

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Closed 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 Monday, 19 September 2011
9 *(The hearing starts in closed session at 2.33 p.m.) Reclassified as Open session
10 THE COURT USHER: All rise. The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE STEINER: Good afternoon. Could, please, court officer call
13 the case.
14 THE COURT OFFICER: Thank you, Madam President. Situation in the Central
15 African Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, case
16 number ICC-01/05-01/08.
17 PRESIDING JUDGE STEINER: Thank you very much. Good afternoon and
18 welcome the Prosecution team, the legal representatives of victims, the Defence team,
19 Mr Jean-Pierre Bemba Gombo. Good afternoon to our interpreters and court
20 reporters. We will continue and hopefully conclude the questioning of Witness 33,
21 and for that purpose I ask, please, court usher to bring the witness in.
22 (The witness enters the courtroom)
23 WITNESS: CAR-OTP-PPPP-0033 (On former oath)
24 (The witness speaks French)
25 PRESIDING JUDGE STEINER: We can turn into open session, please.

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- 1 (Open session at 2.37 p.m.)
- 2 THE COURT OFFICER: We are in open session, Madam President.
- 3 PRESIDING JUDGE STEINER: Good afternoon, Mr Witness.
- 4 THE WITNESS: (Interpretation) Good afternoon, your Honour.
- 5 PRESIDING JUDGE STEINER: I hope you had a restful weekend.
- 6 THE WITNESS: (Interpretation) Yes, Madam President. Thank you.
- 7 PRESIDING JUDGE STEINER: Are you feeling well and ready to continue giving
- 8 your testimony?
- 9 THE WITNESS: (Interpretation) Yes, of course I am ready.
- 10 PRESIDING JUDGE STEINER: Mr Witness, I need to remind you that you are still
- 11 under oath. Do you understand that?
- 12 THE WITNESS: (Interpretation) Yes, yes, I do understand.
- 13 PRESIDING JUDGE STEINER: And just a quick remark in relation to the protective
- 14 measures that were put in place in order to protect your identity from the public and,
- 15 therefore, reminding you that you should refrain from mentioning any information in
- 16 public session that could lead to your identification. If need be, we go into private
- 17 session and then you can speak freely. Is that fine with you, sir?
- 18 THE WITNESS: (Interpretation) Yes, yes, that is fine by me.
- 19 PRESIDING JUDGE STEINER: Mr Haynes, you have the floor.
- 20 QUESTIONED BY MR HAYNES: (Continuing)
- 21 Q. Well, I hope and expect this is the last time I'm going to say good afternoon to
- 22 you. So good afternoon, sir.
- 23 A. Good afternoon, Mr Haynes. I hope so too, because that is the way it should
- 24 be.
- 25 Q. No promises though, but I'm reasonably confident it should be. Now, I'm

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1 going to part by asking you a few questions about a job you had, so we're going to
2 have to go into private session for a few questions, but I hope we'll be able to come
3 back into public session after you've answered those.

4 So, Madam President, can we go straight into private session.

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

6 *(Private session at 2.41 p.m.)Reclassified as Open session

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

8 MR HAYNES: Thank you.

9 Q. (Redacted)

10 (Redacted)

11 (Redacted)

12 A. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

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7 (Redacted)

8 In fact, the former representative of the Secretary-General of the United Nations, who
9 was then Mr Surin was shot at in that area and it was common knowledge. Why did
10 this happen? It happened because His Excellency, President Jean-Pierre Bemba's,
11 guards felt that the entire international community had conspired, had ganged up,
12 against President Bemba. The houses of some French people were looted, some
13 policemen were assassinated, some policemen were assassinated, vehicles were
14 looted and brought into his excellency the president's residence. Vehicles were
15 looted and brought into his excellency, the president's, vehicle -- his compound,
16 rather. Vehicles belonging to the police and I think these are all events and I say this
17 quite honestly. You see, when it is impossible to hide the truth, because it always
18 prevails. (Redacted)
19 (Redacted)

20 Now, what happened? What happened? Just before the first round of elections
21 were to take place, everything fell apart. When the president came back from an
22 electoral tour or campaign tour in Kinshasa, at that time a rally held at the Tata
23 Raphael Stadium and shortly after the rally there was total disorder and the close
24 bodyguards of the president, the national president of the MLC, and members went
25 on to attack churches and pastors who were considered to be close to President Kabila.

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1 They also attacked the media and, worse still, they went on to attack the human rights
2 observatory and then they went on to loot and then they went on to rape a woman.
3 A woman was raped. And these are known facts. Policemen were killed. That
4 was grievous misconduct. They misbehaved, and if we are even to talk in terms of
5 government, what happened is that the government did not react. And after the
6 situation got out of hand like that, after the proclamation of the first round of
7 elections, you know how the bodyguards behaved, extremely badly. The very day
8 the results of the first round of elections was proclaimed the CI offices were
9 surrounded, they were shot at so as to prevent the president of the CI from
10 announcing the results. Who doesn't know that? These are real facts that took
11 place in Kinshasa.

12 If you want me to go on telling you about these acts of violence, situation getting out
13 of control, provocation, every single time the national army tried to intervene,
14 because the national army did intervene in order to answer the provocations from the
15 bodyguard of the president, and it was practically exactly the same thing that -- the
16 same reproach that is being levelled at the president of Central Africa. It's exactly
17 the same facts that took place in Kinshasa, practically the same. Practically the same.
18 So what can I say?

19 Q. That's your recollection and perception of the events of August 2006, is it?

20 A. Well, listen here: (Redacted)

21 (Redacted)

22 (Redacted) During the disorders that took

23 place in 2003, between February and March I believe, the violence that erupted

24 between the months of February and March, I can't remember exactly when, but do

25 you know that (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted) so this is why I remember so vividly and in

13 such detail what happened at the time. It's only normal.

14 MR HAYNES: We're going to try now and go into public session, because I want to

15 show you a report about the events of August 2006 and see whether you agree with

16 what other people said was going on.

17 PRESIDING JUDGE STEINER: (Redacted)

18 (Redacted)

19 Court officer, please turn into open session.

20 (Open session at 3.05 p.m.)

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

22 MR HAYNES:

23 Q. Sir, were you aware of the presence of United Nations elements in the Congo at

24 the time of the elections of August 2006?

25 A. Well, yes, of course. I know that MONUC was present.

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1 Q. And were you aware that certain non-governmental organisations, such as
2 Human Rights Watch, were also present in the Congo at the time of the elections of
3 August 2006?

4 A. Yes, of course I know that.

5 Q. I'll ask you this question before we go to a report I want you to consider, but in
6 general terms how were President Kabila's political opponents treated after the
7 election of August 2006?

8 A. Before the 2006 elections, I would like to speak about my president at the time.
9 I will not speak about others, because I do not know what relations they had with
10 President Kabila. This being said, I do know that in the course of the transition
11 period at one point in time the national president, His Excellency Jean-Pierre Bemba
12 of the MLC, and President Kabila were very close to each other. They grew
13 extremely close to each other to such an extent that they could actually board a plane
14 together and left. And I can remember that once they actually flew all the way to
15 Rome together, to Rome, and I believe the president was piloting the plane. They
16 were very close. And I remember also (Redacted) President Kabila walking
17 from his office all the way to the office of the national MLC president where they met
18 and they talked and they left together, they embraced each other, so their relations
19 were extremely close and it's towards the end, that is to say during the transition, that
20 the situation between them began to deteriorate. So let me say that during the
21 transition at the beginning there wasn't -- there weren't many problems. It was in
22 the run-up to the elections that there were very many problems with the opponents.
23 Q. Sir, please listen to my question. I asked you how the political opponents of
24 President Kabila were treated after the August 2006 elections.

25 A. I thought, Counsel, that you had asked me to confine myself to the period

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1 preceding the elections. I'm sorry. Now, after the elections I think that there were
2 serious problems between President Kabila and particularly the members of the
3 opposition, principally from the MLC, principally from the MLC at the beginning
4 which was quite normal because there had been confrontations between the two
5 political groupings and so it was perfectly normal that there should be problems, but
6 thereafter it is true that there were some things that were not all together orthodox,
7 where some of the opponents were targeted, the press was gagged. All of this is true
8 and is well-known.

9 MR HAYNES: Thank you. I wonder, therefore, if we can just have a look at
10 Defence document 77, and we'll start by looking at what is actually page 2 of the
11 report but it's page 7 of the electronic document.

12 THE COURT OFFICER: The current document is not in eCourt, but we will look for
13 it in TRIM. So we need just a few seconds, please.

14 The document can be viewed on "PC1."

15 MR HAYNES: Thank you. Can we go to the seventh page of the document in
16 TRIM, and I am very much obliged for the assistance. Thank you.

17 PRESIDING JUDGE STEINER: Mr Haynes, since the document has not been
18 uploaded in eCourt, what is the page of the document itself, because if you say page 8
19 or 7 --

20 MR HAYNES: It's page 2 of the report. It's the page entitled "Résumé." That's the
21 "2" at the bottom.

22 PRESIDING JUDGE STEINER: I don't have it.

23 MR HAYNES:

24 Q. I'd like you to read over just to yourself the first paragraph of the résumé of this
25 Human Rights Watch report, please, and then I've got some questions for you. Can

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1 you tell me when you've finished reading it?

2 A. Yes, it's done. I have read the document.

3 Q. Do you agree that the day after the elections of August 2006 President Kabila
4 began to use violence and intimidation to eliminate his political opponents?

5 A. This is going to be my answer, Counsel. I shall tell you this: President Kabila,
6 with his political group, or in any case the platform that was supporting him, well, I
7 cannot actually say that they're totally exonerated from some outbursts of violence
8 which may have indeed made the restoration of the state of law somewhat vulnerable,
9 or a democratic country somewhat vulnerable. I'm not saying that at all, but when
10 you carefully consider what happened in August 2006 you would see that the best
11 way of getting the rights it's not just by means of violence. You know very well,
12 Counsel, that you can try and get hold of your own rights, but you cannot take justice
13 into your own hands. You cannot use violence in order to make sure that your
14 rights are upheld, but the Kabila government is not totally exonerated from these
15 outbursts of violence or situations getting out of control, that President Kabila at the
16 time may have stepped out of the line, but was there only MLC as an opponent?
17 Why didn't the others also clamour for their rights with violence and using means of
18 terror? Why would it only have to be MLC? Because it's part of the culture. They
19 may have tried to behave differently, but it is impossible because it is within their
20 nature.

21 Q. Do you agree that he immediately declared, after he had been elected, that he
22 would govern the Congo in a very severe way?

23 A. Counsel, I do not believe that I have come to give testimony here on the way
24 President Kabila managed things. I didn't come here for this, so let us confine
25 ourselves to what I'm supposed to offer by way of answers within the purview of this

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1 trial. I shall abstain from passing any judgment on the way President Kabila
2 managed things. Far from excellent, fine, but I'm not here to pass judgment on that.
3 PRESIDING JUDGE STEINER: Mr Haynes, the Chamber was trying to avoid the
4 question, but taking into account the answer just given by the witness we were
5 wondering why the situation in the elections post 2006 has any - any - relation to the
6 facts that are under trial here, given the facts occurred between 2002 and 2003,
7 because if we are going to discuss politics here we're not going to finish to conclude
8 this questioning today.

9 MR HAYNES: I still believe we will.

10 JUDGE ALUOCH: Sorry, Mr Haynes, and I have the document confirming the
11 charges, so I was looking at that document and wondering where all this evidence is
12 leading to in respect of that document?

13 MR HAYNES: Yes, it is directly relevant to the witness's credibility.

14 PRESIDING JUDGE STEINER: I'm sorry, Mr Haynes, this is too general a statement,
15 so whenever we are going totally outside the document containing the charges, or the
16 decision on the confirmation of the charges, the simple allegation is that it goes to the
17 credibility of the witness in the view of the Bench is a little bit too vague. So if you
18 could, please, be more direct. If need be, we go into private session for you to
19 inform the Chamber on which point this discussion on the 2006 elections is related to
20 the issues at stake in this trial. That's the point.

21 MR HAYNES: Absolutely. I think we have to go into private session, because it's
22 impossible for me to address this issue without making certain submissions that are
23 personal to the witness.

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

25 *(Private session at 3.21 p.m.) Reclassified as Open session

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

2 MR HAYNES: Earlier this afternoon, this witness gave us his impression of the
3 causes of disorder and disharmony in the Congo following the August 2006 elections.
4 As anybody who reads a contemporaneous report prepared by a reputable and
5 independent body will appreciate, his impressions of the causes of the troubles at that
6 time are flat contrary to, as it were, the weight of opinion and they indicate, we say, a
7 very plain determination by this witness at every opportunity to shape his evidence
8 in a way which is adverse to the accused and unrealistic and untruthful. That's the
9 base point.

10 The second point is rather more poignant, as will be developed in what is a short
11 remainder of this examination of him. In the period following August 2006, this
12 witness (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted) as we will demonstrate, this

16 witness's evidence is affected by those events and his inability and unwillingness to
17 be realistic or truthful about what in fact was going on in the Congo between
18 August 2006 and April 2007, approximately, and show him for what he is; somebody
19 who has come here as (Redacted) intent only to give evidence adverse to
20 Jean-Pierre Bemba.

21 PRESIDING JUDGE STEINER: One clarification, Mr Haynes. On page 18, lines 23,
22 24, you mentioned a contemporaneous report prepared by a reputable and
23 independent body. Are you mentioning the Human Rights Watch report?

24 MR HAYNES: Yes.

25 PRESIDING JUDGE STEINER: Mr Witness, you are allowed to respond or to clarify

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- 1 what Defence has just pointed out, please.
- 2 THE WITNESS: (Interpretation) Your Honour, to tell the truth, this is incredible.
- 3 These are gratuitous accusations, because I shall prove to you, your Honour, that (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 Never. You can cut off my hand if you were to be able to prove the contrary. I
- 7 would say actually that the world is upside down then. I never, ever met him,
- 8 because in fact (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted). Until the end of (Redacted)
- 12 (Redacted)
- 13 (Redacted) Never. There was never any such (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
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- 24 (Redacted)
- 25 (Redacted)

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- 1 The only thing remaining to me was the (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted) That is senseless, pointless.
- 8 In 2008, before Mr Badibanga came to see me, I would have wanted to get into touch
- 9 again with the (Redacted)
- 10 (Redacted) I actually did go and see him and I said, (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted) I went into private business. I have my calling card here. It
- 24 is here.
- 25 PRESIDING JUDGE STEINER: Mr Witness, you don't have to say where you work.

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1 THE WITNESS: (Interpretation) Yes, I worked in the private sector; in the private
2 sector up until now in (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted) I was in (Redacted) and other places (Redacted)
7 (Redacted) I can prove that I wasn't even in Kinshasa.
8 When Mr Badibanga came to see me and asked me to give testimony, I refused first.
9 He tried. I refused. I said, "Listen, I'm no longer interested in politics. I'm getting
10 on with my life. I'm working in the private sector. I'm getting on with my life. I
11 don't want to hear about all of that. I'm finished with all of that." And he said to
12 me, "No, listen. If you don't ..." -- well, I did give an account of what happened. I
13 said, "Okay, I'll give you an account of what happened, but leave me alone. Leave
14 me alone. I don't want to go there," and he was satisfied with that and he left.
15 And so what motivated me? I'll tell you why, your Honour. Now I'm here in this
16 justice system, a system of justice led by men, but what about the justice of the Lord?
17 One day I will have to give an account of my actions. What about that (Redacted)
18 (phon), and his blood that was shed innocently and the other ones, the victims from
19 the Central African Republic and other places who were killed, the police officers? I
20 never said that the Kabila government behaved well. I'm not here to apologise for
21 them. There certainly were many situations that spun out of control, but it's my
22 country and once again I don't want to find myself exposed to reprisal.
23 Now, if I bad mouth Kabila right now and I go back home, once again people will be
24 after me. That is why I have avoided attacking. When he was asking me that
25 question in open session, I avoided that because you never know. You never know.

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1 One day people will realise that I was the one who said that and I will have a hard
2 time of it.

3 So, you see, I am not interested in politics any more. I decided to be done with that.

4 It's behind me now. You're not going to hear about me and politics. I am done
5 with politics. I am done. But to say that I am one of (Redacted) That's an

6 insult. It's incredible. It's incredible. (Redacted)

7 (Redacted)

8 (Redacted) No, that's too much.

9 Frankly, it's just not true.

10 PRESIDING JUDGE STEINER: Mr Witness, you were given the opportunity to
11 respond. Now I will give back the floor to Mr Haynes, and the Bench hopes that

12 Mr Haynes continues focused on the issues related to the present case. You have the
13 floor, Mr Haynes. Can we go into open session?

14 MR HAYNES: Yes, I think we can, your Honour.

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

16 (Open session at 3.36 p.m.)

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

18 MR HAYNES: I'd like you to help us with something that you said in your
19 interview with the Prosecution, and to that end we need to look at Defence document
20 1, that's page 1146, but the witness will need to look at Defence document 4 at page
21 0092. It is a confidential document.

22 PRESIDING JUDGE STEINER: Maître Badibanga.

23 MR BADIBANGA: (Interpretation) Your Honour, at this particular stage I would
24 just like to draw the Chamber's attention to something. I don't want to interrupt my
25 learned friend's cross-examination, even though I disapprove, but perhaps in the

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1 witness's interests we should --

2 THE INTERPRETER: Inaudible.

3 MR BADIBANGA: (Interpretation) -- take a break.

4 PRESIDING JUDGE STEINER: Mr Witness, we are going to anticipate our break.

5 Court officer, please turn into closed session for the witness to be taken outside the
6 courtroom.

7 *(Closed session at 3.38 p.m.) Reclassified as Open session

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

9 (The witness stands down)

10 PRESIDING JUDGE STEINER: Regretting very much such kind of disruption
11 during the testimony of a witness that is testifying now for almost 14 hours, we are
12 going to suspend this session and resume at quarter-past-4. The hearing is
13 suspended.

14 THE COURT OFFICER: All rise.

15 (Recess taken at 3.40 p.m.)

16 *(Upon resuming in closed session at 4.26 p.m.) Reclassified as Open session

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

18 PRESIDING JUDGE STEINER: Welcome back. Maître Liriss, you want to address
19 the Chamber before the witness is brought into the courtroom?

20 MR LIRISS: (Interpretation) I thank you, Madam President. I thought that it was
21 necessary mindful, if one may say so, of the incident that just occurred to clarify a
22 number of issues from the Defence's point of view.

23 Madam President, you have reminded us on several occasions, and you maybe did
24 not need to do so, that the Trial Chamber is made up or composed of professional
25 judges, and we are all aware of this and we are mindful of it, but as I have said

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1 consistently, professional judges may sometimes tend to think that men are good by
2 nature and to sometimes forget that man may sometimes be, should I say, disformed.
3 This is just of the way man is made.
4 On several occasions during the examination of this witness, he gave his personal
5 opinion in very strong terms on the accused person, whereas the questions put to him
6 did not relate to his answer at all. I give you an example in point:
7 When he said that, you know, Mr Bemba was someone who may have been
8 charismatic but he was not a statesman, he is a dictator. And I'm referring here to
9 the transcript of 16 September 2000, page 9, line 20, page 10. "He is a true dictator."
10 And, Madam President, I am sorry to have to say this but he behaved as a despot and
11 then he went on to mention several examples, many of them which I cannot all
12 mention. I'll just take an example.
13 When he was asked about the reporting on the investigations in Zongo, and since he
14 claimed that such investigations did not take place, his answer is that those things
15 have no value, they are meaningless and they were put in place for the purposes they
16 were intended for and since Mr Bemba gave orders and no one could change them it
17 is for that reason that those documents were drawn up in that manner.
18 During that testimony I attempted to oppose this type of testimony by drawing the
19 Trial Chamber's opinion -- attention to the fact that the witness is here not to give his
20 testimony, but to talk about what he knows. But the witness told me that the judges
21 know how to distinguish between truth and untruth, between an opinion and a
22 testimony.
23 The questions we put did not -- the questions we put to the witness today did not
24 seek to elicit his opinion. We have raised fundamental questions relating to all
25 previous questions put by Mr Haynes. I know, and I trust that you understand, that

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1 when we will put this question ultimately you will see how relevant it is in terms of
2 our case.

3 I have, therefore, raised these points in order to dissipate any possible interpretation
4 by the Court that we may -- that the Defence may be harassing the witness and this is
5 something that you distaste.

6 Let me say, Madam President, that we have acted with all the necessary reserve
7 whenever the witness has put forth his own personal opinion in the most negative
8 terms about the accused person. This is all I am on my feet for; namely, that we
9 want to clear up the atmosphere that may have obtained a short while ago.

10 Thank you very much, Madam President, for your kind attention and I believe and
11 I am sure that you have understood me.

12 PRESIDING JUDGE STEINER: Thank you very much, Maître Liriss. Maître
13 Badibanga.

14 MR BADIBANGA: (Interpretation) I apologise, your Honour. I should like to be
15 allowed to proceed, simply to reply briefly to what Mr Liriss has just said. I don't
16 know whether you will deem that appropriate, but perhaps the first thing is that, in
17 my opinion, this is not the time for closing statements and the Defence definitely will
18 have every opportunity, just like the Office of the Prosecution, to present its opinion
19 on the testimonies presented.

20 However, we should like to give our own version of the incident that took place
21 earlier and we would like to do so when the witness himself is present. However,
22 what Mr Liriss has just said now leads me to saying that we are not talking here
23 about vengeance, we're not talking here about sanctioning anyone, it is not just
24 because the witness may have said something that was not totally pleasant to the
25 Defence that they would have to retort in like manner.

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1 We are in the course of a criminal proceeding. The witness says what he knows
2 about factually but also what he lived through, the impression, the opinion that he
3 has of the situations is also part and parcel of his testimony. Obviously, it's up to
4 you to assess things. But when the witness is asked, for instance, whether (Redacted)
5 (Redacted) it is an opinion that he gives. And, likewise, the witness is also entitled
6 to giving an opinion on the accused person and in his presence we would like to
7 recall several times that several times he's been extremely respectful. Every -- ever
8 since the beginning of his testimony, the terms that he has used in order to refer to the
9 accused person has never been offensive. To the contrary. So we can, in no case,
10 subscribe to what has been said when it was stated that he was insulting. He simply
11 at one point stated an opinion. I am like the witness, perhaps I get carried away at
12 times. So he only expressed an opinion and we are in utter disagreement with this
13 technique or with this method whereby, in return, one must find some way of getting
14 at the witness. And with your indulgence, madam, I should like to clarify a certain
15 number of things once the witness has been brought back into the courtroom.

16 Thank you.

17 PRESIDING JUDGE STEINER: Thank you, Maître Badibanga. The Chamber has
18 decided - and this is a preliminary issue - that after giving testimony for 21 hours,
19 50 minutes the witness, the testimony, will conclude today. This witness has been
20 testifying for 21 hours, 50 minutes. The Defence will be given two more hours, and
21 we hope the Defence makes good use of these two hours in order to conclude its
22 questioning of the witness. For that reason, Maître Badibanga, I would prefer not to
23 use part of these two hours allocated to the Defence in order for you to make
24 clarifications. You can do it if, if the case, when you are allowed to redirect the
25 witness, if the case.

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1 The Chamber has had the opportunity to reflect upon the line of questioning that
2 preceded the break and wishes to give the Defence the following guidance:
3 Before the break, the Chamber asked Mr Haynes to explain the relevance of the
4 questions related to the violence after 2006 elections. As we understood by the
5 submissions of Mr Haynes, the Defence is trying to demonstrate two points: First, to
6 challenge the veracity of the witness's testimony on the causes of the trouble that
7 followed the 2006 elections and, second, to support the Defence's contention that the
8 witness is biased against Mr Bemba because he is, in the Defence's words, "an" - and I
9 quote - (Redacted)

10 The Chamber now is going to give some guidance here and ask Defence, especially
11 Mr Haynes, to consider it carefully. The Defence is entitled to challenge the veracity
12 of a witness's testimony, and this is true of all witnesses in the case. To that end, the
13 Defence may point out to the Chamber any contradictions in the witness's testimony.
14 It may impeach the witness using material outside the witness's testimony, but when
15 the Defence or any other party for that matter seeks to impeach the witness's
16 testimony on a collateral matter, it needs to tread carefully and work expeditiously.
17 The Chamber will not afford the parties much latitude when questioning on collateral
18 matters. We will not waste our own time or that of the witness going off on tangents
19 that bear little or no relevance to the facts at issue in the case.

20 So the Defence may challenge the veracity of the witness's testimony, but the
21 Chamber will not permit Defence to spend significant time on issues that are
22 collateral to those that need to be resolved by the Chamber in this case, and nor will
23 the Chamber allow Defence or any party to treat a witness without due respect.
24 On the second point, the Defence may question the witness on any bias the witness
25 may have against the defendant provided that the Defence has a good-faith basis to

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1 believe that such bias exists. But, again, the Chamber will not permit you - the
2 Defence - to spend a lot of time on this. If the Defence's contention is that the
3 witness bears some kind of political or personal animus against or towards Mr Bemba,
4 the question may be put to the witness in that way, in a direct way.

5 In other words, do it in a direct and succinct fashion with respect for the witness, and
6 the fact that he has travelled here voluntarily to assist the Court in its inquiries and
7 has been giving testimony for almost 22 hours.

8 Therefore, the Defence is instructed to proceed with the examination of the witness
9 for two more hours, not more than that. With these considerations in mind, we are
10 granting the Defence two hours to complete their examination because we are
11 convinced that this will be sufficient. And one final comment, Maître Liriss, exactly
12 because you were the Defence, the parties are before professional judges. I would
13 like to ensure the Defence, ensure the Prosecution and legal representatives, that the
14 judges sitting here on the Bench are really, really able to separate the wheat from the
15 chaff.

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

17 (The witness enters the courtroom)

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

19 (Open session at 4.44 p.m.)

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

21 PRESIDING JUDGE STEINER: Mr Witness, welcome back.

22 THE WITNESS: (Interpretation) Thank you.

23 PRESIDING JUDGE STEINER: We hope you had the opportunity to take some rest
24 during this break - you deserved that break - and I hope do you understand that to a
25 certain point the Defence is entitled to question you on any bias that you may have

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1 against the defendant, provided that the Defence has a good faith basis to believe that
2 such bias exists. So don't take it personal. You just answer at the limit of your
3 knowledge. You answer objectively, concisely. The Defence were given by the
4 Chamber two hours to conclude your testimony, so let's see if we can conclude in a
5 proper way in order for you to be free to go back home.

6 Are you ready to continue giving your testimony, sir?

7 THE WITNESS: (Interpretation) I am ready, your Honour.

8 PRESIDING JUDGE STEINER: Mr Haynes, you have the floor.

9 MR HAYNES: Thank you very much, your Honour.

10 Q. And welcome back, Mr Witness.

11 A. Thank you, Counsel.

12 MR HAYNES: Having had a longer break than I was anticipating, it's made me
13 reflect upon whether I can ask you the section of questions I was going to in open or
14 private session. Having reflected I think it would be safer for us to go into private
15 session, so with your Honour's leave we'll do so.

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

17 *(Private session at 4.47 p.m.)Reclassified as Open session

18 THE COURT OFFICER: We're in private session, your Honours.

19 MR HAYNES: Thank you. Could we put back on the screen, please,
20 Defence document number 4, at page 0092 for the witness, and for those of us
21 following in English can we look at Defence document number 1 at page 1146?

22 THE COURT OFFICER: Counsel, could you please confirm the ERN number of the
23 document?

24 MR HAYNES: Yes, it should be CAR-OTP-0055-0092. I'm very sorry, it should be
25 CAR-OTP-0009.

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1 THE COURT OFFICER: We have document CAR-OTP-0009-0022, but on that
2 document there is no page 0092.

3 MR HAYNES: Then I'm very sorry, it's document number 5, CAR-OTP-0009-0063.
4 It is accordingly document number 5, not document number 4, I'm sorry.

5 PRESIDING JUDGE STEINER: I think 0063 is the first page and the Defence wants
6 at page 0092; is that correct?

7 MR HAYNES: Your Honour, yes.

8 THE COURT OFFICER: The document can be viewed on "PC1."

9 MR HAYNES: Thank you.

10 Q. Now, I don't want you to read this out, but I just want you to look at the
11 question and answer which begins "Quand est-ce que cela se passait?" --

12 THE INTERPRETER: "When did this take place?"

13 MR HAYNES:

14 Q. -- and the answer which you gave. Would you read that over to yourself?

15 A. I have already read it, Counsel.

16 Q. Thank you. Who is the Head of State you referred to in that answer?

17 A. I am referring to President Kabila.

18 Q. Now, we all know that this interview took place in the early part of April 2008,
19 so does that mean that (Redacted) President Kabila in about (Redacted)?

20 A. No, in fact (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 That was the first time, and the second time around 2008 -- and all of this (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted) That's what I meant.

23 Q. Well, I'm sorry. Let's have a look at what you actually said in that interview

24 again please, "It was only two months ago that (Redacted)

25 (Redacted) Other than that, during all this time since June 2007, when I ceased

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- 1 to be (Redacted) What did you mean
- 2 when you said, "Two months ago (Redacted)?"
- 3 A. Well, this is precisely what I said when (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted) That was my purpose. My
- 9 purpose was, in fact, to be in the (Redacted)
- 10 (Redacted)
- 11 (Redacted) but it didn't work, it wasn't successful, and yet I thought it was
- 12 perfectly normal.
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 Q. I just wonder why you said in this interview that (Redacted)
- 20 (Redacted)
- 21 A. At the time, I'm telling you in 2007 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. Whose idea was it that you should (Redacted)

20 (Redacted)

21 A. Well, it was my idea. I did it on my own initiative. I tried going through the

22 (Redacted)

23 (Redacted) and that didn't work either so I gave

24 up.

25 Q. And how did you propose in (Redacted)

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1 (Redacted)

2 A. I had nothing to prove, nothing to prove. To my mind -- well, I said to myself,

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 It was definitely under lock and key. What was I to do? I gave up. It wasn't a

12 reason to necessarily say, well, no trying to -- by trying to (Redacted), it's just -- I

13 thought it was a right. After many years of struggling and fighting, I couldn't let the

14 other people get those privileges and me left out on the cold. I thought it was a right

15 for me to have that (Redacted)

16 (Redacted) but it didn't go anywhere. It didn't work.

17 Q. But it hadn't worked in (Redacted) according to you. What did you do differently

18 in (Redacted)

19 A. Well, in (Redacted), and I said this earlier, after (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted) so I gave up and I got on with my life. I did other things.

8 Q. Can you help us with a question of chronology, please: Which came first, the

9 (Redacted) or the meeting in the (Redacted) in Kinshasa with

10 Mr Badibanga?

11 A. What happened first, and I've said this, in (Redacted)

12 (Redacted) It got me

13 nothing. In 2008, before meeting Mr Badibanga, (Redacted)

14 (Redacted) hoping that it would work, and that's why I thought it was necessary to

15 talk to Mr Badibanga about that and to say, "Yes, I am (Redacted)

16 (Redacted) So that was before, that was before I met Mr Badibanga.

17 Q. And whose idea was it that you should meet Mr Badibanga?

18 A. I was called, I was called. You would have to ask Mr Badibanga how he went

19 about getting my number. You'd have to ask him that. He called me the first

20 time -- well, I'd never seen him. He called me and he said, "Are you Mr So-and-So?"

21 And I said, "Yes, that is me." And he introduced himself and he said, "Could we

22 meet? Could we have a meeting to talk about something, a matter?" And I said,

23 "Okay. Why would I refuse? No problem." We set an appointment. So we had

24 an appointment and we met later. We met and we talked about all of that. We

25 talked about all of that.

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1 Q. So the first call you received from him was a surprise, was it?

2 A. I didn't know him. I didn't know him. It was the very first time I was called
3 by a - how should I put this - a member of -- a staff member of the Court. It was the
4 very first time, the very first time I had been called by such a person.

5 Q. Leaving aside the identity, was the fact of a call from the Court also a surprise?

6 A. Yes, it was a surprise. I wasn't expecting it.

7 Q. And do you have any idea who gave to the Court your contact details?

8 A. Frankly, I have no idea. You would have to ask Mr Badibanga that. I have no
9 idea. I never asked that question of him. I don't know.

10 Q. Now, I do want to ask you some questions about the business you're currently
11 involved in. It's a (Redacted) is it?

12 A. Yes, that's right.

13 PRESIDING JUDGE STEINER: One second, Mr Haynes. Has this information
14 been disclosed, about the current occupation of the witness?

15 MR BADIBANGA: (Interpretation) On this particular item, we'll have to check.
16 I'm not sure whether that information was disclosed. I'll need to check. My
17 time-line goes back to somewhat before that period. I'll have to check.

18 PRESIDING JUDGE STEINER: Mr Haynes, can you start by another set of questions
19 that does not involve the witness disclosing information that may be confidential in
20 relation to his protection?

21 MR HAYNES: We are in private session and, frankly, no, I can't because these are
22 the very last series of questions I've got.

23 PRESIDING JUDGE STEINER: Has this information already been given to the
24 Defence? This is my question.

25 MR HAYNES: Only by the answers he gave today. He told us that he is in a

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1 (Redacted) He gave a series of locations. He said they were

2 (Redacted) So, yes, it has been disclosed. And if you

3 want the transcript reference, I can give it to you.

4 PRESIDING JUDGE STEINER: This is not the problem. I need to be confirmed by
5 VWU whether this is protected information or not.

6 MS KNEUER: Madam President, if you could give us five minutes we would be
7 able to verify this. I believe it was not shared, but I need to verify this.

8 (Pause in proceedings)

9 MR BADIBANGA: (Interpretation) Just to clarify, your Honour, while we're
10 doing this cross-check, at the time of his statement the witness did mention (Redacted)
11 and he was (Redacted) but he didn't mention that final
12 position he was holding.

13 Now I believe on Friday he said that he didn't want to go into the details and he just
14 said that he was working for (Redacted) That was what he alluded to.

15 And I am now rechecking the transcript, and I can report back --

16 PRESIDING JUDGE STEINER: Maître Badibanga, I'm not concerned about the
17 transcript; I'm concerned about what kind of protection was granted by VWU to the
18 witness, and I'm almost sure that that involves confidentiality in relation to his place
19 of residence and his current occupation.

20 (Pause in proceedings)

21 MS KNEUER: Madam President, according to my personal notes, I agree with your
22 observation. However, we would have to clarify and verify with the VWU to have
23 full 100 per cent clarity.

24 PRESIDING JUDGE STEINER: I have already requested information from the VWU
25 and, if there are no other questions to be put by the Defence, we'll be here just waiting

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1 for the answer from VWU.

2 (Pause in proceedings)

3 PRESIDING JUDGE STEINER: Mr Haynes, the VWU has just informed that the
4 witness (Redacted) so therefore his place of residence and
5 current occupation are not to be disclosed.

6 MR HAYNES: Well, they already have been.

7 PRESIDING JUDGE STEINER: If they have been, unfortunately because the witness
8 was not really informed about that, we stay with the information that was
9 inappropriately given and this information stays in this courtroom. No further
10 information in relation to the witness's place of residence and of occupation will be
11 allowed.

12 MR HAYNES: Well, let me see if we can -- I can suggest a middle way. Let me
13 formulate a question and then you can decide whether I'm entitled to ask it. Is that
14 an appropriate way forward, your Honour?

15 PRESIDING JUDGE STEINER: Yes, Mr Haynes.

16 MR HAYNES: Thank you very much.

17 Q. Well, what I'm interested to know is whether the enterprise you told us about
18 has benefited from any government permits?

19 PRESIDING JUDGE STEINER: Mr Witness, you can just answer, if you know the
20 answer, "Yes" or "No," without going into details, please.

21 THE WITNESS: (Interpretation) No, I -- well, there is one little detail. Well, just
22 a small -- a small detail. (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

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1 (Redacted) that existed in the past.

2 MR HAYNES:

3 Q. (Redacted) in the Democratic Republic of Congo?

4 A. Well, it belongs to the Democratic Republic of the -- (Redacted) belong to the
5 Democratic Republic of the Congo.

6 Q. When did this (Redacted) begin?

7 A. Well, I said that well before that (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted) I will leave it at that.

12 Q. And are you still waiting for an answer about your certificate to practice as an
13 (Redacted)

14 A. Frankly, if I were to get it today, well, I would be surprised to get one because
15 the people who were supposed to help me get one don't even take my calls, or meet
16 with me. I really have put all of that behind me. I no longer want to be involved in
17 any of that. I've had it. I want to make a fresh start and, frankly, politics, no. I
18 lost a lot of time, I ended my schooling and in the final analysis I no longer want any
19 of that. I want to make a fresh start and begin a new life. That's all.

20 Q. And just so that we're clear, without saying too much about the nature of the
21 business, what is your position in the current business?

22 A. I don't want to talk about that. I don't want to talk about that.

23 Q. And the (Redacted) is it subject to authorisation from the government of the
24 Democratic Republic of Congo?

25 A. Well, in actual fact, just so that you better understand, (Redacted)

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1 (Redacted)

2 So that's how I would put it. (Redacted)

3 (Redacted) So there you have it. (Redacted) at that.

4 MR HAYNES: Thank you. I have no further questions.

5 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. I'm now asking whether

6 Maître Badibanga intends to re-direct?

7 MR BADIBANGA: (Interpretation) Yes, the Prosecution would like -- in light of

8 the extremely long period of time that the witness has been in the courtroom, we

9 would like to put a few questions to him.

10 PRESIDING JUDGE STEINER: Therefore, Maître Badibanga, we are going to

11 suspend for 20 minutes and we'll be back at quarter-to-6.

12 Court officer, please turn into closed session for the witness to be taken outside the

13 courtroom.

14 *(Closed session at 5.24 p.m.)Reclassified as Open session

15 THE COURT OFFICER: We're in closed session, your Honours.

16 (The witness stands down)

17 THE COURT OFFICER: All rise.

18 (Recess taken at 5.25 p.m.)

19 *(Upon resuming in closed session at 5.47 p.m.)Reclassified as Open session

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

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

22 the witness in.

23 (The witness enters the courtroom)

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

25 (Open session at 5.49 p.m.)

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

2 PRESIDING JUDGE STEINER: Mr Witness, welcome back. We hope that very
3 soon you'll be released. The Prosecution has some few questions to put to you and,
4 therefore, I'll give the floor to Maître Badibanga.

5 MR BADIBANGA: (Interpretation) I thank you, Madam President. Thank you,
6 your Honours.

7 Mr Witness, I know that the procedure has been rather long for you. I note that you
8 started testifying on Thursday two weeks ago, not last week, and so in principle this
9 is what happens: You are questioned by Prosecution, the other parties question you,
10 and then we have a possibility of putting a few questions to you to clarify a number
11 of points and raise some issues that may have been raised for the first time when you
12 were being questioned by the Defence .

13 In that regard, I have prepared a few questions and you will understand that if we
14 attempt, both of us, to be brief - I will be brief and you can be concise in your
15 answers - then within a half-an-hour or 45 minutes we should have been done.
16 That having been said, and before we tackle the questions proper, with the leave of
17 the Court let me revisit the incident we had before, and for that reason, Madam
18 President, I would like us to go into private session.

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

20 *(Private session at 5.51 p.m.)Reclassified as Open session

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

22 MR BADIBANGA: (Interpretation) This afternoon the Defence made a number of
23 statements and the Office of the Prosecutor would like to react to them. We simply
24 want to say that those assertions were baseless and, based on the 98 documents that
25 the Defence intended to use in questioning this witness, none of them constitutes a

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1 proper basis for which the Defence could have made the statements and supported its
2 argument as it did this afternoon, that is particularly regarding this witness.

3 We note that this witness respectfully answered all questions with patience and with
4 great respect since Thursday, 8 September. The Defence has been questioning in
5 cross-examination for the past five days; that is, since Tuesday, 13 September and
6 according to the Prosecution the Defence has not been able to challenge the credibility
7 of this witness who, throughout his testimony, has been credible and coherent in his
8 testimony. Whenever the witness talked about the accused, he referred to him as
9 "his excellency," or "the president" or "the commander-in-chief." He was always
10 cautious enough --

11 PRESIDING JUDGE STEINER: Maître Liriss.

12 MR LIRISS: (Interpretation) Madam, I thought that the Prosecution was given the
13 floor to question the witness, and not to make submissions.

14 PRESIDING JUDGE STEINER: Maître Badibanga, let's go to the answer as quick as
15 possible, please.

16 MR BADIBANGA: (Interpretation) Obligated, your Honour, but I felt that it was
17 also necessary for the witness to hear, on the heels of what was said about him, that
18 this opinion does not reflect the position of the Court and that it doesn't reflect the
19 position of the Prosecution either, that we have a different take on all these things,
20 and I believe that it was important for this witness, who has been extremely
21 co-operative with the Court in the quest for the truth in this matter, to hear this as
22 well. The very harsh words that were used against him we believe needed to be
23 balanced by our own statement.

24 In any event, your Honour, that has been said already and I will now put a few
25 questions to the witness.

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Witness: CAR-OTP-PPPP-0033

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ICC-01/05-01/08

- 1 QUESTIONED BY MR BADIBANGA: (Interpretation)
- 2 Q. (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. My questions will relate to issues that you have already dealt with in your
7 testimony, so you don't need to repeat. Please, you can be very concise in your
8 answers and that will enable me to release you much faster.

9 On another subject, that is the granting of military ranks, and I want to refer to
10 document number 12 on the Defence list of documents. On 13 September, transcript
11 160, page 171 from lines 17 to 18, you said that Mr Amuli was promoted to the rank of
12 a general. My question is the following: Was -- do you know whether Mustapha
13 was promoted to a higher rank and, if so, do you know?

14 A. Yes, he was promoted to the rank of general but I think he was not present at
15 the ceremony, although he was promoted.

16 Q. Do you know whether that promotion took place after the Central African
17 operation, if you have some difficulties with the timetable? Do you know whether it
18 was before or after?

19 A. Please don't hold it against me but I think this was in July 2002, I believe.

20 Q. Do you know whether any other officers involved in the Central African
21 operation, did any of them also obtain a military rank?

22 A. Sir, these were ranks granted to the Congolese Liberation Army, to all the
23 military without any exception. Ranks were given to all of them. They were all
24 appointed. All officers - practically all of them - received a rank.

25 Q. Let me go on with the same line of questioning, transcript 161, 14 September,

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1 page 10 and following. Here the Defence asks a whole series of questions on

2 General Amuli. My question is as follows: In which army did most ALC military,
3 both soldiers and officers, find themselves today?

4 A. They are both in the FARDC.

5 Q. Can you please explain what that means, AFARDC?

6 A. These are the Armed Forces of the Democratic Republic of the Congo?

7 Q. Would you please tell us under which circumstances these military joined the
8 armed forces of the Democratic Republic of Congo? Why is it that they're all in these
9 forces today?

10 A. They are all recognised today as belonging to the Armed Forces of the
11 Democratic Republic of Congo. This started with the mixing process; that is to say,
12 the process of integration that commenced right at the very beginning of the
13 transition period.

14 Q. Are we to understand that you're saying that the MLC troops were integrated
15 within the national armed forces? Am I understanding your words correctly?

16 A. No, no. When you're saying that they were being integrated, it's as though
17 they had been swallowed up by the army. No, all the parties were put together to
18 make up a new whole. Those coming from the MLC, those who were coming from
19 the MLC Tuma (phon), every single faction, they were all put together within the new
20 armed forces.

21 Q. How about the former officers of the ALC? Did they keep their rank when
22 they joined the Armed Forces of the Congolese Army, the national army of the
23 Congo?

24 A. Yes, not only did they keep them. Some of them in fact were promoted to
25 higher ranks.

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1 MR BADIBANGA: (Interpretation) I should like now to move on to a different
2 subject and so, your Honour, with your indulgence I should like document 98 of the
3 Defence to be displayed, CAR-DEF-0001-0634. That particular exhibit, 98, was
4 shown to the witness on 14 September. The document is transcript 261, page 16.

5 THE INTERPRETER: Interpreter's correction: Page 161 and not 261, as previously
6 mistakenly stated; that is to say, transcript 161.

7 PRESIDING JUDGE STEINER: Maître Badibanga, I think you meant transcript 161;
8 is that correct?

9 MR BADIBANGA: (Interpretation) Yes, your Honour, transcript 161, 14 September,
10 page 16 in the French version. However, it is exhibit 98 of the Defence's list. Yes, it
11 is the one on the screen right now. I believe that on their list the Defence had shown
12 that this document was confidential, although that does not appear on the screen.

13 PRESIDING JUDGE STEINER: We are in private session.

14 THE COURT OFFICER: The document can be viewed on "PC1."

15 MR BADIBANGA: (Interpretation)

16 Q. Witness, you remember having seen this document that was shown to you?

17 A. Yes.

18 Q. I would simply ask you to help us out in situating this document properly.

19 When you were shown this document you were asked to comment -- you were asked
20 to make comments on the date and the place where it was issued, but I would have
21 two additional questions to ask thereupon. First, does this document look like a
22 document that is usually issued by a leader of the MLC, or even a leader of the ALC?
23 I'm referring here to its shape, the heading, et cetera, the format of this document, the
24 heading, et cetera.

25 A. Not at all, Counsel. I don't see any heading. I don't see any letterhead. Also,

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1 if you wish us to make reference to the constitution governing us at the time of the
2 rebellion, (Redacted) not at all.

3 This is not, in any case, the habitual format of a document that could have been
4 issued either by the presidency, or by the secretary-general.

5 Q. When I showed some documents to you and I asked you to read them out, I
6 asked you also to read the reference number, or the coded reference of the document.
7 There was always one, and in most of the documents presented to you by the Defence
8 it was exactly the same thing. So what is your inference from the fact that there is no
9 reference on this document?

10 PRESIDING JUDGE STEINER: Maître Liriss.

11 MR LIRISS: (Interpretation) Your Honour, it is an opinion that is being sought here.

12 PRESIDING JUDGE STEINER: Maître Badibanga, I think the Defence is right. Can
13 you put a direct question to the witness, please.

14 MR BADIBANGA: (Interpretation) Yes, I will rephrase my question, Madam
15 President.

16 Q. Witness, is there a reference on this document as -- that would be similar to the
17 other references you're acquainted with in MLC documents?

18 A. Sincerely, this document in no way looks like the documents that were issued
19 during the rebellion.

20 Q. Only point-by-point, I have a few questions to ask, one-by-one, and just answer
21 "Yes" or "No." First of all, does this document show to whom it is addressed?

22 A. No.

23 Q. Does this document show the number of people who are copied this document;
24 to whom copies of the document are sent?

25 A. No.

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1 MR BADIBANGA: (Interpretation) Your Honour, I no longer need this document to
2 be displayed on the screen.

3 Q. Witness, you may nonetheless tell us -- oh, well, I could have left it on the
4 screen. Well, it doesn't really matter. You can tell the Defence that it was Colonel
5 Mongapa who was the author of the document and he had as a nickname "Mobu,"
6 I believe --

7 THE INTERPRETER: The interpreter believes this is the sound of a name.

8 MR BADIBANGA: (Interpretation)

9 Q. -- "Lolo." "Lolo," as shown in the transcript of that day?

10 A. Yes, yes, he was called Lolo.

11 Q. You were asked many other questions as regards members of the MLC, or the
12 ALC. However, you haven't been asked what Colonel Mongapa is doing today,
13 nowadays. Would you know?

14 A. Oh, yes, at the present time he's an inspector - deputy inspector - within the
15 General Staff of the ALC. Deputy inspector.

16 Q. Would you say that he's close to Mr Jean-Pierre Bemba?

17 A. Yes. I must recognise that Colonel Mongapa, unless otherwise proven, always
18 supports -- in all discussions always supports His Excellency, Mr Jean-Pierre Bemba.

19 Q. Do you know whether Colonel Mongapa, also known as Lolo, went to Bangui
20 between the period going from October 2002 to March 2003?

21 A. To be honest with you, I don't really know.

22 Q. Moving now to page 39, same transcript 161, 14 September, the Defence asked
23 you some questions pertaining to the radio operator and you gave an account of some
24 specific circumstances and you mentioned this attributing these words to the radio
25 operator, "You must go out now because Ten Dollars has to speak with Mustapha."

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1 It's the same time that this nickname Ten Dollars is mentioned. Who is meant by
2 "Ten Dollars"? What does it stand for?

3 A. Ten Dollars is a code. It's a code-name that all commanders used when they
4 sent messages, and the code was to identify the commander-in-chief in person.

5 Q. Do you know why the commander-in-chief received this coded name of "Ten
6 Dollars"?

7 A. No, I'm afraid not. I don't know.

8 MR BADIBANGA: (Interpretation) Your Honour, I only have a few more minutes
9 that I would require, but no longer need a private session and so could perhaps we
10 turn to open session? Thank you.

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

12 (Open session at 6.13 p.m.)

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

14 MR BADIBANGA: (Interpretation)

15 Q. Witness, sir, on 14 September as well as on the 15th, 14 September, this is
16 transcript 161, page 40 French version, and for the following day on 15 September I'm
17 referring to transcript 162, page 30 -- page 37 and page 38. On all of these occasions,
18 Mr Witness, you spoke of sums of money (Redacted) seized in the -- in someone's
19 possession and you explained under which circumstances this was done. I would
20 simply like to ask you to tell us why Mr Jean-Pierre Bemba asked for that person to be
21 released? Be careful, we're in an open session, don't go into detail, don't mention
22 your duties, just simply answer why Jean-Pierre Bemba asked for this person to be
23 released.

24 A. I'm afraid I cannot speak for him. I cannot tell you why Mr Bemba asked for
25 the release of that person. In passing I remember his name. His name was Yege,

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1 Yege. He was an economic operator in Gbadolite. I do not know why, what is the
2 reason for his release. For my part, I believe that (Redacted)
3 and that by keeping him, since normally when someone is arrested like that, that
4 person should be transferred, should have been transferred with a record that is
5 drawn up by the criminal investigation department. Then he would have to be
6 transferred to the Office of the Prosecution. But since it was no longer any -- a
7 question of transferring him to the Prosecution because the charges were dropped,
8 because when you send, when you forward the record you also have to send
9 whatever was seized, together with the record, but when this is sent somewhere else
10 it is impossible, therefore, to transfer that person to the Prosecution.

11 Q. Yet again on two occasions, on the 14th as well as on 15 September, on the
12 14 September transcript 161, and we're on page 49, 15 September however, it's
13 transcript 162 on page 14, questions are put to you on what I would call justifications
14 of the operation, and the following question was put to you, sir: "Shoring up
15 political stability in the Central African Republic, that is to say your direct neighbour,
16 would not that have been a justification for the intervention?" And you answered,
17 "Well I would like to ask you myself. Shoring up political stability in the Central
18 African Republic, that is to say your direct neighbour, would this justify the violence
19 wrought upon the civilian population?"

20 A. Where is your question? I don't understand.

21 Q. The question from the Defence was whether helping political stability in Africa
22 was a justification for the intervention. Your question was whether, in fact, helping
23 political stability justified aggression against the population?

24 A. No, not at all. None whatsoever. There's no justification at all.

25 Q. Yes, but it is important that you should have said so, in so many words. Also,

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1 one minor clarification, if I may: In the hearing record, I realise that the reference
2 here has escaped me, in the records of the hearing but also perhaps because those
3 who were typing this are not specialists, this is on Thursday last, the following is
4 noted: (Redacted) SD," Sierra Delta, (Redacted) the
5 communication switchboard," et cetera. Do you -- could you please tell us what
6 these initials SD, Sierra Delta, stand for?

7 A. SD, in all units, the SD are the military entrusted with military intelligence in
8 every single unit. They are known as the SD, S2, rather. S2, or may SD, Sierra
9 Delta. SD, SD.

10 Q. Mr Witness, you said that Mr Jean-Pierre Bemba had made a helicopter
11 available to Mondonga to take investigators to Bangui, some journalists, and you also
12 mentioned an RFI journalist, Gabriel Gambi (phon) I believe you said. Later, you
13 also mentioned a mission of the same type and you spoke about Thomas Luaka again
14 concerning journalists. This was transcript of 15 September, 162. In the first case it
15 was on page 52, lines 8 to 15, and in the second case it was on page 54.

16 My question is: Do you know whether a video film was shot in the course of any
17 one of these two missions?

18 A. To my knowledge, no. I have never seen any video footage on this. If it ever
19 existed in any case, I never came across it so I do not know.

20 MR BADIBANGA: (Interpretation) Your Honour, for the two final sub-items
21 I would like us to move into private session, please.

22 PRESIDING JUDGE STEINER: Court officer, turn into private session and we hope,
23 Maître Badibanga, that the last two subjects are short.

24 *(Private session at 6.22 p.m.)Reclassified as Open session

25 MR BADIBANGA: (Interpretation) They will be very brief, your Honour.

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

2 MR BADIBANGA: (Interpretation)

3 Q. Mr Witness, on 15 September, transcript 162, page 20, the counsel for the
4 Defence asked you whether (Redacted) was typed in Colombie, and
5 you answered that you didn't know. And I would ask you whether the offices of the
6 presidency had the same type of coded name as Colombie?

7 A. His Excellency, Mr Jean-Pierre Bemba, and the Secretary-General Olivier
8 Kamitatu, well, their offices were in Colombie. The offices of these two gentlemen
9 were to be found in Colombie.

10 Q. Within the presidency, was there a chief executive officer?

11 A. At the beginning, no, but later, I don't really know when, after a considerable
12 period of time, it was Sesanga Delly who was appointed to that position a bit later.

13 Q. Did the presidency issue documents itself as an organ, as a body, documents
14 issued by the presidency?

15 A. For instance, I remember just a few months (Redacted)
16 (Redacted) -- how to put it? Well, all documents had to fit a
17 certain standard, had to be in conformity with this standard, and during that period

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted) So there was a kind of reshuffling, a reorganising of
22 all documents, to see whether there were loopholes, there were the gaps that had to
23 be filled, and this was done (Redacted) and
24 it was Delly Sesanga the director of the cabinet or chief executive officer who did this.

25 Q. Mr Witness, on 15 September, transcript 162, pages 56 and following, the

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1 Defence showed to you an exhibit which, with your permission, Madam President,
2 I'd like to show it on the screen. This is document CAR-DEF-0002-0001, and
3 document 9 of the list of the Defence, that was the reference for the first page. What
4 I would like simply to ask is for the page 0002-0003 to be shown on the screen, the last
5 figure being 3; 0003.

6 THE COURT OFFICER: This document can be viewed on "PC1."

7 MR BADIBANGA: (Interpretation)

8 Q. Witness, can you see the document on the screen?

9 A. Yes.

10 Q. The Defence asked you to read out a certain number of documents but for this
11 one in particular I think that it was done very hastily. I would simply like you to
12 read out question 7 and answer 7. Question 7 is Q7 and reply 7 is R7, as you can see
13 on the left-hand side.

14 A. Q7: "What do you say about the date of the beginning of the operations in
15 Bangui?" Answer: "It was precisely on 25 October 2002, that is to say (Redacted)
16 (Redacted)

17 Q. And this is the very last thing I'm going to ask you to read. Would you be
18 kind enough to read out question 8 and answer 8, but answer 8 only the first two
19 lines. No more than that. Question 8.

20 A. "Do you confirm that (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted) Answer: "No, (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. You can stop there.

2 MR BADIBANGA: (Interpretation) Your Honour, I was actually referring to two
3 documents. I have already seen the first one -- we've seen the first one. There's
4 only one last document that I would like to refer to.

5 Q. The Defence, Mr Witness, sent you a (Redacted) and you said that you did not
6 remember really whether that (Redacted)

7 (Redacted) This is exhibit 163, 16 September, page 18. So

8 I could perhaps ask that document 90, or exhibit 90 of the Defence, be displayed on
9 the screen and I will give you the complete reference for this, CAR-D04-0002-1641.

10 That's the first page of this document, and in particular I would like for page 1642 to
11 be displayed, if at all possible. Page 1642, if you could? Page 1642, great.

12 Q. Witness, I think you can see on the right we see, "Morning SITREP, all units," et
13 cetera, and could you please just tell us what that date is? It's at the very right-hand
14 side, if you can make out that date for us?

15 A. The date on the right is 21 December.

16 MR BADIBANGA: (Interpretation) I apologise to the court officer, I'm making her
17 work quite a bit, but could we please see the last page of that document, document 89?

18 It's the same log-book actually, and the reference - the initial reference - was
19 CAR-D04-0002-1514, and the very last page of that particular document, please.

20 Reference number 1638, that's the page number. Could that page be displayed on
21 the screen? Thank you.

22 Q. Witness, at the very bottom at the left I think you'll also see a date. Can you
23 make out that date? Could you read it to us?

24 A. Oh, yes, absolutely. I can see that it's 1 November.

25 Q. We are in private session, Witness. Now, you said that (Redacted)

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1 (Redacted) To your knowledge, in a
2 (Redacted) -- no, let me rephrase the question. I showed you the last page, the
3 page that you have on the screen, 1 November 2002, and I showed you the first page
4 of the following log, 21 December 2002. Is it a current usual practice with such
5 registration or transmission logs to have these two dates follow in this fashion:
6 1 November 2002 and then 1 December?

7 A. Absolutely not. These notebooks were used for messages every day, each and
8 every day, so they would be filled up every day with various messages received that
9 they would transmit to the general head of staff and to the commander-in-chief. So
10 that was done regularly, every day.

11 MR BADIBANGA: (Interpretation) We have no further questions for this witness.
12 I thank you.

13 PRESIDING JUDGE STEINER: Thank you very much, Maître Badibanga.

14 Mr Witness, since the Prosecution had further questions to put to you, the Defence is
15 also allowed to put last questions, because the Defence is entitled to have the last
16 word. I ask whether Mr Haynes has any further questions to be put to the witness?

17 MR HAYNES: Two. We will need to be in private session for the first question.

18 PRESIDING JUDGE STEINER: We are in private session.

19 MR HAYNES: Thank you very much.

20 QUESTIONED BY MR HAYNES:

21 Q. Sir, in the whole of (Redacted)

22 (Redacted)

23 A. (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. My point exactly. Secondly, do you have any knowledge, no matter when the
2 operation to support President Patassé began, what date was when the troops crossed
3 the River Ubangi?

4 A. Counsel, there were two operations. Are you talking about Kolingba's
5 overthrow, or Bozizé? You need to make a distinction here.

6 Q. The 2002 operation.

7 A. I know that it was in October. So it was in October, October 2002, but the
8 specific date I will refrain from giving a specific date.

9 MR HAYNES: Thank you. I have no further questions of you.

10 PRESIDING JUDGE STEINER: Thank you, Mr Haynes.

11 Mr Witness, this now concludes your testimony before this Chamber, but before you
12 leave the Court we want, as with all other witnesses in this case, to express our thanks
13 for the time you have taken to come to this country and to give evidence in this trial.
14 In order for us, Mr Witness, to find the truth -- sorry, could you please turn into open
15 session. There is no reason why I am concluding in private session.

16 (Open session at 6.38 p.m.)

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

18 PRESIDING JUDGE STEINER: As I was saying, Mr Witness, thank you very much
19 for taking your time and coming to The Hague to give evidence in this case.

20 In order for us, the Judges, to find the truth, it's critical that witnesses such as yourself
21 are prepared to come and give evidence to assist us in the relevant issues in this case.

22 We are aware that this must certainly have been inconvenient for you. You stayed
23 here for many days, you gave more than 22 hours' testimony and you therefore leave
24 us to go home with our thanks.

25 However, before you leave, the Chamber would like to ask you whether there's

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1 anything you would like to address the Chamber? If you have anything you have
2 the floor, paying attention that we are in open session.

3 THE WITNESS: (Interpretation) Well, I'll be quite brief. It is true that this has
4 been a very difficult exercise, and as well I did make a commitment to hold out right
5 to the very end. I thank everyone, mostly you, your Honour, the Prosecution, the
6 Defence, all participants, the legal representatives of victims, and I would like to take
7 this opportunity to ask for the Court to be indulgent.

8 You see, I've had some problems about remembering dates, because that really is not
9 my strong suit. It never has been. Furthermore, I would like to ask you to be
10 indulgent or patient, because on a few occasions I was not able to place events in the
11 proper chronological order. Everyone is -- no one is infallible, and that happens to
12 be my particular weak point. I'm not very good with dates and I hope you won't
13 mind that.

14 I would also like to address a few words to His Excellency, Mr Bemba, who I still
15 admire and I hope that this will not be something that will create any animosity
16 between us. By coming here, I did not intend necessarily to do anything that would
17 lead him to being nailed, so to speak, and I came here to answer the questions put to
18 me and he should not perceive any of this as a personal attack.

19 And, you see, I do have this opportunity to speak right now and I would like to say
20 that compassion has not come to an end, and I would urge him to read the
21 scriptures --

22 THE INTERPRETER: The English interpreter apologises. He did not hear the
23 particular verse made reference to.

24 PRESIDING JUDGE STEINER: Thank you very much. Mr Witness, VWU will
25 provide you with all assistance you need in order to go back to your home, to your

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1 work, to your family. Thank you very much.

2 I ask, please, court officer to turn into closed session for the witness to be taken
3 outside the courtroom.

4 *(Closed session at 6.42 p.m.)Reclassified as Open session

5 THE COURT OFFICER: We are in closed session, your Honour.

6 (The witness is excused)

7 THE INTERPRETER: Interpreter's reference: The passage from scripture quoted
8 was Isaiah. The witness also made reference to the Lord's bounty not being
9 limitless.

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

11 (Open session at 6.43 p.m.)

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

13 PRESIDING JUDGE STEINER: Thank you. I just would like to thank very much
14 the Prosecution team, the legal representatives of victims, the Defence team,
15 Mr Jean-Pierre Bemba Gombo. To thank very much our interpreters and court
16 reporters.

17 As probably the parties and participants were already informed, the Chamber is
18 going to resume only on Friday. Witness 32 will arrive in The Hague only on
19 Wednesday and needs to be put through the familiarisation process. So we will not
20 be sitting on tomorrow, Tuesday, Wednesday and Thursday, and we will resume on
21 Friday at 9.30 in the morning.

22 Thank you very much, and this hearing is adjourned.

23 THE COURT USHER: All rise.

24 (The hearing ends in open session at 6.45 p.m.)

25 RECLASSIFICATION REPORT

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(Closed Session)

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- 1 Pursuant to Trial Chamber III 's Second Order, ICC-01/05-01/08-2223, dated 4 June
- 2 2012, and the instructions in the email dated 24 September 2013, the version of the
- 3 transcript with its redactions becomes Public