

Trial Hearing
Witness: CAR-OTP-P-0261

(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 - ICC-01/05-01/13
6 Presiding Judge Bertram Schmitt, Judge Marc Perrin de Brichambaut and
7 Judge Raul Pangalangan
8 Trial Hearing
9 Tuesday, 6 October 2015
10 (The hearing starts in open session at 2.02 p.m.)
11 THE COURT USHER: All rise.
12 The International Criminal Court is now in session.
13 PRESIDING JUDGE SCHMITT: Good afternoon, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: Thank you, Mr President. The situation in the Central African
16 Republic in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, Aimé Kilolo
17 Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido, case
18 reference ICC-01/05-01/13.
19 We are in open session.
20 PRESIDING JUDGE SCHMITT: Thank you.
21 Again, Counsel, please present yourselves and your clients, when it comes to the Defence.
22 Please, Mr Vanderpuye.
23 MR VANDERPUYE: Thank you, Mr President. Good afternoon, your Honours. Good
24 afternoon, everyone. I'm here today with Nema Milaninia on my left. I'm here with
25 Colleen Gilg on my left behind me. And behind me directly is Sylvie Vidinha, our case

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1 manager. I'm Kweku Vanderpuye.

2 PRESIDING JUDGE SCHMITT: Then for the record, Mr Nève perhaps.

3 MR NÈVE: (Interpretation) Marc Nève, legal assistant for the -- or counsel for the witness
4 we are hearing.

5 PRESIDING JUDGE SCHMITT: Mr Gosnell.

6 MR GOSNELL: Thank you, Mr President. Christopher Gosnell on behalf of Mr Mangenda,
7 who is here to my left, accompanied by Maître Arthur Vercken, co-counsel, and Marine
8 Farshian, case manager.

9 PRESIDING JUDGE SCHMITT: Now, clockwise to put it this way, we continue with the
10 Defence of Mr Kilolo.

11 MR DJUNGA: (Interpretation) Good afternoon, your Honour, Mr President. My name is
12 Paul Djunga. With me Steven Powles and Rosalie Mbengue, our case manager. We
13 represent Mr Kilolo.

14 PRESIDING JUDGE SCHMITT: Then Mr Taku.

15 MR TAKU: May it please the Court. Taku for Mr Arido. With me today is Mr
16 Tibor Bajnovic.

17 PRESIDING JUDGE SCHMITT: Defence for Mr Babala.

18 MR KILENDA: (Interpretation) Good afternoon, Mr President, your Honours. Mr Babala
19 is to my right, and he's assisted by Azama Rodoma Shalie -- or Shalie Rodoma, I'm sorry,
20 co-counsel; Maria Adriana Manolescu, case manager; and myself, Jean-Pierre Kilenda, lead
21 counsel. Thank you.

22 PRESIDING JUDGE SCHMITT: Thank you.

23 Now Mrs Taylor again.

24 MS TAYLOR: Good afternoon, Mr President, your Honours. Melinda Taylor appearing for
25 Jean-Pierre Bemba, who is on my right. And I'm appearing today with Ms Ines Pierre de la

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1 Brière. Thank you.

2 PRESIDING JUDGE SCHMITT: Thank you.

3 First I want to give a short ruling on the further sequence of witnesses. The
4 Chamber notes yesterday's exchange in court on who is testifying fourth in the
5 Prosecution's witness order, either P-245 or P-260.

6 The Chamber has decided that P-260 will be the next witness to testify and that his testimony
7 will commence no earlier than 12 October 2015.

8 This decision is consistent with the position of the Prosecution as stated on 1 October
9 by email and in court yesterday.

10 The Chamber notes that the Mangenda Defence's submission in court that it wished for P-245
11 to testify prior to P-260, however, the Chamber also notes the common position sent by the
12 Defence on 1 October 2015 where it tentatively requested that, I quote, "consideration be given
13 to calling P-0260 on Monday, 12 October as had originally been proposed." End of quote.

14 By today's decision, the Chamber is accepting this common position of the Defence.

15 The Chamber also notes that P-245 and P-260 have been testifying early in the
16 Prosecution's evidence presentation in every version of the witness order the
17 Prosecution has provided and, therefore, the sequence of the witnesses will be as I
18 have just read out.

19 This concludes the ruling of the Chamber.

20 We continue now with the questioning of the Prosecution. We understand that we
21 are at the moment in open session. I don't see that we are compelled to go into
22 private session now, but as I stated yesterday, whenever one of the parties or
23 Mr Nève requests so, please tell me then we go into private session.

24 MR VANDERPUYE: Good afternoon again, Mr President, your Honours. I intend to pick
25 up where we left off yesterday. So I do believe we will have to go into private session right

1 off the bat.

2 PRESIDING JUDGE SCHMITT: Then we are going to do that. We go into private session.

3 (Private session at 2.08 p.m.)

4 THE COURT OFFICER: We are in private session.

5 MR VANDERPUYE: Thank you.

6 Good afternoon, Witness.

7 If I could please have in eCourt shown to the witness CAR-OTP-0090-0630. That's tab 40 of
8 your Honours' binders. I'll ask -- this is the call sequence tables that we looked at briefly
9 yesterday. And I just have a couple of follow-up questions with respect to yesterday's
10 examination. And we'll need to go to ERN ending 689.

11 WITNESS: CAR-OTP-P-0261 (On former oath)

12 (The witness speaks French)

13 QUESTIONED BY MR VANDERPUYE: (Continuing)

14 Q. We have the document now in eCourt. Can you see that, Witness?

15 A. Yes, I can.

16 Q. Yesterday I asked you some questions about your conversations with Mr Kilolo during
17 the period of time that you were testifying between (Redacted) and (Redacted). Do you
18 recall that?

19 A. Yes, I do remember.

20 Q. What I want to ask you about is what's shown here in this document at line 46
21 and -- rather, line 47. First I want to ask you if you recognize your phone number there?

22 A. Yes, I told you even yesterday that I acknowledge this to be my phone number. I
23 recognize it.

24 Q. In particular what I want to ask you about this call, as you can see it's dated (Redacted),
25 (Redacted) timed at 22:34:08 and it lasts for 2490 seconds. That's roughly 41 minutes.

1 And what I'd like to ask you is in this call that lasted about 41 minutes the night before you
2 testified what you discussed with Mr Kilolo?

3 A. Well, it will be quite difficult for me to tell you exactly what I discussed with Mr Kilolo.
4 I have already told you, however, that it is clear that we called each other, that we -- we talked
5 about a number of things. Sometimes I put questions to him. Sometimes he put questions
6 to me. We would discuss matters such as how did the testimony go, and he would ask me to
7 have a little more control, to be a little more -- we had discussions so to speak on the
8 testimony and touched a little bit here and there on what happened.

9 But if you ask me now to give you all the details today, it will be a little bit difficult
10 for me. I think that's -- that's what it is.

11 Q. All right. Well, I'm asking you not about while you were testifying but before you
12 actually started testifying. Does that help orient you in terms of what that conversation
13 entailed?

14 A. That call. Well, I'm sorry, I did not quite understand your question.

15 Q. This is a call that is immediately before you began your testimony in the Bemba trial.
16 So my question to you is does that help orient you as to what that conversation concerned?

17 A. Yes, but I think that the conversation was more about the testimony. He wanted
18 to -- to know, you know, because we did not have enough material time to meet each other
19 physically, so he -- it was about telling him about what I knew in relation -- you see, yeah, that
20 is it, I -- I was telling him ahead of time what I knew about the case. And that's more or less
21 what we discussed if -- if I do recollect properly.

22 PRESIDING JUDGE SCHMITT: Mr Vanderpuye, I think we -- it is not necessary to be now
23 in private session. You know, private session should protect the witness, but I think we have
24 also to look to transparency of the proceedings. So be mindful when you ask a question that
25 could put in danger, to put it this way, the identity of the witness that we then go of course

1 into private session, but we should not make it the rule. So we are going now into open
2 session I would suggest.

3 MR VANDERPUYE: Mr President, if I may just clarify something briefly?

4 PRESIDING JUDGE SCHMITT: Yes.

5 MR VANDERPUYE: The reason why it has to be in private session is pursuant to the
6 Chamber's ruling concerning the Rule 74 matters. So I just wanted to clarify that because to
7 the extent that it may involve a Rule 74 issue, I just wanted to be sure that if we're in open
8 session that it would be appropriate to proceed that way. But that's the reason why I've
9 asked to be in private session as opposed to a security interest or something like that.

10 PRESIDING JUDGE SCHMITT: Are there any views of the Defence in that respect because
11 this theme will occur nearly with every witness that we have?

12 MR KILENDA: (Interpretation) Thank you. Mr President, I think it might be more
13 appropriate for each party to indicate to the Chamber when they intend to call for closed
14 session. That would leave enough room for all the other parties to appreciate what is going
15 on, and then we will be able to uphold the principle of public hearings as well.

16 PRESIDING JUDGE SCHMITT: So no, this is a Presiding Judge that is also to be convinced
17 by the parties. So if we want to be, in principle to handle it in the future this way, that the
18 parties indicate if we go to private session or if we are in open session, then I would accept it
19 as far as possible. So you intend to continue in private session then I understand you?

20 MR VANDERPUYE: It is my intention, yes, Mr President.

21 PRESIDING JUDGE SCHMITT: Okay. Then we'll leave it this way.

22 Thank you very much, Mr Kilenda.

23 MR VANDERPUYE: Thank you, Mr President. We are in private session now, yes?

24 PRESIDING JUDGE SCHMITT: Yes.

25 MR VANDERPUYE: Okay. Thank you, Mr President.

1 Q. Do you recall discussing this 41 minute call or 40 minute call during the course of your
2 interview with the Prosecution?

3 A. Yes. I remember clearly that we spent a lot of time talking about these things. We
4 discussed what had been said. I do have a clear recollection, yes.

5 Q. Do you have a present recollection today about somebody by the name of Sambate?

6 A. Yes, I remember that name, Sambate.

7 Q. Did you discuss that individual with Mr Kilolo during this 41 minute conversation to
8 your recollection?

9 A. Yes. But I do not know whether it was exactly within the context of those 41 minutes
10 or during other calls. In any event, Mr Kilolo asked me whether I knew the composition of
11 the general staff of Bozizé, and so I started to explain things to him. That is what happened.

12 MR VANDERPUYE: If I could please have in eCourt CAR-OTP-0087-2486. Okay. It will
13 be the redacted version, so it has a suffix R01. That's at binder tab number 7 for your
14 Honours.

15 THE COURT OFFICER: There are two redacted versions, one ending with R01 and the other
16 one ending with R02. Which one would you have to have published?

17 MR VANDERPUYE: R01, please. Thank you.

18 Q. I think you can see the cover page of that document in front of you now. It refers to 18
19 December 2014 interview. And in this document I'd like to go to page 2518, and we'll take a
20 look at line 1213. Do you have the document in front of you now, Witness?

21 PRESIDING JUDGE SCHMITT: Please.

22 THE WITNESS: (Interpretation) I would like this other screen to be turned on so that I
23 can -- I can read properly. This one is to my left and I'm having difficulty with this.

24 MR VANDERPUYE:

25 Q. Just in the interest of time, I can read part of that into the record, which I think will help.

1 It says, D'accord -- this is the interviewer, questioning:
2 (Interpretation) "Yes. Now before we get to that, I would like you to tell me in 41 minutes ...
3 well, you talked about Mr Paul Sanze. What else did you talk about? Well, because ..."
4 And then you say: "Je veux que" and then it's incomprehensible (Interpretation) "I would
5 like ..."
6 And then you say: (Interpretation) "... what he knew. I explained. What he knew ..." he
7 explained -- "he told me," rather.
8 The interviewer asked: (Interpretation) "What did he tell you?"
9 Your answer: (Interpretation) "He told me ... he gave me the ... Sambate. He
10 talked to me about him. He talked to me about Sambate."
11 And the interviewer asked: (Interpretation) "What did he say about Sambate?"
12 And your answer: (Interpretation) "He said ..."
13 And you quote: (Interpretation) "Well, you know that Sambate was also ... and was in ...
14 and he was part of the general staff."
15 The interviewer acknowledges: "Mm-mm."
16 And you continue: (Interpretation) "Do you see it? Do you get it?"
17 The interviewer says: (Interpretation) "Why did he tell you that?" And he says,
18 (Interpretation) "I told you that ..."
19 And you interrupt: (Interpretation) "Well, I don't know."
20 The interviewer asked: (Interpretation) "I told you ... well, remember what we said
21 at the beginning: Why, when and how."
22 You answer: (Interpretation) "Yes."
23 And the interviewer says: (Interpretation) "Can I know why he told you" --
24 And he continues (overlapping speakers).
25 If we go over to the next page, please.

1 PRESIDING JUDGE SCHMITT: Mr Vanderpuye, we are not going to go through all the
2 transcript.

3 MR VANDERPUYE: No, no.

4 PRESIDING JUDGE SCHMITT: Please. So please move on and ask a question, please.

5 MR TAKU: Your Honours --

6 MR VANDERPUYE: I have one more line to read.

7 MR TAKU: Your Honour, with the greatest respect, I'm aware that you admonished the
8 Defence yesterday not to raise objections unnecessarily, but what I intend to say is necessary.

9 So if the witness can withdraw just for a minute, then I will -- I will bring to your attention my
10 concern about this process, the manner in which the Prosecutor is proceeding.

11 PRESIDING JUDGE SCHMITT: I will grant this for this time, but you see that this is of
12 course always a severe interruption of the interrogation or examining of a witness. So we
13 won't do that very often, but I will grant this to you. But I will really advise you and all of
14 the other parties in the room not to take too much of my indulgence in that respect.

15 So for the moment then we go into closed session, and the witness is going to be
16 escorted, and then you can raise your objection.

17 (Closed session at 2.26 p.m.)

18 THE COURT OFFICER: We're in closed session.

19 MR TAKU: Your Honours, my concern was about the presence of the witness here, if you
20 could.

21 (The witness stands down)

22 MR TAKU: Your Honours --

23 PRESIDING JUDGE SCHMITT: So please, Mr Taku.

24 MR TAKU: Yes, your Honour. I do not rise up lightly as far as this matter is concerned.

25 MR KILENDA: (Interpretation) Your Honour --

1 PRESIDING JUDGE SCHMITT: I was of the opinion that we had made this interruption
2 because Mr Taku wanted to make an objection. And who is now speaking?

3 THE INTERPRETER: Microphone, please. Microphone of the colleague speaking.

4 MR KILENDA: (Interpretation) We have a serious problem with the French transcript.

5 All the exchanges that have been here including those of the -- neither those of the present or
6 others have been put on the transcript.

7 PRESIDING JUDGE SCHMITT: This was a misunderstanding. Then we will try to fix this
8 first and then Mr Taku, it's your turn.

9 MR TAKU: May it please your Honours. I do not rise to interrupt the Prosecutor. The
10 Prosecutor could go on with his line of questioning. But there is something he had to do
11 before, he had to inform us and the Court and the parties that he's impeaching the credibility
12 of this witness and he could go ahead to read his prior statements or the statement transcript
13 to do so.

14 But to get the witness here without making the application that he's impeaching this witness
15 with some other inconsistent statement that he had made to the Prosecutor and just read this
16 into the record, your Honours, I think it may affect the integrity of the proceedings.
17 So he has first to say that he's impeaching his credibility with regard to the answers
18 he has given. Then he can proceed, your Honours. That's what I wanted to draw
19 your attention to.

20 PRESIDING JUDGE SCHMITT: Thank you.

21 Mr Vanderpuye.

22 MR VANDERPUYE: Thank you, Mr President. One, I'm not impeaching the witness. I
23 asked the witness specifically about a given name and whether he discussed it with Mr Kilolo.
24 He said he had discussed it with Mr Kilolo, and he said he wasn't sure if it was in the context
25 of the 41-minute conversation which was the context in which I had placed the question to

1 him.

2 I adduced the transcript, established that in the context of the 41-minute conversation

3 he had in fact discussed that name as he had testified to, which is not impeachment.

4 And the circumstances under which he mentioned that name are in the transcript.

5 So I don't see that my colleague's objection holds any water. It is not impeaching the witness.

6 It is simply refreshing the witness's recollection as to a matter in which he already testified.

7 PRESIDING JUDGE SCHMITT: The objection is --

8 MR TAKU: Your Honour, if he's refreshing -- trying to refresh the memory of the witness, he

9 has to make the application that: May the witness refresh his memory? And he could draw
10 his attention to the specific issue, the Court will know.

11 Now it is difficult to know whether he's actually impeaching the witness or refreshing
12 memory. We do not know. He's just reading the material from the witness statements
13 into the -- into the transcripts of these proceedings and it's rather confusing to me and my
14 colleagues, your Honours.

15 PRESIDING JUDGE SCHMITT: I do not see an impeachment at the moment, I do not see an
16 impeachment of the witness. And this Chamber is of the view that inconsistencies should be
17 and could be addressed in the courtroom. They Defence will also be granted this right when
18 they question the witness.

19 But I would caution the Prosecutor like I did before to at some point in time and very quickly
20 end this line of questioning and ask a question and simply address if this refreshes his
21 memory or not and then we wait for his answer and then we continue.

22 So we are still I think in closed session as obviously as the witness can be brought in
23 again.

24 (The witness enters the courtroom)

25 THE COURT OFFICER: The witness is back in the courtroom.

1 PRESIDING JUDGE SCHMITT: Then we go into private session.

2 (Private session at 2.33 p.m.)

3 THE COURT OFFICER: We are back in private session.

4 PRESIDING JUDGE SCHMITT: So, Mr Vanderpuye, we understand each other that we are
5 not entertaining a reading lesson here, reading exercise, to put it this way.

6 MR VANDERPUYE: Thank you very much, Mr President.

7 Q. Just to reorient you, Witness, before we broke I had read into the transcript a question
8 put to you by the investigator during the course of your interview which is why Mr Kilolo
9 had mentioned Sambate. At line 1233, which is the next line I was about to read to you, you
10 can see your answer there. Does that refresh your recollection as to the nature and the
11 conversation you had with Mr Kilolo in those 41 minutes the day before your testimony
12 concerning Mr Sambate?

13 A. I'm sorry, you started to speak and I didn't get the beginning of what you said. Please
14 excuse me. Could you state it again.

15 Q. Yes, sir. What I said was before we broke and you left the courtroom, we were talking
16 about your conversation with Mr Kilolo about Mr Sambate. And I had read into the record a
17 question put to you during the course of your interview on 18 December concerning that
18 conversation in the 41 minutes that you had the day before your testimony.

19 That question was: (Interpretation) "He said to you, he said to you why?"
20 Referring to Sambate.

21 Your answer at line 1223 of the transcript in front of you now reads: (Interpretation)

22 "Perhaps he told me so I could add to my testimony."

23 Do you remember having given that answer to that question?

24 A. Yes, I gave this answer. I'm the person who gave that answer. And he asked why.

25 And I said, "Perhaps, perhaps he told me that so that I would add to my testimony." That's it.

1 I remember it was me who said that.

2 Q. Did you testify to that during the course of your testimony? Did you testify about Mr
3 Sambate?

4 A. Which -- which testimony? Which statement?

5 Q. When you testified in the Bemba trial did you refer to Mr Sambate?

6 A. I'm -- no longer remember. The question was put to me about that. I don't think so.
7 But I don't remember exactly. That's it.

8 Q. Do you remember Mr Sambate's position?

9 A. I no longer remember well, but I think he was involved in operations.

10 Q. If I could -- if you could -- for the Chamber's benefit, if you could go to tab 22, and in the
11 French it's tab 25, page number in the transcript of the witness's English testimony is at page
12 (Redacted), line (Redacted) through (Redacted), and in the French it is page (Redacted), lines
13 (Redacted). The reference is (Redacted). Sorry, I've mistaken it; 01/08, not
14 01/13. Apologies.

15 Okay, I think we've got it up on the screen there. We have to go to page 30 please. And I
16 believe I said it was lines (Redacted) through (Redacted). Do you have that in front of the
17 screen now, Witness?

18 A. Yes.

19 Q. Would you like just for a moment to read it?

20 A. Of course.

21 Q. Have you had a chance to look at line 16?

22 A. Yes, that's my statement.

23 Q. Where did you get the information about Mr Sambate and his position?

24 A. Yes, when I had discussions with Maître Kilolo, I tried to speak about that and Sambate
25 was the coordinator of the chief of -- of the staff of Bozizé. So that was it.

1 Q. My question was where did you get that information about Sambate and his position?

2 A. Well, I'll tell you something, which perhaps I've never said. (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted). I know that

6 he was involved in aviation. Those were his studies. A bomber. The function that he held
7 in the staff -- well, I don't -- I'm not certain, but when I spoke to him, Mr Kilolo, he said he was
8 the coordinator of the -- of this general staff. And that's it.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted). That's it.

15 Q. Thank you, Witness. I want to ask you a couple of other questions. I asked you
16 yesterday about the number of occasions that you met with Mr Kilolo prior to your testimony
17 in the main case in the Bemba trial. During any of the meetings that you had with Mr Kilolo,
18 did he provide you with information which you ultimately testified about, such as events,
19 dates, places, troop movements, that sort of thing?

20 A. I don't know. I don't know. It seems funny because you said that I said that
21 everything was difficult. I'm an human being, but I know that there is some things. We
22 had some exchanges between us. For me, I think perhaps he wanted to see if I had sufficient
23 information. I'll give an example.

24 When we had discussions, we talked about the resistance at the front. And he asked
25 me a question, did you know Paul Sanze. And I said no. And I said no. And he

1 didn't insist on it. He didn't go into it further, but afterwards then I went to research
2 it to ask questions about him, to ask more about the events that took place. And
3 then people told me who Paul Sanze was. That's -- that's how it went.

4 Q. I'm going to repeat my question. Did he provide you with any information about
5 which you later testified; dates, places, events, troop movements?

6 A. Whether he gave the -- well, I've given you an example. That's a very banal example.
7 Perhaps that's not going to satisfy you, but he told me, for example, "Do you know Mr
8 Paul Sanze?" And I said, "I don't know Paul Sanze." And he didn't speak any more about it.
9 But it was afterwards myself, I went to ask other people, "Paul Sanze, who is he?" And then I
10 received information from others about him. "Don't you know Paul Sanze? He's a GP."
11 And this is what he's like, that's what he's like. That's the information I retained. It helped
12 me testify, to have -- to -- to go into more depth, to do some research on it. That's how it
13 went.

14 Q. All right. We'll leave that alone.
15 During the Bemba trial you testified at (Redacted), that
16 you were a soldier and you served within the army of your own country. Do you
17 recall giving that testimony?

18 A. Yes, I said that.

19 Q. Can you tell the Chamber whether that was true? I take it not given your prior
20 testimony, but please let the Chamber know for the record in this case.

21 A. Well, I think in the introduction I told you.

22 PRESIDING JUDGE SCHMITT: I think he has said this yesterday.

23 MR DJUNGA: (Interpretation) Your Honour, if you would allow me. You said at the
24 start of the hearing that we weren't here to analyse the false declarations with regards to the
25 main case. So I see here that now we're going back to the main case and that puts me very ill

1 at ease. Thank you very much, your Honour.

2 PRESIDING JUDGE SCHMITT: I remind you that I said that - and that is of course true,
3 what you are saying, we are not relitigating the main case - none of the statements that have
4 been given relating to the main case, to the merits of the main case to be precise, will be
5 considered with regard to their truth or falsity. So this is perfectly clear.

6 We made a little reservation insofar, but not in the substance that we also said that
7 what can of course be discussed in this courtroom is if coaching, preparation of a
8 witness, however you would call it, has resulted in a certain content of a testimony,
9 regardless of the truth or falsity. This is the line that we are going to draw and this is
10 the line that this Chamber will stick to. I assure you that.

11 MR VANDERPUYE: Thank you, Mr President.

12 Q. I think we also went over yesterday your statement concerning your knowledge of
13 (Redacted)

14 (Redacted). Do you recall giving that evidence yesterday?

15 A. I never spoke to him. That means --

16 Q. That you testified to in the Bemba trial. Do you recall giving that testimony?

17 A. Yes, in the Bemba trial I said I didn't know him. I had a sufficient amount of lack of
18 knowledge about that person.

19 Q. You testified in the main case with respect to a question that was put to you about
20 whether you received any payment or offer of payment in exchange for your testimony. You
21 said no.

22 For the record and for the benefit of the Chamber that's at binder tab 24, the English transcript
23 is there. (Redacted)

24 (Redacted)

25 Do you recall giving that evidence in the Bemba trial?

1 A. You're asking me the question?

2 Q. Indeed I am.

3 A. Could you come back to it, please?

4 Q. You want to see it in the transcript? Transcript reference is, in the French, transcript
5 (Redacted).

6 A. Of course. Yes, I'm the person who said that.

7 Q. Okay. Did you discuss with Mr Kilolo what to say if you were asked about anything
8 that he may have given you during the course of your testimony? Did you discuss that with
9 him prior to your testimony?

10 A. Whether I had discussions with him? For me, what he gave me, well, it's normal, it's
11 normal. In the African way, you find a brother -- excuse me, when you find a brother, when
12 you give a gift, it's like a family. It wasn't a promise for corruption. Well, he gave me \$100,
13 but he said this isn't bribery. And for me it was normal because this type of culture that we
14 have, in this culture, you have to take into account this cultural aspect.

15 In Africa you can ask your brother, he can give you 100, 200, \$300 and it's like a gift.

16 And it's very difficult in Europe and when somebody gives you something, you don't
17 immediately think that it's bribery. So on the -- it's just -- it's being well behaved, it's
18 being -- I don't know, I don't know exactly, but corruption, whatever, but it's a
19 promise.

20 I said for myself, for example, myself, you'd have to corrupt me with a lot of money. But the
21 rules, ethnic rules, the systems, the circuits or the planning, legal planning, I don't have
22 information on that.

23 Prosecutor, that's all that I can say about that. If that's not sufficient, perhaps you can ask me
24 the question, I'll come back to it.

25 Q. Did Mr Kilolo ever tell you not to reveal during your testimony that he had given you

1 anything?

2 A. This is a difficult question because, well, I think I took time to explain. Well, no. But
3 when somebody asks you a question, if you receive something, because when he gave me
4 \$100, he said that it wasn't in response. It wasn't in exchange for the testimony so that
5 afterwards, but did I say to him, well, I don't know if he said anything like that, then I don't
6 know.

7 Now, why do -- this time I want to be a bit careful to not give an answer which I can't
8 give for the pleasure of giving it. So I took some time before speaking in order to
9 speak. Now, my understanding, how I'm just judging things, but you're the
10 professional. You, you can see, you can decide if it's like this or like that. I don't
11 remember if somebody particularly said: If somebody asks you a question about
12 this, you have to say this.

13 What he said -- what he said to say concerning these, well, I said that. He asked me
14 a question about that, and I said it like this. And we discussed it like that. And
15 that's why I have to start and then restart going through everything. So that's all that
16 I can say. Unless I said something or maybe I forgot something. Thank you.

17 Q. Let me see if I can refresh your recollection then, Witness.

18 If we could have CAR-OTP-0087-2521. That's binder tab 8 for the Chamber.

19 And again it refers to your 18 December interview 2014. As soon as that's up we'll need to
20 go to page 2529 and then we'll take a look at line 281 of the transcript of that interview.

21 THE COURT OFFICER: Which version would you like to have published? R01 or R02?

22 MR VANDERPUYE: R01, please. Thank you. I apologise.

23 Q. Let me direct your attention to line 281. Does that refresh your recollection as to what
24 Mr Kilolo discussed with you concerning any money or objects he may have given you prior
25 to your testimony and in the context of giving that testimony?

1 A. Well, I think that it's -- unless you contradict me, but it's pretty much the same answer
2 that I give. He said to me: "What I'm giving you it's not recommended. It's not an official
3 gift, but I'm doing it on my behalf by love. This is something I'm doing, just like that."
4 I'm trying to interpret my answer because it's my statement. You don't give me things to do
5 it officially, but these are things that -- well, I'm giving it you myself. It's not something to
6 say during the testimony that I'm making a gift and I just give it to you.

7 That's it. He made a difference. He said, "When the Court gives you its money, that's
8 another thing, but when I give you something personally, that's between you and me."
9 And that's how I interpret it, unless I'm not very clear.

10 But that's what I said.

11 Q. What you said was: (Interpretation) "But one should never make a mistake. One
12 should never make the mistake of saying" --

13 PRESIDING JUDGE SCHMITT: Mr Vanderpuye, I think the witness has answered the
14 question. He had the chance to read 281 until 283. And I think you should move on now.

15 MR VANDERPUYE: Yes, Mr President. The trouble is what he read isn't in the record of
16 the proceedings. I can tender the statement later if need be, but it's not actually in the record.

17 PRESIDING JUDGE SCHMITT: But I understood that he has it on the monitor.

18 MR VANDERPUYE: He does. But what he's looking at or what it says is not in the record
19 of the proceedings is the issue. But I'm happy to tender the statement as well or that part of
20 the statement if the Chamber will entertain that. But that's the reason why I'm reading it into
21 the record.

22 PRESIDING JUDGE SCHMITT: No, we don't -- as I said, we don't read these transcripts
23 through. We don't, as I said, no, we do not make reading exercises.

24 MR VANDERPUYE: Thank you, Mr President.

25 Q. There is just a couple of things I wanted to clarify with you, Mr Witness, before I'm done.

1 Yesterday I asked you about this statement of limited use. Do you remember that, the
2 agreement that you signed on 17 December 2014 concerning the circumstances under which
3 you were interviewed? Do you remember that?

4 A. Yes.

5 Q. And I just want to -- I just want to clarify with you if it was your understanding that that
6 agreement also covered the statement that you made later on in March 2015?

7 A. Of course.

8 Q. Then there are just a couple of things I'd like to see if we can get clarified. You testified
9 in the Bemba case between (Redacted), and what I would like to do or see if we
10 can do is to get approximate dates concerning your interactions with Mr Kilolo prior to that
11 date. Yes? So can you approximate for us when was it you last saw Mr Kilolo before you
12 testified beginning on (Redacted)?

13 A. I believe it was the day before, or before that. I'm not really specific on that. But the
14 last time I saw him was when I met him. I went to meet him at the hotel. He was not alone.
15 There were two of them, two of them with another individual. I think it's Maître Kabongo
16 whose -- you know, he's got a lighter skin, well, in African terminology of course, brown skin.
17 And he came -- they came to take my statement. And I think that from the day when he left,
18 we no longer saw each other again, unless I'm mistaken.

19 We didn't see each other again. And after the testimony, well, not at all. But I took
20 the initiative to call him, and he would say, "Well, I'm busy, but as soon as I'm
21 finished with what I'm doing, I'll call you back."

22 And on one occasion I called him and he called me back saying that he was travelling
23 and he said, "I'm going to Africa." He didn't say where specifically he was going,
24 and he said that upon his return he would call me back.

25 And a while later I heard on the news that he had been arrested. And to date, well,

1 we have not had any further communication and we have not seen each other again.

2 There we are.

3 Q. Before you testified, can you estimate about how much -- how long before you testified
4 was it that Mr Kilolo gave you the envelope with money in it that you testified about
5 yesterday, just approximately? Weeks? A month? If you can give the Chamber some
6 idea.

7 A. Well, less than a week.

8 Q. And how long before you testified would you say that it was before -- how long was it
9 before you testified that Mr Kilolo gave you the laptop computer that you testified about
10 yesterday, more or less?

11 A. I believe it was in the same period, in the same week. The same period or the same day.
12 You know, I can't really remember correctly.

13 Q. How long was it before your testimony would you say approximately was it before
14 you -- since you met the general. You've mentioned a French general yesterday who you
15 met. How long was that before your testimony about?

16 A. Well, that was the second meeting, so it might have been one or two months, or two or
17 three months. That was the second meeting with Maître Kilolo just before the first meeting
18 with that lady, and the second meeting was with the general in a hotel.

19 So between then and the first meeting -- well, they were closer together, and then
20 from then until the trial, it was a lengthier period.

21 Q. And about how long before that second meeting did you meet Mr Kilolo, if you can
22 estimate? That was the time that he gave you -- I think you said it was about \$100 for your
23 taxi fare.

24 A. Yes, that was the first meeting.

25 Q. Do you remember when that was approximately, what month in 2013, if it was 2013?

- 1 A. Ooph, must have been the end of 2012 or the beginning of 2013. You know, that's
2 difficult, that's difficult. But I know that (Redacted) approaching me I think was at the
3 beginning of 2013, maybe the end of 2012, beginning of 2013. It's difficult. And I do want
4 to refrain from giving dates without being able to prove anything.
- 5 Q. How many times did you contact Mr Kilolo on the telephone following your testimony,
6 if you can estimate?
- 7 A. After the statement, (Redacted), is that what you mean?
- 8 Q. After your testimony in (Redacted); that's right, (Redacted) on.
- 9 A. Well, I was attempting -- I don't know how many times, but it wasn't just the once. I
10 was trying to enter into contact with him. But as to the number of times, I can't provide you
11 with an estimation, but it is sure that it was not just on the one occasion.
- 12 Q. All right. It was more than one occasion. Was it more than one and less than 10, less
13 than 20, less than 30? Can you give the Chamber some idea of how many times you were in
14 contact with Mr Kilolo or attempted to contact Mr Kilolo following your testimony?
- 15 A. Well, that's what I said. I said how many time? Well, it can't be more than 10 times,
16 you know, the attempted calls. What I do remember is the last call I made where I told you
17 that he was travelling and that upon his return to Europe he would be able to call you. And
18 after that we were no longer in contact. But I told you that from time to time when I had
19 credit, I would call him and he would say, "Well, how are your kids?" and that's all.
20 But I didn't think that one day I would find myself in a position that I would have to
21 take down the date and the time that I was calling. You know, that was just a call
22 that one makes to somebody. And that's how it was.
- 23 MR VANDERPUYE: If I could just --
- 24 PRESIDING JUDGE SCHMITT: Mr Vanderpuye, may I remind you of the time issue.
- 25 MR VANDERPUYE: I have -- yes, Mr President.

1 PRESIDING JUDGE SCHMITT: I will not stop you immediately of course because this
2 would not be very polite, but please be aware that not only our time is limited, but also your
3 time with regard to the questioning of this witness.

4 MR VANDERPUYE: Thank you very much, Mr President. I'm basically on my last topic,
5 hopefully my last couple of questions.

6 If we could have in eCourt please CAR-OTP-0090-0630. That's behind tab 40 of your
7 Honours' binders. And for your Honours' benefit, I'm going to take the witness to
8 first page ending 685, 0685, as you can see is the call sequence tables that was referred
9 to previously. So if we can go first to page 0685.

10 Q. Witness, here you can see a reference to your name and to the number that you
11 previously indicated, both of them, (Redacted) and (Redacted), that you referred to earlier in
12 your testimony. Do you see that, sir?

13 A. Yes, I can see it.

14 Q. Okay. Now I'd like to take us to ERN ending 689, please. At the bottom of that page
15 you can see an indication of when your testimony finished, beginning (Redacted).

16 I'd like now to go to the next page please. Do you see on this page your telephone number
17 ending (Redacted) and the other number ending (Redacted)?

18 A. Mm-hmm.

19 Q. You have to answer using words so it's recorded properly in the record please, Mr
20 Witness.

21 A. Yes, I've seen it. These are my numbers.

22 Q. We go to the next page please, 691. Do you recognize your numbers on this page or at
23 least (Redacted)?

24 A. Yes. These are my numbers, yes.

25 Q. Go to the next page, please. Page ending 692. Do you see your numbers on this page,

1 sir, (Redacted)?

2 A. Of course.

3 Q. Can we go to page ending 0693, please. Same question, do you see your numbers on
4 this page, sir?

5 A. Of course.

6 Q. There are two other pages that I would refer you to, but my question ultimately is this:
7 Does this more or less reflect the number of times you were either in communication with
8 Mr Kilolo or attempted to communicate with Mr Kilolo following your testimony in the
9 Bemba trial?

10 A. Yes. As I said, I attempted to communicate with him. If these are true lists from the
11 telecommunications companies -- well, I didn't say I hadn't made any calls. Sometimes two,
12 three, four, five days in a row I would call him. Sometimes I would land on his -- I would
13 reach his answering machine. And yes, it does correspond well.

14 Q. All right. Thank you very much, Witness.

15 MR VANDERPUYE: Mr President, thank you for your indulgence. That concludes my
16 direct examination.

17 PRESIDING JUDGE SCHMITT: Thank you.

18 Then we can go into the examination by the Defence. I assume that we start with the
19 Defence of Mr Kilolo.

20 MR DJUNGA: (Interpretation) Yes, indeed, Mr President. With your leave, Mr President,
21 I need to set up shop. We do not have quite enough space here.

22 PRESIDING JUDGE SCHMITT: We have also to arrange ourselves here with the binders
23 and everything. Take your time. I said we have also problems to arrange ourselves so
24 please take your time.

25 MR DJUNGA: (Interpretation) Thank you, Mr President.

1 QUESTIONED BY MR DJUNGA: (Interpretation)

2 Q. Witness, good afternoon.

3 A. Good afternoon.

4 Q. You will recall that we met in this very same building during the familiarisation process
5 organised by the Registry. And in view of the context, I would need to specify that it was in
6 the presence of the members of the VWU unit?

7 A. Indeed.

8 MR DJUNGA: (Interpretation) Mr President, before doing anything, I would like to say
9 quite how grateful me and my learned colleagues are here before you for having given the
10 Defence team of Maître Kilolo the indulgence notably to exceed the two-hour time-lapse. So
11 this is notably within the consultation process within the various Defence teams that we were
12 able to solve these issues.

13 Q. Now to come back to the witness. I'm going to introduce myself again. As I just said
14 we've already met previously. And in this previous meeting, I was in the company of
15 co-counsel Maître Steven Powles and also with our case manager, Leuka Grogga, and myself,
16 Maître Paul Djunga, lead counsel for Maître Kilolo.

17 I'm going to be putting a number of questions to you. It might be laborious because
18 I'm going to be repeating myself, but you will understand that this is for the
19 establishment of the truth, and you are the first witness to be testifying, which is
20 enabling us to enter into the crux of the matter.

21 Have no fear, we will not call into question some information that is known to us and
22 is contained in the statements that you have made to the Prosecution. You said, for
23 example, and you stated to the Prosecution in your --

24 PRESIDING JUDGE SCHMITT: Maître Djunga, just one moment.

25 MR DJUNGA: (Overlapping speakers)

1 PRESIDING JUDGE SCHMITT: Just one question. Private session?

2 MR DJUNGA: (Interpretation) No, we do not need private session for the time being.

3 THE INTERPRETER: Message from the English interpreter: Could counsel please observe
4 the pause between his question and the witness's answer. Otherwise there will be
5 overlapping speakers and this will affect the interpretation and the transcript. I thank you
6 very much in advance.

7 (Open session at 3.21 p.m.)

8 THE COURT OFFICER: We are now in open session.

9 Mr Djunga, could you please slow down when you are questioning the witness.

10 Thank you very much.

11 MR DJUNGA: (Interpretation) I thank you, Mr President. Of course I will make an effort
12 in order to observe the famous or infamous 5-second rule. It's not an easy thing to do, but I
13 will make an effort, and my learned colleagues will be able to stop me. It is true that I do
14 speak rather rapidly.

15 Q. Now, Mr Witness, we're not going to call into question a number of statements that you
16 made to the Office of the Prosecutor during your meetings in (Redacted). You, for example,
17 said as follows, and I quote -- and this is for the Chamber, this is tab 35, CAR-OTP-0087-2521,
18 pages 25 to 28, lines 238.

19 And you said as follows: "I do not know whether Maître Kilolo knew whether I was
20 a soldier."

21 THE INTERPRETER: The interpreter does not yet have the statement on the screen.

22 MR DJUNGA:

23 Q. Is that not the truth?

24 A. Yes, that is what I said. I wanted to give a brief explanation in this regard, and I can
25 confirm that this is indeed my statement.

1 Why? Because from a personal standpoint, I did not know. The person who knew
2 whether I was a soldier or not was (Redacted). I did not know whether (Redacted)
3 and he had talked. I did not know whether he knew that I was a soldier or not.
4 That is my statement.

5 MR DJUNGA: (Interpretation) With your leave, Mr President, I would like to agree with
6 the witness on one thing. What I'm trying to avoid is that we interrupt proceedings
7 constantly. He -- maybe we could agree on a code name to designate a certain individual,
8 because it will be difficult on every occasion to go into private session. When you talk about
9 Mr Bosco, for example -- maybe we should go into private session. Maybe we should agree
10 on this fact.

11 PRESIDING JUDGE SCHMITT: I have no objections against -- I have no objection against
12 this proceeding.

13 MR DJUNGA: (Interpretation) Thank you, Mr President. With your leave, maybe we
14 might move into private session for us to agree on this code with the witness?

15 PRESIDING JUDGE SCHMITT: Yes. We go into private session for this short moment.
16 (Private session at 3.24 p.m.)

17 THE COURT OFFICER: We are in private session, Mr President.

18 PRESIDING JUDGE SCHMITT: Please proceed.

19 MR DJUNGA: (Interpretation)

20 Q. I believe that a name will be returning constantly. That is (Redacted). And I saw in
21 the statements that you called him (Redacted). I don't know whether there is any other
22 nickname that might be convenient to you in order not to provide his name, because
23 otherwise we're going to be going in and out of open and private session and it will be
24 difficult for us to thread our ideas together subsequently as you said yesterday indeed.

25 A. It wasn't -- well, it's not up to me or -- it's up to the President to give me a name and

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1 then I shall follow that.

2 Q. Well, maybe we should call him Bob Karma or Bob Karm. Would you agree with that?

3 A. Yes, that's fine by me, Bob.

4 MR DJUNGA: (Interpretation) Mr President, thank you. And we might move back into
5 open session please.

6 PRESIDING JUDGE SCHMITT: Open session then.

7 (Open session at 3.25 p.m.)

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

9 MR DJUNGA: (Interpretation)

10 Q. Mr Witness, I have another statement before me that you made, that's

11 CAR-OTP-0087-2525, pages 25 to 28, lines 238. That's under tab 35.

12 THE INTERPRETER: At the speed of light.

13 MR DJUNGA:

14 Q. And you said and I quote: "I have to be frank with you. For Maître Kilolo, he was
15 standing before a soldier who had lived through this." Did you say the truth at that moment
16 in time?

17 A. Yes, that is my statement.

18 Q. You also stated -- and this is still with regard to the very same references, tab 35 for the
19 Chamber, CAR-OTP-0087-2521, pages 25 to 28, lines 253 to 254.

20 "No. For him I was the master of the situation or I had the knowledge."

21 Witness, were you telling the truth? You were, weren't you? You said the truth once again,
22 did you not?

23 A. Could you come back to that, please?

24 Q. This is in your statement. You said as follows: "No. As far as he was concerned, I
25 had the knowledge."

1 A. Could I see the statement, please?

2 MR DJUNGA: Maybe this could be brought up on the screen.

3 But, Mr President, I would like it say that we had a lot of technical issues, and we also
4 addressed an email to the Chamber with regard to the bringing up of documents on
5 the screen. And maybe I might come back to this as soon as it's ready, because of
6 course I'm going to have to move forward.

7 THE INTERPRETER: Message from the English interpreter: Could counsel please be
8 requested to slow down.

9 PRESIDING JUDGE SCHMITT: I think this problem is going to be solved, and it's perfectly
10 clear that when we have a proceeding which largely depends on documentary evidence
11 which is presented electronically, that not everything can function immediately and for
12 100 percent. Perhaps the witness could confirm if his former statement, which the counsel is
13 referring to, is now on his monitor, and then we can proceed.

14 THE COURT OFFICER: The document CAR-OTP-0087-2551 at page 2528 is now available
15 on your screen.

16 PRESIDING JUDGE SCHMITT: So please, Mr Djunga, continue.

17 MR DJUNGA: (Interpretation)

18 Q. So, Mr Witness, you said the truth at the time?

19 A. Please come back to that question.

20 Q. You said during your discussion with Maître Kilolo that you were a soldier. Is that the
21 truth?

22 A. Of course.

23 MR DJUNGA: (Interpretation) Mr President, I will be using a number of soundtracks.

24 I'm going to request that we move into private session. The first is going to take 5 minutes.

25 And for the others, we can listen to them in open session, D21-0006-022.

- 1 If we might move into private session --
- 2 PRESIDING JUDGE SCHMITT: Agreed we go to private --
- 3 MR DJUNGA: (Interpretation) -- for the first.
- 4 PRESIDING JUDGE SCHMITT: -- session for this audio.
- 5 THE INTERPRETER: Overlapping speakers.
- 6 (Private session at 3.31 p.m.)
- 7 THE COURT OFFICER: We're in private session.
- 8 THE INTERPRETER: Message from the English booth: The interpreters would have had to
- 9 receive the transcript prior in order to provide services for this kind of recording.
- 10 (Playing of the audio excerpt)
- 11 THE INTERPRETER: The interpreters would like guidance from the Chamber, please.
- 12 PRESIDING JUDGE SCHMITT: We don't have any interpretation at the moment, I think, so
- 13 we have to interrupt here for a moment and we probably will have to restart it. The
- 14 interpreters told me that they are not able to follow this without further having known what
- 15 you are going to play here.
- 16 (Playing of the audio excerpt)
- 17 (Pause in proceedings)
- 18 PRESIDING JUDGE SCHMITT: Excuse all parties and participants for the delay. I have to
- 19 excuse the Chamber for the delay, but this is a practical problem that has to be solved, and it's
- 20 obviously so that the interpreters do not, what I can understand, do not translate audios
- 21 without being provided with the transcript.
- 22 And as I have heard and I'm being informed, there is the French transcript in the
- 23 binder. So what we are going to do is we will provide -- one solution would be that
- 24 Maître Djunga comes back tomorrow with his questioning. But I understand that he
- 25 has his line of questioning, so perhaps better for the Defence would be to provide

1 now the interpreters with the -- if that's okay? Yes, I see this.

2 THE INTERPRETER: Thank you very much, your Honour.

3 PRESIDING JUDGE SCHMITT: Provide with the transcript and then we continue.

4 How long will that take until we continue? Should we make a break for 5 minutes or for 1
5 minute so then we provide the interpreters with the transcript and then, Maître Djunga, you
6 can continue.

7 So perhaps when such -- when for -- for everybody, also Mr Vanderpuye, when such
8 an issue again arises, please keep in mind that for audios and videos you -- we have
9 to provide the interpreters with the transcript so that they can translate it into the
10 respective languages.

11 MR VANDERPUYE: Thank you, Mr President. I was just wondering if there is an extra
12 copy of the transcript that we can look at and we can see. I'm not sure, I don't think we
13 received one. But if you have an extra copy, I would appreciate it. Thanks.

14 Thank you, Mr President. I don't want to nitpick, but I'm not so sure that this is an
15 actual transcript, a verbatim transcript of the tape. So I was wondering if Maître
16 Djunga could perhaps enlighten us as to whether that is the case because if it's not the
17 case then the problem still obtains.

18 PRESIDING JUDGE SCHMITT: Okay. Yes.

19 MR DJUNGA: (Interpretation) Your Honour, indeed, as we were saying, this is a
20 transcription, a verbatim transcript of evidence which was made during the first meeting with
21 the witness and Aimé Kilolo. And if I could say one thing, it is true that that's an incident,
22 but we've already had to inform the Chamber four to five days ago of the difficulties we've
23 had in order to play this audio element. It seems, according to the technicians, that the
24 evidence was quite voluminous and that the support was not able to deal with it. And the
25 solution, the palliative solution which was made was to use our own USB key. That was

1 proposed yesterday evening to us. And so we've come here today, five minutes before, in
2 order to be able to resolve this issue with the technicians. I'm sorry.

3 PRESIDING JUDGE SCHMITT: (Overlapping speakers)... but we are speaking to the
4 transcript of the audio recording or don't we?

5 MR DJUNGA: (Interpretation) Absolutely, your Honour.

6 PRESIDING JUDGE SCHMITT: Are you satisfied with this explanation?

7 MR VANDERPUYE: Yes, Mr President. We'll see as we go.

8 PRESIDING JUDGE SCHMITT: Okay.

9 MR VANDERPUYE: Thank you.

10 PRESIDING JUDGE SCHMITT: So please proceed.

11 So I think we can give it another try then with the audio recording.

12 MR DJUNGA: (Interpretation) Thank you, your Honour. Yes, if we could play the first
13 extract once again please.

14 (Playing of the audio excerpt)

15 THE INTERPRETER: "Hello.

16 Could you introduce yourself and state your name and current application, your status?

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 MR DJUNGA: (Interpretation) Thank you, your Honour. The other recordings can be
14 shown in public.

15 PRESIDING JUDGE SCHMITT: Okay.

16 (Open session at 3.43 p.m.)

17 THE COURT OFFICER: We are in open session.

18 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

19 MR VANDERPUYE: Thank you, Mr President. I'm sorry, I'm sorry to interrupt. I did just
20 want to note that I was following the transcript as I was listening to it in French, and it is not a
21 verbatim transcript of the recording. It's more or less what the witness is saying and more or
22 less what Mr Kilolo was saying, but it is not verbatim. In fact, in the last question, or the next
23 to last question, Mr Kilolo interrupts the witness with a question, which the witness then
24 answers, which isn't recorded in the transcript. Fundamentally, it's more or less the same,
25 but I just want the record to reflect that it is not verbatim.

1 PRESIDING JUDGE SCHMITT: That is fair.

2 And I think we have a French speaking colleague and also the Presiding Judge of this
3 Chamber has of course noted that. And that's fair for the record to put it into it, yes.

4 MR DJUNGA: (Interpretation) Your Honour, so this is done subject to the control of the
5 translators who translated this evidence, it's true that the version is different in the French or
6 English version, but what I was saying, your Honour, if we could go into open session to hear
7 the next part of the recording.

8 THE COURT OFFICER: We are already in open session, Mr Djunga.
9 (Playing of the audio excerpt)

10 THE INTERPRETER: "For missions like that that's it.

11 And at that time were you in the FACA ranks or the Presidential Guard?

12 No, I was in the FACA. I never served with the presidential security, but I was in
13 the FACA ranks.

14 Now we're going to speak very briefly about 2001. Did you know when the troops
15 of the MLC arrived in Bangui for the first time?

16 Well, all of us we were under house arrest because we had to prepare for the mother's
17 day. I think that was it. Mother's day is what we'd called. And we were
18 surprised by a coup d'état. We didn't know the origins of it. It was claimed later by
19 a general who is no longer alive, General André Kolimba who was the former
20 president. So it was claimed by him afterwards. The situation was confusing. At
21 that time I was in service. It was confused. We were all blocked. We were stuck.
22 We were told that the president wasn't there, he had been hit, he had died. And it
23 was the chief of staff who told us, 'No, there was nothing. This situation is under
24 control. It's calm. You're going to receive friends who will come to help you.' We
25 didn't know where these friends would come from, but he said, 'You're going to

1 receive friends who are going to come to help you.'

2 Question: Who told you that exactly?

3 Answer: The chief of staff himself.

4 Question: Who was that?

5 Answer: Current President François Bozizé Yaguvunda.

6 Very well. And then what happened afterwards?

7 Answer: Well, around -- well, me personally, I was sent to the -- the centre, Port
8 Beach. If you would allow me to tell you about this. We went to -- you arrived at
9 roundabout zero, you're going down the road as if you are going to Ouango. And
10 that's where they crossed over. We were told that they couldn't meet them from on
11 the other side, they had to go through downtown because on the other side from
12 Petevo there were mutineers. And on the other side from Ouango there were also
13 mutineers. So the only road which was -- we could take was downtown because we
14 had control over that part.

15 Now, when they arrived it was the Central Africans who had gone there, the army,
16 you can understand that. So we exchanged arms and we had weapons which came
17 from Libya at the time and we received arms. But they were -- we were missing men
18 because the army was divided up. So we had a problem with men. And when they
19 came they helped and they tried to take control of the situation and the rest is up to
20 the hierarchy to deal with.

21 Question: And when they were deployed on the ground, do you know where they
22 got their instructions from? Combat orders from?

23 Well, they received orders for Central African officers. They had just crossed over to
24 us and they didn't know about the layout of the town. They had problems moving
25 about. So we mixed the troops up, the sections, if I could call it, call it that. And so

1 each section was under the command of a Central African army commander. So
2 every section was commanded by Central African officers, and they had control of the
3 town or the orders were given by the chief of staff. Nobody could move or even piss
4 unless he approved that.

5 Question: Which chief of staff are you talking about?

6 Answer: Current President François Bozizé.

7 Question: What you're saying are these events that you personally experienced?

8 Answer: I experienced these events myself and with a lot of emotion.

9 Question: And were you also deployed in 2002?

10 Answer: Well, if you allow me to tell you, I was away from my family for about two
11 weeks where I didn't see my wife.

12 And 'til today, we separated and I'm married again. And that hurts.

13 Question: In 2001, were you mixed yourself, were you mixed to MLC soldiers?

14 Answer: Yes, they were friends who arrived in 2001 to help us. They weren't our
15 enemies at the time. We moved about together. In 2001, we carried out manoeuvres
16 together. In 2001, it was just to stop the advance of the putschists and carry out
17 negotiations and that's what was done.

18 Question: Concretely, in order to be able to visualize what you are saying, are you
19 able to give us precise examples of, concrete examples of a section commander you
20 remember who commanded MLC troops?

21 So how many soldiers were there in a section at the time in 2001?

22 Answer: In 2001? Well, it wasn't like regular forces.

23 Listen, as it is in the army, where there is a figure for each section, well, we were
24 saying for example 25, go with that one, 15, with that one. Sometimes it was a chief
25 warrant officer. Sometimes people went with a sergeant. That's the way it was.

1 Question: And so the sections that were mixed, do you know what the ratio was?

2 Were there more Congolese? Were there more Central Africans among the troops?

3 Answer: Well, there were others, there were others for the Congolese. If we take,
4 for example, 10 DRC soldiers and 15 Central Africans, in others, for example, you can
5 take 20 of each. But there was never a team where you had 20 Congolese persons
6 and 5 Central Africans. That, there wasn't. It was either more Central Africans or
7 an equal number on both sides."

8 MR DJUNGA: (Interpretation) Your Honour, it's true that we still have 10 minutes to listen
9 to, but we have another problem, I'm sorry. In fact, you can't see the sequence of minutes for
10 the extracts as we have envisaged them. There is a problem with regard to the screen, and
11 it's important for us with regards to what's been said, you know. So we're going to propose
12 the following, your Honour, to make it possible to do things properly. I can see that the time
13 is advancing We can organise ourselves with the technical services in order to get the right
14 sequence for the remaining 10 minutes tomorrow morning.

15 PRESIDING JUDGE SCHMITT: Yes, of course, this is a reasonable proposal. Yes, I suggest
16 then that we conclude the hearing for today and resume tomorrow morning if there is not any
17 complaint by Mr Gosnell. But I'm of course prepared to listen to you, Mr Gosnell, first.

18 MR GOSNELL: Well, Mr President, as there are 5 minutes remaining before the appointed
19 hour, I thought I would just add one point for the record, because the last comment in respect
20 of the nature of the interpretation by my learned friend opposite was that the hard copy,
21 what's written down is indeed not an exact verbatim transcript. I was listening to the
22 English as it was being translated, and it appeared to me that the interpreters were doing a
23 verbatim interpretation. But perhaps they could confirm that for the record.

24 PRESIDING JUDGE SCHMITT: This is of course something that the interpreters can only
25 confirm and not the Presiding Judge.

1 THE INTERPRETER: Your Honour, given the quality of the audio recording with
2 considerable background noise and given the fact that the transcript was not verbatim, I was
3 unable to read out or to translate the written transcript because it did not correspond with the
4 audio that I was hearing.

5 As such, I did my best to render in as fullest form as possible the original recording.

6 But as you will have heard with considerable background noise and overlapping
7 speakers, there may well be certain omissions or errors, your Honour.

8 PRESIDING JUDGE SCHMITT: I think this is a very useful information for the record, and
9 I'm happy that you raised the question, and also that Mr Vanderpuye raised the question after
10 the first, we heard the first audio recording. And of course the Chamber has, I think my
11 colleague Perrin de Brichambaut and me, we have listened to the original audio recording,
12 and we noted of course that the transcript is not a 100 percent transcript of what we have
13 heard on the audio recording.

14 So this concludes the hearing for today. We hope very much that the technical
15 problems can be solved until tomorrow. And then we resume the hearing tomorrow
16 at 9.30.

17 Thank you very much, especially today, I do not do it every day, because this gets
18 sort of to be used up, a compliment, but since this was again a very difficult day for
19 the interpreters, thank you very much for today.

20 THE COURT USHER: All rise.

21 (The hearing ends in open session at 3.57 p.m.)

22 RECLASSIFICATION REPORT

23 Pursuant to Trial Chamber VII's instructions, ICC-01/05-01/13-1209, dated 2
24 September 2015, this lesser redacted public version of the transcript is filed in the
25 record of the case.