

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 Monday, 30 May 2011

8 (The hearing starts in open session at 9.36 a.m.)

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

10 Please be seated.

11 THE COURT OFFICER: Good morning, your Honours, Madam President, we are in

12 open session.

13 PRESIDING JUDGE STEINER: Good morning. Could, please, 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 and

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

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

20 court officer. We will continue today with questioning of Witness 209 by the

21 Prosecution. For that purpose I ask, please, court officer to turn into closed session

22 in order for the witness to be brought into the courtroom.

23 *(Closed session at 9.38 a.m.)Reclassified as Open session

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

25 (The witness enters the courtroom)

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- 1 WITNESS: CAR-OTP-PPPP-0209 (On former oath)
- 2 (The witness speaks Sango)
- 3 PRESIDING JUDGE STEINER: We can turn into open session, please.
- 4 (Open session at 9.40 a.m.)
- 5 THE COURT OFFICER: We are in open session, Madam President.
- 6 PRESIDING JUDGE STEINER: Thank you very much. Good morning,
- 7 Mr Witness.
- 8 THE WITNESS: (Interpretation) Good morning, your Honour.
- 9 PRESIDING JUDGE STEINER: Are you feeling better, Mr Witness?
- 10 THE WITNESS: (Interpretation) Yes, I'm feeling better, much better.
- 11 PRESIDING JUDGE STEINER: Did you go to the doctor?
- 12 THE WITNESS: (Interpretation) Yes, I went to see the doctor, but the important
- 13 thing is for us to make progress in the work. If I have some free time I will meet the
- 14 doctor. I have a -- I have a meeting with the doctor scheduled, but I have got work
- 15 to do here as well.
- 16 PRESIDING JUDGE STEINER: If, for any reason, you need a break or you feel pain
- 17 for any reason just let us know and you will receive the assistance you need. So be
- 18 sure of that.
- 19 THE WITNESS: (Interpretation) Understood. Thank you, your Honour.
- 20 PRESIDING JUDGE STEINER: Mr Witness, we will continue today with your
- 21 questioning by the Prosecution, but before I give the floor to the Prosecution I need to
- 22 remind you that you are still under oath. Do you understand that, sir?
- 23 THE WITNESS: (Interpretation) Yes, I understand that, your Honour.
- 24 PRESIDING JUDGE STEINER: And I also want to remind you about the protective
- 25 measures. I'm not going to repeat everything, just to remind you to avoid giving in

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1 open sessions any information that could lead to your identification. If need be, we
2 go into private session. Do you understand that, sir?

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

4 PRESIDING JUDGE STEINER: So I'll give the floor to the Prosecution, Mr Scaliotti.

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

6 Good morning, Mr Witness. Madam President, in order to complete the topic that
7 the witness was talking about before we broke on Friday, it would be convenient to
8 move for a little while in private session.

9 PRESIDING JUDGE STEINER: Court officer, please.

10 *(Private session at 9.44 a.m.)Reclassified as Open session

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

12 QUESTIONED BY MR SCALIOTTI: (Continuing)

13 Q. Mr Witness, during your testimony, at some point you said -- and I am referring
14 to transcript 118, English version, page 16, lines 13/14. The French transcript is page
15 17, lines 3 and 4. You said, "It was necessary to (Redacted) to
16 find some (Redacted)." Now, I'm referring to (Redacted)
17 (Redacted) Commander Mustapha on 10 December 2002, and my question is did you
18 find any (Redacted) Commander Mustapha?

19 A. Prosecutor, I said that (Redacted) Colonel Mustapha with a
20 view to finding some (Redacted) That was the aim of (Redacted)
21 Colonel Mustapha. The aim (Redacted) -- well, (Redacted) was that he
22 was a human person. He was aware of what was happening. There were lots of
23 complaints in the town. (Redacted) he was receptive to (Redacted) complaints.

24 Q. You said Commander Mustapha was aware of what was happening. Can you
25 explain in a bit more detail what you mean by that?

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1 A. Prosecutor, I didn't understand your question. Would you be so kind as to put
2 it differently? Thank you.

3 Q. Mr Witness, you just said that referring to Commander Mustapha, "He was
4 aware of what was happening. There were lots of complaints in the town." What
5 was Commander Mustapha aware of?

6 A. Prosecutor, I said that before the 10th there was (Redacted) so that Mustapha
7 could know what was happening; if there were good things happening, or there were
8 bad things happening. It was only (Redacted) brought to his
9 knowledge what was happening and (Redacted) the way in which we could live
10 together, cohabitation, mutual respect. That is how people brought to his
11 knowledge the different complaints that there were.

12 Q. You said (Redacted) brought to his knowledge what was happening." Can you
13 please say what (Redacted) Mustapha about what was
14 happening?

15 A. Prosecutor, I told you that the aim (Redacted)
16 Mustapha, concerned peace, cohabitation between the civil population and the armed
17 forces, and it was with that aim that (Redacted) Good cohabitation in the town
18 concerning this point -- well, he (Redacted) he was a humane person. The soldiers were
19 from different origins. He couldn't control all situations and (Redacted)
20 (Redacted) aware of everything that was happening and (Redacted), and
21 that's how (Redacted) the first cases of theft of the 7th, or that
22 might have stirred up tension at the time.

23 Q. You said before, "People brought to his knowledge complaints." What
24 complaints were brought to Mustapha's attention?

25 PRESIDING JUDGE STEINER: Maître Liriss.

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1 MR LIRISS: (Interpretation) Could we have the reference in the testimony of the
2 witness which refers to -- if the Prosecution could do that?

3 PRESIDING JUDGE STEINER: Mr Scaliotti, please, the reference.

4 MR SCALIOTTI: Yes, Madam President. We are trying to find the reference. The
5 witness just said that a few minutes ago, and it's page 4, lines 15 to 17.

6 PRESIDING JUDGE STEINER: It appears that the Defence is saying in
7 a colloquium.

8 MR HAYNES: Yes, it's a misquotation.

9 MR SCALIOTTI: Madam President, just if I can be even more precise, the quotation
10 I made is to line 7 to 9. The witness said, "That is how people brought to his
11 knowledge the different complaints that there were."

12 PRESIDING JUDGE STEINER: Can we proceed? Mr Scaliotti.

13 MR SCALIOTTI: Thank you, Madam President.

14 MR HAYNES: Line 7 to 9 say nothing of the sort on page 4, as I can see it.

15 MR SCALIOTTI: Page 5, I rectify. I'm sorry.

16 PRESIDING JUDGE STEINER: One more time I'm asking could we proceed,
17 Mr Haynes?

18 MR HAYNES: Let's proceed.

19 PRESIDING JUDGE STEINER: Thank you. Mr Scaliotti.

20 MR SCALIOTTI: Thank you, Madam President.

21 Q. Mr Witness, I would like to ask you again, you mentioned that people brought
22 to Mustapha's attention complaints. What complaints did these people bring to
23 Commander Mustapha's attention?

24 A. Prosecutor, I would stress that (Redacted) Colonel
25 Mustapha to -- on 10 December. (Redacted)

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1 (Redacted) the complaints of the population. The aim (Redacted) was
2 to have an area of agreement, common ground, with Colonel Mustapha. So (Redacted)
3 (Redacted) Colonel Mustapha. No, that's not what I
4 said.

5 Q. You said -- you just said, (Redacted) the complaints of the
6 population." I understand this, that (Redacted)
7 but my question is what were these complaints about?

8 A. Prosecutor, what can (Redacted) to Colonel Mustapha? I said in my testimony that
9 Colonel Mustapha was a soldier. We were civilians. As they had already taken
10 over control of the town, (Redacted) to avoid
11 problems with regards to cohabitation and that was how that he (Redacted) that he was
12 also a humane person. He wasn't going to allow just anything to happen in the town.
13 (Redacted) his soldiers were of different origins and so he wasn't able to control
14 absolutely everything that his soldiers did, and he (Redacted) report to him
15 everything that was happening in the town so that he could find solutions to it. That
16 was the aim (Redacted) what people
17 had lost, what they had endured. These were situations that occurred in the past,
18 but we had to develop. We had to evolve. The aim of (Redacted) Colonel
19 Mustapha (Redacted) was to have, or to try to find an area of agreement; an area
20 of common ground in terms of cohabitation.

21 Q. Mr Witness, I understand your answer. However, if you remember during my
22 recommendations I tried to explain to you that it is very important for the Chamber's
23 knowledge to understand facts in detail and with certainty. So we are here also to
24 clarify as much as possible facts, so I kindly ask you to be patient and answer my
25 question. My next question is the following: You just said that (Redacted)

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1 Mustapha what they had lost, and I take it that you were referring to the population
2 of Damara; what the population of Damara had lost. So my question is what (Redacted)
3 (Redacted) Mustapha that the population had lost?

4 PRESIDING JUDGE STEINER: Yes, Maître Liriss.

5 MR LIRISS: (Interpretation) Please excuse me for intervening. I think it's the fifth
6 time that we have taken this up and now five times he's responded in the same way.
7 And what he has said is that (Redacted) Mustapha and (Redacted) trying
8 to find modalities, *modus vivendi*, to find a common way of life with mutual respect.
9 I think that this is something he repeated at least five times, so I don't know why the
10 Prosecution insists on the same question.

11 PRESIDING JUDGE STEINER: If we see at least the English transcript, the
12 Prosecution was not allowed even to finish its question. Mr Scaliotti, do you have
13 any comment on what has been said by the Defence?

14 MR SCALIOTTI: Yes, Madam President, thank you for giving me this opportunity.
15 And clearly the reason why the Prosecution keeps insisting on this question is
16 because the witness is giving some hint, but he doesn't answer the question of the
17 Prosecution. Now, and I'm trying to quote from the transcripts, he said - the witness
18 said - and it's line 1 to 2, page 8, and he said, and I'm quoting, (Redacted) that -- well,
19 (Redacted) that people had lost, what they had endured," but he didn't provide any
20 clarification in that regard. So I think it's extremely relevant to explore and try to
21 witness understand that we need clarity on this statement that he made.

22 JUDGE ALUOCH: Do you mean to ask the witness if people had named the items
23 they lost? Is that what you mean?

24 MR SCALIOTTI: Yes, Madam President, but at least I think it would be helpful to
25 clarify, to start with, what he was referring to when he said people had lost, at least in

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1 general, what they had lost or what they had endured because it's -- of course, it's
2 very vague and we need to clarify what was reported to Commander Mustapha.

3 PRESIDING JUDGE STEINER: You can proceed, Mr Scaliotti.

4 MR SCALIOTTI: Thank you, Madam President.

5 Q. Mr Witness, I hope that you understood my explanation where I was trying to
6 explain why I'm putting to you more questions on this point. So can you please
7 clarify what (Redacted) Mustapha about the fact that the population had lost?
8 What (Redacted) Mustapha that the population of Damara had lost?

9 A. Thank you, Mr Prosecutor. You are a man of justice. If (Redacted)
10 before an authority, (Redacted) can't mix things up. (Redacted) a way of
11 finding -- a way to ensure peaceful co-existence. And he knew that when his men
12 entered the town, they engaged in a lot of looting, and the goods that they looted
13 were stored where he was staying. They had taken motorcycles, generators,
14 clothing. And (Redacted) didn't try to specify things (Redacted) didn't
15 want to irritate him.
16 Mr Prosecutor, (Redacted) ask for a favour, when (Redacted)
17 peaceful co-existence, (Redacted) say things that would upset the person or work him
18 up. (Redacted) to find some kind of way of co-existing
19 peacefully with him, how the civilian population should behave towards them, and
20 vice-versa. It's true, (Redacted) did discover looted goods at his residence: Motorcycles,
21 foam mattresses, refrigerators, everything was stored outside.
22 So, Mr Prosecutor, it's not that I got all worked up or upset, no. I am here to answer
23 all your questions, if it's you or the Defence. I'm not going to -- I'm not going to get
24 all worked up. I'm going to try to answer your question. It's not that I have gotten
25 all upset.

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1 Q. Mr Witness, your answer is quite clear now. Just one more thing: You made
2 reference to looting that was referred to Commander Mustapha. Was any other type
3 of abuse mentioned or discussed (Redacted) Commander Mustapha?

4 A. Mr Prosecutor, I've just told you that when (Redacted) the colonel, (Redacted) did
5 not touch upon many different topics, (Redacted) finding some ways
6 of *coexisting together peacefully. Let me insist, (Redacted)
7 (Redacted) something that will hurt his pride. (Redacted) couldn't really (Redacted)
8 (Redacted) the reprehensible things that his soldiers had done to the population.
9 What the soldiers did from the 7th to the 10th (Redacted) because (Redacted)
10 (Redacted) upset him. That is what I said to the investigators, Mr Prosecutor.

11 Q. Let's move to another point, Mr Witness. You said that (Redacted) wanted to find
12 some (Redacted) with Commander Mustapha. Was any agreement reached
13 (Redacted) Mustapha?

14 A. Mr Prosecutor, I think that when (Redacted) were trying to set some
15 safeguards. (Redacted) that he was a soldier and that his men were also soldiers,
16 and (Redacted) that -- correction, (Redacted) that his men were of different backgrounds
17 and so they behaved differently, so he couldn't keep them from doing such things.
18 He couldn't keep control over them. All he knew was that each soldier had his
19 whims, and yet (Redacted) should always report to him any reprehensive acts that his
20 men had committed and he, at his level, he would take the appropriate measures.
21 He would apply the appropriate sanctions.

22 MR SCALIOTTI: Madam President, I would like to go straight to the statement of
23 the witness, and my reference is to CAR-OTP-0057-017 -- I apologise, 0107. And,
24 specifically, the pages I'm making reference to are 0114, 0115. If we can display this
25 document for the witness.

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1 PRESIDING JUDGE STEINER: Mr Scaliotti, are you going to ask the witness to read
2 something?

3 MR SCALIOTTI: Madam President, I would like to draw the attention of the
4 witness just to one paragraph which is actually, to be more precise, at 0115. There is
5 just one paragraph that I would like to read to the witness.

6 PRESIDING JUDGE STEINER: So you are going to read it; otherwise, I will ask to
7 display the French version.

8 MR SCALIOTTI: Yes, you are right, Madam President. Yes, that was not precise
9 for the witness. He needs the French version. The ERN that I was making
10 reference to is, in fact, the English version. We will try to come to you immediately
11 with the reference in the French statement.

12 The ERN of the French version is CAR-OTP-0058-0056 and the specific page is
13 0058-0065.

14 THE COURT OFFICER: Madam President, the document referred to by counsel is
15 available on the screens at page 0065_R01, and it's a confidential document.

16 MR SCALIOTTI: Madam President, the paragraph that I was making reference to is
17 about half of the page, and I would simply like to read a few lines to the witness.
18 The witness here was talking about the content of (Redacted) on
19 10 December 2002 with the witness, and he said: "Okay. When I came out of the
20 bush on 10 December and I had the idea (Redacted)
21 (Redacted) agreed on the following points," and I'm going to point 4, and the witness
22 said, (Redacted) about rape. If a married woman happened to be raped, there would
23 be problems. (Redacted) about the goods. Though they had taken most of
24 the things away from the population, (Redacted) asked them to protect the few items
25 the population still had."

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1 Now, in light of this portion of the statement that he gave, I would like to ask the
2 witness again what (Redacted) with regard to abuses
3 committed by the Banyamulengue troops in Damara.

4 PRESIDING JUDGE STEINER: Mr Haynes. One moment, Witness. Mr Haynes.

5 MR HAYNES: Can we be clear, is this an application by the Prosecution to treat its
6 own witness as hostile?

7 PRESIDING JUDGE STEINER: Ms Kneuer.

8 MS KNEUER: Madam President, I think this question is really ill-founded. The
9 Defence read to the witness, to some witnesses, the statement
10 paragraph-by-paragraph. This is the first time actually that the Prosecution is
11 reading a paragraph out of a witness statement. It doesn't mean we turn this
12 witness into a hostile witness, it just means that we are refreshing the memory and
13 actually we are trying to expedite the proceedings at this point because maybe due to
14 translation there is a misunderstanding on the content of the question that my learned
15 colleague, Mr Scaliotti, tried to address to the witness.

16 JUDGE ALUOCH: So Prosecution, by reading the portion that you are reading, are
17 you asking the witness to confirm that he said that or -- I think that's probably what is
18 bringing the problem with the Defence here.

19 MR SCALIOTTI: Yes, your Honour, this is essentially the content of my question.
20 As Madam Kneuer said, we just wanted to refresh the witness's memory and see if he
21 can confirm the content of (Redacted) as he described (Redacted) in his statement.

22 PRESIDING JUDGE STEINER: Mr Scaliotti, you can proceed. I think the
23 observation made by Mr Haynes is completely out of context. Of course,
24 Prosecution can quote parts of the statement of the witness in order to check whether
25 there is inconsistency with the transcript or with the many translations. You can

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1 proceed, Mr Scaliotti.

2 MR SCALIOTTI: Thank you, Madam President.

3 Q. Mr Witness, have you heard the portion of your statement that I just read to
4 you?

5 A. Mr Prosecutor, I haven't *denied a single word of that statement, but I'd like to
6 say this: Even if, even if the statement was recorded on some kind of medium, there
7 may have been some damage. You see, the events that occurred in Damara date back
8 quite a bit, and it's been nine years actually, as of this time. I do know that I can
9 remember dates, but I can't remember -- *the statements that I made. That's not my
10 strong suit. That's what I wanted to say to you.

11 MR SCALIOTTI: Madam President, I think we can move on and I don't need any
12 more the statement on the screen.

13 PRESIDING JUDGE STEINER: I also noticed, Mr Scaliotti, before we turn into
14 another topic, that on page 13, lines 15 and 16, when you repeat the question put to
15 the witness you talk about discussed whether (Redacted) with
16 regards to abuses committed by the Banyamulengue troops in Damara, which
17 appears to be slightly different if we go both to English and French versions in which
18 it appears that the witness is talking if something happened it will create problems.
19 So not talking about what happened, but what could happen in the future. Maybe
20 this is where the disagreement rests. You can proceed.

21 MR SCALIOTTI: Thank you, Madam President.

22 Q. Mr Witness, at the time of (Redacted) on 10 December 2002, where was the
23 population of Damara?

24 A. Mr Prosecutor, that day, 10 December, the population were still in the bush.
25 There were only a very few people, for example, (Redacted) who

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1 had come out. In addition to a young -- a few young people who were curious and
2 wanted to see what sort of abuse had occurred, but really there was virtually no one
3 in the town.

4 Q. When did the population of Damara come out of the bush?

5 A. I think that a few days later, after the 10th, the team from Médecins Sans
6 Frontières came to the town and began to inform the population and there were a few
7 people who were curious, or there were scouts who went out to look for supplies of
8 salt and other goods. When they saw the physicians there, that is when the people
9 started to come out of the bush and go back to where they were living.

10 Q. Before we move back to public session, I would like to ask you just a couple of
11 clarifications with regard to a topic that we have already discussed, and I'm referring
12 to the rape of the two girls (Redacted) and (Redacted) and you said that the perpetrators of
13 that rape were punished. I would like to ask you now, after the punishment of the
14 perpetrators of that rape, was any other rape reported (Redacted)

15 A. After the rapists had been punished, the rapists of (Redacted) and (Redacted), there were
16 no further cases of rape. But since -- with regard to women, after a while there was
17 consensual sex between the women and the soldiers.

18 Q. You said that other rapes or previous rapes had been committed, and I'm
19 referring to transcript 118, English version, page 13, line 24; French version, page 14,
20 line 11. You said that rapes were committed on the day they took the town. Do
21 you know whether any of those rapes was punished?

22 A. Mr Prosecutor, I've told you that there were rapes on 7 December but it was
23 impossible to have any sort of control over these cases of rape. Even if there had
24 been reports, it's like water that's already been spilled onto the ground. These
25 events were reported (Redacted). I'm saying that it was the husbands of these

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1 women who had been raped who (Redacted) and reported (Redacted) what had happened, but
2 what happened had already happened and (Redacted) couldn't go back, (Redacted) couldn't
3 hark back to this.

4 The cases of rape for which the rapists were punished that was the rapes of (Redacted) and
5 (Redacted). That was -- there was contact (Redacted) and the soldiers so the case was
6 reported to Raffa who went and made a report to his chief and, on the 7th, I wasn't
7 there, I was in the bush, I was just told of the events when I came out of the bush on
8 the 10th of December.

9 PRESIDING JUDGE STEINER: Maître Liriss, I hope you have a very substantive
10 objection to put.

11 MR LIRISS: (Interpretation) I hope so, too. This is the second time that we've been
12 given a reference and, when we look at the transcript, what we see doesn't
13 correspond to what was said. Now I believe we are talking about page 14, line 11,
14 French transcript, you can check for yourself, there is absolutely no mention made of
15 cases of rape that the witness allegedly may have spoken of before the 7th. I think
16 that there may be a transcript problem. Perhaps this is a concern. But I am
17 checking what is being said.

18 PRESIDING JUDGE STEINER: Mr Scaliotti, could you please check the reference in
19 the transcript?

20 MS KNEUER: Madam President, my colleague didn't refer to today's transcript, he
21 referred to transcript number 118. I'm happy to read it in English, if you wish. It
22 starts on line 22, "Prosecutor, I told you that when they entered to take the town all
23 these cases of rape happened. It can bring you precision with regards to -- well,
24 when -- on the rapes which were committed on the day that they took the town were
25 different to the other days, that's when I stated but everything that concerns (Redacted) and

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

4 PRESIDING JUDGE STEINER: Can we continue, Maître Liriss?

5 MR LIRISS: (Interpretation) This is, indeed -- well, I'm speaking about transcript 119,
6 not to today's transcript. Correction, transcript 118, page 14, line 7.

7 THE INTERPRETER: Correction from the English interpreter, Mr Liriss is indeed
8 referring to transcript 118.

9 MS KNEUER: Madam President, we just double-checked the French version 118
10 that is in our possession and it appears to me identical -- I'm happy to read it in
11 French, although my French is not as good. As you wish, Madam President.

12 PRESIDING JUDGE STEINER: Ms Kneuer, while I'm trying to find 118 in my files,
13 could you please be so kind in reading the French version to the Defence, at least to
14 see whether the Defence can point out the problem it's finding in the --

15 MS KNEUER: Very well, Madam President. It's page 14 of transcript 118, and I
16 start on line 9, and it's the response of the witness, and I will now read in French for
17 the interpreters to change their mind.

18 (Interpretation) "Prosecutor, I told you that when they entered to take the town, all
19 these cases of rape happened on the 7th but I cannot bring you precision. The rapes
20 committed on the day of the taking of the town were different to the other days.
21 What I clarified -- where -- everything with concerns to (Redacted) and the other was after
22 (Redacted) on the 10th."

23 (In English) I think that is the relevant portion, Madam President.

24 PRESIDING JUDGE STEINER: Maître Liriss.

25 MR LIRISS: (Interpretation) I understand where the error comes. I have the

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1 real-time transcript. I suppose that the version they are using is the edited version;
2 that's the only explanation I can find.

3 MS KNEUER: Indeed, the Prosecution used the edited version.

4 PRESIDING JUDGE STEINER: Can we now continue, Maître Liriss?

5 MR LIRISS: (Interpretation) That depends on you, Madam.

6 PRESIDING JUDGE STEINER: Mr Scaliotti.

7 MR SCALIOTTI: Thank you, Madam President.

8 Q. Now, before we move to public session for the next set of questions, Mr Witness,
9 I just would like to remind you that now, since we are going to move to public
10 session, please be mindful of the in-court protective measures that you have been
11 granted; therefore, now in public session please do not mention any information that
12 can identify yourself, including (Redacted)
13 and the fact that (Redacted)

14 Madam President, with your leave, we can now move to public session.

15 PRESIDING JUDGE STEINER: Mr Witness, did you understand the
16 recommendation made by the Prosecution, not to mention (Redacted)
17 Colonel Mustapha or the fact that (Redacted) or -- do you
18 understand that?

19 THE WITNESS: (Interpretation) Yes, I understand that well.

20 PRESIDING JUDGE STEINER: Court officer, please turn into open session.
21 (Open session at 10.34 a.m.)

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

23 MR SCALIOTTI:

24 Q. Mr Witness, I would like you now to tell the Court what happened in Damara
25 after 10 December 2002, with particular regard to the local population of Damara.

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1 A. Yes, I'm going to explain phase-by-phase, phase-by-phase. Before
2 encountering problems which made the situation deteriorate, the situation concerned
3 the death of 26 soldiers of the MLC. The MLC soldiers fell into an ambush, an
4 ambush made by the rebel forces. That was the day before the day and on the -- so
5 26 MLC troops were killed, and this was a situation which exacerbated tension
6 between the MLC.
7 I was called upon on that day to see the bodies of the soldiers and they asked me, or
8 they said to me -- well, I usually said that there weren't rebels in the locality, but they
9 asked me, "Who are the people who attacked? Who did this?" (Redacted)
10 (Redacted) the bodies before the bodies could be taken to Zongo. And that is what
11 happened, the day before New Year's Day. Before even the rebels, the enemy, could
12 attack the MLC forces, they confused a police officer - a municipal police officer - and
13 an enemy rebel. They tortured that person until he died, and that was before the 26
14 soldiers were killed. They bayoneted the municipal policeman, and I went, I
15 saw -- well, (Redacted)
16 (Redacted) That is what happened. And when the forces, the enemy forces, killed 26
17 MLC forces, well, what I can say about that, that was the -- around 23 December,
18 towards the end of the month. I can't remember the date very well, but when they
19 killed 26 of them, they started to try and find who was responsible for what
20 happened. They were sure that there must be a traitor amongst them and that's why
21 they tried to find out who had betrayed them, so that they would fall into their
22 ambush.
23 So they took the chief of Ombella and two of his friends, Jean de Dieu Wabeta, Zawa
24 and Dakotara. So they executed them in the village, and they took the village chief
25 who they presented to their leader and then they executed him as well. And when

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1 they executed him, I was not there. And I would also inform you that when he was
2 executed, he was a -- he was cooked and they forced the mayor to eat the flesh. And
3 when we arrived in the morning, the mother --

4 THE INTERPRETER: The mayor, corrects the interpreter.

5 THE WITNESS: (Interpretation) -- said that something disastrous had happened
6 during the night, and he told me the whole story. I was not sure about that myself.

7 (Redacted) in order to see what the reality of the

8 situation was, and I said my lieutenant -- Prosecutor, if I say "lieutenant," you can't

9 know that because we're in open session. So the flesh was in the freezer and they

10 got it out -- or they got the arm out, the hand of this person, and they asked me if

11 I could recognise that hand. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted) and you know this is a significant -- well, he was a large man, robust,

15 man, and when I saw his index I could identify him. Seeing all that, I was

16 completely demoralised. And afterwards, I told them that I wanted to go away.

17 You see, when they took control of the town, they transformed -- they changed one of

18 the houses into a prison. And when they executed the person, they exhibited that

19 person's head in public.

20 And I will stop here, Prosecutor. If you have any other questions, I will continue.

21 I would ask your opinion, Prosecutor. I will stop there. If you've understood well,

22 I can stop there, and if you haven't, you can also ask me questions so that I continue.

23 THE INTERPRETER: And the interpreter corrects that the previous mention of

24 mother, "mère" was, in fact, "mayor" in English.

25 MR SCALIOTTI: Madam President, I'm just putting this possible problem to the

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1 Chamber, because the Prosecution's plan for this part of the questioning was to keep
2 certain questions for a further stage in private. I see that maybe for the witness it's
3 not an easy way to proceed. I'm also mindful that we had a lot of private sessions,
4 so I would like to leave it to the Chamber's decision if you think that it would be
5 maybe more appropriate to proceed again with private session or we'll try to make
6 our best effort to instruct again the witness.

7 PRESIDING JUDGE STEINER: Mr Scaliotti, I just ordered a redaction of many,
8 many passages of this last answer. If you are going to continue on the topic, I think
9 it's more appropriate to go into private session.

10 Court officer, please turn into private session.

11 *(Private session at 10.44 a.m.) Reclassified as Open session

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

13 MR SCALIOTTI:

14 Q. Mr Witness, let's try to clarify some of the things that you just said. First of
15 all -- and I apologise if I missed something. I try to do my best not to repeat
16 questions when you have already answered. Anyway, my first clarification is, you
17 spoke about an ambush. Where did this ambush happen?

18 A. I can give you a precise date, because I remember they were preparing the
19 festivities for the new year and so the front line of the Banyamulengue were in a
20 village called Kpabara. So the Banyamulengue left the centre of -- the town centre
21 and positioned themselves there to control the entry of the enemies. On the night of
22 the 30th the Bozizé's rebels left Libi village and they came to the centre, going
23 through the bush, and they took them, they encircled them or they surrounded them
24 and they massacred them with heavy weapons, and after that there were 26 dead.
25 I would say that before this disaster there was a degree of peace, but after that, after

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1 that happened, they became furious and I was informed about that. So the ambush
2 which I'm speaking about was that. It was Bozizé's men who set it out.

3 Q. Thank you, Mr Witness, and you gave good information. Maybe however
4 there was a misunderstanding, or a misinterpretation, because my question was
5 where did this ambush take place? In what place?

6 A. Prosecutor, I told you precisely that it was in Kpabara, ten kilometres from the
7 town centre. I repeat, Kpabara, ten kilometres from the town centre.

8 Q. Could you please spell the name of the locality, please?

9 A. K-P-A-B-A-R-A.

10 Q. You mentioned that a municipal officer was killed. Do you know the name of
11 this municipal officer?

12 A. Prosecutor, we have to be seriously -- I didn't say he was executed. What I
13 said was that he was tortured. He was surprised, having -- well, he had some
14 military clothes, which he had taken, and they captured him and they took him to
15 their base and they whipped him. We are before justice. We have to say what the
16 truth is. The police officer in question was working (Redacted) He was
17 called (Redacted)

18 THE INTERPRETER: Correction from the English booth: They tied up this police
19 officer.

20 MR SCALIOTTI:

21 Q. You also referred to a village chief. Can you say of what locality that man was
22 the village chief?

23 A. Ombella-M'Poko, between the town of Damara and the village of Libi. The
24 village is called Ombella-Bore (phon).

25 Q. And what is his name?

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1 A. Wabeta Jean de Dieu. Wabeta Jean de Dieu.

2 Q. If I understand correctly, you said that this man was killed. Can you provide
3 more details about this killing. First of all, how was he killed?

4 A. I told you that after the drama suffered by the Banyamulengue in January,
5 Wabeta -- well, I don't know what link there was between him and the
6 Banyamulengue. There were three who came to visit the Banyamulengue, and they
7 were suspected of being behind the betrayal which cost them their lives.

8 THE INTERPRETER: Which cost the lives of several of them, corrects the Sango
9 interpreter.

10 THE WITNESS: (Interpretation) And it was Wabeta Jean de Dieu and Dakotara.
11 Now, these two companions were executed. I wanted to speak about Zawa. Zawa
12 was shot in Kpabara, under the orders of Mustapha, and the chief was taken to their
13 HQ and having been introduced to Mustapha he was also executed. All that I didn't
14 know. And in the evening they ate his flesh. You know that some of these
15 Banyamulengue lived around the mayor's residence and they imposed, or they forced
16 the mayor to eat some of this human flesh. The mayor (Redacted) the next day.
17 (Redacted) that meat, the origin of which he didn't know, had been given to him for
18 him to eat, and as the Banyamulengue who lived around his residence spoke Mbaka
19 and that they understood -- and he understood Mbaka, he had understood that it was
20 Wabeta who had been executed and who had been cooked. After that (Redacted)
21 (Redacted) there Lieutenant Bassambo entered into the house and he
22 brought out an index - a human one, of course - an index finger which he presented
23 (Redacted) on a plate and (Redacted) could recognise this index finger and (Redacted)
24 could not say "Yes."

25 When the colonel was aware of (Redacted) he came out of the house because he was

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1 in the lounge and (Redacted) following. "It was the chief of the village. He
2 provoked us and he got what he was looking for." Afterwards, I was completely
3 demoralised. I wanted to go back, but the lieutenant (Redacted)
4 (Redacted) take another path.
5 Next, nearby there was a house that they were using as a prison, and these people
6 who had been executed, well, they exhibited their heads next to the road by way of
7 example to passers-by. I could identify this head, but I could say nothing. My
8 concern was to (Redacted) That's what I can say about Mr Wabeta Jean de
9 Dieu, Prosecutor.

10 Q. Mr Witness, as I understood, you talked about two men that were executed.
11 Can you please make the spelling of the other man that was executed, apart from
12 Wabeta?

13 A. Zawa. I didn't speak about two people. There were three people. Zawa, he
14 was written in this way, Z-A-W-A, that's how it's spelt, and Dakotara.

15 Q. Could you please also make the spelling of the last one, or the third one that
16 you mentioned?

17 A. D-A-K-O-T-A-R-A. Dakotara.

18 Q. Can you explain what happened to Dakotara?

19 A. Prosecutor, I told you that the events took place ten kilometres from Kpabara.
20 I didn't see with my own eyes the death, or the way in which Zawa and Dakotara
21 died. What I saw was the body of Wabeta Jean de Dieu. I only saw the head. I
22 know nothing about the death of Zawa and Dakotara. I think their bodies were
23 dumped into a hole. That's what people told me.

24 Q. Who told you this, that their bodies were dumped into a hole?

25 A. Prosecutor, you know, when an event takes place of this type the relatives of the

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1 victims have a shock. By telepathy, when the relatives knew that they had been
2 killed, the relatives came out of the bush to (Redacted) ask the Red
3 Cross to go and bury the bodies. They were killed. That was three days before (Redacted)
4 informed the Red Cross persons who went there and they did manage to find the
5 bodies of these two people in a hole and they came to (Redacted) I didn't see
6 the bodies, I did not see the bodies myself, though.

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

8 (Open session at 11.00 a.m.)

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

10 PRESIDING JUDGE STEINER: Thank you. Mr Witness, we have now a break, a
11 half-an-hour break, in order for you to take some rest. It's 11 o'clock. We'll be back
12 at 11.30. Court officer, please turn into closed session in order for the witness to be
13 taken outside the courtroom. In the meantime, we are going to suspend and resume
14 at 11.30.

15 *(Closed session at 11.01 a.m.)Reclassified as Open session

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

17 (The witness stands down)

18 THE COURT OFFICER: All rise.

19 (Recess taken at 11.01 a.m.)

20 *(Upon resuming in closed session at 11.35 a.m.)Reclassified as Open session

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

22 PRESIDING JUDGE STEINER: Welcome back. We'll continue with the testimony
23 of Witness 209. I ask, please, court usher to bring the witness in.

24 (The witness enters the courtroom)

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

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1 (Open session at 11.38 a.m.)

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

3 PRESIDING JUDGE STEINER: Thank you. Mr Witness, welcome back.

4 THE WITNESS: (Interpretation) Thank you.

5 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony?

6 THE WITNESS: (Interpretation) I am ready to answer questions.

7 PRESIDING JUDGE STEINER: Thank you very much. I'm giving the floor to the
8 Prosecution. We will start in open session so please, once again, I would like to
9 remind you not to give information that could lead to your identification. You
10 understand that, sir?

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

12 PRESIDING JUDGE STEINER: Mr Scaliotti.

13 MR SCALIOTTI: Thank you, Madam President.

14 Q. Mr Witness, before the break you were talking about the killing of these three
15 men Wabeta, Zawa and Dakotara. It's not completely clear to me from the transcript,
16 so if you can answer again this question: Who killed Dakotara?

17 A. Mr Prosecutor, I told you that I wasn't present but it was the Banyamulengue
18 *at one of their checkpoints at Bakatara, who killed Zawa. But I did not see the actual
19 corpse.

20 THE INTERPRETER: Correction from the Sango interpreter, "*At Kpabara."

21 MR SCALIOTTI:

22 Q. You said, and I'm referring to page 27, line 16, English version of today's
23 real-time transcript, you said events took place 10 kilometres from Damara. And, as
24 I understand, you were making reference to the death of Zawa and Dakotara. Can
25 you clarify what is this place, this locality, where Zawa and Dakotara were killed 10

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1 kilometres away from Damara?

2 A. Mr Prosecutor, I said that it was in Kpabara, 10 kilometres away in Kpabara.

3 Q. You talked so far about the killing of these three men. Was any other civilian
4 killed in Damara during this time, and I'm referring to the period after 10
5 December 2002?

6 A. Mr Prosecutor, it was the 30th, the 30th and the 31st. I beg your pardon. The
7 return of the Banyamulengue was the 30th and the 31st. The death of Zawa, Wabeta,
8 Dakotara, that was on 13 January. I think we need to avoid any misunderstanding.
9 And I think that there were two deaths Bagali (phon) and Dakotara. They were they
10 were burned, they were incinerated, and all of that was before the 13th. I'm
11 speaking of Bengali who was a former police officer on the road to Boali; he lived in
12 Bossembélé, but he was reassigned to Damara. I didn't know him. There was also
13 Dandara, the young -- the young cattleman and, apparently, there was a conflict of
14 some kind and his rival betrayed him.

15 Q. Mr Witness, once again, it's not completely clear to me from the transcript so
16 can you repeat the name of the two men that you just said died?

17 A. Mr Prosecutor, if I've understood you properly, other than Wabeta and Basara,
18 you're talking of the other two deaths; is that what you're talking about?

19 Q. Yes, Mr Witness. I see you mention here in the transcript, I'm speaking of
20 them but it's not readable in the transcript, so if you can be so kind to repeat and
21 make the spelling of these two victims that you just mentioned.

22 A. Bengali, a former police officer, residing in Bossembélé. "Bengali" is spelled
23 B-E-N-G-A-L-I. "Dandara" is pronounced and spelled
24 D-A-N-D-A-R-A -- D-A-N-A-D-A-R-A.

25 Q. Let's start with Bengali. What do you know about the circumstances of the

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1 death of Bengali?

2 A. Mr Prosecutor, I think that Bengali was not an inhabitant of Damara. After his
3 death his children came from Bossembélé and (Redacted) that he was a former
4 police officer and he had gone to Bangui to collect his wages, and when he came back,
5 at the Bossembélé checkpoint, you see there were Banyamulengue there and others in
6 Bozoum. So, in each one of these localities there were checkpoints, and when he
7 came back at Bossembélé, that is when he was taken to the headquarters in Damara.
8 I have no information, no further information, and later I learned, in relation to the
9 Dandara situation, who was taken because of a conflict, a love affair. His
10 companion had a friend - I'm speaking of a butcher - and when Dandara came, his
11 rival, out of jealousy, went to the Banyamulengue and told them that he was a rebel.
12 I didn't know that, and it was (Redacted)

13 her son had been arrested by the soldiers and that I had to go to the headquarters, but
14 it was already too late because, the night before, when he was arrested, they put him
15 on a pile of firewood and they burnt him. (Redacted)
16 (Redacted) trouble myself
17 with that because it was all over. I didn't dare tell the truth (Redacted)
18 (Redacted) had been taken to Bangui, and that had been done -- (Redacted)
19 to calm her down. So these two men died in the same circumstances: In the
20 evening they were burnt on a pile of firewood.

21 Q. Just for the sake of clarity, you said soldiers burnt him. What soldiers are you
22 referring to?

23 A. Mr Prosecutor, we were under the Banyamulengue's authority and I think I said
24 that it was the Banyamulengue who had taken Bengali and Dandara, and after
25 betraying -- well, the information was not verified, but it was indeed the

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1 Banyamulengue. It was not some other soldiers.

2 Q. Mr Witness, do you know whether any civilian was killed outside the town of
3 Damara? I'm making reference to the neighbouring areas surrounding Damara.

4 A. I didn't see them. Perhaps that happened without my knowledge, but the
5 major incidents are the ones that I have related to the investigators from the Office of
6 the Prosecutor. Now, if I remember correctly - perhaps I'm mistaken - there were
7 two -- no, rather, three young girls who went off on an adventure and they were
8 stopped at the Kpabara checkpoint and they were brought back.

9 MR SCALIOTTI: Madam President, I think that in order to proceed with this topic
10 that the witness is addressing we need, unfortunately, private session.

11 PRESIDING JUDGE STEINER: Court officer, please let's turn into private session.

12 *(Private session at 11.53 a.m.)Reclassified as Open session

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

14 MR SCALIOTTI:

15 Q. Mr Witness, you just mentioned three young girls. Before we talk about these
16 three young girls, I just would like to ask you a few more questions about the victims
17 of killings that you just talked about a few minutes ago. You said -- and I'm making
18 reference to today's real-time transcript, English version, page 25, lines 22 to 25.

19 And you said, "There were three who came to visit the Banyamulengue and they
20 were suspected of being behind the betrayal which cost them their lives." Can you
21 explain a bit more what were these three men suspected of?

22 A. Mr Prosecutor, it was after their death that I learned of this. They were not
23 specific. It was after these people died that people said that the relationship between
24 Jean de Dieu and Wabeta and the Banyamulengue, it was that relationship, or those
25 dealings, that led to their death because several times they were seen with them.

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1 They fraternised with them. And when there was, you see, this heavy loss amongst
2 the ranks of the Banyamulengue, they were suspected of being spies in the pay of
3 Bozizé and that they were giving information about their positions. That is what
4 was being said by the family of the late people. I didn't have any contact with
5 Wabeta's family, nor with the family of the other person. That is what I can tell you.

6 Q. What they were suspected of is not very clear. How did you learn about this?
7 How did you learn that they were suspected of this?

8 A. It was the relatives of the late person. The relatives were furious, and so they
9 said this. After they said that the village chief, Wabeta, regularly went to see the
10 Banyamulengue and that he had betrayed them. So the relatives of Wabeta and
11 Zawa (Redacted) so. After their death, the relatives of the two dead people said it was
12 because of the village chief that they had died. That is what I learned.

13 Q. You said during your testimony that (Redacted)
14 (Redacted) After (Redacted) of these
15 killings, what initiative, if any, (Redacted) take?

16 A. Yes, Mr Prosecutor. I said to the investigators that (Redacted) go beyond that
17 because the soldiers were armed. I'll tell you that at that time the authorities, the
18 municipal authorities, really did not exist. What (Redacted) What else (Redacted)
19 It's like water poured onto the ground. You can't get it back. The soldiers were
20 armed, and they had already (Redacted) relation to this other incident with the 26
21 soldiers who died. (Redacted) anything. I told you that I saw the hand of
22 Wabeta that had been kept, and the mayor (Redacted) he ate Wabeta's flesh. So I
23 have nothing further to add as of that time, once they were dead.

24 Q. Do you know why Bengali and Dandara were killed?

25 A. Mr Prosecutor, I've already told you. I've already explained everything about

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1 the death of Bengali and Dandara. Bengali was a former soldier. He wasn't
2 apprehended in Damara. It was at the entrance to his village, Bossembélé, at the
3 checkpoint. He was captured and taken back to the head of -- to the Chief of Staff to
4 find out what he was doing in the town, and they found his pension book on him and
5 so it was suspected that he was a soldier and that is why he was killed. They
6 thought he was a traitor. As for Dandara, I don't know what there was between the
7 Banyamulengue who captured Dandara at (Redacted) home to take him to the headquarters.
8 It was only after his death that the relatives explained and the wife explained that she
9 was going out with him well before. So Dandara came back from where he was and
10 he died in Damara. I didn't go close to their corpse. It was the people from the Red
11 Cross who got the clothing back from Bengali in order to determine his identity,
12 because he had been burnt alive and his children explained that he had left to go
13 collect his pension and that is how it came to be that he died and that is what I said in
14 my statement.

15 Q. Did the Banyamulengue have any evidence that these people that were killed
16 that you mentioned, Wabeta, Zawa, Dakotara, Bengali and Dandara, they were
17 cooperating or informing Bozizé's forces?

18 A. Mr Prosecutor, you know, this was not a conventional army. Had it been a
19 conventional army, then your question would have been meaningful. These people
20 were troops, people with whom you could have an understanding today and
21 tomorrow all would have changed. They would -- they were ready to do anything
22 that crossed their minds. Bengali was a former soldier, living in Bossembélé. He
23 did not live in Damara, he did not have a wife in Damara, so I don't know why they
24 brought him back to Damara.

25 Secondly, Dandara lived in Damara, but at that time he was living on the road to

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1 Bangui and it is because of that rivalry that he was killed.

2 Q. And what about the other three victims? You've mentioned now Bengali and
3 Dandara. What about the other three: Wabeta, Zawa and Dakotara? Do you
4 know whether they were cooperating with Bozizé's forces?

5 A. Mr Prosecutor, let me repeat the answer I have already given you about Wabeta
6 Jean de Dieu and Dakotara and Zawa. I am not in a position to know whether they
7 cooperated with the rebels. They all lived some ten kilometres away in the area
8 where the Banyamulengue had their roadblock, or checkpoint. (Redacted) I was
9 not able to walk to that location because I did not know the relationship between
10 them and the rebels. I only found out later on that such-and-such an event, or such
11 other event, had taken place. So I am not in a position to tell you exactly what the
12 nature of the relations between those people and Bozizé's rebels was. It is only later
13 that I found from the relatives of Zawa and Dakotara that they were angry because
14 their chief had made contacts with the Banyamulengue. I am referring here to
15 statements that were made by relatives of the victims, and so I don't have any further
16 information to provide relating to their relations with Bozizé's soldiers.

17 Q. Mr Witness, let's go back to the three young girls that you mentioned some
18 minutes ago. Please tell me what happened to these three girls?

19 A. I was going to forget, but I told you at the very beginning of this trial that I am a
20 human being and you may want to recall that these events took place some nine years
21 ago and one would need to have a very vivid memory to be able to recall everything,
22 but now you have asked questions about Dakotara and Bengali and you want to find
23 out whether were no other cases of murder. Well, a short while ago I told you about
24 the three girls who were often in the company of Bozizé's soldiers. Those three girls
25 were looking for their friends, and that is how they fell into the hands of the

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1 Banyamulengue soldiers, who then took them to the centre, whereas the Chief of Staff
2 had questioned them and this is what (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted) and it is for that reason that they preferred to go after Bozizé's
8 soldiers in order to make some money.
9 The second girl (Redacted) wanted to follow their mother, and the Chief
10 of Staff (Redacted) -- set her aside, and then the third girl (Redacted) as the
11 second girl. The Chief of Staff then understood that the first girl (Redacted)
12 (Redacted), but that the second and the third (Redacted) and so they could be
13 suspected of likely betraying the people. So the first (Redacted) because she
14 had (Redacted) and then the other two disappeared. But (Redacted)
15 (Redacted) and so I do not know in what circumstances they were slaughtered.
16 However, the first girl was taken to a house where (Redacted) lived. She was a
17 girl who had been brought in from Bangui to take care of a small three-year old boy,
18 who had been found in a house with had been abandoned by the parents whom had
19 fled. So this young boy was taken and I want to say that the other two girls were
20 executed, but I did not see their bodies myself. But a friend to Lieutenant Bassambo
21 (Redacted) a mother had come from Bangui to look for her daughter, and (Redacted)
22 that I had seen a girl who had been arrested and that (Redacted)
23 (Redacted) Bassambo. It was indeed her daughter that was found and she paid 100,000
24 francs ransom for the girl to be released. During that night - the first night - they
25 wanted to sleep with that woman. They took a knife and wanted to injure her, to

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1 pierce her buttocks. (Redacted) so that she may contact her mother,
2 who would then seek to release her. That is all I know.

3 Q. Just to be clear, you made reference to the Chief of Staff. You said, "The Chief
4 of Staff asked," and you were referring to the (Redacted) of these three girls. Just
5 for the sake of clarity, who was the Chief of Staff?

6 A. Mr Prosecutor, when I talked about the chief at the headquarters, I was
7 referring to the colonel. He was the only one in a position to issue any orders, and I
8 was referring to Colonel Mustapha.

9 Q. How do you know that these three girls were (Redacted) by Commander
10 Mustapha?

11 A. Mr Prosecutor, a few days after -- in fact, it was difficult (Redacted) on a
12 daily basis or more or less, but (Redacted) almost everything,
13 except for military secrets. At that very specific time (Redacted)
14 (Redacted) and then other issues were being discussed but that is when (Redacted)
15 (Redacted) and it was at that time that (Redacted)
16 (Redacted)
17 (Redacted)

18 Mr Prosecutor, let me also tell you that these girls (Redacted) so there was
19 need for (Redacted)

20 It is (Redacted) explaining everything, and that is how
21 the girls were separated. And when this happened (Redacted) but I do not know
22 the circumstances of their deaths.

23 One of them, as I said, was released but that was done following negotiations that (Redacted)
24 (Redacted) of the girl's daughter who had come and
25 (Redacted) Bassambo and then subsequently (Redacted) colonel in

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1 order to seek the release of the girl.

2 MR SCALIOTTI: Madam President, I have the impression from some of the answers
3 that the witness is giving that there may be an interpretation problem, because I'm
4 not sure that the question that from time to time I ask you, "how do you know," based
5 on the answers that the witness is providing, is translated exactly the same way.
6 Now, in fact, I would like to ask the witness once again how he knew about the
7 killings of these two girls, but I'm not completely confident that through
8 interpretation he will understand exactly the content of my question.

9 PRESIDING JUDGE STEINER: Although, Mr Scaliotti, there is no direct answer to
10 your question it appears that the question can be inferred from the answer but, in any
11 case, you can ask again the question. And I ask, please, the Sango interpreter to give
12 the exact meaning of the question on how the witness was informed about something.
13 Please, Mr Scaliotti, ask again the question and let's see if we get a more precise and
14 objective answer from the witness.

15 MR SCALIOTTI: Thank you, Madam President.

16 Q. Mr Witness, I would like to repeat my question, and the question was: How
17 did you know about the killing of these two girls, the two ones who were (Redacted)
18 by Commander Mustapha.

19 A. Mr Prosecutor, maybe you did not understand me. All what I have been
20 saying, and it is true that I may have forgotten some details, all the answers have
21 been quite clear. Your question was: How did I know that the two girls were
22 executed? My answer was that, on that day, (Redacted) Three girls
23 were brought in, in a vehicle, and they were taken to the headquarters. There is a
24 command chain in place clearly and so those girls were taken to Mustapha and, in his
25 capacity as an officer, Mustapha (Redacted) them.

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- 1 Now, the (Redacted) by each of the girls was analysed. The first one, who
2 gave one (Redacted) was spared. Then the other two, (Redacted) were ordered to
3 be taken away and it was said that the one was released because she had (Redacted)
4 (Redacted) and the other two were to be taken to (Redacted)
5 (Redacted)
6 So I was not personally present when they were executed, so he gave orders for the
7 two young girls to be taken away. The first one was taken to Bassambo's place, and
8 there is some kind of a swimming pool in that area. The other two were taken in
9 that direction. Then there was another girl who had a relationship with Bassambo
10 and to whose place this girl was taken. Because when she was going, it is at that
11 time that this other girl saw her and told the story.
12 So when her mother came from Bangui, I told her that yesterday there were three
13 girls but (Redacted) Bassambo's place, and the other girl confirmed what I was
14 saying. So (Redacted) she was not in a position to contact Bassambo
15 and asked if (Redacted) That is how (Redacted)
16 (Redacted) and the girl was released after a ransom of 100,000 had been paid.
17 It was that other girlfriend who indicated that an amount had been paid which would
18 be handed to the chief. That very girl also said that in the evening they had wanted
19 to sleep with her, but she refused and she was beaten up.
20 THE INTERPRETER: If this is a proper understanding. And a request, as well, if
21 the witness could be advised to slow down and speak clearly then the Sango
22 interpreters would be able to capture his entire testimony with all the details that he
23 wants to talk about.
24 MR SCALIOTTI:
25 Q. Mr Witness, the interpreters are kindly asking you to slow down when you

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1 speak to provide your answers. One last question about these three girls: Do you
2 know what happened to the bodies of the two who were killed?

3 A. Mr Prosecutor, in a previous statement I stated that I was not aware of all the
4 deaths and all the executions that may have taken place. (Redacted) Mustapha for
5 another reason. And I want to underscore the fact that I although I did not know
6 those girls - because, by the way, they were not from our area. (Redacted) for
7 another reason, but this matter came up and all I am doing is telling you what I
8 experienced in connection to that matter; namely, that one of the girls was spared and
9 the two other girls were taken close to the swimming pool.

10 Thereafter, (Redacted) concerning the girl whose life had been spared.

11 Now, what happened to the corpses of these -- of the other two young girls, I do not
12 know and I am not able to add anything further on that particular topic.

13 Q. You said that the girl who was not killed was requested to have sex with some
14 of the soldiers, if I am correct, and she refused. Do you know what happened to her
15 when she refused to have sexual intercourse?

16 A. I already said that they trimmed off part of her buttocks. When she spent the
17 night at the lieutenant's place, the lieutenant already had a girlfriend in his company
18 so they kept her in another room. That night they attempted to rape her and she
19 refused, and so part of her buttocks was chopped off. So Lieutenant Bassambo was
20 very angry, and a report was submitted to the commander and the commander said
21 that she had to be raped.

22 But Bassambo's girlfriend is the one who narrated this story, and I heard also that
23 Bassambo was given 100,000 as ransom. And by the way, Mr Prosecutor, I already
24 told you that I did not know those girls and that (Redacted) for
25 another purpose, but because they were Central African girls I became interested in

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1 their matter.

2 Q. Reading what you just said, Mr Witness, and I see here in the transcripts the
3 commander said -- a report was submitted to the commander and the commander
4 said that she had to be raped. Who is the commander who said that?

5 A. Well, Mr Prosecutor, I think -- I think that maybe there was really no issue of
6 rape about these three girls. Maybe there's an interpretation issue here. The
7 commander did not say that the girls had to be raped. What I am saying is that they
8 attempted to rape that first girl but she refused, and any other inference will not
9 comply with my testimony.

10 They attempted to rape the girl who had been released that night, and the next day
11 the colonel changed the house in which she was staying. Now, there was no
12 instruction from the commander for that girl or for the girls to be raped. That is not
13 my testimony.

14 Q. Thank you for this clarification, Mr Witness. You mentioned several times
15 (Redacted) the Commander Mustapha. How often (Redacted)
16 Mustapha during the conflict in Damara?

17 A. Mr Prosecutor, (Redacted) Mustapha when it was necessary to do so. (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted) at that because they were soldiers and, as I've already told you, these
23 were people who were quite, quite -- well, their moods would change very quickly,
24 so (Redacted) one day, but the next day, the atmosphere
25 would not be the same.

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- 1 Q. You said that one of the reasons for (Redacted)
- 2 (Redacted) Now, of course, I'm not
- 3 asking you what (Redacted) specifically every time but, in general, what (Redacted)
- 4 Mustapha when there were cases (Redacted)
- 5 A. Well, (Redacted) It wasn't just about going to
- 6 (Redacted) there had been abuse or
- 7 violence by the soldiers and that kept the local people from going about their
- 8 business, (Redacted) "Well, admittedly (Redacted) the
- 9 children were of different origins, and that their behaviour wasn't always proper," but
- 10 considering that Médecins Sans Frontières had come to make the population aware of
- 11 what was going on and convince him to go back to the location, (Redacted) "If your
- 12 soldiers don't behave properly towards the population, coexistence will be difficult,"
- 13 and (Redacted) "Well, they're from all kinds of different
- 14 backgrounds. Some of them have not had basic training."
- 15 So those are the things (Redacted) about security.
- 16 Sometimes (Redacted) the responsibility, say -- (Redacted) that his soldiers were
- 17 headstrong and did not necessarily obey the orders given by the chief. But, the most
- 18 important topic (Redacted)
- 19 Q. Mr Witness, can you give a bit more details about Mustapha's (Redacted) when
- 20 (Redacted) abuses or violence committed by his troops? What -- in
- 21 more details, would his (Redacted) be in that kind of cases?
- 22 A. Mr Prosecutor, I think I've said that he was a soldier. He was a rebel. And
- 23 that the soldiers lived with what they had at hand. They would (Redacted) and it
- 24 wasn't his -- soldiers.
- 25 THE INTERPRETER: If the interpreter understood correctly.

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1 THE WITNESS: (Interpretation) Now he, as well as his soldiers, were quite
2 variable in (Redacted) One day they might be in a (Redacted) or the contrary. If that
3 was the case, you would have to find a way of politely going away and let things
4 settle down. If you chanced upon him when he was in a (Redacted)
5 (Redacted) you could (Redacted) about the problems. So, you see, his (Redacted) were quite
6 variable. He was in charge of things, and (Redacted) really had no status, so to speak, so
7 that is how things were.

8 Q. Mr Witness, I would like to turn to a different subject now, although related to
9 the (Redacted) with the MLC commanders in Damara. Do you know
10 who sent the Banyamulengue troops to the Central African Republic?

11 A. I was clear in my testimony. Everything that happened before the 13th, even if
12 you say a person did this or that, I will tell you that it was indeed Mustapha and his
13 group. On the 13th, at 11 in the morning, (Redacted)
14 (Redacted) because of a child, a three-year old child, whose mother had died well
15 before the third or the fourth. The parents -- correction, the relatives were still
16 mourning when they took the town of Damara. The mother had died and the child
17 was three years of age. When Damara was taken, everyone fled and the child had
18 been abandoned. The Banyamulengue found this child, and Mustapha had some
19 clothings made for the child and called the child "General," and he was raised by
20 (Redacted). She was a girl who had been taken prisoner. She was like a military prisoner.
21 (Redacted) behaved like a soldier, she was armed. She was the nursemaid of the child, so
22 to speak.
23 The relatives of the child who had been abandoned, the relatives of the mother who
24 had died, (Redacted) Mustapha to negotiate the release of
25 the child. And on 13 January 2003 I saw the aircraft of the President of the MLC

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1 land on the paved road. That was at 11. At that specific time there was (Redacted)
2 (Redacted) because on that particular day he was going to give
3 something so that the Banyamulengue could protect his company. And he was sort
4 of a taxpayer, so to speak. (Redacted) Mustapha, and it was at 11 in the morning.
5 (Redacted) the aircraft land and there were also some white people who came (Redacted)
6 attention. (Redacted) along with his wife and two of his children.
7 When the President of the MLC came out of the aircraft, (Redacted)
8 (Redacted) They went to the base and 35 minutes -- 30 or 40 minutes later, (Redacted)
9 the various goods, for example, the generators, the refrigerators, the brand new
10 motorcycles, being loaded into the aircraft.
11 I saw three people. I saw them from a distance, and they were heading towards the
12 house. One of the people had a hat, and Mustapha came out (Redacted) that it was
13 the leader, Bemba, who had arrived. I was going to tell you that at the time we were
14 talking about the MLC -- people were talking about the MLC on the radio. There
15 was talk on the radio about Bemba, about Patassé, and when he came, he criticised
16 the behaviour of his men in the field; and this man, this white man, was present. He
17 said that amongst the officers some were going to go back to the Congo because
18 President Bemba was the leader and it was possible that some of the
19 non-commissioned officers would go back to the Congo, and that is what I learned.
20 I was going to add one particular item of information: Amongst these three officers,
21 one of them (Redacted) "Well, if the Central Africans want to wage war, they will
22 have war. They will get a war." And that remark didn't sit very well with (Redacted). I
23 think you'll see in my statement that (Redacted) approach Bemba to greet him because (Redacted)
24 (Redacted) him. His Chief of General Staff, when they were talking about this
25 Italian fellow, to get the sum of money, that's what I can tell you, Mr Prosecutor.

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- 1 Q. Mr Witness, let's try to go step-by-step. First of all, you said the MLC
2 President came out of the aircraft. Just to be clear: Who's the MLC President who
3 came out of that aircraft, on 13 January 2003?
- 4 A. I said that -- well, Mr Prosecutor, I never met the President of the MLC, but I
5 saw three people who came out of -- who exited the aircraft and, you see, one was a
6 soldier. There was a pool in front of the house of (Redacted) and that is where
7 (Redacted) We saw three people come out of the aircraft and
8 they were greeted by Mustapha and taken to his home. They had a discussion and
9 shortly thereafter I saw that they were taking out some generators and some
10 motorcycles and they were being loaded on to the plane, but I didn't know Bemba
11 before that. I didn't know that it was him. It was well after, from 11 until 3 in the
12 afternoon. From 11 in the morning until 3 in the afternoon we saw the electrical
13 generators and the motorcycles being loaded on to the aeroplane, and at that point
14 there were some soldiers. All the soldiers who were in the various camps gathered
15 together at the base, and shortly thereafter the aeroplane was able to take off. I am
16 telling you, Mr Prosecutor, that the aircraft was fully loaded and it took off and it
17 headed towards the Democratic Republic of the Congo. After some dialogue
18 amongst them, the officers, (Redacted) came back out and (Redacted), "Well, there
19 you have it. Our leader has left." He said, "If the people of the Central African
20 Republic want war, they will get it," because everywhere on all the airwaves they
21 were talking about the MLC, the MLC. What could I do? So that is how (Redacted) about
22 these things. Amongst all these people, well, I didn't know. I didn't know the pilot,
23 all these various men, but the President was wearing a hat and the other side was
24 curled up somewhat. The other edge of the hat was curled up somewhat.
- 25 Q. Mr Witness, just once again to be very clear, you said - and it's page 51, lines 1

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1 and 2 - "After some dialogue amongst them, the officers, (Redacted) came out and said,
2 'Well, there you have it. Our leader has left.'" Who was the "our leader" that
3 (Redacted) referred to?

4 A. Well, it was President Bemba. He specified that clearly. He had come to
5 criticise us about the behaviour towards the population, and amongst the officers
6 some certainly went off again. They exaggerated in the field and they were made
7 aware of this, and that is why he came to bring them back, to take them back home.

8 Q. Did you see Mr Bemba on that day?

9 A. Mr Prosecutor, you must realise if someone tells you that it is Bemba before,
10 well, you would have known, but I'm telling you that three people came out of the
11 aircraft and amongst these people one was very tall and fat and the leader was
12 wearing a hat. Mustapha (Redacted) And the eyewitness of this (Redacted)
13 (Redacted) who had gone to the base to pay some money to ensure that the
14 soldiers would keep his business safe. On the terrace there were some soldiers, and
15 after the departure he came back to get this money and he gave the explanations to us.
16 It was (Redacted) and his wife, along with their two children, because on the road to
17 Bangui they had their place right by (Redacted) place. Perhaps he was -- he arrived
18 and perhaps the soldiers were about to destroy his business. That is what he said.
19 (Redacted) said that he had some expensive tractors in Bozoum. He had a company
20 around Bozoum and he mentioned the name of that company, which I've forgotten,
21 and from the 7th until the 13th, at 11 in the morning, that was when I learned that
22 that particular person was the leader of the Banyamulengue and that is what I said in
23 my statement.

24 Q. Do you know what Mr Bemba did after coming out of the aircraft?

25 A. I believe I told you that the leader of the military headquarters welcomed these

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1 people and took them to the house. (Redacted) the house of the
2 deputy, the member of the National Assembly. I saw Mustapha. He was cunning,
3 crafty. (Redacted) far away, because certainly the presence of these western people,
4 this white person, would draw the attention of a leader. There was a military
5 cordon between (Redacted) the verandah of the house. What I do know is that the
6 aircraft landed on the paved road, motorway number 3. It was only after -- well,
7 you see, his size, his corpulence was described, and he was the biggest, the strongest,
8 or at least the most corpulent and that it was indeed him who was the leader.

9 PRESIDING JUDGE STEINER: I think the last part of the answer was not heard by
10 the interpreters.

11 THE INTERPRETER: Message from the interpreters: The last phrase that was
12 heard in the booth was, "He indicated (Redacted) that amongst these people, the fattest
13 one, the most strongly-built one, or at least the most corpulent one, was indeed him,
14 the leader."

15 PRESIDING JUDGE STEINER: Thank you to the interpreters.

16 MR SCALIOTTI:

17 Q. You said that Mr Bemba and other persons entered into the house. Do you
18 know what happened in the house after they entered?

19 A. Mr Prosecutor, I think I said that I was at quite a distance. (Redacted)
20 his wife and his children. We were far away. I have no idea -- I have no idea what
21 they did inside the house. I just saw a few minutes later between, well, 20, or 25,
22 maybe 30 minutes after, I saw the various goods being loaded into the aeroplane.
23 That is what I saw. We were not close. I didn't meet them. I didn't know him
24 before, so to my mind was it -- was it the pilot? Was it someone else? It was only
25 after that the Chief of General Staff (Redacted) the leader was the person who was

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1 wearing a hat and was wearing civilian clothing. He was not wearing military
2 clothing.

3 Q. After Mr Bemba's visit in Damara, did (Redacted)
4 Commander Mustapha about that visit?

5 A. (Redacted) just I noticed a few days after the 15th (Redacted)
6 (Redacted) for the number of Bozizé. That is what (Redacted) after President
7 Bemba's visit. He said (Redacted) - that he was
8 this particular person. After that, (Redacted) for Bozizé's number. Perhaps he was
9 trying to find out whether (Redacted) Patassé or Bozizé, I don't know, but (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)

13 Q. Do you know what the reason was for Mr Bemba to visit Damara?

14 A. I think I said that I didn't know the purpose of that visit. However, from my
15 point of view, well, I think that his visit relieved or made it easier to have peaceful
16 co-existence between the population and the soldiers.
17 I spoke of Karim Frank, who went there. And Patassé and Bemba were taking stock
18 of things, and that was to calm the situation. The leader was not in agreement,
19 because he saw it as being more of a conflict situation. The situation had become
20 calmer, less tense, but the -- (Redacted) were no longer very cordial
21 perhaps because of the goods, the looted goods that had been taken away.
22 In my opinion, well, I believed that he intended to take the town of Sibut, and I know
23 because the population of Sibut had heard what had happened in Damara and they
24 had emptied their houses. And when the Banyamulengue went to Sibut, they saw
25 that -- well, they didn't find very much. When they came back, the situation

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1 worsened.

2 PRESIDING JUDGE STEINER: Thank you, Mr Scaliotti.

3 Mr Witness, we are going to suspend now for lunch. You can have lunch. You can
4 take some rest. It's 1 o'clock. We are going to resume at 2.30.

5 Court officer, please turn into closed session in order for the witness to be taken
6 outside the courtroom. In the meantime, we are going to suspend and resume at
7 2.30.

8 *(Closed session at 1.02 p.m.)Reclassified as Open session

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

10 (The witness stands down)

11 THE COURT OFFICER: All rise.

12 (Luncheon recess taken at 1.02 p.m.)

13 *(Upon resuming in closed session at 2.38 p.m.)Reclassified as Open session

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

15 PRESIDING JUDGE STEINER: Good afternoon. Welcome back. We'll continue
16 with the questioning of Witness 209 and I ask, please, the court usher to bring the
17 witness in.

18 (The witness enters the courtroom)

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

21 (Open session at 2.41 p.m.)

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

23 PRESIDING JUDGE STEINER: Thank you very much. Good afternoon,
24 Mr Witness.

25 THE WITNESS: (Interpretation) Good afternoon, your Honour.

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1 PRESIDING JUDGE STEINER: Have you had lunch and rest a little bit?

2 THE WITNESS: (Interpretation) Yes, Madam President. I think that the status on
3 my teeth are hurting, hurting me very much, and you may have noticed that I have
4 changed my attire because I feel cold and it is for that reason that I changed my attire.
5 I also spoke at length this morning, and I am beginning to feel some pain, so I don't
6 feel very well and although I have an appointment with the doctor tomorrow, what
7 I can tell you is that, for now, I am not feeling too good.

8 PRESIDING JUDGE STEINER: Do you feel that we can proceed for some time with
9 your questioning? And if you feel too tired or a lot of pain, you just let us know.
10 Or you prefer not to start at all?

11 THE WITNESS: (Interpretation) Madam President, I am no longer able to continue
12 answering your questions because I cannot hear you in one of my ears, and I feel pain
13 on the stitches. I was told that the stitches would be removed tomorrow at my
14 doctor's appointment, but I just want you to know that I did my level best to answer
15 you up to this point. Let me further point out that I was not able to eat my lunch
16 because of the headache and the pain I have at the level of the stitches. So I am not
17 in a position to continue testifying.

18 PRESIDING JUDGE STEINER: I don't know whether the parties and participants
19 were informed, but VWU got in contact with the Chamber to inform the Chamber
20 about the medical appointment that the witness would have tomorrow, and for that
21 reason we would start our hearing tomorrow only at 10.30. Since the witness is
22 expressing pain and saying that he's not in a position to continue giving testimony, I
23 just wanted to listen from the Prosecution and Defence if they have any comments
24 or --

25 MS KNEUER: Madam President, we are in agreement with your Honours that, if

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- 1 the witness doesn't feel well, he should not be forced to continue today.
- 2 PRESIDING JUDGE STEINER: Mr Haynes?
- 3 MR HAYNES: We have no comment. Thank you, your Honour.
- 4 PRESIDING JUDGE STEINER: Legal representatives, I'm sorry.
- 5 MR ZARAMBAUD: (Interpretation) No comment, Madam President.
- 6 PRESIDING JUDGE STEINER: So the Chamber very much appreciates the efforts
- 7 made by the witness during the morning session and his efforts to come into the
- 8 courtroom, but as a matter of fact, if the witness is not feeling well and is not in a
- 9 physical condition to continue giving testimony this afternoon, it is for the Chamber
- 10 just to adjourn for today. Since the witness has a medical appointment tomorrow at
- 11 8.30 in the morning, we are going to -- it's tentative to resume tomorrow at 10.30 in
- 12 the morning in this courtroom.
- 13 Mr Witness, we wish you that you have -- you feel better. You will be given
- 14 assistance by VWU in order to help you with your pain, and we hope that tomorrow
- 15 morning in your medical appointment the problem is solved.
- 16 Court officer, before -- thank you very much, Prosecution team, the legal
- 17 representatives of victims, the Defence team, Mr Jean-Pierre Bemba Gombo. Thank
- 18 you very much to our interpreters, and I will ask now, please, court officer to turn
- 19 into closed session in order for the witness to be taken outside the courtroom. In the
- 20 meantime, we are going to adjourn and resume tomorrow morning at 10.30 in the
- 21 morning in this courtroom.
- 22 *(Closed session at 2.48 p.m.)Reclassified as Open session
- 23 THE COURT OFFICER: We are in closed session, Madam President.
- 24 (The witness stands down)
- 25 THE COURT OFFICER: All rise.

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- 1 (The hearing ends at 2.48 p.m.)
- 2 RECLASSIFICATION REPORT
- 3 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and
- 4 ICC-01/05-01/08-3038 and the instructions in the email dated 20 June 2014, the version
- 5 of the transcript with its redactions becomes Public