

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
6 Arido - ICC-01/05-01/13
7 Presiding Judge Bertram Schmitt, Judge Marc Perrin de Brichambaut and
8 Judge Raul Pangalangan
9 Trial Hearing
10 Thursday, 15 October 2015
11 (The hearing starts in open session at 9.30 a.m.)
12 THE COURT USHER: All rise.
13 The International Criminal Court is now in session.
14 PRESIDING JUDGE SCHMITT: Good morning, everybody, and a warm welcome.
15 Good morning also to Mr Witness, as we have agreed to name you during your
16 testimony.
17 Court officer, please call the case.
18 THE COURT OFFICER: Thank you, Mr President. The situation in the Central
19 African Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo,
20 Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and
21 Narcisse Arido, case reference ICC-01/05-01/13.
22 For the record we are in open session.
23 PRESIDING JUDGE SCHMITT: Then as every morning, to put it this way, could
24 counsel please tell us with whom they are today in the courtroom.
25 MR VANDERPUYE: Good morning your Honour. Good morning, everyone. I'm

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1 today with Olivia Struyven to my left, Sylvie Vidinha behind her to my left and
2 behind me Ekaterina Kopylova. I'm Kweku Vanderpuye.

3 PRESIDING JUDGE SCHMITT: Thank you very much.

4 I think we stick with the sequence that we had all the other days, and we start with
5 Mr Gosnell, because I would prefer anybody, but because Mr Gosnell is closest to the
6 Bench.

7 MR GOSNELL: Thank you. Good morning, your Honours. Appearances are the
8 same as yesterday.

9 MR DJUNGA: (Interpretation) Good morning, your Honour. The Defence
10 Mr Kilolo has not changed. It's the same as yesterday.

11 MR TAKU: Your Honours, Arido's team remains the same as yesterday.

12 MR KILENDA: (Interpretation) Good morning, your Honour. Good morning,
13 your Honours. We have the same team assisting Mr Babala.

14 MS TAYLOR: Good morning, Mr President, your Honours. The configuration of
15 the Bemba team is the same as yesterday. Thank you.

16 PRESIDING JUDGE SCHMITT: Thank you very much. Before we continue with
17 the -- yes. Before we continue with anything else we of course also welcome
18 Mrs Doucerain, who can also introduce herself as a counsel for Mr witness.

19 MS DOUCERAIN: (Interpretation) Good morning, your Honour. Good morning,
20 your Honours. Karine Doucerain. I am the counsel for the witness.

21 PRESIDING JUDGE SCHMITT: Thank you.

22 Before we continue with the examination, the Chamber would like to inquire with all
23 parties as to exactly how much time each of them would like to examine P-260. So I
24 start with the Defence of Mr Arido. How much time do you think you will question
25 Mr Witness?

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1 MR TAKU: Your Honours, Mr Larochelle will essentially be doing the
2 cross-examination today. I'm just taking the floor in about 10 minutes just to clarify,
3 I mean, just to put a few questions and he will take over. And I will leave that to
4 him, your Honours, to give the Court how much time he will need.

5 PRESIDING JUDGE SCHMITT: Mr Larochelle.

6 MR LAROCHELLE: I think I can conclude my cross-examination in between one
7 hour and one hour and 15 minutes. So I think it's reasonable to assume that we will
8 go to the break this morning and we will definitely endeavour to stick to that plan.

9 PRESIDING JUDGE SCHMITT: Then perhaps the Defence of Mr Mangenda.

10 MR VERCKEN: (Interpretation) At this stage, your Honour, we have no questions
11 whatsoever.

12 PRESIDING JUDGE SCHMITT: The defence of Mr Babala.

13 MR KILENDA: (Interpretation) In principle, we have no questions to this point to
14 put to the witness, but everything depends on the dynamic of the trial.

15 PRESIDING JUDGE SCHMITT: That is fair to say.

16 Now Mrs Taylor, please, for Mr Bemba.

17 MS TAYLOR: Thank you, Mr President. The Bemba team is of the same position,
18 we have no questions at this point, but it may depend on what arises.

19 PRESIDING JUDGE SCHMITT: The Chamber appreciates very much this approach
20 and it welcomes it to be very honest. And of course then the Arido Defence is
21 granted the time that it needs for the further examination.

22 And please, Mr Taku, continue like you want, like you wish to proceed.

23 MR TAKU: Thank you very much, your Honour.

24 WITNESS: CAR-OTP-P-0260 (On former oath)

25 (The witness speaks French)

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1 QUESTIONED BY MR TAKU: (Continuing)

2 Q. Good morning, Witness.

3 A. Good morning, Counsel.

4 MR TAKU: I'll commence quickly by asking that the court officer should put before
5 you -- to bring up, and this is for reference only, CAR-OTP-0084-0412 at 0421 lines 347
6 to 351, tab 13, OTP binder.

7 PRESIDING JUDGE SCHMITT: Just a short reminder, we are in open session. So
8 please everybody now questioning, Mr Taku first and then when we come to
9 Mr Larochelle, please have that in mind. If you want to discuss sensitive matters,
10 please ask us for going into private session. Thank you very much.

11 MR TAKU: Thank you, your Honours. Thank you so much.

12 Q. Witness, have you seen that lines 347 to lines 351? Now, let me put the
13 question to you. That was on 5 November 2014. You told the investigators that
14 many persons were present during the debriefing in Douala, but some of them were
15 eliminated from the list. I do not know the reason.

16 Correct, Witness?

17 A. Yes, Counsel.

18 MR TAKU: Now, court officer, also put reference CAR-OTP-0075-0246, tab 82,
19 Judges' binder.

20 Q. Do you have that before you, Witness?

21 Now, Witness, did you know that Mr Arido's involvement in the Bemba case was to
22 be an expert and to provide a report titled (Interpretation) "Strategic planning of
23 operations"?

24 Did you know that?

25 A. No.

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1 MR TAKU: Now, court officer, please bring CAR-OTP-0080-0021 at 0040, tab 3, OTP
2 binder.

3 Q. Is that before you? That's lines 668 to 669, 668 to 669.

4 Now let me read that out for you.

5 This document is not to be shown to the public, please. Thank you.

6 (Interpretation) "But I no longer know. I am no longer in Kilolo's thing. I have
7 already left that. I have found my place elsewhere. I'm not involved in that."

8 Is that what you told the investigator Mr Arido told you?

9 A. Yes, that's it.

10 MR TAKU: Now, court officer, put -- show him CAR-OTP-0075-0567-R01. That's
11 the Judges', this is tab 47.

12 Q. This is an email from Mr Arido to you dated 9 October 2012 where he tells you:

13 (Interpretation) "Due to my security I have withdrawn from the Kilolo case, because
14 I've been interviewed on several times by the DST in Yaoundé, and there's been no
15 reaction to protect me. Once free, I intend to prosecute the ICC for breach of
16 confidentiality. At your level you have to assess it in accordance with your interest.
17 They are not serious or wise. Thank you. I am leaving Brazza at the end of the
18 month."

19 Did you receive that email, Witness?

20 A. I didn't receive this email.

21 Q. But you see it was addressed to you, Witness.

22 A. I didn't receive this email, Counsel.

23 Q. Yes, but now from ...

24 Sorry, your Honour.

25 Now, from the email in front of you, it was addressed to you?

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1 A. Yes, it is addressed to me, but I did not receive this email.

2 MR TAKU: Now, show him -- no, do not. This is for the attention of the Judges.

3 It's not to be shown to the witness. It's information involving, relating to other

4 persons, but it is CAR-D24-002-0924. This is at tab 67. And I will read out the area

5 of interest here, the area of interest here, and then I will ask my question, your

6 Honour, with your permission.

7 PRESIDING JUDGE SCHMITT: Yes.

8 MR TAKU:

9 Q. I will also not mention specific names that are there. "According to the

10 information in the UNHCR records, Mr Arido and the other person then contacted

11 the DST and arranged for another meeting with the policeman who was arrested by

12 the DST when he arrived at the meeting. UNHCR was informed that the policeman

13 was found to be in possession of four documents. One, a document stating that he

14 was an expert consultant in sociological. Two, a Central African Republic passport

15 in which he was presented as a civilian administrator."

16 Let me omit the passport number, your Honours, because it may reveal the identity of

17 that individual as well.

18 That's Issued on 7 March 2012 in Bangui.

19 "Three, United Nations laissez-passer" also the number, which expired on 3 February

20 2010 and extended on 8 March 2013, stating the person's name as Mister -- I wouldn't

21 call the name, your Honour -- operations protection assistant.

22 And three, a badge of the International Criminal Court expired since March 2012

23 stating his title as field officer.

24 Mr Witness, did you listen, did you hear this? You listened to what I just read.

25 Mr Arido told you about his security, that he was not secured and that he has left.

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1 He will not testify in the case any longer. So what do you say to this, Witness, upon
2 hearing this now?

3 A. Your Honour, when Mr Arido was meant to leave Yaoundé, he called me one
4 evening in the town centre. I think it was around 6 or 7 o'clock in the evening, and
5 the sky was threatening. And he said it had been a long time that we hadn't met.
6 And before leaving he said the following: "I am currently leaving the case with
7 Kilolo. I am no longer in. I am going to go elsewhere to find myself." That's all he
8 said.

9 Now, as you will find out when Mr Kilolo is there, you will take the information and
10 you will go -- or you will take the documents and you will go through the Cameroon
11 border. And there will be a Congolese person who will take you, and he will
12 provide you with documentation. The documentation will make it possible for you
13 to travel to The Hague, because Cameroon refused to issue you a safe conduct.
14 And those were the instructions that he called me to give. And I said okay, and that
15 is how we separated.

16 Q. Witness please --

17 Court officer, put on the screen CAR-D24-0002-0001, tab 66 for the Judges.

18 Witness, have you seen that document?

19 A. Yes, I see the document.

20 Q. Witness, the director of public security of the national police, Cameroon police,
21 went to that motel that you say, you cited, and investigated and came out with a
22 report that there was no evidence that you and Mr Arido resided in that hotel in
23 February 2012. What do you say to that?

24 A. (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted). Maître Kilolo gave money for us to

4 be paid, to pay the hotel, and to wait and so that he would receive us. Mr Kilolo

5 when he arrived, he gave us money, and he sent money so that we could eat.

6 So if we had never been in the Douala in the hotel Grand Moulin, where was

7 Mr Kilolo meant to receive us then?

8 Q. And to end my intervention this morning, Witness, I put it to you that it's a

9 public security post in that place and there's no way that group of foreigners will

10 meet in a single hotel room to hold meetings without them knowing and immediately

11 pouncing on them and arresting them. I put this to you, Witness, what do you say to

12 that?

13 PRESIDING JUDGE SCHMITT: Mr Vanderpuye?

14 MR VANDERPUYE: I don't know what particular period of time my colleague is

15 referring to, but if he's referring to 2015, it's not an appropriate question to put to the

16 witness since the meeting didn't transpire then.

17 PRESIDING JUDGE SCHMITT: I personally have understood that we are talking

18 about 2012.

19 MR TAKU: Exactly, your Honour.

20 PRESIDING JUDGE SCHMITT: Or aren't we talking about 2012?

21 MR TAKU: Yes, your Honours.

22 PRESIDING JUDGE SCHMITT: You're talking about Douala 2012?

23 MR TAKU: Yes, your Honour.

24 PRESIDING JUDGE SCHMITT: Or am I wrong?

25 MR TAKU: You're right, your Honour.

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1 PRESIDING JUDGE SCHMITT: Okay.

2 MR TAKU: There is a public security post in Deido, Grand Moulin, just next -- near
3 that hotel, and that there was no way a group of foreigners in a single hotel room in a
4 motel will be holding those meetings without being identified by this service and
5 immediately arrested.

6 PRESIDING JUDGE SCHMITT: Mr Vanderpuye, still standing?

7 MR VANDERPUYE: Still, Mr President. I'm afraid that doesn't help my learned
8 colleague's question. First of all, there's no evidence in the record with respect to the
9 facts that he's asserting or putting to the witness in this case. If he wants to know the
10 answer to that question, I would ask that he put the question to the witness, first of all,
11 was there, one, such a post? And if there was such a post, what is it that would
12 likely occur? Which is speculative, but nevertheless I think he could probably get
13 away with that, but as it is phrased right now, it's still objectionable.

14 PRESIDING JUDGE SCHMITT: Yes, there is merit in it indeed. The witness cannot
15 know if this is sort of a public office. But what it is about and what you want to
16 know is if the witness confirms that he has been in -- I think you're talking about
17 February 2012 in this hotel in Douala. Perhaps you can phrase it perhaps in this
18 direction.

19 MR TAKU: Well, your Honour, in order not to take precious time from my
20 colleague, I will leave it there, and my colleague will continue from there.
21 We will adduce more evidence about that, about the report from the High
22 Commission for Refugees we received. I just wanted to make this comment: We,
23 through diplomatic channel and the Court, we asked from the government of
24 Cameroon to submit the entire report DST, Direction du Territoire
25 Sécurité -- intelligence service that we were making effort to get the entire report from

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1 Cameroon through diplomatic channel about that. Thank you, your Honour.

2 My colleague can take over.

3 PRESIDING JUDGE SCHMITT: Thank you. Then I give the floor to Mr Larochelle,
4 who has time to arrange himself.

5 MR LAROCHELLE: (Interpretation) Thank you very much, your Honour.

6 QUESTIONED BY MR LAROCHELLE: (Interpretation)

7 Q. Good morning, Witness.

8 A. Good morning, Counsel.

9 Q. In order to use the religious term, your Calvary should be even shorter if you
10 reply in a short and precise way to the questions that I put to you.

11 To briefly go back to the document that Counsel Taku showed to you,

12 CAR-OTP-0075-0567. So you have just read this email. I would like us to go a bit

13 further down in this document, if you would be so kind. There we can see that the

14 email that you say you didn't receive, this is a reply to an email that you yourself sent

15 on 8 October 2012. You say, "Good evening (Redacted)." You refer to the

16 meeting, and you congratulate Mr Arido on his marriage, and you say that Mr Kilolo
17 has provided you with a lawyer.

18 Do you remember having sent this email to Mr Arido?

19 A. Yes.

20 Q. And you do not remember having received the answer which is at the top of the
21 page?

22 A. Counsel, I'm telling you that I don't remember.

23 Q. So just to be precise, you don't deny having received it, you're just saying you
24 don't remember it; is that correct?

25 A. I haven't denied it. I said that I don't remember.

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1 Q. I remembered you denying it. I just want us to be clear on that.

2 So if we go back a bit in time, we briefly yesterday during your examination, we
3 addressed what you called or you spoke to the Prosecutor about the first topo as you
4 put it?

5 A. Excuse me, Counsel, I didn't speak about the first topo.

6 Q. We'll call it the first one for the aims of our discussion. This one concerns (Redacted).

7 A. Oui.

8 Q. I know that we are in open session. Could we have a code to refer to (Redacted)
9 in an open way? I would say just by my expertise in confidentiality, I'm a bit lost
10 with regard to know whether we have, say, (Redacted) or we use the true name of the
11 captain in question.

12 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

13 MR VANDERPUYE: May we go into private session, please, Mr President?

14 PRESIDING JUDGE SCHMITT: Yes, then we go into private session so we have on
15 the safe side.

16 (Private session at 9.58 a.m.)

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 (Open session at 9.59 a.m.)

6 THE COURT OFFICER: We are back in open session.

7 MR LAROCHELLE: (Interpretation)

8 Q. So we're speaking about your deal with Bob and I understand from your
9 testimony yesterday that you were meant to inhabit the person of somebody who was
10 a rebel and that was meant to be done in Libreville; is that correct?

11 A. That's correct.

12 Q. I understand you were meant to impersonate the head, or you had to
13 impersonate somebody who commanded a battalion or a group of soldiers of 385
14 soldiers, Yokadouma; is that correct?

15 A. That's correct.

16 Q. Do you remember what period this was in, how much time there was before the
17 second deal?

18 A. I don't remember, Counsel.

19 Q. I understand that the exercise was basically that you were meant to go to Gabon.
20 Do you remember who else was going to be present to participate in the negotiations?

21 A. In principle, Mr Arido was meant to go there and, as he said he couldn't be
22 interested in that, I had to go, and that's how he put me in contact with Bob.

23 Q. So what you've just said so it was the first time and all the statements, testimony,
24 everything that you've given it was the first time that you've said that it was Mr Arido
25 who was meant to play the role that you've just mentioned in Libreville. It's the first

1 time you've said, are you aware of that?

2 A. Yes, Counsel, but because that was not of interest with regards to the topic we're
3 dealing with before the Court, I didn't want to go into that to lose the Court's time
4 uselessly.

5 Q. The Court will assess that.

6 Now, for the preparations, you go to this conference or this negotiation round, you
7 are in direct contact with Bob in order to discuss logistics of the exercise?

8 A. It wasn't to discuss logistics.

9 Q. Is it Bob who told you that the negotiations would take place in Libreville?

10 A. When Mr Arido put me in contact with him, he is the one who explained his
11 intentions to me; namely, to send me to Libreville as his replacement.

12 Q. So if I understand you properly, as I think through your new version, in the end,
13 what you are telling us now is that it isn't Bob who wanted to send you, but that
14 everything was in Arido's hands and he said, "You will replace me, you will go on my
15 behalf" and so on and so forth, and therefore he's the one who gave you that first deal;
16 is that the case this morning?

17 A. Counsel, I admire your rhetoric, but what I'm saying here is that Bob asked me
18 to represent him and the person who made it possible for me to know Bob is
19 Mr Arido. I hope this is clear enough.

20 Q. I do not want to belabour the point. So my understanding, therefore, is that
21 that first deal did not materialize; is that correct, it never materialized?

22 A. Yes, that's correct.

23 Q. This now brings us to the second deal, the one you refer to as Mr Bemba's deal
24 or topo. Are you with me?

25 A. Yes.

1 Q. I understand that under the deal you were expected to testify as a Defence
2 witness in the Bemba case; is that the case?

3 A. Yes.

4 Q. You claimed that Arido promised Europe and 10 million CFA francs for you if
5 you agreed to do what was requested; is that correct?

6 A. Arido did not make me the offer. Arido gave me to understand that for
7 testifying it would be necessary for me to receive 10 million and travel to Europe.
8 That was part of the clauses. He knew that I could not testify for nothing.

9 Q. So you travelled to Douala. Now when you went to Douala for the first time in
10 February 2012, was it already present to your mind that you would be receiving
11 10 million francs CFA and that there was a possibility of relocation to Europe?

12 A. That was the motivation which linked me to Arido and made it possible for me
13 to agree to testify. I agreed to testify because of the 10 million that I was expected to
14 receive and because of the possibility of being relocated to Europe.

15 Q. So that was the idea you had in your mind on your way to Douala, but you say
16 that you went along with three other persons; Mr Arido, one Bopet and another
17 person whose name will not be mentioned, but you must remember that name?

18 A. Yes, that's correct.

19 Q. Now, when you get to Douala other persons join you; do you remember that?

20 A. Yes, I remember that, Counsel.

21 Q. A short while ago, and I will not ask for this to be displayed, we saw on one of
22 the excerpts displayed by Mr Taku that you stated that some persons had been
23 eliminated; do you remember?

24 A. Yes, I do remember. Some persons were there, but Mr Arido had brought me
25 to understand that the quorum or the group of persons who were expected to provide

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1 that testimony should have been made up of ten persons. Now for those of us who
2 came from Yaoundé they were not -- we were not ten in number. I did not know,
3 therefore, how the other persons would be found. It is when we got there that we
4 realised that some people were already there. And I was meeting them for the first
5 time. I did not know them. And even if they were placed before me today I would
6 not be able to recognize them.

7 Q. Do you remember whether that quota of ten was reached? Do you remember
8 whether there were at least six people from Douala who were present in addition to
9 the four of you who came from Yaoundé?

10 A. (Redacted)

11 (Redacted). Well, I'm providing names here. Can I provide
12 those names? Can I mention those names?

13 Q. Please avoid mentioning the names of those who came with you from Yaoundé.

14 A. So four of us came from Yaoundé.

15 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

16 MR VANDERPUYE: Mr President, could we -- well, we are in open session.

17 I would ask if we can go into private session.

18 MR LAROCHELLE: (No interpretation) --

19 PRESIDING JUDGE SCHMITT: I think we go into private session, Mr Larochelle,
20 and then -- then the witness can speak about names. That's perhaps also of interest
21 for the Bench, I think, to know whom we are talking about. Yeah, thank you.

22 (Private session at 10.09 a.m.)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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(Open Session)

ICC-01/05-01/13

1 (Open session at 11.48 a.m.)

2 MR LAROCHELLE: (No interpretation)

3 THE COURT OFFICER: We are in open session.

4 MR LAROCHELLE: (Interpretation)

5 Q. Now, I believe that these documents will not be broadcast.

6 Now, the document I requested is CAR-OTP-0075-0567, that's it.

7 This is the email you claim you did not receive or you have no recollection of having
8 received it; is that the case?

9 A. Counsel, I did not remember. It is true that I wrote to him, but I had no
10 recollection of his reply.

11 Q. You do not remember that almost immediately after you wrote to him, he
12 confirmed what you had talked about at the post office, now saying based on your
13 interests these people are not serious and they are not wise. Do you not remember
14 receiving this email? Seeing the email right now, does that refresh your memory?

15 A. Counsel, a short while ago I said that I did not remember.

16 Q. (Microphone not activated) Let us move to CAR-OTP-0075-0561, tab 50.

17 I see from this email that you followed with interest Bob's ascension in his Central
18 African ventures and you write to Mr Arido to inform him that Bob had just been
19 promoted to an important position?

20 A. Yes, that is correct.

21 Q. I take it that when you became aware of this, there was some glimmer of hope
22 for you that you two may receive something and join Bob in his ascension?

23 A. I have no answer to that question, Counsel.

24 Q. Very well. Now let us turn to CAR-OTP-0075-0762, tab 51.

25 Are you there? Have you read it?

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1 A. Yes, Counsel.

2 Q. Do you recall that you were interested in working or having a position with Bob
3 in the Central African Republic?

4 A. Well, in the context of the relationship with Mr Arido.

5 Q. Now, can you see the email? I understand that you remember having received
6 this email?

7 A. A short while ago I said that I had received that particular email.

8 Q. In this email Arido tells you that Kilolo will soon be in Douala; isn't it so?

9 A. Yes, he told me so.

10 Q. However, he went on to warn you that it is already time to begin to think about
11 ourselves?

12 A. Yes, that is correct.

13 Q. And you understood what he meant; namely, that Arido, at least your brother
14 Arido was calling you to be as cautious as possible in your dealings with Mr Kilolo?

15 A. That is -- those are your own words, Counsel.

16 Q. Is that how you understood the email you received from Mr Arido?

17 A. No, that was not my understanding. You see, when we met at the post office
18 he instead encouraged me to take over the leadership of the team and to lead the
19 team.

20 Q. Now let us go to CAR-OTP-0075-0785, tab 53. It is an email from you dated 22
21 March 2013.

22 A. I have read it, Counsel.

23 Q. (No interpretation)

24 A. (No interpretation)

25 Q. So you knew about it before March 2013?

1 PRESIDING JUDGE SCHMITT: How come we have no interpretation at the
2 moment?

3 THE INTERPRETER: I'm sorry, Mr President, my microphone was switched off.

4 PRESIDING JUDGE SCHMITT: So, please, Mr Larochelle, although I know it is
5 difficult to repeat a question word by word, but please try it.

6 MR LAROCHELLE: (Interpretation) I will repeat the question again.

7 Q. In February 2013, were you aware that Mr Arido had left for Europe?

8 A. I did not know whether he had left for Europe. I had his email and I knew that
9 I could contact him by email. But I had no specific information as to whether or not
10 he was in Europe. However, I knew that I could contact him by email.

11 Q. How did you find out that he was in Europe?

12 A. His wife explained the situation to a Central African sister with whom I
13 collaborated. So when I met -- I believe it's this sister who came to visit us in our
14 house and who told us at that time that Arido was in France.

15 Q. Are you able to tell us whether it was in 2012, late 2012 or 2013?

16 A. I -- I cannot be certain about the period. I don't know what his intentions were
17 to travel to Europe, but what he told me personally was that he was going to
18 Brazzaville and that he would no longer be part of the Kilolo case.

19 Q. Do you, however, confirm that in March 2013, as we looked at the email, that
20 you were asking for some money from Mr Arido in -- can you confirm that at that
21 time you already knew that Mr Arido was already in Europe? Can you confirm that
22 as part of your testimony?

23 A. Which document are you referring to? You see, we are looking at a document
24 on the screen here, and you are talking about another document which I may not be
25 looking at, so I don't know what answer to provide.

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1 Q. A short while ago I asked you whether at the time of drafting the letter of 22
2 March 2013, whether you knew that Mr Arido was in Europe. You said upfront that,
3 yes, you were aware of it. Do you recall?

4 A. Yes, in March 2013 I already knew that Mr Arido was in France, was in Europe,
5 because, you see, in another email that we looked at a short while ago, he already had
6 mentioned that he was going to stop over in Sudan and that he would call me back.

7 Q. Now, let us quickly turn to CAR-OTP-0075-0786.
8 Can you see it?

9 A. Yes, Counsel.

10 Q. So you said that you -- can you confirm that you wrote this email to Mr Arido?

11 A. I think I was asked that question yesterday. I can confirm it. I assure you, sir,
12 I can confirm that.

13 Q. You said to him "Our Seleka has won the battle." And you say as well "I'm
14 very impatient, can hardly wait. You find something for this team that you and I
15 constitute?

16 Answer, because I'm waiting for your answer impatiently."

17 Can you see that?

18 A. Yes.

19 Q. And then you wrote -- I'll move on to another email, 1 April,
20 CAR-OTP-0075-0789, tab 55.

21 And there once again you express your concerns about the long silence of your
22 brother, Arido; isn't that so?

23 A. Bien sur.

24 THE INTERPRETER: Inaudible.

25 MR LAROCHELLE: (Interpretation)

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1 Q. And you're also worried because Bob was not amongst the important members
2 of the CAR government?

3 A. Yes, Counsel.

4 Q. If I put it to you that this is the last email that you sent to Mr Arido, can you
5 confirm that?

6 A. I no longer use this account. If you say that this is the last one, the last email,
7 maybe I could confirm that because I no -- you see, I no longer use this account.

8 Q. Did you have any other email exchanges?

9 A. I don't remember.

10 Q. Now, if we could move on to tab 56, this is an email, 21 June 2013,
11 CAR-OTP-0075-0579, and the -- we're beginning at the page ending in 0504 of 0509.
12 Are you with me?

13 A. It's not up yet on the screen.

14 Q. This is an email to another one of your brothers, this time Mr Kilolo. And here
15 we see that two-and-a-half months later after your email of April 2013, you were
16 saying to Mr Arido that you were counting on him for many things, and you wrote
17 this, writing to Mr Kilolo, you wrote, and I would remind you that date was about 10
18 days from your testimony, and you said, "What's going on between Arido and myself
19 could lead to death." Can you see that?

20 A. I see that.

21 Q. The death of whom?

22 A. Your Honour, this correspondence that I sent to Mr Kilolo was subsequent to a
23 situation that was prevailing at that time. I was with the person I mentioned earlier,
24 with whom I testified. We were having a drink somewhere. All of a sudden the
25 other person's telephone rang and it was (Redacted).

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WITNESS: CAR-OTP-P-0260

(Private Session)

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1 PRESIDING JUDGE SCHMITT: I think we have to go into private session perhaps,
2 I would suggest. I think we are still in open session, so we go into private session.
3 (Private session at 12.05 p.m.)
4 (Redacted)
5 (Redacted)
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- 19 (Closed session at 12.20 p.m.)
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- 13 (Private session at 12.24 p.m.)
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- 13 (Open session at 12.34 p.m.)
- 14 THE COURT OFFICER: We are in open session, Mr President.
- 15 PRESIDING JUDGE SCHMITT: I think it is your turn, Mr Larochelle.
- 16 MR LAROCHELLE: (Interpretation) Thank you, Mr President.
- 17 Q. Now, let us talk about your third deal, third topo in relation to your testimony
- 18 for the Prosecutor of the ICC. I put it to you that this deal was initiated by a
- 19 telephone call from a Cameroonian policeman in March or April 2014; is that correct?
- 20 A. I was not called by a Cameroonian policeman. But since we are in public
- 21 session, should I mention the name of the Court's representative who came to meet
- 22 with me?
- 23 Q. Not necessary.
- 24 A. Now then let me proceed. The first representative of the OTP who came to
- 25 meet with me is the person who called me himself on his cellphone. He called me

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1 and introduced himself telling me what his role was and why he was contacting me.

2 He asked to meet with me and I gave him the location of my hotel to which he came.

3 When he came to that hotel he found me.

4 Q. Did you make a statement to him immediately?

5 A. No.

6 Q. Before you started to cooperate with the OTP, did you meet a Cameroonian
7 policeman?

8 A. I did not meet any Cameroonian policeman. Unfortunately, I cannot mention
9 the name of the person, but it is an investigator from the OTP who came to meet me.
10 He is the one who called me on his mobile phone. And when he called me, I gave
11 him my location and he came to meet with me at the hotel. He wanted to address
12 the problem, but I told him that I was not available. Then he showed me the
13 decision of the Court, and so I told him that if such were the case I would like to have
14 the assistance of a lawyer, and that is how he went on to call Maître Edou and asked
15 him to come and meet us. So after a short while he came to join us and explained to
16 me how things worked and why it was necessary to cooperate.

17 It is thereafter that we went to see the director of the judicial police, and I was
18 introduced to him because I was being looked for and that's when he told me that
19 they had called me on my telephone. So I told him, "Commissioner, I did not know
20 your number and I, therefore, did not answer when you called." So he said that he
21 was willing to cooperate and that is how it came about that the next day we started to
22 have the discussions.

23 Q. So you have confirmed that you met with a representative of the Cameroonian
24 police force.

25 A. Yes, I was taken to the office of the director of judicial police. He is a

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1 commissioner, an officer, he's not a policeman.

2 Q. Well, as you wish. But in and around those days, did you hear any mention
3 that some representatives of the law enforcement forces were trying to call Bemba
4 witnesses?

5 A. No, never.

6 Q. You never heard any such thing?

7 A. Never. Never at all.

8 Q. Then there was the first interview to the representatives of the OTP on 2 and 3
9 April 2014; do you recall that?

10 A. Yes, I do.

11 Q. Prior to those interviews, you had some negotiations with the Prosecutor in
12 which you promised to speak the truth; isn't that the case?

13 A. Well, I cannot have any negotiations with the Prosecutor. The Prosecutor sent
14 her representatives to meet me. She knows what is happening here at the Court and,
15 therefore, sent that person, or those persons to meet me under certain terms that had
16 already been outlined previously, and all I did was to abide by those terms.

17 Q. You are right when you say you cannot negotiate because the choice was
18 between a statement or prison; isn't that the case?

19 A. I don't know.

20 Q. The Prosecutor has told you that you are a suspect?

21 A. Yes, that is what I was told.

22 Q. Suspects sometimes end up in jail?

23 A. That is what you say, Counsel, but what I was told was that I was a suspect and
24 that I was being given an opportunity to cooperate and to tell this truth in order to
25 establish how things unfolded. That is what happened.

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1 Q. Mr Witness, you have a (Redacted) you know very well that sometimes
2 suspects end up in jail, isn't that so?

3 PRESIDING JUDGE SCHMITT: Mr Larochelle, I think this subject has been
4 addressed by your colleagues in the examination and relatively extensively and I
5 recall vividly the answers and to a certain extent the whole exchange. You could
6 move perhaps to another point.

7 MR LAROCHELLE: Yes. (Interpretation) Obligated, Mr President.

8 Q. Well, in a nutshell, you start your interview by promising to speak the truth; is
9 it not so?

10 A. That is what I said.

11 Q. Then if I can put it in these words, you slipped on two peels of banana, two
12 peelings of banana and the first is in CAR-OTP-0080-0021, at 0042, line 747 and 748,
13 tab 3 of the Prosecutor's bundle.

14 PRESIDING JUDGE SCHMITT: I'm confident that you're explaining your metaphor,
15 I think.

16 MR LAROCHELLE: (Interpretation)

17 Q. (Redacted), this is what you said at lines 747, 748: "From that day on we never
18 met again with Mr Kilolo and, please, Mr Kilolo before God never gave me a dime."
19 Do you recall saying that?

20 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

21 MR VANDERPUYE: Thank you, Mr President. I can't see what precedes line 747
22 on the screen there and I see that there's a reference to a particular day and I was
23 hoping that Mr Larochelle might --

24 PRESIDING JUDGE SCHMITT: That's fair, Mr Vanderpuye. Indeed I think we
25 should have at least a more extended look on it.

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1 MR LAROCHELLE: No problem. (Interpretation)

2 Q. 743 to 752, if you wish.

3 Are you done? Have you read it?

4 A. Yes, I have.

5 Q. Now turn to CAR-OTP-0135 -- rather, CAR-OTP-0080-0135, at page 0142.

6 That's correct. Line 239, from line 239.

7 The interviewer says the following to you:

8 "I now want to touch on a sensitive question. I need the truth, nothing but the truth.

9 If you need to talk with your lawyer please let us know, we'll take a break."

10 Question: "Did you receive money from Mr Kilolo besides what you mentioned
11 yesterday; namely, €50 yesterday as money received through Western Union, apart
12 from that?"

13 Answer: "Yes, yes, I received money from Mr Kilolo."

14 Can you see that?

15 A. Yes, I have.

16 Q. Now, the Prosecutor somehow was calling you to order and reminding you of
17 your oath to speak the truth, and that is when you say that you received money from
18 Mr Kilolo; is that not the case?

19 A. Yes, I acknowledged that I had received money from Mr Kilolo.

20 Q. Thank you. At another time -- well, let's -- let's take this from another angle.

21 One aspect of your testimony is that you state that Mr Kilolo called you while you
22 were on the stand, that is during your testimony; is that correct?

23 A. I said that I -- that Mr Kilolo had called me at the end of the first day of my
24 testimony. No, not during. He cannot contact me while I'm in the courtroom.

25 Q. That's fair. But again going by your testimony you -- you were allegedly called

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1 on a phone number, which you don't have to mention, because you had put a SIM
2 card in a phone that you had been given; is that the case?

3 A. Yes.

4 MR LAROCHELLE: (Microphone not activated)

5 THE INTERPRETER: Microphone, Counsel.

6 MR LAROCHELLE: (Interpretation) Could we have document

7 CAR-OTP-0080-0630.

8 Q. That document is a record of the calls made from one of Mr Kilolo's telephone
9 numbers and directed to you. Unfortunately, I do not have the ERN, but I can refer
10 to pages 19 to 22 of that document.

11 Are you there? Now, if you look at the table there is a first number being the calling
12 number from the person using the phone, and the second number is the receiving
13 number which also bears the name of the person. That's the way to read the tables.
14 Are you agreed?

15 A. Yes.

16 Q. Now we see here that Mr Kilolo called you from two European numbers, one
17 beginning with 32 and the other with 31; do you see those numbers?

18 A. Yes, I can see them. Yes.

19 Q. Do you remember those numbers? I believe those are the numbers from which
20 you usually received calls from Mr Kilolo?

21 A. Well, I cannot challenge Maître Kilolo's numbers. If he's the one who called me,
22 I cannot challenge that here before the Court.

23 Q. The numbers attributed to Maître Kilolo here begin with area code 32 and area
24 code 31. Can you see them?

25 A. Yes.

1 Q. You know that those are European numbers, don't you?

2 A. Yes, I do.

3 Q. You also know, and you can see that these are the numbers that Mr Kilolo used
4 ordinarily to call you; isn't that the case?

5 A. Yes.

6 Q. Did you have several telephone calls from those -- those numbers? Then do
7 these numbers here refresh your memory?

8 A. What -- what are you looking for by putting that question to me, Counsel?
9 I don't understand.

10 Q. Just answer my question.

11 A. I cannot answer if there is no call relation. I don't know what you are looking
12 for. What information are you seeking?

13 Q. I simply want you to confirm that you recognize those two numbers, that
14 they're present to your mind, that in the exchanges between you and Mr Kilolo the
15 numbers used were European numbers?

16 A. Mr Kilolo's calls came from European numbers but sometimes we had calls
17 from unknown numbers.

18 Q. When you say "unknown numbers," is it meaning that the number is not
19 displayed?

20 A. Yes, the number is not displayed.

21 Q. But when it is a European number is it displayed?

22 A. I don't know how it happens but that's what happens.

23 Q. (No interpretation)

24 A. I have no recollection, but I know that counsel used to call me with two
25 numbers or from two numbers. Maybe they are the numbers you're talking about.

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1 I haven't used them in a long time.

2 Q. While you were, so to speak, isolated for the purposes of your testimony, you
3 said in your testimony here that from time to time Maître Kilolo would call you, or
4 that at other times you would call Maître Kilolo; is that the case?

5 A. Yes, that is correct. I had the other telephone which had the other number
6 which you are aware of, which you have asked me not to mention and which I no
7 longer use. Therefore, if he did not call me, I would call him. Sometimes I would
8 beep him and he would call me back.

9 Q. When you had unknown numbers which were not displayed, I will take it that
10 in order to call him back you would use one of the two European numbers?

11 A. Now, when he called me on an unknown number I would be able to recognize
12 his voice.

13 Q. But when you call him back, which number do you use?

14 A. I use the number he has.

15 Q. Not the unknown number, right?

16 A. Yes, not -- I can't call on an unknown number.

17 Q. Therefore, when you called him back from the hotel, you called him on one of
18 the numbers that you knew - I see you nodding - either the number beginning in plus
19 32 or plus 31?

20 A. Yes.

21 Q. Okay, that's good.

22 Now, do you remember how many times you called him? Not during your
23 testimony, but in the evening after you had finished testifying?

24 A. In the evening, when I'd finished testifying I would call him once and we will
25 finish and that will be it. Sometimes I called and he would not pick up the phone.

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1 And if he called me back, he would tell me that he was busy and that that's why he
2 didn't pick up my call.

3 Q. I put it to you humbly, Mr Witness, that you are lying in that connection.

4 PRESIDING JUDGE SCHMITT: Mr Larochelle, I would not allow this as a question,
5 yeah. You can perhaps reinforce your point, but I think where you are getting
6 at -- I think we know where you are getting at.

7 MR LAROCHELLE: (Interpretation)

8 Q. Well, Mr Witness, what we're going to do is that we will refer to what you said
9 spontaneously to the Prosecutor when he asked -- when he put to the question to you
10 at CAR-OTP-0080-0100. 0100 to 0133, tab 6, lines 1216 to 1232.

11 The question was put to you, and from 1222:

12 "How did Maître Kilolo contact you?

13 I called him with.

14 When did you call him?

15 After I finished testifying and when there was a problem, for example, the issue about
16 my child.

17 How many days after did you call Kilolo?

18 Two days. I called him two days after."

19 That was your first answer. Do you remember saying that to the Prosecutor?

20 A. Mr President, I testified over a period of two days. After my testimony on the
21 first day, the first day on which I finished testifying, it is the lawyer who called me.

22 He wanted to find out how I was doing, and I explained to him my situation.

23 On the second day, when I finished testifying, I am the one who called him and when
24 I finished my testimony.

25 Subsequently, I used that telephone which was on me to communicate with counsel

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1 on a regular basis.

2 Q. By the way, a little later on in this interview, I believe that the Prosecutor had
3 the same understanding as I have; namely, that he puts the same question back to you,
4 at CAR-OTP-0080-0135, and I'm looking at page 0138, 0139. Please look at line 116
5 and read from line 116 forward. There is a small break between the two bits of
6 interview.

7 PRESIDING JUDGE SCHMITT: Can we scroll down then, please.

8 Thank you.

9 THE WITNESS: (Interpretation) Counsel, which line are you referring to?

10 MR LAROCHELLE: (Interpretation)

11 Q. Read from 117 to 141, please.

12 A. But, Counsel, the question that was put to me here, he wanted to know whether
13 during the trial I had had contact with the lawyer, and I said that during the trial
14 I had not been in contact with the lawyer, but once I had finished giving testimony
15 I could have been in touch -- I could be in touch with the lawyer with the telephone
16 given to me. My -- myself, I have the problem, you see, that I observed that, for
17 example, the transcript of everything that is said. Sometimes -- sometimes the
18 machine -- well, I don't know how to put it. They listen to the recording and
19 sometimes what I said was --

20 PRESIDING JUDGE SCHMITT: (Overlapping speakers)

21 MR LAROCHELLE: (Interpretation) Well, both of us --

22 PRESIDING JUDGE SCHMITT: There's nothing to object against your question
23 despite the time aspect and --

24 MR LAROCHELLE: May -- can I --

25 PRESIDING JUDGE SCHMITT: -- and I think I'm reminded of that by different

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1 people here in the room.

2 MR LAROCHELLE: Can I --

3 PRESIDING JUDGE SCHMITT: We have to have the lunch-break now. We are
4 resuming at 2.30.

5 Yeah, and I understand that Mr Larochelle is coming to an end, to put it this way.

6 MR LAROCHELLE: Very, very close to it.

7 PRESIDING JUDGE SCHMITT: Yeah, okay. Thank you.

8 MR LAROCHELLE: And I sincerely apologise.

9 THE COURT USHER: All rise.

10 (Recess taken at 1.03 p.m.)

11 (Upon resuming in open session at 2.30 p.m.)

12 THE COURT USHER: All rise.

13 PRESIDING JUDGE SCHMITT: We are in open session.

14 Mr Larochelle still has the floor and we hope that you conclude soon, to put it this way, yes.

15 MR LAROCHELLE: Most grateful, Mr President. We can remain in open session.

16 MR LAROCHELLE: (Interpretation)

17 Q. Witness, just before we broke for lunch, we were looking at your first discussion with
18 the OTP. And I'm referring to CAR-OTP-0080-135, 0135, 3 April. And we had just looked
19 at pages 0138 and 0139. And I'd like to point out what the Prosecution said to you after all of
20 a sudden apparently you remembered having contact with Mr Kilolo while you were giving
21 testimony during that period of time when you were testifying.

22 The Prosecution said this to you, line 132, "(Redacted), I just want to remind you of
23 this, and this is important, your counsel is here. My colleague is here. It's
24 important for you to tell the truth."

25 Do you remember him saying that to you?

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1 A. Yes, I remember.

2 Q. And I suppose that must have affected you, after promising to tell you the truth, the
3 Prosecution would suddenly say to you you must tell the truth, as if he was doubting your
4 word? Isn't that so? Do you remember that particular time?

5 A. I told you earlier that I remember that time.

6 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

7 MR VANDERPUYE: (Microphone not activated) If we can go into private session, please. I
8 think my colleague knows why.

9 PRESIDING JUDGE SCHMITT: Then private session.

10 (Private session at 2.33 p.m.)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

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- 5 (Redacted)
- 6 (The hearing ends in private session at 4 p.m.)