

Trial Hearing  
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 International Criminal Court  
2 Trial Chamber III - Courtroom 2  
3 Situation: Central African Republic  
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08  
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and  
6 Judge Kuniko Ozaki  
7 Trial Hearing  
8 Tuesday, 31 May 2011  
9 (The hearing starts in open session at 10.38 a.m.)  
10 THE COURT USHER: All rise. The International Criminal Court is now in session.  
11 Please be seated.  
12 THE COURT OFFICER: Good morning, your Honours, Madam President. We are  
13 in open session.  
14 PRESIDING JUDGE STEINER: Good morning. Could, please, the court officer call  
15 the case.  
16 THE COURT OFFICER: Situation in the Central African Republic, in the case of The  
17 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.  
18 PRESIDING JUDGE STEINER: Thank you very much. Good morning and  
19 welcome the Prosecution team, legal representatives of victims, the Defence team,  
20 Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters and court  
21 reporters.  
22 We will continue today with the questioning of Witness 209 by the Prosecution. The  
23 Chamber was informed that the witness attended a medical appointment this  
24 morning and is feeling well and able to continue giving his testimony. Therefore I  
25 ask, please, the court officer to turn into closed session in order for the witness to be

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1 brought into the courtroom.

2 \*(Closed session at 10.40 a.m.)Reclassified as Open session

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

4 (The witness enters the courtroom)

5 WITNESS: CAR-OTP-PPPP-0209 (On former oath)

6 (The witness speaks Sango)

7 PRESIDING JUDGE STEINER: Could we turn into open session, please.

8 (Open session at 10.42 a.m.)

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

10 PRESIDING JUDGE STEINER: Thank you. Good morning, Mr Witness.

11 THE WITNESS: (Interpretation) Good morning, your Honour.

12 PRESIDING JUDGE STEINER: Are you feeling better today?

13 THE WITNESS: (Interpretation) Your Honour, I went to the doctor this morning

14 and I feel much better today, so I can give my testimony.

15 PRESIDING JUDGE STEINER: We are very glad that you're feeling better,

16 Mr Witness.

17 Before I give the floor to the Prosecution, I need to remind you that you are still under

18 oath. Do you understand that, sir?

19 THE WITNESS: (Interpretation) I understand.

20 PRESIDING JUDGE STEINER: I also want to remind you that you are under

21 protective measures. Your voice and image broadcast outside the courtroom are

22 being distorted, which means that the public cannot identify you, so please remember

23 that when we are in open session you are not supposed to give any information that

24 could lead to your identification. And finally, Mr Witness, just to remind you that, if

25 at any time you need a break for any reason, just let us know. Is that fine with you,

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1 sir?

2 THE WITNESS: (Interpretation) Yes, your Honour, that is fine by me.

3 PRESIDING JUDGE STEINER: Then we will continue with your questioning by the  
4 Prosecution. Mr Scaliotti, you have the floor.

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

6 Good morning, Mr Witness. Madam President, in order to complete the topic that  
7 yesterday the witness was dealing with before we interrupted the questioning, I  
8 would ask you to move to private session. Thank you.

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

10 \*(Private session at 10.45 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, yesterday, before we interrupted your examination, you were  
14 talking about the visit of Mr Bemba at Damara. During that day at any point in time  
15 did you have the opportunity to get close to Mr Bemba?

16 A. Mr Prosecutor, in one of my statements I said that I was not close to him. I  
17 didn't have that opportunity. (Redacted)

18 (Redacted) We were far

19 away. However, we did see the aeroplane land, and the people who came out of the  
20 aeroplane they went to a house.

21 Q. I guess at some point Mr Bemba came out of that house, so my question is:  
22 What did he do when he came out of that house?

23 A. Mr Prosecutor, I think I said in my statement yesterday that there was a certain  
24 distance between us, from the place we were, and the terrace of the house where  
25 Mr Mustapha was staying. When they came out, he was in front and he was

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1 followed by Mustapha and a number of other officers.

2 As I already told you, I didn't know him before. It was only after his departure that  
3 the colonel (Redacted) various people had come. Because of the distance between  
4 the place where I was -- correction, where we were and the house, because that  
5 distance was rather large, he did all he could to ensure that visitors could not see the  
6 western person, the white person. Otherwise, that would have been drawn their  
7 attention. So we were kept further away.

8 Q. Mr Witness, I would like to draw your attention to something that you said  
9 yesterday during your testimony. I'm referring to transcript 119, English version,  
10 edited version, page 41, lines 1 to 6. The French version is page 41, lines 5 to 9.  
11 And I'm going to read to you this passage of your testimony and then I will ask you a  
12 few clarifications.

13 The question was, "Who was the 'our leader' that (Redacted) referred to?" Answer,  
14 "Well, it was President Bemba. He specified that clearly. He had come to criticise  
15 us about the behaviour towards the population, and amongst the officers some  
16 certainly went off again. They exaggerated in the field and they were made aware of  
17 this, and that is why he came to bring them back, to take them back home."

18 I would like to ask you, you said "He," meaning Mr Bemba, "had come to criticise us."  
19 What did you mean when you said "criticise us"? In other words, who Mr Bemba  
20 had come to criticise.

21 A. Mr Prosecutor, I think that's right, but there is a bit of a nuance here. I didn't  
22 say "us," because the person who was Mr Bemba, who was pointed out as Mr Bemba,  
23 when that person left the colonel came to take money from (Redacted)  
24 (Redacted) with the arrival of the supreme chief, well, that was due to the fact that there  
25 had been criticism about President Patassé and Mr Bemba, and all of that was on RFI.

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1 There had been cases of theft, looting, murder and, consequently, some officers were  
2 to be called back.

3 So the criticisms or the warnings were due to the acts of abuse and violence  
4 committed in Damara and elsewhere in the Central African Republic. So he had  
5 come because of this information that was going around about the acts of violence  
6 and abuse committed by the troops. That is why he came to check, to see for  
7 himself.

8 THE INTERPRETER: Correction from the English booth. Earlier in the reply, the  
9 witness made mention of cases of rape, not theft.

10 MR SCALIOTTI:

11 Q. You said all of that was on RFI. Can you specify what do you mean by RFI?

12 A. Mr Prosecutor, I think that in Africa, and even in Europe, RFI is known as being  
13 a radio station called Radio France Internationale. It's a French radio network that  
14 covers the entire world.

15 Now, to get back to your earlier question, the criticism on RFI, I think I said in my  
16 statement that a journalist, a French journalist, whose name if I remember correctly  
17 was Carine Franck, on France 2 at the time when the Banyamulengue were in Damara  
18 Carine Franck went there to conduct an investigation into everything that had  
19 happened. And when she left -- well, you see, there were two people. There was  
20 Carine Franck and then there was another journalist from France 2 who managed to  
21 slip into the neighbourhood.

22 (Redacted) Carine Franck and I really -- but I really couldn't make statements because  
23 the soldiers were present and they were in power. After they went back on Radio  
24 France Internationale, it was said -- it was said that there'd been cases of rape and  
25 looting, and that information was generally known.

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1 Q. You said that is why he, meaning Mr Bemba, came to check to see for himself.

2 How do you know this, that Mr Bemba came to see, to check for himself?

3 A. Mr Prosecutor, I think I've already told you that when Mustapha came out, as  
4 well as the person who was introduced as Bemba, after the departure of those people  
5 the colonel (Redacted) get the money that had been provided as a bond for the  
6 company. And he said that the leader had come to verify the information that had  
7 been broadcast about him, about him and about President Patassé.

8 He had come -- he came, he verified and he decided to call back a number of officers,  
9 and I was very clear about that. Mustapha (Redacted) the supreme  
10 leader had come to verify, to see for himself, what was happening in the field. And  
11 he (Redacted) not someone else.

12 Q. Mr Witness, do you know to whom Mustapha reports?

13 A. Mr Prosecutor, that question is both simple and difficult because military  
14 information was not being disclosed. As far as I'm concerned, when there were  
15 complaints, they (Redacted) he hadn't come to make a report to (Redacted) but rather  
16 to President Patassé, that he could (Redacted)

17 First of all, I thought that it was a military matter, and each time (Redacted)

18 (Redacted) that he reported directly to President Patassé,

19 (Redacted) I do know that perhaps he reported to his president,

20 Jean-Pierre Bemba, but personally I can't state that.

21 Up until 13 January, I knew that he was a military leader. He had authority in the

22 country. He had been brought in, but it was only on the 13th that I learned that he

23 had a supreme leader. The others, well, that was military details, and I can't provide

24 further information because I don't know.

25 Q. You just said "perhaps he," meaning Mustapha, "reported to his president."

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1 What, if anything, did you observe on that day to say that perhaps Mustapha  
2 reported to the MLC president?

3 A. Mr Prosecutor, well, if he wasn't under the authority of the leader of the MLC,  
4 why did he come to take away items? It all shows that he was indeed his leader  
5 because he took back some items, some goods, in his aeroplane. There were times  
6 when (Redacted) he reported directly to President  
7 Patassé, but I saw the aeroplane that landed in the field and I saw that goods were  
8 taken away by way of that aeroplane. So he was the hierarchical leader.

9 Q. You just mentioned President Patassé. Do you know what role, if any, did  
10 President Patassé have with regard to the MLC troops in Damara?

11 A. Mr Prosecutor, I have already told you that Bozizé's soldiers abandoned some  
12 weapons some 25 kilometres away, around Mboka. And a man was arrested and  
13 (Redacted) The village chief (Redacted)  
14 (Redacted) because if the Banyamulengue had discovered the weapon (Redacted) that  
15 would not have been a good thing. So I know that Patassé played a role because this  
16 man was about to be killed, and (Redacted) colonel of it. Patassé's officers went to  
17 Damara to fetch that weapon, some 25 kilometres away. Therefore, you must  
18 understand that President Patassé was working in collaboration with the ground  
19 troops. When Mustapha sent word to Bangui for Patassé to send people to come  
20 fetch that weapon, then you must understand that he also played a role in this conflict.  
21 I provided details on this point to the investigators.

22 Q. Mr Witness, I would like to draw your attention to another passage of your  
23 testimony that you gave yesterday. I'm referring again to transcript 119, English  
24 edited version, page 40, lines 11 and 12. French version is page 40, lines 15 to 17.  
25 You said, and I'm quoting, "From 11 in the morning until 3 in the afternoon, we saw

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1 the electrical generators and the motorcycles being loaded onto the aeroplane." Who  
2 loaded these goods into Mr Bemba's aircraft?

3 A. Mr Prosecutor, on the ground in Damara there was a leader, and his name was  
4 Mustapha. They agreed while in the house and when they stepped out, the soldiers  
5 themselves loaded that property. So it was Mustapha's soldiers who did it and  
6 Mustapha was in control. That is my opinion.

7 Q. Did you see Mr Bemba's aircraft?

8 A. Mr Prosecutor, in one of my statements I mentioned that it was a green aircraft,  
9 parked at highway number 3. When the aircraft landed, (Redacted)  
10 (Redacted) his boss had arrived and the  
11 other soldiers pushed us aside. So he went towards the plane to receive his boss.

12 But I did not know him. They had a discussion in the house, and while they were  
13 still in the house, the others were loading that equipment onto the plane, and I want  
14 to specify that it was a green aircraft.

15 Q. Mr Witness, I understand all of this, but still I'm not very clear whether or not  
16 you saw the aircraft with your own eyes.

17 A. Mr Prosecutor, (Redacted) I cannot tell you  
18 that I saw something when I did not see it. I cannot invent facts here. I am  
19 speaking to you under oath before this Court, and I am narrating to you events that I  
20 saw with my own eyes, so I cannot lie to you.

21 Q. Where was the aeroplane while it was being loaded by the soldiers with the  
22 goods?

23 A. I do not know how to describe the geography to you. I can say that the House  
24 of Parliament was about 50 metres away from the road and the aircraft landed on  
25 highway number 3, direction Sibut. All those who were aboard the aircraft,

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1 particularly the chief, whom I did not know, all I can say is that I saw soldiers come  
2 out of the plane, three of them in number. They walked towards the house, had a  
3 discussion within the house while the property was being loaded onto the planes by  
4 soldiers, and this property included refrigerators and other items. That is what I saw  
5 with my own eyes.

6 Q. Can you please clarify this: You said the House of the Parliament was about 50  
7 metres away from the road and the aircraft landed on highway number 3. Are this  
8 road and the highway number 3 the same?

9 A. Mr Prosecutor, I did not say 50 kilometres, I said 50 metres from the main road,  
10 so it is 50 metres, not 50 kilometres. There is a small stream not far away from the  
11 main road and close to the house where the chief was, so I am talking about 50 metres  
12 from highway number 3. There was the highway number 3, and next to which was a  
13 small stream that flowed close to the chief's house.

14 Q. Can you state approximately how far were you from that aeroplane?

15 A. My estimate would be that the distance was about 20 to 25 metres, 20 to 25  
16 metres to the high road, to the highway, and then the distance between us and the  
17 plane was about 30 metres; that is the distance between the aircraft and myself (Redacted)  
18 (Redacted) was about 30 metres. And all of that adds up to about 50 metres. That  
19 is where we were.

20 Q. What, if anything, did Mr Bemba know about the origin of those goods that  
21 were loaded into the aeroplane?

22 PRESIDING JUDGE STEINER: Mr Haynes.

23 MR HAYNES: A bit speculative.

24 PRESIDING JUDGE STEINER: I agree, unless Mr Scaliotti can rephrase, or object to  
25 the objection.

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1 MR SCALIOTTI: Madam President, thank you, but I think we can move on to  
2 another question.

3 Q. Mr Witness, was this the -- as far as you know, was this the only time that  
4 Mr Bemba visited Damara during the conflict?

5 A. Mr Prosecutor, it has been my testimony that the conflict in Damara started on 7  
6 December 2002. The Banyamulengue left Damara in mid-February, and that has  
7 been my testimony. A short while ago, you put a question to me and my answer  
8 was that Bemba was not present. However, he arrived on a certain day and (Redacted)  
9 (Redacted) Bemba had arrived. It was on 13 January 2003 that I knew the person  
10 whom I had not known previously. (Redacted) that Bemba had come. It  
11 was (Redacted) Bemba had come on 13 January 2003, to be specific.

12 THE INTERPRETER: Correction from the interpreter: Page 11, line 16, a small  
13 street, not a small stream. Thank you.

14 MR SCALIOTTI:

15 Q. Mr Witness, I would like to bring you back now to something that we have  
16 already covered, but just for a few questions, and I'm referring to the looting of your  
17 own property. You said --

18 JUDGE ALUOCH: Mr Scaliotti, before you go to the next subject, I just want to find  
19 out something from today's transcript, page 11, when the witness says, "I saw soldiers  
20 come out of the plane, three of them." Mr Witness, what made you conclude that  
21 they were soldiers? Was it the way they were dressed, as they came out of the plane,  
22 three of them? I know somewhere -- some time yesterday you said one of them was  
23 wearing a cap, but when you say, "I saw soldiers come out of the plane, three of  
24 them," was it the manner in which they were dressed that made you conclude they  
25 were soldiers?

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1 THE WITNESS: (Interpretation) Your Honour, that was not my testimony. Maybe  
2 there was a mistake somewhere. I said that I saw three people come out of the plane  
3 and that the leader of the soldiers was present to receive those people and take them  
4 into the house. The Prosecutor asked me about who loaded the plane when they  
5 were in the house. So I did not say that it was soldiers who came out of the plane.  
6 That is not what I said. The Prosecutor asked me how many people came out of the  
7 plane and my answer was, "Three people." This is the same answer that I gave  
8 during the preliminary investigations. I did not know President Bemba, but he was  
9 introduced to me as the one who was wearing a cap, with the end of it curled  
10 upwards. So I did not see three soldiers come out of the plane. The soldiers who  
11 transported the property came out of the house in which Mustapha was living to load  
12 that property on to the plane. That was my testimony.

13 JUDGE ALUOCH: Thank you very much.

14 MR SCALIOTTI:

15 Q. Mr Witness, for my next question I would like to go back to transcript 117,  
16 English edited version, page 34, lines 9 to 11. The French version is page 35, lines 6  
17 to 9. You said, "Everything that I had acquired throughout my life was lost. They  
18 actually emptied my house." Can you list at least some of the goods that were stolen  
19 from you?

20 A. Mr Prosecutor, in my statement I said that, after I fled -- let me specify that I had  
21 (Redacted) houses, (Redacted)wives and one of the houses was (Redacted). All  
22 those houses were emptied. I had a radio, a hunting weapon, beds and clothing, not  
23 to mention the goods that I had because (Redacted) and I  
24 lost that property overall. A radio, guns, clothing and other items, several other  
25 items. I was very angry and I used to sleep on a mat at that time, and on the day

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1 (Redacted) sleeping on a mat. He was standing up  
2 when he (Redacted) but did not  
3 return my stolen property. So that is the general picture.

4 Q. Mr Witness, I know that this question may sound a bit strange to you, but I have  
5 to ask you anyway. Was any stolen good in Damara returned to the owner?

6 A. I did not see any goods being returned to anyone, officially or otherwise. You  
7 see, to my mind it was like a transaction. If one found one's property, one may have  
8 provided money for the property to be returned, but there were no cases of officially  
9 restoring or returning property to people.

10 Q. I'm not clear if you just answered this question, but just to make sure: Was  
11 anybody in Damara compensated for the looting of the property?

12 A. Mr Prosecutor, who would have compensated those people? I do not  
13 understand your question. You see, the regime that provoked or brought on this  
14 situation is a defunct regime, so the only one who was in charge was Mustapha and  
15 his people and they would have been the ones to compensate those people. It would  
16 have been difficult for the property to be returned; for all the property to be returned.

17 MR SCALIOTTI: Madam President, the Prosecution has no further questions. Just  
18 before I conclude, one final point. The Prosecution is certainly mindful of the  
19 Chamber's instruction and the fact that a decision is pending with regard to the  
20 implementation of the Appeals Chamber decision. Just for the record we would like  
21 to state that it is our intention to tender into evidence Witness 209's statements, and of  
22 course we'll do that in accordance with the instructions that the Chamber will issue.  
23 Thank you for this.

24 PRESIDING JUDGE STEINER: Thank you very much, Mr Scaliotti. Court officer,  
25 please turn into open session.

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1 (Open session at 11.25 a.m.)

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

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

4 Prosecution finished with your questioning and now the Chamber will give the

5 opportunity for the legal representatives of victims, Maîtres Zarambaud and

6 Douzima, to put some questions to you. We will start by Maître Zarambaud.

7 Maître Zarambaud, you have the floor. Just, Maître Zarambaud, to remind you

8 about pointing to the witness whether the questions can be put and answered in open

9 or private session, please.

10 MR ZARAMBAUD: (Interpretation) Thank you, Madam President.

11 QUESTIONED BY MR ZARAMBAUD: (Interpretation)

12 Q. Mr Witness, good morning.

13 A. I'm sorry, Counsel, but I did not hear you. I have difficulty hearing you.

14 Q. I was simply greeting you, Mr Witness. Good morning.

15 A. Good morning, Counsel.

16 THE INTERPRETER: Madam President, from the interpreters, if the witness were

17 advised to breathe further away from the microphone, it would assist us greatly.

18 Counsel introduces himself as the representative of victims.

19 MR ZARAMBAUD: (Interpretation) And I'm working with Counsel Marie-Edith

20 Douzima and the Court has authorised us to put a few questions to you. The

21 President has recommended in her oral decision that we put some questions to you,

22 particularly the first question, in private session, so I would like to apply that we

23 move into private session.

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

25 \*(Private session at 11.27 a.m.) Reclassified as Open session

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

2 MR ZARAMBAUD: (Interpretation)

3 Q. Mr Witness, when the investigators of the International Criminal Court told you,  
4 and I quote, "Be very careful and make sure that all our discussions here will be  
5 governed by confidentiality," in your answer you said, "It is timely of you to remind  
6 me of issues of confidentiality, because such issues are important for my security.  
7 You will go back to The Hague, but I will remain here and I am concerned about  
8 those issues. That is why I have taken good note of what you have just said." And  
9 the reference is CAR-OTP-0058-0034.

10 My question is the following: According to you, who is likely to threaten your  
11 security flowing from the fact that you have testified before this Court?

12 A. Thank you, Counsel. I shall answer your question. If I stated that, that is  
13 because I had concerns with regards to my security. The geographical situation in  
14 the Central African Republic and the Democratic Republic of Congo is such that if  
15 you note on a map, when you look at Damara and the prefecture thereof, and the  
16 sub-prefecture of Gbadolite, they are bordering and, as such, there is a distance of  
17 around 59 kilometres.  
18 And you are a lawyer from the Central African Republic. You know -- you know  
19 that if there is a problem, a mission, a commando can come from the Democratic  
20 Republic of Congo to take my family and even myself. The distance is not very large,  
21 and that's the reason why I referred to that. It is important that I take measures  
22 myself concerning my security because, in the case of problems, the ICC would only  
23 come afterwards, but it is -- I have to take into account all the security aspects and  
24 that's the reason why I referred to that.

25 Q. Thank you very much, Witness. My next series of questions will be asked on

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1 the basis of the reference CAR-OTP-0058-0030, last paragraph thereof, and in this  
2 reference you stated and I quote you, "At the beginning, the troops of Bemba who  
3 were sent here were composed of Rwandans and former soldiers of President Mobutu.  
4 At the beginning, the Banyamulengue were not soldiers but they were farmers.  
5 They were not used to carrying weapons."

6 PRESIDING JUDGE STEINER: Maître Zarambaud, I'm sorry to interrupt you. I  
7 think for this question we can turn back into open session.

8 MR ZARAMBAUD: (Interpretation) Of course, Madam President.

9 PRESIDING JUDGE STEINER: Mr Witness, we are turning again into open session,  
10 reminding you not to mention information that could lead to your identification.  
11 Court officer, please turn into open session.

12 THE WITNESS: (Interpretation) Your Honour, I think that the question of the legal  
13 representative does need a closed session because, with regards to this question, if I  
14 have to give an answer to it -- I would crave your indulgence for a closed session,  
15 because this passage confirms whether I should go into the details. There is  
16 information which could be revealed and, as such, I would ask the Court if it is  
17 possible to stay in closed session. I'm trying to take responsibility for my security  
18 before the Court takes charge of it.

19 PRESIDING JUDGE STEINER: The Chamber fully understands your point. My  
20 question is, the legal representative has not even finished reading part of your  
21 statement and has not put any questions to you yet.  
22 It appears that the questions do not refer to (Redacted) or  
23 anyone else. It appears that they are about general knowledge of some facts. So I  
24 will allow the legal representative to continue reading that part of your statement and  
25 to put to you the questions. If question-by-question you think it's necessary to go

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1 into private session, we go into private session. Is that fine with you, sir?

2 THE WITNESS: (Interpretation) Yes, that is appropriate.

3 THE INTERPRETER: There is a background noise in the headphones. Is it possible  
4 to adjust the position of the witness, asks the Sango interpreter? This is a breathing  
5 noise, confirms the English interpreter. He's breathing directly into the microphone.

6 (Pause in proceedings)

7 (Open session at 11.38 a.m.)

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

9 PRESIDING JUDGE STEINER: Mr Witness, the court usher was adjusting your  
10 microphone, in order so the noise of your breathing does not disturb the Sango  
11 interpreter. That is the only reason. We are in open session. Maître Zarambaud  
12 will continue reading to you his question, and at any time you feel that you need to  
13 reveal information leading to your identification we go into private session.

14 Maître Zarambaud, please.

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

16 Q. Witness, as the Presiding Judge has just stated, the question which I wanted to  
17 put to you just relates to the situation of the soldiers; but as the Presiding Judge also  
18 said, if in answering this question you consider that there is confidential information  
19 that you need to give, then we can always ask that we -- that the Presiding Judge  
20 orders a private session. But because we are in open session, I would like to remind  
21 you here that you should give no information that could lead to your identification.  
22 So I shall go back to the passage that I mentioned, and that is the basis for the  
23 question. I shall repeat this passage once against, it's CAR-OTP-0058-0030, and the  
24 last paragraph thereof, and you stated therein that, "At the start, the troops that  
25 Bemba had sent here were composed of Rwandans and former soldiers of President

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1 Mobutu. At the beginning, the Banyamulengue were not soldiers but they were  
2 farmers. They were not used to carrying weapons."  
3 And you stated, and the reference to this is CAR-OTP-0058-0038, paragraphs 2 and 6  
4 thereof, "The Banyamulengue were not soldiers; they were small farmers who did not  
5 know anything about these weapons, and this is the reason why I think that instead of  
6 fighting they raped women and pillaged property, among others."  
7 Situation paragraph 6, "They were grouped by ethnic origin, Mbaka, who are of the  
8 same ethnic group as Bemba, were together; and there was also the Zaireans, the  
9 Rwandan Tutsi groups, who were of the same origin as Mustapha; and then there was  
10 the Banyamulengue group, who were seen from -- they were looked down on by the  
11 other groups because they weren't good soldiers."

12 My first question is as follows: How could you make such a distinction?

13 A. Thank you, Counsel. I think that in my statement I referred to the fact that in  
14 the Central African Republic we were all -- we are all a Bantu people. There's Mbaka  
15 in Central African Republic; Mbaka also in the Congo; there are Banda on the other  
16 side, as well. And so all these -- you have these ethnic groups, the same ones on the  
17 other side as well, and if I gave this example there that is because the troops who  
18 came and who committed atrocities did not have material goods, or they were  
19 looking for material goods, and they were not disciplined. They didn't respect the  
20 command.

21 But to say that the commander himself -- well, (Redacted) that  
22 they were peasants who were working in the agricultural land. And in order to  
23 supplement the troops they had been enlisted, and he had difficulties in keeping them  
24 in check. They were undisciplined.

25 And if today I'm able to make a distinction between Mbaka and that the Mbaka and

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1 President Bemba is of the Mbaka ethnic group, then that is because the leader or the  
2 chief himself (Redacted) these were soldiers who were  
3 from the ethnic group of the chief, and so he had difficulties in keeping them in check,  
4 in disciplining them, and because they were from the chief's ethnic group and it was  
5 the leader himself (Redacted)

6 PRESIDING JUDGE STEINER: Maître Zarambaud, sorry to interrupt again. Court  
7 officer, could we go into private session, please.

8 \*(Private session at 11.44 a.m.)Reclassified as Open session

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

10 PRESIDING JUDGE STEINER: Mr Witness, we are going to private session because  
11 in your answer, Mr Witness, you mentioned three or four times, (Redacted)  
12 (Redacted) This is exactly the kind of information that you should  
13 not mention in open session. So we will continue in private session therefore.  
14 Maître Zarambaud, please.

15 MR ZARAMBAUD: (Interpretation) Thank you very much, your Honour.

16 Q. My next question referring to this is as follows: Did the soldiers wear insignia  
17 showing their rank?

18 A. Counsel, I can tell you that the chief himself -- well, I didn't see the rank that he  
19 wore. He was called captain, corporal. It was difficult to recognise that. He didn't  
20 have any kind of distinctive sign.

21 Q. Thank you very much, Witness. Overall, were the soldiers staying with the  
22 inhabitants or were they staying in tents that they had brought with them  
23 themselves?

24 A. Counsel, I stated that when they arrived, they occupied the Obo neighbourhood  
25 and during this time all the inhabitants fled, so they occupied houses which were

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1 abandoned by their owners. And when the owners arrived, they couldn't stay in the  
2 house. I can give you an example, that of the mayor. He was living in his lounge  
3 and he took everything that he could. All the neighbourhood in Obo, all the  
4 neighbourhood of Obo was occupied by them, even the house of the deputy was  
5 occupied. They occupied the whole neighbourhood. During this time the  
6 inhabitants were in the bush.

7 Q. Thank you very much, Witness. You stated that they occupied the houses  
8 while the inhabitants were in the bush and when they came back they couldn't stay in  
9 their houses. So where did the inhabitants go then while their houses were occupied  
10 by the Banyamulengue soldiers?

11 A. Counsel, I stated that we are Africans. We were in a war period. When you  
12 see that your house is occupied, what you have to do is to go and stay with a relative  
13 of yours. When you see that your house is occupied, you go to a relative in order to  
14 take refuge.

15 Q. Thank you, Witness. My next series of questions, or my third series of  
16 questions, relates to the arrival of the plane of the person who you said was  
17 Mr Jean-Pierre Bemba. And here I'm referring to CAR-OTP-0058-0031, paragraph 6  
18 thereof, CAR-OTP-0058-0032, paragraph 15, and CAR-OTP-0058-0094, paragraph 8.  
19 I had a whole series of questions which I wished to put to you in this regard, namely,  
20 the arrival of the aeroplane and of Mr Bemba. I think that the Office of the  
21 Prosecutor asked you a sufficient number of questions in that regard, and you gave  
22 the answers to them that were necessary. I just wanted to know if this plane was  
23 sufficiently large to be able to put in all the objects that you mentioned, such as  
24 refrigerators, generators, all such heavy objects. Was the plane sufficiently big to fit  
25 all of those objects therein?

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1 A. Counsel, if I say refrigerators were put into the plane, you can understand that  
2 it was a big plane. I didn't get close to the plane. But if a plane is able to contain  
3 refrigerators and electric generators, that shows that it is a big plane. \*I can also give  
4 you the example of a 50 kW/hr generator. The plane was able to transport motorbikes  
5 and other things. That type of plane landed for the first time on the national road,  
6 and after this aeroplane had passed through there wasn't another one.

7 Q. Thank you very much. A last question in this regard. After the departure of  
8 Mr Bemba, did you note that officers had been repatriated to the Congo?

9 A. Yes, Counsel, some of the soldiers were repatriated, and after they were  
10 repatriated the others were afraid and, as I said to the Prosecutor yesterday, things  
11 were able to work. And I think that after having taken property and put that  
12 property into the plane, they thought they would be able to go to Sibut in order to be  
13 able to do the same thing but, unfortunately for them, when they arrived in Sibut  
14 there was nothing else, nothing left, because the inhabitants had taken their own  
15 measures. And I can confirm that some of them were repatriated.

16 Q. Thank you very much, Witness. My next series of questions relates to the  
17 murder, or the killing, that was done to several people, and I think that your answers,  
18 or the answers that you have given to the Office of the Prosecutor, do seem to be  
19 satisfactory and detailed in that regard and, as such, I would not ask -- or I do not  
20 intend to ask the same questions. My next series of questions relates to reference  
21 CAR-OTP-0058-0034, paragraph 2 thereof. You stated that, "According to (Redacted)  
22 Patassé and he -- he had given to Bemba, that is to say 3 billion, but that he wasn't  
23 eating well, or at least the soldiers weren't eating well." And you stated that, and the  
24 reference to that is CAR-OTP-0058-0038, paragraph 2 and 4 thereof, and I quote,  
25 "They pillaged houses, took clothing, mattresses, motorbikes, refrigerators, generators,

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1 et cetera. The Banyamulengue started to kill the domestic animals such as goats,  
2 dogs, and also to destroy the plantations which belonged to the population. They  
3 pillaged all the reserves that the population had stocked in their attics. And I should  
4 say that Mbaka are people who ate goat." So my question is quite simple: Do you  
5 confirm this statement?

6 A. Prosecutor, that is exactly what I said to the investigators.

7 Q. There's a follow-up question. Banyamulengue, did they have rations? Were  
8 they provided with rations by their hierarchy in order to eat -- well, they ate the  
9 animals of the population, so were they provided with rations at all?

10 THE INTERPRETER: The interpreter corrects, 26, 9 the Mbaka are persons who ate  
11 dogs and not goats.

12 THE WITNESS: (Interpretation) Counsel, I think that they received beans and they  
13 also got fish, but if you imagine, if somebody just eats the same thing every day,  
14 chinchard for a week, ate beans, it's difficult to put up with, and that's why they  
15 preferred to kill the domestic animals such as goats and other. They ate fish and  
16 they ate beans. They ate that every day and, after taking Begoua, they decided to go  
17 into the bush and kill other animals, other wild animals.

18 THE INTERPRETER: Other domestic animals such as cows, corrects the  
19 interpreter.

20 MR ZARAMBAUD: (Interpretation)

21 Q. Thank you, Witness. The other questions relate to the crimes that were  
22 committed, the atrocities that were carried out. I don't think I'm going to ask that  
23 question though. I shall just go straight to the last questions because, in a general  
24 way, in your statement, you only spoke about the Banyamulengue. Were there not,  
25 during the same period, Central African Republic soldiers fighting next to the

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1 Banyamulengue against Bozizé's rebels?

2 A. Counsel, it was difficult to see the presence of the Central Africans next to the

3 Banyamulengue. There were different races that I mentioned. Here I would state

4 that there was no Central African Republic soldier alongside these Banyamulengue.

5 MR ZARAMBAUD: (Interpretation) Thank you very much for having answered

6 my questions. Thank you, your Honour, I have finished.

7 PRESIDING JUDGE STEINER: Thank you very much, Maître Zarambaud.

8 Mr Witness, now Maître Douzima, who is also a legal representative of victims, is

9 going to put to you some questions. We are trying again, Mr Witness, to go into

10 open session, and I ask you please to pay attention to not mentioning, (Redacted)

11 (Redacted) This

12 kind of information can lead to your identification, but I think we should try again to

13 go into open session.

14 Court officer, please.

15 (Open session at 12.00 p.m.)

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

17 PRESIDING JUDGE STEINER: Thank you. Maître Douzima, you have the floor.

18 I just call your attention for your first question, and if possible for this first question to

19 be put at the end because this one has to be put in private session, if you don't mind.

20 MS DOUZIMA-LAWSON: (Interpretation) I thank you, your Honour. First of all,

21 I thought I would ask all the questions in private session and then a group of

22 questions that could be asked in open session. I'll start with question number 1 and

23 then the other questions will follow.

24 PRESIDING JUDGE STEINER: If you so prefer, we can proceed like that. So, court

25 officer, please turn back into private session.

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1 \*(Private session at 12.01 p.m.)Reclassified as Open session

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

3 MS DOUZIMA-LAWSON: (Interpretation) Thank you.

4 QUESTIONED BY MS DOUZIMA-LAWSON: (Interpretation)

5 Q. Witness, good morning.

6 A. Good morning, ma'am.

7 Q. Witness, like my learned friend, Mr Zarambaud, said to you, both of us are legal  
8 representatives of victims who have been authorised to take part in this trial.

9 Consequently, we are here to present the views and concerns of the victims before the  
10 Court and that is why we have asked for permission to ask you questions. It's not  
11 that we are not in agreement with you. It is merely because, in that you are a  
12 witness of the events, we must ask you some questions so that light can be shed on  
13 these matters before the Chamber so that the Chambers can properly -- the Chamber  
14 can properly understand what occurred. Do you understand what I'm saying?

15 A. Yes, I do understand.

16 Q. I'd like to ask you some questions about your statements to the investigators  
17 from the Office of the Prosecutor, and also I'd like to ask you some questions in light  
18 of the replies that you provided here during the hearing; replies to a number of  
19 questions asked by the Prosecution. Now, Witness, my first question has to do with  
20 one of your statements during the investigation, and the reference is

21 CAR-OTP-0058-0030. You stated, sir, that you were (Redacted)  
22 (Redacted) in 2004 and then you were (Redacted) in 2005. Could  
23 you tell us why you were (Redacted) and why you were subsequently  
24 (Redacted)

25 A. Yes, Counsel. I've understood your question, but I just wanted to point out

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1 that this is (Redacted) and so (Redacted)  
2 (Redacted) I was first (Redacted) in '99 and later on I was (Redacted) in  
3 2005. Now, generally speaking I don't have (Redacted)  
4 (Redacted) but as you know, (Redacted) draw closer, generally speaking people are  
5 (Redacted) who are close to (Redacted) Myself, I really don't have  
6 any political label and I'm not a supporter of any particular party. I'm a member of  
7 civil society.

8 Q. Now, have you been a member of civil society up until now?

9 A. I really don't have any political affiliation. As I said in my statement, I prefer  
10 to work for myself rather than engaging in political activities, so I consider myself to  
11 be a member of civil society.

12 Q. Thank you. Witness, in your testimony before the Court on 26 May, page 22,  
13 lines 4 to 7, you said -- and I'm speaking, or I'm referring, to the real-time transcript.  
14 You said that Bozizé's forces arrived in Damara on 27 October 2002, but from lines 16  
15 to 17 the Prosecutor asked you whether that was correct, that Bozizé's troops  
16 remained in Damara from 26 October to 7 December 2002, and you said that that was  
17 correct. So my question is was it the 26th, or the 27th, of October?

18 A. I said 27 October. As of that day -- well, that was the day when Bozizé's troops  
19 occupied the town of Damara until the 7th. So I was not speaking of 26 October. It  
20 was the 27th. That is what I said to the Prosecutor.

21 Q. Thank you. I would like to hark back to your statement given during the  
22 investigation, CAR-OTP-0058-0048. I'd like to ask you whether it was Mr Mustapha  
23 (Redacted) he was the representative of Mr Bemba in the Central African  
24 Republic?

25 A. In one of my statements, I said that up until 13 January Mustapha (Redacted)

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- 1 (Redacted) he was a representative of Bemba. I only found that out on 13 January 2003.
- 2 That question was asked of me by the investigators and -- well, I was asked whether
- 3 Mustapha (Redacted) as Bemba's representative and I said "No." Up until
- 4 13 January 2003, it was only when the aeroplane landed that he (Redacted)
- 5 (Redacted) he was his leader. That is when I found that out.
- 6 Q. Now, who was it that (Redacted) Mr Mustapha, (Redacted)
- 7 (Redacted) if at that time you did not know who was the leader of the
- 8 Banyamulengue -- if you didn't know that it was him who was the leader of the
- 9 Banyamulengue?
- 10 A. Counsel, no one (Redacted) On the morning of the 10th, when (Redacted)
- 11 (Redacted) -- well, I don't know if they had come out of the bush
- 12 on the 9th. Well, (Redacted)
- 13 (Redacted)
- 14 (Redacted) At
- 15 that time we did not have (Redacted) and it was important to undertake this
- 16 particular endeavour, so (Redacted) and -- well, we didn't know Mustapha.
- 17 (Redacted)
- 18 (Redacted) Mustapha and when (Redacted) Mustapha (Redacted) the
- 19 house, and someone else (Redacted) and then Raffa came and he asked what this was
- 20 all about and (Redacted)
- 21 (Redacted) and find some kind of compromise and a way of co-existing peacefully.
- 22 (Redacted) to Mustapha. Mustapha (Redacted) They were (Redacted) the
- 23 other one was interpreting, and that was the purpose (Redacted)
- 24 (Redacted) Mustapha. It was only on the 10th that we learned the name of the leader.
- 25 So that's how it unfolded. (Redacted) and find some kind of

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1 compromise. It worked to some extent, but with a great deal of difficulty.

2 Q. Witness, at the hearing of 26 May, real-time transcript page 30, lines 27 and 28,  
3 you stated that (Redacted) a figure and -- a figure as to the  
4 number of MLC troops and that figure was 2,000. Now, why (Redacted)  
5 item of information?

6 A. Counsel, you are correct to ask that question. A soldier can't give such  
7 information out, because -- well, when they fell into an ambush, well, they lost 26  
8 soldiers during that ambush. (Redacted) the corpses and (Redacted)  
9 in light of the numbers, it was easy for -- it was easy -- it would be easy for them to  
10 wipe out the town of Damara and to wipe out any attempts to reprimand the people  
11 who had done those things, and that was when (Redacted) the  
12 corpses of those soldiers who had been killed in the ambush.

13 Q. Witness, I would like to hark back to your statement made during the  
14 investigation, page CAR-OTP-0058-0062. You said that (Redacted) by a  
15 boy who saw the rapes occurring in public. And I would remind you, I'm speaking  
16 of the rapes of (Redacted) and (Redacted) Now, did this boy (Redacted) the circumstances  
17 of these rapes?

18 A. Counsel, he didn't explain (Redacted) the circumstances surrounding the rapes  
19 of these girls. He just (Redacted)  
20 (Redacted) The girls were entirely naked and they were hiding their genitals were their  
21 two hands, and at that time there were two soldiers who were present. And since  
22 there were people who were coming, the girls -- well, the girls were naked. And a  
23 lady found some wraps to cover themselves.  
24 I wasn't there at that point in time, but when (Redacted) well, it was humiliating.(Redacted)  
25 (Redacted) a leader and to (Redacted) The leader himself, he came to

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1 see the situation and he took the two young girls to their headquarters to see Colonel  
2 Mustapha. And as these two young girls were being taken there, the two soldiers  
3 (Redacted) the two soldiers would have to find their fellow  
4 soldiers who had committed the rapes. And (Redacted) this was a degrading  
5 act, namely, to sleep with a woman in public and that it was degrading. And so that  
6 is how it came to be that (Redacted) the perpetrators of the rapes punished.

7 Q. I've a question regarding the transcript of 27 May, real time, page 10, lines 6 and  
8 7. You stated that those girls were raped by eight Banyamulengue. Now, was it the  
9 girls who said that they had been raped by eight Banyamulengue?

10 A. Counsel, when I arrived - and I think I've told you this - I found two people  
11 there and, when they were taken to the leader, the two soldiers themselves (Redacted)  
12 (Redacted) there had been eight of them. Since it was a serious situation  
13 they had to go see the leader, the chief. But it was two. The girls were taken to the  
14 base, to the headquarters, and (Redacted) there were eight of them. That is what  
15 I know. And it was because of that statement I learned that there had been eight,  
16 that eight of them had done the rape.

17 Q. Thank you. But how was it that -- how were the two Banyamulengue  
18 abducted -- or captured, rather?

19 A. Counsel, I've told you that I wasn't present. I don't know why the two soldiers  
20 stayed with the two girls, because there was a group of young people who were  
21 aware of the situation and I don't know why nor under what conditions they stayed.  
22 Why did they stay with those two girls? Was it because they were ashamed, because  
23 there was already a group of people who had gathered around them? But when I  
24 got there, I saw two young girls, two soldiers and, at that time, they wanted to cover  
25 (inaudible) rape the two girls.

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1 I went to see -- and when they were taken by the -- to the leader, they (Redacted)  
2 (Redacted) it hadn't been two but, rather, it had been eight. So those were the  
3 circumstances under which -- well, the circumstances under which those two had  
4 been apprehended. Well, I wasn't there so I really can't tell you.

5 THE INTERPRETER: The Sango booth requests the witness to slow down.

6 PRESIDING JUDGE STEINER: Mr Witness, the interpreter is asking you, please, to  
7 slow down a little bit. Thank you. Maître.

8 MS DOUZIMA-LAWSON: (Interpretation)

9 Q. Witness, in your testimony yesterday on 30 May 2011, page 18, lines 4 to 7,  
10 real-time transcript, you stated that after the punishment of the rapists of (Redacted) and  
11 (Redacted) there had been no further cases of rape; but since they were women, well,  
12 they started to have -- women started to have consensual relations with the soldiers.  
13 Were you still speaking of (Redacted) and (Redacted) when you said that?

14 A. No, I didn't talk about (Redacted) and (Redacted). I didn't talk about the other  
15 women because, after that, the Banyamulengue would see young girls and vice-versa.  
16 But it wasn't (Redacted) and (Redacted). They were women, young women who were  
17 free, who were living in Damara, single women. Perhaps because a conflict was  
18 going on they weren't able to do their usual work and so they decided to voluntarily  
19 give themselves over. I'm speaking about other women who had consensual  
20 relations with them.

21 Q. I thank you, Witness. I would like to once again go back to your statement  
22 made during the investigation, page CAR-OTP-0058-0062. You stated that the  
23 Banyamulengue left Damara in mid-February 2003. Where did they go on that date  
24 and how did they leave?

25 A. Counsel, regarding their departure, that was because of international opinion

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1 because people were talking about what was going on everywhere and, at the last  
2 minute, people could see that our soldiers had been delegated to go and cohabitate  
3 with them, but there was no agreement. So the number of troops gradually  
4 decreased.

5 More specifically, on 15 February some Central African Republic soldiers were  
6 alongside the Banyamulengue at the checkpoint. But there was no agreement  
7 because the sharing -- because the looted goods were not being shared properly. But  
8 there were some, from 50 kilometres away from Damara, some of them were paying  
9 people to transport the looted goods so that they could leave with those goods.

10 \*They took small roads. -- I could mention Pandou village, which faces Zaire. There  
11 were armed soldiers, there were four of them, and they were paying civilians to help  
12 them transport the looted goods. They took the goods across before the coup d'état  
13 on the 15th.

14 PRESIDING JUDGE STEINER: We have only a few minutes left on the tape, so we  
15 need to suspend and we'll continue after the lunch break.

16 Court officer, please turn into open session.

17 (Open session at 12.25 p.m.)

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

19 PRESIDING JUDGE STEINER: Thank you very much. Maître Douzima, do you  
20 have an estimation on how long it would take for you to complete your questioning?

21 MS DOUZIMA-LAWSON: (Interpretation) Approximately 30 minutes.

22 PRESIDING JUDGE STEINER: Thank you. I ask now the Defence, since we have a  
23 two-hour session in the afternoon, whether Defence will be prepared to start in the  
24 afternoon with its questioning.

25 MR HAYNES: Your Honour, I can't see why not, unless the witness is

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1 uncomfortable.

2 PRESIDING JUDGE STEINER: Thank you very much. Mr Witness, we are going  
3 to suspend now. We will have our lunch break. You have time for your lunch and  
4 to take some rest. It's almost 12.30. We'll be back in the courtroom at 2 o'clock.  
5 Court officer, please turn into closed session for the witness to be taken outside the  
6 courtroom. In the meantime, we are going to suspend and resume at 2 o'clock in this  
7 courtroom for another session, two-hour session in the afternoon.

8 \*(Closed session at 12.27 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 (Recess taken at 12.28 p.m.)

13 \*(Upon resuming in closed session at 2.14 p.m.) Reclassified as Open session

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

15 PRESIDING JUDGE STEINER: Good afternoon. Welcome back. Maître Liriss,  
16 welcome. We will continue with the questioning of Witness 209 by Maître  
17 Douzima-Lawson, so I ask, please, court usher to bring the witness in.

18 (The witness enters the courtroom)

19 PRESIDING JUDGE STEINER: Good afternoon, Mr Witness.

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

21 PRESIDING JUDGE STEINER: Court officer, please let's turn into open session.

22 (Open session at 2.16 p.m.)

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

24 PRESIDING JUDGE STEINER: Thank you. Once again, good afternoon,

25 Mr Witness.

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- 1 THE WITNESS: (Interpretation) Good afternoon once again, Madam President.
- 2 PRESIDING JUDGE STEINER: Did you manage to take some rest?
- 3 THE WITNESS: (Interpretation) Yes, I was able to rest.
- 4 PRESIDING JUDGE STEINER: Are you feeling well and ready to continue giving
- 5 your testimony?
- 6 THE WITNESS: (Interpretation) We may proceed and, if I do get tired, I will let
- 7 you know. For now it feels a little cold, but we can proceed.
- 8 PRESIDING JUDGE STEINER: Thank you, Mr Witness. So I am giving the floor to
- 9 Maître Douzima-Lawson to continue with your questioning.
- 10 MS DOUZIMA-LAWSON: (Interpretation) Thank you, Madam President.
- 11 Q. Mr Witness, just before the break, you were answering my question about
- 12 where the Banyamulengue went in mid-February when they left. I hope we are in
- 13 closed session. Madam President, I have not concluded my questions which were to
- 14 be put in closed session, so I would like us to go into closed session.
- 15 PRESIDING JUDGE STEINER: Court officer, please let's turn into private session.
- 16 \*(Private session at 2.19 p.m.)Reclassified as Open session
- 17 THE COURT OFFICER: We are in private session, Madam President.
- 18 MS DOUZIMA-LAWSON: (Interpretation)
- 19 Q. Now, Mr Witness, I was saying that shortly before the break you were
- 20 answering my question about where the Banyamulengue went after they left Damara
- 21 in mid-February. In your answer, and according to today's transcript, page 36, line 9
- 22 to 10, you said that "It was under pressure from the international opinion that the
- 23 Banyamulengue left Damara." What do you mean by "international pressure,"
- 24 Mr Witness?
- 25 A. Counsel, if I talked about international pressure, what I meant was that

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1 international opinion hated the regime in place, because those troops had come  
2 because of Patassé, who was no longer loved, so everybody spoke ill of that regime  
3 and it is for that reason that they withdrew. So I insist and restate that international  
4 opinion brought pressure to bear on the individual who had brought those troops to  
5 the Central African Republic.

6 Q. At line 15, you stated that "They went along the streets, or small streets," and  
7 you mentioned Bandui (phon) village which was along the Zairean border. How did  
8 you know that they went down those little streets?

9 A. Counsel, that is not what I said. I said that upon returning, some of them  
10 travelled along the main road, but others, because they were carrying stolen property,  
11 preferred to use dirt roads in the Bomba area. So that is along the way to the  
12 Democratic Republic of Congo. They used those pathways in order to get back to  
13 their country. So there were two groups. Some who had kept the property at their  
14 homes, and I also want to say that the colonel also kept some of the property.  
15 However, the foam mattresses and other property was taken away by men who used  
16 those pathways to return to their country.

17 PRESIDING JUDGE STEINER: Mr Witness, please slow down. You are talking too  
18 fast. Is that fine with you?

19 THE WITNESS: (Interpretation) You see, Madam President, when your memory is  
20 jogged you cannot hold back. This morning you asked me to work and I agreed  
21 with you. A number of questions have been put to me and I'm doing my best to try  
22 to answer them, and that is why I may sound a little excited because it is for that  
23 reason, Madam President, that I speak rather fast.

24 PRESIDING JUDGE STEINER: I understand and you have been very, very  
25 cooperative, and the Chamber wants to understand everything you are saying and

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1 that's why you need to speak slowly. Otherwise, the interpreter cannot translate  
2 everything. So it is for the sake of the Chamber that we ask you, please, to slow  
3 down a little bit. Don't take offence if the Chamber interrupts you. Maître  
4 Douzima.

5 MS DOUZIMA-LAWSON: (Interpretation)

6 Q. I have understood your answer and I would like to know whether you saw  
7 them going back to the DRC?

8 A. Yes, I was in the area and I was able to see them. When they were leaving,  
9 people told us that some ten persons were leaving, but when they were returning  
10 they would be in vehicles and their girlfriends who were there would come along  
11 with them. The unofficial withdrawal was done through those tracks, particularly  
12 around Oumba, and that is what I can say by way of answer, Counsel.

13 Q. When you talk about "unofficial withdrawal," was there an official withdrawal  
14 and, if so, on what date did it take place?

15 A. When I talked about "official withdrawal," I am referring to the times when they  
16 were transported openly in vehicles along the highway, and the others travelled with  
17 their hierarchical bosses, so my testimony is in relation to the month of February, but I  
18 do not recall an exact date which I can convey to you.

19 Q. Thank you. Let us proceed. In your statement, CAR-OTP-0058-0072, your  
20 testimony was that Bozizé's rebels forced your brother, who was (Redacted)  
21 (Redacted) which had been shelled by a plane, along the Sibut road.

22 Do you know who shelled that (Redacted) that was (Redacted) your brother?

23 A. Counsel, I think that on this point I can reveal something to you. I cannot say  
24 that it is Mustapha, or Bemba, who sent people to kill my brother. The problem was  
25 between Central Africans and this happened at the time when the Banyamulengue

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1 were still in Central Africa. At that time Mr Bombayake was the pilot of the plane  
2 given by the Libyan regime to Patassé. He is the one who dropped those bombs  
3 which killed my brother, so I cannot say here that it was Mustapha or a citizen of the  
4 DRC who killed my brother. Let me insist, it was Bombayake, who -- because at the  
5 time the Banyamulengue had not yet arrived in Damara.

6 Q. Thank you. What did Bozizé's rebels do, or what were they doing, from  
7 27 October to 7 December 2002 in Damara?

8 PRESIDING JUDGE STEINER: Maître Douzima, I am sorry, could you explain to  
9 the Chamber why this kind of question has to be put in private session?

10 MS DOUZIMA-LAWSON: (Interpretation) It's true it's among the questions that  
11 I had proposed to the Chamber, but as it is following the answer that he has just given  
12 me, I took the advantage of that to ask this question.

13 PRESIDING JUDGE STEINER: The witness can answer.

14 MS DOUZIMA-LAWSON: (Interpretation)

15 Q. Witness, I am going to ask the question again. If you could ask -- answer?

16 A. Counsel, I would have asked you to go back to your question to ask it again,  
17 because when you asked it, the Judge was speaking at the same time and it meant that  
18 I couldn't understand it. Please, could you ask your question again.

19 Q. I understand, Witness. The question was: During the time that Bozizé's  
20 rebels were in Damara, so 27 October to 7 December 2010, in your opinion, what were  
21 they doing?

22 A. I think that Bozizé's men didn't achieve their push for power and they went  
23 back to Damara, and I stated in my statement that they, the ones who were in Damara,  
24 they had never been responsible for a murder or rape. Their women came  
25 themselves to them. (Redacted) and I could say

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1 that they never touched property belonging to somebody else. They only destroyed  
2 the administrative buildings, a gendarmerie and some other buildings. That's what  
3 I can tell you in this regard with regards to their stay in Damara.

4 Q. Thank you very much. I will now go to CAR-OTP-0058-0075. Witness, you  
5 stated that all the atrocities committed against the population were linked to  
6 Mustapha, and on page CAR-OTP-0058-0086 -- 96, you said, with regards to the  
7 Banyamulengue troops in Damara, it was as if they were under Mustapha. Witness,  
8 could you explain what you mean by that?

9 A. Counsel, if I mention the name of Mustapha, it's because he was the  
10 commander-in-chief. Everything that happened, happened under his control and he  
11 was the one who was giving the orders. Nothing could happen without his  
12 agreement. He was the person who took the decisions and there was nobody apart  
13 from him who could take a decision.

14 Q. On page CAR-OTP-0058-0089, you stated the following: "According to the  
15 hierarchy, Mustapha came under Bemba. The example is that on 13 January 2003,  
16 when Bemba came to Damara (Redacted) that Mustapha made his report  
17 to Bemba." Could you explain what -- when Mustapha was giving this report to  
18 Bemba (Redacted)?

19 A. Yes, Counsel. If I spoke about this report, I'm talking about a verbal report. If  
20 you have property taken from your house, well, this was a report - a verbal report. I  
21 wasn't close to him to be able to see every -- hear everything that was being said in  
22 the report, but what I do know is that he was speaking about all the events,  
23 everything that had happened in Damara, and that is the sense of what I mean by  
24 Damara.

25 THE INTERPRETER: The Sango interpreter again asks for the witness to be asked to

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1 speak slower.

2 MS DOUZIMA-LAWSON: (Interpretation)

3 Q. Witness, the interpreter do ask if you can make an effort to speak slower.

4 Witness, in which language did Mustapha speak to Mr Bemba in?

5 A. I cannot answer that directly, because I was not close to them so I couldn't know

6 what language they were using, but where (Redacted)

7 (Redacted)

8 (Redacted) so if I have to say what language they were

9 speaking in, I would have to lie to the Court.

10 Q. But how did you know that he was giving a report to Mr Bemba?

11 A. Counsel, I answered you on this question. How was the report carried out?

12 Well, I didn't know this person. He came, he entered inside, and after a time I saw

13 how the goods were going out of the house to be loaded into the plane, but that

14 means certainly he must have explained that to Bemba. He must have explained

15 what had happened in the locality before ordering people to load the plane with the

16 property. I didn't listen when they were speaking, but I will just stick to what I said

17 before.

18 Q. On page CAR-OTP-0058-0064, you stated that (Redacted) Mustapha

19 (Redacted) of 10 December 2002 that (Redacted) everything

20 that was happening to the population, whether these were positive things or whether

21 they were negative things. Did (Redacted) positive

22 things to him?

23 A. Counsel, he reacted in a particular way. He's a soldier. (Redacted)

24 (Redacted)

25 (Redacted) By way of example, (Redacted) and (Redacted), he reacted well to

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1 that, but sometimes he didn't react well. That's an example that I can give you. I'm  
2 giving you the example of (Redacted) and (Redacted). These girls were raped, and (Redacted)  
3 (Redacted) the girls and he took measures to punish those guilty.

4 Q. Thank you. On page CAR-OTP-0058-0094, you stated, Witness, that when  
5 the -- when Bemba's plane arrived, there were communications between the plane  
6 and the HQ of the Banyamulengue. How were these communications carried out?

7 A. Counsel, it was not what I said. What I said was that (Redacted) Mustapha  
8 at the same time that (Redacted) came to pay the money for his company and at the  
9 same time we had a plane which was flying over the area, and we were told, "Well,  
10 this is perhaps my leader," and (Redacted) and he  
11 would (Redacted) having received his chief. (Redacted) his  
12 wife and two children. With regards to the communication, I didn't say that there  
13 was communication, oral communication, between the plane and Mustapha. No, he  
14 just (Redacted) go and go aside during which time he could receive his chief.

15 Q. You also stated on this same page that the arrival of Bemba was for you a  
16 historic event. Why for you would it have been a historic event?

17 A. I spoke about historic, and why? Because when (Redacted) Mustapha,  
18 I was discouraged. I thought that the soldiers had come on their own behalf to  
19 commit all these atrocities, and this pillaged property belonged to individuals and to  
20 the administration. These pillaged items were loaded into the aeroplane and that's  
21 why I said it was a historic event.

22 Q. At the hearing today, this morning, real-time transcript page 6, lines 20 to 23,  
23 you spoke about Carine Franck of RFI, who infiltrated into the neighbourhood, and  
24 you said you met her but you could not give a statement; is that correct? Can you  
25 confirm this statement?

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1 A. Yes, Counsel, that's not exactly correct. I stated that the journalist of French  
2 nationality, Carine Franck, and another from France 2, a man, came. At the time  
3 they came into the town, the man took another path. She managed to get by the  
4 vigilance of the soldiers. She went through alone and that gave the man time to go  
5 to the HQ in order to get information. Carine Franck (Redacted)  
6 (Redacted) but there was no possibility for Carine Franck to interview the population  
7 because the armed soldiers were there. That is what I said to the Prosecutor.

8 Q. Thank you, Witness. Very quickly, I'm going to go back to two or three points  
9 before going into open session. You stated in the hearing of the 27th, real-time  
10 transcript page 12, 25 to 26, lines 25 to 26, that after the punishment of the  
11 Banyamulengue had -- who had raped the two girls, the number of rapes decreased  
12 slightly. So you say that after (Redacted) 10 December, it was after that that the  
13 problems had started. So what are the problems that started after (Redacted) of  
14 10 December?

15 A. Counsel, it was not like that. After the rape of (Redacted) and (Redacted), and after  
16 Colonel Mustapha gave instructions such that the soldiers be punished, the situation  
17 calmed down a bit; but I said that it was only after the death of the MLPC soldiers  
18 who were killed in Kpabara, it was after that that the situation got worse. I said that  
19 it wasn't after the 10th.

20 You know, (Redacted) on the 10th and it was after that, after (Redacted)  
21 (Redacted) of 10 December, that these soldiers went to carry out rapes and they were  
22 punished; but the soldiers had advanced, they had set up their roadblock 30  
23 kilometres away, and that's where they fell into an ambush and it was after that that  
24 the situation got worse. That's what I said, Counsel.

25 Q. Thank you very much for these explanations, Witness. So was it just the two

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1 Banyamulengue who were apprehended, who were punished, or were all eight of the  
2 rapists punished?

3 A. The Prosecutor asked me the question and I answered that the two soldiers  
4 were next to these girls, and I crossed them there. After (Redacted)the situation  
5 to the captain, Captain Raffa, they were caught and taken to Colonel Mustapha who  
6 gave instructions for these two to be publicly sanctioned.

7 The first had denied it, but when these two knew that they were going to be punished  
8 they had to reveal to their chief that they weren't just two, but they were eight. So  
9 they went to find the six others to take them and publicly punish them before  
10 everyone.

11 THE INTERPRETER: The Sango booth says after the -- the Sango booth says it was  
12 after the death of the soldiers of the MLC and not as previously stated the MLPC.

13 MS DOUZIMA-LAWSON: (Interpretation) Your Honour, I think that I have  
14 finished with my questions in closed session. I would ask if we could now go into  
15 open session, your Honour.

16 PRESIDING JUDGE STEINER: For sure, Maître Douzima. Mr Witness, we are  
17 going to open session, so be aware of how you give your answers without giving  
18 information that could lead to your identification, please. Court officer.

19 (Open session at 2.49 p.m.)

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

21 MS DOUZIMA-LAWSON: (Interpretation)

22 Q. Witness, during the investigation, CAR-OTP-0058-0032, in that document you  
23 stated that you had often heard the name of Bemba on the radio with regards to the  
24 control that he exercised over certain parts of the Zairean territory. On which radio  
25 did you often hear the name of Bemba?

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1 A. I live in Central Africa, Counsel. When there are events in the area, there's  
2 Radio Africa 1 which speaks about that, as well as RFI, Radio France Internationale.  
3 And I learnt that this was a -- it was a Zairean figure; I heard him spoke about as a  
4 high-ranking person who had control over a large part of the territory in the Congo.

5 Q. Could you tell us which part of the territory of the Congo he was exercising his  
6 influence?

7 A. We are in open session. If not, I would have spoken about my affiliation, but I  
8 cannot say that. Upon the advice of the Judge, speaking about that would reveal my  
9 identity to the public. I cannot tell you "I'm this person," "I did that." That's  
10 something I cannot do, Counsel.

11 Q. In fact, my question shouldn't take you to revealing your origin. My question  
12 is with regard to what you heard on the radio.

13 A. Counsel, you know that there is part of Zaire which is on the border with the  
14 CAR, Damara sub-prefecture, and I said that if you look at the road map there is a  
15 road that goes directly to the DRC; that is, Oumba is in Damara and this locality of  
16 Oumba is opposite Mpando. Within Mpando you will find the Gbadolite which is in  
17 the province of Équateur.

18 Q. If I understand it well, these are the localities which are mentioned on the radio  
19 as territories over which Bemba exerted his influence?

20 A. Yes, I am speaking about the part of Congo which borders on the CAR. We're  
21 in open session. I'm afraid to speak about myself and all that. I know that this  
22 party is the bordering part on the CAR, particularly Damara and Sibut. There are  
23 weekly markets which are held on both banks of the river, and that's what I can give  
24 you as a reference.

25 THE INTERPRETER: Says the witness in French.

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1 MS DOUZIMA-LAWSON: (Interpretation)

2 Q. Witness, who did you get this information from, according to which  
3 "Banyamulengue" means persons who come from the country and who are like  
4 savages and who were meant to be the lowest class of the Congolese society, that  
5 these people are worthless? And this is in CAR-OTP-0058-0036.

6 A. Yes, Counsel. During these events, there were certain soldiers of the MLC who  
7 didn't want us to call them Banyamulengue. For example, if you took -- or if you  
8 went to Ndaka, these soldiers they were lightening their skin artificially and if you  
9 called them Banyamulengue they found that insulting. They didn't -- they refused to  
10 be called Banyamulengue and that's why I knew that there was a difference within  
11 the group. I knew that "Banyamulengue" meant an inferior race from the  
12 Democratic Republic of Congo.

13 Q. On page CAR-OTP-0058-0049, Witness, you stated that it was only on  
14 13 January 2003 that you found out that the Banyamulengue were Bemba's men but,  
15 before this date, prior to 13 January 2003 in your opinion where did these men come  
16 from?

17 A. (Redacted) In order to be able to call somebody on this subject, you  
18 have to be sufficiently informed about the matter. Now, I know that soldiers came  
19 from the Democratic Republic of Congo to invade the country. I cannot name those  
20 responsible from the time -- I didn't have information officially, and that's the reason  
21 why I say that until the date of the 13th I could not mention the names of somebody  
22 without having the proof, the evidence, that this person was indeed that person who  
23 was responsible.

24 Q. On page CAR-OTP-0058-0052, Witness, you --

25 PRESIDING JUDGE STEINER: Could you please read the question in order to be

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1 sure that the question can be put in open session.

2 MS DOUZIMA-LAWSON: (Interpretation)

3 Q. You spoke about (Redacted) to

4 inform him of the incident. With regards to the boy upon whom the

5 Banyamulengue found a letter that a (Redacted) relating to the

6 two rifles left by Bozizé's rebels, Mustapha, (Redacted)

7 (Redacted)

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

9 \*(Private session at 2.59 p.m.)Reclassified as Open session

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

11 PRESIDING JUDGE STEINER: Thank you. Maître Douzima, if I ask you to read

12 the question to be sure that it could not be read in open session, you were not

13 supposed to read in open session.

14 MS DOUZIMA-LAWSON: (Interpretation) I beg your pardon, I didn't understand.

15 PRESIDING JUDGE STEINER: You can continue in private session.

16 MS DOUZIMA-LAWSON: (Interpretation) Thank you, your Honour.

17 Q. Now, Witness, at page CAR-OTP-0058-0052, you mentioned (Redacted)

18 (Redacted) informing him of the incident relating to this boy,

19 this boy who had a letter that the Banyamulengue found, a letter having to do with

20 two guns that had been left behind by Bozizé's rebels. Now, did Mustapha (Redacted)

21 the content of (Redacted)

22 (Redacted)

23 A. When he was found with the letter, (Redacted)

24 Mustapha (Redacted)

25 (Redacted) those men had died and he couldn't play around with such a matter.(Redacted)

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1 (Redacted) the person who sent the letter was a former police officer and so he  
2 couldn't lie.

3 THE INTERPRETER: Correction from the Sango interpreter, a general.

4 THE WITNESS: (Interpretation) So (Redacted)

5 Bangui so that a delegation could be sent to go and get these weapons. So the boy  
6 and a few soldiers were sent to Bangui to go and meet with the head of general staff.  
7 The head of general staff confirmed the point and officers were sent to go get the  
8 weapons. Was it a verbal message, or a letter? I really don't know. Now, I didn't  
9 see this with my own eyes, but I do know that he sent a vehicle that took the boy and  
10 a few soldiers to Bangui and, when they came back, they came back with a few  
11 soldiers from the Central African Republic army so as to recover the weapons in  
12 question. That is what I can tell you.

13 MS DOUZIMA-LAWSON: (Interpretation)

14 Q. At page CAR-OTP-0058-0069 you said, Witness, that you understood Lingala  
15 because your wife is from the Congo. Now, do you know, other than you, were  
16 there other people in your locality who also understood Lingala for one reason or for  
17 another?

18 A. That's not the case, Counsel. I said that my wife is from Zaire. I'm speaking  
19 about (Redacted) but I don't understand Lingala perfectly. However, my wife  
20 does understand that language. You just asked me whether some of the inhabitants  
21 of my locality understand Lingala and I would say this: 50 per cent of the people are  
22 from Zaire. I said in one of my statements that they were Bantu people that could be  
23 found on either side of the river, so I could conclude by telling you that most of the  
24 people (Redacted) do speak Lingala.

25 Q. I'll take advantage of this opportunity to ask you: Now, (Redacted) were

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1 you able to make a distinction between a Banyamulengue and the people that (Redacted)  
2 (Redacted) that is to say (Redacted) when they were speaking  
3 Lingala?

4 A. The accents are not the same. My wife has lost her Congolese accent. In your  
5 case, when you speak Sango and you speak Lingala as well, your accent is different.  
6 Now, I said before the Chamber right here that my locality was on the border  
7 between the two countries and that there were weekly markets and both peoples  
8 would go to the market. So if a Central African person spoke Lingala, we would  
9 know immediately that the person was from the Central African Republic. I will  
10 give you the example of my spouse who speaks Lingala. As soon as you  
11 speak -- correction, as soon as she speaks you know what her origin is.

12 MS DOUZIMA-LAWSON: (Interpretation) Thank you, Witness, I have no further  
13 questions for you. Your Honour, thank you very much.

14 PRESIDING JUDGE STEINER: Thank you, Maître Douzima. Court officer, please  
15 let's turn into open session.

16 (Open session at 3.06 p.m.)

17 THE COURT OFFICER: We are in private -- we are in open session, Madam  
18 President. Sorry.

19 PRESIDING JUDGE STEINER: Mr Witness, legal representatives have now finished  
20 the questions they had to put to you and now we will start with your questioning by  
21 the Defence. I suppose it is Mr Haynes.

22 THE WITNESS: (Interpretation) Pardon.

23 PRESIDING JUDGE STEINER: Yes, Mr Witness.

24 THE WITNESS: (Interpretation) Your Honour, I am not tired, but ever since this  
25 morning people have been asking me questions and, up until now, well, I think that I

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1 am feeling pain with the headset. I'd like to ask for a short break so that I can take  
2 some rest and I find that this stage that we are going to start is an essential one,  
3 because this is the time when Bemba's lawyer is going to start to ask me questions,  
4 and I do know that it will be a very delicate moment and I may lose my temper easily.  
5 And so for that I would like to ask if you could give me a short break so that I can  
6 take some rest. I am willing -- I am willing to go on, but I have been speaking ever  
7 since the morning up until right now and, since I'm not used to speaking into a  
8 microphone, I don't think I could keep on going feeling -- I couldn't continue feeling  
9 all right and continue to answer the questions.

10 PRESIDING JUDGE STEINER: We fully understand, Mr Witness. A 20 minutes'  
11 break would be sufficient for you to take some rest?

12 THE WITNESS: (Interpretation) Well, we have just resumed. Your Honour, you  
13 know, my head -- well, I told you that I have never appeared before such a Court, so  
14 the fact that -- well, I began to answer the questions this morning from the Prosecutor  
15 this morning, and after the Prosecutor I answered questions from the two lawyers,  
16 that is to say the legal representatives of victims, so I find that now I couldn't go on  
17 answering all the questions.

18 So I would suggest that we resume tomorrow. It's not a requirement, but it's just  
19 because I really don't feel well in my head and, if we keep on going, I might have  
20 headaches or I might get worked up easily and that won't be a good thing. Certainly  
21 I am willing to answer all the questions, but my memory doesn't allow me to keep on  
22 going, keep on answering and being fully lucid so that I can give you the most  
23 appropriate answers.

24 PRESIDING JUDGE STEINER: I understand, Mr Witness. I just suggested  
25 20 minutes because according to the interpretation I received you were asking for a

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1 short break, but now I understand that you want to suspend and to resume tomorrow  
2 morning. I have to get the views of the Defence on that respect.

3 MR LIRISS: (Interpretation) Your Honour, the Defence will accept whatever ruling  
4 you may care to render.

5 PRESIDING JUDGE STEINER: Has the Prosecution any observation?

6 MS KNEUER: Madam President, I agree with Maître Liriss. However, I suggest  
7 that the Prosecution will be given an opportunity to make some observations after the  
8 witness was brought out of the courtroom and perhaps to engage in some  
9 brainstorming with the parties and participants.

10 PRESIDING JUDGE STEINER: Mr Witness, we are going to suspend your testimony  
11 for today to give you enough time to rest. We don't want you to have headaches, or  
12 to lose your temper easily, so you deserve to take some rest. We will continue with  
13 your questioning tomorrow morning at 9.30, starting with the questioning by the  
14 Defence.

15 I ask, please, court officer to turn into closed session in order for the witness to be  
16 taken outside the courtroom.

17 Have a nice evening, Mr Witness.

18 THE WITNESS: (Interpretation) Thank you, your Honour.

19 \*(Closed session at 3.13 p.m.)Reclassified as Open session

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

21 (The witness stands down)

22 PRESIDING JUDGE STEINER: Ms Kneuer, you want to make oral submissions in  
23 open or private session?

24 MS KNEUER: Private session, please, Madam President.

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

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1 \*(Private session at 3.14 p.m.)Reclassified as Open session

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

3 PRESIDING JUDGE STEINER: Ms Kneuer?

4 MS KNEUER: Thank you, Madam President, your Honours. The Prosecution

5 noticed that the witness is facing some difficulties, according to our observation, most

6 likely based on his health situation, also to the technology, using headsets which he's

7 not used to, and the third point appears to be the time he's already spending in The

8 Hague.

9 He arrived on 15 May, and due to a delay with the other witness, 63, he started his

10 testimony on the 26th, and I think it's safe to say that the Defence may need more

11 than the day tomorrow to conduct their examination, which means the witness will

12 have to continue next week. So I see the witness struggling slightly with these

13 difficulties, but I also see his willingness to cooperate with the Court and I may

14 assume even that at one point he also wants to rejoin with his family.

15 I think there is little we can do in terms of his health situation, as well as with regards

16 to the other two parameters, but I would like to make a suggestion - I'm not sure if it

17 is helpful - just for discussion. Perhaps it would facilitate the witness to have shorter

18 terms of examination and then some more breaks. Currently, we are only able to do

19 two sessions per day, and perhaps if we could break down the four-and-a-half-hours

20 in a different way, this would perhaps help us to reach at one point a full day, to

21 finalise the examination of the witness in a reasonable time for all of us; the witness,

22 but also for the parties. It's just a suggestion.

23 PRESIDING JUDGE STEINER: Would the Defence like to make any submission in

24 that respect?

25 MR HAYNES: I desperately wanted to finish with this witness this week, knowing

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1 that we only had three days and that the impact on him would be unfortunate, and I  
2 think it's only fair that I should say I can't promise that now. It's going to take more  
3 than a day's questioning by me to finish with him, so he's going to be coming back  
4 next Monday after a prolonged break, and that's unfortunate and it's not his fault.  
5 There's no doubt that he's undergone some fairly intrusive surgical procedures that  
6 have been causing him some discomfort, and continue to do so, and we are open to  
7 any suggestions that will make it more easy for him. The thought that was crossing  
8 my mind is that he has been coming to court on the same day that he's been having  
9 stitches out and teeth out and I just wondered whether the better long-term approach  
10 might not be to give him a longer break between now and next Monday, because he's  
11 going to be coming back next Monday anyway. But as has been said earlier, we will  
12 accommodate any regime that the Court feels will best assist him, but I think the  
13 important thing is that you know that his examination by the Defence will not finish  
14 tomorrow and so he'll be back on Monday.

15 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. The Chamber very much  
16 appreciates the Prosecution for raising this issue. It is quite clear to the Chamber as  
17 well that the witness is not feeling comfortable. Today we had a two-hour session in  
18 the morning and, in my view, two hours is always too much, for whatever witnesses.  
19 We can see that they got quite tired.

20 The Chamber is going to consult with VWU on what could be the most appropriate  
21 way, maybe to have one hour and breaking for 15 minutes after one hour, or the  
22 suggestion made by Mr Haynes that the witness is not brought into the courtroom in  
23 the very -- very same day the witness is submitted to medical examination or  
24 surgeries. I hope tomorrow, after consultation with the VWU, that is the organ of  
25 the Court in charge of ensuring the well-being of the witnesses that come to testify,

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1 that the Chamber is in a position to come with a suggestion to submit to the parties  
2 and participants in order to, at least, to try a different timetable, a different schedule,  
3 or having short sessions of one hour: two in the morning, two in the afternoon. We  
4 will come with suggestions in order to accommodate everyone's interest.

5 The Chamber is well aware that it is not possible for the Defence to finalise its  
6 questioning by tomorrow, nor was the Chamber expecting that from the Defence. In  
7 this case, I think this is a quite exceptional case because it was -- his testimony was  
8 quite delayed, for a series of reasons, but in any case we will find a solution in order  
9 not to have these recurrent interruptions on the questioning.

10 Anything else, Ms Kneuer? The Defence, anything else? Legal representatives?

11 Court officer, please turn into open session.

12 (Open session at 3.22 p.m.)

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

14 PRESIDING JUDGE STEINER: I just want to thank very much the Prosecution team,  
15 legal representatives of victims, the Defence team, Mr Jean-Pierre Bemba Gombo. I  
16 would like to thank very much our interpreters, court reporters, our court officer and  
17 court usher. We are going to adjourn for today and resume tomorrow at 9.30 in the  
18 morning in this very same courtroom. The hearing is adjourned.

19 THE COURT USHER: All rise.

20 (The hearing ends at 3.22 p.m.)

21 CORRECTIONS REPORT

22 The Court Interpretation and Translation Section has made the following  
23 corrections in the transcript:

24 \*Page 20 lines 3 to 4

25 "I can also give you the example; there was a transporter which was able to"

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1 is corrected by

2 "I can also give you the example of a 50 kW/hr generator. The plane was able to"

3 \*Page 29 lines 10 to 12

4 "They took a number -- well, I could mention Mpando village, which faces Zaire.

5 There were armed soldiers, there were four of them, and they were paying civilians to

6 help transport the looted goods. And so they were able to cross the river"

7 is corrected by

8 "They took small roads. -- I could mention Pandou village, which faces Zaire. There

9 were armed soldiers, there were four of them, and they were paying civilians to help

10 them transport the looted goods. They took the goods across"

11 RECLASSIFICATION REPORT

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

13 ICC-01/05-01/08-3038 and the instructions in the email dated 20 June 2014, the version

14 of the transcript with its redactions becomes Public