causing her
18 to go in the direction he had chosen, no. There were soldiers there and there were also a
19 lot of civilians --

20 THE INTERPRETER: Or, rather, a lot of people around, interpreter's correction.

21 THE WITNESS: (Interpretation) -- at that particular point in time, and this girl, when she
22 was called over, was frightened so she had to answer. She just did not have the
23 possibility of protesting. She didn't know the soldier. The soldier had a weapon and
24 you could be -- can you be sure that he could actually negotiate somebody that you don't
25 know? You don't know that person, but you call her over nonetheless? Only a soldier

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 could do that. I have taken the oath here to tell the truth, Counsel.

2 MR LIRISS: (Interpretation)

3 Q. Concerning the soldier - the first soldier - according to what you are saying, and

4 these are your own words, "He called her. She did not refuse. He took her hand."

5 These are your very words. Is that something we should keep in our minds, or do you

6 challenge that? Tell us if those were your very words, or else tell us that this has been

7 badly recorded; inaccurately recorded?

8 A. Yes. I can say that, no, it wasn't properly recorded, but anyway -- no, I haven't

9 finished. I haven't finished. Excuse me. I am saying "Excuse me". That doesn't mean

10 that I am changing what I am saying. No, that wasn't asked for. He didn't ask her.

11 Why am I saying this? God is my master. When I say something, it's the truth. I

12 cannot put forward a statement and then contradict myself later on. Those who

13 transcribed this didn't record what I said properly. These people were committing

14 crimes and, according to the Bible, these actions are extremely reprehensible. They are

15 evil deeds. Three men on one girl. My brother was killed and you say "DCR, DCR."

16 My sister was killed. I continue to bow before God to call upon him. I didn't come here.

17 Please leave me alone. My brain is boiling over.

18 Q. Let's talk about the crime. I understood what you said. You say that what you

19 said was badly or poorly recorded. In spite of the fact that you signed this document

20 and that you said to the President that everything that is in this statement concerned your

21 truth and in spite of the fact that you are constantly asking me to go back to the statement

22 because everything in it is true. All right then, let's go on to something else: That is

23 inexcusable. Before God, I cannot excuse you. You are lying. You are lying. God is

24 looking at all of us here. He can hear what Madam President says and let me repeat this:

25 You are lying.

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 PRESIDING JUDGE STEINER: Mr Witness, Maître Liriss has already said that he is
2 going to another set of questions. Please try not to be upset. We have just a few
3 minutes before we finish this hearing. Let's see if we can finish as soon as possible in
4 order for you just to relax and to be able to go back home to your family. So let's try to
5 allow the Defence to conclude its questioning, and please just answer to the questions of
6 the Defence "yes" or "no," or "I don't know," or "I don't remember," short answers, and
7 then we'll be able to finish today.

8 Maître Liriss, please, short questions.

9 MR LIRISS: (Interpretation)

10 Q. Mr Witness, you said that after the first soldier, a second one entered the room. He
11 came out also and then there was a third. Do we agree?

12 A. That is correct.

13 Q. You also said that from your vantage point you could neither hear or see anything.
14 Let me read: "From where you were, could you see anything?" "No." "Could you hear
15 anything?" "No," and we are on page 0324. Do we agree on that statement?

16 A. There is something I would like to say to Madam President. I would like to ask the
17 Presiding Judge a question.

18 PRESIDING JUDGE STEINER: You can ask whatever questions you want, Mr Witness.
19 I just need to let you know that probably we are not going to finish by today, but you can
20 ask your question, of course.

21 THE WITNESS: (Interpretation) Thank you. These are children; children whose
22 parents are human beings. My sister was killed. In any case, I know that it is his job,
23 but this is what I want to tell you. This girl was raped by three people. The first rapist
24 entered, followed by the second and, lastly, the third. It was after this that the girl came
25 out of the house but, Madam President, is it possible for me to be able to witness such an

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 incident? I know that a girl was taken into the house and subjected to atrocities, and that
2 hurts me very much. I thank him. That is what I saw, that is what I talked about and
3 that is what is noted down in the statement.

4 Mr Nkwebe, can we continue now?

5 MR LIRISS: (Interpretation)

6 Q. Thank you, Mr Witness. Thank you very much. "After that, you said that when
7 the girl came out, one of the soldiers gave her a pair of sandals. She went and sat down
8 under a mango tree and then she fled. Question: Why did she flee? " "Because she
9 probably thought the others were also going to sleep with her. Question: Why were
10 the sandals given to her? Answer: Perhaps as compensation, because the soldiers were
11 satisfied." "Did she take the sandals?" "Yes, she took them, but she left them under the
12 mango tree and then she left." "What was the colour of the sandals?" "Beige." Is that
13 correct? If it is correct, then we'll move on to another question.

14 A. May God give you the opportunity to tell the truth.

15 PRESIDING JUDGE STEINER: Mr Witness, the Defence Counsel has just read part of
16 your statement and is asking you whether it's correct or not, what he said, because it is
17 written in your statement. Could you please confirm?

18 THE WITNESS: (Interpretation) Thank you, Madam President. I am reassured. I am
19 really satisfied, because he himself has said that the girl came out of the house and sat
20 under a mango tree and was given a pair of shoes. That is why I said that finally he has
21 just told the truth. He himself has ended up by providing the necessary clarification.
22 That is my statement and that is indeed what I observed, and that hurts me.

23 MR LIRISS: (Interpretation)

24 Q. One last question on that point. You have said that it was at the market. Whose
25 house was it, that is if you remember, and were there people in that market?

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

1 A. There was no one in the market. Many Muslims had fled. There were only dead
2 bodies scattered here and there; dead bodies that were rotting. I do not know the owner
3 of that house.

4 Q. Mr Witness, if I'm not mistaken, in your statement you said that you had gone to the
5 market to buy some items, some goods. I can read it out to you. (Redacted)

6 (Redacted) You went in the direction of the market and it

7 was while looking for those items in the market that the incident took place; am I correct?

8 That is why I'm surprised that there was no one where you were going to buy those items.

9 PRESIDING JUDGE STEINER: Maître Liriss, because what I have here, at least in page
10 323, is not what you're saying.

11 MR LIRISS: (Interpretation) Yes, your Honour, I'm going to read it out for you.

12 PRESIDING JUDGE STEINER: What I have, Maître Liriss, is - and I'm reading from
13 page 323, the last sentence - (Interpretation) (Redacted)

14 (Redacted)

15 (Redacted)

16 MR LIRISS: (Interpretation) I will read out not only the statement but the transcript of
17 yesterday, page 0325. The first question was: "You have said that the first soldier who

18 raped the girl said 'bad luck'. What did he wish to express by that?" And on the next

19 page, "It was because he meant that the other person should not sleep with the same girl.

20 He was just joking." "You have said that the soldier called the girl and she followed him.

21 Do you think that she consented?" "No." "So why do you think that?" "Because the

22 soldier had a gun with him and he said, 'yaka', 'come'. He did not negotiate as is usually

23 the case with women." "At what time of the day was it?" "It was 10 a.m." "Apart from

24 you, was anyone else present?" "No, there were only five of us, including the girl."

25 "Did any others see what was happening?" "No, they were scattered all over, (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 (Redacted)"

2 Further on, your Honour --

3 PRESIDING JUDGE STEINER: Maître Liriss, that just shows that you are repeating
4 questions that you have already made, but my comment was just because in your
5 question on page 69, line 19, you said, "Mr Witness, if I'm not mistaken, in your statement
6 you said that you had gone to the market to buy some items, some goods," and I'm trying
7 to -- at least to make an argument that maybe you are mistaken. This is not what he said
8 in his statement.

9 MR LIRISS: (Interpretation) I will give you the reference. It is instead in his
10 testimony of yesterday, page 28, lines 12 to 13. In fact, the transcript of today, he was
11 referring to the market, to the market. "There were soldiers and there were also many
12 civilians, many people at that time."

13 A short while -- I will give you the reference of the statement in which he states that (Redacted)
14 (Redacted) and that is when the
15 incident happened. Perhaps he should explain that contradiction. He says there was no
16 one; that is in relation to what he has said today.

17 THE WITNESS: (Interpretation) Mr Nkwebe, it is God who made you. It is God who
18 created you. There were five people there; that girl and the soldiers. You are talking of
19 several people. Who were those? And then you have talked of tyres. Am I an
20 inhabitant of Bossangoa? No, it was (Redacted)
21 (Redacted). Please know that God is listening to you.

22 PRESIDING JUDGE STEINER: Mr Badibanga, I am adjourning. Is there anything
23 really important that you have to say? You have the floor.

24 MR BADIBANGA: (Interpretation) Thank you, your Honour. I wanted to try to assist
25 in calming down things. In our team, we have a language assistant who follows

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 proceedings, and sometimes they look over things because it is difficult for interpreters.

2 And regarding this point, it is not the fault of Mr Nkwebe, nor of the witness. Our

3 assistant had noted that the witness said this morning that only soldiers were there, and

4 the person who called the girl was armed and she could not have refused. Unfortunately,

5 the translation indicated that there were soldiers and many civilians, and I believe it was

6 this small error in translation because of tiredness that has created the problem.

7 PRESIDING JUDGE STEINER: Thank you, Maître Badibanga. Maître Liriss, any other

8 comment. We will continue on Monday, because we could not advance at all. We

9 stayed for the whole afternoon in the same -- almost in the same topic. I am sorry,

10 Mr Witness, there is no other way.

11 Maître Liriss, do you have any observation?

12 MR LIRISS: (Interpretation) You asked me a question and I didn't want to go without

13 answering you. With regard to the market, transcription number 137, French version of

14 4 July, page 35, lines 10 and onwards, it is said that it was in the market while they were

15 looking for the goods, (Redacted). Thank you.

16 PRESIDING JUDGE STEINER: Thank you very much, Maître Liriss. I just hope that

17 next time you give the reference before you put the question, because in your question

18 you were talking not about a transcript, but about his statement. And we could have

19 avoided all this totally, totally irrelevant discussion. Thank you very much.

20 Mr Witness, unfortunately we could not come to an end of your questioning, and we'll

21 have to ask for your patience and you will have another weekend to spend in The Hague.

22 I will ask VWU to provide you with any kind of assistance you need, even in case you

23 want to call your family or whatever kind of assistance VWU -- the Victims and Witnesses

24 Unit will be in touch with you. You will not be left alone during the weekend.

25 I thank very much for the Prosecution team, the legal representatives of victims, the

Trial Hearing
Witness: CAR-OTP-PPPP-0169

(Closed Session)

ICC-01/05-01/08

1 Defence team, Mr Jean-Pierre Bemba Gombo. I thank very much for the interpreters,
2 court reporters.

3 I ask, please, the court usher to accompany the witness outside the courtroom.

4 Mr Witness, again, thank you very much. We wish you a nice and restful weekend.

5 And, in the meantime, we are going to adjourn and resume on Monday morning at 9.30 in
6 this very same courtroom.

7 (The witness stands down)

8 PRESIDING JUDGE STEINER: Court officer, before we adjourn, I just want a
9 confirmation on the length of the Defence questioning. We are talking about 10 hours,
10 38 minutes. Just for the Defence to know that it had already extended its time, so on
11 Monday morning the Chamber will be quite strict on the remaining time to be allocated to
12 the Defence. This hearing is adjourned.

13 THE COURT OFFICER: All rise.

14 (The hearing ends in closed session at 4.06 p.m.) Reclassified as Open session

15 CORRECTIONS REPORT

16 The Court Interpretation and Translation Section has made the following corrections
17 in the transcript:

18 *Page 12 line 4

19 (Redacted)

20 (Redacted)

21 *Page 45 lines 24 – 25

22 "Since Friday I have been here, and I have been talking and talking. I am really tired."

23 Is corrected by "That is true. I am a human being. I have been here since Friday, since
24 Monday.

25 *Page 9 lines 1 - 2

26

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0169

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 RECLASSIFICATION REPORT
- 6 Pursuant to Trial Chamber III's Orders, ICC-01/05-01/08-2223 and
- 7 ICC-01/05-01/08-3038 and its instructions in the email dated 9 May 2014, the version
- 8 of the transcript with its redactions becomes Public