

1 International Criminal Court
2 Trial Chamber III - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and
6 Judge Kuniko Ozaki
7 Status Conference
8 Friday, 3 May 2013
9 (The status conference starts in open session at 10.07 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE STEINER: Good morning.
14 Could, please, court officer call the case.
15 THE COURT OFFICER: Yes, Madam President. Situation in the Central African
16 Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, case
17 reference ICC-01/05-01/08, and for the record we are in open session.
18 PRESIDING JUDGE STEINER: Thank you very much.
19 Good morning. I welcome the Prosecution team, legal representatives of victims, the
20 Defence team, representatives of the Registry and of Victims and Witnesses Unit.
21 Good morning to our interpreters, our court reporters.
22 First, I would like to ask the parties and participants to this hearing to introduce
23 themselves and their teams, starting by the Prosecution.
24 MR BADIBANGA: (Interpretation) Good morning, your Honours.
25 The OTP is represented in this status conference by Mr Massimo Scaliotti, who is a

1 trial attorney; Mr Thomas Bifwoli, who is also a trial lawyer; Ms Sylvie Vidinha,
2 co-case manager; and myself, Jean-Jacques Badibanga, trial lawyer, and I will be the
3 one taking the floor for the OTP.

4 Thank you.

5 PRESIDING JUDGE STEINER: Thank you.

6 Legal representatives of victims.

7 MS DOUZIMA LAWSON: (Interpretation) Good morning, Madam President. I
8 am Marie-Edith Douzima Lawson, legal representative of the victims, and we have
9 Carine Pinaud, our case manager, as well as Angélique Gonzales, a pro bono member
10 of the team.

11 MR ZARAMBAUD: (Interpretation) Good morning, Madam President, your
12 Honours. My name is Maître Assingambi Zarambaud, legal representative of
13 victims.

14 MR KILOLO: (Interpretation) Good morning, Madam President, your Honours.
15 The Defence is represented today by Mr Peter Haynes, co-counsel; Ms Kate Gibson,
16 legal assistant; Mr Kabongo Mangenda Jean-Jacques, case manager; and myself, Aimé
17 Kilolo, lead counsel.

18 MR DUBUISSON: (Interpretation) Good morning, Madam President, your
19 Honours. Representing the Registry with me today there is Lejla Komarica from the
20 VWU; Vera Wang, who is a jurist co-ordinator in my immediate office, as well as
21 Patrick Craig, who is the new Chief of VWU; and then there is myself,
22 Marc Dubuisson, Director of Court Services on behalf or, rather, representing the
23 Registrar.

24 PRESIDING JUDGE STEINER: Thank you. I notice that Mr Bemba requested not
25 to be present during the status conference by way of email sent by Maître Kilolo, so it

1 has justified the absence of Mr Bemba to this status conference.

2 We are here today for this status conference. The first part will be held in public.

3 The second part, as requested by the Defence, *ex parte*, only with Defence and

4 Registry and VWU.

5 This status conference was convened by the Chamber's decision 2609 of 1 May 2013 in

6 order to address the continuation of the presentation of evidence by Defence.

7 The first issue that the Chamber would like to address and to see addressed is the

8 issue of appearance of Witness D04-56 and next witnesses called to testify.

9 The parties and participants in this trial are aware that the Chamber is not hearing

10 witnesses today because the witness called by the Defence, Witness D04-56, allegedly

11 refused to provide testimony by the modality of appearance ordered by the Chamber,

12 meaning by way of a video link.

13 In relation to this point, the Chamber is concerned that there appears to be a

14 fundamental misapprehension of the nature of this trial process. It falls on the

15 Chamber and not other actors to decide, based on information before it and the legal

16 provisions applicable, on the modalities of witnesses' testimony.

17 The Chamber would like to remind the parties and participants of its prior rulings,

18 decision 2221 of 24 May 2012, paragraph 14, and decision 2242 of 6 July 2012,

19 paragraph 15, in which it stressed that the Court's legal framework provides a wide

20 range of mechanisms *inter alia*, Articles 64(2), 6(f), 8(b) and 9(a), 67(1)(c), 69(2), (3) and

21 (4) of the Statute, Rules 63(3), 67, 68, 79(4), 134(3) and 140(1) of the Rules of Procedure

22 and Evidence and Regulations 43 and 54 of the Regulations of the Court.

23 I repeat, a wide range of mechanisms for the Chamber and its Presiding Judge,

24 depending on the case, to rule on the submission, admissibility or relevance of any

25 type of evidence and give any directions for the conduct of the proceedings and

1 testimony. These powers are exercised by the Chamber in the interest of justice in
2 order to ensure the efficient presentation of evidence and that the trial is fair and
3 expeditious. The right to decide on the modalities of appearance of witnesses is
4 certainly among these powers.

5 The Chamber notes that counsel for the Defence made representations to this
6 Chamber regarding the preference of Witness D04-56 to testify in The Hague. A
7 report issued by the VWU, a neutral organ of the Court, on 29 April 2013, considered
8 the nature of the witness's security concerns and concluded that with protective
9 measures the witness could testify by video link and that such a modality of
10 appearance would allow the testimony to start without delay.

11 This Chamber has been guided in its decision by this report. In light of this and with
12 a view to expediting the case the Chamber, in its 29 April 2013 order, decided that the
13 testimony of Witness D04-56 was to take place by video link.

14 The Chamber was later informed by the Defence and VWU that the witness refused to
15 testify in accordance with the order of the Chamber. This has served to effectively
16 paralyse the trial proceedings, since no other witness is available to appear before the
17 Chamber in the near future. This is obviously unacceptable.

18 The Chamber stresses that it is not for the parties, the participants, the witnesses or
19 any other actors involved in the proceedings to decide whether or not to comply with
20 the Chamber's order.

21 Counsel for the Defence has requested an ex parte status conference regarding this
22 matter. While the Chamber is willing to continue this proceeding on an ex parte
23 basis after we conclude with the issues to be discussed with the parties and
24 participants, it must be stressed that we have an expectation that in order to justify
25 revisiting the matter of the testimony of Witness D04-56 Defence counsel must have

1 new and compelling reasons that were not available when this Chamber previously
2 considered the matter.

3 Unless counsel for the Defence is able to satisfy the Chamber that there has been a
4 significant change in circumstances, or that new and compelling reasons to reconsider
5 our decision exist, where Defence counsel is unable to convince his witness to testify
6 in accordance with the order issued by this Chamber, the option remaining is for the
7 Defence to proceed to the next witness. Therefore, absent any meaningful
8 developments that we are made aware of in the ex parte discussion to follow, Witness
9 56 may be excluded from the list of witnesses to be heard by the Chamber.

10 As such, and subject to any new information, it appears now appropriate to discuss as
11 far as possible in public session the scheduling for future witnesses.

12 The Chamber recalls that to date, and since the start of Defence's presentation of
13 evidence, the Chamber has taken at least three written decisions, about ten oral
14 decisions and convened at least seven status conferences on the scheduling of Defence
15 witnesses and their related order of appearance of Defence witnesses.

16 The Chamber would like to stress once again that the responsibility for the
17 presentation of its evidence rests on the Defence. It is for the Defence with the
18 support of the VWU to organise the appearance of the witnesses it calls to testify and
19 to take all reasonable measures to minimise gaps in the proceedings as stressed by the
20 Chamber in its decision 2500 at paragraph 25.

21 There we observed that, and I quote, "The calling party, be it the Prosecution or the
22 Defence, bears principal responsibility for the presentation of its evidence and should
23 take all reasonable measures to minimise gaps in the proceedings." End of
24 quotation.

25 We also stressed that it does not fall to the VWU or to the Registry to ensure the

1 appearance of witnesses and underlined that the Court has no power to compel a
2 witness to appear in order to testify.

3 Therefore, the Chamber will expect detailed information and assurance from Defence
4 counsel on when further witnesses will be available to testify without conditions
5 attached during the ex parte session to follow.

6 The Chamber now would like to ask Defence whether in relation to this first topic
7 Defence would like to make any observations?

8 MR KILOLO: (Interpretation) Thank you, your Honour.

9 You have just developed in great detail the situation of Witness 56. It is true that as
10 part of an ex parte hearing involving only the Defence and VWU it would be more
11 appropriate, that is in that case, to give you more precise answers, but at this point I
12 would like to draw your attention to the fact that Witness 56 comes from a country
13 where he has been residing for several years, and that was following a decision which
14 was handed down by the Chamber.

15 On 26 February 2013, you in fact decided that there should be a consultation between
16 the VWU and the Defence to ensure, and I quote, "... the appearance of Witness 56 at
17 the seat of the Court." This was your substance of your decision. There was never
18 any question of this witness testifying by video link.

19 Of course, we communicated the substance of your decision to this witness and we
20 told him that he would come and testify at the seat of the Court, it being understood
21 that VWU did not succeed in ensuring the consultation with the diplomatic office
22 representing the country of residence abroad of Witness 56.

23 If the negotiations that had been initiated between the embassy of that country of
24 residence and VWU had been successfully concluded, it would have made it possible
25 to organise a video link appearance from the country of residence of Witness 56, that

1 is abroad, but that was not done.

2 VWU also started negotiations to find out whether it would be possible for the
3 witness to travel directly from his country of residence abroad to come and testify at
4 the seat of the Court.

5 The fact remains that, prior to your latest decision on 29 April 2013, there was this
6 decision of 26 February 2013 in which you ordered that everything should be done
7 between the Defence and the VWU to enable that witness to come and testify here at
8 the seat of the Court.

9 Lastly, that is after your decision of 26 February 2013, on 4 March 2013 the Registry
10 wrote to you to inform you that Witness 56 was going to leave, at the initiative of the
11 Registry, this person was going to leave his country of residence to go to a third
12 country in Africa and he would be in transit. This would therefore make it possible
13 to apply for a visa to enable the witness to travel to the seat of the Court.

14 In fact, we understood by that that Witness 56 would transit for about four to five
15 days in this third country, which would make it possible to come here and testify at
16 the seat of the Court, and I would like to point out that in the opinion of the Defence it
17 is important for this witness to come and testify in person. He is a particular or
18 rather special witness who is coming to shed light by giving us the names of the
19 material perpetrators of the crimes that have been discussed for so many years in this
20 case of The Prosecutor versus Jean-Pierre Bemba.

21 This witness has always refused to testify by video link from the country in which he
22 finds himself today because he fears for his security, and that is because the Head of
23 State in the country in which he is now is very close to the former president, François
24 Bozizé. They are very close friends. And so if this witness appears in his capacity
25 as a former officer in the rebel movement, which was led at that time by General

1 François Bozizé, he will have to reveal some information that would highlight the
2 crimes of rape, pillaging and murders perpetrated by the rebellion of General
3 François Bozizé and which today is being incorrectly or, rather, which today are being
4 incorrectly attributed to Jean-Pierre Bemba's troops.

5 So, your Honour, I have just given you the context in which we find ourselves with
6 this witness, who does not wish to testify from this transit country.

7 On 26 April 2013, we sent out a mail indicating that, as this witness has always told us
8 during our discussions of this matter, we said he did not agree to testify by video link.

9 In fact, no one is challenging the decision of the Chamber. The mail is dated
10 26 April 2013, but your decision was issued later on, on 29 April 2013.

11 It is true that subsequent to your decision dated 29 April 2013, we did request that a
12 status conference be held, an ex parte status conference, in order to broach a number
13 of points or issues with you, and I would say that these were new issues that were not
14 taken into account at the time when the decision was taken on 29 April 2013 that he
15 was due to testify via video link from his current location, and the reality of the
16 situation is that the VWU handed over to you, even if we have not been apprised of
17 this, an assessment - a security assessment - in order to ascertain whether the security
18 concerns mentioned by this witness did indeed stop him from testifying at his current
19 location.

20 However, we are curious to see this report. We would be very interested to see it,
21 because we would like to know whether the VWU has indeed put a number of
22 circumstantial questions to this witness and we would also like to ascertain what the
23 responses provided by the witness to the VWU were in a document that is actually a
24 record of an interview, because we believe that the witness is right in fearing for his
25 security if he were to testify from his current location.

1 Whatever the case may be, you have put the question to the VWU in order to
2 establish whether two things would be possible, i.e., the first that by your decision of
3 26 April 2013 that he would come to testify at the seat of the Court, or whether he
4 would be in a position to testify from his current location -- correction,
5 26 February 2013.

6 Now, in order to avoid any delay - lengthy delays - it would seem that it would be as
7 fast for him to testify at the seat of the Court or via video link, and I do believe that
8 the response was provided to you to the effect that were he to come to testify before
9 the Court, he would be able to testify from 7 May.

10 Now, 7 May, if I am not mistaken, is in three working days' time, but the problem at
11 hand is that the VWU has not undertaken the various measures for this -- for the
12 obtaining of a visa for this witness and we deplore this situation, which we find it
13 unacceptable. We find it abnormal, to the extent that if it is true that your decision of
14 29 April 2013 does in fact decide that we should have recourse to a video link
15 testimony, it still remains that before 29 April, your decision of 26 February was still
16 in force and it did foresee that the witness would come and testify before the Court.

17 So how is it that the VWU allows itself to suspend all the modalities for obtaining a
18 visa for this witness?

19 This is the problem that we are up against currently and the problem is even more
20 flavour of the day in the sense that we should be taking into account not only the
21 security concerns, but this is not the only concern. There are also the optimal
22 conditions in terms of his psychological well-being, and the VWU might suggest to us
23 that he testify via video link from his current location were we, for example, to use a
24 closed session, a fully closed session, but were we to go about it in this manner, this is
25 doubly inconvenient for us.

1 Firstly, in the context of the right to a fair trial, it will not be possible for the public to
2 follow the hearing, and of course this is a major stake. If we find ourselves here in
3 the context of this trial, it is because there were crimes that were allegedly perpetrated
4 in the Central African Republic between October 2002 and March 2003. So here we
5 have finally an individual who is coming to tell us and coming to say to us, "Well, do
6 you want to know who the material perpetrators of these crimes are? I am one of
7 them. I was a member of President or General Bozizé's rebellion, and we have
8 committed -- or we committed a number of crimes that have been attributed to the
9 MLC."
10 So I believe that the public - general public - should also be allowed to follow this trial
11 directly, including the testimony of this witness, who is unique in his kind.
12 The other disadvantage is that whatever this witness might have to say, were we to
13 say that there would be a closed session throughout, the problem remains that, on the
14 basis of the information at our disposal, a psychologist who went out into the field
15 and discussed things with this witness, well, because we believe that the witness in
16 his current location will not be able to testify in a fully comfortable manner, from a
17 psychological view-point, and provide the truth in its fullness, because he was
18 somebody who was personally involved in the action and this is the
19 President -- Madam President, the situation that we currently find ourselves in. And
20 we know only too well that the decision on the mode of appearance does lie with you
21 and only with you in the context of a decision taken by the Chamber, but please allow
22 us to insist or emphasise the point with regard to the specific situation of this witness.
23 And I will finish by so saying that this witness today has been taken from his country
24 of residence where he has been residing for a number of years now, not at his own
25 behest but at or upon the initiative of the Registry for the requirements of his

1 testimony at the seat of the Court, and now he is being sent to a country that is not
2 even that of his nationality. He is, therefore, in a foreign country. He does not have
3 any legal domicile in that country, and we find this even more matter for concern
4 because if we talk about suspending or interrupting his -- his testimony, well,
5 consider the humanitarian and judicial repercussions in terms of the Court's
6 responsibility for having taken him from his country of habitual residence, having
7 sent him to a foreign country and leaving him there. This really is a problem and we
8 would like to avoid finding ourselves in a situation that tomorrow the witness blames
9 the Court for this.

10 We believe that it is important to take a decision to allow this witness to come to
11 testify in person at the seat of the Court and then subsequently, of course, in
12 negotiating with the Registry, we would be in a position to be able to take the
13 measures in order to send him back again, because of course he is in a very specific
14 position that we cannot deny. There are international conventions that would not
15 allow us to send an individual back to any old country unless this is a country of
16 which he is originally a national or a country that he has a valid residence permit for.

17 Now, that is the stage that we are at currently with regard to this witness and I would
18 say that this is the only reproach that I have against the VWU. We have been
19 working together with them over the last few months now, for a number of months,
20 and with regard to this particular service within the Registry, are very grateful for
21 their work, for their involvement, for the good conduct of proceedings to date, and
22 I would really say that with the exception of this very specific issue with regard to
23 this witness - I might have to take the floor again later - but really we have no other
24 reproaches for the work of the VWU to date.

25 PRESIDING JUDGE STEINER: Thank you very much, Maître Kilolo, for the fact that

1 you were able to summarise the situation of Defence Witness 56, taking due care in
2 order not to give any identifying information, and the Chamber appreciates that.
3 I will of course give the floor to representatives of the Registry, but as a first -- as first
4 comments on what was said by lead counsel, and I start by the end, when lead
5 counsel refers to a psychological evaluation, if Defence counsel deems its witness as
6 being vulnerable, it would be for Defence counsel to have requested that. So VWU
7 cannot take any action without receiving the proper information, and it's not the first
8 time that the Chamber or the Registry is -- is seen as not taking the necessary
9 measures, when necessary measures were never requested.

10 The second point that calls my attention is for the fact that many times Defence
11 referred to its witness as being in transit in a foreign country. The issue will be
12 discussed in deep in the ex parte status conference that will follow this one, but the
13 information that comes to the Chamber is that the witness possesses a passport from
14 the country in which the witness is now and, in any case, even if the witness were to
15 come and testify in person before this Court, the witness is expected at least to return
16 to the country from where the witness came. This is the obligation of VWU, to bring
17 a witness and then to send the witness back. So this assertion in terms that the
18 witness is in the current country in transit is something that needs to be better
19 understood on the consequences of this assertion made by Defence.

20 And, finally, at least from what Defence counsel has just exposed, it was not clear, at
21 least to the Presiding Judge, in what the protective measures would not be -- why the
22 protective measures will not be sufficient for the witness to testify on all these
23 important topics mentioned by the Defence. It's not the information that the witness
24 is ready to release that puts the witness at risk, but rather the identity of the witness
25 being known, and in terms of protecting the identity of any of the witnesses,

1 Prosecution and Defence witnesses, the Chamber has been, at least to our knowledge,
2 able to do that even without recurring very frequently to closed session, but private
3 session and in-court protective measures have shown to be sufficient, at least in
4 principle.

5 These are my first considerations, but I would like to give the floor to Mr Dubuisson
6 and if Mr Dubuisson taking care in order not to reveal any specific information that
7 could identify the witness, if Mr Dubuisson could address the points raised by
8 Defence counsel.

9 MR DUBUISSON: (Interpretation) I thank you, Madam President, and I noted
10 what our colleague from the Defence just said and his positive words with regard to
11 the Registry. However, I will rectify a number of things and I shall mention three
12 points.

13 Firstly, this concerns what we understand by the terms of reference; that is the
14 definitions. A country of residence as mentioned is not necessarily a country -- a
15 host country, nor is it necessarily a country of which one is a national. So one needs
16 to wonder whether it is a country of residence.

17 We, for some of us, are living in The Netherlands and one can be invited to leave this
18 country for a specific reason. This is a major issue. I won't say any more about this,
19 but when we say that the -- or when one says that the Registry has not managed to
20 complete its negotiations with the State, I would say quite the contrary, because in
21 view of the quite complex situation we are up against we have been very successful
22 and what is more we have been authorised to escort the individual for him not to
23 have any particular issues or problems.

24 I have said this on a number of occasions in this courtroom. One cannot use the
25 Court and the Rules and the decisions handed down by the Judges in order to

1 circumvent a number of national obligations, or to not respect some of the
2 international conventions as mentioned by our learned colleague.
3 It is important, I believe, for us to act respecting fully the sovereignty of each
4 sovereign State and our obligations.
5 So with regard to the work undertaken by the unit, I believe that what we have done
6 within our unit has been quite correct. We informed the individual, we informed the
7 Defence, we escorted the individual and there were a number of parameters, notably
8 that the individual was due to travel via a specific country and this was done.
9 And this is when we now shall raise the second difficulty we are up against. When
10 we find ourselves in a specific country, and before continuing our journey, our
11 planned journey, well, we did come up against a number of problems for us to obtain
12 a travel document. So we did encounter difficulties and, on the basis of these
13 difficulties, we attempted once again via negotiations, and for our colleague to say
14 that we did not make a request, I would say that that is entirely wrong. We did
15 contact the authorities, the authorities that are in a position to issue such a travel
16 document, and we did this on 10 April. We had full discussions with this individual,
17 not only via the protection unit, but also via the Registry. We are very much alive to
18 the fact that the Defence is assisting this witness and we do not want to be a negative
19 actor in the proceedings and we provide the necessary means. The means were
20 provided, the contacts were established, and on 10 April we found that it was difficult
21 for us to move forward with regard to these travel documents in view of the rather
22 specific nature of the individual and I won't go further into this.
23 Now, it might be useful if we want to move forward for us to explore other avenues
24 and maybe exploring other avenues, well, this always comes at the end of a chain of
25 events and this has -- this is quite a recent situation.

1 And this leads into my third point; notably protective measures which were referred
2 to. I would like to correct a point here. When a security assessment is made of a
3 specific individual, a statement is not taken, nor is it countersigned in the presence of
4 an interpreter. We are not investigators, and the aim of this statement is not for it to
5 be used as evidence in a trial as such. This is very clear. We are a neutral party and
6 any information that is gathered by our unit is not going to serve either party in the
7 proceedings.

8 So we have protocol that we respect, not only for Defence witnesses but also for OTP
9 witnesses and also for victims, and this protocol is the same for everybody and we -- I
10 do not see why in this specific case we are going to give any information with regard
11 to protocol or any of the questions that were put, nor is it up to the parties to provide
12 us with the questions that we are supposed to put. We are active in this field of
13 protection and we are dealing with information that we are aware of. We have been
14 assessing the threat or the threat at a State level. We have also been conducting a
15 security assessment of an individual in a specific case.

16 Now, we believe that everything that has been done with regard to the hearing is
17 correct with regard to the threat. It is true that there are a number of parameters that
18 are uncertain today. We do know of course that President Bozizé no longer is in
19 power today. We know that he has -- (Redacted)
20 (Redacted), so there is an entire situation here that might have consequences
21 that we are not in a position to currently assess the impact of today, but we do not
22 believe that this will generally speaking have an influence on -- upon the individual
23 himself.

24 In other words, there is no problem for us, the VWU, to invite the witness to testify
25 via video link. Of course, he will be able to benefit from a follow-up. In a period of

1 two to six months we will provide him with this follow-up to ascertain whether
2 subsequent to his testimony there are any consequences where -- whether there
3 would be any threats and we will at the time take the adequate measures, but for the
4 time being we do not have any information that would suggest that there is such a
5 problem.

6 As for the possibility of discussing this with a psychologist, well, today the individual
7 is being managed by a person who is also a psychologist, so had there been an issue
8 this person would have been able to advise him, and this person who is helping him
9 today is very familiar with the issues that he is up against and he will be in a position
10 to talk to him, if this person is vulnerable, because this is something that you can see,
11 that you can feel, and that social worker would be able to take that situation in hand.

12 We do not have any information to date in any report that this is in fact the case.

13 The individual seems to be in a very normal state of mind and doesn't seem to show
14 any signs of vulnerability today.

15 Now, in view of the fact that the Defence did raise this particular issue, we can be
16 specifically attentive to this in the days, weeks or months to come, or the days, weeks
17 or months to follow, following the testimony, but today I do not see any infringement
18 or any barrier to his coming to testify -- to testify and I do not see that in the two to
19 six -- I believe that in the two to six months subsequent to his testimony, during his
20 cooling down period, and this is generally a period from 15 days to two months, but
21 we have extended this in view of the specific situation of the individual, we have
22 extended this to six months and I do believe that we have taken specific measures
23 with regard to this individual.

24 I hope that I have not given too much information that might compromise the
25 individual, but I do believe that we have to be clear on the subject and clear with

1 regard to the situation of this witness and I thank you.

2 PRESIDING JUDGE STEINER: I have some further observations, but I will -- I will
3 wait for the ex parte session of this status conference.

4 Maître Kilolo, you want to add anything that can be added in this part of the hearing?

5 MR KILOLO: (Interpretation) Now, very briefly, Madam President, I would quite
6 simply like to emphasise the fact, in view of the fact that you have put the question
7 and saying that it is the responsibility of the Registry to return the individual to the
8 country, to his point of departure whence he came when his journey to testify began,
9 of course we do not have any issue with that. It'll be up to the Registry to decide
10 upon all of this as to what his country of departure is. To our knowledge it is not his
11 current location, but it is the location whence he was taken by the Registry, because
12 his current location was not decided by him. He did not decide to go there. It was
13 the Registry. I won't say who imposed it upon him, but who formally suggested it to
14 him, and the plane ticket for him to travel from his country of residence to his current
15 location was paid for by the Registry, and we, everyone knows only too well that the
16 Registry does take an individual under their wing from the country of departure and
17 that country of departure is not his current location.

18 So what is the real issue at hand? Well, it is that everybody is today aware of the fact
19 that the government of the country of current location of the individual has the list of
20 all the 63 Defence witnesses, and from that view-point I do believe that there is a
21 problem of vulnerability.

22 The family of President Bozizé, who has probably scattered in various countries of the
23 world, is probably to be found in the country and the town where the witness is
24 currently. Even if President Bozizé is not there, his close connections were -- the
25 country of location of this witness is known by all.

1 So, as for the nationality, the issue of nationality, I believe that the fact that the
2 individual has a passport of the country where he is currently located is one thing,
3 but as for his nationality, this is another question entirely. I do not want to belabour
4 the point in public session now in order not to reveal to the Office of the Prosecutor
5 certain information that they should not be privy to, but the case stands that this
6 individual - this witness - is not a national of the residence -- not a national of the
7 country that he is currently located in, that he's currently in transit in, and we do not
8 see that there is a problem to request that he come to testify here at the seat of the
9 Court.

10 He has a passport that has enabled him to travel from one continent to another. We
11 do not see where the problem lies that in the next three or four days a visa be
12 requested, because there are agreements. The Netherlands would be in a position to
13 grant this visa and it would enable him to come and testify here at the seat of the
14 Court. We have found ourselves up against cases where we had to wait for a month
15 or two because -- because they were involved in political activities in the countries
16 that they were to be found in at the time and they -- we then had to wait for them to
17 be available to come and wait, but of course these are Prosecution witnesses we're
18 talking about here and this could have been done at the time for them to testify via
19 video link.

20 So why is this a completely different situation? We believe that it is possible for him
21 to testify at the seat of the Court and we are emphasising this fact, because we believe
22 that this is really intricately linked to a fair trial and the client, Mr Jean-Pierre Bemba,
23 whom we are defending, is also emphasising this point because we all are of the
24 opinion, we, members of the Defence team and our client, believe that this testimony
25 is really crucial. If he testifies from his current location, even if all the habitual

1 protective measures were taken in closed session, psychologically speaking, he, in the
2 knowledge (Redacted)
3 (Redacted)
4 (Redacted), he will not be relaxed enough to testify freely
5 and that is why we are really insisting upon the point that he come and testify at the
6 seat of the Court, Madam President.

7 PRESIDING JUDGE STEINER: Just one further observation. For the record, Maître
8 Kilolo, I have here -- I have here in front of me part of the transcript 283 of
9 confidential ex parte status conference held with Defence and Registry in February, in
10 which the issue related to Witness 56 had already been discussed, and at that time
11 what I see from page 43 is that the place in which the witness was at that time was not
12 as well his place of residence, and it was said by Defence that in order to leave that
13 place which was not his legally place of residence, he didn't have financial means to
14 do so, and this is on line 18. "This witness didn't return to country X because he
15 doesn't have the financial means to do so," and for that reason that the Registry
16 offered to finance such a trip. He was not taken by force from the country in which
17 he was living.

18 Anyway, before we go into the second point, I would like to ask whether Prosecution
19 has anything to say in that respect, Maître Badibanga?

20 MR BADIBANGA: (Interpretation) Thank you, Madam President.

21 Clearly, we are not in a position to make any specific comments regarding this
22 witness, because we know little about him. In any event, we want to make some
23 general remarks.

24 I would like to start by stating that we have to show reason in whatever we say and
25 not deal with issues in a light-handed manner and use contradictory arguments one

1 way or the other which in the end may confuse issues.

2 As I listened to Defence counsel make his observations, I wondered whether he was
3 making his final submissions, because he has already made some remarks about the
4 content of the testimony. I also wondered whether he was acting as a psychological
5 expert, because maybe even Defence is able to do so. I also wondered whether they
6 were doing a security assessment, because it would appear that Defence is able to
7 make that kind of an assessment.

8 In short, what I am saying is that if we all remained within the areas of our
9 competence and acted professionally, then we may be able to continue our
10 proceedings in a more congenial atmosphere.

11 The issue of the psychologist has already been raised by Mr Dubuisson on behalf of
12 the Registry and I simply want to say that we should not confuse security and
13 psychological vulnerability. If what we are being told is that a witness fears for their
14 safety because, according to what I understand, is he is -- he is testifying from a
15 specific location, that has nothing to do with his psychology. It is mainly a security
16 issue which has to be dealt with on the basis of objective criteria that can determine
17 the risk and impact of his security, but if we are being told that this witness has
18 psychological vulnerability, regardless of his location, that state of mind or his
19 emotional status will be dealt with accordingly by the appropriate services.

20 So we cannot say that for psychological reasons he may not testify from a particular
21 location, whereas we are dealing with a security issue. That's a problem.

22 I also think that the witness should be consistent in its positions. Twenty witnesses
23 have already been heard. Forty-three are expected to be called and we have not
24 received a single document, a single page, signed by the witness -- by any witness,
25 and yet today the Registry is being asked to provide documents signed by the witness.

1 I think Defence should be fair, because we have not received any documents signed
2 by any witness, at least any such document has not been disclosed to us by the
3 Defence.

4 Madam President, I think that we needed to do a video link familiarisation exercise in
5 this courtroom and it would seem to me that I heard someone say by video link, "See
6 you next week for the testimony" during this exercise. I therefore do not understand
7 what is going on. Last week we had this familiarisation exercise with the witness
8 and all of a sudden the video link testimony is no longer possible. I leave that to the
9 Judges to determine, but it's a question I had to raise all the same.

10 Now, Defence has also raised issues of security, but to argue that President Bozizé has
11 family members across the world does not substantiate such an argument because
12 President Bozizé's family members can travel to any other location and I think,
13 Madam President, you have already highlighted the fact that witnesses are
14 beneficiaries of security measures.

15 Now, the more Mr Kilolo explains to the public who this witness is, what he's going
16 to say, what he – (Redacted)

17 will end up probably disclosing the identity of that witness, but if we were to proceed
18 by closed session then this would not be the case.

19 Now, if Mr Kilolo were to say that by implicating President Bozizé's family members
20 this witness might endanger himself, then we can go into closed session for that
21 purpose. So I'm really quite surprised that Mr Kilolo should put forth the argument
22 he has just made that it would seriously compromise the witness's safety and security.
23 I must also say that President Bozizé is no longer in power and that situation should
24 be a factor in assessing the risks that the witness may face, and this in any event might
25 actually diminish that risk for the witness.

1 I do not understand what Defence is seeking here. Can Mr Kilolo be clear? Is he
2 saying that we have a crucial witness who needs to be heard? And if that is the case,
3 then the witness should be heard by any means possible. We would prefer that he
4 be heard by a physical appearance in court, but there are other ways which can
5 facilitate such testimony.

6 Now, if the Defence is only interested in the location and the formalities for such
7 testimony, then we believe that that would be the substance of their argument
8 because it would have nothing to do with the content. There's no reason why the
9 witness should then be asked to appear necessarily in The Hague. His substantive
10 testimony can be gathered from any location.

11 So those are the type of things that lead me to think that there is a confusion of issues
12 in the arguments of the Defence.

13 We understand, Madam President, the difficulties by Witness -- faced by Witness 56,
14 but let me point out that Mr Kilolo has not answered the question raised by the
15 Chamber; namely, to provide detailed information and guarantees from Defence
16 counsel on the dates at which other witnesses will be available for testimony without
17 any other conditions, and the Chamber therefore asks the Defence to make remarks
18 on this point. We were expecting answers from the Defence on the scheduling and I
19 think that this has not been done, but I know that there is an ex parte status
20 conference coming up.

21 In any event, if there are difficulties with this particular witness, why does Defence
22 not call another witness?

23 I refer to a previous status conference wherein Mr Kilolo told us that 35 witnesses
24 were available and ready for testimony without any difficulties. I do recall that the
25 Chamber asked whether it was five or 35 that Mr Kilolo was referring to and

1 Mr Kilolo said "35". Status conference 2 November 2012, transcript 250, and I'm
2 referring to page 6 and page 19. At those pages, Mr Kilolo made the same assertions
3 to the Chamber.

4 Let me quote further. This is what Mr Kilolo said: "I simply would like to say on
5 behalf of Defence that we still have some 59 witnesses to call on behalf of Defence. I
6 also underscore that the majority of these witnesses, namely 35, that is about 60 per
7 cent of the witnesses still to be called, are not facing any particular difficulties. We
8 believe that in any event these witnesses should be able to testify under normal
9 conditions without any interruptions similar to those which we have recently
10 experienced. Some of these witnesses are in Europe and not far away from the seat
11 of the ICC."

12 That was what he said. These witnesses have no problems obtaining passports and
13 travel documents and they are witnesses who do not show any clear problems in the
14 area of vulnerability.

15 Now, what the OTP did is, in relation to the difficulties that we had at the end of our
16 case because of some person problems, the Prosecutor wants to point out that
17 whenever we ran into any problems with any particular witness that witness was
18 replaced by another and this happened on several occasions during the Prosecution
19 case. We took all necessary measures to inform Defence in a timely manner.

20 Now, I do not understand how it is that with 35 available witnesses, when one is
21 unable to show up, why do we have to wait for 15 days? It is for Defence to make
22 the necessary arrangements and put in place alternative arrangements that work.

23 Scheduling has been a problem and, you see, when a witness does not appear these
24 are days lost by the Court because we all wait until the witness is available.

25 These are the points we wanted to raise at this juncture, your Honour. Thank you.

1 PRESIDING JUDGE STEINER: Although the issues discussed in this status
2 conference are more related to the presentation of evidence by parties and
3 information to be given by Registry, I would like to ask whether legal representatives
4 would like to make any observation?

5 MR ZARAMBAUD: (Interpretation) Thank you, Madam President.

6 I believe that lead counsel for Defence has raised a number of points, the chronology
7 of decisions and propositions, as well as other complaints regarding the Registry and
8 VWU, and the reaction of the Chamber has been very clear, and the Registry has
9 provided very clear answers as well for the Defence, we believe.
10 But we do not know very much about what is going on because we don't have the
11 information, so we believe that these things will be clarified further in the upcoming
12 session. So we really don't have much to say.

13 However, let us simply recall that, whenever we travel to the Central African
14 Republic, witnesses, or the victims rather, were always very concerned, they are
15 worried about the number of Defence witnesses, and we've explained to them that the
16 numbers do not really matter as much as the time that will be taken to proceed, and
17 so the witnesses are concerned that at this speed things will take more or less forever
18 because at this pace we may not be able to conclude these proceedings within the
19 agreed time frames.

20 So that is why we suggest that alternative measures should be sought in order to put
21 things back on track, your Honour. Thank you.

22 PRESIDING JUDGE STEINER: Maître Kilolo, since you have the right to be the last
23 one, is there anything you would like to add before we go to the second topic?

24 MR KILOLO: (Interpretation) Madam President, most of what has been raised by
25 the OTP does not call for any reaction whatsoever from Defence.

1 However, let me address what Maître Zarambaud raised, which to my mind is an
2 important question relating to the expeditiousness of the trial. In that connection, let
3 me say that the Defence had 230 hours to call all its witnesses. To this date, 18
4 witnesses have already testified, totalling some 72 hours 57 minutes. We still have
5 157 hours of testimony available to Defence.

6 In that connection, the valid question that could be raised is: Within what time or
7 dead-line will all Defence witnesses have concluded their testimony? In that regard,
8 let me say that it is in July 2012 that Defence submitted a full list of its witnesses to the
9 Registry. Every week or every other week we do hold meetings to facilitate the
10 appearance of Defence witnesses. I want to commend VWU and the Registry for
11 their professionalism and commitment in their work.

12 Let me, however, say that in reality, apart from the witness expected to appear now,
13 the near totality of all the remaining Defence witnesses are in specific or special
14 circumstances compared to the OTP witnesses. I say this because our witnesses are
15 resident in three different countries and I will spare you the details.

16 In country number 1, where most of our Defence witnesses are resident, most if not
17 all of the remaining witnesses cannot come to the seat of the Court without obtaining
18 administrative authorisations because they are all generally civilian or military
19 officials. We have already raised this problem with the Chamber and, indeed, the
20 Chamber did hand down a decision. I believe our application was made on
21 13 December 2012 and the decision was decision 2479, whereby you asked the ICC to
22 facilitate the issuance of administrative authorisations and to provide security for our
23 witnesses.

24 The reality is the following: VWU did its part and introduced the relevant
25 applications for those administrative applications, but to this date that

1 country - country 1 - has not issued a single administrative authority -- authorisation,
2 rather.

3 Let us take the case of the next four witnesses, 18, 12, 13 and 17. All of these
4 witnesses have been waiting since November 2012 for those administrative
5 authorisations to be granted. VWU has made the necessary requests to that State,
6 but the State has not responded. It has not said "No" publicly, but on the other hand
7 it has not done anything and this inertia on its part could appear to be
8 non-cooperation from that specific State. It could be interpreted to amount to
9 non-cooperation from that State.

10 Let me say that a few witnesses have come to the Court from that State but have
11 subsequently raised concerns with us about intimidation from the official authorities
12 of that country, so there are co-operation issues that are also arising which would
13 tend to stall the proceedings if nothing is done.

14 You see, a member of the Defence team was also arrested in that or by that country
15 and no written explanation has been provided to the ICC to explain why the security
16 services of that country summoned a Defence team member who was on mission in
17 that country to provide them with confidential information relating to the Jean-Pierre
18 Bemba case.

19 Now, that is in regard to country 1. Let us take country number 2. The same
20 situation arises with that country. It is in fact almost all the witnesses who are in
21 that country, and there are many of them, who need administrative assistance from
22 that country in order to be able to appear either at the seat of the conference or to
23 testify by video link.

24 Now, in this case, on 25 April we had a meeting with VWU and they told us that they
25 have trouble, problems identifying their interlocutor within that State, that is country

1 number 2, with whom they can have a meaningful negotiation in order to work out
2 the arrangements for the appearance and testimony of these witnesses.

3 Now, country number 3. We also have problems with country number 3. All
4 Defence witnesses in country number 3 need to be granted permission and
5 administrative facilitation in order to be able to appear before the Court even by
6 video link from that country.

7 Now, VWU has told us that in that particular country they need to be able first of all
8 to sign a privileges and immunities agreement with that country in order to ensure
9 that were the proceedings to be undertaken by video link the court officer who would
10 travel to that country would benefit from those privileges and immunities. This is
11 what we have been told, and the same would apply for Registry staff who may have
12 to travel to that country to do preparatory work, familiarisation work, with the
13 witnesses. So there has to be a clear position whereby these staff will not run into
14 any problems.

15 The third dimension of that problem is that this country is not a State Party to the
16 Rome Statute, so we have a problem there, and so the impression should not be given
17 that it is because the other parties are not aware of all the issues that we discuss
18 ex parte that there is anything. There are a number of problems.

19 So what I am saying is that apart from Witness 56 we need authorisations,
20 administrative interventions from the various administrative authorities in the
21 countries in which those witnesses are currently resident, and this is a problem of
22 co-operation. In that connection we intend to suggest or ask the Court to intervene
23 to ensure that these States can do the necessary to ensure that the proceedings unfold
24 properly.

25 Thank you, Madam President. That will be all.

1 MR DUBUISSON: (Interpretation) Thank you, your Honour.

2 The Defence has underscored certain points and quite correctly so. There are issues,
3 problems, in the area of co-operation and these problems are complex and require
4 relatively long periods of time. However, I will not go as far as talking about
5 non-cooperation, given that the States have done quite a bit. So maybe there are
6 indications, but we cannot make conclusion.

7 Now, regarding country number 3, as mentioned by Mr Kilolo, we have finalised our
8 arrangements with this country. We have their agreement to be able to work in that
9 country. We have the agreement of an international organisation to assist us. So
10 with regard to country 3, we have missions ongoing to finalise arrangements for the
11 testimonies to take place. So, in the next four weeks or so, we would be ready to
12 continue -- or to begin video link testimonies; that is of course if the Chamber
13 authorises video link testimonies.

14 We are going to submit a detailed report to the Chamber regarding what were able to
15 do, the time-limits and the duration of our stay in this country. So when it comes to
16 country 3, I can say that everything has practically been concluded in the area of
17 privileges and immunities. So those -- that is going to facilitate work for us with
18 regard to a relatively high number of witnesses.

19 Regarding country 2, assuming of course that I am not mistaken about which exactly
20 is country number 2, yes, indeed we have a problem with the focal point. We have
21 received or reached an agreement in principle for co-operation, but what presents
22 difficulties today to have testimonies, that is we need to have someone on the ground
23 to render us operational, but we have all the agreements in principle from the State
24 and the institutions to assist us, but when it comes to location, where exactly we are
25 going to work, we still have a problem there in spite of several missions that I

1 personally led to this country which were really not very successful.
2 We have made efforts ever since the month of October. We were intending to go
3 back to the Chamber to raise an issue of non-cooperation, but we had the green light
4 even though it required us six or seven months to make progress, but we have made
5 progress.
6 Now, when it comes to country number 1, I cannot really say that the State itself is
7 carrying out intimidation, acts of intimidation. We have always told the Defence
8 that if that is the case, you have to come and state so in court in a status conference
9 and it will be in the record. It will be a legal discussion. I believe that the Defence
10 even did that recently. And quite often there are no specific requests, but I believe
11 this has to normally appear in the case record. There has to be information that
12 would indicate if there is intimidation on the part of -- which may not come from
13 individuals, but from a State.
14 Now, with regard to that country, we have made specific requests from certain
15 high-ranking witnesses who have appeared here. That worked very well, but of
16 course the difficulty in that is that you make specific requests in order to expedite the
17 proceedings, but then in the final analysis you have to use the same channels of
18 consultation, which we cannot use all the time. We cannot always go and contact the
19 Head of State or high-ranking officials to ensure that someone testifies, but if we have
20 the agreement in principle from the Head of State or a minister which makes it work
21 for a certain number of witnesses, we usually think it will work for all the rest, but
22 then we run into other difficulties. So if we make specific requests, I think we will
23 have reactions very soon.
24 We had problems because we were making our requests during the Easter holidays
25 and we lost quite a bit of time, so when it comes to country 1, I think we have to really

1 expedite matters if we are looking at a dead-line of end of June. We are trying to
2 work very hard and very fast and I think that, when it comes to country 1, we should
3 make progress very fast. We may receive answers in the next few days, but with
4 regard to country 3, we think we will be ready in the next four to six weeks so there
5 should be continuity.

6 I am going to provide to you further information later with regard to country 2.

7 PRESIDING JUDGE STEINER: As a matter of fact, Maître Kilolo advanced a little bit
8 on the topic that was supposed to be the second topic of the -- of this part of the status
9 conference, which was the issue directly related to the amount of time left for the
10 Defence's presentation of evidence.

11 In this regard, as previously highlighted to Defence in the ex parte status conference
12 held on 11 February, transcript 283, page 5, line 19, to page 6, line 8, in principle it is
13 the Chamber's intention to adhere to its decision on the presentation of evidence by
14 the Defence that this presentation should not exceed the granted total of 230 hours.
15 However, it's important to remind the Defence that the decisions issued by this
16 Chamber establishing the time frame for the presentation of Defence evidence also
17 contained a time frame of eight months, or 32 weeks. So we hope that the Defence is
18 not thinking that the 230 hours can extend for two, three, four years. It's 230 hours in
19 principle within a time frame of eight months, or 32 weeks, and this is in accordance
20 with the Chamber's decision 2225, paragraphs 10 and 11.

21 It should be noted that in calculating those eight months, the Chamber of course
22 would not consider the suspension of the trial proceedings due to Regulation 55
23 notification, or any periods during which hearings were cancelled due to reasons not
24 attributed to the non-availability of witnesses.

25 Taking this into account, the Chamber notes that the Defence should be in a position

1 to conclude the presentation of its evidence by approximately 19 July 2013, unless due
2 to compelling reasons the Chamber decides otherwise.

3 The Chamber stresses once more that the Defence should bear in mind when
4 planning the continuation of its presentation of evidence that it must arrange the
5 appearance of its witnesses so as to avoid any unnecessary delays or gaps in the
6 proceedings.

7 The Chamber cannot and will not allow this trial to continue indefinitely without
8 progress due to unavailability of Defence witnesses for one reason or the other.

9 To this end, the Chamber takes this opportunity to alert Defence to the need for it to
10 carefully review its list of witnesses, with a view to avoid irrelevant and repetitive
11 testimony and to ensure that witnesses to be called are indeed available and willing to
12 testify without conditions.

13 As of the part of the Chamber, we could, from the part of the Chamber, we could
14 conclude this first part of the hearing unless Defence intends to add anything before
15 we go into ex parte.

16 Mr Kilolo?

17 MR KILOLO: (Interpretation) We have nothing to add, your Honour.

18 PRESIDING JUDGE STEINER: Maître Badibanga?

19 MR BADIBANGA: (Interpretation) Thank you, Madam President.

20 With your leave, I would like to seize this opportunity to raise two or three
21 housekeeping matters that could help expedite the testimonies of the witnesses.

22 I would like to recall that you have underscored several times that what we received
23 from the OTP to prepare testimonies initially were only summaries, including bullet
24 points to be covered. In fact, what the OTP received from the Defence was bullet
25 points, but the Chamber reminded the Defence on 2 October that the Defence should

1 disclose to the parties more substantive summaries for the preparation of witnesses,
2 but what the Defence did was to add or to include additional points on the list. So in
3 the past we had about 20 points and now we have 25, and we still don't know
4 precisely what the witness will testify about. So the OTP still has that difficulty of
5 trying to determine the specific areas of testimony of the witnesses and I can also dare
6 say that the legal representatives have the same problem. So we don't have enough
7 substance to prepare the testimonies.

8 In this regard, the Prosecutor also applied to be able to meet with Defence witnesses
9 prior to their testimony and this would have facilitated the testimonies. The Defence
10 said that 18 witnesses have appeared. In fact, there were 20, given that two did not
11 appear and the Prosecutor was not able to meet any of those 20 witnesses apart from
12 the linguistic expert and we met them under strange circumstances because he first
13 refused, then accept, and so on and so forth. We can understand if one, two, three or
14 ten witnesses who decline to meet with us, but if we have 20 out of 20 or 19 out of 20
15 this leads us to ask questions regarding the specific information given to the
16 witnesses regarding possible meetings with the Prosecutor.

17 Mr Kilolo wanted Mr Dubuisson to disclose the questions that were asked the
18 witnesses, but that also applies to us. We would like to know which information,
19 which questions, are asked the witnesses regarding possible meetings with the
20 Prosecutor, because all responses seem to have been negative.

21 During the last status conference, my colleague, Ms Kneuer, recalled the Defence
22 statements because they had promised the Chamber that they would do better than
23 the OTP, but I would like to point out that since the beginning of 2013 we have heard
24 only four witnesses. As Mr Kilolo has said, 18 witnesses have appeared. This
25 means that we still have 45 witnesses to appear.

1 The Defence case started in August and 18 witnesses means that there is an average of
2 two witnesses per month. You have insisted, your Honour, on the hours allocated
3 and the time frame, but I will have to point out that at this rate the Defence case will
4 end in March 2015. I have done the computation. If we have two witnesses per
5 month, an average of two witnesses per month, then I believe the Defence case will be
6 concluded in 2015, March 2015. That is two years from today.

7 To date the Defence case is still larger than the OTP case. We called 40 witnesses
8 and then the Defence is calling more than that. So if more witnesses are included,
9 then we will go even further than March 2015, and if you have to add the closing
10 arguments we will go to June 2015.

11 This is the situation so far. The Defence is also saying like us that the case - the
12 proceedings - have to be expeditious, but the Defence is acting contrary to this.
13 Maybe not the Defence, but the case is going slowly, and if the expeditiousness is not
14 only favourable to the Defence, but it would also promote the fairness of the case, this
15 should be taken into account.

16 One last point that I would like to raise: When you talk about reviewing the Defence
17 witness list, of course the Chamber cannot take a decision in advance, it has to remain
18 neutral and objective, but we reserve the right to point out that if the Defence made
19 an effort there are still 21 witnesses from CAR who could be former soldiers or
20 victims. So they can be considered together and some of the witnesses withdrawn.

21 I realise that amongst those who have appeared so far we could in fact have
22 withdrawn the last witness, because he was not in Gbadolite, he was not in the CAR,
23 and Mr Kilolo made a statement in May 2012. He said to the media that the Defence
24 was calling material witnesses who -- because they had been there on the ground.
25 The last witness did not know anything because he was not there. Witness 55 came

1 under strange circumstances, because he did not know whether such-and-such a
2 witness appeared and if indeed he appeared what he said is not relevant. So we
3 really do not understand what was happening. There was also a so-called political,
4 strategic expert. I believe that was time wasted for the Court.

5 So with regard to the witnesses who have already appeared, some of them could have
6 been withdrawn without even mentioning Witness 65. This is a case against
7 Jean-Pierre Bemba and this witness came for four days to tell us that a case should be
8 opened against Bozizé, so that was not relevant, so we think that an effort could have
9 been made in this area without prejudice to the strategy of the Defence.

10 I should also like to point out that Witness 19, Witness 21, Witness 39, 45, 48, 49, those
11 witnesses of the Defence are all soldiers and they were able to testify. Witnesses 16
12 and 21 are politicians and they were able to testify. So it is possible to ensure
13 testimonies, rather than using arguments to the effect that they cannot travel, they
14 need authorisations.

15 Those are the points I wanted to raise, Madam President. Thank you.

16 PRESIDING JUDGE STEINER: Maître Kilolo, before we suspend, we have nine
17 minutes. Would you like to take this time for yourself?

18 MR KILOLO: (Interpretation) We have practically nothing to add, except to enter
19 into the record that this attempt from the OTP to limit the number of Defence
20 witnesses is in fact intended to prevent the ascertainment of the truth. We have to
21 go to the very end. They do not need to interfere in the strategy of the Defence. We
22 are aware of the time-limits, but we must also acknowledge that sometimes things
23 drag on and, as we said, apart from Witness 56, the other witnesses are facing
24 problems related to co-operation, as Mr Dubuisson explained a short while ago.
25 Thank you.

1 PRESIDING JUDGE STEINER: Maître Kilolo, we will adjourn this part of the status
2 conference and return at 1.30 for the ex parte status conference with the presence of
3 Defence, Registry and VWU.
4 Just for the closing of this part of the status conference, to once again to repeat what
5 was said by the Presiding Judge a few minutes ago, that the Chamber is giving an
6 alert to the Defence to the need for it to carefully review its list of witnesses with a
7 view to avoid irrelevant, repetitive testimony and to ensure that the witnesses to be
8 called are indeed available and willing to testify without conditions, and the Chamber
9 expects that Defence take this alert into consideration.
10 I will thank very much the Prosecution team, the legal representatives of victims for
11 this part of the hearing, and for the record I thank very much our interpreters and
12 court reporters.
13 We will adjourn and resume at 1.30 for an ex parte status conference in closed session
14 with Defence and Registry and VWU only.
15 This hearing is adjourned.
16 THE COURT USHER: All rise.
17 (The status conference ends in open session at 11.54 a.m.)