

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: DRC-OTP-PPPP-0038

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 Trial Hearing

8 Friday, 26 November 2010

9 (The hearing starts in open session at 1.38 p.m.)

10 THE COURT USHER: All rise. The International Criminal Court is now in session.

11 Please be seated.

12 THE COURT OFFICER: Good afternoon, your Honours, Madam President. We are in

13 open session.

14 PRESIDING JUDGE STEINER: Good afternoon. Could, please, the court officer call the

15 case.

16 THE COURT OFFICER: Yes, Madam President. Situation in the Central African

17 Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo, case reference

18 ICC-01/05-01/08.

19 PRESIDING JUDGE STEINER: Thank you very much. I would like to welcome the

20 Prosecution team, legal representatives of victims, OPCV, the Defence team and

21 Mr Jean-Pierre Bemba Gombo.

22 MR LIRISS: (Interpretation) Ma'am, you said and I think you'll remember, it's in the

23 transcript, you said that you would be indulgent towards us since the Prosecution -- well,

24 it's their case, and they had seven hours.

25 As far as we're concerned, this is the first time that we've had an opportunity to

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1 familiarise ourselves with, and we may need somewhat more time, and I think you
2 understood me quite well at that time. You said you would be flexible. So I can't
3 confirm that we will finish with this witness today. Thank you.

4 PRESIDING JUDGE STEINER: Maître Liriss, I want to ensure that the Defence will not
5 suffer any prejudice in its right to question the Prosecution witness. We are trying to
6 accommodate all needs, and the Chamber will pay of course attention to the needs of the
7 Defence team. I want to assure you that the Chamber is really aware of Defence
8 difficulties. The Chamber is just expecting from the parties to manage their time with
9 wisdom. That's the point.

10 So we will sit -- we'll start then on Monday at 9 a.m. and, if need be, Defence will be the
11 first one to take the floor to continue its questioning of Witness 38. This is what has been
12 decided.

13 So we are going for a while into closed session only for the witness to be brought into the
14 courtroom. Court officer, please.

15 *(Closed session at 1.46 p.m.) Reclassified as Open session

16 THE COURT OFFICER: We are in closed session, Madam President.

17 (The witness enters the courtroom)

18 WITNESS: CAR-OTP-PPPP-0038 (On former oath)

19 (The witness speaks French)

20 PRESIDING JUDGE STEINER: Court officer, we can go into open session, please.

21 (Open session at 1.47 p.m.)

22 THE COURT OFFICER: We are in open session, Madam President.

23 PRESIDING JUDGE STEINER: Thank you. Good afternoon, Witness. I hope you had
24 a restful evening and you are welcomed back to this courtroom. The Chamber wants to
25 remind you that you are still under oath, and today we are going to continue with your

1 questioning by the counsel for the Defence. Mr Haynes, it's you that is taking the floor.

2 MR HAYNES: Yes, thank you, your Honour.

3 QUESTIONED BY MR HAYNES: (Continuing)

4 Q. Welcome back, sir. I hope the --

5 A. Good afternoon.

6 Q. I hope the weather is not too cold for you. I want to start on another topic now.

7 Do you know what SENSAD (phon) is?

8 A. SENSAD? It's a force that was set up in our country after SEPA (phon) Let us say

9 I know it is a force, an inter-African force of some kind, that was set up in our country,

10 after various disturbances that occurred in our country.

11 Q. Thank you. And did that organisation, to your knowledge, send troops to your

12 country during the events we are talking about?

13 A. The events of 2003?

14 Q. Well, specifically, did you know that they sent troops in November 2002?

15 A. On that point, I can't answer you. I will have to dodge that one.

16 Q. During the course of the events, did you ever see military aircraft in the skies over

17 Begoua or nearby?

18 A. The events of 2002/2003?

19 Q. Yes. I think you can take it that all of my questions will be about the events of 2002

20 and 2003. So I'm only using that phrase because it's one that you have used. So did you,

21 during the course of the latter part of 2002 and the beginning of 2003, see any military

22 aircraft in the skies over where you live?

23 A. Yes, there were planes. There were planes but, in terms of the events, I believe

24 there were planes flying over the country in relation to an event. When the IPN force

25 was in Bangui, they came at one point to help out as well. There were SEPA, that was

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1 after the mutiny but, in any event, on that point I can't really be specific.

2 Q. What do you mean by "IPN"?

3 THE INTERPRETER: Correction from the English booth: Libyan.

4 MR HAYNES:

5 Q. Thank you. Against whom did you understand those aircraft to be targeted?

6 A. I believe there were events at the time. There were several events in our country
7 but, since we are here, dealing with a specific case you are taking me back in time and I
8 am rather embarrassed because there was the mutiny. There was the events of 28 May,
9 but I really can't say at what point in time there was this story of planes.

10 In any event, indeed, there was some bombing of the capital but that was against the force
11 that was fighting against President -- the president at the time. I don't know if it was
12 after the mutiny or after the coup d'etat but it must have been amongst those various
13 events.

14 Q. Thank you. Do you know who Miskine is?

15 A. Yes. Miskine, yes. That person was the right-hand man of Patassé. He is a
16 dissident now, and I think he is in exile in Libya now and he is leading a rebellion,
17 according to the media from our country.

18 Q. Did he, to your knowledge, command a military unit during the events?

19 A. Yes, the presidential guard unit. I believe he was the head of that unit under
20 Patassé.

21 THE INTERPRETER: Message from the English booth: If the witness could be asked to
22 slow down.

23 MR HAYNES:

24 Q. Did you hear that?

25 A. I beg your pardon?

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1 Q. Can you slow down a little bit.

2 A. Okay.

3 Q. Do you know where Miskine's unit was operating?

4 PRESIDING JUDGE STEINER: Mr Haynes, sorry if I interrupt you. I would kindly ask
5 you when interpreters send a message that you please wait for the Presiding Judge to
6 address the witness or to make corrections on the transcript, if you don't mind.

7 MR HAYNES: Quite. I meant no disrespect.

8 PRESIDING JUDGE STEINER: Thank you very much. I'm sure you meant no
9 disrespect.

10 MR HAYNES:

11 Q. I'll go back to the question. Do you know where in these events Miskine's unit was
12 operating?

13 A. Miskine was a famous man. He operated under the orders of Patassé. But during
14 the events, those specific events, I believe -- because before the arrival of the
15 Banyamulengue, there was the presidential guard that was also trying to drive out the
16 rebellion.

17 The rebellion of Bozizé began in Bangui at PK12, so there was the retrenchment of Bozizé
18 to the PK2 place, and at that time there was fighting between the Central African army,
19 the loyalists and the rebellion, and Bozizé was supposed to capitulate. So there was a
20 series of events: The rebellion, the capitulation of Bozizé, the first arrival of Bozizé, the
21 re-capitulation of Bozizé and the triumphant return of Bozizé. So there was a series of
22 such events in the country.

23 Q. Thank you. That was very helpful. We talked yesterday about the cattle market
24 at PK13. Were you aware that something terrible happened there during the events?

25 A. Everyone is aware of the event that occurred at PK13. All Central African citizens

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1 know about that. The media spoke about that, even international press.

2 Q. And did that involve Miskine's forces, to your knowledge?

3 A. Yes. Abdoulaye Miskine had carried out a punitive raid on the market at the time
4 because, when the rebels of Bozizé set up operations, amongst them there were Arabs
5 from Chad, and since he was aware of that he went. That is the version that I am familiar
6 with. He went on a punitive expedition at the cattle market. That's the version I know.
7 Up until now, there has been no official version to my knowledge about this event.

8 Q. Thank you. I'm going to move on to something completely different now.

9 Central Africans, ethnically, are a Bantu race. Do you agree with that?

10 A. Entirely.

11 Q. And Sango, the language you speak, is a Bantu language, isn't it?

12 A. Yes, if you wish. If you would prefer to liken it, I could say, yes, but one thing is
13 for sure: Sango is spoken only by the people of the Central African Republic. Bantu
14 means -- well, if you talk about the Bantu races, that means the people from Central
15 African Republic, Zaire, Congo, those nations taken together. That's what it means. But
16 there is a specific aspect. We have the central Africans of the Central African Republic,
17 who speak Sango.

18 Q. Thank you. How widely have you travelled in your life within central Africa?

19 A. Very little, owing to reasons -- owing to spiritual, religious reasons. I have
20 travelled around slightly but I'm not really familiar with the interior of the Central African
21 Republic.

22 Q. What in?

23 A. In comparison with whom? You have to make a distinction between one person
24 and another.

25 Q. I was trying to avoid doing that. Say the difference between you and Mr Nkwebe,

1 who sits here?

2 A. If you could rephrase your question, please?

3 Q. Well, what in physiological terms distinguishes you as a Central African from
4 Mr Nkwebe as a Congolese?

5 A. Well, sometimes you can see the difference when -- or you don't see the difference
6 very much when the ethnic groups are close to each other, but the Central Africans you
7 can recognise them easily. The Central Africans, from the forest, you can distinguish
8 them very easily. The Central Africans from desert zones, Biriwa for example, you can
9 easily distinguish, for example, between a Gbaya from Berbérati and a Gbaya from
10 Bossangoa, you know? This is easily recognisable. These differences are easily
11 recognisable.

12 Q. There are a number of ethnic components within the population of Central Africa,
13 aren't there? Can I mention a few of them to you: Sudanese, Otinto (phon), Boshiman,
14 Néolithique? Do you agree you find all of those sorts of people living in Central Africa?

15 A. These are old history lessons you are taking me back to and I can't know who a
16 Boshiman or Neruti (phon) is. I haven't dealt with that for years, but in our country
17 there are people from the north - from the extreme north - towards Biriwa, who are
18 similar to the Sudanese. There are the Kabbah (phon) in the north and the Dagoba
19 (phon), who are closer to the South Chadians. You also find Central Africans in the
20 north, who are related to the Arabs from Chad, and in the south towards Mongoumba
21 and other places there are ethnic groups that are related to ethnic groups from the Congo.
22 To the east of the Central African Republic, you find races more related to the Dinka from
23 the Sudan. That's what I can tell you, but as for the technical names of Boshiman, Neruti
24 and so on, well, it's very technical if I may say so, historically very technical, so I am not
25 very good in this area and couldn't provide you with the explanations you would like me

1 to provide you with.

2 Q. I'm sorry, if I asked the question in an unfair way, but I think you've answered it.

3 Is it the position that people from Central Africa can have a number of very different
4 appearances?

5 A. Yes, that is what I was trying to make you understand when I provided you with
6 my explanations.

7 Q. Thank you. And also within the country, especially at Bangui, there is a significant
8 immigrant population as well. Would you agree with that?

9 A. Yes. Yes, our country is a welcoming country; a country that welcomes almost all
10 nationalities.

11 Q. You've said this, but including people from the Congo who speak Lingala?

12 A. Yes, Congolese can only speak Lingala. I know that Lingala is spoken in the
13 Congo.

14 Q. Now, before the events of 2002 and 2003, what sort of contact did you have with the
15 army of your country?

16 A. Personally?

17 Q. Yes.

18 A. As for contact with the army, no. No personal, or particular contact. I didn't have
19 any such contact.

20 Q. So did you know whether the composition of the army of the Central African
21 Republic reflected the diverse nature of its population?

22 A. I can't know that, but if I refer to what was said at the time about Patassé's
23 management of the country, well, there were claims that were made to that effect. There
24 was an unequal division, or representation, of our ethnic groups in the army. That is for
25 sure. The journals referred to this, organisations for the defence of human rights referred

1 to this, you could read about this in the newspapers, but I as a simple citizen can't know
2 whether in fact this was the case in the army. But if you take into account what was said
3 I can say that, yes, the way things were, the way groups were represented, wasn't quite
4 fair or balanced.

5 Q. Thank you. Now, is it the case that the soldiers you saw in PK12 were
6 indistinguishable by their uniforms?

7 A. Which soldiers are you referring to, Mr Haynes?

8 Q. Let me put it a better way. All the soldiers you saw in Begoua were wearing the
9 tenue of the Central African army, weren't they?

10 A. The Central African soldiers, or Mr Bemba's rebels?

11 Q. Well, let's just call them all soldiers for now, shall we? Wherever they came from,
12 all the soldiers were wearing the same uniform, weren't they?

13 A. When Mr Bemba's rebels arrived, one could clearly distinguish between these troops
14 and Central African troops. Our soldiers, the loyalists, were wearing army uniforms in
15 fact that were quite old. There were uniforms that were American-style uniforms, white
16 with red bits here. They wore such uniforms. There were other uniforms that -- you
17 know, fatigues from the French army. But Mr Bemba's rebels, as I have said, wore new
18 uniforms and this is what I keep saying. These uniforms could be found with the
19 presidential guard. Only the presidential guard could have such uniforms, the troops
20 led by Miskine for example at the time, but in any event this was a distinction that it was
21 possible to make.

22 Q. So soldiers from the Central African army did arrive in Begoua, then?

23 A. But I said in my statement that, at the time of the events, between the time that
24 Bemba's men arrived and up until the time they left, our soldiers would go on tours, but
25 they weren't operational, Mr Haynes. They went on tour in army vehicles but, as I have

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1 said in my statement, they went to reconnoitre. They didn't stop at the bases, at the
2 checkpoints, where the Military Police was. They didn't even stop at such places. All
3 the citizens, any honest citizen from Begoua, any citizen with integrity from Begoua, will
4 confirm this.

5 Q. Thank you. Did they all have berets?

6 A. The CAR soldiers? The soldiers from the Central African Republic?

7 Q. Tell us about both?

8 A. Yes. Yes.

9 Q. Some red, some green, some violet, some black?

10 A. The presidential guard soldiers usually went on these tours around Begoua, on these
11 reconnaissance tours, and they all had green berets. Otherwise, on the other side,
12 Bemba's rebels, well, they all had their own berets, the ones they had found.

13 Q. As I understand your evidence, the MLC soldiers, as you have identified them,
14 arrived in PK12 on the same evening that they'd arrived in Bangui. Have I understood
15 that correctly?

16 A. As far as I know, in the evening of the capitulation of Bozizé's troops, the
17 Banyamulengue arrived. That's what I know.

18 Q. They were wearing brand new uniforms and still unwrapping their weapons,
19 according to you; is that correct?

20 A. Yes, exactly. They arrived in new uniforms. They had boots on them. They had
21 a variety of berets. As far as I know, when they arrived they started unpacking the
22 weapons that they had, because naturally to engage in combat they couldn't keep their
23 weapons in the packaging. It's at their HQ that they must have perhaps unpacked their
24 weapons and then engaged in their activities - their manoeuvres - on the following day.

25 Q. And you saw them on the road that evening and noticed they were all wearing

1 berets then; is that correct?

2 A. Yes, exactly.

3 Q. So each one of them between Bangui and PK Douze had found a beret; is that what
4 you are suggesting?

5 A. According to the information that we had, as they advanced from where they were
6 provided with equipment, well, they started committing acts of violence. As they
7 advanced in individual houses, where the people from the country lived -- sir, they even
8 went into the houses of officers, of soldiers. They were familiar with the berets, they
9 would find berets there, and things.

10 So they didn't just start with the acts of violence in Begoua but while they advanced,
11 wherever they arrived, we are aware of the fact that they started finding these items for
12 themselves. One thing is sure: I know that they were equipped but as to how they
13 were equipped, well, this is information that can be found in important army reports. I
14 saw Bemba's troops who were ready for combat. That's what I can say for myself.

15 Q. Thank you, sir. I just wanted to understand what you were saying about how they
16 all came to have berets. How many soldiers wearing the uniform of the Central African
17 Republic, and a red beret, for example, did you ever actually talk to?

18 A. I couldn't provide you with a figure, Mr Haynes.

19 Q. I'll take an estimation.

20 A. I'm sorry, I'm sorry, because when I gave my testimony I always estimated the
21 number of soldiers from Bemba's rebellion but you are asking me to provide you with an
22 estimate of the number of CAR soldiers, or do you want me to provide you with an
23 approximate number of Bemba's soldiers who arrived? Perhaps we could be a little
24 clearer about this part of your question.

25 Q. I can't do any better than to ask you how many soldiers in a red beret did you

1 actually talk to?

2 A. When Bemba's soldiers arrived, there weren't any Central African soldiers; there
3 were only these soldiers, who were part of Bemba's rebellion. And some had red berets,
4 some had black ones. Some had these other kinds of head-wear. Perhaps you thought I
5 had a special mission that consisted of observing these things, of counting these things, as
6 if I were involved in the entire process of combat. It's as if I had a specific mission to
7 know about these numbers.

8 I saw certain things in the situation but, in such a situation of conflict, I couldn't start
9 counting the number of soldiers there. I'm talking about these things in an approximate
10 manner, sir.

11 Q. I will move on. The presidential guard were distinguished by two things: That
12 was a green beret and the initials GP on their arm or their shoulder; is that right?

13 A. Yes. They always were -- they stood out. There was a battalion or an army that
14 was particular.

15 Q. And one of the reasons you distinguish the MLC troops in the tenue of the Central
16 African Republic is that none of those soldiers had the insignia of the Guard Presidential;
17 is that right?

18 A. That's right. None of these soldiers from the MLC, as far as I know, given what I
19 saw, had such an insignia.

20 Q. Thank you very much. Now, I just want to understand the chronology of some
21 important events and I am going to remind you of what you have told us. On the first
22 day, after the arrival of troops in Begoua, there were acts of looting; do you agree with
23 that?

24 A. They arrived in the evening, they arrived in the evening, and it was on the following
25 day that the acts of looting commenced.

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1 Q. And it was on the third day after they arrived that you first became aware of an act
2 of rape; is that right?

3 A. Yes, it was around the third day.

4 MR HAYNES: Madam President, we will have to - I'm afraid - go into private session for
5 a few questions now.

6 PRESIDING JUDGE STEINER: Court officer, please, turn into private session.

7 *(Private session at 2.20 p.m.) Reclassified as Open session

8 THE COURT OFFICER: We are in private session, Madam President.

9 PRESIDING JUDGE STEINER: Mr Haynes.

10 MR HAYNES: Thank you.

11 Q. Five to six days later was the incident with the boy being shot in the legs, when you
12 (Redacted) and (Redacted); is that right?

13 A. That's correct.

14 Q. And so that I'm clear, was it the following day that the Military Policeman was
15 installed?

16 A. The day after (Redacted), yes.

17 Q. Thank you. I just wasn't sure. Do you recall when (Redacted)
18 (Redacted) and the events?

19 A. (Redacted) of another case of rape. When (Redacted)

20 (Redacted) of a case of rape, he was in his (Redacted)

21 (Redacted). He stopped. (Redacted). And after that, he said, (Redacted)

22 (Redacted). He put some questions. (Redacted); he was

23 there; his (Redacted) was there. He asked some questions. No one said anything.

24 Everyone (Redacted). And then he said he was going to deal with it.

25 Q. I don't know whether my questions are being lost in translation but I only wanted to

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1 know when, so I will simplify it for you. Was (Redacted)

2 (Redacted)

3 A. Yes, absolutely, after (Redacted)

4 Q. And was it before the visit of Mr Bemba to PK12?

5 A. Yes.

6 Q. Thank you very much. This is what you told us, I think yesterday, page 46, lines 12

7 to 13: "After three to four weeks, the troops left for the front."

8 A. Yes, yes, yes.

9 Q. And it was virtually all of the troops that left for the front, wasn't it?

10 A. The majority of the troops went to the front but part of them remained.

11 Q. Well, I don't want to unnecessarily have you to read documents but what you said
12 in your interview was "very few elements remained behind"; is that correct?

13 A. Well, if I said "very few elements," that was an estimate. Out of the thousands that
14 I referred to, perhaps 300 of them remained behind. That's what I meant when I said
15 "very few elements."

16 Q. 300?

17 A. Because their presence were still visible in Begoua, they did remain behind.

18 Q. Well, we'll have to therefore have a look at what you said. Bear with me just a
19 second. EVD-T-02532, please, and the page we will want is 0261.

20 THE COURT OFFICER: I'm sorry, counsel. Could you repeat the page, please, because
21 I cannot see it in the English transcript.

22 MR HAYNES: 0261.

23 THE COURT OFFICER: Thank you. Okay. The document has been published, and
24 it's available on your screens.

25 MR HAYNES: It shouldn't be published outside the Court, but we are in private session

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1 anyway.

2 THE COURT OFFICER: That's correct. We are in private session.

3 MR HAYNES: We need to go just a little bit lower.

4 THE WITNESS: (Interpretation) I don't have it up on the screen here.

5 MR HAYNES:

6 Q. I'm very sorry. I am sure somebody will help you. Would you let me know when
7 you've finished reading that page, sir.

8 (Pause in proceedings)

9 A. Yes.

10 Q. When you were describing in this interview the departure of the troops from
11 Begoua, you said all the troops left, didn't you?

12 A. Mr Haynes, please. In this document it says that Colonel Moustapha,
13 Mr Moustapha, changed bases. He left Pont Bascule, or the weigh bridge, and went to
14 the other base. A Chief of Staff can't stay at a given locality on his own without any
15 troops. No, Mr Haynes. I said, when the majority of the troops went to the provinces,
16 that's what I was trying to say. When the majority of the troops went to the front, some
17 of them remained behind.

18 You have to understand this, Mr Haynes. Since we've started these hearings, we've been
19 talking in approximate manners. I am telling you that approximately one-third of the
20 troops remained behind and two-thirds of the troops went to the front line.

21 Mr Moustapha couldn't send all his troops to the front line and remain behind or alone
22 amongst population that harboured hostile feelings towards him.

23 Q. But nobody was living in Begoua at that time, were they? They'd all left? That's
24 what you told us?

25 A. Perhaps you haven't fully understand what I said, Mr Haynes. I said some of the

1 population remained. If all of them had left, well, with whom would (Redacted)
2 (Redacted)? It was part of the population that remained behind. The elderly people, for
3 example. Some of the population left but some remained behind.

4 Q. A few brave young people and the old ones; that was who remained behind,
5 according to you, or are you now saying something different?

6 A. One thing is for sure: When the Banyamulengue came in, and began the acts of
7 violence and abuse, a good part of the population of Begoua had left.

8 Q. What is the distinction between a good part, the phrase you use in relation to the
9 population, and all, the phrase you used in that interview, in relation to the troops?

10 A. Could you rephrase your question?

11 Q. I'll put it more simply: Why, in this interview, did you --

12 A. Yes.

13 Q. -- say "all the troops left"?

14 A. I just wanted to make a reference to the number, the quantity, and how it had
15 dropped; that was all. It's a rather abstract way of putting it, just to make a distinction
16 between the large number who were in Begoua, and the small number who remained.
17 That's all.

18 Q. And after the troops left, was there any combat in Begoua?

19 A. When they left, no, nothing other than the acts of violence, torture, that continued,
20 but fighting as such, in Begoua, to my knowledge there was none.

21 Q. So, so that we are clear, are you saying that Moustapha stayed in Begoua until 15
22 March?

23 A. Moustapha stayed in his base on the other side of the school. I was in my home
24 when Bozizé came in. I said in my statement that be it Moustapha, Mapao, I don't know
25 exactly how they left. I didn't see them. Up until now, I didn't know their position but

1 certainly they must have, they must have left. If they had remained, and if they had been
2 taken prisoner, (Redacted). If they had been shot or killed, people would know about
3 that. But one thing for sure: Those leaders of Bemba's army, I don't know how they left.
4 And, what's more, Mr Haynes, in my statement I said to you that when Bozizé arrived we
5 were at home. We were at our home.

6 Q. When was the last time you saw Moustapha before the arrival of Mr Bozizé?

7 A. The last time I saw Moustapha was when (Redacted)

8 (Redacted), and he

9 must have seen that there was unrest amongst the population. He left the base, the
10 military base, the headquarters, his headquarters. (Redacted)

11 (Redacted). It was the second

12 time when (Redacted).

13 Q. And I was going to come to this later but I will come to it now. I think we can
14 probably go into open session for a little while, if that's okay.

15 PRESIDING JUDGE STEINER: Are you asking for that?

16 MR HAYNES: I'm just -- it's probably best not just yet. I am probably going to pop
17 back into this document.

18 Q. When, when was the visit of Mr Bemba in relation to, say, the arrival of the MLC
19 troops in Begoua?

20 A. What place? Rephrase the question, please.

21 Q. Yes. How long after the arrival of the troops in Begoua was the visit of Mr Bemba?

22 A. Well, since we're speaking in terms of estimates, three weeks, something like that.
23 Around that time; around that period. You know, Mr Haynes, you and I, we have
24 documents and you're making reference to them. I am like someone doing a major exam
25 or an oral exam. You have to acknowledge, you have to be honest that I'm making an

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ICC-01/05-01/08

Witness: DRC-OTP-PPPP-0038

1 effort here, to try to answer your concerns. I do hope that you won't be so severe with
2 me if I continue to speak about estimates, or estimated numbers.

3 Q. No, I really don't mind that, but it was weeks after the arrival of the troops that
4 Mr Bemba came to PK12; is that correct?

5 A. Something like that.

6 Q. And that was the last time you saw Moustapha?

7 A. Yes, it was the last time, the very last time.

8 Q. Let's go back to your interview, please, and have a look again at your answer at the
9 bottom of that page and when we've finished can we go over to page 0262.

10 A. Yes.

11 Q. So you didn't see Moustapha between the visit of Mr Bemba a few weeks after the
12 arrival of the troops and 15 March; is that correct?

13 A. Personally, when I speak about the going of Mr Moustapha from -- to the second
14 base, his movement to the second base, that supposes when the troops left that he stayed
15 in Begoua. He came but (Redacted). Correction, I saw him (Redacted)

16 (Redacted). We knew that he was there. But, to have (Redacted)

17 (Redacted). There's a sharp distinction

18 between seeing someone and (Redacted).

19 Q. Very well. I thought I had asked you when the last time was that you'd seen him,
20 but if there was a misunderstanding there, I'll move on. (Redacted)

21 (Redacted), wasn't it?

22 A. I beg your pardon? (Redacted)

23 (Redacted)

24 Q. Thank you. And that was after (Redacted) but before the visit of Mr Bemba; you
25 agree with that?

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1 A. Yes.

2 Q. So (Redacted) was some time in mid-November, if
3 the troops arrived on 25 October; is that right?

4 A. I'm going to have to dodge that question.

5 Q. Very well. We can review the transcript later on. The captain of Military Police,
6 can you tell us his name?

7 A. There's a problem with the interpretation. Now, yes.

8 Q. I'll ask the question again: Can you tell us the name of the captain of Military
9 Police?

10 A. We just (Redacted) The name.

11 Q. You didn't get to (Redacted), then?

12 A. (Redacted) What terms -- what do you mean by that?

13 Q. How many times did you (Redacted)?

14 A. In my statement I talked about two captains. (Redacted)
15 (Redacted). The second captain, who came and set up the military base, which captain
16 are you talking about, Mr Haynes?

17 Q. The Military Police captain. How many times did (Redacted)?

18 A. The captain of the Military Police (Redacted). Almost regularly.

19 He was there.

20 Q. The translation was "almost regularly." Can you help us; was it once a week or
21 more than that?

22 A. He would come nearly every day to (inaudible) and from time to time he would
23 (Redacted)

24 (Redacted) So he would (Redacted) or things that had been

25 (Redacted)

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1 Q. Over what period of time did you see him?

2 A. No, the time that he stayed until he left Begoua, to go to the front, one thing is for
3 sure.

4 Q. Yes, that's the time. How long was it between when he was installed and he went
5 to the front?

6 A. I believe that -- if I could say something about (Redacted), or time or duration, I
7 believe that I am not very good when it comes to being specific about things. Otherwise,
8 I think I would be, I would be -- it would be effective to explain the events that occurred
9 during that period of time.

10 Q. Well, let me suggest to you what the effect of your evidence is: The captain of
11 Military Police was only there nine or ten days after the troops arrived, and he left three to
12 four weeks after the troops arrived, that's correct, isn't it?

13 A. Could I see the document?

14 Q. That's a summary of the evidence you've given. You told us he was installed the
15 day after (Redacted), which was eight or nine days after the arrival of the
16 troops.

17 A. I believe that --

18 PRESIDING JUDGE STEINER: Madam Bensouda.

19 MS BENSOU DA: Madam President, in compliance with the Chamber's instruction, the
20 Prosecution has been very patient. If the Defence wishes to refer to prior testimony of
21 the witness, to be fair to the witness and to reflect the accuracy of the evidence, the
22 Defence should at least quote the transcript page, as well as the transcript lines. This is
23 the same thing that the Prosecution has done previously.

24 PRESIDING JUDGE STEINER: Mr Haynes, I fully agree with the objection made by the
25 Prosecution because even the Bench here was completely at a loss, if you were affirming

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1 something or asking something based on what? So the Bench would like very much if
2 you would be able to point out to which passage of the transcript or of the interview you
3 were referring to, when you put a question like that to the witness. It would facilitate
4 even the witness to answer your questions.

5 MR HAYNES: He has given all these answers.

6 PRESIDING JUDGE STEINER: I would like to know where these answers are because
7 I'm not so sure that whether it was in the interview or in the transcript. If you are
8 reflecting accurately what he's said, it's important for the Bench, Mr Haynes.

9 MR HAYNES: Well, I'm sure that if I were referring to things he said yesterday or the
10 day before, then that is good practice. But he has confirmed all these propositions in the
11 last half-hour, and I would hope that it is not necessary to keep referring back to transcript
12 of evidence that has just been heard. But in any event I will move on. Perhaps this is
13 better foot-noted in a brief at some later stage.

14 PRESIDING JUDGE STEINER: I would appreciate that, Mr Haynes.

15 MR HAYNES:

16 Q. Just one more thing before we I hope come out of private session. The officer that
17 (Redacted)

18 (Redacted)

19 A. No, I never (Redacted).

20 Q. Thank you. Now, I want to come to the visit of Mr Bemba, please.

21 A. Yes.

22 PRESIDING JUDGE STEINER: Mr Haynes, are we continuing in private session? You
23 said that it was --

24 MR HAYNES: Thank you very much for the reminder. I keep teasing everybody. Yes,
25 we can go into open session, please.

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1 PRESIDING JUDGE STEINER: Court officer.

2 (Open session at 2.49 p.m.)

3 THE COURT OFFICER: We are in open session, Madam President.

4 PRESIDING JUDGE STEINER: Thank you. Mr Haynes.

5 MR HAYNES:

6 Q. Were there members of the population who attended when Mr Bemba came to

7 PK12?

8 A. (Redacted)

9 (Redacted) the population, with the population that had remained. But

10 to say that the population formed a line to welcome, as is traditionally done, when a head

11 of state comes to clap, and that sort of thing, no, no.

12 In any event, those people, that population, could not cross the security cordon of that

13 army. It was Bemba's army. They had frightened people so much that if people had to

14 come, if people had to go and get Bemba for Central African people, that would be like

15 committing suicide.

16 Q. You were 70 metres away from him. Were there members of the population who

17 were nearer to him than you when he was speaking?

18 A. I think that the figure that you have mentioned is not the figure that I gave in my

19 statement. I said 70 metres.

20 Q. Okay. Well, we are now agreed. Were the members of the population nearer to

21 Mr Bemba than you when he was speaking?

22 A.(Redacted)

23 (Redacted)

24 Q. Now, you have mentioned the way he was received. How was he received by the

25 people?

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1 A. By the people? You have some concerns. You're always changing. Your
2 question is welcome. I will repeat, saying that he wasn't expected as if he were a head of
3 state. There were no ovations or clapping as we see in the country.

4 Q. Well, you've probably answered this question but I'd just like you to consider a
5 document. It's EVD-P-00001, and it's page 49.

6 PRESIDING JUDGE STEINER: What is the level of confidentiality of the document?

7 MR HAYNES: I think this is a public document. It's a report.

8 THE COURT OFFICER: If I may, I am going to look for the document but since it's
9 document CAR-OTP-ERN, all those documents were classified as confidential for the
10 moment, unless otherwise instructed by the Chamber. I can see --

11 MR HAYNES: Well, in that case, we'll respect its confidentiality for now but it seems to
12 me it's a public report.

13 PRESIDING JUDGE STEINER: Maybe, can the Prosecution clarify that?

14 MS BENSOUA: Madam President, my team is just checking on this.

15 (Counsel confer)

16 Madam President, it says that it is a report. I think it's a public document. Thank you.

17 PRESIDING JUDGE STEINER: So in case the document is still classified as confidential,
18 the Chamber can order the reclassification as public. The information I have is that the
19 English version of the document is on the internet.

20 MS BENSOUA: That is correct, Madam President.

21 THE COURT OFFICER: The document then will be reclassified accordingly, and it will
22 be shown to the public gallery.

23 MR HAYNES: We only need to see the bottom right-hand corner of the document,
24 please.

25 Q. It was you who mentioned the question of applause. According to this document,

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1 when Mr Bemba came to PK12 on 2 November, he was well received. Do you agree with
2 that or not?

3 A. I really haven't understood your question because I was looking here and I was
4 trying to read this document.

5 Q. I am so sorry, then. Carry on reading.

6 A. What part did you say?

7 Q. There's a reference in this report to the visit of Mr Bemba on --

8 A. Oh, 2 November. When it says 2 November JP Bemba came to give a speech to his
9 troops in Lingala. He was -- but of course he was applauded by his troops, not by the
10 people. The people did not understand Lingala. How could they clap for him, on the
11 basis of what? Indeed, he did receive applause and a great deal of applause from his
12 militiamen. Indeed, the person who said that was correct, but it wasn't by the population.
13 That is the explanation I would like to provide you with.

14 Q. Did you never inquire into what he had said in that address?

15 A. You see, if his security detail had let me go by, but I was not -- they kept me back
16 and I couldn't hear what he was saying to the population, to the militiamen, who gave
17 him an ovation.

18 PRESIDING JUDGE STEINER: Mr Haynes, are you going to use the document, continue
19 using the same document?

20 MR HAYNES: No.

21 PRESIDING JUDGE STEINER: May I ask, please, the court officer to assign the
22 document an EVD-T number. It has already?

23 THE COURT OFFICER: Yes, your Honour.

24 PRESIDING JUDGE STEINER: So just declare on what is the EVD-T number, please.

25 THE COURT OFFICER: Yes, your Honour. Indeed, the document already has an EVD

1 number, which is EVD-T-OTP-00395, and will be marked as public.

2 PRESIDING JUDGE STEINER: Thank you very much. Mr Haynes, do you think that
3 we could in no more than five minutes have the break or are you -- it depends on the
4 point you are in your interrogation.

5 MR HAYNES: Five minutes is absolutely where I will be ready to finish. Thank you
6 very much.

7 Q. I merely wanted to ask you whether you asked anybody afterwards, who had heard
8 the speech, what he had said?

9 A. No.

10 Q. Not, for example, the Military Policeman.

11 A. No.

12 Q. Or Mapao?

13 A. No.

14 Q. You didn't learn, then, that he spoke to the troops about discipline on that occasion?

15 A. I don't know exactly what he said to his troops. (Redacted)

16 (Redacted) the population was fed up with the acts of violence by

17 their militia. It's in my statement, you'll see.

18 In my statement, (Redacted)

19 (Redacted)

20 (Redacted) So to be frank I didn't try to find out what he said, I didn't put any

21 questions to anyone, and then the option I was following at the time didn't allow me to

22 consider something like that.

23 Q. So far as the cortege was concerned that he left with, who was travelling in that
24 cortege, so far as you could see?

25 A. I said at length in my statement that the convoy was composed of high-ranking

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1 individuals from our country. I even referred to the vehicle marks that our ministers
2 were using at the time, the Maxima vehicles. One could see Maxima vehicles, large
3 cylinder vehicles. Only affluent people, high-ranking people from our country who were
4 members of the delegation could use such vehicles. At that time, Mr Bemba was equal to
5 a head of state and he was considered to have such a status by the authorities in my
6 country.

7 Q. Did you see who was providing the security for that cortege?

8 A. Well, no. The security for the convoy was provided by the national forces, our
9 country's forces. It was necessary for this to be done because of the ministers. I said
10 there was a high-ranking official from the gendarmerie at the time who closed the convoy.
11 That means that given military practice, when it comes to security, sometimes you need
12 someone from the army who coordinates security and closes off the convoy, so to speak.

13 Q. Sorry to the interpreters, but -- and did you see President Patassé?

14 A. No, I didn't pay attention to that. Perhaps he was in the convoy but, in any event, I
15 didn't personally see President Patassé.

16 Q. You couldn't see that he was in the same car as Mr Bemba?

17 A. No, I didn't see Patassé, as far as I know.

18 Q. The cortege left at about 100 kilometres per hour; is that right?

19 A. Yes, yes.

20 Q. Thank you very much. And that would be a convenient moment to take a break
21 for me.

22 PRESIDING JUDGE STEINER: Thank you very much, Mr Haynes. I would like to ask,
23 first and foremost, our interpreters taking into account that we are sitting today only 'til
24 4.30 whether it would be possible for the break to take only 20 minutes instead of
25 half-an-hour? I will respect, of course, the decision of our interpreters.

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1 THE INTERPRETER: The interpreters agree, your Honour. It's not a problem, your
2 Honour. The interpreters agree.

3 PRESIDING JUDGE STEINER: Thank you very much. So we are going to take a break
4 now for 20 minutes. We are going to resume at 3.25 sharp. Please, court officer, just
5 lower the blinds for the witness to be taken out of the courtroom.

6 *(Closed session at 3.06 p.m.) Reclassified as Open session

7 THE COURT OFFICER: We are in closed session, Madam President.

8 (The witness stands down)

9 PRESIDING JUDGE STEINER: So the hearing is suspended for 20 minutes.

10 THE COURT OFFICER: All rise.

11 (Recess taken at 3.07 p.m.)

12 (Upon resuming in closed session at 3.28 p.m.) Reclassified as Open session

13 THE COURT USHER: All rise. Please be seated.

14 PRESIDING JUDGE STEINER: We are resuming this afternoon's sessions and I ask,
15 please, court officer to bring the witness in.

16 (The witness enters the courtroom)

17 PRESIDING JUDGE STEINER: Mr Haynes.

18 MR HAYNES: Thank you, your Honour.

19 PRESIDING JUDGE STEINER: Sorry, I think we can go into open session. Court
20 officer, please.

21 (Open session at 3.30 p.m.)

22 THE COURT OFFICER: We are in open session, Madam President.

23 PRESIDING JUDGE STEINER: Mr Haynes.

24 MR HAYNES:

25 Q. Sir, you will be glad to hear that at least so far as I am concerned we are on the

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1 home straight now. I want to clarify, please, what in fact you actually witnessed.

2 Did you actually see an act of murder?

3 A. Do you mean by troops under the MLC, under Mr Bemba? Is that it?

4 Q. Yes. As I said to you earlier, all of my questions are about that period, so did
5 you actually see --

6 A. Okay. In my statement, I mentioned cases of individuals who had been killed.
7 Even if this wasn't done before me, but I was told of it, and measures were taken.

8 Let me provide you with an example, a case that concerned a young person who was
9 killed when the Banyamulengue called out to him, they wanted to take his mobile.

10 He refused to obey and they killed him in front of Moustapha's base, on the other side.

11 We went to see the body. We went to see the body and we placed the body by the
12 side of the road. I don't know whether the parents came to take him away, or to take
13 this person away, but I saw that body.

14 Q. Thank you.

15 A. And I am sorry, I also spoke about Klosa (phon) because he had old Rangers,
16 army Rangers, that he wore. He wasn't quite normal. They shot him because they
17 had these boots. They identified him as an enemy because of that and a hole was
18 dug, a few centimetres deep, in Begoua, near Begoua station, and he was buried there.

19 * There was the case of the person who was killed and buried before the weekend.
20 And the body was exhumed by the Red Cross. I saw those bodies. The body I didn't
21 see was the body of the owner of the duck. That was in the slums. I didn't see that
22 body, but this person died nevertheless.

23 Q. Have you told us everything you want to tell us in response to that question?

24 A. For the moment, yes. I am at your disposal though if there are questions you
25 would like to put to me to clarify certain things, I can answer them. It depends on

1 you, Mr Haynes.

2 Q. Did you yourself directly see an act of rape?

3 A. Yes, on one occasion when, well, in Begoua, when the young people came to see
4 me to speak to me about it, well initially, I thought it was something quite banal.

5 When I arrived there, well, it was true. I couldn't support this. I went there
6 because of my conscience. I couldn't support this because I have religious principles
7 that oblige me to act in a certain way. I couldn't continue to watch this. Even if I
8 didn't always see how things finished, I did see some struggling for a certain while at
9 the Begoua school, sir.

10 Q. Did you mention that in your statement, or your interview?

11 A. No, sir. No, Mr Haynes, I didn't mention it. As I said yesterday, I believe that
12 we are here to write the history of a certain country, of my country. Not everything
13 can be said, but I want to tell you that there were quite a few details that haven't been
14 mentioned. However, in the course of the investigation, I answered the questions
15 that were put to me by the investigators at the time. I cannot explain what went on
16 all the time in all the details, but we did focus on the main events, sir, and this shows
17 that elements from Mr Bemba's militia demonstrated an incredible amount of cruelty.

18 Q. I think I understand your position, but I want you to help us with what you did
19 say in your interview, and it's the same interview we've been looking at earlier today,
20 and I want to look at page 0290, please, and of course it shouldn't be broadcast.

21 THE COURT OFFICER: The document is available on your screens.

22 MR HAYNES: Thank you. And can we look at the foot of the page, please. Can
23 we go very briefly into private session?

24 PRESIDING JUDGE STEINER: Court officer, please. *(Private session at 3.39 p.m.)

25 Reclassified as Open session

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1 THE COURT OFFICER: We are in private session, Madam President.

2 MR HAYNES:

3 Q. Now, when I asked you a question a few minutes ago I chose the words very
4 carefully. The question I asked you was: "Did you yourself witness directly an act
5 of rape?", and you said "Yes." That is precisely the same question you were asked in
6 April 2008 during this interview and your answer then was "No."

7 A. I understand your concern, Mr Haynes, but if you go up a bit, if you scroll up a
8 bit, yes, we can stop there, a little further up, further up. No, let's scroll down.
9 That's fine. I think that at the Begoua school there was a girl who was systematically
10 raped and there was this first case of rape that I myself saw. So at the Begoua school
11 that was the case. Perhaps there was a problem with the transcription, because I am
12 telling you, I am here under oath and I have to speak the truth. Even if on the day of
13 the investigation something escaped me, well, if I remember something now I have to
14 tell you about it so that the Court can establish the truth and take a decision on a
15 legitimate basis.

16 This doesn't mean that what I said here -- well, you have to also take into account that
17 the investigation was like a discussion and the investigation was such that I couldn't
18 relate everything I had actually experienced, so I can say now that in fact at the
19 Begoua school I witnessed a case, a spontaneous -- one spoke to me about it and I
20 went there and I saw it, but I couldn't support this. I returned. That was one case,
21 even if I didn't mention that during the investigation, but given the oath I am under I
22 am obliged to tell you this truth. I apologise.

23 Q. Did you not understand what the investigator was asking you when he asked
24 you "Did you yourself see directly an act of rape?"

25 A. No, but I understood that, but perhaps I had forgotten about it, Mr Haynes.

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1 We are humans. We can forget things. There is an adage that says sometimes
2 forgetting is one's nature, but sometimes one can remember things. If I remember
3 certain things, because of my conscience, well, all I can do is tell you about them now
4 in open session.

5 MR HAYNES: Yes. Well, can we go back into open session then.

6 PRESIDING JUDGE STEINER: Court officer, please.

7 (Open session at 3.43 p.m.)

8 MR HAYNES: I just want to ask you --

9 THE COURT OFFICER: I am sorry.

10 MR HAYNES: Oh, I am really sorry.

11 THE COURT OFFICER: We are in open session, Madam President.

12 MR HAYNES:

13 Q. What was it caused you in April 2008 to forget you had directly witnessed an
14 act of rape?

15 A. I'm a man. When discussions -- I remember this, even if in the transcription it
16 appears different, but when I said that there was a girl at the Begoua school, there was
17 a case -- there were cases of rape like that, et cetera, well, it's a bit like that. It's
18 something like that I was referring to.

19 When I was involved in the familiarisation process, I knew that the document was,
20 I don't know, already done and I couldn't add anything; otherwise, I would have
21 mentioned that I had remembered something, that I now remember that there was
22 such a case that actually occurred.

23 Mr Haynes, I am not a Superman. You must also realise that this investigation took
24 some time to complete. I had incredible investigators before me, that's true, but I
25 wasn't prepared for the investigation. It's quite normal that I can forget certain

1 details in such a situation, unless you think that I can't make any errors, but this
2 wasn't an error. It was a matter of having forgotten something, and I am obliged to
3 tell the whole truth and, as I said a while ago, I remembered this detail. * There are
4 even details, because when you think the investigation is over there are details ..details
5 that I could have given in the hearing, but I can't give them by order of priority.

6 Q. You watched a woman being raped, something you couldn't bear, and you
7 forgot about it? Is that your evidence?

8 A. It's possible. I know that I saw a woman. I was clear. There was some
9 amorous struggling at the Begoua level that certain people saw. They (Redacted)
10 (Redacted) about it. I saw that it wasn't good. I then returned.
11 As I returned to an investigation, it was a detail that I forgot, and now, since it's
12 necessary to go into the details with regard to the events that occurred, it's true that I
13 forgot about that but now I can reveal this to the Court.

14 When I briefly read the report a minute ago, rapes were referred to, someone was
15 worried about his wife, she was sent somewhere, I read that in a report that you
16 showed to me on the screen a minute ago. This shows sufficiently that Mr Bemba's
17 troops committed acts of rape.

18 Q. When did you see it?

19 A. Who? What? The girl? The rape? The rape I have referred to?

20 Q. Yes.

21 A. When you mean -- are you referring to the time? The hour?

22 Q. Let's start with the year.

23 A. Well, in 2003. It was in 2003, 16.00 or 17.00 hours, approximately. At that
24 time, the sun is already low in the sky. Night starts falling. You have African
25 counsel who are aware of this. They know when the sun sets in our country.

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1 Q. Let's not worry about the weather. Month?

2 A. I said a while ago I was more involved in the explanation of details. I was less
3 concerned with days, dates, months. I do apologise.

4 Q. So you can give us the year and the time of day, but not the month; is that right?

5 A. Yes, sir, the year. It was a historical year for you and for me, because it is
6 because of that year that we are here today, but as for the minor details, I do apologise,
7 I can't remember them. I have said this about other events, so why can't you make
8 an effort to understand my predicament with regard to this event?

9 Q. And according to the evidence you gave us earlier, you didn't (Redacted)
10 (Redacted) at the time; is that right?

11 A. With regard to everything that I experienced, I don't understand your question.
12 One asked me during the investigation whether everything I had experienced was
13 something that I had related to an organisation, to someone else, to an investigator of
14 any kind, no, I didn't say this to anyone. I didn't tell anyone about this, apart from
15 the fact that the investigator went to meet me, and I said this for the sake of the Court.

16 Q. That wasn't what I was asking you. You (Redacted) previously
17 when things offended you, but you (Redacted); is that right?

18 A. About this specific case, no, I didn't. The soldiers involved in this -- (Redacted)
19 (Redacted) immediately. (Redacted)

20 (Redacted)

21 (Redacted), well, it was too risky to

22 leave my place and to go and (Redacted), sir. It was a great risk for my
23 life.

24 I had to stay at my place, but if there was an occasion for me to (Redacted)

25 (Redacted). I am quite a discreet man in my town. I'm not a seditious man, but if

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1 today you realise (Redacted), well, it's exceptional, because

2 Mr Haynes I have the impression that you think that (Redacted) which was to

3 perhaps (Redacted) in relation to all the events, everything that was happening on a

4 political and military level, but, no, that was not the case.

5 There was a given situation that I was concerned about as a man. (Redacted)

6 Together with the population, (Redacted) with the problem. It was necessary to be

7 cautious and wise at the same time.

8 THE INTERPRETER: The witness is kindly asked to slow down for the sake of the

9 interpretation.

10 MR HAYNES:

11 Q. So you weren't concerned for the safety and welfare of this poor woman.

12 A. Yes, yes, absolutely. Yes, I was concerned. It did me no good, but given the

13 way that the events unfolded it was also necessary to act cautiously. I was obliged

14 to do something at one point in time. I explained to you the sequence of events, and

15 this is a sequence that occurred after all the (Redacted).

16 So in a certain sense, it was necessary.

17 PRESIDING JUDGE STEINER: The interpreters are asking you, please, to speak a

18 little bit slowly and to give the pauses. They cannot follow you. Thanks.

19 THE WITNESS: (Interpretation) Thank you.

20 MR HAYNES:

21 Q. So at what point in time after April 2008, when you were interviewed by the

22 Office of the Prosecutor, did you remember witnessing this event?

23 A. It was when the Prosecution team left, in fact, because as I have said I wasn't

24 prepared for this investigation, in order to remember these events. This was a

25 spontaneous investigation, so when the team left I started remembering certain facts,

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1 certain events.

2 Mr Haynes, there's something I'd like to say with regard to caution. I said that the
3 last day, on 15 March when the Banyamulengue came and promised to exterminate
4 us, well, I lost my courage and I said that on that day it would be necessary for me to
5 leave. I had lost my courage, so at a certain point in time I realised that what I was
6 doing was excessively risky.

7 I believe I have an argument, a religious argument, I can present, but it might not be
8 understood by you because it has nothing to do with law, but I believe that in a
9 certain sense God protected me, put me aside, for this event so that the truth be
10 revealed one day. This doesn't mean that I should lack caution and wisdom.
11 Throughout these hearings, we have spoken about security, I believe. It was
12 necessary for me to take measures for my own security, after all.

13 Q. How many times have you met with investigators from the Office of the
14 Prosecutor?

15 A. Well, we worked for two or three days, I believe. The dates can be found in the
16 record, in the statement.

17 Q. Very well. What records did you make of (Redacted) of
18 rapes in Begoua?

19 A. I would say that during this period the administration was inexistent, Mr
20 Haynes. Try and see what sort of actions (Redacted)
21 such a commander, someone to take the population or to lead the population into a
22 revolt? No, (Redacted), Mr Haynes. There was no administration.
23 During that period, the ministries were on stand-by, the large administrations were
24 on stand-by. (Redacted)
25 (Redacted) Even the

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1 hospitals, Mr Haynes, were not functioning. There is a hospital in Begoua that was
2 practically in-operational, Mr Haynes.

3 Q. Did you have access to a pencil and some paper?

4 A. At the time, or now?

5 Q. At the time.

6 A. Have access? I don't understand.

7 Q. Did you have one yourself or did you know somebody who had one?

8 A. I am someone who can read and write, after all. I have my documents. I had
9 something to write with, but as for the time, as for the atmosphere, well, it didn't
10 allow me to do anything, to take a pen, but during this period one couldn't even listen
11 to one's radio because it was a distraction. One couldn't listen because the noise, the
12 sound, would be heard by a rebel and then immediately they would go to your house.

13 Q. Did you have access to a pen and paper at any time after March 2003?

14 A. I beg your pardon?

15 Q. After the events were over, when there were no soldiers in Begoua, were you in
16 a position to write down these things?

17 A. No.

18 MS BENSOUA: Mr President.

19 PRESIDING JUDGE STEINER: Witness, Mr Haynes. Madam Bensouda?

20 MS BENSOUA: Madam President, at no time either in the statement or in the
21 testimony before this Court has the witness said that he made a record of the events
22 and I think enough questions have been put to the witness and the witness has said
23 "No." I think we need to protect the witness. He is being harassed.

24 PRESIDING JUDGE STEINER: Could we please go on, Mr Haynes. I think --

25 MR HAYNES: I think so, yes.

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1 PRESIDING JUDGE STEINER: You are dealing with a bench of professional Judges.

2 MR HAYNES: Of course.

3 PRESIDING JUDGE STEINER: So this kind of repetition doesn't help at all.

4 MR HAYNES: No, no, no, I understand.

5 Q. Think carefully before you answer this question, but can you give us a single
6 name of somebody you say was raped?

7 PRESIDING JUDGE STEINER: Not in open session.

8 MR HAYNES: I was only asking that question in that way, "yes or no."

9 PRESIDING JUDGE STEINER: So, witness, just answer yes or no, not mention any
10 name please. If the answer is "yes" don't mention any name. We are in open
11 session.

12 THE WITNESS: (No interpretation).

13 MR HAYNES:

14 Q. How many?

15 PRESIDING JUDGE STEINER: How many what, sorry?

16 MR HAYNES: How many names?

17 PRESIDING JUDGE STEINER: I haven't heard the answer of the witness to the first
18 question. Could you repeat, please.

19 MR HAYNES: Oh, I am sorry. Yes.

20 Q. Can you give us a single name of anybody who you say was raped?

21 A. I can't, sir, no.

22 Q. And you can't give us the name of the Military Policeman to whom (Redacted)
23 (Redacted)?

24 A. The Captain? His name? No, I don't know his name, but in relation to the
25 people raped I believe that I said that there was a gentleman, I don't know whether

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1 I can give his name, who came and that person I know. He came with his daughter.

2 I know him and his daughter too, and I mentioned exceptionally a girl who was

3 raped at Boali, who is now dead. Although I don't know her name, I do know the

4 name of her fiance, at least I know those names. So those are clues that point us in

5 the direction of that person.

6 THE INTERPRETER: Those people, correction.

7 MR HAYNES:

8 Q. Thank you very much. When were you first in contact with the Office of the

9 Prosecutor?

10 A. It's recorded in the statement.

11 Q. Very well. So you had no contact before the making of your statement?

12 A. None. The contact that I had was just 24 hours before my contact with the

13 Office of the Prosecutor. (Redacted)

14 (Redacted)

15 (Redacted) The person called me and I

16 believe I was given an appointment for the next day, so that is how it was. That was

17 the first contact with them before. So 24 hours before my frank and official contact

18 with the Office of the Prosecutor.

19 Q. Well, thank you for answering that question so responsibly. I take it, therefore,

20 you didn't give any evidence to the Ministry of Social Affairs or the Ministry of Justice

21 in your country in 2004?

22 A. Not at all. Not at all. Not at all. Not at all. Not at all. My only statement

23 was to the Office of the Prosecutor.

24 Q. And you lived in (Redacted) throughout the period 2003 to 2008?

25 A. Naturally.

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1 Q. When did your employment -- I am sorry, don't answer this question. Can we
2 go into private session just very quickly?

3 PRESIDING JUDGE STEINER: Court officer, please.

4 *(Private session at 4.06 p.m.) Reclassified as Open session

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

6 MR HAYNES:

7 Q. (Redacted)

8 (Redacted) Were you still working for him when you saw the office?

9 A. (Redacted)

10 Q. Yes, yes.

11 A. Is that what you meant?

12 Q. Yes. When did that job end?

13 A. At the end of the (Redacted).

14 Q. Were you still doing that job when you were first seen by the Office of the
15 Prosecutor?

16 A. No, I had already finished that job.

17 Q. And the man I mentioned yesterday was (Redacted). How long have you
18 known him?

19 A. (Redacted) I don't know (Redacted), but (Redacted) (phon). (Redacted),

20 I don't know any such person. (Redacted) I made that correction yesterday.

21 (Redacted) (phon), who (Redacted). That person, I do know him.

22 Perhaps it might be (Redacted), but in our neighbourhood we know him as (Redacted)

23 (Redacted).

24 Q. Well, how long have you known that man?

25 A. That gentleman? I have lived in Begoua since (Redacted), so I have always

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1 known this person -- this man.

2 Q. And how did it come about that he put you in contact with the Office of the
3 Prosecutor?

4 A. I believe that he is one of the people. I believe he is (Redacted)

5 (Redacted), something like that. That's

6 what I think. He must belong to (Redacted), and they

7 had begun by getting (Redacted), and perhaps that's how it

8 came to be that he (Redacted) directly. I don't know, I am not in a position

9 to know how that happened, but he contacted me and I believe he did so because he

10 knows that I was (Redacted) to provide information to the Court because at that time

11 he had left the neighbourhood. He himself had left the neighbourhood.

12 Q. What's the name of the (Redacted) ?

13 A. No, I am not in a position to know that. As for the events, it doesn't ring a bell.

14 It -- I don't remember being a (Redacted). I remember that I had lost some items and

15 I said to myself God wanted it to be so. That was enough. I was not trying to gain

16 anything so, as far as that's concerned, I am really not the kind of a person that (Redacted)

17 (Redacted). I focus more on (Redacted).

18 Q. And did he contact you directly?

19 A. By telephone.

20 Q. And how did he know you might be somebody who might be able to give
21 useful evidence to the Office of the Prosecutor?

22 A. But all the people who were there the day that (Redacted)

23 (Redacted)

24 during that period of time. If -- if -- if -- there were clear reasons, just valid reasons

25 to contact me, he thought to call me.

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1 PRESIDING JUDGE STEINER: Madam Bensouda.

2 MS BENSOUA: Madam President, I am really sorry to be interrupting, but I
3 believe the witness should be asked of things that he knows, not what a person knows
4 or has reason to contact the witness. I think this question is not fair to the witness.

5 PRESIDING JUDGE STEINER: I would recommend maybe the witness when asked
6 just say "I don't know." "Yes, I know", or "I don't know" without going to so many
7 repetitions that you have no knowledge of this or that. Maybe then we can shorten
8 and give more time for the Defence to put more questions.

9 MR HAYNES:

10 Q. I will put it very simply: Did you talk to (Redacted) about what you might tell
11 the Office of the Prosecutor before you gave your interview? And I am sorry if I
12 have got his name wrong.

13 A. No.

14 Q. Thank you. Now, can I deal briefly with the situation in the Central African
15 Republic after the events we have been talking about, and I will be very quick. What
16 happened to the soldiers who were formerly in the army of the Central African
17 Republic after March 2003, do you know?

18 A. No.

19 PRESIDING JUDGE STEINER: Sorry. I was signing an order. Have you asked
20 the bench something?

21 MR HAYNES: No, no, I was just waiting for your nod to carry on.

22 PRESIDING JUDGE STEINER: Sorry. Please, carry on. We're continuing in
23 private session?

24 MR HAYNES: No, I've just been reminded we should be in open session now.

25 PRESIDING JUDGE STEINER: Court officer, please.

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1 MR HAYNES:

2 Q. Do you know who General Bombayake is?

3 PRESIDING JUDGE STEINER: Wait, please.

4 MR HAYNES: Oh, I'm sorry. I keep doing that.

5 PRESIDING JUDGE STEINER: Yes.

6 (Open session at 4.15 p.m.)

7 THE COURT OFFICER: We are in open session now, Madam President.

8 PRESIDING JUDGE STEINER: Please, Mr Haynes.

9 MR HAYNES:

10 Q. Do you know who General Bombayake is?

11 A. General Bombayake, he is a general of our army. I've never seen him as such.
12 I don't know him, but I have heard the name. He is a general within the army of our
13 country.

14 Q. You don't know what unit he was responsible for at the time of the events?

15 A. What I do know is that in the entire town when there were previous events it
16 was said that he was the one who was in the planes and throwing the bombs, but I've
17 never checked. I've never checked myself if it was him.

18 Q. The soldiers who fought with Miskine, who we talked about, were you aware of
19 their ethnic origins?

20 A. I said a few moments ago that Miskine had carried out a punitive expedition
21 and he found himself facing Chadian soldiers. Honestly, I didn't have a very specific
22 idea about that aspect of the problem. I don't want to run the risk of making a
23 mistake, or misleading the Court.

24 Q. Was it widely known in Begoua after the war that the MLC had been
25 demilitarised?

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1 A. Demilitarised? That's a very technical term. Could you explain it to me?

2 Q. Yes. That it had ceased to exist as a military force.

3 A. Yes.

4 Q. Was it widely known that attempts had been made on the life of Jean-Pierre
5 Bemba?

6 A. No, I am not aware of any such thing.

7 Q. Or that he had left the Democratic Republic of Congo and gone to Portugal?

8 A. For that, yes, the media said so.

9 Q. And were the population in Begoua confident that the MLC would not and
10 could not return after 2003?

11 A. Yes.

12 MR HAYNES: Witness, that's me finished. I don't know whether anybody else will
13 have any questions to ask you.

14 PRESIDING JUDGE STEINER: Maître Liriss, we still have ten minutes left. I don't
15 know whether the Defence has finished the questioning, or -- because you said that
16 you were going to put some questions. Would you prefer to start right now?

17 MR LIRISS: (Interpretation) What do you prefer, ma'am, in light of your schedule?

18 PRESIDING JUDGE STEINER: So we have ten minutes. Many things can be done
19 in ten minutes. So we can continue and then we suspend until Monday morning.

20 It's up to you, Maître Liriss.

21 MR LIRISS: (Interpretation) Okay.

22 QUESTIONED BY MR LIRISS: (Interpretation)

23 Q. Good afternoon, Witness.

24 A. Good afternoon.

25 Q. As of Monday I will be following a certain order, in order to ask you questions

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1 about certain events that you told us about, particularly here during the hearing, and
2 perhaps the Defence has misunderstood some things and I'll be asking you about
3 some other facts or events that we did not go into in great depth.

4 If ever you have the impression that my questions are too long and you cannot focus
5 and remember the thread of your arguments, or your thoughts, please don't hesitate
6 to interrupt me by making a hand gesture -- correction, in one way or another, and if
7 ever you think a question is such that it may be harmful to your own safety in any
8 way, please stop me as quickly as possible and I will do all I can do ensure that you
9 can go back to your family as quickly as possible, and I thank you in advance for your
10 cooperation.

11 For the time being, please, I would like us to go back -- go back to document 0257,
12 which I believe is already on the screen. No, no, 0290. It had to be read in
13 conjunction with 0257.

14 PRESIDING JUDGE STEINER: The level of confidentiality of the document, please,
15 Maître?

16 MR LIRISS: (Interpretation) 257 may be confidential. That document bears a
17 name. As for 0290, honestly, I don't see what there is in there that's confidential,
18 particularly when the person in question is referred to as "person interviewed" or
19 "interviewee." So 0257 may be deemed to be confidential, except -- unless we take
20 the first four -- the first three questions. The first four -- the first three questions.

21 THE COURT OFFICER: Yes. Madam President, if I may add, and for the record of
22 the case, all these pages are part of one and only document which is
23 CAR-OTP-0010-0221, and it's the witness statement, and the entirety of the document
24 is classified as confidential.

25 PRESIDING JUDGE STEINER: So maybe as a matter of security we should go into

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1 private session and then you will feel more comfortable in asking your questions.

2 MR LIRISS: (Interpretation) No problem.

3 PRESIDING JUDGE STEINER: So, court officer, please, let's go into private session.

4 *(Private session at 4.24 p.m.) Reclassified as Open session

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

6 PRESIDING JUDGE STEINER: Mr Liriss.

7 MR LIRISS: (Interpretation) Ma'am, could this document be placed on the screen,
8 document 0257.

9 PRESIDING JUDGE STEINER: (Interpretation) I believe it already has been placed
10 on the screen.

11 MR LIRISS: (Interpretation) I see.

12 Q. Second paragraph, please, if you don't mind, and I will read it out for you, "Did
13 it happen at the same time?" Mention is being made of rapes? And you answered
14 "No, no, not at the same time, if a base and if -- (Redacted)
15 (Redacted)"

16 And now in relation to page 290. What interests us, and I know that my learned
17 friend has already asked the question, we are interested in this point and I will read
18 out the passage, "If they came in by breaking the house and found a girl, or two girls,
19 they would shut them up, sequester them; and if there were two or three of them,
20 they would put them somewhere and rape them. They would put them aside, or
21 grab them and rape them. They might hold the father or the mother at gunpoint,
22 and then the others would have their turn, each one. So it was a group rape. That's
23 one case. It's true that the cases of public rapes didn't take place in broad daylight,
24 but at around 17 or 18.00 hours when the sun started going down up by the Begoua
25 school."

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1 And this is an important point, "A girl who had ventured out was systematically
2 raped, so they were" -- the most important part is this: "The victim was, for example,
3 the first case of rape that I saw," that you saw. You say, "The victim was a young girl
4 between eight and nine years old. When they sent her away, her mother ran and
5 (Redacted)" This is the girl you saw after
6 the rape, or is it the rape that you saw?

7 A. The girl --

8 Q. The girl --

9 THE INTERPRETER: Overlapping speakers. The interpreter apologises.

10 MR LIRISS: (Interpretation)

11 Q. Now --

12 PRESIDING JUDGE STEINER: Maître Liriss, Madam Bensouda is --

13 MS BENSOU DA: Madam President, again I start with an apology to the Chamber.

14 I seriously don't want to interrupt, but I think I need to seek the Chamber's guidance.

15 Madam President, this Chamber has a duty under Article 68 to protect the witness.

16 The mode of examination by different counsel on issues that are overlapping I think is
17 going to -- for several hours, actually, is going to harass this witness.

18 And I am seeking guidance from this Chamber because we need clarity on whether
19 this practice of when both counsel are present, both principal counsel and co-counsel
20 are present, and they both take turns in cross-examining the witness for several hours
21 on perhaps the same areas that are overlapping, I do not know whether we are going
22 to adopt this procedure before this Chamber, or not, but we certainly need guidance
23 on that.

24 I believe this -- if we persist to have this procedure, I think this can be a cause of
25 trauma for the witness and I think if the Chamber prefers, perhaps a professional

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1 assessment should be made about this mode and the impact that this procedure can
2 have on the witness of both counsel cross-examining the witness on the same issues
3 for several hours. Thank you, Madam President.

4 PRESIDING JUDGE STEINER: Thank you, Madam Bensouda. First of all, we are
5 already at 4.30, we need to adjourn, but first I ask the court officer to turn into open
6 session.

7 (Open session at 4.30 p.m.)

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

9 PRESIDING JUDGE STEINER: Thank you, court officer. Maître Liriss, your
10 questioning of the witness will continue in any case on Monday. I would just take
11 the opportunity to clarify the objection made to the public -- the objection made by
12 Madam, the Prosecutor, that this mode of questioning a witness by two different
13 counsel and in the same areas with questions overlapping can be quite traumatising
14 for the witness for so many hours and having asked to repeat, repeat and repeat the
15 same issues.

16 In relation to the -- to having two counsel questioning the witness, this Chamber has
17 already decided that it's up to the team, the Prosecution team or Defence team, to
18 manage their time.

19 At the same time, the Chamber has already reiterated more than once its flexibility in
20 terms not to allocating very strict time limits for the parties to question a witness, but
21 the Chamber is not in any case going to tolerate abuses. And at one point, if the
22 Defence team is not able to go further and insists in keeping asking questions that
23 have been already answered by the witness, two, three, four times, the Chamber will
24 have to interfere.

25 The Chamber is avoiding in order to give the Defence -- to have the Defence at ease to

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1 make its questioning, but at one point Madam Prosecutor is right. We need to
2 protect the witness against such stress.
3 We would like to inform Witness 38 that in any case we are going to ask VWU to
4 make or to get in contact with you and make an assessment on your state of mind,
5 your comfort, how comfortable you are to continue to be questioned after the
6 weekend. So we are going to have an updated assessment coming from VWU upon
7 request of the Prosecution.

8 You have something else to add, Mr Liriss, before we adjourn?

9 MR LIRISS: (Interpretation) Of course, Ma'am. I think you will remember at the
10 beginning you said that we would -- you would allow us to do our examination right
11 to the very end, but for some matters for which we did not gain satisfaction we will be
12 compelled to return to the point, and that was the case of this particular question, but
13 you know the question is really crucial here, because it's a matter of determining
14 whether the witness can give personal testimony to the rape and the answer that was
15 given was not satisfactory, and that is why that we returned to the point. It seems to
16 me that he needs to answer. It was very simple. He answered, saying that what he
17 saw was the victim, which means -- that doesn't mean that he actually bore personal
18 witness to the event.

19 PRESIDING JUDGE STEINER: I think Judge Aluoch has something to add.

20 JUDGE ALUOCH: Thank you. Mr Liriss, I would understand if you are seeking a
21 clarification, but the way you put your questions was like you were starting all over
22 again. If you are seeking a clarification on the answer that the witness had given I
23 would understand, yes.

24 PRESIDING JUDGE STEINER: Well --

25 MR LIRISS: (Interpretation) Thank you, Madam. I will take that into

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1 consideration.

2 PRESIDING JUDGE STEINER: Thank you, Maître Liriss. So, having now made
3 enquiries through the Registry as to the possibility of sitting longer on Monday,
4 29 November 2010, in order to accommodate the end of questioning by the Defence
5 team, and the beginning of questioning of the expert witness that follows, the
6 Chamber is informed that it would be able to sit from 9.30 until 16, so the whole day,
7 between courtrooms 1 and 2, meaning from 9.30 to 11, with a break; 11.30 to 1, in
8 courtroom 1, in this courtroom, and in the afternoon from 2.30 to 4 o'clock in
9 Courtroom 2. I am asking now whether this solution would be convenient for
10 Prosecution, Defence and legal representatives' teams?

11 MS BENSOUDA: Madam President, it is convenient for the Prosecution's team.

12 PRESIDING JUDGE STEINER: Maître Liriss?

13 MR LIRISS: (Interpretation) We are always in agreement with Madam Prosecutor.

14 PRESIDING JUDGE STEINER: Legal representatives?

15 MS DOUZIMA-LAWSON: (Interpretation) No objections, your Honour.

16 MS YAZJI: No objection, your Honour.

17 PRESIDING JUDGE STEINER: Maître Zarambaud?

18 MR ZARAMBAUD: (Interpretation) No objections, your Honour.

19 PRESIDING JUDGE STEINER: We are just informed that Courtroom 2 is much
20 smaller, so we will have to analyse how many people is able to attend.

21 We would wish to remind that Witness 221 is only available to give evidence on
22 Monday and Tuesday and so, in order not to encroach too much on the time in which
23 Witness 221 is available, the Chamber repeats and reiterates to the parties what I said
24 earlier that we are aiming for Witness 38's testimony to be completed, if possible, by
25 the first break in the morning. This means that not only the Defence questioning

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1 needs to be finished, but also any questions from the Chamber, as well as any
2 additional questions from the Prosecution, following an application to ask such
3 questions if any, and of course the final questions from the Defence. So the Chamber
4 asks the Defence to be mindful of these matters in conducting its remaining
5 questioning on Monday morning.

6 Finally, as regards questioning of the next witness, 221, the Chamber informs that it
7 has not received any written application from legal representatives and so assumes
8 that there will be no such application, as the deadline for applying for to ask such
9 questions has now passed.

10 First I ask, please, the court officer to turn into closed session in order to allow the
11 witness to leave the room. Witness 38, we wish you a nice evening and a nice
12 weekend in which you can take the deserved rest. Thank you very much.

13 *(Closed session at 4.39 p.m.) Reclassified as Open session

14 THE COURT OFFICER: We are in closed session, Madam President.

15 (The witness stands down)

16 PRESIDING JUDGE STEINER: Madam Bensouda?

17 MS BENSOU DA: Madam President, just seeking a slight clarification. You
18 mentioned that the Prosecution should make an application to -- in case there are
19 questions after the cross-examination by the Defence. Should we -- should it be an
20 oral application, or should we make a written application to the Chamber?

21 PRESIDING JUDGE STEINER: It can be an oral application, Ms Bensouda. Let's be
22 more informal in these kind of things.

23 MS BENSOU DA: Very well, Madam President. Thank you.

24 PRESIDING JUDGE STEINER: Court officer, please let's go back to open session.

25 (Open session at 4.41 p.m.)

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1 THE COURT OFFICER: We are in open session, Madam President.

2 PRESIDING JUDGE STEINER: Thank you very much. The focal point for the

3 Chamber will get in touch also with the parties and participants since we are

4 informed about the possibility for the Chamber to sit as well on Tuesday,

5 30 November for the whole day, so we are going to send via email a consultation to

6 the parties to see whether the parties are available and in this -- according to this

7 schedule.

8 So I would like to ask very much the Prosecution team, the legal representatives,

9 OPCV, the Defence team, Mr Jean-Pierre Bemba Gombo, and again most and

10 foremost our interpreters, court reporters, all the staff that has been working so hard

11 and making concessions to the Chamber in order for us to have this hearing today the

12 most possible time available for us.

13 So thank you very much, and we are now adjourning and we will resume on Monday

14 at 9 in the morning. For all of us, of you, a very nice weekend. 9.30, sorry. 9.30.

15 A very nice weekend.

16 THE COURT USHER: All rise.

17 (The hearing ends in open session at 4.42 p.m.)

18 CORRECTIONS REPORT

19 The following modifications have been made in the transcript:

20 * Page 32 lines 3 to 5:

21 "There are such details, because when you think the investigation is over there are
22 details that I can say in a hearing, but I can't do it out of caution."

23 Is corrected by

24 "There are even details, because when you think the investigation is over there are

25 details ..details that I could have given in the hearing, but I can't give them by order of

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: DRC-OTP-PPPP-0038

1 priority.”

2 * Page 28 lines 19 to 21

3 “There was the case of the person who was killed and buried in front of the weekend,
4 so a body I didn't see was the body of the owner of the duck. That was in the slums,
5 but this person died nevertheless.”

6 Is corrected by

7 “There was the case of the person who was killed and buried before the weekend.

8 And the body was exhumed by the Red Cross. I saw those bodies. The body I didn't
9 see was the body of the owner of the duck. That was in the slums. I didn't see that
10 body, but this person died nevertheless.”

11 RECLASSIFICATION REPORT

12 Pursuant to Trial Chamber III 's Second Order, ICC-01/05-01/08-2223, dated 4 June
13 2012, and the instructions in the email dated 9 October 2013, the version of the transcript
14 with its redactions becomes Public.