

Trial Hearing
Witness: CAR-D04-PPPP-0055

(Open 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 Judge Kuniko Ozaki
6 Trial Hearing
7 Monday, 29 October 2012
8 (The hearing starts in open session at 9.05 a.m.)
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE STEINER: Good morning.
13 Could, please, court officer call the case.
14 THE COURT OFFICER: Thank you, Madam President. Situation in the Central
15 African Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo,
16 ICC-01/05-01/08.
17 PRESIDING JUDGE STEINER: Thank you.
18 Good morning. I welcome Prosecution team, legal representatives of victims,
19 Defence team, Mr Jean-Pierre Bemba Gombo. Good morning our interpreters and
20 court reporters.
21 We will start today with the 11th witness called by Defence, Witness
22 CAR-D04-PPPP-0055. Before the witness is brought into the courtroom the Chamber
23 has some oral decisions to deliver, and the first of them is the decision on the
24 applications to question Witness D04 by legal representatives of victims.
25 On 23 October 2012, the Chamber received an application from Maître Douzima on

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1 behalf of the victims that she represents to question Witness D04-55 (Filing 2374-Conf).

2 The application contains a list of 12 questions.

3 Similarly, on 23 October 2012 the Chamber received an application from Maître

4 Zarambaud on behalf of the victims that he represents (Filing 2375-Conf). The

5 application contains a list of nine sets of questions.

6 Having considered the reasons given by both Maître Douzima and Maître

7 Zarambaud as to why the personal interests of the victims they represent are affected,

8 the Chamber allows the respective applications to question Witness D-55.

9 Turning to the proposed questions, Maître Douzima and Maître Zarambaud are

10 allowed to put all their proposed questions as set out in the aforementioned filings.

11 Now the Chamber will deliver an oral decision on the request for in-court protective

12 measures for the witness, and for that purpose we will turn briefly into private

13 session. Court officer, please.

14 *(Private session at 9.08 a.m.) Reclassified as Open session

15 THE COURT OFFICER: We are in private session, your Honours.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 I ask, please, court officer to turn into closed session in order for the witness to be
12 brought into the courtroom.

13 *(Closed session at 9.17 a.m.) Reclassified as Open session

14 THE COURT OFFICER: We are in closed session, your Honours.

15 (The witness enters the courtroom)

16 WITNESS: CAR-D04-PPPP-0055

17 (The witness speaks French)

18 PRESIDING JUDGE STEINER: Court officer, please could you turn into open
19 session.

20 (Open session at 9.20 a.m.)

21 THE COURT OFFICER: We are in open session, your Honours.

22 PRESIDING JUDGE STEINER: Good morning, Mr Witness, and welcome.

23 THE WITNESS: (Interpretation) Good morning.

24 PRESIDING JUDGE STEINER: Mr Witness, in front of you there is a card in which
25 is printed the solemn undertaking. Could you please read the words of the card.

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1 No card?

2 THE WITNESS: (Interpretation) It's not there yet. It's not there yet.

3 PRESIDING JUDGE STEINER: I'm really sorry. It should be.

4 THE WITNESS: (Interpretation) Okay, I'm going to read it. So, solemn
5 undertaking: I solemnly declare that I will tell the truth, the whole truth and
6 nothing but the truth.

7 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness. Now that you
8 have taken the oath, can I confirm that you understand it to mean that you must give
9 answers to questions asked of you that are true and accurate to the best of your
10 knowledge and belief?

11 THE WITNESS: (Interpretation) I agree.

12 PRESIDING JUDGE STEINER: Mr Witness, as must have been explained to you by
13 the Victims and Witnesses Unit during the familiarisation process, you will be
14 questioned first by the Defence, then by the Prosecution, then by legal representatives
15 of victims, and finally again by the Defence, if Defence has any follow-up questions to
16 put to you.

17 As you may know, the Chamber has put in place protective measures in order to
18 protect your identity from the public. You will therefore be referred to during the
19 course of your testimony as "Mr Witness," "sir," "Witness 55."

20 Your voice and your image that are broadcast outside the courtroom are being
21 distorted so that you cannot be identified by the public. You should however help
22 us in protecting your identity. When we are in open session - in public session - you
23 should avoid saying anything that could lead to your identification, such as your
24 former occupation, your family members' names, friends, if you were at meetings
25 with a limited number of persons. All this kind of information can lead to your

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1 identification. That means if we need or if you need to give that information, you
2 just let us know and we go into private session. In private session, nobody can hear
3 you outside this courtroom.

4 The Defence, Prosecution and legal representatives of victims will also help you.

5 When they ask questions that could possibly lead to an answer that would identify
6 you, they will ask the Chamber previously to go into private session.

7 Do you understand the protective measures, sir?

8 THE WITNESS: (Interpretation) Yes, I do understand, but I personally -- for
9 security reasons, I would like you to take measures in order to protect me. I'm very
10 happy about that, but I would like them to be in totally closed session. By conviction,
11 I do think that while we're speaking you can get carried away when you speak,
12 sometimes you give some information, perhaps you forget that people are following it,
13 and that's the reason why that I would prefer, this is a request that I would make, that
14 if it hasn't been agreed then I mention this this morning, I would like it to be closed
15 session rather than private session, and this is for my security. And you are in
16 agreement with me that we all want to aid international justice, and it shouldn't be
17 the case that me, if I leave here, I am myself a victim.

18 So another thing that I would also like to ask is that it was explained what the
19 measures of protection measures were, and I think that I was going to spend three
20 days here. I've already been here for a week. I don't know if I'll spend more time
21 here, but I would like to know what has the Court envisaged to the extent that my
22 protection will also be a protection of my profession and my social life?

23 I think that when I speak -- well, I don't know who hears, so are we in closed session
24 now? What's the situation?

25 PRESIDING JUDGE STEINER: We are in open session, sir.

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1 THE WITNESS: (Interpretation) Okay, well that's -- well, I wanted to say -- well, I
2 wanted to say where I come from, I've got a particular profession, all those things, I've
3 asked -- been here for a certain number of days. Obviously, I should have asked for
4 protection to contacting my employer as well. They contacted him. Well, it's not
5 sure because there've already been two cases where people went there and when they
6 come back they said, "We spent a certain amount of days and there are a certain
7 amount of days left," and they thank you.

8 So what's the measures that the Court has taken in order to ensure that preventative
9 measures are taken to make -- what type of protection will I get, physical protection,
10 moral protection, all those different aspects, social protection? Given the fact that
11 I'm a family father, I don't want people to find me in the street, my children. I've got
12 a family that I have to look after, okay?

13 PRESIDING JUDGE STEINER: Mr Witness, the Court has a protection system that is
14 provided and arranged by the Victims and Witnesses Unit. Most of the time all
15 protective measures, apart from the in-court protective measures, are taken by VWU
16 after a security assessment, individualised for each witness, no matter if it's a
17 Prosecution witness, or Defence witness or victims witnesses.

18 The Chamber has no part in the decision making process of VWU. Therefore,
19 whatever doubts you have or questions you have in relation to past, present and
20 future protective measures, you need to address to the Victims and Witnesses Unit.
21 This is a question that is not for the Chamber to decide, unless any of the parties or
22 unless VWU seeks the Chamber's opinion on that, which is not common because this
23 is a specific task assigned to a neutral organ of the Court, which is VWU.

24 The Chamber is responsible for in-court protective measures or the so-called special
25 measures, when for instance a vulnerable witness needs psychological assistance

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1 during the testimony, or other kind of special measures.

2 In any case, the Chamber will ask VWU to send a more detailed assessment on your
3 security after having interviewed you for the second time. The report we received
4 from VWU just recommends the in-court protective measures for the time being,
5 which are the pseudonym and the image and voice distortion.

6 We can go as many times as necessary into closed session. We can do it, but the
7 principle, Mr Witness, is the principle of publicity of the proceedings. That doesn't
8 mean that you will be identified, but we need to stay in public session as much as
9 possible.

10 I want to explain to you as well that what is said in this courtroom before broadcast
11 outside the courtroom there is a half-an-hour delay, which means that, if by mistake
12 you mention some information that could lead to your identification, the Chamber
13 orders the audio and videotape of that part to be deleted so that it does not go to the
14 public.

15 We hope that we can start with this proceeding, but the Chamber will be attentive.

16 If the Chamber notices that it is impossible to have your testimony in open session
17 because of the nature of your testimony, the Chamber can review its decision on
18 protective measures and, if may be the case, to decide to go into closed session.

19 Can we try, Mr Witness, to go publicly? The Defence will be very attentive in
20 questioning you in order to protect your identity.

21 THE WITNESS: (Interpretation) As you said, well, I think that you have taken the
22 necessary measures, but the essential thing for me is to -- was to say that before the
23 Court, and I think that the Registry has ensured that I'll be protected and I think there
24 have been measures taken to avoid any possible leaks that could cause problems for
25 me, or my family and friends as well.

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1 When I mentioned protective measures after, professionally speaking, well, the
2 essential thing is for me to say -- well, I should have said, if anything were to happen,
3 I know that I have made my statement before the Court. Now, since you believe that
4 you've taken all the protective measures let's go ahead, but my personal conviction
5 remains that I should have complete closed session.

6 PRESIDING JUDGE STEINER: Mr Witness, we have -- the Chamber has another
7 recommendation to make. You can see that we speak different languages, and
8 because of that we have interpreters and we have court reporters. In order to allow
9 them to do their job it is important that you speak slower than normal, as I'm doing
10 now.

11 THE WITNESS: (Interpretation) Okay. Yes, yes.

12 PRESIDING JUDGE STEINER: It is important, Mr Witness, that after any question is
13 put to you, you wait five seconds before you start giving your answer in order to
14 allow the interpreters to conclude the translation of the question. We call that "the
15 five-seconds golden rule" and it's really important that all parties, participants and
16 even the Chamber do respect these ground rules.

17 It is possible that you start speeding up, or that you forget the five-seconds golden
18 rule. In that case, I will have to interrupt you and ask you to slow down. Please
19 don't take offence. It's just for practical reasons.

20 Do you understand that, sir?

21 THE WITNESS: (Interpretation) Yes, I understand. I'll try. I'll try to speak
22 slowly so that everyone can understand what I have to say.

23 Another thing, please.

24 PRESIDING JUDGE STEINER: Yes, Mr Witness?

25 THE WITNESS: (Interpretation) I was saying -- I was saying I don't know whether

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1 the Registry -- can I use a piece of paper?

2 PRESIDING JUDGE STEINER: Court usher, please.

3 THE WITNESS: (Interpretation) Very well. Merci.

4 PRESIDING JUDGE STEINER: I'll give the floor to Maître Kilolo and reminding

5 Maître Kilolo of the concerns revealed by the witness. I know that we will start in

6 private session, and let's see what we can do later on in public session.

7 Mr Witness, whenever this -- you have this red light in front of you -- can you see the

8 red light? Not the one on the microphone. The other one.

9 THE WITNESS: (Interpretation) Yes, I see.

10 PRESIDING JUDGE STEINER: The red light means be careful. When we are in

11 private session the light will become green, just for your information. So we are now

12 in public session, but I'm sure Maître Kilolo will request private session.

13 Court officer, please turn into private session.

14 *(Private session at 9.38 a.m.) Reclassified as Open session

15 THE COURT OFFICER: We are in private session, your Honours.

16 PRESIDING JUDGE STEINER: You see then now the light is green, so you can feel

17 free to speak because nobody outside the courtroom can listen to you.

18 Maître Kilolo, you have the floor.

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

20 QUESTIONED MR KILOLO: (Interpretation)

21 Q. Good morning, Witness.

22 A. Good morning.

23 Q. I would just like to remind you of an important rule here before this Chamber.

24 It's the five-second rule. In other words, when I finish putting my question to you,

25 please try to count to five in your mind before you answer. This will allow the

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1 interpreters to translate the question from French into English, and the same thing
2 holds true for me. Once you've finished giving an answer in French, I will wait
3 about five seconds before I put the next question to you. Do you understand?

4 A. Yes, I understand.

5 Q. Once again, I will introduce myself to you. We saw one another Thursday,
6 during the familiarisation session. I am Mr Aimé Kilolo. I'm one the lawyers
7 representing Mr Jean-Pierre Bemba. I am the person who will be examining you on
8 behalf of the Defence.

9 As you may have noticed, right now we are in private session. That means that we
10 can speak more freely in terms of the information that we give one another. That
11 information is not heard by anyone except for the people in this courtroom, and all
12 the people in this courtroom are bound by professional secrecy. They are not
13 allowed to disclose to a third party any information that is provided here. That
14 information remains strictly confidential, so please feel at ease to express yourself.
15 After I put a number of questions to you so that the Judges know exactly who you are,
16 the introductory questions, after that we'll try to go into open session using codes and
17 we will see whether that works. Obviously, if we regularly have to go back into
18 private session to facilitate communication amongst ourselves, we shall do so. Do
19 you understand?

20 A. Yes, I do understand.

21 Q. Witness, could you please introduce yourself? Could you give us your name,
22 your profession and your marital status?

23 A. My name is (Redacted)

24 (Redacted)

25 (Redacted) Now, I don't know whether it's necessary to give you my

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1 professional background? No?

2 Q. Well, in principle, as I ask you questions, since we're there right now please go
3 ahead.

4 A. In actual fact, (Redacted),

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. Witness, could you please slow down.

12 A. Yes. I know that it's very difficult to change one's nature, one's rate of speed,
13 but in any event I was saying earlier that (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Congo.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 I had the privilege of undergoing different forms of training and now I'm working,
7 now I'm working, and now here I find myself before the Court.

8 I think this is -- well, I think I've provided you with the essential information,
9 Mr Kilolo.

10 Q. Sir, you mentioned the (Redacted). Could you
11 tell us when you began working for this institution? And could you also tell us the
12 circumstances that you found yourself in?

13 A. I joined the (Redacted), well, that was in (Redacted), actually, when the
14 transitional government was set up after the war in the Congo. I stayed at the
15 (Redacted). Now, how did I join this institution? Well, as you
16 know, the (Redacted)
17 intended to foster democracy within our country. We handled human rights
18 protection ratification of the principles relating to human rights and I joined the
19 institution because I had been working for human rights for quite a long time within
20 civil society, and since this organisation was there within civil society, we took on this
21 mission and we had the participation of other political players, for example, (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. Now, you've mentioned your joining this institution, and you've talked about

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1 civil society. Could you tell the Chamber what you see civil society as, and your role
2 in that?

3 A. Well, civil society is all the various forces within society. It is a coalition, so to
4 speak, of various associations, organisations, development initiatives, groups that
5 work to defend human rights. In actual fact, it provides a general representation of
6 all of society that works to improve the well-being of society. We aspire to a better
7 society. So there's this organisation and this is officially recognised by the Congolese
8 state. So it's a group of individual associations representing the various driving
9 forces within society.

10 We reflect upon various issues, we try to find ways of organising matters, organising
11 initiatives, improving society.

12 Q. Could you describe your exact role (Redacted)
13 (Redacted)? What did you see during the years that you spent within that
14 institution?

15 THE INTERPRETER: Five-second rule, please.

16 THE WITNESS: (Interpretation) Well, in actual fact, you're asking me to explain
17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted) We
2 work throughout the country, throughout the various institutions of the republic. I
3 do remember that we launched a (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted) Now, unless Mr Kilolo wishes more clarifications, well, basically this
9 institution works to protect and promote human rights in the Democratic Republic of
10 the Congo.

11 Q. Are you experienced in matters relating to international human rights, outside
12 of the Congo?

13 THE INTERPRETER: Overlapping speakers.

14 THE WITNESS: (Interpretation) Sorry. Yes, yes, I can say so. I have travelled
15 outside of the country to share my experience in this field with other human rights
16 initiatives and bodies. I went to (Redacted) for that work. I went to (Redacted).
17 Similarly, those missions were also to share my experiences, and I also worked
18 somewhat with a number of international institutions that may have provided some
19 funding, just to disclose that. In particular, the francophonie as well, we worked
20 with other human rights institutions such as the (Redacted)
21 (Redacted) We also worked with --

22 THE INTERPRETER: Inaudible.

23 THE WITNESS: (Interpretation) I can't remember all of that. We did quite a few
24 different things. I don't remember everything. We did have quite an experience
25 with a number of organisations domestically as well. We worked with nearly all

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1 human rights organisations. For example, working with voters, that sort of thing. I
2 can't tell you about all of it or else that would take quite a bit of time. Have I been
3 clear enough, Mr Kilolo?

4 Q. When did you leave the DRC?

5 A. I left the DRC in (Redacted). And you asked me when? It was in (Redacted).

6 Q. Could you tell us why you left the DRC?

7 A. The reasons that led to my leaving the DRC, I can summarise all those various
8 reasons. I can summarise the concerns relating to truth, the desire to see the law
9 applied properly. That's why I left the DRC. I worked at the (Redacted)
10 (Redacted) and we did all we could and well, of course, we worked hard, we
11 struggled to bring the president that we had at the head of the (Redacted)
12 (Redacted) -- well, from an intellectual point of view we had provide moral support
13 and financial support and also, at one particular time, I had a very stable life, I can tell
14 you that. I had what I needed to live when I was in the Congo, and we helped, we
15 supported financially because there were good ideas. Just imagine someone who
16 had been in prison twice. He was arrested during the time when Kabila, Sr, was in
17 power.

18 After that, he was arrested during the time of Kabila, Jr, and we worked hard with
19 others within civil society, working for human rights, and that was the man that we
20 were going to support, the man we were looking for to liberate us, to do something
21 major for the country, a man who was not afraid, a man who is a straight shooter,
22 who says what he thinks, who really tells the truth.

23 We helped him, and we came to the head of this institution, and so he asked us to
24 work with him, but you see in our part of the world, in Africa that is, when he came
25 to power, perhaps for personal reasons, or because of his personal convictions, this

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1 gentleman did not want to follow the path of the people, and we began -- we tried to
2 warn him, bring -- rein him in, and so that is how we came to the head of the
3 institution and that is -- well, we wanted to leave to future generations.
4 If you begin to move away from the line -- and that gentleman did depart from that
5 line - from that path - and we decided to speak out, to denounce him, and we began
6 telling people, and as the president said earlier, publicity is the major weapon in the
7 field of human rights. And we began to speak out against the actions that he was
8 undertaking that was so detrimental to the Congolese people. So that is how it all
9 began. It is a long story.
10 We received threats and we were -- it was said that we were against the government,
11 we were against public institutions. We received threats, and some people even
12 came and saw us and said "Well, if you stay here much longer, you will be in a very
13 dangerous position." You see, (Redacted)
14 and I was in contact with nearly everyone within public institutions, within human
15 rights institutions, the office of the presidency. I had contacts and friends, but
16 somewhere something happened. There was a straw that broke the camel's back,
17 and so I decided to leave the country.
18 And as we say in the field of human rights, the true weapon is prudence, caution. So
19 I made the necessary arrangements to find some way to leave the country, that is
20 what I did to protect myself, and so that is how it came to be that I now find myself
21 living elsewhere.
22 (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. Mr Witness, independently of the contacts that you had with Mr Bemba's
5 Defence team, did you have any other contacts before or after, that is with the ICC?

6 A. Prior to that, yes, I had contact with Mr Badibanga. I had contact with
7 Mr Badibanga of the ICC, and then I also had contact with I believe it is the support
8 unit, support and operational unit, or something like that. I had contacts.

9 Q. What type of contact did you have with Mr Badibanga?

10 A. My first contact with Mr Badibanga was when he contacted me following a
11 (Redacted) and sent to the OTP at the International Criminal
12 Court. Mr Badibanga contacted me subsequently, to put certain questions to me. I
13 gave him answers. He asked me why we were doing this, and I said I was a human
14 rights militant and I wanted to assist international justice.
15 After that contact and a series of questions, I also called Mr Badibanga, to inform him
16 of my discontent. I told him that, look, I am coming to assist international justice,
17 and I didn't want to be contacted by someone else, because after some time I decided
18 that I would break my contact with the ICC, but fortunately I changed my mind and
19 I am now collaborating with the ICC.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 MR KILOLO: (Interpretation) Very well. I would like to ask the court officer to
2 display the only document that the Defence would like to produce. It is
3 CAR-OTP-0062-0094. That is the only document that the Defence would want to
4 produce with this witness.

5 Q. Mr Witness, you can see on your screen a document. I will allow you the time
6 to read through the document, after which I will ask you whether that document
7 rings a bell.

8 A. I believe that (Redacted) an error there, since I speak another language.
9 Somewhere in the document (Redacted) "Republica," instead of "Republic," so I believe
10 the document is authentic. I have no objection to it.

11 Q. Very well. Now, as far as you know, who drafted that document?

12 A. (Redacted) that because (Redacted) could not
13 have done it. (Redacted)

14 Q. Do you know who signed the document?

15 A. That document? (Redacted)

16 Q. And why were you unhappy?

17 A. As you know, I am a human rights militant. I was contacted by this (Redacted)
18 (Redacted), who asked me to assist him because he was claiming to be telling the truth. He
19 contacted me on several occasions so that I should assist him to (Redacted). He
20 said, "You are in the human rights domain." And so I told him, "Well, as a human
21 rights militant, if what you are saying is true, then I cannot refuse (Redacted) and shed
22 light at the level of the Court." So I said this is a young man and I have to assist him.
23 That is why I did it.

24 Q. And why are you speaking in the conditional, because you said, "If what he said
25 was true."?

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1 A. Why am I speaking in the conditional, or are you referring (Redacted)?

2 Q. A short while ago, while saying that you had been speaking to (Redacted)
3 who had come to see you to (Redacted), you said that, "If what he said was true,
4 you would not have any objection (Redacted) to assist the ICC. "

5 A. Well, you know that, just like this (Redacted)-- well, I apologise. I want to say this:
6 When a document is brought to you, it is something that can be of assistance that you
7 have to analyze, it's just like the work that you do in the Defence team. If someone
8 brings you a document, you have to cross-check it. So that is why I am speaking in
9 the conditional.

10 I would have needed time to find out whether it was true. I'm a human rights
11 militant, but I do not stop there. I continue to try and cross-check, to determine
12 whether the information that was given to me is accurate. I believe that is the same
13 work that the OTP does. If they receive testimony, they carry out an analysis and
14 the investigation continues.

15 And furthermore, I'm free not to confirm the document because it is my right to
16 analyse and it is my right to recant anything that I believe I said that was not correct.
17 So that is my right and I assume my liberties.

18 Q. What can you tell the Court about (Redacted)?

19 A. What I can tell the Court right now, well, the Court has read this document and
20 I'm giving you my personal thoughts. I do not know whether this led to any
21 testimony, as it was requested. I do not know whether (Redacted) testified
22 here, but if that is what happened I would tell you personally that, after (Redacted)
23 (Redacted) and after my analysis, I feel that if there was testimony following (Redacted) I
24 would simply ask the Court -- and it's not an obligation, but I would say that after
25 analysis and contacts I can tell you that this is something that was simply made up

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1 with a hidden agenda. The objective was not to assist the Court. It was a different
2 objective.

3 I am ready to provide further details to prove to you that this is something that was
4 fabricated, with a hidden agenda. This is something I'm telling you, because I will
5 not be happy if I have information that might mislead the OTP and which is necessary
6 to the Court and I do not provide it. And, as I said from the very outset, my
7 objective is to help the International Criminal Court, because this young institution
8 should have a solid foundation that would enable it to consolidate itself in the future.
9 I am telling you that the objective that this person had was not to assist the Court, but
10 I want to assist the Court because I carry out outreach on the ICC and I told myself
11 why not take advantage of this opportunity to contribute positively to the ICC and be
12 part of its history, in the sense that I would have participated in the consolidation of
13 the International Criminal Court.

14 Q. Mr Witness, for what reason were you contacted by (Redacted)?

15 A. I believe that personally I was deceived, because this was a (Redacted) who was
16 speaking to me in all seriousness and so I took him seriously and I decided to help
17 him. He told me a lot of things, but afterwards I began to understand (sic) and I was
18 unhappy when I told Mr Badibanga that I do not want to be mentioned in these
19 matters. I do not know Jean-Pierre Bemba. I do not -- I'm not close to the Kinshasa
20 authorities and I would like to live my life quietly and peacefully. I'm compelled to
21 say this, because I have just taken a solemn undertaking here and so I'm compelled to
22 speak the truth.

23 Afterwards I had a lot of evidence, because the (Redacted) himself came and told me,
24 "Look, those people, what did they do ? They are not even sending me money ? "
25 And I said, "Look, when you go to the ICC, it is not to have money. It is to provide

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1 assistance. “
2 I'm going to say one thing that annoyed me, that struck me. He told me, "Look ...",
3 and he explained to me later. (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted) he promised me certain things, but since he is your friend we
24 cannot call him, “but I said, “Look, if he promised you something and he did not give
25 you. well, I have his number and I even have that number right now. I call him and

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1 we speak."

2 Q. Can you please slow down for interpretation.

3 A. Very well. Now, let me continue. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 So there are many things and I will remember some of those things in due course, but

14 when I heard that I told myself, "Look, this gentleman had a hidden agenda." And

15 I'm giving you a summary report here, because he's a young person. I know him.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 THE INTERPRETER: And the witness speaks in a different language other than
3 French.

4 THE WITNESS: (Interpretation) And that message is still there on (Redacted). And
5 later on I told him --

6 PRESIDING JUDGE STEINER: Mr Witness, I'm sorry, but we don't have a Lingala
7 interpreter and so we have no idea what you are talking about.

8 THE WITNESS: (Interpretation) I'm sorry, I simply quoted what he had said, what
9 he had posted in Lingala, and it is the truth. He posted a message. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. (Redacted) met President Patassé in Bangui?

12 A. If he met President Patassé in Bangui? Well, that's a bit difficult because I don't
13 know, I couldn't say if he met President Patassé because he himself, sometimes he
14 would say that he was meeting Patassé. In Bangui? I don't know. He never told
15 me that he had met President Patassé. Well, I can't say something which isn't correct.
16 I don't think he said that to me.

17 Q. So, to your knowledge, during the period between October 2002 and
18 March 2003, do you know if (Redacted) went to Bangui with Mr Jean-Pierre
19 Bemba?

20 A. If he went to Bangui, I don't know. (Redacted), in fact, that -- well, (Redacted)
21 (Redacted) that most of the time he went to Gbadolite where the HQ was, but what I do
22 remember, well, I remember one thing -- well, I'm not sure. I can't say but I do
23 remember one thing and that is that the (Redacted)
24 (Redacted)
25 (Redacted)

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

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1 That, I don't know. I'm not saying that, but what I'm saying is that the contact that
2 there was, when he called (Redacted), it was at the time when he was taking steps
3 for his family and he asked (Redacted), who was in the MLC, to help him in that
4 regard, and he told him, "Well, you've got money with you. So with money, you can
5 go to Holland and all you have to do is to be brave and go and testify and you
6 will -- and if I take up contacts for you and if we get brave people, then everything
7 will be sorted for you instead of asking me and saying you've -- I mean, I'm not in
8 power any more, I've got nothing, I've got no money, he was meant to have said that,
9 and that's why I said -- well, when I saw, I allowed myself to speak to (indiscernible)
10 and it was still about the money and it was still linked to that. I understood
11 afterwards that -- or what he told me afterwards was that when (Redacted)
12 (Redacted) went into the MLC at a certain time and he wanted
13 him to be appointed (Redacted) and he went into the
14 opposition with (Redacted). Jean-Pierre Bemba was meant to have refused to grant that,
15 and he said afterwards, and I said, "Why are you saying that?" And he said, "I'm
16 saying that because he was unhappy and when he hears that I will testify for that
17 person, well, he'll do something." And that is something I'm telling you sincerely.
18 If you want to have contact, I've got (Redacted) number. If you want,
19 I can give him a call. I can call all my friends. And I remember bit by bit before the
20 Court, it comes back to me. So that's how I understood that it was an approach that
21 was made with a particular objective. It wasn't to make a contribution to the
22 International Criminal Court, and it was for personal reasons, and I really regret it,
23 the fact that (Redacted).
24 Q. So, to speak clearly, according to what you were able to understand, what were
25 the objectives followed by (Redacted) in his approach towards the Court?

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1 A. Well, his objectives were -- well, I don't know. Well, when he spoke, it was
2 about having (Redacted) so he had become -- well, it was just too much for him
3 at the time. So I was thinking, well, even if he had all his intelligence -- well, I
4 remember when I spoke about his word, he contacted another person called (Redacted)
5 (Redacted). And I don't know if you -- (Redacted),
6 and he was in the MLC.
7 Now, when he contacted him, it was the same thing. There are no secrets between
8 us. He contacted him and he asked everyone -- well, I understand well, he was
9 doing everything he could and it was quite normal, because he had been adopted by
10 the authorities in place. They were continuing to work, and he was continuing to
11 work as (Redacted), and he contacted the person and said, "Well, I'm here,"
12 and perhaps he didn't know what he was doing for himself. What I wanted to do
13 was to go and testify, and the other person said to me, "Well, that's very good," and he
14 made us see that when he was in power, we know that he was a good person. So
15 you have to be brave to do what you're doing there.

16 Q. Please try to slow down. It's very important.

17 A. Very well. What I'm saying is that when he took up contact with (Redacted),
18 he reported on that to me because what he was trying to do -- you know that, before
19 travelling, there are administrative formalities which have to be carried out in the
20 communes, et cetera, and he has said to have recommended (Redacted)
21 (Redacted)

22 apparently. to go -- well, I don't know because, at a particular time, I said -- well,
23 I had the impression that he had lost his mind. So, you've lost your mind, and even
24 if you have to do something, well, everyone has their own way of seeing things.
25 I don't know what else I can say. Perhaps asking me questions, I'll remember certain

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1 things.

2 Q. Have you stated to the Court exactly who (Redacted) is exactly?

3 A. (Redacted), well, this is somebody, well, he's older than us. We knew him
4 when I was still a child. He was in the (Redacted). This is somebody who
5 is a businessman and at a certain time, I think - unless I am mistaken - he was an MLC
6 member, a deputy. Well, this was somebody who had his business, and he was
7 recognised in Kinshasa. How do I put it? He is one of these people who are
8 very -- seen as very popular by his behaviour. What I can say is that these are
9 people who can -- who do everything for money, basically. Well, I'm the one who's
10 saying that. I only commit myself to saying that, but I grew up in Kinshasa, so
11 I know what I'm talking about.

12 Q. Just speak clearly. It's very important for the Court to understand exactly what
13 your testimony is.

14 When (Redacted) mentioned money with regard to the approach of (Redacted)
15 (Redacted), what does that mean exactly, in simple and clear terms?

16 A. Well, I think was clear, Counsel Kilolo, when I said that, but you have to
17 understand that it's a bit of a culture with the people in the Congo, Kinshasa. (Redacted)
18 (Redacted) received money for testimony, which he should give but in return he got
19 nothing, nothing at all, and he said as these are known people, for dribbling for
20 example, with manoeuvres, they have different manoeuvres in order to be able to get
21 money.

22 The (Redacted) was afraid, and (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 And I want to mention one thing here, because you're going to ask me for
2 example -- but in fact the trial, the Jean-Pierre Bemba trial, this is a trial concerning the
3 problem that happened in the Central African Republic, and why for example can
4 you contact people in Kinshasa in order to know things, and what you have to say is,
5 well, perhaps people -- the Court has to understand the politics that there are in
6 Kinshasa. Perhaps they have to understand Kinshasa people, what are they.
7 Even if there are political rivalries, when somebody has a problem we want them to
8 stay with those problems. For example if they -- if he comes back one day, we'll see.
9 Well, you do everything you can do, and all people who could contribute perhaps to
10 his political enemies. Well, being contacted, as there's almost no law and there's
11 money, well, it's a business. It's a business for people.

12 Q. And how did you know that (Redacted) should receive money for the
13 testimony of (Redacted)?

14 A. Well, I said (Redacted) spoke to me. (Redacted) I told you, he
15 speaks to me about pretty much everything and nothing. And I told you he was
16 speaking to me about everything. (Redacted)
17 (Redacted)
18 (Redacted)

19 (Redacted) And we all know each other for a long time, and that's how I
20 understood that that's the way it was.

21 Q. The people of Kinshasa who were meant to give money to (Redacted), could
22 you speak to them?

23 A. No, I don't know the people who could give him money. I know that -- well,
24 when you speak, that reminds me of something else. How many contacts were there?
25 Well, I can tell you (Redacted). He contacted

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1 him to tell us -- or to tell me -- well, I remember -- no, that was a long time before.
2 He contacted him before even -- well, before the people in Kinshasa were working.
3 I don't know if he had other contacts before, but I think that he did have because
4 before he contacted me or before (Redacted)
5 (Redacted) told him, "Look, I'm calling you and I'm telling
6 you here, it's between me and you and it's our business. We can get a bit of money.
7 We could get money." And he said, "Before ..." well, I don't know that he was still in
8 contact with Jean-Pierre Bemba, even before Jean-Pierre Bemba was called to the
9 International Criminal Court.
10 And the (Redacted) said what? Well, he said, "You have to be able to have information,
11 even from your friends who are with him, so that in Kinshasa they can say everything
12 that he's doing in terms of trips, and I would ask the Court if they can call the
13 (Redacted) to ask him, but this was a story I would say afterwards."
14 Well, you asked me a question, to ask who this (Redacted)
15 (Redacted), who is close to the Kinshasa
16 authorities, so it was between us when information was to be provided. So when I
17 started to put all that together, I thought, well, perhaps the young man had got me
18 (Redacted).
19 You see, for quite a while I was asking myself why I'd got into this story. There were
20 contacts. I was even afraid, and I even said to Counsel Badibanga that I didn't want
21 for my family to have problems, and I gave the example of (Redacted), who died
22 and all that, and I said I wanted to stay apart from this when people would contact
23 me, and what I'm saying is over time I'm going to remember a lot of things.
24 And when I saw that, I linked it to what I'd already said before. I saw that perhaps
25 there was a situation. Well, I don't know. It was a bit hard for us, but it might be

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1 to -- it might have been used to challenge his political enemies or something like that,
2 I just don't know.

3 Q. Did you tell the Office of the Prosecutor that this is something that had just been
4 put up, this information, that it was a set-up?

5 A. I didn't say this to the Office of the Prosecutor. Well, I think that the last
6 time -- well, I was contacted to ask if the Prosecutor wanted to speak with me, if I
7 remember rightly, and I said no. So, well, he wanted to speak to me through the
8 Office of the Prosecutor because what I thought -- well, Counsel Badibanga has my
9 contact details, so I wondered whether the OTP needed to contact me. Then it was
10 Counsel Badibanga who would contact me. He's got all the telephone numbers, he's
11 got the mobile telephone number, the fixed telephone number, and why am I here?
12 I told you that I am here in order to shed light on matters, and I'm not giving
13 this -- why did I have to give this testimony when the lieutenant said he had dropped
14 this story? So why am I testifying? I knew that the testimony wasn't going to take
15 place unless he has come to testify already. I mean, I don't know. But he said, "Oh,
16 I've dropped it."

17 And when I accepted to come, it was because I wanted to help the Court. Because
18 you don't know, perhaps you can just say, well, whatever statement was made,
19 whatever letter was written by such-and-such a person, but what I have done is to
20 help the Court, but I am there and I'm saying that I have understood.
21 I've carried out an analytical work, I've done almost the same thing. It's the same
22 thing that's been done. I have had the time to -- the different statements that we had
23 and I have come to the conclusion, this conclusion, and if I'm here it's not because I've
24 been pushed to be here, it's because I wanted to be here. It was my conscience that
25 drove me here when I decided to come, when I was contacted. I decided afterwards

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1 to come in order to bring a stone to this building that is international justice, that's all.

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 PRESIDING JUDGE STEINER: Mr Witness, I'm so sorry to interrupt you, but the
7 interpreters and court reporters are stating that they are having lots of difficulties in
8 following you because you are speaking too fast and you are not respecting the
9 five-seconds rule. So, please, try to facilitate their job and speak slower and don't
10 forget the five seconds before you start giving your answer.

11 THE WITNESS: (Interpretation) Thank you. Thank you, I will make an effort to
12 try and forget my natural nature in this regard. Counsel Kilolo, please could you ask
13 me your question again if you'd be so kind?

14 MR KILOLO: (Interpretation)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted), but apart from them, I don't know if

19 there were other contacts, but what he told me -- he informed me (Redacted)

20 (Redacted) should come and testify as well, that he told me, but I don't

21 know if it's true or if he lied to me, I don't know. (Redacted)

22 (Redacted) were meant to come and testify against Jean-Pierre Bemba, but I don't know
23 if that was true. That's what -- those were what his words were.

24 Q. And what did he tell you other than that about the Jean-Pierre Bemba case?

25 A. Well, he said that he was going to the Congo, and that everything was ready for

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1 him to return to the Congo. And another thing, you know, when we speak like that,
2 you don't always have the possibility to remember everything. When I remember, I
3 will tell you. It will come back. Perhaps it will come back to me at a later stage. I
4 will have that possibility to tell you.

5 Q. Why did he tell you that (Redacted) would come to testify
6 against Jean-Pierre Bemba?

7 THE INTERPRETER: Five seconds please.

8 MR KILOLO: (Interpretation)

9 Q. I would just ask you also to finish each time -- let me finish each time, and
10 afterwards please wait five seconds, and afterwards please answer my question.
11 Now, do you know why he gave you this information on the testimony of (Redacted)
12 (Redacted) against Jean-Pierre Bemba, to his knowledge?

13 A. When he told me that, it was because I thought -- well, I noted that he was
14 following the trial with a lot of attention, he was really following it closely, because he
15 told me -- when Thomas Lubanga was sentenced, he told me Thomas Lubanga, he
16 only had 14 -- I think 14 years. Well, I don't know, maybe it's gone to appeal. And
17 he just simply said, well, we now await 30 or 40 for Jean-Pierre Bemba. That's all
18 that he told me.

19 Well, I told him, and why are you saying that? Well, that's the way it is with the
20 International Criminal Court. They sentence one. Well, they're going to sentence
21 the other for more. I said -- well, you're asking questions to me, and perhaps I'll
22 think of something else, but with regards to the political actors, that's what he told me.
23 And recently he said that he had contacts to go into the army in the Congo, and he
24 was proposed a post in the army, that's all I can say at the moment on that.

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

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1 (Open session at 10.59 a.m.)

2 THE COURT OFFICER: We are in open session, your Honours.

3 PRESIDING JUDGE STEINER: Mr Witness, we have now a half-an-hour break.

4 You can take some rest. Probably you will be seen by a security officer of the VWU.

5 It's 11 o'clock. We'll be back at 11.30.

6 I ask, please, court usher -- the court officer to turn into closed session for the witness
7 to be taken outside the courtroom. In the meantime, we will suspend and resume at
8 11.30.

9 *(Closed session at 11.00 a.m.) Reclassified as Open session

10 THE COURT OFFICER: We are in closed session, your Honours.

11 (The witness stands down)

12 THE COURT OFFICER: All rise.

13 (Recess taken at 11.01 a.m.)

14 *(Upon resuming in closed session at 11.34 a.m.) Reclassified as Open session

15 THE COURT USHER: All rise.

16 Please be seated.

17 PRESIDING JUDGE STEINER: Welcome back.

18 Could, please, court usher bring the witness in.

19 (The witness enters the courtroom)

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

21 (Open session at 11.35 a.m.)

22 THE COURT OFFICER: We are in open session, your Honours.

23 PRESIDING JUDGE STEINER: Mr Witness, welcome back.

24 THE WITNESS: (Interpretation) Good morning.

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

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1 THE WITNESS: (Interpretation) Yes, I'm ready.

2 PRESIDING JUDGE STEINER: I notice that we spent the whole first part of the
3 testimony in private session, so my question to Maître Kilolo is whether we could
4 convene with the witness some codes in order to at least try to have the second part of
5 this -- of his testimony in open session?

6 MR KILOLO: (Interpretation) Yes, your Honour, we can try. No doubt I'll be
7 asking him a number of questions in private session for a while yet and then after that
8 we'll see.

9 PRESIDING JUDGE STEINER: Court officer, please turn into private session.

10 *(Private session at 11.37 a.m.) Reclassified as Open session

11 THE COURT OFFICER: We are in private session, your Honours.

12 MR KILOLO: (Interpretation)

13 Q. Witness, I don't have a lot of time left to ask you questions. Perhaps in
14 45 minutes or so we'll conclude and then the Office of the Prosecutor will have their
15 chance to question you, but I'd like you to try very, very hard to slow down because if
16 you wish to help the Chamber it's important for them to understand what you're
17 saying. Otherwise, this will be a bit of a waste of time.

18 So please try to wait the five seconds. To make things easier for you, each time you
19 speak if you could look at the Presiding Judge, for example, and she can gesture,
20 perhaps make a small hand gesture to you, to let you know if you are going too
21 quickly and you can slow down then. Would that be all right?

22 A. Yes, but I'd like to know when we're in private session things won't be heard by
23 the public?

24 THE INTERPRETER: Overlapping speakers.

25 THE WITNESS: (Interpretation) Because I'll be giving some names and, since I'm

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1 giving names and since I'm speaking about someone who may have been here and
2 someone who is entirely familiar with the case, I'm quite afraid that this may leak out
3 and this may imbalance things quite a bit. I thought even when I was speaking that,
4 when I gave the names if the names come out I'm very sorry, but I'm very sorry. I
5 won't be able to because perhaps -- right away.

6 PRESIDING JUDGE STEINER: Mr Witness, I just mentioned that we stayed the
7 whole first part of your testimony in private session. Do you understand what
8 private session means?

9 THE WITNESS: (Interpretation) Please explain again, so I can be assured, so that I
10 really understand.

11 PRESIDING JUDGE STEINER: Mr Witness, private session is that, whenever this
12 green light is in front of you, nobody outside the courtroom can hear what we say.
13 The sound is cut. So this is private session. Only those that are inside the
14 courtroom can hear to what you say. So we've been all the time,
15 contrary - contrary - to the decision of the Chamber, we've been in private session,
16 and as soon as the Chamber understands that we can go into public session we are
17 going into public session. For the time being, we stay in private session.
18 Do you understand that?

19 THE WITNESS: (Interpretation) Okay. I just wanted to be reassured, that's all.

20 PRESIDING JUDGE STEINER: Maître Kilolo.

21 MR KILOLO: (Interpretation)

22 Q. Witness, when you were talking about money and (Redacted), I'd like to
23 ensure things are quite clear. Did he receive some or all of the money that was
24 promised to him?

25 A. No. I think that on that point, as I said -- well, I said what I knew, and I'm

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1 giving the information to help you and to help the Court in general. I said this.
2 Well, as for the rest and the money I don't know, but I do know that he did
3 get -- because he told me he had some contacts in that regard; namely he said that he
4 was trying -- well, I told you he said it was a business thing and he had been
5 contacted initially and there was that issue of money I think, but personally to tell you,
6 "Yes, he had it," or, "No, he didn't," I don't know. If someone receives money, he's
7 not going to come and tell you that he's received money from someone. So I'm not
8 confirming that, but I had -- I had some information. I'm giving information that is
9 helping the Court analyse and come to a just assessment.
10 Perhaps there was something along the way. The money was unblocked, but I know
11 the young man made some arrangements in that regard, because he told me and I can
12 confirm that, as I said earlier. I fear that (Redacted) and -- I don't know if he had
13 other contacts with other people. You see, I'm with him and he tells me a lot, but he
14 may not tell me everything. So I'm saying that's the information I'm giving the
15 Court to help the Court. That's all I can say about that.

16 Q. So this money he was trying to get, what was it exactly in exchange for?

17 A. Mr Kilolo, you're asking me a question and I've almost already answered. I
18 said it was about this trial, about the testimony, because he revealed he said to
19 someone -- he said to me, "There you have it, you have money there if you give
20 testimony at the ICC." Because I'm going to add something: The young fellow
21 convinced, speak at the ICC, waste of time, waste of time for him. Don't think.
22 They said to the kid, "Don't think that he'll come back. Go testify." And contacts
23 were going to be established for him, and he was fearing. He was fearing that he'd
24 be taken in by (Redacted), and when -- well, I saw that he went in the same direction,
25 that is to say, I told you, it's as if he had lost his mind, so he went in the same

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1 direction; namely, trying to figure out how to get something from all of this.

2 Q. A few moments ago, when you talked about him (Redacted) and
3 you mentioned a position that allegedly he was promised, who offered him a position
4 (Redacted)?

5 A. I would say about the position -- well, he told me he made some arrangements.
6 He said everything was ready. He was getting ready (Redacted) and, to
7 confirm that, he put it (Redacted). You can read it. He put it (Redacted) that he
8 was (Redacted), and he told me that he was going to be occupying an
9 (Redacted) within the Congolese army. (Redacted)
10 (Redacted).

11 Q. What is his current status in his country of residence?

12 A. Right now, he's a (Redacted). He has the status of (Redacted).
13 Now, if he's made some (Redacted) allowing for him to go back perhaps -- well, I don't
14 know. He can go back -- perhaps he was assured that he would be safe.

15 Q. Do you know why, as a (Redacted), he would now be in a position to go
16 back and take up an (Redacted) in the Congo?

17 A. It's not that he told me that he established (Redacted) and that he was going
18 back, not necessarily. As we say -- well, I'm coming here to give testimony before
19 the Court. I'm not supposed to be telling everyone why I'm coming to give
20 testimony. Well, my wife knows I'm here but she only has a brief idea, but the
21 fundamental issue, like him, well, he -- he is entitled -- myself, as an analyst, I'm still
22 analysing, and I've understood something.

23 Q. A few moments ago you were saying that he tried to -- or he passed himself off
24 as the (Redacted) of Mr Bemba, and then he told you that it was actually
25 (Redacted)

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1 THE INTERPRETER: Overlapping speakers.

2 THE WITNESS: (Interpretation) Well, Mr Bemba could answer that, but he told
3 me earlier, when (Redacted), he said that he was the (Redacted), and
4 after, he told me, and speaking -- he later said he wasn't the number one or the
5 number two. There was a (Redacted), or something like that. That's
6 what he told me, that that person was the (Redacted), and I said, "Why did you
7 tell me that?" And he said to me, "Well, it's business, that's all."

8 Q. Are you telling us that the business was perhaps not telling the truth?

9 A. Well, it all depends on everyone's individual view-point. Everyone has their
10 own view-point of what business is. When I told you earlier that a (Redacted) had called
11 him and said to him, "Well, here's our business, and start to locate, try to find out
12 everything about your client's trips, when he (Redacted), for example," and the
13 person said -- the gentleman said it was business stuff, business. So people have
14 different ideas of what business is, and you know, especially if you're a Congolese
15 person, you know when the Congolese, most of them, when they talk about
16 "business," all -- especially all those people who are uneducated and who want -- are
17 greedy for money and power, and want -- everyone has their own individual
18 view-point. Everyone is free to think for himself and have their own opinion. I
19 think that when he was talking about business, he was referring to that. He was
20 referring to, well, maybe using --

21 THE INTERPRETER: Inaudible.

22 THE WITNESS: (Interpretation) -- the ICC, perhaps putting himself in a certain
23 position, from a financial or material point of view.

24 MR KILOLO: (Interpretation)

25 Q. Are you telling us that as part of these joint efforts, namely, (Redacted)

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1 OTP, he was willing to pass himself off as someone else in front of the ICC?

2 A. I've already answered you. When he contacted me about (Redacted), I said to
3 myself, he worked. And it took me a while to learn a bit about the ICC and to get
4 some training about the Rome Statute, and we were preparing, we were preparing for
5 that justice, so I said to myself, this is a person who is going to testify, maybe.
6 Perhaps he will shed light on things for the Court. Perhaps he will give information.
7 And when I saw after that that information -- I didn't even want to come to the Court.
8 I said to myself that this was not for me, but I realised I couldn't let anything go in
9 that direction once I started to have some evidence, so I wanted to give some
10 information to the Court, so help them with justice. And, as I said, I haven't come
11 here to attack a person, I haven't come here out of any self-interest. I've come here to
12 help with international justice, and I am here before the Court, so -- so that's my
13 concern. There's my concern.

14 Q. Now, as part of your joint efforts, did (Redacted), was he getting ready to
15 come and tell the truth before the Court?

16 A. You're asking me whether he was getting ready to come and tell the truth before
17 the Court? I told you that, first of all, (Redacted), and then I realised that this
18 was a scam, so I was caught in the trap myself, and I realised that the gentleman was
19 not coming to tell the truth. He was coming, as I've been saying, for his own
20 business.

21 Q. A few moments ago you were telling us that he mentioned 30 or 40 years of
22 prison for Mr Jean-Pierre Bemba. What did you mean by that?

23 A. No. He said -- well, first of all, this was a comment. It was a comment. The
24 ICC gave Lubanga 14, and I asked him the question. I said to him, "So you're in for it?
25 You've already" -- and he said -- he said, "Since Lubanga got 14, he'll certainly get 30

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1 or 40, so what's the point?"

2 He didn't give me details. And then after, well, I can say before the Court

3 that -- well, I don't know. Sincerely, I'm saying perhaps there was something. Well,

4 I was wondering if -- if the young man was really stable in terms of everything he was

5 saying, because I was starting to see what was going on. I realised there were

6 contradictions, and be reassured when I tell you this - and I'm being sincere - and I'm

7 sorry to say this before the Court here, but there's some things about (Redacted)

8 (Redacted).

9 I'll give you an example, just to show you that this -- well, I'm making a decision here,

10 but I -- I'm here to help international justice, so I have to -- I'm here to help

11 international justice, I have to help. And I'm -- in all honesty, there are some things

12 that (Redacted) has said to me that he hasn't necessarily said in front of the

13 Court, and this is a bit secondary, but -- and this has to do with a person's private life,

14 but just to let you know that the trust -- (Redacted). I don't know -- well, if it's

15 been a year or so, but just to give you an idea the trust -- (Redacted),

16 (Redacted)

17 (Redacted) Other than the police and I, who were called to deal with that matter, but no

18 one else knows about that. That's just to show you the confidentiality. Even

19 if -- and that's just to show the Court that what I'm telling you -- it's to help the Court.

20 It's to help the OTP. It's to help ensure that justice is rendered normally. If -- and if

21 there's anything else than that I've said, the reason why I'm here, summoned, well,

22 because of (Redacted) and if

23 testimony was given, I don't know. If he did that, I myself ask myself -- I ask the

24 Court to consider that those remarks don't even bind me. (Redacted), but there's

25 orders, but there's no consistency here, coherence. It's not the truth. That's all I've

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1 told the Court. That's all I can say.

2 Q. Does (Redacted) have some kind of income? Does he work?

3 A. (Redacted), to my knowledge, ever since he's been in (Redacted), has never
4 worked. You can check with the social security people and they'll give you that
5 information. He's never worked but, at the current time, he is doing some vocational
6 training, but formal work, no, he's never worked.

7 Q. And do you know how he manages to get by?

8 A. Like all (Redacted), I think since he's not working -- well, not that -- since
9 he doesn't work, he receives support from social security, but it's not always enough,
10 but he does receive support from social services.

11 Q. Can you tell me about his contacts with (Redacted), as you said a short
12 while ago?

13 A. No. As I said, he simply told me that (Redacted) would come and testify.
14 (Redacted) would also come to testify. I do not know whether he had any contacts
15 with them or not, but he said (Redacted) would come to
16 testify in the Court. I do not know whether this was true.

17 Q. A short while ago, you said he told you that these two people would come and
18 testify against Jean-Pierre Bemba. What did you mean by that?

19 A. I do not know how you want me to explain. Well, the idea is that he told me
20 that they were coming to testify against President Bemba. Whatever that means, I
21 really do not know but they were coming to testify against President Bemba. I'm
22 also wondering. As I told you, when something crops up in my mind I can always
23 talk about it. As I was saying, I now remember.
24 I think he told me that I even wondered whether this was not a settlement of scores.
25 Why? Because (Redacted)

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1 (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)

21 Q. Very well. We are going to conclude soon, but can you tell me about the
22 various contacts that you had with the OTP, stage-by-stage?

23 A. It is a bit difficult to give you the chronology. I have someone who has many
24 contacts on a daily basis. I cannot be very specific about the chronology.

25 To begin with, when (Redacted), I believe two or three days after that, since

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1 (Redacted), two or three days
2 afterwards Mr Badibanga called me. I think he actually called (Redacted) first. He
3 spoke with him, but since that young man cannot keep a secret Mr Badibanga had
4 asked him not to tell me that he had spoken with him, but he told me that he had just
5 spoken with Mr Badibanga and that I was going to be called also, and indeed I
6 received a phone call. Mr Badibanga asked me a certain number of questions, and I
7 gave him the answers.
8 There was another time when I was the one who called Mr Badibanga. He was in
9 Kinshasa. When I called him he told me that he was in Kinshasa, and I told him I
10 had not seen (Redacted)
11 (Redacted) And Mr Badibanga told me, "Look, stay
12 calm, he should be around." And at that time, as an intellectual -- and I know that
13 when I called his telephone it was not operational, just like mine right now.
14 When I called that phone, it would just cut, the connection would just be cut, and I
15 was thinking to myself, (Redacted) should be at the International Criminal Court.
16 This is an idea that I had, but I'm not confirming that. So when I called
17 Mr Badibanga, he said, "Look, stay calm, he should be around."
18 Later on, well, I do not remember whether there were any contacts in the interim, but
19 the last contact that I had with Mr Badibanga was when I called to complain about the
20 fact that I had been contacted and I was told that late-Maître Nkwebe needed to
21 contact me, and it struck me why am I getting this phone call?
22 So I called Mr Badibanga and told him that I had a concern, and my concern was to
23 assist the ICC as a human rights militant. And I told Mr Badibanga I would not like
24 my name to start circulating in that manner and I talked about the late-(Redacted)
25 (phon). Mr Badibanga told me, "Do not worry about your safety. Even from here,

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1 we can ask that you should be protected. We have every means to ensure that."

2 And he told me, "It is quite normal for them to call you. It is one of the rights of the

3 Defence. Maybe considering (Redacted) they have the right to see the

4 (Redacted), and they obviously have seen the names," and I remember that I had included

5 my name, and the person who was trying to contact me is someone who had worked

6 with me at the (Redacted).

7 Mr Badibanga told me to say calm, and if I was asked a question I would simply reply

8 that I was not aware of (Redacted), and if there was another contact I could still call

9 him. Those were the contacts that I had with the Office of the Prosecutor. And

10 recently, I had contact with -- I don't know whether it is the operations or support

11 unit, I do not know.

12 Q. I'm practically at the end of my questioning. Given that the entire Defence

13 examination was almost all in closed session, I would suggest that we agree on a code

14 for you and another code for (Redacted). This would enable me to ask you two last

15 questions in open session, but please be reassured that there is no risk of identifying

16 you in public.

17 So for example we can refer to you as (Redacted) and then we will refer to

18 (Redacted). It would be very difficult to make the connection with you

19 or (Redacted)

20 A. Let me say this: You're quite correct, we can use codes, but I know that I have

21 spoke -- I have spoken with (Redacted) but if I repeat what I have discussed

22 with him here, and if he has that information, he will know that it is me because it is

23 only with me that he confided about his conversation with (Redacted)

24 (Redacted) and when he told me that he wanted to contact (Redacted) it was only I

25 who knows that, so he would easily understand that I am the one speaking because I

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1 am telling the truth.

2 Q. Let me tell you the questions that I am going to ask you in open session. If I
3 asked you "Did the driver receive any compensation or benefit at all within the
4 framework of the Jean-Pierre Bemba case," can you answer that question in open
5 session?

6 A. I do not know. There is a danger that I might go into something. Well, in fact
7 I did not come to the Court to put an end to the relationships that I had with other
8 people. I do not want anything appointing, so that is a bit difficult. Even if we use
9 codes, I really do not know.

10 PRESIDING JUDGE STEINER: Mr Witness, I cannot see how this question, as put
11 by Maître Kilolo, how the answer could identify you. We are talking about someone
12 that cannot be identified, unless instead of answering "Yes" or "No" you start talking
13 and talking a lot about the person. If you just answer to the question, there is no
14 way you can be identified by your answer.

15 THE WITNESS: (Interpretation) Very well, let us try. I hope there will not be
16 any leaks. I cannot answer with a "Yes" or a "No," so I have to explain why I suspect
17 this or that.

18 A short while ago, for example, when a question was asked to me about money, if
19 somebody receives money he's not going to call me and say, "Look, I received some
20 money today." But I can confirm that measures were taken in that direction, but the
21 person would not call me to confirm that they had received money.

22 PRESIDING JUDGE STEINER: Mr Witness, have you informed many people that
23 you are coming to testify?

24 THE WITNESS: (Interpretation) No, I did not tell many people, and specifically
25 (Redacted) knows that he confided in me. (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted) Imagine that (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 PRESIDING JUDGE STEINER: Maître Kilolo, we are wasting a lot of time.

9 Conclude your questioning in private session, please.

10 MR KILOLO: (Interpretation)

11 Q. Mr Witness, that was the conclusion of my questioning. I thought I would ask

12 a question to summarise for the public, but that is the end of my -- the exercise.

13 A. No, no, no, let me say something to assist the Court. As the Presiding Judge

14 said, publicity is important, so ask the question and I will see what to do.

15 PRESIDING JUDGE STEINER: Maître Kilolo, you will conclude in private session.

16 Since the whole testimony was given in private session, I will not allow that just one

17 sentence out of the context is made public. There is no sense in that.

18 MR KILOLO: (Interpretation) Very well.

19 Q. Mr Witness, we will stay in private session, but in conclusion I will ask you

20 three small questions. First question: (Redacted) receive any benefit as

21 part of the Bemba case?

22 A. Well, as I said, if he is ready to return to Congo, maybe that is a benefit for him.

23 Q. Did he receive or was he given any promise of any benefits, financial or

24 otherwise, within the framework of the Jean-Pierre Bemba case?

25 A. My answer would be the same as the previous one. He told me that he had

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted) So I know there was something

8 going on. I do not know whether it was concluded or not, so I cannot tell you.

9 PRESIDING JUDGE STEINER: Maître, if you allow me just a follow-up question

10 before I -- otherwise, I will lose the line. Just for me to understand, Mr Witness, you

11 repeat here that -- you said, "I told you he published all (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 PRESIDING JUDGE STEINER: Do you remember more or less when it was he put

21 (Redacted); more or less?

22 THE WITNESS: (Interpretation) He (Redacted) them recently, about a month ago.

23 PRESIDING JUDGE STEINER: Maybe you could help me in understanding why

24 putting (Redacted)

25 (Redacted)? I could not understand the link you made between one thing and the

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1 other.

2 THE WITNESS: (Interpretation) The link that I am making is to show you that, as

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted) He told me he was returning to the Congolese army to

11 occupy an (Redacted). That is what made me believe that he was no longer

12 afraid of anything in Congo, and even (Redacted)

13 (Redacted).

14 PRESIDING JUDGE STEINER: Maître Kilolo?

15 MR KILOLO: (Interpretation)

16 Q. Now, to my last but one question. About the money that (Redacted) was

17 supposed to receive, or rather the business that he was involved in, personally what

18 did he have to give in exchange?

19 A. Mr Kilolo, you are asking me practically the same question. I told you about

20 (Redacted) concerning Jean-Pierre Bemba. I do not see what business that can be

21 done with Jean-Pierre Bemba while he is detained in The Hague. And when

22 someone talked with (Redacted) says -- well, he was afraid of

23 involving himself in that business with (Redacted) would

24 receive something and not give him. And then we talked with (Redacted). I allowed

25 him to speak with (Redacted) and then he mentioned Jean-Pierre Bemba.

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1 What am I to conclude from all that and what tells you that he did not have contacts
2 with other people than myself, particularly when I started telling him that it was not a
3 good thing when he told me that he was involved in this business?

4 Well, that is all I can tell you. It is the truth that I am telling you. I cannot give you
5 any information that is not correct.

6 Q. Well, let me be more specific. Maybe I phrased my question badly. It is a
7 summary question. Given that (Redacted) was supposed to receive money,
8 what was he supposed to give in exchange for that money?

9 A. He was supposed to testify against. Unfortunately he did not do that, as he
10 told me. He explained to me that he had decided not to testify and he did not testify,
11 well unless there is some other contrary information, because he confirmed to me that
12 he did not do that.

13 Q. Very well. My very last question: When you talked to him about his possible
14 testimony to the Court, was he prepared to tell the Court the truth? (Redacted)
15 (Redacted)

16 A. As you know, and this is my personal analysis, (Redacted) was not ready
17 to say what had really happened. Let me add something: (Redacted)
18 (Redacted)

19 (Redacted) I no longer trusted what he was saying and what he could have done.
20 Even if he came and gave testimony, I would say that that testimony is not truthful,
21 and he's a calm person. Even when he tells you something that is not true, he tells
22 you in a manner that is convincing.

23 Let me give you an example. (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 MR KILOLO: (Interpretation) Thank you. Thank you Witness, for having
7 accepted to co-operate and answer all the questions put by the Defence. It will now
8 be undoubtedly the turn of the Prosecutor to question you.

9 THE WITNESS: (Interpretation) Thank you.

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

11 (Open session at 12.32 p.m.)

12 THE COURT OFFICER: We are in open session, your Honours.

13 PRESIDING JUDGE STEINER: Thank you very much, Maître Kilolo. That
14 concludes Defence questioning of Witness D-55.

15 I will now give the floor to Maître Badibanga, and taking into account the concerns
16 repeatedly expressed by the witness, my question is: Do you, Maître Badibanga,
17 believe it's possible to go into open session or to continue in open session? Or the
18 testimony would be more fluid if we stay in private?

19 MR BADIBANGA: (Interpretation) Thank you very much, your Honour,
20 Honourable Judges.

21 I think that now, for two years, we have carried out this exercise of questioning over
22 50 witnesses, some parts in private session, some in open session, and I think that we
23 will be able to respect the same functioning. So, certainly, I will start in open session,
24 and every time that it's necessary, as we do since November 2010, we will then
25 continue in private session, but I do think that we can carry out this exercise following

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1 the proceedings.

2 PRESIDING JUDGE STEINER: So, we will try, but let's first then establish the
3 necessary codes for persons that are mentioned repeatedly, in order to avoid
4 identification. And for that purpose, I ask, please, court officer, to go into private
5 session.

6 *(Private session at 12.35 p.m.) Reclassified as Open session

7 THE COURT OFFICER: We are in private session, your Honours.

8 QUESTIONED BY MR BADIBANGA: (Interpretation)

9 Q. Mr Witness, good afternoon.

10 A. Good afternoon.

11 Q. I am Jean-Jacques Badibanga. We have had the opportunity to meet a few
12 days ago during the familiarisation session, and as you mentioned, we had a few
13 exchanges, as far as I'm concerned for the OTP, during or over the last few years. As
14 I said in open session, we can understand your concerns, but this Chamber is full of
15 professionals who have been carrying out this trial for over two years, and there have
16 been no difficulties to this day concerning going from private session to open session
17 (Redacted)

18 (Redacted). You asked if you could take certain sheets to be able

19 to -- I invite you to note the names. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted) and when we have to be more precise, we will go into a
23 short private session in order to get clarifications on those matters.

24 Where you are concerned, the Defence made a proposal to you. When we speak
25 about your function, you as a member of the (Redacted),

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1 (Redacted) Is that okay for you? (Redacted)

2 (Redacted)

3 A. No, that is fine by me.

4 Q. So you saw I waited the five seconds there. I would ask you to do the same.

5 MR BADIBANGA: (Interpretation) Your Honour, we can go back into open
6 session, if you would give us leave to do so.

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

8 (Open session at 12.38 p.m.)

9 THE COURT OFFICER: We are back in open session, your Honours.

10 MR BADIBANGA: (Interpretation)

11 Q. Witness, could you tell us how far back your first contact goes, how far your
12 contact with Jean-Pierre Bemba goes back?

13 A. I can't give you the exact date, but the contact was just after I was
14 contacted -- well, it was at that time that the Defence wanted to speak to me. I sent a
15 mail, you will remember, in a mail which was sent, and I said, "Well, people are
16 trying to contact me," and this was -- well, I remember it was some time before
17 Counsel Nkwebe died because he was the person who took up contact with me, and I
18 think he's mentioned in the email that was sent.

19 Q. This first contact that you had with the Defence team of Mr Bemba, was it with
20 one of the members of the Defence currently present here in the room?

21 A. Yes, it was with his collaborator, Jean-Jacques, the contact that we had with
22 Counsel Nkwebe (Redacted).

23 PRESIDING JUDGE STEINER: Court officer, please, could you please turn into
24 private session quickly.

25 *(Private session at 12.40 p.m.) Reclassified as Open session

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1 THE COURT OFFICER: We are in private session, your Honours.

2 PRESIDING JUDGE STEINER: Mr Witness, it will be deleted, but just to remind you
3 not to mention that you are currently (Redacted).

4 THE WITNESS: (Interpretation) That's the reason why, that's the reason why I
5 asked. I know that when one's speaking, something can just come out like that, but I
6 already feel ill at ease.

7 PRESIDING JUDGE STEINER: The Chamber deems it really unfortunate that we
8 cannot continue in public session, since the witness appears not to be, let's say, ready
9 to keep himself from saying -- from telling information that should not be told in
10 public session.

11 In order to avoid a sequence of redactions, and since we have public in the galleries
12 that can hear what he said, we will for the time being continue in private session,
13 Maître Badibanga.

14 You can continue.

15 MR BADIBANGA: (Interpretation) Thank you, your Honour.

16 Q. So, you were saying just before this interruption, Witness -- now, you note that
17 we are in private session, so you can express yourself freely. You can mention all the
18 persons that you wish.

19 A. Well, I do think, your Honour, well, the incident a moment ago happened in
20 public, so. If you would give me leave, your Honour.

21 Q. Witness, as the Presiding Judge explained to you, I will try and say the same
22 thing, perhaps in other words. When we say that we are in private session, nobody
23 apart from the people who are in this room can hear you or see you. When we are in
24 private session, nobody apart from the people in this room here. Okay?

25 Now, when we are in open session, there is a delay of 30 minutes; that is to say, what

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1 you say at 12.44 will go on to the internet at 1.15, 1.14 to be precise, and this time lag
2 of 30 minutes makes it possible to delete the errors that a witness might make or even
3 one of the parties in the courtroom.

4 A moment ago you mentioned (Redacted) During these 30 minutes the Presiding
5 Judge will give orders, in fact she's already given the order I think, that in this time
6 space that the word (Redacted) be deleted from the written record, and secondly that
7 the word (Redacted) be deleted from the audio version, so when in 30 minutes the
8 external audience comes to that moment in your testimony the word (Redacted) will
9 no longer figure in the text. Do you understand that?

10 A. Yes, that's fine.

11 Q. So this is something that you've understood. What you also have to
12 understand is that you have to wait five seconds; is that okay?

13 A. (No interpretation)

14 Q. Whatever the case, we will continue in private session following the Chamber's
15 instructions. Is that okay for you?

16 A. Yes.

17 Q. Now, coming back to this first contact that you said you had with the Defence,
18 you said that it was with a collaborator. Here, I will quote you, and this is page 71 of
19 the French version, line 4 and 5, "Yes, it was with his collaborator, Jean-Jacques. It
20 was the contact that we had with Counsel Nkwebe (Redacted)."

21 So, first of all, where it concerns the collaborator Jean-Jacques, if I'm correct, is that
22 Mr Jean-Jacques Mangenda who is on the other side of the courtroom?

23 A. On the other side of the courtroom? Well, I had contact with Nkwebe, one of
24 his collaborators. It was once that we had this contact. I don't know. Well,
25 perhaps the -- I might forget the face, but I did have contact with him and one of his

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1 collaborators.

2 PRESIDING JUDGE STEINER: Maître Badibanga, the curtains do not allow the
3 witness, as far as I know, to see Maître Mangenda. So please don't ask him to
4 identify anyone.

5 MR BADIBANGA: (Interpretation) Thank you very much, your Honour. I had
6 not evaluated that.

7 Q. Now, this first contact with Counsel Nkwebe and his collaborator, was it
8 physical contact? Did you meet face-to-face?

9 A. Yes.

10 Q. And was this what you were speaking about when you said that this meeting
11 took place in (Redacted)?

12 A. Yes.

13 Q. Who put you into contact with Counsel Nkwebe?

14 A. Who put me in contact with Counsel Nkwebe? Counsel Badibanga, you've got
15 the email that I sent you, where we speak about (Redacted)
16 (Redacted) and who did everything to put
17 me in contact. I sent the mail which he had sent.

18 Q. In accordance with the rules, you're the witness and I am working for the Office
19 of the Prosecutor. So I have to ask you the questions so that you give the
20 information, which you give in the most precise way as possible.

21 PRESIDING JUDGE STEINER: Maître, sorry to interrupt you. Mr Witness, could
22 you please spell the name you just mentioned?

23 THE WITNESS: (Interpretation) (Redacted)
24 (Redacted)

25 MR BADIBANGA: (Interpretation)

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1 Q. Do you know this person, (Redacted), whose name you just mentioned? Did
2 you know this person before this contact?

3 A. I knew this person. I worked with him at the (Redacted)
4 (Redacted). We know each other very well.

5 Q. Were you a member of the MLC at one time or another?

6 A. I've never been a member of the MLC.

7 Q. Were you involved in one way or another in the events which are the subject of
8 this trial, between October 2002 and March 2003?

9 A. I said I was never in the Central African Republic, so I was not involved in the
10 events.

11 Q. You really have to try to wait five seconds before answering the question.

12 Where were you living between 2002 and 2003? Just tell us the name of the town.

13 A. Between 2002 and 2003 I was living in (Redacted)
14 as well from time to time.

15 Q. So in your opinion why, given that you were never a member of the MLC, were
16 you not involved in the events concerning this case? And you were living in
17 (Redacted). You said I think -- well, I
18 don't know if you mentioned the province, but I think we can say without any kind of
19 mystery that it's in (Redacted). So why (Redacted) did he contact you with a view to
20 getting into contact with the Defence of Mr Bemba?

21 A. No, (Redacted) contact wasn't between 2002 and 2003. I didn't say that.

22 Q. Please excuse me. Please really don't forget to wait for five seconds, but
23 secondly that wasn't my question. My question was -- well, I'm going to put it very
24 simply. Necessarily -- you had nothing to do with the events which concern us, so
25 why did (Redacted) think, well, let's call (Redacted) to put him in contact

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1 with Mr Bemba's Defence? That's the sense of my question.

2 A. I think that it was Counsel Badibanga who gave me a good answer to this. At
3 the time when I contacted you, in order to say -- well, when I sent you the email, you
4 said that "... this was the right of the Defence," or the Defence's right. "Maybe it was
5 the Defence who was trying to contact you."

6 Well, the Defence, as (Redacted), I mentioned that I was working at the (Redacted)
7 (Redacted). Perhaps it's from that that they knew people who were at the
8 (Redacted) who knew me. Perhaps, perhaps it was in that sense that (Redacted)
9 was contacted.

10 Q. That doesn't answer my question. I'm just trying to understand this.
11 Necessarily for the world outside you're external to this case, and to my knowledge
12 (Redacted) isn't in this courtroom. We are in agreement on that?

13 A. We are in agreement on that.

14 Q. As you have just mentioned, it was -- or it is the right of the Defence to contact
15 any person to prepare their case. We're also in agreement on that, aren't we?

16 A. Yes, we're in agreement on that.

17 Q. But logically we would expect the people who are approached to be people who
18 have a link to the case, wouldn't we? So my question is: (Redacted), did he
19 know that you had a link to this case?

20 A. Well, as I said a moment ago, I was contacted, and you just said it, I was
21 contacted by the Defence. And with a view to helping justice, as I'm clear, I say
22 things clearly, I wanted -- I was the one who told you, well, the Defence want to speak
23 to me. (Redacted) said to me that the Defence wanted to speak to me, and I
24 communicated that. If (Redacted) had been contacted, or if I was involved in this
25 case, then I don't know how I'd be able to answer you, but (Redacted) was contacted.

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1 Well, I don't know what else I can say.

2 Q. Very well. We are going to make some progress here. I've understood,
3 because at the start I didn't try to count but after a certain time, in the answers that
4 you were giving to the Defence, you said so often that you were there to contribute to
5 the truth, that I started counting how many times. I think it must be the eighth time
6 that you said, so I can assure you I think all the parties in the courtroom have
7 understood that your concern is international justice.

8 Do you remember having said that the MLC persons that called you, (Redacted)
9 (Redacted) to stop

10 co-operating with the OTP?

11 A. No. If my memory serves me well, I called you to tell you, "Look, this is what
12 I'm experiencing." I didn't want to continue in this story. In fact, I didn't know
13 Jean-Pierre Bemba. I don't know the Kinshasa authorities. And I repeat here, I said
14 that I wanted to help international justice, but why do I see my name? I'm contacted
15 with regards to this case, and I told you that, and you know one thing: When
16 (Redacted) called me, he contacted me.

17 When (Redacted) was contacted he -- because you saw the email. (Redacted) is a
18 member of the MLC, so it's normal because at the (Redacted)
19 (Redacted)

20 (Redacted) It was normal. And I told you he's from the MLC, so it's
21 normal for me to say that it's somebody from the MLC because you stressed that
22 point. You asked me to give you the name and I gave you the name and you said,
23 well, personally you had no doubt that it was him. So I gave you this name. He's
24 from the MLC. I'm not denying his membership of the MLC. He contacted me to
25 ask if I'd said that.

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1 Q. Mr Witness, on several occasions you've told us that at various times you did
2 not want to have anything to do with the ICC?

3 A. Yes.

4 Q. Is that correct?

5 A. Yes.

6 Q. Could you explain clearly what has changed since that time, because now you
7 are here giving testimony?

8 A. What has changed? During that time I said to myself, "I no longer want to hear
9 anything more about the ICC. I no longer want to keep on with these issues." I
10 said to myself, "I want to focus on my own life and do something else," and when I
11 called you and when -- well, that was when I started to see that I was getting involved
12 in something that really did just not add up. So I decided to distance myself from
13 these issues and I explained my concerns to you. I have children and I don't want to
14 have any problems. I don't want people hearing about me. I have to think of my
15 children.

16 And now -- but here I am. It's as if -- well, you're working in this area every day.
17 You gather information. You gather evidence. After a while, if you see that the
18 information that you've gathered is incorrect, you can always say to yourself, or you
19 can take a new position in your search for truth.
20 I have refocused. I am focusing on myself. I've given you the information and
21 that's the contribution that I've made to this task.

22 Q. When you had that first contact with Mr Nkwebe, what was going on in your
23 mind? Were you saying to yourself, "I don't want to be involved in all of that," or
24 were you in your current state of mind; namely you had understood there was a
25 problem and you wanted to testify?

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1 A. During that period of time, if I didn't want to be involved -- well, it was the
2 Defence that came to me, but I contacted you and those contacts when I was
3 contacting you I was complaining. At that time, I didn't think that I would be
4 coming here and giving testimony. At that time, I didn't want to hear anything
5 about anything; anything about the ICC.

6 Q. So to be clear about this and to sum-up, when you met Mr Nkwebe in (Redacted),
7 at that time you didn't want to be involved in this case? Is that what you -- is that
8 what you told the Defence?

9 A. When I met with Mr Nkwebe -- well, I had spoken to Mr Nkwebe in the past
10 and I had said to him that in principle I wouldn't want to continue going on with
11 these issues, but if the time is right, if I see that I can make a contribution to justice, if I
12 can make a contribution I would do so.

13 Q. And when that right moment occurred, when you finally realised that you
14 could make a contribution, were you the one who took the initiative to contact the
15 Defence, or was it the Defence that contacted you again?

16 A. In actual fact I had told Mr Nkwebe that I remained open, despite the position
17 that I'd taken I was staying open, and then after when the Defence contacted me --
18 THE INTERPRETER: Inaudible.

19 THE WITNESS: (Interpretation) -- why I shouldn't speak.

20 MR BADIBANGA: (Interpretation)

21 Q. After that initial contact with Mr Nkwebe (Redacted), we've gathered that you
22 said, "No, I don't want to co-operate, but, yes, I remain open." Now, after that first
23 contact, when did the second contact occur and how did that transpire?

24 A. Well, I don't know. I told you I had many contacts. I had many contacts with
25 people. As I said earlier, I had contact -- it was with Mr -- it was Mr Kilolo who

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1 called me.

2 Q. Do you remember when that was when that second contact occurred?

3 A. It must have been approximately slightly after the death of the other one. He
4 told me, "If we are going to contact you, I am now the person in charge. The -- my
5 colleague has passed away," but I can't tell you much more than that.

6 Q. Did you speak over the phone?

7 A. Over the phone.

8 Q. Please wait five seconds before answering. At that time, had you already
9 changed your mind about testifying?

10 A. In actual fact, personally I didn't expect. I didn't expect. After the contact that
11 I had with Mr Kilolo, that's - that's right.

12 Q. When Mr Kilolo called you the second time, when Mr Kilolo called you, that
13 was your second contact with the Defence, at that time did you decide to co-operate
14 with the Defence or not?

15 A. At that time I said on the phone -- I told him what my concerns were and, as I
16 said, I said to him, "I should be able to co-operate not just to help you, but to help the
17 Office of the Prosecutor. Why not?"

18 Q. So I must conclude from your answer that you had changed your mind and you
19 wanted to co-operate --

20 THE INTERPRETER: Overlapping speakers.

21 THE WITNESS: (Interpretation) Well, I said, "Why not?" I said, "Why not? I
22 can't co-operate," but I hadn't yet taken a firm decision.

23 PRESIDING JUDGE STEINER: Maître Badibanga, if you allow me?

24 Mr Witness, you and the Prosecution speak the same language. Sometimes it

25 appears that you are in a dialogue. You forget that we have interpreters, because we

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1 have many anglophones here. So please wait. Wait for --

2 THE WITNESS: (Interpretation) Thank you. Thank you.

3 PRESIDING JUDGE STEINER: Wait for Maître Badibanga to finish what he's saying
4 and count to five before answering. Otherwise, you say that you want to co-operate
5 with the Judges and with the Court, so this is one of the ways you can co-operate with
6 the Court.

7 Thank you very much.

8 THE WITNESS: (Interpretation) Thank you.

9 MR BADIBANGA: (Interpretation) Thank you, your Honour.

10 Q. And for your information, Witness, not only are there interpreters, there are also
11 court reporters who have to wait for the interpretation in English, for example, so that
12 they can type. So the five-second rule is really important, because sometimes even
13 when the interpretation is over the court reporter is still typing and so you really have
14 to make this effort.

15 I realise that you've been here for several days. If you want things to go faster I
16 think you need to be more specific in your answers and that way we will make more
17 progress, rather than speaking very fast. So give specific answers to my questions
18 and you will see.

19 I would like to hark back to the question that I was putting to you just before this
20 interruption, and this is an example where we can be quite specific. Perhaps it's my
21 fault, but honestly I didn't understand whether Mr Kilolo had called you and you had
22 said "Yes" or "No," that you were going to co-operate or not. It's as simple as that.
23 Either you said, "Yes, I want to co-operate," or you said, "No, I still don't want to
24 co-operate."

25 So my question is: What reply did you give him, "Yes" or "No"?

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1 A. I agreed to co-operate. Yes, I agreed to co-operate.

2 Q. So during that second call, you said to Mr Kilolo that you were in agreement to
3 co-operate with the Defence?

4 A. No, you're asking me why I didn't want to co-operate and that's where -- that's
5 where we left it.

6 Q. I know this isn't easy for you, but we need specific information. You must
7 realise that this is a legal trial underway, and we have to avoid approximate answers
8 as much as possible. I would like to ask you: When did this second contact occur?

9 A. I told you, when he called me it was after the death of Mr Nkwebe, who had
10 contacted me, and it was to tell me that the colleague who had contacted me had
11 passed away and the person said, "I am taking over. I am in charge now."

12 Q. In approximate terms was that one month after his death, or two months after
13 his death, three months/six months? I'd like to get an approximate idea.

14 A. If I recall correctly, approximately two or three weeks after. Yes.

15 Q. Now, this second contact with the Defence, were there other contacts thereafter
16 with other members of the Defence team?

17 A. Other contacts with the Defence team? No. I know that other contacts with
18 the Defence team was -- that was the last -- the last September, when I agreed with
19 Mr Kilolo and he said to me, "Henceforth, we will contact you -- correction, you will
20 be contacted by a team that will organise your travel to The Hague."

21 Q. So all in all, approximately speaking, we can say you had three contacts with the
22 Defence team, is that correct?

23 A. Yes, more or less. Three contacts, unless I'm mistaken.

24 Q. Now, during one of those contacts, were you told whether or not (Redacted)
25 finally testified before this Court?

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1 A. If I had been told that, I would have told you. In my testimony earlier, I said
2 that I didn't know whether he had testified or not, but I never heard about him giving
3 testimony. Nobody told me that.

4 Q. I'm trying to understand what you've explained to us over the course of the
5 morning. You said that the reason for your coming to give testimony, and correct
6 me if I'm mistaken, is that you had (Redacted), in good faith, and that you had the
7 impression later on that (Redacted) was being used for other purposes; is that correct?

8 A. Yes, that's right.

9 Q. But at the same time, you're telling us that you didn't know that he had testified
10 before the Court; is that correct?

11 A. Yes. Yes, that's right.

12 Q. So, on the one hand, you didn't know whether he had testified or not but, on the
13 other hand, you were coming before the Court for precautionary reasons, just in case
14 he had testified? Is that what you were thinking?

15 A. Not just -- no, it wasn't because -- it wasn't as a precautionary measure, but it
16 was -- it wasn't consistent. He wasn't consistent in what he was saying, so I said:
17 Why not tell the truth? Why not let people -- why -- I wouldn't want people to get
18 taken in. That's what I'm doing. It wasn't really a matter of taking precautions. It
19 was more I was taking on a responsibility, the responsibility to say --

20 Q. Witness, now to repeat the words that you yourself said a few moments ago,
21 you are an intellectual, an educated person?

22 A. Yes, that's right.

23 Q. So we can expect you to understand all the issues at stake within this trial and
24 everything that's going on in this courtroom?

25 A. No, I couldn't confirm that. I'm not a legal -- I don't have legal training, but I

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1 couldn't say that I truly understand legal proceedings, legal procedure.

2 Q. You are correct. Thank you for correcting me on that point. I had come to
3 that conclusion because I thought you had given some training about the status of the
4 ICC. That's what you said about your --

5 A. No, that's not right. We received -- correction, I received training as a member
6 of the (Redacted).

7 Q. I would like for this to appear very clearly in the record, in the transcript of this
8 trial. You sent (Redacted)

9 (Redacted). You didn't know whether this person came and gave testimony, but you felt
10 the need to come and tell the truth before the Chamber, just in case this person had
11 come to give testimony; is that what you were thinking?

12 PRESIDING JUDGE STEINER: Yes, Mr Kilolo.

13 MR KILOLO: (Interpretation) Your Honour, I really don't quite see what
14 Mr Badibanga is driving at. I think that the witness never said that he himself took
15 the initiative to come and give testimony before the Court. He specified that he had
16 been called at the initiative of the Defence and that he had agreed to come and help
17 the Court. So those are two different things. So saying that he himself was the one
18 who sent the first email to the OTP, not knowing whether the (Redacted)
19 (Redacted) had testified or not, and that he had decided to come and give
20 testimony, to set the record straight and to tell the truth (Redacted)
21 (Redacted), that's not so, because he never took the initiative on his own,
22 and I fear that this -- with this line of questioning, some information that has been
23 confidential up until now, for obvious reasons that my learned friend opposite should
24 be aware of, I fear that such information may be disclosed.

25 PRESIDING JUDGE STEINER: Mr Badibanga, maybe you can rephrase your

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1 summary of what -- you are not asking a question, you are summarising what the
2 witness allegedly said. So please be more precise in summarising what the witness
3 said.

4 MR BADIBANGA: (Interpretation) Of course I shall comply with your instructions,
5 your Honour. However, I would like the record to show quite clearly that, unlike
6 what Mr Kilolo has said, I never said that the witness took the initiative. My
7 question was a simple one.

8 The witness gave long explanations this morning to Mr Kilolo, saying that he was not
9 aware if -- whether or not the person had given testimony and I agree, the gentleman
10 is not aware, and no one is confirming or not confirming, but he did say that he came
11 because he had the impression that you are being lied to, and I think this is an
12 essential point that strikes to the motivation of the witness to give testimony, and this
13 really is very important for his credibility.

14 I think that this absolutely needs to be cleared up. We need to understand the
15 approach being taken. The gentleman was in no way involved in the events. He
16 said that he was in (Redacted), and from general knowledge I can tell you that
17 between the CAR and Gbadolite, and (Redacted), I think that's a two or -- at least two
18 hours by plane to get from the one location to the other. So I think it's important for
19 us to understand why the witness decided to come and appear before the Chamber.
20 I will rephrase my question.

21 Q. Mr Witness, since you didn't know, and no one here is going to tell you whether
22 or not (Redacted) came and gave testimony, because that information is not shared,
23 just as we will not share with the outside world whether you have come to give
24 testimony, no one will know who came and who didn't come. So you, not knowing
25 that, what makes you think that you need to come and set the record straight for the

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1 Chamber?

2 A. Yes. Well, the first thing I'd like to say, Mr Badibanga, is giving the distance
3 between (Redacted) and Gbadolite, it's a great distance. You have to fly between
4 the two places. I never said that I went to Gbadolite or to the Central African
5 Republic. Ever since I began contacts with you, and this morning I said that I spent
6 six years with --

7 THE INTERPRETER: Inaudible.

8 THE WITNESS: (Interpretation) -- (Redacted) -- before I
9 answered your questions, I'll just summarise.

10 (Redacted) I was welcomed by the
11 border authorities. That is how I finally was sent to the (Redacted)
12 (Redacted) and he was sent to a place
13 where he was to live, and that's the way the procedure is (Redacted)
14 well, we were living in rooms and, actually, we were in the (Redacted). We lived in
15 the (Redacted) for a very long time before I moved to another place. And (Redacted)
16 was almost, I would say, well, (Redacted) that I was helping, supporting,
17 and -- well, he was from (Redacted), you see, so there was that link between us. So
18 I was providing him with support.

19 Q. I don't want to interrupt you, but I do want to point out to you that the hearing
20 will be ending in a few minutes and we can't go beyond that time, for technical
21 reasons, so if you could summarise.

22 A. Well, I was (Redacted) and the information I'm giving you is because I was
23 (Redacted) told me nearly his -- about his whole life, and as I have been
24 saying, I wish to help international justice, and that is (Redacted).

25 Now, the last part -- could you repeat the last part of your question?

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1 PRESIDING JUDGE STEINER: I think maybe it would be better if we turn to the
2 same question tomorrow, because, as a matter of fact, we have two minutes and we
3 won't have time.

4 Court officer, please turn into open session.

5 (Open session at 1.28 p.m.)

6 THE COURT OFFICER: We are in open session, your Honours.

7 PRESIDING JUDGE STEINER: Thank you.

8 Mr Witness, I'm really sorry to interrupt you but, as Maître Badibanga said, we have
9 technical problems, we cannot extend our two hours' hearing.

10 That means that Maître Badibanga will repeat the question to you tomorrow morning
11 and then you will have enough time to give your answer.

12 I would like to thank very much the Prosecution team, the legal representatives of
13 victims, the Defence team, Mr Jean-Pierre Bemba Gombo, to thank very much our
14 interpreters and court reporters. Thank you very much, Mr Witness.

15 We will adjourn for today and resume tomorrow morning at 9 in the morning.

16 I ask, please, the court officer to turn into closed session for the witness to be taken
17 outside the courtroom. In the meantime, we will adjourn and resume tomorrow
18 morning.

19 *(Closed session at 1.29 p.m.) Reclassified as Open session

20 THE COURT OFFICER: We are in closed session, your Honours.

21 (The witness stands down)

22 THE COURT OFFICER: All rise.

23 (The hearing ends in closed session at 1.30 p.m.) Reclassified as Open session

24 CORRECTIONS REPORT

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

Trial Hearing
Witness: CAR-D04-PPPP-0055

(Private Session)

ICC-01/05-01/08

- 1 in the transcript:
- 2 *Page 13 line 4
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 RECLASSIFICATION REPORT
- 11 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and
- 12 ICC-01/05-01/08-3038, the version of the transcript with its redactions becomes Public.