

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 Thursday, 29 October 2015
11 (The hearing starts in open session at 9.30 a.m.)
12 THE COURT USHER: All rise.
13 The International Criminal Court is now in session.
14 PRESIDING JUDGE SCHMITT: Good morning, everybody.
15 Could the court officer please call the case.
16 THE COURT OFFICER: Good morning. Yes, Mr President. The situation in the
17 Central African Republic in the case of The Prosecutor versus Jean-Pierre Bemba
18 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 For the record, we are in open session.
21 PRESIDING JUDGE SCHMITT: Thank you. I ask for the appearances of the parties.
22 Please, Mr Vanderpuye.
23 MR VANDERPUYE: Thank you, Mr President. Good morning to you, your
24 Honours, everyone. Today the Prosecution is represented by Ruth Frolich, seated to
25 my left; behind her, Colleen Gilg; and to her right, Sylvie Vidinha. I'm Kweku

1 Vanderpuye.

2 PRESIDING JUDGE SCHMITT: And if we look at our left we see a new face, to put
3 it this way. I assume you are Mr Hjalmarsson, is this correct?

4 MR HJALMARSSON: Yes. Good morning, your Honours. My name is Göran
5 Hjalmarsson. I'm a Swedish lawyer and I'm legal advisor for (Redacted).

6 PRESIDING JUDGE SCHMITT: Thank you very much.

7 Now for the Defence, as always procedure every day you could say.

8 MR GOSNELL: Good morning, Mr President. Christopher Gosnell and Rita Yip
9 for Mr Mangenda.

10 MR DJUNGA: (Interpretation) Good morning, Mr President. Good morning,
11 your Honours. The only change today is the presence of Madame Rosalie Mbengue,
12 who is our case manager. She is with us today.

13 PRESIDING JUDGE SCHMITT: Mr Taku or Mr Kilenda.

14 MR KILENDA: (Interpretation) Good morning, Mr President. Good morning,
15 your Honours. Our team has remained the same.

16 MR TAKU: The same situation with us, your Honours, our team remains the same.

17 MS TAYLOR: Good morning, Mr President, your Honours. The Defence for
18 Mr Bemba has doubled and is represented by myself and Ms Ines Pierre de la Brière.
19 Thank you.

20 PRESIDING JUDGE SCHMITT: Thank you very much.

21 Before we start, for your information, the Chamber wishes to announce when we will
22 sit in the next two weeks. Next week the Chamber will, let me put it this way, only
23 sit from the 2nd until the 5th November, meaning Monday to Thursday. The
24 Chamber will not sit on 6 November.

25 For the week of the 9 November, the Chamber will sit on the 9 November for

1 two-hour sessions from 9 until 11 and 11.30 until 13.30.

2 The Chamber will then not sit from the 10th until the 12th of November because there
3 are other commitments of judges on the bench, judicial commitments. On 13
4 November 2015, that is a Friday, the Chamber will sit during the normal hearing time.

5 And then I think I can also announce that the week after, I think that's the 16th until
6 the 20th of November, we will sit every day and have the procedure as usual.

7 So there are in the next two weeks, there are plenty of -- there are a couple of free
8 days, to put it this way.

9 The Chamber turns now to the upcoming testimony of Witness 20. We will discuss
10 the issue of protective measures and Rule 74 assurances. For this we need to go into
11 private session, please, court officer.

12 *(Private session at 9.34 a.m.) Reclassified as Open session

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

14 PRESIDING JUDGE SCHMITT: Thank you. The Chamber notes that the witness
15 testified as a Defence witness in the case of the Prosecutor versus Jean-Pierre Bemba
16 Gombo under the pseudonym of D-57. Trial Chamber III granted the following
17 protection measures: The use of image and voice distortion, the continued use of
18 pseudonyms, as well as the use of private session where necessary to protect his
19 identity.

20 The VWU has recommended retaining these measures in an email sent to the
21 Chamber on 28 October 2015, meaning yesterday.

22 According to Regulation 42(1) of the regulations of the Court, the same protective
23 measures shall apply in proceeding before this Court with the clarification that the
24 pseudonym that has been attributed by the Prosecution in this case, P-20, will be
25 used.

1 The Chamber will now discuss the matters of assurances pursuant to Rule 74 of the
2 Rules for Witness 20.

3 Mr Hjalmarsson, on 28 October 2015, you submitted a filing entitled "Request for Rule
4 74 Assurances." However, on page 3 of the request you state that your client does
5 not request any specific measures under paragraph 7 of Rule 74.

6 However, these measures are necessary in order to give effect to the Rule 74
7 assurances. May I, therefore, just to clarify ask you if you do wish to request Rule 74
8 assurances for your client, which would then trigger measures listed as in paragraph
9 7?

10 MR HJALMARSSON: Yes, your Honour. My client would like to have the
11 assurance, yes, please. Thank you.

12 PRESIDING JUDGE SCHMITT: Prosecution, what are your views on Rule 74
13 assurances?

14 MR VANDERPUYE: Mr President, we believe that Rule 74 assurances are
15 appropriate in this circumstance.

16 PRESIDING JUDGE SCHMITT: Any comments by the Defence teams?
17 (Trial Chamber confers)

18 PRESIDING JUDGE SCHMITT: The Chamber will now render its decision on the
19 requested assurances mindful of the factors specified in Rule 74(5) of the Rules. The
20 Chamber has decided to provide assurances pursuant to Rule 74 of the Rules of
21 Procedure and Evidence in order to enable the witness to testify truthfully without
22 fear for the consequences of self-incrimination.

23 These assurances are granted with respect to Witness 20 under the conditions, we
24 have talked about that before, specified in Rule 74(3)(c) and 74(7). This means that
25 the witness can still be prosecuted under Articles 70 and 71 for his future conduct

1 such as testifying falsely before this Chamber in this case.

2 However, the witness's testimony as to his past conduct cannot be used against him in
3 subsequent Court prosecution.

4 This concludes the ruling of the Chamber.

5 The Chamber will now render a short oral decision with respect to Rule 68.

6 On 17 September 2015, the Prosecution requested that the prior recorded testimony of
7 P-20 be admitted according Rule 68(3) of the Rules. The request is contained in filing
8 1262. The Defence teams for Mr Babala, Mr Bemba and Mr Kilolo provided their
9 responses on 24 September 2015. They are contained in filings 1283, 1293, and 1294.

10 The Chamber provisionally grants the request provided that P-20 does not object to
11 the submission of his previously recorded testimony. The Chamber will provide a
12 fully reasoned decision in due course.

13 In order to give effect to the purpose of Rule 68, that is, the expeditiousness of the
14 proceedings, the Prosecution need not have the witness identify each individual
15 component of his prior recorded testimony so long as the witness confirms dates of
16 his prior testimony and does not object to the formal submission of the prior recorded
17 testimony as a whole. The ERNs of the prior recorded testimony can instead be
18 submitted after the hearing in accordance with decision 1423 of the Chamber.

19 The Prosecution is also reminded that it is not necessary to re-elicite prior recorded
20 testimony in Court once the prerequisites of Rule 68(3) are met. However, this does
21 not preclude the Prosecution to ask follow-up questions to the witness or to pose
22 questions with the aim to clarify the witness's testimony.

23 This concludes this ruling by the Chamber.

24 We have to go now into closed session because we can start with the witness'
25 testimony.

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- 1 *(Closed session at 9.41 a.m.) Reclassified as Open session
- 2 THE COURT OFFICER: We are in closed session, Mr President.
- 3 (The witness enters the courtroom)
- 4 PRESIDING JUDGE SCHMITT: Thank you. Could we go into open session.
- 5 (Open session at 9.42 a.m.)
- 6 THE COURT OFFICER: We are in open session, Mr President.
- 7 PRESIDING JUDGE SCHMITT: Thank you.
- 8 Good morning, Mr Witness.
- 9 WITNESS: CAR-OTP-P-020
- 10 (The witness speaks French)
- 11 THE WITNESS: (Interpretation) Thank you.
- 12 PRESIDING JUDGE SCHMITT: You are going to testify before the International
- 13 Criminal Court. On behalf of the Chamber I would like to welcome you in the
- 14 courtroom, Mr Witness.
- 15 THE WITNESS: (Interpretation) Thank you.
- 16 PRESIDING JUDGE SCHMITT: This Chamber has been established to try the case
- 17 of the Prosecutor against Mr Jean-Pierre Bemba Gombo and others. You are called to
- 18 testify to assist us in our search for the truth.
- 19 Mr Witness, there is a card in front of you with a solemn undertaking to tell the truth.
- 20 Could you please read out loud this card?
- 21 THE WITNESS: (Interpretation) I solemnly declare that I shall speak the truth, the
- 22 whole truth and nothing but the truth.
- 23 PRESIDING JUDGE SCHMITT: Thank you, Mr Witness. You are now under oath.
- 24 You have already been informed about the importance to speak the truth.
- 25 Nevertheless, I want to reiterate to you that as you have just promised, you have to

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1 speak the truth, and it is an offence within the jurisdiction of this Court to give false
2 testimony.

3 Can we please go now into private session.

4 *(Private session at 9.44 a.m.) Reclassified as Open session

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

6 PRESIDING JUDGE SCHMITT: Thank you.

7 Mr Witness, we know that you have already provided testimony before this Court in
8 another case. This Chamber wants you to testify truthfully without any fear of
9 consequences of self-incrimination. This is why this Chamber has granted you
10 assurances that nothing that you say during your testimony before this Chamber can
11 be used against you in proceedings before this Court.

12 This includes anything that you tell this Chamber with regard to your testimony
13 before the other Chamber. As long as you tell the truth and follow the directions of
14 this Chamber, you can be assured that nothing you say will be used against you by
15 this Court. However, should you not tell the truth to this Chamber, this means that
16 there can be future prosecution against you for falsely testifying before this Chamber.
17 I want you to have this in mind, in your mind when you are going to testify now.

18 Do you understand that, Mr Witness?

19 THE WITNESS: (Interpretation) I have understood correctly.

20 PRESIDING JUDGE SCHMITT: Now, we can't guarantee you that there will be no
21 prosecutions against you in domestic jurisdictions for what you say here. The
22 Chamber does not have the power to do this. But what we will do in order to
23 protect you is that nothing incriminating you say will be disclosed to a State or
24 anyone outside of this courtroom. Every time you say something that is potentially
25 self-incriminating, we'll go into what we call here private session. That means that

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1 this will not be broadcast outside of the courtroom and only the people in the
2 courtroom can hear it.

3 We told the lawyers and everybody else in the courtroom that they are not allowed to
4 disclose your identity or anything self-incriminating you say to anyone. We also
5 told them that there can be proceedings against anyone who does not obey this order.
6 Do you understand that, Mr Witness?

7 THE WITNESS: (Interpretation) I have understood you very well.

8 PRESIDING JUDGE SCHMITT: Let me now explain to you how the protective
9 measures work that the Chamber has put in place for your testimony. First, face
10 distortion has been put in place, which means that no one outside the courtroom can
11 see your face during the testimony on the screen.

12 There will also be the use of a pseudonym. In accordance with that, we will all refer
13 to you only as "Mr Witness" as I do at the moment to make sure that the public does
14 not know your name.

15 When you answer questions that will not give away who you are or might
16 incriminate you, you will do so in open session, which means that the public can hear
17 what is being said in the courtroom. You can see that we are in open session if the
18 light in front of you is red.

19 When you are asked to describe anything that relates specifically to you or you are
20 asked to mention facts that might reveal your identity, for example, any locations
21 where you live or persons close to you, we will do this in private session. The light
22 in front of you will then be green, meaning that you can speak freely.

23 As I've already explained to you in private session is no broadcast, and no one outside
24 the courtroom can hear your answer.

25 If ever anything gets said during open session which should have been said in private

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1 session, we will do our best to protect this information. Your testimony will be
2 broadcast on a delay, and we can remove any such remarks from the broadcast which
3 will be heard by the public and remove it from the public transcript of the
4 proceedings.

5 The Chamber recognizes that your security and well-being is important during the
6 course of this trial. If at any point you feel that you would like a brief break from
7 giving your testimony or you feel unwell, do not hesitate to let us know.

8 Now a few practical matters you should have in mind when giving your testimony.

9 Everything we say here in the courtroom is written down and interpreted into
10 English and French. It is, therefore, important to speak clearly and to speak at a
11 moderate or rather slow pace as I do it at the moment. We want to make sure that
12 your words can be well understood by the interpreters and then by the rest of us.
13 Please speak into the microphone and only start speaking when the person asking
14 you the question has finished.

15 To allow for the interpretation, everyone has to wait a few seconds before starting to
16 speak. If you have any questions yourself, raise your hand so we know that you
17 wish to say something. We will then give you the opportunity to speak.

18 Have you understood all that, Mr Witness?

19 THE WITNESS: (Interpretation) Yes, I have understood. But could I not be given
20 a name that I might use, any old name?

21 PRESIDING JUDGE SCHMITT: I think we can -- what do you mean by a name be
22 given? Could you explain it to the Chamber what you mean by that? Because you
23 have a pseudonym, and we are calling you "Mr Witness," I think this is the easiest
24 way and --

25 THE WITNESS: (Speaks English) Okay.

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1 PRESIDING JUDGE SCHMITT: -- the most practical way to handle it. Don't you
2 think so?

3 THE WITNESS: (Interpretation) That's fine. Very well, I've understood.

4 PRESIDING JUDGE SCHMITT: Thank you. We will then start your testimony.
5 Mr Prosecutor, you have the floor.

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

7 THE WITNESS: Merci.

8 MR VANDERPUYE: Good morning again to Mr President, your Honours,
9 everyone.

10 QUESTIONED BY MR VANDERPUYE:

11 Q. And good morning to you, Witness.

12 A. Thank you.

13 Q. I'm going to try and keep this short. I'm not famous for that around here, but
14 I'll try.

15 First, can you state your name for the record?

16 A. Yes, my name is (Redacted)

17 Q. Thank you, sir. Can you tell us your date of birth?

18 A. I was born on (Redacted).in (Redacted)..

19 THE INTERPRETER: The interpreter did not catch the precise location.

20 MR VANDERPUYE:

21 Q. If you could just please repeat your answer a little bit more slowly and maybe
22 speak up a little bit so the interpreters can hear?

23 A. I was born on (Redacted)

24 Q. Thank you, sir. Do you recall -- I'm sorry -- do you recall testifying in the case
25 of the Prosecutor versus Jean-Pierre Bemba Gombo?

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1 A. Yes, I do acknowledge that.

2 Q. Do you remember approximately when you testified in that case?

3 A. Yes. It was on 16 May 2012 that I came to testify in The Hague for Mr Bemba.

4 Q. And do you remember approximately when it is that you arrived in The Hague
5 to testify in that case? Was it in the morning, evening, afternoon, that sort of thing?

6 A. I arrived in The Hague on 16 October 2012 in the evening.

7 Q. And do you remember what time it was that you left where you were in order
8 to come to The Hague, about what time of day?

9 A. I believe that in my statement I said that it was between -- well, it was a member
10 of the security in The Hague who came to pick me up, between 1 and 2 p.m.

11 Q. All right. Thank you. I'm having a little trouble with my headphones over
12 here.

13 You spoke about your statement. Can you tell the Chamber when you gave that
14 statement, if you recall?

15 A. I arrived in The Hague on the 16th in the evening, and I was accommodated in a
16 hotel. I do not know the name of said hotel. And on the next morning I came to
17 The Hague, and I was shown where I was to sit down, where the Prosecutors and
18 Defence were to be seated, and the Defence, yes.

19 Q. After you gave your testimony in the Bemba trial, do you recall if you had
20 subsequently met with the members of the Office of the Prosecutor?

21 A. Could you please repeat your question?

22 Q. Yes. After your testimony, that is between the time that you gave your
23 testimony in October 2013 and now, did you meet with members of the Office of the
24 Prosecutor?

25 I'm not sure if the witness has heard the question yet.

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1 Just bear with us a moment, please, Mr Witness.

2 THE INTERPRETER: Message from the English booth: We're also having a little
3 problem with sound in the booths. Everything seems a very, very long way away
4 from us this morning. So we're having problems catching what people say. Thank
5 you. We're trying to deal with it.

6 MR VANDERPUYE: I'm not sure if the problem is solved.

7 PRESIDING JUDGE SCHMITT: Mr Witness, Mr Witness, as you hear, there is a
8 technical problem with the interpretation. As soon as this is solved sufficiently, we
9 will continue with your testimony.

10 THE WITNESS: (Interpretation) Very well. Thank you.

11 PRESIDING JUDGE SCHMITT: I have heard, I have heard, Mr Witness, that it
12 would be good for the interpreters if you stay a little bit further away from the
13 microphone. You could of course say this, "I told you to speak into the microphone,"
14 but not be too close obviously. This would facilitate everything, I understand.
15 Thank you.

16 THE WITNESS: (Interpretation) Yes. Thank you. I have understood.

17 PRESIDING JUDGE SCHMITT: I think, Mr Vanderpuye, now we can continue.

18 MR VANDERPUYE: Thank you very much, Mr President. I'll come a little bit
19 more to the point. I'm sure my friends won't mind.

20 Q. Sir, did you give -- did you have an interview with members of the Office of the
21 Prosecutor in January of 2014?

22 A. January 2014? Well, January 2015 it is. It's not January 2014. It's
23 January 2015.

24 Q. To your recollection, when in January did that -- did you have that meeting, if
25 you can remember the date?

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1 A. Well, which meeting are you referring to? I didn't really understand what the
2 Prosecutor just said. Which meeting and with whom?

3 Q. Did you meet with members of the Office of Prosecutor in January?

4 A. Yes. Well, I met with the people from the Office of the Prosecutor. It was on
5 the 22nd of January 2015. It wasn't 2014. On the 22nd and 23rd of January 2015.
6 Mr Prosecutor is talking to me about 2014, and that's what surprises me.

7 Q. How many days, if it was more than one, did you meet with the Office of the
8 Prosecutor to your recollection?

9 A. It was for two days, on the 22nd and the 23rd of January.

10 Q. Did you have an opportunity to review the transcripts of that meeting prior to
11 testifying here today?

12 A. Yes. Before coming here I met with the two investigators in (Redacted), who
13 gave me the documents that I perused. And I even signed a statement before
14 coming to The Hague.

15 Q. I'd like to show you a document. It's behind tab 19 for the Chamber's benefit.
16 It's a filing, so maybe the Registrar can help pull this down, it's
17 ICC-01/05-01/13-1272-Conf-AnxI.

18 PRESIDING JUDGE SCHMITT: I don't think that it is tab 16.

19 MR VANDERPUYE: I meant to say tab 19. If I misspoke, I apologise.

20 Q. While we're waiting for that to come up, can you tell the Chamber
21 approximately how many transcripts, if you can remember, that you reviewed
22 concerning that meeting on the 22nd and 23rd of January?

23 A. Your people met with me in (Redacted). They gave me the documents of
24 January 22nd and 23rd of 2015. I reviewed them. And when I arrived in The
25 Hague, they gave them to me and I read them again as well.

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1 Q. I think my question was approximately how many transcripts did you review, if
2 you can recall?

3 A. At the time there were two sets of documents. I started reading at 11, and I
4 continued until 6 p.m. I read all of the documents.

5 Q. I would like to go to the next page of this document in eCourt, this filing. And
6 first I'll ask you if you recognize your name on this document, if you can see it?

7 A. Yes, I can confirm that that is my name.

8 Q. And if we could go to the bottom of the document -- bottom of this page, I'm
9 sorry. So it's the previous page, please. There we go.

10 Do you recognize the signature on this document, sir?

11 A. This is my signature.

12 Q. And you can see the date above that signature of 15 September 2015. Is that
13 accurate?

14 A. Yes, that is correct.

15 Q. I just want to go up the page to the beginning of the first paragraph, beginning
16 of the first paragraph, please. It starts with (Interpretation) "That the content of
17 testimony previously recorded." Do you see that line, sir?

18 A. Yes, I see it.

19 Q. Does that refresh your --

20 A. But the year is not 2014. It is 2015. And I see the date 2014 here. It's
21 January 22nd and 23rd of 2015. I don't know if I lied.

22 Q. No, sir, you haven't lied, and nobody said you have. I just want to know, first
23 of all, if this is the document that you signed and refers to the transcripts of the
24 statements, the transcript of the interview that you say you had the 22nd and 23rd of
25 January?

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1 A. Yes, that's it.

2 Q. And it refers to individuals who were present during the course of that
3 interview. Do you recognize the names there?

4 MR KILENDA: (Interpretation) Mr President.

5 PRESIDING JUDGE SCHMITT: Mr Kilenda.

6 THE INTERPRETER: Mr Kilenda's microphone is not on. It is on now.

7 MR KILENDA: (Interpretation) This is what I wanted to say, Mr President. I
8 think we have to be sure of the date. The witness is talking about January 22nd and
9 23rd of 2015, and the Prosecutor, when he asked the question, simply says
10 "January 22nd and 23rd." We need to know specifically what dates are we referring
11 to? This is I believe important.

12 PRESIDING JUDGE SCHMITT: You have heard it, Mr Vanderpuye. Of course,
13 you are aware of that, that we have to establish this.

14 MR VANDERPUYE: Yes, I am aware of that.

15 Q. Sir, that interview that you had that you say was in January 2015, to your
16 recollection, was it recorded?

17 A. Of course, this was recorded by (Redacted)

18 THE INTERPRETER: Interpreter is not sure of the pronunciation of that name.

19 MR VANDERPUYE:

20 Q. Can you please restate the name of the person that you believe recorded this
21 interview? The interpreters didn't hear it very well.

22 A. (Redacted). There were two of them. There was a woman as well.

23 The woman was (Redacted). I also had -- I'm sorry. There also were police
24 inspectors, (Redacted).

25 (Redacted).

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1 Those were the people.

2 Q. And other than this interview that you say you had on the 22nd and 23rd of
3 January 2015, did you have any other interviews with the members of the Office of
4 the Prosecutor which involved your providing a statement?

5 A. Mr Prosecutor, it is January 22nd, 2015. That is the date on which the police
6 came to seize me by force in front of my wife and my children to take me to the police
7 station. They did not even inform me or call me beforehand so that I could go to the
8 police station. They simply arrived in a military fashion and acted with force in
9 front of my children to bring me to the police station. That was the worst day of my
10 life in (Redacted). on earth. I was not in agreement, and I was very anxious about
11 what was done.

12 So your investigators saw me, put questions to me, I answered their questions. And
13 I have forgotten some things, and then I remember them, and then I call them by
14 phone to say that I wanted to meet with them again. And this is how it came to be
15 that on the 23rd I went to the police station to make my deposition.

16 Q. Of 2015?

17 A. Yes, it was on January 22nd and 23rd of 2015.

18 Q. In the document you have in front of you now, do you remember signing it?

19 A. I know that I signed the document, but it is the date that I have a problem with.
20 I think it is a mistake. I think it should be 2015 and not 2014.

21 Q. Let me show you the next page in this document. Do you recognize your
22 name in this page?

23 A. Yes, I recognize my name.

24 Q. If we could just go down the page a little bit. That's a good point to stop. We
25 can see that this is the declaration of an individual whom you came before on 15

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1 September 2015. Just have a look at that first part of the paragraph and let me know
2 when you've had a chance to read it.

3 A. Mr Prosecutor, I do not understand, especially the date. I know about the
4 dates. It is January 22nd and 23rd, but the date is 2015, not 2014.

5 Q. Okay. If we can go down the page a little bit further, I just want to ask you this.
6 Do you see the part here where it says (Interpretation) "The witness has confirmed
7 that the testimony previously recorded is his testimony and states that its content was
8 to the full extent of his knowledge and memory truthful and correct."

9 A. (No interpretation)

10 THE INTERPRETER: The interpreter did not understand the witness's answer.
11 Can you please ask him to repeat his answer?

12 MR VANDERPUYE:

13 Q. Witness, could you please repeat your answer so the interpreters can hear it?

14 A. What was just read out in French, I was not able to see it on the screen. Which
15 part did you just read?

16 Q. I read the last four or five lines of that document. You should have it there on
17 the screen in front of you.

18 A. Yes, I've seen this.

19 Q. And what this document purports to show is that you had an opportunity to
20 read the transcripts that are indicated above by these reference numbers, it says
21 "CAR-OTP" and a number, and that you confirm that you've read it and that it's
22 truthful and accurate. Was that the case?

23 A. Yes, I had read it and signed it. But, again, it is the date. It was on
24 September 15, 2015. But our meeting with (Redacted) and (Redacted)-- I'm sorry, I'm
25 not quite sure about the name -- (Redacted), that meeting was on January 22nd and

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1 23rd of 2015, because the 3rd of December 2014, I requested authorisation from my
2 ministry to go to a town where my mother was being operated on. So it was in
3 January 2015 that (Redacted)-- sorry -- and (Redacted) came to (Redacted) so that we
4 could meet, and that's when they put questions to me and that I answered. So, again,
5 the date I have to say is not 2014, but 2015.

6 Q. I understand that, and that's fine. What I want to confirm with you is that the
7 documents that are indicated, the reference numbers that are indicated in the two
8 documents that I've shown you, one signed by you and another one signed by the
9 official -- an official of court on the 15th of September of this year are the documents
10 that you reviewed, that you read, (Redacted).

11 (Redacted).

12 (Redacted).

13 Q. Can you think of any reason why the Chamber should not have an opportunity
14 to review those transcripts as you have in respect of the evidence in this case?

15 PRESIDING JUDGE SCHMITT: Mr Gosnell?

16 MR GOSNELL: I know that the conditions under 68(3) are not entirely convenient,
17 but that question that was just put does not correspond to the requirement in Rule
18 68(3).

19 PRESIDING JUDGE SCHMITT: What do you think, Mr Gosnell?

20 MR GOSNELL: I think it's best to put the exact word to the witness, because it does,
21 it does entail something a little broader then.

22 PRESIDING JUDGE SCHMITT: I also prefer always if we have a legal text that we
23 use the wording, the legal wording, yes.

24 MR VANDERPUYE: I agree with Mr Gosnell, except I know the witness isn't a
25 lawyer.

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1 PRESIDING JUDGE SCHMITT: Only of course sometimes we -- please.

2 Sometimes we have of course a situation that a witness who is not a lawyer does not
3 understand, then we can start to explain it to the witness. And we have also Mr
4 Hjalmarsson sitting here who could explain in case there is a misunderstanding or
5 something like that.

6 MR VANDERPUYE:

7 Q. Do you have any objection or, rather, do you not object to the submission of this
8 previously recorded testimony to the Chamber in this case?

9 A. Yes, you can do that, Mr Prosecutor.

10 MR VANDERPUYE: Mr President, I would tender then the documents indicated in
11 the filing. ICC-01/05-01/13-1272-Conf-AnxI, dated 23 October 2015. If you would
12 like, I'll read into the transcript the ERN numbers, but I don't think it's necessary
13 because we have the filing. But I would tender all of those transcripts pursuant to
14 Rule 68(3) at this time for admission into evidence. Okay.

15 Q. Mr Witness, I have a few other questions I would like to ask you.

16 We can go into open session for this, please.

17 PRESIDING JUDGE SCHMITT: Open session, please.

18 (Open session at 10.22 a.m.)

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

20 MR VANDERPUYE: May I proceed, Mr President?

21 Thank you, Mr President.

22 Q. Mr Witness, I'd like to know if since testifying in the case against Mr Bemba
23 you've been contacted by any of the Defence teams in this case, that is, either by the
24 Defence team of Mr Kilolo or Mr Mangenda or Mr Babala, Mr Arido or Mr Bemba?

25 A. I've never been in contact with them.

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1 Q. And what I'd like to know is -- what I'd like to know is prior to your testimony
2 in the case against Mr Bemba, in October of 2012, you were contacted by members of
3 Mr Bemba's Defence?

4 A. Yes, it is true. I met with Mr Kilolo in (Redacted), but only with him. There
5 were not two or three of them. He is the only person I met with in (Redacted)

6 Q. And were you in contact with him by telephone prior to your testimony in
7 October of 2012?

8 A. No. It was in June of 2012 Mr Kilolo came to (Redacted). He called me on the
9 telephone and asked me if I could come and meet with him. He was Mr Bemba's
10 lawyer. I accepted. I told him that yes, I could meet with him. That is what it
11 was.

12 Q. Do you recall what telephone number you used at that time?

13 A. You know that I have several telephone numbers. When I am in (Redacted), I use
14 these numbers. But when I go to (Redacted), I do not use these numbers. And I do not
15 keep the same telephone number. I change from time to time.

16 PRESIDING JUDGE SCHMITT: I think when we're asking telephone numbers, we
17 have to go into private session. I think we are in open session still, so I would
18 suggest we go into private session.

19 MR VANDERPUYE: Thank you, Mr President.

20 *(Private session at 10.26 a.m.) Reclassified as Open session

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

22 MR VANDERPUYE:

23 Q. Okay. I'm not sure if your answer was recorded completely. Do you
24 remember what numbers you used during that period of time, during the time that
25 you were in contact with the Bemba Defence prior to your testimony?

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1 A. I do not recall the telephone number.

2 Q. That's all right. I'll show you a document, and that may assist you. Is that
3 okay?

4 A. Okay. Yes, please go ahead.

5 Q. Thank you. It's CAR-OTP-0077-0942.

6 For the Chamber's benefit that's behind tab 42 of your binders. I'd like to focus
7 specifically if we can on row number 8 in this document.

8 Witness, I've asked you to focus on row number 8. You may not recall, but your
9 pseudonym that was assigned in the Bemba case was Witness number 57. Do you
10 see the two numbers that are attributed to witness number 57 in this document?

11 A. Yes, I recognize a number that ends with the numbers (Redacted). I
12 recognize this number.

13 Q. Okay. Do you recognize it as one of the numbers you used to communicate
14 with the Bemba Defence prior to your testimony in the main case?

15 A. Yes, that is correct. I had that number.

16 Q. I have just a few more questions for you, and that relates to a certain amount of
17 money that was transferred to your wife. Do you recall talking about that in your
18 statement?

19 A. Yes, indeed, there was a transfer in the name of my wife.

20 Q. Do you remember approximately when that transfer, first of all of money -- can
21 you confirm that it was of money, this transfer?

22 A. Of course.

23 Q. And when was that transfer effective?

24 A. The transfer was made on the 16th. That is the very same day that I was
25 travelling from (Redacted) to The Hague.

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1 Q. Did you discuss that transfer with your wife either on the 16th or before the
2 16th?

3 A. No. That was at the time when brother Kilolo wanted to send me a little bit of
4 money. And that's why I gave him my wife's name, and that's how they sent the
5 money. But my wife received the money after I had left for the airport to come to
6 The Hague.

7 Q. Did you tell your wife that you had given her name to Mr Kilolo to receive that
8 money?

9 A. Yes, I did say so.

10 Q. When did you tell her that?

11 A. That was on the 16th in the morning. I said that I had given her name to
12 brother Kilolo, who was going to send her a little bit of money, and that is what was
13 done. And I was getting ready to go to the airport to take the plane to The Hague.

14 Q. I see. And do you know -- you said it was done. Do you know who sent that
15 money?

16 A. Unfortunately I have forgotten the name of the brother who sent the money. I
17 had written the number down, but I no longer recall. I gave the document to my
18 wife, who was going to pick up the money after I left, and I left for the airport.

19 Q. I'd like to show you a document, and this may help refresh your recollection.

20 It is CAR-OTP-0073-0274. What I'm going to show you is, it's a spreadsheet from the
21 Western Union money transfer company, and I'd like you to take a look at it.

22 While that's coming up, I would like to ask you just a couple of other things.

23 Did you receive any other money directly or indirectly from Mr Kilolo prior to your
24 testimony in the case against Mr Bemba?

25 A. Well, I received specifically a little sum from Mr Kilolo when he called me to

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1 come and meet him in (Redacted). But when your people left on the 22nd and the
2 23rd January 2015, they asked me the question, and I had no recollection of it. So I
3 said: What are you asking me about Mr Kilolo sending me money? I no longer
4 remembered.
5 I said, "No. Mr Kilolo didn't give me a thing. He didn't send anything to me."
6 And on the 22nd in the evening, as soon as I got home, I remembered and I asked my
7 wife. I said, "Did Maître Kilolo send me any money? I don't know. I can't
8 remember."
9 And then my wife said, "Yes, your brother did send you some money."
10 It was (Redacted) or something like that, (Redacted). He sent me (Redacted).
11 That's (Redacted) money. He sent me (Redacted) to spend to pay for transportation
12 from a location the interpreter did not catch to (Redacted).
13 And my wife reminded me of that, and that is why on the 23rd I said to my
14 investigators, well, I would like to meet them again to tell them that it is in fact the
15 truth that yes, I had received (Redacted) from Mr Kilolo to pay for transport from
16 (Redacted). That is what was done.
17 Q. All right. Well, before we --
18 PRESIDING JUDGE SCHMITT: Mr Gosnell is rising.
19 MR VANDERPUYE: I see.
20 PRESIDING JUDGE SCHMITT: And has the floor.
21 MR GOSNELL: Thank you, Mr President. I know that my friend across the way
22 cares a great deal about improper telegraphing information to witnesses as we heard
23 yesterday. And especially the manner in which this document is displayed in its
24 current format, where you see a large number of payments, most of which have
25 nothing to do whatsoever with this witness is actually improperly suggestive. And

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1 the matter on which the witness expressed inability to recall was just the name of a
2 person, and that's what the refreshing should have been limited to.

3 PRESIDING JUDGE SCHMITT: Indeed, if you look at this page that we have now
4 all on the monitor, let me put it this way, a possible answer would be relatively clear.
5 So perhaps you can near yourself by a sum and then -- yes, it's difficult how you
6 could elicit it. But this is indeed very suggestive because we have only one name
7 there on the screen.

8 MR VANDERPUYE: Yes, Mr President. As you will recall, I had asked a question
9 while this document was coming up, and that's what the witness was responding to.
10 And so now that the document is up, I'll ask the witness about the document.

11 MR POWLES: Mr President, it's totally unrelated to this, it's just that on our screen
12 the document keeps coming and going. So obviously we'd like to be able to see the
13 document at the same time.

14 PRESIDING JUDGE SCHMITT: What we have on the screen is what Mr Gosnell is
15 referring to.

16 MR POWLES: We have a blank screen at the moment. I just wonder --
17 (Pause in proceedings)

18 MR VANDERPUYE: Are we all set over there? Okay.

19 Q. Now, with respect to the document that's on the screen, Witness, I want to draw
20 your attention to row number 14.

21 And the first thing I want to do if we can is go over to column W on row 14. If we
22 can highlight the row, that would be great. Just click on, click on the left where it
23 says "14" and it will highlight the whole row. All the way, there you go.

24 THE WITNESS: (Interpretation) Well, I can see that yes, there is my wife's name
25 there.

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1 MR VANDERPUYE:

2 Q. All right. And if we can scroll back to the left.

3 Do you recognize that name indicated here as SName?

4 A. Are we still in column number 14?

5 Q. We're in row number 14, column C.

6 MR POWLES: I'm sorry to rise, Mr President, but there does seem to be a problem
7 with our monitor. And the document keeps coming and going from our screen, and
8 obviously we --

9 PRESIDING JUDGE SCHMITT: We have to fix this first and then the witness can
10 answer.

11 But, Mr Vanderpuye, I will not give you a second chance in that respect to be honest,
12 because it's really, you see, it's indeed what Mr Gosnell said is true. So perhaps we
13 could ask the witness if this rings a bell and then finish this.

14 MR VANDERPUYE: Mr President, my question was: Do you recognize this name?

15 PRESIDING JUDGE SCHMITT: I would not -- I would prefer another wording. I
16 would really prefer what I suggested --

17 MR VANDERPUYE: Okay, sure.

18 PRESIDING JUDGE SCHMITT: -- if you ask him if this rings a bell.

19 MR VANDERPUYE: Okay.

20 PRESIDING JUDGE SCHMITT: And then we wait, what he answers. And as I said,
21 and as I always said, we have very often to live with answers that perhaps not satisfy
22 everybody.

23 MR VANDERPUYE: It's no problem, Mr President. I appreciate it.

24 Q. Witness, does the name that you see on this document ring a bell?

25 A. Yes, I believe that it's the name Fidèle Babala, yes. But as I wrote it down

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1 rapidly and I handed it over to my wife when I was just about to leave, and it was
2 after I left that she went to get the money.

3 Q. You wrote down the name and you handed it to your wife. Who gave you that
4 name, sir?

5 A. Well, it was the same individual who gave me the name, and I wrote it down
6 quickly, handed it over to my wife, because I was on the verge of leaving for The
7 Hague, and it was after I had gone that my wife received the money.

8 Q. Just so that we're clear, are you saying that it was Mr Babala who gave you his
9 name or was it someone else who gave you Mr Babala's name?

10 A. Well, you know that I didn't know Mr Babala. And he was calling me from
11 Kinshasa to give me that name saying that he was sending a little bit of money in my
12 wife's name. I wrote down the name, gave it to my wife, and I was just about to
13 leave for The Hague. So that's what happened.

14 Q. And if I could just ask, how do you know that it was Mr Babala who was calling
15 you on the phone to give you Mr Babala's name? Did he introduce himself, anything
16 like that?

17 A. No, he didn't introduce himself. He gave the name and said he was sending.
18 I didn't know who he was. He gave a name, the name and -- well, because without
19 that name I can't pick the money up from Western Union. Before actually taking the
20 money out, you have to give the name. So I wrote it down on a piece of paper, gave
21 it to my wife, and I was just about to leave for The Hague, and that's what happened.

22 Q. What was the money for, sir?

23 A. No, it was my brother Kilolo who sent the money. I don't know whether he
24 gave any instructions to Mr Babala to send the money to my wife. I don't know
25 quite how it happened. But I know that we got a call from Kinshasa. And Mr

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1 Babala said that he was sending a little bit of money and that's what happened. And
2 I took down the name, gave it to my wife and I left to take a plane for The Hague.

3 Q. Did Mr Kilolo or Mr Babala or whoever it is you spoke to on the telephone tell
4 you what that money was for?

5 MR RODOMA: I apologise, Mr President. I do have an objection to make. I think
6 that this question has already been answered. The witness did specify that he did
7 not know where it came from, that he did not know -- that the money had been
8 promised to him, and that he did not know Mr Babala. I think that this might bring
9 the witness to say things that he does not want to say

10 PRESIDING JUDGE SCHMITT: This is overruled, because there is a difference in
11 the question. The question is now did Mr Kilolo or Mr Babala tell you what the
12 money was for? So I allow this question and then we move, we have to, again, we
13 have to accept the answer and then we move to the next point.

14 THE WITNESS: (Interpretation) Well, no, no. We didn't talk about the money
15 with Mr Babala. But before Mr Babala sent the money, brother Kilolo told me that he
16 was going to send a little bit of money. But it wasn't a question of negotiating with
17 Mr Kilolo. I didn't negotiate anything with him. It was out of kindness that he sent
18 a little bit of money to my family, because I was just about to leave for The Hague.
19 This was not a problem of negotiating.

20 MR VANDERPUYE:

21 Q. Do you know when your wife went to go pick up that money?

22 A. I told you that it was on the 16th, after I had left. It was when I was leaving for
23 the airport to take the plane to The Hague. That was when my wife received the
24 money.

25 Q. Before you testified in court, were you aware that you were about to receive or

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1 had received this payment?

2 A. Mr Prosecutor, I've just explained to you that my brother Kilolo was due to send
3 me a little bit of money. Either that is what Mr Babala sent or it isn't. Maybe
4 Mr Kilolo is present in the courtroom, you can ask him.

5 Q. Maybe there was something lost in translation, sir. My question was: Before
6 you testified, were you aware that that money your wife had gone to pick up or that
7 you were expecting that money?

8 A. Mr Prosecutor, I've just told you the money was sent. I didn't see it in the flesh.
9 I received a phone call, I took down the name, I gave it to my wife, who went to get
10 the money after I had left.

11 And when I came to testify in The Hague, the former prosecutor asked me whether I
12 had received any money from Maître Kilolo the day before. And I said no, because I
13 hadn't seen any money. I can't tell the prosecutor that I had received any money
14 from Maître Kilolo. It was upon my return that my wife told me that she had
15 received the money, and there we are.

16 Q. Do you recall what you testified to on the 19th of October 2012 in respect of
17 whether you received any money in relation to your testimony in the main case?

18 A. No, Mr Prosecutor, it wasn't on the 19th of October that I received the money.

19 Q. I'm asking you about what you --

20 A. So are we -- what money are we talking about? Are we talking about the
21 money that I used to pay for transportation or the money that my wife received? I
22 don't really understand.

23 Q. You were asked this question and gave this answer during the course of your
24 testimony in the case against Mr Bemba on 19 October 2012.

25 For the Chamber's benefit, this is transcript 258, English is between, it's on page 2,

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1 lines, 25 through page 3, line 10. In the French it is page 2 of the same transcript,
2 lines 27 through page 3, line 12.

3 And here is how it goes, Mr Witness:

4 "Question: Mr Witness, during the time that you were contacted by the Defence,
5 were you ever paid or received any money by them or anyone else on their behalf?

6 Answer: Mr Prosecutor, what work would I have done in order for me to be paid
7 money?

8 Question: Can I have the answer once again?

9 Answer: Mr Prosecutor, well, if someone does a job, they're to be paid for it. But
10 what work are you referring to? What job are you referring to for which I would
11 have received money to pay me for something? No one gave me any money.

12 Question: Mr Witness, just to make sure we understand each other, I didn't ask
13 about a particular job. I only asked whether you had received any money by the
14 Defence or anyone else on their behalf at the time you were contacted from them.

15 Answer: Yes, counsel. I did not receive any money."

16 Did you give those answers to those questions in the course of your testimony in the
17 Bemba trial on 19 October 2012?

18 A. But, Mr Prosecutor, I was saying to you at an earlier stage that on 16
19 October 2012, I received a call from my brother Babala in Kinshasa, who had made a
20 transfer in the name of my wife. I took the name down. I gave the name to my
21 wife, and I was about to come to The Hague.

22 And on 19 October 2012, the former prosecutor who was there put questions to me as
23 to whether I had received any money from anybody in the Defence before coming to
24 testify.

25 And I said "No," because not only had I not seen the money, I can't come to testify to

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1 the effect that, well, yes, I was given such and such an amount of money. I can't tell
2 the prosecutor -- well, I didn't receive the money. There we are. That's what was
3 said.

4 Q. You didn't tell the prosecutor that you had just sent your wife to collect that
5 money, right?

6 A. No, no, because it was just a piece of paper. Had she taken the money and had
7 she reported back to me before I travelled, then I would have told the Prosecutor so,
8 because she went to pick it up after I had left. It was after I had left that she went to
9 get the money. So how could I then come and tell the Prosecutor that I had got,
10 received such and such a sum of money because I didn't even know what the sum
11 was.

12 PRESIDING JUDGE SCHMITT: I think, Mr Prosecutor, we move to another point
13 now.

14 MR VANDERPUYE:

15 Q. Are you aware that your wife gave a statement to the Office of the Prosecutor
16 regarding this very business that we're talking about now?

17 The Chamber will find that behind tab 15.

18 A. Yes, of course. Yes, my wife also gave a statement. She was come to make a
19 deposition. She was come -- they took her away forcibly on that very same day, and
20 she was obliged to give a statement.

21 Q. You mean the same day that you gave -- you had your interview with the Office
22 of the Prosecutor, it was that day?

23 A. Yes. My wife was also questioned on the very same days, the 22nd to the 23rd.
24 We were together.

25 Q. Let me just show you something then, sir.

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1 If I could have in eCourt CAR-OTP-0075-0009.

2 PRESIDING JUDGE SCHMITT: Could you please ask the question, Mr Vanderpuye.

3 MR VANDERPUYE: Sorry, Mr President, I didn't notice it was on the screen. First
4 thing we can do that may be helpful, we can go to page 0014.

5 Q. Do you recognize the signature you see on this page, sir?

6 A. Yes. This is my wife's signature.

7 Q. For the record, you can see there is a date written there of 2014-1-23. Do you
8 see it?

9 A. Well, really, this must be a mistake.

10 Q. Okay.

11 PRESIDING JUDGE SCHMITT: Mr Vanderpuye, I think we have the coffee break.

12 THE WITNESS: (Interpretation) This is a mistake.

13 PRESIDING JUDGE SCHMITT: Yes, we a coffee break until 11.30.

14 MR VANDERPUYE: Thank you, Mr President. I won't be long afterwards, I can
15 assure you.

16 THE COURT USHER: All rise.

17 (Recess taken at 11.01 a.m.)

18 *(Upon resuming in private session at 11.31 a.m.) Reclassified as Open session

19 THE COURT USHER: All rise.

20 PRESIDING JUDGE SCHMITT: I understand that we are still in private session; is
21 this correct? Yes. Then, Mr Vanderpuye, you can continue with the examination.

22 MR VANDERPUYE: Thank you, Mr President.

23 Q. Welcome back, Witness.

24 A. Thank you.

25 Q. Do you still have the document that we had on the screen before?

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1 MR KILENDA: (Interpretation) Mr President, Mr President, I would like to
2 denounce what I consider is a fact that is very close to suggesting the responses to the
3 witness. I believe that since we started the proceedings, each time the Prosecutor
4 asked the witness a question along the lines of "Do you remember having said this or
5 that?" he begins by asking the question, and when he finds that the witness is not able
6 to recall what he is being asked to recall, that the document is then put on the screen
7 in order to refresh the witness's memory.

8 I strenuously denounce this and what was happening before the break, because the
9 question was put to the witness several times, namely, who had transferred the
10 money to him. The witness was clear when he said that he did not know the name
11 of that person. Then a document was put on the screen in which we see only the
12 name of our client. We believe that this is a way to suggest the answer to the witness.
13 I propose, I suggest, because I have no power to decision, I simply wanted to bring,
14 most respectfully, to bring this to the attention of the Judges so that measures may be
15 taken in order to safeguard the equity and fairness of these proceedings. Thank you.

16 PRESIDING JUDGE SCHMITT: Thank you very much.

17 Mr Vanderpuye, do you want to answer?

18 MR VANDERPUYE: I don't know if my friend has a particular cite in mind, but my
19 recollection was as exactly what I did, was ask the whether he remembered
20 something and then attempted to refresh his recollection. I asked him who sent the
21 transaction, if he remembered, and he said he didn't.

22 PRESIDING JUDGE SCHMITT: Then please move on. And perhaps keep in mind
23 what Mr Kilenda has objected to and then we can -- as you have addressed, you
24 would not have so many questions anymore.

25 We have of course, we have to -- we have of course to keep in mind, we have a special

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1 situation here since we have the Rule 68(3) situation, which means that these former
2 transcript are sort of on the table here and are incorporated. So this makes in so far a
3 difference as the calling party here, the Prosecutor, has not very much left to ask. On
4 the other hand, we cannot and will not limit the right of the accused to examine this
5 witness. Do you see what I mean by that?

6 So we would expect that the calling party, it could be in next year, it could be the
7 Defence, it's short when we have this procedural situation, and the other party, the
8 adverse party has their full right to question the witness, and you will get that full
9 right to question that witness.

10 MR KILENDA: (Interpretation) Thank you, Mr President. I do not contest the
11 Prosecutor's right to refresh the memory of the witness. But what he did here is
12 quite blatant, because the document he put on the screen only contained the name of
13 Mr Babala. We would have liked to see A, B, C, D and so on and then it would be up
14 to the witness to choose. That is what I wanted to say.

15 PRESIDING JUDGE SCHMITT: Yes, once again that has been addressed also by Mr
16 Gosnell, if I recall it correctly, and the Chamber and especially also my person are
17 aware, are aware of that. And I suggest that Mr Vanderpuye continues and
18 concludes his questioning.

19 MR VANDERPUYE: I will do. For the record, Mr President, the question was put
20 at page 26, line 2: "Do you know who sent the money?" is the question. And the
21 answer was, "Unfortunately I have forgotten the name of the brother who sent the
22 money."

23 That was before the document was placed on the screen. That was before Mr
24 Gosnell's objection. And I don't know why Mr Kilenda didn't raise his objection at
25 that time.

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1 Q. I was talking about the document that's on the screen now, the one that you said
2 you recognized the signature on. Do you see it there in front of you, sir?

3 A. Yes, Mr Prosecutor, I told you that this is my wife's signature. But the date is
4 not right.

5 Q. Did you discuss with your wife the transfer that you've testified about and
6 that's contained in your statement of 16 October 2012?

7 A. Yes, Mr Prosecutor. I had just explained to you, I told you that I got the name.
8 I wrote it down on a piece of paper. I gave it to my wife. And I was getting ready
9 to go to the airport to go to The Hague. And it was after I left that my wife actually
10 got the money. I don't know if I am clear.

11 Q. You're very clear. Thank you for that answer.
12 You said that you received a telephone call concerning that transfer. Can you tell the
13 Chamber when you received the telephone call compared to when it was that you left
14 for the airport?

15 A. If I am not mistaken, it was sometime around 9 or 10.

16 Q. Thank you. And who called you?

17 A. As I said, it's a brother who was calling from Kinshasa, but I didn't know him.
18 I did not know him. He called me. He said that he had sent some money. He
19 gave me the name that I wrote down on a piece of paper. And because I was getting
20 ready to leave for the airport, I gave it to my wife and told her to collect the money.
21 That's what was done.

22 Q. Did you speak to Mr Kilolo before you went to the airport on 16 October 2012?
23 Do you remember?

24 A. On October 16th, I did not speak with Mr Kilolo. It's the security guard who
25 was supposed to come and get me at the airport from (Redacted) who called

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1 me twice. He told me that I had to be at the airport two hours prior to the flight, and
2 that's what I did. I left my home about 10.45. I took the bus to go to the airport. I
3 met with him at the airport. We went through the formalities together, and we took
4 the plane, flew to Amsterdam, and from Amsterdam we were taken by vehicle to The
5 Hague.

6 MR VANDERPUYE: If I could show the witness, please, CAR-OTP-0090-0630.

7 And in this document we'll need to go to ERN page ending 0720.

8 Q. What I am showing you is a piece of evidence or which has been submitted as
9 evidence in this case, which is an annex to a report, and this is what we call
10 sequence tables concerning certain telephone numbers and certain information
11 regarding those telephone numbers. I want to draw your attention to line number
12 20. That's row 20 of this document. And what I would like to do is to ask you if
13 you recognize your own telephone number in that row.

14 A. Yes, my telephone number is there.

15 Q. For the record, is that the telephone number ending (Redacted)

16 A. Yes, it is.

17 Q. The telephone number which is the originating number in this document is a
18 number that the Office of the Prosecutor attributes to Mr Kilolo?

19 PRESIDING JUDGE SCHMITT: Mr Djunga.

20 MR DJUNGA: (Interpretation) I think this is quite suggestive. Can we ask the
21 witness if he recognized the other number, if he recognized this number, does he
22 recognize the number that had been called or with whom he was in contact, when
23 he's been told from the outset that this is known to be Mr Kilolo's number?

24 PRESIDING JUDGE SCHMITT: It would of course be a possibility to ask the witness
25 if this line, and we have here a date, the 16th of October, does refresh his recollection

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1 that he received at that time and date a telephone call; and if so, if he recalls with
2 whom he spoke. That would be a line of questioning that I think would not meet
3 any objections.

4 MR VANDERPUYE: Thank you, Mr President.

5 Q. Witness, did you hear the Presiding Judge's formulation of that question, and
6 can you answer it?

7 A. Yes, you asked me whether on the 16th I called Mr Kilolo or did Mr Kilolo call
8 me. I don't know. But if you say on the 15th or if you ask about the 15th, then I will
9 recognize that Mr Kilolo called me during the 15th.

10 But on the 16th, I was called by the person from security. This is when he asked me
11 to come to the airport and to wait for me so that we could go through the controls
12 together. But during the day of the 16th, I'm not certain about this.

13 Q. About how long did you speak to Mr Kilolo on the 15th then?

14 A. What were we talking about with Mr Kilolo? You know that it was the first
15 time I came to The Hague. I didn't know what was going to happen. I didn't know
16 how it would be in The Hague. So I put questions to him and he answered. He
17 said there are people who are in charge in The Hague. As soon as I was to get in The
18 Hague, I would be met by people in charge who would show me where the Judge
19 would be sitting, where the Prosecution would be, where the Defence would be, and
20 that's what was done.

21 And I talked with Kilolo about all of these questions. I don't know what else,
22 because in the document you say that I talked with Kilolo for an hour and 10 minutes,
23 70 minutes. That is not possible. I never did this ever. To talk for 70 minutes by
24 telephone? I don't think so. If you said 5 minutes or 10 minutes or 15 minutes, but
25 70 minutes, that's not possible. What would we have talked about? What would I

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1 have talked about with Mr Kilolo? I don't know. If somebody else knows, they can
2 come and say it to the Court, but I did not talk with Mr Kilolo for an hour and 10
3 minutes. That, I'm quite certain of.

4 Q. All right. Well, nobody is accusing you of that. I just wanted to know if you
5 spoke to Mr Kilolo on the 15th. Your answer seems to be yes; is that fair?

6 A. Yes, of course I talked with Mr Kilolo. I didn't know how things would be in
7 The Hague. So I asked several questions, and he answered my questions. And
8 aside from that --

9 Q. To your recollection, did you speak to Mr Kilolo on the telephone number that
10 you gave earlier today, which is the number ending (Redacted) on 15 October 2012?
11 Did you use the same number?

12 A. Of course, yes. That is my telephone number. I recognize this.

13 Q. Okay. Aside from the \$665 that was remitted to your wife on 16 October 2012,
14 did you receive any other moneys from Mr Kilolo prior to your testimony in 2013 -- I
15 mean 2012, I'm sorry, October?

16 A. As I said, Mr Prosecutor, this was in June. If I am recollecting correctly, June or
17 July, but I think it was June. I was saying that my brother Kilolo had sent (Redacted),
18 (Redacted) so I think that's about (Redacted) to pay for transportation (Redacted)
19 (Redacted). And that was in order to go and meet with him, and that's
20 exactly what was done. I got this money, (Redacted), that's what I got,
21 and with what my wife received. So aside from that I did not get any money from
22 Mr Kilolo, aside from the (Redacted).and then the money that my wife collected.

23 Q. When you told the Chamber on 19 October 2012 that you had not received any
24 money from the Defence or anyone else, you had already received those (Redacted) or
25 (Redacted) euros from the Defence or (Redacted), right?

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1 A. Mr Prosecutor, what Mr Kilolo had sent to me to cover my cost of transportation,
2 is this something that I had to tell the Prosecutor for (Redacted), I had to say that I
3 received (Redacted)? Is this something I should have said to the Prosecutor? I didn't.
4 The Prosecutor had asked me a question. I answered that no. But we were
5 supposed to be receiving money from Kinshasa. And as I told you, I had written
6 down the name when I was rushing out the door to go to the airport, and then I gave
7 that information to my wife. And she collected the money after I left. But I couldn't
8 really say to the Prosecutor, yes, I received some money from somebody. I hadn't
9 actually seen the money. I couldn't say that. So I didn't tell the Prosecutor that I
10 had received money, because I hadn't actually seen it. How much was it? 2,000,
11 3,000, I couldn't say since I hadn't seen it.

12 PRESIDING JUDGE SCHMITT: This has been asked and answered now, this issue.

13 MR VANDERPUYE: Thank you, Mr President.

14 Q. Witness, when you answered the Prosecutor's question during the course of
15 your testimony, you had already received confirmation that that money had been sent
16 on your account to your wife; that's correct, isn't it?

17 A. No, it isn't.

18 MR VANDERPUYE: Thank you. I have nothing further for the witness. Mr
19 President, that concludes my direct examination. I appreciate your indulgence and
20 your patience.

21 PRESIDING JUDGE SCHMITT: Thank you very much.

22 Like always, the question when it comes to the examination by the Defence, if you
23 have agreed on a sequence, who wants to start with the examination of this witness?

24 MR GOSNELL: Mr President, I think it's me. And I have just a very few questions.

25 PRESIDING JUDGE SCHMITT: Then please, you have the floor, Mr Gosnell.

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1 QUESTIONED BY MR GOSNELL:

2 Q. Good morning, Mr Witness. I just have a few questions for you.

3 A. Thank you very much.

4 Q. Do I understand correctly that on the date of your interview with an
5 investigator from the Office of the Prosecutor, which we know was in a January of
6 some year, were you placed under arrest prior to that interview?

7 A. On the morning the police came and knocked on the door, banged on the door, I
8 was upstairs, and they came to get me. This was at 8 a.m. on the 22nd. They told
9 me to leave in my pyjamas, and I refused. I said I wanted to get dressed before
10 going to the police station, so that was done, and my wife as well.

11 I thought that maybe I had killed somebody or I had robbed somebody. I didn't
12 know what I had done. How is it possible that the police could come to my house
13 and forcibly remove me to take me to the police station? I had explained this in my
14 deposition. And I know that you knew about this.

15 This took place, and it was at the police station that the investigators that explained
16 that it was people from the ICC who had come to question me. And I had said if it
17 were people from the ICC would come to question me, they didn't need to send 10
18 policemen to come and forcibly take me from my home, that this was not normal. I
19 could have been called on the phone or I could have been summoned to come to the
20 police station, and that was not done.

21 And truly, that is the worst day of my life of the last (Redacted), and I cannot forget
22 the day. It is simply wrong what the police did between -- before my children, in
23 front of my children. I'm (Redacted). Before my wife, in front of my children, I'm
24 taken away as though I had killed somebody. I simply don't agree with this.

25 Q. Do I understand correctly then, Mr Witness, that prior to the arrival of the police

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1 at 8 o'clock in the morning on this occasion, that you had no advance notice, no
2 advance request to submit to an interview?

3 A. I received nothing. They were quite brusque in their attitude towards me in
4 front of my wife and children. And the way the (Redacted) police acted is something
5 that I find very disappointing.

6 Q. Can we please have on the screen CAR-OTP-0077-0052.

7 For your Honours, this is tab 3 of the Prosecution binder.

8 Mr Witness, I'm going to show you now a transcription which has been shown to you
9 earlier of some of the interview that occurred with the (Redacted) police and the
10 investigator of the Office -- investigators of the Office of the Prosecutor.

11 And if we could please turn over to page 0068.

12 Now, I'd like to draw your attention to line 570 on the left-hand side of your screen,
13 and if you could just read down to line 594, please, and tell me when you are finished
14 reading that section.

15 A. But some of this is in English.

16 Q. If you follow, you will see that there are lines in English, but then there is
17 always an interpretation into French. So you can ignore the lines in French
18 or -- excuse me -- you can ignore the lines in English and just read the lines in French.

19 A. Yes, I have read 571, 572 and 570, 571, 572.

20 Q. Can you go down to 594, please?

21 A. Yes, I have read 594.

22 Q. Do you remember on that occasion having said "Yes, I want (Redacted) counsel"?

23 A. Yes, indeed.

24 Q. Can we go to the next page please in the document.

25 Then we have the person who is denoted as "Inspecteur," who we know from the

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1 front page of this document is (Redacted) police person. I'll read the English. Mr
2 Witness, if you could just read the French down in line 60 -- 599 to 600. The question
3 is:

4 "Do you need a counsel right now, or is it possible for them to start ask you questions,
5 because we have to call the court in (Redacted), and then they have to decide which
6 lawyer, and then the lawyer must come here. It would take a long time."

7 Did you understand at that point that the police inspector from the (Redacted) police
8 was trying to dissuade you from invoking your right to a counsel? Is that how you
9 perceived it?

10 A. Yes, counsel for the Defence. At the time when I went to the police station, I
11 found the two ICC investigators there, and they asked me whether I could have a
12 lawyer. And I asked them who was going to pay for it, because I don't have the
13 money to pay for that. So I said: Who is going to pay for it?

14 They said: No. The state will pay for it.

15 And that's what was said.

16 So I said to them: Before I take on a lawyer, I would like to know precisely what has
17 happened, because I don't know. Here you are, and what's going on? So ask me
18 the question before I answer.

19 And that's what happened. That's what happened.

20 Q. Let's turn to the next page if we could, please, which is CAR-OTP-0077-0070.

21 And I'll read the part in English from line 645 and, Mr Witness, you can read the part
22 in French to yourself from line 650. And this is the inspector speaking to you, the
23 (Redacted) inspector:

24 "The most important thing is that you have to know that we have the right -- you
25 have the right to have a lawyer with you today, right now. But my suggestion is that

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1 you let the investigators from ICC ask you some questions, and then you can feel 'Do
2 I really need one or ...' and you don't have to answer the questions, but maybe it's
3 good for you to hear the questions from them."

4 Now, first of all, do you remember, and you can just answer this question "Yes" or
5 "No," do you remember having been asked that question at the beginning of your
6 interview with the investigators of the Office of the Prosecutor?

7 A. Yes, I do remember that question very well. They asked me the question
8 precisely in the manner the Defence has just said. Well, I didn't yet know the reason
9 for my being brought to the police station for me to take counsel upfront, because I
10 didn't know what was going on. So I preferred to have the questions put to me first
11 in order to ascertain whether I can answer them, and if I can't, then I can take counsel.
12 And that's what happened.

13 Q. Did you understand at the time that you had a right to a lawyer to assist you in
14 understanding those questions to be with you without any payment on your part
15 during this interview?

16 A. No. Well, you know, when they talked and the idea of paying for a lawyer,
17 well, it's very expensive, especially in Europe. It's an expensive business. So that's
18 why I asked the question. And I said: If I do take on a lawyer, who is going to pay
19 for it?

20 And then they said: No. The state will pay for it.

21 And that's what happened. And that's what happened, yes, I do acknowledge that.

22 Q. Well, did you feel under any pressure on the basis of these various statements,
23 now we've seen two of them, did you feel under pressure to proceed at that moment
24 in time instead of waiting until a lawyer could arrive and assist you?

25 MR VANDERPUYE: Mr President, I object to that question. A, the witness has

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1 answered the question three or four times now. B, the transcript of those
2 proceedings are already before the Court. They're submitted, if not admitted at this
3 stage. And there is nothing that the witness has said that is unknown to counsel as a
4 result of the questions he's posed so far. It's redundant, it's asked and answered, and
5 at this point we're going in circles.

6 PRESIDING JUDGE SCHMITT: Mr Gosnell.

7 MR GOSNELL: I beg to disagree. I did previously ask the question, but only in
8 relation to the previous excerpt to which I drew the witness's attention. Now there is
9 a second excerpt, a second statement from the (Redacted) inspector. This event
10 occurred quite a while back, and so I think it's fair to put the second passage in front
11 of the witness and ask him what were his feelings at that point in time.

12 PRESIDING JUDGE SCHMITT: I allow the question.

13 MR GOSNELL:

14 Q. Mr Witness, I'm not sure if you recall the question. Should I repeat it?

15 A. Yes, yes, please repeat.

16 Q. After this second intervention from the policemen or women, did you feel
17 under pressure to proceed with the interview without waiting for a lawyer to come
18 and assist you?

19 A. No, I wasn't under any pressure. I wasn't under any pressure. But at the
20 outset I was very nervous about all this. But I wasn't under any pressure.

21 Q. Does your wife speak and read English?

22 A. No.

23 Q. But she does speak and read French; is that correct?

24 A. Yes, she does speak a bit of French and a bit of (Redacted).

25 Q. She can read French as well; is that right?

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1 A. Yes, she does read, but not much, just a bit. She didn't go to high school. She
2 just did the first two years of primary school. Of course she can read, but not
3 perfectly. But she speaks (Redacted) very well, and she understands very well.

4 Q. Thank you very much for your answers, Mr Witness.

5 Mr President, those are my questions.

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

7 Who will continue with the examination?

8 MR TAKU: Your Honours, just one question for this witness, your Honour.

9 PRESIDING JUDGE SCHMITT: Since one question will be --

10 MR TAKU: Just one.

11 PRESIDING JUDGE SCHMITT: -- a very short exercise, you have the floor, Mr
12 Taku.

13 MR TAKU: Thank you.

14 QUESTIONED BY MR TAKU:

15 Q. Witness, do you know Mr Arido?

16 A. No, counsel of the Defence, I do not know him.

17 MR TAKU: I will offer the witness, your Honour.

18 PRESIDING JUDGE SCHMITT: So you kept your promise, Mr Taku.

19 MR TAKU: Yes, your Honour.

20 PRESIDING JUDGE SCHMITT: Who will be the next then to start with the
21 questioning?

22 MR DJUNGA: (Interpretation) I thank you, Mr President. With regards, the
23 Defence of Mr Aimé Kilolo, we would like to have a break of 45 minutes in order for
24 us to fine-tune what we're preparing, if we could just have a little break for us to be
25 able to prepare ourselves well?

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1 PRESIDING JUDGE SCHMITT: Would any other, I want to inquire, would any
2 other Defence team feel themselves prepared to ask questions at the moment without
3 further interruption?

4 MR KILENDA: (Interpretation) Thank you, Mr President. It's a very rational
5 request that Mr Djunga has just made. We'd like to second that and also have a few
6 moments to fine-tune our questions.

7 PRESIDING JUDGE SCHMITT: Then I am going to think aloud, why not have the
8 lunch-break now and have an extended, extended afternoon session? What about
9 that? Is that possible? We have to inquire that with the Registry first and the
10 interpreters, of course.

11 Mr Vanderpuye.

12 MR VANDERPUYE: Yes, Mr President. I'm not sure that we have any clarification
13 from any of the Defence teams how long their examinations will be, and I think that
14 might be helpful.

15 PRESIDING JUDGE SCHMITT: Indeed, that is correct, of course. Then we inquire
16 first, Mr Djunga, can you give us an estimate of time how long it will take you, your
17 examination?

18 MR DJUNGA: (Interpretation) Thank you, Mr President. I shall take the risk and
19 say an hour or an hour and a quarter we will be able to wrap up in.

20 PRESIDING JUDGE SCHMITT: Mr Kilenda, do you have an estimate?

21 MR KILENDA: (Interpretation) Mr President, we won't be lengthy. I believe that
22 we'll be able to finish in 15 minutes, but we need a little bit of preparation time, 15
23 minutes will be enough. That is for the cross-examination.

24 PRESIDING JUDGE SCHMITT: Excuse me that I'm laughing, because my colleague
25 here showed me what about Mr Bemba's Defence? And this of course means do you

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1 have an estimate? Do you have any questions at all, Mrs Taylor?

2 MS TAYLOR: Thank you, Mr President. If we have questions to ask, it won't be
3 any more than 30 minutes. Thank you.

4 PRESIDING JUDGE SCHMITT: So I think we can have now the lunch-break until
5 2 o'clock. I think that would serve everybody's need. And just try to have a
6 two-hour session in the afternoon. I see signs in the booth thumbs up. So we do
7 that, break until 2.

8 THE COURT USHER: All rise.

9 (Recess taken at 12.14 p.m.)

10 *(Upon resuming in private session at 2.02 p.m.) Reclassified as Open session

11 THE COURT USHER: All rise.

12 PRESIDING JUDGE SCHMITT: Mr Taku, I've been informed that you wanted to
13 raise an issue. If you don't mind, I would defer it to tomorrow. Is that possible?

14 MR TAKU: Any time that's convenient to your Honours.

15 PRESIDING JUDGE SCHMITT: Thank you. Thank you very much.

16 We are still in private session. And we are now continuing the examination of the
17 witness. And it is the turn of the Defence of Mr Kilolo.

18 And you could tell us if we can go to open session or better remain in private session,
19 please, Mr Djunga or Mr Powles?

20 MR DJUNGA: (Interpretation) I thank you, Mr President. As far as we are
21 concerned, we believe we may move into open session.

22 PRESIDING JUDGE SCHMITT: Let me go into open session.

23 (Open session at 2.03 p.m.)

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

25 PRESIDING JUDGE SCHMITT: So, Mr Djunga, Maître Djunga has the floor.

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1 MR DJUNGA: (Interpretation) I thank you, Mr President.

2 QUESTIONED BY MR DJUNGA:

3 Q. Good afternoon, Mr Witness.

4 A. Good afternoon.

5 Q. As you will have understood, it is now the turn of the Defence of Mr Kilolo to
6 put a number of questions to you.

7 A. Thank you.

8 THE INTERPRETER: Message from the English booth: Both people are speaking
9 the same language. Could they please observe a pause?

10 MR DJUNGA: (Interpretation)

11 Q. (Redacted)

12 (Redacted) the

13 armed conflict in the Central African Republic between October 2002 and March 2003,
14 is that correct?

15 A. That is correct.

16 Q. Thank you. And when you met with Maître Kilolo in June 2012, you provided
17 him with a great deal of information with regard to what unfolded during the conflict
18 in the 2002-2003 conflict in the Central African Republic?

19 A. That is correct.

20 Q. Mr Witness, there was never any agreement between Maître Kilolo and yourself
21 for you to take his defence in or during your testimony before the Court in 2013, was
22 there, there was never any agreement?

23 A. 2012, you mean, not 2013?

24 THE INTERPRETER: Message from the English interpreter: This has to be stopped.
25 They are overlapping speakers. We cannot --

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1 PRESIDING JUDGE SCHMITT: We are both obviously too fast. It applies to
2 Maître Djunga and it applies to the witness. Please observe the 2 or 3-seconds rule.
3 Once you have finished your answer, Mr Witness, then Mr Djunga waits 3 seconds
4 and vice versa.

5 MR DJUNGA: (Interpretation) I thank you, Mr President. I believe that this is my
6 eternal issue, and I shall improve, I reassure you in that regard.

7 Q. Now, Mr Witness, I was putting the question to you, this question: There was
8 never any agreement, was there, between yourself and Maître Kilolo for you to take
9 his Defence in or during your testimony, was there?
10 For the Court, I do have a reference to provide you with, it is CAR-OTP-0077-0121 to
11 124, and that's line 100 to 101, and that's number 6 on the Prosecution's list of
12 documents.

13 And you said as follows, and I'm going to be trying to refresh your memory --

14 THE INTERPRETER: The interpreter does not have the excerpt on the screen.

15 MR DJUNGA: (Interpretation) "So I shall have to come to The Hague to tend his
16 defence or this or that. No, no."

17 Now, my question was that you had not made, had you, any arrangement with
18 Maître Kilolo for you to come and defend him by providing him with your support in
19 the context of your testimony, had you; is that correct?

20 A. Well, counsel, I would thank you. Sir, (Redacted)

21 (Redacted). And certain events unfolded in 2002 and 2003.

22 And it was in 2000 -- well it was on the 14th or 15th of June in 2012 that I met Kilolo,

23 Mr Kilolo. I do not know -- well, I didn't know him before that. I don't know who

24 it was who gave him my telephone number. But as soon as he arrived in (Redacted),

25 he called me and he said "Can I contact him?"

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1 PRESIDING JUDGE SCHMITT: I think we have to go into private session because
2 constantly the witness -- it's for your protection, Mr Witness, that I interfere. I don't
3 want to interrupt you, of course. But I think in the flow of his narrative, he is giving
4 away information.

5 *(Private session at 2.09 p.m.) Reclassified as Open session

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

7 PRESIDING JUDGE SCHMITT: So perhaps you could, if you recall what you have
8 said, you could repeat it, Mr Witness.

9 THE WITNESS: (Interpretation) Yes, I was saying that it was the 14th or 15th of
10 June 2012 that I met Mr Kilolo. He arrived in (Redacted) and he called me and asked
11 me if I could go meet him, saying that he was defence counsel for Mr Bemba. And I
12 said yes, and if he wanted me to, I could come. That's what happened. That's what
13 happened. I went to meet him, and we discussed what happened in the CAR. But I
14 didn't negotiate with Mr Kilolo.

15 MR DJUNGA: (Interpretation)

16 Q. Very well. Thank you, Mr Witness.

17 Would it be correct to say that you came to testify in 2012 before the Court in order to
18 make mention solely of what you had personally experienced and seen during the
19 conflict in the CAR? You came to testify only with regard to what you yourself had
20 personally experienced and seen?

21 A. Yes, that is what happened. With regard to what I had seen and experienced,
22 that is what I came to testify to before the International Criminal Court.

23 Q. Did Maître Kilolo at any time during your meeting or your contact, after you
24 had described to him what you had seen and experienced, did you -- at any time ask
25 you to modify your testimony?

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1 A. No, he did not ask me that.

2 Q. So you can confirm that everything that you said, and I'm sorry to come back to
3 that, is what you yourself have experienced and seen? He did not at any point ask
4 you to amend anything whatsoever?

5 A. No, no.

6 Q. Thank you, Mr Witness.

7 You stated as follows to the Prosecution. Reference CAR-OTP-0077-0074 up to the
8 page 0084, line 34. That is number 4 on the list of Prosecution documents. And you
9 stated as follows.

10 THE INTERPRETER: The interpreter does not yet have it on the screen.

11 THE WITNESS: (Interpretation) "I cannot ask for the money to go and shed light
12 on the matter before the International Criminal Court." Is that the truth?

13 A. Of course. Why would I ask money to go and testify about something? Well,
14 it's necessary to come and shed light on matters before the Court. And that is why of
15 my own volition I accepted in the year 2012 to come and testify, to come and testify
16 before the Court. Nobody obliged me to do so. Nobody obliged me to come and
17 testify before the Court. If I can shed further light, it is since 2007 that people from
18 the Court had come to see me in (Redacted), you know. It's not, it's not -- this hasn't
19 just happened today. It's been happening since 2007.

20 Q. And when you say "since 2007, people from the Court," who are you talking
21 about? Are you talking about members of the Defence team or Office of the
22 Prosecutor?

23 A. No. The Office of the Prosecutor came to meet me in 2007. They came to
24 meet me. They put questions to me. I answered those questions, and there we
25 have it.

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1 Q. Was that recorded, the questions that the Prosecution put to you?

2 A. No, no, it wasn't recorded. They wrote it down directly on their computer.

3 Q. Very well, Mr Witness. As you said at an earlier stage, but I shall come back to
4 this while seeking a specific answer, when you were travelling in order to meet
5 Maître Kilolo in June 2012, you spent the night in a hotel in (Redacted)?

6 A. Not a hotel as such, a guest house, a guest house. It's not a hotel.

7 Q. Okay, a guest house. And you paid for it yourself, did you not?

8 A. Before coming to meet Mr Kilolo, Mr Kilolo had sent me (Redacted), that is the
9 equivalent of (Redacted), and that is what enabled me to take the train and
10 go and meet him in (Redacted).

11 We spent the entire day together. And as it was getting late, I went to rent a room in
12 the guest house for (Redacted). I don't know how many that is, how much that is
13 (Redacted), but I paid for it. I spent the night there. And the next morning I went
14 to meet him, and we spent a time together, and then he paid for my return journey by
15 train.

16 Q. Very well, Mr Witness.

17 I asked you about the hotel because you said this -- reference, CAR-OTP-0077-0088 to
18 0089, line 23 to 28, and that is document 5 in the Prosecution documents, and you say
19 as follows:

20 "For your meeting with Maître Kilolo in (Redacted), who paid for the cost of the hotel
21 in (Redacted)

22 Your answer was, "I was the person who paid for it."

23 A. Yes, that was on the first day. That was 22 January 2015 during our meeting with
24 (Redacted) and his colleague, I was surprised. It was when I returned home I
25 thought to myself, well, and I asked my wife, what are those (Redacted) that people

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1 asked me about that Kilolo is said to have sent me? I didn't understand.

2 And that's when my wife said to me: No. On the day when I was supposed to go

3 and see Maître Kilolo, he sent me (Redacted) to pay for transport, and that is what

4 I -- that is the reason why then I called the investigators to shed light on the matter

5 that's, and I say this, that indeed Maître Kilolo did send me these (Redacted) in order

6 to pay for transport.

7 Q. Very well. And it was the same day in (Redacted) in June 2012 when you met with

8 Maître Kilolo that you gave your agreement to testify, is that not correct?

9 A. Yes, of course, we met. We had a conversation, and he asked me whether

10 the -- that were the ICC to ask me to testify, whether I would agree or not. And I

11 said: Yes. Why not? Why not? I don't mind coming to testify in order to shed

12 light on the matter for the ICC. And I came on 16 October 2012 to The Hague in

13 order to testify. I spent three or four days here from the 16th to the 19th of October.

14 Q. Very well.

15 Mr President, I do not know whether we might move into open session by therefore

16 making the hearing public. I shall be very careful. And whenever I think we might

17 be leading the witness in the direction of revealing his identity, I shall make sure to

18 do something about it?

19 PRESIDING JUDGE SCHMITT: Then we go into open session.

20 (Open session at 2.21 p.m.)

21 PRESIDING JUDGE SCHMITT: We have a little bit of problem when it comes to

22 location also for the witness. Bear that in mind, you see what I mean by location?

23 Where he lives sometimes we are --

24 MR DJUNGA: (Interpretation) Well, I'll ask my colleague to keep an eye on that.

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

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1 MR DJUNGA: (Interpretation)

2 Q. So, Mr Witness, when you freely accepted to come and testify before the Court
3 in order to shed light as you so say, you did not append any financial conditions to
4 your agreement to come to testify? There was never any question of money being
5 handed over for you in exchange of your testimony.

6 A. How could money be given to me for me to come and testify? Why? I came
7 to testify of my own volition before the International Criminal Court. I did not
8 negotiate with anybody. I did not negotiate.

9 Q. So that means that you did not even know that subsequently you were going to
10 receive money from Maître Kilolo or from whomsoever?

11 A. Counsel, I do have something to say to you. I know that Maître Kilolo is in our
12 midst. Since 19 October 2012, upon returning to (Redacted), I believe that it was on
13 the 20th, the next day I called Mr Kilolo. I called the security personnel in order to
14 inform them that I had got home okay.

15 And since 20 October 2012 to date, I have not seen or had any contact with Maître
16 Kilolo. I don't even have his telephone number. That is from the 20th of
17 October 2012 until today, I have not seen him. This is the first time I have seen him.
18 I have not been in constant contact with him.

19 After my testimony in The Hague, I called him to tell him that I had arrived home
20 safely. I called the security section to tell them that I had arrived home in one piece.
21 And to date I have not had any contact with Maître Kilolo or anybody for that matter
22 since 2012. And this is the first time that I have seen Maître Kilolo since then. If I
23 have lied, well, the president can ask and you can confirm that I have had no contact
24 with him since October 2012.

25 Q. Thank you, Mr Witness. We have understood you.

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1 You did indeed tell us that he had sent you (Redacted), the equivalent of (Redacted).
2 So I wanted to know whether you had had any reimbursements for your hotel, for
3 your sustenance, for your taxi, et cetera? Did you not receive anything on that day?
4 That's in June 2012 when you met him. We understood that he paid for your
5 transport, but that you paid out of your own pocket for the hotel, and you had to pay
6 for a number of other things, and that you did not receive anything from Maître
7 Kilolo that day, did you?

8 A. I paid for the transport with the money that Maître Kilolo had sent to me and
9 for the guest house, too. You're talking about a hotel, but it was a guest house. It's
10 not the same thing. There is a difference. I think hotels (Redacted)
11 (Redacted). But a guest house only cost me (Redacted).

12 PRESIDING JUDGE SCHMITT: I think we go into private session. We don't -- I
13 think we don't have to explain it. And we are on the safe side.

14 *(Private session at 2.26 p.m.) Reclassified as Open session

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

16 MR DJUNGA: (Interpretation) Yes, Mr President I have understood, I shouldn't
17 have made mention of the town or city.

18 Q. Mr Witness, this transfer of \$665 had no impact on the contents of your
19 testimony before the Court, did it?

20 A. No. I did not negotiate with Mr Kilolo. I came to testify in his defence. I did
21 not negotiate with him. He of his own volition sent some money to my wife, and
22 that's what happened. And then when I travelled to come to The Hague, my wife
23 went to get the money. That was after I left.

24 But I didn't negotiate with Maître Kilolo for him to give me any money for me to be
25 able to come and testify before the ICC. I would never do such a thing. I would

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1 never do such a thing.

2 Q. Very well. You said at an earlier stage that you were staying in a sort of guest
3 house, that it wasn't a hotel. I believe you have your reasons to say that. But I'm
4 going to put a question to you, and if you're not aware of it, don't worry.

5 You know that within the practises of the Court it is normal when calling a witness to
6 testify, whether it be on the side of the Prosecution or the Defence, within the context
7 of investigations, it is incumbent upon them to pay for the accommodation costs, for
8 the costs of food and communication and to give the witness a little bit of pocket
9 money. Were you aware of that?

10 A. When I met Mr Kilolo, do you mean? Or please repeat your question.

11 Q. Very well, I shall repeat my question.

12 Were you aware that it is common practise here at the ICC, whether it be in the Office
13 of the Prosecution or the Defence, that when calling a witness to testify, one has to
14 reimburse the accommodation costs and give the witness a bit of pocket money and
15 some other money? Did you know that this was common practise before the Court?

16 A. Yes, of course. In 2012, they welcomed me and gave me €10 or €11 euros a day.
17 They gave me 30 odd euros. And they also reimbursed my bus ticket. That's what
18 they reimbursed.

19 As for the pocket money, I believe that I received 30 odd euros or maybe 40. I spent
20 four days here.

21 Q. Once again, this has to do with what is common practise at the Court. If you
22 don't know the answer, that's all right.

23 You know that you can't put a witness in just any hotel. There is a certain category
24 of accommodation where a member of the Court can stay. So for practical purposes,
25 a witness who has been invited by the Court is not going to be accommodated in any

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1 old establishment, it has to be according to certain recognized standards?

2 A. It is with the money that my brother sent me, I paid for the train fare, and that

3 was about (Redacted). I paid for the train and then I paid for the inn (Redacted).

4 And on the return trip, Mr Kilolo paid for the train. We went to the train station

5 together, and he paid for my train fare on the return trip.

6 Q. You remember that Mr Kilolo was staying there as well in a hotel, in a fine

7 hotel?

8 A. Yes.

9 Q. In a very good hotel?

10 A. Yes, right next to the train station. And that's where I saw him.

11 Q. I would like to have a document put on the screen, CAR-D21-0003-151, number

12 2 on the list.

13 Have you seen the document, Witness?

14 A. Yes, I have seen the document. It's in the name of Mr Kilolo.

15 Q. Is this the hotel where Mr Kilolo stayed next to the train station as you just said,

16 (Redacted)

17 Let's make it simple. Do you see the date?

18 A. I'm looking for the name of the hotel.

19 Q. It doesn't matter. Do you see the date?

20 A. It is right next to the train station. This is where Mr Kilolo was staying.

21 Q. Do you see the date on the document? It is dated June 15th through 18th. Is

22 that the period during which you met with Mr Kilolo?

23 A. Yes, it's sometime between those dates, somewhere around the 15th or the 16th.

24 I am not absolutely sure. It was three years ago, so I don't recall exactly. So it's

25 somewhere around the 15th.

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1 Q. Then I would like for us to look at another document. The reference is
2 CAR-21-0003-0151, number 2 on the Defence list. So it is the same document.

3 Witness, have you seen the document?

4 I would like to draw your attention on the amount of the hotel night to see exactly
5 how much was paid.

6 A. Yes, I see (Redacted).

7 THE INTERPRETER: Interpreter's correction.

8 MR DJUNGA: (Interpretation)

9 Q. Without attempting any equivalence, I think that is somewhere around (Redacted).

10 Then I would like you to look at a third document, reference CAR-D20-0001-008, page
11 0009, number 1 on the Kilolo Defence list. To be fair with you, Witness, I should say
12 this is an accounting document produced by Mr Bemba's Defence that is looking at an
13 assessment of mission costs in (Redacted). So it's a Defence document for Mr Bemba
14 where mission expenditures are being evaluated for (Redacted).

15 If you would please look at the bottom of the page.

16 A. I don't think it's on the screen yet.

17 Q. Can you see the document?

18 A. The background is red. I can't see very well. I don't have my eyeglasses.

19 Q. You don't need to review the whole document if you find it difficult to see. I
20 would like to simply draw your attention to the fourth line from the bottom. You
21 will see where it is written "Management expenses for (Redacted) 500 euros."

22 Do you see this?

23 A. Yes.

24 Q. "Management expenditures for (Redacted)?"

25 A. (Redacted)? No. I was (Redacted).

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1 Q. This is the term that was used by the Defence team.

2 A. €500 for what?

3 Q. As I said earlier, I wanted to explain what is the nature of this document. This
4 is an internal document of Mr Bemba's Defence team. They were evaluating the
5 expenditures for the mission that Mr Kilolo was to undertake in (Redacted).

6 In this document I wanted to draw your attention on what the Defence team was
7 anticipating. And this is something that you could not have known. In any event,
8 the Defence was estimating that your transportation and the various costs of your
9 accommodation would cost €500. And, of course, this is not something you could
10 have known. I'm just showing this as an indication.

11 A. Counsel, you're talking about €500. What I know is that Mr Kilolo sent me the
12 dollar equivalent of (Redacted). I don't know exactly how much that is, (Redacted) or
13 so. I did get that money, and I paid for the transportation from (Redacted).

14 I had a little bit left over. And as we have discussed for a long time, I couldn't go
15 home. This is with this money that I paid for the inn where I stopped, (Redacted).
16 And on the return trip, Mr Kilolo paid for my train fare. This is all that I received,
17 and that is what I have explained.

18 Q. I completely agree with what you are saying. I have never said that you
19 received this money. I simply wanted to for reasons of fairness explain what this
20 document is. I have never said that you actually received this money. So if you
21 will, I shall continue.

22 Mr Witness, it is very clear that you never asked Mr Kilolo for money. But the (Redacted),
23 the amount that was transferred to you, in light of everything I have said takes into
24 consideration the cost of living in (Redacted) and would have been a flat
25 reimbursement of the cost of your accommodation, meals, taxi, communications, and

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1 pocket money for one night, that is to say two days spent in (Redacted) in June of
2 2012. This was not corruption. You would agree with me were I to say that? Can
3 you agree with me?

4 A. Counsel, I do not understand. What do you mean "corruption"? What act of
5 corruption are you referring to?

6 Q. Perhaps I did not phrase it correctly. You said earlier that you received a bank
7 transfer in 2013 prior to your coming to The Hague to testify. And you said that
8 before that, you had never negotiated the payment of any funds with Mr Kilolo?

9 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

10 Just wait a moment.

11 Mr Vanderpuye.

12 MR VANDERPUYE: Thank you, Mr President. It's a very small matter, but the
13 transcript reflects that my colleague referred to a bank transfer in 2013. Now, I think
14 it's the 2012 one, but I want to make sure the record is clear.

15 PRESIDING JUDGE SCHMITT: Yes. But I think when we have such a matter, we
16 should not interrupt the questioning.

17 But it's, of course, it's okay, but I think so I regret a little bit to have interrupted you,
18 Mr Djunga. You could of course ask him, when he received money, what he thought
19 why he received this money could also be a question. But I leave it up to you.

20 MR DJUNGA: (Interpretation) Mr President, that is a good question, and I shall
21 put it to the witness.

22 Q. But I would like to first ask the following: I never said it was corruption. I
23 was simply suggesting something in light of everything that you had said before, and
24 that is that this transfer could not constitute corruption, because you said before that
25 he never asked you to change your testimony, that you never discussed any amount

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1 of money, nor did you receive any promise.

2 I was trying to understand, as the President said, what could this amount of money
3 have been if it wasn't an act of corruption? So why in your opinion was he sending
4 you this money?

5 A. Counsel, I know that you are talking about the (Redacted).

6 Q. The (Redacted).

7 A. In (Redacted), it's about (Redacted). That is what my wife received.

8 I think that Mr Kilolo is present in the courtroom. I have never negotiated with
9 Mr Kilolo for him to send me money. He's my brother, of course. I was in touch
10 with him in (Redacted). We had phone calls. Now I'm telling you the truth that it
11 is his kindness, he was kind to me, and that is why he sent me that money, the (Redacted).
12 (Redacted). And that is the paper that I had given to my wife when I was leaving for
13 the airport to come to The Hague. But I did not negotiate with Mr Kilolo. It's out of
14 kindness that he sent me that money.

15 Q. Thank you, Mr Witness. I've understood.

16 Allow me to ask you a question. You said from the beginning that when you talk
17 about Mr Kilolo you referred to him as your brother. You said before
18 somebody -- about somebody that you did not know, you said "It's my brother."
19 And this is for the benefit of the Court. I may understand what that means, but why
20 do you refer to these people as your brothers? And when you refer to somebody
21 who had sent the money as your brother, everybody knows that these are not your
22 brothers. Can you explain to us exactly what you mean by this term of "brother"?

23 A. Thank you, counsel. I do apologise, I am looking for a word that might be
24 used. It's because you have not lived in (Redacted). I love people
25 and people love me. I love (Redacted) people who are not my brothers. Because I am

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1 (Redacted) citizen I refer to them as brothers. And Kilolo is my African brother.
2 This is why I use the word "brother." It's nothing bad. If it is, I won't use that term.
3 And in Africa that's how we address one another. We say, "Hey, brother, how
4 are you doing?" That is a form of address that we use, and that's what it's about.
5 This does not mean that Mr Kilolo is my biological brother. In Africa we call one
6 another brother, cousin, sister. That's the way we do it.

7 PRESIDING JUDGE SCHMITT: Mr Djunga, I think I can speak for the Bench, it's
8 perfectly clear what the witness means when he speaks of his brother.

9 MR DJUNGA: (Interpretation) Mr President, I said that I of course understood, but
10 I thought it would be useful for him to clarify this just to avoid any confusion.

11 Q. Mr Witness, you remember that you were a witness with protection when you
12 were summoned to testify in the Bemba case. You were a witness benefiting from
13 protection, meaning that your identity was not to be disclosed to the public, that is to
14 say to anyone not party to the Bemba case. Do you recall this?

15 A. Yes. And this is what was done. When I arrived in The Hague, everything
16 was done and then I was able to go home without any problems.

17 Q. So the fact that you used the identity of your wife for the sending of money
18 rather than your own was part of the precautions that were used in order to protect
19 your identity; is it fair to say that?

20 A. Can you please repeat that question?

21 Q. I'm going to try to rephrase it and to be more accurate. We agree that you had
22 to be protected. This means that your identity could not be disclosed. Earlier you
23 said that the money was sent using your wife's contact details. Should we mean
24 this -- I'm sorry. Should we understand this to mean that it was part of the
25 precautions that were taken to protect your identity?

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1 A. No. Because I was just about to leave, this is why I gave my wife's name, so
2 that she could go and collect the money.

3 Q. One last question. It was at your initiative that the money was sent to your
4 wife. Nobody asked you to give a different identity to receive the money. You had
5 suggested that the money be sent to your wife, is that correct?

6 A. Yes, I gave my wife's name so that the transfer could be made to her, and that is
7 what happened.

8 Q. Thank you, Mr Witness.

9 Mr President, thank you. I have finished. And I think that Mr Powles will have a
10 few questions, a few additional questions. But it won't take long.

11 PRESIDING JUDGE SCHMITT: Mr Powles, you have the floor, and you have also
12 time to arrange yourself.

13 MR POWLES: Thank you very much, Mr President. And I'll try and be brief. I
14 shouldn't be more than 50 minutes at the very most, I don't think. I'll also try and
15 observe the 5-second rule for the translators. I'll try and be good today.

16 QUESTIONED BY MR POWLES:

17 Q. Good afternoon, sir, Mr Witness.

18 PRESIDING JUDGE SCHMITT: I think again perhaps the question if we can go into
19 open session?

20 MR POWLES: Are we in private session?

21 PRESIDING JUDGE SCHMITT: We are in private session, yes.

22 MR POWLES: It might be easier just in case I refer to a place.

23 PRESIDING JUDGE SCHMITT: Then we stay in private session now. Excuse me.

24 MR POWLES: It might be easier.

25 Q. Good afternoon, sir. My name is Steven Powles, and I'm a lawyer for

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1 Mr Kilolo, as is Mr Djunga.

2 A. Thank you.

3 Q. You met Mr Kilolo I think and understand in June of 2012. And you'll correct
4 me if I am wrong on the date or the year, I think if anyone in this courtroom is bad at
5 dates, it's probably me, so if I've got that date wrong, I apologise. But I think it's
6 around June of 2012 that you went from your home in (Redacted); is that
7 correct?

8 A. Yes, of course, that is correct.

9 Q. And you obviously stayed overnight in (Redacted) when you went there?

10 A. Yes, of course I spent the night in (Redacted) before going home.

11 Q. So were you away from your family for at least a day, probably two days?

12 A. Yes.

13 Q. You're married obviously, and you have children. How many children do you
14 have, sir?

15 A. I'm married and I have several children.

16 Q. And how old are the children that live with you in (Redacted)?

17 A. I have (Redacted) children --

18 Q. Yes, sir.

19 A. -- in (Redacted). The eldest is in (Redacted). So several of them are living with us.
20 And the youngest of (Redacted), the eldest is (Redacted).

21 Q. I understand. Thank you very much, sir.

22 Now, obviously when you were approached by the Defence for Mr Bemba to meet
23 with them in (Redacted), you were approached in a very different manner to the way
24 that you were approached by the Prosecution when you were arrested and taken into
25 the police station?

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1 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

2 MR VANDERPUYE: I think you know what the nature of the objection is, Mr
3 President.

4 PRESIDING JUDGE SCHMITT: I think I would suggest to reformulate it and just
5 ask how he was approached by the Defence.

6 MR POWLES:

7 Q. You were obviously approached in a different way when Mr -- you were invited
8 to (Redacted) to meet with Mr Kilolo; that's correct, isn't it?

9 A. Of course, I had just explained it. I told you that Mr Kilolo had called me. He
10 wanted me to come to (Redacted) to meet with him. We did that. I came to see him.
11 We talked. And that night I stayed in the inn. And the next morning I came back
12 to see him again, and then he went with me to the train station and paid for my train
13 fair to go home. That's how it happened.

14 Q. And at that time in addition to your train fare, you didn't receive any other
15 money from Mr Kilolo?

16 A. No, I did not receive any money from Mr Kilolo aside from the (Redacted) that
17 he sent me for transportation, and again on the return trip he paid for my train fare.

18 Q. Now, you were (Redacted), and you considered testifying in the Bemba case
19 and telling the truth about what you had witnessed in that capacity as your duty?

20 A. Yes, of course, because (Redacted)
21 (Redacted); and when I had been in (Redacted) less than a year, people from the ICC
22 were going to come and see me to ask me questions about events that took place in
23 2001, 2002 and 2003 -- no. 2001, during the coup, and 2000 -- the coup that was led
24 by General Kolingba and Bozizé's 2002-2003 coup.

25 I was in (Redacted). I was in (Redacted). I saw what happened. This is why the

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1 Defence team had asked me if I would come to testify before the Court. And I
2 answered: Yes, I can come to the Court to shed light on all of the events that took
3 place. That is what I did in 2012.

4 Q. Absolutely. Thank you very much for that, sir.

5 And it's right that you did not ask for and nor did you want any money in return for
6 your testimony?

7 PRESIDING JUDGE SCHMITT: I don't want to interrupt you, but I think this has
8 been asked and answered. So I would --

9 MR POWLES: (Microphone not activated)

10 Q. Witness, could you just clarify, you didn't ask for nor did you want any money
11 in return for your testimony?

12 A. Counsel, I do believe that I have answered similar questions on a number of
13 occasions. I did not enter into any negotiations, nor did I request any monies to
14 come and testify before the International Criminal Court. I came of my own volition.
15 Nobody put me under any duress, nor did they give me any money to come and
16 testify, whether it be in favour or against Bemba, et al.

17 Q. I understand. I won't ask for it to be brought up again, but you will recall
18 before there was that document with the red background which you couldn't read
19 very well. That was -- and I'll explain what it is. It was an estimate as what the
20 Defence evaluated --

21 If I would be allowed to finish the question, which I haven't finished yet? I haven't
22 finished the question yet.

23 MR VANDERPUYE: I'll wait.

24 MR POWLES: Well, perhaps I could hear the objection first then?

25 PRESIDING JUDGE SCHMITT: You know, it's a nice custom here and habit here

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1 that people are standing when they are questioning. But too many people standing I
2 think a little bit make me feel uncomfortable. So perhaps you can first let Mr Powles
3 ask his question --

4 MR VANDERPUYE: I'll let him ask his question, then I'll stand up.

5 PRESIDING JUDGE SCHMITT: -- then make your objection and then you stand up
6 again for the objection.

7 MR VANDERPUYE: Thank you, Mr President.

8 MR POWLES: Well, perhaps it would be easier if it is brought up on the screen then,
9 because then at least the witness will know what I'm talking about. It's
10 CAR-D20-001 -- 0001-009, and it's at tab 23 of the bundle. The first page is 0008, and
11 it's the second page.

12 PRESIDING JUDGE SCHMITT: We all have in mind, Mr Powles, that this is a
13 document that the witness has not produced himself --

14 MR POWLES: Yes.

15 PRESIDING JUDGE SCHMITT: -- was not involved in the process. So I would
16 appreciate a question that perhaps may relate to the document but has really
17 something to do with the witness and possible knowledge of this witness.

18 MR POWLES: That's precisely my question. And this is to assist my learned friend
19 as well. It's precisely because the witness hasn't seen this document before that
20 what's contained in it is important, and it's precisely because he hasn't seen it that this
21 is important.

22 PRESIDING JUDGE SCHMITT: So let's wait where this leads to.

23 MR POWLES: Yes.

24 Q. Witness, I don't know if there is -- there is a document on the screen. It's a
25 document that was prepared by the Defence of Mr Bemba. Before today you would

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1 not have seen this document.

2 If you could bring it up, it's the bottom of the page that we need. And on our screen
3 there is an input signal that's covering the screen. I don't know if it's the same for the
4 witness's. It's probably -- that's clear. No, it's just our screen that there was a
5 problem there.

6 So, Witness, this is a document that was prepared by the Defence for Mr Bemba.

7 You would have not have seen this document before today.

8 In this document there is an estimate for your expenses for the interview that you
9 attended in (Redacted) with Mr Kilolo and the estimate is €500. Now, obviously
10 you've not seen this document before, and you didn't know that the Defence had
11 estimated your expenses to be €500, is that correct?

12 PRESIDING JUDGE SCHMITT: Now you have finished the question?

13 MR POWLES: Yes.

14 PRESIDING JUDGE SCHMITT: And I have promised Mr Vanderpuye that he can
15 rise again then.

16 So you have an objection, Mr Vanderpuye, obviously?

17 MR VANDERPUYE: Mr President, I defer to the Chamber's judgment in respect of
18 having each accused have representation with respect to parts of their examination.

19 But in this particular case, the witness was shown this specific document, this specific
20 page with the specific introduction that it was an estimate prepared by the Bemba
21 Defence at page 69 of today's transcript, and he's answered the question effectively
22 that Mr Powles has posed to him through his questioning by Mr Djunga.

23 MR POWLES: May I please respond?

24 PRESIDING JUDGE SCHMITT: Now the Presiding Judge is speaking and nobody
25 else.

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1 It is, of course, obvious that this has been shown a couple of minutes ago to the
2 witness, and I allowed the questioning because I thought or until now I assumed that
3 there will be a new question or something that we have not heard. So it is true that
4 the witness has answered questions of Mr Djunga in that respect. So I would really
5 appreciate if something new comes up in the questioning now in that respect.

6 MR POWLES: Mr President, I really do appreciate that, and it is to lead to
7 something new, and that's why -- and I mean no discourtesy to my learned friend, but
8 the interruption breaks the flow of actually quite an important part of the
9 cross-examination with this witness on quite a crucial and important point. And I
10 really would ask the Court's indulgence, if I may, just to explore this very delicately
11 with this witness.

12 PRESIDING JUDGE SCHMITT: We allow this line of questioning, and as I said, we
13 are looking into and are looking forward to put it this way where this is heading to,
14 but we want it see it relatively soon that there is something new coming up.

15 MR POWLES: Absolutely. I'm very grateful, Mr President.

16 Q. Mr Witness, Mr Witness, sir --

17 A. Yes.

18 Q. -- you're very sensibly, you're very sensibly taking a break.

19 A. I'm listening to you.

20 Q. You're very sensibly taking a break from the discussion between lawyers that
21 sometimes go on in a courtroom and no doubt are not of any great interest to you.
22 But what I want to try and bring you back to, please, Mr Witness, is the document
23 that was on the screen, I think it still is, and just to clarify with you that you did not
24 know -- and it's a simple question I think -- you did not know that the Defence had
25 estimated your reasonable expenses to be €500, you did not know that; is that correct,

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1 Mr Witness?

2 A. No, I didn't know.

3 Q. Thank you very much, Mr Witness.

4 Obviously you're a dignified man, and you did not ask for any money from the
5 Defence and nor were you expecting any money from the Defence, is that correct,
6 after your interview in (Redacted)

7 A. I did not request any money from the Defence. As for all the expenses that
8 were incurred, that is what I pointed out to you. I paid for the train, the return
9 journey. Well, the train journey back was paid by Mr Kilolo. I paid for the guest
10 house (Redacted), and there we have it. So I don't have anything further to explain
11 to you apart from what I've already told you.

12 Q. There were some telephone calls with Mr Kilolo prior to your testimony, and is
13 it right that in none of the communications you had with Mr Kilolo did he ever tell
14 you what you should say in your evidence?

15 A. Could you please repeat that question?

16 Q. Of course, of course. At no point prior to your testimony did Mr Kilolo ever
17 tell you or ask you what to say in your evidence?

18 A. Well, we talked a lot, Mr Kilolo and I, in (Redacted). And before coming to The
19 Hague, I believe it was the 16th or the 15th, the 15th, I didn't know anything, and I
20 explained all of this at an earlier stage when the Prosecution put this question to me.

21 Q. My last final three questions --

22 A. I talked to Mr Kilolo to ask him, you know, I'm new to the game, I don't know
23 The Hague, when I come, what should I do? And he said there are people in charge
24 who will show you where the Bench will be seated, where the OTP and Defence will
25 be seated in the courtroom, and that's what I talked to Mr Kilolo about, but not about

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1 anything else, not about anything else. I just asked what I had to ask him.

2 Q. My final three questions, Mr Witness. You're obviously an upright, dignified
3 man. It's right, isn't it, that Mr Kilolo never asked you to lie?

4 A. Counsel, (Redacted)

5 (Redacted)

6 (Redacted)

7 PRESIDING JUDGE SCHMITT: It's good to be in private session.

8 THE WITNESS: (Interpretation) You know, counsel, I have received a very good
9 education from my parents. My father was (Redacted) himself, and as his son, I
10 have become one too, and I'm very proud of that fact.

11 Of course, everybody can make a mistake. Nobody is perfect. We could all forget
12 something. And I can say that everybody has sinned, even I.

13 But I do know that during my testimony I stated that I am an honest man. Let me
14 give you a little example. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted) from 2 a.m. to 6 a.m.

21 PRESIDING JUDGE SCHMITT: Mr Witness, I understand and everybody on the
22 bench understands that not everybody is in the same habit to answer questions with
23 "Yes" or "No." And I also understand that people circumscribe answers and talk a
24 little bit more when they answer certain questions because of a different background.
25 But I think we are now getting astray a little bit. And I think we have understood

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1 what you wanted to tell us. Because of that, I would give the floor again to Mr

2 Powles, and he can continue with the questioning.

3 MR POWLES: Yes.

4 Q. Mr Witness, my last question then --

5 MR POWLES: I don't want to interrupt the witness.

6 PRESIDING JUDGE SCHMITT: Mr Witness, please.

7 THE WITNESS: (Interpretation) Your Honour, this was with a view to explain,

8 with a view to explaining to counsel. You know, I don't want to get involved in any

9 funny business. That's not who I am. But even in (Redacted)

10 you can ask anything about (Redacted), and they'll tell you I am an honest

11 person, (Redacted). I don't want to lie.

12 I just want to shed light on the matter before the Court so that things can move

13 forward. I do apologise. You know, I want to say a lot of things, but you did pull

14 me up, and I thank you. Excuse me. I apologise.

15 PRESIDING JUDGE SCHMITT: Mr Witness, you don't have to apologise. It was,

16 when I interrupted you, that was not a reproach or not a critique or something like

17 that. It was just that we had the impression that we should -- that it was answered,

18 the question was answered in a way that you wanted to answer, and that we perhaps

19 therefore could move on, and that is what we are doing now.

20 Mr Powles.

21 THE WITNESS: (Interpretation) Thank you very much.

22 MR POWLES:

23 Q. Yes, my last, my last question, Mr Witness: When you gave evidence in the

24 Bemba trial, it's right, isn't it, that you told the truth and that the money you received

25 had no impact on your testimony?

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1 A. No.

2 Q. Thank you very much, sir.

3 MR POWLES: Those are our questions. Thank you.

4 PRESIDING JUDGE SCHMITT: Thank you, Mr Powles.

5 I presume that it is now the turn of the Defence for Mr Kilenda, who has the floor. Is
6 this correct, that you want to continue?

7 MR KILENDA: (Interpretation) Thank you, Mr President. The cross-examination
8 will be conducted by my learned colleague for the Defence of Mr Babala Wandu, Mr
9 Rodoma will be taking the floor.

10 PRESIDING JUDGE SCHMITT: Of course, you have also time to arrange yourself.

11 MR RODOMA: (Interpretation) I thank you, Mr President, your Honours, dear
12 colleagues, Mr Prosecutor.

13 QUESTIONED BY MR RODOMA:

14 Q. Good afternoon, Mr Witness.

15 A. Thank you very much.

16 Q. Well, I'm going to introduce myself to you. Mr Witness, we did have the
17 opportunity to meet yesterday during the familiarisation process; do you recall?

18 A. Yes.

19 Q. My name is Mr Azama. I am co-counsel in the Defence team for Mr Fidèle
20 Babala Wandu, and I'm going to be putting three brief questions to you.

21 A. Very well.

22 Q. I won't be lengthy.

23 And may I request that we move into open session, please?

24 PRESIDING JUDGE SCHMITT: We move into open session. And I leave it of
25 course to your -- that you are aware of the problems that can arise if we name

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1 locations and names.

2 (Open session at 3.21 p.m.)

3 MR RODOMA: (Interpretation) Fear not, Mr President, we shall not be mentioning
4 any places or names.

5 THE WITNESS: (Interpretation) I thank you.

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

7 MR RODOMA: (Interpretation)

8 Q. Mr Witness, during this morning's session, many questions were put to you by
9 the Office of the Prosecutor, do you recall?

10 A. By the Office of the Prosecutor?

11 Q. By Mr Prosecutor representing the office of Madam Prosecutor opposite.

12 A. Of course.

13 Q. During these questions, a telephone number was mentioned. This is the
14 number ending with the figure (Redacted).

15 A. (Redacted)

16 Q. Indeed. And during the question put to you, this is in fact the French
17 transcript, it's T-31, lines 20 to 28, and for the English transcript, page 41, lines 12 to
18 22.

19 Are we there?

20 A. No, I do not have it before me.

21 Q. But you do recall though?

22 A. No, you may continue.

23 Q. Now, during the questions that were put to you, the Prosecution asked you as
24 follows:

25 "Mr Witness, I am showing you an item of evidence that was tendered into the case,

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1 and this is an annex to a report. It is a sequential table for some of your -- some
2 telephone calls and some information pertaining to those telephone numbers. I'd
3 like to call your attention or draw your attention to row number 1220, and I'd like to
4 ask you whether you recognize that telephone number, your telephone number at
5 line 20?"

6 And your answer is as follows --

7 THE INTERPRETER: The interpreter does not have it on the screen.

8 MR RODOMA: (Interpretation)

9 Q. For the record, the telephone number ending (Redacted).

10 "Yes" was your answer; that's correct?

11 A. Yes, that is my telephone number.

12 Q. Very well. Thank you.

13 And the Prosecution continued, referring to a transfer that was made at the time
14 when you were leaving for the airport on your way to The Hague, we will agree on
15 that?

16 A. Um.

17 Q. And at that time the Office of the Prosecutor asked you to situate in time the
18 transfer of said money, to which you responded, and this is still transcript that is T-31
19 in the French version, page 23, you answered as follows:

20 "The transfer took place on the 16th, that is the same day that I travelled from
21 (Redacted). We do agree on that?"

22 A. Yes.

23 Q. Thank you. And you went on in response to the Prosecution saying -- well,
24 you were asked to locate in time the moment at which you received or the moment at
25 which you allegedly received a call from Kinshasa.

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1 A. Yes, of course, that was before I left for the airport. I received a telephone call
2 from Kinshasa.

3 Q. Thank you. And your answer was as follows:

4 And for the Court, this is still the French version of the transcript T-31, and in the
5 English version it's page 40, lines 10 to 15, and your answer is as follows, Mr Witness:
6 "Yes, if I am not correct -- if I'm not mistaken, it was between 9 and 10 o'clock."

7 A. Yes, it was between 9 and 10 o'clock, because I was hurrying to go and get the
8 bus to go to the airport.

9 Q. I thank you. And so I therefore deduce that were there to have been a
10 telephone call, it would have come to your number finishing with (Redacted)?

11 A. Yes, that's right. I had two or three numbers. But it was that number that I
12 remember.

13 Q. The (Redacted)?

14 A. Yes, (Redacted).

15 Q. Now, for the Court, if the Registry would be so kind as to call up upon the
16 screen tab 51 of the Prosecution documents, CAR-OTP-0090-0630, page 720.

17 PRESIDING JUDGE SCHMITT: When we are starting to mention complete
18 telephone numbers, it would be critical, we are aware of that, yes?

19 MR RODOMA: (Interpretation) Fear not, Mr President, I will not provide any full
20 telephone number.

21 Q. Mr Witness.

22 A. Yes?

23 Q. Can you see it on the screen?

24 A. Yes, I can.

25 Q. Can you draw your attention to two lines, that is line 18 and 19 of the document,

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1 please.

2 A. 18 and 19? I don't understand. Are these phone calls or what?

3 Q. Without going into any details, the table that you have before you is a table
4 recapping or listing the telephone conversations in the period referenced in the
5 document.

6 A. Well, I don't understand. From -- well, one moment, please. On the 16th and
7 the 17th and the 18th and the 19th, I didn't have any telephone on me, so how could I
8 have made any calls?

9 Q. Well, I might specify the question is not that. On the 16th, you were travelling
10 from your place of residence to the headquarters of the Court, is that not correct?

11 A. Yes.

12 Q. And you said, something which you have just confirmed, that the telephone call
13 that you allegedly received at the time when you were leaving from your country of
14 origin to the seat of the Court is a call that is said to have been placed between 9 and
15 10 o'clock, is that correct?

16 A. Is that the call from --

17 Q. If we are in open session, so do not provide us with the origin of the call, please.
18 We do understand each other, don't we? I just am trying to show you here the
19 period during which that call was allegedly -- and I'm using the condition tense
20 here -- made.

21 And to help you, with the leave of the Court, the Chamber, please, Mr Witness, look
22 on this document at line 3, which is just after the date, and if you consult line 18, you
23 have "Voice" in the first column, then you have the date, and in the third column you
24 have the time at which this telephone call took place.

25 A. Well, I do not have this number before me. I just have 12 to 32.

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1 PRESIDING JUDGE SCHMITT: There is a misunderstanding obviously. I think
2 counsel means you have to look at 18 and 19, but row 3, I think. I don't want to
3 interfere, but -- or "column," "column" is the better word, yes.

4 Mr Witness?

5 THE WITNESS: (Interpretation) Mr President, can we go to closed session? I'm
6 asking if we can go to closed session?

7 PRESIDING JUDGE SCHMITT: Yes, we do, we go into closed session. We should
8 do so, yes.

9 THE WITNESS: Merci.

10 *(Private session at 3.32 p.m.) Reclassified as Open session

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

12 THE WITNESS: (Interpretation) Mr President, with my apologies, what I'm seeing
13 here is starting with 16, 17, 18 and 19, well, for those, I don't have my phone on my
14 person. (Redacted)

15 (Redacted). How is it that on the

16 16th, 17th, 18th and 19th I would have been able to call Mr Kilolo? I fail to see that.

17 On those days I did not have my phone with me. So why do we see this here? I

18 don't have a telephone on my person. (Redacted)

19 (Redacted). So I literally did not have a phone on my person.

20 How could I have called Mr Kilolo?

21 MR RODOMA: (Interpretation)

22 Q. I did not say that you called any person, any given person.

23 A. Yes, but since the numbers are there. I did not call anybody.

24 Q. When I asked you the question, I was referring to lines, rows. And the

25 President corrected me saying that it was actually columns. I was referring to

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1 column number 3.

2 A. I don't see that here. I have rows 12 to 32.

3 Q. On the document that you are seeing on the screen --

4 A. 12 to 32.

5 Q. Please allow me. You have a 12. And then in the next column you have
6 "Voice." So far so good.

7 Next column, 15 October 2012, are you with me?

8 A. Oui, oui.

9 Q. And then in the next column you see 14 hours 16 minutes 51 seconds.

10 So without wanting to ask too much of you, is to simply go down the column, the
11 column with 14.16.51, just scroll down to line 18.

12 A. Oui.

13 Q. Are you with me?

14 A. Yes.

15 Q. When you come to column 3, line 18, do you see that the time is 8.35.32; are you
16 with me?

17 A. Yes.

18 Q. So since you said and since you told the Court what you said and that that call
19 would have made sometime between 9 and 10, I deduce that at that time you were
20 not yet at the Court, you had not reached the Court?

21 A. Yes. I travelled on the 16th.

22 Q. So we understand one another, so this is in the morning you haven't reached the
23 Court. You have left your country of residence. You're on your way to the airport
24 to come to the Court. This is when you would have received a phone call.

25 Are we in closed session? Thank you.

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1 So this is when you would've received a phone call coming from Kinshasa?

2 A. Yes.

3 Q. You have confirmed and you told the Court when you were asked when, and
4 this was in response to the question that was put to you by the Prosecutor, what time
5 did that phone call take place, and you answered that that phone call took place
6 sometime between 9 and 10.

7 Now, looking at the document that we have on the screen, and this is a Prosecution
8 document, this is not a Defence exhibit, it's part of the evidence. If you look at the
9 next column after the time indication, you see 394, which is the duration, and then
10 there is the next one, where you have an indication of zero seconds.

11 A. Yes, I see that.

12 Q. So looking at this span of time, it seems that there was never any call coming
13 from Kinshasa during that time span?

14 MR POWLES: Mr President, I hesitate to rise and interrupt my learned friend. It's
15 just I'm not sure if this document represents necessarily all the telephone calls that
16 this witness was having at any one time. I think this is (Redacted) expert report.

17 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

18 MR VANDERPUYE: Only if you want my intervention, Mr President.

19 PRESIDING JUDGE SCHMITT: Yes, yes, I asked you.

20 MR VANDERPUYE: I agree with my learned colleague. In fact, this is a report that
21 represents telephone numbers of the accused, CDRs of the accused and contact with
22 witnesses, not the CDRs of witnesses. The telephone numbers appear in the call data
23 records of the accused and not vice versa.

24 PRESIDING JUDGE SCHMITT: But please continue with the examination, and if the
25 witness sticks with what he has said before, that he received the call, then we have to

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1 leave it this way.

2 MR RODOMA: (Interpretation) Thank you, Mr President. I would like to make a
3 clarification with all due respect for the Court and all parties. I think that argument
4 is a little bit expéditif when we say that this is only part of all phone calls. If the
5 Defence, and here we're representing Mr Babala's interest, has referred to the
6 document, it's because it is the Prosecution that raised this document during the
7 examination-in-chief this morning. And why did the Prosecution raise this
8 document? It was for the purpose of identifying the number, the telephone number
9 ending with the number (Redacted), and that corresponds to the phone that belongs
10 to the witness.

11 So one more clarification, you heard when I was putting my questions to the witness
12 that in response he confirmed that the number ending with (Redacted) was probably
13 the number on which he received that phone call.

14 PRESIDING JUDGE SCHMITT: There is no objection at all against your line of
15 questioning.

16 MR RODOMA: (Interpretation) I didn't think there was. I simply wanted to
17 make it clear.

18 And we have finished. I thank you.

19 PRESIDING JUDGE SCHMITT: Thank you very much. Other Defence teams?
20 Mrs Taylor, I will have to ask.

21 MS TAYLOR: Yes, Mr President. But if you don't mind, I might steal the lectern
22 from the Babala team first.

23 PRESIDING JUDGE SCHMITT: Okay.

24 MS TAYLOR: Are we in open session or private session?

25 PRESIDING JUDGE SCHMITT: I think we are in private session.

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1 MS TAYLOR: I think we can start in open session, unless it creates too much
2 inconvenience, because it might be necessary to go into private session a bit later.

3 PRESIDING JUDGE SCHMITT: Since you assure us that you are aware of the
4 problems that we have, we can go into open session and start with open session.

5 MS TAYLOR: Thank you very much, Mr President.

6 PRESIDING JUDGE SCHMITT: Yes.

7 (Open session at 3.42 p.m.)

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

9 MS TAYLOR:

10 Q. Good afternoon, Mr Witness. My name is Melinda Taylor, and I'm the counsel
11 for Mr Bemba. We met yesterday afternoon. I was the one speaking very bad
12 French to you. Do you remember?

13 A. Yes, I know.

14 Q. I will try to be very brief. Mr Witness, I would like to bring you back to the
15 date of your testimony in the main case, and we've established today that was the
16 17th of October; that's correct?

17 A. Somewhere around the 17th or the 18th.

18 Q. Thank you. And that you arrived on the 16th and --

19 A. Yes, that is correct. Of course I arrived the 16th.

20 Q. And at some point after your arrival but before you started testifying,
21 representatives from the Office of the Prosecutor came to meet you, didn't they?

22 A. Yes, of course they came to greet me.

23 Q. And was it your understanding from this meeting that they wished to question
24 you; do you recall?

25 A. The Prosecutor's office? Yes, of course. The day I arrived, the 16th, well, the

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1 next day, people from the Prosecutor's office wanted to put some questions to me,
2 and I answered no. I said that I preferred to be in the courtroom. I didn't want to
3 be confused, and this is why I said to the Prosecutor I would prefer if you ask your
4 questions directly in the courtroom, because otherwise it can be disturbing and
5 confusing.

6 So it was not out of ill will that I said no. I simply said that I would rather come and
7 testify directly, and that's how it happened. So it wasn't really out of ill will.

8 Q. Thank you, Mr Witness. Now, I'd now like to move on to another issue, and I
9 would just like to remind you not to mention any information concerning the country
10 I'm discussing with you or the place of residence. But if you feel uncomfortable,
11 please let me know and we can move into private session.

12 I'd like to bring you back to January 2014 and what you have described today as the
13 worst day of your life, Mr Witness.

14 And earlier today you testified that your wife was also taken forcibly on this day.

15 You were both questioned on the same day and you were together. Do you recall
16 saying that this morning, Mr Witness?

17 A. Yes, I do.

18 Q. So you were both arrested in front of your children?

19 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

20 MR VANDERPUYE: The witness never testified he was arrested. He was
21 specifically asked that question and he said he was not, and he described what
22 occurred, and I think my learned colleague well knows that.

23 PRESIDING JUDGE SCHMITT: Sustained.

24 MS TAYLOR: I apologise, Mr President.

25 Q. I believe you might have used the words "military fashion," is that correct?

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1 "Police were involved in a military fashion" in bringing you to the police station, is
2 that correct?

3 A. I had explained these things this morning. I was clear. This is what
4 happened.

5 Q. Mr Witness, when you're at the police station, could you see your wife?

6 A. No. She was taken to a different part, and we were not together.

7 Q. So you didn't know what was happening to her?

8 A. No. But the police came with two vehicles. They took my wife in one of the
9 vehicles, and I was taken in the other one, and we went to the police station. She
10 was taken to one side of the station and I was taken to the other. That's the way it
11 was done.

12 Q. And this morning you testified that your wife (Redacted)
13 (Redacted). So would it be correct or fair to say
14 that you would have been anxious about her?

15 A. Yes, my wife (Redacted)
16 (Redacted). So when we were taken, we didn't know that this
17 involved people from the ICC. The policemen just took us forcibly. And I was in
18 fact still wearing my pyjamas, and I refused to go, and I insisted to be allowed to get
19 dressed before getting into the vehicle.

20 I did not know what the reason was. And I asked them: "Did I steal something?
21 Did I kill somebody? I don't know."

22 Then we were there for 20 minutes, and that is when we were told what was going on
23 by the people who had come from The Hague. That is how it took place. I didn't
24 know that they were there. I didn't know. Maybe it was another problem.

25 Q. And while -- I should wait. Sorry. And while you were at the police station,

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1 were your children at home alone?

2 A. Well, the older ones had gone to school. After we left, the children went to
3 school. My mother was there, and my eldest who lives in (Redacted) was there at
4 the time. So after we were taken to the police station, the children went to school.

5 Q. After this happened in front of your children, were you anxious about them?

6 A. Counsel, the police, the gendarmerie or the military come and take you away
7 forcibly and you don't know why. My children had to be worried. What did
8 daddy do? What did mommy do? Why are they being taken away? That's how it
9 is.

10 Q. Mr Witness, do you recall -- and if you don't, that's fine; we can bring it up on
11 the screen -- but it was an extract from your statement that my colleague read to you,
12 and it's a section where the -- I'm not going to name the nationality -- but the police
13 inspector informed you that if you would like a lawyer, they would have to call the
14 Court in -- I'm not going to mention the city -- and then they have to decide which
15 lawyer. Then the lawyer must come here. It would take a long time.

16 Do you recall that?

17 PRESIDING JUDGE SCHMITT: Mr Vanderpuye.

18 MR VANDERPUYE: I think the specific question was posed by my learned
19 colleague Mr Gosnell. The answer is on the record, and this is repetitious, and I
20 think the record is clear.

21 PRESIDING JUDGE SCHMITT: Let me have a look into the question again.

22 MS TAYLOR: Mr President, I haven't actually put a question.

23 PRESIDING JUDGE SCHMITT: If you have another question in that respect --

24 MS TAYLOR: Yes, yes.

25 PRESIDING JUDGE SCHMITT: -- then I would allow it.

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1 MS TAYLOR: Yes.

2 PRESIDING JUDGE SCHMITT: But it is of course the same, if it was of course the
3 same question that Mr Gosnell has already put, then not.

4 MS TAYLOR: No, it's not, Mr President. It was just so the witness would
5 remember the specific part of his statement I'm referring to.

6 Q. Now, Mr Witness, would it be fair to say that you were at a police station.
7 Your wife was at a police station. Your children had seen you being brought into
8 this police station and were perhaps anxious. Would it be fair to say that you would
9 have been reluctant to wait a long time for a lawyer to come?

10 A. As soon as we arrived in the police station, I did not know that the investigators
11 were there. They were introduced a few minutes later. We met. I didn't even
12 know what the problem was. So how could I try to find a lawyer? I didn't even
13 know what was at issue. I wanted to be asked. Did I need a counsel? I could
14 have taken one automatically. But I didn't even know why I was there. So I didn't
15 ask for counsel. I didn't know why I was there. I don't know if I'm being clear.

16 PRESIDING JUDGE SCHMITT: This is of course an answer again.

17 MS TAYLOR: Yes. Thank you, Mr President.

18 Q. If I could just ask one final question leading on from that, which I don't believe
19 you answered. Would it be fair to say that you would not have wanted to prolong
20 your stay in the police station?

21 A. I did not want to -- I did not want to take counsel at that point because I didn't
22 know what the issue was. It was clear, I explained it, I didn't know why I was there.
23 Why would I automatically want to have counsel? And that's why I automatically
24 asked. A counsel costs money. How would I find the money to pay for a counsel?
25 And then I was told that I would have counsel. It would be paid for by the State.

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1 And I said: Try asking your questions. If I'm not able to, then I can decide to get a
2 lawyer.

3 And then I was heard during 48 hours without counsel.

4 PRESIDING JUDGE SCHMITT: I think, Mrs Taylor, I think --

5 MS TAYLOR: Yes, yes, Mr President.

6 PRESIDING JUDGE SCHMITT: There is -- I could imagine that you want to put
7 questions to the witness?

8 MR VANDERPUYE: I do, Mr President.

9 PRESIDING JUDGE SCHMITT: Not today.

10 MR VANDERPUYE: But I'm a creature of experience, that's right.

11 PRESIDING JUDGE SCHMITT: No, no. That's clear. So we will do that
12 tomorrow and you can remain standing I think, because I would like to inquire what
13 else can we expect tomorrow and the next days?

14 MR VANDERPUYE: Okay. Tomorrow, Mr President, we have another witness
15 who will start immediately after this one, P-243 I believe is ready, that's right. And
16 then next week we have I believe P-267 followed by P-214. P-214 is a little tentative
17 yet, but that's the plan.

18 PRESIDING JUDGE SCHMITT: Thank you for the information. (Microphone not
19 activated)

20 PRESIDING JUDGE SCHMITT: Excuse me. I start again. I had not had my
21 microphone on.

22 This concludes the testimony of the witness for today. We thank you for answering
23 the questions, Mr Witness. Tomorrow we will continue with your testimony. In
24 the meantime please have in mind you must not, and I repeat, you must not discuss
25 your testimony with anyone, neither with family nor with friends or with anyone you

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1 are in contact with. Do you understand this, Mr Witness?

2 THE WITNESS: (Interpretation) Yes, it is clear, Mr President.

3 PRESIDING JUDGE SCHMITT: Thank you very much, Mr Witness. Have a good
4 rest. We will see you again tomorrow.

5 Thank you for the moment for everybody, and also Mr Hjalmarsson, and we will see
6 you also tomorrow I think.

7 Please, Mr Witness?

8 THE WITNESS: (Interpretation) I would like to thank you very much, Mr
9 President, and everybody else who is present here today.

10 PRESIDING JUDGE SCHMITT: Thank you again. That concludes today's hearing.
11 We resume tomorrow at 9.30.

12 THE COURT USHER: All rise.

13 (The hearing ends in open session at 3.58 p.m.)

14 RECLASSIFICATION REPORT

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