

Trial Hearing
Witness: CAR-OTP-P-245

(Open Session)

ICC-01/05-01/13

1 International Criminal Court
2 Trial Chamber VII - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba,
5 Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido - ICC-01/05-01/13
6 Presiding Judge Bertram Schmitt, Judge Marc Perrin de Brichambaut and
7 Judge Raul Pangalangan
8 Trial Hearing
9 Monday, 19 October 2015
10 (The hearing starts in open session at 9.31 a.m.)
11 THE COURT USHER: All rise.
12 The International Criminal Court is now in session.
13 PRESIDING JUDGE SCHMITT: Good morning, everybody. Could the court officer please
14 call the case.
15 THE COURT OFFICER: Good morning. Yes, your Honour. Situation in the Central
16 African Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, Aimé Kilolo
17 Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido, in the
18 case ICC-01/05-01/13.
19 And for the record we are in open session.
20 PRESIDING JUDGE SCHMITT: Thank you very much.
21 Now I'll ask for the appearances of the parties. Please, Mr Vanderpuye.
22 MR VANDERPUYE: Thank you, Mr President. Good morning to you, your Honours,
23 everyone. Today the Prosecution is represented by Olivia Struyven, who is seated to my left;
24 Silvia Vidinha, who is behind her to my left; Ekaterina Kopylova, who is behind me; and I am
25 Kweku Vanderpuye. Good morning.

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1 PRESIDING JUDGE SCHMITT: Thank you. Perhaps we stick with the sequence that we
2 always have.

3 MR GOSNELL: Good morning, Mr President, your Honours. Thank you. The
4 appearances for Mr Mangenda are the same as last Thursday. Thank you.

5 PRESIDING JUDGE SCHMITT: Mr Powles or Mr Djunga?

6 MR DJUNGA: (Interpretation) The only change today is that Ms Grogga Lueka is with us
7 today. She is our case manager. The rest of the team remains the same.

8 PRESIDING JUDGE SCHMITT: Mr Kilenda or Mr Larochelle.

9 MR LAROCHELLE: (Interpretation) Good morning, your Honours. Mr Arido is
10 represented by Mr Taku and myself.

11 PRESIDING JUDGE SCHMITT: Thank you.

12 Mr Kilenda.

13 MR KILENDA: (Interpretation) Good morning, your Honours. Our team remains
14 unchanged.

15 PRESIDING JUDGE SCHMITT: I like this expression to be honest.

16 Mrs Taylor, please.

17 MS TAYLOR: Well, I'm afraid we are changed. Good morning, Mr President, your
18 Honours. Melinda Taylor appearing on behalf of Mr Bemba with Ms Ines Pierre de la Brière.
19 Thank you.

20 PRESIDING JUDGE SCHMITT: Thank you very much.

21 And also Mr Nève, we welcome Mr Nève.

22 MR NÈVE: (Interpretation) Good morning, your Honours. I am here to assist the witness
23 we will be hearing from today.

24 PRESIDING JUDGE SCHMITT: Thank you. We assume that you will be available for the
25 full duration of the testimony of this witness. Thank you.

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1 I've been informed that the Defence for Mr Arido has housekeeping matters. And as
2 we know that the Arido Defence interprets this expression relatively broad, we want
3 to know what it is about, please.

4 MR LAROCHELLE: Thank you, Mr President. From the outset, I apologise that we didn't
5 file written submissions. I understand that your Honours prefer that.

6 The issue concerns what we consider to be a very late disclosure of a document that
7 we received from the Prosecutor, which is a log of contacts between the witness who
8 is about to testify and the Prosecutor. It figures at tab 49. I think I want -- I insist
9 that your Honours see a little extract in our documents. It is at tab 49. The ERN is
10 CAR-OTP-0091-0892, and I'm interested at 0899 of the document, which is page 8 of
11 the document, which is an entry of 3 March 2014.

12 What you find here, what you find here is basically a statement from P-245 to the
13 Prosecutor. According to the Prosecutor, we are not entitled to get that in the
14 exchanges we've had with the Prosecutor, but this was given to us as a matter of
15 courtesy.

16 Your Honour, this is not acceptable. We should have gotten that material before D-2
17 or P-260 took the stand because this extract is something that appears in the statement
18 of P-260. So they were legitimate questions to be asked to P-260 about whether he
19 discussed, whether he discussed that particular bit of statement with P-245 before he
20 called the Prosecutor and very fortunately added this piece of information to the
21 statement he had given. This is on 3 March. The statements of P-245 are given on
22 28 February and 1 March 2014, so two days before that.

23 So this is not -- this is not something that is normal. We've been -- we've been asking
24 for that kind of material for months now. So I'm sorry there is no more formal
25 written motion, but this clearly falls under the purview of what your Honours have

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1 seen in terms of motion we have made repeatedly.

2 And I'm sorry, we would like to trust the Prosecutor as much as we can, but when we
3 get things like that, then I don't want to accuse the Prosecutor of anything yet, but this
4 clearly impedes on our work and I don't think it is appropriate for the Prosecutor to
5 retain that material.

6 And if you see that document, which is 43 pages, you would see that it is heavily
7 redacted. It is very heavily redacted. And those witnesses, the last two witness, the
8 last witness and this witness and even the other ones for that matter, there are no,
9 there are no -- they are very special witnesses because they have a deal with the
10 Prosecutor. They are testifying here because they have a deal with the Prosecutor
11 and they received benefits from the Court.

12 Where I come from in Canada, and certainly in Mr Kweku's prior life as a defence
13 counsel in the USA, whenever a witness decided to cooperate with the authorities and
14 to start giving evidence in consideration for benefits or money or things like that, we
15 would get a complete and exhaustive transparent disclosure, which we are not
16 getting in this case.

17 So I think that your Honour should take into account the fact that these are special
18 witnesses that even the dealings of these witnesses with the VWU, for example, trying
19 to extort benefits, trying to get more money, trying to -- they were in hotels after their
20 testimony and they were somewhat desperate, this should have, this should have all
21 been disclosed, I'm sorry.

22 And what I would ask this morning to do, I don't want to ask for a postponement or
23 to ask for unreasonable remedies, but what I should ask the Prosecutor to do is to
24 forward you that document completely unredacted so that you yourself, your
25 Honours, you now, I think you understand enough the dynamics of this case to be

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1 able to rapidly over lunch decide whether it is, these redactions are completely
2 justified and order the Prosecutor, if there is anything there that could be assistance in
3 the defence in showing that there are motives, that these witnesses have reason to tell
4 you this story today, that it should be given to us forthwith so that at least we will be
5 in a position where we can use it tomorrow. So that's for this document.
6 And the other thing is, I just alluded to the fact of interactions with the Victim and
7 Witness Units. If you look at CAR-OTP-0078-0206, at page 0207.
8 This is the last little document, your Honour, I'm almost done. At lines 15 to 18, this is
9 what (Redacted) when he interviewed the witness says, he says (Interpretation)
10 (Redacted)
11 (Redacted)."
12 So there is a whole dynamic of these witnesses I presume in satisfaction with what we
13 are receiving, their position, their situation, and we -- what we claim, desire to
14 improve their lot, so it would be important for us to know the full extent of what
15 happened in the period after their testimony up to the moment where they were met
16 by the Prosecutor between these witnesses and the VWU.
17 So I would also ask that if there is a contact log between the witness and the VWU,
18 that the VWU be ordered to produce that with, of course, with the necessary
19 redactions.
20 And why it is important, because if we can show, for example, that the two witnesses
21 are calling at the same times asking for the same things, complaining about the same
22 issues, then there is a stronger case to argue that they are actually concocting this
23 thing together. So these are my, these are my submissions for this morning. And I
24 thank you very much for the opportunity to be able to make them.
25 PRESIDING JUDGE SCHMITT: These are not the classical housekeeping matters, of course.

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1 But of course you have the floor.

2 And now Mr Vanderpuye has the possibility to comment or answer to that.

3 MR VANDERPUYE: I see that Mr Gosnell is on his feet. However you wish to proceed,
4 your Honour.

5 PRESIDING JUDGE SCHMITT: Mr Gosnell, please.

6 MR GOSNELL: Mr President, it might be more expeditious if I just add one or two points
7 that I wish to add to Mr Larochelle's points.

8 And he mentioned that this would be common practise to disclose this kind of
9 material in the United States and Canada. Well, it's not just the United States and
10 Canada, Mr President. It's the practise of this Court to ensure that this kind of
11 material is disclosed.

12 And I would draw your attention, just to add some law to the mix, to decision 1227
13 from this case, paragraph 9, where your Honour defined the scope of a statement.

14 And I would also draw your attention to decision 904 from the Bosco Ntaganda case
15 where there is description of the scope of a definition of a statement. And there is
16 also a discussion about the duty to record when you have an inter -- when the
17 Prosecution has an interaction with the witness and the witness provides additional
18 or new information about the substance of the case, that's material that must be
19 recorded, and it follows from there that it must be disclosed.

20 So to be clear about the potential non-disclosure, it's not just this particular document.

21 It's not just the redactions in this particular document. It's also if there were
22 investigative notes that were made by anyone from the Prosecution team, and I don't
23 say that necessarily the lawyers have access to all of those notes, but regardless of
24 who on the team has those notes, they do have to be disclosed to the Defence
25 regardless of their form.

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1 So those will be our submissions, Mr President.

2 PRESIDING JUDGE SCHMITT: Thank you.

3 Mr Vanderpuye.

4 MR POWLES: My apologies.

5 PRESIDING JUDGE SCHMITT: I think we should then complete to the comments and the
6 submissions by the Defence.

7 Please Mr Powles and then Mrs Taylor.

8 MR POWLES: Mr President, your Honours, it's not a related point actually, and I don't
9 know whether your Honours would like me to make our submissions in relation to a separate
10 issue now before Mr Vanderpuye responds on behalf of the Prosecution or deal with this
11 discrete issue first and then we can make our separate points.

12 PRESIDING JUDGE SCHMITT: I think we want to hear and complete first this issue, to put
13 it this way, one after the other.

14 MR POWLES: Then I'll sit down.

15 PRESIDING JUDGE SCHMITT: Mrs Taylor, do you have something to say on this issue?

16 MS TAYLOR: (Microphone not activated) Thank you, Mr President. Now I have the
17 microphone.

18 On this specific issue, we would like to reiterate my colleague's concerns, but
19 particularly in connection with the Witnesses P-198 and P-201, for which we don't
20 have a prior statement. Again, we have just recently been given the contacts log.

21 And it would appear that again the Prosecution investigator dissuaded both
22 witnesses from providing statements, both witnesses attempted to provide an account
23 and both witnesses were actively dissuaded from doing so.

24 So in their specific instances this information, these notes are the only form of
25 information we have apart from the intercepts concerning their prospective testimony.

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1 So there is a heightened need for us to have any information, any form of an account
2 which they provided from the Prosecution's investigators irrespective of the format.
3 And this does fall within the Appeal Chamber's directive in the Banda judgment that
4 it's not the form of the statement that matters, it's the fact that it pertains to the
5 witness's account. So if this account is littered through different notes, then it should
6 be disclosed to us and not redacted. Thank you.

7 PRESIDING JUDGE SCHMITT: Thank you.

8 Mr Kilenda, I assume to the same issue?

9 MR KILENDA: (Interpretation) Yes, I will be very brief, and it is the same issue. The
10 Defence of Mr Babala totally subscribes to the concerns of the Arido Defence. You will
11 remember that the previous witness stated here that all the other witnesses who come later
12 will tell you the same thing. So if there is a document written by the witness that we are
13 going to listen to right now, it is crucial that such a document be disclosed to the Defence
14 teams and, as Mr Larochelle has said, we should be able to prepare.

15 I believe the scope of the preparations is such that we are not in a situation to fully
16 understand what is really happening. We are defence teams. We are bound by the
17 necessity for confidentiality. So we have taken the oath to keep all that information
18 confidential. And if any one of us violates this principle, then the consequences are
19 there. So we believe that these disclosures should be made. Thank you.

20 PRESIDING JUDGE SCHMITT: Thank you.

21 Mr Powles, we do not forget you, we do not forget you, but I think we should now
22 give Mr Vanderpuye the floor.

23 MR VANDERPUYE: Thank you, Mr President. First with respect to my colleague Mr
24 Larochelle's comments and as well as Mr Gosnell, I want to address a couple of things. First,
25 as concerns the document at issue, as I stated before, this is an internal document. It is

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1 prepared for the purposes of maintaining a register of contacts that the Prosecution makes
2 throughout any given investigation. It is common to all cases in order to keep track of our
3 contacts during the investigative phase with various individuals. It is not a document that is
4 shared with any other unit, any other division or any other part of the Court. It is
5 exclusively an internal document.

6 We've taken the position that because of the nature of the case and some of the
7 requests we have received from the Defence that it would be helpful to the Defence to
8 disclose this material.

9 As Mr Larochelle knows and I'm sure Mr Gosnell is aware as well, in our respective
10 jurisdictions you don't get things just by sitting around and hoping that they fall out
11 of the sky as a defence attorney. You make specific requests, targeted requests,
12 intelligent requests as they relate to various positions that the Defence may take.

13 We've invited the Defence on numerous occasions to make those requests to the
14 extent that they consider certain materials relevant and appropriate for the Defence of
15 their case.

16 In our respective jurisdictions there is a principal distinction between material that is
17 relevant for the preparation of the defence case and material that is material to the
18 preparation of the defence case as they well know. That distinction is somewhat
19 blurred in this Court, although it remains in this Court nevertheless.

20 Merely because a particular piece of information may satisfy the Defence's curiosity
21 concerning the nature of the case, that does not make it material or relevant within of
22 meaning of Rule 77 in this case.

23 What we decided to do to provide Defence with this material notwithstanding the
24 Chamber's ruling with respect to another application by the Defence for contact
25 information, which was rejected, was to make this material as available to Defence as

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1 expeditiously as we could, and we've done that in this case by taking an internal
2 document and redacting it appropriately so that we could provide it to the Defence
3 expeditiously.

4 The alternative would be to extract that material, process it, take a couple of weeks to
5 do it and then give it to the Defence, and I've repeatedly informed the Defence that
6 that was the strategy that we were taking in order to get it to them as quickly as
7 possible. So that is in respect of the nature of the document and the information that
8 is held within it.

9 I don't dispute that there is material in there, particularly, particularly the material
10 that Mr Larochelle pointed out that would constitute a statement under Rule 76 of the
11 Rules. There is no question about that one. And that I have to tell you is an
12 oversight in this case because of the manner in which it was recorded.

13 The reverse of that is, of course, that having realized that, we disclosed it. We didn't
14 sit on our hands. We didn't try to hide it. We didn't cross it out. We didn't redact
15 it. We made it plain and apparent to the Defence and disclosed it in a manner with
16 respect to this witness that could be used.

17 And the Defence obviously have seen it, obviously have digested it and obviously are
18 in a position to use it with respect to this case.

19 So I don't see that even if it is -- even if it is not in compliance with Rule 76 of the
20 Rules that the Defence is in any way disadvantaged in terms of using that material
21 with the witness.

22 Moreover, the question of the contacts between witnesses was broached between
23 rather 245 and 260 was broached during the course of the cross-examination of 260. I
24 fully expect that that issue will be broached again with respect to this Witness 245.
25 That's number one.

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1 Number two is that the nature of the contact itself is not such that it in any effect
2 impedes or impacts the credibility of the witness's statement. In any event, the
3 Defence are perfectly positioned to cross-examine the witness. That's the purpose of
4 cross-examination. The purpose of coming into a courtroom and having a witness
5 on the witness stand to put questions to, the so-called principal of orality is to put
6 questions to the witness and to put your case to the witness and to impeach the
7 witness as is necessary to advance the interests of your client and your case. They all
8 know that. And there is nothing in those materials that prevents the Defence from
9 doing that.

10 With respect to Ms Taylor's argument concerning 198 and 201, the mere articulation
11 of a curiosity as to what may be helpful to the Defence case without any basis at all to
12 assert that there is anything in the nature of the contacts or by virtue of the nature of
13 the contacts themselves which would advance the interests of the Defence or in any
14 way address the salient issues before the Court or in any way serve the interests of the
15 Defence by either undermining the Prosecution's case or the evidence to be presented
16 by those witnesses is an idle, it's an idle and unsubstantiated argument in order to get
17 that information.

18 As I said from the beginning, simply saying that this the Defence would like to know
19 or that the Defence would like to know is an insufficient legal basis to acquire
20 information, not any more so than the fact that I would like to know what's in
21 Mr Kilolo's files. I would like to know what's in the seized materials that the Court
22 ordered and that was turned over by the Belgian authorities. I would like to know
23 that, but that doesn't mean necessarily that there is a legal basis for me, legal basis for
24 me to have that material. Some might call it a fishing expedition, for example, or
25 some might say that we're not legally entitled to it because it's work product,

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1 notwithstanding the fact that the witnesses talk about this, notwithstanding the fact
2 that the witnesses themselves are not members of the Defence team.
3 A legal basis for the provision of certain information is not the same or not equivalent
4 to an idle curiosity or a curiosity that would satisfy the interests of any particular
5 party. It has to be -- there has to be a legal basis. They have failed to articulate one.
6 And there is not one otherwise apparent from the information before the Court.
7 If the Court thinks that it's appropriate to examine the material unredacted, which as
8 I've said is work product and therefore protected under, protected under 81(1), then
9 we are prepared to provide it to the Chamber. We don't think that we should have
10 to because it is work product.
11 If the Court considers that we should review the material more carefully to determine
12 whether or not there is additional information, which I can say with respect to 245
13 there is not, that may be of interest to the Defence, then we're happy to do that as
14 well.
15 But I don't think that the Defence in any way even to the extent that that material
16 contains arguably a Rule 76 statement that the Defence is in any way disadvantaged,
17 because the witness is here and he's available to have questions put to him on the
18 very subject matter of that information or any other information the Defence can
19 dream up to put to him that they consider would advance their interests.
20 Thank you, Mr President.

21 PRESIDING JUDGE SCHMITT: Mr Gosnell.

22 MR GOSNELL: Mr President, if you would permit me, I would like to just very briefly reply.
23 Mr President, you would think from listening to the Prosecution that disclosure is
24 only required when there is a request that has been made by the Defence, and that is
25 absolutely not true. And the reason for that is that only the Prosecution knows what

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1 it has possession of. For example, if there is indeed an investigator's note generated
2 coincident with one of the meetings on the contact log, we can't know whether that
3 exists. And Rule 76(1) creates a spontaneous obligation to produce that material.
4 Disclosure is not a cat and mouse game. Only the Prosecution knows what's in its
5 files and knows what is disclosable.

6 PRESIDING JUDGE SCHMITT: Mr Vanderpuye, but then I think we conclude this point
7 and we give Mr Powles the floor.

8 MR VANDERPUYE: If Mr Gosnell considers that the nature of the contacts between P-260
9 and 245 are material to the preparation of his Defence, there is nothing that precludes him
10 from asking for the nature of -- for contacts of a specific nature that he considers advances the
11 interests of his client. I want to know, for example, does the Prosecution have any contact
12 information between these two witnesses related to X issue, Y issue concerning this period of
13 time concerning that meeting or that meeting.

14 That certainly is not a cat and mouse game. That's what we call making an
15 articulated and substantiated request. We have yet to receive one from any one of
16 these Defence attorneys. Given the fact that these materials were disclosed well over
17 a year ago, it seems to me that this is hardly, hardly a situation where we are playing
18 games. It is very simple for anyone to make that argument, and they haven't
19 advanced it.

20 The same thing with respect to Rule 190 -- I'm sorry -- Witness 198 and 201. You just
21 heard Ms Taylor's arguments, and she doesn't articulate a single founded basis for the
22 contact information concerning those witnesses.

23 The fact that there is no statement for those witnesses has absolutely nothing to do
24 with the relevance of the contact information. Those are completely separate issues.
25 And the absence of any articulated basis for receiving that information is

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1 fundamentally, fundamentally detrimental to the request.

2 It has no legal foundation and it's not very hard to articulate, quite frankly.

3 MR LAROCHELLE: I'm -- 30 seconds.

4 PRESIDING JUDGE SCHMITT: One sentence, one sentence for Mr Larochelle.

5 MR LAROCHELLE: What Mr Vanderpuye tells you is wrong. We have made those
6 requests and we have asked for the Prosecutor to disclose to us any contact with their
7 witnesses. And that's what we've asked and that's what we never received. That they
8 consider this not to be material to our preparation is a complete different argument, but we
9 have made those requests months ago.

10 PRESIDING JUDGE SCHMITT: (Microphone not activated)

11 MR VANDERPUYE: Mr President.

12 PRESIDING JUDGE SCHMITT: Okay.

13 MR VANDERPUYE: I'm sorry.

14 PRESIDING JUDGE SCHMITT: One sentence also for Mr Vanderpuye, and I think we
15 should then move on. It's perfectly clear that the Chamber has to digest this and has to retire
16 then for deliberation. That's perfectly clear. But first Mr Vanderpuye.

17 MR VANDERPUYE: I very much appreciate it.

18 What Mr Larochelle has just argued is exactly the problem. The problem is you can't
19 just say "Give us all the contacts you ever had with any witness." That's the problem.

20 It's very simple for Mr Larochelle to say "I want the contacts between X witness or Y
21 witness in this period of time concerning this issue or that issue." That's the problem.

22 He can't just say "Give me every contact the OTP has ever had with anybody at any
23 time anywhere." He can't say "Give me every expense that the OTP has ever
24 dispensed with regard to any witness anytime anywhere anyplace." It has to be
25 specific in order to demonstrate that it is material to the preparation of the Defence.

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1 If there is a receipt because the OTP and during the course of an investigation bought
2 a witness a soda, that is not material to the preparation of the Defence with all due
3 respect.

4 PRESIDING JUDGE SCHMITT: Mr Powles, do you want to address another issue or do you,
5 to put it this way, to open a new round of discussion? But of course, I told you that you have
6 the floor, yes.

7 MR POWLES: It's a separate but potentially related issue, but only in a very minor way. I
8 mean, I'm happy to deal with it now or after your Honours rule. I can deal with it now and
9 perhaps it is better that we deal with it all.

10 PRESIDING JUDGE SCHMITT: Please, please, so we can perhaps discuss it when we retire
11 for deliberation.

12 MR POWLES: Mr President, your Honours, this was a matter that we were thinking of
13 raising during the testimony of the last witness, P-260. We refrained at that stage because we
14 didn't -- we try and keep our objections and interventions to a minimum to keep the flow of
15 the witness going. We also thought of raising it on Thursday afternoon, but it was very late
16 in the day and perhaps these matters are perhaps best raised at the beginning of the day
17 rather than at the end of the day when feelings might be slightly different. And we'll try and
18 raise this in a sensitive way if we can.

19 And it's two points arising from in part in the way the Prosecution dealt with the last
20 witness, P-260, and also comments made in a recent filing that was disclosed to the
21 Defence on a confidential basis. And because of that it may be appropriate for us to
22 deal with these submissions in a private session. It might be freer -- we might be
23 freer to raise all the issues in a private session given that some of the issues were
24 raised in a confidential filing. I'm not sure they are confidential, but just out of an
25 abundance of caution.

1 PRESIDING JUDGE SCHMITT: I have no problem with that. Then we go into private
2 session and afterwards you can continue.

3 MR POWLES: Thank you very much, your Honour.

4 *(Private session at 10.01 a.m.) Reclassified as open session

5 THE COURT OFFICER: We are in private session, your Honour.

6 MR POWLES: Thank you very much. There are two points. The first relates to Defence
7 contact with witnesses, Prosecution witnesses that arose first in the context of P-260's
8 testimony and, second of all, in this confidential filing in relation to Witness 263, P-263.
9 Last Monday during the course of the Prosecution's examination of Witness P-260, the
10 Prosecution adduced evidence of contact by the Defence with that witness. Similarly
11 in the filing of 12 October 2015, a confidential filing in relation to an application by the
12 Prosecution pursuant to Rule 68(2)(c), at paragraph 17 of that filing, the Prosecution
13 make reference to threats by someone with a French accent claiming to be Mr Kilolo's
14 lawyer and threatening to report that witness to the Cameroonian authorities.
15 So that's the backdrop to these submissions. May we make a very brief response to
16 the way those issues are handled and dealt with? It's of course right that prior to 20
17 July of this year 2015, when the protocol was put in place, the decision adopting a
18 protocol of handling of confidential information during investigations and contact
19 between a party and witnesses of other parties, that was when the protocol came out
20 on 20 July of this year.

21 But prior to that it's of course right to say there were no restrictions in place in
22 relation to Defence contact with Prosecution witnesses and vice versa.

23 Notwithstanding that, out of courtesy, those representing Mr Kilolo when wanting to
24 contact a Prosecution witness would in advance of that make contact with the
25 Prosecution and inform them, inform them to the best of their ability of their

1 intentions and what they were proposing to do.

2 Certainly in relation to P-260 and I believe in relation to the witness we're about to

3 hear, in response to that the Prosecution sent an email on 6 November 2014 informing

4 the Defence that in the absence of any protocol, the Defence were at liberty to make

5 contact with Prosecution witnesses. And that indeed was done.

6 I raise this in this way just because it would be regrettable if anything that the

7 Prosecution has said gives the impression that any contact made by the Defence with

8 any Prosecution witnesses is in some way inappropriate. As I say, all efforts have

9 been made by those representing Mr Kilolo as far as I'm aware to put the Prosecution

10 on notice of their intention to contact Prosecution witnesses and everything has been

11 done as far as possible in an open and transparent way.

12 The second point relates to the re-examination of the last witness, Witness P-260.

13 During the course of the re-examination of P-260, the Prosecution referred to an email,

14 the fact that the interview conducted by Mr Kilolo and Ms Gibson in February 2012,

15 the interview conducted with that witness, the Prosecution referred to an email, an

16 internal Defence email whereby that audio was transmitted and shared, either the

17 audio or the -- no, I think it was a transcript of the audio was shared with members of

18 Mr Bemba's Defence team at that time, which included a number of individuals.

19 Thereafter during the course of the re-examination, the Prosecution sought where

20 possible to the extent they could highlight discrepancies between what was contained

21 within the audio and the evidence that the witness gave during the course of his

22 testimony in the Bemba proceedings and seemed to suggest, I'm not sure if this was

23 the intention, but seemed to suggest that there was some obligation on the Defence to

24 have highlighted any possible discrepancies between what may have been said by

25 that witness during the course of their interview in February 2012 and what had been

1 said by the witness during the course of the testimony.

2 Of course, and this is why in some ways it's related to the submissions that have just

3 been made by the Defence in relation to the disclosure of the contact report, of course

4 there are fundamentally different obligations on the Defence and Prosecution in

5 relation to disclosure of things arising during the course of proceedings, and it's

6 highlighted in a way in relation to the last witness. If the Prosecution are aware that

7 one of the witnesses that they have called has said something that is at odds with

8 material in their possession, they are under an ongoing obligation to disclose

9 something that would be exculpatory pursuant to Rule 76 of the Rules. There is no

10 such corresponding obligation on the Defence, and that's for very good reason. The

11 burden of proof rests entirely on the Prosecution. And they have, of course, have

12 access to far greater material than the Defence, which is why they are under an

13 obligation to make disclosure to the Defence.

14 So I just raise that just so that there is no -- the Prosecution could approach these

15 matters more sensitively in the future and that no impression is given that or

16 suggestion is made in an underhand sort of way that the Defence have conducted

17 proceedings in any sort of inappropriate way in the past.

18 I'm not asking for any specific relief, just that the Prosecution perhaps consider

19 modifying their approach to these issues and deal with them perhaps in a slightly

20 more sensitive way and not -- and I'm not sure that necessarily Mr Vanderpuye was

21 making the suggestion or casting any aspersions, but perhaps to just deal with these

22 matters in a slightly more sensitive way going forward.

23 PRESIDING JUDGE SCHMITT: Thank you, Mr Powles. I think the Chamber has

24 understood your point. Of course, I have also to this issue, I have to give Mr Vanderpuye

25 the floor.

1 (Microphone not activated)

2 I have to put my microphone on. When I look to the left, I do not see what happens
3 to the right, and so I have to excuse myself that I did not see again Mrs Taylor.

4 But, Mrs Taylor, please you have the floor first and then Mr Vanderpuye.

5 MS TAYLOR: Thank you very much, Mr President. I would just like to add on from the
6 points raised by Mr Powles on this issue of the cover email which was shown to the last
7 witness, and I'm raising it because in the Prosecution's list of evidence we again see this cover
8 email, and we wish to avoid the same thing happening because it comes down to a basic issue
9 of relevance.

10 Under Article 74(2), the role of this Chamber is to determine the facts and
11 circumstances of these charges. We should not be putting questions to witnesses
12 concerning persons who are not accused in this case and who have no ability to
13 defend themselves in this case. And the questions did seem to be veering towards
14 that area if I may say that. So we would respectfully request the Chamber to ensure
15 the future questioning of these witnesses does not veer into issues and facts and
16 circumstances which do not form part of the confirmed charges in this case. Thank
17 you.

18 PRESIDING JUDGE SCHMITT: Thank you.

19 Mr Vanderpuye.

20 MR VANDERPUYE: Thank you, Mr President. Just a couple of things. First, I think there
21 is some confusion between what is evidence in the case as concerns matters relevant to the
22 conduct of the proceedings in this case. And I think what Mr Powles and Ms Taylor have
23 done and perhaps inadvertently is to conflate those issues. The relevance of the distribution
24 of a transcript of a witness's statement to the Defence team in the Bemba case is a matter of
25 proof, and it is a matter of proof in this case because one of the defences apparently raised at

1 least prior to the beginning or prior to this start of trial is that Mr Bemba was not in a position
2 to know what his lawyers were up to. He was not in a position to know whether or not
3 witnesses were telling the truth when they testified at trial.

4 Ms Taylor's filing in response to the Prosecution's specific targeted detailed
5 application for the Kilolo Defence to produce the very tapes that the Chamber is now
6 hearing in these proceedings was that it was work product and that it was work
7 product because it was needed in order to consult with Mr Bemba to determine how
8 he would instruct his Defence team, in other words, that the material was shared with
9 Mr Bemba.

10 In this case we have witnesses who have come to testify that information that they
11 provided Mr Kilolo and Ms Gibson, who is and was a member of the Bemba Defence
12 team, they've testified that they provided that information and then subsequently
13 testified at trial completely contrary to that information is relevant evidence in this
14 case, because it goes to show who on the Defence team would have been or could
15 have been aware that the witness was not telling the truth or at least was not saying
16 or was saying, rather, saying the opposite of what they had previously told the
17 Defence team.

18 So it is relevant evidence in this case. It is not a question of transparency. It is not a
19 question of decorum. It is a question of evidence. And that is the reason why the
20 evidence was elicited, not directly by the Prosecution, but in response, in redirect,
21 because Mr Djunga played the tape, Mr Djunga put that evidence before the Chamber,
22 Mr Djunga did not clarify on the record exactly who was present, the date, the names
23 of the individuals that were involved in that interview, which they have now done
24 with respect to the verbatim transcript for 245. None of those things were in the
25 record. Mr Djunga put in the record the transcript or the -- not just the tapes, but

1 also the not verbatim transcripts that were used with the witness. The Prosecution
2 didn't do that.

3 And the manner in which that record was produced, who it was circulated to, the
4 knowledge of individual members of the Defence team, the knowledge of the accused,
5 Mr Bemba, is specifically at issue in this case and, therefore, that information as it
6 appears on that document, which is not by the way work product because it was put
7 before the Chamber as evidence in the case, the document itself, the transcript and the
8 tape, that information is directly relevant to material issues arising under the DCC
9 and the Confirmation of Charges decision.

10 That's the reason why it was put before the Chamber and I don't see anything at all
11 inappropriate with doing that.

12 PRESIDING JUDGE SCHMITT: Please short, Mrs Taylor.

13 MS TAYLOR: Thank you very much, Mr President. The witness was not copied to the
14 email and that is the point. The witness is not in a position to testify who was copied to the
15 email and who opened the email and who may have read it. So again it's entirely irrelevant
16 to put these contents of this email to these witnesses. It's not an issue that should arise from
17 the testimony of these people. Thank you.

18 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

19 MR VANDERPUYE: The witness was there during the course of the interview. The
20 witness is in a position to tell us whether or not any name on that document corresponds with
21 his recollection who was present during the course of that interview, which was not elicited
22 by the way by the Defence. It was constantly as it was portrayed to the Chamber in an
23 interview with Mr Kilolo and some white woman. And that white woman has a name and
24 her name is Kate Gibson and she's a member of the Defence team. She was at the time and
25 she is now. That is the relevance of the document, because it indicates not only that she was

1 there, but that she was circulated on the transcript itself at the time, which -- which carried
2 information that was completely contrary to what the witness ultimately testified to at trial.

3 PRESIDING JUDGE SCHMITT: I think this is enough for re-examination of the re-exam.

4 And now we are going to retire for deliberations, at least 15 minutes I would say, 15, 20
5 minutes.

6 THE COURT USHER: All rise.

7 (Recess taken at 10.14 a.m.)

8 *(Upon resuming in private session at 10.40 a.m.) Reclassified as open session

9 THE COURT USHER: All rise.

10 PRESIDING JUDGE SCHMITT: I think we can go into open session for a short while.

11 (Open session at 10.41 a.m.)

12 THE COURT OFFICER: Your Honour, we are now in open session.

13 PRESIDING JUDGE SCHMITT: Thank you very much.

14 The Chamber issues two short decisions. The Chamber is not persuaded that it must
15 review P-245's contact log. However, when these logs contain information falling
16 under Rule 76, they must be disclosed to that extent.

17 The Prosecution is ordered to review P-245's contact log and logs of P-260 and other
18 relevant witnesses to ensure that the Defence has all disclosable material.

19 Second decision. The Chamber notes that upon the request of the Defence, the VWU
20 has already provided a list of payments provided to P-260 and P-245. The Chamber
21 considers VWU to be a neutral unit of the Court and therefore does not find it
22 necessary and appropriate that the VWU is obliged to disclose a contact log with
23 these witnesses.

24 This concludes the two decisions and now we are turning to the upcoming testimony
25 of Witness 245. We will first discuss the issue of protective measures and Rule 74

1 assurances. For this we need to go to private session again.

2 Please, Mr Court Officer.

3 *(Private session at 10.43 a.m.) Reclassified as open session

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

5 PRESIDING JUDGE SCHMITT: Thank you.

6 The Chamber notes that the witness testified as a Defence witness in the case of the
7 Prosecutor versus Jean-Pierre Bemba Gombo under the pseudonym (Redacted). Trial
8 Chamber III granted the following protection measures: The use of image and voice
9 distortion, the continued use of pseudonyms as well as the use of private session
10 where necessary to protect his identity.

11 The VWU has recommended retaining these measures in an email sent to the
12 Chamber on 16 October 2015.

13 According to Regulation 42(1) of the regulations of the Court, the same protective
14 measures shall apply in proceeding before this Court, with a clarification that the
15 pseudonym that has been attributed by the Prosecution in this case, P-245, will be
16 used.

17 The Chamber will now discuss the matter of assurances pursuant to Rule 74 of the
18 Rules for Witness P-245.

19 Mr Nève requested that Rule 74 assurances will be provided for this witness on 15
20 October 2015.

21 Prosecution, what are your views on the Rule 74 assurances requested?

22 MR VANDERPUYE: Thank you, Mr President. The Prosecution's view is that Rule 74
23 assurances should apply to this witness as it has with respect to the others.

24 PRESIDING JUDGE SCHMITT: Any comment by the Defence?

25 That is not the case. Thank you very much.

1 (Trial Chamber confers)

2 PRESIDING JUDGE SCHMITT: The Chamber will now render its decision on the requested
3 assurances.

4 Mindful of the factors specified in Rule 74(5) of the Rules, the Chamber has decided to
5 provide assurances pursuant to Rule 74 of the Rules of Procedure and Evidence in
6 order to enable the witness to testify truthfully without fear of the consequences of
7 self-incrimination.

8 These assurances are granted with respect to Witness 245 under the conditions
9 specified in Rule 74(3)(c) and 74(7).

10 This means that the witness can still be prosecuted under Article 70 and 71 for his
11 future conduct such as testifying falsely before this Chamber in this case. However,
12 the witness's testimony as to his past conduct cannot be used against him in a
13 subsequent court prosecution. This concludes the ruling of the Chamber.

14 To start the witness testimony, we will have to go into closed session so that we can
15 bring in the witness.

16 *(Closed session at 10.47 a.m.) Reclassified as open session

17 THE COURT OFFICER: We are in closed session, your Honour.

18 PRESIDING JUDGE SCHMITT: Thank you very much.

19 As information for the parties, I would like to say that we will have a break after the
20 preliminaries have finished with this witness, I think this makes sense, and
21 afterwards we would resume with the examination by the Prosecution.

22 (The witness enters the courtroom)

23 PRESIDING JUDGE SCHMITT: Thank you. Could we go into open session now.

24 (Open session at 10.49 a.m.)

25 THE COURT OFFICER: We are in open session, your Honour.

1 PRESIDING JUDGE SCHMITT: Thank you.

2 Mr Witness, good morning. You are going to testify before the International
3 Criminal Court. On behalf of the Chamber I would like to welcome you to the
4 courtroom.

5 This Chamber has been established to try the case of the Prosecutor against
6 Jean-Pierre Bemba Gombo and others. You are called to testify to assist us in the
7 search for the truth.

8 Mr Witness, there should be and I hope so, there is a card in front of you with a
9 solemn undertaking to tell the truth. Could you please read out loud this card.

10 WITNESS: CAR-OTP-P-245

11 (Redacted)

12 THE WITNESS: (Interpretation) I solemnly swear that I shall tell truth, the whole truth and
13 nothing but the truth.

14 PRESIDING JUDGE SCHMITT: Thank you, Mr Witness. Mr Witness, you are now under
15 oath. You have already been informed about the importance to speak the truth.

16 Nevertheless, the Chamber wants to reiterate to you that, as you have just promised, you have
17 to speak the truth and that it is an offence within the jurisdiction of this Court to give false
18 testimony.

19 We should go then into private session, please.

20 *(Private session at 10.51 a.m.) Reclassified as open session

21 THE COURT OFFICER: We are in private session, your Honour.

22 PRESIDING JUDGE SCHMITT: Mr Witness, we know that you have already provided
23 testimony before this Court in another case. This Chamber wants you to testify truthfully
24 without any fear of consequences of self-incrimination. This is why this Chamber has
25 granted you assurances that nothing that you say during your testimony before this Chamber

1 can be used against you in proceedings before this Court. This includes anything that you
2 tell this Chamber with regard to your testimony before the other Chamber.

3 As long as you tell the truth and follow the directions of this Chamber, you can be
4 assured that nothing you say will be used against you by this Court.

5 However, should you not tell the truth to this Chamber, this means that there can be
6 future prosecutions against you for falsely testifying before this Chamber. The
7 Chamber wants you to have this in your mind when you are going to testify now.
8 Do you understand that, Mr Witness?

9 THE WITNESS: (Interpretation) Yes, I understand.

10 PRESIDING JUDGE SCHMITT: Thank you. Now, we cannot guarantee you that there will
11 be no prosecutions against you in domestic jurisdictions for what you say here. The
12 Chamber does not have the power to do this. But what we will do in order to protect you is
13 that nothing incriminating you say will be disclosed to a State or anyone outside of this
14 courtroom. Every time you say something that is potentially self-incriminating, we will go
15 into what we call private session. That means that this will not be broadcast outside of the
16 courtroom and only the people in the courtroom can hear it.

17 Lawyers and everybody else in the courtroom are not allowed to disclose your
18 identity or anything self-incriminating you say to anyone. There can be proceedings
19 against anyone who does not obey this order. Do you understand this, Mr Witness?

20 THE WITNESS: (Interpretation) Yes, I do understand.

21 PRESIDING JUDGE SCHMITT: I have talked about protective measures. Let me now
22 explain to you how the protective measures work that the Chamber has put in place for your
23 testimony. The following measures have been put in place to protect you: Face distortion
24 has been put in place, which means that no one outside the courtroom can see your face
25 during the testimony on the screen.

1 There will also be the use of a pseudonym. In accordance with that we will refer to
2 you only as "Mr Witness" as I'm doing it presently to make sure that the public does
3 not know your name.

4 When you answer questions that will not give away who you are or might
5 incriminate you, we will do so in open session, which means that the public can hear
6 what is being said in the courtroom.

7 You can see that we are in open session if the light in front of you is red. When you
8 are asked to describe anything that relates specifically to you or you are asked to
9 mention facts that might reveal your identity, for example, any locations where you
10 live or persons close to you, we will do this in private session.

11 The light in front of you will then be green. As I've already explained to you, in
12 private session there is no broadcast and no one outside the courtroom can hear your
13 answer. If ever anything gets said during open session which should have been said
14 in private session, we will do our best to protect this information.

15 Your testimony will be broadcast on a delay and we can remove any such remarks
16 from the broadcast which will be heard by the public and from the public transcript of
17 the proceedings. The Chamber recognizes that your security and well-being is
18 important during the course of the trial.

19 If at any point you feel that you would like a brief break from giving your testimony
20 or if you feel unwell, do not hesitate to let us know.

21 Now a few practical matters you should have in mind when giving your testimony.
22 Everything we say here in the courtroom is written down and interpreted into
23 English and French. It is therefore important to speak clearly and to speak at a
24 moderate or rather slow pace. We want to make sure that your words can be well
25 understood by the interpreters and of course by everybody else in the courtroom,

1 including the Chamber.

2 Please speak into the microphone and only start speaking when the person asking
3 you the question has finished. To allow for the interpretation, everyone has to wait a
4 few seconds before starting to speak. So I recommend to you when the lawyer has
5 asked his or her question, please count in your head to three and only then give your
6 answer.

7 If you have any questions yourself, raise your hand so we know that you wish to say
8 something. We will then give you the opportunity to speak.

9 These have been many informations, I know, but again the question of course, have
10 you understood all that?

11 THE WITNESS: (Interpretation) Yes, I do understand.

12 PRESIDING JUDGE SCHMITT: Then we start with your testimony after the break. As I
13 indicated before, I think it's the ideal time to have this so-called coffee break and then Mr
14 Vanderpuye will have the floor.

15 THE COURT USHER: All rise.

16 (Recess taken at 11.00 a.m.)

17 (Upon resuming in open session at 11.32 a.m.)

18 THE COURT USHER: All rise.

19 PRESIDING JUDGE SCHMITT: So we can start with the examination of this witness. Mr
20 Vanderpuye has the floor. I remind you that we are in open session. So if you could
21 indicate if we can stay in open session or if we should go into private session.

22 MR VANDERPUYE: Thank you, Mr President. Normally I would begin in private session.

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

24 *(Private session at 11.33 a.m.) Reclassified as open session

25 THE COURT OFFICER: We are in private session, your Honour.

1 MR VANDERPUYE: Thank you.

2 QUESTIONED BY MR VANDERPUYE:

3 Q. And good morning to you, Witness. I'm going to ask you to try to speak a little slowly
4 so that the interpreters will be able to keep up and translate what you say to everyone in the
5 courtroom.

6 If during the course of the examination I ask you anything that's not clear to you,
7 please let me know so that I can rephrase the question or clarify the issue in a manner
8 that we can better understand one another.

9 We are in a private session, which means that what you say will not be broadcast
10 outside this courtroom, and I will refer to you during the course of your evidence as
11 "Witness" if we go into open session so that your identity is not revealed.

12 I will ask you also if we're in open session to try to refrain from giving information
13 that may tend to identify you. If it should happen though that information that you
14 give or a question that I put to you in open session may tend to identify you, please
15 let me know so that I can alert the Chamber to this and we can apply to go into
16 private session. And if there are any redactions to be made to the public record, we
17 can apply for that as well.

18 Do you understand all of that?

19 A. Yes, I understand.

20 Q. All right. Let's get started then. Can you please state your name for the record?

21 A. My name is (Redacted)

22 Q. Can you spell your last name, please?

23 A. The spelling is (Redacted) and (Redacted)

24 Q. Can you tell the Chamber where you were born?

25 A. I was born in (Redacted).

- 1 Q. How old are you, sir?
- 2 A. I'm (Redacted) years old.
- 3 Q. Are you a national of (Redacted)?
- 4 A. Yes.
- 5 Q. Were you raised there?
- 6 A. Yes.
- 7 Q. And did you attend school there?
- 8 A. Yes, that is where I attended school.
- 9 Q. And what level of education did you achieve?
- 10 A. I attended school up to (Redacted)
- 11 Q. (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 Q. Are you now or have you ever been a soldier?
- 21 A. No, I've never been a soldier.
- 22 Q. Have you received any military training in any respect?
- 23 A. No, I've never received any military type training.
- 24 Q. Have you otherwise participated in military affairs as a member of a militia or as a
- 25 member of any other type of armed group?

1 A. No, never.

2 Q. All right.

3 MR VANDERPUYE: Mr President, I'd like to go into open session if we can.

4 PRESIDING JUDGE SCHMITT: Open session, please.

5 (Open session at 11.42 a.m.)

6 THE COURT OFFICER: We are in open session, your Honour.

7 MR VANDERPUYE:

8 Q. Mr Witness, we're now in open session, so I'd ask you to just be mindful of that and
9 avoid stating anything that may tend to identify you. And I have just a few questions for
10 you.

11 First question is: Do you remember testifying in the case of Prosecutor versus
12 Jean-Pierre Bemba Gombo?

13 A. Yes, I do recall that.

14 Q. Do you remember when you testified in that case?

15 A. Yes, I do.

16 Q. And what is your recollection as to the dates that you testified in that case? If you
17 don't remember, just let us know.

18 A. I do remember the date. It was on the 18th, 18 June 2013.

19 Q. And do you recall if your testimony comprised just the one day or other days?

20 A. I really no longer remember because I fell ill during my testimony and I had to stop my
21 testimony. So I stayed on for a few more days, so I really no longer remember very well.

22 Q. Okay. The Chamber has this information in any event.

23 In the course of your testimony, do you remember if you were called as a Defence
24 witness or witness for the Defence or a witness for the Prosecution or in some other
25 capacity?

1 A. I remember testifying as a Defence witness.

2 Q. And did you testify in the favour of Mr Bemba?

3 A. Yes.

4 Q. All right. I'll come back to some of the substantive parts of that testimony in a little
5 while. Can you tell us, were you in the Central African Republic between October 2002 and
6 March 2003? Just please answer "yes" or "no" and then we can proceed to private session if
7 we need to develop this further.

8 A. No.

9 MR VANDERPUYE: Can we go into private session please, Mr President?

10 PRESIDING JUDGE SCHMITT: Private session.

11 *(Private session at 11.47 a.m.) Reclassified as open session

12 THE COURT OFFICER: We are in private session, your Honour.

13 MR VANDERPUYE:

14 Q. Can you tell the Chamber where you were between October 2002 and March 2003?

15 A. Between October 2002 and March 2003, well, I can say that in October 2002 I was in
16 (Redacted)

17 Q. When did you (Redacted) if
18 you remember?

19 A. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 Q. Do you remember being asked about where you were in October 2002 during the course
2 of your testimony in the Bemba trial?

3 A. Yes, I do remember.

4 Q. And do you remember what you told the Trial Chamber about what you were doing
5 and where you were?

6 A. Yes, I remember that.

7 Q. Can you tell the Chamber what you told this Chamber, what you told the other Trial
8 Chamber what you were doing in October 2002 during the course of your testimony in the
9 Bemba trial?

10 A. Yes, I recall that.

11 Q. Can you tell this Chamber what you said in the course of your testimony about what
12 you were doing in October 2002 and where you were?

13 A. Yes, I remember and I can tell you what I said.

14 Q. All right. Go ahead and do that.

15 A. I told the judges the following in June 2003: I told them that I was a soldier, that I had
16 volunteered to join the army to support President Patassé.

17 Q. Okay. This was in the course of your testimony in the Bemba trial, yes?

18 A. That is correct.

19 Q. Okay. And just so that we're clear for the record, that was in June 2013, right?

20 A. (No translation)

21 Q. And what you told the Trial Chamber about what you were doing in October 2002, that
22 you volunteered to join the army to support President Patassé and so forth, was that true?

23 A. Yes, that is what I said.

24 Q. Was what you said to the Trial Chamber about joining, about joining the army to
25 support President Patassé true, was that true?

1 A. No. I lied.

2 MR VANDERPUYE: I want to go into public session if I may, Mr President.

3 PRESIDING JUDGE SCHMITT: As always, we trust the assessment of counsel.

4 (Open session at 11.57 a.m.)

5 THE COURT OFFICER: We are in open session, your Honour.

6 MR VANDERPUYE:

7 Q. Just again we're in open session, and that means that you need to be especially attentive
8 not to provide information that may tend to reveal your identity, and I'll try to do the same,
9 okay?

10 A. That's fine with me.

11 Q. Before today at some point you and I have met; is that fair to say?

12 A. That is true.

13 Q. And most recently we met last week in this building; is that fair to say?

14 A. (No translation)

15 MR VANDERPUYE: We don't seem to have an answer in the record in English.

16 THE WITNESS: (Interpretation) I understood the question. The last time that we met was
17 last week in this very same building.

18 MR VANDERPUYE:

19 Q. Thank you, sir.

20 All right. Now it seems that we don't have the answer in the French transcript. I
21 don't know if it's a technical problem.

22 PRESIDING JUDGE SCHMITT: Me neither.

23 MR VANDERPUYE: The miracle has happened and it is now in the record.

24 Q. Okay. And prior to that meeting last week, without telling us, telling the Chamber
25 where, can you confirm that we have met as well?

1 A. Yes, I can confirm that.

2 Q. Can you tell the Chamber approximately when that was?

3 A. I no longer recall the date. I might remember the month and the year.

4 Q. All right. Before you and I met, did you have an opportunity to meet with other
5 members of the Office of the Prosecutor? And if you can tell us, when was the first time you
6 met?

7 A. Other than you, I met with (Redacted) and a white lady. I don't remember her name
8 anymore. We met with him, (Redacted) in (Redacted) The first time was (Redacted)
9 (Redacted). That was on 17 February.

10 THE INTERPRETER: Correction from the (Redacted) interpreter: (Redacted)
11 (Redacted)

12 MR VANDERPUYE:

13 Q. Okay. And can you tell us what transpired the first time that you met with members of
14 the Office of the Prosecutor, in particular having met with Mr (Redacted)?

15 A. Do you want me to tell you what was said? What are you asking me to do exactly?

16 Q. Just to say or tell the Chamber just basically what transpired, what happened, and then
17 we can talk about the details of what was said a little bit later on. And be mindful also that
18 we are in public session, so if there is anything that may identify you, let us know and we can
19 move into private session.

20 A. Well, if that's the case, I think we should go into private session.

21 MR VANDERPUYE: Thank you.

22 Mr President.

23 PRESIDING JUDGE SCHMITT: Yes, we go into private session.

24 *(Private session at 12.04 p.m.) Reclassified as open session

25 THE COURT OFFICER: We are in private session, your Honour.

1 THE WITNESS: (Interpretation) When I met with people from the OTP, that was on
2 (Redacted) On that day my telephone rang, and it was the (Redacted)
3 (Redacted) who was calling me. He asked me whether he was speaking to (Redacted). He
4 introduced himself. He said he was (Redacted)
5 (Redacted).
6 When he hung up, I called him back to ask him why he wanted to meet with me.
7 And his answer was this: That it was nothing serious, and if that had been the case,
8 (Redacted), and that I had no reason to be
9 worried.
10 (Redacted), I met him and he told me that some people wanted to see
11 me as well. (Redacted) I saw these people and they introduced themselves. They
12 said that they were members of the International Criminal Court, more specifically
13 from the Office of the Prosecutor.
14 These people began to explain why they had come, and they said to me that some
15 witnesses had given false testimony before the Court and that they were there in this
16 connection.
17 So I said to them: Was it possible for us to go somewhere else to talk about all of
18 this?
19 They agreed and we went (Redacted). That was (Redacted). So I asked for the
20 assistance of a lawyer. They called the lawyer in question (Redacted), and
21 (Redacted)
22 (Redacted). When I got there the lawyer also came in. His name was (Redacted)
23 When they got there, I said yes, I agreed, because ever since I gave that false
24 testimony before the Court, my conscience has been troubling me constantly. So this
25 was an opportunity for me to get things off my chest, and this would not be used

1 against me. So they brought out this document. And this was in the presence of
2 my lawyer. So they explained to me that I would be recorded and that the
3 documents would be retained -- the sound recordings rather, the sound recordings
4 would be retained.

5 They asked me which language I felt at ease in so that I could explain things easily.
6 So I said to them that it would be better if I (Redacted)

7 They had an interpreter come, and in the presence of my lawyer, I began to give them
8 an account of what had happened. I decided to tell them everything that I had said
9 in June 2013 before the ICC. That was (Redacted). That was in January 2012.

10 On that day my telephone rang, and the person who was calling introduced himself
11 saying he was Mr Narcisse Arido. He said to me that he wanted to speak to me.

12 And I said I was in (Redacted). And when he
13 called me, and I stressed this was the first time that we met at that place, he said to me
14 that it was an opportunity for us to make some money. It was a deal.

15 And there was (Redacted) who was in France, and he was looking for
16 soldiers who could go to the Court and give testimony in the favour of Mr Jean-Pierre
17 Bemba before the International Criminal Court.

18 I said to him, "But, sir, I don't know anything about military matters. How could I
19 answer your request?"

20 And he said it wasn't a problem and that (Redacted)
21 (Redacted)
22 (Redacted)

23 In January he called me and he also had Mr Arido come with him, and that was in
24 (Redacted). Once again he said to me that this was an opportunity to make some
25 money, because (Redacted), and this way we could even

1 get to the West and, if possible, stay there. He also said to me that (Redacted)
2 (Redacted), that was his name. He had already put me in touch with Mr
3 Jean-Pierre Bemba's lawyer.
4 When we were talking, his telephone rang and he told me it was Mr Kilolo calling.
5 He also explained to me that Mr Kilolo was with some other people, other lawyers.
6 The decision was going to come from Douala. And once the money was paid to me
7 to go to Douala, I would be given all the information in February 2013.
8 THE INTERPRETER: 2012 -- correction from the interpreter.
9 THE WITNESS: (Interpretation) He called me and called (Redacted) and asked that we
10 meet at the (Redacted). And we had to go to (Redacted) because Mr Kilolo was coming
11 there on Sunday. (Redacted)
12 (Redacted)
13 When we met with Mr Arido, he took out (Redacted) and asked us to wait at
14 the (Redacted). When we got to that
15 particular (Redacted), we saw him heading towards us with a man. He
16 introduced this man to us and said that he was (Redacted). That was the first time
17 that I met this gentleman, (Redacted).
18 (Redacted) and
19 we got to Douala at about 10 p.m. It was the first time I had ever gone there.
20 Arido took me and -- (Redacted)
21 (Redacted) Mr Arido (Redacted). That was on a
22 Saturday. It was a Saturday.
23 The night we arrived he gave each of us 4,000 francs for our meals. The next morning,
24 Sunday, we met (Redacted) people -- correction -- we saw (Redacted) people arrive.
25 Amongst these people I knew one man who works in (Redacted)

1 (Redacted). (Redacted) and then they started
2 to introduce themselves.
3 Now, that day there was (Redacted)
4 There were (Redacted) of us.
5 At that time (Redacted) was indeed in Douala, but he was staying at (Redacted).
6 (Redacted) He had come to meet up with us at (Redacted)
7 (Redacted). We met in the room where
8 (Redacted) were staying. We had a meeting there.
9 Before his arrival, we spoke to one another, and they started to hand out stripes, the
10 stripes of soldiers, you see. And since I had no knowledge of military matters, he
11 suggested that I introduce myself as -- and (Redacted) as well as militiamen
12 (Redacted)
13 When (Redacted) arrived, we began to try to determine how much we were going to
14 get from Kilolo after our testimony. And he asked us to write down exactly what we
15 wanted and where we were planning to go. He advised us to tell Mr Kilolo that we
16 were members of (Redacted)
17 (Redacted)
18 When (Redacted) -- correction -- when (Redacted) got there, we realized -- and
19 (Redacted) We were taking a risk. And (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 After dropping off Mr Kilolo at the hotel, he came back to see us. We were all there,
5 and he gave all of us 10,000 CFA francs. He asked us to sign a log that he was
6 supposed to show Mr Kilolo to prove that he had paid us that money.

7 Narcisse suggested that (Redacted)

8 (Redacted) on the Monday, and he suggested that we speak properly

9 when we saw Mr Kilolo.

10 Before we entered the compound, he took all our telephones away from us and my
11 mobile, (Redacted) mobile, Arido took my mobile, (Redacted) mobile, (Redacted)
12 mobile.

13 He went up to see Mr Kilolo first. Arido went up to see Mr Kilolo first and then he
14 came down to fetch us so that we would go into the room where the meeting was
15 supposed to be held. That was the first time I ever met Mr Kilolo.

16 With him there was a white lady. Arido advised us not to say anything to Mr Kilolo,
17 not to deal with Mr Kilolo, that we would just say that we were these people who had
18 (Redacted)

19 He said that we were at the (Redacted) He said I was a

20 (Redacted) And thus Mr Kilolo asked

21 us to go back down and to come back individually one by one so that he could take a
22 statement from us, so to speak.

23 The first person who went to see Mr Kilolo in his room was (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted) that Mr Kilolo had
9 given him €50. And when I went up to see Mr Kilolo, he gave me the same amount,
10 and (Redacted) as well got the same amount.
11 When we went back to our hotel, we saw Arido in (Redacted).
12 We saw (Redacted) and Arido (Redacted) and they had envelopes, sort of
13 brown envelopes in their hands.
14 (Redacted)
15 (Redacted)
16 PRESIDING JUDGE SCHMITT: Witness, I think you have to slow down a little bit so that
17 the interpreters can follow you.
18 THE INTERPRETER: Many thanks from the interpreters.
19 THE WITNESS: (Interpretation) Yes, I understand.
20 Then once we got to the hotel I decided that I would spend the €50 to go back to
21 (Redacted)
22 Somewhat later I called Arido -- well, I'd forgotten, I forgot, we said to him that we
23 didn't have our phones.
24 PRESIDING JUDGE SCHMITT: Perhaps we should interrupt here, because he's now going
25 to the second meeting and to perhaps give the Prosecution the possibility to ask some

1 questions on this narrative.

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

3 Q. Let me start this way. What you said so far, is this information that you provided to
4 the Office of the Prosecutor in your meetings with the Office of the Prosecutor?

5 A. That's right. But I added some information that I had forgotten back then.

6 Q. And just to be clear, you had mentioned earlier that you had given the statement to the
7 Office of the Prosecutor in (Redacted) with a certain understanding, an agreement as it
8 were; is that right?

9 A. Yes, that's right.

10 Q. Let me show you CAR-OTP-0077-1095.

11 MR VANDERPUYE: If I could have that in eCourt, please? It shouldn't be broadcasted.

12 And if we could just simply go to the next page for a moment.

13 Q. Do you have the document? Did you see the first page and now the second page on
14 the screen in front of you, sir?

15 A. I can't see it very well. Could you expand the image?

16 Q. Can you see the document now?

17 A. Yes.

18 Q. Do you recognize it?

19 A. Yes, I recognize it.

20 Q. All right. If we could just go to the bottom of the document, please. Do you see a
21 signature above your name there on the right?

22 A. Yes, I can see it.

23 Q. And do you recognize that signature?

24 A. Yes, I recognize it.

25 Q. Is it your signature?

1 A. Yes, it is indeed my signature.

2 Q. And the writing of your name beneath that, is that your writing?

3 A. Yes.

4 Q. If we can please go to the first page of this document.

5 During your interview did you have an opportunity to discuss this document with
6 (Redacted)?

7 A. Yes, I did have that opportunity.

8 Q. And did you read it?

9 A. Yes, I read it.

10 Q. And did (Redacted) explain to you the conditions and terms that are referred to in the
11 document?

12 A. Yes.

13 Q. Did he explain to you that one of the conditions of the document was that in the
14 statement that you provide to the Office of the Prosecutor you were to tell the truth, among
15 other conditions?

16 A. Yes.

17 Q. Now, at the second page of this document, it is dated (Redacted), to your
18 recollection is that accurate as to when you signed it and when the interview took place or
19 when you gave your statement?

20 A. Yes, it was at that time, this is correct.

21 Q. And do you recall meeting with the Office of the Prosecutor after that date, that is after
22 (Redacted)?

23 A. Yes. It was in (Redacted).

24 Q. And do you recall approximately when in (Redacted) that was?

25 A. I no longer remember.

1 Q. Did you meet with the Office of the Prosecutor at any time before -- did you meet with
2 the Prosecutor any time between the time you met first in (Redacted)?

3 A. No.

4 Q. Were you in communication with any member of the Office of the Prosecutor between
5 the time you met first in (Redacted) and the next time you met in (Redacted) to your recollection?

6 A. I do not quite understand your question.

7 Q. Okay. Were you in contact by phone or email or any other means with any member of
8 the Office of the Prosecutor between the time that you met first in (Redacted) and when
9 you next met in (Redacted)?

10 A. No, I never had any contact during that period. They didn't send me any mail. Before
11 our meeting it was not the OTP that had called me but, rather, (Redacted)
12 (Redacted)

13 Q. All right. We may have a translation issue. What I am going to do is I am going to
14 show you a document. It's CAR-OTP-0079-1542.
15 Tab 15 of the Chamber's binders.

16 PRESIDING JUDGE SCHMITT: It's not on the monitor I think.

17 MR VANDERPUYE: Let's start with 1541 and then we can go to 1542. Thanks.

18 Q. Sir, do you recognize the document that's in the screen in front of you?

19 A. Yes, I recognize it.

20 Q. And we'll talk about the details of this document in just a moment, but what is this
21 document, if you can tell the Chamber?

22 A. The document refers to Mr Kilolo. He arrived in (Redacted) and he
23 sent some money. So this is a receipt acknowledging the payment of an amount of 100,000
24 francs.

25 Q. Do you remember -- well, did you provide this document to the Office of the

1 Prosecutor?

2 A. Yes, I handed over this document to the OTP in (Redacted)

3 Q. And before you handed this document over to the OTP in (Redacted), did you communicate
4 with the OTP about having found it?

5 A. Yes.

6 Q. And also before you found this document, did you communicate with the OTP any
7 information concerning your previous interview, the one that occurred in (Redacted)? Did
8 you provide the OTP with any other information concerning that interview?

9 PRESIDING JUDGE SCHMITT: Before you answer, Mr Witness, Mr Gosnell has the floor.

10 MR GOSNELL: Leading, Mr President.

11 PRESIDING JUDGE SCHMITT: Rephrase it, please, Mr Vanderpuye.

12 MR VANDERPUYE:

13 Q. Other than this contact concerning the document, did you have any other contacts with
14 the OTP concerning the circumstances and the subject matter of your (Redacted) interview?

15 A. I did not understand your question.

16 Q. All right. I'll try and phrase it better. With respect to this document, my question was
17 did you communicate to the OTP that you had found it before turning it over in (Redacted)? I
18 think your answer was "Yes."

19 A. Yes, I gave them explanations before handing over that document.

20 Q. So then my next question is: Between the time that you were interviewed in (Redacted)
21 and the time that you gave an explanation about this document, did you communicate with
22 the Office of the Prosecutor other information concerning the subject matter of your
23 (Redacted) interview, if you remember?

24 A. I have to say that I still don't catch the question. I think you may have to rephrase once
25 again.

1 PRESIDING JUDGE SCHMITT: Perhaps, Mr Vanderpuye, two possibilities, to go to another
2 issue or to really ask the witness step by step in perhaps putting it into a time frame and really
3 short questions that you lead, but not with a leading question, but lead smoothly the witness
4 to what you are heading at.

5 MR VANDERPUYE: I think I can move on, Mr President. I'm sure my colleague will deal
6 with it on cross-examination.

7 Q. When you met with the Office of the Prosecutor in (Redacted), were you or,
8 rather, were you represented by (Redacted)

9 A. It was in the presence of my lawyer, (Redacted)

10 Q. To your understanding, did the agreement that we just saw a moment ago apply to that
11 interview as well?

12 A. That is correct.

13 Q. Did you tell the truth with respect to the information you provided the Office of the
14 Prosecutor at that time as well?

15 A. Yes. During our meeting I spoke the truth, and that is what happened from the
16 beginning to the end. I believe that I spoke truth.

17 Q. And when I started out in respect of this line of examination, I asked you when it was, if
18 you could recall, that you and I met other than last week? The record is unclear between the
19 English and the French what your answer is to that. So let me ask again, do you remember
20 when it was that you and I met other than last week?

21 A. Yes, we met in (Redacted)

22 Q. And in the context of our meeting, were you represented by (Redacted)?

23 A. Yes, he was present.

24 Q. Did you understand that the agreement that you signed on (Redacted) applied to
25 that later meeting in (Redacted) as well?

1 A. Yes, I understood that.

2 Q. Let me just clarify one other thing, and that is were you informed at the time that you
3 initially met with the Office of the Prosecutor and subsequently that the office believed that
4 you were involved in providing false evidence before this Court?

5 A. Can you kindly repeat the question? I didn't quite understand it.

6 Q. Sure. When you first met with the office, members of the Office of the Prosecutor, were
7 you informed that the Office of the Prosecutor had reason to believe that you were involved in
8 providing false evidence, false testimony to the Court during your appearance in the trial of
9 Prosecutor against Jean-Pierre Bemba Gombo? Were you informed of that?

10 A. No.

11 Q. Were you informed that you had the right to a lawyer?

12 A. I did not know. It was I myself who requested for a lawyer.

13 Q. Did you discuss with your lawyer the circumstances under which you participated in
14 the interview with the Office of the Prosecutor?

15 A. I don't understand the question. Could you please rephrase?

16 Q. Yeah, my question was: Did you discuss with your lawyer your rights concerning
17 your participation in the interview with the Office of the Prosecutor?

18 A. Yes, we discussed that.

19 MR VANDERPUYE: If we could take a look at CAR-OTP-0078-0155. Tab 2 for the
20 Chamber. Okay. I would like to go if I could to page 0163.

21 Q. This is a transcript, by the way, of your interview from (Redacted), Mr Witness.
22 All right. Now I just want to if I could draw your attention in particular to lines 276
23 through 294 on this page. And I can be more precise about it if you would like.
24 Just to be -- maybe we only have a couple of minutes left before the break, so let me
25 just cut to the chase.

1 PRESIDING JUDGE SCHMITT: Please ask questions insofar.

2 MR VANDERPUYE: Right.

3 Q. So the question is: Were you given information during the course of the interview that
4 the Prosecution had reason to believe that you had committed crimes in violation of an article
5 of the Rome Statute, in this particular case Article 70 of the Rome Statute? Do you have that
6 recollection?

7 A. Yes, I do remember.

8 Q. And do you remember if you were also given information concerning your right to have
9 a lawyer and to consult with a lawyer?

10 A. Yes, I remember.

11 Q. And do you recall being asked or being told that you had a choice to speak to the Office
12 of the Prosecutor or not to speak to the Office of the Prosecutor?

13 A. Yes, I remember that.

14 Q. Did you speak to the Office of the Prosecutor on that occasion and the subsequent
15 occasions that you indicated voluntarily and with that understanding?

16 A. Yes, I did it voluntarily, and I know why.

17 MR VANDERPUYE: Mr President, now is as good a time as any for the break with your
18 leave.

19 PRESIDING JUDGE SCHMITT: Indeed. And I want to recall all the parties, and also
20 Mr Nève is of course interested, the transcript of today, page I think 43 and 44, the witness has
21 said something about how he came, how he came to be a witness in this respect. So he has
22 said something about that matter. So perhaps we can go to another issue after the break.
23 We'll break until 2.30.

24 THE COURT USHER: All rise.

25 (Recess taken at 1.01 p.m.)

1 *(Upon resuming in private session at 2.31 p.m.) Reclassified as open session

2 THE COURT USHER: All rise.

3 PRESIDING JUDGE SCHMITT: We continue with the examination by the Prosecution, and
4 we are in private session as I understand it.

5 So, Mr Vanderpuye, please could indicate if we should stay in private session or go to
6 open session?

7 MR VANDERPUYE: Thank you, Mr President. If we could please stay in private session, I
8 think that would be appropriate.

9 Q. All right. Good afternoon, Witness.

10 I had left off asking you about certain contacts that you had with the Office of the
11 Prosecutor before testifying here today. I just want to ask you a couple of questions
12 if I could about your contacts with the Defence or members of the Defence prior to
13 your testifying here today, okay?

14 A. Could you rephrase your question? Because when you mention some meetings, which
15 meetings did you mean? Because I didn't really understand the question, so I can't reply.

16 Q. Okay. Maybe I can make it a bit clearer. I want to just talk to you now about any
17 contacts you had with the Defence in this case, that means members of the teams of the
18 Defence in this case before testifying here today. Does that make things a bit clearer?

19 A. No, I had absolutely no contact with them.

20 Q. And what I'd like to ask you is since the time that you met with the Office of the
21 Prosecutor in (Redacted), did you have contact with anyone with whom you were
22 associated, that is any member of the group or individuals that you were associated with,
23 concerning the evidence that you gave in the Bemba case?

24 A. The question seems a bit complicated, difficult to understand. Could you please
25 rephrase so I can understand properly? I have to say I don't understand your question.

1 Q. Okay. When you met with Mr Kilolo for the first time, you testified you were with a
2 number of people. Were you contacted by any of those people after you met with the Office
3 of the Prosecutor in (Redacted) and before today?

4 A. After I met with people from the OTP, the only person I have been in contact with is
5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 A. Yes.

15 Q. Okay. (Redacted)

16 A. That's right.

17 Q. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. That was before you met with the office of -- the members of the Office of the Prosecutor
22 in (Redacted), and if so, when to your recollection did that happen?

23 A. I can't remember exactly since we would call each other quite frequently even before the
24 discussions with the OTP. So I can't really remember the various dates.

25 Q. Now, you mentioned this call or these contacts with (Redacted) I think you said and

1 (Redacted) before you met with the OTP. Did they concern matters which you at the end of the
2 day discussed with the OTP?

3 MR VANDERPUYE: I don't have an answer in the record.

4 THE WITNESS: (Interpretation) I haven't really understood.

5 PRESIDING JUDGE SCHMITT: Could we perhaps also have an approach here to go step by
6 step. Is it possible, may I step shortly in, if you allow.

7 Mr Witness, you answered the question of the Prosecutor, and I read for everybody
8 here, we're on page 59, line 23: "After I met with people from the OTP, the only
9 person I have been in contact with is (Redacted)."

10 Perhaps we can stick first with this fact that the witness names, and my question is:
11 What did you talk about with (Redacted)?

12 THE WITNESS: (Interpretation) Before meeting with the OTP, I'd like to tell you that it
13 was (Redacted)
14 (Redacted)

15 PRESIDING JUDGE SCHMITT: Mr Witness, you said earlier that you talked or had been in
16 contact with (Redacted) after you met with the OTP, after, not before. Is that correct or is
17 this not correct?

18 THE WITNESS: (Interpretation) Let me repeat. Before I met with the OTP, I met
19 (Redacted) And after my interview with the OTP staff, (Redacted)

20 PRESIDING JUDGE SCHMITT: Yes. And what did you talk about with (Redacted) after
21 you had met with the OTP?

22 THE WITNESS: (Interpretation) After my interview with the OTP members, (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

1 (Redacted)

2 PRESIDING JUDGE SCHMITT: And when was it the last -- excuse me.

3 THE WITNESS: (Interpretation) We didn't even talk about the testimony I was going to be
4 giving here.

5 PRESIDING JUDGE SCHMITT: And when was it the last time that you spoke with
6 (Redacted)?

7 THE WITNESS: (Interpretation) (Redacted) and I saw one another for the last time
8 (Redacted)

9 (Redacted)

10 PRESIDING JUDGE SCHMITT: Then you met -- I'll finish quickly, but I just wanted to
11 address it so that we have it, because there are things that are not clear, also not clear to me.

12 Then you mentioned a person named (Redacted), and you called him a friend. I'm
13 referring to page 59, line 24, 25, 60. And you said "(Redacted)

14 Do you recall if this was in (Redacted) or do you recall the year when this
15 was?

16 THE WITNESS: (Interpretation) It was in (Redacted)

17 PRESIDING JUDGE SCHMITT: And this person, if I understand you right and the transcript
18 is correct, (Redacted)?

19 THE WITNESS: (Interpretation) That's right.

20 PRESIDING JUDGE SCHMITT: Could you perhaps tell a little bit more in detail what this
21 person said to you?

22 THE WITNESS: (Interpretation) (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 PRESIDING JUDGE SCHMITT: So I will stop here, and I'm grateful for your indulgence,
4 and so you can perhaps continue with the questioning of this witness.

5 MR VANDERPUYE: Thank you very much, Mr President. I'm having a little trouble with
6 my transcript here, so I can't orient myself.

7 PRESIDING JUDGE SCHMITT: I think everybody has. We are trying to fix it, but it seems
8 that it has not been fixed yet.

9 (Pause in proceedings)

10 PRESIDING JUDGE SCHMITT: So there seems to be hope, but we don't have an exact time
11 frame. There is obviously a problem in both courtrooms if I understand it, but it will be
12 fixed soon.

13 So perhaps, Mr Vanderpuye, we continue the questioning.

14 MR VANDERPUYE: Thank you again, Mr President.

15 Q. I'm just following up on some of the questions that were put to you by Mr President.
16 First, do you know who (Redacted) is or who was he at the time that he was
17 mentioned in this telephone call you just testified about?

18 A. After meeting the members of the OTP staff, (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 A. (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. I'm not sure that your answer was clear. You mentioned something about a

6 conversation with the OTP and (Redacted). So I

7 was wondering if you could just clarify that or explain it a little bit so that it's clearer for the

8 record before the Chamber?

9 A. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. (Redacted) I want to ask you some questions about the circumstances under which you

20 came to meet with Mr Kilolo in the first place, okay?

21 A. I haven't understood your question. Could you repeat it?

22 Q. I want to ask you just a few questions about the circumstances under which you came to

23 meet Mr Kilolo in the first place or for the first time, okay?

24 A. Yes, I agree.

25 Q. Who was the first person you spoke to regarding the possibility of your testifying in the

1 Bemba trial?

2 A. Could you make your question more clear? Are you talking -- you're talking about the
3 first time. Which first time during the Bemba trial? Could you clarify? The first person I
4 had contact with?

5 Q. Yes. The question is who was the first person that you had contact with about the
6 possibility of testifying in the Bemba trial?

7 A. It was Arido. He called me to talk to me about that.

8 Q. I think you testified earlier, and I'm sure my colleagues will correct me if I'm wrong,
9 about a certain deal.

10 A. Yes, I said that.

11 Q. Who conveyed that deal to you about the circumstances of testifying in the Bemba trial?

12 A. The person that I met to talk about this deal before meeting Mr Kilolo was Arido. I
13 didn't know Mr Kilolo before that. It was Arido who had called me so that we could meet
14 one another and come to an agreement. That's what I said.

15 Q. What was that agreement? I see that you're indicating that you're not hearing the
16 question, so let me repeat it. What was that agreement?

17 A. The idea was to agree for me to testify in exchange for receiving some money or for
18 being (Redacted). Those were the two proposals that Arido made to me.

19 Q. You also mentioned earlier in your testimony someone by the name of (Redacted). Do
20 you remember that?

21 A. In fact I talked about (Redacted) I do remember that.

22 Q. And what was your involvement with (Redacted) in the context of this deal you spoke
23 about with Mr Arido?

24 PRESIDING JUDGE SCHMITT: Mr Gosnell, please.

25 MR GOSNELL: Objection, leading.

1 PRESIDING JUDGE SCHMITT: That is true.

2 MR VANDERPUYE: I think the witness has already testified about (Redacted)

3 PRESIDING JUDGE SCHMITT: Yes.

4 MR VANDERPUYE: Unless the -- (Overlapping speakers)

5 PRESIDING JUDGE SCHMITT: Let me have a short look about the question. Yes, but the
6 question was "what was your involvement" is also so general that I would appreciate it if you
7 could -- what should the witness answer, what was your involvement?

8 Mr Gosnell.

9 MR GOSNELL: Mr President, I could explain further why I think it's leading, but it would
10 be better if the witness removed his earphones if I'm going to indicate that.

11 PRESIDING JUDGE SCHMITT: Yes. Would you please remove your earphones. So it's
12 easier than to let the witness out I think. That's -- I appreciate that.

13 Could the witness just for a moment, it won't be long, remove the earphones, please.

14 MR GOSNELL: Mr President, I don't remember every last word of what was said earlier, but
15 the leading element is the connection of deal to the person. That's the leading element as far
16 as I can see.

17 PRESIDING JUDGE SCHMITT: Please rephrase the question.

18 MR VANDERPUYE: I can refer my colleague to transcript page 41 in the narrative that the
19 witness -- he has his headphones on. Could they please be removed?

20 If I could just refer my colleague to page 46 of the transcript where the witness
21 describes the circumstances involving (Redacted). He specifically says, "We had to
22 go to Douala because Mr Kilolo was going there on Sunday. (Redacted) got ready.
23 (Redacted). We went with Mr Arido. (Redacted)
24 (Redacted)" et cetera, et cetera.

25 If I could also refer my colleague to --

1 PRESIDING JUDGE SCHMITT: Where are we exactly now, please, let me know the page,
2 the Bench, where are we exactly, 46?

3 MR VANDERPUYE: The previous page was page 46 I think I said.

4 PRESIDING JUDGE SCHMITT: Yes, and lines?

5 MR VANDERPUYE: The line is at line 10. Then there is a reference at page 47, line 7, and
6 there is a reference at page 49, line 5, 8, 9, 12, page -- and now the next, the last -- the most
7 recent entry is the one that I just referred to. So I'm not sure exactly -- I can rephrase the
8 question, but I don't understand my colleague's objection that it's leading, unless it's for some
9 other reason.

10 PRESIDING JUDGE SCHMITT: Mr Gosnell, please.

11 MR GOSNELL: Of course there is no objection to using the name in any of those contexts.
12 The element that's being suggested is the connection between that person and this deal.
13 That's an important leading element, I would suggest, and it should first be adduced in a
14 non-leading way.

15 THE INTERPRETER: Message from the interpreters: Could parties and participants please
16 observe the 5 second rule. Many thanks.

17 PRESIDING JUDGE SCHMITT: So we have now the problem with overlapping speakers
18 again I think, which had not happened with the witness fortunately.

19 MR VANDERPUYE: Mr President, at page 45.

20 PRESIDING JUDGE SCHMITT: Yes.

21 MR VANDERPUYE: I think at line 3 --

22 PRESIDING JUDGE SCHMITT: We should not -- no. This obviously takes too much time.

23 MR VANDERPUYE: Indeed.

24 PRESIDING JUDGE SCHMITT: Why not, why not rephrase the question and try first to
25 establish it? If you are of the opinion it has been addressed by the witness yet, which I, to be

1 honest, you would have to interpret what has been said a little bit, you can establish it again
2 so everybody and also Mr Gosnell is happy and so we don't have the problem. It takes too
3 much time I think now to discuss this. And I'm very certain that you are able to again make
4 out of one question two or three and establish it and then we can go further, please.

5 Just a sentence to the witness. That is not, this interruption was not a sign of
6 impoliteness. It was just a procedural matter that should have been discussed and
7 has been discussed with counsel and the Bench, and you should not hear it and that
8 was the reason why you took off your speakers, yes.

9 MR VANDERPUYE: May I proceed, Mr President?

10 PRESIDING JUDGE SCHMITT: Yes.

11 MR VANDERPUYE: Thank you.

12 Q. You were asked earlier today or rather you testified earlier today about a deal. That's
13 at transcript page 45, line 3. Do you remember that?

14 A. Yes, I remember.

15 Q. And at transcript page 45, line 10, you mentioned an individual by the name of
16 (Redacted), and you said he was a soldier. Do you remember that?

17 A. Yes.

18 Q. Can you tell the Chamber what was the relationship between the deal that you
19 mentioned at transcript page 45, line 3, and the individual that you mentioned seven lines
20 later, (Redacted) at transcript page 45, line 10, if any at all?

21 PRESIDING JUDGE SCHMITT: Mr Gosnell refrains from any objection anymore. You
22 could have asked, of course, was there a relationship?

23 MR VANDERPUYE:

24 Q. Did you understand Mr President's question?

25 A. No, I did not understand. The question was too long.

1 PRESIDING JUDGE SCHMITT: I'll rephrase it. You spoke about this person, (Redacted),
2 and you spoke about a deal. Did this deal anything have to do with this person?

3 THE WITNESS: (Interpretation) Yes. (Redacted)
4 (Redacted)
5 (Redacted)

6 MR VANDERPUYE: Yes, Mr President.

7 PRESIDING JUDGE SCHMITT: Please continue, Mr Vanderpuye.

8 MR VANDERPUYE:

9 Q. Where did you meet (Redacted) for the first time?

10 A. I met (Redacted). That is where we met.

11 Q. And when you -- well, let me ask you, in relation to what you discussed with Mr Arido
12 about testifying in the Bemba case, did there come a time after that where you met (Redacted)
13 (Redacted)

14 A. Yes, I met with him.

15 Q. When was that relative to when it was you spoke to Mr Arido about the possibility of
16 testifying in the Bemba trial?

17 A. I did not understand that question. Are you talking about what happened prior to the
18 meeting with Arido or after the meeting with Arido?

19 Q. After.

20 A. After having given his number to Arido, we had the opportunity to meet in the
21 (Redacted) and (Redacted)
22 (Redacted). That was the only time.

23 MR LAROCHELLE: I'm sorry to interrupt. I don't know if we can clarify, after having
24 given his number to Arido -- (Interpretation) I want to know whether it was he, the witness
25 himself who gave the number. I want to understand.

1 PRESIDING JUDGE SCHMITT: Fair enough.

2 MR VANDERPUYE: Indeed.

3 Q. Can you say whose number was given to Arido? Was it your number? Was it
4 (Redacted) number? Someone else's number? Because it's not clear in how it's been
5 recorded in the transcript of this case. That's the reason.

6 A. I for my part did not also understand your question. You want to know who gave a
7 number to whom. Was it (Redacted) who gave his number to Arido or do you want to know
8 whether it was Arido who gave his number to (Redacted)? Can you clarify that before I
9 answer?

10 Q. Yes. I think the best way to do it is to read to you what your answer was recorded as in
11 the transcript of this proceeding and then ask you if it's correct. So I'll do that.

12 The question effectively was the circumstances of whether you met with (Redacted)
13 after you met with Mr Arido.

14 And your answer is as follows: "After having given his number to Arido, we had the
15 opportunity to meet in the (Redacted)
16 (Redacted), and (Redacted). That was
17 the only time."

18 So what my colleague would like to know as well as the Presiding Judge and myself
19 is when you said "having given his number to Arido," who is the person you're
20 talking about there?

21 A. I am the one who gave (Redacted) number to Arido during our first meeting. It was
22 only after that that I told (Redacted) about my conversation with Arido. That is what
23 happened.

24 Q. Thank you very much. And that helps clarify things.

25 You mentioned also another person, someone by the name of (Redacted) earlier today.

1 Can you tell the Chamber what your understanding of (Redacted) involvement or a
2 lack thereof in this deal was?

3 A. I had never known (Redacted) before that. The first time that I met Arido, he told me
4 that there was a (Redacted), who was (Redacted). He
5 told me that it was Jean-Pierre Bemba's lawyer who had asked him to identify soldiers that
6 would go to testify. We arrived Douala on a Sunday. We went to Arido's room, and it was
7 in a (Redacted). And this is what he told us. He told us that the purpose was not money.
8 The objective was freedom for Jean-Pierre Bemba. And after he was released, he would be able
9 to (Redacted). That is what he said. He said the main issue
10 was really not money.

11 Q. This is what Arido said or what (Redacted) said? Just so we're clear for the record.

12 A. It was not Arido. It was (Redacted) who told me that. When we started asking questions
13 about our circumstances, our rights, this is what he told us, "Don't worry, you will receive
14 some money.

15 But as far as I am concerned (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. When you say in your answer "he told us" that, can you tell the Chamber who you mean
19 by "us"?

20 A. I was talking about (Redacted). Those who were (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. Now, you also mentioned something earlier in your testimony today about telephones.
24 Do you remember that?

25 A. I don't remember. If you can rephrase that question again to try and jog my memory.

1 PRESIDING JUDGE SCHMITT: I think you should have to show him, to show the witness
2 where it is and read it to him.

3 MR VANDERPUYE: Just bear with me for one second, I'll find it in the transcript. I have it
4 here at transcript page 48, line 13, and as part of the narrative that you gave earlier today, you
5 say here, starting at line 9, "Narcisse suggested that (Redacted)
6 (Redacted), and he suggested that
7 we speak properly when we saw Mr Kilolo. Before we entered (Redacted)," it says, "he
8 took all our telephones away from us," and then there is something here that's illegible in the
9 transcript, but in any event, it continues "(Redacted) mobile, Arido took my mobile,
10 (Redacted) mobile, (Redacted) mobile."
11 Do you remember giving that evidence earlier today?

12 A. Yes, I remember having said that.

13 Q. And was it explained to you why the telephones were taken away from you? And I
14 mean as a group.

15 A. Yes. Mr Arido had explained to us why.

16 Q. What was his explanation?

17 A. Arido took away our phones and told us that he had told Mr Kilolo that we were his
18 people and that we were in the bush, and that in the bush we did not have telephones, we
19 only had Thurayas, and that when we meet with him, if he asks us a question, we should tell
20 him that we did not have any phones.

21 Q. Okay. And did you do that, by the way, when you met with Mr Kilolo? Did you tell
22 him that you didn't have a telephone?

23 A. Yes, that is correct.

24 Q. And just so we're --

25 A. I said what Arido had asked us to say.

1 Q. Okay. Just so that we're clear for the record, this was in the context of your first
2 meeting with Mr Kilolo, correct?

3 A. That is correct.

4 Q. And that was in the context of your giving him a statement, is that correct?

5 A. Yes.

6 Q. To your recollection was that statement given to Mr Kilolo and the white lady that you
7 said you referred to earlier, was it recorded?

8 A. Yes, I remember. When I gave my statement, it was recorded and transcribed in hard
9 copy. I was speaking with Mr Kilolo in (Redacted), and Mr Kilolo was in turn translating for
10 the white lady. So my voice was being recorded.

11 PRESIDING JUDGE SCHMITT: Could we go into open session at some point? I think we
12 are still in private session as I understand it correctly. So my question would be, I know that
13 we have mentioned many names in the past minutes, but you know better what you are going
14 or intending to ask the witness.

15 MR VANDERPUYE: I think we better stay in private session for the moment, Mr President.

16 Q. You, before you met with Mr Kilolo, did anybody tell you what you should tell
17 Mr Kilolo, and if so, who?

18 A. Yes. It was Mr Arido who told me what I had to tell Mr Kilolo, because I did not know
19 Mr Kilolo at the time. And it was Arido who had told me to say that we had been in the
20 bush, we were (Redacted), we were his people, his elements, and that he was
21 our leader. And also that (Redacted), we should tell Kilolo that we were
22 members of the (Redacted). And this is how come (Redacted).

23 And during the meeting with Mr Kilolo, I repeated the same thing, that is in the
24 presence of the white lady whose name I no longer remember.

25 Q. You mentioned, and it's recorded in the transcript that (Redacted). Can you

1 tell the Chamber how that came to be?

2 A. As far as (Redacted) is concerned, (Redacted) because Arido, Arido was the one
3 who brought me to (Redacted) could help me give my statement. He said to
4 me that I should explain that we had been part of (Redacted)
5 (Redacted). So that is what I was told.

6 Q. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. Just a couple of questions I'd like to clarify. You referred to the supervisor of the group.
13 Who was the supervisor of the group?

14 A. It was Arido. He was our leader.

15 Q. Did you inform Mr Arido that you had never been a soldier or a militiaman?

16 A. I didn't say that to him. I told him nothing. I showed him exactly who I was. I
17 never said that I was a member of a rebel group or any other kind of armed group.

18 Q. My question is actually the converse. Did you tell him that you were not a militiaman
19 or a member of the army as such?

20 A. Yes, I told him all of that.

21 Q. You mentioned someone by the name of (Redacted). What, if any, (Redacted)
22 (Redacted)

23 A. (Redacted)

24 (Redacted)

25 (Redacted)

1 Q. Was that part of the story that you conveyed to Mr Kilolo and the woman that he was
2 with during the course of your interview in February 2012?

3 A. That's what I had been asked to say. So I said that I had been one of (Redacted) fighters.
4 That is what I said in February 2014 -- correction -- 2012.

5 Q. In relation to this meeting -- and I don't think there is any dispute that the meeting
6 happened on 21 February 2012 -- I don't know what the Kilolo Defence's position is with
7 respect to that, but I believe it's not disputed.

8 In respect of that meeting, did you discuss at any time any money or any promises
9 with Mr Kilolo regarding your testimony in the Bemba trial with Mr Kilolo is my
10 question?

11 A. Well, he raised that issue. We said to him that it was a risk that we would take to get
12 there, and we wanted clarification. And Arido said to us that he would be responsible for
13 reporting all of our various concerns and complaints to Mr Kilolo. Mr Arido was the
14 go-between. He even asked us to give us the amounts of our rewards, and we had talked
15 about that in great detail. You see, you can't take someone like that to a place where there is
16 a great deal of risk. I couldn't run that kind of risk without any promise or any reward.

17 PRESIDING JUDGE SCHMITT: Mr Djunga, please.

18 MR DJUNGA: (Interpretation) Just a clarification, please. I don't know whether the
19 witness actually understood the question. He had been asked whether he had talked about
20 that with Mr Kilolo, and I think the answer was entirely different, not at all matching the
21 question that had been put to him.

22 PRESIDING JUDGE SCHMITT: You could get, you could indeed get this impression. So
23 perhaps, Mr Vanderpuye, we have to resume this issue, even though there has been an
24 answer. It is really, if I look at the transcript, it is really not clear if he has fully understood
25 what we are talking about. I think we are talking about Douala still? We are in 2012, and

1 we are at the, to put it this way, at the first meeting. And we are at the first meeting when he
2 first met Kilolo. So perhaps we can clarify this.

3 MR VANDERPUYE: Thank you very much, Mr President. I appreciate that as well.

4 Q. I'm sure you've heard Mr President. So first just to orient you to the context of my
5 question, it is referring to the meetings you had with Mr Kilolo on 21 February 2012, which is
6 when you indicated or in those circumstances that was the first time you had actually seen
7 him or met with him. Okay?

8 A. That's right.

9 Q. All right. In the context of that encounter, did you discuss with Mr Kilolo any
10 promises, whether it be relocation or money, concerning your prospective testimony in the
11 Bemba trial?

12 A. During our second meeting in May 2013, that was at the time when Mr Kilolo had
13 arrived in Yaoundé. And he was staying at the (Redacted). Mr Kilolo had made that
14 proposal to us.

15 PRESIDING JUDGE SCHMITT: Mr Witness, I'm sorry to interrupt you. But the question
16 was about 2012. And you will perhaps have the opportunity to talk about Yaoundé 2013, but
17 I think you should first answer the question what happened in 2012 and if there were any
18 promises in relation to Mr Kilolo.

19 THE WITNESS: (Interpretation) During our meeting with Mr Kilolo in February, we
20 couldn't say anything because we had our leader, you see, who was speaking on our behalf.
21 What Mr Kilolo had promised to us was to send us telephones. He had said that he was
22 going to send money to Arido and that Arido would buy us telephones. We had a
23 go-between who was thought of as our leader, and it was indeed Mr Arido.
24 That is what happened in February 2012.

25 MR VANDERPUYE:

1 Q. Did you discuss as a group with Mr Arido about his discussions with Mr Kilolo back in
2 February 2012 during the course of this encounter?

3 PRESIDING JUDGE SCHMITT: Mr Larochelle.

4 MR LAROCHELLE: I think you anticipate what I am going to say. You cannot ask
5 questions like that and finish it by "Yes." What did you discuss? What? You know, it has
6 to --

7 PRESIDING JUDGE SCHMITT: We make it short. I think the question is a little bit
8 complicated. "Did you discuss as a group with Mr Arido about his discussions with
9 Mr Kilolo?" I think we should put it simpler for the witness, yes, and then we can continue
10 with that I think.

11 MR VANDERPUYE: No problem.

12 Q. Did you discuss with Mr Arido, did you have a conversation with him after he spoke to
13 Mr Kilolo?

14 A. When we met Mr Kilolo, in actual fact after that meeting I went back (Redacted). And
15 since he was very -- it was very busy, I went back with some other people.

16 But, you see, I went back and I said to myself, once he's back to Yaoundé, he will
17 bring me back everything that they had said there with Mr Kilolo. He will report
18 back to me. So after that there really wasn't any clear account.

19 Q. Who would report back to you? That's how it's recorded in the transcript.

20 A. Narcisse Arido, he was our leader. It was his job to give us a report back to tell us
21 what had happened.

22 Q. Thank you. You mentioned earlier in your testimony about certain brown envelopes.
23 Do you remember that?

24 A. Yes, I remember that.

25 Q. Did that occur in the context of this encounter in February of 2012?

1 A. It was indeed in February 2012 in Douala.

2 Q. And what about these brown envelopes was of any significance to your understanding
3 or your knowledge?

4 MR TAKU: Your Honours, that's highly speculative about what he thought, what
5 interpretation he gave.

6 PRESIDING JUDGE SCHMITT: Mr Taku, could you please repeat? I have it not --

7 MR TAKU: I say asking him what the significance would be is purely speculative to ask a
8 question, a question about what happened.

9 PRESIDING JUDGE SCHMITT: Sustained.

10 MR VANDERPUYE: Maybe there is a translation issue, but I said "to his knowledge," which
11 would not be speculative. It would be actually concrete. So maybe there is just a
12 translation issue. If you would like me to rephrase it, I can do that, Mr President.

13 Q. You mentioned these brown envelopes during the course of your testimony, transcript
14 49, page 49, line 22. Let me ask it this way: Why did you mention it?

15 A. That's what I saw and I reported. When I came out of (Redacted) after finishing the
16 meeting with Mr Kilolo, I ran into -- I was (Redacted)
17 (Redacted)
18 (Redacted)

19 Q. Do you know what was in the envelope?

20 A. No, I don't know.

21 Q. Did you see those envelopes or that envelope again after you saw (Redacted) with them
22 in his hand initially?

23 A. How could I see that again? I was coming out. I ran into them. They were coming
24 (Redacted). And really I wasn't in a position to know what happened after I left. I don't
25 know what happened.

1 As for that particular point, I really don't know what answer to give you.

2 Q. That's fine. Did you see (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. And did you see Mr Arido after the point where you first saw him, when you saw him
10 (Redacted) did you see Mr Arido at

11 some point after that, that same day, another day, that sort of thing?

12 A. I went back (Redacted) and he stayed behind. And I continued on to (Redacted) and we
13 did not see each other after that. It was only later when he called me to tell me that he had
14 money to give me. That was the money for transportation that Mr Kilolo had promised. I
15 said to him that I was (Redacted)

16 (Redacted) I met up with him there

17 and I asked him about the telephone promised by Mr Kilolo, and he really didn't give me a
18 proper answer. He told me to drop it. That was the last time I met him.

19 Q. And when you left Douala after the encounter which resulted in your 21 February
20 statement, how did you get back to (Redacted)?

21 A. I used the €50 that had been given to me by Mr Kilolo, and I went to change the money
22 and I got my transportation to go back to (Redacted), and I had no further information about
23 Arido.

24 I tried to call him. He answered saying that he was still in Douala busy going about
25 his usual business. It was only later that (Redacted)

1 (Redacted)

2 (Redacted)

3 Q. I'm going to ask you just a couple of questions because your answer wasn't clear to me
4 in the record. You mentioned something about a conversation with (Redacted). According
5 to the record and it says that he mentioned to you that (Redacted)
6 (Redacted). Is that, first of all, accurate as to what you just said?

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

8 Q. All right. So can you tell us a little bit about that conversation? What did (Redacted)
9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. And one last question before we go to the break or break for the day, with Mr
16 President's leave, did you discuss in the context of your meeting or your encounter with
17 Mr Kilolo in Douala in February how much money, if any, you might receive in relation to the
18 testimony that you would give in the Bemba trial?

19 PRESIDING JUDGE SCHMITT: Mr Kilenda -- Mr Djunga, excuse me. You see, we are
20 nearing the break as Mr Prosecutor has framed it.

21 MR DJUNGA: (Interpretation) Your Honour, just to say that the witness has answered the
22 question and he said that point. The question was put to him, he answered. He gave the
23 clarification is that, if you just scroll a bit upwards on the screen, you will see that the answer
24 was given and this is becoming somewhat repetitive.

25 PRESIDING JUDGE SCHMITT: Could you please exactly tell which line and then we scroll

1 it up for -- could you please tell us that?

2 MR LAROCHELLE: (Microphone not activated)

3 MR GOSNELL: Mr President, there is also page 79, line 8 in the English.

4 PRESIDING JUDGE SCHMITT: So this is sustained then.

5 MR VANDERPUYE: I think my question was how much, not whether, and I don't see that
6 in the transcript. Maybe I'm looking at a different transcript, but I don't see that question. I
7 don't see that answer.

8 PRESIDING JUDGE SCHMITT: Please, Mr Vanderpuye, where are you at the moment then
9 in the transcript, please?

10 MR VANDERPUYE: 78, line 23, et seq. And I think my question just now to the witness,
11 and maybe it was not properly recorded, was how much money, not whether money was a
12 promise, which is what seems to be the issue with the Defence counsel here, and I don't see
13 that question reflected in the transcript and I don't see an answer to it.

14 MR POWLES: I think, I think the problem, Mr President, is the reference to Mr Kilolo,
15 because of course there was no reference to money and Mr Kilolo in the previous testimony.
16 And I think it was the linkage by my learned friend --

17 PRESIDING JUDGE SCHMITT: Now indeed we are beyond 4 o'clock, and I think we should
18 or you can address this, Mr Vanderpuye. But I'm not sure if we have really established what
19 has been the issue when or what has been talked about, to put it this way, when the witness
20 first met Mr Kilolo, I think this has not been really established.

21 So if you near yourself again a little bit cautiously, then perhaps this could lead to
22 something like that. I'm not sure because we have also read what is in -- what has
23 been said before, what is in the pre-trial brief and everything.

24 But for the moment I think we should stop this here, and we can perhaps resume it
25 tomorrow. We will not solve this on the spot, yes.

1 Do you want to say something, Mr Vanderpuye?

2 MR VANDERPUYE: No, sir, Mr President.

3 PRESIDING JUDGE SCHMITT: So then, Mr Witness, we thank you for answering the
4 questions today. Tomorrow we will continue with your testimony. In the meantime you
5 must not talk with anybody and discuss your testimony with anybody. Have you
6 understood that, Mr Witness?

7 THE WITNESS: (Interpretation) Yes, I've understood.

8 PRESIDING JUDGE SCHMITT: Then have a good rest, Mr Witness, and we see each other
9 tomorrow, also counsel and the Bench hopefully, and now we have this, we resume at 9.30 as
10 always tomorrow morning.

11 Thank you for the moment.

12 THE COURT USHER: All rise.

13 *(The hearing ends in private session at 4.03 p.m.) Reclassified as open session

14 RECLASSIFICATION REPORT

15 Pursuant to Trial Chamber VII's instructions, ICC-01/05-01/13-1209, dated
16 2 September 2015, this lesser redacted public version of the transcript is filed in the
17 record of the case.