

1 International Criminal Court.
2 Trial Chamber III - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo
5 - ICC-01/05-01/08
6 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and
7 Judge Kuniko Ozaki
8 Trial Hearing
9 Tuesday, 11 June 2013 (The hearing starts
10 in closed session at 3.08 p.m.) Reclassified into open session
11 THE COURT USHER: All rise.
12 Please be seated.
13 PRESIDING JUDGE STEINER: Good afternoon and welcome back.
14 I ask, please, Court Usher to bring the witness in.
15 (The witness entered court)
16 PRESIDING JUDGE STEINER: Please, Court Officer, turning to open
17 session.
18 (Open session at 3.10 p.m.)
19 COURT OFFICER: Madam President, we're in open session.
20 PRESIDING JUDGE STEINER: Mr Witness, welcome back.
21 THE WITNESS: (Interpretation) Thank you, ma'am, and good
22 afternoon also.
23 PRESIDING JUDGE STEINER: Maître Kilolo, Maître Kilolo, do you
24 have some follow-up questions to put to the witness? Maître Kilolo, you
25 have the floor.

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1 MR KILOLO: (Interpretation) We don't have many questions left.
2 I have only three lines of questioning and we will conclude pretty
3 quickly.

4 WITNESS: CAR-D04-PPPP-0018 (On former oath)
5 (The witness speaks French)

6 QUESTIONED BY MR KILOLO: (Continuing)

7 Q. (Interpretation) Mr Witness, I would like to propose to you a
8 chronological summary of what you told us a short while ago so as to
9 confirm that I have fully understood your testimony. I'm talking about
10 your testimony before the break. You said that you had received an
11 amount of \$3.000. You talked about a series of meetings. Firstly, you
12 met with (Redacted) and you told him of your need for money.
13 Can we continue in open session?

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

16 *(Private session at 3.11 p.m.)Reclassified as Open session

17 COURT OFFICER: Madam President, we're in private session.

18 PRESIDING JUDGE STEINER: Maître Kilolo, the last part of the
19 hearing before we suspended for lunch was taking the most part in private
20 session exactly when dealing with the issues involving money and whether
21 there was any proposal for bribing or not, and I think that involves --
22 may involve security issues for the witness. So I would allow the
23 witness to express whether he prefers to continue in open session or in
24 closed session. But the witness needs to take an informed decision.

25 THE WITNESS: (Interpretation) Your Honour, I regret the fact

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1 that the Court does not use the methodology of confrontation. I would
2 want to be confronted with the people that I am mentioning, whose names I
3 am mentioning. I intend to go back to my country, and it is for that
4 reason that following the advice given to me by the security service I
5 would prefer that we continue in private session. Thank you.

6 PRESIDING JUDGE STEINER: So we will stay for the time being in
7 private session, Maître.

8 MR KILOLO: (Interpretation)

9 Q. Let me give you a chronology of the events so as to be sure that
10 I have fully understood your testimony. Are we to understand that with
11 regard to the process that led to the statements that you gave to the
12 OTP, you started by meeting with (Redacted), and you discussed
13 issues including the payment of an amount of money as a precondition for
14 your testimony. Secondly, you met with Mr Badibanga alone face-to-face
15 and you also raised the issue of your need for money. But this person
16 referred you back to (Redacted). Thirdly, you met with
17 (Redacted) once again, that is, after your discussion with
18 Mr Badibanga, and it was then that (Redacted) handed over \$3.000 to you.
19 And after that money was given to you, you met again with the OTP and
20 this is when you gave your statements. Is that chronology correct?

21 A. Counsel, you have omitted the fact that the second meeting was
22 with (Redacted) amongst others, (Redacted)
23 (Redacted), so as to harmonise the statements. The rest
24 of the chronology is correct.

25 PRESIDING JUDGE STEINER: Mr Witness, just one question.

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1 Ms Bala-Gaye asked for the floor.

2 MS BALA-GAYE: Thank you, Madam President. We would like a
3 reference for where the witness says that he was referred by Mr Badibanga
4 to (Redacted). We would like a reference for that particular statement
5 and I can read it out.

6 MR KILOLO: (Interpretation) In any case, the reference will be
7 disclosed in due time, but right now I believe that the parties and
8 participants have only the transcripts of this afternoon. We don't have
9 the realtime transcripts of the morning session in the courtroom. So I
10 believe this is something that can be remembered by everyone, given that
11 the witness said that. But I can put the question again.

12 PRESIDING JUDGE STEINER: Maître Kilolo, the French transcript is
13 the same. Only the English transcript changes in the afternoon.

14 MR KILOLO: (Interpretation) While we tried to find exact
15 paragraph, let me put the question to the witness again.

16 Q. Mr Witness, when you met with Mr Badibanga and you raised with
17 him the issue of your need for money prior to your giving statements to
18 the OTP, what was his precise answer to you?

19 A. Mr Jean-Jacques Badibanga did not wish to interfere in this
20 issue. He told me that the Court cannot interfere in your internal
21 organisation. So you have to see (Redacted), but he said he
22 didn't have anything to say about that issue.

23 Q. The testimony is in today's transcript, French version, realtime
24 page 79, lines 16 to 27, and this is what the witness said:

25 "This is not our problem at the ICC. You have to sort that out

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1 with (Redacted) and the others; that is, within your own organisation."

2 Now, Mr Witness, during that meeting with Mr Badibanga, did he
3 record or note down your discussion at that time?

4 A. I do not know. This was -- I do not believe so. This was a
5 public place and the (Redacted)
6 (Redacted). I do not believe that Mr Badibanga recorded
7 our conversation except there was a hidden recorder or a hidden camera.
8 But as far as I know, there was no recording.

9 PRESIDING JUDGE STEINER: If you allow me, just for the record,
10 the excerpt in the English transcript, it's page 79, lines 1 to 14.

11 MR KILOLO: (Interpretation)

12 Q. Do you know whether Mr Badibanga was taking notes?

13 A. No. This was simply an informal, on-the-spot conversation, and I
14 was just with Mr Badibanga.

15 Q. And what specifically did he tell you during that meeting
16 concerning the Bemba case?

17 A. That he was expecting me to say what I knew about the
18 Jean-Pierre Bemba case. Frankly, Mr Badibanga did not mention, did not
19 allude to incitement or any such thing, but he told me that he was
20 expecting from me a statement on the Jean-Pierre Bemba case.

21 Q. And before Mr Badibanga contacted you or called you, did
22 (Redacted) tell you that you would be contacted by the OTP at
23 the ICC?

24 A. Yes.

25 Q. Did he tell you that you were going to meet with Mr Badibanga?

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1 A. He did not mention the name or names of the persons that I would
2 meet. He simply told me that I would meet with the investigators of the
3 OTP of the ICC.

4 Q. Did (Redacted) tell you the names of the other people
5 who might eventually appear before the Court at the request of the OTP?

6 A. I'm sorry, Counsel, I did not quite understand your question.

7 Q. Based on your discussions with (Redacted) about the Bemba
8 case, were you able to know about other witnesses who might appear for
9 the Prosecution in the Bemba case; that is, apart from you yourself,
10 which other witnesses were going to testify for the Prosecution, that is,
11 based on your conversation with Mr Kamitatu?

12 A. Apart from (Redacted), he did not say who
13 else was going to appear for the Prosecution against Mr Bemba. (Redacted)
14 (Redacted). We went to the
15 residence of (Redacted) who works in the -- (Redacted)
16 (Redacted).

17 Q. You said yesterday that you could not say no to Mr Badibanga, and
18 I'm referring to the English realtime transcript T-319, pages -- page 5,
19 lines 11 to 18; and the French transcript, 319, page 79, line 24 right up
20 to page 80, line 3. And I repeat my question: To what couldn't you say
21 no while speaking to Mr Badibanga?

22 A. Counsel, Counsel, you probably misunderstood me. The "no," I
23 said the "no" to (Redacted). And to Mr Badibanga, I told him I didn't
24 want to testify just like that, whereas I had laid down some
25 preconditions for my testimony. He's a Congolese brother, so I was open

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1 with him. I told him that I do not want to become involved in this
2 business unless the three conditions that I laid down were taken into
3 consideration.

4 Q. And how did (Redacted) get to know that you had stopped your
5 co-operation with the OTP?

6 A. I do not know, but I know that he became aware of it and then he
7 started becoming reticent. It was instead (Redacted) who called me up,
8 who
9 received me, and told me that, "You have to take the plunge." And I told
10 him that I want to do so but I need to have the condition fulfilled. So
11 with (Redacted), he gave me the money during our second meeting in a khaki
12 envelope.

13 Q. You told this Court that the information that you provided to the
14 OTP was conveyed to a committee whose purpose was to nail
15 Mr Jean-Pierre Bemba, and you also mentioned (Redacted) in this
16 regard. Can you tell us a little bit more about that committee? And the
17 reference is realtime transcript, French version, T-317, page 36, and in
18 the realtime French transcript also T-317, page 37.

19 A. Counsel, when I said that that committee was made up of
20 (Redacted), and I can
21 even add (Redacted)
22 (Redacted) were supposed to be the implementation tools of this plan
23 that had been drawn up.

24 Q. And what was the role of (Redacted) in the
25 Jean-Pierre Bemba case?

A. I did not see him personally, but this information was provided

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1 to me by (Redacted) who was frequently in contact with him. And I
2 knew that (Redacted) was a member of that committee or that
3 organisation. I simply don't want to say this group.

4 Q. During that meeting in (Redacted) home, who gave you the
5 instructions to be followed in the Bemba case if you were to appear
6 before the Court?

7 A. I told you, it was (Redacted), he's the one I met with, and
8 I don't know how he came to speak to (Redacted), but
9 we were all together at (Redacted) place, at his home. And we were
10 thinking about it together while discussing the potential means to be
11 used.

12 Q. What did (Redacted) say to you during that meeting regarding
13 the payment?

14 A. Well, each person had their own version. The question was to
15 harmonise our positions. My position was to be able to accept the fact
16 that Jean-Pierre Bemba asked (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted). But, you see, in my deposition when I
20 answered the OTP's questions, I avoided mentioning those aspects. And if
21 the white investigators are actually honest, they will tell you that
22 every single time I'm asked a question, I have always respected the
23 appropriate form. I mention the days when those meetings were held. I
24 couldn't tell them about the money. I simply referred to conditions.
25 The monetary issues were related to security because as soon as you talk

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1 about security, you have to think in terms of the means that are
2 available. I needed the authorisation from my chief in the hierarchy and
3 also to take account of the presence of my lawyer.

4 Q. Do you remember what (Redacted) said, what was his version?
5 What did he say?

6 A. (Redacted), he had to organise things, to
7 confirm the looting, the rapes, and the murders that took place in Bangui
8 and link back to the command, the operations command, that is,
9 Jean-Pierre Bemba.

10 Q. Witness, yesterday you told the Chamber that you had received a
11 phone call at 1.00 in the morning telling you that the content of your
12 testimony was circulating, was being reported in Kinshasa. This is
13 realtime transcript in the English version T-319, page 3, line 13 to 24;
14 and also realtime transcript in French T-319, page 3, line 21, to page 4
15 line 6. My question is: Who called you?

16 A. Around 1.00 in the morning, I received a call from
17 (Redacted). In fact, I could even give you a further information
18 because as I speak now my residence has been ransacked, (Redacted)
19 (Redacted)

20 I was careful to ask some of my friends or relations to make a photocopy
21 of the order calling me to the Court and to send it to the special
22 intelligence office, and the purpose of my presence was to provide
23 information, and I believe that (Redacted) have -- already have a copy of
24 that text and another copy will be given to the security division here at
25 the ICC.

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1 Q. Did that person tell you how they came to know what you were
2 deposing about here, that is, in Kinshasa?

3 A. No, not how they knew about it, but rather the fact that they
4 knew what I was testifying about and in particular the interpretation of
5 what I was saying, that is, (Redacted)
6 (Redacted). And I wonder because my testimony was in closed
7 session, and I can even tell you the name of (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted) - those names I gave in
11 closed session, so I was very surprised that they were informed of those
12 two names.

13 Q. Yesterday you informed the Chamber that you had received a
14 convening order to (Redacted). What is that
15 exactly?

16 A. I don't know. I don't know exactly. I asked for further details
17 yesterday, that is, in the evening. The reason given was: Provide
18 information or -- I don't know what information I'm supposed to provide.
19 (Redacted). If they needed information from me, they could have
20 asked me. It's not three days before I am -- or three days after my
21 appearance before this very Court.

22 Q. Is that a normal procedure that (Redacted)
23 (Redacted), that you be called in to be questioned by such a body?

24 A. No, no. I am available. Of course, if I do something wrong,
25 then I am sent (Redacted)

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1 (Redacted). As regards any information they may want to ask me, I think
2 it's someone -- (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. (Redacted)

7 A. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted) So I

11 am waiting. Perhaps by then I will be able to obtain further
12 information.

13 PRESIDING JUDGE STEINER: I'm sorry to interrupt you, but you
14 started with this line of questioning because something that was said by
15 the witness in courtroom, but it appears to me now that we are going too
16 far in terms (Redacted) that nothing to do with the
17 testimony of the witness, let's say. I think -- and I said it yesterday,
18 that any concerns the witness has in terms of his security, he is
19 expected to report to the security officer of the Court, not to you. So
20 unless you justify why we are going so far in terms of what he's going to
21 do when he goes back to DRC, I think I would ask you, please, to change
22 the line of questioning because this is not relevant and it's not linked
23 to the testimony of the witness.

24 MR KILOLO: (Interpretation) Thank you. I had already almost
25 come to the end of my questioning, but if we have to wait for the end

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1 to -- we already asked -- the Prosecutor asked for apologies. I think
2 that it's important here to understand that the protection system is not
3 functioning because if (Redacted) they ask him to repeat what has stated
4 here in closed session, then we have to enable him to make a statement
5 here before this Court because this is different, if you will, in terms
6 of the impact. If we hear him speak out here before the Court as to
7 issues relating to his very life, to his own security, his personal
8 security, he's already said that his security has no price, and I think
9 it was worthwhile to at least give him an opportunity to explain clearly
10 to the Chamber what is taking place, your Honour. That's all I have to
11 say.

12 PRESIDING JUDGE STEINER: Maître Kilolo, the Chamber is fully
13 aware that the Statute and the Rules, the legal framework of the Court,
14 the Chamber is also responsible for the security of witnesses and
15 victims. And sometimes or many times talking about security concerns in
16 a hearing is not the best way of addressing the security concerns and
17 that's why I recommended to the witness - and I repeat now - that any
18 security concerns must be reported to the security officer of Victims and
19 Witnesses Unit. They are the ones in charge of providing security, and
20 if need be to address the Chamber. So it was in that sense that I was
21 asking you to think twice before continuing in this line of questioning.

22 (Trial Chamber and Legal Officer confer)

23 PRESIDING JUDGE STEINER: Do you have any further questions,
24 Maître Kilolo?

25 MR KILOLO: (Interpretation) No, not at all. I've completed my

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1 examination. Thank you.

2 PRESIDING JUDGE STEINER: Court Officer, please turn back into
3 open session.

4 (Open session at 3.45 p.m.)

5 COURT OFFICER: Madam President, we're in open session.

6 PRESIDING JUDGE STEINER: Mr Witness, this now concludes your
7 evidence, and before you leave the Court I want on behalf of the Chamber
8 and on behalf of the Court, as with all other witnesses in this case, to
9 express the thanks of the Judges for the time that you have taken to give
10 evidence in this trial. In order for the Judges to find the truth, it's
11 crucial that witnesses such as yourself are willing and able to come and
12 give testimony in Court. We are aware that this may have been
13 inconvenient for you. You've been far from your country, your family,
14 your daily activities for almost a week in order to give testimony before
15 this Court, and we are really thankful for your efforts.

16 As with all other witnesses that appear before this Chamber, I
17 would like to ask you whether there is anything that you would like to
18 address the Chamber. If you so wish, now you have the floor.

19 THE WITNESS: (Interpretation) I would like to thank the Court,
20 both the friends from the Defence and the Representatives of Victims as
21 well as the OTP; and indeed as regards the concerns expressed, we'll deal
22 with those with the security service. Thank you very much.

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

24 We thought -- the Chamber thought that we would be able to
25 suspend for half an hour and start with the testimony of next witness

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1 this afternoon, but I think suspending for half an hour and coming back,
2 it will leave just maybe half an hour, 40 minutes. And therefore, we
3 will adjourn and resume tomorrow morning at 9.00 for the testimony of
4 witness number 2, which is -- which will provide us with his testimony by
5 way of a videolink.

6 So I again thank you very much, Mr Witness. I thank very much
7 the Prosecution team, the Legal Representatives of Victims. I thank very
8 much the Defence team, Mr Jean-Pierre Bemba. Special thanks to our
9 interpreters, our court reporters. I will ask the Court Officer to turn
10 into closed session for the witness to be taken outside the courtroom.
11 In the meantime, we will adjourn and resume tomorrow morning at 9.00.

12 (Closed session at 3.49 p.m.) Reclassified into open session

13 COURT OFFICER: Madam President, we're in closed session.

14 (The witness withdrew)

15 THE COURT USHER: All rise.

16 (The hearing ends in closed session at 3.50 p.m.) Reclassified into open session

17 RECLASSIFICATION REPORT

18 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and
19 ICC-01/05-01/08-3038, the version of the transcript with its redactions
20 becomes Public.

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