

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and
6 Judge Kuniko Ozaki
7 Trial Hearing
8 Monday, 11 March 2013
9 (The hearing starts in closed session at 9.06 a.m.) * Reclassified as Open session
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE STEINER: Good morning.
14 Could, please, court officer call the case.
15 THE COURT OFFICER: Yes, Madam President. Situation in the Central African
16 Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, case
17 reference ICC-01/05-01/08.
18 PRESIDING JUDGE STEINER: Thank you very much.
19 Good morning. I welcome the Prosecution team, legal representatives of victims, the
20 Defence team, Mr Jean-Pierre Bemba Gombo. Good morning our interpreters, our
21 court reporters.
22 Welcome back, Mr Rojas, and good morning, Ms Toumaj.
23 THE COURT OFFICER (Redacted): (Interpretation) Good morning, Madam President.
24 WITNESS: CAR-D04-PPPP-0019 (On former oath)
25 (Redacted)

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 (The witness gives evidence via video link)

2 PRESIDING JUDGE STEINER: Good morning, Mr Witness.

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

4 PRESIDING JUDGE STEINER: Mr Witness, we hope you had a restful weekend and
5 that you are ready to continue with your testimony.

6 THE WITNESS: (Interpretation) Thank you very much, Madam President. I did
7 indeed have the time to rest and I am ready to continue.

8 PRESIDING JUDGE STEINER: Thank you, Mr Witness.

9 I need to remind you, sir, that you are still under oath. Do you understand that?

10 THE WITNESS: (Interpretation) Yes, indeed, I have understood.

11 PRESIDING JUDGE STEINER: Therefore, I'll give the floor to the Prosecution.

12 Maître Badibanga.

13 MR BADIBANGA: (Interpretation) Good morning, Madam President. Good
14 morning, your Honours.

15 QUESTIONED BY MR BADIBANGA: (Interpretation) (Continuing)

16 Q. Good morning, Witness.

17 A. Good morning, Maître Badibanga.

18 Q. I do indeed hope that you have had time to rest, Mr Witness, and I would like to
19 share the good news with you that we will certainly have finished with the questions
20 from the Office of the Prosecutor this morning, and I would request that you be
21 concise in the responses you offer.

22 I'm going to put a number of points of clarification to you, seeking additional
23 information, and I think that if you are concise in your responses, we will be able to
24 finish quite rapidly. Are you in agreement with this?

25 A. Yes, that's fine by me, Maître Badibanga, and I thank you very much indeed. I

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 have indeed had the time to rest and I am ready to answer your questions.

2 Q. Now, when we parted company previously, we were talking about your contact
3 with members of the Defence team, and if I'm not mistaken, you said that you were in
4 contact with them on three occasions by telephone; is that correct?

5 A. Yes, indeed, Maître Badibanga, you are right in so saying.

6 Q. And during the telephone conversations that you had with the Defence, did you
7 discuss any details of your testimony to come before this Trial Chamber?

8 A. No. Questions were put to me in a similar vein to the questions that you have
9 put to me during the three telephone conversations.

10 Q. And on the same occasion, when you had Maître Kilolo on the telephone, could
11 you please tell us approximately how long that telephone conversation lasted? Was
12 it a five-minute telephone call, or was it a one-hour telephone call?

13 A. I cannot recall precisely how long it took, but it did not last very long because I
14 did not know him at that point in time and I did not have much to say. I had not yet
15 received authorisation to communicate with him, so we did not talk for long. He
16 introduced himself to me, I did likewise and I told him that I had not yet received any
17 authorisation whatsoever to talk to him, so we didn't talk for long. I do not
18 remember quite how long we talked, but as I said, we didn't talk for very long.

19 Q. Thank you, Mr Witness. Now, in order to be precise, and this is important for
20 the record that's being taken during our exchange, now would you say that it was a
21 telephone conversation lasting more than five minutes, or an hour and 30 minutes?

22 Could you please give us a ballpark figure in terms of minutes?

23 A. Now, if I would provide you with an approximate duration, you are going to
24 come back to me and ask me exactly how long it was. As I said, it didn't last for very
25 long. I didn't actually time the exchange. It's very difficult for me to tell you

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 whether it was five minutes in duration or 50 minutes in duration, because I didn't
2 write down how long we talked. As I said to you, it wasn't very lengthy. It was
3 just an introduction and I didn't want to open up to him because I did not know him
4 and I had not yet received authorisation to talk to him.

5 Q. Now, Mr Witness, I do not have a list of the telephone calls so I'm not going to
6 say to you how long that call would have lasted. I'm just asking you to provide us
7 with an approximation, and I believe that you are in a position to say whether it was
8 five minutes in duration or approximately an hour in duration. Could you be so
9 kind as to answer this question for us to be able to move forward and wrap up as fast
10 as possible?

11 A. Once again, I shall repeat myself to say that I am under oath and Madam
12 President has just asked me if I recall the fact that I am under oath. Now, were I to
13 tell you that it was five minutes in duration and it was four or six minutes in duration,
14 well, you see, it would give me a bad reputation before the Court, but I can quite
15 sincerely tell you that it did not last for very long, but I do not know how many
16 minutes long the conversation was.

17 Q. Very well, let's move forward. You then said that you had a second contact
18 when Maître Kilolo came (Redacted) but you said that you were not able to meet him;
19 is that correct?

20 A. Yes, that is correct.

21 Q. And on that occasion did you discuss the substance of your testimony, or was
22 the discussion limited to the actual organisation or logistics of the discussion to be
23 held?

24 A. No, it had nothing to do with the substance or contents of the testimony. He
25 was making arrangements for us to be able to meet and I can confirm to you that that

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 conversation did not last any longer than ten minutes, because I told him that I did
2 not have the authorisation to welcome him and that he had to return later in order to
3 see us. He insisted. I refused for us to meet and we did not talk for long,
4 approximately, ten minutes.

5 THE INTERPRETER: Between five and ten minutes, the Swahili interpreter corrects
6 himself.

7 MR BADIBANGA: (Interpretation)

8 Q. And you said that the last time, or last contact, was a few days before your
9 testimony in The Hague; is that correct?

10 A. We did not meet as such, but we called each other a few days before I testified.

11 Q. And during that last conversation, did you not talk about the substance of your
12 testimony, or did you?

13 A. On that third occasion, we did not talk about the questions that he was going to
14 put to me. I had already received the instruction from my superiors (Redacted)
15 and on the first occasion I was told that I was going to testify before the International
16 Criminal Court. I was told that somebody would call me, for me to be able to talk to
17 them, and he did not tell me what questions he was going to put to me and what
18 answer I was to furnish. He just put the questions to me that you have put to me.

19 Q. And at what moment in time, Mr Witness, did you decide to testify for the
20 Defence, or for the accused, to be more precise?

21 A. I did not decide. I was asked to meet him, as I was asked to meet you. The
22 truth be told, I did not know the difference between you and him. I received the
23 instruction from my superiors -- well, I received a call from my superiors saying that
24 people from the Defence had called me. I wanted to make sure I asked who the
25 Defence was representing and they told me, so I had not decided that I was going to

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 say this, or that I was going to speak in favour of anybody in particular. So the
2 questions that were put to me were the questions put to me before your good self.

3 Q. Please reassure me, Mr Witness, Maître Kilolo told you at one moment or
4 another that he was indeed counsel for Mr Jean-Pierre Bemba, did he not?

5 A. Yes, he did tell me, because I knew that those people who were going to call me
6 were members of the Defence team and that is why, as I said, my superiors had
7 already told me that people representing Mr Jean-Pierre Bemba were going to call me.

8 Q. And when he told you that he was counsel for Mr Jean-Pierre Bemba, did he
9 then also ask you to testify as a Defence witness?

10 A. I do not know whether I have understood the question correctly. He told me
11 that he was counsel for Mr Jean-Pierre Bemba and he told me that he was going to put
12 a number of questions to me. Do you want to know whether he asked me whether I
13 was going to protect him, or not? I haven't quite understood your question.

14 Q. That was not my question, Mr Witness, but if you would like to bring any
15 further clarification to the Bench, that would be most welcome.

16 A. Could you please repeat your question to enable me to understand it better,
17 please?

18 Q. My question is as follows, Mr Witness: You met with the members of the OTP
19 on three occasions, in April and August 2008 and in December 2009, and then
20 subsequently you had two telephone conversations with Maître Kilolo before the
21 decision to testify was taken, and I would like to know when it was that you decided
22 to testify for the Defence. Was this during the first telephone conversation that you
23 had with Maître Kilolo or was it during the second telephone conversation that you
24 had with Maître Kilolo?

25 A. On the three occasions that I met with the members of the OTP, I was told by

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 members -- by my superiors that there was a team representing the ICC who were
2 coming, that I was going to talk to them. I did not know who this team represented,
3 and in order for me to speak to them about Mr Jean-Pierre Bemba's file, as I said to
4 you, I had already received authorisation from my superiors and on the first time we
5 talked; on the second time I had not yet received the authorisation; on the third time,
6 having received instructions from my superiors, I knew that henceforth I needed to
7 know that it was with Maître Kilolo that I was going to have a discussion.

8 Q. I believe that this must be a mistake on my part in my manner of phrasing the
9 question and I really do apologise for this. I shall try and put this differently. You
10 told us that your superiors informed you that you were going to meet with the
11 Defence; is that correct?

12 A. My superiors told me to be at the ready because I was going to go to The Hague
13 in order to meet the Defence and testify. It was, as I said, my superiors who told me
14 that the Defence was going to call me.

15 Q. Very good. Now, that is one thing. Now, the second thing that I would like
16 to examine with you is at what time you personally took the decision to testify for the
17 Defence. Did Maître Kilolo ask you during the first or second telephone
18 conversation whether you were ready to testify for the Defence, and at what moment
19 in time did you answer in the affirmative?

20 A. This was when I received the order from my superiors (Redacted). I cannot
21 do anything if a decision has not been taken by my superiors, so I was then told by
22 my superiors that I was going to receive a phone call and then Maître Kilolo called me.
23 He asked me whether I had discussed it with my superiors. I said "Yes." He said
24 "Are you ready?" And I said "Yes." That was the third telephone conversation with
25 him.

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 Q. Witness, before a witness like yourself shows up here, we do exchange some
2 documents between ourselves and disclose materials to each team; that is with the
3 Defence. We received a list from the Defence of 36 topics that you were going to
4 address during your testimony. Now, at what time did you have discussions with
5 the Defence to agree on the 38 points that you were going to be examined on during
6 your testimony?

7 Your Honour, I'm referring to document -- that is the second version of the Defence
8 summary, document CAR-D04-0004-0004.

9 Now, Witness, can you tell us when you discussed the 38 items included in this
10 document?

11 A. When I learnt that I was going to have a discussion with them, I do not
12 remember having been given a document on the 38 points, or 38 persons, who were
13 going to testify after me, as far as I recall. I got a message. There were two of us.
14 The other one was already (Redacted) but I haven't yet met that person. In any
15 event, the message authorising me to come here was received and I think another one,
16 also another person also received a message, but if you're referring to 38 persons I
17 have no recollection of any such thing.

18 Q. Can you tell us who this other person is; that is the person who received a
19 message at the same time as yourself?

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 (Redacted)

2 Q. When I said 38 subjects a short while ago, I was not referring to people. I was
3 referring to 38 different points, or different items, you were expected to discuss. In
4 fact, Defence told us that you were going to be discussing some 38 points. For
5 example, (Redacted)

6 (Redacted) and this added up to 38 points, and my question to you is:

7 When did you and Mr Kilolo discuss these 38 items to enable him to draft the
8 document which was disclosed to us?

9 A. These questions were put to me before you. Now, when he talked to me, I
10 didn't ask him any questions and he is asking me the same questions, or questions
11 that are similar to the ones you are putting to me. So I've already told you that I did
12 not have any other special contacts with him and we did not have any discussion on
13 any items before we met.

14 Q. Witness, for the Prosecutor to be able to put the questions we have put to you,
15 we needed to work for seven days, two in April, two in -- and four --

16 THE INTERPRETER: Sorry, the interpreters missed the months or the days of the
17 appointments.

18 MR BADIBANGA: (Interpretation)

19 Q. But you said that you had some discussions with Mr Kilolo, and I know that
20 he's a very competent person, but I have problems imagining that within 20 or
21 30 minutes you are able to cover all the questions that you have been able to -- or that
22 you had discussed with the Prosecutor. Now, my question to you again is the
23 following: When, at what time, did you have a discussion with the Defence covering
24 the 38 items included in the list that was forwarded to us by the Defence?

25 A. I do not believe that the document was sent to me; the document which you

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 received. All I told you is that I talked with him, he put a number of questions to me
2 to which I provided answers and you were present and the Judges were present.
3 Before the hearing, there was no other meeting at which any questions were put to
4 me.

5 Q. To wrap up on this point, apart from Mr Kilolo, did anyone else talk with you
6 about those 38 points which enabled the Defence to draw up that list?

7 A. Now, where are those 38 points from? Am I the source of those points, or is it
8 Mr Kilolo? Please, I do not understand your question about those 38 points. Are
9 these points that I raised myself? Now, if those 38 points have been raised by him,
10 well, I don't know where he's getting them from.

11 Q. Witness, are you in contact or have you recently been in contact with
12 Mr Jean-Pierre Bemba's close relations?

13 A. I lived in the Équateur for at least five years. In our army, there are people
14 from the Équateur region. I don't know anybody from Jean-Pierre Bemba's
15 biological family, but I cannot say that I have no contact with people from the
16 Équateur. (Redacted)

17 (Redacted) but I have not had any discussions with anybody from his nuclear family or
18 from his biological family. I don't know anyone in his family and from a long time
19 ago we have not had any discussions one-to-one.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 MR BADIBANGA: (Interpretation) Madam President, I'm referring to transcript
24 285, English testimony, from page 8.

25 Q. (Redacted)

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 (Redacted) withdraw from the Central African Republic; is that correct?

2 A. Yes, that is correct.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 A. No, no, I do not remember the date. However, it was when Bossangoa was
13 captured, about two days after Bossangoa fell. Two days after Bossangoa fell. It
14 was then that we received the order to withdraw.

15 THE INTERPRETER: Interpreter correction: The question was, "Do you remember
16 the date on which you received the order?" (Redacted)

17 MR BADIBANGA: (Interpretation)

18 Q. Did Jean-Pierre Bemba give (Redacted) the order to withdraw from the Central African
19 Republic?

20 A. No, no, he did not give us any order.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 (Redacted)

2 (Redacted)

3 Q. Witness, do you remember or do you recall, testifying that the Central African
4 troops had become extremely disorganised in the month of December and January?
5 Do you recall testifying to that effect?

6 A. Yes, yes. That was my testimony, yes.

7 Q. Do you remember stating that during that period some Central African soldiers
8 had deserted the army and joined Bozizé's camp?

9 A. I did not know or see where they went, but I know that many of them deserted
10 the army. It was not the troops who were with us at the front who deserted. It was
11 soldiers from elsewhere.

12 Q. Why, in your view, did General Bombayake ask (Redacted) to leave when his army
13 was disorganised and when there was an increasing rate of desertions within his
14 army?

15 A. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted) they asked us to leave, really we couldn't question their decision.

20 Q. Witness, how many days -- after the soldiers left Central African Republic, how
21 many days after your departure did Bozizé's soldiers capture the capital city and the
22 entire country?

23 A. I'm not in a position to tell you when they took control of the entire country,
24 because even today when I listen to the news there is information to the effect that
25 part of the country is under the control of troops that are not loyal to him. So I'm not

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 able to say even today that he has control over the entire country. What I can tell
2 you, however, is that on 15 March, and by the way, out of the -- out of (Redacted) three
3 battalions, only one of them, Kamisi, was able to live without fighting, but I think that
4 around the 15th they already had control of the entire city of Bangui.

5 Q. Was it in the interest of the Central African military for you to leave? Because
6 from the facts it emerges that the very next day after your departure, Bozizé's troops
7 captured Bangui.

8 A. Please kindly repeat your question.

9 Q. I was wondering what the interest would have been for the Central African
10 Army to ask you to leave, because the very next day, or should I say the day on which
11 you left, Bozizé's troops captured Bangui?

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted) Now -- but I think that all of this was not in the interest of
16 the people of the Central African Republic, because when we withdrew, some
17 inhabitants of the Central African Republic were crying, asking why we had
18 abandoned them. The order came from an individual, but I do not know whether he
19 was speaking on behalf of the army or on behalf of someone else.

20 Q. On 26 February, when you were being examined by Maître Kilolo on this
21 withdrawal, (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 transcript 285, page 9, line 16; French version, page 10, line 21. Do you recall this to

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 have been your testimony, Witness?

2 A. Yes, yes, I do recall and that's not different from what I stated.

3 (Redacted)

4 A. Maître Badibanga, from Bossangoa to Bangui, that doesn't take more than a day.

5 Our withdrawal was gradual and it took one week to get to PK12. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted) he had received instructions that we should be

11 given facilities to cross over. (Redacted); that is, Prime

12 Minister Martin Ziguélé called the Minister of Transport.

13 Q. Witness, (Redacted), this is what you said.

14 Madam President, the document I'm referring to is document number 70 of the OTP

15 list of documents, reference CAR-OTP-0020-0191. Transcript -- sorry, for translation,

16 0034-1170.

17 Now, this is what you said, Witness: "(Redacted) at PK12 (Redacted) the two battalions.

18 (Redacted) Minister of Transport so that

19 he may provide (Redacted) with a vessel to enable (Redacted) to cross over with the troops in a

20 boat."

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted) Maybe I made a mistake, but I believe
- 4 (Redacted) and what I am telling you
- 5 here and now is the truth. (Redacted)
- 6 (Redacted), we
- 7 went to the beach and at the beach we were given a boat which we used to cross over.
- 8 (Redacted) You may want to recall that I told you that at
- 9 the beach there were some fire shots -- there was some gun-fire, (Redacted)
- 10 (Redacted)
- 11 Q. Witness, who replaced General Betibangui?
- 12 A. When Betibangui died I do not clearly recall, but I believe that -- and again (Redacted)
- 13 (Redacted) I do believe that it was Gambi, or
- 14 someone bearing that name, who replaced him.
- 15 Q. Witness, do you recall telling Maître Kilolo on transcript 286, page 32, English
- 16 version --
- 17 From line 1, Madam President.
- 18 Witness, do you recall testifying that a driver, Jean-Denis, died during the operation
- 19 in the Central African Republic?
- 20 A. Yes, I do remember.
- 21 Q. Can you tell us the circumstances in which he died?
- 22 A. Maître Badibanga, I did not see his corpse, but he did not die alone. Those
- 23 who were killed at that location had been ambushed and it was between Boali, that is
- 24 some 22 kilometres on the way to Bossembélé. A group of persons were ambushed
- 25 at that location and he was not the only one who died. Several persons were killed

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 at that ambush and that is why I said that he was killed and the reason being that I
2 didn't see him subsequently. They were killed in an ambush.

3 Q. Do you know who killed them?

4 A. I can't give you a name, such as Mohammed or somebody else, but all that
5 I know is that they were killed by the enemy; namely Bozizé's troops.

6 Q. Witness, after this operation when you went back to the Democratic Republic of
7 Congo, were you sanctioned at a given time (Redacted)
8 (Redacted) Did the MLC sanction you in any way
9 whatsoever?

10 A. I haven't understood your question. You want to know if I was sanctioned, or
11 if other people were sanctioned? Please could you ask the question again?

12 Q. I'm speaking about you. After this operation, at any given time were you
13 subject to sanctions or disciplinary measures, reprimand, or any other possible
14 measure, (Redacted)
15 (Redacted)

16 A. I don't see the violent acts that I would have committed to be subject to any
17 sanction of any kind.

18 Q. When on 15 March you left, where were you based?

19 A. (Redacted), 28th Battalion returned to Libenge, Maître Kamisi
20 returned to Imese and the 5th battalion which came from Bozanzo (phon), (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 A. I see that you're starting to forget, like me. (Redacted)

2 (Redacted)

3 (Redacted)

4 MR BADIBANGA: (Interpretation) If the court officer would be so kind as to show
5 document 16 of the Prosecution list, CAR-OTP-0030-0274.

6 THE COURT OFFICER (Redacted): (Interpretation) Your Honour, document
7 CAR-OTP --

8 THE INTERPRETER: Inaudible.

9 THE COURT OFFICER (Redacted): (Interpretation) -- is being shown to the witness.

10 MR BADIBANGA: (Interpretation)

11 Q. Witness, this is a BBC article from 1 November 2002. That was a Friday. And
12 if I make a translation, I would say it's called "Chadians attacked in Bangui." So I'm
13 going to read the third paragraph, I'm going to read it in English, and it says the
14 following (speaks English): "Government forces ousted rebels from northern Bangui
15 after a week of fighting, but there have been reports of serious violence and looting
16 since then."

17 (Interpretation) I'm then going to read the two last -- I'm going to read the last two
18 paragraphs, which are on this page, under "looting denied," and it states the following
19 (speaks English): "There have been reports of serious violence and looting in the
20 northern suburbs by Congolese fighters supporting President Ange-Félix Patassé, but
21 the leader of the Congolese rebel group, the Movement for the Liberation of Congo
22 (MLC) Jean-Pierre Bemba denied the allegations in an interview with the BBC
23 network 'Africa Programme,' saying his troops were more than 20 kilometres outside
24 Bangui."

25 (Interpretation) I just wanted to show you this article, because it tells us a couple of

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-D04-PPPP-0019

1 things about which I wanted to draw your attention to. The first -- and here I'm
2 reminding you it's dated 1 November. The first was that this article says that there
3 was a week of fighting in the north of Bangui, though 1 November by that time there
4 had already been a week of fighting, 1 November, and the second point is that there
5 had already been reports of serious violence or serious crimes committed by
6 Congolese soldiers.

7 I know that we've discussed this point on several occasions. Just before we finish
8 with your examination, I wanted to clarify this point. Could we admit, Witness, on
9 the basis of this article (Redacted) troops were in the Central African Republic one week
10 before 1 November?

11 A. I don't understand. You are speaking about what place where (Redacted) troops were,
12 because on that date we hadn't left our home country?

13 Q. Perhaps you didn't hear the last paragraph that I read. I consider maybe there
14 was a translation issue there, but on 1 November Jean-Pierre Bemba not only
15 contested the allegations during an interview, but he said that his troops were 20
16 kilometres from Bangui. So according to Jean-Pierre Bemba, you were already 20
17 kilometres outside Bangui and he was speaking on 1 November. The article is dated
18 1 November at 9 -- at 10.49 in the morning.

19 A. In Bangui there was not fighting which would have lasted for seven days. As I
20 said, we fought for the first time on the 30th. The morning of the 30th we were in
21 PK12 where we set up a defence, and other than defensive position there were other
22 forces that were positioned on the roads in front, the Damara road and the
23 Bossembélé road. When there was a defensive position, the other company got
24 involved on the front. We didn't fight in Bangui for seven days. We arrived and
25 two days afterwards we were in PK12. The enemy fled and they were 40 kilometres

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 away. The forces that were positioned far away were 42 kilometres away when
2 other forces were 22 kilometres away from Bangui.

3 Q. On what date did you attain the point that was 20 kilometres from Bangui?

4 A. From the day that we took Damara. You see, the operations - military
5 operations - they happen in this way. There are forces who are positioned in front of
6 others. When we found out that the enemy was far away, (Redacted) a company in
7 Damara in a village the name of which I've forgotten. I think it was 20 to 25
8 kilometres from Bangui, so ten kilometres from PK12.

9 Another company was positioned in another place where a Central African company
10 had its HQ and (Redacted) another company further away. The two
11 companies were in the place that I told you when we were in PK12, so when this
12 person says that, they might be right.

13 Q. Witness, do you remember telling us that General Amuli was copied in the
14 messages (Redacted) sent even to the Chairman, that he was concerned with the
15 operations? Do you remember that?

16 A. Yes.

17 Q. I would like to change the question. Why was Bemba copied on almost all
18 messages (Redacted) sent to the Democratic Republic of Congo during this period?
19 Was it because he was also personally involved in the operation?

20 A. I would ask you to repeat the question, please.

21 Q. In fact, I was turning the question round by replacing the name of "Amuli" with
22 the name of "Bemba." Why was Jean-Pierre Bemba copied on almost all messages
23 (Redacted) sent when you were in the Central African Republic? Was it because he too
24 was personally involved in the operations?

25 A. No, he wasn't involved in the operations. I think I answered that question on

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 several occasions. I wanted to say that it was his army that was involved, so he had
2 to be informed, but he wasn't involved. Taking a decision and being involved, well,
3 they're two different things. The Congolese army was involved in this operation, but
4 the decision of the hierarchy of the MLC did not -- the commander or the CCO, they
5 did not send us any orders, for example, whether we should advance or do this, that
6 or the other.

7 MR BADIBANGA: (Interpretation) Your Honour, when I presented the witness
8 the list of phone calls, Counsel Haynes wished to have clarification in order to know
9 on what basis were we saying that it was a telephone that belonged to Mr Bemba and
10 I promised that I would bring a reference for Mr Haynes. I would therefore like, for
11 the record, CAR-OTP-0048-0383; that was disclosed to the Defence 30 November 2009,
12 batch 23. It contains a series of email exchanges which mentions this telephone
13 number very clearly, the one -- and it mentions it as belonging to Mr Bemba. There
14 are emails sent to Mr Bemba himself, as well as emails addressed to a third party.
15 I'm not going to mention that name here, but that person reads the telephone number
16 to Mr Bemba.

17 Q. Witness --

18 PRESIDING JUDGE STEINER: Mr Haynes?

19 MR HAYNES: And can Mr Badibanga give us the date on which that was admitted
20 into evidence?

21 MR BADIBANGA: (Interpretation) We shall check this. The question is whether
22 this was disclosed to the parties. That's the reason why I gave that answer, but we
23 will reply to him on that question.

24 Q. Witness, if we could go back to the exchanges that we had before, a few minutes
25 ago you were telling me (Redacted)

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 (Redacted)

2 (Redacted) Did he take part in what was
3 happening?

4 A. (Redacted) no order from Jean-Pierre Bemba relating to this operation.

5 MR BADIBANGA: (Interpretation) Your Honour, I would just like to let the
6 Chamber know that the witness -- I'm sorry, I'm going to put that differently. We've
7 had a lot of exchanges with the witness concerning this notorious report that was sent
8 to President Bemba and this document, well, here we are talking about document 5
9 on the Prosecution list, CAR-OTP-DEF-0002-0567, and during these exchanges there
10 was a moment when we discussed the (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 THE COURT OFFICER (Redacted): (Interpretation) Your Honour, I didn't --

17 THE INTERPRETER: Inaudible.

18 THE COURT OFFICER (Redacted): (Interpretation) I don't have in my possession the
19 (Redacted)

20 THE INTERPRETER: Inaudible.

21 THE COURT OFFICER (Redacted): (Interpretation) -- Badibanga --

22 THE INTERPRETER: Inaudible.

23 MR BADIBANGA: (Interpretation) Very well. In that case we will continue.

24 Also, your Honour, when we were having discussions with the witness with regards
25 to his previous statements, as well as the signature that he had appended to the

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 document, you remember that he challenged or at least he said that he didn't know if
2 it was his signature or not, but he did say on several occasions that he had signed a
3 document alongside his counsel. He had signed with his counsel during his
4 examinations and, to be fair to the witness, I would like him to be presented with
5 document CAR-OTP-0011-0375, and I fear that the court officer (Redacted) may not
6 have that on the USB, but I think we could perhaps produce it. I don't know if we'll
7 manage to do that. It's an annex to the witness statement. We didn't make a
8 separate document for it, so I don't know if the court officer here is able to produce it
9 or not. This was the statement of limited use. Out of fairness to the witness, I just
10 wanted to present that document where he had -- where there was his lawyer's
11 signature as well as his.

12 THE COURT OFFICER: (Interpretation) CAR-OTP-0011-0375, first redacted
13 version, is shown on the screen if you press button "PC1".

14 MR BADIBANGA: (Interpretation)

15 Q. Witness, this is a document which you read on several occasions with your
16 lawyer, a document which was discussed on several occasions with the OTP
17 representatives. When you see it, do you remember this document?

18 A. I cannot read the document which is on the screen, taking into account the
19 distance.

20 Q. I'm not sure I've understood well, because on the screen here it seems very
21 readable. I don't know what you mean when you say it's far from the screen.

22 Perhaps a last attempt. Could we present the next page, 0011-0376?

23 A. Yes, I can see the signatures despite the distance.

24 Q. On the right, Witness, at the top, there is what you wrote as your signature or
25 initials and underneath there's written, "Legal Counsel of the Interviewee."

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 THE INTERPRETER: "The legal counsel of the interviewee" repeats Counsel in
2 French.

3 MR BADIBANGA: (Interpretation)

4 Q. Now, do you see what you were talking about as a document which your legal
5 counsel also signed?

6 A. Yes, from far I can see there are four signatures. I don't know if it's a problem
7 with my vision. I can see some initials. I see my initials. I don't see the name
8 indicated under my initials and the document is written in English. I don't
9 understand what it means and I can't read the names.

10 MR BADIBANGA: (Interpretation) Very well. I'm going to present a version
11 with the name of the counsel. Could we please present to the witness document
12 CAR-OTP-0024-0004? This is once again a statement of limited use. Could the
13 witness please be shown the third page of the document bearing the number
14 0024-0006.

15 MR HAYNES: It's not an objection, but just to save time later I'm sure your Honour
16 will have noticed there are a number of initials next to the witness's name on this page
17 and it might be helpful just to get on the record now his comments about them before
18 we move on.

19 PRESIDING JUDGE STEINER: I think it's better that he first recognises the
20 document as being signed by him and then we can turn back to the first page.

21 MR HAYNES: Absolutely, your Honour.

22 MR BADIBANGA: (Interpretation) There we are.

23 Q. Mr Witness, on this second page, to the right-hand side, do you recognise your
24 name and your initials to the right-hand side of this document.

25 A. Yes.

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 Q. And if we go down the page somewhat, can you read the name underneath the
2 signature? Would you mind reading this out for us please, out loud?

3 A. Is this the name above my initials, or the name below my initials?

4 Q. This is the name currently on the screen. We have here a signature and then
5 we have a name and we have the date (Redacted) and we have underneath your
6 initials and the date of (Redacted) I would like you to read the name on the
7 second line, that is just after the first signature.

8 A. We have written here (Redacted)
9 (Redacted)

10 Q. Do you remember who this document -- who this person is?

11 A. Yes, yes, I do remember (Redacted) all too well.

12 Q. Could you please tell the Chamber who this person is?

13 A. When I first met you, he was introduced to me as counsel and then
14 subsequently a lady replaced him. So when I met you, I did not see him again, but I
15 do remember that he was introduced to me as my counsel.

16 Q. Mr Witness, I would like for you to be presented with this first page of this
17 document. Did you write (Redacted) Did you write this yourself on this first
18 line of the document where we see the words (Redacted) written?

19 A. I do not recall. It might have been me. It might have been somebody else
20 who wrote it. I do not recall.

21 Q. Do you remember what the little sign next to the words (Redacted)
22 corresponds to?

23 A. No, I do not recall.

24 MR BADIBANGA: (Interpretation) Madam President, I would like us to show a
25 video to the witness. On the list of videos, that is number 5, the fifth excerpt, count 5

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 on the list, the reference being CAR-OTP-0012-0011, and this is document 33 on the
2 list of OTP documents. And for the record, or for the transcript, please refer to
3 document 71; that is 71 on the list of OTP documents, CAR-OTP-0020-0215. This
4 document will be shown from time-stamp minute ten minutes ten seconds until 19
5 minutes and 20 seconds.

6 And the reason why we would like to show this excerpt, Madam President, is because
7 it shows the discussion with the witness as to the fact of whether the ALC delivered
8 weapons or not, and the Defence had reacted as to the veracity of this, and
9 subsequently the witness had said that he was not very sure about the (Redacted) that
10 had been used at the time, and so I would like us to broadcast what was said at the
11 time in order for there not to be any misunderstanding whatsoever.

12 (Viewing of the video excerpt CAR-OTP-0012-0011)

13 MR BADIBANGA: (Interpretation) Yes, Madam President, if we could request for
14 the video to be stopped? I don't think it's usable, this excerpt, and I think I shall
15 request for us to look at another excerpt.

16 Could we please view the first excerpt on the list and I hope that the sound quality
17 will be better, CAR-OTP-0012-0013. This is document 35 on the list of OTP
18 documents from time-stamp nine minutes until time-stamp ten minutes 58 seconds.
19 And for the transcript, it's CAR-OTP-0020-0263 and this is document 73 - 73 - on the
20 list of OTP documents.

21 (Viewing of the video excerpt CAR-OTP-0012-0013)

22 MR BADIBANGA: (Interpretation) Even though we are in the era of technology,
23 I think there is some progress that needs to be done. Madam President, I'm not
24 going to put any questions to the witness on the basis of such bad sound quality. I
25 don't think we'll be able to understand each other.

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 Now, with your permission, I shall try one last time, document 8 on the list of
2 documents, that is another day of the interview, and maybe the quality - the sound
3 quality - will be a little bit better. Otherwise, I shall draw this exercise to a close.
4 And this is reference document 8, CAR-OTP-0024-0016, and this is the forty-sixth
5 document on the list of OTP documents, and for the record, CAR-OTP-0027-0681.
6 This is the hundredth document on the list of Defence documents.

7 (Viewing of the video excerpt CAR-OTP-0024-0016)

8 MR BADIBANGA: (Interpretation) We can stop this transmission here. Now, the
9 excerpt that we wanted to review is much lengthier, as you probably realize by virtue
10 of the documents that we furnished to you, but I wanted us to finish before the end of
11 today's session. So this is information and all the other information is accessible to
12 all parties. I just wanted to talk about the contact that the witness had with
13 Gbadolite.

14 Q. Now, Mr Witness, I would like to summarise your professional background.
15 You said, did you not, that you started (Redacted) is that correct?

16 A. Yes. You can continue.

17 Q. So I shall summarise. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted) Have I summarised your professional background
8 correctly, Mr Witness?

9 A. Yes. However, you did forget to mention the fact that (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. Now, Mr Witness, would it be correct to say that between 1996 and 2003 you
13 served those people who you fought previously and then you fought with those
14 people against whom you had fought before?

15 A. Maître Badibanga, could you please repeat your question?

16 Q. Mr Witness, would it be correct to say that between the years 1996 and 2003 you
17 either fought against regimes that you had worked with previously or you worked
18 with regimes that you had previously fought against?

19 A. Yes, as you have just said, (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted) When I arrived there, the politicians and superiors within the
23 ranks of the army who were there gave the order for us to fight. We are soldiers.
24 We follow orders. I did not decide to fight against the government with which I had
25 worked, nor was I decided -- or nor did I say, "Stop fighting. I'm here." I had

Trial Hearing
Witness: CAR-D04-PPPP-0019

(Closed Session)

ICC-01/05-01/08

1 superiors at the time. I had my direct superiors.

2 MR BADIBANGA: (Interpretation) Now, Mr Witness, I am not going to engage in
3 a discussion on loyalty with you.

4 Madam President, I have no further questions for the witness.

5 PRESIDING JUDGE STEINER: Thank you, Maître Badibanga.

6 Mr Witness, we will adjourn for today and continue tomorrow morning at 9, when
7 the legal representatives of victims will have the opportunity to put some questions to
8 you.

9 I thank very much the Prosecution team, legal representatives of victims, Defence
10 team, Mr Jean-Pierre Bemba Gombo. I thank very much our interpreters, our court
11 reporters, Ms Toumaj, and thank you very much, Mr Witness. I hope you take some
12 time to rest today, because tomorrow we will resume at 9 o'clock sharp.

13 This hearing is adjourned.

14 THE COURT USHER: All rise.

15 (The hearing ends in closed session at 11.01 a.m.) * Reclassified as Open session

16 RECLASSIFICATION REPORT

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

18 ICC-01/05-01/08-3038, the version of the transcript with its redactions becomes Public