

Trial Hearing
WITNESS: CAR-OTP-P-0260

(Open Session)

ICC-01/05-01/13

1 International Criminal Court
2 Trial Chamber VII - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba,
5 Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido
6 ICC-01/05-01/13
7 Presiding Judge Bertram Schmitt, Judge Marc Perrin de Brichambaut and
8 Judge Raul Pangalangan
9 Trial Hearing
10 Wednesday, 14 October 2015
11 (The hearing starts in open session at 9.31 a.m.)
12 THE COURT USHER: All rise.
13 The International Criminal Court is now in session.
14 PRESIDING JUDGE SCHMITT: Good morning, everybody.
15 Good morning, Mr Witness.
16 Court officer, could you please call the case.
17 THE COURT OFFICER: Thank you, Mr President.
18 The situation in the Central African Republic in the case of The Prosecutor versus
19 Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo,
20 Fidèle Babala Wandu and Narcisse Arido, case reference ICC-01/05-01/13.
21 We are in open session.
22 PRESIDING JUDGE SCHMITT: Thank you very much.
23 And now to the presentation of the parties.
24 Please, Mr Vanderpuye.
25 MR VANDERPUYE: Thank you, Mr President. Good morning to you, your Honours. We

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- 1 have the same configuration as yesterday.
- 2 PRESIDING JUDGE SCHMITT: Mrs Doucerain.
- 3 MS DOUCERAIN: (Interpretation) Karine Doucerain, duty counsel for the witness.
- 4 PRESIDING JUDGE SCHMITT: And then for the Defence, please.
- 5 MR GOSNELL: Good morning, Mr President. Same appearances as yesterday for
- 6 Mr Mangenda.
- 7 MR POWLES: Good morning, your Honours. The same configuration again for Mr Kilolo
- 8 as yesterday.
- 9 MR TAKU: May it please the Court our Defence team is unchanged. Same like yesterday.
- 10 MR KILENDA: (Interpretation) Good morning, your Honours. The same team on behalf
- 11 of Mr Babala.
- 12 MS TAYLOR: Good morning, Mr President, your Honours. Mr Bemba has the same
- 13 Defence team as yesterday. Thank you.
- 14 PRESIDING JUDGE SCHMITT: Thank you very much.
- 15 And we continue with the examination by the Defence of Mr Kilolo.
- 16 Please, Mr Powles.
- 17 MR POWLES: Thank you very much. Yes. Thank you, Mr President. I don't think my
- 18 microphone was on.
- 19 WITNESS: CAR-OTP-P-0260 (On former oath)
- 20 (The witness speaks French)
- 21 QUESTIONED BY MR POWLES:
- 22 Q. Good morning, sir, Mr Witness.
- 23 A. Good morning, Counsel.
- 24 Q. I'm Steven Powles, and I'm going to be asking some more questions of you on behalf of
- 25 Mr Kilolo, who sits to my right.

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1 (Redacted)

2 (Redacted)

3 A. Yes.

4 Q. And you are also (Redacted).

5 A. I've always been (Redacted)

6 Q. I understand. Thank you for clarifying that. So before 2009 you were (Redacted)
7 already?

8 A. (Redacted), that's when I began * preaching the gospel.

9 Q. I'm very grateful for the clarification, thank you. I'm now going to ask you a few
10 questions about money and money that you've received, first when appearing as a witness for
11 the Defence in the Bemba case and then now as a Prosecution witness in these proceedings.
12 Do you understand?

13 A. Yes, I understand, Counsel.

14 Q. Because obviously you received money when appearing as a witness in the Bemba case
15 to cover certain expenses and similarly you've received money during the course of these
16 proceedings and leading up to these proceedings to facilitate your appearance as a witness
17 here today; is that correct?

18 A. Yes.

19 Q. Now, you told us that before meeting Mr Kilolo, you were expecting and thought you
20 might receive 10 million CFA and that you might be able to relocate to Europe. That's right,
21 isn't it?

22 A. That's right.

23 Q. Thank you very much. And to be clear, you do not say that it was Mr Kilolo who
24 offered you the opportunity to move to Europe or the 10 million CFA?

25 A. Yesterday I was saying that when Mr Arido had met with me and he told me about this

1 particular deal, the first condition was that if I agreed to give testimony, I would get
2 10 million, and that there would be travel to Europe. So I thought that he was telling me that,
3 but when we came together as a group I was extremely surprised to learn that everyone was
4 given the same promise. And that is why I had agreed to give testimony, testimony to earn
5 the 10 million and 10 million to have this travel to Europe.

6 Q. That's right. And it wasn't Mr Kilolo who offered you that, was it?

7 A. In Mr Kilolo's room at the Sawa hotel I was heard, questions were put to me, and when I
8 finished answering the questions and as I was leaving the hotel, that -- he and I, today present,
9 he said to me that I mustn't give the impression that I was interested in Europe because if you
10 give them the impression that it's Europe that interests you, they will quickly understand.
11 And so I said I got it. I've understood. So I went down and he gave me €50 and we
12 went our separate ways. That's what happened.

13 Q. Yes. So he wasn't offering you the opportunity of coming to Europe?

14 A. Counsel Kilolo did not promise me, but that's what he said, he did not promise me the --

15 Q. Thank you very much. Now, you're talking about February 2012 when you met
16 Mr Kilolo and gave an interview to the Bemba Defence. And of course, we've heard some of
17 the recording of that interview with Mr Bemba and his assistant, legal assistant. Now, it's
18 right that after that interview you were given a small amount of money to cover your travel
19 and food by Mr Kilolo?

20 A. Counsel, I would like you to reformulate your question because it's ambiguous.

21 Q. How is it ambiguous, Witness?

22 A. Because you just said a bit earlier that I had met with the Defence team of Mr Bemba
23 and a recording was made --

24 Q. Yes.

25 A. -- of me when I was heard, and that was significant.

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1 Q. Yes. Was my question ambiguous, Witness?

2 A. The recording was done by Mr Kilolo and his assistant. When I got there, no recording
3 was presented to me at that time because, with reference to what you just said, it's as if my
4 contact with Mr Kilolo came to the agreement of a recording, but no recording was made. I
5 was never given a chance to listen to any recording before talking to him, otherwise -- well,
6 you see, my conversation with him led to a recording.

7 Q. Do you understand --

8 PRESIDING JUDGE SCHMITT: Mr Powles, excuse me. I think the witness has not really
9 understood --

10 MR POWLES: Right.

11 PRESIDING JUDGE SCHMITT: -- understood the question. What he thinks is ambiguous
12 is that he thinks you have connected -- he thinks that you have connected in your question
13 what -- the question of the recording of the tape and have related it to giving money. So
14 perhaps you have to rephrase it and separate these things from each other. Thank you.

15 MR POWLES: I'm very grateful, your Honour. Unquestionably more perceptive than I've
16 been in understanding the difficulties. And I'm very grateful for that.

17 PRESIDING JUDGE SCHMITT: To be honest, I think we have not seen it as an ambiguous
18 question, but obviously the witness has --

19 MR POWLES: Yes.

20 PRESIDING JUDGE SCHMITT: -- misunderstood it.

21 MR POWLES: I'm grateful for the pointer.

22 Q. Let's take it in stages, Witness. You gave an interview at the hotel Sawa regardless of
23 whether it was recorded or not, maybe you didn't appreciate that at the time according to you,
24 but you gave an interview at the hotel Sawa to Mr Kilolo and a legal assistant, a blonde-lady
25 lawyer. Do you remember that?

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1 A. Yes, I do remember that conversation.

2 Q. Thank you very much. And you may not have been aware, according to you, but that
3 interview was tape recorded and a transcript was made of that interview.

4 A. I'm not saying that I didn't know, Counsel. The Registry -- the recording was made in
5 front of me. I saw it. So I don't really want to tell a lie here --

6 Q. Of course not.

7 A. -- or get something wrong.

8 Q. And after that interview, after that meeting, Mr Kilolo gave you some money to cover
9 your expenses for having attended, food, travel, that sort of thing.

10 A. Yes, I acknowledge that.

11 Q. Thank you very much, Witness. Now, at the end of that interview, and we listened to
12 it yesterday, you said something that I'm going to take you to, and it's CAR-D21-0007-0025,
13 and it's at tab 20 -- tab 19, my apologies, tab 19 in the Defence bundle. And this is a
14 transcript that was done more recently, a verbatim transcript of part of that interview. Do
15 you have it, tab 19? And if you could turn to page 7 of that transcript. Yeah, I think that's it.
16 If you turn to page 7. Do you have it?

17 A. Yes.

18 Q. At the top of page 7, there is --

19 THE INTERPRETER: Overlapping speakers.

20 MR POWLES: Sorry.

21 Q. At the top of page 7, line 140, are your initials. I won't read them out.

22 (Interpretation) "Well, tell me what I must do because this is a matter of life, you realise.
23 Giving testimony before the Court is not a minor affair."

24 And then the initials of the person interviewing you: "Mmh."

25 And then you continue: (Interpretation) "I'm well -- I'm willing to do it, but as long as you

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1 give me some guarantees regarding my protection because if I go over to the other side there,
2 that means that even in this country, this country, I won't be coming back ever again."

3 Do you see that? Now, you were saying in that interview in February 2012 that as a
4 result of being a witness, it would create certain difficulties for you, weren't you?

5 A. Yes, Counsel.

6 Q. After that interview in February 2012, where did you go? I mean where were you
7 between then and the next time you saw the Bemba Defence team I think, what, in May 2013?

8 A. After the testimony, I still remained under the Court's protection, so I was at the hotel.

9 Q. Forgive me, I'm sure it was me. After that interview in February 2012 with Mr Kilolo
10 and the legal assistant, the lady, where were you after that interview and the next time you
11 saw the Bemba Defence team I think?

12 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

13 MR VANDERPUYE: Thank you, Mr President. I just wanted to remind my colleague that
14 we are in public session at the moment, and I'm not sure what the information is that he's
15 eliciting, but it could be potentially identifying.

16 MR POWLES: That -- I am very grateful. That is helpful. Perhaps we should go into
17 private session just for this bit then.

18 PRESIDING JUDGE SCHMITT: Thank you very much, Mr Vanderpuye and Mr Powles.
19 We go into private session.

20 MR POWLES: I'm grateful to Mr Vanderpuye. Thank you.

21 (Private session at 9.48 a.m.)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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15 (Redacted)

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17 (Redacted)

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19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Open session at 10.26 a.m.)

23 THE COURT OFFICER: We're in open session.

24 PRESIDING JUDGE SCHMITT: Mr Powles, just one question, of course. I think you know
25 what I am going to ask.

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1 MR POWLES: I think.

2 PRESIDING JUDGE SCHMITT: What does the remainder of your questions mean if we put
3 it in a time frame?

4 MR POWLES: Yes. I'm fairly confident I should be able to finish by the 11 o'clock break.

5 PRESIDING JUDGE SCHMITT: But then this has been much longer as envisaged for the
6 Kilolo Defence. I will not -- I see that we have an important stage of the examination, but I
7 would really urge the Defence teams to liaise afterwards or if you haven't done it before,
8 perhaps you have done it before, and we want to finish the examination of this witness this
9 week.

10 MR POWLES: Yes, Mr President, yes.

11 PRESIDING JUDGE SCHMITT: And also to have a prospect, time prospect for the
12 Prosecution for a re-exam, not an extensive re-exam, I would not allow it, but please have that
13 in mind. We finish this witness this week, yeah?

14 MR POWLES: Mr President, absolutely.

15 PRESIDING JUDGE SCHMITT: This is our goal and we will do that.

16 MR POWLES: May I assure the Court that we have been in consultation with other Defence
17 teams and are very grateful to my learned friend from the Bemba Defence team Ms Taylor for
18 indicating that we can have all of their time or certainly the lion's share of it.

19 PRESIDING JUDGE SCHMITT: But I understand of course that I cannot interrupt you at the
20 moment, that's perfectly clear. So please continue.

21 MR POWLES: No. Mr President, please forgive me if I am --

22 PRESIDING JUDGE SCHMITT: Please continue. Yes, please continue.

23 MR POWLES: -- if I am -- certainly if I'm being repetitive.

24 May I invite Mr Vanderpuye, I know we're in open session now and I'll try to ensure
25 that we don't stray into any confidential sensitive areas. If we do, may I please invite

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1 Mr Vanderpuye to interject and steer us into the safety of a closed or private
2 proceedings.

3 Q. Now, sir, on Monday you gave an oath to this Court, that oath being to solemnly declare
4 that you shall speak the truth, the whole truth and nothing but the truth. Do you remember
5 that?

6 A. Yes, I do.

7 Q. And at the end of your testimony at that day you said you have great respect for this
8 august Chamber?

9 A. That is correct.

10 Q. Now, on 12 June 2013 you took an identical oath when giving evidence to another
11 august Chamber in the Bemba proceedings. Do you remember that?

12 A. That is correct.

13 Q. And notwithstanding taking that oath in those proceedings, you say you lied to that
14 Trial Chamber about being a soldier and a whole load of other matters.

15 A. That's right, Counsel.

16 Q. And you say to ease your troubled conscience, you started telling the truth when
17 interviewed by the Office of the Prosecutor.

18 A. Counsel, I believe that I am an adult. And as an adult, I should not speak like a child.
19 In the Bemba trial the last time, I was a false witness. I repeat, I was a false witness. And
20 today before the Court I have come to say that I did give false testimony, that I was a fake.

21 Q. Yes. And you started saying that, that you're a fake in your interviews with the OTP,
22 the Office of the Prosecutor; is that right?

23 A. I never said that I told a lie to the representatives of the OTP, but I said to the OTP staff
24 that during the previous trial I had lied. That is why I revealed everything that had been
25 fabricated and invented so that I could give testimony as a false witness.

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1 Today before the Court I can state by giving testimony that I had been a false witness
2 in the past, and that is why you see the Court thought I had obstructed the course of
3 justice. That is why I was called upon to come here.

4 Q. I'm going -- I'm going to interrupt you sometimes now, because I'm aware that time is
5 pressing. So forgive me if I interrupt you. Would you forgive me if I do that occasionally?
6 Did you contact the Office of the Prosecutor and tell them that you wanted to tell
7 them about the false testimony that you had given, or did they approach you?

8 A. The OTP realised that there were witnesses who had been encouraged to give false
9 testimony. And everyone knows that, even on the net people know that. So they
10 conducted their investigations and they realised that I was amongst the people who had given
11 false testimony. So, you see, I was suspected and --

12 Q. Is the answer then -- I interrupted you. You were suspected I think you were saying.
13 Sorry, I should let you finish.

14 A. Yes. But when the OTP approached me, you see, they wanted me to cooperate with
15 them and tell the truth.

16 Q. On Monday you told us that before you gave your interview with the Office of the
17 Prosecutor you wanted a guarantee about your security. It's page 48, line 17, you said this,
18 and this is before your interviews:

19 "I had requested the assistance of this counsel for reasons of security first and
20 foremost. So I explained this to him in order for me to be in a position to speak with
21 the OTP members. I had to have guarantees."

22 Now, those guarantees you wanted, what were they before you would in your words
23 speak the truth?

24 A. I knew that during the first trial which was held the role I played was related to a series
25 of lies. And once I was no longer -- I was going to tell the truth to the OTP members and

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1 thus I was going to have to reveal exactly how I had behaved during the first trial.

2 Today if you put me questions as a lawyer from the other side, you see what that

3 means. We are diametrically opposed to one another in that I am giving testimony

4 on the Prosecution side, and you are counsel for the person against whom I am

5 testifying. That's the difference. That's why I had asked for guarantees.

6 Q. And what do you mean by guarantees?

7 A. This trial is not a trial like other trials that we know in this world. This trial and the

8 counts within this trial and the problems that are being dealt with here are of considerable

9 importance. When I decided to give testimony for the first time on behalf of Mr Bemba, it

10 was a matter of setting up a series of arguments so that I could testify, and everything that we

11 said in the first trial the Court realised that something was going on somewhere, and when

12 the Court sent representatives to us asking us to come and give testimony, we had to be able

13 to tell the truth. And telling the truth means retracing exactly what happened the last time.

14 And you must, you must realise --

15 Q. Mr Witness, would you forgive me for interrupting you to try and move this on so that

16 we can focus your answers to the questions that I'm asking? Does that make sense?

17 Would you agree to do that to help me try and get through my questions in the short time we

18 have left available?

19 What did you mean by "guarantees"? Did you mean guarantees about your security?

20 Is that what you were concerned about?

21 A. Yes, counsel.

22 Q. And you wanted to have that in place before you would speak to the Office of the

23 Prosecutor or a guarantee of it?

24 A. But you must realise, when someone needs to say something, if that person senses that

25 what he is going to say could compromise him, he asks for the assistance of a lawyer, and that

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1 is what I had asked for from the OTP, that I wanted that --

2 Q. Yes, you wanted assistance in case you were going to be compromised. Is that because
3 you thought as a suspect you might be prosecuted yourself? Do you appreciate that?

4 A. That's not so. It's because in the first trial I had not told the truth. In the first trial, and
5 since we had all heard here, I -- you see, I put -- I passed myself off as a sub lieutenant and I
6 wasn't. But you see --

7 Q. Yes, we know that. On Monday you told us that at page 46, line 14, about this
8 interview: "I am not a genuine witness. I'm a suspect."

9 Did you appreciate that for the false testimony you say you had given in the Bemba
10 case that you could be prosecuted for that and punished for it? Did you appreciate
11 that?

12 A. If you want to file suit against me, do so. I'm before the Court right now.

13 Q. I'm just asking you, before you started giving your interviews --

14 PRESIDING JUDGE SCHMITT: Mr Witness, please answer the question. The question was:
15 Did you have in mind when talking to the Prosecution that you could yourself be prosecuted
16 for what you have testified in the Bemba case?

17 THE WITNESS: (Interpretation) That's right, your Honour, and that's how I answered the
18 way I did.

19 PRESIDING JUDGE SCHMITT: Please move on, Mr Powles.

20 MR POWLES: Thank you very much, Mr President.

21 Q. Witness, and with the assistance of your lawyer, you entered into an agreement with the
22 Office of the Prosecutor before you gave your interviews with them, didn't you? Is the
23 answer to that "yes" or "no"?

24 Let me circumvent it, the answer to that is yes, because we've seen the agreement.

25 That might speed things up a little bit. I'm going to ask you to turn to the agreement.

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1 That's CAR-OTP-0078-0303.

2 I'm going to try to deal with this quickly. Could you have a look at paragraph 2,
3 please, Witness.

4 Was it your understanding that the Prosecution pursuant to this agreement would not
5 use anything you said to them against you except in the situation described below in
6 paragraphs 3 and 4? Did you understand that to mean that the Prosecution would not
7 use anything you said in your interviews against you, i.e., that they would not
8 prosecute you and use those words that you said in those interviews against you? Is
9 that your understanding or was that your understanding?

10 A. That's right.

11 Q. Paragraph 5, it starts at the bottom of the page and over the page onto
12 CAR-OTP-0078-0304. Was it your understanding that that meant that if the Prosecution
13 became aware that you had not told the truth in your declaration to them, that the
14 Prosecution would not be bound by the agreement and that they could use your words in that
15 interview against you as they wished, i.e., they could use your words to prosecute you? Was
16 that your understanding?

17 A. Yes, I understand that.

18 Q. And the final sentence of paragraph 5, that it's the Prosecution that will have the
19 discretion to determine whether you had hidden the truth or did not disclose information, the
20 last sentence of paragraph 5.

21 A. I read it here.

22 Q. Now, in the final 15 minutes, if we can move through this quite quickly please, Witness,
23 because this is important, I want to talk to you about your chronological fresco at tab 12. Tab
24 12 of the Prosecution bundle, sorry, my mistake, CAR-OTP-0079-1530.

25 PRESIDING JUDGE SCHMITT: Could we put this on the monitor, because we don't have it

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1 in the binders anymore.

2 MR POWLES:

3 Q. Now, Witness, do you have it, Witness, your chronological fresco? Do you have it?

4 Can you see it? Do you know the document I'm talking about?

5 A. The document is not up yet. We're just on the first page.

6 Q. There should be a hard copy in front of you at tab 12 of the Prosecution bundle of --

7 PRESIDING JUDGE SCHMITT: I think this is the Defence bundle what you are looking.

8 MR POWLES:

9 Q. Tab 39, in that bundle it's tab 39, Witness. If that's the Defence bundle, please turn to
10 tab 39. You should see your chronological fresco. Do you have it now, Witness?

11 A. Yes, counsel.

12 Q. Now, you call it a fresco, and I'm going to suggest to you that that is an apt description
13 of it, because it really is a piece of art. It's a fabrication. Do you agree with that?

14 A. It is only a fabrication as you say, yes, a fabrication, but of us all.

15 Q. You told us yesterday that you produced this in May 2013 to remind yourself of what
16 you discussed with Mr Kilolo. Is the answer to that yes?

17 A. That's a closed question. Could you rephrase it?

18 Q. You told us yesterday that you produced this in May 2013 to remind yourself of what
19 you discussed with Mr Kilolo. You did tell us that. So is the answer to that yes?

20 A. Yes, counsel.

21 Q. Now, to be clear, Witness, to be clear --

22 A. Yes, counsel.

23 Q. Thank you. To be clear, when Mr Kilolo met you in May 2013, he gave you a written
24 transcript of the audio of your interview that had been conducted in February 2012, and he
25 gave that to you and you may have discussed together aspects of it. But to be clear, he never

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1 told you to say anything false. He never told you to lie about contacts with him, and he
2 never told you to lie about money. That's right, isn't it, Witness?

3 A. If I'm supposed to answer that question you've put, I have to give you to understand,
4 counsel, that this document was prepared in common agreement with the lawyer. I cannot
5 tell a lie here. I must tell you the truth. If it was not done, I mustn't say things here perhaps
6 to incriminate Mr Kilolo.

7 These documents that you have before me, and I thank you for harking back to that,
8 when you take the first annex, the second, the first point, 25 October 2002 to
9 30 October, namely five days, "I, François Bozizé, with his soldiers in" -- those were
10 the words that Mr Kilolo quoted to me after going through the document.

11 He said to me remember that on 29 October 2002, that's when the MLC troops arrived,
12 and that 30 October was when the joint operation began to drive back Bozizé. And
13 you will realise indeed that the substance of what I have written here is entirely
14 different to the other documents. And when you compare that with the -- what we
15 heard yesterday here, these two are completely opposite.

16 So I said chronological fresco, how I should tackle or approach the problem with the
17 counsel. There were -- there were adjustments here. We talked, for example, about
18 looting recorded, and he told me that the looting had to be --

19 PRESIDING JUDGE SCHMITT: (Microphone not activated)

20 MR POWLES: Thank you.

21 Q. I'm putting to you that you did not create this document as a result of or after your
22 discussions with Mr Kilolo. You were first interviewed by the OTP in April, 2 April 2014.
23 And you produced this document at a subsequent interview on 29 April 2014, so some weeks
24 later. And we can look at how you describe your production of this document at your
25 interview on that day, CAR-OTP-0079 -- sorry, CAR-OTP-0080-494. And if we turn to page

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1 0504, it's at tab 9 of the Prosecution's bundle. So it should come up on the screen,

2 CAR-OTP-0080-494 at page 0504.

3 Do you see it, lines 350 to 357? The crucial part, 355 to 357.

4 You produced this in order to convict someone.

5 You've got your hand up, Witness. Yes, sir?

6 PRESIDING JUDGE SCHMITT: Yes, Mr Witness?

7 THE WITNESS: Your Honour, with your leave, I would like to discuss matters with my

8 lawyer.

9 PRESIDING JUDGE SCHMITT: Of course. This is allowed, yes, we can do that, of course.

10 That suggests that we make the break now and we resume at 11.30. And you have

11 in the meantime, you have the possibility to talk to your lawyer.

12 THE COURT USHER: All rise.

13 (Recess taken at 10.52 a.m.)

14 (Upon resuming in open session at 11.31 a.m.)

15 THE COURT USHER: All rise.

16 PRESIDING JUDGE SCHMITT: Mr Witness, you had the possibility to speak with

17 Mrs Doucerain; is that correct?

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

19 PRESIDING JUDGE SCHMITT: Thank you. I think we can continue with the examination

20 by Mr Powles.

21 I would be grateful if you could repeat your last question so that we are all reminded what it

22 was about and then the witness can answer. Thank you.

23 MR POWLES: Rule one, press the microphone on. Rule two, I must apologise formally to

24 the interpreters and the transcribers. I was reminded during the break that the problem is

25 overlapping questions, so I --

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1 PRESIDING JUDGE SCHMITT: And in hindsight, to be honest, if we reflect on the Bench,
2 the last one and a half hour in the courtroom you have been the one, to be honest, who mostly
3 has to be reproached for overlapping. So we would be very grateful if you could adapt to
4 this procedure that we are -- all have to adapt to. Thank you.

5 MR POWLES: Mr President, yes. And again my apologies to those that --

6 PRESIDING JUDGE SCHMITT: Yes.

7 MR POWLES: -- we've caused difficulties to.

8 Q. So I've been asked to repeat the question that I asked you just before the break before
9 you took an opportunity to consult with your lawyer. Unlike my learned friend,
10 Mr Vanderpuye, I won't ask you what you discussed with your lawyer in the break, but I will
11 repeat the question and now it may be that you can answer it.

12 You were first interviewed by the Office of the Prosecutor on 2 April 2014 and you
13 produced these documents after some weeks on 29 April 2014. And when you were
14 interviewed on 29 April 2014 in relation to this document, the fresco, you say this, at
15 CAR-OTP-0080-0504, and I think this is what you were reading just before the break,
16 the interviewer asked you a question, at line 350, and you responded, at line 355 to
17 357, and I can read it out for you: (Interpretation) "But later on when I understood
18 the need to have evidence because as you see you cannot convict someone on the
19 basis of assumptions."

20 My question was you produced this document in order to have someone convicted,
21 didn't you?

22 A. I did not produce this document with a view to having someone convicted. I, however,
23 know that the law requires evidence and that is why I felt that these documents were in my
24 possession and that I needed to produce them.

25 Q. And produce them you did. And over the page at CAR-OTP- -- I wonder if I was too

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1 quick again -- no. Over the page at CAR-OTP-0080-0505, at lines 389 to 396, we see the view
2 and the question of the interviewer and then your response. Can you just read that to
3 yourself, please, Witness.

4 Have you read that, Witness?

5 A. Yes, I have.

6 Q. And we see your response to the suggestion that you may have manufactured this
7 document at lines 359 to 396 and that's exactly what you did, isn't it, Witness, you
8 manufactured this document to try and incriminate Mr Kilolo, didn't you?

9 A. No, Counsel. The document here was written because I had a role to play, and because
10 of that Maître Kilolo, the Defence lawyer, had to be the team leader, so to speak, and he
11 needed to be sure that what I said or what I would say was contained in the document. So
12 the purpose of the document was not to bother Mr Kilolo, in fact it is Mr Kilolo who advised
13 me to proceed in this manner in order to have the appropriate mental preparation before
14 entering the courtroom.

15 Q. You are no stranger to preparing false documents, are you, sir?

16 PRESIDING JUDGE SCHMITT: Could you please specify what you're referring to.

17 MR POWLES: Yes, certainly, Mr President.

18 Q. Witness, you've told us already that you were someone who was quite prepared to dip a
19 document in tea to try and make it look old and original. That's something you did, isn't it,
20 Witness?

21 A. No, it is not so. What you have raised as a question is only an interpretation. With
22 your leave, let me explain to you how it came about that the paper was dipped into tea, but
23 it's an entirely different matter. It's an entirely different question.

24 Q. Explain please.

25 A. On the first time -- or rather, when I talked with the representatives of the OTP for the

1 first time it was in relation to the briefing with Mr Arido. At that time we were looking at
2 the possibility of presenting documents to Mr Kilolo which were of a certain age so to speak.
3 So after our discussion with him, after I was put in contact with Maître Kilolo, he then told me
4 to take that document, to boil some tea and to dip the paper in the tea so that we can have a
5 document that would be good enough to present to Mr Kilolo.

6 So when you look at this document and the other subsequent documents, you will realise that
7 not all the documents were dipped in tea like you seem to be saying.

8 So the document that is before me was drawn up to together with Mr Kilolo and I am not
9 lying about this.

10 Q. I'm not suggesting that you dipped this document in tea, I'm just suggesting that's
11 something that you have done to try and disguise the authenticity, or lack of it, of a particular
12 document, and you've just confirmed that is -- that is something that you did. Can I just ask,
13 does it work dipping documents in tea?

14 A. Well, you have that document before you. And the document that we are looking at
15 right now, well, the comparison that you seem to establish between the two documents is not
16 valid. You see, the document before me now was -- Mr Kilolo never asked me to dip that
17 document in the tea. This document simply outlined a summary of the role that I had to
18 play, and he as lawyer was the one who would guide me through the process. And that is
19 the kind of guideline that he provided, he said that if I was going to testify this is what
20 I would be expected to do.

21 So this mental preparation which I'm talking about, if you refer to my first testimony in the
22 first case, you would see the answers I provided, but I have never been a soldier, I have never
23 been in the army. Now, if you listen to my testimony, however, in the first trial you would
24 come off it with the impression that I was a soldier and it came across that way clearly in my
25 testimony because I was prepared for it. It is like, like a play where an actor is playing his or

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1 her role. My role is reflected in this document.

2 Q. I'm not suggesting --

3 PRESIDING JUDGE SCHMITT: Mr Powles, I politely remind you of the time, please.

4 MR POWLES: May I politely remind the witness to keep his answers short and focussed.

5 Q. I'm not suggesting, Witness, that you dipped this document, your fresco, your beautiful
6 fresco in tea, what I'm suggesting is that you are a man who has a propensity to create and
7 fabricate documents. Do you understand? You don't need to answer.

8 Let's look at another example, or maybe these are the same documents

9 CAR-OTP-800-0472, it's tab 15 of the Prosecution bundle, tab 42 of the Defence bundle.

10 And it's at page 482 -- sorry, the 800-472, and if you would be so kind to turn to page
11 482 of that document at tab 15 of the Prosecution's, tab 42 of the Defence bundle. Do
12 you have that, Witness? Do you have it, Witness? No?

13 A. No, I am not with you.

14 Q. (Overlapping speakers) it is important to get this right. If you want -- witness, if you
15 want to look in your hard copy, if you take the binder that you have, I think that's the Defence
16 binder, and turn to tab 42. So you're at tab 42, and then turn to page CAR-OTP-0084-0482, at
17 the bottom it's page 10 of that document. It's on the screen now as well. It may be easier to
18 go to the screen, Witness. Yes, I think you've got it on the screen. The important lines are
19 lines 341 to 358. I'll just give you a moment to read that.

20 Have you read that, Witness -- and I know that --

21 A. Yes, I have read it.

22 Q. (Overlapping speakers) think Mr Larochelle may be asking you more detailed questions
23 about this later, so I won't go into any detail and I'm not suggesting that what you say there is
24 necessarily true, but certainly what you do say there is that you are someone who is prepared
25 to sign what you think to be is a false document; is that right?

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1 A. Obviously, in the first trial, going by the roles that we had been assigned, I was ready to
2 do so.

3 Q. And I think these, as an aside, these are the documents that were the subject of a charge
4 possibly against Mr Kilolo which the Pre-Trial Chamber didn't confirm thankfully, I think
5 there was a suspicion they were false and they weren't presented in the Bemba case, but you
6 confirm that?

7 PRESIDING JUDGE SCHMITT: I don't know if the witness can have a recollection in that
8 respect what the Pre-Trial Chamber has done and everything. (Overlapping speakers)

9 MR VANDERPUYE: Indeed, Mr President.

10 PRESIDING JUDGE SCHMITT: Okay, excuse me then.

11 MR POWLES: Okay, then I'll move on to the final, the very final point. This is my last --

12 PRESIDING JUDGE SCHMITT: Yeah, yeah, but you have to rephrase it of course.

13 MR POWLES: Yes.

14 PRESIDING JUDGE SCHMITT: He -- the witness cannot know what the Pre-Trial Chamber
15 has done about what documents --

16 MR POWLES: Yes.

17 PRESIDING JUDGE SCHMITT: -- and exactly we are talking about.

18 MR POWLES: I should have -- I mean, that was more for everyone else's benefit than the
19 witness's benefit --

20 PRESIDING JUDGE SCHMITT: Yeah.

21 MR POWLES: -- and I should have confirmed that. My apologies.

22 Q. Final question you will be pleased to hear and certainly I will be pleased to hear, and
23 certainly the Court will be pleased to hear the last question that I seek to put to you and that's
24 in relation to another section of your interview at tab 41 of the Defence bundle,
25 CAR-OTP-0080-0442 at page 0446, lines 118 to 126. It's not up yet. Is that up on the screen?

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1 Yes, if we can go to 0446 please, lines 118 to 126.

2 You've read that, Witness?

3 A. Yes, I have seen what is displayed on the screen.

4 Q. And you reiterate that if you go on in the same interview, 0451, page 0451, lines 323 to
5 327. Have you read that, Witness?

6 A. Yes, yes, I have. However, however, here we are dealing with questions that were put
7 to me in relation to our discussion with Maître Kilolo in Douala. So look carefully into this.
8 That is in relation to my discussion with Maître Kilolo in Douala.

9 Q. Yes, yes.

10 A. I did not take any notes there. And this is very clear. But when I met him in
11 Mont-Febe, I took down some notes and that is what you see here.

12 Q. Yes. But the point is, Witness, you're a man who was careful to take notes away -- to
13 not make notes in front of Mr Kilolo, to not give the impression (Interpretation) "because
14 I would have given him the impression that I was not the person."
15 You're always keen to not give the impression that you weren't who you said you
16 were.

17 A. Before I met Maître Kilolo, and I have already told you, Mr Arido and Mr Kokate,
18 Mr Arido actually informed me that Mr Kokate had a deal and he explained the deal to me.
19 So we had to be prepared before meeting Mr Kilolo.
20 So when I met Mr Kilolo, for all the questions that he put to me, there were some tacit
21 answers already, and so while with him I did not take down any notes in his presence.
22 So after our discussion, I had to beef up my second annex, and so the answers that I
23 got through the questions that he put to me were used then to build up the third
24 document.

25 You see, when we went back to the hotel, we had to review that which we had

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1 discussed with Maître Kilolo. So, Counsel, the third document which we are dealing
2 with was actually drawn up in Mont-Febe on the spot. You see, I had put together a
3 small document containing everything that I had said to Maître Kilolo and, therefore,
4 I used that document and he pointed out specific aspects of that document to me.

5 There were specific points in that document.

6 For example, the joint operation between FACA and MLC, I have never mentioned
7 that in any other statement that I made in relation to the first document. He is the
8 one who guided me to bring the ideas together in such a coherent manner that they
9 would appear as they are in the third document.

10 So let me repeat before you and before this Court that this material was put together
11 with the lawyer.

12 Q. Witness, final question: You were trying to deceive Mr Kilolo in the same way that
13 you're trying to deceive this Court?

14 PRESIDING JUDGE SCHMITT: Could you please rephrase this question a little bit because
15 this is very suggestive. I understand that -- and I allow of course and you see that I allow
16 leading questions, but this is very suggestive.

17 MR POWLES: Yes.

18 PRESIDING JUDGE SCHMITT: I would urge you to rephrase it.

19 MR POWLES:

20 Q. Witness, you were trying to deceive Mr Kilolo into believing that you were a genuine
21 soldier and a genuine witness and in the same way you're trying to deceive this Court now
22 about the honesty of your evidence?

23 A. I have respect for you, Counsel, but let me point out to you that if you want to speak to
24 and with me, you must also consider how it came about that I had contact with Mr Kilolo.
25 I was contacted to play a role and not to fabricate anything.

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1 Captain Kokate, I don't know how he met Maître Kilolo and how that connected to
2 Mr Arido and how it ended up involving me. I do not know how it all happened.
3 But if you say that I mislead Mr Kilolo, let me say that I did not mislead him. I
4 received a briefing, guidance. And you may want to note that even before I came to
5 testify, I also received from Mr Kilolo some orientation or guidance. I, therefore,
6 I am not the one who could have mislead him. He is the lawyer, he is the one who
7 should have channelled me to testify before this Court along the lines that I did.

8 MR POWLES: Yes, your Honour, and so at the risk of instigating another lengthy answer,
9 I think I'll draw my questions to a close.

10 PRESIDING JUDGE SCHMITT: Thank you very much, Mr Powles.

11 And we continue with the -- you have finished now?

12 MR POWLES: Yes. I was just merely going to thank the Court for the indulgence in giving
13 me the extra time to ask the questions.

14 PRESIDING JUDGE SCHMITT: It's obviously clear that the Defence teams, to put it
15 cautiously, have a different interest in this witness so we allowed it.

16 MR POWLES: I'm ever grateful. Thank you very much to the Bench.

17 PRESIDING JUDGE SCHMITT: So what would be the next Defence team? I have sort of a
18 feeling.

19 Mr Taku is rising so. So the defence for Mr Arido is the next to question the witness.

20 MR TAKU: Good afternoon, your Honours.

21 QUESTIONED BY MR TAKU:

22 Q. Good afternoon, Witness.

23 A. Good afternoon, Counsel.

24 Q. Since we come from the same sovereignty, your Honour, permit me to give you my full
25 names and title if you wish. My name is Chief Charles Achaleke Taku. I'm counsel for

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1 Mr Arido and I will be putting some questions to you.

2 Let us try to respect the instructions given by the Chamber to keep a pause between
3 the questions and the answers because there are interpreters. And secondly, please,
4 I will want you to give very short answers. I will ask short questions and expect
5 short answers. Do you understand?

6 A. I am at your entire disposition, Counsel.

7 MR TAKU: Your Honours, may I ask for a private session?

8 PRESIDING JUDGE SCHMITT: Of course. We go into private session.

9 (Private session at 11.59 a.m.)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

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7 (Recess taken at 1.02 p.m.)

8 (Upon resuming in open session at 2.32 p.m.)

9 THE COURT USHER: All rise.

10 PRESIDING JUDGE SCHMITT: We are in open session because we want to address
11 shortly a procedural issue concerning the sequence of witnesses.

12 And I want to direct a question to Mr Vanderpuye because it is not perfectly clear to
13 everybody on the Bench, do you still want the next witness after 245 to be 272 and
14 that this witness should testify via video link?

15 MR VANDERPUYE: Thank you very much for the invitation, your Honour. We
16 do expect that the next witness after 245 will be 272. I hesitate because it involves a
17 logistical matter that is not within our direct control because of the enforcement of the
18 summonses to appear issued by the Chamber previously, and so there is a logistical
19 issue with respect to setting up video links with regard to those witnesses and that
20 witness.

21 We're still discussing it with the VWU and the Registry. Absent a conflict, we expect
22 though to proceed with 272 immediately after 245, and then we'll -- I'll update the
23 Chamber with respect to the other two witnesses, hopefully shortly.

24 PRESIDING JUDGE SCHMITT: Are there any comments by the Defence? I don't
25 see any comments.

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- 1 So we proceed then with the questioning of Mr Taku and we go into private session,
- 2 I understand?
- 3 MR TAKU: Exactly, your Honour.
- 4 (Private session at 2.34 p.m.)
- 5 (Redacted)
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- 11 (Redacted)
- 12 (Open session at 3.54 p.m.)
- 13 THE COURT OFFICER: We are in open session.
- 14 MR TAKU:
- 15 Q. Now, Witness ...
- 16 Please, court officer, can you bring up CAR-OTP-0080-0021, at page 0035.
- 17 Your Honour, this is at tab 3 of the Prosecution binder. And we are interested in line
- 18 469 to 470, and 494 to 495.
- 19 Have you read that, Witness?
- 20 A. Yes, Counsel.
- 21 Q. Is that your statement to the investigators?
- 22 A. Yes, Counsel.
- 23 MR TAKU: Now, court officer, please, put CAR-OTP-0088-0504, at 059. For the
- 24 Judges it is at tab 56 of your binder.
- 25 Q. Is that email before you to Mr Kilolo you sent in June 2013?

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1 A. Yes, I do remember that email.

2 Q. Now, Witness, is it possible you can read that email to the Court, please, so I ask
3 all the questioning at once?

4 PRESIDING JUDGE SCHMITT: I think to read the whole email and let the witness
5 read the whole email is too extensive. I think we should give the witness time to
6 read it by himself and then you put the questions. I would suggest it, to proceed like
7 this way.

8 MR TAKU: Thank you, your Honour.

9 PRESIDING JUDGE SCHMITT: So please, Witness, take your time and tell us when
10 you have finished to read it.

11 MR TAKU: In any case it's in open session, your Honour, so it would not be prudent,
12 it would not be prudent to read it.

13 THE WITNESS: (Interpretation) I have read the document.

14 MR TAKU:

15 Q. And that email was about a week after your testimony in Bemba's case; correct?

16 A. I do not remember exactly.

17 Q. Now, Witness, in order not to waste so much time, you raised every problem
18 there that from -- apart from the question of the 10 million against Arido, you raise a
19 catalogue of grievances against Arido in that email, against his wife, against his
20 family, against the brother's wife, and you even suggested Arido did not want you to
21 testify, Arido wanted to -- that you shouldn't testify in the main case, and you ended
22 up, Witness, saying -- before then, you accuse Arido of being a danger to your life, in
23 fact you said that, (Interpretation) "I wish to draw your attention to what is
24 happening between Arido and myself which risks costing me my life."

25 (Overlapping speakers) that I find if we were to read, but we read nevertheless in the

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1 course of these proceedings because the truth be known, against Arido's wife, your
2 actions towards Arido's wife, towards the brother's wife, his family, and you said that
3 Arido did not want you -- or, (indiscernible) individuals so as not to testify in the
4 main case, you raised financial problems, at the end you ended up saying:

5 (Interpretation) "In this regard, I would like to seize the Court and to ensure that we
6 are relocated without conditions."

7 (Overlapping speakers) Witness, why, why did you display that animosity and hatred
8 against someone, even testifying for two days, was your brother, and against his
9 family, against his brother's wife? Why, why did you do that and why to Mr Kilolo?

10 A. When you go to the heart of this matter, you will understand why I informed
11 Mr Kilolo, why I kept him informed, because even after our separation, after we
12 separated in Douala, there was more problems which started to arise with regard to
13 this famous 10 million, this money.

14 When I went back to Yaoundé, because you were the one who asked me the question,
15 you will allow me to explain it to you if we have time.

16 I went to the house -- I went to his house, it was then that his wife told me that he was
17 angry due to the fact that when we were at the hotel Grand Moulin I met the others to
18 say that it was a question of life, we had to have the money and if not we wouldn't
19 testify. And that, frankly, he was very angry about that.

20 So afterwards, he had to go to stay with his girlfriend, a lawyer, who was a -- he was
21 invited with his wife to a marriage ceremony, so he asked me to accompany his wife
22 to this ceremony. We went to this ceremony, I brought the present, which his wife
23 had to take, and I covered my brother who was somewhere.

24 So I sat with his wife. So when we were there, his wife told me that, "Look at the
25 mango tree. It produces mangos, but there are small red insects which don't eat the

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1 mango, and it's bats that eat mango, so if you go there stay calm and allow me to
2 dance. And that is how I said, but the animals they don't eat the mango, but they're
3 to watch the mango to make sure that nobody can cut this mango. So if somebody
4 wants to grab their arms out to pull down that mango, then this insect has to be got.
5 So that's what happened. When she went back home, she let my brother know that
6 she wanted -- or, I wanted to find her.

7 So straight afterwards, my brother, who had very fraternal relations with me, couldn't
8 take any more, and so from there he started to take a distance to me.

9 Until the day that he had to leave the town, after one night before leaving, he called
10 me to say, "Listen, I'm going. I don't want to have anything more to do with this
11 case with Kilolo, but stay there Kilolo will come and you bring the others."
12 Since that day, I was obliged to say because if I said to counsel, then he's going to
13 reconcile us, so -- and that's the reason why I wrote that email to Mr Kilolo.

14 Q. Your Honours, we -- there are so many allegations and time frames that that
15 animosity dates -- dating back to the brother's wife when we said he had a baby, a
16 married lady and all-and-all. So the dates get into so many years, the animosity that
17 he put here, we'll examine it one by one to establish the time frames and either
18 tomorrow I will continue, or my colleague, or if you want me to continue with this
19 line of questioning let me go through, but my learned colleague --

20 PRESIDING JUDGE SCHMITT: If you want to establish this time frame, as you said,
21 I think perhaps you can continue now and restrict yourself to the essentials if it is
22 possible.

23 MR TAKU: Yes, your Honour.

24 PRESIDING JUDGE SCHMITT: Yes. Okay, thank you.

25 MR TAKU:

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1 Q. Now, Witness, this allegation about the brother -- the wife of the brother of
2 Arido, what year did that happen?

3 A. Counsel, I don't remember, but you're going to produce the document. I don't
4 remember.

5 Q. Surely, when you were back in Central African Republic?

6 A. No, we were in Cameroon --

7 Q. (Overlapping speakers). I'm sorry, my Lord. I'm very sorry about that again.
8 I'm sorry.

9 PRESIDING JUDGE SCHMITT: Always the same.

10 MR TAKU: Yes, I'm sorry.

11 PRESIDING JUDGE SCHMITT: Problem overlapping.

12 MR TAKU: Yeah.

13 PRESIDING JUDGE SCHMITT: So then we lose, we lose in the transcript.

14 MR TAKU: Yeah.

15 PRESIDING JUDGE SCHMITT: And there is disorder in the courtroom, so please,
16 please oblige to that --

17 MR TAKU: Yeah.

18 PRESIDING JUDGE SCHMITT: -- and do not interrupt the witness, yeah.

19 MR TAKU: Let me put the question again. Maybe he's been thinking about Arido's
20 wife.

21 Q. I'm asking about the (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 A. Now you're being precise, Counsel. Now you're being precise --

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1 MR LAROCHELLE: I'm really sorry to interrupt, but maybe it would be wiser to go
2 into a private session.

3 PRESIDING JUDGE SCHMITT: Could you repeat.

4 MR LAROCHELLE: I'm sorry to interrupt the witness. I think we are in a public
5 session. It may be wiser considering the topics we are touching upon to be in a
6 closed session. I wanted to actually intervene before, you know, the fruit fell from
7 the --

8 PRESIDING JUDGE SCHMITT: Since Mr Larochelle is the expert in these matters,
9 the Bench of course follows. We are going into private session. Yes, thank you,
10 Mr Larochelle.

11 MR TAKU: And you also said Arido --

12 (Private session at 4.08 p.m.)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

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- 13 (The hearing ends in private session at 4.24 p.m.)
- 14 CORRECTION REPORT
- 15 The Language Services Section has made the following correction in the transcript:
- 16 *Page 3 line 8:
- 17 "I began calling out the good word." is corrected by "I began preaching the gospel."