

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 2
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki
6 Trial Hearing
7 Monday, 6 June 2011
8 (The hearing starts in open session at 9.38 a.m.)
9 THE COURT USHER: All rise. The International Criminal Court is now in session.
10 Please be seated.
11 THE COURT OFFICER: Good morning. Your Honours, Madam President, we are
12 in open session.
13 PRESIDING JUDGE STEINER: Good morning. Could, please, court officer call the
14 case.
15 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
16 Prosecutor versus Jean Pierre Bemba Gombo, case reference ICC-01/05-01/08.
17 PRESIDING JUDGE STEINER: Thank you very much. Good morning and
18 welcome the Prosecution team, legal representatives of victims, the Defence team,
19 Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters, court reporters.
20 We will continue today with questioning of Witness 209 by the Defence. Has the
21 Defence, Mr Haynes, any estimation on the length of your questioning for this
22 witness?
23 MR HAYNES: I don't think I will conclude today, but I'm confident I will tomorrow.
24 PRESIDING JUDGE STEINER: Thank you very much. So we had that abrupt
25 interruption last week. Let's see if we can have our hearing today and tomorrow

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 without any other incidents. So I ask, please, the court usher to bring the witness in.

2 THE COURT OFFICER: Madam President, may we go into closed session?

3 PRESIDING JUDGE STEINER: Of course. Thank you very much for reminding
4 me.

5 *(Closed session at 9.41 a.m.)Reclassified as Open session

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

7 (The witness enters the courtroom)

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

9 (The witness speaks Sango)

10 PRESIDING JUDGE STEINER: Let's go into open session, please, court officer.

11 (Open session at 9.43 a.m.)

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

13 PRESIDING JUDGE STEINER: Thank you very much. Good morning,

14 Mr Witness.

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

16 PRESIDING JUDGE STEINER: How are you feeling today?

17 THE WITNESS: (Interpretation) I'm starting to get used to the climate. This
18 weekend I had a bit of a cold, but today I am fine.

19 PRESIDING JUDGE STEINER: Are you feeling well and ready to continue giving
20 your testimony?

21 THE WITNESS: (Interpretation) Yes. Your Honour, well, before we went
22 into -- before we go into open session, I would like to ask a question of the Court and
23 I think this will need -- this will mean that we will have to go into private session
24 because I have some questions to ask about the various topics that we discussed last
25 time.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 PRESIDING JUDGE STEINER: Of course. Please, court officer, turn into private
2 session.

3 *(Private session at 9.45 a.m.)Reclassified as Open session

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

5 PRESIDING JUDGE STEINER: Please, Mr Witness, we are in private session, feel
6 free to ask the questions you want to.

7 THE WITNESS: (Interpretation) Thank you, your Honour. My first question is as
8 follows: The last time, Mr Bemba's lawyer expressed some doubts about (Redacted)
9 (Redacted)

10 (Redacted) Can the Court let me provide the document so that it can be
11 provided to all the various parties? I think it's important for this document, if you
12 agree, be given to the Defence, to the Prosecution and to the legal representatives of
13 victims.

14 Secondly, the two excerpts that were quoted by the Defence counsel are not my
15 statements. He had me say that it was Bozizé's soldiers who were raping the women.
16 I never said that. The second question -- well, perhaps he didn't understand because
17 I had said that the people from Zaire who crossed - and they represent 50 per
18 cent - there is a group -- there's a Congolese society and there's also a Mandja group,
19 and that represents the 50 per cent.

20 My last concern, your Honour, I'm not here out of self-interest; I'm here out of the
21 collective interest. It's also important for the counsel to have -- to stand back a little
22 bit. He says, "vous" to me, I refer to him as "counsel," and he -- so you see, these are
23 my concerns, your Honour.

24 PRESIDING JUDGE STEINER: Mr Witness, let's see whether we understand really
25 what you meant, because sometimes we can have translation problems. You're

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 saying you have a document that you would like to give to the Prosecution, to the
2 Defence and to the legal representatives; is that correct?

3 THE WITNESS: (Interpretation) Yes, that's right, the parties, the Court, the Judges,
4 the Prosecution, the legal representatives of victims and the Defence, because there
5 seems to be some doubt about (Redacted) It would appear -- or it was said, that
6 I wasn't the (Redacted)

7 (Redacted) I looked through my
8 various documents and I found the (Redacted) so I do have them. I have them with
9 me and I would like to ask for permission to provide them to the Court.

10 PRESIDING JUDGE STEINER: So, in relation to this first point, Mr Witness, usually
11 witnesses do not provide documents to the Court, but I will ask the Prosecution and
12 Defence what they think about it. If both of them agree, then there will be no
13 problem; but this is not usual that a witness brings a new document to the case.

14 I'm not sure that any of the parties doubt on (Redacted) Maybe
15 there has been a misunderstanding on that but, in any case, before the
16 Chamber decides, I will give the floor to the Prosecution and to the Defence and ask
17 them whether they have any doubts about (Redacted)

18 (Redacted) or
19 whether they accept that as a truth that doesn't need any evidence.

20 Ms Kneuer, do you have anything to say about that?

21 MS KNEUER: Madam President, your Honours, the Prosecution has no doubts
22 about the (Redacted) of the witness, and we believe that his testimony is truthful.

23 PRESIDING JUDGE STEINER: Mr Haynes.

24 MR HAYNES: Maître Nkwebe will address the point.

25 PRESIDING JUDGE STEINER: Maître Liriss.

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 MR LIRISS: (Interpretation) Your Honour, I think there's a misunderstanding here.

2 The Defence did not challenge the witness's (Redacted) the

3 Defence wanted to know what were the conditions under which (Redacted)

4 Perhaps we need to have a look at the possible (Redacted) that there was

5 at the time of his statement before the Prosecution. He said that (Redacted)

6 (Redacted) and I think that's sufficient for us.

7 And we did obtain what we wanted to obtain so we don't need that document.

8 PRESIDING JUDGE STEINER: So Mr Witness, as you see, the parties, Prosecution

9 and Defence, they have no doubts that you said the truth in relation to (Redacted)

10 (Redacted) So there are no discussions in

11 that respect and, therefore, you don't need to give us any document to prove what

12 you said in that respect.

13 Your second point, Mr Witness, you say that the Defence misquoted -- better saying,

14 that the Defence quoted two excerpts that you say do not belong to your statements

15 because the Defence quoted parts of your statement in which you said that Bozizé's

16 soldiers were raping women and that you never said that.

17 And also a question related, that you said that the people from Zaire who crossed,

18 and they represent 50 per cent, there is a group: There's a Congolese society and

19 there's also a Mandja group, and that represents the 50 per cent.

20 So these appear to be two points that you want to clarify in relation to your testimony;

21 is that correct?

22 THE WITNESS: (Interpretation) That's right.

23 PRESIDING JUDGE STEINER: So we have your concerns here in the transcript, and

24 I will ask, please, the Defence when questioning the witness to ask the witness to

25 clarify these two points in order for his testimony to mirror what he said.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 Apparently, there is some doubts in relation to what he really said.

2 And, finally, you were complaining that you've been treated by "vous" in relation to
3 counsel and apparently you are not happy with that; is that correct?

4 THE WITNESS: (Interpretation) Yes, that's right.

5 PRESIDING JUDGE STEINER: Maître Liriss, since my French is not so good, I
6 always believed that "vous" is a very respectful treatment but, in any case, would you
7 have anything to address in relation to this issue to the witness?

8 MR LIRISS: (Interpretation) Your Honour, well, in French a lack of respect is shown
9 by using the "tu" form, and to be respectful, you use the "vous" form. In English,
10 there's only the one. My colleague is saying "you," he is cross-examining in English,
11 but you see, in French, to show respect, one uses the "vous" form. I think this is
12 what we're dealing with here.

13 PRESIDING JUDGE STEINER: Mr Witness, you are being questioned in English
14 and the interpreters are translating it into "vous" as a respectful manner to address
15 you. If you are not happy with the "vous," what would be your suggestion, then?

16 THE WITNESS: (Interpretation) Your Honour, I think that ever since the Prosecutor
17 began and then we had questions from the legal representatives, they have been
18 saying "the witness." However, the counsel is saying "you," vous" in French, and
19 this gives an impression that I am a student or a schoolboy of some kind. I think he
20 should say "monsieur le témoin." I would feel much more comfortable with that,
21 but it's not really all that important. We can move on to something else.

22 PRESIDING JUDGE STEINER: I'm sure the Defence is taking note of your concerns,
23 and as you recognise, it's not such a -- it's not really that important. He can address
24 you as "Mr Witness," but in the middle of the question, of course, he's going to ask,
25 "What do 'you' think?" There's no other way to say that. So don't take offence.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 The Chamber is paying attention and the Defence is being -- the Defence is being
2 quite respectful, so you should not have concerns in that respect. Can we continue
3 then, Mr Witness, with your questioning?

4 THE WITNESS: (Interpretation) Yes, we can continue. I am satisfied.

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

6 (Open session at 10.00 a.m.)

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

8 PRESIDING JUDGE STEINER: Thank you very much. Mr Witness, before I give
9 the floor to the Defence I need to remind you that you are still under oath. Do you
10 understand that?

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

12 PRESIDING JUDGE STEINER: I also want to remind you that you are under
13 protective measures, your voice and image broadcast outside the courtroom are being
14 distorted, so that the public cannot identify you. So, please, when we are in open
15 session, don't give any information that could lead to your identification. If need be,
16 we go into private session. You understand that, sir?

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

18 PRESIDING JUDGE STEINER: Thank you very much. Mr Haynes, you have the
19 floor.

20 MR HAYNES: Thank you, Madam President.

21 QUESTIONED BY MR HAYNES: (Continuing)

22 Q. And good morning, Mr Witness .

23 A. Good morning.

24 MR HAYNES: Can we immediately go into private session, please?

25 PRESIDING JUDGE STEINER: Court officer, please.

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

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

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

3 MR HAYNES:

4 Q. Thank you. Mr Witness, we are in private session so only the people in this
5 room can hear what you say so you are free to say things that might identify you.

6 Do you understand?

7 A. Yes, I understand.

8 Q. Do you know a man by the name of (Redacted)

9 A. (Redacted) is the (Redacted) or was at the time of the
10 events.

11 Q. Thank you very much. And what political party did he belong to?

12 A. He belonged to the (Redacted). He was (Redacted) at Patassé's time. First of
13 all he was (Redacted) and then he was (Redacted) after that.

14 Q. And this may be an obvious question for you but, so that we have a record of it,
15 the MLPC was the party of President Patassé; is that right?

16 A. That's right. The MLPC was the party of President Patassé.

17 Q. Thank you. Did (Redacted) live in (Redacted)?

18 A. (Redacted) was an inhabitant of (Redacted), but when he took up his post in
19 (Redacted) then he would (Redacted) and then go back to (Redacted). That's what
20 he was doing at that time.

21 Q. What about his family, did they (Redacted)

22 A. In my statement I said that (Redacted) is the son of (Redacted)
23 (Redacted)

24 Q. What (Redacted) did they live in (Redacted)?

25 A. He lived (Redacted)

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 (Redacted) excuse me, and he went to (Redacted) because he

2 came from (Redacted). He would go on (Redacted) and stay on (Redacted) and come

3 back (Redacted)

4 Q. Thank you. What happened to his home after Bozizé's rebels arrived in

5 Damara?

6 A. Counsel, I told you that I fled and then, when I returned three days later, I

7 observed that the soldiers' staff headquarters was in (Redacted) house. That is the

8 answer that I can give to your question, sir.

9 Q. I don't want there to be any misunderstanding; I'm asking you what happened

10 to (Redacted) house when Bozizé's forces arrived in Damara on 27 October?

11 A. Bozizé's soldiers, when they withdrew to Damara, I told you that they did not

12 touch individuals' property. They destroyed buildings belonging to the

13 administration but (Redacted) house does not belong to the administration. When

14 Bozizé's soldiers arrived in Damara, they didn't touch (Redacted) house.

15 Q. Is the house you are referring to a farm?

16 A. (Redacted)

17 (Redacted)

18 Q. And that property was not destroyed; is that correct?

19 A. Counsel, I told you that when Bozizé's soldiers took the town of Damara they

20 only destroyed property belonging to the State. Property belonging to the

21 population remained untouched by those soldiers; they didn't touch the houses or

22 many other things of individual residents and they did not touch (Redacted)

23 house.

24 MR HAYNES: Thank you very much. Could we please put into eCourt

25 Defence document 18. It's one of the (Redacted) And for those who are

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 following the hard copies, the last four numbers are 0185.

2 THE COURT OFFICER: The document CAR-OTP-0035-0185, it's available on your
3 screens. You just have to press the button "PC1." It's a confidential document.

4 MR HAYNES:

5 Q. Do you recognise that area as being in Damara?

6 A. Counsel, the (Redacted)

7 (Redacted)

8 (Redacted) I might

9 get it wrong.

10 Q. That's okay. I appreciate it was difficult. I wonder if we could zoom in to the
11 bottom right-hand corner where there are -- there is a date. A bit more, please, and
12 maybe one more time. Can you see the electronic date on that (Redacted), sir?

13 A. Is it the first? I see TP-0035-0585, that's what I've seen.

14 Q. No, above that, on the actual (Redacted) itself, can you see 5/11/02 (Redacted)
15 (Redacted)?

16 A. I see 2011; is that what you mean?

17 Q. Can you see in the middle of the (Redacted) a "5"?

18 A. It's not very clear. I have difficulty seeing it. I can see "35," but that's all.

19 Q. Well, we'll leave that to one side. Which soldiers were in Damara on
20 5 November 2002?

21 A. In November 2002, I think that it was Bozizé's soldiers because they occupied
22 the town on the 27th. They were the ones who were controlling the town in
23 November. On 7 December, the Banyamulengue arrived in their turn to occupy the
24 town.

25 Q. Thank you very much, sir. I wonder if we could just pan back to see the whole

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 (Redacted) again. Thank you.

2 Now, I appreciate that you ran away when Bozizé's forces arrived in Damara, but did
3 some of Bozizé's forces resemble the sort of men (Redacted)

4 A. Counsel, I fled. How can you ask me to give this clarification? I'm not in any
5 position to tell you. I told you that (Redacted)

6 (Redacted) came to talk to me about this but I didn't come out again.

7 I never had any contact with them so I can't tell you with precision which soldiers
8 they were.

9 Q. Thank you. Well, you've led nicely into my next question, which is: After
10 you fled, did you ever see (Redacted) again?

11 A. I said that they took the vehicle, they drove it away, they went to Bangui with it.
12 (Redacted)

13 (Redacted) When I was still
14 out in the bush, my wife explained what had happened to me, and that's really all
15 I can tell you.

16 Q. I'm sorry, I'm not quite clear. What actually happened to (Redacted)

17 A. (Redacted) because they learnt that (Redacted)

18 When I heard that, then I fled. They came and they (Redacted)

19 (Redacted) I was out in the bush. (Redacted)

20 (Redacted)

21 (Redacted) During that period, I was in the bush so I can't really tell you, or I
22 have no way of knowing, under what circumstances they returned the vehicle.

23 Q. Where was it returned to?

24 A. It was between them; they already knew who the owner of the vehicle was.

25 They used it, but when they found out that it belonged to (Redacted) then they sent

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 someone to fetch the vehicle. They didn't return or send the car back to (Redacted)

2 (Redacted) when they learnt

3 that the vehicle belonged to a (Redacted) they simply returned it. But I wasn't present;

4 I can't give you the details.

5 When Bozizé's soldiers were still in Damara, on the second day to be exact, in the

6 evening, I left the town because (Redacted)

7 (Redacted) As regards the vehicle and when they returned it to the owner, I

8 simply found out that the car had been returned.

9 Q. Okay. I think we're getting there. Where was the owner, was he in Damara
10 or somewhere else?

11 A. When they arrived to occupy the town, it was the 27th. The (Redacted) fled
12 into the bush so that he could get to Boali, a town on the national road number 2.

13 From Boali, then he went to Bangui. During that time, (Redacted)

14 (Redacted)

15 Q. Was it there when you returned to Damara?

16 A. It was the 27th. He fled and (Redacted) He didn't

17 come back; he left. And after he went to Boali, he went to Bangui. And then I was

18 in the bush. Up 'til the time that the Banyamulengue occupied the town, he did not

19 come back, he hadn't come back. I would even say that when the president's forces

20 took power, he didn't return to Damara. He remained in Bangui and he (Redacted)

21 (Redacted)

22 Q. Okay. Well, I might see if we can clarify that a little later but can we, for the
23 time being, put Defence document 8 into eCourt; that is CAR-OTP-0035-0141. It's

24 another (Redacted) It's confidential, but we are in private session. Is that (Redacted)

25 (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 A. Yes, indeed, it is that (Redacted) yes. And this fits with what I told the
2 Prosecutor; I said that it was a (Redacted) This is the (Redacted)

3 Q. Who stole (Redacted)?

4 A. Counsel, (Redacted) Perhaps you should ask who stole the
5 (Redacted) rather than who stole (Redacted) But I will answer the question.

6 I told you at the beginning that (Redacted)

7 (Redacted)

8 Q. Okay. Well, I'll accept your advice. Who took the (Redacted)

9 A. But, Counsel, if you occupy that house but you're not there and something
10 happens, are you in a position to say who caused the problem? They said they

11 (Redacted) I was not there. (Redacted) and I fled. So I don't know

12 exactly who took (Redacted) Personally, I know that it is (Redacted)

13 (Redacted) He's the one who took (Redacted) Now, (Redacted)

14 (Redacted)

15 MR HAYNES: Thank you very much. Well, I think we can now go into open
16 session.

17 PRESIDING JUDGE STEINER: Mr Witness, we are turning into open session now.

18 Don't forget that you should not say that (Redacted)

19 (Redacted) or any other kind of information that could lead to your

20 identification. Court officer, please.

21 (Open session at 10.27 a.m.)

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

23 MR HAYNES:

24 Q. Thank you. And, Mr Witness, can I just reinforce that. If you feel that your
25 answer needs you to say something that might reveal your personal identity, please

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 ask us to go back into private session.

2 Now, I'm coming to the first of those clarifications that you wanted to make, and
3 what I'm going to do is I'm going to read back to you what the transcript recorded
4 you as saying in English the other day, and it's the same reference we were dealing
5 with before we had the last interruption, the real-time transcript, page 43, lines 7 to 12.

6 Listen carefully.

7 PRESIDING JUDGE STEINER: Mr Haynes, sorry, which transcript?

8 MR HAYNES: It's last Tuesday, 31 May, real-time transcript, page 43, lines 7 to 12.

9 It's the same reference that I used when we were last questioning the witness.

10 Q. You said, "I think that Bozizé's men didn't achieve their push for power and
11 they went back to Damara. And I stated in my statement that they, the ones who
12 had been in Damara, they had never been responsible for a murder or a rape. Their
13 women came themselves to them." And I want to ask you what you meant, or what
14 women you were referring to when you said that?

15 A. Counsel, there is a difference between a woman who consents to sexual
16 relations and a woman who is raped. What I mean is that when Bozizé's soldiers
17 were in Damara, because they had money, they went after women. And so there is a
18 distinction to be made between going after a woman, running after a woman and
19 raping a woman; whereas, in the other case, there was consent. That is a distinction
20 I would like to make.

21 You see, when a woman was raped that was talked about and everyone would say
22 that some women were raped. I was in the bush at the time, but I did not hear
23 anyone say that Bozizé's soldiers had raped women.

24 Q. Well, given that you were in the bush at the time, how did you know that
25 Bozizé's soldiers were with women consensually?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 A. Counsel, I believe that raping a woman is a disgraceful or demeaning act. The
2 time I spent in the bush may have given me opportunity to hear from my wife who
3 regularly went to the village about these things, so I am under a duty to testify to the
4 things that I am aware of. I never heard anyone say that Bozizé's soldiers raped a
5 woman. It is true that I went out to the village, but I am not aware of any inhabitant
6 complaining about Bozizé's soldiers having raped anyone, at any time whatsoever.
7 I think it's necessary to tell the truth. You have done well to put this question to me,
8 and that is my answer.

9 Q. What things did you hear from your wife?

10 A. About what?

11 Q. About Bozizé's soldiers sleeping with women.

12 A. These things did not happen and my wife could not tell me all these things.
13 All she did was talk to me about the subprefect's vehicle which had been taken away
14 and which had been returned because someone had come from Bangui to take the
15 vehicle back to Bangui. My wife explained to me that it was because of family ties
16 between the soldier and the subprefect. My wife never talked to me about any case
17 of rape committed by Bozizé's soldiers. She, whatever she heard in the village or
18 what she saw with her own eyes, she told me. So she could not have told me
19 untruths, what was not correct.

20 THE INTERPRETER: A request from the Sango interpreters: Would the witness be
21 kindly reminded to speak more slowly. Thank you.

22 MR HAYNES:

23 Q. Sir, if you could just slow your answers down a bit the interpreters would be
24 able to interpret your words more accurately.

25 I'll put the question one last time: Who told you that women in Damara came to

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 Bozizé's troops and had consensual sex with them?

2 A. I believe that I have already stated that although Bozizé's soldiers went back to
3 Libi some women went there to follow them. The inhabitants said that this is not
4 what happened during Bozizé's time, because the women were consensual. They
5 were never raped. So I heard this being talked about in various discussions and it
6 was not necessary that it be X, Y or Z who mentioned it specifically in the evenings
7 when I left the bush.

8 I did not have any such information. But the problems began when the
9 Banyamulengue occupied the town. People were complaining. Those who were
10 there before the Banyamulengue had a different experience; people were not
11 complaining, they didn't rape women, the women went after Bozizé's soldiers of their
12 own volition, freely. I never heard anyone say that the women were raped at that
13 time and I cannot testify otherwise on that issue.

14 Q. Well, I apologise, but one last time: How do you know that the women went
15 after Bozizé's soldiers of their own volition, freely?

16 A. Counsel, I think that even in times of peace when a woman has a relation or
17 relationship with a man, that is not always known and more so if it were your own
18 wife, your own very wife, whom you attempt to rape at night, maybe the neighbours
19 will say that during one night Mr X tried to rape or to sleep with his wife but she
20 refused, and people would know what happened.

21 When I left the bush, when I came out of the bush, I never heard anyone say that
22 Bozizé's soldiers had raped women. You see, they had occupied the town and,
23 obviously, they must have had sexual relations with women but they never raped
24 any woman. In all my answers, I think I have mentioned this fact, and if you did
25 understand properly these were consensual relations because no one complained and

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 there was no incident.

2 Q. Thank you. So if I asked you how do you know that every sexual act between
3 one of Mr Bozizé's soldiers and a woman from Damara was consensual, you would
4 say because you never heard a complaint of rape; is that it?

5 A. Yes, indeed, I never heard anyone complain. I never heard anyone come to
6 complain that his wife or daughter has been raped, so I cannot testify otherwise here
7 before this Court.

8 Q. But while you were hiding in the bush, were you receiving reports that Bozizé's
9 men were sleeping with women?

10 A. Counsel, my position is clear and my testimony is coherent: I have never
11 heard anyone say that Bozizé's soldiers raped a woman and that such a thing
12 happened. Well, whether such a thing happened and I did not hear mention of it,
13 that I cannot speak to, but while I was in the bush my wife went to town regularly to
14 buy food supplies. She would have talked to me about such an incident, but I
15 personally never heard mention of such a thing.

16 Q. What was it that you were afraid of that made you stay in the bush for several
17 weeks with your family whilst the town was occupied by Bozizé's forces?

18 A. Counsel, that is a very good question. It was not only for one week; I came out
19 at night during one week, but I did not have the opportunity to move about. They
20 came asking for the key of the vehicle and, you know, I am a human being and
21 because I cannot talk about (Redacted) what I have simply told you
22 is that the property of the administration was destroyed or, should I say, ransacked.
23 So I and the inhabitants of the area were together and it was important for me to
24 remain in safety.

25 Q. Were you afraid that they would do physical harm to you?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 A. Counsel, Bozizé's soldiers also were not part of a conventional army. In that
2 group, there were inhabitants of Damara who had been recruited to join the group. I
3 could have put my life in danger, and that is why I wanted -- I went into hiding in
4 order to avoid any vengeance, any acts of vengeance. For example, (Redacted)
5 (Redacted)

6 That was an ominous sign and that is why I decided to go into hiding.

7 Q. You say you didn't want to put your life in danger. Were you afraid they
8 would kill you?

9 A. Counsel, let me repeat what I have already said: In Africa, in our country,
10 when such events occur, acts of vengeance may follow. You see, if I had remained
11 in the city, people would have come to ask for the vehicle. And Bozizé's soldiers
12 included people from Damara, unemployed Muslims who joined the group. So, if
13 I were to stay in town and one of them who knew me could have easily taken revenge
14 or attacked me.

15 So the question I keep asking is how did this group become aware (Redacted)
16 (Redacted)

17 have paid the price with my life. Most of these people, I knew them because they
18 were inhabitants of the city, or of the town.

19 Q. And did you continue to have that fear throughout the whole six weeks that
20 you were in the bush?

21 A. Counsel, you see, you do not play with your life. You have done well to ask
22 me this question, but which man can see death coming and stand waiting for it? I
23 have already explained to you why I decided to get out of town. (Redacted)
24 (Redacted)

25 I would have not had any problem; but even if they did not put that question to me, I

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 (Redacted) So the two groups came and I needed to see

2 how the collaboration between them could go on, but from the time they put this

3 question to me, I became aware that they must have known something.

4 Q. I understand that, but what I'm interested in is why you continued to have that

5 fear from 27 October right up until 7 December. What was it made you continue to

6 have that fear?

7 A. Counsel, I have told you that I came out one week, or -- one week after, or nine

8 days before the Banyamulengue captured the town. You see, (Redacted)

9 (Redacted)

10 (Redacted) Well, that would have been an opportunity for vengeance and,

11 although I was part of civil society, the rebels would not necessarily have understood

12 that. So it is for you to understand this, too, Counsel.

13 MR HAYNES: Can we go into private session, please?

14 PRESIDING JUDGE STEINER: Court officer, please.

15 *(Private session at 10.49 a.m.)Reclassified as Open session

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

17 MR HAYNES:

18 Q. Mr Witness, I've asked to go into private session so that you can feel free to

19 mention the (Redacted) Do you understand?

20 A. Yes, I do.

21 PRESIDING JUDGE STEINER: Mr Haynes, before you continue, I need a

22 clarification from the witness to make sure that I understood what he said.

23 Mr Witness, for how long did you stay in the bush?

24 THE WITNESS: (Interpretation) From 27 October, when Bozizé's soldiers occupied

25 the town, one day after. So, on the 28th, (Redacted)

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 and it is on that date that I fled. I came out seven to nine days before the
2 Banyamulengue captured the town. Before I came out, I was not free to go about.
3 On 27 October -- from 27 October through November, the entire month of November,
4 I was in the bush and I came out on the 7th, unofficially. That is the answer I can
5 provide.

6 PRESIDING JUDGE STEINER: Thank you very much. Mr Haynes.

7 MR HAYNES: Thank you, your Honour.

8 Q. Why did you come out on 7 December?

9 A. I did not say that I came out on the 7th. I said I came out before the 7th but
10 I was not free to move about. It is my wife who came back and told me that the
11 problem had been solved and that the vehicle had been returned. But I was still
12 afraid because it was (Redacted) so I remained in the bush,
13 and I was aware that I had spent a lot of time in the bush. I was beginning to feel
14 pains and it is at that time that I decided to come out. But I was not able to stay in
15 my own house, so I went to live with (Redacted)
16 (Redacted) and then I would return to the bush in the evenings at (Redacted).
17 So I would come out and spend the night and then go back, but up to the 7th I was at
18 home. And then I came out and I heard gunfire which came from the
19 Banyamulengue who had come to occupy Damara town.
20 Then I returned to the bush. I spent three days there and came out again on the 10th.
21 On that day, (Redacted)
22 (Redacted)

23 Q. So that I'm clear, what did you do and where did you go on 7 December?

24 A. On 7 December, to be specific, on that day -- you see, gunshots do not pick their
25 targets. I was also fearing for my life. And having spent almost two months in the

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 bush, I came out. And when the Banyamulengue arrived, I decided to flee also
2 because, like I said, bullets do not pick their targets. So from the 7th to the 10th, I
3 stayed in the bush.

4 Q. On the day of the 7th, did you go into the town of Damara?

5 A. Counsel, please understand me properly. I have told you that before the
6 7th - that is, before the Banyamulengue captured the town - I came out but I was
7 living in clandestine circumstances. I could not go to my house where (Redacted)
8 used to live. I could not stay in that house, so I went to the other house which I had
9 (Redacted)

10 On the day the town was captured, on 7 December 2002, I fled on that 7th, in the
11 morning, because in the morning of the 7th there was already some gunfire and the
12 impression was given that Bombayake was shelling the town with his aircraft. We
13 all understood that and everybody was afraid. People could not move about.
14 At 10 a.m. I wanted to leave, but my wife asked me to wait a little longer. Shortly
15 thereafter, the Muslims of Damara came to inform Bozizé's soldiers and other persons
16 to be careful and to secure their property. So when I heard that, I decided to flee
17 myself.

18 MR HAYNES: I think we can go back into open session for a couple of minutes.

19 PRESIDING JUDGE STEINER: Court officer, please.

20 (Open session at 10.57 a.m.)

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

22 MR HAYNES:

23 Q. Sir, on 7 December, when you fled the town, were Bozizé's forces still in
24 occupation of Damara?

25 A. Counsel, I have told you that from 27 October to 7 December, Bozizé's soldiers

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 were in Damara throughout that entire period. On the 7th, at around 11 a.m., the
2 Banyamulengue captured the town. From the 7th to the 10th, I fled; I was no longer
3 in town.

4 Q. What time on the 7th did you flee?

5 A. Counsel, that is a matter of approximation. I have just told you that, given the
6 scope of the events, I may not have been able to know exactly what time, but my
7 testimony is that it was on the 7th, in the morning, between 10 and 11 a.m.

8 With the assistance of the Libyans, the fighting lasted a long time. They used some
9 vehicles to capture the town.

10 MR HAYNES: Thank you.

11 PRESIDING JUDGE STEINER: Thank you, Mr Haynes.

12 Mr Witness, we are having now a half-an-hour break for you to take some rest, take a
13 coffee. It's 11 o'clock. We'll be back at 11.30.

14 I ask, please, court officer to turn into closed session for the witness to be taken
15 outside the courtroom. And, in the meantime, we are suspending for half-an-hour.

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

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

18 (The witness stands down)

19 THE COURT OFFICER: All rise.

20 (Recess taken at 11.01 a.m.)

21 *(Upon resuming in closed session at 11.36 a.m.)Reclassified as Open session

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

23 PRESIDING JUDGE STEINER: Welcome back. We will continue with the
24 questioning of Witness 209 by the Defence. For that purpose I ask, please, the court
25 usher to bring the witness in.

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

- 1 (The witness enters the courtroom)
- 2 PRESIDING JUDGE STEINER: We can turn into open session, please.
- 3 (Open session at 11.39 a.m.)
- 4 THE COURT OFFICER: We are in open session, Madam President.
- 5 PRESIDING JUDGE STEINER: Thank you very much.
- 6 Mr Witness, welcome back.
- 7 THE WITNESS: (Interpretation) Good morning, your Honour.
- 8 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony?
- 9 THE WITNESS: (Interpretation) There is no problem with that, your Honour.
- 10 PRESIDING JUDGE STEINER: So I'll give the floor again to the Defence.
- 11 Mr Haynes, you can continue, please.
- 12 MR HAYNES: Thank you, your Honour.
- 13 Q. And welcome back, Mr Witness.
- 14 A. Good morning once again, Counsel.
- 15 Q. You mentioned just before we took our break a man called Bombayake. What
- 16 position did he hold?
- 17 A. Mr Bombayake, unless I'm mistaken, he was a pilot that Mr Patassé employed
- 18 for the bombing, for air bombing.
- 19 Q. And how did you come to know that?
- 20 A. Well, after all, (Redacted). When an aircraft flies over the locality and drops
- 21 bombs, I mean, if you're in the locality and the plane is dropping bombs you know
- 22 about it. You can't not know about it.
- 23 Q. Thank you. So did you see the plane yourself which dropped the bombs?
- 24 A. I said in one of my statements that Bozizé's men came from Chad to come and
- 25 take Bangui. And when they clashed, when they met up with resistance, they

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 withdrew to Damara. And even before the soldiers came from -- back from Damara
2 they were the target of bombing all throughout the course of their journey back.

3 Q. Okay. But did you see the plane, for example, on 7 December 2002?

4 A. On 7 October -- well, in actual fact, the 7th, when the Banyamulengue were
5 taking possession of the town of Damara, I think that the bombing occurred two days
6 before they took control of the town.

7 Q. Thank you. And how did you come to know that it was Mr Bombayake flying
8 the plane?

9 A. Counsel, nothing was being hidden at that particular time. When Patassé was
10 dropped by the population, the latter was still trying to gain power and that led to
11 disturbances. It was common knowledge. The parliament debated the issue and I
12 would like to tell you that the distance between Bangui and Bambari is 390 kilometres,
13 but the road was -- it was not possible to travel by vehicle, but everyone in the
14 country knew that Bombayake was the number one man when it came to bombing.
15 He was in charge.

16 I'd like to add something, Counsel: It wasn't a Banyamulengue who killed my elder
17 brother, it was him - Bombayake - during the bombing who killed my elder brother in
18 the ambulance that was transporting him. This ambulance was carrying injured
19 people and taking them to Sibut, and it was bombed by Bombayake.

20 PRESIDING JUDGE STEINER: Mr Haynes, if I may, just for a correct or a
21 clarification, let us say. On page 29, line 17, it's stated that "On 7 October, the 7th,
22 when the Banyamulengue were taking possession of the town of Damara." Did you
23 say "7th October," or there is a mistake in the transcript, Mr Witness?

24 THE WITNESS: (Interpretation) The 7th of December, not October.

25 PRESIDING JUDGE STEINER: Thank you very much. Mr Haynes.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 MR HAYNES: Thank you, your Honour.

2 Q. I just want to follow up on the answer you've just given us. Really, what I
3 want to know is: Did you find out that Mr Bombayake was flying the plane from
4 another person or, for example, from the radio?

5 A. Counsel, I told you that it was common knowledge. The opposition members
6 of parliament, they even went to Patassé, to say to Patassé that they had had it,
7 because he was killing the population. And it was that particular official, that
8 member of the air force, who was bombarding the people of the Central African
9 Republic. The opposition members of parliament held a special sitting regarding the
10 matter.

11 I told you my older brother was a victim of the bombing. I can't really make sense of
12 it all. I know who was responsible for the death of my elder brother, but I can't tell
13 you if it was the Banyamulengue who allegedly killed my elder brother, no. It was a
14 problem within the Central African Republic itself.

15 Q. Thank you very much. Can you help us as to the day, or days, on which the
16 town of Damara was shelled with heavy weapons by the Libyans?

17 A. Counsel, I didn't mention the Libyans. You mustn't create confusion.
18 Bombayake was not a Libyan; he's from the Central African Republic. And I'm not
19 in a position to give you the dates or the times of the bombings. You know, these
20 events occurred more than ten years ago. I did not mention any Libyans. I said
21 that it was a matter that really had to do with the Central African Republic itself, so it
22 was within that context that my brother died.
23 Bombayake was a Central African. He was flying the plane. It was not the Libyans.
24 In one of my statements I said that the Libyans were providing some support, but I
25 did not mention any Libyans in connection with this particular incident.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 Q. No, I'm not trying to confuse you. What support did you understand the
2 Libyans to have provided for the taking of Damara?

3 A. Obviously, weapons and vehicles. After the first battle, at 10 in the morning,
4 the results were not favourable and the support of the Libyans was requested. *And
5 when the Libyans left to provide reinforcement, they took heavy weaponry with
6 them. I didn't see them enter the town. But what I did learn is that there were Libyans
7 who were in front, and the heavy weaponry was being fired by a woman, and the
8 majority of the troops were behind, and that is how they entered the
9 town.

10 Q. Thank you. I want to go back to something we were talking about before the
11 break, and in order to refresh your memory, I'm going to ask that you be shown
12 Defence document 3, and the full ERN number of the relevant page is
13 CAR-OTP-0057-0117.

14 PRESIDING JUDGE STEINER: Mr Haynes, do you have the equivalent in the
15 French translation? If you are going to show to the witness, it's better to be
16 displayed the French version.

17 MR HAYNES: Certainly. I'm sure somebody can assist me with that in a few
18 minutes.

19 THE COURT OFFICER: Document CAR-OTP-0057-0117, first redacted version, is
20 available on your screens, and the first page of this document is CAR-OTP-0057-0107,
21 first redacted version, which corresponds to that number 4 on the list of Defence
22 documents.

23 MR HAYNES: Thank you very much.

24 Q. Sir, I'm just going to read a few sentences from what you said in your interview
25 with investigators. The investigator asked you, "If I remember, you were in the bush

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 between the 7th and the 10th of December; is that correct?" And you said, "Yes."

2 And you were asked, "Did you see the arrival of the Banyamulengue in Damara?"

3 And you said, "No. I fled with my family in the bush to protect them." Would you

4 indicate when that's been fully translated to you?

5 A. Ask your question, Counsel.

6 Q. Thank you. Did you flee the town of Damara on 7 December before the

7 Banyamulengue arrived?

8 A. Well, that's so.

9 Q. And from where you fled the town, could you see whether Bozizé's forces were
10 still occupying the town at the time you fled?

11 A. I must acknowledge I don't really understand your question very well. Could
12 you please reformulate it?

13 Q. Absolutely. Were Bozizé's forces still in the town of Damara when you fled on
14 7 December?

15 A. But why were they there? The Banyamulengue had come to drive out Bozizé's
16 men. I wasn't living in my main home; I was living in my third home. And in the
17 morning, when I was supposed to leave, I heard gunshots, and we were wondering
18 where the gunshots came from. At around 10 in the morning my children came and
19 told me. They said to me, "Father, some Muslims are coming," and some soldiers
20 were entering the town and we had to put our possessions in a safe place, and so my
21 family, we decided to flee.

22 Q. Okay. But at the time you fled, do you know whether Bozizé's troops were
23 still occupying the town of Damara, or not?

24 PRESIDING JUDGE STEINER: Ms Kneuer. Witness, just one moment.

25 Ms Kneuer.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 MS KNEUER: Madam President, I have a question: Is this document shown to the
2 public, or not?

3 PRESIDING JUDGE STEINER: No, of course not. I hope not.

4 MS KNEUER: Thank you, Madam President.

5 THE COURT OFFICER: Madam President, this document is a confidential
6 document and no broadcast is going outside of this courtroom.

7 PRESIDING JUDGE STEINER: And before you continue, just for the ease of
8 reference, the French version is document 0058-0067. I was waiting for you,
9 Mr Haynes, to provide us with the reference.

10 MR HAYNES: It just came to me, I think, about the same time as it did you.

11 Q. I'll have to repeat my question. At the time you fled on 7 December, do you
12 know whether Bozizé's forces were still in the town of Damara?

13 A. That is what happened behind me. How could I know that? When the
14 gunshots began and we received the rumours through the Muslims, we immediately
15 decided to leave the town. I wasn't in a position to know whether Bozizé's men
16 were still in the town. It was later, when I came back on the 10th, that is when I
17 learned that Bozizé's men had withdrawn and were now in Libya. So I wasn't in a
18 position to know what time they withdrew. On that particular day, that day when
19 the gunfire began, we learned things gradually, that things were going to happen.
20 The Muslims informed their brothers of the imminent arrival of the troops.

21 Q. Okay. Were you alone in fleeing the town on 7 December or did a lot of
22 people leave on that day?

23 A. Really, Counsel, I don't know how to answer your question. There were
24 gunshots. I must have been the only person to flee -- would I have been the only
25 person fleeing with my family? In fact, it was chaos; everyone was trying to flee.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 But then there were some other people who wanted to stay because they wanted to
2 take advantage of the situation to loot. Some people did choose to stay, but most of
3 the population decided to flee. I was certainly not the only person to do so.

4 Q. Who were the people who wanted to stay and take advantage of the situation to
5 loot?

6 A. Counsel, there are various different social classes. There are people who are
7 ready to go and steal the clothes from the bodies lying in the road. There are
8 different classes of people. There were some who will take advantage of
9 unfortunate circumstances. I can't confirm anything, but I can say that there were
10 some people who stayed in the town to see whether the war was going to develop.
11 Maybe the people who stayed behind are the people who took things.
12 The women who were raped during those events, this is something we only heard
13 about afterwards. A woman went out to check on her property; she was caught and
14 raped by the Banyamulengue as she did so. We only found out about that sort of
15 thing afterwards.
16 We found out that there were people who stayed behind, hiding in the houses to loot
17 them, who then blamed the looting on the Banyamulengue. I can't tell you that
18 everybody fled on that day, because there were women who were raped and we were
19 informed some time later about that.

20 Q. So the people you were talking about are Central African citizens; is that right?

21 A. Yes, they were Central Africans. Counsel, you're asking me a question. I
22 don't want there to be any confusion. There is a Congolese minority that was living
23 there, but when general panic broke out, when everyone was fleeing, it was total
24 chaos. You couldn't tell who was running away and who was not, but I said that
25 there were people who took advantage of that situation. I think that the people who

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 were raped and brutalised are people who were asking for that to happen to them.

2 The people who ran away did not come across any Banyamulengue to run into the

3 kind of situations that the victims were complaining about.

4 Q. And which people blamed the looting on the Banyamulengue?

5 A. Who accused them? Counsel, I don't know who was in control of events from

6 7 December through to mid-February. No one was accusing them. You know, you

7 cannot accuse somebody without evidence. They occupied people's houses; they

8 looted. They took the beds, they took the mattresses. They stocked all of the looted

9 property at their base. It's not a gratuitous accusation. When they came into the

10 town, they broke down the doors of houses as they went and they were taking

11 anything of value. When we came back, we saw the looted property that was

12 stocked in their base.

13 Q. I think we may not be understanding one another. What you said at page 36,

14 line 11 to 16 of the English transcript, was, "We found out that there were people who

15 stayed behind, hiding in the houses to loot them, who then blamed the looting on the

16 Banyamulengue." Who were these people who stayed behind and hid in the

17 houses?

18 A. Counsel, I think that there is a slight confusion here. I had told the Prosecution

19 that the Banyamulengue had taken control of Damara, and it's the Banyamulengue

20 who were breaking down doors and looting. I did not accuse them without

21 foundation. There were cases of rape. The people or the women who stayed

22 behind, who didn't flee when the Banyamulengue found them, they raped them.

23 The women who had, in the first instance, fled and then come back to recover

24 property from their houses, when they came across Banyamulengue, the

25 Banyamulengue raped them. So that's really what happened.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 Let's take the case of the crazy man. You know, that man stayed behind, he did not
2 flee. He crossed paths with the Banyamulengue and, well, that's what happened.
3 He was killed.

4 Certain people stayed behind. If nobody had stayed behind, how could the
5 Banyamulengue have encountered women there to rape them? That is why I said
6 that a lot of people fled, but some people, a few rare people, stayed behind trying to
7 take advantage of the arrival of the Banyamulengue in order to go looting but I can't
8 say this person or that person did this or that thing.

9 Who are the people who started to break down the doors of houses? It was the
10 Banyamulengue. The young people who had, first of all, run away came back after
11 the Banyamulengue had passed through, breaking down doors, and took advantage
12 of the situation. That's all.

13 Q. How did you know that people stayed behind and hid in houses to loot them?

14 A. Counsel, how did I find out that women had been raped? Well, we're not
15 talking about rapes that took place after the 10th; we're talking about women who
16 were raped on the 7th. What does that mean? Well, it means that there were
17 people who stayed in the town. People -- some people fled and other people tried to
18 be clever and did not flee and some people came back.

19 I know that there were some women who tried to be clever by coming back to recover
20 some of their ancestral belongings. I know that the Banyamulengue broke down the
21 doors. I wasn't there, but that's what was reported to me. They were breaking
22 down the doors of Central African people's houses, and you know that there are
23 people who always will try and take advantage of these kinds of situations to increase
24 their own wealth.

25 Q. How do you know that these people then blamed the Banyamulengue for the

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 looting?

2 A. Counsel, concerning the looting, when we were (Redacted)

3 (Redacted) we saw the looted property on

4 the base. We saw the electrical equipment; we saw the mattresses. If I were to

5 break down the door to someone's home today, Counsel, take the valuable property,

6 then other people might follow behind me and take what was remaining in that

7 house to be taken.

8 Q. Can you help us as to, approximately, how many of your fellow Central

9 Africans stayed behind in Damara to loot property on 7 December?

10 A. Counsel, you're trying to make me contradict myself. I fled. Could I have

11 had eyes in the back of my head so that I could count how many Central Africans

12 remained behind in the town? It's only afterwards that, when we came out, people

13 started to complain and say, "My wife was raped." And I, at that point, asked, "Well,

14 why did that woman not run away?" But, in fact, it was total chaos. Would I have

15 been able to turn around and go and count how many people stayed behind when I

16 was one of the first people to flee myself?

17 Q. Very well. In which direction did you flee?

18 A. In my statement I said that I went to hide at the same place where I went when

19 Bozizé's troops took over the town. It was where my parents-in-law lived. It was

20 out in the country. So that is why I sought refuge.

21 Q. Was it in the direction of Bangui?

22 A. No. The field of my parents-in-law's family, it was in the direction of the river

23 that separates the Central African Republic from the Democratic Republic of the

24 Congo.

25 Q. Thank you. And were you able to see in which direction other people were

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 fleeing on that day?

2 A. Counsel, that was impossible. During those events it was each person for
3 themselves. I couldn't even find some of my own children on the first day. It was
4 two days later that those children tried to meet up with me again. It was only then
5 that they realised I was at their grandfather's place in the fields and they followed me
6 there. It was really each man for himself at that time, and so I didn't know where
7 Jean was or where Paul was at any given moment.

8 Q. Okay. I want just to go back to something we were talking about a little earlier.
9 When you talked about the Libyans having heavy weapons, what sort of weapons
10 were you talking about?

11 A. Counsel, to answer your question, I would have to say that I am not an expert in
12 weapons. I didn't see the weapons with my own eyes so I can't give you details
13 about them. Those who were there and saw what happened are the people who
14 reported to me that there were white people in vehicles with heavy artillery who
15 were leading, and that the greater majority of the troops were following behind that.
16 But they reported to me that the weapons were heavier weaponry than Kalashnikovs.

17 Q. Okay. On 26 May, page 30 lines 17 to 18 in the edited English transcript, you
18 told us that you didn't see heavy weapons in the hands of MLC troops; is that correct?

19 A. I said that as they were coming in, when I came out again and I saw them in the
20 towns, I didn't see the heavy weapons. Those who were walking around the town
21 were carrying Kalashnikovs. So when I came back out, I saw Banyamulengue troops
22 armed with Kalashnikovs.

23 MR HAYNES: I wonder whether we could have a look at Defence document
24 number 24. That's CAR-OTP-0035-0223. It's a confidential document and should
25 not be broadcast.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 Q. Sir, it's not a very clear (Redacted) but can you see what that is in that (Redacted)

2 PRESIDING JUDGE STEINER: Ms Kneuer.

3 MS KNEUER: Madam President, shouldn't we go into private session?

4 PRESIDING JUDGE STEINER: I think maybe it's a matter of caution. Court officer,
5 please let's go into private session.

6 *(Private session at 12.21 p.m.)Reclassified as Open session

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

8 MR HAYNES:

9 Q. As I said, Mr Witness, it's not a very clear (Redacted) but can you see that that is a
10 (Redacted)?

11 A. I have never seen this (Redacted) but I see that we can see (Redacted)
12 (Redacted) on the (Redacted) I can't identify it clearly.

13 Q. Can you see that there appear to be (Redacted)
14 on the far right of the (Redacted)

15 A. Counsel, the (Redacted) is not clear. I cannot answer you in the affirmative
16 until the (Redacted) is clearly identifiable. I can see (Redacted)
17 and I can see (Redacted) but
18 the (Redacted) is not clear enough for me to give you an answer.

19 Q. Did you ever see (Redacted)?

20 A. But if this is (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)

24 Q. Well, you were in (Redacted)
25 Did you ever (Redacted)

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 like that?

2 A. Counsel, until it is established otherwise, I can really say that even if the

3 Banyamulengue had (Redacted) they could not show (Redacted) in public.

4 When they took over the mayor's house, which was opposite the MP's house, they

5 only showed themselves with (Redacted). It wasn't easy to see (Redacted)

6 I didn't see any heavy (Redacted) to what (Redacted) As I said during the

7 preliminary investigation, I never saw (Redacted)

8 Q. Thank you. Did you ever, between December of 2002 and February 2003, see

9 any incoming helicopter arrivals in Damara?

10 A. A helicopter is not the same as a plane. A helicopter has rotors.

11 PRESIDING JUDGE STEINER: Mr Haynes, if you are not --

12 THE WITNESS: (Interpretation) I would like you to ask me the question clearly,

13 please.

14 PRESIDING JUDGE STEINER: If you're not showing any more pictures, not

15 mentioning the pictures, can we go into open session?

16 MR HAYNES: Thank you for the reminder. Yes, we can.

17 PRESIDING JUDGE STEINER: Court officer, please.

18 (Open session at 12.26 p.m.)

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

20 MR HAYNES: Thank you very much.

21 Q. Well, sir, you understand the difference between a helicopter and an aeroplane.

22 What I want to know is: During the period that the MLC troops occupied Damara,

23 did you ever see a helicopter arrive in the town?

24 A. I think that there was just one landing of an aeroplane which was not a

25 helicopter.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 Q. Thank you very much. Now, I want to turn back to what you were telling us a
2 few moments ago. When you arrived in Damara on 10 December, had by then
3 Bozizé's troops left the town?

4 A. When I arrived in the morning, there were no Bozizé soldiers; there were only
5 Banyamulengue in the town.

6 Q. And do you have any idea what Bozizé's soldiers took with them when they left
7 the town?

8 A. Well, given that I was not present, I said that it was Bozizé's men who were
9 Muslims who had told their Muslim brothers of the imminent arrival of the
10 Banyamulengue, but I can't possibly have any information about what property they
11 may have taken when they withdrew.

12 Q. And what about the people you were telling us about from the local population,
13 the ones who hid in the houses to take advantage of the situation and loot, do you
14 have any idea what property they took with them in those three days?

15 A. Well, given that I was not present, how can I give you any information about
16 the quality of the property that might have been looted? For me, Counsel, if there
17 had been no one, if no one had fled or, rather, if people stayed behind in the town and
18 they did so in order to steal things, for example the food that the inhabitants left
19 behind when they fled, was something that they could use, and basic goods like soap
20 would be there to be taken.

21 I wasn't present but, after I returned to the town, I learnt that women had been raped.
22 That is the information that I was given. And I would tell you, therefore, that not
23 everybody in the population fled. If everyone had fled, how would the women have
24 been in the town to be raped?

25 Q. Why was it that you were happy to go back to the town of Damara on 10

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 December?

2 A. Counsel, if you had been in my place, or in my shoes, would you have been able
3 to stay and continue to stay in the bush for two months? We were experiencing
4 conditions at the time that were difficult, so they were unbearable, and I can also say
5 that I could not have come back to town with the gun-firing going on. It is true that
6 I had many children, and continuing to stay at my in-laws could have become a
7 burden for them. It is for that reason that I decided to come out on the 10th.

8 Q. Was it important for you that the town of Damara was then held by forces loyal
9 to President Patassé?

10 A. Counsel, you are talking about Patassé's soldiers or are you referring to Bozizé's
11 troops? Maybe there's a confusion somewhere.

12 Q. I'm sorry if that is my fault. I'm talking about 10 December. What troops did
13 you believe were occupying the town of Damara on that date?

14 A. When I came out on the 10th -- in fact, while I was still in the bush, people went
15 to town and informed us that Bozizé's troops had left and only the Banyamulengue
16 were left in town. I was aware of this information while still in the bush, even before
17 I came out.

18 Q. And did you believe those troops to be loyal to President Patassé?

19 A. Yes, indeed, it is for that reason that I was encouraged to come out. When the
20 Banyamulengue came to Central Africa, who was their chief or their leader? Was it
21 not Mr Patassé? They did not come on their own; they came because they were loyal
22 to President Patassé.

23 (Redacted) and I knew

24 that if I came out there was a possibility of having some agreement with them
25 because they had been called in by Mr Patassé.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 I am sorry, Madam President, I see that we are in -- Counsel, I have no further answer
2 to provide to this question, because I see that maybe (Redacted)
3 (Redacted)

4 Q. Do you remember telling us about some journalists who you knew to have been
5 in Damara?

6 A. Well, Counsel, your question is somewhat confusing and you're taking me
7 down a slippery path. You see, it is already 12 noon and memory is beginning to
8 lapse, my memory is beginning to lapse somewhat, but I think that you should have
9 put these questions to me in closed session. Having asked that question in open
10 session, I think that this is not proper, and I take it as a slippage.

11 Q. Well, believe me, I'm not trying to ask you any questions that (Redacted)
12 (Redacted) and I'm
13 sure that the journalists concerned are not worried about their names being
14 mentioned publicly, but do you remember telling us about somebody called Carine
15 Franck?

16 A. Yes, she was one of the RFI journalists.

17 Q. Were you aware of the presence of any other journalists in Damara?

18 A. Not at all. From the 27th to the 7th, and from then up until mid-February,
19 there was no journalist other than that RFI correspondent in the Central African
20 Republic. There was no other journalist in the Central African Republic.

21 Q. Do you not remember a journalist from France 2 as well?

22 A. Carine Franck is -- and the journalist of France 2 were together. Now, the
23 woman tricked the Banyamulengue by leading them to believe that she was alone
24 and during that time the journalist of France 2 went into the neighbourhoods to
25 gather information. The French 2 journalist was able to gather information on the

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 rapes and the lootings. What I can tell you, therefore, is that Carine Franck and the
2 journalist from France 2 went there on the same day.

3 Q. Do you know what day that was?

4 A. Impossible. I did not provide a date to the investigators during my statement.

5 Q. Do you know who brought the journalists to Damara?

6 A. Well, they were doing their job. I cannot accuse anyone on this matter. You
7 see, in times of war or when there are any events, celebrations and what have you,
8 journalists are always there to find out what is happening and to inform the world
9 accordingly. So I am not in a position to tell you whether it was Patassé or anyone
10 else who brought them in. As far as I know, they were doing their job and I cannot
11 tell you why they went to Damara.

12 Q. Well, you may have obliquely answered this but who had the authority to
13 permit journalists to enter the country and go to combat zones?

14 A. Counsel, I really do not know how to answer your question. A
15 journalist -- who do journalists receive their instructions from? Well, maybe in
16 non-democratic countries things happen in a certain way. Let us take Libya, for
17 example. Who has authorised the journalists to go to Libya?
18 So these are journalists. They simply go out seeking information in order to inform
19 the world. So I did not know who sent Carine Franck there. All I know is that she
20 worked for Radio France International and the man with whom she came was
21 working for France 2. This is all I can say.

22 How do you expect me to be in a position to know whether, at the time, it was the
23 French President who sent her there or not? How would I have been able to know
24 that? As far as I'm concerned, all I know is that those people were doing their job.
25 Maybe they got wind of something somewhere and had come to cross-check and that

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 is all.

2 Q. Okay. But were not a number of journalists brought to Damara to report the
3 fact that the loyalist forces had retaken the town?

4 A. Are you talking about other journalists different from Carine Franck and the
5 man from France 2? Are you referring to journalists other than those two? Well,
6 apart from those two, there was another journalist. There were two journalists who
7 came with policemen to Damara and we met near the market square, in the presence
8 of the Banyamulengue. There was a driver and two policemen and two journalists.
9 Apart from those, there was no other journalist.

10 Q. And can you remember when they --

11 PRESIDING JUDGE STEINER: Mr Haynes, I am sorry, can you just give the five
12 seconds because we don't have the transcripts yet. So, the five seconds golden rule,
13 please.

14 MR HAYNES:

15 Q. And do you remember when those two journalists came with the policemen?

16 A. Where did they meet the policemen? Well, they came together from Bangui;
17 the journalists and the policemen came together. They had been sent by the Head of
18 State to cross-check and conduct a counter-investigation, and report to the Head of
19 State. So they came together in the same vehicle. You see, the Banyamulengue
20 troops had refused to grant an interview to Carine Franck. Shortly thereafter, a
21 white man, the one who worked for France 2, came out of the neighbourhoods
22 surrounded by some young people whom he had already interviewed. So when
23 Carine Franck saw that, she did not say anything further and understood, simply
24 understood that the journalist from France 2 did not really want to interview
25 members of the population in the presence of the -- of those who had been sent to

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 conduct a counter-investigation by the Central African authorities because the people
2 would not have been ready to answer sincerely to any questions in front of them and
3 they would not have answered any questions from Carine Franck in that -- in those
4 circumstances. This is all I can say for now.

5 THE INTERPRETER: Correction from the English booth, from the interpreters. "I
6 myself" - addition to the answer, "I myself would not have freely answered any
7 questions from Carine Franck sincerely in front of the Banyamulengue." Thank you.

8 MR HAYNES:

9 Q. The other two journalists who came with the policemen, were they French
10 journalists as well?

11 A. The two journalists and the two policemen -- the two journalists were French; so
12 there was a driver, two policemen and two journalists. When you talk about other
13 journalists, well, there was no other group apart from Carine Franck's group. So
14 there was Carine Franck, the journalist from France 2. Then there was another
15 group made up of two journalists who were all French as well, and two policemen
16 and a driver.

17 Q. Thank you. Now, between 7 and 10 December, were you able to receive news
18 through the radio?

19 A. What radio station are you referring to, Counsel? How could one have
20 listened to news over radio? We abandoned all our radio sets at home when we fled
21 and we were in the bush.

22 Q. Did your in-laws not have a radio set that they listened to?

23 A. Not everyone owned a radio set, Counsel. There were people who were not
24 able to lead a decent life on the incomes they had. How would you expect such
25 people to be able to own radio sets and buy batteries that would run the radios? So

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 when I tell you that there was no radio set, Counsel, the simple truth is that there was
2 no radio set.

3 Q. How did you receive news of what was going on in the town and that it was
4 safe to go back?

5 A. Counsel, I have already told you that my sons were grown up. And you know
6 that when a woman needs something, she does her level best to go out. My sons
7 were in the third year of secondary school. One of them was in the university, and
8 my wife also brought back some information to me. It is through these channels that
9 I was able to be informed of what was happening.

10 Q. Okay. Well, I'm going to ask you, please, if some information which was
11 concurrently available accords with your knowledge of the situation, and I need put
12 into eCourt, please, Defence document number 76. That's CAR-D04-0002-1380. Sir,
13 I'm going to ask you to do us all a big favour. Do you mind --

14 PRESIDING JUDGE STEINER: Mr Haynes, could you please repeat the number of
15 the document. We still don't have it in the transcript.

16 MR HAYNES: Certainly, your Honour.

17 PRESIDING JUDGE STEINER: Now we have it.

18 MR HAYNES:

19 Q. Sir, would you mind reading out slowly, in your best French, please, the title of
20 this document and the first three paragraphs. Nice and slowly so the translators can
21 translate what you say.

22 A. I have problems with my sight, Counsel, so would you please kindly read so
23 that I listen, or maybe ask someone else to read? As for me, I am beginning to have
24 some slight headache.

25 *MR KILOLO: I will now read, and I quote: "Forces loyal to President Patassé take

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 control of Damara. Bangui 8 December. The locality of Damara, situated 75
2 kilometres to the north-east of Bangui, has fallen into the hands of supporters of -- or,
3 which has been in the hands of supporters of François Bozizé from the time of their
4 withdrawal from the Central African capital was taken over Saturday evening by
5 forces loyal to President Ange-Félix Patassé, according to concurring sources from
6 APF information which was available on Sunday. Forces loyal to President Patassé
7 launched an assault against the locality of Damara on Saturday at 1 p.m; that is
8 12 hours GMT, and Damara was retaken from the assailants who were currently
9 fleeing, according to a Central African military source speaking to AFP. Those
10 forces were made up mainly of elements of the Central African Armed Forces, FACA,
11 of the Presidential Security Unit, USP, with the assistance of Congolese rebels of the
12 Mouvement de Libération of Congo, MLC, of Jean-Pierre Bemba, and two Libyan
13 aircrafts, according to the same source."

14 Now, just to be specific, paragraph 1, "Bangui, 8 December, AFP, 6.09 p.m." Thank
15 you.

16 MR HAYNES: It looks like we can't go much further with that. I probably have to
17 read it again after the break.

18 PRESIDING JUDGE STEINER: I think it will be necessary, Mr Haynes.

19 Mr Witness, we'll have now our lunch break. I will ask VWU to give you assistance
20 in order to avoid that you have again a headache. You will have time to have lunch,
21 to take some rest. It's 1 o'clock now. We will resume at 2.30. So plenty of time for
22 you to take some rest and we hope you get better from your headache.

23 I will ask, please, the court officer to turn into closed session in order for the witness
24 to be taken outside the courtroom. And, in the meantime, we are going to suspend
25 and resume at 2.30.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

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

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

3 (The witness stands down)

4 THE COURT OFFICER: All rise.

5 (Recess taken at 1.02 p.m.)

6 *(Upon resuming in closed session at 2.35 p.m.)Reclassified as Open session

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

8 PRESIDING JUDGE STEINER: Good afternoon and welcome back. The Chamber
9 received from VWU the indication that the witness is ready to continue giving his
10 testimony. However, they suggest that we try the alternative timing for the
11 questioning, being 40-minute session, 10 minutes' break and plus 40 minutes session.
12 If that's fine with the Defence, let's see whether we can have the full time this
13 afternoon, but in that way. Is that fine with the Defence?

14 MR HAYNES: Yes. So I'll be looking to break at 3.15.

15 PRESIDING JUDGE STEINER: 3.15. So could, please, court usher bring the
16 witness in.

17 (The witness enters the courtroom)

18 PRESIDING JUDGE STEINER: Let's go into open session, please.

19 (Open session at 2.38 p.m.)

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

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

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

23 PRESIDING JUDGE STEINER: Did you manage to rest a little bit?

24 THE WITNESS: (Interpretation) Yes, your Honour, I was able to rest.

25 PRESIDING JUDGE STEINER: In order to avoid that you feel too tired, we are

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 having now -- we will have 40 minutes' questioning. Then we will break for
2 10 minutes and then we'll continue until 4 o'clock. The Chamber thinks that if you
3 have a break in the afternoon session, you won't feel so tired. Is that fine with you,
4 sir?

5 THE WITNESS: (Interpretation) Yes, your Honour, that suits me and we can keep
6 on going, and it will do me a great deal of good to be able to take some rest. But you
7 must understand that if I don't feel well, if I have a migraine, I will let you know.
8 But for the time being, there is no problem and we can keep on going, as you just said.

9 PRESIDING JUDGE STEINER: So we'll have then 40 minutes and then we'll give
10 you a break before we continue. Mr Haynes, you have the floor.

11 MR HAYNES: Thank you, your Honour, and good afternoon to you.

12 Q. And good afternoon to you, Mr Witness.

13 A. Good afternoon once again, Counsel.

14 Q. Thank you. Have you heard of the organisation Agence France Press or AFP?

15 A. Yes, I've heard of that organisation.

16 Q. And do you remember just before we broke for lunch, Mr Kilolo read you a
17 section of a document from Agence France Press, dated 8 December?

18 A. Yes, I heard the counsel read out the article and I myself read a few of the
19 sentences at the beginning.

20 Q. Good. And did you hear in the course of what Mr Kilolo read, or what you
21 yourself could read on the screen, mention of the Force Armée Centrafricaines?

22 A. Yes, I've heard about that, but the whole text is not entirely true. It makes
23 various allusions. In the field from 26 or 27, until the 7th of mid-February, there
24 were no FACA soldiers in the field, in the locality that we've been speaking of. So
25 these are just allegations and, Counsel, if you ask questions about this period, you

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 will certainly be told that these are only allegations. Admittedly, some facts were
2 borne out, but for the most part, these items of information are not truthful.

3 Q. Just to complete the picture, do you recall also a reference to the Unité de
4 Sécurité Présidentielle?

5 A. I believe that there was no specific mention made of the USP. It was the
6 Central African Forces, speaking generally.

7 Q. Are you familiar with the USP?

8 A. The USP, well, this isn't my area, but it's the Presidential Security Unit. I don't
9 know whether we're talking about the same institution.

10 Q. And did you receive any information on 7 or 8 December about which military
11 units were involved in the retaking of Damara?

12 A. Counsel, I can tell you with conviction that that's a lie. I think I said before the
13 Court that, from 27 October to 7 December, no Central African soldier was operating
14 in the field. It was only after mid-February that soldiers went; sometime after,
15 perhaps 20 days later, approximately. They took up a position to help with
16 President Bozizé taking power. I do know that there were no other troops other than
17 the MLC soldiers. To say the truth (sic) would be to tell a lie.

18 Q. You mentioned this morning a man called Bombayake. What nationality is he?

19 A. Counsel, I think you're right to put that question to me. Bombayake is from
20 the Central African Republic, and he was the one who was flying the Libyan aircraft
21 that was carrying out the bombing well before the arrival of Bozizé's troops. He was
22 the commander, he was the one who was conducting the bombing, but if you were to
23 say that there were troops who accompanied the Banyamulengue soldiers from the
24 Central African armed forces, no, that's not so.

25 PRESIDING JUDGE STEINER: Mr Haynes, please, I need a clarification for clarity of

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 the transcript. Page 58, line 6, you mention, Mr Witness, he was the one flying the
2 Libyan aircraft that was carrying out the bombing well before the arrival of Bozizé's
3 troops. Is that correct, "Bozizé's troops"?

4 THE WITNESS: (Interpretation) I didn't say that, your Honour. I said that there
5 were no -- before the MLC soldiers who were fighting against Bozizé's troops, there
6 was only Bombayake who was conducting the bombing. I don't know -- that's what
7 I tried to say. Perhaps you haven't understood me. It was well before the
8 Banyamulengue. The aim was to push back Bozizé's troops who were positioned in
9 small localities.

10 PRESIDING JUDGE STEINER: Thank you very much, sir.

11 MR HAYNES:

12 Q. How long before?

13 A. What are you referring to, Bombayake? Are you talking about the bombing,
14 the bombing that was conducted, or something else? Could you be more specific?

15 Q. Yes. It's the same sentence which Her Honour wanted clarifying. You said,
16 "He was the one flying the Libyan aircraft that was carrying out the bombing well
17 before the arrival of Bozizé's troops," which you've now explained means the
18 Banyamulengue. How long before the arrival of the troops was Bombayake
19 carrying out these bombing raids?

20 A. Counsel, I haven't understood your question at all. Are you talking about the
21 bombing before the arrival of the Banyamulengue? Or is this a statement? Is this a
22 question? I don't know. The question may be a matter of
23 determining -- Bombayake began to bomb the positions of Bozizé's troops before the
24 arrival of the Banyamulengue. I don't know. Is this what you want to know?

25 Q. Yes, I want to know how long before the arrival of the Banyamulengue was

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 Bombayake --

2 A. The bombing wasn't conducted just close to Damara. The Libyans arrived well
3 before that time, and then the aircraft flown by Bombayake started from Batangafo to
4 Toba (phon); and as soon as Bozizé's troops entered the Central African Republic, the
5 aircraft began to drop bombs. That is what we heard.

6 Then they decided to take power and they went by way of the town, between the 25th
7 and the 24th and the 25th, and it was on the 27th that they withdrew to Damara. But
8 the exact dates, that was at the beginning. When the Libyans began, they decided to
9 provide assistance to Patassé's regime and that is when they provided Bombayake
10 with an aircraft.

11 At that time -- before that, Bozizé's rebels were in Chad, they had their rear base there
12 in Chad, and I think that that situation lasted for a while before the Banyamulengue
13 arrived. But as for the town of Damara, it was only when the rebels withdrew and
14 occupied the town of Damara. That was when the locality was subject to the
15 bombing and that was on the 27th.

16 Q. I don't want us to be not understanding one another. The bombing was on
17 27 October, was it?

18 A. That's not right, Counsel. You asked me when Bombayake began to bomb
19 Bozizé's troops. You asked me the number of days, and I told you that it took
20 several days, and I said that the rebellion -- the rebels had their rear operating base in
21 Chad and they also went by way of Batangafo. And the plane came and they began
22 to bomb Batangafo. They started -- they wanted to take power in October.
23 Then they arrived in Bangui, and they met up with resistance there and they occupied
24 the town of Damara. But since the rebels were present in Damara and were
25 occupying the town of Damara, they started to bomb Damara, but I don't know why

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 you're talking about a misunderstanding because I'm quite clear about this.

2 THE INTERPRETER: Request from the Sango booth: Could someone please ask
3 the witness to slow down. Correction from the English booth: The place name in
4 question was Batangafo.

5 PRESIDING JUDGE STEINER: Mr Witness, the Sango interpreter is asking you to
6 please slow down. You are talking too fast. And the second point, I think what the
7 Defence wants to know, and the Chamber wants to know as well, is when Damara
8 was bombed. Do you have a date, approximately, of the bombing of Damara?

9 THE WITNESS: (Interpretation) Your Honour, I gave you a range of dates when
10 Bozizé's rebels were there on 27 until 7 December. During that range of dates, or
11 that time-frame, there was bombing every two or three days because Bozizé's rebels
12 were there and we heard talk about this. I don't know whether I'm being clear here.

13 PRESIDING JUDGE STEINER: Now I understood. Thank you very much, sir.

14 MR HAYNES:

15 Q. Was there bombing on the day that you fled the town, which you've told us was
16 7 December?

17 A. Counsel, you've asked me the question and I told you two days before the town
18 was taken. This plane -- well, to be clear, to be specific, the 5th, unless I'm mistaken.
19 It wasn't the 5th. The 1st my elder brother was killed, the rebels took him, and he
20 was being taken to the hospital in Sibut. That's the first event in that time-frame.
21 Now, the third time, the bomb fell on the vehicle and the body was taken back. The
22 day of the burial, that aeroplane once again dropped another bomb. So every two or
23 three days, they were shelling the town. And on the 7th, when the Banyamulengue
24 entered the town, there were no -- there was no plane. When the Libyans had this
25 clash with the rebels, the Banyamulengue, the Banyamulengue went off again,

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 supported by the Libyans, and then they came back with the vehicles, and there was a
2 piece of heavy weaponry mounted on the vehicle and that was being -- the weapon
3 was being fired by a female soldier. That is what I heard. Correction: That is
4 what I saw and that is what I heard.

5 Q. Did you know whether there was one plane or more than one plane that was
6 being flown on these bombing missions?

7 A. Counsel, in my opinion, the Libyans are very clever. They're not the ones who
8 bombed. They handed their plane over to a Central African and he's the one who
9 was bombing his own fellow country people. When the rebels were -- reoccupied
10 the town of Damara, the only plane that could fly over Damara was Bombayake's
11 plane. The inhabitants were hiding under trees when they saw the plane flying over
12 the town.

13 Q. How did you know it was a Libyan plane?

14 A. Well, in the town there are representatives of the people. In one of my
15 statements I talked about people who had been elected to represent the people.
16 When they understood that there was a carnage occasioned by the fact that the plane
17 was pounding the city, then this was reported internationally and people knew that
18 this was going on. Everyone was saying that the Libyans had brought planes in that
19 they handed over to Patassé to help him to chase the rebels out. I'm Central African
20 and so I know or I'm familiar with everything that was going on.

21 Q. How was it reported internationally?

22 A. Well, it could be broadcast over the airwaves. International public opinion
23 knew that the Head of State didn't get along with the people elected by the -- they
24 elected to represent the populations. The plane was bombing Central African
25 citizens and everybody knew that that was a regular occurrence. Everybody knew

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 that the Central African Republic didn't have planes to conduct bombing raids, and so
2 suddenly they saw a plane flying over the territory, that obviously attracted the
3 attention of the international community. The Central African Republic did not have
4 planes to conduct bombing.

5 Q. I just want to be clear: During this period, are you saying that you were aware
6 that the use of Libyan planes was being published internationally?

7 A. Usually, it's Europe that decides what will happen to an African country or to
8 Africa as a whole. If the country is abandoned, then it's all over. But the journalists
9 in question were talking about what was going on and who was behind it so, for
10 example, France was revealing what was going on and who was behind it. And they
11 also revealed where this plane came from. Even though on the airwaves in Africa in
12 RFI1 this was being reported about what was going on in the field.

13 Q. Right. So the French press was reporting on what forces were taking part in
14 the retaking of Damara; is that right?

15 A. I wasn't talking about soldiers. You asked me about Bombayake and the
16 Libyan plane. You asked me how I found out about this. That's why I told you that
17 I learnt this information over the airwaves through RFI, Africa number 1, and I will
18 repeat to you what I said: It is the West which decides the fate of the colonised
19 countries, the former colonies. I'm just trying to convey that Patassé had abused
20 people's trust and he had gone to borrow a plane from someone else so that he could
21 bring it back and bomb his own people, and I would specify that the Central African
22 army does not have a plane that they could use for bombing. That is why Central
23 Africans themselves can't try and find out these things, but they weren't used to
24 seeing planes fly overhead to do bombing raids.

25 Q. What did you learn over the airwaves from RFI about the composition of the

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 ground forces which took Damara?

2 A. Counsel, I haven't really understood your question. Could I ask you to please
3 rephrase it for me? I find the question very complex and I have the impression that
4 you are leading me in all different directions, and I am getting confused. I'm not
5 cross; I'm just asking for clarification. What happened is something that happened
6 years and years ago.

7 Now, the counsel is a lawyer. He really needs to ask pertinent questions. He asked
8 me about the plane and now he's switching over to ask about soldiers. I'm losing
9 track, your Honour. I can't understand what the question is getting at.

10 PRESIDING JUDGE STEINER: I think that Mr Haynes could try to simplify because
11 a question like, "What did you learn over the airwaves from RFI about the
12 composition of the ground forces which took Damara" appears to be a little bit too
13 complicated or -- I think we could put in an easier way for the witness, please,
14 Mr Haynes.

15 MR HAYNES: I agree.

16 Q. Physically, where were you on 7 December?

17 A. Counsel, you're simply doing your job and we all need to be flexible and willing,
18 but it's the style of your question, the way you asked it that I didn't like, and that's
19 why I addressed the Judge, to try and clarify the situation. If I remember correctly,
20 this is the seventh time you've asked me this, and I told you that when Bozizé's
21 soldiers came into the town I was not there. I was not in the town, I had left and I
22 re-emerged eight days before the Banyamulengue took back the town.
23 I couldn't stay in the town so sometimes I would go off into the bush. Then I would
24 come back, then I would go back into the bush. That day I wanted to leave the house.
25 My wife said that she heard gunshots and because -- that was because of the rebels in

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 the town, and I was worried. Sometime later I heard gunshots and my son came
2 back and told me that Arab soldiers who were enrolled in the rebellion were coming
3 in to tell their brothers what was going on so that they could get to safety. That's
4 what they were saying.

5 The Muslims were hiding their own property, and my son said no doubt these men
6 must have met up somewhere and clashed. Could I clarify that? Indeed, I have
7 three houses. I was in my third house when I heard everything that was going on.
8 My whole family, my children, got together and we went to my parents in law's
9 house. I was in my third house when I learnt that guns were being fired.

10 When my son told me the news, I sent him to his mother so that he could -- or so that
11 they could collect the most important goods so that we could then leave. The clashes
12 were beginning on the Bangui road. So that's really what I can tell you, Counsel.

13 Q. And how far away were you from the town of Bangui after you had fled on 7
14 December?

15 A. What distance are you asking me about, the distance from Damara to the
16 locality on the Bangui road? I haven't quite understood the question.

17 Q. When you fled the town on 7 December, where did you go, and how far is it
18 away from Damara?

19 A. I knew that it was in the afternoon, but -- I know it's the afternoon now, and I'm
20 starting to get a bit confused. So when I say things, you can ask me to say them once,
21 maybe twice, and that's enough. I think we're on a slippery slope here.

22 MR HAYNES: Then perhaps we ought to have a break.

23 PRESIDING JUDGE STEINER: Mr Witness, we'll have a ten-minutes' break.

24 Maybe you can have a coffee or rest a little bit. We will resume -- let's have a

25 15-minutes' break. We will resume at 3.30. Court officer, please, turn into closed

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 session for the witness to be taken outside the courtroom.

2 *(Closed session at 3.16 p.m.)Reclassified as Open session

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

4 (The witness stands down)

5 PRESIDING JUDGE STEINER: Before we suspend, Mr Haynes, I know that this is

6 not an easy witness. He's always complaining about something. But, on the other

7 hand, I remember last week the assessment made by VWU that one thing that was

8 causing a lot of distress on the witness was the repetition, repetition and repetition of

9 questions. If we continue in that -- in that line, Mr Haynes, it doesn't go anywhere.

10 The witness is getting distressed again, and I don't think we have progressed

11 anything in this first part of the afternoon session; because the witness is right, you

12 are asking the very same questions again and again.

13 I'm not going to interfere, I'm avoiding any kind of interference in your line of

14 questioning, but just to remind you that we should have a wise use of the time we

15 have with the witness in order to progress a little bit in his statement. So I

16 really -- I'm really confident that you will realise the kind of difficulties this witness

17 has in dealing with repetitive questions.

18 MR HAYNES: Yes. I'll be moving on after the break.

19 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. We will resume at 3.30.

20 THE COURT USHER: All rise.

21 (Recess taken at 3.18 p.m.)

22 *(Upon resuming in closed session at 3.31 p.m.)Reclassified as Open session

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

24 PRESIDING JUDGE STEINER: Welcome back. Could, please, court usher bring

25 the witness back.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 (The witness enters the courtroom)

2 PRESIDING JUDGE STEINER: Let's turn into open session, please.

3 (Open session at 3.34 p.m.)

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

5 PRESIDING JUDGE STEINER: Mr Witness, welcome back again.

6 THE WITNESS: (Interpretation) Thank you, Madam President.

7 PRESIDING JUDGE STEINER: We now have remaining just 30 minutes. Let's see

8 if we can go to the end of today's afternoon; otherwise, just let me know if you don't

9 feel well or need any break. Is that fine with you, sir?

10 THE WITNESS: (Interpretation) That is fine with me, Madam President.

11 PRESIDING JUDGE STEINER: Mr Haynes.

12 MR HAYNES: Thank you, your Honour.

13 Q. I'm going to try and make the questions I have for you as clear as I can and as

14 short as they can be so that you understand the question and you can give me an

15 answer without my having to appear to ask the same question a number of times. Is

16 that all right?

17 A. Yes, that is fine by me, except for the fact that you seem to ask two-pronged

18 questions in one, and that is not normal. So if you ask me a question and I have no

19 answer for you, I will simply tell you "I have no answer," but I think that you also

20 have to put your questions as clearly as possible.

21 Q. I will try. On 8 December 2002 where were you?

22 A. 8 December, is that what you are talking about? In any event, from 7

23 December I was in the bush.

24 Q. So were you in the bush on 8 December?

25 A. I have already said that from the 7th to the 10th, yes. It is on the 10th that I

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 came out of the bush; that means that on the 8th I was not present.

2 Q. And who were you with on the 8th?

3 A. Counsel, I have told you already that on the 7th, when the Banyamulengue
4 occupied the town in the morning, I heard some shots and I sought refuge with all my
5 family. I was with my in-laws. I told you that I went there and I remained there
6 with my entire family. I believe I have also told you that I was with my children,
7 including those who were relatively old. So we were some 10 kilometres away with
8 my in-laws.

9 Q. And what information did you have on 8 December about what was happening
10 in the town of Damara?

11 A. Counsel, I believe that it is not possible -- you see, the events took place on the
12 7th. Now, what information are you seeking to find out about on the 8th? On the
13 8th, I had two of my young sons whom I had not seen. So I was worried; I did not
14 know whether they were alive or dead. What other information do you want me to
15 tell you about? I was worried about my two young children, and I did not have
16 peace, peace of mind. I was not interested in gathering other information, be it
17 about political life or what have you. I was worried about the fate of my children.

18 Q. Thank you. And the following day, the 9th, did you remain in the bush with
19 your family?

20 A. Counsel, I remember that I have already asked you to ask me questions
21 beginning from the 10th onward, because from the 7th to the 10th I was outside of the
22 town. Now, can you ask a dead man to talk about events which took place when the
23 person was already dead? From the 7th, in the morning, to the 10th I was not in
24 town. I came back to town on the 10th in the morning.

25 Q. Thank you. And what was it that made you go back to town on the 10th in the

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 morning?

2 A. Counsel, I believe that you have asked me this question already, even this
3 morning. So if you were in my shoes, would you be able to stand it; two months,
4 under threat, with mosquitoes, with nothing to eat? So as a man, it became
5 necessary for me to seek a solution.

6 Furthermore, I told you that my family had become a burden for my in-laws, and it is
7 for all those reasons that I had to come out of the bush. Those are the reasons for
8 which I came out of the bush. (Redacted)

9 How could we continue living under those circumstances? It had become important
10 for us to seek a solution. So it was for those reasons.

11 You see, furthermore, the inhabitants of the town had noticed my absence. (Redacted)
12 (Redacted) So we went to link up with the (Redacted) to try and conduct
13 some negotiations. That was my mindset at that time.

14 Q. Thank you. (Redacted)

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

16 *(Private session at 3.43 p.m.)Reclassified as Open session

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

18 PRESIDING JUDGE STEINER: You can answer the question, Mr Witness.

19 THE WITNESS: (Interpretation) Madam President, fortunately, you were vigilant,
20 and again we are in the afternoon and I really could not answer that question without
21 us being in closed session.

22 The question to me was to find out whether there were any elders in the locality. I
23 was not present, but when the village heads and the village leaders, as well as some
24 elders in the village and some women in particular heard that (Redacted)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 (Redacted)

2 MR HAYNES:

3 Q. Did that include a man called (Redacted)

4 A. At the time of the events (Redacted) was at his home, some 25 kilometres away.

5 He is the one who had found the weapons left by Bozizé's soldiers. He was not there.

6 He was 25 kilometres away on Bougengola (phon) road. So on the 10th (Redacted)

7 was not in (Redacted).

8 Q. Who went (Redacted)

9 A. I cannot give you a number but it is true that (Redacted)

10 (Redacted) It was important for us to (Redacted)

11 (Redacted) because we did not know what was going to happen. So

12 (Redacted)

13 Q. Where did (Redacted)?

14 A. He lived in the house (Redacted) There were

15 some soldiers positioned in groups of two along the main road and along the path

16 leading to the house. (Redacted)

17 At the first checkpoint (Redacted) At the second checkpoint (Redacted)

18 (Redacted) A soldier went forward

19 and (Redacted)

20 (Redacted)

21 Q. Thank you. Now I want to look again at a passage of your interview that you

22 looked at with Mr Scaliotti the other day, and I'll put it up for you in French so that

23 you can read it. The French ERN reference is CAR-OTP-0058-0065. In English, the

24 last four digits are 0115.

25 Sir, is that okay for you to read, or would you like the print made a little bit bigger?

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 A. I am not able to read. Would you, please, kindly read yourself?

2 Q. I'm sorry about that. I'm going to read it in English. Can you see a paragraph
3 that begins, "D'accord. Lorsque je suis sortie"? Are you able to read that for us?

4 A. Counsel, I have headache. I am not able to read. I am sorry about that. I
5 have looked at this and read it to myself silently.

6 Q. Are you happy to answer one or two more questions, or would you prefer to
7 break for the day?

8 A. Please go ahead, ask me your question. That is why we are here. If I am able
9 to answer, I will answer. Otherwise, I will tell you that I'm not in a position to
10 answer.

11 Q. Who were the (Redacted) with whom (Redacted)?

12 A. Counsel, it is difficult. You see, when (Redacted)
13 (Redacted) I did not find it necessary to take down the names of

14 all those with whom (Redacted) I left the bush in the morning. Some
15 people from our area came (Redacted)

16 (Redacted) It is for that

17 reason that (Redacted) By the way, the day on which (Redacted), I

18 did not have the names of those persons. All I know is that, on that day, (Redacted)

19 (Redacted)

20 (Redacted) but I didn't count or I didn't proceed to a head count to know the
21 exact number of persons.

22 Q. Okay. Who was the chief of the village at that time?

23 A. Are you talking about the head of the -- the chief of the town, or the chief of the
24 village?

25 Q. Well, you told the investigators that (Redacted) so let's start

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 with the chief of the village.

2 A. What I can tell you is that there were three village chiefs who (Redacted)

3 (Redacted) This is what I said. When I came

4 out, (Redacted)

5 (Redacted) but I'm not in a position to give you their names. (Redacted)

6 (Redacted) if I am not mistaken.

7 Q. What position does (Redacted) hold?

8 A. He was (Redacted) but he had previously been the (Redacted)

9 (Redacted) but later became (Redacted)

10 (Redacted) which was some 25 kilometres away.

11 Q. I want to look at point 1. Can you see it there? It says, (Redacted) on the

12 following points: 1. (Redacted) to work for Patassé." Who did you mean by

13 (Redacted) when you said, (Redacted) to work for Patassé"?

14 A. Counsel, on that day, one cannot say that it was Patassé who brought the

15 Banyamulengue and that (Redacted) working for Bozizé. That would not have

16 been possible. The Banyamulengue came upon Patassé's invitation and (Redacted)

17 (Redacted) in collaboration with them. (Redacted) no choice. (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. Who raised the question of (Redacted) working for Patassé?

21 A. That is a good question. When (Redacted)

22 (Redacted) On

23 the way, (Redacted) had agreed -- because on that day (Redacted)

24 working for Bozizé.

25 In all their statements they (Redacted) who were the inhabitants of Damara, had

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 cooperated with the rebels but that as far as he knew there were some problems.

2 However, (Redacted)

3 (Redacted)

4 (Redacted) That is

5 how the meeting unfolded.

6 Q. And what was it that the local population agreed to do to work for Patassé?

7 A. Counsel, put yourself in our shoes. If you had been in our shoes, you could

8 speak to calm people down. But if you said to someone -- well, the person who sent

9 you one of our relatives, this is a way of dealing with tension. But if you say that

10 (Redacted) for a particular person, do you think that you will be able (Redacted)

11 (Redacted) I don't think so.

12 MR HAYNES: Thank you.

13 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. Court officer, please turn

14 into open session.

15 (Open session at 4.02 p.m.)

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

17 PRESIDING JUDGE STEINER: Thank you very much. Mr Witness, thank you very

18 much for your availability, for your willingness to continue giving your testimony

19 this afternoon. We are going to adjourn now. Then you can go back to your hotel,

20 take some rest. We wish you a very, very restful night. We will continue tomorrow

21 morning at 9.30.

22 First, I would like to thank very much the Prosecution team, the legal representatives

23 of victims, the Defence team, Mr Jean-Pierre Bemba Gombo. I thank very much our

24 interpreters, court reporters, our court officer, court usher. We are going to turn into

25 closed session in order for the witness to be taken outside the courtroom and, in the

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 meantime, we are going to adjourn and resume tomorrow morning at 9.30 in the
2 morning. Court officer, please.

3 *(Closed session at 4.04 p.m.)Reclassified as Open session

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

5 (The witness stands down)

6 THE COURT USHER: All rise.

7 (The hearing ends at 4.04 p.m.)

8 CORRECTION REPORT

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

11 *Page 26 lines 4 to 9

12 "And when the labourians left to provide reinforcement, they took heavy weaponry
13 with them. I didn't see them come in. But what I did learn is that there were Libyans
14 who were ahead, and the heavy weaponry was being dragged by women, and the
15 majority of the troops were behind, and that is how it came to be that they entered the
16 town."

17 is corrected by

18 "And when the Libyans left to provide reinforcement, they took heavy weaponry
19 with them. I didn't see them enter the town. But what I did learn is that there were
20 Libyans who were in front, and the heavy weaponry was being fired by a woman,
21 and the majority of the troops were behind, and that is how they entered the town."

22 SECOND CORRECTION REPORT

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

25 * Page 42 line 25:

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 "I will now read: "Forces loyal to President Patassé take control of Damara."

2 is corrected by

3 "MR KILOLO: I will now read, and I quote: "Forces loyal to President Patassé take

4 control of Damara."

5 RECLASSIFICATION REPORT

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

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

8 of the transcript with its redactions becomes Public.