

Trial Hearing
Witness: CAR-D21-P-0003

(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 Judge Raul
7 Pangalangan
8 Trial Hearing
9 Thursday, 3 March 2016
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: All rise.
12 The International Criminal Court is now in session.
13 PRESIDING JUDGE SCHMITT: Good morning, everyone. Please be seated.
14 Would the court officer please call the case.
15 THE COURT OFFICER: (Interpretation) Good morning, Mr President. Situation in the
16 Central African Republic in the case of The Prosecutor versus Jean-Pierre Bemba Gombo,
17 Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse
18 Arido, in the case reference ICC-01/05-01/13.
19 And we are in open session.
20 PRESIDING JUDGE SCHMITT: Thank you very much. I ask for the appearances of the
21 parties please for the Prosecution.
22 MR VANDERPUYE: Good morning, Mr President, your Honours. Good morning
23 everyone. For the Prosecution, the same appearances as yesterday.
24 PRESIDING JUDGE SCHMITT: Thank you very much.
25 Then for the Defence.

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

- 1 MR DJUNGA: (Interpretation) Thank you, Mr President. Thank you, your Honours.
2 Our team is the same.
- 3 MR TAKU: Good morning, your Honours. Mr Arido, who is present here, is represented
4 by me; my learned friend and colleague, Beth Lyons; Mr Michael Rowse; and Mr Kiel Walker.
5 Thank you, your Honour.
- 6 PRESIDING JUDGE SCHMITT: Thank you.
- 7 MR KILENDA: (Interpretation) Good morning, Mr President. Good morning, your
8 Honours. Mr Fidèle Babala Wandu, present, is represented by the same team as yesterday.
- 9 MR GOSNELL: Good morning, Mr President. Good morning, your Honours. Same
10 appearances this morning for Mr Mangenda as yesterday.
- 11 MS TAYLOR: Good morning, Mr President, your Honours. The Defence for Mr Bemba has
12 the same appearance as yesterday. Thank you.
- 13 PRESIDING JUDGE SCHMITT: Thank you very much.
14 I've been informed that the Defence of Mr Arido wants to raise an issue, so whoever
15 from the Defence of Mr Arido wants to take the floor, you have the floor.
- 16 MS LYONS: Thank you, your Honour. Good morning.
17 I wanted to raise a number of short issues in relation to the last discussion that we
18 had, sorry, the last discussion we had yesterday in respect to the transcripts and
19 audios and disclosure issues related to witnesses B -- hold on. I'm sorry. B24 and
20 B24-003, I believe.
- 21 First, I would like to deal with just a small correction in the draft minutes that we
22 received. I'm looking at the English version, your Honour, and it's the end of the
23 session on page 103. And on the last page, there is some errors. And I would like
24 to make the record -- make it clear that they should be corrected. One of the
25 comments is attributed to Mr Djunga, Maître Djunga, and I think it should be

1 attributed to Maître -- to Mr Vanderpuye, if I'm not wrong.

2 And secondly, in terms of this, it was our understanding that the transcripts and the
3 translations in French and English, as well as the audiotapes, would be forthcoming
4 this Friday. The transcript reveals past tense, so I wanted some clarification on that,
5 and then I have another application.

6 Let me finish it all at once, as my colleague has suggested to me.

7 We have requested the transcripts in French and English as well as the audiotapes
8 before yesterday. Yesterday was the second time. Now we're on the third time.

9 We recognize and it's still our position that the interviews with these two persons
10 were conducted under 55(2). And according to the Trial Chamber decisions, they
11 are entitled to 55(2) rights. But what's important to us today is that the Trial
12 Chamber issue an order and a timetable for disclosure for the translated transcripts
13 and audios so that the Defence, pursuant to its rights under Article 67, has reasonable
14 time to review the material, we can do this with our client, and we can, in reasonable
15 time, present to you, inform you if we still need to call these witnesses.

16 We know that you understand the urgency of this because our structuring of our
17 presentation depends on our ability to review with our client the materials or the
18 information that was elicited during the Prosecution's interviews. Thank you.

19 PRESIDING JUDGE SCHMITT: This addresses, of course, the Prosecution. Please,
20 Mr Vanderpuye.

21 MR VANDERPUYE: Thank you again, Mr President, and good morning again.

22 With respect to the translations, I think what I said yesterday or meant to say, if I
23 didn't, was that the requests for the transcription and translation of that material had
24 been made. We have a unit that takes care of this kind of work, and so the request
25 has been made. They've been working very hard to get it done. And from my

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 understanding now, we expect that the translations -- transcriptions, translations will
2 be complete at some point next week. The audio material will be released on Friday
3 in the package that I indicated yesterday.

4 I should note a couple of things. The first thing is that with respect to these
5 particular interviews that the Defence expressly declined to be present during the
6 course of these interviews, notwithstanding the fact that they had previously
7 indicated that they had intended to be present. And that was communicated to the
8 Prosecution in an express email or series of exchanges of emails, I should say,
9 between us and Mr Taku.

10 The other thing that's important to remember is that the Defence is not precluded, as
11 far as I know at the moment, from contacting the individuals with whom the
12 Prosecution spoke.

13 And to the extent that the Defence needs to prepare and to know what was
14 specifically discussed with the witness during the course of their interview with the
15 Prosecution, the witnesses are at their disposal to reveal that to the Defence.
16 Obviously that does not mean and I don't mean to suggest that we would delay
17 disclosing material because that is required both under Rule 77 as well as the contacts
18 protocol, the express language of the contacts protocol which we are endeavouring to
19 abide by. But I wanted to bring it to the Court's attention there are avenues at least
20 available to the defence to proceed with their preparations in the interim.

21 PRESIDING JUDGE SCHMITT: Mr Taku.

22 MR TAKU: May it please your Honours. I've heard very, very strongly, and I still do, that
23 as counsel for Mr Arido, it would be professionally ethically wrong for me to sit in for the
24 witness I intend to call in the Defence to be interviewed and interrogated as suspects. That
25 was not my rule. The Statute and the rules say that this would benefit. The Prosecutor

1 would have arranged or taken measures for relief to assign them counsel for that particular
2 purpose.

3 The Prosecutor himself ruled that the scope of interviewing suspects was not within
4 the protocol. In fact, it was not -- that particular interview was not taking place
5 pursuant to protocol that would have required my presence to be there.

6 And he agreed with me I shouldn't be there. There would be a conflict of interest for
7 me to be counsel for Mr Arido and also counsel for suspects. Besides, the Prosecutor
8 in an email characterised all Arido witnesses as suspects.

9 In this particular case, I will be calling people the Prosecutor views as suspects to
10 testify. But then, as we know the circumstances under which they were interviewed,
11 as we know the scope of the interview, and I do not even know for sure whether the
12 questions asked or the interrogation related to this case or some other crimes. I'm
13 unable at this point in time to prepare for Mr Arido's Defence or even to prepare to
14 call this witness or to go to question them about the suspects, about the contents of
15 the interrogation at this point in time without full disclosure.

16 They start to say that he should disclose as soon as possible. There has been undue
17 and inordinate delay in disclosing material in this case. This, again, is falling within
18 that scope.

19 And I say, your Honours, that I could not, in all good conscience and
20 professionally - I was a member of the disciplinary counsel for the Bar for 15
21 years - represent Mr Arido and then represent suspects, suspects in that particular
22 context in this case, and that's where I decline. But that did not mean that the
23 Prosecution did not take -- should not safeguard their right, as my colleague has said,
24 under the Statute, as your Honours just have pointed out. That was my observation.

25 PRESIDING JUDGE SCHMITT: Thank you very much. We have noted what you have said;

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 but on the substance of your request, I understand that the Prosecution will, on very short
2 notice, disclose everything what they have, if I have understood this correctly,
3 Mr Vanderpuye. I heard something of Friday.

4 MR VANDERPUYE: Yes, Mr President. The audio recordings of the interviews will be
5 disclosed on Friday. The transcripts and translations of those audio recordings will be
6 disclosed next week. I think on the basis of the audio recordings, it should be sufficient for
7 the Defence to at least proceed with their preparations, to the extent that they wish to do so.

8 PRESIDING JUDGE SCHMITT: Mr Taku. But then I think we should finish this issue.

9 MR TAKU: I'm very sorry, your Honours, for this, for getting up again. We have found,
10 time and again, that the transcriptions -- there could be a conflict between the transcription
11 and the audios. It has risen in this case several times, it is an important issue in this case
12 with regard to the audios and the transcriptions. And I want to have all the material on or
13 before -- it's not just about preparing. It's about making a decision whether it is deemed
14 necessary to call this individual. It's also intended to help -- to assist the other departments
15 of the Court, the witness protection unit, to know exactly, to have an answer as to whether
16 does he intend to call this individual, further adding to the precious resources of the Court,
17 the limited resources; whereas, indeed, something may arise in the context of reviewing the
18 transcripts and the audios, which may make me to think otherwise. And above all, your
19 Honours, and more important, your Honours, I do not think it's been reminded to go and
20 interrogate witnesses or interview suspects about the contents or what happened, as we
21 already have the material from the Prosecutor. Then I can approach the witness with the
22 material to get the answers and not before.

23 PRESIDING JUDGE SCHMITT: For the last time then, please, Mr Vanderpuye, and then
24 that's it.

25 MR VANDERPUYE: No. I just meant to say that to me the issue is settled. We will

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 disclose -- we will disclose the material as I indicated; the audios on Friday, the transcripts
2 subsequently. I would note and my recollection is, maybe you'll correct me if I am wrong,
3 that the protocol requires a disclosure of the audio material or video material. That's it. It
4 doesn't say anything about transcripts. The transcripts, effectively, are a courtesy and,
5 nevertheless, we're disclosing them also because of the tenor of the interview under
6 Rule -- under Article 55(2). That's it.

7 PRESIDING JUDGE SCHMITT: So thank you very much for the moment. We will see if
8 we come back to this -- we'll have to come back to this issue.

9 A short remark to Mrs Lyons. We have in our protocol that if you want to have
10 corrections of the transcripts, you should address the Registry.

11 MS LYONS: Thank you. My apologies for addressing the wrong structure.

12 PRESIDING JUDGE SCHMITT: That doesn't matter.

13 MS LYONS: Okay.

14 PRESIDING JUDGE SCHMITT: Because that was a point that was easy to clarify.

15 MS LYONS: Thank you.

16 PRESIDING JUDGE SCHMITT: That's no matter.

17 MS LYONS: Thanks.

18 PRESIDING JUDGE SCHMITT: Now we continue with the witness scheduling for the week
19 of 7 March 2016.

20 First, as regards scheduling for next week, the Chamber confirms that it expects to
21 hear D21-9 as of 9 March, followed by D20-1 for any available time on 10 March 2016.

22 As indicated by the Chamber yesterday, it would like to hear from D23-1 on 11
23 March 2016. And I have unfortunately to say if at all possible.

24 So should D20-1 not finish testifying on 10 March of 2016, his testimony would
25 continue on 15 March, which is the next available court day.

Trial Hearing
Witness: CAR-D21-P-0003

(Private Session)

ICC-01/05-01/13

1 I see your face, Mrs Taylor, and I know there could be a gap for this witness and also
2 a gap for the questioning of this witness, of course, which is not for you and for the
3 witness not very comfortable, but we do not know -- we cannot foresee everything at
4 the moment, and we do have to make some scheduling.

5 MS TAYLOR: Mr President, your Honours, I would just simply request if we could consider
6 having extended sitting hours next week on the Wednesday, Thursday and Friday in order to
7 avoid such a possibility, which would obviously also save the resources of the Court. Thank
8 you.

9 PRESIDING JUDGE SCHMITT: I think you know the Chamber. Until now this is, of
10 course, a request that we are very -- that we have a very positive attitude to, so I think we will
11 have extended hours to really try to accommodate everybody, the witnesses and the parties in
12 their questioning, yes.

13 Mr Gosnell.

14 MR GOSNELL: May I just briefly interject here, which may be of assistance. I can already
15 say that I'm going to reduce my estimate for the questions to our witness significantly, down
16 to 15 minutes, in fact, your Honour. So that could be very short, and that could free up a
17 little bit of time. Just wish to inform the Court.

18 PRESIDING JUDGE SCHMITT: So this gives, of course -- nobody knows what the future
19 will bring, but this gives, of course, a relatively optimistic prospect for next week.

20 Excuse me. Then I would like to go into private session to discuss a further
21 scheduling matter.

22 (Private session at 9.48 a.m.)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
Witness: CAR-D21-P-0003

(Private Session)

ICC-01/05-01/13

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Trial Hearing
Witness: CAR-D21-P-0003

(Private Session)

ICC-01/05-01/13

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Page redacted – Private session

Trial Hearing
Witness: CAR-D21-P-0003

(Private Session)

ICC-01/05-01/13

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Page redacted – Private session

Trial Hearing
Witness: CAR-D21-P-0003

(Private Session)

ICC-01/05-01/13

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Open session at 9.55 a.m.)
- 6 THE COURT OFFICER: (Interpretation) We are in open session, Mr President.
- 7 PRESIDING JUDGE SCHMITT: Good morning, Mr Witness. I hope you feel well today.
- 8 WITNESS: CAR-D21-P-0003 (On former oath)
- 9 (The witness speaks French)
- 10 (The witness testifies via video link)
- 11 THE WITNESS: (Interpretation) Good morning, Mr President. Yes, I feel well.
- 12 PRESIDING JUDGE SCHMITT: A warm welcome and good morning also to Mr Ngondji
- 13 Ongombe, which we cannot see at the moment but which I assume is also present.
- 14 Then we continue with the examination of the Prosecution. The Prosecution has the
- 15 floor.
- 16 MR MILANINIA: Thank you, Mr President.
- 17 QUESTIONED BY MR MILANINIA: (Continuing)
- 18 Q. Good morning, Witness. Mr Witness, before I begin, I just want to remind you of a
- 19 couple things. One, once again, if you have any question about the question that I'm asking
- 20 you in the sense that it doesn't make sense to you, please ask me and I'll ask it again, or if you
- 21 want me to rephrase the question, I can rephrase it again.
- 22 I also want to mention to you once again that I intend to ask very specific questions
- 23 that tend to only elicit "yes" or "no" answers. So please be aware of that.
- 24 Now, Mr Witness, I went back through your transcript yesterday, the testimony that
- 25 you gave, and there was something you said that I thought was interesting and I

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 wanted to explore with you again. When Mr Djunga questioned you, he was very
2 careful with his words. He didn't ask you whether you told the truth when you
3 testified in the main case. He asked you whether you told, and I quote "your own
4 truth," end quote, when you testified. And that's page 34, line 25 of the English
5 transcript, page 35, line 8, page 36, line 7 to 9.

6 And when you answered, you testified that you gave, and I quote, "I gave my version
7 of the facts, my version of the facts." End quote.

8 You said, "They were truthful facts," but your version of the facts. And that's page
9 36, lines 13 to 14.

10 My question to you, Mr Witness, is: Is there a difference between the truth and your
11 own truth? There is a difference, correct?

12 A. Well, thank you. There is no difference.

13 Q. Okay. So when you were testifying yesterday, you were telling the truth, not your own
14 truth, correct?

15 A. Yes.

16 Q. And when you were testifying in August of 2013, were you telling the truth or your own
17 truth?

18 A. I was telling the truth.

19 Q. Thank you for that.

20 Now, you told us yesterday that officially you moved to the city you currently reside
21 in in 2011, but that unofficially you left the Central African Republic in 2009.

22 And for the Court, that's yesterday transcript page 16, lines 3 to 4, and page 24, lines 7
23 to 9.

24 However, Mr Witness, when you testified in the main case in August of 2013, you
25 were asked about the year that you left the Central African Republic and moved into

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 your current location three times. And on each of those occasions, you

2 testified -- excuse me, you lied that you left in 2012, isn't that correct?

3 A. Please can you repeat your question?

4 Q. Okay. Let me be more direct. When you testified in the main case in August 2013,

5 you lied about the year you left the Central African Republic. You said you left in 2012.

6 You did not say that you left in 2009 or 2011, which was your testimony yesterday.

7 And for the Court, the reference in the main case is page, excuse me, transcript page

8 338, page 73 of the English, which is in tab 15, as well as in transcript 339, page 4, as

9 well as page 30, which is in tab 17.

10 PRESIDING JUDGE SCHMITT: We would appreciate it if you would immediately give us

11 the source so that we can follow it. So otherwise I think we have established that during the

12 Prosecution case and also during the examination of the Defence witnesses.

13 MR MILANINIA: Certainly, Mr President.

14 Q. Let me ask again, you lied about the year you left the Central African Republic when

15 you testified in the main case in August 2013, correct?

16 A. No, I didn't lie. I gave the official date when I came, I explained that for personal

17 reasons, in an unofficial way, I had my reasons, but I came in 2009. Now, the date of 2011

18 was the date put by the investigator that was here who was questioning me. He was the one

19 who put that date forward, not me.

20 Q. Mr Witness, would it help you if I read back to you what you said yesterday in response

21 to Mr Djunga's question, not the Prosecution investigator's question, where he specifically

22 asked you where -- when you moved from the Central African Republic, you said 2009; when

23 he asked you again, you said officially in 2011.

24 Would you like me to read back your answer so you can tell us whether that was a lie

25 yesterday or whether you lied in the main case when you testified in August 2013?

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 A. Yes, can you read that to me?

2 Q. This is your -- this is from the transcript, English, page 16 from yesterday's transcript.

3 You were asked by Mr Djunga:

4 "When did you leave the Central African Republic?" Question.

5 Your answer: "Thank you, your Honour. I left the Central African Republic in

6 2009." That was your answer.

7 Now let me go to another section of their transcript. This is page 24 of yesterday's

8 transcript, English, lines 2 to 4 -- excuse me, page 23, starting with line 25, going to

9 page 24, line 3:

10 "Yes. Thank you. Let me give you an example. When the investigator asked me

11 about the date on which I arrived in" -- the location you're currently at -- "I had

12 mentioned 2011."

13 Then going down, "I perhaps had not quite assessed the importance of that to the trial,

14 because I said to myself, well, officially it was 2011 when I got to" -- the location

15 you're currently at. "Unofficially in terms of my personal situation, I got there

16 earlier."

17 When you testified in the main case, however, you were asked: When did you leave

18 the Central African Republic? You did not say 2009. You said 2012. Do you

19 remember that?

20 A. I don't remember.

21 Q. Then let me read from your transcript of your testimony in the main case.

22 Your Honours, this is tab 15 of the English, page 73, lines 9 to 10.

23 This is your transcript, this is the transcript of your testimony in the main case:

24 "Question: When did you leave the Central African Republic?"

25 Your answer: "At the beginning of the year 2012."

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 The next day you were asked the same question, this is tab 17, page 4 of the English
2 transcript, lines 13 to 15:

3 "Mr Witness, yesterday you told us that you had lived in" -- a location I'm not going
4 to name -- "from the year 2001 until 2012 before you moved to where you currently
5 are, am I correct?"

6 Your answer: "Yes, that is correct."

7 The same day you testified -- you're asked the same question the same day.

8 And your Honours, that's page 30 of the English transcript, tab 17, line 16 to 18.

9 "Question: The last place of residence you had in the Central African Republic has
10 been" -- a location -- "and that since the year 2001 until 2012, am I correct?"

11 Your answer: "Yes, that is correct."

12 So do you see on three occasions at least you testified when you testified in the main
13 case that you left the Central African Republic in 2012, when the truth is you left as
14 earlier as 2009, isn't that correct?

15 A. It's as I've always said where it concerns the dates, I'm not very precise in that regard.
16 2012, 2011, I think it's more or less in the same time frame. I go back to what I said before the
17 Court, 2012, 2011, maybe it was a mistake, but it's more or less the same thing. End of 2011,
18 beginning of 2012, it's pretty much the same.

19 Q. Mr Witness, is 2009 the same thing as 2012?

20 A. No, no. You know, the conditions under which you got 2009, you know those
21 conditions. That's it.

22 Q. I do know those conditions. I also know that you testified that you moved to, you
23 moved to the location you're at in 2009 when you answered Mr Djunga's question. And, in
24 fact, I also recall that you said you moved in 2009 with your entire family because of the
25 threats you were facing in the Central African Republic. But that's not what you mentioned

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 to the Trial Chamber when you testified here in August of 2013; isn't that correct?

2 A. I haven't heard the question very well.

3 Q. That's okay, Mr Witness. I actually think we can go on to another lie.

4 PRESIDING JUDGE SCHMITT: I would really -- you know, you have experienced during
5 the Prosecution case with the witnesses that the Presiding Judge and the Chamber is very
6 indulgent in the line of questioning, but I would really appreciate if you not put in the first
7 question to the witness without having established anything in that respect that it is a lie.
8 And before we continue, I have a question to the witness. Mr Witness, now the
9 Presiding Judge is questioning you on something. Do you hear me?

10 THE WITNESS: (Interpretation) I can hear you, your Honour.

11 PRESIDING JUDGE SCHMITT: Yesterday you have made a difference between 2009 and
12 2011, the difference being that you said 2011 you left officially. Could you perhaps explain
13 to us what you mean by leaving the country officially.

14 THE WITNESS: (Interpretation) Thank you, your Honour, yes. When I arrived in the
15 country where I'm currently residing, I had no documents. I arrived and I presented myself
16 to immigration. In this country I had no documents. I had to be registered, because I had
17 spent time in a locality of this country before getting to the capital. So with regard to the
18 time, they were the ones who asked me questions and all the rest. I think there were
19 immigration documents from that country and that's the reason why I gave a date that came
20 to my head. I couldn't justify it, the amount of time I spent in a locality there, because they
21 asked me other questions, but I didn't have any documents. And that's the reason why I
22 gave that date. I wanted things to be like that so that if there was an investigation in the
23 country in which I reside, you can go to the immigration services and you will get pretty
24 much the same date. So that's the way it was.

25 PRESIDING JUDGE SCHMITT: Thank you very much.

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 Please continue.

2 MR MILANINIA: Thank you, Mr President.

3 Q. Now, yesterday you also told this Chamber that when you were -- that when you spoke
4 to Bob in 2012, that he told you that he was going to give your contact information to
5 Mr Kilolo.

6 And for the benefit of the parties, that's yesterday's transcript page 83, lines 18 to 23,
7 and page 84, lines 1 to 10.

8 Now, Mr Witness, you were also asked this question when you testified in the main
9 case. You were asked specifically, and I quote -- and your Honours, this is the
10 English transcript from the main case, main case, 339, pages 21 to 22, line 17 to 4,
11 which is in tab 17 of your binders.

12 So you're asked in the main case, and I quote, "Do you have any idea of who that
13 person is?"

14 Quote, "The person who gave you Mr -- who gave Mr Kilolo your contact
15 information."

16 And you said, quote, "Since I was not told who that person is, how would I know?"

17 Question, end quote.

18 You never gave Bob's name, isn't that correct?

19 A. Yes, that's correct.

20 Q. So when you were asked if you had any idea who gave Mr Kilolo your contact
21 information and you said no, that was a lie, correct?

22 A. I'm sorry?

23 Q. When you testified in the main case in August of 2013 that you did not know who had
24 given Mr Kilolo your contact information, that was a lie, isn't that true?

25 A. No, it wasn't a lie. I didn't know because I didn't have enough information about that

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 person. It was only after I testified that I got information about this person and his functions,
2 the fact that this was a soldier. Everything else, that was after I gave my testimony. I asked
3 and it was explained to me that he was a soldier and everything else.

4 Q. Mr Witness, when you testified yesterday, yesterday before this Court, a very specific
5 question was asked of you. You were asked whether or not during your conversation with
6 Bob before Mr Kilolo contacted you, whether Mr Bob told you that he was going to give your
7 contact information to Mr Kilolo, and you said yes. Not only did you say yes, you said that
8 Mr Kilolo contacted you after your first meeting with Bob.

9 Now you're saying that you did not know it was Mr Bob until afterwards. So my
10 question is this: Which one was a lie, what you are saying now or what you said
11 yesterday to this Court?

12 PRESIDING JUDGE SCHMITT: Mr Witness, you want to address the Court?

13 THE WITNESS: (Interpretation) Yes, your Honour. I'd like to have a moment please to
14 speak to my counsel.

15 PRESIDING JUDGE SCHMITT: Of course you can confer with your counsel, yes.

16 (Pause in proceedings)

17 PRESIDING JUDGE SCHMITT: So, Mr Witness, can we continue?

18 THE WITNESS: (Interpretation) Yes.

19 PRESIDING JUDGE SCHMITT: Then please, Mr Prosecutor, ask your question again.

20 Perhaps very short questions so that everybody knows what we are talking about. So I've
21 looked it up in the transcript, and it's even a little bit confusing for the Presiding Judge. So
22 please go one step after the other and then we look where we are getting at.

23 MR MILANINIA:

24 Q. Okay. My question is very simple, Mr Witness. When you testified in the main case
25 that you did not know who it was who had given Mr Kilolo your contact information, that

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 was a lie, correct, when you testified in August 2013?

2 A. No, it's not a lie. I'm not a liar. I didn't know him. That's perhaps the word I should
3 have used. I didn't know him.

4 PRESIDING JUDGE SCHMITT: So I think we have this on the record. You can move to
5 another issue.

6 MR MILANINIA: Yes, Mr President. Can I ask one question about this answer?

7 PRESIDING JUDGE SCHMITT: We'll listen to the question and then we'll decide.

8 MR MILANINIA:

9 Q. Well, what you said wasn't true, was it, when you said "I did not know who had given
10 Mr Kilolo my phone number." You didn't say "Bob, but I didn't know him." You said "I
11 don't know who gave him my phone number," correct?

12 PRESIDING JUDGE SCHMITT: Mr Powles.

13 MR POWLES: Mr President, we've hesitated to rise in the interest of keeping things moving
14 as my learned friend requested. But there does come a point when there is a question of
15 relevance. And the witness has answered, he's answered the question already.

16 PRESIDING JUDGE SCHMITT: That's true. That's sustained. Please move on.

17 MR MILANINIA:

18 Q. Okay. I want to go to another thing you said yesterday then. Yesterday you told this
19 Chamber, and in fact you told the Prosecution when you were interviewed in 2014 that when
20 Mr Kilolo contacted you for the first time, that is the first time that he called you, that he told
21 you specifically that Mr Bob had given him your contact information.

22 Your Honours, that's yesterday's transcript, page 87 to 88, lines 19 to 8.

23 However, when you testified in the main case in August of 2013, you were asked this
24 question, you were asked, you were asked whether you asked Mr Kilolo who had
25 given him your phone number, your contact information, and you said that Mr Kilolo

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 just smiled.

2 PRESIDING JUDGE SCHMITT: No, no, no. No. I want, really, I want it absolutely clear
3 what you are asking, and I want to follow it and the Chamber wants to follow it. We have
4 established that in the past, and please tell us exactly where we are. And I would appreciate
5 it if you put the question as such really as a quotation to the witness and that the witness
6 exactly knows what he is supposed to have said in the past.

7 MR MILANINIA: Okay. Your Honours, then I'm going to go to the transcript of the main
8 case, 339, pages 21 to 22, which again is in tab 17 of your binders. And the line of
9 questioning can be found in line 17 to 4.

10 PRESIDING JUDGE SCHMITT: Pages?

11 MR MILANINIA: 21 to 22. Of the French it would be 22 to 23, which is in tab 18, lines 14 to
12 28.

13 Q. Mr Witness, when you testified in the main case, you were asked specifically, and I
14 quote: "Question: Did you wonder how the Defence team had your contact?"

15 Your answer: "Yes.

16 Question: How did they have it?

17 Answer: The lawyer smiled when I asked him that question. He smiled and he
18 told me that he had his contacts, and it was those contacts that led him to me in order
19 for him to have my phone number. He did -- he did not give me any details.

20 Question: Is it your testimony that as of this moment you still do not know who
21 gave him your phone numbers, your contact information?

22 Answer: He never gave me any details. He simply told me that it was a person
23 who knew me well. Until today, he never told me who that person is.

24 Question: Do you have any idea who that person is?"

25 Your answer: "Since I was not told who that person is, how would I know? That's

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 what I told you, he has never given me any details until today."

2 My question is, your testimony there, that was a lie, isn't that true?

3 A. No, it wasn't a lie.

4 There -- I'm speaking to the president, Presiding Judge, I would say the following,

5 every time that you ask me a question, I would like there to be a bit of respect in the

6 way in which you treat me. I'm not a liar. And when you ask me questions, you

7 always refer to your notes, et cetera. I've got my memory. I'm a human being.

8 I've got my weaknesses as well. And I get confused in certain questions. But I'd

9 just like to say the following, my details were provided to Mr Kilolo by Mr Bob, quite

10 simply. In terms of the time frame, chronology, I don't remember that. I just say

11 quite simply that Mr Bob gave my details to Mr Kilolo, and he tried to take them and

12 not to give his identity and that's my answer.

13 PRESIDING JUDGE SCHMITT: I think we have exhausted this subject, and I would beg you

14 to move on. And, of course, observe really the respect that we have for everyone here in the

15 courtroom and outside who is testifying as a witness. I told you that with these expressions

16 "liar," "lying" and so on, I personally would appreciate it if counsel would be more cautious.

17 MR MILANINIA: Certainly, Mr President. I can rephrase it by saying that wasn't the truth,

18 if that would be more effective.

19 PRESIDING JUDGE SCHMITT: That would of course be cosmetic, but it would at least be,

20 yes, more polite to put it this way. And on the other hand, you have professional judges

21 sitting here, and if there is any conclusion to draw, then I think the professional judges are

22 able to do that without strong wording.

23 MR MILANINIA: Certainly, Mr President. Then I will --

24 PRESIDING JUDGE SCHMITT: I underline the word "if" conclusions are to be drawn.

25 MR POWLES: I'm sorry to rise, Mr President, but it would be helpful if my learned friend

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 wants to make these sort of points if he identifies specifically what issue he's saying is untrue
2 rather than referring to a series of questions and answers without identifying specifically
3 what aspect of it he is calling into question.

4 PRESIDING JUDGE SCHMITT: Yes. I addressed that before, that of course the Chamber
5 appreciates it very much this, let me put it this way, this culture that has been established in
6 the courtroom that if we put something to a witness that everybody in the courtroom, also the
7 witness knows exactly what is put to him, this is out of fairness for the witness, this is out of
8 fairness for the other parties, and this is also very important for the proceedings in itself, and
9 that we all know what we are talking about and not getting confused by questioning and by
10 putting things to the witness.

11 So please continue.

12 MR MILANINIA: I thank you, Mr President. And I'll be certainly mindful of your
13 instructions.

14 Q. Mr Witness, I'm going to now move on to another topic. Actually I'm going to move
15 back to where we left off yesterday. And just to remind you, yesterday, by the end of
16 yesterday's questioning, we were talking about how you were meeting with representatives of
17 the VWU at a hotel just days before you began your testimony in August of 2013. You had
18 told us that Mr Kilolo, your wife, and Mr Kilolo's colleague travelled together in a taxi to that
19 location, and that Mr Kilolo and his colleague came with you into that hotel in order to
20 introduce you with -- introduce you to, excuse me, the VWU representatives.

21 And, your Honours, that's pages 88 to 91 of yesterday's English transcript.

22 I want to ask you questions about Mr Kilolo's colleague, the one that you were
23 mentioning yesterday, the one that was in the taxi and who came with you into the
24 hotel. Can you tell us what he looked like?

25 A. Yes, thank you. He was quite large, he was tall, he had glasses, and that was it.

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 Q. Can you tell us more, was he --

2 A. Light skin.

3 Q. Actually, so just to be clear, he was a black man, he wore glasses, and he was tall?

4 PRESIDING JUDGE SCHMITT: Mr Taku.

5 MR TAKU: May it please your Honours, I think cultural sensitivity has always been an issue
6 in international criminal tribunals, and these are some of the issues of trying to identify
7 people by their colour and things like that. We've tried as much as possible to avoid this, but
8 we've been in cases where cultural sensitivity has been ignored, and it creates serious
9 problems for individuals, your Honours.

10 Coming from my own cultural background, if you ask if somebody is black, it raises
11 some issues or if somebody were white or somebody were brown or somebody were
12 this, I think it is culturally too exclusive. My colleague could rephrase his question
13 and look for other means of identifying the person he wants to but not using these
14 type of stereotypes.

15 MR MILANINIA: I can continue. I think we have the answer on the record actually.

16 PRESIDING JUDGE SCHMITT: Yes, we have the answer. And you are, of course, mindful
17 of what Mr Taku has said.

18 MR MILANINIA: Certainly, Mr President.

19 Q. Mr Witness, at this meeting with representatives of the VWU, you asked for help,
20 correct, including money in order to move your son from (Redacted) in the Central African
21 Republic to where you currently are, correct?

22 A. No, that's not it. I just said quite simply that I'd just ask -- get help for moving my son,
23 that was it.

24 Q. That's fine. And yesterday -- and your Honours, I refer to page 37 of yesterday's
25 transcript, English transcript, lines 12 to 19, yesterday you told Mr Djunga that when you met

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 with representatives of the VWU that you, and I quote, were really -- "You really insisted,"
2 end quote, about getting that help to bring your son, correct?

3 A. Yes. I said that I'd asked to make the request with insistence, yes.

4 Q. And it's correct, isn't it, that in response the VWU said no, they could not help you,
5 correct?

6 A. No, that's not exactly what they said. They were quite diplomatic. They said for the
7 moment they can't do that, but they will ask the superior the question.

8 Q. Okay. So they said for the moment they would not be able to do anything, they would
9 ask their superiors for their -- for advice. Did they ever get back to you as to your request?

10 A. No. There are lots of things. They never came back to me for a lot of things. For
11 example, after I gave my testimony, the health of my wife got worse. And I tried to call the
12 unit, I didn't have their details, and I travelled to a place where I am now in order to meet
13 them, and I didn't manage to be heard. So they never came back towards me on that.

14 Q. Okay, Mr Witness. But immediately after that meeting with the VWU, you called
15 Mr Kilolo on his telephone; isn't that correct?

16 A. Yes, yes.

17 Q. And when you called Mr Kilolo, you told him that the representatives from the VWU
18 would not help you in bringing your son from the Central African Republic to where you
19 currently are; isn't that correct?

20 A. Yes. Yes, of course.

21 Q. And you said not getting that help was a problem for you; isn't that correct?

22 MR POWLES: Mr President, again, it would be helpful to have the references that my
23 learned friend is referring to.

24 MR MILANINIA: Mr President, I'm asking him simply if this proposition is true. If he
25 were to say no, I can impeach him with --

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 PRESIDING JUDGE SCHMITT: But this is a short proposition, so we'll let it go, but we
2 know when we are quoting two or three lines or more, then we really give the reference.

3 MR MILANINIA:

4 Q. You want me to repeat my question?

5 A. Yes.

6 Q. Okay. I'll actually quote what you said to the Prosecutors in terms of what you told
7 Mr Kilolo. And for the reference, for the record, that's CAR-OTP-0085-0707 at 0715, which is
8 tab 8, lines 280 to 281.

9 When you spoke to Mr Kilolo, you said, and I quote: (Interpretation) "I raised the
10 problem" (Speaks English) "that is the problem I'm not getting help from the VWU,"
11 correct?

12 A. Sorry, I didn't quite understand you.

13 Q. Okay. Very simply, you said to Mr Kilolo that it was a problem for you that the VWU
14 was not helping you, correct?

15 A. I simply told him that I had raised the problem and that I didn't get a solution, and
16 that's it.

17 Q. And you also told Mr Kilolo that your wife insists, correct, that your wife insists that
18 you get help to bring your son over from the Central African Republic to where you currently
19 are?

20 A. Well, I do not know what those words mean to you. What I simply said is that we
21 made that request. I insisted, my wife insisted, we all insisted on asking for help. I don't
22 see what's wrong with that. Yes, that is what we did.

23 Q. But my question is far simpler --

24 MR POWLES: Mr President.

25 PRESIDING JUDGE SCHMITT: Yes.

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 MR POWLES: It may assist, if there is a basis for the question, if my learned friend could put
2 it. And if it is a proposition or an assertion by the Prosecutor, my learned friend, perhaps he
3 could make that clear to the witness as well so the witness can then either accept it or reject it.
4 But to simply put vague questions without putting the basis for it is not helpful at all for the
5 witness.

6 PRESIDING JUDGE SCHMITT: I will not rule on that because the witness has answered,
7 and the answer should be in a way that we can move to another point.

8 MR MILANINIA:

9 Q. Now, when you said to Mr Kilolo that you insisted, that your wife insisted, that you all
10 insisted, Mr Kilolo told you, isn't it true: Do not insist because it might look like blackmail,
11 extortion; correct?

12 PRESIDING JUDGE SCHMITT: Mr Djunga.

13 THE WITNESS: Yes, that is correct.

14 MR DJUNGA: (Interpretation) Mr President, I want to agree with my learned colleague
15 Steven in what he said shortly. I have the French version of the statements, and I can
16 reassure you that what is being said on the other side --

17 MR MILANINIA: Mr President, before we -- before Mr Djunga continues --

18 MR DJUNGA: (Interpretation) -- does not exactly correspond to what --

19 THE INTERPRETER: Overlapping speakers.

20 PRESIDING JUDGE SCHMITT: First of all, what we do not establish here is that two people
21 speak at the same time. So first Mr Djunga finishes, and then you have the floor perhaps.
22 Please, Mr Djunga.

23 MR DJUNGA: (Interpretation) Thank you, Mr President. What I think is that what was
24 said a short while ago, well, we have to be decent enough when we speak. We cannot just
25 interrupt the Prosecution when they are addressing the Court. We should receive the same

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 treatment.

2 What I was saying then, Mr President, was that what we have here in French does not
3 reflect exactly what we are hearing from across because that is not what the witness
4 said exactly. It would be fairer if we were to make statements based on what the
5 witness exactly said word for word rather than putting words in the witness's mouth.

6 I thank you, Mr President.

7 PRESIDING JUDGE SCHMITT: Please, now you have the floor.

8 MR MILANINIA: Yes, Mr President. I have two comments to make. One is I did not
9 intend to interrupt my colleague, and I did so reluctantly, but I did so because, as I've
10 mentioned time and time again, his speaking objections go to the very testimony of the
11 witness.

12 And your Honours, I'd actually like you to compare, whenever you have time,
13 yesterday's transcript, page 86, as well as Mr Djunga's objection on page 85, and you'll
14 find striking similarities between the content of Mr Djunga's objections and the
15 content of the witness's response to my question, and that is what I am concerned
16 about whenever Mr Djunga stands up and makes speaking objections in front of this
17 witness. That's my first point.

18 My second point, your Honour is this: I can bring this witness's statement to the
19 Prosecution now and go line by line by line in terms of what he told us. I can do that.
20 Instead what I am doing is asking him whether it is true or not that that is what
21 happened. He can say no, to which point I can bring out the statement and show it
22 to him.

23 However, your Honour, this line of questioning or the method of questioning is not in
24 any way inappropriate.

25 PRESIDING JUDGE SCHMITT: So first of all, the problem is, of course, that we would have

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 normally to disconnect the video link every time when there is such an objection. That is the
2 problem, indeed. When we discuss now the witness can hear it, but I will not do it at this
3 time. So perhaps we would have to do this when this, in the future, occurs again. But the
4 problem that I see then is that the questioning is, indeed, constantly interrupted. That is also
5 not something what I would find desirable, to put it this way.

6 There is in so far truth in what Mr Djunga is saying if this is correct what you are
7 objecting to. When the proposition that you put to the witness does not concur with
8 what the witness really said, this has, of course, to be established that it is not the case.

9 And this is because I have now, I think two or three times this morning,
10 insisted -- insisted on having the exact reference. So if you -- and I also said if you
11 make a very short proposition and telling the witness this or making clear to the
12 witness that it is a proposition, I won't have a problem with it. But if you mingle it
13 with quoting, I would insist on having the exact reference.

14 So Mr Gosnell was rising too.

15 MR GOSNELL: Mr President, I won't say anything of substance about what was said in the
16 witness's prior deposition to the Prosecution, and I do have sympathy for the position that the
17 Prosecution is in, to some degree, given its length, given its complexity, but I have more
18 sympathy for the witness.

19 And I'll just draw the Prosecution's attention and the Chamber's attention, the parties'
20 attention to CAR-OTP-0085-0707, which, if I'm not mistaken, is tab 12. And if you
21 look at lines 880 through 904, I believe you'll see a passage that may reflect the
22 objection that Maître Djunga was raising. I'm not saying that these issues are clear or
23 free from difficulty, but there is a certain complexity in the witness's statement, and I
24 just wish to bring that to your attention.

25 MR MILANINIA: Just a small remark. And thank you, Mr Gosnell. And the tab is tab 8

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 of the binder, just to clarify.

2 But second, your Honours, these are issues that can be explored by the Defence
3 during re-examination. However, I take the Chamber's instruction, and from now
4 on I will continuously reference the record, the evidence, in asking and putting these
5 propositions to the witness.

6 PRESIDING JUDGE SCHMITT: You can also put, of course, a proposition to the witness
7 and to make it clear that it is a proposition and not a quote, for example. That is, of
8 course -- that's perfectly clear, yes?

9 And I would agree with you in so far that what Mr Gosnell said could be, perhaps,
10 addressed in a re-examination. That is, of course, also true.

11 So please continue now. And I hope, really hope that in the near future until the
12 conclusion of this examination there will not be so many interruptions.

13 And, of course, when we have to discuss these matters for the next time, we will have
14 to think about disconnecting the video link, but I know, and because of that I'm
15 reluctant to do it, that this is not without difficulties too, always switching between
16 these two modes. So please continue.

17 MR MILANINIA: Thank you, Mr President. Then for the Court's attention and for the
18 parties, I'm going to quote to the witness what he said to the Prosecution's office during our
19 interviews with him in 2014. That will be CAR-OTP-0085-0707 at 0715, lines 282 to 286, as
20 well as at 0717, lines 33 to 30 -- excuse me, 333 to 337.

21 Q. Now, Mr Witness, it's correct, isn't it, that when you spoke to the Prosecutor's office in
22 November 2014, that you expressed that when you had spoken to Mr Kilolo, that he told you,
23 "Don't insist, otherwise it will look like blackmail." I believe the word in French, the word
24 that you used is "un chantage," correct?

25 A. Yes, that is correct.

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 Q. So the concern that you had is either they pay you or you're not going to testify, that is,
2 either you get help or there was going to be hesitation in terms of your cooperation and your
3 wife's cooperation with the Court, correct?

4 A. No, that is not correct. That is your point of view.

5 Q. Do you know if that was Mr Kilolo's point of view?

6 A. I am not Mr Kilolo.

7 Q. That's fine. We know what Mr Kilolo said.

8 Mr Kilolo also told you --

9 And, your Honours, this is going to be lines 339 to 340 of the same document I just
10 referenced.

11 Mr Kilolo told you to drop the issue, isn't that correct?

12 Actually let me quote what you said, (Interpretation) "Since things are that way, then
13 simply let go."

14 That's what Mr Kilolo told you, correct?

15 A. Yes, that is what he told me.

16 Q. But you didn't let it go. You raised the issue again with Mr Kilolo, correct?

17 A. Yes, that is correct.

18 Q. And when you raised the issue with Mr Kilolo again, Mr Kilolo told you that he would
19 ask -- ask Mr Bemba's friends because they had the money, correct?

20 A. That is not what was said.

21 MR MILANINIA: Your Honours, I'm going to, therefore, take this witness to a passage with
22 his interview with the Prosecution's office. It's CAR-OTP-0085-0628 at 0669. That's in tab 6
23 of your binders, lines 1440 to 1444. Can we show that to the witness, please?

24 THE WITNESS: (Interpretation) Please can you repeat the page number?

25 MR MILANINIA:

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 Q. Yes. Page 0669. And we need to highlight 1440, 1444. Mr Witness, do you see your
2 statement in front of you?

3 A. Yes.

4 Q. Do you see how in lines 1440 to 1444 you said that when you discussed the issue with
5 Mr Kilolo again, he told you that his budget was limited, but that he would talk to friends of
6 le Sénateur to get you help, correct?

7 A. Yes, but that's not what you said a short while ago. You said that they had resources.
8 Mr Bemba's friends in Kinshasa were those who had resources and who were going to help
9 me. But that's different from what is written down here.

10 Q. That's fine. Thank you for the clarification.
11 And here when you say "le Sénateur," you mean Mr Bemba, correct?

12 A. Yes, of course.

13 Q. Thank you, Mr Witness. Now, on the same day or the day after you had this
14 conversation with Mr Kilolo asking him for money, you received a telephone call from a
15 person in Kinshasa telling you that they were going to send you money, correct?

16 A. Yes.

17 Q. And that person told you that Mr Kilolo had asked them to send you money, correct?

18 A. Please repeat the question.

19 Q. Certainly. The person who called you from Kinshasa told you that Mr Kilolo had
20 asked that person to send you money, correct?

21 A. No. That's incorrect. When I made the request, Maître Kilolo said that there are
22 people who support Senator Bemba's cause, and that he would try to contact them and would
23 send me something. So somebody called me, gave me a code, and I collected the money, but
24 I don't remember the details.

25 Q. Do you remember -- do you remember what that person said when they called you?

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 A. I cannot delve into any details because I don't remember them. I have told you that
2 before. I received some money from Kinshasa. And when the Prosecutor put the question
3 to me, I did not say no. He is not the one who had to investigate to find out. I immediately
4 agreed that I had received some money, and I want to insist that that will always be my
5 position.

6 Q. Thank you, Mr Witness. Then let me show you what you said to the Prosecutor's office
7 when they interviewed you in November 2014.

8 Your Honours, I'm going to make reference to the same document,
9 CAR-OTP-0085-0628, the same page, but this time -- excuse me, the next page, which
10 is 0671, lines 1484 to 1492.

11 Mr Witness, this is what you told the Prosecutor's office in November 2014, you said
12 that when this individual from Kinshasa called you, he asked you for your name.
13 You said yes, this is your name. And then you said, "Mr Kilolo has asked us to send
14 you money." And he said they were going to send you 300,000 CFA francs.
15 This is what that individual from Kinshasa told you, correct?

16 A. Yes, that is correct.

17 Q. Now, you mentioned this before, but on the same day that you received this telephone
18 call, that person also sent you an SMS containing the codes for the Western Union transfer,
19 correct?

20 A. Yes. It takes codes to receive the money. So if somebody were to send me money, it
21 would be the same person who would send me those codes. The contrary cannot be true.

22 Q. And this was on the same day that you collected the money, correct?

23 A. Well, I don't remember the date, but I was free on the day on which I went to collect the
24 money. I don't remember the date. When the gentleman called me, it is on the same day he
25 called me that I went to collect the money.

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 Q. Okay. Let me just clarify for the record then your last statement was when the person
2 called you, that was also the same day you went and collected the money, correct?

3 A. The Prosecutor insisted, insisted and even said off the record that he was in Kinshasa,
4 that he had picked up the transfer codes, he had noted them, he had all the information from
5 Kinshasa. And he continued to insist to put the questions to me, and I even hesitated. I
6 hesitated because I did not have a specific day in mind, a date in mind, so I hesitated before
7 providing that answer.

8 Q. I understand your hesitation. But I'm actually reading back the answer you just gave
9 right now.

10 And, your Honours, I'm referencing page 40 to 41, where you said, "When the
11 gentleman called me, it is on the same day he called me that I went to collect the
12 money."

13 That is accurate, correct, that is what happened?

14 A. Well, you have to go back to the very first question, the very first question, when you
15 asked me whether there was some hesitation. Well, there was hesitation, and the Prosecutor
16 insisted and insisted in order to get the answer. All I know is that I am not very competent
17 when it comes to dealing with dates. I was sent some money from Kinshasa, yes. I received
18 the money. But I don't know what details you are looking for.

19 PRESIDING JUDGE SCHMITT: I think the witness has answered the question now.

20 MR MILANINIA: I think that's right. Just to make one point clear though --

21 PRESIDING JUDGE SCHMITT: I think it's very clear until now.

22 MR MILANINIA: Yes, Mr President. Then I'll continue.

23 PRESIDING JUDGE SCHMITT: Yes.

24 MR MILANINIA:

25 Q. So the day that you collected the money from Western Union, would it be accurate to

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 say that you had your phone with you?

2 A. Well, I don't know. The telephone, well, as soon as I received the SMS, I think that I
3 went to collect the money after my testimony.

4 Q. We'll get to that point in a minute. After collecting the money, did you also contact
5 your wife?

6 A. Yes, I contacted her.

7 Q. And you contacted her on the same day that you collected the money, correct?

8 A. Yes.

9 Q. So you had your phone with you then, because that's how you were able to contact your
10 wife?

11 A. Yes, I had called her from a phone. That's it.

12 Q. So you collected the money from Western Union and you used that money to pay for
13 your son's trip from the Central African Republic, correct?

14 A. Yes.

15 Q. How long after collecting the money did your son arrive from the Central African
16 Republic to where you are?

17 A. Not too much time, maybe two months or so, not too much time. I don't have the
18 specific dates.

19 Q. And how did he travel? Was it by plane? Was it by boat, other forms of
20 transportation?

21 A. Please can you repeat your question?

22 THE INTERPRETER: But, Mr President, in the witness's previous answer he didn't say "a
23 matter of two months." "A matter of some months," correction from the interpreter. Thank
24 you.

25 PRESIDING JUDGE SCHMITT: Thank you.

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 MR MILANINIA:

2 Q. My question is: How did your son travel? Did he travel by plane? Did he come to
3 where you are from the Central African Republic by boat? How did he travel to the location
4 that he came from?

5 A. He travelled by boat.

6 Q. And how much was his ticket?

7 A. I had explained that when I received the money, I sent part of it to the person who was
8 taking care of the child and part of it to the woman who had to travel with him in the boat, on
9 the ship who took care of the child. She also received a part of that money. She is the one
10 who bought the child's ticket from Bangui to my location. It took the boat specifically two
11 weeks to get to --

12 THE INTERPRETER: (Redacted)

13 PRESIDING JUDGE SCHMITT: I think we can have now the break until 11.30 and then
14 continue with your examination.

15 MR MILANINIA: Certainly, Mr President.

16 THE COURT USHER: All rise.

17 (Recess taken at 11 a.m.)

18 (Upon resuming in open session at 11.39 a.m.)

19 THE COURT USHER: All rise.

20 THE COURT OFFICER: (Interpretation) Your Honour, we are in open session.

21 PRESIDING JUDGE SCHMITT: Before we continue with the examination, Mr Taku, please
22 let me first say a couple of things about the witness scheduling for the week of 21 March 2016
23 and then I give you the floor.

24 As a final point on scheduling, I hope, and to be optimistic that it is for the moment a
25 final point, the Chamber's expectations as regards D24-2 are as follows: The

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 Prosecution is to provide the materials requested by the Arido Defence as soon as
2 possible as they confirm they are endeavouring to do so. The Arido Defence must
3 then confirm also as soon as possible whether it intends to call this witness or not. If
4 D24-2 is to be called, then the Chamber would like to hear his testimony the week of
5 21 March 2016. We have said that before. If D24-2 is not being called, then the
6 Chamber will start that week with D21 -- excuse me, D24-1.

7 Thank you. We will now continue with the hearing, but I give, first of all, I give the
8 floor to Mr Taku.

9 MR TAKU: Yes, your Honour. I just want to apologize on our team because our client has
10 been brought in a bit late. I think that delayed the proceedings, and it's entirely our fault. I
11 thought that I had assigned a member of the team who was in the vicinity, but we'll make
12 sure it doesn't happen again.

13 With regard to this order, it applies also to the other witness, the two witnesses of the
14 Prosecutor, so we'll make a determination about them and inform the Court at the
15 same time.

16 PRESIDING JUDGE SCHMITT: I think this is understood. And thank you very much for
17 your explanation, Mr Taku. We would continue then with your examination.

18 MR MILANINIA: Thank you, Mr President.

19 Q. Mr Witness, can you hear me?

20 A. I can hear you.

21 Q. Okay. When we left at the break, we were talking about when you used the money
22 that you received through Mr Kilolo in order to purchase a boat trip so that you could be
23 reunited with your son. I just want to clarify the record for a second. Did your son, your
24 son come two months after you testified or several months after you testified?

25 A. What I said, it took some months. Two months is already some months. So I don't

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 want to go into detail as regards the dates.

2 Q. I understand. Did Mr Kilolo ever ask you for a receipt for the amount of money that
3 you spent on getting your son over from the Central African Republic?

4 A. I would say quite simply that Mr Kilolo, well, he wasn't the one who gave the money,
5 but he helped me so that I could get my child to travel. But it wasn't -- there was no
6 counterpart to that for there to be a receipt. He just helped me. And this money helped me
7 to get the child to travel.

8 Q. So to be clear, he never asked you for a receipt of costs, correct?

9 A. He didn't do that.

10 Q. And you never gave him any, that is, any receipt for the costs that you spent on bringing
11 your child over from the Central African Republic, correct?

12 A. You've got the receipts. In Africa -- you have receipts, but in Africa, we don't have
13 them. It was just as a brother. Receipts, that's for you people. It's not about justifying
14 things through receipts. He helped me as a brother, as an African. You're the people who
15 have receipts.

16 Q. Did he ever ask you to sign a declaration like you signed for Mr Djunga about the
17 amount of money that he had given you and what you used that money for?

18 A. I don't know if this money came from the Court to be justified in that way. I just know
19 that he helped me as a brother, as an African. That is all.

20 Q. Mr Witness, that wasn't my question. My question was: Did Mr Kilolo ever ask you
21 to sign a statement concerning the money that he had given you and what you had used it for,
22 like the one that you signed for Mr Djunga?

23 PRESIDING JUDGE SCHMITT: Mr Djunga, please?

24 MR DJUNGA: (Interpretation) Thank you, your Honour. I would just like to correct one
25 thing. The witness has said that it wasn't Kilolo who gave him money. And I had a good

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 translation, so it's not Kilolo who gave him the money directly. And to say that to the
2 witness is not correct. So I think that it's not correct. It's different when you talk about
3 money that's given to the witness with regards to transport. That statement has been made
4 on that. But that's different than giving money directly.

5 PRESIDING JUDGE SCHMITT: Yes.

6 MR MILANINIA: A simple response, your Honour. That's fine, he can answer no to the
7 question.

8 PRESIDING JUDGE SCHMITT: I think the witness should answer the question because it
9 is, at least there is a possibility that there has been a declaration that has been signed, and that
10 is different from the fact or not fact who gave the money exactly. That is, of course,
11 something different. So the witness can answer. I suspect what the answer will be, but that
12 is not up to the Chamber to speculate on that.

13 So please, Mr Witness, give the answer to the question of the Prosecutor.

14 THE WITNESS: (Interpretation) Thank you, your Honour. With regards to the request
15 that was made to move my child so my child could join me where I am, this request was
16 accepted. I received money, and the end of this story, the objective was so that the child
17 could live there. The child came, that was it. I didn't sign documents. That's the way it
18 was. I didn't sign a document.

19 MR MILANINIA:

20 Q. Thank you, Mr Witness. I think we can move on then.

21 And for the record, your Honours, the attestation that I referred to by Mr Djunga is
22 CAR-D21-0014-0083, which can be found at tab 42 of your binders.

23 Now, Mr Witness, yesterday you testified that the money had no influence
24 whatsoever on your testimony in part because, and I quote, "The testimony was well
25 before the money." End quote. And that's page 39 of the English transcript, lines 13

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 to 18. Do you remember that, Mr Witness?

2 A. I haven't understood the question.

3 Q. My question is simple. Do you remember how yesterday when you were asked by
4 Mr Djunga whether the money that you received had any influence over you, you said no
5 because, and I quote your statement, "The testimony was well before the money." End
6 quote. That was your testimony yesterday, correct?

7 A. Yes, that's correct. Yes.

8 Q. Mr Witness, the truth is that the money was sent to you before you began your
9 testimony on 28 August 2013 and that you collected that money the evening of your first
10 testimony; isn't that correct?

11 A. I don't know.

12 Q. Your Honours, I'm going to refer to the Western Union record of this transaction, and
13 you can find it in tab 27 of your binders. It's CAR-OTP-0074-0855. I don't think it's
14 necessary to show this document to the witness. I can simply put the facts to him.
15 Mr Witness, we have a record from Western Union that specifically shows that you
16 collected the money that was sent to you on 28 August 2013 at 7.13 p.m. the time in
17 the Hague, which would be 6.13 p.m. in the time you were testifying from. That was
18 when you picked up the money, correct?

19 A. Yes. I got the money myself.

20 Q. And that was the same day as your first day of testimony in the main case, correct?

21 A. I couldn't say.

22 Q. I can help you with that.

23 MR MILANINIA: Your Honours, I'm going to make reference to transcript page 338 of the
24 main case, which is in tab 15; the French version, which is in tab 16. Your Honours --

25 Q. Mr Witness, we have a record of your testimony in the main case, and that record states

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 specifically that you testified -- the first day of your testimony was on 28 August 2013 and that
2 your testimony finished that day at 4.56 p.m. the time in the Hague, which would be
3 approximately 4 p.m. the time for -- in the location that you were at. Do you recall that?

4 A. A lot of things happened. I don't remember. I just know that I was free when I got
5 this money.

6 Q. That's fine, Mr Witness. Now, the same Western Union document that I was
7 referencing earlier shows that the money was sent to you at 2.10 p.m. the time in The Hague,
8 which is 1.10 p.m. in the location where you testified from. That's correct, isn't it?

9 MR MILANINIA: Your Honours, again, that's --

10 THE WITNESS: (Interpretation) I said with regards to the dates, I don't know them.

11 PRESIDING JUDGE SCHMITT: I think he has answered the question.

12 THE WITNESS: (Interpretation) I don't know about the dates.

13 THE INTERPRETER: Says the witness.

14 MR MILANINIA:

15 Q. That's fine. We can continue. Yesterday, Mr Witness, you also said that the money
16 did not influence your testimony because the amount of money you were given was very
17 small.

18 MR MILANINIA: Your Honours, that's yesterday's transcript, page 41, lines 14 to 18.

19 Q. Do you remember that testimony?

20 PRESIDING JUDGE SCHMITT: Yes, Mr Witness, do you want to address the Court?

21 THE WITNESS: (Interpretation) Yes. Thank you, your Honour. I'd like to consult my
22 counsel.

23 PRESIDING JUDGE SCHMITT: You can do that.

24 Mr Witness, can we continue?

25 THE WITNESS: (Interpretation) Yes, your Honour.

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 PRESIDING JUDGE SCHMITT: Please continue.

2 MR MILANINIA:

3 Q. Now, Mr Witness, you indicated yesterday that you moved from the Central African
4 Republic to where you currently reside in 2009, and you never brought your son before you
5 got the money from or through, excuse me, Mr Kilolo. That's correct, isn't it?

6 A. I'm sorry, could you repeat the question?

7 Q. Yes. Let me be more precise. Between 2009 and sometime after you testified in 2013,
8 your son was residing in the Central African Republic, and you could not bring him over,
9 correct?

10 A. It's not that I couldn't bring him over. At that time there were other priorities, and the
11 child was far away. There was school as well. It's not that I couldn't do it. And we're
12 building a house and, for example, you can't -- I was building a house, so to get the child to
13 travel -- if I was able to get my wife to travel and the two other children, that was because I
14 had the possibility to do that. It's that. At a particular time or another in life, you can ask
15 somebody for a service. That does happen.

16 Q. So you did not have the possibility to bring your son over from the Central African
17 Republic in 2009, correct?

18 PRESIDING JUDGE SCHMITT: No, the witness has not said that. The witness has -- I
19 think has answered the question and has not said that he has not had the possibility, but there
20 were other priorities. That's something different.

21 MR MILANINIA:

22 Q. Mr Witness, so you had other priorities in 2009 than bringing your son over from the
23 Central African Republic, correct?

24 A. Yes, I had other priorities. Yes.

25 Q. And you had other priorities in 2010 that prevented you from bringing your son from

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 the Central African Republic, correct?

2 A. The time when I chose to get him to come -- my child, he's mine. I choose when he can
3 join me. I'm the person who chooses. So the time came. It was at that time, and that's
4 when I decided that he should come.

5 Q. That's fine. You didn't -- you decided that you had other priorities in 2010, 2011 and
6 2012 than bringing your child over from the Central African Republic, correct?

7 A. Well, is it a sin to have other priorities?

8 Q. No, Mr Witness. And, in fact, yesterday when Mr Djunga asked you, and I quote, "Did
9 this money truly help you so that you could have your children travel and join you," end
10 quote, you said, quote, "Yes, of course, because the child is now with us," end quote. That's
11 transcript English page 39, lines 4 to 6. That's correct, right?

12 A. Yes. That's what I said yesterday.

13 Q. And that's why you needed the money. That's why you insisted with VWU
14 representatives, that's why you insisted with Mr Kilolo twice, so that you could rejoin your
15 child, correct?

16 A. I didn't need money. I just asked for a service. So as regards to service, if you had
17 money, he could also send a plane ticket. He was the one who chose the type of help that he
18 would give me at that time. I'd asked for the ticket. I hadn't asked for money.

19 Q. That's interesting. So you asked for a ticket, but Mr Kilolo gave you money, correct?

20 PRESIDING JUDGE SCHMITT: No. I don't think that you can derive this from the answer
21 of the witness. He said he could have sent me a plane ticket or something else or whatever.
22 He could have sent him a bus or a taxi or whatsoever. At least the Presiding Judge
23 understood it like this. So please rephrase your question.

24 MR MILANINIA:

25 Q. So then it was Mr Kilolo who chose to give you money and not a ticket, for instance, to

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 bring your son over?

2 A. I repeat, Mr Kilolo did not give me money. He never handed over money like that.

3 And he even said that he didn't have money. He said that.

4 Q. Let me apologize.

5 A. You know.

6 Q. Let me be --

7 A. If he had money.

8 Q. Mr Witness, Mr Kilolo told you he was going to get money from Mr Bemba's friends to
9 help you, correct?

10 A. No.

11 Q. Did Mr Kilolo tell you he was going to get help from Mr Bemba's friends to get you a
12 ticket, to get your son a ticket?

13 A. Yes.

14 MR DJUNGA: (Interpretation) Thank you very much, your Honour. I still bear in mind
15 the fact that you said not to interrupt the Prosecution in its cross-examination, but I do note
16 that the question has been put. The witness has answered several times, and the Prosecutor
17 is speculating now, and it would be best if we make progress.

18 PRESIDING JUDGE SCHMITT: Sustained. Please move on.

19 MR MILANINIA: Yes, Mr President.

20 Q. Now, Mr Witness, when you testified in the main case in August 2013, you were asked
21 about the number of contacts you had with the Bemba Defence prior to your testimony. Do
22 you remember that?

23 A. I'm sorry. I didn't understand the question.

24 Q. When you testified in August 2013, you were asked specifically about the number of
25 times you had contact with the Bemba Defence, including Mr Kilolo. Do you remember

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 that?

2 A. Yes, I do.

3 Q. I want to show you your answer.

4 MR MILANINIA: Your Honours, I'm going to make reference to transcript page, excuse me,
5 pages 36 and 37 of T-339, which is tab 17, lines 20 to 4, which in the French would be page 38,
6 tab 18, lines 13 to 26, and I'd like to show the witness the French version of the transcript. So
7 to be clear, that's ICC-01/05-01/08-T-339-Conf, the French version page 38.

8 PRESIDING JUDGE SCHMITT: It seems that we have to wait one or two minutes, but I
9 think now it's going to be established, just to inform you.

10 MR MILANINIA:

11 Q. So page 38, and then we'll need to highlight lines 13 to 26. Mr Witness, do you see the
12 document in front of you?

13 A. Yes, I can see it.

14 Q. This document is a transcript of your testimony in the main case on 29 August 2013, the
15 day after you collected the money from Western Union. You can see you were specifically
16 asked the question, "What were" -- what contacts did you have with the Defence?
17 You asked, "What types of contacts?"

18 And the question was "Any type of contacts, telephone, email, face to face, all types of
19 contacts."

20 You said you had five contacts with the Defence. The first was when you spoke to
21 Mr Kilolo when he first called you and introduced himself as a lawyer. The second
22 was when Mr Kilolo said he was travelling to your location and to meet him at a hotel.
23 The third was when you met Mr Kilolo and a white woman at that hotel. The fourth
24 was when he called you again to tell you that people at the Court needed to speak
25 with you. And the fifth was when he introduced you to a woman whose name I'm

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 not going to mention.

2 And then you concluded that statement with (Interpretation) "That is all, that is all,
3 that is all."

4 (Speaks English) Do you see that, Mr Witness?

5 A. Yes. Please could you zoom in?

6 MR MILANINIA: On 14 to 26, which is his answer.

7 Q. Do you see it now?

8 A. Yes, I see it now.

9 Q. Mr Witness, you can see here you didn't mention the fact that you shared a taxi ride
10 with Mr Kilolo and his colleague; isn't that correct?

11 A. His colleague or -- his male colleague or his female colleague? I don't understand.

12 Q. You told us today that you shared a taxi ride with Mr Kilolo and a male colleague to the
13 hotel in which you met representatives of the VWU, and that you had a conversation with
14 him during that taxi ride in which your wife was also present, but you don't mention that
15 contact when you testified in August of 2013; isn't that correct?

16 A. I -- I don't know. I don't know. But I -- I took a taxi with Maître Kilolo and his
17 colleague, and we went to link up with the VWU team at the hotel. That team is aware of
18 what happened and that is it. Maybe I didn't mention this during my testimony and that
19 would be correct.

20 Q. And you also didn't mention in your testimony the phone call that you had with
21 Mr Kilolo immediately after that meeting in which you insisted upon assistance to bring your
22 son over from the Central African Republic; isn't that correct?

23 A. In 2013, I was answering a question that was put to me in that connection and I
24 provided the answer that I could. That's it.

25 Q. Okay. So just to be clear, you left that out of your testimony when you were asked

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 about your contacts with the Defence team when you testified, and you can see your answer
2 right there.

3 A. I'm not sure I understand you.

4 Q. Well, let me, let me ask another question similar to that one. You said you had a
5 subsequent call with Mr Kilolo during which he finally said he would help you by talking to
6 friends of Mr Bemba. Did you mention that conversation when you testified and you were
7 asked about your contacts with the Defence in 29 August 2013?

8 A. This is my answer: In this matter, I was introduced to the Court by Maître Kilolo. He
9 introduced me to the OTP, to the Court, to the VWU and all the others. He knows what
10 rules apply over there at your institution. He knows how things happen there.
11 What happened is that I met him, he took me to the hotel. But I don't have a
12 secretary who would have taken down the number of times that he called me. All
13 I'm trying to say is that I provided in bracket of the number of times we met, once,
14 twice, three times or so. That's the explanation I'm trying to provide to you.

15 Q. I understand. But you left out the fact that Mr Kilolo was in contact with you after
16 your meeting with the VWU, during which time you insisted and he agreed to provide you
17 assistance to bring your son over from the Central African Republic; isn't that correct?

18 A. Let me confer with my --

19 PRESIDING JUDGE SCHMITT: Mr Witness --

20 THE WITNESS: (Interpretation) Let me confer with my lawyer.

21 PRESIDING JUDGE SCHMITT: Yes, you are allowed to confer with your lawyer.

22 (Pause in proceedings)

23 PRESIDING JUDGE SCHMITT: Can we continue, Mr Witness?

24 THE WITNESS: (Interpretation) I am ready, Mr President.

25 PRESIDING JUDGE SCHMITT: And I would say this, you have tried to establish here with

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 your questions something that you wanted to establish, and I think after the answer to this
2 question you move to another point.

3 MR MILANINIA: Yes, Mr President. I do intend to do that.

4 Q. Mr Witness, let me repeat my question. When you testified under oath in the main
5 case on 29 August 2013, and you were specifically asked to provide all the contacts that you
6 had with the Defence prior to that moment, you left out the conversation you had with
7 Mr Kilolo where he promised to help you by talking to Mr Bemba's friends, to help you to
8 bring your son from the Central African Republic; isn't that correct?

9 A. I think I already answered the question, namely, that I had requested for help from
10 Maître Kilolo, and he had promised to look into it through his contacts who would be able to
11 respond to me. It is in that context that I provided the answer. So he went ahead to contact
12 his contacts, who then contacted me and sent me some money in order for the child to travel.

13 PRESIDING JUDGE SCHMITT: So I think we leave it like it is now and we move to another
14 point, please.

15 MR MILANINIA: Yes, Mr President. I think this is one of those circumstances where the
16 non-answer, as you put it, is the answer.

17 Q. Mr Witness, I want to move on to another subject. You indicated yesterday that you
18 met with Mr Kilolo and a white woman in April 2012. Your wife was also present at that
19 meeting at the hotel, correct?

20 A. Yes. When I met with Mr Kilolo and the white lady, I was in the company of my wife,
21 yes.

22 Q. And you mentioned yesterday that Bob was also at that meeting.

23 And for the reference of the Court, that's transcript page 84 of the English transcript of
24 yesterday's testimony, lines 11 to 14.

25 Isn't that correct, Bob was also there?

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 A. He is the one who received us in front of the hotel, brought us in and asked us to sit
2 down somewhere. And then thereafter, we didn't see him.

3 Q. Okay. Now, when you testified in 2000 -- excuse me, in August of 2013, you were
4 asked specifically whether you met with the Defence alone at that meeting or whether you
5 were with someone else.

6 And for the Court's reference, that's page 36 of T-339, lines 8 to 10, which is in tab 17,
7 and lines 1 to 3 of the French version, page 38, which is in tab 18.

8 Do you remember that you were asked if anyone was with you at that meeting when
9 you testified in August 2013?

10 A. I have not quite understood the question. Accompanied to where?

11 Q. Okay. Well, let me -- let me actually read out what you said and what the question
12 was when you testified in August of 2013. During your testimony in August of 2013, you
13 were asked about the meeting with Mr Kilolo and the white woman in 2014. And the
14 question was: "When you met with the Defence, were you alone or were you with someone
15 else?" That's lines 8 to 9. And your answer was, "I was alone."

16 You didn't mention the fact that your wife was with you, correct?

17 A. If you're referring to the hotel, the hotel which I mentioned, I was with my wife and I
18 have always said so.

19 Q. We can move on. We have it on the record that you did not say so when you testified
20 in August of 2013.

21 You did not mention Bob either being at the hotel; isn't that correct?

22 PRESIDING JUDGE SCHMITT: Mr Djunga?

23 MR DJUNGA: (Interpretation) Thank you, Mr President. I think we need to place things
24 back in the proper context. If I do understand the question that was put, it was in relation to
25 the meeting of the Defence at the time of the interview, while yesterday -- and in any event,

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 the witness already said that he was answering specific questions that were put to him. If we
2 were to put the question in the specific context, then we would get the answers that reflect
3 reality.

4 PRESIDING JUDGE SCHMITT: Yes, that makes sense to be honest. I'm also not sure what
5 we are exactly talking about now. So perhaps we could really -- there seems to be a moment
6 in time where he was accompanied with his wife and a moment in time where he was not.
7 So perhaps if we could work this out first and then we can draw conclusions or not.

8 MR MILANINIA: Certainly, Mr President.

9 Q. Mr Witness, you only had one meeting with the white woman and Mr Kilolo, isn't that
10 correct?

11 A. Yes, only one meeting.

12 Q. And your wife was at that meeting and so was Mr Bob, correct?

13 A. Yes, she was present indeed.

14 Q. And Bob?

15 A. I have explained to you that Bob was outside. He received us when we arrived in a
16 taxi in front of the hotel. Then he took us to a certain place where he left us and we didn't
17 see him again thereafter.

18 Q. That's fine. When you were asked questions when you testified in August of 2013,
19 specific questions, about who was with you at that meeting at that hotel with the white
20 woman, with Mr Kilolo, you said you were alone. Do you remember that?

21 A. I do not think I said so.

22 Q. That's fine. We can move on because we have it on the record.

23 Mr Witness --

24 PRESIDING JUDGE SCHMITT: Really just for my understanding, it may be that I have only
25 a problem with it, are we really talking about the same meeting? I want to make sure that

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 we're talking about the meeting with, like you say, with a white woman. So I want to make
2 sure that we are not mixing things up here.

3 And another thing would be, when the question is: "Have you been with someone,"
4 this is also prone to interpretation how a witness can understand this.

5 MR MILANINIA: Certainly, Mr President. The reason I suggested we can move on is
6 because the transcript of the main case speaks for itself. The question that was put for the
7 witness in the main case concerned specifically the meeting with Mr Kilolo and the white
8 woman. As this witness has just testified, there was only one such meeting.

9 Now, this witness has just testified that he was with his wife and that he met Mr Bob
10 there. However, as the record reflects in the main case, and there's no reason to go
11 into it because it's been judicially noticed, when he was asked that question in the
12 main case, he said he was by himself.

13 That position, your Honours, we don't feel we need to explore with this witness
14 anymore because frankly it speaks for itself in terms of the documentation.

15 PRESIDING JUDGE SCHMITT: Mr Djunga?

16 MR DJUNGA: (Interpretation) Thank you, Mr President. I don't know whether I am the
17 one who does not understand, but from my point of view, things are not clear. In my
18 translation, reference is made to the meeting when you met the Defence. I don't know what
19 the translation is. I think there is a difference to be made between the meeting and the time
20 of the interview, the meeting with Mr Kilolo and the interview.

21 I think you will see in the testimony of yesterday that there was a meeting with
22 Mr Kilolo and then there was another meeting for an interview with his wife. So I
23 think there is some difficulty there, and the question might seek to clarify that point
24 as well for the witness. Thank you.

25 MR MILANINIA: I can ask one basic question which I think will clarify this point if that

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 would help the Court.

2 PRESIDING JUDGE SCHMITT: Yes, you may.

3 MR MILANINIA:

4 Q. Mr Witness, when you met with Mr Kilolo and the white woman, was that the only time
5 in which you were interviewed in the presence of Mr Kilolo and the white woman?

6 A. When I met Mr Kilolo for the first time, and then I insist for the first time, the very first
7 time in a hotel, I was in the company of my wife. Maître Kilolo was not alone. He was with
8 a white woman.

9 Now, when it comes to interviews with Defence, I went to all the interviews with the
10 Defence alone. I was always alone whenever I went for the interviews. And this
11 was well after, after that first time when I met Mr Kilolo in the company of my wife.

12 PRESIDING JUDGE SCHMITT: So I think the witness has answered all the possibilities that
13 can be connected with meetings, interviews of the Defence and so forth, and we can move to
14 another point. And I would like to remind you that we want to aspire at least to finish the
15 examination of this witness until the lunch-break.

16 MR MILANINIA: Yes, your Honour. I think we can do that.

17 Q. Mr Witness, at that meeting with the white woman and Mr Kilolo, were your
18 conversations recorded?

19 A. They were recorded.

20 Q. And it's correct, isn't it, that Mr Kilolo and the white woman were taking notes at that
21 meeting?

22 A. Yes. Yes, indeed. They were on the phone and the white lady was taking some notes.

23 Q. And did Mr Kilolo or the white lady give you a copy of their notes or the recordings?

24 A. No.

25 Q. So as far as you left it, the only individuals who would have copies of those recordings

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 and notes would be Mr Kilolo and the white lady, correct?

2 A. Yes. The same thing happened with the OTP when they came to (Redacted). They
3 did not return any document to me.

4 Q. We'll get to that in a moment.

5 Mr Witness, after your meeting with the white lady and Mr Kilolo at that hotel, you
6 had telephone conversations with Mr Kilolo, correct?

7 A. Yes, I had some telephone contacts with Mr Kilolo, but I don't remember. So if you
8 want to ask me about any contacts, please could you situate the specific contact and the
9 context, please?

10 Q. Sure. I'm not going to actually talk about specific contacts. What I want to ask you
11 about actually is you told Prosecution investigators when you met with them in November
12 2014 that it was always Mr Kilolo who was contacting you and that you only contacted
13 Mr Kilolo once, correct?

14 A. Yes. But I am here before this Court today because it's Mr Kilolo who brought me here.
15 If you are able to put questions to me today, it is thanks to Mr Kilolo. He's the one who
16 contacted me. He's the one who introduced me to the court. He's the one who introduced
17 me to the OTP, the VWU and what else do you have? So the number of times that he may
18 have called me or that I may have called him, I really didn't record that somewhere. What
19 I'm trying to do is to the extent possible tell you what I know.

20 Q. I understand. You also told Prosecution investigators that Mr Kilolo would contact
21 you using several different phone numbers; isn't that correct?

22 MR POWLES: May we have the reference, please?

23 MR MILANINIA: Certainly. And my apologies. The reference is CAR-OTP-0085-0673 at
24 0687, which is in tab 7 of your Honours' binders, lines 485 to 488.

25 Q. Mr Witness, do you want me to repeat my question?

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 A. Yes, I remember your question. Yes, it is true that Maître Kilolo did not call me only on
2 one number. He called me on several of the numbers, one, two or three or maybe more.
3 But even if it was only two, that is already several numbers, isn't it?

4 Q. Yes, it is.

5 Mr Witness, you discussed during your testimony yesterday your interview with the
6 Office of the Prosecutor in November 2014, and I want to ask you some questions
7 about that interview. During your November 2014 interview, you were told by the
8 Office of the Prosecutor that it had reasons to believe that you had committed a crime,
9 correct?

10 A. No. I don't know what crime you're talking about. Could you specify?

11 Q. Yes. You were told by the investigators for the Office of the Prosecutor when you met
12 with them in November 2014 that they believed you were a suspect for falsely testifying at
13 this Court in August of 2013; isn't that correct?

14 Your Honours, if the Court needs a reference, it's CAR-OTP-0085-0617 at 0624, which
15 is in tab 5, lines 253 to 258.

16 Mr Witness, let me ask, do you understand my question? Are you ready to answer
17 it?

18 A. Can I see the text please, the document?

19 Q. Yes, you can.

20 Mr President, can I have shown to the witness a transcript of his interview? Again
21 that's CAR-OTP-0085-0617. I think we can actually begin at 0622, lines 158 to 188.

22 Mr Witness, you can see there a very long detailed description provided to you by the
23 OTP investigator during your meeting with them on November 2014 where they are
24 describing the fact that the Prosecution has reasons to believe that you committed a
25 crime, informing you of what that crime is. Do you see that?

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 A. Yes, I see the document.

2 Q. Does that refresh your memory as to whether you were told by the Office of the
3 Prosecutor that they believed you were a suspect for committing a crime?

4 A. Yes, I've got the document in front of me.

5 Q. Mr Witness, during that interview it was explained to you that the Office of the
6 Prosecutor believed that you had falsely testified when you testified for Mr Bemba in August
7 of 2013; isn't that correct? It's in the document in front of you.

8 A. That's what's written in the document, yes.

9 Q. And during your 2014 interview, you were also informed that you had the right to
10 remain silent, correct?

11 A. Yes.

12 Q. You were also informed that your silence would not be used against you. Do you
13 remember that?

14 A. Yes. But, first of all, I'd like to recall one thing. I said right at the start when the
15 investigators of the OTP arrived where I am, they started firstly by explaining to me that they
16 were in my country. They had carried out investigations there. They had evidence
17 that -- which I still haven't seen. And they said a lot of things.

18 And they got a document out, they showed it to me and they said: Where? If you
19 tell us the truth, we'll get you to sign this document, so if there were errors that were
20 made in your statement anywhere, then it doesn't turn against you later. That was
21 the agreement, the understanding.

22 And I went back over a lot of things, and in return I received absolutely nothing. So
23 there were a lot of admissions under pressure. And I would like you to show me the
24 proof of such confessions or what you have as regards to evidence.

25 Q. Mr Witness, I'm going to repeat my question, which you did not answer, which is after

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 being informed that you had the right to remain silent, you were also told that your silence
2 would not be used against you, correct?

3 A. I'm going to go back. This person who is from the Prosecutor, I can't give his name
4 here --

5 Q. Mr Witness, my answer -- my question is actually very simple. My question is very
6 simple.

7 PRESIDING JUDGE SCHMITT: Please, please let the witness complete his answer, and then
8 if this is not, if you think he has not answered the question, perhaps at some point in time we
9 have, like we did in the past too, we have to leave it like it is.

10 Please, Mr Witness, continue.

11 THE WITNESS: (Interpretation) Thank you, your Honour.

12 I was saying the following: Today I am before this Court, this Court here. I'm
13 testifying with a lot of respect. I am considered as a person.

14 Now, when I was in front of the OTP staff, they treated me as some simple hooligan, a
15 liar, a thief. They said they'd call the police in the country where I was. They put a
16 lot of pressure on me to obtain things. I wanted to -- they also, they should have
17 sworn an oath somewhere. Let them tell the truth.

18 Why is there this harassment? They didn't tell the truth that they are under oath.

19 They have to say that they pressured me, that they said they'll call the police. And
20 they should also say that I got angry on several occasions, and I nearly attacked them
21 because -- well, let them tell the truth. Let them say how they obtained certain
22 things from me. Let them be sincere with their ethics, with their morals, with their
23 conscience. They should say that as well.

24 Q. Mr Witness, I have a number of questions here about how you were informed of the
25 right to remain silent, you were told whether you wanted to remain silent, and you said no.

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 You were given a lawyer. You were told whether you wanted private consultations with
2 your lawyer.

3 But I'm going to take you actually to the very last question that you were asked by the
4 investigators following that meeting, which is -- and your Honours can find this at
5 CAR-OTP-0085-0785, 0789 which is tab 11, lines 133 to 135.

6 And you were asked --

7 PRESIDING JUDGE SCHMITT: Wait a moment, please.

8 Mr Powles?

9 MR POWLES: Mr President, just while that's being looked up, and it may be that my learned
10 friend is coming to the end of his questioning of this witness, but in view of the time, I should
11 just draw to the Court's attention that we would have about 15 minutes' worth of
12 re-examination with this witness, and I would ask my learned friend to bear that in mind so
13 that we could finish before lunch, I would hope. Thank you, Mr President.

14 PRESIDING JUDGE SCHMITT: So please continue, Mr Milaninia.

15 MR MILANINIA:

16 Q. At the end of your interview with the Office of the Prosecutor and in front of your
17 lawyer, you were asked whether or not you had received any threats, promises or incentives
18 to change your answers, and your answer was no; correct?

19 A. True. But I was -- I had an understanding with them from the start. The document
20 that was meant to be submitted for signature, they were interviews that I had with the Office
21 of the Prosecutor which weren't recorded. I wish that you could provide all of that,
22 recordings of them, and I don't see that here. All I see is that we're already in an agreement.
23 You get out of the type of agreement and I'm here trying to cooperate with you and that's
24 what I'm trying to do. But everything, all the threats, all that, I didn't see that. That's not
25 written down.

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 Q. Yes, Mr Witness, no threats are written down here. And, in fact, your lawyer never
2 objected to there being any threats after you gave this answer; isn't that correct?

3 A. Yes. I would say the following: During all the debate, my lawyer didn't intervene.
4 He didn't intervene. Perhaps he was under pressure as well because he didn't answer, he
5 didn't speak, and that's it. That's the way it was.

6 Q. Mr Witness, I'm only going to ask you a couple questions to conclude this line of
7 testimony.

8 PRESIDING JUDGE SCHMITT: What does "line of testimony" mean? Does this announce
9 that you would need more time? Because I think the cross examination has, when we
10 reference it to the direct examination, lasted quite a long time. I bear in mind that we had
11 many objections, I know that. But indeed I would like to have for the Chamber and for
12 everybody in the courtroom a time frame, please, that you could tell us.

13 MR MILANINIA: Your Honour, these are the last two questions I intend to put to this
14 witness.

15 PRESIDING JUDGE SCHMITT: Okay. Then please put them to the witness.

16 MR MILANINIA:

17 Q. Mr Witness, when you were provided a lawyer during your interview with the Office of
18 the Prosecutor, you were also informed that you could speak privately with your lawyer at
19 any time; isn't that correct?

20 And, your Honours, for the Court's benefit, that's CAR-OTP-0085-0785 -- excuse me,
21 that's CAR-OTP-0085-0617 at 0624 to 0625, which is in tab 5, lines 248 to 252.

22 You were told that you could speak privately with your lawyer if you would so
23 choose; isn't that correct?

24 A. Yes. You're referring to the document. But you don't take into account the agreement
25 that I had with the lawyer. So I went into another room several times with a lawyer, I

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 explained things, but I -- show me one word, one objection that this lawyer made. None.

2 That doesn't exist.

3 But when we withdrew, why was that? That was so that they -- he could counsel me

4 and say things with regards to the questions being put. But I don't see an objection

5 from this lawyer on the document.

6 Q. Thank you, Mr Witness. I think we have your answers on the record about this issue.

7 I no longer have any questions for you. I again thank you for your patience.

8 PRESIDING JUDGE SCHMITT: Thank you very much.

9 Just so I understand that there will be a relatively short re-examination by the Defence

10 of Mr Kilolo. Who wants to have the floor, Mr Powles or Mr Djunga?

11 MR POWLES: Yes, Mr President.

12 PRESIDING JUDGE SCHMITT: Mr Powles is rising. You have the floor.

13 MR POWLES: I think I'll sit down if I may for the purpose of asking the questions.

14 QUESTIONED BY MR POWLES:

15 Q. Mr Witness, yes, very well. Mr Witness, my name is Steven Powles. I am counsel for

16 Mr Kilolo, who sits to my right. And I'm working with Mr Djunga, who asked you questions

17 yesterday. And if I may --

18 A. Good morning, counsel.

19 Q. I'm just going to ask you one or two questions, if I may, please, sir.

20 You have a son. Can you please tell us how old your son is now?

21 A. About 19.

22 Q. And how old was he then in August 2013?

23 A. Around 15.

24 Q. Now, you've told us it was important for you and your family to be reunited. Could

25 you please tell us in your words why it was important for you to be reunited with your family

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 and your 15-year-old son?

2 A. Thank you. I think that it's important for everybody to have their children with them,
3 given that the child was already away when we came, the child had just left for holidays.
4 But afterwards other events took place and the child stayed there with his grandmother.
5 And when we left, the child stayed there. And at a given time, I thought that it was
6 important for that child to come and to find his sisters here and to have a good schooling.
7 That was it.

8 Q. Thank you, Mr Witness. Now, you first met with the Defence and were interviewed by
9 them, I believe in 2012; is that correct?

10 A. Yes, of course.

11 Q. And was there any mention of your son at that stage when you were speaking to the
12 Defence?

13 A. Well, when I spoke to the Defence, when I made the request, well, I mentioned the child
14 when I asked for help for the child to join me here.

15 Q. Yes. Thank you, Mr Witness. And was it a condition for your testimony for your
16 child to join you before you would testify?

17 MR MILANINIA: Mr President, I'm hesitant to rise, but the question is leading.

18 PRESIDING JUDGE SCHMITT: I allow the question. Please answer.

19 THE WITNESS: (Interpretation) That had no relationship. It's like the VWU, I was before
20 the VWU, they asked us if we were sick, if we suffered from anything. The VWU has spent a
21 lot of money to treat my wife, I think 300 to 400 CFA, they cared for my wife, for example, a
22 tooth extraction for my daughter. So VWU spent a lot of money, maybe 400,000, more than
23 400,000 CFA.

24 So we were faced with people who had told us we had to be -- if we had to be made
25 available to the Court, the Court had to care for us and put us in conditions to be able

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 to do so, and that's why I took advantage of the situation to talk about it. It wasn't a
2 condition, an obligatory condition the VWU could refuse.

3 If Mr Kilolo didn't have somebody who could help, then he could say no. Is there a
4 document anywhere where people said this -- "If you don't give me this money, I'm
5 not going to testify"? That does not exist. It's this type of evidence that I want to be
6 shown, because you don't have it.

7 Q. Yes. Thank you, Mr Witness.

8 One final question. You were asked yesterday by my learned friend for the
9 Prosecution about a text message that you sent to Mr Kilolo at the time of his arrest in
10 which you said the following: "Counsel, you are an honest and sincere person," and
11 you said that you stand by that.

12 Could you please tell us why you say Mr Kilolo is an honest and serious person?

13 MR MILANINIA: Mr President, I ask that the entirety of the SMS and not only a portion of
14 it be read to the witness, because I note that that doesn't accurately reflect what the specific
15 contents of that text message were.

16 PRESIDING JUDGE SCHMITT: But it arose from the cross-examination, so I would ask the
17 witness to answer the question. What I want to say about this is we do not have to repeat
18 again this whole text message, because this has been brought up during the cross-examination,
19 and I allow the Defence to pick out part of it if it is not suggestive in a way that the Chamber
20 would think to step -- that it had to step in.

21 THE WITNESS: (Interpretation) Thank you, your Honour.

22 I sent the SMS when I heard, as everybody else did, via the media that Mr Kilolo had
23 been arrested for subornation of witnesses and for offences against the administration
24 of justice. And at that time I felt for him. With my wife, we said that we would
25 write him an SMS, he was in our prayers and we would pray for him, and he's serious

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 and honest. I don't see why not.

2 If it just came from me and only -- perhaps he committed other errors. That's

3 something I don't know. But when he was with me, he was honest and he was

4 sincere. So even if they put a knife to my neck, I would still say that he is honest and

5 sincere. And I don't understand. I see that everything is clear, but people are

6 trying to get me on little words, little dates. There's no point in that.

7 I have confidence in the International Criminal Court. I want that if you want there

8 to be a fair trial, then I would ask, I have asked to testify publicly so that the world

9 can see me. If what I say is true or false, then there is a lot of Central Africans

10 throughout the world, even in the Hague. So why was I refused to testify? I had

11 things to say in public. So I'm not blaming the Court for anything. That's its right

12 to protect me, that's quite normal.

13 But where people are taking me, little words, dates like this, what I'm saying is a

14 sincere truth, and that's my position. That is the strict truth. I am African, and I can

15 tell you if you bring me a Bible, I will swear before God. It is more important than

16 the oath that I take here. I will swear on the Bible to say that at no time in our

17 meeting with Mr Kilolo did -- was there an issue of false testimony. False testimony

18 with regards to what? Was my wife raped; yes or no? Was there an investigation

19 carried out in this sense? The Court sent people or the Office of the Prosecutor to the

20 Central African Republic to carry out investigations, and at this current time there's

21 lots of cases of rapes.

22 When my wife was raped, two girls in the same neighbourhood were also raped.

23 But now as the two didn't complain, the two didn't have the opportunity that I had to

24 speak before this august Chamber, but they're there. The problem is not unknown

25 by anyone. So today if people want to speak about false testimony, I don't see what

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 the issue is, unless people have a trial against me, but at the end of my testimony in
2 2013, I suggested that the guilty people be arrested and people have -- or warlords,
3 (Redacted), they're known. They should be arrested. They
4 should be confronted with them.

5 I was a victim, you know, and I think there isn't a serious investigation, and that's the
6 reason why even the VWU can't protect me when I say that I'm in danger where I am.
7 And effectively, I am in danger, but they, they don't take it seriously. I have to fight
8 in order to ensure the security of my family, and that's what I'm trying to do.
9 Thank you very much, your Honour.

10 MR POWLES: Yes. Thank you very much, Mr President and your Honours. And thank
11 you very much, Witness, for your time.

12 PRESIDING JUDGE SCHMITT: Are there further questions by other Defence teams? It's
13 not the case?
14 I won't allow further questions.

15 MR MILANINIA: Mr President, I was going to -- I was not going to ask for further questions.
16 Rather, I was simply going to put on the record the fact that it seems at least both during
17 direct examination and now re-examination that what the Defence is putting at issue is
18 character evidence, and we would simply note for the record that the Prosecution was not
19 permitted to put in evidence of the witness's -- of conversations about this witness which may
20 impact and influence his understanding and his impression of Mr Kilolo, and that we hope
21 that the Chamber assesses the evidence that has been given by this witness in light of that
22 information.

23 PRESIDING JUDGE SCHMITT: So I think I have to repeat that you have here on the Bench
24 professional judges who are able to assess everything and put into much reference and into
25 evidence everything what has been said here. So we have a lot of experience here on the

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

1 Bench, and we have to recognize everything what has been brought before us, and we will do
2 so, but as I said, we are, the three professional judges, are the ones to assess that, and we need
3 not to be reminded what we should not consider and what we should consider.

4 MR POWLES: Mr President, if I may just briefly respond to that --

5 PRESIDING JUDGE SCHMITT: Yes.

6 MR POWLES: -- and say of course it was the Prosecution themselves who brought up this
7 SMS message, and it's only appropriate in those circumstances for us to explore the content of
8 it.

9 PRESIDING JUDGE SCHMITT: No, we'll stop there now. I think everything is not done
10 but said in that respect what is of importance for the Court and what we would have to
11 consider. And as I say, it's also correct that the SMS and with the contents of the SMS was
12 brought up during cross examination, because of that, the questioning was allowed; and what
13 we make out of it, that is always the assessment, evaluation of the Bench.
14 So this concludes, Mr Witness, I address you personally again, this concludes your
15 testimony. The Chamber would once again like to thank you for having yourself
16 made available as a witness in the search of this Court for the truth. You are
17 released now.

18 (The witness is excused)

19 PRESIDING JUDGE SCHMITT: And we would also very much thank for assistance
20 Mr Ngondji Ongombe, who is not visible there, but I think he will hear us. This concludes
21 also, yes, this concludes also today's hearing.

22 MR ONGOMBE: (Interpretation) Thank you, your Honour.

23 PRESIDING JUDGE SCHMITT: We reconvene on Wednesday, 9 March at 9.30 to hear
24 witness D21-9.

25 THE COURT USHER: All rise.

Trial Hearing
Witness: CAR-D21-P-0003

(Open Session)

ICC-01/05-01/13

- 1 (The hearing ends in open session at 12.56 p.m.)