

Trial Hearing
Witness: CAR-D04-PPPP-0055

(Closed Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki
6 Trial Hearing
7 Tuesday, 30 October 2012
8 (The hearing starts in closed session at 9.05 a.m.) Reclassified as Open session
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE STEINER: Good morning and welcome.
13 Could, please, court officer call the case.
14 THE COURT OFFICER: Thank you, Madam President. Situation in the Central
15 African Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo,
16 ICC-01/05-01/08.
17 PRESIDING JUDGE STEINER: Thank you.
18 Good morning. I welcome the Prosecution team, the legal representatives of victims,
19 Defence team, Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters and
20 court reporters.
21 We will continue today with the questioning of Defence Witness 55, and I ask, please,
22 court usher to bring the witness in.
23 (The witness enters the courtroom)
24 WITNESS: CAR-D04-PPPP-0055 (On former oath)
25 (The witness speaks French)

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1 PRESIDING JUDGE STEINER: We can turn into open session, please.

2 (Open session at 9.08 a.m.)

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

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

5 THE WITNESS: (Interpretation) Good morning, ma'am.

6 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony, sir?

7 THE WITNESS: (Interpretation) Yes.

8 PRESIDING JUDGE STEINER: Mr Witness, I need to remind you that you are still
9 under oath. Do you understand that, sir?

10 THE WITNESS: (Interpretation) Yes, I understand.

11 PRESIDING JUDGE STEINER: I also need to remind you on our ground rules, that
12 you are expected to speak really slower than normal and to give the five seconds after
13 a question is put to you before you start answering. You need to co-operate with
14 our interpreters and court reporters in order for the Judges to have the translation
15 and the real-time transcript of what you are saying. It's important to help the Judges
16 at a later stage to evaluate your testimony.

17 Do you understand that, sir?

18 THE WITNESS: (Interpretation) Yes, I do, your Honour.

19 PRESIDING JUDGE STEINER: I will then give back the floor to Maître Badibanga
20 who will continue questioning you, paying attention that for the time being we are in
21 closed session. Maître Badibanga. We are in open session, I'm sorry.

22 Yes, Mr Witness?

23 THE WITNESS: (Interpretation) With your leave, your Honour, as I said yesterday,
24 I would like -- I'm talking about a rather long period of time during which I lived
25 with the person in question and there may be some things that I might have forgotten.

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1 Could I just say a few words before Mr Badibanga continues with his questioning?

2 PRESIDING JUDGE STEINER: Yes, of course. Would you like to clarify these
3 points in open session, or in private session?

4 THE WITNESS: (Interpretation) I would prefer to give the information in private
5 session.

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

7 *(Private session at 9.12 a.m.) Reclassified as Open session

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

9 PRESIDING JUDGE STEINER: Maître Badibanga, if you allow the witness to
10 address the Chamber before you start. Thank you very much.

11 Mr Witness?

12 THE WITNESS: (Interpretation) Once again, thank you for this opportunity. I'd
13 like to add a few points that personally I think are important, because this could help
14 the Court and it could help the Office of the Prosecutor help all of you better
15 understand a number of details.

16 The first thing I'm going to say is that I do recall quite well recently there was a lady,
17 a Prosecution witness, who came here and gave testimony, and in actual fact the
18 information I was called by the (Redacted) and he was -- he is in touch with me and I
19 meet with him nearly every day, (Redacted), and he said to me, (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted) and he told me that there was a lady who came by and she didn't want to
23 testify in private session - it was in open session - and the lady was well-dressed, and
24 she said that she had been raped in the Central African Republic.

25 (Redacted)

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1 (Redacted)

2 Well, so later mention was made of some Defence witnesses who have said that

3 the -- that President Bemba did not have responsibility for his troops in the Central

4 African Republic, and he called many witnesses, some 60 witnesses. This is

5 according to what I've read.

6 Now, on the news -- well, there was a sentence that I forgot to mention yesterday.

7 He said to me, "Well, even so, the Prosecution said that he will be found guilty on the

8 basis of the witnesses that they call." I didn't quite understand. And I thought -- I

9 thought it would be better for me to mention this point to the Court. Now, I don't

10 know what conclusions you'll draw from this, but he was the one who said this, and

11 that's what he said. So that's one thing.

12 The second thing, just to add to what I said yesterday, when I was talking about

13 business. Now, I noted some names. The first name, (Redacted)

14 (Redacted) Second name that I'm going to

15 give you, (Redacted) and please take note of that name, (Redacted)

16 (Redacted) Third name, (Redacted) I don't know the other name, but please take

17 note of this name. Fourth name, (Redacted) Now, I don't know the other name.

18 I'll talk about each person slowly, as you've asked me to. So there you have it.

19 Now, the first name, (Redacted)

20 (Redacted)

21 (Redacted) I'm saying this to just give you an idea of the scope, and this

22 relates to the behaviour of the (Redacted). So this is what he's doing, this is in

23 addition to -- you see, I was talking about the business.

24 Now, he came to (Redacted) and he never was an (Redacted) as I said.

25 (Redacted) prepared him, and he went to ask for the document from the

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1 Border and Foreign Affairs Unit and he prepared, he gave details relating to the
2 movements of the MLC, and all of that was in order for (Redacted) to get
3 documents (Redacted) and he was given (Redacted) and I -- I would
4 encourage you to contact the (Redacted) authorities and ask questions, and ask.
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 So, what happened? Well, he was in touch. And these were young people who
10 were staying (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 Now, I'm saying this just to show you what kind of person, and the testimony began
20 a long time ago and this was in exchange for something, as some people do, so that
21 people can get into countries and get documents. So if I've forgotten any other
22 details, perhaps with time I'll remember.
23 Now I'd like to talk about the second person, to show you the kind of horse-trading
24 that (Redacted) has been engaged in. Since he had been close to Jean-Pierre
25 Bemba, he knew a lot about the MLC, and that was during a period of time when

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1 there were others and, well, that kind of thing goes on. People take advantage of
2 many things to get documents. (Redacted) and you can check
3 that point.

4 So the second person, (Redacted)
5 (Redacted) looking for, like all Africans, looking for some way to get a card, to
6 get residency, and (Redacted) prepared this lady, coached her. Of course,
7 that wasn't in exchange for money, it was in exchange for sex, and I can confirm that,
8 because I am --

9 THE INTERPRETER: Inaudible.

10 THE WITNESS: (Interpretation) What did he do? Well, he gave the
11 names of -- correction, the name of an MLC soldier who allegedly would say that
12 he -- that she was the wife of a particular person, that she was the wife of a soldier,
13 and when there was troubles, she fled. She went by way of (Redacted) and found
14 herself here, and he was called and he gave testimony saying that she was the wife of
15 a soldier. She joined -- she's now in (Redacted) where she already has a child, and
16 her husband came here. He couldn't -- she couldn't say -- correction, he couldn't say
17 that he was her husband. The information provided to the Foreign Affairs and
18 Border authorities was that she was the wife of a former soldier who was killed.
19 What's more, the daughter of the woman gave the report, and since mention was
20 made of a younger sister had been raped, and when she made the decision to flee,
21 well, it was all a set-up, it was all concocted, and the husband, when he arrived,
22 couldn't even say, "Well, here I am to join my wife." He had to manage another way,
23 and he got documents and now they are in (Redacted)
24 The lady, well, since she had a child in (Redacted) I learned that apparently
25 documents -- and sometimes the husband comes to (Redacted) to renew the documents,

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1 and all of this is to give you to understand that (Redacted) has testified, and I wonder
2 whether, really, whether he testified or -- I don't know if he testified or not, but if he
3 testified, I don't know what he might have said, but this is what I want to tell you.
4 Now, the third person, (Redacted), someone who came from the Congo, and once again
5 this horse-trading was going on, so to speak, and he was coached to say that he knew
6 that he had worked for the MLC, that he had been in their offices, and all of that, and
7 the point of all that was to get something after helping the person get documentation.
8 Now, the fourth person I'd like to mention, (Redacted) I don't know his last name.
9 Perhaps Jean-Pierre Bemba knows him. Now, that person, that's quite a story.
10 When I talked about (Redacted) told me -- I remember.
11 Now, I'm not sure about the timeline, but I -- now, I don't know if the brother was a
12 (Redacted) of Jean-Pierre Bemba. Now, I was told he might be of interest, but since
13 they had their eye on him, he wouldn't be accepted, and I didn't contact him, so
14 I don't know if he exists. So that's a bit of an aside, but that's a name. He said that
15 he wouldn't, because he might be -- and another thing that I remember. When I
16 say -- when I said to (Redacted) that I didn't want to be involved in any of this, after
17 he said to me -- and I'll repeat what he said, I'll try to describe it to you. He said this
18 to me: (Redacted)
19 (Redacted) That's what he
20 said. That's what he said.
21 So another thing: Now, as I said recently, and perhaps the (Redacted) police know,
22 that (Redacted) came back from the Congo, because he had had his -- you see, he had
23 brought his wife back and (Redacted)
24 (Redacted) And so they had to deal with
25 their problem, either physically present or over the telephone, and my number is the

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1 number he calls the most often, or -- you can check that point. You can check with
2 my telephone service provider.
3 So during this dispute with his wife, what did his wife tell me? When (Redacted)
4 started to threaten saying, (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 So this is just a small contribution to what I said yesterday, but if I remember
10 anything else, because we're talking about a life of almost six years together, then I
11 would be happy to testify that before the Court. I would like to thank you for that.
12 Oh, your Honour, I had forgotten an important detail. When we spoke yesterday of
13 these problems with regard to contacts, I forgot something that I'm going to say today.
14 I shall here mention somebody's name, somebody who was a (Redacted)
15 police who is now suspended. (Redacted) is his name. So (Redacted) revealed to me
16 once that from Kinshasa he was in contact with (Redacted) and I asked him, "Under
17 what circumstances?", and he told me the following: One day, as there were soldiers,
18 (Redacted) of Jean-Pierre Bemba, they were in the neighbourhood where the different
19 authorities lived. He told me that there was meant to have been a problem that the
20 soldiers committed to (Redacted) of Jean-Pierre Bemba. They -- there was
21 provocation between the soldiers because they're from different groups, and they
22 reacted and they abducted the (Redacted) They removed him from the
23 residence of (Redacted) to take him to their residence, (Redacted) and that caused
24 problems.
25 Jean-Pierre Bemba gave instructions that (Redacted) who had been abducted be freed

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1 and some of the troops were punished, but when they went, or when he went to get
2 this person, (Redacted) left with them. So he had contact with (Redacted) who
3 gave him the contacts or the contact numbers, gave him his contact number, and
4 afterwards (Redacted) started to call him, asking him, "Well, you know, we have
5 a lot of means. We can offer you a lot of means. We can give you everything you
6 need."
7 So (Redacted) said, "Well, this is what was proposed," and he told me that, "Often we
8 speak in code when he calls on the phone," and on the phone they mentioned
9 Jean-Pierre Bemba (Redacted) and he told me, "Oh, he was called (Redacted) and
10 that was the way it was."
11 He said, "If you call (Redacted) you will ..." -- everything that he needed, but he told
12 me he couldn't do it because he was considered as a child of the house. And
13 afterwards he told me, "Well, I also had my children, because these people they
14 would ask you to do that and afterwards they are the ones who aren't going to let you
15 escape. If you do that, they will not leave you. They won't leave you alive.
16 They're going to start to watch you," he told me.
17 That's just an aside that I needed to make, to say that yesterday you were asking
18 me - I think it was Counsel Kilolo who was speaking to me to ask me - if the contact
19 that (Redacted) had -- well, if there were other contacts and if he continued
20 to exploit the contacts that he had with (Redacted) because he told me that he still had
21 these contacts, I don't know.
22 Well, I never saw (Redacted) I saw him on TV. I only know that he was involved
23 as is said, that he's asked to testify in (Redacted) and I just say
24 that to help the Court and that the Court understand who (Redacted) is,
25 what type of person he is.

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1 I've finished there. Thank you very much, your Honour.

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

3 (Open session at 9.36 a.m.)

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

5 PRESIDING JUDGE STEINER: Maître Badibanga, after hearing the witness's
6 statement for half-an-hour, I think it's time for the Prosecution to be given the floor to
7 continue its questioning of the witness.

8 You have the floor, Maître.

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

10 PRESIDING JUDGE STEINER: We are in open session, Maître.

11 MR BADIBANGA: (Interpretation) I heard that, your Honour.

12 At this stage, I would just like to make a procedural point. We all heard the witness
13 in private session. I'm not going to talk about what he said, but during that time we
14 noted that he was reading notes, and I would like, your Honour, that these notes be
15 made available to the Court and, if possible, if the court officer could take them such
16 that we can also evaluate what exactly they are.

17 I think these are quite long notes that the witness was reading. The experts were
18 authorised by this Chamber to bring notes that they had from external sources, but
19 with regards to a witness we want to be sure of the exact content of these long pages
20 that he took half-an-hour to read before the Chamber.

21 PRESIDING JUDGE STEINER: Maître Kilolo?

22 MR KILOLO: (Interpretation) The Defence leaves this issue of law to the wisdom
23 of the Chamber.

24 (Trial Chamber confers)

25 PRESIDING JUDGE STEINER: Maître Badibanga, it is quite an unusual request.

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1 We -- usually we allow witnesses to take some notes. It's true that this time it
2 appears that the witness brought his notes with him. They are not notes taken on
3 the spot.
4 In any case, I will first check with VWU on whether these notes could be -- have been
5 taken by the witness in his room, or something, and whether it's convenient that this
6 material is distributed among the participants. So the Chamber will come back with
7 its decision on such request.

8 MR BADIBANGA: (Interpretation) Thank you very much, your Honour. The
9 request is indeed unusual, but it's also because the step taken by the witness is also
10 equally unusual. He is here to shed light and not to read what has been written
11 under circumstances that nobody knows, so it is in this sense that the question does
12 seem to be important that was put to you.

13 PRESIDING JUDGE STEINER: Mr Witness, I will allow you to explain how and
14 when you took these notes, but please be more concise.

15 THE WITNESS: (Interpretation) Well, I told you that it was a long period
16 yesterday. I said that if I remembered something I would say it, and when I
17 remembered it, well, the notes were taken in this notebook, which is written on my
18 hotel bedroom paper and you can see the stamp of it, and I used the pen, or pencil.
19 If you go into my bedroom, you will see that very pencil on the table. I took these
20 notes, you can take the notes and I will tell you the same thing. That's just to -- to
21 give you an idea of what I wrote, but I can make them available to you. It doesn't
22 bother me.

23 These are notes that I wrote myself. It's my handwriting. I took them. I don't
24 have contact with people, other than with madam who I communicate with in the
25 presence always of members of the support team to ask about the state of health of

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1 my son who is ill, but Counsel Badibanga is right. It might be unusual and I've got
2 the right to write something.

3 Badibanga writes, he also writes things, and so does Counsel Kilolo. Everybody
4 writes things in the framework of a trial. And also when I think of something to do
5 with the trial, and as they have reasoning as to what they're going to say, what
6 questions they're going to put, well, I too -- I have the right to think and I have the
7 right to say, "This is what they're going to ask me and, if I'm asked this, I'm a man
8 and I have reasoning as well," and I think that I've finished there.

9 PRESIDING JUDGE STEINER: Thank you, Mr Witness.

10 Since it appears that the witness is not bothered by the fact that the notes are taken,
11 I'll ask, please, court usher to take the notes from the witness and provide after the
12 break copies to the parties in this hearing and to the Chamber.

13 Maître Badibanga, please let's see if we can start with the questioning.

14 MR BADIBANGA: (Interpretation) Thank you very much, your Honour.

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

16 Q. Witness, after this small incident we're going to start with saying good morning.

17 A. Good morning.

18 Q. We're now going to finish with the Office of the Prosecutor's questioning this
19 morning. We are in open session. The questions that I want to put to you are
20 questions that don't need particular confidentiality, but you know the system, if
21 there's any problem, you can always let us know. I would also say that, for the
22 interpreters and the court reporters, you have to do two things: One, speak slowly;
23 two, wait five seconds before answering my questions.

24 Yesterday you were talking about your contacts with the Defence team, and to sum
25 up, you told us you had three conversations with the Defence team. During one of

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1 these contacts, were you explained the proceedings before the International Criminal
2 Court?

3 A. You want to know if during these contacts I was explained the proceedings
4 before the International Criminal Court? Well, I asked a few questions about the
5 International Criminal Court and how it worked, but with regards to the proceedings
6 and what happens, I get that from the support team.

7 Q. Please excuse me, I should have been more precise in my question. I just
8 wanted to ask you if it had been explained to you how things happen when you come
9 in as a witness, how -- what's done, what you would have to say, not say. I just
10 wanted to make sure that everything had been explained to you in terms of how to
11 give testimony before the Court.

12 A. I can say personally that, as I told you yesterday, when I was contacted, and I'll
13 take up the words, I said, "Why not?" I can, or cannot, so why not?" What was said
14 to me, I was quite simply asked if I could accept to give clarifications to this Court as
15 regards the problems in which, you know, I was involved. This was it. And
16 afterwards, there were contacts. I wouldn't say that they gave me the whole
17 proceedings, but how, for example, you go into the courtroom, this sort of thing,
18 that's what I did with the Defence team. Not the Defence team, I mean the support
19 team.

20 Q. If we stay with the Defence team for the moment, were you told what you had
21 to -- what you had to say by way of testimony, or not?

22 A. What account? What are you talking about? They didn't tell me the account
23 that I had to give to the Chamber. And I would tell you one thing: I was, as I
24 said - and this is something you repeated yesterday - I was reticent. So what should
25 they tell me to say before the Chamber? Even you, you contacted me and you never

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1 said what had to be said before the Chamber. You just asked me if I was called
2 today, at this time, to come and testify, if I could, and I said I could, I was in good
3 health, and that was it.

4 Q. The principle of testimony, sir, is that you come with information which you
5 know and, in principle, we don't. Or if we know this information, it has no value
6 unless you comes from you. So neither I, nor Counsel Kilolo, nor my eminent
7 colleagues representing victims, are there to testify; it's you. So, please, don't find
8 it -- if we ask questions, please, you can answer, say, "Yes, that's the case," "No, that's
9 not the case," and you can give details, but it's normal that we ask you questions
10 because we need to understand what happened, and the answers have to come from
11 you.

12 So just to go briefly back to this question, did they help you to prepare the testimony
13 that you are giving before this Chamber, that you have been giving to this Chamber
14 since yesterday?

15 A. I think that nobody can help me with what I say and I'm telling you sincerely in
16 this testimony that I have given, well, perhaps -- well, I'm certain the Defence is
17 learning, with everybody here.

18 Q. During these meetings, were notes taken, a record, on the basis of the
19 interviews you had with the Defence, or a transcript?

20 A. I know that when we met with the Defence, one of the colleagues from the
21 Defence counsel took some notes, but I don't know what they look like. I couldn't
22 tell you.

23 Q. Was it -- were you provided with a transcript, or a record, of the interview
24 which you were invited to sign?

25 A. No. No, I was never provided with something to sign. No, no.

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1 Q. As we're in open session, I would once again ask you to give no information as
2 regards the place, nor the persons or circumstances which could identify you, but
3 I would like to know when you had meetings with the Defence, for example, going to
4 these places for meetings, did you pay for that yourself, or were your travel expenses
5 paid by the Defence in that case?

6 A. They were totally paid for by myself. Paid by myself.

7 Q. Did you receive any payment for the testimony that you were preparing for this
8 case?

9 A. No, I never received anything for the preparation of this testimony.

10 Q. Were you compensated or reimbursed for expenses that you must have
11 undertaken within the framework of your contacts with the Defence?

12 A. No.

13 Q. Did anyone make promises to you or make commitments to provide you with
14 any money after your testimony?

15 A. I told you, and I repeat, I just want to testify. That's the reason why I did it.
16 No promises were made, nothing. When I contacted you, there was nothing. It
17 was because I wanted to, and I wanted to testify and I want to say that there was
18 nothing.

19 Q. Witness, yesterday, during the examination by Defence counsel, Counsel Kilolo
20 said "tu" to you, the French familiar form on three occasions. That's very difficult for
21 the English transcript, obviously, because, you know, in English, they only say "you"
22 to refer to an individual, but you know also that in French there is an important
23 difference between "tu," meaning you singular, and "vous," meaning you plural or the
24 formal form. And I notice that the Defence said "tu" to you. Does that mean you
25 have a particular relationship with Counsel Kilolo?

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1 A. I have no particular relationship with Counsel Kilolo. I said it yesterday, it
2 was after the death of Nkwebe that we had contact, but if he said "tu" to me, then ask
3 Counsel Kilolo. It's French. In French, people say "tu." They also say "vous" for
4 "you." That's something for the Defence. It's up for the Defence to defend
5 themselves. He's a lawyer.

6 Q. Indeed, but my question wasn't to ask him why he said "tu" to you - I'm sure he
7 can't answer - but I just wanted to ask you whether you had a particular relationship
8 with him, if you knew each other in a somewhat closer way.

9 A. I don't know Counsel Kilolo in a closer way.

10 Q. Witness, I don't know if you remember that yesterday you stated, and this is the
11 transcript 264, French version, page 77, lines 19 to 27. Well, in the English version,
12 it's page 18 -- I'm sorry, it's also at the end, page 68, lines 2 to 4.

13 Witness, I asked you a question as to whether you asked exactly what was happening
14 in the courtroom, what was at stake, et cetera. I mentioned the proceedings, and
15 you stated the following: "No, I can't confirm, above all, the proceedings. I'm not a
16 lawyer, but I would like to contribute, as I have told you, but it shouldn't be said that
17 I have a full knowledge of the proceedings, no, and I answered you, you are right.
18 Thank you for that."

19 Now, I came to this conclusion because I thought that you had given training on the
20 status of the International Criminal Court, or the Statute of the International Criminal
21 Court, and I said that because that's on your curriculum vitae, and you answered,
22 "No, no, it's not that. We received training. We received training as members
23 of" -- and I'm not going to say what it was because we are in open session and quite
24 simply, as -- let's say as a member of an organisation, I don't think that causes any
25 difficulties, would you confirm that you did not give training but you received it as

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1 members of an organisation, and please remember we are in open session, don't name
2 it.

3 A. I confirm that we received training, and you can check that point.

4 Q. And yet you said earlier, when you were being examined by Mr Kilolo, that you
5 had given training because I checked that point. I was not the one who made a
6 mistake, and I'm referring to the same transcript, 264, page 18 in the French, page 16
7 in the English. If you're at ease, more at ease if we go into private session, we can?
8 Your Honour, can we go into private session?

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

10 *(Private session at 10.01 a.m.) Reclassified as Open session

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

12 MR BADIBANGA: (Interpretation)

13 Q. Now, just to be very clear, this is page 18, lines 3 to 6, and in the English version,
14 it's page 16, 2 to 5, and I'll quote what you said, Mr Witness. You said, you were
15 talking about human rights.

16 A. Yes.

17 Q. You said (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 And I cross-checked the English version, and there's no risk of a misunderstanding,

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Which version is correct?

2 A. Mr Badibanga, you are quite right insofar as yesterday, do you remember the
3 sentence that I uttered here? (Redacted)

4 (Redacted)

5 (Redacted) It wasn't me --

6 Q. We are in private session, but --

7 A. It was not me individually who (Redacted)

8 (Redacted) That is why I said "us," "we," and when I say -- when I said "we"

9 I was talking about the (Redacted) When I say "we," I

10 mean the entire institution which travelled to various parts of the country. Even

11 though I wasn't there I can say that we travelled, we did this, we did that. I'm using

12 "we" in the broader sense.

13 Now, in French, well, I'm not necessarily a literary kind of person, I'm more of a

14 technical sort, but this may confuse you. I know that you lawyers are very good at

15 interpreting words and terms, but when I say "we," please understand I mean the

16 (Redacted)

17 Q. So when you said to Mr Kilolo that you, as a member of (Redacted)

18 (Redacted) you had sent this message or passed on this message, you didn't mean

19 you yourself? (Redacted)

20 (Redacted)

21 A. How could I have -- let me say this: How could I have been a member of the

22 (Redacted) without taking part in such a campaign? (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted) and let me repeat: I don't

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(Closed Session)

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1 want to speculate, but I said -- I'm saying that we went around the country, and when
2 I say "we," I'm speaking of the (Redacted)

3 Q. Very well. Let's not flog this horse, so to speak, but I would point out, Witness,
4 that here, you are the witness here, it's not the (Redacted) giving testimony.

5 What is of interest to us is what you can tell us, what you experienced, and as a
6 person who comes before the Court we are interested in you and what you have to
7 say, but I think that's enough about that.

8 Now, you said that -- you said that (Redacted) was made up of -- and you
9 mentioned various people, individuals that came from various political backgrounds.

10 Did I understand you correctly?

11 A. Yes. Yes, you did understand that right.

12 Q. And you made that point because (Redacted)

13 (Redacted)

14 (Redacted)

15 A. Yes.

16 Q. So you yourself, within that (Redacted) which political group were
17 you part of?

18 A. I've never been in a political party. I told you yesterday that it was parts of
19 civil society.

20 Q. Am I to understand that you mean civil society is the various stakeholders who
21 were not political bodies, or political stakeholders, at the time? Can I make that
22 summary?

23 A. Yes.

24 Q. But if we looked beyond that, the words "civil society" is quite vague. Do you
25 mean just anyone walking down the street, or are there certain criteria to represent

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1 civil society or to be described as civil society?

2 A. I think that you know better than I, as a legal person, someone with legal
3 training, that when you talk about forces or civil society you -- we're talking about the
4 general population. The 90, 100, 200 million inhabitants of a country can't -- there are
5 always organisations, there are always people that lead various organisations.
6 Like -- it's like any other organisation, so I mean it's all the various groups, the
7 driving force behind the general population.

8 Q. Perhaps we can save some time, for you and for the Chamber. I'll ask some
9 more direct questions, and please answer "yes" or "no," if you can.

10 Is it correct to say that civil society is made up of a number of organisations; NGOs,
11 local NGOs, human rights advocacy organisations?

12 A. Yes.

13 Q. And you, sir, what NGO or organisation (Redacted) such that you
14 described (Redacted) as representing civil society?

15 A. Well, you must realise, I told you earlier, I told you my background, my
16 professional background. (Redacted)
17 (Redacted)
18 (Redacted)

19 Q. Let's be very clear: You never -- you haven't said that before. This -- I read
20 the whole transcript line-by-line, and this is the first --

21 THE INTERPRETER: Overlapping speakers.

22 THE WITNESS: (Interpretation) I came, I've spoken, I can -- but you are in this
23 courtroom. I can print out my CV right in front of you and you will see that I am a
24 member of this association of (Redacted) I can do this right here in this courtroom.
25 I am a member of the association, it is mentioned in my CV.

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1 MR BADIBANGA: (Interpretation)

2 Q. I'm not saying that you're not a member of that association, I'm just saying that

3 you began your reply by saying "As I said yesterday, I am a member of," but I

4 corrected you because you had never said that before that particular point in time.

5 At one point yesterday you mentioned the conditions under which you left, and once

6 again we'll save some time, your time and the Chamber's time. In light of the

7 conditions under which you left, Witness, I have the impression that you had more of

8 (Redacted)

9 (Redacted) What do you have to say in

10 response to that?

11 A. That is your -- may I --

12 MR KILOLO: (Interpretation) Your Honour, I would prefer it if Mr Badibanga

13 asked open-ended questions rather than giving his own personal impressions and

14 putting them to the witness. This is not the way that one questions a witness.

15 PRESIDING JUDGE STEINER: Mr Badibanga?

16 MR BADIBANGA: (Interpretation) I appreciate Mr Kilolo paying such close

17 attention, but he will have time to put questions in re-examination, but what about

18 the countless times - the countless times - that the Defence has put suppositions and

19 theories to witnesses, their thoughts, their statements? If we were to take note of all

20 those times, that would take us quite a lot of time.

21 Now, this is a theory, an assumption of mine. He can say I am wrong, he can give

22 details, but I don't really see any difficulty in the question I just put.

23 PRESIDING JUDGE STEINER: The witness can answer the question.

24 THE WITNESS: (Interpretation) Mr Badibanga, I'm very happy you asked me this

25 question. It's very important to shed light on these matters.

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1 You must realise that the Court, the Office of the Prosecutor, is in a position to contact
2 certain institutions, and I can reassure you, you mentioned earlier, you said that
3 when a person comes, a person comes to testify on his own behalf, not on behalf of
4 others. But you can go to the (Redacted) and you can
5 ask for the (Redacted) and you can get -- you can
6 talk to the authorities (Redacted) authorities, or elsewhere, and
7 you can see that (Redacted)
8 (Redacted)
9 You say (Redacted) and I am telling you as well,
10 since you also are -- you have some secrets here during this hearing, but I too. Let
11 me tell you, the (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 I don't want to give you a long account of everything, but you can -- you can
16 cross-check, and it is your right to doubt, to believe or to not believe. You have
17 certain rights. Everyone is entitled to believe, or not believe, to agree with
18 statements or not agree with them.
19 MR BADIBANGA: (Interpretation)
20 Q. In yesterday's transcript, transcript 264, page 14 in the French version, English
21 version page 13, as of that page, because you were trotting out your CV, and I'll just
22 quote the various professions you mentioned to us. Let's begin at page 26. You
23 said that after your education you began as (Redacted)
24 (Redacted)
25 (Redacted)

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1 (Redacted)
2 (Redacted)
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12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted) So I don't see
22 anything here, Witness, that really shows any particular advocacy, any denunciations
23 of human rights violations, that would allow you to call yourself a (Redacted)
24 (Redacted) as you are portraying yourself to be. Could you explain, in light of this
25 professional background, how did you come to this assertion that you absolutely

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1 needed (Redacted) and that you are a (Redacted)

2 A. Well, that's a good question. First of all, I would like to say as the citizen of a
3 country we all are obliged, as the UN Human Rights Charter-- correction, as the UN
4 Charter tells us, it is our obligation to speak out against violations of rights
5 everywhere, and that is what you do as lawyers and the Judges too.

6 So one must denounce, so I don't see why you are -- but I am telling you I am a
7 human rights activist, and what do I mean by that? Well, ask me -- well, you're
8 asking me to tell a long story. You say that I (Redacted) That is true.

9 When I finished my education (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 I think -- really I don't think there's any ticket or something written on my forehead
- 5 saying that (Redacted)
- 6 (Redacted) I can mention - and you
- 7 can cross-check - (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 So there you have it. I can't remember everything, but I do think that we were
- 12 trained. We did get the necessary information to allow us to say -- we were given
- 13 the necessary tools to be human rights activists, but I would say everyone is human
- 14 rights activists. Even our children are human rights activists. They struggle for
- 15 their rights in the home. You struggle, you advocate, wherever you are, and I don't
- 16 think a person needs to have a ticket, or something stuck on him, saying, "I am a
- 17 human rights activist," and for your information just check.
- 18 So you have documents. You may have documents about human rights, you have
- 19 documents about these institutions, and I think that the Court has many documents
- 20 about these various institutions. (Redacted)
- 21 (Redacted)
- 22 (Redacted) I forget his name, but it will come to me. But I don't see how I can
- 23 explain to you. What do you want exactly? What do you want me to show you to
- 24 explain that I'm a human rights activist?
- 25 Q. Well, Witness, what I want -- what I want is for us to get through your

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(Closed Session)

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1 testimony, so I'd like to ask you, if you could, you have tried to wait a few seconds
2 before replying, that is much better today and I think for the interpreters and the
3 court reporters that is better.
4 Now, the second thing I'd like to ask you is this: Just answer the question if possible,
5 briefly if possible. What we need is clear answers to questions that I hope are clear.
6 It's not necessary -- long statements are not evidence and will not help the
7 Chamber move forward, so when I ask you a question just answer and try to be
8 specific in your answer and we will make progress and that way you will be able to
9 go back home much quicker and rejoin your family.
10 Now, a question just to make it clear what I want from you, what I expect from you.
11 Yesterday you said - once again transcript 264, French version, page 20, lines 22 to 26;
12 English version, page 18, lines 13 to 17 - and this was when you were asked about the
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 Unless I'm mistaken, a bit later you went on to say, "Well, you know, when it comes
19 to human rights, caution, caution is a good safety measure," and what I'd like to ask
20 you, Witness, is this:
21 To my mind, you've worked within the various institutions of the republic, your CV
22 shows this. You worked for a (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted) So who

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(Closed Session)

ICC-01/05-01/08

1 did you need (Redacted) from? Obviously, you were a (Redacted) of the government
2 in place, so what was -- what was the meaning?
3 A. I don't think I'm going to do a second (Redacted) I don't
4 think I'm going to make a trial here explaining the facts in this regard. It was said to
5 me, even when I left -- in principle, I didn't do it. I should have informed the
6 (Redacted) but that's something I didn't do, but you
7 want to know -- well, when I say that I had contacts, there are -- perhaps you have a
8 situation where -- well, it's just madmen who think that they don't have any friends,
9 and I'm, I'm the one who is -- when I say I was the one who had contacts, I had
10 friends, it's quite normal. I fulfilled the orders of the mission of the institution, and
11 there were institutions which were meant to be so-called independent institutions but
12 which were not independent 100 per cent, and why not? Because the budget comes
13 from the public treasury, and you know the budget of institutions, from all (Redacted)
14 institutions, come from a public treasury, and when you have to travel even for a
15 mission abroad, it's normal that the mission orders are filed with the President of the
16 Republic for authorisation, and when you go somewhere, then you create friends and
17 affinities with people and you say to me it's normal, I have to work.
18 I worked in institutions. I'm Congolese, and there's no reason why I would refuse to
19 work in any institution. I worked, I had contacts, but I'm telling you, the straw that
20 broke the camel's back, I said yesterday we have -- we've all been activists, trying to
21 get this institution to speak for the Congolese people, to ensure that this institution
22 takes the Congolese, everybody, whether it's the leaders or the Congolese people,
23 towards respect for human rights. And what happened? Everybody is free to
24 make their choices. Everybody is free to have freedom of thought. We have
25 serious difficulties because (Redacted)

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1 (Redacted) and the objectives which had
2 been set out, for which we had fought, and he started to support the powers or
3 authorities in place, and it was this power that made it possible to have human rights
4 violations.

5 We denounced this situation and we did that publicly. That's it. He went to
6 complain.

7 Q. I'm sorry. You've already explained the difficulties that you had with this
8 person, so if your intention is just to repeat your account, I can tell you it's already in
9 yesterday's transcript. But I'd just like to ask a small follow-up question by way of
10 clarification, because you could avoid saying "us." You know it's not clear when you
11 say "nous" or "us." We don't know if it's you, (Redacted) And when you
12 speak about you, you as an individual, (Redacted)
13 (Redacted)

14 A. I have done so. For your knowledge, I have done so. And
15 afterwards -- I remember when I started receiving threats. It wasn't myself, there
16 were people who were targeted. I wasn't the person who received these threats, not
17 just me. From my contacts, they told me that if you don't look for a possibility to
18 escape with such-and-such a means, then we don't know what might happen to you
19 in the coming days, and that is how I found myself abroad. I'm not the only person
20 from the (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted) I don't want to have to account

3 my whole life here. I would ask you to spare me that, please.

4 MR BADIBANGA: (Interpretation) Your Honour, with your leave, could the court

5 officer show document CAR-OTP-0062-0094. This is a confidential document. It's

6 number 6 on the Prosecution list.

7 Q. Witness, do you see the document on the screen in front of you?

8 A. I can see it.

9 Q. Do you recognise this document?

10 A. Affirmative.

11 Q. You told us yesterday that you drafted this document and (Redacted)

12 (Redacted)

13 A. Affirmative.

14 Q. Could you read the first paragraph, which starts with the word "After" and

15 finishes with the words (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 To be sure we're speaking about the same thing, what do you mean by the word

22 "nous"? Who does that refer to, "nous" in French? You talk about the

23 circumstances. It might mean one thing or another.

24 A. This means (Redacted) "we." So it's (Redacted) is

25 what's meant here.

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(Closed Session)

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(Closed Session)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted) And that's my last

9 question before the break. I would just ask you to answer briefly and if your answer
10 is long we'll have to come back to it after the break.

11 PRESIDING JUDGE STEINER: Maître Badibanga, Mr Witness, I think it would be
12 better if we come back after the break. We have only two minutes on the tape, and
13 we get the risk of not having time enough.

14 Court officer, please turn into open session.

15 (Open session at 10.59 a.m.)

16 THE COURT OFFICER: We're in open session, your Honours.

17 PRESIDING JUDGE STEINER: Thank you. At the end, we again had most part of
18 this hearing in closed session but it was unavoidable. Mr Witness, we are going to
19 suspend now. We have half-an-hour break. It's almost 11 o'clock. We'll be back
20 at 11.30.

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

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

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

25 (The witness stands down)

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(Open Session)

ICC-01/05-01/08

1 THE COURT OFFICER: All rise.

2 (Recess taken at 11.00 a.m.)

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

4 THE COURT USHER: All rise.

5 Please be seated.

6 PRESIDING JUDGE STEINER: Welcome back.

7 I ask, please, court usher to bring the witness in.

8 (The witness enters the courtroom)

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

10 (Open session at 11.38 a.m.)

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

12 PRESIDING JUDGE STEINER: Mr Witness, welcome back.

13 THE WITNESS: (Interpretation) Thank you. Thank you. Yes.

14 PRESIDING JUDGE STEINER: Before I give the floor back to Maître Badibanga, just
15 for the record, since I promised to give the reference to what I said in the first part of
16 the hearing, the reference is transcript 264, page 33, lines 24 to 25, where the witness
17 says -- the real-time transcript, the witness said, and I quote, "As I said intellectually,
18 I'm more developed than he is." That's the reference I owe the parties.

19 Maître Badibanga, you have the floor, reminding you that we are in open session.

20 MR BADIBANGA: (Interpretation)

21 Q. Witness, I'm very much aware of the fact that we interrupted this exchange
22 before the break and I'll just go back to this question in private session, or we're
23 currently in private session. I'm sorry, because we are now in open session, I would
24 like to see or go over another aspect with you. We are in open session. I
25 understood that you said on several occasions that your motivation was to aid

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(Open Session)

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1 international justice. That's correct, is it not?

2 A. Yes, that's right.

3 Q. I'd like to read out one excerpt from your statement yesterday, transcript 264,
4 page 47, French version, lines 21 to 23, and in the English version page 41, lines 22
5 and 23.

6 MR KILOLO: (Interpretation) If you don't mind?

7 PRESIDING JUDGE STEINER: Maître Kilolo?

8 MR KILOLO: (Interpretation) Could he specify whether this is a transcript of an
9 open or private session?

10 MR BADIBANGA: (Interpretation) I beg your pardon. This excerpt is from a
11 moment in the hearing that -- when we were in private session, but the sentence I'm
12 going read out will have no impact on protection and will not compromise his safety
13 in any way. That is what I'm attempting to do.

14 PRESIDING JUDGE STEINER: We would be in a way reclassifying without
15 following the proper form the document. Maybe, if you are going to quote, I would
16 prefer to go into private session.

17 MR BADIBANGA: (Interpretation) Well, I have no other way to go about this
18 other than quoting directly what the witness said, so I would like to ask if we could
19 go into private session and I would like to inform the Chamber of one thing and you
20 mentioned that concern yesterday. The remaining issues I have to deal with will
21 have to be dealt with in private session, so I think we'll have to continue for the rest of
22 the --

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

24 *(Private session at 11.43 a.m.) Reclassified as Open session

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

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(Private Session)

ICC-01/05-01/08

1 MR BADIBANGA: (Interpretation)

2 Q. Witness, since we're in private session, I will continue following the usual pace
3 of our questions and answers. So I'll repeat the question that I put to you just before
4 the break. You said -- and I had read out an excerpt of your testimony, you said that

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
Witness: CAR-D04-PPPP-0055

(Private Session)

ICC-01/05-01/08

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. Witness, well, if I could put it this way, you are not the only intellectual, not the
7 only educated person in this courtroom. We all understand. Please, please answer
8 the question that's being put to you.

9 You stated before this Chamber under oath that (Redacted)

10 You later discovered that you had been manipulated and one of the signs of that was
11 that you later learned that he did not hold the office that he claimed to have held. If
12 I look at the transcript -- well, actually it starts two pages earlier and I think it starts at
13 page 23 of that transcript, unless I'm mistaken. You explained in great detail, you
14 explained about this matter, so let us be serious.

15 You -- you said in that transcript -- and I'm -- (Redacted)

16 It's very clear to everyone. Why did you say that here in the courtroom that it was
17 later you learned that he was director, (Redacted)

18 please, don't go into general concepts of human rights. You as a witness answer the
19 question. Why did you say one thing here, (Redacted)

20 A. I understand your question, but I'm not going to answer in the way you've
21 asked. I repeat once again: (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
Witness: CAR-D04-PPPP-0055

(Private Session)

ICC-01/05-01/08

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Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-D04-PPPP-0055

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1 Q. Well, I think, Witness, that I'll leave this question for the assessment of the
2 Judges. You've told us that you came here to establish the truth. In the case that
3 (Redacted) did say something to this Court, if he testified that he didn't tell the truth,
4 we have to re-establish the truth and it's important that you also tell us the truth.

5 Now, we have a statement where you explain extremely clearly that (Redacted)

6 (Redacted)

7 (Redacted)

8 Now, I'm now going to leave this question aside and we are going to go on to the

9 point which the Judge Aluoch just raised. So what you are telling us is that

10 (Redacted) is extremely close to you and he has a lot of trust in you; that is correct?

11 A. Affirmative.

12 Q. The information that you have given us with regards to (Redacted) most of
13 that comes from things that (Redacted) wanted to tell you himself or confide in you;
14 that is correct?

15 A. We share everything, so almost everything we share. I know that each person
16 has their own way, but we share almost everything. Perhaps there are a couple of
17 points which haven't been shared, but I know that most of what he has as problems.
18 If he has to find a solution, well, he calls me in order to debate it or to ask for advice.

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Could you explain to us your motivation or your approach in this regard?

2 PRESIDING JUDGE STEINER: Maître Kilolo?

3 MR KILOLO: (Interpretation) Your Honour, I think that this question as
4 formulated is not fair at all quite simply because the witness has already clearly
5 stated and clarified that he didn't come here with the aim of warning the Court of
6 certain information that did not correspond with the truth in the case that the witness
7 came to testify before the Court.

8 What he did say right from the first day is that he came, firstly, at the request of the
9 Defence in order to shed light on matters essentially with regard to the (Redacted)
10 and the approach therein that was taken which was made (Redacted)
11 with the Office of the Prosecutor, and also to provide information with regard to the
12 objectives, the real objectives, that were being pursued by (Redacted) within the
13 framework of this step, and he discovered a certain amount of information which had
14 been hidden from him by (Redacted) subsequently to (Redacted) being sent. So his
15 testimony, his approach here, has nothing to do with the fact that (Redacted) might
16 have testified before the Court or not.

17 I just wanted to re-establish this truth, because it's important that open questions be
18 put to the witness to help us make progress, rather than have a
19 summing -- summarising things up in a way that is inadequate.

20 PRESIDING JUDGE STEINER: Just answer the question that was supposed to be
21 answered by the witness, and Maître Badibanga's question is, "Could you explain to
22 us your motivation or your approach in this regard?", and the witness is entitled
23 to -- is authorised to answer the question, although as I repeat it appears that Maître
24 Kilolo has answered on behalf of the witness.

25 If you want to repeat the question, Maître Badibanga.

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1 Maître Kilolo, can we proceed?

2 MR KILOLO: (Interpretation) As you wish, your Honour.

3 PRESIDING JUDGE STEINER: Thank you, Maître.

4 MR KILOLO: (Interpretation) Quite simply to say that I responded to the part of
5 the observations that had been raised by Counsel Badibanga just before asking the
6 question that you refer to, and you will see that in that part Counsel Badibanga
7 makes comments summarising the meaning of the witness's approach and that is
8 what I was referring to, because it didn't correspond with the statements that he had
9 already made at the time I was questioning him.

10 PRESIDING JUDGE STEINER: Maître Badibanga, put again your question, maybe
11 rephrasing it a little bit in order to avoid further interruptions.

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

13 Q. Witness, I will read an extract from the transcript, 264, page 24, French version,
14 line 25 to 26; English version, page 22, lines 4 to 8.

15 I'm sorry for having to do this, but if indeed the Defence chooses to interfere with a
16 view to supporting the witness in giving answers, then I have to go back to certain
17 statements and obviously it does take more time.

18 Witness, Counsel Kilolo asked you the following at line 14, "What can you provide to
19 the Court as information on (Redacted) This is your
20 answer. It starts on page -- on line 16, and what I can -- you say, "What I can say to
21 the Court currently, I don't know. The Court has had this document. If that's
22 good -- what I want to say to the Court is that if this document perhaps
23 afterwards -- well, I don't know if it maybe gave rise to the questioning as demanded?
24 I don't know if (Redacted) came here to testify, but if it did give rise to
25 testimony being given, and I'll repeat that, "... if it did give rise to testimony being

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1 given," then I would tell you personally that I (Redacted) After analysis, I
2 confirm before this Court that if -- that I was never in the Central African Republic
3 myself and if, following (Redacted) there was testimony ...", and that's something that
4 you state again, "... and if following this testimony -- (Redacted) testimony was given,
5 I would ask the Court quite simply to consider, and this is not an obligation, but I
6 would ask the Court to consider that this testimony for me, because on analysis, after
7 contacts that I've had, I would tell you that it was put together with other objectives.
8 It wasn't with an objective of helping the Court, but it was pieced together with
9 another objective."

10 Witness, I would also remind you what you say in this statement. On at least three
11 occasions you say, "If he came to testify." Then you say that it was motivated for other
12 reasons. Have I correctly read your testimony? Is that the testimony you gave to
13 this Court?

14 A. Affirmative.

15 Q. Thank you. Now, going back to my question, please would you be so kind as
16 to explain to the Chamber your motivation, your approach, your way of seeing that
17 (Redacted)

18 (Redacted) but if it is the case then you consider it so important
19 to come right here to The Hague to explain to the Chamber that it should -- what he
20 says could not be true?

21 A. Okay, thank you for the question. And you say -- if you say, really, (Redacted)
22 (Redacted) well, how could it be the case that I am coming, I've travelled all the way
23 to The Hague in order to come and say that if (Redacted) then I declare that it's false?
24 Well, perhaps you're right, but all I want to tell you is, Counsel Badibanga, he's a
25 lawyer, and in his house for example - this is a small example that I would give - he

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1 wouldn't want one of his children -- (Redacted)
2 (Redacted) A child in your house, for example, who commits a
3 crime, for example, that's just a small example. It is necessary for you to re-establish
4 the truth, I think. If we want to help law and we want to help international justice,
5 then I think it is necessary to show our feeling of belonging to such-and-such a group
6 and to say, (Redacted) The
7 motivation, I don't have another motivation. I come here in order to bring
8 clarification to the Court. I don't ask the Court to believe me, but this is the
9 information that I give which perhaps could help the Court. And Counsel
10 Badibanga remembers that I always told him -- look, when I contacted Counsel
11 Badibanga for the first time I said, "My concern is to bring a contribution to help the
12 Court if I can, but at least ...", as I said a moment ago, "... if I see hereafter that the
13 contribution that I wanted to give, well, that is the contribution that I wanted to give."
14 It has a certain degree of irregularity. Why couldn't I say that? Why couldn't I
15 come at the time that the Defence contacted me? I told you even before that I didn't
16 have contacts, but when I realised that it was necessary to do so, I did it and that's the
17 reason why I'm here. I'm not asking you to believe me. I'm not asking the Court to
18 believe me. I come to give information that I have. That's all that I ask from the
19 Court. If this information can help the Court, all the better. If it can't, well, all the
20 better still.
21 Q. Mr Witness, Counsel Kilolo asked you during his examination -- if we look at
22 page 38, French version, lines 1 to 16, English version, your Honour, your Honours,
23 page 33, lines 3 to 16, Counsel Kilolo asked you the following: "Did you tell the
24 Office of the Prosecutor that it was a set-up being pieced together? Did you provide
25 this information to the Office of the Prosecutor?" I'm not going to read your entire

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1 answer, which is 13 lines, but to summarise you say "No, I didn't tell the Office of the
2 Prosecutor. The Office of the Prosecutor has my contact details. It's up to them to
3 telephone me if they want to be in contact with me."

4 So are we in agreement with this summary of your answer? Would you like me to
5 read more?

6 A. Well, it's a small summary. I trust you.

7 Q. Witness, it's not a conversation between yourself and myself. This is testimony
8 before the International Criminal Court within the framework of a trial, so if there's
9 the slightest problem say it and we will find the exact place. If you're in agreement,
10 I will continue.

11 A. Yes, continue.

12 Q. Thank you. But when you spoke about contact with the Office of the
13 Prosecutor, you yourself said that you had called the Office of the Prosecutor on two
14 occasions. Now, my question is as follows: Once again, this concerns your
15 motivation and your approach if you wanted to help justice and you've said every
16 time, the Court, the Defence and even the Office of the Prosecutor, because right from
17 the start you had the contact details of the Office of the Prosecutor and you used them
18 in other circumstances. Why didn't you call the Office of the Prosecutor at the time
19 when you had doubts with regards to the approach that (Redacted) made to you, in
20 your opinion?

21 A. It is quite normal. I have contacts, spoken to you personally, and I would
22 repeat here what you said. You have nothing to do with this story and why do
23 people call you, as you tell me, and that's something I repeat here? And also I told
24 you -- well, this is something that I believe, that as I said as (Redacted)
25 After having spoken to me a number of times, he said (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 The Defence called me and I came. I'm here. I'm speaking. As I said, you've got
8 my contact details. Perhaps you didn't find anything, but if the OTP doesn't call me
9 perhaps there's nothing special in this story and that's the position as I had it.

10 Q. Thank you, Witness. You don't answer my question, but I think we must
11 move on. I will find another extract of what you said yesterday. Now, this is on
12 page 47, lines 21 to 22, and in the English version it's on page 41, lines 47 (sic) to 23.
13 You state the following: "I think that when we speak about this business, we
14 referred to that. We referred to using this ICC trial in order to get a material or
15 financial position."

16 My question: This testimony that you gave, does that also apply to you?

17 A. This testimony does not apply to me. I say that it does not apply to me.

18 PRESIDING JUDGE STEINER: Maître, would you mind if I put a follow-up
19 question before I get lost in translation here?

20 Mr Witness, just right now on page 60, line 10 and following to 18, the question is
21 "Did you tell the Office of the Prosecutor that it was a set-up being pieced together?
22 Did you provide this information to the Office of the Prosecutor?", and your answer
23 was, no, you did not provide. When you found out that it was a set-up, you did not
24 contact the Prosecution to inform that you found out it was a set-up; is that correct?
25 Is that correct?

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- 1 THE WITNESS: (No interpretation)
- 2 PRESIDING JUDGE STEINER: No, you did not contact, this was --
- 3 THE WITNESS: (Interpretation) (Indiscernible) Did you say I contacted them,
- 4 the Office of the Prosecutor?
- 5 PRESIDING JUDGE STEINER: -- your answer.
- 6 THE WITNESS: (Interpretation) Affirmative, yes.
- 7 PRESIDING JUDGE STEINER: Have you talked to anyone else about your findings
- 8 that the whole history was a set-up, a manipulation, by (Redacted) Did you mention
- 9 that to anyone else?
- 10 THE WITNESS: (Interpretation) I never mentioned that to anybody else.
- 11 PRESIDING JUDGE STEINER: You said today at page 16, line 22/23, that you
- 12 were -- when Maître Kilolo or Maître Nkwebe contacted you, your answer was "I was
- 13 quite simply asked if I could give clarification to this Court as regards the problems in
- 14 which, you know, I know I was involved."
- 15 Did Maître Nkwebe or Maître Kilolo mention to you how did they know that there
- 16 were problems (Redacted) that something should be clarified if you didn't tell
- 17 anyone?
- 18 THE WITNESS: (Interpretation) He didn't -- Counsel Nkwebe didn't tell me
- 19 anything concerning (Redacted) but myself personally, because I contacted Counsel
- 20 Kilolo, I sent an email, an email, to Counsel Kilolo, and I knew -- well, I spoke about
- 21 (Redacted) I knew that if he came and (Redacted) wanted -- well, they didn't have
- 22 my contact details. Perhaps it was the Defence who -- they were looking for people
- 23 who could come to get me in order to speak and I knew that that -- well, I knew that
- 24 it came from (Redacted) and perhaps he would have provided my details to Counsel
- 25 Nkwebe. So personally I didn't speak with Counsel Nkwebe of any details.

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1 PRESIDING JUDGE STEINER: But then it's -- that way I'm asking for your opinion,
2 although opinion is not evidence, in your view how could Maître Kilolo out of the
3 blue come to you and call you to testify to clarify things (Redacted)
4 (Redacted) This is my
5 doubt.

6 THE WITNESS: (Interpretation) Well, I would just say quite simply that Counsel
7 Kilolo contacted me after the death of Counsel Nkwebe. I don't know the rest. He
8 contacted me. He said could you for the Defence -- or the Defence contacted me.
9 That's why I'm here. The Defence contacted me, but as far as other details go I don't
10 remember. I don't remember any more. And when I arrived here, well, I didn't
11 even think that this letter would be exhibited. Well, I came. I don't know how to
12 explain, but I was contacted. Perhaps they've got more information than me. They
13 contacted me.

14 PRESIDING JUDGE STEINER: But when they contacted you it was with the specific
15 purpose of asking you to give clarifications (Redacted)

16 THE WITNESS: (Interpretation) They told me quite simply -- well, Nkwebe told
17 me, "You know, we are in a trial and I think that your name came up and that's the
18 reason why we're contacting you."

19 PRESIDING JUDGE STEINER: Because 'til that moment, since you never mentioned
20 to anyone (Redacted)

21 (Redacted) That's why I'm so confused on how Defence knew before
22 talking to you that there was a problem with (Redacted)
23 (Redacted) before being contacted
24 by Defence?

25 THE WITNESS: (Interpretation) Before being contacted by the Defence if I spoke

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 PRESIDING JUDGE STEINER: Thank you.

5 Maître Badibanga?

6 MR BADIBANGA: (Interpretation)

7 Q. Witness --

8 THE INTERPRETER: The witness says "Excuse me."

9 THE WITNESS: (Interpretation) I just know one thing, which I have forgotten to
10 mention with regard to (Redacted) When I said about being contacted, well, I spoke
11 with Counsel Badibanga, who knows (Redacted) and Counsel Badibanga he told me,
12 "Yes, it's sure that the Defence will provide (Redacted) I don't know to the Registry.
13 They also have a need to know something about what happened with regards to the
14 prosecution, et cetera," and perhaps it was in that framework, because he assured me
15 that the information couldn't be infiltrated and that's what he assured me.

16 PRESIDING JUDGE STEINER: Of course, (Redacted) was disclosed to the Defence.
17 There is no doubt about that. It is the Prosecution obligation to do that. What I'm
18 still a little bit confused is how the Defence got to know that there was a problem
19 (Redacted) that's my doubt, but we will analyse at the end.

20 THE WITNESS: Madam --

21 PRESIDING JUDGE STEINER: Yes, I know that you say that you cannot answer to
22 this.

23 THE WITNESS: (Interpretation) There I can't tell you. I don't know.

24 PRESIDING JUDGE STEINER: That's fine. It's fine.

25 Maître Badibanga?

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

2 Q. Witness, perhaps I was a bit quick yesterday when I asked you how many times
3 you had been in contact with the Defence. At the time -- well, in the transcript we've
4 got it that you were three times in contact with the Defence. Could you tell us how
5 many times in total you were in contact with the Defence, including email exchange
6 and any other type of exchange?

7 A. Well, I would just like to tell you, and this is something I already spoke about
8 yesterday, I said I was in contact with the Defence three times. I don't know why I
9 have to continue.

10 Q. You need to continue because, well, this is the question that I'm putting to you,
11 and this is my role in this trial and above all because you've just told the Presiding
12 Judge that you had sent an email to Mr Kilolo and that is something you had not
13 yet --

14 A. No, no, no I sent a mail to you, not to Mr Kilolo, unless I mentioned Kilolo,
15 Badibanga, I sent an email to you. You didn't get my email?

16 PRESIDING JUDGE STEINER: Maybe it was a slip of the tongue, but you
17 mentioned that you sent an email to Mr Kilolo. That is why I am also trying to find
18 out here.

19 THE WITNESS: (Interpretation) Oh, yes, okay, okay. It was a mistake on my part.
20 Since I was talking about Kilolo and Badibanga, I sent an email to Mr Badibanga.

21 MR BADIBANGA: (Interpretation)

22 Q. All right.

23 PRESIDING JUDGE STEINER: Mr Badibanga, just for the sake of the record, it's on
24 page 63, lines -- line 22. "Counsel Nkwebe didn't tell me anything concerning (Redacted)
25 (Redacted) but myself personally, because I contacted Counsel Kilolo, I sent an email,

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1 an email to Counsel Kilolo." This is what --

2 THE WITNESS: (Interpretation) Okay, that was a mistake on my part. The email
3 to Mr Badibanga, because I had sent it to him.

4 MR BADIBANGA: (Interpretation)

5 Q. Witness, you told us that at one point (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Do you remember that?

10 A. Yes.

11 Q. The Presiding Judge asked you a few questions about that, and I won't hark
12 back to that, except just to be clear: What (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. You also said, Witness -- oh, if the Chamber wishes the reference, page 28, in the
18 French version, lines 16 to 27, and then page 58 and page 59 in the English version,
19 page 24 and I don't have the exact reference to the question that you put to the
20 witness, but we can go back to that if necessary.

21 Now, the second thing you said, Witness, was you mentioned contacts with (Redacted)
22 (Redacted) Do you remember that?

23 A. Yes.

24 Q. Could you remind us which political party he belongs to?

25 A. (Redacted) I believe was a member of the parliament during the transition

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1 period, but now there are different alliances within the Congo and people have
2 changed position in relation to the presidential majority.

3 Q. You also referred to (Redacted) Do you remember that?

4 A. Yes.

5 Q. What party does he belong to?

6 A. (Redacted) when I mentioned him, it was when he was governor and
7 I think -- I sense another question is coming. We'll talk about that. (Redacted) was
8 part of the MLC, but I heard that recently he set up a coalition; a coalition of political
9 parties. I don't know if he's still a member of the MLC, or not.

10 Q. You also mentioned a lady by the name of (Redacted) Do you remember that?

11 A. Yes.

12 Q. What political party does this lady belong to?

13 A. I know that she was the (Redacted) During the
14 time of the transition, (Redacted), an MLC (Redacted) and with the current
15 coalition, with all the changes I don't know who she's with now, but I think she may
16 be part of the presidential majority at this time.

17 MR BADIBANGA: (Interpretation) Your Honour, the references are at page 32
18 and 33 of the French version, and in the English version it's pages 28 and page 29; the
19 references to these people.

20 Q. Witness, I'm making a link between this information that I've just reminded you
21 about and what you said about the (Redacted) Correct me if I'm wrong: Your
22 statement is that (Redacted) tried to negotiate money in exchange for testimony
23 before the ICC; is that correct?

24 A. Don't tell me to agree to or acknowledge. I understood that there were other
25 objectives and I don't know whether he received money, or not, but was -- when he

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1 confided in me, he told me about his contacts with all these people.

2 Q. Thank you for being specific. I was also very specific. I didn't say that he
3 received money. I said "negotiated" and that was the word used also by Mr Kilolo
4 when he questioned you, so I will put the question to you again. Your testimony
5 before the Court was that (Redacted) negotiated money in exchange for testimony in
6 this case; is that correct?

7 A. When someone tells you here, when I started to see the discrepancies, when
8 someone says to you, "I have been in contact with (Redacted) and I wanted to
9 negotiate with him," the person involved, but since he's not corrected or since he's not
10 serious, I became afraid and what am I thinking myself and what was the story about,
11 because Pele Mongo said to him, I repeat, "But you have the money beside you and
12 you're asking me to help you." It was --

13 Q. Witness, please don't take offence at my gesture, but don't repeat what you've
14 said. It's very clear in the transcript. I'm asking you the following question, "Yes"
15 or "No." Your testimony, your testimony, what you've said, "Yes" or "No," is your
16 testimony that (Redacted) negotiated money in exchange for possible testimony in
17 this case? You can say "Yes," you can say "No." I don't need for you to re-explain
18 what (Redacted) and others said. This is your testimony?

19 A. But I can't answer "Yes" or "No". I'm entitled to answer and give explanations.
20 I'm sorry if I said that. I'm free to0. I am a free man and I too have this freedom, so
21 you can't impose a way of answering upon me, so I'd just like to say that, as I said to
22 the Court, so there were all those contacts and they led me to believe that the
23 objectives were different because, you see, sometimes, sometimes you know, it's hurt
24 to talk about a person, the truth about a person that you live with.
25 He confirmed to me that he had been offered --(Redacted)

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1 (Redacted)

2 (Redacted) but to say, to confirm with a "Yes" or a "No," I don't know.

3 I gave -- it was clear what I said to the Court. It's up to the Court to analyse.

4 Q. No, Mr Witness, I'm afraid I'm going to have to be more specific about how

5 things work. It is my right to ask you questions and ask you to answer with a "Yes"

6 or a "No". It's the Chamber that assesses. If the Chamber finds that the question or

7 the proposal is unfair, they will intervene, but I can -- I can - ask you to answer with a

8 "Yes" or a "No". You came to give testimony. You said that you came and you

9 want to help international justice, but you have to answer the questions and respect

10 the rules.

11 You see, Mr Witness, even if you said something yesterday, you can't answer today to

12 me or to the Judges saying that we can just read or analyse. We can put as many

13 questions to you as we wish and it's up to you to clarify your remarks if we haven't

14 understood. Perhaps it's my fault that I don't understand quickly enough, but you

15 have to answer.

16 Let us move to the question.

17 PRESIDING JUDGE STEINER: Maître Kilolo?

18 MR KILOLO: (Interpretation) Your Honour, since Mr Badibanga is dealing with a

19 procedural matter, to my knowledge I don't think -- really, if it's just -- just out of

20 fairness to the rights or the respect of others, I don't really think you can ask -- I think

21 you can ask a person to reply briefly, or to be concise, or to summarise, but you can't

22 force him to say "Yes" or "No".

23 PRESIDING JUDGE STEINER: In principle I would agree with Maître Kilolo.

24 It's -- at least before this Chamber has not been a practice to impose on the witness to

25 answer by "Yes" or "No" as we see in some common law courts in which jurors cannot

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1 be led or misled by the parties. So let's try to avoid the "Yes" or "No" questions, but
2 at the same time the parties and the Chamber can every time ask the witness to be
3 concise instead of starting repeating what has been already said. So this is the way
4 we control the expeditiousness of the trial.

5 Maître Badibanga?

6 Yes, Mr Witness?

7 THE WITNESS: (Interpretation) Could I please be excused for a few minutes? I
8 need to relieve myself.

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

10 *(Closed session at 12.45 p.m.) Reclassified as Open session

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

12 (The witness stands down)

13 (The witness re-enters the courtroom)

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

15 (Open session at 12.50 p.m.)

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

17 PRESIDING JUDGE STEINER: Are you ready to continue, Mr Witness?

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

19 PRESIDING JUDGE STEINER: Maître Badibanga, we are in open session.

20 MR BADIBANGA: (No interpretation)

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

22 THE INTERPRETER: Message from the interpreters: In his previous question,
23 Mr Badibanga asked if we could go into private session.

24 *(Private session at 12.52 p.m.) Reclassified as Open session

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

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(Private Session)

ICC-01/05-01/08

1 MR BADIBANGA: (Interpretation)

2 Q. Witness, just before the break, we were talking about these various people and
3 we were talking about the fact that (Redacted) had been in touch with these various
4 people, and clearly there was some question of money. Money was involved. My
5 question is this: According to you, if (Redacted) was to give testimony in this case,
6 would it have been with MLC people that he was negotiating money in exchange for
7 his testimony? Was he negotiating with MLC people?

8 PRESIDING JUDGE STEINER: Maître Kilolo?

9 MR KILOLO: (Interpretation) Is this not a leading question?

10 PRESIDING JUDGE STEINER: It's asking for the witness's opinion, which is not
11 exactly evidence.

12 Maybe, Maître Badibanga, if you rephrase your question.

13 MR BADIBANGA: (Interpretation)

14 Q. Witness, several times you said that (Redacted) had been in touch with these
15 people to negotiate money in exchange for testimony, and this was quite clear. I
16 remind you, even you yourself intervened to put him in touch with some of those
17 people; is that correct?

18 A. Yes.

19 Q. Do you know why (Redacted) needed to negotiate with those people from the
20 MLC, why there was this negotiation, money in exchange for testimony?

21 A. You're asking me whether I knew, but I'll once again go back. I don't know
22 whether that actually happened or not, as I said earlier, so don't talk to me just
23 because I am going to give the name of some people, and I have the impression that
24 you are just focusing on the MLC people. I mentioned (Redacted) He's not
25 from the MLC. He's from the presidential majority. I mentioned (Redacted) this

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1 morning, and he is also close to the government. So I wonder, when you're asking
2 me this question, why aren't you asking me why (Redacted)
3 (Redacted)
4 (Redacted) why would he be contacting the MLC
5 at all? It depends on the people you contact. He was much more closer to the MLC
6 than me. He was just an observer -- correction, he was an observer.
7 I have never been part of the MLC. I've never been a member of a political party.
8 So when you ask me was it necessary, you should ask why he contacted those people.
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 A. He's always been in touch with him. They've been together in (Redacted). I
14 would imagine he has his phone number. I don't know, but they know one another.
15 He's a -- that's a person he knows.
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

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(Private Session)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. Just so that it's clear for the transcript, (Redacted) was he in the MLC or not?

17 A. At the time we called (Redacted) he was not in the MLC, he was in the
18 presidential majority, but at the time we took up contact with him he was in the
19 presidential majority of the MLC. He was in for some time but he left and I think
20 even that he left the MLC when we were still in the transition, so President Bemba
21 was in Congo.

22 Q. I wasn't mistaken a moment ago. He took up contact with MLC persons and
23 you put him in contact with somebody who was from the presidential majority
24 within the framework of this negotiation?

25 A. No, no, you shouldn't say within the framework of. He asked me if he could

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1 call, but when I saw that he started to go I let him speak because I couldn't interrupt
2 him on the phone. When he spoke about that, I understood quickly that his
3 fundamental concern was to show that -- well, he was going to arrive and come to
4 that and that's why I thought I should come and testify and that's why I didn't allow
5 this contact any more.

6 Q. Witness, yesterday on three occasions, French transcript 43, lines 13 to 17, page
7 55, line 2 to 17, 56, lines 20 to 27, and in the English version it is pages 38, lines 1 to 4,
8 page 47, lines 21 to 25, and it continues on to page 48, line 1, and finally page 48, lines
9 22 to 25, and it continues on to page 49, lines 1 to 4.

10 Just once again in order to save all the parties' time, I'm going to propose what I have
11 understood from it and if we agree I will ask the question.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 Q. Witness, did you insist so much on having a closed session because your fear
3 was that (Redacted) would hear what you said and then he would come to
4 re-establish the truth before this Chamber?

5 A. No, no, it wasn't only that. Imagine today I say in support they wrote, I say
6 that today that, for example he informs another person and Counsel Badibanga,
7 without knowing how things work in our country and how things work in our
8 country and for myself, I'm here with (Redacted) we don't know, you never
9 know. We always take precautions. (Redacted)

10 (Redacted) I think that you know that in Congo they don't often
11 work with reason, it's passion that drives them, and they'll say "Oh, look, this person
12 belongs to whoever." Now, you can have repercussions, not only physical
13 repercussions, you can even be eliminated. You know what happens in the country.
14 And myself, I have to ensure my security (Redacted) where I am and I tell you every
15 day there are a number of victims of assassinations in (Redacted) who will tell you
16 that I shouldn't be the next victim or target. These are precautions that I take.
17 That's why I take these precautions.

18 PRESIDING JUDGE STEINER: Sorry, Maître Badibanga. Just to make it clear that I
19 understood this last part, you are saying that currently in (Redacted) there are a
20 number of victims of assassination among the (Redacted) or what you are talking about?

21 THE WITNESS: (Interpretation) Oh yes. No, I'm speaking about a general
22 situation in the country, because in fact when I speak with the support persons they
23 ask me if there was total security. I gave them this example. Who says that
24 perhaps the people have means? Who says that perhaps the people who have been
25 targeted? They know that they're in (Redacted). That's not -- well, there are crimes

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1 in (Redacted) that happen. Of course that happens. You can see that with the crisis
2 and who is going to tell you that you can't become a victim? Who can say -- I mean
3 these are possibilities. These are possibilities that are said. I'm not saying that it is
4 among the (Redacted) but what I am saying is that in general I have a fear as
5 well, just as any other person might have fears.

6 PRESIDING JUDGE STEINER: The security evaluation in respect to your personal
7 security and that of your family has been that it is a low risk, not high risk the way
8 you are saying, so maybe there was a -- that's why I wanted a clarification because
9 you give the impression that you can be assassinated because of your testimony at
10 any time. This is your concern?

11 THE WITNESS: (Interpretation) Madam, I just wanted to say that it's a bit difficult
12 for you to understand the atmosphere with regards to us Congolese. Perhaps we
13 have another culture, another way of seeing things. We have a culture which is
14 completely different and if it was that, well, I wouldn't even ask for that, because this
15 testimony which I am giving, and the problems for which the accused is here, these
16 are problems relating to the Central African Republic.

17 Now, whether it's the Defence, there's Counsel Badibanga who's Congolese, the
18 Defence has Counsel Kilolo who's Congolese, the OTP has Counsel Badibanga.
19 They all know. They have information from our country. There are people who
20 are reprimanded because they have such-and-such a tendency and that even happens
21 in companies. This happens in public service, where you can't give response or
22 people don't want to give you responsibilities. There's a lot of human rights
23 violations in our country, and when I say that I don't say that leaving here I'm going
24 to be killed, but I have to say that I asked because I don't know what might happen
25 tomorrow.

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(Private Session)

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1 PRESIDING JUDGE STEINER: Maître Badibanga.

2 MR BADIBANGA: (Interpretation)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. After (Redacted) was in contact with Counsel Nkwebe, did you have other
20 contact with Mr (Redacted) after this contact?

21 A. Well, after this contact did we have other contact? I think I spoke to you, if I'm
22 not mistaken. I mean it was quite a while ago. I spoke with you. When I sent you
23 (Redacted) sent me, I told you that I was expecting his email. If
24 I'm not wrong, after this period, just to the moment when he sent the mail which I
25 sent to you, I don't think I had other contact with him, I think.

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1 Q. You think, or you know?

2 A. It's a long time ago. I didn't have other contacts with him. I didn't have
3 them.

4 Q. Do you have a personal relationship with Mr Bemba, or one of his relatives?

5 A. A personal relationship with Mr Bemba, or one of his relatives? I don't have a
6 personal relationship with Mr Bemba. Mr Bemba I know like everybody does. He
7 was Vice-President of the Democratic Republic of Congo and you saw him carry out
8 his campaign in the Congo, but personal contact with him, or with anyone close to
9 him, no.

10 Q. Are you in contact with his family members; members of his family?

11 A. I'm not in contact with members of his family.

12 MR BADIBANGA: (Interpretation) Your Honour, I've finished with my
13 examination. I'd like to thank the Chamber.

14 PRESIDING JUDGE STEINER: Mr Witness, just completing this last question put by
15 the Prosecution, are you aware on whether (Redacted) had any personal
16 contact with Mr Bemba, (Redacted)

17 THE WITNESS: (Interpretation) If he had personal contact with Mr Bemba, or a
18 member of his family (Redacted) In my opinion, he never told me that he had
19 personal contact with a member of Bemba's family. (Redacted)
20 (Redacted) I think he was Bemba's (Redacted)

21 but I don't know if he had personal contact with a member of Bemba's family.

22 PRESIDING JUDGE STEINER: Judge Aluoch.

23 JUDGE ALUOCH: Just one point, Mr Witness, where I'm seeking clarification from
24 the testimony you gave yesterday. The English transcript is page 37, line 25, right at
25 the end of the page. This was towards the end of Mr Kilolo's questioning and

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1 I'll -- I'll just quote part of your answer. "Because I'll be giving some names, and
2 since I am giving names and since I'm speaking about someone who may have been
3 here, and someone who is entirely familiar with this case, I'm quite afraid that this
4 may leak out and this may imbalance things quite a bit."

5 Mr Witness, can you explain to me what you meant, please? I don't understand that.

6 THE WITNESS: (Interpretation) I don't know. What's your question? You
7 say -- well, it depends on the way in which you understand the question, but what I
8 wanted to say by that, (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 JUDGE ALUOCH: So would I be right to understand that is what you meant when
18 you said "I'm quite afraid that this may leak out and this may imbalance things,
19 imbalance things quite a bit"?

20 THE WITNESS: (Interpretation) Well, that is to say unbalance things considerably.

21 That's to say that I was referring to myself. My -- unbalance me. Imagine that I am
22 living with my children and I start thinking oh, well, there's another problem that's
23 coming, or there are people, they know that I testified and a family which has my
24 name, I have a family who has the same name, all of the family. It's a large family.

25 (Indiscernible) I don't know what could happen. I don't want to imbalance that.

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 JUDGE ALUOCH: Thank you for that clarification.
- 14 PRESIDING JUDGE STEINER: Court officer, please turn into open session.
- 15 (Open session at 1.23 p.m.)
- 16 THE COURT OFFICER: We are in open session, your Honours.
- 17 PRESIDING JUDGE STEINER: Mr Witness, thank you very much for another
- 18 morning, four hours, giving testimony. We will adjourn for today.
- 19 Tomorrow morning we will start with legal representatives of victims that were
- 20 authorised to put some questions to you. We hope you have a restful afternoon and
- 21 evening and come ready to conclude. For sure your testimony will be concluded by
- 22 the end of tomorrow's hearing.
- 23 I thank very much Prosecution team, the legal representatives of victims, the Defence
- 24 team, Mr Jean-Pierre Bemba Gombo. I thank very much our interpreters, our court
- 25 reporters, court usher, court officer.

Trial Hearing

(Closed Session)

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Witness: CAR-D04-PPPP-0055

- 1 I will ask, please, court officer to turn into closed session in order for the witness to be
- 2 taken outside the courtroom. In the meantime, we will adjourn and resume
- 3 tomorrow morning at 9.
- 4 *(Closed session at 1.24 p.m.) Reclassified as Open session
- 5 THE COURT OFFICER: We are in closed session, your Honours.
- 6 (The witness stands down)
- 7 THE COURT OFFICER: All rise.
- 8 (The hearing ends in closed session at 1.25 p.m.) Reclassified as Open session
- 9 RECLASSIFICATION REPORT
- 10 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and
- 11 ICC-01/05-01/08-3038, the version of the transcript with its redactions becomes Public.