

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0082

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 Thursday, 3 February 2011

9 (The hearing starts in open session at 9.42 a.m.)

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

11 Please be seated.

12 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
13 in open session.

14 PRESIDING JUDGE STEINER: Good morning. Good morning, everyone. Could,
15 please, the court officer call the 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
18 reference ICC-01/05-01/08.

19 PRESIDING JUDGE STEINER: Thank you very much. The Chamber -- so first of
20 all we want to welcome the Prosecution's team, the legal representatives of victims,
21 the Defence team, Mr Jean-Pierre Bemba Gombo, good morning to our interpreters
22 and court reporters.

23 The Chamber was informed that the Defence wants to raise an issue in private session.

24 The Chamber will give, of course -- will grant the Defence's request, but before that

25 the Chamber wants the witness to be brought into the courtroom since the Chamber

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1 has some follow-up questions to be put to the witness before the Defence raises it
2 concerns. So at a proper time the witness will be taken out of the courtroom and the
3 Defence will be given the floor as requested.

4 So please, court officer, let's turn into closed session for the witness to be brought into
5 the courtroom.

6 (Closed session at 9.45 a.m.) * Reclassified as Open session

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

8 (The witness enters the courtroom)

9 PRESIDING JUDGE STEINER: We can turn into open session, please.

10 (Open session at 9.48 a.m.)

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

12 WITNESS: CAR-OTP-PPPP-0082 (On former oath)

13 (The witness speaks Sango)

14 PRESIDING JUDGE STEINER: Good morning, Madam Witness.

15 THE WITNESS: (Interpretation) Good morning, your Honour.

16 PRESIDING JUDGE STEINER: Did you manage to sleep well and to take some rest?

17 THE WITNESS: (Interpretation) Yes, I slept well and I had a good rest.

18 PRESIDING JUDGE STEINER: Are you ready, Madam, to continue giving your
19 testimony before this Court?

20 THE WITNESS: (Interpretation) I'm ready to continue, your Honour.

21 PRESIDING JUDGE STEINER: Thank you. We need to remind you, Madam, that
22 you are still under oath. Do you understand that?

23 THE WITNESS: (Interpretation) Yes, I understand that.

24 PRESIDING JUDGE STEINER: We would like to remind you as well that you are
25 under protective measures, meaning that your image and voice broadcast outside the

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1 courtroom are being distorted so the public outside the courtroom cannot see your
2 face and cannot identify your voice and, therefore, cannot identify yourself. For
3 your protection, and the protection of your family members, please avoid mentioning
4 names or any information that can lead to your identification or the identification of
5 your family members. Do you understand that, Madam?

6 THE WITNESS: (Interpretation) Yes, I understand.

7 PRESIDING JUDGE STEINER: And finally, Madam, as you were told yesterday, at
8 any time you feel tired or distressed, or you need a break for any reason, just let us
9 know and you will have as many breaks as you want. Do you understand that,
10 Madam?

11 THE WITNESS: (Interpretation) Yes, I do.

12 PRESIDING JUDGE STEINER: Thank you very much. Madam Witness, the
13 Chamber wants to put to you some questions in order to clarify some points; mainly
14 some points related to your identity. For that reason we are going now into private
15 session, meaning that you can speak freely because nobody outside the courtroom
16 will listen to your answers. Court officer, please turn into private session.

17 (Private session at 9.52 a.m.) * Reclassified as Open session

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

19 PRESIDING JUDGE STEINER: Thank you very much. Madam Witness, there
20 were some difficulties from the part of the Chamber to understand the reasons why in
21 your statement you stated a different name of your father and mother, different than
22 the names that are in your birth certificate. We need to clarify that and, for that
23 purpose, we will start by Judge Aluoch asking you some questions to see whether
24 you can clarify this point to the Chamber. Judge Aluoch, please.

25 JUDGE ALUOCH: Good morning, Madam Witness.

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1 THE WITNESS: (Interpretation) Good day, your Honour.

2 JUDGE ALUOCH: Now, I will start with the questions that you were asked about

3 (Redacted). Yesterday you said you referred to him as "papa" or "father." Now,

4 at the time of the incidents that we are talking about in this Court, when you said the

5 Banyamulengue attacked your family and you gave the date when they attacked your

6 family, are you able to tell me at that time your father or papa, (Redacted), how

7 many wives did he have? Can you remember?

8 THE WITNESS: (Interpretation) He had (Redacted) wives. (Redacted) is my

9 grandmother and (Redacted) are his co-wives. When I say grandmother, that

10 means my mother's mother.

11 JUDGE ALUOCH: Thank you very much. Can you -- do you know their names?

12 He had (Redacted) wives. Do you know their names? Can you give us their names if

13 you know, please?

14 THE WITNESS: (Interpretation) The (Redacted) wife's name is (Redacted). The (Redacted)

15 wife's name is (Redacted)

16 THE INTERPRETER: And the Sango booth says that the interpreter did not hear the

17 (Redacted) wife's name.

18 JUDGE ALUOCH: Please come closer to the microphone. Thank you very much.

19 So the (Redacted) wife's name is (Redacted) Did you say (Redacted)

20 THE WITNESS: (Interpretation) (Redacted)

21 (Redacted)

22 JUDGE ALUOCH: Thank you very much. Now, (Redacted) and the (Redacted)

23 one, did you refer to all of them as your mothers? Did you consider all of them as

24 your mothers and referred to them as mothers?

25 THE WITNESS: (Interpretation) I called them all "maman," mother.

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1 JUDGE ALUOCH: Thank you. And which one specifically gave birth to your
2 mother, do you know, of the (Redacted)

3 THE WITNESS: (Interpretation) It was (Redacted)

4 JUDGE ALUOCH: Thank you. I see; that's good. Now, in your birth certificate,
5 which is attached to your victim's application, you have given your mother's name as
6 (Redacted) That I believe is your biological mother, the woman who gave birth to
7 you; is that right?

8 THE WITNESS: (Interpretation) That's right.

9 JUDGE ALUOCH: And, as far as you know, her names are (Redacted) That's
10 what you know, is it?

11 THE WITNESS: (Interpretation) That's right.

12 JUDGE ALUOCH: And during this incident when the Banyamulengue attacked
13 your family, was your mother (Redacted) also living in the same house with you?

14 THE WITNESS: (Interpretation) She lived lower down.

15 JUDGE ALUOCH: Does "lower down" mean the same compound or a different
16 compound from your papa?

17 THE WITNESS: (Interpretation) Her mother had bought her a compound where
18 she built a house, and she lived in that house.

19 JUDGE ALUOCH: I just want to know whether that house is in the same compound
20 as where all of you lived, or is in a different compound?

21 THE WITNESS: (Interpretation) It was in a different compound.

22 JUDGE ALUOCH: Thank you. Now, do you know whether, to your knowledge,
23 was she also attacked by the Banyamulengue at all? Do you know?

24 THE WITNESS: (Interpretation) She was hit by a bullet. Her arm was hit and the
25 bullet was taken out of her arm.

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1 JUDGE ALUOCH: Thank you. Despite her having her own house, you said
2 yesterday that you grew up in the house of your grandmother. Is that the house of
3 (Redacted)

4 THE WITNESS: (Interpretation) Yes, my grandmother (Redacted) was living under
5 the roof of her husband and I went to live with her in the house of her house (sic).
6 She had bought another house which she gave to my mother, and my mother lived in
7 that house.

8 JUDGE ALUOCH: Do you know how old -- do you know how old you were when
9 you started living with (Redacted) your grandmother and your mother at the same time?

10 THE WITNESS: (Interpretation) I no longer recall. I was very young. It was
11 with me, she went off to the farm and when she came back, she went directly to her
12 house.

13 JUDGE ALUOCH: Sorry, who do you mean went to the farm and went directly to
14 her house? Your grandmother (Redacted) or your mother (Redacted)

15 THE WITNESS: (Interpretation) My grandmother (Redacted)

16 JUDGE ALUOCH: Do you remember ever living with your mother (Redacted) at all, or
17 that is too long ago you cannot remember? You only remember (Redacted)

18 THE WITNESS: (Interpretation) My mother and I, we lived together with my older
19 sisters. My (Redacted) older sisters stayed with my mother. However, my grandmother
20 asked me to go with her and so I lived with her.

21 JUDGE ALUOCH: These (Redacted) older sisters, what are their names, please?

22 THE WITNESS: (Interpretation) (Redacted)

23 THE INTERPRETER: Correction, (Redacted)

24 JUDGE ALUOCH: And those (Redacted) are your biological sisters, same mother; is that
25 correct?

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1 THE WITNESS: (Interpretation) Yes, we were all born of the same mother.

2 JUDGE ALUOCH: Thank you very much. I will only ask you one more

3 clarification and this comes from your statement to the investigators. It is the

4 English version, 0028-0029. I will not ask for it to be put on the screen because I can

5 just read the question that you were asked. The investigators asked you, "When did

6 the Banyamulengue force (Redacted)" they counted several names.

7 What I want to know is (Redacted) is that your sister?

8 THE WITNESS: (Interpretation) She is the youngest daughter of my mother.

9 JUDGE ALUOCH: Your mother (Redacted) or your mother (Redacted) or your other (Redacted)

10 mothers? Which one?

11 THE WITNESS: (Interpretation) I was talking about my grandmother (Redacted) and

12 I was also referring to her (Redacted) daughters (Redacted) and -- and the other one.

13 JUDGE ALUOCH: Thank you very much for these answers. Thank you.

14 PRESIDING JUDGE STEINER: Madam Witness, now Judge Kuniko Ozaki is going

15 to put to you some questions. Judge Ozaki, please.

16 JUDGE OZAKI: Good morning, Madam Witness. I have a few follow-up questions

17 to ask you. You said (Redacted) is your biological mother. Who is (Redacted) father? Her

18 father is (Redacted) or any other person?

19 THE WITNESS: (Interpretation) (Redacted) is her father.

20 JUDGE OZAKI: The second question is, your name is (Redacted) and

21 according to your birth certificate, your father's name was (Redacted) Does this

22 mean that you inherited the name (Redacted) from your father; is it right?

23 THE WITNESS: (Interpretation) Yes, that's right.

24 JUDGE OZAKI: Then your mother's name - your biological mother's name - is (Redacted)

25 (Redacted). Your mother inherited the name (Redacted) from whom?

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1 THE WITNESS: (Interpretation) That is the name of her father. Her father died
2 when she was a little girl, and father (Redacted) that was when father (Redacted) married
3 her mother and he raised her under his roof.

4 JUDGE OZAKI: Okay, thank you very much. That clarifies very well. Thank you,
5 Madam Witness.

6 PRESIDING JUDGE STEINER: Thank you, Madam. I ask whether Defence, before
7 going to closed session, wants to ask any further questions in relation to these points.

8 MR LIRISS: (Interpretation) Yes, your Honour.

9 PRESIDING JUDGE STEINER: You have the floor.

10 MR KILOLO: (Interpretation) Thank you, your Honour, for giving me the floor.

11 QUESTIONED BY MR KILOLO: (Interpretation) (Continuing)

12 Q. Good morning, Witness.

13 A. (No interpretation)

14 Q. I hope that you had a good evening.

15 A. Yes, I did rest well.

16 Q. Thank you. Once again I'm going to be asking you a number of questions
17 about your identity. Please try to relax. Please don't take me for an enemy or an
18 adversary. We are both here to try to understand the reality of the events and, above
19 all, to shed light on these events for the Court. I'd like to stress that you can answer
20 me in a very sincere way to a number of questions that I have for you. Does that suit
21 you?

22 A. Yes, that is fine.

23 Q. Ma'am, can you read and write a little bit?

24 A. I don't know how to write.

25 Q. If the Presiding Judge doesn't mind, if we were to give you a sheet of paper so

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1 that you could sign it, would you be able to do so?

2 A. Yes, I can sign.

3 PRESIDING JUDGE STEINER: Does the Prosecution have any objection?

4 MS KNEUER: Well, Madam President, indeed we have. The witness confirmed
5 that she signed, or initialled, her statements and I believe that should be enough
6 considering the recommendations of VWU. I think there's no need to embarrass the
7 witness any further.

8 (Trial Chamber confers)

9 PRESIDING JUDGE STEINER: VWU recommended the witness (Redacted)
10 (Redacted) but taking into account that she
11 says that she can sign, the Chamber sees no reason for rejecting the Defence request.
12 So you can -- the court officer can provide the witness with a piece of paper and the
13 witness is asked just to put a signature - her signature - and nothing else.

14 Court officer, please assign an EVD-T number to the document.

15 THE COURT OFFICER: Yes, Madam President. The document that will be shortly
16 displayed on your screens will be assigned the following reference EVD-T-D04-00009
17 and will be marked as confidential since we are in private session. Just to be precise,
18 you can see the document if you press the button "Docu Cam Witness" next to your
19 computers.

20 MR KILOLO: (Interpretation) Your Honour, in actual fact, the Defence was
21 required to make this request because of a number of difficulties that have been seen;
22 quite obvious ones. We seem to be dealing with three different signatures here.
23 The signature that we see right here on the screen, which seems to contain two
24 letters -- I would now like to ask the courtroom officer to display another document
25 on the screen in French which includes a signature which is truly different from the

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1 signature that we currently see on the screen. This is document 954-Conf-Anx-372,
2 26 January 2011, the very last page of the form that is used for participation of
3 witnesses.

4 THE COURT OFFICER: Counsel, could you please confirm if it's page 17 of the
5 victim application.

6 MR KILOLO: (No interpretation)

7 THE INTERPRETER: Microphone, please.

8 (Trial Chamber confers)

9 MR KILOLO: (Interpretation) If you don't mind, your Honour, in any event when
10 I click on "PC1" to see a document and then when I look at the other document, when
11 you look at the signatures I can see quite obviously that this is not the same signature.
12 Even though I'm not a handwriting expert, these are two -- if we look at these two, in
13 one case we see two letters and in the other case we see -- I'll allow you to assess this
14 for yourself, but I must admit that I'm rather perplexed. The other signature seems
15 to have three letters.

16 PRESIDING JUDGE STEINER: Maître Kilolo, you are a very, very experienced
17 lawyer, counsel - we know that - so you know that nobody in this courtroom is in a
18 position to come to any conclusion on whether these signatures are provided from the
19 same person without a handwriting expertise. The fact that they may look not
20 similar in principle doesn't mean anything.

21 I would like to know whether -- what is your point in making these presentations at
22 this point in time, even because if we go to analyse the image itself the signature put
23 by the witness on the piece of paper in this courtroom appears to be the same that she
24 put in her statements she provided to the Prosecutor two years ago. So the Chamber
25 is a little bit confused on what exactly is your point, if you could please clarify the

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1 Chamber.

2 MR KILOLO: (Interpretation) If you don't mind, I'd like to have a few moments to
3 consult with my team.

4 (Defence counsel confer)

5 Your Honour, with your indulgence, I'd like to ask the question directly of the witness
6 if she is indeed the person who signed the two documents that are seen on the screen.

7 PRESIDING JUDGE STEINER: I ask, please, the court officer to display
8 simultaneously the last page of the application form and the signature posed by the
9 witness in today's session.

10 (Pause in proceedings)

11 It appears that this is the best we can do.

12 Maître Kilolo, since we are going to this expertise part of our session, I'm asking the
13 court officer to try to display at the same time document CAR-OTP-0028-007, page 2
14 of 34, which is the signature of the witness in the statement given to the Prosecution.

15 Maître Kilolo.

16 MR KILOLO: (Interpretation) With your leave, Madam President, I'm going to ask
17 a specific question to the witness.

18 Q. Madam Witness, you can see on your screen three different signatures. Can
19 you please tell us, because on the document there are in fact four signatures, can you
20 tell us whether all those signatures on the screen are yours, or not?

21 A. These are my signatures. I personally signed all those documents.

22 Q. Are you talking about the four signatures which can be seen on the screen right
23 now?

24 A. I am referring to the three signatures that you have been referring to.

25 PRESIDING JUDGE STEINER: I will ask our court officer, please, to put a piece of

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1 paper on the signatures of the investigators, because I don't think it is appropriate to
2 try to make the witness to feel confused by your questioning.

3 MR KILOLO: (Interpretation)

4 Q. Madam Witness, are you referring to the three signatures as they currently
5 appear on the screen?

6 A. Yes, those were the three signatures I was referring to. I was the one who
7 signed those signatures.

8 Q. Thank you. I will move on to the next question. I believe the Bench will
9 make its determination on this issue. Madam Witness, before travelling here to The
10 Hague, that is in 2011, did you meet face-to-face with ICC investigators in Bangui?

11 A. No, I did not meet with them.

12 PRESIDING JUDGE STEINER: Mr Kilolo, could we turn now into open session, or
13 you will continue with identifying questions?

14 MR KILOLO: (Interpretation) Madam Chairman, I think we can move to open
15 session, or rather Madam President.

16 PRESIDING JUDGE STEINER: So the documents will be taken from the equipment.
17 (Open session at 10.35 a.m.)

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

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

20 Q. Madam Witness, you have stated that you never met with ICC investigators in
21 Bangui. Are we to understand by that that you were never interviewed about the
22 events in Bangui?

23 A. He should be very clear about the question to enable us to -- me to answer.

24 MS KNEUER: Madam President, I am concerned about the line of questioning by
25 my learned colleague, Maître Liriss. I think the first question that he put to the

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1 witness was quite open and it can be understood in different ways; if she met with an
2 investigator right before she travelled or the years before, and the second question
3 then put words in her mouth that she never said. It is the term "so you say you
4 never met" and since she already confirmed that she gave an interview I think the
5 entire line of questioning is unfair and confusing the witness.

6 PRESIDING JUDGE STEINER: The objection is sustained. One question, the first,
7 whether she met investigators in Bangui before coming to the Court. In the other
8 you say that she never -- she said she never met investigators. Could you please be
9 more precise in your questioning, Maître Kilolo.

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

11 Q. Madam Witness, my question is as follows: Before travelling here to The
12 Hague, that is in 2011, to testify before the Court, did you have the opportunity to
13 meet with ICC investigators in Bangui; yes or no?

14 A. I would like you to be clearer with your question, please. I did not quite
15 understand.

16 Q. Witness, yesterday we showed you a document in which you admitted having
17 confirmed statements that you gave in Bangui. Do you remember that?

18 A. Yes, I remember.

19 Q. To whom specifically did you give those statements?

20 A. I would like you to be more explicit so that I can understand you and be able to
21 answer your questions.

22 Q. Can you tell us how many people interviewed you in Bangui?

23 JUDGE ALUOCH: Mr Kilolo, are you talking about a specific year, or just who
24 interviewed her generally? Are you confining yourself to a specific year, or not, to
25 enable her to understand you, please?

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1 MR KILOLO: (Interpretation) Thank you, your Honour. I wanted to allow the
2 witness to clarify us with regard to the time, but let me refer to a specific time period.

3 Q. Between 2003 and 2010, did you give statements to ICC investigators regarding
4 the assaults against you?

5 A. Yes, I gave statements in 2003.

6 Q. Are you certain about the year? Was it really 2003 and can you remember the
7 month?

8 A. I no longer remember. I have no recollection of that meeting.

9 Q. Was it not in 2007, 2008, 2009, or 2010?

10 A. That is correct.

11 Q. Madam Witness, please be more specific. Are you excluding all other years;
12 that is apart from 2003?

13 A. I met with them in 2003 right up to 2008.

14 Q. How many times did you meet with them?

15 A. I met with them only three times.

16 Q. You mentioned the year 2008. Was that the last time you met with those
17 people?

18 A. Yes.

19 Q. Let us focus on the year 2008. Where did you meet with the ICC investigators?

20 A. I cannot tell you the place because I really do not understand the thrust of your
21 question. Please be more explicit.

22 Q. I suppose that you met with them in a building in the Central African Republic,
23 somewhere in that country. Now, can you tell us specifically where you were
24 interviewed?

25 PRESIDING JUDGE STEINER: Ms Kneuer.

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1 MS KNEUER: Thank you, Madam President. The Office of the Prosecutor, as a
2 standard procedure, tries not to reveal the specific locations where we conduct
3 interviews. It would put a huge burden on us to conduct investigations in a certain
4 area and it could also reveal the manner how we are operating with the ultimate
5 result that it's very difficult to protect witnesses in that country. Therefore, I would
6 kindly ask your Honours not to allow that question.

7 PRESIDING JUDGE STEINER: Not even in private session, Madam Kneuer?

8 MS KNEUER: In private session I would agree, Madam President.

9 PRESIDING JUDGE STEINER: If you insist on the question, we will turn into
10 private session.

11 MR KILOLO: (Interpretation) If you have no objection, your Honour.

12 PRESIDING JUDGE STEINER: Court officer, please turn for a while into private
13 session.

14 (Private session at 10.45 a.m.) * Reclassified as Open session

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

16 MR KILOLO: (Interpretation)

17 Q. Madam Witness, we are now in private session, which means that whatever you
18 say will not be heard by the general public. Now, can you tell us where in the
19 Central African Republic you were interviewed?

20 A. We met in the (Redacted)

21 Q. Which (Redacted)?

22 A. (Redacted)

23 Q. How many people were present at the interview; that is apart from yourself?

24 A. I did not quite understand your question. Please be more specific so that I
25 should be able to understand.

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1 THE COURT USHER: Madam Witness, how many people interviewed you?

2 A. There were two people who asked me questions and there was an interpreter
3 next to them. There were four of us in total, including myself.

4 Q. Did you meet with those people on two occasions; that is the persons who
5 interviewed you?

6 A. That is correct.

7 PRESIDING JUDGE STEINER: Could you please repeat the question, because she
8 answered first that was the three times, and now you asked whether it was two times.
9 Could you please repeat.

10 MR KILOLO: (Interpretation) Madam President, if you have no objection, we can
11 revert to open session.

12 (Open session at 10.48 a.m.)

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

14 MR KILOLO: (Interpretation) With your leave, your Honour, can I proceed?
15 Thank you.

16 Q. Madam Witness, to be very specific, how many times did you meet with those
17 investigators?

18 A. I met them on three occasions.

19 Q. Did the interviews take place over three days? Is that what you mean?

20 A. Yes, that is correct.

21 Q. Can you tell us whether they were men, or women, or both?

22 A. They were women.

23 Q. Were they whites, blacks, Europeans, or Africans?

24 A. They were white people.

25 Q. When were you told for the first time that you were going to travel to The

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1 Hague to testify before the Court?

2 A. I was told that a very long time ago. It was during our third meeting that they
3 spoke to me about it and that was that.

4 Q. And which year was that, please?

5 A. The events took place a very long time ago. I no longer remember. I have
6 forgotten all those details.

7 Q. And who specifically told you that you had to travel to The Hague?

8 A. Your question is not appropriate. If you want to ask me questions, please
9 reflect on them and put direct or specific questions to me so that I should be able to
10 answer.

11 Q. Do you want me to rephrase my question?

12 A. Yes.

13 Q. Thank you. A short while ago you stated that they told you that you were
14 going to travel to The Hague to testify. Can you tell us who those persons were who
15 gave you this information?

16 A. It is not possible for me to give names here. I was a victim of violence.
17 People came to assist me and I had to tell them what had happened. I did not come
18 here to give people's names. I have already told you that I met with three people.

19 Q. Without mentioning names, were those the three people who told you what you
20 were going to do?

21 A. Yes.

22 Q. When was your passport issued for the purpose of the trip?

23 A. I saw my passport on the tarmac that is next to the plane.

24 Q. Who gave your passport to you?

25 A. It was the interpreter who accompanied me. He was the one who handed over

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1 my passport to me.

2 Q. Were you involved in the administrative procedures for this passport to be
3 issued?

4 A. No. I simply provided my four ID photographs.

5 Q. Apart from your photographs, did you provide any other documents for this
6 passport to be issued?

7 A. No.

8 MR KILOLO: (Interpretation) Thank you. I will now move on to another
9 question and I would like to ask the court officer to kindly call up on the screens
10 document CAR-OTP-0037-0047.

11 THE COURT OFFICER: Document CAR-OTP-0037-0030_R01 at page 0047 is
12 available on your screen.

13 MR KILOLO: (Interpretation) For the English speakers, it is document
14 CAR-OTP-0028-0006. Mr Court Officer, would it be possible to zoom in to the last
15 four paragraphs? It is, of course, a confidential document.

16 Q. Madam Witness, I'm going to read out to you an excerpt of an interview that
17 you had with OTP investigators in Bangui in 2008 and then I will ask you my
18 question. The investigators asked you the following question, "You have said that
19 the Banyamulengue were doing bad things to the population. If you did not
20 understand their language, how was it possible for you to understand what they
21 said?" And this is your answer, "Some of them spoke a little bit of Sango, so it was
22 possible for us to understand what they were saying." My question is as follows:
23 Do you stand by this statement?

24 A. Yes.

25 MR KILOLO: (Interpretation) Thank you for that. Your Honour, I believe it is

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1 11 a.m.

2 PRESIDING JUDGE STEINER: So we have to suspend. Before we suspend, I
3 would like to ask Maître Liriss or Maître Kilolo whether they still want a short time in
4 private session when we resume after the break.

5 MR LIRISS: (Interpretation) No, your Honour, I believe the Bench took care of that
6 question for which we intended to ask a closed session.

7 PRESIDING JUDGE STEINER: Thank you, Maître Liriss. Madam Witness, we are
8 going to suspend this session for half-an-hour, then you can take some rest. We are
9 going to come back at 11.30 when you will continue to be questioned by the Defence.
10 In the meantime, we are going to closed session in order for the witness to be taken
11 outside the courtroom. We are suspending for half-an-hour and we will resume at
12 11.30. Court officer, please.

13 (Closed session at 11.01 a.m.) * Reclassified as Open session

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

15 (The witness stands down)

16 THE COURT OFFICER: All rise.

17 (Recess taken at 11.02 a.m.)

18 (Upon resuming in closed session at 11.36 a.m.) * Reclassified as Open session

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

20 PRESIDING JUDGE STEINER: So welcome back. I was informed that the
21 Prosecution would like to put some observations before the witness is brought into
22 the courtroom. So, Ms Kneuer, you have the floor.

23 MS KNEUER: Thank you, Madam President, your Honours. I would like to
24 amend my short submission made earlier this morning - it relates to page 18, lines 7
25 onwards - with regards to the question about (Redacted)

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1 (Redacted)

2 During the break I had the opportunity to consult with my colleagues to get a better

3 and fuller picture of (Redacted) and I kindly ask your Honours in

4 the future not to allow any questions regarding (Redacted)

5 (Redacted) and the

6 reasons are the following:

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted) However, upon

16 the request of your Honours, we would share the information with the Chamber ex

17 parte for your review, if this would be acceptable. Thank you, Madam President,

18 your Honours.

19 PRESIDING JUDGE STEINER: Any comment, Maître Liriss?

20 MR LIRISS: (Interpretation) Your Honour, we wouldn't have put such a question if

21 the Chamber hadn't decided to -- wouldn't have known that there was (Redacted)

22 (Redacted) It wouldn't be fair if the Defence wasn't informed of the conditions

23 under which (Redacted) These are conditions that

24 made it possible for the Prosecution to gather this information.

25 This is what happens in the Lubanga case. This is what happens here with the

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1 (Redacted) They were the (Redacted) and this is a good
2 example of the fact that keeping this information for the (Redacted)
3 (Redacted) and not providing information means we have been deprived of the
4 minimum right to verify the conditions under which statements were obtained. This
5 is not fair, if we proceed in this manner, unless the OTP provides us with a legal
6 foundation for this ban.

7 In any event, we believe that this information is not confidential and it can be
8 provided on a case-by-case basis to the Defence and, depending on the case, such
9 information could also be provided in private session, as I have said.

10 PRESIDING JUDGE STEINER: I think we've -- it's a general statement made by the
11 Prosecution and so if need be in an appropriate moment the Chamber can rule on
12 such a request, but in principle we can find some legal basis for the Prosecution's
13 request on (Redacted) of the Rules of Procedure and Evidence. In any case, at least
14 during the pre-trial phase, (Redacted)

15 (Redacted)

16 So the first view is that such (Redacted)

17 (Redacted) of the Rules, and for that purpose the Chamber will

18 have to examine the request on a case-by-case basis even, if need be, in an ex parte
19 communication with the Chamber as provided by the referred rule.

20 So the Chamber sees no reason to rule on this request right now and in general, but
21 we'll do it on a case-by-case basis upon request of the Prosecution and if the case so
22 allows after listening to the Defence, but the Chamber is not going to rule to make a
23 general rule on the basis of (Redacted) when it appears that what is expected is that this is
24 ruled as the Defence pointed out on a case-by-case basis.

25 We are going now to reintroduce the witness into the courtroom. Court officer,

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1 please.

2 (The witness enters the courtroom)

3 PRESIDING JUDGE STEINER: We can turn into open session, please.

4 (Open session at 11.45 a.m.)

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

6 PRESIDING JUDGE STEINER: Madam Witness, welcome back.

7 THE WITNESS: (Interpretation) Good day, your Honour.

8 PRESIDING JUDGE STEINER: Have you managed to rest a little bit during the
9 break?

10 THE WITNESS: (Interpretation) Yes, I was able to have a rest.

11 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony in
12 this Court?

13 THE WITNESS: (Interpretation) Yes, I'm ready.

14 PRESIDING JUDGE STEINER: Thank you. Then the Defence will continue
15 questioning you. Maître Kilolo.

16 MR KILOLO: (Interpretation) Thank you, your Honour. I'd like to ask the
17 Registrar to put the following document on the screen, CAR-OTP-0037-0046.

18 THE COURT OFFICER: Document CAR-OTP-0037-0030_R01, at page 0046, it's
19 available on your screens and the document is marked as confidential.

20 MR KILOLO: (Interpretation) Thank you. In the English version it's

21 CAR-OTP-0028-0006, page 0021. Could the Registrar please zoom in so that we can
22 see the four last paragraphs.

23 Q. Witness, I'm going to read an extract from the interview you gave at Bangui to
24 the OTP investigators out to you and then I will put my question. I'll now read it out.

25 The investigator put the following question to you: "You said that Bozizé's people

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1 told people to go far away. Which language did they use?" And your answer was,

2 "They spoke in Sango."

3 Witness, have you understood what I have read out?

4 A. Yes, I have.

5 Q. Can you confirm the statement that you gave?

6 A. Yes, I can; I confirm it.

7 Q. Thank you. The following question was: "Could you tell the court how

8 Bozizé's men were dressed?"

9 A. Yes, I can explain that to you. Bozizé's men were dressed like you.

10 Q. I'm not sure whether you have understood my question. I would like to know

11 how the soldiers, Bozizé's soldiers, were dressed?

12 A. They were in military uniform.

13 Q. What was the colour?

14 A. The same colour as your robe, as your gown.

15 Q. Do you know whether these were the military uniforms of the Central African

16 Republic Army?

17 A. Yes, I know that.

18 Q. Thank you.

19 A. Yes, I know that.

20 MR KILOLO: (Interpretation) Thank you. I'll now ask the Registrar to put the

21 following document on the screen; CAR-OTP-0037-0062 is the French version and in

22 the English version it's CAR-OTP-0028-0006, page 0036.

23 PRESIDING JUDGE STEINER: Witness. Maître Zarambaud, please.

24 MR ZARAMBAUD: (Interpretation) Thank you, your Honour. Could we ask the

25 witness to specify something at line 10? She was asked what the colour of the

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1 military uniforms of Bozizé's men was and she said something in Sango that could
2 mean the same colour that these soldiers -- one could interpret it as it's the colour of
3 your gown, Mr Kilolo. Here it says it's the colour of Mr Kilolo's gown. I'm not sure
4 that that is what the witness, in fact, wanted to say. Thank you, your Honour.

5 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo, for calling our attention.
6 Maybe -- Maître Zarambaud, pardon. Maître Kilolo, maybe you could repeat the
7 question and ask the witness to be precise what she meant exactly.

8 MR KILOLO: (Interpretation)

9 Q. Witness, could you tell us what the colour was of the military uniforms worn by
10 Bozizé's rebels?

11 A. They wore khaki military uniforms, with stripes.

12 Q. When you speak about "stripes," well, are you talking about dash-dash or
13 camouflage uniforms, in fact?

14 A. Yes.

15 Q. And this is the uniform of the Central African Army, isn't it?

16 A. That's correct.

17 MR KILOLO: (Interpretation) Thank you very much. I don't know whether we
18 have the document on the screen now, whether the court officer's put the document
19 on the screen yet. Could you please zoom in so that we can see the last seven
20 paragraphs. Thank you.

21 Q. Madam Witness, I will read another extract out from the statement that you
22 gave to ICC investigators in Bangui. The question put to you by the investigator was
23 as follows: "Do you remember anything about these men who arrived at the house?"
24 And your answer was, "I know nothing about them." And the investigator's
25 following question was: "Who were they?" You answered in the interrogative, "Do

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1 you mean those who came and used us?" The investigator replied, "Yes." And
2 your answer was, "Then it was the Banyamulengue. They were the
3 Banyamulengue." The investigator's question, "How were these Banyamulengue
4 dressed?" You answered, "They were wearing the same kind of uniforms as those
5 that we have in our country."

6 Have you understood what I have just read out?

7 A. Yes, I have. I can say that the uniforms they were wearing weren't like the
8 uniforms in our country. They were wearing uniforms and they had berets. They
9 were wearing berets, too, but Bozizé's soldiers had khaki uniforms but they were also
10 wearing turbans.

11 Q. If you like, we can go back to the subject of headwear or berets, but the precise
12 question I have put to you only concerns the military uniforms and your answer
13 was -- the answer you provided to the OTP investigators, I'll re-read the last two lines:
14 "How were these Banyamulengue dressed?" And your answer was, "They were
15 wearing the same kind of uniform as the ones we have in our country." Do you
16 stand by that statement?

17 A. Yes, I stand by that.

18 Q. Thank you. Witness, could you specify whether the rebels of Bozizé had
19 weapons or not?

20 A. Yes, they did have weapons, but they did not commit any acts of violence or
21 abuse on the population.

22 Q. That was very good of you to answer, but my question really was limited to
23 whether or not they had weapons.

24 A. Do you want me to answer?

25 Q. I can rephrase my question. Could you please tell the Court whether, yes or no,

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1 whether Bozizé's rebels had weapons?

2 A. I've told you that they had weapons but they did not commit acts of violence or
3 abuse on the population. They did not use their weapons.

4 Q. Later we will talk about crimes that were or were not committed but, in any
5 event, I thank you for specifying, for telling us that they had weapons. Are you
6 talking about rifles?

7 A. I didn't check to see because they were looking everywhere. I am telling you
8 what I saw with my own eyes.

9 Q. Thank you. Now, on the basis of what you yourself stated, what kind of
10 weapons are you talking about?

11 A. They were the same kind of weapons as the ones that they usually carry.

12 Q. Unfortunately, I'm not familiar with the kind of weapons. I don't want to go
13 into the details. Were they rifles?

14 A. No. I really couldn't make a distinction amongst the various kinds of weapons.
15 I am talking about the weapons that they usually carry. I'm not able to make these
16 distinctions.

17 Q. Thank you very much. You speak about weapons. Are you talking about
18 firearms?

19 A. No.

20 Q. Are you sure that you've understood my question when I talk about firearms?

21 A. I don't know. Now, when it comes to heavy weapons, I don't know. I don't
22 understand.

23 MR KILOLO: (Interpretation) Your Honour, I'm not sure, perhaps our interpreters
24 could help us get the message across. Perhaps they could explain what a firearm is.
25 I think the problem might lie there.

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1 JUDGE ALUOCH: Now, Mr Kilolo, when the witness talks about the weapons they
2 normally carry, maybe you can ask her, "What are these that they normally carry?"
3 Maybe you can start from there.

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

5 Q. Witness, please don't be ill at ease with all these questions and please don't
6 think that all these questions are intended to upset you or not in your interests. You
7 are here to shed light on these matters before the Court and, of course, you're giving
8 testimony before the Bench. If there are any discrepancies, of course I shall be
9 guided by the wisdom of the Bench.

10 My question is rather specific: What kind of weapons were carried by Bozizé's
11 rebels?

12 A. I told you, the same kinds of weapons they currently have. I really don't have
13 the expertise to tell you what kind of weapons. They are the weapons that they
14 usually carry these days.

15 Q. Do you mean -- well, when you say that they are the weapons that they
16 currently wear, do you mean right now under the reign of President Bozizé?

17 A. Yes, that's right.

18 Q. I think that's clearer. So we are talking about firearms, about rifles, is that not
19 so?

20 A. The weapons that they had with them, they didn't use them. I don't want to
21 tell you a lie. They did not commit any acts of violence or abuse on the people. If
22 they had, I would have said so but they didn't. I don't want any charges to be
23 brought or accusations to be made about them.

24 Q. Thank you very much. We'll get back to that later. I'd like to restrict myself
25 to your statements. And now I would like to turn to another matter and I would like

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1 to ask the court officer to be so kind as to display on the screens document
2 CAR-OTP-0037-0050. For the English version, this is CAR-OTP-0028-0006,
3 page 0024.

4 Court officer, could you zoom in so that we can see the last nine paragraphs. Thank
5 you.

6 Witness, once again, I will read out the statement that you gave to the investigators of
7 the OTP in Bangui and then I will put my question, and I quote -- this is the question
8 from the investigator: "Do you remember how many Banyamulengue arrived at
9 your home?" And your reply was, "Six." Question from the investigator, "Earlier
10 you said that they had hit X with the butt of their rifles. Do you remember what the
11 rifles looked like?" And your answer was, "Yes, I do." The investigator asked:
12 "Could you describe these rifles to me?" And your answer was, "The kind of rifles
13 that Bozizé's people have with them at the present time."

14 My question is: Did you properly understand the statement that I have just read out
15 to you, the substance of the statement?

16 A. I haven't understood. Could you please repeat your question?

17 Q. You would like me to repeat my question? Or do you want me to read out
18 your statement again?

19 A. I believe it's important for him to repeat my question and then he ask his
20 question, and once he's done that then I can provide an answer.

21 Q. Question from the investigator, and this is a question that was asked of you, "Do
22 you remember how many Banyamulengue arrived at your home?" That was the
23 question that was put to you by the investigators. And your answer now, you said,
24 "There were six of them." The following question from the investigator, and this was
25 put to you, "Earlier you said that they had hit X with the butt of their rifles. Do you

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1 remember what the rifles looked like?" Your answer was, "Yes, I do." Question
2 from the investigator, and once again this was a question put to you, "Could you
3 describe these rifles to me?" Your answer, "The kind of rifles that Bozizé's people
4 have with them at the present time."

5 Have you understood the substance of this statement?

6 A. Yes, I've understood.

7 Q. Thank you very much. Could you confirm this statement?

8 A. I confirm the statement.

9 Q. Thank you. Now, the soldiers, Bozizé's rebels, did they wear a scarf or some
10 kind of headgear?

11 A. They wore red berets. They also had red armbands, kind of like Lafay (phon) .

12 Q. Thank you very much. My specific question is -- really isn't about the berets.

13 We'll get to that point in a while. My question for the time being is about the
14 headgear, the scarf or turbans. Did Bozizé's soldiers wear turbans, or something like
15 that on their heads?

16 A. They had turbans. They wore turbans on their heads. They were red turbans.
17 That's what I saw and that's what I said. Nothing else. Nothing else other than
18 these red turbans.

19 Q. Are these turbans like the ones that Muslim people wear?

20 A. No, they were like pieces of cloth that they rolled around their arms and some
21 of them had them on their heads. They were -- it was red fabric.

22 Q. Were they turbans like the Chadians wore?

23 A. Yes, they were like that.

24 Q. If I were to put it to you, Ma'am, that this can be explained by the fact that some
25 of them came basically from Chad and were of the Muslim faith, how would you

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1 respond to that?

2 A. But if they were Muslims, how could it be that I -- during these disturbances,
3 how could I check whether they were Muslims? Was I supposed to go and check
4 and see if they were Muslims? They were wearing turbans. I was trying to protect
5 myself. I wasn't trying to determine who they were.

6 Q. Do you know if amongst Bozizé's troops there were Chadians?

7 A. There were Chadians, but they spoke Sango.

8 Q. Thank you. My next question is as follows: Do you know whether amongst
9 the soldiers of Bozizé there were also Central African people?

10 A. But to go and try to determine whether there were Central African people or
11 Muslims amongst them, I don't know. I told you that at that time there were
12 disturbances. There was gunfire. That's what I saw. This is what I'm telling you
13 and I have nothing to add to this account.

14 Q. Thank you. A few moments ago you specified that there were Chadians
15 amongst Bozizé's rebels, amongst his troops. In addition to Chadians, were you able
16 to identify as well people from Central -- the Central African Republic?

17 A. Yes, there were some, but the majority were from Chad.

18 Q. Do you know whether these Central African soldiers came from the Central
19 African Army?

20 A. At the time of the events, I was young. This is what I have seen. This is what
21 I am relating to you. I was very young at the time of these events. I know some
22 things. Other things I don't know. I can't tell you a lie.

23 Q. Thank you very much. Do you know whether Mr Bozizé himself at the time of
24 the events came from the Central African Republic Army?

25 A. How could I know that? I think it's important for you to review your

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1 questions before you ask them so that I can answer.

2 THE INTERPRETER: The Sango interpreter points out that the witness seems to be
3 exasperated.

4 MR KILOLO: (Interpretation)

5 Q. Witness, do you think you need to take a bit of distance, or take a short break?

6 Would that be all right? Allow me to reassure you that these questions are in the
7 interests of justice, and if for one reason or another because we are in open session, if
8 perhaps you might want some delicate issues or questions to be asked because people
9 may be listening in, people from Bangui might be listening, if you would like these
10 questions to be put in private session that would be fine by me?

11 A. I think we can say these things publicly.

12 PRESIDING JUDGE STEINER: Madam Witness, are you feeling tired? Would you
13 like to have the break now, or do you prefer to continue until the lunch break? It's
14 up to you to decide.

15 THE WITNESS: (Interpretation) I would prefer that we continue.

16 PRESIDING JUDGE STEINER: Then we are going to continue. Try to answer to
17 the Defence, as far as you know. If you don't know the answer, just tell the
18 Defence that you don't know. We don't want you to feel distressed. Do you
19 understand that?

20 THE WITNESS: (Interpretation) Yes, I understand.

21 PRESIDING JUDGE STEINER: Maître Kilolo, the only recommendation from the
22 Chamber is that the Defence must remember how old she was at the time of the
23 events, so if the Defence could put questions that clearly an 11-year-old girl would be
24 able to understand. So please don't take into account the witness as she is today, but
25 how old was she in 2002/2003, please.

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1 MR KILOLO: (Interpretation) Thank you, your Honour, for that very important
2 guidance. It is true that I was trying to ask a number of questions of the witness
3 regarding points that are found in her earlier statement because, you see, the Office of
4 the Prosecutor interviewed her in great detail regarding a number of matters which
5 I am raising today. That being the case, I of course heed your advice. Thank you.
6 I will move on to the next question. I would like to ask -- I would like to ask the
7 court officer to be so kind as to display on the screen the French document, French
8 version, CAR-OTP-0037-0063, and the English version is CAR-OTP-0028-0006,
9 page 0036. Court officer, if you could be so kind as to zoom in to the first half of the
10 page.

11 Q. Witness, once again I'm going to read out a statement that you made to the
12 investigators of the ICC in Bangui in the year 2008 and then I will ask you a question.
13 I am quoting -- this is the question that was put to you by the investigator, "That's not
14 a problem. If you don't remember, that's fine. Do you know whether these men,
15 the Banyamulengue, who abused your family, abused another family?" That is the
16 question that was asked of you. And now here is your answer: "No." Have you
17 understood what I have just read out to you?

18 A. Could you please repeat?

19 Q. I will remind you of the question that the OTP investigator asked you: "Do
20 you know whether these men, the Banyamulengue, who abused your family, did they
21 abuse another family?" And your answer was, "No." Do you stand by this
22 statement?

23 A. I stand by it. I said that.

24 MR KILOLO: (Interpretation) Thank you. Madam President, I'm afraid my next
25 questions might be identifying questions so I will request that we go into private

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1 session.

2 PRESIDING JUDGE STEINER: Private session, please.

3 (Private session at 12.32 p.m.) * Reclassified as Open session

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

5 PRESIDING JUDGE STEINER: Madam Witness, we are in private session.

6 Nobody outside the courtroom can listen to you, so feel free to speak. Maître Kilolo.

7 MR KILOLO: (Interpretation) Much obliged to your Honour.

8 Q. Madam Witness, at the time of the alleged rape, in which neighbourhood were
9 you living?

10 A. I was living in Begoua.

11 Q. Thank you. Can you tell us the PK number?

12 A. PK12.

13 Q. Thank you very much. Shortly after the alleged rape you had to flee your
14 house; is that correct?

15 A. I didn't quite understand you.

16 Q. Shortly after the rape that you say you were a victim of, you and your family
17 had to flee?

18 A. After I was raped I had injuries and I could not walk so I was bedridden at
19 home.

20 Q. I'm not talking about the time between your rape and when you possibly fled; I
21 simply would like to know whether at any given point you had to leave your house at
22 PK12.

23 A. We left our house and moved to (Redacted). Then we subsequently returned to our
24 home.

25 Q. Thank you. How did you travel to (Redacted) Which means of transport did you

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1 use?

2 A. We fled on foot. On that day there was no vehicle available.

3 Q. Are you telling us that your father or grandfather did not have a vehicle?

4 A. He had a vehicle, but it had broken down.

5 Q. Before you fled, did you leave the car which was broken down at your home or
6 in a garage?

7 A. On that day, the vehicle was in good shape and after those events we took the
8 vehicle to the house, but on that day the vehicle was not able to transport us to
9 anywhere because we were going in all directions. We were compelled to leave the
10 car at home to flee. They came and found the car and destroyed it. We fled and we
11 returned later.

12 Q. Thank you. How long did it take you to travel to (Redacted) an entire day or did
13 you arrive the following morning?

14 A. It took us one day and we spent two days there, but unfortunately there, there
15 was sustained gunfire. My father was distressed and he asked us to return home.
16 That is how we came back home and we were subjected to violence.

17 Q. When you talk about two days, do you mean that you spent two nights there?

18 A. Yes.

19 Q. Do you remember in which room you slept at that time?

20 A. I no longer remember.

21 PRESIDING JUDGE STEINER: It appears that we need some clarification, if she is
22 talking about an episode before or after the violence. It appears that she's talking
23 about something that happened before. Could you please confirm that?

24 MR KILOLO: (Interpretation)

25 Q. Madam Witness, you said a short while ago that after having fled to PK12, after

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1 the gunfire that was there, two days afterwards, are you talking about 22 days?

2 A. Thank you. Thank you very much.

3 Q. Well, let me rephrase my question. You stated a short while ago that after you
4 left your house and fled to (Redacted) you spent two days there and subsequently returned
5 to your home and this is when you were assaulted; is that correct?

6 A. Yes, that is correct.

7 Q. Can you tell us why you fled to (Redacted), considering that you were attacked only
8 after you had returned from (Redacted)?

9 A. When they arrived on the first day, they were firing their weapons, there was
10 sustained gunfire and that very evening my father asked us to go to (Redacted), so we fled
11 to (Redacted), and it was after we returned that we were attacked.

12 MR KILOLO: (Interpretation) Can we return to open session, your Honour?

13 PRESIDING JUDGE STEINER: Open session, please.

14 (Open session at 12.42 p.m.)

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

16 MR KILOLO: (Interpretation)

17 Q. Madam Witness, are we therefore to understand that the rape took place after
18 your two-day stay at (Redacted)

19 A. That is correct.

20 Q. Thank you very much. Madam Witness, when you left your house to go to
21 (Redacted) did you come across any soldiers on the way?

22 A. The Banyamulengues were maltreating us. They were maltreating everyone
23 and we were compelled to return.

24 Q. Witness, I would like to be more specific with my question. I'm not yet talking
25 about the possible mistreatment that you were subjected to; my question is simply to

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1 know whether on your way to (Redacted) you came across any soldiers?

2 A. Could you be clearer, please? Are you referring to Bemba's or Patassé's
3 soldiers?

4 Q. It would be difficult for me to answer that question. I am asking you that
5 question because you were the one who was there at (Redacted). When you arrived there,
6 did you see any soldiers?

7 A. Yes, we saw soldiers.

8 Q. Can you tell us which soldiers?

9 A. The Banyamulengues.

10 Q. Thank you. Madam Witness, I would really like to allow you some time for
11 reflection and put a very specific question to you. In 2008 - and I suppose that your
12 memory was fresher at that time and closer to the events of 2002 than it would be
13 three years later today in 2011 - can you tell us which soldiers you came across on
14 your way; that is, on your way to (Redacted)

15 A. We came across the Banyamulengue. They were coming from PK12 and they
16 were on board vehicles. They were going after the population in order to commit
17 atrocities.

18 MR KILOLO: (Interpretation) I would like to ask the court officer now to display
19 on our screens document number CAR-OTP-0037-0082 in its French version. The
20 English version is CAR-OTP-0028-0050, page 0063. Court officer, please kindly
21 zoom in to the middle of the page.

22 Q. Madam Witness, I know that your memory can be faulty three years after the
23 statements that you gave, but to facilitate things I would like to re-read to you a
24 statement that you gave to the ICC investigators in 2008 on this particular issue.

25 MS KNEUER: Madam President, your Honours, I apologise for interrupting again,

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1 even if before my learned colleague is asking the question. I think the approach
2 taken towards the witness, starting with pointing out her faulty memory, is not
3 appropriate. Thank you, Madam President.

4 PRESIDING JUDGE STEINER: Maître Liriss.

5 MR LIRISS: (Interpretation) Madam President, it is simply necessary to re-read the
6 transcript. My colleague told the witness that he understands that it is possible that
7 she might have problems with her memory. It does not mean that he is stating that
8 the witness's memory is bad or faulty. So the Prosecution should not put words into
9 our mouths or feel that we are exerting pressure on the witness. Mr Kilolo simply
10 said that he understands that the witness gave an initial answer and sometimes
11 memory can fail us. Thank you, your Honour.

12 PRESIDING JUDGE STEINER: Maître Liriss, the way you say that is perfect.

13 Maître Kilolo, you can proceed, maybe in a way that Maître Liriss has put your
14 observation. The way that it was translated, that she had a faulty memory, means a
15 different thing.

16 MR KILOLO: (Interpretation) Thank you, your Honour. I hope the translators
17 into English will take care of -- or, will take that into account.

18 THE INTERPRETER: The interpreter would like to point out that the initial
19 interpretation was correct.

20 MR KILOLO: (Interpretation)

21 Q. Madam Witness, I would like to re-read the statement that you gave to the
22 investigators in Bangui. And the question of the investigator was as follows:
23 "Apart from Bozizé's men, did you come across armed people in (Redacted) Your
24 response was as follows: "I did not meet any other armed men, apart from them.
25 And they did not harm anyone. What I am telling you is what I can still remember."

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1 Can you, Madam Witness, confirm that statement?

2 A. I confirm it, but if they did not commit any atrocities against the population, I
3 cannot accuse them. I cannot tell lies.

4 Q. Madam Witness, that is not what I am talking about. I understand your
5 concern and, please, you can be certain that we will revisit the issue of the crimes later.
6 For the time being, I understand that you have confirmed that the only armed
7 individuals that you came across in (Redacted) were Bozizé's men; is that correct?

8 A. That is correct, but when you asked your question, if you had been clearer
9 I would have answered you correctly. It is simply because your initial question was
10 not sufficiently clear. That is why I gave you that answer.

11 Q. I do appreciate your sincerity.

12 PRESIDING JUDGE STEINER: Maître Kilolo, Maître Zarambaud is asking for the
13 floor.

14 MR ZARAMBAUD: (Interpretation) Thank you, your Honour. I'm afraid that
15 when you skip from one question to the other, the witness may be confused. The
16 first question that my learned friend asked related to the soldiers that they might have
17 come across on their way to (Redacted). She answered that they came across
18 Banyamulengues who were in vehicles and were going after people to maltreat them.
19 And then the other question he has just asked is, "which soldiers did you see in
20 (Redacted)" and that is why she said that she saw Bozizé's soldiers there. Thank you,
21 your Honour.

22 PRESIDING JUDGE STEINER: Maître Kilolo, I think that's a quite interesting
23 clarification and I think the questions put by you to the witness deserves some further
24 clarification in this respect.

25 MR KILOLO: (Interpretation) Much obliged, your Honour.

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1 Q. Madam Witness, when you left your house and travelled to (Redacted), which
2 soldiers did you come across? Well, let me rephrase my question. When you left
3 your house to go to (Redacted), did you come across any armed men on your way?

4 A. When we left the house and even well before that, the Banyamulengues had
5 been committing atrocities, and under those circumstances we fled to (Redacted). And
6 upon our arrival at (Redacted) we met with Bozizé's troops.

7 Q. I'm afraid you are not giving an answer to the specific question. Regarding the
8 violence or atrocities, we are going to come back to that, but my question right now is
9 as follows: When you left your house to go to (Redacted) did you, on your way there,
10 come across any men bearing weapons; yes or no?

11 A. The question that you are putting to me is upsetting or disturbing me because
12 you are coming back to the same question all the time and I am very distressed. I
13 cannot answer your question.

14 THE INTERPRETER: The interpreter points out that the witness seems to be
15 distressed.

16 PRESIDING JUDGE STEINER: Judge Aluoch would like to put one more question
17 and then we go to the lunch break. Judge Aluoch, please.

18 JUDGE ALUOCH: Madam Witness, since you've said that you are distressed, can I
19 put the questions to you?

20 THE WITNESS: (Interpretation) Yes, you can ask your question.

21 JUDGE ALUOCH: Thank you very much. What time was it when you left -- when
22 your family left to go to (Redacted) What time of the day or night, what time was it?

23 THE WITNESS: (Interpretation) When the Banyamulengues arrived, it was at
24 4 a.m., that is in the morning, and the Muslims were being called to prayer. They
25 committed those atrocities, after which we fled to (Redacted) before subsequently

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1 returning.

2 JUDGE ALUOCH: So was it during the day?

3 THE WITNESS: (Interpretation) It was at 4 a.m. at the time that Muslims are called
4 to prayer.

5 JUDGE ALUOCH: I'm asking you this next question, bearing in mind what age you
6 were at that time, because you have said it was 4 a.m. You yourself at that age, were
7 you able to see clearly? Were you walking freely? Was your hand held by anybody?
8 It's just I'm trying to get a picture of what was going on at that time.

9 THE WITNESS: (Interpretation) During the events I was very, very young. It
10 was my father who was leading us, so we were following him.

11 JUDGE ALUOCH: So at 4 a.m., as you put it, were you able to see these different
12 soldiers and -- that's what you are being asked about and you gave the time as at
13 about 4 a.m? Were you able to see clearly who was where?

14 THE WITNESS: (Interpretation) We were at home. They were breaking down the
15 doors. There was a lot of disorder. They broke down the door and committed the
16 atrocities. They did not respect anything. They were going into the rooms and
17 causing chaos everywhere, and that is what I saw and that is what I am telling you
18 here.

19 JUDGE ALUOCH: Thank you.

20 PRESIDING JUDGE STEINER: Thank you, Madam Witness. Maître Liriss, or
21 Maître Kilolo, are you in a position to estimate how long the Defence still needs for
22 completing its questioning?

23 (Defence counsel confer)

24 MR LIRISS: (Interpretation) Your Honour, my colleague informs me that he doesn't
25 believe he will be able to complete his cross-examination today.

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1 PRESIDING JUDGE STEINER: Thank you very much. Madam Witness, we are
2 going to suspend now in order for you to have lunch and to rest a little bit. We'll be
3 back at 2.30 in the afternoon. So we hope you take some time to rest before you
4 continue giving your testimony.

5 I will ask, please, the court officer to turn into closed session in order for the witness
6 to be brought -- to be taken outside the courtroom. In the meantime, we are
7 suspending the hearing and we will resume at 2.30 in the afternoon.

8 (Closed session at 1.04 p.m.) * Reclassified as Open session

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

10 (The witness stands down)

11 THE COURT OFFICER: All rise.

12 (Luncheon recess taken at 1.05 p.m.)

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

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

15 PRESIDING JUDGE STEINER: Good afternoon. Welcome back to this courtroom.

16 Could we bring the witness in, or any observations? Court officer, please bring the
17 witness in.

18 (The witness enters the courtroom)

19 PRESIDING JUDGE STEINER: We can turn into open session, please.

20 (Open session at 2.35 p.m.)

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

22 PRESIDING JUDGE STEINER: Thank you very much. Good afternoon, Madam
23 Witness.

24 THE WITNESS: (Interpretation) Good afternoon, your Honour.

25 PRESIDING JUDGE STEINER: Did you have lunch? Did you manage to rest a little

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1 bit?

2 THE WITNESS: (Interpretation) I was able to rest.

3 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony before
4 this Court, Madam?

5 THE WITNESS: (Interpretation) I'm ready.

6 PRESIDING JUDGE STEINER: So the Defence counsel will continue questioning you.

7 At any time you need a break, just inform the Chamber. Maître Kilolo.

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

9 Q. Witness, in order to clarify certain things, could you tell the Court at what time
10 exactly the alleged Banyamulengue arrived at your house?

11 A. They arrived at 4 o'clock. At the time, you could hear the call to prayer for the
12 Muslims.

13 Q. Thank you very much. (No interpretation)

14 A. It was at 4 o'clock in the morning - it was still a little dark - and it is at that time that
15 the Muslims go to the mosque.

16 Q. Thank you. Could you also say at what time you fled in order to go to (Redacted)

17 A. We left our house in the morning to go (Redacted)

18 Q. Was it at 4 o'clock in the morning?

19 A. 5 o'clock in the morning.

20 Q. Thank you. Madam Witness, at 5 in the morning there was no lighting, there was
21 no light; is that correct?

22 A. That's correct.

23 Q. How were you able to distinguish between the soldiers and tell whether they were
24 Banyamulengue, members of the FACA or whether they were Bozizé's men, given that it
25 was dark?

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1 A. They spoke the mônô language, the language of their country.

2 Q. Your only criterion is their language; is that correct?

3 A. Those who lived in our neighbourhood before their arrival spoke this language, so I
4 could recognise the language when the Banyamulengue started speaking that language.

5 Q. Is that the criterion that allowed you to make this distinction? Is this the sole
6 criteria?

7 A. That's right.

8 Q. Thank you very much. Why leave (Redacted) two days later in order to return to the
9 house where you were allegedly the victim of an attack?

10 A. We left without taking anything. We couldn't leave our house so like that, at their
11 mercy. When we returned, we returned to get our items. It was our home. We had
12 the right to return to our house and take care of our belongings.

13 Q. Is that the only reason for which you returned to your home, for the sake of your
14 items, to take your items, your belongings?

15 A. We didn't have a house at (Redacted). At (Redacted) we lived with others, which is why we
16 decided to return to our house and face whatever would happen there.

17 Q. And finally, Madam Witness, you were safe at (Redacted) -- or, rather, were you safe at
18 PK12 or at (Redacted)

19 A. There was no safety.

20 Q. At (Redacted)

21 A. Not at (Redacted) either.

22 Q. But you said a minute ago that at (Redacted) you came across Bozizé's men; isn't that
23 correct?

24 A. You should put distinct questions to me so that I can answer them and understand
25 them.

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1 Q. My distinct question is as follows: (Redacted) the only armed troops that you met
2 there were Bozizé's rebels, as you have said; isn't that correct?

3 A. That is correct.

4 Q. And these people didn't harm the people there; that's what you said?

5 A. That's correct.

6 Q. So why return to PK12 if there were no security issues, no security problems, at
7 (Redacted)

8 A. There were also then incidents at (Redacted). Things happened there too, and that's why
9 we had to return. There were Banyamulengue who were also based at (Redacted)

10 Q. And they lived together with Bozizé's rebels at (Redacted)

11 A. Bozizé's men weren't based at (Redacted) They would go on sporadic patrols and then
12 return. The Banyamulengue came to establish a checkpoint at (Redacted) and they had
13 established a base at (Redacted)

14 Q. I apologise, Madam Witness, but just before the break I read through a passage,
15 your very own statement, according to which the only soldiers that you met when you
16 arrived at (Redacted) were Bozizé's men; isn't that right?

17 A. I'm not saying the contrary. We met them but they didn't behave badly towards us.
18 It's necessary for you to understand what I am saying, to pay attention to what I'm telling
19 you.

20 Q. But why leave (Redacted) in order to return to where the bad people were, so to speak, at
21 PK12?

22 A. The inhabitants of (Redacted) had also left, fled. If you had witnessed those events
23 yourself, you wouldn't be saying this here. If one points a firearm at you, well, everyone
24 fled. Even the inhabitants of (Redacted) had gone into the bush. We didn't know anyone
25 there. We had to return to our house. There was nothing we could do. There were

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1 these events. There were armed people here and there, everywhere. Where were we to
2 go and to take shelter?

3 Q. Thank you. That's very clear. Witness, I want to go back to the interview we dealt
4 with just before the break. I am referring to the transcript, the real-time transcript of 3
5 February, 2011, today's transcript, page 48, lines 25 to 28, and page 49, the first line of that
6 page in the French version. I am going to read out the question I put to you and your
7 answer. "Madam Witness, are we to understand that the rape took place after (Redacted), after
8 your two-day stay at (Redacted)" And your answer was, "That is correct." Do you stand by
9 that claim? Can you confirm what you told me today before the break?

10 A. That's the truth.

11 Q. Madam, I am going to read out another statement that you made a few minutes
12 before you answered this question I've referred to. Judge Aluoch sought clarification,
13 and this is what you told her. I'm referring to the real-time transcript of today, 3
14 February 2011. It's the French version, and it's page 55, lines 5 to 9 of the French version,
15 and this is what you said: "When the Banyamulengue arrived, it was 4 in the morning.
16 It was the time of prayer for the Muslims, and therefore they committed these acts of a
17 violence. And afterwards, after that, we fled in the direction of (Redacted), before returning."
18 Can you now inform the Court of when the rape took place? Was it after your two-day
19 stay at (Redacted) or was it at some other time?

20 A. It was when we returned from (Redacted), when we arrived at our house, that is when we
21 were raped.

22 Q. Madam, in that case, could you explain why there is this contradiction? When you
23 answered me, you said that the rape took place two days after your stay at (Redacted), and a
24 few minutes later you told the Judge that it was (Redacted), so why is there a contradiction
25 between these two versions?

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1 A. You have to listen carefully when I speak to understand what I'm saying. I said
2 that they arrived early in the morning and it's when we returned from (Redacted) that I was
3 attacked. You have to pay attention to what I'm saying in order to understand me.

4 PRESIDING JUDGE STEINER: Maybe if you ask the witness to, "Quelle exactions? Ils
5 ont commis des exactions," what she meant by "exactions commis" before they left?

6 MR KILOLO: (Interpretation)

7 Q. Witness, I think we might need a clarification because, in fact, you provided us with
8 one version when I questioned you and now you are speaking about rape. That is the
9 word that you used. What I'm telling you can be seen in the Court's official transcript.
10 When speaking to the Judge, you referred to an act of violence. So I will first read out
11 what you said to me. I asked you, Madam Witness, "Should we therefore understand
12 that the rape took place after (Redacted), after your two-day stay at (Redacted) And you said,
13 "That is correct." And then, when questioned by the Judge about the matter, this is what
14 you said: "When the Banyamulengue arrived it was 4 o'clock in the morning. So that
15 was at the time that the Muslims had their prayers -- said their prayers, so they committed
16 these acts of violence and, after that, we fled in the direction of (Redacted), before returning."
17 When answering the Honourable Judge, when you referred to "acts of violence," what acts
18 of violence were you referring to?

19 A. When they arrived at 4 in the morning, they hit us, and at 5 in the morning we
20 decided to leave. We then returned to the house and it was only a few moments later
21 that they raped me.

22 Q. If I have understood you correctly, Witness, the acts of violence you were referring
23 to that were committed before you went to (Redacted) involved beatings, in fact, and had
24 nothing to do with the rape?

25 A. Yes, that's correct.

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1 Q. Witness, there is something else I need to clarify. You said that you fled, you went
2 to (Redacted). How many times did you go to (Redacted) at the time of the events?

3 A. We only went to (Redacted) once. Having returned, we didn't go there again.

4 Q. Thank you very much. If I have understood this correctly, Madam Witness, you
5 were hit by these alleged Banyamulengue who arrived at your house at 4 in the morning.
6 One hour later, at 5 in the morning, you went to (Redacted)

7 A. That's right.

8 Q. And that was the only time that you went to (Redacted)

9 A. We went to spend two days at (Redacted) before returning home; that is to say before
10 returning to PK12.

11 Q. So it was after this two-day stay at (Redacted) that you say you never returned to that
12 place?

13 A. That's correct. I didn't go back there.

14 MR KILOLO: (Interpretation) Thank you. I would now like to ask the court officer to
15 put the following document on the screen: CAR-OTP-0035-0080. In the French version,
16 or rather the English version, it's CAR-OTP-0028-0050, page 0061.

17 THE COURT OFFICER: Document CAR-OTP-0037-0067_R01, at page 0080, is available
18 on your screens and is marked as confidential.

19 MR KILOLO: (Interpretation) Would it be possible to zoom in on the last three
20 paragraphs?

21 Q. Witness, I'm going to read out the statement that you made to the investigators of
22 the OTP in Bangui in 2008 regarding the specific question of your flight to (Redacted) Here is
23 the question that was asked of you by the investigators, "You stated that, after what
24 happened to you, you stayed at home for one month. Why did you stay at home for one
25 month?" And your answer was, "We just stayed at home because of the events. No one

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1 was moving around in those areas. The only place that we went to was the farm." My
2 question is the following: Could you explain to the Court this contradiction?

3 A. Do you want me to answer? When we were subject to this abuse, we couldn't stay
4 at home like that. Who could come and who could get food for us? We had to go to the
5 farm, to the fields, to go and find some food. We were the ones who went to the farm to
6 bring food back. Yes, there were the events going on, but we couldn't wander around
7 the neighbourhood like that. We couldn't stay at home with no food. That's why we
8 left. We went to the farm, going by way of the hill, to get food to bring back to the house.
9 If we didn't move about, who could give us something to eat?

10 Q. Thank you. I'll be more specific. Could you explain this contradiction to the
11 Court? On the one hand you state that you went to (Redacted) at 5 in the morning, one hour
12 after the arrival of the so-called Banyamulengue in your house, whereas three years ago
13 you said something different to the investigators from the OTP, telling them that you had
14 stayed at home for an entire month before you went to (Redacted)

15 A. I don't think I've really understood your question. Could you repeat it so I can
16 understand properly?

17 PRESIDING JUDGE STEINER: Mr Kilolo, could you please explain to the Chamber to
18 what contradiction you are referring to? Because now I am becoming confused, because
19 I understood that she repeated that she fled to (Redacted) before she was raped and now you
20 are saying that is a contradiction because she says she stayed at home. So could you
21 please clarify the Chamber on this topic?

22 MR KILOLO: (Interpretation) Thank you, your Honour. In actual fact, the
23 contradiction is with respect to the duration between the moment when the
24 Banyamulengue entered her house and the moment when she decided with her family to
25 go to (Redacted). When I asked her during the hearing, it would -- the result was that she said

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1 the same day that the Banyamulengue came into her house at 4 in the morning, an hour
2 later at 5 in the morning they travelled to (Redacted) and then she said that she went there, they
3 came back and that was the only time they went, but when she spoke to the investigators
4 in Bangui, three years ago in the year 2008, she did not say that. She said, "We went to
5 (Redacted) one month after the events."

6 THE WITNESS: (Interpretation) I never said that.

7 PRESIDING JUDGE STEINER: Yes, I will give the floor to Maître Zarambaud, but this is
8 not what I am seeing from the statement, or the page you referred to, because the page
9 you referred to is related to what happened after she was raped, not before. Maître
10 Zarambaud, s'il vous plaît.

11 MR ZARAMBAUD: (Interpretation) Your Honour, thank you. I believe that you have
12 said what I wanted to say. Is my learned friend opposite saying that she left to (Redacted) one
13 month after being raped? There is no passage here where such a statement is made; no
14 such statement.

15 (Defence counsel confer)

16 MR KILOLO: (Interpretation) Your Honour, to clarify I will have to read to the Court
17 the passage starting from the previous page, because this will allow us to establish the
18 timeline, and you will see that with her account she speaks of the Banyamulengue
19 arriving and then the rape occurring at that point in time.

20 Perhaps I could start at page 12. This is document CAR-OTP-0037-0079 and then the
21 following page, 0080. With your leave, your Honour, I will read out the passage. This is
22 the investigator speaking: "Yesterday, you stated that the Banyamulengue stayed with
23 you from 1400 hours to 1600 hours; is that correct?" Answer: "They arrived at
24 1400 hours and stayed until 1600 hours before they left." Investigator: "Did they stay at
25 your home until 4 in the afternoon?" Answer: "Yes." "Did they come back after that?"

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1 Answer: "No, they did not come back." Question: "Did you meet up with the
2 Banyamulengue after what they did to you?" Answer: "No, I did not come up against
3 them." Investigator: "After the Banyamulengue left at 1600 hours, what did you do?"
4 Answer: "I did nothing." Question: "What did your father say to you once the
5 Banyamulengue had left?" Answer: "Nothing." "What did your father do once the
6 Banyamulengue left?" Answer: "He did nothing. He just went off to look for some
7 medicinal leaves and he brought them back. Then we prepared an infusion and we
8 stayed sitting in this infusion." Question: "What did you do the next day?" Answer:
9 "We did nothing. We stayed at home." "After what happened to you, how long did you
10 stay at home for?" "I spent nearly a month at home." "Where did you go after that
11 month?" "I went nowhere." "Were you able to walk after what had happened to you?"
12 "No." "You stated that, after what happened to you, you stayed at home for one month.
13 Why did you stay at home for one month?" "We just stayed at home because of the
14 events. No one was moving around in that area. The only place that we were going to
15 was to the farm, or the field."
16 Next page: "Yes, yesterday you stated that you were fleeing towards (Redacted) when you
17 came up against Bozizé's people. Could you tell me when that was?" Answer: "I will
18 explain to you. When we met Bozizé's people around (Redacted) they told us that they had
19 not come to do us harm, but rather to bring peace. They advised us to go further."
20 "This meeting with Bozizé's people, was that before or after what happened to you?"
21 Answer: "After." "Why were you at (Redacted) "My father told us to go there until the
22 situation settled down and that we could then return; that is why we went there." "Did
23 something happen at (Redacted) "What happened there was the aeroplane that was shooting
24 some bullets there, that's all." "How much time did you spend at (Redacted) Answer,
25 "Three days.

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1 Your Honour, the contradiction lies in the fact that she is saying that she went to (Redacted)
2 after what happened to her. The same day she specifies during these series of questions
3 slightly earlier that what happened to her - namely, the rape - was after, after the
4 traditional treatment that she received from her father. And then, after that, she stayed at
5 home for one month and it was only after what happened to her that she went to (Redacted)
6 and that does not seem to correspond to what she stated during the hearing when she said
7 that she went to (Redacted) the same day.

8 PRESIDING JUDGE STEINER: Madam Kneuer?

9 MS KNEUER: Thank you, Madam President. First of all, I still don't see the
10 contradiction. In addition, my learned colleague is interpreting statements and
11 testimony. And, thirdly, I think as already Maître Zarambaud had indicated several
12 times, sometimes the questions are not precise enough because we need to differentiate if
13 the question is related to the Bozizé rebels or to the Banyamulengue. And I think the
14 witness was quite clear in her answers earlier.

15 PRESIDING JUDGE STEINER: Maître Liriss.

16 MR LIRISS: (Interpretation) Your Honour, my learned friend took the time to read out
17 two pages to give the context. I don't know whether the French version is different from
18 the English version, but the French version is clear. After the rape, she spent one month
19 at home and then after that she went to (Redacted). Today she is saying that she did not stay,
20 that she immediately left one hour after, so I don't see why people are saying that we are
21 interpreting the statements or giving a particular interpretation.

22 PRESIDING JUDGE STEINER: Maybe it's better if Defence allows the Chamber to
23 interpret in due time whether there is or not a contradiction and what is, if any, the
24 relevance of the contradiction because, otherwise, we are not going anywhere; because I
25 continue not to see any contradiction, but maybe it's a problem of translation, maybe of

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1 interpretation, it's just leading our witness to a kind of distress having to repeat again and
2 again and again. So I would kindly ask Defence to go ahead.

3 MR KILOLO: (Interpretation)

4 Q. Witness, my question is as follows: A few moments ago we read that you would
5 go to the farm from time to time, to the fields. When was that? Was that before the
6 rape, after the rape; before going to (Redacted) or after going to (Redacted)

7 A. After the rape, my father gave me a treatment using a traditional potion. When I
8 regained some health, I was strong enough to go to the farm and go get some food for the
9 family.

10 Q. How often did you go; once a week? Every two or three days?

11 A. Not regularly. I would go there with my elder sister to look for firewood and
12 manioc leaves to prepare food for the family.

13 Q. And what would that correspond to; once a week? Once every ten days?

14 Approximately, just so that we have a general idea.

15 A. I haven't understood your question.

16 Q. Very well. We'll move on to the next question. Now, you fled to go to (Redacted) and
17 you met up with Bozizé's men; is that correct?

18 A. Yes.

19 Q. Did they tell you to go away?

20 A. Yes. They told us that they had not come to do us any harm. They told us that
21 they had come to bring peace back to the country, that's what they told us, and they did
22 not behave badly with regard to the population.

23 Q. During your flight, where did you go to when they told you to go away from (Redacted)

24 A. We did not flee, we went back home. Father said that since we knew no one there,
25 it would be better to go back home and so that is how it came to be that we went back

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1 home.

2 Q. You're absolutely certain that after (Redacted) you went directly back home? You didn't
3 flee to another town?

4 A. That is what I'm telling you. Try to understand what I'm saying. Where else
5 could I go? Was there some other place where I could have taken refuge? I told you
6 about where I went after those events.

7 MR KILOLO: (Interpretation) Thank you very much. I would like to ask the court
8 officer to, please, display document CAR-OTP-0037-0046 on the screen. For the English
9 version, this is CAR-OTP-0028-0006, page 0020. Could you be so kind as to zoom in to
10 the middle of the screen.

11 Q. Witness, I would like to read out what you stated to the investigators from the
12 Office of the Prosecutor, and I quote, "Patassé's people arrived and they started to do bad
13 things towards the -- to the population and that was the context. That was why we fled
14 to (Redacted) and that is how it came to be that we met Bozize's people and we noticed that
15 they were protecting people by telling them to move away and so we continued our flight
16 as far as Damara. It was later, during the period of calm, that we went back."

17 Do you maintain that statement?

18 A. I stand by that. I did not go to Damara; rather, it was my little brothers who went
19 to Damara.

20 Q. Ma'am, do you know what the distance is between (Redacted) and Damara,
21 approximately?

22 A. I don't know. I didn't go very far in school, in my schooling, so as to be able to
23 understand kilometres. I really don't have a mastery of those details, please.

24 Q. Would it be about one day's walking, one day of travelling by foot?

25 A. To go to (Redacted) We couldn't do one day, but to go to Damara I believe that you

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1 would have to spend the night somewhere along the way. If you were to go in a vehicle,
2 you could get to Damara on the same day.

3 Q. Without giving any names now, how many people from your family were at (Redacted)

4 A. There were many of us. I really can't tell you the exact number of all the people
5 who were there. There were my parents, my relatives on my mother's side, my relatives
6 on my father's side. I was very young at the time. How could I know who was there
7 and who wasn't there?

8 Q. So you say that the others went to Damara but not you.

9 A. I did not go to Damara. My mother was suffering from depression so I stayed with
10 her.

11 Q. So the two of you stayed in (Redacted) that is you and your mother?

12 A. I stayed with my mother, and then we returned home, alongside our father.

13 Q. Without mentioning his name, when you talk of your father, I suppose you are
14 actually referring to your grandfather?

15 A. That is correct.

16 Q. Are you saying that he was with you at (Redacted)

17 A. We were all together in (Redacted) Then he went back home and then he asked us to
18 come back home and stay. So the younger ones continued to Damara while I myself, I
19 returned to the house.

20 Q. And when he asked you to return, did you and your mother, the two of you, return
21 home; that is from (Redacted)

22 A. My mother, myself, my mother's younger sister and my father's wife. I returned
23 home because my mother was ill, and I could not abandon her.

24 Q. And yet, Madam, your statement of 2008 is very clear. It reads as follows: "We
25 realised that Bozizé's men were protecting people and that is how come we continued our

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1 flight to Damara." This is a question that was put to you and that is how you answered it,
2 so how can you explain that contradiction?

3 A. It was my younger brothers who went to Damara. I could not abandon my mother.
4 I was prepared to die next to her, so I did not go to Damara. Please reflect carefully once
5 again on whatever you say before you say it because I did not come here to tell stories.

6 Q. And the mother that you are referring to, is it your grandmother who was actually
7 (Redacted)

8 A. My biological mother.

9 Q. Let me move to the next question, and the Chamber will make its determination. I
10 would like to ask the court officer to call up another document on the screens, and this is
11 the French document CAR-OTP-0037-0083. The English version is CAR-OTP-0028-0050.
12 Madam Witness, I will read out to you your statement to the ICC investigators. The
13 question was as follows: "Does your family have problems in your neighbourhood
14 currently because of what happened to you?" And your answer, "There is no problem."
15 Second question from the investigators, "Do your sisters have any problems because of
16 what happened to them?" Your answer, "No." On the same page, the next question is as
17 follows: "Did your mother have a baby as a result of what had happened to her?" And
18 your answer is, "She had just had a baby. "When?" That was the next question, and
19 your answer, "In 2007." Can you confirm your statement?

20 A. You have to be very clear with your question. Do not try to confuse me. Try to be
21 more explicit so that I can answer you appropriately.

22 PRESIDING JUDGE STEINER: Ms Kneuer.

23 MS KNEUER: Thank you, Madam President, your Honours. I would like to start with
24 an apology to interrupt and I'm fully aware of your guidance not to object too much.
25 However, I also have to state that the Prosecution was extremely patient during the

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1 examination of that witness and I think the Prosecution has to raise its voice to protect
2 that witness, and I again see the witness being distressed.

3 Over the course of the examination it is the observation of the Prosecution that the
4 Defence asked numerous repetitive questions. They asked questions that were
5 imprecise. It was raised by counsel of legal representatives and by the Prosecution and
6 even by the Judges. Also, the Defence asked questions which go beyond the knowledge
7 of this witness, in particular, considering that the witness was 11 years old at the time of
8 the events.

9 Further, the witness stated several times by herself that questions are not precise, that she
10 does not understand what counsel is asking her and, more importantly, the witness said
11 to counsel, "You need to listen to me. You need to understand what I am saying."

12 Well, the concern of the Prosecution is how much more time do we want to spend in this
13 court to put this witness under stress for no reason?

14 The Prosecution, as indicated in the past already, endorses that the opponent party has
15 the opportunity to test the credibility of a witness and to test the testimony and even to
16 put the Defence case to the witness. But what is happening here has nothing to do with
17 this kind of an approach. The number of questions that are put to the witness, may they
18 be repetitive or irrelevant, is increasing and I think we need to protect the witness and we
19 need to listen to the witness, what the witness is telling us. She wants that we listen to
20 her, and I think that is very critical. And I'm even more concerned that my learned
21 colleague is planning to continue tomorrow this way. I think this should not be allowed.

22 Thank you very much.

23 PRESIDING JUDGE STEINER: Maître Liriss.

24 MR LIRISS: (Interpretation) Madam President, the questions being put to the witness
25 relate to her previous or prior statements and to nothing else. After reading out excerpts

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1 of her statement, the questions being put to her simply require her to confirm or deny
2 those statements. So how can it be said that those questions aren't relevant? For
3 example, when my colleague asked the question as to whether the family has problems in
4 the neighbourhood currently, he simply wants to establish the issue of stigmatisation,
5 which has been mentioned.

6 Now, if the Prosecutor wants, then we can simply say that she is right, and in that case
7 there is no need for us to defend ourselves. She has talked about the length of the
8 cross-examination, but she was examined for a period of three days before the Prosecutor,
9 and we are taking three, four or five hours to cross-check or check the credibility of the
10 testimony.

11 We are being accused of being repetitive. If the questions have been put in an
12 inappropriate way, this has to be pointed out to us and we will rephrase, but if we are
13 simply told that the questions are not relevant whereas we are trying to establish what has
14 been stated, for example, stigmatisation in this case, without even listening to the
15 question, the Prosecutor reacts.

16 I believe, your Honour, that as long as the questions relate to the personal statements of
17 the witness, the Defence has the legitimate right with respect to the principles laid down
18 by you to ask those questions.

19 PRESIDING JUDGE STEINER: Maître Liriss, I think it's common sense that the best way
20 is the middle one. We cannot deny the right of the Defence to check the credibility of the
21 witness, the reliability of the previous statement, or of the testimony in courtroom, but it's
22 quite visible that the way the Defence is posing its questions and repeating, and picking
23 and choosing details, it's really causing a lot of distress in the witness.

24 So my question, and I'm sure the question of the Chamber is: What is the point? What
25 is it the Defence intends to gain in case the witness is under stress and needs to stop

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1 testifying? What is -- what good will be done to the Defence? So it's interest for the
2 Defence as well to have the witness ready and willing to testify. So maybe you could
3 listen to what the Prosecution said and to the many complaints by Madam Witness, and
4 try to put your questions in a way that at least does not appear to be with the intention to
5 trick the witness because this is what she said. So maybe, Maître Liriss, it's the way the
6 Defence is using to question the witness.

7 So the Chamber cannot interfere unless the Chamber notices that the witness is under
8 stress, is distressed, is tired and is getting angry. So nobody will have any, any
9 advantage if the witness has to stop testifying. So we will find a proper way for the
10 Defence to continue questioning the witness without causing distress. This is what the
11 Chamber expects from the Defence team.

12 Sometimes -- if I may not be intrusive in techniques of the Defence, sometimes leading
13 questions are more problematic than direct questions. So instead of using questions "Is it
14 true that you said on that day ..." this and this and that, if you just ask the direct question.
15 This last questioning is a typical example.

16 So let's try. Let's continue trying, Maître Liriss. I am not going to take any measure
17 right now, but the Chamber is attentive. It's our obligation to protect the psychological
18 well-being of witnesses before this Court.

19 You can continue, Maître Kilolo.

20 Before you continue, Madam Witness, Madam Witness, just to let you know that
21 sometimes the Defence needs to ask for clarification. Sometimes they need to ask a
22 question more than once, but don't take offence; it's nothing personal against you. The
23 Chamber is here to protect you, so you can answer to the questions if you know the
24 answer. If you don't know the answer, you just say, "I don't know." Don't be distressed
25 only because sometimes the questions are repetitive. Did you understand that, Madam?

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1 THE WITNESS: (Interpretation) Yes, I've understood, your Honour.

2 PRESIDING JUDGE STEINER: Are you ready to continue or do you prefer to rest a little
3 bit and we continue tomorrow morning? You decide, Madam.

4 THE WITNESS: (Interpretation) I am really exasperated right now.

5 PRESIDING JUDGE STEINER: Do you prefer that we stop now and we continue
6 tomorrow morning after you have slept a little bit and rest a little bit?

7 THE WITNESS: (Interpretation) Yes, I agree.

8 PRESIDING JUDGE STEINER: Thank you, Madam. So we are going to adjourn for
9 today. We are going to give witness the opportunity to rest, to have very good night's
10 sleep and we will continue with her questioning by the Defence tomorrow. We are going
11 to resume tomorrow at 9.30 in the morning. Thank you very much, Madam Witness.

12 Court officer, please turn into closed session in order for the witness to be taken outside
13 the courtroom. In the meantime, we are going to adjourn and we will resume tomorrow
14 morning at 9.30. I thank the Prosecution team, the legal representatives of victims, the
15 Defence team, Mr Jean-Pierre Bemba Gombo. Thank you for the efforts of our
16 interpreters and court reporters and, as soon as we are in closed session, this hearing is
17 adjourned.

18 (Closed session at 3.50 p.m.) * Reclassified as Open session

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

20 (The witness stands down)

21 THE COURT OFFICER: All rise.

22 (The hearing ends at 3.51 p.m.)

23 RECLASSIFICATION REPORT

24 Pursuant to Trial Chamber III 's Second Order, ICC-01/05-01/08-2223, dated 4 June
25 2012, and the instructions in the email dated 9 September 2013, the version of the

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1 transcript with its redactions becomes Public.

2