

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 International Criminal Court

2 Trial Chamber III - Courtroom 2

3 Situation: Central African Republic

4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08

5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki

6 Trial Hearing

7 Friday, 27 May 2011

8 (The hearing starts in open session at 9.35 a.m.)

9 THE COURT USHER: All rise. The International Criminal Court is now in session.

10 Please be seated.

11 THE COURT OFFICER: Good morning, your Honours, Madam President. We are

12 in open session.

13 PRESIDING JUDGE STEINER: Good morning. Could, please, court officer call the

14 case.

15 THE COURT OFFICER: Situation in the Central African Republic, in the case of The

16 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.

17 PRESIDING JUDGE STEINER: Thank you very much. Good morning. Welcome

18 the Prosecution team, the legal representatives of victims, the Defence team,

19 Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters and court

20 reporters. We will continue this morning with the questioning of Witness 209 and

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

22 witness to be brought into the courtroom.

23 *(Closed session at 9.37 a.m.) Reclassified as Open session

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

25 (The witness enters the courtroom)

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

- 1 WITNESS: CAR-OTP-PPPP-0209 (On former oath)
- 2 (The witness speaks Sango)
- 3 PRESIDING JUDGE STEINER: Court officer, please turn into open session.
- 4 (Open session at 9.38 a.m.)
- 5 THE COURT OFFICER: We are in open session, Madam President.
- 6 PRESIDING JUDGE STEINER: Good morning, Mr Witness.
- 7 THE WITNESS: (Interpretation) Good morning, ma'am.
- 8 PRESIDING JUDGE STEINER: Are you feeling better today, Mr Witness?
- 9 THE WITNESS: (Interpretation) Your Honour, I tried to come today, because
- 10 yesterday I had two teeth extracted, so I can't stay at the hotel for the fun of it.
- 11 Furthermore, the weather doesn't really suit me. I'm doing my best. I'm ready for
- 12 the time being. I wouldn't mind going back to the hotel at some point, but I'm ready
- 13 for the time being.
- 14 PRESIDING JUDGE STEINER: So we hope you stay feeling better, as you are feeling
- 15 better now but if, at any time, you feel that you cannot continue you just let us know.
- 16 THE WITNESS: (Interpretation) I've understood.
- 17 PRESIDING JUDGE STEINER: Mr Witness, before we start, I need to remind you
- 18 that you are still under oath. You understand that?
- 19 THE WITNESS: (Interpretation) Yes, I understand, your Honour.
- 20 PRESIDING JUDGE STEINER: I also want to remind you that you are under
- 21 protective measures, that your voice and your image broadcast outside the courtroom
- 22 are being distorted so that the public cannot identify you, but you need to help us to
- 23 protect your identity. So please, Mr Witness, try to remember not to make any
- 24 references to information that could lead to your identification, such as names of
- 25 persons you met, your functions, your activities, names of neighbours.

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 All this information can potentially identify you, so please if you feel you have to
2 make such references let us know and we go into private session. Do you
3 understand that, sir?

4 THE WITNESS: (Interpretation) I understand, your Honour.

5 PRESIDING JUDGE STEINER: Thank you very much. My last reminder: Please
6 speak slowly. Let us help mainly the Sango booth, the Sango interpreter, to provide
7 the English and French interpreters with all information you are giving us, and for
8 that purpose you need to speak slower than normal. Can we count on you, sir?

9 THE WITNESS: (Interpretation) I understand what you are saying, your Honour.
10 I just told you that my teeth hurt, so I will try to speak more slowly.

11 PRESIDING JUDGE STEINER: Let us know if for any reason you feel you cannot
12 continue.

13 Mr Scaliotti, you have the floor.

14 MR SCALIOTTI: Thank you, Madam President, your Honours. Good morning.

15 QUESTIONED BY MR SCALIOTTI: (Continuing)

16 Q. Mr Witness, good morning. I hope you can continue your testimony but, as
17 Madam President said, if you have any problem please just let us know.

18 I would like to continue my questioning going back to the transcripts of the
19 evidence that you provided yesterday just for a couple of clarifications. The first
20 one -- and I'm referring to transcript 117, English version, page 19, lines 21 to 24. The
21 French version is at page 20, lines 1 to 6. Mr Witness, you said, and I'm reading:
22 "I think that the term 'Banyamulengue' is a very humiliating term and it stigmatises a
23 group. When they arrived in the Central African Republic, those soldiers were
24 wearing rubber boots, clothing that was much too large for them."

25 I would like to ask you, when you made or you gave this description, did you refer to

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 the entirety of the MLC soldiers? And to be more specific, when I say "this
2 description," I'm referring to the rubber boots and the clothing that was much too
3 large.

4 A. Mr Prosecutor, you just asked me a very good question. In one of my
5 statements to the investigators, I said that the MLC group could be divided into four
6 subgroups. There were Congolese people, and in the group of Congolese people
7 there were subgroups as well. There were Rwandan people as well in a community,
8 they are people from the lower classes. So amongst the Banyamulengue, for
9 example, you see, these were people who had been gathered up to go off and fight.
10 They weren't dressed like the former soldiers of Mobutu. That is the difference that
11 I can mention to make this clear to you.

12 Q. Can you please specify who were the former soldiers of Mobutu? Who are you
13 referring to?

14 A. Your Honour, I said that in the MLC group there were subgroups. I said that
15 amongst these groups there were Rwandans, for example, Colonel Mustapha, Raffa.
16 Well, Raffa was a Congolese person and then there was Bassambo. Amongst the
17 Congolese people, some behaved differently than the others. Some were from the
18 Mbaka race. Some were former Mobutu soldiers who behaved differently. The
19 Banyamulengue, who were wearing boots, were not important within the group.
20 They were from the lower classes. That's what I said in my statement to the
21 investigators.

22 Q. Could you provide a bit more information about how the Banyamulengue
23 group was dressed?

24 A. Mr Prosecutor, I don't understand that question. Are you talking about the
25 clothing or the military uniforms that they wore, or the civilian clothing that they

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 wore? I haven't understood your question.

2 Q. Mr Witness, I'm simply asking you how they were dressed, what kind of
3 clothing they had, what kind of shoes, whatever they were wearing.

4 A. Mr Prosecutor, I just told you that they wore all kinds of different clothing.
5 The former Mobutu soldiers dressed like career soldiers, but the Banyamulengue
6 wore all kinds of different clothing. The former soldiers of Mobutu had Ranger
7 boots, but the *lower-class Congolese were wearing rubber boots. -- And
8 that's something that you don't see in a regular army, so that was the difference.

9 Q. Thank you, Mr Witness. This is what I meant, and so this clarifies my question.
10 Thank you. I would like to bring you now to another point of the transcript of the
11 evidence that you provided yesterday, and I'm now referring to transcript 117,
12 English version, page 29, lines 9 -- I'm sorry, lines 5 to 9. 5 to 9. It's again a simple
13 clarification that I would like from you.

14 You said that "The Banyamulengue," and you were referring to the time after the
15 occupation which happened on 7 December. At that point in time you said, "The
16 Banyamulengue were in the centre of Damara, so the locality of Libi going towards
17 Sibut, that was occupied by troops of Bozizé." So just for clarification, is my
18 understanding correct that this locality of Libi was the one occupied by Bozizé's
19 forces?

20 A. Thank you for your question, Mr Prosecutor. I said specifically a few moments
21 ago that after the town of Damara was taken on 7 December 2002 no one was putting
22 up any resistance. The Banyamulengue received assistance from the Libyans.
23 During that time, Bozizé's rebel soldiers withdrew to a place 30 kilometres from
24 Damara. The Banyamulengue occupied the centre of the town of Damara. Sibut is
25 about -- well, the town of Damara, the same; and then Bandoro, the centre, was

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 occupied by the Banyamulengue. That is what I stated in my statement to the
2 Prosecutor -- to the investigators.

3 Q. So what is the locality of Libi that you mentioned? Where is it?

4 A. Libi is part of the commune of Damara and it is 30 kilometres from Damara.
5 When you leave Damara, you have to travel 30 kilometres to get there. The
6 Banyamulengue were in the centre, but Bozizé's soldiers were in the commune of
7 Damara, but 30 -- at a distance of 30 kilometres in Libi.

8 Q. Thank you again. Now it's very clear. Mr Witness, yesterday before we
9 interrupted your testimony, we were talking about the looting that took place in
10 Damara and was perpetrated by the Banyamulengue. Can you tell me what, if
11 anything, the Banyamulengue looted from the government, from the public
12 administration? And before you give your answer, I would like to remind you once
13 again not to give any information that could identify you.

14 A. Mr Prosecutor, I said in my testimony that when they came in to the centre of
15 Damara to occupy that place they did not spare any building, any property, that
16 belonged to private individuals or to the government. On 7 December, after fleeing
17 the town, the properties and other assets of the government were looted
18 systematically, be it foam mattresses, vehicles belonging to the government,
19 motorcycles, cars. Nothing was spared. I can tell you that that is what they did.
20 They took beds, foam mattresses, motorcycles, electrical generators. Nothing was
21 spared.

22 They stored these items at their base where they were staying, well before they
23 continued their attacks. When I came out on the 10th, I saw all of that -- all those
24 items stored away but, you see, what I wanted to do was to save lives, not to save
25 assets. That's what I can tell you. All the other details have to do with military

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 matters.

2 Q. Mr Witness, I would like to refer again to something that you said yesterday
3 during your testimony, and I am referring to transcript 117, English version, page 31,
4 lines 19 to 20. The French version is page 32, lines 18 and 19. You made reference
5 to a civilian, you said "a mad person who had been killed." Can you explain what
6 happened to this person?

7 A. Yes. Mr Prosecutor, when I mentioned a crazy person, I think I said in my
8 statement that when the Banyamulengue came into Damara I wasn't present because
9 the bullets did not make any distinction between people. When I came out on the
10 10th, the father of this person told me that had died and I said "Which one?" He said,
11 "The crazy one." I said to him, "He didn't run away?" So the Banyamulengue must
12 have thought of him as an enemy.

13 Mr Prosecutor, amongst Bozizé's troops there were Chadians, Muslim people. I'm
14 sure there was confusion and, when the Banyamulengue came in, the child was shot.
15 They must have thought he was one of Bozizé's men. I heard about this.

16 Admittedly I wasn't present but, when I came out on the 10th, the only victim from
17 the Damara population was this man who was presumed to be or who was crazy.

18 MR SCALIOTTI: Madam President, I think we should now move, with your leave,
19 to private session.

20 PRESIDING JUDGE STEINER: Court officer, please.

21 *(Private session at 10.02 a.m.) Reclassified as Open session

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

23 MR SCALIOTTI:

24 Q. Mr Witness, you said yesterday - and I am referring now to the English version,
25 page 28, lines 8 and 9, and in the French version it is page 29, lines 4 and 5 - you said,

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 "There were cases of rape of young girls, of elderly people." Can you please explain
2 what happened? Who was raped?

3 A. Prosecutor, I confirm that. That is indeed what I said. There's something I
4 need to add to that. The people who were raped, well, I didn't see that myself. I
5 didn't see these people being raped. I heard people talk about it when I came out on
6 10 December. I think that the victims were different, but I can say precisely that
7 there was (Redacted) and the other victim was -- well, the other victims were raped
8 afterwards. There was (Redacted). The other ones were raped afterwards, (Redacted).
9 They were raped by eight Banyamulengue and that was in the stadium in public.
10 That was told to me and (Redacted) who
11 was -- and these people were publicly corrected in the market. When the complaint
12 was addressed to Colonel Mustapha, he made the rapists go to the market and they
13 were severely corrected, because the colonel said that their objective was not that.
14 There were lots of different occasions, lots of different thefts, when they came into the
15 town, and also they carried out rape and when they occupied the town after the 10th
16 those were the cases that I mentioned concerning these two young women.

17 Q. Mr Witness, you mentioned the name of a girl who was raped. Can you please
18 spell for the Chamber the name of that girl?

19 A. (Redacted) and (Redacted) is written as you hear it, (Redacted)
20 (Redacted)

21 Q. When were (Redacted) and (Redacted) raped?

22 A. I don't have any -- I haven't given precision with regards to the date during my
23 statement, but during this rape I wasn't there. I only saw a naked girl in the field
24 and (Redacted)

25 (Redacted) When this commander gave an instruction with regards to the

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 punishment, then (Redacted)

2 Q. I understand, Mr Witness, that it can be difficult to give a specific date, but just
3 approximately. First of all, as I understand it was after 10 December when you came
4 out of the bush; is that correct?

5 A. I said in my statement, Prosecutor, it was between 10 and 31 December, so it
6 was within that time-frame. That's the precision that I can give in this regard.

7 Q. You said that you saw these girls naked. Where did you see them?

8 A. Prosecutor, the population had fled the locality. In the stadium, this is situated
9 next to the administrative buildings, and the municipal stadium of Damara is next to
10 the administrative building between the science faculty and the stadium, and that is
11 where the girls were raped. The young men saw that they ran (Redacted) about
12 it and the girls were hiding their vaginas with their two hands and they were
13 ashamed. They were undressed further away before being raped, and it was only
14 afterwards that the girls got dressed. (Redacted)

15 (Redacted) Some of these soldiers had fled. Two of them

16 were taken and (Redacted)

17 (Redacted)

18 (Redacted) and it was for

19 these reasons that the leader made them suffer, or undergo punishment.

20 Q. Mr Witness, as far as you know, how many perpetrators of this rape were
21 identified and punished?

22 A. The number of persons who were taken to the staff HQ was eight, but the two
23 who were apprehended afterwards, well, there were two who were apprehended
24 quickly afterwards, and they gave the names, or at least they indicated who the others
25 were who were with them who also committed the rape.

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 Q. To what group did these perpetrators belong?

2 A. Prosecutor, I think I said that from 10 December to 31 December, within that
3 time-frame, the locality was occupied by the Banyamulengue. When I refer to Raffa,
4 he was a commander or a leader of the Banyamulengue.

5 Q. Thank you for your answers, Mr Witness, and once again I apologise for asking
6 you all these questions, but we have to establish facts with certainty and that's why,
7 as I told you during my recommendations before we started the testimony,
8 sometimes I have to ask you these questions that may sound obvious or repetitive to
9 you, but I have to ask these questions. I hope you understand me. The next
10 question I would like to ask you is: You said these perpetrators were punished.
11 How were they punished?

12 A. I told you that (Redacted) to get the perpetrators of the rape
13 to bring them to the public market and I was present at the market.(Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted) and they were whipped and after this correction the number of rapes
17 dropped slightly.

18 Q. Can you please specify what this correction was? What was the punishment
19 that was inflicted to them?

20 A. You are right, Prosecutor. Each of them lay on the ground and a sub-officer
21 got -- well, the perpetrators themselves had to count themselves how many lashes of
22 the whip they were getting by the authorities designated (Redacted) and it was
23 in this way that they were punished.

24 Q. How many lashes did each of them get?

25 A. On that day, as you know, from 2002 to 2011 I had contact with the investigators

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 on 31 December. As you know, a lot of time has gone past since then. If my
2 memory serves me well, I would say it was 50 lashes. But remember, Prosecutor,
3 that something that happened in 2002, and now I'm giving my testimony -- or when
4 I was giving my testimony on 31 December, it's difficult to remember exactly, I would
5 estimate it at 50 lashes each.

6 Q. Mr Witness, I totally understand you and I know it's not an easy exercise for
7 you to go through facts that happened so long before, and I thank you for your effort.

8 My next question is: You said earlier that the (Redacted)

9 (Redacted) because the rapes were

10 perpetrated in public. Do you know whether the decision to punish those
11 perpetrators was due to the fact that the rapes happened in public and in daytime?

12 PRESIDING JUDGE STEINER: Maître Liriss.

13 MR LIRISS: (Interpretation) Madam, to my knowledge that he didn't say that these
14 acts was reprehensible because it was in public. If we re-read what the witness

15 actually says, (Redacted)

16 (Redacted) we can read that. What the Prosecutor wants to be admitted is

17 that the witness said that it could be done, rape could be carried out, but on condition

18 that it was in an intimate framework, and that is not what he said. He could be

19 asked the question. Thank you.

20 PRESIDING JUDGE STEINER: Mr Scaliotti, the question appeared to be quite

21 speculative, so maybe if you rephrase we can understand exactly what you want,

22 what information you want, to obtain from the witness other than speculation from

23 his part on what was the intention of this reference that should be done in intimacy.

24 MR SCALIOTTI: Of course, Madam President. I will rephrase my question.

25 Q. Mr Witness, you said that according to the Banyamulengue commanders, as

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 you said (Redacted)

2 Now, my simple question is do you know why the MLC commanders punished those
3 perpetrators who raped (Redacted) and (Redacted)?

4 A. Prosecutor, whatever the case, remember that a woman is very important and
5 you shouldn't forget that a woman represents a mother who brings into the world
6 children. I said in my statement that (Redacted), in his words, (Redacted)
7 (Redacted)
8 (Redacted)

9 Q. Mr Witness, do you know what happened to these girls, (Redacted) and (Redacted),
10 as a consequence of the rape?

11 A. Prosecutor, I can tell you briefly that (Redacted) has died already. (Redacted) left
12 for good the town -- left the town for good because for her it was like a betrayal.
13 Because of fear of being stigmatised, she decided to leave the town. That's what
14 I can tell you.

15 Q. What was the cause of death for (Redacted)?

16 A. Prosecutor, I can't tell you precisely. I don't know. Was she sick? Was there
17 a certificate from the doctor? That's something you would need to have in order to
18 be able to say, to give you the exact cause. Did she contract a venereal disease?
19 I don't know. What I do know is that in 2002, after the events, she was there and a
20 short time afterwards she fell ill and she died afterwards. (Redacted) left Damara to
21 go back to Bangui. That's what I can tell you by way of clarification.

22 Q. Where is (Redacted) now living?

23 A. You want to know where she was or where she's currently living? Well, I said
24 in my statement that she left the town of Damara and she's in Bangui, but I don't
25 know exactly where she's living in Bangui.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 Q. Can you explain why she felt she had to leave Damara?

2 PRESIDING JUDGE STEINER: Mr Scaliotti, I think the witness has already said that.

3 Do you want him to repeat?

4 MR SCALIOTTI: Madam President, I can sure move to another question. My

5 intention was simply to explore something more in that regard, but of course I can

6 move to another question.

7 PRESIDING JUDGE STEINER: Maybe you can make a reference to what he said and

8 ask if he has something to add, because the answer is already in the transcript.

9 MR SCALIOTTI:

10 Q. Mr Witness, do you know anything about the conditions in which (Redacted) is

11 currently living? How can she support herself financially, for instance?

12 A. Prosecutor, I said in my testimony a moment ago before the Court that after the

13 death of (Redacted) left the town of Damara. I don't know under what conditions

14 she's living. I have no information concerning her.

15 Q. One last question about these girls. What was the age of the girls when the

16 rapes occurred?

17 A. The events took place a while ago, but during my statement I said that (Redacted) was

18 18 and (Redacted) was 16. If I'm not mistaken, 16 and 18 years old. They were minors.

19 Q. Mr Witness, these two rapes that you just described you said were perpetrated

20 after 10 December 2002. Are you aware of any other rape committed before

21 10 December?

22 A. Prosecutor, I told you that when they entered to take the town, all these cases of

23 rape happened. I can't bring you precision with regards to -- well, when -- on the

24 rapes which were committed on the day that they took the town were different to the

25 other days, that's what I stated, but everything that concerns (Redacted) and the other

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 was after the 10th. Where it concerns the 7th, well, myself I fled, so I couldn't tell
2 you with precision. I'm afraid of lying to the Court.

3 Q. Mr Witness, I understand you were not there. However, you said "The rapes
4 which were committed on the day that they took the town." How did you know
5 about these rapes that took place the day they took control of the town?

6 A. You're right, Prosecutor. You know, in Africa, somebody else sleeps with your
7 wife, that is not something that's good. It's the wife of somebody else. At the time,
8 at the time of the conflict, the women were fleeing in all directions. Some women
9 were surprised and the husband of these women felt diminished. It was a time of
10 war. If these women decided to stay to look after their matters, well, this is what
11 happened. They fell into the hands of these men and were raped.

12 THE INTERPRETER: The Sango interpreter requests that the witness be asked to
13 speak more slowly.

14 MR SCALIOTTI:

15 Q. Mr Witness, the interpreters are asking you to kindly slow down when you give
16 your answer. Thank you for that.

17 THE INTERPRETER: Many thanks from the interpreters.

18 MR SCALIOTTI:

19 Q. Mr Witness, I understand your answer, but just I will try one more time. I
20 understand you were not there, but who told you about the rapes of these women
21 who were fleeing?

22 A. Mr Prosecutor, I said a few moments ago that these were other people's wives.
23 They (Redacted) what had happened, or the men (Redacted)
24 (Redacted) "Well, my wife stayed behind to take care of matters. She
25 fell into the hands of the Banyamulengue, who raped her." Some of these women

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 were single girls who wanted to get something, who wanted to have a boyfriend from
2 amongst the Banyamulengue. Those women did not see things in the same way,
3 and all of this led to many divorces within families.

4 Q. Mr Witness, I know it's not an easy question to answer, but just if you try to
5 make an effort. You said that, if I understand correctly, both women who were
6 raped and husbands of raped women came to see you. Can you give an
7 approximate estimate of the men and women who (Redacted)
8 these rapes, and when I say "an approximate estimate," I mean, were there ten people,
9 dozens of people, hundreds of people? Can you do your best to give an
10 approximate estimate?

11 A. Mr Prosecutor, it's not easy for me to answer that question, because after the
12 war we were traumatised. It's difficult to remember. However, when someone
13 (Redacted) "Well, she did not flee and that led to a certain consequence,
14 " well, it's difficult for me to give you an exact number.

15 Q. Do you know what were the consequences of the rapes for the families of the
16 married women who had been raped?

17 A. Prosecutor, I said that some married couples divorced. Amongst the people
18 who were able to continue living together, it was after they had repeated counselling
19 from social workers. Generally speaking, I can say that many families broke up.

20 Q. Do you know how these women who were raped are now treated by their
21 families and community?

22 A. Mr Prosecutor, I think I said in my statements that some couples separated.
23 Some of these people left the place. After being raped, they felt humiliated. There
24 were such cases. For the most part, the people who had been raped separated from
25 their partner, or left the locality. That is what I told the investigators from the Office

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 of the Prosecutor.

2 Q. Mr Witness, now I would like to draw your attention to another subject, and I'm
3 referring to the testimony that you gave yesterday. The English version is at page 23,
4 lines 8 to 12. The French version is page 24, lines 1 to 4. You said that, when you
5 came out of the bush on 10 December, (Redacted)
6 Commander Mustapha on that day. I would like now you to discuss (Redacted)
7 (Redacted) Commander Mustapha on 10 December 2002. First of all, why (Redacted)
8 (Redacted) Commander Mustapha?

9 A. Prosecutor, you're correct to ask me this question. You know, in a particular
10 place some people think and -- the events occurred, but it's important to have
11 personal -- a personal relationship or personal dealings. Otherwise, it is difficult to
12 co-exist. When some of the community leaders saw that the houses had been looted,
13 and when we came out on 10 December (Redacted) it
14 was necessary (Redacted)
15 because this was a political problem, it wasn't a personal problem. (Redacted)
16 (Redacted) They didn't mistreat (Redacted)
17 (Redacted) at the checkpoint. (Redacted) the problem to them. (Redacted)
18 (Redacted) and so that is how it came to be that (Redacted)
19 (Redacted) Now, is that reply satisfactory?

20 Q. Yes, Mr Witness, and thank you for the answer. So where (Redacted)
21 Commander Mustapha?

22 A. Mr Prosecutor, I think I said that when the Banyamulengue occupied the town,
23 they occupied the house of the son of the mayor.

24 THE INTERPRETER: If the Sango interpreter understood properly.

25 THE WITNESS: (Interpretation) That's where they were staying. (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

- 1 (Redacted) but he was not there. (Redacted) There were
2 some difficulties with the (Redacted) because that day, you see, (Redacted)
3 (Redacted) Raffa, Captain Raffa, (Redacted)
4 (Redacted) that it was not a serious problem,
5 but it was rather a safety problem. When they occupied the locality, the civilian
6 population had fled to the bush and the women and children were suffering, and (Redacted)
7 (Redacted) permission to come back out into the town and (Redacted) he didn't
8 come for the civilian population, but rather to drive out the rebels, and that the
9 decision to leave Bangui -- well, the decision from Bangui was to avoid any confusion
10 between the rebels and the civilian population. That is (Redacted) and that they
11 were there, that is to say the Banyamulengue were there, to protect the population.
12 It was a matter of finding some common ground, setting some safeguards in place.
13 Now, there was some confusion. On 10 December things had settled down and (Redacted)
14 (Redacted) in an army the troops were from different origins and, as of the day of
15 (Redacted) he would do all he could to ensure that things would improve. That
16 is what (Redacted)
17 Q. (Redacted) Commander Mustapha (Redacted)
18 A. There was Captain Raffa, his assistant, (Redacted)
19 (Redacted) and after
20 going back home to my house (Redacted) in the
21 community what had happened. You see, they did not speak French.
22 Q. Do you know whether Mustapha (Redacted)
23 (Redacted)
24 A. Mr Prosecutor, (Redacted) Mustapha (Redacted) and I
25 don't want to mislead the Court. I'm saying what happened. (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 (Redacted) and Raffa (Redacted) and it was only after that (Redacted) saw
2 that he could (Redacted) but on the day of (Redacted)
3 (Redacted) Furthermore, I didn't know his nationality. Amongst us, there are only a
4 few people who are educated and who can understand that (Redacted)
5 (Redacted) So there you have it. That is what I can tell you. I have
6 nothing else to add to my statement.

7 Q. Did these MLC commanders, Mustapha, Raffa and Bassambo on that day (Redacted)
8 (Redacted) who was their boss?

9 A. (Redacted) didn't try to determine who was the
10 supreme leader or what the military hierarchy was. It was later on, towards the end.
11 That's when we learned that there was a military hierarchy. On the 10th, (Redacted)
12 try to determine what their ranks were, or whether Raffa was the commander and the
13 other one; the other captain. We didn't try to determine the chain of command; it
14 was only later that we understood.

15 Q. When did you understand who was the overall commander?

16 A. Well, there's a difference between knowing someone's name and knowing the
17 chain of command. The same day he (Redacted)
18 (Redacted) about the hierarchy or the
19 chain of command. Perhaps before him -- or in front of him, rather, there might be a
20 general. It was only later that we learned that Mustapha was a colonel, and Raffa
21 was a captain and Bassambo was a lieutenant. It was only later, (Redacted)
22 (Redacted) that's when we learned, after the 10th, and we learned what the chain of
23 command was and it was -- that it was structured in that way.

24 Q. Mr Witness, I understand you're making reference to the commanders who
25 were in Damara, the commanders of the MLC who were in Damara, but I'm asking

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 you now who was the overall commander? I'm not simply referring to the
2 commanders who were in Damara, I am making reference to the entire hierarchy of
3 the MLC. So who was the overall commander of the MLC troops?

4 A. Mr Prosecutor, I believe that -- well, if I speak quickly, I might mislead the
5 Court, and when you are in front of a court you have to have evidence; and if I say
6 that I know who the commander was of all the Banyamulengue before 13 January,
7 that would be a lie. It was only on 13 January that I learned on the radio, and even if
8 I had heard it from someone there's no proof.

9 Yesterday you asked me and I told you that we were in a preliminary phase, but (Redacted)
10 (Redacted) between 7 and 10 January, the 11th, the 12th, I knew -- or
11 I know that it was Mustapha who was the commander of the Banyamulengue. I
12 didn't see anyone from outside come in and say that he was in charge of the
13 Banyamulengue in Damara. Mr Prosecutor, I think I can answer your concerns at a
14 later date.

15 PRESIDING JUDGE STEINER: Maître Liriss.

16 MR LIRISS: (Interpretation) Thank you, your Honour. I believe that the question
17 that was put is not fair in relation to the answer that was provided. This is the
18 answer that was given: The question was, "I understand that you are making
19 reference to the commanders who were in Damara." No, they've -- no, he said -- I'll
20 give you the page reference. Page 28, line 7.

21 "The first day (Redacted) didn't try to determine who was the supreme
22 commander or the military hierarchy. It was only towards the end that we learned
23 that there was a military hierarchy. On the 10th, (Redacted) trying to determine
24 what their ranks were, if Raffa was the commander and the other one was a captain.
25 (Redacted) didn't try to determine the chain of command. It was only later that (Redacted)

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 understood."

2 Question: "When did you realise who the chief commander -- who the

3 commander-in-chief was?" And he answered, he said "Well, there's a difference

4 between knowing a name and knowing the chain of command. On the same day, he

5 (Redacted) the

6 hierarchy or the chain of command. Perhaps there might be a general ahead of him,

7 but it was only later that we learned that Mustapha was a colonel, Raffa a captain,

8 et cetera. (Redacted) learned that the

9 chain of command was structured in that way."

10 So here is the question: "Witness, I understand that you are making reference to the

11 commanders in Damara, and as the MLC commanders in Damara, but what we're

12 asking you is who was the commander generally speaking? And I'm not just

13 referring to the commanders in Damara; I am making reference to the entire MLC

14 hierarchy."

15 I think that this question is not only leading, but also very far from the answer and

16 quite distant from the charges. Now, the witness replied: "Who was the

17 commander of the MLC troops, if not in Damara, but in the CAR?" So that's the

18 question that should have been asked and not -- the witness answered that they

19 weren't trying to determine who the general commander was of all the MLC troops.

20 And here the issue we are talking about the events that occurred in Damara, in

21 relation to this witness or in the CAR. Thus, if the question is to be fair, it has to be

22 put -- well, since they're talking about the hierarchy, he should have asked about the

23 hierarchy in Damara or in the CAR, rather than extrapolating. In my opinion, that

24 would be a simple way of including in the CAR command Mr Bemba. That is my

25 opinion, and I think the question should be reformulated unless you are of a contrary

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 opinion.

2 PRESIDING JUDGE STEINER: Ms Kneuer.

3 MS KNEUER: Thank you very much, Madam President. I think the record speaks

4 for itself and the information is coming from the witness. He used terms like

5 "supreme commander," et cetera, and I believe the Defence is free to ask all the

6 questions that they believe are relevant when they do their examination.

7 But I think the problem is a different one and perhaps your Honours observed that

8 also during the examination yesterday. It is our observation that the witness is

9 going by a timeline and that several times he's saying, or said already, "At that time

10 we didn't know" or "I didn't know." And then he said, "We only learned later."

11 And we have the feeling that he also wants to have the question in a timeline and

12 it's -- we try to adjust to that, not to jump back and forth to confuse the witness, and

13 here we had the similar situation. The witness provided information that he himself

14 had on that very specific date, but he also said only later we learned.

15 Now, at one point we have to elicit the information when the witness is referring that

16 something came to his knowledge at a later stage. Of course we try to do that in a

17 non-leading manner. However, if the witness already provided information, I

18 believe we are allowed to use that. Again, we try to adjust to the witness's thinking

19 to facilitate the questioning. That is the objective that we are trying to accomplish

20 and also to facilitate and expedite the questioning. Thank you, Madam President.

21 JUDGE ALUOCH: Ms Kneuer, the witness has already said on page 24, today's

22 transcript, English transcript, page 24, line 12, "It was only on 13 January that I

23 learned on the radio." Perhaps that could have been pursued and he could have

24 been asked "What did you learn on the radio?" It's in the transcript there.

25 PRESIDING JUDGE STEINER: Maître Liriss, I cannot see exactly in which way the

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 last question put by the Prosecution could be in violation of the principle of equity.

2 Maybe the question was not phrased in the more appropriate way, but I don't see

3 why the Prosecution could not ask the witness whether the witness knows something

4 about the general chain of command or whether there was a leader superior to

5 Mustapha.

6 I think these are relevant questions, because one of the points - the core points - of this

7 whole procedure is exactly the point on chain of command. So I will allow the

8 Prosecution to put the question, if the Prosecution continues to follow the line of

9 non-speculative questions, and even taking into account the point that Judge

10 Joyce Aluoch just raised which is quite appropriate.

11 MR SCALIOTTI:

12 Q. Mr Witness, you said earlier that you learned something later on. You were

13 referring to the date (Redacted) the date (Redacted) was 10 December, but you

14 said that you learned something more about the chain of command of the

15 Banyamulengue on 13 January 2003. Can you please explain what did you learn on

16 13 January 2003?

17 A. Thank you. In my statement, if I remember correctly, the Prosecutor asked

18 me -- I want to clear up the confusion. The Judges said that I had heard on the 10th.

19 No, that's not right. I said that I heard people talking about this, but I didn't see.

20 Since I can't -- I didn't see I can't say that a particular person was the line commander

21 of the Banyamulengue, but in January, when we went to take some goods to Damara,

22 that is when I learned that Bemba was the leader, the hierarchical leader, of the

23 Banyamulengue, when the aircraft landed to bring goods. Mr Prosecutor, I'm a bit

24 confused. I think it would be important not to add items of information that might

25 mix me up. It's important to go in a chronological fashion. I think what

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 happened -- I know what happened between 2002 and 2003 and make a statement in
2 2009 about those events and then give testimony in 2011. I think you have to have a
3 good memory to do that. This trial, when you give testimony, you give testimony
4 before God, and I can only say what I saw and what I know. I think I said it was on
5 13 January that I learned that a particular person was the hierarchical leader. That is
6 what I can tell you, Mr Prosecutor.

7 Q. I understand you, Mr Witness, and I will try to do my best to follow the
8 chronological order of events. Now, just one more question before we go back to the
9 (Redacted) Commander Mustapha on
10 10 December 2002.

11 PRESIDING JUDGE STEINER: You were asking for some -- that we extend the
12 time? No?

13 MR SCALIOTTI: If you allow me, Madam President, it will be a very short question,
14 if not I can keep it for the hearing. Thank you very much, Madam President for your
15 patience.

16 PRESIDING JUDGE STEINER: Go ahead.

17 MR SCALIOTTI:

18 Q. My last question is the following one, Mr Witness. You mentioned that an
19 aircraft landed. What aircraft landed on that day on 13 January 2003?

20 A. It was the plane of the President of the MLC, Bemba.

21 MR SCALIOTTI: Thank you, Mr Witness. Madam President, we can break now for
22 the recess.

23 THE WITNESS: (Interpretation) Your Honour, I think that I'm bleeding from my
24 mouth, and I would ask your indulgence and the indulgence of the Court. It is
25 important that I consult a doctor. Before my teeth were taken out I felt this bleeding,

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 and so therefore I would crave the indulgence of the Court to give me leave to consult
2 a doctor.

3 PRESIDING JUDGE STEINER: Mr Witness, we are going to suspend in principle for
4 half-an-hour. In the meantime, I will ask someone from Victims and Witnesses Unit
5 to come and see you and to come to any kind -- with any kind of assistance you need.
6 If you're ready, we resume at 11.35. If not, VWU will communicate to the Chamber.
7 So we are going to turn into closed session for the witness to be taken outside the
8 courtroom. I ask, please, court officer to call someone from VWU to provide
9 assistance to the witness during the break and to inform the Chamber whether the
10 witness is ready to continue giving testimony. In principle, we are suspending now
11 and resuming at 11.35. Let's go into closed session, please.

12 *(Closed session at 11.05 a.m.) Reclassified as Open session

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

14 (The witness stands down)

15 THE COURT OFFICER: All rise.

16 (Recess taken at 11.05 a.m.)

17 (Upon resuming in open session at 11.46 a.m.)

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

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

20 PRESIDING JUDGE STEINER: Thank you very much. The Chamber received
21 from VWU information that the witness had to go to an urgent appointment with a
22 doctor and will not be able to continue giving testimony for today. So, for that
23 reason, the Chamber decided just to resume in order to give the information to the
24 parties and participants and, for the sake of the transcript, to adjourn, decide that we
25 are going to adjourn for today.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 We are going to resume on Monday morning in this very same courtroom. We are
2 going to resume at Monday morning at 9.30 in this very same courtroom. So I thank
3 very much the Prosecution team, the legal representatives of victims, the
4 Defence team, Mr Jean-Pierre Bemba Gombo, our interpreters, court reporters,
5 wishing you all a quiet and nice weekend and restful weekend.

6 This hearing is adjourned and we will see you on Monday morning.

7 (The hearing ends at 11.49 a.m.)

8 CORRECTIONS REPORT

9 The Court Interpretation and Translation Section has made the following corrections
10 in the transcript:

11 *Page 5 line 7

12 "the Congolese were wearing rubber boots. What was difficult to -- and"

13 is corrected by

14 "the lower-class Congolese were wearing rubber boots. -- And".

15 RECLASSIFICATION REPORT

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

17 ICC-01/05-01/08-3038 and the instructions in the email dated 20 June 2014, the version
18 of the transcript with its redactions becomes Public

19