

1 International Criminal Court
2 Trial Chamber VII - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba,
5 Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido
6 ICC-01/05-01/13
7 Presiding Judge Bertram Schmitt, Judge Marc Perrin de Brichambaut and
8 Judge Raul Pangalangan
9 Trial Hearing
10 Monday, 26 October 2015
11 *(The hearing starts in closed session at 9.34 a.m.) Reclassified as Open session
12 THE COURT USHER: All rise.
13 The International Criminal Court is now in session.
14 PRESIDING JUDGE SCHMITT: Good morning, everyone.
15 Could the court officer please call the case.
16 THE COURT OFFICER: Good morning. Yes, Mr President.
17 Situation in the Central African Republic in the case of The Prosecutor versus Jean-Pierre
18 Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala
19 Wandu and Narcisse Arido, in the case reference ICC-01/05-01/13.
20 And for the record we are in closed session.
21 PRESIDING JUDGE SCHMITT: Thank you.
22 The appearances, please.
23 MR VANDERPUYE: Good morning, Mr President, your Honours. Good morning,
24 everyone. Today the Prosecution is represented by Nema Milaninia to my left; behind him
25 Olivia Struyven; and behind me Sylvie Vidinha. I'm Kweku Vanderpuye. Good morning.

1 PRESIDING JUDGE SCHMITT: Then for the Defence.

2 MR GOSNELL: Good morning, Mr President. Christopher Gosnell for Mr Mangenda,
3 accompanied by intern Rita Yip and co-counsel Arthur Vercken.

4 MR DJUNGA: (Interpretation) Good morning, Mr President. Good morning, your
5 Honours. The Defence for Maître Kilolo has not changed its composition. We retain the
6 same team members.

7 MR TAKU: May it please your Honours, I appear for Mr Arido. This morning with me is
8 Mr Tibor Bajnovic and Mr Tharcisse Gatarama.

9 MR KILENDA: (Interpretation) Good morning, Mr President. Good morning, your
10 Honours. The team members have not changed.

11 MS TAYLOR: Good morning, Mr President, your Honours. Melinda Taylor appearing on
12 behalf of Mr Jean-Pierre Bemba. Thank you.

13 PRESIDING JUDGE SCHMITT: Thank you very much.

14 Before we come to the next witness and the video link established, I've been informed that
15 two of the -- the video link is of course established and I know that, but I have been informed
16 that two of the Defence teams want to address issues and it is I think the Defence of
17 Mr Mangenda and the Defence of Mr Kilolo in a sequence that you deem necessary.

18 MR GOSNELL: Thank you, Mr President. Since my remarks are more retrospective in
19 nature, perhaps I should go first. And they arise from the fact that on Friday time was very
20 short, as you know, Mr President, and we were running out of recording time on the tape.
21 So the issue that I would like to raise and to make sure is clear for the record concerns first the
22 objection that I made in response to the question by my learned friend from the Prosecution,
23 and then I'm going to raise a second issue which is an objection that I would have made had
24 there been more time.

25 Now, the first issue has to do with the portion of transcript that reads as follows, and the

1 question from the Prosecutor was:

2 "With respect to the 540,000 Central African francs you received from Mr Kilolo in the
3 presence of Maître Jean-Jacques were you ever asked to lie about that by Mr Kilolo?"

4 I then objected, Mr President. I said, "That completely misstates the record,
5 Mr President."

6 And then your Honour stated: "Mr Vanderpuye, Mr Vanderpuye, you have to
7 rephrase the question, because I'm not sure if it really represents what has been said.
8 It just asked about the 540,000. He has said he has received this amount of money
9 and restrict yourself to this fact in the question."

10 Now, I'd just like to return to an earlier part of the transcript where the witness
11 addressed this, and it was the basis for my objection. And had I had more time, I
12 would have, I would have put this on the record.

13 The question that was asked by my learned friend on 20 October, page 17 of the English
14 transcript.

15 Question: "All right. Which two of you were there that day? Just you and him,
16 Mr Kilolo or you and someone else? It's not clear in the record."

17 And this is -- the context is this is referring to the payment.

18 Answer: "There was no one. What I meant was Mr Kilolo and myself were at
19 (Redacted) hotel in the waiting room. There was no one else."

20 And in case there could have been any confusion, we have the prior statement of the
21 witness, CAR-OTP-0078-0260. (Interpretation) "Maître Kilolo gave you the 540,000
22 francs at the ground floor of the hotel. Was there anybody else who was present?"

23 Answer: "When he gave me the money, nobody else was present. He called me. I
24 came to meet him. There were two of us. And he gave me money saying, 'Even if
25 the others call you and ask you, do not tell them.'"

1 THE INTERPRETER: End of quote.

2 MR GOSNELL: Mr President, of course the question was asked, the answer was given, but I
3 would suggest that if an occasion such as this arises in the future where there is leading which
4 is based on not just the insertion of a fact that has not yet been established, but leading which
5 actually is contrary to what the witness says, not only in the testimony, but in their prior
6 statements, then the appropriate remedy I would suggest is not to then allow the Prosecutor
7 to reformulate the question and have the witness respond, because the prejudice has already
8 been caused by inserting the suggestion, and it's a suggestion that was even contrary to what
9 the witness had previously said.

10 We saw an example of it, an anodyne example in respect of a suggestion about
11 Mr Kilolo having given a laptop to a witness. Your Honour may recall that. Not
12 particularly prejudicial. But here we have a fact that directly concerns Mr Mangenda
13 and is one of the very few elements of that witness's testimony that was relevant to
14 him.

15 So I would respectfully request, Mr President, that this is something that you take under
16 consideration and essentially consider for future, for future reference when necessary.

17 And the second point I wanted to raise, Mr President, had to do with the following
18 question from the Prosecutor, and that's at page 112 of the English transcript from
19 Friday, 23 October.

20 "You were asked a number of questions, Witness, about the expenses that you received from
21 the VWU and from the Office of the Prosecutor. In respect of any money you received from
22 either the VWU or the Office of the Prosecutor, has anyone from either of those units ever told
23 you to lie about the money you received?"

24 Mr President, if there had been more time, and I did not object because the question
25 was not enormously prejudicial to us, but had there been more time, I would have

1 objected on the grounds that that was beyond the scope of the cross-examination.

2 And I say that because never was the suggestion made by any of the questions that
3 any such instruction to lie had been made by the investigator, and that was not the
4 purpose of any of the questions that were posed.

5 The purpose of the question was purely to show that the witness believed or associated the
6 receipt of the money with the efforts of the investigator. And where those payments are four
7 times greater than the amount that is alleged to be the basis for having given perjured
8 testimony, and that is the case, Mr President, that is highly relevant to assessing the credibility
9 of the witness.

10 It doesn't have anything to do with suggesting that any Prosecution investigator had told any
11 witness to lie or in any way to do anything improper in that respect. That was not the
12 purpose of the questions. And I want that to be crystal clear for the record.

13 Thank you, Mr President.

14 PRESIDING JUDGE SCHMITT: Thank you very much for this clarification. It is of course
15 noted by the Chamber. And I see that we had on Thursday it was -- on Friday it was -- I
16 change now the days because we are nearly every day in the courtroom -- we are really sort of
17 in a hurry and I appreciate that you -- and I give everybody the possibility to clarify things, of
18 course not to resume or not to relitigate what has been said last week, but of course I have
19 also to give Mr Vanderpuye, if he wants, the possibility to respond to that, but only if he
20 wants to.

21 MR VANDERPUYE: I can't refuse the offer, Mr President.

22 With respect to the first issue that was raised by Mr Gosnell, I do not contest that that was a
23 leading question. I think when he made the objection and the Chamber sustained the
24 objection I rephrased the question because I had realised I made an error and I rephrased it in
25 a way that was entirely consistent with the record, namely that the amount of money or the

1 agreement to pay the witness a certain amount of money had been discussed in the presence,
2 and I say in quotes, "in the presence of Mr Mangenda," and that's how I rephrased the
3 question to my recollection.
4 So I don't have any -- I don't have any trouble with that at all.
5 The Chamber will recall that we were proceeding in a hurry. If I'm not mistaken, I
6 got up with about 2 minutes to spare before 4 o'clock despite the Chamber's very clear
7 instruction earlier on that day that the Defence were to conduct their examination in a
8 manner that was effective and also left some time for the Prosecution to conduct a
9 redirect examination if one was required.
10 And notwithstanding that instruction, we were left with 2 minutes roughly before
11 4 o'clock in order to commence our instruction -- commence our redirect examination
12 which even those 2 minutes was interrupted because an entire pole hadn't been taken
13 yet of the Defence counsel who wished to cross-examine.
14 We began cross-examining -- began redirect examination shortly after 4 o'clock with about
15 4 minutes to spare, which was interrupted of course by Mr Gosnell's what I consider to be a
16 legitimate objection. It was rephrased and then a subsequent objection by the Kilolo Defence,
17 which I did not think was appropriate because I thought the record very clearly reflected that
18 what had been represented to the witness was that the transcript or the tape that had been
19 played to him of his -- I think his 21 February 2012 interview was complete. And that
20 transcript reference, by the way, is page 26, line 9 of Friday's transcript I believe.
21 In any event with respect to that first part of Mr Gosnell's argument I don't have a
22 problem with it.
23 With respect to the second part of Mr Gosnell's argument concerning the amount or the
24 expenses that were paid to the witness by the Prosecution, by the VWU and by the Defence, I
25 do have a problem with that, and the reason is because what is being portrayed or what the

1 argument, underlying argument or under current of the argument is that there is parity
2 between the payments that are made by the Defence and the payments made by the
3 Prosecution, that they're on equal footing.

4 And the reason why I asked the question about whether or not the witness had been directed
5 to lie about any moneys that he received from the Prosecution or the VWU is to elicit from the
6 witness that those expenses are not equivalent. Even if they are equivalent in amount, even
7 if the payments by the Prosecution or the VWU exceed the amounts of payments by the
8 Defence, they are not on equal footing for the simple reason that the intention behind them
9 and the reason why they're being made is completely different, and that's what that evidence
10 elicited. That demonstrates that there is not parity between them and that rebuts an
11 argument specifically advanced by the Defence.

12 And that basically is my response to that. I don't know if there was another Defence
13 team that wanted to raise some arguments. I think you mentioned that earlier.

14 PRESIDING JUDGE SCHMITT: Please short, Mr Gosnell.

15 MR GOSNELL: Very short, just on the issue of time. Your Honours accorded the
16 Mangenda Defence one hour and three quarters. We kept track of that and our record was
17 that we went over by about 5 minutes. So we stayed more or less very close to the time.
18 There was of course a lot of discussion that day about other issues. Thank you, Mr
19 President.

20 PRESIDING JUDGE SCHMITT: Mr Kilenda.

21 MR KILENDA: (Interpretation) Very briefly, Mr President. I'm not going to discuss the
22 merits of the objections raised by Counsel Gosnell. Rather, on the form -- but not even on the
23 form. I noted because I was listening attentively and watching the transcript, at page 6, line
24 4, there is written, I'm not going to quote everything, "who led him to believe that Mr Kilenda
25 had given a portable computer or a laptop computer to the witness."

1 I didn't hear Maître Gosnell say this. I think that this must be a mistake on the part of the
2 services of the court that I believe will be corrected at an opportune time.

3 PRESIDING JUDGE SCHMITT: I've been informed that the next Defence team will be the
4 Defence of Mr Kilolo. Mr Powles.

5 MR POWLES: Yes, thank you very much, Mr President, your Honours. May I make two
6 submissions but related submissions in relation to the timetabling of witnesses and the
7 Defence cross-examination of Witnesses P-201 and P-198.

8 Firstly in relation to timetable, may I stress that the Defence for Mr Kilolo are acutely
9 aware of the need for flexibility when dealing with the timetabling of witnesses in a
10 complex multi-jurisdictional case such as this one. We appreciate that it's almost
11 inevitable that the witness order may need to sometimes change at short notice to
12 accommodate the needs of witnesses who are travelling from abroad.

13 We're also aware of the need to ensure that the trial progresses in a smooth and
14 timely manner, particularly as one of the accused is in custody.

15 However, if we may, we would like to highlight that of the remaining witnesses, the
16 vast majority of their evidence pertains in the main to Mr Kilolo. As a result of that,
17 it follows that the burden of responding to their evidence falls mainly on the
18 shoulders of the Kilolo Defence team.

19 May we assure the Trial Chamber that we will always do our very best to adapt our
20 case preparation to be in a position to deal with whatever witness is called to give
21 evidence on any given day, and as ever, we as counsel are extremely grateful to the
22 extraordinary efforts of a small but dedicated team of assistants who do work
23 extremely long hours and give us invaluable assistance. And may I assure the Trial
24 Chamber that this weekend has been no exception for them.

25 We anticipate that the timetable over the next few weeks will be relentless, and again,

1 we are ready to respond accordingly, but it will be of enormous assistance to us were
2 we to be given as much notice as possible as to which witnesses will be coming and
3 when and, if possible, to have a fixed order of witnesses so that we can conduct our
4 preparation accordingly with the limited resources that we have.

5 Now, the second submission is separate but related, and that relates to the
6 cross-examination of Witnesses P-201 and P-198. They are two unusual witnesses in
7 that they have not provided prior statements or interviews to the Prosecution in
8 advance of their testimony. As a result there has been no disclosure by the
9 Prosecution to the Defence as to what they may say when giving evidence.

10 While it is acknowledged that because of related evidence the Defence may be able to
11 anticipate what they might say, we do not know at this stage what they will actually
12 say. And while we appreciate obviously that the Prosecution are in a somewhat
13 similar position, we do seek to draw the Trial Chamber's attention to the distinct
14 disadvantage that the Defence are in.

15 Firstly, obviously the Prosecution knows in advance what issues it is going to raise
16 with the witnesses, and second of all, how it is going to raise those issues.

17 Secondly, the Defence are in an entirely reactive position to the evidence that is given by those
18 witnesses and must respond to the evidence that those witnesses give. And again, at this
19 stage we don't have any statements or prior indication from the Prosecution as to what they
20 are going to say and how.

21 If having heard the evidence of P-201 and P-198 we can commence immediately with
22 our cross-examination, obviously we will. However, if having heard the evidence of
23 those two witnesses it is apparent that we would benefit from further preparation and
24 consultation, in particular with our client Mr Kilolo, we respectfully request that we
25 be granted and permitted to commence our cross-examination the following day

1 rather than immediately after when the witnesses have concluded giving evidence.

2 We pray in aid in support of that submission obviously Article 67(1)(b) of the Statute the
3 Defence be afforded adequate time and facilities and also an oral decision of the Presiding
4 Judge Fulford in the Lubanga case on 1 April 2011 when after an examination-in-chief by the
5 Defence the Prosecution were able to adjourn their cross-examination to the next hearing
6 because a lot of new information had been provided during the course of the
7 examination-in-chief.

8 So those would be our two submissions, Mr President. Obviously again we stress if
9 we can commence immediately with our cross-examination, we will, but if we can
10 only respond responsibly after a short adjournment to the following day, we would
11 respectfully ask the Trial Chamber to be sympathetic to any application we may make
12 at that stage.

13 PRESIDING JUDGE SCHMITT: Thank you very much for this. Two small remarks. Also
14 the Bench and the Presiding Judge was informed yesterday which witness will appear today.
15 So we are in a similar position. That does not make it better. The roles of the participants of
16 the Bench are completely different. I just wanted to tell you that you are not alone --

17 MR POWLES: Yes.

18 PRESIDING JUDGE SCHMITT: -- in that respect, to put it this way.
19 The second thing is what you requested seems to be at first sight, let me put it cautiously,
20 reasonable. So we will take note of that and we will -- I think we will keep that in mind
21 should it come to a situation that you describe.

22 MR POWLES: Again, I'm very grateful, Mr President, your Honours. Thank you.

23 PRESIDING JUDGE SCHMITT: Now we are turning to the video link in (Redacted). I
24 assume that counsel for witness has listened carefully and it was perhaps interesting for him
25 too.

1 Could you please be so kind as to introduce yourself for the record.

2 MR SHEBELE MAKOBA: (Interpretation) Yes, my name is Maître Shebele Makoba Michel.

3 I am appointed counsel for Witness P-0201.

4 PRESIDING JUDGE SCHMITT: Thank you very much.

5 We turn now to the summons of Witness P-201. Is the witness in the room? I think we

6 could also shorten this and first talk about the Rule 74 assurances with counsel and then bring

7 the witness in and put all this together. This is also possible I think. I don't see a

8 procedural need to differentiate between the summons and if the witness starts. So we'll do

9 it this way.

10 So we keep the witness for the moment not in the room at the video location and

11 discuss the Rule 74 assurances.

12 Counsel for the witness, we have noted that you requested Rule 74 assurances. Is

13 that true?

14 MR SHEBELE MAKOBA: (Interpretation) Yes, Mr President, this is indeed a request that

15 we made in order to guarantee the witness's nonself-incrimination with regard to the

16 statement that he should be making at a later stage.

17 PRESIDING JUDGE SCHMITT: Thank you, Counsel.

18 Prosecution, do you have any views on the Rule 74 assurances requested?

19 MR VANDERPUYE: Mr President, we think that Rule 74 assurances are appropriate in the

20 circumstances, and we should proceed also in the manner we have been proceeding.

21 PRESIDING JUDGE SCHMITT: Any comments by the Defence?

22 Not the case.

23 (Trial Chamber confers)

24 PRESIDING JUDGE SCHMITT: The Chamber will now render its decision on the requested

25 assurances:

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1 Mindful of the factors specified in Rule 74(5) of the Rules, the Chamber has decided to
2 provide assurances pursuant to Rule 74 of the Rules of procedure and evidence in order to
3 enable the witness to testify truthfully without fear of the consequences of self-incrimination.
4 These assurances are granted with respect to Witness 201 under the conditions specified in
5 Rule 74(3)(c) and 74(7).

6 This means that the witness can still be prosecuted under Articles 70 and 71 for his
7 future conduct such as testifying falsely before this Chamber in this case. However,
8 the witness's testimony as to his past conduct cannot be used against him in
9 subsequent court prosecution.

10 This concludes the ruling of the Chamber.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Now we can bring in the witness. Court officer, could you please bring the witness
21 back to the video link location.

22 (The witness enters the video-link room)

23 PRESIDING JUDGE SCHMITT: Good morning, Mr Witness.

24 WITNESS: CAR-OTP-P-0201

25 (The witness speaks French)

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1 (The witness gives evidence via video link)

2 THE WITNESS: (Interpretation) Good morning, Madam Prosecutor.

3 PRESIDING JUDGE SCHMITT: Mr Witness, you are appearing before this Chamber of the

4 International Criminal Court according to a summons that was served on you on

5 23 October 2015. You are going today to testify before the International Criminal Court. On

6 behalf of the Chamber I would like to welcome you to the courtroom.

7 This Chamber has been established to try the case of the Prosecutor against Mr Jean-Pierre

8 Bemba Gombo and others. You are called to testify to assist us in our search for the truth.

9 Mr Witness, there should be a card in front of you with a solemn undertaking.

10 Could you please read this card and make the solemn undertaking.

11 THE WITNESS: (Interpretation) Solemn undertaking. I solemnly declare that I shall

12 speak the truth, the whole truth and nothing but the truth.

13 PRESIDING JUDGE SCHMITT: Thank you very much. Mr Witness, you are now under

14 oath. You have already been informed about the importance to speak the truth.

15 Nevertheless, I want to reiterate to you that as you have just promised, you have to speak the

16 truth. It is an offence within the jurisdiction of this Court to give false testimony.

17 Now we know that you have already provided testimony before this Court in another case.

18 This Chamber wants you to testify truthfully without any fear of consequences of

19 self-incrimination. This is why this Chamber has granted you assurances. Nothing that

20 you say during your testimony before this Chamber can be used against you in proceedings

21 before this Court. This includes anything that you tell this Chamber with regard to your

22 testimony before the other Chamber.

23 As long as you tell the truth and follow the directions of this Chamber, you can be

24 assured that nothing you say will be used against you by this Court. However,

25 should you not tell the truth to this Chamber, this means that there can be future

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1 prosecutions against you for falsely testifying before this Chamber. Do you
2 understand this?

3 THE WITNESS: (Interpretation) Yes, I have understood, Madam
4 Prosecutor -- Madam President.

5 PRESIDING JUDGE SCHMITT: Thank you. We can't guarantee you that there will be no
6 prosecutions against you in domestic jurisdictions for what you say here, the Chamber does
7 not have the power to do this, but what we will do in order to protect you is that nothing
8 incriminating you say will be disclosed to a State or anyone outside of this courtroom.
9 Your testimony will not be broadcast outside of the courtroom, and only the people in
10 the courtroom can hear it. The lawyers and everybody else in the courtroom are not
11 allowed to disclose your identity or anything self-incriminating you say to anyone.
12 Proceedings may be brought against anyone who does not obey this order. Let me
13 now explain to you how the protective measures work that the Chamber has put in
14 place for your testimony. Other than sitting in closed session, we will also employ
15 the use of a pseudonym. In accordance with that, we will all refer to you only as "Mr
16 Witness."

17 Before your testimony commences, I want to address a few practical matters that you
18 should have in mind when giving your testimony. Everything we say here in the
19 courtroom is written down and interpreted into English and French. It is therefore
20 important to speak clearly and to speak at a moderate or rather slow pace as I'm
21 trying to do it at the moment.

22 We want to make sure that your words can be well understood by the interpreters
23 and then of course by the rest of us.

24 Please speak into the microphone and only start speaking when the person asking
25 you the question has finished.

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1 To allow for the interpretation, everyone has to wait a few seconds before starting to
2 speak. So I recommend to you when the lawyer has asked you his or her question,
3 please count in your head to 3 and only then give your answer.

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

6 Mr Witness, have you understood all that?

7 THE WITNESS: (Interpretation) Yes, I have understood, Mr President.

8 PRESIDING JUDGE SCHMITT: Thank you. We will then start your testimony.

9 Just a short remark by myself. These are of course a lot of informations for every witness
10 that he has to digest, to put it this way. Because of that I think you have to ask them.
11 Then the Prosecution has the floor.

12 MR VANDERPUYE: Thank you, Mr President. Would you like me to remain standing or
13 to sit at your --

14 PRESIDING JUDGE SCHMITT: No. I think when we have witnesses via video link, it is
15 more comfortable also for you, for every interrogating person to remain seated if you wish to
16 do so.

17 MR VANDERPUYE: Thank you, Mr President. I appreciate that.

18 QUESTIONED BY MR VANDERPUYE:

19 Q. Good morning, Witness. Can you hear me okay?

20 A. Yes, I'm listening to you.

21 Q. I just want to remind you to try to keep your voice up.

22 A. (Speaks English) Okay.

23 Q. And speak clearly so that what you say can be translated to all of the parties here, all
24 right? Can you hear me okay?

25 A. (Interpretation) Yes, I can hear you.

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1 Q. If there is anything that I ask you that is not clear, please let me know and I will try to
2 rephrase my question or ask it in a way that we can better understand one another. Do you
3 understand?

4 A. Yes, I do understand what you're saying.

5 Q. All right. Then we'll get started. Can you for the record state your full name and
6 spell your last name, please.

7 A. My name is (Redacted).

8 Q. Can you spell your last name please for the record.

9 A. (Redacted), and then there is a space, (Redacted).

10 Q. Thank you, sir. Can you tell the Chamber what your date of birth is, please.

11 A. I was born on (Redacted).

12 Q. Where were you born?

13 A. I was born in (Redacted). I shall spell it, (Redacted)

14 Q. What is your present occupation?

15 A. I am a (Redacted)

16 Q. What is (Redacted)?

17 A. (Redacted)

18 Q. In (Redacted) or what (Redacted)?

19 A. I am in the (Redacted)

20 Q. How long have you been (Redacted)?

21 A. Since (Redacted).

22 Q. And what (Redacted) currently?

23 A. I am (Redacted) --

24 THE INTERPRETER: Indiscernible.

25 THE WITNESS: (Interpretation) -- (Redacted).

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1 MR VANDERPUYE:

2 Q. Can you please repeat your answer?

3 A. I am (Redacted). This is a place where
4 (Redacted).

5 Q. How long have you held (Redacted), sir?

6 A. Since April (Redacted).

7 Q. And prior to that assignment, what (Redacted) did you hold in the (Redacted)?

8 A. I was still (Redacted), and on that occasion I was in the (Redacted)
9 (Redacted)

10 Q. Do you remember testifying in the case of Prosecutor versus Jean-Pierre Bemba Gombo?

11 A. Yes, I do remember.

12 Q. And were you called in that case as a Defence witness or a Prosecution witness or by the
13 Chamber?

14 A. I was a witness for the Prosecution to shed light on certain grey areas with regard to
15 (Redacted) in Bangui.

16 Q. Your answer is interpreted here as you were a witness for the Prosecution to shed light
17 on certain areas with regard to (Redacted) in Bangui. Is it correct that you were a witness
18 for the Prosecution in the case of Prosecutor versus Jean-Pierre Bemba Gombo?

19 A. I had been called to testify by the Office of the Prosecutor and also by the Defence, and
20 that is why I came to testify for the Prosecution and also for the Defence.

21 Q. Do you remember when you testified in that case, sir?

22 A. I have written the date down that Mr President just provided us with. I followed what
23 he had to say at the outset. It was 20 October 2015.

24 Q. All right. What I'm asking you is when it was that you testified in the case of
25 Prosecutor versus Jean-Pierre Bemba Gombo. Do you remember that date or not?

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1 A. I remember the month. It was in the month of October 2013.

2 Q. That's right. And I think the Chamber has, will take notice that you testified on 30
3 October and finished on 1 November. Does that sound about right, sir?

4 A. Unless my memory fails me, as for the date, I do believe that is correct, October 2013.

5 Q. Before you testified in that case, was your most recent contact with the Defence or with
6 the Prosecution to your recollection?

7 A. Could you please repeat, Mr Prosecutor? I did not quite grasp the question.

8 Q. Before your testimony in October of 2013, was your most recent contact with a party to
9 that case with the Defence of Mr Bemba or with the Prosecution to your recollection?

10 A. Yes, well, since 2009, at the time when the Prosecutor was Mr Moreno, I was contacted
11 and initially I refused to come. In 2010, 2011, 2012, people were still contacting me, and I
12 said that I did not want to come and testify with regard to this issue until people started to
13 call me and both the Office of the Prosecutor and the Defence started to call me requesting
14 that I come and testify in this case with regard to the investigations conducted in Bangui.
15 Then this was just before I arrived here. That was the last contact that I have had
16 was just before I arrived here.

17 Q. I'll try again. Before you testified in October of 2013, with whom was your most recent
18 contact, with the Prosecution or with the Defence team or members of the Defence of
19 Mr Bemba?

20 A. The last contact was when we were in contact with the representative of the Office of the
21 Prosecutor here in (Redacted). That was when we were in contact with them until
22 (Redacted). That was the last contact
23 that was established.

24 Q. Did you have any contact with the Defence team or members of the Defence of
25 Mr Bemba before you testified in October 2013?

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1 A. Yes, I had had contact with the Defence. They called me with a view to bringing me to
2 testify, as had the Office of the Prosecutor, they had called me to come to testify.

3 Q. Who called you from the Defence to come and testify?

4 A. The individual calling me was Maître Kilolo.

5 Q. When did he first call you about the prospect of testifying in the Bemba case?

6 A. If I have followed you correctly, Mr Prosecutor, you are asking me when I met him for
7 the first time.

8 Q. No. You're not following me correctly. My question was when did he first call you
9 about the prospect of testifying in the Bemba case?

10 A. I was in (Redacted). That was just after the death of lead counsel for Mr Bemba.
11 That's when he called me to ask me to come and testify. I was in (Redacted) at the time
12 in (Redacted).

13 Q. When to your recollection was the last time you were in contact with Mr Kilolo before
14 you testified in October 2013?

15 A. That was in (Redacted).

16 Q. When was that?

17 A. I do not know the precise date, but it was the day before I made the journey to come
18 here.

19 Q. Your answer is interpreted here that it was the day before you made the journey to come
20 here. So my question is what do you mean by "here"? Where?

21 A. To go to (Redacted) to come here to (Redacted) to the Office of the Prosecutor, to come
22 here to testify.

23 Q. Was that in October 2013?

24 A. Yes.

25 Q. Was that the last time you saw Mr Kilolo before you testified?

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1 A. Can you please repeat your question, Mr Prosecutor? I did not understand your
2 question.

3 Q. Was that the last time you saw Mr Kilolo before you testified? You said it was in
4 (Redacted)

5 A. Well, actually, I hadn't actually seen him. It was since then when he was with lead
6 counsel in 2009 here in (Redacted). It was right at the beginning when he had asked me to
7 come and testify. That is when I saw him for the first time.

8 Q. So correct me if I'm wrong, is it your testimony so far that the last time you were in
9 contact with Mr Kilolo was in October 2013 at some point when you were in (Redacted)

10 A. No. No. I was talking about a telephone conversation when I was being called to
11 testify even though I did not want to come and testify, be it for the Prosecution or counsel
12 who were asking me to testify. I was very uncomfortable in the circumstances. I was
13 uncomfortable coming to testify on what I knew about the case.

14 Q. All right. Let me try it again. When was the last time that you were in telephone
15 contact with Mr Kilolo before you testified in the Bemba case in October 2013?

16 A. I do not have the exact date because now I am working, and when you're in the armed
17 services you can be called upon, and it's difficult to know exactly what the date was or the
18 hour, but I can say it was before I came to (Redacted)

19 Q. Okay. That's close enough. I'm going to come back to that, but before I do, let me ask
20 you a few questions. I'd like to know what your contacts with the Defence teams in this case
21 has been up until this point. This case involves the Defence teams of Mr Bemba, Mr Kilolo,
22 Mr Mangenda, Mr Babala and Mr Arido. Can you tell the Chamber when it was that you
23 were last in contact with any member of any of those Defence teams in relation to this case?

24 A. As they are here, aside from Maître Kilolo, whom I met in 2009, along with Maître
25 Nkwebe, as for the others, I do not know them.

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1 Q. Have you been in telephone contact or other contact with anyone from any one of those
2 Defence teams prior to today?

3 A. Today? You are asking today? I'm sorry, could you please repeat your question.

4 Q. Until now have you been in contact with any member of any one of those five Defence
5 teams in this case?

6 A. No, none of them.

7 Q. No one has called you?

8 A. No one has called me, Mr Prosecutor.

9 Q. Thank you. Let me ask you then about the circumstances of how it is you came to be a
10 witness in the case of Prosecutor versus Jean-Pierre Bemba Gombo. You mentioned that you
11 met Mr Kilolo in 2009 together with another counsel by the name of Mr Nkwebe; is that
12 correct?

13 A. Yes.

14 Q. From that date, were you in contact with the Defence of Mr Bemba up until you testified
15 in October 2013?

16 A. In physical contact, no. As I just said, I had received phone calls to come to testify,
17 phone calls not only from the Defence, but also from the Office of the Prosecutor, and I was
18 very uncomfortable to such an extent that in 2009 I refused and in 2010, 2011 and 2012 I
19 continued to refuse it.

20 And then in 2013 I said as a member of (Redacted) I cannot testify in this case.

21 However, this was unless I got a (Redacted).

22 So when I was in (Redacted), I saw a message coming from (Redacted)

23 (Redacted) asking me upon receipt of the message to come to (Redacted) for a

24 communication, and the representative of the Office of the Prosecutor in (Redacted) had

25 already started to call me and then I went to (Redacted).

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1 Q. How many calls from the Defence would you say that you received in 2013 before you
2 testified in the case of Prosecutor versus Jean-Pierre Bemba Gombo, if you can estimate?

3 THE INTERPRETER: That was unintelligible, unintelligible, unintelligible.

4 MR VANDERPUYE:

5 Q. Sir, I'm going to have to ask you to repeat your answer because there appears to be a
6 transmission problem. So if you could just restate it, that would be helpful.

7 THE INTERPRETER: Unintelligible, it's breaking up. Apologies, this is unintelligible.

8 MR VANDERPUYE:

9 Q. I'm sorry, Mr Witness, I have to interrupt you again. I'm sorry. I have to interrupt
10 you again. We have a transmission problem. If you can just bear with us a moment,
11 hopefully we'll get that fixed soon.

12 PRESIDING JUDGE SCHMITT: So for everybody in the courtroom a short span of patience
13 and we hope that it will be fixed afterwards.

14 (Pause in proceedings)

15 PRESIDING JUDGE SCHMITT:

16 I think we can give it another try, Mr Vanderpuye.

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

18 Q. Witness, can you hear us okay?

19 A. Yes, Mr Prosecutor, I can hear you.

20 THE INTERPRETER: Interpreter's note: It's still breaking up.

21 MR VANDERPUYE:

22 Q. All right. We may still have the problem. Let me try my question again. And it was:
23 How many calls from the Defence would you say that you received in 2013 before you
24 testified?

25 MR VANDERPUYE: Now I can hear that there is still a problem, Mr President.

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1 PRESIDING JUDGE SCHMITT: I think it does not make sense at the moment. We'll have
2 to fix this first, and of course not only for a couple of seconds but for a longer period so that
3 we can continue.

4 (Pause in proceedings)

5 PRESIDING JUDGE SCHMITT: So I think we will need more time to fix this. So we make
6 now the coffee break until quarter past 11.

7 THE COURT USHER: All rise.

8 (Recess taken at 10.44 a.m.)

9 *(Upon resuming in closed session at 11.18 a.m.) Reclassified as Open session

10 THE COURT USHER: All rise.

11 PRESIDING JUDGE SCHMITT: I have been informed that during a test, everything
12 functioned, and that is always with tests, and now we will see if reality makes the test too and
13 we try this by continuing with the examination of Mr Vanderpuye.

14 MR VANDERPUYE: Thank you again, Mr President.

15 Q. Witness, can you hear me?

16 A. Yes, I can hear you.

17 Q. All right. Then I'll ask my question again, and it was: How many calls from the
18 Defence would you say that you received in 2013 before you testified in the case of Prosecutor
19 versus Jean-Pierre Bemba Gombo? If you can estimate that, we would appreciate it.

20 A. Could you please repeat your question, Mr Prosecutor, could you please repeat?

21 Q. Yes, I can. My question was how many calls from the Defence, just to be clear, the
22 Defence of Mr Bemba would you say that you received in 2013 before you testified in the case
23 of Prosecutor versus Jean-Pierre Bemba Gombo? If you can estimate that, we would
24 appreciate it.

25 A. I received a number of phone calls. I do not know precisely how many. The Defence

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1 would call me, as would the Office of the Prosecutor, and the victims unit also would call me.
2 So it's difficult to ascertain precisely how many calls I received. I received a number of calls
3 from all these sources.

4 Q. What was your telephone number or telephone numbers in 2013 through which or on
5 which you received these phone calls or made them prior to your testimony in October 2013?

6 A. (Redacted).

7 Q. Did you use any other numbers in 2013 on which you were contacted or on which you
8 contacted the Defence of Mr Bemba?

9 A. Yes, there was another number. It was (Redacted).

10 Q. Did you use any other numbers in order to contact the Defence of Mr Bemba or through
11 which you were contacted by the Defence of Mr Bemba in 2013?

12 A. Well, whatever the case, these are my two numbers that I am using to date. Maybe
13 other networks did not work well and maybe I don't use those anymore and I do not have
14 those numbers in my mind any more.

15 Q. You don't remember those other numbers, is that what you are saying?

16 A. Well, we have many networks. If, for example, (Redacted) does not work well, that is
17 to say if the network is not working well, then we can buy a CCT SIM and see whether that
18 works. And there might be, you know, a problem on the network. And that would be the
19 reason for the change.

20 Q. Let me ask you this and see if it rings a bell then: Have you ever used the number
21 (Redacted)

22 A. That is my former number.

23 Q. Have you ever used the number (Redacted)

24 A. I do not recall that.

25 Q. During the period of your testimony, that is between October 30, 2013 and 1

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1 November 2013, were you in contact with Mr Kilolo while you were in the midst of giving
2 evidence in the case of Prosecutor versus Jean-Pierre Bemba Gombo?

3 A. Could you please repeat the question, Madam Prosecutor?

4 Q. I'll repeat the question. During the period of your testimony in the case of Prosecutor
5 versus Jean-Pierre Bemba Gombo, were you in telephone contact with Mr Kilolo?

6 A. Mr Prosecutor, well, I'm going to ask my counsel.

7 Counsel? Yes.

8 Mr Prosecutor, I do not know whether you can hear me. You put the question to me
9 attempting to ascertain whether between 13 October and 1 November 2013 I had telephone
10 contact with Mr Kilolo.

11 Q. That's correct. That is my question. If you'd like to consult with your counsel, I
12 would invite you to do that with the leave of the Chamber.

13 PRESIDING JUDGE SCHMITT: Of course. That is the reason why counsel is present at the
14 video link site.

15 (Pause in proceedings)

16 THE WITNESS: (Interpretation) Mr Prosecutor, I can say and answer in the affirmative
17 that he called me when I came out of here. He came when -- upon returning to the hotel.

18 MR VANDERPUYE:

19 Q. Can you tell the Chamber what day that was on? Was it on the first day of your
20 testimony, second day of your testimony, that sort of thing, or before your testimony?

21 A. Well, whenever I testified, I would go home tired. So it's difficult to say what day it
22 was. I do know that he called me because I was using the number ending (Redacted).

23 Q. How many times did Mr Kilolo call you during the period of -- during the period in
24 which you were testifying, that is between 30 October 2013 and 1 November 2013?

25 A. I do know that he called me, but as to the number, I do not know. I was too busy

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1 testifying, and I would go home a little bit tired and I would go to sleep.

2 Q. Can you tell the Chamber if it was more than once?

3 A. Well, that's difficult. I know he called me, but as to the number of times, I do not have
4 any idea.

5 Q. You can't tell the Chamber if it was more than one time that he called you during your
6 testimony? Is that what you are saying today?

7 A. Mr Prosecutor, I do acknowledge the fact that he called me, but as to the number of
8 times I am having difficulty saying because often by virtue of my capacity as (Redacted) I
9 was called after working hours. So I can't tell you whether he called me two or three times.
10 I do know that he called me. Maybe once, I don't know. But I do acknowledge that he did
11 call me.

12 Q. On the occasion that he called you during the course of your testimony in the case of
13 Prosecutor versus Jean-Pierre Bemba Gombo, what, if anything, did you discuss with him?

14 A. Well, he said that what I had testified to was in keeping. He, he said that he was very
15 thankful for my testimony, and he was very happy.

16 Q. Did you talk about anything specific concerning your testimony such as the events that
17 you testified about, the dates of troop movements, the location of troop movements, the centre
18 for operations, that sort of thing? Did you discuss any of those kinds of things with
19 Mr Kilolo when you spoke to him during the course of your testimony in the case of
20 Prosecutor versus Jean-Pierre Bemba Gombo?

21 A. Mr Prosecutor, you're talking about issues associated with troops? I believe that he
22 called me to say that I had done the right thing testifying because I was the person who had
23 been in Bangui during the investigations. He was happy because he had answered the
24 Prosecutor's request and also the request of the Defence counsel for me to come and testify.
25 That's what I retain.

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1 Q. Does the name Eric Lengbé mean anything to you, sir?

2 A. Mr Prosecutor, I didn't quite hear what you said.

3 Q. I'll say it again. Does the name Eric Lengbé mean anything to you?

4 A. No, I do not know that name.

5 Q. Do you remember giving that name during the course of your testimony in the case
6 against Mr Bemba?

7 A. Maybe I didn't understand the name. Could you please spell it to me?

8 Q. Eric, E-R-I-C, Lengbé, L-E-N-G-B-E.

9 A. Eric Lengbé is a colonel, he is a Central African soldier who was in charge of operations
10 in Bangui. And he was also in charge of CCO in Bangui and supervised the commission, the
11 investigation commission that (Redacted) worked with in the company of his soldiers.

12 Q. Do you recall giving that testimony or giving -- saying that during the course of your
13 testimony in the case against Mr Bemba?

14 A. Yes. I said that the commission comprised a number of military commanders who
15 supervised operations. (Redacted)

16 Q. Does the name Thierry Lengbé mean anything to you?

17 A. Lengbé was the colonel --

18 THE INTERPRETER: Indiscernible.

19 THE WITNESS: (Interpretation) This was his first name. Lengbé was the colonel and the
20 person in charge of the CCO in Bangui. I know him physically because during the
21 investigations, he really was the person who was coordinating the activities.

22 Well, as to the first name, I'm not too sure, but I do know that his name is Lengbé and
23 he is a colonel. I do not know whether he holds that rank to date.

24 Q. Just so I'm clear, I asked you about the name Thierry Lengbé. First I asked you about
25 Eric Lengbé. Now I'm asking you about Thierry Lengbé. Which one of these two was the

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1 colonel to your recollection?

2 A. Thierry Lengbé. Well, I might know the first name. But Lengbé, Lengbé is the name
3 of the colonel in the FACA in Bangui.

4 Q. All right. I would like to show you your testimony, if I could, just a small section of it.
5 It should be transcript number 347. In the French it should be page 43 -- I'm sorry, for the
6 Judges' benefit the French transcript is behind tab number 6. The English transcript is
7 behind tab number 3.

8 For the French, the transcript page will be 43, and we'll need to show lines 5 through 21.

9 And for the English it's at page 40. Just a moment and I'll give you the line. It's line 16
10 through 25 and then it goes over in the English to page 41, page 41, line 2.

11 Just bear with us for a moment, Witness, and we'll have that up on the screen for you to see.

12 Transcript number should be 347, and in the French it's at page 43. We'll need to look at
13 lines 5 through 21 pretty much.

14 THE INTERPRETER: Message from the English booth: The interpreter does not have a
15 binder but will be providing an interpretation from the screen. Thank you.

16 MR VANDERPUYE: All right. We can probably stop right here. We'll go to line 20 to
17 save a little bit of time. Page 43, please. Yeah, that's fine.

18 Q. Witness, do you have this in the screen in front of you? Can you see the transcript
19 reference here?

20 A. Yes, Mr Prosecutor, I can see it.

21 Q. This is taken from your testimony on 30 October 2013. And I want to just direct your
22 attention to line 20. And in that line you can see a reference to the coordonnateur de CCO,
23 (Interpretation) "the CCO coordinator who was Colonel Eric Lengbé."

24 A. Yes, Mr Prosecutor, I can see.

25 Q. Let me then move on to page 49 of this same transcript. Just very briefly let me refer

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1 you to line 6. Do you see that, Witness?

2 A. Yes, I do see it.

3 Q. At line 5 it reads (Interpretation) "And that was also -- that was General André Mazi,
4 General Bombayaké was also present there, as well as the coordinator of the CCO, Colonel
5 Eric Lengbé. He was also present."

6 Do you recall giving that evidence, sir, on 30 October 2013?

7 A. Mr Prosecutor, I can see, but I am going to ask advice from my counsel.

8 Q. Take your time, please, sir.

9 (Pause in proceedings)

10 PRESIDING JUDGE SCHMITT: I think we can continue, Mr Vanderpuye. I see it I think
11 from the mimic everything on the witness cam.

12 MR VANDERPUYE: Thank you, Mr President. I'll give it a try.

13 Q. Are you ready to proceed, Mr Witness, or do you need to consult with your lawyer
14 some more?

15 A. We can carry on.

16 Q. Did you have a conversation with Mr Kilolo during the course of your testimony
17 concerning Colonel Lengbé?

18 A. (Redacted)

19 (Redacted)

20 (Redacted) This is my statement, but I have been mistaken in

21 terms of his first name. But I do know that Lengbé is the colonel, whom I know well, and he
22 was responsible for operations and he was also responsible for the commission that was
23 reporting to the hierarchy.

24 Q. Thank you for that answer, but my question was did you have a conversation with
25 Mr Kilolo during the course of your testimony concerning Colonel Lengbé, whether that be

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1 Eric or Thierry?

2 A. I had said that I was in Bangui in connection with the investigations. I was physically
3 present there. I experienced that situation. (Redacted). Maître Kilolo is a lawyer.
4 He can -- he could have called me and mentioned that name. So it's nothing more than what
5 had been said on the day when I was with him and Maître Nkwebe.

6 At the end I had said that I was not in agreement to go to the ICC to testify. He's a lawyer.

7 He can talk, but I know what I wanted to do. (Redacted)

8 (Redacted)

9 (Redacted). So if you

10 hear anything about me in respect of that, I can say I know what it was all about. (Redacted)

11 (Redacted). So if he talks to me about that, he's a lawyer,

12 he wants to talk. (Redacted).

13 So it could not have been influence over me, Mr Prosecutor?

14 Q. Again I appreciate your answer, but my question is quite straightforward. Did you
15 have a conversation with Mr Kilolo during the course of your testimony concerning Colonel
16 Lengbé, whether that be Eric or Thierry? Do you remember at least?

17 A. Yes.

18 Q. All right. I want to play you a recording. It is an intercepted communication. It is
19 dated 30 October 2013. And I want you to listen very carefully to it.

20 It will be excerpt 2 for the benefit of the interpreters in the booth. It is timed at 21.12.56 on 30
21 October. And I'd like you to take a listen, and then I'll ask you some questions about it
22 afterwards. Is that all right?

23 A. Yes, I'm waiting.

24 MR VANDERPUYE: For the Chamber's benefit the transcript is at tab 42. But in any event
25 I believe the interpreters will read out the transcripts that they've been provided. All right.

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1 I think we're ready to go.

2 (Playing of the audio excerpt)

3 THE INTERPRETER: (Interpretation)

4 "That's good.

5 So there we are, so now that's good. Nothing. They'll ask you first. But you say

6 that because you see instead of saying Thierry Lengbé, but perhaps you don't even

7 know him. If you really know him tell us what he looks like physically. Are you

8 able to describe him physically or not? If you aren't able, say so and I'll tell you.

9 Right. Thierry Lengbé of CCOP he was thin, slender with a Tutsi profile. You see,
10 something like that.

11 Witness: Mm-hmm.

12 Kilolo: Right. He was on the thin side, slender you might say like Jean-Louis, you know,
13 you know who I'm talking about, John-Louis Bokolombe.

14 Witness: On the thin side.

15 Kilolo: That's right, on the thin side, slender, that sort of thing. Very thin, thin,

16 slender. But normally you shouldn't have to remember. Don't you know any

17 longer?

18 Witness: I know now. When you said that I could see straight away because I've
19 seen him, I've already seen him.

20 Kilolo: Right now for Bombayaké, can you describe Bombayaké or not?

21 Witness: He's a gentleman with dark skin, physically fat. Kilolo: Careful, don't

22 confuse him with Andre Mazi because Andre Mazi is tall physically. That's Andre

23 Mazi, fattish and short. Bombayaké isn't fat, but he's not thin either. As for height,

24 he's not very tall. Let's say he's of average height.

25 I'd say he was like someone anyway average right.

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1 Hum" says the witness.

2 "Kilolo: Hum, average height, not fat, not tall. That's, that's Bombayaké.

3 So for Bombayaké, let's just say he's of average height. Not really thin, but not fat
4 either, average in build and height."

5 MR VANDERPUYE:

6 Q. Did you hear that, Witness?

7 A. I followed your question.

8 Q. Did you hear the sound recording?

9 A. I heard the sound recording.

10 Q. Who is speaking in the sound recording?

11 A. Here it's Maître Kilolo.

12 Q. Who is he talking to?

13 A. As you've just asked me, he is speaking to me. I heard my own voice.

14 Q. Does this refresh your recollection as to the conversation that you had with Mr Kilolo
15 following your testimony on 30 October concerning Eric Lengbé?

16 A. Yes, I do recall this.

17 Q. Can you explain to the Chamber why Mr Kilolo was giving you descriptions of him and
18 other individuals?

19 A. Thank you. I can say that if I had agreed to appear before the Court to shed light on
20 certain unclear questions, and this is really the substance of the matter, it was for me to say
21 what had happened when I was present. He is a lawyer. He can call me and say what he
22 wants. Do you think that I followed? Do you know him? When he said Thierry Lengbé,
23 do you know him? And I said "No, I don't remember."

24 For me, (Redacted). We've had meetings.

25 Mr Kilolo is a lawyer. He can call me just to remind me and say this is what you said. But I

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1 didn't take this into account because as far as I was concerned, it was just to shed some light
2 on the situation (Redacted).

3 He is a lawyer. He calls me. He's talking to me. But that only commits his responsibility
4 because I had some (Redacted) in terms of what was going (Redacted) and (Redacted)
5 (Redacted). And I think that really this only commits him.

6 He called me and I was tired at the time. And if he called me, I couldn't turn down his call.
7 So I listened to him and that's it. He's a lawyer. He could talk. He could try to remind me.
8 And it's a long time ago. It goes back to 2002. Today we are in 2015, almost 13 years ago.
9 One can forget things. But the essential thing is the main things are things that we don't
10 forget. He is the lawyer, he could call me and talk, and I told him what had happened back
11 then.

12 Q. All right. I think I understand your answer. I want to play you another intercepted
13 communication. It was intercepted on the same telephone number as the one that we just
14 heard.

15 For the Chamber's benefit that telephone number is (Redacted). It is referenced at
16 CAR-OTP-0080-0286, which is -- I'm sorry, that's at page 1290. I'm sorry, 1286 at page 1290.
17 And that is the telephone network data provided by the authorities of The Netherlands.
18 Yes, the intercept I want to play now is at excerpt number 9, CAR-OTP-0080-1366. You'll
19 find that for the Chamber's benefit behind tab 44 of your binders.

20 This conversation, Mr Witness, is dated 31 October 2013. The time of it is 06.46.22. I'd like
21 you to have a listen of it and then I'll ask you some questions, okay?

22 MR VANDERPUYE: Are we ready to proceed in the interpretation booth? We are. Okay.
23 We can go ahead then. Thank you.

24 (Playing of the audio excerpt)

25 THE INTERPRETER: (Interpretation)

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1 "That's how it is. There is another thing I forgot yesterday --

2 Witness: Okay. Hum.

3 Kilolo: -- when they come back to you regarding the investigation they're going to
4 ask you this. So you're going to say that no crime was committed. And you'll say
5 no, there were a lot of crimes. And we noticed that, but it was Bozizé's men,
6 especially the Chadians who committed crimes of all sorts.

7 Witness: Now, which sector are we in to get my bearings?

8 Kilolo: It was pretty much everywhere, everywhere inside Bangui and as far as PK,
9 PK12, it was awful.

10 Witness: Ah.

11 Kilolo: You'll say that it was the Chadians, the Chadians raped the women even
12 outdoors. They just barge into a family. They rape the mother in front of the
13 children, in front of the father. They also rape the little children in front of their
14 parents. They come into someone's house to steal something. If the person tries to
15 resist and opposes them, they shoot at them and the person dies. You'll say that it
16 was the Chadians.

17 Witness: Oh.

18 Kilolo: We'll call them the Zakawas. If you don't remember that name, it doesn't
19 matter, but it was the Chadians.

20 Witness: The Chadians?

21 Hum.

22 Okay. Now regarding my statement as we investigated, it's not always about this
23 sort of crimes.

24 Kilolo: No, no, you'll say that you did not find these crimes that the MLC people are
25 being accused of and you didn't see them being committed either. The civilian

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1 population told you we're happy since we've been liberated by the MLC and the
2 FACA loyalists.

3 Hum" says the witness.

4 "Kilolo: But no complaints were received, neither rape nor concerning the MLC."

5 MR VANDERPUYE:

6 Q. Witness, have you heard the sound recording?

7 A. I have not very well followed the excerpt. Maybe at the very end. But at the
8 beginning of the excerpt I didn't quite understand.

9 Q. Did you recognize the voices that you heard?

10 A. I didn't really follow very well, so I did not recognize everything. It's very far.

11 Q. All right. Do you want to hear it again?

12 A. Yes, I would very much like to hear it again.

13 Q. All right. We'll give it another try. I'm not sure what we can do to boost the sound
14 because it is quite low at the beginning I noticed myself. But we'll try and -- we'll try and
15 make it a little bit louder for you so you can hear it better. Is that okay?

16 A. Yes, I agree with this.

17 Q. All right. We'll give it a try then. Just to let you know, Witness, the sound is a little
18 low, so I'm going to need you to pay extra attention to it if it's not much louder, okay?

19 (Playing of the audio excerpt)

20 THE INTERPRETER: (Interpretation)

21 "That's how it is. There's another thing that I forgot yesterday.

22 Witness: Okay.

23 Kilolo: When they come back to you regarding the investigations, they'll ask you

24 this. So you want to say that no crime was committed and you'll say, 'No, there were

25 a lot of crimes and we saw that, but it was Bozizé's men, especially the Chadians, who

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1 committed crimes of all sorts.'

2 Witness: Now, which sector are we in to get my bearings?

3 Kilolo: It was pretty much everywhere, everywhere, inside Bangui, all the way to
4 PK, especially in PK12, it was awful.

5 Witness: Ah.

6 Kilolo: You'll say the Chadians, the Chadians raped the women even out of doors.
7 They just barge into a family. They rape the mother in front of the children, in front
8 of the father. They also rape the little children in front of their parents. They come
9 into someone's house to steal something. If the person tries to resist and opposes
10 them, they shoot the person and the person dies. You'll say it was the Chadians.

11 Witness: Oh.

12 Kilolo: They're called the Zakawas. If you don't remember the name it doesn't
13 matter, but it was the Chadians who were with Bozizé.

14 Witness: The Chadians.

15 Kilolo: Hum.

16 Witness: Okay. Now, regarding my statement, as we investigated it's not always about this
17 sort of crime.

18 Kilolo: Hum.

19 Witness: And regarding what you're saying, what do you -- what's your opinion of
20 this?

21 Kilolo: No. You'll say that you now find these crimes that the MLC people are being
22 accused of and you did not see them being committed, but the civilian population told said,
23 we are happy since we've been liberated by the MLC and the FACA loyalists.

24 Whit: Hum.

25 Kilolo: But no complaints were received, neither rape, nor -- concerning the MLC."

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1 MR VANDERPUYE:

2 Q. Witness, have you now heard the sound recording?

3 A. Yes. It's very hard for me to hear. Even the person speaking, I listen, I listened, but
4 it's quite hard to hear. It's quite hard to make out. So I would like to ask if I can turn to my
5 counsel for advice.

6 Q. Please do.

7 (Pause in proceedings)

8 PRESIDING JUDGE SCHMITT: Mr Witness, are you ready to continue?

9 THE WITNESS: (Interpretation) The voice is a bit lower. In this conversation I heard
10 Maître Kilolo's voice, but it's the second voice that I don't fully grasp or hear to know exactly
11 what the context is or what the exact words were that I said that day. Concerning the
12 investigations --

13 PRESIDING JUDGE SCHMITT: Perhaps we should keep in mind or bear in mind that it is
14 maybe a difference if you want to identify content or if you only want to identify speakers or
15 voices.

16 Meaning that I understand that the content is translated to the witness in French I
17 think, as I have understood it, and if there is an overlap, of course it may be difficult
18 to identify who is speaking. It's just a try. So whatever follows out of this.

19 MR VANDERPUYE: Thank you, Mr President.

20 The first thing is I would hope that it's being transmitted to the witness without
21 translation. It's not?

22 (Pause in proceedings)

23 PRESIDING JUDGE SCHMITT: I did not, I did not know that. I have been informed that it
24 is translated into French. So perhaps one could first clarify if he understands another
25 language too and then it could be played without translation. But this is then the last try that

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1 we give it.

2 MR VANDERPUYE: What I would like to do, Mr President, with your leave, is there's a
3 second part of this conversation, perhaps we can just proceed with that part rather than to go
4 back over this one.

5 PRESIDING JUDGE SCHMITT: You know me good enough until now that I appreciate that.

6 MR VANDERPUYE: All right. So what we'll do is we'll play a further part of this same
7 conversation. It's excerpt number 10 still behind tab 44 of the Chamber's binders. The ERN
8 number for everyone's benefit is 0080-1366.

9 Q. So, Mr Witness, we'll play that part of the conversation to you. Hopefully we can do it
10 without translation to the witness. So you can hear the original recording. And hopefully
11 we can also have the benefit of translation here in the courtroom.

12 I see an indication in the negative in the booth.

13 While we're waiting for that, I just want to clarify with you, Witness, whether -- and that is
14 whether you speak Lingala, speak and understand Lingala?

15 A. Yes, I understand Lingala.

16 MR VANDERPUYE: Okay. Thank you.

17 If I could just inquire if we're ready in the interpretation booth or if we should wait a little
18 while. Okay, okay.

19 THE INTERPRETER: Yes, we are ready to proceed.

20 MR VANDERPUYE: All right. I have a signal that we're ready to go. So we'll play the
21 continued part of this conversation, Mr Witness.

22 (Playing of the audio excerpt)

23 THE INTERPRETER: (Interpretation)

24 "So they can't prosecute you without evidence.

25 The last question, ah, um" --

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1 PRESIDING JUDGE SCHMITT: We don't have interpretation at the moment.

2 THE INTERPRETER: (Interpretation)

3 "So there was one of the soldiers who had been arrested with a person telling the story with
4 Bomengo. He claims that he stopped a Central African civilian who was passing through the
5 camp. He searched and arrested him. The civilian in question had money. This is -- a
6 section head came, a Congolese. He gave him (Redacted). And then if someone -- here I
7 don't understand. There is a colonel as well. I don't know if it's a rank. When you put the
8 figure 2 and the letter C and the letter L, what does that mean?

9 Witness: Second class.

10 Kilolo: Okay. Right. The second class Ndonga (phon) advised us to wait 3 hours
11 to share the money, but the Central African came back in the mean while with
12 soldiers from the Central African army who arrested the section head. So this is
13 what I'm interested in.

14 Witness: Arrest.

15 Kilolo: Yes. The arrest of the MLC section head. But who arrested him? It was
16 soldiers from the Central African army. But here I'll ask you the question and I'll say:
17 Can you explain? But in the end who had the power to arrest an ALC soldier when
18 he committed an offence? Because here it says that the section head was arrested by
19 officers from the Central African army. So you'll explain and you'll say, but of
20 course. It was them who had the power.

21 Witness: Their responsibility, isn't it?

22 Kilolo: Yes.

23 Witness: It was within their responses they were acting.

24 Kilolo: Mm-mm. So if I told you that Jean-Pierre Bemba should have known that
25 the ALC troops in Central Africa had committed abuses, killings, rapes, crimes

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1 because you personally, you were there in the commission, you noticed that crimes
2 were committed and you -- so of course Jean-Pierre Bemba should have known as
3 well. What is your response? This will be my very last question.

4 Witness: Hum.

5 Kilolo: Here you'll only repeat and you'll say 'It is true that I went there, but I
6 received no complaints. We saw no victims, be it rape, killing or pillaging. No
7 complaints. No complaints were made. We asked questions. We questioned
8 everybody, civilians, soldiers. We carried out searches. In any case nothing was
9 found.' I'll stop there and sit down.

10 Witness: Hum."

11 MR VANDERPUYE:

12 Q. Witness, did you hear that sound recording?

13 A. Yes, I heard the recording.

14 Q. Did you recognize the voices that you heard?

15 A. Yes, I did recognize the voices.

16 Q. Whose voices were they?

17 A. That was the voice of Maître Kilolo.

18 Q. Did you hear another voice in the recording besides Mr Kilolo?

19 A. Well, it must be my voice because I could hear, it was like it was my voice.

20 Q. Did you recognize the conversation or the subject matter of the conversation as well?

21 A. I recognized the subject matter.

22 Q. To your recollection, did Mr Kilolo ask you or discuss with you during the course of
23 your testimony the questions that he would be asking you when you testified in court?

24 A. Mr Prosecutor, I believe that while he was speaking in Lingala, he was saying
25 something in Lingala that the witness speaks in Lingala. To say that no complaint was made

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1 to us, that's what I heard. That was the substance. (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 There was a complaint, yes. But Maître Paul (phon) is counsel, he is a lawyer, but he does
20 not know what I can hear. I don't know what he's talking about. So there we are briefly.
21 And you will see a little further on that the perpetrators who were incriminated were arrested
22 and they were automatically transferred to Zongo and sent to Gbado. And the property was
23 retrieved by the population and then there was this investigation at PK12.
24 But as he just said, there was -- as there was a complaint by Makozo (phon). Well,
25 no. (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 So as for complaints, well --

5 Q. Thank you for that answer, Witness. My question was whether during the course of
6 conversations you may have had with Mr Kilolo during your testimony he posed to you the
7 questions that he would ask you when you were testifying. Do you recall if he did that?

8 THE INTERPRETER: Message from the English interpreter: The English interpreter
9 retrieved the last answer of the witness's last answer. He said: "It sufficiently shows that
10 there were complaints."

11 THE WITNESS: (Interpretation) Mr Prosecutor, could you please repeat your question.

12 MR VANDERPUYE:

13 Q. My question was: Do you recall, do you have a present recollection of whether
14 Mr Kilolo when he spoke to you during the time that you were testifying in October of 2013
15 put to you questions that he would be asking you in court during those conversations?

16 A. Yes, with regard to the questions, as we just heard there, well, I was the first to talk to
17 them about the issues that they raised there with the late Maître Nkwebe. I talked to him
18 about this. He knows about that. So the fact that he then calls me and starts to say this,
19 well, he's a lawyer. He's counsel. He can talk. But this is the work that was undertaken
20 out in the field, and it culminated (Redacted) upon which I relied. So he can listen and I was
21 really relying on the (Redacted).

22 Q. Now you've said here just a moment ago that there were complaints. Was that
23 accurately interpreted? Is that what you said?

24 A. Mr Prosecutor, really I didn't follow your question. Could you please repeat it?

25 Q. Yes. Just give me a moment and I'll see if I can find it in the transcript. I think you

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1 said actually a couple of times in the transcript that there were complaints. At page 49, line 6,
2 it says that you said "There was a complaint, yes."

3 And then at page 49, I think you indicate here, "But as he just said, there was -- there
4 was a complaint."

5 So my question is: Is that accurate first of all? Is that what you said?

6 A. Mr Prosecutor, may I request the assistance of my counsel with your leave for me to be
7 able to answer that question?

8 Q. Yes. Let me just add one thing before you do. At page 50, line 2, the interpreter
9 added that in respect of an answer you gave you said: "It sufficiently shows that there were
10 complaints."

11 All right? So that's what we have in the transcript here. If you would like to speak
12 to your lawyer you can do so with the Chamber's leave.

13 PRESIDING JUDGE SCHMITT: I just wanted to say that the leave has to be given by the
14 Presiding Judge and he will do that of course.

15 (Pause in proceedings)

16 PRESIDING JUDGE SCHMITT: So could we please continue.

17 THE WITNESS: (Interpretation) Yes, Mr Prosecutor.

18 MR VANDERPUYE:

19 Q. My question to you was whether or not your evidence was properly interpreted to us
20 that you said that indeed there were complaints. Is that correct?

21 A. Yes.

22 Q. Then I would like to ask you if you can explain why Mr Kilolo during this conversation
23 is saying "Here you'll only repeat and you'll say it is true" --

24 PRESIDING JUDGE SCHMITT: Wait a moment.

25 Mr Djunga.

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- 1 MR DJUNGA: (Interpretation) Yes, I thank you, Mr President. The question being put to
2 the witness is to ascertain why -- whether he can explain why Mr Kilolo was saying this to
3 him. I see --
- 4 PRESIDING JUDGE SCHMITT: Sustained.
- 5 MR DJUNGA: (Interpretation) -- that it's --
- 6 PRESIDING JUDGE SCHMITT: You have to -- you cannot --
- 7 MR DJUNGA: (Interpretation) -- very difficult --
- 8 THE INTERPRETER: The interpreter cannot finish interpreting.
- 9 PRESIDING JUDGE SCHMITT: -- question this like that, asking why Mr Kilolo said
10 something, because the witness cannot know what is in the head and in the mind of Mr Kilolo.
11 So you would have to ask another question.
- 12 MR VANDERPUYE:
- 13 Q. Well, did Mr Kilolo ever explain to you or express to you what was important or not
14 important about saying there were complaints or no complaints?
- 15 A. I didn't quite follow your question, Mr Prosecutor.
- 16 Q. Let me -- let me go around it a different way then. During this conversation Mr Kilolo
17 says to you, "Here you'll only repeat and you'll say, 'It is true that I went there, but I received
18 no complaints. We saw no victims, be it of rape, killing or pillaging. No complaints. No
19 complaints were made. We asked questions. We questioned everybody, civilians, soldiers.
20 We carried out searches. In any case nothing was found.'"
21 He says, "I'll stop there and I'll sit down."
22 So my question is you seem to be saying today that there were complaints. Is that
23 fair to say? Is that right?
- 24 A. There were complaints. There were complaints. And that is why you will note that
25 the commission really tried to retrieve a large number of -- a great deal of property from the

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1 civilians in order to store it, which means that there were complaints, yes.

2 Q. Did you testify that there were no complaints?

3 A. (Redacted)

4 (Redacted). It was not only the soldiers who were

5 fighting for Patassé. It was also the rebels. (Redacted). This

6 goes to show that there were complaints and cases of rape, quite honestly, we tried to go

7 around the subject. We looked -- I don't speak Sango. (Redacted)

8 (Redacted). But nowhere and

9 at Camp Beal and to PK12 when we arrived there, we came there after the fighting and we
10 went to conduct an investigation with the population.

11 So we didn't have a single person who said that they had come to complain about

12 rape. (Redacted). You can ask the

13 chairman of the commission who was Damango. And he --

14 PRESIDING JUDGE SCHMITT: Mr Witness, Mr Witness, I think the question is answered,

15 and I would urge the Prosecutor to move to another point now. We are going now into

16 details that we are not able to investigate in this case here.

17 MR VANDERPUYE: Thank you, Mr President. I thought I had restricted my question to

18 what you testified to in the main case.

19 PRESIDING JUDGE SCHMITT: That is not your fault of course. That was not a reproach.

20 Please don't misunderstand me.

21 MR VANDERPUYE: No, I don't. I don't. Thank you very much Mr President.

22 Q. If I could just refer you -- first of all, do you remember what you said during the course

23 of your testimony regarding (Redacted) complaints?

24 A. I was talking about the commission. (Redacted). But there had been

25 central --

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1 Q. I'm talking about your --

2 PRESIDING JUDGE SCHMITT: Mr Witness, please stop here for the moment.

3 Mr Vanderpuye, it is clear that the witness is always referring to (Redacted). And you
4 have tried two or three times to put him in another location, to put it this way, in
5 another circumstance, and he does not follow you. So at some point in time we have
6 to take it as it is and move on.

7 MR VANDERPUYE: Mr President, I'm just trying to clarify with the witness what he said.
8 Maybe I should just put it that way.

9 PRESIDING JUDGE SCHMITT: One last try but then we move to another issue.

10 MR VANDERPUYE: Thank you, Mr President.

11 Q. Do you remember what you said during your testimony in the case against Mr Bemba
12 about complaints made to the commission, that is whether (Redacted) received them or there
13 were none? Do you remember what you said?

14 A. I would request to speak to my counsel in order to shed light on the matter.

15 PRESIDING JUDGE SCHMITT: Yes, the witness is allowed to speak with his counsel, and I
16 would like counsel to indicate when he has finished the consultation.

17 (Pause in proceedings)

18 PRESIDING JUDGE SCHMITT: So again I think we can continue now.

19 Could you please answer the question that has been put to you, Mr Witness?

20 THE WITNESS: (Interpretation) Yes, I said that there had been complaints, because in
21 (Redacted) you will see that there was the arrest of a number of soldiers. There were -- there
22 was abuse. There were abuses and there were repressive acts, (Redacted) arrested those
23 soldiers and there were complaints.

24 PRESIDING JUDGE SCHMITT: We continue now with another issue, Mr Vanderpuye.

25 MR VANDERPUYE: Mr President, I would like to show the witness his answer on the

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1 record.

2 PRESIDING JUDGE SCHMITT: That is of course possible.

3 MR VANDERPUYE: Thank you, Mr President.

4 If we could go please to the transcript reference. It should be in the English transcript,
5 transcript number 348. It should be page 51 beginning at line 52. It's tab 4 in the English,
6 tab 7 in the French. Just give me a moment so I can give you the proper French transcript
7 reference. In the French it should be transcript reference 348, page 54, we should probably
8 start at line 3.

9 MR POWLES: Mr President, I wonder if the witness might be shown the question and the
10 answer that he's given rather than just the answer.

11 PRESIDING JUDGE SCHMITT: Yes.

12 MR VANDERPUYE: Happily, Mr President. We can go back to the question, which can be
13 found, page 53 -- hang on a second, I'm sorry. It could be as far back as page 52, line 24.
14 Yeah, do we have it on the screen now? The question begins at line number 24 on page 52
15 and it goes to line number 4 on page 53. And then the answer is about a page long. I'll ask
16 the question.

17 PRESIDING JUDGE SCHMITT: You have started this --

18 MR VANDERPUYE: Yes.

19 PRESIDING JUDGE SCHMITT: -- so we need a little bit of time to let ourselves read and the
20 witness read.

21 MR VANDERPUYE: I can read the question into the record.

22 Q. Were you asked this question, Mr Witness, and did you give the following answer:
23 (Interpretation) Answer: "It would seem that the incidents between the FACA and
24 the ALC were not isolated acts. You may recall that on that morning when we
25 looked at the chronology of events we saw a press -- a press article saying that on

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1 27 October 2002, the ALC troops looted a location called 36 Villa. And the FACA
2 were only able to protect the houses of two Central African ministers, which means
3 that the FACA and the ALC were in reality fighting each other. And that this does
4 not really indicate a very good level of coordination. Would you agree with me,
5 Mr Witness?"

6 And then you provided a very long answer which I'm not going to read, but I want to bring
7 you to the point of my question, which was in respect of your recollection of what you
8 testified to concerning whether complaints were made to the permanent commission. Do
9 you recall what your answer was in respect of that?

10 MR POWLES: Mr President, I wonder if the witness might be given an opportunity to see
11 his answer in the context of the whole answer he gave.

12 PRESIDING JUDGE SCHMITT: Of course I think the witness should have time and the
13 opportunity to read his answer and then I think he can answer your question, Mr Vanderpuye.
14 So we give him this time. I think he will need one or two minutes to read that and then he
15 can answer.

16 MR VANDERPUYE: Thank you, Mr President. So for his benefit, Mr President, his answer
17 begins --

18 PRESIDING JUDGE SCHMITT: I think he has started reading with the assistance of his
19 counsel.

20 PRESIDING JUDGE SCHMITT: Thank you. For the record anyway it's page 53, line 5.
21 And it continues right through the next page, Mr President, to line 20.

22 (Pause in proceedings)

23 PRESIDING JUDGE SCHMITT: I think the witness will be now in the position to answer the
24 question of the Prosecutor.

25 THE WITNESS: (Interpretation) Mr Prosecutor, I don't know what I stated, but there

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1 were -- well, there were probably not written complaints, but the victims themselves are
2 complainants. So in (Redacted) I was saying that there were issues that even people had been
3 arrested, and this goes to show that there were complaints. There we are.

4 MR VANDERPUYE: There we are indeed.

5 Mr President, I see it's time for the break. I think this --

6 PRESIDING JUDGE SCHMITT: Yes, I think we should go into the lunch break.

7 Before we do -- before we do that, I would like to address shortly Mr Makoba, Maître Makoba,
8 if this is possible, please.

9 Perhaps we can have the video link so that we can see Maître Makoba because I want to
10 address him personally.

11 Maître Makoba, I think you have also recognized as everybody else in courtroom also
12 on the side of the video link that, to put this cautiously, this was not an easy exercise
13 this morning. The Chamber would very much appreciate it if consultations with
14 your client would be as concentrated and short and focused as possible and if you
15 could indicate, you as the counsel, indicate when you have finished the consultation
16 so that the Chamber knows when we can go on with the examination. That would
17 be very kind of you and perhaps you bear that in mind when we resume at 2.30.

18 Thank you very much. Do you understand what I mean by that? Because you see that we
19 are spending much time and we have also these technical problems. And it's of course very
20 important to interrupt not too often the examination.

21 MR SHEBELE MAKOKA: (Interpretation) Yes, Mr President, I have indeed taken note of
22 that and I shall indicate this to the witness for him to take into account, your observations.

23 PRESIDING JUDGE SCHMITT: Thank you very much Maître Makoba.

24 Then we interrupt until 2.30.

25 THE COURT USHER: All rise.

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1 (Recess taken at 1 p.m.)

2 *(Upon resuming in closed session at 2.33 p.m.) Reclassified as Open session

3 THE COURT USHER: All rise.

4 PRESIDING JUDGE SCHMITT: We continue with the examination by the Prosecution.

5 Please, Mr Vanderpuye.

6 MR VANDERPUYE: Thank you, Mr President.

7 Q. Can you hear me, Witness?

8 A. I'm waiting for you, Mr Prosecutor.

9 Q. All right. That's good news.

10 I want to ask you, I want to play you another intercepted communication once again

11 on that same telephone number. It is excerpt number 13.

12 For the Chamber's benefit that's behind tab 45. The transcript reference is 0080 -- I'm sorry,

13 the ERN number, CAR-OTP-0080-1367. This particular conversation was intercepted on

14 31 October at 21.11.36.

15 This was the third day before your testimony, Witness. I would like to play that now and

16 we'll await the signal to do so.

17 All right. I think we're clear on all fronts, so we can play that now. Thank you.

18 (Playing of the audio excerpt)

19 THE INTERPRETER: (Interpretation)

20 "What language did the MLC soldiers mainly speak? Right, here's the reason they'll ask you

21 that: Because a lot of victims are saying, No, these people came, and they did us harm.

22 They spoke mostly Lingala. That's why they'll ask you this question, 'What language did

23 they mainly speak?' Because if you say Lingala, they'll put two and two together.

24 Witness: Hm.

25 Kilolo: Right. I don't know what we can do in that respect. For me, you could

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1 portray the others ... as being Mustapha's people. Say this: No, the majority of
2 those who crossed over spoke Swahili, because most of them were from Mustapha's
3 brigade and came from the East. They often spoke Swahili. A small group spoke
4 Lingala. Hello? Hello?

5 Witness: I'm listening, Counsel.

6 Kilolo: Hm. They spoke Swahili; some of them spoke Lingala; and others spoke
7 French. Right. I don't know -- you could also add other languages spoken in

8 Équateur: Ngbandi and others.

9 Kilolo: If they say for the main language, what you should say is, If you really want
10 the main language ... in the event, in Mustapha's brigade, it was Swahili."

11 MR VANDERPUYE:

12 Q. Did you hear that communication, Mr Witness?

13 A. Yes, I did, Mr Prosecutor.

14 Q. Do you recognize the voices?

15 A. Yes, I recognize the voices.

16 Q. Who was speaking in this intercept?

17 A. Maître Kilolo.

18 Q. Do you recall having this conversation with Mr Kilolo?

19 A. Can you please repeat your question, Mr Prosecutor.

20 Q. Let me ask you this way: Do you recognize the other voice on that intercept?

21 A. Yes, it's my voice.

22 Q. Do you remember having this conversation with Mr Kilolo on 31 October 2013?

23 A. I recognize the conversation, but the date I had forgotten.

24 Q. Did you testify in the main case, that is the case against Mr Bemba about the languages
25 that were used by MLC troops?

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1 A. Yes, I did testify.

2 Q. And do you recall what you said regarding the main languages used by those troops?

3 A. The main language used by these troops, and what troops are we talking about?

4 Q. We're talking about MLC soldiers, what languages did MLC soldiers mainly speak?

5 That was the question as framed to you by Mr Kilolo in this intercept.

6 A. The language spoken in Mustapha's brigade was Swahili and Lingala.

7 Q. My question to you is do you remember what you testified to on that topic?

8 A. On this topic I said what I said because (Redacted). It's not because Mr Kilolo said

9 something. (Redacted). He was informed that Mustapha's men spoke Lingala

10 and Swahili and that is true, there were other soldiers who spoke another language, other

11 soldiers from the FACA.

12 PRESIDING JUDGE SCHMITT: Just one second perhaps, Mr Vanderpuye.

13 That has nothing to do with the examination, but we have at least one new face I think for the

14 Arido Defence this afternoon. New is a little bit exaggerated, but at least for today I think for

15 the record we have Mr Larochelle here and Mr Taku is not there anymore.

16 Is that correct, Mr Larochelle?

17 MR LAROCHELLE: (Interpretation) Yes, you're absolutely correct. And nothing escapes

18 your attention.

19 PRESIDING JUDGE SCHMITT: Okay.

20 We continue with the examination, Mr Vanderpuye.

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

22 Q. At the very beginning of the intercept we listened to Mr Kilolo says to you, "Another

23 thing they will ask you" and he quotes or it's quoted, "What language did the MLC soldiers

24 mainly speak?"

25 My question to you, sir, is when Mr Kilolo says, "Another thing they'll ask you," who

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1 is he referring to in this conversation?

2 A. I don't know. I don't know. Maybe, maybe he knows.

3 Q. When you gave your answer about the languages that the troops mainly spoke, MLC
4 soldiers mainly spoke, do you recall by whom that question was put to you?

5 A. I don't know. You are asking who asked me that question? Is that your question,
6 Mr Prosecutor?

7 Q. Yes, that is my question, if you remember.

8 A. Because it was the first time that I saw everybody there. There was no way for me to
9 identify because on the screen you can see, but sometimes there's some shade. But those
10 questions had been put to me.

11 Q. Does the name Zarambaud mean anything to you, Witness, Zarambaud?

12 A. Zarambaud. Can -- can you spell it out, please?

13 Q. Z-A-R-A-M-B-A-U-D.

14 A. I do not recognize this name.

15 Q. All right. I want to show you your answer to that question regarding the languages
16 that were mainly spoken by MLC soldiers.

17 It's at transcript 349.

18 Tab 5 for the Chamber in English, tab 8 for the Chamber in French. The transcript reference
19 in English is page 50, lines 21 through page 51, line 18, and in French, it should be page 53,
20 line 23 through page 54, line 23.

21 Just bear with me one moment so I get the right reference.

22 Can you see the reference there, sir? And the question is put to you: (Interpretation) "To
23 your knowledge, the ALC elements who were in the Central African Republic spoke
24 primarily what language?"

25 Do you see it, sir?

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1 A. Yes. Yes, I do. I can see it. I can read it.

2 Q. Why don't you have a read of that and then let us know when you're done. You have
3 to read it through the next page 54, through line 18.

4 A. Okay.

5 Q. Does that refresh your recollection as to what you testified to regarding the languages
6 that were spoken, in particular Swahili, Ngbandi, and that Mustapha's troops hailed from the
7 east as an explanation for why the members of his unit spoke in Swahili?

8 A. The unit that was in Bangui spoke Swahili and Lingala as I just told you. And locally
9 the FACA speak Sango and there are other Central Africans who also spoke Lingala. I think
10 that's the way I had explained it.

11 Q. All right. We have your -- we have your answer in the record there. Can you confirm
12 that your answer corresponds to what Mr Kilolo told you in the intercept, specifically that the
13 majority of those who crossed over spoke Swahili because most of them were from
14 Mustapha's brigade and came from the east. They often spoke Swahili and a small group
15 spoke Lingala. And further in the intercept where he tells you that you could also add other
16 languages spoken in Équateur?

17 MR DJUNGA: (Overlapping speakers)

18 PRESIDING JUDGE SCHMITT: Mr Djunga.

19 MR DJUNGA: (Interpretation) Thank you. I think this is a very suggestive question
20 because when we look slightly higher, the witness answered the same question, (Redacted).
21 (Redacted) And I see the Prosecutor is trying to reformulate the question, but there
22 is an answer given already confirming that (Redacted) and that he had heard these
23 languages spoken. If you just go a little bit further back up in the transcript, we see this.

24 PRESIDING JUDGE SCHMITT: Sustained.

25 MR VANDERPUYE:

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1 Q. Does your answer that you gave at trial correspond to what Mr Kilolo told you in the
2 intercept that we just heard?

3 A. I can confirm this. (Redacted)

4 (Redacted). And Mr Kilolo spoke about this as a lawyer, but he was repeating
5 what was already said. But I had been there. I was there. So it is true that is what I said.

6 Q. Thank you for that, Witness. Did Mr Kilolo ever go over with you the questions that
7 were to be put to you by other lawyers in the Bemba case, in particular the members -- or,
8 rather, Legal Representatives of Victims in that case? Did he ever ask you questions that
9 they intended to ask you during the course of your conversations with him while you were
10 testifying?

11 A. (Redacted). So it was the first time when I spoke about the situation,
12 but maybe there is other information.

13 Q. I want to play you another intercept. This one is the evening before your second day of
14 testimony. It's on 30 October at 19.31.55. It's on the same telephone number that I indicated
15 before. It is excerpt 1 for the Chamber's benefit, ERN CAR-OTP-0080-1363, behind tab 41 of
16 the Chamber's binder.

17 Witness, I want you to listen to this conversation and then I'll ask you some questions about
18 this one as well, okay?

19 A. Yes, I've understood.

20 MR VANDERPUYE: All right. We're good to go, all right. We could play this one as well.
21 (Playing of the audio excerpt)

22 THE INTERPRETER: (Interpretation)

23 "Kilolo: Yes, the first thing, especially, don't forget the question they'll ask: You and me, if
24 we've spoken and when was the last time. So really, for that, don't forget ... the last day that
25 you and I spoke, in any case ... it was at least around a month ago.

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1 Witness: Yes.

2 Kilolo: But it was just brief anyway, it was just to ask you if you were available to
3 testify, that's all. But ... the people that you at least spoke to in depth were only the
4 people ... their own ICC people, their people were based in (Redacted).

5 Just say that the person who you met with is Nkwebe, just exactly like you said in
6 2010, you met, he asked you questions, you are ... he also wasn't alone, there were two
7 of them, him and another black lawyer ... but you don't know him. Till now, you
8 don't know him ... you met ... you spoke ... he only told you that he was his
9 collaborator, that he was also on Bemba's team, but you don't know who he was.

10 But it wasn't me. But now also you don't know ... even if you were introduced to
11 him like that, there is no way you can remember his face, except that he was a bit
12 young. So a bit young like that, as if he wasn't yet 40.

13 Witness: Hum.

14 Kilolo: Just say it that way.

15 Witness: Hum.

16 Kilolo: So that's what you need to remember, you need to know; so about me, they'll
17 ask how many times have ... if you and I communicated on internet, by email, never,
18 besides you don't even know my email.

19 Witness: I've understood.

20 Kilolo: What do you say? Even a conversation like this, just say, no, we talked
21 about five or six times, but that each time, I was the one who called you to insist that
22 we needed to meet, but that you always refuse, that those stories were out of the
23 question ... and I would only come if (Redacted)

24 (Redacted) go to

25 (Redacted) to testify at the ICC."

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1 MR VANDERPUYE:

2 Q. Did you hear that, Witness?

3 A. Yes, I did hear -- I did hear that, Mr Prosecutor.

4 Q. Did you recognize the voices in this conversation?

5 A. Yes, I do recognize his voice.

6 Q. Do you recognize your voice in this conversation?

7 A. Yes, I do recognize my voice.

8 Q. Let me play you another intercept, excerpt number 5, ERN CAR-OTP-0080-1364, follows
9 on the last one. The timing of this one is 30 October, 21.12.56. As I've previously mentioned
10 on the same number that I indicated earlier. Let us know when we can play that one.

11 All right. I think we're ready.

12 (Playing of the audio excerpt)

13 THE INTERPRETER: (Interpretation)

14 "Kilolo: 'You can do whatever you want for me.' No one called you ... no one from the
15 Defence called you at night to prepare you and tell you to be careful tomorrow, say this and
16 say that, never, never, never."

17 MR VANDERPUYE:

18 Q. Did you hear that, Witness?

19 A. Yes, I do recognize the voice.

20 Q. Whose voice is it?

21 A. This is Maître Kilolo's voice.

22 Q. Did you recognize your own voice in this intercept?

23 A. I do recognize my voice, yes.

24 Q. When you testified in the Bemba trial, did you tell the Chamber that you had received
25 telephone calls from Mr Kilolo during the course of your testimony?

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1 A. I do not know whether I stated that, but from what I can hear here, it is true that is his
2 voice.

3 Q. Are you telling this Chamber that you don't remember if you told the Trial Chamber in
4 the Bemba case, in the Bemba trial whether you had telephone calls with Mr Kilolo during the
5 course of giving evidence in that case? Is that your testimony to this Trial Chamber, sir?

6 A. Yes, I had not testified to this effect during my testimony as a witness.

7 Q. Do you remember if you were asked about the last time you had contact with any
8 member of the Bemba Defence team during the course of your testimony in that case, in the
9 case against Mr Bemba?

10 A. I do acknowledge that that question was put to me.

11 Q. What was your answer?

12 A. I answered that question by saying that there had been contact, but without specifying
13 the date or the month if I'm not mistaken. That's what I said.

14 Q. Let me show you what you said. We'll need to go to transcript reference 349, in the
15 English it's page 42, line 17 through page 43, line 14. Tab 5 for the Chamber's benefit. And
16 for the French same transcript page 40, line 14 through page 42, line 6 of transcript 349. Tab
17 8 for the Chamber, please.

18 All right. Do you see the question there at line 11?

19 A. I am looking at it, Mr Prosecutor.

20 Q. Do you recall what your answer was to the question of when it was that you were last in
21 contact with the Bemba Defence or any member of the Bemba Defence concerning your
22 testimony?

23 A. I have seen the question.

24 Q. What was your answer?

25 A. 2011. Yes, I spoke of 2011.

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1 Q. Let me take you to page 45 in the French, line 6 and on. Do you see the question put to
2 you there?

3 (Interpretation) "Yes, Mr Witness, you have indeed understood correctly. What I meant by
4 that was any member of the Defence team."

5 Do you see your answer concerning your last contact there?

6 A. Yes, Mr Prosecutor, I have seen it.

7 Q. You said that your last contact was two and a half months or so before your testimony.
8 That was a lie, isn't it?

9 A. Yes, Mr Prosecutor.

10 Q. Why did you lie, Mr Witness?

11 A. Mr Prosecutor, I do believe that this was the answer I gave with regard to the question
12 put to me on that day. I do not believe that that was a good answer, Mr Prosecutor.

13 Q. What I have in the record before me as it's translated to me was that you said that was
14 not a good answer or "I do not believe that was a good answer." What do you mean by that?

15 A. It was not a good answer, Mr Prosecutor.

16 Q. Do you mean it wasn't true, sir?

17 PRESIDING JUDGE SCHMITT: I think he has answered that, Mr Vanderpuye. I think he
18 has answered that question.

19 MR VANDERPUYE:

20 Q. Why didn't you give a good answer, Witness?

21 A. Mr Prosecutor, I believe that as you can see, I had spent three days here to testify. I
22 might be wrong, Mr Prosecutor.

23 Q. Your answer isn't clear, sir. Could you explain what you mean?

24 A. I was saying that it was not a good answer. I was wrong about that too. That's
25 why -- that's why I said that. It wasn't a good answer.

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1 Q. Do you mean it was a mistake, an error?

2 A. You might say things and you might get it wrong.

3 THE INTERPRETER: Could the witness please be requested to repeat his answer?

4 PRESIDING JUDGE SCHMITT: Mr Djunga?

5 MR DJUNGA: (Interpretation) Thank you, Mr President. I believe that this question has
6 been answered, unless you assess it in any other respect.

7 PRESIDING JUDGE SCHMITT: No, no. I think Mr Djunga is correct. I think you should
8 move on to another issue. You see, I know of course where you were heading at and
9 everybody in the room knows that, but you have tried it two or three times and the witness
10 has answered as he has answered, and we have to leave it this way.

11 MR VANDERPUYE:

12 Q. I asked you earlier today, Witness, how many times in 2013 you had been in contact
13 with the members of the Bemba Defence prior to your testimony in October of 2013. Do you
14 remember that?

15 A. I do recall that you asked me that question, Mr Prosecutor.

16 Q. How many times do you estimate that you were in contact with members of the Bemba
17 Defence in 2013 up until the time that you testified or began testifying on 30 October of that
18 year? Just give an estimate so the Chamber has an idea.

19 A. Mr Prosecutor, I believe that there was a great deal of contact as I said. There was the
20 Defence team and there was also the Office of the Prosecutor, and the Victims and Witnesses
21 team who contacted me a lot.

22 Q. I want to show you a document. It's CAR-OTP-0090-0630.

23 It's tab 56 for the Chamber's -- for your Honours in your binder. It is the call sequence table
24 that presented previously by another witness, your Honours. And I'd like to refer if I can to
25 page ending 0710. 0710, please.

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1 Witness, what you are looking at is an exhibit that was submitted before this
2 Chamber which references certain telephone contacts that are attributed to the
3 telephone of Mr Kilolo. You will recognize in this document I'm sure certain
4 telephone numbers that you testified to today were numbers that were associated
5 with you. You'll see at row number 2 in this document -- rather, row number 1 I
6 should say as a receiving number the telephone number that you said was yours
7 which is (Redacted). Do you see that number there, sir?

8 A. Yes, I can see it.

9 Q. These calls or SMSs on this particular page go from the 31 January 2013 through
10 September 2013. Do you see that there, sir?

11 A. Yes, I do see, Mr Prosecutor.

12 Q. I'm going to take you to the next page. You can have a look at that as well. That
13 would be page ending 0711. On this page you can see another number that you referred to
14 as (Redacted). That's at row number 17. Do you see that number, sir?

15 A. Yes.

16 Q. You can also see on this page a telephone number (Redacted). That is the telephone
17 number on which the intercepts that you heard were obtained. And you'll see that number
18 beginning at row number 11 on this page many times over. Do you see it, sir?

19 A. I can see the number, Mr Prosecutor.

20 Q. Let me take you to the next page. For the record this page goes from row 10 through
21 23. Next page is rows 24 through 33. You can see that number again, the one ending (Redacted),
22 and you can also see the number ending (Redacted). Do you see that, Mr Witness?

23 A. I can see it, Mr Prosecutor.

24 Q. We'll go to the next page, 713 is the end. This page holds rows 34 through 45. Again,
25 you can see the number ending (Redacted) as well as the number ending (Redacted) on this

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1 page. Do you see that, Witness?

2 A. I have seen it, Mr Prosecutor.

3 Q. We can go to page number 714 and have a look at that one. Here, sir, you can see the
4 numbers again, (Redacted). Do you see that on the page? For the record this also has rows
5 46 through 59.

6 A. I have seen it, Mr Prosecutor.

7 Q. And we'll go to the next page, which ends 0715. On the first row, that's row number 60,
8 here we can see the number ending (Redacted) and then in this document you can also see the
9 number ending (Redacted) again. That is the number on which the intercepts I played you
10 were obtained.

11 A. I have seen it, Mr Prosecutor.

12 Q. Does that comport with your memory of how many telephone contacts you had with
13 Mr Kilolo in particular, if not the Bemba Defence prior to your testimony on October 30, 2013
14 during the course of that year?

15 A. I have seen those two numbers on a number of occasions.

16 Q. With the exception of about seven of those contacts, all of the contacts that we've just
17 seen have occurred within two months of your testimony. Would you agree with that?

18 A. Yes, I would agree, Mr Prosecutor.

19 Q. From row 66 in the document that's in front of you now, these show contacts on the
20 number that you've indicated was yours -- or, rather, the one that was -- rather, the one on
21 which the intercepts were obtained, (Redacted), after you began your testimony. Do you
22 recognize those numbers -- do you see the number there, (Redacted), beginning 30
23 October 2013? At that row, do you see it?

24 A. Yes, I have seen it, Mr Prosecutor.

25 Q. If we go to the next page, please, 717 -- 716. I'm sorry, I misspoke. For the record this

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1 runs from row 72 to row 81. Again we see that same number (Redacted) on this page
2 throughout. These indicate telephone calls.

3 PRESIDING JUDGE SCHMITT: Mr Djunga.

4 MR DJUNGA: (Interpretation) Thank you, Mr President. Once again, unless you have
5 another assessment, I do not believe that this is fair on the witness. We're showing him a
6 telephone number and I wonder whether he is in a position to recognize these telephone
7 numbers. He does not know which is Maître Kilolo's number that was intercepted. Here
8 we are being asked -- he's being asked -- he should have been asked the question whether he
9 recognizes these numbers or not.

10 PRESIDING JUDGE SCHMITT: That is -- there is some merit in it. Perhaps you can ask the
11 witness if he recognizes telephone numbers except of the telephone numbers that he
12 identified as the ones he used himself and then we can continue.

13 MR VANDERPUYE:

14 Q. Do you recognize any other telephone numbers or any of the telephone numbers on this
15 page, Witness?

16 A. I was going to say that the number ending with (Redacted) is indeed my number, and
17 (Redacted) I can certainly crosscheck that.

18 PRESIDING JUDGE SCHMITT: And of course, Mr Vanderpuye, you could question the
19 witness, if he can confirm that he has talked with Mr Kilolo or not and we have to live with
20 the answer that he is giving then and have to make conclusions ourself.

21 MR VANDERPUYE: I think he did testify already, Mr President, that he did speak with
22 Mr Kilolo during the course of his testimony.

23 PRESIDING JUDGE SCHMITT: But you want to establish how many times of course. But
24 that's -- we are not interfering.

25 MR VANDERPUYE: Thank you, Mr President.

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1 Q. Witness, can you tell the Chamber approximately how many times you spoke to or
2 communicated with Mr Kilolo by telephone during the course of your testimony? Are you
3 able to estimate that for us now? I think when I asked you before you said one time.

4 A. Could you kindly repeat your question, Mr Prosecutor? I didn't quite understand.

5 Q. Sure. Can you estimate or tell the Chamber frankly how many times you
6 communicated with Mr Kilolo on the telephone, whether it be an SMS or by speaking to him
7 on the telephone, during the course of your testimony in the Bemba trial, which began on 30
8 October 2013 and ended on 1 November 2013?

9 A. Mr Prosecutor, I recognized the numbers here. This means that there was
10 communication.

11 Q. So my original question was does what you see or what I've shown you comport with
12 your recollection of how many times approximately you were in contact with Mr Kilolo
13 during the time that you gave testimony in the Bemba case?

14 A. Mr Prosecutor, I've seen the same number ending with (Redacted) many times. I can see
15 that there was a good number of communications, many occasions when communication took
16 place.

17 Q. Thank you for that answer, Witness.

18 Just bear with me one second, Mr President.

19 I asked you earlier about a conversation you had with Mr Kilolo involving a certain Eric
20 Lengbé, Thierry Lengbé. Do you remember that? It was earlier on in your evidence today.

21 A. Yes, I remember.

22 Q. And I told you that that call, that intercept was dated 30 October 2013 timed at 21.12
23 hours. Do you remember that, sir?

24 A. Yes, I remember.

25 Q. Okay. What I'm going to show you is a document that was provided by the authorities

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1 of The Netherlands regarding that particular intercepted communication. It is
2 CAR-OTP-0080-1286.

3 It's behind tab 36 for the Chamber's benefit. And we'll have to go to page 1290.

4 All right. We'll have to go to the row where you can see the first entry in the middle of the
5 page where you can see the number (Redacted). Go to the right, please.

6 THE COURT OFFICER: (Via video link) (Interpretation) Can you kindly repeat the
7 number of the document?

8 PRESIDING JUDGE SCHMITT: And please also for at least the Presiding Judge.

9 MR VANDERPUYE: The number of the document?

10 PRESIDING JUDGE SCHMITT: No. Of the row and everything. I did not follow to be
11 frank.

12 MR VANDERPUYE: Yes, yes. We're right there just about at the bottom of the page. It's
13 the first entry in the middle of the page which bears the number (Redacted). All right.
14 Just above that you will see an entry to the right timed at 21.12 hours dated 30 October,
15 30-10-2013. The timing of that call is 3685 seconds.

16 Does that help orient -- is that helpful, Mr President?

17 Q. Right there. There you can see the number that is associated with that call
18 (Redacted). Do you see that, Witness?

19 A. I'm still trying to locate the number, but I have not seen it yet.

20 Q. Can we blow up the section where you can see the number (Redacted) Where the
21 cursor is right now, can you blow up that area?

22 PRESIDING JUDGE SCHMITT: With a little help of the team also the Presiding Judge has
23 finally found the line we are talking about.

24 MR VANDERPUYE:

25 Q. The line that we're looking at for your help, Mr Witness, I mean for your assistance, you

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1 will see the number (Redacted), which is the number of seconds that that call lasted, the time
2 of the call at 21.12 hours, the date of the call of 30 October 2013 and the telephone number
3 (Redacted). Do you see it?

4 MR LAROCHELLE: (Interpretation) Mr President, we are wasting time here. There are
5 figures here and the witness cannot really add anything to that. We have seen the numbers.
6 I really do not know where the Prosecutor is going with this, but I'm sorry that we are wasting
7 a lot of time.

8 PRESIDING JUDGE SCHMITT: And we have of course heard the intercepted call or parts of
9 it, parts of it -- (microphone not activated).

10 THE INTERPRETER: President's microphone.

11 PRESIDING JUDGE SCHMITT: There is no reason to get emotional, but what you of course
12 can ask, and I think you should come to the point, is if this triggers something in the witness
13 according to the length of the telephone call or whatever, but an additional -- additional thing
14 I would not see an information.

15 MR VANDERPUYE: What I'm asking the witness is if he recognized the telephone number
16 on which he was intercepted because he concedes the interception in this document in the
17 other document I showed him.

18 PRESIDING JUDGE SCHMITT: We wait on the answer and then we move on to the next
19 point.

20 MR VANDERPUYE:

21 Q. Did you see this number (Redacted) in the document that I just showed you
22 concerning the telephone calls made and received by you during the course of your testimony
23 in the Bemba trial?

24 A. Yes, we have just seen them. Mr Prosecutor, we have seen it.

25 Q. Do you recall being contacted on that telephone number by Mr Kilolo during the course

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1 of your testimony in the Bemba trial?

2 A. Mr Prosecutor, I have to check the date.

3 Yes, I've found the date.

4 Q. Were you contacted by Mr Kilolo on that number to your recollection?

5 MR DJUNGA: Monsieur le Président.

6 PRESIDING JUDGE SCHMITT: Mr Djunga.

7 MR DJUNGA: (Interpretation) I'm sorry to intervene. The witness has recognized his
8 number, but he does not recognize the other number, and he's being told "During your
9 testimony there was contact with" such and such a number, and then afterwards he will be
10 told that it was Mr Kilolo's number. I really do not want to obstruct, but like I was -- it was
11 insinuated before, but it's confusing both for us and for the witness.

12 PRESIDING JUDGE SCHMITT: Mr Djunga, but this question has not been asked. If I recall
13 it correctly, the witness wanted first to establish for himself the date, the exact date, and so the
14 question is still in the room. But if we put it generally and abstractly, we could question him
15 if he recalls the telephone number and then continue with the questioning.

16 MR VANDERPUYE:

17 Q. Do you recall the telephone number, Witness, that you've just seen, (Redacted)

18 A. Yes, I have seen the number, yes. I have seen the telephone number. It's probably my
19 old number. I really cannot remember it.

20 Q. Thank you, Witness.

21 MR VANDERPUYE: Mr President, I have no more questions for this witness. That
22 concludes my direct examination.

23 Thank you very much, Witness.

24 PRESIDING JUDGE SCHMITT: Thank you very much, Mr Vanderpuye.

25 So it's perfectly clear that we do not start with the examination by the Defence today,

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1 but I think I have of course heard what Mr Powles for the Defence of Mr Kilolo has
2 said this morning. But in light of the testimony, how we have listened to it today, I
3 think it could be possible to have the cross-examination or the examination -- I try to
4 avoid the word "cross" as you know -- the examination by the Defence could start
5 tomorrow at 9.30 as envisaged, I would say.

6 MR POWLES: Yes, Mr President. Thank you very much.

7 PRESIDING JUDGE SCHMITT: And again, as we had it -- the situation we had before with
8 other witnesses, I would assume of course that -- of course, it's of course your duty to say that,
9 but I would assume that the Defence of Mr Kilolo starts and I could imagine that other
10 Defence teams perhaps do not have so many questions. I could imagine that. But this is
11 only something that I put into the room. I will not insist on that, of course.
12 So we start tomorrow at 9.30 with the examination by the Defence of Mr Kilolo.

13 MR VANDERPUYE: Mr President, I'm sorry, in terms of, I don't know whether you want to
14 keep the link running, but in terms of the following witness, I'm not sure how the Chamber
15 wants to proceed, because I don't know what the Defence estimate on cross-examination is for
16 this witness or whether or not there will be redirect that results.

17 PRESIDING JUDGE SCHMITT: Thank you, thank you for that, Mr Vanderpuye. My
18 question would of course also be what the Kilolo Defence thinks the estimate -- estimated
19 time of the examination?

20 MR POWLES: Yes, I think most likely three -- two sessions. So less -- three hours,
21 approximately three hours.

22 PRESIDING JUDGE SCHMITT: So I just put it to all the parties in the room that we could
23 start with Witness 198 on Wednesday morning, if there is no contradiction and you don't say
24 this is impossible. Yes?

25 Then we give it a try, Wednesday morning, 9.30, Witness 198. And tomorrow the whole day

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1 Defence possibility examination of Witness 201.

2 Mr Witness, thank you for answering the questions today.

3 Also thank you to Mr Makoba for assisting the witness.

4 Thank you to the interpreters who again had a very rough day.

5 Again, I address the witness. Tomorrow we will continue with your testimony.

6 You will be questioned by the Defence. In the meantime please have in mind that

7 you must not discuss your testimony with anyone, neither with family nor friends

8 who you may be in contact with tonight. Do you understand this, Mr Witness?

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

10 PRESIDING JUDGE SCHMITT: Then have a good rest and we will see you again tomorrow.

11 Court officer, you can escort now the witness out of the video link location. And I

12 take the opportunity also to thank very much the court officers and the staff on the

13 field.

14 That concludes today's hearing. We will resume tomorrow at 9.30. Thank you,

15 everyone, and good afternoon.

16 THE COURT USHER: All rise.

17 *(The hearing ends in closed session at 3.52 p.m.) Reclassified as Open session

18 RECLASSIFICATION REPORT

19 Pursuant to Trial Chamber VII's instructions, ICC-01/05-01/13-1209, dated

20 2 September 2015, this lesser redacted public version of the transcript is filed in the

21 record of the case.