

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 2
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and
6 Judge Kuniko Ozaki
7 Trial Hearing
8 Thursday, 30 June 2011
9 (The hearing starts in open session at 10.40 a.m.)
10 THE COURT USHER: All rise. The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE STEINER: Good morning. Could, please, the court officer call
13 the case.
14 THE COURT OFFICER: Yes, your Honour. Good morning. This is the situation
15 in the Central African Republic, the case of The Prosecutor versus Jean-Pierre Bemba
16 Gombo, case reference ICC-01/05-01/08. Thank you, your Honours.
17 PRESIDING JUDGE STEINER: Thank you very much. Good morning Prosecution,
18 good morning legal representatives of victims, the Defence team, Mr Jean-Pierre
19 Bemba Gombo. Good morning to our interpreters, court reporters. Good morning,
20 Mr Rojas.
21 THE COURT OFFICER (CAR): (Interpretation) Good morning, Madam President.
22 We can hear you clearly from this end, but let me tell you that, well -- right now we
23 can also see you clearly.
24 WITNESS: CAR-OTP-PPPP-0108 (On former oath)
25 (The witness speaks French)

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

1 (The witness gives evidence via video link)

2 THE WITNESS: (Interpretation) Good morning, Madam President.

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

5 THE WITNESS: (Interpretation) I am ready, Madam President.

6 PRESIDING JUDGE STEINER: Thank you, Mr Witness. Before I give the floor to
7 the Defence, the Chamber will address an issue - an important issue - which concerns
8 the way by which the Defence has been questioning Witness 108.

9 The Chamber is concerned that the Defence has been using most of its questioning
10 time in relation to Witness 108 not to challenge the credibility of his testimony, but
11 rather to try to harass and intimidate the witness, to cast doubt on his integrity as a
12 public figure in his country and to pursue other lines of questioning not intended to
13 bring to the Chamber's attention any relevant contradiction or inconsistency in the
14 witness's testimony and statements.

15 The Chamber, after yesterday's objection by the Prosecution regarding what it saw as
16 an inappropriate use of the Defence's questioning time, called the Defence's attention
17 to what the Chamber considered to be an abuse on the part of the Defence of the
18 latitude that the Chamber has thus far afforded to the parties and participants in their
19 questioning of witnesses.

20 The Defence, in spite of the Chamber's instruction, continued to pursue a line of
21 questioning that appears to have little or no relevance to the substance of Mr Bemba's
22 defence, but that is instead intended to harass and intimidate the witness.

23 Article 68(1) of the Statute imposes on all organs of the Court, and therefore on the
24 Chamber, the duty to protect not only the physical but also the psychological
25 well-being, dignity and privacy of victims and witnesses.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

1 The Chamber finds that, in the current line of questioning by the Defence, many
2 questions have been repeatedly put that appear to have no purpose other than to
3 harass and intimidate the witness, to expose his private life and to cast doubt on his
4 professional integrity and, as said above, with little or no relevance to the Defence
5 case at all.

6 Taking all these factors into account, the Chamber will closely monitor and intervene
7 to restrict questioning if the Defence continues to put questions to the witness that
8 have no prima facie relevance to the issues to be adjudicated in this case.

9 Having said that, the Chamber also received from the Defence a request asking for the
10 Chamber's authorisation on an exceptional basis for the Defence to add an additional
11 document to its list of documents intended to use for the examination of Witness 108.
12 The request has been copied to the Prosecution. I'm not sure whether it has been
13 copied to the legal representatives of victims. Apparently, it has not. I would like
14 first to ask the Prosecution whether the Prosecution has any observations on such
15 request?

16 MS KNEUER: Thank you, Madam President, your Honours. Yes, the Prosecution
17 would like to submit some observations. As the Prosecution has stated several times,
18 if there is a situation in which information is being produced the first time during oral
19 testimony, the Prosecution would not have any reservations that any party or
20 participants would adjust their questioning, including adding certain documents on
21 their list of documents.

22 However, the Prosecution suggests that the information that is provided by the
23 Defence in the email is not new information and did not come up the first time during
24 the oral testimony, and I am specifically referring to the following paragraph of the
25 email, and the reference for it is transcript 133 confidential, English edited version at

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

1 page 29. "Question: Witness, is it correct that you did not inform President
2 Ange-Félix Patassé of the looting that you have alleged regarding your house?
3 Answer: I did not have any means of access to President Patassé. The only military
4 person that I informed about this event was Nick.
5 Now, perhaps Nick informed President Patassé, but I don't know. What I do know
6 is that my answer is, no, I did not do anything of the sort."
7 The Prosecution would like to draw your Honours' attention to the written statement
8 CAR-OTP-0037-0283 at page 0290, English version, and I will read from that
9 statement: "Investigator: Is there anyone in the State that you made a report to
10 about the fact that your house was occupied by the Banyamulengue? Witness: As I
11 said, we were in a period of crisis and the power of the President of the Republic was
12 unstable. The only interlocutories were the Banyamulengue at that time were the
13 militaries and not the civilians. That is why I thought the only person who could
14 help me was Nick. Civilians were not limited -- sorry, civilians were very limited.
15 They could do nothing," and then in handwriting the witness had corrected the
16 statement, "If the President of the Republic at that time had to know about my
17 situation, the military could have easily provided him with the information because
18 we were in a period of crisis. Investigator: So you never had the opportunity to
19 bring your situation to the attention of the President of the Republic? Witness: No,
20 maybe the officials I appealed to reported to him, but I don't know, but one thing is
21 for sure is that nothing was done."
22 The Prosecution further submits that the -- sorry, Madam President, this document
23 was disclosed in November 2009 to the Defence. The Prosecution further submits
24 that Defence did not only have the opportunity to take notice of the content of the
25 statement but that they actually did, because yesterday, Maître Kilolo confronted the

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

1 witness with several portions of his statement and the very first one that he addressed
2 to the witness was exactly from this page.

3 However, I give you now the French reference. It is CAR-OTP-0046-0045 at page
4 0053, and the relevant quotation in the transcript is transcript 133 confidential,
5 English edited version, on page 15. It starts on line 3, and Defence counsel made the
6 following suggestion to the witness on line 4 and 5: "You stated that at the time of
7 the events the only representatives of the Banyamulengue were the military people."
8 This is a sentence from the major paragraph which I had quoted earlier which also
9 contains the information that the Defence claimed was new in their email. I would
10 assume that if Defence counsel read this one sentence. we can infer that he read the
11 entire paragraph.

12 Further, I would like to bring to your attention, your Honours, that the Prosecution
13 had looked again at the relevant annex of the FIDH report and in case your Honours
14 would allow the Defence to use it, it is the Prosecution's reading that there are two
15 speeches of Mr Patassé: The one appears to be a French original and the other one
16 appears to be a translation from Sango into French, so both versions are in French.
17 However, the Prosecution observes that in the first speech of this annex there is no
18 reference to crimes committed against magistrates. However, it is in the second. So
19 it would be -- it would be helpful if a clarification could be made which of the two
20 speeches will be addressed to the witness.

21 And, lastly, and I may -- I want to actually address this already now. The witness's
22 testimony is quite clear. He stated that he did not provide information about the
23 pillaging of his house to President Patassé. He even gave an educated opinion how
24 President Patassé may have come to that information. It is unclear to the
25 Prosecution how the Defence wishes to use the annex, and how the witness should

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

1 give a further educated statement on what President Patassé said in his speech and
2 how he came to knowledge of the information. So basically I am suggesting that
3 most likely this witness will be asked to speculate about something that President
4 Patassé said in his speech and it may not be in his knowledge. He is a victim of
5 pillaging.

6 I want to address this already now, because I think it's completely irrelevant.

7 However, I can also reserve further submissions on any potential objection the

8 Prosecution may raise once the Chamber granted the usage of the document and once

9 the Prosecution knows how it will be used in relation to this witness. Thank you,

10 Madam President.

11 PRESIDING JUDGE STEINER: Thanks, Ms Kneuer. I would like to ask whether

12 legal representatives have anything to say about the request, although legal

13 representatives were not copied on email, but whether they have any views on the

14 use of the document which content the Prosecution has briefly pointed out as a

15 discourse President Patassé. Ms Douzima.

16 MS DOUZIMA-LAWSON: (Interpretation) Thank you, Madam President. As

17 you have noticed yourself, the legal representatives were not provided a copy of the

18 letter, nor of any other document or material intended to be used. So, not having

19 been in possession of these materials, we cannot make any statement as at now on the

20 application. Thank you.

21 PRESIDING JUDGE STEINER: Maître Liriss?

22 MR LIRISS: (Interpretation) Madam President, it is most unfortunate that the very

23 essence or substance of the document has already been heard by the witness. I

24 believe that we could have discussed these matters in the absences of the witness,

25 including the comments that you made about the Defence, and this is a point on

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 which we would have loved to have the right to contradict or to challenge.
2 It is true that the Bench is always right and has its reasons, but we would have
3 wanted the reasons of the Court to be clarified in terms of the persons to whom these
4 comments have been made.
5 That having been said, there appears to be total confusion and, with your leave,
6 Madam President, this is the first time we are asking for the discussion of these
7 matters to take place in the absence of the witness.
8 PRESIDING JUDGE STEINER: Maître Liriss, the first point addressed by the
9 Chamber in this session is not open to debate. It has been the Chamber's decision.
10 The second point that relates to the use or to the request by the Defence to
11 authorisation -- for authorisation to the use of a new document, or the addition of a
12 new document, can be discussed in the presence of the witness.
13 So I would like you, please, to make your observations on the observations made by
14 the Prosecution.
15 MR LIRISS: (Interpretation) It was an explicit application that I made, madam,
16 because I cannot make my comments without stating the reasons for it.
17 First of all, there is an initial problem; namely, that your Chamber has authorised
18 more than twice that whenever a point is raised for the first time, by default, a new
19 document could be produced. So it was the day before yesterday -- and this is in
20 relation to the testimony. It is the testimony that matters, not what is contained in
21 the statement. The testimony may vary, or may be different, and it was the day
22 before yesterday that the witness confirmed the statement in which -- or according to
23 which his situation was not or, at the very least, he did not know or was not -- or did
24 not believe that his situation was known to the Head of State. That's the first point.
25 The second point is that it was the day before yesterday that the witness in his

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 testimony pointed out that this situation was one that concerned only him and him
2 alone, and he did so on several occasions and he said this concerned only him. All
3 his other colleagues learnt of it, all his bosses learnt of it, and that this situation only
4 concerned the witness himself.
5 Consequently, this is a new situation which enables us to seek to establish that such is
6 not the case, and I ask that we hold this discussion in the absence of the witness
7 because right now I am going to be compelled to talk about the second aspect.
8 Now, whether President Patassé knew or did not know, as reflected in the speech
9 delivered in tempore non suspecto, is one that deals with a specific situation which
10 was imposed on all magistrates or, at the very least, on most of the magistrates, and
11 this was not done by the Banyamulengue, but rather by Bozizé's rebels.
12 Madam President, you must remember the last-but-one witness who appeared before
13 you. Remember what he said to you about that town in which a plane allegedly
14 landed on the road, or on a street. You must remember what he told you about the
15 property and about persons who represented the State, who acted on behalf of the
16 State. I am sure you remember what he said.
17 Now, Madam President, what really matters with the current situation and in terms
18 of the Defence and relevance, we as Defence, we intend to submit -- and again,
19 mindful - although it appears that I am making submissions, Madam President - but
20 we must also be mindful of the dates that have been mentioned. So it is possible that
21 it may have -- in fact, that there was indeed a mistake as to the person, and it is for
22 these reasons that we find that it is proper to make this application relating to a new
23 fact. So we believe that the request, or application, is relevant to the extent that it
24 deals with a fact that raises some doubt as to the persons who may have attacked or
25 aggressed the witness at his residence. Thank you.

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 PRESIDING JUDGE STEINER: So before anything, Maître Liriss, in relation to the
2 question put by Ms Kneuer, which version of the document intends the Defence to
3 discuss upon?

4 MR LIRISS: (Microphone not activated)

5 THE INTERPRETER: Microphone, please.

6 MR LIRISS: (Interpretation) I beg your pardon. The original speech was in
7 French. The translation into Sango was done by the newspaper Le Citoyen, but it is
8 the French version that we wish to use.

9 PRESIDING JUDGE STEINER: Documents CAR-OTP-0001-0071, 0072 and 0073.

10 MR LIRISS: (Interpretation) CAR-OTP-001-0076 and following.

11 THE INTERPRETER: If the interpreter heard correctly.

12 MR LIRISS: (Interpretation) It is the same document, in fact. Well, Madam
13 President, it is the reproduction of a newspaper article in the -- by the FIDH from The
14 Citoyen.

15 PRESIDING JUDGE STEINER: So then it's not the original version, it's the
16 translation of the newspaper, this page that you just mentioned.

17 MR LIRISS: (Interpretation) No, it's the original. The FIDH, the International
18 Federation of Human Rights. Well, let me explain. The President made a speech in
19 French. Then the speech was published in the newspaper Le Citoyen, but in two
20 versions: In the original French and in a version translated into Sango. And the
21 one that we use - that we intend to use - is the original version in French.

22 PRESIDING JUDGE STEINER: Ms Kneuer, maybe you can help the Bench, because I
23 have here two different speeches and the numbers are not coincident with what
24 Mr Liriss is pointing out as the document he intends to use.

25 MS KNEUER: Madam President, I will try my best to assist in clarifying the matter.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

1 It is the Prosecution's reading that on page 0071, we find one speech.

2 PRESIDING JUDGE STEINER: Yes.

3 MS KNEUER: And it is further the Prosecution's reading that on page 0074, we find
4 another speech. It is our submission that they are not identical, to the best of our
5 understanding. The first one, at 0071, it appears to be a French original version, and
6 the second one on page 0074, it appears to be a translation from Sango into French.

7 Thank you, Madam President.

8 PRESIDING JUDGE STEINER: And I ask again, Maître Liriss, in the Defence request
9 sent yesterday by email, the Defence refers to document 0034, which is the
10 document - the complete report of FIDH - and now the Defence is informing that the
11 excerpt of the document that the Defence intends to use is on 0076; is that correct? Is
12 that correct, Maître Liriss?

13 MR KILOLO: (Interpretation) Yes, indeed, Madam President. We intend to use a
14 very short excerpt from page CAR-OTP-0001-0076, as well as the page, the next page,
15 CAR-OTP-0001-0077, and in my opinion it won't take more than two minutes to do
16 so.

17 PRESIDING JUDGE STEINER: The Chamber will authorise the Defence to put its
18 question based on the excerpt of this document, without prejudice to the decision of
19 the Chamber on the relevance and admissibility of this document into evidence in due
20 time.

21 Maître Kilolo, you have the floor.

22 MR KILOLO: (Interpretation) Thank you, Madam President. Thank you for
23 allowing me to begin.

24 QUESTIONED BY MR KILOLO: (Interpretation) (Continuing)

25 Q. Witness, good morning.

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 A. Good morning, Maître.

2 Q. Do you recall having made a statement before the Chamber saying that
3 throughout the period from October 2002 and March 2003, that there had been three
4 main events? Do you recall that?

5 A. Yes, I do, I remember. And I spoke about three main events that were of
6 importance to me.

7 Q. Witness, I will try to complete my questioning with you today and I would like
8 to ask you to endeavour to be concise. I will do the same on my part so that we can
9 indeed finish this cross-examination today. Have you understood that?

10 A. Yes, indeed. I understood.

11 Q. As regards the first major event that made an impression upon you, do you
12 know whether people were afraid during these events in the Central African Republic,
13 in Bangui as well as in PK12, because they remembered the October 2002 attempted
14 coup and the shooting that took place at the time?

15 A. Yes, I myself was afraid.

16 Q. What were the troops - the soldiers - that were on the ground between PK12 and
17 Bangui between October 25, 2002, and 31 October 2002?

18 A. When there was shooting, I was hunkered down at home with my family and
19 I had no way of knowing who was on the ground; who was in the area.

20 Q. According to the information you were able to glean about the shooting, which
21 troops were shooting on October 25, 2002?

22 A. I cannot know exactly what the origin of the shooting was, but as was the case
23 of all the citizens I knew that there was fighting between Bozizé's rebels and the
24 troops of the regime in power.

25 Q. Witness, when you speak about the forces of the regime in power between

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 October 25, 2002 and 31 October of that same year, what forces are you referring to?

2 A. I am referring to the forces that were defending the government and the rebel
3 forces. Those are the forces that were fighting.

4 Q. On the governmental side - that is, the pro-Patassé forces - are you referring
5 here to the FACA, the Presidential Guard, private militia? What exactly are you
6 referring to? Can you tell the Chamber?

7 A. I've already stated, Maître, that I was hunkered down in my house with my
8 family. No one could go out.

9 Q. To your knowledge, where did the rebels or Bozizé's militiamen, where did they
10 come from at that time?

11 A. According to the general information that was available at the time, they came
12 from the northern part of the country.

13 Q. To your knowledge, did they go through PK12, coming from the north, before
14 they got to Bangui?

15 A. Well, that's obvious, because the only access route to Bangui was through PK12.

16 Q. To your knowledge, how much time -- or how long, rather, did the rebel forces
17 occupy PK12 before they reached Bangui?

18 A. I don't know, because since I was in my house I heard the shooting, and we
19 heard the shooting and we were afraid, and I therefore cannot give you an answer to
20 that question.

21 Q. Was it starting from October 25th that they went through PK12 at the time?

22 A. If I remember correctly, it was starting from October 25th.

23 Q. Witness, at what point in time did the individuals that you call the
24 Banyamulengue reach the zone of PK12?

25 A. I don't know if there was a previous mission, but to my knowledge it was from

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 the point in time when Mary called that they had begun entering the house.

2 Q. Do you remember the date?

3 A. Mary said when she called me. She called me on November 1. If I remember
4 correctly, it was a Friday.

5 Q. Before those individuals that you referred to as Banyamulengue on November 1,
6 before they entered into the entire sector of PK12, what was the atmosphere in the
7 area; that is, between October 25, 2002 and October 31 of that same year?

8 A. Well, given that I was at home, I didn't see people, but for sure given the fact
9 that I was there, everyone -- people were afraid.

10 Q. Are we to understand, Witness, that during a seven-day period, seven
11 consecutive days, between October 25th and October 31 of 2002, you did not go out of
12 your house?

13 A. Yes, for reasons of security I stayed home. It was only starting the 30th, when
14 the government announced on the radio that Bangui was under control, I gave myself
15 some time and indeed I went out on November 1. But from the 25th to the 31st I was
16 home.

17 Q. To your knowledge, that is based on what you heard throughout that seven-day
18 period between October 25 and October 31 of 2002, was the shooting very loud?

19 A. Yes, indeed, there was shooting that we could hear and it was frightening.

20 Q. To your knowledge, or based on what you've heard, were there any victims
21 during that seven-day period at PK12?

22 A. It was only afterwards that I was told that there had been victims at the
23 roadblock, that is the PK12 roadblock, when the President's men came into the city.
24 But I -- that is President Bozizé at the time, but I did not see any corpses myself.

25 Q. Am I to understand that you're referring to victims of murder when the

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

1 President's, that is President Bozizé's, militiamen came into the area at that time?

2 A. No. According to my information, when they came in there was a certain
3 amount of resistance at the roadblock at PK12 and there was shooting and the result
4 was that there were victims during that shooting. That's the information that I had.

5 Q. Did you have the opportunity to see, close up or from afar, Bozizé's militiamen
6 at that time?

7 A. I did not have that opportunity.

8 Q. According to the information that you had available, after all this is the history
9 of your country, how were Bozizé's militiamen dressed at the time?

10 A. May I repeat, Maître, that given the shooting I was not able to go out during
11 that period to see what they looked like. But starting from the 30th, on the radio
12 they reassured us that the zone had been freed and that Bangui was under control. I
13 can't imagine their behaviour.

14 Q. Let me know if I'm mistaken, but I imagine that as a civil servant in your
15 country you were closely interested in following the news of what was going on in
16 your zone from a day-to-day basis; is that correct?

17 A. No, it's not, because here you're not reasoning as a civil servant. You are
18 thinking most particularly of your own security and the security of your family.

19 Q. Do you recall having mentioned that you were in contact with the gendarmerie
20 at PK12 that informed you of how the situation was evolving and that they even gave
21 you information about the comings and goings of the troops, informing you that at a
22 given point in time there were soldiers that you referred to as Banyamulengue had
23 moved and gone on towards Sibut? Do you remember that?

24 A. The contacts I had with the gendarmerie took place after November 1st. When
25 I learned that my house was occupied, I called to find out more, to get information,

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 but not between the 25th and the 31st as you were suggesting earlier.

2 Q. Do you recall having stated that you listened to RFI quite a lot; in particular, the
3 news about Africa? I imagine, and tell me if I am mistaken, I imagine that during
4 those seven days, starting October 25th and thereafter, you must have been interested
5 in hearing about what was going on during this period when you were hunkered
6 down in your house, as you've stated? Am I mistaken, or was that the case?

7 A. No, you're not mistaken. I listened to the news as any other citizen and I heard
8 what the journalists had to say, but I cannot necessarily confirm what they were
9 saying. It was general news.

10 Q. What was this general news that was reported on the radio, or in the
11 newspapers, regarding the uniforms that General Bozizé's men wore during that
12 seven-day period between October 25th and October 31st, 2002?

13 A. I don't remember any precise information about that. I'm very sorry, Maître.

14 Q. Witness, at the time of the events that took place on October 25th, 2002, was
15 there a gendarmerie station where you lived?

16 A. Well, to my knowledge, it was the gendarmerie brigade which is still there at
17 the very same place. What are you referring to exactly? Any other gendarmerie, I
18 don't exactly what you're referring to.

19 Q. Well, as we referred to it as the PK12 brigade?

20 A. Yes, it's that brigade. When you leave Bangui to go out, it's to the right, just
21 before the roadblock.

22 Q. This gendarmerie brigade, how far is it from your home, the brigade at PK12?

23 A. Well, my residence was (Redacted) at PK13; in other words, one
24 kilometre from PK12.

25 Q. So the gendarme who used to keep you regularly informed of the developments

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 of the situation in the area, were they working in this PK12 brigade?

2 A. Yes, they were working in the PK12 brigade.

3 Q. To your knowledge, this PK12 brigade, how many battalions does that represent,
4 given that you've done military service yourself?

5 A. I can't give a precision in this regard, Counsel, because I didn't know what
6 organisation they had at the time. I hadn't been in place myself.

7 Q. If I would suggest approximately three per brigade, would that seem to be
8 correct to you?

9 A. I can't confirm that. I do not have particular information, so I can't confirm
10 that.

11 Q. According to the information that you have, how many men would you
12 consider at the time of the first event, the number of men who were in this brigade of
13 PK12?

14 A. I'll risk repeating myself. I don't have information on the configuration of this
15 brigade during this crisis period. No information, Counsel.

16 Q. On this subject, Witness, everything that you can confirm to the Chamber, or all
17 that you can confirm, is that your residence was about one kilometre from the
18 gendarmerie brigade of PK12, at least from 25 October 2002?

19 A. Not only from 25 October but, as I already said to the investigators, my
20 residence has always been in PK13 (Redacted).

21 Q. Did you have the opportunity to personally check whether the gendarmes who
22 were assigned to this brigade of PK12, if they were involved in the pillaging of your
23 property from your residence while you were absent?

24 A. To my knowledge, no. I called the brigade in order to have information with
25 regards to my house, but I do not have other information where it concerns a possible

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 pillaging of my house by the gendarmes. Otherwise, that is something that I would
2 have mentioned.

3 Q. Is it an avenue that you had envisaged? Did you make an effort - a particular
4 effort - in order to try to find out about that and to see if these gendarmes were
5 involved in one way or another in the pillaging of your property?

6 A. I never followed this avenue, given that -- well, I was certain, concerning the
7 information that I had, and that information which was communicated to me by Paul,
8 that it was (Redacted) and his militia who were occupying my house. I
9 didn't follow this avenue with regards to the gendarmes.

10 Q. (No interpretation)

11 A. I don't understand you.

12 Q. Do you know the RDOT? Who are the RDOT?

13 A. That is a regiment for the operational defence of the territory. Their base is
14 approximately 800 metres or one kilometre from the PK12 checkpoint. 800 metres,
15 or a kilometre, when you go from Bangui towards PK12.

16 Q. And what distance does that represent from your residence?

17 A. The RDOT to my residence, well, generally you could think that it is two
18 kilometres.

19 Q. And what are the forces residing in these military camps of the RDOT?

20 A. Before the crisis period, it was often the RDOT men who wore red berets.

21 Q. Do you know if these were the FACA, or if it was the FACA forces, or the
22 Presidential Guard?

23 A. To my knowledge, they were the FACA forces because, as I said, they had red
24 berets. The presidential security, often they were in green berets.

25 Q. Witness, do you know, under the presidency of President Patassé at the time, if

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

1 there were a lot of FACA mutinies which were justified by the fact that these people
2 were not paid regularly?

3 A. Yes, yes, the -- there was a series of mutinies. Their demands were often of a
4 corporatist nature.

5 Q. Witness, should we take from that that your residency, at least at the time of the
6 first event which started on 25 October 2002, that your residence was approximately
7 two kilometres from the military camp of the RDOT?

8 A. Yes, and that is the case today.

9 Q. Witness, did you explore the possibility that, in reality, the pillaging of your
10 property could have been committed by FACA soldiers who came from the RDOT?

11 A. As I said a moment ago, I didn't follow this avenue with regards to the
12 information that I had on the occupation of my house by the Banyamulengue.

13 Q. Witness, you remember being in PK8 from 1 November 2002 and having seen
14 persons there who were heading for PK12, according to what you say; is that correct?

15 A. Yes.

16 Q. And these people that you saw, what language were they speaking?

17 A. I risk repeating myself here, but by way of precision I've already repeated for
18 the Chamber that these people were singing. They were singing in Lingala.

19 Q. In addition to Lingala, were you able to hear these people talk or sing in another
20 language, or in Sango, for example?

21 A. I can't confirm that. I went out and I saw them -- I can confirm that because I
22 saw them singing in Lingala. If I had heard Sango, I would have paid attention to
23 that.

24 Q. On the other hand, where it concerns the persons who went to your house,
25 according to the information that you had, before your gate, and these people who

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 then carried out pillaging, did Peter inform you that these people were also talking in
2 Sango?

3 A. Peter told me generally that the Banyamulengue had broken down my gate and
4 that they were carrying out pillaging. That was it. It was Paul who, (Redacted)
5 (Redacted) told me that they had tried to say in Lingala (speaks Lingala) and they wanted
6 to say by that that my house resembled a palace of a white person. That's what I had
7 heard.

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. Witness, the persons that you saw in PK8 that you called Banyamulengue, was
16 it in the evening that you saw them?

17 A. If my memory serves me well, it was at the beginning of the evening, a bit
18 before having the call from -- a bit before taking the call from Peter.

19 Q. Witness, when you say in the evening, we are in Africa. Was it dark?

20 A. No, Counsel, it wasn't dark. For further precision, I think it was around
21 5 o'clock, if I'm not wrong.

22 Q. Witness, can we take from that that at the start of the evening, towards 5 o'clock,
23 you saw people that you called Banyamulengue coming from the town centre; is that
24 correct?

25 A. That is correct.

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 Q. So did these people have some means of transportation or did you see them
2 walking by foot?

3 A. On that day I saw them walking or marching in columns, singing.

4 Q. Did you also see the soldiers who were at the head of these columns who were
5 coming from the town centre?

6 A. No. As I said, after having parked my car, there were rumours that they were
7 going through, and I went out on foot to have a look. I didn't have the time to see
8 what was happening before they arrived.

9 Q. Witness, you saw them in PK8, and at what time did Peter call you to inform
10 you that the so-called Banyamulengue were breaking down the gate of your house?

11 A. If my memory serves me well, it was approximately 6 o'clock in the evening.

12 Q. Witness, I would like to ask you to make an effort to try and remember the
13 sequence and the chronology of events. If I've understood you well - and you can
14 tell me if I'm wrong - you are at work. When you finish your working day,
15 approximately 5 o'clock in the evening, you get some information. You get a
16 telephone call from Peter, which tells you that he saw so-called Banyamulengue
17 breaking down your gate, and later you decide to take refuge provisionally in the PK8
18 sector with your parents, and in a third stage, towards 6 o'clock, you decide to leave,
19 go out into the street in order to see what's happening, and it's at that time that you
20 discover that there are persons coming from the town centre who are going towards
21 PK12. Now, is that correct?

22 A. That is the sequence, but the way you present it is not what I said. I said from
23 the town I received a call from Mary, approximately 2 o'clock or 3 o'clock, if you
24 follow my statement.

25 Now, from the town which is four kilometres away, I went to PK8. From PK8,

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

1 approximately 3 or 4 o'clock, there was this information according to which this
2 movement was taking place. I went out and I saw them, as any other citizen would.
3 Then I went back, and it was after 6 o'clock that I got the call from Peter. That is the
4 clarification that I'd like to make.

5 Q. Witness, could you make an effort to clarify for the Chamber how much time
6 passed between the time when you saw the so-called Banyamulengue in PK8 and
7 when you received the phone call from Peter talking about the invasion of your house?
8 Was it 30 minutes, 20 minutes, a half-hour?

9 A. I think it must be approximately 30 to 45 minutes. I left at 6 o'clock and that's
10 the reason why in my previous statement, if you will remember, I stated that, taking
11 into account the time it took to walk between PK12 and PK8, another group would
12 perhaps be there. That's what I said.

13 Q. Witness, do you remember having stated that, according to the information that
14 you received from Mary, this group of so-called Banyamulengue that you had seen at
15 that time in PK8 was different to that which was already in PK13? And here I'm
16 referring to the document number 4 of the Defence list and page CAR-OTP-0046-0017.

17 A. No, it's not what I said. I said, taking into account the time between going
18 from PK8, when I had Peter's call, I thought at this speed another team would already
19 be in the field. That's what I said. I didn't say that the first group that I saw was
20 the one from PK8.

21 Q. Witness, taking into account, as you say yourself, the time, a very short time,
22 separating the moment when you saw people who you said were coming from the
23 town centre and the time that you received a call from Peter saying that there were
24 already people who were also called Banyamulengue who were breaking down the
25 gate of your house, you reasonably say that it couldn't be the group that you saw in

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

1 PK8; is that correct? Is that what you're saying?

2 A. No. I stated clearly that, taking into account this time, because I do not confirm
3 that there was already a group in place. That's not what I said. I said what I saw in
4 PK8. You asked me did I see the start of the troop. No, I said. Can -- did the
5 group go 30 minutes ago, one hour ago, two hours ago? I don't know. I know what
6 I saw and that's what I confirmed.

7 Q. Witness, we're going to be precise. You see people in PK8, and here I am
8 talking about people that you have seen yourself. You've seen them yourself,
9 physically. Should we take from that, honestly, that it is not reasonable to think that
10 these people who you saw, quite irrespective of any group who would have come
11 before these people, is it not possible that these people reasonably did pillage and that
12 they had -- were already there and had broken down your gate at the time when you
13 received the call from Peter?

14 A. Counsel, between PK8 and PK12, it's only four kilometres. To go four
15 kilometres in one hour for a soldier, that's not magic there. So, when I saw the team
16 from PK8, I didn't see the start of the troop that you're talking about. Now, did a
17 group go before? Well, I didn't have that confirmation, and that's what I'm repeating
18 here.

19 Q. Witness, I'm now going to remind you of a statement that you made to the
20 investigators, document number 4 of the Defence list, and page CAR-OTP-0046-0017.
21 What you state is as follows: "When Mary told me and I asked (Redacted)
22 (Redacted) I went to PK8. In the evening I went to have a
23 look next to the road by way of curiosity, and I saw them walking towards PK12 in
24 single file. And after the call of Mary, I think -- or according to Mary's call, I think
25 this group of Banyamulengue was different to the one that was already in PK13".

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 Witness, do you confirm your statement on that?

2 A. Yes, Counsel. I think that there's no contradiction. I stated that I did not see
3 the start of the troops. The group that I saw, knowing that they had already left, I
4 can only confirm that perhaps there was a group that had already left 30 minutes
5 before, one hour before, before I saw the PK8 team. I didn't say that the PK8 team
6 was the first team that had gone to PK12. I can confirm that. There's no
7 contradiction in that.

8 Q. Witness, to enable us to understand you better, it is your position therefore that
9 these were all persons referred to as the Banyamulengue, but that you personally saw
10 one team at PK8 and that it is your opinion that the second -- or, rather, the first team
11 which was at PK13 was another group or team of Banyamulengues; is that correct?

12 A. I am not able to confirm that, but all I can say that is that the group that I saw,
13 the one that I saw may have been preceded by another, but I am not able to confirm
14 that idea or that thought. All I can talk about is what I saw with my own eyes.

15 Q. A final point of clarification, Mr Witness. Why do you say that, "Going by
16 Mary's call, I believe that the Banyamulengue group at PK8 was different from the
17 one that was at PK13?" Why are you referring to different groups and not to the
18 same group?

19 A. The reason is that, and as I have already told you, I was not sure that the group
20 that I saw was the one that was at the front of the group. What is clear, however, is
21 information provided by Paul to the effect that my gate had been broken down by
22 Banyamulengue and that is it.

23 Q. Mr Witness, how far is the centre of the town from your residence?

24 A. Once again, I will be repeating myself. The centre of the town is at PK0, which
25 is 13 kilometres away from my residence.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

1 Q. Mr Witness, wouldn't it be reasonable to think that as a matter of fact the first
2 group of those people you referred to as the Banyamulengue, which was at your
3 residence at PK13, was part of the Central African soldiers who were one or two
4 kilometres away from your residence at the RDOT camp, or at the gendarmerie
5 brigade at PK12, rather than a group of people who would have come from the centre
6 of town which was 13 kilometres away?

7 A. I cannot confirm your version of the facts. All I can do is rely on the
8 information that I received, and I cannot confirm your suggestion that my residence
9 may have been looted by Central African soldiers.

10 Q. Mr Witness, now talking about those soldiers whom you saw coming from the
11 centre of the town, did you become aware that President Patassé had set up private
12 militia who had no connection or nothing to do with the MLC soldiers who were
13 based at the centre of the town at a distance not too far away from the presidential
14 palace and which at the time of the events had been strewn around, over about
15 three-quarters of the territory of the Central African Republic, and had been involved
16 in acts of looting and pillaging? Were you aware of such information?

17 PRESIDING JUDGE STEINER: Is this a question or testimony?

18 MR KILOLO: (Interpretation) I think it is a question, Madam President, which is
19 quite clear. I don't know how the interpretation has come out for you in English, but
20 my question to the witness is to find out from him whether he is in possession of
21 information that, as far as the centre of the town went, President Patassé had set up
22 private militia who had nothing to do with the MLC who, on their part, were based
23 downtown and were deployed over about three-quarters of the Central African
24 Republic and were involved in acts of looting and pillaging.

25 The simple question is to find out from the witness whether he was in possession of

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 such information.

2 THE WITNESS: (Interpretation) No.

3 MR KILOLO: (Interpretation) In that connection, and for the record, I would like
4 to refer to the edited transcript, French version, 10 May 2011, page 25, lines 20 to 28.

5 Q. Mr Witness, does the word "Balawa" ring a bell if that word were mentioned to
6 you?

7 A. "Balawa"? Well, it was generally said that there was a militia group known as
8 Balawa, and so on and so forth, but I don't have any details about who may have been
9 their leader and how they may have been organised, but general reference was made
10 to that group.

11 Q. Does the word "Sarawi" also ring a bell, Mr Witness?

12 A. I think that these were nicknames given to a number of groups at the time but,
13 as I have already told you, I did not pay attention to those military and similar
14 organisations, and I don't have any details to provide you by way of answer.

15 Q. Did you ever hear mention of the MLPC militia?

16 A. No. No, not that one.

17 Q. Did you hear mention of the SCPS militia, Société Centrafricaine de Protection
18 et de Surveillance? Did you hear mention of the SPCS militia?

19 A. Well, I knew that the SPCS was a security or a guarding company, a private
20 company. That is what I knew.

21 Q. Mr Witness, did you ever consider the possibility that the private militia of
22 President Patassé may have been involved in the pillaging of your house?

23 A. I did not have any information on that point and I cannot confirm anything in
24 that connection.

25 Q. Mr Witness, you remember that yesterday we talked about a number of issues,

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

1 we raised a number of questions. Now, do you know one of the militia leaders of
2 President Patassé known as Mr Barril, Paul Barril, a former French gendarme?

3 A. As any Central African, I heard people talk about Mr Barril, but I did not know
4 what his role and position were in connection to President Patassé since I was not in
5 that milieu.

6 Q. Mr Witness, would it be true that part of the men whom you saw at PK8 were
7 wearing the same uniforms worn by the FACA; that is, the soldiers of the National
8 Army of the Central African Republic? I'm referring here to document number 4 of
9 the Defence documents list, page CAR-OTP-0046-0018, bottom of page.

10 A. As previously stated in my previous testimony, the uniforms worn were not
11 coherent. Some of the uniforms looked like uniforms worn by the FACA and others
12 did not look like FACA uniforms, and I stand by my testimony on that point.

13 Q. Mr Witness, as far as you know, you who have received military training, do
14 soldiers wear their ranks during combat operations?

15 A. It all -- it all depends on the rank of the soldier and it depends on the definition
16 given to "combat operation."

17 Q. Mr Witness, during war, irrespective of the rank of the soldier, do the soldiers
18 wear or put on their ranks?

19 A. With my little knowledge in military matters, I believe that it all depends on the
20 organisation and its internal arrangements.

21 PRESIDING JUDGE STEINER: Ms Kneuer.

22 MS KNEUER: Thank you, Madam President. The Prosecution observes that the
23 line of questioning is now turning into matters of military expertise and I suggest,
24 since we will hear a military expert, that this will be reserved for an expert witness.

25 PRESIDING JUDGE STEINER: Maître Kilolo, I think you are going maybe too far

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Private Session)

ICC-01/05-01/08

1 with this line of questioning. Could you go straight to the point, please.

2 MR KILOLO: (Interpretation) Well, I think that the objection is a little bit belated,
3 because I had already finished with that point. Thank you.

4 Q. Now, Mr Witness, I would like you to provide names of other judges whom you
5 know to the Court, whose houses or whose robes or gowns may have been taken
6 away by militia during the events we are talking about?

7 PRESIDING JUDGE STEINER: Maître Kilolo, we are not going to mention names of
8 other persons that maybe don't want to see their names involved or mentioned in
9 public session. So I don't know what the answer of the witness could be, but in any
10 case we are going to private session for a while.

11 *(Private session at 12.15 p.m.) Reclassified as Open session

12 THE COURT OFFICER: Madam President, we are now in private session. Thank
13 you.

14 PRESIDING JUDGE STEINER: Mr Witness, now you can answer.

15 THE WITNESS: (Interpretation) As far as I know, there is myself, they took my
16 gown, or robe, but I am not aware of what specifically happened to the other judges.

17 MR KILOLO: (Interpretation)

18 Q. Mr Witness, you remember telling this Court that many magistrates were aware
19 of what had happened to you. Is it because you talked to them about it?

20 A. My colleagues within the same jurisdiction do engage in conversations with me
21 and they are aware of what happened, but it may also be that those who saw the
22 events happening at PK12 may have told other colleagues of what they saw. The
23 fact remains that I am aware that many of my colleagues were aware of what
24 happened to me at PK12.

25 Q. Is it true that none of the colleagues with whom you had such discussions

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Private Session)

ICC-01/05-01/08

1 mentioned similar -- that a similar thing may have happened to them? Is that the
2 case?

3 A. Yes, that is correct.

4 Q. Yes, please. Please proceed, Mr Witness.

5 A. As I stated before, for purposes of clarification, I think, Counsel, that - and I
6 want to be sure about this - Françoise told me that she was also a victim because her
7 house had been occupied, and I provided this information to the investigators, but
8 I don't know whether her own robe was also taken away.

9 MR KILOLO: (Interpretation) Madam President, I think we can move into open
10 session now.

11 PRESIDING JUDGE STEINER: Court officer, please.

12 (Open session at 12.19 p.m.)

13 THE COURT OFFICER: Madam President, we are back in open session. Thank
14 you.

15 MR KILOLO: (Interpretation) Mr Witness, I want to read a very short excerpt of a
16 speech delivered by the late President Ange-Félix Patassé and then thereafter put a
17 question to you, a very brief excerpt of page CAR-OTP-0001-0076, and then I will read
18 another brief excerpt from the next page, CAR-OTP-0001-0077, and I am quoting here
19 President Patassé: "Regarding what happened, those who suffered very much
20 during the events of last 25 October were the magistrates, regardless of any suffering
21 that may have befallen the population. The magistrates suffered a lot. Their
22 property was destroyed. They were driven out of their homes. Their gowns were
23 taken away and rubbed in the mud, or on the ground, and the magistrates are all in
24 hiding. Why? Now, you who are a Central African citizen, how is it that you no
25 longer respect the magistrates? The magistrates or judges are now afraid and

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 frightened. How are they going to try cases? Lawyers are frightened and afraid,
2 court officials as well, and yet we claim to be a State of law. How are we a State of
3 law when our judges are frightened? How are they going to render justice?
4 It is for this reason that you, as a Central African, must respect the judge, the
5 magistrate, the court officials, the lawyers, because they represent the symbols of a
6 State of law. Otherwise, we cannot claim to be a State of law."

7 Mr Witness, I am not going read out the entire excerpt, because it would take too
8 much time, but I am sure that you clearly remember this historical speech delivered
9 by President Ange-Félix Patassé and in which he was referring to Bozizé's militia.
10 Considering that speech delivered at that time, did you not imagine or think that
11 those militia who entered your compound, and pillaged your residence, could you
12 not have imagined that they were Bozizé's rebels?

13 A. No, I cannot confirm that. You see, the speech was of a general nature and as
14 magistrates we are organised into the High Court, the Appeals Court and the
15 Supreme Court and the State Council, so I was not among those who drafted the
16 speech.

17 What I know, however, and I am sure of and I have already stated, is that I talked
18 about my situation to Nick, and if President Patassé happened to have been thinking
19 about me when he talked about these magistrates, I believe that he would have taken
20 the necessary measures for the militia to leave my residence. That is why I am
21 saying that I did not provide any information to President Patassé. I talked to Nick
22 and I am not in a position to somehow say, relying on a general speech, that it was
23 Bozizé's people or some militia who did what was done. So I am not going to go
24 down that line of thinking with you.

25 Q. Mr Witness, this speech was delivered shortly after the main event, the seven

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

1 days which you have mentioned, that is from 25 October, when the Bozizé militia
2 were warded off. Now, do you remember having mentioned that prior to the arrival
3 of the leader, or the leaders, there was an initial day of looting at your place by a
4 number of soldiers? Do you remember that testimony?

5 A. Let me say, as you have said, that if the speech had been made during that
6 time-frame, then I would not have been concerned by it because, between the 25th
7 and the 1st, my house had not been looted and therefore I will not be concerned by
8 the content of that speech.

9 MR KILOLO: (Interpretation) Madam President, it is 12.30. Maybe this is a good
10 time for the break.

11 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo. Thank you, Mr Witness.
12 We'll have now our lunch break, our lunch break here. I don't know whether it is
13 your lunch break as well. And it's at The Hague time 12.30. We will resume at
14 2 o'clock, which means that at Bangui time we will resume at 1 o'clock. Before I
15 suspend, could I ask Maître Kilolo on whether Defence has any idea if for how long
16 still the questioning of the witness is going on?

17 MR KILOLO: (Interpretation) Madam President, I believe that we will finish by
18 this afternoon.

19 PRESIDING JUDGE STEINER: Thank you very much. It is important information
20 for the Chamber in order to organise the coming of the next witness. So, Mr Witness,
21 we are going to suspend now and we will resume at 2 o'clock The Hague time, and
22 1 o'clock Bangui time. The hearing is suspended.

23 THE COURT USHER: All rise.

24 (Recess taken at 12.29 p.m.)

25 (Upon resuming in open session at 2.11 p.m.)

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

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

2 PRESIDING JUDGE STEINER: Good afternoon and welcome back to those present
3 here in this courtroom. Good afternoon and welcome back, Mr Witness.

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

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

6 THE WITNESS: (Interpretation) I am ready, Madam President.

7 PRESIDING JUDGE STEINER: Thank you very much. Maître Kilolo, you have the
8 floor.

9 MR KILOLO: (Interpretation) Thank you, Madam President, for giving me the floor.

10 Q. Good afternoon, Mr Witness.

11 A. Good afternoon, Counsel.

12 Q. Thank you. I believe that we are almost done and within the next 20 minutes
13 or so, we should have completed our cross-examination. Mr Witness, do you
14 remember the date on which President Ange-Félix Patassé delivered his speech, the
15 speech which I read out to you just before we broke off?

16 A. I do not remember that date.

17 Q. Would you know whether it was before, or after, the pillaging which you allege
18 took place in your house on 1 November, 2002?

19 A. Once again, I am not able to be specific in my answers. You are the one who
20 informed me a short while ago that this speech was in relation to the events of 25
21 October to 1 November, and my answer to you in that connection was that I would
22 not have been concerned by that speech because at that time, or during that period,
23 my house had not yet been looted.

24 MR KILOLO: (Interpretation) Now, for the record, let me draw the Court's
25 attention to the fact that this speech was delivered on Monday, 25 November 2002,

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Private Session)

ICC-01/05-01/08

1 and published the day after, Tuesday, 26 November 2002, in a Central African
2 newspaper called Le Citoyen. I'm referring here to document CAR-OTP-0004-0036.

3 Madam President, I would like to apply that we go briefly into private session.

4 PRESIDING JUDGE STEINER: Court officer, please.

5 *(Private session at 2.15 p.m.) Reclassified as Open session

6 THE COURT OFFICER: Madam President, we are now in private session. Thank
7 you.

8 MR KILOLO: (Interpretation)

9 Q. Mr Witness, let us now speak much more freely since we are in private session.

10 I would like to put a question to you relating to information in the application for
11 participation which you submitted, and this is document 7 of the Defence documents
12 and I am looking at page --

13 THE INTERPRETER: I am sorry, the interpreter missed the page.

14 MR KILOLO: (Interpretation)

15 Q. The question: "Were you, your family or anyone else in contact with an
16 organisation with a view to state your security concerns in relation to your filling out
17 this application?" Your answer was, "Yes," and against the "Yes" box there was an
18 indication to provide further details and this is what you said: "I will talk about my
19 situation to my organisation."

20 Which organisation were you referring to?

21 A. (Redacted)

22 and I felt that I needed to talk to that organisation about the application. However,
23 I was not able to contact that organisation to this very day in that connection.

24 (Defence counsel confer)

25 MR KILOLO: (Interpretation) Madam President, could we return to open session?

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

- 1 PRESIDING JUDGE STEINER: Court officer, please.
- 2 (Open session at 2.19 p.m.)
- 3 THE COURT OFFICER: Madam President, we're back in open session.
- 4 MR KILOLO: (Interpretation) I would like to ask the court officer to provide an
- 5 electronic version of the document; that is document number 9 on the
- 6 Defence documents list. Please make available that document to the witness and I'm
- 7 referring to CAR-OTP-0037-0123.
- 8 THE COURT OFFICER (CAR): (Interpretation) Mr Kilolo, the witness has the
- 9 document you have referred to before him.
- 10 MR KILOLO: (Interpretation)
- 11 Q. Mr Witness, do you recognise this? Do you recognise this document?
- 12 A. Yes, it is the document of the gendarmerie which we talked about yesterday.
- 13 Q. Do you remember that yesterday during our discussions we referred to the
- 14 gendarmerie report on Mary's interview, or statement? Do you remember that?
- 15 A. Yes, I do.
- 16 Q. Now, you have before you the gendarmerie report on Peter's interview or
- 17 Peter's statement; is that correct?
- 18 A. Yes, Counsel, that is correct.
- 19 Q. Now, would you agree with me that (Redacted)?
- 20 A. Yes. However on that point, and as I indicated yesterday, let me state that the
- 21 judicial practice in our country, that is in relation to the judicial police, the practice is
- 22 that the judicial police officer makes or takes a statement and then the person giving
- 23 the statement (Redacted)
- 24 (Redacted) and this is simply how things happened.
- 25 Q. Would you agree with me as well that you did not produce the so-called (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 (Redacted)?

2 A. Now, Counsel, for your information the (Redacted) or register, is a
3 document that belongs or is held by a judicial police officer who takes a statement
4 (Redacted) This register is never given to a
5 third party, according to the judicial practice in the Central African Republic.

6 Q. Mr Witness, do you remember writing to Maître Paolina Massidda on 7
7 September asking to be -- or to give your testimony by video link?

8 A. We had discussions with Maître Paolina Massidda on several issues and we had
9 a significant number of correspondences, including among other things a request for
10 a video link for my testimony, and this was based on the one hand on my
11 duty-related obligations and on the other hand on my desire to cooperate with the
12 ICC. These are the issues we discussed in those correspondences.

13 Q. Do you remember that in those correspondences you mentioned that Peter and
14 Paul would be (Redacted)

15 A. Yes. In those discussions I indicated that, for reasons of professional
16 constraints, I felt that Peter and Paul (Redacted) were not likely to
17 cause any problems.

18 Q. How did you know that Peter and Paul were (Redacted)

19 A. Well, Counsel, let me wonder whether this is a relevant question. Is it going to
20 move us forward, given that I myself pointed out to the investigators who came to
21 Bangui on behalf of the OTP -- (Redacted)
22 (Redacted) for the work that was done and that
23 has been done? So I don't see what additional information I can provide to that
24 question.

25 PRESIDING JUDGE STEINER: Ms Kneuer, do you still want the floor?

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Private Session)

ICC-01/05-01/08

1 MS KNEUER: Madam President, I'm sorry, there was overlapping. I could not
2 actually understand what you asked me.

3 PRESIDING JUDGE STEINER: I got the impression that you had asked for the floor,
4 no?

5 MS KNEUER: No.

6 PRESIDING JUDGE STEINER: Am I wrong? Sorry.

7 MS KNEUER: However, since you gave me the floor, you perhaps read my
8 thoughts. I was thinking about asking to go into a private session.

9 PRESIDING JUDGE STEINER: If the Defence will continue questioning on this
10 respect, we will go into private session. So I ask Maître Kilolo whether Maître Kilolo
11 intends to put any further question on this respect? We'll go into private session not
12 before the Defence explains the relevance of the question, of course.

13 MR KILOLO: (Interpretation) Well, it was the last question of the Defence's
14 cross-examination, we did not receive an answer from the witness and if you so desire,
15 yes, we can go into closed session in order for him to do so.

16 PRESIDING JUDGE STEINER: I got the impression that the witness has already
17 answered, but in any case if you want the witness to complete the answer, court
18 officer, please turn into private session.

19 *(Private session at 2.29 p.m.) Reclassified as Open session

20 THE COURT OFFICER: Your Honours, we are now in private session. Thank you.

21 MR KILOLO: (Interpretation)

22 Q. Witness, we are now in private session, and therefore you can express yourself
23 more freely and, if you so desire, add to your answer.

24 A. Yes, Maître. I was saying that I wonder what the relevance of this question is
25 because, since the beginning of the investigation in this procedure, I myself indicated

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Private Session)

ICC-01/05-01/08

1 to the investigators -- well, I gave them information to Peter and to Paul and they did
2 their job independently. I simply asked my lawyer or, rather, informed my lawyer
3 when I was available and asking them to allow me to testify by video link. That
4 does not mean that I had any (Redacted) not at all.

5 Q. Witness, you have answered yourself the question as to the relevance of this
6 question in the very last part of your answer. The only thing I'm asking you is to
7 state, (Redacted)

8 (Redacted)

9 (Redacted)

10 A. No. I knew, when the investigators were doing their job, I gave them some
11 information, I knew that there -- (Redacted), and if the matter was
12 to go to The Hague, I can't even find the appropriate words to answer your question.
13 But the only thing I can say is there was (Redacted)
14 (Redacted) in my opinion.

15 Q. Did they, themselves, tell you that they were (Redacted)
16 these events relating to what happened to you, (Redacted)?

17 A. No, no. The rules governing the investigation carried out by the OTP were
18 such that (Redacted). I am a judge
19 myself, I am familiar with those rules, and in the interest of a procedure where I
20 myself am involved, I don't see why I would want to (Redacted)
21 (Redacted) I'm very sorry, but that is the case, indeed.

22 MR KILOLO: (Interpretation) Thank you. Thank you, Witness, for your
23 cooperation. We have finished our cross-examination.

24 PRESIDING JUDGE STEINER: Sorry, Maître Kilolo, to interrupt you. Do we go
25 back into open session?

Trial Hearing
Witness: CAR-OTP-PPPP-0108

(Open Session)

ICC-01/05-01/08

1 MR KILOLO: (Interpretation) Yes, of course, Madam President.

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

3 (Open session at 2.33 p.m.)

4 THE COURT OFFICER: Madam President, we are back in open session. Thank
5 you.

6 MR KILOLO: (Interpretation) Thank you, Witness, for your cooperation. We have
7 now completed our cross-examination on the part of the Defence. Thank you.

8 THE WITNESS: (Interpretation) I also thank you, Maître.

9 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo. I ask the Prosecution
10 whether Prosecution intends to redirect?

11 MS KNEUER: No, thank you, Madam President, your Honours.

12 PRESIDING JUDGE STEINER: Thank you, Madam Kneuer, Ms Kneuer.

13 Mr Witness, this now concludes your evidence. And before we conclude, the

14 Chamber wants, as with all other witnesses in the case, to express the thanks of the

15 Judges for the time and trouble that you have taken to give evidence in this trial.

16 In order for us, the Judges, to find the truth it is critical that witnesses such as yourself

17 are prepared to give evidence, to assist us on the relevant issues of the case. And we

18 are aware that this will certainly have been inconvenient for you. The Chamber,

19 therefore, thanks for your time and effort that you have spent in giving your

20 testimony before this Court.

21 Before we adjourn this session, Mr Witness, the Chamber would like to ask whether

22 there is anything that you would like to address to the Chamber?

23 THE WITNESS: (Interpretation) Thank you, Madam President. First and foremost

24 I would like to thank the Chamber, who has accepted my request to be able to testify

25 by video link, therefore taking account of my professional obligations, and also my

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

1 desire to cooperate. My concern is that the Court and the Chamber, which is solely
2 competent to determine the relevance and admissibility of my claim, examine with
3 due wisdom the testimony, the evidence provided, and that indeed justice be done.
4 That's all, your Honour.

5 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness. I will ask now
6 the court officer, Mr Felipe Rojas, you can accompany the witness outside the
7 conference room. Thank you very much again, Mr Witness, for your cooperation
8 with the Court.

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

10 (The witness is excused)

11 THE COURT OFFICER (CAR): (Interpretation) Madam President, the witness has
12 been accompanied out of the conference room.

13 PRESIDING JUDGE STEINER: Thank you very much, Court Officer. Now it's just
14 up to the Chamber to inform the parties and participants that Witness 169 apparently
15 is ready to start giving his testimony tomorrow, not today. We still had -- we've
16 been trying since yesterday to solve an interpretation problem. Apparently, it was
17 solved. But in any case, only tomorrow morning we can start with the testimony of
18 Witness 169, so we will adjourn this hearing for today.

19 I thank very much the Prosecution team, the legal representatives of victims, the
20 Defence team, Mr Jean-Pierre Bemba Gombo. Mr Rojas, thank you very much.

21 I think you are ready to come back to The Hague. I thank very much to our
22 interpreters and court reporters, our court officer and we will adjourn for today and
23 resume tomorrow morning at 9.30 in the morning, starting with the testimony of
24 Witness 169.

25 This hearing is adjourned.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0108

- 1 THE COURT USHER: All rise.
- 2 (The hearing ends in open session at 2.39 p.m.)
- 3 RECLASSIFICATION REPORT
- 4 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and ICC-01/05-01/08-3038,
- 5 and its instructions in the email dated 17 September 2013, the version of the transcript
- 6 with its redactions becomes Public.