

Trial Hearing
Witness: CAR-OTP-P-0245

(Open Session)

ICC-01/05-01/13

1 International Criminal Court
2 Trial Chamber VII - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba,
5 Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido
6 ICC-01/05-01/13
7 Presiding Judge Bertram Schmitt, Judge Marc Perrin de Brichambaut and
8 Judge Raul Pangalangan
9 Trial Hearing
10 Friday, 23 October 2015
11 (The hearing starts in open session at 9.00 a.m.)
12 THE COURT USHER: All rise.
13 The International Criminal Court is now in session.
14 PRESIDING JUDGE SCHMITT: Good morning to everybody, at least for this Court early
15 hour.
16 Please court officer, call the case.
17 THE COURT OFFICER: Good morning. Yes, Mr President.
18 Situation in the Central African Republic in the case of The Prosecutor versus Jean-Pierre
19 Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala
20 Wandu and Narcisse Arido. And the case reference, ICC-01/05-01/13.
21 And for the record, we are in open session.
22 PRESIDING JUDGE SCHMITT: Thank you.
23 I would like to ask for the appearances of the parties. Please, Mr Vanderpuye.
24 MR VANDERPUYE: Good morning, Mr President. We are in the same configuration as
25 yesterday.

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1 PRESIDING JUDGE SCHMITT: Mr Nève.

2 MR NÈVE: (Interpretation) Good morning, your Honours. I am here to assist the
3 witness.

4 PRESIDING JUDGE SCHMITT: The Defence, please.

5 MR GOSNELL: Good morning, Mr President. Appearances are the same for Mr Mangenda
6 as yesterday.

7 MR DJUNGA: (Interpretation) Good morning, your Honours. The Defence team for Mr
8 Kilolo has not changed, except that Mr Kilolo is indeed present today.

9 MR TAKU: I appear for Mr Arido; with me, Mr Tibor Bajnovic and Mr Tharcisse Gatarama.

10 MR KILENDA: (Interpretation) Our team remains the same.

11 MS TAYLOR: Good morning, Mr President, your Honours. I'm appearing on behalf of
12 Mr Bemba. Thank you.

13 PRESIDING JUDGE SCHMITT: Then good morning, Mr Witness. We are now continuing
14 your examination. I think you recall that yesterday there -- you were asked for consent. I
15 word it in the abstract because we are still in open session. Did you have a possibility to talk
16 to your lawyer, to Mr Nève?

17 WITNESS: CAR-OTP-P-0245 (On former oath)

18 (The witness speaks (Redacted))

19 THE WITNESS: (Interpretation) Yes, I did have that opportunity.

20 PRESIDING JUDGE SCHMITT: I did not receive interpretation.

21 THE INTERPRETER: The interpreter repeats: Yes, I did have that opportunity.

22 PRESIDING JUDGE SCHMITT: I understand in French the witness said yes, so I -- it was
23 perhaps my problem.

24 So what is your answer to the question of the Defence of Mr Arido? I recall that it
25 was Mr Taku who put the question to you if you consent to let the Defence of

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1 Mr Arido have access to these files.

2 THE WITNESS: (Interpretation) I agree. I have no objection.

3 PRESIDING JUDGE SCHMITT: Thank you very much. Then we -- Mr Taku?

4 MR TAKU: I didn't hear the answer, your Honour.

5 Okay. Thank you, your Honour.

6 PRESIDING JUDGE SCHMITT: He agrees.

7 MR TAKU: Yes. I wanted to submit a very -- okay.

8 PRESIDING JUDGE SCHMITT: Mr Nève?

9 MR NÈVE: (Interpretation) Very briefly, your Honour, just to add to my client's reply, he
10 consents to the documents being disclosed to the Defence as was requested, but he would like
11 the documents to be redacted; that is to say, no mention made of his current place of
12 residence.

13 PRESIDING JUDGE SCHMITT: That is, of course, guaranteed. I think it's perfectly clear
14 that he can give his consent under this condition, I would say. Yeah. Thank you very much
15 for this clarification, Mr Nève.

16 MR TAKU: Your Honours, we will submit the consent forms to counsel at the end of these
17 proceedings.

18 And I wanted just to raise a very brief security problem, not necessarily in closed session, but
19 in private session, your Honour.

20 PRESIDING JUDGE SCHMITT: We go into private session.

21 *(Private session at 9.06 a.m.) Reclassified as open session

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

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 PRESIDING JUDGE SCHMITT: That is understandable. Thank you very much, Mr Taku.
- 12 We have noted that. And I'm sure that the Prosecution also has taken note of this
- 13 information.
- 14 Then we start with the examination by the Defence of Mr Kilolo. I don't know if Mr
- 15 Powles for Mr Djunga wants to start. And, of course, the question, can we start in
- 16 open session, or should we remain in private session?
- 17 MR DJUNGA: (Interpretation) I believe we can remain in open session, your Honour.
- 18 PRESIDING JUDGE SCHMITT: Then we go into open session.
- 19 (Open session at 9.08 a.m.)
- 20 THE COURT OFFICER: We are in open session, Mr President.
- 21 QUESTIONED BY MR DJUNGA: (Interpretation)
- 22 Q. Good morning, Witness.
- 23 A. Good morning.
- 24 Q. How are you today?
- 25 A. Very well.

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1 Q. I'm sure you've realized that it is now the turn of the Defence to ask questions. With
2 my learned colleague, Mr Steven Powles, I will be asking you a number of questions. And I
3 do believe that we will be able to make short work of this because we have a number of
4 specific questions; and if you answer the questions directly, I think the cross-examination may
5 go very quickly.

6 Now, when you met the Prosecutor, you said that during your interview with
7 Mr Kilolo and the white lady, they had a recording device; is that correct?

8 A. That's right.

9 Q. And that -- now, if you don't remember, I can give specific references. And that
10 Mr Kilolo said to you that he wanted to record the discussion so that it could be transcribed; is
11 that correct?

12 A. That is correct.

13 Q. Can you confirm that your discussion with Mr Kilolo and the white lady was, indeed,
14 recorded?

15 A. Yes, I can confirm that.

16 Q. Now, that was the very first time that you had met Mr Aimé Kilolo; is that correct?

17 A. That's right.

18 Q. And you also added that it was the very first time you had spoken about the events in
19 the CAR with Mr Kilolo; isn't that so?

20 A. That's right.

21 Q. Now, you also said that there was no mention, you made no mention of money in
22 exchange for the statement you were going to be giving to Mr Kilolo that day. You didn't
23 talk about money that day in Douala. Can you confirm that?

24 A. Yes, I can confirm that we did not talk about money.

25 Q. Mr Witness, you said during a hearing here before the Court, first line, I spoke in

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1 Lingala and Mr Kilolo translated, is that correct?

2 A. Yes, that is correct.

3 Q. Line 2, you said the white lady did not ask any questions. Is that correct that the
4 white --

5 A. That is correct.

6 Q. Later on, line 13 -- page 13, line 18, you said in February 2012 "I never talked about the
7 cattle market. He was the one who mentioned that. It was him, Mr Kilolo."

8 Can you confirm that, Mr Witness?

9 PRESIDING JUDGE SCHMITT: (Overlapping speakers) Turn off your microphone when
10 you are not speaking. I was reminded that it would be very kind of you. Thank you.

11 THE INTERPRETER: Message from the interpreters: Could the 5-second rule be followed
12 by all parties and participants?

13 MR DJUNGA: (Interpretation)

14 Q. In February 2012, you said at the hearing here that you had never mentioned the cattle
15 market during the statement that you gave to Mr Kilolo. You never mentioned the cattle
16 market; he was the one who mentioned that. So you were saying that it was Mr Kilolo who
17 gave you information about the cattle market. Can you confirm that?

18 A. No, I did not mention February. In February Mr Kilolo did not make any suggestions
19 to me. It was in May that Mr Kilolo suggested to me or, rather, gave me some information;
20 but in February, he made no suggestions to me. He just recorded.

21 Q. Now, in February did you give -- when you gave your statement, you had already
22 mentioned the cattle market at PK12. You had already mentioned that spontaneously.

23 A. I don't really remember the statement that was recorded in February. I don't know
24 whether I talked about that.

25 Q. Well, let's take another approach. I would like to refresh your memory now.

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1 Your Honour, with your leave, we will now play a sound recording, and we will be focusing
2 on a number of passages. And I think, well, it would be a good idea to listen to the whole
3 thing but, rather, I will just give specific CAR-D21-0008-0005. And for the transcription, I
4 believe we're at the first line, line 88, and then line 206 to 246. And then after that, 342 and
5 thereon. I think it would be a good idea, your Honour, if we could move to private session
6 for the --

7 PRESIDING JUDGE SCHMITT: Of course I would have suggested that myself. Thank you
8 very much. We go to private session.

9 *(Private session at 9.15 a.m.) Reclassified as open session

10 THE INTERPRETER: Message from the interpreters: Could Mr Djunga be instructed to
11 speak more slowly and not to overlap with the end of the witness's replies. Many thanks
12 from the interpreters.

13 THE COURT OFFICER: We're in private session, Mr President.

14 PRESIDING JUDGE SCHMITT: Mr Djunga, the interpreters want you to speak a little bit
15 more slowly so that they can follow and that there is no overlap.

16 My question would be how long is this excerpt, this audio excerpt?

17 MR DJUNGA: (Interpretation) 10 minutes at the most.

18 PRESIDING JUDGE SCHMITT: The interpreters are prepared for the interpretation like we
19 have done that in the past, are they?

20 THE INTERPRETER: Message from the interpreters: If you could just bear with us for a
21 few moments.

22 PRESIDING JUDGE SCHMITT: Of course. Please indicate when you are ready.

23 THE INTERPRETER: Message from the interpreters: If Defence counsel could give us page
24 and line references, we will be able to begin sight interpreting, sight translating.

25 PRESIDING JUDGE SCHMITT: Please, Mr Djunga, repeat the pages and line references.

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- 1 MR DJUNGA: (Interpretation) First line to line 84. And then the second is -- will be 206
2 to 246. And then the very last extract, 290 to 342.
- 3 PRESIDING JUDGE SCHMITT: I think we can start to play it now.
4 (Playing of the audio excerpt)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
- 13 Well, my profession?
14 Yes.
- 15 Answer: I'm a soldier.
- 16 Question: Where were you between 2002 and 2003?
17 Answer: I was in Tabo.
- 18 Question: In the CAR?
19 Answer: Yes, in the CAR.
- 20 Question: Okay. Well, do -- when -- do you remember 25 October 2002 when
21 Bozizé attacked Bangui?
22 Answer: Yes, I remember.
- 23 Question: Where were you exactly?
24 Answer: At that time I was still in Bangui.
- 25 Question: You were already a soldier then?

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1 Answer: No.

2 Question: Okay. So you were still a civilian?

3 Answer: Yes.

4 Question: So what -- what happened then? When he attacked did you stay there in
5 Bangui?

6 Answer: When he attacked, he had attacked after, after when he withdrew, he -- he
7 withdrew to go -- he withdrew to go and stay at Bossangoa, his place of birth. And
8 that is where they began to recruit people.

9 Question: And you as a civilian from the CAR, who recruited you?

10 Answer: I was recruited by General Betibangui.

11 Question: And how long was your training?

12 Answer: One month. We were trained by the Libyans.

13 Question: For a month?

14 Yes.

15 Question: And then which force did you join?

16 Answer: FDPC.

17 Question: FDPC, what's that?

18 (Redacted)

19 (Redacted)

20 Answer: Yes.

21 Question: Now, during this one month of training that you had, what were you
22 taught?

23 Answer: We were taught how to handle weapons, how to go to the front, how
24 to -- how you cover.

25 Question: Okay. And other than that, did you learn -- did you have any human

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1 rights classes?

2 Answer: No.

3 Question: Okay. Well, and so you joined (Redacted) group?

4 Answer: Yes. So first -- well, we hadn't yet joined. After the training, we were
5 sent directly to the front.

6 Question: One month after?

7 Answer: Yes.

8 (Overlapping speakers)

9 Answer: We had not yet joined. We were just given clothing.

10 Question: Military uniforms?

11 Answer: Yes.

12 Question: Okay. We have some information to the effect that (Redacted) group
13 committed violence and abuse at PK13 at the cattle market. Can you tell us about
14 that?

15 Answer: That was before my time. Yes, they -- they did carry out massacres.

16 The Witness: Yes, it was at the cattle market around PK12.

17 Question: Who did they kill?

18 Answer: They killed everything that moved.

19 Question: And why did they kill the people?

20 Answer: Well, you see, it's a neighbourhood where the people are loyal. We didn't
21 really know what happened. I don't really know what happened then. After we
22 were sent -- as soon as we finished the training, we were sent there. When the
23 massacre occurred, I hadn't yet --

24 Question: You weren't there yet?"

25 MR DJUNGA: (Interpretation) We will now move on to the second passage from this

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1 particular sound recording.

2 (Playing of the audio excerpt)

3 THE INTERPRETER:

4 "Question: Do you know who was commanding the MLC forces in the CAR in
5 Bossembélé?

6 Answer: In Bossembélé at the time I went there it was M16 who were there.

7 Question: And who was commanding the Bossembélé road?

8 Answer: Yes.

9 Question: Who did he get his orders from?

10 Answer: The president of the -- rather, the head of staff General Betibangui.

11 Question: How do you know that?

12 Answer: I know that he was the head of the armed forces. When the Congolese
13 came, they had arrived. They were already -- you see, we wore the same clothing.
14 They didn't go on their own initiative. It was orders.

15 Question: Well, didn't they get their orders from the president, from Mr Jean-Pierre
16 Bemba?

17 Answer: Good.

18 Question: Did he also command their operations in the CAR?

19 Answer: No. Mr Bemba, Mr President Patassé just asked him for help. He wasn't
20 in the field. He was not in the field. He wasn't in the field. He was asked for help.
21 He only sent troops. There was someone who was commanding the troops, but you
22 see, it was first and foremost the Central Africans who were in front. They were
23 behind them. So you can't leave your home and become a commander here.
24 He -- there was always each battalion, there was always the Central Africans who
25 commanded, who led the fighting. That's the way it was.

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1 Question: How do you know that it wasn't Mr Bemba who was the commander?

2 Answer: I was there myself, so I know everything that happened. I know what

3 happened. I was there. I know that Mr Bemba just agreed to help that

4 President Patassé had asked for because, between the two of them, Mr Bemba

5 couldn't leave that place and come and command people who were in the field, never.

6 There was someone who was there and it was us, the Central Africans, who were

7 commanding the forces that had come there.

8 Question: Now, the villagers who were there in Bangui around PK12, Boy-Rabé, would it be

9 possible for them to confuse (Redacted) militias with --

10 Answer: Yes.

11 Question: -- with the MLC soldiers?

12 Answer: Yes, because we were wearing the same clothing, the same uniforms. If

13 you didn't know, you wouldn't know whether the person was Congolese or from the

14 CAR."

15 MR DJUNGA: (Interpretation) The third and final passage, your Honour.

16 (Playing of the audio excerpt)

17 THE INTERPRETER: "Question: A few more questions.

18 Answer: Yes.

19 When did you leave the Central African Republic?

20 Answer: Well, it was since April 2003.

21 Question: After the events?

22 Answer: Yes. When they took (inaudible)

23 Question: And why did you leave?

24 Answer: I was fighting for President Patassé who was in power (Redacted)

25 (Redacted).

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- 1 Question: Very well. Are you ready to go and testify in The Hague?
- 2 Answer: If I was not ready, I would not have taken all the risk to come to this town.
- 3 I could not leave where I was to come here. I'm ready.
- 4 Question: Are you ready to testify in public or with protection measures?
- 5 Answer: Yes, with protection measures.
- 6 Question: Have you received any pressure for your testimony?
- 7 Answer: No.
- 8 Or money or presents?
- 9 Answer: No, no, no.
- 10 Question: Do you know Maître Zarambaud of Bangui?
- 11 Answer: Yes.
- 12 Question: How did you get to know him?
- 13 Answer: Well, I have just heard his name. He's an international lawyer.
- 14 Question: There are no links?
- 15 Answer: No, no, no.
- 16 Question: And Maître Douzima?
- 17 Answer: I have heard her name, yes.
- 18 Question: And you have mentioned that your (Redacted) is near the border
- 19 with --
- 20 Answer: Congo.
- 21 Question: And what is that village?
- 22 Answer: I am from (Redacted) (phon).
- 23 Question: (Redacted)?
- 24 Answer: Yes, it is after (inaudible) I've never really been there. That is what I
- 25 have been told. (Redacted)

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1 (Redacted).

2 Very well. To conclude, did you personally see MLC soldiers in the Central African
3 Republic?

4 Answer: Yes, in Bossembélé. They were together with the FACA, the Central
5 African Republic forces.

6 Question: And what in particular did you observe that you can tell us about?

7 Answer: Well, everything I saw -- well, they lost a good number of soldiers in
8 Bossembélé.

9 Question: Were there also Central African Republic officers with them?

10 Answer: Yes."

11 MR DJUNGA: (Interpretation)

12 Q. Mr Witness, you have listened to that audio recording?

13 PRESIDING JUDGE SCHMITT: Could we discuss this in open session, what do you think,
14 or ...

15 MR DJUNGA: (No interpretation)

16 PRESIDING JUDGE SCHMITT: Yeah.

17 MR DJUNGA: (No interpretation)

18 PRESIDING JUDGE SCHMITT: Then I think we can go into open session.

19 (Open session at 9.31 a.m.)

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

21 PRESIDING JUDGE SCHMITT: Again, everybody in the room, especially, of course, counsel
22 who is questioning is aware of the problem that we have to go into private session when it
23 comes to information that could identify the witness.

24 MR DJUNGA: (Interpretation)

25 Q. Mr Witness, I asked whether you listened to that audio excerpt.

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1 A. Yes, I listened to it carefully. What I'm saying in my statement, I did not give the
2 month of the massacre in the cattle market. I said that in May, Mr Kilolo told me to
3 remember the month when the massacres took place at the cattle market, but I did not talk
4 about any such information from February. It is in May that he told me that the massacres
5 took place in November, and that is the month that I had to mention.
6 In my statement, I told you that I was not present, but I did not mention any month.
7 Mr Kilolo told me to remember the month during which the MLC soldiers came to the CAR
8 and the month during which the massacres in the cattle market took place. I did not give
9 any further information. You can cross-check in my statement and in my testimony here
10 before the Court.

11 Regarding the massacre at the cattle market, I mentioned a month, of course; but
12 during the recording, I never mentioned the month during which the massacre took
13 place.

14 Q. We are going to come back to this, Mr Witness. But the question I wanted to ask you is
15 did you recognize the voices of the various persons speaking in that audio excerpt?

16 A. Yes, I recognize them.

17 Q. And who were those people?

18 A. There was the voice of Mr Kilolo and the voice of the white lady.

19 Q. The white lady, you don't remember her name?

20 A. No, I do not know her name. I do not remember.

21 Q. If I say Kate Gibson, does that ring a bell?

22 A. I have just told you that I no longer remember the name. Let me repeat: I no longer
23 remember the name. All I know is that he came with a white lady, and that is true.

24 Q. That is not very serious. You have said that you spoke in Lingala and that Mr Kilolo
25 was translating for you, right?

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1 A. During the conversation, if I remember correctly, it started in Lingala, but I did not hear
2 the part during which (Redacted). All I know is that I spoke in Lingala, and he was
3 interpreting into French. If you cross-check the audio recordings, I was speaking in Lingala,
4 and he was interpreting into French for the white lady.

5 Q. The Chamber has that recording, so they will make its determination.
6 Mr Witness, you, yourself, spontaneously mentioned the name of the chief of staff,
7 Betibangui; is that correct?

8 A. That is correct. That is what I said.

9 THE INTERPRETER: Your Honours, Mr Djunga keeps interrupting when the translation is
10 not completed yet. It causes a lot of confusion.

11 PRESIDING JUDGE SCHMITT: Mr Djunga, again, a kind reminder by the interpreters that
12 you should perhaps wait a little bit until the witness has finished and then speak slowly
13 afterwards. Thank you.

14 MR DJUNGA: (Interpretation) Much obliged, your Honour.

15 Q. Mr Witness, I was asking whether you heard about the pillaging. Can you give us any
16 details?

17 A. I talked about the looting, but I didn't give any details.

18 Q. Very well. Mr Witness, let us talk about the second meeting in Yaoundé. This is what
19 you said, and I will give the references. It is tab 35, CAR-OTP-0078-0242, pages 0255 and
20 lines 228 to 238.

21 You said that in Yaoundé, Mr Kilolo never gave you a document to read, but he read back to
22 you your own statement that was given in 2012. Can you confirm that?

23 A. Yes, that is correct.

24 Q. Mr Kilolo drew your attention to the points in your own 2012 statement that you should
25 not forget. Is that what we can conclude from that?

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1 A. That is what he told me. He read my statement to me, then he told me three things.
2 He asked me to remember the date on which the MLC troops were deployed and that also I
3 should speak about the massacre at the cattle market.
4 Thirdly, he asked me to say that I also took part in the pillaging, and that is why I
5 mentioned it in my statement. I myself did not say that I looted, but he told me three
6 things, and that is what he added to my statement. That is what he asked me to say
7 in addition to my statement.

8 Q. Let me go to CAR-OTP-0078-0248, page 255, lines 239 to 245. And this is what you say:
9 In Yaoundé, the documents that Mr Kilolo gave to the others were the statements that they
10 had given to Mr Kilolo. He gave it to them so that they should read and not forget what they
11 had already said.

12 Do you confirm that you observed Mr Kilolo handing over documents to the others
13 containing their own statements so that they should not forget what they had said
14 previously? Can you confirm that?

15 A. Yes, that is indeed what happened.

16 Q. Very well. Thank you.

17 Mr Witness, I will read out another excerpt to you so as to jog your memory. And I'm
18 referring to CAR-OTP-0078-0264, page 0266, lines 40 to 64. And for the Chambers it is tab 36.
19 And this is what you say: During the period of my testimony by video link,
20 Mr Kilolo called me because I had fallen ill, and I could not continue with my
21 testimony. He called me to find out how I was doing. We did not discuss any topic
22 other than my health, but he asked me to speak well. When he called me, he asked
23 about my health. He told me that I had done very well during my testimony before
24 the Judges.

25 So you have said that you did not discuss any topic relating to your testimony, that

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1 you only talked about your state of health; is that correct?

2 A. That is true.

3 Q. Mr Witness, when you appeared before the Court in 2013, you were examined by the
4 members of the Defence team of Mr Bemba at the time. Do you know who examined you?

5 A. I remember -- I no longer remember the person's name, but it was a white man.

6 Q. Was he English speaking or French speaking?

7 A. He was speaking English.

8 Q. Was Mr Kilolo present in the courtroom during your testimony at that time?

9 A. He was not present.

10 Q. So I suppose he did not ask you any questions on that day about what you had said
11 before.

12 Now I'm going to read another excerpt, and that is CAR-OTP-0078-0184, and that is in
13 tab 29, lines 119 to 142. I will read it out to you very quickly. It is a short excerpt.

14 This is what you said:

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 A. Yes, that is true. When I was at the hotel, I'm the one who said that. I admit it.

20 Q. Very well. And subsequently this is what you said: Kilolo told us that he would take
21 care of us while waiting for the ICC people to take over. Do you remember that or do you
22 want me to read the excerpt for you?

23 A. I remember that is what Kilolo told us, that from that day henceforth, the amount of 250
24 francs, which was given to me and which I signed for, he had given that money for
25 transportation and that when we would be handed over to the ICC, it would be that section

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1 which would take care of us.

2 Q. Thank you. Today you have appeared as a witness in this case. Did the unit inform
3 you that as a witness you had the right to be reimbursed for your transportation fare and
4 others?

5 A. I really did not understand your question.

6 Q. I'm referring here to Regulation 41 and others. Now, within the framework of this case,
7 did the VWU inform you that you had the right to be reimbursed for your transportation costs,
8 for your travel costs? Were you informed about that?

9 A. I was not the one who paid my transport fare. It was the VWU that took care of it here.

10 Q. If you had paid out of pocket to travel here, you would be reimbursed; isn't that correct?

11 A. I was not informed about that. However, (Redacted)

12 (Redacted); but I wasn't given the details.

13 Q. I understand. (Redacted)

14 (Redacted); is that correct?

15 A. That is correct.

16 Q. (Redacted)

17 A. Yes, that is correct.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. Very well.

2 Mr Witness, the Prosecutor asked you why Mr Kilolo gave you the amount of 540,000 CFA
3 francs, and you spontaneously answered that you did not know the reason why. It is
4 CAR-OTP-0078-02 -- 0257, lines 319 to 325.

5 When that question was put to you for the first time, you spontaneously answered
6 that you did not know why Mr Kilolo had given you that money; is that correct?

7 A. But why wouldn't I know? Can someone simply hand over such an amount of money
8 to someone else without giving any reason for it? I knew why he had given me that money.
9 I was not the only person to whom he had promised money. There were five of us. He told
10 us that he was going to give each of us 600,000 CFA francs before our testimony; and after
11 Senator Bemba was released, he would receive us in his residence in Kinshasa.
12 So I signed out the 250 euros that had been previously given to me for the transportation costs.
13 But when he gave me the 540,000 francs, there were only two of us present. And it was at
14 about 1 a.m. in the morning. I cannot just take some money from someone like that without
15 knowing the reason.

16 Q. Very well. I'm simply reminding you of what you told the Prosecutor.

17 You started by saying that you did not know why, but when the Prosecutor insisted,
18 you said that the money was to encourage you.

19 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

20 MR VANDERPUYE: I'm sorry to interrupt my colleague. The document he has, and he can
21 show it to the witness -- and I object to the question because it mischaracterizes what the
22 witness stated.

23 PRESIDING JUDGE SCHMITT: Then the Bench would like to have it on the screen so that
24 we can control it and can look what the witness effectively has said.

25 MR DJUNGA: (Interpretation) I will move on to the next question. He answered my

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1 question, and I believe that we all understood. We talked about it a few days ago, and we
2 are going to move on to the next question.

3 PRESIDING JUDGE SCHMITT: No. I think the -- my colleagues tell me, or my colleague
4 tells me he also wants to see it. Perhaps we put it on the screen and then we move on with
5 the questioning.

6 So could you perhaps repeat the CAR-OTP number and the exact reference?

7 MR DJUNGA: (Interpretation) Yes, your Honour. My learned colleague, Steven Powles,
8 will come back to that. We need some time to locate the reference.

9 MR VANDERPUYE: It's CAR-OTP-0078-0248. The page reference is 0257. Line references
10 go from 309 on to the next page 0258, 334.

11 PRESIDING JUDGE SCHMITT: Thank you very much for your help, Mr Vanderpuye.
12 (Pause in proceedings)

13 PRESIDING JUDGE SCHMITT: I think the Bench has noted what the witness has said, and
14 we can move on, Mr Djunga.

15 MR DJUNGA: (Interpretation) Thank you, your Honour.

16 Q. Mr Witness, do you know the surname of (Redacted)?

17 A. No, I don't know.

18 Q. I have three points of clarification for you. You introduced yourself as a corporal to
19 Mr Kilolo when you met in 2012; is that correct?

20 A. Yes, that is true.

21 Q. Up to November 2013 during your last contact, you never told Mr Kilolo that you were
22 not a soldier and that you did not know anything about military affairs; isn't that correct, that
23 you never mentioned that right up to your last contact with him in November 2013?

24 A. Yes, that is correct.

25 Q. Thank you, Mr Witness.

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1 MR DJUNGA: (Interpretation) I have no further questions, your Honour. I will hand
2 over the floor to my learned colleague, Mr Powles.

3 PRESIDING JUDGE SCHMITT: So please, Mr Powles. Like everybody, you get a short
4 amount of time to arrange yourself before you start with the questioning.

5 MR POWLES: Thank you very much, Mr President, your Honours.

6 QUESTIONED BY MR POWLES:

7 Q. Good morning, sir. My name is Steven Powles and --

8 A. Good morning, Counsel.

9 THE INTERPRETER: Overlapping speaker.

10 MR POWLES:

11 Q. Yes. My name is Steven Powles, and I'm going to also ask you some questions on
12 behalf of Mr Kilolo.

13 Now, we've been here all week, and you'll be relieved to hear that this process is nearly over
14 for you. And so that you know the areas that I'm going to be asking you questions about,
15 and so that the Bench have some framework as to the issues that need to be covered in the
16 short time that I have available with you, I'm just going to briefly set out the matters that I'm
17 going to cover.

18 Firstly, very briefly, deal with the meeting that you had in Douala; secondly, the meeting in
19 Yaoundé; then your contact with Mr Kilolo while you were in Yaoundé leading up to your
20 testimony; then the issue of money and money that you were given; and finally, some
21 concluding remarks.

22 And I say that just to orientate you so you're not taken by surprise by anything.

23 Very briefly, in relation to the first meeting that you had with Mr Kilolo in

24 Douala -- and I can deal with this quickly because Maître Djunga has already asked

25 you a number of questions about that, the first matter, and it's obviously self-evident,

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1 I think, that you were interviewed separately from the other witnesses, weren't you?

2 A. There were three of us, but we were interviewed individually.

3 Q. Yes, thank you, sir. Obviously we've all listened to the audio of that interview, and the
4 Judges and the Prosecution and everyone else now have a complete transcript of that audio.
5 Obviously the whole audio wasn't played to save time. And we can all observe that you
6 answered the questions confidently and without hesitation. Would you agree with that?

7 A. Yes, that's right.

8 Q. And you gave detail in your answers and gave no impression at all that you weren't
9 who you said you were?

10 A. I don't know.

11 Q. Well, we can see at page 2 of the transcript that you said very clearly "je suis militaire,"
12 and that was the impression that you wanted to give, wasn't it, that you were a militaire?

13 A. That's what I said.

14 Q. And we can also see from pages 12 and -- well, I think it's actually page 13 of the
15 transcript that you were asked by Ms Gibson, the white lady:

16 Okay. Okay. Est-ce que vous avez reçu des pressions pour votre témoignage.

17 And you said no.

18 And the next question: Ni d'argent ou cadeau?

19 And you said no.

20 That's correct, isn't it?

21 A. Yes, that's what I said.

22 Q. I now want to come onto the second meeting that you had with Mr Kilolo in Yaoundé.

23 And that was I think in May, one month before you testified and before the cut-off date before
24 you were handed over to the VWU.

25 Now, I think you said on Tuesday when you were giving evidence that in relation to

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1 questions that you might be asked in court, you said this: You said that Mr Kilolo
2 told you that if you were asked questions and if you don't know the answer that you
3 shouldn't say anything. And that's transcript page 12, lines 14 to 16. Do you
4 remember saying that on Tuesday?

5 A. Yes, I remember.

6 Q. So, in effect, what he was telling you was that if you don't know the answers to
7 something, you shouldn't say it, i.e., namely, you shouldn't lie?

8 A. I don't know. He said to me that if someone asked me a question and I had no reply, it
9 was better for me to say nothing. That's what he advised me to do.

10 Q. Yes. Thank you. You also said that he had a copy of the statement, the interview, a
11 transcript of the interview that you'd given in Douala in 2012, and he was going through that
12 with you. Do you remember saying that?

13 A. Yes, I remember that.

14 Q. (Microphone not activated)

15 MR POWLES: Forgive me.

16 Q. Is it possible, sir, that during the course of those discussions when he was going through
17 your interview statement with you that questions were asked about the date of the entry of
18 the MLC troops into CAR whether you remembered various dates and the dates on which
19 certain people were massacred in the marketplace, et cetera? Is it possible that those things
20 were discussed with you?

21 A. Yes. He read that out to me and gave me some advice about all of that.

22 Q. Well, you say "advice." My question is would it be fair to say and would it be better to
23 characterize that as a discussion with you and asking questions rather than telling you what
24 to say?

25 A. No, he didn't ask me questions. After he read out my statement -- you see, in my

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1 statement, I didn't say the month during which the MLC troops intervened. He was the one
2 who gave me -- that the MLC troops came in Bangui. That's why. You see, he gave me the
3 date on which the massacre occurred at the cattle market. That's why I said the word
4 "advice." I didn't say that before, but I could only use the word "advice." He advised me to
5 say this -- to say that.

6 Q. Now, we know that you told the Office of The Prosecutor, CAR-OTP-0078-0248, at line
7 513, that you never explained to Mr Kilolo that you didn't have a good knowledge of military
8 practices. We can bring it up. It's line 513, tab 11 of the Prosecution's bundle. And
9 it's -- the actual page of that document is CAR-OTP-0078-0263, and it's lines 509 and 510 down
10 to 513. The interviewer asks you: (Interpretation) That you did not have a good
11 knowledge of military practices."

12 (Speaks English) And then interpretation (Redacted).

13 And then the reply (Interpretation) Do you see that?

14 A. I did not say that to him.

15 Q. (Speaks English) So you never explained to him or gave him the impression that you
16 didn't have a good knowledge of (inaudible) --

17 A. No, I never said that I was a soldier. That was the answer that I gave. I never said to
18 Kilolo that I was a civilian.

19 Q. It's right, isn't it, sir, that you wanted to give the impression that you knew about
20 military matters and military issues? That is what you wanted to convey?

21 A. Indeed. Initially, I wanted to give that impression.

22 Q. And you were discussing those matters with him, and he wanted to see if you knew
23 about them?

24 A. Yes, indeed, because that is what had been told to him. The person who introduced
25 him to me introduced or put the matter to me in that way. I did not have a deal with

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1 Mr Kilolo. It's the person -- it was the go-between who certainly gave that information to
2 Mr Kilolo, who wanted to -- who wanted to know what or what -- I really can't say.

3 Q. Now, on Tuesday, when you were being asked questions, I think you said that
4 sometimes people remember things after the event. Do you remember saying that? The
5 exact reference is page 46, line 23. And I think you said it's possible that you may have
6 forgotten a few points, things that you were giving information about for the very first time in
7 evidence. Do you remember that?

8 A. I remember and I said that when I met the OTP team, that if I were to remember some
9 details, I would keep them informed of that. I think that's what I said last Tuesday.

10 Q. And you testified I think at the main trial that you didn't know Mr Arido or Bob. Do
11 you remember who we're referring to when I say "Bob?" I used the word -- name "Bob"
12 instead of the real name of the person so that we don't have to go into private session.

13 A. That's the recommendation of Mr Kilolo. He asked me to say that if someone asked me
14 a question during the hearing, that I deny knowing the other members of the group. That is
15 what I was supposed to say before the Judges.

16 Q. And you also claim -- and you also claim, sir, after you were helped a little bit and your
17 memory was refreshed by my learned friend for the Prosecution, you also claim that he told
18 you what to say about payments. Do you remember that?

19 A. Payments from whom? Could you give me more details? Exactly from whom?
20 Because I received money from at least two people, so at least give me a name.

21 Q. Perhaps I'll try and help you in the same way that the Prosecution helped you when you
22 were giving evidence about this on Tuesday.

23 On Tuesday you were asked, page 15 of the transcripts, line 25, whether you had -- whether
24 you remembered giving answers in the main case about being given money by various people.
25 I think you were told -- it's put to you that in the main case you said that the only person

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1 that -- you said the only person that ever gave you money was (Redacted). You
2 acknowledged that. And you later said that it was Mr Kilolo that told you to say that. Do
3 you remember saying that on Tuesday?

4 A. I haven't understood your question. Did I mention (Redacted) on Tuesday? If you could
5 please rephrase your question. Might it be possible to put up the message rather the
6 transcript on the screen? That might help me.

7 Q. I don't know if we can put up transcripts from what happened on Tuesday, but let me
8 just summarize it very briefly for you.

9 On Tuesday, you were shown or you were reminded of what you had said in
10 evidence in the main case, and you had said in the main case, it seems, that you only
11 ever received money from (Redacted).

12 Yes.

13 And on Tuesday you asserted that you said that because you had been told to say it.

14 PRESIDING JUDGE SCHMITT: Mr Vanderpuye is rising and has the floor.

15 MR VANDERPUYE: Thank you, Mr President. And I apologize for interrupting. One, I
16 don't think that's what he said; two, the transcript of his main case evidence is available, and
17 Mr Powles can present that to him; and three, Mr Powles can refer to the specific line and
18 page of his Tuesday's -- of his testimony on Tuesday to refresh his recollection or to confront
19 him.

20 So, for all of those reasons, I object to the question and the characterization of what the
21 witness stated.

22 PRESIDING JUDGE SCHMITT: So perhaps you can give us the exact reference so that --

23 MR POWLES: Yes, of course.

24 PRESIDING JUDGE SCHMITT: -- we can put it on the screen as the witness also has wished
25 and desired.

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1 MR POWLES: Well, I am not sure I can take him to the transcript from the trial because I
2 think I'm referring to the transcripts from Tuesday, and my learned friend was just reading
3 from the transcripts and the references from them.

4 Q. But what was put to you on Tuesday, sir, by Mr Vanderpuye when he was reminding
5 you of these matters during the course of his examination-in-chief of you, he put to you a long
6 quote from the transcript, from the main case when you were giving evidence, and you said
7 in reply: "The only person who gave me money was (Redacted)."

8 And then on Tuesday you said -- the question was:

9 "And the Chamber has just seen page 16 of the transcripts from Tuesday, and the Chamber's
10 just seen the receipt that you signed and heard your testimony about the €50 you received for
11 taxi fare following the first meeting. Why is it that you told the Chamber that you didn't
12 receive money from the Defence or anyone acting on behalf of Mr Bemba's Defence when you
13 testified?"

14 And you said: "Mr Kilolo told me this once you get to court."

15 Do you remember saying that?

16 A. Well, up until now the question hasn't been clear. In my first statement, Mr Kilolo
17 recommended to me that I say before the Judges that I had never received money. The €50
18 that was given to me by Mr Kilolo, that was not in front of the white lady. It was in the
19 elevator. The only amount of money for which I signed was the €250. That is what
20 happened.

21 MR POWLES: I'm going to be cheeky now and say that if my question wasn't clear, it's
22 because I was reading out the questions that were put to you on Tuesday, but that's maybe
23 being --

24 PRESIDING JUDGE SCHMITT: I think this has been answered now --

25 MR POWLES: Yes.

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1 PRESIDING JUDGE SCHMITT: -- so you can go on.

2 MR POWLES: I'll move on.

3 Q. The main point, sir, and the important point is that those are quite important details,
4 quite significant details who told you to say what about whether you knew Mr Arido or Bob
5 or being given money, and it's something that you'd never mentioned before in any of your
6 extensive interviews, I don't think, with the Office of The Prosecutor. The very first time that
7 you mentioned it is when giving evidence before this Trial Chamber.

8 A. What did I say during my first statement? I never signed a receipt for €50. That I
9 acknowledge. I only signed the receipt for the amount of €250, and that wasn't in the
10 presence of Mr Kilolo. It was in the presence of Mr Jean-Jacques. I must admit that I don't
11 understand your question. I --

12 PRESIDING JUDGE SCHMITT: I think that this was more a statement than a question.

13 THE WITNESS: (Interpretation) I really can't --

14 PRESIDING JUDGE SCHMITT: It's -- if we look at the transcript, we heard it, of course, in
15 English. This was more something that the Bench would have to assess in the end or would
16 have to recognize and assess in the end, and perhaps you can move on with your questioning.

17 MR POWLES: Yes, Mr President.

18 Q. I'm going to move on then, sir, to the next topic.

19 On Tuesday, you were asked, page 20 of the transcript, lines 4, you were asked
20 whether after your testimony whether you had any further contact with Mr Kilolo.

21 And your reply, sir, was:

22 "After my testimony, he called me from time to time to inquire about my health, because I was
23 not very well."

24 Do you remember saying that?

25 A. Yes, I confirm that.

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1 Q. And earlier when my learned friend, Mr Djunga, was putting questions to you, you
2 confirmed that when you were called, you say during the course of your testimony that
3 subject matter of the conversation with Mr Kilolo was only about your health. Do you
4 remember saying that earlier this morning?

5 A. Yes, I remember.

6 Q. Now, what I am going to suggest to you, sir, is do you think you might be mistaken
7 about the time of that call and that that call occurred after your testimony?

8 A. We would call one another from time to time well before my testimony, and after my
9 testimony he contacted me as well.

10 Q. Yes, I'll move on to money. You were asked on Monday, page 77, lines 12 to 17,
11 whether you at any time discussed money or promises with Mr Kilolo regarding your
12 testimony in the Bemba trial. Do you remember that?

13 A. Yes, I remember.

14 Q. And you mentioned that you had a go-between.

15 MR POWLES: I haven't received the translation I'm afraid. I also have a difficulty because I
16 don't have --

17 THE INTERPRETER: Message from the interpreters: There was a bit of a mix-up with the
18 microphones. Could the witness repeat his answer.

19 THE WITNESS: (Interpretation) I have not understood the question. Are you talking
20 about the first meeting or the second? Since we hadn't talked about any agreement, it was
21 Arido who was dealing with us, so I didn't talk about a deal with him. We never agreed on a
22 certain financial benefit or reward after my testimony.

23 MR POWLES:

24 Q. Now, obviously in order for you to get to the first meeting in Douala and to the second
25 meeting in Yaoundé, you incurred certain expenses.

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1 A. No. I didn't pay for the transportation. For the first meeting, it was Arido who
2 handled the transportation costs.

3 Q. And those costs were paid for you?

4 A. Of course that was paid.

5 Q. And you were given money for food? And accommodation was paid for?

6 A. I was never given money for accommodation. I was never paid money for my
7 accommodation. The amount of money that I received was €250. That amount was paid to
8 me for the transportation in exchange for a receipt. However, I never received money for my
9 housing -- rather, for my accommodations.

10 Q. Yes. I think that's -- that's the point because between February 2012 and when you next
11 met Mr Kilolo in May 2013, yes, you'd effectively been on standby waiting to give evidence in
12 the Bemba trial; is that right?

13 A. That is correct.

14 Q. And of course being on standby you needed to be available at short notice to be able to
15 come and give evidence?

16 A. There was notice given. In fact, I had been informed about that several years before.
17 My meeting was -- with Mr Kilolo was one and a half years before my testimony.

18 Q. Yes. You met him in February 2012, and from February 2012 until May, nearly one and
19 a half years. In 2013, you didn't know when you were going to be called to give evidence,
20 did you? It could have been at any point in that time.

21 A. When we met, it was the last time, and there was no further meeting. It was only in
22 February 2013 that he sent me an email. That means one year later. Ever since
23 February 2012, we had not met, and I did not even have his contact details.

24 Q. But he needed to be able to get in contact with you, didn't he, Witness?

25 A. I had contact with him in January to notify me of his arrival -- of the arrival in February.

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1 So that was the contact I had with him one year later. Subsequently, I no longer had any
2 further contact with him. Maybe he was communicating with Arido, but it was after Arido
3 left that he resumed contact with me.

4 Q. And then from February, early 2013 until you next met him in May 2013, again, you
5 needed to be -- he needed to be able to -- be able to get in contact with you? He needed to
6 know where you were?

7 A. That was not the case. He approached me because the intermediary was no longer
8 there. That is how I interpreted his contact with me. During a certain period, there was no
9 longer any contact between them and myself. It was only after the departure of Mr Arido
10 that he resumes contact with me.

11 PRESIDING JUDGE SCHMITT: Mr Powles, I think he, the witness, does not understand.

12 MR POWLES: Yes.

13 PRESIDING JUDGE SCHMITT: I think perhaps what you are heading at is if the witness
14 after February 2012 expected, sort of, to be called as a witness. Perhaps --

15 MR POWLES: Yes.

16 PRESIDING JUDGE SCHMITT: -- you give it a try --

17 MR POWLES: Yes.

18 PRESIDING JUDGE SCHMITT: -- in that respect.

19 MR POWLES: (Microphone not activated)

20 Q. After February 2012, you were expecting to be a witness, weren't you?

21 A. Yes, I was expecting that because Mr Kilolo called me from time to time.

22 Q. When he was calling you from time to time, he needed to be able to get in contact with
23 you. That's the point. If you were going to come and give evidence, he needed to be able to
24 reach you as the lawyer to know where you were.

25 A. That is not the way I understood it. He called me to inquire about the situation of the

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1 others. Mr Kilolo had only my number. He did not have the numbers of the others. So he
2 called me to inquire about the others. I told him where Mr Job (phon) was because he didn't
3 know.

4 Q. You, as you've told us today, were obviously giving the impression to Mr Kilolo that
5 you were a militaire, that was what you were going to be giving evidence about.

6 A. But that is what I have been talking about for a long time. I did not introduce myself to
7 Mr Kilolo as a civilian. You have already put that question to me.

8 PRESIDING JUDGE SCHMITT: I think, Mr Powles, it indeed has been discussed before.

9 MR POWLES: It going on to --

10 PRESIDING JUDGE SCHMITT: Yes, yes. Okay.

11 MR POWLES:

12 Q. And as a militaire, former militaire, had you not given the impression that you were
13 staying in a refugee camp for militaires, former militaires?

14 A. No. And during my meeting with Mr Kilolo, he was not aware of my status. I
15 showed him my (Redacted) identity card. Subsequently, during our meeting
16 in 2012, he was aware. And where I was located, there was no camp for soldiers. That is
17 what I told Mr Kilolo during our meeting in 2012. Mr Arido had told us to say that we had
18 been in the bush. I did not tell him about that or a military camp. I really do not
19 understand the thrust of your question.

20 Q. I think it's the reference to the bush that's actually very helpful, and that's -- that's where
21 we're going. You say that you had said that you had been in the bush, that you wanted to
22 give the impression that you'd been in the bush, yes?

23 A. No, I did not say anything about that to Kilolo. It is Arido who had asked us to say
24 that. I never discussed any such thing with Mr Kilolo. We did not speak about the bush
25 with Mr Kilolo. Arido had asked me and the other members of the group to say such and

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1 such a thing, and all I did was to give an account of what Mr Arido had asked us to say. I
2 did not say that I was in a refugee camp.

3 Q. And being in the bush, had you been in the bush, you would not have been contactable,
4 would you, in the bush, except with a Thuraya maybe?

5 A. That is what I said here. That is what the leader of the group told me. He said that
6 once we met with him, we should not tell him that we had any phones, that we had been
7 using Thurayas, and that is what I said before the Court. From time to time, we would camp
8 out in order to have access to the network and that money would be sent to Mr Arido to
9 procure mobile phones for us.

10 Q. What I'm going to suggest to you, sir, is that the money that you were given by
11 Mr Kilolo, the 540,000 CFA, that that was to compensate you for the expenses that you'd
12 incurred while waiting to come and give evidence.

13 A. No, that was not the case. Initially, there were certain persons taking care of me. He
14 specified the purpose for that money, but your question is not really clear to me.

15 Q. Well, let me --

16 A. Before giving us that money, he said it was in relation to the promise he had made to us.

17 Q. And it was important -- the thing that was important from the period of February 2012
18 to then February 2013, and then the next period from February 2013 to when you met in
19 May 2013, it was important, was it not, sir, that, number one, that you would be contactable;
20 and two, that you would be safe. Do you agree with that?

21 A. Yes, I agree.

22 Q. And were you to remain in (Redacted), you may not have been safe?

23 A. But during our meeting, I was not in the (Redacted). I really do not
24 understand the meaning of your question. Where are you heading to with this?

25 Q. Don't worry about where I'm heading. To be safe, it was important for you, given who

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1 you were saying you were and what you were saying you had done in order for you to be
2 safe, it was important for you to remain in (Redacted); was it not?

3 A. I did not tell him that. I really still do not understand the question. This is not what I
4 told him.

5 Q. Well, you told --

6 A. Counsel, please kindly rephrase your question. I do not understand.

7 MR POWLES: Perhaps we could go into private session please, Mr President.

8 PRESIDING JUDGE SCHMITT: Private session.

9 *(Private session at 10.47 a.m.) Reclassified as open session

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

11 MR POWLES:

12 Q. You were giving the impression that you'd been one of Bozizé's fighters, were you
13 not -- my mistake, Patassé.

14 A. It is true. That is what I have said and repeated several times. That was the answer I
15 gave Mr Kilolo.

16 Q. Because of who you were saying you were, would it not have been dangerous for you to
17 (Redacted)

18 A. (Redacted). I told Mr Kilolo what we had
19 discussed with Mr Arido. (Redacted). You can search (Redacted)
20 (Redacted), and you will not find any such thing.

21 I told Mr Kilolo what we had discussed with Mr Arido, but that was not the purpose
22 for my travel to (Redacted). (Redacted).

23 Q. It was important for you to be in (Redacted). And what I'm suggesting, sir, that is what
24 the money was for, the 540,000, to compensate you for the time and the expenses that you had
25 incurred while being in (Redacted) waiting to come and give evidence in the Bemba case.

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1 A. I really don't know what else to say. It is frustrating. I have told you the reason why
2 that money was given to me. I'm not here before the Court to say just anything. I'm simply
3 giving you an account of what Mr Kilolo said, the promises he made to me. I admitted
4 having received the amount of €250 for transportation. I have said this before this Court. I
5 cannot tell lies about this. I am here in this courtroom to tell you what effectively happened.
6 I cannot add nor subtract anything from that.

7 During our last contact, he gave me an amount of 100,000 francs; that is after my
8 testimony. He gave me that as pocket money. I'm not here to add or subtract to the
9 truth. That is the purpose for which I am here, to tell you the truth.

10 (Redacted). Ever since my
11 last testimony, I was bothered by my conscience because I had lied, and so it is a relief
12 for me to come and tell the truth. My first objective right here is to tell you the truth.
13 PRESIDING JUDGE SCHMITT: I think, Mr Powles, you should move on to another issue.
14 If you do so, please tell us if we can go into public session or if we should remain in private
15 session.

16 MR POWLES: I think just -- let's just remain in private just to be -- just to be safe on this
17 point.

18 Q. Sir, you mentioned the 100,000. There are a number of issues in relation to that. Let's
19 take them each in turn. First of all, I think you told us on Tuesday that when you got the
20 540,000, you were upset because you thought you were going to be getting 600,000. Do you
21 remember saying that?

22 A. When he handed over the money to me, I told him this: Sir, you promised me 600,000
23 francs. Why are you giving me 540,000 right now? He told me to calm down and that he
24 would look into it later. In any case, I did not agree with him because that was not the
25 amount that he had promised.

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- 1 Q. You mentioned pocket money because, of course, after your testimony, and I think you
2 told Mr Larochelle when cross-examined yesterday, (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
- 11 A. I remember having said that.
- 12 Q. And that's why you needed to be in (Redacted)?
- 13 A. That is correct.
- 14 Q. And while you were in (Redacted), you incurred expenses? Your life was interrupted?
- 15 A. Which expenses?
- 16 Q. Living expenses, day-to-day expenses; where you were going to live, what you were
17 going to eat, not being able to work, do what you normally did, those sorts of things.
- 18 A. Counsel, is it possible for someone to change his life in exile? I do not understand your
19 question.
- 20 PRESIDING JUDGE SCHMITT: I have to interrupt. I do not like it because the tape comes
21 to an end, so we simply have to stop here. Perhaps we -- after the break one could inquire
22 how he financed his living there in (Redacted).
- 23 So we now make a break until 11.30. Coffee break.
- 24 MR POWLES: Thank you.
- 25 THE COURT USHER: All rise.

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1 (Recess taken at 10.57 a.m.)

2 *(Upon resuming in private session at 11.30 a.m.) Reclassified as open session

3 THE COURT USHER: All rise.

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

5 PRESIDING JUDGE SCHMITT: This, of course, that we are in private session gives cause to
6 the question if we can stay in private session or if we can go into public session.

7 MR POWLES: I think we can go into public session --

8 PRESIDING JUDGE SCHMITT: Yeah.

9 MR POWLES: -- Mr President. And I think I'll only be another 15, maximum 20 minutes.

10 PRESIDING JUDGE SCHMITT: Okay. Very good.

11 Then, please, we go into public session.

12 (Open session at 11.31 a.m.)

13 THE COURT OFFICER: We're in open session, Mr President.

14 MR POWLES:

15 Q. Now, Witness, how much would it have cost to live in a (Redacted) for
16 housing per month, (Redacted), back in 2012, 2013?

17 A. I'm sorry, I don't understand your question. It's important to clarify.

18 Q. 2012-2013, so back to those two years, if someone were living in a (Redacted)
19 (Redacted), how much would it have cost per month for housing, do you think?

20 A. No, I have no idea about (Redacted). (Redacted), there are several categories of home.
21 I'm really not in a position to know what it might cost, but I could tell you how much my rent
22 was.

23 PRESIDING JUDGE SCHMITT: Mr Powles, you could ask him directly what his expenses
24 monthly of whatever have been at the time where he lived at the time.

25 MR POWLES:

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1 Q. How much were your expenses, and how much would housing have been?

2 A. In which year?

3 Q. 2012 and 2013.

4 A. (Redacted)

5 (Redacted)

6 (Redacted). So in 2012, I wasn't paying any rent.

7 Q. Somebody was looking after you, taking care of your needs?

8 A. Well, when you say "someone," who are you talking about exactly? It's important to

9 clarify. Who might have been taking care of me? (Redacted)

10 (Redacted)

11 Q. Well, you were just surviving on nothing? How were you living, Witness? And what
12 expenses were you incurring or was someone incurring on your behalf? It's not difficult.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. Just from there, a number of questions: 180,000 CFA francs -- we may need to redact
23 something. I think I see my friend on his feet.

24 PRESIDING JUDGE SCHMITT: Yes, Mr Vanderpuye.

25 MR VANDERPUYE: Sorry, Mr President. If we are going to continue in this line, I would

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1 suggest that perhaps we continue in private session.

2 PRESIDING JUDGE SCHMITT: I think this is okay. We go into private session.

3 Thank you, Mr Vanderpuye.

4 *(Private session at 11.38 a.m.) Reclassified as open session

5 THE INTERPRETER: Interpreter correction: (Redacted)

6 (Redacted)

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

8 MR POWLES:

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 PRESIDING JUDGE SCHMITT: There was an overlap again. Please wait, Mr Powles.

14 Mr Witness, please finish your answer.

15 THE WITNESS: (Interpretation) I (Redacted)

16 MR POWLES:

17 Q. So you're (Redacted)? So your French must be

18 pretty good?

19 A. Yes, that's right.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. And do you remember, I think it was on Monday or Tuesday when there were going to
15 be some discussions amongst the lawyers and with the Judges, and it was maybe going to be
16 necessary for you to leave the courtroom so that we could have those discussions
17 confidentially and without you. And my learned friend, Mr Gosnell, suggested that there
18 was no need for you to leave, maybe you could just take your headphones off, and you did
19 that. But you didn't tell anyone (Redacted)

20 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

21 MR VANDERPUYE: If my memory serves me correctly, he was never asked, Mr President.
22 Mr Gosnell didn't ask him, and certainly Mr Powles didn't ask him.

23 MR POWLES:

24 Q. It's not a question of whether you were asked. You didn't volunteer the information,
25 did you, Witness?

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1 A. No. No one asked me what languages I spoke. (Redacted)

2 (Redacted). If the question had been put to me what languages I spoke, I would have
3 answered the question, but no one asked me the question.

4 Q. Well, we can leave -- we can leave your (Redacted) account. I'm certainly not going to go
5 into who you might be following and who might be following you. That's -- that's another
6 matter. But I want to go back to the second point that arose from your work with (Redacted).
7 I think you said you were getting (Redacted)-- no. One -- yeah, (Redacted). Do you
8 remember that? Is that per month?

9 A. Yes. It was a monthly wage.

10 Q. And is that what you needed to live on? Is that enough to live on?

11 A. I believe that I said that it was in (Redacted). That was when I began to get some
12 wages and could take care of myself. In the meantime, I only had a temporary job.

13 Q. Exactly. And my question is: That figure, (Redacted), is that roughly what one would
14 need -- what somebody would need to live on where you were? Thank you.

15 A. Yes, of course.

16 Q. Now, let's go back to May 2012. At that time, as far as you were concerned, you were
17 presenting yourself, and you were being presented to Mr Kilolo as a militaire, somebody
18 without means; that's right, isn't it, Witness?

19 A. That's right.

20 Q. You were being presented as someone who didn't even have enough money, \$20, to buy
21 a telephone?

22 A. Yes, that's right.

23 Q. And February 2012, when you met Mr Kilolo, to when you were (Redacted)

24 (Redacted) to be a witness in the Bemba proceedings in 2013, for the entirety of that period, no one
25 from the Court was paying for your housing, your food or your pocket money, were they?

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1 A. (Redacted)

2 (Redacted)

3 Q. Does that mean the answer to my question is yes, that from February 2012 to when you
4 were handed over to the Court in 2013, nobody from the Court was paying for your housing,
5 food, pocket money, et cetera? Do you understand? Is the answer to that yes?

6 A. (Speaks English) No. I don't understand. A little bit.

7 Q. Okay. From February 2012, when you met Mr Kilolo --

8 PRESIDING JUDGE SCHMITT: We did not have -- and now the interpretation to what the
9 witness said. Could the interpreter please be so kind to repeat the last answer of the witness.
10 Thank you very much.

11 THE INTERPRETER: Message from the interpreters: We believe that the last reply was in
12 English.

13 Message from the (Redacted) booth: The (Redacted) booth did not hear the end of the reply.
14 Could Defence counsel please kindly wait until the translation is finished before asking the
15 next question.

16 MR POWLES: Apologies all around. Let's ask that question again.

17 Q. From February 2012 when you met Mr Kilolo, to when you were (Redacted)
18 (Redacted) in 2013, up until that point, as far as you're aware, nobody from the Court, the ICC,
19 was paying for your food, your living expenses, your accommodation, et cetera? Do you
20 understand? Your pocket money. You weren't getting any money from the Court during
21 that period?

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. Thank you. Now, the money that you were sent by Mr Kilolo after your testimony, the

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1 100,000 CFA, (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 PRESIDING JUDGE SCHMITT: (Overlapping speakers) Counsel does not want to upset

9 you. Counsel is putting questions to you, and I think this question has been answered.

10 MR POWLES: Yes.

11 PRESIDING JUDGE SCHMITT: You can move on, Mr Powles.

12 MR POWLES: Yes.

13 Q. The impression that was given to Mr Kilolo and his understanding was -- I see

14 Mr Vanderpuye --

15 PRESIDING JUDGE SCHMITT: Mr Vanderpuye is rising.

16 MR VANDERPUYE: I am rising. And Mr Kilolo's not testified in this case yet, and I would

17 ask counsel to refrain from testifying for him.

18 What Mr Kilolo was thinking and what Mr Kilolo knew is another question altogether,

19 but that's not within this witness's head, and not within his ken. So I would ask

20 Mr Powles to phrase the question appropriately and refrain from testifying.

21 MR POWLES: I'm not doing that. The impression that was given --

22 PRESIDING JUDGE SCHMITT: No. First the Presiding Judge, I think, has a say in that.

23 And I think I allow the question because the -- we have been hearing the audio recording, and

24 we have an impression of this audio recording, and I allow this -- I allow this question, and

25 we will see where it leads us.

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1 MR POWLES:

2 Q. Witness --

3 PRESIDING JUDGE SCHMITT: Please refrain, of course, from the -- we have two parts in
4 this question; the impression that the witness wanted to give to Mr Kilolo, that is allowed; but,
5 of course, insofar the Prosecutor is correct, we cannot ask the witness what Mr Kilolo's
6 understanding --

7 MR POWLES: That's right.

8 PRESIDING JUDGE SCHMITT: -- was. So we have to distinguish here. Thank you.

9 MR POWLES: Unless -- unless the understanding was based on something that the witness
10 had said --

11 PRESIDING JUDGE SCHMITT: We will see.

12 MR POWLES: -- or done.

13 Q. Now, Witness, the impression that you had given to Mr Kilolo was that you were
14 someone who did not have -- who could not receive money in your name; is that right? A
15 simple yes or no.

16 A. That's not what I said.

17 Q. It's what I'm asking you.

18 A. I have my own identity card. When Mr Kilolo called me, he said to me that he couldn't
19 send the money personally to me or to my fiancée. You see, my -- but you see, my fiancée
20 and I, we did indeed have our identity cards. He suggested that we -- that he not give my
21 name or the name of my fiancée because the Court had all those names in its database, so I
22 had to give the name of another person.

23 Q. The question that was put to you: You were asked to give the name of a relative.
24 That's right, isn't it, Witness?

25 A. That wasn't the question.

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1 Q. And you gave the name of your (Redacted)?

2 A. That wasn't the question. My (Redacted) was back in the village. I could give the
3 name of my fiancée. I just followed the instructions of Mr Kilolo because he told me never to
4 give my name or the name of my fiancée. I had to give a name that no one here knew.

5 Q. Was the (Redacted), were they sending you money in your name?

6 A. Yes, yes, to me personally --

7 Q. On every occasion --

8 A. -- they did all those transfers to me.

9 Q. Let's move on. Your evidence is --

10 A. The money I received came to me. It didn't come via the name of another person.

11 Since that time when I was in (Redacted), all the transfers were done in my name. The only
12 thing that changed was the name of the people who were sending the money.

13 Q. Your evidence, Witness, is that when you gave evidence in the Bemba main case that
14 you sat before the Trial Chamber in that case and lied and gave false testimony. That's your
15 evidence now, isn't it, Witness?

16 A. Of course. That's right. I didn't come of my own -- on my own -- for my own -- of my
17 own free will.

18 Q. (Microphone not activated)

19 PRESIDING JUDGE SCHMITT: Mr Powles, I think you don't have your microphone on, so
20 you have to repeat it. And I -- there was a phrasing that I did not like very much in your
21 question, which suggested, if I heard it right, that the witness was perhaps not really ill, so I
22 would --

23 MR POWLES: Sorry.

24 PRESIDING JUDGE SCHMITT: -- like you to avoid this expression.

25 MR POWLES: That wasn't -- that wasn't the intention that was supposed to be conveyed --

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1 PRESIDING JUDGE SCHMITT: Okay. Please.

2 MR POWLES: -- and if that was, then I'm sorry.

3 Q. On Tuesday (Redacted), you gave an answer to a question that was put by
4 my learned friend, Mr Larochelle, at page 42, line 23. He asked you this: "So was it -- are
5 you -- so what you are saying is that it was not your fault, it was Arido's fault that you lied; is
6 that correct?"

7 And you said: "No, it was not my fault; it was Arido's fault."

8 Is that really what you're saying, sir, that it was Arido's fault that you lied and not
9 yours?

10 A. But that's what I said --

11 Q. So you really --

12 A. That's what I said.

13 Q. You really don't think that it's your fault that you lied?

14 A. It was someone who encouraged me to lie. It wasn't of my own volition. I wasn't the
15 one who went to go and meet with Kilolo. It was the opposite. He was the one who went
16 looking for me, and it was he himself who told me what to say. He put the words in my
17 mouth. It wasn't my fault.

18 Q. Yes. I think your answer speaks for itself, Witness.

19 You were asked or you told us that Mr Arido and Bob asked you to write down the
20 country that you wished to go to, that you wanted to live in, and you said you
21 couldn't really remember; you think you wrote an African country. Do you
22 remember that?

23 A. Yes, I remember.

24 Q. When you were being interviewed by the Office of The Prosecutor about why you had
25 lied in the main case, and it's CAR-OTP-0078-0264, that's at tab 12, and the exact page is

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1 CAR-OTP-0078-0281 at lines 583 to 587, you suggest there that the reason you lied was to
2 get as a solution for "me tirer de ma vie de misère." Do you see that, line 585?

3 A. That is what I said.

4 Q. Yes, to get out of your life of poverty.

5 A. That is not really what I said. I said that when Arido arrived I was in a difficult
6 situation and when he made that proposal to me, I found it as an opportunity for me to get
7 out of this life of misery. I really did not have myself initially the intention to come out of
8 this situation.

9 Q. So that was the position that you were in at that stage then, a life of misery.
10 And on Tuesday you told us, page 42, line 9, you said this: "Our objective with that deal was
11 to be comfortable, to be satisfied."

12 That's what you wanted, wasn't it, Witness?

13 A. But this is repetition. I've already confirmed here that this is what I said.

14 PRESIDING JUDGE SCHMITT: Indeed, Mr Powles. Although -- although it's not the task
15 of the witness to mention that --

16 THE WITNESS: If you were in my shoes and you found yourself in a situation of misery,
17 what would you do?

18 PRESIDING JUDGE SCHMITT: -- but I think he has answered.

19 MR POWLES: Your Honour, I had -- I'm afraid I didn't hear what your Honour was saying,
20 with no dis -- all I heard was the witness's -- the translation from the witness saying "if you
21 were in my shoes, what would you do." But my apologies, I didn't hear what your Honour
22 said.

23 PRESIDING JUDGE SCHMITT: No, no. The reason being that I'm now responsible for
24 overlapping, and that's not your fault.

25 What I was saying is that, indeed, he has answered the question. And you indicated

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1 when we came back from the break that you would have 15 minutes.

2 MR POWLES: (Overlapping speakers)

3 PRESIDING JUDGE SCHMITT: I understood that it was a little bit cumbersome in the
4 process --

5 MR POWLES: Yes.

6 PRESIDING JUDGE SCHMITT: -- but I would remind you of what you have said before.
7 Thank you.

8 MR POWLES: At the risk of underestimating how much longer I'll be, I think I'll be another
9 2 minutes at most.

10 Q. I mean, it's fair to say, Witness, that now you're not in a life of misery, are you? You're
11 in a comfortable position now where you are?

12 A. I am not living in a situation of misery or poverty, but, Counsel, do you mean that
13 where I'm living I receive money freely, money is just falling from trees? No. I work for a
14 living. It is not because I'm living there that I receive money free of charge. I work really
15 hard to earn money and take care of my family. I'm not just sitting at home and receiving
16 money free.

17 Misery can be found everywhere. It is not only in the country that I was living in
18 before.

19 Q. Do you agree, Witness, that you would -- well, you would perhaps not be there had you
20 been prosecuted for giving false testimony in the Bemba case?

21 A. That cannot change my destiny. Even if I had been convicted, I would not have stayed
22 in prison forever. I'm not afraid of anything. If I had been summoned to come here, I
23 would have given a clear account of the facts. I am not afraid of anything at all. If, in fact, I
24 had been afraid, why would I have contacted the OTP to have the opportunity to come and
25 testify before the Court?

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1 Q. Well, we can check whether you contacted them or vice versa.

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 PRESIDING JUDGE SCHMITT: Mr Vanderpuye?

9 MR VANDERPUYE: Two things, Mr President. One is a question of relevance, and two is
10 that it ignores the evidence that the witness has already given in relation to those applications.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 And with respect to the (Redacted), there is no basis for the question in the evidence
15 that has been put to the witness so far, at all.

16 So if my colleague can identify where it is that he's drawn the basis for this question,
17 that would be helpful, and I think it would properly anchor and frame his question in
18 its proper context.

19 PRESIDING JUDGE SCHMITT: I think we should at least put it in a time frame, to put it this
20 way. You know what I mean by that?

21 MR POWLES: Yes.

22 PRESIDING JUDGE SCHMITT: If we -- if we have not established here that these
23 applications have been made at a point in time where there could have been reason for the
24 witness to mention it or not, then I would allow it; otherwise, I think we should conclude.

25 MR POWLES: It potentially goes to the witness's credibility if he failed to mention

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1 something that he should have done.

2 PRESIDING JUDGE SCHMITT: And I also understand that the witness has consented that
3 you have access to these documents, so we could perhaps also leave it as it stands at the
4 moment. It's up to you to decide.

5 MR POWLES: Your Honour, yes. Of course we do have access to those documents. I
6 wanted to give the witness an opportunity to answer what he said before your Honours in
7 those applications before they're reviewed by us. And of course we will get to the bottom of
8 this one way or another before this case is finished, but I wanted to give the witness an
9 opportunity to say (Redacted)
10 (Redacted).

11 PRESIDING JUDGE SCHMITT: Yeah, but this, of course, depends a little bit on what
12 Mr Vanderpuye has said. So I would like you really to establish the time frame, and then we
13 can go on.

14 MR POWLES: (Overlapping speakers)

15 PRESIDING JUDGE SCHMITT: Mr Vanderpuye remains standing, and then Mr Taku.

16 MR VANDERPUYE: I am remaining standing, Mr President, because my learned colleague
17 hasn't established, first of all, that the issue at question was required to have been declared on
18 any such application. That is the gravamen of his question and it only has any import to this
19 witness's evidence before this Chamber if there was, A, such a requirement; and B, that that
20 issue arose at a time when it was relevant to his testimony in the main case or this case.

21 PRESIDING JUDGE SCHMITT: Mr Taku.

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

2 MR TAKU: And I think, your Honours, (Redacted)

3 (Redacted)

4 PRESIDING JUDGE SCHMITT: I think -- I think, indeed, we are a little bit in the realm of
5 speculation now. We -- I don't know, to be honest, and I don't know if anybody in the room
6 here knows (Redacted)

7 (Redacted). So there must be documents. There

8 must be questions. And I really, indeed, have a problem with allowing this question at the
9 moment as it stands.

10 MR POWLES: In the interest of time, I can perhaps frame it in a different way, like in light
11 of when --

12 PRESIDING JUDGE SCHMITT: Okay. Please, please do that.

13 MR POWLES: -- the witness testified.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 PRESIDING JUDGE SCHMITT: So I think, Mr Powles -- Mr Powles, I think we let it stand as
25 it is, and you will receive these documents and then you --

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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 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

20 MR VANDERPUYE: Mr President, this whole line of questioning is dependent on

21 Mr Powles' apparent assumption that (Redacted)

22 (Redacted). If he can establish that

23 there is such a requirement, then this line of questioning has relevance.

24 MR POWLES: I can see --

25 MR VANDERPUYE: He hasn't so far. And until he does, I think the entire line of

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1 questioning is objectionable.

2 MR TAKU: My Lord, your Honours, may I? (Redacted)

3 (Redacted). It is a requirement, your Honours. That -- that is

4 mandatory. (Redacted), if that question is

5 put to him by the require -- this is a requirement. And I can't understand -- I'm surprised

6 that Mr Vanderpuye is -- is trying to assert anything to the contrary.

7 MR POWLES: I can see my learned friend --

8 MR VANDERPUYE: I would -- I would say that I'm not asserting anything to the contrary.

9 And Mr Taku's reference is appreciated. Unfortunately, it's not part of the evidentiary

10 record of this case. Maybe when he testifies, it will be. But the bottom line is that that is not

11 part of the evidentiary record in the case. The witness hasn't been arrested. Mr Powles

12 hasn't established that he is the subject of the investigation in this case; and, therefore, the

13 question has no appropriate legal foundation. And that's the basis of my objection.

14 PRESIDING JUDGE SCHMITT: No. Wait. I think now we stop this. We stop further

15 discussions. What I would allow is a question -- I cannot --

16 Mr Taku, you understand that you tell us that these are requirements. We don't

17 know that. And, indeed, Mr Vanderpuye is correct in that respect.

18 What I would allow is a question by Mr Powles, and I think the last one -- the last one

19 went in this direction: If concretely in (Redacted) the witness was asked something

20 in that respect, and this, I think, if we have an answer to this one, we finish that.

21 MR POWLES: Yes. I'm very grateful, your Honour. And I appreciate Mr Vanderpuye

22 may have sensitivities about this issue, and maybe that's something that can be looked into.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
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- 5 (Redacted)
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- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 PRESIDING JUDGE SCHMITT: No. No. I would not allow the question in this respect.
- 12 I think we should be more specific. Were you aware -- have been put concrete questions if
- 13 there is an investigation ongoing, if there has been arrest, or something like that. In that
- 14 respect you could word it.
- 15 MR POWLES:
- 16 Q. Yes, Witness. You heard the way his learned President put it. Were you asked any
- 17 questions about, in a concrete way, about whether you were involved in any ongoing
- 18 investigation, whether you'd been arrested, or whether you -- or whether you were suspected
- 19 of any offence? Were you asked any questions along those lines, (Redacted)
- 20 (Redacted)?
- 21 PRESIDING JUDGE SCHMITT: Mr Vanderpuye?
- 22 MR VANDERPUYE: Which (Redacted) is he talking about?
- 23 PRESIDING JUDGE SCHMITT: I think we have now -- we have now heard by the witness
- 24 that there have been two interviews, and it seems clear for me, and it's I think also clear for
- 25 the witness that Mr Powles is referring to these (Redacted). And the question was if he has

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1 been asked during these (Redacted)-- if the witness knows about ongoing investigations
2 against him, or if he has been arrested, or if there is any criminal proceeding against him.
3 And I think he can answer this question, and then we finish his examination by
4 Mr Djunga and Mr Powles.
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 MR POWLES: Your Honour, I did say I'd finish but then, of course, the witness just
24 confirmed at page 64, line 13, (Redacted) had committed any crimes. So I
25 think now my original question is relevant as to (Redacted)

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1 (Redacted), whether he had given false testimony in the Bemba case in response to that
2 question.

3 THE WITNESS: (Interpretation) (Redacted). I cannot deny that. (Redacted)
4 (Redacted). I had nothing to add or subtract. I simply repeated what
5 I had already said.

6 MR POWLES:

7 Q. (Redacted) you had given false evidence in the Bemba case, yes or no?

8 PRESIDING JUDGE SCHMITT: I think he has answered it in his way.

9 MR POWLES: (Overlapping speakers) Clarify that, whether the answer is no?

10 MR VANDERPUYE: Mr President, this is a question that falls squarely within Mr Nève's
11 purview. Forgive me for intervening.

12 PRESIDING JUDGE SCHMITT: Mr Nève, do you have any of -- comments on that?

13 MR NÈVE: (Interpretation) I believe I can say that the answer to that question also
14 depends on the agreement that he had when he was interviewed by the representatives of the
15 OTP.

16 Pursuant to that agreement, he considered that he was not being reproached for
17 anything regarding his testimony.

18 PRESIDING JUDGE SCHMITT: So I think we have a -- we have an answer. This answer
19 is -- will be assessed by the Bench, also what has been said now by Mr Nève, also what has
20 been said about the interrogations by the Prosecution in this case, and I think we should finish
21 that.

22 MR POWLES: May I apologize --

23 MR TAKU: Your Honour.

24 MR POWLES: -- for having tested your Honours' patience.

25 PRESIDING JUDGE SCHMITT: No, no, no. You never -- this is -- I think we said from the

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1 outset that such a trial hearing is an evolving process and, of course, we have to adjust to
2 actual events.

3 Mr Taku, shortly.

4 MR POWLES: I'm grateful for your Honours' patience.

5 PRESIDING JUDGE SCHMITT: Thank you.

6 MR TAKU: Your Honours, I respectfully submit to your wisdom in taking the addition that
7 you assess the answer and that he answer it in his own way. But I disagree with counsel,
8 Mr Nève, his interpretation about the relevance of that limited immunity deal with regard to
9 the testimony before this Court.

10 The Court will make a decision about the answers that are given here and if, especially here in
11 this particular case, the Court could consider whether the person would be investigated for
12 that or the person would be prosecuted, that agreement is not applicable here.

13 The question relates to the credibility of the witnesses. I'm in no way, your Honours,
14 disagreeing with the wisdom of the Court, which I totally submit to, but I disagree with the
15 interpretation that Mr Nève or counsel -- (Redacted)
16 (Redacted).

17 PRESIDING JUDGE SCHMITT: Thank you very much, Mr Taku. We have noted that.
18 Then it is now the -- Mr Vanderpuye.

19 MR VANDERPUYE: (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 PRESIDING JUDGE SCHMITT: Okay.

9 MR VANDERPUYE: The second thing is in relation to the issues that were raised concerning
10 the witness's responses to Mr Powles' questions about what his statements are with respect to
11 (Redacted).

12 The first thing that I would point out is to it is a question that falls within Mr Nève's
13 purview because although it doesn't relate to the potential commission of an offence
14 under the jurisdiction of this Court, it may relate to the commission of an offence
15 (Redacted), and that's the reason why it falls within Mr Nève's purview.

16 Second of all, there is a separate question whether or not there is a confidentiality
17 issue with respect to the Prosecution in relation to that application. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 I think I've said enough. I can see that your patience is running thin, so I'll sit down
25 now.

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1 PRESIDING JUDGE SCHMITT: No. It's, of course, important that we discuss these matters,
2 but I think the points of the parties are clear, but -- Mr Powles?

3 MR POWLES: Yes, your Honour, Mr President. Of course whether the witness has
4 committed an offence outside of the jurisdiction of this Court, of course that is a matter that
5 may fall within Mr Nève's purview, but it's also a matter of extreme importance to this
6 witness's credibility and the Trial Chamber's assessment of his credibility (Redacted)
7 (Redacted)

8 (Redacted)

9 (Redacted). Those would be matters that will be
10 incredibly important for the assessment of this witness's credibility when the time comes for
11 your Honours.

12 PRESIDING JUDGE SCHMITT: We have noted all these positions. And you can refer from
13 the fact that we asked Mr Nève that the Chamber is of the opinion that this question and a
14 possible answer or not to this question falls into his responsibility. So that is clear.

15 So I think there is an enmity between Mr Powles and Mr Vanderpuye and Mr Nève.

16 Now we continue with the questioning by Mr Gosnell, please.

17 MR GOSNELL: Thank you, Mr President. We can go into open session.

18 PRESIDING JUDGE SCHMITT: Then we go into open session, please.

19 (Open session at 12.34 p.m.)

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

21 MR GOSNELL: Thank you very much.

22 QUESTIONED BY MR GOSNELL:

23 Q. Hello, Mr Witness.

24 A. Hello.

25 Q. I know this has been an exhausting process, not only today but in the previous days,

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1 and (Redacted), so I simply want to ask you are you feeling well and well
2 enough to proceed?

3 A. I feel fine. We can keep on going. I believe that's what I've come here for. We can
4 continue.

5 Q. Thank you very much. My name is Christopher Gosnell, and I'm here to ask you some
6 questions on behalf of Maître Jean-Jacques as you know him. And I'd like to start by just
7 asking you whether you would say that your French is very much better than your English?

8 A. Yes, my French is much better.

9 Q. And what I'd like to do now is ask you a few questions about what you've said earlier in
10 your testimony. And if all goes well, the transcript in French is going to appear on the screen
11 in front of you. And for your Honours, if I could ask you to turn up to page -- or, to tab 92,
12 around tab 92, we will be looking at around tab 92, 93, 94. And, of course, your Honours can
13 choose whether you wish to look at the English or the French.

14 PRESIDING JUDGE SCHMITT: Since this is very much at the end, we have to arrange
15 ourselves.

16 MR GOSNELL: I do apologize for the weight of the documents. And for the Registry, the
17 excerpt that I would like to start with is (Redacted).

18 For your Honours in the French that's tab 93; and in the English, your Honours, it's
19 tab 92, page 37.

20 Q. And, Mr Witness, these may be small matters that I'm going to ask you about, not
21 matters of overwhelming significance, but I am asking these questions to understand how
22 your memory is of certain events. Do you follow that?

23 A. Yes, I follow.

24 Q. So on Monday, Mr Vanderpuye was asking you questions for the Prosecutor, and he
25 asked you: "Do you remember when you testified in that case?" And he was referring to

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1 the main case against Mr Bemba.

2 And your answer was "Yes, I do."

3 Question: "And what is your recollection as to the dates that you testified in that
4 case? If you don't remember, just let us know."

5 Answer -- your answer: "I do remember the date. It was on the (Redacted)."

6 Question: "And do you recall if your testimony comprises just one day or other
7 days?"

8 Answer: "I really no longer remember because I fell ill during my testimony, and I
9 had to stop my testimony. So I stayed on for a few more days, so I really no longer
10 remember very well."

11 And you were asked about this again, and I won't bring up the transcript, but on 20
12 October, in the English it's page 33, line 17, and you answered in relation to another
13 similar question, quote, "I remember the date I began giving testimony because I had
14 to stop giving testimony because of my health. And the other days I no longer
15 recall."

16 Now, I want to ask you, Mr Witness, how is it that you remember with such precision
17 two years after the fact the exact date on which you started your testimony, but you
18 don't remember how many days you testified?

19 A. You know, like all things, one is marked by the beginning of an event. It is possible
20 that details are forgotten, that they go out of your mind. So it was the first day of my
21 testimony, that is why I remembered it.

22 Q. But the number of days that you testified is a little bit more than a detail. And when
23 you were asked these questions, you weren't able to respond or you weren't able to recall how
24 many days you had testified; isn't that right?

25 A. Well, if I don't remember, I'm saying I don't remember. I don't want to make anything

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1 up, so I'm just saying what things -- what -- I'm just telling you the truth.

2 Q. Well, fair enough, Mr Witness. Thank you for that answer.

3 If we could now go, please, to -- in English it's also 19 October, still tab 92, and it's page 52,

4 line 22. In the French, it's the next item on our list for the Registrar. That's 19 October, page

5 46, starting at line 6.

6 Mr Witness, this was another question asked to you by my learned friend from the

7 Prosecution, and he asked you:

8 "Were you in contact by phone or email or by any other means with any member of the Office

9 of The Prosecutor between the time that you met first in February 2014 and when you next

10 met in April of 2014?"

11 Answer: "No. I never had any contact during that period. They didn't send me

12 any mail."

13 And then what happened, and I don't know if you remember this, but

14 Mr Vanderpuye showed you a document and reminded you that you appeared to

15 have forgotten one such contact between you and the Office of The Prosecutor during

16 that period.

17 And then yesterday Mr Larochelle showed you another document, a table which

18 showed you another incident during that same time period when you had also been

19 in touch with the Office of The Prosecutor. And that -- I'd like to turn to that one.

20 That's tab 96, your Honours, 22 October, page 13, line 20. And for the French, it's

21 page 14, line 11. I don't know whether the Registry has that. I see nothing for

22 which I'm very grateful, and this was the question that came from this side of

23 courtroom, Mr Witness, from Mr Larochelle. And Mr Larochelle's question was:

24 "Now, what we see here, Witness, is that two days after your interview with the OTP,

25 you called" -- and I won't mention the name of the person, but he's an investigator.

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1 And you say you called him back.

2 "Do you remember that? Do you remember calling the person back, the person who
3 had interviewed you two days after the end of your interview? Your interview
4 ended on 1st March and you called him back on the 3rd. Do you remember that?"

5 Answer: "I don't remember."

6 Question: "You called him to add something to your statement. Does that refresh
7 your memory?"

8 Answer: "Yes, I remember. I called him because when we had our interview, I had
9 told him clearly that if I remembered some information, I was supposed to call him
10 back and keep him informed."

11 Now, what we see here, I suggest to you, Mr Witness, in your answers is you start out
12 by saying categorically and affirmatively that you had no contact with the Office of
13 The Prosecutor during the first set of interviews and the second interview in April,
14 and then you said when you were presented with information to the contrary that
15 you didn't remember. And then finally you did recognize that you did indeed have
16 these particular contacts.

17 My question is simply this: Is it right to say that when you first answered
18 Mr Vanderpuye's question at the very beginning that you didn't remember that you
19 had had those contacts with the Office of The Prosecutor during that interval?

20 A. I believe that the question is very long. I really don't know what kind of answer I can
21 give. I think you yourself, Counsel, I think sometimes you forget a few details yourself.
22 When I was shown the document, I said yes, I remembered because before that I had said that
23 if I remembered a particular item of information or a detail, I should in -- contact them to keep
24 them informed. That is what I did.

25 Q. That's not in dispute, and I'm not asking you about that. All I'm asking you about, and

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1 it actually is fairly simple once we come to it is that when you were first asked the question by
2 Mr Vanderpuye, did you have contacts between the beginning of March 2014 during your
3 first set of interviews and 29 April 2014, whether you had contacts with the Office of The
4 Prosecutor?

5 Your answer to that question was no, you have not.

6 And my question is actually very simple, and I'm not trying to trap you. The
7 question is very simple. When you answered that question, had you forgotten that
8 you had had those contacts? You weren't lying to us, in other words. You had
9 forgotten; isn't that right?

10 A. I shall respond. I think that I haven't understood the question properly. You are
11 talking about contacts. What kind of contacts? Physical contacts? Over the telephone?
12 That is -- well, you see, it was in relation to that, that I gave you an answer. And I have no
13 idea. I would like to ask you to put the question to me clearly.
14 When you ask me questions, you always ask very complicated questions, so
15 complicated I can't understand them. And that is why I give you answers that you
16 can't understand. You know full well that there are several kinds of contacts. And
17 so as not to give a false answer, I thought it was better to remain silent or say nothing
18 because it's very important to give the right kind of -- it's very important to me to
19 understand the question before I can give an appropriate answer.

20 Q. I agree entirely with that, Mr Witness, and I -- I then would commend you and we'll go
21 back to the original very excellent and very clear question that was posed to you by
22 Mr Vanderpuye. And the very excellent and very clear question that was posed to you was:
23 "Were you in contact by phone or email or by any other means with any member of
24 the Office of The Prosecutor between the time that you met first in February and
25 April?"

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1 Your answer was: "No."

2 Do you remember that?

3 A. I remember saying no, but you know I had several contacts with them. When you
4 mention March and February, I don't remember the exact date. That is why I gave that
5 negative reply.

6 Q. I hear what you've said, but why didn't you, in response to the question, say that?
7 Why didn't you say, I don't recall or I don't understand when I may or may not have had
8 contacts because they occurred over various periods? Why did you answer so categorically
9 and affirmatively that no, you had not had those contacts?

10 A. I just said no. I don't know how you understand it in your French culture, but I just
11 said no. I don't know how you take it. You say it's categorical. I don't know. But I just
12 said "uh-uh," and that means no.

13 You are asking me such complicated questions that I can't understand them. You
14 mentioned several events that I went through. If you were in my shoes, you
15 wouldn't remember all the details. And so before I answer your question, I have to
16 focus, I have to really think before I can give the answer truthfully.

17 Q. Did you think before you gave that answer to the Prosecutor when you said -- and you
18 said more than just no, you said, "No, I never had any contact during that period"?

19 A. That is what I said.

20 Q. And you later recognize that was wrong; correct?

21 A. I can't say yes or no whether it's true or not true. It's because I saw the document up on
22 the screen and then I remembered, that's why. And when I saw the document up on the
23 screen, I immediately realized that it was, indeed, my statement.

24 Q. So you were shown two documents, one document by Mr Vanderpuye, and it was at
25 that point that you saw an indication that you had had contacts with the Prosecutor during

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1 that time. Is that a fair summary of your testimony?

2 A. What you're saying is not so. I will repeat my answer. I left the place where I was,
3 and I went to another place. I can't remember all the details about what I had experienced.
4 I can see that you are focusing on this one little detail, but I told you earlier that it was -- this
5 was, indeed, my statement when I saw the document up on the screen. I did not deny that.
6 I was the one that was called, and I promised them that if I remembered a detail, I would call
7 them back and give them the detail.

8 Q. Leaving aside documents that are put in front of you and shown to you, can you
9 remember -- just sitting here and consulting your memory, can you remember whether you
10 had contacts with the Office of The Prosecutor between those two sets of interviews, March
11 and April 2014? And there is no problem. As Mr Vanderpuye said when he asked you the
12 question, there is nothing wrong with saying "I can't remember."

13 A. I think I said that here. I said that I met them in February, March and November.
14 That is what I said during my testimony, February, March, April and November. I did,
15 indeed, meet with them.

16 Q. That's not the question, Mr Witness. The question is whether you had contacts of any
17 kind, telephone, email, by any other means between the first sets of interviews which ended
18 on 1 March and the second interview which happened on 29 April. Did you have contacts?
19 Let me rephrase that. Can you remember having contacts during that period as you
20 sit here sitting in your chair thinking about that time?

21 A. My first meeting with them was in February. That was our first meeting. It wasn't in
22 March. We met each other in February. And unless I'm mistaken, the next day we
23 continued the interview. In March we met and also in April.

24 PRESIDING JUDGE SCHMITT: I think, Mr Gosnell, we are going into the lunch-break. If a
25 witness does not understand or seems not to understand a question, this can also be sort of an

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1 answer.

2 MR GOSNELL: Yes, I do understand that, Mr President, but it is important to try to make
3 him understand so he can try to -- we can get an answer on the record.

4 PRESIDING JUDGE SCHMITT: So lunch-break until 2 o'clock only. 2 o'clock.

5 THE COURT USHER: All rise.

6 (Recess taken at 1.00 p.m.)

7 (Upon resuming in open session at 2.02 p.m.)

8 THE COURT USHER: All rise.

9 PRESIDING JUDGE SCHMITT: We are in open session, and Mr Gosnell has the floor. And
10 he is aware, of course, of the time frame that we have. Thank you.

11 MR GOSNELL: Yes, Mr President. Thank you.

12 PRESIDING JUDGE SCHMITT: Mr Nève wants to have the floor.

13 Just a moment please, Mr Gosnell.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 PRESIDING JUDGE SCHMITT: Any comments by the parties? Mr Taku?

23 MR TAKU: (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 PRESIDING JUDGE SCHMITT: I think we'll discuss this in closed session, please.
- 5 *(Private session at 2.06 p.m.) Reclassified as open session
- 6 THE COURT OFFICER: We are in private session, Mr President.
- 7 PRESIDING JUDGE SCHMITT: Please, Mr Taku.
- 8 MR TAKU: (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 PRESIDING JUDGE SCHMITT: Thank you, Mr Taku. Any comments by the Prosecution?
- 22 MR VANDERPUYE: (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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- 11 (Redacted)
- 12 (Redacted)
- 13 PRESIDING JUDGE SCHMITT: So as I said, we retire for a short deliberation. Please stay
- 14 in the courtroom.
- 15 THE COURT USHER: All rise.
- 16 (Recess taken at 2.11 p.m.)
- 17 *(Upon resuming in private session at 2.26 p.m.) Reclassified as open session
- 18 THE COURT USHER: All rise.
- 19 PRESIDING JUDGE SCHMITT: We have to render the following short decision.
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 We are continuing with the examination of Mr Gosnell. And I still trust, really trust

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1 very much -- and that you perhaps even leave a couple of minutes for a possible
2 re-exam. I will not encourage Mr Vanderpuye, but for a possible or probable or
3 whatever re-exam of Mr Vanderpuye.

4 MR GOSNELL: Thank you, Mr President.

5 And just to note for the record, if I call any documents, I would request that they not be
6 broadcast, in particular, because even though some of the subject matter in previous
7 transcripts is in closed or private session, it doesn't reveal.

8 PRESIDING JUDGE SCHMITT: Can we go into open session for the moment?

9 MR GOSNELL: Yes, I believe we can for a little bit.

10 PRESIDING JUDGE SCHMITT: Yes. Yes, then we go into open session.

11 (Open session at 2.28 p.m.)

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

13 MR GOSNELL: Thank you.

14 Q. Just one last question in respect of this time period that we were discussing before the
15 break, which is before your first set of meetings and your second meeting with the Prosecutor
16 at the end of April, and I just want to ask you this question: Do you remember how many
17 telephone calls you had with anyone from the Office of The Prosecutor, or do you not
18 remember?

19 A. No. I no longer remember.

20 Q. Thank you for that, Mr Witness. Now I'd like to move onto a portion of transcript from
21 20 October, tab 94 for the Judges in English. I believe it's tab 96 for the French. For the
22 witness, could I ask that he be shown 20 October, page 12, for the French, and in the English
23 it's pages 11 to 12?

24 And Mr Witness, the relevant excerpt of your testimony from Tuesday is coming up
25 on the screen, and this concerns the meetings or the meeting that you say you had in

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1 May 2013 in Yaoundé, in particular the meeting on 26 May. And what you say there
2 is:

3 Question: "Okay. Can you tell us about the next day, 26 May 2013, did you meet
4 with Mr Kilolo then?"

5 Answer: "Yes. There were five of us. Those of us who were supposed to be
6 testifying for the Defence, there were five. And if we add Mr Kilolo and
7 Mr Jean-Jacques, that comes to a total of seven. We were all there together."

8 Question: "And what happened on that day?"

9 Answer: "On that day, he brought out all of our previous statements, that is to say,
10 the statements we had made in February 2012. He distributed all those statements to
11 each one of us so that we could remember what we had said. As for myself, I was
12 off to the side a bit with him, and he began to read the document to me. After
13 reading the document, he started to tell me what was supposed to happen here at the
14 Court,"

15 And I just want to draw your attention to the French almost a literal translation of the
16 English but it says: (Interpretation) "And he started reading the document to me."
17 Very narrow question, simple question, Mr Witness.

18 A. (Speaks English) I don't see this -- this document.

19 THE COURT OFFICER: Just for the record, page 12, line 5 of the French transcript is being
20 shown.

21 MR GOSNELL: From 20 October?

22 THE COURT OFFICER: From 20 October 2015, transcript T-23 confidential.

23 MR GOSNELL: I do believe that it is the right portion.

24 Q. If you see, Mr Witness, there at line 5: (Interpretation) "I was a little bit off to the side
25 with him."

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1 A. Yes, I do see that.

2 Q. Now, what exactly does that mean? Where were you off to the side?

3 A. Well, I meant that we weren't together. He drew me aside to a particular place where
4 we sat down. I wasn't with the others. He withdrew me from the group. We withdrew
5 from the group.

6 Q. So am I correct in understanding that this was a one-on-one meeting off to the side with
7 Maître Kilolo?

8 A. No. It was like us in this room here. There was a certain distance, about a distance of
9 10 metres, we were slightly off to the side, but we were in the same space.

10 Q. And what were the others doing during this moment when you were off to the side
11 having this meeting with Maître Kilolo, if you know?

12 A. The other members of the group were together with Jean-Jacques. Myself, I was
13 somewhat off to the side with Mr Kilolo, but all of that within the same space, within the same
14 room. When the documents were handed out, he asked that the other members of the group
15 be with Jean-Jacques, and I was to be with Mr Kilolo.

16 Q. I understand. So Maître Jean-Jacques was not participating in your conversation with
17 Maître Kilolo, right?

18 A. No. He did not take part in the discussion.

19 MR GOSNELL: Could we please have CAR-OTP-0078-0198. For your Honours that's tab
20 15. And we're going to go to page 201, and we're going to start at line 106.

21 Q. And Mr Witness, this is from your interview with the OTP on 1 March 2014. And here
22 you're describing your meeting with -- that we've just been discussing, your meeting with
23 Maître Kilolo. And let me read what it says from line 106:

24 (Interpretation) I came back the next day to see him upon appointment claiming
25 that I had come from Bamenda. At his place I met up with four people" in particular.

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1 "He told us during this meeting it was on a Sunday that he was going to take care of
2 us until the people from the criminal court could take over. And then he gave us
3 some documents to read and to me, in addition to the €150 mentioned earlier, he
4 added €100. And he asked us" to go off -- correction, "to sign."

5 "Then he drew me aside and, in the presence of Jean-Jacques, he started to tell me
6 what I was supposed to answer when questions were put to me. He said to me, 'For
7 such and such a question, give this answer. Another kind of question, answer in this
8 way.'"

9 Now, we've heard what you said just now about your one-on-one conversation with
10 Maître Kilolo or your separate conversation, and I just simply want to ask you a
11 question of language in respect of this passage, and that is what do you understand
12 when you use the expression "en présence de"?

13 A. The question that you have just asked is different -- or earlier, rather, is different from
14 this question. Now, when I say in the presence of him, it means that I made that analogy.
15 So, you see, in the presence of means you're present in the room, even if there are different
16 parts, but you are indeed within the room. All this to say that he was there. He was
17 present. In any event, the -- in the place where we were, he was present. There was a
18 distance, at least 5 metres, but he was present. When I was asked whether Jean-Jacques was
19 with us, I said no because he was somewhat off to the side. We had withdrawn. We had
20 moved away from the rest of the group.

21 Q. I appreciate that last comment, Mr Witness. And I'd now like to show you a different
22 passage from CAR-OTP-0078-0248, please. And we're going to go to page 261, starting from
23 line 446. Well, in fact, what we can do is go straight to line 480.

24 And you're asked this question: (Interpretation)

25 "Thus, perhaps you are still going to try a bit for us so that we continue to talk about this.

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1 Perhaps you might remember something later."

2 Do you see that, Mr Witness?

3 A. I don't see that particular line.

4 Q. Do you see on the left --

5 A. It's 462.

6 Q. On the left-hand side of the page do you see line 480?

7 A. Yes, I can see it.

8 Q. I won't read everything there, but I'll just come to line 491, and you can read the rest,
9 where it says: (Interpretation)

10 "When Mr Kilolo was talking to me, Jean-Jacques and the four other witnesses were then on
11 the other side, and they were also talking as well."

12 Does that confirm what you were describing earlier, that they were separate, having a
13 separate discussion during this meeting that you were having with Maître Kilolo?

14 A. Well, you know, there might be some nuances here or susceptibilities about language,
15 but we're saying the same thing. We were at the same place. They were present in the
16 room. We were somewhat off to the side. I think we are talking about the same thing.
17 Maybe there is a problem with interpretation.

18 Q. We are talking about the same thing; and, actually, I was just seeking confirmation from
19 you that indeed this is what you had just -- this confirms what you had just told us during
20 your testimony.

21 PRESIDING JUDGE SCHMITT: I think the point --

22 MR GOSNELL: It is answered.

23 PRESIDING JUDGE SCHMITT: -- it is answered --

24 MR GOSNELL: Yes.

25 PRESIDING JUDGE SCHMITT: -- and it can -- also we have enough material --

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- 1 MR GOSNELL: Yes.
- 2 PRESIDING JUDGE SCHMITT: -- to interpret it as the Bench, I think.
- 3 MR GOSNELL: Thank you, Mr President.
- 4 PRESIDING JUDGE SCHMITT: I would -- it would be nice --
- 5 MR GOSNELL: Yes.
- 6 PRESIDING JUDGE SCHMITT: -- if you go on, please.
- 7 MR GOSNELL: Yes. Let me move on now to the evening of the 25th, Mr Witness.
- 8 And if we could please have English, 20 October, page 6. For your Honours that's
- 9 tab 94. And we don't need to bring this passage up on the screen, Mr Witness,
- 10 because it's very short, and I think you will remember. You were asked by the
- 11 Prosecution:
- 12 "For the record, can you state to the Chamber what the precise date was that you had the
- 13 meeting or met with Mr Kilolo in May of 2013?"
- 14 And your answer was -- you will recall this was after you were shown your receipt,
- 15 which was dated 26 May, and then you said, "I met Mr Kilolo on 25 May, and that
- 16 was at the (Redacted) Hotel in Yaoundé."
- 17 Now, can I just first just ask you in respect of this meeting on the 25th, what time did
- 18 that occur?
- 19 A. I don't remember the time. I just know that it was during the day. The first meeting
- 20 with Kilolo was in the evening, but --
- 21 Q. When you say --
- 22 A. -- in the second day --
- 23 Q. For now, Mr Witness, I'm just focused on the first day. And can you tell us whether
- 24 that first meeting, was it after or before sunset?
- 25 A. The first meeting was in the evening.

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1 Q. Can you give any -- do you have any recollection of the time? Was it 8 o'clock,
2 9 o'clock, 11 o'clock in the evening?

3 A. No, it wasn't beyond 8 in the evening. It was between 7 and 8 o'clock the first meeting.
4 Mr Kilolo and Jean-Jacques were there.

5 Q. And upon arrival at the (Redacted) Hotel, where did you first see Maître Kilolo?

6 A. When I got to the hotel, Mr Kilolo and Jean-Jacques were in -- at the reception, and they
7 brought me to the waiting room.

8 Q. So the first moment when you make contact with Maître Kilolo at the (Redacted) Hotel
9 is at the reception; is that correct?

10 A. When I went in, I met them at the reception room, and then together we went down to
11 the waiting room because the waiting room was down, down there.

12 Q. Let me come back to my question because I don't think that you answered my question.
13 My question was if you can remember, and maybe you can't remember, but if you can
14 remember, was the first moment when you met Maître Kilolo, was that at the reception area
15 inside the hotel?

16 A. When I arrived, they were just in front of the reception. When I went in, I met them at
17 the reception.

18 Q. And you're saying that you, am I correct, met them together? They were there at the
19 same time when you first arrived at the hotel?

20 A. Yes, both of them, Mr Kilolo and Mr Jean-Jacques. It was Mr Kilolo who introduced
21 me to Mr Jean-Jacques, and he added that he was handling the file. Both of them were
22 present.

23 Q. And from the reception where did you go in order to have your meeting that you've
24 described, and how did you get there?

25 A. I've already said that from the reception we went to the waiting room that was in the

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1 basement.

2 Q. And how long did the ensuing meeting last?

3 A. The meeting didn't really last. When we got to the -- the room in question, he showed
4 me a document, and this was a document from the Court, and then he asked Jacques to bring
5 the phones --

6 THE INTERPRETER: Jean-Jacques, I beg your pardon. Interpreter correction: To bring
7 the telephones.

8 MR GOSNELL:

9 Q. Mr Witness, I just put up my hand so as not to overlap with you, but I wanted to, if I
10 could, and we'll discuss other details as we go forward, but we go one question at a time.
11 So the first question was simply do you remember and can you tell us how long this meeting
12 lasted?

13 A. Your question is a bit difficult, Counsel. Who in my shoes can answer such a question
14 accurately? Asking me about how long it lasted and exact answer about the duration, I find
15 this question very difficult. I can't answer.

16 PRESIDING JUDGE SCHMITT: Mr Witness, the question is accurate. It is of course clear
17 that you, with all probability, do not know the exact minutes or hours that has -- that it has
18 lasted, but I think what you could answer is if you have a recollection and an estimation how
19 long it probably lasted or not, if 10 minutes, 30 minutes, 1 hour or 2 hour.

20 THE WITNESS: (Interpretation) It might have been about an hour.

21 MR GOSNELL:

22 Q. Did you have anything to drink?

23 A. I don't remember.

24 Q. Now if we can go to page 10 of the transcript of 20 October, this is where you describe
25 earlier this week this meeting. For the French it's page 10, line 7 for the witness. The

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1 English, it starts at line 4.

2 Mr Witness, I won't read this entire passage. You do have it there in front of you. The part
3 that I'm interested in focusing on is where you said:

4 "We were in the waiting room. When he sent Jean-Jacques to go and get the telephones, the
5 passes were" in the room -- "in their rooms, and he just said to go get the phones. So we
6 were there with him and Mr Jean-Jacques, and I had to get what was suitable for me."

7 So am I correct in understanding that what you are saying here is that

8 Maître Jean-Jacques, as best you could observe, left your conversation, went up to a
9 hotel room, and it was from there that he obtained these telephones that he brought
10 back; is that correct?

11 A. Well, there was no conversation between Kilolo and myself during that period of time.
12 We had our conversation just -- I was shown -- just when I was shown the court document.
13 And he sent Jean-Jacques to go and bring us the telephones because the (Redacted) was going
14 to be taking all our phones away. And because he wanted to stay in contact with us, we
15 needed to have those telephones, and Jean-Jacques was going to give us those telephones.
16 And Jean-Jacques was present. He was the one who went and got the telephones.

17 Q. How long was he gone obtaining these telephones, if you can recall?

18 A. I don't remember. I just know that he took an elevator to go up, to go and get the
19 telephones. That day my concern was not to take time readings or to time the duration of his
20 absences of --

21 THE INTERPRETER: Correction: Of what everything that was going on.

22 MR GOSNELL:

23 Q. You saw him get on an elevator?

24 A. The elevator was just beside us, just opposite us. It wasn't hidden. It was there. It
25 was the elevator that all the customers took. Now, the customers took the elevator to go

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1 down to the bar and to the waiting room and to the basement.

2 Q. Now, you've just said at page 11 of the page that just disappeared that you had no
3 conversation with Maître Kilolo during this time. Are you saying that during the time that
4 Maître Jean-Jacques was absent you fell silent and did not continue your discussion with
5 Maître Kilolo?

6 A. If I said that, it's because you showed me a document. You asked me -- you wanted to
7 know whether Jean-Jacques was there when I was shown the document, and so that's why I
8 said no. However, Jean-Jacques was present because he was the one who had brought us the
9 telephones.

10 Q. I don't believe I asked you about the document. I'm just asking you about this question:
11 While Maître Jean-Jacques was absent, did you continue your discussion with Maître Kilolo,
12 or did you cease your discussion?

13 A. We were seated. We were speaking to one another.

14 Q. So you continued your conversation while Mr Mangenda was absent obtaining the
15 telephones, correct?

16 A. That's right.

17 Q. And is it possible -- I'm not asking you one way or the other. I'm asking you whether it
18 is possible -- possible that your discussion with Maître Kilolo about obtaining a SIM card for
19 the phone and the purpose of the phones occurred while Maître Mangenda was upstairs
20 obtaining the telephones? Is that possible?

21 A. That was not the case. It was after he had given us the telephones that he said that.
22 He added that we needed to have those phones because the (Redacted) was going to take
23 away all our phones. He therefore asked us to ask -- to buy SIM cards so that we should be
24 able to communicate. And at that time Mr Jean-Jacques was present. I'm telling you the
25 reality about what happened.

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1 Q. Now, you've just used the word "us," and you've just said that this instruction was given
2 to "us."

3 PRESIDING JUDGE SCHMITT: If he's going -- if you are going to ask names, we have to go
4 into private session. I only wanted to signal that.

5 MR GOSNELL: I'm conscious of that. Thank you, Mr President. I'll avoid it.

6 Q. And, Mr Witness, please don't mention any names.

7 But you've just used the word "us," and we know that it was on -- that from your testimony
8 that it was on the second day, the 26th, when you were there with others, and your testimony
9 is that this meeting on the evening of the 25th you were there alone.

10 So do I now understand your testimony to be that the information allegedly given by
11 Maître Kilolo about the purpose of the phones was provided on the 26th; is that right?

12 A. When he gave me or showed me the telephones, he asked me to choose the one that I
13 wanted and said that they were going to show the telephones to the other members of the
14 group so that they should choose their own. And that was to be the following day.

15 Q. And what I'm focusing on is the purpose of the telephones as you've described in your
16 testimony. Was that purpose explained during your meeting when you were alone, or was it
17 as you've just indicated, an indication that was provided collectively to you and the others
18 when you were together?

19 A. The explanation was given to me alone. The following day, he told the other members
20 of the group the same thing. But when he spoke to me, I was the only one there amongst the
21 group.

22 Q. And is it possible that explanation was given while Maître Mangenda was absent while
23 seeking the phones? Is that possible, or do you simply not remember?

24 A. I don't remember. But I'm telling you that when the phone was given to me and the
25 purpose was explained to me, it was during our meeting with Mr Kilolo and Jean-Jacques.

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1 Q. Well, in one and the same sentence you've said you don't remember, and then you've
2 said that it was during a meeting which you imply that Mr Jean-Jacques was present at. Can
3 you --

4 PRESIDING JUDGE SCHMITT: It's -- it's perhaps a similar problem that we had with the
5 interpretation of the word "presence." And it could be a similar problem with the
6 interpretation of the word "meeting."

7 MR GOSNELL: Yes, I take your point, Mr President. I appreciate that guidance.

8 Q. Let me try to put it a different way, Mr Witness: Do you remember whether
9 Maître Jean-Jacques was participating in the conversation at the moment when Maître Kilolo
10 allegedly explained the purpose of the telephone, as you've described it?

11 A. Mr Jean-Jacques did not tell me anything. The only person who was speaking to me
12 was Mr Kilolo. That is what happened. The only thing that Mr Jean-Jacques spoke about
13 related to my protection. We had a conversation about my protection. But apart from that,
14 we did not discuss anything else. I have said that the phone was given to me in the presence
15 of Jean-Jacques. That is what I know.

16 Q. My question is slightly different, and my question is whether you can remember
17 whether the instructions about the purpose of the phone that you allege was told you by
18 Maître Kilolo, the question is whether Maître Jean-Jacques was participating, present, within
19 earshot, could hear when those instructions were given, or do you not remember whether he
20 was present at that specific moment in time?

21 A. I do not remember. I know that there were two of them when the telephone was given
22 to me.

23 MR GOSNELL: Could we please move now to page 18 of the English transcript of 20
24 October. And for this one, I think we do need to go into private session, Mr President?

25 PRESIDING JUDGE SCHMITT: We go into private session.

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1 *(Private session at 3.09 p.m.) Reclassified as open session

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

3 MR GOSNELL: I don't have the French equivalent of the transcript, but I will go over this
4 very slowly.

5 Q. On 26 May during the second day, you said, referring to Maître Kilolo, quote, "He
6 promised us, the five of us who were supposed to testify, (Redacted)
7 (Redacted). We were in a group. It was not just me."

8 Now, can you remember when your meeting on 26 May, that's the Sunday, can you
9 remember what time that meeting was approximately?

10 A. It was during the daytime.

11 Q. Did it start --

12 A. For the second meeting, it was during the daytime.

13 Q. Can you remember, and you may not be able to remember, but can you remember
14 whether it was started in the morning, did it start in the afternoon?

15 A. It was not in the afternoon. It was well before noon.

16 Q. And where were you located when this specific promise that you've referred to, where
17 were you located in the hotel? You and the others, where were you located?

18 A. I was in the waiting room. I was present on that day when the explanations were given
19 to us. I was there.

20 Q. And this waiting room, do I understand that this is a (Redacted) without dividing
21 walls?

22 A. I would like to point out that we were a little bit to the side. There was a (Redacted),
23 and there were people in a group. And we left that group of people and went off to the side
24 to have this conversation. That is what I said.

25 Q. Am I right in understanding that this meeting area that you're referring to consists

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1 mainly of groups of (Redacted) and that these are spread out
2 through a fairly large area? Is that a fair description of the area where you had this meeting?

3 A. That is correct. (Redacted).

4 Q. And was it busy on the morning, this Sunday morning, at the hotel? Were there many
5 people down in this area that you're describing?

6 A. I have just said that there were many people. There was a restaurant there. We went
7 and had a meal before coming to have the meeting. It is a (Redacted) hotel. And the location
8 where we met, well, there was no one nearby. There were people around, but a bit far off.

9 Q. Fair to say, though, that people were passing by, walking around in the general area
10 where you were having this meeting when the alleged promise took place; is that right?

11 A. What I'm telling you is that where we were, there was no one. People were not
12 circulating in that area. We were at a corner. I have just told you that this was a very large
13 hotel with many guests, and so we withdrew to one corner to be able to have that
14 conversation. So other people were passing by elsewhere. It was not possible for them to
15 listen to what we were saying.

16 Q. And who raised the issue of money first? Was it Maître Kilolo or was it you or one of
17 the others who were potential witnesses that raised the issue of money first?

18 A. I was the one who approached Mr Kilolo and then I asked him where Mr Arido was.
19 He asked me whether Arido was (Redacted), and I told him no, I didn't know. After that, I
20 told him that I knew where Arido said --

21 THE INTERPRETER: From the (Redacted) booth, could the witness be requested to slow
22 down because they have difficulties understanding him.

23 PRESIDING JUDGE SCHMITT: Could you please slow down a little bit your narrative.

24 THE WITNESS: (Interpretation) He said the following: Now I'm going to deal with you
25 individually or directly. There will no longer be an intermediary or a leader. We signed

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1 out the amounts of money from Jean-Jacques. Personally I received €250. Then we went
2 back and we were altogether when Mr Kilolo said the following: "Before you testify, I,
3 Mr Kilolo, will give each of you 600,000 CFA francs before your testimony in the courtroom.
4 After that, when Senator Bemba would have been released, you will meet with him in his
5 residence in Kinshasa."

6 That is the promise that Mr Kilolo made on that day.

7 Q. According to you, and this can be a yes or no answer, according to you, did Mr Kilolo
8 say how the money was to be paid, cash or some other means? Maybe we can start with a
9 yes or no whether you remember that, and then we'll go into more details.

10 A. No, he did not tell us.

11 Q. And did anyone say anything in response to this alleged promise?

12 A. Yes. We were all motivated by that promise, and we told him that we had understood.

13 Q. Did (Redacted) say anything in particular at this time?

14 A. I do not remember any such thing. I cannot tell you a lie.

15 Q. Was Maître Jean-Jacques present continuously during the time when you say that this
16 alleged promise was made? And because of translation pitfalls, when I mean "present," I
17 mean to say was he sitting at a sofa next to you where he could hear this entire discussion?

18 A. Yes, he was there. He was present, but he did not speak; only Mr Kilolo spoke. But
19 Jean-Jacques was present.

20 Q. When you say "present," how far in metres was he from Maître Kilolo at that point in
21 time according to you?

22 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

23 MR VANDERPUYE: Mr President, it might be more helpful if the witness was asked to
24 point to an object in the room so that we can avoid maybe an inaccuracy in terms of
25 guesstimating in metres or centimetres or whatever.

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1 MR GOSNELL: That's a fair -- yeah, that's a good suggestion.

2 PRESIDING JUDGE SCHMITT: I think that that is something that you --

3 MR GOSNELL: Yeah.

4 PRESIDING JUDGE SCHMITT: -- perhaps could try.

5 MR GOSNELL: Yes.

6 PRESIDING JUDGE SCHMITT: Indeed, that would -- could make it even more -- much
7 more easier.

8 MR GOSNELL: Very good suggestion. Thank you, Mr Vanderpuye.

9 Q. Mr Witness, was Maître Jean-Jacques closer than I am to you at the moment that this
10 promise was made, or was he further than I am to you?

11 A. He was in front of me as I'm indicating.

12 Q. You're saying he was right next to you, or what do you mean? I'm not sure how you're
13 gesturing.

14 A. What I'm saying that he was right next to the group. I'm telling you that we were
15 sitting on sofas. There was another sofa behind after the first row of sofas. That is where he
16 was seated. I do not precisely remember where I, myself, was seated on that day.

17 Q. Well, my understanding of the layout of the room is that there are clusters of sofas
18 around tables. Is it your recollection that Maître Jean-Jacques was at the same cluster of
19 sofas around tables, or was he at a different cluster, if you can recall? And maybe you can't
20 recall.

21 A. What I said, he was not sitting on the first row of sofas; he was sitting on a sofa on the
22 second row, and the distance could be estimated as such.

23 THE INTERPRETER: And the witness indicated with his hand.

24 MR GOSNELL:

25 Q. At any time during this meeting, did Maître Jean-Jacques get up and go anywhere, or

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1 did he sit there continuously throughout this particular phase of your meeting?

2 A. He went away briefly before coming back. It was not a formal meeting. After we
3 arrived, we went and ate. We came back, read documents. The meeting did not last for
4 long. The promise was made, and then we went our separate ways.

5 Q. I'd like to move to my last subject, Mr President.

6 As I understand your testimony, Mr Witness, you -- and we can go into open session,
7 Mr President.

8 PRESIDING JUDGE SCHMITT: Open session.

9 (Open session at 3.27 p.m.)

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

11 MR GOSNELL:

12 Q. As I understand your testimony, you lied during the main case essentially for 540,000
13 (Redacted) francs. That was the incentive for your lying in the Bemba case; is that
14 correct?

15 A. Yes, that is correct.

16 Q. Do you know how much money you have received in cash for purchases on your behalf
17 by the ICC?

18 A. No, I do not know. I do not know. I was asked to do a few things, to come and testify,
19 but I have no idea what other expenditures were incurred.

20 Q. Do you remember that the Court took care of outstanding hotel bills that were coming
21 payable and that you were under pressure to pay in May of 2014?

22 A. No, that is not what happened. (Redacted)
23 (Redacted). That is what
24 happened.

25 MR GOSNELL: Could we have please CAR-OTP-0091-0264. This is not for broadcast. For

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1 your Honours, this is tab 75 of the book. And we will go to page 5, which is page 268.

2 Q. Now, you haven't seen this document --

3 A. (Speaks English) Yes.

4 Q. -- I don't believe. This is part of an email. I don't need to go into any details about the
5 senders or recipients, but many of them are redacted. But there we see an email dated 14
6 May 2014. Third last paragraph "As for hotel arrears, the total is now 435,500 (Redacted)
7 (Redacted) francs according to his" -- and by "his" it's referring to you, I believe -- "to his SMS
8 for period 1 to 13 May 2014. You may want to have your staff familiar with the hotel to
9 check this information. It is highly advisable to have this cleared, as it seems that P-245 is
10 already under pressure coming from the managers."

11 So you're saying it wasn't true that you were coming under pressure from managers
12 to clear your arrears? What's in this email is wrong according to you; is that right?

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. It's your view that the Office of The Prosecutor had nothing to do with the payments
17 that you were received or promises of payments that you were -- that were being made to
18 you?

19 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

20 MR VANDERPUYE: Yes. I'm not sure what period of time Mr Gosnell is talking about,
21 and maybe he could be more precise about it since the witness was (Redacted)
22 both for the Defence of Mr Bemba and subsequently in relation to this case.

23 PRESIDING JUDGE SCHMITT: So could you please clarify about what time we are talking?

24 MR GOSNELL: I think I'll just move to something more specific to make it easier.

25 PRESIDING JUDGE SCHMITT: I think we are talking about May 2014.

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1 MR GOSNELL: I did intend the question to relate to the document that we were looking at.
2 I thought that was obvious and clear. But in any event, I can just move to something much
3 more specific to make the point more clearly.

4 Could we please have CAR-OTP-0082-2565. This is tab 63. But could we just have
5 a pause before that's put on the screen for the witness.

6 Q. Now, Mr Witness, do you remember that you testified on the 22nd, which is yesterday,
7 and you were asked about a certain Prosecution investigator? I'm not going to name him.
8 Please do not name him. You were asked a question about this person. If you're in any
9 doubt as to the name, we'll go into private session. And you say, (Redacted)
10 (Redacted). You said, "I was being
11 paid on a daily basis."

12 Now after, "And he paid me money for some transportation." Now, after I moved," this
13 investigator who I will not name, "came along with a person who worked within the
14 (Redacted), and the two of them were responsible for covering the costs. And then
15 you say, "He did not give me money -- he did not give me actual cash."
16 Now, is it your testimony that you never received cash in hand from a Prosecution
17 investigator?

18 A. (Redacted) housed me in a hotel, and it was the employee who was working for the
19 (Redacted) who saw the tenant -- correction -- the landlord to pay a deposit.
20 Now, yesterday I was asked about whether the OTP had given me cash, and I said no.
21 I recognize this document, yes. This is the money that (Redacted) paid out for
22 renting the house.

23 Q. Can I just try to focus you, Mr Witness? This is a very simple question. Did you
24 ever at any time receive a cash payment by hand from any Prosecution investigator, yes or
25 no?

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1 A. I remember when I was moving from the hotel, when they had to pay the final rent, they
2 gave me some money, and they asked me to sign for it because I was supposed to go there
3 with the money, and he brought a piece of paper that I signed. And I don't remember the
4 amount.

5 The second time the agent and the employee from (Redacted) were supposed to buy
6 some supplies and some furniture, and they had me sign something, sheets of paper.
7 That's what I remember.

8 MR GOSNELL: Could we show, please, the witness CAR-OTP-0082-2565, not for broadcast.

9 Q. Is this one of the -- is this a receipt for one of the payments you just described?

10 A. Yes.

11 Q. Does that refresh your recollection the payment was for 274,000 (Redacted) francs?

12 A. Yes, I remember. That was provided to me so I could buy some furniture for the
13 house.

14 Q. Let's turn now, please, to CAR-OTP-0082-2567, tab 64 for your Honours. It can be
15 shown to the witness directly.

16 Mr Witness, does this reflect your -- refresh your recollection that the other payment
17 you referred to was for 100,000 (Redacted) francs dated the same day,
18 incidentally?

19 A. I remember, indeed. Yes, that's my signature.

20 Q. You received cash on that occasion, correct?

21 A. Yes, because the employee from (Redacted) did not know where to buy the stuff, so he
22 asked me to do the buying, and I was going to provide the bills so as to justify the
23 expenditures or, rather, the amount of money provided.

24 Q. And regardless of the origin or source of the money, as far as you were concerned, it's
25 coming directly from the hand of a Prosecution investigator, correct?

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1 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

2 MR VANDERPUYE: Mr Gosnell has got the receipt up on the screen, and the screen and the
3 document speaks for itself. And his question misrepresents what's on the screen.

4 PRESIDING JUDGE SCHMITT: Then we should perhaps for the Bench or the members of
5 the Bench who are not perfect in French should have a translation of this document so that we
6 can assess if this objection is justified or not. Is this possible?

7 MR GOSNELL: Yes, but perhaps we should go into private session.

8 PRESIDING JUDGE SCHMITT: Yeah. Then we go into private session for that. Yes.

9 *(Private session at 3.42 p.m.) Reclassified as open session

10 THE COURT OFFICER: We're in private session, Mr President.

11 MR GOSNELL: I think it would be best if the witness just reads it. It's his handwriting. I
12 might get it wrong.

13 Q. Mr Witness, could you read this document, please.

14 A. No, that's not my writing. In the first document, that was my writing; but this
15 document, that is not mine. I have a hard time. I'm having trouble puzzling this out. But
16 I think this is the writing of (Redacted). He wrote this and I just signed. I signed for the
17 money.

18 PRESIDING JUDGE SCHMITT: Is anybody able, a French speaking person here to read this
19 so that we can translate it.

20 MR GOSNELL: Or I was going to suggest going back to the document that he actually did
21 write and having him read that one, which I think is --

22 PRESIDING JUDGE SCHMITT: That's also possible, yes. That would be 63.

23 MR GOSNELL: That would be tab at 64. So sorry, Mr Registrar, CAR-OTP-0082-2567.

24 THE COURT OFFICER: Should be -- I presume it's 2565. That was the previous one. The
25 one on the screen is 2567.

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1 PRESIDING JUDGE SCHMITT: So assume it is 2565. That's tab 63, as I said.

2 MR GOSNELL: Thank you for your vigilance, Mr Registrar.

3 Q. Can you read this, Mr Witness, please.

4 A. I told you that I was not the person who wrote this. I'm having a hard time reading it.

5 I did not write it. Compare the two handwritings and you can see that in this case the date
6 and the signature, the date and the name, the handwriting, as we see it here, is different from
7 the first one.

8 PRESIDING JUDGE SCHMITT: There must be a misunderstanding because they obviously
9 seem to be relatively similar. What we have on the table in our binders as tab 63 and tab 64
10 seem to be in the same handwriting. When I say "seem to be," I'm not an expert, of course.
11 So there must be a misunderstanding, and I would really very much appreciate it if -- we were
12 at tab 64. And related to the time that we have now left, I would really appreciate if you
13 could perhaps give it a try, Mr Gosnell.

14 MR GOSNELL: Certainly. Certainly, Mr President, if there is no objection from my friend,
15 I'm not sure.

16 MR VANDERPUYE: No, no objection. I can read it in as well as you can and to the last
17 sentence of it, but I'll leave that to you.

18 MR GOSNELL: I'll do my best.

19 Q. Now, this is CAR-OTP-0082-2567. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

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1 MR VANDERPUYE: His question was regardless of the source or origin of the money, as far
2 as you are concerned, it's coming directly from the hand of the Prosecution investigator.
3 That was the question put at page 106, lines 5 through 7.

4 PRESIDING JUDGE SCHMITT: I think it would be really enough because this is -- the
5 wording is relatively clear. It would be really enough to ask the witness if what he has just
6 heard and what he has signed here, if this is, according to his recollection, correct.

7 MR GOSNELL: That's absolutely perfect for my purposes, Mr President.

8 Q. I just wanted to confirm whether this payment reflected in this receipt had, in fact,
9 according to your recollection, Mr Witness, actually come or been paid by (Redacted).
10 Mr President, I'm not trying to be tricky. I understand what is written here as to the
11 source of the funds. I'm purely interested in who handed the money over.

12 PRESIDING JUDGE SCHMITT: Yes. Okay.

13 THE WITNESS: (Interpretation) When he gave me the money, he was specific. It was the
14 (Redacted). So I read the document, I saw the date, the name, and I signed. Yesterday I
15 was asked whether I received cash from the OTP, and I said no about that money. Now,
16 when he talked -- when he came, rather, (Redacted)
17 (Redacted), and that is when I got that amount of money,
18 that cash.

19 MR GOSNELL:

20 Q. And did you understand or was it the case that (Redacted) was advocating on your
21 behalf to (Redacted) in order to receive certain sums?

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 Q. And you were receiving these sums over and above the salary you were receiving from
3 (Redacted), which you had disclosed to (Redacted); is that correct?

4 A. I said clearly that it was when I went back to the house, that is when I became an
5 incumbent at the (Redacted). And I was told that I was to get (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. I'm not suggesting for a moment, Mr Witness, that you didn't disclose this. I'm
11 suggesting -- I'm asking you the contrary, to confirm that you did, in fact, disclose this salary
12 that you were receiving to (Redacted). I think the answer is yes; is that right?

13 A. I just gave the amount that I was getting daily, the (Redacted). It was
14 only after that I told them the amount of the salary. It was at a time when there was a great
15 many (Redacted) to be managed.

16 Now, if you look carefully in the documents, I said (Redacted) I got daily before the
17 contract. I am here before the Court to tell the truth.

18 When you asked me how I was surviving or getting by, you also asked whether it
19 was (Redacted), and that's why I said no. Myself, I was
20 working. I had my wages. That's what I said.

21 Q. With your leave just one last question, Mr President. And there are documents, we're
22 not going to go through the documents, but I do just have one last question, Mr Witness.
23 As best you can recall -- you may not be able to recall, but as best you can recall, when
24 was the first conversation in time that you had with (Redacted)
25 (Redacted)? Was it after, during,

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1 or before your first set of interviews with the OTP, including (Redacted)?

2 A. I must admit I did not understand your question. You ask a lot of questions about
3 dates. I haven't understood a thing. I know that during my first meeting with (Redacted) on
4 (Redacted) I explained everything to him. I did not hide anything. I even told him that
5 (Redacted) I did not hide anything.

6 You can cross-check in the documents.

7 Now, it is true that at that -- before that time, I did not have a permanent contract. I
8 was working on a temporary basis.

9 Q. Mr Witness, thank you very much for your answers.

10 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

11 MR VANDERPUYE: My colleague has left me with about 30 seconds. I have a couple of
12 questions I'd like to put to the witness, if I may.

13 PRESIDING JUDGE SCHMITT: I think we will not have the time. We cannot go beyond
14 4 o'clock today. So for the fairness of proceedings, if you have questions that you want to
15 ask, I think the witness would have to come back on Monday 9.30, or what do you think?

16 MR VANDERPUYE: No, I don't want to keep him until Monday, but -- I don't know how
17 long the tape will go, but if I can go another 5 minutes past 4, I can probably get something
18 done.

19 PRESIDING JUDGE SCHMITT: At the absolute maximum, 5 minutes past 4.

20 MR VANDERPUYE: Thank you, Mr President.

21 PRESIDING JUDGE SCHMITT: And really, I will cut it at 5 past 4.

22 MR VANDERPUYE: Got it.

23 Q. You were asked a number of questions about the moneys you received.

24 PRESIDING JUDGE SCHMITT: Of course we have -- expeditiousness is not everything. I
25 have to, of course, first to establish, excuse me very much, and to inquire with the other

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1 Defence team if there is -- if there are further -- (Microphone not activated)

2 MR KILENDA: (Interpretation) We have no questions, your Honour.

3 MS TAYLOR: We have no questions. Thank you.

4 PRESIDING JUDGE SCHMITT: Signs that I received from Ms Taylor were also absolutely
5 clear, so please, Mr Vanderpuye.

6 MR VANDERPUYE: Thank you, Mr President.

7 Q. You were asked a number of questions, Witness, about the expenses that you received
8 from (Redacted) and from the Office of The Prosecutor.
9 In respect of any money you received from either (Redacted) or the Office of The
10 Prosecutor, has anyone from either of those units ever told you to lie about the money
11 that you received?

12 A. No one said any such thing to me.

13 Q. With respect to the 540,000 CFA you received from Mr Kilolo in the presence of Maître
14 Jean-Jacques, were you ever asked to lie about that by Mr Kilolo?

15 MR GOSNELL: That completely misstates the record, Mr President.

16 PRESIDING JUDGE SCHMITT: Mr Vanderpuye -- Mr Vanderpuye, you have to rephrase
17 the question because I'm not sure if it really represents what has been said. Just ask about
18 the 540,000. He has said he has received this amount of money and restrict yourself to this
19 fact in the question.

20 MR VANDERPUYE:

21 Q. The 540,000 CFA that you received from Mr Kilolo, did you discuss that money in the
22 presence of Mr Jean-Jacques, Maître Jean-Jacques?

23 A. As I said, Jean-Jacques was just behind us when we were speaking; but when I was
24 given the money, he was not there.

25 Q. Do you see the microphone that I'm speaking into right now? Was Maître Jean-Jacques

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1 as close as this microphone is to you or farther away from the microphone?

2 A. He was slightly closer. The microphone you are showing me is further off.

3 Q. Thank you.

4 Just one or two more minutes, Mr President.

5 You were -- you talked or, rather, you listened to a recording of your interview with

6 Maître Kilolo and Kate Gibson from 21 February, 2012, and it was represented to you

7 that that was a complete transcript of that encounter. Do you have a present

8 recollection of speaking to Mr Kilolo in Lingala on the day of that interview?

9 PRESIDING JUDGE SCHMITT: Mr Djunga?

10 MR DJUNGA: (Interpretation) I think it was at the request of the Chamber that we did not

11 play the entire recording. We selected the relevant parts.

12 PRESIDING JUDGE SCHMITT: But I think this does not change your question.

13 MR VANDERPUYE: It doesn't, Mr President.

14 PRESIDING JUDGE SCHMITT: And please put it as short as possible, and then we have to

15 conclude.

16 MR VANDERPUYE:

17 Q. Do you have a present recollection of that interview that you gave on that day and

18 speaking to Mr Kilolo in Lingala?

19 A. Yes, I spoke in Lingala.

20 Q. The document that Mr Kilolo showed you in May of 2013 or read to you from in

21 May 2013, did that document contain anything in Lingala?

22 A. No. Everything was in French.

23 Q. You were asked a question about what Mr Kilolo showed the others of the group in May,

24 and it was put to you that what he showed them was what they had previously told him in

25 February. So my question is: Did you actually see what Mr Kilolo was showing the other

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1 members of the group in May that you believed to be what they said to him in February?

2 PRESIDING JUDGE SCHMITT: Mr Djunga.

3 MR DJUNGA: (Interpretation) I believe that it is in the statement that the witness gave to
4 the Prosecutor. He was actually answering the Prosecutor's question as to whether he had
5 seen the documents that Mr Kilolo had shown to the others. So he answered that it was the
6 statements that the others had given, so I don't see any reason for that question.

7 PRESIDING JUDGE SCHMITT: Mr Vanderpuye, we have to conclude. So if you -- really, I
8 don't want to cut anything, but if you have further questions, we would have to resume with
9 this witness. We have no time anymore, so we have to conclude immediately, to put it this
10 way.

11 MR VANDERPUYE: I don't want to keep the witness, but I would object to Mr Djunga
12 having used up time with what I perceive to be an obstructionist objection. And the reason
13 is because it's quite clear what the witness said. It's quite clear that the question was put to
14 him about what it is that was given to the other individuals, and that objection essentially
15 ends the redirect knowing the position that I'm in, so I object to it. But I understand the
16 interests of the Chamber and I understand the interest of the witness. So with that, I'll leave
17 well enough alone.

18 PRESIDING JUDGE SCHMITT: Thank you very much.

19 I don't see any obstruction on any part, to be honest. This concludes your testimony,
20 Mr Witness, and thank you very much for that. You are released, and I can imagine
21 that you are also relieved that you have this testimony behind you. We have to
22 inform you that the hearing will reconvene at 9.30 on Monday, 26 October 2015, at
23 which time Witness 200 will make his initial appearance, 9.30, Monday, 201; and,
24 thereafter, either Witness 201 or Witness 198 may testify depending on their
25 availability. You have heard that it is not sure, yes, that it isn't sure if 198 will be

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1 available. The parties will be informed, of course, of any updates to the schedule via
2 email as soon as the Chamber has confirmation.
3 Thank you very much, and I wish everybody a nice weekend.
4 (The witness is excused)
5 THE COURT USHER: All rise.
6 *(The hearing ends in private session at 4.06 p.m.) Reclassified as open session
7 RECLASSIFICATION REPORT
8 Pursuant to Trial Chamber VII's instructions, ICC-01/05-01/13-1209, dated
9 2 September 2015, this lesser redacted public version of the transcript is filed in the
10 record of the case.