

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1 International Criminal Court
2 Trial Chamber VII - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba,
5 Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido
6 ICC-01/05-01/13
7 Presiding Judge Bertram Schmitt, Judge Marc Perrin de Brichambaut and
8 Judge Raul Pangalangan
9 Trial Hearing
10 Friday, 30 October 2015
11 (The hearing starts in private session at 9.33 a.m.)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 2 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 3 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 4 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Recess taken at 9.47 a.m.)
- 22 (Upon resuming in private session at 10.08 a.m.)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 6 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 7 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 8 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 9 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 10 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 11 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 12 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 13 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 14 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 15 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 16 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 17 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 18 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 19 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 20 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 21 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 22 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 23 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 24 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 25 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 26 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 27 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 28 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0020

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 29 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25 (Recess taken at 11.12 a.m.)

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1 (Upon resuming in private session at 11.46 a.m.)

2

3

4

5

6

7

8

9

10

11

12

13 Page 30 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 31 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Closed Session)

ICC-01/05-01/13

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Closed session at 11.53 a.m.)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Open session at 11.54 a.m.)

6 THE COURT OFFICER: We are in open session, Mr President.

7 PRESIDING JUDGE SCHMITT: Thank you.

8 Mr Witness, good morning. You are going to testify before the International

9 Criminal Court. On behalf of the Chamber, Mr Witness, I would like to welcome
10 you in the courtroom.

11 WITNESS: CAR-OTP-P-0243

12 (The witness speaks French)

13 THE WITNESS: (Interpretation) I thank you, Mr President.

14 PRESIDING JUDGE SCHMITT: This chamber has been established to try the case of
15 The Prosecutor against Mr Jean-Pierre Bemba Gombo and others. You are called to
16 testify to assist us in our search for the truth.

17 Mr Witness, there is a card in front of you with a solemn undertaking to tell the truth.
18 Could you please read out loud this card.

19 THE WITNESS: (Interpretation) Yes, Mr President. I solemnly declare that I shall
20 speak the truth, the whole truth and nothing but the truth.

21 PRESIDING JUDGE SCHMITT: Thank you, Mr Witness. You are now under oath.
22 As you have just promised, you have to speak the truth. It is an offence within the
23 jurisdiction of this Court to give false testimony.

24 And I think we should now go into private session for the protection of the witness.

25 (Private session at 11.56 a.m.)

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 34 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 35 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 36 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 37 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 38 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 39 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 40 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 41 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 42 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Open session at 12.27 p.m.)
- 25 THE COURT OFFICER: We are in open session, Mr President.

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 MS STRUYVEN: (Interpretation)

2 Q. Mr Witness, do you remember when you had your first contact with a member
3 of the Bemba Defence team?

4 A. Yes, I do.

5 Q. With whom were you in contact?

6 A. It was with Mr Bemba's counsel.

7 Q. What was his name?

8 A. Aimé Kilolo.

9 Q. Was this first contact in person, via email, or by phone?

10 A. It was by phone.

11 Q. Can you remember approximately how long this phone conversation lasted?

12 A. No.

13 Q. Was it a long conversation or was it a rather short one?

14 A. It was short.

15 Q. Do you remember what you discussed during this first contact?

16 A. Yes, I do.

17 Q. What did you discuss?

18 A. Mr Kilolo called me. He introduced himself to me. He said that he was
19 Jean-Pierre Bemba's lawyer and that he wanted to talk to me regarding Mr Bemba's
20 case because he had learned that at the time (Redacted) President Patassé.

21 Q. During this first contact, did you discuss the events that took place in Bangui in
22 2002 and 2003?

23 A. I no longer remember, but the contact was not very long.

24 Q. One last question regarding this telephone call. Do you remember
25 approximately when it took place?

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 A. No, I no longer recall today.

2 Q. Subsequently, did you have any other contacts with Mr Kilolo or with any other
3 person on the Defence team for Mr Bemba?

4 A. Yes, I did.

5 Q. Was this contact in person or was it by phone?

6 A. It was a meeting in person in the capital.

7 Q. Did you meet Mr Kilolo alone or was he accompanied by somebody?

8 A. I met with him alone.

9 Q. And on the occasion of this second contact, how much time did you spend
10 together approximately?

11 A. We spent more than one or two hours. Between an hour and a half and two
12 hours together.

13 Q. Do you remember what you talked about?

14 A. Yes, Madam Prosecutor, but not in its entirety.

15 Q. Could you say in general terms what it is that you discussed?

16 A. Yes, it's as I said earlier; this was the first time that Mr Kilolo and I had seen
17 each other in the flesh and he, once again, introduced himself to me saying that he
18 was counsel for Mr Bemba and he wanted to enter into contact with individuals who
19 at the time were working in the CAR with President Patassé when there were troops
20 of Jean-Pierre Bemba present on the Central African soil.

21 Q. And was this meeting recorded, if you remember?

22 A. I no longer recall, Madam Prosecutor, because it was lengthy.

23 Q. Very well. No problem. Could you tell us -- without giving us the name of
24 the city, could you tell us where this meeting occurred?

25 A. It was in a hotel.

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 Q. And how did you travel to the capital on that day?

2 A. I went there by train.

3 Q. And did you take that train on the very same morning of that day?

4 A. Yes, I took the train on that same day and I returned on the same day.

5 Q. So if I understand you correctly you made the return journey on that very same
6 day?

7 A. Affirmative, Madam Prosecutor.

8 Q. And do you recall the price of the return journey, same day return journey ticket
9 to the capital on that day?

10 A. Yes, Madam Prosecutor. And Mr Kilolo -- I no longer recall as I said between
11 (Redacted)
12 (Redacted), that
13 return journey.

14 PRESIDING JUDGE SCHMITT: You know what I wanted to say, so you are aware
15 of it. And perhaps you can indicate it to the witness that perhaps be careful.
16 You understand, Mr Witness? Don't give away information.

17 THE WITNESS: (Interpretation) I thank you, Mr President.

18 MS STRUYVEN: (Interpretation) Yes. And just to reassure you this piece of
19 information will be redacted from the public transcript.

20 Q. Now, another question, on that day when you made the return journey, did you
21 incur any further expenses such as refreshments or meals that you paid for yourself?

22 A. No, Madam Prosecutor.

23 Q. And you said that Mr Kilolo reimbursed you the cost of that trip. Do you
24 remember the date at which he made that reimbursement?

25 A. No, Madam Prosecutor. I didn't say that he reimbursed it; rather, he was the

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 one who had sent me the money for the travel before I departed.

2 Q. And do you remember when it was that he advanced the said sum to you?

3 A. I no longer recall, Madam Prosecutor.

4 Q. Would it maybe refresh your memory were I to show a document to you on the
5 subject?

6 A. Maybe, Madam Prosecutor.

7 Q. Could you please return to tab 21 in the binder. This is document
8 CAR-OTP-0074-0855, and more specifically, that would be tab 40, line 23. So for the
9 Bench and for the witness that's tab 21. Oh, I apologise. Sorry, it is tab 21. If you
10 see line 53, you can see a name in column C, which is Kilolo, and in column F you see
11 a date. Can you see that? Can you see the document?

12 Could the court officer or court usher please show this to the witness? That is tab 21
13 in your binder. And for broadcast on the screen, we are looking for the electronic
14 tab 40, and that's line 53 thereof. Sometimes it's a little bit difficult with all these
15 documents.

16 So here, Mr Witness, you can see the name of Mr Kilolo and you can see a date in
17 column F. Is this the date at which the transfer was made?

18 A. I do believe so, Madam Prosecutor, but I do not remember exactly.

19 Q. So you do believe that it was on 14 June 2012?

20 A. Affirmative, Madam Prosecutor.

21 Q. And if you turn the page, and now I'm looking at column U, you will see an
22 amount of €84.50?

23 A. Yes, Madam Prosecutor.

24 Q. Was that the amount that was transferred to you?

25 A. Yes, indeed.

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 Q. And you said that you did not have any other expenses incurred in association
2 with that trip. Did Mr Kilolo ask you that very same question, notably that you had
3 any further expenses incurred?

4 A. No, Madam Prosecutor, I can't recall.

5 Q. A last question with regard to the date of the transfer, that is to say 14 June 2012.
6 Do you recall whether the meeting occurred on the next day, two days later, three
7 days later, or a week later?

8 A. I do not remember, Madam Prosecutor.

9 Q. No problem.

10 After this meeting in June 2014 -- no, I'm sorry, in June 2012, did you have any other
11 contacts with the members of Mr Bemba's team?

12 A. Yes, Madam Prosecutor, still Mr Kilolo.

13 Q. And how many instances of contact did you have after your testimony? So
14 after the meeting in the capital until your testimony took place in October 2012?

15 A. I no longer recall, Madam Prosecutor, but I do remember that after our contact,
16 Mr Kilolo called me to say that he had handed my contact details over to the security
17 team that would be calling me in order to prepare my travel documents to come here.

18 Q. And the security team, do you mean thereby the VWU?

19 A. No, Madam Prosecutor. What I meant thereby -- well, the security team, they
20 had given me a name, (Redacted).

21 MS STRUYVEN: (Interpretation) Mr President, might we move into private
22 session, please, because I'm going to put a few questions on this.

23 PRESIDING JUDGE SCHMITT: Agreed. We go into private session.

24 (Private session at 12.44 p.m.)

25 (Redacted)

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 49 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 50 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 51 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 52 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 53 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 54 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 55 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 56 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24 (Recess taken at 1.12 p.m.)

25 (Upon resuming in private session at 2.29 p.m.)

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 57 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 58 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 59 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 60 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 61 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 62 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 63 redacted – Private session

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Private Session)

ICC-01/05-01/13

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Open session at 2.54 p.m.)

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 THE COURT OFFICER: We are in open session, Mr President.

2 MR DJUNGA: (Interpretation)

3 Q. Mr Witness, I have another reference to your conversation with the OTP in
4 order to jog your memory somewhat. And what is more, as you said, you read it
5 prior to coming here, this is CAR-OTP-0074-1112, page 1114, lines 36 to 43.

6 And you say as follows: "When I accepted to go and testify before the International
7 Criminal Court, it was with a view to assisting the Court and shed light on what had
8 happened."

9 My question to you: Your intention was to assist the Court in having a clear idea on
10 what occurred in the Central African Republic in 2002; is that not correct?

11 A. Yes, Counsel.

12 Q. I thank you. I shall give you two or three more references to your statements to
13 the OTP, which we shall examine rapidly, CAR-OTP-0074-1124, page 1127, line 102 to
14 103. And you say as follows.

15 THE INTERPRETER: It is not yet on the screen.

16 MR DJUNGA: (Interpretation) "I could see that it was my duty to my country to go
17 and testify to tell what had happened there."

18 Q. My question is as follows: Is it true to say that you have always considered
19 that it was a good thing for your country to explain to the Court what you had
20 experienced and seen?

21 A. Very well, Counsel. Could I put a question to you.

22 PRESIDING JUDGE SCHMITT: Mr Witness, I think you are aware of the fact that in
23 general the witness is the person in the courtroom where other -- where the counsel
24 puts question to and the witness is not allowed to put questions. So only with the
25 leave of Mr Djunga of course. I would not object to that. But normally it is not the

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 way we do it here.

2 THE WITNESS: (Interpretation) I thank you, Mr President.

3 MR DJUNGA: (Interpretation)

4 Q. Witness, please be reassured, it might be a little bit belaboured listening to
5 repetitive questions, but our intention is to clarify matters. These are things that you
6 said to the Prosecutor and you have most probably repeated them during the hearing
7 today, but it's also for the record of the proceedings and that is why I am conducting
8 this exercise and requesting confirmation of you.

9 A. I thank you, Counsel. I believe that when I said this -- well, initially I had said
10 that -- I had said to the Prosecutor that when Mr Kilolo initially contacted me I was
11 somewhat worried. I was seeking to ascertain why it was that he wanted to contact
12 me. And I was somewhat unwilling upon going home. And even now he
13 contacted me and we met and we had a conversation, as we just heard, and then
14 when we parted ways, I decided, as you just said, to -- that if the opportunity
15 presented itself for me to come and voice what I had experienced, I did not see any
16 impediment to that because the question was put to me as to whether I had received
17 anything or any proposals prior to coming to testify. That is why I said no, that I had
18 subsequently decided to come and testify because it was in the interest of my country
19 and also because it allowed the Court to fulfil its task. That's why I testified.

20 Q. Thank you, Mr Witness. I will spare you some of the excerpts because I know
21 you have had the time to reread your statement to the OTP, except you wish me to
22 read them to you.

23 But in light of what you have just said, are you telling us that Mr Kilolo never, never
24 asked you to change your testimony?

25 A. No. Mr Kilolo has never asked me to change my testimony.

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 Q. Thank you, Mr Witness. Mr Kilolo never, never tried to influence the contents
2 of the testimony that you would be coming to give to the Court; is that what you are
3 saying?

4 A. Mr Kilolo and myself met face to face only once, and we discussed what you
5 have just heard. And we never met each other again. We spoke only once more on
6 the phone and he told me, "Listen, (Redacted), you are going to come to the Court to
7 testify. And I have transmitted your contact details to the unit responsible for your
8 travel documents." And we did not speak about anything else.

9 Q. Mr Witness, I therefore suppose that you told the truth before the Court in the
10 Bemba case in 2002 -- in 2012, correction?

11 PRESIDING JUDGE SCHMITT: Ms Struyven.

12 MS STRUYVEN: Excuse me, your Honours. But he testified not only about the
13 substance of the events that happened in Bangui in 2002-2003 during his testimony, he
14 also testified about contacts with the Defence, he testified about money that he
15 received from the Defence or not. So I think that the way the question is now being
16 asked, it -- it suggests and it's all --

17 PRESIDING JUDGE SCHMITT: It's also -- it's a little bit too general, to put it this
18 way. You should be more specific or move to another point indeed.

19 MR DJUNGA: (Interpretation) Much obliged, Mr President.

20 Q. I talked about his testimony during the Bemba trial in 2012. You told the truth,
21 didn't you, that is relating to what you experienced in Bangui?

22 A. Counsel, I spoke the truth about what I observed.

23 Q. Thank you, Mr Witness. We are going to move onto something else, money.
24 Mr Witness, you have already said this, maybe, I was distracted. Did you ever ask
25 for money from Mr Kilolo in exchange for your testimony?

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 A. No, I never asked for any money from Mr Kilolo.

2 Q. Thank you, Mr Witness. I agree with you. I believe that is what you said. So
3 at no point was there any financial condition when you accepted to come and testify
4 in the Bemba case in 2012?

5 A. No. Apart from the amount of money that I have explained here, the money
6 that I received from Mr Kilolo, he transferred this money to me in order to pay for my
7 transport costs to the capital. And there was another transfer made in the name of
8 my daughter. So apart from that, I never received any money from Mr Kilolo or
9 from anyone else.

10 Q. Thank you, Mr Witness. Let us speak of the money in question. As you have
11 just said, when Mr Kilolo told you that money would be sent to your family during
12 your absence, would I be correct to say that the intention was not for you to change or
13 amend your testimony?

14 A. Counsel, I do not know if that was the intention of Mr Kilolo, I'm not in his
15 mind to be able to know that. A short while ago I said that when Mr Kilolo called
16 me to tell me about that, (Redacted)
17 (Redacted)
18 (Redacted).

19 Q. Thank you, Mr Witness. My question to you was based on your understanding
20 when that money was given, was to be transferred, how did you understand it?

21 A. I understood that that is what happens with all witnesses that come to testify
22 here, that during their absences, money would be given to their families. But it was
23 never my understanding that the intention was to convince me to change my
24 statement or my testimony to the Court.

25 Q. Mr Witness, regarding the \$700, you stated to the Prosecutor, "This money, I

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 believe they used it to buy food. And when I came back, they gave me the rest of the
2 money."

3 It's CAR-OTP-0074-1196, 258 -- lines 258 to 259.

4 Was that your testimony to the Prosecutor?

5 A. Yes, Counsel. I accept and I accept it that my daughter received money after
6 me, and it was sent in two tranches, in two parts. So when I came, she explained that
7 to me.

8 Q. Thank you, Mr Witness. I have no further questions for you. And I will ask
9 my learned colleague to continue with the questions for you.

10 QUESTIONED BY MR POWLES:

11 Q. Good afternoon, Mr Witness. My name is Steven Powles and I'm going to ask
12 you some further questions on behalf of Mr Kilolo. It's on a different topic to the
13 questions you've been asked already by my learned friend Mr Djunga. I'm going to
14 ask you some questions about the interview that you had with the Office of The
15 Prosecutor in January of 2014 in your home country.

16 You were interviewed over two days in January 2014 on the --

17 PRESIDING JUDGE SCHMITT: Can we remain in private -- in open session, do you
18 think so, or is it critical?

19 MR POWLES: I think we can remain in open session provided we don't mention any
20 place names or names of people. And I don't intend to.

21 PRESIDING JUDGE SCHMITT: Especially you have to be aware of that fact of
22 course.

23 MR POWLES: Absolutely. Thank you very much, Mr President.

24 Q. Yes, Mr Witness, I'm going to ask you some questions about the interview that
25 you had with the Office of The Prosecutor over two days on 22nd and

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 23 January 2014.

2 The interview that you had on the first day, on 22 January 2013 -- sorry, 2014, my
3 mistake, it commenced in the afternoon. I can give you the precise time. Do you
4 remember that it started in the afternoon of that day?

5 A. Yes, that is correct.

6 Q. And you were interviewed obviously by investigators from the International
7 Criminal Court and there were (Redacted) police officers present as well; that's correct,
8 isn't it?

9 MR POWLES: My apologies.

10 THE WITNESS: (Interpretation) Yes, Counsel.

11 MR POWLES:

12 Q. You also had a lawyer present with you, and I understand it's the same lawyer
13 that's in court today; is that correct?

14 A. Yes, Counsel.

15 Q. Now, Mr Witness, before I ask you questions about that interview, I want to
16 take you back a few hours to ask you how you eventually ended up at the police
17 station.

18 It's right that the police from the country you're from came to your home address in
19 the morning; is that right?

20 A. Yes, that is correct.

21 Q. And were they uniformed police officers? When I say "uniformed," were they
22 wearing police uniforms?

23 A. No, Counsel.

24 Q. Did they come in police cars?

25 A. No, Counsel.

1 Q. When they arrived you were not dressed; is that correct?

2 A. I was in my pyjamas, Counsel. When the police arrived, I was still in my
3 pyjamas because it was early in the morning and I was preparing the children to go to
4 school.

5 Q. Yes. Thank you very much, Mr Witness, you've anticipated my next question,
6 which was going to be given that you were in your pyjamas, it was early in the
7 morning?

8 A. Yes, Counsel, about 7 a.m.

9 Q. And you mentioned you were getting your children ready. So presumably
10 your family were present when the police officers arrived?

11 A. Yes, my family, my children. In fact, I was alone with my children.

12 Q. And it's right, isn't it, Mr Witness, that you had to get dressed in front of the
13 police officers?

14 A. Counsel, this is something that personally shocked me. I also explained that
15 the next day to the Prosecution team which was present.

16 Q. I think that's right, yes, because of course this was the first time, wasn't it, that
17 the police had ever come to your house in the country that you're in?

18 A. Yes.

19 Q. As well as that feeling of shock, what other feelings did this situation evoke in
20 you?

21 A. Counsel, I think it took some time. We tried to overcome that progressively.
22 And so far I think it's okay.

23 Q. I think in your interview -- I think that you mentioned the interview in your
24 second day, you described the decision or the process of picking you up from your
25 home and taking you to the police station, you described it as some event or some

1 operation; is that correct, Witness?

2 A. Yes, Counsel. If you wish, I can explain briefly what really shocked me in the
3 course of that operation. What really shocked me in the course of that operation was
4 that the police arrived in civilian clothes. They rang my doorbell while I was
5 preparing my last daughter, who was five and a half years old at the time for me to go
6 and drop her at school.

7 The police arrived and they showed me their card. They said they were the police
8 (Redacted)

9 I said "Yes."

10 And then they asked me: "Where is your daughter whose name is --

11 Q. Don't say the name, please. I think, Witness, you mentioned your name as well.
12 Could you please, and I know it's difficult, and I made the mistake earlier myself,
13 please for your sake, sir, please don't mention your name or those of your family and
14 of course where you're from. Thank you very much, sir. But please continue.

15 A. Thank you, Counsel.

16 So I took them to the school attended by my daughter. I told them "It is here." And
17 then they took me directly to the police station. They put me in a small cubicle and
18 then there was a policeman on the other side. There was a small window between
19 myself and a policeman on the other side which we used to communicate. Then they
20 went back to fetch my daughter from the school. And I stayed there for more than
21 two hours while they were upstairs questioning my daughter. And after they
22 finished questioning my daughter, they took me up.

23 And ever since they had taken me there, I had no idea what it was all about. Now,
24 when they took me upstairs and they asked me the question, "Since this is a criminal
25 matter, would you like to have a lawyer?" I said, "Yes." They took me back down

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 and they told me, "In this case we are going to contact a lawyer who will come, and it
2 will take about one hour or two."

3 So they took me back downstairs. I stayed there. Subsequently, the lawyer arrived
4 and then the interview began.

5 So what shocked me is that when the children -- when they came, they prevented the
6 children from going to school. They called someone. I think they communicated
7 with someone and asked for authorisation. And so they told the children to leave.
8 And the children ran out of the house. It's really as if they were fleeing from
9 something. That is what was really shocking to me.

10 Q. Witness, let's break that down. I think you said you were in a cubicle. Were
11 you on your own in that cubicle when you were at the police station?

12 A. I said I was not there on my own volition. I was there to wait until I was called.
13 So I could not be left alone. There was a police officer opposite me and we were
14 separated by a window. So he was just there to keep me company while I waited to
15 be called up.

16 Q. I see. Now, let's take this in stages. Let's take this in stages. When you first
17 arrived at the police station, Witness, were you spoken to by anyone when you first
18 arrived? Were you processed and spoken to upon your arrival?

19 A. The team that took me, we went to the police station in the basement. And
20 then there were uniformed police officers who came there and then they opened this
21 little room. There was a chair there for me to sit. And then this policeman went
22 back and sat on the opposite side. We were simply having a conversation. We
23 were joking. But that was it during the entire time I was waiting there.

24 Q. Now, that conversation, did they tell you the reason why you'd been taken to
25 the police station?

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 A. Not at all.

2 Q. When did you first meet the investigators from the International Criminal Court?
3 At what stage during the day was that?

4 A. I really no longer remember precisely. Perhaps 11 a.m. And it was then that I
5 was asked whether I needed a lawyer, and I said yes. And they took me back
6 downstairs to wait for the lawyer to be contacted.

7 Q. Did they speak to you about anything else or just about whether you wanted a
8 lawyer?

9 A. They told me that it was a criminal matter, so would I like to have a lawyer with
10 me and that is when I said yes.

11 Q. Did they explain to you the nature of that criminal matter, what the criminal
12 matter was about?

13 A. It was when my lawyer arrived when the interview began. It was at that time
14 that they explained the nature of the matter to me.

15 Q. We'll come onto that. Do you remember whether the investigators from the
16 ICC were taking any notes when they were talking to you at around 11 o'clock in the
17 morning?

18 A. I do not recall.

19 Q. When your lawyer arrived -- and I don't want you to tell us what you discussed
20 with him, but did you have a discussion with him before you had your interview with
21 the ICC investigators?

22 A. Yes. We moved to the side with the lawyer and we discussed for a bit before
23 they started questioning me.

24 Q. I understand. Now, again, I don't want you to tell us what you discussed with
25 him, but from your discussions with him, was it apparent to you whether or not he

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 had spoken to the ICC investigators?

2 A. I do not remember that.

3 Q. Okay. Let's move on to the interview then. And for those who wish to follow
4 us, I don't need it to be brought up for you, Witness, but it's at tab 1,
5 CAR-OTP-0074-1096. And at line 150, your lawyer said this in the interview: "I
6 understand that my client is not here by his free will. He was -- I think he is arrested,
7 isn't he?"

8 And a little bit later on, at line 166, he said: "I can't call it being here on his own free
9 will. He is fetched for interview regarding to (Redacted) rules."

10 Do you remember that being said at the beginning of your interview by your lawyer,
11 Witness?

12 A. Yes, Counsel. In addition to that, regarding the time that I had already spent
13 there, he explained that to them also.

14 Q. So is it right that you were there at that police station against your will?

15 A. Yes, Counsel.

16 Q. Thank you, Witness. When you were being interviewed, Witness, did you
17 understand or consider yourself to be a suspect, i.e., someone who was suspected of
18 having committed a criminal offence, or a possible witness against other people? Do
19 you understand the distinction?

20 A. Counsel, I was so distressed initially. As I have just told you, there were
21 answers that I just gave because I was just present there and I couldn't really be calm
22 and collected. I was listening to what was being said, but not really able to pay
23 attention because the police people were there.

24 And I have forgotten one thing that also shocked me. It was when I was at the police
25 station that I remember that the children had practically fled the house and they had

1 forgotten their key of the house. The copy of the key. So when they returned home,
2 they waited for two hours. And one of my daughters came to the police station and
3 asked the policemen and told them that their father was there, and whether they
4 could have the key. That is when I gave them the key and they went back to open
5 the house.

6 Now, in response to your question about an accused person, that day I really was not
7 myself, Counsel. I gave the answers that I could give, and it was only afterwards,
8 when I reread the answers that I had given, that I realised that I had been saying
9 certain things that I really didn't understand myself.

10 Q. I can fully appreciate your confusion and the feelings that you were having that
11 day.

12 Just for a moment if we may, Witness, let's put that to one side how you felt and what
13 you understood on that day and let's just bring it right back to now.

14 Do you appreciate the difference between someone who is a suspect, themselves
15 having committed a criminal offence, and someone who is a witness against other
16 people for having committed criminal offences?

17 PRESIDING JUDGE SCHMITT: Mrs Struyven.

18 MS STRUYVEN: Excuse me to interrupt again, your Honours, but I think that this is
19 asking the witness to draw legal conclusions that I don't think, with his background,
20 he can do in a proper manner.

21 PRESIDING JUDGE SCHMITT: I don't think so. I don't think that this is a legal
22 conclusion. I think somebody who is questioned by the police could say what the
23 impression at least was in what function he is -- he has been questioned. But of
24 course we know Mr Powles that the witness has given an answer to your last question.
25 So we give it another try and then we move to another, to the next point.

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 MR POWLES: In fairness to the witness, I think as I was asking my question, or
2 certainly as it was being translated for him, I saw him nodding, as I understood,
3 indicating that he does appreciate the difference. But rather than answering for him,
4 I'll ask the witness again and pass over to him.

5 Q. Witness, you've heard the discussion, but now today, leaving aside how you felt
6 in January 2014, today do you understand and appreciate the difference between
7 someone who is themselves suspected of having committed a criminal offence and
8 someone who is a witness against others who are suspected of having committed a
9 criminal offence?

10 A. Yes, Counsel.

11 Q. Thank you very much, sir. Let's go back then to that first interview on
12 22 January 2014 and try and see what may have given rise to the confusion in your
13 mind as to what status you had on that day. And again it's at tab 1, beginning of the
14 document CAR-OTP-0074-1091, and it's at page 10, line 314 -- or, 312 to 314.

15 And at that stage in the interview, the interviewer, the investigator from the Office of
16 The Prosecutor said to you these words:

17 "As part of our investigation into these offences, we have reason to believe that you
18 may have committed a crime under Article 70(1)(a) of the Rome Statute."

19 So do you see there, Witness, what the investigator is telling you is that they had
20 reason to believe that you had committed a crime? Did you understand that on that
21 day?

22 A. I don't really recall that, Counsel.

23 Q. And then -- perhaps this is what maybe gives rise to the confusion, because a
24 little bit later on in the interview, at page 14, line 458, the investigator says to you this:

25 "The Office of The Prosecutor at this moment in time does not consider you a target,

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 but our investigations are ongoing."

2 PRESIDING JUDGE SCHMITT: Is this a question, Mr Powles, or --

3 MR POWLES: I'm waiting for it to be translated.

4 MS STRUYVEN: Your Honour.

5 THE WITNESS: Maître --

6 PRESIDING JUDGE SCHMITT: Ms Struyven first. No, please.

7 MS STRUYVEN: He's cutting off half of the sentence. So if he's going to put that
8 sentence to the witness I think it would be fair to read the whole sentence.

9 MR POWLES: I'm very grateful to my friend because actually --

10 PRESIDING JUDGE SCHMITT: Please do that.

11 MR POWLES: -- because if you read on it actually makes the situation even clearer.

12 Q. So later on in the interview, the Office of The Prosecutor said this:

13 "The Office of The Prosecutor at this moment in time does not consider you a target,
14 but our investigations are ongoing and we are here today to give you an opportunity
15 to explain yourself and to tell us the truth."

16 A. Yes, Counsel, as I said, I was ill at ease on that day. And many questions were
17 put to me, even if I did read back through it. As to what was said that day, well, I
18 don't remember. I believe that everything is contained in those documents that you
19 have. And you will be able to see the answers that I provided because you have the
20 documents.

21 Q. You're quite right, Witness, and we can all understand why you might have felt
22 ill at ease on that day. And my question following on from the words of the
23 investigator that I just read to you: Did you feel or have the impression that whether
24 you would end up as a suspect or an accused, or a witness against others depended
25 on what you told the Office of The Prosecutor that day?

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 A. No, Counsel, that was not my concern on that day. As I said, I was frustrated.
2 Everything else was not of concern to me. As I said at an earlier stage, there were
3 many questions that were put to me. I answered. I was there, well, thinking
4 how -- well, how are the kids going to get home? You know, I was thinking about
5 that. So, please, everything is in the documents that you have and you can peruse
6 them and see what was said.

7 Q. I can fully understand that, Witness. No doubt you wanted to get back to your
8 children and be in a position where you could look after them and care for them.
9 And if we read on at line 475, the investigator says to you this:

10 "We would like to have a truthful account and we believe it's in your interest to
11 cooperate with us fully."

12 Did you feel under pressure to cooperate with the Office of The Prosecutor that day,
13 Witness?

14 A. No, Counsel. When I was being interviewed, I did not feel under any pressure.
15 The only pressure I felt was the manner in which I was picked up early in the
16 morning, as I already explained. There was no further pressure. And I already had
17 counsel assisting me, so there wasn't any pressure. But I was ill at ease in my mind.
18 I was not in a good place to be able to answer the questions put to me.

19 THE INTERPRETER: Overlapping microphone.

20 PRESIDING JUDGE SCHMITT: Mr Powles, I think this subject has been exhausted.

21 MR POWLES: I'm very sorry, Mr President, I couldn't -- there were overlapping
22 speakers at the same -- but I have --

23 PRESIDING JUDGE SCHMITT: I was responsible for the overlapping --

24 MR POWLES: And I --

25 PRESIDING JUDGE SCHMITT: -- not the witness. That was my fault, indeed.

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 MR POWLES: And I have in mind, without having heard it, I know exactly what
2 your -- Mr President (Overlapping speakers).

3 PRESIDING JUDGE SCHMITT: But you have heard the message at least?

4 MR POWLES: Absolutely. And having heard the message, I can conclude my
5 questions.

6 PRESIDING JUDGE SCHMITT: Thank you very much.

7 MR POWLES: Thank you.

8 PRESIDING JUDGE SCHMITT: Mr Gosnell, do you have further questions?

9 MR GOSNELL: Just two or three with your leave, Mr President.

10 PRESIDING JUDGE SCHMITT: Of course.

11 QUESTIONED BY MR GOSNELL:

12 Q. Good afternoon, Mr Witness. My name is Christopher Gosnell. I represent
13 Mr Mangenda in these proceedings. And as you just heard me say, I just have two
14 or three very short questions to clarify a couple of matters.

15 And the first is, in respect of this meeting, this initial contact that you've just said you
16 had with the investigators of the Office of The Prosecutor at around 11 a.m., can you
17 tell us how long that interaction occurred?

18 A. No, Counsel, I no longer recall.

19 Q. And how many investigators were present?

20 A. There were two individuals who came from the Court, and two inspectors who
21 came from the capital, my counsel and an interpreter.

22 Q. My question wasn't clear. What I meant, Mr Witness, was how many
23 Prosecution investigators were present during this meeting that you've described that
24 occurred at around 11 a.m.?

25 A. I do not understand the question clearly, Counsel.

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 PRESIDING JUDGE SCHMITT: Mr Gosnell, is it possible that the witness has
2 understood you?

3 MR GOSNELL: It's possible. But the only way to know whether he did or didn't I
4 suppose is to assume that he didn't and try and come back and clarify.

5 PRESIDING JUDGE SCHMITT: Very sophisticated, but indeed.

6 MR GOSNELL:

7 Q. Sorry, Mr Witness, now we're going to have to go back and just clarify our
8 premises. My understanding from what you said earlier, in response to my learned
9 friend's questions to my right, is that before the formal interview that was recorded
10 where your lawyer was present, there was an interaction with members of the Office
11 of The Prosecutor prior to that. And what I thought I heard you say was that this
12 interaction occurred at around 11 a.m.

13 Do I have all that correct, that there was this prior interaction at 11 a.m. that occurred
14 before the formal interview?

15 A. No, Counsel.

16 Q. No, there were no -- there was no separate meeting at around 11 a.m.? Is that
17 what you are saying, Mr Witness?

18 A. No, Counsel.

19 Q. No meeting prior to the arrival of your lawyer?

20 A. I was saying as follows, Counsel, that I was brought back up before the arrival
21 of my counsel, and upon my arrival they announced this to me quite simply, they said
22 that I was associated with some criminal undertaking and they asked me whether I
23 wanted a lawyer. I said yes. And they said very well, go back down again and wait
24 for us to contact a lawyer. And there we have it.

25 Q. Understood. And that conversation that you're referring to where you asked

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 for a lawyer, that was with investigators of the Office of The Prosecutor of the ICC; is
2 that correct?

3 A. Yes, that is correct, Counsel.

4 Q. Now, coming back to my original question, which I posed before was: How
5 many investigators were present, one, more than one, during that interaction?

6 A. It wasn't an investigator. There were a number of us.

7 Q. And am I right that you don't remember how long that conversation lasted; is
8 that correct?

9 A. That is true.

10 PRESIDING JUDGE SCHMITT: Mrs Struyven.

11 MS STRUYVEN: Mr President, he just told us exactly what was said in that short
12 interaction. I think that that gives us an indication of how long that interaction was.

13 PRESIDING JUDGE SCHMITT: I'm sure that Mr Gosnell will move on.

14 MR GOSNELL: The answer came and it was what I expected and that's fine.

15 Could we turn to page 1106 please of the document that I believe is still on the screen.

16 Q. And I just have two very precise questions for you, Mr Witness, and it pertains
17 to what you see in front of you starting at line 486. Do you see line 486, Mr Witness?

18 A. Yes, Counsel.

19 Q. So it says there "You have the right to remain silent without such silence being
20 considered as a factor in the determination of guilt or innocence. It means you do
21 not have to answer our questions."

22 And then you were asked at line 498 and 499, and I'll read this line in French because
23 this is the important bit: (Interpretation) "Although it is in your interest to
24 cooperate with us, I would like to now ask you, would you like to invoke your right to
25 remain silent?"

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 And my question is very specific, but you may not remember, we'll see. How did
2 you understand, if you can recall, the relationship between on the one hand your right
3 to remain silent and on the other hand the suggestion to you by the investigator that it
4 was in your interest to cooperate with us?

5 A. Yes, Counsel. If I understand correctly, the investigator wanted me to tell the
6 truth in order to maybe assist them in their work.

7 Q. My question was a bit more specific than that. And it was about how you
8 understood on the one hand the fact that the investigator is telling you that there is no
9 requirement to say anything, that that will not be held against you in any way, but
10 then on the other hand he's also telling you it is in your interest to cooperate with us?
11 How did you understand that, if you understood it at all?

12 A. Well, I think that I didn't really understand it correctly.

13 Q. And prior to your lawyer's intervention at line 508, and the intervention was
14 (Interpretation) "I recommend that you answer the questions that can be answered."
15 Prior to that intervention, had you spoken with your lawyer about your right to
16 remain silent?

17 A. I don't really remember.

18 Q. Thank you very much, Mr Witness.

19 MR GOSNELL: That concludes my questions, Mr President.

20 PRESIDING JUDGE SCHMITT: Thank you very much, Mr Gosnell.

21 Mrs Taylor. But (Microphone not activated) then Mrs Taylor.

22 MS TAYLOR: Thank you, Mr President. I'll be very brief.

23 QUESTIONED BY MS TAYLOR:

24 Q. Good afternoon, Mr Witness. My name is Melinda Taylor and I'm the counsel
25 for Mr Bemba. I will have a few questions for you. And once again, like my

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

1 colleagues, I would like to emphasise not to mention names or places.

2 Now, Mr Witness, when you were questioned by my colleague Mr Powles, you
3 mentioned that you went with the police to your daughter's school. Was it at that
4 point that the police went into your daughter's school in front of you, or was it when
5 you were at the police station?

6 A. No, Counsel. We parked up with the police in front of my daughter's school
7 and I said, "This is the school that she goes to." And they said, "Fine." And then
8 they took me to the police station.

9 And they took me to that place I just explained. And I think that from there they
10 went back to get my daughter because subsequently my daughter arrived at home
11 when we had finished at 9 p.m., and she said that she had been there at 8. So whilst I
12 was down in the cubicle in the basement as I just explained, they were at -- they were
13 upstairs with my daughter at that time.

14 Q. Thank you, Mr Witness.

15 Did your daughter inform you whether she was brought willingly to the police station?
16 Did she have a choice?

17 A. No, Counsel. It was the same thing that happened to me, the same thing
18 happened to her, to my daughter.

19 Q. And did your daughter inform you whether she had a counsel present while she
20 was being questioned?

21 PRESIDING JUDGE SCHMITT: Mrs Struyven.

22 MS STRUYVEN: Excuse me to interrupt again, but I don't think it's in the record that
23 the daughter was questioned.

24 PRESIDING JUDGE SCHMITT: That is true. But Mrs Taylor?

25 MS TAYLOR: I think, Mr President, that the witness has said several times that his

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

- 1 daughter was questioned.
- 2 PRESIDING JUDGE SCHMITT: Please continue. But I understood that you have a
- 3 few questions, yeah, only. Yeah?
- 4 MS TAYLOR: Yes, that's correct --
- 5 PRESIDING JUDGE SCHMITT: Okay.
- 6 MS TAYLOR: -- Mr President.
- 7 PRESIDING JUDGE SCHMITT: Mr Witness, please answer the question.
- 8 THE WITNESS: (Interpretation) No.
- 9 MS TAYLOR:
- 10 Q. Thank you, Mr Witness.
- 11 And again without mentioning her name in order to identify her, can you give the age
- 12 of your daughter as she was? And this is my last question, Mr President.
- 13 A. 22 or 23.
- 14 Q. Thank you, Mr Witness.
- 15 PRESIDING JUDGE SCHMITT: Are there further questions by Defence teams?
- 16 That's not the case.
- 17 Mrs Struyven has waived her right, to put it this way.
- 18 So this concludes your testimony, Mr Witness. We thank you very much for being
- 19 here. And you are released. And we wish you a good flight home. And we wish
- 20 also Mr Edelberg and thank him for his presence and wish also you a good flight
- 21 home.
- 22 This concludes today's hearing, but one question I would have, what do we do on
- 23 Monday then, Mrs Struyven or Mr Vanderpuye?
- 24 MS STRUYVEN: We will normally continue within with Witness 267 on Monday.
- 25 PRESIDING JUDGE SCHMITT: Thank you very much.

Trial Hearing
WITNESS: CAR-OTP-P-0243

(Open Session)

ICC-01/05-01/13

- 1 Then we resume on Monday at 9.30. I wish everybody in the courtroom a nice
- 2 weekend.
- 3 THE COURT USHER: All rise.
- 4 (The hearing ends in open session at 3.54 p.m.)